2009 ADVOCACY ACTIVITIES

Federal and State Legislative Yearbook

Government & Public Affairs Department
## Table of Contents

*Federal Legislative Issues*  Page 3  
*2009 State Issues Overview*  Page 4  

**State Overviews and LAC Rosters**

- Arizona  Page 5  
- California  Page 6  
- Colorado  Page 8  
- Connecticut  Page 10  
- District of Columbia  Page 11  
- Florida  Page 12  
- Georgia  Page 14  
- Hawaii  Page 15  
- Illinois  Page 18  
- Maine  Page 20  
- Maryland  Page 21  
- Massachusetts  Page 23  
- Michigan  Page 25  
- Minnesota  Page 26  
- Missouri  Page 28  
- Nevada  Page 29  
- New Hampshire  Page 32  
- New Jersey  Page 33  
- New York  Page 35  
- North Carolina  Page 37  
- Ohio  Page 38  
- Oregon  Page 39  
- Pennsylvania  Page 40  
- Rhode Island  Page 42  
- South Carolina  Page 43  
- Tennessee  Page 45  
- Texas  Page 46  
- Utah  Page 48  
- Virginia  Page 49  
- Washington State  Page 53  

Note: State updates are current as of February 1, 2010.
Federal Legislative Issues

Mortgage Modification/“Cram Down”—HR 1106/S. 61 would have amended the U.S. Bankruptcy Code to allow homeowners to petition a bankruptcy court judge to modify the terms of their mortgage. Also called “cram down,” the bill would allow courts to discharge principle debt and interest and to reform the homeowners interest rates and payment terms. As drafted, HR 1106 also would have allowed courts to modify a homeowner’s assessment obligation to his or her community association. CAI worked with House and Senate leaders to address this issue and ensure that the final legislation did not allow courts to alter a homeowner’s assessment obligation. When introduced, S. 61 included language that limited mortgage modification authority solely to a person’s mortgage and related mortgage debt. It failed to pass the Senate.

Fannie Mae Condo Guidelines—HR 1728 would amend the Truth in Lending Act to provide added lending and mortgage writing protections for consumers. The bill would prohibit incentives for steering homeowners into specific mortgage products and would direct oversight agencies to issue new regulations to address unfair, deceptive and predatory practices. It also included an amendment that would require Fannie Mae to reopen discussions on its condominium underwriting guidelines. The bill would require Fannie Mae to revisit and seek comments to its underwriting guidelines for condominiums. CAI supported this amendment as it would address key member concerns with criteria adopted by Fannie Mae to determine when a condominium unit can qualify for Fannie Mae underwriting of a mortgage.

Solar Devices—HR 2454, “The American Clean Energy and Security Act,” would regulate the emission of greenhouse gases, create national energy standards for businesses and homes, and introduce a host of new mandates for energy efficiency. A last-minute amendment in the House added language to the bill which would override community association covenants related to solar energy devices and would prevent an association from enforcing any such restriction against a homeowner or tenant. As drafted, the amendment would have given a tenant the right to install solar devices on property they did not own, thus creating a potential constitutional takings issue. CAI opposed the addition of this language, noting that more than 35 states have already taken action on balancing the interests of homeowners and associations on energy devices, thus negating the need to federalize this issue. The Senate version of the bill, S. 1733, did not include this provision, which is a victory for CAI members.
2009 State Issues Overview

One of CAI’s missions is to ensure a fair and effective operating environment for our communities, managers and business partners. To achieve this goal, CAI is actively engaged in the public policy arena through active lobbying in state houses across the country. In fact, in 2009, CAI had over 300 volunteer member advocates working in 32 state-based Legislative Action Committees to ensure the voice of community associations is heard. With over 100,000 bills introduced in 2009 that affect the industry, the advocacy work of the state Legislative Action Committees (LACs) has proven to be more important than ever.

To fund CAI advocacy efforts, members demonstrate their willful support by contributing through the advocacy support fee, with 100 percent of the advocacy support fee returned to state LACs on a pro-rata basis. In addition to this fee, CAI maintains an Issues Advancement Fund (IAF) that provides grants to states in support of critical public policy projects. The IAF is funded through voluntary contributions and non-allocated advocacy support fees.

This report provides a look into how CAI’s advocates put these resources to work in preserving community association autonomy and advancing a pro-community agenda in 2009. Notable accomplishments include:

- The passage of community manager licensing and credentialing legislation in Illinois, as well as progress on proposed licensing initiatives in North Carolina and South Carolina.

- The passage of amendments to the Maryland Condominium Act to clarify that condominium master property insurance policies must cover both common elements and units.

- The expansion of priority lien legislation in Nevada, as well as continued advocacy in Hawaii, Maine, Michigan and Ohio that will authorize associations to collect past-due assessments after a foreclosure.

- The veto of an energy contract bill, which sought to encourage HOAs to adopt 5-year contracts for water and energy services without getting approval from members and without addressing potential conflicts of interest.

- The defeat of legislation in CO, GA, ME, MD, NH and VA that sought to restrict certain HOA covenants pertaining to solar devices, clotheslines and land management while taking away governance rights from the association and placing them instead with well-intentioned, but misguided, lawmakers.

It is our hope that this report will inform our members of the many legislative challenges CAI faces and to assist in facilitating the exchange of information between our 33 LACs and volunteer member advocates.
Arizona

LAC Members

Scott B. Carpenter, Esq. (Co-Chair)
Carpenter, Hazlewood, Delgado & Wood, PLC

Curtis S. Ekmark, Esq. (Co-Chair)
Ekmark & Ekmark, LLC

Ken Bade, CMCA, AMS, PCAM
Lewis Management Resources

Carolyn B. Goldschmidt, Esq.
Goldschmidt Law Firm

Duane Krause
Tucson Estates POA

Brian W. Morgan, Esq.
Maxwell & Morgan, P.C.

Advocacy Highlights

For Sale Signs—The Arizona LAC introduced an amendment to Section 1, Title 33, Chapter 4, Article 3 of the Arizona revised statutes in SB 1148 (relating to deed restrictions). This amendment stipulates that no covenant, restriction or condition contained in a deed, contract or security agreement affecting the transfer or sale of a residential or commercial property can prohibit the display of a “For Sale” sign or sign rider on the property by the property owner. This amendment does not apply to timeshare property. The bill was enacted by the legislature in July 2009.
Advocacy Highlights

Energy Contracts—**AB 1328**, encouraged HOAs to adopt 5-year contracts for water and energy services without getting approval from members and without addressing potential conflicts of interest. Although CAI worked to address concerns with the bill, common ground could not be found. The bill was marketed as a necessary conservation measure, which explains its easy passage, despite numerous inherent flaws in wording and policy. CLAC launched a successful grassroots effort to secure a veto.
**Water**—Water shortage, storage, delivery and usage is a major issue for California. Numerous bills had direct impact on associations: **AB 300** was almost amended to require HOAs to enforce all water usage on behalf of local water utility companies; **AB 1061** initially banned community covenants that prevented non-drought tolerant landscaping until we amended it to have pre-existing rules enforceable as written; **SB 407** requires owners and associations to install water-conserving faucets, toilets, sprinklers and other devices either during replacement or before a predetermined date. The bill is on the Governor’s desk.

**Code Indexing**—**AB 899** was sponsored by the Executive Council of Homeowners (ECHO), and portends to offer clarification to owners by requiring associations to give any owner, upon individual request, an index to all the relevant statutes which govern HOAs. We opposed the measure as redundant, unnecessary and one which would require time and expense for all associations. It would also need to be amended every year the laws change. The bill is awaiting the Governor’s action.

**Electronic Balloting**—CLAC’s own **SB 259** was shelved early in the year when judges thought it undermined and usurped their discretion. The bill provided that if a court voids any results of an election for one or more board members because of an election procedure violation or technical error, the court shall not invalidate a decision of the board that was reached after the board was seated pursuant to that election unless the court finds that the action of the board was contrary to law or the governing documents. This was meant to bar wholesale repeal of all decisions made by the board, throwing the community into chaos. CLAC is considering a strategic approach to the measure.

**CLAC Legislative Day in the Capitol**

CLAC’s 15th annual lobby day was another success as were the educational seminars presented the day before. Bills were briefed, attendees met personally with their Senator and Assembly member or staff, and additional information was gathered. An evaluation survey among participants showed excellent marks for organization, substance and political acumen.
Colorado

LAC Members

Chris Pacetti, CMCA, PCAM (Chair)  
Ken-Caryl Ranch Master Association  
Jesse Howard Witt  
The Witt Law Firm

Gary Debus, AMS, PCAM (Vice-Chair)  
Highlands Ranch Community Association  
Lynn S. Jordan, Esq.  
Jordan Law LLC

Andrea Bobb  
Westwind Management Group, Inc.  
Deborah Karpuk  
Silver Mesa Homeowners Association

Jim Cowell, CMCA, PCAM  
Colorado Association Services  
Kenton Krohlow, PCAM  
Rock Property Services, Inc.

Carmine Delisio  
Association Reserves Colorado, LLC  
Suzanne M. Leff, Esq.  
Winzenburg, Leff, Purvis & Payne

Todd Fackler, CMCA  
MSI, LLC  
Walter A. Lukasik, CMCA, AMS  
Hammersmith Management Inc., AAMC

Molly Foley-Healy, Esq.  
HindmanSanchez, P.C.  
J. Kevin Moore

David J. Graf, Esq.  
Moeller Graf, P.C.  
Jerry C.M. Orten, Esq.  
Orten, Cavanagh, Richmond & Holmes, LLC

Robert D. Hoehn, Esq.  
Rothgerber Johnson & Lyons, LLP  
Gary H. Tobey, Esq.  
Tobey & Toro, P.C.

Advocacy Highlights

Energy Savings Devices—HB 1107 concerns the removal of restrictions on the use of energy efficiency measures in connection with real property. It prohibits HOA covenants or deed restrictions that increase the cost of renewable energy generation devices (e.g., solar panels) by more than 10 percent or $500, whichever is less, or reduce their efficiency by more than 10 percent. This legislation would have further undermined an association’s ability to regulate energy devices within the community, following the passage of HB 1270 in the 2008 session. The LAC opposed HB 1107, noting that the legislature should provide communities with time to adapt to the requirements of the 2008 legislation, which was supported by the LAC. The bill was withdrawn by the sponsor at the urging of the LAC.

Foreclosure—HB 1276 requires the division of housing in the department of local affairs to set qualifications for, train and retain foreclosure counselors to assist eligible borrowers in the deferment of
a foreclosure sale. The bill requires a notice to be posted on the front door of a property that provides information regarding how to pursue a mortgage foreclosure deferment. If a deferment is elected by the unit owner, the foreclosure process is delayed. The bill was signed by the governor over concerns expressed by the LAC.

