

SENATE BILL 446

L6, N1, Q2

4lr2820
CF HB 280

By: **Senator Muse**

Introduced and read first time: January 22, 2024

Assigned to: Budget and Taxation

Committee Report: Favorable

Senate action: Adopted

Read second time: February 27, 2024

CHAPTER _____

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 1–1319
13 Annotated Code of Maryland
14 (2013 Volume and 2023 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 condominium associations and homeowners associations have reached the point
19 where the community is faced with significant costs to repair the physical infrastructure;
20 and

21 WHEREAS, During the past 50 years, many condominium associations and

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 homeowners associations have been severely constrained by their governing documents
2 that require a supermajority of all owners to approve large increases in yearly assessments,
3 resulting in a backlog of unfunded infrastructure that has deteriorated and is in need of
4 immediate repair despite good faith efforts by the condominium associations and
5 homeowners associations to accumulate sufficient income to pay for these repairs; and

6 WHEREAS, The original developers of many of those communities, during the
7 subdivision approval process, created the constraining governing documents and
8 negotiated with local government to designate roads for the community and other
9 infrastructure traditionally maintained by the local government as private physical
10 elements that would have to be owned and maintained by the condominium associations or
11 homeowners associations; and

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

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

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

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

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

30 **Article – Local Government**

31 **1–1319.**

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

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

1 **(3) “HOMEOWNERS ASSOCIATION” MEANS A HOMEOWNERS**
2 **ASSOCIATION, AS DEFINED IN § 11B-101 OF THE REAL PROPERTY ARTICLE,**
3 **SUBJECT TO THE PROVISIONS OF THE MARYLAND HOMEOWNERS ASSOCIATION**
4 **ACT.**

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

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

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

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

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

20 **(I) PROPERTY TAX REVENUES PAID TO THE COUNTY OR**
21 **MUNICIPALITY BY UNIT OWNERS IN A CONDOMINIUM OR LOT OWNERS IN A**
22 **HOMEOWNERS ASSOCIATION;**

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

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

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

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

31 **(I) 25% OF THE REVENUES PER YEAR FOR ANY CONDOMINIUM**

1 ASSOCIATION OR HOMEOWNERS ASSOCIATION THAT HAS NOT RECEIVED SUPPORT
2 FROM THE FUND SINCE THE DATE ON WHICH THE FUND WAS ESTABLISHED; AND

3 (II) NOT LESS THAN 10% BUT NOT MORE THAN 25% OF THE
4 REVENUES PER YEAR FOR ANY CONDOMINIUM ASSOCIATION OR HOMEOWNERS
5 ASSOCIATION THAT HAS RECEIVED SUPPORT FROM THE FUND SINCE THE DATE ON
6 WHICH THE FUND WAS ESTABLISHED.

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

10 (2) (I) A COUNTY OR MUNICIPALITY SHALL PRIORITIZE SUPPORT
11 FOR CONDOMINIUM ASSOCIATIONS AND HOMEOWNERS ASSOCIATIONS THAT
12 EXHIBIT THE GREATEST NEED FOR INFRASTRUCTURE REPAIR OR REHABILITATION.

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

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2024.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.