

SENATE BILL 287

N1

(7lr1411)

ENROLLED BILL

— Judicial Proceedings / Environmental Matters —

Introduced by **Senator Kelley**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Real Property – Condominiums and Homeowners Associations –**
3 **~~Receivership~~ Court Appointment of Receiver**

4 FOR the purpose of authorizing ~~certain unit owners to petition a certain circuit court~~
5 ~~to appoint a an independent receiver under the Maryland Condominium Act~~
6 ~~under certain circumstances; requiring certain petitioners to mail a copy of a~~
7 ~~certain petition and a certain notice to all unit owners; requiring certain~~
8 ~~petitioners to post a certain notice in a certain manner; providing that a certain~~
9 ~~circuit court may appoint a certain receiver after a hearing; providing that a~~
10 ~~certain receiver shall have certain powers and duties; providing for the term of~~
11 ~~service of a receiver; providing that the salary of a certain receiver, certain court~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber / conference committee amendments.



~~costs, and certain attorney's fees are common expenses; authorizing certain lot owners to petition a certain circuit court to appoint a an independent receiver under the Maryland Homeowners Association Act under certain certain circumstances; requiring certain petitioners to mail a copy of a certain petition and a certain notice to all lot owners; requiring certain petitioners to post a certain notice in a certain manner; providing that a certain circuit court may appoint a certain receiver after a hearing; providing that a certain receiver shall have certain powers and duties; providing for the term of service of a receiver; not less than a certain number of unit owners to petition a certain circuit court to appoint a receiver if a council of unit owners fails to fill certain vacancies on the board of directors under the Maryland Condominium Act; requiring the unit owners to mail a certain notice; requiring the unit owners to post a certain notice in a certain manner; providing that the unit owners may proceed with the petition under certain circumstances; providing that a certain receiver may not reside in or own a unit in a certain condominium; providing that a certain receiver shall have certain powers and duties; providing for the term of service of a receiver; providing that the salary of a certain receiver, certain court costs, and certain attorney's fees are common expenses; authorizing not less than a certain number of owners of certain lots to petition a certain circuit court to appoint a receiver if a homeowners association fails to fill certain vacancies on the governing body under the Maryland Homeowners Association Act; requiring the lot owners to mail a certain notice; providing that the lot owners may proceed with the petition under certain circumstances; providing that a certain receiver may not reside in or own a lot in a certain development; providing that the salary of a certain receiver, certain court costs, and certain attorney's fees are expenses of a homeowners association; and generally relating to the appointment of a ~~an independent~~ a receiver for a condominium or a homeowners association.~~

BY adding to

Article – Real Property

Section 11–109.3 and 11B–111.5

Annotated Code of Maryland

(2003 Replacement Volume and 2006 Supplement)

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

Article – Real Property

11-109.3.

1 ~~(A) UNIT OWNERS ENTITLED TO CAST AT LEAST 60% OF THE VOTES IN~~
2 ~~THE COUNCIL OF UNIT OWNERS MAY PETITION THE CIRCUIT COURT FOR THE~~
3 ~~COUNTY WHERE THE CONDOMINIUM IS LOCATED TO APPOINT A AN~~
4 ~~INDEPENDENT RECEIVER TO MANAGE THE AFFAIRS OF THE COUNCIL OF UNIT~~
5 ~~OWNERS IF AN ACT OR FAILURE TO ACT BY THE BOARD OF DIRECTORS WOULD~~
6 ~~RESULT IN:~~

7 ~~(1) A CLOUD ON THE TITLE TO THE PROPERTY OF ALL UNIT~~
8 ~~OWNERS; OR~~

9 ~~(2) A SUBSTANTIAL IMPAIRMENT OF THE ABILITY OF A UNIT~~
10 ~~OWNER TO SELL THE UNIT OWNER'S UNIT.~~

11 ~~(B) UNIT OWNERS ENTITLED TO CAST AT LEAST 10% OF THE VOTES IN~~
12 ~~THE COUNCIL OF THREE OR MORE UNIT OWNERS MAY PETITION THE CIRCUIT~~
13 ~~COURT FOR THE COUNTY WHERE THE CONDOMINIUM IS LOCATED TO APPOINT A~~
14 ~~AN INDEPENDENT RECEIVER TO MANAGE THE AFFAIRS OF THE COUNCIL OF~~
15 ~~UNIT OWNERS IF:~~

