

CITIZEN-DRAFTED BILL AH-402

Requested: August 24, 2024

Suggested assignment to: Environment and Transportation

AN ACT concerning

Common Ownership – CPA Selection, Election by Secret Ballot, Neutral Parties

FOR the purpose of codifying the right to a fair election administered by neutral parties not under the control of incumbents or their agents, and for establishing basic checks and balances essential to the proper functioning of a valid governing body acting 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.

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

Article – Real Property

11-116

- (a) The council of unit owners shall keep books and records in accordance with good accounting AND ELECTION practices on a consistent basis.
- (b) (1) On the request of the unit owners of at least 5 percent of the units, the council of unit owners shall cause an audit of the FINANCIAL books and records AND/OR ELECTION RECORDS to be made by an independent certified public accountant, provided an audit shall be made not more than once in any consecutive 12-month period.
 - (2) The cost of the audit shall be a common expense.
 - (3) THE INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT SHALL BE SELECTED BY A MAJORITY OF THE UNIT OWNERS OF AT LEAST 5 PERCENT OF THE UNITS AND SHALL BE PART OF THE REQUEST.
 - (4) IN THE EVENT THAT A REQUEST FAILS TO RECOMMEND A SPECIFIC INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT, THE GOVERNING BODY SHALL SELECT A CERTIFIED PUBLIC ACCOUNTANT WHO HAS NO PREVIOUS CONTRACTS OR WORK EXPERIENCE WITH INCUMBENTS OF THE BOARD OF DIRECTORS OR WITH THE MANAGER OR MANAGEMENT COMPANY.
 - (5) THE GOVERNING BODY MAY NOT RESTRICT ANY DIRECTOR, OFFICER, MANAGER, OR UNIT OWNER FROM PROVIDING INFORMATION TO THE CERTIFIED PUBLIC ACCOUNTANT.
 - (6) NOTWITHSTANDING THE BYLAWS, THE CERTIFIED PUBLIC ACCOUNTANT SHALL HAVE THE AUTHORITY TO INVESTIGATE THE ACCURACY OF ANY BALLOT DISQUALIFICATION.

11-109 (c) (16) (viii) NOTWITHSTANDING OTHER PROVISIONS IN THIS TITLE OR THE BYLAWS, THE ELECTION PORTION OF A MEETING OF THE COUNCIL OF UNIT OWNERS TO ELECT A BOARD OF DIRECTORS FOR THE COUNCIL OF UNIT OWNERS SHALL BE ADMINISTERED AND COUNTED BY ELECTION OFFICIALS INCLUSIVE OF AN UNEVEN NUMBER OF ONE OR MORE INSPECTORS EXCLUDING:

- (1) CURRENT MEMBERS OR CANDIDATES OF THE BOARD OF DIRECTORS
- (2) AGENTS, EMPLOYEES, OR SUPERVISORS OF A MANAGER, OR MANAGEMENT COMPANY
- (3) PERSONS UNDER THE CONTROL OF THE BOARD OF DIRECTORS OR MANAGEMENT COMPANY
- (4) ANY PERSON NOT DIRECTLY APPOINTED OR AUTHORIZED BY A MAJORITY OF VOTES OF THE UNIT OWNERS LISTED ON THE CURRENT ROSTER PRESENT AND VOTING IN PERSON

11-109 (c) (16) (ix) NOTWITHSTANDING THE BYLAWS, ELECTION COUNTS CONDUCTED BY A DIRECTOR, OFFICER, OR MANAGER SHALL BE CERTIFIED BY AN INSPECTOR UNDER §11-109 (C) (16) (VIII) OF THIS TITLE

11-109 (c) (16) (x) SUBJECT TO PARAGRAPH (c) OF THIS SECTION, AND SUBJECT TO §11-116 OF THIS TITLE, THE ELECTION OF THE MEMBERSHIP OF THE GOVERNING BODY SHALL BE BY SECRET BALLOT.

