

HOUSE BILL 826

N1
HB 392/19 – ENT

11r2034

By: **Delegate Healey**

Introduced and read first time: January 29, 2021

Assigned to: Environment and Transportation

Committee Report: Favorable

House action: Adopted

Read second time: February 27, 2021

CHAPTER _____

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 within 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 within a certain period of time;
18 authorizing the board of directors or other governing body of the homeowners
19 association to take certain action if an alleged violator does not respond to a certain
20 written notice; providing that certain provisions of this Act do not apply to certain
21 associations; making stylistic changes; providing for the application of this Act; and
22 generally relating to dispute settlement in condominiums and homeowners
23 associations.

24 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – Real Property
 2 Section 11–113
 3 Annotated Code of Maryland
 4 (2015 Replacement Volume and 2020 Supplement)

5 BY adding to
 6 Article – Real Property
 7 Section 11B–111.8
 8 Annotated Code of Maryland
 9 (2015 Replacement Volume and 2020 Supplement)

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

12 **Article – Real Property**

13 11–113.

14 (a) Unless the declaration or bylaws state otherwise, the dispute settlement
 15 mechanism provided by this section is applicable to complaints or demands formally arising
 16 on or after [January 1, 1982] **OCTOBER 1, 2021**.

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

21 **[(1)] (2)** [Written] **A WRITTEN** demand to cease and desist from an
 22 alleged violation [is served upon] **SHALL BE PROVIDED TO** the alleged violator specifying:

23 (i) The alleged violation;

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

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

29 **[(2)] (3)** Within 12 months of the demand, if the violation continues past
 30 the period allowed in the demand for abatement without penalty or if the same rule is
 31 violated subsequently, the board [serves] **SHALL PROVIDE** the alleged violator with **A**
 32 written notice of **THE ALLEGED VIOLATOR’S RIGHT TO REQUEST** a hearing to be held by
 33 the board in **EXECUTIVE** session[. The notice shall contain] **CONTAINING**:

34 (i) The nature of the alleged violation;

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

4 (iii) **THE PERIOD OF TIME FOR REQUESTING A HEARING, WHICH**
5 **may [be] not BE less than 10 days from the giving of the notice; AND**

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

8 (iv) The proposed sanction to be imposed.

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

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

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

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

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

26 C. The notice requirement shall be deemed satisfied if the
27 alleged violator appears at the meeting.

28 4. The minutes of the meeting shall contain a written
29 statement of the results of the hearing and the sanction, if 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 **[(4)] (6)** A decision [pursuant to] **IN ACCORDANCE WITH** these
3 procedures shall be appealable to the courts of Maryland.

4 (c) **(1)** If any unit owner fails to comply with this title, the declaration, or
5 bylaws, or a decision rendered [pursuant to] **IN ACCORDANCE WITH** this section, the unit
6 owner may be sued for damages caused by the failure or for injunctive relief, or both, by the
7 council of unit owners or by any other unit owner.

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

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

13 **11B–111.8.**

14 **(A) UNLESS THE DECLARATION OR BYLAWS STATE OTHERWISE, THE**
15 **DISPUTE SETTLEMENT MECHANISM PROVIDED BY THIS SECTION IS APPLICABLE TO**
16 **COMPLAINTS OR DEMANDS FORMALLY ARISING ON OR AFTER OCTOBER 1, 2021.**

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

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

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

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

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

32 **(3) WITHIN 12 MONTHS OF THE DEMAND, IF THE VIOLATION**
33 **CONTINUES PAST THE PERIOD OF TIME ALLOWED IN THE DEMAND FOR ABATEMENT**

1 WITHOUT PENALTY OR IF THE SAME RULE IS VIOLATED SUBSEQUENTLY, THE BOARD
2 SHALL PROVIDE THE ALLEGED VIOLATOR WITH A WRITTEN NOTICE OF THE ALLEGED
3 VIOLATOR'S RIGHT TO REQUEST A HEARING TO BE HELD BY THE BOARD IN
4 EXECUTIVE SESSION CONTAINING:

5 (I) THE NATURE OF THE ALLEGED VIOLATION;

6 (II) THE PROCEDURES FOR REQUESTING A HEARING AT WHICH
7 THE ALLEGED VIOLATOR MAY PRODUCE ANY STATEMENT, EVIDENCE, OR WITNESSES
8 ON BEHALF OF THE ALLEGED VIOLATOR;

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

11 (IV) THE PROPOSED SANCTION TO BE IMPOSED.

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

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

20 2. THE HEARING SHALL BE HELD IN EXECUTIVE SESSION
21 IN ACCORDANCE WITH THIS NOTICE AND SHALL AFFORD THE ALLEGED VIOLATOR A
22 REASONABLE OPPORTUNITY TO BE HEARD.

23 3. A. PRIOR TO THE TAKING EFFECT OF ANY
24 SANCTION UNDER THIS SECTION, PROOF OF NOTICE SHALL BE ENTERED IN THE
25 MINUTES OF THE MEETING.

26 B. THE PROOF OF NOTICE SHALL BE DEEMED ADEQUATE
27 IF A COPY OF THE NOTICE, TOGETHER WITH A STATEMENT OF THE DATE AND
28 MANNER OF PROVIDING THE NOTICE, IS ENTERED IN THE MINUTES BY THE OFFICER
29 OR DIRECTOR WHO PROVIDED THE NOTICE.

30 C. THE NOTICE REQUIREMENT SHALL BE DEEMED
31 SATISFIED IF THE ALLEGED VIOLATOR APPEARS AT THE MEETING.

32 4. THE MINUTES OF THE MEETING SHALL CONTAIN A
33 WRITTEN STATEMENT OF THE RESULTS OF THE HEARING AND THE SANCTION, IF

1 ANY, IMPOSED.

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

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

9 (C) (1) IF ANY LOT OWNER FAILS TO COMPLY WITH THIS TITLE, THE
10 DECLARATION, OR BYLAWS, OR A DECISION RENDERED IN ACCORDANCE WITH THIS
11 SECTION, THE LOT OWNER MAY BE SUED FOR DAMAGES CAUSED BY THE FAILURE OR
12 FOR INJUNCTIVE RELIEF, OR BOTH, BY THE HOMEOWNERS ASSOCIATION OR BY ANY
13 OTHER LOT OWNER.

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

17 (D) THE FAILURE OF THE BOARD OF DIRECTORS OR OTHER GOVERNING
18 BODY OF THE HOMEOWNERS ASSOCIATION TO ENFORCE A PROVISION OF THIS
19 TITLE, THE DECLARATION, OR BYLAWS ON ANY OCCASION IS NOT A WAIVER OF THE
20 RIGHT TO ENFORCE THE PROVISION ON ANY OTHER OCCASION.

21 (E) THIS SECTION DOES NOT APPLY TO THE COLUMBIA ASSOCIATION OR
22 THE VILLAGE COMMUNITY ASSOCIATIONS FOR THE VILLAGES OF COLUMBIA IN
23 HOWARD COUNTY.

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

29 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2021.