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(PRE-FILED)

By: Delegates Kagan, D. Davis, Goldwater, and Harkins

Requested: July 15, 1997

Introduced and read first time: January 14, 1998

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

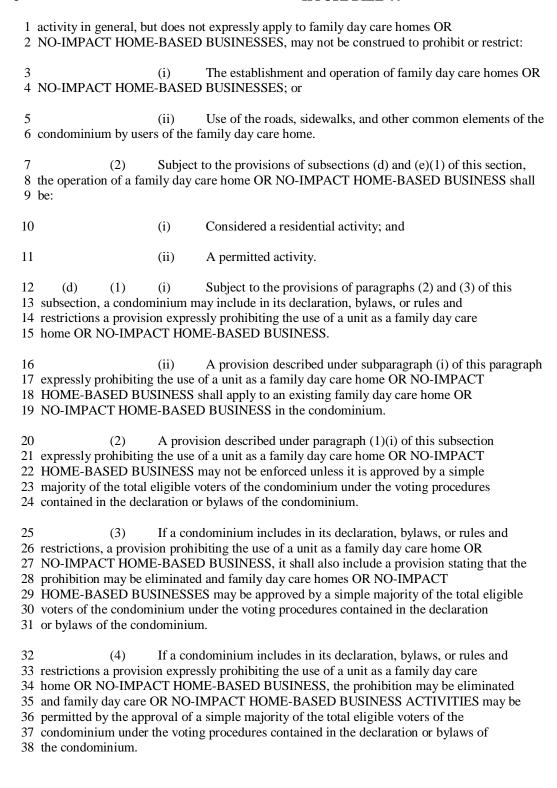
2	Condominiums, Homeowners Associations, and Cooperatives - No-Impact
3	Home-Based Businesses

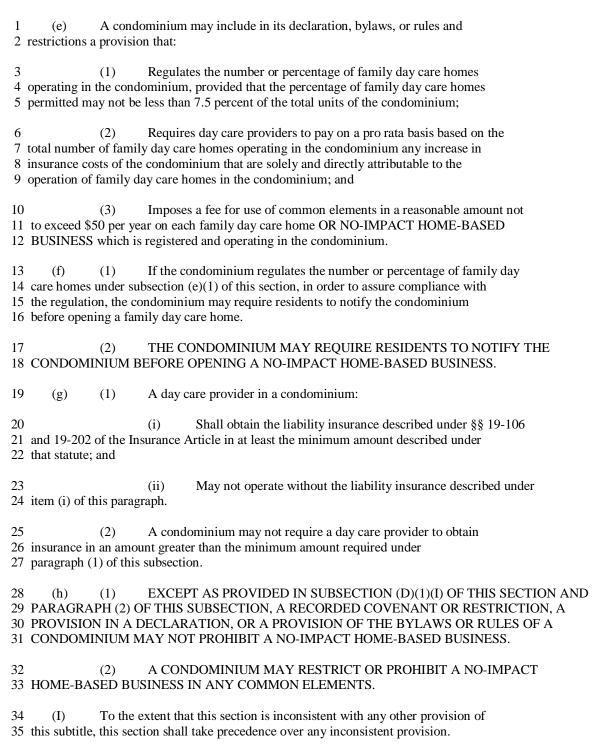
- 4 FOR the purpose of providing that a recorded covenant or restriction, declaration,
- bylaw, or rule of a condominium, homeowners association, or cooperative
- 6 housing corporation may not prohibit no-impact home-based businesses;
- 7 providing that a condominium, homeowners association, or cooperative housing
- 8 corporation may restrict or prohibit certain no-impact home-based businesses
- 9 under certain circumstances; providing that the operation of a no-impact
- 10 home-based business is a certain activity; authorizing condominiums and
- 11 homeowners associations to require no-impact home-based businesses to pay
- 12 certain fees under certain circumstances; authorizing condominiums,
- homeowners associations, and cooperative housing corporations to adopt certain
- rules; defining a certain term; and generally relating to no-impact home-based
- businesses in condominiums, homeowners associations, and cooperative housing
- 16 corporations.

