
By: **Delegates Barve and Petzold**

Introduced and read first time: February 12, 1999

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Condominiums - Common Elements - Eminent Domain**

3 FOR the purpose of authorizing a board of directors of a council of condominium unit
4 owners by majority vote to settle an eminent domain proceeding or grant certain
5 property interests to certain governmental entities with condemnation authority
6 for certain public purposes; specifying certain notice and procedural
7 requirements; making technical corrections; and generally relating to the
8 authority of a board of directors of a council of condominium unit owners.

9 BY repealing and reenacting, with amendments,
10 Article - Real Property
11 Section 11-125(f)
12 Annotated Code of Maryland
13 (1996 Replacement Volume and 1998 Supplement)

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

16 **Article - Real Property**

17 11-125.

18 (f) (1) The declaration or bylaws may give the council of unit owners
19 authority to grant easements, rights-of-way, licenses, leases in excess of 1 year, or
20 similar interests affecting the common elements of the condominium if the grant is
21 approved by the affirmative vote of unit owners having $\frac{66}{100}$ percent or more of the
22 votes, and with the express written consent of the mortgagees holding an interest in
23 those units as to which unit owners vote affirmatively. Any easement, right-of-way,
24 license, or similar interest granted by the council of unit owners under this subsection
25 shall state that the grant was approved by unit owners having at least $\frac{66}{100}$ percent
26 of the votes, and by the corresponding mortgagees.

27 (2) The board of directors may, by majority vote, grant easements,
28 rights-of-way, licenses, leases in excess of 1 year, or similar interests for the provision
29 of utility services or communication systems for the exclusive benefit of units within

1 the condominium regime. These actions by the board of directors are subject to the
2 following requirements:

3 (i) The action shall be taken at a meeting of the board held after at
4 least 30-days' notice to all unit owners and mortgagees of record with the
5 condominium;

6 (ii) At the meeting, the board may not act until all unit owners and
7 mortgagees shall be afforded a reasonable opportunity to present their views on the
8 proposed easement, right-of-way, license, lease, or similar interest;

9 (iii) The easement, right-of-way, license, lease, or similar interest
10 shall contain the following provisions:

11 1. The service or system shall be installed or affixed to the
12 premises at no cost to the individual unit owners or the council of unit owners other
13 than charges normally paid for like services by residents of similar or comparable
14 dwelling units within the same area;

15 2. The unit owners and council of unit owners shall be
16 indemnified for any damage arising out of the installation of the service or system;
17 and

18 3. The board of directors shall be provided the right to
19 approve of the design for installation of the service or system in order to insure that
20 the installation conforms to any conditions which are reasonable to protect the safety,
21 functioning, and appearance of the premises.

22 (3) By majority vote, the board of directors may grant to the State
23 perpetual easements, rights-of-way, licenses, leases in excess of 1 year, or similar
24 interests affecting the common elements of the condominium for bulkhead
25 construction, dune construction or restoration, beach replenishment, or periodic
26 maintenance and replacement construction, on Maryland's ocean beaches, including
27 rights in the State to restrict access to dune areas. These actions by the board of
28 directors are subject to the following requirements:

29 (i) The action shall be taken at a meeting of the board held after at
30 least 30-days' notice to all unit owners and mortgagees of record with the
31 condominium; and

32 (ii) At the meeting, the board may not act until all unit owners and
33 mortgagees shall be afforded a reasonable opportunity to present their views on the
34 proposed easement, right-of-way, license, lease, or similar interest.

35 (4) BY MAJORITY VOTE, THE BOARD OF DIRECTORS MAY SETTLE AN
36 EMINENT DOMAIN PROCEEDING OR GRANT TO THE STATE OR ANY COUNTY,
37 MUNICIPALITY, OR AGENCY OR INSTRUMENTALITY THEREOF WITH CONDEMNATION
38 AUTHORITY, PERPETUAL EASEMENTS, RIGHTS-OF-WAY, LICENSES, LEASES IN
39 EXCESS OF 1 YEAR, OR SIMILAR INTERESTS AFFECTING THE COMMON ELEMENTS OF
40 THE CONDOMINIUM FOR ROAD, HIGHWAY, SIDEWALK, BIKEWAY, STORM DRAIN,

1 SEWER, WATER, UTILITY, AND SIMILAR PUBLIC PURPOSES. THESE ACTIONS BY THE
2 BOARD OF DIRECTORS ARE SUBJECT TO THE FOLLOWING REQUIREMENTS:

3 (I) THE ACTION SHALL BE TAKEN AT A MEETING OF THE BOARD
4 HELD AFTER AT LEAST 60 DAYS' NOTICE TO ALL UNIT OWNERS AND ALL FIRST
5 MORTGAGEES LISTED WITH THE CONDOMINIUM;

6 (II) THE NOTICE SHALL INCLUDE INFORMATION PROVIDED BY THE
7 CONDEMNATION AUTHORITY THAT DESCRIBES THE PURPOSE AND THE EXTENT OF
8 THE PROPERTY BEING ACQUIRED FOR PUBLIC USE; AND

9 (III) AT THE MEETING, THE BOARD MAY NOT ACT UNTIL ALL UNIT
10 OWNERS AND MORTGAGEES IN ATTENDANCE HAVE BEEN AFFORDED A REASONABLE
11 OPPORTUNITY TO PRESENT THEIR VIEWS ON THE PROPOSED EASEMENT,
12 RIGHT-OF-WAY, LICENSE, LEASE, OR SIMILAR INTEREST.

13 (5) The action of the board of directors granting any easement,
14 right-of-way, license, lease, or similar interest under [paragraph] PARAGRAPHS (2)
15 [or], (3), OR (4) of this subsection shall not be final until the following have occurred:

16 (i) Within 15 days after the vote by the board to grant an
17 easement, right-of-way, license, lease, or similar interest, a petition may be filed with
18 the board of directors signed by the unit owners having at least 15 percent of the votes
19 calling for a special meeting of unit owners to vote on the question of a disapproval of
20 the action of the board of directors granting such easement, right-of-way, license,
21 lease, or similar interest. If no such petition is received within 15 days, the decision of
22 the board shall be final;

23 (ii) If a qualifying petition is filed, a special meeting shall be held
24 no less than 15 days or more than 30 days from receipt of the petition. At the special
25 meeting, if a quorum is not present, the decision of the board of directors shall be
26 final;

27 (iii) 1. If a special meeting is held and 50 percent of the unit
28 owners present and voting disapprove the grant, and the unit owners voting to
29 disapprove the grant are more than 33 percent of the total votes in the condominium,
30 then the grant shall be void; or

31 2. If the vote of the unit owners is not more than 33 percent
32 of the total votes in the condominium, the decision of the board or council to make the
33 grant shall be final;

34 (iv) Mortgagees shall receive notice of and be entitled to attend and
35 speak at such special meeting; and

36 (v) Any easement, right-of-way, license, lease, or similar interest
37 granted by the board of directors under the provisions of this subsection shall state
38 that the grant was approved in accordance with the provisions of this subsection.

1 [(5)] (6) The provisions of this subsection are applicable to all
2 condominiums, regardless of the date they were established.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 1999.