

SENATE BILL 94

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1998 Regular Session
(8lr0859)

ENROLLED BILL
-- Judicial Proceedings/Economic Matters --

Introduced by ~~Senators Dorman and Craig~~, Craig, Green, and Forehand

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

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

4 FOR the purpose of prohibiting a certain provision in a recorded covenant or
5 restriction, declaration, bylaw, or rule of a condominium, or homeowners
6 association, or in the articles of incorporation, bylaws, or proprietary leases of a
7 cooperative housing corporation from ~~prohibiting~~ being construed to prohibit
8 certain no-impact home-based businesses; providing that a condominium,
9 homeowners association, or cooperative housing corporation may restrict or
10 prohibit certain no-impact home-based businesses under certain
11 circumstances; providing that the operation of a no-impact home-based
12 business is a certain activity; authorizing condominiums ~~and~~ homeowners
13 associations, and cooperative housing corporations to require no-impact
14 home-based businesses to pay certain fees under certain circumstances;
15 authorizing condominiums, homeowners associations, and cooperative housing
16 corporations to require a certain notice from certain no-impact home-based
17 businesses; authorizing condominiums, homeowners associations, and

1 ~~cooperative housing corporations to adopt certain rules~~; defining a certain term;
 2 ~~providing for the application of this Act~~; and generally relating to no-impact
 3 home-based businesses in condominiums, homeowners associations, and
 4 cooperative housing corporations.

5 BY renumbering
 6 Article - Corporations and Associations
 7 Section 5-6B-01(o), (p), and (q), respectively
 8 to be Section 5-6B-01(p), (q), and (r), respectively
 9 Annotated Code of Maryland
 10 (1993 Replacement Volume and 1997 Supplement)

11 BY repealing and reenacting, with amendments,
 12 Article - Real Property
 13 Section 11-111.1 and 11B-111.1
 14 Annotated Code of Maryland
 15 (1996 Replacement Volume and 1997 Supplement)

16 BY adding to
 17 Article - Corporations and Associations
 18 Section 5-6B-01(o) and 5-6B-18.1
 19 Annotated Code of Maryland
 20 (1993 Replacement Volume and 1997 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 22 MARYLAND, That Section(s) 5-6B-01(o), (p), and (q), respectively, of Article -
 23 Corporations and Associations of the Annotated Code of Maryland be renumbered to
 24 be Section(s) 5-6B-01(p), (q), and (r), respectively.

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

27 **Article - Real Property**

28 11-111.1.

29 (a) (1) In this section, the following words have the meanings indicated.

30 (2) "Day care provider" means the adult who has primary responsibility
 31 for the operation of a family day care home.

32 (3) "Family day care home" means a unit registered under Title 5,
 33 Subtitle 5 of the Family Law Article.

34 (4) "NO-IMPACT HOME-BASED BUSINESS" MEANS A BUSINESS THAT:

1 (I) IS CONSISTENT WITH THE RESIDENTIAL CHARACTER OF THE
2 DWELLING UNIT;

3 (II) IS SUBORDINATE TO THE USE OF THE DWELLING UNIT FOR
4 RESIDENTIAL PURPOSES AND REQUIRES NO EXTERNAL MODIFICATIONS THAT
5 DETRACT FROM THE RESIDENTIAL APPEARANCE OF THE DWELLING UNIT;

6 (III) USES NO EQUIPMENT OR PROCESS THAT CREATES NOISE,
7 VIBRATION, GLARE, FUMES, ODORS, OR ELECTRICAL OR ELECTRONIC
8 INTERFERENCE DETECTABLE BY NEIGHBORS OR THAT CAUSES AN INCREASE OF
9 COMMON EXPENSES THAT CAN BE SOLELY AND DIRECTLY ATTRIBUTABLE TO A
10 NO-IMPACT HOME-BASED BUSINESS; ~~AND AND~~

