
By: Delegates Genn, La Vay, and Boston

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Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Homeowners Association Act**

3 FOR the purpose of providing that the governing body of a homeowners association has
4 certain powers; providing for the liability of a lot owner to a homeowners
5 association for unpaid assessments; providing for the joint and several liability of a
6 grantee and grantor for unpaid assessments owed by the grantor to a homeowners
7 association; authorizing a homeowners association to sue for deficiency following
8 foreclosure and to recover a money judgment in the same proceeding; authorizing a
9 homeowners association to impose a later charge for delinquent payments in certain
10 circumstances; authorizing a homeowners association to impose an annual
11 assessment against lot owners in certain circumstances; providing certain guidelines
12 for adopting rules; providing for the establishment of a hearing board to hear
13 disputes between the homeowners association and the lot owners; defining certain
14 terms; providing for the application of this Act; and generally relating to the
15 Maryland Homeowners Association Act.

16 BY renumbering

17 Article - Real Property

18 Section 11B-114

19 to be Section 11B-118

20 Annotated Code of Maryland

21 (1996 Replacement Volume)

22 BY adding to

23 Article - Real Property

24 Section 11B-114 through 11B-117

25 Annotated Code of Maryland

26 (1996 Replacement Volume)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
28 MARYLAND, That Section(s) 11B-114 of Article - Real Property of the Annotated
29 Code of Maryland be renumbered to be Section(s) 11B-118.

30 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
31 read as follows:

2

1 **Article - Real Property**

2 11B-114.

3 THE HOMEOWNERS ASSOCIATION OR THE GOVERNING BODY HAS, SUBJECT TO
4 ANY PROVISION OF THIS TITLE, ITS DECLARATION, OR ITS BYLAWS, THE
5 FOLLOWING POWERS:

6 (1) TO ADOPT AND AMEND REASONABLE RULES AND REGULATIONS;

7 (2) TO ADOPT AND AMEND BUDGETS FOR REVENUES, EXPENDITURES,
8 AND RESERVES AND TO COLLECT ASSESSMENTS FOR EXPENSES FROM LOT OWNERS;

9 (3) TO SUE AND BE SUED, COMPLAIN AND DEFEND, OR INTERVENE IN
10 LITIGATION OR ADMINISTRATIVE PROCEEDINGS IN ITS OWN NAME ON BEHALF OF
11 ITSELF OR ON BEHALF OF TWO OR MORE LOT OWNERS ON MATTERS AFFECTING
12 THE COMMON AREAS;

13 (4) TO TRANSACT BUSINESS, CARRY ON ITS OPERATIONS, AND
14 EXERCISE THE POWERS PROVIDED IN THIS SUBSECTION IN ANY STATE, TERRITORY,
15 DISTRICT, OR POSSESSION OF THE UNITED STATES AND IN ANY FOREIGN COUNTRY;

16 (5) TO MAKE CONTRACTS AND GUARANTEES, INCUR LIABILITIES AND
17 BORROW MONEY, SELL, MORTGAGE, LEASE, PLEDGE, EXCHANGE, CONVEY,
18 TRANSFER, AND OTHERWISE DISPOSE OF ANY PART OF ITS PROPERTY AND ASSETS;

19 (6) TO ISSUE BONDS, NOTES, AND OTHER OBLIGATIONS AND SECURE
20 THE SAME BY MORTGAGE OR DEED OF TRUST OF ANY OF ITS PROPERTY,
21 FRANCHISE, AND INCOME;

22 (7) TO ACQUIRE BY PURCHASE OR IN ANY OTHER MANNER, TO TAKE,
23 RECEIVE, OWN, HOLD, USE, EMPLOY, IMPROVE, AND OTHERWISE DEAL WITH ANY
24 PROPERTY, REAL OR PERSONAL, OR ANY INTEREST THEREIN, WHEREVER
25 LOCATED;

26 (8) TO HIRE AND TERMINATE MANAGING AGENTS AND OTHER
27 EMPLOYEES, AGENTS, AND INDEPENDENT CONTRACTORS;

