

SENATE BILL 287

N1

71r1411

By: **Senator Kelley**

Introduced and read first time: January 31, 2007

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Condominiums and Homeowners Associations –**
3 **Receivership**

4 FOR the purpose of authorizing certain unit owners to petition a certain circuit court
5 to appoint a receiver under the Maryland Condominium Act under certain
6 circumstances; requiring certain petitioners to mail a copy of a certain petition
7 and a certain notice to all unit owners; requiring certain petitioners to post a
8 certain notice in a certain manner; providing that a certain circuit court may
9 appoint a certain receiver after a hearing; providing that a certain receiver shall
10 have certain powers and duties; providing for the term of service of a receiver;
11 providing that the salary of a certain receiver, certain court costs, and certain
12 attorney's fees are common expenses; authorizing certain lot owners to petition
13 a certain circuit court to appoint a receiver under the Maryland Homeowners
14 Association Act under certain circumstances; requiring certain petitioners to
15 mail a copy of a certain petition and a certain notice to all lot owners; requiring
16 certain petitioners to post a certain notice in a certain manner; providing that a
17 certain circuit court may appoint a certain receiver after a hearing; providing
18 that a certain receiver shall have certain powers and duties; providing for the
19 term of service of a receiver; providing that the salary of a certain receiver,
20 certain court costs, and certain attorney's fees are expenses of a homeowners
21 association; and generally relating to the appointment of a receiver for a
22 condominium or a homeowners association.

23 BY adding to
24 Article – Real Property
25 Section 11–109.3 and 11B–111.5

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2003 Replacement Volume and 2006 Supplement)

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

5 **Article - Real Property**

6 **11-109.3.**

7 (A) UNIT OWNERS ENTITLED TO CAST AT LEAST 60% OF THE VOTES IN
8 THE COUNCIL OF UNIT OWNERS MAY PETITION THE CIRCUIT COURT FOR THE
9 COUNTY WHERE THE CONDOMINIUM IS LOCATED TO APPOINT A RECEIVER TO
10 MANAGE THE AFFAIRS OF THE COUNCIL OF UNIT OWNERS IF AN ACT OR
11 FAILURE TO ACT BY THE BOARD OF DIRECTORS WOULD RESULT IN:

12 (1) A CLOUD ON THE TITLE TO THE PROPERTY OF ALL UNIT
13 OWNERS; OR

14 (2) A SUBSTANTIAL IMPAIRMENT OF THE ABILITY OF A UNIT
15 OWNER TO SELL THE UNIT OWNER'S UNIT.

16 (B) UNIT OWNERS ENTITLED TO CAST AT LEAST 10% OF THE VOTES IN
17 THE COUNCIL OF UNIT OWNERS MAY PETITION THE CIRCUIT COURT FOR THE
18 COUNTY WHERE THE CONDOMINIUM IS LOCATED TO APPOINT A RECEIVER TO
19 MANAGE THE AFFAIRS OF THE COUNCIL OF UNIT OWNERS IF:

20 (1) THERE ARE INSUFFICIENT MEMBERS REMAINING ON THE
21 BOARD OF DIRECTORS TO CONSTITUTE A QUORUM; AND

22 (2) THE COUNCIL OF UNIT OWNERS IS OTHERWISE UNABLE TO
23 CONDUCT THE BUSINESS OF THE CONDOMINIUM.

24 (C) (1) AT LEAST 30 DAYS BEFORE FILING THE PETITION IN THE
25 COURT UNDER SUBSECTION (A) OR (B) OF THIS SECTION, THE PETITIONERS
26 SHALL MAIL TO ALL UNIT OWNERS:

27 (I) A COPY OF THE PETITION; AND

1 **(II) A NOTICE DESCRIBING THE RIGHT TO OBJECT TO THE**
2 **APPOINTMENT OF A RECEIVER BY FILING AN ANSWER TO THE PETITION.**

3 **(2) THE PETITIONERS SHALL POST A COPY OF A NOTICE**
4 **DESCRIBING THE PETITION AND THE PROPOSED ACTION IN A CONSPICUOUS**
5 **PLACE ON THE CONDOMINIUM PROPERTY.**

6 **(D) (1) AFTER A HEARING, THE COURT MAY APPOINT A RECEIVER TO**
7 **MANAGE THE AFFAIRS OF THE COUNCIL OF UNIT OWNERS.**

8 **(2) A RECEIVER APPOINTED UNDER THIS SECTION SHALL HAVE**
9 **ALL THE POWERS AND DUTIES OF A DULY CONSTITUTED BOARD OF DIRECTORS.**

