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

From: Karen S. Straughn
Consumer Protection Division

Re: Senate Bill 633 – Condominiums – Unit Owner Responsibility for Damage or Destruction (OPPOSE)

The Consumer Protection Division of the Office of the Attorney General submits the following written testimony in opposition to Senate Bill 633 submitted by Senator Justin Ready. This bill would shift the full responsibility for a loss in a condominium from the association to the individual owner of the unit where the loss originated.

In April of 2008, the Court of Appeals of Maryland ruled in *Anderson v. Council of Unit Owners of the Gables on Tuckerman Condominium*, 404 Md. 560, 948 A.2d 11 (2008), that the Maryland Condominium Act did not require associations to repair or replace property within individual units. This decision was a complete reversal of how condominiums generally operated prior to that time and resulted in the legislature amending the laws to reflect that the determination of responsibility for a loss depends upon where the loss originated. Following these changes in the law, regardless of negligence, a unit owner is only responsible for the association policy deductible if the cause of loss originates in their unit; the Council of Unit Owners bears responsibility for the damage if the cause of loss originates in the common elements. Senate Bill 633 proposes to amend the law once again to make a unit owner responsible for the full loss, regardless of negligence, as long as the cause of loss originates in their unit.

There are many losses that originate in a unit that do not result from any negligence by the unit owner. By transferring the responsibility to unit owners for amounts above the deductible, as opposed to the association, it imposes unlimited liability on the unit owners and makes it difficult for them to properly protect themselves in the event of a loss. In addition, it essentially transfers responsibility for insuring the association's property to individual unit owners rather than to the association as a whole. In essence, multiple individual unit owners would necessarily have to insure the same common elements to protect themselves in the event of a large loss. This is not only impractical, but it increases the overall costs to individual unit owners who wish to ensure that they are properly insured in the event of a loss and will result in multiple policies covering the same property, which is more efficiently covered by the Association.

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

cc: The Honorable Justin Ready
Members, Judicial Proceedings Committee