

HOUSE BILL 793

N1
HB 361/21 – ENT

4lr3089

By: **Delegates Holmes, Harris, Davis, ~~and Turner~~ Turner, Boyce, Healey, Lehman,
and Terrasa**

Introduced and read first time: January 31, 2024

Assigned to: Environment and Transportation

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 5, 2024

CHAPTER _____

1 AN ACT concerning

2 **Real Property – Governing Bodies of Common Ownership Communities –**
3 **Member Training**

4 FOR the purpose of requiring ~~each member~~ certain members of a board of directors or
5 ~~officer~~ certain officers of a council of unit owners of ~~a condominium~~ certain
6 condominiums and ~~each member~~ certain members of a governing body of a
7 homeowners association to successfully complete a certain training curriculum in a
8 certain manner and subject to certain requirements; and generally relating to
9 members of governing bodies of condominiums and homeowners associations.

10 BY repealing and reenacting, with amendments,
11 Article – Real Property
12 Section 11–109 and 11B–106.1(g)
13 Annotated Code of Maryland
14 (2023 Replacement Volume)

15 BY repealing and reenacting, without amendments,
16 Article – Real Property
17 Section 11B–106.1(a)
18 Annotated Code of Maryland
19 (2023 Replacement Volume)

20 BY adding to
21 Article – Real Property

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 Section 11B–106.1(g)
2 Annotated Code of Maryland
3 (2023 Replacement Volume)

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

6 **Article – Real Property**

7 11–109.

8 (a) The affairs of the condominium shall be governed by a council of unit owners
9 which, even if unincorporated, is constituted a legal entity for all purposes. The council of
10 unit owners shall be comprised of all unit owners.

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

14 (c) (1) **THIS SUBSECTION APPLIES ONLY TO A MEMBER OF A BOARD OF**
15 **DIRECTORS OR AN OFFICER OF A COUNCIL OF UNIT OWNERS FOR A CONDOMINIUM**
16 **THAT IS COMPOSED SOLELY OF RESIDENTIAL FOR-SALE HOUSING OR CONSUMER**
17 **REALTY WHO SERVES AFTER A MEETING REQUIRED UNDER SUBSECTION (D)(16) OF**
18 **THIS SECTION.**

19 (2) (i) **EACH MEMBER OF A BOARD OF DIRECTORS OR OFFICER OF**
20 **A COUNCIL OF UNIT OWNERS SHALL SUCCESSFULLY COMPLETE A TRAINING**
21 **CURRICULUM ON THE RESPONSIBILITIES OF BEING A MEMBER OR AN OFFICER**
22 **DEVELOPED BY:**

23 1. **A COMMON OWNERSHIP COMMISSION RECOGNIZED**
24 **BY THE STATE OR A LOCAL GOVERNMENT;**

25 2. **AN ORGANIZATION APPROVED TO ADMINISTER THE**
26 **TRAINING CURRICULUM BY A RECOGNIZED COMMON OWNERSHIP COMMISSION;**

27 3. **AN INSTITUTION ACCREDITED BY THE MIDDLE**
28 **STATES COMMISSION ON HIGHER EDUCATION;**

29 4. **A MEMBERSHIP ORGANIZATION THAT OFFERS**
30 **NATIONALLY RECOGNIZED CERTIFICATION CREDENTIALS FOR COMMUNITY**
31 **MANAGERS; OR**

32 5. **A COUNTY WITH COURSEWORK ESTABLISHED BY THE**
33 **COUNTY COMMON OWNERSHIP COMMISSION.**

1 (II) A TRAINING CURRICULUM DEVELOPED UNDER THIS
2 PARAGRAPH SHALL INCLUDE TRAINING ON:

3 1. THE MARYLAND HOMEOWNERS ASSOCIATION ACT,
4 THE MARYLAND CONDOMINIUM ACT, AND THE MARYLAND COOPERATIVE
5 HOUSING CORPORATION ACT;

6 2. ROLES AND RESPONSIBILITIES OF COMMON
7 OWNERSHIP COMMUNITY GOVERNING BODIES;

8 3. FIDUCIARY DUTY;

9 4. RESPONSIBLE GOVERNANCE POLICIES;

10 5. LEGAL STRUCTURES AND GUIDELINES;

11 6. RESERVES AND AUDITS;

12 7. MEETING PROCEDURES AND REQUIREMENTS;

13 8. HANDLING OF DISPUTES;

14 9. INSURANCE AND BONDING;

15 10. COMMUNITY MAINTENANCE;

16 11. RECORD KEEPING; AND

17 12. STATE AND LOCAL RESOURCES FOR GOVERNING
18 BODIES.

