

HOUSE BILL 30

N1

(PRE-FILED)

0lr0592
CF SB 471

By: **Delegates C. Watson, Qi, Guyton, Bagnall, Pena-Melnyk, Terrasa, Feldmark, Hartman, Palakovich Carr, Hettleman, and Crutchfield**

Requested: September 3, 2019

Introduced and read first time: January 8, 2020

Assigned to: Environment and Transportation

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 6, 2020

CHAPTER _____

1 AN ACT concerning

2 **Condominiums – Disclosures to Unit Owners and Prohibited Provisions in**
3 **Instruments by Developers**
4 **(Sunset Island Act)**

5 FOR the purpose of clarifying that certain provisions of law related to closed-door meetings
6 of a board of directors of a condominium do not allow the board to withhold or agree
7 to withhold ~~information about the terms of~~ certain legal agreements from the unit
8 owners; ~~altering the applicability of a certain provision of law concerning claims~~
9 ~~against a developer or vendor;~~ making unenforceable a provision of ~~a declaration, a~~
10 ~~bylaw, a contract for the initial sale of a unit,~~ a certain agreement ~~to settle a claim,~~
11 ~~or any other instrument made by a developer or vendor~~ that prohibits the disclosure
12 to unit owners or certain purchasers of any term of ~~an~~ the agreement to settle a
13 ~~disputed claim;~~ providing for the application of this Act; and generally relating to
14 disclosures to unit owners and claims against developers in condominiums.

15 BY repealing and reenacting, with amendments,
16 Article – Real Property
17 Section 11-109.1 and 11-134.1
18 Annotated Code of Maryland
19 (2015 Replacement Volume and 2019 Supplement)

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

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.



Article – Real Property

1

2 11–109.1.

3 (a) A meeting of the board of directors may be held in closed session only for the
4 following purposes:

5 (1) Discussion of matters pertaining to employees and personnel;

6 (2) Protection of the privacy or reputation of individuals in matters not
7 related to the council of unit owners' business;

8 (3) Consultation with legal counsel on legal matters;

9 (4) Consultation with staff personnel, consultants, attorneys, board
10 members, or other persons in connection with pending or potential litigation or other legal
11 matters;

12 (5) Investigative proceedings concerning possible or actual criminal
13 misconduct;

14 (6) Consideration of the terms or conditions of a business transaction in the
15 negotiation stage if the disclosure could adversely affect the economic interests of the
16 council of unit owners;

17 (7) Complying with a specific constitutional, statutory, or judicially
18 imposed requirement protecting particular proceedings or matters from public disclosure;
19 or

20 (8) Discussion of individual owner assessment accounts.

21 (b) If a meeting is held in closed session under subsection (a) of this section:

22 (1) An action may not be taken and a matter may not be discussed if it is
23 not permitted by subsection (a) of this section; and

24 (2) A statement of the time, place, and purpose of any closed meeting, the
25 record of the vote of each board member by which any meeting was closed, and the authority
26 under this section for closing any meeting shall be included in the minutes of the next
27 meeting of the board of directors.

28 **(C) NOTHING IN THIS SECTION MAY BE INTERPRETED TO AUTHORIZE THE**
29 **BOARD TO WITHHOLD OR AGREE TO WITHHOLD FROM THE UNIT OWNERS**
30 **~~INFORMATION ABOUT THE TERMS OF ANY LEGAL AGREEMENT TO WHICH THE BOARD~~**
31 **COUNCIL OF UNIT OWNERS IS A PARTY.**

1 11-134.1.

2 (a) In this section, “vendor” has the meaning stated in § 10-201 of this article.

3 (b) This section does not apply to~~§~~:

4 (1) ~~A~~~~A~~ unit that is occupied and used solely for nonresidential purposes~~§~~;

5 (2) An agreement or other instrument entered into by a developer or vendor
6 and a council of unit owners for the purpose of settling a disputed claim after the date on
7 which the unit owners, other than the developer and its affiliates, first elect a controlling
8 majority of the members of the board of directors for the council of unit owners; or

9 (3) An agreement or other instrument entered into by a developer or vendor
10 and a unit owner for the purpose of settling a disputed claim after the date the unit is
11 conveyed to the purchaser of the unit~~§~~.

12 (c) (1) Any provision of a declaration, a bylaw, a contract for the initial sale of
13 a unit to a member of the public, ~~AN AGREEMENT FOR THE PURPOSE OF SETTling A~~
14 ~~DISPUTED CLAIM~~, or any other instrument made by a developer or vendor in accordance
15 with this title shall be unenforceable if the provision:

16 (i) Shortens the statute of limitations applicable to any claim;

17 (ii) Waives the application of the discovery rule or other accrual date
18 applicable to a claim;

19 (iii) Requires a unit owner or the council of unit owners to assert a
20 claim subject to arbitration within a period of time that is shorter than the statute of
21 limitations applicable to the claim; ~~for~~

22 (iv) Operates to prevent a unit owner or the council of unit owners
23 from filing a lawsuit, initiating arbitration proceedings for a claim subject to arbitration,
24 or otherwise asserting a claim within the statute of limitations applicable to the claim; ~~OR,~~

25 ~~(v) (2)~~ **PROHIBITS ANY PROVISION IN AN AGREEMENT,**
26 **OTHER THAN AN AGREEMENT RELATED TO A PERSONNEL MATTER OR AN**
27 **INDIVIDUAL OWNER ASSESSMENT ACCOUNT, SHALL BE UNENFORCEABLE IF THE**
28 **PROVISION PROHIBITS THE DISCLOSURE TO THE UNIT OWNERS, OR TO A**
29 **PURCHASER UNDER § 11-135 OF THIS TITLE, OF ANY TERM OF AN THE AGREEMENT**
30 **TO SETTLE A DISPUTED CLAIM.**

31 ~~(2)~~ **(3)** Paragraph (1) of this subsection applies only to a provision relating
32 to any right of a unit owner or council of unit owners to bring a claim under applicable law
33 alleging the failure to comply with:

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- 1 (i) Applicable building codes;
- 2 (ii) Plans and specifications approved by a county or municipality;
- 3 (iii) Manufacturer’s installation instructions; or
- 4 (iv) Warranty provisions under § 10–203 of this article and § 11–131
- 5 of this title.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
 7 apply only prospectively and may not be applied or interpreted to have any effect on or
 8 application to:

- 9 (1) any provision of a declaration or bylaws of a condominium recorded in
- 10 the land records of the county where the property is located before the effective date of this
- 11 Act; or
- 12 (2) any other instrument executed before the effective date of this Act.

13 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
 14 October 1, 2020.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.