

HOUSE BILL 361

N1
HB 1054/20 – ENT

(PRE-FILED)

11r0823

By: **Delegate Holmes**

Requested: October 2, 2020

Introduced and read first time: January 13, 2021

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 an 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(g)
20 Annotated Code of Maryland
21 (2015 Replacement Volume and 2020 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 2020 Supplement)

27 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Real Property
2 Section 11B–106.1(g)
3 Annotated Code of Maryland
4 (2015 Replacement Volume and 2020 Supplement)

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

7 **Article – Real Property**

8 11–109.

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

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

15 **(c) (1) EACH MEMBER OF A BOARD OF DIRECTORS OR OFFICER OF A**
16 **COUNCIL OF UNIT OWNERS SHALL SUCCESSFULLY COMPLETE A TRAINING**
17 **CURRICULUM ON THE RESPONSIBILITIES OF BEING A MEMBER OR AN OFFICER**
18 **DEVELOPED BY:**

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

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

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

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

28 **(ii) FOR AN INDIVIDUAL WHO IS IN OFFICE ON OCTOBER 1,**
29 **2021, BEGINS A SUBSEQUENT TERM AS A MEMBER OF THE BOARD OF DIRECTORS OR**
30 **AN OFFICER OF THE COUNCIL OF UNIT OWNERS.**

31 **(3) (i) THE BOARD OF DIRECTORS OR OFFICERS OF THE COUNCIL**
32 **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) IF A MEMBER OF THE BOARD OF DIRECTORS OR AN OFFICER OF**
16 **THE COUNCIL OF UNIT OWNERS DOES NOT SUCCESSFULLY COMPLETE THE**
17 **TRAINING REQUIRED UNDER THIS SUBSECTION, THE BOARD OF DIRECTORS OR**
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 another meeting of the council of unit owners may be called for the same purpose if:

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

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

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

1 on the roster maintained under paragraph (2) of this subsection.

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

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

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

8 A. May approve or authorize the proposed action at the
9 additional meeting; and

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

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

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

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

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

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

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

35 (14) Election materials prepared with funds of the council of unit owners

1 shall list candidates in alphabetical order and may not indicate a candidate preference.

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

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

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

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

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

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

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

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

26 1. The documents specified in § 11-132 of this title;

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

29 3. The tangible property of the condominium; and

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

32 (v) In Prince George's County, the replacement reserves delivered
33 under paragraph (iv)2 of this paragraph shall be equal to at least the reserve funding
34 amount recommended in the reserve study completed under § 11-109.4 of this title as of

1 the date of the meeting.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (9) To hire and terminate managing agents and other employees, agents,
7 and independent contractors;

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

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

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

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

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

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

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

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

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

34 (19) To enforce the implied warranties made to the council of unit owners by

1 the developer under § 11–131 of this title;

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

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

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

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

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

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

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

19 11B–106.1.

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

22 (1) 60 days from the date that at least 75% of the total number of lots that
23 may be part of the development after all phases are complete are sold to members of the
24 public for residential purposes; or

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

29 **(G) (1) EACH MEMBER OF THE GOVERNING BODY SHALL SUCCESSFULLY**
30 **COMPLETE A TRAINING CURRICULUM ON THE RESPONSIBILITIES OF A MEMBER OF**
31 **THE GOVERNING BODY DEVELOPED BY:**

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

1 (II) AN ORGANIZATION APPROVED TO ADMINISTER THE
2 TRAINING CURRICULUM BY A COMMON OWNERSHIP COMMISSION.

3 (2) EACH MEMBER OF THE GOVERNING BODY SHALL SUCCESSFULLY
4 COMPLETE THE TRAINING CURRICULUM REQUIRED UNDER THIS SUBSECTION
5 WITHIN 90 DAYS AFTER THE MEMBER:

6 (I) IS FIRST ELECTED OR APPOINTED TO THE GOVERNING
7 BODY; OR

8 (II) FOR A MEMBER WHO IS IN OFFICE ON OCTOBER 1, 2021,
9 BEGINS A SUBSEQUENT TERM AS A MEMBER OF THE GOVERNING BODY.

10 (3) (I) THE GOVERNING BODY SHALL:

11 1. CERTIFY THAT EACH MEMBER SUCCESSFULLY
12 COMPLETES THE TRAINING CURRICULUM UNDER THIS SUBSECTION;

13 2. RETAIN A COPY OF THE CERTIFICATE OF
14 COMPLETION OF EACH MEMBER; AND

15 3. WITHIN 90 DAYS AFTER THE CERTIFICATION OF THE
16 MEMBER, REPORT TO THE COMMON OWNERSHIP COMMISSION ON THE
17 CERTIFICATION.

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

20 (III) IF THE MEMBER OF THE GOVERNING BODY REMAINS A
21 MEMBER OF THE GOVERNING BODY AT THE TIME THE CERTIFICATE EXPIRES, THE
22 MEMBER SHALL RENEW THE CERTIFICATION BY SUCCESSFULLY COMPLETING THE
23 TRAINING REQUIRED UNDER THIS SUBSECTION.

24 (4) IF A MEMBER OF THE GOVERNING BODY DOES NOT
25 SUCCESSFULLY COMPLETE THE TRAINING REQUIRED UNDER THIS SUBSECTION,
26 THE GOVERNING BODY MAY:

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

28 (II) INVALIDATE A VOTE OF THE MEMBER.

29 [(g)] (H) If the declarant fails to comply with the requirements of this section, an

1 aggrieved lot owner may submit the dispute to the Division of Consumer Protection of the
2 Office of the Attorney General under § 11B-115(c) of this title.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2021.