

JULY 2008

Legislative Changes in the District of Columbia and Maryland Affecting Community Associations

By: **Todd A. Sinkins and Ursula A. Koenig**

DISTRICT OF COLUMBIA LEGISLATION

In March 2008, the D.C. Council adopted the Accrued Sick and Safe Leave Act, which will have a meaningful effect on the operations of many D.C. Condominiums and Cooperatives. The bill goes into effect in mid-November of this year.

The Accrued Sick and Safe Leave Act (“ASSLA”) creates an obligation on employers in the District of Columbia to provide paid medical leave to employees for physical and mental illness, preventative medical care, family care and also for the results of domestic violence or sexual abuse (collectively “sick leave”). Under the ASSLA, employers with 100 or more employees must provide 7 days paid sick leave per year to its employees, employers with 25 to 99 employees must provide 5 days paid sick leave per year to its employees, and employers with less than 25 employees must provide 3 days paid sick leave per year to its employees. Part-time employees are entitled to pro-rated sick leave.

Under the ASSLA, employees will not be entitled to compensation for unused sick leave. Also, the ASSLA provides the Mayor with the discretion to exempt certain business from the application of the ASSLA upon a demonstration of a hardship. Additionally, the ASSLA shall not apply to independent contractors, students, and classes of employees that earn their compensation primarily from tips and wages.

Employees are not automatically entitled to paid sick leave under the ASSLA. Employees will not be entitled to paid sick leave unless such employee has been employed by its employer for at least 1 year and have worked at least 1,000 hours during the previous 12 month period immediately prior to the request for leave.

Also, the ASSLA places procedural requirements on employees prior to obtaining paid sick leave. For instance, if the reason for the request for sick leave is reasonably foreseeable, the employee is required to provide its employer with at least 10 days prior written notice of the date of the required leave, or at least as much advanced written notice as is possible under the circumstances.

If the reason for the required leave is not foreseeable, an oral request prior to the beginning of the employee's normal work period is sufficient. If an employee misses at least three consecutive days, the employer is entitled to require their employee to provide written evidence in support of the required leave.

The ASSLA also includes a section that makes it unlawful for employers to discriminate or retaliate against employees who use paid sick leave. Violations of the ASSLA are punishable by civil fines of up to \$500 for a first offense, \$750 for a second offense, and \$1,000 for a third or greater offense.

Condominiums and Cooperatives in the District of Columbia now need to comply with the ASSLA to the extent a condominium or cooperative has its own employees. Moreover, management companies and other service providers who provide site staff to condominiums and cooperatives in the District of Columbia also need to comply with the ASSLA.

MARYLAND LEGISLATION

Contract Lien Act

Section 14-204 of the Maryland Contract Lien Act has been amended to increase the amount of time that an association has to initiate a lien foreclosure action from 3 years to 12 years from the date of recordation of the lien.

Maryland Condominium Act

Section 11-114 of the Maryland Condominium Act has been amended to increase the maximum insurance deductible that may be charged to an individual unit

owner from \$1,000.00 to \$5,000.00, if authorized in the council's bylaws.

Insurance

Section 19-202 of the Maryland Code has been amended to clarify that homeowner's insurance for coverage for losses caused by water back up in sewers or drains must be offered in writing at the time of application for insurance coverage, as well as at the time of renewal of a policy.

Solar Panels

Legislation was passed which applies to both Condominium Associations and Property Owners Associations regarding the regulation of solar collector systems. It prohibits condominium and homeowners associations from unreasonably restricting the placement of solar collector systems on areas within owned by or within the exclusive use of the lot or unit owner. In addition, owners may request a solar easement over common property to maximize the sunlight collected by the solar panels installed within their lot or unit. According to the newly adopted legislation, a restriction on the placement of solar panels will be deemed unreasonable if it significantly increases the cost of the system or if it significantly decreased the efficiency of the system.

Please contact one of our community association attorneys if you have any questions related to this memo.