16 ~~(1) THERE ARE INSUFFICIENT MEMBERS REMAINING ON THE~~
17 ~~BOARD OF DIRECTORS TO CONSTITUTE A QUORUM; AND~~

18 ~~(2) THE COUNCIL OF UNIT OWNERS IS OTHERWISE UNABLE TO~~
19 ~~CONDUCT THE BUSINESS OF THE CONDOMINIUM.~~

20 ~~(C) (1) AT LEAST 30 45 DAYS BEFORE FILING THE PETITION IN THE~~
21 ~~COURT UNDER SUBSECTION (A) OR (B) OF THIS SECTION, THE PETITIONERS~~
22 ~~SHALL MAIL TO ALL UNIT OWNERS:~~

23 ~~(I) A COPY OF THE PETITION; AND~~

24 ~~(II) A NOTICE DESCRIBING THE RIGHT TO OBJECT TO THE~~
25 ~~APPOINTMENT OF A AN INDEPENDENT RECEIVER BY FILING AN ANSWER TO THE~~
26 ~~PETITION.~~

27 ~~(2) THE PETITIONERS SHALL POST A COPY OF A NOTICE~~
28 ~~DESCRIBING THE PETITION AND THE PROPOSED ACTION IN A CONSPICUOUS~~
29 ~~PLACE ON THE CONDOMINIUM PROPERTY.~~

1 ~~(D) (1) AFTER A HEARING, THE COURT MAY APPOINT A AN~~
 2 ~~INDEPENDENT RECEIVER TO MANAGE THE AFFAIRS OF THE COUNCIL OF UNIT~~
 3 ~~OWNERS.~~

4 ~~(2) A AN INDEPENDENT RECEIVER APPOINTED UNDER THIS~~
 5 ~~SECTION SHALL HAVE ALL THE POWERS AND DUTIES OF A DULY CONSTITUTED~~
 6 ~~BOARD OF DIRECTORS.~~

7 ~~(3) (I) IF A AN INDEPENDENT RECEIVER IS APPOINTED~~
 8 ~~PURSUANT TO A PETITION FILED UNDER SUBSECTION (A) OF THIS SECTION, THE~~
 9 ~~RECEIVER SHALL SERVE UNTIL:~~

10 ~~1. THE CLOUD ON THE TITLE HAS BEEN CLEARED;~~
 11 ~~OR~~

12 ~~2. THE SUBSTANTIAL IMPAIRMENT HAS ABATED.~~

13 ~~(H) IF A AN INDEPENDENT RECEIVER IS APPOINTED~~
 14 ~~PURSUANT TO A PETITION FILED UNDER SUBSECTION (B) OF THIS SECTION, THE~~
 15 ~~RECEIVER SHALL SERVE UNTIL THE COUNCIL OF UNIT OWNERS FILLS~~
 16 ~~VACANCIES ON THE BOARD OF DIRECTORS SUFFICIENT TO CONSTITUTE A~~
 17 ~~QUORUM.~~

18 ~~(E) IF A AN INDEPENDENT RECEIVER IS APPOINTED, THE SALARY OF~~
 19 ~~THE RECEIVER, COURT COSTS, AND REASONABLE ATTORNEY'S FEES ARE~~
 20 ~~COMMON EXPENSES.~~

21 ~~11B-111.5.~~

22 ~~(A) LOT OWNERS REPRESENTING AT LEAST 60% OF THE LOT OWNERS~~
 23 ~~IN A DEVELOPMENT MAY PETITION THE CIRCUIT COURT FOR THE COUNTY~~
 24 ~~WHERE THE DEVELOPMENT IS LOCATED TO APPOINT A AN INDEPENDENT~~
 25 ~~RECEIVER TO MANAGE THE AFFAIRS OF THE GOVERNING BODY IF AN ACT OR~~
 26 ~~FAILURE TO ACT BY THE GOVERNING BODY WOULD RESULT IN:~~

27 ~~(1) A CLOUD ON THE TITLE TO THE PROPERTY OF ALL LOTS IN~~
 28 ~~THE DEVELOPMENT; OR~~

29 ~~(2) A SUBSTANTIAL IMPAIRMENT OF THE ABILITY OF A LOT~~
 30 ~~OWNER IN THE DEVELOPMENT TO SELL THE OWNER'S LOT.~~

1 ~~(B) LOT OWNERS REPRESENTING AT LEAST 10% OF THE THREE OR~~
2 ~~MORE LOT OWNERS IN A DEVELOPMENT MAY PETITION THE CIRCUIT COURT~~
3 ~~FOR THE COUNTY WHERE THE DEVELOPMENT IS LOCATED TO APPOINT A AN~~
4 ~~INDEPENDENT RECEIVER TO MANAGE THE AFFAIRS OF THE GOVERNING BODY~~
5 ~~IF:~~

