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**By: Delegates Goldwater, Kopp, and Genn**  
Introduced and read first time: February 2, 1996  
Assigned to: Economic Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Condominium Associations - Elections**

3 FOR the purpose of requiring that condominium ballots and proxies for certain elections  
4 contain certain information and take a certain form; allowing candidates to submit  
5 to the council of unit owners a certain written statement; requiring the council of  
6 unit owners to distribute written candidate statements at a certain time; providing  
7 each candidate may address the council of unit owners at the annual meeting, for a  
8 certain length of time, before the casting of ballots and proxies; providing that one  
9 representative for each candidate may observe the counting of ballots and proxies;  
10 requiring the council of unit owners keep certain election materials in a certain  
11 manner; and generally relating to condominium association elections.

12 BY repealing and reenacting, with amendments,

13 Article - Real Property  
14 Section 11-109  
15 Annotated Code of Maryland  
16 (1996 Replacement Volume)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article - Real Property**

20 11-109.

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

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

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

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

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

7 (4) A regular or special meeting of the council of unit owners may not be  
8 held on less than 10 nor more than 90 days written notice delivered or mailed to each unit  
9 owner at the address shown on the roster on the date of the notice.

10 (5) Notice of special meetings of the board of directors shall be given as  
11 provided in the bylaws.

12 (6) Except as provided in § 11-109.1 of this title, a meeting of the council of  
13 unit owners or board of directors shall be open and held at a time and location as  
14 provided in the notice or bylaws.

15 (7) Unless the bylaws provide otherwise, a quorum is deemed present  
16 throughout any meeting of the council of unit owners if persons entitled to cast 25 percent  
17 of the total number of votes appurtenant to all units are present in person or by proxy.

18 (8) At meetings of the council of unit owners each unit owner shall be  
19 entitled to cast the number of votes appurtenant to his unit. Unit owners may vote by  
20 proxy, but, the proxy is effective only for a maximum period of 180 days following its  
21 issuance, unless granted to a lessee or mortgagee.

22 (9) Any proxy may be revoked at any time at the pleasure of the unit owner  
23 or unit owners executing the proxy.

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

28 (11) Only a unit owner voting in person or a proxy voting for candidates  
29 designated by a unit owner may vote for officers and members of the board of directors.

30 [(12)] (D) (1) Unless otherwise provided in the bylaws, a unit owner may  
31 nominate himself or any other person to be an officer or member of the board of  
32 directors. A call for nominations shall be sent to all unit owners not less than 45 days  
33 before notice of an election is sent. Only nominations made at least 15 days before notice  
34 of an election shall be listed on the election ballot. [Candidates shall be listed on the  
35 ballot in alphabetical order, with no indicated candidate preference.] Nominations may  
36 be made from the floor at the meeting at which the election to the board is held.

37 (2) CANDIDATES SHALL BE LISTED ON THE LEFT SIDE OF THE BALLOT  
38 IN ALPHABETICAL ORDER, WITH NO INDICATED CANDIDATE PREFERENCE.

39 (3) A BALLOT MAY NOT BE LONGER THAN ONE PAGE IN LENGTH AND  
40 SHALL CONTAIN SPACES FOR WRITE-IN CANDIDATES.

3

1 (4) IN ADDITION TO THE REQUIREMENTS OF PARAGRAPHS (2) AND (3)  
2 OF THIS SUBSECTION, BALLOTS SHALL BE SUBSTANTIALLY SIMILAR TO THE  
3 FOLLOWING FORM:

4 "MEETING OF THE COUNSEL OF UNIT OWNERS OF THE \_\_\_\_\_ CONDOMINIUM,  
5 \_\_\_\_\_ (DATE)

6 BALLOT FOR ELECTION OF THE BOARD OF DIRECTORS

7 PLEASE WRITE YOUR NAME, YOUR UNIT NUMBER, AND THE PERCENTAGE VOTING  
8 INTEREST THAT YOU HOLD ON THE FOLLOWING LINE:

9 \_\_\_\_\_

10 TO VOTE FOR A LISTED CANDIDATE, SIGN YOUR NAME TO THE RIGHT OF THE  
11 CANDIDATE'S NAME. YOU MAY DESIGNATE WRITE-IN CANDIDATES.

