

Department of Legislative Services  
Maryland General Assembly  
2012 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 76

(Delegate Braveboy)

Environmental Matters

Judicial Proceedings

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Real Property - Common Ownership Communities - Dispute Settlement  
Mechanism

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This bill amends the Maryland Condominium Act (MCA) to apply an existing dispute settlement mechanism to all condominiums, unless the condominium's declaration or bylaws provide for a dispute resolution process that includes (1) notice to the unit owner or occupant, before the imposition of any penalty or sanction, explaining the violation and the action required to abate the violation; and (2) an opportunity for a hearing before a sanction or penalty is imposed. The bill also amends the Maryland Homeowners Association Act (MHAA) to add a dispute settlement mechanism that is nearly identical to MCA's dispute settlement and applies in the same circumstances. However, the dispute settlement mechanism added to MHAA only requires a hearing if the lot owner requests the hearing.

The bill applies prospectively and may not be applied to any complaint or demand arising before the bill's October 1, 2012 effective date.

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**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 homeowners associations can be handled with existing resources.

**Small Business Effect:** None.

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## 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.

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## Additional Information

**Prior Introductions:** HB 984 of 2011, a similar bill, received an unfavorable report from the House Environmental Matters Committee. Its cross file, SB 266, received an unfavorable report from the Senate Judicial Proceedings Committee.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - January 31, 2012  
mm/kdm Revised - House Third Reader - March 29, 2012

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