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House Bill 592
Regulation of Common Ownership Community Managers

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Position: Opposed

Summary
HB 592 seeks to create the State Board of Common Ownership Community Managers in the Department of Labor, Licensing, and Regulation (DLLR) to license and regulate those who provide management services for a common ownership community (COC). It requires a common ownership community (i.e., homeowners association or condominium association) to register annually with the Board, to provide the Board with any information requested, and permits the Board to impose training requirements on COC governing board members. HB 592 allows the Board, without exception, to share with law enforcement (including ICE?) information collected from COCs and to assist COCs in their disputes with homeowners and others. *It authorizes the Board to require a registration fee of an unspecified amount from COCs to fund the Board's operations. The registration fee will be determined after the bill is enacted.* The Board may increase the registration fee by a maximum of 12.5 % annually.

Any reference to the registration, regulation, or taxation of Common Ownership Community associations should be stripped from the bill.
It is unprecedented to fund a regulatory board with a tax (i.e., a required registration fee) on a group of taxpayers (i.e., residents of common ownership communities) who are not being regulated. The stated purpose of the bill is to license managers of COCs, not the COCs or its members. We are not aware of another licensing board with the power to tax or regulate the clients or customers (i.e., the end users) of those being licensed and/or regulated (i.e., doctors, nurses, dentists, lawyers, realtors, certified public accountants, plumbers, home improvement contractors), whether or not those clients/customers actually use the services of the Board! *It appears that the only purpose of registering COCs is to tax them in order to fund the licensing of property managers.*

If there is an identifiable problem, it is not known to be a statewide problem. The regulation and management of COCs is an issue for local government, not the State. The diversity of COC communities is too great to attempt to resolve what may be a local problem with state mandates.
Large and small COC communities, older and newer developments, and those with and without collection and vacancy issues should not be treated similarly. COCs across the state from Western Maryland (Deep Creek) to Baltimore City, Charles County, the DC suburbs, and Ocean City face widely different issues that are best

handled at the local level or by the criminal justice system. The need (and desire) to register COCs differs from county to county, and local governments should decide for themselves if a COC registry is necessary. In fact, Prince George's County and Montgomery County already regulate common ownership community managers and require COC registration; Columbia has sought exemption from proposals similar to HB 592 in previous years. COC associations across the state have not been adequately consulted on this bill and are largely unaware of it.

Implementation of HB 592 will be difficult and costly.
The fiscal note for HB 592 does not address the cost of establishing and maintaining a registry. However, the 2017 fiscal note for a similar proposal filed that year in the House (HB 41) to require registration of common ownership communities with a Board within SDAT estimated implementation costs (beyond those of licensing) at more than $230,000 in out years. However, DLS did not address the cost of informing thousands of COCs of their obligation to register, provide information, and pay their fee. Nor did they address the cost of enforcement or the need to respond to requests for information from the registry throughout the year. **DLS admitted in 2017 (p. 4) "it is not possible to provide a specific estimate as to the cost of establishing the registry."**

HB 592 provides broad latitude for the Board to set its fees, only stating that it may set fees "so as to produce funds to approximate the cost of maintaining the Board." It does not limit the COC fee to the cost of the registry only; that fee is likely to help cover licensing costs as well. And no process for reviewing proposed fees is provided. It may set the COC fee without any input from COCs. HB 592's fiscal note's assumption that no fee will be applied to COCs (p.10) is not realistic.

HB 592 will impose increased costs on small companies providing management services and on COCs, especially those struggling financially to meet their reserve requirements or to enforce their rules.
COC managers and management companies will pass on any new licensing fees to the COCs that they manage. Any new COC registration fee will be an added expense for COCs. Like previous fiscal notes, the fiscal note for HB 592 ignores potential impacts on COCs. The previous fiscal notes also ignored the impact on small management companies that may lose business to larger firms, which can more easily absorb the licensing fees, as COCs switch to management companies that charge the lowest fees.

