

Department of Legislative Services
 Maryland General Assembly
 2026 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 853 (Delegate Holmes, *et al.*)
 Economic Matters

Real Property - Regulation of Common Ownership Community Managers

This bill establishes the State Board of Common Ownership Community Managers to regulate the provision of common ownership community (COC) property management services in Maryland. Appointed by the Governor, the board operates under the authority of the Secretary of Labor. The board is subject to reestablishment and periodic evaluation under the Maryland Program Evaluation Act (MPEA), with a termination date of July 1, 2032.

Fiscal Summary

State Effect: No assumed effect in FY 2027. General fund expenditures for the Maryland Department of Labor (MD Labor) increase by \$224,600 in FY 2028 to establish the board. General fund expenditures for the Department of Legislative Services (DLS) increase by \$89,600 in FY 2030, and the board becomes operational as a special fund entity in FY 2029. Out-year costs reflect annualization, inflation, and additional staff in FY 2029; revenues reflect staggered license renewals and growth in the number of licensees under the assumptions discussed below.

(\$ in millions)	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031
SF Revenue	\$0	\$0	\$1.0	\$0.0	\$1.0
GF Expenditure	\$0	\$0.2	\$0	\$0.1	\$0.1
SF Expenditure	\$0	\$0	\$0.5	\$0.5	\$0.5
Net Effect	\$0.0	(\$0.2)	\$0.5	(\$0.5)	\$0.4

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

Local Effect: None; however, COCs and COC managers in Montgomery and Prince George’s counties become subject to regulation at both the State and local levels.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Defined Terms

The bill defines a “common ownership community” as a condominium organized under the Maryland Condominium Act that is used for residential purposes, a homeowners association organized under the Maryland Homeowners Association Act, and a cooperative housing corporation organized under the Maryland Cooperative Housing Corporation Act.

“License” generally means a license issued by the board that allows an individual to provide management services for a COC.

“Limited license” generally means a limited license issued by the board that allows an individual to provide management services for a COC under the supervision of a licensed community manager.

“Providing management services” for a COC means:

- acting with the authority of the COC in its business, legal, financial, or other transactions with COC members and nonmembers;
- executing the resolutions and decisions of a COC;
- enforcing the rights of the COC secured by statute, contract, covenant, rule, or bylaw with the authority of the COC;
- negotiating contracts or otherwise coordinating or arranging for services or the purchase of property and goods for or on behalf of a COC;
- collecting, disbursing, or otherwise exercising dominion or control over money or other property belonging to a COC;
- preparing budgets, financial statements, or other financial reports for a COC;
- arranging, conducting, or coordinating meetings of a COC or the governing body of a COC; or
- offering or soliciting to perform any of the above-mentioned acts or services on behalf of a COC.

State Board of Common Ownership Community Managers

The board consists of nine members who serve for a term of four years. A board member may not serve more than two consecutive terms, and the terms of the members are staggered. Board members may not be compensated but are entitled to reimbursement for expenses as provided for in the State budget. Members are appointed by the Governor with

the advice of the Secretary of Labor and the advice and consent of the Senate. The bill specifies additional criteria for board members.

To administer and enforce the bill, the board is required to:

- adopt rules of professional conduct as appropriate for individuals issued a license or a limited license;
- establish criteria and a process for certification of a variety of educational offerings and training programs for issuing licenses or limited licenses;
- establish continuing education requirements for individuals who have been issued a license or a limited license; and
- keep a record of its proceedings.

The board may establish, by regulation, a nonjudicial dispute resolution process to resolve any disciplinary matter, education and training opportunities for governing bodies of COCs, and any other procedures or standards consistent with its mission. The board may also take appropriate actions to enter into a cooperative and information-sharing agreement with any unit of law enforcement as authorized by law, as well as assist a COC in exercising any other rights granted by the bill.

Uncodified language authorizes the board, when adopting regulations concerning the training and examination requirements for an applicant for a license or limited license, to take into consideration specified training and examination standards.

Once licensing activity begins, the board must maintain a public list of the names and mailing addresses of all individuals issued a license or a limited license.

