

SENATE BILL 529

N1

7lr1387
CF 7lr2419

By: **Senator Benson**

Introduced and read first time: February 1, 2017

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Condominiums – Delinquent Owners – Restrictions on Common Element Usage**

3 FOR the purpose of authorizing a council of unit owners to enact certain bylaws prohibiting
4 or restricting the use of common elements by a unit owner who is delinquent in
5 payment of assessments under certain circumstances; providing certain
6 requirements for bylaws implementing a prohibition or restriction on the use of
7 certain common elements by certain delinquent owners; establishing the minimum
8 percentage of affirmative votes of unit owners required to amend certain governing
9 documents of a condominium for certain purposes; authorizing a council of unit
10 owners to prohibit or restrict a delinquent owner's use of common elements under a
11 certain provision of the declaration or bylaws; making conforming changes; and
12 generally relating to the restriction or prohibition of the use of common elements in
13 a condominium.

14 BY repealing and reenacting, without amendments,
15 Article – Real Property
16 Section 11–104(d)
17 Annotated Code of Maryland
18 (2015 Replacement Volume and 2016 Supplement)

19 BY adding to
20 Article – Real Property
21 Section 11–104(e)
22 Annotated Code of Maryland
23 (2015 Replacement Volume and 2016 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article – Real Property
26 Section 11–104(e), 11–108(a), and 11–109(d)
27 Annotated Code of Maryland
28 (2015 Replacement Volume and 2016 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Real Property**

4 11–104.

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

9 **(E) THE BYLAWS MAY CONTAIN A PROVISION PROHIBITING OR**
10 **RESTRICTING THE USE OF COMMON ELEMENTS BY A UNIT OWNER WHO IS**
11 **DELINQUENT IN PAYMENT OF ASSESSMENTS IF:**

12 **(1) THE COUNCIL OF UNIT OWNERS HAS RECORDED A STATEMENT OF**
13 **CONDOMINIUM LIEN ON THE UNIT OF THE DELINQUENT OWNER; AND**

14 **(2) THE DELINQUENT OWNER:**

15 **(I) IS NOT ON A PAYMENT PLAN AGREED TO BY THE**
16 **DELINQUENT OWNER AND THE COUNCIL OF UNIT OWNERS;**

17 **(II) IS DELINQUENT ON A PAYMENT PLAN AGREED TO BY THE**
18 **DELINQUENT OWNER AND THE COUNCIL OF UNIT OWNERS; OR**

19 **(III) HAS DEFAULTED ON A PREVIOUS PAYMENT PLAN.**

20 **[(e)] (F) (1) A corrective amendment to the bylaws may be made in**
21 **accordance with § 11–103.1 of this title, or as provided in paragraph (2) of this subsection.**

22 **(2) (i) Except as provided in subparagraph (ii) of this paragraph, unless**
23 **a higher percentage is required in the bylaws, the bylaws may be amended by the**
24 **affirmative vote of unit owners having at least 66 2/3 percent of the votes in the council of**
25 **unit owners.**

26 **(ii) The bylaws may be amended by the affirmative vote of unit**
27 **owners having at least 51% of the votes in the council of unit owners for the purpose of**
28 **[requiring]:**

29 **1. REQUIRING all unit owners to maintain condominium**
30 **unit owner insurance policies on their units; OR**

1 (d) The council of unit owners may be either incorporated as a nonstock
2 corporation or unincorporated and it is subject to those provisions of Title 5, Subtitle 2 of
3 the Corporations and Associations Article which are not inconsistent with this title. The
4 council of unit owners has, subject to any provision of this title, and except as provided in
5 item (22) of this subsection, the declaration, and bylaws, the following powers:

6 (1) To have perpetual existence, subject to the right of the unit owners to
7 terminate the condominium regime as provided in § 11–123 of this title;

8 (2) To adopt and amend reasonable rules and regulations;

9 (3) To adopt and amend budgets for revenues, expenditures, and reserves
10 and collect assessments for common expenses from unit owners;

11 (4) To sue and be sued, complain and defend, or intervene in litigation or
12 administrative proceedings in its own name on behalf of itself or two or more unit owners
13 on matters affecting the condominium;

14 (5) To transact its business, carry on its operations and exercise the powers
15 provided in this subsection in any state, territory, district, or possession of the United
16 States and in any foreign country;

17 (6) To make contracts and guarantees, incur liabilities and borrow money,
18 sell, mortgage, lease, pledge, exchange, convey, transfer, and otherwise dispose of any part
19 of its property and assets;

20 (7) To issue bonds, notes, and other obligations and secure the same by
21 mortgage or deed of trust of any part of its property, franchises, and income;

22 (8) To acquire by purchase or in any other manner, to take, receive, own,
23 hold, use, employ, improve, and otherwise deal with any property, real or personal, or any
24 interest therein, wherever located;

25 (9) To hire and terminate managing agents and other employees, agents,
26 and independent contractors;

27 (10) To purchase, take, receive, subscribe for or otherwise acquire, own,
28 hold, vote, use, employ, sell, mortgage, loan, pledge or otherwise dispose of, and otherwise
29 use and deal in and with, shares or other interests in, or obligation of corporations of the
30 State, or foreign corporations, and of associations, partnerships, and individuals;

31 (11) To invest its funds and to lend money in any manner appropriate to
32 enable it to carry on the operations or to fulfill the purposes named in the declaration or
33 bylaws, and to take and to hold real and personal property as security for the payment of
34 funds so invested or loaned;

1 (12) To regulate the use, maintenance, repair, replacement, and
2 modification of common elements;

3 (13) To cause additional improvements to be made as a part of the general
4 common elements;

5 (14) To grant easements, rights-of-way, licenses, leases in excess of 1 year,
6 or similar interests through or over the common elements in accordance with § 11-125(f)
7 of this title;

8 (15) To impose and receive any payments, fees, or charges for the use, rental,
9 or operation of the common elements other than limited common elements;

10 (16) To impose charges for late payment of assessments and, after notice
11 and an opportunity to be heard, levy reasonable fines for violations of the declaration,
12 bylaws, and rules and regulations of the council of unit owners, under § 11-113 of this title;

13 (17) To impose reasonable charges for the preparation and recordation of
14 amendments to the declaration, bylaws, rules, regulations, or resolutions, resale
15 certificates, or statements of unpaid assessments;

16 (18) To provide for the indemnification of and maintain liability insurance
17 for officers, directors, and any managing agent or other employee charged with the
18 operation or maintenance of the condominium;

19 (19) To enforce the implied warranties made to the council of unit owners by
20 the developer under § 11-131 of this title;

21 (20) To enforce the provisions of this title, the declaration, bylaws, and rules
22 and regulations of the council of unit owners against any unit owner or occupant;

23 (21) Generally, to exercise the powers set forth in this title and the
24 declaration or bylaws and to do every other act not inconsistent with law, which may be
25 appropriate to promote and attain the purposes set forth in this title, the declaration or
26 bylaws; [and]

27 (22) To designate parking for individuals with disabilities, notwithstanding
28 any provision in the declaration, bylaws, or rules and regulations; **AND**

29 **(23) TO PROHIBIT OR RESTRICT A DELINQUENT OWNER'S USE OF**
30 **COMMON ELEMENTS UNDER A PROVISION OF THE DECLARATION OR BYLAWS UNDER**
31 **§ 11-104(E) OF THIS SUBTITLE.**

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 2017.