

State of Maryland: Frequently Asked Questions
Presented and Submitted by Jeffrey Van Grack
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State FAQs

GENERAL

1. What general state statutes apply to Common Interest Communities in your state?

A:

- 1) Title 11 of the Real Property Article of the Maryland Annotated Code, the Maryland Condominium Act;
- 2) Title 11B of the Real Property Article of the Maryland Annotated Code, the Maryland Homeowners' Association Act;
- 3) Title 5 of the Corporations and Associations Article of the Maryland Annotated Code, Maryland Cooperative Housing Corporation Act
- 4) Title 14 of the Real Property Article of the Maryland Annotated Code, the Maryland Contract Lien Act

2. Are communities required to incorporate? Can they be incorporated? Advantages/Disadvantages?

A: Communities are not required to incorporate, but they are permitted to do so. The advantages to incorporating are additional shields from liability, as well as the ability to borrow funds from lending institutions.

3. What are the annual reporting requirements, if any, to the State Corporation Commission or to the Real Estate Board or other Board or Commission.

A: If a Community Association is incorporated, they must file personal property returns with the State Department of Assessments and Taxation. Failure to do so can result in the revocation of their corporate status. Several counties also have individual registration requirements.

MEMBERSHIP MEETINGS

4. Is an Annual Meeting of members required?

A: An annual meeting of the members is not required, but a meeting of the governing body of the Association (such as the Board of Directors) is required. Section 11-109 of the Maryland Condominium Act provides that the "governing body shall convene at least one meeting each year at which the agenda is open to any matter relating to the condominium."

Similarly, Section 11B-109 of the Maryland Homeowner's Association Act provides that the "governing body shall convene at least one meeting each year at which the agenda is open to any matter relating to the homeowners association."

The Maryland Cooperative Housing Corporation Act does not require meetings of the members.

5. How are Special Meetings of the Members called?

A: Section 11-109 of the Maryland Condominium Act provides that a regular or special meeting of the council of unit owners may not be held on less than 10 or more than 90 days written notice delivered or mailed to each unit owner at the address shown on the roster on the date of the notice, or notice sent to each unit owner by electronic transmission.

The Maryland Homeowners Association Act does not have specific requirements for Special Meetings so the Association should make sure to comply with the governing documents of the Association when calling Special Meetings.

6. What are the Notice Requirements for Membership Meetings?

Section 11-109 of the Maryland Condominium Act provides that a regular or special meeting of the council of unit owners may not be held on less than 10 or more than 90 days written notice delivered or mailed to each unit owner at the address shown on the roster on the date of the notice, or notice sent to each unit owner by electronic transmission.

Section 11B-111(2) of The Maryland Homeowners Association Act provides that at regular meetings “reasonable notice” must be provided for all regularly scheduled open meetings of the homeowners association.

7. What are Quorum Requirements for Membership Meetings?

A: Section 11-109 of the Maryland Condominium Act provides that “[u]nless the bylaws provide otherwise, a quorum is deemed present throughout any meeting of the council of unit owners if persons entitled to cast 25 percent of the total number of votes appurtenant to all units are present in person or by proxy.”

The Maryland Homeowners Association is silent on this issue, and therefore the Association should comply with their governing documents.

8. Can Members use Proxies?

A: Yes. Section 11-109 of the Condominium Act states that quorum can be reached by all units that are present by person or by proxy.

9. Can Members Raise Concerns or Issues at a Membership Meeting?

A: Yes. Section 11-109 of the Maryland Condominium Act provides that “a governing body shall provide a designated period of time during a meeting to allow unit owners an opportunity to comment on any matter relating to the condominium.”

Section 11B-111 The Maryland Homeowners Association Act also states that “a governing body shall provide a designated period of time during a meeting to allow lot owners an opportunity to comment on any matter relating to the homeowners association” Additionally, “during a meeting at which the agenda is limited to specific topics or at a special meeting, the lot owners’ comments may be limited to the topics listed on the meeting agenda

10. Can Non-Members attend Membership Meetings? (Attorneys of Members? Guests of Members? Local or National Media representatives?)

The Condominium Act and the Homeowners Association Act do not provide the ability for guests of members or local/national media to access membership meetings.