Funding of the Board

The board must charge fees set to approximately cover both the direct and indirect costs of fulfilling its statutory and regulatory duties and may set those fees by regulation. To inform the fee-setting decision, the Secretary of Labor, in consultation with the board, must annually calculate the direct and indirect costs attributable to the board. The fees charged must be consistent with other fees for comparable licenses issued by other boards and commissions in the State. The board must publish its fee schedule. Each fee established by the board may not be increased annually by more than 12.5% of the existing and corresponding fee. All fee revenue is deposited into a newly created State Board of Common Ownership Community Managers Fund, a special, nonlapsing fund administered by the Secretary. Interest earnings accrue to the new fund. Expenditures from the fund may only be made in accordance with the State budget. The Office of Legislative Audits *must* audit the accounts and transactions of the fund.

The Department of Budget and Management (DBM), by budget amendment, may advance sufficient funds to the board to allow operations to commence on October 1, 2027, so that licensing and registration functions may be in place by October 1, 2028.

Licensed Community Managers

An individual acting as a COC manager in the State must be issued a license by the board prior to providing management services and may only provide management services in fulfillment of a contract with the COC, as specified. An applicant must already be a licensed associate community manager who holds a limited license and:

- completes a board-approved training program;
- passes a board-approved examination; and
- has been actively engaged in providing management services as a licensed associate community manager for at least five years before applying for a license or holds an active board-approved professional designation.

Until the board adopts regulations concerning training examination requirements, license applicants may take a nationally prepared and administered standardized examination for the COC management profession that is developed in a specified manner. Additionally, the board must grant a waiver of the license or limited license training and examination requirements to any applicant who presents to the board satisfactory evidence, by October 1, 2029, that the applicant provided management services in the State for the two years immediately preceding the application.

An applicant must submit an application to the board and pay the application fee set by the board. Upon payment of a license fee, a qualified applicant must be issued a license by the board. The term of a license is two years. The board must issue a renewal certificate and renew the license of each qualified holder. The board must provide a renewal application form and notice to the licensee, at least two months before the license expires, as specified.

The board is required to reinstate the license of an individual who has failed to renew his or her license if the individual applies for reinstatement within two years of the license expiration, pays a reinstatement fee set by the board, and meets the aforementioned renewal requirements. If an applicant applies for reinstatement after the two-year period, the board may either treat the application the same as an initial application or reinstate the license if specific requirements are met.

The board may also grant reciprocity to an individual who has an equivalent license in another U.S. state or territory. The board may issue the license by reciprocity only if the applicant pays a license fee set by the board and provides adequate evidence that the applicant has met substantially equivalent requirements as those in the State. The board

must establish standards for the issuance of a license to an individual licensed in another state.

If a COC contracts with a person other than a licensed community manager to provide management services, the contract must require that only a licensed community manager provide the COC with management services.

Licensed Associate Community Managers

An individual must be issued a limited license by the board before an individual may provide management services as a licensed associate community manager for a COC in the State. A licensed associate community manager may provide management services only while under the general supervision of a licensed community manager.

An applicant for a limited license must be at least age 18, submit an application on a board-approved form, and pay an application fee. In addition, the applicant must complete a board-approved training program and pass a board-approved examination. If an applicant qualifies for a limited license, the board must send the applicant a notice stating that the applicant has qualified for a limited license and, on receipt of a fee, the board will issue a limited license in the name of the applicant. The board must deliver a limited license to the licensed community manager who will be supervising the licensed associate community manager, as specified. Provisions regarding the renewal and reinstatement of a limited license align with those set forth for a licensed community manager.

Grounds for Denying, Reprimanding, Suspending, or Revoking a License or Limited License

Subject to specified notice and hearing requirements and after considering specified factors, the board may deny a license (or limited license) to an applicant, reprimand a licensee, suspend or revoke a license (or limited license), and/or impose a penalty against a licensee of up to \$5,000 (which is paid to the general fund) if the licensee:

- fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;
- fraudulently or deceptively uses a license;
- is convicted of (1) a felony or (2) a misdemeanor that directly relates to the applicant's or licensee's fitness and qualifications to provide management services;
- engages in conduct that demonstrates bad faith, incompetency, or untrustworthiness or that constitutes dishonest, fraudulent, or improper dealings;
- fails to handle the funds of a COC in accordance with the bill's provisions;

- fails to account in a timely manner for all money and property received on behalf of a COC;
- willfully fails to disclose to a COC relevant material facts of which the licensee has actual knowledge;
- is guilty of gross negligence, incompetence that is proven to have been detrimental to a COC, or misconduct in providing management services;
- has been sanctioned in another state in a matter relating to providing management services;
- violates any of the bill's provisions; or
- violates any regulations adopted by the board.