28 (9) TO PURCHASE, TAKE, RECEIVE, SUBSCRIBE FOR OR OTHERWISE
29 ACQUIRE, OWN, HOLD, VOTE, USE, EMPLOY, SELL, MORTGAGE, LOAN, PLEDGE, OR
30 OTHERWISE DISPOSE OF, AND OTHERWISE USE AND DEAL IN AND WITH, SHARES OR
31 OTHER INTERESTS IN, OR OBLIGATIONS OF CORPORATIONS OF THE STATE, OR
32 FOREIGN CORPORATIONS, AND OF ASSOCIATIONS, PARTNERSHIPS, AND
33 INDIVIDUALS;

34 (10) TO INVEST ITS FUNDS AND TO LEND MONEY IN ANY MANNER
35 APPROPRIATE TO ENABLE IT TO CARRY ON THE OPERATIONS OR TO FULFILL THE
36 PURPOSES NAMED IN THE DECLARATIONS OR BYLAWS, AND TO TAKE AND HOLD
37 REAL AND PERSONAL PROPERTY AS SECURITY FOR THE PAYMENT OF FUNDS SO
38 INVESTED OR LOANED;

39 (11) TO REGULATE THE USE, MAINTENANCE, REPAIR, REPLACEMENT,
40 AND MODIFICATION OF COMMON AREAS;

3

1 (12) TO CAUSE ADDITIONAL IMPROVEMENTS TO BE MADE AS A PART OF
2 THE GENERAL COMMON AREAS;

3 (13) TO GRANT EASEMENTS, RIGHTS-OF-WAY, LICENSES, LEASES IN
4 EXCESS OF 1 YEAR, OR SIMILAR INTERESTS THROUGH OR OVER THE COMMON
5 AREAS;

6 (14) TO IMPOSE AND RECEIVE ANY PAYMENTS, FEES, OR CHARGES FOR
7 THE USE, RENTAL, OR OPERATION OF THE COMMON AREAS;

8 (15) TO IMPOSE CHARGES FOR A LATE PAYMENT OF ASSESSMENTS AND,
9 AFTER NOTICE AND AN OPPORTUNITY TO BE HEARD, LEVY REASONABLE FINES FOR
10 VIOLATIONS OF THE DECLARATION, BYLAWS, AND RULES AND REGULATIONS OF
11 THE HOMEOWNERS ASSOCIATION AS PROVIDED IN THIS TITLE;

12 (16) TO IMPOSE REASONABLE CHARGES FOR THE PREPARATION AND
13 RECORDATION OF AMENDMENTS TO THE DECLARATION, BYLAWS, RULES,
14 REGULATIONS, OR RESOLUTIONS, RESALE CERTIFICATES, OR STATEMENTS OF
15 UNPAID ASSESSMENTS;

16 (17) TO PROVIDE FOR THE INDEMNIFICATION OF AND MAINTAIN
17 LIABILITY INSURANCE FOR OFFICERS, DIRECTORS, AND ANY MANAGING AGENT OR
18 OTHER EMPLOYEE CHARGED WITH THE OPERATION OR MAINTENANCE OF THE
19 COMMON AREAS;

20 (18) TO ENFORCE THE IMPLIED WARRANTIES MADE TO THE
21 HOMEOWNERS ASSOCIATION BY THE DEVELOPER;

22 (19) TO ENFORCE THE PROVISION OF THIS TITLE, THE DECLARATION,
23 BYLAWS, AND RULES AND REGULATIONS OF THE HOMEOWNERS ASSOCIATION
24 AGAINST ANY LOT OR OCCUPANT; AND

25 (20) GENERALLY, TO EXERCISE THE POWERS SET FORTH IN THIS TITLE,
26 THE CORPORATIONS AND ASSOCIATIONS ARTICLE, ITS DECLARATION, OR ITS
27 BYLAWS AND TO DO EVERY OTHER ACT NOT INCONSISTENT WITH LAW, WHICH MAY
28 BE APPROPRIATE TO PROMOTE AND ATTAIN THE PURPOSES SET FORTH IN THIS
29 TITLE, THE CORPORATIONS AND ASSOCIATIONS ARTICLE, ITS DECLARATION, OR ITS
30 BYLAWS.

