
By: **Delegate Doory**
Introduced and read first time: February 13, 1998
Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property - Common Interest Development Claims**

3 FOR the purpose of requiring a council of unit owners of a condominium, homeowners
4 association, and cooperative housing corporation to file a certain certification in
5 certain actions against developers of common interest developments; requiring
6 developers of common interest developments to file a certain certification in the
7 developers' answers to certain actions; requiring a council of unit owners of a
8 condominium, homeowners association, and cooperative housing corporation to
9 disseminate to their members certain materials before bringing certain actions
10 against certain developers; defining certain terms; providing for the application
11 of this Act; and generally relating to claims of a council of unit owners of a
12 condominium, homeowners association, or cooperative housing corporation
13 against developers of common interest developments.

14 BY adding to
15 Article - Real Property
16 Section 11C-101 through 11C-103 to be under the new title "Title 11C. Common
17 Interest Development Claims"
18 Annotated Code of Maryland
19 (1996 Replacement Volume and 1997 Supplement)

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

22 **Article - Real Property**

23 **TITLE 11C. COMMON INTEREST DEVELOPMENT CLAIMS.**

24 11C-101.

25 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
26 INDICATED.

27 (B) "ASSOCIATION" MEANS:

1 (1) A COUNCIL OF UNIT OWNERS OF A CONDOMINIUM, AS DEFINED IN §
2 11-101 OF THIS ARTICLE;

3 (2) A COOPERATIVE HOUSING CORPORATION, AS DEFINED IN § 5-6B-01
4 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE; OR

5 (3) A HOMEOWNERS ASSOCIATION, AS DEFINED IN § 11B-101 OF THIS
6 ARTICLE.

7 (C) "COMMON INTEREST DEVELOPMENT" MEANS PROPERTY THAT IS SUBJECT
8 TO THE PROVISIONS OF:

9 (1) THE MARYLAND CONDOMINIUM ACT UNDER TITLE 11 OF THIS
10 ARTICLE;

11 (2) THE MARYLAND COOPERATIVE HOUSING CORPORATION ACT UNDER
12 TITLE 5, SUBTITLE 6B OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE; OR

13 (3) THE MARYLAND HOMEOWNERS ASSOCIATION ACT UNDER TITLE 11B
14 OF THIS ARTICLE.

15 (D) "DEVELOPER" MEANS A PERSON DIRECTLY AND MATERIALLY INVOLVED
16 IN THE ORIGINAL DESIGN, CONSTRUCTION, OR SALE OF PROPERTY WITHIN A
17 COMMON INTEREST DEVELOPMENT.

18 (E) "GOVERNING BODY" MEANS THE BOARD OF DIRECTORS, BOARD OF
19 TRUSTEES, OR OTHER BODY OF A CONDOMINIUM REGIME, COOPERATIVE HOUSING
20 CORPORATION, OR HOMEOWNERS ASSOCIATION THAT HAS THE AUTHORITY TO ACT
21 ON BEHALF OF THE CONDOMINIUM REGIME, COOPERATIVE HOUSING CORPORATION,
22 OR HOMEOWNERS ASSOCIATION.

23 11C-102.

24 (A) IN AN ACTION FOR DAMAGES AGAINST A DEVELOPER OF A COMMON
25 INTEREST DEVELOPMENT BASED ON A CLAIM FOR DEFECTS IN THE DESIGN OR
26 CONSTRUCTION OF THE COMMON INTEREST DEVELOPMENT, AN ASSOCIATION
27 SHALL FILE A CERTIFICATION UNDER OATH WITH THE CLERK OF THE COURT:

28 (1) THAT THE ASSOCIATION HAS MADE A REASONABLE ATTEMPT TO
29 MAIL OR DELIVER WRITTEN NOTICE TO THE DEVELOPER SPECIFYING THE DEFECTS
30 IN THE DESIGN OR CONSTRUCTION OF THE COMMON INTEREST DEVELOPMENT;

31 (2) THAT THE ASSOCIATION HAS GIVEN THE DEVELOPER A
32 REASONABLE OPPORTUNITY TO INSPECT THE PART OF THE COMMON INTEREST
33 DEVELOPMENT THAT IS THE SUBJECT OF THE CLAIM;

34 (3) THAT THE ASSOCIATION HAS GIVEN THE DEVELOPER A
35 REASONABLE OPPORTUNITY TO MEET WITH THE GOVERNING BODY OF THE
36 ASSOCIATION;

1 (4) WHETHER THE MATTER HAS BEEN OR WILL BE SUBMITTED TO A
2 NONBINDING MEDIATION;

