
By: **Senators Green and Hughes**

Introduced and read first time: February 4, 2005

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Cooperative Housing Corporations and Homeowners Associations - Dispute**
3 **Settlement Procedures**

4 FOR the purpose of authorizing the board of directors of a cooperative housing
5 corporation to levy fines for violations of the proprietary lease, occupancy
6 agreement, bylaws, or rules and regulations of the cooperative housing
7 corporation under certain circumstances; requiring certain dispute settlement
8 procedures to be followed before the board of directors of a cooperative housing
9 corporation may impose a fine, suspend voting, or infringe on any other right of
10 a member for certain violations; requiring certain demand requirements, certain
11 hearing notice requirements, and certain hearing procedures for a dispute
12 settlement procedure for a cooperative housing corporation; authorizing certain
13 actions by a cooperative housing corporation or a member against another
14 member of a cooperative housing corporation under certain circumstances;
15 providing that the failure of a cooperative housing corporation to enforce a
16 certain provision is not a waiver of the right to enforce the provision under
17 certain circumstances; authorizing the board of directors of a homeowners
18 association to levy fines for violations of the declaration, bylaws, or rules and
19 regulations of the homeowners association under certain circumstances;
20 requiring certain dispute settlement procedures to be followed before the board
21 of directors of a homeowners association may impose a fine, suspend voting, or
22 infringe on any other right of a lot owner for certain violations; requiring certain
23 demand requirements, certain hearing notice requirements, and certain hearing
24 procedures for a dispute settlement procedure for a homeowners association;
25 authorizing certain actions by a homeowners association or a lot owner against
26 another lot owner of a homeowners association under certain circumstances;
27 providing that the failure of a homeowners association to enforce a certain
28 provision is not a waiver of the right to enforce the provision under certain
29 circumstances; and generally relating to dispute settlement procedures for
30 cooperative housing corporations and homeowners associations.

31 BY adding to
32 Article - Corporations and Associations
33 Section 5-6B-18.6
34 Annotated Code of Maryland

1 (1999 Replacement Volume and 2004 Supplement)

2 BY adding to

3 Article - Real Property

4 Section 11B-111.5

5 Annotated Code of Maryland

6 (2003 Replacement Volume and 2004 Supplement)

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

9 **Article - Corporations and Associations**

10 5-6B-18.6.

11 (A) THE BOARD OF DIRECTORS HAS THE POWER, AFTER NOTICE AND
12 OPPORTUNITY TO BE HEARD, TO LEVY REASONABLE FINES FOR VIOLATIONS OF THE
13 PROPRIETARY LEASE, OCCUPANCY AGREEMENT, BYLAWS, OR RULES AND
14 REGULATIONS OF THE COOPERATIVE HOUSING CORPORATION AS PROVIDED IN THIS
15 SECTION.

16 (B) UNLESS OTHERWISE PROVIDED BY THE PROPRIETARY LEASE,
17 OCCUPANCY AGREEMENT, BYLAWS, OR RULES AND REGULATIONS OF THE
18 COOPERATIVE HOUSING CORPORATION, THE DISPUTE SETTLEMENT PROCEDURES
19 PROVIDED UNDER THIS SECTION APPLY TO COMPLAINTS OR DEMANDS FORMALLY
20 ARISING ON OR AFTER OCTOBER 1, 2005.

21 (C) (1) THE BOARD OF DIRECTORS MAY NOT IMPOSE A FINE, SUSPEND
22 VOTING, OR INFRINGE ON ANY OTHER RIGHTS OF A MEMBER OR OTHER OCCUPANT
23 FOR VIOLATIONS OF THE PROPRIETARY LEASE, OCCUPANCY AGREEMENT, BYLAWS,
24 OR RULES AND REGULATIONS OF THE COOPERATIVE HOUSING CORPORATION UNTIL
25 THE PROCEDURES IN THIS SUBSECTION ARE FOLLOWED.

