
By: **Senators Green, Astle, Hogan, and Kelley**
Introduced and read first time: February 4, 2005
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Condominiums and Homeowners Associations -- Meetings**

3 FOR the purpose of clarifying who may attend open meetings of a governing body of a
4 condominium or homeowners association; requiring that notice of a meeting of a
5 governing body be given a certain number of days before the meeting; providing
6 an exception for emergency meetings; requiring that a meeting notice include
7 the agenda of matters to be discussed at the meeting; providing for the manner
8 of giving notice; requiring that certain documents be made available before and
9 during a meeting; requiring the minutes of a meeting to include certain
10 information; requiring the minutes of a meeting to be posted or made available
11 for inspection at a certain location; requiring that unit owners and lot owners be
12 given an opportunity to comment on certain agenda items; clarifying the
13 restrictions on comments that may be adopted by a governing body; establishing
14 that all lot owners are members of a homeowners association and have certain
15 rights; altering a definition; making technical and stylistic changes; and
16 generally relating to meetings of governing bodies of condominiums and
17 homeowners associations.

18 BY repealing and reenacting, without amendments,
19 Article - Real Property
20 Section 11-109(c)(1) through (5)
21 Annotated Code of Maryland
22 (2003 Replacement Volume and 2004 Supplement)

23 BY repealing and reenacting, with amendments,
24 Article - Real Property
25 Section 11-109(c)(6) and (7), 11B-101(h), and 11B-111
26 Annotated Code of Maryland
27 (2003 Replacement Volume and 2004 Supplement)

28 BY adding to
29 Article - Real Property
30 Section 11B-110.1
31 Annotated Code of Maryland

1 (2003 Replacement Volume and 2004 Supplement)

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

4 **Article - Real Property**

5 11-109.

6 (c) (1) A meeting of the council of unit owners or board of directors may not
7 be held on less notice than required by this section.

8 (2) The council of unit owners shall maintain a current roster of names
9 and addresses of each unit owner to which notice of meetings of the board of directors
10 shall be sent at least annually.

11 (3) Each unit owner shall furnish the council of unit owners with his
12 name and current mailing address. A unit owner may not vote at meetings of the
13 council of unit owners until this information is furnished.

14 (4) A regular or special meeting of the council of unit owners may not be
15 held on less than 10 nor more than 90 days':

16 (i) Written notice delivered or mailed to each unit owner at the
17 address shown on the roster on the date of the notice; or

18 (ii) Notice sent to each unit owner by electronic transmission, if the
19 requirements of § 11-139.1 of this subtitle are met.

20 (5) Notice of special meetings of the board of directors shall be given:

21 (i) As provided in the bylaws; or

22 (ii) If the requirements of § 11-139.1 of this subtitle are met, by
23 electronic transmission.

24 (6) (I) Except as provided in § 11-109.1 of this title, a meeting of a
25 governing body shall be open TO ATTENDANCE BY UNIT OWNERS, TENANTS, AND
26 THEIR AGENTS and held at a time and location as provided in the notice or bylaws.

27 (II) 1. UNLESS THIS SUBTITLE OR THE BYLAWS PROVIDE FOR A
28 LONGER NOTICE PERIOD AND EXCEPT IN THE CASE OF AN EMERGENCY, NOTICE OF A
29 MEETING OF A GOVERNING BODY SHALL BE GIVEN AT LEAST 6 DAYS BEFORE THE
30 DATE OF THE MEETING.

31 2. EACH MEETING NOTICE SHALL STATE THE AGENDA OF
32 MATTERS TO BE DISCUSSED AT THE MEETING, INCLUDING PROPOSED CONTRACTS
33 AND ANY PROPOSED EXPENDITURES BEYOND THE APPROVED BUDGET.

1 3. IF THE COUNCIL OF UNIT OWNERS MAINTAINS A
2 WEBSITE, THE AGENDA SHALL ALSO BE POSTED ON THE WEBSITE.

3 (III) EXCEPT FOR CONFIDENTIAL DOCUMENTS, EACH DOCUMENT
4 TO BE DISCUSSED OR ACTED ON AT A MEETING SHALL BE:

5 1. AVAILABLE ON THE PROPERTY FOR REVIEW BY UNIT
6 OWNERS AT LEAST 3 DAYS BEFORE THE MEETING; AND

7 2. MADE AVAILABLE DURING THE MEETING TO
8 INDIVIDUALS ATTENDING THE MEETING.

