



Changes Effective October 1, 2016 to Resale Disclosures in Maryland

September 8, 2016

This past legislative session, the Maryland General Assembly undertook a review of the resale disclosure laws for condominiums and homeowners associations. After input from CAI's Maryland LAC and other organizations, a limited number of changes were passed and will become effective October 1, 2016.

For condominiums, changes to § 11-135 of the Maryland Condominium Act include disclosure of the Association's actual Reserve Report, a summary of the Report, or if there is no report a statement of the status and amount of reserves held by the Association. The new law also requires a disclosure of "actual knowledge" by the Association of a health or building code violation with respect to the common elements. This is a narrower disclosure than currently exists under the current law on this particular issue. Finally, the new law caps the charges that may be imposed by an Association for a resale certificate at \$250. Any increase in this amount will be tied to the Consumer Price Index and may not occur more frequently than every two years. A unit inspection fee of \$100 and a rush fee of \$50 to \$100 are also provided for in the amendments and may be charged by the Association in addition to the \$250 base fee.

For homeowners associations, § 11B-106 of the Maryland HOA Act adopts the fee limitations set forth above. Specifically, the fee for a resale certificate is capped at \$250, with a possible increase every two years in accordance with the Consumer Price Index. A rush fee of \$50 to \$100 is also provided for in the amendments. Notably, for the first time, the MD HOA Act also places an affirmative obligation on a homeowners association, or its management agent, to provide resale disclosures to a requesting party within certain timeframes. Previously, the MD HOA Act did not place an affirmative obligation on homeowners associations to produce disclosures of this nature directly to a requesting party even though many associations provided disclosures as a convenience to owners and prospective buyers. None of the other changes made for condominiums under § 11-135 are applicable to homeowners associations.