

SENATE BILL 883

N1

8lr2857
CF 8lr2855

By: **Senator Lee**

Introduced and read first time: February 5, 2018

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Homeowners Association Act – Boards of Directors, Voting, Meetings,**
3 **Recordation, and Rules**

4 FOR the purpose of altering the fee that a homeowners association may impose for a certain
5 inspection; establishing that a homeowners association shall be composed of all lot
6 owners and that the bylaws may authorize the delegation of any power of the
7 homeowners association; establishing certain powers of the board of directors of a
8 homeowners association; requiring certain notice of certain meetings be provided to
9 members of a homeowners association a certain period of time before the meeting
10 and in a certain manner; requiring the board of directors of a homeowners
11 association to maintain a certain roster of lot owners; requiring a lot owner to provide
12 certain information to the homeowners association; prohibiting a lot owner from
13 voting at certain meetings until the information is provided; establishing certain
14 quorum requirements for certain meetings; establishing certain requirements for
15 voting and proxy voting; establishing requirements for nominations to be an officer
16 or member of the board of directors of a homeowners association; requiring certain
17 election materials to list candidates in a certain manner; establishing that decisions
18 of a homeowners association shall be made in a certain manner under certain
19 circumstances; requiring a certain meeting to elect a board of directors of the
20 homeowners association to be held within a certain period of time after a certain
21 date; requiring the developer of a homeowners association, before a certain meeting,
22 to deliver certain notice to lot owners; establishing the term of a certain replacement
23 board member; requiring the developer to deliver certain funds, property, and roster
24 to the board of directors for a homeowners association within a certain period of time
25 after a certain meeting; authorizing the board of directors of a homeowners
26 association to adopt rules for the homeowners association in a certain manner under
27 certain circumstances; authorizing a lot owner or tenant to request an individual
28 exception to a certain rule in a certain manner and under certain circumstances;
29 requiring certain rules to state that the rule was adopted in a certain manner;
30 prohibiting a rule from being adopted if the rule is inconsistent with the declaration
31 or bylaws of the homeowners association; requiring certain documents related to a

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 homeowners association to be recorded in all counties in which any portion of the
 2 homeowners association property is located; requiring instruments affecting the title
 3 to a certain lot to be recorded only in the county in which the lot is located;
 4 authorizing a homeowners association to demand payment for an assessment under
 5 certain circumstances; requiring a homeowners association to deliver certain notice
 6 of a proposed amendment to the bylaws of the homeowners association to a certain
 7 holder of a mortgage or deed of trust under certain circumstances; requiring the
 8 holder of the mortgage or deed of trust to object in writing within a certain period of
 9 time or be deemed to have consented to the adoption of the amendment; and
 10 generally relating to homeowners associations.

11 BY repealing and reenacting, with amendments,
 12 Article – Real Property
 13 Section 11B–106(c)(2), 11B–106.2, 11B–111, 11B–112.1, and 11B–116
 14 Annotated Code of Maryland
 15 (2015 Replacement Volume and 2017 Supplement)

16 BY adding to
 17 Article – Real Property
 18 Section 11B–106.2, 11B–106.3, 11B–111.7, and 11B–112(d)
 19 Annotated Code of Maryland
 20 (2015 Replacement Volume and 2017 Supplement)

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

23 **Article – Real Property**

24 11B–106.

25 (c) (2) In addition to the fee under paragraph (1) of this subsection, the
 26 homeowners association is entitled to a reasonable fee not to exceed ~~[\$50]~~ **\$100** for an
 27 inspection of the lot owner’s lot if the inspection is required by the governing documents of
 28 the homeowners association.

29 **11B–106.2.**

30 (A) **THE HOMEOWNERS ASSOCIATION SHALL BE COMPOSED OF ALL LOT**
 31 **OWNERS.**

32 (B) (1) **THE BYLAWS MAY AUTHORIZE OR PROVIDE FOR THE DELEGATION**
 33 **OF ANY POWER OF THE HOMEOWNERS ASSOCIATION TO A BOARD OF DIRECTORS,**
 34 **OFFICERS, MANAGING AGENT, OR OTHER PERSON FOR THE PURPOSE OF CARRYING**
 35 **OUT THE RESPONSIBILITIES OF THE HOMEOWNERS ASSOCIATION.**