**Small Associations**—As signed into law, SB 249 amends provisions of the Colorado Common Interest Ownership Act that exempt some small communities from all but specifically enumerated provisions of the Act. SB 249 adds provisions to which small communities must comply. Subject to certain conditions and limitations, these provisions require a community to allow the following: the display of American flags, service flags and political signs; parking of emergency vehicles by residents employed as first responders; trimming of vegetation for fire defense purposes; modifications required for accessibility by a resident with disabilities; and specified energy-efficiency improvements.

**Affordable Housing**—HB 1220 amends the Colorado Common Interest Ownership Act to specify that, provided no regulations to the contrary exist, an association shall not prohibit a unit owner from restricting or specifying by deed, covenant or other document the permissible sale price, rental rate or lease rate of the unit or occupancy or other requirements designed to promote affordable or workforce housing. This change only applies to counties in which the population is fewer than one-hundred thousand persons and that contains a ski lift.

**Good Samaritan Immunity**—In response to the foreclosure crisis, HB 1235 would provide immunity from litigation to property owners and local volunteers who provide unpaid services to abate nuisances on unoccupied residential property, including action to remove weeds, brush and trash from such properties. The bill would immunize banks, brokers and others who hold title to, or are in possession or control of, such properties against any claim by such volunteers for injury due to a defect or dangerous condition on the property or any negligent, grossly negligent or reckless conduct by any person. The bill died in committee.

**Reserves**—As passed, HB 1359 requires all members of the executive board of a HOA to receive relevant information related to the HOA's operation. It establishes the same standards for election or appointment as a chair of an HOA committee, to which authority may be delegated, as apply to the election or appointment of members on the executive board. It also requires an HOA to adopt a policy concerning when the association has a reserve study prepared, whether there is a funding plan and, if so, the projected sources of funding for the work and whether the study is based on a physical analysis and financial analysis. The LAC worked successfully to keep unfriendly amendments such as restrictions on assessment notices and delinquencies from inclusion within the bill.

**Equity Skimming/Nuisance**—HB 1227 permits a peace officer to notify a landlord if a tenant has been charged with a criminal act that constitutes a public nuisance under state law or a local ordinance, or if a law enforcement agency has received a complaint from more than one person about a tenant committing an act that constitutes a public nuisance. The bill, as passed, also expands the definition of the criminal offense of equity skimming to include the act of continuing to collect rent from a tenant after foreclosure and sale of the property to another person.
Connecticut

LAC Members

Christopher E. Hansen, Esq. (Chair)  
Bender, Anderson and Barba, P.C.

Richard E. Mellin  
Mellin & Associates

Joe Corlis  

Erica Edwards  
London & London

Scott J. Sandler, Esq.
Perlstein, Sandler & McCracken, LLC

Advocacy Highlights

Governance—HB 6672, amends amendments to the Uniform Common Interest Ownership Act, bringing significant changes to common-interest communities throughout Connecticut. The two most significant issues in this bill are 1) changes regarding how association business is conducted in general (e.g., voting, meetings, member participation and association records); and 2) the applicability of CIOA to “pre-1984” or “pre-CIOA” associations. These changes will be implemented to provide greater transparency in association governance, require more formality in the general operations of the community and promote more accountability from association leaders. More of the CIOA will now apply to older associations to make certain aspects of sustaining older communities more efficient. The bill was signed by the governor and most of the amendments contained within it will become effective July 2010.

Insurance—HB 6447, an act mitigating fire losses for homeowners and business owners, reduces the waiting period when a fire loss claim is payable after proof of such loss is submitted. This act also extends the period during which a suit or action may be brought forth for recovery of a claim and specifies that a master policy purchased by a condominium association is not excluded from coverage of insured perils caused by terrorism. The bill was passed and signed into law by the governor.
District of Columbia

LAC Members

David H. Cox, Esq. (Co-Chair)  
Jackson & Campbell, P.C.

Todd A. Sinkins, Esq. (Co-Chair)  
Rees Broome, P.C.

Charles Maples  
Eleven Condominium Associations

Bernie Robinson  
BRIM, Inc.

Ekoke J. Tambe, AMS, PCAM

Andrew J. Terrell, Esq.  
Whiteford, Taylor & Preston, L.L.P.

Advocacy Highlights

Pool Safety—The DC City Council adopted legislation to amend the district’s pool operation regulations to comply with the requirements of the federal Virginia Graeme Baker Pool and Spa Safety Act of 2007. Under these revised regulations, every new and existing public pool and spa must be equipped with drain covers conforming to the American National Standard to mitigate the danger of drowning or injury to swimmers.

Water and Sewage—In 2008, the City Council approved B17-0980, a bill that would recalculate charges for homeowners and businesses to pay for a revamp of the city’s storm water system. The new formula bases charges on the amount of impervious surface present on the property. The LAC continued to monitor and provide feedback on the implementation of the program.

Condominium Act—The LAC worked to finalize proposed amendments to the DC Condominium Act. The key purposes of the proposed legislation include: 1) establishing an attorney’s fees provision in the Act; 2) creating requirements that will guarantee the posting of a warranty bond with the DC government prior to the first sale of a unit within a condominium; 3) clarifying certain ambiguities in the non-judicial foreclosure process; 4) clarifying the process for amending condominium instruments; 5) establishing procedures for open board meetings and holding executive sessions of the board; 6) establishing a process for holding electronic voting; 7) clarifying the insurance provisions in the Condominium Act, including responsibility for the association’s deductible when an owner’s act caused the insurance claim; and 8) establishing provisions governing an owner’s right to review an association’s books and records.
Florida

LAC Members

Merrill Spivak (Vice-Chair) 
Michael Kennedy, Esq. 
R. Michael Kennedy, PA

William D. White, CMCA (Chair) 
Laura Matijak, CMCA, AMS, PCAM
Community Association Management Systems, Inc.

Michael Bender, Esq. 
Robert Kaye & Associates, P.A.

Lou Biron 
Business Consulting & Management Services, Inc.

Barbara Oliveira

Harry Charles 
George E. Reiter 
Community Association Management Systems, Inc.

Ronald A. Cole, CPA
Ronald A. Cole, CPA

Robert L. Taylor, Esq. 
Taylor & Carls

Jonathan James Damonte, Esq. 
Jonathan James Damonte, Chartered

Charlotte Toth, CMCA

Paul L. Wean, Esq. 
Wean & Malchow, P.A.

Kevin Edwards 
Douglas E. Wilson, CMCA, AMS, PCAM
Becker & Poliakoff, P.A. 
Advanced Management, Inc.

Advocacy Highlights

TheLAC made numerous contributions to the legislators for better and more workable versions of several important bills in 2009. The primary bill was entitled SB 880, which was intended to fix legislation that was passed in 2008 and has adversely effected the community association industry. The bill contained a provision for the extension of mandatory fire sprinkler systems in common areas of all buildings over 75 feet to the floor of the top level. With this provision in place, the governor vetoed the bill and commissioned a study on the sprinkler issue. That was one of only two bills that made it out of the legislature in 2009. Following are the primary bills which targeted community associations in 2009:

Community Associations—Companion bills SB 880/HB 831, supported and drafted with the assistance of the Florida Legislative Alliance (LAC), would have provided for the application of certain amendments to a legal declaration of condominium status to certain unit owners. They would also have instituted penalties for any person who knowingly or intentionally defaced or destroyed certain records of an association with the intent to harm the association or any of its members. These bills would have imposed cost limits to unit owners and revised requirements for the reappointment of certain board
members. The bills moved through all appropriate committees, but died on the Senate floor during the last day of session.

**Board of Directors**—**SB 714** modifies the insurance provisions of the Condominium Act, extends the deadline for high-rise fire safety retrofits, clarifies board eligibility issues and repeals a law requiring an alternate power source for elevators under certain circumstances. This bill passed both chambers but was vetoed by the governor.

**Community Development Districts (CDD)**—**HB 821** permits new urban, mixed-used community development districts and authorizes the board of the district to enforce covenants when authorized by the county or municipality. It also permits the board to enforce covenants when the authority is assigned to the CDD by a homeowners association, and it provides for the election of an advisor by the property owners to advise the board in enforcement procedures. The bill passed the legislature and was signed by the governor.

**Growth Management Act**—**SB 360** encourages urban infill by eliminating transportation concurrency, allows for expedited comprehensive plan reviews and eliminates the development of regional impact process in urban areas. The bill also extends previously obtained permits and approvals by two years and creates a transition process for moving toward a mobility fee system.

**Xeriscaping**—In **SB 2080**, the legislature finds that the use of Florida-friendly landscaping and other water use and pollution prevention measures to conserve or protect the state’s water resources serves a compelling public interest and that the participation of homeowners associations and local governments is essential to the state’s efforts in water conservation and water quality protection and restoration.

In section (b), homeowners association documents, including declarations of covenants, articles of incorporation or bylaws, entered after October 1, 2001, may not prohibit or be enforced so as to prohibit any property owner from implementing Xeriscape or Florida-friendly landscape, as defined in s. 373.185(1), on his or her land or create any requirement or limitation in conflict with any provision of part II of chapter 373 or a water shortage order, other order, consumptive use permit, or rule adopted or issued pursuant to part II of chapter 373. In addition, a local government ordinance may not prohibit or be enforced to prohibit implementation.
Georgia

LAC Members

Mike Zenner, Esq.  **(Chair)**  Weinstock & Scavo, P.C.  
Caroline Bell  Today Management  
Celia A. Ebert  Parkside Management Company  
Dennis F. Hoffman, CMCA, PCAM  Community Management Associates  
Julie McGhee Howard, Esq.  Weissman, Nowack, Curry & Wilco, P.C.  

Doyle P. Jones, CMCA, PCAM  Capitol Community Management, Inc.  
Laura Lazar, CMCA, AMS, PCAM  Eagle Management Services  
Sally Lewis-Butler  Insurance Marketing Group,  
Randall M. Lipshutz, Esq.  Lipshutz, Greenblatt & King  
Wayne C. Forester

Advocacy Highlights

**Recording of Foreclosure Deeds**—**SB 141** provides that all deeds under power must be recorded by the holder of the deed and secure the debt or mortgage within 90 days of the foreclosure sale. This bill was intended to address problems created when lenders unreasonably delayed the recording of their foreclosure deeds to avoid assessment obligations and other obligations of ownership. The bill was passed by the legislature and signed into law by the governor.

**Expense Report Requirement**—**HB 528** provides that any developer that directly manages a homeowners association or condominium association whose annual assessment is $500.00 or more per unit in a development or subdivision with 20 or more units must provide a report itemizing the expenses to each owner not later than 60 days after the end of the year for which fees were assessed. This requirement does not apply to any development that is subject to the Georgia Property Owners Association Act. The bill was passed into law after being signed by the governor.

