

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

Senate Bill 687 (Senators Green and Hughes)
Judicial Proceedings

Cooperative Housing Corporations and Homeowners Associations - Dispute
Settlement Procedures

This bill provides that a board of directors of a cooperative housing corporation has the power, after notice and opportunity to be heard, to levy reasonable fines for violations of the proprietary lease, occupancy agreement, bylaws, or rules and regulations of the corporation as provided under the bill. Similarly, the bill also provides that a board of directors of a homeowners association has the power, after notice and opportunity to be heard, to levy reasonable fines for violations of the declaration, bylaws, or rules and regulations of the association as provided under the bill.

Fiscal Summary

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

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill's dispute settlement procedures apply to complaints or demands formally arising on or after October 1, 2005, unless otherwise provided by: (1) in the case of a cooperative housing corporation, the proprietary lease, occupancy agreement, bylaws, or rules and regulations; or (2) in the case of a homeowners association, the declaration, bylaws, or rules and regulations of the association or other applicable law.

A board of directors of a cooperative housing corporation or homeowners association may not impose a fine, suspend voting, or infringe on any other rights unless the bill's procedures are followed. A board must serve the alleged violator with a written demand to cease and desist from an alleged violation. If the violation is continuing, the demand must specify: (1) the alleged violation; (2) the action required to abate it; and (3) a time period of at least 10 days during which the violation may be abated without further sanction. If the violation is not continuing, the demand must specify: (1) the alleged violation; (2) the action required to abate it; and (3) a statement that any further violation of the same rule may result in the imposition of sanctions after notice and hearing.

Within 12 months of a served demand, if the violation continues past the period allowed in the demand for abatement without further sanction or if the same rule is violated subsequently, the board of directors must serve the alleged violator with written notice of a hearing to be held in executive session. The notice must contain: (1) the nature of the alleged violation; (2) the time and place of the hearing, which may not be less than 10 days from date the notice was given; (3) an invitation to attend the hearing and produce any statement, evidence, and witnesses; and (4) the proposed sanction.

In a hearing, the alleged violator has the right to present evidence and present and cross-examine witnesses. The hearing must be held in executive session and must afford the alleged violator a reasonable opportunity to be heard. The bill specifies the means of satisfying the proof of notice requirements that must be met prior to the effectiveness of any sanction imposed. The minutes of the hearing must contain a written statement of the results of the hearing and the sanction, if any, imposed. A decision under the bill may be appealed in State court.

For a cooperative housing corporation, if a member fails to comply with the Maryland Cooperative Housing Corporation Act, any proprietary lease, occupancy agreement, bylaws, or rules and regulations of the corporation, or a decision rendered under the bill, the member may be sued for damages caused by the failure and/or for injunctive relief by the corporation or by any other member. The prevailing party in a court action is entitled to an award for attorney's fees as determined by the court. The failure of a cooperative housing corporation to enforce a provision of the Act, the bill, or any of the governing documents is not a waiver of the right to enforce that provision on another occasion.

For a homeowners association, if a lot owner fails to comply with the Maryland Homeowners Association Act, the declaration, bylaws, or rules and regulations of the association, the lot owner may be sued for damages caused by the failure and/or for injunctive relief by the association or by any other lot owner. The prevailing party in either of these actions is entitled to an award for attorney's fees as determined by the court. The failure of a homeowners association to enforce a provision of the Act, the bill,

or any of the governing documents is not a waiver of the right to enforce that provision on another occasion.

Current Law: A condominium's council of unit owners or board of directors may only impose a fine, suspend voting, or infringe upon any other rights of a unit owner or other occupant for violations of rules if procedures similar to those established under the bill are followed. However, similar dispute resolution procedures are not prescribed in statute for cooperative housing corporations or homeowners associations.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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mp/jr

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