36 (2) **THE GOVERNING BODY OF THE HOMEOWNERS ASSOCIATION,**

1 EVEN IF UNINCORPORATED, CONSTITUTES A LEGAL ENTITY FOR ALL PURPOSES.

2 **11B-106.3.**

3 THE BOARD OF DIRECTORS HAS, SUBJECT TO ANY PROVISION OF THIS TITLE,
4 THE DECLARATION, AND THE BYLAWS, THE POWER TO:

5 (1) ADOPT AND AMEND REASONABLE RULES AND REGULATIONS;

6 (2) ADOPT AND AMEND BUDGETS FOR REVENUES, EXPENDITURES,
7 AND RESERVES AND COLLECT ASSESSMENTS FOR COMMON EXPENSES FROM LOT
8 OWNERS;

9 (3) SUE AND BE SUED, COMPLAIN AND DEFEND, OR INTERVENE IN
10 LITIGATION OR ADMINISTRATIVE PROCEEDINGS IN THE BOARD'S OWN NAME ON
11 BEHALF OF ITSELF OR TWO OR MORE LOT OWNERS ON MATTERS AFFECTING THE
12 HOMEOWNERS ASSOCIATION;

13 (4) TRANSACT THE BOARD'S BUSINESS, CARRY ON THE BOARD'S
14 OPERATIONS, AND EXERCISE THE POWERS PROVIDED IN THIS SUBSECTION IN ANY
15 STATE OR FOREIGN COUNTRY;

16 (5) MAKE CONTRACTS AND GUARANTEES, INCUR LIABILITIES AND
17 BORROW MONEY, AND SELL, MORTGAGE, LEASE, PLEDGE, EXCHANGE, CONVEY,
18 TRANSFER, AND OTHERWISE DISPOSE OF ANY PART OF THE BOARD'S PROPERTY AND
19 ASSETS;

20 (6) ISSUE BONDS, NOTES, AND OTHER OBLIGATIONS AND SECURE
21 THESE OBLIGATIONS BY MORTGAGE OR DEED OF TRUST ON ANY PART OF THE
22 BOARD'S PROPERTY, FRANCHISES, AND INCOME;

23 (7) ACQUIRE BY PURCHASE OR IN ANY OTHER MANNER, AND TO TAKE,
24 RECEIVE, OWN, HOLD, USE, EMPLOY, IMPROVE, AND OTHERWISE DEAL WITH ANY
25 PROPERTY, REAL OR PERSONAL, OR ANY INTEREST IN THE PROPERTY, WHEREVER
26 LOCATED;

27 (8) HIRE AND TERMINATE MANAGING AGENTS AND OTHER
28 EMPLOYEES, AGENTS, AND INDEPENDENT CONTRACTORS;

29 (9) PURCHASE, TAKE, RECEIVE, SUBSCRIBE FOR OR OTHERWISE
30 ACQUIRE, OWN, HOLD, VOTE, USE, EMPLOY, SELL, MORTGAGE, LOAN, PLEDGE OR
31 OTHERWISE DISPOSE OF, AND OTHERWISE USE AND DEAL IN AND WITH, SHARES OR
32 OTHER INTERESTS IN, OR OBLIGATION OF CORPORATIONS OF THE STATE, OR

1 FOREIGN CORPORATIONS, AND OF ASSOCIATIONS, PARTNERSHIPS, AND
2 INDIVIDUALS;

3 (10) INVEST THE BOARD'S FUNDS AND LEND MONEY IN ANY MANNER
4 APPROPRIATE TO ENABLE THE BOARD TO CARRY ON THE OPERATIONS OR TO
5 FULFILL THE PURPOSES NAMED IN THE DECLARATION OR BYLAWS, AND TO TAKE
6 AND TO HOLD REAL AND PERSONAL PROPERTY AS SECURITY FOR THE PAYMENT OF
7 FUNDS INVESTED OR LOANED;

8 (11) REGULATE THE USE, MAINTENANCE, REPAIR, REPLACEMENT,
9 AND MODIFICATION OF COMMON AREAS;

10 (12) CAUSE ADDITIONAL IMPROVEMENTS TO BE MADE AS A PART OF
11 THE COMMON AREAS;

12 (13) IMPOSE AND RECEIVE ANY PAYMENTS, FEES, OR CHARGES FOR
13 THE USE, RENTAL, OR OPERATION OF THE COMMON AREAS;

14 (14) IMPOSE CHARGES FOR LATE PAYMENT OF ASSESSMENTS AND,
15 AFTER NOTICE AND AN OPPORTUNITY TO BE HEARD, LEVY REASONABLE FINES FOR
16 VIOLATIONS OF THE DECLARATION, BYLAWS, AND RULES AND REGULATIONS OF THE
17 HOMEOWNERS ASSOCIATION;

