

# SENATE BILL 416

N1

0lr2139  
CF 0lr3192

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By: ~~Senators Lenett and Kittleman~~, **Kittleman, and Forehand**

Introduced and read first time: January 29, 2010

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 16, 2010

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Maryland Condominium Act and Maryland Homeowners Association Act –**  
3 **Proposed Budget – Notice, Information, and Adoption**

4 FOR the purpose of requiring notice of a certain vote to be included in a certain notice  
5 of a council of condominium unit owners meeting; requiring notice of a certain  
6 vote to be included in a certain notice of a homeowners association meeting;  
7 requiring the board of directors or other governing body of a homeowners  
8 association to prepare and submit to all ~~members~~ lot owners of the homeowners  
9 association a proposed annual budget a certain period of time before its  
10 adoption; authorizing the proposed annual budget to be submitted in a certain  
11 manner; requiring the budget to include certain items; requiring the budget to  
12 be adopted at an open meeting of the homeowners association or other body to  
13 which the homeowners association has delegated responsibilities for preparing  
14 and adopting a budget; requiring that certain expenditures arising after the  
15 adoption of the budget that would result in an increase in assessments greater  
16 than a certain percentage of the budgeted amount, be approved by a budget  
17 amendment at a special meeting of the homeowners association; requiring  
18 written notice of the special meeting to be given to the lot owners by a certain  
19 time period before the meeting; providing that the adoption of a budget does not  
20 impair certain authority of the homeowners association for certain expenditures  
21 for certain purposes; and generally relating to providing notice of the proposed  
22 budget of a council of condominium unit owners or of a homeowners association  
23 and providing certain budget information to the lot owners of a homeowners  
24 association.

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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 BY repealing and reenacting, with amendments,  
2 Article – Real Property  
3 Section 11–109(c) and 11B–111  
4 Annotated Code of Maryland  
5 (2003 Replacement Volume and 2009 Supplement)

6 BY repealing and reenacting, without amendments,  
7 Article – Real Property  
8 Section 11–109.2(a) through (e)  
9 Annotated Code of Maryland  
10 (2003 Replacement Volume and 2009 Supplement)

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

13 **Article – Real Property**

14 11–109.

15 (c) (1) A meeting of the council of unit owners or board of directors may  
16 not be held on less notice than required by this section.

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

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

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

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

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

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

30 (i) As provided in the bylaws; or

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

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

4           **(7) IF THE COUNCIL OF UNIT OWNERS OR OTHER BODY TO WHICH**  
5 **THE COUNCIL HAS DELEGATED RESPONSIBILITY FOR PREPARING AND**  
6 **ADOPTING THE BUDGET INTENDS TO VOTE ON THE ANNUAL PROPOSED BUDGET**  
7 **AT AN UPCOMING MEETING, NOTICE OF THE VOTE MUST BE INCLUDED IN THE**  
8 **NOTICE PROVIDED UNDER PARAGRAPH (4) OF THIS SUBSECTION.**

9           **[(7)] (8)** (i) This paragraph does not apply to any meeting of the  
10 governing body that occurs at any time before the meeting at which the unit owners  
11 elect officers or a board of directors in accordance with paragraph **[(16)] (17)** of this  
12 subsection.

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

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

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

22           **[(8)] (9)** (i) Unless the bylaws provide otherwise, a quorum is  
23 deemed present throughout any meeting of the council of unit owners if persons  
24 entitled to cast 25 percent of the total number of votes appurtenant to all units are  
25 present in person or by proxy.

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

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

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

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

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

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

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

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

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

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

14                  **[(9)] (10)**    At meetings of the council of unit owners each unit owner  
15 shall be entitled to cast the number of votes appurtenant to his unit. Unit owners may  
16 vote by proxy, but the proxy is effective only for a maximum period of 180 days  
17 following its issuance, unless granted to a lessee or mortgagee.

18                  **[(10)] (11)**   Any proxy may be revoked at any time at the pleasure of the  
19 unit owner or unit owners executing the proxy.

20                  **[(11)] (12)**   A proxy who is not appointed to vote as directed by a unit  
21 owner may only be appointed for purposes of meeting quorums and to vote for matters  
22 of business before the council of unit owners, other than an election of officers and  
23 members of the board of directors.

24                  **[(12)] (13)**   Only a unit owner voting in person or by electronic  
25 transmission if the requirements of § 11-139.2 of this title are met or a proxy voting  
26 for candidates designated by a unit owner may vote for officers and members of the  
27 board of directors.

28                  **[(13)] (14)**   Unless otherwise provided in the bylaws, a unit owner may  
29 nominate himself or any other person to be an officer or member of the board of  
30 directors. A call for nominations shall be sent to all unit owners not less than 45 days  
31 before notice of an election is sent. Only nominations made at least 15 days before  
32 notice of an election shall be listed on the election ballot. Candidates shall be listed on  
33 the ballot in alphabetical order, with no indicated candidate preference. Nominations  
34 may be made from the floor at the meeting at which the election to the board is held.

