

CHAPTER 659

(House Bill 137)

AN ACT concerning

Home Financial Accountability Act of 2009

FOR the purpose of clarifying the availability of certain books and records kept by or on behalf of certain common ownership communities for certain purposes and to certain persons; requiring the governing body of certain common ownership communities, on request of a member, unit owner, or lot owner, to compile and send certain information within a certain time; making a stylistic change; altering certain limitations concerning public inspection of certain records; prohibiting certain common ownership communities from imposing certain fees other than a reasonable charge imposed on a person desiring to review or copy certain books and records or who requests delivery of certain information; providing that a charge for copying certain records may not exceed a certain amount; and generally relating to access to the books and records of cooperative housing associations, condominiums, and homeowners associations.

BY repealing and reenacting, with amendments,
Article – Corporations and Associations
Section 5-6B-18.5
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Real Property
Section 11-116(c) and (d) and 11B-112(a) and (b)
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-18.5.

(a) (1) (I) Except as provided in paragraph (2) of this subsection, all books and records kept by or on behalf of a cooperative housing corporation shall be made available for examination [and] OR copying, OR BOTH, by a member, a member's mortgagee, [and] OR their respective duly authorized agents or attorneys, during normal business hours, and after reasonable notice.

(II) IF A MEMBER REQUESTS IN WRITING A COPY OF FINANCIAL STATEMENTS OF THE COOPERATIVE HOUSING CORPORATION OR THE MINUTES OF A MEETING OF THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF THE COOPERATIVE HOUSING CORPORATION TO BE DELIVERED, THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF THE COOPERATIVE HOUSING CORPORATION SHALL COMPILE AND SEND THE REQUESTED INFORMATION BY MAIL, ELECTRONIC TRANSMISSION, OR PERSONAL DELIVERY ~~WITHIN~~:

1. WITHIN 21 DAYS AFTER RECEIPT OF THE WRITTEN REQUEST, IF THE FINANCIAL STATEMENTS OR MINUTES WERE PREPARED WITHIN THE 3 YEARS IMMEDIATELY PRECEDING RECEIPT OF THE REQUEST; OR

2. WITHIN 45 DAYS AFTER RECEIPT OF THE WRITTEN REQUEST, IF THE FINANCIAL STATEMENTS OR MINUTES WERE PREPARED MORE THAN 3 YEARS BEFORE RECEIPT OF THE REQUEST.

(2) Books and records kept by or on behalf of a cooperative housing corporation may be withheld from public inspection, EXCEPT FOR INSPECTION BY THE PERSON WHO IS THE SUBJECT OF THE RECORD OR THE PERSON'S DESIGNEE OR GUARDIAN, to the extent that they concern:

(i) Personnel records, NOT INCLUDING INFORMATION ON INDIVIDUAL SALARIES, WAGES, BONUSES, AND OTHER COMPENSATION PAID TO EMPLOYEES ~~RECEIVING ANNUAL COMPENSATION EXCEEDING \$50,000;~~

(ii) An individual's medical records;

(iii) An individual's PERSONAL financial records, INCLUDING ASSETS, INCOME, LIABILITIES, NET WORTH, BANK BALANCES, FINANCIAL HISTORY OR ACTIVITIES, AND CREDITWORTHINESS;

(iv) Records relating to business transactions that are currently in negotiation;

(v) The written advice of legal counsel; or

(vi) Minutes of a closed meeting of the board of directors or other governing body of the cooperative housing corporation, UNLESS A MAJORITY OF A QUORUM OF THE BOARD OF DIRECTORS OR GOVERNING BODY THAT HELD THE MEETING APPROVES UNSEALING THE MINUTES OR A RECORDING OF THE MINUTES FOR PUBLIC INSPECTION.