18 (15) IMPOSE REASONABLE CHARGES FOR THE PREPARATION AND
19 RECORDATION OF AMENDMENTS TO THE DECLARATION, BYLAWS, RULES,
20 REGULATIONS, OR RESOLUTIONS, RESALE CERTIFICATES, OR STATEMENTS OF
21 UNPAID ASSESSMENTS;

22 (16) PROVIDE FOR THE INDEMNIFICATION OF AND MAINTAIN
23 LIABILITY INSURANCE FOR OFFICERS, DIRECTORS, AND ANY MANAGING AGENT OR
24 OTHER EMPLOYEE CHARGED WITH THE OPERATION OR MAINTENANCE OF THE
25 HOMEOWNERS ASSOCIATION;

26 (17) ENFORCE THE PROVISIONS OF THIS TITLE, THE DECLARATION,
27 BYLAWS, AND RULES AND REGULATIONS OF THE GOVERNING BODY AGAINST ANY
28 LOT OWNER OR TENANT;

29 (18) GENERALLY EXERCISE THE POWERS SET FORTH IN THIS TITLE
30 AND THE DECLARATION OR BYLAWS AND DO EVERY OTHER ACT NOT INCONSISTENT
31 WITH LAW THAT MAY BE APPROPRIATE TO PROMOTE AND ATTAIN THE PURPOSES
32 SET FORTH IN THIS TITLE, THE DECLARATION, OR BYLAWS; AND

33 (19) DESIGNATE PARKING FOR INDIVIDUALS WITH DISABILITIES,

1 NOTWITHSTANDING ANY PROVISION IN THE DECLARATION, BYLAWS, OR RULES AND
2 REGULATIONS.

3 [11B-106.2.] **11B-106.4.**

4 (a) Notwithstanding any bylaw, provision of a declaration, rule, or other provision
5 of law, the governing body of a homeowners association or, if control of the governing body
6 has not yet transitioned to the lot owners, the declarant shall give notice in accordance with
7 subsection (b) of this section no less than 30 days before the sale, including a tax sale, of
8 any common area located on property that has been transferred to the homeowners
9 association.

10 (b) The notice requirement under subsection (a) of this section shall be satisfied
11 by:

12 (1) Providing written notice about the sale to each lot owner; or

13 (2) (i) Posting a sign about the sale on the property to be sold, in a
14 manner similar to signage required for a zoning modification; and

15 (ii) If the homeowners association has a Web site, providing notice
16 about the sale on the home page of the Web site of the homeowners association.

17 11B-111.

18 (A) Except as provided in this title, and notwithstanding anything contained in
19 any of the documents of the homeowners association:

20 (1) **ALL MEMBERS OF THE HOMEOWNERS ASSOCIATION SHALL BE**
21 **GIVEN REASONABLE NOTICE OF ALL REGULARLY SCHEDULED OPEN MEETINGS OF**
22 **THE HOMEOWNERS ASSOCIATION;**

23 (2) Subject to the provisions of item [(4)] (5) of this [section] SUBSECTION,
24 all meetings of the homeowners association, including meetings of the board of directors or
25 other governing body of the homeowners association or a committee of the homeowners
26 association, shall be open to all members of the homeowners association or their agents;

27 [(2) All members of the homeowners association shall be given reasonable
28 notice of all regularly scheduled open meetings of the homeowners association;]

29 (3) **A MEETING OF THE HOMEOWNERS ASSOCIATION OR BOARD OF**
30 **DIRECTORS OR OTHER GOVERNING BODY OF THE HOMEOWNERS ASSOCIATION MAY**
31 **NOT BE HELD IF NOTICE DOES NOT SATISFY THE REQUIREMENTS OF SUBSECTION**
32 **(B) OF THIS SECTION;**

1 **[(3)] (4)** (i) This item does not apply to any meeting of a governing
2 body that occurs at any time before the lot owners, other than the developer, have a
3 majority of votes in the homeowners association, as provided in the declaration;

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

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

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

13 **[(4)] (5)** A meeting of the board of directors or other governing body of the
14 homeowners association or a committee of the homeowners association may be held in
15 closed session only for the following purposes:

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

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

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

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

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

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

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

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

32 **[(5)] (6)** If a meeting is held in closed session under item **[(4)] (5)** of this
33 **[section] SUBSECTION:**

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

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

8 (B) (1) THE BOARD OF DIRECTORS OF A HOMEOWNERS ASSOCIATION
9 SHALL MAINTAIN A CURRENT ROSTER OF NAMES AND ADDRESSES OF EACH LOT
10 OWNER TO WHICH NOTICE OF MEETINGS OF THE HOMEOWNERS ASSOCIATION OR
11 BOARD OF DIRECTORS SHALL BE SENT AT LEAST ANNUALLY.

