

# HOUSE BILL 702

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By: **Delegates Stein, Beidle, Glenn, and Lafferty**

Introduced and read first time: February 4, 2010

Assigned to: Environmental Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Common Ownership Communities – Fidelity Insurance or Fidelity Bond**

3 FOR the purpose of defining a certain term to include a certain type of bond;  
4 authorizing certain governing bodies of a cooperative housing corporation, a  
5 condominium, or a homeowners association to satisfy the requirement of  
6 purchasing fidelity insurance by purchasing a fidelity bond; making technical  
7 changes; and generally relating to fidelity insurance and common ownership  
8 communities.

9 BY repealing and reenacting, with amendments,  
10 Article – Corporations and Associations  
11 Section 5–6B–18.6  
12 Annotated Code of Maryland  
13 (2007 Replacement Volume and 2009 Supplement)

14 BY repealing and reenacting, with amendments,  
15 Article – Real Property  
16 Section 11–114.1 and 11B–111.6  
17 Annotated Code of Maryland  
18 (2003 Replacement Volume and 2009 Supplement)

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

21 **Article – Corporations and Associations**

22 5–6B–18.6.

23 (a) **IN THIS SECTION, “FIDELITY INSURANCE” INCLUDES A FIDELITY**  
24 **BOND.**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           **(B)** (1) The board of directors or other governing body of a cooperative  
2 housing corporation shall purchase fidelity insurance not later than the time of the  
3 first sale of a cooperative interest with respect to a unit to a person other than the  
4 developer and shall keep fidelity insurance in place for each year thereafter.

5           (2) The fidelity insurance required under paragraph (1) of this  
6 subsection shall provide for the indemnification of the cooperative housing corporation  
7 against loss resulting from acts or omissions arising from fraud, dishonesty, or  
8 criminal acts by:

9                   (i) Any officer, director, managing agent, or other agent or  
10 employee charged with the operation or maintenance of the cooperative housing  
11 corporation who controls or disburses funds; and

12                   (ii) Any management company employing a management agent  
13 or other employee charged with the operation or maintenance of the cooperative  
14 housing corporation who controls or disburses funds.

15           **[(b)] (C)** A copy of the fidelity insurance policy **OR FIDELITY BOND** shall be  
16 included in the books and records kept and made available by or on behalf of the  
17 cooperative housing corporation under § 5–6B–18.5 of this subtitle.

18           **[(c)] (D)** (1) The amount of the fidelity insurance required under  
19 subsection **[(a)] (B)** of this section shall equal at least the lesser of:

20                   (i) 3 months' worth of gross common charges and the total  
21 amount held in all investment accounts at the time the fidelity insurance is issued; or

22                   (ii) \$3,000,000.

23           (2) The total liability of the insurance to all insured persons under the  
24 fidelity insurance may not exceed the sum of the fidelity insurance.

25           **[(d)] (E)** If a member believes that the board of directors or other governing  
26 body of a cooperative housing corporation has failed to comply with the requirements  
27 of this section, the aggrieved member may submit the dispute to the Division of  
28 Consumer Protection of the Office of the Attorney General under § 5–6B–12 of this  
29 subtitle.

## 30                                   Article – Real Property

31 11–114.1.

32           (a) **IN THIS SECTION, “FIDELITY INSURANCE” INCLUDES A FIDELITY**  
33 **BOND.**

1           **(B)** (1) The council of unit owners or other governing body of a  
2 condominium shall purchase fidelity insurance not later than the time of the first  
3 conveyance of a unit to a person other than the developer and shall keep fidelity  
4 insurance in place for each year thereafter.

5           (2) The fidelity insurance required under paragraph (1) of this  
6 subsection shall provide for the indemnification of the condominium against loss  
7 resulting from acts or omissions arising from fraud, dishonesty, or criminal acts by:

8                   (i) Any officer, director, managing agent, or other agent or  
9 employee charged with the operation or maintenance of the condominium who controls  
10 or disburses funds; and

11                   (ii) Any management company employing a management agent  
12 or other employee charged with the operation or maintenance of the condominium who  
13 controls or disburses funds.

14           **[(b)] (C)** A copy of the fidelity insurance policy **OR FIDELITY BOND** shall be  
15 included in the books and records kept and made available by the council of unit  
16 owners under § 11–116 of this title.

17           **[(c)] (D)** (1) The amount of the fidelity insurance required under  
18 subsection **[(a)] (B)** of this section shall equal at least the lesser of:

19                   (i) 3 months' worth of gross annual assessments and the total  
20 amount held in all investment accounts at the time the fidelity insurance is issued; or

21                   (ii) \$3,000,000.

22           (2) The total liability of the insurance to all insured persons under the  
23 fidelity insurance may not exceed the sum of the fidelity insurance.

24           **[(d)] (E)** If a unit owner believes that the council of unit owners or other  
25 governing body of a condominium has failed to comply with the requirements of this  
26 section, the aggrieved unit owner may submit the dispute to the Division of Consumer  
27 Protection of the Office of the Attorney General under § 11–130 of this title.

28 11B–111.6.

29           (a) **IN THIS SECTION, “FIDELITY INSURANCE” INCLUDES A FIDELITY**  
30 **BOND.**

31           **(B)** (1) The board of directors or other governing body of a homeowners  
32 association shall purchase fidelity insurance not later than the time of the first  
33 conveyance of a lot to a person other than the declarant and shall keep fidelity  
34 insurance in place for each year thereafter.

1           (2) The fidelity insurance required under paragraph (1) of this  
2 subsection shall provide for the indemnification of the homeowners association against  
3 loss resulting from acts or omissions arising from fraud, dishonesty, or criminal acts  
4 by:

5                   (i) Any officer, director, managing agent, or other agent or  
6 employee charged with the operation or maintenance of the homeowners association  
7 who controls or disburses funds; and

8                   (ii) Any management company employing a management agent  
9 or other employee charged with the operation or maintenance of the homeowners  
10 association who controls or disburses funds.

11           **[(b)] (C)** A copy of the fidelity insurance policy **OR FIDELITY BOND** shall be  
12 included in the books and records kept and made available by or on behalf of the  
13 homeowners association under § 11B–112 of this title.

14           **[(c)] (D)** (1) The amount of the fidelity insurance required under  
15 subsection **[(a)] (B)** of this section shall equal at least the lesser of:

16                   (i) 3 months' worth of gross annual homeowners association  
17 fees and the total amount held in all investment accounts at the time the fidelity  
18 insurance is issued; or

19                   (ii) \$3,000,000.

20           (2) The total liability of the insurance to all insured persons under the  
21 fidelity insurance may not exceed the sum of the fidelity insurance.

22           **[(d)] (E)** If a lot owner believes that the board of directors or other  
23 governing body of a homeowners association has failed to comply with the  
24 requirements of this section, the aggrieved lot owner may submit the dispute to the  
25 Division of Consumer Protection of the Office of the Attorney General under §  
26 11B–115 of this title.

27           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
28 October 1, 2010.