

HOUSE BILL 793

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HB 361/21 – ENT

4lr3089

By: **Delegates Holmes, Harris, Davis, and Turner**

Introduced and read first time: January 31, 2024

Assigned to: Environment and Transportation

A BILL ENTITLED

AN ACT concerning

Real Property – Governing Bodies of Common Ownership Communities – Member Training

FOR the purpose of requiring each member of a board of directors or officer of a council of unit owners of a condominium and each member of a governing body of a homeowners association to successfully complete a certain training curriculum in a certain manner and subject to certain requirements; and generally relating to members of governing bodies of condominiums and homeowners associations.

BY repealing and reenacting, with amendments,
Article – Real Property
Section 11–109 and 11B–106.1(g)
Annotated Code of Maryland
(2023 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – Real Property
Section 11B–106.1(a)
Annotated Code of Maryland
(2023 Replacement Volume)

BY adding to
Article – Real Property
Section 11B–106.1(g)
Annotated Code of Maryland
(2023 Replacement Volume)

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

Article – Real Property

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



11-109.

(a) The affairs of the condominium shall be governed by a council of unit owners which, even if unincorporated, is constituted a legal entity for all purposes. The council of unit owners shall be comprised of all unit owners.

(b) The bylaws may authorize or provide for the delegation of any power of the council of unit owners to a board of directors, officers, managing agent, or other person for the purpose of carrying out the responsibilities of the council of unit owners.

(c) (1) (i) EACH MEMBER OF A BOARD OF DIRECTORS OR OFFICER OF A COUNCIL OF UNIT OWNERS SHALL SUCCESSFULLY COMPLETE A TRAINING CURRICULUM ON THE RESPONSIBILITIES OF BEING A MEMBER OR AN OFFICER DEVELOPED BY:

1. A COMMON OWNERSHIP COMMISSION RECOGNIZED BY THE STATE OR A LOCAL GOVERNMENT;

2. AN ORGANIZATION APPROVED TO ADMINISTER THE TRAINING CURRICULUM BY A RECOGNIZED COMMON OWNERSHIP COMMISSION;

3. AN INSTITUTION ACCREDITED BY THE MIDDLE STATES COMMISSION ON HIGHER EDUCATION;

4. A MEMBERSHIP ORGANIZATION THAT OFFERS NATIONALLY RECOGNIZED CERTIFICATION CREDENTIALS FOR COMMUNITY MANAGERS; OR

5. A COUNTY WITH COURSEWORK ESTABLISHED BY THE COUNTY COMMON OWNERSHIP COMMISSION.

(ii) A TRAINING CURRICULUM DEVELOPED UNDER THIS PARAGRAPH SHALL INCLUDE TRAINING ON:

1. THE MARYLAND HOMEOWNERS ASSOCIATION ACT, THE MARYLAND CONDOMINIUM ACT, AND THE MARYLAND COOPERATIVE HOUSING CORPORATION ACT;

2. ROLES AND RESPONSIBILITIES OF COMMON OWNERSHIP COMMUNITY GOVERNING BODIES;

3. FIDUCIARY DUTY;

4. RESPONSIBLE GOVERNANCE POLICIES;
5. LEGAL STRUCTURES AND GUIDELINES;
6. RESERVES AND AUDITS;
7. MEETING PROCEDURES AND REQUIREMENTS;
8. HANDLING OF DISPUTES;
9. INSURANCE AND BONDING;
10. COMMUNITY MAINTENANCE;
11. RECORD KEEPING; AND
12. STATE AND LOCAL RESOURCES FOR GOVERNING BODIES.

(2) EACH MEMBER OF THE BOARD OF DIRECTORS OR OFFICER OF THE COUNCIL OF UNIT OWNERS SHALL SUCCESSFULLY COMPLETE THE TRAINING CURRICULUM REQUIRED UNDER THIS SUBSECTION WITHIN 90 DAYS AFTER THE INDIVIDUAL:

(I) IS FIRST ELECTED OR APPOINTED TO THE OFFICE; OR

(II) FOR AN INDIVIDUAL WHO IS IN OFFICE ON OCTOBER 1, 2024, BEGINS A SUBSEQUENT TERM AS A MEMBER OF THE BOARD OF DIRECTORS OR AN OFFICER OF THE COUNCIL OF UNIT OWNERS.

