

HOUSE BILL 836

N1, C1

3lr2706

By: **Delegate Holmes**

Introduced and read first time: February 9, 2023

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Residents of Common Ownership Communities – Discharge of Liabilities in**
3 **Bankruptcy Proceedings**

4 FOR the purpose of prohibiting an assessment, a charge, a fee, or a fine, or a lien related
5 to an assessment, a charge, a fee, or a fine, owed to the governing body of a
6 cooperative housing corporation, condominium, or homeowners association, from
7 being discharged in bankruptcy; and generally relating to the discharge of liabilities
8 in bankruptcy proceedings.

9 BY repealing and reenacting, with amendments,
10 Article – Corporations and Associations
11 Section 5–6B–29
12 Annotated Code of Maryland
13 (2014 Replacement Volume and 2022 Supplement)

14 BY repealing and reenacting, without amendments,
15 Article – Real Property
16 Section 11–110(b) and 11B–117(a)
17 Annotated Code of Maryland
18 (2015 Replacement Volume and 2022 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article – Real Property
21 Section 11–110(c) and (d) and 11B–117(b)
22 Annotated Code of Maryland
23 (2015 Replacement Volume and 2022 Supplement)

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

26 **Article – Corporations and Associations**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 5-6B-29.

2 (a) (1) Subject to the requirements of this section, a proprietary lease or the
3 bylaws of a cooperative housing corporation may provide for a late charge of no more than
4 \$15 or one-tenth of the total amount of any delinquent assessment or installment owed by
5 a member, whichever is greater.

6 [(b)] (2) A late charge may not be imposed more than once for the same
7 delinquent assessment or installment.

8 [(c)] (3) A late charge may only be imposed if the delinquency has continued for
9 a period of 10 days or more.

10 (B) AN ASSESSMENT, A CHARGE, A FEE, OR A FINE IMPOSED UNDER THIS
11 SUBTITLE, OR A LIEN RELATED TO AN ASSESSMENT, A CHARGE, A FEE, OR A FINE
12 IMPOSED UNDER THIS SUBTITLE, MAY NOT BE DISCHARGED IN BANKRUPTCY.

13 Article – Real Property

14 11-110.

15 (b) (1) (i) Funds for the payment of current common expenses and for the
16 creation of reserves for the payment of future common expenses shall be obtained by
17 assessments against the unit owners in proportion to their percentage interests in common
18 expenses and common profits.

19 (ii) The board of directors of a residential condominium has the
20 authority to increase the assessment levied to cover the reserve funding amount required
21 under § 11-109.4 of this title, notwithstanding any provision of the declaration, articles of
22 incorporation, or bylaws restricting assessment increases or capping the assessment that
23 may be levied in a fiscal year.

24 (2) (i) Where provided in the declaration or the bylaws, charges for
25 utility services may be assessed and collected on the basis of usage rather than on the basis
26 of percentage interests.

27 (ii) If provided by the declaration, assessments for expenses related
28 to maintenance of the limited common elements may be charged to the unit owner or
29 owners who are given the exclusive right to use the limited common elements.

30 (iii) Assessments for charges under this paragraph may be enforced
31 in the same manner as assessments for common expenses.

32 (c) (1) A unit owner shall be liable for all assessments, or installments thereof,
33 coming due while [he] **THE UNIT OWNER** is the owner of a unit.

1 **(2)** In a voluntary grant the grantee shall be jointly and severally liable
2 with the grantor for all unpaid assessments against the grantor for [his] **THE GRANTOR'S**
3 share of the common expenses up to the time of the voluntary grant for which a statement
4 of lien is recorded, without prejudice to the rights of the grantee to recover from the grantor
5 the amounts paid by the grantee for such assessments.

6 **(3)** Liability for assessments may not be avoided by waiver of the use or
7 enjoyment of any common element or by abandonment of the unit for which the
8 assessments are made.

9 (d) **(1)** Payment of assessments, together with interest, late charges, if any,
10 costs of collection and reasonable attorney's fees may be enforced by the imposition of a lien
11 on a unit in accordance with the provisions of the Maryland Contract Lien Act.

12 **(2)** Suit for any deficiency following foreclosure may be maintained in the
13 same proceeding, and suit to recover any money judgment for unpaid assessments may also
14 be maintained in the same proceeding, without waiving the right to seek to impose a lien
15 under the Maryland Contract Lien Act.

16 **(3) AN ASSESSMENT, A CHARGE, A FEE, OR A FINE IMPOSED UNDER**
17 **THIS SUBTITLE, OR A LIEN RELATED TO AN ASSESSMENT, A CHARGE, A FEE, OR A**
18 **FINE IMPOSED UNDER THIS SUBTITLE, MAY NOT BE DISCHARGED IN BANKRUPTCY.**

19 11B-117.

20 (a) **(1)** As provided in the declaration, a lot owner shall be liable for all
21 homeowners association assessments and charges that come due during the time that the
22 lot owner owns the lot.

23 **(2)** The governing body of a homeowners association has the authority to
24 increase an assessment levied to cover the reserve funding amount required under §
25 11B-112.3 of this title, notwithstanding any provision of the declaration, articles of
26 incorporation, or bylaws restricting assessment increases or capping the assessment that
27 may be levied in a fiscal year.

28 (b) **(1)** In addition to any other remedies available at law, a homeowners
29 association may enforce the payment of the assessments and charges provided in the
30 declaration by the imposition of a lien on a lot in accordance with the Maryland Contract
31 Lien Act.

32 **(2) AN ASSESSMENT, A CHARGE, A FEE, OR A FINE IMPOSED UNDER**
33 **THIS SUBTITLE, OR A LIEN RELATED TO AN ASSESSMENT, A CHARGE, A FEE, OR A**
34 **FINE IMPOSED UNDER THIS SUBTITLE, MAY NOT BE DISCHARGED IN BANKRUPTCY.**

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect

1 October 1, 2023.