

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2015 Legislative Session

Bill No. CB-58-2015

Chapter No. 88

Proposed and Presented by Council Members Davis, Glaros, Turner and Taveras

Introduced by Council Members Davis, Glaros, Turner, Taveras, Lehman, Franklin,
and Patterson

Date of Introduction October 20, 2015

BILL

1 AN ACT concerning

2 Common Ownership Communities Program

3 For the purpose of amending the Common Ownership Communities Program to assist governing
4 bodies, owners, and residents of homeowners' associations, residential condominiums, and
5 cooperative housing corporations with education, training, and alternative dispute resolution
6 procedures in matters relating to these communities; and generally regarding Common
7 Ownership Communities.

8 BY repealing and reenacting with amendments:

9 SUBTITLE 13. HOUSING AND PROPERTY
10 STANDARDS.

11 Sections 13-314 and 13-316,
12 The Prince George's County Code
13 (2011 Edition, 2014 Supplement).

14 BY adding:

15 SUBTITLE 13. HOUSING AND PROPERTY
16 STANDARDS.

17 Section 13-319,
18 The Prince George's County Code
19 (2011 Edition, 2014 Supplement).

20 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
21 Maryland, that Sections 13-314 and 13-316 of the Prince George's County Code be and the same

are hereby repealed and reenacted with the following amendments:

SUBTITLE 13. HOUSING AND PROPERTY STANDARDS.

DIVISION 11. COMMON OWNERSHIP COMMUNITIES PROGRAM.

Sec. 13-314. Legislative findings and declaration of purpose.

The County Council for Prince George’s County, Maryland, hereby finds that Prince George’s County is facing significant issues with respect to the lack of management and oversight as it relates to Common Ownership Communities; that there is a lack of homeowner education with regard to the real estate process, governance, enforcement procedures, and resolution of disputes; that there exists a misunderstanding amongst homeowners of the responsibilities of the developer/builder as it relates to the establishment and direction of an efficiently operated homeowner association/Common Ownership Community; and that in order to effectively respond, the County Council for Prince George’s County, Maryland hereby declares that it is the public policy of Prince George’s County to establish a program to assist in addressing the needs of Common Ownership Communities by providing education, training and alternative dispute mediation services through the Common Ownership Communities Program.

Sec. 13-316. Definitions.

As used in this Division:

(a) Alternative Dispute Resolution means a process for people in conflict, which includes two or more participants, and one or two trained alternative dispute resolution specialists.

(b) Alternative Dispute Resolution Specialist(s) are trained, impartial people who help people in conflict to communicate with one another, understand each other, explore options for mutual gain, and if possible, reach agreements that satisfy the participants’ needs. An alternative dispute resolution specialist(s) does not provide legal advice.

(c) Association Document means:

(1) The master deeds, declaration, incorporation documents, bylaws, and rules of any common ownership community;

(2) Any written private agreement between any parties concerning the operation of the community or maintenance or control of common or limited common property; and

(3) Any similar document concerning the operation or governance of a common ownership community.

1 (d) **Common element** includes:

- 2 (1) in a homeowners association, property which is owned or leased by a
3 homeowners association; and
4 (2) in a condominium, all of the condominium except the units; and
5 (3) in all common ownership communities, any other interest in real estate for the
6 benefit of owners that is subject to the declaration.

7 [(a)] (e) **Common Ownership Community** means:

- 8 (1) A condominium, as defined pursuant to state law;
9 (2) A cooperative housing corporation, as defined pursuant to state law; or
10 (3) A homeowners association, as defined pursuant to state law.

11 (f) **Community Association** means the legal entity, incorporated or unincorporated, that
12 is responsible for the governance or common property of a common ownership community.

13 [(b)] (g) **Director** means the Director of the Office of Community Relations.

14 (h) **Dispute** means any disagreement between two (2) or more parties that involves:

- 15 (1) The authority of a governing body, under any law or association document, to:
16 (A) Require any person to take any action, or not to take any action, involving a
17 unit or common element;
18 (B) Require any person to pay a fee, fine, or assessment;
19 (C) Spend association funds; or
20 (D) Alter or add to a common element; or
21 (2) The failure of a governing body, when required by law or an association document,

22 to:

- 23 (A) Properly conduct an election;
24 (B) Give adequate notice of a meeting or other action;
25 (C) Properly conduct a meeting;
26 (D) Properly adopt a budget or rules;
27 (E) Maintain or audit books and records;
28 (F) Allow inspection of books and records;
29 (G) Maintain or repair a common element if the failure results in significant
30 personal injury or property damage; or
31 (H) Exercise its judgment in good faith concerning the enforcement of the

1 association documents against any person that is subject to those documents.

2 (i) **Dispute** does not include any disagreement that only involves:

- 3 (1) Title to any unit or any common element;
- 4 (2) The percentage interest or vote allocable to a unit;
- 5 (3) The interpretation or enforcement of any warranty;
- 6 (4) The collection of an assessment validly levied against a party; or
- 7 (5) The exercise of a governing body’s judgment or discretion in taking or deciding

8 not to take any legally authorized action.

