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

From: Karen S. Straughn
Consumer Protection Division

Re: House Bill 1041 – Homeowner’s Associations – Reserve Funding Requirements -
Exemption (LETTER OF CONCERN)

The Consumer Protection Division of the Office of the Attorney General submits the following written testimony expressing our concerns about House Bill 1041 submitted by Delegate Denise Roberts. This bill establishes an exception to the reserve study requirements for homeowner associations if an emergency or a catastrophic event occurs and permits the association to develop a recovery plan that would extend the reserve study requirements for an additional three years.

Legislation passed during the 2022 session requires condominium and homeowners’ associations to conduct a reserve study to determine what maintenance is required and to fund the reserves of the association in accordance with that study. In the past, many associations had not been properly funding their reserves, either due to the inability to obtain the votes required to approve large increases or the simple inability to afford the increases necessary. As a result, the infrastructure of many of these communities has deteriorated and residents are now forced to incur substantial increases or face penalties for failing to address the deteriorating conditions of the community.

While the Consumer Protection Division is aware of associations that are struggling to meet the 3-year requirements of the reserve study legislation, for most associations this is due to not properly providing for needed maintenance and repairs in the past and not necessarily as a result of an emergency or catastrophe. Unfortunately, the bill does not sufficiently define the types of

emergencies or catastrophes that may qualify to grant such an exception. As written, an association may be able to claim an exemption merely because they are unable to easily meet the requirements of the reserve study legislation due to the failure of association members to pay their share.

In addition, the recovery plan is unnecessarily broad and leaves much of the determination of how to apply such a recovery plan up to the association, with the exception that it is limited to an additional three years. Without more specificity, it would be difficult to determine if an association is legitimately able to qualify for an exception. Furthermore, even if the association qualifies, there is no structure to the recovery plan and it would be difficult if not impossible to enforce such a plan to ensure that the association is in compliance.

For these reasons, we hope that the Environment and Transportation Committee takes our concerns into consideration with respect to HB 1041.

cc: The Honorable Denise Roberts
 Members, Environment and Transportation Committee