

SENATE BILL 301

N1
SB 168/16 – JPR

7lr1381
CF 7lr2522

By: **Senators Feldman, Guzzone, Kelley, King, Madaleno, Middleton, Rosapepe, and Smith**

Introduced and read first time: January 20, 2017

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Installation and Use of Electric Vehicle Recharging Equipment**

3 FOR the purpose of providing that certain provisions of a recorded covenant or restriction,
4 a declaration, or the bylaws or rules of a condominium or homeowners association
5 are void and unenforceable; establishing certain requirements and procedures
6 relating to an application to the governing body of a condominium or homeowners
7 association to install or use electric vehicle recharging equipment; requiring certain
8 owners of electric vehicle recharging equipment to be responsible for certain costs
9 and disclosures; requiring a unit or lot owner to obtain certain permits or approval
10 required for electric vehicle recharging equipment; requiring the governing body of
11 a condominium or homeowners association to authorize the installation of electric
12 vehicle recharging equipment for the exclusive use of a unit or lot owner in certain
13 areas under certain circumstances; authorizing the governing body of a
14 condominium or homeowners association to install electric vehicle recharging
15 equipment in certain areas and to develop reasonable rules for use of the equipment;
16 authorizing the governing body of a condominium or homeowners association to
17 create new parking spaces under certain circumstances; providing that a governing
18 body that willfully violates this Act shall be liable to a certain owner for certain
19 damages under certain circumstances; authorizing a court to award reasonable
20 attorney's fees to a certain prevailing plaintiff; establishing a certain State policy;
21 providing for the application of certain provisions of this Act; defining certain terms;
22 and generally relating to the installation and use of electric vehicle recharging
23 equipment in certain condominiums and developments.

24 BY adding to
25 Article – Real Property
26 Section 11–111.4 and 11B–111.7
27 Annotated Code of Maryland
28 (2015 Replacement Volume and 2016 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Real Property

11-111.4.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “ELECTRIC VEHICLE RECHARGING EQUIPMENT” MEANS PROPERTY IN THE STATE THAT IS USED FOR RECHARGING MOTOR VEHICLES PROPELLED BY ELECTRICITY.

(3) “REASONABLE RESTRICTIONS” MEANS RESTRICTIONS THAT DO NOT SIGNIFICANTLY INCREASE THE COST OF ELECTRIC VEHICLE RECHARGING EQUIPMENT OR SIGNIFICANTLY DECREASE THE EFFICIENCY OR SPECIFIED PERFORMANCE OF THE ELECTRIC VEHICLE RECHARGING EQUIPMENT.

(B) IT IS THE POLICY OF THE STATE TO PROMOTE, ENCOURAGE, AND REMOVE OBSTACLES TO THE USE OF ELECTRIC VEHICLE RECHARGING EQUIPMENT.

(C) THIS SECTION DOES NOT APPLY TO PROVISIONS THAT IMPOSE REASONABLE RESTRICTIONS ON ELECTRIC VEHICLE RECHARGING EQUIPMENT.

(D) A RECORDED COVENANT OR RESTRICTION, A PROVISION IN A DECLARATION, OR A PROVISION IN THE BYLAWS OR RULES OF A CONDOMINIUM IS VOID AND UNENFORCEABLE IF THE COVENANT, RESTRICTION, OR PROVISION:

(1) IS IN CONFLICT WITH THE PROVISIONS OF THIS SECTION; OR

(2) EFFECTIVELY PROHIBITS OR UNREASONABLY RESTRICTS THE INSTALLATION OR USE OF ELECTRIC VEHICLE RECHARGING EQUIPMENT IN A UNIT OWNER’S DESIGNATED PARKING SPACE, INCLUDING A DEEDED PARKING SPACE, A PARKING SPACE IN AN OWNER’S EXCLUSIVE USE LIMITED COMMON ELEMENT, OR A PARKING SPACE THAT IS SPECIFICALLY DESIGNATED FOR USE BY A PARTICULAR OWNER.

