



2020 End of Session Report

Although the 2020 session of the Maryland General Assembly was cut short by the COVID-19 crisis, 1663 bills were introduced in the House and 1081 in the Senate. The Maryland Legislative Action Committee (MD-LAC) had a very busy and successful session, as its 2 legislative initiatives for this year, one on condominium master policy deductibles and the other on obtaining mortgagee approval for amendments to declarations, both passed and will become law.

The following bills impacting Maryland cooperatives, condominiums and homeowner associations were passed by the General Assembly, were not signed but allowed to become law by Governor Hogan and will be effective on October 1, 2020.

HB 108/SB175: Condominiums – Responsibility for Property Insurance Deductibles: In 2009, the MD-LAC successfully lobbied the Maryland General Assembly to pass a bill allowing condominiums to shift up to \$5,000 of the master policy's deductible from the condominium to the unit owner if the cause of damage or destruction to any portion of the condominium originates from a unit. If the cause of any damage or destruction originates from the common elements, then the master policy's deductible is a common expense. Since unit owners are responsible for maintaining their units and the condominium is responsible for maintaining the common elements, it was only fair that the deductible responsibility would be paid by the person or entity responsible for the maintenance of the item causing the damage. Unit owners are able to obtain coverage under their homeowner policies to cover their obligation to remit the master policy's deductible.

At the time the deductible law was passed in 2009, the typical deductible on a master policy was \$5,000.00. In the ensuing years, many condominiums have only been able to obtain coverage with master policy deductibles of \$10,000.00 or higher. To bring the law in line with current master policy deductibles, at the request of the MD-LAC, Senator West introduced SB175 and Del. Stein introduced HB 108, which provides that if the damage originates in a unit, the maximum amount of the master policy's deductible that can be shifted to the unit owner is \$10,000.00. If the loss originates from the common elements, the deductible is a condominium expense.

Although the law was clear on responsibility for the deductible if the loss originated in a unit or a common element, the law did not address who was responsible for the deductible if the loss originated outside a unit or a common elements, for example damage from a storm. The bills also clarifies this issue and provides that if a loss originates from an The MD-LAC sent a call to action that engaged 163 advocates to email their legislators in support of this bill.

Status: PASSED

HB25/SB293-Condominiums and Homeowners Associations-Amendments to Declarations and Governing Documents Some condominium and homeowner association declarations require the approval of a certain percentage of the holders of mortgagees or deeds of trust on a unit in order to

amend the declaration. These holders, typically, did not respond to requests to vote on proposed amendments to declarations, saddling many condominium and homeowner associations with outdated and undesirable covenants.

At the request of the MD-LAC, Senator West introduced SB293 and Delegate Holmes introduced HB25, which provides that if the declaration of a condominium or a homeowners association contains a provision requiring any action on the part of a holder of a mortgage or deed of trust on a unit in a condominium or a lot within a homeowners association to amend the declaration, that provision is deemed satisfied if the following procedures are followed: (i) notice is sent to each holder with a copy of the proposed amendment; and (ii) if the holder fails to object, in writing, to the proposed amendment within 60 days after the date of actual receipt of the proposed amendment, the holder is deemed to have consented to the proposed amendment. For years, the Maryland Condominium Act has enabled condominiums to utilize these procedures if the approval of holders of mortgages or deeds of trust on units was necessary to amend condominium bylaws.

These procedures for obtaining the approval of holders for declaration amendments do not apply if the amendments: (i) alter the priority of the lien of the mortgage or deed of trust; (ii) materially impairs or affects the unit or lot as collateral; or (iii) materially impairs or affects the right of the holder to exercise any rights under the mortgage, the deed of trust or applicable law.

