



Maryland Legislative Action Committee
The Legislative Voice of Maryland Community Association Homeowners

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March 2, 2023

Hon. Kumar Barve, Chair
Hon. Dana Stein, Vice Chair
Hon. Pam Queen, Sponsor
Environment and Transportation Committee
House Office Building, Room 251
6 Bladen Street
Annapolis, Maryland 21401

Re: House Bill 1056 – Real Property – Warranties – Duration of Warranties and Repair of Defects

Position: Favorable with Amendments

Dear Chair Barve, Vice Chair Stein, Delegate Queen, and Committee Members:

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

House Bill 1056 (HB 1056) alters the expiration date of certain implied warranties for dwellings and creates a procedure to resolve an alleged breach of an implied warranty prior to an owner commencing an action regarding the alleged breach. CAI MD-LAC has a significant number of concerns with HB 1056, which will negatively impact both single family homeowners and condominium unit owners unless the bill is significantly amended.

For example, while HB 1056 would provide a longer ten-year warranty for major construction defects, the bill would limit the existing two-year implied warranty coverage to plumbing, electrical, and heating

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and cooling systems. As a result, HB 1056 would shorten existing warranty coverage for other, non-enumerated elements.

Pursuant to the existing Title 10 warranty statute, mechanical electrical and plumbing (MEP) defects, and regular defects - those that aren't loadbearing - fall into a single category with an identical warranty period. In stark contrast, HB 1056 attempts to fracture the statute into three warranty periods. A one-year warranty for regular defects, a two-year warranty for MEP, and a ten-year warranty for loadbearing. The CAI MD-LAC amendments maintain the regular defects and MEP defects together as a single category, both of which are non-loadbearing, in order to streamline the statute and warranty timelines.

On page 5, line 20, HB 1056 proposes new language to prohibit waivers under relevant section by contract or agreement, but unless the bill also amends Real Property § 10-203, HB 1056 will create inconsistency in the law. Specifically, Section 10-203(d) allows the seller of a new home to exclude or modify certain implied warranties for the property after closing, which would be inconsistent with HB 1056's proposed change to exclude waivers.

MD CAI-LAC's proposed amendments would add language that is consistent with the Maryland Condominium Act (Real Property 11-131(a)), which prohibits the modification or exclusion of implied warranties applicable to condominiums so that vendors cannot simply nullify the implied warranties through sales contracts containing exclusions or agreements to execute exclusions at or after a purchaser closes on a new home. As a result of the MD CAI-LAC amendment, all new home purchasers would enjoy the same warranty protections that the law provides to individuals who purchase residential condominiums.

In its current posture, HB 1056 would significantly narrow the definition of a structural defect to solely include only load bearing defects, which are exceedingly rare. Enactment of HB 1056 with the bill's current definition of structural defect would have a significantly negative impact on condominium associations. Developers would simply argue that HB 1056 was intended to significantly limit the definition of structural defects under Title 11 common element warranties. If that argument is successful, most defects found in condominiums would simply not be covered.

To remove ambiguities and language that would negatively impact homeowners and condo owners, we respectfully request that the Committee adopt the amendments set forth in the attached version of HB 1056. We are available to answer any questions which you may have. Please feel free to contact any of the individuals listed: Lisa Harris Jones, CAI MD-LAC lobbyist, at 410-366-1500 or lisa.jones@mdlobbyist.com; Steven F. Dunn, CAI MD-LAC, at 301-347-1276 or sfdunn@lercheearly.com; or Steven Randol, Chair, at 410-695-2183 or MDLACChair@gmail.com.

Sincerely,



Steven Randol
Chairman
MD-LAC for CAI

CAI is a national organization dedicated to fostering vibrant, competent, harmonious community associations for more than thirty years. Its members include community association volunteer leaders, professional managers, community management firms, and other professionals and companies that provide products and services to common interest associations. As part of its mission, CAI advocates for legislative and regulatory policies that support responsible governance and effective management. As part of this purpose state Legislative Action Committees represent CAI members before state legislatures and agencies on issues such as governance, assessments collection, insurance and construction defects.

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