

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 144

(Senator Guzzone)

Judicial Proceedings

Electric Vehicle Recharging Equipment for Multifamily Units Act

This bill establishes standards relating to the installation and use of electric vehicle recharging equipment in condominiums and homeowners associations (HOA). The bill establishes a grant program within the Maryland Energy Administration (MEA) and authorizes a condominium or HOA to apply for a grant to facilitate the electrical upgrade of a parking structure. MEA must adopt regulations to implement the program. The bill also expands the authorized uses of the Maryland Strategic Energy Investment Fund (SEIF) to provide grants under the program.

Fiscal Summary

State Effect: The bill largely reflects current MEA practice related to electric vehicle infrastructure grants but carves out a grant program exclusively for condominiums and HOAs. Special fund expenditure are not materially affected, as discussed below. No effect on revenues.

Local Effect: The bill's requirements are not anticipated to materially impact local finances or operations. Any increase in permit requests can likely be handled with existing resources.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: The bill defines "electric vehicle recharging equipment" as property in the State that is used for recharging motor vehicles propelled by electricity. Requirements for owners of condominium units or HOA lots and governing bodies are shown in **Exhibit 1**.

Exhibit 1
Installation of Electric Vehicle Recharging Equipment by Owners
In Condominiums and Homeowners Associations

	<u>Condo Owner</u>	<u>HOA Homeowner</u>	<u>Condo Board</u>	<u>HOA Board</u>
Bylaws, covenants, or other restrictions against recharging equipment are void			Yes	Yes
Must use process for approval of architectural modifications			Yes	Yes
Must provide approval or denial in writing			Yes	Yes
Must approve installation in a unit or lot owner's deeded or designated parking space if installation does not unreasonably impede normal use of the area or is not impossible <i>and</i> if owner agrees, in writing, to comply with specified restrictions and standards			Yes	Yes
May grant a license for up to three years, renewable at the discretion of the governing body, on any common element necessary for installation of equipment or supply of electricity			Yes	Yes
Request is deemed approved after 60 days unless reasonably delayed for additional information	Yes	Yes	Yes	Yes
Must agree, in writing, to comply with relevant building codes and with safety standards to maintain the safety of all users of the common area and architectural standards, engage a licensed contractor, and pay for separately metered electricity usage	Yes	Yes		
Must obtain necessary permits	Yes	Yes		
Must pay costs associated with installation, maintenance, damage, repair, replacement, removal, and electricity	Yes	Yes		
Must provide certificate of insurance naming association as an additional insured or reimburse association for cost of an increased insurance premium attributable to equipment	Yes	Yes		

HOA: homeowners association

Note: "Board" refers to the governing body of a condominium or homeowners association.

Source: Department of Legislative Services

Electric Vehicle Infrastructure Modernization Grant Program

The bill establishes the Electric Vehicle Infrastructure Modernization Grant Program in MEA, which is funded by SEIF. The governing body of a condominium or HOA may apply for a grant from the Electric Vehicle Infrastructure Modernization Grant Program to facilitate the electrical upgrade of a parking structure owned by the governing body in order to encourage the installation and use of electric vehicle recharging equipment by unit owners and lot owners.

Current Law: Chapters 127 and 128 of 2008 created the Maryland Strategic Energy Investment Program and the implementing SEIF to decrease energy demand and increase energy supply to promote affordable, reliable, and clean energy. SEIF is primarily funded through the proceeds from the auction of carbon allowances to power plants under the Regional Greenhouse Gas Initiative. Statutory provisions set forth numerous permissible uses for SEIF, such as providing grants, loans, and other assistance as necessary and appropriate to implement the purposes of the program.

For more information on condominiums and HOAs, commonly known as common ownership communities, see the **Appendix – Common Ownership Communities**.

State Expenditures: MEA advises that HOAs and condominiums are already eligible for funding for the purposes specified in the bill under existing statutory authorization. Furthermore, the Governor’s proposed fiscal 2022 budget includes \$1.2 million for the Electric Vehicle Recharging Equipment (EVRE) Rebate program. MEA advises that those program guidelines specifically allow condominiums and HOAs to apply for grants to facilitate and encourage the installation and use of EVREs. It is, therefore, assumed that existing staff can implement and administer the new grant program specific to condominiums and HOAs as proposed by the bill.

Authorizing MEA to use funds from SEIF for an additional grant program does not affect overall SEIF expenditures, although individual programs currently funded by SEIF may receive less funding. It is also assumed that some condominiums and HOAs that apply for grants under the new grant program would also have applied for and potentially been awarded grants under the existing authority, thus offsetting any impact on overall SEIF-funded grant expenditures.

Additional Information

Prior Introductions: HB 111 of 2020, a similar bill, passed the House with amendments and was referred to the Senate Judicial Proceedings and Finance committees, but no further action was taken. Its cross file, SB 734 received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. HB 826 of 2019, a similar bill, passed the House with amendments and was referred to the Senate Judicial Proceedings Committee, but no further action was taken. Similar bills were also introduced in 2018, 2017, 2016, and 2015.

Designated Cross File: HB 110 (Delegate Korman) - Environment and Transportation.

Information Source(s): Maryland Energy Administration; Judiciary (Administrative Office of the Courts); Department of Legislative Services

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Appendix – Common Ownership Communities

When a person purchases a single-family home, condominium, or an interest in a cooperative housing corporation, he or she may also be required to join an association of owners, which is intended to act in the common interests of all the homeowners, condominium unit owners, or cooperative owners in the community. Collectively, these associations are often referred to as common ownership communities (COCs). In Maryland, a growing number of newly constructed or newly converted residences are located in some form of a COC.

