

# June 2023

## *Community Associations Newsletter*

### **2023 Maryland Legislative Updates**

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*This legislative session felt like the Annapolis that we all knew before the pandemic with in-person hearings, folks roaming the halls and students visiting the state house for class trips. Excitement was in the air with the inauguration of a new Governor and the beginning of a new term for the legislature. The live streaming is now here to stay for all floor sessions, committee hearings, subcommittee sessions, and voting sessions. You can also now testify via Zoom instead of fighting for a parking space in one of the parking garages. The following bills passed the Maryland General Assembly in the 2023 session and were signed by Governor Wes Moore. The laws **will become effective (unless otherwise indicated) on October 1, 2023**. Please contact us if you have any questions.*

#### **Condominiums – Mandatory Insurance Coverage**

This bill only amends the Condominium Act. This creates a carve-out exception for detached homes that are built as condominiums. In those cases, the unit owner will be required to insure their own units thereby absolving the condominium association of the responsibility of insuring those units under the Association's Master Insurance Policy. Condominiums that are attached units with either horizontal or vertical boundaries will still require the condominium association to insure both the common elements and units, exclusive of improvements and betterments under the Master Policy.

#### **Sheriff Sales – Subordinate Interests**

Under this bill, a successful sheriff sale will extinguish any liens that are subordinate to the lien that was the subject of the sheriff's sale. In practice, this means that if a judgment creditor accomplishes a sheriff's sale and a community association's lien is subordinate to the interest of the judgment creditor, the community association's lien would be extinguished. This bill, once it becomes law, may motivate holders of junior liens to submit payment to cancel a community association's sheriff sale. This is effective October 1, 2023.

Of note, an earlier version of this bill required judgment creditors, like HOAs and condominium associations, to send notice of a sheriff's sale to the judgment debtor and any subordinate lien

holders and file an affidavit attesting that such notice was sent; this requirement was dropped within the bill after opposition.

### **Exemptions for Writ of Garnishment or Levy**

This will require a bank or other depository institution upon receipt of a writ of garnishment or other levy, or attachment received in the enforcement of a judgment to exempt up to \$500.00 in the account of the debtor. The bank will only be able to garnish and hold funds that are in excess of \$500.00.

### **Residential Leases - Notification of Rent Increases**

This bill requires a landlord to provide at least 90 days' notice of any rent increase to a tenant. Such notice must be provided by first class mail unless the tenant opts to receive notice by email or delivery to a tenant portal. This bill also prohibits a lease from including a provision that requires a tenant to accept email notifications. This is effective October 1, 2023.

This bill is applicable mainly to our cooperative housing corporation clients, as they are viewed as landlords. However, this will also apply to condominiums and HOAs that take property through a foreclosure or sheriff sale.

### **Electric Vehicle Charging Stations**

As more people look to purchase electrical vehicles, we are seeing more and more legislation to help ease the burden of charging up these types of vehicles. This bill establishes and alters the requirements regarding the installation of equipment for the charging of electric vehicles during construction. Additionally, the Maryland Energy Administration must study the cost to retrofit existing multifamily residential buildings with electrical vehicle-ready parking spaces or parking spaces with the electrical vehicle station installed and to report their findings by December 1, 2023.

A previous version of this bill placed requirements related to the installation of equipment for electric charging stations during the significant renovation of multi-house residential buildings but after some debate, this provision was deleted from the final version of the bill.

### **Common Ownership Community Website**

The Bill mandates that the Department of Housing and Community Development establish and annually maintain a website that provides information on the current and newly legislated rights and responsibilities of individuals living in Common Ownership Communities. The website is to include a link for each community association. This is effective October 1, 2023.

### **Unlawfully Restrictive Covenants – Modifications by Counties or Municipalities**

This bill authorizes a county or municipality to execute and record a restrictive covenant modification to an unlawfully restrictive covenant for a property within the boundaries of the county

or municipality after providing the persons with an ownership interest in the property with 30 days' written notice and an opportunity to decline action by a county or municipality to execute and record a restrictive covenant modification. This bill specifically does not apply to unlawfully restrictive covenants in a Declaration or plan for a community association so is unlikely to have much impact on community associations.

### **Funding of Reserve Accounts (Did not Pass)**

In response to concerns raised by community association managers and Board members in the wake of the General Assembly's passage of the statewide reserve funding mandate in 2021, Delegate Marvin Holmes sponsored legislation during this past session in an effort to address those concerns. If adopted, this bill would have extended from 3 years to 5 years the time within which a community association would be permitted to ramp-up to full funding of the amounts recommended in its initial reserve study. In addition, the bill would have imposed a requirement to deposit those amounts into the reserve account by the end of the fiscal year, whereas the previously adopted legislation required only that the recommended reserve contribution appear in the annual budget. Finally, the proposed legislation would have mandated that the Board review its reserve study annually to verify compliance with its recommendations. Although the CAI Maryland Legislative Action Committee wrote in support of the bill, it failed to pass.

### **Elevators in Privately-Owned Single-Family Homes**

For those who own a single-family home and may have an elevator inside of your dwelling or unit, starting October 1, 2023, you will be subject to the same elevator inspection and register requirements of multi-family and commercial buildings.

### **Sprinkler Systems for Residential High-Rise Buildings**

This is not a new bill but legislation that was passed several years ago. However, we want to remind you that all residential high-rise buildings must be fully sprinkled by January 1, 2033. You will want to make sure you actively working to come into compliance with the State mandate.

### **MONTGOMERY COUNTY CCOC UPDATES**

On April 4, 2023, the Montgomery County Code was amended affecting common ownership communities within Montgomery County, Maryland. Specifically, the amendments 1) require regular periodic training of members of a governing board of a common ownership community, 2) clarify common ownership community registration, voting and dispute resolution procedures; 3) outline criteria that the County's Commission on Common Ownership Communities considers in accepting jurisdiction over a dispute involving a common ownership community, and 4) generally, revise County law regarding common ownership communities.

*If you have any questions about the contents of this memo, please contact one of our Maryland-licensed community association attorneys*