
By: **Delegates McComas, Kohl, and Trueschler**

Introduced and read first time: March 6, 2006

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property - Condominium Regimes - Voting Rights**

3 FOR the purpose of requiring that bylaws of a condominium regime contain certain
4 information about voting rights of unit owners and requirements for executing a
5 proxy; establishing that, notwithstanding any other provision of law or certain
6 governing documents of a council of unit owners, a unit owner may cast a vote in
7 any matter before the council or board of directors that equals the percentage
8 interest of common expenses assessed against the unit owner; eliminating the
9 right of a unit owner with a mailing address located less than a certain distance
10 from the condominium location to execute a proxy; authorizing, notwithstanding
11 any other provision of law or certain governing documents, only a unit owner
12 with a mailing address more than a certain distance from the condominium to
13 execute a proxy; making conforming changes; and generally relating to voting
14 rights in a condominium regime.

15 BY repealing and reenacting, without amendments,
16 Article - Real Property
17 Section 11-104(a), 11-107(a), (b), and (c), 11-109 (a), (b), and (e), and 11-110(a)
18 and (b)
19 Annotated Code of Maryland
20 (2003 Replacement Volume and 2005 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article - Real Property
23 Section 11-104(b), 11-109(c) and (f), and 11-139.2(a)
24 Annotated Code of Maryland
25 (2003 Replacement Volume and 2005 Supplement)

26 BY adding to
27 Article - Real Property
28 Section 11- 107.1 and 11-109.3
29 Annotated Code of Maryland
30 (2003 Replacement Volume and 2005 Supplement)

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

3 **Article - Real Property**

4 11-104.

5 (a) The administration of every condominium shall be governed by bylaws
6 which shall be recorded with the declaration. If the council of unit owners is
7 incorporated, these bylaws shall be the bylaws of that corporation.

8 (b) The bylaws shall express at least the following particulars:

9 (1) The form of administration, indicating whether the council of unit
10 owners shall be incorporated or unincorporated, and whether, and to what extent, the
11 duties of the council of unit owners may be delegated to a board of directors, manager,
12 or otherwise, and specifying the powers, manner of selection, and removal of them;

13 (2) The mailing address of the council of unit owners;

14 (3) The method of calling the unit owners to assemble; the attendance
15 necessary to constitute a quorum at any meeting of the council of unit owners; the
16 manner of notifying the unit owners of any proposed meeting; who presides at the
17 meetings of the council of unit owners, who keeps the minute book for recording the
18 resolutions of the council of unit owners, and who counts votes at meetings of the
19 council of unit owners; [and]

20 (4) The manner of assessing against and collecting from unit owners
21 their respective shares of the common expenses;

22 (5) THE MANNER OF CALCULATING THE RESPECTIVE VOTE OF A UNIT
23 OWNER AS PROVIDED IN § 11-107.1 OF THIS TITLE; AND

24 (6) THE REQUIREMENT FOR EXECUTING A PROXY AS PROVIDED IN §
25 11-109.3 OF THIS TITLE.

26 11-107.

27 (a) Each unit owner shall own an undivided percentage interest in the
28 common elements equal to that set forth in the declaration. Except as specifically
29 provided in this title, the common elements shall remain undivided. Except as
30 provided in this title, no unit owner, nor any other person, may bring a suit for
31 partition of the common elements, and any covenant or provision in any declaration,
32 bylaws, or other instrument to the contrary is void.

33 (b) Each unit owner shall have a percentage interest in the common expenses
34 and common profits equal to that set forth in the declaration.

35 (c) The percentage interest provided in subsections (a) and (b) of this section
36 may be identical or may vary. The percentage interests shall have a permanent

1 character and, except as specifically provided by this title, may not be changed
2 without the written consent of all of the unit owners and their mortgagees. Any
3 change shall be evidenced by an amendment to the declaration, recorded among the
4 appropriate land records. The percentage interests may not be separated from the
5 unit to which they appertain. Any instrument, matter, circumstance, action,
6 occurrence, or proceeding in any manner affecting a unit also shall affect, in like
7 manner, the percentage interests appurtenant to the unit.

8 11-107.1.

9 NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE OR THE
10 DECLARATION, BYLAWS, OR OTHER GOVERNING DOCUMENTS OF A COUNCIL OF UNIT
11 OWNERS, A UNIT OWNER MAY CAST A VOTE IN ANY MATTER BEFORE THE COUNCIL
12 OF UNIT OWNERS OR BOARD OF DIRECTORS EQUAL TO THE PERCENTAGE INTEREST
13 OF THE TOTAL COST OF COMMON EXPENSES ASSESSED AGAINST THE UNIT OWNER.

14 11-109.

15 (a) The affairs of the condominium shall be governed by a council of unit
16 owners which, even if unincorporated, is constituted a legal entity for all purposes.
17 The council of unit owners shall be comprised of all unit owners.

18 (b) The bylaws may authorize or provide for the delegation of any power of the
19 council of unit owners to a board of directors, officers, managing agent, or other
20 person for the purpose of carrying out the responsibilities of the council of unit
21 owners.

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

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

27 (3) (I) Each unit owner shall furnish the council of unit owners with
28 his name and current mailing address.

29 (II) A unit owner may not vote at meetings of the council of unit
30 owners until this information is furnished.

