

HOUSE BILL 42

N1

8lr1022

HB 36/07 – ENV

(PRE-FILED)

By: **Delegates McConkey, Weir, Boteler, Hucker, Holmes, Bobo, and Glenn**

Requested: November 9, 2007

Introduced and read first time: January 9, 2008

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 4, 2008

CHAPTER _____

1 AN ACT concerning

2 **Home Financial Accountability Act of 2008**

3 FOR the purpose of clarifying the availability of certain books and records kept by or
4 on behalf of certain common ownership communities for certain purposes and to
5 certain persons; requiring the governing body of certain common ownership
6 communities, on request of a member, unit owner, or lot owner, to compile and
7 ~~mail~~ send certain information within a certain time; making a stylistic change;
8 altering certain limitations concerning public inspection of certain records;
9 prohibiting certain common ownership communities from imposing certain fees
10 other than a reasonable charge imposed on a person desiring to review or copy
11 certain books and records or who requests delivery of certain information;
12 providing that a charge for copying certain records may not exceed a certain
13 amount; and generally relating to access to the books and records of cooperative
14 housing associations, condominiums, and homeowners associations.

15 BY repealing and reenacting, with amendments,

16 Article – Corporations and Associations

17 Section 5–6B–18.5

18 Annotated Code of Maryland

19 (2007 Replacement Volume)

20 BY repealing and reenacting, with amendments,

21 Article – Real Property

22 Section 11–116(c) and (d) and 11B–112(a) and (b)

23 Annotated Code of Maryland

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 (2003 Replacement Volume and 2007 Supplement)

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

4 **Article – Corporations and Associations**

5 5–6B–18.5.

6 (a) (1) (I) Except as provided in paragraph (2) of this subsection, all
7 books and records kept by or on behalf of a cooperative housing corporation shall be
8 made available for examination [and] **OR** copying, **OR BOTH**, by a member, a
9 member’s mortgagee, [and] **OR** their respective duly authorized agents or attorneys,
10 during normal business hours, and after reasonable notice.

11 (II) **IF A MEMBER REQUESTS A COPY OF FINANCIAL**
12 **STATEMENTS OF THE COOPERATIVE HOUSING CORPORATION OR THE MINUTES**
13 **OF A MEETING OF THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF**
14 **THE COOPERATIVE HOUSING CORPORATION TO BE DELIVERED ~~BY MAIL~~, THE**
15 **BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF THE COOPERATIVE**
16 **HOUSING CORPORATION SHALL COMPILE AND ~~MAIL~~ SEND THE REQUESTED**
17 **INFORMATION BY MAIL, ELECTRONIC TRANSMISSION, OR PERSONAL DELIVERY**
18 **WITHIN ~~10~~ 21 DAYS AFTER RECEIPT OF THE REQUEST.**

19 (2) Books and records kept by or on behalf of a cooperative housing
20 corporation may be withheld from public inspection, **EXCEPT FOR INSPECTION BY**
21 **THE PERSON ~~IN INTEREST~~ WHO IS THE SUBJECT OF THE RECORD OR THE**
22 **PERSON’S DESIGNEE OR GUARDIAN**, to the extent that they concern:

23 (i) Personnel records, **NOT INCLUDING INFORMATION ON**
24 **INDIVIDUAL SALARIES, WAGES, BONUSES, AND OTHER COMPENSATION PAID TO**
25 **EMPLOYEES;**

26 (ii) An individual’s medical records;

27 (iii) An individual’s **PERSONAL** financial records, **INCLUDING**
28 **ASSETS, INCOME, LIABILITIES, NET WORTH, BANK BALANCES, FINANCIAL**
29 **HISTORY OR ACTIVITIES, AND CREDITWORTHINESS;**

30 (iv) Records relating to business transactions that are currently
31 in negotiation;

32 (v) The written advice of legal counsel; or

33 (vi) Minutes of a closed meeting of the board of directors or other
34 governing body of the cooperative housing corporation, **UNLESS A MAJORITY OF A**

