

Department of Legislative Services
 Maryland General Assembly
 2026 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 402
 Economic Matters

(Delegate Holmes, *et al.*)

Judicial Proceedings

**Common Ownership Communities - Oversight, Governing Document Database,
 and Local Commissions**

This bill establishes the Common Ownership Community Oversight Division (COCOD) within the Department of Housing and Community Development (DHCD). The bill also requires common ownership communities (COCs) to file certain governing documents with COCOD, which the division must use to create a publicly assessable database. The Governor must include in the fiscal 2028 budget an appropriation of \$50,004 for the database. Furthermore, the bill establishes specific requirements for local common ownership commissions created by local governments, including requirements related to membership, fees, coordination with other local government agencies, and the registration of COCs. The bill also establishes procedures and requirements for dispute resolution.

Fiscal Summary

State Effect: General fund expenditures increase by \$192,300 in FY 2027; future years reflect annualization and inflation, as well as the mandated appropriation in FY 2028. Special fund revenues from fines and fees increase, likely beginning in FY 2028; special fund expenditures increase as these revenues are used for authorized purposes under the bill and mitigate the need for general funds. General fund revenues may increase minimally from interest in FY 2028 (not reflected below). **This bill establishes a mandated appropriation for FY 2028.**

(in dollars)	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031
SF Revenue	\$0	-	-	-	-
GF Expenditure	\$192,300	\$50,000	\$0	\$0	\$0
GF/SF Exp.	\$0	\$227,400	\$237,900	\$248,600	\$259,500
Net Effect	(\$192,300)	(-)/-	(-)/-	(\$248,600)	(\$259,500)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local government expenditures increase to the extent local governments utilize their authority under the bill to establish local common ownership commissions or incur costs to conform operations of existing commissions to the bill’s requirements. Local government revenues increase if local governments establish fees, as authorized under the bill. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Definitions

A “common ownership community” means a condominium; cooperative housing corporation; or a homeowners association (HOA), as those terms are defined in applicable statute, as specified. The bill explicitly excludes a time-share project (as defined in § 11A-101 of the Real Property Article) from the definition in certain provisions.

A “dispute” means a disagreement between at least two parties that involves:

- the authority of a governing body of a COC to (1) require or prohibit any action involving a unit or common element; (2) require any person to pay a fee, a fine, or an assessment; (3) spend COC funds; or (4) alter or add to a common element; or
- the failure of a governing body of a COC to (1) properly conduct an election; (2) give adequate notice of a meeting or other action; (3) properly conduct a meeting; (4) properly adopt a budget or rules; (5) maintain or audit books and records; (6) allow inspection of books and records; (7) maintain or repair a common element if the failure results in significant personal injury or property damage; or (8) exercise its judgment in good faith concerning the enforcement of the governing documents against any person that is subject to those documents.

However, a dispute does not include a disagreement that involves title to any unit or common element; the percentage interest or vote allocable to a unit; the interpretation or enforcement of any warranty; the collection of an assessment validly levied against a party; or the exercise of the judgment or discretion of a COC regarding any legally authorized action.

Common Ownership Community Oversight Division and Fund

In General: The bill establishes a new division (COCOD) within DHCD and a related fund. COCOD is generally responsible for receiving and investigating COC member complaints regarding final adverse decisions by a governing body of a COC or COC community manager and conducting related hearings. COCOD must impose fines and fees; maintain a registry of governing documents; and provide compliance guidance and educational materials.

In response to a complaint, the division must:

- refer the complaint to an appropriate local commission for further review of whether the final adverse decision conflicts with laws or regulations governing COCs in the jurisdiction; or
- if the county does not have a local commission, resolve the complaint using the procedures described below.

If COCOD determines that a final adverse decision conflicts with laws or regulations governing COCs, it must promptly notify the member, the governing board, and, if applicable, the COC manager. If, within one year of issuing a determination, the division receives a subsequent complaint for the same violation, COCOD must refer the matter to the appropriate local commission (if any).

Reporting: Beginning December 1, 2028, COCOD is required to annually report its activities to the General Assembly, including information on complaints received, assistance requested, actions taken, referrals made, and the dispositions and outcomes of complaints.

Database, Filings, and Fees: The bill requires each COC in the State to file a copy of its governing documents and any amendment with COCOD; the division must develop and maintain a publicly accessible database of these documents on DHCD's website. Unless the county has a local commission, the bill also requires a COC to register with the division and renew the registration annually. DHCD may establish by regulation the following fees: (1) up to \$100 for a complaint filing; (2) up to \$100 for initial filings of governing documents; (3) up to \$25 for any amendment to a governing document; and (4) a fee for registration of the COC. DHCD may also establish a fine of up to \$500 for the failure to file governing documents.

