

SENATE BILL 202

N1
SB 995/11 – JPR

2lr0530
CF HB 79

By: **Senators Kelley, Benson, Forehand, Klausmeier, Montgomery, Ramirez,
Rosapepe, and Young**

Introduced and read first time: January 20, 2012

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Condominiums and Homeowners Associations – Governing**
3 **Bodies**

4 FOR the purpose of requiring the governing body of a condominium to convene at least
5 a certain number of meetings each year; requiring the developer of a
6 condominium to appoint a certain person to the governing body within a certain
7 period of time from the date a certain number of units is conveyed under certain
8 circumstances; requiring a developer to deliver certain notices regarding a
9 certain bond to certain individuals within a certain period of time; requiring a
10 council of unit owners to keep books, records, and accounts beginning on the
11 date the council is established; requiring a council of unit owners to maintain
12 certain books, records, and accounts in a certain manner; making certain
13 provisions of law applicable to the accounts of a condominium; requiring a
14 declarant to appoint a certain person to the governing body of a homeowners
15 association within a certain period of time from the date a certain number of
16 lots is sold under certain circumstances; requiring a declarant to deliver certain
17 notices regarding a certain bond to certain individuals within a certain period of
18 time; requiring the governing body of a homeowners association to convene at
19 least a certain number of meetings each year; requiring a homeowners
20 association to maintain books, records, and accounts beginning on the date the
21 homeowners association is established; requiring a homeowners association to
22 maintain certain books, records, and accounts in a certain manner; making
23 certain provisions of law applicable to the accounts of a homeowners
24 association; and generally relating to the governing bodies of condominium
25 councils of unit owners and homeowners associations.

26 BY repealing and reenacting, without amendments,
27 Article – Real Property
28 Section 11–109(a) and (b)
29 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2010 Replacement Volume and 2011 Supplement)

2 BY repealing and reenacting, with amendments,
3 Article – Real Property
4 Section 11–109(c), 11–114.1(d), 11–116, 11–132, 11B–106.1, 11B–111,
5 11B–111.6(d), and 11B–112(a)
6 Annotated Code of Maryland
7 (2010 Replacement Volume and 2011 Supplement)

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

10 **Article – Real Property**

11 11–109.

12 (a) The affairs of the condominium shall be governed by a council of unit
13 owners which, even if unincorporated, is constituted a legal entity for all purposes.
14 The council of unit owners shall be comprised of all unit owners.

15 (b) The bylaws may authorize or provide for the delegation of any power of
16 the council of unit owners to a board of directors, officers, managing agent, or other
17 person for the purpose of carrying out the responsibilities of the council of unit owners.

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

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

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

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

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

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

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

33 (i) As provided in the bylaws; or

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

3 (6) (I) **THE GOVERNING BODY SHALL CONVENE AT LEAST TWO**
4 **MEETINGS EACH YEAR.**

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

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

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

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

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

21 (8) (i) Unless the bylaws provide otherwise, a quorum is deemed
22 present throughout any meeting of the council of unit owners if persons entitled to cast
23 25 percent of the total number of votes appurtenant to all units are present in person
24 or by proxy.

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

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

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

33 (iii) 1. Fifteen days' notice of the time, place, and purpose of
34 the additional meeting shall be delivered, mailed, or sent by electronic transmission if

1 the requirements of § 11–139.1 of this title are met, to each unit owner at the address
2 shown on the roster maintained under paragraph (2) of this subsection.

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

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

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

9 A. May approve or authorize the proposed action at the
10 additional meeting; and

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

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

16 (9) At meetings of the council of unit owners each unit owner shall be
17 entitled to cast the number of votes appurtenant to his unit. Unit owners may vote by
18 proxy, but the proxy is effective only for a maximum period of 180 days following its
19 issuance, unless granted to a lessee or mortgagee.

20 (10) Any proxy may be revoked at any time at the pleasure of the unit
21 owner or unit owners executing the proxy.

22 (11) A proxy who is not appointed to vote as directed by a unit owner
23 may only be appointed for purposes of meeting quorums and to vote for matters of
24 business before the council of unit owners, other than an election of officers and
25 members of the board of directors.

26 (12) Only a unit owner voting in person or by electronic transmission if
27 the requirements of § 11–139.2 of this title are met or a proxy voting for candidates
28 designated by a unit owner may vote for officers and members of the board of
29 directors.

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

1 (14) Election materials prepared with funds of the council of unit
2 owners shall list candidates in alphabetical order and may not indicate a candidate
3 preference.

