

## **CHAPTER 77**

**(Senate Bill 541)**

AN ACT concerning

### **Common Ownership Communities – Fidelity Insurance**

FOR the purpose of requiring certain governing bodies of a cooperative housing corporation, a condominium, or a homeowners association to purchase fidelity insurance not later than a certain time and to keep the insurance in place each year; requiring the fidelity insurance to provide for the indemnification of ~~certain governing bodies of~~ a cooperative housing corporation, a condominium, or a homeowners association against loss resulting from certain acts or omissions of certain persons under certain circumstances; requiring a copy of the fidelity insurance policy of a cooperative housing corporation, a condominium, or a homeowners association to be kept and made available for inspection under certain circumstances; requiring the fidelity insurance of a cooperative housing corporation, a condominium, or a homeowners association to be in a certain amount; allowing an aggrieved member of a cooperative housing corporation, an aggrieved unit owner of a condominium, or an aggrieved lot owner of a homeowners association to submit a dispute regarding fidelity insurance to the Division of Consumer Protection of the Office of the Attorney General under certain circumstances; and generally relating to fidelity insurance and common ownership communities.

BY adding to

Article – Corporations and Associations

Section 5–6B–18.6

Annotated Code of Maryland

(2007 Replacement Volume and 2008 Supplement)

BY adding to

Article – Real Property

Section 11–114.1 and 11B–111.6

Annotated Code of Maryland

(2003 Replacement Volume and 2008 Supplement)

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

#### **Article – Corporations and Associations**

**5–6B–18.6.**

(A) (1) **THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF A COOPERATIVE HOUSING CORPORATION SHALL PURCHASE FIDELITY INSURANCE NOT LATER THAN THE TIME OF THE FIRST ~~CONVEYANCE OF~~ SALE OF A COOPERATIVE INTEREST WITH RESPECT TO A UNIT TO A PERSON OTHER THAN THE DEVELOPER AND SHALL KEEP FIDELITY INSURANCE IN PLACE FOR EACH YEAR THEREAFTER.**

(2) **THE FIDELITY INSURANCE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL PROVIDE FOR THE INDEMNIFICATION OF THE ~~BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF A~~ COOPERATIVE HOUSING CORPORATION AGAINST LOSS RESULTING FROM ACTS OR OMISSIONS ARISING FROM FRAUD, DISHONESTY, OR CRIMINAL ACTS BY:**

(I) **ANY OFFICER, DIRECTOR, MANAGING AGENT, OR OTHER AGENT OR EMPLOYEE CHARGED WITH THE OPERATION OR MAINTENANCE OF THE COOPERATIVE HOUSING CORPORATION WHO CONTROLS OR DISBURSES FUNDS; AND**

(II) **ANY MANAGEMENT COMPANY EMPLOYING A MANAGEMENT AGENT OR OTHER EMPLOYEE CHARGED WITH THE OPERATION OR MAINTENANCE OF THE COOPERATIVE HOUSING CORPORATION WHO CONTROLS OR DISBURSES FUNDS.**

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

(C) (1) **THE AMOUNT OF THE FIDELITY INSURANCE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL EQUAL AT LEAST THE LESSER OF:**

(I) **3 MONTHS' WORTH OF GROSS COMMON CHARGES AND THE TOTAL AMOUNT HELD IN ALL INVESTMENT ACCOUNTS AT THE TIME THE FIDELITY INSURANCE IS ISSUED; OR**

(II) **~~\$5,000,000~~ \$3,000,000.**

(2) **THE TOTAL LIABILITY OF THE INSURANCE TO ALL INSURED PERSONS UNDER THE FIDELITY INSURANCE MAY NOT EXCEED THE SUM OF THE FIDELITY INSURANCE.**

(D) **IF A MEMBER BELIEVES THAT THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF A COOPERATIVE HOUSING CORPORATION HAS FAILED TO**

COMPLY WITH THE REQUIREMENTS OF THIS SECTION, THE AGGRIEVED MEMBER MAY SUBMIT THE DISPUTE ~~FOR ADJUDICATION~~ TO THE DIVISION OF CONSUMER PROTECTION OF THE OFFICE OF THE ATTORNEY GENERAL UNDER ~~§ 5-6B-12(c)~~ 5-6B-12 OF THIS SUBTITLE.

**Article – Real Property**

**11-114.1.**

(A) (1) THE COUNCIL OF UNIT OWNERS OR OTHER GOVERNING BODY OF A CONDOMINIUM SHALL PURCHASE FIDELITY INSURANCE NOT LATER THAN THE TIME OF THE FIRST CONVEYANCE OF A UNIT TO A PERSON OTHER THAN THE DEVELOPER AND SHALL KEEP FIDELITY INSURANCE IN PLACE FOR EACH YEAR THEREAFTER.

