

SENATE BILL 589

I3

8lr2437

CF 8lr1168

By: **Senators Kelley, Conway, Exum, Garagiola, Pugh, Raskin, Rosapepe, and Stone**

Introduced and read first time: February 1, 2008

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law – Common Ownership Communities – Management**
3 **Companies**

4 FOR the purpose of requiring certain management companies that perform certain
5 services for certain common ownership communities to register with the
6 Consumer Protection Division of the Office of the Attorney General; requiring
7 certain management companies to provide the Division certain information and
8 a certain copy of a certain fidelity bond; requiring certain management
9 companies to execute certain fidelity bonds and meet certain other
10 requirements; authorizing the Division to set certain fees for certain purposes;
11 requiring certain management companies to pay certain fees; requiring the
12 Division to pay certain fees to the State Comptroller; requiring the Comptroller
13 to distribute certain fees to a certain fund; establishing a certain fund;
14 providing for the purpose of the fund; requiring the Division to administer the
15 fund; providing that the fund is a special fund, requiring the State Treasurer to
16 hold the fund separately, and requiring the Comptroller to account for the fund;
17 providing for the constitution of the fund; providing for certain uses of the fund;
18 requiring the Treasurer to invest the money of the fund in a certain manner and
19 requiring certain investment earnings to be credited to the General Fund of the
20 State; providing that certain expenditures must be made in accordance with the
21 State budget; providing that the amount of certain fidelity bonds may not be
22 less than certain moneys; requiring certain fidelity bonds to cover certain
23 persons; requiring certain fidelity bonds to be used for certain purposes;
24 requiring certain common ownership communities to secure and pay for certain
25 fidelity bonds; requiring certain management companies to maintain certain
26 accounts under certain circumstances; authorizing the Division to issue certain
27 orders under certain circumstances; providing that certain orders grant certain
28 respondents certain opportunities to request certain hearings and requiring
29 that certain hearings be held within a certain number of days; providing that
30 certain orders are final under certain circumstances; defining certain terms; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 generally relating to the registration of management companies who perform
2 services for common ownership communities.

3 BY adding to

4 Article – Commercial Law

5 Section 14–12C–01 through 14–12C–08 to be under the new subtitle “Subtitle
6 12C. Common Ownership Community Management Companies”

7 Annotated Code of Maryland

8 (2005 Replacement Volume and 2007 Supplement)

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

11 **Article – Commercial Law**

12 **SUBTITLE 12C. COMMON OWNERSHIP COMMUNITY MANAGEMENT**
13 **COMPANIES.**

14 **14–12C–01.**

15 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
16 INDICATED.

17 (B) “COMMON OWNERSHIP COMMUNITY” MEANS:

18 (1) A CONDOMINIUM;

19 (2) A COOPERATIVE HOUSING CORPORATION; OR

20 (3) A HOMEOWNERS ASSOCIATION.

21 (C) “CONDOMINIUM” MEANS A PROPERTY SUBJECT TO TITLE 11 OF
22 THE REAL PROPERTY ARTICLE.

23 (D) “COOPERATIVE HOUSING CORPORATION” HAS THE MEANING
24 STATED IN § 6–5B–01(F) OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE.

25 (E) “DIVISION” MEANS THE CONSUMER PROTECTION DIVISION OF THE
26 OFFICE OF THE ATTORNEY GENERAL.

27 (F) “FUND” MEANS THE COMMON OWNERSHIP COMMUNITY
28 MANAGEMENT COMPANY ADMINISTRATION FUND ESTABLISHED UNDER §
29 14–12C–05 OF THIS SUBTITLE.

1 (G) **“HOMEOWNERS ASSOCIATION” MEANS A PERSON WHO HAS THE**
2 **AUTHORITY TO ENFORCE THE PROVISIONS OF A DECLARATION UNDER TITLE**
3 **11B OF THE REAL PROPERTY ARTICLE.**

4 (H) (1) **“MANAGEMENT COMPANY” MEANS A PERSON THAT**
5 **PERFORMS, FOR COMPENSATION UNDER A CONTRACTUAL AGREEMENT, THE**
6 **FINANCIAL, ADMINISTRATIVE, MAINTENANCE, OR OTHER DUTIES OF A COMMON**
7 **OWNERSHIP COMMUNITY INCLUDING:**

8 (I) **RECEIVING MONEY;**

9 (II) **WRITING CHECKS;**

10 (III) **PAYING BILLS; AND**

11 (IV) **PROCURING SERVICES, INCLUDING SNOW REMOVAL,**
12 **LANDSCAPING, OR POOL MAINTENANCE SERVICES.**

13 (2) **“MANAGEMENT COMPANY” DOES NOT INCLUDE SUPPORT**
14 **STAFF OF THE MANAGEMENT COMPANY SUCH AS BOOKKEEPERS,**
15 **ADMINISTRATIVE ASSISTANTS, SECRETARIES, PROPERTY INSPECTORS, OR**
16 **CUSTOMER SERVICE REPRESENTATIVES.**

