

# SENATE BILL 723

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SB 931/18 – JPR

9lr1395  
CF HB 392

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By: **Senator Benson**

Introduced and read first time: February 4, 2019

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Condominiums and Homeowners Associations – Dispute**  
3 **Settlement**

4 FOR the purpose of altering the procedures a council of unit owners or a board of directors  
5 of a condominium shall take before a penalty for a violation of the rules of the  
6 condominium can be imposed on an alleged violator; altering the procedures a council  
7 of unit owners or a board of directors shall take if an alleged violator does not comply  
8 with a certain written demand to cease and desist in a certain period of time;  
9 requiring the written notice from a council of unit owners or a board of directors to  
10 include certain information; authorizing a council of unit owners or a board of  
11 directors to take certain action if an alleged violator does not respond to a certain  
12 written notice; establishing the procedures a board of directors or another governing  
13 body of the homeowners association shall take before a penalty for a violation of the  
14 rules of the homeowners association can be imposed on an alleged violator;  
15 establishing the procedures the board of directors or other governing body of the  
16 homeowners association shall take if an alleged violator does not comply with a  
17 certain written demand to cease and desist in a certain period of time; authorizing  
18 the board of directors or other governing body of the homeowners association to take  
19 certain action if an alleged violator does not respond to a certain written notice;  
20 providing that certain provisions of this Act do not apply to certain associations;  
21 making stylistic changes; providing for the application of this Act; and generally  
22 relating to dispute settlement in condominiums and homeowners associations.

23 BY repealing and reenacting, with amendments,  
24 Article – Real Property  
25 Section 11–113  
26 Annotated Code of Maryland  
27 (2015 Replacement Volume and 2018 Supplement)

28 BY adding to  
29 Article – Real Property

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 11B–111.8  
 2 Annotated Code of Maryland  
 3 (2015 Replacement Volume and 2018 Supplement)

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

6 **Article – Real Property**

7 11–113.

8 (a) Unless the declaration or bylaws state otherwise, the dispute settlement  
 9 mechanism provided by this section is applicable to complaints or demands formally arising  
 10 on or after [January 1, 1982] **OCTOBER 1, 2019**.

11 (b) **(1)** The council of unit owners or board of directors may not impose a fine,  
 12 suspend voting, or infringe upon any other rights of a unit owner or other occupant for  
 13 violations of rules until the [following procedure is] **PROCEDURES IN THIS SUBSECTION**  
 14 **ARE** followed[:].

15 **[(1)] (2)** [Written] **A WRITTEN** demand to cease and desist from an  
 16 alleged violation [is served upon] **SHALL BE PROVIDED TO** the alleged violator specifying:

17 (i) The alleged violation;

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

19 (iii) A time period, not less than 10 days, during which the violation  
 20 may be abated without further sanction, if the violation is a continuing one, or a statement  
 21 that any further violation of the same rule may result in the imposition of sanction after  
 22 notice and **OPPORTUNITY FOR** hearing if the violation is not continuing.

23 **[(2)] (3)** Within 12 months of the demand, if the violation continues past  
 24 the period allowed in the demand for abatement without penalty or if the same rule is  
 25 violated subsequently, the board [serves] **SHALL PROVIDE** the alleged violator with **A**  
 26 written notice of **THE ALLEGED VIOLATOR’S RIGHT TO REQUEST** a hearing to be held by  
 27 the board in **EXECUTIVE** session[. The notice shall contain] **CONTAINING**:

28 (i) The nature of the alleged violation;

29 (ii) [The time and place of the] **THE PROCEDURES FOR**  
 30 **REQUESTING A** hearing[, which time] **AT WHICH THE ALLEGED VIOLATOR MAY**  
 31 **PRODUCE ANY STATEMENT, EVIDENCE, OR WITNESSES ON BEHALF OF THE ALLEGED**  
 32 **VIOLATOR;**

33 **(III) THE PERIOD OF TIME FOR REQUESTING A HEARING, WHICH**

1 may [be] not **BE** less than 10 days from the giving of the notice; **AND**

2 [(iii) An invitation to attend the hearing and produce any statement,  
3 evidence, and witnesses on his or her behalf; and]

4 (iv) The proposed sanction to be imposed.