(3) (I) THE BOARD OF DIRECTORS OR THE OFFICERS OF THE COUNCIL OF UNIT OWNERS SHALL:

1. CERTIFY THAT EACH MEMBER OR OFFICER SUCCESSFULLY COMPLETES THE TRAINING CURRICULUM REQUIRED UNDER THIS SUBSECTION;

2. RETAIN A COPY OF THE CERTIFICATE OF COMPLETION OF EACH MEMBER OR OFFICER; AND

3. WITHIN 90 DAYS AFTER THE CERTIFICATION OF THE MEMBER OR OFFICER, REPORT TO THE COMMON OWNERSHIP COMMISSION ON THE CERTIFICATION.

(II) A CERTIFICATE OF COMPLETION ISSUED UNDER THIS PARAGRAPH SHALL BE VALID FOR 3 YEARS.

(III) AN INDIVIDUAL WHO REMAINS A MEMBER OF THE BOARD OF DIRECTORS OR AN OFFICER OF THE COUNCIL OF UNIT OWNERS AT THE TIME THE CERTIFICATE EXPIRES SHALL RENEW THE CERTIFICATION BY SUCCESSFULLY COMPLETING THE TRAINING REQUIRED UNDER THIS SUBSECTION.

(4) IF A MEMBER OF THE BOARD OF DIRECTORS OR AN OFFICER OF THE COUNCIL OF UNIT OWNERS DOES NOT SUCCESSFULLY COMPLETE THE TRAINING REQUIRED UNDER THIS SUBSECTION, THE BOARD OF DIRECTORS OR THE COUNCIL OF UNIT OWNERS MAY:

(I) REMOVE THE INDIVIDUAL FROM THE OFFICE; OR

(II) INVALIDATE A VOTE OF THE INDIVIDUAL.

[(c)] (D) (1) A meeting of the council of unit owners or board of directors may not be held on less notice than required by this section.

(2) The council of unit owners shall maintain a current roster of names and addresses of each unit owner to which notice of meetings of the board of directors shall be sent at least annually.

(3) Each unit owner shall furnish the council of unit owners with his name and current mailing address. A unit owner may not vote at meetings of the council of unit owners until this information is furnished.

(4) A regular or special meeting of the council of unit owners may not be held on less than 10 nor more than 90 days:

(i) Written notice delivered or mailed to each unit owner at the address shown on the roster on the date of the notice; or

(ii) Notice sent to each unit owner by electronic transmission, if the requirements of § 11-139.1 of this title are met.

(5) Notice of special meetings of the board of directors shall be given:

(i) As provided in the bylaws; or

(ii) If the requirements of § 11-139.1 of this title are met, by electronic transmission.

(6) Except as provided in § 11–109.1 of this title, a meeting of a governing body shall be open and held at a time and location as provided in the notice or bylaws.

(7) (i) This paragraph does not apply to any meeting of the governing body that occurs at any time before the meeting at which the unit owners elect officers or a board of directors in accordance with paragraph (16) of this subsection.

(ii) Subject to subparagraph (iii) of this paragraph and to reasonable rules adopted by the governing body under § 11–111 of this title, a governing body shall provide a designated period of time during a meeting to allow unit owners an opportunity to comment on any matter relating to the condominium.

(iii) During a meeting at which the agenda is limited to specific topics or at a special meeting, the unit owners' comments may be limited to the topics listed on the meeting agenda.

(iv) The governing body shall convene at least one meeting each year at which the agenda is open to any matter relating to the condominium.

(8) (i) Unless the bylaws provide otherwise, a quorum is deemed present throughout any meeting of the council of unit owners if persons entitled to cast 25 percent of the total number of votes appurtenant to all units are present in person or by proxy.

(ii) If the number of persons present in person or by proxy at a properly called meeting of the council of unit owners is insufficient to constitute a quorum, an additional meeting of the council of unit owners may be called for the same purpose if:

1. The notice of the initial properly called meeting stated:
 - A. That the procedure authorized by this paragraph might be invoked; and
 - B. The date, time, and place of the additional meeting; and
2. A majority of the unit owners present vote in person or by proxy to call for the additional meeting.

(iii) 1. An additional meeting called under subparagraph (ii) of this paragraph shall occur not less than 15 days after the initial properly called meeting.

