

CITIZEN-DRAFTED BILL TA-502

Requested: August 5, 2024

Suggested assignment to: Environment and Transportation

AN ACT concerning

Condominiums – Delegation of Powers

FOR the purpose of limiting the delegation of certain powers to a board of directors, to avoid, among other things, the inability to sue without the permission of an elected official or agent, who may have engaged in wrongful acts such as embezzlement, extortion, or illegal discrimination.

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:

11-109

(d) *Council – Incorporation and powers* **SUBJECT TO DECLARATION AND BYLAWS**. The council of unit owners may be either incorporated as a nonstock corporation or unincorporated and it is subject to those provisions of Title 5, Subtitle 2 of the Corporations and Associations Article which are not inconsistent with this title. The council of unit owners has, subject to any provision of this title, [and except as provided in item (22) of this subsection,] **AND AS MAY BE PROVIDED OR SUPPLEMENTED OR DELEGATED IN** the declaration[,] and bylaws, the following powers:

- (1) To have perpetual existence, subject to the right of the unit owners to terminate the condominium regime as provided in § 11–123 of this title;
- (2) To adopt and amend reasonable rules and regulations;
- (3) To adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners;
- (4) **[To sue and be sued, complain and defend, or intervene]** **TO MAKE RECOMMENDATIONS** in litigation or administrative proceedings in its own name on behalf of itself or two or more unit owners on matters affecting the condominium;
- (5) To transact its business, carry on its operations and exercise the powers provided in this subsection in any state, territory, district, or possession of the United States and in any foreign country;
- (6) To make contracts and guarantees, incur liabilities and borrow

money, sell, mortgage, lease, pledge, exchange, convey, transfer, and otherwise dispose of any part of its property and assets;

(7) To issue bonds, notes, and other obligations and secure the same by mortgage or deed of trust of any part of its property, franchises, and income;

(8) To acquire by purchase or in any other manner, to take, receive, own, hold, use, employ, improve, and otherwise deal with any property, real or personal, or any interest therein, wherever located;

(9) To hire and terminate **[managing agents and other]** employees, agents, and independent contractors **OTHER THAN MANAGING AGENTS;**

(10) To purchase, take, receive, subscribe for or otherwise acquire, own, hold, **[vote,]** use, employ, sell, mortgage, loan, pledge or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligation of corporations of the State, or foreign corporations, and of associations, partnerships, and individuals;

(11) To invest its funds and to lend money in any manner appropriate to enable it to carry on the operations or to fulfill the purposes named in the declaration or bylaws, and to take and to hold real and personal property as security for the payment of funds so invested or loaned;

(12) To regulate the use, maintenance, repair, replacement, and modification of common elements;

(13) To cause additional improvements to be made as a part of the general common elements;

(14) To **[grant]** **MAKE RECOMMENDATIONS FOR THE GRANTING OF** easements, rights-of-way, licenses, leases in excess of 1 year, or similar interests through or over the common elements **[in accordance with §11–125(f) of this title];**

(15) To impose and receive any payments, fees, or charges for the use, rental, or operation of the common elements other than limited common elements;

(16) To impose charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of the declaration, bylaws, and rules and regulations of the council of unit owners, under §11–113 of this title;

(17) To impose reasonable charges for the preparation and recordation of amendments to the declaration, bylaws, rules, regulations, or resolutions, resale certificates, or statements of unpaid assessments;

(18) To provide for the indemnification of and maintain liability insurance for officers, directors, and any managing agent or other employee charged with the operation or maintenance of the condominium;

(19) To enforce the implied warranties made to the council of unit owners by the developer under § 11–131 of this title;

(20) To enforce the provisions of this title, the declaration, bylaws, and rules and regulations of the council of unit owners against any unit owner or occupant;

(21) Generally, to exercise the powers set forth in this title and the declaration or bylaws and to do every other act not inconsistent with law, which may be appropriate to promote and attain the purposes set forth in this title, the

declaration or bylaws; and

(22) [To designate parking for individuals with disabilities, notwithstanding any provision in the declaration, bylaws, or rules and regulations] TO VOTE SHARES OR OTHER INTERESTS IN, OR OBLIGATION OF OTHER CORPORATIONS OF THE STATE, OR FOREIGN CORPORATIONS, AND OF OTHER ASSOCIATIONS, PARTNERSHIPS, AND INDIVIDUALS, EXCEPT FOR ANY CORPORATION OR ASSOCIATION THAT GOVERNS THE CONDOMINIUM OR UNIT OWNERS.

(e) **COUNCIL – POWERS NOT SUBJECT TO DECLARATION AND BYLAWS.** THE COUNCIL OF UNIT OWNERS HAS THE FOLLOWING POWERS WHICH, IF DELEGATED, MUST BE EXERCISED IN A MANNER NOT INCONSISTENT WITH ANY DECISION OF THE COUNCIL OF UNIT OWNERS:

(1) TO SUE AND BE SUED, COMPLAIN AND DEFEND, OR INTERVENE IN LITIGATION OR ADMINISTRATIVE PROCEEDINGS IN ITS OWN NAME ON BEHALF OF ITSELF OR TWO OR MORE UNIT OWNERS ON MATTERS AFFECTING THE CONDOMINIUM;

(2) TO HIRE AND TERMINATE MANAGING AGENTS;

(3) TO VOTE SHARES OR OTHER INTERESTS IN ANY CORPORATION OR ASSOCIATION THAT GOVERNS THE CONDOMINIUM OR UNIT OWNERS;

(4) TO GRANT EASEMENTS, RIGHTS-OF-WAY, LICENSES, LEASES IN EXCESS OF 1 YEAR, OR SIMILAR INTERESTS THROUGH OR OVER THE COMMON ELEMENTS IN ACCORDANCE WITH §11-125(f) OF THIS TITLE;

(5) TO USE COMMON PROFITS;

(6) TO DESIGNATE PARKING FOR INDIVIDUALS WITH DISABILITIES, NOTWITHSTANDING ANY PROVISION IN THE DECLARATION, BYLAWS, OR RULES AND REGULATIONS.

(7) TO GRANT AN EASEMENT, RIGHT-OF-WAY, LICENSE, LEASE IN EXCESS OF 1 YEAR, OR SIMILAR INTEREST FOR THE INSTALLATION OF SOLAR PANELS AT NO COST TO THE INDIVIDUAL UNIT OWNERS OR THE COUNCIL OF UNIT OWNERS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2026.