

SENATE BILL 416

N1

0lr2139

By: **Senators Lenett and Kittleman**

Introduced and read first time: January 29, 2010

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Condominium Act and Maryland Homeowners Association Act –**
3 **Proposed Budget – Notice**

4 FOR the purpose of requiring notice of a certain vote to be included in a certain notice
5 of a council of condominium unit owners meeting; requiring notice of a certain
6 vote to be included in a certain notice of a homeowners association meeting;
7 requiring the board of directors or other governing body of a homeowners
8 association to prepare and submit to all members of the homeowners association
9 a proposed annual budget a certain period of time before its adoption; and
10 generally relating to providing notice of the proposed budget of a council of
11 condominium unit owners or of a homeowners association.

12 BY repealing and reenacting, with amendments,
13 Article – Real Property
14 Section 11–109(c) and 11B–111
15 Annotated Code of Maryland
16 (2003 Replacement Volume and 2009 Supplement)

17 BY repealing and reenacting, without amendments,
18 Article – Real Property
19 Section 11–109.2(a)
20 Annotated Code of Maryland
21 (2003 Replacement Volume and 2009 Supplement)

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

24 **Article – Real Property**

25 11–109.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (c) (1) A meeting of the council of unit owners or board of directors may
2 not be held on less notice than required by this section.

3 (2) The council of unit owners shall maintain a current roster of
4 names and addresses of each unit owner to which notice of meetings of the board of
5 directors shall be sent at least annually.

6 (3) Each unit owner shall furnish the council of unit owners with his
7 name and current mailing address. A unit owner may not vote at meetings of the
8 council of unit owners until this information is furnished.

9 (4) A regular or special meeting of the council of unit owners may not
10 be held on less than 10 nor more than 90 days':

11 (i) Written notice delivered or mailed to each unit owner at the
12 address shown on the roster on the date of the notice; or

13 (ii) Notice sent to each unit owner by electronic transmission, if
14 the requirements of § 11-139.1 of this title are met.

15 (5) Notice of special meetings of the board of directors shall be given:

16 (i) As provided in the bylaws; or

17 (ii) If the requirements of § 11-139.1 of this title are met, by
18 electronic transmission.

19 (6) Except as provided in § 11-109.1 of this title, a meeting of a
20 governing body shall be open and held at a time and location as provided in the notice
21 or bylaws.

22 **(7) IF THE COUNCIL OF UNIT OWNERS OR OTHER BODY TO WHICH**
23 **THE COUNCIL HAS DELEGATED RESPONSIBILITY FOR PREPARING AND**
24 **ADOPTING THE BUDGET INTENDS TO VOTE ON THE ANNUAL PROPOSED BUDGET**
25 **AT AN UPCOMING MEETING, NOTICE OF THE VOTE MUST BE INCLUDED IN THE**
26 **NOTICE PROVIDED UNDER PARAGRAPH (4) OF THIS SUBSECTION.**

27 **[(7)] (8)** (i) This paragraph does not apply to any meeting of the
28 governing body that occurs at any time before the meeting at which the unit owners
29 elect officers or a board of directors in accordance with paragraph **[(16)] (17)** of this
30 subsection.

31 (ii) Subject to subparagraph (iii) of this paragraph and to
32 reasonable rules adopted by the governing body under § 11-111 of this title, a
33 governing body shall provide a designated period of time during a meeting to allow
34 unit owners an opportunity to comment on any matter relating to the condominium.

1 (iii) During a meeting at which the agenda is limited to specific
2 topics or at a special meeting, the unit owners' comments may be limited to the topics
3 listed on the meeting agenda.

4 (iv) The governing body shall convene at least one meeting each
5 year at which the agenda is open to any matter relating to the condominium.

6 **[(8) (9)** (i) Unless the bylaws provide otherwise, a quorum is
7 deemed present throughout any meeting of the council of unit owners if persons
8 entitled to cast 25 percent of the total number of votes appurtenant to all units are
9 present in person or by proxy.

10 (ii) If the number of persons present in person or by proxy at a
11 properly called meeting of the council of unit owners is insufficient to constitute a
12 quorum, another meeting of the council of unit owners may be called for the same
13 purpose if:

14 1. The notice of the meeting stated that the procedure
15 authorized by this paragraph might be invoked; and

16 2. By majority vote, the unit owners present in person or
17 by proxy call for the additional meeting.

