

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE
Revised

House Bill 137

(Delegate McConkey, *et al.*)

Environmental Matters

Judicial Proceedings

Home Financial Accountability Act of 2009

This bill alters provisions in the Maryland Cooperative Housing Corporation Act, the Maryland Condominium Act, and the Maryland Homeowners Association Act that authorize the withholding of books and records from public inspection.

Fiscal Summary

State Effect: The bill does not directly affect State finances or operations.

Local Effect: The bill does not directly affect local finances or operations.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: The bill applies to members of cooperative housing corporations, condominiums, and homeowners associations, as well as a member's mortgagee, authorized agent, or attorney. Cooperative housing corporations, condominiums, and homeowners associations are hereafter referred to as "Common Ownership Communities" (COCs). The bill:

- requires that all books or records of a COC be made available for both inspection and copying by the aforementioned eligible parties;
- requires the board of directors or other governing body of a COC to compile and send via mail, electronic transmission, or personal delivery, copies of financial statements of the COC, or minutes of the board of directors or other governing body of the COC, within 21 days after receipt of a written request by an eligible

party if the financial statements or minutes were prepared during the preceding three years or within 45 days if prepared more than three years before receipt of the request;

- prohibits a COC from withholding any books or records from inspection by the person who is the subject of the record or the person's designee or guardian;
- prohibits a COC from withholding from public inspection information on individual salaries, wages, bonuses, and other compensation paid to employees;
- permits a COC to withhold from public inspection information regarding an individual's personal financial records, including assets, income, liabilities, net worth, bank balances, financial history or activities, and creditworthiness;
- permits a majority of a quorum of the board of directors or governing body that held a closed meeting to unseal the minutes or recording of the closed meeting for public inspection; and
- prohibits a COC from imposing any additional charges other than reasonable copying fees in conjunction with any authorized inspection, copying, request for COC books or records, or request for delivery of the information. The copying charge may not exceed the authorized charge for copying of court records.

Current Law: Generally, all books and records kept by or on behalf of a cooperative housing corporation, a condominium, or a homeowners association must be made available for examination or inspection during normal business hours and after reasonable notice. The books and records must be made available for inspection by owners, mortgagees, and the agents or attorneys of owners or mortgagees. Books and records may be withheld from public inspection to the extent that they concern (1) personnel records; (2) an individual's medical records; (3) an individual's financial records; (4) records relating to business transactions that are currently in negotiation; (5) the written advice of legal counsel; or (6) minutes of a closed meeting of the board of directors or other governing body.

A cooperative housing corporation, a condominium, or a homeowners association may impose a reasonable charge on a person desiring to review or copy the books and records.

Background: Chapter 469 of 2005 established the Task Force on Common Ownership Communities. The full task force met 10 times during 2006 and conducted 5 public hearings, at which public comments were solicited. In addition, subcommittees comprising task force members met several times. The task force made several recommendations on various topics, including better information on the rights and responsibilities of living in a common ownership community. The task force did not specifically address the subject matter of this bill.

Additional Information

Prior Introductions: HB 42 of 2008, as amended, passed the House and was heard by the Senate Judicial Proceedings Committee, but no further action was taken. A similar bill, HB 36 of 2007 passed the House as amended, and passed the Senate, as amended, but the versions were not reconciled.

Cross File: None.

Information Source(s): Secretary of State, Department of Legislative Services

Fiscal Note History: First Reader - February 3, 2009
mlm/kdm Revised - House Third Reader - March 27, 2009
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