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By: **Delegates Lee, Barkley, Bronrott, G. Clagett, Conroy, Cryor, Feldman,  
Goldwater, Gutierrez, Hixson, Kaiser, Madaleno, Montgomery,  
Niemann, Stern, and Trueschler**

Introduced and read first time: February 13, 2004

Assigned to: Environmental Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Housing - Establishment - Commission on Common Ownership**  
3 **Communities**

4 FOR the purpose of establishing the Commission on Common Ownership  
5 Communities in the Department of Housing and Community Development;  
6 specifying the membership, powers, and duties of the Commission; establishing  
7 the terms of and requirements for certain appointed members of the  
8 Commission; providing for the removal of certain members for certain reasons;  
9 specifying duties of the Department; requiring a common ownership community  
10 to register with the Department and pay a certain fee annually; establishing  
11 certain penalties; prohibiting a common ownership community from  
12 participating in a certain dispute resolution procedure if certain fees are not  
13 paid; requiring the Commission to submit certain reports on or before a certain  
14 date annually; establishing a certain dispute resolution procedure in the  
15 Commission; authorizing a certain party to file papers with the Commission to  
16 resolve a certain dispute under certain circumstances; requiring the  
17 Commission to notify certain parties that a dispute has been filed; authorizing a  
18 court to stay a certain action to allow a certain dispute resolution procedure to  
19 be completed; authorizing the Commission to issue a certain subpoena and  
20 administer a certain oath in its investigation and hearing of a certain dispute;  
21 providing certain penalties for failure to comply with a subpoena or order issued  
22 by the Commission; authorizing the Department to make a certain investigation  
23 and provide the Commission with certain findings concerning a certain dispute;  
24 authorizing certain parties to request the Commission to mediate a certain  
25 dispute; authorizing the Commission to provide a certain mediator to resolve a  
26 dispute and to assess certain costs of mediation on the parties; authorizing the  
27 Commission to establish a certain hearing panel, if necessary, to resolve a  
28 dispute between certain parties; specifying the membership of a hearing panel;  
29 authorizing a hearing panel to take certain action; authorizing a hearing panel  
30 to assess certain costs on a party, including attorneys' fees, if the panel finds the  
31 party has taken certain unreasonable action; providing that a hearing panel's  
32 decision is a final decision and subject to judicial review; providing certain  
33 penalties to be assessed by the Commission for failure to comply with a

1 commission order; defining certain terms; specifying the terms of the initial  
2 members of the Commission; and generally relating to establishment of the  
3 Commission on Common Ownership Communities.

4 BY repealing and reenacting, without amendments,  
5 Article 83B - Department of Housing and Community Development  
6 Section 1-101(a), (d), and (i)  
7 Annotated Code of Maryland  
8 (2003 Replacement Volume)

9 BY repealing and reenacting, with amendments,  
10 Article 83B - Department of Housing and Community Development  
11 Section 1-204(a)  
12 Annotated Code of Maryland  
13 (2003 Replacement Volume)

14 BY adding to  
15 Article 83B - Department of Housing and Community Development  
16 Section 2-1701 through 2-1716 to be under the new subtitle "Subtitle 17.  
17 Commission on Common Ownership Communities"  
18 Annotated Code of Maryland  
19 (2003 Replacement Volume)

20 BY repealing and reenacting, without amendments,  
21 Article - Real Property  
22 Section 11-113 and 11B-104(c)  
23 Annotated Code of Maryland  
24 (2003 Replacement Volume and 2003 Supplement)

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

27 **Article 83B - Department of Housing and Community Development**

28 1-101.

29 (a) In this article the following words have the following meanings unless  
30 otherwise indicated.

31 (d) "Department" means the Department of Housing and Community  
32 Development.

33 (i) "Secretary" means the Secretary of Housing and Community Development.

1 1-204.

2 (a) The following agencies, boards, commissions, councils, corporations,  
3 authorities, trusts, and divisions shall be included within the department:

- 4 (1) Division of Development Finance;
- 5 (2) Community Development Administration;
- 6 (3) Division of Credit Assurance;
- 7 (4) Maryland Housing Fund;
- 8 (5) Division of Neighborhood Revitalization;
- 9 (6) Division of Historical and Cultural Programs;
- 10 (7) Historic St. Mary's City Commission;
- 11 (8) Commission on African American History and Culture;
- 12 (9) Commission on Indian Affairs; [and]
- 13 (10) Maryland Historical Trust; AND
- 14 (11) COMMISSION ON COMMON OWNERSHIP COMMUNITIES.

15 SUBTITLE 17. COMMISSION ON COMMON OWNERSHIP COMMUNITIES.

16 PART I. ESTABLISHED.

17 2-1701.

18 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
19 INDICATED.

20 (B) "COMMISSION" MEANS THE COMMISSION ON COMMON OWNERSHIP  
21 COMMUNITIES.

