

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 446

(Senator Muse)

Budget and Taxation

Environment and Transportation

Local Government - Condominium and Homeowners Associations - Repair and Rehabilitation Funds

This bill authorizes counties and municipalities to establish a local trust fund or other appropriate fund for the purpose of repairing or rehabilitating infrastructure within communities that are subject to the Maryland Condominium Act or the Maryland Homeowners Association Act.

Fiscal Summary

State Effect: None.

Local Effect: The bill does not affect overall county and municipal property tax revenues but rather redirects property tax revenues to be used for specified purposes to the extent special funds are established. This diversion of property tax revenues may result in less funding for other local services, including education and public safety.

Small Business Effect: None.

Analysis

Bill Summary: A fund created may be used, at the discretion of a county or municipality, for the repair of infrastructure that is traditionally maintained by the county or municipality for the benefit of the public, including roads and stormwater management facilities and may not be used to repair or replace recreational facilities used for the exclusive use or benefit of the members of a condominium association or homeowners association or their guests.

A fund established by a county or municipality must consist of (1) property tax revenues paid to the county or municipality by unit owners in a condominium or lot owners in a homeowners association; (2) other appropriations made by the county or municipality for the benefit of the fund; (3) gifts or donations made to the fund; and (4) investment earnings of the fund.

A county or municipality must assign property tax revenues paid to the county or municipality by the unit owners in a condominium association or the lot owners in a homeowners association to a fund that is established as follows: (1) 25% of the revenues per year for any condominium association or homeowners association that has not received support from the fund since the date on which the fund was established; and (2) between 10% and 25% of the revenues per year for any condominium association or homeowners association that has received support from the fund since the date on which the fund was established.

A county or a municipality may establish eligibility requirements for the award of funds to a condominium association or homeowners association. A county or municipality must prioritize support for condominiums and homeowners associations that exhibit the greatest need for infrastructure repair or rehabilitation. When evaluating the need for funding to support infrastructure repair, a county or municipality may consider the availability of other funds and resources on which a condominium association or homeowners association may rely.

Current Law: There are an estimated 7,100 community associations with an estimated one million residents in these associations in the State in 2023. For a discussion of common ownership communities, please see **Appendix – Common Ownership Communities**.

Local Fiscal Effect: The bill does not alter the overall amount of property taxes collected by local governments. The bill authorizes a local government to establish a fund to pay certain infrastructure costs for homeowners associations and condominium associations. To the extent these funds are established, local governments must direct up to 25% of property tax revenues collected from these various associations to the fund. As a result, local government general fund revenues will be diverted from other local services such as education and public safety. The amount of property tax revenue that may be diverted depends on the amount of property taxes collected from homeowners and condominium associations, which cannot be reliably estimated.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See HB 55 of 2023 and HB 1061 of 2022.

Designated Cross File: HB 280 (Delegate Holmes) - Environment and Transportation.

Information Source(s): Montgomery and Worcester counties; Maryland Association of Counties; Maryland Municipal League; City of Salisbury; Town of Leonardtown; State Department of Assessments and Taxation; 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. 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.