19 ~~(2)~~ (3) EACH MEMBER OF THE BOARD OF DIRECTORS OR OFFICER
20 OF THE COUNCIL OF UNIT OWNERS SHALL SUCCESSFULLY COMPLETE THE TRAINING
21 CURRICULUM REQUIRED UNDER THIS SUBSECTION WITHIN 90 DAYS AFTER THE
22 INDIVIDUAL:

23 (I) IS FIRST ELECTED OR APPOINTED TO THE OFFICE; OR

24 (II) FOR AN INDIVIDUAL WHO IS IN OFFICE ON OCTOBER 1,
25 2024, BEGINS A SUBSEQUENT TERM AS A MEMBER OF THE BOARD OF DIRECTORS OR
26 AN OFFICER OF THE COUNCIL OF UNIT OWNERS.

27 ~~(3)~~ (4) (I) THE BOARD OF DIRECTORS OR THE OFFICERS OF THE
28 COUNCIL OF UNIT OWNERS SHALL:

1 **1. CERTIFY THAT EACH MEMBER OR OFFICER**
2 **SUCCESSFULLY COMPLETES THE TRAINING CURRICULUM REQUIRED UNDER THIS**
3 **SUBSECTION;**

4 **2. RETAIN A COPY OF THE CERTIFICATE OF**
5 **COMPLETION OF EACH MEMBER OR OFFICER; AND**

6 **3. WITHIN 90 DAYS AFTER THE CERTIFICATION OF THE**
7 **MEMBER OR OFFICER, REPORT TO THE COMMON OWNERSHIP COMMISSION ON THE**
8 **CERTIFICATION.**

9 **(II) A CERTIFICATE OF COMPLETION ISSUED UNDER THIS**
10 **PARAGRAPH SHALL BE VALID FOR 3 YEARS.**

11 **(III) AN INDIVIDUAL WHO REMAINS A MEMBER OF THE BOARD OF**
12 **DIRECTORS OR AN OFFICER OF THE COUNCIL OF UNIT OWNERS AT THE TIME THE**
13 **CERTIFICATE EXPIRES SHALL RENEW THE CERTIFICATION BY SUCCESSFULLY**
14 **COMPLETING THE TRAINING REQUIRED UNDER THIS SUBSECTION.**

15 ~~(4)~~ **(5) IF A MEMBER OF THE BOARD OF DIRECTORS OR AN OFFICER**
16 **OF THE COUNCIL OF UNIT OWNERS DOES NOT SUCCESSFULLY COMPLETE THE**
17 **TRAINING REQUIRED UNDER THIS SUBSECTION, THE BOARD OF DIRECTORS OR THE**
18 **COUNCIL OF UNIT OWNERS MAY:**

19 **(I) REMOVE THE INDIVIDUAL FROM THE OFFICE; OR**

20 **(II) INVALIDATE A VOTE OF THE INDIVIDUAL.**

21 **[(c)] (D)** (1) A meeting of the council of unit owners or board of directors may
22 not be held on less notice than required by this section.

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

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

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

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

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

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

4 (i) As provided in the bylaws; or

5 (ii) If the requirements of § 11–139.1 of this title are met, by
6 electronic transmission.

7 (6) Except as provided in § 11–109.1 of this title, a meeting of a governing
8 body shall be open and held at a time and location as provided in the notice or bylaws.

9 (7) (i) This paragraph does not apply to any meeting of the governing
10 body that occurs at any time before the meeting at which the unit owners elect officers or a
11 board of directors in accordance with paragraph (16) of this subsection.

12 (ii) Subject to subparagraph (iii) of this paragraph and to reasonable
13 rules adopted by the governing body under § 11–111 of this title, a governing body shall
14 provide a designated period of time during a meeting to allow unit owners an opportunity
15 to comment on any matter relating to the condominium.

16 (iii) During a meeting at which the agenda is limited to specific topics
17 or at a special meeting, the unit owners' comments may be limited to the topics listed on
18 the meeting agenda.

19 (iv) The governing body shall convene at least one meeting each year
20 at which the agenda is open to any matter relating to the condominium.

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

25 (ii) If the number of persons present in person or by proxy at a
26 properly called meeting of the council of unit owners is insufficient to constitute a quorum,
27 an additional meeting of the council of unit owners may be called for the same purpose if:

28 1. The notice of the initial properly called meeting stated:

29 A. That the procedure authorized by this paragraph might be
30 invoked; and

31 B. The date, time, and place of the additional meeting; and

1 2. A majority of the unit owners present vote in person or by
2 proxy to call for the additional meeting.

3 (iii) 1. An additional meeting called under subparagraph (ii) of
4 this paragraph shall occur not less than 15 days after the initial properly called meeting.

