

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

Senate Bill 270

(Senator Hollinger)

Judicial Proceedings

Condominiums and Homeowners' Associations - Rights of Owners and
Purchasers - Unenforceable Provisions in Documents

This bill provides that specified provisions requiring a condominium unit owner or a lot owner within a development subject to a homeowners association to give prior approval to future changes in the development or its common elements are void and not enforceable.

Fiscal Summary

State Effect: The bill would not directly affect governmental operations or finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: For a condominium, a provision in the declaration, bylaws, or condominium plat, or in a contract for the sale of a condominium unit, is void and unenforceable if the provision requires a unit owner to:

- give prior approval to future modifications, changes, or amendments in: (a) the use of the common elements; (b) the final development plan; (c) the partial development plan; (d) zoning changes or variance requests; or (e) other governmental development or building approval for the development of the condominium and its common elements;

- grant prior consent to waiving the requirement of a public hearing for the above future modifications if a public hearing may be requested by law; or
- convey to the developer, seller, or vendor a power of attorney for the above future modifications.

For a homeowners association, a provision of a recorded covenant, restriction, or declaration filed under the Maryland Homeowners Association Act or a contract for sale for a lot within a development subject to a homeowners association is void and not enforceable if the provision requires the purchaser to:

- give prior approval to future modifications, changes, or amendments in: (a) the use of the common elements; (b) the final development plan; (c) the partial development plan; (d) zoning changes or variance requests; or (e) other governmental development or building approval for the development;
- grant prior consent to waiving the requirement of a public hearing for the above future modifications if a public hearing may be requested by law; or
- convey to the developer, vendor, or declarant a power of attorney for the above future modifications.

Current Law: Generally, a condominium declaration, bylaws, or plat; a recorded covenant; homeowners association declaration; or a contract for the sale of real property, including a condominium unit or lot subject to a homeowners association, may contain provisions such as the ones prohibited by the bill. In many instances, a provision that is part of a declaration, condominium bylaws, or a plat, or that is recorded in the land records, would “run with the land” and bind subsequent purchasers.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Secretary of State, Office of the Attorney General (Consumer Protection Division), Department of Legislative Services

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Analysis by: Ryan Wilson

Direct Inquiries to:
(410) 946-5510
(301) 970-5510