22 (C) "COMMON OWNERSHIP COMMUNITY" MEANS:

23 (1) A RESIDENTIAL CONDOMINIUM AS DEFINED IN § 11-101 OF THE REAL  
24 PROPERTY ARTICLE;

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

27 (3) A DEVELOPMENT SUBJECT TO A DECLARATION ENFORCED BY A  
28 HOMEOWNERS' ASSOCIATION AS DEFINED IN § 11B-101 OF THE REAL PROPERTY  
29 ARTICLE.

1 2-1702.

2 THERE IS A COMMISSION ON COMMON OWNERSHIP COMMUNITIES IN THE  
3 DEPARTMENT.

4 2-1703.

5 (A) THE COMMISSION CONSISTS OF 22 MEMBERS.

6 (1) OF THE 22 MEMBERS, 15 MEMBERS SHALL BE APPOINTED BY THE  
7 GOVERNOR AS FOLLOWS:

8 (I) 1. SIX MEMBERS WHO ARE RESIDENTS OF SELF-MANAGED  
9 OR PROFESSIONALLY MANAGED:

10 A. CONDOMINIUMS;

11 B. COOPERATIVE HOUSING CORPORATIONS; OR

12 C. HOMEOWNERS' ASSOCIATIONS; AND

13 2. THESE MEMBERS MAY INCLUDE MEMBERS OR FORMER  
14 MEMBERS OF THE GOVERNING BOARD OF THE COMMON OWNERSHIP COMMUNITY  
15 THE MEMBER RESIDES IN;

16 (II) THREE MEMBERS WHO ARE INVOLVED IN HOUSING  
17 DEVELOPMENT AND REAL ESTATE SALES; AND

18 (III) 1. FIVE MEMBERS WHO ARE IN PROFESSIONS ASSOCIATED  
19 WITH A COMMON OWNERSHIP COMMUNITY, INCLUDING ATTORNEYS WHO  
20 REPRESENT DEVELOPERS, HOUSING MANAGERS OR TENANTS, OR WHO ARE  
21 INVESTOR-OWNERS OF UNITS IN A COMMON OWNERSHIP COMMUNITY; AND

22 2. ONE OF THESE MEMBERS SHALL BE A PROFESSIONAL  
23 COMMUNITY ASSOCIATION MANAGER; AND

24 (2) AS NONVOTING MEMBERS:

25 (I) A SENATOR APPOINTED BY THE PRESIDENT OF THE SENATE;

26 (II) A DELEGATE APPOINTED BY THE SPEAKER OF THE HOUSE OF  
27 DELEGATES;

28 (III) THE SECRETARY, OR THE SECRETARY'S DESIGNEE;

29 (IV) THE SECRETARY OF LABOR, LICENSING, AND REGULATION, OR  
30 THE SECRETARY'S DESIGNEE;

31 (V) THE SECRETARY OF NATURAL RESOURCES, OR THE  
32 SECRETARY'S DESIGNEE;

1 (VI) THE SECRETARY OF PLANNING, OR THE SECRETARY'S  
2 DESIGNEE; AND

3 (VII) THE SECRETARY OF TRANSPORTATION, OR THE SECRETARY'S  
4 DESIGNEE.

5 (B) (1) THE GOVERNOR SHALL APPOINT MEMBERS ON THE  
6 RECOMMENDATION OF THE SECRETARY AND WITH THE ADVICE AND CONSENT OF  
7 THE SENATE.

8 (2) THE MEMBERS APPOINTED BY THE GOVERNOR ARE VOTING  
9 MEMBERS OF THE COMMISSION.

10 (C) (1) (I) THE TERM OF AN APPOINTED MEMBER IS 3 YEARS.

11 (II) A MEMBER MAY NOT SERVE MORE THAN TWO CONSECUTIVE  
12 TERMS.

13 (2) THE TERMS OF THE APPOINTED MEMBERS ARE STAGGERED AS  
14 REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE COMMISSION ON  
15 OCTOBER 1, 2004.

16 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A  
17 SUCCESSOR IS APPOINTED AND QUALIFIES.

18 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES  
19 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND  
20 QUALIFIES.

21 (D) (1) THE GOVERNOR, WITH THE CONSENT OF THE SENATE, MAY REMOVE  
22 A MEMBER FOR INCOMPETENCE, MISCONDUCT, INCAPACITY, OR NEGLIGENCE OF DUTY.

23 (2) A MEMBER WHO IS ABSENT FROM 25 PERCENT OF THE  
24 COMMISSION'S MEETINGS IN A 6-MONTH PERIOD MAY BE REMOVED IN ACCORDANCE  
25 WITH PARAGRAPH (1) OF THIS SUBSECTION.

26 (3) THE GOVERNOR SHALL GIVE THE MEMBER NOTICE OF THE REASON  
27 FOR REMOVAL AND AN OPPORTUNITY TO REPLY.

28 2-1704.