**Xeriscaping**—**HB 262**, as originally introduced, provides that a covenant that required the use of specified grasses, trees or bushes could not be enforced in the state to prohibit the use of xeriscape practices to reduce the amount of water necessary to maintain the landscape. The LAC opposed this version of the bill. It was later revised to state that such covenants could not be enforced in the state to require a property owner to violate any state or state-authorized local outdoor water use restrictions. The LAC did not oppose this later version of the bill. Although the bill managed to pass the House, it did not receive a vote in the Senate and failed to become law.

**Assessments Suspension**—**HB 418** suspends an owner's assessment obligations if a board failed to comply with the association's governing documents. The LAC opposed this bill. The bill failed to make it to the floor for a vote and died.
Hawaii

LAC Members

Philip L. Lahne, Esq. (Chair)  Eric Matsumoto
Neeley & Anderson, LLP  Mililani Town Association

Jadean D.K. Carvalho, CMCA  Rohit J. Mehta
Touchstone Properties, Ltd.

Albert J. Denys, CMCA, AMS, PCAM  John A. Morris, Esq.
Certified Management, Inc.

Richard B. Emery, RS  Joyce Y. Neeley, Esq.
Hawaii First, Inc.  Neeley & Anderson

Bruce Erfer  Philip Nerney, Esq.
Kaanapali Hillside Homeowners Association  Law Offices of Philip S. Nerney, LLC

Bruce Howe, AMS, PCAM  Alan I. Takumi, CMCA, AMS, PCAM
Hawaiiana Management Company, Ltd.  Certified Management, Inc.

Kapono Kiakona, Esq.  Joani Taylor
Motooka, Yamamoto & Revere  Marco Polo A.O.A.O., Inc.

Advocacy Highlights

Limited Priority Lien—SB 298 raises the cap on the six-month schedule of limited priority liens of regular assessments from $1,800 to $3,600. Under this provision, regardless of zero equity in a foreclosed unit, the association will receive at least six months of regular assessments or $3,600, whichever amount is less. The LAC’s primary issue with the bill is that it does not address foreclosures that were initiated before April 20, 2009, the day it became effective after being signed into law.

Service of Process—HB 1415 requires the boards of condominium associations, planned community associations and residential cooperatives to adopt a policy to provide reasonable access to process servers to serve summons, subpoenas, notices or orders to persons present at the property. This policy is required only if the project is inaccessible to the general public, such as a secured building or a gated community. The act was signed into law and will automatically sunset in July 2012.

Condo Court—SB 574 provides that after mediation, disputes between owners and boards can be resolved through an administrative hearings process, commonly referred to as “Condo Court.” This procedure was established through the Department of Commerce and Consumer Affairs’ Office of Administrative Hearings and provides any condominium board or owner that is a party to an
successful mediation may file an appeal in Condo Court within 30 days after the end of the unsuccessful mediation. LAC supports the two-year extension of the Condo Court until June 2011.

**Clotheslines**—[SB 1338](#) invalidates any provision that would prevent an owner from installing a clothesline on his or her single-family residential dwelling or townhome. Under the law, a condominium association, residential cooperative or planned community association can adopt rules that reasonably restrict the placement and use of clotheslines, provided that those restrictions do not prohibit the use of clotheslines altogether. In addition, this law prohibits the assessment of a fee for placement of a clothesline. The bill passed into law without the governor’s signature.

**Aging in Place and Disability**—[HB 876](#) modifies certain terms of the Condominium Property Act regarding elderly residents. The act clarifies its requirements for elderly residents remaining in their condominium properties and limits the association’s liability. It also eliminates loneliness, neglect or inappropriate requests of others for assistance from the list of characteristics that the elderly or disabled must exhibit to qualify. The bill will now provide that the elderly or disabled must exhibit one of the remaining characteristics, such as the inability to clean and maintain an independent unit, mental confusion, the abuse of others an inability to care for oneself, or the inability to arrange for home care. Ultimately, this legislation extends further protections onto elderly residents and serves as a stronger safeguard for their individual rights. The bill was passed into law.

**Education Funds**—[SB 1107](#) merges the two condominium education funds (one each under Hawaii Revised Statutes Chapters 514A and 514B). Since the funds are for the same purpose, they will be merged into one fund. This bill was signed into law by the governor.

**Land Court Recording System**—[SB 1352](#) allows owners of fee timeshare interests and owners of fee interests in Land Court Property to remove the property from the Land Court System into the Regular System. This affects the way that timeshare documents and amendments will be recorded, but can also affect the way the condominium documents and amendments will be recorded. The provisions relating to removing property from the Land Court System will end December 31, 2014. The bill was signed into law.

**Record Keeping**—[HB 271](#) streamlines real estate transactions and facilitates public access to real estate documents by 1) permitting the Registrar of the Bureau of Conveyances of the Department of Land and Natural Resources (DLNR) to accept electronic documents with electronic signatures for recording and to consider such documents as equally valid as manually signed documents and 2) requiring DLNR to establish electronic recording standards and practices. This bill was passed into law.

**Harassment**—[HB 615](#) prevents individuals from being harassed by those using innovative forms of technology by extending the definitions in chapter 711, Hawaii Revised Statutes, of harassment offenses to include any form of digital communication (including the ability to make a nonconsensual contact through any form of electronic communication) in the offense of harassment by stalking. The bill was signed into law.
Automated External Defibrillators—HB 1537 encourages education about and the use of automated external defibrillators by exempting persons or employers who provide automated external defibrillator training programs from vicarious liability for civil damages. The bill was successfully passed and signed into law.

Time Shares—SB 1113 repeals the requirement that a hotel located in a county with a population in excess of 500,000 residents (i.e., Honolulu) that is converted to a timeshare must consist of at least 60 units, 40 percent of which are sold or rented as residential apartments. The law will now allow timeshares in a county with a population in excess of 500,000 in an existing hotel that has been converted to timeshare units, without regard to percentages. The bill was signed into law.
Illinois

LAC Members

Mark D. Pearlstein, Esq. (Chair)  Frank K. Coleman, CMCA
Levenfeld Pearlstein, LLC  Community Advantage of Barrington Bank & Trust Company
William C. De Mille, PCAM (Vice-Chair)  Jennifer Eilert
Chicagoland Management & Realty, Inc  CISA Insurance
Michael Baum, PCAM  Carol A. Marcou, CMCA, AMS
Baum Property Services  Vanguard Community Management
Boyd Briscoe  Barbara D. Wick, CPCU, ARM, AIS, CIRMS
Bennington Association  CARMIC, LLC

Advocacy Highlights

Manager Licensing—**SB 1579** was adopted as **Public Act 96-6726**, the Community Association Manager Licensing and Disciplinary Act. This statute will bring community association manager licensing to the state of Illinois and create the Community Association Manager Regulatory and Disciplinary Commission. The statute also establishes the basic qualifications for a community association manager and provides continuing education, testing and discipline for managers. The LAC was the primary sponsor of this bill which has passed and becomes effective in July 2010.

Right of First Refusal—**HB 155** regulates the right of first refusal available to associations and their documents. The law states that in the event of a sale of a condominium unit, an association cannot exercise its right of first refusal, option to purchase or right to disapprove a sale on the basis of financing used by the purchaser, particularly financing guaranteed by the Federal Housing Administration. **HB 155** was passed by the Illinois legislature and fully supported by the LAC.

Mortgage Fraud—**HB 688** helps prevent instances of mortgage fraud and provides remedies for projects that have been technically converted. The statute states that a municipality may seek a court order classifying the condominium property as distressed, appoint a receiver to manage the property and authorize the receiver to sell the property. The LAC was unanimous in support of this bill, which has been passed.

Condominium Leasing—**HB 821** provides that in the event of a sale of a condominium unit by an owner other than the developer to a tax exempt 501(c)(3) organization the owner must record a certificate of sale and obtain board consent to lease the unit if a condominium document is changed to prohibit leasing. A unit owner who is incorporated as a 501(c)(3) charitable organization that intends to lease the unit to provide affordable housing must disclose the proposed sale and lease to the board, the board must approve the sale and lease and the owner must record a certificate of approval for this use. This legislation was opposed by the LAC because it is not consistent with the language of most covenants.
that prohibit the use of a unit for transient or group home purposes. The bill did not proceed in the current legislative session and was pending in the Senate Judiciary Committee.

**Condominium Ombudsperson**—[HB 941](#) creates the Condominium Ombudsperson Act, which provides for training and educational materials to condominium owners and associations, a statewide assistance on condominium matters and a structure for mediating condominium disputes. The bill has been referred to the House Rules Committee.

**Quorum Establishment**—[SB 154](#) provides that a unit owner who is delinquent on his or her assessments for more than 60 days will not be counted for purposes of determining whether a quorum is present for voting on amendments to association by-laws. The bill passed with no opposition from the LAC.

**Electronic Voting**—[SB 1390](#) amends the General Not-for-Profit Corporation Act to facilitate electronic communications. Through this legislation, members of a nonprofit corporation may conduct voting meetings by mail, e-mail or other electronic means. The bill was adopted as Public Act 96-0649.
Maine

LAC Members

Joseph Carleton, Esq. (Co-Chair) Joseph Carleton Attorney at Law
Lawrence Clough, Esq. (Co-Chair) Tompkins, Clough, Hirshon & Langer
Robert Keegan, CMCA, AMS (Vice-Chair) R & E Associates, Inc.
Paul V. Garrett, CMCA, AMS Maine Properties, Inc.
Debra L. Nugent, CMCA, AMS Dirigo Management

Advocacy Highlights

Priority Lien Bill—The House of Representatives passed a committee amendment to the original priority lien bill, LD 961. While the original bill would have amended the Maine Condominium Act to allow condominium associations to have a six-month common charge priority over the pre-existing first mortgages on units, the amendment authorizes a condominium association to require the payment into escrow of six months of assessments for each unit. The amendment provides that interest must be paid on the amounts escrowed and the association shall return the assessment payments made, together with interest earned, to the unit owner when the owner sells the unit and has fully paid all the assessments due. The association may use the balance in the account to offset any assessments remaining unpaid. The LAC was disappointed that the original version of LD 961 did not pass because the amended version is duplicative, impractical and will probably not be used by condominium associations in Maine. The bill was signed into law by the governor.

Solar Rights—At the urging of CAI’s Maine LAC, LD 73 or the “Right-to-Dry” bill, was amended to exclude common elements of condominiums. The amendment defines or limits the rights or privileges of owners or renters with respect to the use of residential property, but may not prohibit a person from installing or using a solar energy device on residential property owned by that person or from installing or using a solar clothes-drying device on residential property leased or rented by that person. The amendment also permits certain reasonable restrictions on the installation and use of a solar energy device that protects public health and safety, shore lands, buildings and historic or aesthetic values. The bill’s amendment was approved by both the House and Senate.
Maryland

LAC Members

Thomas C. Schild, Esq. (Chair)
Thomas Schild Law Group, LLC

Julianne E. Dymowski, Esq. (Vice-Chair)
Whiteford, Taylor & Preston, L.L.P.

R. Bruce Campbell, PCAM
Wallace H Campbell & Company, Inc.

Kathleen M. Elmore, Esq.
Elmore & Throop, P.C.

