The 2019 Maryland General Assembly ended Monday night, a little earlier than its usual midnight deadline. No legislative business was conducted in the last half-hour on Monday, because both Houses were in session for tributes to the former Speaker of the House of Delegates, Mike Busch, who died on Sunday, April 7th.

Although the last day was a somber occasion, the 2019 Session saw a number of legislative developments of interest to BOMA members. The Session also provided a preview of what we may expect from the substantial number of new legislators first elected to their current offices last November, many of whom are much more progressive than their predecessors. By the numbers, there were 2,481 bills introduced this year’s Session, but only 864 bills enacted – a lower than normal percentage of introduced bills (2018 – 3,101 Introduced / 889 Enacted).

**Condominiums**

Although this may be a new subject for BOMA members, the growth of mixed use development, including condominium associations for both residential and commercial owners, has taken BOMA into a new area of State legislation and regulation. **House Bill 69** first attracted our attention. It was introduced by Delegate Marvin Holmes (D-Prince George’s) and would have imposed significant burdens on developers who utilize condominium associations in their projects. Although BOMA did not officially oppose HB 69, it was opposed vigorously by Maryland home builders, and we expressed our concerns directly to Delegate Holmes. The bill was eventually withdrawn, and BOMA intends to meet with Delegate Holmes during the upcoming legislative interim to educate him (at his request) on mixed use development and the role of condominium associations. Another condominium bill, **House Bill 249**, would have substantially increased the liability of an individual condominium unit owner for losses suffered by the condominium arising from that unit owner’s property. That bill, HB 249, also did not pass.

**Minimum Wage – “Fight for Fifteen”**

BOMA carefully monitored, but took no position, on legislation that would have substantially and immediately increased the State minimum wage to $15/hour. **House Bill 166/Senate Bill 280**, as introduced, would have vaulted Maryland far past the federal minimum wage and the minimum wage in surrounding states. Business groups such as the Maryland Chamber of Commerce and the National Federation of Independent Businesses made this legislation their top legislative priority this year. They were unsuccessful in opposing the bill, and the final version passed by the General Assembly implements the increases over several years. Governor Hogan vetoed the legislation, and his veto was promptly overridden.

BOMA’s interest in these bills was chiefly for the benefit of its Associate members. Many of these Associate members are service providers to commercial buildings and labor is a major component of their operating expenses. These Associate members are represented on the BOMA Legislative Committee, and we will seek their assistance in evaluating the impact of this law as it is implemented.

**Baltimore City Legislation – Nuisance & Wrongful Detainer**

Delegate Samuel “Sandy” Rosenberg (D- Baltimore City) introduced two bills that also caught our attention – one of which BOMA sought to amend. **House Bill 1067** would have permitted the imposition of a fine up to $1,000 for an owner of commercial property if a court determines that a nuisance existed on the property. In discussing the bill with Delegate Rosenberg, BOMA learned that he was addressing a specific problem in his legislative district, and that the bill was unlikely to affect BOMA members generally. Therefore, we took no position. **House Bill 1269** was a different matter. That legislation, also introduced to address a local problem for the Delegate, would have permitted certain property owners to file a complaint for wrongful detainer against the occupants of other, adjoining properties. As the Delegate explained to BOMA, the purpose of the bill was to afford local residents in a community a legal remedy to remove “squatters” – persons
who occupy a residential property with no legal authority to do so. The BOMA Legislative Committee was sympathetic to Delegate Rosenberg, but we saw how such a law, if enacted, might be improperly applied to commercial property. Therefore, BOMA offered an amendment to the bill, to which Delegate Rosenberg did not object, that would exclude commercial property from the scope of the bill. Although we had the amendment ready to go, it was ultimately unnecessary, because the bill received an unfavorable report, as did Delegate Rosenberg’s other bill, HB 1067.

**More Employment Legislation**

Bills were introduced in both House and Senate (HB 634/ SB 738) to place significant and burdensome conditions on employers when communicating with job applicants. This legislation would have required a prospective employer to provide a “wage range” to a job applicant. It also would prohibit the employer from relying upon wage history, in many cases, when evaluating the qualifications of a job applicant. BOMA and many employer groups opposed this legislation and it did not pass.

**Commercial Recycling**

Although some local governments, such as Montgomery County, have had laws for years requiring recycling by businesses, Senate Bill 370 this year, sponsored by Senator Chris West (R-Baltimore County) is the first successful effort to do so at a Statewide level. BOMA and NAIOP worked closely together on this bill. Initially, BOMA opposed the bill in its hearing before the Senate Committee. We agreed, however, to work with Senator West on an acceptable version of the bill, and we were successful in making significant changes to the bill as introduced.

In its final version, Senate Bill 370 changes current Maryland law to include collection and recycling of recyclable materials from buildings that have 150,000 square feet or more of office space. BOMA concluded that such a threshold is the equivalent of an average size office building in Central Maryland. BOMA also insisted on the ability of a local government to alter or exempt recycling requirements where a commercial property owner identifies special hardship circumstances in an application to that local government. We argued that, unlike residential (apartment) buildings, commercial office buildings come in all shapes and sizes and that a reasonable degree of flexibility is needed where a local government seeks to enforce this new law on an office building.

Under the bill, the materials required to be recycled are paper and cardboard, metal, and plastic materials. Furthermore, an office building owner may require a tenant to carry out the recycling plan for a building – a necessary provision where a tenant occupies all or most of a building and may have a triple net lease. BOMA and NAIOP also worked closely with representatives of the Maryland Association of Counties and the Maryland Municipal League in crafting Senate Bill 370.

**Renewable Energy**

Maryland has long been a leader among the states in promoting the use of renewable energy. The first requirement to do so was enacted in 2004, and the “Renewable Portfolio Standard” (RPS) has both increased and broadened steadily since that time. In 2019, in view of the impending upper limit of the current Renewable Portfolio Standard, a powerful coalition of environmental groups and renewable energy companies mounted a strong effort to increase the RPS to a level of 50% of all energy used in the State by the year 2030.

BOMA has not taken a position on such renewable energy legislation in the past. BOMA International has long supported the principle of sustainability in energy usage, and has recognized that renewable energy is an important part of achieving that goal. BOMA Baltimore has been concerned, however, at the cost implications of such policy. BOMA submitted written testimony on SB 516 / HB 1158 supporting the bill and suggesting an amendment to stretch out the period over which the RPS would become effective. Neither AOBA nor NAIOP took a position on these bills.
This issue followed an interesting path this year. As introduced, the legislation would have eliminated a longstanding component of the RPS: energy from “waste-to-energy” plants, such as the Wheelabrator plant on Russell Street in Baltimore City. While such plants incinerate household waste to ultimately provide electricity, they are roundly criticized by environmentalists for the harm they cause to human health. The removal of waste-to-energy as a qualified renewable energy source in the bill was highly controversial. Some legislators, including some in the Legislative Black Caucus, felt that the loss of jobs by removing waste-to-energy was unacceptable. Another factor weighing against passage of the bill was a legislative study commissioned in 2017 and due to be completed in 2020 that would provide information about further expansions in the RPS.

In response, the legislature decided to put waste-to-energy back in the law as a renewable energy resource, and to move ahead notwithstanding the final RPS report that is due next year. Ultimately, late in the day on the last day of the legislative session, the bill was agreed to by both House and Senate. One final uncertainty is whether Governor Hogan will veto the bill. If so, it is likely that the legislature will be able to override a veto.