29 (A) FROM ITS VOTING MEMBERS, THE COMMISSION SHALL ELECT A  
30 CHAIRMAN AND A VICE CHAIRMAN AND MAY ELECT OTHER OFFICERS AS IT  
31 DETERMINES.

32 (B) THE COMMISSION SHALL MEET AT THE CALL OF THE CHAIR BUT AT LEAST  
33 ONCE A MONTH.

34 (C) (1) A MAJORITY OF THE VOTING MEMBERS OF THE COMMISSION IS A  
35 QUORUM.

1 (2) A MAJORITY OF THE VOTING MEMBERS PRESENT AT A MEETING MAY  
2 TAKE OFFICIAL ACTION.

3 (D) THE COMMISSION SHALL COMPLY WITH THE REQUIREMENTS OF THE  
4 OPEN MEETINGS ACT.

5 (E) A VOTING MEMBER OF THE COMMISSION MAY NOT RECEIVE  
6 COMPENSATION BUT SHALL BE ENTITLED TO REIMBURSEMENT FOR REASONABLE  
7 EXPENSES INCURRED IN THE PERFORMANCE OF THE MEMBER'S DUTIES, AS  
8 PROVIDED IN THE STATE BUDGET.

9 2-1705.

10 (A) THE DEPARTMENT SHALL PROVIDE THE COMMISSION WITH STAFF,  
11 OFFICE, AND SUPPLIES IN ACCORDANCE WITH THE BUDGET OF THE DEPARTMENT.

12 (B) THE SECRETARY SHALL CONSIDER THE RECOMMENDATION OF THE  
13 COMMISSION WHEN PROVIDING STAFF.

14 2-1706.

15 IN CONSULTATION WITH THE COMMISSION, THE DEPARTMENT SHALL:

16 (1) MAINTAIN A MASTER ROSTER OF ALL COMMON OWNERSHIP  
17 COMMUNITIES IN THE STATE, THE LEADERSHIP OF EACH COMMON OWNERSHIP  
18 COMMUNITY, AND ITS PROFESSIONAL MANAGEMENT COMPANY, IF APPLICABLE;

19 (2) RESEARCH, ASSEMBLE, ANALYZE, AND DISSEMINATE EDUCATIONAL  
20 MATERIALS AND PERTINENT DATA ABOUT ACTIVITIES AND PROGRAMS THAT ASSIST  
21 COMMON OWNERSHIP COMMUNITIES;

22 (3) MAINTAIN A COLLECTION OF COMMON OWNERSHIP COMMUNITY  
23 ASSOCIATION DOCUMENTS FOR USE AS MODELS AND REFERENCE MATERIAL FOR  
24 COMMON OWNERSHIP COMMUNITIES;

25 (4) PLAN AND CONDUCT EDUCATIONAL PROGRAMS, MEETINGS, AND  
26 CONFERENCES TO PROMOTE THE OPERATION OF COMMON OWNERSHIP  
27 COMMUNITIES;

28 (5) DEVELOP AND MAINTAIN AN INFORMATION AND REFERRAL SYSTEM  
29 FOR ALL SERVICES IN THE STATE RELATED DIRECTLY TO COMMON OWNERSHIP  
30 COMMUNITIES;

31 (6) PROVIDE TECHNICAL ASSISTANCE TO ASSOCIATION GOVERNING  
32 BODIES ON MATTERS INCLUDING TRANSITION, ELECTIONS, RULES ADOPTION AND  
33 ENFORCEMENT, SELECTION OF ASSOCIATION MANAGERS, STORMWATER  
34 MANAGEMENT, AND OTHER SERVICES;

35 (7) DEVELOP AND MAINTAIN A MANUAL FOR THE MUTUAL BENEFIT OF  
36 COMMON OWNERSHIP COMMUNITIES AND STATE AGENCIES;

1 (8) DEVELOP AND MAINTAIN A MODEL OPERATIONS MANUAL TO SERVE  
2 AS A GUIDE TO COMMON OWNERSHIP COMMUNITY LEADERSHIP;

3 (9) ADVISE COMMON OWNERSHIP COMMUNITIES AND PROFESSIONAL  
4 ASSOCIATION MANAGERS ON CHANGES IN STATE LAW AND REGULATIONS  
5 AFFECTING THEIR COMMUNITIES OR OPERATIONS;

6 (10) OPERATE A DISPUTE RESOLUTION PROCESS TO FURNISH  
7 MEDIATION AND ADMINISTRATIVE HEARINGS;

8 (11) BY REGULATION:

9 (I) SET ANNUAL AND RENEWAL REGISTRATION FEES FOR A  
10 COMMON OWNERSHIP COMMUNITY THAT MAY BE CALCULATED ON A PER UNIT  
11 BASIS;

12 (II) SET DISPUTE RESOLUTION SERVICE AND TECHNICAL  
13 ASSISTANCE FEES THAT ARE SUFFICIENT TO COVER THE ACTUAL COSTS OF THE  
14 SERVICES; AND

15 (III) ESTABLISH PROCEDURES FOR THE DISPUTE RESOLUTION  
16 PROCESS UNDER PART II OF THIS SUBTITLE; AND

17 (12) ASSIST THE COMMISSION IN FULFILLING ITS DUTIES UNDER PART II  
18 OF THIS SUBTITLE.

