

HOUSE BILL 575

N1

8lr1377

By: **Delegate Holmes**

Introduced and read first time: January 29, 2018

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Condominiums – Suspension of Use of Common Elements**

3 FOR the purpose of authorizing a declaration of a condominium to provide for the
4 suspension of the use of parking or recreational facility common elements by a unit
5 owner that is more than a certain number of days in arrears in the payment of any
6 assessment due to the condominium; requiring a declaration containing a certain
7 suspension provision to state that the provision may be repealed in a certain manner
8 and that a suspension of the use of common elements may not be implemented until
9 the council of unit owners provides certain notice and holds a certain hearing under
10 certain circumstances; establishing an exception to the requirements for amending
11 a declaration to authorize a council of unit owners to add or repeal a certain
12 suspension provision by the affirmative vote of at least a certain percentage of
13 certain eligible voters under certain voting procedures; and generally relating to the
14 use of common elements in condominiums.

15 BY repealing and reenacting, without amendments,
16 Article – Real Property
17 Section 11–101(a) and (c)
18 Annotated Code of Maryland
19 (2015 Replacement Volume and 2017 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article – Real Property
22 Section 11–103(c)(1)
23 Annotated Code of Maryland
24 (2015 Replacement Volume and 2017 Supplement)

25 BY adding to
26 Article – Real Property
27 Section 11–103(d)
28 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2015 Replacement Volume and 2017 Supplement)

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

Article – Real Property

11–101.

(a) In this title the following words have the meanings indicated unless otherwise apparent from context.

(c) (1) “Common elements” means all of the condominium except the units.

(2) “Limited common elements” means those common elements identified in the declaration or on the condominium plat as reserved for the exclusive use of one or more but less than all of the unit owners.

(3) “General common elements” means all the common elements except the limited common elements.

11–103.

(c) (1) Except for a corrective amendment under § 11–103.1 of this title or as provided in paragraph (2) of this subsection **OR SUBSECTION (D) OF THIS SECTION**, the declaration may be amended only with the written consent of 80 percent of the unit owners listed on the current roster. Amendments under this section are subject to the following limitations:

(i) Except to the extent expressly permitted or expressly required by other provisions of this title, an amendment to the declaration may not change the boundaries of any unit, the undivided percentage interest in the common elements of any unit, the liability for common expenses or rights to common profits of any unit, or the number of votes in the council of unit owners of any unit without the written consent of every unit owner and mortgagee.

(ii) An amendment to the declaration may not modify in any way rights expressly reserved for the benefit of the developer or provisions required by any governmental authority or for the benefit of any public utility.

(iii) Except to the extent expressly permitted by the declaration, an amendment to the declaration may not change residential units to nonresidential units or change nonresidential units to residential units without the written consent of every unit owner and mortgagee.

(iv) Except as otherwise expressly permitted by this title and by the declaration, an amendment to the declaration may not redesignate general common

1 elements as limited common elements without the written consent of every unit owner and
2 mortgagee.

3 (v) No provision of this title shall be construed in derogation of any
4 requirement in the declaration or bylaws that all or a specified number of the mortgagees
5 of the condominium units approve specified actions contemplated by the council of unit
6 owners.

7 (D) (1) (I) A DECLARATION MAY PROVIDE FOR THE SUSPENSION OF
8 THE USE OF PARKING OR RECREATIONAL FACILITY COMMON ELEMENTS BY A UNIT
9 OWNER THAT IS MORE THAN 60 DAYS IN ARREARS IN THE PAYMENT OF ANY
10 ASSESSMENT DUE TO THE CONDOMINIUM.

11 (II) IF A DECLARATION CONTAINS A SUSPENSION PROVISION
12 AUTHORIZED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE DECLARATION
13 SHALL STATE THAT:

14 1. THE SUSPENSION PROVISION MAY BE REPEALED BY
15 THE AFFIRMATIVE VOTE OF AT LEAST 60% OF THE TOTAL ELIGIBLE VOTERS OF THE
16 CONDOMINIUM UNDER THE VOTING PROCEDURES CONTAINED IN THE
17 DECLARATION OR BYLAWS; AND

18 2. A SUSPENSION OF THE USE OF COMMON ELEMENTS
19 MAY NOT BE IMPLEMENTED UNTIL THE COUNCIL OF UNIT OWNERS:

20 A. MAILED TO THE UNIT OWNER A DEMAND LETTER
21 SPECIFYING A TIME PERIOD OF AT LEAST 10 DAYS WITHIN WHICH THE UNIT OWNER
22 MAY PAY THE DELINQUENT ASSESSMENT OR REQUEST A HEARING TO CONTEST THE
23 SUSPENSION; AND

24 B. IF A UNIT OWNER REQUESTS A HEARING TO CONTEST
25 A SUSPENSION, PROVIDES NOTICE AND HOLDS A HEARING IN ACCORDANCE WITH §
26 11-113(B)(2) AND (3) OF THIS TITLE.

27 (2) NOTWITHSTANDING THE PROVISIONS OF THE DECLARATION OR
28 BYLAWS, THE COUNCIL OF UNIT OWNERS MAY AMEND THE DECLARATION TO ADD OR
29 REPEAL A SUSPENSION PROVISION AUTHORIZED UNDER PARAGRAPH (1)(I) OF THIS
30 SUBSECTION BY THE AFFIRMATIVE VOTE OF AT LEAST 60% OF THE TOTAL ELIGIBLE
31 VOTERS OF THE CONDOMINIUM UNDER THE VOTING PROCEDURES CONTAINED IN
32 THE DECLARATION OR THE BYLAWS.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 October 1, 2018.