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To: The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee

From: Karen S. Straughn
Consumer Protection Division

Re: Senate Bill 540 – Common Ownership Communities – Recreational Common Areas – Sensitive Information as Condition for Access (SUPPORT)

The Consumer Protection Division of the Office of the Attorney General submits the following written testimony in support of Senate Bill 540 submitted by Senators Nick Charles, Mary Washington, C. Anthony Muse and Arthur Ellis. This bill would prohibit a common ownership community from requiring sensitive information to access recreational common areas.

As a member of a common ownership community, an owner's assessments usually include the necessary expenses to permit access to recreational areas. However, some associations are requiring sensitive information, like birth certificates, as a means of ensuring that those entering these recreational areas, like a pool, are members of the owner's family. While the intent is to ensure that the facilities are being used by those who pay the fees to maintain these facilities, the risk to family members outweighs this interest. A birth certificate reflects not only an individual's gender, but also an individual's adoptive status and possible immigration status. This information should not be required merely to go swimming or otherwise access recreational common areas.

Balancing the need for community management with individual privacy rights requires a delicate balance, but there can be no question that the sensitive information protected by this bill is not necessary to the proper running of a common ownership community association. Moreover, sharing of this information may be detrimental to owners and their families, particularly in the event of a data breach.

Finally, this bill also helps to protect the association. If the sensitive information obtained by the association is disclosed, whether purposefully or inadvertently, the association may be subject to lawsuits, impacting everyone in the association.

For these reasons, we ask that the Judicial Proceedings Committee return a favorable report on this bill.

cc: The Honorable Nick Charles
The Honorable Mary Washington
The Honorable C. Anthony Muse
The Honorable Arthur Ellis
Members, Judicial Proceedings Committee