9 (IV) 1. THE MINUTES OF A MEETING SHALL INCLUDE:

10 A. SUMMARY STATEMENTS OF ANY SUBSTANTIVE
11 PARTICIPATION OF UNIT OWNERS; AND

12 B. IF A SPECIAL MEETING IS HELD ON LESS NOTICE THAN
13 REQUIRED UNDER THIS SUBSECTION BECAUSE OF AN EMERGENCY, THE REASON
14 FOR THE SHORTER NOTICE PERIOD.

15 2. A COPY OF THE APPROVED MINUTES SHALL BE POSTED
16 OR MADE AVAILABLE FOR INSPECTION AT A DESIGNATED CENTRAL LOCATION.

17 (7) (i) This paragraph does not apply to any meeting of the governing
18 body that occurs at any time before the meeting at which the unit owners elect
19 officers or a board of directors in accordance with paragraph (16) of this subsection.

20 (ii) Subject to subparagraph (iii) of this paragraph and to
21 reasonable rules AS TO NUMBER, DURATION, AND FREQUENCY OF COMMENTS
22 adopted by the governing body under § 11-111 of this title, a governing body shall
23 provide [a]:

24 1. A designated period of time during a meeting to allow unit
25 owners an opportunity to comment on any matter relating to the condominium; AND

26 2. AN OPPORTUNITY FOR UNIT OWNERS TO COMMENT ON
27 EACH ITEM ON THE AGENDA BEFORE FINAL ACTION ON EACH ITEM.

28 (iii) During a meeting at which the agenda is limited to specific
29 topics or at a special meeting, the unit owners' comments may be limited to the topics
30 listed on the meeting agenda.

31 (iv) The governing body shall convene at least one meeting each
32 year at which the agenda is open to any matter relating to the condominium.

33 11B-101.

34 (h) "Governing body" means the homeowners association, board of directors, A
35 COMMITTEE OF THE HOMEOWNERS ASSOCIATION OR BOARD OF DIRECTORS, or ANY
36 other entity established to govern the development.

1 11B-110.1.

2 EXCEPT AS PROVIDED IN THIS TITLE, AND NOTWITHSTANDING ANYTHING
3 CONTAINED IN ANY OF THE DOCUMENTS OF THE HOMEOWNERS ASSOCIATION, ALL
4 LOT OWNERS SHALL BE MEMBERS OF THE HOMEOWNERS ASSOCIATION AND HAVE
5 ALL THE RIGHTS OF MEMBERS OF A NONSTOCK CORPORATION UNDER THE
6 CORPORATIONS AND ASSOCIATIONS ARTICLE.

7 11B-111.

8 (A) [Except] THE PROVISIONS OF THIS SECTION APPLY EXCEPT as provided
9 in this title, and notwithstanding anything contained in any of the documents of the
10 homeowners association[:].

11 (B) (1) Subject to the provisions of paragraph (4) of this [section]
12 SUBSECTION, all meetings of the homeowners association, including meetings of the
13 board of directors or other governing body of the homeowners association [or a
14 committee of the homeowners association], shall be open to all members of the
15 homeowners association [or], TENANTS, AND their agents[:].

16 (2) (I) All members of the homeowners association shall be given
17 [reasonable] AT LEAST 6 DAYS' notice of THE TIME, LOCATION, AND AGENDA OF all
18 regularly scheduled open meetings of [the homeowners association] A GOVERNING
19 BODY AND THE DOCUMENTS TO BE CONSIDERED AT A MEETING.

20 (II) 1. A. EXCEPT AS PROVIDED IN SUBSUBPARAGRAPHS 2 AND
21 3 OF THIS SUBPARAGRAPH, EACH MEETING NOTICE AND AGENDA OF THE MEETING
22 SHALL BE PLACED OR POSTED IN A DESIGNATED CENTRAL LOCATION OR IN OTHER
23 DESIGNATED LOCATIONS IN THE DEVELOPMENT AT LEAST 6 DAYS BEFORE THE
24 DATE OF THE MEETING.

25 B. IF THE HOMEOWNERS ASSOCIATION MAINTAINS A
26 WEBSITE, THE MEETING NOTICE AND AGENDA SHALL ALSO BE POSTED ON THE
27 WEBSITE.

28 2. NOTICE OF AN EMERGENCY MEETING SHALL BE GIVEN AS
29 REQUIRED IN THE BYLAWS.

