

2011 MARYLAND LEGISLATIVE UPDATE

During the 2011 Legislative Session, the Maryland General Assembly considered dozens of bills concerning condominium and homeowner associations. Most were defeated in committee. However, several bills were passed which impact governance of condominium and homeowner associations.

Priority Assessment Lien

With only hours left before the end of the 2011 Legislative Session on April 11, the Maryland General Assembly gave final approval to Priority Assessment Lien legislation to aid condominiums and homeowner associations when there is a lender foreclosure (HB 1246). After the priority lien bill was passed by a divided vote in the House of Delegates (91-43), it received unanimous Senate approval (46-0).

The bill allows a 4-month priority up to \$1,200 for condominium and homeowner association assessments. When there is a lender foreclosure sale, up to \$1,200 of assessments will be paid **before** the mortgage debt is paid. The new law applies to loans obtained after October 1, 2011.

Throughout the 2011 legislative session, Tom Schild and other members of the Community Associations Institute's Maryland Legislative Action Committee (CAI) met with legislators, submitted written testimony and attended committee hearings in support of the priority lien bill. Enactment of HB 1246 caps a 15-year effort by CAI and community associations throughout Maryland to establish a statutory priority for assessment liens.

As originally introduced, the lien priority would be for 6 months plus late fees and collection costs. The legislation was vigorously opposed by the Maryland Bankers Association until early April 2011. Faced with active support from House and Senate legislative committee leaders for a lien priority for association assessments, the bankers group agreed to a 4-month lien priority up to \$1,200 of assessments.

The priority lien bill also establishes new notice procedures as a condition for establishing the lien priority. On request of a lender, the association must inform the lender of the amount of lien priority. This information must also be stated on the recorded lien.

In 2010, there were over 10,600 lender foreclosure sales in Maryland, according to the Maryland Department of Housing and Community Development. For every 1,000 foreclosures, condos and HOAs throughout Maryland will be able to recover up to \$1.2 million of unpaid assessments. **Over time, the priority lien law will provide tens of millions of dollars to Maryland associations.**

Condo Unit Owner Insurance

Also enacted was a bill to make it easier to amend condominium bylaws to require unit owners to purchase insurance to cover damage to a unit which is not covered by the master insurance policy (HB 679).

The Maryland Condominium Act was amended in 2009 to require a unit owner to pay up to \$5,000 of the insurance deductible under the master policy where the cause of damage – such as water or fire – originated in the owner’s unit. Where such damage to the common elements or another unit occurs, the condominium and other affected owners often have difficulty collecting the deductible amount from the owner of the unit where the cause originated if the owner does not have an individual unit insurance policy -- known as an HO-6 policy.

HB 679 helps condominium associations by **allowing amendments to the condominium bylaws to require unit owners to purchase an individual HO-6 insurance policy with the approval of 51 percent of the ownership votes.** This is less than the usual 66 2/3 vote required to amend condominium bylaws.

The new law leaves it to each condominium to decide whether to require individual HO-6 policies, but encourages condominium to require such policies by making it easier to amend the bylaws.

Association Governance

Legislation was passed to allow owners to dispute **homeowner association election procedures** by filing a complaint with the Maryland Attorney General’s Consumer Protection Division (HB 99/SB 532).

A bill to ease the foreclosure procedures applicable to condominium and homeowner association liens was passed by the House of Delegates but killed by the Senate Committee which considered the bill (HB 367).

Several other bills regarding association governance were introduced but **defeated by the legislative committee which reviewed the bill.** These include bills concerning association fines and assessments (HB 100); association enforcement powers and procedures (HB 395 and HB 984/SB 266); developer transition (HB 1339 and HB 995); and assessments to comply with government requirements (HB 827/SB 548).

Manager Licensing

Another hot topic during the 2011 legislative session was community association manager licensing. Several bills were introduced to require community association managers to be licensed by, or registered with, the State of Maryland (HB 537/HB 592/HB 942 and SB 824). The manager licensing bills proposed various eligibility criteria to obtain a license based upon a person’s experience and knowledge of community association governance. A license fee would also be required.

Although none of these bills were enacted this year, **further consideration of community association manager licensing is expected again in 2012.**

Separately, a bill was proposed to require management companies to obtain fidelity insurance to protect associations against misappropriation of funds (SB 264). And, a bill was introduced to require community association management contracts to include specified provisions regarding termination of the contract; handling of association funds; association records and other matters (HB 722).