Before the board takes any of these actions against a licensee, it must give the individual notice and an opportunity for a hearing before the board. If the individual does not appear after due notice has been given, the board may hear and determine the matter. The board may issue a subpoena for the attendance of a witness to testify or the production of evidence in connection with any such proceeding. A circuit court may compel compliance with the subpoena upon petition by the board. An individual who contests a final decision of the board is entitled to judicial review under the Administrative Procedure Act.

The board may reinstate, in accordance with board procedures, a revoked license or, before fulfillment of the conditions of the suspension, any suspended license.

Registration

Each COC must register with the board on or before January 1 of each year and provide the board with specified identifying information and any other information required by the board. If a COC contracts for management services, that manager is responsible for the registration. MD Labor must report to the General Assembly by December 1, 2027, on the imposition of a COC registration fee in relation to the bill's license and limited license fees as well as the size of a COC to which a registration fee would apply.

Miscellaneous Provisions

A contracting party must file with the Secretary proof, as required by the board, of a fidelity bond or theft insurance of a specified amount, or other board-required comparable written insurance, that covers (1) any person that provides management services for a COC under the terms of a contract and (2) any individual working under the direction of such a person. The Secretary, or the Secretary's designee, must be named as a certificate holder for any fidelity bond or required insurance. In the event the fidelity bond or insurance is canceled, forfeited, or terminated or the contracting party fails to notify the Secretary of any change

to the fidelity bond or insurance, the Secretary must suspend any license of any individual providing management services, until proof of compliance is submitted.

A licensed community manager must deposit all money received in connection with the provision of management services in one or more of the financial institution accounts of a COC. A licensed community manager who provides management services for more than one COC must maintain separate bank accounts for each COC and may not commingle accounts. Each bank account maintained by the licensed community manager must be in the name of the COC. A licensed community manager who willfully violates the bill's provisions relating to the handling of COC financial institution accounts is guilty of a misdemeanor and subject to a fine of up to \$25,000 and/or imprisonment for up to five years.

Additional Enforcement and Penalty Provisions

An individual who is not a licensed community manager or licensed associate community manager but, nonetheless, acts as a licensed COC manager, is in violation of the bill. In addition, a person may not represent that he or she is authorized to provide COC management services or give false information to the board in an attempt to obtain a license or limited license. A person whose license or limited license has been suspended or revoked may not provide management services to a COC as an associate, agent, employee, or other subordinate of either a licensed community manager or a business entity that provides management services. The board, with the approval of the Attorney General, may sue in the name of the State to enjoin any prohibited activity. Violation of such provisions is a misdemeanor and punishable by a fine of up to \$5,000 and/or imprisonment for up to three years. The board may also impose a fine of up to \$5,000 for each violation after consideration of specified factors.

Current Law:

Regulation of Management Services

State law does not designate a statewide office to regulate COC management services. Among local governments, only Montgomery and Prince George's counties require some form of COC registration.

Fidelity Insurance Requirements for Common Ownership Communities

State law requires that the board of directors, council of unit owners, or other governing body of a COC purchase fidelity insurance, which is defined to include a fidelity bond, no later than the time of the first conveyance of a cooperative interest, unit, or lot to a person other than the developer and must keep the insurance in place every subsequent year. The

insurance must provide for the indemnification of the COC against loss resulting from acts or omissions arising from fraud, dishonesty, or criminal acts by any officer, director, managing agent, or other agent or employee charged with the operation or maintenance of the COC who controls or disburses funds and also applies to any management company employing a managing agent or other employee charged with the operation or maintenance of the COC who controls or disburses funds.

For more information on COCs generally, see the **Appendix – Common Ownership Communities**.

Maryland Program Evaluation Act

Pursuant to statutory provisions, approximately 60 regulatory entities and activities are subject to termination unless reauthorized periodically through statute. Under MPEA, these entities may also be subject to an evaluation by the Office of Program Evaluation and Government Accountability (OPEGA) within DLS prior to their termination. However, OPEGA may conduct an evaluation only if directed by specified entities or by legislation.