31 11B-115.

32 (A) (1) A LOT OWNER SHALL BE LIABLE FOR ALL ASSESSMENTS OR
33 INSTALLMENTS OF ASSESSMENTS COMING DUE WHILE THAT PERSON IS THE OWNER
34 OF A LOT AS PROVIDED FOR IN THE DECLARATION.

35 (2) IN A VOLUNTARY GRANT, THE GRANTEE SHALL BE JOINTLY AND
36 SEVERALLY LIABLE WITH THE GRANTOR FOR ALL UNPAID ASSESSMENTS AGAINST
37 THE GRANTOR FOR THE GRANTOR'S SHARE OF THE ASSESSMENTS UP TO THE TIME
38 OF THE VOLUNTARY GRANT FOR WHICH A STATEMENT OF LIEN IS RECORDED,
39 WITHOUT PREJUDICE TO THE RIGHTS OF THE GRANTEE TO RECOVER FROM THE
40 GRANTOR THE AMOUNTS PAID BY THE GRANTEE FOR THE ASSESSMENTS.

41 (3) LIABILITY FOR ASSESSMENTS MAY NOT BE AVOIDED BY:

4

1 (I) WAIVER OF THE USE OR ENJOYMENT OF ANY COMMON AREAS;
2 OR

3 (II) ABANDONMENT OF THE LOT FOR WHICH THE ASSESSMENTS
4 ARE MADE.

5 (B) (1) PAYMENT OF ASSESSMENTS, TOGETHER WITH INTEREST, LATE
6 CHARGES, COSTS OF COLLECTION, AND REASONABLE ATTORNEY'S FEES MAY BE
7 ENFORCED BY THE IMPOSITION OF A LIEN ON A LOT IN ACCORDANCE WITH THE
8 PROVISION OF THE MARYLAND CONTRACT LIEN ACT.

9 (2) A SUIT FOR DEFICIENCY FOLLOWING FORECLOSURE MAY BE
10 MAINTAINED IN THE SAME PROCEEDING, AND A SUIT TO RECOVER A MONEY
11 JUDGMENT FOR UNPAID ASSESSMENTS, INTEREST, LATE CHARGES, COSTS OF
12 COLLECTION, ADMINISTRATIVE COSTS, AND REASONABLE ATTORNEY'S FEES, MAY
13 BE MAINTAINED IN THE SAME PROCEEDING, WITHOUT WAIVING THE RIGHT TO
14 SEEK TO IMPOSE A LIEN UNDER THE MARYLAND CONTRACT LIEN ACT.

15 (3) UNLESS EXPRESSLY PROHIBITED BY THE DECLARATION OR
16 BYLAWS, A HOMEOWNERS ASSOCIATION SHALL BE ENTITLED TO RECOVER COSTS
17 OF COLLECTION, ADMINISTRATIVE COSTS, AND REASONABLE ATTORNEY'S FEES
18 FROM A DELINQUENT OWNER IN SETTLEMENT OF A DELINQUENCY CLAIM, EVEN IF
19 A LIEN HAS NOT BEEN RECORDED AND A LAWSUIT HAS NOT BEEN INSTITUTED.

20 (C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION AND UNLESS
21 EXPRESSLY PROHIBITED OR OTHERWISE PROVIDED BY THE DECLARATION OR
22 BYLAWS, A HOMEOWNERS ASSOCIATION MAY IMPOSE A UNIFORM LATE CHARGE OF
23 NOT MORE THAN \$25 OR 10 PERCENT OF THE TOTAL AMOUNT OF ANY DELINQUENT
24 PAYMENT, WHICHEVER IS GREATER.

25 (2) A LATE CHARGE MAY BE IMPOSED ONLY IF A PAYMENT REMAINS
26 UNPAID FOR 15 CALENDAR DAYS AFTER THE DUE DATE OF THE PAYMENT AND MAY
27 NOT BE IMPOSED MORE THAN ONCE FOR THE SAME DELINQUENT PAYMENT.

