

HOUSE BILL 1053

N1

01r2808

By: **Delegate Holmes**

Introduced and read first time: February 6, 2020

Assigned to: Environment and Transportation

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 10, 2020

CHAPTER _____

1 AN ACT concerning

2 **Real Property – Condominiums and Homeowners Associations – Governing**
3 **Bodies and Annual Meetings**

4 FOR the purpose of requiring the governing body of a condominium to convene at least a
5 certain number of meetings each year; requiring a developer of a condominium or a
6 declarant of a homeowners association to convene a certain annual meeting under
7 certain circumstances; requiring certain meetings to include an opportunity for
8 certain unit owners or lot owners to provide comment; requiring the developer of a
9 condominium to appoint a certain person to the board of directors for the council of
10 unit owners within a certain period of time after the date a certain number of units
11 is conveyed under certain circumstances; requiring the developer of a condominium
12 to establish a board of directors if no board of directors has been established under
13 certain circumstances; requiring a developer to deliver certain notices regarding a
14 certain bond to certain individuals within a certain period of time; requiring a council
15 of unit owners to keep books, and records, ~~and accounts~~ beginning on the date the
16 council is established; requiring a council of unit owners to maintain certain books,
17 and records, ~~and accounts~~ in a certain manner; making certain provisions of law
18 applicable to the accounts of a condominium; requiring a declarant to appoint a
19 certain person to the governing body of a homeowners association within a certain
20 period of time after the date a certain number of lots have been conveyed under
21 certain circumstances; requiring a declarant to establish a governing body of a
22 homeowners association if no governing body has been established under certain
23 circumstances; requiring a declarant to deliver certain notices regarding a certain
24 bond to certain individuals within a certain period of time; requiring the governing
25 body of a homeowners association to convene at least a certain number of meetings

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 each year; requiring a homeowners association to maintain books, ~~and~~ records, ~~and~~
 2 ~~accounts~~ beginning on the date the homeowners association is established; requiring
 3 a homeowners association to maintain certain books, and records, ~~and accounts~~ in a
 4 certain manner; making certain provisions of law applicable to the accounts of a
 5 homeowners association; making stylistic changes; and generally relating to the
 6 governing bodies of condominium councils of unit owners and homeowners
 7 associations.

8 BY repealing and reenacting, without amendments,

9 Article – Real Property

10 Section ~~11-109(a) and (b)~~ 11-109(b)

11 Annotated Code of Maryland

12 (2015 Replacement Volume and 2019 Supplement)

13 BY repealing and reenacting, with amendments,

14 Article – Real Property

15 Section ~~11-109(e)~~ 11-109(a) and (c), 11-114.1(d), 11-116, 11-132, 11B-106.1,
 16 11B-111, 11B-111.6(d), and 11B-112(a)

17 Annotated Code of Maryland

18 (2015 Replacement Volume and 2019 Supplement)

19 BY repealing and reenacting, without amendments,

20 Article – Real Property

21 Section 11B-101(a), (c), and (d)

22 Annotated Code of Maryland

23 (2015 Replacement Volume and 2019 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

25 That the Laws of Maryland read as follows:

26 **Article – Real Property**

27 11-109.

28 (a) **(1)** The affairs of the condominium shall be governed by a council of unit
 29 owners which, even if unincorporated, is constituted a legal entity for all purposes.

30 **(2)** The council of unit owners shall ~~be comprised of~~ **COMPRISE** all unit
 31 owners.

32 (b) The bylaws may authorize or provide for the delegation of any power of the
 33 council of unit owners to a board of directors, officers, managing agent, or other person for
 34 the purpose of carrying out the responsibilities of the council of unit owners.

35 (c) (1) A meeting of the council of unit owners or board of directors may not be
 36 held on less notice than required by this section.

1 (2) The council of unit owners shall maintain a current roster of names and
2 addresses of each unit owner to which notice of meetings of the board of directors shall be
3 sent at least annually.

4 (3) Each unit owner shall furnish the council of unit owners with his name
5 and current mailing address. A unit owner may not vote at meetings of the council of unit
6 owners until this information is furnished.

7 (4) A regular or special meeting of the council of unit owners may not be
8 held on less than 10 nor more than 90 days':

9 (i) Written notice delivered or mailed to each unit owner at the
10 address shown on the roster on the date of the notice; or

11 (ii) Notice sent to each unit owner by electronic transmission, if the
12 requirements of § 11-139.1 of this title are met.

