

# **SB 777 Senate JP testimony.02212025.pdf**

Uploaded by: Scott Silverman

Position: UNF

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February 21, 2025

[will.smith@senate.state.md.us](mailto:will.smith@senate.state.md.us)  
[jeff.waldstreicher@senate.state.md.us](mailto:jeff.waldstreicher@senate.state.md.us)

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

**Re: Senate Bill 777**  
**Howard County – Common Ownership Communities –**  
**Funding of Reserve Accounts and Preparation of Funding Plans**  
**Hearing Date: February 25, 2025 at 1:00 p.m.**  
**Position: Oppose**

Dear Chairman Smith, Vice-Chair Waldstreicher, and Members of the Judicial Proceedings Committee:

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 community associations (condominiums, homeowners’ associations, and cooperatives) throughout the State of Maryland.

We write on behalf of the Maryland residents statewide who reside in common ownership communities to voice our opposition to the above-referenced legislation, which is scheduled for hearing before your Committee on February 25, 2025 at 1:00 p.m.

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

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**Community Associations Institute**

As you may be aware, the enactment of legislation mandating the funding of replacement reserve accounts statewide has been the product of a multi-year effort. The progression has been marked by the initial adoption of bills applicable only to community associations in Prince George's and Montgomery Counties, followed by the enlargement of enforcement statewide. In the time since the adoption of the first wave of legislation, we have had many interactions with community association board members and professional managers regarding the intricacies of compliance with the new laws. Pursuant to that feedback, we first attempted to "clean up" the reserve funding legislation during the 2024 session, but our efforts were unsuccessful when the legislation we supported in the House eventually failed to progress out of committee following crossover to the Senate. We have renewed our efforts this year, and in cooperation with Delegate Marvin Holmes, we have worked diligently to improve HB 292, which he has introduced and championed. Likewise, we are working with Senate staff to reconcile the cross-filed SB 63, introduced by Senator Muse, with the amended text of HB 292. Based upon our conversation with the sponsors and their staff, we expect consistent cross-filed bills which we fully support to emerge soon from bill drafting.

Notwithstanding our work on HB 292/SB 63, no less than four (4) competing bills have been dropped this session, including SB 777. Some of those bills go too far by diluting the practical effects of the statewide reserve mandate already established in existing law. Others fail to go far enough in addressing the issues that we have identified as critical if the laws mandating reserve studies and funding are to be improved as needed. The passage of any one of these bills, including the instant SB 777, would result in further confusion among boards of directors and managers attempting to comply with the law in good faith.

Specifically, whereas HB 292/SB 63 address the provisions of existing laws affecting reserve studies as they appear in the Maryland Cooperative Housing Act, the Maryland Condominium Act and the Maryland Homeowners Association Act, the instant bill SB 777, proposes the following changes to existing law, without support or justification, but then only as the law would apply to community associations in Howard County:

1. Items to be included in a reserve study would be limited to those with a replacement cost greater than \$10,000; and,
2. For community associations in receipt of an initial reserve study, the time within which full funding is to be attained would be extended from 3 years to 10 years.

Simply put, from a procedural standpoint, the passage SB 777, as drafted, would create needless confusion, particularly if the pending HB 292/SB 63 were also passed. Substantively, there is no rationale to exclude items from a reserve study that might cost less than \$10,000 to replace. Neither would it be in any community's best interest to permit its governing body to postpone compliance with the funding recommendations in its reserve study for up to ten (10) years. Although a five-year "ramp up" period is reasonable—and is supported insofar as that is what is proposed by HB 292/SB 63—extending the period for compliance to ten years represents

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**Community Associations Institute**

an ill-advised dilution of the statewide mandate already enacted. Finally, whereas HB 292/SB 63 would be applicable statewide, the proposed SB 777 would extend protections only to community associations in Howard County. The passage of this bill, which is essentially “local legislation,” will result in an inconsistent legislative and regulatory framework within the State.

