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Senator William C. Smith, Jr., Chair
Senator Jeff Waldstreicher, Vice Chair
2 East Miller Senate Office Building
11 Bladen Street
Annapolis, MD 21401

Re: Senate Bill 332
Condominiums – Property Insurance Deductibles – Unit Owner Responsibility
Hearing Date: February 03, 2026 – 2:00 p.m.
Position: Support with Amendments

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.

As you may know, SB332 is being presented again during the current legislative session, having failed to pass during the 2025 session, when it was introduced as HB 449. Understanding that there remains an urgent need to assist condominium associations to cope with surging insurance costs, MD LAC concurs that this legislation remains necessary.

We support SB332, but with amendments.

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Presently, Section 11-114 of the Maryland Condominium Act (the last relevant amendment, which became effective October 1, 2020), allows for a condominium association’s master policy property damage deductible – up to \$10,000 – to be assigned to the owner of a condominium unit when a loss originates in that unit or from a component that services only that unit. Conversely, the deductible is deemed a common expense when losses originate from the common elements or from the occurrence of an event which occurs outside of the condominium regime. The law is intentionally based upon the point of origination of the cause of the loss, and not on any negligence standard because assigning responsibility based upon negligence had been demonstrated to lead to time consuming disputes between condominium associations and their unit owners, not to mention costly litigation.

While only six years have passed since Maryland LAC successfully pursued legislation which increased the deductible responsibility cap (from the \$5,000 passed in 2009 to \$10,000 in 2020), in that relatively brief time, the insurance market has changed dramatically. The \$10,000 deductible attached to condominiums’ master policy property damage coverages is utilized far less frequently. Catastrophic losses (tornados, wildfires, and hurricanes) have impacted the market significantly in recent years. While the commercial insurance market is seeing some recovery, that recovery has been slower for the habitational market, where the average condominium is 30 years old. Accidental losses and those resulting from deferred maintenance continue to impact condominiums, resulting in escalating premiums and deductibles.

Although condominium associations in Maryland have largely been spared the impact of natural/catastrophic loss events in recent years, they have nevertheless been affected by premium increases driven by those same catastrophic events. Insurance policies are written to protect policyholders as a pool of risks, with all insureds funding and paying into the carriers’ reserves to pay claims for all insureds. Because major carriers have voluntarily withdrawn from our own market due to poor results or to protect themselves from insolvency, those carriers that continue to insure condominiums in Maryland have become more selective. Moreover, they are safeguarding their programs through the use of higher deductibles to address loss frequency and severity. If insurance represents the transfer of risk, carriers applying higher deductibles are doing so to transfer back some of that risk to remain viable and to promote regular maintenance and risk management among insureds.

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The \$10,000 deductible is ever more scarcely seen, as carriers are routinely applying deductibles of \$25,000 or higher, particularly for condominium associations containing buildings with four or more stories, and/or in condominium associations whose loss ratios (a measurement of claims paid in proportion to premiums earned) are outside of expected norms (typically in excess of 35% to 40% of written premium). Even without losses, many carriers are liberally applying higher deductibles to older associations to prevent claims and compel maintenance.

When a loss originates in a unit, the current law requires only that the owner of the unit where the loss originates pays the first \$10,000, even if the actual deductible is higher. However, *the Association and all its members* pay the difference between the \$10,000 for which the unit owner is responsible and the actual amount of the deductible, whatever that amount might be. Example: A unit owner leaves the water running in his bathtub on the ninth floor; the tub overflows, damaging multiple units on several lower levels. The total loss is \$100,000, subject to the condominium's property damage deductible of \$25,000. The condominium's policy is primary coverage as a matter of law because Section 11-114 of the Act requires the condominium to insure the common elements and all units, exclusive of improvements and betterments and the unit owner's personal property. Under current law, the owner where the loss originates would cover the first \$10,000, but the Association would pay, as a *common expense*, the difference of \$15,000. The resulting common expense would be even greater if the policy's deductible were higher, and many Maryland condominium associations are required to carry deductibles of \$25,000, \$50,000, \$100,000, or more either because of lack of availability of affordable coverage or due to an adverse claims history.

