

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 287

(Senator Kelley)

Judicial Proceedings

Environmental Matters

**Real Property - Condominiums and Homeowners Associations - Court
Appointment of Receiver**

This bill authorizes three or more unit owners in a condominium or lot owners in a development subject to a homeowners association to petition a circuit court to appoint a receiver if there are not enough members of the board of directors or governing body sufficient to constitute a quorum.

Fiscal Summary

State Effect: Any effect on the Judiciary's workload cannot be reliably estimated because it is unclear how many receivership cases might be filed under the bill.

Local Effect: See above.

Small Business Effect: Minimal.

Analysis

Bill Summary: A petition filed under the bill must be filed in the circuit court for the county where the condominium or development is located.

At least 30 days before filing, the petitioners must mail a notice describing the petition and the proposed action to a condominium's council of unit owners or the governing body of a homeowners association. Petitioners who are unit owners must place a copy of the notice in a conspicuous place on the condominium property. Petitioners who are lot owners must mail a copy to each lot owner in the development.

If the council of unit owners or governing body fails to fill vacancies sufficient to constitute a quorum during the notice period, the petitioner may proceed with the petition.

A receiver appointed under the bill may not reside in or own a unit in the condominium or a lot in the development for which the receiver is appointed.

A receiver appointed under the petition has all powers and duties of a duly constituted board of directors or governing body and serves until the board or governing body has sufficient numbers to constitute a quorum. The receiver's salary, court costs, and reasonable attorney's fees are common expenses of the condominium or expenses of the homeowner's association.

Current Law: Under the Maryland Condominium Act, the affairs of a condominium are governed by a council of unit owners, which is comprised of all unit owners. The bylaws may authorize or provide for the delegation of any power of the council of unit owners to a board of directors, officers, managing agent, or other person for the purpose of carrying out the responsibilities of the council of unit owners.

The Maryland Homeowners Association Act does not establish voting rights for lot owners. Those rights would be established under the association's organizing documents. However, with limited exceptions, meetings of a homeowners association, including meetings of the board of directors or other governing body or a committee of the homeowners association, are open to all members of the association or their agents.

Neither the Condominium Act nor the Homeowners Association Act provides for the appointment of a receiver.

To the extent that they are not inconsistent with the Maryland Cooperative Housing Corporation Act, cooperative housing corporations are subject to general corporate provisions governing nonstock and stock corporations. Laws governing corporations include provisions for the appointment of directors in the case of a vacancy on the board, removal of a director with or without cause, election of officers, petitions by stockholders or members of nonstock corporations for voluntary or involuntary dissolution of the corporation, and appointment of a receiver.

Background: Chapter 469 of 2005 established the Task Force on Common Ownership Communities. The full task force met 10 times during 2006 and conducted five public hearings, at which public comments were solicited. In addition, subcommittees comprising task force members met several times. The task force made several recommendations on various topics, including the ability to petition a court for the

appointment of a receiver. The task force reported that while members of a cooperative housing corporation arguably may apply for a receivership, the ability of condominium unit owners or homeowners association lot owners to apply to the courts for a receivership is less clear.

State and Local Expenditures: The bill could potentially increase the number of cases brought as condominium unit owners or homeowners association lot owners file petitions for receiverships; however, it is unknown how many additional cases would be brought because of the bill or what the concentration of cases would be in any given circuit. If the number of cases is small, the bill would not significantly increase the workload of the Judiciary. Conversely, additional resources could be required if a large number of cases are filed in any of the 24 circuits.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Secretary of State, Judiciary (Administrative Office of the Courts), Department of Legislative Services

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