

Alert

2013 Maryland Legislation Affecting Condominiums and Homeowners Associations

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The Maryland Legislature introduced the following bills during the January 2013 Session that may affect condominiums and homeowners associations ("HOAs") throughout Maryland:

HB 1141 and SB 167 would render unenforceable any provision in a residential condominium declaration, bylaws, or contract for sale of a unit to a member of the public that shortens any statute of limitations or "discovery rule" applicable to warranty claims or statutory or common law claims, or prevents a unit owner or condominium association from asserting a claim within the applicable statute of limitations.

SB 162 would authorize the board of directors of a condominium or HOA to terminate a contract upon 30 days' notice to the other party to the contract entered into by the developer, officers appointed by the developer, or previous developer-controlled board of directors within 180 days after transition of control of the condominium or HOA.

HB 23 and SB 176 would render unenforceable a contract for the resale of a residential dwelling in a condominium or HOA by the homeowner, unless the sales contract satisfies notice requirements regarding potential special assessments, if any such special assessments were discussed in the condominium association's or HOA's meeting minutes or appeared on a meeting agenda within the prior 12 months.

HB 78 and SB 160 would eliminate the strict liability standard for damages caused by pit bulls. In an action against an owner of a dog for damages caused by the dog, evidence that the dog caused the personal injury or death creates a rebuttable presumption that the owner knew or had reason to know that a dog had vicious or dangerous propensities. In an action against a person other than the owner of a dog for damages (which include HOAs that control and manage common property), the common law of liability relating to dog attacks that existed on April 1, 2012 is retained as to the person without regard to the breed of the dog. Unfortunately, at this time the General Assembly has passed two (2) different bills and the possibility exists that neither will be adopted by the full legislature.

HB 286 and SB 161 would limit a condominium association's or HOA's ability to recover fines, attorneys' fees, or collection costs when foreclosing on a lien against a unit owner or homeowner for non-payment of assessments. The proposed bill would limit recovery under the lien to delinquent monthly or special assessments.

HB 388 and SB 197 would authorize a board of directors of a condominium association to hold a board meeting in closed session to consider the terms or conditions of a business transaction in the negotiation stage if disclosure could adversely affect the economic interests of the condominium association.

HB 364 (Connor's Law) would require that owners and operators of swimming pools open for general admission to the public, including any facility used for swimming lessons, water safety instruction or swimming competitions, provide an automated external defibrillator on-site and that an individual trained in the operation and use of an automated external defibrillator be present at the pool.

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HB 576 would require that HOAs and condominium associations register with a newly established "State Board of Common Ownership Community Managers," and that community association managers be licensed by the Board.

Each of the above-referenced bills is subject to change and passage by the Maryland General Assembly. We welcome the opportunity to discuss the status of these bills, or any questions or issues you may have regarding condominiums or HOAs.

The Condo/HOA Practice Group represents developers and condominium associations and HOAs throughout Maryland, Washington, D.C. and Virginia. Steven L. Dube, Partner, serves as Chair of the Condo/HOA Practice Group. Brian D. Bichy, Partner, is a member of Community Associations Institute's ("CAI") Maryland Legislative Committee and is Vice-Chair of the D.C. Legislative Action Committee. Renee M. Finley, Of Counsel, participates in and is a speaker with CAI. Judyann M. Lee, Associate, is a member of CAI's Maryland and Virginia Legislative Committees.

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