26 (2) THE BOARD OF DIRECTORS SHALL SERVE THE ALLEGED VIOLATOR
27 WITH A WRITTEN DEMAND TO CEASE AND DESIST FROM AN ALLEGED VIOLATION
28 THAT SPECIFIES:

29 (I) THE ALLEGED VIOLATION;

30 (II) THE ACTION REQUIRED TO ABATE THE VIOLATION; AND

31 (III) 1. IF THE VIOLATION IS A CONTINUING ONE, A TIME PERIOD
32 NOT LESS THAN 10 DAYS DURING WHICH THE VIOLATION MAY BE ABATED WITHOUT
33 FURTHER SANCTION; OR

34 2. IF THE VIOLATION IS NOT CONTINUING, A STATEMENT
35 THAT ANY FURTHER VIOLATION OF THE SAME RULE MAY RESULT IN THE
36 IMPOSITION OF SANCTIONS AFTER NOTICE AND HEARING.

1 (3) WITHIN 12 MONTHS OF A DEMAND SERVED UNDER PARAGRAPH (2)
2 OF THIS SUBSECTION, IF THE VIOLATION CONTINUES PAST THE PERIOD ALLOWED IN
3 THE DEMAND FOR ABATEMENT WITHOUT FURTHER SANCTION OR IF THE SAME
4 RULE IS VIOLATED SUBSEQUENTLY, THE BOARD OF DIRECTORS SHALL SERVE THE
5 ALLEGED VIOLATOR WITH WRITTEN NOTICE OF A HEARING TO BE HELD BY THE
6 BOARD OF DIRECTORS IN EXECUTIVE SESSION THAT SHALL CONTAIN:

7 (I) THE NATURE OF THE ALLEGED VIOLATION;

8 (II) THE TIME AND PLACE OF THE HEARING, WHICH TIME MAY BE
9 NOT LESS THAN 10 DAYS FROM THE GIVING OF THE NOTICE;

10 (III) AN INVITATION TO ATTEND THE HEARING AND PRODUCE ANY
11 STATEMENT, EVIDENCE, AND WITNESSES ON BEHALF OF THE ALLEGED VIOLATOR;
12 AND

13 (IV) THE PROPOSED SANCTION TO BE IMPOSED.

14 (4) (I) IN A HEARING HELD UNDER THIS SUBSECTION, THE ALLEGED
15 VIOLATOR HAS THE RIGHT TO PRESENT EVIDENCE AND PRESENT AND
16 CROSS-EXAMINE WITNESSES. THE HEARING SHALL BE HELD IN EXECUTIVE SESSION
17 UNDER THIS NOTICE AND SHALL AFFORD THE ALLEGED VIOLATOR A REASONABLE
18 OPPORTUNITY TO BE HEARD.

19 (II) PRIOR TO THE EFFECTIVENESS OF ANY SANCTION IMPOSED,
20 PROOF OF NOTICE AND THE INVITATION TO BE HEARD SHALL BE PLACED IN THE
21 MINUTES OF THE HEARING. THIS PROOF SHALL BE DEEMED ADEQUATE IF A COPY OF
22 THE NOTICE, TOGETHER WITH A STATEMENT OF THE DATE AND MANNER OF
23 DELIVERY, IS ENTERED BY THE OFFICER, DIRECTOR, OR AGENT OF THE
24 COOPERATIVE HOUSING CORPORATION WHO DELIVERED THE NOTICE. THE NOTICE
25 REQUIREMENT SHALL BE DEEMED SATISFIED IF THE ALLEGED VIOLATOR APPEARS
26 AT THE HEARING.

27 (III) THE MINUTES OF THE HEARING SHALL CONTAIN A WRITTEN
28 STATEMENT OF THE RESULTS OF THE HEARING AND THE SANCTION, IF ANY,
29 IMPOSED.

30 (5) A DECISION RENDERED UNDER THIS SUBSECTION SHALL BE
31 APPEALABLE TO THE COURTS OF THE STATE.