19 2-1707.

20 IN ADDITION TO THE POWERS AND DUTIES SET FORTH ELSEWHERE IN THIS  
21 SUBTITLE, THE COMMISSION SHALL:

22 (1) ADVISE THE CITIZENS OF THE STATE AND STATE AGENCIES ON  
23 MATTERS INVOLVING COMMON OWNERSHIP ASSOCIATIONS;

24 (2) RECOMMEND PROGRAMS AND PROPOSE LEGISLATION TO THE  
25 DEPARTMENT THAT SUPPORT COMMON OWNERSHIP ASSOCIATIONS;

26 (3) COOPERATE WITH THE GOVERNOR AND STATE AGENCIES  
27 CONCERNED WITH MATTERS WITHIN THE JURISDICTION OF THE COMMISSION; AND

28 (4) ADOPT REGULATIONS NECESSARY TO CARRY OUT PROVISIONS OF  
29 THIS SUBTITLE NOT COVERED BY THE DEPARTMENT REGULATIONS UNDER § 2-1706  
30 OF THIS SUBTITLE.

31 2-1708.

32 (A) (1) A COMMON OWNERSHIP COMMUNITY SHALL REGISTER WITH THE  
33 COMMISSION ANNUALLY ON A FORM PROVIDED BY THE COMMISSION.

34 (2) THE REQUIRED INFORMATION SHALL INCLUDE THE NAMES OF THE  
35 ELECTED LEADERSHIP AND MANAGING AGENTS OF THE COMMON OWNERSHIP

1 COMMUNITY, INCLUDING, IF APPLICABLE, A PROFESSIONAL MANAGEMENT  
2 COMPANY.

3 (B) A COMMON OWNERSHIP COMMUNITY SHALL PAY AN INITIAL  
4 REGISTRATION FEE AND AN ANNUAL RENEWAL FEE AS ESTABLISHED BY THE  
5 DEPARTMENT IN REGULATION.

6 (C) THE GOVERNING BODY OF THE COMMON OWNERSHIP COMMUNITY IS  
7 RESPONSIBLE FOR COMPLYING WITH SUBSECTIONS (A) AND (B) OF THIS SECTION.

8 (D) (1) FAILURE TO REGISTER, KNOWINGLY MAKING A FALSE STATEMENT  
9 IN THE REGISTRATION, OR FAILURE TO PAY THE INITIAL OR RENEWAL  
10 REGISTRATION FEE IS A CIVIL VIOLATION WITH A PENALTY OF \$1,000 FOR A FIRST  
11 OFFENSE AND \$1,500 FOR SUBSEQUENT VIOLATIONS.

12 (2) A COMMON OWNERSHIP COMMUNITY THAT FAILS TO COMPLY WITH  
13 SUBSECTIONS (A) AND (B) OF THIS SECTION OR THAT KNOWINGLY MAKES A FALSE  
14 STATEMENT IN ITS REGISTRATION IS NOT ELIGIBLE TO PARTICIPATE IN THE  
15 DISPUTE RESOLUTION PROCESS UNDER PART II OF THIS SUBTITLE UNTIL THE  
16 COMMON OWNERSHIP COMMUNITY REGISTERS AND PAYS ANY OUTSTANDING  
17 PENALTIES.

18 2-1709.

19 ON OR BEFORE SEPTEMBER 1, THE COMMISSION SHALL SUBMIT AN ANNUAL  
20 REPORT TO THE GOVERNOR, THE SECRETARY AND, SUBJECT TO § 2-1246 OF THE  
21 STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON ITS ACTIVITIES, NEEDS,  
22 AND RECOMMENDATIONS FOR MEETING THE GOALS OF THIS SUBTITLE.

23 PART II. DISPUTE RESOLUTION.

24 2-1710.

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

26 (B) (1) "ASSOCIATION DOCUMENT" MEANS:

27 (I) THE MASTER DEEDS, DECLARATION, INCORPORATION  
28 DOCUMENT, BYLAWS, AND RULES OF A COMMON OWNERSHIP COMMUNITY;

29 (II) A WRITTEN PRIVATE AGREEMENT BETWEEN ANY PARTIES  
30 CONCERNING THE OPERATION OF THE COMMON OWNERSHIP COMMUNITY OR  
31 MAINTENANCE OR CONTROL OF COMMON OR LIMITED COMMON PROPERTY; OR

32 (III) A SIMILAR DOCUMENT CONCERNING THE OPERATION OR  
33 GOVERNANCE OF A COMMON OWNERSHIP COMMUNITY.

