

2016 End of Session Report

Once again, the Maryland Legislative Action Committee (the “LAC”) kept busy during the 2016 Maryland General Assembly, the 436th legislative session for this body. A record 2,832 bills were introduced.

The LAC took action in the following ways:

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| 2,832 | Number of bills looked at |
| 103 | Number assigned to LAC subcommittees for study |
| 19 | Number of bills deemed not applicable |
| 52 | Number of bills monitored |
| 32 | Number of bills LAC took a position on |
| 35 | Letters of testimony submitted |

Innumerable Meetings and phone calls with Delegates and Senators by LAC members and our lobbyist, Lisa Harris Jones, and conferences with other advocates.



BILLS THAT PASSED:

On the last day of the session, legislation (**HB1192/SB816 - Real Property - Condominiums and Homeowners Associations - Resales - Disclosures and Fees**) changing requirements for resale packages received final passage. The first such legislation was introduced in 2014. Claims (never verified) were made that sometimes up to \$750 had been charged for a resale package. Since then, the LAC engaged with members of the General Assembly and the Maryland Association of Realtors to help educate about the issues, the actual work that goes into resale packets and to try and find a fair resolution. A major change affects homeowners associations by requiring that homeowners associations provide certain information outlined in the legislation. The new regulations also provide (among other things) for both condominiums and homeowners associations some changes in what is required to be disclosed, a reasonable fee up to a maximum of \$250 for providing the required documentation within 20 days, plus, a fee not to exceed \$50 if the package is requested to be provided within 14 days or \$100 if the delivery is required in 7 days. These fee caps can be increased every two years based upon the CPI-U. Additionally, condominiums may charge a reasonable fee not to exceed \$100 for an inspection of a unit owner’s unit. The law takes effect October 1, 2016.

The LAC strongly supported legislation (**HB970/SB591 – Tax Sales – Condominium Assessments and Homeowner Association Fees**) providing that a tax sale purchaser who files a court action to foreclose the property owner’s right of redemption must notify a condominium association or homeowners association of the court proceeding and requiring the tax sale purchaser to pay assessments or fees charged by a homeowners association or condominium association from the date of a court judgment foreclosing the right of redemption, whether or not a deed to the property has been recorded. The law takes effect July 1, 2016.

The ability to conduct games that include wagering was authorized with certain limitations (**HB127/SB311 – Gaming – Home Games**). The law takes effect October 1, 2016. Other bills relating to this issue were introduced (**HB764/SB521 – Anne Arundel county – Charitable Gaming** and **HB49 – Criminal Law – Gaming Home Games**) but failed of passage.

Legislation on consumer debt collection action (**HB1491/SB771 – Courts and Judicial Proceedings – Consumer Debt Collection Actions**) was introduced at the request of the Office of the Attorney General. The

LAC opposed this legislation. The bill as originally proposed would have, among other things, shifted the burden of proof in collection actions to creditors in terms of whether the statute of limitations relating to the consumer debt had expired instead of the long-standing requirement that the defendant/debtor affirmatively plead such a defense in order to assert the same. While the bill removed that provision, it did state that a creditor shall not bring **an action** if the statute of limitations for bringing the claim had run. So while a creditor may not have to prove that a statute of limitations has expired, there is exposure for the collector in bringing an action if it is barred by the limitations. The bill also limits the rights of creditors collecting consumer debts to have creditors “revive” stale/time-barred claims by new payment agreements even if voluntary. The law takes effect October 1, 2016.

SIGNIFICANT BILLS CONSIDERED BUT NOT PASSED:

The LAC’s major legislative initiative in 2016 (**SB18/HB405 – Sales and Use Tax – Energy for Homeowners Associations**) would have extended to homeowners associations the same sales and use tax exemption on electricity, steam, or artificial or natural gas for use in property owned or maintained by the homeowners associations that was extended to residential condominiums in 2001. In pursuing this legislation, there was difficulty in establishing the number of homeowners associations who have common facilities so the full cost of the exemption to the State could not be fully determined. While the LAC presented testimony the cost was considerably less than estimated in the Fiscal Note on the bill, there was also concern in the Senate Budget and Taxation and the House Ways and Means Committees about loss of tax revenue and several bills were tabled because of this concern.

Del. Marvin E. Holmes, Jr., Chair of the Real Property Subcommittee of the Environment and Transportation Committee which handles important legislation for common ownership communities, sponsored legislation (**HB1061 – Common Ownership Communities – Registration**) that would have allowed for an accurate account of the number of common ownership communities in Maryland. Yearly registration with the State Department of Assessment and Taxation at a minimal fee of \$3 per association would have included the name and address of the community, the number and type of residential units, proof of registration as a COC with the county in which the COC is located, if applicable, the name and contact information of each officer or member of the board of directors or governing body and any property manager or other person hired to provide property management services. During hearings concerns were raised about the release of this information to the general public so the information was restricted through amendments added by the House Environment and Transportation Committee. The bill passed the House but was given an unfavorable report by the Senate Judicial Proceedings Committee.

Legislation to protect warranties provided in the Maryland Condominium Act (**HB1170/SB250 – Condominium Warranty Claims**) failed of passage again. For some time, governing documents and contracts for sale have placed limitations and conditions on the pursuit of warranty rights that make it difficult for a condominium to pursue remediation, and the LAC has supported legislation to stop this. **HB1170/SB250** would have established that an “instrument made by a developer” would be unenforceable if it attempted to shorten or limit certain rights of the owner or the council of unit owners in pursuing redress. Both bills received unfavorable reports from the committees.

HB1080 (Condominiums and Homeowners Associations – Amendments to Governing Documents) proposed making it easier to obtain the number of affirmative votes to amend documents by, among other things, counting an unreturned ballot on the issue as deemed to have consented to the adoption of the proposed amendment. The bill received an unfavorable report from the Environment and Transportation Committee.

BILLS REFERRED TO INTERIM STUDY:

The LAC will continue to monitor the following bills which the House Environment and Transportation Committee referred to interim study:

HB 508/SB330 - Residential Property - Foreclosure Sale - Recordation of Instrument of writing

HB664 - Foreclosures – Responsibility for Maintenance of Residential Property and Registration Requirement

HB1171 - Foreclosed Property Registry – Responsibility for Maintenance of Residential Property, Registration Requirement, and Access to Registry

HB1377 - Real Property – Vacant and Abandoned Property – Expedited Foreclosure

BY: Phyllis Marsh, Chair
CAI's Maryland Legislative Action Committee

Your Assistance is Needed!

The MD-LAC uses a professional, paid lobbyist as a vital and integral part of the legislative process. As volunteers, MD-LAC members significantly rely on this highly effective professional representation.

The MD-LAC receives funding from CAI National and from the local chapters. However, *these funds do not fully cover the expense for a professional lobbyist that is essential to the MD-LAC successes.*

To help fund the MD-LAC advocacy activities in 2017 and beyond, donations are vital to our continued successes. **We encourage donations from Maryland community associations and individuals. We welcome any donations** – individuals, associations or companies. Donations should be made payable to CAI Maryland LAC and mailed to the address below. You can also donate online at www.caionline.org/LACdonate.



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