6 ~~(1) THERE ARE INSUFFICIENT MEMBERS REMAINING ON THE~~
7 ~~GOVERNING BODY TO CONSTITUTE A QUORUM; AND~~

8 ~~(2) THE GOVERNING BODY IS OTHERWISE UNABLE TO CONDUCT~~
9 ~~BUSINESS.~~

10 ~~(C) (1) AT LEAST 30 45 DAYS BEFORE FILING THE PETITION IN THE~~
11 ~~COURT UNDER SUBSECTION (A) OR (B) OF THIS SECTION, THE PETITIONERS~~
12 ~~SHALL MAIL TO THE OWNER OF EACH LOT IN THE DEVELOPMENT:~~

13 ~~(I) A COPY OF THE PETITION; AND~~

14 ~~(II) A NOTICE DESCRIBING THE RIGHT TO OBJECT TO THE~~
15 ~~APPOINTMENT OF A AN INDEPENDENT RECEIVER BY FILING AN ANSWER TO THE~~
16 ~~PETITION.~~

17 ~~(2) THE PETITIONERS SHALL POST A COPY OF A NOTICE~~
18 ~~DESCRIBING THE PETITION AND THE PROPOSED ACTION IN A CONSPICUOUS~~
19 ~~PLACE ON THE HOMEOWNERS ASSOCIATION PROPERTY THAT REASONABLY~~
20 ~~COULD BE SEEN BY ALL LOT OWNERS.~~

21 ~~(D) (1) AFTER A HEARING, THE COURT MAY APPOINT A AN~~
22 ~~INDEPENDENT RECEIVER TO MANAGE THE AFFAIRS OF THE GOVERNING BODY~~
23 ~~OF THE HOMEOWNERS ASSOCIATION.~~

24 ~~(2) A AN INDEPENDENT RECEIVER APPOINTED UNDER THIS~~
25 ~~SECTION SHALL HAVE ALL THE POWERS AND DUTIES OF A DULY CONSTITUTED~~
26 ~~GOVERNING BODY.~~

27 ~~(3) (I) IF A AN INDEPENDENT RECEIVER IS APPOINTED~~
28 ~~PURSUANT TO A PETITION FILED UNDER SUBSECTION (A) OF THIS SECTION, THE~~
29 ~~RECEIVER SHALL SERVE UNTIL:~~

1 ~~1. THE CLOUD ON TITLE HAS BEEN CLEARED; OR~~

2 ~~2. THE SUBSTANTIAL IMPAIRMENT HAS ABATED.~~

3 ~~(H) IF A AN INDEPENDENT RECEIVER IS APPOINTED~~
4 ~~PURSUANT TO A PETITION FILED UNDER SUBSECTION (B) OF THIS SECTION, THE~~
5 ~~RECEIVER SHALL SERVE UNTIL THE GOVERNING BODY FILLS VACANCIES ON~~
6 ~~THE GOVERNING BODY SUFFICIENT TO CONSTITUTE A QUORUM.~~

7 ~~(E) IF A AN INDEPENDENT RECEIVER IS APPOINTED UNDER THIS~~
8 ~~SECTION, THE SALARY OF THE RECEIVER, COURT COSTS, AND REASONABLE~~
9 ~~ATTORNEY'S FEES ARE EXPENSES OF THE HOMEOWNERS ASSOCIATION.~~

10 (A) IF THE COUNCIL OF UNIT OWNERS FAILS TO FILL VACANCIES ON THE
11 BOARD OF DIRECTORS SUFFICIENT TO CONSTITUTE A QUORUM IN ACCORDANCE
12 WITH THE BYLAWS, THREE OR MORE UNIT OWNERS MAY PETITION THE CIRCUIT
13 COURT FOR THE COUNTY WHERE THE CONDOMINIUM IS LOCATED TO APPOINT A
14 RECEIVER TO MANAGE THE AFFAIRS OF THE COUNCIL OF UNIT OWNERS.