11 (IV) DOES NOT INVOLVE USE, STORAGE, OR DISPOSAL OF ANY
12 GROUPING OR CLASSIFICATION OF MATERIALS THAT THE UNITED STATES
13 SECRETARY OF TRANSPORTATION OR THE STATE OR ANY LOCAL GOVERNING BODY
14 DESIGNATES AS A HAZARDOUS MATERIAL;

15 ~~(V) IS OWNED OR OPERATED BY A RESIDENT OF THE DWELLING~~
16 ~~UNIT AND HAS NO EMPLOYEES, AGENTS, OR CONTRACTORS ON THE PREMISES~~
17 ~~OTHER THAN A RESIDENT OF THE DWELLING UNIT; AND~~

18 ~~(VI) DOES NOT HAVE ANY CUSTOMERS OR INVITEES VISITING THE~~
19 ~~PREMISES.~~

20 (b) (1) ~~This section does~~ THE PROVISIONS OF THIS SECTION RELATING TO
21 FAMILY DAY CARE HOMES DO not apply to a condominium that is limited to housing
22 for older persons, as defined under the federal Fair Housing Act.

23 (2) THE PROVISIONS OF THIS SECTION RELATING TO NO-IMPACT
24 HOME-BASED BUSINESSES DO NOT APPLY TO A CONDOMINIUM THAT HAS ADOPTED,
25 PRIOR TO JULY 1, 1999, PROCEDURES IN ACCORDANCE WITH ITS COVENANTS,
26 DECLARATION, OR BYLAWS FOR THE REGULATION OR PROHIBITION OF NO-IMPACT
27 HOME-BASED BUSINESSES.

28 (c) (1) Subject to the provisions of subsections (d) and (e)(1) of this section, a
29 recorded covenant or restriction, a provision in a declaration, or a provision of the
30 bylaws or rules of a condominium that prohibits or restricts commercial or business
31 activity in general, but does not expressly apply to family day care homes OR
32 NO-IMPACT HOME-BASED BUSINESSES, may not be construed to prohibit or restrict:

33 (i) The establishment and operation of family day care homes OR
34 NO-IMPACT HOME-BASED BUSINESSES; or

35 (ii) Use of the roads, sidewalks, and other common elements of the
36 condominium by users of the family day care home.

37 (2) Subject to the provisions of subsections (d) and (e)(1) of this section,
38 the operation of a family day care home OR NO-IMPACT HOME-BASED BUSINESS shall
39 be:

1 (i) Considered a residential activity; and

2 (ii) A permitted activity.

3 (d) (1) (i) Subject to the provisions of paragraphs (2) and (3) of this
4 subsection, a condominium may include in its declaration, bylaws, or rules and
5 restrictions a provision expressly prohibiting the use of a unit as a family day care
6 home OR NO-IMPACT HOME-BASED BUSINESS.

7 (ii) A provision described under subparagraph (i) of this paragraph
8 expressly prohibiting the use of a unit as a family day care home OR NO-IMPACT
9 HOME-BASED BUSINESS shall apply to an existing family day care home OR
10 NO-IMPACT HOME-BASED BUSINESS in the condominium.

11 (2) A provision described under paragraph (1)(i) of this subsection
12 expressly prohibiting the use of a unit as a family day care home OR NO-IMPACT
13 HOME-BASED BUSINESS may not be enforced unless it is approved by a simple
14 majority of the total eligible voters of the condominium under the voting procedures
15 contained in the declaration or bylaws of the condominium.

16 (3) If a condominium includes in its declaration, bylaws, or rules and
17 restrictions, a provision prohibiting the use of a unit as a family day care home OR
18 NO-IMPACT HOME-BASED BUSINESS, it shall also include a provision stating that the
19 prohibition may be eliminated and family day care homes OR NO-IMPACT
20 HOME-BASED BUSINESSES may be approved by a simple majority of the total eligible
21 voters of the condominium under the voting procedures contained in the declaration
22 or bylaws of the condominium.

