

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 1115 (Senator Benson)
Judicial Proceedings

Maryland Homeowners Association Act - Payment Plan for Fees or Charges -
Written Policy

This bill requires a homeowners association (HOA) that allows a person to pay fees or charges owed to the HOA through a payment plan to develop a written policy for the payment plan. The written policy must (1) include any qualifications needed to participate in the payment plan and (2) disclose the terms and conditions of the payment plan. The HOA must send a copy of the policy to each lot owner within 30 days after the policy is finalized.

Fiscal Summary

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

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

Small Business Effect: Minimal.

Analysis

Current Law: In general, as provided in the declaration of the HOA, a lot owner is liable for all HOA assessments and charges due during the time that the lot owner owns the lot. Statute does not require an HOA to allow a lot owner to pay fees or charges owed to the HOA through a payment plan, or to develop a written policy for any such payment plan.

Maryland Contract Lien Act: In order to recover any unpaid assessment or charge, in addition to any other remedies available at law, an HOA may enforce the payment of the assessments and charges provided in the declaration by the imposition of a lien on a lot in

accordance with the Maryland Contract Lien Act (MCLA). Generally, under MCLA, a person seeking to create a lien as a result of a breach of contract must give written notice, within two years of the breach, to the person whose property is subject to the lien. Within 30 days after service of the notice, the person served may file a complaint in circuit court to determine whether probable cause exists to establish a lien. If the court orders a lien or the property owner fails to file a complaint, the person seeking to create a lien may file a statement of lien in the land records.

With specified exceptions, a lien may be enforced and foreclosed by the lien holder in the same manner, and subject to the same requirements, as the foreclosure of mortgages or deeds of trust on property containing a power of sale or an assent to a decree. An action to foreclose a lien must be brought within 12 years following recordation of the lien statement.

Background: Many new housing developments are subject to an 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. Since registration of HOAs is not required statewide, the exact number of HOAs in Maryland is unknown. The Foundation for Community Association Research estimated that there were 6,600 community associations, which includes HOAs, in the State in 2015.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Foundation for Community Association Research; Department of Legislative Services

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mm/kdm

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