Section 11B-111 of The Maryland Homeowners Association Act states that the meeting “shall be open to all members of the homeowners association or their agents.” Therefore, the Association can exclude guests, media and other third parties that are not homeowners or their agents.

BOARD MEETINGS

11. Are Boards of Directors required to hold Regular Board Meetings?

A: Yes Section 11-109 of the Maryland Condominium Act provides that the “governing body shall convene at least one meeting each year at which the agenda is open to any matter relating to the condominium.”

Similarly, Section 11B-109 of the Maryland Homeowner’s Association Act provides that the “governing body shall convene at least one meeting each year at which the agenda is open to any matter relating to the homeowners association.”

12. How are Special Meetings of the Board called? of directors meet?

A: Section 11-109 of the Maryland Condominium Act provides that notice of special meetings of the board of directors shall be given as provided in the bylaws or by electronic transmission.

The Homeowners Association Act is silent as to how meetings of the Board are called and therefore the Association should refer to their governing documents.

13. What are the Notice requirements for Board meetings? Are Members required to be notified as well?

The Maryland Condominium Act requires the same notice requirement for Board Meetings as for regular meetings of the council of unit owners. Specifically, Section 11-109 of the Maryland Condominium Act provides that a regular or special meeting of the council of unit owners may not be held on less than 10 or more than 90 days written notice delivered or mailed to each unit owner at the address shown on the roster on the date of the notice, or notice sent to each unit owner by electronic transmission.

Additionally, the council of unit owners shall maintain a current roster of names and addresses of each unit owner to which notice of meetings of the board of directors shall be sent at least annually.

The Homeowners Association Act is silent on this issue and therefore the Association should refer to their governing documents.

14. What constitutes a quorum for Board Meetings?

There is no statute addressing this issue and Boards should refer to their governing documents

15. Can Board Members use Proxies?

The Maryland Statutes do not allow the use

16. Which meetings of the Board of Directors are open to all homeowners?

A: All that are not closed, as set forth in answer to #18, below.

17. Do I have the right to speak at meetings of my board of directors?

A: Yes. Section 11-109 of the Maryland Condominium Act provides that “a governing body shall provide a designated period of time during a meeting to allow unit owners an opportunity to comment on any matter relating to the condominium.”

18. Can the Board of Directors meet in Closed or Executive Session? For what purposes?

A: Section 11-109.1 of the Maryland Condominium Act provides that “a meeting of the board of directors may be held in closed session only for the following purposes:

- (1) Discussion of matters pertaining to employees and personnel;
- (2) Protection of the privacy or reputation of individuals in matters not related to the council of unit owners' business;
- (3) Consultation with legal counsel on legal matters;
- (4) Consultation with staff personnel, consultants, attorneys, board members, or other persons in connection with pending or potential litigation or other legal matters;
- (5) Investigative proceedings concerning possible or actual criminal misconduct;
- (6) Complying with a specific constitutional, statutory, or judicially imposed requirement protecting particular proceedings or matters from public disclosure;
- (7) Discussion of individual owner assessment accounts.

Further, “[a] statement of the time, place, and purpose of any closed meeting, the record of the vote of each board member by which any meeting was closed, and the authority under this section for closing any meeting shall be included in the minutes of the next meeting of the board of directors.”

19. Are Minutes of Board meetings required? When can members see the minutes of such meetings?

Board minutes are requirements under book and records requirements

20. Does a member have a right to audio- or video-record meetings of the Board? Under what circumstances or conditions?

There is no statutory right to do so.

21. Can non-members attend Meetings? No statutory right to do so.

ADMINISTRATION

22. Do I have a right to review books and records of my community association?

A: Yes.

a. If so, what books and records can I review?

