

CITIZEN-DRAFTED BILL AH-405

Requested: August 24, 2024

Suggested assignment to: Economic Matters

AN ACT concerning

Common Ownership – Liability for damages; injunction

FOR the purpose of bringing parity and equal opportunity for justice under the law to both sides of bylaw violations which are a breach of contract between the unit owners and the board of directors; aligning liability for all forms of common ownership to be similar to time-share liability; and correcting an egregious oversight where unit owners are liable for attorney fees to the council of unit owners, but the council of unit owners is not liable for attorney fees to unit owners when the council has violated the bylaws, even if it is proven that directors and managers did not act in good faith.

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.

Bold indicates matters for general awareness, usually existing law that provides key context for the bill.

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

Article – Real Property

11-113

(c) (1) If any [unit owner] PERSON OR ENTITY fails to comply with this title, the declaration, or bylaws, or a decision rendered in accordance with this section, the [unit owner] PERSON OR ENTITY may be sued for damages caused by the failure or for injunctive relief, or both, by the council of unit owners or by any other unit owner.

(2) The prevailing party in any proceeding under this subsection is entitled to an award for REASONABLE counsel fees as determined by court. PUNITIVE DAMAGES MAY BE AWARDED FOR THE WILLFUL AND WANTON FAILURE TO COMPLY WITH THIS TITLE.

(d) The failure of the council of unit owners to enforce a provision of this title, the declaration, or bylaws on any occasion is not a waiver of the right to enforce the provision on any other occasion.

§11–119.

(a) A person may bring suit against the council of unit owners, or against the condominium unit owners as a whole in any cause relating to the common elements, by service as follows:

(1) If the council of unit owners is a corporation, in the same manner as the Maryland Rules authorize service on a corporation; or

(2) If the council of unit owners is not a corporation, in the same manner as the Maryland Rules authorize service on an unincorporated association.

(b) A COURT IS AUTHORIZED TO FINE AND/OR REMOVE, FOR THE REMAINDER OF A TERM, ANY DIRECTOR OR OFFICER WHO VIOLATES THIS TITLE OR GOVERNING DOCUMENTS.

11A-125

(c) If a [developer or any other] person OR ENTITY fails to comply with any provision of this title or the **time-share instrument**, any person adversely affected by the failure to comply has a claim for appropriate relief. **Punitive damages** may be awarded for the **willful and wanton** failure to comply with this title. The court may also award reasonable attorney's fees to the prevailing party.

11B-111.10

(c) (1) If any [lot owner] PERSON OR ENTITY fails to comply with this title, the declaration, or bylaws, or a decision rendered in accordance with this section, the [lot owner] PERSON OR ENTITY may be sued for damages caused by the failure or for injunctive relief, or both, by the homeowners association or by any other lot owner.

(2) The prevailing party in any proceeding under this subsection is entitled to an award for REASONABLE counsel fees as determined by the court. PUNITIVE DAMAGES MAY BE AWARDED FOR THE WILLFUL AND WANTON FAILURE TO COMPLY WITH THIS TITLE.

(d) The failure of the board of directors or other governing body of the homeowners association to enforce a provision of this title, the declaration, or bylaws on any occasion is not a waiver of the right to enforce the provision on any other occasion.

(e) This section does not apply to the Columbia Association or the village community associations for the villages of Columbia in Howard County.

(f) A COURT IS AUTHORIZED TO FINE AND/OR REMOVE, FOR THE REMAINDER OF A TERM, ANY DIRECTOR OR OFFICER WHO VIOLATES THIS TITLE OR GOVERNING DOCUMENTS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2025.