1 **QUORUM OF THE BOARD OF DIRECTORS OR ~~OTHER~~ GOVERNING BODY ~~OF THE~~**
 2 **~~COOPERATIVE HOUSING CORPORATION~~ THAT HELD THE MEETING APPROVES**
 3 **UNSEALING THE MINUTES OR A RECORDING OF THE MINUTES FOR PUBLIC**
 4 **INSPECTION.**

5 (b) (1) [The cooperative housing corporation may impose] **EXCEPT FOR** a
 6 reasonable charge **IMPOSED** on a person desiring to ~~review or~~ copy the books and
 7 records **OR WHO REQUESTS DELIVERY OF INFORMATION,** THE COOPERATIVE
 8 **HOUSING CORPORATION MAY NOT IMPOSE ANY CHARGES UNDER THIS SECTION.**

9 (2) **A CHARGE IMPOSED UNDER PARAGRAPH (1) OF THIS**
 10 **SUBSECTION FOR COPYING BOOKS AND RECORDS MAY NOT EXCEED THE**
 11 **PREVAILING AVERAGE CHARGE BY COMMERCIAL COPYING SERVICES IN THE**
 12 **COMMUNITY.**

13 **Article – Real Property**

14 11–116.

15 (c) (1) (I) Except as provided in paragraph (2) of this subsection, all
 16 books and records, including insurance policies, kept by the council of unit owners
 17 shall be maintained in Maryland or within 50 miles of its borders and shall be
 18 available at some place designated by the council of unit owners within the county
 19 where the condominium is located for examination [and] **OR copying, OR BOTH,** by
 20 any unit owner, [his] **A UNIT OWNER’S** mortgagee, [and] **OR** their respective duly
 21 authorized agents or attorneys, during normal business hours, and after reasonable
 22 notice.

23 (II) **IF A ~~MEMBER~~ UNIT OWNER REQUESTS A COPY OF**
 24 **FINANCIAL STATEMENTS OF THE CONDOMINIUM OR THE MINUTES OF A**
 25 **MEETING OF THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF THE**
 26 **CONDOMINIUM TO BE DELIVERED ~~BY MAIL,~~ THE BOARD OF DIRECTORS OR**
 27 **OTHER GOVERNING BODY OF THE CONDOMINIUM SHALL COMPILE AND ~~MAIL~~**
 28 **SEND THE REQUESTED INFORMATION BY MAIL, ELECTRONIC TRANSMISSION, OR**
 29 **PERSONAL DELIVERY WITHIN ~~10~~ 21 DAYS AFTER RECEIPT OF THE REQUEST.**

30 (2) Books and records kept by or on behalf of a council of unit owners
 31 may be withheld from public inspection, **EXCEPT FOR INSPECTION BY THE PERSON**
 32 **IN INTEREST WHO IS THE SUBJECT OF THE RECORD OR THE PERSON’S**
 33 **DESIGNEE OR GUARDIAN,** to the extent that they concern:

34 (i) Personnel records, **NOT INCLUDING INFORMATION ON**
 35 **INDIVIDUAL SALARIES, WAGES, BONUSSES, AND OTHER COMPENSATION PAID TO**
 36 **EMPLOYEES;**

- 1 (ii) An individual's medical records;
- 2 (iii) An individual's **PERSONAL** financial records, **INCLUDING**
 3 **ASSETS, INCOME, LIABILITIES, NET WORTH, BANK BALANCES, FINANCIAL**
 4 **HISTORY OR ACTIVITIES, AND CREDITWORTHINESS;**
- 5 (iv) Records relating to business transactions that are currently
 6 in negotiation;
- 7 (v) The written advice of legal counsel; or
- 8 (vi) Minutes of a closed meeting of the board of directors or other
 9 governing body of the council of unit owners, **UNLESS A MAJORITY OF A QUORUM OF**
 10 **THE BOARD OF DIRECTORS OR ~~OTHER GOVERNING BODY OF THE COUNCIL OF~~**
 11 **~~UNIT OWNERS THAT HELD THE MEETING APPROVES UNSEALING THE MINUTES~~**
 12 **OR A RECORDING OF THE MINUTES FOR PUBLIC INSPECTION.**