4 (15) Unless otherwise provided in this title, and subject to provisions in
5 the bylaws requiring a different majority, decisions of the council of unit owners shall
6 be made on a majority of votes of the unit owners listed on the current roster present
7 and voting.

8 **(16) IF THERE IS A GOVERNING BODY FOR THE COUNCIL OF UNIT**
9 **OWNERS ALREADY ESTABLISHED BY THE DEVELOPER, WITHIN 30 DAYS FROM**
10 **THE DATE THAT UNITS REPRESENTING 25 PERCENT OF THE VOTES IN THE**
11 **CONDOMINIUM HAVE BEEN CONVEYED BY THE DEVELOPER TO MEMBERS OF**
12 **THE PUBLIC FOR RESIDENTIAL PURPOSES, THE DEVELOPER SHALL APPOINT AT**
13 **LEAST ONE MEMBER TO THAT GOVERNING BODY WHO IS:**

14 **(I) A UNIT OWNER; AND**

15 **(II) NOT OTHERWISE AFFILIATED WITH THE DEVELOPER.**

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

19 1. 60 days from the date that units representing 50
20 percent of the votes in the condominium have been conveyed by the developer to
21 members of the public for residential purposes; or

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

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

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

30 (iii) If a replacement board member is elected, the term of each
31 member of the board of directors appointed by the developer shall end 10 days after
32 the meeting is held as specified in subparagraph (i) of this paragraph.

33 **(IV) 1. WITHIN 15 DAYS FROM THE DATE OF THE**
34 **MEETING HELD UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE**

1 DEVELOPER SHALL DELIVER TO EACH OF THE OFFICERS OR MEMBERS OF THE
2 BOARD OF DIRECTORS FOR THE COUNCIL OF UNIT OWNERS NOTICE OF:

3 A. ANY BOND PROVIDED BY THE DEVELOPER TO A
4 GOVERNMENTAL UNIT IN CONNECTION WITH THE DEVELOPMENT; AND

5 B. THE NAME, ADDRESS, AND PHONE NUMBER OF
6 THE PERSON THROUGH WHICH A CLAIM AGAINST THE BOND MAY BE ASSERTED.

7 2. AT LEAST 30 DAYS BEFORE A DEVELOPER
8 REQUESTS TO BE RELEASED FROM A BOND PROVIDED BY THE DEVELOPER TO A
9 GOVERNMENTAL UNIT, THE DEVELOPER SHALL DELIVER TO EACH OF THE
10 OFFICERS OR MEMBERS OF THE BOARD OF DIRECTORS FOR THE COUNCIL OF
11 UNIT OWNERS NOTICE OF:

12 A. THE INTENTION TO BE RELEASED FROM THE
13 BOND; AND

14 B. THE NAME, ADDRESS, AND PHONE NUMBER OF
15 THE PERSON THROUGH WHICH A CLAIM AGAINST THE BOND MAY BE ASSERTED.

16 [(iv)] (v) Within 30 days from the date of the meeting held
17 under subparagraph (i) of this paragraph, the developer shall deliver to the officers or
18 board of directors for the council of unit owners, as provided in the condominium
19 declaration or bylaws, at the developer's expense:

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

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

23 3. The tangible property of the condominium; and

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

26 [(v)] (VI) 1. This subparagraph does not apply to a contract
27 entered into before October 1, 2009.

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

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

1 other governing body of the condominium shall compile and send the requested
2 information by mail, electronic transmission, or personal delivery:

3 1. Within 21 days after receipt of the written request, if
4 the financial statements or minutes were prepared within the 3 years immediately
5 preceding receipt of the request; or

6 2. Within 45 days after receipt of the written request, if
7 the financial statements or minutes were prepared more than 3 years before receipt of
8 the request.

9 (2) Books [and], records, AND ACCOUNTS required to be made
10 available under paragraph (1) of this subsection shall first be made available to a unit
11 owner not later than 15 business days after a unit is conveyed from a developer and
12 the unit owner requests to examine or copy the books and records.

