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**To:** Members of The House Environment and Transportation Committee

**From:** William A. O'Connell, Real Property Section Legislative Chair

**Date:** February 10, 2020

**Subject:** HB58 - Cooperative Housing Corporations, Condominiums, and Homeowners Associations - Reserve Studies

**Position:** Technical Comments

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The Maryland State Bar Association (MSBA) Real Property Section Council offers technical comments in connection with **House Bill #58** - Cooperative Housing Corporations, Condominiums, and Homeowners Associations - Reserve Studies.

HB58 addresses budget reserve requirements for condominiums, HOAs, and coops. Because condominiums can apply to any real property, including commercial, mixed-use, etc., if adopted this consumer protection legislation should only apply to residential condominiums with consumer unit owners and not to commercial condominiums or other condominiums that do have the requisite minimum number of residential units that are sold to home buyers. The distinction should be carefully drawn as to residential condominium unit homeowners and not apply to residential apartment buildings that are part of a condominium regime but that do have consumer unit owners. In other words, a more precise exception instead of merely stating that the reserve requirements would not apply to a condominium that is occupied and used solely for nonresidential purposes would be appropriate. There are current exceptions under the Maryland Condominium Act in other contexts for condominiums that are occupied and used solely for nonresidential purposes, which is not an appropriately precise standard and should instead refer to condominiums in which residential units are not sold to or owned by consumer homeowner purchasers, which is the real intention of the consumer protection requirements under the Condominium Act.

The provisions of HB58 that would amend the Maryland Cooperative Housing Corporation Act (Subtitle 6B, Title 5 of the Corporations and Associations Article) contain erroneous references to "unit owner" which should instead be "member". Also, there are references in these bills to "members other than the owner" having a majority of votes in the coop, in which the term "owner" should instead be correctly referenced as "developer".



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The MSBA RP Legislative Committee recognized that HB58 is complex legislation for which the Committee is not taking a position other than to offer comments as to the limited technical edits noted.

Should you have any questions, please contact The MSBA's Legislative Office at (410)-269-6464 / (410)-685-7878 ext: 3066 or at [Richard@MSBA.org](mailto:Richard@MSBA.org) and [Parker@MSBA.org](mailto:Parker@MSBA.org)

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