

CITIZEN-DRAFTED BILL AH-403

Requested: August 24, 2024

Suggested assignment to: Environment and Transportation

AN ACT concerning

Common Ownership – Notice of Closed Meetings, Agendas for Open Meetings

FOR the purpose of increasing transparency of governing bodies so that meetings or meeting purposes are disclosed to the fullest extent permitted by existing law; providing parity between the statutes in their treatment of committees in closed session, clarifying that a session must have provided general meeting notice and have been open and held publicly before it can be closed in most cases, so that meetings cannot be construed permissibly to start as closed without notice and then opened to an audience of none; and clarifying the non-permissibility of a unanimous closed email vote which the OAG has stated is not permitted and for which there is no case law.

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.

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

Article – Real Property

11-109

(c) (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 WITH PROPOSED AGENDA 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

11-109.5 AGENDAS FOR CONDOMINIUMS

- (a) AN AGENDA FOR THE PURPOSES OF COMPLYING WITH 11-109 (c) (4) OF THIS TITLE IS PRESUMED TO BE NON-BINDING AS A PROPOSED AGENDA UNLESS ADOPTED OR AMENDED BY THE GOVERNING BODY IN OPEN SESSION.
- (b) A QUORUM OF DIRECTORS SHALL REFRAIN FROM DISCUSSING THE MERITS OF ANY PROPOSED AGENDA ITEM UNTIL OPEN SESSION.
- (c) THE INCLUSION OF AN AGENDA ITEM ON AN ADOPTED AGENDA SHALL NOT BE CONSTRUED TO GUARANTEE ACTUAL DISCUSSION OF THE ITEM BY THE END OF THE MEETING.

11-109.1

- (a) SUBJECT TO THE NOTICE REQUIREMENTS OF §11-109 (c) (4) OF THIS TITLE UNLESS OTHERWISE INDICATED, AND NOTWITHSTANDING THE CORPORATIONS AND ASSOCIATIONS ARTICLE, a meeting of the board of directors OR OTHER GOVERNING BODY OR COMMITTEE OF THE CONDOMINIUM may be held in closed session only for the following purposes:

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(9) TOURING THE COMMON ELEMENTS TO INVESTIGATE A CONDITION WHICH COULD REASONABLY RESULT IN AN IMMEDIATE THREAT TO THE HEALTH OR SAFETY OF THE UNIT OWNERS OR AN IMMEDIATE AND SIGNIFICANT RISK OF DAMAGE TO THE CONDOMINIUM, OR THE NEED FOR MAINTENANCE, REPAIR, OR REPLACEMENT, NOTWITHSTANDING THE NOTICE REQUIREMENT OF §11-109 (c) (4) OF THIS TITLE;

(10) ASSESSING WHETHER OR NOT TO PRE-TREAT COMMON AREAS FOR EASE OF SNOW AND ICE REMOVAL AROUND AN INCLEMENT WEATHER EVENT, NOTWITHSTANDING THE NOTICE REQUIREMENT OF §11-109 (c) (4) OF THIS TITLE.

- (b) If a meeting is held in closed session under subsection (a) of this section:

- (1) An action UNDER THIS TITLE OR TITLE 5, SUBTITLE 2 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE, SECTION 2-408, may not be taken and a matter may not be discussed if it is not permitted by subsection (a) of this section; and

11A-109

(h) (1) (i) If an association has not held a meeting for 3 years, a special meeting shall be called by the directors. Notice of the meeting WITH PROPOSED AGENDA and sample proxy forms shall be sent to all members at least 30 days prior to the meeting.

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(h) (2) (ii) Notice of the meeting WITH PROPOSED AGENDA and sample proxy forms shall be sent to all members at least 30 days before the meeting.

(h) (3) At any special meeting held under this subsection, any action may be taken by simple majority vote, including amendment of the association’s articles of incorporation or bylaws.

11A-109.1 AGENDAS FOR TIME-SHARES

- (a) AN AGENDA FOR THE PURPOSES OF COMPLYING WITH 11-109 (c) (4) OF THIS TITLE IS PRESUMED TO BE NON-BINDING AS A PROPOSED AGENDA UNLESS ADOPTED OR AMENDED BY THE GOVERNING BODY IN OPEN SESSION.
- (b) A QUORUM OF DIRECTORS SHALL REFRAIN FROM DISCUSSING THE MERITS OF ANY PROPOSED AGENDA ITEM UNTIL OPEN SESSION.
- (c) THE INCLUSION OF AN AGENDA ITEM ON AN ADOPTED AGENDA SHALL NOT BE CONSTRUED TO GUARANTEE ACTUAL DISCUSSION OF THE ITEM BY THE END OF THE MEETING.

