
By: ~~Senator Roesser~~ Senators Roesser and Forehand

Introduced and read first time: January 31, 1997

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 21, 1997

CHAPTER ____

1 AN ACT concerning

2 Condominiums and Homeowners Associations - Rights and Restrictions

3 FOR the purpose of authorizing condominium unit owners and homeowners association

4 lot owners to assemble in certain areas for certain purposes; ~~authorizing unit owners~~

5 ~~and lot owners to have certain rights to comment at certain condominium and~~

6 ~~homeowners association meetings~~; requiring certain governing bodies or committees

7 of condominium and homeowners associations to ~~consider certain comments~~

8 designate a period of time to allow an opportunity to comment on certain matters at

9 certain condominium and homeowners association meetings; authorizing unit

10 owners and lot owners to distribute information and circulate petitions at certain

11 places and in certain ways; defining certain terms; and generally relating to rights of

12 condominium unit owners and homeowners association lot owners.

13 BY repealing and reenacting, with amendments,

14 Article - Real Property

15 Section 11-101, 11-108, 11-109(c), 11B-101, and 11B-111

16 Annotated Code of Maryland

17 (1996 Replacement Volume and 1996 Supplement)

18 BY adding to

19 Article - Real Property

20 Section 11-111.2 ~~and~~ 11B-111.2, and 11B-111.3

21 Annotated Code of Maryland

22 (1996 Replacement Volume and 1996 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

24 MARYLAND, That the Laws of Maryland read as follows:

2

1 **Article - Real Property**

2 11-101.

3 (a) In this title the following words have the meanings indicated unless otherwise
4 apparent from context.

5 (b) (1) "Board of directors" means the persons to whom some or all of the
6 powers of the council of unit owners have been delegated under this title or under the
7 condominium bylaws.

8 (2) "Board of directors" includes any reference to "board".

9 (c) (1) "Common elements" means all of the condominium except the units.

10 [(1)] (2) "Limited common elements" means those common elements
11 identified in the declaration or on the condominium plat as reserved for the exclusive use
12 of one or more but less than all of the unit owners.

13 [(2)] (3) "General common elements" means all the common elements
14 except the limited common elements.

15 (d) "Common expenses and common profits" means the expenses and profits of
16 the council of unit owners.

17 (e) "Condominium" means property subject to the condominium regime
18 established under this title.

19 (f) "Council of unit owners" means the legal entity described in § 11-109 of this
20 title.

21 (g) "Developer" means any person who subjects his property to the condominium
22 regime established by this title.

23 (H) "GOVERNING BODY" MEANS THE COUNCIL OF UNIT OWNERS, BOARD OF
24 DIRECTORS OR ENTITY ESTABLISHED TO GOVERN THE CONDOMINIUM.

25 [(h)] (I) "Housing agency" means a housing agency of a county or incorporated
26 municipality or some other agency or entity of a county or incorporated municipality
27 designated as such by law or ordinance.

28 [(i)] (J) "Mortgagee" means the holder of any recorded mortgage, or the
29 beneficiary of any recorded deed of trust, encumbering one or more units.

30 [(j)] (K) "Moving expenses" means costs incurred to:

31 (1) Hire contractors, labor, trucks, or equipment for the transportation of
32 personal property;

33 (2) Pack and unpack personal property;

34 (3) Disconnect and install personal property;

35 (4) Insure personal property to be moved; and

3

1 (5) Disconnect and reconnect utilities such as telephone service, gas, water,
2 and electricity.

3 [(k)] (L) "Occupant" means any lessee or guest of a unit owner.

4 [(l)] (M) "Percentage interests" means the interests, expressed as a percentage,
5 fraction or proportion, established in accordance with § 11-107 OF THIS TITLE.

6 [(m)] (N) "Property" means unimproved land, land together with improvements
7 thereon, improvements without the underlying land, or riparian or littoral rights
8 associated with land. Property may consist of noncontiguous parcels or improvements.

