

CPD_FAV_SB_543

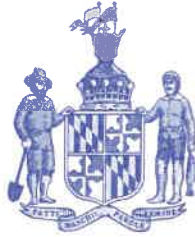
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Position: FAV

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February 18, 2020

Writer's Direct Dial No.

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To: The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee

From: Karen S. Straughn
Consumer Protection Division

Re: Senate Bill 543 – Homeowners Associations – Number of Declarant Votes (SUPPORT)

The Consumer Protection Division of the Office of the Attorney General submits the following written testimony in support of Senate Bill 543 submitted by Senator Ronald N. Young. This bill addresses a statute passed in the last legislative session to alter the number of votes to which a developer is entitled when voting on matters before a Homeowners Association.

Governing documents are written by developers. Currently, the Homeowners Association statute provides that a developer may dictate the number of votes to which it is entitled in the governing documents, which allows a developer to control the number of votes held by the developer until *all* the lots that may be part of the development are subdivided and recorded. After that time, the developer will be entitled to one vote per subdivided and recorded lot. Accordingly, the law allows a developer to transfer control of an association to the members, but still retain voting control merely by giving itself a large enough number of votes per unit in the governing documents.

This bill would allow the homeowners to take responsibility for the development in which they live sooner by amending the time the developer is limited to one vote per unit to begin as soon as the developer begins subdividing and recording units. This ensures that once a developer transfers control, it cannot maintain more votes than the association members and prevent associations from taking actions in the best interest of its members.

For these reasons, we ask that the Judicial Proceedings Committee return a favorable report on this bill.

cc: The Honorable Ronald N. Young
Members, Judicial Proceedings Committee



MBIA_UNF_SB 543

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Position: UNF

February 18, 2020

The Honorable William C. Smith, Jr.
Chairman, Judicial Proceedings Committee
Miller Senate Office Building, 2E
11 Bladen Street
Annapolis, MD 21401

RE: Opposition of Senate Bill 543 (Real Property - Homeowners Associations - Number of Declarant Votes)

Dear Chairman Smith:

The Maryland Building Industry Association (MBIA), representing 100,000 employees of the building industry across the State of Maryland, strongly opposes Senate Bill 543 (Real Property - Homeowners Associations – Number of Declarant Votes).

This measure changes the number of votes a declarant has when discussing homeowners' association (HOA) issues, both before and after a lot in a development is subdivided and recorded. Under current law, a declarant has one vote per lot starting on the date on which *all* lots have been subdivided and recorded. Before that happens – before all lots have been subdivided, while the neighborhood is still under development – a declarant has the number of votes that are set forth in the governing documents of the HOA.

This measure would change that to allow a declarant one vote per lot once *any* lot has been subdivided and recorded; as soon as a single lot is subdivided, a declarant has one vote per lot, regardless of how large the development or how long completion will take. Furthermore, under this measure, the declarant would have the number of votes that are set forth in the governing documents of the HOA before a single lot had been subdivided.

This is contrary to the best interest of both the community and the developer. Homeowners' association authority is balanced and reasonably limited by developer documents because a developer must maintain authority over the community while construction finishes and sales are underway. This enables predictability during completion and a clear line of liability if problems arise.

MBIA respectfully requests the Committee give this measure an unfavorable report. Thank you for your consideration.

For more information about this position, please contact Lori Graf at 410-800-7327 or lgraf@marylandbuilders.org.

cc: Senate Judicial Proceedings Committee Members