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February 2, 2022

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

From: Karen S. Straughn
Consumer Protection Division

Re: Senate Bill 145 – Cooperative Housing Corporations – Property Insurance Deductibles –
Member Responsibility (LETTER OF CONCERN)

The Consumer Protection Division of the Office of the Attorney General has concerns regarding Senate Bill 145 introduced by Senator Benjamin F. Kramer. This bill would insert a prohibition against amending the maximum amount of the deductible for which a cooperative member may be responsible to more than \$10,000. regardless of negligence. Although the Division does not oppose limiting the deductible to ensure that even higher deductible amounts are not used, it is concerned that affordable insurance coverage would not be available to member owners in the event of a loss and therefore, unit owners may have difficulty meeting this large deductible amount.

Under the Maryland Condominium Act, a similar law was previously passed to increase the amount of the deductible for which a unit owner would be responsible if the loss originated in their unit from \$5,000. to \$10,000. This Division originally opposed that bill due to the concern that insurance coverage may not be available to unit owners for this increased coverage and may be prohibitively expensive. However, after being assured by the insurance industry that coverage was widely available at a reasonable rate, this Division withdrew its opposition.

Coverage for cooperatives is different than coverage for condominiums, however, due to the shared interest in the property between the member owner and the association. At this time, it is not clear that deductible coverage is widely available to member owners at a reasonable rate and therefore this Division has concerns about the passage of this bill.

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Under the bill, when a loss originates in a unit, such as when a bathtub overflows leaking through the floor to the unit below, the first unit owner would be responsible for the property insurance deductible up to \$10,000., which may be difficult for many unit owners to afford. It is not clear whether every unit owner would have the ability to purchase coverage for this exposure and many would be faced with paying that large expense out of their pocket. Some may not even realize they have the ability to purchase coverage for this potential expense, even though the cooperative association is required to inform unit owners in writing of their responsibility for the deductible.

For these reasons, the Consumer Protection Division respectfully requests that the Judicial Proceedings Committee take the Division's concerns into consideration with respect to Senate Bill 145.

cc: The Honorable Benjamin F. Kramer
Members, Judicial Proceedings Committee