

HOUSE BILL 352

N1
HB 1053/20 – ENT

(PRE-FILED)

11r0822

By: **Delegate Holmes**

Requested: October 2, 2020

Introduced and read first time: January 13, 2021

Assigned to: Environment and Transportation

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 16, 2021

CHAPTER _____

1 AN ACT concerning

2 **Real Property – Condominiums and Homeowners Associations – Governing**
3 **Bodies and Annual Meetings**

4 FOR the purpose of requiring the governing body of a condominium to convene at least a
5 certain number of meetings each year; requiring a developer of a condominium or a
6 declarant of a homeowners association to convene a certain annual meeting under
7 certain circumstances; requiring certain meetings to include an opportunity for
8 certain unit owners or lot owners to provide comment; requiring the developer of a
9 condominium to appoint a certain person to the board of directors for the council of
10 unit owners within a certain period of time after the date a certain number of units
11 is conveyed under certain circumstances; requiring the developer of a condominium
12 to establish a board of directors if no board of directors has been established under
13 certain circumstances and to appoint a certain person to the board of directors;
14 requiring a developer to deliver certain notices regarding a certain bond to certain
15 individuals within a certain period of time; requiring a council of unit owners to keep
16 books and records beginning on the date the council is established; requiring a
17 council of unit owners to maintain certain books and records in a certain manner;
18 making certain provisions of law applicable to the accounts of a condominium;
19 requiring a declarant to appoint a certain person to the governing body of a
20 homeowners association within a certain period of time after the date a certain
21 number of lots have been conveyed under certain circumstances; requiring a
22 declarant to establish a governing body of a homeowners association if no governing
23 body has been established under certain circumstances and to appoint a certain
24 person to the governing body; requiring a declarant to deliver certain notices

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 regarding a certain bond to certain individuals within a certain period of time;
 2 requiring the governing body of a homeowners association to convene at least a
 3 certain number of meetings each year; requiring a homeowners association to
 4 maintain books and records beginning on the date the homeowners association is
 5 established; requiring a homeowners association to maintain certain books and
 6 records in a certain manner; making certain provisions of law applicable to the
 7 accounts of a homeowners association; making stylistic changes; and generally
 8 relating to the governing bodies of condominium councils of unit owners and
 9 homeowners associations.

10 BY repealing and reenacting, with amendments,

11 Article – Real Property

12 Section 11–109(a) and (c), 11–116, 11B–106.1, 11B–111, 11B–111.6(d), and
 13 11B–112(a)

14 Annotated Code of Maryland

15 (2015 Replacement Volume and 2020 Supplement)

16 BY repealing and reenacting, without amendments,

17 Article – Real Property

18 Section 11–109(b), 11–114.1(d), 11–132, and 11B–101(a), (c), and (d)

19 Annotated Code of Maryland

20 (2015 Replacement Volume and 2020 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

22 That the Laws of Maryland read as follows:

23 **Article – Real Property**

24 11–109.

25 (a) (1) The affairs of the condominium shall be governed by a council of unit
 26 owners which, even if unincorporated, is constituted a legal entity for all purposes.

27 (2) The council of unit owners shall [be comprised of] **COMPRISE** all unit
 28 owners.

29 (b) The bylaws may authorize or provide for the delegation of any power of the
 30 council of unit owners to a board of directors, officers, managing agent, or other person for
 31 the purpose of carrying out the responsibilities of the council of unit owners.

32 (c) (1) A meeting of the council of unit owners or board of directors may not be
 33 held on less notice than required by this section.

34 (2) The council of unit owners shall maintain a current roster of names and
 35 addresses of each unit owner to which notice of meetings of the board of directors shall be
 36 sent at least annually.

1 (3) Each unit owner shall furnish the council of unit owners with his name
2 and current mailing address. A unit owner may not vote at meetings of the council of unit
3 owners until this information is furnished.

4 (4) A regular or special meeting of the council of unit owners may not be
5 held on less than 10 nor more than 90 days':

6 (i) Written notice delivered or mailed to each unit owner at the
7 address shown on the roster on the date of the notice; or

8 (ii) Notice sent to each unit owner by electronic transmission, if the
9 requirements of § 11-139.1 of this title are met.

