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Delegate C. T. Wilson, Chair
House Economic Matters Committee
Room 231
House Office Building
Annapolis, Maryland 21401

Re: MSBA Business Law Section Council and Estates and Trusts Section Council
Testimony in **Opposition** of House Bill 1399 (Corporations and Associations – Resident Agent – Public Information)

Dear Chair Wilson and Fellow Committee Members:

The Business Law Section Council (the “Section Council”) of the Maryland State Bar Association (the “MSBA”), along with the MSBA’s Estates and Trusts Section Council, annually reviews proposed legislation that may affect Maryland businesses. We are submitting this written testimony concerning House Bill 1399 (“HB 1399”), which we oppose for the reasons explained below.

Business entities that are formed under Maryland law or register to do business in Maryland must designate, through a filing with the Maryland State Department of Assessments and Taxation (“SDAT”), the name and mailing address of a resident agent, who must be an individual residing in this State or a Maryland corporation or limited liability company. That information is available on SDAT’s public-facing website¹. HB 1399 would require that SDAT also publish on its website the email address and telephone number for the resident agent of each such business entity. Publishing the email address and telephone number of every resident agent on the Internet would be harmful to most small businesses that operate in Maryland, as most choose to have an officer or owner serve as their resident agent.

The individual or direct email address and telephone number of such officers and owners is sensitive personal contact information that many (if not most) will want to avoid having published on a public government website that anyone may access. As a result, if resident agents were required to provide a telephone number and email address, it is likely that, to maintain their personal privacy and avoid jeopardizing their digital security, small businesses’ officers or owners would need to hire a commercial resident agent company, (which is a separate corporation or LLC such as CT Corporation) at a cost of at least \$300 per year. This would place an additional expense burden on small businesses, without any clear proof that the publication of a resident agent’s email and telephone number is necessary with regard to most businesses operating in the state.

In connection with House Bill 241, this Committee heard testimony that entities owning residential real property have used limited liability entities to avoid accountability for allegedly unfair business practices and/or property neglect. Assuming for purposes of this letter that such allegations are well-founded, their solution lies with targeted reforms that are (a) focused on entities that own residential

¹ <https://egov.maryland.gov/BusinessExpress/EntitySearch>

real property, and (b) protect the security of personal identifying information (such as telephone numbers and email addresses) to a fair and reasonable extent.

That is why the Section Council has not opposed House Bill 826 or its companion cross-file Senate Bill 779, each entitled “Real Property – Taxation of Vacant Property, Certification of Company Representatives, and Short-Term Rentals.” (The House version was heard in the Ways and Means Committee on February 20, 2024.) That bill, which we understand to be supported by the Maryland Association of Counties, would require each legal entity that owns residential real estate to identify under oath the “correct contact information for a representative of the entity who has the authority to communicate with the public about the entity.” That information would be submitted directly to SDAT, presumably through an entity’s Annual Report and Personal Property Tax Return. Those reports are available for inspection by members of the public through a Public Information Act request but are not constantly available to view through a simple Internet search – therefore providing some protection against misuse of the personal contact information for a real estate-owning company’s principals. Thus, HB826/SB779 is narrowly tailored to address problems perceived, at least in part, to have been enabled using limited liability entities.

By contrast, the intent of HB 1399 is to impose a public disclosure obligation on all limited liability entities formed registered to do business in Maryland, the vast majority of which do not own real estate, let alone properties that might be a community nuisance or whose owner engages in unfair business practices. Such a broad-brush requirement should not be imposed without the development of a factual record showing that it is necessary.

Finally, at the Committee’s February 6 hearing for House Bill 271, sponsored by Delegate Grammer, questions and comments were made about unresponsive resident agents and/or companies that, in fact, do not have a resident agent in Maryland on whom service of process can be accomplished. In this regard, the Section Council agrees that the following matters are worthy of study and consideration for future legislation: (a) creating legal remedies if an entity does not have a resident agent, or if credible information exists that an entity’s listed resident agent does not reside or maintain an office in Maryland; and (b) identifying the role and responsibilities of a resident agent.

Thank you for your time and consideration of our testimony opposing HB 1399.

Sincerely,

David L. Cahn
Chair
Business Law Section Council

Christia A. Pritts
Chair-Elect and Legislative Committee Chair
Estates and Trusts Section Counsel.

cc: Business Law Section Council