

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 206

(Senator Smith)

Judicial Proceedings

Environment and Transportation

Condominiums - Common Elements - Clean Energy Equipment

This bill establishes a specific procedure by which the board of directors of a condominium may grant a lease in excess of one year, or a similar interest affecting the common elements of the condominium, for the installation and use of leased “clean energy equipment.”

Fiscal Summary

State Effect: The bill does not materially affect State finances or operations.

Local Effect: The bill does not materially affect local government finances or operations.

Small Business Effect: Minimal.

Analysis

Bill Summary: “Clean energy equipment” is electric vehicle recharging equipment, solar energy equipment, and energy storage systems.

The board of directors, by a majority vote, may grant leases in excess of one year (or similar interests affecting the common elements of the condominium) for the installation and use of leased clean energy equipment. The board of directors may grant such an interest only at a meeting of the board held after at least 30 days’ notice to all unit owners of record. A mortgagee or group of mortgagees is prohibited from overruling a vote to grant an interest.

Current Law: Statutory provisions establish the process by which a governing body of a condominium may generally grant easements, rights-of-way, licenses, leases in excess of one year, or similar interests. For example, the declaration or bylaws may give the council

of unit owners authority to grant such interests affecting the common elements of the condominium if the grant is approved by affirmative vote of two-thirds of the unit owners and with the express written consent of the mortgagees, as specified. The board of directors may grant interests for the provision of utility services or communication systems for the exclusive benefit of units within the condominium regime by majority vote but only after specific requirements are satisfied. This includes at least 30 days' notice to all unit owners and mortgagees of record and the opportunity for these individuals to provide comment.

Within 15 days after a board of directors grants an interest under certain statutory provisions, a petition meeting specified requirements may be filed with the board calling for a special meeting of the unit owners to vote on the question of disapproving the action. If no petition is received, the decision of the board is final. If a qualifying petition is received, a special meeting must be held, as specified, the results of which determine whether the board's decision granting the interest is final or void. (These provisions are not applicable to the specific process established by the bill.)

Section 11-111.4 of the Real Property Article establishes the process necessary for the installation and use of electric vehicle recharging equipment within a condominium community in a unit owner's deeded parking space or a parking space that is specifically designated for use by a particular owner. Generally, if approval is required, the governing body of the condominium must process and review an application for approval of the installation/use of electric vehicle recharging equipment in the same manner as an application for approval of an architectural modification to the condominium. Subject to limited exception, if an application is not denied in writing within 60 days, it is deemed approved. The governing body must approve the installation if it does not unreasonably impede the normal use of an area outside the unit owner's parking space and is reasonably possible.

For more information on condominiums, a common ownership community, see the **Appendix – Common Ownership Communities**.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See HB 101 and SB 593 of 2023.

Designated Cross File: HB 216 (Delegate Charkoudian) - Environment and Transportation.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); State Department of Assessments and Taxation; Maryland Energy Administration; 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.