The bill requires the Governor to include in the annual budget bill an appropriation of \$50,004 in fiscal 2028 for DHCD to develop the database.

New Special Fund: The bill establishes the Common Ownership Community Oversight Fund as a special, nonlapsing fund administered by DHCD to provide funding to COCOD. The fund consists of (1) fees collected under the bill (including complaint filing fees, annual common ownership community registration fees, and governing document filing fees); (2) fines assessed under the bill; (3) interest earnings; and (4) any other money accepted from any other source for the fund's benefit.

Local Government Commissions – In General

Membership: If a local government establishes a local commission on common ownership communities, the commission must include members (1) who are owners in a COC and (2) represent certain professions, as specified. Each local government must also determine the total number of members of the local commission.

In addition, a designee of the local government and a designee of a county agency dealing with planning, environment, permitting, transportation, or housing and community affairs must serve as nonvoting members.

The chair and vice chair of a local commission must be elected from among the voting membership of the local commission. A local government establishing a commission must adopt procedures for the appointment and terms of members; however, a member of a local commission may not serve more than two consecutive terms.

Operating Requirements and Procedures: A local commission must meet at least monthly. A member of a local commission may not receive compensation as a member but is entitled to reimbursement for expenses under the standard county travel regulations. A local commission must:

- adopt rules of professional conduct as appropriate for members and staff;
- keep a record of its proceedings;
- examine the needs of COCs in the county;
- advise county government and appropriate State and federal agencies on matters relating to COCs; and
- provide training on the responsibilities of a local commission's members to the governing body of a COC by (1) developing an educational curriculum for new members and (2) approving an alternative educational curriculum for new members.

A local commission may:

- employ staff as authorized by a local government;

- establish a process for resolving disciplinary matters pending before the local commission through nonjudicial dispute resolution processes;
- develop educational and training opportunities for governing bodies;
- adopt additional bylaws necessary to carry out the business of the local commission; and;
- adopt any additional regulations, procedures, or standards consistent with the mission of the local commission and to carry out the requirements of the bill.

If a local government establishes a local commission, the local government must designate a county agency or office to, among other responsibilities:

- disseminate educational materials regarding programs that assist COCs;
- conduct educational programs to promote the operation of COCs;
- maintain information and a referral system for all county services related to COCs;
- provide technical assistance to governing bodies on specified matters;
- advise COCs and professional association managers of changes in the laws and regulations that affect their communities or operations; and
- operate a dispute resolution process to furnish mediation and administrative hearings.

When establishing a local common ownership commission, the local government must require COCs in the county to register with the local commission annually, using a form meeting specified requirements. If a COC fails to register or makes a false statement on the registration form, the entity becomes ineligible to file a dispute.

Authorized Fees: A local government that establishes a local common ownership commission may authorize the collection of a reasonable fee for services provided by the commission. Any authorized fee must be used to cover the cost of maintaining the local commission, as specified. If collection of a fee by a local commission is authorized, the local commission must publish the fee schedule.

Dispute/Complaint Resolution

In General: The COCOD and a local commission may hear any dispute/complaint between parties. Thus, the bill establishes similar procedures and requirements for COCOD and local commissions when handling disputes or complaints. (Generally, provisions regarding local commissions use the term “dispute” while provisions regarding COCOD typically refer to complaints.)

A party may not file a dispute/complaint with COCOD or a local commission until (1) the party has made a good faith effort to exhaust all procedures and remedies provided by the
HB 402/ Page 5

governing documents of the COC and (2) at least 60 days after a procedure or remedy has been initiated with the governing body of a COC.

If the governing body of a COC determines that a dispute exists, it must notify the other parties of the option to file the dispute with COCOD or a local commission. The governing body of a COC is prohibited from taking action to enforce or implement the decision of the governing body for 14 days following notification of all other parties.

Stays: Unless specified otherwise, on the filing of a dispute with COCOD or a local commission, the decision of the governing body of a COC must be stayed and may not be enforced or implemented, other than by filing a civil action, until the completion of the dispute process.

The bill authorizes the governing body of a COC to submit a request to lift an automatic stay under the bill and establishes related procedures, including those governing service and the formation of a panel to consider requests for relief from stays (and grant requests, as appropriate and specified in the bill).

