



2015 End of Session Report

The Maryland Legislative Action Committee (MD LAC) was very busy again during the recent Maryland General Assembly session. MD LAC studied approximately 49 bills introduced in 2014. Of these bills, 11 bills were deemed harmful to common ownership communities in Maryland and were actively opposed. Sixteen bills were actively supported in whole or in part, and the remaining bills were monitored to ensure nothing got added by amendments that would warrant the LAC taking a position.

MD LAC chose to concentrate on three main legislative issues: condominium warranties, manager licensing, and lien foreclosure. We also actively pushed for the legislation to remedy the Court of Appeals "pit bull" ruling in Tracey v. Solesky. Of course, the legislature made sure that there was much, much more on our plate.

Last year, legislation passed (HB286 [2013]) that limited the ability of community associations to foreclose of a lien consisting solely of delinquent assessments and attorney's fees "directly related to the filing of the lien." The LAC vigorously opposed this legislation to no avail. This year, friend of the MD LAC, Delegate Doyle Neimann introduced legislation at our request to allow foreclosure of liens with the inclusion of late fees, interest and reasonable costs, and attorneys' fees directly related to efforts to collect delinquent assessments.

Foreclosure of Liens-HB602 did pass. Unfortunately it was amended to allow inclusion of only assessments, interest and "reasonable costs and attorney's fees directly related to the filing of the lien that do not exceed the amount of the delinquent assessments (excluding any interest). LAC members worked tirelessly to push the bill as original written, but were unable to reverse the amended language.

Manager Licensure and Registration-Once again, manager licensing usurped substantial LAC man hours during the session. This was the sixth consecutive year that there has been legislation attempting to regulate the community management profession.

HB10 was pre-filed this year by Delegate Pam Beidle. It was pretty much the same bill that had passed the House in 2013, except the provisions that implemented registration fees for community associations were removed.

Additionally, Senator Delores Kelley introduced SB274, which simply attempted to require managers to register with the state and pay a \$50 registration fee. This legislation was reported unfavorably by Judicial Proceedings.

It is important to note that no manager licensing bill in Maryland has never been initiated by CAI or the MD LAC - rumors to that effect are simply false. CAI efforts are guided by national policy (see www.caionline.org/govt) that supports licensing with very specific conditions. MD LAC has been committed to efforts to mold the legislation to the best it can be for all stakeholders.

The fiscal note issued by the Department of Labor, Licensing and Regulation (DLLR) projected that the biennial licensing fee for each Maryland community manager would be \$850. By contrast, the biennial fee for Real Estate Brokers is \$190; Real Estate Agents - \$90; Architects - \$76; Professional Engineers -

\$76; CPAs - \$50. DLLR suggested modifications to revise the legislation an effort to reduce the licensing fee. However, things became overly complicated and the sponsor, Delegate Beidle, withdrew the bill.

Warranty Claims-The other major legislation that the MD LAC initiated was HB259 (SB207). For some time, it has been common that condominium governing documents and contracts for sale have placed limitations and conditions on the pursuit of warranty rights. HB259/SB207 would establish that an "instrument made by a developer" would be unenforceable if it:

- Attempts to shorten the statute of limitations for a claim;
- Purports to waive the "discovery rule" or other dates applicable to a claim;
- Requires an Owner or the Council of Unit Owners to assert a claim subject to arbitration within a time period shorter than the statute of limitations; or
- Operates to prevent an Owner or the Council from filing a law- suit, initiating arbitration or asserting a claim within the statute of limitations period.

HB259 was reported unfavorably by the House Environmental Matters Committee. SB207 did pass through the full Senate, but was then reported unfavorably by the House Environmental Matters Committee.

Dangerous Dogs-MD LAC very actively supported the cross filed "pit bull" bills (HB73/SB247) intended again, to abrogate the Court of Appeals ruling in Tracey v. Solesky by establishing a "rebuttable presumption" standard for all dog owners and eliminating the strict liability standard for a "person who has the right to control the presence of a pit bull (dog) on the property" reverting this exposure to the common law standard previously existing.