12 (2) (I) EACH LOT OWNER SHALL PROVIDE THE HOMEOWNERS
13 ASSOCIATION WITH THE LOT OWNER'S NAME AND CURRENT MAILING ADDRESS.

14 (II) A LOT OWNER MAY NOT VOTE AT MEETINGS OF THE
15 HOMEOWNERS ASSOCIATION UNTIL THE INFORMATION REQUIRED UNDER THIS
16 PARAGRAPH IS PROVIDED.

17 (3) A REGULAR OR SPECIAL MEETING OF THE HOMEOWNERS
18 ASSOCIATION OR BOARD OF DIRECTORS MAY NOT BE HELD ON LESS THAN 10 OR
19 MORE THAN 90 DAYS':

20 (I) WRITTEN NOTICE DELIVERED OR MAILED TO EACH LOT
21 OWNER AT THE ADDRESS SHOWN ON THE ROSTER ON THE DATE OF THE NOTICE; OR

22 (II) NOTICE SENT TO EACH LOT OWNER BY ELECTRONIC
23 TRANSMISSION, IF THE REQUIREMENTS OF § 11B-113.1 OF THIS TITLE ARE MET.

24 (4) NOTICE OF SPECIAL MEETINGS OF THE BOARD OF DIRECTORS
25 SHALL BE GIVEN:

26 (I) AS PROVIDED IN THE BYLAWS; OR

27 (II) IF THE REQUIREMENTS OF § 11B-113.1 OF THIS TITLE ARE
28 MET, BY ELECTRONIC TRANSMISSION.

29 (C) (1) UNLESS THE BYLAWS PROVIDE OTHERWISE, A QUORUM IS
30 PRESENT THROUGHOUT ANY MEETING OF THE HOMEOWNERS ASSOCIATION IF
31 PERSONS ENTITLED TO CAST 25% OF THE TOTAL NUMBER OF VOTES APPURTENANT
32 TO ALL LOTS ARE PRESENT IN PERSON OR BY PROXY.

1 **(2) IF THE NUMBER OF PERSONS PRESENT IN PERSON OR BY PROXY**
2 **AT A PROPERLY CALLED MEETING OF THE HOMEOWNERS ASSOCIATION IS**
3 **INSUFFICIENT TO CONSTITUTE A QUORUM, ANOTHER MEETING OF THE**
4 **HOMEOWNERS ASSOCIATION MAY BE CALLED FOR THE SAME PURPOSE IF:**

5 **(I) THE NOTICE OF THE MEETING STATED THAT THE**
6 **PROCEDURE AUTHORIZED BY THIS PARAGRAPH MIGHT BE INVOKED; AND**

7 **(II) BY MAJORITY VOTE, THE LOT OWNERS PRESENT IN PERSON**
8 **OR BY PROXY CALL FOR THE ADDITIONAL MEETING.**

9 **(3) (I) FIFTEEN DAYS' NOTICE OF THE TIME, PLACE, AND PURPOSE**
10 **OF THE ADDITIONAL MEETING SHALL BE DELIVERED, MAILED, OR SENT BY**
11 **ELECTRONIC TRANSMISSION IF THE REQUIREMENTS OF § 11B-113.1 OF THIS TITLE**
12 **ARE MET, TO EACH LOT OWNER AT THE ADDRESS SHOWN ON THE ROSTER**
13 **MAINTAINED UNDER SUBSECTION (B)(2) OF THIS SECTION.**

14 **(II) THE NOTICE SHALL CONTAIN THE QUORUM AND VOTING**
15 **PROVISIONS OF PARAGRAPH (4) OF THIS SUBSECTION.**

16 **(4) (I) AT THE ADDITIONAL MEETING, THE LOT OWNERS PRESENT**
17 **IN PERSON OR BY PROXY CONSTITUTE A QUORUM.**

18 **(II) UNLESS THE BYLAWS PROVIDE OTHERWISE, A MAJORITY OF**
19 **THE LOT OWNERS PRESENT IN PERSON OR BY PROXY:**

20 **1. MAY APPROVE OR AUTHORIZE THE PROPOSED**
21 **ACTION AT THE ADDITIONAL MEETING; AND**

22 **2. MAY TAKE ANY OTHER ACTION THAT COULD HAVE**
23 **BEEN TAKEN AT THE ORIGINAL MEETING IF A SUFFICIENT NUMBER OF LOT OWNERS**
24 **HAD BEEN PRESENT.**