Procedures: Following the filing of a dispute with a local commission, the designated local coordinating agency *may* investigate facts and assemble documents relevant to the dispute and *may* prepare a summary of the issues in the dispute for use by the local commission. The designated agency may (1) notify a party if it finds that a dispute was not properly filed and (2) notify each party of the dispute regarding possible sanctions. Complaints filed with COCOD *must* be investigated and COCOD *must* assemble documents relevant to the complaint.

For disputes filed with a local commission, if the designated agency finds that (assuming all facts alleged by the party that filed the dispute are true) there are no reasonable grounds to conclude that a violation of applicable law or any governing document has occurred, the designated agency must inform the local commission.

Upon the conclusion of the investigation the COCOD or a local commission may (1) if it finds that there are no reasonable grounds to conclude that a violation of applicable law or any governing document has occurred, dismiss the dispute; (2) request additional investigation; or (3) schedule a hearing on the dispute. COCOD or a local commission may reconsider the dismissal of a dispute if any party files a motion to reconsider, as specified.

Mediation: Any party in a dispute may request mediation. If a party requests mediation, COCOD or the local commission must notify all parties of the request and of the mediation session. COCOD or the local commission must provide a qualified mediator to meet with the parties within 30 days after a party requests mediation to attempt to settle the dispute.

However, if a party refuses to attend a mediation session, or if mediation does not successfully resolve the dispute within 10 days after the first mediation session is held, the local commission/COCOD must promptly schedule a hearing.

Hearings: If a hearing is scheduled, a panel must be assembled, as specified, to hear the dispute. The bill specifies requirements for membership of the panel. A hearing panel must hold a hearing on each dispute that is not resolved through mediation under the bill unless COCOD or the local commission determines that the dispute is identical to another dispute between the same parties on which a hearing has already been held under the bill's provisions or is clearly not within the jurisdiction of COCOD or the local commission.

COCOD or a local commission must provide specified notice of a hearing to all parties. A party or witness may be advised by counsel at a hearing. If a party, after proper notice, does not appear at the scheduled hearing, the hearing panel may order any relief for another party that the facts on record warrant.

The hearing panel must apply State and county laws and all relevant case law to the facts of the dispute. A decision of the hearing panel is binding on the parties. COCOD or a local commission may enforce a decision of the hearing panel by appropriate legal action. In addition to any other enforcement action, COCOD or a local commission may (1) file for injunctive relief to enforce or correct any violation and (2) file to recover damages for a loss sustained as a result of a violation.

A hearing panel may award costs, including reasonable attorney's fees, to any party if any other party (1) filed or maintained a frivolous dispute, or filed or maintained a dispute in bad faith; (2) refused to participate in mediation of a dispute; or (3) substantially delayed or hindered the dispute resolution process without good cause. In addition, a hearing panel may require a losing party in a dispute to pay all or part of any filing fee. COCOD or a local government may establish additional hearing procedures and requirements, as specified.

Appeals: Any party may appeal a hearing panel decision to the appropriate court. An appeal of a decision may (*must* for decisions from COCOD) be consolidated with any case arising from the same facts. The court hearing an appeal must sustain the decision of the hearing panel unless the decision is inconsistent with applicable law, lacks substantial evidence, or is arbitrary and capricious.

Civil Cause of Action: A party may file a civil action arising from a governing document or a law regulating the powers of a governing body of a COC. If the court is notified that a dispute has been filed with a local commission in accordance with the bill, the court may postpone a proceeding for at least 90 days. The court may hear the action *de novo* if a hearing panel assigned to the dispute has not issued a decision on the bill.

Miscellaneous Provisions

Provisions established under the bill related to local commissions and dispute resolution supersede any inconsistent provisions of local law that conflict with the bill to the extent of the conflict.

The creation of COCOD does not override, preempt, or diminish the authority of any existing commission on common ownership communities established by a county or local municipality, and such entities may establish, maintain, or expand their own commissions or oversight bodies consistent with local law and the bill.

Finally, the bill may not be construed to prohibit a local jurisdiction from adopting supplemental governance structures or dispute resolution programs for COCs.

Current Law: Generally, State statute includes the Maryland Condominium Act, the Maryland Homeowners Association Act, and the Maryland Cooperative Housing Corporation Act, all of which regulate various aspects of COC operations.

For more information on condominiums, HOAs, and cooperative housing corporations, commonly known as COCs, see the **Appendix – Common Ownership Communities**.