12 LIST OF CANDIDATES

13 \_\_\_\_\_  
14 \_\_\_\_\_  
15 \_\_\_\_\_  
16 \_\_\_\_\_"

17 (5) IN ADDITION TO THE REQUIREMENTS OF PARAGRAPHS (2) AND (3)  
18 OF THIS SUBSECTION, PROXY BALLOTS SHALL BE SUBSTANTIALLY SIMILAR TO THE  
19 FOLLOWING FORM:

20 "MEETING OF THE COUNSEL OF UNIT OWNERS OF THE \_\_\_\_\_ CONDOMINIUM,  
21 \_\_\_\_\_ (DATE)

22 DESIGNATED PROXY BALLOT FOR ELECTION OF THE BOARD OF DIRECTORS

23 PLEASE WRITE YOUR NAME, YOUR NUMBER, AND THE PERCENTAGE VOTING  
24 INTEREST THAT YOU HOLD ON THE FOLLOWING LINE:

25 \_\_\_\_\_

26 TO VOTE FOR A LISTED CANDIDATE, SIGN YOUR PROXY TO THE RIGHT OF THE  
27 CANDIDATE'S NAME. YOU MAY DESIGNATE WRITE-IN CANDIDATES.

28 LIST OF CANDIDATES

29 \_\_\_\_\_  
30 \_\_\_\_\_  
31 \_\_\_\_\_

32 I APPOINT \_\_\_\_\_ (NAME OF PROXY HOLDER) AS MY PROXY FOR THE  
33 ELECTION TAKING PLACE AT THE MEETING OF THE COUNCIL OF UNIT OWNERS ON  
34 \_\_\_\_\_ (DATE) AND DESIGNATE MY VOTES AS SHOWN ABOVE.

35 \_\_\_\_\_ (SIGNATURE OF THE UNIT OWNER)."

4

1                    [(13)] (6) Election materials prepared with funds of the council of unit  
2 owners shall list candidates in alphabetical order and may not indicate a candidate  
3 preference.

4                    (7) EACH CANDIDATE MAY SUBMIT TO THE COUNCIL OF UNIT OWNERS  
5 A STATEMENT NOT MORE THAN ONE PAGE IN LENGTH OR, IF DESIGNATED IN THE  
6 BYLAWS, LONGER THAN ONE PAGE IN LENGTH.

7                    (8) THE COUNCIL OF UNIT OWNERS SHALL DISTRIBUTE A STATEMENT,  
8 SUBMITTED BY A CANDIDATE IN ACCORDANCE WITH PARAGRAPH (7) OF THIS  
9 SUBSECTION, WITH OTHER ELECTION MATERIALS BEFORE OR AT THE SAME TIME  
10 AS THE DISTRIBUTION OF BALLOTS AND PROXIES.

11                    (9) UNLESS THE BYLAWS SPECIFY A LONGER TIME PERIOD TO SPEAK,  
12 EACH CANDIDATE MAY ADDRESS THE COUNCIL OF UNIT OWNERS AT THE ANNUAL  
13 MEETING, FOR NO LONGER THAN 10 MINUTES, BEFORE THE UNIT OWNERS CAST  
14 BALLOTS AND PROXIES.

15                    (10) ONE REPRESENTATIVE FOR EACH CANDIDATE MAY OBSERVE THE  
16 COUNTING OF BALLOTS AND PROXIES.

17                    (11) THE COUNCIL OF UNIT OWNERS SHALL KEEP BALLOTS, PROXIES,  
18 TALLY SHEETS, AND OTHER ELECTION MATERIALS IN ACCORDANCE WITH §  
19 11-116(C) OF THIS SUBTITLE.

20                    [(14)] (12) Unless otherwise provided in this title, and subject to provisions in  
21 the bylaws requiring a different majority, decisions of the council of unit owners shall be  
22 made on a majority of votes of the unit owners listed on the current roster present and  
23 voting.

24                    [(15)] (13) A meeting of the council of unit owners shall be held within 60  
25 days from the date that units representing 50 percent of the votes in the condominium  
26 have been conveyed by the developer to the initial purchasers of units to elect officers or  
27 a board of directors for the council of unit owners, as provided in the condominium  
28 declaration or bylaws.