Section 11-116 of the Maryland Condominium Act gives the unit owners a right to inspect all books and records. However, “[b]ooks and records kept by or on behalf of a council of unit owners may be withheld from public inspection, except for inspection by the person who is the subject of the record or the person's designee or guardian, to the extent that they concern:

(i) Personnel records, not including information on individual salaries, wages, bonuses, and other compensation paid to employees;

(ii) An individual's medical records;

(iii) An individual's personal financial records, including assets, income, liabilities, net worth, bank balances, financial history or activities, and creditworthiness;

(iv) Records relating to business transactions that are currently in negotiation;

(v) The written advice of legal counsel; or

(vi) Minutes of a closed meeting of the board of directors or other governing body of the council of unit owners, unless a majority of a quorum of the board of directors or governing body that held the meeting approves unsealing the minutes or a recording of the minutes for public inspection.”

Hoa act says the same thing

b. Does the community association have to give me copies of the books and records I request? Yes.

c. Do I have to pay for copies of the books and records? A “reasonable charge” may be imposed.

d. Are there books and records which the Association can withhold or otherwise prevent me from having access? Yes, see above.

23. What are the reserve requirements in my state? Are reserve studies mandated? What reporting requirements does the Association have with respect to the status of the reserves, the reserve accounts or the funding of the reserves?

No statutory reserve requirement. No mandated reserve studies. No statutory requirement

24. What are the resale disclosure requirements in my state?

Condo v. owner obligations

A: Section 11-135 of the Maryland Condominium Act governs resale disclosure requirements. “[A] contract for the resale of a unit by a unit owner other than a developer is not

enforceable unless the contract of sale contains in conspicuous type a notice in the form specified in subsection (g)(1) of this section, and the unit owner furnishes to the purchaser not later than 15 days prior to closing:

- (1) A copy of the declaration (other than the plats);
- (2) The bylaws;
- (3) The rules or regulations of the condominium;
- (4) A certificate containing:
 - (i) A statement disclosing the effect on the proposed conveyance of any right of first refusal or other restraint on the free alienability of the unit other than any restraint created by the unit owner;
 - (ii) A statement setting forth the amount of the monthly common expense assessment and any unpaid common expense or special assessment currently due and payable from the selling unit owner;
 - (iii) A statement of any other fees payable by the unit owners to the council of unit owners;
 - (iv) A statement of any capital expenditures approved by the council of unit owners planned at the time of the conveyance which are not reflected in the current operating budget disclosed under subparagraph (vi) of this paragraph;
 - (v) The most recent regularly prepared balance sheet and income expense statement, if any, of the condominium;
 - (vi) The current operating budget of the condominium including details concerning the reserve fund for repair and replacement and its intended use, or a statement that there is no reserve fund;
 - (vii) A statement of any judgments against the condominium and the existence of any pending suits to which the council of unit owners is a party;
 - (viii) A statement generally describing any insurance policies provided for the benefit of unit owners, a notice that copies of the policies are available for inspection, stating the location at which the copies are available, and a notice that the terms of the policy prevail over the description;
 - (ix) A statement as to whether the council of unit owners has knowledge that any alteration or improvement to the unit or to the limited common elements assigned to the unit violates any provision of the declaration, bylaws, or rules or regulations;
 - (x) A statement as to whether the council of unit owners has knowledge of any violation of the health or building codes with respect to the unit, the limited common elements assigned to the unit, or any other portion of the condominium;
 - (xi) A statement of the remaining term of any leasehold estate affecting the condominium and the provisions governing any extension or renewal thereof; and

(xii) A description of any recreational or other facilities which are to be used by the unit owners or maintained by them or the council of unit owners, and a statement as to whether or not they are to be a part of the common elements;

(5) A statement by the unit owner as to whether the unit owner has knowledge:

(i) That any alteration to the unit or to the limited common elements assigned to the unit violates any provision of the declaration, bylaws, or rules and regulations;

(ii) Of any violation of the health or building codes with respect to the unit or the limited common elements assigned to the unit; and

(iii) That the unit is subject to an extended lease under § 11-137 of this title or under local law, and if so, a copy of the lease must be provided; and

(6) A written notice of the unit owner's responsibility for the council of unit owners' property insurance deductible and the amount of the deductible.”

Further, “[a] contract for the resale by a unit owner other than a developer of a unit in a condominium containing less than 7 units is not enforceable unless the contract of sale contains in conspicuous type a notice in the form specified in subsection (g)(2) of this section, and the unit owner furnishes to the purchaser not later than 15 days prior to closing:

(1) A copy of the declaration (other than the plats);

(2) The bylaws;

(3) The rules and regulations of the condominium;

(4) A statement by the unit owner of the unit owner's expenses during the preceding 12 months relating to the common elements; and

(5) A written notice of the unit owner's responsibility for the council of unit owners' property insurance deductible and the amount of the deductible.”

