

HOUSE BILL 1054

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By: **Delegate Holmes**

Introduced and read first time: February 6, 2020

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

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

4 FOR the purpose of requiring each member of a board of directors or officer of a council of
5 unit owners of a condominium and each member of a governing body of a
6 homeowners association to successfully complete a certain training curriculum
7 within a certain number of days after the individual is elected or appointed or begins
8 a certain new term of office; requiring a certain governing body to certify that a
9 certain member or officer has completed certain training, retain copies of certain
10 certificates, and report on the certifications to a certain common ownership
11 commission under certain circumstances; establishing that a certain certificate is
12 valid for a certain amount of time; requiring a member or officer to renew a certain
13 certificate by completing certain training under certain circumstances; authorizing
14 certain action if a certain member or officer does not complete certain required
15 training; and generally relating to members of governing bodies of condominiums
16 and homeowners associations.

17 BY repealing and reenacting, with amendments,
18 Article – Real Property
19 Section 11–109 and 11B–106.1(f)
20 Annotated Code of Maryland
21 (2015 Replacement Volume and 2019 Supplement)

22 BY repealing and reenacting, without amendments,
23 Article – Real Property
24 Section 11B–106.1(a)
25 Annotated Code of Maryland
26 (2015 Replacement Volume and 2019 Supplement)

27 BY adding to
28 Article – Real Property

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 11B–106.1(f)
2 Annotated Code of Maryland
3 (2015 Replacement Volume and 2019 Supplement)

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) EACH MEMBER OF A BOARD OF DIRECTORS OR OFFICER OF A
15 COUNCIL OF UNIT OWNERS SHALL SUCCESSFULLY COMPLETE A TRAINING
16 CURRICULUM ON THE RESPONSIBILITIES OF BEING A MEMBER OR AN OFFICER
17 DEVELOPED BY:

18 (i) A COMMON OWNERSHIP COMMISSION RECOGNIZED BY THE
19 STATE OR A LOCAL GOVERNMENT; OR

20 (ii) AN ORGANIZATION APPROVED TO ADMINISTER THE
21 TRAINING CURRICULUM BY A RECOGNIZED COMMON OWNERSHIP COMMISSION.

22 (2) EACH MEMBER OF THE BOARD OF DIRECTORS OR OFFICER OF THE
23 COUNCIL OF UNIT OWNERS SHALL SUCCESSFULLY COMPLETE THE TRAINING
24 CURRICULUM REQUIRED UNDER THIS SUBSECTION WITHIN 90 DAYS AFTER THE
25 INDIVIDUAL:

26 (i) IS FIRST ELECTED OR APPOINTED TO THE OFFICE; OR

27 (ii) FOR AN INDIVIDUAL WHO IS IN OFFICE ON OCTOBER 1,
28 2020, BEGINS A SUBSEQUENT TERM AS A MEMBER OF THE BOARD OF DIRECTORS OR
29 AN OFFICER OF THE COUNCIL OF UNIT OWNERS.

30 (3) (i) THE BOARD OF DIRECTORS OR OFFICERS OF THE COUNCIL
31 OF UNIT OWNERS SHALL:

32 1. CERTIFY THAT EACH MEMBER OR OFFICER

1 SUCCESSFULLY COMPLETES THE TRAINING CURRICULUM REQUIRED UNDER THIS
2 SUBSECTION;

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

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

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

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

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

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

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

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

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

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

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

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

32 (ii) Notice sent to each unit owner by electronic transmission, if the

1 requirements of § 11–139.1 of this title are met.

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

3 (i) As provided in the bylaws; or

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

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

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

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

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

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

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

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

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

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

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

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

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

7 1. 60 days from the date that units representing 50 percent
8 of the votes in the condominium have been conveyed by the developer to members of the
9 public for residential purposes; or

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

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

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

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

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

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

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

28 3. The tangible property of the condominium; and

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

31 (v) 1. This subparagraph does not apply to a contract entered
32 into before October 1, 2009.

33 2. A. In this subparagraph, “contract” means an

1 agreement with a company or individual to handle financial matters, maintenance, or
2 services for the condominium.