18 (iii) 1. Fifteen days' notice of the time, place, and purpose of
19 the additional meeting shall be delivered, mailed, or sent by electronic transmission if
20 the requirements of § 11-139.1 of this title are met, to each unit owner at the address
21 shown on the roster maintained under paragraph (2) of this subsection.

22 2. The notice shall contain the quorum and voting
23 provisions of subparagraph (iv) of this paragraph.

24 (iv) 1. At the additional meeting, the unit owners present in
25 person or by proxy constitute a quorum.

26 2. Unless the bylaws provide otherwise, a majority of the
27 unit owners present in person or by proxy:

28 A. May approve or authorize the proposed action at the
29 additional meeting; and

30 B. May take any other action that could have been taken
31 at the original meeting if a sufficient number of unit owners had been present.

32 (v) This paragraph may not be construed to affect the
33 percentage of votes required to amend the declaration or bylaws or to take any other
34 action required to be taken by a specified percentage of votes.

1 **[(9)] (10)** At meetings of the council of unit owners each unit owner
2 shall be entitled to cast the number of votes appurtenant to his unit. Unit owners may
3 vote by proxy, but the proxy is effective only for a maximum period of 180 days
4 following its issuance, unless granted to a lessee or mortgagee.

5 **[(10)] (11)** Any proxy may be revoked at any time at the pleasure of the
6 unit owner or unit owners executing the proxy.

7 **[(11)] (12)** A proxy who is not appointed to vote as directed by a unit
8 owner may only be appointed for purposes of meeting quorums and to vote for matters
9 of business before the council of unit owners, other than an election of officers and
10 members of the board of directors.

11 **[(12)] (13)** Only a unit owner voting in person or by electronic
12 transmission if the requirements of § 11-139.2 of this title are met or a proxy voting
13 for candidates designated by a unit owner may vote for officers and members of the
14 board of directors.

15 **[(13)] (14)** Unless otherwise provided in the bylaws, a unit owner may
16 nominate himself or any other person to be an officer or member of the board of
17 directors. A call for nominations shall be sent to all unit owners not less than 45 days
18 before notice of an election is sent. Only nominations made at least 15 days before
19 notice of an election shall be listed on the election ballot. Candidates shall be listed on
20 the ballot in alphabetical order, with no indicated candidate preference. Nominations
21 may be made from the floor at the meeting at which the election to the board is held.

22 **[(14)] (15)** Election materials prepared with funds of the council of unit
23 owners shall list candidates in alphabetical order and may not indicate a candidate
24 preference.

25 **[(15)] (16)** Unless otherwise provided in this title, and subject to
26 provisions in the bylaws requiring a different majority, decisions of the council of unit
27 owners shall be made on a majority of votes of the unit owners listed on the current
28 roster present and voting.

29 **[(16)] (17)** (i) A meeting of the council of unit owners to elect a
30 board of directors for the council of unit owners, as provided in the condominium
31 declaration or bylaws, shall be held within:

32 1. 60 days from the date that units representing 50
33 percent of the votes in the condominium have been conveyed by the developer to
34 members of the public for residential purposes; or

35 2. If a lesser percentage is specified in the declaration or
36 bylaws of the condominium, 60 days from the date the specified lesser percentage of
37 units in the condominium are sold to members of the public for residential purposes.

1 (ii) 1. Before the date of the meeting held under
2 subparagraph (i) of this paragraph, the developer shall deliver to each unit owner
3 notice that the requirements of subparagraph (i) of this paragraph have been met.

4 2. The notice shall include the date, time, and place of
5 the meeting to elect the board of directors for the council of unit owners.

6 (iii) The term of each member of the board of directors appointed
7 by the developer shall end 10 days after the meeting as specified in subparagraph (i) of
8 this paragraph is held, if a replacement board member is elected.

9 (iv) Within 30 days from the date of the meeting held under
10 subparagraph (i) of this paragraph, the developer shall deliver to the officers or board
11 of directors for the council of unit owners, as provided in the condominium declaration
12 or bylaws, at the developer's expense:

13 1. The documents specified in § 11–132 of this title;

14 2. The condominium funds, including operating funds,
15 replacement reserves, investment accounts, and working capital;

16 3. The tangible property of the condominium; and

17 4. A roster of current unit owners, including mailing
18 addresses, telephone numbers, and unit numbers, if known.

19 (v) 1. This subparagraph does not apply to a contract
20 entered into before October 1, 2009.

21 2. A. In this subparagraph, “contract” means an
22 agreement with a company or individual to handle financial matters, maintenance, or
23 services for the condominium.

24 B. “Contract” does not include an agreement relating to
25 the provision of utility services or communication systems.