For the foregoing reasons, we request an unfavorable recommendation by this Committee. Thank you for your time and attention to this important legislation.

We are available to answer any questions the Committee Members may have. Please feel free to contact Lisa Harris Jones, lobbyist for the MD-LAC, at 410-366-1500, or by e-mail at [lisa.jones@mdlobbyist.com](mailto:lisa.jones@mdlobbyist.com), or Scott Silverman, of the MD-LAC, at [410-707-6363](tel:410-707-6363), or by e-mail at [scott@naglezaller.com](mailto:scott@naglezaller.com).

Sincerely,

*Scott J. Silverman*

Scott J. Silverman, Esq.  
Member, CAI MD-LAC

*Vickie Caine*

Vicki Caine  
Chair, CAI MD-LAC

## **2025 Maryland Legislature - SB728 SB758 SB777 SB78**

Uploaded by: Steve Horvath

Position: UNF



HOMEOWNERS  
OF AMERICA  
**UNITED**

February 21, 2025

My name is Steve Horvath. *Homeowners of America (HOA) United* is a nonprofit organization funded entirely by member donations that connects homeowners to provide advocacy, collaboration, education, empowerment, and inspiration to create positive, transformative impacts for common interest communities. A number of our members are Maryland COC homeowners.

Thank you for considering testimony from *HOA United*.

Sincerely,

Steve Horvath  
Co-Founder, HOA United

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### Testimony for [SB728](#)

#### ***Charles County - Governing Bodies of COCs - Member Training***

***HOA United*** recommends a favorable report on this bill in concept because training is important, but also encourages you to maintain consistent standards across the state and allow local commissions to set minimum requirements for COCs that remain unaddressed in state law. [Montgomery](#) and [Prince George's](#) county commissions have proven to be successful vehicles to provide information and resources to COC owners and their condos and HOAs.

*The entire institution of common interest housing rests on the resources of individual owners—their money, judgment, loyalty, commitment, organizational expertise, and social skills. There is virtually no institutional support for them, except for the professionals they are able to hire to advise them and to carry out delegated tasks.* — Evan McKenzie | [Rethinking Residential Private Government in the US: Recent Trends in Practices and Policy](#) | 2016

*Boards draw their membership from people whose work experience is in other sectors—government and business. Many conflicts on boards and between boards and executives result from the introduction of practices and values that may be appropriate to the way other sectors do business, but which may be incompatible with nonprofits' legal and ethical obligations.* — Marion Peters Angelica | 1999 | [🔗](#)

*"Community associations occupy a space that lies somewhere between public governments and private businesses... As common interest communities have become more prevalent, the legal and social challenges they post have become more apparent."* — Susan F. French | 2005 | [🔗](#)

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## Testimony for [SB758](#) **Condominiums and HOAs - Elections, Financial Statements, and Enforcement**

HOA United recommends a favorable report on this bill with amendments to streamline the language and provide additional standards established by multiple other states. Consider the levers that contribute to fair elections:

1. **Require ballots** as you would expect in any election for local, state or federal government. Arizona requires ballots for COCs (reference [ARS 33-1812](#)).
2. **If proxies are allowed, require directed proxies.** Undirected proxies are a source of election harvesting. Nevada began requiring directed proxies years ago (reference [NRS 116.311](#)).
3. **Consider vote recount procedures** like Texas (reference [TPC 209.0057](#)).
4. **Prohibit exclusionary candidacy practices.** Reference [CA Civil Code §5100-5145](#), [CRS 38-33.3-310](#), [718.112\(1\)\(d\)\(2\)](#), [765 ILCS 605/18\(a\)\(1\)](#), [NRS 116.31034\(10\)\(11\)\(12\)\(13\)](#), [116.31034\(16\)\(17\)](#) and [116.31035](#), [TPC 209.00591](#) and [PA Title 68 - §3308](#).