13 (d) (1) [The council of unit owners may impose] **EXCEPT FOR** a
 14 reasonable charge [upon] **IMPOSED ON** a person desiring to [review or] copy the books
 15 and records **OR WHO REQUESTS DELIVERY OF INFORMATION, THE COUNCIL OF**
 16 **UNIT OWNERS MAY NOT IMPOSE ANY CHARGES UNDER THIS SECTION.**

17 (2) **A CHARGE IMPOSED UNDER PARAGRAPH (1) OF THIS**
 18 **SUBSECTION FOR COPYING BOOKS AND RECORDS MAY NOT EXCEED THE**
 19 **PREVAILING AVERAGE CHARGE BY COMMERCIAL COPYING SERVICES IN THE**
 20 **COMMUNITY.**

21 11B-112.

22 (a) (1) **(I)** Subject to the provisions of paragraph (2) of this subsection,
 23 all books and records kept by or on behalf of the homeowners association shall be
 24 made available for examination [and] **OR** copying, **OR BOTH**, by a lot owner, a lot
 25 owner's mortgagee, [and] **OR** their respective duly authorized agents or attorneys,
 26 during normal business hours, and after reasonable notice.

27 **(II) IF A LOT OWNER REQUESTS A COPY OF FINANCIAL**
 28 **STATEMENTS OF THE HOMEOWNERS ASSOCIATION OR THE MINUTES OF A**
 29 **MEETING OF THE GOVERNING BODY OF THE HOMEOWNERS ASSOCIATION TO BE**
 30 **DELIVERED, THE GOVERNING BODY OF THE HOMEOWNERS ASSOCIATION SHALL**
 31 **COMPILE AND SEND THE REQUESTED INFORMATION BY MAIL, ELECTRONIC**
 32 **TRANSMISSION, OR PERSONAL DELIVERY WITHIN 21 DAYS AFTER RECEIPT OF**
 33 **THE REQUEST.**

34 (2) Books and records kept by or on behalf of a homeowners
 35 association may be withheld from public inspection, **EXCEPT FOR INSPECTION BY**

1 **THE PERSON ~~IN INTEREST~~ WHO IS THE SUBJECT OF THE RECORD OR THE**
2 **PERSON'S DESIGNEE OR GUARDIAN,** to the extent that they concern:

3 (i) Personnel records, **NOT INCLUDING INFORMATION ON**
4 **INDIVIDUAL SALARIES, WAGES, BONUSES, AND OTHER COMPENSATION PAID TO**
5 **EMPLOYEES;**

6 (ii) An individual's medical records;

7 (iii) An individual's **PERSONAL** financial records, **INCLUDING**
8 **ASSETS, INCOME, LIABILITIES, NET WORTH, BANK BALANCES, FINANCIAL**
9 **HISTORY OR ACTIVITIES, AND CREDITWORTHINESS;**

10 (iv) Records relating to business transactions that are currently
11 in negotiation;

12 (v) The written advice of legal counsel; or

13 (vi) Minutes of a closed meeting of the governing body of the
14 homeowners association, **UNLESS A MAJORITY OF A QUORUM OF THE GOVERNING**
15 **BODY OF THE HOMEOWNERS ASSOCIATION THAT HELD THE MEETING APPROVES**
16 **UNSEALING THE MINUTES OR A RECORDING OF THE MINUTES FOR PUBLIC**
17 **INSPECTION.**

18 (b) (1) [The homeowners association may impose] **EXCEPT FOR** a
19 reasonable charge [upon] **IMPOSED ON** a person desiring to [review or] copy the books
20 and records **OR WHO REQUESTS DELIVERY OF INFORMATION,** **THE HOMEOWNERS**
21 **ASSOCIATION MAY NOT IMPOSE ANY CHARGES UNDER THIS SECTION.**

22 (2) **A CHARGE IMPOSED UNDER PARAGRAPH (1) OF THIS**
23 **SUBSECTION FOR COPYING BOOKS AND RECORDS MAY NOT EXCEED THE**
24 **PREVAILING AVERAGE CHARGE BY COMMERCIAL COPYING SERVICES IN THE**
25 **COMMUNITY.**

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2008.