To promote regular in-unit maintenance and risk management by condominium associations and their unit owners, and to alleviate at least some of the financial burden (and subsidization of payment of some of the balance of higher deductibles as a common expense by the rest of the owners), MD-LAC respectfully asks the Committee to pass SB332, which would effectively increase a condominium unit owner's deductible responsibility from the current \$10,000 to \$25,000 when a loss originates within an owner's unit or from a component that services only that unit. While the increase in responsibility may appear to be substantial, it is essential to enable Maryland condominium associations and the members that support them to function in an insurance market that has become increasingly difficult to negotiate. The increase from \$10,000 to \$25,000 tracks already filed and approved deductible schedules by carriers in the State of Maryland. Moreover, any amount of deductible responsibility less than \$25,000 would become obsolete very soon.

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Increasing the amount that may be shifted to the owner in whose unit a loss originates will help tremendously, but that is not all this bill should accomplish. In recent months, Maryland LAC has received feedback suggesting that, in addition to needing an increase of the amount of unit owner responsibility, labeling that responsibility as being strictly limited to the master policy deductible is problematic. Most attorneys, property managers, and insurance professionals serving the condominium associations in Maryland believe that the deductible is equivalent to and interchangeable with the self-insured portion of a loss before insurance coverage is triggered, but the individual condominium unit owners' (HO-6) policies, which are the vehicle most often relied upon to finance the payment of the chargeback authorized by Section 11-114 of the Act, are not funding a unit owner's responsibility if/when the condominium association opts not to file a property loss claim with its master policy carrier. Often, if the expected cost to repair or restore an affected unit is not expected to exceed the amount of the master policy's deductible, or when a condominium elects not to file a claim because its loss history would be adversely affected in a disproportionate manner, the condominium may opt to self-insure a loss. In those cases, it remains a financial imperative that the condominium association recover the amount that Section 11-114 would permit to be charged back to the owner of the unit where the loss originates. Otherwise, the condominium's financial livelihood could be threatened, particularly when multiple incidents occur within a given fiscal year.

Seeking to prevent that outcome, Maryland LAC has drafted updated bill language, which will be presented by both Del. Marvin Holmes (i.e., HB469 but with soon to-be-published sponsor-requested changes) and Sen. Michael McKay. If adopted, the following language will amend §11-114 (g) (2) 2. (iii) in a manner that will tie the unit owner's responsibility to the loss rather than to the amount of the master policy's deductible:

1. If the cause of any damage to or destruction of any portion of the condominium originates from a unit, the owner of the unit where the cause of the damage or destruction originated is responsible for **AND SHALL PAY TO THE CONDOMINIUM ASSOCIATION AN AMOUNT EQUAL TO THE COST OF SUCH REPAIR OR REPLACEMENT WHICH AMOUNT SHALL BE THE LESSER OF:**

A. THE TOTAL COST OF SUCH REPAIR OR REPLACEMENT; OR

B. THE AMOUNT OF THE COUNCIL OF UNIT OWNERS' PROPERTY INSURANCE DEDUCTIBLE SPECIFIED IN THE COUNCIL OF UNIT OWNERS' PROPERTY INSURANCE POLICY; OR ~~the council of unit owners' property insurance deductible not to exceed \$10,000.~~

C. \$25,000.

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2. The council of unit owners shall inform each unit owner annually in writing ~~of~~ **THAT IF THE CAUSE OF ANY DAMAGE TO OR DESTRUCTION OF ANY PORTION OF THE CONDOMINIUM ORIGINATES FROM A UNIT:**

A. The unit **OWNER IS RESPONSIBLE** ~~owner's responsibility~~ for the **COST OF REPAIR OR REPLACEMENT OF SUCH DAMAGE OR DESTRUCTION AS PROVIDED IN SUBSECTION (G)(2)(III)1. OF THIS SECTION** ~~council-of unit-owners'-property-insurance-deductible~~; and **OF**

B. The amount of the **COUNCIL OF UNIT OWNERS' PROPERTY INSURANCE DEDUCTIBLE SPECIFIED IN THE COUNCIL OF UNIT OWNERS' PROPERTY INSURANCE POLICY.** ~~deductible.~~

If Section 11-114 is amended in this manner, we will clarify that the owner in whose unit a loss originates is responsible for the amount equal to the cost of repair or replacement, either up to \$25,000, or up to the association's deductible amount not to exceed \$25,000. In this manner, the unit owner's responsibility is no longer dependent upon the filing of a master policy claim. By passing increased financial responsibility to the unit owner in whose unit a loss originates, we also control costs passed through to all unit owners, better avoiding assessment increases or special assessments and preserving financial resources that are better applied to the funding of replacement reserves.

