

Chapter 298

(House Bill 280)

AN ACT concerning

Local Government – Condominium and Homeowners Associations – Repair and Rehabilitation Funds

FOR the purpose of authorizing a county or municipality to establish a certain fund for the purpose of providing support for the repair of infrastructure in a community subject to a condominium association or homeowners association; requiring that certain property tax revenues be assigned to a fund created under this Act in a certain manner; and generally relating to public funding for the repair or rehabilitation of infrastructure.

BY adding to

Article – Local Government
Section 1–1319
Annotated Code of Maryland
(2013 Volume and 2023 Supplement)

Preamble

WHEREAS, Many nonprofit condominium associations and homeowners associations in Maryland are over 50 years old, and many of the communities governed by these condominium associations and homeowners associations have reached the point where the community is faced with significant costs to repair the physical infrastructure; and

WHEREAS, During the past 50 years, many condominium associations and homeowners associations have been severely constrained by their governing documents that require a supermajority of all owners to approve large increases in yearly assessments, resulting in a backlog of unfunded infrastructure that has deteriorated and is in need of immediate repair despite good faith efforts by the condominium associations and homeowners associations to accumulate sufficient income to pay for these repairs; and

WHEREAS, The original developers of many of those communities, during the subdivision approval process, created the constraining governing documents and negotiated with local government to designate roads for the community and other infrastructure traditionally maintained by the local government as private physical elements that would have to be owned and maintained by the condominium associations or homeowners associations; and

WHEREAS, As a result of those decisions, local governments pay to maintain this costly infrastructure in some communities, but not in others; and

WHEREAS, Condominium associations and homeowners associations that are obligated to maintain this infrastructure cannot afford the costs of necessary repairs, which has led to deteriorated infrastructure that is unsafe, detracts from the appearance and desirability of the community, and depresses property values in the community, thereby negatively impacting property tax revenues to the local governments; and

WHEREAS, Those who live in condominiums and planned communities with homeowners associations that are responsible for the private maintenance of this infrastructure are burdened by paying for repairs and services for the types of infrastructure that would otherwise be paid for by local governments, as well as paying property taxes that support this type of infrastructure in other condominium associations and homeowners associations with publicly managed infrastructure; and

WHEREAS, There is now a greater sense of urgency from local governments to remove these burdens and assist condominium associations and homeowners associations by raising sufficient funds to repair this deteriorating infrastructure; now, therefore,

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

Article – Local Government

1–1319.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “CONDOMINIUM ASSOCIATION” MEANS A COUNCIL OF UNIT OWNERS, AS DEFINED IN § 11–109 OF THE REAL PROPERTY ARTICLE, SUBJECT TO THE PROVISIONS OF THE MARYLAND CONDOMINIUM ACT.

(3) “HOMEOWNERS ASSOCIATION” MEANS A HOMEOWNERS ASSOCIATION, AS DEFINED IN § 11B–101 OF THE REAL PROPERTY ARTICLE, SUBJECT TO THE PROVISIONS OF THE MARYLAND HOMEOWNERS ASSOCIATION ACT.

(B) (1) A COUNTY OR MUNICIPALITY MAY ESTABLISH A LOCAL TRUST FUND OR OTHER APPROPRIATE FUND FOR THE PURPOSE OF REPAIRING OR REHABILITATING INFRASTRUCTURE WITHIN COMMUNITIES THAT ARE SUBJECT TO THE REQUIREMENTS OF THE MARYLAND CONDOMINIUM ACT OR THE MARYLAND HOMEOWNERS ASSOCIATION ACT.

(2) A FUND CREATED UNDER PARAGRAPH (1) OF THIS SUBSECTION:

(I) MAY BE USED, AT THE DISCRETION OF A COUNTY OR MUNICIPALITY, FOR THE REPAIR OF INFRASTRUCTURE THAT IS TRADITIONALLY MAINTAINED BY THE COUNTY OR MUNICIPALITY FOR THE BENEFIT OF THE PUBLIC, INCLUDING ROADS AND STORMWATER MANAGEMENT FACILITIES; AND

(II) MAY NOT BE USED TO REPAIR OR REPLACE RECREATIONAL FACILITIES USED FOR THE EXCLUSIVE USE OR BENEFIT OF THE MEMBERS OF A CONDOMINIUM ASSOCIATION OR HOMEOWNERS ASSOCIATION OR THEIR GUESTS.

(C) (1) A FUND ESTABLISHED BY A COUNTY OR MUNICIPALITY UNDER SUBSECTION (B) OF THIS SECTION SHALL CONSIST OF:

(I) PROPERTY TAX REVENUES PAID TO THE COUNTY OR MUNICIPALITY BY UNIT OWNERS IN A CONDOMINIUM OR LOT OWNERS IN A HOMEOWNERS ASSOCIATION;

(II) OTHER APPROPRIATIONS MADE BY THE COUNTY OR MUNICIPALITY FOR THE BENEFIT OF THE FUND;

(III) GIFTS OR DONATIONS MADE TO THE FUND; AND

(IV) INVESTMENT EARNINGS OF THE FUND.

(2) A COUNTY OR MUNICIPALITY SHALL ASSIGN PROPERTY TAX REVENUES PAID TO THE COUNTY OR MUNICIPALITY BY THE UNIT OWNERS IN A CONDOMINIUM ASSOCIATION OR THE LOT OWNERS IN A HOMEOWNERS ASSOCIATION TO A FUND ESTABLISHED IN ACCORDANCE WITH THIS SECTION AS FOLLOWS:

(I) 25% OF THE REVENUES PER YEAR FOR ANY CONDOMINIUM ASSOCIATION OR HOMEOWNERS ASSOCIATION THAT HAS NOT RECEIVED SUPPORT FROM THE FUND SINCE THE DATE ON WHICH THE FUND WAS ESTABLISHED; AND

(II) NOT LESS THAN 10% BUT NOT MORE THAN 25% OF THE REVENUES PER YEAR FOR ANY CONDOMINIUM ASSOCIATION OR HOMEOWNERS ASSOCIATION THAT HAS RECEIVED SUPPORT FROM THE FUND SINCE THE DATE ON WHICH THE FUND WAS ESTABLISHED.

(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A COUNTY OR A MUNICIPALITY MAY ESTABLISH ELIGIBILITY REQUIREMENTS FOR THE AWARD OF FUNDS TO A CONDOMINIUM ASSOCIATION OR HOMEOWNERS ASSOCIATION.

(2) (I) A COUNTY OR MUNICIPALITY SHALL PRIORITIZE SUPPORT FOR CONDOMINIUM ASSOCIATIONS AND HOMEOWNERS ASSOCIATIONS THAT

EXHIBIT THE GREATEST NEED FOR INFRASTRUCTURE REPAIR OR REHABILITATION.

(II) WHEN EVALUATING THE NEED FOR FUNDING TO SUPPORT INFRASTRUCTURE REPAIR, A COUNTY OR MUNICIPALITY MAY CONSIDER THE AVAILABILITY OF OTHER FUNDS AND RESOURCES ON WHICH A CONDOMINIUM ASSOCIATION OR HOMEOWNERS ASSOCIATION MAY RELY.

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

Approved by the Governor, April 25, 2024.