

# HOUSE BILL 1515

N1

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By: **Delegates McComas and McConkey**  
Introduced and read first time: February 20, 2008  
Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Condominiums - Ownership Classes - Vote Percentage**

3 FOR the purpose of requiring the bylaws of a condominium to contain a provision  
4 expressing that, notwithstanding any other provision of law or certain  
5 governing documents of a council of unit owners, a unit owner in a  
6 condominium that contains a certain number of certain ownership classes may  
7 cast a vote in any matter before the council of unit owners or board of directors  
8 that equals the percentage interest of common expenses assessed against the  
9 unit owner; and generally relating to voting rights in a certain condominium  
10 regime.

11 BY repealing and reenacting, with amendments,  
12 Article - Real Property  
13 Section 11-104  
14 Annotated Code of Maryland  
15 (2003 Replacement Volume and 2007 Supplement)

16 BY repealing and reenacting, without amendments,  
17 Article - Real Property  
18 Section 11-107  
19 Annotated Code of Maryland  
20 (2003 Replacement Volume and 2007 Supplement)

21 BY adding to  
22 Article - Real Property  
23 Section 11-107.1  
24 Annotated Code of Maryland  
25 (2003 Replacement Volume and 2007 Supplement)

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter deleted from existing law.



1 **Article – Real Property**

2 11–104.

3 (a) The administration of every condominium shall be governed by bylaws  
4 which shall be recorded with the declaration. If the council of unit owners is  
5 incorporated, these bylaws shall be the bylaws of that corporation.

6 (b) The bylaws shall express at least the following particulars:

7 (1) The form of administration, indicating whether the council of unit  
8 owners shall be incorporated or unincorporated, and whether, and to what extent, the  
9 duties of the council of unit owners may be delegated to a board of directors, manager,  
10 or otherwise, and specifying the powers, manner of selection, and removal of them;

11 (2) The mailing address of the council of unit owners;

12 (3) The method of calling the unit owners to assemble; the attendance  
13 necessary to constitute a quorum at any meeting of the council of unit owners; the  
14 manner of notifying the unit owners of any proposed meeting; who presides at the  
15 meetings of the council of unit owners, who keeps the minute book for recording the  
16 resolutions of the council of unit owners, and who counts votes at meetings of the  
17 council of unit owners; [and]

18 (4) The manner of assessing against and collecting from unit owners  
19 their respective shares of the common expenses; **AND**

20 **(5) THE MANNER OF CALCULATING THE RESPECTIVE VOTE OF A**  
21 **UNIT OWNER AS PROVIDED IN § 11–107.1 OF THIS TITLE.**

22 (c) The bylaws also may contain any other provision regarding the  
23 management and operation of the condominium including any restriction on or  
24 requirement respecting the use and maintenance of the units and the common  
25 elements.

26 (d) The bylaws may contain a provision prohibiting any unit owner from  
27 voting at a meeting of the council of unit owners if the council of unit owners has  
28 recorded a statement of condominium lien on his unit and the amount necessary to  
29 release the lien has not been paid at the time of the meeting.

30 (e) (1) A corrective amendment to the bylaws may be made in accordance  
31 with § 11–103.1 of this title, or as provided in paragraph (2) of this subsection.

32 (2) Unless a higher percentage is required in the bylaws, the bylaws  
33 may be amended by the affirmative vote of unit owners having at least 66 2/3 percent  
34 of the votes in the council of unit owners.

1           (3)   (i)    Except as provided in paragraph (4) of this subsection, if the  
2 declaration or bylaws contain a provision requiring any action on the part of the holder  
3 of a mortgage or deed of trust on a unit in order to amend the bylaws, that provision  
4 shall be deemed satisfied if the procedures under this paragraph are satisfied.

5           (ii)   If the declaration or bylaws contain a provision described in  
6 subparagraph (i) of this paragraph, the council of unit owners shall cause to be  
7 delivered to each holder of a mortgage or deed of trust entitled to notice, a copy of the  
8 proposed amendment to the bylaws.

9           (iii)  If a holder of the mortgage or deed of trust that receives the  
10 proposed amendment fails to object, in writing, to the proposed amendment within 60  
11 days from the date of actual receipt of the proposed amendment, the holder shall be  
12 deemed to have consented to the adoption of the amendment.