13 (3) Books [and], records, AND ACCOUNTS kept by or on behalf of a
14 council of unit owners may be withheld from public inspection, except for inspection by
15 the person who is the subject of the record or the person's designee or guardian, to the
16 extent that they concern:

17 (i) Personnel records, not including information on individual
18 salaries, wages, bonuses, and other compensation paid to employees;

19 (ii) An individual's medical records;

20 (iii) An individual's personal financial records, including assets,
21 income, liabilities, net worth, bank balances, financial history or activities, and
22 creditworthiness;

23 (iv) Records relating to business transactions that are currently
24 in negotiation;

25 (v) The written advice of legal counsel; or

26 (vi) Minutes of a closed meeting of the board of directors or other
27 governing body of the council of unit owners, unless a majority of a quorum of the
28 board of directors or governing body that held the meeting approves unsealing the
29 minutes or a recording of the minutes for public inspection.

30 (d) (1) Except for a reasonable charge imposed on a person desiring to
31 review or copy the books [and], records, AND ACCOUNTS or who requests delivery of
32 information, the council of unit owners may not impose any charges under this section.

33 (2) A charge imposed under paragraph (1) of this subsection for
34 copying books [and], records, AND ACCOUNTS may not exceed the limits authorized
35 under Title 7, Subtitle 2 of the Courts Article.

1 11-132.

2 On transfer of control by the developer to the council of unit owners, the
3 developer shall turn over documents including:

4 (1) Copies of the condominium's filed articles of incorporation,
5 recorded declaration, and all recorded covenants, bylaws, plats, and restrictions of the
6 condominium;

7 (2) Subject to the restrictions of § 11-116 of this title, all books [and],
8 records, **AND ACCOUNTS** of the condominium, including financial statements, minutes
9 of any meeting of the governing body, and completed business transactions;

10 (3) Any policies, rules, and regulations adopted by the governing body;

11 (4) The financial records of the condominium from the date of creation
12 to the date of transfer of control, including budget information regarding estimated
13 and actual expenditures by the condominium and any report relating to the reserves
14 required for major repairs and replacement of the common elements of the
15 condominium;

16 (5) A copy of all contracts to which the condominium is a party;

17 (6) The name, address, and telephone number of any contractor or
18 subcontractor employed by the condominium;

19 (7) Any insurance policies in effect and all prior insurance policies;

20 (8) Any permit or notice of code violation issued to the condominium
21 by the county, local, State, or federal government;

22 (9) Any warranty in effect;

23 (10) Drawings, architectural plans, or other suitable documents setting
24 forth the necessary information for location, maintenance, and repair of all
25 condominium facilities; and

26 (11) Individual owner files and records, including assessment account
27 records, correspondence, and notices of any violations.

28 11B-106.1.

29 **(A) IF THERE IS A GOVERNING BODY FOR THE HOMEOWNERS**
30 **ASSOCIATION ALREADY ESTABLISHED BY THE DECLARANT, WITHIN 30 DAYS**
31 **FROM THE DATE THAT AT LEAST 25 PERCENT OF THE TOTAL NUMBER OF LOTS**

1 THAT MAY BE PART OF THE DEVELOPMENT AFTER ALL PHASES ARE COMPLETE
2 ARE SOLD TO MEMBERS OF THE PUBLIC FOR RESIDENTIAL PURPOSES, THE
3 DECLARANT SHALL APPOINT AT LEAST ONE MEMBER TO THAT GOVERNING
4 BODY WHO IS:

5 (1) A LOT OWNER; AND

6 (2) NOT OTHERWISE AFFILIATED WITH THE DECLARANT OR A
7 VENDOR OF LOTS IN THE DEVELOPMENT.

8 [(a)] (B) A meeting of the members of the homeowners association to elect a
9 governing body of the homeowners association shall be held within:

10 (1) 60 days from the date that at least 75% of the total number of lots
11 that may be part of the development after all phases are complete are sold to members
12 of the public for residential purposes; or

13 (2) If a lesser percentage is specified in the governing documents of
14 the homeowners association, 60 days from the date the specified lesser percentage of
15 the total number of lots in the development after all phases are complete are sold to
16 members of the public for residential purposes.

17 [(b)] (C) (1) Before the date of the meeting held under subsection [(a)]
18 (B) of this section, the declarant shall deliver to each lot owner notice that the
19 requirements of subsection [(a)] (B) of this section have been met.

20 (2) The notice shall include the date, time, and place of the meeting to
21 elect the governing body of the homeowners association.

22 [(c)] (D) The term of each member of the governing body of the homeowners
23 association appointed by the declarant shall end 10 days after the meeting under
24 subsection [(a)] (B) of this section is held, if a replacement board member is elected.