(E) (1) IF APPROVAL IS REQUIRED FOR THE INSTALLATION OR USE OF ELECTRIC VEHICLE RECHARGING EQUIPMENT IN A CONDOMINIUM, THE GOVERNING BODY SHALL PROCESS AND REVIEW AN APPLICATION FOR APPROVAL IN THE SAME MANNER AS AN APPLICATION FOR APPROVAL OF AN ARCHITECTURAL MODIFICATION TO THE CONDOMINIUM.

1 **(2) THE GOVERNING BODY MAY NOT WILLFULLY AVOID OR DELAY**
2 **PROCESSING AND REVIEWING AN APPLICATION FOR APPROVAL.**

3 **(3) THE APPROVAL OR DENIAL OF AN APPLICATION SHALL BE IN**
4 **WRITING.**

5 **(4) IF AN APPLICATION IS NOT DENIED IN WRITING WITHIN 60 DAYS**
6 **AFTER THE GOVERNING BODY RECEIVES THE APPLICATION, THE APPLICATION**
7 **SHALL BE DEEMED APPROVED, UNLESS THE DELAY IS THE RESULT OF A**
8 **REASONABLE REQUEST FOR ADDITIONAL INFORMATION.**

9 **(F) (1) (I) A UNIT OWNER MAY NOT INSTALL ELECTRIC VEHICLE**
10 **RECHARGING EQUIPMENT IN A COMMON ELEMENT OR LIMITED COMMON ELEMENT**
11 **WITHOUT PRIOR APPROVAL FROM THE GOVERNING BODY.**

12 **(II) THE GOVERNING BODY SHALL APPROVE THE INSTALLATION**
13 **IF THE UNIT OWNER AGREES IN WRITING TO:**

14 **1. COMPLY WITH THE CONDOMINIUM'S**
15 **ARCHITECTURAL STANDARDS FOR THE INSTALLATION OF THE ELECTRIC VEHICLE**
16 **RECHARGING EQUIPMENT;**

17 **2. ENGAGE A LICENSED CONTRACTOR TO INSTALL THE**
18 **ELECTRIC VEHICLE RECHARGING EQUIPMENT; AND**

19 **3. PAY FOR THE ELECTRICITY USAGE ASSOCIATED WITH**
20 **THE ELECTRIC VEHICLE RECHARGING EQUIPMENT.**

21 **(2) THE OWNER AND EACH SUCCESSIVE OWNER OF THE ELECTRIC**
22 **VEHICLE RECHARGING EQUIPMENT SHALL BE RESPONSIBLE FOR:**

23 **(I) INSTALLATION COSTS FOR THE ELECTRIC VEHICLE**
24 **RECHARGING EQUIPMENT;**

25 **(II) COSTS FOR DAMAGE TO THE ELECTRIC VEHICLE**
26 **RECHARGING EQUIPMENT, COMMON ELEMENT, OR LIMITED COMMON ELEMENT**
27 **RESULTING FROM THE INSTALLATION, MAINTENANCE, REPAIR, REMOVAL, OR**
28 **REPLACEMENT OF THE ELECTRIC VEHICLE RECHARGING EQUIPMENT;**

29 **(III) COSTS FOR THE MAINTENANCE, REPAIR, AND**
30 **REPLACEMENT OF THE ELECTRIC VEHICLE RECHARGING EQUIPMENT UNTIL IT HAS**
31 **BEEEN REMOVED;**

1 (IV) IF THE OWNER DECIDES TO REMOVE THE ELECTRIC
2 VEHICLE RECHARGING EQUIPMENT, COSTS FOR THE REMOVAL AND FOR THE
3 RESTORATION OF THE COMMON ELEMENT OR LIMITED COMMON ELEMENT AFTER
4 REMOVAL;

5 (V) THE COST OF ELECTRICITY ASSOCIATED WITH THE
6 ELECTRIC VEHICLE RECHARGING EQUIPMENT; AND

7 (VI) DISCLOSING TO PROSPECTIVE BUYERS THE EXISTENCE OF
8 ANY ELECTRIC VEHICLE RECHARGING EQUIPMENT OF THE OWNER AND THE
9 RESPONSIBILITIES OF THE OWNER UNDER THIS SECTION.