State Fiscal Effect:

Staffing Needs

Maryland Department of Labor: Despite the bill's October 1, 2026 effective date, DLS assumes that licensing and registration activity begins in fiscal 2029, consistent with other provisions in the bill. Given the breadth of the regulatory program and its experience with other regulatory boards, a *minimum* of 4.5 staff are necessary to fully implement the program.

Specifically, it is assumed that an executive director, an administrative support specialist, a licensing and education administrator, a licensing and regulatory investigator, and a part-time assistant Attorney General are needed to develop regulations and procedures, including investigatory procedures; implement the licensing, limited licensing, and registration program; process applications and review and investigate evidence related to the grandfather exception; and undertake other such preparatory activities. This estimate assumes that only the executive director, administrative support specialist, and part-time assistant Attorney General begin October 1, 2027, and that remaining staff begin July 1, 2028 (in fiscal 2029).

Accordingly, MD Labor general fund expenditures increase by \$224,568 in fiscal 2028, which accounts for the bill's reporting requirements and administrative necessities. Annually thereafter, special fund expenditures are assumed to cover costs, as shown below. This estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses – including an indirect cost allocation beginning in fiscal 2029.

	<u>FY 2028</u>	<u>FY 2029</u>
New Positions	2.5	2.0
Salaries and Fringe Benefits	\$180,993	\$420,290
One-time Start-up Costs	38,316	24,468
Other Operating Expenses	5,259	12,748
Indirect Costs	<u>0</u>	<u>60,000</u>
Total MD Labor Expenditures	\$224,568	\$517,506

Future year expenditures reflect full salaries with annual increases and employee turnover, as well as annual increases in ongoing operating expenses. The estimate does not include any reimbursement for board members. This estimate represents the *minimal* costs to implement the bill and takes into account information provided by DBM, the Office of the Attorney General, and MD Labor. The information provided by MD Labor is modeled after the operational and fiscal requirements of the Maryland Real Estate Commission (MREC). Additionally, due in part to unverifiable estimates of the number of community managers that would require licensing, DLS is unable to independently verify to what extent, if any, a higher level of staffing and associated costs are necessitated. For example, MREC, which is *currently* staffed with 13 positions, regulates over 40,000 active licensees. Nevertheless, additional support *may* be needed, particularly in the first couple of years of implementation.

Direct and Indirect Costs

The above expenditures reflect the direct costs of regulating COC managers and the indirect costs that MD Labor attributes to each regulatory program within the Division of Occupational and Professional Licensing for the use of division and departmental resources. Direct costs include necessary expenditures for personnel, equipment and supplies, travel expenses, and fixed charges. Indirect costs – such as usage of the central licensing system, general services offices, and a portion of the salaries of some senior staff – are allocated to each program by a formula based on the program’s usage of these services. Thus, MD Labor advises that indirect costs under the bill are anticipated to be approximately \$60,000 for the initial set up of the licensing application and \$10,000 annually thereafter.

License Fee Revenues

The bill provides for three main revenue sources for the fund: license fees; limited license fees; and application fees from COC managers. Although registration fees could be collected pursuant to a determination by the report submitted by MD Labor, this estimate does not assume that a positive determination of the need for registration fees will be made. Therefore, all revenue collection begins when the licensing activity begins on October 1, 2028.

The bill requires the board to set reasonable fees that approximate the costs of its services. The bill also limits the ability of the board to raise fees if they are not set at a level to initially cover all costs (with the 12.5% limitation on raising fees each year). Due to the biennial licensing period and because most licensing activity will occur in odd-numbered fiscal years, the board must set its fees high enough to collect sufficient fee revenue in fiscal 2029 to allow it to cover its expenditures in both fiscal 2029 and 2030 – generally by carrying over a balance from the first year to the second year. Moreover, the board must generate sufficient revenue to also reimburse the general fund, over a period of time, for the start-up costs incurred in fiscal 2028. The ability of the board to set application fees by regulation should assist in covering ongoing costs and being able to reimburse the general fund; nevertheless, this analysis does not account for any such revenue or repayment, as the bill does not specify a repayment schedule.