10 (5) Notice of special meetings of the board of directors shall be given:

11 (i) As provided in the bylaws; or

12 (ii) If the requirements of § 11-139.1 of this title are met, by
13 electronic transmission.

14 (6) Except as provided in § 11-109.1 of this title, a meeting of a governing
15 body shall be open and held at a time and location as provided in the notice or bylaws.

16 (7) (i) **1.** This [paragraph] **SUBPARAGRAPH** does not apply to any
17 meeting of the governing body that occurs at any time before the meeting at which the unit
18 owners elect officers or a board of directors in accordance with paragraph [(16)] **(18)** of this
19 subsection.

20 [(ii)] **2.** Subject to [subparagraph (iii) of this paragraph]
21 **SUBSUBPARAGRAPH 3 OF THIS SUBPARAGRAPH** and to reasonable rules adopted by the
22 governing body under § 11-111 of this title, a governing body shall provide a designated
23 period of time during [a] **EACH** meeting to allow unit owners an opportunity to comment
24 on any matter relating to the condominium.

25 [(iii)] **3.** During a meeting at which the agenda is limited to specific
26 topics or at a special meeting, the unit owners' comments may be limited to the topics listed
27 on the meeting agenda.

28 [(iv)] **(II)** The [governing body] **BOARD OF DIRECTORS OR THE**
29 **DEVELOPER** shall convene at least [one meeting] **TWO MEETINGS** each year at which
30 [the]:

31 **1.** **THE** agenda is open to any matter relating to the
32 condominium; **AND**

1 (10) Any proxy may be revoked at any time at the pleasure of the unit owner
2 or unit owners executing the proxy.

3 (11) A proxy who is not appointed to vote as directed by a unit owner may
4 only be appointed for purposes of meeting quorums and to vote for matters of business
5 before the council of unit owners, other than an election of officers and members of the
6 board of directors.

7 (12) Only a unit owner voting in person or by electronic transmission if the
8 requirements of § 11-139.2 of this title are met or a proxy voting for candidates designated
9 by a unit owner may vote for officers and members of the board of directors.

10 (13) Unless otherwise provided in the bylaws, a unit owner may nominate
11 himself or any other person to be an officer or member of the board of directors. A call for
12 nominations shall be sent to all unit owners not less than 45 days before notice of an election
13 is sent. Only nominations made at least 15 days before notice of an election shall be listed
14 on the election ballot. Candidates shall be listed on the ballot in alphabetical order, with
15 no indicated candidate preference. Nominations may be made from the floor at the meeting
16 at which the election to the board is held.

17 (14) Election materials prepared with funds of the council of unit owners
18 shall list candidates in alphabetical order and may not indicate a candidate preference.

19 (15) Unless otherwise provided in this title, and subject to provisions in the
20 bylaws requiring a different majority, decisions of the council of unit owners shall be made
21 on a majority of votes of the unit owners listed on the current roster present and voting.

22 **(16) IF THERE IS A BOARD OF DIRECTORS FOR THE COUNCIL OF UNIT**
23 **OWNERS ALREADY ESTABLISHED BY THE DEVELOPER, WITHIN 30 DAYS AFTER THE**
24 **~~DATE THAT 25% OF THE CURRENTLY SUBDIVIDED UNITS IN THE CONDOMINIUM~~**
25 **~~THAT MAY BE PART OF THE DEVELOPMENT AFTER ALL PHASES ARE COMPLETE~~**
26 **AFTER THE DATE ON WHICH UNITS REPRESENTING 25% OF THE VOTES IN THE**
27 **CONDOMINIUM HAVE BEEN CONVEYED BY THE DEVELOPER TO MEMBERS OF THE**
28 **PUBLIC FOR RESIDENTIAL PURPOSES, THE DEVELOPER SHALL APPOINT AT LEAST**
29 **ONE MEMBER TO THAT BOARD OF DIRECTORS WHO IS:**

30 (i) A UNIT OWNER; AND

31 (ii) NOT OTHERWISE AFFILIATED WITH THE DEVELOPER.