9 [(n)] (O) "Rental facility" means property containing dwelling units intended to
10 be leased to persons who occupy the dwellings as their residences.

11 [(o)] (P) "Unit" means a three-dimensional space identified as such in the
12 declaration and on the condominium plat and shall include all improvements contained
13 within the space except those excluded in the declaration, the boundaries of which are
14 established in accordance with § 11-103(a)(3) of this title. A unit may include 2 or more
15 noncontiguous spaces.

16 [(p)] (Q) "Unit owner" means the person, or combination of persons, who hold
17 legal title to a unit. A mortgagee or a trustee designated under a deed of trust, as such,
18 may not be deemed a unit owner.

19 11-108.

20 (a) [The] SUBJECT TO THE PROVISIONS OF SUBSECTION (C) OF THIS
21 SECTION, THE common elements may be used only for the purposes for which they were
22 intended and, except as provided in the declaration, the common elements shall be
23 subject to mutual rights of support, access, use, and enjoyment by all unit owners.
24 However, subject to the provisions of subsection (b) of this section, any portion of the
25 common elements designated as limited common elements shall be used only by the unit
26 owner of the unit to which their use is limited in the declaration or condominium plat.

27 (b) Any unit owner or any group of unit owners of units to which the use of any
28 limited common element is exclusively restricted may grant by deed the exclusive use, or
29 the joint use in common with one or more of the grantors, of the limited common
30 elements to any one or more unit owners. A copy of the deed shall be furnished to the
31 council of unit owners.

32 (C) SUBJECT TO REASONABLE RULES ADOPTED BY THE GOVERNING BODY
33 UNDER § 11-111 OF THIS SUBTITLE, ALL UNIT OWNERS MAY ASSEMBLE IN THE
34 GENERAL COMMON ELEMENTS OR IN ANY BUILDING OR FACILITY IN THE GENERAL
35 COMMON ELEMENTS FOR THE PURPOSE OF CONSIDERING AND DISCUSSING THE
36 OPERATION OF AND MATTERS THAT RELATE RELATING TO THE OPERATION OF THE
37 CONDOMINIUM.

38 ~~(D) THE RIGHT TO ASSEMBLE WILL BE SUBJECT TO REASONABLE RULES~~
39 ~~PROMULGATED BY THE BOARD.~~

4

1 11-109.

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

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

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

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

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

15 (6) Except as provided in § 11-109.1 of this title, a meeting of [the council
16 of unit owners or board of directors] A GOVERNING BODY OR COMMITTEE shall be
17 open and held at a time and location as provided in the notice or bylaws.

18 (7) ~~(I) EACH UNIT OWNER, DURING A MEETING OF A GOVERNING BODY
19 OR COMMITTEE SHALL BE GIVEN A REASONABLE OPPORTUNITY TO COMMENT ON
20 ANY MATTER RELATED TO A VOTE OR OTHER ACTION TO BE TAKEN.~~

21 ~~(II) THE GOVERNING BODY OR COMMITTEE, SHALL CONSIDER THE
22 COMMENTS MADE BY EACH UNIT OWNER SUBJECT TO REASONABLE RULES
23 ADOPTED BY THE GOVERNING BODY UNDER § 11-111 OF THIS SUBTITLE. A
24 GOVERNING BODY OR COMMITTEE SHALL PROVIDE A DESIGNATED PERIOD OF
25 TIME DURING A MEETING TO ALLOW UNIT OWNERS AN OPPORTUNITY TO
26 COMMENT ON ANY MATTER RELATING TO THE CONDOMINIUM.~~

27 [(7)] (8) Unless the bylaws provide otherwise, a quorum is deemed present
28 throughout any meeting of the council of unit owners if persons entitled to cast 25 percent
29 of the total number of votes appurtenant to all units are present in person or by proxy.

30 [(8)] (9) At meetings of the council of unit owners each unit owner shall be
31 entitled to cast the number of votes appurtenant to his unit. Unit owners may vote by
32 proxy, but, the proxy is effective only for a maximum period of 180 days following its
33 issuance, unless granted to a lessee or mortgagee.

