

HOUSE BILL 616

N1, C1
HB 825/21 – ENT

2lr2073

By: **Delegates Healey and Holmes**

Introduced and read first time: January 31, 2022

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Cooperative Housing Corporations – Dispute Settlement and Eviction**
3 **Procedures**

4 FOR the purpose of altering procedures for the dispute settlement mechanism under the
5 Maryland Cooperative Housing Corporation Act; specifying that the dispute
6 settlement mechanism does not apply to complaints or demands arising out of a
7 cooperative housing member's failure to pay certain assessments; repealing a
8 prohibition on the governing body of a cooperative housing corporation bringing an
9 action in court to evict a member based solely on the member's failure to pay
10 assessments under certain circumstances; and generally relating to dispute
11 settlement and evictions in cooperative housing corporations.

12 BY repealing and reenacting, with amendments,
13 Article – Corporations and Associations
14 Section 5–6B–30
15 Annotated Code of Maryland
16 (2014 Replacement Volume and 2021 Supplement)

17 BY repealing
18 Article – Corporations and Associations
19 Section 5–6B–31
20 Annotated Code of Maryland
21 (2014 Replacement Volume and 2021 Supplement)

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

24 **Article – Corporations and Associations**

25 5–6B–30.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) (1) [The] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
2 **SUBSECTION, THE** dispute settlement mechanism provided by this section applies to any
3 complaint or demand formally arising on or after [January 1, 2015] **OCTOBER 1, 2022,**
4 unless the bylaws of the cooperative housing corporation or the proprietary lease of the
5 member who is a party to the dispute state otherwise.

6 (2) **THE DISPUTE SETTLEMENT MECHANISM PROVIDED BY THIS**
7 **SECTION DOES NOT APPLY TO COMPLAINTS OR DEMANDS ARISING OUT OF A**
8 **MEMBER'S FAILURE TO PAY ASSESSMENTS OWED TO THE COOPERATIVE HOUSING**
9 **CORPORATION.**

10 (b) (1) Except as provided in this subsection, a governing body may not impose
11 a fine, suspend voting, bring an action in court to evict, or infringe on any other rights of a
12 member for a violation of:

13 (i) The rules of the cooperative housing corporation; or

14 (ii) The provisions of the member's proprietary lease.

15 (2) The governing body shall [serve] **PROVIDE** the member with a written
16 demand to cease and desist from the alleged violation specifying:

17 (i) The alleged violation;

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

19 (iii) 1. A time period of not less than 10 days during which the
20 violation may be abated without further sanction if the violation is a continuing one; or

21 2. A statement that any further violation of the same rule
22 may result in the imposition of sanction after notice and **THE OPPORTUNITY FOR A**
23 hearing if the violation is not continuing.

24 (3) (i) If the violation continues past the period specified under
25 paragraph (2)(iii)1 of this subsection, or if the same rule is violated subsequently, the
26 governing body shall [serve] **PROVIDE** the member with written notice **SENT TO THE**
27 **MEMBER'S ADDRESS OF RECORD OF THE MEMBER'S RIGHT TO REQUEST** a hearing to
28 be held by the governing body in session.

29 (ii) The [hearing] notice shall specify:

30 1. The nature of the alleged violation;

31 [2. The time and place of the hearing, which time may be not
32 less than 10 days from the giving of the notice;

1 3. An invitation to attend the hearing and produce any
2 statement, evidence, and witnesses on behalf of the member; and]

3 [4.] 2. The proposed sanction to be imposed;

4 3. **THE PROCEDURE FOR REQUESTING A HEARING; AND**

5 4. **THE TIME FRAME FOR REQUESTING A HEARING,**
6 **WHICH MAY NOT BE LESS THAN 10 DAYS BEGINNING ON THE DATE OF THE NOTICE.**

7 (4) (i) [The] **IF THE MEMBER REQUESTS A HEARING WITHIN THE**
8 **TIME FRAME SPECIFIED IN THE NOTICE GIVEN UNDER PARAGRAPH (3) OF THIS**
9 **SUBSECTION, THE** governing body shall hold a hearing on the alleged violation in
10 executive session[, in accordance with the notice provided under paragraph (3) of this
11 subsection].

12 **(II) THE GOVERNING BODY SHALL GIVE THE MEMBER AT LEAST**
13 **15 DAYS' WRITTEN NOTICE OF THE TIME AND PLACE OF THE HEARING.**

14 [(ii)] **(III)** At the hearing, the member shall have the right to present
15 evidence and to present and cross-examine witnesses regarding the alleged violation.

16 [(iii)] **(IV)** Prior to imposing any sanction on the member, the
17 governing body shall place in the minutes of the meeting proof of the notice provided to the
18 member under paragraph (3) of this subsection, which shall include:

19 1. A copy of the notice, together with a statement of the date
20 and manner of [the delivery of] **PROVIDING** the notice; or

21 2. A statement that the member in fact appeared at the
22 hearing.

23 [(iv)] **(V)** The governing body shall place in the minutes of the
24 meeting the results of the hearing and the sanction, if any, imposed on the member.

25 **(5) IF THE MEMBER DOES NOT REQUEST A HEARING WITHIN THE TIME**
26 **FRAME SPECIFIED IN THE NOTICE GIVEN UNDER PARAGRAPH (3) OF THIS**
27 **SUBSECTION, THE GOVERNING BODY, AT THE NEXT MEETING, SHALL DELIBERATE**
28 **AS TO WHETHER THE VIOLATION OCCURRED AND DECIDE WHETHER A SANCTION IS**
29 **APPROPRIATE FOR THE VIOLATION.**

30 (c) A member may appeal a decision of a governing body made in accordance with
31 the dispute settlement procedure described in this section to the courts of Maryland.

32 (d) (1) If a member fails to comply with this subtitle, the bylaws of a

1 cooperative housing corporation, or a decision rendered by the governing body in accordance
2 with this section, the governing body or any other member of the cooperative housing
3 corporation may sue the member for any damages caused by the failure or for injunctive
4 relief.

5 (2) The prevailing party in a proceeding authorized under this subsection
6 is entitled to an award for reasonable attorney's fees as determined by court.

7 (e) The failure of a governing body to enforce a provision of this title, the
8 proprietary lease of a member, or the bylaws of the cooperative housing corporation on any
9 occasion is not a waiver of the right to enforce the provision on any other occasion.

10 [5-6B-31.

11 (a) This section applies only to a cooperative project that is no longer subject to a
12 mortgage or deed of trust.

13 (b) Notwithstanding the articles of incorporation, bylaws, or regulations of a
14 cooperative housing corporation or the proprietary lease of any member, a governing body
15 may not bring an action in court to evict a member based solely on the failure of the member
16 to pay assessments owed to the cooperative housing corporation unless:

17 (1) The member has been delinquent in paying assessments for a period of
18 3 months or more;

19 (2) The governing body has given the member notice and an opportunity to
20 be heard regarding the delinquency, consistent with § 5-6B-30 of this subtitle;

21 (3) The governing body has given the member an opportunity to cure the
22 delinquency; and

23 (4) The member has failed to cure the delinquency.]

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 complaint or demand formally arising under the rules of a cooperative
27 housing corporation or the provisions of a member's proprietary lease before the effective
28 date of this Act, unless the bylaws of the cooperative housing corporation or the proprietary
29 lease of the member who is a party to the dispute states otherwise.

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