2. Not less than 10 days before the additional meeting, a separate and distinct notice of the date, time, place, and purpose of the additional meeting called under subparagraph (ii) of this paragraph shall be:

A. Delivered, mailed, or sent by electronic transmission if the requirements of § 11–139.1 of this title are met, to each unit owner at the address shown on the roster maintained under paragraph (2) of this subsection;

B. Advertised in a newspaper published in the county where the condominium is located; or

C. If the condominium has a website, posted on the homepage of the website.

3. The notice shall contain the quorum and voting provisions of subparagraph (iv) of this paragraph.

(iv) 1. At the additional meeting, the unit owners present in person or by proxy constitute a quorum.

2. Unless the bylaws provide otherwise, a majority of the unit owners present in person or by proxy:

A. May approve or authorize the proposed action at the additional meeting; and

B. May take any other action that could have been taken at the original meeting if a sufficient number of unit owners had been present.

(v) This paragraph may not be construed to affect the percentage of votes required to amend the declaration or bylaws or to take any other action required to be taken by a specified percentage of votes.

(9) At meetings of the council of unit owners each unit owner shall be entitled to cast the number of votes appurtenant to his unit. Unit owners may vote by proxy, but the proxy is effective only for a maximum period of 180 days following its issuance, unless granted to a lessee or mortgagee.

(10) Any proxy may be revoked at any time at the pleasure of the unit owner or unit owners executing the proxy.

(11) A proxy who is not appointed to vote as directed by a unit owner may only be appointed for purposes of meeting quorums and to vote for matters of business before the council of unit owners, other than an election of officers and members of the board of directors.

(12) Only a unit owner voting in person or by electronic transmission if the requirements of § 11–139.2 of this title are met or a proxy voting for candidates designated by a unit owner may vote for officers and members of the board of directors.

(13) Unless otherwise provided in the bylaws, a unit owner may nominate himself or any other person to be an officer or member of the board of directors. A call for nominations shall be sent to all unit owners not less than 45 days before notice of an election is sent. Only nominations made at least 15 days before notice of an election shall be listed on the election ballot. Candidates shall be listed on the ballot in alphabetical order, with no indicated candidate preference. Nominations may be made from the floor at the meeting at which the election to the board is held.

(14) Election materials prepared with funds of the council of unit owners shall list candidates in alphabetical order and may not indicate a candidate preference.

(15) Unless otherwise provided in this title, and subject to provisions in the bylaws requiring a different majority, decisions of the council of unit owners shall be made on a majority of votes of the unit owners listed on the current roster present and voting.

(16) (i) A meeting of the council of unit owners to elect a board of directors for the council of unit owners, as provided in the condominium declaration or bylaws, shall be held within:

1. 60 days from the date that units representing 50 percent of the votes in the condominium have been conveyed by the developer to members of the public for residential purposes; or

2. If a lesser percentage is specified in the declaration or bylaws of the condominium, 60 days from the date the specified lesser percentage of units in the condominium are sold to members of the public for residential purposes.

(ii) 1. Before the date of the meeting held under subparagraph (i) of this paragraph, the developer shall deliver to each unit owner notice that the requirements of subparagraph (i) of this paragraph have been met.

2. The notice shall include the date, time, and place of the meeting to elect the board of directors for the council of unit owners.

(iii) If a replacement board member is elected, the term of each member of the board of directors appointed by the developer shall end 10 days after the meeting is held as specified in subparagraph (i) of this paragraph.

(iv) Within 30 days from the date of the meeting held under subparagraph (i) of this paragraph, the developer shall deliver to the officers or board of directors for the council of unit owners, as provided in the condominium declaration or bylaws, at the developer's expense:

1. The documents specified in § 11–132 of this title;

2. The condominium funds, including operating funds, replacement reserves, investment accounts, and working capital;

3. The tangible property of the condominium; and

4. A roster of current unit owners, including mailing addresses, telephone numbers, and unit numbers, if known.

(v) The replacement reserves delivered under subparagraph (iv)2 of this paragraph for a residential condominium shall be equal to at least the reserve funding amount recommended in the reserve study completed under § 11–109.4 of this title as of the date of the meeting.

(vi) 1. This subparagraph does not apply to a contract entered into before October 1, 2009.

2. A. In this subparagraph, “contract” means an agreement with a company or individual to handle financial matters, maintenance, or services for the condominium.