34 [(9)] (10) Any proxy may be revoked at any time at the pleasure of the unit
35 owner or unit owners executing the proxy.

36 [(10)] (11) A proxy who is not appointed to vote as directed by a unit owner
37 may only be appointed for purposes of meeting quorums and to vote for matters of
38 business before the council of unit owners, other than an election of officers and members
39 of the board of directors.

5

1 [(11)] (12) Only a unit owner voting in person or a proxy voting for candidates
2 designated by a unit owner may vote for officers and members of the board of directors.

3 [(12)] (13) Unless otherwise provided in the bylaws, a unit owner may
4 nominate himself or any other person to be an officer or member of the board of
5 directors. A call for nominations shall be sent to all unit owners not less than 45 days
6 before notice of an election is sent. Only nominations made at least 15 days before notice
7 of an election shall be listed on the election ballot. Candidates shall be listed on the ballot
8 in alphabetical order, with no indicated candidate preference. Nominations may be made
9 from the floor at the meeting at which the election to the board is held.

10 [(13)] (14) Election materials prepared with funds of the council of unit
11 owners shall list candidates in alphabetical order and may not indicate a candidate
12 preference.

13 [(14)] (15) Unless otherwise provided in this title, and subject to provisions in
14 the bylaws requiring a different majority, decisions of the council of unit owners shall be
15 made on a majority of votes of the unit owners listed on the current roster present and
16 voting.

17 [(15)] (16) A meeting of the council of unit owners shall be held within 60
18 days from the date that units representing 50 percent of the votes in the condominium
19 have been conveyed by the developer to the initial purchasers of units to elect officers or
20 a board of directors for the council of unit owners, as provided in the condominium
21 declaration or bylaws.

22 11-111.2.

23 (A) A RECORDED COVENANT OR RESTRICTION, A PROVISION IN A
24 DECLARATION, OR A PROVISION OF THE BYLAWS OR RULES OF A CONDOMINIUM
25 MAY NOT RESTRICT A UNIT OWNER FROM DISTRIBUTING INFORMATION OR
26 CIRCULATING PETITIONS TO OTHER UNIT OWNERS REGARDING THE OPERATION OF
27 AND MATTERS ~~THAT RELATE~~ RELATING TO THE OPERATION OF THE
28 CONDOMINIUM:

29 (1) IN ALL GENERAL COMMON ELEMENTS AND IN ANY BUILDING OR
30 FACILITY LOCATED IN THE GENERAL COMMON ELEMENTS, SUBJECT TO
31 REASONABLE RULES CONCERNING TIME, PLACE, AND MANNER ADOPTED BY THE
32 GOVERNING BODY UNDER § 11-111 OF THIS SUBTITLE; ~~OR~~ AND

33 (2) IN ANY MANNER THAT A GOVERNING BODY DISTRIBUTES
34 INFORMATION AND CIRCULATES PETITIONS TO UNIT OWNERS.

35 (B) THE COSTS OF DUPLICATION, DISTRIBUTION, OR REMOVAL OF
36 MATERIALS PREPARED BY A UNIT OWNER SHALL BE THE RESPONSIBILITY OF THOSE
37 DISTRIBUTING THE INFORMATION OR CIRCULATING THE PETITIONS.

38 (C) THIS SECTION MAY NOT BE CONSTRUED TO REQUIRE THE GOVERNING
39 BODY TO DUPLICATE OR DISTRIBUTE MATERIAL PREPARED BY A UNIT OWNER.

6

1 11B-101.

2 (a) In this title the following words have the meanings indicated, unless the
3 context requires otherwise.

4 (b) "Common areas" means property which is owned or leased by a homeowners
5 association.

6 (c) "Declarant" means any person who subjects property to a declaration.