23 (4) If a condominium includes in its declaration, bylaws, or rules and
24 restrictions a provision expressly prohibiting the use of a unit as a family day care
25 home OR NO-IMPACT HOME-BASED BUSINESS, the prohibition may be eliminated
26 and family day care OR NO-IMPACT HOME-BASED BUSINESS ACTIVITIES may be
27 permitted by the approval of a simple majority of the total eligible voters of the
28 condominium under the voting procedures contained in the declaration or bylaws of
29 the condominium.

30 (e) A condominium may include in its declaration, bylaws, or rules and
31 restrictions a provision that:

32 (1) Regulates the number or percentage of family day care homes
33 operating in the condominium, provided that the percentage of family day care homes
34 permitted may not be less than 7.5 percent of the total units of the condominium;

35 (2) Requires day care providers to pay on a pro rata basis based on the
36 total number of family day care homes operating in the condominium any increase in
37 insurance costs of the condominium that are solely and directly attributable to the
38 operation of family day care homes in the condominium; and

1 (3) Imposes a fee for use of common elements in a reasonable amount not
2 to exceed \$50 per year on each family day care home OR NO-IMPACT HOME-BASED
3 BUSINESS which is registered and operating in the condominium.

4 (f) (1) If the condominium regulates the number or percentage of family day
5 care homes under subsection (e)(1) of this section, in order to assure compliance with
6 the regulation, the condominium may require residents to notify the condominium
7 before opening a family day care home.

8 (2) THE CONDOMINIUM MAY REQUIRE RESIDENTS TO NOTIFY THE
9 CONDOMINIUM BEFORE OPENING A NO-IMPACT HOME-BASED BUSINESS.

10 (g) (1) A day care provider in a condominium:

11 (i) Shall obtain the liability insurance described under §§ 19-106
12 and 19-202 of the Insurance Article in at least the minimum amount described under
13 that statute; and

14 (ii) May not operate without the liability insurance described under
15 item (i) of this paragraph.

16 (2) A condominium may not require a day care provider to obtain
17 insurance in an amount greater than the minimum amount required under
18 paragraph (1) of this subsection.

19 (h) ~~(1) EXCEPT AS PROVIDED IN SUBSECTION (D)(1)(I) OF THIS SECTION AND~~
20 ~~PARAGRAPH (2) OF THIS SUBSECTION, A RECORDED COVENANT OR RESTRICTION, A~~
21 ~~PROVISION IN A DECLARATION, OR A PROVISION OF THE BYLAWS OR RULES OF A~~
22 ~~CONDOMINIUM MAY NOT PROHIBIT A NO-IMPACT HOME BASED BUSINESS.~~

23 ~~(2) A CONDOMINIUM MAY RESTRICT OR PROHIBIT A NO-IMPACT~~
24 ~~HOME-BASED BUSINESS IN ANY COMMON ELEMENTS.~~

25 (I) To the extent that this section is inconsistent with any other provision of
26 this subtitle, this section shall take precedence over any inconsistent provision.

27 11B-111.1.

28 (a) (1) In this section, the following words have the meanings indicated.

29 (2) "Day care provider" means the adult who has primary responsibility
30 for the operation of a family day care home.

31 (3) "Family day care home" means a unit registered under Title 5,
32 Subtitle 5 of the Family Law Article.

33 (4) "NO-IMPACT HOME-BASED BUSINESS" MEANS A BUSINESS THAT:

34 (I) IS CONSISTENT WITH THE RESIDENTIAL CHARACTER OF THE
35 DWELLING UNIT;

1 (II) IS SUBORDINATE TO THE USE OF THE DWELLING UNIT FOR
 2 RESIDENTIAL PURPOSES AND REQUIRES NO EXTERNAL MODIFICATIONS THAT
 3 DETRACT FROM THE RESIDENTIAL APPEARANCE OF THE DWELLING UNIT;

