

# HOUSE BILL 68

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CF 9lr1014

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By: **Delegate Holmes**

Introduced and read first time: January 17, 2019

Assigned to: Environment and Transportation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Maryland Condominium Act – Powers of Council of Unit**  
3 **Owners**

4 FOR the purpose of prohibiting the declaration, bylaws, or certain other instruments of a  
5 condominium from limiting certain powers of a council of unit owners except under  
6 certain circumstances; and generally relating to the powers of a council of unit  
7 owners in a condominium.

8 BY repealing and reenacting, with amendments,  
9 Article – Real Property  
10 Section 11–109(d)  
11 Annotated Code of Maryland  
12 (2015 Replacement Volume and 2018 Supplement)

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

15 **Article – Real Property**

16 11–109.

17 (d) The council of unit owners may be either incorporated as a nonstock  
18 corporation or unincorporated and it is subject to those provisions of Title 5, Subtitle 2 of  
19 the Corporations and Associations Article which are not inconsistent with this title. The  
20 council of unit owners has, subject to any provision of this title, and except as provided in  
21 [item] **ITEMS (4), (19), AND (22)** of this subsection, the declaration, and bylaws, the  
22 following powers:

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

4 (4) To sue and be sued, complain and defend, or intervene in litigation or  
5 administrative proceedings in its own name on behalf of itself or two or more unit owners  
6 on matters affecting the condominium, **NOTWITHSTANDING ANY PROVISION IN THE**  
7 **DECLARATION, BYLAWS, OR OTHER INSTRUMENT MADE BY A DEVELOPER IN**  
8 **ACCORDANCE WITH THIS TITLE, WITH THE EXCEPTION THAT THE BYLAWS MAY**  
9 **PROVIDE FOR MEDIATION OR ARBITRATION OF CLAIMS AGAINST THE DEVELOPER**  
10 **THAT A COUNCIL OF UNIT OWNERS MAY ASSERT UNDER THIS SUBSECTION;**

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

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

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

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

22 (9) To hire and terminate managing agents and other employees, agents,  
23 and independent contractors;

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

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

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

34 (13) To cause additional improvements to be made as a part of the general

1 common elements;

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

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

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

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

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

16 (19) To enforce the implied warranties made to the council of unit owners by  
17 the developer under § 11-131 of this title, **NOTWITHSTANDING ANY PROVISION IN THE**  
18 **DECLARATION, BYLAWS, OR OTHER INSTRUMENT MADE BY A DEVELOPER IN**  
19 **ACCORDANCE WITH THIS TITLE, WITH THE EXCEPTION THAT THE BYLAWS MAY**  
20 **PROVIDE FOR MEDIATION OR ARBITRATION OF IMPLIED WARRANTY CLAIMS MADE**  
21 **TO A COUNCIL OF UNIT OWNERS UNDER § 11-131 OF THIS TITLE;**

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

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

28 (22) To designate parking for individuals with disabilities, notwithstanding  
29 any provision in the declaration, bylaws, or rules and regulations.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
31 October 1, 2019.