(b) (1) [The cooperative housing corporation may impose] **EXCEPT FOR** a reasonable charge **IMPOSED** on a person desiring to review or copy the books and records **OR WHO REQUESTS DELIVERY OF INFORMATION, THE COOPERATIVE HOUSING CORPORATION MAY NOT IMPOSE ANY CHARGES UNDER THIS SECTION.**

(2) **A CHARGE IMPOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR COPYING BOOKS AND RECORDS MAY NOT EXCEED THE ~~LIMITS AUTHORIZED UNDER TITLE 7, SUBTITLE 2 OF THE COURTS ARTICLE PREVALING AVERAGE CHARGE BY COMMERCIAL COPYING SERVICES IN THE COMMUNITY~~ LIMITS AUTHORIZED UNDER TITLE 7, SUBTITLE 2 OF THE COURTS ARTICLE.**

Article - Real Property

11-116.

(c) (1) (I) Except as provided in paragraph (2) of this subsection, all books and records, including insurance policies, kept by the council of unit owners shall be maintained in Maryland or within 50 miles of its borders and shall be available at some place designated by the council of unit owners within the county where the condominium is located for examination [and] **OR** copying, **OR BOTH**, by any unit owner, [his] **A UNIT OWNER'S** mortgagee, [and] **OR** their respective duly authorized agents or attorneys, during normal business hours, and after reasonable notice.

(II) **IF A UNIT OWNER REQUESTS IN WRITING A COPY OF FINANCIAL STATEMENTS OF THE CONDOMINIUM OR THE MINUTES OF A MEETING OF THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF THE CONDOMINIUM TO BE DELIVERED, THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF THE CONDOMINIUM SHALL COMPILE AND SEND THE REQUESTED INFORMATION BY MAIL, ELECTRONIC TRANSMISSION, OR PERSONAL DELIVERY ~~WITHIN:~~**

1. WITHIN 21 DAYS AFTER RECEIPT OF THE WRITTEN REQUEST, IF THE FINANCIAL STATEMENTS OR MINUTES WERE PREPARED WITHIN THE 3 YEARS IMMEDIATELY PRECEDING RECEIPT OF THE REQUEST; OR

2. WITHIN 45 DAYS AFTER RECEIPT OF THE WRITTEN REQUEST, IF THE FINANCIAL STATEMENTS OR MINUTES WERE PREPARED MORE THAN 3 YEARS BEFORE RECEIPT OF THE REQUEST.

(2) Books and records kept by or on behalf of a council of unit owners may be withheld from public inspection, **EXCEPT FOR INSPECTION BY THE PERSON WHO IS THE SUBJECT OF THE RECORD OR THE PERSON'S DESIGNEE OR GUARDIAN**, to the extent that they concern:

(i) Personnel records, **NOT INCLUDING INFORMATION ON INDIVIDUAL SALARIES, WAGES, BONUSES, AND OTHER COMPENSATION PAID TO EMPLOYEES RECEIVING ANNUAL COMPENSATION EXCEEDING \$50,000;**

(ii) An individual's medical records;

(iii) An individual's **PERSONAL** financial records, **INCLUDING ASSETS, INCOME, LIABILITIES, NET WORTH, BANK BALANCES, FINANCIAL HISTORY OR ACTIVITIES, AND CREDITWORTHINESS;**

(iv) Records relating to business transactions that are currently in negotiation;

(v) The written advice of legal counsel; or

(vi) Minutes of a closed meeting of the board of directors or other governing body of the council of unit owners, **UNLESS A MAJORITY OF A QUORUM OF THE BOARD OF DIRECTORS OR GOVERNING BODY THAT HELD THE MEETING APPROVES UNSEALING THE MINUTES OR A RECORDING OF THE MINUTES FOR PUBLIC INSPECTION.**

(d) (1) [The council of unit owners may impose] **EXCEPT FOR** a reasonable charge [upon] **IMPOSED ON** a person desiring to review or copy the books and records **OR WHO REQUESTS DELIVERY OF INFORMATION, THE COUNCIL OF UNIT OWNERS MAY NOT IMPOSE ANY CHARGES UNDER THIS SECTION.**

(2) **A CHARGE IMPOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR COPYING BOOKS AND RECORDS MAY NOT EXCEED THE LIMITS AUTHORIZED UNDER TITLE 7, SUBTITLE 2 OF THE COURTS ARTICLE PREVAILING AVERAGE CHARGE BY COMMERCIAL COPYING SERVICES IN THE COMMUNITY LIMITS AUTHORIZED UNDER TITLE 7, SUBTITLE 2 OF THE COURTS ARTICLE.**

11B-112.