34 (2) "ASSOCIATION DOCUMENT" DOES NOT MEAN A LEASE UNLESS THE  
35 LEASE PROVIDES THAT IT MAY BE ENFORCED UNDER THIS SUBTITLE.



1 (C) "COMMUNITY ASSOCIATION" MEANS THE LEGAL ENTITY, INCORPORATED  
2 OR UNINCORPORATED, THAT IS RESPONSIBLE FOR THE GOVERNANCE OR COMMON  
3 PROPERTY OF A COMMON OWNERSHIP COMMUNITY.

4 (D) (1) "DISPUTE" MEANS A DISAGREEMENT BETWEEN TWO OR MORE  
5 PARTIES THAT INVOLVES:

6 (I) THE AUTHORITY OF A GOVERNING BODY UNDER A LAW OR  
7 ASSOCIATION DOCUMENT TO:

8 1. REQUIRE AN INDIVIDUAL TO TAKE ACTION OR NOT TAKE  
9 ACTION INVOLVING A UNIT;

10 2. REQUIRE AN INDIVIDUAL TO PAY A FEE, FINE, OR  
11 ASSESSMENT;

12 3. SPEND ASSOCIATION FUNDS; OR

13 4. ALTER OR ADD TO A COMMON AREA OR ELEMENT; OR

14 (II) THE FAILURE OF A GOVERNING BODY, WHEN REQUIRED BY  
15 LAW OR ASSOCIATION DOCUMENT, TO:

16 1. PROPERLY CONDUCT AN ELECTION;

17 2. GIVE ADEQUATE NOTICE OF A MEETING OR OTHER  
18 ACTION;

19 3. PROPERLY CONDUCT A MEETING;

20 4. PROPERLY ADOPT A BUDGET OR RULES;

21 5. MAINTAIN OR AUDIT BOOKS AND RECORDS; OR

22 6. ALLOW INSPECTION OF BOOKS AND RECORDS.

23 (2) "DISPUTE" DOES NOT INCLUDE A DISAGREEMENT THAT ONLY  
24 INVOLVES:

25 (I) TITLE TO A UNIT OR COMMON AREA OR ELEMENT;

26 (II) THE PERCENTAGE INTEREST OR VOTE ALLOCABLE TO A UNIT;

27 (III) THE INTERPRETATION OR ENFORCEMENT OF A WARRANTY;

28 (IV) THE COLLECTION OF AN ASSESSMENT VALIDLY LEVIED  
29 AGAINST A PARTY; OR

30 (V) THE JUDGMENT OR DISCRETION OF A GOVERNING BODY IN  
31 TAKING OR DECIDING NOT TO TAKE ANY LEGALLY AUTHORIZED ACTION.

1 (E) "OWNER" MEANS:

2 (1) A UNIT OWNER IN A CONDOMINIUM;

3 (2) A MEMBER OF A COOPERATIVE HOUSING CORPORATION; OR

4 (3) A LOT OWNER IN A HOMEOWNERS' ASSOCIATION.

5 (F) "PARTY" MEANS:

6 (1) AN OWNER;

7 (2) A GOVERNING BODY; OR

8 (3) AN OCCUPANT OF A DWELLING IN A COMMON OWNERSHIP  
9 COMMUNITY.

10 2-1711.

11 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE COMMISSION MAY  
12 HEAR ANY DISPUTE BETWEEN PARTIES.

13 (B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PARTY MAY NOT  
14 FILE A DISPUTE WITH THE COMMISSION UNTIL THE PARTY MAKES A GOOD FAITH  
15 ATTEMPT TO EXHAUST ALL PROCEDURES OR REMEDIES PROVIDED IN:

16 (I) THE ASSOCIATION DOCUMENTS; OR

17 (II) IF APPLICABLE, THE PROVISIONS OF § 11-113 OR § 11B-104(C) OF  
18 THE REAL PROPERTY ARTICLE.

19 (2) A PARTY MAY FILE A DISPUTE WITH THE COMMISSION 60 DAYS  
20 AFTER A PROCEDURE OR REMEDY PROVIDED IN THE ASSOCIATION DOCUMENTS HAS  
21 BEEN INITIATED BEFORE THE ASSOCIATION.

22 (C) A PARTY SHALL FILE A DISPUTE BY PAYING THE DISPUTE RESOLUTION  
23 FEE AND FILING THE PAPERS AS REQUIRED BY THE DEPARTMENT IN REGULATION.

24 (D) (1) THE COMMISSION SHALL NOTIFY A COMMUNITY ASSOCIATION THAT  
25 A DISPUTE HAS BEEN FILED.

26 (2) AFTER RECEIVING NOTIFICATION FROM THE COMMISSION UNDER  
27 PARAGRAPH (1) OF THIS SUBSECTION, A COMMUNITY ASSOCIATION SHALL NOTIFY  
28 OTHER PARTIES OF THEIR RIGHT TO FILE THE DISPUTE WITH THE COMMISSION.