4 (III) USES NO EQUIPMENT OR PROCESS THAT CREATES NOISE,
 5 VIBRATION, GLARE, FUMES, ODORS, OR ELECTRICAL OR ELECTRONIC
 6 INTERFERENCE DETECTABLE BY NEIGHBORS OR THAT CAUSES AN INCREASE OF
 7 COMMON EXPENSES THAT CAN BE SOLELY AND DIRECTLY ATTRIBUTABLE TO A
 8 NO-IMPACT HOME-BASED BUSINESS; ~~AND AND~~

9 (IV) DOES NOT INVOLVE USE, STORAGE, OR DISPOSAL OF ANY
 10 GROUPING OR CLASSIFICATION OF MATERIALS THAT THE UNITED STATES
 11 SECRETARY OF TRANSPORTATION OR THE STATE OR ANY LOCAL GOVERNING BODY
 12 DESIGNATES AS A HAZARDOUS MATERIAL;

13 ~~(V) IS OWNED OR OPERATED BY A RESIDENT OF THE DWELLING~~
 14 ~~UNIT AND HAS NO EMPLOYEES, AGENTS, OR CONTRACTORS ON THE PREMISES~~
 15 ~~OTHER THAN A RESIDENT OF THE DWELLING UNIT; AND~~

16 ~~(VI) DOES NOT HAVE ANY CUSTOMERS OR INVITEES VISITING THE~~
 17 ~~PREMISES.~~

18 (b) (1) ~~This section does~~ THE PROVISIONS OF THIS SECTION RELATING TO
 19 FAMILY DAY CARE HOMES DO not apply to a homeowners association that is limited
 20 to housing for older persons, as defined under the federal Fair Housing Act.

21 (2) ~~THE PROVISIONS OF THIS SECTION RELATING TO HOME-BASED~~
 22 ~~BUSINESSES DO NOT APPLY TO PROPERTIES SUBJECT TO COVENANTS~~
 23 ~~ENFORCEABLE BY THE COLUMBIA ASSOCIATION OR COMMUNITY ASSOCIATIONS FOR~~
 24 ~~THE VILLAGES OF COLUMBIA IN HOWARD COUNTY. THE PROVISIONS OF THIS~~
 25 ~~SECTION RELATING TO NO-IMPACT HOME-BASED BUSINESSES DO NOT APPLY TO A~~
 26 ~~HOMEOWNERS ASSOCIATION THAT HAS ADOPTED, PRIOR TO JULY 1, 1999,~~
 27 ~~PROCEDURES IN ACCORDANCE WITH ITS COVENANTS, DECLARATION, OR BYLAWS~~
 28 ~~FOR THE PROHIBITION OR REGULATION OF NO-IMPACT HOME-BASED BUSINESSES.~~

29 (c) (1) Subject to the provisions of subsections (d) and (e)(1) of this section, a
 30 recorded covenant or restriction, a provision in a declaration, or a provision of the
 31 bylaws or rules of a homeowners association that prohibits or restricts commercial or
 32 business activity in general, but does not expressly apply to family day care homes OR
 33 NO-IMPACT HOME-BASED BUSINESSES, may not be construed to prohibit or restrict:

34 (i) The establishment and operation of family day care homes OR
 35 NO-IMPACT HOME-BASED BUSINESSES; or

36 (ii) Use of the roads, sidewalks, and other common areas of the
 37 homeowners association by users of the family day care home.

38 (2) Subject to the provisions of subsections (d) and (e)(1) of this section,
 39 the operation of a family day care home OR NO-IMPACT HOME-BASED BUSINESS shall
 40 be:

1 (i) Considered a residential activity; and

2 (ii) A permitted activity.

3 (d) (1) (i) Subject to the provisions of paragraphs (2) and (3) of this
4 subsection, a homeowners association may include in its declaration, bylaws, or
5 recorded covenants and restrictions a provision expressly prohibiting the use of a
6 residence as a family day care home OR NO-IMPACT HOME-BASED BUSINESS.

7 (ii) A provision described under subparagraph (i) of this paragraph
8 expressly prohibiting the use of a residence as a family day care home OR NO-IMPACT
9 HOME-BASED BUSINESS shall apply to an existing family day care home OR
10 NO-IMPACT HOME-BASED BUSINESS in the homeowners association.

