

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 449

(Delegate Holmes)

Environment and Transportation

Judicial Proceedings

Condominiums - Property Insurance Deductibles - Unit Owner Responsibility

This bill increases, from \$10,000 to \$25,000, the maximum amount of the council of unit owners' property insurance deductible for which a unit owner is responsible if the cause of any damage to (or destruction of) any portion of the condominium originates from the owner's unit. The bill also specifies that a contract for the resale of a condominium unit by a unit owner (other than a developer) is not enforceable unless the required disclosure regarding the unit owner's responsibility in regard to property insurance includes written notice of the unit owner's responsibility when damage or destruction originates from a unit. The bill also makes a conforming change.

Fiscal Summary

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

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

Small Business Effect: Minimal.

Analysis

Current Law: No later than the first conveyance of a condominium unit to a person other than the developer, the council of unit owners must maintain, to the extent reasonably available:

- property insurance in amounts determined by the council of unit owners, but no less than any amount specified in the declaration or bylaws (1) for attached, multifamily dwelling units, or detached units located within a condominium not composed entirely of similarly detached units, on the common elements and units, exclusive

of improvements and betterments installed in units by unit owners other than the developer and (2) for detached units located within a condominium composed entirely of similar detached units, on the common elements only; and

- comprehensive general liability insurance, as specified.

If any portion of the common elements and the units (generally exclusive of improvements/betterments installed in the units by owners) is damaged or destroyed, it must promptly be repaired or replaced by the council of unit owners unless (1) the condominium is terminated; (2) repair or replacement would be illegal under any State or local health or safety statute or ordinance; or (3) 80% of the unit owners, including every owner of a unit or assigned limited common element which will not be rebuilt, vote not to rebuild.

Generally, the cost of repair or replacement in excess of insurance proceeds and reserves is a common expense. A property insurance deductible is not a cost of repair or replacement in excess of insurance proceeds. When damage or destruction within the condominium originates from a unit, the owner of that unit is responsible for the council of unit owners' property insurance deductible, up to a maximum of \$10,000 (increased to \$25,000 under the bill).

Unit owners must be informed annually in writing of their responsibility for the council of unit owners' property insurance deductible and the deductible's amount. Any deductible amount exceeding the \$10,000 (\$25,000 under the bill) for which a unit owner is responsible constitutes a common expense.

Generally, a contract for the resale of a unit by a unit owner other than the developer is not enforceable unless, among other requirements, the owner provides the purchaser (no later than 15 days prior to closing) with a written notice of the unit owner's responsibility for the council of unit owners' property insurance deductible and the amount of the deductible.

For more information on condominiums, a type of common ownership community, 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: SB 446 (Senator Beidle) - Judicial Proceedings.

Information Source(s): Office of the Attorney General (Consumer Protection Division);
Maryland Insurance Administration; Department of Legislative Services

Fiscal Note History: First Reader - February 7, 2025
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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.