32 (D) (1) IF ANY MEMBER FAILS TO COMPLY WITH THIS SUBTITLE, ANY
33 PROPRIETARY LEASE, OCCUPANCY AGREEMENT, BYLAWS, OR RULES AND
34 REGULATIONS OF THE COOPERATIVE HOUSING CORPORATION, OR A DECISION
35 RENDERED UNDER THIS SECTION, THE MEMBER MAY BE SUED FOR DAMAGES
36 CAUSED BY THE FAILURE OR FOR INJUNCTIVE RELIEF, OR BOTH, BY THE
37 COOPERATIVE HOUSING CORPORATION OR BY ANY OTHER MEMBER.

38 (2) THE PREVAILING PARTY IN ANY PROCEEDING HELD UNDER
39 PARAGRAPH (1) OF THIS SUBSECTION IS ENTITLED TO AN AWARD FOR COUNSEL FEES
40 AS DETERMINED BY THE COURT.

1 (E) THE FAILURE OF A COOPERATIVE HOUSING CORPORATION TO ENFORCE A
2 PROVISION OF THIS SUBTITLE OR ANY PROPRIETARY LEASE, OCCUPANCY
3 AGREEMENT, BYLAWS, OR RULES AND REGULATIONS OF THE COOPERATIVE
4 HOUSING CORPORATION IS NOT A WAIVER OF THE RIGHT TO ENFORCE THE
5 PROVISION ON ANY OTHER OCCASION.

6 **Article - Real Property**

7 11B-111.5.

8 (A) THE BOARD OF DIRECTORS HAS THE POWER, AFTER NOTICE AND
9 OPPORTUNITY TO BE HEARD, TO LEVY REASONABLE FINES FOR VIOLATIONS OF THE
10 DECLARATION, BYLAWS, OR RULES AND REGULATIONS OF THE HOMEOWNERS
11 ASSOCIATION AS PROVIDED IN THIS SECTION.

12 (B) UNLESS OTHERWISE PROVIDED BY THE DECLARATION, BYLAWS, OR
13 RULES AND REGULATIONS OF THE HOMEOWNERS ASSOCIATION OR APPLICABLE
14 LAW, THE DISPUTE SETTLEMENT PROCEDURES PROVIDED UNDER THIS SECTION
15 APPLY TO COMPLAINTS OR DEMANDS FORMALLY ARISING ON OR AFTER OCTOBER 1,
16 2005.

17 (C) (1) THE BOARD OF DIRECTORS MAY NOT IMPOSE A FINE, SUSPEND
18 VOTING, OR INFRINGE ON ANY OTHER RIGHTS OF A LOT OWNER OR OTHER
19 OCCUPANT FOR VIOLATIONS OF THE DECLARATION, BYLAWS, OR RULES AND
20 REGULATIONS OF THE HOMEOWNERS ASSOCIATION UNTIL THE PROCEDURES IN
21 THIS SUBSECTION ARE FOLLOWED.

22 (2) THE BOARD OF DIRECTORS SHALL SERVE THE ALLEGED VIOLATOR
23 WITH A WRITTEN DEMAND TO CEASE AND DESIST FROM AN ALLEGED VIOLATION
24 THAT SPECIFIES:

25 (I) THE ALLEGED VIOLATION;

26 (II) THE ACTION REQUIRED TO ABATE THE VIOLATION; AND

27 (III) 1. IF THE VIOLATION IS A CONTINUING ONE, A TIME PERIOD
28 NOT LESS THAN 10 DAYS DURING WHICH THE VIOLATION MAY BE ABATED WITHOUT
29 FURTHER SANCTION; OR

30 2. IF THE VIOLATION IS NOT CONTINUING, A STATEMENT
31 THAT ANY FURTHER VIOLATION OF THE SAME RULE MAY RESULT IN THE
32 IMPOSITION OF SANCTIONS AFTER NOTICE AND HEARING.