32 **(17) IF NO BOARD OF DIRECTORS FOR THE COUNCIL OF UNIT OWNERS**
33 **HAS BEEN ESTABLISHED BY THE DEVELOPER ~~WHEN 25% OF THE CURRENTLY~~**
34 **~~SUBDIVIDED UNITS IN THE CONDOMINIUM THAT MAY BE PART OF THE~~**
35 **~~DEVELOPMENT AFTER ALL PHASES ARE COMPLETE~~ WITHIN 30 DAYS AFTER THE**
36 **DATE ON WHICH UNITS REPRESENTING 25% OF THE VOTES IN THE CONDOMINIUM**
37 **HAVE BEEN CONVEYED BY THE DEVELOPER TO MEMBERS OF THE PUBLIC FOR**

1 RESIDENTIAL PURPOSES, THE DEVELOPER SHALL ESTABLISH A BOARD OF
 2 DIRECTORS FOR THE COUNCIL OF UNIT OWNERS AND SHALL APPOINT AT LEAST ONE
 3 MEMBER TO THAT BOARD OF DIRECTORS WHO IS:

4 (I) A UNIT OWNER; AND

5 (II) NOT OTHERWISE AFFILIATED WITH THE DEVELOPER.

6 [(16)] (18) (i) A meeting of the council of unit owners to elect a board of
 7 directors for the council of unit owners, as provided in the condominium declaration or
 8 bylaws, shall be held within:

9 1. 60 days from the date that units representing 50 percent
 10 of the votes in the condominium have been conveyed by the developer to members of the
 11 public for residential purposes; or

12 2. If a lesser percentage is specified in the declaration or
 13 bylaws of the condominium, 60 days from the date the specified lesser percentage of units
 14 in the condominium are sold to members of the public for residential purposes.

15 (ii) 1. Before the date of the meeting held under subparagraph
 16 (i) of this paragraph, the developer shall deliver to each unit owner notice that the
 17 requirements of subparagraph (i) of this paragraph have been met.

18 2. The notice shall include the date, time, and place of the
 19 meeting to elect the board of directors for the council of unit owners.

20 (iii) If a replacement board member is elected, the term of each
 21 member of the board of directors appointed by the developer shall end 10 days after the
 22 meeting is held as specified in subparagraph (i) of this paragraph.

23 (IV) 1. WITHIN 15 DAYS AFTER THE DATE OF THE MEETING
 24 HELD UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE DEVELOPER SHALL
 25 DELIVER TO EACH ~~OF THE OFFICERS OR MEMBERS~~ MEMBER OF THE BOARD OF
 26 DIRECTORS FOR THE COUNCIL OF UNIT OWNERS WHO IS A UNIT OWNER AND WHO IS
 27 NOT AFFILIATED WITH THE DEVELOPER NOTICE OF:

28 A. ANY BOND PROVIDED BY THE DEVELOPER TO A
 29 GOVERNMENTAL UNIT IN CONNECTION WITH THE DEVELOPMENT; AND

30 B. THE NAME, ADDRESS, AND PHONE NUMBER OF THE
 31 ~~PERSON THROUGH WHICH A CLAIM AGAINST THE BOND MAY BE ASSERTED.~~
 32 GOVERNMENTAL UNIT THAT SERVES AS THE BOND HOLDER.

1 **2. AT LEAST 30 DAYS BEFORE A DEVELOPER REQUESTS**
2 **TO BE RELEASED FROM A BOND PROVIDED BY THE DEVELOPER TO A**
3 **GOVERNMENTAL UNIT, THE DEVELOPER SHALL DELIVER TO EACH ~~OF THE OFFICERS~~**
4 **~~OR MEMBERS~~ MEMBER OF THE BOARD OF DIRECTORS FOR THE COUNCIL OF UNIT**
5 **OWNERS WHO IS A UNIT OWNER AND WHO IS NOT AFFILIATED WITH THE DEVELOPER**
6 **NOTICE OF:**

7 **A. THE INTENTION TO BE RELEASED FROM THE BOND;**
8 **AND**

9 **B. THE NAME, ADDRESS, AND PHONE NUMBER OF THE**
10 **~~PERSON THROUGH WHICH A CLAIM AGAINST THE BOND MAY BE ASSERTED.~~**
11 **GOVERNMENTAL UNIT THAT SERVES AS THE BOND HOLDER.**

12 [(iv)] (v) Within 30 days from the date of the meeting held under
13 subparagraph (i) of this paragraph, the developer shall deliver to the officers or board of
14 directors for the council of unit owners, as provided in the condominium declaration or
15 bylaws, at the developer's expense:

- 16 1. The documents specified in § 11-132 of this title;
- 17 2. The condominium funds, including operating funds,
18 replacement reserves, investment accounts, and working capital;
- 19 3. The tangible property of the condominium; and
- 20 4. A roster of current unit owners, including mailing
21 addresses, telephone numbers, and unit numbers, if known.