(2) THE FIDELITY INSURANCE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL PROVIDE FOR THE INDEMNIFICATION OF THE ~~COUNCIL OF UNIT OWNERS OR OTHER GOVERNING BODY OF THE~~ CONDOMINIUM AGAINST LOSS RESULTING FROM ACTS OR OMISSIONS ARISING FROM FRAUD, DISHONESTY, OR CRIMINAL ACTS BY:

(I) ANY OFFICER, DIRECTOR, MANAGING AGENT, OR OTHER AGENT OR EMPLOYEE CHARGED WITH THE OPERATION OR MAINTENANCE OF THE CONDOMINIUM WHO CONTROLS OR DISBURSES FUNDS; AND

(II) ANY MANAGEMENT COMPANY EMPLOYING A MANAGEMENT AGENT OR OTHER EMPLOYEE CHARGED WITH THE OPERATION OR MAINTENANCE OF THE CONDOMINIUM WHO CONTROLS OR DISBURSES FUNDS.

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

(C) (1) THE AMOUNT OF THE FIDELITY INSURANCE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL EQUAL AT LEAST THE LESSER OF:

(I) 3 MONTHS' WORTH OF GROSS ANNUAL ASSESSMENTS AND THE TOTAL AMOUNT HELD IN ALL INVESTMENT ACCOUNTS AT THE TIME THE FIDELITY INSURANCE IS ISSUED; OR

(II) ~~\$5,000,000~~ \$3,000,000.

**(2) THE TOTAL LIABILITY OF THE INSURANCE TO ALL INSURED PERSONS UNDER THE FIDELITY INSURANCE MAY NOT EXCEED THE SUM OF THE FIDELITY INSURANCE.**

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

**11B-111.6.**

**(A) (1) THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF A HOMEOWNERS ASSOCIATION SHALL PURCHASE FIDELITY INSURANCE NOT LATER THAN THE TIME OF THE FIRST CONVEYANCE OF A LOT TO A PERSON OTHER THAN THE DECLARANT AND SHALL KEEP FIDELITY INSURANCE IN PLACE FOR EACH YEAR THEREAFTER.**

**(2) THE FIDELITY INSURANCE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL PROVIDE FOR THE INDEMNIFICATION OF THE HOMEOWNERS ASSOCIATION AGAINST LOSS RESULTING FROM ACTS OR OMISSIONS ARISING FROM FRAUD, DISHONESTY, OR CRIMINAL ACTS BY:**

**(I) ANY OFFICER, DIRECTOR, MANAGING AGENT, OR OTHER AGENT OR EMPLOYEE CHARGED WITH THE OPERATION OR MAINTENANCE OF THE HOMEOWNERS ASSOCIATION WHO CONTROLS OR DISBURSES FUNDS; AND**

**(II) ANY MANAGEMENT COMPANY EMPLOYING A MANAGEMENT AGENT OR OTHER EMPLOYEE CHARGED WITH THE OPERATION OR MAINTENANCE OF THE HOMEOWNERS ASSOCIATION WHO CONTROLS OR DISBURSES FUNDS.**

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

**(C) (1) THE AMOUNT OF THE FIDELITY INSURANCE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL EQUAL AT LEAST THE LESSER OF:**

**(I) 3 MONTHS' WORTH OF GROSS ANNUAL HOMEOWNERS ASSOCIATION FEES AND THE TOTAL AMOUNT HELD IN ALL INVESTMENT ACCOUNTS AT THE TIME THE FIDELITY INSURANCE IS ISSUED; OR**

(II) ~~\$5,000,000~~ \$3,000,000.

(2) THE TOTAL LIABILITY OF THE INSURANCE TO ALL INSURED PERSONS UNDER THE FIDELITY INSURANCE MAY NOT EXCEED THE SUM OF THE FIDELITY INSURANCE.

(D) IF A LOT OWNER BELIEVES THAT THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF A HOMEOWNERS ASSOCIATION HAS FAILED TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION, THE AGGRIEVED LOT OWNER MAY SUBMIT THE DISPUTE ~~FOR ADJUDICATION~~ TO THE DIVISION OF CONSUMER PROTECTION OF THE OFFICE OF THE ATTORNEY GENERAL UNDER ~~§ 11B-115(C)~~ 11B-115 OF THIS TITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**