10 (G) A UNIT OWNER SHALL OBTAIN ANY PERMIT OR APPROVAL REQUIRED
11 FOR ELECTRIC VEHICLE RECHARGING EQUIPMENT THAT IS REQUIRED BY THE
12 COUNTY OR MUNICIPAL CORPORATION IN WHICH THE CONDOMINIUM IS LOCATED.

13 (H) (1) THE GOVERNING BODY MAY AUTHORIZE THE INSTALLATION OF
14 ELECTRIC VEHICLE RECHARGING EQUIPMENT FOR THE EXCLUSIVE USE OF A UNIT
15 OWNER IN A COMMON ELEMENT THAT IS NOT A LIMITED COMMON ELEMENT FOR THE
16 EXCLUSIVE USE OF THE UNIT OWNER ONLY IF INSTALLATION IN THE UNIT OWNER'S
17 DESIGNATED PARKING SPACE IS IMPOSSIBLE OR UNREASONABLY EXPENSIVE.

18 (2) IF THE GOVERNING BODY AUTHORIZES THE INSTALLATION OF
19 ELECTRIC VEHICLE RECHARGING EQUIPMENT UNDER THIS SUBSECTION:

20 (I) THE GOVERNING BODY SHALL ENTER INTO A LICENSE
21 AGREEMENT WITH THE UNIT OWNER FOR THE USE OF THE SPACE IN A COMMON
22 ELEMENT; AND

23 (II) THE UNIT OWNER SHALL COMPLY WITH THE
24 REQUIREMENTS OF SUBSECTION (F) OF THIS SECTION.

25 (I) (1) THE GOVERNING BODY MAY INSTALL ELECTRIC VEHICLE
26 RECHARGING EQUIPMENT IN THE COMMON ELEMENTS FOR THE USE OF ALL UNIT
27 OWNERS.

28 (2) IF THE GOVERNING BODY INSTALLS ELECTRIC VEHICLE
29 RECHARGING EQUIPMENT IN THE COMMON ELEMENTS FOR THE USE OF ALL UNIT
30 OWNERS, THE GOVERNING BODY SHALL DEVELOP REASONABLE RULES FOR USE OF
31 THE ELECTRIC VEHICLE RECHARGING EQUIPMENT.

1 **(J) A GOVERNING BODY MAY CREATE A NEW PARKING SPACE WHERE ONE**
2 **DID NOT PREVIOUSLY EXIST TO FACILITATE THE INSTALLATION OF ELECTRIC**
3 **VEHICLE RECHARGING EQUIPMENT.**

4 **(K) A GOVERNING BODY THAT WILLFULLY VIOLATES THIS SECTION SHALL**
5 **BE LIABLE TO THE AFFECTED UNIT OWNER FOR:**

6 **(1) ACTUAL DAMAGES; AND**

7 **(2) PUNITIVE DAMAGES NOT EXCEEDING \$1,000.**

8 **(L) IN ANY ACTION TO ENFORCE COMPLIANCE WITH THIS SECTION, THE**
9 **COURT MAY AWARD THE PREVAILING PLAINTIFF REASONABLE ATTORNEY'S FEES.**

10 **11B-111.7.**

11 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
12 **INDICATED.**

13 **(2) "ELECTRIC VEHICLE RECHARGING EQUIPMENT" MEANS**
14 **PROPERTY IN THE STATE THAT IS USED FOR RECHARGING MOTOR VEHICLES**
15 **PROPELLED BY ELECTRICITY.**

16 **(3) "REASONABLE RESTRICTIONS" MEANS RESTRICTIONS THAT DO**
17 **NOT SIGNIFICANTLY INCREASE THE COST OF ELECTRIC VEHICLE RECHARGING**
18 **EQUIPMENT OR SIGNIFICANTLY DECREASE THE EFFICIENCY OR SPECIFIED**
19 **PERFORMANCE OF THE ELECTRIC VEHICLE RECHARGING EQUIPMENT.**

