

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 785

(Delegate Feldmark, *et al.*)

Environment and Transportation

Judicial Proceedings

**Common Ownership Communities and Zoning Authorities - Operation of Family
Child Care Homes - Limitations**

This bill generally prohibits the governing documents of a cooperative housing corporation, condominium, or homeowners association (HOA) from prohibiting or restricting (1) the establishment and operation of a family child care home or large family child care home or (2) the use of the roads, sidewalks, and other common elements of the common ownership communities (COCs) by users of the family child care home or large family child care home. The bill also prohibits COCs and local jurisdictions from limiting the number of children for which a family child care home or large family child care home provides family child care to below the number authorized by the Maryland State Department of Education. The bill's provisions do not apply to housing that is restricted for occupancy to individuals over a specified age.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State operations or finances.

Local Effect: The bill is not anticipated to directly affect local government finances but may have an operational impact, as discussed below.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary/Current Law:

Family Child Care Homes and Large Family Child Care Homes – In General

Under current law and subject to limited exception, family child care homes and large family child care homes may not operate in the State unless they are registered. The State Board of Education is required to adopt regulations that relate to the registration of family child care homes and large family child care homes. A family child care home is a residence in which family child care is provided for up to 8 children. A large family child care home is a residence in which family child care is provided for at least 9 children, but not more than 12 children. Statute and regulation include additional provisions regarding the ages of children in care.

Family Child Care Homes and Large Family Child Care Homes within Common Ownership Communities

Generally, State statute includes the Maryland Condominium Act (MCA), the Maryland Homeowners Association Act (MHAA), and the Maryland Cooperative Housing Corporation Act (MCHCA), all of which regulate various aspects of COC operations. While there are no applicable provisions within MCHCA, statute includes explicit provisions regarding the operations of family child care providers within condominiums and HOAs. For example, condominiums and HOAs may expressly prohibit the use of a unit in a condominium or residence in an HOA as a family child care home if approved by a specified threshold of unit or lot owners within the community.

In general, the bill – by repealing or otherwise altering related provisions within MHAA and MCA and adding provisions in MCHCA, as applicable – establishes that the governing documents of a COC may not prohibit or restrict (1) the establishment and operation of a family child care home or large family child care home or (2) the use of the roads, sidewalks, and other common elements of the COC by users of the family child care home/large family child care home. The operation of a family child care home or large family child care home must be considered a residential activity and a permitted activity.

As similarly authorized under current law for condominiums and HOAs, the bill establishes that the governing documents of a cooperative housing corporation *may*:

- require a family child care provider to pay on a *pro rata* basis based on the total number of family child care homes or large family child care homes operating in the cooperative housing corporation any increase in insurance costs of the corporation that are solely and directly attributable to the operation of the child care homes;

- impose a fee for the use of common elements in a reasonable amount up to \$50 per year on each child care home operating in the cooperative housing corporation; and
- require residents to notify the cooperative housing corporation prior to opening a family child care home or large family child care home.

Furthermore, and as similarly required under current law for family child care providers within condominium and HOA communities, the bill establishes that a family child care provider in a cooperative housing cooperation (1) must obtain specified liability insurance, in at least the minimum amounts described under the applicable statute and (2) may not operate without such insurance. However, the COC may not require a family child care provider to obtain insurance in an amount greater than the minimum amount required.

For more information on COCs, see the **Appendix – Common Ownership Communities**.

Local Fiscal Effect: The Maryland Association of Counties advises that the bill has a negative operational impact on local governments, and notes that by preempting county authority to set possible capacity limitations at family child care homes, counties may be unable to enforce certain regulations related to road capacity or health and safety.

Small Business Effect: The bill may increase opportunities for family child care providers that qualify as small businesses by removing barriers to, and increasing capacity for, family child care homes.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See HB 831 of 2024.

Designated Cross File: None.

Information Source(s): Maryland Association of Counties; Maryland Municipal League; Maryland State Department of Education; Maryland Department of Planning; 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 (COC). 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 7,100 community associations with an estimated 1.0 million residents in these associations in the State in 2023.

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.

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 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.

The task force's report also featured findings and recommendations relating to the creation of an ombudsman in local governments. While a small number of local governments (Charles and Montgomery counties) created such offices before the report's publication, some local jurisdictions have since created programs to regulate or provide oversight of COCs. For example, Prince George's County created its Common Ownership Communities Program in 2007 to assist governing bodies, as well as owners and residents of HOAs, residential condominiums, and cooperative housing corporations, with education, training, and alternative dispute resolution.