## EXAMPLE LANGUAGE EXCERPTS

View more in [Election Recommendations](#)

Consider in context with [Maryland Real Property Title 11, Section 109](#)

### CANDIDACY AND ACCESS TO RESOURCES

- *(a) Notwithstanding any contrary provision in the declaration or organizational documents, prior to an election of board members or appointment to fill vacancies of the board, the association must provide notice to all unit owners of the following:*
  - (i) The number of board positions that may be filled;*
  - (ii) The qualifications to be a board candidate, if any; and*
  - (iii) The process, manner, and deadline for submitting nominations which shall allow potential candidates at least fourteen (14) days after receipt of the notice required by this section to submit their interest to become a candidate.*
- (b) An association shall not adopt any rule or regulation that has the effect of prohibiting or unreasonably interfering with a candidate in the candidate's campaign for election as a member of the executive board, except that the candidate's campaign may be limited to 90 days before the date that ballots are required to be returned to the association.*
- (c) A nomination or election procedure shall not be deemed reasonable if it:*
  - (i) it discourages participation;*
  - (ii) disadvantages any member based on any class protected by [RCW 49.60.224](#);*
  - (iii) disallows any member from nominating themselves for election to the board; or*
  - (iv) encourages members to vote for a particular candidate based on their selection by a nominating committee or the board*
- ***equal access shall be provided to association media, newsletters, or internet websites or web portals during a campaign for purposes that are reasonably related to that election to all candidates and members advocating a point of view reasonably related to the election. The association shall not edit or redact any content from these communications, but may include a statement specifying that the candidate or member, and not the association, is responsible for that content.***
- ***equal access to the common area meeting space, if any exists, during a campaign, at no cost, to all candidates, including those who are not incumbents, and to all members advocating a point of view, including those not endorsed by the board, for purposes reasonably related to the election.***
- ***in the event that there are more candidates than open positions on the board, then, upon request of one or more of the candidates, the association shall permit each***



*candidate for a board position equal time to address the unit owners during a meeting before the close of the election period.*

- *If the number of board members whose terms expire at the annual meeting equals or exceeds the number of candidates, the candidates become members of the board effective upon the adjournment of the annual meeting.*

### **BALLOT COUNTING**

- *At a meeting of unit owners held pursuant to this section, the secret ballots physically received by the association must be opened and counted and the results of the secret ballots received by the association by electronic means must be reviewed, announced, and recorded in the meeting minutes. A quorum is not required to be present when the secret ballots physically received by the association are opened and counted or the results of the secret ballots received by the association by electronic means are reviewed, announced, and recorded in the meeting minutes.*
- *The incumbent members of the board and each person whose name is placed on the ballot as a candidate for membership on the board may not possess, be given access to, or participate in the opening or counting of the secret ballots that the association physically receives, or the collection of data regarding the secret ballots that the association receives by electronic means, before those secret ballots have been opened and counted or reviewed, announced, and recorded in the meeting minutes, as applicable, at a meeting of the association.*

### **BALLOT REQUIREMENTS**

- *An association with over 100 units must provide absentee ballots to all Unit owners pursuant to subsection (4) of this section and all associations containing 100 or more units whose annual operating budget exceeds \$100,000 and associations whose annual gross revenue exceeds \$250,000 must allow, but not require, owners to cast their ballots electronically.*
- *Absentee ballots must provide the option for owners to have their ballot count toward quorum without casting any vote in the affirmative or negative and, for election matters, must:*
  - (i) designate space for members to write-in one or more candidates of their choice;*
  - (ii) contain the name of each candidate and proposal to be voted upon; and*
  - (iii) for associations containing 100 or more units whose annual gross revenue exceeds \$100,000, be supervised by an independent inspector.*

## ↓ WHEN STATE LAW HAS INADEQUATE PROXY REQUIREMENTS ↓

Country Club Estates Condominium Homes

**PROXY**

Annual Meeting: March 28, 2024

**If you return your Proxy *before* the meeting you do not need to attend.**

I certify that I am an Owner of the Property below and I give \_\_\_\_\_ (my proxy) permission to vote for me at the Annual Meeting.