11A-128

- (b) (1) On the request of the owners of at least 5 percent of the time-shares, the association, or developer during the developer control period, shall cause an audit of the FINANCIAL books and records AND/OR ELECTION RECORDS, to be made by an independent certified public accountant at common expense.
- (2) An audit may not be required more than once in any consecutive 12-month period.
- (3) THE INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT SHALL BE SELECTED BY A MAJORITY OF AT LEAST 5 PERCENT OF THE TIME-SHARES AND SHALL BE PART OF THE REQUEST.
- (4) IN THE EVENT THAT A REQUEST FAILS TO RECOMMEND A SPECIFIC INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT, THE GOVERNING BODY SHALL SELECT A CERTIFIED PUBLIC ACCOUNTANT WHO HAS NO PREVIOUS CONTRACTS OR WORK EXPERIENCE WITH INCUMBENTS OF THE BOARD OF DIRECTORS OR WITH THE MANAGER OR MANAGEMENT COMPANY.
- (5) THE GOVERNING BODY MAY NOT RESTRICT ANY DIRECTOR, OFFICER, MANAGER, OR TIME-SHARE FROM PROVIDING INFORMATION TO THE CERTIFIED PUBLIC ACCOUNTANT.
- (6) NOTWITHSTANDING THE BYLAWS, THE CERTIFIED PUBLIC ACCOUNTANT SHALL HAVE THE AUTHORITY TO INVESTIGATE THE ACCURACY OF ANY BALLOT DISQUALIFICATION.

11B-112.4 AUDIT

- (a) ON THE REQUEST OF THE OWNERS OF AT LEAST 5 PERCENT OF THE LOT OWNERS, THE GOVERNING BODY SHALL CAUSE AN AUDIT OF THE FINANCIAL BOOKS AND RECORDS AND/OR ELECTION RECORDS, TO BE MADE BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT, PROVIDED THAT:
 - (1) THE COST OF THE AUDIT SHALL BE A COMMON EXPENSE.
 - (2) AN AUDIT SHALL BE MADE NOT MORE THAN ONCE IN ANY CONSECUTIVE 12-MONTH PERIOD.

(3) THE INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT SHALL BE SELECTED BY A MAJORITY OF AT LEAST 5 PERCENT OF THE LOT OWNERS AND SHALL BE PART OF THE REQUEST.

(4) IN THE EVENT THAT A REQUEST FAILS TO RECOMMEND A SPECIFIC INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT, THE GOVERNING BODY SHALL SELECT A CERTIFIED PUBLIC ACCOUNTANT WHO HAS NO PREVIOUS CONTRACTS OR WORK EXPERIENCE WITH INCUMBENTS OF THE BOARD OF DIRECTORS OR WITH THE MANAGER OR MANAGEMENT COMPANY.

(5) THE GOVERNING BODY MAY NOT RESTRICT ANY DIRECTOR, OFFICER, MANAGER, OR LOT OWNER FROM PROVIDING INFORMATION TO THE CERTIFIED PUBLIC ACCOUNTANT.

(6) NOTWITHSTANDING THE BYLAWS, THE CERTIFIED PUBLIC ACCOUNTANT SHALL HAVE THE AUTHORITY TO INVESTIGATE THE ACCURACY OF ANY BALLOT DISQUALIFICATION.

11B-106.3 ELECTION INSPECTORS AND CERTIFICATION

(a) NOTWITHSTANDING OTHER PROVISIONS IN THIS TITLE OR THE BYLAWS, THE ELECTION PORTION OF A MEETING OF THE LOT OWNERS TO ELECT A BOARD OF DIRECTORS FOR THE HOMEOWNERS ASSOCIATION SHALL BE ADMINISTERED AND COUNTED BY ELECTION OFFICIALS INCLUSIVE OF AN UNEVEN NUMBER OF ONE OR MORE INSPECTORS EXCLUDING:

(1) CURRENT MEMBERS OR CANDIDATES OF THE BOARD OF DIRECTORS

(2) AGENTS, EMPLOYEES, OR SUPERVISORS OF A MANAGER, OR MANAGEMENT COMPANY

(3) PERSONS UNDER THE CONTROL OF THE BOARD OF DIRECTORS OR MANAGEMENT COMPANY

(4) ANY PERSON NOT DIRECTLY APPOINTED OR AUTHORIZED BY A MAJORITY OF VOTES OF THE LOT OWNERS LISTED ON THE CURRENT ROSTER PRESENT AND VOTING IN PERSON

(b) NOTWITHSTANDING THE BYLAWS, ELECTION COUNTS CONDUCTED BY A DIRECTOR, OFFICER, OR MANAGER SHALL BE CERTIFIED BY AN INSPECTOR UNDER PARAGRAPH (a) OF THIS SECTION

(c) SUBJECT TO PARAGRAPH (a) OF THIS SECTION, AND SUBJECT TO §11B-112 AND §11B-112.3 OF THIS TITLE, THE ELECTION OF THE MEMBERSHIP OF THE GOVERNING BODY SHALL BE BY SECRET BALLOT.

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