

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 826

(Delegate Korman, *et al.*)

Environment and Transportation

Judicial Proceedings

Condominiums and Homeowners Associations – Electric Vehicle Recharging
Equipment
(Electric Vehicle Recharging Equipment for Multifamily Units Act)

This bill establishes standards relating to the installation and use of electric vehicle recharging equipment in condominiums and homeowners associations (HOAs). The bill establishes the Electric Vehicle Infrastructure Modernization Grant Program within the Maryland Energy Administration (MEA) and authorizes a condominium or HOA to apply for a grant to facilitate the electrical upgrade of a parking structure. MEA must adopt regulations to implement the program. The bill also expands the authorized uses of the Maryland Strategic Energy Investment Fund (SEIF) to provide grants under the program.

Fiscal Summary

State Effect: The bill largely codifies current MEA practice related to electric vehicle infrastructure grants; any variation from existing practice, and promulgation of regulations to implement the program, can be handled with existing resources. No effect on revenues.

Local Effect: The bill’s requirements are not anticipated to impact local finances or operations. Any increase in permit requests can likely be handled with existing resources.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: The bill defines “electric vehicle recharging equipment” as property in the State that is used for recharging motor vehicles propelled by electricity. Requirements for owners of condominium units or HOA lots and governing bodies are shown in **Exhibit 1**.

Exhibit 1
Installation of Electric Vehicle Recharging Equipment by Owners
In Condominiums and Homeowners Associations

	<u>Condo Owner</u>	<u>HOA Homeowner</u>	<u>Condo Board</u>	<u>HOA Board</u>
Bylaws, covenants, or restrictions against recharging equipment are void			Yes	Yes
Must use process for approval of architectural modifications			Yes	Yes
Must provide approval or denial in writing			Yes	Yes
Must approve installation in a unit or lot owner's deeded or designated parking space if installation does not impede normal use of the area or is not impossible <i>and</i> if owner agrees, in writing, to comply with specified restrictions and standards			Yes	Yes
May grant a three-year license, renewable at the discretion of the governing body, on any common element necessary for installation of equipment or supply of electricity			Yes	Yes
Request is deemed approved after 60 days unless reasonably delayed for additional information	Yes	Yes	Yes	Yes
Must agree, in writing, to comply with architectural standards, engage a licensed contractor, and pay for separately metered electricity usage	Yes	Yes		
Must obtain necessary permits	Yes	Yes		
Must pay costs associated with installation, maintenance, damage, repair, replacement, removal, and electricity	Yes	Yes		
Must provide certificate of insurance naming association as additional insured or reimburse association for cost of an increased insurance premium attributable to equipment	Yes	Yes		

HOA: homeowners association

Note: "Board" refers to the governing body of a condominium or homeowners association.

Source: Department of Legislative Services

Electric Vehicle Infrastructure Modernization Grant Program

The bill establishes an Electric Vehicle Infrastructure Modernization Grant Program in MEA. The governing body of a condominium or HOA may apply for a grant from the Electric Vehicle Infrastructure Modernization Grant Program to facilitate the electrical upgrade of a parking structure owned by the governing body in order to encourage the installation and use of electric vehicle recharging equipment by unit owners and lot owners.

Current Law/Background: Secretary of State registration records show that, as of December 2018, 2,691 condominium regimes have been registered with the State. The State Department of Assessments and Taxation, which maintains assessment records based on class of property, reports that there are 229,859 condominium units in the State as of December 2018. The Foundation for Community Association Research estimated that there were 6,750 community associations in the State in 2017. For more information on condominiums and HOAs (commonly known as common ownership communities or COCs), see the **Appendix – Common Ownership Communities**.

Electric Vehicle Charging Stations in Maryland

According to the U.S. Department of Energy, as of February 2019, Maryland had 554 public electric vehicle charging stations and 1,504 charging outlets, which ranks twelfth in the United States in terms of the number of charging stations per state.

Sales of Plug-in Vehicles

Plug-in vehicles, which include hybrid-electric vehicles (*e.g.*, the Chevrolet Volt) and vehicles without gasoline-powered motors (*e.g.*, the Nissan Leaf and Tesla), have experienced a recent resurgence in popularity that has led to commercialization of more than two dozen vehicle models from major manufacturers. Although plug-in electric vehicles represent a small percentage of total vehicle sales, the rate of growth in sales for these vehicles has generally been significant.

The Maryland Clean Cars Act of 2007 requires Maryland to adopt a Zero Emissions Vehicle program applicable to vehicles beginning in model year 2011. State regulations require manufacturers to comply with California Zero Emission Vehicle Requirements, which generally rely on the use of a system of credits to ensure that a sufficient number of low- and zero-emission vehicles are sold.