3 (5) THAT THE ASSOCIATION HAS SENT TO THE MEMBERS OF THE
4 ASSOCIATION A STATEMENT OF THE CLAIM, THE DEVELOPER'S PROPOSED
5 SETTLEMENT OF THE CLAIM, AND THE RECOMMENDATIONS OF A MEDIATOR;

6 (6) THAT THE ASSOCIATION HAS SENT TO THE MEMBERS OF THE
7 ASSOCIATION A STATEMENT THAT 15% OF THE MEMBERS OF THE ASSOCIATION MAY
8 REQUEST A SPECIAL MEETING OF THE ASSOCIATION TO REVIEW THE CLAIM, THE
9 DEVELOPER'S PROPOSED SETTLEMENT OF THE CLAIM, THE RECOMMENDATION OF A
10 MEDIATOR, AND ANY OTHER MATTERS CONSIDERED PERTINENT BY THE GOVERNING
11 BODY OF THE ASSOCIATION;

12 (7) WHETHER A SPECIAL MEETING WAS HELD IF THE MEMBERS OF THE
13 ASSOCIATION HAD REQUESTED A MEETING UNDER PARAGRAPH (6) OF THIS
14 SUBSECTION; AND

15 (8) THAT THE GOVERNING BODY OF THE ASSOCIATION HAS THE
16 AUTHORITY TO APPROVE THE LITIGATION AND HAS APPROVED THE LITIGATION.

17 (B) IN THE DEVELOPER'S ANSWER TO THE ASSOCIATION'S ACTION, THE
18 DEVELOPER SHALL INCLUDE A CERTIFICATION UNDER OATH THAT:

19 (1) THE DEVELOPER HAS PROVIDED THE ASSOCIATION WITH A COPY OF
20 ANY WRITTEN REPORT PREPARED BY OR ON BEHALF OF THE DEVELOPER
21 FOLLOWING THE INSPECTION OF THE COMMON INTEREST DEVELOPMENT ALLOWED
22 IN SUBSECTION (A)(2) OF THIS SECTION; AND

23 (2) THE PARTIES HAVE MET TO DISCUSS RESOLUTION OF THE CLAIM.

24 (C) THE COURT SHALL DISMISS ANY ACTION OR STRIKE ANY PLEADING FILED
25 WITHOUT THE CERTIFICATION REQUIRED IN THIS SECTION.

26 11C-103.

27 (A) BEFORE AN ASSOCIATION BRINGS AN ACTION FOR DAMAGES AGAINST A
28 DEVELOPER OF A COMMON INTEREST DEVELOPMENT BASED ON A CLAIM FOR
29 DEFECTS IN THE DESIGN OR CONSTRUCTION OF THE COMMON INTEREST
30 DEVELOPMENT, THE ASSOCIATION SHALL MAKE A REASONABLE ATTEMPT TO
31 DISSEMINATE TO EACH MEMBER OF THE ASSOCIATION:

32 (1) A STATEMENT OF THE CLAIM OF THE ASSOCIATION AGAINST THE
33 DEVELOPER;

34 (2) A COPY OF THE WRITTEN RESPONSE OF THE DEVELOPER TO THE
35 CLAIM OF THE ASSOCIATION, INCLUDING ANY PROPOSED SETTLEMENT DELIVERED
36 BY THE DEVELOPER TO THE ASSOCIATION;

1 (3) INFORMATION ABOUT THE SETTLEMENT CONFERENCE AND THE
2 MEDIATION;

3 (4) A STATEMENT OF THE REASONABLY ANTICIPATED CONSEQUENCES
4 OF PROCEEDING WITH THE LITIGATION (THE FORM AND CONTENT OF THE
5 STATEMENT TO BE SUBJECT TO THE REASONABLE JUDGMENT OF THE GOVERNING
6 BODY); AND

7 (5) A STATEMENT THAT, IF 15% OF THE MEMBERS OF THE ASSOCIATION
8 REQUEST A SPECIAL MEETING OF THE ASSOCIATION TO DISCUSS THE PROPOSED
9 LITIGATION WITHIN 30 DAYS AFTER THE DATE THE NOTICE IS MAILED OR
10 DELIVERED TO THE MEMBERS, A SPECIAL MEETING SHALL BE HELD.

11 (B) SATISFACTION OF THE REQUIREMENTS OF SUBSECTION (A) OF THIS
12 SECTION SHALL BE SPECIFIED IN ANY ACTION SUBJECT TO THIS TITLE.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 1998 and shall apply only to actions by a council of unit owners of a
15 condominium, homeowners association, or cooperative housing corporation against a
16 developer initiated on or after October 1, 1998.