State Revenues: Special fund revenues increase from fines and fees authorized under the bill. As noted above, DHCD may establish by regulation certain fees required to be imposed under the bill (*e.g.*, complaint filing fees, registration fees, and fees to file governing documents) as well as fines for noncompliance. This analysis assumes DHCD uses its authority under the bill and establishes applicable fees and fines through regulations; however, associated revenues are not assumed until fiscal 2028 to allow time for regulations to be adopted and the department to begin assessing and collecting relevant fees and fines.

State Expenditures: General fund expenditures increase by \$192,310 in fiscal 2027 for COCOD. This estimate reflects the cost of hiring one assistant Attorney General to serve as the head of the division and one communications assistant.

Positions	2.0
Salaries and Fringe Benefits	\$192,310
Other Operating Costs	<u>18,282</u>
FY 2027 State Expenditures	\$192,310

Future years reflect annualization and ongoing operating costs, as well as the mandated appropriation in fiscal 2028 for the database. Additional resources may be needed in future years, depending on the total workload resulting from the bill’s requirements and the extent

to which local jurisdictions may establish local commissions (which may alleviate the use of COCOD resources in those jurisdictions). However, without experience under the bill, the Department of Legislative Services is unable to reliably estimate the need for any additional staff beyond those accounted for in this fiscal and policy note. To the extent, however, that additional resources are required, DHCD can request additional positions through the annual budget process.

Although the bill establishes the Common Ownership Community Oversight Fund to provide funding for the division, this analysis assumes that general funds are required to initiate operations of COCOD in fiscal 2027 due to the bill's October 1, 2026 effective date. Assuming, however, that DHCD promptly adopts regulations to establish the fees and fine authorized by the bill – which are to be credited to the fund – funding from these sources will be available to cover (at least partially and possibly fully) the expenditures for the staff accounted for in this fiscal and policy note, *perhaps* as early as fiscal 2028. While this estimate assumes the need for general funds to fulfill the bill's mandated appropriation in fiscal 2028, to the extent special funds from fines and fees are available sooner, the Governor may use special funds for this purpose.

Although the bill indicates that interest earnings of the new special fund remain in the fund, the bill does not amend Section 8 of Chapter 717 of 2024 (the Budget Reconciliation and Financing Act of 2024) which requires, notwithstanding any other provision of law, that interest earnings from special funds or accounts (with certain exceptions) accrue to the general fund from fiscal 2024 through 2028. Thus, to the extent fees and fines are collected, general fund revenues may increase minimally from interest earnings of the new special fund through fiscal 2028. The fund is exempted from a similar requirement under § 6-226(a)(2) of the State Finance and Procurement Article that applies from fiscal 2029 forward.

Judiciary

Any impact on the Judiciary is anticipated to be minimal and handled within existing budgeted resources.

Local Fiscal Effect: The bill does not require local governments to establish local commissions on COCs. However, if a local government elects to establish such a commission, it must abide by the specific guidelines outlined in the bill. Although local government expenditures likely increase if such commissions are established, any impact directly attributable to the bill is only to the extent that, absent the bill's requirements, the commission established by the jurisdiction would have differed in a way that may have minimized costs that are likely incurred to meet the bill's specific requirements. Local jurisdictions are also authorized to establish fees under the bill; depending on the amount of any potential fees charged, such fees may partially, if not fully, cover operating costs.

Counties that have already elected to establish local commissions are, however, subject to the bill's requirements and may incur associated costs to conform current commission operations to the requirements under the bill. For example, Charles County (which administers a local government Homeowners Association Dispute Resolution Board) estimates the need for at least four additional staff members, with associated expenditures of at least \$358,293 on an annual basis. These costs may be offset to the extent the county alters its current fee structure to cover the additional expense.

Small Business Effect: Small business COC managers that are involved in disputes are subject to additional dispute/complaint procedures created under the bill.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See HB 306 and SB 866 of 2025 and HB 1457 of 2024.

Designated Cross File: SB 981 (Senator Muse) - Rules.

Information Source(s): Charles, Montgomery, and Prince George's counties; Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Department of Housing and Community Development; 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, the person 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. Because registration of the various COCs is not required statewide, the exact number of COCs in Maryland is unknown. However, the Foundation for Community Association Research estimated that there were 7,200 community associations with an estimated 1.1 million residents in these associations in the State in 2024.

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 homeowner's 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 an individual unit; instead, 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 outstanding fees are generally pursued by way of a landlord-tenant action.