Jason E. Fisher, Esq.
Lerch, Early & Brewer Chartered

Mel Herzberger
American Community Management

Steven Landsman, CMCA, AMS, PCAM
Abaris Realty, Inc.

Sharon Levine, CMCA, AMS
Montgomery Village Foundation

Buck Mann
Mann Properties

Michael H. Mannes, Esq.
Law Offices of Michael H. Mannes, P.A.

Phyllis A. Marsh

Susan Rapaport., Esq.
Davis, Agnor, Rapaport & Skalny, LLC

Edithann Schaffer, Esq., AMS
Complete Management Services, Inc.

Derek Thompson
Windsor Green HOA

Advocacy Highlights

Condominium Property Insurance—HB 287/SB 201 amends the Maryland Condominium Act to clarify that condominium master property insurance policies must cover both common elements and units. In addition, up to $5,000.00 of the master policy deductible will be the responsibility of the unit owner when the cause of damage or destruction originates in a unit. The new condominium insurance law also requires each condominium to provide an annual notice to unit owners regarding the unit owner’s responsibility for the property insurance deductible and the amount of the deductible. A similar notice must be included in resale certificates issued by the condominium. The LAC was actively engaged in the passage of this legislation to clarify the law following a Court of Appeals decision in 2008.

Fidelity Insurance—As enacted, HB 687/SB 541 requires all condominiums, homeowner associations and housing cooperatives to purchase fidelity insurance to provide for the indemnification of the community against loss resulting from fraud or theft by any officer, director, managing agent or employee who disburses funds for the community. The fidelity insurance policy must cover three months of assessments and the amount in investment accounts held by the community up to $3,000,000 at the time the fidelity insurance is issued.

Closed Meetings of Board of Directors—Effective in 2009, HB 552/SB 171 repeals provisions in the Maryland Condominium Act and Maryland Homeowners Association Act that boards of directors may
hold a closed meeting with a two-thirds vote for “reasons so compelling as to override the general public policy in favor of open meetings.” It adds language that allows boards of directors to close meetings for consultation and discussion on all legal matters, and for discussion of individual owner assessment accounts.

**Association Books and Records**—HB 137 requires condominiums, homeowner associations and housing cooperatives to provide copies of meeting minutes and financial statements prepared within the past three years to a requesting owner by mail, electronic transmission or personal delivery within 21 days of receiving a written request. As enacted, if the requested financial statements and minutes were prepared more than three years before the receipt of the written request, the community has 45 days to provide the copies.

**Developer to Homeowner Control**—HB 667/SB 742 establishes a procedure for the election of the first owner-controlled board of directors of a condominium or homeowners association. It also sets other requirements for transition of control of a condominium or homeowners association from the developer to the owners, including providing financial records, contracts, owner records and other documents.

**Pre-Foreclosure Association Assessments**—Introduced with the full support of the LAC, HB 74 would have required buyers (other than lenders) who purchase a foreclosed property at a foreclosure sale to pay up to six months of condominium or homeowners association assessments past due at the time of the foreclosure sale. The bill did not pass, although it would have helped associations recover some past due assessments when a mortgage is foreclosed on by a lender.

**Replacement Reserves**—HB 666/SB 570 required condominium and homeowners associations to conduct a reserve study every five years to determine the appropriate amount of funds needed for future repair and replacement of common areas. The bill did not pass.

**Common Interest Community Association Annual Registration**—HB 850 required each common ownership community to register annually with the Consumer Protection Division; the Office of the Attorney General. The bill did not pass.

**Community Association Manager Licensing**—SB 873 created a State Board of Community Association Managers. It also would have required management companies to register and individuals to be licensed by the State Board in order to engage in community association management in Maryland. To be eligible for a community association manager’s license, an individual would have been required to be of “good character and reputation,” satisfy certain education requirements, and pass the Certified Manager of Community Associations examination offered by the National Board of Certification for Community Association Managers (NBC-CAM), or its equivalent. The bill did not pass.

**Clotheslines or Other Laundry Drying Devices**—(HB 197 and HB 443/SB 559) restricted the ability of each community to regulate the use of clotheslines or other outdoor drying devices. The bill did not pass.
Massachusetts

LAC Members

Tom Moriarty, Esq. (Chair)
Marcus, Errico, Emmer & Brooks, P.C.

David Barrett, AMS, PCAM
American Properties Team

Robert Berger, Esq.
Goodman & Shapiro, L.L.C.

Wesley Blair
Brookline Bank

John A. Ciolfi
Millennium Partners

Henry A. Goodman, Esq.
Goodman & Shapiro, L.L.C.

Barbara Kansky, CMCA, AMS, PCAM
Mediate Management Company, Inc.

Kenneth E. Nuti, CMCA, AMS, PCAM

Charles A. Perkins, Jr., Esq.
Perkins & Anctil, P.C.

Lisa J. Rule, CMCA

Douglas Troyer, Esq.
Marcus, Errico, Emmer & Brooks, P.C.

Advocacy Highlights

Condo Law Reform—HB 1239 reviews existing condominium regulations. The LAC did not object to the idea of a study, but objects to the structure of the seven-member commission because there is no requirement that it include sufficient numbers of board members, association managers and attorneys specializing in condominium law who would represent “a reasoned voice of the industry.”

Fees Assessment—HB 1209 requires an alteration in the method of calculating common area fees. This legislation, requiring that all condominium units of the same square footage pay the same fees regardless of the floor on which they are located, “attacks the basic premise of fair value,” creating both financing and governance problems for community associations. The LAC opposes the bill, which has been set aside for study.

Condo Elections—HB 3461 allows elections to be decided by a plurality of the ballots cast on election day with no quorum requirement. The LAC opposes the bill which, has been set aside for study.

Removal of Trustees—HB 1241 amends the process of how to remove trustees. The bill provides that trustees may be removed, with or without cause, at a duly called meeting by a vote of owners representing a simple majority percentage interest of more than 50 percent of those present. The LAC opposes the bill, which is currently pending in the House.

Fees Assessment—HB 1236 requires buyers, at the time of purchase, to sign a notarized statement acknowledging their awareness that fees might be apportioned to provide subsidies to the owners of affordable units. The LAC opposes the current language in the bill and proposes more clarity be introduced into the proposal. The bill has been set aside for study.
Meetings Protocol—HB 1240 requires that an association’s attorney attend every meeting (the law would exempt discussions with counsel from the open meeting requirement) to convey to the other board members information the attorney has given to one of them. The LAC believes the language in the bill is not “workable” and, therefore, opposes the proposed bill, which is still pending consideration.
Michigan

LAC Members

David A. Cowan, CMCA, PCAM (Chair)  
In Rhodes Management, Inc.  

Mark F. Makower, Esq. (Vice-Chair)  
Dickinson Wright, PLLC

Daniel A. Herriman, CMCA  
Herriman & Associates, Inc.

Charles Hurton  
Cross Creek Village of Rochester

Linda R. Strussione  
Owens & Strussione, P.C.

Advocacy Highlights

Manager Certification—During 2009, the LAC worked to develop a draft bill for the licensure of community association managers. As drafted, the legislation would amend the Michigan Condominium Act. Community association managers would be required to receive certification through the National Board of Certification for Community Association Managers (NBC-CAM). The act would ensure that association managers maintain professional decorum and maintain high standards of professional conduct by being certified as managers of condominium associations.
Minnesota

LAC Members

John R. Dorgan (Chair)
John R. Dorgan, Attorney at Law

Michael D. Klemm, Esq. (Vice-Chair)
Severson, Sheldon, Dougherty & Molenda

John K. Bouquet, Esq.
Thomsen Nybeck

Walt Burris
BEI Exterior Maintenance Corporation

Jackie Fink, CIRMS
RJF Agencies, Inc.

Alice D. Finley, CMCA, AMS
Joel A. Hilgendorf
Hellmuth & Johnson, PLLC
Russell Lis, CMCA
Community Development, Inc.
Gregory Pettersen, RS
Reserve Data Analysis
Larry Teien
Old Shakopee Park North Association

Advocacy Highlights

MCIOA Amendments—The LAC collaborated with a committee of the state bar association regarding amendments to the Minnesota Common Interest Ownership Act to be introduced in the state legislature in 2010.

In addition, the LAC monitored bills introduced in the house and senate and advocated for the interests of common-interest communities. Significant legislation from 2009 includes the following:

Right and Duty to Secure Vacant Buildings—Minn. Stat. § 582.031 was amended to authorize the holder of a mortgage or sheriff’s certificate of sale to secure vacant buildings. Minn. Stat. § 582.031 also establishes a duty for the holder of a sheriff’s certificate of sale to secure the building if certain “prima facie” evidence of abandonment exists.

City Order to Secure Building—Minn. Stat. § 463.251 was amended to authorize a city council to order that a vacant building be secured. If the owner or holder of the sheriff’s certificate fails to comply, the city may secure the building and levy a special assessment against the real estate for the cost of securing the building.

Owner’s Right to Postpone Foreclosure Sale—Minn. Stat. § 580.07 was amended to provide that an owner may postpone a foreclosure sale for five months. However, if the foreclosure sale is postponed, then the owner’s redemption period is reduced from six months to five weeks.

City Action to Reduce Redemption Period for Abandoned Property—Minn. Stat. § 582.032 was amended to authorize a city to ask a court to reduce the owner’s redemption period after a foreclosure sale from six months to five weeks if the property is abandoned.
**Construction Warranties** — Minn. Stat. § 327A was amended to require new home vendors and home improvement contractors to provide the applicable statutory one-year, two-year and 10-year warranties in writing. Previously, these statutory warranties were implied, but were not required to be delivered in writing.

**Construction Payments** — Minn. Stat. § 337.10 was amended to require monthly progress payments, retainages and prompt payment to subcontractors and material suppliers in connection with all residential construction and improvements.

**Certificates of Insurance** — Minn. Stat. § 60A.39, enacted in 2009, provides that certificates of insurance may be issued to third parties, but may not change the insurance coverage, provide for a notice of cancellation to a third party that exceeds the statutory notice of cancellation to the policyholder, or use any form that is not standard or approved.