3 B. "Contract" does not include an agreement relating to the
4 provision of utility services or communication systems.

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

10 (vi) If the developer fails to comply with the requirements of this
11 paragraph, an aggrieved unit owner may submit the dispute to the Division of Consumer
12 Protection of the Office of the Attorney General under § 11-130(c) of this title.

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

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

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

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

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

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

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

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

34 (8) To acquire by purchase or in any other manner, to take, receive, own,
35 hold, use, employ, improve, and otherwise deal with any property, real or personal, or any

1 interest therein, wherever located;

2 (9) To hire and terminate managing agents and other employees, agents,
3 and independent contractors;

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

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

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

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

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

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

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

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

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

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

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

34 (21) Generally, to exercise the powers set forth in this title and the

1 declaration or bylaws and to do every other act not inconsistent with law, which may be
2 appropriate to promote and attain the purposes set forth in this title, the declaration or
3 bylaws; and

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

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

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

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

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

15 11B-106.1.

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

18 (1) 60 days from the date that at least 75% of the total number of lots that
19 may be part of the development after all phases are complete are sold to members of the
20 public for residential purposes; or

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

25 **(F) (1) EACH MEMBER OF THE GOVERNING BODY SHALL SUCCESSFULLY**
26 **COMPLETE A TRAINING CURRICULUM ON THE RESPONSIBILITIES OF A MEMBER OF**
27 **THE GOVERNING BODY DEVELOPED BY:**

28 **(I) A COMMON OWNERSHIP COMMISSION RECOGNIZED BY THE**
29 **STATE OR A LOCAL GOVERNMENT; OR**

30 **(II) AN ORGANIZATION APPROVED TO ADMINISTER THE**
31 **TRAINING CURRICULUM BY A COMMON OWNERSHIP COMMISSION.**

32 **(2) EACH MEMBER OF THE GOVERNING BODY SHALL SUCCESSFULLY**
33 **COMPLETE THE TRAINING CURRICULUM REQUIRED UNDER THIS SUBSECTION**

1 **WITHIN 90 DAYS AFTER THE MEMBER:**

2 **(I) IS FIRST ELECTED OR APPOINTED TO THE GOVERNING**
3 **BODY; OR**

4 **(II) FOR A MEMBER WHO IS IN OFFICE ON OCTOBER 1, 2020,**
5 **BEGINS A SUBSEQUENT TERM AS A MEMBER OF THE GOVERNING BODY.**

6 **(3) (I) THE GOVERNING BODY SHALL:**

7 **1. CERTIFY THAT EACH MEMBER SUCCESSFULLY**
8 **COMPLETES THE TRAINING CURRICULUM UNDER THIS SUBSECTION;**

9 **2. RETAIN A COPY OF THE CERTIFICATE OF**
10 **COMPLETION OF EACH MEMBER; AND**

11 **3. WITHIN 90 DAYS AFTER THE CERTIFICATION OF THE**
12 **MEMBER, REPORT TO THE COMMON OWNERSHIP COMMISSION ON THE**
13 **CERTIFICATION.**

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

16 **(III) IF THE MEMBER OF THE GOVERNING BODY REMAINS A**
17 **MEMBER OF THE GOVERNING BODY AT THE TIME THE CERTIFICATE EXPIRES, THE**
18 **MEMBER SHALL RENEW THE CERTIFICATION BY SUCCESSFULLY COMPLETING THE**
19 **TRAINING REQUIRED UNDER THIS SUBSECTION.**

20 **(4) IF A MEMBER OF THE GOVERNING BODY DOES NOT**
21 **SUCCESSFULLY COMPLETE THE TRAINING REQUIRED UNDER THIS SUBSECTION,**
22 **THE GOVERNING BODY MAY:**

23 **(I) REMOVE THE MEMBER FROM THE GOVERNING BODY; OR**

24 **(II) INVALIDATE A VOTE OF THE MEMBER.**

25 **[(f)] (G)** If the declarant fails to comply with the requirements of this section, an
26 aggrieved lot owner may submit the dispute to the Division of Consumer Protection of the
27 Office of the Attorney General under § 11B–115(c) of this title.

28 **SECTION 2. AND BE IT FURTHER ENACTED,** That this Act shall take effect
29 **October 1, 2020.**