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To: Members of the Economic Matters Committee
From: MLTA Legislative Committee
Date: February 2, 2024 [Hearing date: February 6, 2024]
Subject: **HB 271**– Limited Liability Companies - Articles of Organization - Required Information

Position: **UNFAVORABLE**

The Maryland Land Title Association (MLTA) is a professional organization working on behalf of title industry service providers and consumers, and is comprised of title agents, abstractors, attorneys, and underwriters. We are submitting this memorandum as written testimony **OPPOSING** HB 271.

The same form and similar substance of House Bill 271 was proposed during the 2023 General Assembly Session introduced as HB 981. At that time, many stakeholders vehemently opposed the passage of the bill. For those same reasons as previously stated (see additional attachments), we now reemphasize our opposition and for the following reasons.

The Bill would amend Sections 4A-204 and 4A-207 of the Corporations and Associations Article of the Maryland Code to require the Articles of Organization for a Maryland limited liability company to include "the name and home address of each member of the limited liability company," and to make it a misdemeanor to file Articles of Organization that a person "knows or has reason to know contain incorrect information" regarding each member's name or home address ("A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$5,000.").

There are no similar bills within the Mid Atlantic region that impose such restrictive oversight on private entities. Entities who, for a variety of reasons, wish to keep the inner workings and structure confidential from the public in order to avoid unwarranted solicitations, harassment and security breaches of private information.

Moreover, many of the LLC's created in the State have structures so complex that the disclosure of any party's personal information would be of no use for the purpose with which the bill was created. Many "participants" in an LLC are often uninvolved in the daily operations of any LLC. Their roles are relegated to silent partners. Any information gleaned from their involvement would be of no use to the public. Moreover, inner creditor agreements within the structure create safeguards against confidential information. Any required release of which would immediately threaten the reporting agent to sanctions, lawsuits and dismissal and expulsion from the LLC.

Fiscally speaking, this bill would have a negative impact on the filing fees generated as part of the process to register LLC's in the State and potentially any personal property tax return revenue that could have been collected but for the LLC filing and maintaining foreign residency.

The bill also disproportionately discriminates against any other form of corporate structure and which appears to disparately impact the treatment of LLC's.

Additionally, the bill would pose a challenge to our members and practitioners to assist with the filing of new LLC's. It would dissuade them from helping customers file for LLC registration for fear of the onerous and draconian fines and criminal penalties. Especially for something as simple as an "administrative" procedure.

As the Business Law Section Council of the Maryland State Bar Association notes:

"The Bill also is unlikely to result in full disclosure of the owners of an LLC, as for a large number of LLCs the identity of many of its ultimate members is unknown and the Bill does not require an LLC to update its membership information.... Furthermore, the Bill singles out one form of business entity for unfavorable treatment, without any evident basis. If enacted, Maryland LLCs that do not move their state of formation elsewhere may change to another form of entity, such as a limited partnership or corporation, to avoid the disclosure requirements proposed in the Bill."

Finally, this bill fails to discourage foreign entities from registering in Maryland without compliance. The unintended consequence of this bill would result in entities filing corporate governance registrations in adjoining states and simply re-registering in Maryland to conduct business without the necessary compliance of this bill.

For the foregoing above reasons, the Maryland Land Title Association is opposed to and urges an unfavorable vote on House Bill 271