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To: The Honorable Marc Korman
Chair, Environment and Transportation Committee

From: Karen S. Straughn
Consumer Protection Division

Re: House Bill 968 – Condominium and Homeowners Associations – Reserve Studies - Exemptions (OPPOSE)

The Consumer Protection Division of the Office of the Attorney General submits the following written testimony in opposition to House Bill 968 submitted by Delegates Wivell, Baker, Hinebaugh and Valentine. This bill would remove the requirement to conduct and fund reserve studies by certain common ownership communities.

Reserve studies review the common elements of an association to determine the major repairs and replacements that may be needed in the future and ensure that the association is properly planning for these estimated costs. Such studies not only help to secure the financial stability of the association and address problems that could impact the structural soundness of the condominium, they are also needed to enable members to buy and sell their homes, since most banks and mortgage companies will not lend money to owners who reside in associations that do not have current reserve studies. This bill attempts to limit the associations which would be required to comply with the reserve study law, exempting those condominium associations that secure 80% of the association vote to fund repairs by special assessment. However, prior to the passage of the reserve study law, the Division received calls and complaints from members in associations who were billed very high special assessments that many members could not afford. The reserve studies law helps to ensure that maintenance and repairs are addressed in a

comprehensive manner and that the costs of maintenance and repairs are addressed in a more orderly fashion.

The bill further attempts to exclude homeowner associations that are comprised of 50 or fewer homes, are comprised of only single-family homes on lots that are unable to be subdivided or only have private roads for their common elements. Neither the number of homes nor the types of homes are a valid basis by which to eliminate the need to properly reserve funds in a homeowner association. First, even small associations may have expensive common elements that need to be maintained or replaced, such as storm water management ponds, roadways and parking lots, clubrooms, swimming pools or elevators. In fact, the need to reserve funds becomes heightened for a smaller community as there are fewer owners to meet the financial demands at the time repairs or replacement are needed. In addition, the type of lots does not define what common elements exist and therefore should not be an indicator of whether reserve funding is needed. Finally, even if the only common elements were private roadways, there is a need to ensure that sufficient funding is available to repair or replace the roadways in the event of damage.

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

cc: The Honorable William J. Wivell
The Honorable Terry L. Baker
The Honorable Jim Hinebaugh, Jr.
The Honorable William Valentine
Members, Environment and Transportation Committee