

SENATE BILL 21

N1, C1

8lr0486

(PRE-FILED)

By: **Senator Benson**

Requested: August 14, 2017

Introduced and read first time: January 10, 2018

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Cooperative Housing Act – Dispute Settlement and Eviction**
3 **Procedures**

4 FOR the purpose of specifying that a certain dispute settlement mechanism does not apply
5 to complaints or demands arising out of a cooperative housing member's failure to
6 pay certain assessments; repealing a requirement that the governing body of a
7 cooperative housing corporation hold a hearing on a certain alleged violation under
8 certain circumstances; authorizing a member to request a hearing on a certain
9 alleged violation under certain circumstances; authorizing a governing body of a
10 cooperative housing corporation to impose a certain sanction without additional
11 process if a member does not request a hearing within a certain time frame; altering
12 requirements for certain notices relating to certain alleged violations; repealing a
13 provision requiring the governing body of a cooperative housing corporation to place
14 proof of a certain notice in the minutes of a certain meeting before imposing any
15 sanction on a member; repealing a provision prohibiting the governing body of a
16 certain cooperative housing corporation from bringing an action in court to evict a
17 member based on the member's failure to pay certain assessments except under
18 certain circumstances; and generally relating to cooperative housing corporations.

19 BY repealing and reenacting, with amendments,
20 Article – Corporations and Associations
21 Section 5–6B–30
22 Annotated Code of Maryland
23 (2014 Replacement Volume and 2017 Supplement)

24 BY repealing
25 Article – Corporations and Associations
26 Section 5–6B–31
27 Annotated Code of Maryland
28 (2014 Replacement Volume and 2017 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 – Corporations and Associations**

4 5–6B–30.

5 (a) (1) [The] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
6 **SUBSECTION, THE** dispute settlement mechanism provided by this section applies to any
7 complaint or demand formally arising on or after January 1, 2015, unless the bylaws of the
8 cooperative housing corporation or the proprietary lease of the member who is a party to
9 the dispute state otherwise.

10 (2) **THE DISPUTE SETTLEMENT MECHANISM PROVIDED BY THIS**
11 **SECTION DOES NOT APPLY TO COMPLAINTS OR DEMANDS ARISING OUT OF A**
12 **MEMBER’S FAILURE TO PAY ASSESSMENTS OWED TO THE COOPERATIVE HOUSING**
13 **CORPORATION.**

14 (b) (1) Except as provided in this subsection, a governing body may not impose
15 a fine, suspend voting, bring an action in court to evict, or infringe on any other rights of a
16 member for a violation of:

17 (i) The rules of the cooperative housing corporation; or

18 (ii) The provisions of the member’s proprietary lease.

19 (2) The governing body shall [serve] **PROVIDE** the member with a written
20 demand to cease and desist from the alleged violation specifying:

21 (i) The alleged violation;

22 (ii) The action required to abate the violation; and

23 (iii) 1. A time period of not less than 10 days during which the
24 violation may be abated without further sanction if the violation is a continuing one; or

25 2. A statement that any further violation of the same rule
26 may result in the imposition of sanction after notice and **THE OPPORTUNITY FOR A**
27 hearing if the violation is not continuing.

28 (3) (i) If the violation continues past the period specified under
29 paragraph (2)(iii)1 of this subsection, or if the same rule is violated subsequently, the
30 governing body shall [serve] **GIVE** the member [with] written notice of **THE MEMBER’S**
31 **RIGHT TO REQUEST** a hearing to be held by the governing body in session.

1 (ii) The [hearing] notice shall specify:

2 1. The nature of the alleged violation;

3 2. [The time and place of the hearing, which time may be not
4 less than 10 days from the giving of the notice;

5 3. An invitation to attend the hearing and produce any
6 statement, evidence, and witnesses on behalf of the member; and

7 4.] The proposed sanction to be imposed;

8 **3. THE PROCEDURE FOR REQUESTING A HEARING; AND**

9 **4. THE TIME FRAME FOR REQUESTING A HEARING,**
10 **WHICH MAY NOT BE LESS THAN 10 DAYS BEGINNING ON THE DATE OF THE NOTICE.**

11 (4) (i) [The] **IF THE MEMBER REQUESTS A HEARING WITHIN THE**
12 **TIME FRAME SPECIFIED IN THE NOTICE GIVEN UNDER PARAGRAPH (3) OF THIS**
13 **SUBSECTION, THE** governing body shall hold a hearing on the alleged violation in
14 executive session[, in accordance with the notice provided under paragraph (3) of this
15 subsection].

16 **(II) THE GOVERNING BODY SHALL GIVE THE MEMBER AT LEAST**
17 **10 DAYS' WRITTEN NOTICE OF THE TIME AND PLACE OF THE HEARING.**

18 [(ii)] **(III)** At the hearing, the member shall have the right to present
19 evidence and to present and cross-examine witnesses regarding the alleged violation.

20 [(iii)] Prior to imposing any sanction on the member, the governing
21 body shall place in the minutes of the meeting proof of the notice provided to the member
22 under paragraph (3) of this subsection, which shall include:

23 1. A copy of the notice, together with a statement of the date
24 and manner of the delivery of the notice; or

25 2. A statement that the member in fact appeared at the
26 hearing.]

27 (iv) The governing body shall place in the minutes of the meeting the
28 results of the hearing and the sanction, if any, imposed on the member.

29 **(5) IF THE MEMBER DOES NOT REQUEST A HEARING WITHIN THE TIME**
30 **FRAME SPECIFIED IN THE NOTICE GIVEN UNDER PARAGRAPH (3) OF THIS**
31 **SUBSECTION, THE GOVERNING BODY MAY IMPOSE THE PROPOSED SANCTION**

1 **WITHOUT THE NEED FOR ADDITIONAL PROCESS.**

2 (c) A member may appeal a decision of a governing body made in accordance with
3 the dispute settlement procedure described in this section to the courts of Maryland.

4 (d) (1) If a member fails to comply with this subtitle, the bylaws of a
5 cooperative housing corporation, or a decision rendered by the governing body in accordance
6 with this section, the governing body or any other member of the cooperative housing
7 corporation may sue the member for any damages caused by the failure or for injunctive
8 relief.

9 (2) The prevailing party in a proceeding authorized under this subsection
10 is entitled to an award for reasonable attorney's fees as determined by court.

11 (e) The failure of a governing body to enforce a provision of this title, the
12 proprietary lease of a member, or the bylaws of the cooperative housing corporation on any
13 occasion is not a waiver of the right to enforce the provision on any other occasion.

14 **[5-6B-31.**

15 (a) This section applies only to a cooperative project that is no longer subject to a
16 mortgage or deed of trust.

17 (b) Notwithstanding the articles of incorporation, bylaws, or regulations of a
18 cooperative housing corporation or the proprietary lease of any member, a governing body
19 may not bring an action in court to evict a member based solely on the failure of the member
20 to pay assessments owed to the cooperative housing corporation unless:

21 (1) The member has been delinquent in paying assessments for a period of
22 3 months or more;

23 (2) The governing body has given the member notice and an opportunity to
24 be heard regarding the delinquency, consistent with § 5-6B-30 of this subtitle;

25 (3) The governing body has given the member an opportunity to cure the
26 delinquency; and

27 (4) The member has failed to cure the delinquency.]

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