

SENATE BILL 588

C1, N1

8lr2435
CF 8lr1167

By: **Senators Kelley, Conway, Garagiola, Pugh, Raskin, Rosapepe, and Stone**
Introduced and read first time: February 1, 2008
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Common Ownership Communities – Fidelity Bond Coverage**

3 FOR the purpose of requiring certain governing or managing bodies of a cooperative
4 housing corporation, condominium, or homeowners association to execute a
5 fidelity bond for certain purposes in a certain amount; prohibiting the total
6 liability of the surety to all insured persons under the bond from exceeding the
7 sum of the bond; establishing that certain unit or lot owners may submit a
8 certain dispute to the Division of Consumer Protection of the Office of the
9 Attorney General; and generally relating to execution of fidelity bonds to
10 provide for the indemnification of officers, directors, managing agents, and
11 management companies charged with the operation and maintenance of
12 common ownership communities.

13 BY adding to
14 Article – Corporations and Associations
15 Section 5–6B–18.6
16 Annotated Code of Maryland
17 (2007 Replacement Volume)

18 BY adding to
19 Article – Real Property
20 Section 11–114.1 and 11B–111.6
21 Annotated Code of Maryland
22 (2003 Replacement Volume and 2007 Supplement)

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

25 **Article – Corporations and Associations**

26 **5–6B–18.6.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 (A) (1) THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF A
2 COOPERATIVE HOUSING CORPORATION SHALL EXECUTE A FIDELITY BOND NOT
3 LATER THAN THE TIME OF THE FIRST CONVEYANCE OF A UNIT TO A PERSON
4 OTHER THAN THE DEVELOPER.

5 (2) THE FIDELITY BOND SHALL BE USED TO PROVIDE FOR THE
6 INDEMNIFICATION OF:

7 (I) OFFICERS, DIRECTORS, AND ANY MANAGING AGENT OR
8 OTHER EMPLOYEE CHARGED WITH THE OPERATION OR MAINTENANCE OF THE
9 COOPERATIVE HOUSING CORPORATION; AND

10 (II) ANY MANAGEMENT COMPANY EMPLOYING A MANAGING
11 AGENT OR OTHER EMPLOYEE CHARGED WITH THE OPERATION OR
12 MAINTENANCE OF THE COOPERATIVE HOUSING CORPORATION.

13 (B) A COPY OF THE FIDELITY BOND SHALL BE INCLUDED IN THE BOOKS
14 AND RECORDS KEPT AND MADE AVAILABLE BY OR ON BEHALF OF THE
15 COOPERATIVE HOUSING CORPORATION UNDER § 5-6B-18.5 OF THIS SUBTITLE.

16 (C) (1) THE AMOUNT OF THE FIDELITY BOND REQUIRED UNDER
17 SUBSECTION (A) OF THIS SECTION SHALL EQUAL AT LEAST 3 MONTHS WORTH OF
18 GROSS COMMON CHARGES.

19 (2) THE TOTAL LIABILITY OF THE SURETY TO ALL INSURED
20 PERSONS UNDER THE FIDELITY BOND MAY NOT EXCEED THE SUM OF THE
21 FIDELITY BOND.

22 (D) IF A UNIT OWNER BELIEVES THAT THE BOARD OF DIRECTORS OR
23 OTHER GOVERNING BODY OF A COOPERATIVE HOUSING CORPORATION HAS
24 FAILED TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION, THE
25 AGGRIEVED UNIT OWNER MAY SUBMIT THE DISPUTE FOR ADJUDICATION TO
26 THE DIVISION OF CONSUMER PROTECTION OF THE OFFICE OF THE ATTORNEY
27 GENERAL UNDER § 5-6B-12(C) OF THIS SUBTITLE.

28 Article - Real Property

29 11-114.1.

30 (A) (1) THE COUNCIL OF UNIT OWNERS OR OTHER MANAGING BODY
31 OF A CONDOMINIUM SHALL EXECUTE A FIDELITY BOND NOT LATER THAN THE
32 TIME OF THE FIRST CONVEYANCE OF A UNIT TO A PERSON OTHER THAN THE
33 DEVELOPER.

