HOUSE BILL 1060

By: Delegate Holmes
Introduced and read first time: February 10, 2022
 Assigned to: Environment and Transportation

A BILL ENTITLED

AN ACT concerning

Residential Owners in Common Ownership Communities Bill of Rights

FOR the purpose of establishing a bill of rights for unit owners of a condominium, members
of a cooperative housing corporation, and lot owners of a homeowners association;
and generally relating to residential owners in common ownership communities.

BY adding to

Article – Real Property
Section 1–105
Annotated Code of Maryland
(2015 Replacement Volume and 2021 Supplement)

Preamble

WHEREAS, The General Assembly authorized a Task Force on Common Ownership
Communities, or Task Force, under Chapter 469 of the Acts of 2005 and directed that Task
Force to study and prepare proposals for improving Maryland laws that relate to
communities that are governed as a common ownership community, including a
condominium, a cooperative housing corporation, or a homeowners association; and

WHEREAS, The Task Force concluded in 2006 that there was a marked increase in
interest nationwide in addressing issues between unit owners in a condominium, members
in a cooperative housing corporation, and lot owners in a homeowners association
(hereinafter, collectively, “residential owners”) and the governing bodies of such
communities, and that identifying and establishing a bill of rights for those residential
owners is an important objective; and

WHEREAS, The Uniform Law Commission recognized the need for a bill of rights
for residential owners and first approved a model bill of rights in 2008 for consideration by
the states; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
WHEREAS, The Task Force completed its work in 2006, before the Uniform Law Commission approved its first model bill of rights, and therefore the Task Force concluded in its Final Report of December 31, 2006, that it would be prudent to wait on a final proposal for a Maryland Bill of Rights until the model Uniform Law Commission Bill of Rights was made available to the states; and

WHEREAS, The Task Force was informally re–established during 2021 and has now diligently drafted an updated bill of rights from the Uniform Law Commission, the Montgomery County Commission on Common Ownership Communities, the Maryland Homeowners Association, and other relevant sources; now, therefore,

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

Article – Real Property

1–105.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “COMMON OWNERSHIP COMMUNITY” MEANS:

(I) A COOPERATIVE HOUSING CORPORATION AS DEFINED IN § 5–6B–01 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE;

(II) A CONDOMINIUM AS DEFINED IN § 11–101 OF THIS ARTICLE;

OR

(III) A HOMEOWNERS ASSOCIATION AS DEFINED IN § 11B–101 OF THIS ARTICLE.

(3) “GOVERNING DOCUMENTS” MEANS ANY BYLAWS, COVENANTS, DECLARATIONS, OR RULES OF A COMMON OWNERSHIP COMMUNITY.

(4) “LOT” HAS THE MEANING INDICATED IN § 11B–101 OF THIS ARTICLE.

(5) “RESIDENTIAL OWNER” MEANS:

(I) A MEMBER AS DEFINED IN § 5–6B–01 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE;

OR

(II) A UNIT OWNER AS DEFINED IN § 11–101 OF THIS ARTICLE;
(III) A LOT OWNER.

(B) SUBJECT TO THE PROVISIONS OF ALL APPLICABLE LAWS GOVERNING COMMON OWNERSHIP COMMUNITIES ESTABLISHED IN THE STATE, A RESIDENTIAL OWNER IN A COMMON OWNERSHIP COMMUNITY HAS THE FOLLOWING RIGHTS:

(1) THE RIGHT TO:

(I) BE DESIGNATED AS A MEMBER OF A COMMON OWNERSHIP COMMUNITY WHEN THE COMMUNITY MAKES THAT RESIDENTIAL OWNER SUBJECT TO A LIEN AND TO A MANDATORY ASSESSMENT; AND

(II) PARTICIPATE IN MEETINGS ON COMMUNITY ISSUES WITH OTHER MEMBERS;

(2) THE RIGHT TO BE REPRESENTED BY THE GOVERNING BODY OF THE COMMON OWNERSHIP COMMUNITY AND TO HAVE THE GOVERNING BODY CONSIDER THE PRIORITIES OF ALL RESIDENTIAL OWNERS WHEN APPROVING A BUDGET AND MANAGING THE COMMUNITY’S FACILITIES AND OPEN SPACE;

