

HOUSE BILL 1061

L6, Q2

2lr2066

By: **Delegate Holmes**

Introduced and read first time: February 10, 2022

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Local Government – Condominium and Homeowners Associations – Repair and**
3 **Rehabilitation Funds**

4 FOR the purpose of authorizing a county or municipality to establish a certain fund for the
5 purpose of providing support for the repair of infrastructure in a community subject
6 to a condominium association or homeowners association; requiring that certain
7 property tax revenues be assigned to a fund created under this Act in a certain
8 manner; and generally relating to public funding for the repair or rehabilitation of
9 infrastructure.

10 BY adding to
11 Article – Local Government
12 Section 1–1317
13 Annotated Code of Maryland
14 (2013 Volume and 2021 Supplement)

15 Preamble

16 WHEREAS, Many nonprofit condominium associations and homeowners
17 associations in Maryland are over 50 years old, and many of the communities governed by
18 these condominiums and homeowners associations have reached the point where the
19 community is faced with significant costs to repair the physical infrastructure; and

20 WHEREAS, During the past 50 years, many condominium associations and
21 homeowners associations have been severely constrained by their governing documents
22 that require a supermajority of all owners to approve large increases in yearly assessments,
23 resulting in a backlog of unfunded infrastructure that has deteriorated and is in need of
24 immediate repair despite good faith efforts by the condominium associations and
25 homeowners associations to accumulate sufficient income to pay for these repairs; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 WHEREAS, The original developers of many of those communities, during the
2 subdivision approval process, created the constraining governing documents and
3 negotiated with local government to designate roads for the community and other
4 infrastructure traditionally maintained by the local government as private physical
5 elements that would have to be owned and maintained by the condominiums or
6 homeowners associations; and

7 WHEREAS, As a result of those decisions, local governments pay to maintain this
8 costly infrastructure in some communities, but not in others; and

9 WHEREAS, Condominium associations and homeowners associations that are
10 obligated to maintain this infrastructure cannot afford the costs of necessary repairs, which
11 has led to deteriorated infrastructure that is unsafe, detracts from the appearance and
12 desirability of the community, and depresses property values in the community, thereby
13 negatively impacting property tax revenues to the local governments; and

14 WHEREAS, Those who live in condominiums and planned communities with
15 homeowners associations that are responsible for the private maintenance of this
16 infrastructure are burdened by paying for repairs and services for the types of
17 infrastructure that would otherwise be paid for by local governments, as well as paying
18 property taxes that support this type of infrastructure in other condominiums and
19 homeowners associations with publicly managed infrastructure; and

20 WHEREAS, There is now a greater sense of urgency from local governments to
21 remove these burdens and assist condominium associations and homeowners associations
22 by raising sufficient funds to repair this deteriorating infrastructure; now, therefore,

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

25 **Article – Local Government**

26 **1–1317.**

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

29 **(2) “CONDOMINIUM ASSOCIATION” MEANS A COUNCIL OF UNIT**
30 **OWNERS, AS DEFINED IN § 11–109 OF THE REAL PROPERTY ARTICLE, SUBJECT TO**
31 **THE PROVISIONS OF THE MARYLAND CONDOMINIUM ACT.**

32 **(3) “HOMEOWNERS ASSOCIATION” MEANS A HOMEOWNERS**
33 **ASSOCIATION SUBJECT TO THE PROVISIONS OF THE MARYLAND HOMEOWNERS**
34 **ASSOCIATION ACT.**

1 **(B) (1) A COUNTY OR MUNICIPALITY MAY ESTABLISH A LOCAL TRUST**
2 **FUND OR OTHER APPROPRIATE FUND FOR THE PURPOSE OF REPAIRING OR**
3 **REHABILITATING INFRASTRUCTURE WITHIN COMMUNITIES THAT ARE SUBJECT TO**
4 **THE REQUIREMENTS OF THE MARYLAND CONDOMINIUM ACT OR THE MARYLAND**
5 **HOMEOWNERS ASSOCIATION ACT.**

