

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 15

(Senator West)

Judicial Proceedings

Environment and Transportation

Cooperative Housing Corporations - Dispute Settlement

This bill alters procedures for the dispute settlement mechanism under the Maryland Cooperative Housing Corporation Act and makes other technical and clarifying changes. The bill applies prospectively and may not be interpreted to have any effect on or application to any complaint or demand formally arising under the rules of a cooperative housing corporation or the provisions of a member's proprietary lease before its October 1, 2024 effective date, unless the bylaws of the cooperative housing corporation or the proprietary lease of the member states otherwise.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State operations or finances.

Local Effect: The bill is not anticipated to materially affect local government operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill makes numerous changes to the notice and procedural requirements of the dispute settlement mechanism, including:

- the written cease and desist demand for the alleged violation must specify, among other existing provisions, a time period of at least 15 days (rather than 10 days) to abate the alleged (continuing) violation without further sanction;

- the governing body of a cooperative housing corporation must *send* by certified mail, return receipt requested, specified notices to a member at the address of record (rather than *serve* the member);
- a member of a cooperative housing corporation has a right to *request* a hearing to be held by the governing body;
- notice advising a member of the right to request a hearing must specify the procedure for requesting a hearing and the timeframe for submitting the request, which may not be less than 10 days beginning on the date of the notice; and
- the governing body must give a member at least 10 days' written notice of the time and place of any hearing.

If the member does not request a hearing within the timeframe specified in the notice, the governing body, at the next meeting, must deliberate as to whether the violation occurred and decide whether a sanction is appropriate for the violation.

Current Law: Statutory provisions set forth a mechanism to be used for any complaint or demand formally arising on or after January 1, 2015, unless the bylaws of a cooperative housing corporation or the proprietary lease of the member who is a party to the dispute state otherwise. Pursuant to the provisions, the governing body may not impose a fine, suspend voting, bring an action to evict, or infringe upon the rights of a member for a violation of the rules of the cooperative housing corporation or the provisions of the member's proprietary lease without first taking specified actions. The governing body must serve the member with a written demand to cease and desist that specifies (1) the alleged violation; (2) the action required to abate the violation; and (3) a time period of at least 10 days during which an ongoing violation may be abated without further penalty *or*, in regard to noncontinuing violations, a statement that any further violation of the same rule may result in the imposition of sanction after notice and a hearing.

If a violation continues beyond the abatement period, or if the same rule is subsequently violated, the member must be served with written notice of a hearing. The notice must (1) contain a description of the alleged violation and proposed sanction and (2) inform the member of the opportunity to produce any statement, evidence, and witnesses on the member's behalf. The notice must specify the time and place of the hearing, which may not be less than 10 days from the giving of the notice.

The hearing must be held in an executive session of the governing body and provide the member with the right to present evidence and to present and cross-examine witnesses. Prior to imposing any sanction, the governing body must place in the minutes of the meeting proof of the notice provided to the member. The meeting minutes must also contain the results of the hearing and the details of any sanction imposed. A member may appeal a decision of the governing body in court.

If a member fails to comply with the provisions of the Maryland Cooperative Housing Act, the cooperative housing corporation's bylaws, or a governing body's decision made pursuant to the dispute settlement procedures, the member may be sued for damages or injunctive relief by the governing body or any other member. Reasonable attorney's fees may be awarded by the court to the prevailing party.

For more information on common ownership communities (which include cooperative housing corporations), see the **Appendix – Common Ownership Communities**.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See HB 462 of 2023; HB 616 of 2022; and HB 825 of 2021.

Designated Cross File: HB 309 (Delegate Healey, *et al.*) - Environment and Transportation.

Information Source(s): Charles, Montgomery, and Prince George's counties; Office of the Attorney General (Consumer Protection Division); Secretary of State; Judiciary (Administrative Office of the Courts); Department of Legislative Services

Fiscal Note History: First Reader - February 7, 2024
km/jkb Third Reader - March 18, 2024
Revised - Amendment(s) - March 18, 2024

Analysis by: Donavan A. Ham

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

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. Because registration of the various COCs is not required statewide, the exact number of COCs in Maryland is unknown. However, the Foundation for Community Association Research estimated that there were 7,100 community associations with an estimated 1 million residents in these associations in the State in 2023.

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; instead, 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 outstanding fees are generally pursued by way of a landlord-tenant action.

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 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.

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 and Montgomery counties have offices dedicated to COCs that predate the task force.