

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 850

(Delegates Gilchrist and Niemann)

Environmental Matters

Judicial Proceedings

Real Property - Condominiums - Payment of Assessments and Fees

This bill authorizes a council of unit owners of a condominium to petition the District Court for relief if a unit owner has failed to pay assessments and fees for a unit for 90 days or longer and is renting the unit to a tenant. The bill authorizes the District Court, after a hearing, to enter an order directing the tenant to pay all or a portion of the rent as the rent comes due under the lease to either the council of unit owners or a designated custodian.

Fiscal Summary

State Effect: Since it is assumed that this bill will apply in a limited number of cases, State finances are not materially affected.

Local Effect: The bill does not directly affect local governmental operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: A certified copy of the petition filed in the District Court must be mailed to the unit owner by certified mail, return receipt requested, to the last known address of the unit owner and served on the unit's tenant by personal service in accordance with the Maryland Rules.

If the District Court enters an order directing the tenant to pay rent, the bill requires the District Court to order the council of unit owners or the designated custodian to apply all

or a portion of the rent paid by the tenant under the order to payment of delinquent and any future assessments and fees.

The bill authorizes the District Court to impose reasonable attorney's fees and court costs on the unit owner and order that those fees and costs be paid from any future rent payments. The District Court's order directing the tenant to pay rent expires when the District Court has determined that all assessments and fees have been satisfied.

A unit owner may not take any action for failure to pay rent against a tenant who is ordered by the District Court to pay rent to the council of unit owners or a designated custodian.

Current Law: The Maryland Condominium Act authorizes the governing body of a condominium to charge up to 18% interest on any delinquent assessment or installment not paid when due. A condominium may charge a late fee of the greater of \$15 or 10% of the total amount of any delinquent assessment or installment if the delinquency has continued for at least 15 calendar days. The late charge may not be imposed more than once for the same delinquent payment.

If authorized by the bylaws, a council of unit owners may impose a lien on a unit in accordance with the Maryland Contract Lien Act (MCLA) to recover unpaid assessments, interest on unpaid assessments, late charges, collection costs, and reasonable attorney's fees. A deficiency lawsuit following a foreclosure along with a lawsuit to recover a money judgment for unpaid assessments may be maintained in the same proceeding without waiving the right to impose such a lien.

Chapter 387 of 2011 required specific information about the amount of regular monthly assessments to be included in a statement of lien filed under MCLA.

Additional Information

Prior Introductions: None.

Cross File: SB 685 (Senator Ramirez) - Judicial Proceedings.

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

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ncs/kdm

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