Both chambers of the Maryland Legislature approved legislation that would slightly shift legal liability toward dog owners whose animals bite a person and returns the liability exposure for Maryland community associations back to the common law standard previously existing. The bills were filed as emergency legislation and went into effect on April 8, 2014, when signed by the Governor.

Many Associations had taken steps to restrict the presence of pit bulls in the community. Now, pit bulls are no longer singled out and ALL dog owners are now responsible if their pet bites someone. Associations are encouraged to consult with legal counsel as to repealing or modifying rules that may have been adopted to restrict pit bulls or concerning rules with the broader scope to apply to all dogs.

Balcony Railing Inspections-HB947 (SB401) also known as Jonathan's Law, requires periodic inspections of certain multifamily dwellings with balcony railings constructed of wood to ensure that each balcony railing meets code requirements. The bill went into effect October 1, 2014.

Electric Vehicles and Recharging Equipment-HB1346 (SB850) establishes, for calendar years 2014 through 2017, the Electric Vehicle Recharging Equipment Rebate Program to provide rebates to individuals and business entities for the costs of acquiring and installing vehicle recharging equipment. The bill went into effect July 1, 2014.

Transparency Requirements and Member Rights-SB865 essentially applies a number of provisions from the Condominium and Homeowner Association Acts to Maryland Cooperative, including open meetings, establishing a cooperative housing corporation depository, establishing a dispute settlement

mechanism, addressing distribution of written information by members, and establishing eviction proceedings for delinquent shareholders. The bill went into effect October 1, 2014.

Limitations on Fees-Very significant legislation was SB229 (HB412). These bills attempted to limit the fee to \$50 that a condominium could charge to furnish a resale certificate or that a homeowners association (HOA) may charge an owner for providing the information necessary to comply with resale disclosure requirements. As significant, the bills inserted HOAs into the resale disclosure equation where, previously, there was no legal obligation. Proponents argued that the legislation was necessary due to costs that sometimes "exceeded \$500." The bill died in conference.

Disclosure and Cancellation Requirements-Similarly, SB820 affected the resale disclosure process by requiring notice of "any changes in mandatory fees and payments" or "other substantial and material amendment" AND altered the time frame for providing a resale certificate from the current 20 calendar days after receipt of a written request to only 7 calendar days.

MD LAC vigorously opposed each of these bills, spent countless volunteer hours lobbying legislators, and was very grateful for the significant efforts of our lobbyist Lisa Harris Jones. SB820 did not come out of committee.

SB229 was amended to remove requirements relating to HOAs and modestly increase the allowed fee to \$100.00. The bill passed the full Senate. HB412 ultimately passed the House with amendment to increase the allowable fee to \$250 without modifying any other provisions. As the House and Senate versions were different, a conference committee was appointed. Friend of Maryland Associations, Delegate Pamela Beidle, would not recede to the Senate and both bills died.

Smoking Restrictions-HB664 would allow written leases to include restrictions or prohibitions on smoking tobacco products; allowing the bylaws of a condominium to contain restrictions or prohibitions on smoking tobacco products in the units or common areas; and authorizing that a homeowner association declaration, bylaws, rules, or recorded covenants may include restrictions or prohibitions on smoking tobacco products in multi-unit dwellings or in the common areas. The bill was given an unfavorable committee report.

Condominium Boards of Directors-HB548 (SB672) would have prohibited two individuals who are married to each other to serve as members of a condominium board at the same time. The bill was given an unfavorable committee report.

Individual Exceptions to Limitations on Rentals-HB1039 would have required a Board to grant an exemption from rental restrictions to an individual owner under certain circumstances. The bill was given an unfavorable committee report.

Limit on Assessments-HB1027, a Prince George's County bill, would have provided that a unit owner may not be charged an assessment that exceeds 20 percent of any mortgage payments the unit owner is required to make on the unit during the period covered by the assessment. The bill was given an unfavorable committee report.