Certainly the language we have proposed will help unit owners who are not held directly responsible for a loss, but we could help them even more by mandating personal insurance coverage as a funding mechanism, subject only to their own policy's deductible (which can be as low as \$250). In cases where there is a master policy deductible of more than \$25,000, the condominium association must fund the amount in excess of that portion which Section 11-114 permits to be charged back to the responsible unit owner, either through increased condominium assessments imposed upon all unit owners, through special assessments levied upon all unit owners, or through the drawing down of replacement reserves – none of which are methods that can be paid with insurance proceeds payable under any unit owner's HO-6 policy. In 2025, Maryland LAC also proposed legislation (i.e., HB1541, which did not pass) that would have effectively insured the originating unit owner's responsibility for payment of the master policy deductible up to the statutory threshold. Therefore, together with increasing the amount of financial responsibility for damage to \$25,000, Maryland LAC is also proposing again this year that a requirement be included in SB332 which would require all unit owners to carry their own HO-6

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policies. Doing so would enable loss-responsible unit owners to fund their responsibility through the Dwelling/Building Property coverage form within that policy, or through that policy's Loss Assessment Coverage (depending on how the individual HO-6 carrier funds such responsibility, which can vary between commercial HO-6 carriers). This addition to SB332, would effectively protect a responsible unit owner from having to pay his or her portion of the loss out of pocket.

If passed as amended in the manner we have suggested, the General Assembly will meet a need that has existed for some time. In 2011, Del. Dana Stein sponsored and the legislature passed HB679, which allows condominium associations to adopt a bylaw amendment mandating unit owners to obtain HO-6 (or comparable) coverage, and to adopt such amendments with a reduced majority (51%) vote (typical condominium bylaw amendments require the affirmative vote of two-thirds of the unit owners). Although the law enacted by the passage of HB679 represented an ideological step forward, the time, effort, and legal expense required to amend a condominium association's governing documents have proven to be too great, and many Maryland condominium associations have not been able to take advantage of the law enacted by the passage of HB679 for those reasons, leaving their unit owners vulnerable to liability for payment of the master policy's ever increasing property damage deductible.

Maryland LAC understands that losses will continue to occur, and that the spirit of a condominium's master policy is to ensure the buildings and units are restored following losses to the condition in which the developer originally conveyed them, but we also understand that if Maryland's condominium unit owners are statutorily required to carry unit owner/HO-6 coverage, those policies will be available to absorb the increased unit owner responsibility we are proposing for SB332 and the forthcoming HB469.

Specifically, we are proposing that unit owners carry an HO-6 policy inclusive of, at a minimum:

1. **Dwelling Coverage** to protect an owner's improvements, betterments, alterations, and additions (made or acquired from any previous owner), since the condominium association's Master Policy is obligated by statute to insure the unit only as the developer originally deeded it (original grade floor, ceiling, and wall coverings, cabinets, countertops, appliances, fixtures, and equipment—i.e., no "improvements or betterments") to the first purchaser of said unit. Most HO-6 carriers fund that portion of a loss/damage that is the unit owner's responsibility through the Dwelling limit, though increasingly we see HO-6 carriers fund such responsibility through the HO-6 policy's Loss Assessment coverage;
2. **Loss Assessment Coverage** pays for an owner's proportionate share of a loss that is not fully covered by the association's policies, and under some HO-6 policies, the unit owner's share of the master policy deductible, as permitted by law.

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This requirement would:

1. Require that each unit owner provide annual evidence of the proposed coverages to the council of unit owners;
2. Allow the council of unit owners to acquire an insurance policy on behalf of a unit owner without mandating any requirement to do so.
3. Allow the council of unit owners association to charge premium for such placement of a unit owners' policy to the owner as an assessment; and
4. Require the unit owner to assign to the council of unit owners the portion of the total amount of the loss for which the unit owner is responsible.

For the foregoing reasons, MD-LAC requests a **favorable** report by this Committee with the amendments offered herein. 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, or Robin Manougian, Member and Insurance Sub-Committee Chair of the MD-LAC, at (240) 401-0855, or by e-mail at rmanougian@gmail.com, Scott Silverman, Vice-Chair of the Insurance Sub-Committee and Vice-Chair of the MD-LAC, at (410) 707-6363, or by e-mail at scott@naglezaller.com, or Igor Conev, Chair of the MD-LAC, at (443) 614-2787, or by e-mail at igor@ocmannproperties.com.

Sincerely,

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