According to data from the Motor Vehicle Administration and the Maryland Electric Vehicle Infrastructure Council (EVIC), only 1 plug-in electric vehicle was registered in Maryland in fiscal 2010, 72 plug-in electric vehicles were registered in fiscal 2011, and 2,597 plug-in electric vehicles were registered in fiscal 2012. Although the number of new

registrations for plug-in electric vehicles dropped sharply in fiscal 2013 (with 2,727 total registered electric vehicles), a sharp increase occurred once again in fiscal 2014 and the first half of fiscal 2015. According to EVIC data, in fiscal 2017, the most recent year for which data is available, there were 5,624 plug-in electric vehicles registered in Maryland.

Implementation of Maryland Electric Vehicle Infrastructure Council Recommendations

Chapters 400 and 401 of 2011 established EVIC and required it to develop a plan to expand the adoption of electric vehicles and develop an infrastructure charging network. In its final report issued in December 2012, the council issued several recommendations, including (1) extending EVIC through June 2015; (2) increasing the amount of zero-emission State fleet vehicle purchases to 10% by 2020 and at least 25% by 2025; (3) establishing a grant program for electric vehicle support equipment installation and procurement of transaction management software for multiunit dwellings; and (4) extending the recharging equipment tax credit through December 2016 and the qualified electric vehicle excise tax credit to July 1, 2016.

To implement EVIC's recommendations, Chapters 64 and 65 of 2013 extended EVIC through June 2015. Further, Chapters 359 and 360 of 2014 extended the termination date of the tax credit program through fiscal 2017, altered the value of the tax credits, and replaced the electric vehicle recharging equipment income tax credit with a rebate program. Chapter 378 of 2015 subsequently extended EVIC to June 30, 2020, and shifted the reporting deadline to December 1 of each year, with a final report due June 30, 2020.

Chapter 734 of 2016 extended the authorization of plug-in electric vehicles to use high-occupancy vehicle (HOV) lanes regardless of the number of passengers through September 30, 2018, and allowed qualified hybrid vehicles to use HOV lanes through September 30, 2018. Chapters 678 and 679 of 2018 extended both authorizations through September 30, 2022.

The January 1, 2015 EVIC interim report contained two recommendations for future legislation: (1) establishing HOV lane reciprocity with Virginia; and (2) prohibiting HOAs, condominium associations, and landlords from prohibiting or unreasonably restricting the installation of charging equipment by residents in such developments. Neither recommendation has been implemented to date.

Maryland Strategic Energy Investment Fund

Chapters 127 and 128 of 2008 established SEIF with the intent to decrease energy demand and increase energy supply to promote affordable, reliable, and clean energy. Historically, the main source of funding for SEIF has been proceeds from the sale of carbon allowances under the Regional Greenhouse Gas Initiative. In recent years, however, SEIF has also

received funds from the Exelon-Constellation/Pepco merger settlements, other Public Service Commission orders, and alternative compliance payments from entities that are required to comply with the State's renewable energy portfolio standard.

According to the SEIF fiscal 2018 [annual report](#), SEIF supports multiple MEA incentive programs to reduce traditional petroleum use and increase electric vehicle infrastructure in the State. The programs were designed to increase the number of alternative fueled vehicles and the amount of alternative fuel refueling/charging infrastructure in the State. Relevant programs include (1) the Electric Vehicle Supply Equipment (EVSE) Rebate Program; (2) the Alternative Fuel Infrastructure Program (AFIP); and (3) the Freedom Fleet Voucher Program. Beneficiaries include homeowners, businesses, nonprofits, and State and local government entities that install alternative fuel refueling/charging infrastructure or purchase alternative fueled vehicles. In fiscal 2018, SEIF provided 626 electric vehicle charger rebates through EVSE and supported the construction of 16 charging stations at seven locations through AFIP.

SEIF funds support a variety of programs across several State agencies. The Renewable and Clean Energy Program within MEA, which would most likely be the source of any grants provided under the bill, closed fiscal 2018 with a fund balance of \$8.3 million.

Additional Information

Prior Introductions: HB 602 of 2018, a similar bill, received an unfavorable report from the House Environment and Transportation Committee. HB 699 of 2017, another similar bill, was heard by the House Environment and Transportation Committee and was subsequently withdrawn. SB 301 of 2017, its cross-filed bill, received an unfavorable report from the Senate Judicial Proceedings Committee. SB 168 of 2016, a bill containing similar provisions, received an unfavorable report from the Senate Judicial Proceedings Committee. SB 762 of 2015, another bill containing similar provisions, was heard in the Senate Judicial Proceedings Committee, but no further action was taken.

Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Maryland Energy Administration; Electric Vehicle Infrastructure Council; Secretary of State; State Department of Assessments and Taxation; Foundation for Community Association Research; Department of Legislative Services

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Appendix – Common Ownership Communities

When a person purchases a single-family home, condominium, or an interest in a cooperative housing corporation, he or she may also be required to join an association of owners, which is intended to act in the common interests of all the homeowners, condominium unit owners, or cooperative owners in the community. Collectively, these associations are often referred to as common ownership communities (COCs). In Maryland, a growing number of newly constructed or newly converted residences are located in some form of a COC.