28 (D) (1) IF THE DECLARATION OR BYLAWS PROVIDE FOR AN ANNUAL
29 ASSESSMENT PAYABLE IN REGULAR INSTALLMENTS AND IF A LOT OWNER FAILS TO
30 PAY AN INSTALLMENT WHEN DUE, THE HOMEOWNERS ASSOCIATION MAY DEMAND
31 PAYMENT OF THE REMAINING ANNUAL ASSESSMENT COMING DUE WITHIN THAT
32 FISCAL YEAR.

33 (2) A DEMAND BY THE HOMEOWNERS ASSOCIATION IS NOT
34 ENFORCEABLE UNLESS THE ASSOCIATION NOTIFIES THE LOT OWNER THAT IF THE
35 LOT OWNER FAILS TO PAY THE INSTALLMENT WITHIN 15 DAYS OF THE NOTICE, FULL
36 PAYMENT OF THE REMAINING ASSESSMENTS WILL THEN BE DUE AND SHALL
37 CONSTITUTE A LIEN ON THE LOT AS PROVIDED IN THIS SECTION.

38 11B-116.

39 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
40 INDICATED.

5

1 (2) "BODY" MEANS A HOMEOWNERS ASSOCIATION OR A BODY
2 DELEGATED IN THE DECLARATION OR BYLAWS TO CARRY OUT THE
3 RESPONSIBILITIES OF THE HOMEOWNERS ASSOCIATION.

4 (3) "MORTGAGE" HAS THE MEANING STATED IN § 11-101 OF THIS
5 ARTICLE.

6 (B) A BODY SHALL COMPLY WITH THE PROVISIONS OF THIS SECTION IN
7 ORDER TO ADOPT RULES.

8 (1) WRITTEN NOTICE SHALL BE GIVEN TO EACH LOT OWNER
9 INCLUDING:

10 (I) A COPY OF THE PROPOSED RULE;

11 (II) NOTICE THAT THE LOT OWNER MAY SUBMIT WRITTEN
12 COMMENTS ON THE PROPOSED RULE;

13 (III) NOTICE OF THE PROPOSED EFFECTIVE DATE OF THE
14 PROPOSED RULE; AND

15 (IV) NOTICE OF AN OPEN MEETING AT LEAST 15 DAYS BEFORE THE
16 SCHEDULED DAY OF THE OPEN MEETING.

17 (2) THE BODY SHALL HOLD AN OPEN MEETING THAT:

18 (I) ALLOWS EACH LOT OWNER AND TENANT THE OPPORTUNITY
19 TO COMMENT ON THE PROPOSED RULE;

20 (II) HAS A QUORUM OF THE MEMBERS OF THE HOMEOWNERS
21 ASSOCIATION BODY PRESENT; AND

22 (III) A VOTE TO ADOPT THE PROPOSED RULE IS PASSED AT A
23 REGULAR MEETING BY A MAJORITY OF THE MEMBERS OF THE HOMEOWNERS
24 ASSOCIATION OR BODY PRESENT AT THE MEETING.

25 (C) (1) EXCEPT AS PROVIDED IN THIS SUBSECTION, A PROPOSED RULE
26 SHALL BECOME FINAL 15 DAYS AFTER THE VOTE IS TAKEN.

27 (2) A RULE IS NOT FINAL IF:

28 (I) WITHIN 15 DAYS AFTER THE VOTE TO ADOPT THE PROPOSED
29 RULE, 15 PERCENT OF THE MEMBERS OF THE HOMEOWNERS ASSOCIATION SIGN
30 AND FILE A PETITION WITH THE BODY FOR A SPECIAL MEETING;

31 (II) AFTER THE BODY HAS RECEIVED A PETITION FOR A SPECIAL
32 MEETING, THE BODY SCHEDULES A SPECIAL MEETING AND GIVES WRITTEN NOTICE
33 OF THE SPECIAL MEETING TO ALL LOT OWNERS;

34 (III) THE SPECIAL MEETING IS HELD AT LEAST 15 DAYS AFTER THE
35 BODY GIVES WRITTEN NOTICE OF THE SPECIAL MEETING TO LOT OWNERS, BUT NOT
36 MORE THAN 30 DAYS AFTER THE BODY RECEIVED THE PETITION;

