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## By: Senator Madden

Introduced and read first time: January 31, 1997 Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments Senate action: Adopted Read second time: February 26, 1997

CHAPTER \_\_\_\_\_

1 AN ACT concerning

## 2 Condominiums - Parking for the Handicapped - Council of Unit Owners

3 FOR the purpose of providing that the declaration of a condominium does not have to be

- 4 amended in order for the council of unit owners to designate parking for the
- 5 handicapped; authorizing the council of unit owners of a condominium to designate
- 6 parking for the handicapped, notwithstanding any provision in the declaration,
- 7 <u>bylaws, or rules and regulations;</u> and generally relating to the designation of parking
- 8 for the handicapped by the council of unit owners of a condominium.

9 BY repealing and reenacting, with amendments,

- 10 Article Real Property
- 11 Section <del>11-103(c) and</del> 11-109(d)
- 12 Annotated Code of Maryland
- 13 (1996 Replacement Volume and 1996 Supplement)
- 14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
- 15 MARYLAND, That the Laws of Maryland read as follows:

Article -	<b>Real Property</b>
	Article -

17 11-103.

18	(c) (1) (I) THIS SUBSECTION DOES NOT APPLY TO:
19 20	1. [Except for a] A corrective amendment under § 11-103.1 of this subtitle; [or]
21 22	2. [as provided in paragraph] PARAGRAPH (2) of this subsection[,]; OR

1	3. THE DESIGNATION OF PARKING FOR THE HANDICAPPED
2 BY THE	COUNCIL OF UNIT OWNERS UNDER § 11-109(D)(22) OF THIS SUBTITLE.
2	(II) [44 a] THE dealarstican manyled among ded and the souther
3 4 consent of	(II) [the] THE declaration may be amended only with the written f 80 percent of the unit owners listed on the current roster. Amendments under
	n are subject to the following limitations:
J this sectio	are subject to the following militations.
6	[(i)] 1. Except to the extent expressly permitted or expressly
7 required t	by other provisions of this title, an amendment to the declaration may not
-	e boundaries of any unit, the undivided percentage interest in the common
-	of any unit, the liability for common expenses or rights to common profits of any
10 unit, or th	ne number of votes in the council of unit owners of any unit without the written
11 consent o	f every unit owner and mortgagee.
12	[(ii)] 2. An amondment to the declaration may not modify in any year
12 13 rights eve	[(ii)] 2. An amendment to the declaration may not modify in any way
	pressly reserved for the benefit of the developer or provisions required by any cental authority or for the benefit of any public utility.
1+ governme	and autority of for the benefit of any public utility.
15	[(iii)] 3. Except to the extent expressly permitted by the declaration,
	Iment to the declaration may not change residential units to nonresidential units
	nonresidential units to residential units without the written consent of every
-	er and mortgagee.
19	[(iv)] 4. Except as otherwise expressly permitted by this title and by
20 the declar	ration, an amendment to the declaration may not redesignate general common
	as limited common elements without the written consent of every unit owner
22 and mort	gagee.
23	[(v)] 5. No provision of this title shall be construed in derogation of
	rement in the declaration or bylaws that all or a specified number of the
• •	es of the condominium units approve specified actions contemplated by the
	f unit owners.
20 council o	
27	(2) (i) The council of unit owners may petition the circuit court in equity
	sunty in which the condominium is located to correct:
29	1. An improper description of the units or common elements;
30 <del>or</del>	
31	2. An improper assignment of the percentage interests in the
32 <del>common</del>	elements, common expenses, and common profits.
22	
33	(ii) The petition may be brought only if:
24	1. The unit opposed of a gradiel matrix and a far that means
34 35. voto to p	1. The unit owners, at a special meeting called for that purpose,
	etition the court to correct a specific error by a vote of at least 66 2/3 percent of
50 <del>the unit 0</del>	wners present and voting at a properly convened meeting;
37	2. The council of unit owners gives notice of the special meeting
	tortgagee of record for the condominium; and
.ο το <b>σασ</b> η π	anged of record for the condominant, and
39	3. An opportunity is provided for the mortgagees to speak at

40 the special meeting upon written request to the council of unit owners.

## SENATE BILL 642

1	(iii) The court may reform the declaration to correct the error or
2	omission as the court considers appropriate, if:
3	1. The council of unit owners gives notice of the filing of the
4	petition to each mortgagee and unit owner within 15 days of filing;
5	2. The council of unit owners files an affidavit with the court
6	stating that the conditions of subparagraph (ii) of this paragraph have been met;
7	3. The council of unit owners proves, by a preponderance of the
8	evidence, that there is an error or omission as provided in subparagraph (i) of this
9	<del>paragraph;</del>
10	4. Any mortgagee with an interest in the condominium is
11	permitted to intervene in the proceedings upon filing a motion to intervene as provided in
12	the Maryland Rules;
13	5. The reformation does not substantially impair the property
14	rights of any unit owner or mortgagee; and
15	6. The court issues an order of reformation.
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16	(iv) A final order of reformation may be appealed by any party within
	30 days of its issuance. An order of reformation may not be recorded until the appeal
18	period has lapsed or all appeals have been completed.
19	(3) An amendment or order of reformation becomes effective on
	recordation in the same manner as the declaration. If the condominium is registered with
	the Secretary of State, the council of unit owners shall file a copy of the order of
	reformation with the Secretary of State within 15 days of recordation.
22	reformation with the Secretary of State within 15 days of recordation.
23	11-109.
25	11-107.
24	(d) The council of unit owners may be either incorporated as a nonstock
	corporation or unincorporated and it is subject to those provisions of Title 5, Subtitle 2 of
	the Corporations and Associations Article of the Code which are not inconsistent with
	-
	this title. The council of unit owners has, subject to any provision of this title, <u>AND</u>
	EXCEPT AS PROVIDED IN PARAGRAPH (22) OF THIS SUBSECTION, the declaration, and
29	bylaws, the following powers:
20	(1) To have a support of an interest with a the night of the supit support to
30	
31	terminate the condominium regime as provided in § 11-123 of this title;
20	(2) To adopt and amond macanakle miles and reministing a
32	(2) To adopt and amend reasonable rules and regulations;
22	(2) To adopt and amond hudgets for survey literate and second
33	(3) To adopt and amend budgets for revenues, expenditures, and reserves
54	and collect assessments for common expenses from unit owners;
25	(1) To gue and he gued complein and defend on interment in litization of
35	(4) To sue and be sued, complain and defend, or intervene in litigation or
30	administrative proceedings in its own name on behalf of itself or two or more unit owners

37 on matters affecting the condominium;

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(5) To transact its business, carry on its operations and exercise the powers
 provided in this subsection in any state, territory, district, or possession of the United
 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 by8 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 modification24 of common elements;

(13) To cause additional improvements to be made as a part of the generalcommon elements;

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

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

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

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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; AND

## 9 (22) TO DESIGNATE PARKING FOR THE HANDICAPPED. 9 NOTWITHSTANDING ANY PROVISION IN THE DECLARATION, BYLAWS, OR RULES 11 AND REGULATIONS.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 13 October 1, 1997.

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