

# SENATE BILL 287

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71r1411

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By: **Senator Kelley**

Introduced and read first time: January 31, 2007

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 20, 2007

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## CHAPTER \_\_\_\_\_

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~~ 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  
12 costs, and certain attorney's fees are common expenses; authorizing certain lot  
13 owners to petition a certain circuit court to appoint ~~a~~ an independent receiver  
14 under the Maryland Homeowners Association Act under ~~certain~~ certain  
15 circumstances; requiring certain petitioners to mail a copy of a certain petition  
16 and a certain notice to all lot owners; requiring certain petitioners to post a  
17 certain notice in a certain manner; providing that a certain circuit court may  
18 appoint a certain receiver after a hearing; providing that a certain receiver shall  
19 have certain powers and duties; providing for the term of service of a receiver;  
20 providing that the salary of a certain receiver, certain court costs, and certain  
21 attorney's fees are expenses of a homeowners association; and generally relating

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**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.



1 to the appointment of ~~a~~ an independent receiver for a condominium or a  
2 homeowners association.

3 BY adding to  
4 Article – Real Property  
5 Section 11–109.3 and 11B–111.5  
6 Annotated Code of Maryland  
7 (2003 Replacement Volume and 2006 Supplement)

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

10 **Article – Real Property**

11 **11–109.3.**

12 (A) UNIT OWNERS ENTITLED TO CAST AT LEAST 60% OF THE VOTES IN  
13 THE COUNCIL OF UNIT OWNERS MAY PETITION THE CIRCUIT COURT FOR THE  
14 COUNTY WHERE THE CONDOMINIUM IS LOCATED TO APPOINT ~~A~~ AN  
15 INDEPENDENT RECEIVER TO MANAGE THE AFFAIRS OF THE COUNCIL OF UNIT  
16 OWNERS IF AN ACT OR FAILURE TO ACT BY THE BOARD OF DIRECTORS WOULD  
17 RESULT IN:

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

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

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

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

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

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

4 (I) A COPY OF THE PETITION; AND

5 (II) A NOTICE DESCRIBING THE RIGHT TO OBJECT TO THE  
6 APPOINTMENT OF ~~A~~ AN INDEPENDENT RECEIVER BY FILING AN ANSWER TO THE  
7 PETITION.

8 (2) THE PETITIONERS SHALL POST A COPY OF A NOTICE  
9 DESCRIBING THE PETITION AND THE PROPOSED ACTION IN A CONSPICUOUS  
10 PLACE ON THE CONDOMINIUM PROPERTY.

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

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

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

20 1. THE CLOUD ON THE TITLE HAS BEEN CLEARED;  
21 OR

22 2. THE SUBSTANTIAL IMPAIRMENT HAS ABATED.

23 (II) IF ~~A~~ AN INDEPENDENT RECEIVER IS APPOINTED  
24 PURSUANT TO A PETITION FILED UNDER SUBSECTION (B) OF THIS SECTION, THE  
25 RECEIVER SHALL SERVE UNTIL THE COUNCIL OF UNIT OWNERS FILLS  
26 VACANCIES ON THE BOARD OF DIRECTORS SUFFICIENT TO CONSTITUTE A  
27 QUORUM.

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

1 **11B-111.5.**

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

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

9 (2) A SUBSTANTIAL IMPAIRMENT OF THE ABILITY OF A LOT  
10 OWNER IN THE DEVELOPMENT TO SELL THE OWNER'S LOT.

11 (B) ~~LOT OWNERS REPRESENTING AT LEAST 10% OF THE~~ THREE OR  
12 MORE LOT OWNERS IN A DEVELOPMENT MAY PETITION THE CIRCUIT COURT  
13 FOR THE COUNTY WHERE THE DEVELOPMENT IS LOCATED TO APPOINT ~~A~~ AN  
14 INDEPENDENT RECEIVER TO MANAGE THE AFFAIRS OF THE GOVERNING BODY  
15 IF:

16 (1) THERE ARE INSUFFICIENT MEMBERS REMAINING ON THE  
17 GOVERNING BODY TO CONSTITUTE A QUORUM; AND

18 (2) THE GOVERNING BODY IS OTHERWISE UNABLE TO CONDUCT  
19 BUSINESS.

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 THE OWNER OF EACH LOT IN THE DEVELOPMENT:

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

1 PLACE ON THE HOMEOWNERS ASSOCIATION PROPERTY THAT REASONABLY  
2 COULD BE SEEN BY ALL LOT OWNERS.

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

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

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

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

13 2. THE SUBSTANTIAL IMPAIRMENT HAS ABATED.

14 (II) IF ~~A~~ AN INDEPENDENT RECEIVER IS APPOINTED  
15 PURSUANT TO A PETITION FILED UNDER SUBSECTION (B) OF THIS SECTION, THE  
16 RECEIVER SHALL SERVE UNTIL THE GOVERNING BODY FILLS VACANCIES ON  
17 THE GOVERNING BODY SUFFICIENT TO CONSTITUTE A QUORUM.

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

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