

SENATE BILL 447

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4lr2817
CF HB 266

By: **Senator Muse**

Introduced and read first time: January 22, 2024

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Residential Owners in Common Ownership Communities – Bill of Rights**

3 FOR the purpose of establishing a bill of rights for unit owners of a condominium, members
4 of a cooperative housing corporation, and lot owners of a homeowners association;
5 and generally relating to residential owners in common ownership communities.

6 BY adding to
7 Article – Real Property
8 Section 1–105
9 Annotated Code of Maryland
10 (2023 Replacement Volume)

11 Preamble

12 WHEREAS, The General Assembly authorized a Task Force on Common Ownership
13 Communities, or Task Force, under Chapter 469 of the Acts of 2005 and directed that Task
14 Force to study and prepare proposals for improving Maryland laws that relate to
15 communities that are governed as a common ownership community, including a
16 condominium, a cooperative housing corporation, or a homeowners association; and

17 WHEREAS, The Task Force concluded in 2006 that there was a marked increase in
18 interest nationwide in addressing issues between unit owners in a condominium, members
19 in a cooperative housing corporation, and lot owners in a homeowners association
20 (hereinafter, collectively, “residential owners”) and the governing bodies of such
21 communities, and that identifying and establishing a bill of rights for those residential
22 owners is an important objective; and

23 WHEREAS, The Uniform Law Commission recognized the need for a bill of rights
24 for residential owners and first approved a model bill of rights in 2008 for consideration by
25 the states; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



WHEREAS, The Task Force completed its work in 2006, before the Uniform Law Commission approved its first model bill of rights, and therefore the Task Force concluded in its Final Report of December 31, 2006, that it would be prudent to wait on a final proposal for a Maryland Bill of Rights until the model Uniform Law Commission Bill of Rights was made available to the states; and

WHEREAS, The Task Force was informally reestablished during 2021 and diligently drafted an updated bill of rights from the Uniform Law Commission, the Montgomery County Commission on Common Ownership Communities, the Maryland Homeowners Association, and other relevant sources; now, therefore,

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

Article – Real Property

1–105.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “COMMON OWNERSHIP COMMUNITY” MEANS:

(I) A COOPERATIVE HOUSING CORPORATION AS DEFINED IN § 5–6B–01 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE;

(II) A CONDOMINIUM AS DEFINED IN § 11–101 OF THIS ARTICLE;
OR

(III) A HOMEOWNERS ASSOCIATION AS DEFINED IN § 11B–101 OF THIS ARTICLE.

(3) “GOVERNING DOCUMENTS” MEANS ANY BYLAWS, COVENANTS, DECLARATIONS, OR RULES OF A COMMON OWNERSHIP COMMUNITY.

(4) “LOT” HAS THE MEANING STATED IN § 11B–101 OF THIS ARTICLE.

(5) “RESIDENTIAL OWNER” MEANS:

(I) A MEMBER AS DEFINED IN § 5–6B–01 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE;

(II) A UNIT OWNER AS DEFINED IN § 11–101 OF THIS ARTICLE;
OR

(III) A LOT OWNER.

(B) SUBJECT TO THE PROVISIONS OF ALL APPLICABLE LAWS GOVERNING COMMON OWNERSHIP COMMUNITIES ESTABLISHED IN THE STATE, A RESIDENTIAL OWNER IN A COMMON OWNERSHIP COMMUNITY HAS THE FOLLOWING RIGHTS:

(1) THE RIGHT:

(I) TO BE DESIGNATED AS A MEMBER OF A COMMON OWNERSHIP COMMUNITY WHEN THE COMMUNITY MAKES THAT RESIDENTIAL OWNER SUBJECT TO A LIEN AND TO A MANDATORY ASSESSMENT; AND

(II) TO PARTICIPATE IN MEETINGS ON COMMUNITY ISSUES WITH OTHER MEMBERS;