22 [(v)] (vi) In Prince George's County, the replacement reserves
23 delivered under subparagraph [(iv)2] (v)2 of this paragraph shall be equal to at least the
24 reserve funding amount recommended in the reserve study completed under § 11-109.4 of
25 this title as of the date of the meeting.

26 [(vi)] (vii) 1. This subparagraph does not apply to a contract
27 entered into before October 1, 2009.

28 2. A. In this subparagraph, "contract" means an
29 agreement with a company or individual to handle financial matters, maintenance, or
30 services for the condominium.

31 B. "Contract" does not include an agreement relating to the
32 provision of utility services or communication systems.

33 3. Until all members of the board of directors of the
34 condominium are elected by the unit owners at a transitional meeting as specified in

1 subparagraph (i) of this paragraph, a contract entered into by the officers or board of
2 directors of the condominium may be terminated, at the discretion of the board of directors
3 and without liability for the termination, not later than 30 days after notice.

4 [(vii)] (VIII) If the developer fails to comply with the requirements of
5 this paragraph, an aggrieved unit owner may submit the dispute to the Division of
6 Consumer Protection of the Office of the Attorney General under § 11–130(c) of this title.

7 11–114.1.

8 (d) A copy of the fidelity insurance policy or fidelity bond shall be included in the
9 books and records kept and made available by the council of unit owners under § 11–116 of
10 this title.

11 11–116.

12 (a) The council of unit owners shall keep books and records **BEGINNING ON THE**
13 **DATE THE COUNCIL OF UNIT OWNERS IS ESTABLISHED**, in accordance with good
14 accounting practices on a consistent basis.

15 (b) On the request of the unit owners of at least 5 percent of the units, the council
16 of unit owners shall cause an audit of the books and records to be made by an independent
17 certified public accountant, provided an audit shall be made not more than once in any
18 consecutive 12-month period. The cost of the audit shall be a common expense.

19 (c) (1) (i) **1.** Except as provided in paragraph (3) of this subsection, all
20 books and records, including insurance policies, kept by the council of unit owners shall be
21 maintained in Maryland or within 50 miles of its borders and shall be available at some
22 place designated by the council of unit owners for examination or copying, or both, by any
23 unit owner, a unit owner's mortgagee, or their respective duly authorized agents or
24 attorneys, during normal business hours, and after reasonable notice.

25 **2. ALL BOOKS AND RECORDS KEPT BY THE COUNCIL OF**
26 **UNIT OWNERS SHALL BE MAINTAINED SEPARATE AND APART FROM THE BOOKS AND**
27 **RECORDS OF THE DEVELOPER OR OF ANY OTHER PERSON.**

28 (ii) If a unit owner requests in writing a copy of financial statements
29 of the condominium or the minutes of a meeting of the board of directors or other governing
30 body of the condominium to be delivered, the board of directors or other governing body of
31 the condominium shall compile and send the requested information by mail, electronic
32 transmission, or personal delivery:

33 1. Within 21 days after receipt of the written request, if the
34 financial statements or minutes were prepared within the 3 years immediately preceding
35 receipt of the request; or

1 2. Within 45 days after receipt of the written request, if the
2 financial statements or minutes were prepared more than 3 years before receipt of the
3 request.

4 (2) Books and records required to be made available under paragraph (1)
5 of this subsection shall first be made available to a unit owner not later than 15 business
6 days after a unit is conveyed from a developer and the unit owner requests to examine or
7 copy the books and records.