9 (j) **Governing body of a community association** means the council of unit owners, board
10 of directors, or any other body authorized by an association document to adopt binding rules or
11 regulations.

12 [(c)] (k) **Office** means the Office of Community Relations.

13 (l) **Owner** includes:

- 14 (1) A unit owner in a condominium;
- 15 (2) A lot owner in a homeowners association; and
- 16 (3) A member of a cooperative housing corporation.

17 (m) **Party** includes:

- 18 (1) An Owner;
- 19 (2) A Governing body; and
- 20 (3) An occupant of a dwelling unit in a common ownership community.

21 (n) **Unit or Lot** includes:

22 (1) Any physical portion of a common ownership community with distinct property
23 boundaries that:

24 (A) Provides complete, independent living facilities for one or more individuals;

25 (B) Contains permanent provisions for living, sleeping, eating, cooking, and
26 sanitation; and

27 (C) Is designated for exclusive ownership, control, or occupancy by those
28 individuals; and

29 (2) All legally enforceable rights and interests incidental to individual ownership of
30 real property in a common ownership community.

31 SECTION 2. BE IT ENACTED by the County Council of Prince George's County,

1 Maryland, that Section 13-319 of the Prince George's County Code be and the same is hereby
2 added:

3 **SUBTITLE 13. HOUSING AND PROPERTY STANDARDS.**

4 **DIVISION 11. COMMON OWNERSHIP COMMUNITIES PROGRAM.**

5 **Sec. 13-319. Mandatory Alternative Dispute Resolution; filing disputes.**

6 (a) Any registered community association and/or an owner may request alternative dispute
7 resolution subject to the following:

8 (1) A party may not file an alternative dispute resolution request with the Office until
9 the party makes a good faith attempt to exhaust all procedures or remedies provided in the
10 association documents.

11 (2) If a party requests the alternative dispute resolution procedure, the Office shall
12 notify all parties of the filing and of the alternative dispute resolution session.

13 (3) The Office shall provide a qualified alternative dispute resolution specialist to meet
14 with the parties within thirty (30) days after a party requests the alternative dispute resolution
15 procedure to attempt to settle the dispute and render a written decision within 60 days.

16 (4) A party may file a dispute with the Office thirty (30) days after any procedure or
17 remedy provided in the association documents has been initiated before the association.

18 (5) The community association may not take any action to enforce or implement its
19 decision until the time to file a request for alternative dispute resolution process has been
20 exhausted and the opposing party has not requested alternative resolution process.

21 (6) When a dispute is filed with the Office, a community association may not take any
22 action to enforce or implement the association's decision until the process under this Section is
23 completed.

24 (7) A community association member may not file an action in any Prince George's
25 County Court until he/she has first attempted conflict resolution as outlined in this section.

26 (8) The Office may investigate facts and assemble documents relevant to a party if, in
27 its opinion, a dispute was not properly filed with the Office. The Office may dismiss a dispute if
28 it finds that there are no reasonable grounds to conclude that a violation of applicable law or a
29 violation of any association document has occurred, or it may investigate further.

30 (9) No association member or its representatives will be allowed to petition the courts
31 for resolution to a matter until all options in this section/subjection have been exhausted.

1 (10) The Office may reconsider the dismissal of a dispute under this Subsection if any
2 party, within thirty (30) days after the dispute is dismissed shows that:

3 (A) The Office erroneously interpreted or applied applicable law or an
4 association document; or

5 (B) Material issues of fact that are necessary to a fair resolution of the dispute
6 remain unresolved.

7 (11) Dismissal of a dispute shall not prevent a parties' rights to file a claim in the
8 appropriate court.

9 (b) The parties to an alternative dispute resolution session may not use statement or
10 information from alternative dispute resolution session in any later court proceedings and
11 alternative dispute resolution specialists and intake staff in Office may not be compelled to
12 testify in a court proceeding related to an alternative dispute resolution session.

13 SECTION 3. BE IT FURTHER ENACTED that the provisions of this Act are hereby
14 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,
15 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of
16 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining
17 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this
18 Act, since the same would have been enacted without the incorporation in this Act of any such
19 invalid or unconstitutional word, phrase, clause, sentence, paragraph, subparagraph, subsection,
20 or section.

21 SECTION 4. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)
22 calendar days after it becomes law.

Adopted this 17th day of November, 2015.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Mel Franklin
Chairman

ATTEST:

Redis C. Floyd
Clerk of the Council

DATE: _____

BY: _____
Rushern L. Baker, III
County Executive

KEY:

- Underscoring indicates language added to existing law.
- [Brackets] indicate language deleted from existing law.
- Asterisks *** indicate intervening existing Code provisions that remain unchanged.

THE COUNTY EXECUTIVE HAVING FAILED TO RETURN THIS BILL WITH EITHER HIS APPROVAL OR VETO WITHIN TEN (10) DAYS AFTER THE DATE OF ITS PRESENTATION TO HIM, THIS BILL BECAME LAW ON DECEMBER 10, 2015.