20 **(B) IT IS THE POLICY OF THE STATE TO PROMOTE, ENCOURAGE, AND**
21 **REMOVE OBSTACLES TO THE USE OF ELECTRIC VEHICLE RECHARGING EQUIPMENT.**

22 **(C) THIS SECTION DOES NOT APPLY TO PROVISIONS THAT IMPOSE**
23 **REASONABLE RESTRICTIONS ON ELECTRIC VEHICLE RECHARGING EQUIPMENT.**

24 **(D) A RECORDED COVENANT OR RESTRICTION, A PROVISION IN A**
25 **DECLARATION, OR A PROVISION IN THE BYLAWS OR RULES OF A HOMEOWNERS**
26 **ASSOCIATION IS VOID AND UNENFORCEABLE IF THE COVENANT, RESTRICTION, OR**
27 **PROVISION:**

28 **(1) IS IN CONFLICT WITH THE PROVISIONS OF THIS SECTION; OR**

29 **(2) EFFECTIVELY PROHIBITS OR UNREASONABLY RESTRICTS THE**
30 **INSTALLATION OR USE OF ELECTRIC VEHICLE RECHARGING EQUIPMENT IN A LOT**

1 OWNER'S DESIGNATED PARKING SPACE, INCLUDING A DEEDED PARKING SPACE, A
2 PARKING SPACE IN AN OWNER'S EXCLUSIVE USE COMMON AREA, OR A PARKING
3 SPACE THAT IS SPECIFICALLY DESIGNATED FOR USE BY A PARTICULAR OWNER.

4 (E) (1) IF APPROVAL IS REQUIRED FOR THE INSTALLATION OR USE OF
5 ELECTRIC VEHICLE RECHARGING EQUIPMENT IN A DEVELOPMENT, THE GOVERNING
6 BODY SHALL PROCESS AND REVIEW AN APPLICATION FOR APPROVAL IN THE SAME
7 MANNER AS AN APPLICATION FOR APPROVAL OF AN ARCHITECTURAL
8 MODIFICATION TO A DWELLING LOCATED ON A LOT IN THE DEVELOPMENT.

9 (2) THE GOVERNING BODY MAY NOT WILLFULLY AVOID OR DELAY
10 PROCESSING AND REVIEWING AN APPLICATION FOR APPROVAL.

11 (3) THE APPROVAL OR DENIAL OF AN APPLICATION SHALL BE IN
12 WRITING.

13 (4) IF AN APPLICATION IS NOT DENIED IN WRITING WITHIN 60 DAYS
14 AFTER THE GOVERNING BODY RECEIVES THE APPLICATION, THE APPLICATION
15 SHALL BE DEEMED APPROVED, UNLESS THE DELAY IS THE RESULT OF A
16 REASONABLE REQUEST FOR ADDITIONAL INFORMATION.

17 (F) (1) (I) A LOT OWNER MAY NOT INSTALL ELECTRIC VEHICLE
18 RECHARGING EQUIPMENT IN A COMMON AREA WITHOUT PRIOR APPROVAL FROM
19 THE GOVERNING BODY.

20 (II) THE GOVERNING BODY SHALL APPROVE THE INSTALLATION
21 IF THE LOT OWNER AGREES IN WRITING TO:

22 1. COMPLY WITH THE HOMEOWNERS ASSOCIATION'S
23 ARCHITECTURAL STANDARDS FOR THE INSTALLATION OF THE ELECTRIC VEHICLE
24 RECHARGING EQUIPMENT;

25 2. ENGAGE A LICENSED CONTRACTOR TO INSTALL THE
26 ELECTRIC VEHICLE RECHARGING EQUIPMENT; AND

27 3. PAY FOR THE ELECTRICITY USAGE ASSOCIATED WITH
28 THE ELECTRIC VEHICLE RECHARGING EQUIPMENT.

