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Judicial Proceedings Committee

Vice Chair, Baltimore County
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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

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January 28, 2020

The Honorable William C. Smith, Jr.
Senate Judicial Proceedings Committee
2 East Miller Senate Building
Annapolis, Maryland 21401

Re: Senate Bill 293 – Condominiums and Homeowners’ Associations – Amendments to Declarations and Governing Documents

Dear Chairman Smith and Members of the Committee,

Senate Bill 293 seeks to streamline the process by which condominium and homeowners’ associations can update their key governing documents in a more time efficient manner.

Currently, many condominium Declarations require the approval of both owners *and* deed of trust holders or mortgage holders in order to amend the Declarations, and many homeowners’ association governing documents require the approval of both the homeowners *and* deed of trust holders or mortgage holders in order to amend the governing documents. This requirement of securing actual approval from deed of trust holders and mortgage holders can prove challenging and can stymie a condominium’s or homeowners’ association’s ability to amend its Declaration or its governing documents, as the case may be.

Senate Bill 293 will provide that when a Declaration contains a provision requiring an action on the part of the holder of a deed of trust or mortgage in order to amend the Declaration or when a governing document of a homeowners’ association require an action on the part of the holder of a deed of trust or mortgage in order to amend the governing document, the council of unit owners, in the case of a condominium, or the homeowner’s association, in the case of a homeowners’ association, shall deliver a copy of the proposed amendment to the holder of the deed of trust or the mortgage. The holder will then have 60 days from receipt of the proposed amendment to object in writing to it. Failing such an objection, the holder of the deed of trust or mortgage will be deemed to have consented to the adoption of the amendment.

Senate Bill 293 provides that the bill does not operate in the case of amendments designed to alter the priority of the lien of the deed of trust or mortgage, designed to materially impair or affect the unit or lot as collateral or designed to materially impair or affect the right of the holder of the deed of trust or the mortgage to exercise any rights under the deed of trust or mortgage.

Last year, this identical bill (House Bill 825) unanimously passed in the House of Delegates but did not receive a vote in the Senate Judicial Proceedings Committee.