29 (3) A COMMUNITY ASSOCIATION MAY NOT TAKE ANY ACTION TO  
30 ENFORCE OR IMPLEMENT ITS DECISION UNTIL 14 DAYS AFTER IT NOTIFIES OTHER  
31 PARTIES OF THEIR RIGHT UNDER PARAGRAPH (2) OF THIS SUBSECTION.

1 (E) (1) ANY PARTY MAY FILE A CIVIL ACTION ARISING OUT OF AN  
2 ASSOCIATION DOCUMENT OR A LAW REGULATING THE ASSOCIATION'S POWERS AND  
3 PROCEDURES AT ANY TIME.

4 (2) THE COURT MAY STAY ALL PROCEEDINGS FOR AT LEAST 90 DAYS  
5 AFTER THE COURT IS NOTIFIED THAT A DISPUTE HAS BEEN FILED UNDER THIS PART  
6 SO THAT THE DISPUTE RESOLUTION PROCESS MAY BE COMPLETED.

7 (3) IF A DISPUTE IS FILED UNDER THIS PART, A COURT MAY HEAR THE  
8 ACTION DE NOVO ONLY IF A HEARING PANEL DOES NOT ISSUE A DECISION UNDER §  
9 2-1716 OF THIS PART.

10 2-1712.

11 (A) OVER THE SIGNATURE OF THE DIRECTOR, THE COMMISSION MAY ISSUE A  
12 SUBPOENA AND ADMINISTER AN OATH IN CONNECTION WITH ANY INVESTIGATION,  
13 HEARINGS, OR PROCEEDINGS UNDER THIS PART.

14 (B) IF, WITHOUT LAWFUL EXCUSE, A PERSON DISOBEYS A SUBPOENA FROM  
15 THE COMMISSION OR AN ORDER BY THE COMMISSION TO TAKE AN OATH, TESTIFY OR  
16 ANSWER A QUESTION, THEN, ON PETITION OF THE COMMISSION, A COURT OF  
17 COMPETENT JURISDICTION MAY PUNISH THE PERSON AS FOR CONTEMPT OF COURT.  
18 2-1713.

19 (A) THE DEPARTMENT MAY INVESTIGATE FACTS, ASSEMBLE DOCUMENTS,  
20 AND SUMMARIZE THE ISSUES IN A DISPUTE FILED WITH THE COMMISSION.

21 (B) THE DEPARTMENT MAY NOTIFY A PARTY IF, IN THE DEPARTMENT'S  
22 OPINION, THE PARTY DID NOT FILE A DISPUTE IN ACCORDANCE WITH THIS PART  
23 AND INFORM THE PARTY OF POSSIBLE SANCTIONS UNDER THIS PART.

24 (C) THE DEPARTMENT MAY INFORM THE COMMISSION IF IT FINDS, AFTER  
25 REVIEWING THE FACTS ALLEGED BY THE PARTY FILING THE DISPUTE, THERE ARE  
26 NO REASONABLE GROUNDS TO CONCLUDE THAT A VIOLATION OF APPLICABLE LAW  
27 OR ASSOCIATION DOCUMENTS HAS OCCURRED.

28 (D) AFTER RECEIVING THE DEPARTMENT'S FINDINGS UNDER SUBSECTION (C)  
29 OF THIS SECTION, THE COMMISSION MAY ACCEPT THE FINDINGS AND DISMISS THE  
30 DISPUTE OR REQUEST THE DEPARTMENT TO INVESTIGATE FURTHER.

31 (E) THE COMMISSION MAY RECONSIDER THE DISMISSAL OF A DISPUTE  
32 UNDER SUBSECTION (D) OF THIS SECTION IF A PARTY FILES A MOTION TO  
33 RECONSIDER WITHIN 30 DAYS OF THE DISMISSAL ALLEGING THAT:

34 (1) THE COMMISSION ERRONEOUSLY INTERPRETED OR APPLIED  
35 APPLICABLE LAW OR AN ASSOCIATION DOCUMENT; OR

36 (2) MATERIAL ISSUES OF FACT NECESSARY TO RESOLVE THE DISPUTE  
37 REMAIN UNRESOLVED.

1 2-1714.

2 (A) ANY PARTY TO A DISPUTE MAY FILE A REQUEST FOR MEDIATION WITH  
3 THE COMMISSION.

4 (B) ON RECEIVING A REQUEST FOR MEDIATION, THE COMMISSION SHALL  
5 NOTIFY ALL PARTIES.

6 (C) WITHIN 30 DAYS AFTER A PARTY REQUESTS MEDIATION, THE  
7 COMMISSION SHALL PROVIDE A QUALIFIED MEDIATOR TO MEET WITH THE PARTIES.

8 (D) THE COSTS OF MEDIATION SHALL BE ASSESSED ON THE PARTIES BY THE  
9 COMMISSION.