25 **(5) THIS SUBSECTION MAY NOT BE CONSTRUED TO AFFECT THE**
26 **PERCENTAGE OF VOTES REQUIRED TO AMEND THE DECLARATION OR BYLAWS OR TO**
27 **TAKE ANY OTHER ACTION REQUIRED TO BE TAKEN BY A SPECIFIED PERCENTAGE OF**
28 **VOTES.**

29 **(D) (1) AT MEETINGS OF THE HOMEOWNERS ASSOCIATION EACH LOT**
30 **OWNER SHALL BE ENTITLED TO CAST THE NUMBER OF VOTES APPURTENANT TO THE**
31 **LOT OWNER'S LOT.**

32 **(2) LOT OWNERS MAY VOTE BY PROXY, BUT THE PROXY IS EFFECTIVE**

1 ONLY FOR A MAXIMUM PERIOD OF 180 DAYS FOLLOWING ITS ISSUANCE, UNLESS
2 GRANTED TO A LESSEE OR MORTGAGEE.

3 (3) ANY PROXY MAY BE REVOKED AT ANY TIME AT THE PLEASURE OF
4 THE LOT OWNER OR LOT OWNERS EXECUTING THE PROXY.

5 (4) A PROXY WHO IS NOT APPOINTED TO VOTE AS DIRECTED BY A LOT
6 OWNER MAY BE APPOINTED ONLY FOR PURPOSES OF MEETING QUORUM
7 REQUIREMENTS AND TO VOTE FOR MATTERS OF BUSINESS BEFORE THE
8 HOMEOWNERS ASSOCIATION, OTHER THAN AN ELECTION OF OFFICERS AND
9 MEMBERS OF THE BOARD OF DIRECTORS.

10 (E) ONLY A LOT OWNER VOTING IN PERSON OR BY ELECTRONIC
11 TRANSMISSION IF THE REQUIREMENTS OF § 11B-113.1 OF THIS TITLE ARE MET OR
12 A PROXY VOTING FOR CANDIDATES DESIGNATED BY A LOT OWNER MAY VOTE FOR
13 OFFICERS AND MEMBERS OF THE BOARD OF DIRECTORS.

14 (F) (1) UNLESS OTHERWISE PROVIDED IN THE BYLAWS, A LOT OWNER
15 MAY NOMINATE THE LOT OWNER OR ANY OTHER PERSON TO BE AN OFFICER OR
16 MEMBER OF THE BOARD OF DIRECTORS.

17 (2) A CALL FOR NOMINATIONS SHALL BE SENT TO ALL LOT OWNERS
18 NOT LESS THAN 45 DAYS BEFORE NOTICE OF AN ELECTION IS SENT.

19 (3) ONLY NOMINATIONS MADE AT LEAST 15 DAYS BEFORE NOTICE OF
20 AN ELECTION SHALL BE LISTED ON THE ELECTION BALLOT.

21 (4) CANDIDATES SHALL BE LISTED ON THE BALLOT IN
22 ALPHABETICAL ORDER, WITH NO INDICATED CANDIDATE PREFERENCE.

23 (5) NOMINATIONS MAY BE MADE FROM THE FLOOR AT THE MEETING
24 AT WHICH THE ELECTION TO THE BOARD IS HELD.

25 (G) ELECTION MATERIALS PREPARED WITH FUNDS OF THE HOMEOWNERS
26 ASSOCIATION SHALL LIST CANDIDATES IN ALPHABETICAL ORDER AND MAY NOT
27 INDICATE A CANDIDATE PREFERENCE.

28 (H) UNLESS OTHERWISE PROVIDED IN THIS TITLE, AND SUBJECT TO
29 PROVISIONS IN THE BYLAWS REQUIRING A DIFFERENT MAJORITY, DECISIONS OF
30 THE HOMEOWNERS ASSOCIATION SHALL BE MADE ON A MAJORITY OF VOTES OF THE
31 LOT OWNERS LISTED ON THE CURRENT ROSTER PRESENT AND VOTING.