(a) (1) (I) Subject to the provisions of paragraph (2) of this subsection, all books and records kept by or on behalf of the homeowners association shall be made available for examination [and] **OR** copying, **OR BOTH**, by a lot owner, a lot

owner's mortgagee, [and] OR their respective duly authorized agents or attorneys, during normal business hours, and after reasonable notice.

(II) IF A LOT OWNER REQUESTS IN WRITING A COPY OF FINANCIAL STATEMENTS OF THE HOMEOWNERS ASSOCIATION OR THE MINUTES OF A MEETING OF THE GOVERNING BODY OF THE HOMEOWNERS ASSOCIATION TO BE DELIVERED, THE GOVERNING BODY OF THE HOMEOWNERS ASSOCIATION SHALL COMPILE AND SEND THE REQUESTED INFORMATION BY MAIL, ELECTRONIC TRANSMISSION, OR PERSONAL DELIVERY ~~WITHIN~~:

1. WITHIN 21 DAYS AFTER RECEIPT OF THE WRITTEN REQUEST, IF THE FINANCIAL STATEMENTS OR MINUTES WERE PREPARED WITHIN THE 3 YEARS IMMEDIATELY PRECEDING RECEIPT OF THE REQUEST; OR

2. WITHIN 45 DAYS AFTER RECEIPT OF THE WRITTEN REQUEST, IF THE FINANCIAL STATEMENTS OR MINUTES WERE PREPARED MORE THAN 3 YEARS BEFORE RECEIPT OF THE REQUEST.

(2) Books and records kept by or on behalf of a homeowners association may be withheld from public inspection, EXCEPT FOR INSPECTION BY THE PERSON WHO IS THE SUBJECT OF THE RECORD OR THE PERSON'S DESIGNEE OR GUARDIAN, to the extent that they concern:

(i) Personnel records, NOT INCLUDING INFORMATION ON INDIVIDUAL SALARIES, WAGES, BONUSES, AND OTHER COMPENSATION PAID TO EMPLOYEES ~~RECEIVING ANNUAL COMPENSATION EXCEEDING \$50,000;~~

(ii) An individual's medical records;

(iii) An individual's PERSONAL financial records, INCLUDING ASSETS, INCOME, LIABILITIES, NET WORTH, BANK BALANCES, FINANCIAL HISTORY OR ACTIVITIES, AND CREDITWORTHINESS;

(iv) Records relating to business transactions that are currently in negotiation;

(v) The written advice of legal counsel; or

(vi) Minutes of a closed meeting of the governing body of the homeowners association, UNLESS A MAJORITY OF A QUORUM OF THE GOVERNING BODY OF THE HOMEOWNERS ASSOCIATION THAT HELD THE MEETING APPROVES UNSEALING THE MINUTES OR A RECORDING OF THE MINUTES FOR PUBLIC INSPECTION.

(b) (1) [The homeowners association may impose] **EXCEPT FOR** a reasonable charge [upon] **IMPOSED ON** a person desiring to review or copy the books and records **OR WHO REQUESTS DELIVERY OF INFORMATION, THE HOMEOWNERS ASSOCIATION MAY NOT IMPOSE ANY CHARGES UNDER THIS SECTION.**

(2) **A CHARGE IMPOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR COPYING BOOKS AND RECORDS MAY NOT EXCEED THE ~~LIMITS AUTHORIZED UNDER TITLE 7, SUBTITLE 2 OF THE COURTS ARTICLE PREVAILING AVERAGE CHARGE BY COMMERCIAL COPYING SERVICES IN THE COMMUNITY~~ LIMITS AUTHORIZED UNDER TITLE 7, SUBTITLE 2 OF THE COURTS ARTICLE.**

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

Approved by the Governor, May 19, 2009.