

HOUSE BILL 1358

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By: **Delegates B. Robinson, Conaway, and Tarrant**

Introduced and read first time: February 20, 2012

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Residential Condominiums – Investor Ownership and Owner Occupancy**
3 **Requirements**

4 FOR the purpose of establishing requirements for certain residential condominiums
5 that limit investor ownership of units and require a certain percentage of owner
6 occupancy of units under certain circumstances; establishing certain methods
7 for certain residential condominiums to transition to the investor owner and
8 owner occupant requirements of this Act; providing limited voting rights for
9 certain investor owners during a certain transition period; requiring that a unit
10 be sold under certain circumstances to a person who makes a certain
11 declaration of owner occupancy; authorizing the forfeiture of voting rights for a
12 certain unit owner who changes the use of the unit within a certain period of
13 time after purchase; authorizing an aggrieved unit owner under certain
14 circumstances to file a certain claim with the Division of Consumer Protection of
15 the Office of the Attorney General; requiring, under certain circumstances, that
16 the declaration and the bylaws of a residential condominium provide
17 information regarding certain investor ownership, owner occupancy, and voting
18 rights requirements; requiring, under certain circumstances, that a public
19 offering statement for the initial sale of a residential condominium contain
20 certain information regarding investor ownership and owner occupancy
21 requirements; authorizing the Division to grant an exemption from certain
22 owner occupancy requirements for condominiums in certain resort areas;
23 requiring the council of unit owners of a condominium with an exemption to file
24 the exemption with the deed in the county records and amend its bylaws;
25 requiring the Division to enforce the provisions of this Act; stating the intent of
26 the General Assembly; providing for the application of this Act; and generally
27 relating to investor ownership and owner occupancy requirements for
28 residential condominiums.

29 BY repealing and reenacting, with amendments,
30 Article – Real Property

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Section 11-103(a)(5) and (6), 11-104(b) and (d), 11-126(b)(17) and (18), and
11-130
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

BY adding to
Article – Real Property
Section 11-103(a)(7) and 11-103.2
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

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

Article – Real Property

11-103.

(a) The declaration shall express at least the following particulars:

(5) The percentage interests appurtenant to each unit as provided in §
11-107 of this title **AND, IF APPLICABLE, AS PROVIDED IN § 11-103.2(C) OF THIS
TITLE.**

(6) The number of votes at meetings of the council of unit owners
appurtenant to each unit **AND, IF APPLICABLE, AS PROVIDED IN § 11-103.2(E) OF
THIS TITLE.**

**(7) THE REQUIREMENTS, IF APPLICABLE, OF INVESTOR
OWNERSHIP AND OWNER OCCUPANCY OF UNITS AS PROVIDED IN § 11-103.2 OF
THIS TITLE.**

11-103.2.

**(A) THIS SECTION ESTABLISHES REQUIREMENTS FOR INVESTOR
OWNERSHIP AND OWNER OCCUPANCY OF UNITS IN A RESIDENTIAL
CONDOMINIUM REGIME.**

**(B) THIS SECTION APPLIES TO RESIDENTIAL CONDOMINIUMS OF 10 OR
MORE UNITS.**

**(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
SUBSECTION, NO SINGLE ENTITY MAY OWN MORE THAN 10% OF THE UNITS OF A
CONDOMINIUM.**

1 **(2) THIS SUBSECTION DOES NOT APPLY TO UNOCCUPIED AND**
2 **UNSOLD UNITS OWNED BY A DEVELOPER OR UNITS THAT THE DEVELOPER MAY**
3 **RENT TO TENANTS UNTIL THE DATE OF TRANSFER OF CONTROL FROM THE**
4 **DEVELOPER TO THE COUNCIL OF UNIT OWNERS AS PROVIDED IN § 11-109 OF**
5 **THIS TITLE.**