33 (3) WITHIN 12 MONTHS OF A DEMAND SERVED UNDER PARAGRAPH (2)
34 OF THIS SUBSECTION, IF THE VIOLATION CONTINUES PAST THE PERIOD ALLOWED IN
35 THE DEMAND FOR ABATEMENT WITHOUT FURTHER SANCTION OR IF THE SAME
36 RULE IS VIOLATED SUBSEQUENTLY, THE BOARD OF DIRECTORS SHALL SERVE THE
37 ALLEGED VIOLATOR WITH WRITTEN NOTICE OF A HEARING TO BE HELD BY THE
38 BOARD OF DIRECTORS IN EXECUTIVE SESSION THAT SHALL CONTAIN:

1 (I) THE NATURE OF THE ALLEGED VIOLATION;

2 (II) THE TIME AND PLACE OF THE HEARING, WHICH TIME MAY BE
3 NOT LESS THAN 10 DAYS FROM THE GIVING OF THE NOTICE;

4 (III) AN INVITATION TO ATTEND THE HEARING AND PRODUCE ANY
5 STATEMENT, EVIDENCE, AND WITNESSES ON BEHALF OF THE ALLEGED VIOLATOR;
6 AND

7 (IV) THE PROPOSED SANCTION TO BE IMPOSED.

8 (4) (I) IN A HEARING HELD UNDER THIS SUBSECTION, THE ALLEGED
9 VIOLATOR HAS THE RIGHT TO PRESENT EVIDENCE AND PRESENT AND
10 CROSS-EXAMINE WITNESSES. THE HEARING SHALL BE HELD IN EXECUTIVE SESSION
11 UNDER THIS NOTICE AND SHALL AFFORD THE ALLEGED VIOLATOR A REASONABLE
12 OPPORTUNITY TO BE HEARD.

13 (II) PRIOR TO THE EFFECTIVENESS OF ANY SANCTION IMPOSED,
14 PROOF OF NOTICE AND THE INVITATION TO BE HEARD SHALL BE PLACED IN THE
15 MINUTES OF THE HEARING. THIS PROOF SHALL BE DEEMED ADEQUATE IF A COPY OF
16 THE NOTICE, TOGETHER WITH A STATEMENT OF THE DATE AND MANNER OF
17 DELIVERY, IS ENTERED BY THE OFFICER, DIRECTOR, OR AGENT OF THE
18 HOMEOWNERS ASSOCIATION WHO DELIVERED THE NOTICE. THE NOTICE
19 REQUIREMENT SHALL BE DEEMED SATISFIED IF THE ALLEGED VIOLATOR APPEARS
20 AT THE HEARING.

21 (III) THE MINUTES OF THE HEARING SHALL CONTAIN A WRITTEN
22 STATEMENT OF THE RESULTS OF THE HEARING AND THE SANCTION, IF ANY,
23 IMPOSED.

24 (5) A DECISION RENDERED UNDER THIS SUBSECTION SHALL BE
25 APPEALABLE TO THE COURTS OF THE STATE.

26 (D) (1) IF ANY LOT OWNER FAILS TO COMPLY WITH THIS TITLE, THE
27 DECLARATION, BYLAWS, OR RULES AND REGULATIONS OF THE HOMEOWNERS
28 ASSOCIATION, OR A DECISION RENDERED UNDER THIS SECTION, THE LOT OWNER
29 MAY BE SUED FOR DAMAGES CAUSED BY THE FAILURE OR FOR INJUNCTIVE RELIEF,
30 OR BOTH, BY THE HOMEOWNERS ASSOCIATION OR BY ANY OTHER LOT OWNER.

31 (2) THE PREVAILING PARTY IN ANY PROCEEDING HELD UNDER
32 PARAGRAPH (1) OF THIS SUBSECTION IS ENTITLED TO AN AWARD FOR COUNSEL FEES
33 AS DETERMINED BY THE COURT.

34 (E) THE FAILURE OF A HOMEOWNERS ASSOCIATION TO ENFORCE A
35 PROVISION OF THIS TITLE OR ANY DECLARATION, BYLAW, OR RULE AND
36 REGULATION OF THE HOMEOWNERS ASSOCIATION IS NOT A WAIVER OF THE RIGHT
37 TO ENFORCE THE PROVISION ON ANY OTHER OCCASION.

38 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
39 effect October 1, 2005.

