

The President put the question: Shall the Bill pass, notwithstanding the objections of the Executive

The roll call vote resulted as follows:

Affirmative: 0

Negative: 45

(See Roll Call No. 20)

The President announced the veto was sustained.

June 1, 1982

The Honorable James Clark, Jr.
President of the Senate
State House
Annapolis, Maryland 21404

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed Senate Bill 473.

The bill enacts a statutory method for a homeowners' association to obtain a lien to secure charges imposed on the members of the association by the bylaws or declaration of covenants of the homeowners' association and, in addition, certain other charges and expenses connected with the collection of those charges. The lien would extend to the member's house, the land upon which the house is located, and to the rights or property associated with the ownership of the house. The recording in the land records of a statement of a homeowner's association lien by the association, without notice to the homeowner, would be sufficient to make the lien effective. The lien would be enforceable, and could be foreclosed, by the association. Foreclosure proceedings would be conducted in the same manner as foreclosures of mortgages or deeds of trust.

The bill would raise difficult interpretive issues, and the statutory procedure is quite possibly unconstitutional. Regrettably, the bill does not circumscribe the types of "associations" which would be entitled to use the lien 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