11 (2) A provision described under paragraph (1)(i) of this subsection
12 expressly prohibiting the use of a residence as a family day care home OR NO-IMPACT
13 HOME-BASED BUSINESS may not be enforced unless it is approved by a simple
14 majority of the total eligible voters of the homeowners association under the voting
15 procedures contained in the declaration or bylaws of the homeowners association.

16 (3) If a homeowners association includes in its declaration, bylaws, or
17 recorded covenants and restrictions a provision prohibiting the use of a residence as a
18 family day care home OR NO-IMPACT HOME-BASED BUSINESS, it shall also include a
19 provision stating that the prohibition may be eliminated and family day care homes
20 OR NO-IMPACT HOME-BASED BUSINESSES may be approved by a simple majority of
21 the total eligible voters of the homeowners association under the voting procedures
22 contained in the declaration or bylaws of the homeowners association.

23 (4) If a homeowners association includes in its declaration, bylaws, or
24 recorded covenants and restrictions a provision expressly prohibiting the use of a
25 residence as a family day care home OR NO-IMPACT HOME-BASED BUSINESS, the
26 prohibition may be eliminated and family day care OR NO-IMPACT HOME-BASED
27 BUSINESS ACTIVITIES may be permitted by the approval of a simple majority of the
28 total eligible voters of the homeowners association under the voting procedures
29 contained in the declaration or bylaws of the homeowners association.

30 (e) A homeowners association may include in its declaration, bylaws, rules, or
31 recorded covenants and restrictions a provision that:

32 (1) Regulates the number or percentage of family day care homes
33 operating in the homeowners association, provided that the percentage of family day
34 care homes permitted may not be less than 7.5 percent of the total residences of the
35 homeowners association;

36 (2) Requires day care providers to pay on a pro rata basis based on the
37 total number of family day care homes operating in the homeowners association any
38 increase in insurance costs of the homeowners association that are solely and directly
39 attributable to the operation of family day care homes in the homeowners association;
40 and

1 (3) Imposes a fee for use of common areas in a reasonable amount not to
 2 exceed \$50 per year on each family day care home OR NO-IMPACT HOME-BASED
 3 BUSINESS which is registered and operating in the homeowners association.

4 (f) (1) If the homeowners association regulates the number or percentage of
 5 family day care homes under subsection (e)(1) of this section, in order to assure
 6 compliance with this regulation, the homeowners association may require residents to
 7 notify the homeowners association before opening a family day care home.

8 (2) THE HOMEOWNERS ASSOCIATION MAY REQUIRE RESIDENTS TO
 9 NOTIFY THE HOMEOWNERS ASSOCIATION BEFORE OPENING A NO-IMPACT
 10 HOME-BASED BUSINESS.

11 (g) (1) A day care provider in a homeowners association:

12 (i) Shall obtain the liability insurance described under §§ 19-106
 13 and 19-202 of the Insurance Article in at least the minimum amount described under
 14 that statute; and

15 (ii) May not operate without the liability insurance described under
 16 item (i) of this paragraph.

17 (2) A homeowners association may not require a day care provider to
 18 obtain insurance in an amount greater than the minimum amount required under
 19 paragraph (1) of this subsection.

20 (H) ~~(+) EXCEPT AS PROVIDED IN SUBSECTION (D)(1)(I) OF THIS SECTION AND~~
 21 ~~PARAGRAPH (2) OF THIS SUBSECTION, A RECORDED COVENANT OR RESTRICTION, A~~
 22 ~~PROVISION IN A DECLARATION, OR A PROVISION OF THE BYLAWS OR RULES OF A~~
 23 ~~HOMEOWNERS ASSOCIATION MAY NOT PROHIBIT A NO-IMPACT HOME-BASED~~
 24 ~~BUSINESS.~~

25 ~~(2)~~ A HOMEOWNERS ASSOCIATION MAY RESTRICT OR PROHIBIT A
 26 NO-IMPACT HOME-BASED BUSINESS IN ANY COMMON AREAS.