B. “Contract” does not include an agreement relating to the provision of utility services or communication systems.

3. Until all members of the board of directors of the condominium are elected by the unit owners at a transitional meeting as specified in subparagraph (i) of this paragraph, a contract entered into by the officers or board of directors of the condominium may be terminated, at the discretion of the board of directors and without liability for the termination, not later than 30 days after notice.

(vii) If the developer fails to comply with the requirements of this paragraph, an aggrieved unit owner may submit the dispute to the Division of Consumer Protection of the Office of the Attorney General under § 11–130(c) of this title.

[(d)] (E) The council of unit owners may be either incorporated as a nonstock corporation or unincorporated and it is subject to those provisions of Title 5, Subtitle 2 of the Corporations and Associations Article which are not inconsistent with this title. The council of unit owners has, subject to any provision of this title, and except as provided in item (22) of this subsection, the declaration, and bylaws, the following powers:

(1) To have perpetual existence, subject to the right of the unit owners to terminate the condominium regime as provided in § 11–123 of this title;

(2) To adopt and amend reasonable rules and regulations;

(3) To adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners;

(4) To sue and be sued, complain and defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more unit owners on matters affecting the condominium;

(5) To transact its business, carry on its operations and exercise the powers provided in this subsection in any state, territory, district, or possession of the United States and in any foreign country;

(6) To make contracts and guarantees, incur liabilities and borrow money, sell, mortgage, lease, pledge, exchange, convey, transfer, and otherwise dispose of any part of its property and assets;

(7) To issue bonds, notes, and other obligations and secure the same by mortgage or deed of trust of any part of its property, franchises, and income;

(8) To acquire by purchase or in any other manner, to take, receive, own, hold, use, employ, improve, and otherwise deal with any property, real or personal, or any interest therein, wherever located;

(9) To hire and terminate managing agents and other employees, agents, and independent contractors;

(10) To purchase, take, receive, subscribe for or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, loan, pledge or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligation of corporations of the State, or foreign corporations, and of associations, partnerships, and individuals;

(11) To invest its funds and to lend money in any manner appropriate to enable it to carry on the operations or to fulfill the purposes named in the declaration or bylaws, and to take and to hold real and personal property as security for the payment of funds so invested or loaned;

(12) To regulate the use, maintenance, repair, replacement, and modification of common elements;

(13) To cause additional improvements to be made as a part of the general common elements;

(14) To grant easements, rights-of-way, licenses, leases in excess of 1 year, or similar interests through or over the common elements in accordance with § 11-125(f) of this title;

(15) To impose and receive any payments, fees, or charges for the use, rental, or operation of the common elements other than limited common elements;

(16) To impose charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of the declaration, bylaws, and rules and regulations of the council of unit owners, under § 11–113 of this title;

(17) To impose reasonable charges for the preparation and recordation of amendments to the declaration, bylaws, rules, regulations, or resolutions, resale certificates, or statements of unpaid assessments;

(18) To provide for the indemnification of and maintain liability insurance for officers, directors, and any managing agent or other employee charged with the operation or maintenance of the condominium;

(19) To enforce the implied warranties made to the council of unit owners by the developer under § 11–131 of this title;

(20) To enforce the provisions of this title, the declaration, bylaws, and rules and regulations of the council of unit owners against any unit owner or occupant;

(21) Generally, to exercise the powers set forth in this title and the declaration or bylaws and to do every other act not inconsistent with law, which may be appropriate to promote and attain the purposes set forth in this title, the declaration or bylaws; and

(22) To designate parking for individuals with disabilities, notwithstanding any provision in the declaration, bylaws, or rules and regulations.

[(e)] (F) A unit owner may not have any right, title, or interest in any property owned by the council of unit owners other than as holder of a percentage interest in common expenses and common profits appurtenant to his unit.

[(f)] (G) A unit owner's rights as holder of a percentage interest in common expenses and common profits are such that:

(1) A unit owner's right to possess, use, or enjoy property of the council of unit owners shall be as provided in the bylaws; and

(2) A unit owner's interest in the property is not assignable or attachable separate from his unit except as provided in §§ 11–107(d) and 11–112(g) of this title.

11B–106.1.

(a) A meeting of the members of the homeowners association to elect a governing body of the homeowners association shall be held within:

(1) 60 days from the date that at least 75% of the total number of lots that may be part of the development after all phases are complete are sold to members of the public for residential purposes; or

(2) If a lesser percentage is specified in the governing documents of the homeowners association, 60 days from the date the specified lesser percentage of the total number of lots in the development after all phases are complete are sold to members of the public for residential purposes.