**(If blank, then President Marianne Andringa is designated with power of succession)**

This proxy confers authority to the person named herein to exercise his or her best judgment in voting on any matters as they may be properly presented at the Annual Meeting on March 28, 2024, or any adjourned meetings thereof.

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### Testimony for [SB777](#)

#### ***Howard County - Common Ownership Communities - Funding of Reserve Accounts and Preparation of Funding Plans Ho. Co. 4-25***

**HOA United recommends a UNfavorable report on this bill.** The state of Maryland should maintain consistent standards for condominiums, cooperatives and HOAs and amend current state law pursuant to recommendations for SB787, HB292 and SB63.

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### Testimony for [SB787](#) | Reference [HB292](#) + [SB63](#) | [HB1133](#)

#### ***Cooperative Housing Corporations and Condominiums - Funding of Reserve Accounts and Timing of Reserve Studies***

HOA United recommends a favorable report with an amendment. Please consider the following recommendations and read [The Myth of Full Funding](#):

- **Fiscal Ramp for Reserves:** One glance at Florida's still unfolding condo special assessment catastrophe should prompt every legislator to move with haste to elongate the glide path for reserve funding. Moving from 3 years to 5 years is an improvement, but even 5 years is insufficient for current owners to compensate for decades (up to 60 years) of insufficient reserve practices and deferred

maintenance. 10 years for "full funding" would be a more reasonable ramp with milestones along the way.

- **Frequency of Reserve Studies:** Follow Washington's lead. Reserve studies should be updated annually which can be accomplished using a slightly sophisticated spreadsheet, with "professional" oversight every 3 years at most. 5 year intervals are too infrequent.
- **Expertise:** Credentials aren't enough. Create accountability for firms and individuals who identify as reserve study "professionals." Reserve studies need to be: comprehensive, accurate and precise. Planning tools don't work well when the expected useful life is off by half or the replacement cost is double, triple or more.

Consider a requirement to have subject matter experts involved at least every 5 years to provide bids and estimates for major components. Elevator experts should provide information for elevators. Roofing experts should provide useful life and costs for roofs. And so on.

- **Defining Reserve Components:** *A reserve study must include a list containing any component provided by the developer pursuant to [Section 11-132] and any additional component for which the cost of inspection, maintenance, repair and/or replacement is not consistently included as a line-item in the association's annual budget.*
- **Requiring a list of components as structured data:** *A reserve study must include quantities and estimates for the useful life of each reserve component, the remaining useful life of each reserve component, and current major replacement costs for each reserve component.*

*Whether provided as part of or integrated into a reserve study report, the reserve study components, quantities, estimated useful life, remaining useful life and current replacement costs must also be provided as discrete data in a structured format that can be filtered and sorted by the association using a typical office software program. [Not in an inscrutable PDF.]*

- [Section 11-132 - Documents to be delivered to council of unit owners by developer](#)
  - Sub (4) requires turnover of "any report relating to the reserves"
  - Sub (10) requires *drawings, architectural plans, and other suitable documents setting forth the necessary information for location, maintenance and repair of all condominium facilities*

- Require developers to compile a structured list of all components that need to be inspected, maintained, repaired and/or replaced over the life of a building.
  - [Section 11-109\(c\)\(16\)](#) requires a turnover meeting within 60 days from the date of conveyance of 50% of the allocated interest. The initial reserve study is due not less than 30 days before that turnover, but that's too late.
    - Require developers to perform an initial reserve study within the earlier of the existing requirement OR within 60 days of obtaining a certificate of occupancy.
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## Testimony for [SB817](#) / [HB363](#)

### ***Common Ownership Communities - Candidate or Proposition Signs - Display Period***

**HOA United** recommends a favorable report with an amendment to:

1. **Simplify the language.** The recommended language below uses 4 subsections to accomplish what takes 11 subsections in the proposed bill.
2. Ensure that signs can be **posted to support ballot initiatives within the COC.**
3. Ensure that signs can be **posted continuously throughout an advocacy cycle.**