Under the HOA act the Owner

25. Does my state regulate the collection of assessments?

A: Yes in the Condominium Act, the HOA act only regulates late fees.

a. **What happens if I am delinquent on my assessments?** Section 11-110 of the Maryland Condominium Act permits “the imposition of a lien on a unit in accordance with the provisions of the Maryland Contract Lien Act. Suit for any deficiency following foreclosure may be maintained in the same proceeding, and suit to recover any money judgment for unpaid assessments may also be maintained in the same proceeding, without waiving the right to seek to impose a lien under the Maryland Contract Lien Act.”

b. How can my association increase annual assessments? Year to year changes do not require owner approval unless the Bylaws provide otherwise.

c. Under what circumstances can my association levy special assessments?

d. Are there provisions related to additional assessments or adjustments in the event of a deficit?

26. What authority does the association have to access a Unit or Lot? Under what circumstances?

Condo act there is provision

Nothing statutory in HOA act

27. Does the statute provide the Association with the authority to adopt rules and regulations?

A: Yes. Section 11-111 of the Maryland Condominium Act provides for the adoption of rules and regulations by the Association.

28. Does the statute provide the Association with the authority to assess charges or fines? To suspend the right of use of the common elements or common areas? To suspend the right of a member to vote or otherwise participate in the Association?

Condo act with respect to files Section 11-113.

A: Section 11-110 of the Maryland Condominium Act states “[a]ny assessment, or installment thereof, not paid when due shall bear interest, at the option of the council of unit owners, from the date when due until paid at the rate provided in the bylaws, not exceeding 18 percent per annum, and if no rate is provided, then at 18 percent per annum.” Further, the “bylaws also may provide for a late charge of \$15 or one tenth of the total amount of any delinquent assessment or installment, whichever is greater, provided the charge may not be imposed more than once for the same delinquent payment and may only be imposed if the delinquency has continued for at least 15 calendar days. If the declaration or bylaws provide for an annual assessment payable in regular installments, the declaration or bylaws may further provide that if a unit owner fails to pay an installment when due, the council of unit owners may demand payment of the remaining annual assessment coming due within that fiscal year. A demand by the council is not enforceable unless the council, within 15 days of a unit owner's failure to pay an installment, notifies the unit owner that if the unit owner fails to pay the monthly installment within 15 days of the notice, full payment of the remaining annual assessment will then be due and shall constitute a lien on the unit as provided in this section.”

Alternatively, the Maryland Homeowners Association Act

29. Is there a requirement to have an internal administrative Complaint or Dispute Process? Is it mandatory and/or a prerequisite to other legal action?

Yes under 11-113 of the Condo Act – send notice of hearing

30. Does any applicable statute provide for the removal of a Board Member, several Board members or the entire Board? Under what conditions? Who decides upon their successors and when?

There is no statutory requirement. The Association should check the Bylaws

31. Can an association be placed into receivership by a Court under state law?

Yes – Condo Act regarding receivership. Nothing in HOA act.

32. Does state statute provide for condemnation of common property?

A: Yes. Section 11-112 of the Maryland Condominium Act governs eminent domain and the allocation of award.

HOA does not, govern by gov docs.

UNIT/LOT OWNER ISSUES

33. What action(s) can an association take in the event of non-payment of association assessments? Is foreclosure an option? Under what circumstances? (Please address judicial and non-judicial foreclosure.)

A: See answers to #'s 25 and 28, above.

34. Are there state laws that regulate whether I can be assessed a charge or otherwise fined by my association for violations? What violations trigger this authority?

- a. What actions can the association take to collect these charges or fines;
- b. Can my association foreclosure on my property for non-payment of these charges or fines?

A: See answers to #'s 25 and 28, above.

35. What, if any, other internal administrative enforcement options can the association take in the event of a violation of the state statute, association's governing documents, or the rules and regulations of the association?