(2) THE RIGHT TO BE REPRESENTED BY THE GOVERNING BODY OF THE COMMON OWNERSHIP COMMUNITY AND TO HAVE THE GOVERNING BODY CONSIDER THE PRIORITIES OF ALL RESIDENTIAL OWNERS WHEN APPROVING A BUDGET AND MANAGING THE COMMUNITY'S FACILITIES AND OPEN SPACE;

(3) THE RIGHT TO AN ANNUAL BUDGET FOR THE COMMON OWNERSHIP COMMUNITY, TO BE DELIVERED TO THE RESIDENTIAL OWNER WITH THE RESIDENTIAL OWNER'S ANNUAL NOTICE OF ASSESSMENT FEES OWED TO THE COMMON OWNERSHIP COMMUNITY, THAT PRIORITIZES SUPPORT FOR THE FACILITIES AND SERVICES AVAILABLE TO THE RESIDENTIAL OWNER IN THE COMMON OWNERSHIP COMMUNITY;

(4) THE RIGHT TO USE ALL FACILITIES AND SERVICES OF THE COMMON OWNERSHIP COMMUNITY AT A REASONABLE COST THAT DOES NOT EXCEED HALF THE COST CHARGED TO ELIGIBLE USERS WHO ARE NOT RESIDENTIAL OWNERS IN THE COMMON OWNERSHIP COMMUNITY;

(5) THE RIGHT TO BE A MEMBER OF THE CLASS OF SOLE OR PRIMARY USERS OF THE COMMON OWNERSHIP COMMUNITY'S FACILITIES AND SERVICES IF THERE IS SCARCE AVAILABLE CAPACITY OF THESE FACILITIES AND SERVICES AND TO BE PROVIDED WITH ADDITIONAL CAPACITY, TO THE EXTENT POSSIBLE, SO THAT THE CLASS IS NOT DENIED THE OPPORTUNITY TO USE THOSE FACILITIES AND SERVICES;

(6) THE RIGHT TO FAIR TREATMENT IN THE REPAYMENT OF ANY DEBT INCURRED BY THE COMMON OWNERSHIP COMMUNITY FOR MAJOR CAPITAL PROJECTS OR OPERATING EXPENSES SO THAT PRESENT AND FUTURE RESIDENTIAL OWNERS HAVE A RELATIVELY EQUAL SHARE IN THE RESPONSIBILITY TO REPAY

1 SUCH DEBT;

2 (7) THE RIGHT TO VOTE:

3 (I) BY SECRET BALLOT TO ELECT THE MEMBERSHIP OF THE
4 GOVERNING BODY FOR THE COMMON OWNERSHIP COMMUNITY AND TO BE A
5 CANDIDATE IN FAIR ELECTIONS ADMINISTERED BY NEUTRAL PARTIES, WITH
6 RESULTS THAT CAN BE VERIFIED BY AN AUDIT ON REQUEST;

7 (II) TO RECALL AN INCUMBENT MEMBER OF THE GOVERNING
8 BODY;

9 (III) ON CERTAIN FINANCIAL MATTERS, IF PERMITTED IN THE
10 GOVERNING DOCUMENTS OF THE COMMON OWNERSHIP COMMUNITY; AND

11 (IV) ON NEW CAPITAL PROJECTS PROPOSED BY THE GOVERNING
12 BODY, IF PERMITTED IN THE GOVERNING DOCUMENTS OF THE COMMON OWNERSHIP
13 COMMUNITY AND BY REFERENDUM;

14 (8) THE RIGHT, WITH REGARD TO MEETINGS AND ACTIVITIES OF THE
15 GOVERNING BODY FOR THE COMMON OWNERSHIP COMMUNITY OR A COMMITTEE OF
16 THE GOVERNING BODY:

17 (I) TO RECEIVE REASONABLE ADVANCE NOTICE OF ANY OPEN
18 AND CLOSED MEETING, INCLUDING ANY AGENDA FOR A MEETING AND ANY
19 SUPPORTING INFORMATION;

20 (II) TO PARTICIPATE, EITHER IN PERSON OR THROUGH REMOTE
21 ACCESS, IN OPEN MEETINGS THAT ARE EASILY ACCESSIBLE TO THE RESIDENTIAL
22 OWNERS; AND