11A-128

(d) SUBJECT TO THE NOTICE REQUIREMENTS OF §11A-109 OF THIS TITLE UNLESS OTHERWISE INDICATED, AND NOTWITHSTANDING THE CORPORATIONS AND ASSOCIATIONS ARTICLE, a meeting of the board of directors or OTHER governing body OR COMMITTEE of the association may be held in closed session only for the following purposes:

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(8) TOURING THE COMMON ELEMENTS TO INVESTIGATE A CONDITION WHICH COULD REASONABLY RESULT IN AN IMMEDIATE THREAT TO THE HEALTH OR SAFETY OF THE TIME-SHARES OR AN IMMEDIATE AND SIGNIFICANT RISK OF DAMAGE TO THE TIME-SHARES, OR THE NEED FOR MAINTENANCE, REPAIR, OR REPLACEMENT, NOTWITHSTANDING THE NOTICE REQUIREMENT OF §11A-109 OF THIS TITLE;

(9) ASSESSING WHETHER OR NOT TO PRE-TREAT COMMON AREAS FOR EASE OF SNOW AND ICE REMOVAL AROUND AN INCLEMENT WEATHER EVENT, NOTWITHSTANDING THE NOTICE REQUIREMENT OF §11A-109 OF THIS TITLE.

(e) If a meeting is held in closed session under subsection (d) of this section:

(1) An action UNDER THIS TITLE OR TITLE 5, SUBTITLE 2 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE, SECTION 2-408, may not be taken and a matter may not be discussed if it is not permitted by subsection (d) of this section; and

11B-111

(2) All members of the homeowners association shall be given [reasonable] 10 DAYS' notice, WITH PROPOSED AGENDA, of all regularly scheduled open meetings of the homeowners association;

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(4) SUBJECT TO THE NOTICE REQUIREMENTS OF THIS SECTION UNLESS OTHERWISE INDICATED, AND NOTWITHSTANDING THE CORPORATIONS AND ASSOCIATIONS ARTICLE, 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:

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(ix) TOURING THE COMMON ELEMENTS TO INVESTIGATE A CONDITION WHICH COULD REASONABLY RESULT IN AN IMMEDIATE THREAT TO THE HEALTH OR SAFETY OF THE UNIT OWNERS OR AN

IMMEDIATE AND SIGNIFICANT RISK OF DAMAGE TO THE CONDOMINIUM, OR THE NEED FOR MAINTENANCE, REPAIR, OR REPLACEMENT, NOTWITHSTANDING THE NOTICE REQUIREMENT OF THIS SECTION;

(x) ASSESSING WHETHER OR NOT TO PRE-TREAT COMMON AREAS FOR EASE OF SNOW AND ICE REMOVAL AROUND AN INCLEMENT WEATHER EVENT, NOTWITHSTANDING THE NOTICE REQUIREMENT OF THIS SECTION.

(5) If a meeting is held in closed session under item (4) of this section:

(i) An action UNDER THIS TITLE OR TITLE 5, SUBTITLE 2 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE, SECTION 2-408, may not be taken and a matter may not be discussed if it is not permitted by item (4) of this section; and

11B-111.11 AGENDAS FOR HOMEOWNER ASSOCIATIONS

- (a) AN AGENDA FOR THE PURPOSES OF COMPLYING WITH 11B-111 OF THIS TITLE IS PRESUMED TO BE NON-BINDING AS A PROPOSED AGENDA UNLESS ADOPTED OR AMENDED BY THE GOVERNING BODY IN OPEN SESSION.
- (b) A QUORUM OF DIRECTORS SHALL REFRAIN FROM DISCUSSING THE MERITS OF ANY PROPOSED AGENDA ITEM UNTIL OPEN SESSION.
- (c) THE INCLUSION OF AN AGENDA ITEM ON AN ADOPTED AGENDA SHALL NOT BE CONSTRUED TO GUARANTEE ACTUAL DISCUSSION OF THE ITEM BY THE END OF THE MEETING.

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