None

36. Does my state have a law regulating the flying of the American Flag in my community association?

Yes. There is a flagpole law in the state

37. Does my applicable state statute regulate solar panels? Clotheslines?

Real Property 2-212 Yes and Yes

38. What are the rules regarding placement of satellite dishes or antennas on my property? (Link to the OTARD Fact Sheet.)

No state statute regarding this issue. It is in addressed in Federal Law

39. What dispute resolution options do I have if I have a problem with the board?

A: File a Complaint with the Attorney Generals office

Section 11-113 governs the creation of a dispute settlement mechanism and provides that “[t]he council of unit owners or board of directors may not impose a fine, suspend voting, or infringe upon any other rights of a unit owner or other occupant for violations of rules until the following procedure is followed:

- (1) Written demand to cease and desist from an alleged violation is served upon the alleged violator specifying:
 - (i) The alleged violation;
 - (ii) The action required to abate the violation; and
 - (iii) A time period, not less than 10 days, during which the violation may be abated without further sanction, if the violation is a continuing one, or a statement that any further violation of the same rule may result in the imposition of sanction after notice and hearing if the violation is not continuing.
- (2) Within 12 months of the demand, if the violation continues past the period allowed in the demand for abatement without penalty or if the same rule is violated subsequently, the board serves the alleged violator with written notice of a hearing to be held by the board in session. The notice shall contain:
 - (i) The nature of the alleged violation;
 - (ii) The time and place of the hearing, which time may be not less than 10 days from the giving of the notice;
 - (iii) An invitation to attend the hearing and produce any statement, evidence, and witnesses on his or her behalf; and
 - (iv) The proposed sanction to be imposed.
- (3) A hearing occurs at which the alleged violator has the right to present evidence and present and cross-examine witnesses. The hearing shall be held in executive session pursuant to this notice and shall afford the alleged violator a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard shall be placed in the minutes of the meeting. This proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer or director who delivered the notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.
- (4) A decision pursuant to these procedures shall be appealable to the courts of Maryland.
- (c) *Liability for damages; injunction.*- If any unit owner fails to comply with this title, the declaration, or bylaws, or a decision rendered pursuant to this section, the unit owner 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. The prevailing party in any such proceeding is entitled to an award for counsel fees as determined by court.”

40. What is the state law regarding recalling board members?

Check corporate article – does not believe so

AMENDMENT OF DOCUMENTS

41. Does state statute provide for the amendment of the association's documents?

A: Yes. Sections 11-103.1 and 11-104 of the Maryland Condominium Act governs amendments to declarations, bylaws or plats.

- a. What percentage of the owners must approve? Unless a higher percentage is required in the bylaws, the bylaws may be amended by the affirmative vote of unit owners having at least 66 2/3 percent of the votes in the council of unit owners.
- b. Is percentage based on those voting or totality of the number of owners?
- c. Is the vote taken at a meeting or is it required to be by written consent?
- d. Is mortgagee approval required? Is there a statutory process for obtaining mortgagee approval or providing for a presumptive mortgagee approval? “[I]f the declaration or bylaws contain a provision requiring any action on the part of the holder of a mortgage or deed of trust on a unit in order to amend the bylaws, that provision shall be deemed satisfied if the procedures under this paragraph are satisfied. If the declaration or bylaws contain a provision described in subparagraph (i) of this paragraph, the council of unit owners shall cause to be delivered to each holder of a mortgage or deed of trust entitled to notice, a copy of the proposed amendment to the bylaws. If a holder of the mortgage or deed of trust that receives the proposed amendment fails to object, in writing, to the proposed amendment within 60 days from the date of actual receipt of the proposed amendment, the holder shall be deemed to have consented to the adoption of the amendment.”

The HOA act does not address this issue

USE OF TECHNOLOGY

42. Other than a written document or by voting at a meeting, can an association use the most advanced technology, including e-mail or the internet to:

- a. Provide notice to members of any meeting?;
- b. Obtain votes of the members?
- c. Obtain the consents, acknowledgements or ratifications or members?;
- d. Obtain the electronic signatures of members?

Yes under the Condominium Act, HOA Act and Cooperative Article