13 (5) Notice of special meetings of the board of directors shall be given:

14 (i) As provided in the bylaws; or

15 (ii) If the requirements of § 11-139.1 of this title are met, by
16 electronic transmission.

17 (6) ~~(1) **THE GOVERNING BODY SHALL CONVENE AT LEAST TWO**~~
18 ~~**MEETINGS EACH YEAR.**~~

19 ~~(H)~~ Except as provided in § 11-109.1 of this title, a meeting of a
20 governing body shall be open and held at a time and location as provided in the notice or
21 bylaws.

22 (7) (i) **1.** This ~~paragraph~~ **SUBPARAGRAPH** does not apply to any
23 meeting of the governing body that occurs at any time before the meeting at which the unit
24 owners elect officers or a board of directors in accordance with paragraph ~~[(16)]~~ **(18)** of this
25 subsection.

26 ~~(ii)~~ **2.** Subject to ~~subparagraph (iii) of this paragraph~~
27 **SUBSUBPARAGRAPH 3 OF THIS SUBPARAGRAPH** and to reasonable rules adopted by the
28 governing body under § 11-111 of this title, a governing body shall provide a designated
29 period of time during ~~a~~ **EACH** meeting to allow unit owners an opportunity to comment on
30 any matter relating to the condominium.

31 ~~(iii)~~ **3.** During a meeting at which the agenda is limited to specific
32 topics or at a special meeting, the unit owners' comments may be limited to the topics listed
33 on the meeting agenda.

1 ~~(iv)~~ **(II)** The ~~governing body~~ **BOARD OF DIRECTORS OR THE**
 2 **DEVELOPER** shall convene at least ~~one meeting~~ **TWO MEETINGS** each year at which ~~the~~:

3 **1.** **THE** agenda is open to any matter relating to the
 4 condominium; **AND**

5 **2.** **THE UNIT OWNERS HAVE AN OPPORTUNITY TO**
 6 **PROVIDE COMMENT.**

7 (8) (i) Unless the bylaws provide otherwise, a quorum is deemed
 8 present throughout any meeting of the council of unit owners if persons entitled to cast 25
 9 percent of the total number of votes appurtenant to all units are present in person or by
 10 proxy.

11 (ii) If the number of persons present in person or by proxy at a
 12 properly called meeting of the council of unit owners is insufficient to constitute a quorum,
 13 another meeting of the council of unit owners may be called for the same purpose if:

14 1. The notice of the meeting stated that the procedure
 15 authorized by this paragraph might be invoked; and

16 2. By majority vote, the unit owners present in person or by
 17 proxy call for the additional meeting.

18 (iii) 1. Fifteen days' notice of the time, place, and purpose of the
 19 additional meeting shall be delivered, mailed, or sent by electronic transmission if the
 20 requirements of § 11-139.1 of this title are met, to each unit owner at the address shown
 21 on the roster maintained under paragraph (2) of this subsection.

22 2. The notice shall contain the quorum and voting provisions
 23 of subparagraph (iv) of this paragraph.

24 (iv) 1. At the additional meeting, the unit owners present in
 25 person or by proxy constitute a quorum.

26 2. Unless the bylaws provide otherwise, a majority of the
 27 unit owners present in person or by proxy:

28 A. May approve or authorize the proposed action at the
 29 additional meeting; and

30 B. May take any other action that could have been taken at
 31 the original meeting if a sufficient number of unit owners had been present.

1 (v) This paragraph may not be construed to affect the percentage of
2 votes required to amend the declaration or bylaws or to take any other action required to
3 be taken by a specified percentage of votes.

4 (9) At meetings of the council of unit owners each unit owner shall be
5 entitled to cast the number of votes appurtenant to his unit. Unit owners may vote by proxy,
6 but the proxy is effective only for a maximum period of 180 days following its issuance,
7 unless granted to a lessee or mortgagee.

8 (10) Any proxy may be revoked at any time at the pleasure of the unit owner
9 or unit owners executing the proxy.

10 (11) A proxy who is not appointed to vote as directed by a unit owner may
11 only be appointed for purposes of meeting quorums and to vote for matters of business
12 before the council of unit owners, other than an election of officers and members of the
13 board of directors.

14 (12) Only a unit owner voting in person or by electronic transmission if the
15 requirements of § 11-139.2 of this title are met or a proxy voting for candidates designated
16 by a unit owner may vote for officers and members of the board of directors.