25 [(d)] (E) Within 30 days from the date of the meeting held under subsection
26 [(a)] (B) of this section, the declarant shall deliver the following items to the governing
27 body at the declarant's expense:

28 (1) The deeds to the common areas;

29 (2) Copies of the homeowners association's filed articles of
30 incorporation, declaration, and all recorded covenants, plats, restrictions, and any
31 other records of the primary development and of related developments;

- 1 (3) A copy of the bylaws and rules of the primary development and of
2 other related developments as filed in the depository of the county in which the
3 development is located;
- 4 (4) The minute books, including all minutes;
- 5 (5) Subject to the restrictions of § 11B–112 of this title, all books
6 [and], records, **AND ACCOUNTS** of the homeowners association, including financial
7 statements, minutes of any meeting of the governing body, and completed business
8 transactions;
- 9 (6) Any policies, rules, and regulations adopted by the governing body;
- 10 (7) The financial records of the homeowners association from the date
11 of creation to the date of transfer of control, including budget information regarding
12 estimated and actual expenditures by the homeowners association and any report
13 relating to the reserves required for major repairs and replacement of the common
14 areas of the homeowners association;
- 15 (8) A copy of all contracts to which the homeowners association is a
16 party;
- 17 (9) The name, address, and telephone number of any contractor or
18 subcontractor employed by the homeowners association;
- 19 (10) Any insurance policies in effect;
- 20 (11) Any permit or notice of code violations issued to the homeowners
21 association by the county, local, State, or federal government;
- 22 (12) Any warranty in effect and all prior insurance policies;
- 23 (13) The homeowners association funds, including operating funds,
24 replacement reserves, investment accounts, and working capital;
- 25 (14) The tangible property of the homeowners association;
- 26 (15) A roster of current lot owners, including their mailing addresses,
27 telephone numbers, and lot numbers, if known;
- 28 (16) Individual member files and records, including assessment account
29 records, correspondence, and notices of any violations; and
- 30 (17) Drawings, architectural plans, or other suitable documents setting
31 forth the necessary information for location, maintenance, and repairs of all common
32 areas.

1 ~~[(e)]~~ **(F)** (1) This subsection does not apply to a contract entered into
2 before October 1, 2009.

3 (2) (i) In this subsection, “contract” means an agreement with a
4 company or individual to handle financial matters, maintenance, or services for the
5 homeowners association.

6 (ii) “Contract” does not include an agreement relating to the
7 provision of utility services or communication systems.

8 (3) Until all members of the governing body are elected by the lot
9 owners at a transitional meeting under subsection ~~[(a)]~~ **(B)** of this section, a contract
10 entered into by the governing body may be terminated, at the discretion of the
11 governing body and without liability for the termination, not later than 30 days after
12 notice.

13 **(G) (1) WITHIN 15 DAYS FROM THE DATE OF THE MEETING HELD**
14 **UNDER SUBSECTION (B) OF THIS SECTION, THE DECLARANT SHALL DELIVER TO**
15 **EACH MEMBER OF THE GOVERNING BODY NOTICE OF:**

16 **(I) ANY BOND PROVIDED BY THE DECLARANT TO A**
17 **GOVERNMENTAL UNIT IN CONNECTION WITH THE DEVELOPMENT; AND**

18 **(II) THE NAME, ADDRESS, AND PHONE NUMBER OF THE**
19 **PERSON THROUGH WHICH A CLAIM AGAINST THE BOND MAY BE ASSERTED.**

20 **(2) AT LEAST 30 DAYS BEFORE A DECLARANT REQUESTS TO BE**
21 **RELEASED FROM A BOND PROVIDED BY THE DECLARANT TO A GOVERNMENTAL**
22 **UNIT, THE DECLARANT SHALL DELIVER TO EACH MEMBER OF THE GOVERNING**
23 **BODY NOTICE OF:**

24 **(I) THE INTENTION TO BE RELEASED FROM THE BOND; AND**

25 **(II) THE NAME, ADDRESS, AND PHONE NUMBER OF THE**
26 **PERSON THROUGH WHICH A CLAIM AGAINST THE BOND MAY BE ASSERTED.**

27 ~~[(f)]~~ **(H)** If the declarant fails to comply with the requirements of this
28 section, an aggrieved lot owner may submit the dispute to the Division of Consumer
29 Protection of the Office of the Attorney General under § 11B–115(c) of this title.

30 11B–111.