6 **(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
7 **SUBSECTION, AFTER THE DATE OF THE TRANSFER OF CONTROL FROM THE**
8 **DEVELOPER TO THE COUNCIL OF UNIT OWNERS AS PROVIDED IN § 11-109 OF**
9 **THIS TITLE, AT LEAST 50% OF THE UNITS MUST BE OWNER-OCCUPIED UNITS.**

10 **(2) IN A RESORT COMMUNITY WHERE A UNIT OWNER MAY BE**
11 **EXPECTED TO OFFER THE UNIT FOR SHORT-TERM VACATION RENTAL, THE**
12 **CONDOMINIUM MAY REQUEST AN EXEMPTION FROM THE OWNER OCCUPANCY**
13 **REQUIREMENT OF THIS SUBSECTION FROM THE OFFICE OF THE ATTORNEY**
14 **GENERAL IN ACCORDANCE WITH § 11-130(c)(3) OF THIS TITLE.**

15 **(E) (1) THIS SUBSECTION ESTABLISHES THE METHOD BY WHICH A**
16 **CONDOMINIUM TRANSITIONS TO THE INVESTOR OWNERSHIP AND OWNER**
17 **OCCUPANCY REQUIREMENTS OF THIS SECTION.**

18 **(2) (I) IF MORE THAN 10% OF THE UNITS OF A CONDOMINIUM**
19 **ARE OWNED BY A SINGLE ENTITY INVESTOR, DURING THE PERIOD OF**
20 **TRANSITION TO THE REQUIREMENT OF 10% SINGLE ENTITY INVESTOR**
21 **OWNERSHIP, NOTWITHSTANDING THE RULES ON VOTING RIGHTS ESTABLISHED**
22 **IN § 11-107 OF THIS TITLE, THE VOTING POWER OF A SINGLE ENTITY INVESTOR**
23 **OWNER IS LIMITED TO 10%.**

24 **(II) 1. IF LESS THAN 50% OF THE UNITS ARE**
25 **OWNER-OCCUPIED UNITS, A CONDOMINIUM UNIT THAT IS OFFERED FOR SALE**
26 **MAY BE SOLD ONLY TO A PERSON WHO WILL OCCUPY THE UNIT.**

27 **2. IF A PERSON PURCHASES A UNIT WITH THE**
28 **DECLARED PURPOSE OF LIVING IN THE UNIT AND, WITHIN 5 YEARS OF THE**
29 **PURCHASE, CHANGES THE USE OF THE UNIT TO INVESTMENT PROPERTY, THE**
30 **PERSON FORFEITS THE VOTING RIGHTS ASSOCIATED WITH THAT PROPERTY**
31 **UNDER § 11-107 OF THIS TITLE FOR ANY BUSINESS CONDUCTED BY THE**
32 **COUNCIL OF UNIT OWNERS FOR THE REMAINDER OF THE 5-YEAR PERIOD**
33 **FOLLOWING THE PURCHASE.**

34 **(F) IF A DEVELOPER, COUNCIL OF UNIT OWNERS, OR UNIT OWNER**
35 **FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION, AN AGGRIEVED**
36 **UNIT OWNER MAY FILE A COMPLAINT WITH THE DIVISION OF CONSUMER**

**PROTECTION OF THE OFFICE OF THE ATTORNEY GENERAL UNDER § 11-130(C)
OF THIS TITLE.**

11-104.

(b) The bylaws shall express at least the following particulars:

(1) The form of administration, indicating whether the council of unit owners shall be incorporated or unincorporated, and whether, and to what extent, the duties of the council of unit owners may be delegated to a board of directors, manager, or otherwise, and specifying the powers, manner of selection, and removal of them;

(2) The mailing address of the council of unit owners;

(3) The method of calling the unit owners to assemble; the attendance necessary to constitute a quorum at any meeting of the council of unit owners; the manner of notifying the unit owners of any proposed meeting; who presides at the meetings of the council of unit owners, who keeps the minute book for recording the resolutions of the council of unit owners, and who counts votes at meetings of the council of unit owners; [and]

(4) The manner of assessing against and collecting from unit owners their respective shares of the common expenses; AND

(5) IF APPLICABLE, THE MANNER OF ENFORCING THE INVESTOR OWNERSHIP AND OWNER OCCUPANCY REQUIREMENTS OF § 11-103.2 OF THIS TITLE ON UNIT OWNERS AND PURCHASERS OF UNITS.

