Unofficial Copy N1 HB 600/97 - ECM 1998 Regular Session 8lr0859 CF 8lr0086

By: Senators Dorman and Craig

Introduced and read first time: January 16, 1998

Assigned to: Judicial Proceedings

1 AN ACT concerning

A BILL ENTITLED

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

- 4 FOR the purpose of prohibiting a recorded covenant or restriction, declaration, bylaw,
- or rule of a condominium, homeowners association, or cooperative housing
- 6 corporation from prohibiting certain 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,
- 13 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

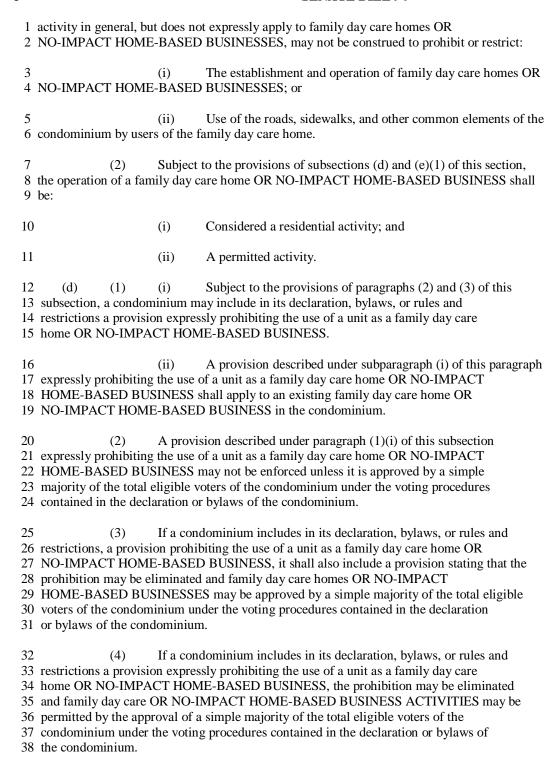
- 18 Article Corporations and Associations
- 19 Section 5-6B-01(o), (p), and (q), respectively
- 20 to be Section 5-6B-01(p), (q), and (r), respectively
- 21 Annotated Code of Maryland
- 22 (1993 Replacement Volume and 1997 Supplement)
- 23 BY repealing and reenacting, with amendments,
- 24 Article Real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

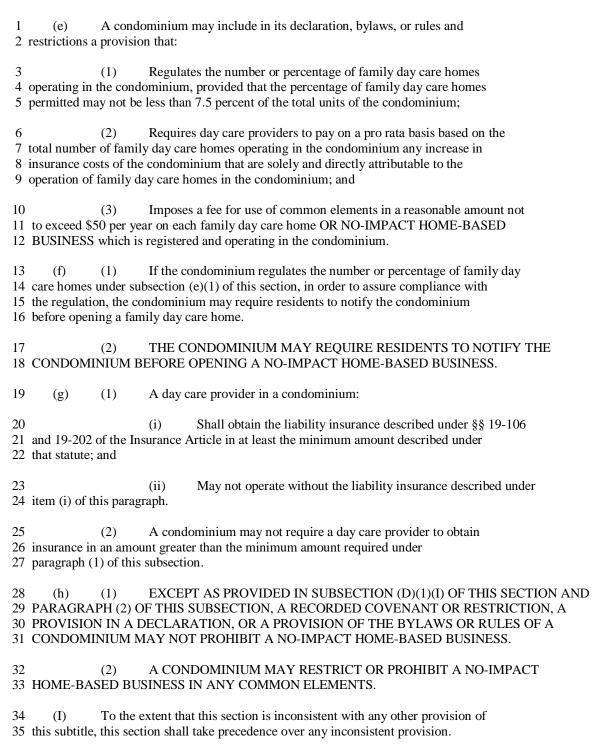
28 BY adding to

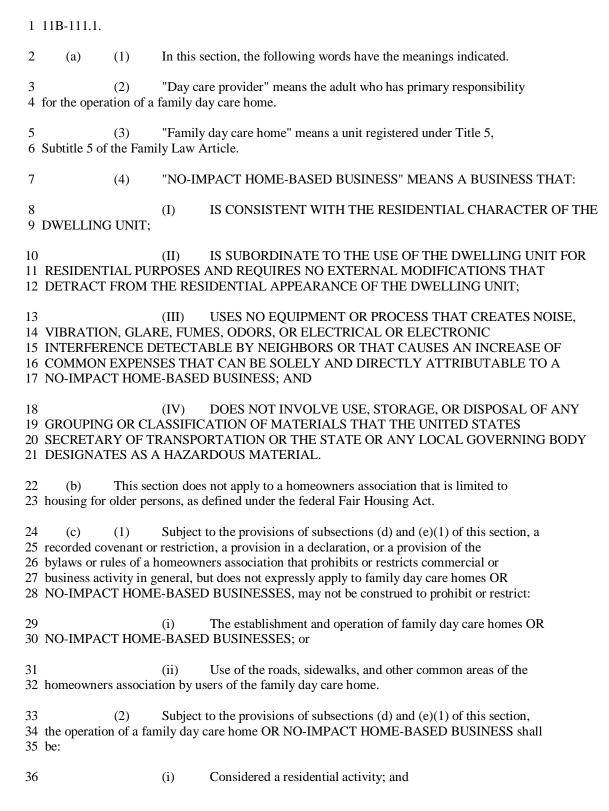
- 29 Article Corporations and Associations
- 30 Section 5-6B-01(o) and 5-6B-18.1