32 (I) (1) A MEETING OF THE HOMEOWNERS ASSOCIATION TO ELECT A

1 BOARD OF DIRECTORS FOR THE HOMEOWNERS ASSOCIATION, AS PROVIDED IN THE
2 DECLARATION OR BYLAWS, SHALL BE HELD WITHIN:

3 (I) 60 DAYS FROM THE DATE THAT LOTS REPRESENTING 50%
4 OF THE VOTES IN THE HOMEOWNERS ASSOCIATION HAVE BEEN CONVEYED BY THE
5 DEVELOPER TO MEMBERS OF THE PUBLIC FOR RESIDENTIAL PURPOSES; OR

6 (II) IF A LESSER PERCENTAGE IS SPECIFIED IN THE
7 DECLARATION OR BYLAWS, 60 DAYS FROM THE DATE THE SPECIFIED LESSER
8 PERCENTAGE OF LOTS IN THE HOMEOWNERS ASSOCIATION ARE SOLD TO MEMBERS
9 OF THE PUBLIC FOR RESIDENTIAL PURPOSES.

10 (2) (I) BEFORE THE DATE OF THE MEETING HELD UNDER
11 PARAGRAPH (1) OF THIS SUBSECTION, THE DEVELOPER SHALL DELIVER TO EACH
12 LOT OWNER NOTICE THAT THE REQUIREMENTS OF PARAGRAPH (1) OF THIS
13 SUBSECTION HAVE BEEN MET.

14 (II) THE NOTICE SHALL INCLUDE THE DATE, TIME, AND PLACE
15 OF THE MEETING TO ELECT THE BOARD OF DIRECTORS FOR THE HOMEOWNERS
16 ASSOCIATION.

17 (3) IF A REPLACEMENT BOARD MEMBER IS ELECTED, THE TERM OF
18 EACH MEMBER OF THE BOARD OF DIRECTORS APPOINTED BY THE DEVELOPER
19 SHALL END 10 DAYS AFTER THE MEETING IS HELD AS SPECIFIED IN PARAGRAPH (1)
20 OF THIS SUBSECTION.

21 (4) WITHIN 30 DAYS FROM THE DATE OF THE MEETING HELD UNDER
22 PARAGRAPH (1) OF THIS SUBSECTION, THE DEVELOPER SHALL DELIVER TO THE
23 OFFICERS OR BOARD OF DIRECTORS FOR THE HOMEOWNERS ASSOCIATION, AS
24 PROVIDED IN THE DECLARATION OR BYLAWS, AT THE DEVELOPER'S EXPENSE:

25 (I) THE HOMEOWNERS ASSOCIATION FUNDS, INCLUDING
26 OPERATING FUNDS, REPLACEMENT RESERVES, INVESTMENT ACCOUNTS, AND
27 WORKING CAPITAL;

28 (II) THE TANGIBLE PROPERTY OF THE HOMEOWNERS
29 ASSOCIATION; AND

30 (III) A ROSTER OF CURRENT LOT OWNERS, INCLUDING MAILING
31 ADDRESSES, TELEPHONE NUMBERS, AND LOT NUMBERS, IF KNOWN.

32 11B-111.7.

1 **(A) (1) THE BOARD OF DIRECTORS OF A HOMEOWNERS ASSOCIATION MAY**
2 **ADOPT RULES FOR THE HOMEOWNERS ASSOCIATION IF:**

3 **(I) EACH LOT OWNER IS MAILED OR DELIVERED:**

4 **1. A COPY OF THE PROPOSED RULE;**

5 **2. NOTICE THAT LOT OWNERS ARE PERMITTED TO**
6 **SUBMIT WRITTEN COMMENTS ON THE PROPOSED RULE; AND**

7 **3. NOTICE OF THE PROPOSED EFFECTIVE DATE OF THE**
8 **PROPOSED RULE;**

9 **(II) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, BEFORE**
10 **A VOTE IS TAKEN ON THE PROPOSED RULE, AN OPEN MEETING IS HELD TO ALLOW**
11 **EACH LOT OWNER OR TENANT TO COMMENT ON THE PROPOSED RULE; AND**

12 **(III) AFTER NOTICE HAS BEEN GIVEN TO LOT OWNERS AS**
13 **PROVIDED IN THIS SUBSECTION, THE PROPOSED RULE IS PASSED AT A REGULAR OR**
14 **SPECIAL MEETING BY A MAJORITY VOTE OF THE BOARD OF DIRECTORS.**