8 (3) Books and records kept by or on behalf of a council of unit owners may
9 be withheld from public inspection, except for inspection by the person who is the subject
10 of the record or the person's designee or guardian, to the extent that they concern:

11 (i) Personnel records, not including information on individual
12 salaries, wages, bonuses, and other compensation paid to employees;

13 (ii) An individual's medical records;

14 (iii) An individual's personal financial records, including assets,
15 income, liabilities, net worth, bank balances, financial history or activities, and
16 creditworthiness;

17 (iv) Records relating to business transactions that are currently in
18 negotiation;

19 (v) The written advice of legal counsel; or

20 (vi) Minutes of a closed meeting of the board of directors or other
21 governing body of the council of unit owners, unless a majority of a quorum of the board of
22 directors or governing body that held the meeting approves unsealing the minutes or a
23 recording of the minutes for public inspection.

24 (d) (1) Except for a reasonable charge imposed on a person desiring to review
25 or copy the books and records or who requests delivery of information, the council of unit
26 owners may not impose any charges under this section.

27 (2) A charge imposed under paragraph (1) of this subsection for copying
28 books and records may not exceed the limits authorized under Title 7, Subtitle 2 of the
29 Courts Article.

30 11-132.

31 On transfer of control by the developer to the council of unit owners, the developer
32 shall turn over documents including:

33 (1) Copies of the condominium's filed articles of incorporation, recorded
34 declaration, and all recorded covenants, bylaws, plats, and restrictions of the condominium;

1 (2) Subject to the restrictions of § 11–116 of this title, all books and records
2 of the condominium, including financial statements, minutes of any meeting of the
3 governing body, and completed business transactions;

4 (3) Any policies, rules, and regulations adopted by the governing body;

5 (4) The financial records of the condominium from the date of creation to
6 the date of transfer of control, including budget information regarding estimated and actual
7 expenditures by the condominium and any report relating to the reserves required for major
8 repairs and replacement of the common elements of the condominium;

9 (5) A copy of all contracts to which the condominium is a party;

10 (6) The name, address, and telephone number of any contractor or
11 subcontractor employed by the condominium;

12 (7) Any insurance policies in effect and all prior insurance policies;

13 (8) Any permit or notice of code violation issued to the condominium by the
14 county, local, State, or federal government;

15 (9) Any warranty in effect;

16 (10) Drawings, architectural plans, or other suitable documents setting
17 forth the necessary information for location, maintenance, and repair of all condominium
18 facilities; and

19 (11) Individual owner files and records, including assessment account
20 records, correspondence, and notices of any violations.

21 11B–101.

22 (a) In this title the following words have the meanings indicated, unless the
23 context requires otherwise.

24 (c) “Declarant” means any person who subjects property to a declaration.

25 (d) (1) “Declaration” means an instrument, however denominated, recorded
26 among the land records of the county in which the property of the declarant is located, that
27 creates the authority for a homeowners association to impose on lots, or on the owners or
28 occupants of lots, or on another homeowners association, condominium, or cooperative
29 housing corporation any mandatory fee in connection with the provision of services or
30 otherwise for the benefit of some or all of the lots, the owners or occupants of lots, or the
31 common areas.

1 (2) "Declaration" includes any amendment or supplement to the
2 instruments described in paragraph (1) of this subsection.

3 (3) "Declaration" does not include a private right-of-way or similar
4 agreement unless it requires a mandatory fee payable annually or at more frequent
5 intervals.

6 11B-106.1.

7 (A) IF THERE IS A BOARD OF DIRECTORS FOR THE HOMEOWNERS
8 ASSOCIATION ALREADY ESTABLISHED BY THE DECLARANT, WITHIN 30 DAYS AFTER
9 THE DATE THAT AT LEAST 25% OF THE CURRENTLY SUBDIVIDED LOTS THAT MAY BE
10 PART OF THE DEVELOPMENT AFTER ALL PHASES ARE COMPLETE HAVE BEEN
11 CONVEYED TO MEMBERS OF THE PUBLIC FOR RESIDENTIAL PURPOSES, THE
12 DECLARANT SHALL APPOINT AT LEAST ONE MEMBER TO THAT BOARD OF
13 DIRECTORS WHO IS:

14 (1) A LOT OWNER; AND

15 (2) NOT OTHERWISE AFFILIATED WITH THE DECLARANT OR A
16 VENDOR OF LOTS IN THE DEVELOPMENT.