17 (13) Unless otherwise provided in the bylaws, a unit owner may nominate
18 himself or any other person to be an officer or member of the board of directors. A call for
19 nominations shall be sent to all unit owners not less than 45 days before notice of an election
20 is sent. Only nominations made at least 15 days before notice of an election shall be listed
21 on the election ballot. Candidates shall be listed on the ballot in alphabetical order, with
22 no indicated candidate preference. Nominations may be made from the floor at the meeting
23 at which the election to the board is held.

24 (14) Election materials prepared with funds of the council of unit owners
25 shall list candidates in alphabetical order and may not indicate a candidate preference.

26 (15) Unless otherwise provided in this title, and subject to provisions in the
27 bylaws requiring a different majority, decisions of the council of unit owners shall be made
28 on a majority of votes of the unit owners listed on the current roster present and voting.

29 **(16) IF THERE IS A BOARD OF DIRECTORS FOR THE COUNCIL OF UNIT**
30 **OWNERS ALREADY ESTABLISHED BY THE DEVELOPER, WITHIN 30 DAYS AFTER THE**
31 **DATE THAT 25% OF THE CURRENTLY SUBDIVIDED UNITS IN THE CONDOMINIUM**
32 **THAT MAY BE PART OF THE DEVELOPMENT AFTER ALL PHASES ARE COMPLETE HAVE**
33 **BEEN CONVEYED BY THE DEVELOPER TO MEMBERS OF THE PUBLIC FOR**
34 **RESIDENTIAL PURPOSES, THE DEVELOPER SHALL APPOINT AT LEAST ONE MEMBER**
35 **TO THAT BOARD OF DIRECTORS WHO IS:**

36 **(I) A UNIT OWNER; AND**

1 (ii) NOT OTHERWISE AFFILIATED WITH THE DEVELOPER.

2 (17) IF NO BOARD OF DIRECTORS FOR THE COUNCIL OF UNIT OWNERS
3 HAS BEEN ESTABLISHED BY THE DEVELOPER WHEN 25% OF THE CURRENTLY
4 SUBDIVIDED UNITS IN THE CONDOMINIUM THAT MAY BE PART OF THE
5 DEVELOPMENT AFTER ALL PHASES ARE COMPLETE HAVE BEEN CONVEYED BY THE
6 DEVELOPER TO MEMBERS OF THE PUBLIC FOR RESIDENTIAL PURPOSES, THE
7 DEVELOPER SHALL ESTABLISH A BOARD OF DIRECTORS FOR THE COUNCIL OF UNIT
8 OWNERS.

9 [(16)] (18) (i) A meeting of the council of unit owners to elect a board of
10 directors for the council of unit owners, as provided in the condominium declaration or
11 bylaws, shall be held within:

12 1. 60 days from the date that units representing 50 percent
13 of the votes in the condominium have been conveyed by the developer to members of the
14 public for residential purposes; or

15 2. If a lesser percentage is specified in the declaration or
16 bylaws of the condominium, 60 days from the date the specified lesser percentage of units
17 in the condominium are sold to members of the public for residential purposes.

18 (ii) 1. Before the date of the meeting held under subparagraph
19 (i) of this paragraph, the developer shall deliver to each unit owner notice that the
20 requirements of subparagraph (i) of this paragraph have been met.

21 2. The notice shall include the date, time, and place of the
22 meeting to elect the board of directors for the council of unit owners.

23 (iii) If a replacement board member is elected, the term of each
24 member of the board of directors appointed by the developer shall end 10 days after the
25 meeting is held as specified in subparagraph (i) of this paragraph.

26 (iv) 1. WITHIN 15 DAYS AFTER THE DATE OF THE MEETING
27 HELD UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE DEVELOPER SHALL
28 DELIVER TO EACH OF THE OFFICERS OR MEMBERS OF THE BOARD OF DIRECTORS
29 FOR THE COUNCIL OF UNIT OWNERS NOTICE OF:

30 A. ANY BOND PROVIDED BY THE DEVELOPER TO A
31 GOVERNMENTAL UNIT IN CONNECTION WITH THE DEVELOPMENT; AND

32 B. THE NAME, ADDRESS, AND PHONE NUMBER OF THE
33 PERSON THROUGH WHICH A CLAIM AGAINST THE BOND MAY BE ASSERTED.

1 **2. AT LEAST 30 DAYS BEFORE A DEVELOPER REQUESTS**
2 **TO BE RELEASED FROM A BOND PROVIDED BY THE DEVELOPER TO A**
3 **GOVERNMENTAL UNIT, THE DEVELOPER SHALL DELIVER TO EACH OF THE OFFICERS**
4 **OR MEMBERS OF THE BOARD OF DIRECTORS FOR THE COUNCIL OF UNIT OWNERS**
5 **NOTICE OF:**

