

**SB 898 Support letter.pdf**

Uploaded by: Karen Straughn

Position: FAV

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March 7, 2024

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

From: Karen S. Straughn  
Consumer Protection Division

Re: Senate Bill 898 – Condominiums and Homeowners Associations – Resale Contracts –  
Notice Requirements (SUPPORT)

The Office of the Attorney General submits the following written testimony in support of Senate Bill 898 sponsored by Vice Chair Waldstreicher. This bill limits the fees chargeable by a common ownership community when obtaining a resale package. It further establishes that the resale package may be provided to the real estate agent for the prospective purchaser and lengthens the period to cancel a resale contract from 5 days to 7 days.

Resale packages notify the potential buyer of important information about both the individual home being purchased and the financial standing of the association. It provides an important level of transparency and consists of the governing documents of an association as well as information about potential litigation, special assessments that may be forthcoming, and other important information that may affect a potential buyer's purchase decision.

While this information is critical to the home buying decision, it is generally readily accessible to the managing agent. For these reasons, the legislature previously chose to limit the cost of producing these packages. Unfortunately, there is often a need to request updated information or to expedite the receipt of the documents. This bill seeks to limit the fees for these practices and to further prohibit additional fees. While this is a necessary process for the sale, the fee limitation allows a reasonable fee while not making it cost prohibitive to the seller. Finally, the

bill extends the requirement of receiving the documents to 7 days prior to the sale, or cancellation may be extended to 7 days after receipt to permit the purchaser to carefully review the package materials.

For these reasons, we ask that the Judicial Proceedings Committee return a favorable report on this bill.

cc: The Honorable Jeff Waldstreicher  
Members, Judicial Proceedings Committee

**SB 898 - Condo-HOA Resale - FAV - REALTORS.pdf**

Uploaded by: Lisa May

Position: FAV



## **Senate Bill 898 – Condominiums and Homeowners Associations – Resale Contracts – Notice Requirements**

### **Position: Support**

High rates of complaints surrounding the Homeowners Association and Condominium resale process continue to be reported to Maryland REALTORS® from our members and their clients. We therefore offer strong support for SB 898, which clarifies both the procedures and allowable fees for resale packet delivery.

Many of today’s resale packets are delivered electronically and accessed through an online portal, often by the buyer’s real estate agent. This has created some uncertainty as to what constitutes “delivery” of the packet to the buyer. This timing is important because cancellation timelines under the Condo and HOA Acts begin to toll upon buyer delivery. This bill clarifies the timeframes for Associations and buyer agents to remove this uncertainty.

Further, current law differentiates between regular and expedited delivery timeframes. These date back to times when resale packets were in hard copy format and delivered via mail. With electronic delivery, we recommend that these timeframes are shortened to reflect compressed processing time.

Most importantly, SB 898 also clarifies the fees that may be charged to buyers to receive resale documents. While these have been outlined in statute for many years, consumers are often charged additional fees above and beyond those in state law. Because they must receive these documents, and because they have a very limited time under the purchase contract to do so, many consumers have no choice but to pay these add-on fees if they wish to complete their home purchase. REALTORS® believe the fees in the code are more than sufficient to produce what are now almost exclusively electronic documents.

For these reasons, Maryland REALTORS® strongly recommend a favorable report for SB 898.

**For more information contact [lisa.may@mdrealtor.org](mailto:lisa.may@mdrealtor.org) or  
[christa.mcgee@mdrealtor.org](mailto:christa.mcgee@mdrealtor.org)**

**SB898\_MoCoDHCA\_Frey\_FWA.pdf**

Uploaded by: Leslie Frey

Position: FWA



# Montgomery County

## Office of Intergovernmental Relations

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SB 898

DATE: March 7, 2024

SPONSOR: Senator Waldstreicher

ASSIGNED TO: Judicial Proceedings

CONTACT PERSON: Leslie Frey

([leslie.frey@montgomerycountymd.gov](mailto:leslie.frey@montgomerycountymd.gov))

POSITION: FAVORABLE WITH AMENDMENTS (Department of Housing and Community Affairs)

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### Condominiums and Homeowners Associations - Resale Contracts - Notice Requirements

Under current law, a contract for the resale of a condominium unit by a unit owner other than the developer is not enforceable unless the contract contains a certain notice provided in statute and the unit owner furnishes the notice to the purchaser of the unit. Senate Bill 898 would allow the notice to be provided to the purchaser's real estate agent in lieu of to the purchaser. Additionally, the bill provides that the Council of unit owners may charge reasonable fees of up to \$100 for delivery of a certificate containing the information necessary to inform the purchaser of certain information relating to the condominium's council of unit owners, and of up to \$50 for a financial update ordered by the settlement agent. The bill also alters from 5 to 7 days the time period within which a purchaser may cancel a contract under the bill if the required information is not provided, among other provisions.

The Montgomery County Department of Housing and Community Affairs (DHCA) houses the county's Office of Common Ownership Communities, which provides owners, tenants, residents, boards of directors, and management companies of self-governing residential communities with information, assistance, and impartial dispute resolution programming. DHCA respectfully requests that Senate Bill 898 be amended to change that the notice requirements under the bill that may be provided to either the purchaser or the purchaser's real estate agent be instead provided to **both** the purchaser and the purchaser's real estate agent. Additionally, DHCA asks the bill be amended to reflect that the fees created by the bill should be limited to the actual costs incurred by the Council to provide the certificate and the financial update.