5 **(4) (I) IF THE ALLEGED VIOLATOR REQUESTS A HEARING WITHIN**  
6 **THE PERIOD OF TIME SPECIFIED IN THE NOTICE PROVIDED UNDER PARAGRAPH (3)**  
7 **OF THIS SUBSECTION, THE BOARD SHALL PROVIDE THE ALLEGED VIOLATOR WITH**  
8 **WRITTEN NOTICE OF THE TIME AND PLACE OF THE HEARING, WHICH TIME MAY NOT**  
9 **BE LESS THAN 10 DAYS AFTER THE DATE THE REQUEST FOR A HEARING WAS**  
10 **PROVIDED.**

11 **[(3) (II) 1. [A hearing occurs at which] AT THE HEARING,** the  
12 **alleged violator has the right to present evidence and present and cross-examine witnesses.**

13 **2. The hearing shall be held in executive session pursuant to**  
14 **this notice and shall afford the alleged violator a reasonable opportunity to be heard.**

15 **3. A. Prior to the [effectiveness] TAKING EFFECT of any**  
16 **sanction hereunder, proof of notice [and the invitation to be heard] shall be [placed]**  
17 **ENTERED in the minutes of the meeting.**

18 **B. [This] THE proof OF NOTICE shall be deemed adequate if**  
19 **a copy of the notice, together with a statement of the date and manner [of delivery] OF**  
20 **PROVIDING THE NOTICE, is entered IN THE MINUTES by the officer or director who**  
21 **[delivered] PROVIDED the notice.**

22 **C. The notice requirement shall be deemed satisfied if the**  
23 **alleged violator appears at the meeting.**

24 **4. The minutes of the meeting shall contain a written**  
25 **statement of the results of the hearing and the sanction, if any, imposed.**

26 **(5) IF THE ALLEGED VIOLATOR DOES NOT REQUEST A HEARING**  
27 **WITHIN THE PERIOD OF TIME SPECIFIED IN THE NOTICE PROVIDED UNDER**  
28 **PARAGRAPH (3) OF THIS SUBSECTION, THE BOARD, AT THE NEXT MEETING, SHALL**  
29 **DELIBERATE AS TO WHETHER THE VIOLATION OCCURRED AND DECIDE WHETHER A**  
30 **SANCTION IS APPROPRIATE FOR THE VIOLATION.**

31 **[(4) (6) A decision [pursuant to] IN ACCORDANCE WITH these**  
32 **procedures shall be appealable to the courts of Maryland.**

33 **(c) (1) If any unit owner fails to comply with this title, the declaration, or**

1 bylaws, or a decision rendered [pursuant to] **IN ACCORDANCE WITH** this section, the unit  
2 owner may be sued for damages caused by the failure or for injunctive relief, or both, by the  
3 council of unit owners or by any other unit owner.

4 **(2)** The prevailing party in any [such] proceeding **UNDER THIS**  
5 **SUBSECTION** is entitled to an award for counsel fees as determined by court.

6 (d) The failure of the council of unit owners to enforce a provision of this title, the  
7 declaration, or bylaws on any occasion is not a waiver of the right to enforce the provision  
8 on any other occasion.

