

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

Senate Bill 573

(Senator Frosh)

Judicial Proceedings

Real Property - Condominiums - Appointment of Receiver

This bill expands the circumstances under which three or more condominium unit owners may file a petition in a circuit court for appointment of a receiver to manage the affairs of the condominium. Under the bill, a petition may be filed if (1) the council of unit owners fails to fill enough vacancies on the board of directors to constitute a quorum as specified in the bylaws; (2) the directors are so divided respecting the management of the condominium that the votes required for action by the board of directors cannot be obtained; (3) the acts of the directors or of those in control of the condominium are illegal, oppressive, or fraudulent; (4) the condominium is unable to meet its debts as they mature in the ordinary course of business; (5) the board of directors has grossly mismanaged the affairs of the condominium; or (6) an act or failure to act by the board of directors would result in a significant risk of all or part of the condominium being damaged, destroyed, significantly diminished in value, or foreclosed.

The bill repeals a condition that allows unit owners to proceed with a petition to appoint a receiver (when the council of unit owners fails to fill vacancies sufficient to constitute a quorum within the notice period). The bill alters the time until which a receiver serves to be until the court appoints a successor or terminates the appointment.

Fiscal Summary

State Effect: Because the bill likely applies in limited cases, the bill's changes can be handled with existing budgeted resources.

Local Effect: The bill's changes can likely be handled with existing budgeted resources.

Small Business Effect: Minimal.

Analysis

Current Law: The affairs of a condominium are governed by a council of unit owners, which comprises all unit owners. Among other powers, the council of unit owners has the power to impose assessments on the unit owners to pay common expenses. A council of unit owners may delegate its powers to a board of directors, officers, or a managing agent.

Three or more unit owners in a condominium may petition the circuit court for the county where the condominium is located to appoint a receiver if there are not enough members of the board of directors or governing body sufficient to constitute a quorum. At least 30 days before filing, the petitioners must mail a notice describing the petition and the proposed action to the condominium's council of unit owners. Petitioners must also place a copy of the notice in a conspicuous place on the condominium property. If the council of unit owners fails to fill vacancies sufficient to constitute a quorum during the notice period, the petitioners may proceed with the petition.

A receiver appointed by the court may not reside in or own a unit in the condominium. A receiver has all powers and duties of a duly constituted board of directors and serves until the council of unit owners fills vacancies on the board of directors sufficient to constitute a quorum. The receiver's salary, court costs, and reasonable attorney's fees are common expenses of the condominium.

Background: The Secretary of State reports that 2,549 condominiums are registered in Maryland with a total of 164,324 units.

Additional Information

Prior Introductions: None.

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

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