#### **EXAMPLE LANGUAGE**

*(a) Except as provided in subsection (b) of this section, a recorded covenant or restriction, a provision in a declaration, or a provision in the bylaws or rules of a [COC] may not prohibit or restrict the display of:*

*(1) signs, including outdoor signs, regarding candidates for public or association office, or ballot issues related to the [COC], or any question submitted to the voters in accordance with the Election Law Article, on or within a unit or limited common element*

[update the language to reference lots in HOAs as needed]

*(b) An association may adopt reasonable rules pertaining to the placement and manner of signs and may limit the time period during which signs may be displayed continuously to no less than 30 days before the beginning of the earliest of an applicable primary election, general election or other vote or election related to any subject of subsection (a)(1) of this section and*

*to no less than 7 days after the conclusion of voting in a general election or other vote or election related to the same.*

*(c) If there is early voting, the time periods specified in subsection (b) of this section shall be extended to begin 30 days before the start of early voting.*

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## Testimony for [SB866](#) / [HB306](#) **Common Ownership Communities - Ombudsman Unit, Governing Document Database, and Local Commissions**

**HOA United** recommends a careful consideration of this bill. Maryland's existing state law allows for AG enforcement that the AG refuses to take. That's probably the best place to start.

The Senate *Judicial Proceedings Committee* [heard testimony from Karen Strong of the Maryland Attorney General's Office of Consumer Protection](#) on February 14, 2024 stating:

*The Office of the Attorney General does NOT represent individuals...*

Quite simply, the Maryland AG Office of Consumer Protection refuses to enforce the provisions of [§11-130](#) and [§11B-115](#) for the overwhelming majority of circumstances and especially when concerns are raised by an individual COC owner. Here's the pertinent excerpt from the two aforementioned sections (with emphasis):

*In this section, "consumer" means an actual or prospective purchaser, lessee, assignee, or recipient of a condominium unit or lot in a development.*

*To the extent that a violation of ANY provision of this title affects a consumer, that violation SHALL be within the scope of the enforcement duties and powers of the Division of Consumer Protection of the Office of the Attorney General, as described in Title 13 of the Commercial Law Article.*

If Maryland continues to allow its AG to disregard enforcement authority prescribed by state law, it only seems prudent that the legislature should adopt additional, binding consumer protections; however, this bill does not provide binding enforcement authority to an ombudsman unit. State agencies in Colorado, Delaware, Florida, Illinois, Nevada, South Carolina and Virginia all collect complaint statistics. CAI has [disfavorably reported](#) on ombuds programs for years, in part due to the non-binding nature of many

such programs. To the contrary, the leaders of these programs believe they can and do provide positive results:

*"In many cases, the threat of public accountability is enough to get condo boards to respond to complaints..."* — [Heather Gillespie](#) has served as the Virginia State community association Ombudsman since 2018.

⚠ Governmental oversight can also have shortcomings. **Before reforms in 2024 to add binding regulatory authority and millions more dollars in funding, Spencer Hennings called Florida's DBPR ombuds program a "toothless tiger."** [Watch the 11/14/23 testimony](#) from Florida's Senate Committee on Regulated Industries (start at minute 15):

*"I think it's quite confusing to have a 120 page condominium act filled with laws that there is no enforcement for. I can't tell you how many, probably thousands of times condominium owners throughout the state would call me and say "My association is clearly violating this law. Who do I call? Who do I go to? What do I do?"*

*"And so many times I would have to tell those people: I'm sorry, there is a law and you're right, they're probably violating it based on what you're telling me, but there's no one to enforce this, so hire a lawyer, good luck. I hope you have \$200,000 to spend because that's what it's going to take to enforce this law."* — Spencer Hennings, former Florida Condominium Ombudsman

The [Condominium Authority of Ontario \(CAO\) Condominium Authority Tribunal \(CAT\)](#) is the best example of efficient, effective, low-cost, high-functioning binding government COC oversight.

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