Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

Senate Bill 568   (Senator Green, *et al.*)

Judicial Proceedings   Environmental Matters

Cooperative Housing Corporations, Condominiums, and Homeowners Associations - Electronic Transmission of Notices and Votes

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This bill authorizes a cooperative housing corporation, a council of unit owners of a condominium, or a governing body of a homeowners association to: (1) send notices and information by electronic transmission; and (2) provide for voting by electronic transmission.

Fiscal Summary

State Effect: General fund expenditures could increase minimally in FY 2005 to cover printing and postage costs incurred by the Office of the Secretary of State to prepare, print, and send booklets that explain the Maryland Condominium Act. Revenues would not be affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill authorizes a cooperative housing corporation, a council of unit owners of a condominium, or a board of directors or a governing body of a homeowners association, notwithstanding language contained in the entity's governing documents, to provide notice of a meeting or deliver information to a member or owner by electronic transmission if: (1) the entity's governing body gives the authority to do so; (2) the member or owner gives prior written authorization to do so; and (3) an officer or agent of

the corporation, council, or association certifies in writing that it has provided notice or delivered material or information as authorized by the member or owner.

Notice or delivery is considered ineffective if: (1) the corporation, council, or association is unable to deliver two consecutive notices; and (2) the inability to deliver the electronic transmission becomes known to the person responsible for sending it. The inadvertent failure to deliver notice by electronic transmission does not invalidate any meeting or other action.

The bill authorizes a board of directors of a cooperative housing corporation, a council of unit owners of a condominium, or a board of directors or other governing body of a homeowners association, notwithstanding language contained the entity's governing documents, to authorize members or owners to submit a vote or proxy by electronic transmission if the electronic transmission contains information that verifies that the vote or proxy is authorized by the member or owner. If the governing documents require voting by secret ballot and the anonymity of voting by electronic transmission cannot be guaranteed, voting by electronic transmission is permitted if the option of casting anonymous printed ballots is available.

Current Law: Electronic transmission of notices, information, or voting is not specifically regulated for cooperative housing corporations, condominiums, or homeowners associations.

Background: For a commercial transaction in which each party has agreed to conduct the transaction by electronic means, Maryland's Uniform Electronic Transactions Act (UETA) provides that a record or signature may not be denied legal effect or enforceability solely because it is in electronic form. Under UETA, if the parties have agreed to conduct a transaction by electronic means and a law required a person to provide, send, or deliver information in writing to another person, the requirement is satisfied if the information is provided, sent, or delivered in an electronic record capable of retention by the recipient at the time of receipt.

In addition, Chapter 387 of 2003 authorizes electronic transmission of communications about meetings of a corporation's board of directors or stockholders.

Additional Information

Prior Introductions: None.

Cross File: HB 878 (Delegate Bobo, *et al.*) – Economic Matters.

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