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

From: Karen S. Straughn
Consumer Protection Division

Re: House Bill 1133 – Common Ownership Communities – Reserve Studies – Annual Revisions (SUPPORT)

The Consumer Protection Division of the Office of the Attorney General submits the following written testimony in support of House Bill 1133 submitted by Delegate Samuel I. Rosenberg. This bill would permit common ownership communities to revise their reserve study at the end of each year to reflect work that was done to the common elements.

Legislation passed during the 2022 session requires common ownership communities 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 many common ownership communities, the infrastructure includes roads, storm water management ponds, sewers, parks, sidewalks and other elements that are the sole responsibility of the association and its members. The failure to maintain the infrastructure can result in both physical danger to the community members as well as depressed property values and eventually, communities in crisis.

However, the process has been complicated by the fact that some legal advisors believe that if an association completes repair or replacement of a common element prior to the scheduled time for repair or replacement listed in the reserve study, the association must continue to maintain reserve funds for that item until the reserve study determines that repair or replacement is necessary. As a result, communities are either hesitant to repair or replace common elements prior to the time frame determined by the reserve study, or they are multiplying the costs that

must be maintained in the event repairs are completed earlier than required by the study. While a review of legislative history would clearly reveal that this was not the intent of the reserve study legislation, the present bill would clarify this in the law and ensure that associations are aware that once a common element is repaired or replaced, no funds need to be maintained in the reserve study for that common element until the updated reserve study is done. At that time, it would be reviewed to determine when that common element may need repairs or replacement again in the future.

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

cc: The Honorable Samuel I. Rosenberg
Members, Environment and Transportation Committee