

HOUSE BILL 413

N1

8lr1553

By: **Delegate Cullison**

Introduced and read first time: January 24, 2018

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Condominiums and Homeowners Associations – Amendment of Governing**
3 **Documents**

4 FOR the purpose of altering the circumstances under which unit owners may vote to amend
5 the bylaws of a condominium; altering the circumstances under which lot owners
6 may vote to amend certain governing documents of a homeowners association; and
7 generally relating to the amendment of the governing documents of condominiums
8 and homeowners associations.

9 BY repealing and reenacting, with amendments,
10 Article – Real Property
11 Section 11–104(e) and 11B–116
12 Annotated Code of Maryland
13 (2015 Replacement Volume and 2017 Supplement)

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

16 **Article – Real Property**

17 11–104.

18 (e) (1) A corrective amendment to the bylaws may be made in accordance with
19 § 11–103.1 of this title, or as provided in paragraph (2) of this subsection.

20 (2) (i) Except as provided in subparagraph (ii) of this paragraph, the
21 bylaws may be amended by the affirmative vote of unit owners as provided under
22 paragraph (6) of this subsection.

23 (ii) The bylaws may be amended by the affirmative vote of unit
24 owners having at least 51% of the votes in the council of unit owners for the purpose of

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 requiring all unit owners to maintain condominium unit owner insurance policies on their
2 units.

3 (3) (i) Except as provided in paragraph (4) of this subsection, if the
4 declaration or bylaws contain a provision requiring any action on the part of the holder of
5 a mortgage or deed of trust on a unit in order to amend the bylaws, that provision shall be
6 deemed satisfied if the procedures under this paragraph are satisfied.

7 (ii) If the declaration or bylaws contain a provision described in
8 subparagraph (i) of this paragraph, the council of unit owners shall cause to be delivered to
9 each holder of a mortgage or deed of trust entitled to notice, a copy of the proposed
10 amendment to the bylaws.

11 (iii) If a holder of the mortgage or deed of trust that receives the
12 proposed amendment fails to object, in writing, to the proposed amendment within 60 days
13 from the date of actual receipt of the proposed amendment, the holder shall be deemed to
14 have consented to the adoption of the amendment.

15 (4) Paragraph (3) of this subsection does not apply to amendments that:

16 (i) Alter the priority of the lien of the mortgage or deed of trust;

17 (ii) Materially impair or affect the unit as collateral; or

18 (iii) Materially impair or affect the right of the holder of the mortgage
19 or deed of trust to exercise any rights under the mortgage, deed of trust, or applicable law.

20 (5) Each particular set forth in subsection (b) of this section shall be
21 expressed in the bylaws as amended. An amendment under paragraph (2) of this subsection
22 shall be entitled to be recorded if accompanied by a certificate of the person specified in the
23 bylaws to count votes at the meeting of the council of unit owners that the amendment was
24 approved by unit owners having the required percentage of the votes and shall be effective
25 on recordation. This certificate shall be conclusive evidence of approval.

26 (6) (i) In this paragraph, “in good standing” means not being more than
27 90 days in arrears in the payment of any assessment or charge due to the condominium.

28 (ii) Notwithstanding the provisions of the bylaws, the council of unit
29 owners may amend the bylaws by the affirmative vote of [unit owners in good standing
30 having] at least 60% of [the votes in the council] **UNIT OWNERS IN GOOD STANDING**, or
31 by a lower percentage **OF UNIT OWNERS IN GOOD STANDING** if required in the bylaws.

32 11B-116.

33 (a) (1) In this section the following words have the meanings indicated.

34 (2) “Governing document” includes:

- 1 (i) A declaration;
- 2 (ii) Bylaws;
- 3 (iii) A deed and agreement; and
- 4 (iv) Recorded covenants and restrictions.

5 (3) "In good standing" means not being more than 90 days in arrears in the
6 payment of any assessment or charge due to the homeowners association.

7 (b) This section does not apply to a homeowners association that issues bonds or
8 other long-term debt secured in whole or in part by annual charges assessed in accordance
9 with a declaration, or to a village community association affiliated with the homeowners
10 association.

11 (c) Notwithstanding the provisions of a governing document, a homeowners
12 association may amend the governing document by the affirmative vote of [lot owners in
13 good standing having] at least 60% of [the votes in the development] **LOT OWNERS IN**
14 **GOOD STANDING**, or by a lower percentage **OF LOT OWNERS IN GOOD STANDING** if
15 required in the governing document.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2018.