9 **11B-111.8.**

10 **(A) UNLESS THE DECLARATION OR BYLAWS STATE OTHERWISE, THE**  
11 **DISPUTE SETTLEMENT MECHANISM PROVIDED BY THIS SECTION IS APPLICABLE TO**  
12 **COMPLAINTS OR DEMANDS FORMALLY ARISING ON OR AFTER OCTOBER 1, 2018.**

13 **(B) (1) THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF THE**  
14 **HOMEOWNERS ASSOCIATION MAY NOT IMPOSE A FINE, SUSPEND VOTING, OR**  
15 **INFRINGE ON ANY OTHER RIGHT OF A LOT OWNER OR OTHER OCCUPANT FOR**  
16 **VIOLATIONS OF RULES UNTIL THE PROCEDURES IN THIS SUBSECTION ARE**  
17 **FOLLOWED.**

18 **(2) A WRITTEN DEMAND TO CEASE AND DESIST FROM AN ALLEGED**  
19 **VIOLATION SHALL BE PROVIDED TO THE ALLEGED VIOLATOR SPECIFYING:**

20 **(I) THE NATURE OF THE ALLEGED VIOLATION;**

21 **(II) THE ACTION REQUIRED TO ABATE THE VIOLATION; AND**

22 **(III) A PERIOD OF TIME, NOT LESS THAN 10 DAYS, DURING**  
23 **WHICH THE VIOLATION MAY BE ABATED WITHOUT FURTHER SANCTION, IF THE**  
24 **VIOLATION IS A CONTINUING VIOLATION, OR A STATEMENT THAT ANY FURTHER**  
25 **VIOLATION OF THE SAME RULE MAY RESULT IN THE IMPOSITION OF SANCTION**  
26 **AFTER NOTICE AND OPPORTUNITY FOR HEARING IF THE VIOLATION IS NOT**  
27 **CONTINUING.**

28 **(3) WITHIN 12 MONTHS OF THE DEMAND, IF THE VIOLATION**  
29 **CONTINUES PAST THE PERIOD OF TIME ALLOWED IN THE DEMAND FOR ABATEMENT**  
30 **WITHOUT PENALTY OR IF THE SAME RULE IS VIOLATED SUBSEQUENTLY, THE BOARD**  
31 **SHALL PROVIDE THE ALLEGED VIOLATOR WITH A WRITTEN NOTICE OF THE ALLEGED**  
32 **VIOLATOR'S RIGHT TO REQUEST A HEARING TO BE HELD BY THE BOARD IN**  
33 **EXECUTIVE SESSION CONTAINING:**

34 **(I) THE NATURE OF THE ALLEGED VIOLATION;**

1                   **(II) THE PROCEDURES FOR REQUESTING A HEARING AT WHICH**  
2 **THE ALLEGED VIOLATOR MAY PRODUCE ANY STATEMENT, EVIDENCE, OR WITNESSES**  
3 **ON BEHALF OF THE ALLEGED VIOLATOR;**

4                   **(III) THE PERIOD OF TIME FOR REQUESTING A HEARING, WHICH**  
5 **MAY NOT BE LESS THAN 10 DAYS FROM THE GIVING OF THE NOTICE; AND**

6                   **(IV) THE PROPOSED SANCTION TO BE IMPOSED.**

7                   **(4) (I) IF THE ALLEGED VIOLATOR REQUESTS A HEARING WITHIN**  
8 **THE PERIOD OF TIME SPECIFIED IN THE NOTICE PROVIDED UNDER PARAGRAPH (3)**  
9 **OF THIS SUBSECTION, THE BOARD SHALL PROVIDE THE ALLEGED VIOLATOR WITH A**  
10 **WRITTEN NOTICE OF THE TIME AND PLACE OF THE HEARING, WHICH TIME MAY NOT**  
11 **BE LESS THAN 10 DAYS AFTER THE DATE THE REQUEST FOR A HEARING WAS**  
12 **PROVIDED.**

13                   **(II) 1. AT THE HEARING, THE ALLEGED VIOLATOR HAS THE**  
14 **RIGHT TO PRESENT EVIDENCE AND CROSS-EXAMINE WITNESSES.**