10 **(3) (I) IF A RECEIVER IS APPOINTED PURSUANT TO A PETITION**
11 **FILED UNDER SUBSECTION (A) OF THIS SECTION, THE RECEIVER SHALL SERVE**
12 **UNTIL:**

13 **1. THE CLOUD ON THE TITLE HAS BEEN CLEARED;**
14 **OR**

15 **2. THE SUBSTANTIAL IMPAIRMENT HAS ABATED.**

16 **(II) IF A RECEIVER IS APPOINTED PURSUANT TO A PETITION**
17 **FILED UNDER SUBSECTION (B) OF THIS SECTION, THE RECEIVER SHALL SERVE**
18 **UNTIL THE COUNCIL OF UNIT OWNERS FILLS VACANCIES ON THE BOARD OF**
19 **DIRECTORS SUFFICIENT TO CONSTITUTE A QUORUM.**

20 **(E) IF A RECEIVER IS APPOINTED, THE SALARY OF THE RECEIVER,**
21 **COURT COSTS, AND REASONABLE ATTORNEY'S FEES ARE COMMON EXPENSES.**

22 **11B-111.5.**

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

1 **(1) A CLOUD ON THE TITLE TO THE PROPERTY OF ALL LOTS IN**
2 **THE DEVELOPMENT; OR**

3 **(2) A SUBSTANTIAL IMPAIRMENT OF THE ABILITY OF A LOT**
4 **OWNER IN THE DEVELOPMENT TO SELL THE OWNER'S LOT.**

5 **(B) LOT OWNERS REPRESENTING AT LEAST 10% OF THE LOT OWNERS**
6 **IN A DEVELOPMENT MAY PETITION THE CIRCUIT COURT FOR THE COUNTY**
7 **WHERE THE DEVELOPMENT IS LOCATED TO APPOINT A RECEIVER TO MANAGE**
8 **THE AFFAIRS OF THE GOVERNING BODY IF:**

9 **(1) THERE ARE INSUFFICIENT MEMBERS REMAINING ON THE**
10 **GOVERNING BODY TO CONSTITUTE A QUORUM; AND**

11 **(2) THE GOVERNING BODY IS OTHERWISE UNABLE TO CONDUCT**
12 **BUSINESS.**

13 **(C) (1) AT LEAST 30 DAYS BEFORE FILING THE PETITION IN THE**
14 **COURT UNDER SUBSECTION (A) OR (B) OF THIS SECTION, THE PETITIONERS**
15 **SHALL MAIL TO THE OWNER OF EACH LOT IN THE DEVELOPMENT:**

16 **(I) A COPY OF THE PETITION; AND**

17 **(II) A NOTICE DESCRIBING THE RIGHT TO OBJECT TO THE**
18 **APPOINTMENT OF A RECEIVER BY FILING AN ANSWER TO THE PETITION.**

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

23 **(D) (1) AFTER A HEARING, THE COURT MAY APPOINT A RECEIVER TO**
24 **MANAGE THE AFFAIRS OF THE GOVERNING BODY OF THE HOMEOWNERS**
25 **ASSOCIATION.**

26 **(2) A RECEIVER APPOINTED UNDER THIS SECTION SHALL HAVE**
27 **ALL THE POWERS AND DUTIES OF A DULY CONSTITUTED GOVERNING BODY.**

1 **(3) (I) IF A RECEIVER IS APPOINTED PURSUANT TO A PETITION**
2 **FILED UNDER SUBSECTION (A) OF THIS SECTION, THE RECEIVER SHALL SERVE**
3 **UNTIL:**

4 **1. THE CLOUD ON TITLE HAS BEEN CLEARED; OR**

5 **2. THE SUBSTANTIAL IMPAIRMENT HAS ABATED.**

6 **(II) IF A RECEIVER IS APPOINTED PURSUANT TO A PETITION**
7 **FILED UNDER SUBSECTION (B) OF THIS SECTION, THE RECEIVER SHALL SERVE**
8 **UNTIL THE GOVERNING BODY FILLS VACANCIES ON THE GOVERNING BODY**
9 **SUFFICIENT TO CONSTITUTE A QUORUM.**

10 **(E) IF A RECEIVER IS APPOINTED UNDER THIS SECTION, THE SALARY**
11 **OF THE RECEIVER, COURT COSTS, AND REASONABLE ATTORNEY’S FEES ARE**
12 **EXPENSES OF THE HOMEOWNERS ASSOCIATION.**

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