30 3. IF THE DEVELOPMENT CONTAINS AT LEAST 13,000 ACRES
31 OF LAND AND HAS A POPULATION OF AT LEAST 80,000, EACH MEETING NOTICE AND
32 AGENDA OF THE MEETING SHALL BE PUBLISHED IN A NEWSPAPER OF GENERAL
33 CIRCULATION IN THE AREA IN WHICH THE DEVELOPMENT IS LOCATED AT LEAST 7
34 DAYS BEFORE THE DATE OF THE MEETING.

35 (III) EXCEPT FOR CONFIDENTIAL DOCUMENTS, EACH DOCUMENT
36 TO BE DISCUSSED OR ACTED ON AT A MEETING SHALL BE:

37 1. AVAILABLE FOR REVIEW BY LOT OWNERS OR THEIR
38 AGENTS AT LEAST 3 DAYS BEFORE A NONEMERGENCY MEETING; AND

1 2. MADE AVAILABLE DURING THE MEETING TO
2 INDIVIDUALS ATTENDING THE MEETING.

3 (IV) 1. THE MINUTES OF A MEETING SHALL INCLUDE:

4 A. SUMMARY STATEMENTS OF ANY SUBSTANTIVE
5 PARTICIPATION OF LOT OWNERS; AND

6 B. IF A SPECIAL MEETING IS HELD ON LESS NOTICE THAN
7 REQUIRED UNDER THIS SUBSECTION BECAUSE OF AN EMERGENCY, THE REASON
8 FOR THE SHORTER NOTICE PERIOD.

9 2. A COPY OF THE APPROVED MINUTES SHALL BE POSTED
10 OR MADE AVAILABLE FOR INSPECTION AT A DESIGNATED CENTRAL LOCATION.

11 (3) (i) This paragraph does not apply to any meeting of a governing
12 body that occurs at any time before the lot owners, other than the developer, have a
13 majority of votes in the homeowners association, as provided in the declaration[;].

14 (ii) Subject to subparagraph (iii) of this paragraph and to
15 reasonable rules AS TO NUMBER, TIME, AND FREQUENCY OF COMMENTS adopted by a
16 governing body, a governing body shall provide [a]:

17 1. A designated period of time during a meeting to allow lot
18 owners an opportunity to comment on any matter relating to the homeowners
19 association; AND

20 2. AN OPPORTUNITY FOR LOT OWNERS TO COMMENT ON
21 EACH ITEM ON THE AGENDA BEFORE FINAL ACTION ON EACH ITEM.

22 (iii) During a meeting at which the agenda is limited to specific
23 topics or at a special meeting, the lot owners' comments may be limited to the topics
24 listed on the meeting agenda[; and].

25 (iv) The governing body shall convene at least one meeting each
26 year at which the agenda is open to any matter relating to the homeowners
27 association[;].

28 (4) A meeting of the board of directors or other governing body of the
29 homeowners association [or a committee of the homeowners association] may be held
30 in closed session only for the following purposes:

31 (i) Discussion of matters pertaining to employees and personnel;

32 (ii) Protection of the privacy or reputation of individuals in matters
33 not related to the homeowners association's business;

34 (iii) Consultation with legal counsel;

35 (iv) Consultation with staff personnel, consultants, attorneys, or
36 other persons in connection with pending or potential litigation;

1 (v) Investigative proceedings concerning possible or actual criminal
2 misconduct;

3 (vi) Consideration of the terms or conditions of a business
4 transaction in the negotiation stage if the disclosure could adversely affect the
5 economic interests of the homeowners association;

6 (vii) Compliance with a specific constitutional, statutory, or
7 judicially imposed requirement protecting particular proceedings or matters from
8 public disclosure; or

9 (viii) On an individually recorded affirmative vote of two-thirds of
10 the board or [committee] GOVERNING BODY members present, some other
11 exceptional reason so compelling as to override the general public policy in favor of
12 open meetings[; and].

13 (5) If a meeting is held in closed session under paragraph (4) of this
14 [section] SUBSECTION:

15 (i) An action may not be taken and a matter may not be discussed
16 if it is not permitted by paragraph (4) of this [section] SUBSECTION; and

17 (ii) A statement of the time, place, and purpose of a closed meeting,
18 the record of the vote of each board or [committee] GOVERNING BODY member by
19 which the meeting was closed, and the authority under this section for closing a
20 meeting shall be included in the minutes of the next meeting of the board of directors
21 or the [committee of the homeowners association] GOVERNING BODY.

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