31 (III) A UNIT OWNER WHOSE CURRENT MAILING ADDRESS IS 50
32 MILES OR LESS FROM THE CONDOMINIUM MAY NOT EXECUTE A PROXY FOR ANY
33 PURPOSE AT ANY MEETING OF THE COUNCIL OF UNIT OWNERS OR BOARD OF
34 DIRECTORS.

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

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

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

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

4 (i) As provided in the bylaws; or

5 (ii) If the requirements of § 11-139.1 of this title are met, by
6 electronic transmission.

7 (6) Except as provided in § 11-109.1 of this title, a meeting of a
8 governing body shall be open and held at a time and location as provided in the notice
9 or bylaws.

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

13 (ii) Subject to subparagraph (iii) of this paragraph and to
14 reasonable rules adopted by the governing body under § 11-111 of this title, a
15 governing body shall provide a designated period of time during a meeting to allow
16 unit owners an opportunity to comment on any matter relating to the condominium.

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

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

22 (8) (i) Unless the bylaws provide otherwise, a quorum is deemed
23 present throughout any meeting of the council of unit owners if persons entitled to
24 cast 25 percent of the total number of votes appurtenant to all units are present in
25 person or by proxy, IF THE REQUIREMENTS OF § 11-109.3 OF THIS TITLE ARE MET.

26 (ii) If the number of persons present in person, or by proxy IF THE
27 REQUIREMENTS OF § 11-109.3 OF THIS TITLE ARE MET, at a properly called meeting of
28 the council of unit owners is insufficient to constitute a quorum, another meeting of
29 the council of unit owners may be called for the same purpose if:

30 1. The notice of the meeting stated that the procedure
31 authorized by this paragraph might be invoked; and

32 2. By majority vote, the unit owners present in person, or by
33 proxy IF THE REQUIREMENTS OF § 11-109.3 OF THIS TITLE ARE MET, call for the
34 additional meeting.

35 (iii) 1. Fifteen days' notice of the time, place, and purpose of the
36 additional meeting shall be delivered, mailed, or sent by electronic transmission if the

1 in alphabetical order, with no indicated candidate preference. Nominations may be
2 made from the floor at the meeting at which the election to the board is held.

3 (14) Election materials prepared with funds of the council of unit owners
4 shall list candidates in alphabetical order and may not indicate a candidate
5 preference.

6 (15) Unless otherwise provided in this title, and subject to provisions in
7 the bylaws requiring a different majority, decisions of the council of unit owners shall
8 be made on a majority of votes of the unit owners listed on the current roster present
9 and voting.

10 (16) A meeting of the council of unit owners shall be held within 60 days
11 from the date that units representing 50 percent of the votes in the condominium
12 have been conveyed by the developer to the initial purchasers of units to elect officers
13 or a board of directors for the council of unit owners, as provided in the condominium
14 declaration or bylaws.

15 (e) A unit owner may not have any right, title, or interest in any property
16 owned by the council of unit owners other than as holder of a percentage interest in
17 common expenses and common profits appurtenant to his unit.

18 (f) A unit owner's rights as holder of a percentage interest in common
19 expenses and common profits are such that:

20 (1) A unit owner's right to possess, use, or enjoy property of the council of
21 unit owners AND TO VOTE IN MATTERS BEFORE THE COUNCIL OF UNIT OWNERS OR
22 BOARD OF DIRECTORS shall be as provided in the bylaws; and

23 (2) A unit owner's interest in the property is not assignable or attachable
24 separate from his unit except as provided in §§ 11-107(d) and 11-112(g) of this title.
25 11-109.3.

26 NOTWITHSTANDING ANY OTHER PROVISION OF LAW OR LANGUAGE
27 CONTAINED IN THE GOVERNING DOCUMENTS OF A COUNCIL OF UNIT OWNERS,
28 ONLY A UNIT OWNER WITH A CURRENT MAILING ADDRESS MORE THAN 50 MILES
29 FROM THE CONDOMINIUM LOCATION MAY EXECUTE A PROXY TO VOTE OR
30 PARTICIPATE IN ANY MATTER BEFORE THE COUNCIL OF UNIT OWNERS OR BOARD OF
31 DIRECTORS OF THE CONDOMINIUM.

32 11-110.

33 (a) All common profits shall be disbursed to the unit owners, be credited to
34 their assessments for common expenses in proportion to their percentage interests in
35 common profits and common expenses, or be used for any other purpose as the council
36 of unit owners decides.

37 (b) (1) Funds for the payment of current common expenses and for the
38 creation of reserves for the payment of future common expenses shall be obtained by

1 assessments against the unit owners in proportion to their percentage interests in
2 common expenses and common profits.

3 (2) (i) Where provided in the declaration or the bylaws, charges for
4 utility services may be assessed and collected on the basis of usage rather than on the
5 basis of percentage interests.

6 (ii) If provided by the declaration, assessments for expenses related
7 to maintenance of the limited common elements may be charged to the unit owner or
8 owners who are given the exclusive right to use the limited common elements.

9 (iii) Assessments for charges under this paragraph may be enforced
10 in the same manner as assessments for common expenses.

11 11-139.2.

12 (a) Notwithstanding language contained in the governing documents of the
13 council of unit owners, the board of directors of the council of unit owners may
14 authorize unit owners to submit a vote or proxy by electronic transmission if the
15 electronic transmission contains information that verifies that the vote or proxy is
16 authorized by the unit owner or the unit owner's proxy AND THAT THE UNIT OWNER
17 MEETS THE REQUIREMENTS OF § 11-109.3 OF THIS TITLE FOR EXECUTING A PROXY.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2006.