

HOUSE BILL 789

N1

7lr0558

By: **Delegate Cullison**

Introduced and read first time: February 3, 2017

Assigned to: Environment and Transportation

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 11, 2017

CHAPTER _____

1 AN ACT concerning

2 **Condominiums and Homeowners Associations – Amendment of Governing**
3 **Documents**

4 FOR the purpose of altering the minimum percentage of affirmative votes of unit owners
5 required to amend the bylaws of a condominium under certain circumstances;
6 repealing certain provisions concerning the minimum percentage of votes needed to
7 amend a governing document of a homeowners association created before a certain
8 date; establishing the minimum percentage of affirmative votes of lot owners
9 required to amend certain governing documents of a homeowners association under
10 certain circumstances; providing for the application of certain provisions of this Act;
11 defining certain terms; and generally relating to the amendment of the governing
12 documents of condominiums and homeowners associations.

13 BY repealing and reenacting, with amendments,
14 Article – Real Property
15 Section 11–104(e) and 11B–116
16 Annotated Code of Maryland
17 (2015 Replacement Volume and 2016 Supplement)

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

20 **Article – Real Property**

21 11–104.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (e) (1) A corrective amendment to the bylaws may be made in accordance with
2 § 11-103.1 of this title, or as provided in paragraph (2) of this subsection.

3 (2) (i) Except as provided in subparagraph (ii) of this paragraph,
4 [unless a higher percentage is required in the bylaws,] the bylaws may be amended by the
5 affirmative vote of unit owners [having at least 66 2/3 percent of the votes in the council of
6 unit owners] **AS PROVIDED UNDER PARAGRAPH (6) OF THIS SUBSECTION.**

7 (ii) The bylaws may be amended by the affirmative vote of unit
8 owners having at least 51% of the votes in the council of unit owners for the purpose of
9 requiring all unit owners to maintain condominium unit owner insurance policies on their
10 units.

11 (3) (i) Except as provided in paragraph (4) of this subsection, if the
12 declaration or bylaws contain a provision requiring any action on the part of the holder of
13 a mortgage or deed of trust on a unit in order to amend the bylaws, that provision shall be
14 deemed satisfied if the procedures under this paragraph are satisfied.

15 (ii) If the declaration or bylaws contain a provision described in
16 subparagraph (i) of this paragraph, the council of unit owners shall cause to be delivered to
17 each holder of a mortgage or deed of trust entitled to notice, a copy of the proposed
18 amendment to the bylaws.

19 (iii) If a holder of the mortgage or deed of trust that receives the
20 proposed amendment fails to object, in writing, to the proposed amendment within 60 days
21 from the date of actual receipt of the proposed amendment, the holder shall be deemed to
22 have consented to the adoption of the amendment.

23 (4) Paragraph (3) of this subsection does not apply to amendments that:

24 (i) Alter the priority of the lien of the mortgage or deed of trust;

25 (ii) Materially impair or affect the unit as collateral; or

26 (iii) Materially impair or affect the right of the holder of the mortgage
27 or deed of trust to exercise any rights under the mortgage, deed of trust, or applicable law.

28 (5) Each particular set forth in subsection (b) of this section shall be
29 expressed in the bylaws as amended. An amendment under paragraph (2) of this subsection
30 shall be entitled to be recorded if accompanied by a certificate of the person specified in the
31 bylaws to count votes at the meeting of the council of unit owners that the amendment was
32 approved by unit owners having the required percentage of the votes and shall be effective
33 on recordation. This certificate shall be conclusive evidence of approval.

34 **(6) (I) IN THIS PARAGRAPH, "IN GOOD STANDING" MEANS NOT**
35 **BEING;**

1 ~~1. MORE MORE THAN 90 DAYS IN ARREARS IN THE~~
 2 ~~PAYMENT OF ANY ASSESSMENT OR CHARGE DUE TO THE CONDOMINIUM; OR.~~

3 ~~2. IN VIOLATION OF THE DECLARATION, BYLAWS,~~
 4 ~~RULES, OR REGULATIONS OF THE CONDOMINIUM FOR WHICH THE UNIT OWNER HAS~~
 5 ~~BEEN PROVIDED NOTICE AND OPPORTUNITY TO CORRECT.~~

6 (II) NOTWITHSTANDING THE PROVISIONS OF THE BYLAWS, THE
 7 COUNCIL OF UNIT OWNERS MAY AMEND THE BYLAWS BY THE AFFIRMATIVE VOTE OF
 8 UNIT OWNERS IN GOOD STANDING HAVING AT LEAST ~~55%~~ 60% OF THE VOTES IN THE
 9 COUNCIL, OR BY A LOWER PERCENTAGE IF REQUIRED IN THE BYLAWS.

10 11B-116.

11 (a) (1) In this section[, “governing”] THE FOLLOWING WORDS HAVE THE
 12 MEANINGS INDICATED.

13 (2) “GOVERNING document” includes:

14 [(1)] (I) A declaration;

15 [(2)] (II) Bylaws;

16 [(3)] (III) A deed and agreement; and

17 [(4)] (IV) Recorded covenants and restrictions.

18 (3) “IN GOOD STANDING” MEANS NOT BEING:

19 ~~(I) MORE MORE THAN 90 DAYS IN ARREARS IN THE PAYMENT~~
 20 ~~OF ANY ASSESSMENT OR CHARGE DUE TO THE HOMEOWNERS ASSOCIATION; OR.~~

21 ~~(II) IN VIOLATION OF THE DECLARATION, BYLAWS, RULES, OR~~
 22 ~~REGULATIONS OF THE HOMEOWNERS ASSOCIATION FOR WHICH THE LOT OWNER~~
 23 ~~HAS BEEN PROVIDED NOTICE AND OPPORTUNITY TO CORRECT.~~

24 (b) THIS SECTION DOES NOT APPLY TO A HOMEOWNERS ASSOCIATION THAT
 25 ISSUES BONDS OR OTHER LONG-TERM DEBT SECURED IN WHOLE OR IN PART BY
 26 ANNUAL CHARGES ASSESSED IN ACCORDANCE WITH A DECLARATION, OR TO A
 27 VILLAGE COMMUNITY ASSOCIATION AFFILIATED WITH THE HOMEOWNERS
 28 ASSOCIATION.

29 (C) Notwithstanding the provisions of a governing document, a homeowners
 30 association [created before January 1, 1960,] may amend the governing document [once

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1 every 5 years, or more frequently if allowed by the governing document,] by the affirmative
2 vote of lot owners **IN GOOD STANDING** having at least [two-thirds] ~~55%~~ **60%** of the votes
3 in the development, or by a lower percentage if required in the governing document.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2017.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.