1            ~~[(14)]~~ **(15)** Election materials prepared with funds of the council of unit  
2 owners shall list candidates in alphabetical order and may not indicate a candidate  
3 preference.

4            ~~[(15)]~~ **(16)** Unless otherwise provided in this title, and subject to  
5 provisions in the bylaws requiring a different majority, decisions of the council of unit  
6 owners shall be made on a majority of votes of the unit owners listed on the current  
7 roster present and voting.

8            ~~[(16)]~~ **(17)** (i) A meeting of the council of unit owners to elect a  
9 board of directors for the council of unit owners, as provided in the condominium  
10 declaration or bylaws, shall be held within:

11                            1. 60 days from the date that units representing 50  
12 percent of the votes in the condominium have been conveyed by the developer to  
13 members of the public for residential purposes; or

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

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

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

22                            (iii) The term of each member of the board of directors appointed  
23 by the developer shall end 10 days after the meeting as specified in subparagraph (i) of  
24 this paragraph is held, if a replacement board member is elected.

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

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

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

32                            3. The tangible property of the condominium; and

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

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

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

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

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

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

17 11-109.2.

18 (a) The council of unit owners shall cause to be prepared and submitted to  
19 the unit owners an annual proposed budget at least 30 days before its adoption.

20 (b) The annual budget shall provide for at least the following items:

21 (1) Income;

22 (2) Administration;

23 (3) Maintenance;

24 (4) Utilities;

25 (5) General expenses;

26 (6) Reserves; and

27 (7) Capital items.

28 (c) The budget shall be adopted at an open meeting of the council of unit  
29 owners or any other body to which the council of unit owners delegates responsibilities  
30 for preparing and adopting the budget.

1       (d) Any expenditure made other than those made because of conditions  
2 which, if not corrected, could reasonably result in a threat to the health or safety of the  
3 unit owners or a significant risk of damage to the condominium, that would result in  
4 an increase in an amount of assessments for the current fiscal year of the  
5 condominium in excess of 15 percent of the budgeted amount previously adopted, shall  
6 be approved by an amendment to the budget adopted at a special meeting, upon not  
7 less than 10 days written notice to the council of unit owners.

8       (e) The adoption of a budget shall not impair the authority of the council of  
9 unit owners to obligate the council of unit owners for expenditures for any purpose  
10 consistent with any provision of this title.

11 11B-111.

12       Except as provided in this title, and notwithstanding anything contained in any  
13 of the documents of the homeowners association:

14       (1) Subject to the provisions of paragraph ~~(4)~~ **(5)** of this section, all  
15 meetings of the homeowners association, including meetings of the board of directors  
16 or other governing body of the homeowners association or a committee of the  
17 homeowners association, shall be open to all ~~members~~ **LOT OWNERS** of the  
18 homeowners association or their agents;

19       (2) All ~~members~~ **LOT OWNERS** of the homeowners association shall be  
20 given reasonable notice of all regularly scheduled open meetings of the homeowners  
21 association;

22       **(3) (I) IF THE BOARD OF DIRECTORS OR OTHER GOVERNING**  
23 **BODY OF THE HOMEOWNERS ASSOCIATION INTENDS TO VOTE ON THE ANNUAL**  
24 **PROPOSED BUDGET AT AN UPCOMING MEETING, NOTICE OF THE VOTE MUST BE**  
25 **INCLUDED IN THE NOTICE PROVIDED UNDER PARAGRAPH (2) OF THIS SECTION;**  
26 **AND**

27       **(II) 1. THE BOARD OF DIRECTORS OR OTHER**  
28 **GOVERNING BODY OF THE HOMEOWNERS ASSOCIATION SHALL CAUSE TO BE**  
29 **PREPARED AND SUBMITTED TO ALL ~~MEMBERS~~ LOT OWNERS OF THE**  
30 **HOMEOWNERS ASSOCIATION AN ANNUAL PROPOSED BUDGET AT LEAST 30 DAYS**  
31 **BEFORE ITS ADOPTION;**

32       **2. THE ANNUAL PROPOSED BUDGET MAY BE**  
33 **SUBMITTED BY ELECTRONIC TRANSMISSION IN ACCORDANCE WITH § 11B-113.1**  
34 **OF THIS TITLE, BY POSTING ON THE HOMEOWNERS ASSOCIATION WEB PAGE, OR**  
35 **BY PUBLICATION IN THE HOMEOWNERS ASSOCIATION NEWSLETTER;**

36       **(III) THE ANNUAL BUDGET SHALL PROVIDE INFORMATION**  
37 **ON OR EXPENDITURES FOR AT LEAST THE FOLLOWING ITEMS:**