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

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

6 (2) All members of the homeowners association shall be given
7 reasonable notice of all regularly scheduled open meetings of the homeowners
8 association;

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

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

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

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

22 (4) A meeting of the board of directors or other governing body of the
23 homeowners association or a committee of the homeowners association may be held in
24 closed session only for the following purposes:

25 (i) Discussion of matters pertaining to employees and
26 personnel;

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

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

30 (iv) Consultation with staff personnel, consultants, attorneys,
31 board members, or other persons in connection with pending or potential litigation or
32 other legal matters;

33 (v) Investigative proceedings concerning possible or actual
34 criminal misconduct;

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

4 (vii) Compliance with a specific constitutional, statutory, or
5 judicially imposed requirement protecting particular proceedings or matters from
6 public disclosure; or

7 (viii) Discussion of individual owner assessment accounts; [and]

8 (5) If a meeting is held in closed session under paragraph (4) of this
9 section:

10 (i) An action may not be taken and a matter may not be
11 discussed if it is not permitted by paragraph (4) of this section; and

12 (ii) A statement of the time, place, and purpose of a closed
13 meeting, the record of the vote of each board or committee member by which the
14 meeting was closed, and the authority under this section for closing a meeting shall be
15 included in the minutes of the next meeting of the board of directors or the committee
16 of the homeowners association; **AND**

17 **(6) THE GOVERNING BODY SHALL CONVENE AT LEAST TWO**
18 **MEETINGS EACH YEAR.**

19 11B-111.6.

20 (d) A copy of the fidelity insurance policy or fidelity bond shall be included in
21 the books [and], records, **AND ACCOUNTS** kept and made available by or on behalf of
22 the homeowners association under § 11B-112 of this title.

23 11B-112.

24 (a) **(1) (I) THE HOMEOWNERS ASSOCIATION SHALL MAINTAIN**
25 **BOOKS, RECORDS, AND ACCOUNTS BEGINNING ON THE DATE THE HOMEOWNERS**
26 **ASSOCIATION IS ESTABLISHED.**

27 **(II) ALL BOOKS, RECORDS, AND ACCOUNTS KEPT BY THE**
28 **HOMEOWNERS ASSOCIATION SHALL BE MAINTAINED SEPARATE AND APART**
29 **FROM THE BOOKS, RECORDS, AND ACCOUNTS OF THE DECLARANT OR OF ANY**
30 **OTHER PERSON.**

31 **[(1)] (2)** (i) Subject to the provisions of paragraph **[(2)] (3)** of this
32 subsection, all books [and], records, **AND ACCOUNTS** kept by or on behalf of the
33 homeowners association shall be made available for examination or copying, or both,

1 by a lot owner, a lot owner's mortgagee, or their respective duly authorized agents or
2 attorneys, during normal business hours, and after reasonable notice.

3 (ii) Books [and], records, AND ACCOUNTS required to be made
4 available under subparagraph (i) of this paragraph shall first be made available to a
5 lot owner no later than 15 business days after a lot is conveyed by the declarant and
6 the lot owner requests to examine or copy the books [and], records, AND ACCOUNTS.

7 (iii) If a lot owner requests in writing a copy of financial
8 statements of the homeowners association or the minutes of a meeting of the
9 governing body of the homeowners association to be delivered, the governing body of
10 the homeowners association shall compile and send the requested information by mail,
11 electronic transmission, or personal delivery:

12 1. Within 21 days after receipt of the written request, if
13 the financial statements or minutes were prepared within the 3 years immediately
14 preceding receipt of the request; or

15 2. Within 45 days after receipt of the written request, if
16 the financial statements or minutes were prepared more than 3 years before receipt of
17 the request.

18 **[(2)] (3)** Books [and], records, AND ACCOUNTS kept by or on behalf
19 of a homeowners association may be withheld from public inspection, except for
20 inspection by the person who is the subject of the record or the person's designee or
21 guardian, to the extent that they concern:

22 (i) Personnel records, not including information on individual
23 salaries, wages, bonuses, and other compensation paid to employees;

24 (ii) An individual's medical records;

25 (iii) An individual's personal financial records, including assets,
26 income, liabilities, net worth, bank balances, financial history or activities, and
27 creditworthiness;

28 (iv) Records relating to business transactions that are currently
29 in negotiation;

30 (v) The written advice of legal counsel; or

31 (vi) Minutes of a closed meeting of the governing body of the
32 homeowners association, unless a majority of a quorum of the governing body of the
33 homeowners association that held the meeting approves unsealing the minutes or a
34 recording of the minutes for public inspection.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2012.