The affairs of a condominium are governed by a council of unit owners, which comprises all unit owners. Among other powers, the council of unit owners has the power to impose assessments on the unit owners to pay common expenses. A council of unit owners may delegate its powers to a board of directors, officers, or a managing agent. Condominiums are governed under Title 11 of the Real Property Article.

Many new housing developments are subject to a homeowners association (HOA) that is created by a governing document and has the authority to impose mandatory fees on lots in the development in connection with the provision of services or for the benefit of the lots, the lot owners, or the common areas. HOAs are governed under Title 11B of the Real Property Article.

A cooperative housing corporation or “cooperative” is a corporation that owns real property. A resident of a cooperative does not own his or her unit; rather, the person owns an interest in the corporation, which leases the unit to the person for residential use. Cooperatives are governed by the laws in Title 5, Subtitle 6B of the Corporations and Associations Article.

Condominiums and HOAs may be authorized by their governing documents to impose liens on units or lots to collect unpaid assessments or fees. In a cooperative, the governing documents usually provide for the collection of delinquent fees, and evictions for unpaid fees are generally pursued by way of a landlord-tenant action.

Since registration of the various COCs is not required statewide, the exact number of COCs in Maryland is unknown. However, public offering statements for condominium regimes are required by law to be registered with the Secretary of State (SOS). SOS registration records show that, as of December 2020, 2,739 condominium regimes have been registered with the State. The State Department of Assessments and Taxation, which maintains assessment records based on class of property, reports that there are 221,999 condominium units in the State as of July 2020. The Foundation for Community Association Research

estimated that there were 6,785 community associations with an estimated 1 million residents in these associations in the State in 2019, the most recent information available.

Task Force on Common Ownership Communities

With a growing number of Marylanders residing in COCs, and evidence that some COCs had issues with governance, dispute resolution, and financial stability, the General Assembly created the Task Force on Common Ownership Communities in 2005 (Chapter 469 of 2005). The issues addressed by the task force included the education and training needs of COC boards and prospective buyers, availability of alternative dispute resolution services, special considerations of aging COCs, collection of assessments, and resale of homes within COCs. The task force met 10 times, held five public hearings, and submitted its final report in December 2006. The report's findings and recommendations have served, in subsequent years, as the basis for numerous pieces of legislation intended to improve the operation of COCs. This legislation, enacted from 2007 through 2020:

- authorized a group of three or more unit or lot owners in a condominium or HOA to petition a circuit court to appoint a receiver in specified situations frequently found in aging communities (Chapter 321 of 2007);
- gave the Consumer Protection Division within the Office of the Attorney General increased authority over violations of the Maryland Homeowners Association Act (Chapter 593 of 2007);
- eased restrictions on the ability of condominiums and HOAs to amend their governing documents (Chapters 144 and 145 of 2008 and Chapter 480 of 2017);
- strengthened the transition process from developer to the governing body of a condominium or HOA by allowing the governing body to terminate specified contracts and requiring the developer to provide specified documents (Chapters 95 and 96 of 2009);
- required the governing body of a COC to purchase fidelity insurance or a fidelity bond covering various acts of malfeasance by COC officers, directors, and other specified employees and agents (Chapters 77 and 78 of 2009 and Chapter 615 of 2010);
- granted priority to a specified portion of a lien of a condominium or HOA over the claim of a holder of a first mortgage or first deed of trust in the event of a foreclosure on a unit or lot (Chapter 387 of 2011);

- limited the amount of damages for which the governing body of a condominium or HOA may foreclose on a lien against a unit owner or lot owner (Chapters 448 and 449 of 2013);
- expanded the purposes for which a condominium’s board of directors may hold a closed meeting, similar to the law for an HOA, by allowing a meeting to be closed to consider terms or conditions of a business transaction in the negotiation stage if disclosure could adversely affect the economic interests of the council of unit owners (Chapter 110 of 2013);
- established meeting standards and standards for late charges for delinquent payments, eviction restrictions, an auditing process for books and records, and a dispute settlement mechanism for cooperatives under specified circumstances (Chapter 567 of 2014);
- altered the contents of a required disclosure for the resale of a condominium unit, authorized the assessment of specified fees by a condominium council of unit owners or an HOA for providing specified information, and required the Department of Housing and Community Development to adjust the maximum authorized fees every two years (Chapter 735 of 2016 and Chapter 817 of 2017); and
- increased to \$10,000 the maximum amount of the council of unit owners’ property insurance deductible for which a specific unit owner is responsible if the cause of any damage to or destruction of the common elements or units of a condominium originates from an event inside that owner’s unit (Chapters 56 and 57 of 2020).

The task force’s report also featured findings and recommendations relating to the creation of an ombudsman in local governments. Since the report’s release, Prince George’s County created its Common Ownership Communities Program in 2007 with the stated purpose of assisting governing bodies as well as owners and residents of HOAs, residential condominiums, and cooperative housing corporations with education, training, and alternative dispute resolution. Charles County and Montgomery County have offices dedicated to COCs that predate the task force.

Finally, findings and recommendations of the report that have not been codified in statute pertain to reserves of COCs and the uniformity of COC depository requirements.