**CIC Certificates of Title** — Minn. Stat. § 508.351 was amended to provide a streamlined process for recording documents that affect condominiums or planned communities on registered (Torrens) land using “Common Interest Community Certificates of Title.”
Missouri

LAC Members

Michael Gill (Chair)  Larry Reutter

Brett Shelton (Vice-Chair)  Gary Rottler
Pro Pool Management & Service  Rottler Pest Control

Stephen P. Ahlheim, Esq.  Linda M. Schweppe
Ahlheim & Dorsey, LLC  Community Managers Association, Inc

Bill Guinther  Michelle St. Cin, CMCA, AMS, PCAM
Lake Sherwood Estates Assn.  Metropolitan Management Services

Advocacy Highlights

The LAC introduced S230, the UCOA, which was assigned a committee hearing. The hearing went very well, and it was the first time LAC did not have opposition at a hearing. Although the bill did receive some consideration, it was never voted on by the committee. The LAC feels that this was positive since the home builders did not show up to oppose them, but also negative since the chair felt they would not have been successful if it had been brought to a vote.
Nevada

LAC Members

Donna Erwin, AMS, LSM, PCAM (Chair) Capital Consultants Management
Kay Dwyer (Vice-Chair) Sun City Anthem Community Association
Sara E. Barry, CMCA, PCAM Wolf, Rifkin, Shapiro & Schulman, LLP
Mark Coolman, CIRMS Western Risk Insurance
Elizabeth Shannon Day, CMCA, AMS Shannon Day Realty
Mike Dixon Sun City Anthem Community Association
Judy Farrah, CMCA, LSM, PCAM Capital Consultants Management Corporation
John E. Leach, Esq. Leach Johnson Song & Gruchow
Jan Porter Sagecreek HOA
Sheri Rios, CMCA, PCAM Summerlin North Community Association
Michael T. Schulman, Esq. Wolf, Rifkin, Shapiro & Schulman, LLP
Pamela Scott, CMCA, PCAM The Howard Hughes Corporation
David Stone Nevada Association Services, Inc.
Randel E. Walker Truckee Meadows Properties, Inc.

Advocacy Issues

Block Walls—SB 68 requires HOA to maintain certain portions of block retaining walls. The bill was passed into law.

Wind and Solar Energy—SB 114 allows for wind energy systems in HOAs under certain circumstances, and prohibits requiring certain colors for solar energy devices. The bill was signed by the governor and became law.

Foreclosures—SB 128 requires foreclosures to be recorded within 30 days. The bill was passed and became law.

Utility Vehicles—AB 129 requires that all HOAs allow parking of utility services vehicles used for emergency response weighing 20,000 pounds or less, and law enforcement and emergency vehicles to park in the community by an owner or tenant if they are required to respond to emergency situations. The association may require written confirmation from the utility company or agency. The bill was signed into law by the governor.
Recycling Containers—SB 137 provides for the placement of recycling containers in certain locations including condominium properties. The governor signed the bill into law.

Foreclosure Issues—AB 140 requires the lender (or purchaser) to maintain the property and post notices during foreclosure proceedings. The bill was successfully passed and became law.

Golf Carts—AB 163 allows certain energy efficient vehicles authorized by governmental entities to adopt regulations or ordinances to allow certain low emission and energy-efficient vehicles to be operated in designated lanes as well as within a planned community. The bill was signed into law by the governor.

Governance—SB 182 provides that boards and managers are subject to Class D felonies under certain circumstances; prohibits HOAs from charging entry fees for service providers; limits imposition of fines for tenants; revises election law and reduces votes necessary for removal; provides that punitive damages may not be recovered from the board; requires that meetings be audio recorded; requires homeowner forums at both the beginning and end of the meeting; clarifies that a board can impose a reserve assessment without a vote of the membership; revises requirements related to availability of records; expands political sign provisions; requires HOAs to allow artificial turf; provides that managers can be subject to punitive damages; increases Nevada’s Commission for Common-Interest Communities (CICC) to seven members (two additional homeowners); requires that any affidavit filed with the Real Estate Division is confidential; and provides for temporary certification for highly qualified managers under certain circumstances, among others. The bill was passed into law and signed by the Governor.

Governance—SB 183 prohibits use of delegates under certain circumstances; exempts certain owners (e.g., places of worship constructed after July 1, 2009) from assessments; revises fine provisions; requires separate assessment and fine accounts for all owners (e.g., in accounting software); revises candidate disclosure requirements; increases the maximum term for board members to three years; requires HOAs to distribute candidacy information; revises check signatory requirements for operating expenses; specifies that unapproved, “working” documents do not have to be given to owners under certain circumstances; and requires that certain opinions or views be published in HOA newsletter. The bill was passed.

Super Priority Lien—AB 204 requires that all HOAs adopt a collection policy and distribute it to all owners with the annual budget. It also increases the super priority lien to nine months in foreclosures unless federal regulations require a lesser time (e.g., condominiums). The bill was signed into law.

Rural Communities—AB 207, the Spring Creek bill, applies to rural common-interest communities and revises certain requirements for limited-purpose associations that are created for rural, agricultural and residential communities. The bill was signed into law.

Rolling Shutters—SB 216 allows unit owners to add shutters to increase security or reduce the cost of energy for the unit and attach them to interior and exterior windows and doors including if they are common elements or limited common elements. The bill was passed into law.
**Reduces Ballot Requirements**—**AB 251** eliminates the need to mail ballots when the number of candidates equals the number of seats open on the board. The bill was signed into law.

**Bids, Rental Restrictions and Resale Packets**—**SB 253** increases board disclosure requirements; requires that all bids be opened at a meeting; limits rental restrictions in an HOA; requires unit owners to pay for resale packages; requires HOA to include statement of transfer fees and all fees associated with the resale of a unit; and increases RED administrative fines to $10,000. The bill was signed into law.

**UCIOA**—**SB 261** revises the Uniform Common-Interest Ownership Act under the guidelines of the Uniform Law Commission and eliminates references to the preparation of plans regarding certain common-interest communities and condominium hotels. The bill was passed into law.

**Financial Statements**—**AB 311** reduces audit requirements for small associations. The bill became law.

**Governance**—**AB 350** affects the costs of collection of past-due assessments and fines; eliminates ability to charge interest for past-due fines; allows for punitive damages under certain circumstances; requires certain documents to be made available in electronic format at no charge; revises copying charges allowed; requires that two board meetings per year be held outside of business hours; requires that resale packages include additional homebuyer information; incorporates certain sections of the Nevada Administrative Code (NAC) into Nevada Revised Statutes (NRS) related to management agreements and community manager responsibilities; and exempts privately-owned swimming pools from the supervision of the Health Authority. The bill was signed into law.

**Insurance and Reserve Funding Requirements**—**SB 351** pertains to insurance requirements for HOA funds; further defines reserve funding requirements; provides that architectural plans of another unit’s owner be confidential; and amends legal disclosure statement. The bill became law.

**Maintenance of Vacant Properties**—**AB 361** allows an HOA to maintain vacant properties in certain situations at the expense of the owner (lien can be foreclosed for owner’s failure to pay); and requires the foreclosing party to maintain the property. The bill became law.
New Hampshire

LAC Members

Ed Michalosky (Chair)  
Kings Court Condominium

Thomas E. Ducharme, CMCA, AMS, PCAM (Vice-Chair)  
Evergreen Management, Inc.

Janet Aronson, Esq.  
Marcus, Errico, Emmer & Brooks, P.C.

Jacqueline Vital  
The Amaral Group

Deana Cowan  
Locke Lake Colony Association

Cal Davison  
Cardiff Management, Inc.

Theresa M. Robinson, AMS  
Island Shores Estates C.A.

Christopher Snow  
Hub International New England, LLC

Advocacy Highlights

Board Meetings—HB 376 provides that bylaws may be amended by a majority vote of the unit owners in attendance at the annual meeting; that meeting minutes be made available to all unit owners; that notification of the date of the annual meeting of unit owners be validated via an affidavit; that all unit owners be notified by mail of the purpose of any regularly scheduled meeting; and that the condominium association follow certain procedures in holding meetings of the association, adopting the annual budget and filling vacancies on the board. The bill requires that meeting minutes be made available to unit owners and that an affidavit be prepared attesting that all unit owners were notified at least 21 days in advance of any annual or regularly scheduled meeting. Although LAC opposed the initial bill, it was passed with key deletions.

Clotheslines Rights—HB 346 requires real estate developers to create space for drying laundry without using electricity or gas. The bill was opposed by the LAC and was successfully defeated.

Bylaws Review—HB 442 requires a mandatory review of condominium bylaws at the annual meeting every four years. The bill was opposed by the LAC and defeated.

Condominium Act—HB 2 proposed numerous changes to the Condominium Act. In particular, the bill proposed the removal of involvement of the New Hampshire Attorney General’s office from the condominium registration and enforcement process. The legislation also provided for the elimination of provisions which at least in part provide private remedies to condominium associations and condominium purchasers. This bill was also opposed by the LAC and successfully defeated.
New Jersey

LAC Members

Mary Faith Radcliffe, AMS (Chair)  RCP Management  James Magid, CMCA, PCAM  Wentworth Group

Thomas C. Martin, Esq. (Vice-Chair)  Nowell, Amoroso Klein, Bierman  Karen J. Mesler, CMCA, PCAM  LeisureTowne Association, Inc.

Jules C. Frankel  Wilkin & Guttenplan, P.C.  Donald J. Moskowitz  Riviera at East Windsor

Eric Frizzell, Esq.  Buckalew, Frizzell & Crevina  Ronald L. Perl, Esq.  Hill Wallack, LLP

Alan R. Kohn  Beverly Hill Terrace Condo Association  Michael Pesce, PCAM  Community Management Company

Paul A. Leodori, Esq.  Leodori & Whelihan, P.C.  Caroline Record, Esq.  Berman, Sauter, Record & Jardim, P.C.

Christine F. Li, Esq.  Greenbaum, Rowe, Smith, Davis, LLP  Audrey Wisotsky, Esq.  Pepper Hamilton

Advocacy Highlights

Property Rights—S-1971 regulates owners’ rights and obligations in shared ownership communities. The bill strips homeowners of many personal property rights, empowering instead the state government to act on behalf of the homeowner. The LAC strongly opposes this bill. Although a hearing has been held, the bill has not yet been released from committee.

Security—A-3206 requires stricter standards for private companies that employ their own security personnel. The bill would require an association to hire at least one employee to act as a compliance officer. These compliance officers would be regulated similarly to owners and operators of security officer companies. The LAC opposes this bill and is working with the sponsor to exempt community associations from the proposed legislation.

Towing—S-2567 modifies the Predatory Towing Prevention Act as an opportunity to address concerns about signage and other practical implementation issues. The LAC met with the bill sponsor during the drafting of the bill to address various concerns and issues.

Pest Control—A-3203 makes landlords entirely responsible for the prevention and eradication of bedbug infestations. The bill, as originally proposed, did not make the necessary distinction between “real” owners (landlords) of residential dwelling units and community associations. The LAC worked with
the sponsors to amend the bill to impose responsibility for eradication on the parties that are most responsible and in the best position to promptly and fully address infestation, namely, the resident and the owner of the multiple dwelling residential units. The bill passed.

**Debt Collection**—A-2493 restricts abusive collection practices of consumer debt, and provides consumers with an avenue for disputing and obtaining validation of debt information to ensure accuracy. The LAC found fault with the original bill. However, after working with the sponsor, community associations were exempted from the bill’s provisions.

