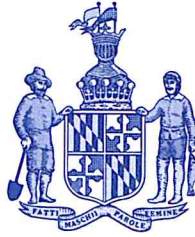


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January 28, 2020

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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 293 – Condominiums and Homeowners Associations – Amendments to
Declarations and Governing Documents (SUPPORT)

The Consumer Protection Division of the Office of the Attorney General submits the following written testimony in support of Senate Bill 293 submitted by Senator Chris West. This bill provides that if action is required by a mortgage holder or a holder of a deed of trust to amend the governing documents in a condominium or homeowner's association, that a failure to object, in writing, to a proposed amendment within 60 days, shall be considered consent. The bill specifically exempts provisions which alter the priority of a lien of the mortgage deed of trust, materially impair or affect the unit or home as collateral or otherwise materially impair or affect the rights of the mortgage holder or deed of trust.

It is often difficult in a condominium or homeowners association to obtain the requisite number of votes needed to amend the governing documents. This may be complicated by provisions which require the affirmative vote of a mortgagor or deed of trust, who are often nonresponsive. By permitting the association to presume consent of the lienholder in these circumstances, when it does not materially alter their interests, this burden is lessened and the associations may conduct business that is important to its members. Moreover, if the interests of the mortgagee or deed of trust are not materially impacted, those parties should not have the ability to withhold consent to actions that may benefit the association members, merely by failing to act.

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

cc: The Honorable Chris West
Members, Judicial Proceedings Committee

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