Department of Legislative Services

Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 992 (Delegate Braveboy)
Environmental Matters

Commercial Law - Common Ownership Communities - Management Companies

This bill requires common ownership community management companies to register with the Consumer Protection Division of the Office of the Attorney General by paying any registration fees set by the division, executing a required fidelity bond, and meeting any other requirements established by the division. The bill creates a Common Ownership Community Management Company Administration Fund, administered by the division, for regulation and enforcement of the bill's requirements.

Fiscal Summary

State Effect: Special fund revenues would increase in FY 2009 and thereafter due to fees from the new registration requirement. Though the fee revenues would have to be sufficient to cover costs, it is not clear whether the registration requirement would be annual or a registration would be valid for a longer period. Special fund expenditures could increase by approximately $40,400 in FY 2009 for additional staff to assist the Attorney General with implementation of the bill. Future year expenditure estimates reflect annualization and inflation.

(in dollars)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
SF Revenue	-	-	-	-	-
SF Expenditure	40,400	55,000	57,700	60,400	63,300
Net Effect	($40,400)	($55,000)	($57,700)	($60,400)	($63,300)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill defines "common ownership communities" or COCs as condominiums, cooperative housing corporations, and homeowners associations, as currently defined by State law. Under the bill, management companies of these COCs are required to register with the Consumer Protection Division by executing a fidelity bond of at least the same amount as the total assessments for the previous fiscal year of the managed COC. The bond must cover the management company including partners, members, officers, and employees as well as the COC including officers, directors, and employees who disburse funds. The bond must be secured and paid for by the COC and is to be used for the benefit of a person who suffers harm caused by a fraudulent or dishonest act of the COC or management company. The bill defines a "management company" as a person that performs, for compensation under a contractual agreement, the financial, administrative, maintenance, or other duties of a COC. This includes receiving money, writing checks, paying bills, and procuring services such as snow removal, landscaping, or pool maintenance but does not include support staff of the management company such as bookkeepers, secretaries, customer service representatives, and the like.

The bill also requires COCs registering or renewing registration with the division to pay reasonable fees and meet any other requirements set by the division. All such fees collected by the division are to be distributed to the special fund created by the bill. The fund has to approximate the costs associated with the administration and enforcement of the bill's requirements. Any investment earnings of the fund are credited to the general fund of the State, and expenditures from the new special fund may only be made in accordance with the State budget.

The bill requires management companies that contract with more than one COC to maintain separate segregated accounts for each COC. If the division determines that a person is operating a COC management company in violation of the bill's provisions, the division may issue a cease and desist order without conducting a hearing. Such an order must grant the respondent an opportunity to request a hearing, which must be held within seven days after the request. If no request for a hearing is made, the cease and desist order is final 30 days after entry.

Current Law: The laws governing COCs in Maryland are set forth by the Maryland Condominium Act, the Maryland Homeowners Association Act, and the Maryland Cooperative Housing Corporation Act. Under current law, COC management companies are not specifically regulated by the State.

Background: Many COCs hire professional management companies to provide administrative services such as payment collection, financial management, grounds keeping, and other ongoing maintenance. These companies are responsible for managing large sums of money due to and owed by COCs, but are not currently required to post any type of security bond that would protect COCs and their constituent owners in the event of losses caused by the management company.

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. The task force made several recommendations on various topics, including the licensing and bonding of COC management companies. The provisions of the bill reflect these recommendations.

State Revenues: Special fund revenues would increase in fiscal 2009 and thereafter based on the number of management companies that register with the State and pay the required registration fee. Under the bill, the Consumer Protection Division would set the amount of the fee and determine the length of the registration period. No current data exist detailing the number of COC management companies doing business in the State. Although an accurate estimate of fee revenues cannot be made at this time, the amount of the fee would have to be set so that total fees collected would cover related expenditures. *For illustrative purposes only*, if 200 management companies were required to register under the bill, the fee would have to be at least $202 per company initially to cover fiscal 2009 expenditures.

State Expenditures: Special fund expenditures could increase by an estimated $40,445 in fiscal 2009, which accounts for the bill's October 1 effective date. This estimate reflects the cost of hiring one secretary to assist the Attorney General with implementation of the bill's registration provisions. This estimate includes a salary, fringe benefits, one-time start-up costs, office space fees, and ongoing operating expenses.

Positions	1
Salary and Fringe Benefits	$34,625
Operating Expenses	5,820
Total FY 2009 State Expenditures	**$40,445**

Future year expenditures reflect • a full salary with 4.4% annual increases and 3% employee turnover; and • 2% annual increases in ongoing operating expenses.

Small Business Effect: The bill would subject COC management companies to an increased financial burden due to bonding and registration costs, and these costs would likely be passed on to COC resident owners in the form of higher monthly dues.

Additional Information

Prior Introductions: None.

Cross File: SB 589 (Senator Kelley, *et al.*) – Finance.

Information Source(s): Office of the Attorney General, Department of Legislative Services

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mll/ljm

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