29                    [(d)] (E) The council of unit owners may be either incorporated as a nonstock  
30 corporation or unincorporated and it is subject to those provisions of Title 5, Subtitle 2 of  
31 the Corporations and Associations Article of the Code which are not inconsistent with  
32 this title. The council of unit owners has, subject to any provision of this title, the  
33 declaration, and bylaws, the following powers:

34                    (1) To have perpetual existence, subject to the right of the unit owners to  
35 terminate the condominium regime as provided in § 11-123 of this title;

36                    (2) To adopt and amend reasonable rules and regulations;

37                    (3) To adopt and amend budgets for revenues, expenditures, and reserves  
38 and collect assessments for common expenses from unit owners;

39                    (4) To sue and be sued, complain and defend, or intervene in litigation or  
40 administrative proceedings in its own name on behalf of itself or two or more unit owners  
41 on matters affecting the condominium;

1 (5) To transact its business, carry on its operations and exercise the powers  
2 provided in this subsection in any state, territory, district, or possession of the United  
3 States and in any foreign country;

4 (6) To make contracts and guarantees, incur liabilities and borrow money,  
5 sell, mortgage, lease, pledge, exchange, convey, transfer, and otherwise dispose of any  
6 part of its property and assets;

7 (7) To issue bonds, notes, and other obligations and secure the same by  
8 mortgage or deed of trust of any part of its property, franchises, and income;

9 (8) To acquire by purchase or in any other manner, to take, receive, own,  
10 hold, use, employ, improve, and otherwise deal with any property, real or personal, or any  
11 interest therein, wherever located;

12 (9) To hire and terminate managing agents and other employees, agents,  
13 and independent contractors;

14 (10) To purchase, take, receive, subscribe for or otherwise acquire, own,  
15 hold, vote, use, employ, sell, mortgage, loan, pledge or otherwise dispose of, and  
16 otherwise use and deal in and with, shares or other interests in, or obligation of  
17 corporations of the State, or foreign corporations, and of associations, partnerships, and  
18 individuals;

19 (11) To invest its funds and to lend money in any manner appropriate to  
20 enable it to carry on the operations or to fulfill the purposes named in the declaration or  
21 bylaws, and to take and to hold real and personal property as security for the payment of  
22 funds so invested or loaned;

23 (12) To regulate the use, maintenance, repair, replacement, and modification  
24 of common elements;

25 (13) To cause additional improvements to be made as a part of the general  
26 common elements;

27 (14) To grant easements, rights-of-way, licenses, leases in excess of 1 year, or  
28 similar interests through or over the common elements in accordance with § 11-125(f) of  
29 this title;

30 (15) To impose and receive any payments, fees, or charges for the use, rental,  
31 or operation of the common elements other than limited common elements;

32 (16) To impose charges for late payment of assessments and, after notice and  
33 an opportunity to be heard, levy reasonable fines for violations of the declaration, bylaws,  
34 and rules and regulations of the council of unit owners, under § 11-113 of this title;

35 (17) To impose reasonable charges for the preparation and recordation of  
36 amendments to the declaration, bylaws, rules, regulations, or resolutions, resale  
37 certificates, or statements of unpaid assessments;

38 (18) To provide for the indemnification of and maintain liability insurance  
39 for officers, directors, and any managing agent or other employee charged with the  
40 operation or maintenance of the condominium;

6

1 (19) To enforce the implied warranties made to the council of unit owners by  
2 the developer under § 11-131 of this title;

3 (20) To enforce the provisions of this title, the declaration, bylaws, and rules  
4 and regulations of the council of unit owners against any unit owner or occupant; and

5 (21) Generally, to exercise the powers set forth in this title and the  
6 declaration or bylaws and to do every other act not inconsistent with law, which may be  
7 appropriate to promote and attain the purposes set forth in this title, the declaration or  
8 bylaws.

9 [(e)] (F) A unit owner may not have any right, title, or interest in any property  
10 owned by the council of unit owners other than as holder of a percentage interest in  
11 common expenses and common profits appurtenant to his unit.

12 [(f)] (G) A unit owner's rights as holder of a percentage interest in common  
13 expenses and common profits are such that:

14 (1) A unit owner's right to possess, use, or enjoy property of the council of  
15 unit owners shall be as provided in the bylaws; and

16 (2) A unit owner's interest in the property is not assignable or attachable  
17 separate from his unit except as provided in §§ 11-107(d) and 11-112(g) of this title.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
19 October 1, 1996.