6 **A. THE INTENTION TO BE RELEASED FROM THE BOND;**
7 **AND**

8 **B. THE NAME, ADDRESS, AND PHONE NUMBER OF THE**
9 **PERSON THROUGH WHICH A CLAIM AGAINST THE BOND MAY BE ASSERTED.**

10 [(iv)] **(V)** Within 30 days from the date of the meeting held under
11 subparagraph (i) of this paragraph, the developer shall deliver to the officers or board of
12 directors for the council of unit owners, as provided in the condominium declaration or
13 bylaws, at the developer's expense:

14 1. The documents specified in § 11–132 of this title;

15 2. The condominium funds, including operating funds,
16 replacement reserves, investment accounts, and working capital;

17 3. The tangible property of the condominium; and

18 4. A roster of current unit owners, including mailing
19 addresses, telephone numbers, and unit numbers, if known.

20 [(v)] **(VI)** 1. This subparagraph does not apply to a contract
21 entered into before October 1, 2009.

22 2. A. In this subparagraph, “contract” means an
23 agreement with a company or individual to handle financial matters, maintenance, or
24 services for the condominium.

25 B. “Contract” does not include an agreement relating to the
26 provision of utility services or communication systems.

27 3. Until all members of the board of directors of the
28 condominium are elected by the unit owners at a transitional meeting as specified in
29 subparagraph (i) of this paragraph, a contract entered into by the officers or board of
30 directors of the condominium may be terminated, at the discretion of the board of directors
31 and without liability for the termination, not later than 30 days after notice.

32 [(vi)] **(VII)** If the developer fails to comply with the requirements of
33 this paragraph, an aggrieved unit owner may submit the dispute to the Division of
34 Consumer Protection of the Office of the Attorney General under § 11–130(c) of this title.

1 11-114.1.

2 (d) A copy of the fidelity insurance policy or fidelity bond shall be included in the
3 books ~~and~~, records, ~~AND ACCOUNTS~~ kept and made available by the council of unit
4 owners under § 11-116 of this title.

5 11-116.

6 (a) The council of unit owners shall keep books ~~and~~, records, ~~AND ACCOUNTS~~
7 **BEGINNING ON THE DATE THE COUNCIL OF UNIT OWNERS IS ESTABLISHED**, in
8 accordance with good accounting practices on a consistent basis.

9 (b) On the request of the unit owners of at least 5 percent of the units, the council
10 of unit owners shall cause an audit of the books ~~and~~, records, ~~AND ACCOUNTS~~ to be made
11 by an independent certified public accountant, provided an audit shall be made not more
12 than once in any consecutive 12-month period. The cost of the audit shall be a common
13 expense.

14 (c) (1) (i) **1.** Except as provided in paragraph (3) of this subsection, all
15 books ~~and~~, records, ~~AND ACCOUNTS~~, including insurance policies, kept by the council of
16 unit owners shall be maintained in Maryland or within 50 miles of its borders and shall be
17 available at some place designated by the council of unit owners for examination or copying,
18 or both, by any unit owner, a unit owner's mortgagee, or their respective duly authorized
19 agents or attorneys, during normal business hours, and after reasonable notice.

20 **2. ~~ALL BOOKS, RECORDS, AND ACCOUNTS~~ BOOKS AND**
21 **RECORDS KEPT BY THE COUNCIL OF UNIT OWNERS SHALL BE MAINTAINED**
22 **SEPARATE AND APART FROM THE ~~BOOKS, RECORDS, AND ACCOUNTS~~ BOOKS AND**
23 **RECORDS OF THE DEVELOPER OR OF ANY OTHER PERSON.**

24 (ii) If a unit owner requests in writing a copy of financial statements
25 of the condominium or the minutes of a meeting of the board of directors or other governing
26 body of the condominium to be delivered, the board of directors or other governing body of
27 the condominium shall compile and send the requested information by mail, electronic
28 transmission, or personal delivery:

29 1. Within 21 days after receipt of the written request, if the
30 financial statements or minutes were prepared within the 3 years immediately preceding
31 receipt of the request; or

32 2. Within 45 days after receipt of the written request, if the
33 financial statements or minutes were prepared more than 3 years before receipt of the
34 request.