5 2. Not less than 10 days before the additional meeting, a
6 separate and distinct notice of the date, time, place, and purpose of the additional meeting
7 called under subparagraph (ii) of this paragraph shall be:

8 A. Delivered, mailed, or sent by electronic transmission if the
9 requirements of § 11–139.1 of this title are met, to each unit owner at the address shown
10 on the roster maintained under paragraph (2) of this subsection;

11 B. Advertised in a newspaper published in the county where
12 the condominium is located; or

13 C. If the condominium has a website, posted on the homepage
14 of the website.

15 3. The notice shall contain the quorum and voting provisions
16 of subparagraph (iv) of this paragraph.

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

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

21 A. May approve or authorize the proposed action at the
22 additional meeting; and

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

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

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

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

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

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

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

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

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

20 (16) (i) A meeting of the council of unit owners to elect a board of
21 directors for the council of unit owners, as provided in the condominium declaration or
22 bylaws, shall be held within:

23 1. 60 days from the date that units representing 50 percent
24 of the votes in the condominium have been conveyed by the developer to members of the
25 public for residential purposes; or

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

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

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

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

1 (iv) Within 30 days from the date of the meeting held under
2 subparagraph (i) of this paragraph, the developer shall deliver to the officers or board of
3 directors for the council of unit owners, as provided in the condominium declaration or
4 bylaws, at the developer's expense:

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

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

8 3. The tangible property of the condominium; and

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

11 (v) The replacement reserves delivered under subparagraph (iv)2 of
12 this paragraph for a residential condominium shall be equal to at least the reserve funding
13 amount recommended in the reserve study completed under § 11–109.4 of this title as of
14 the date of the meeting.

15 (vi) 1. This subparagraph does not apply to a contract entered
16 into before October 1, 2009.

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

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

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

27 (vii) If the developer fails to comply with the requirements of this
28 paragraph, an aggrieved unit owner may submit the dispute to the Division of Consumer
29 Protection of the Office of the Attorney General under § 11–130(c) of this title.

30 **[(d)] (E)** The council of unit owners may be either incorporated as a nonstock
31 corporation or unincorporated and it is subject to those provisions of Title 5, Subtitle 2 of
32 the Corporations and Associations Article which are not inconsistent with this title. The
33 council of unit owners has, subject to any provision of this title, and except as provided in
34 item (22) of this subsection, the declaration, and bylaws, the following powers:

1 (1) To have perpetual existence, subject to the right of the unit owners to
2 terminate the condominium regime as provided in § 11–123 of this title;

3 (2) To adopt and amend reasonable rules and regulations;

4 (3) To adopt and amend budgets for revenues, expenditures, and reserves
5 and collect assessments for common expenses from unit owners;

6 (4) To sue and be sued, complain and defend, or intervene in litigation or
7 administrative proceedings in its own name on behalf of itself or two or more unit owners
8 on matters affecting the condominium;

9 (5) To transact its business, carry on its operations and exercise the powers
10 provided in this subsection in any state, territory, district, or possession of the United
11 States and in any foreign country;

12 (6) To make contracts and guarantees, incur liabilities and borrow money,
13 sell, mortgage, lease, pledge, exchange, convey, transfer, and otherwise dispose of any part
14 of its property and assets;

15 (7) To issue bonds, notes, and other obligations and secure the same by
16 mortgage or deed of trust of any part of its property, franchises, and income;

17 (8) To acquire by purchase or in any other manner, to take, receive, own,
18 hold, use, employ, improve, and otherwise deal with any property, real or personal, or any
19 interest therein, wherever located;

20 (9) To hire and terminate managing agents and other employees, agents,
21 and independent contractors;

22 (10) To purchase, take, receive, subscribe for or otherwise acquire, own,
23 hold, vote, use, employ, sell, mortgage, loan, pledge or otherwise dispose of, and otherwise
24 use and deal in and with, shares or other interests in, or obligation of corporations of the
25 State, or foreign corporations, and of associations, partnerships, and individuals;

26 (11) To invest its funds and to lend money in any manner appropriate to
27 enable it to carry on the operations or to fulfill the purposes named in the declaration or
28 bylaws, and to take and to hold real and personal property as security for the payment of
29 funds so invested or loaned;

30 (12) To regulate the use, maintenance, repair, replacement, and
31 modification of common elements;

32 (13) To cause additional improvements to be made as a part of the general
33 common elements;

1 (14) To grant easements, rights-of-way, licenses, leases in excess of 1 year,
2 or similar interests through or over the common elements in accordance with § 11-125(f)
3 of this title;

4 (15) To impose and receive any payments, fees, or charges for the use, rental,
5 or operation of the common elements other than limited common elements;

6 (16) To impose charges for late payment of assessments and, after notice
7 and an opportunity to be heard, levy reasonable fines for violations of the declaration,
8 bylaws, and rules and regulations of the council of unit owners, under § 11-113 of this title;

9 (17) To impose reasonable charges for the preparation and recordation of
10 amendments to the declaration, bylaws, rules, regulations, or resolutions, resale
11 certificates, or statements of unpaid assessments;

