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February 3, 2020

Senator William C. Smith, Jr.
Chair, Judicial Proceedings Committee
Senator Jeff Waldstreicher
Vice Chair, Judicial Proceedings Committee
2 East Miller Senate Office Building
11 Bladen Street
Annapolis, MD 21401

**Re: SB 386 Cooperative Housing Corporations, Condominiums, and Homeowners
Associations - Reserve Studies**

Hearing Date February 4, 2020 Position: OPPOSED

Dear Chairman Smith and Committee Members:

This letter is submitted on behalf of the Maryland Legislative Action Committee (“MD-LAC”) of the Community Associations Institute (“CAI”). CAI represents individuals and professionals who reside in or work with condominiums, homeowners’ associations, and cooperatives throughout the State of Maryland.

This bill would require reserve studies for Homeowner Associations (HOAs), Condominiums, and Cooperative common ownership communities. CAI recognizes that careful planning for future repairs and replacements is not only in the best physical and fiscal interests of the community association.

Every community association requires a different amount of cash in reserves to complete repair or replacement projects on schedule without special assessments or loans. This bill will create an inherent financial hardship on any association, particularly older associations, and their residents that are currently under-funded. CAI advocates for laws that allow governing boards to determine the appropriate reserve level and method for funding long-term maintenance, repair/replacement of facilities/equipment and disclose the reserve study used to their community. The current bill introduced does not provide any option for communities to opt out of the mandated full-funded study.

HB 58 also requires the person who prepares the mandated reserve studies to have arbitrary qualifications. The qualification that the professional has prepared at least 30 reserve studies within the prior three (3) calendar years does not guarantee that the individual is qualified to perform an adequate association reserve study. CAI advocates for the consideration of an independent professional to prepare a reserve study, to calculate the annual contribution rate required to provide for the long-term maintenance, repair and replacement of the facilities, not just hold the arbitrary qualifications lists in this bill.

While associations should plan for meeting their substantial future maintenance, repair and replacement obligations, the form of any plan should be tailored to the individual association and its members. Different reserve funding plans may be appropriate for different associations. For example, some associations may be faced with tax liabilities associated with the funding of reserves for certain components. Community associations with substantial limited use areas, whose maintenance is paid for by the owners using those areas, may treat those maintenance costs differently. Additionally, the amount that members of one association are willing and able to pay in assessments to cover unfunded repair and replacement reserves will differ from one association to the next. However, those unfunded items should be clearly identified, at a minimum, in the annual financial statements prepared for the members. The ability of a community to fund reserves may affect the timing and magnitude of each year's reserve contribution.

The ability or the attractiveness of borrowing for major or long-term capital expenses will also differ by community.

CAI supports laws that provide for disclosure of information to owners and prospective purchasers in communities so that they can make informed decisions about the association and its finances as they relate to funding the long-term maintenance, repair and replacement obligations for the community.

CAI opposes laws that do not allow community associations and their governing boards to determine the appropriate level and method of funding for reserves for long-term maintenance repair and replacement costs.

We are available to answer any questions the Committee Members may have. Please feel free to contact Lisa Harris Jones, lobbyist for the MD-LAC, at 410-366-1500, or by e-mail at lisa.jones@mdlobbyist.com, or Steven Randol, Chair of the MD-LAC, 410-279-8054.

Sincerely,

Steven Randol

Steven Randol
Chair, CAI MD-LAC

**Maryland Legislative Action Committee
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