

# September 2018

## *Community Associations Newsletter*

### **MARYLAND LEGISLATIVE UPDATE**

By: Peter S. Philbin

*The 2018 Maryland General Assembly was busy with over 3,000 bills introduced. As is often the case, most legislation never made it out of committee to become law. I had the honor of being appointed Chairperson of the Maryland Legislative Action Committee (LAC) of the Community Associations Institute during this last year. A few bills relating to community associations did become law and will have an impact going forward. Please contact us if you have any questions.*

**CONDOMINIUMS-SUSPENSION OF USE OF COMMON ELEMENTS (amends Condo Act, Section 11-103)**- this legislation was a LAC initiative to address a 2017 Court of Appeals ruling which held that in order to suspend common element privileges due to non-payment of dues, such power was required to be authorized by the declaration of a condominium association (as opposed to the bylaws, where traditionally such powers are found). The new law allows a condominium association to amend its declaration to include such suspension powers provided that at least 60% of the owners (in good standing) agree to such an amendment. The existing law required a daunting 80% approval for declaration amendments and made no allowance for deduction for persons not in good standing. The new law will allow condominium communities to amend their declarations to allow, after notice, suspension of parking and recreational facilities for owners that are more than 60 days in arrears in the payment of assessments (effective October 1, 2018).

**CONDOMINIUM-CLAIMS AGAINST DEVELOPERS (amends Condo Act, adds new Section 11-134.1)**- For condominiums that are created after October 1, 2018, the developer creating the condominium will be barred from including in the condominium instruments provisions that restrict the ability of associations or unit owners to bring claims against a developer, shorten existing statutes of limitations, etc. (effective October 1, 2018).

**HOMEOWNER ASSOCIATIONS-NUMBER OF DECLARANT VOTES (amends HOA Act by adding Section 11B-111.7)**- This bill clarifies that a developer is entitled to cast, on a homeowner association matter, a number of votes equal to the number of subdivided lots that have not been sold to the public. Often, developers will retain greater votes for lots they own

which enables the developers to maintain control of Association's affairs even when a majority of the lots within a community have been sold. This bill will impact both new and existing homeowner associations (effective July 1, 2018).

**HOMEOWNER ASSOCIATIONS-DELETION OF DISCRIMINATORY OWNERSHIP RESTRICTIONS (amends HOA Act, Section 11B-133.3)**-Believe it or not, there are still HOA restrictive covenants (albeit older) that restrict ownership based on skin color, religion etc. This law, which the LAC supported with amendments, will empower and require that HOA's proactively act to remove such recorded covenants (effective October 1, 2018).