

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 665

(Senator Charles)

Judicial Proceedings

Environment and Transportation

Maryland Condominium Act - Amendments to the Declaration

This bill reduces, from 80% to 66 2/3%, the threshold of unit owners listed on the current roster of a condominium needed to consent to an amendment of the condominium's declaration once all units have been sold by a developer. However, the existing threshold of 80% is still applicable if any of the units of the condominium are owned by the developer.

Fiscal Summary

State Effect: The bill does not materially affect State operations or finances.

Local Effect: The bill does not materially affect local government operations or finances.

Small Business Effect: Minimal.

Analysis

Current Law: A condominium's declaration must contain specified information, including (1) the name of the condominium; (2) a description of the condominium and a statement of the owner's intent to subject the property to a condominium regime; (3) a general description of each unit, including its perimeters and location; (4) a general description of the condominium's common elements and limited common elements; (5) each unit owner's undivided percentage interest in the common elements; and (6) the votes apportioned to each unit at meetings of the council of unit owners.

Generally, the declaration of a condominium may be amended only with the written consent of 80% of the unit owners listed on the current roster. The restriction is not

applicable to a corrective amendment, as specified. Unless otherwise expressly permitted or required, an amendment to the declaration may not change the boundaries of any unit, the undivided percentage interest in the common elements of any unit, the liability for common expenses or rights to common profits of any unit, or the number of votes in the council of unit owners of any unit without the written consent of each unit owner and mortgagee. Statute includes other limitations regarding permissible amendments.

For more information on condominiums – which, along with homeowners associations and cooperative housing corporations, are commonly referred to as common ownership communities – see the **Appendix – Common Ownership Communities**.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See HB 434 of 2023.

Designated Cross File: HB 1496 (Delegate J. Long) - Rules and Executive Nominations.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Department of Legislative Services

Fiscal Note History: First Reader - February 15, 2024
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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. 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.