(G) (1) (I) EACH MEMBER OF THE GOVERNING BODY SHALL SUCCESSFULLY COMPLETE A TRAINING CURRICULUM ON THE RESPONSIBILITIES OF A MEMBER OF THE GOVERNING BODY DEVELOPED BY:

1. A COMMON OWNERSHIP COMMISSION RECOGNIZED BY THE STATE OR A LOCAL GOVERNMENT;

2. AN ORGANIZATION APPROVED TO ADMINISTER THE TRAINING CURRICULUM BY A RECOGNIZED COMMON OWNERSHIP COMMISSION;

3. AN INSTITUTION ACCREDITED BY THE MIDDLE STATES COMMISSION ON HIGHER EDUCATION;

4. A MEMBERSHIP ORGANIZATION THAT OFFERS NATIONALLY RECOGNIZED CERTIFICATION CREDENTIALS FOR COMMUNITY MANAGERS; OR

5. A COUNTY WITH COURSEWORK ESTABLISHED BY THE COUNTY COMMON OWNERSHIP COMMISSION.

(II) A TRAINING CURRICULUM DEVELOPED UNDER THIS PARAGRAPH SHALL INCLUDE TRAINING ON:

1. THE MARYLAND HOMEOWNERS ASSOCIATION ACT, THE MARYLAND CONDOMINIUM ACT, AND THE MARYLAND COOPERATIVE HOUSING CORPORATION ACT;

2. ROLES AND RESPONSIBILITIES OF COMMON OWNERSHIP COMMUNITY GOVERNING BODIES;

3. FIDUCIARY DUTY;

4. RESPONSIBLE GOVERNANCE POLICIES;

5. LEGAL STRUCTURES AND GUIDELINES;

6. RESERVES AND AUDITS;

7. MEETING PROCEDURES AND REQUIREMENTS;
8. HANDLING OF DISPUTES;
9. INSURANCE AND BONDING;
10. COMMUNITY MAINTENANCE;
11. RECORD KEEPING; AND
12. STATE AND LOCAL RESOURCES FOR GOVERNING BODIES.

(2) EACH MEMBER OF THE GOVERNING BODY SHALL SUCCESSFULLY COMPLETE THE TRAINING CURRICULUM REQUIRED UNDER THIS SUBSECTION WITHIN 90 DAYS AFTER THE INDIVIDUAL:

(I) IS FIRST ELECTED OR APPOINTED TO THE GOVERNING BODY; OR

(II) FOR A MEMBER WHO IS IN OFFICE ON OCTOBER 1, 2024, BEGINS A SUBSEQUENT TERM AS A MEMBER OF THE GOVERNING BODY.

(3) (I) THE GOVERNING BODY SHALL:

1. CERTIFY THAT EACH MEMBER SUCCESSFULLY COMPLETES THE TRAINING CURRICULUM REQUIRED UNDER THIS SUBSECTION;

2. RETAIN A COPY OF THE CERTIFICATE OF COMPLETION OF EACH MEMBER; AND

3. WITHIN 90 DAYS AFTER THE CERTIFICATION OF THE MEMBER, REPORT TO THE COMMON OWNERSHIP COMMISSION ON THE CERTIFICATION.

(II) A CERTIFICATE OF COMPLETION ISSUED UNDER THIS PARAGRAPH SHALL BE VALID FOR 3 YEARS.

(III) IF A MEMBER OF THE GOVERNING BODY REMAINS A MEMBER OF THE GOVERNING BODY AT THE TIME THE CERTIFICATE EXPIRES, THE MEMBER SHALL RENEW THE CERTIFICATION BY SUCCESSFULLY COMPLETING THE TRAINING REQUIRED UNDER THIS SUBSECTION.

(4) IF A MEMBER OF THE GOVERNING BODY DOES NOT SUCCESSFULLY COMPLETE THE TRAINING REQUIRED UNDER THIS SUBSECTION, THE GOVERNING BODY MAY:

- (I) REMOVE THE MEMBER FROM THE GOVERNING BODY; OR**
- (II) INVALIDATE A VOTE OF THE MEMBER.**

[(g)] (H) If the declarant fails to comply with the requirements of this section, an aggrieved lot owner may submit the dispute to the Division of Consumer Protection of the Office of the Attorney General under § 11B–115(c) of this title.

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