



Senate Bill 809

Condominiums and Homeowners Associations – Sales of Common Elements and Common Areas

MACo Position: **OPPOSE**

To: Judicial Proceedings Committee

Date: February 28, 2017

From: Natasha Mehu

The Maryland Association of Counties (MACo) **OPPOSES** SB 809 as it would put onerous and unnecessary requirements on local governments when areas of common ownership communities are subject to a sale.

Common ownership communities sometimes hold property for the broad use of their membership. In the event that the community fails to pay taxes on these properties, they are subject to the same collection and notice requirements of other properties. The owner – the common ownership community – is entitled to multiple protections under law before a tax sale commences as a last-resort collection effort.

SB 809 would require the local governing body of a county to give at least a 30-day notice to each unit or lot owner in a condominium or homeowners association before any sale of a common area – including a tax sale – may proceed. It also requires the county to give notice to the same individuals whenever a tax lien is imposed on a common area of the association. This greatly expands the notice provision. It also undermines the essential nature of the incorporated common ownership community as the responsible party for the property, which is its essential cause for being.

Determining which properties are within an association to comply with this bill would be onerous, if not impossible for local governments. County tax offices do not have a direct means of determining the property ownership and assessment information. The State Department of Assessments & Taxation (SDAT) is responsible for such information. The information counties receive from SDAT is largely limited to the ownership record and a brief legal description. It would not include a listing of properties within the association nor a breakdown of which properties are considered a common area. The data may not always be accurate, providing no guarantee of successfully determining ownership.

The notification process would require significant time and resources. Common ownership communities can range from a few owners to thousands of owners. Even if a county government were able to determine which properties are within the common ownership community and who the owners are, they would then be tasked with sending written notice to each of them. This mandate would require additional staff and costs at the expense of taxpayers. If one of the owners is not properly notified about the sale of the common area property, it could void the sale.

The current tax sale process is sufficient and the laws governing them effective. Under local laws, the owner on record is required to receive notification and there is a period of time in which sales must be advertised. State law also requires a court proceeding prior to the transfer of property and allows individuals with an interest in the property to redeem it at any time prior to the court executing order of the sale.

Finally, unless limited by public policy, or state or federal statutes, common ownership communities are regulated through governing documents which are private contracts between private parties. Elected or appointed board members have the authority and the duty to manage services and meet obligations – including paying taxes – on behalf of their members. If a common area property is subject to a tax lien or is going to sale, the governing body of the common ownership community association has the duty to notify its members.

SB 809 imposes unnecessary, burdensome, and costly requirements on local governments when a common ownership property is subject to a sale. For these reasons, MACo urges an **UNFAVORABLE** report on SB 809.