DHCA believes that Montgomery County Common Ownership Communities residents would be harmed by the change to allow required information to be provided solely to purchaser's real estate agent. Current law provides a certifiable delivery of critical information about the Common Ownership Community's requirements and rights of homeownership as well as financial and property information critical to making an informed decision about purchasing a unit. Real estate agents have a conflict of interest with respect to prospective purchasers receiving full information, as negative information could cause cancellation of sale and subsequent loss of commission to the agent. As a safeguard, amending the bill to also notify the purchaser ensures that the purchaser receives every opportunity to be informed of the notice. The amendment to limit the fees charged by the Council would ensure that not only are the fees reasonable, they are not an opportunity for the Council to charge the purchaser for costs that are not actually incurred.

Montgomery County DHCA respectfully requests a favorable report on Senate 898 with these amendments.

# **Testimony SB 898 Mar. 7 2024.pdf**

Uploaded by: Steven Dunn

Position: UNF



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Senator William C. Smith, Jr., Chair  
Hon. Senator Jeff Waldstreicher, Vice Chair, Sponsor  
Judicial Proceedings Committee  
Miller Senate Office Building  
2 East  
Annapolis, MD 21401

**Re: SB 898 – Condominiums and Homeowners Associations - Resale Contracts - Notice Requirements**  
**Hearing: March 7, 2024**                      **Position: Oppose**

Dear Chair Smith & Vice Chair Waldstreicher, and Committee Members:

This letter is submitted on behalf of the Maryland Legislative Action Committee (“MD-LAC”) of the Community Associations Institute (“CAI”). CAI represents individuals and professionals who reside in or work with condominiums, homeowners associations and cooperatives throughout the State of Maryland.

MD-LAC is writing today to voice our opposition for SB 898, which would make major changes to the use of resale certificates for the purchase and sale of dwelling units in community associations (homeowners associations and condominiums). Many of these changes would be unduly burdensome on community associations, and would expose these associations to potential liability. As you may know, the resale certificate is an important part of the home buying process, which allows a potential home buyer access to certain, statutorily authorized information from the community association to assist the home buyer with due diligence, and allows the home buyer to cancel the contract within a certain period of time based on their review of the resale certificate. This bill would change this process in several ways that will adversely impact the associations (and their professionals) who provide these certificates.

First, this bill proposes to reduce the time for a common interest community to produce a resale certificate after a request from twenty (20) to ten (10) days after receiving the request. The proposed ten (10) day period is not qualified as business days, so we must assume it is calendar

**Maryland Legislative Action Committee**  
**Post Office Box 6636**  
**Annapolis, Maryland 21401**

days, and is not long enough to allow an association to conduct the investigation it needs to provide accurate and complete statements in the resale certificate. This timing concern may be exasperated if a resale certificate is requested before a holiday. Since associations are bound by the statements they make in resale certificates, it is very important that they are not rushed in responding.

Second, this bill proposes to limit the fees that associations may charge to provide these resale certificates on an expedited basis: an association can only charge a fee of \$100.00 dollars if it responds within five (5) days, rather than \$50 days if delivered within 14 days or \$100 if delivered within 7 days under current law. As discussed above, it is very important that associations be able to carefully research the statements they must make in a resale certificate, and limiting these fees as proposed will make it more difficult to respond accurately. Requiring a 5 calendar day response time to charge an expediting fee will not only hurt the ability of associations to respond accurately, it will make it harder for buyers and sellers to get these certificates on an expedited basis.

Finally, this bill proposes to change the timing that a seller must provide the resale certificate from “within 20 calendar days of entering into the contract” to “not later than 15 days before closing”.

This change places the association, which is not a party to a purchase and sale contract, and certainly and did not negotiate the closing date thereunder, in a position to unknowingly delay closing or cause one party under the purchase and sale contract to default. This exposes the association to litigation if the association does not provide the certificate far enough ahead of closing if the deal falls through.

Accordingly, the MD-LAC respectfully request that the Committee does not give SB 898 a favorable report. We are available to answer any questions which you may have. Please feel free to contact any of the individuals listed: Lisa Harris Jones, CAI MD-LAC lobbyist, at 410-366-1500 or by email at [lisa.jones@mdlobbyist.com](mailto:lisa.jones@mdlobbyist.com); Vicki Caine, Chair 215-806-9143, or [MDLacChair1@gmail.com](mailto:MDLacChair1@gmail.com).

Sincerely,

*Steven Dunn, Esq.*  
Vice-Chair, CAI MD-LAC

*Vicki Caine*  
Chair, CAI MD-LAC

CAI is a national organization dedicated to fostering vibrant, competent, harmonious community associations for more than thirty years. Its members include community association volunteer leaders, professional managers, community management firms, and other professionals and companies that provide products and services to common interest associations. As part of its mission, CAI advocates for legislative and regulatory policies that support responsible governance and effective management. As part of this purpose state Legislative Action Committees represent CAI members before state legislatures and agencies on issues such as governance, assessments collection, insurance and construction defects.

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