10 (E) IF A PARTY REFUSES TO ATTEND A MEDIATION SESSION, OR THE  
11 MEDIATION SESSION DOES NOT SUCCESSFULLY RESOLVE THE DISPUTE WITHIN 10  
12 DAYS AFTER THE FIRST MEDIATION SESSION IS HELD, THE COMMISSION SHALL  
13 SCHEDULE A HEARING UNDER § 2-1715 OF THIS PART.

14 (F) (1) IF THE PARTIES AGREE TO THE SETTLEMENT OF A DISPUTE  
15 REACHED BY MEDIATION, THE COMMISSION SHALL DISMISS THE DISPUTE.

16 (2) THE SETTLEMENT REACHED UNDER PARAGRAPH (1) OF THIS  
17 SUBSECTION IS BINDING ON THE PARTIES, HAS THE EFFECT OF A CONTRACT, AND  
18 MAY BE ENFORCED ACCORDINGLY.

19 2-1715.

20 (A) IF THE COMMISSION SCHEDULES A HEARING, THE CHAIR SHALL  
21 CONVENE A THREE-MEMBER HEARING PANEL TO HEAR THE DISPUTE.

22 (B) (1) THE CHAIR SHALL SELECT A PANEL AS FOLLOWS:

23 (I) FROM THE VOTING MEMBERS OF THE COMMISSION, TWO  
24 MEMBERS REPRESENTING TWO DIFFERENT MEMBERSHIP GROUPS OF THE  
25 COMMISSION BUT ONE MEMBER SHALL BE A RESIDENT OF A COMMON OWNERSHIP  
26 COMMUNITY; AND

27 (II) THE TWO MEMBERS JOINTLY SHALL SELECT THE THIRD  
28 MEMBER FROM A LIST OF VOLUNTEER ARBITRATORS MAINTAINED BY THE  
29 COMMISSION.

30 (2) IF A VOLUNTEER ARBITRATOR IS NOT AVAILABLE, THE CHAIR OF  
31 THE COMMISSION SHALL CHOOSE A THIRD MEMBER FROM THE VOTING MEMBERS  
32 OF THE COMMISSION.

33 (C) THE THIRD MEMBER SHALL BE THE CHAIR OF THE PANEL.

34 (D) A MEMBER OF A PANEL MAY NOT HAVE AN INTEREST IN THE DISPUTE TO  
35 BE HEARD.

1 2-1716.

2 (A) A HEARING PANEL SHALL HOLD A HEARING ON A DISPUTE THAT IS NOT  
3 RESOLVED BY MEDIATION UNDER § 2-1714 OF THIS PART UNLESS IT FINDS:

4 (1) THE DISPUTE IS ESSENTIALLY IDENTICAL TO A DISPUTE BETWEEN  
5 THE SAME PARTIES ON WHICH A HEARING HAS BEEN HELD UNDER THIS PART; OR

6 (2) THE DISPUTE IS NOT WITHIN THE JURISDICTION OF THE  
7 COMMISSION.

8 (B) (1) THE PARTIES SHALL BE GIVEN 15 DAYS' NOTICE OF THE SCHEDULED  
9 HEARING DATE AND TIME, UNLESS THE COMMISSION FINDS AN EXPEDITED  
10 SCHEDULE IS NECESSARY.

11 (2) IF THE COMMISSION MAKES A FINDING UNDER PARAGRAPH (1) OF  
12 THIS SUBSECTION, THE COMMISSION SHALL GIVE THE PARTIES REASONABLE  
13 NOTICE OF THE EXPEDITED HEARING SCHEDULE.

14 (C) PARTIES TO A DISPUTE MAY BE REPRESENTED BY COUNSEL.

15 (D) IF A PARTY, AFTER PROPER NOTICE, DOES NOT APPEAR AT THE  
16 SCHEDULED HEARING, THE PANEL MAY ORDER ANY RELIEF TO ANOTHER PARTY  
17 THAT THE FACTS ON RECORD WARRANT.

18 (E) (1) A HEARING PANEL MAY AWARD COSTS, INCLUDING REASONABLE  
19 ATTORNEYS' FEES, TO ANY PARTY IF IT FINDS ANOTHER PARTY:

20 (I) FILED OR MAINTAINED A FRIVOLOUS DISPUTE OR FILED OR  
21 MAINTAINED A DISPUTE NOT IN GOOD FAITH;

22 (II) UNREASONABLY REFUSED TO ACCEPT MEDIATION OR  
23 UNREASONABLY WITHDREW FROM ONGOING MEDIATION; OR

24 (III) SUBSTANTIALLY DELAYED OR HINDERED THE DISPUTE  
25 RESOLUTION PROCESS WITHOUT GOOD CAUSE.