17 (B) IF NO BOARD OF DIRECTORS FOR THE HOMEOWNERS ASSOCIATION HAS
18 BEEN ESTABLISHED BY THE DECLARANT WHEN AT LEAST 25% OF THE CURRENTLY
19 SUBDIVIDED LOTS THAT MAY BE PART OF THE DEVELOPMENT AFTER ALL PHASES
20 ARE COMPLETE HAVE BEEN CONVEYED TO MEMBERS OF THE PUBLIC FOR
21 RESIDENTIAL PURPOSES, THE DECLARANT SHALL ESTABLISH A BOARD OF
22 DIRECTORS AND SHALL APPOINT AT LEAST ONE MEMBER TO THAT BOARD OF
23 DIRECTORS WHO IS:

24 (1) A LOT OWNER; AND

25 (2) NOT OTHERWISE AFFILIATED WITH THE DECLARANT OR A
26 VENDOR OF LOTS IN THE DEVELOPMENT.

27 [(a)] (C) A meeting of the members of the homeowners association to elect a
28 governing body of the homeowners association shall be held within:

29 (1) 60 days from the date that at least 75% of the total number of lots that
30 may be part of the development after all phases are complete are sold to members of the
31 public for residential purposes; or

32 (2) If a lesser percentage is specified in the governing documents of the
33 homeowners association, 60 days from the date the specified lesser percentage of the total

1 number of lots in the development after all phases are complete are sold to members of the
2 public for residential purposes.

3 **[(b)] (D)** (1) Before the date of the meeting held under subsection **[(a)] (C)** of
4 this section, the declarant shall deliver to each lot owner notice that the requirements of
5 subsection **[(a)] (C)** of this section have been met.

6 (2) The notice shall include the date, time, and place of the meeting to elect
7 the governing body of the homeowners association.

8 **[(c)] (E)** The term of each member of the governing body of the homeowners
9 association appointed by the declarant shall end 10 days after the meeting under subsection
10 **[(a)] (C)** of this section is held, if a replacement board member is elected.

11 **[(d)] (F)** Within 30 days from the date of the meeting held under subsection **[(a)]**
12 **(C)** of this section, the declarant shall deliver the following items to the governing body at
13 the declarant's expense:

14 (1) The deeds to the common areas;

15 (2) Copies of the homeowners association's filed articles of incorporation,
16 declaration, and all recorded covenants, plats, restrictions, and any other records of the
17 primary development and of related developments;

18 (3) A copy of the bylaws and rules of the primary development and of other
19 related developments as filed in the depository of the county in which the development is
20 located;

21 (4) The minute books, including all minutes;

22 (5) Subject to the restrictions of § 11B-112 of this title, all books and
23 records of the homeowners association, including financial statements, minutes of any
24 meeting of the governing body, and completed business transactions;

25 (6) Any policies, rules, and regulations adopted by the governing body;

26 (7) The financial records of the homeowners association from the date of
27 creation to the date of transfer of control, including budget information regarding estimated
28 and actual expenditures by the homeowners association and any report relating to the
29 reserves required for major repairs and replacement of the common areas of the
30 homeowners association;

31 (8) A copy of all contracts to which the homeowners association is a party;

32 (9) The name, address, and telephone number of any contractor or
33 subcontractor employed by the homeowners association;

1 (10) Any insurance policies in effect;

2 (11) Any permit or notice of code violations issued to the homeowners
3 association by the county, local, State, or federal government;

4 (12) Any warranty in effect and all prior insurance policies;

5 (13) The homeowners association funds, including operating funds,
6 replacement reserves, investment accounts, and working capital;

7 (14) The tangible property of the homeowners association;

8 (15) A roster of current lot owners, including their mailing addresses,
9 telephone numbers, and lot numbers, if known;

10 (16) Individual member files and records, including assessment account
11 records, correspondence, and notices of any violations; and

12 (17) Drawings, architectural plans, or other suitable documents setting
13 forth the necessary information for location, maintenance, and repairs of all common areas.

14 [(e)] (G) In Prince George's County, the replacement reserves delivered under
15 subsection [(d)(13)] (F)(13) of this section shall be equal to at least the reserve funding
16 amount recommended in the reserve study completed under § 11B-112.3 of this title as of
17 the date of the meeting.

18 [(f)] (H) (1) This subsection does not apply to a contract entered into before
19 October 1, 2009.