1 **(2) THE FIDELITY BOND SHALL BE USED TO PROVIDE FOR THE**
2 **INDEMNIFICATION OF:**

3 **(I) OFFICERS, DIRECTORS, AND ANY MANAGING AGENT OR**
4 **OTHER EMPLOYEE CHARGED WITH THE OPERATION OR MAINTENANCE OF THE**
5 **CONDOMINIUM; AND**

6 **(II) ANY MANAGEMENT COMPANY EMPLOYING A MANAGING**
7 **AGENT OR OTHER EMPLOYEE CHARGED WITH THE OPERATION OR**
8 **MAINTENANCE OF THE CONDOMINIUM.**

9 **(B) A COPY OF THE FIDELITY BOND SHALL BE INCLUDED IN THE BOOKS**
10 **AND RECORDS KEPT AND MADE AVAILABLE BY THE COUNCIL OF UNIT OWNERS**
11 **UNDER § 11-116 OF THIS TITLE.**

12 **(C) (1) THE AMOUNT OF THE FIDELITY BOND REQUIRED UNDER**
13 **SUBSECTION (A) OF THIS SECTION SHALL EQUAL AT LEAST 3 MONTHS WORTH OF**
14 **GROSS ANNUAL ASSESSMENTS.**

15 **(2) THE TOTAL LIABILITY OF THE SURETY TO ALL INSURED**
16 **PERSONS UNDER THE BOND MAY NOT EXCEED THE SUM OF THE BOND.**

17 **(D) IF A UNIT OWNER BELIEVES THAT THE COUNCIL OF UNIT OWNERS**
18 **OR OTHER MANAGING BODY OF A CONDOMINIUM HAS FAILED TO COMPLY WITH**
19 **THE REQUIREMENTS OF THIS SECTION, THE AGGRIEVED UNIT OWNER MAY**
20 **SUBMIT THE DISPUTE FOR ADJUDICATION TO THE DIVISION OF CONSUMER**
21 **PROTECTION OF THE OFFICE OF THE ATTORNEY GENERAL UNDER § 11-130(C)**
22 **OF THIS TITLE.**

23 **11B-111.6.**

24 **(A) (1) THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF A**
25 **HOMEOWNERS ASSOCIATION SHALL EXECUTE A FIDELITY BOND NOT LATER**
26 **THAN THE TIME OF THE FIRST CONVEYANCE OF A LOT TO A PERSON OTHER**
27 **THAN THE DEVELOPER.**

28 **(2) THE FIDELITY BOND SHALL BE USED TO PROVIDE FOR THE**
29 **INDEMNIFICATION OF:**

30 **(I) OFFICERS, DIRECTORS, AND ANY MANAGING AGENT OR**
31 **OTHER EMPLOYEE CHARGED WITH THE OPERATION OR MAINTENANCE OF THE**
32 **HOMEOWNERS ASSOCIATION; AND**

1 **(II) ANY MANAGEMENT COMPANY EMPLOYING A MANAGING**
2 **AGENT OR OTHER EMPLOYEE CHARGED WITH THE OPERATION OR**
3 **MAINTENANCE OF THE HOMEOWNERS ASSOCIATION.**

4 **(B) A COPY OF THE FIDELITY BOND SHALL BE INCLUDED IN THE BOOKS**
5 **AND RECORDS KEPT AND MADE AVAILABLE BY OR ON BEHALF OF THE**
6 **HOMEOWNERS ASSOCIATION UNDER § 11B-112 OF THIS TITLE.**

7 **(C) (1) THE AMOUNT OF THE FIDELITY BOND REQUIRED UNDER**
8 **SUBSECTION (A) OF THIS SECTION SHALL EQUAL AT LEAST 3 MONTHS WORTH OF**
9 **GROSS ANNUAL HOMEOWNERS ASSOCIATION FEES.**

10 **(2) THE TOTAL LIABILITY OF THE SURETY TO ALL INSURED**
11 **PERSONS UNDER THE FIDELITY BOND MAY NOT EXCEED THE SUM OF THE**
12 **FIDELITY BOND.**

13 **(D) IF A MEMBER OF A COOPERATIVE HOUSING PROJECT BELIEVES**
14 **THAT THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF A**
15 **HOMEOWNERS ASSOCIATION HAS FAILED TO COMPLY WITH THE REQUIREMENTS**
16 **OF THIS SECTION, THE AGGRIEVED MEMBER OF THE COOPERATIVE HOUSING**
17 **PROJECT MAY SUBMIT THE DISPUTE FOR ADJUDICATION TO THE DIVISION OF**
18 **CONSUMER PROTECTION OF THE OFFICE OF THE ATTORNEY GENERAL UNDER**
19 **§ 11B-115(C) OF THIS TITLE.**

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2008.