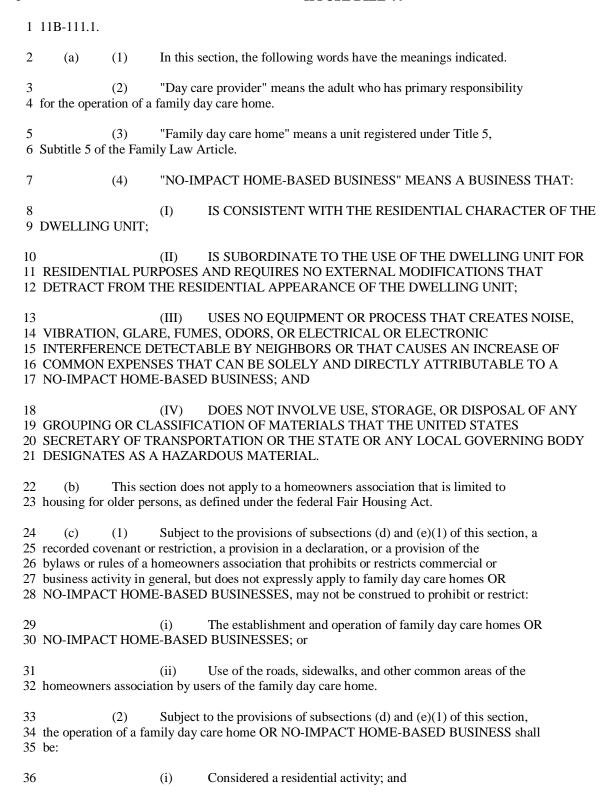
17 BY renumbering

- 18 Article Corporations and Associations
- 19 Section 5-6B-01(o), (p), and (q), respectively
- 20 to be Section 5-6B-01(p), (q), and (r), respectively
- 21 Annotated Code of Maryland
- 22 (1993 Replacement Volume and 1997 Supplement)
- 23 BY repealing and reenacting, with amendments,
- 24 Article Real Property
- 25 Section 11-111.1 and 11B-111.1
- 26 Annotated Code of Maryland
- 27 (1996 Replacement Volume and 1997 Supplement)
- 28 BY adding to
- 29 Article Corporations and Associations
- 30 Section 5-6B-01(o) and 5-6B-18.1

- **HOUSE BILL 44** 1 Annotated Code of Maryland (1993 Replacement Volume and 1997 Supplement) 2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 3 4 MARYLAND, That Section(s) 5-6B-01(o), (p), and (q), respectively, of Article -5 Corporations and Associations of the Annotated Code of Maryland be renumbered to 6 be Section(s) 5-6B-01(p), (q), and (r), respectively. SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland 7 8 read as follows: 9 **Article - Real Property** 10 11-111.1. 11 (a) (1) In this section, the following words have the meanings indicated. 12 (2) "Day care provider" means the adult who has primary responsibility 13 for the operation of a family day care home. 14 "Family day care home" means a unit registered under Title 5. 15 Subtitle 5 of the Family Law Article. "NO-IMPACT HOME-BASED BUSINESS" MEANS A BUSINESS THAT: 16 (4) 17 IS CONSISTENT WITH THE RESIDENTIAL CHARACTER OF THE (I) 18 DWELLING UNIT: 19 IS SUBORDINATE TO THE USE OF THE DWELLING UNIT FOR (II)20 RESIDENTIAL PURPOSES AND REQUIRES NO EXTERNAL MODIFICATIONS THAT 21 DETRACT FROM THE RESIDENTIAL APPEARANCE OF THE DWELLING UNIT; 22 USES NO EQUIPMENT OR PROCESS THAT CREATES NOISE. 23 VIBRATION, GLARE, FUMES, ODORS, OR ELECTRICAL OR ELECTRONIC 24 INTERFERENCE DETECTABLE BY NEIGHBORS OR THAT CAUSES AN INCREASE OF 25 COMMON EXPENSES THAT CAN BE SOLELY AND DIRECTLY ATTRIBUTABLE TO A 26 NO-IMPACT HOME-BASED BUSINESS; AND DOES NOT INVOLVE USE, STORAGE, OR DISPOSAL OF ANY 27 (IV) 28 GROUPING OR CLASSIFICATION OF MATERIALS THAT THE UNITED STATES 29 SECRETARY OF TRANSPORTATION OR THE STATE OR ANY LOCAL GOVERNING BODY 30 DESIGNATES AS A HAZARDOUS MATERIAL. 31
- This section does not apply to a condominium that is limited to housing for
- 32 older persons, as defined under the federal Fair Housing Act.
- 33 Subject to the provisions of subsections (d) and (e)(1) of this section, a (1)
- 34 recorded covenant or restriction, a provision in a declaration, or a provision of the
- 35 bylaws or rules of a condominium that prohibits or restricts commercial or business







