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March 29, 2022

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

From: Karen S. Straughn
Consumer Protection Division

Re: House Bill 107 – Cooperative Housing Corporations, Condominiums, and Homeowners Associations – Reserve Studies - Statewide (SUPPORT)

The Consumer Protection Division of the Office of the Attorney General submits the following written testimony in support of House Bill 107 submitted by Delegates Marvin E. Holmes, Jr., et al. This bill requires common ownership communities to conduct reserve studies prior to the first meeting at which members other than the developer have a majority of votes in the association and an updated reserve study every five (5) years thereafter. It further requires that an owner or developer of the community provide the amount of the recommended reserve fund to the association at the time of the first meeting and that every annual budget thereafter include reserve funds equal to the recommended reserve fund amount. For associations that may have difficulty meeting the reserves needed to comply with the requirements of this bill, there is a provision allowing the association to fund the reserves need over three immediately successive budget cycles following the initial reserve study. Finally, this bill gives the governing body of the association the authority to increase a levied assessment to cover the recommended reserve funding amount required regardless of any provision in the governing documents restricting assessment increases that may be levied in a year.

Reserve studies review the common elements of an association to determine the major repairs and replacements that may be needed in the future and ensure that the association is properly planning for these estimated costs. Such studies not only help to secure the financial stability of the association, they are also needed to enable members to buy and sell their homes, since most banks and mortgage companies will not lend money to owners who reside in associations that do not have current reserve studies. The costs incurred to do the reserve study will be commensurate with the types and amount of common property that must be maintained, so smaller communities are unlikely to be overburdened by this law.

The Honorable William C. Smith, Jr.
HB 107
March 29, 2022
Page Two

The Consumer Protection Division has received complaints from associations that have been turned over by a developer who failed to leave any money in the reserve fund, placing the association in a difficult monetary position. The Division has also received calls and complaints from members in associations that are assessed with very high special assessments as a result of not having enough funds in their reserve accounts because reserve studies had not been done for a significant period of time. This bill would help to protect against these scenarios.

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

cc: The Honorable Marvin E. Holmes, Jr.
The Honorable Linda Foley
The Honorable Anne Healey
The Honorable Mary A. Lehman
The Honorable Jen Terrasa
Members, Judicial Proceedings Committee