27 **Article - Corporations and Associations**

28 5-6B-01.

29 (O) "NO-IMPACT HOME-BASED BUSINESS" MEANS A BUSINESS THAT:

30 (1) IS CONSISTENT WITH THE RESIDENTIAL CHARACTER OF THE
 31 DWELLING UNIT;

32 (2) IS SUBORDINATE TO THE USE OF THE DWELLING UNIT FOR
 33 RESIDENTIAL PURPOSES AND REQUIRES NO EXTERNAL MODIFICATIONS THAT
 34 DETRACT FROM THE RESIDENTIAL 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 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) IS OWNED OR OPERATED BY A RESIDENT OF THE DWELLING UNIT
 9 AND HAS NO EMPLOYEES, AGENTS, OR CONTRACTORS ON THE PREMISES OTHER
 10 THAN A RESIDENT OF THE DWELLING UNIT; AND~~

11 ~~(6) DOES NOT HAVE ANY CUSTOMERS OR INVITEES VISITING THE
 12 PREMISES.~~

13 5-6B-18.1.

14 (A) THE PROVISIONS OF THIS SECTION RELATING TO NO-IMPACT
 15 HOME-BASED BUSINESSES DO NOT APPLY TO A COOPERATIVE HOUSING
 16 CORPORATION THAT HAS ADOPTED, PRIOR TO JULY 1, 1999, PROCEDURES IN
 17 ACCORDANCE WITH ITS ARTICLES OF INCORPORATION OR A PROPRIETARY LEASE OR
 18 A PROVISION OF ITS BYLAWS FOR THE PROHIBITION OR REGULATION OF NO-IMPACT
 19 HOME-BASED BUSINESSES.

20 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PROVISION
 21 IN A DECLARATION, OR A PROVISION IN THE BYLAWS OR RULES OF A COOPERATIVE
 22 HOUSING CORPORATION MAY NOT PROHIBIT A NO-IMPACT HOME-BASED BUSINESS.

23 ~~(B) A COOPERATIVE HOUSING CORPORATION MAY RESTRICT OR PROHIBIT A
 24 NO-IMPACT HOME-BASED BUSINESS IN ANY COMMON PROPERTY.~~

25 ~~(A)~~ (B) (1) SUBJECT TO THE PROVISIONS OF SUBSECTION (B) (C) OF THIS
 26 SECTION, A PROVISION IN THE ARTICLES OF INCORPORATION OR A PROPRIETARY
 27 LEASE OR A PROVISION OF THE BYLAWS OF A COOPERATIVE HOUSING CORPORATION
 28 THAT PROHIBITS OR RESTRICTS COMMERCIAL OR BUSINESS ACTIVITY IN GENERAL,
 29 BUT DOES NOT EXPRESSLY APPLY TO NO-IMPACT HOME-BASED BUSINESSES, MAY
 30 NOT BE CONSTRUED TO PROHIBIT OR RESTRICT THE ESTABLISHMENT AND
 31 OPERATION OF NO-IMPACT HOME-BASED BUSINESSES.

32 (2) SUBJECT TO THE PROVISIONS OF SUBSECTION (B) (C) OF THIS
 33 SECTION, THE OPERATION OF A NO-IMPACT HOME-BASED BUSINESS SHALL BE:

34 (I) CONSIDERED A RESIDENTIAL ACTIVITY; AND

35 (II) A PERMITTED ACTIVITY.