1		(ii)	A permitted activity.
2	(d) (1)	(i)	Subject to the provisions of paragraphs (2) and (3) of this
			ociation may include in its declaration, bylaws, or
			tions a provision expressly prohibiting the use of a
3	residence as a family	uay care i	home OR NO-IMPACT HOME-BASED BUSINESS.
6		(ii)	A provision described under subparagraph (i) of this paragraph
	expressly prohibiting	` /	f a residence as a family day care home OR NO-IMPACT
			nall apply to an existing family day care home OR
			BUSINESS in the homeowners association.
9	NO-IMPACT HOME	-DASED	BOSINESS III the nomeowners association.
10	(2)	A provis	sion described under paragraph (1)(i) of this subsection
11			of a residence as a family day care home OR NO-IMPACT
			nay not be enforced unless it is approved by a simple
			oters of the homeowners association under the voting
14	procedures contained	in the de	eclaration or bylaws of the homeowners association.
15	(3)	If a hom	eowners association includes in its declaration, bylaws, or
_			tions a provision prohibiting the use of a residence as a
			-IMPACT HOME-BASED BUSINESS, it shall also include a
			ibition may be eliminated and family day care homes
			SED BUSINESSES may be approved by a simple majority of
			homeowners association under the voting procedures
21	contained in the decla	aration or	bylaws of the homeowners association.
22	(4)	If a hom	eowners association includes in its declaration, bylaws, or
	` ,		
			tions a provision expressly prohibiting the use of a
			home OR NO-IMPACT HOME-BASED BUSINESS, the
			and family day care OR NO-IMPACT HOME-BASED
			y be permitted by the approval of a simple majority of the
			neowners association under the voting procedures
28	contained in the decla	aration or	bylaws of the homeowners association.
20	(a) A 1		acceletion may include in its declaration bylavia miles an
29			ssociation may include in its declaration, bylaws, rules, or
30	recorded covenants a	na restric	tions a provision that:
31	(1)	Regulate	es the number or percentage of family day care homes
			association, provided that the percentage of family day
			be less than 7.5 percent of the total residences of the
			be less than 7.5 percent of the total residences of the
<i>3</i> 4	homeowners associat	1011,	
35	(2)	Requires	s day care providers to pay on a pro rata basis based on the
	()		re homes operating in the homeowners association any
			the homeowners association that are solely and directly
			family day care homes in the homeowners association;
		auon oi	raining day care nomes in the nomeowhers association;
ンプ	and		

			n each fa	a fee for use of common areas in a reasonable amount not to mily day care home OR NO-IMPACT HOME-BASED and operating in the homeowners association.				
6	(f) (1) If the homeowners association regulates the number or percentage of family day care homes under subsection (e)(1) of this section, in order to assure compliance with this regulation, the homeowners association may require residents to notify the homeowners association before opening a family day care home.							
	NOTIFY TH HOME-BAS		EOWNER	OMEOWNERS ASSOCIATION MAY REQUIRE RESIDENTS TO RS ASSOCIATION BEFORE OPENING A NO-IMPACT				
11	(g)	(1)	A day ca	are provider in a homeowners association:				
			(i) surance A	Shall obtain the liability insurance described under §§ 19-106 rticle in at least the minimum amount described under				
15 16	item (i) of th	nis paragr	(ii) raph.	May not operate without the liability insurance described under				
			n amount	owners association may not require a day care provider to greater than the minimum amount required under n.				
22 23	PARAGRAI PROVISION	PH (2) O N IN A D NERS AS	F THIS S ECLAR	T AS PROVIDED IN SUBSECTION (D)(1)(I) OF THIS SECTION AND SUBSECTION, A RECORDED COVENANT OR RESTRICTION, A ATION, OR A PROVISION OF THE BYLAWS OR RULES OF A TION MAY NOT PROHIBIT A NO-IMPACT HOME-BASED				
25 26		(2) T HOME		EOWNERS ASSOCIATION MAY RESTRICT OR PROHIBIT A BUSINESS IN ANY COMMON AREAS.				
27				Article - Corporations and Associations				
28	5-6B-01.							
29	(O)	"NO-IM	PACT H	OME-BASED BUSINESS" MEANS A BUSINESS THAT:				
30 31	DWELLING	(1) G UNIT;	IS CON	SISTENT WITH THE RESIDENTIAL CHARACTER OF THE				
	RESIDENT		POSES A	ORDINATE TO THE USE OF THE DWELLING UNIT FOR AND REQUIRES NO EXTERNAL MODIFICATIONS THAT IDENTIAL APPEARANCE OF THE DWELLING UNIT;				

- 1 (3) USES NO EQUIPMENT OR PROCESS THAT CREATES NOISE,
- 2 VIBRATION, GLARE, FUMES, ODORS, OR ELECTRICAL OR ELECTRONIC
- 3 INTERFERENCE DETECTABLE BY NEIGHBORS; AND
- 4 (4) DOES NOT INVOLVE USE, STORAGE, OR DISPOSAL OF ANY GROUPING
- 5 OR CLASSIFICATION OF MATERIALS THAT THE UNITED STATES SECRETARY OF
- 6 TRANSPORTATION OR THE STATE OR ANY LOCAL GOVERNING BODY DESIGNATES AS
- 7 A HAZARDOUS MATERIAL.
- 8 5-6B-18.1.
- 9 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PROVISION 10 IN A DECLARATION, OR A PROVISION IN THE BYLAWS OR RULES OF A COOPERATIVE 11 HOUSING CORPORATION MAY NOT PROVIDE A NO IMPACT HOME PASED PUBLISHESS.
- 11 HOUSING CORPORATION MAY NOT PROHIBIT A NO-IMPACT HOME-BASED BUSINESS.
- 12 (B) A COOPERATIVE HOUSING CORPORATION MAY RESTRICT OR PROHIBIT A 13 NO-IMPACT HOME-BASED BUSINESS IN ANY COMMON PROPERTY.
- 14 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
- 15 October 1, 1998.