



**Senate Bill 107 – Real Property – Common Ownership Communities – Payment of Fees
January 16, 2020 - Judicial Proceedings Committee**

Oppose

Senate Bill 107 requires lenders of single-family dwelling units subject to fees imposed by a common ownership community (COC) to pay the fees as a part of the payments made under the mortgage or deed of trust. The Maryland Bankers Association represents FDIC-insured banks and savings and loans across the state. Our members are community, regional and national banks which hold 90 percent of the FDIC insured deposits in Maryland in nearly 1,490 branches state-wide. Maryland banks employ 26,000 Marylanders and dedicate more than 140,000 hours to community service in our state annually.

MBA's members make residential mortgage loans and escrow for property taxes. In addition to collecting the equivalent of two months of the annual property tax bill at loan closing, escrowing for taxes entails adding the monthly equivalent of the annual property tax bill to the monthly mortgage payment, maintaining those funds in separate accounts, and then timely remitting tax payments to the local government on an annual or semi-annual basis. The process is regulated by federal law, the Real Estate Settlement Procedures Act (RESPA). RESPA requires the lender to provide each consumer borrower with an annual escrow account analysis, which includes not only what was collected into and paid out of the escrow account for taxes (and other escrowed items) during the past 12 months but also a projection of payments to be made for the next 12 months. Changes in how escrowed funds need to be collected and paid likely trigger corrective notices and can become extremely complicated.

The Maryland Bankers Association (MBA) appreciated the opportunity to meet with the bill sponsor to discuss our concerns about SB 107 that as drafted, would *require* a lender to create an escrow account for COC fees. These concerns center around the complicated process involved in setting up and monitoring escrow accounts and the fact that many of our community bank members do not have the systems in place to establish escrow accounts; how the federal laws and regulations for mortgage lending and servicing have resulted in community banks limiting or exiting the mortgage business in Maryland; and, unlike taxes, lenders have no consistent or accurate means of assessing what the common ownership community fees are. Specific concerns follow:

- There are thousands of COCs in Maryland. Unlike with taxes or property insurance payments that may be escrowed and remitted to the taxing authority or the insurance company, there is no central repository for COC assessment information or the management company managing the property to which the payment would be sent. Further, COC fees do not necessarily remain constant throughout the year, due to special assessments, revised fee schedules, etc. It would be impossible for MBA's members to know what the fees are in a consistent and reliable manner for the thousands of COCs in Maryland.

- The bill allows a mortgage lender to charge a fee for escrowing the condo fees and remitting them monthly to the COC. Section 1024.12 of the Real Estate Settlement Procedures Act prohibits fees from being charged for escrow-related expenses. Mortgage escrow accounts are already expensive to manage because of their transactional requirements of annual and semi-annual payment of taxes and insurance. They require extensive oversight and management.
- If this bill became law, lenders will have no choice but to escrow for two months of the COC fees at the time of loan settlement, driving up closing costs for consumers. Further, because of the extensive administrative time required to attain, track and remit the COC fees on a monthly basis, lenders would need to charge higher interest rates to recoup their expenses.
- To our knowledge, no state in the Country has imposed the requirement in Senate Bill 107 on mortgage lenders. We believe it would have a chilling effect on the availability and cost of mortgage loans for COCs in the State of Maryland.

For these reasons, MBA respectfully urges the Committee to give Senate Bill 107 an unfavorable report.