**Foreclosure**—A-2496 amends the Fair Foreclosure Act to require that a uniform procedure for each sheriff’s office in the state provide notices to debtors and all parties named as defendants in mortgage foreclosure actions as to surpluses from the sale of foreclosed properties. The bill, as originally drafted, would have provided notice only to the debtor. The LAC successfully sought an amendment to require notices to debtors and *all parties named as defendants* in the foreclosure action, both prior to the mortgage foreclosure sale and after the deposit of any surplus into Superior Court. The bill passed the Assembly and is now pending in the Senate.
New York

LAC Members

Robert H. Schwarting, PCAM (Co-Chair)  Mary Fildes, CMCA, AMS
          LMM Properties Enterprises

George Gati (Co-Chair)  Jean B. Kough, CMCA, AMS
          Dalton Farm HOA  Clover Management

          Watertree of Dewitt  The LaGumina Law Firm, PLLC

James F. Andruschat, CMCA  Frank Lysiak, CMCA
          Andruschat Real Estate Services, Inc.  Rivermist Homeowners Association

Robert Bailly, CMCA, PCAM  Mary Ann Rothman
          Elite Property Services

Greg Carlson  Ronald S. Shubert, Esq.
          Carlson Realty, Inc.  Phillips Lytle, LLP

Ruth V. DeRoo  Edward M. Taylor, Esq.
          De Roo Associates, Inc.  Law Office of Edward M. Taylor

State Legislation Grinds to a Halt—2009 was even more unproductive legislative year than in past sessions. Numerous scandals, flip flop of party control in the Senate and in-fighting and inactivity by a newly dominant Democratic party, together with the budget crisis brought about by reduced revenues from Wall Street’s downturn, forestalled all legislation except the most essential to keep the state running.

While the usual bills were pre-filed and refiled in the legislature, none of concern to the LAC advanced in committees.

Manager Licensing—The LAC followed and opposed what were several poorly drafted bills to license or regulate community managers as property managers AB -07783A (companion SB-5301) and AB-08985 (companion SB-2611). In previous years, the same or variant bills failed, but during this two-year session both drafts have companion bills in the second chamber. This alignment of interests and sponsorship indicates that either bill can move quickly at the end of session. The LAC continued an all-out press with its chapters to train, test and certify managers and management companies prior to introducing a bill that requires certification of community managers in accordance with CAI policy and procedures. In August, the LAC began reviewing the recently adopted licensing bills from other states and began a process to assess association boards’ support statewide for the LAC’s initiation of legislation to further the cause of community manager licensing.
Liens—Any discussion concerning legislation which improves the lien situation for community associations was opposed by the banking lobby and remained dormant throughout the year.

Board Protection—Early in the year, a decision on appeal overturned a lower court decision making individual owners and board members jointly and severably responsible for damages in a liability case.

Nuisance and Special Interest Bills—As is the custom in the state, hundreds of bills were introduced and reported in key-word searches that obtained no companion bill or multi-sponsorship. While dormant, they are of some concern and are monitored quarterly. Other housekeeping bills or bills for narrowly defined beneficiaries were introduced and posed no concern to CAI members.
North Carolina

LAC Members

John McInerney, AMS, LSM, PCAM (Chair)
Talis Management Group, Inc.

Henry W. Jones, Esq. (Vice-Chair)
Jordan, Price, Wall, Gray & Jones

Greg Asbelle
North State Bank

Robert H. Baer, Jr., CMCA, AMS, PCAM
Investment Properties Management

Samuel B. Franck, Esq.
Ward and Smith, P.A.

John Lawton, CMCA, PCAM
HRW, Inc.

Michael Wm. Shiflett

John Stone, CMCA, AMS, PCAM
Community Association Services, Inc

Advocacy Highlights

Solar Energy—HB 1387 relates to the rights of homeowners associations to regulate architectural modifications. The LAC representatives worked extensively on a favorable compromise to amend the existing state statute. The bill was signed into law.

HOA Taxes—HB 1625 revises how taxes are levied on homeowners associations. Under current regulations, HOA common areas are not taxed, but the value is added into the community’s homes. Tax issues arise when a common area is located in a separate county from the homes location. The bill failed due to adjournment.

Foreclosures—HB 930/SB 974 proposes granting the Clerk of the Court authority under certain circumstances to delay foreclosures proceedings for up to 120 days. The Senate version of the bill was passed into law. HB 806 seeks to improve foreclosure notice requirements and was also signed into law.

Manager Licensing—HB 762/SB 516, the Community Managers Licensing Bill, was unanimously approved by the Joint Licensing Committee and is before the Senate Commerce Committee and House Judiciary Committee. The House version currently remains in committee, while a substituted Senate version failed in the Finance Committee because of session adjourment.

Solar Energy—SB 475 eases the restrictions on installations of solar collectors because of the ability by the Board of Alderman to overturn restrictive covenants, which failed to distinguish between the various types of property ownership. The North Carolina LAC was successful in convincing the sponsors to reconsider this legislation by suggesting the proposed Town Charter Amendment allow the Board of Aldermen to review all Declarations of Covenants for new subdivisions. The bill was passed and enacted.
Ohio

LAC Members

James Dicks (Chair)
Regency Community Management Group, Inc.

Darcy Mehling Good, Esq. (Vice-Chair)
Kaman & Cusimano

James P. Case
The Case Bowen Company

Charles Dozer, CMCA
Towne Properties Managing Partner

Amy Schott Ferguson, Esq.
Cuni, Ferguson & LeVay Co., L.P.A.

Richard Landis, CMCA, AMS, PCAM
R. N. Landis Management Company

Kelly D. Smith, CMCA
Complete Property Management Group

Charles T. Williams, Esq.
Charles T. Williams Law Office

Advocacy Highlights

Planned Community Management—Still in consideration, SB 187 would require any entity establishing a new planned community to file a declaration and bylaws, providing for the operation of the planned community, with the county recorder. The bill very clearly establishes all rules pertaining to the organization and function of a planned community. It specifically differentiates planned communities from condominium properties, which differ under Ohio law. The bill would apply to all planned communities in the state and replace any previous operational regulations or criteria.

Super Lien—The LAC has also been very active during the legislative year attempting to get super-lien legislation onto the calendar. Proposed language has been presented for legislative study, as well as ORC 5312, which would be added to the revised code and would seek to govern the formation and operation of homeowners associations. Under current Ohio law, liens on association assessments are always secondary to mortgage liens. A super lien essentially would make six months of missed assessment payments superior to all other liens placed on a foreclosed property. This would ensure that a community association would not be saddled with as large a deficit for foreclosed properties. The LAC is hopeful that Ohio will become the next state to adopt a super-lien policy.
Oregon

LAC Members

Denise Bower, CMCA, AMS, PCAM (Chair) Community Management, Inc.  
Cheryl Brendle, CMCA, PCAM Community Management, Inc.  
Michael Burton  
Frank Elsasser, Esq. Levin & Stein  
Karna Gustafson, Esq. Landye Bennett Blumstein LLP  
John C. Herring McNary Estates Homeowners Association  
Barbara Kanz Vial Fotheringham, LLP  
David T. Schwindt, CPA, RS Schwindt & Company  
Richard L. Thompson A. Richard Vial, Esq. Vial Fotheringham, LLP

Advocacy Highlights

Association Governance—SB 963 amends the Oregon Condominium Act and Oregon Planned Community Act (based on continued experience with the operation of communities). SB 963 will enable associations to more effectively and efficiently govern and manage their communities. The bill also provides improvements in managing the balance of the rights of individual owners with those of the community at large and protecting, preserving and serving the interests of all owners. The bill became effective January 1, 2010.
Pennsylvania

LAC Members

Stefan Richter, Esq. (Chair)  
Clemons Richter Walsh & Reiss, PC

Carl N. Weiner, Esq. (Vice-Chair)  
Hamburg, Rubin, Mullin Maxwell & Lupin

Alan Dolge  
Traces of Lattimore Community Assoc.

Janet Heinis  
Knob Hill Homeowners Association

Marianne C. Fein  
The Wentworth Group

Bryn Cushman, CMCA, AMS, PCAM  
Mid-Atlantic Management Corporation

James H. Ott, CMCA, LSM, PCAM  
Appletree Management Group, Inc.

Rhonda Mayer Huet, AMS  
CSK Management, Inc.

Gregory M. Malaska, Esq.  
Young & Haros, LLC

Edward E. McFalls  
Wooldridge Construction

Steven L. Sugarman, Esq.  
Steven L. Sugarman & Associates

F. David Sylvester, CMCA, AMS, PCAM  
F. David Sylvester & Associates, Inc.

Advocacy Highlights

Association Study—HR 350 is a resolution that directs the Joint State Government Commission to conduct a study on the impact of common-interest ownership communities on local governments and the Commonwealth; the challenges facing the residents and governing bodies of these communities; and opportunities for the Commonwealth to help local governments and communities deliver adequate services to their residents at an affordable cost. This legislation was supported by the LAC and was signed into law.

Privacy—HB 1221, HB 1240 and SB 745 address open meetings and open records in common-interest communities. There are laws and rules already in place that ensure openness and that unit owners have access to the records and documents of their association. Although opposed to imposing the full open meetings requirements applicable to government, the LAC worked with legislators to amend the legislation to balance the need for transparency with the practicality of imposing requirements on volunteer boards. All three bills remained in committee.

Tax Reduction—HB 675 allows a unit owner in a common-interest community to deduct 75 percent of his or her association assessments (or dues) from his or her personal income tax. This legislation was crafted to address the problem of residents of associations paying taxes for municipal services that are often not provided to them. Supported by the LAC, this bill remained in committee.
**Consumer Protection**—[HB 579](#) permits the enforcement of the Uniform Condominium Act and the Uniform Planned Community Act through the Unfair Trade Practices and Consumer Protection law. This legislation was opposed by the LAC as existing law already provides remedies to address willful violations of association declarations and bylaws and passage would lead to increases in litigation.

**Energy Efficiency**—Two bills were circulated late in the year that would restrict an association’s ability to prohibit owners’ installation and use of various energy-saving devices. As written, [HB 2158](#) would prohibit “certain governing bodies from restricting persons who occupy dwelling units from using solar clothes-drying devices.” Whether the bill would apply to community associations as written has yet to be determined. Another measure, circulated for co-sponsors but not yet introduced, would prohibit the application of deed restrictions or covenants that would prevent owners from installing solar panels or other sources of alternative energy. The LAC has not yet taken a position on either Bill.
Rhode Island

LAC Members

Edmund Allcock, Esq. (Chair)
Marcus, Errico, Emmer & Brooks, P.C.

Frank A. Lombardi, Esq. (Co-Chair)
Law Office of Frank A. Lombardi

David Abel, CMCA
First Realty Management Corporation

Janet Aronson, Esq.
Marcus, Errico, Emmer & Brooks, P.C.

Charles McNamara
Seawatch Condominiums

Mark S. Einhorn, Esq.
Marcus, Errico, Emmer & Brooks, P.C.