1 (2) Books ~~and~~, records, ~~AND ACCOUNTS~~ required to be made available
2 under paragraph (1) of this subsection shall first be made available to a unit owner not
3 later than 15 business days after a unit is conveyed from a developer and the unit owner
4 requests to examine or copy the books and records.

5 (3) Books ~~and~~, records, ~~AND ACCOUNTS~~ kept by or on behalf of a council
6 of unit owners may be withheld from public inspection, except for inspection by the person
7 who is the subject of the record or the person's designee or guardian, to the extent that they
8 concern:

9 (i) Personnel records, not including information on individual
10 salaries, wages, bonuses, and other compensation paid to employees;

11 (ii) An individual's medical records;

12 (iii) An individual's personal financial records, including assets,
13 income, liabilities, net worth, bank balances, financial history or activities, and
14 creditworthiness;

15 (iv) Records relating to business transactions that are currently in
16 negotiation;

17 (v) The written advice of legal counsel; or

18 (vi) Minutes of a closed meeting of the board of directors or other
19 governing body of the council of unit owners, unless a majority of a quorum of the board of
20 directors or governing body that held the meeting approves unsealing the minutes or a
21 recording of the minutes for public inspection.

22 (d) (1) Except for a reasonable charge imposed on a person desiring to review
23 or copy the books ~~and~~, records, ~~AND ACCOUNTS~~ or who requests delivery of information,
24 the council of unit owners may not impose any charges under this section.

25 (2) A charge imposed under paragraph (1) of this subsection for copying
26 books ~~and~~, records, ~~AND ACCOUNTS~~ may not exceed the limits authorized under Title 7,
27 Subtitle 2 of the Courts Article.

28 11-132.

29 On transfer of control by the developer to the council of unit owners, the developer
30 shall turn over documents including:

31 (1) Copies of the condominium's filed articles of incorporation, recorded
32 declaration, and all recorded covenants, bylaws, plats, and restrictions of the condominium;

1 (2) Subject to the restrictions of § 11–116 of this title, all books ~~and~~,
2 records, ~~AND ACCOUNTS~~ of the condominium, including financial statements, minutes of
3 any meeting of the governing body, and completed business transactions;

4 (3) Any policies, rules, and regulations adopted by the governing body;

5 (4) The financial records of the condominium from the date of creation to
6 the date of transfer of control, including budget information regarding estimated and actual
7 expenditures by the condominium and any report relating to the reserves required for major
8 repairs and replacement of the common elements of the condominium;

9 (5) A copy of all contracts to which the condominium is a party;

10 (6) The name, address, and telephone number of any contractor or
11 subcontractor employed by the condominium;

12 (7) Any insurance policies in effect and all prior insurance policies;

13 (8) Any permit or notice of code violation issued to the condominium by the
14 county, local, State, or federal government;

15 (9) Any warranty in effect;

16 (10) Drawings, architectural plans, or other suitable documents setting
17 forth the necessary information for location, maintenance, and repair of all condominium
18 facilities; and

19 (11) Individual owner files and records, including assessment account
20 records, correspondence, and notices of any violations.

21 11B–101.

22 (a) In this title the following words have the meanings indicated, unless the
23 context requires otherwise.

24 (c) “Declarant” means any person who subjects property to a declaration.

25 (d) (1) “Declaration” means an instrument, however denominated, recorded
26 among the land records of the county in which the property of the declarant is located, that
27 creates the authority for a homeowners association to impose on lots, or on the owners or
28 occupants of lots, or on another homeowners association, condominium, or cooperative
29 housing corporation any mandatory fee in connection with the provision of services or
30 otherwise for the benefit of some or all of the lots, the owners or occupants of lots, or the
31 common areas.

32 (2) “Declaration” includes any amendment or supplement to the
33 instruments described in paragraph (1) of this subsection.

1 (3) “Declaration” does not include a private right-of-way or similar
2 agreement unless it requires a mandatory fee payable annually or at more frequent
3 intervals.

4 11B-106.1.

