

JULY 2015

Community Associations Newsletter

MARYLAND LEGISLATIVE UPDATE

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While 2015 was a relatively “quiet” year in the Maryland General Assembly session in terms of new laws impacting community associations, often the real story was not which laws passed, but rather which bills failed to pass. As discussed below, however, there were some local laws impacting community associations at the County level which did pass and which may have significant impacts.

STATEWIDE LEGISLATION

First, since the list is short, the following community association related bills did pass and will become Maryland law on October 1, 2015.

- **Maryland Home Builder – Guarantee Fund (HB 154):** This new law will increase to \$7,500 (from \$5,000) the amount that a homeowner may seek from homebuilders from a fund maintained by the Consumer Protection Division.
- **Workers Compensation – Cancellation and Non-Renewal/Notice (SB 368):** This new law will increase from 30 to 45 days the time that an insurer must serve notice of cancellation or non-renewal of a workers compensation policy before its expiration.
- **Watershed Protection “Rain Tax” (SB 863):** This bill repealed a 2012 Maryland law which mandated that 10 Maryland counties were required to pay for Maryland’s portion of the federal mandate under the Clean Water Act. The new law allows all Maryland jurisdictions to determine how the jurisdiction accumulates the necessary funding (tax versus general funds, etc.).

The following bills did **NOT** pass:

- **Candidates and Campaign Volunteers – Access to Private Residential Areas (HB 373):** This bill would have prevented private communities from banning political candidates and/or campaign volunteers from accessing common areas or distributing campaign materials in the common areas.
- **Maryland Cooperative Act – Eviction Delinquency Period (HB 741):** This bill would have modified a law, imposed in 2014, requiring that a member of a cooperative be at least 90 days in arrears before the cooperative association could move to evict the member. The bill was referred for interim study.
- **Warranty Act (HB 829):** The bill would have, among other things, limited the ability of developers to include certain provisions in condominium and homeowner association covenants mandating arbitration or attempting to shorten existing statutes of limitations available under existing law for construction defects.
- **Maryland Collection Agency Licensing Act (HB 951):** The bill would have exempted community and rental management firms from having to be licensed under the Maryland Collection Agency Licensing Act.
- **Resale Disclosure Fees (HB 1007):** This bill would have drastically restricted the amounts that associations and their management firms could charge for preparing certain certifications associated with resale packets.
- **Debt Collection (SB 678):** This bill would have greatly and unreasonably expanded the protections provided to debtors and would have significantly impacted the ability of community associations to collect past due fees.
- **Installation and Use of Electric Vehicle Recharging Equipment (SB 762):** The bill would have restricted the ability of community associations to control the placement of recharging equipment in common elements and common areas.

MONTGOMERY COUNTY LEGISLATION

The Montgomery County Council was quite active this past year.

- **Mandatory Board Training (Bill 45-14 amending Chapter 10B of the County Code):** This new law will require Board members of community associations (including cooperatives) in Montgomery County to complete certain yet-to-be-approved training within 90 days of being

elected/appointed (starting in January 2016). The training will likely consist of a 2-hour program developed or approved by the County's Commission on Common Ownership Communities (CCOC). The hope is that the program will be web-based so that directors may easily complete the course over the internet. Sitting Board members as of January 1, 2016 will not be required to complete the training until they undertake a "new" term. The good news is that once a director has completed the training, he or she will not have to undertake future training (at least for that Montgomery County community association).

While the failure to complete such training will not invalidate a director's vote or Association decisions, the Association is required to attest annually that its directors have completed such training. The County may take enforcement action against a non-compliant director, but an original proposal to subject directors to fines (which was opposed by our office and others) was not included in the final law.

- **Rental Licensing in Community Associations/Delinquent Association Dues (Bill 44-14 amending Chapter 29 of the County Code):** This new law requires that persons who rent units in community associations within the County certify that all dues owed to the community association are not more than 30 days past due. The law prohibits the Director of Housing and Community Affairs (responsible for issuing rental housing licenses) from issuing or renewing rental licenses to "landlords" without such certification. Associations may charge no more than \$25 to issue such a certification.

In addition, the Director of Housing and Community Affairs is authorized to deny, suspend or revoke a housing rental license for unpaid association fees if an association submits proof of the same (lien or unsatisfied judgment). This is a positive law for community associations in Montgomery County as it would be another tool in the continuing struggle to deal with assessment delinquencies and we applaud the County's effort.

Please contact us or any of our community association attorneys for further information about these legislative changes.