

the operating agreement shall govern. It authorizes a court to order a specified remedy, notwithstanding the existence of an agency relationship between the parties, to an operating agreement.

Senate Bill 603, which was passed by the General Assembly and signed by me on May 11, 2004, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 703.

Very truly yours,
Robert L. Ehrlich, Jr.
Governor

House Bill No. 703

AN ACT concerning

Commercial Law - Hotels and Retirement Communities - Operating Agreements

FOR the purpose of providing that if a conflict exists between the express terms and conditions of an operating agreement and the terms and conditions implied by the law governing the relationship between a principal and agent, the express terms and conditions of the operating agreement shall govern; authorizing a court to order a certain remedy notwithstanding the existence of an agency relationship between the parties to an operating agreement; providing that express covenants or other provisions of an operating agreement that establish a party's duties and obligations under the operating agreement create the only duties and obligations enforceable against the party under the operating agreement; providing that an operating agreement that states that it shall continue for a period of time or until the happening of an event shall be enforceable between the parties until the expiration of the period of time or the happening of the event unless the operating agreement contains a right of early termination; requiring that the covenant of good faith and fair dealing be implied in an operating agreement except under certain circumstances; prohibiting duties from being implied into an operating agreement unless the operating agreement contains a covenant or other provision that specifically incorporates the duty into the operating agreement; prohibiting this Act from being construed to limit the defenses of fraud, duress, or illegality or affect any claim between a third party and a party to an operating agreement; defining certain terms; requiring that this Act be construed to apply to all operating agreements that are executory agreements as of a certain date or are executed and delivered after a certain date; and generally relating to operating agreements that relate to hotels and retirement communities.

BY adding to

Article - Commercial Law

Section 23-101 through 23-106, inclusive, to be under the new title "Title 23.

Operating Agreements - Hotels and Retirement Communities"

Annotated Code of Maryland