Status: PASSED

HB254-Prince George's County-Cooperative Housing Corporation, Condominiums, and Homeowners Associations-Reserve Studies The Prince George's County Delegation introduced HB254 requiring cooperatives, condominiums and homeowner associations located in Prince George's County to perform a reserve study every 5 years for future major repairs and replacements of common elements of a cooperative and condominium and common areas of a homeowners association. The annual budgets of cooperatives, condominiums and homeowner associations must include funds equal to at least 80% of the funding amount recommended in the reserve study and assessments can be increased to cover the reserve funding amount notwithstanding any provision in a condominium or homeowners association articles of incorporation, bylaws or declaration or any provision in a cooperative's articles of incorporation, bylaws or proprietary lease. This law applies to condominiums and cooperatives in Prince George County with more than 50 units and to homeowner associations in Prince George's County with more than 50 dwelling unit and that have responsibility in the declaration for maintaining and repairing common areas.

Senator Benson introduced SB386 and Delegate Holmes introduced HB58, which would have imposed similar reserve requirements statewide.

Status: FAILED

SB 472: Homeowner Associations - Adopted Budget Annual Budget – Submission to Lot Owners:

Currently, the board of directors, or other governing body of a homeowners association, are required to submit to the lot owners an annual proposed budget at least 30 days before the budget is adopted at an open meeting of the homeowners association or any other body to which the homeowners association delegates responsibility for preparing and adopting the budget. Senator Lamm introduced

SB472 requiring the board of directors or other governing body of a homeowners association to submit the adopted annual budget to the lot owners not more than 30 days after the meeting at which the budget is adopted. The adopted annual budget may be sent to each lot owner by electronic transmission, by posting on the association's home page or inclusion in the association's newsletter.

Status: PASSED

In addition to the bills that passed, the MD-LAC took a position on the following bills that did not pass:

HB 1628: Sales and Use Tax – Rate Reduction and Services. With the assistance of the strong grass roots opposition from CAI members, the MD-LAC was able to assist in the failure of HB1628. In an attempt to raise revenue, House Majority Leader Eric Luedtke introduced HB1628 which would have lowered the sales and use tax from 6% to 5%, but would have broadly taxed services. The bill defined "Taxable Service" as any activity engaged in for a buyer for consideration. Nearly all community association services, including property management, pool management, landscaping, snow removal and trash pick-up would have been subject to this tax. The passage of this bill would have increased every association's budget by thousands of dollars to cover the service tax, which would have caused associations to either decrease services or increase assessments paid by owners. Their efforts began with an email campaign to legislators. Roughly, 2,300 advocates sent more than 2,800 emails to the Revenue Subcommittee opposing the tax hike.

Status: FAILED

HB30/SB471-Disclosures to Condominium Unit Owners and Prohibited Provisions in Instruments

Introduced in the Senate by Senator Hester and in the House by Delegate Watson, this bill clarified that the provisions regarding closed meetings could not be interpreted to authorize the board to withhold or agree to withhold from unit owners the terms of any legal agreement to which the condominium is a party. The bill also provided that any provision in an agreement, other than an agreement related to a personnel matter or an assessment account, was unenforceable if it prohibited the disclosure to the unit owners or a prospective purchaser in a resale disclosure statement. The MD-LAC supported these bills. Although the House version passed, it died in the Senate Judicial Proceedings Committee for lack of action.

Status: FAILED

HB111/SB734- Electric Vehicle Recharging Equipment for Multi-Family Units Act: Legislation was once again introduced by Senator Lam and Delegate Korman concerning the authorization and installation of electric vehicle recharging equipment and the reserving of parking spaces in condominiums and homeowner associations. The bills established standards relating to the installation and the use of electric vehicle recharging equipment in condominiums and homeowner associations and the bills were supported by the MD-LAC. Although the House version passed, the Senate version died in committee.

Status: FAILED

Your Assistance is Needed

The MD-LAC uses a professional, paid lobbyist as a vital and integral part of the legislative

process. As volunteers, MD-LAC members significantly rely on this highly effective professional representation.

Expenses incurred by the LAC are paid for with donations and by Advocacy Fund fees. Corporate contributions are allowed and appreciated. Most community association boards can legally allocate money to support the MD-LAC. **We welcome any donations.** Donations should be made payable to CAI Maryland LAC and mailed to:

**Maryland Legislative Action Committee
Post Office Box 6636
Annapolis, Maryland 21401**