6

1 (IV) LOT OWNERS AND TENANTS HAVE THE OPPORTUNITY TO
2 COMMENT ON THE PROPOSED RULE AT THE SPECIAL MEETING;

3 (V) A QUORUM OF THE MEMBERS OF THE HOMEOWNERS
4 ASSOCIATION IS PRESENT AT THE MEETING;

5 (VI) A VOTE TO DISAPPROVE THE PROPOSED RULE IS PASSED BY AT
6 LEAST 50 PERCENT OF THE LOT OWNERS PRESENT AND VOTING AT THE MEETING;
7 AND

8 (VII) THE LOT OWNERS VOTING TO DISAPPROVE THE PROPOSED
9 RULE CONSTITUTE MORE THAN 33 PERCENT OF THE TOTAL VOTES OF THE
10 HOMEOWNERS ASSOCIATION.

11 (D) (1) A LOT OWNER OR TENANT MAY REQUEST AN EXCEPTION TO A
12 RULE IF THE INDIVIDUAL WAS A LOT OWNER OR TENANT IN THE DEVELOPMENT
13 UNDER THE AUTHORITY OF THE HOMEOWNERS ASSOCIATION AT THE TIME THE
14 RULE WAS ADOPTED.

15 (2) THE REQUEST SHALL BE:

16 (I) IN WRITING; AND

17 (II) FILED WITH THE BODY THAT ADOPTED THE PROPOSED RULE
18 WITHIN 30 DAYS AFTER THE EFFECTIVE DATE OF THE RULE.

19 (E) EACH RULE ADOPTED UNDER THIS SECTION SHALL STATE THAT THE
20 RULE WAS ADOPTED UNDER THE PROVISIONS OF THIS SECTION.

21 (F) A RULE MAY NOT BE ADOPTED UNDER THIS SECTION IF THE RULE IS
22 INCONSISTENT WITH THE HOMEOWNERS ASSOCIATION DECLARATION.

23 11B-117.

24 (A) (1) IN THIS SECTION THE FOLLOWING TERMS HAVE THE MEANINGS
25 INDICATED.

26 (2) "BODY" MEANS A HOMEOWNERS ASSOCIATION OR BODY
27 DELEGATED IN THE DECLARATION OR BYLAWS TO CARRY OUT THE
28 RESPONSIBILITIES OF THE HOMEOWNERS ASSOCIATION.

29 (3) (I) "HEARING BOARD" MEANS A GROUP OF THREE TO FIVE
30 PERSONS ELECTED IN THE SAME MANNER AND FOR THE SAME TERM AS PROVIDED
31 IN THE DECLARATION AND BYLAWS FOR THE BOARD OF DIRECTORS TO HEAR
32 DISPUTES AS PROVIDED IN THIS SECTION.

33 (II) "HEARING BOARD" INCLUDES THE BODY IF GOOD FAITH
34 EFFORTS TO ELECT A HEARING BOARD HAVE FAILED.

35 (B) A BODY MAY NOT IMPOSE A FINE, SUSPEND VOTING, OR INFRINGE UPON
36 ANY OTHER RIGHTS OF A LOT OWNER OR OTHER OCCUPANT FOR VIOLATIONS OF
37 RULES ADOPTED BY THE HOMEOWNERS ASSOCIATION UNLESS:

7

1 (1) A WRITTEN DEMAND TO CEASE AND DESIST FROM AN ALLEGED
2 VIOLATION IS SERVED UPON THE ALLEGED VIOLATOR THAT:

3 (I) SPECIFIES THE ALLEGED VIOLATION AND THE ACTION
4 REQUIRED TO ABATE THE VIOLATION; AND

5 (II) GIVES THE ALLEGED VIOLATOR AN OPPORTUNITY TO
6 CORRECT THE VIOLATION WITHOUT FURTHER ACTION BY:

7 1. ABATING THE VIOLATION WITHIN 10 DAYS IF THE
8 VIOLATION IS A CONTINUING ONE; OR

9 2. REFRAINING FROM SUBSEQUENTLY VIOLATING THE
10 RULE IF THE VIOLATION IS NOT CONTINUING.