15 **(2) A MEETING HELD UNDER PARAGRAPH (1)(II) OF THIS**
16 **SUBSECTION MAY NOT BE HELD UNLESS:**

17 **(I) EACH LOT OWNER RECEIVES WRITTEN NOTICE AT LEAST 15**
18 **DAYS BEFORE THE MEETING; AND**

19 **(II) A QUORUM OF THE BOARD OF DIRECTORS IS PRESENT.**

20 **(B) (1) THE VOTE ON THE PROPOSED RULE SHALL BE FINAL UNLESS:**

21 **(I) WITHIN 15 DAYS AFTER THE VOTE TO ADOPT THE**
22 **PROPOSED RULE, 15% OF THE LOT OWNERS SIGN AND FILE A PETITION WITH THE**
23 **BOARD OF DIRECTORS, CALLING FOR A SPECIAL MEETING;**

24 **(II) A QUORUM OF THE HOMEOWNERS ASSOCIATION ATTENDS**
25 **THE MEETING; AND**

26 **(III) AT THE MEETING, 50% OF THE LOT OWNERS PRESENT AND**
27 **VOTING DISAPPROVE THE PROPOSED RULE, AND THE LOT OWNERS VOTING TO**
28 **DISAPPROVE THE PROPOSED RULE ARE MORE THAN 33% OF THE TOTAL VOTES IN**
29 **THE HOMEOWNERS ASSOCIATION.**

1 **(2) DURING THE SPECIAL MEETING HELD UNDER PARAGRAPH (1) OF**
2 **THIS SUBSECTION, LOT OWNERS, TENANTS, AND MORTGAGEES MAY COMMENT ON**
3 **THE PROPOSED RULE.**

4 **(3) A SPECIAL MEETING HELD UNDER PARAGRAPH (1) OF THIS**
5 **SUBSECTION SHALL BE HELD:**

6 **(I) AFTER THE LOT OWNERS AND ANY MORTGAGEES HAVE AT**
7 **LEAST 15 DAYS' WRITTEN NOTICE OF THE MEETING; AND**

8 **(II) WITHIN 30 DAYS AFTER THE DAY ON WHICH THE PETITION**
9 **IS RECEIVED BY THE BOARD OF DIRECTORS.**

10 **(C) (1) EACH LOT OWNER OR TENANT MAY REQUEST AN INDIVIDUAL**
11 **EXCEPTION TO A RULE ADOPTED WHILE THE INDIVIDUAL WAS THE LOT OWNER OR**
12 **TENANT OF A LOT IN THE HOMEOWNERS ASSOCIATION.**

13 **(2) THE REQUEST FOR AN INDIVIDUAL EXCEPTION UNDER**
14 **PARAGRAPH (1) OF THIS SUBSECTION SHALL BE:**

15 **(I) WRITTEN;**

16 **(II) FILED WITH THE BOARD OF DIRECTORS; AND**

17 **(III) FILED WITHIN 30 DAYS AFTER THE EFFECTIVE DATE OF THE**
18 **RULE.**

19 **(D) EACH RULE ADOPTED UNDER THIS SECTION SHALL STATE THAT THE**
20 **RULE WAS ADOPTED UNDER THE PROVISIONS OF THIS SECTION.**

21 **(E) A RULE MAY NOT BE ADOPTED UNDER THIS SECTION IF THE RULE IS**
22 **INCONSISTENT WITH THE DECLARATION OR BYLAWS OF THE HOMEOWNERS**
23 **ASSOCIATION.**

24 11B-112.

25 **(D) (1) IF ANY PROPERTY LYING PARTLY IN ONE COUNTY AND PARTLY IN**
26 **ANY OTHER COUNTY IS INCLUDED IN A HOMEOWNERS ASSOCIATION, ALL**
27 **DOCUMENTS REQUIRED TO BE DEPOSITED UNDER SUBSECTION (C) OF THIS SECTION**
28 **SHALL BE RECORDED IN ALL COUNTIES WHERE ANY PORTION OF THE PROPERTY IS**
29 **LOCATED.**

30 **(2) SUBSEQUENT INSTRUMENTS AFFECTING THE TITLE TO A LOT**

1 THAT IS PHYSICALLY LOCATED ENTIRELY WITHIN A SINGLE COUNTY SHALL BE
2 RECORDED ONLY IN THAT COUNTY, NOTWITHSTANDING THE FACT THAT THE
3 COMMON AREAS ARE NOT PHYSICALLY LOCATED ENTIRELY WITHIN THAT COUNTY.

4 11B-112.1.