_	SENATE DILL 94						
1 2	Annotated Code of Maryland (1993 Replacement Volume and 1997 Supplement)						
5	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 5-6B-01(o), (p), and (q), respectively, of Article - Corporations and Associations of the Annotated Code of Maryland be renumbered to be Section(s) 5-6B-01(p), (q), and (r), respectively.						
7 8	SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland 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 13	(2) "Day care provider" means the adult who has primary responsibility for the operation of a family day care home.						
14 15	(3) "Family day care home" means a unit registered under Title 5, Subtitle 5 of the Family Law Article.						
16	(4) "NO-IMPACT HOME-BASED BUSINESS" MEANS A BUSINESS THAT:						
17 18	(I) IS CONSISTENT WITH THE RESIDENTIAL CHARACTER OF THE DWELLING UNIT;						
	(II) IS SUBORDINATE TO THE USE OF THE DWELLING UNIT FOR RESIDENTIAL PURPOSES AND REQUIRES NO EXTERNAL MODIFICATIONS THAT DETRACT FROM THE RESIDENTIAL APPEARANCE OF THE DWELLING UNIT;						
24 25	(III) USES NO EQUIPMENT OR PROCESS THAT CREATES NOISE, VIBRATION, GLARE, FUMES, ODORS, OR ELECTRICAL OR ELECTRONIC INTERFERENCE DETECTABLE BY NEIGHBORS OR THAT CAUSES AN INCREASE OF COMMON EXPENSES THAT CAN BE SOLELY AND DIRECTLY ATTRIBUTABLE TO A NO-IMPACT HOME-BASED BUSINESS; AND						
29	(IV) DOES NOT INVOLVE USE, STORAGE, OR DISPOSAL OF ANY GROUPING OR CLASSIFICATION OF MATERIALS THAT THE UNITED STATES SECRETARY OF TRANSPORTATION OR THE STATE OR ANY LOCAL GOVERNING BODY DESIGNATES AS A HAZARDOUS MATERIAL.						
31 32	(b) This section does not apply to a condominium that is limited to housing for older persons, as defined under the federal Fair Housing Act.						
33 34	(c) (1) Subject to the provisions of subsections (d) and (e)(1) of this section, a 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
3			ciation may include in its declaration, bylaws, or
			ions a provision expressly prohibiting the use of a
			home OR NO-IMPACT HOME-BASED BUSINESS.
5	residence as a failing (day care i	HOIRE OR NO-IMI ACT HOME-BASED BUSINESS.
6		(ii)	A provision described under subparagraph (i) of this paragraph
7	expressly prohibiting	the use of	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.
10	(2)		sion described under paragraph (1)(i) of this subsection
11	expressly prohibiting	the use o	of a residence as a family day care home OR NO-IMPACT
12	HOME-BASED BUS	SINESS n	nay not be enforced unless it is approved by a simple
13	majority of the total e	eligible vo	oters of the homeowners association under the voting
			claration or bylaws of the homeowners association.
15	(3)		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
18	provision stating that	the prohi	ibition may be eliminated and family day care homes
19	OR NO-IMPACT HO	OME-BA	SED BUSINESSES may be approved by a simple majority of
20	the total eligible vote	rs of the l	nomeowners association under the voting procedures
21	contained in the decla	aration or	bylaws of the homeowners association.
22	(4)		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
25	prohibition may be el	iminated	and family day care OR NO-IMPACT HOME-BASED
26	BUSINESS ACTIVI	TIES may	y be permitted by the approval of a simple majority of the
27	total eligible voters o	f the hom	neowners association under the voting procedures
28	contained in the decla	aration or	bylaws of the homeowners association.
29			ssociation may include in its declaration, bylaws, rules, or
30	recorded covenants a	nd restric	tions a provision that:
	(4)	D	
31	(1)		es the number or percentage of family day care homes
32	operating in the home	eowners a	association, provided that the percentage of family day
			be less than 7.5 percent of the total residences of the
34	homeowners associat	ion;	
35	(2)	Paguiro	s day care providers to pay on a pro rata basis based on the
	()		e homes operating in the homeowners association any
			the homeowners association that are solely and directly
	and	auon oi	family day care homes in the homeowners association;
,7	and		

	(3) Imposes a fee for use of common areas in a reasonable amount not to exceed \$50 per year on each family day care home OR NO-IMPACT HOME-BASED BUSINESS which is registered 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.						
	(2) THE HOMEOWNERS ASSOCIATION MAY REQUIRE RESIDENTS TO NOTIFY THE HOMEOWNERS ASSOCIATION BEFORE OPENING A NO-IMPACT HOME-BASED BUSINESS.						
11	(g) (1) A day care provider in a homeowners association:						
	(i) Shall obtain the liability insurance described under §§ 19-106 and 19-202 of the Insurance Article in at least the minimum amount described under that statute; and						
15 16	(ii) May not operate without the liability insurance described under item (i) of this paragraph.						
	7 (2) A homeowners association may not require a day care provider to 8 obtain insurance in an amount greater than the minimum amount required under 9 paragraph (1) of this subsection.						
22 23	(H) (1) EXCEPT AS PROVIDED IN SUBSECTION (D)(1)(I) OF THIS SECTION AND PARAGRAPH (2) OF THIS SUBSECTION, A RECORDED COVENANT OR RESTRICTION, A PROVISION IN A DECLARATION, OR A PROVISION OF THE BYLAWS OR RULES OF A HOMEOWNERS ASSOCIATION MAY NOT PROHIBIT A NO-IMPACT HOME-BASED BUSINESS.						
25 26	(2) A HOMEOWNERS ASSOCIATION MAY RESTRICT OR PROHIBIT A 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 31	(1) IS CONSISTENT WITH THE RESIDENTIAL CHARACTER OF THE DWELLING UNIT;						
	(2) IS SUBORDINATE TO THE USE OF THE DWELLING UNIT FOR RESIDENTIAL PURPOSES AND REQUIRES NO EXTERNAL MODIFICATIONS THAT 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
- 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 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.