15                                 **2. THE HEARING SHALL BE HELD IN EXECUTIVE SESSION**  
16 **IN ACCORDANCE WITH THIS NOTICE AND SHALL AFFORD THE ALLEGED VIOLATOR A**  
17 **REASONABLE OPPORTUNITY TO BE HEARD.**

18                                 **3. A. PRIOR TO THE TAKING EFFECT OF ANY**  
19 **SANCTION UNDER THIS SECTION, PROOF OF NOTICE SHALL BE ENTERED IN THE**  
20 **MINUTES OF THE MEETING.**

21                                 **B. THE PROOF OF NOTICE SHALL BE DEEMED ADEQUATE**  
22 **IF A COPY OF THE NOTICE, TOGETHER WITH A STATEMENT OF THE DATE AND**  
23 **MANNER OF PROVIDING THE NOTICE, IS ENTERED IN THE MINUTES BY THE OFFICER**  
24 **OR DIRECTOR WHO PROVIDED THE NOTICE.**

25                                 **C. THE NOTICE REQUIREMENT SHALL BE DEEMED**  
26 **SATISFIED IF THE ALLEGED VIOLATOR APPEARS AT THE MEETING.**

27                                 **4. THE MINUTES OF THE MEETING SHALL CONTAIN A**  
28 **WRITTEN STATEMENT OF THE RESULTS OF THE HEARING AND THE SANCTION, IF**  
29 **ANY, IMPOSED.**

30                   **(5) IF THE ALLEGED VIOLATOR DOES NOT REQUEST A HEARING**  
31 **WITHIN THE PERIOD OF TIME SPECIFIED IN THE NOTICE PROVIDED UNDER**  
32 **PARAGRAPH (3) OF THIS SUBSECTION, THE BOARD, AT THE NEXT MEETING, SHALL**  
33 **DELIBERATE AS TO WHETHER THE VIOLATION OCCURRED AND DECIDE WHETHER A**

1 SANCTION IS APPROPRIATE FOR THE VIOLATION.

2 (6) A DECISION MADE IN ACCORDANCE WITH THESE PROCEDURES  
3 SHALL BE APPEALABLE TO THE COURTS OF MARYLAND.

4 (C) (1) IF ANY LOT OWNER FAILS TO COMPLY WITH THIS TITLE, THE  
5 DECLARATION, OR BYLAWS, OR A DECISION RENDERED IN ACCORDANCE WITH THIS  
6 SECTION, THE LOT OWNER MAY BE SUED FOR DAMAGES CAUSED BY THE FAILURE OR  
7 FOR INJUNCTIVE RELIEF, OR BOTH, BY THE COUNCIL OF LOT OWNERS OR BY ANY  
8 OTHER LOT OWNER.

9 (2) THE PREVAILING PARTY IN ANY PROCEEDING UNDER THIS  
10 SUBSECTION IS ENTITLED TO AN AWARD FOR COUNSEL FEES AS DETERMINED BY  
11 THE COURT.

12 (D) THE FAILURE OF THE BOARD OF DIRECTORS OR OTHER GOVERNING  
13 BODY OF THE HOMEOWNERS ASSOCIATION TO ENFORCE A PROVISION OF THIS  
14 TITLE, THE DECLARATION, OR BYLAWS ON ANY OCCASION IS NOT A WAIVER OF THE  
15 RIGHT TO ENFORCE THE PROVISION ON ANY OTHER OCCASION.

16 (E) THIS SECTION DOES NOT APPLY TO THE COLUMBIA ASSOCIATION OR  
17 THE VILLAGE COMMUNITY ASSOCIATIONS FOR THE VILLAGES OF COLUMBIA IN  
18 HOWARD COUNTY.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to  
20 apply only prospectively and may not be applied or interpreted to have any effect on or  
21 application to any complaints or demands formally arising under the rules of a  
22 condominium or homeowners association before the effective date of this Act, unless the  
23 declaration or bylaws of the condominium or homeowners association state otherwise.

24 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
25 October 1, 2019.