Allison E. Field, CMCA
Bilodeau Property Management Service

Joseph A. Mirra, CMCA, AMS, PCAM
Marian Styles-McClintock

Barbara Vieira, CMCA, AMS

Advocacy Highlights

Condominium Governance—Developed by the LAC and introduced into the legislature, HB 5906 requires unincorporated condominium associations to record the names and contact information for members of the board at least annually, and more often if necessary, to reflect personnel changes. Currently, these provisions apply to incorporated associations, but not to unincorporated associations. The bill also allows Rhode Island condominium associations the power to borrow money from banks to fund repair and improvement projects. It would provide additional funding options to associations by allowing them to repay bank loans over time, providing an easier and less costly alternative than a large, one-time assessment that burdens unit owners. The bill passed both chambers and became effective in November 2009. This is the second year in a row that the LAC, one of CAI’s newest LACs, has successfully worked to pass proactive legislation benefiting community associations.
South Carolina

**LAC Members**

- Paul Hershey, CMCA, AMS *(Chair)*
  Rose Hill Plantation
- Michael R. Parades, PCAM *(Vice-Chair)*
  Sentry Management, Inc.
- Robert E. Barlow, AMS, PCAM, CIRMS
- Terri Barry, CMCA, AMS
  Community Management Group, LLC
- Joe Bunting, CMCA, AMS, LSM, PCAM
  Kiawah Island Community Association
- Tamara Coppola, CMCA, AMS
  Wentworth Management
- Joseph DaPore, Esq.
  Young Clement Rivers
- Beverly Griffin

**Advocacy Highlights**

**Financing**—[SB 215](#) provides protection to buyers of condominium units by placing earnest funds in a special Escrow account. It also provides a mechanism for owners to merge properties with appropriate compensation. The bill was supported by the LAC, but did not move beyond initial committee review.

**Assessments**—[HB 3407](#) attempts to supersede the individual condominium documents regarding how special assessments are approved or disapproved in a condominium regime. This provision would have overridden the governing documents each owner received when they purchased their home. The LAC opposed this bill, which did not move out of committee.

**Priority Lien**—[SB 277](#), provides a measure of protection to community associations across the state by ensuring that a portion of delinquent assessments are placed in a priority position ahead of the first mortgage and other creditors. This LAC-supported bill also died in committee.

**Consumer Protections**—Supported by the LAC, [SB 105](#) protects buyers of condominium units from unscrupulous developers who would inappropriately use the association’s reserve funds when the construction, furnishing and landscaping of a condominium development has not been significantly completed by the time the reserve funds were received. This bill did not pass.
**Association Override/Manager Registration**—As drafted, **SB 30** would have required each community association to register with the state and to pay a mandatory registration fee. It would have also overridden each association's governing documents in favor of generalized provisions that would have interfered with well-established contract law. The bill would have established a dispute resolution process under the Department of Consumer Affairs that would have positioned Consumer Affairs as the advocate for homeowners as well as the adjudicating body for disputes. The bill would have rendered illegal duly authorized provisions of an association’s governing documents to collect a capital improvement assessment, and it would have stayed any enforcement provisions of association’s governing documents until the Department of Consumer Affairs rendered a decision on any complaint filed by a property owner living in a community association. Due to the onerous nature of this bill, the LAC built a coalition of interests that included the SC Association of Realtors, the SC Association of Home Builders, the SC Bar Association and other interested groups. Due to the efforts of the LAC and its allies, this bill did not make it out of committee.

**Manager Certification**—The LAC was able to work with the Department of License and Labor Relations to craft a simple bill for introduction in the 2010 legislative session on manager certification. The bill would require all individuals practicing community association management to have (at a minimum) a CMCA credential. An AMS or PCAM designation would also be acceptable. The LAC may also need to include in the bill an equivalent standard to the CMCA as an acceptable certificate.
Tennessee

LAC Members

Alvin L. Harris, Esq. (Chair)  Hal Kearns, AMS
Traian Benchea
Hillmont Homeowners Association  Jim Trout, AMS, PCAM
W. Lee Corbett, Esq.
Corbett Crockett & Lewis  Jean M. Walker
Ghertner & Company
Scott Ghertner, PCAM

Advocacy Highlights

Condominium Act—The Tenn. Code Ann. § 66-27-502(a) (part of the newly adopted 2008 Tennessee Condominium Act) allows an association to charge a “reasonable” fee for providing governing documents and other information. A proposed bill would have required associations to provide some documents free of charge and would have limited fees charged for other documents to specific dollar amounts. With vital help from the LAC, the bill did not get out of committee.

Yard Signs—HB 1677/SB 1516 would invalidate restrictive covenants limiting an owner’s right to erect a political yard sign on an owner’s property or exclusive use common area. The bill would 1) abrogate existing contracts and, therefore, was contrary to the Tennessee Constitution; 2) not place any limits on the size of the signs; 3) not establish any time limits before and after an election during which a political yard sign could be erected; and 4) not define the term “political,” which could potentially lead to claims that a wide variety of signs were protected under the proposed law. The Tennessee LAC plans to renew its efforts to oppose the passage of this bill in the next legislative session.
## Texas

### LAC Members

<table>
<thead>
<tr>
<th>Name</th>
<th>Organization</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sandra K. Denton, CMCA, LSM, PCAM (Chair)</td>
<td>Sienna Plantation Residential Association, Inc.</td>
</tr>
<tr>
<td>Yvonne B. Weber, CPM (Vice-Chair)</td>
<td>Wildwood Management Group</td>
</tr>
<tr>
<td>Robert T. Alexander, Esq.</td>
<td>Hoover Slovacek, LLP</td>
</tr>
<tr>
<td>Judd A. Austin, Esq.</td>
<td>Henry Oddo Austin &amp; Fletcher, P.C.</td>
</tr>
<tr>
<td>Pamela D. Bailey, CMCA, AMS, PCAM</td>
<td>Chaparral Management Company</td>
</tr>
<tr>
<td>Patrick Clark, CMCA, PCAM</td>
<td>Excel Association Management, Inc.</td>
</tr>
<tr>
<td>Jeff Douglas, PCAM</td>
<td>Creative Management Company</td>
</tr>
<tr>
<td>Robert Garza</td>
<td></td>
</tr>
<tr>
<td>Roy D. Hailey, Esq.</td>
<td>Butler &amp; Hailey, P.C.</td>
</tr>
<tr>
<td>William F. Hession, CMCA, AMS, PCAM</td>
<td>SBB Management Company</td>
</tr>
<tr>
<td>Sabine R. Holton, CMCA, AMS, PCAM</td>
<td>First Bank</td>
</tr>
<tr>
<td>Barbara Lowry, CMCA, PCAM</td>
<td>Association Management Services</td>
</tr>
<tr>
<td>Marc D. Markel, Esq.</td>
<td>Roberts Markel PC</td>
</tr>
<tr>
<td>Miles McKinney</td>
<td></td>
</tr>
<tr>
<td>Marjorie J. Meyer, CMCA, PCAM</td>
<td>Associa, Inc.</td>
</tr>
<tr>
<td>Sharon Murphy, CMCA</td>
<td>Alliance Association Management</td>
</tr>
<tr>
<td>Connie Niemann-Heyer, Esq.</td>
<td>Niemann &amp; Niemann</td>
</tr>
<tr>
<td>Judi M. Phares, CMCA, PCAM</td>
<td>RTI/Community Management Associates, Inc.</td>
</tr>
<tr>
<td>Fred Shapiro, PCAM</td>
<td>SBB Management Company</td>
</tr>
<tr>
<td>Debbie Yeats</td>
<td>Color Innovations Painting, LLC.</td>
</tr>
</tbody>
</table>

### Advocacy Highlights

The 2009 Texas Legislative session was the most challenging on record. In excess of 100 bills were filed impacting association operations, including several omnibus bills and one that would have introduced a constitutional measure to prohibit foreclosure. Members of the LAC worked long hours to protect member interests from an onslaught of legislative challenges.

TLAC supported reasonable legislation that increases transparency and the power of homeowners to exercise more direct control of their homeowners associations.
TLAC brought in hundreds of homeowners eager to express their views and opinions on the legislation before the Texas legislature. Testimony was provided in dozens of committee hearings on many of the bills that were being tracked. In addition to this public testimony, CAI representatives participated in many private negotiations to try to work out a compromise to minimize the negative impact on associations.

After negotiating with the bill author, he withdrew the constitutional amendment bill and continued to work with CAI on the omnibus bill. However, no significant legislation passed that directly impacts homeowners associations. The two bills described below passed; both were “agreed” bills among all industry players.

**Property Code—** SB 1918 amends Chapter 207 of the property code. It applies only to resale certificates for non-condominiums. Condominium resale certificates are not affected. The bill also provides that an update to a previously issued resale certificate must be issued within seven days of written request by an owner, the owner’s title company or the agent. The bill further provides that an update to a resale certificate need only be provided within the 180-day period after the initial resale certificate is issued (otherwise one may decline to issue an update/require a new resale certificate). It also provides that only the party who originally requested the resale certificate can request the update.

**Property Code (Non-Condominiums)—** SB 1919/HB 2394 affect only non-condominiums; condominiums are not affected. The amendments concern the section of Chapter 209 of the property code which, under current law, requires a management certificate to be filed and kept updated for all associations.

In spite of cooperative efforts with those at the capitol, several key legislators have already vowed to press for legislation that exerts greater control over HOAs. TLAC and its lobby team have already begun to strategize and act prior to the 2011 legislative session.
Utah

LAC Members

Marla Mott-Smith (Chair) Ivy Terrace Condominium
Jerry Jensen, CMCA, AMS Community Association Management

David C. Houston, CMCA, AMS (Vice Chair) Capital Consultants Management
Michael Johnson, CMCA, AMS, PCAM FCS Community Management

Dale Y. Cromar Condominium Forest Glen, Inc.
Sabine Liedel, CMCA Community Archives, Inc.

LuAnn Gowans Coral Canyon Homeowners Association
Michael Miller, Esq. Vial Fotheringham, LLP

Bruce C. Jenkins, Esq., RS Jenkins, Ronnow, Jensen & Bayles, LLP & Reserve Data Analysis (RDA)
John D. Morris, Esq. McKay, Burton & Thurman

Advocacy Highlights

Uniform Common Interest Ownership Act (UCIOA)—The LAC was unable to complete a revised draft of UCIOA, after modifications by the bill drafters, in time for the session. The LAC’s lobbying efforts on behalf of UCIOA did, however, increase visibility and credibility with key members of the Utah legislature.

Property Liens—HB 10 addresses the contents of an association’s notice of lien on a unit, requires an agent to register with the Division of Corporations and Commercial Code and provide certain information, and provides for other related proceedings. The LAC declined to support the bill and it died in the House.

