

# SENATE BILL 800

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By: **Senator Klausmeier**

Introduced and read first time: February 10, 2010

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 16, 2010

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Common Ownership Communities – Fidelity Insurance – Exemption**

3 FOR the purpose of limiting the applicability of a certain requirement that the  
4 governing bodies of certain common ownership communities purchase fidelity  
5 insurance; exempting the governing body of a cooperative housing corporation, a  
6 condominium, or a homeowners association with ~~fewer than~~ a certain number or  
7 fewer of members, units, or lot owners and with less than a certain amount of  
8 common charges, assessments, or fees from the requirement of purchasing  
9 fidelity insurance; and generally relating to fidelity insurance and common  
10 ownership communities.

11 BY repealing and reenacting, with amendments,  
12 Article – Corporations and Associations  
13 Section 5–6B–18.6  
14 Annotated Code of Maryland  
15 (2007 Replacement Volume and 2009 Supplement)

16 BY repealing and reenacting, with amendments,  
17 Article – Real Property  
18 Section 11–114.1 and 11B–111.6  
19 Annotated Code of Maryland  
20 (2003 Replacement Volume and 2009 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
22 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.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 **Article – Corporations and Associations**

2 5–6B–18.6.

3 (a) **THIS SECTION DOES NOT APPLY TO A COOPERATIVE HOUSING**  
4 **CORPORATION:**

5 **(1) THAT HAS ~~FEWER THAN~~ FOUR OR FEWER MEMBERS; AND**

6 **(2) FOR WHICH 3 MONTHS' WORTH OF GROSS COMMON CHARGES**  
7 **IS LESS THAN \$2,500.**

8 **(B)** (1) The board of directors or other governing body of a cooperative  
9 housing corporation shall purchase fidelity insurance not later than the time of the  
10 first sale of a cooperative interest with respect to a unit to a person other than the  
11 developer and shall keep fidelity insurance in place for each year thereafter.

12 (2) The fidelity insurance required under paragraph (1) of this  
13 subsection shall provide for the indemnification of the cooperative housing corporation  
14 against loss resulting from acts or omissions arising from fraud, dishonesty, or  
15 criminal acts by:

16 (i) Any officer, director, managing agent, or other agent or  
17 employee charged with the operation or maintenance of the cooperative housing  
18 corporation who controls or disburses funds; and

19 (ii) Any management company employing a management agent  
20 or other employee charged with the operation or maintenance of the cooperative  
21 housing corporation who controls or disburses funds.

22 **[(b)] (C)** A copy of the fidelity insurance policy shall be included in the  
23 books and records kept and made available by or on behalf of the cooperative housing  
24 corporation under § 5–6B–18.5 of this subtitle.

25 **[(c)] (D)** (1) The amount of the fidelity insurance required under  
26 subsection (a) of this section shall equal at least the lesser of:

27 (i) 3 months' worth of gross common charges and the total  
28 amount held in all investment accounts at the time the fidelity insurance is issued; or

29 (ii) \$3,000,000.

30 (2) The total liability of the insurance to all insured persons under the  
31 fidelity insurance may not exceed the sum of the fidelity insurance.



1           (2)    The total liability of the insurance to all insured persons under the  
2 fidelity insurance may not exceed the sum of the fidelity insurance.

3           **[(d)] (E)**    If a unit owner believes that the council of unit owners or other  
4 governing body of a condominium has failed to comply with the requirements of this  
5 section, the aggrieved unit owner may submit the dispute to the Division of Consumer  
6 Protection of the Office of the Attorney General under § 11–130 of this title.

7 11B–111.6.

8           (a)    **THIS SECTION DOES NOT APPLY TO A HOMEOWNERS ASSOCIATION:**

9                   (1)    **THAT HAS ~~FEWER THAN~~ FOUR OR FEWER LOT OWNERS; AND**

10                   (2)    **FOR WHICH 3 MONTHS' WORTH OF GROSS ANNUAL**  
11 **HOMEOWNERS ASSOCIATION FEES IS LESS THAN \$2,500.**

12           **(B)** (1)    The board of directors or other governing body of a homeowners  
13 association shall purchase fidelity insurance not later than the time of the first  
14 conveyance of a lot to a person other than the declarant and shall keep fidelity  
15 insurance in place for each year thereafter.

16           (2)    The fidelity insurance required under paragraph (1) of this  
17 subsection shall provide for the indemnification of the homeowners association against  
18 loss resulting from acts or omissions arising from fraud, dishonesty, or criminal acts  
19 by:

20                   (i)    Any officer, director, managing agent, or other agent or  
21 employee charged with the operation or maintenance of the homeowners association  
22 who controls or disburses funds; and

23                   (ii)   Any management company employing a management agent  
24 or other employee charged with the operation or maintenance of the homeowners  
25 association who controls or disburses funds.

26           **[(b)] (C)**    A copy of the fidelity insurance policy shall be included in the  
27 books and records kept and made available by or on behalf of the homeowners  
28 association under § 11B–112 of this title.

29           **[(c)] (D)** (1)    The amount of the fidelity insurance required under  
30 subsection (a) of this section shall equal at least the lesser of:

31                   (i)    3 months' worth of gross annual homeowners association  
32 fees and the total amount held in all investment accounts at the time the fidelity  
33 insurance is issued; or

34                   (ii)   \$3,000,000.

1           (2)     The total liability of the insurance to all insured persons under the  
2 fidelity insurance may not exceed the sum of the fidelity insurance.

3           **[(d)] (E)**     If a lot owner believes that the board of directors or other  
4 governing body of a homeowners association has failed to comply with the  
5 requirements of this section, the aggrieved lot owner may submit the dispute to the  
6 Division of Consumer Protection of the Office of the Attorney General under  
7 § 11B–115 of this title.

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

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.