6 **(2) A FUND CREATED UNDER PARAGRAPH (1) OF THIS SUBSECTION:**

7 **(I) MAY BE USED, AT THE DISCRETION OF A COUNTY OR**
8 **MUNICIPALITY, FOR THE REPAIR OF INFRASTRUCTURE THAT IS TRADITIONALLY**
9 **MAINTAINED BY THE COUNTY OR MUNICIPALITY FOR THE BENEFIT OF THE PUBLIC,**
10 **INCLUDING ROADS AND STORMWATER MANAGEMENT FACILITIES; AND**

11 **(II) MAY NOT BE USED TO REPAIR OR REPLACE RECREATIONAL**
12 **FACILITIES USED FOR THE EXCLUSIVE USE OR BENEFIT OF THE MEMBERS OF A**
13 **CONDOMINIUM ASSOCIATION OR HOMEOWNERS ASSOCIATION OR THEIR GUESTS.**

14 **(C) (1) A FUND ESTABLISHED BY A COUNTY OR MUNICIPALITY UNDER**
15 **SUBSECTION (B) OF THIS SECTION SHALL CONSIST OF:**

16 **(I) PROPERTY TAX REVENUES PAID TO THE COUNTY OR**
17 **MUNICIPALITY BY UNIT OWNERS IN A CONDOMINIUM OR LOT OWNERS IN A**
18 **HOMEOWNERS ASSOCIATION;**

19 **(II) OTHER APPROPRIATIONS MADE BY THE COUNTY OR**
20 **MUNICIPALITY FOR THE BENEFIT OF THE FUND;**

21 **(III) GIFTS OR DONATIONS MADE TO THE FUND; AND**

22 **(IV) INVESTMENT EARNINGS OF THE FUND.**

23 **(2) A COUNTY OR MUNICIPALITY SHALL ASSIGN PROPERTY TAX**
24 **REVENUES PAID TO THE COUNTY OR MUNICIPALITY BY THE UNIT OWNERS IN A**
25 **CONDOMINIUM OR THE LOT OWNERS IN A HOMEOWNERS ASSOCIATION TO A FUND**
26 **ESTABLISHED IN ACCORDANCE WITH THIS SECTION AS FOLLOWS:**

27 **(I) 25% OF THE REVENUES PER YEAR FOR ANY CONDOMINIUM**
28 **ASSOCIATION OR HOMEOWNERS ASSOCIATION THAT HAS NOT RECEIVED SUPPORT**
29 **FROM THE FUND SINCE THE DATE ON WHICH THE FUND WAS ESTABLISHED; AND**

30 **(II) NOT LESS THAN 10% BUT NOT MORE THAN 25% OF THE**
31 **REVENUES PER YEAR FOR ANY CONDOMINIUM ASSOCIATION OR HOMEOWNERS**

1 ASSOCIATION THAT HAS RECEIVED SUPPORT FROM THE FUND SINCE THE DATE ON
2 WHICH THE FUND WAS ESTABLISHED.

3 (D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A COUNTY OR
4 A MUNICIPALITY MAY ESTABLISH ELIGIBILITY REQUIREMENTS FOR THE AWARD OF
5 FUNDS TO A CONDOMINIUM ASSOCIATION OR HOMEOWNERS ASSOCIATION.

6 (2) (I) A COUNTY OR MUNICIPALITY SHALL PRIORITIZE SUPPORT
7 FOR CONDOMINIUMS AND HOMEOWNERS ASSOCIATIONS THAT EXHIBIT THE
8 GREATEST NEED FOR INFRASTRUCTURE REPAIR OR REHABILITATION.

9 (II) WHEN EVALUATING THE NEED FOR FUNDING TO SUPPORT
10 INFRASTRUCTURE REPAIR, A COUNTY OR MUNICIPALITY MAY CONSIDER THE
11 AVAILABILITY OF OTHER FUNDS AND RESOURCES ON WHICH A CONDOMINIUM
12 ASSOCIATION OR HOMEOWNERS ASSOCIATION MAY RELY.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2022.