

Department of Legislative Services
 Maryland General Assembly
 2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 266 (Delegate Holmes)
 Environment and Transportation

Residential Owners in Common Ownership Communities - Bill of Rights

This bill creates a bill of rights for residential owners in a common ownership community (COC), applicable to members of cooperative housing corporations, unit owners of condominiums, and lot owners in homeowners associations (HOAs).

Fiscal Summary

State Effect: General fund expenditures for the Office of the Attorney General (OAG) increase by \$215,500 in FY 2025 for staff; future years reflect annualization and inflation. Revenues are not affected.

(in dollars)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	215,500	254,500	265,900	277,600	289,800
Net Effect	(\$215,500)	(\$254,500)	(\$265,900)	(\$277,600)	(\$289,800)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill is not anticipated to materially affect local operations or finances.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill establishes a bill of rights for residential owners in a COC. The rights are subject to the provisions of all applicable laws governing COCs established in the State, and, among others, include the right to:

- be represented by the governing body of the COC 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;
- vote (1) by secret ballot to elect the membership of the governing body for the COC 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 specific financial matters, if permitted in the governing documents of a COC; and (4) on new capital projects proposed by the governing body, if permitted in the governing documents of a COC and by referendum;
- use all facilities and services of the COC at a reasonable cost that does not exceed half the cost charged to eligible users who are not residential owners in the COC;
- have a COC governing body and community manager that (1) are properly trained and indemnified; (2) are stewards of the COC's interests; (3) are protective of the rights of residential owners in the community; (4) provide residential owners due process and equal protection; and (5) comply and function in accordance with State law and governing documents;
- fair treatment if charged with a violation of the governing documents, including the opportunity to (1) be notified in writing about the nature of the violation; (2) present evidence and cross-examine witnesses at proper hearings; and (3) abate the violation within a reasonable period;
- receive timely access to documents of the COC, including the ability to inspect and copy such documents;
- receive prompt and nondiscriminatory service from the staff and governing body of the COC;
- individual privacy by the governance and management of the COC; and
- have the Consumer Protection Division (CPD) of OAG (1) review an alleged violation of State laws that govern COCs and (2) take direct enforcement action 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 OAG.

The rights established under the bill may not be construed to deny or detract from other rights that may be retained by residential owners in a COC.

Current Law: Generally, current law does not specifically enumerate explicit *rights* to residential property owners of COCs. Condominiums, HOAs, and cooperative housing communities are typically operated in accordance with their respective governing documents (bylaws, declarations, etc.). However, existing statutory provisions do set forth procedures, authorizations, and requirements regarding the operation of a COC that impact owners in such communities, including those related to (1) meeting requirements; (2) fidelity insurance requirements; (3) notice requirements for specific meetings;

(4) warranties; (5) requirements related to bookkeeping and access to specific records; and (6) procedures for specific dispute resolution.

For more information on condominiums, cooperative housing corporations, and HOAs, commonly known as COCs, see the **Appendix – Common Ownership Communities**.

State Fiscal Effect: The bill establishes a right for each residential owner in a COC to have OAG (through its CPD) review alleged violations of State law that govern COCs and take direct enforcement action. OAG advises that given the additional responsibility of reviewing complaints and potential enforcement, as well as the number of individuals in the State who live in COCs, it requires additional staff. Specifically, OAG advises that the bill likely generates a volume of complaints that supports the need for at least one assistant Attorney General, an investigator, and a part-time mediation supervisor. Accordingly, OAG general fund expenditures increase by \$215,508 in fiscal 2025, which accounts for the bill’s October 1, 2024 effective date. This estimate reflects the cost of hiring an assistant Attorney General, a part-time investigator, and a part-time mediation supervisor to assist in the review of complaints, provide mediation between parties, and enforcement of violations of State law regarding COCs. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	2.5
Salaries and Fringe Benefits	\$194,144
Operating Costs	<u>21,364</u>
Total 2025 State Expenditures	\$215,508

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses. To the extent that a significant volume of complaints is received, additional staff may be needed in future years; expenditures associated with potential additional staff are not accounted for in this analysis.

The bill is not anticipated to materially affect the workload of the courts.

Small Business Effect: Potential meaningful, particularly to the extent that complaints regarding COCs are reviewed and enforced by OAG.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See HB 29 of 2023 and HB 1060 of 2022.

Designated Cross File: SB 447 (Senator Muse) - Judicial Proceedings.

Information Source(s): Charles, Montgomery, and Prince George's counties; Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Department of Legislative Services

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Appendix – Common Ownership Communities

When a person purchases a single-family home, condominium, or an interest in a cooperative housing corporation, he or she may also be required to join an association of owners, which is intended to act in the common interests of all the homeowners, condominium unit owners, or cooperative owners in the community. Collectively, these associations are often referred to as common ownership communities (COCs). In Maryland, a growing number of newly constructed or newly converted residences are located in some form of a COC. Because registration of the various COCs is not required statewide, the exact number of COCs in Maryland is unknown. However, the Foundation for Community Association Research estimated that there were 7,100 community associations with an estimated 1 million residents in these associations in the State in 2023.

The affairs of a condominium are governed by a council of unit owners, which comprises all unit owners. Among other powers, the council of unit owners has the power to impose assessments on the unit owners to pay common expenses. A council of unit owners may delegate its powers to a board of directors, officers, or a managing agent. Condominiums are governed under Title 11 of the Real Property Article.

Many new housing developments are subject to a homeowners association (HOA) that is created by a governing document and has the authority to impose mandatory fees on lots in the development in connection with the provision of services or for the benefit of the lots, the lot owners, or the common areas. HOAs are governed under Title 11B of the Real Property Article.

A cooperative housing corporation or “cooperative” is a corporation that owns real property. A resident of a cooperative does not own his or her unit; instead, the person owns an interest in the corporation, which leases the unit to the person for residential use. Cooperatives are governed by the laws in Title 5, Subtitle 6B of the Corporations and Associations Article.

Condominiums and HOAs may be authorized by their governing documents to impose liens on units or lots to collect unpaid assessments or fees. In a cooperative, the governing documents usually provide for the collection of delinquent fees, and evictions for outstanding fees are generally pursued by way of a landlord-tenant action.

Task Force on Common Ownership Communities

With a growing number of Marylanders residing in COCs, and evidence that some COCs had issues with governance, dispute resolution, and financial stability, the

General Assembly created the Task Force on Common Ownership Communities in 2005 (Chapter 469 of 2005). The issues addressed by the task force included the availability of alternative dispute resolution services, special considerations of aging COCs, collection of assessments, and resale of homes within COCs. The task force met 10 times, held five public hearings, and submitted its [final report](#) in December 2006. The report's findings and recommendations have served, in subsequent years, as the basis for numerous pieces of legislation intended to improve the operation of COCs.

The task force's report also featured findings and recommendations relating to the creation of an ombudsman in local governments. Since the report's release, Prince George's County created its Common Ownership Communities Program in 2007 with the stated purpose of assisting governing bodies, as well as owners and residents of HOAs, residential condominiums, and cooperative housing corporations, with education, training, and alternative dispute resolution. Charles and Montgomery counties have offices dedicated to COCs that predate the task force.