26 3. Until all members of the board of directors of the
27 condominium are elected by the unit owners at a transitional meeting as specified in
28 subparagraph (i) of this paragraph, a contract entered into by the officers or board of
29 directors of the condominium may be terminated, at the discretion of the board of
30 directors and without liability for the termination, not later than 30 days after notice.

31 (vi) If the developer fails to comply with the requirements of this
32 paragraph, an aggrieved unit owner may submit the dispute to the Division of
33 Consumer Protection of the Office of the Attorney General under § 11–130(c) of this
34 title.

35 11–109.2.

1 (a) The council of unit owners shall cause to be prepared and submitted to
2 the unit owners an annual proposed budget at least 30 days before its adoption.

3 11B-111.

4 Except as provided in this title, and notwithstanding anything contained in any
5 of the documents of the homeowners association:

6 (1) Subject to the provisions of paragraph (4) of this section, all
7 meetings of the homeowners association, including meetings of the board of directors
8 or other governing body of the homeowners association or a committee of the
9 homeowners association, shall be open to all members of the homeowners association
10 or their agents;

11 (2) All members of the homeowners association shall be given
12 reasonable notice of all regularly scheduled open meetings of the homeowners
13 association;

14 **(3) (I) IF THE BOARD OF DIRECTORS OR OTHER GOVERNING**
15 **BODY OF THE HOMEOWNERS ASSOCIATION INTENDS TO VOTE ON THE ANNUAL**
16 **PROPOSED BUDGET AT AN UPCOMING MEETING, NOTICE OF THE VOTE MUST BE**
17 **INCLUDED IN THE NOTICE PROVIDED UNDER PARAGRAPH (2) OF THIS SECTION;**
18 **AND**

19 **(II) THE BOARD OF DIRECTORS OR OTHER GOVERNING**
20 **BODY OF THE HOMEOWNERS ASSOCIATION SHALL CAUSE TO BE PREPARED AND**
21 **SUBMITTED TO ALL MEMBERS OF THE HOMEOWNERS ASSOCIATION AN ANNUAL**
22 **PROPOSED BUDGET AT LEAST 30 DAYS BEFORE ITS ADOPTION;**

23 **[(3) (4) (i)** This paragraph does not apply to any meeting of a
24 governing body that occurs at any time before the lot owners, other than the developer,
25 have a majority of votes in the homeowners association, as provided in the declaration;

26 (ii) Subject to subparagraph (iii) of this paragraph and to
27 reasonable rules adopted by a governing body, a governing body shall provide a
28 designated period of time during a meeting to allow lot owners an opportunity to
29 comment on any matter relating to the homeowners association;

30 (iii) During a meeting at which the agenda is limited to specific
31 topics or at a special meeting, the lot owners' comments may be limited to the topics
32 listed on the meeting agenda; and

33 (iv) The governing body shall convene at least one meeting each
34 year at which the agenda is open to any matter relating to the homeowners
35 association;

1 **[(4)] (5)** A meeting of the board of directors or other governing body
2 of the homeowners association or a committee of the homeowners association may be
3 held in closed session only for the following purposes:

4 (i) Discussion of matters pertaining to employees and
5 personnel;

6 (ii) Protection of the privacy or reputation of individuals in
7 matters not related to the homeowners association's business;

8 (iii) Consultation with legal counsel on legal matters;

9 (iv) Consultation with staff personnel, consultants, attorneys,
10 board members, or other persons in connection with pending or potential litigation or
11 other legal matters;

12 (v) Investigative proceedings concerning possible or actual
13 criminal misconduct;

14 (vi) Consideration of the terms or conditions of a business
15 transaction in the negotiation stage if the disclosure could adversely affect the
16 economic interests of the homeowners association;

17 (vii) Compliance with a specific constitutional, statutory, or
18 judicially imposed requirement protecting particular proceedings or matters from
19 public disclosure; or

20 (viii) Discussion of individual owner assessment accounts; and

21 **[(5)] (6)** If a meeting is held in closed session under paragraph **[(4)]**
22 **(5)** of this section:

23 (i) An action may not be taken and a matter may not be
24 discussed if it is not permitted by paragraph **[(4)] (5)** of this section; and

25 (ii) A statement of the time, place, and purpose of a closed
26 meeting, the record of the vote of each board or committee member by which the
27 meeting was closed, and the authority under this section for closing a meeting shall be
28 included in the minutes of the next meeting of the board of directors or the committee
29 of the homeowners association.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2010.