

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 758

(Senator Kagan)

Judicial Proceedings

Environment and Transportation

**Condominiums and Homeowners Associations - Elections, Financial Statements,
and Enforcement**

This bill, among other provisions, establishes certain requirements for elections of the governing body of a condominium or homeowners association (HOA) and requires the governing body of a condominium to make reasonable accommodations for owners to engage in organizing activities relating to the governance of the condominium. The bill prohibits a condominium or HOA from imposing a charge on a unit/lot owner for the examination or receipt by electronic transmission of financial statements. The bill also authorizes the Office of the Attorney General (OAG) to adopt regulation to carry out provisions of the Maryland Condominium Act (MCA) and Maryland Homeowners Association Act (MHAA).

Fiscal Summary

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

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

Small Business Effect: Minimal.

Analysis

Bill Summary:

Condominiums and Homeowners Associations – Elections

Elections – including the collection and counting of ballots and the certifying of results – for officers or members of the governing body of a condominium or HOA (except for the full membership of the council of unit owners) must be conducted by independent parties who are not candidates in the election and do not have a conflict of interest regarding any candidate.

A lot/unit owner is considered an independent party if the owner (1) complies with the requirements of the bill; (2) does not electioneer for any candidate; and (3) is not subject to an objection by more than 25% of the eligible voting members of the council of unit owners/HOA. Unless the property management for a condominium or HOA is owned by the community (or a parent association of the community), representatives of the condominium's or HOA's property management are not considered independent parties.

The governing body/HOA may retain a third-party vendor or employ a commercial technology platform to conduct an election. Individuals conducting an election must make reasonable efforts to ensure that the election is fair and that there is accountability for the process and results. A unit/lot owner designated to conduct an election who acts in good faith is not personally liable in connection with the conduct of the election.

The governing body of a condominium must make reasonable accommodations, including reasonable use of any portion of common areas, for unit owners to engage in organizing activities relating to governance of the condominium. The governing body may not prevent unit owners from, or retaliate against unit owners for, exercising rights guaranteed under law or under the governing documents of the condominium.

Provisions of the governing documents, rules, or regulations of a condominium or HOA relating to the conduct of elections that are inconsistent with the requirements of the bill are unenforceable and void.

Review or Digital Delivery of Financial Statements

The governing body of a condominium or HOA may not impose a charge for a lot/unit owner to examine financial statements in person, as specified, or receive the statements electronically. A lot owner may be charged if the financial statements are located in a depository, as specified.

Enforcement

The bill establishes that a violation of MCA or MHAA is within the scope of the enforcement duties and powers of the Consumer Protection Division (CPD) of OAG. The bill (1) repeals provisions that formerly limited this applicability to if a violation affected a consumer; (2) expands the definitions of consumer to include a unit owner or lot owner; and (3) repeals provisions stating that provisions within MCA and MHAA are otherwise to be enforced by each agency of the State within the scope of its authority.

Current Law: Generally, State statute includes the MCA and the MHAA, which regulate various aspects of condominium and HOA operations.

Elections: Pursuant to MCA, unless otherwise provided in the governing documents of the condominium, unit owners may nominate themselves or others for officer or board positions. A call for nominations must be sent to all unit owners no less than 45 days before the election notice. Only nominations made at least 15 days before the election notice will be included on the ballot. Candidates must be listed alphabetically, without preference. Nominations may also be made from the floor at the election meeting. Election materials funded by the council of unit owners must follow the same guidelines, listing candidates alphabetically without indicating preference.

MHAA does not expressly regulate the election of the members of the governing body. However, MHAA does authorize a lot owner to submit a dispute to CPD if the governing body fails to comply with election procedures outlined in the governing documents, specifically those concerning (1) notice of the election date, time, and place; (2) the process for calling for nominations; (3) ballot format; (4) proxy format, provision, and use; or (5) quorum determination for elections.

Books and Records – Examination: Generally, the books and records of a condominium or HOA must be available for examination or copying, or both, by any unit or lot owner, the owner’s mortgagee, or their respective agents or attorneys during normal business hours and after reasonable notice. The governing body may impose reasonable charges for reviewing, copying, or requesting delivery of information; otherwise, charges may not be imposed.

For more information on condominiums and HOAs, which are commonly referred to as common ownership communities, see the **Appendix – Common Ownership Communities**.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 1534 (Delegate Holmes) - Environment and Transportation.

Information Source(s): Office of the Attorney General (Consumer Protection Division);
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, the person 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 (COC). 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 1.0 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 homeowner's 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 an individual 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. While a small number of local governments (Charles and Montgomery counties) created such offices before the report's publication, some local jurisdictions have since created programs to regulate or provide oversight of COCs. For example, Prince George's County created its Common Ownership Communities Program in 2007 to assist governing bodies, as well as owners and residents of HOAs, residential condominiums, and cooperative housing corporations, with education, training, and alternative dispute resolution.