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Community Associations Newsletter

MARYLAND LEGISLATIVE UPDATE

Deductible Relief! Mortgagee Approval?

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*This legislative session was certainly different than those in the past. Over 2700 bills were filed this year. The legislative session ended early for the first time since the Civil War. The following bills that passed the Maryland General Assembly in the 2020 session became law on May 7, 2020 after Governor Hogan indicated he was approving of the same without his signature. The laws **will become effective (unless otherwise indicated) on October 1, 2020**. Please contact us if you have any questions.*

AMENDMENTS/MORTGAGEE APPROVAL

(Amends 11-103 (c)(1) of the Condominium Act and 11B-116 of the Homeowners Association Act)- This legislation, which was an initiative of the Maryland Legislative Action Committee (MD-LAC) of the Community Association's Institute, will make it much easier for condominiums and homeowners associations to amend their Declaration or Bylaws.

The new laws provide that if provisions of a Declaration or Bylaws require, in addition to owner approval, the approval of mortgagees (i.e., owner's lenders) in order to amend the community Declaration or Bylaws, such approval will be deemed given if a copy of the amendment is sent to the mortgagee/lender and no objection is received within sixty (60) days.

This is welcome news for associations that have essentially given up on amendments due to unreasonable mortgagee approval requirements. Mortgagees, by the way, almost NEVER respond to amendment requests so we have very high confidence that mortgagee objections will be few and far between.

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INSURANCE DEDUCTIBLES/CONDOMINIUMS

For years, the Maryland Condominium Act has limited the amount that a condominium association can pass through to unit owners in the event of a loss covered under the “master” property insurance policy. Even if the owner or his or her tenants were negligent (e.g., allowed a tub to overflow) the Association could only pass through up to \$5K to the responsible owner where the loss originated.

The new law amends 11-114(g) of the Condominium Act and increases from \$5K to \$10K the amount of a deductible that a condominium may pass through to an individual owner when the damage originates in the owner’s unit.

Owners can easily protect themselves by ensuring that they have purchased individual “HO-6” insurance coverage which can cover the deductible sums (as well as their own personal property and liability). And condominium associations can hopefully work to reduce the impact of claims on the condominium premiums and loss history. A true win-win for the owners.

Of course, associations should review their own governing documents (as some may limit what deductible can be passed through) and to update any older deductible rules/policies. The law still requires that condominium associations advise owners of their responsibility for deductibles at least annually.

ADOPTED ANNUAL BUDGET SUBMISSION TO OWNERS (amends Condo Act and HOA Act)- This bill requires condominium associations and homeowner associations to submit a copy of the adopted annual budget to the owners within 30 days after the meeting at which the budget was adopted. The annual budget may be submitted to the owners by electronic transmission, posting on the association’s website or including in a newsletter sent to all of the owners.

HISTORIC REVITALIZATION TAX CREDIT—EXPANSION FOR THE REHABILITATION OF COMMON ELEMENTS OF CONDOMINIUMS AND COOPERATIVES

This law allows the rehabilitation of a condominium or a cooperative to qualify for the historic revitalization small commercial tax credit if the rehabilitation is undertaken by the governing body of the condominium or cooperative housing corporation and the rehabilitation targets only the common elements of the structure that meets certain requirements and regulations adopted by the Maryland Historical Trust.

ALTERNATIVE DISPUTE POWERS; HOMEOWNER ASSOCIATIONS- (SOUTHERN MARYLAND)

The law amends 11B-104 (c) of the HOA Act to expand the authority of certain home rule counties in Southern Maryland to implement alternative dispute resolution requirements for Associations and their members through their respective HOA Commissions.

Currently Montgomery County has such binding alternative dispute powers.

RESERVE STUDIES- (PRINCE GEORGE’S COUNTY)

This new law amends the Cooperative Act, the Condominium Act and the Homeowners Association Act to require (only in Prince George’s County) that associations fund their reserves to the amount recommended in the reserve study that is now required for associations to obtain once every 5 years. The reserve study must be prepared by a person who has prepared at least 30 reserve studies within the last three year; someone who has a bachelor’s degree in construction management, architecture, engineering or equivalent experience and education; holds a license from the State Board of Architects or the State Board for Professional Engineers; or is currently designed as a reserve specialist by Community Association Institute (CAI) or the Association of Professional Reserve Analysts.

EXEMPTIONS FROM ATTACHMENT AND EXECUTION

This bill is important to associations because it limits the amount of money that a creditor association can garnish from a delinquent homeowner via a wage garnishment.