

**Department of Legislative Services**  
Maryland General Assembly  
2008 Session

**FISCAL AND POLICY NOTE**

House Bill 821 (Delegate McConkey, *et al.*)  
Environmental Matters

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**Homeowners Associations - Meetings - Notice, Comment, and Documentation**

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This bill makes several changes to the laws governing meetings of homeowners' associations.

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**Fiscal Summary**

**State Effect:** The bill would not directly affect State finances or operations. If the Attorney General's Office receives fewer than 50 complaints per year stemming from the bill, the additional workload could be handled with existing resources.

**Local Effect:** The bill would not directly affect local finances or operations.

**Small Business Effect:** Potential minimal.

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**Analysis**

**Bill Summary:** The governing body of a homeowners' association is required to give particularized notice of each regular and special open meeting of the governing body, a council, or committee of the association. This notice is required to be given at least 10 days before each meeting and include the date, time, location, and agenda of the meeting. In addition, the notice is required to be sent to each lot owner, placed or posted in a central location, or published in the homeowners' association community newsletter and a local newspaper of general association, as well as posted on the association's web site, if any.

The bill requires the governing body of the homeowners' association to provide copies of all informational materials related to items on the meeting agenda to lot owners upon

request, including at a meeting, and on the association web site, if any, at least 10 days before each meeting. The bill also requires the governing body to approve the minutes of each meeting no later than the next meeting. Minutes of open meetings and released minutes of closed meetings are required to be timely sent to a lot owner who requests them, made available for public inspection at a designated community facility, and posted on the association web site, if any.

The bill requires that an expenditure by a homeowners' association be voted on by the governing body in an open meeting announced, held, and documented in accordance with the bill's provisions. The governing body is required to document the nature of the expenditures and amounts approved in the minutes of the meeting. If an emergency requires the approval of an expenditure without the normal meeting provisions of the bill, the governing body is required to note the amount of the emergency expenditure in an addendum to the minutes of the next scheduled meeting.

The bill requires a governing body or related body of a homeowners' association to provide designated periods of time during a meeting to allow lot owners an opportunity to comment on any matter relating to the association, including an opportunity to comment before each discussion of an issue or vote by a body of the association. This provision does not apply to a meeting that occurs before the lot owners other than the developer have a majority of votes in the association.

The bill states that a meeting of the governing body of a homeowners' association may be held in closed session only for • discussion of matters pertaining to specific employees, not including an elected of the governing body who has not requested a closed session; • consultation with legal counsel to seek legal advice; and • the other specific circumstances currently authorized by statute. The bill repeals the provision authorizing closed meetings for protection of the privacy or reputation of individuals in matters not related to the association's business.

**Current Law:** Generally, all meetings of a homeowners association, including meetings of the board of directors or other governing body or a committee of the homeowners association, must be open to all members of the association or their agents. All members of the association must be given reasonable notice of the regularly scheduled open meetings of the association.

Generally, subject to reasonable rules adopted by the governing body, a governing body of a homeowners association must provide a designated period during a meeting to allow lot owners an opportunity to comment on any matter relating to the association. During a meeting at which the agenda is limited to specific topics or at a special meeting, the lot owners' comments may be limited to the topics on the meeting agenda. The governing

body is required to convene at least one meeting each year at which the agenda is open to any matter relating to the association.

Under current law, a meeting of the governing body of a homeowners' association or a committee of a homeowners' association may be held in closed session only for the following purposes:

- discussion of matters pertaining to employees and personnel;
- protection of the privacy or reputation of individuals in matters not related to the homeowners association's business;
- consultation with legal counsel;
- consultation with staff personnel, consultants, attorneys, or other persons in connection with pending or potential litigation;
- investigative proceedings concerning possible or actual criminal misconduct;
- consideration of the terms or conditions of a business transaction in the negotiation stage if the disclosure could adversely affect the economic interests of the association;
- compliance with a specific constitutional, statutory, or judicially imposed requirement protecting particular proceedings or matters from public disclosure; or
- on an individually recorded affirmative vote of two-thirds of the board or committee members present, some other exceptional reason so compelling as to override the general public policy in favor of open meetings.

If a meeting is held in closed session according to these provisions, an action may not be taken and a matter may not be discussed if it is not permitted by the same provisions. In addition, a statement of the time, place, and purpose of a closed meeting, the record of the vote of each board or committee member by which the meeting was closed, and the authority under this section for closing a meeting has to be included in the minutes of the next meeting of the board of directors or the committee of the homeowners' association.

**Background:** Chapter 469 of 2005 established the Task Force on Common Ownership Communities. The full task force met 10 times during 2006 and conducted 5 public hearings, at which public comments were solicited. In addition, subcommittees comprising task force members met several times, and the task force made several recommendations on various topics. Although the bill is not specifically one of the recommendations, the task force did state its belief that members of common ownership communities are entitled to disclosure of information from the governing bodies of their communities.

**Small Business Effect:** Homeowners' associations that are classifiable as small businesses could potentially face increased costs related to the notice and documentation requirements of the bill.

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### **Additional Information**

**Prior Introductions:** Similar bills were introduced in 2005. HB 1084 received an unfavorable report from the House Environmental Matters Committee, and SB 698 was heard in the Senate Judicial Proceedings Committee with no further action taken.

**Cross File:** None.

**Information Source(s):** Office of the Attorney General (Consumer Protection);  
Department of Legislative Services

**Fiscal Note History:** First Reader - March 11, 2008  
mcp/jr

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