20 (2) (i) In this subsection, "contract" means an agreement with a
21 company or individual to handle financial matters, maintenance, or services for the
22 homeowners association.

23 (ii) "Contract" does not include an agreement relating to the
24 provision of utility services or communication systems.

25 (3) Until all members of the governing body are elected by the lot owners
26 at a transitional meeting under subsection [(a)] (C) of this section, a contract entered into
27 by the governing body may be terminated, at the discretion of the governing body and
28 without liability for the termination, not later than 30 days after notice.

29 (I) (1) **WITHIN 15 DAYS AFTER THE DATE OF THE MEETING HELD UNDER**
30 **SUBSECTION (C) OF THIS SECTION, THE DECLARANT SHALL DELIVER TO EACH**
31 **MEMBER OF THE BOARD OF DIRECTORS WHO IS A LOT OWNER AND WHO IS NOT**
32 **AFFILIATED WITH THE DECLARANT NOTICE OF:**

1 (I) ANY BOND PROVIDED BY THE DECLARANT TO A
2 GOVERNMENTAL UNIT IN CONNECTION WITH THE DEVELOPMENT; AND

3 (II) THE NAME, ADDRESS, AND PHONE NUMBER OF THE ~~PERSON~~
4 ~~THROUGH WHICH A CLAIM AGAINST THE BOND MAY BE ASSERTED~~ GOVERNMENTAL
5 UNIT THAT SERVES AS THE BOND HOLDER.

6 (2) AT LEAST 30 DAYS BEFORE A DECLARANT REQUESTS TO BE
7 RELEASED FROM A BOND PROVIDED BY THE DECLARANT TO A GOVERNMENTAL
8 UNIT, THE DECLARANT SHALL DELIVER TO EACH MEMBER OF THE BOARD OF
9 DIRECTORS WHO IS A LOT OWNER AND WHO IS NOT AFFILIATED WITH THE
10 DECLARANT NOTICE OF:

11 (I) THE INTENTION TO BE RELEASED FROM THE BOND; AND

12 (II) THE NAME, ADDRESS, AND PHONE NUMBER OF THE ~~PERSON~~
13 ~~THROUGH WHICH A CLAIM AGAINST THE BOND MAY BE ASSERTED~~ GOVERNMENTAL
14 UNIT THAT SERVES AS THE BOND HOLDER.

15 [(g)] (J) If the declarant fails to comply with the requirements of this section, an
16 aggrieved lot owner may submit the dispute to the Division of Consumer Protection of the
17 Office of the Attorney General under § 11B-115(c) of this title.

18 11B-111.

19 Except as provided in this title, and notwithstanding anything contained in any of
20 the documents of the homeowners association:

21 (1) Subject to the provisions of item (4) of this section, all meetings of the
22 homeowners association, including meetings of the board of directors or other governing
23 body of the homeowners association or a committee of the homeowners association, shall
24 be open to all members of the homeowners association or their agents;

25 (2) All members of the homeowners association shall be given reasonable
26 notice of all regularly scheduled open meetings of the homeowners association;

27 (3) (i) [This item does not apply to any meeting of a governing body that
28 occurs at any time before] **AFTER** the lot owners, other than the developer, have a majority
29 of votes in the homeowners association, as provided in the declaration[;]:

30 [(ii)] 1. Subject to item [(iii)] 2 of this item and to reasonable rules
31 adopted by [a] THE governing body, [a] THE governing body shall provide a designated
32 period of time during [a] EACH meeting to allow lot owners an opportunity to comment on
33 any matter relating to the homeowners association; AND

1 [(iii)] **2.** During a meeting at which the agenda is limited to specific
2 topics or at a special meeting, the lot owners' comments may be limited to the topics listed
3 on the meeting agenda; and

4 [(iv)] **(II)** The [governing body] **BOARD OF DIRECTORS OR THE**
5 **DECLARANT** shall convene at least [one meeting] **TWO MEETINGS** each year at which
6 [the]:

7 **1.** **THE** agenda is open to any matter relating to the
8 homeowners association; **AND**

9 **2.** **THE LOT OWNERS HAVE AN OPPORTUNITY TO**
10 **PROVIDE COMMENT;**

11 (4) A meeting of the board of directors or other governing body of the
12 homeowners association or a committee of the homeowners association may be held in
13 closed session only for the following purposes:

14 (i) Discussion of matters pertaining to employees and personnel;

15 (ii) Protection of the privacy or reputation of individuals in matters
16 not related to the homeowners association's business;

17 (iii) Consultation with legal counsel on legal matters;

18 (iv) Consultation with staff personnel, consultants, attorneys, board
19 members, or other persons in connection with pending or potential litigation or other legal
20 matters;

21 (v) Investigative proceedings concerning possible or actual criminal
22 misconduct;

23 (vi) Consideration of the terms or conditions of a business
24 transaction in the negotiation stage if the disclosure could adversely affect the economic
25 interests of the homeowners association;

26 (vii) Compliance with a specific constitutional, statutory, or judicially
27 imposed requirement protecting particular proceedings or matters from public disclosure;
28 or

29 (viii) Discussion of individual owner assessment accounts; and

30 (5) If a meeting is held in closed session under item (4) of this section:

1 (i) An action may not be taken and a matter may not be discussed if
2 it is not permitted by item (4) of this section; and

3 (ii) A statement of the time, place, and purpose of a closed meeting,
4 the record of the vote of each board or committee member by which the meeting was closed,
5 and the authority under this section for closing a meeting shall be included in the minutes
6 of the next meeting of the board of directors or the committee of the homeowners
7 association.

8 11B-111.6.

9 (d) A copy of the fidelity insurance policy or fidelity bond shall be included in the
10 books [and], records, AND ACCOUNTS kept and made available by or on behalf of the
11 homeowners association under § 11B-112 of this title.

12 11B-112.

13 (a) **(1) (I) THE HOMEOWNERS ASSOCIATION SHALL MAINTAIN BOOKS**
14 **AND RECORDS BEGINNING ON THE DATE THE HOMEOWNERS ASSOCIATION IS**
15 **ESTABLISHED.**

16 **(II) ALL BOOKS AND RECORDS KEPT BY THE HOMEOWNERS**
17 **ASSOCIATION SHALL BE MAINTAINED SEPARATE AND APART FROM THE BOOKS AND**
18 **RECORDS OF THE DECLARANT OR OF ANY OTHER PERSON.**

19 **[(1)] (2)** (i) Subject to the provisions of paragraph **[(2)] (3)** of this
20 subsection, all books and records kept by or on behalf of the homeowners association shall
21 be made available for examination or copying, or both, by a lot owner, a lot owner's
22 mortgagee, or their respective duly authorized agents or attorneys, during normal business
23 hours, and after reasonable notice.

24 (ii) Books and records required to be made available under
25 subparagraph (i) of this paragraph shall first be made available to a lot owner no later than
26 15 business days after a lot is conveyed by the declarant and the lot owner requests to
27 examine or copy the books and records.

28 (iii) If a lot owner requests in writing a copy of financial statements
29 of the homeowners association or the minutes of a meeting of the governing body of the
30 homeowners association to be delivered, the governing body of the homeowners association
31 shall compile and send the requested information by mail, electronic transmission, or
32 personal delivery:

33 1. Within 21 days after receipt of the written request, if the
34 financial statements or minutes were prepared within the 3 years immediately preceding
35 receipt of the request; or

1 2. Within 45 days after receipt of the written request, if the
2 financial statements or minutes were prepared more than 3 years before receipt of the
3 request.

4 **[(2)] (3)** Books and records kept by or on behalf of a homeowners
5 association may be withheld from public inspection, except for inspection by the person who
6 is the subject of the record or the person’s designee or guardian, to the extent that they
7 concern:

8 (i) Personnel records, not including information on individual
9 salaries, wages, bonuses, and other compensation paid to employees;

10 (ii) An individual’s medical records;

11 (iii) An individual’s personal financial records, including assets,
12 income, liabilities, net worth, bank balances, financial history or activities, and
13 creditworthiness;

14 (iv) Records relating to business transactions that are currently in
15 negotiation;

16 (v) The written advice of legal counsel; or

17 (vi) Minutes of a closed meeting of the governing body of the
18 homeowners association, unless a majority of a quorum of the governing body of the
19 homeowners association that held the meeting approves unsealing the minutes or a
20 recording of the minutes for public inspection.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2021.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.