- 1                   **1. INCOME;**
- 2                   **2. ADMINISTRATION;**
- 3                   **3. MAINTENANCE;**
- 4                   **4. UTILITIES;**
- 5                   **5. GENERAL EXPENSES;**
- 6                   **6. RESERVES; AND**
- 7                   **7. CAPITAL EXPENSES;**

8                   **(IV) THE BUDGET SHALL BE ADOPTED AT AN OPEN MEETING**  
9 **OF THE HOMEOWNERS ASSOCIATION OR ANY OTHER BODY TO WHICH THE**  
10 **HOMEOWNERS ASSOCIATION DELEGATES RESPONSIBILITIES FOR PREPARING**  
11 **AND ADOPTING THE BUDGET;**

12                   **(V) EXCEPT FOR AN EXPENDITURE MADE BY THE**  
13 **HOMEOWNERS ASSOCIATION BECAUSE OF A CONDITION THAT, IF NOT**  
14 **CORRECTED, COULD REASONABLY RESULT IN A THREAT TO THE HEALTH OR**  
15 **SAFETY OF THE LOT OWNERS OR A SIGNIFICANT RISK OF DAMAGE TO THE**  
16 **DEVELOPMENT, ANY EXPENDITURE THAT WOULD RESULT IN AN INCREASE IN AN**  
17 **AMOUNT OF ASSESSMENTS FOR THE CURRENT FISCAL YEAR OF THE**  
18 **HOMEOWNERS ASSOCIATION IN EXCESS OF 15% OF THE BUDGETED AMOUNT**  
19 **PREVIOUSLY ADOPTED SHALL BE APPROVED BY AN AMENDMENT TO THE**  
20 **BUDGET ADOPTED AT A SPECIAL MEETING FOR WHICH NOT LESS THAN 10 DAYS**  
21 **WRITTEN NOTICE SHALL BE PROVIDED TO THE LOT OWNERS; AND**

22                   **(VI) THE ADOPTION OF A BUDGET DOES NOT IMPAIR THE**  
23 **AUTHORITY OF THE HOMEOWNERS ASSOCIATION TO OBLIGATE THE**  
24 **HOMEOWNERS ASSOCIATION FOR EXPENDITURES FOR ANY PURPOSE**  
25 **CONSISTENT WITH ANY PROVISION OF THIS TITLE;**

26                   **[(3)] (4)**       (i)     This paragraph does not apply to any meeting of a  
27 governing body that occurs at any time before the lot owners, other than the developer,  
28 have a majority of votes in the homeowners association, as provided in the declaration;

29                   (ii)    Subject to subparagraph (iii) of this paragraph and to  
30 reasonable rules adopted by a governing body, a governing body shall provide a  
31 designated period of time during a meeting to allow lot owners an opportunity to  
32 comment on any matter relating to the homeowners association;



1 (iii) During a meeting at which the agenda is limited to specific  
2 topics or at a special meeting, the lot owners' comments may be limited to the topics  
3 listed on the meeting agenda; and

4 (iv) The governing body shall convene at least one meeting each  
5 year at which the agenda is open to any matter relating to the homeowners  
6 association;

7 **[(4)] (5)** A meeting of the board of directors or other governing body  
8 of the homeowners association or a committee of the homeowners association may be  
9 held in closed session only for the following purposes:

10 (i) Discussion of matters pertaining to employees and  
11 personnel;

12 (ii) Protection of the privacy or reputation of individuals in  
13 matters not related to the homeowners association's business;

14 (iii) Consultation with legal counsel on legal matters;

15 (iv) Consultation with staff personnel, consultants, attorneys,  
16 board members, or other persons in connection with pending or potential litigation or  
17 other legal matters;

18 (v) Investigative proceedings concerning possible or actual  
19 criminal misconduct;

20 (vi) Consideration of the terms or conditions of a business  
21 transaction in the negotiation stage if the disclosure could adversely affect the  
22 economic interests of the homeowners association;

23 (vii) Compliance with a specific constitutional, statutory, or  
24 judicially imposed requirement protecting particular proceedings or matters from  
25 public disclosure; or

26 (viii) Discussion of individual owner assessment accounts; and

27 **[(5)] (6)** If a meeting is held in closed session under paragraph **[(4)]**  
28 **(5)** of this section:

29 (i) An action may not be taken and a matter may not be  
30 discussed if it is not permitted by paragraph **[(4)] (5)** of this section; and

31 (ii) A statement of the time, place, and purpose of a closed  
32 meeting, the record of the vote of each board or committee member by which the  
33 meeting was closed, and the authority under this section for closing a meeting shall be

1 included in the minutes of the next meeting of the board of directors or the committee  
2 of the homeowners association.

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

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.