

2021 Maryland Legislative Update



The 2021 Maryland legislative session was a very busy one, despite the inability of the legislators to meet in person because of the pandemic. In fact, some of the bills that were considered during the session likely resulted from the effects of the pandemic. For example, because gyms and public recreational areas were closed, many people turned to home fitness and recreational equipment, including portable basketball hoops. And, whether or not a community association can restrict a homeowner's use of a portable basketball hoop was one of the most controversial issues decided by the legislature. House Bill 1347 goes into effect on October 1, 2021, and prohibits a community association from imposing an unreasonable limitation on the location and use of a portable basketball apparatus if the homeowner owns or has the exclusive right to use the area where the apparatus is placed and used. Any existing restrictions on the use and placement of basketball hoops in an association's covenants will no longer be enforceable if such restrictions significantly increase the cost of their use or significantly decrease the ability to use them as designed and intended.

In addition to homeowners' increased use of home fitness and recreational equipment, many homeowners turned to landscaping projects during the pandemic. And, pursuant to House Bill 248 and House Bill 322, certain covenant restrictions prohibiting low-impact landscaping projects that promote environmental conservation, such as rain gardens, pollinator gardens, and composting will not be enforceable by community associations. These bills also go into effect October 1, 2021.

Another example of legislation resulting from the effects of the pandemic is House Bill 1023, which went into effect on June 1, 2021, and authorizes the governing body of an association to hold and conduct meetings by telephone conference, video conference or other electronic means. Any community association meeting conducted by electronic means must permit any member, board member, or committee member in attendance to hear and be heard by all participants in the meeting. Additionally, the meeting notice must provide instructions on how to access the meeting, members present by electronic means are counted for purposes of quorum and voting, and members who are not present at the meeting can vote by proxy and submit ballots by electronic transmission within 24 hours after the conclusion of the meeting. Nominations from the floor for board elections are not required for meetings that are conducted electronically if there is at least one candidate for each vacant position.

The legislature also considered House Bill 508, which would have provided community associations with civil immunity from liability for COVID-19 related claims, however, the bill did not pass.

Other significant bills that passed, include House Bill 567, which similar to the bill applicable to Prince George's County associations that passed in 2020, requires associations in Montgomery County, Maryland to obtain professionally prepared reserve studies and have them updated at least every five years. Associations must include reserve funds in their annual budgets in accordance with the reserve study recommendations for future replacement and repair of common property. This bill goes into effect on October 1, 2021.

The other major bill that passed and goes into effect October 1, 2021, is House Bill 110/Senate Bill 144, which prohibits associations from enforcing any covenant or provision in their bylaws that unreasonably restricts the installation or use of electric vehicle recharging equipment in a common area parking space that is designated for the owner's use or is the owner's deeded parking space. The owner is responsible for obtaining county or local permits and approvals, as applicable, and for the costs of the installation and for any damage caused by the installation. The owner is also responsible for the removal of the equipment and must maintain insurance to indemnify the association or must reimburse the association for any increased insurance costs to the association related to the electric vehicle recharging equipment.

Several bills were considered by the legislature but did not pass. These include House Bill 367, which would have created the State Board of Common Ownership Community Managers in the Maryland Department of Labor to regulate the licensing of community managers and establish education and training for community managers. Each community association would have been required to pay an annual registration fee. House Bill 826 was also considered and would have changed the procedures for enforcement of rules violations. Lastly, House Bill 361 would have required training for each member of a governing body of a community association, similar to what is currently required in Montgomery County, Maryland. These bills will likely be considered again by the legislature during the 2022 legislative session.

*Written by: Judyann Lee, Esq.
McMillan Metro, P.C.
jlee@mcmillanmetro.com*