

HB616TestimonyCAIMDLAC-SENATE.pdf

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March 22, 2022

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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 616
Cooperative Housing Corporations - Dispute Settlement and Eviction Procedures
Position: SUPPORT
Hearing Date: March 22, 2022

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 616. The bill repeals and reenacts with amendments Section 5-6B-30 and repeals section 5-6B-31 of the Maryland Cooperative Housing Act. The law was changed and significantly expanded during the 2014 Session (SB865). That 2014 bill provided for dispute settlement procedures mirroring the Maryland Condominium Act, except that it inexplicably wrapped in collection of operating costs (assessments or rent) in the dispute settlement process. This is not in the Condominium Act or the Homeowners’ Association Act and it is not needed in the Cooperative Act.

Maryland Cooperatives are nonprofit non-stock corporations established to own and operate housing developments. Under the Cooperative's articles of incorporation, membership in the Cooperative is open only to persons who enter into a leasehold agreement for a housing unit in the Cooperative. Among the conditions of the leasehold agreements is that members pay operating costs (assessments or rent) for the nonprofit corporation. This money is used to maintain the infrastructure and provided services to the Cooperative's members (the leaseholders).

Under long standing Maryland law, if one of the members fails to pay his or her operating costs, **the Cooperative must follow Maryland Landlord Tenant law in order to evict. The Landlord Tenant law provides substantial and thoroughly adequate due process for tenants, and in this case, the Cooperative's members. Further protections and changes in the Landlord Tenant law are in process. The current law provides, for example:**

- 1) A judgment must be obtained in the District Court of Maryland for the unpaid "rent". In order to do this, the member must be served (which service is accomplished by the Sheriff).
- 2) If the judgment is not paid within 4 days of the date of the Court order, the Cooperative can file a petition for a warrant of restitution to start the eviction process.
- 3) Once the Court signs the warrant, it must be served on the member by the Sheriff.
- 4) Once served, the Cooperative has 60 days to schedule an eviction.
- 5) Once the eviction date is scheduled, the eviction notice must be posted on the cooperative unit AND mailed certified mail – return receipt to the member.
- 6) The member can redeem the property by paying the operating costs (rent) at any time until the eviction occurs.

The Cooperative law as changed in 2014 adds an additional process over and above what is already required under the Landlord Tenant law for further notice and hearings for each member who has failed to pay operating costs to the cooperative even before proceeding with any action under the Landlord Tenant process. **Because a lengthy process is already in place, i.e. Maryland Landlord Tenant law (Title 8 Md. Real Property Article), it is burdensome, expensive, unfair and time-consuming to require nonprofit Maryland Cooperatives to add a dispute settlement requirement prior to being able to start the process to collect its operating costs. Keep in mind Cooperatives are non-profit entities that need the members dues to provide services and maintain the infrastructure.**

House Bill 616 also remedies certain issues with regard to the dispute settlement procedure in general, by **providing an alleged violator with an opportunity for a hearing before the governing body, upon request, but not requiring a hearing for each alleged violation in circumstances where the alleged violator does not want, nor will attend the hearing.** Once requested by the alleged violator, 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 served, the volunteer governing body made up of members of the Cooperative is assembled, but the alleged violator does not attend thereby wasting time, money and effort. If no hearing is requested, then the bill as proposed requires that the governing body deliberate as to whether the violation occurred and what sanction, if any, to impose, at the next meeting.

We respectfully request that the Committee give HB 616 a favorable report. 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, Steven Randol, Chair of the MD-LAC, 410-279-8054, or by e-mail at srandol@pineorchard.com, or Kathleen M. Elmore, Esquire member, MD-LAC for Community Associations Institute at 410-544-6644, or by E-mail at kemore@el-grp.com.

Sincerely,

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Kathleen Elmore, Esquire
Member, CAI MD-LAC

Steven Randol
Steven Randol
Chair, CAI MD-LAC