

HOUSE BILL 40

N1
HB 30/20 – ENT

(PRE-FILED)

2lr0384

By: **Delegates Watson, Bagnall, and Terrasa**

Requested: August 16, 2021

Introduced and read first time: January 12, 2022

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Condominiums – Disclosures to Unit Owners and Prohibited Provisions in**
3 **Instruments**

4 FOR the purpose of clarifying that certain provisions of law related to closed-door meetings
5 of a board of directors of a condominium do not allow the board to withhold or agree
6 to withhold the terms of certain legal agreements from the unit owners; making
7 unenforceable a provision of a certain agreement that prohibits the disclosure to unit
8 owners or certain purchasers of any term of the agreement; and generally relating
9 to disclosures to unit owners and claims against developers in condominiums.

10 BY repealing and reenacting, with amendments,
11 Article – Real Property
12 Section 11–109.1 and 11–134.1
13 Annotated Code of Maryland
14 (2015 Replacement Volume and 2021 Supplement)

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

17 **Article – Real Property**

18 11–109.1.

19 (a) A meeting of the board of directors may be held in closed session only for the
20 following purposes:

21 (1) Discussion of matters pertaining to employees and personnel;

22 (2) Protection of the privacy or reputation of individuals in matters not
23 related to the council of unit owners' business;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (3) Consultation with legal counsel on legal matters;

2 (4) Consultation with staff personnel, consultants, attorneys, board
3 members, or other persons in connection with pending or potential litigation or other legal
4 matters;

5 (5) Investigative proceedings concerning possible or actual criminal
6 misconduct;

7 (6) Consideration of the terms or conditions of a business transaction in the
8 negotiation stage if the disclosure could adversely affect the economic interests of the
9 council of unit owners;

10 (7) Complying with a specific constitutional, statutory, or judicially
11 imposed requirement protecting particular proceedings or matters from public disclosure;
12 or

13 (8) Discussion of individual owner assessment accounts.

14 (b) If a meeting is held in closed session under subsection (a) of this section:

15 (1) An action may not be taken and a matter may not be discussed if it is
16 not permitted by subsection (a) of this section; and

17 (2) A statement of the time, place, and purpose of any closed meeting, the
18 record of the vote of each board member by which any meeting was closed, and the authority
19 under this section for closing any meeting shall be included in the minutes of the next
20 meeting of the board of directors.

21 **(C) NOTHING IN THIS SECTION MAY BE INTERPRETED TO AUTHORIZE THE**
22 **BOARD OF DIRECTORS TO WITHHOLD OR AGREE TO WITHHOLD FROM THE UNIT**
23 **OWNERS THE TERMS OF ANY LEGAL AGREEMENT TO WHICH THE COUNCIL OF UNIT**
24 **OWNERS IS A PARTY.**

25 11-134.1.

26 (a) In this section, "vendor" has the meaning stated in § 10-201 of this article.

27 (b) This section does not apply to:

28 (1) A unit that is occupied and used solely for nonresidential purposes;

29 (2) An agreement or other instrument entered into by a developer or vendor
30 and a council of unit owners for the purpose of settling a disputed claim after the date on
31 which the unit owners, other than the developer and its affiliates, first elect a controlling
32 majority of the members of the board of directors for the council of unit owners; or

1 (3) An agreement or other instrument entered into by a developer or vendor
2 and a unit owner for the purpose of settling a disputed claim after the date the unit is
3 conveyed to the purchaser of the unit.

4 (c) (1) Any provision of a declaration, a bylaw, a contract for the initial sale of
5 a unit to a member of the public, or any other instrument made by a developer or vendor in
6 accordance with this title shall be unenforceable if the provision:

7 (i) Shortens the statute of limitations applicable to any claim;

8 (ii) Waives the application of the discovery rule or other accrual date
9 applicable to a claim;

10 (iii) Requires a unit owner or the council of unit owners to assert a
11 claim subject to arbitration within a period of time that is shorter than the statute of
12 limitations applicable to the claim; or

13 (iv) Operates to prevent a unit owner or the council of unit owners
14 from filing a lawsuit, initiating arbitration proceedings for a claim subject to arbitration,
15 or otherwise asserting a claim within the statute of limitations applicable to the claim.

16 **(2) EXCEPT IN THE CASE OF AN AGREEMENT RELATED TO A**
17 **PERSONNEL MATTER OR AN INDIVIDUAL OWNER ASSESSMENT ACCOUNT, ANY**
18 **PROVISION IN AN AGREEMENT THAT PROHIBITS DISCLOSURE OF ANY TERM OF THE**
19 **AGREEMENT TO THE UNIT OWNERS, OR TO A PURCHASER UNDER § 11-135 OF THIS**
20 **TITLE, SHALL BE UNENFORCEABLE.**

21 **[(2)] (3)** Paragraph (1) of this subsection applies only to a provision
22 relating to any right of a unit owner or council of unit owners to bring a claim under
23 applicable law alleging the failure to comply with:

24 (i) Applicable building codes;

25 (ii) Plans and specifications approved by a county or municipality;

26 (iii) Manufacturer's installation instructions; or

27 (iv) Warranty provisions under § 10-203 of this article and § 11-131
28 of this title.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
30 apply only prospectively and may not be applied or interpreted to have any effect on or
31 application to:

32 (1) any provision of a declaration or bylaws of a condominium recorded in

1 the land records of the county where the property is located before the effective date of this
2 Act; or

3 (2) any other instrument executed before the effective date of this Act.

4 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2022.