The affairs of a condominium are governed by a council of unit owners, which comprises all unit owners. Among other powers, the council of unit owners has the power to impose assessments on the unit owners to pay common expenses. A council of unit owners may delegate its powers to a board of directors, officers, or a managing agent. Condominiums are governed under Title 11 of the Real Property Article.

Many new housing developments are subject to a homeowners association (HOA) that is created by a governing document and has the authority to impose mandatory fees on lots in the development in connection with the provision of services or for the benefit of the lots, the lot owners, or the common areas. HOAs are governed under Title 11B of the Real Property Article.

A cooperative housing corporation or “cooperative” is a corporation that owns real property. A resident of a cooperative does not own his or her unit; rather, the person owns an interest in the corporation, which leases the unit to the person for residential use. Cooperatives are governed by the laws in Title 5, Subtitle 6B of the Corporations and Associations Article.

Condominiums and HOAs may be authorized by their governing documents to impose liens on units or lots to collect unpaid assessments or fees. In a cooperative, the governing documents usually provide for the collection of delinquent fees, and evictions for unpaid fees are generally pursued by way of a landlord-tenant action.

Since registration of the various COCs is not required statewide, the exact number of COCs in Maryland is unknown. However, public offering statements for condominium regimes are required by law to be registered with the Secretary of State (SOS). SOS registration records show that, as of December 2018, 2,691 condominium regimes have been registered with the State.¹ The State Department of Assessments and Taxation, which maintains

¹ This number is lower than the 2,875 condominium regimes reported by SOS in 2017. The inflated number was the result of a miscalculation, and the revised number does not reflect a decrease in the number of regimes.

assessment records based on class of property, reports that there are 229,859 condominium units in the State as of December 2018. The Foundation for Community Association Research estimated that there were 6,750 community associations in the State in 2017.

Task Force on Common Ownership Communities

With a growing number of Marylanders residing in COCs, and evidence that some COCs had issues with governance, dispute resolution, and financial stability, the General Assembly created the Task Force on Common Ownership Communities in 2005 (Chapter 469 of 2005). The issues addressed by the task force included the education and training needs of COC boards and prospective buyers, availability of alternative dispute resolution services, special considerations of aging COCs, collection of assessments, and resale of homes within COCs. The task force met 10 times, held five public hearings, and submitted its final report in December 2006. The report's findings and recommendations have served, in subsequent years, as the basis for numerous pieces of legislation intended to improve the operation of COCs. This legislation, enacted from 2007 through 2017:

- authorized a group of three or more unit or lot owners in a condominium or HOA to petition a circuit court to appoint a receiver in specified situations frequently found in aging communities (Chapter 321 of 2007);
- gave the Consumer Protection Division within the Office of the Attorney General increased authority over violations of the Maryland Homeowners Association Act (Chapter 593 of 2007);
- eased restrictions on the ability of condominiums and HOAs to amend their governing documents (Chapters 144 and 145 of 2008 and Chapter 480 of 2017);
- strengthened the transition process from developer to the governing body of a condominium or HOA by allowing the governing body to terminate specified contracts and requiring the developer to provide specified documents (Chapters 95 and 96 of 2009);
- required the governing body of a COC to purchase fidelity insurance or a fidelity bond covering various acts of malfeasance by COC officers, directors, and other specified employees and agents (Chapters 77 and 78 of 2009 and Chapter 615 of 2010);
- granted priority to a specified portion of a lien of a condominium or HOA over the claim of a holder of a first mortgage or first deed of trust in the event of a foreclosure on a unit or lot (Chapter 387 of 2011);

- limited the amount of damages for which the governing body of a condominium or HOA may foreclose on a lien against a unit owner or lot owner (Chapters 448 and 449 of 2013);
- expanded the purposes for which a condominium's board of directors may hold a closed meeting, similar to the law for an HOA, by allowing a meeting to be closed to consider terms or conditions of a business transaction in the negotiation stage if disclosure could adversely affect the economic interests of the council of unit owners (Chapter 110 of 2013);
- established meeting standards and standards for late charges for delinquent payments, eviction restrictions, an auditing process for books and records, and a dispute settlement mechanism for cooperatives under specified circumstances (Chapter 567 of 2014); and
- altered the contents of a required disclosure for the resale of a condominium unit, authorized the assessment of specified fees by a condominium council of unit owners or an HOA for providing specified information, and required the Department of Housing and Community Development to adjust the maximum authorized fees every two years (Chapter 735 of 2016 and Chapter 817 of 2017).

The task force's report also featured findings and recommendations relating to the creation of an ombudsman in local governments. Since the report's release, Prince George's County created its Common Ownership Communities Program in 2007 with the stated purpose of assisting governing bodies as well as owners and residents of HOAs, residential condominiums, and cooperative housing corporations with education, training, and alternative dispute resolution. Charles County and Montgomery County have offices dedicated to COCs that predate the task force.

Finally, findings and recommendations of the report that have not been codified in statute pertain to reserves of COCs, an insurance deductible cap for unit owners, and the uniformity of COC depository requirements.