

SENATE BILL 471

N1

0lr3477
CF HB 30

By: **Senator Hester**

Introduced and read first time: January 29, 2020

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Condominiums – Disclosures to Unit Owners and Prohibited Provisions in**
3 **Instruments by Developers**
4 **(Sunset Island Act)**

5 FOR the purpose of clarifying that certain provisions of law related to closed-door meetings
6 of a board of directors of a condominium do not allow the board to withhold or agree
7 to withhold information about certain legal agreements from the unit owners;
8 altering the applicability of a certain provision of law concerning claims against a
9 developer or vendor; making unenforceable a provision of a declaration, a bylaw, a
10 contract for the initial sale of a unit, a certain agreement to settle a claim, or any
11 other instrument made by a developer or vendor that prohibits the disclosure to unit
12 owners of any term of an agreement to settle a disputed claim; providing for the
13 application of this Act; and generally relating to disclosures to unit owners and
14 claims against developers in condominiums.

15 BY repealing and reenacting, with amendments,
16 Article – Real Property
17 Section 11–109.1 and 11–134.1
18 Annotated Code of Maryland
19 (2015 Replacement Volume and 2019 Supplement)

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

22 **Article – Real Property**

23 11–109.1.

24 (a) A meeting of the board of directors may be held in closed session only for the
25 following purposes:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (1) Discussion of matters pertaining to employees and personnel;
- 2 (2) Protection of the privacy or reputation of individuals in matters not
3 related to the council of unit owners' business;
- 4 (3) Consultation with legal counsel on legal matters;
- 5 (4) Consultation with staff personnel, consultants, attorneys, board
6 members, or other persons in connection with pending or potential litigation or other legal
7 matters;
- 8 (5) Investigative proceedings concerning possible or actual criminal
9 misconduct;
- 10 (6) Consideration of the terms or conditions of a business transaction in the
11 negotiation stage if the disclosure could adversely affect the economic interests of the
12 council of unit owners;
- 13 (7) Complying with a specific constitutional, statutory, or judicially
14 imposed requirement protecting particular proceedings or matters from public disclosure;
15 or
- 16 (8) Discussion of individual owner assessment accounts.
- 17 (b) If a meeting is held in closed session under subsection (a) of this section:
- 18 (1) An action may not be taken and a matter may not be discussed if it is
19 not permitted by subsection (a) of this section; and
- 20 (2) A statement of the time, place, and purpose of any closed meeting, the
21 record of the vote of each board member by which any meeting was closed, and the authority
22 under this section for closing any meeting shall be included in the minutes of the next
23 meeting of the board of directors.
- 24 **(C) NOTHING IN THIS SECTION MAY BE INTERPRETED TO AUTHORIZE THE**
25 **BOARD TO WITHHOLD OR AGREE TO WITHHOLD FROM THE UNIT OWNERS**
26 **INFORMATION ABOUT ANY LEGAL AGREEMENT TO WHICH THE BOARD IS A PARTY.**
- 27 11-134.1.
- 28 (a) In this section, "vendor" has the meaning stated in § 10-201 of this article.
- 29 (b) This section does not apply to[:
- 30 (1) A] A unit that is occupied and used solely for nonresidential purposes[;
- 31 (2) An agreement or other instrument entered into by a developer or vendor

1 and a council of unit owners for the purpose of settling a disputed claim after the date on
2 which the unit owners, other than the developer and its affiliates, first elect a controlling
3 majority of the members of the board of directors for the council of unit owners; or

4 (3) An agreement or other instrument entered into by a developer or vendor
5 and a unit owner for the purpose of settling a disputed claim after the date the unit is
6 conveyed to the purchaser of the unit].

7 (c) (1) Any provision of a declaration, a bylaw, a contract for the initial sale of
8 a unit to a member of the public, **AN AGREEMENT FOR THE PURPOSE OF SETTling A**
9 **DISPUTED CLAIM**, or any other instrument made by a developer or vendor in accordance
10 with this title shall be unenforceable if the provision:

11 (i) Shortens the statute of limitations applicable to any claim;

12 (ii) Waives the application of the discovery rule or other accrual date
13 applicable to a claim;

14 (iii) Requires a unit owner or the council of unit owners to assert a
15 claim subject to arbitration within a period of time that is shorter than the statute of
16 limitations applicable to the claim; [or]

17 (iv) Operates to prevent a unit owner or the council of unit owners
18 from filing a lawsuit, initiating arbitration proceedings for a claim subject to arbitration,
19 or otherwise asserting a claim within the statute of limitations applicable to the claim; **OR**

20 **(V) PROHIBITS THE DISCLOSURE TO THE UNIT OWNERS OF ANY**
21 **TERM OF AN AGREEMENT TO SETTLE A DISPUTED CLAIM.**

22 (2) Paragraph (1) of this subsection applies only to a provision relating to
23 any right of a unit owner or council of unit owners to bring a claim under applicable law
24 alleging the failure to comply with:

25 (i) Applicable building codes;

26 (ii) Plans and specifications approved by a county or municipality;

27 (iii) Manufacturer's installation instructions; or

28 (iv) Warranty provisions under § 10-203 of this article and § 11-131
29 of this title.

30 **SECTION 2. AND BE IT FURTHER ENACTED,** That this Act shall be construed to
31 apply only prospectively and may not be applied or interpreted to have any effect on or
32 application to:

1 (1) any provision of a declaration or bylaws of a condominium recorded in
2 the land records of the county where the property is located before the effective date of this
3 Act; or

4 (2) any other instrument executed before the effective date of this Act.

5 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2020.