7 (d) (1) "Declaration" means an instrument, however denominated, recorded
8 among the land records of the county in which the property of the declarant is located,
9 that creates the authority for a homeowners association to impose on lots, or on the
10 owners or occupants of lots, or on another homeowners association, condominium, or
11 cooperative housing corporation any mandatory fee in connection with the provision of
12 services or otherwise for the benefit of some or all of the lots, the owners or occupants of
13 lots, or the common areas.

14 (2) "Declaration" includes any amendment or supplement to the
15 instruments described in paragraph (1) of this subsection.

16 (3) "Declaration" does not include a private right-of-way or similar
17 agreement unless it requires a mandatory fee payable annually or at more frequent
18 intervals.

19 (e) "Depository" or "homeowners association depository" means the document
20 file created by the clerk of the court of each county and the City of Baltimore where a
21 homeowners association may periodically deposit information as required by this title.

22 (f) (1) "Development" means property subject to a declaration.

23 (2) "Development" includes property comprising a condominium or
24 cooperative housing corporation to the extent that the property is part of a development.

25 (3) "Development" does not include a cooperative housing corporation or a
26 condominium.

27 (G) "GOVERNING BODY" MEANS THE HOMEOWNERS ASSOCIATION, BOARD
28 OF DIRECTORS, OR OTHER ENTITY ESTABLISHED TO GOVERN THE DEVELOPMENT.

29 [(g)] (H) (1) "Homeowners association" means a person having the authority to
30 enforce the provisions of a declaration.

31 (2) "Homeowners association" includes an incorporated or unincorporated
32 association.

33 [(h)] (I) (1) "Lot" means any plot or parcel of land on which a dwelling is
34 located or will be located within a development.

35 (2) "Lot" includes a unit within a condominium or cooperative housing
36 corporation if the condominium or cooperative housing corporation is part of a
37 development.

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1 [(i)] (J) "Primary development" means a development such that the purchaser of
2 a lot will pay fees directly to its homeowners association.

3 [(j)] (K) "Recorded covenants and restrictions" means any instrument of writing
4 which is recorded in the land records of the jurisdiction within which a lot is located, and
5 which instrument governs or otherwise legally restricts the use of such lot.

6 [(k)] (L) "Related development" means a development such that the purchaser of
7 a lot will pay fees to the homeowners association of such development through the
8 homeowners association of a primary development or another development.

9 [(l)] (M) "Unaffiliated declarant" means a person who is not affiliated with the
10 vendor of a lot but who has subjected such property to a declaration required to be
11 disclosed by this title.

12 11B-111.

13 Except as provided in this title, and notwithstanding anything contained in any of
14 the documents of the homeowners association:

15 (1) Subject to the provisions of paragraph [(3)] (4) of this section, all
16 meetings of the homeowners association, including meetings of the board of directors or
17 other governing body of the homeowners association or a committee of the homeowners
18 association, shall be open to all members of the homeowners association or their agents;

19 (2) All members of the homeowners association shall be given reasonable
20 notice of all regularly scheduled open meetings of the homeowners association;

21 ~~(3) (4) EACH LOT OWNER, DURING A MEETING OF A GOVERNING BODY~~
22 ~~OR COMMITTEE, SHALL BE GIVEN A REASONABLE OPPORTUNITY TO COMMENT ON~~
23 ~~ANY MATTER RELATED TO A VOTE OR OTHER ACTION TO BE TAKEN; AND~~

24 ~~(4) THE GOVERNING BODY OR COMMITTEE SHALL CONSIDER THE~~
25 ~~COMMENTS MADE BY EACH LOT OWNER SUBJECT TO REASONABLE RULES ADOPTED~~
26 ~~BY THE GOVERNING BODY. A GOVERNING BODY OR COMMITTEE SHALL PROVIDE A~~
27 ~~DESIGNATED PERIOD OF TIME DURING A MEETING TO ALLOW LOT OWNERS AN~~
28 ~~OPPORTUNITY TO COMMENT ON ANY MATTER RELATING TO THE HOMEOWNERS~~
29 ~~ASSOCIATION;~~