12 (18) To provide for the indemnification of and maintain liability insurance
13 for officers, directors, and any managing agent or other employee charged with the
14 operation or maintenance of the condominium;

15 (19) To enforce the implied warranties made to the council of unit owners by
16 the developer under § 11-131 of this title;

17 (20) To enforce the provisions of this title, the declaration, bylaws, and rules
18 and regulations of the council of unit owners against any unit owner or occupant;

19 (21) Generally, to exercise the powers set forth in this title and the
20 declaration or bylaws and to do every other act not inconsistent with law, which may be
21 appropriate to promote and attain the purposes set forth in this title, the declaration or
22 bylaws; and

23 (22) To designate parking for individuals with disabilities, notwithstanding
24 any provision in the declaration, bylaws, or rules and regulations.

25 **[(e)] (F)** A unit owner may not have any right, title, or interest in any property
26 owned by the council of unit owners other than as holder of a percentage interest in common
27 expenses and common profits appurtenant to his unit.

28 **[(f)] (G)** A unit owner's rights as holder of a percentage interest in common
29 expenses and common profits are such that:

30 (1) A unit owner's right to possess, use, or enjoy property of the council of
31 unit owners shall be as provided in the bylaws; and

32 (2) A unit owner's interest in the property is not assignable or attachable
33 separate from his unit except as provided in §§ 11-107(d) and 11-112(g) of this title.

34 11B-106.1.

1 (a) A meeting of the members of the homeowners association to elect a governing
2 body of the homeowners association shall be held within:

3 (1) 60 days from the date that at least 75% of the total number of lots that
4 may be part of the development after all phases are complete are sold to members of the
5 public for residential purposes; or

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

10 (G) (1) THIS SUBSECTION APPLIES ONLY TO A MEMBER OF THE
11 GOVERNING BODY OF A HOMEOWNERS ASSOCIATION THAT CONSISTS SOLELY OF
12 RESIDENTIAL FOR-SALE HOUSING WHO SERVES AFTER THE MEETING REQUIRED
13 UNDER SUBSECTION (A) OF THIS SECTION.

14 (2) (I) EACH MEMBER OF THE GOVERNING BODY SHALL
15 SUCCESSFULLY COMPLETE A TRAINING CURRICULUM ON THE RESPONSIBILITIES OF
16 A MEMBER OF THE GOVERNING BODY DEVELOPED BY:

17 1. A COMMON OWNERSHIP COMMISSION RECOGNIZED
18 BY THE STATE OR A LOCAL GOVERNMENT;

19 2. AN ORGANIZATION APPROVED TO ADMINISTER THE
20 TRAINING CURRICULUM BY A RECOGNIZED COMMON OWNERSHIP COMMISSION;

21 3. AN INSTITUTION ACCREDITED BY THE MIDDLE
22 STATES COMMISSION ON HIGHER EDUCATION;

23 4. A MEMBERSHIP ORGANIZATION THAT OFFERS
24 NATIONALLY RECOGNIZED CERTIFICATION CREDENTIALS FOR COMMUNITY
25 MANAGERS; OR

26 5. A COUNTY WITH COURSEWORK ESTABLISHED BY THE
27 COUNTY COMMON OWNERSHIP COMMISSION.

28 (II) A TRAINING CURRICULUM DEVELOPED UNDER THIS
29 PARAGRAPH SHALL INCLUDE TRAINING ON:

30 1. THE MARYLAND HOMEOWNERS ASSOCIATION ACT,
31 THE MARYLAND CONDOMINIUM ACT, AND THE MARYLAND COOPERATIVE
32 HOUSING CORPORATION ACT;

1 (II) A CERTIFICATE OF COMPLETION ISSUED UNDER THIS
2 PARAGRAPH SHALL BE VALID FOR 3 YEARS.

3 (III) IF A MEMBER OF THE GOVERNING BODY REMAINS A
4 MEMBER OF THE GOVERNING BODY AT THE TIME THE CERTIFICATE EXPIRES, THE
5 MEMBER SHALL RENEW THE CERTIFICATION BY SUCCESSFULLY COMPLETING THE
6 TRAINING REQUIRED UNDER THIS SUBSECTION.

7 ~~(4)~~ (5) IF A MEMBER OF THE GOVERNING BODY DOES NOT
8 SUCCESSFULLY COMPLETE THE TRAINING REQUIRED UNDER THIS SUBSECTION,
9 THE GOVERNING BODY MAY:

10 (I) REMOVE THE MEMBER FROM THE GOVERNING BODY; OR

11 (II) INVALIDATE A VOTE OF THE MEMBER.

12 [(g)] (H) If the declarant fails to comply with the requirements of this section, an
13 aggrieved lot owner may submit the dispute to the Division of Consumer Protection of the
14 Office of the Attorney General under § 11B-115(c) of this title.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2024.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.