

HOUSE BILL 615

N1
HB 826/21 – ENT

2lr2071

By: **Delegates Healey and Holmes**

Introduced and read first time: January 31, 2022

Assigned to: Environment and Transportation

Committee Report: Favorable

House action: Adopted

Read second time: February 22, 2022

CHAPTER _____

1 AN ACT concerning

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

4 FOR the purpose of altering the procedures for dispute settlement between a council of unit
5 owners or a board of directors and an alleged violator under the Maryland
6 Condominium Act; establishing procedures for dispute settlement between a board
7 of directors or other governing body and an alleged violator under the Maryland
8 Homeowners Association Act; and generally relating to dispute settlement in
9 condominiums and homeowners associations.

10 BY repealing and reenacting, with amendments,
11 Article – Real Property
12 Section 11–113
13 Annotated Code of Maryland
14 (2015 Replacement Volume and 2021 Supplement)

15 BY adding to
16 Article – Real Property
17 Section 11B–111.10
18 Annotated Code of Maryland
19 (2015 Replacement Volume and 2021 Supplement)

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

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 11–113.

3 (a) Unless the declaration or bylaws state otherwise, the dispute settlement
4 mechanism provided by this section is applicable to complaints or demands formally arising
5 on or after [January 1, 1982] **OCTOBER 1, 2022**.

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

10 **[(1)] (2)** [Written] **A WRITTEN** demand to cease and desist from an
11 alleged violation [is served upon] **SHALL BE PROVIDED TO** the alleged violator specifying:

12 (i) The alleged violation;

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

14 (iii) A time period, not less than [10] **15** days, during which the
15 violation may be abated without further sanction, if the violation is a continuing one, or a
16 statement that any further violation of the same rule may result in the imposition of
17 sanction after notice and **OPPORTUNITY FOR** hearing if the violation is not continuing.

18 **[(2)] (3)** Within 12 months of the demand, if the violation continues past
19 the period allowed in the demand for abatement without penalty or if the same rule is
20 violated subsequently, the board [serves] **SHALL PROVIDE** the alleged violator, **AT THE**
21 **ALLEGED VIOLATOR’S ADDRESS OF RECORD**, with **A** written notice of **THE ALLEGED**
22 **VIOLATOR’S RIGHT TO REQUEST** a hearing to be held by the board in **EXECUTIVE**
23 session[. The notice shall contain] **CONTAINING**:

24 (i) The nature of the alleged violation;

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

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

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

32 (iv) The proposed sanction to be imposed.

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

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

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

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

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

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

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

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

27 **[(4)] (6)** A decision [pursuant to] **IN ACCORDANCE WITH** these
28 procedures shall be appealable to the courts of Maryland.

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

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

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

4 **11B-111.10.**

5 (A) UNLESS THE DECLARATION OR BYLAWS STATE OTHERWISE, THE
6 DISPUTE SETTLEMENT MECHANISM PROVIDED BY THIS SECTION IS APPLICABLE TO
7 COMPLAINTS OR DEMANDS FORMALLY ARISING ON OR AFTER OCTOBER 1, 2022.

8 (B) (1) THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF THE
9 HOMEOWNERS ASSOCIATION MAY NOT IMPOSE A FINE, SUSPEND VOTING, OR
10 INFRINGE ON ANY OTHER RIGHT OF A LOT OWNER OR ANY OTHER OCCUPANT FOR
11 VIOLATIONS OF RULES UNTIL THE PROCEDURES IN THIS SUBSECTION ARE
12 FOLLOWED.

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

15 (I) THE NATURE OF THE ALLEGED VIOLATION;

16 (II) THE ACTION REQUIRED TO ABATE THE VIOLATION; AND

17 (III) A PERIOD OF TIME, NOT LESS THAN 15 DAYS, DURING
18 WHICH THE VIOLATION MAY BE ABATED WITHOUT FURTHER SANCTION, IF THE
19 VIOLATION IS A CONTINUING VIOLATION, OR A STATEMENT THAT ANY FURTHER
20 VIOLATION OF THE SAME RULE MAY RESULT IN THE IMPOSITION OF SANCTION
21 AFTER NOTICE AND OPPORTUNITY FOR HEARING IF THE VIOLATION IS NOT
22 CONTINUING.

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

30 (I) THE NATURE OF THE ALLEGED VIOLATION;

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

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

3 (IV) THE PROPOSED SANCTION TO BE IMPOSED.

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

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

12 2. THE HEARING SHALL BE HELD IN EXECUTIVE SESSION
13 IN ACCORDANCE WITH THIS NOTICE AND SHALL AFFORD THE ALLEGED VIOLATOR A
14 REASONABLE OPPORTUNITY TO BE HEARD.

15 3. A. PRIOR TO THE TAKING EFFECT OF ANY
16 SANCTION UNDER THIS SECTION, PROOF OF NOTICE SHALL BE ENTERED IN THE
17 MINUTES OF THE MEETING.

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

22 C. THE NOTICE REQUIREMENT SHALL BE DEEMED
23 SATISFIED IF THE ALLEGED VIOLATOR APPEARS AT THE MEETING.

24 4. THE MINUTES OF THE MEETING SHALL CONTAIN A
25 WRITTEN STATEMENT OF THE RESULTS OF THE HEARING AND THE SANCTION, IF
26 ANY, IMPOSED.

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

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

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

6 **(2) THE PREVAILING PARTY IN ANY PROCEEDING UNDER THIS**
 7 **SUBSECTION IS ENTITLED TO AN AWARD FOR COUNSEL FEES AS DETERMINED BY**
 8 **THE COURT.**

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

13 **(E) THIS SECTION DOES NOT APPLY TO THE COLUMBIA ASSOCIATION OR**
 14 **THE VILLAGE COMMUNITY ASSOCIATIONS FOR THE VILLAGES OF COLUMBIA IN**
 15 **HOWARD COUNTY.**

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.