26 (2) IN ADDITION TO AWARDING COSTS UNDER PARAGRAPH (1) OF THIS  
27 SUBSECTION, A HEARING PANEL:

28 (I) MAY AWARD COSTS IF AN ASSOCIATION DOCUMENT REQUIRES  
29 AND THE AWARD IS REASONABLE UNDER THE CIRCUMSTANCES; OR

30 (II) MAY REQUIRE THE LOSING PARTY TO PAY ALL OR PART OF THE  
31 DISPUTE RESOLUTION FILING FEE UNDER § 2-1711 OF THIS PART.

32 (F) (1) THE HEARING PANEL SHALL APPLY ALL APPLICABLE LAW TO THE  
33 FACTS OF THE CASE AND MAY ORDER THE PAYMENT OF DAMAGES AND ANY OTHER  
34 RELIEF WARRANTED.

1 (2) THE DECISION OF THE HEARING PANEL IS FINAL AND SUBJECT TO  
2 JUDICIAL REVIEW AS PROVIDED BY LAW.

3 (G) THE COMMISSION, ACTING THROUGH THE DEPARTMENT, MAY ENFORCE A  
4 DECISION OF THE HEARING PANEL BY TAKING APPROPRIATE LEGAL ACTION.

5 (H) IN ADDITION TO ANY OTHER PENALTY PROVIDED BY LAW, A PERSON WHO  
6 DOES NOT COMPLY WITH A FINAL COMMISSION ORDER ISSUED UNDER THIS PART  
7 COMMITS A CIVIL VIOLATION AND IS SUBJECT TO A PENALTY OF \$500.

8 **Article - Real Property**

9 11-113.

10 (a) Unless the declaration or bylaws state otherwise, the dispute settlement  
11 mechanism provided by this section is applicable to complaints or demands formally  
12 arising on or after January 1, 1982.

13 (b) The council of unit owners or board of directors may not impose a fine,  
14 suspend voting, or infringe upon any other rights of a unit owner or other occupant  
15 for violations of rules until the following procedure is followed:

16 (1) Written demand to cease and desist from an alleged violation is  
17 served upon the alleged violator specifying:

18 (i) The alleged violation;

19 (ii) The action required to abate the violation; and

20 (iii) A time period, not less than 10 days, during which the violation  
21 may be abated without further sanction, if the violation is a continuing one, or a  
22 statement that any further violation of the same rule may result in the imposition of  
23 sanction after notice and hearing if the violation is not continuing.

24 (2) Within 12 months of the demand, if the violation continues past the  
25 period allowed in the demand for abatement without penalty or if the same rule is  
26 violated subsequently, the board serves the alleged violator with written notice of a  
27 hearing to be held by the board in session. The notice shall contain:

28 (i) The nature of the alleged violation;

29 (ii) The time and place of the hearing, which time may be not less  
30 than 10 days from the giving of the notice;

31 (iii) An invitation to attend the hearing and produce any statement,  
32 evidence, and witnesses on his or her behalf; and

33 (iv) The proposed sanction to be imposed.

1           (3)     A hearing occurs at which the alleged violator has the right to present  
2 evidence and present and cross-examine witnesses. The hearing shall be held in  
3 executive session pursuant to this notice and shall afford the alleged violator a  
4 reasonable opportunity to be heard. Prior to the effectiveness of any sanction  
5 hereunder, proof of notice and the invitation to be heard shall be placed in the  
6 minutes of the meeting. This proof shall be deemed adequate if a copy of the notice,  
7 together with a statement of the date and manner of delivery, is entered by the officer  
8 or director who delivered the notice. The notice requirement shall be deemed satisfied  
9 if the alleged violator appears at the meeting. The minutes of the meeting shall  
10 contain a written statement of the results of the hearing and the sanction, if any,  
11 imposed.

12           (4)     A decision pursuant to these procedures shall be appealable to the  
13 courts of Maryland.

14     (c)     If any unit owner fails to comply with this title, the declaration, or bylaws,  
15 or a decision rendered pursuant to this section, the unit owner may be sued for  
16 damages caused by the failure or for injunctive relief, or both, by the council of unit  
17 owners or by any other unit owner. The prevailing party in any such proceeding is  
18 entitled to an award for counsel fees as determined by court.

19     (d)     The failure of the council of unit owners to enforce a provision of this title,  
20 the declaration, or bylaws on any occasion is not a waiver of the right to enforce the  
21 provision on any other occasion.

22 11B-104.

23     (c)     Subject to the provisions of this title, a code home rule county located in  
24 the Southern Maryland class, as identified in Article 25B, § 2 of the Code, may  
25 establish a homeowners association commission with the authority to hear and  
26 resolve disputes between a homeowners association and a homeowner regarding the  
27 enforcement of the recorded covenants or restrictions of the homeowners association  
28 by providing alternative dispute resolution services, including binding arbitration.

29     SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial  
30 members of the Commission on Common Ownership Communities shall expire as  
31 follows:

32           (1)     five members in 2005;

33           (2)     five members in 2006; and

34           (3)     five members in 2007.

35     SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
36 October 1, 2004.