

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

Senate Bill 588 (Senator Kelley, *et al.*)
Judicial Proceedings

Common Ownership Communities - Fidelity Bond Coverage

This bill requires the governing or managing body of a common ownership community (COC) to execute a fidelity bond in order to indemnify officers, directors, managing agents, management companies, or associated employees.

Fiscal Summary

State Effect: 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.

Analysis

Bill Summary: The provisions of the bill apply to cooperative housing corporations, condominiums, and homeowners associations. The bill requires the board of directors, council of owners, or other governing or managing body of a COC to execute a fidelity bond prior to the first conveyance of a unit or lot to a person other than the developer. The bond must be used to provide for the indemnification of • officers, directors, and any managing agent or other employee charged with the operation or maintenance of the COC; and • any management company employee, a managing agent, or other employee charged with the operation or maintenance of the COC.

The bill requires that a copy of the fidelity bond be included in the books and records kept and made available by or on behalf of the COC as required by law. The amount of the bond must equal at least three months worth of gross common charges, assessments, or fees, and the total liability of the surety to all persons insured by the bond may not exceed the sum of the bond. If a unit owner believes that the governing or managing body of the COC has failed to comply with the requirements of the bill, the aggrieved owner may submit the dispute for adjudication to the Division of Consumer Protection of the Office of the Attorney General.

Current Law: State law does not currently require execution of a fidelity bond by COCs to indemnify officers, directors, managing agents, management companies, or associated employees.

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 or the COC governing bodies themselves 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 constituent owners in the event of losses caused by management.

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 comprised of task force members met several times. The task force made several recommendations on various topics, including the bonding of COC management. The provisions of the bill reflect these recommendations.

Additional Information

Prior Introductions: None.

Cross File: HB 1053 (Delegate Braveboy) – Environmental Matters.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Legislative Services

Fiscal Note History: First Reader - February 19, 2008
mcp/hlb

Analysis by: Alexander M. Rzasa

Direct Inquiries to:
(410) 946-5510
(301) 970-5510