30 [(3)] (4) A meeting of the board of directors or other governing body of the
31 homeowners association or a committee of the homeowners association may be held in
32 closed session only for the following purposes:

33 (i) Discussion of matters pertaining to employees and personnel;

34 (ii) Protection of the privacy or reputation of individuals in matters not
35 related to the homeowners association's business;

36 (iii) Consultation with legal counsel;

37 (iv) Consultation with staff personnel, consultants, attorneys, or other
38 persons in connection with pending or potential litigation;

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1 (v) Investigative proceedings concerning possible or actual criminal
2 misconduct;

3 (vi) Consideration of the terms or conditions of a business transaction
4 in the negotiation stage if the disclosure could adversely affect the economic interests of
5 the homeowners association;

6 (vii) Compliance with a specific constitutional, statutory, or judicially
7 imposed requirement protecting particular proceedings or matters from public disclosure;
8 or

9 (viii) On an individually recorded affirmative vote of two-thirds of the
10 board or committee members present, some other exceptional reason so compelling as to
11 override the general public policy in favor of open meetings; and

12 [(4)] (5) If a meeting is held in closed session under paragraph [(3)] (4) of
13 this section:

14 (i) An action may not be taken and a matter may not be discussed if it
15 is not permitted by paragraph [(3)] (4) of this section; and

16 (ii) A statement of the time, place, and purpose of a closed meeting,
17 the record of the vote of each board or committee member by which the meeting was
18 closed, and the authority under this section for closing a meeting shall be included in the
19 minutes of the next meeting of the board of directors or the committee of the
20 homeowners association.

21 11B-111.2.

22 (A) A RECORDED COVENANT OR RESTRICTION, A PROVISION IN A
23 DECLARATION, OR A PROVISION OF THE BYLAWS OR RULES OF A HOMEOWNERS
24 ASSOCIATION MAY NOT RESTRICT LOT OWNERS FROM DISTRIBUTING
25 INFORMATION OR CIRCULATING PETITIONS TO OTHER LOT OWNERS REGARDING
26 THE OPERATION OF AND MATTERS ~~THAT RELATE~~ RELATING TO THE OPERATION OF
27 THE HOMEOWNERS ASSOCIATION:

28 (1) IN ALL COMMON AREAS AND IN ANY BUILDING OR FACILITY
29 LOCATED IN THE COMMON AREAS, SUBJECT TO REASONABLE RULES CONCERNING
30 TIME, PLACE, AND MANNER ADOPTED BY THE GOVERNING BODY; ~~OR~~ AND

31 (2) IN ANY MANNER THAT A GOVERNING BODY DISTRIBUTES
32 INFORMATION AND CIRCULATES PETITIONS TO MEMBERS OF THE HOMEOWNERS
33 ASSOCIATION.

34 (B) THE COSTS OF DUPLICATION, DISTRIBUTION, OR REMOVAL OF
35 MATERIALS PREPARED BY A LOT OWNER SHALL BE THE RESPONSIBILITY OF THOSE
36 DISTRIBUTING THE INFORMATION OR CIRCULATING THE PETITIONS.

37 (C) THIS SECTION MAY NOT BE CONSTRUED TO REQUIRE THE GOVERNING
38 BODY TO DUPLICATE OR DISTRIBUTE MATERIAL PREPARED BY A LOT OWNER.

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1 11B-111.3.

2 SUBJECT TO REASONABLE RULES ADOPTED BY THE GOVERNING BODY, ALL
3 LOT OWNERS MAY ASSEMBLE IN THE COMMON AREAS OR IN ANY BUILDING OR
4 FACILITY IN THE COMMON AREAS FOR THE PURPOSE OF CONSIDERING AND
5 DISCUSSING THE OPERATION OF AND MATTERS RELATING TO THE OPERATION OF
6 THE HOMEOWNERS ASSOCIATION.

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