15 (B) (1) AT LEAST 30 DAYS BEFORE PETITIONING THE CIRCUIT COURT,
16 THE UNIT OWNERS ACTING UNDER THE AUTHORITY GRANTED BY SUBSECTION
17 (A) OF THIS SECTION SHALL MAIL TO THE COUNCIL OF UNIT OWNERS A NOTICE
18 DESCRIBING THE PETITION AND THE PROPOSED ACTION.

19 (2) THE UNIT OWNERS SHALL POST A COPY OF THE NOTICE IN A
20 CONSPICUOUS PLACE ON THE CONDOMINIUM PROPERTY.

21 (C) IF THE COUNCIL OF UNIT OWNERS FAILS TO FILL VACANCIES
22 SUFFICIENT TO CONSTITUTE A QUORUM WITHIN THE NOTICE PERIOD, THE UNIT
23 OWNERS MAY PROCEED WITH THE PETITION.

24 (D) A RECEIVER APPOINTED BY A COURT UNDER THIS SECTION MAY NOT
25 RESIDE IN OR OWN A UNIT IN THE CONDOMINIUM GOVERNED BY THE COUNCIL
26 OF UNIT OWNERS.

27 (E) (1) A RECEIVER APPOINTED UNDER THIS SECTION SHALL HAVE
28 ALL POWERS AND DUTIES OF A DULY CONSTITUTED BOARD OF DIRECTORS.

1 **(2) THE RECEIVER SHALL SERVE UNTIL THE COUNCIL OF UNIT**
2 **OWNERS FILLS VACANCIES ON THE BOARD OF DIRECTORS SUFFICIENT TO**
3 **CONSTITUTE A QUORUM.**

4 **(F) THE SALARY OF THE RECEIVER, COURT COSTS, AND REASONABLE**
5 **ATTORNEY'S FEES ARE COMMON EXPENSES.**

6 **11B-111.5.**

7 **(A) IF A HOMEOWNERS ASSOCIATION FAILS TO FILL VACANCIES ON THE**
8 **GOVERNING BODY SUFFICIENT TO CONSTITUTE A QUORUM IN ACCORDANCE**
9 **WITH THE BYLAWS, THREE OR MORE OWNERS OF LOTS MAY PETITION THE**
10 **CIRCUIT COURT FOR THE COUNTY WHERE THE CONDOMINIUM IS LOCATED TO**
11 **APPOINT A RECEIVER TO MANAGE THE AFFAIRS OF THE HOMEOWNERS**
12 **ASSOCIATION.**

13 **(B) (1) AT LEAST 30 DAYS BEFORE PETITIONING THE CIRCUIT COURT,**
14 **THE LOT OWNERS ACTING UNDER THE AUTHORITY GRANTED BY SUBSECTION (A)**
15 **OF THIS SECTION SHALL MAIL TO THE GOVERNING BODY A NOTICE DESCRIBING**
16 **THE PETITION AND THE PROPOSED ACTION.**

17 **(2) THE LOT OWNERS SHALL MAIL A COPY OF THE NOTICE TO THE**
18 **OWNER OF EACH LOT IN THE DEVELOPMENT.**

19 **(C) IF THE GOVERNING BODY FAILS TO FILL VACANCIES SUFFICIENT TO**
20 **CONSTITUTE A QUORUM WITHIN THE NOTICE PERIOD, THE LOT OWNERS MAY**
21 **PROCEED WITH THE PETITION.**

22 **(D) A RECEIVER APPOINTED BY A COURT UNDER THIS SECTION MAY NOT**
23 **RESIDE IN OR OWN A LOT IN THE DEVELOPMENT GOVERNED BY THE**
24 **HOMEOWNERS ASSOCIATION.**

25 **(E) (1) A RECEIVER APPOINTED UNDER THIS SECTION SHALL HAVE**
26 **ALL POWERS AND DUTIES OF A DULY CONSTITUTED GOVERNING BODY.**

27 **(2) THE RECEIVER SHALL SERVE UNTIL THE HOMEOWNERS**
28 **ASSOCIATION FILLS VACANCIES ON THE GOVERNING BODY SUFFICIENT TO**
29 **CONSTITUTE A QUORUM.**

1 **(F) THE SALARY OF THE RECEIVER, COURT COSTS, AND REASONABLE**
2 **ATTORNEY'S FEES ARE EXPENSES OF THE HOMEOWNERS ASSOCIATION.**

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2007.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.