Due to the absence of more specific data, for purposes of this revenue estimate, DLS accepts MD Labor’s historical estimate that 1,100 individuals initially participate in the Maryland licensing program. However, the actual number of individuals subject to licensure may vary. MD Labor advises that the fee assessed by the board will need to reflect what is needed to support the board. Consequently, the fee assessed by the board is assumed to be \$900. This estimated fee may change as needed to fund the board appropriately. Thus, revenues in fiscal 2029 total approximately \$990,000 MD Labor advises that it anticipates 1.2% annual growth in licensees. DLS notes that, although the bill requires the fees charged to be consistent with other fees for comparable licenses issued by other boards and commissions in the State, MD Labor does not regulate a similar industry or issue a comparable license.

Exhibit 1 shows projected revenues and expenditures through fiscal 2031. This estimate also assumes, at least initially, that an individual seeking a license will not be required to pay the license fee twice, once for the limited license, and again for the full license. (The bill requires that any applicant for a license also hold a limited license issued by the board. DLS assumes that the majority of eligible individuals will be licensed, both as licensed community managers and licensed associate community managers in fiscal 2029, because the bill prohibits the unlicensed management of a COC.) In subsequent years, because an applicant for license renewal is not required to maintain that limited license, DLS assumes that the requirement is intended to apply to applicants who progress from holding a limited license to holding a “full” license after meeting other experience, educational, and examination requirements. Accordingly, DLS assumes that MD Labor waives the fee for a limited license in the first licensing cycle for individuals who are required to hold both types of licenses in order to comply with the bill’s licensing requirement.

Exhibit 1
Projected Revenues and Expenditures of the Program
Fiscal 2028-2031

	<u>FY 2028</u>	<u>FY 2029</u>	<u>FY 2030</u>	<u>FY 2031</u>
Total Costs	\$224,568	\$517,506	\$462,823	\$482,651
Direct Costs	\$224,568	457,506	\$452,823	472,651
Indirect Costs	0	60,000	10,000	10,000
Anticipated Revenues	\$0	\$990,000	\$11,700	\$1,001,700
Annual Surplus	\$0	\$472,494	\$451,123	\$519,049
Cumulative Surplus	\$0	\$472,494	\$21,371	\$540,420

Note: In fiscal 2028, the board's expenditures are assumed to be covered by general funds, resulting in no surplus at year-end. The approximately \$225,000 in expenditures for that year could be repaid over several years from excess revenues in the fund balance. However, as illustrated above, revenues in the first year of each licensing cycle must be used to help cover costs in the second year.

Source: Department of Legislative Services

The bill also authorizes the board to set a reinstatement fee as well as a fee for the granting of reciprocity to an out-of-state COC manager. However, any revenue attained from these fees is expected to be minimal and is not included in this analysis.

Department of Legislative Services – Office of Legislative Audits

The Office of Legislative Audits (OLA) within DLS advises it requires one staff auditor to provide the professional audit services *required* under the bill. OLA reports that while it has sufficient resources to manage its existing workload, which is based on compliance with professional audit standards and OLA's assessment of materiality and risk, amongst other factors, the bill's language precludes OLA from exercising professional judgement in determining audit services. Accordingly, a new position is required. Thus, general fund expenditures for DLS increase. This estimate assumes the position is needed beginning in fiscal 2030, after the fund has attained sufficient revenues from licensing activity.

Position	1.0
Salary and Fringe Benefits	\$80,375
One-time Start-Up Costs	7,058
Operating Expenses	<u>2,146</u>
Total FY 2030 DLS Expenditures	\$89,579

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses. OLA advises that if the bill were to instead require that the program be *subject to audit* rather than *required* to be audited by OLA then no additional resources would be required.

Small Business Effect: As noted above, small business expenditures increase by at least \$900 for required licenses, as well as potentially significant costs associated with board-approved training and required exams or attaining specified professional credentialing.

Furthermore, as referenced above, Montgomery County has required COCs to register since the county created a 15-member volunteer Commission on Common Ownership Communities in 1991. Prince George’s County has also required COC *management entities* to register with the county’s Office of Community Relations since January 1, 2011. COCs and COC managers in these jurisdictions will, therefore, be subject to regulation at both the State and local levels.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See HB 303 of 2025; HB 273 of 2024; and HB 80 of 2023.

Designated Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Department of Budget and Management; Maryland Department of Labor; 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 (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 7,200 community associations with an estimated 1.1 million residents in these associations in the State in 2024.

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.