

procedures provided in the bill. For example, the bill would authorize all community associations, by the action of a small number of members, to impose charges on its members and secure them with liens, even though the association was not formed for the purpose of providing, nor actually provides, services of a substantial nature to the members of the homeowners' association or to the properties within the community.

Because the bill provides that the lien may be imposed without notice or a prior hearing, its constitutionality is suspect. As the Attorney General points out in the attached letter, the statutory scheme would constitute a taking of property without due process of law if the courts were to determine that the necessary element of "state action" were present. The Attorney General advises that the question of whether the requisite "state action" is found in a statutory scheme similar to the one set out in Senate Bill 473 should be resolved by the Supreme Court within the next few weeks. So long as the constitutionality of the bill is under a cloud, I believe that it is not proper that it become law.

For these reasons, I have decided to veto Senate Bill 473.

Sincerely,
Harry Hughes
Governor

May 25, 1982

The Honorable Harry Hughes
Governor of Maryland
State House
Annapolis, Maryland 21404

Re: Senate Bill 473

Dear Governor Hughes:

We have reviewed and hereby approve for constitutionality and legal sufficiency Senate Bill 473. In so doing, however, we note that the bill contains certain interpretative problems and raises a possible constitutional issue.

Senate Bill 473 would add new Sections 9-201 through 9-203 to the Real Property Article to be under the new subtitle "Subtitle 2. Statutory Real Property Lien By A Homeowners' Association." Under this subtitle, an assessment by a homeowners' association is a lien on the members' property if the bylaws or declaration of covenants