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January 23, 2020

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Delegate Kumar P. Barve
Chair, Environment and Transportation Committee
Delegate Dana M. Stein
Vice Chair, Environment and Transportation Committee
House Office Building, Room 251
6 Bladen Street
Annapolis, MD 21401

Re: House Bill 108
Condominiums - Responsibility for Property Insurance Deductibles
Hearing Date: February 04, 2020
Position: Support

Dear Chairman Barve, Vice Chairman Stein, 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.

MD-LAC supports HB 108. As you may know, current law (effective of June 01, 2009), allows for a condominium association’s Master Policy property damage deductible – up to \$5,000 – to be assigned to the owner of a condominium unit when a loss originates in that unit or from a component that services only that unit. The deductible expense for losses that originate from a common element or from a common area is a common expense shared by the Association.

Maryland Legislative Action Committee
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The law, based on point of origination, was considered part of critical legislation when it passed in 2009; condominium associations throughout Maryland were bearing the burden of funding the deductible any time a loss originated from a unit due to any number of causes including failure to maintain, accidental loss, gross or inadvertent negligence, or unforeseeable breakdown of a unit component.

While statistical information has not been kept since the passage of the law, shifting deductible responsibility – which can be covered by an owner’s HO-6 (condominium unit owners’) policy subject to that policy’s deductible (which can be as low as \$250) has undoubtedly saved the state’s condominium associations millions of dollars and has potentially had a secondary positive effect to induce owners to perform required maintenance: if owners know they will be responsible for the first \$5,000 of any loss that originates from their units, including from an aging or faulty component, the hope is that they will proactively repair and replace components before they fail and result in damage to their unit, other units, and/or to common areas.

Unfortunately, nearly 11 years after the passage of the deductible law, many condominium associations in Maryland, either because of an aging infrastructure, insufficient reserves to address the aging infrastructure, aging unit components, unit owner misuse/neglect/failure to maintain, or just bad luck, have found themselves with Master Policy deductibles higher than \$5,000. This is particularly true of water-related losses that can plague condominium associations. It is not uncommon to see water damage or other specified-loss deductibles of \$10,000, \$15,000, or \$25,000. Higher deductibles are common for Maryland’s eastern shore condominium associations where a failure to maintain heat in units (particularly units used on a seasonal basis) has led to the application of higher deductibles by Master Policy carriers. Higher deductibles are also commonplace for condominium associations that have lost their insurance in the standard market place due to claims frequency and/or severity and now have programs in the excess and surplus lines market where premiums can be twice as expensive and coverage less broad. It can be financially difficult or impossible to address maintenance issues and emerge from the excess market if Associations must use their resources to pay very high deductibles while the owners in whose units a loss originates are responsible for only a small portion of that deductible.

While the current deductible law works for condominium associations that have Master Policy Property policies subject to a \$5,000 deductible, for those that have policies subject to higher deductibles, when a loss originates in a unit, the owner pays the first \$5,000 of the deductible and the association must bear the burden for the balance; for example, if an association has a \$25,000 water deductible, the owner pays the first \$5,000 and the association must absorb the remaining \$20,000. This cost, while “shared,” eventually results in higher condominium fees for all of members and can lead to resentment among owners, particularly if the cause of the loss is failure to maintain when other owners have spent money avoiding similar loss through proper and regular maintenance.

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MD-LAC respectfully asks the legislature, then, to pass HB 108, which would effectively increase a condominium unit owner's deductible responsibility from the current \$5,000 to \$10,000 when a loss originates from within an owner's unit or from a component that services only that unit.

Further, current law under §11-114 (g) 2. (ii) provides:

If the cause of any damage to or destruction of any portion of the condominium originates from the common elements, the council of unit owners' property insurance deductible is a common expense.

And §11-114 (g) 2. (2) (iii) provides:

If the cause of any damage to or destruction of any portion of the condominium originates from a unit, the owner of the unit where the cause of the damage or destruction originated is responsible for the council of unit owners' property insurance deductible not to exceed \$5,000.

MD-LAC respectfully asks the Committee to further clarify through an amendment to §11-114 (g) 2. (ii), that losses that originate outside of the condominium units and common elements (outside of a building) also be subject to a deductible that is a *common expense*. While the intent of the original June 01, 2009, law was to assign deductible responsibility to an owner when a loss originates within a unit, current law allows for open interpretation where losses that originate outside the unit (such as weather events) are concerned. MD-LAC would like to see this gap closed to avoid any varying interpretation of intended law.

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, or by e-mail at srandol@pineorchard.com, or Robin C. Manougian, Member, of the MD-LAC, at 301-588-6585 x102, or by e-mail at rmanougian@manougianinsurance.com.

Sincerely,

Robin C. Manougian

Steven Randol

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