(d) (1) The bylaws may contain a provision prohibiting any unit owner from voting at a meeting of the council of unit owners if the council of unit owners has recorded a statement of condominium lien on his unit and the amount necessary to release the lien has not been paid at the time of the meeting.

(2) IF APPLICABLE, THE BYLAWS SHALL CONTAIN A PROVISION PROHIBITING A UNIT OWNER FROM VOTING AT A MEETING OF THE COUNCIL OF UNIT OWNERS IF THE UNIT OWNER HAS VIOLATED THE REQUIREMENTS OF § 11-103.2(E) OF THIS TITLE.

11-126.

(b) The public offering statement required by subsection (a) of this section shall be sufficient for the purposes of this section if it contains at least the following:

(17) A written notice of the unit owner's responsibility for the council of unit owners' property insurance deductible and the amount of the deductible; [and]

1 (18) IF APPLICABLE, A WRITTEN NOTICE OF THE INVESTOR
2 OWNERSHIP AND OWNER OCCUPANCY REQUIREMENTS OF § 11-103.2 OF THIS
3 TITLE; AND

4 (19) Any other information required by regulation duly adopted and
5 issued by the Secretary of State.

6 11-130.

7 (a) This section is intended to provide minimum standards for the protection
8 of consumers in the State.

9 (b) (1) For purposes of this section, "consumer" means an actual or
10 prospective purchaser, lessee, assignee or recipient of a condominium unit.

11 (2) "Consumer" includes a co-obligor or surety for a consumer.

12 (c) (1) To the extent that a violation of any provision of this title affects a
13 consumer, that violation shall be within the scope of the enforcement duties and
14 powers of the Division of Consumer Protection of the Office of the Attorney General, as
15 described in Title 13 of the Commercial Law Article.

16 (2) The provisions of this title shall otherwise be enforced by each
17 agency of the State within the scope of its authority.

18 (3) (I) ON APPLICATION BY THE COUNCIL OF UNIT OWNERS OF
19 A CONDOMINIUM LOCATED IN A RESORT COMMUNITY, THE DIVISION OF
20 CONSUMER PROTECTION OF THE OFFICE OF THE ATTORNEY GENERAL MAY
21 GRANT AN EXEMPTION TO THE OWNER OCCUPANCY REQUIREMENTS OF §
22 11-103.2 OF THIS TITLE.

23 (II) IF A CONDOMINIUM IS GRANTED AN EXEMPTION UNDER
24 THIS SUBSECTION, THE COUNCIL OF UNIT OWNERS SHALL FILE THE EXEMPTION
25 WITH THE DEED IN THE COUNTY RECORDS AND AMEND ITS BYLAWS TO INCLUDE
26 THE NOTICE OF THE EXEMPTION.

27 (4) THE DIVISION OF CONSUMER PROTECTION OF THE OFFICE
28 OF THE ATTORNEY GENERAL SHALL ENFORCE THE INVESTOR OWNERSHIP AND
29 OWNER OCCUPANCY REQUIREMENTS OF § 11-103.2 OF THIS TITLE.

30 (d) A county or incorporated municipality, or an agency of any of those
31 jurisdictions, may adopt laws or ordinances for the protection of a consumer to the
32 extent and in the manner provided for under § 13-103 of the Commercial Law Article.

1 (e) Within 30 days of the effective date of a law, ordinance, or regulation
2 enacted under this section which is expressly applicable to condominiums, the local
3 jurisdiction shall forward a copy of the law, ordinance or regulation to the Secretary of
4 State.

5 SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the
6 General Assembly that any residential condominium of 10 or more units that is in
7 existence on September 30, 2012, shall amend its declaration and bylaws to reflect the
8 requirements of this Act.

9 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2012.