13           (4)   Paragraph (3) of this subsection does not apply to amendments  
14 that:

15           (i)    Alter the priority of the lien of the mortgage or deed of trust;

16           (ii)   Materially impair or affect the unit as collateral; or

17           (iii)  Materially impair or affect the right of the holder of the  
18 mortgage or deed of trust to exercise any rights under the mortgage, deed of trust, or  
19 applicable law.

20           (5)   Each particular set forth in subsection (b) of this section shall be  
21 expressed in the bylaws as amended. An amendment under paragraph (2) of this  
22 subsection shall be entitled to be recorded if accompanied by a certificate of the person  
23 specified in the bylaws to count votes at the meeting of the council of unit owners that  
24 the amendment was approved by unit owners having the required percentage of the  
25 votes and shall be effective on recordation. This certificate shall be conclusive evidence  
26 of approval.

27 11-107.

28           (a)   Each unit owner shall own an undivided percentage interest in the  
29 common elements equal to that set forth in the declaration. Except as specifically  
30 provided in this title, the common elements shall remain undivided. Except as  
31 provided in this title, no unit owner, nor any other person, may bring a suit for  
32 partition of the common elements, and any covenant or provision in any declaration,  
33 bylaws, or other instrument to the contrary is void.

34           (b)   Each unit owner shall have a percentage interest in the common  
35 expenses and common profits equal to that set forth in the declaration.

1 (c) The percentage interest provided in subsections (a) and (b) of this section  
2 may be identical or may vary. The percentage interests shall have a permanent  
3 character and, except as specifically provided by this title, may not be changed without  
4 the written consent of all of the unit owners and their mortgagees. Any change shall  
5 be evidenced by an amendment to the declaration, recorded among the appropriate  
6 land records. The percentage interests may not be separated from the unit to which  
7 they appertain. Any instrument, matter, circumstance, action, occurrence, or  
8 proceeding in any manner affecting a unit also shall affect, in like manner, the  
9 percentage interests appurtenant to the unit.

10 (d) (1) Notwithstanding any other provision of this title, but subject to  
11 any provision in the declaration or bylaws, a unit owner may:

12 (i) Grant by deed part of a unit and incorporate it as part of  
13 another unit if a portion of the percentage interests of the grantor is granted to the  
14 grantee and the grant is evidenced by an amendment to the declaration specifically  
15 describing the part granted, the percentage interests reallocated and the new  
16 percentage interest of the grantor and the grantee; and

17 (ii) Subdivide his unit into 2 or more units if the original  
18 percentage interests and votes appurtenant to the original unit are allocated to the  
19 resulting units and the subdivision is evidenced by an amendment to the declaration  
20 describing the resulting units and the percentage interests and votes allocated to each  
21 unit.

22 (2) When appropriate, a plat may be attached to the amendment. The  
23 transfer or subdivision may be made without the consent of all of the unit owners if  
24 the amendment to the declaration is executed by the unit owners and mortgagees of  
25 the units involved and by the council of unit owners or its authorized designee.

26 (3) If the unit owner of 2 or more adjacent units or the unit owner of a  
27 unit and an adjacent part of another unit transferred in accordance with this  
28 subsection desires to consolidate them, the council of unit owners or its authorized  
29 designee may authorize the unit owner to remove all or part of any walls separating  
30 the units or portions of them if the removal does not violate any applicable statute or  
31 regulation.

32 **11-107.1.**

33 **NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE OR THE**  
34 **DECLARATION, BYLAWS, OR OTHER GOVERNING DOCUMENTS OF A COUNCIL OF**  
35 **UNIT OWNERS, IN A CONDOMINIUM THAT CONTAINS TWO OR MORE OWNERSHIP**  
36 **CLASSES, INCLUDING COMMERCIAL, RETAIL, AND RESIDENTIAL CLASSES, A**  
37 **UNIT OWNER MAY CAST A VOTE IN ANY MATTER BEFORE THE COUNCIL OF UNIT**  
38 **OWNERS OR BOARD OF DIRECTORS THAT, AS A PERCENTAGE OF THE TOTAL**  
39 **VOTES OF THE CONDOMINIUM, SHALL BE EQUAL TO THE PERCENTAGE**

1 **INTEREST OF THE TOTAL COST OF COMMON EXPENSES ASSESSED AGAINST THE**  
2 **UNIT OWNER.**

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