29 (2) THE OWNER AND EACH SUCCESSIVE OWNER OF THE ELECTRIC
30 VEHICLE RECHARGING EQUIPMENT SHALL BE RESPONSIBLE FOR:

31 (I) INSTALLATION COSTS FOR THE ELECTRIC VEHICLE
32 RECHARGING EQUIPMENT;

(II) COSTS FOR DAMAGE TO THE ELECTRIC VEHICLE RECHARGING EQUIPMENT OR COMMON AREA RESULTING FROM THE INSTALLATION, MAINTENANCE, REPAIR, REMOVAL, OR REPLACEMENT OF THE ELECTRIC VEHICLE RECHARGING EQUIPMENT;

(III) COSTS FOR THE MAINTENANCE, REPAIR, AND REPLACEMENT OF THE ELECTRIC VEHICLE RECHARGING EQUIPMENT UNTIL IT HAS BEEN REMOVED;

(IV) IF THE OWNER DECIDES TO REMOVE THE ELECTRIC VEHICLE RECHARGING EQUIPMENT, COSTS FOR THE REMOVAL AND FOR THE RESTORATION OF THE COMMON AREA AFTER REMOVAL;

(V) THE COST OF ELECTRICITY ASSOCIATED WITH THE ELECTRIC VEHICLE RECHARGING EQUIPMENT; AND

(VI) DISCLOSING TO PROSPECTIVE BUYERS THE EXISTENCE OF ANY ELECTRIC VEHICLE RECHARGING EQUIPMENT OF THE OWNER AND THE RESPONSIBILITIES OF THE OWNER UNDER THIS SECTION.

(G) A LOT OWNER SHALL OBTAIN ANY PERMIT OR APPROVAL REQUIRED FOR ELECTRIC VEHICLE RECHARGING EQUIPMENT BY THE COUNTY OR MUNICIPAL CORPORATION IN WHICH THE DEVELOPMENT IS LOCATED.

(H) (1) THE GOVERNING BODY MAY AUTHORIZE THE INSTALLATION OF ELECTRIC VEHICLE RECHARGING EQUIPMENT FOR THE EXCLUSIVE USE OF A LOT OWNER IN A COMMON AREA THAT IS NOT LIMITED TO THE EXCLUSIVE USE OF THE LOT OWNER ONLY IF INSTALLATION IN THE LOT OWNER'S DESIGNATED PARKING SPACE IS IMPOSSIBLE OR UNREASONABLY EXPENSIVE.

(2) IF THE GOVERNING BODY AUTHORIZES THE INSTALLATION OF ELECTRIC VEHICLE RECHARGING EQUIPMENT UNDER THIS SUBSECTION, THE GOVERNING BODY SHALL ENTER INTO A LICENSE AGREEMENT WITH THE LOT OWNER FOR THE USE OF THE SPACE IN A COMMON AREA, AND THE LOT OWNER SHALL COMPLY WITH THE REQUIREMENTS OF SUBSECTION (F) OF THIS SECTION.

(I) (1) THE GOVERNING BODY MAY INSTALL ELECTRIC VEHICLE RECHARGING EQUIPMENT IN THE COMMON AREAS FOR THE USE OF ALL LOT OWNERS.

(2) IF THE GOVERNING BODY INSTALLS ELECTRIC VEHICLE RECHARGING EQUIPMENT IN THE COMMON AREAS FOR THE USE OF ALL LOT

1 OWNERS, THE GOVERNING BODY SHALL DEVELOP REASONABLE RULES FOR USE OF
2 THE ELECTRIC VEHICLE RECHARGING EQUIPMENT.

3 (J) A GOVERNING BODY MAY CREATE A NEW PARKING SPACE WHERE ONE
4 DID NOT PREVIOUSLY EXIST TO FACILITATE THE INSTALLATION OF ELECTRIC
5 VEHICLE RECHARGING EQUIPMENT.

6 (K) A GOVERNING BODY THAT WILLFULLY VIOLATES THIS SECTION SHALL
7 BE LIABLE TO THE AFFECTED LOT OWNER FOR:

8 (1) ACTUAL DAMAGES; AND

9 (2) PUNITIVE DAMAGES NOT EXCEEDING \$1,000.

10 (L) IN ANY ACTION TO ENFORCE COMPLIANCE WITH THIS SECTION, THE
11 COURT MAY AWARD THE PREVAILING PLAINTIFF REASONABLE ATTORNEY'S FEES.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2017.