

# Community Trends®



## LEGISLATIVE UPDATE

**GEORGE GREATREX, ESQ.**  
PARTNER, HILL WALLACK LLP  
LEGISLATIVE ACTION COMMITTEE CHAIR

### Legislative Efforts to Assist Community Associations During COVID19

The first half of 2020 has been memorable for community associations in New Jersey and around the nation. Frankly, the memories are some we would rather forget...

The advent of the novel coronavirus has created a myriad of difficulties for CICs... from decreasing revenues due to a devastating increase in unemployment among our members, to the inability to open facilities and amenities due to liability and costs concerns.

In the midst of this pandemic came the news that the Department of Community Affairs (DCA) had published the new Radburn election regulations on May 18... and made effective the same day. This has added insult to injury, resulting in chaos in our industry.

Although at the time of this writing the state's lockdown in response to the pandemic is easing week by week, it is unlikely we'll ever return to what we used to call "normal," and what the "new normal" will look like is still unclear. Your Legislative Action Committee is monitoring, and supporting where appropriate, various legislative and regulatory efforts to assist common interest communities during this difficult time so that we will survive and be prepared to live and work in that "new normal".

Last month various members of your LAC attended a conference call with staff from US Senator Robert Menendez's office to discuss various legislative efforts to address these issues. They included:

- **Limited Liability for Associations Following Federal, State, and Local Health Guidance:**

Although the Senator has not yet stated a position with regard to the need for such protection for CICs, we explained that need in light of the lack of insurance coverage for COVID19 claims against associations due to

***"Your Legislative Action Committee is monitoring, and supporting where appropriate, various legislative and regulatory efforts to assist common interest communities during this difficult time..."***

standard virus exclusions. We are not seeking protection from claims against associations who have been grossly negligent, but rather have made good faith efforts to follow applicable guidelines to promote the safety of their members and residents when facilities and amenities are eventually opened. A bill has been introduced in the NJ Legislature that provides limited immunity to "employers" against whom employees make such claims (A4189/S2502). We are seeking the inclusion of common interest communities in this legislation.

## LEGISLATIVE UPDATE...

from page 1.

- **Housing Assistance Fund:**

Sen. Menendez is a cosponsor of S.3620, legislation establishing a Housing Assistance Fund to help homeowners avoid foreclosure. It will allow financially troubled homeowners to seek funds to pay property obligation defaults that risk foreclosure—this includes community association assessments. H.R. 6800, the HEROES Act, as passed by the House of Representatives, was more specific on eligible use of Housing Assistance Funds, going so far as to include community association assessments in the list of enumerated eligible property and mortgage related obligations in the program. We expressed our support for this legislation.

- **Access to Small Business Administration Programs:**

We expressed our support of expanding funding of the Paycheck Protection Program (PPP) and encouraged him to expand eligibility for this program to include common interest communities. We also expressed our support for further funding Economic Injury Disaster Loan (EIDL) for use in response to the financial hardships visited upon CICs as a result of COVID19.

- **Suspension of consumer debt collection activities:**

Sen. Menendez is a cosponsor of S. 3565, legislation

suspending consumer debt collection activities during states of emergency resulting from the COVID19 pandemic. We explained to him why CICs should not be treated as consumer debt collectors as are for-profit corporations such as banks, credit card companies and leasing companies. We are non-profit entities who bring in enough revenue to pay our bills for the delivery of essential services to our residents. To prevent us from performing traditional efforts to collect overdue assessments and related charges could be financially devastating to CICs. We asked him to exempt CICs from the application of this legislation, as we successfully accomplished at the state level when similar legislation was introduced in Trenton.

With regard to the new Radburn regulations, CAI-NJ has decided to appeal these regulations and seek a “stay” (suspension) of the effective date of the regulations. [Click here](#) for last month’s official announcement of the appeal [need hyperlink]. As of this writing it is not certain how long it will take to achieve this stay, nor is the stay a certainty, so until then all CICs must make their best efforts to comply with these new regulations.

We will keep you updated as our new normal comes into clearer focus. In the meantime, be safe out there! See you here in next month. ■