HB 592 allows the imposition of a new tax of an unspecified amount on homeowners in common ownership communities that may be increased by 12.5% annually.
HB 592 calls for a COC registration fee (i.e., tax), "to produce funds to approximate the cost of maintaining the Board," *with no limit on the initial fee* (i.e., tax). It does not limit the COC registration fee to the implementation cost of the registry only; COC fees are likely to help cover licensing costs as well. The Board may may set COC fees without any input from COCs. This has the potential to harm common ownership communities, especially small ones, struggling to maintain their annual association

fees at a reasonable level and threatens to damage home resale values in these communities. The fiscal note's assumption that no fee will be applied to COCs (p.10) is not realistic.

HB 592 limits annual increases of this registration fee in the future to 12.5%, which is well above the annual inflation rate, indicating the intent to seek ever-increasing income from Maryland taxpayers living in these communities. *To expect common ownership communities, especially smaller communities, to carry this burden is unreasonable.*

HB592 requires common ownership community associations to provide information the State already possesses.
Homeowner associations file an "Annual Report and Personal Property Return" with the Maryland Department of Assessment and Taxation to maintain their charter. That report requires the name of the association, its address, the type of "business (i.e., homeowners association, condominium association, etc.) it is, the names and addresses of its officers, and names of its directors. When COCs pay state taxes, they file form 500, which requires similar information. There is no reason that we need a new bureaucracy and expend hundreds of thousands of dollars to acquire the same information.

HB 592 provides the proposed State Board unlimited authority.
HB 592 requires common ownership communities to register annually with the proposed Board and permits the Board to demand of them "any other information it requires." This requirement is a slippery slope posing a potential threat to privacy and imposes additional demands on the community associations' volunteers.

Furthermore, HB 592 specifically permits the State Board to establish the education and training of members of common ownership community association governing boards. This could quickly result in *required* training and education of governing board members (see HB 1054) as has been called for in previous years. COCs are volunteer bodies and it is often difficult to persuade homeowners to serve. Adding a new burden and cost for association board members is unreasonable, another example of the unrestrained power of the proposed Board, and of how this bill threatens Maryland homeowners without giving them adequate representation**.**

There is inadequate representation of homeowners on the State Board
The proposed legislation calls for only three of the nine-member State Board to be homeowners. This small number cannot possibly be representative of common ownership communities in the state, given their diversity. Thus, those who are to be affected by this legislation will have little say in their regulation and taxation.

The fact that the interests of COCs are not the primary interest of HB 592 is reflected in the name of the proposed Board: "The State Board of Common Ownership Community Managers." The stated purpose of HB 592 is to regulate and license community managers, not common ownership community associations. *Therefore,*

any reference to the registration, regulation, or taxation of such associations should be stripped from the bill.

What is the problem to be solved?
HB 592 is a solution in search of a problem. There is no identification of the problem that this bill is intended to solve. If community managers are committing financial fraud, misappropriation of funds, theft, or other criminal acts, common ownership communities should refer the cases to appropriate law enforcement agencies; the state legislature should not create an entire bureaucracy, with wide-ranging authority in response to a few instances of criminal activity.

A new bureaucracy will not stop dishonest people from stealing from COCs. If there is a need to license community managers, they or their employers (not homeowners) should cover the cost of licensing and enforcement, and only the associations using the services of the proposed regulatory Board should pay for the specific services they receive, not all community associations. Potential mandates directed at COCs by the proposed Board (i.e., registration, paying fees, providing information, training of COC officers) have nothing to do with protecting the COCs or stopping dishonest managers.

Recommendations
We are requesting that HB 592 be given an unfavorable report. *If that is not possible,* HB 592 *should relate only to the licensing of community managers, and the State Board of Common Ownership Community Managers should have no authority to regulate, collect information from, or tax the common ownership community associations of Maryland. Any reference to the registration, regulation, or taxation of such associations should be stripped from the bill.*

There should be no mandatory state-imposed fee (i.e., tax) assessed to the community associations. Such fees should be explicitly prohibited.

If HB 592 is to be reported from committee, with a potential registration fee imposed on COCs, an explicit limit should be imposed on the initial registration fee (such as $1 per unit or a maximum fee of $100 per association) and smaller communities (i.e., under 75 units) should be exempted to protect their financial solvency, to avoid raising annual homeowner association fees, and to protect the resale value of homes in common ownership communities.