

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 266 (Senator Kelley, *et al.*)
Judicial Proceedings

Real Property - Common Ownership Communities - Dispute Settlement
Mechanism

This bill amends the Maryland Condominium Act (MCA) to apply an existing dispute settlement mechanism to all condominiums, regardless of the procedures set forth in a condominium's declaration or bylaws. The bill also amends the Maryland Homeowners Association Act (MHAA) to apply MCA's dispute settlement mechanism to homeowners associations (HOAs), regardless of the procedures set forth in an HOA's declaration or bylaws.

The bill applies prospectively and may not be applied to any complaint or demand arising before the bill's October 1, 2011 effective date.

Fiscal Summary

State Effect: The bill does not directly affect State finances or operations.

Local Effect: It is anticipated that any additional court cases arising from extension of the bill's dispute settlement mechanism to HOA's can be handled with existing resources.

Small Business Effect: None.

Analysis

Current Law: MHAA does not set forth a dispute settlement mechanism.

Under MCA, unless the declaration or bylaws of a condominium state otherwise, the governing body of a condominium may not impose a fine, suspend voting, or infringe

upon the rights of a unit owner or other occupant for a violation of condominium rules until a written demand to cease and desist is served upon the alleged violator that specifies (1) the alleged violation; (2) the action required to abate the violation; and (3) a time period of at least 10 days during which an ongoing violation may be abated without further sanction.

If a violation continues beyond the abatement period noted in the governing body's written demand to cease and desist, or if the same rule is subsequently violated, the alleged violator must be served with written notice of a hearing to be held during an upcoming meeting of the governing body. The notice must be sent to the violator at least 10 days before the hearing; contain a description of the alleged violation and proposed sanction; and inform the individual of the opportunity to produce any statement, evidence, and witnesses on his or her behalf.

The hearing must be held in an executive session of the governing body and afford the alleged violator a reasonable opportunity to be heard. The meeting minutes must contain the results of the hearing and the details of any sanction, if imposed. A decision made pursuant to these procedures is appealable to the courts.

If a unit owner fails to comply with MCA, the condominium's declaration or bylaws, or a council of unit owners' decision made pursuant to these procedures, the unit owner may be sued for damages, injunctive relief, or both by the council of unit owners or any other unit owner. Attorney's fees may be awarded by the court to the prevailing party.

Additional Information

Prior Introductions: None.

Cross File: HB 984 (Delegate Braveboy) – Environmental Matters.

Information Source(s): Office of the Attorney General (Consumer Protection Division), Secretary of State, Department of Legislative Services

Fiscal Note History: First Reader - February 14, 2011
ncs/kdm

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