

HB 826 Testimony-DisputeSettlement-CondoHOA- JPR.p

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Position: FAV

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March 18, 2021

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Senator William C. Smith, Jr., Chair
Senator Jeff Waldstreicher, Vice Chair
Judicial Proceedings Committee
Miller Senate Office Building
Annapolis, Maryland 21401

Re: HB 826
Real Property – Condominiums and Homeowners Associations – Dispute Settlement
Position: SUPPORT
Hearing Date: March 23, 2021

Dear Chairman Smith, Vice Chair Waldstreicher, 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 community associations (condominiums, homeowners’ associations, and cooperatives) throughout the State of Maryland.

MD-LAC supports HB 826. The bill remedies certain issues with regard to the dispute settlement procedures provided for in Section 11-113 of the Condominium Act and provides for a new Section 11B-111.8 in the Homeowners Association Act to address dispute settlement procedures in Homeowners Associations. Currently there is no dispute settlement procedure in the Homeowners Association Act at all. This bill will remedy that oversight.

Currently, unless the declaration or bylaws of a Condominium Association provides otherwise, the dispute settlement mechanism provided in the State law controls the process by which complaints or demands are handled by the governing body of the Association. The current Condominium law also provides that the governing body may not impose a fine, suspend voting, or infringe upon any other rights of an owner or other occupant for violations of rules until the dispute settlement procedure is followed. A written demand to cease and desist must be served upon the alleged violator, stating the alleged violation, the action required to abate the violation, and that if the rule is violated again (after a grace period of not less than 10 days), sanctions may be imposed after a hearing.

HB 826 relaxes the procedure in that it does not require hearing unless the alleged violator requests one. The change will require that an alleged violator be provided with the notice of the alleged violation, what is required to abate that alleged violation and the sanction that may be imposed, but rather than making the hearing mandatory whether the alleged violator wants a hearing or not, the change provides for an opportunity for a hearing before the governing body, upon request.

Once requested, the bill requires that the hearing be held upon not less than 10 days' additional notice. In the vast majority of cases where a hearing is required without request, notice of the hearing is given, the volunteer governing body is assembled but the alleged violator does not attend thereby wasting the time and money of the volunteer Board and non-profit Association. The bill provides that if no hearing is requested, then the governing body is to deliberate at its next meeting as to whether the violation occurred and what sanction, if any, it will impose.

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 Kathleen Elmore, Assistant Treasurer, of the MD-LAC, at 410-320-6367, or by e-mail at kelmores@elmore-throop.com.

Sincerely,

Kathleen M. Elmore
Kathleen Elmore, Esquire
Ass't Treas., CAI MD-LAC

Steven Randol
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Chair, CAI MD-LAC

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March 23, 2021

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

From: Karen S. Straughn
Consumer Protection Division

Re: House Bill 826 – Real Property - Condominiums and Homeowners Associations – Dispute Settlement
(SUPPORT)

The Consumer Protection Division of the Office of the Attorney General submits the following written testimony in support of House Bill 826 submitted by Delegate Anne Healey. The bill modifies the dispute settlement procedure in the Maryland Condominium Act and adds similar dispute settlement procedures to the Maryland Homeowners Act.

The rights and duties which are provided to condominium unit owners should be shared by members of homeowners' associations as well. Presently, the dispute settlement procedure is only offered to homeowners in an association if a procedure is provided for in the association's governing documents. It is imperative that a statutory procedure identical to that provided to condominium residents be statutorily provided to members of homeowners' associations, as well, to ensure that homeowners receive due process before any fine or infringement of rights is imposed upon them.

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

cc: The Honorable Anne Healey
Members, Judicial Proceedings Committee