17 **14-12C-02.**

18 (A) **EACH MANAGEMENT COMPANY THAT DOES BUSINESS IN THE STATE**
19 **SHALL REGISTER WITH THE DIVISION ON FORMS THE DIVISION PROVIDES.**

20 (B) **THE MANAGEMENT COMPANY SHALL PROVIDE TO THE DIVISION:**

21 (1) **THE FULL NAME AND ADDRESS OF THE MANAGEMENT**
22 **COMPANY;**

23 (2) **A COPY OF THE FIDELITY BOND REQUIRED UNDER §**
24 **14-12C-06 OF THIS SUBTITLE; AND**

25 (3) **ANY OTHER INFORMATION THAT THE DIVISION REQUIRES.**

26 **14-12C-03.**

27 **TO QUALIFY FOR REGISTRATION, A MANAGEMENT COMPANY SHALL:**

28 (1) **EXECUTE THE FIDELITY BOND REQUIRED UNDER §**
29 **14-12C-06 OF THIS SUBTITLE; AND**

1 (2) MEET ANY OTHER REQUIREMENTS ESTABLISHED BY THE
2 DIVISION.

3 14-12C-04.

4 (A) THE DIVISION MAY SET REASONABLE FEES FOR THE REGISTRATION
5 AND RENEWAL OF REGISTRATION OF MANAGEMENT COMPANIES.

6 (B) EACH MANAGEMENT COMPANY THAT REGISTERS UNDER THIS
7 SUBTITLE SHALL PAY TO THE DIVISION:

8 (1) A REGISTRATION FEE AT THE TIME OF REGISTRATION; OR

9 (2) A RENEWAL FEE AT THE TIME OF RENEWAL OF
10 REGISTRATION.

11 (C) (1) THE DIVISION SHALL PAY ALL FEES COLLECTED UNDER THIS
12 SECTION TO THE STATE COMPTROLLER.

13 (2) THE COMPTROLLER SHALL DISTRIBUTE THE FEES TO THE
14 FUND.

15 14-12C-05.

16 (A) THERE IS A COMMON OWNERSHIP COMMUNITY MANAGEMENT
17 COMPANY ADMINISTRATION FUND.

18 (B) THE PURPOSE OF THE FUND IS TO APPROXIMATE THE COSTS
19 ASSOCIATED WITH THE ADMINISTRATION AND ENFORCEMENT OF THIS
20 SUBTITLE.

21 (C) THE DIVISION SHALL ADMINISTER THE FUND.

22 (D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT
23 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

24 (2) THE STATE TREASURER SHALL HOLD THE FUND
25 SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

26 (E) THE FUND CONSISTS OF:

27 (1) REVENUE DISTRIBUTED TO THE FUND UNDER § 14-12C-04
28 OF THIS SUBTITLE;

1 **(II) DIRECTORS; AND**

2 **(III) EMPLOYEES WHO DISBURSE FUNDS.**

3 **(D) THE FIDELITY BOND SHALL BE USED FOR THE BENEFIT OF A**
4 **PERSON WHO SUFFERS HARM CAUSED BY A FRAUDULENT OR DISHONEST ACT OF**
5 **A COMMON OWNERSHIP COMMUNITY OR A MANAGEMENT COMPANY.**

6 **(E) THE COMMON OWNERSHIP COMMUNITY SHALL SECURE AND PAY**
7 **FOR THE BOND.**

8 **14-12C-07.**

9 **IF A MANAGEMENT COMPANY CONTRACTS WITH MORE THAN ONE**
10 **COMMON OWNERSHIP COMMUNITY, THE MANAGEMENT COMPANY SHALL**
11 **MAINTAIN SEPARATE SEGREGATED ACCOUNTS FOR EACH COMMON OWNERSHIP**
12 **COMMUNITY.**

13 **14-12C-08.**

14 **(A) IN ADDITION TO ANY REMEDIES OTHERWISE AVAILABLE, IF THE**
15 **DIVISION DETERMINES THAT A PERSON IS OPERATING A MANAGEMENT**
16 **COMPANY IN VIOLATION OF THIS SUBTITLE, THE DIVISION MAY ISSUE A CEASE**
17 **AND DESIST ORDER WITHOUT CONDUCTING A HEARING UNDER § 13-403 OF**
18 **THIS ARTICLE.**

19 **(B) A CEASE AND DESIST ORDER SHALL GRANT THE RESPONDENT AN**
20 **OPPORTUNITY TO REQUEST A HEARING UNDER § 13-403 OF THIS ARTICLE, AND**
21 **THE HEARING SHALL BE HELD NO LATER THAN 7 DAYS AFTER THE REQUEST.**

22 **(C) IF NO REQUEST FOR A HEARING IS MADE, AN ORDER ENTERED**
23 **UNDER THIS SECTION SHALL BE FINAL 30 DAYS AFTER ENTRY.**

24 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
25 **October 1, 2008.**