5 (A) The declaration or bylaws of a homeowners association may provide for a late
6 charge of \$15 or one-tenth of the total amount of any delinquent assessment or installment,
7 whichever is greater, provided the charge may not be imposed more than once for the same
8 delinquent payment and may be imposed only if the delinquency has continued for at least
9 15 calendar days.

10 (B) (1) IF THE DECLARATION OR BYLAWS PROVIDE FOR AN ANNUAL
11 ASSESSMENT PAYABLE IN REGULAR INSTALLMENTS, THE DECLARATION OR BYLAWS
12 MAY FURTHER PROVIDE THAT IF A LOT OWNER FAILS TO PAY AN INSTALLMENT
13 WHEN DUE, THE HOMEOWNERS ASSOCIATION MAY DEMAND PAYMENT OF THE
14 REMAINING ANNUAL ASSESSMENT COMING DUE IN THAT FISCAL YEAR.

15 (2) A DEMAND BY THE HOMEOWNERS ASSOCIATION IS NOT
16 ENFORCEABLE UNLESS THE HOMEOWNERS ASSOCIATION, WITHIN 15 DAYS OF A LOT
17 OWNER'S FAILURE TO PAY AN INSTALLMENT, NOTIFIES THE LOT OWNER THAT IF THE
18 LOT OWNER FAILS TO PAY THE MONTHLY INSTALLMENT WITHIN 15 DAYS OF THE
19 NOTICE, FULL PAYMENT OF THE REMAINING ANNUAL ASSESSMENT WILL THEN BE
20 DUE AND SHALL CONSTITUTE A LIEN ON THE LOT AS PROVIDED IN THIS SECTION.

21 11B-116.

22 (a) (1) In this section the following words have the meanings indicated.

23 (2) "Governing document" includes:

24 (i) A declaration;

25 (ii) Bylaws;

26 (iii) A deed and agreement; and

27 (iv) Recorded covenants and restrictions.

28 (3) "In good standing" means not being more than 90 days in arrears in the
29 payment of any assessment or charge due to the homeowners association.

30 (b) This section does not apply to a homeowners association that issues bonds or
31 other long-term debt secured in whole or in part by annual charges assessed in accordance
32 with a declaration, or to a village community association affiliated with the homeowners
33 association.

1 (c) Notwithstanding the provisions of a governing document, a homeowners
2 association may amend the governing document by the affirmative vote of lot owners in
3 good standing having at least 60% of the votes in the development, or by a lower percentage
4 if required in the governing document.

5 (D) (1) (I) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
6 SUBSECTION, IF THE DECLARATION OR BYLAWS CONTAIN A PROVISION REQUIRING
7 ANY ACTION ON THE PART OF THE HOLDER OF A MORTGAGE OR DEED OF TRUST ON
8 A LOT IN ORDER TO AMEND THE BYLAWS, THAT PROVISION SHALL BE DEEMED
9 SATISFIED IF THE PROCEDURES UNDER THIS PARAGRAPH ARE SATISFIED.

10 (II) IF THE DECLARATION OR BYLAWS CONTAIN A PROVISION
11 DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE HOMEOWNERS
12 ASSOCIATION SHALL CAUSE TO BE DELIVERED TO EACH HOLDER OF A MORTGAGE
13 OR DEED OF TRUST ENTITLED TO NOTICE A COPY OF THE PROPOSED AMENDMENT
14 TO THE BYLAWS.

15 (III) IF A HOLDER OF THE MORTGAGE OR DEED OF TRUST THAT
16 RECEIVES THE PROPOSED AMENDMENT FAILS TO OBJECT, IN WRITING, TO THE
17 PROPOSED AMENDMENT WITHIN 60 DAYS FROM THE DATE OF ACTUAL RECEIPT OF
18 THE PROPOSED AMENDMENT, THE HOLDER SHALL BE DEEMED TO HAVE
19 CONSENTED TO THE ADOPTION OF THE AMENDMENT.

20 (2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO
21 AMENDMENTS THAT:

22 (I) ALTER THE PRIORITY OF THE LIEN OF THE MORTGAGE OR
23 DEED OF TRUST;

24 (II) MATERIALLY IMPAIR OR AFFECT THE LOT AS COLLATERAL;
25 OR

26 (III) MATERIALLY IMPAIR OR AFFECT THE RIGHT OF THE
27 HOLDER OF THE MORTGAGE OR DEED OF TRUST TO EXERCISE ANY RIGHTS UNDER
28 THE MORTGAGE, DEED OF TRUST, OR APPLICABLE LAW.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2018.