11 (2) WITHIN 12 MONTHS OF THE DEMAND THE VIOLATOR HAS TAKEN NO
12 ACTION TO CORRECT THE VIOLATION, THE BODY SERVES THE ALLEGED VIOLATOR
13 WITH WRITTEN NOTICE IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION OF
14 A HEARING; AND

15 (3) A HEARING IS HELD IN EXECUTIVE SESSION BY THE HEARING
16 BOARD IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION.

17 (C) NOTICE OF A HEARING SHALL:

18 (1) BE GIVEN BY THE HEARING BOARD AT LEAST 10 DAYS BEFORE THE
19 HEARING;

20 (2) STATE THE NATURE OF THE ALLEGED VIOLATION;

21 (3) STATE THAT THE ALLEGED VIOLATOR HAS THE OPPORTUNITY TO
22 ATTEND THE HEARING AND PRODUCE ANY STATEMENT, EVIDENCE, AND
23 WITNESSES ON BEHALF OF THE ALLEGED VIOLATOR; AND

24 (4) STATE THE PROPOSED SANCTION TO BE IMPOSED.

25 (D) (1) A HEARING SHALL BE HELD IN AN EXECUTIVE SESSION AT WHICH
26 THE VIOLATOR SHALL BE GIVEN THE OPPORTUNITY TO PRODUCE ANY STATEMENT,
27 EVIDENCE, AND WITNESSES AND TO CROSS-EXAMINE WITNESSES.

28 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
29 PARAGRAPH, PROOF OF THE NOTICE REQUIRED UNDER SUBSECTION (C) OF THIS
30 SECTION SHALL BE PLACED IN THE MINUTES OF THE EXECUTIVE SESSION OF THE
31 HEARING BOARD. THIS PROOF SHALL BE DEEMED ADEQUATE IF A COPY OF THE
32 NOTICE, TOGETHER WITH A STATEMENT OF THE DATE AND MANNER OF SERVICE, IS
33 ENTERED BY THE MEMBER OF THE BODY WHO SERVED THE NOTICE.

34 (II) THE NOTICE REQUIREMENT SHALL BE CONSIDERED SATISFIED
35 IF THE ALLEGED VIOLATOR APPEARS AT THE MEETING.

36 (3) THE MINUTES OF THE MEETING SHALL CONTAIN A WRITTEN
37 STATEMENT OF THE RESULTS OF THE HEARING AND THE SANCTION, IF ANY,
38 IMPOSED.

1 (4) A DECISION MADE IN ACCORDANCE WITH THESE PROCEDURES
2 SHALL BE SUBJECT TO JUDICIAL REVIEW.

3 (E) IF ANY LOT OWNER FAILS TO COMPLY WITH THIS TITLE, THE
4 DECLARATION, BYLAWS, OR A DECISION MADE IN ACCORDANCE WITH THIS
5 SECTION, THE LOT OWNER MAY BE SUED FOR DAMAGES CAUSED BY THE FAILURE
6 OR FOR INJUNCTIVE RELIEF OR BOTH BY THE HOMEOWNERS ASSOCIATION OR BY
7 ANY OTHER LOT OWNER. THE PREVAILING PARTY IN ANY SUCH PROCEEDING IS
8 ENTITLED TO AN AWARD FOR ATTORNEY'S FEES AS DETERMINED BY THE COURT.

9 (F) THE FAILURE OF A BODY TO CARRY OUT THE RESPONSIBILITIES OF THE
10 HOMEOWNERS ASSOCIATION TO ENFORCE A PROVISION OF THIS TITLE, A
11 DECLARATION, OR BYLAWS ON ANY OCCASION IS NOT A WAIVER OF THE RIGHT TO
12 ENFORCE THE PROVISION ON ANY OTHER OCCASION.

13 SECTION 3. AND BE IT FURTHER ENACTED, That this act shall be construed
14 only prospectively and may not be applied or interpreted to have any effect on or
15 application to any rules adopted by a homeowners association or disputesettlement
16 mechanism provided in a declaration before the effective date of this Act.

17 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 1996.