5 **(A) IF THERE IS A ~~GOVERNING BODY~~ BOARD OF DIRECTORS FOR THE**
6 **HOMEOWNERS ASSOCIATION ALREADY ESTABLISHED BY THE DECLARANT, WITHIN**
7 **30 DAYS AFTER THE DATE THAT AT LEAST 25% OF THE CURRENTLY SUBDIVIDED**
8 **LOTS THAT MAY BE PART OF THE DEVELOPMENT AFTER ALL PHASES ARE COMPLETE**
9 **HAVE BEEN CONVEYED TO MEMBERS OF THE PUBLIC FOR RESIDENTIAL PURPOSES,**
10 **THE DECLARANT SHALL APPOINT AT LEAST ONE MEMBER TO THAT ~~GOVERNING~~**
11 **~~BODY~~ BOARD OF DIRECTORS WHO IS:**

12 **(1) A LOT OWNER; AND**

13 **(2) NOT OTHERWISE AFFILIATED WITH THE DECLARANT OR A**
14 **VENDOR OF LOTS IN THE DEVELOPMENT.**

15 **(B) IF NO ~~GOVERNING BODY~~ BOARD OF DIRECTORS FOR THE HOMEOWNERS**
16 **ASSOCIATION HAS BEEN ESTABLISHED BY THE DECLARANT WHEN AT LEAST 25% OF**
17 **THE CURRENTLY SUBDIVIDED LOTS THAT MAY BE PART OF THE DEVELOPMENT**
18 **AFTER ALL PHASES ARE COMPLETE HAVE BEEN CONVEYED TO MEMBERS OF THE**
19 **PUBLIC FOR RESIDENTIAL PURPOSES, THE DECLARANT SHALL ESTABLISH A**
20 **~~GOVERNING BODY~~ BOARD OF DIRECTORS.**

21 **[(a)] (C)** A meeting of the members of the homeowners association to elect a
22 governing body of the homeowners association shall be held within:

23 (1) 60 days from the date that at least 75% of the total number of lots that
24 may be part of the development after all phases are complete are sold to members of the
25 public for residential purposes; or

26 (2) If a lesser percentage is specified in the governing documents of the
27 homeowners association, 60 days from the date the specified lesser percentage of the total
28 number of lots in the development after all phases are complete are sold to members of the
29 public for residential purposes.

30 **[(b)] (D)** (1) Before the date of the meeting held under subsection **[(a)] (C)** of
31 this section, the declarant shall deliver to each lot owner notice that the requirements of
32 subsection **[(a)] (C)** of this section have been met.

33 (2) The notice shall include the date, time, and place of the meeting to elect
34 the governing body of the homeowners association.

1 ~~[(c)]~~ **(E)** The term of each member of the governing body of the homeowners
2 association appointed by the declarant shall end 10 days after the meeting under subsection
3 ~~[(a)]~~ **(C)** of this section is held, if a replacement board member is elected.

4 ~~[(d)]~~ **(F)** Within 30 days from the date of the meeting held under subsection ~~[(a)]~~
5 **(C)** of this section, the declarant shall deliver the following items to the governing body at
6 the declarant's expense:

7 (1) The deeds to the common areas;

8 (2) Copies of the homeowners association's filed articles of incorporation,
9 declaration, and all recorded covenants, plats, restrictions, and any other records of the
10 primary development and of related developments;

11 (3) A copy of the bylaws and rules of the primary development and of other
12 related developments as filed in the depository of the county in which the development is
13 located;

14 (4) The minute books, including all minutes;

15 (5) Subject to the restrictions of § 11B-112 of this title, all books ~~and~~
16 records, ~~AND ACCOUNTS~~ of the homeowners association, including financial statements,
17 minutes of any meeting of the governing body, and completed business transactions;

18 (6) Any policies, rules, and regulations adopted by the governing body;

19 (7) The financial records of the homeowners association from the date of
20 creation to the date of transfer of control, including budget information regarding estimated
21 and actual expenditures by the homeowners association and any report relating to the
22 reserves required for major repairs and replacement of the common areas of the
23 homeowners association;

24 (8) A copy of all contracts to which the homeowners association is a party;

25 (9) The name, address, and telephone number of any contractor or
26 subcontractor employed by the homeowners association;

27 (10) Any insurance policies in effect;

28 (11) Any permit or notice of code violations issued to the homeowners
29 association by the county, local, State, or federal government;

30 (12) Any warranty in effect and all prior insurance policies;

1 (13) The homeowners association funds, including operating funds,
2 replacement reserves, investment accounts, and working capital;

3 (14) The tangible property of the homeowners association;

4 (15) A roster of current lot owners, including their mailing addresses,
5 telephone numbers, and lot numbers, if known;

6 (16) Individual member files and records, including assessment account
7 records, correspondence, and notices of any violations; and

8 (17) Drawings, architectural plans, or other suitable documents setting
9 forth the necessary information for location, maintenance, and repairs of all common areas.

10 [(e)] (G) (1) This subsection does not apply to a contract entered into before
11 October 1, 2009.