Rental Restrictions on Condominiums and Common-Interest Communities—HB 243 provides that an association may restrict and completely ban the non-owner occupancy of units, subject to the initial declaration or a properly amended declaration. Restrictions on non-owner occupancy added after the association is formed by less than a unanimous consent of the owners must be in the Declaration and must have certain exceptions required by the statute. LAC committee members were instrumental in forming a legislative alliance with the sponsor of the bill and the banking industry to modify the legislation and to add a provision regarding amendments to documents requiring mortgage approval. With the support of the LAC, the bill was successfully passed and signed into law.
Virginia

LAC Members

Deborah Mancoll Casey, Esq. (Chair)  
Vandeventer Black, LLP

Paul L. Orlando, Jr., CMCA, PCAM  
(Vice-Chair)  
Armstrong Management Services, Inc.

Jill Cappa Albright, CMCA, AMS, PCAM  
The Select Group, Inc.

Prudence Bachmann  
The Masters Condominium Association

Kevin Cavanaugh, CPA  
Goldklang, Cavanaugh & Associates P.C., Inc.

Catherine Fulkerson, CMCA  
Reston Association

Michael A. Inman, Esq.  
Inman & Strickler, P.L.C.

Coleen Kenah  
Community Group, Inc.

Bill Marr, Esq.  
Law Office William A. Marr, Jr.

William Bradley Mason, Esq.  
Segan, Mason & Mason, PC

Michele A. Mulligan, Esq.  
McSweeney, Crump, Childress, & Gould, PC

Brian H. Reese, CMCA, AMS, PCAM  
Continental Management Associates

Robert Spencer  
The Association at Stonehouse

Douglas Taggart  
Montclair Property Owners Association

Wendy W. Taylor, CMCA, AMS, LSM, PCAM  
South Riding Proprietary, Inc.

Advocacy Highlights

Information Disclosure—HB 2289 requires homeowners, condominium and cooperative associations to provide a list of owners of the properties administered by such associations, to the extent that such list is maintained, to the commissioner upon his or her request. The LAC supported the bill with fixed language and the bill passed.

Property Owners’ Association Act—HB 2305 provides that in addition to aggregate salaries of all employees, actual salary information of the six highest paid employees of a homeowners association making more than $75,000 shall be available for examination and copying by association members. These individual salaries are not available during the declarant control period. Currently, only aggregate salary information is required to be made available. The bill also specifies that all books and records of the association, including individual salary information for all employees and payments to independent contractors, are available for examination by a member of the board of directors. The LAC currently opposes the bill, but is attempting to work out a compromise. The bill has passed both houses of the General Assembly.
Solar Energy—\textbf{HB 2417} provides that no community association shall prohibit an owner from installing or using a solar energy collection device on that owner’s property. However, a community association may establish reasonable restrictions concerning the size, place and manner of placement of such devices. This allows that the community association may prohibit or restrict the installation of the devices on the common elements or common area within the real estate development served by the community association. The LAC opposed the bill, which was defeated after amendments by the Governor were rejected by the House.

Common Interest Community Board—\textbf{HB 1584} clarifies that to be eligible for appointment to the Common Interest Community Board, managers must hold valid licenses issued by the Common Interest Community Board. The LAC opposed this bill, which was left in committee.

Parking Regulations—\textbf{HB 1694} allows the counties of Fairfax and Prince William and the cities of Clifton, Herndon and Vienna to prohibit parking in areas zoned for residential usage of any vehicle carrying commercial goods in plain sight and any truck more than 20 feet in length, other than commercial vehicles used by a public service company or cable company. Virginia LAC supported the bill after modifications were made, and it passed into law.

Smoking Ban—\textbf{HB 1703} establishes a statewide ban on smoking in restaurants. The bill contains some exemptions, particularly in the case where a totally separate dining room can be provided by a restaurant. The LAC supported the bill with modifications and a modified version of the original House bill was passed by the Senate into law.

Community Net Metering—\textbf{HB 1705} requires the State Corporation Commission to establish a program of community net metering, which will allow a group of residential, small commercial and other customers to establish an eligible community customer to act collectively to generate renewable energy for their own use. If electricity generated by the generation facility in a year exceeds the net electricity consumption by members of the group, the utility will reduce the eligible community customer’s bill for the next monthly billing period by the amount of the excess. The LAC supported this bill, but it was left in committee.

Trespassing Vehicle—\textbf{HB 1724} provides that local ordinances may require towing and recovery operators to obtain, at the time the vehicle is towed, verbal approval of the agent designated in the ordinance. It also provides that local ordinances requiring “second signatures” before trespassing vehicles can be towed away only apply if the tow is performed during the normal business hours of the owner of the property from which the vehicle is towed. The LAC supported this bill and it passed.

Community Assessments—\textbf{HB 1777} eliminates the assessment against common-interest communities for the Common Interest Community Management Information Fund and limits the enforcement authority of the Common Interest Community Board to common interest community managers who are licensed by the board. The LAC split over support for the bill. Currently, the bill was left in committee.

Community Board—\textbf{HB 1900} allows the board, without complying with the Administrative Process Act, to assess a monetary penalty to be paid to the Common Interest Community Management Information
Fund of not more than $1,000 against any person who files one or more complaints with the Board or the Common Interest Community Ombudsman that the board, in its sole discretion, determines to be without merit or filed with the intent to harass or intimidate any person or entity. The bill also provides that hearings held by the board for the issuance of a cease and desist order shall be conducted within the planning district in which the association is located. The LAC could not decide whether to support or oppose the legislation and the bill was left in committee.

**Common Interest Fund**—**HB 2115** clarifies that the provisions relating to the mandatory assessment of $1,000 by the Common Interest Community Board shall not apply to volunteer community management companies. The LAC opposes this legislation and the bill was left in committee.

**Common Interest Communities**—**HB 2116** eliminates the assessment against common-interest communities for the Common Interest Community Management Information Fund and limits the enforcement authority of the Common Interest Community Board to community managers who are licensed by the Board. The LAC supports this bill with changes. The bill was left in committee.

**Common Interest Communities**—**HB 2488** clarifies powers and duties of the Common Interest Community Board and changes the annual report fee percentage paid from unit owners associations to 10 percent and makes other needed technical changes. The LAC recommends changes to the bill, which was not reported by the Senate committee after passage in the House.

**Parking**—**SB 882** adds Stafford County to the list of counties and towns that may by ordinance regulate the parking of watercraft, boat trailers, motor homes and camping trailers.

**Property Reporting**—**SB 896** adds the owners and operators of self-service storage facilities to the list of entities that are required to provide the name and address of renters or lessees to the local commissioner of revenue upon his request. The bill also would require homeowners associations, condominium associations and proprietary lessees associations to provide a list of owners of the properties administered by such associations, to the extent that such list is maintained, to the commissioner upon his request. The LAC supports the bill with changes. The bill passed with amendments from the Senate.

**Common Interest Community Board**—**SB 1143** limits the authority of the Common Interest Community Board to impose fines against governing boards, rather than individual members of governing boards, and adds a requirement for a hearing before imposing a fine. This also revises the annual assessment collected by the board from community managers, condominium unit owners associations, real estate cooperative associations and homeowners associations from two hundredths of one percent (0.02%) to the lesser of $1,000 or five hundredths of one percent (0.05%) of the managers’ gross receipts from community management work and the associations’ gross assessment income. A minimum assessment of $10 is also provided. VA LAC supported this bill, and it successfully passed the House of Delegates.

**Fees and Liability**—**SB 1233** enhances filing fee for persons to register written complaints to the Office of the Common Interest Community Ombudsman and releases volunteer community board members
from individual liability. The LAC supported the bill, but it was unanimously removed from the Senate calendar.

Property Owners Association Act—SB 1366 provides that a declaration may provide for declarant control of an association and its board of directors for a period of time that shall not exceed five years or three months after 80 percent of all lots in all phases of the development have been conveyed, whichever occurs first. The bill requires all association funds collected during the period of declarant control to be maintained separately in the association’s name and not be comingled with funds of the declarant or the funds of any other association. In addition, the bill prohibits the declarant from using association funds to defend any civil or criminal action or administrative or arbitration proceeding that has been filed or initiated against the declarant. The LAC supports the legislation with changes. The bill was left in committee.
Washington State

LAC Members

Margo Keller (Co-Chair)
Washington Arbitration and Mediation, Inc.

Cynthia Jones (Co-Chair)
Rafel Law Group, PLLC

Michael D. Brandt, Esq.
Brandt Law Group

John Coe, Esq.
The Coe Law Group, PLLC

Cheryl L. Dittamore
SUHRCO Residential Properties, LLC

Kane Thomas, CMCA
Management Group, Inc.

Shelley L Murray, CMCA, AMS
WPM South, LLC

Michael Padilla, Esq.
Law Offices of James L. Strichartz

Jeffrey Rodgers
Northgate Plaza Condominium

Jeremy Stilwell
Barker Martin, P.S.

Jim Talaga, RS
Association Reserves - Washington, LLC

Advocacy Highlights

Adult Family Homes in Homeowner Associations—HB 1935 requires HOAs to amend their governing documents to remove any reference of prohibiting Adult Family Homes to operate or persons with disabilities from living in the HOA. More importantly, the legislation would have voided all such restrictive covenants. The final version of the bill, in the form the LAC successfully amended, removes the requirements for HOAs to amend their governing documents and removes the clause voiding the covenants. Further, the new law clarifies that HOAs cannot directly discriminate against the operation of Adult Family Homes, but that HOAs do have the right to establish reasonable rules and regulations that apply to Adult Family Homes (e.g., landscaping, signage, etc.). The bill was signed into law.

Regulation of the Use of Solar Energy Panels by Members of Homeowners Associations—SB 5136 allows homeowners in HOAs to install solar energy panels on the owner’s property. The prohibition against HOAs prohibiting solar panels does not apply to "common areas" as defined by the HOA, and HOAs are allowed to establish reasonable rules and regulations regarding the devices. The bill was passed into law.

Reserve Study Requirements for Small Associations—Current legislation requires condominiums to conduct an initial reserve study by a reserve study professional, updated annually with a visual site inspection every three years, unless doing so would impose an unreasonable hardship. SB 5461 proposed changing the law to exempt associations with 10 or fewer unit owners from having to comply with the requirements. The bill was amended to exempt those condominium associations with 10 or fewer unit owners from the requirements, as long as two-thirds of the owners agree to exempt the
association. Further, the unit owners must agree to maintain the association's exemption by a two-thirds vote every three years. The amended bill also clarifies that a unit's public offering statement or resale certificate must contain the disclosure required by statute that the association does not have a reserve study, despite the association's exemption from reserve study requirements. The bill was signed into law.

**Seller disclosure forms and HOAs—** [SB 6000](https://leginfo.ca.gov/) requires sellers of residential real property to provide contact information for a homeowners association (e.g., board member, registered agent, etc.), if any, in the seller's real estate disclosure statement. This legislation allows potential buyers of a home within an HOA to contact the HOA with any questions they might have regarding the association. The bill was passed into law.