(3) THE RIGHT TO AN ANNUAL BUDGET FOR THE COMMON OWNERSHIP COMMUNITY, TO BE DELIVERED TO THE RESIDENTIAL OWNER WITH THEIR ANNUAL NOTICE OF ASSESSMENT FEES OWED TO THE COMMON OWNERSHIP COMMUNITY, THAT PRIORITIZES SUPPORT FOR THE FACILITIES AND SERVICES AVAILABLE TO THE RESIDENTIAL OWNER IN THE COMMON OWNERSHIP COMMUNITY;

(4) THE RIGHT TO USE ALL FACILITIES AND SERVICES OF THE COMMON OWNERSHIP COMMUNITY AT A REASONABLE COST THAT DOES NOT EXCEED HALF THE COST CHARGED TO ELIGIBLE USERS WHO ARE NOT RESIDENTIAL OWNERS IN THE COMMON OWNERSHIP COMMUNITY;

(5) THE RIGHT TO BE A MEMBER OF THE CLASS OF SOLE OR PRIMARY USERS OF THE COMMON OWNERSHIP COMMUNITY’S FACILITIES AND SERVICES IF THERE IS SCARCE AVAILABLE CAPACITY OF THESE FACILITIES AND SERVICES AND TO BE PROVIDED WITH ADDITIONAL CAPACITY, TO THE EXTENT POSSIBLE, SO THAT THE CLASS IS NOT DENIED THE OPPORTUNITY TO USE THOSE FACILITIES AND SERVICES;

(6) THE RIGHT TO FAIR TREATMENT IN THE REPAYMENT OF ANY DEBT INCURRED BY THE COMMON OWNERSHIP COMMUNITY FOR MAJOR CAPITAL PROJECTS OR OPERATING EXPENSES SO THAT PRESENT AND FUTURE RESIDENTIAL
OWNERS HAVE A RELATIVELY EQUAL SHARE IN THE RESPONSIBILITY TO REPAY SUCH DEBT;

7 THE RIGHT TO VOTE:

1 By secret ballot to elect the membership of the governing body for the common ownership community and to be a candidate in fair elections administered by neutral parties, with results that can be verified by an audit on request;

2 To recall an incumbent member of the governing body;

3 On certain financial matters, if permitted in the governing documents of the common ownership community; and

4 On new capital projects proposed by the governing body, if permitted in the governing documents of the common ownership community and by referendum;

8 The right, with regard to meetings and activities of the governing body for the common ownership community or a committee of the governing body:

1 To receive reasonable advanced notice of any open and closed meeting, including any agenda for a meeting and any supporting information;

2 To participate, either in person or through remote access, in open meetings that are easily accessible to the residential owners; and

3 To a reasonable opportunity to speak during a timely period when matters are discussed or voted on by the governing body or committee;

9 The right to have a common ownership community governing body and community manager that:

1 Are properly trained and indemnified;

2 Are stewards of the community’s common interests;
(III) Are protective of the rights of residential owners in the community;

(IV) Provide residential owners due process and equal protection; and

(V) Comply and function in accordance with State law and the governing documents;

(10) The right to receive timely access to documents of the common ownership community, including the ability to inspect and copy such documents;

(11) The right to receive prompt and nondiscriminatory service from the staff and governing body of the common ownership community;

(12) The right to individual privacy by the governance and management of the common ownership community;

(13) The right to fair treatment if charged with a violation of the governing documents, including the opportunity to:

   (I) Be notified in writing about the nature of the violation;

   (II) Present evidence and cross-examine witnesses at a proper hearing; and

   (III) Abate the violation within a reasonable amount of time;

(14) The right to:

   (I) Be informed by the governing body of the common ownership community of proposed changes to existing governing documents or policies; and

   (II) Vote to approve any changes of the type identified in subparagraph (I) of this paragraph and have those changes properly adopted and published; and
(15) The right to have the Consumer Protection Division of the Maryland Office of the Attorney General:

   (I) Review alleged violations of state laws that govern common ownership communities; and

   (II) Take direct enforcement actions on behalf of a residential owner, including by acting to receive an adjudication of the matter before a court or the imposition of penalties by the Maryland Office of the Attorney General.

   (C) The listing of rights in subsection (B) may not be construed to deny or detract from other rights that may be retained by residential owners in a common ownership community.

   Section 2. And be it further enacted, that this Act shall take effect October 1, 2022.