36 ~~(B)~~ (C) (1) (I) SUBJECT TO THE PROVISIONS OF PARAGRAPHS (2) AND (3)
 37 OF THIS SUBSECTION, A COOPERATIVE HOUSING CORPORATION MAY INCLUDE IN ITS
 38 ARTICLES OF INCORPORATION, BYLAWS, OR PROPRIETARY LEASES A PROVISION

1 EXPRESSLY PROHIBITING THE USE OF A RESIDENTIAL UNIT AS A NO-IMPACT
 2 HOME-BASED BUSINESS.

3 (II) A PROVISION DESCRIBED UNDER SUBPARAGRAPH (I) OF THIS
 4 PARAGRAPH EXPRESSLY PROHIBITING THE USE OF A RESIDENTIAL UNIT AS A
 5 NO-IMPACT HOME-BASED BUSINESS SHALL APPLY TO AN EXISTING NO-IMPACT
 6 HOME-BASED BUSINESS IN THE COOPERATIVE PROJECT.

7 (2) A PROVISION DESCRIBED UNDER PARAGRAPH (1)(I) OF THIS
 8 SUBSECTION EXPRESSLY PROHIBITING THE USE OF A RESIDENTIAL UNIT AS A
 9 NO-IMPACT HOME-BASED BUSINESS MAY NOT BE ENFORCED UNLESS IT IS
 10 APPROVED BY A SIMPLE MAJORITY OF THE TOTAL ELIGIBLE VOTERS OF THE
 11 COOPERATIVE HOUSING CORPORATION UNDER THE VOTING PROCEDURES
 12 CONTAINED IN THE ARTICLES OF INCORPORATION OR BYLAWS OF THE
 13 CORPORATION.

14 (3) IF A COOPERATIVE HOUSING CORPORATION INCLUDES IN ITS
 15 ARTICLES OF INCORPORATION, BYLAWS, OR PROPRIETARY LEASES A PROVISION
 16 PROHIBITING THE USE OF A RESIDENTIAL UNIT AS A NO-IMPACT HOME-BASED
 17 BUSINESS, IT SHALL ALSO INCLUDE A PROVISION STATING THAT THE PROHIBITION
 18 MAY BE ELIMINATED AND NO-IMPACT HOME-BASED BUSINESSES MAY BE
 19 APPROVED BY A SIMPLE MAJORITY OF THE TOTAL ELIGIBLE VOTERS OF THE
 20 COOPERATIVE HOUSING CORPORATION UNDER THE VOTING PROCEDURES
 21 CONTAINED IN THE ARTICLES OF INCORPORATION OR BYLAWS OF THE
 22 CORPORATION.

23 (4) IF A COOPERATIVE HOUSING CORPORATION INCLUDES IN ITS
 24 ARTICLES OF INCORPORATION, BYLAWS, OR PROPRIETARY LEASES A PROVISION
 25 EXPRESSLY PROHIBITING THE USE OF A RESIDENTIAL UNIT AS A NO-IMPACT
 26 HOME-BASED BUSINESS, THE PROHIBITION MAY BE ELIMINATED AND NO-IMPACT
 27 HOME-BASED BUSINESS ACTIVITIES MAY BE PERMITTED BY THE APPROVAL OF A
 28 SIMPLE MAJORITY OF THE TOTAL ELIGIBLE VOTERS OF THE COOPERATIVE HOUSING
 29 CORPORATION UNDER THE VOTING PROCEDURES CONTAINED IN THE ARTICLES OF
 30 INCORPORATION OR BYLAWS OF THE CORPORATION.

31 ~~(C)~~ (D) A COOPERATIVE HOUSING CORPORATION MAY:

32 (1) RESTRICT OR PROHIBIT A NO-IMPACT HOME-BASED BUSINESS IN
 33 ANY AREAS CONSTITUTING THOSE PORTIONS OF A COOPERATIVE PROJECT
 34 POSSESSED IN COMMON BY THE MEMBERS; AND

35 (2) IMPOSE A FEE FOR USE OF ANY AREAS CONSTITUTING THOSE
 36 PORTIONS OF A COOPERATIVE PROJECT POSSESSED IN COMMON BY THE MEMBERS
 37 IN A REASONABLE AMOUNT NOT TO EXCEED \$50 PER YEAR ON EACH NO-IMPACT
 38 HOME-BASED BUSINESS OPERATING IN THE COOPERATIVE PROJECT.

39 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
 40 October 1, 1998 July 1, 1998.

