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January 26, 2023

To: The Honorable Kumar Barve  
Chair, Environment and Transportation Committee

From: Karen S. Straughn  
Consumer Protection Division

Re: House Bill 105 – Real Property - Condominium and Homeowner Associations –  
Governing Bodies (SUPPORT)

The Consumer Protection Division of the Office of the Attorney General submits the following written testimony in support of House Bill 140 sponsored by Delegate Marvin E. Holmes, Jr. This bill is intended to address situations that arise prior to the transfer of control to an association from the developer.

Specifically, the bill requires the developer to have two meetings a year so that association members can be informed about what is happening in their development. It further prevents the developer from comingling funds and requires the developer to name a homeowner or unit owner to the board once the development is 25% complete. Finally, it requires that the association members be given 30 days' notice prior to the release of any governmental bonds.

Preventing the comingling of funds will ensure that association funds are used for association business only and prevents the developer from using association funds for developer operating expenses. In addition, it helps to address concerns that arise prior to the transition of control of an association so that an association will be financially more stable following transition. It also is important in situations in which the developer fails to complete the development, leaving the homeowners to pick up the pieces.

By requiring the developer to name a homeowner or unit owner to the board who is not affiliated with the developer once the development is 25% complete, the community members are given a greater voice in their community and will hopefully be more knowledgeable about events occurring in the development of their community. Finally, despite contentions by the developers that the community is not a party to the bonds, by providing information about the bonds and notice to the community prior to release of these bonds, it ensures that association members can notify the appropriate parties that the bond should not be released if the work is not completed.

The Consumer Protection Division has received calls and complaints concerning the problems experienced by associations that are preparing to take control from the developer and those that have recently transferred control only to discover many problems. Many residents claim that they have been kept in the dark as to what is happening in their community prior to the transfer of control. Others have transitioned control only to find that there is no money in any of the accounts and suspect that the developer has used assessment funds to pay its operating costs. We have also heard from communities advising that bonds on the roads have been released without their knowledge, yet the roads in the community remain in need of repair or completion. This bill provides for greater disclosure to community members and helps to ensure that these types of problems can no longer occur, or that a remedy exists if they do.

For these reasons, we ask that the Environment and Transportation Committee return a favorable report on this bill.

cc: The Honorable Marvin E. Holmes, Jr.  
Members, Environment and Transportation Committee