12 (2) (i) In this subsection, "contract" means an agreement with a
13 company or individual to handle financial matters, maintenance, or services for the
14 homeowners association.

15 (ii) "Contract" does not include an agreement relating to the
16 provision of utility services or communication systems.

17 (3) Until all members of the governing body are elected by the lot owners
18 at a transitional meeting under subsection [(a)] (C) of this section, a contract entered into
19 by the governing body may be terminated, at the discretion of the governing body and
20 without liability for the termination, not later than 30 days after notice.

21 (H) (1) **WITHIN 15 DAYS AFTER THE DATE OF THE MEETING HELD UNDER**
22 **SUBSECTION (C) OF THIS SECTION, THE DECLARANT SHALL DELIVER TO EACH**
23 **MEMBER OF THE ~~GOVERNING BODY~~ BOARD OF DIRECTORS NOTICE OF:**

24 (I) **ANY BOND PROVIDED BY THE DECLARANT TO A**
25 **GOVERNMENTAL UNIT IN CONNECTION WITH THE DEVELOPMENT; AND**

26 (II) **THE NAME, ADDRESS, AND PHONE NUMBER OF THE PERSON**
27 **THROUGH WHICH A CLAIM AGAINST THE BOND MAY BE ASSERTED.**

28 (2) **AT LEAST 30 DAYS BEFORE A DECLARANT REQUESTS TO BE**
29 **RELEASED FROM A BOND PROVIDED BY THE DECLARANT TO A GOVERNMENTAL**
30 **UNIT, THE DECLARANT SHALL DELIVER TO EACH MEMBER OF THE ~~GOVERNING BODY~~**
31 **BOARD OF DIRECTORS NOTICE OF:**

32 (I) **THE INTENTION TO BE RELEASED FROM THE BOND; AND**

1 (II) THE NAME, ADDRESS, AND PHONE NUMBER OF THE PERSON
2 THROUGH WHICH A CLAIM AGAINST THE BOND MAY BE ASSERTED.

3 [(f)] (I) If the declarant fails to comply with the requirements of this section, an
4 aggrieved lot owner may submit the dispute to the Division of Consumer Protection of the
5 Office of the Attorney General under § 11B-115(c) of this title.

6 11B-111.

7 Except as provided in this title, and notwithstanding anything contained in any of
8 the documents of the homeowners association:

9 (1) Subject to the provisions of item (4) of this section, all meetings of the
10 homeowners association, including meetings of the board of directors or other governing
11 body of the homeowners association or a committee of the homeowners association, shall
12 be open to all members of the homeowners association or their agents;

13 (2) All members of the homeowners association shall be given reasonable
14 notice of all regularly scheduled open meetings of the homeowners association;

15 (3) (i) ~~This item does not apply to any meeting of a governing body that~~
16 ~~occurs at any time before~~ **AFTER** the lot owners, other than the developer, have a majority
17 of votes in the homeowners association, as provided in the declaration;

18 ~~(ii)~~ **1.** Subject to item ~~(iii)~~ **2** of this item and to reasonable rules
19 adopted by ~~a~~ **THE** governing body, ~~a governing~~ **THE GOVERNING** body shall provide a
20 designated period of time ~~during a~~ **DURING EACH** meeting to allow lot owners an
21 opportunity to comment on any matter relating to the homeowners association; **AND**

22 ~~(iii)~~ **2.** During a meeting at which the agenda is limited to specific
23 topics or at a special meeting, the lot owners' comments may be limited to the topics listed
24 on the meeting agenda; and

25 ~~(iv)~~ **(II)** The ~~governing body~~ **BOARD OF DIRECTORS OR THE**
26 **DECLARANT** shall convene at least ~~one meeting~~ **TWO MEETINGS** each year at which ~~the~~:

27 **1.** **THE** agenda is open to any matter relating to the
28 homeowners association; **AND**

29 **2.** **THE LOT OWNERS HAVE AN OPPORTUNITY TO**
30 **PROVIDE COMMENT;**

31 (4) A meeting of the board of directors or other governing body of the
32 homeowners association or a committee of the homeowners association may be held in
33 closed session only for the following purposes:

- 1 (i) Discussion of matters pertaining to employees and personnel;
- 2 (ii) Protection of the privacy or reputation of individuals in matters
3 not related to the homeowners association's business;
- 4 (iii) Consultation with legal counsel on legal matters;
- 5 (iv) Consultation with staff personnel, consultants, attorneys, board
6 members, or other persons in connection with pending or potential litigation or other legal
7 matters;
- 8 (v) Investigative proceedings concerning possible or actual criminal
9 misconduct;
- 10 (vi) Consideration of the terms or conditions of a business
11 transaction in the negotiation stage if the disclosure could adversely affect the economic
12 interests of the homeowners association;
- 13 (vii) Compliance with a specific constitutional, statutory, or judicially
14 imposed requirement protecting particular proceedings or matters from public disclosure;
15 or
- 16 (viii) Discussion of individual owner assessment accounts; ~~and~~
- 17 (5) If a meeting is held in closed session under item (4) of this section:
- 18 (i) An action may not be taken and a matter may not be discussed if
19 it is not permitted by item (4) of this section; and
- 20 (ii) A statement of the time, place, and purpose of a closed meeting,
21 the record of the vote of each board or committee member by which the meeting was closed,
22 and the authority under this section for closing a meeting shall be included in the minutes
23 of the next meeting of the board of directors or the committee of the homeowners
24 association; ~~AND~~
- 25 ~~(6) THE GOVERNING BODY SHALL CONVENE AT LEAST TWO MEETINGS~~
26 ~~EACH YEAR.~~
- 27 11B-111.6.
- 28 (d) A copy of the fidelity insurance policy or fidelity bond shall be included in the
29 books [and], records, AND ACCOUNTS kept and made available by or on behalf of the
30 homeowners association under § 11B-112 of this title.
- 31 11B-112.

1 (a) (1) (I) THE HOMEOWNERS ASSOCIATION SHALL MAINTAIN ~~BOOKS,~~
 2 ~~RECORDS, AND ACCOUNTS~~ BOOKS AND RECORDS BEGINNING ON THE DATE THE
 3 HOMEOWNERS ASSOCIATION IS ESTABLISHED.

4 (II) ~~ALL BOOKS, RECORDS, AND ACCOUNTS~~ BOOKS AND
 5 RECORDS KEPT BY THE HOMEOWNERS ASSOCIATION SHALL BE MAINTAINED
 6 SEPARATE AND APART FROM THE ~~BOOKS, RECORDS, AND ACCOUNTS~~ BOOKS AND
 7 RECORDS OF THE DECLARANT OR OF ANY OTHER PERSON.

8 [(1)] (2) (i) Subject to the provisions of paragraph [(2)] (3) of this
 9 subsection, all books ~~and~~, records, ~~AND ACCOUNTS~~ kept by or on behalf of the
 10 homeowners association shall be made available for examination or copying, or both, by a
 11 lot owner, a lot owner's mortgagee, or their respective duly authorized agents or attorneys,
 12 during normal business hours, and after reasonable notice.

13 (ii) Books ~~and~~, records, ~~AND ACCOUNTS~~ required to be made
 14 available under subparagraph (i) of this paragraph shall first be made available to a lot
 15 owner no later than 15 business days after a lot is conveyed by the declarant and the lot
 16 owner requests to examine or copy the books ~~and~~, records, ~~AND ACCOUNTS~~.

17 (iii) If a lot owner requests in writing a copy of financial statements
 18 of the homeowners association or the minutes of a meeting of the governing body of the
 19 homeowners association to be delivered, the governing body of the homeowners association
 20 shall compile and send the requested information by mail, electronic transmission, or
 21 personal delivery:

22 1. Within 21 days after receipt of the written request, if the
 23 financial statements or minutes were prepared within the 3 years immediately preceding
 24 receipt of the request; or

25 2. Within 45 days after receipt of the written request, if the
 26 financial statements or minutes were prepared more than 3 years before receipt of the
 27 request.

28 [(2)] (3) Books ~~and~~, records, ~~AND ACCOUNTS~~ kept by or on behalf of a
 29 homeowners association may be withheld from public inspection, except for inspection by
 30 the person who is the subject of the record or the person's designee or guardian, to the
 31 extent that they concern:

32 (i) Personnel records, not including information on individual
 33 salaries, wages, bonuses, and other compensation paid to employees;

34 (ii) An individual's medical records;

- 1 (iii) An individual's personal financial records, including assets,
2 income, liabilities, net worth, bank balances, financial history or activities, and
3 creditworthiness;
- 4 (iv) Records relating to business transactions that are currently in
5 negotiation;
- 6 (v) The written advice of legal counsel; or
- 7 (vi) Minutes of a closed meeting of the governing body of the
8 homeowners association, unless a majority of a quorum of the governing body of the
9 homeowners association that held the meeting approves unsealing the minutes or a
10 recording of the minutes for public inspection.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2020.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.