23 (III) TO A REASONABLE OPPORTUNITY TO SPEAK DURING A
24 TIMELY PERIOD WHEN MATTERS ARE DISCUSSED OR VOTED ON BY THE GOVERNING
25 BODY OR COMMITTEE;

26 (9) THE RIGHT TO HAVE A COMMON OWNERSHIP COMMUNITY
27 GOVERNING BODY AND COMMUNITY MANAGER THAT:

28 (I) ARE PROPERLY TRAINED AND INDEMNIFIED;

29 (II) ARE STEWARDS OF THE COMMUNITY'S COMMON
30 INTERESTS;

1 (III) ARE PROTECTIVE OF THE RIGHTS OF RESIDENTIAL OWNERS
2 IN THE COMMUNITY;

3 (IV) PROVIDE RESIDENTIAL OWNERS DUE PROCESS AND EQUAL
4 PROTECTION; AND

5 (V) COMPLY AND FUNCTION IN ACCORDANCE WITH STATE LAW
6 AND THE GOVERNING DOCUMENTS;

7 (10) THE RIGHT TO RECEIVE TIMELY ACCESS TO DOCUMENTS OF THE
8 COMMON OWNERSHIP COMMUNITY, INCLUDING THE ABILITY TO INSPECT AND COPY
9 SUCH DOCUMENTS;

10 (11) THE RIGHT TO RECEIVE PROMPT AND NONDISCRIMINATORY
11 SERVICE FROM THE STAFF AND GOVERNING BODY OF THE COMMON OWNERSHIP
12 COMMUNITY;

13 (12) THE RIGHT TO INDIVIDUAL PRIVACY BY THE GOVERNANCE AND
14 MANAGEMENT OF THE COMMON OWNERSHIP COMMUNITY;

15 (13) THE RIGHT TO FAIR TREATMENT IF CHARGED WITH A VIOLATION
16 OF THE GOVERNING DOCUMENTS, INCLUDING THE OPPORTUNITY:

17 (I) TO BE NOTIFIED IN WRITING ABOUT THE NATURE OF THE
18 VIOLATION;

19 (II) TO PRESENT EVIDENCE AND CROSS-EXAMINE WITNESSES
20 AT A PROPER HEARING; AND

21 (III) TO ABATE THE VIOLATION WITHIN A REASONABLE AMOUNT
22 OF TIME;

23 (14) THE RIGHT:

24 (I) TO BE INFORMED BY THE GOVERNING BODY OF THE
25 COMMON OWNERSHIP COMMUNITY OF PROPOSED CHANGES TO EXISTING
26 GOVERNING DOCUMENTS OR POLICIES; AND

27 (II) TO VOTE TO APPROVE ANY CHANGES OF THE TYPE
28 IDENTIFIED IN ITEM (I) OF THIS ITEM AND HAVE THOSE CHANGES PROPERLY
29 ADOPTED AND PUBLISHED; AND

30 (15) THE RIGHT TO HAVE THE CONSUMER PROTECTION DIVISION OF

1 THE MARYLAND OFFICE OF THE ATTORNEY GENERAL:

2 (I) REVIEW ALLEGED VIOLATIONS OF STATE LAWS THAT
3 GOVERN COMMON OWNERSHIP COMMUNITIES; AND

4 (II) TAKE DIRECT ENFORCEMENT ACTIONS ON BEHALF OF A
5 RESIDENTIAL OWNER, INCLUDING BY ACTING TO RECEIVE AN ADJUDICATION OF
6 THE MATTER BEFORE A COURT OR THE IMPOSITION OF PENALTIES BY THE
7 MARYLAND OFFICE OF THE ATTORNEY GENERAL.

8 (C) THE LISTING OF RIGHTS IN SUBSECTION (B) OF THIS SECTION MAY NOT
9 BE CONSTRUED TO DENY OR DETRACT FROM OTHER RIGHTS THAT MAY BE RETAINED
10 BY RESIDENTIAL OWNERS IN A COMMON OWNERSHIP COMMUNITY.

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