

Chapter 294

(Senate Bill 416)

AN ACT concerning

~~Maryland Condominium Act and Maryland Homeowners Association Act –~~
Proposed Homeowners Association – Annual Budget – Notice, Information,
and Adoption

FOR the purpose of requiring ~~notice of a certain vote to be included in a certain notice of a council of condominium unit owners meeting; requiring notice of a certain vote to be included in a certain notice of a homeowners association meeting; requiring the board of directors or other governing body of a homeowners association to prepare and submit to all members lot owners of the homeowners association a proposed annual budget a certain period of time before its adoption; authorizing the proposed annual budget to be submitted in a certain manner; requiring the budget to include certain items; requiring the budget to be adopted at an open meeting of the homeowners association or other body to which the homeowners association has delegated responsibilities for preparing and adopting a budget; requiring that certain expenditures arising after the adoption of the budget that would result in an increase in assessments greater than a certain percentage of the budgeted amount, be approved by a budget amendment at a special meeting of the homeowners association; requiring written notice of the special meeting to be given to the lot owners by a certain time period before the meeting; providing that the adoption of a budget does not impair certain authority of the homeowners association for certain expenditures for certain purposes; and generally relating to providing notice of the proposed budget of a council of condominium unit owners or of a homeowners association and providing certain budget information to the lot owners of~~ *the board of directors or other governing body of a homeowners association to prepare and submit an annual proposed budget to the lot owners by a certain time period before its adoption; authorizing the annual proposed budget and notice of the meeting at which the proposed budget will be considered to be sent to lot owners by electronic transmission, by posting on the homeowners association's home page, or by including the annual proposed budget or notice in the homeowners association's newsletter; requiring the budget to include certain items; requiring the budget to be adopted at an open meeting of the homeowners association or other body to whom the homeowners association has delegated responsibilities for preparing and adopting a budget; requiring that certain expenditures, under certain conditions, arising after the adoption of the budget that would result in an assessment greater than a certain percent of the budgeted amount, be adopted by a budget amendment at a special meeting of the homeowners association; requiring written notice of the special meeting to be given to the lot owners by a certain time period before the meeting; providing that the adoption of a budget*

does not impair certain authority of the homeowners association for certain expenditures for certain purposes; providing for the application of this Act; and generally relating to the preparation and adoption of an annual budget by a homeowners association.

BY ~~repealing and reenacting, with amendments,~~ *adding to*
 Article – Real Property
 Section ~~11-109(e) and 11B-111~~ *11B-112.2*
 Annotated Code of Maryland
 (2003 Replacement Volume and 2009 Supplement)

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

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

Article – Real Property

~~11-109.~~

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

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

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

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

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

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

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

~~(i) As provided in the bylaws; or~~

~~(ii) If the requirements of § 11-139.1 of this title are met, by electronic transmission.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~3. The tangible property of the condominium; and~~

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

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

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

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

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

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

~~11-100.2.~~

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

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

~~(1) Income;~~

~~(2) Administration;~~

~~(3) Maintenance;~~

~~(4) Utilities;~~

~~(5) General expenses;~~

~~(6) Reserves; and~~

~~(7) Capital items.~~

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

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

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

~~11B-111.~~

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

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

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

~~(3) (1) IF THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF THE HOMEOWNERS ASSOCIATION INTENDS TO VOTE ON THE ANNUAL PROPOSED BUDGET AT AN UPCOMING MEETING, NOTICE OF THE VOTE MUST BE INCLUDED IN THE NOTICE PROVIDED UNDER PARAGRAPH (2) OF THIS SECTION; AND~~

~~(H) 1. THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF THE HOMEOWNERS ASSOCIATION SHALL CAUSE TO BE PREPARED AND SUBMITTED TO ALL MEMBERS LOT OWNERS OF THE~~

~~HOMEOWNERS ASSOCIATION AN ANNUAL PROPOSED BUDGET AT LEAST 30 DAYS BEFORE ITS ADOPTION;~~

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

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

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

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

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

~~(VI) THE ADOPTION OF A BUDGET DOES NOT IMPAIR THE AUTHORITY OF THE HOMEOWNERS ASSOCIATION TO OBLIGATE THE~~

~~HOMEOWNERS ASSOCIATION FOR EXPENDITURES FOR ANY PURPOSE
CONSISTENT WITH ANY PROVISION OF THIS TITLE;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(ii) A statement of the time, place, and purpose of a closed meeting, the record of the vote of each board or committee member by which the meeting was closed, and the authority under this section for closing a meeting shall be included in the minutes of the next meeting of the board of directors or the committee of the homeowners association.~~

11B-112.2.

(A) THIS SECTION APPLIES ONLY TO A HOMEOWNERS ASSOCIATION THAT HAS RESPONSIBILITY UNDER ITS DECLARATION FOR MAINTAINING AND REPAIRING COMMON AREAS.

(B) (1) THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF A HOMEOWNERS ASSOCIATION SHALL CAUSE TO BE PREPARED AND SUBMITTED TO THE LOT OWNERS AN ANNUAL PROPOSED BUDGET AT LEAST 30 DAYS BEFORE ITS ADOPTION.

(2) THE ANNUAL PROPOSED BUDGET MAY BE SENT TO EACH LOT OWNER BY ELECTRONIC TRANSMISSION, BY POSTING ON THE HOMEOWNERS ASSOCIATION'S HOME PAGE, OR BY INCLUDING THE ANNUAL PROPOSED BUDGET IN THE HOMEOWNERS ASSOCIATION'S NEWSLETTER.

(C) THE ANNUAL BUDGET SHALL PROVIDE INFORMATION ON OR EXPENDITURES FOR AT LEAST THE FOLLOWING ITEMS:

- (1) INCOME;**
- (2) ADMINISTRATION;**
- (3) MAINTENANCE;**
- (4) UTILITIES;**
- (5) GENERAL EXPENSES;**

(6) RESERVES; AND

(7) CAPITAL EXPENSES.

(D) (1) THE BUDGET SHALL BE ADOPTED AT AN OPEN MEETING OF THE HOMEOWNERS ASSOCIATION OR ANY OTHER BODY TO WHICH THE HOMEOWNERS ASSOCIATION DELEGATES RESPONSIBILITIES FOR PREPARING AND ADOPTING THE BUDGET.

(2) (I) NOTICE OF THE MEETING AT WHICH THE PROPOSED BUDGET WILL BE CONSIDERED SHALL BE SENT TO EACH LOT OWNER.

(II) NOTICE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY BE SENT BY ELECTRONIC TRANSMISSION, BY POSTING ON THE HOMEOWNERS ASSOCIATION'S HOME PAGE, OR BY INCLUDING THE NOTICE IN THE HOMEOWNERS ASSOCIATION'S NEWSLETTER.

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

(F) THE ADOPTION OF A BUDGET DOES NOT IMPAIR THE AUTHORITY OF THE HOMEOWNERS ASSOCIATION TO OBLIGATE THE HOMEOWNERS ASSOCIATION FOR EXPENDITURES FOR ANY PURPOSE CONSISTENT WITH ANY PROVISION OF THIS TITLE.

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

Approved by the Governor, May 4, 2010.