

HOUSE BILL 1208

N1

4lr2672
CF SB 1050

By: **Delegates Adams, Chisholm, Hornberger, Hutchinson, Kipke, and Tomlinson**
Introduced and read first time: February 8, 2024
Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Common Ownership Communities – Reserve Studies – Exemptions**

3 FOR the purpose of exempting cooperative housing corporations, condominiums, and
4 homeowners associations from conducting reserve studies under certain
5 circumstances; and generally relating to common ownership communities and
6 reserve studies.

7 BY repealing and reenacting, with amendments,
8 Article – Corporations and Associations
9 Section 5–6B–26.1
10 Annotated Code of Maryland
11 (2014 Replacement Volume and 2023 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article – Real Property
14 Section 11–109.4 and 11B–112.3
15 Annotated Code of Maryland
16 (2023 Replacement Volume)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
18 That the Laws of Maryland read as follows:

19 **Article – Corporations and Associations**

20 5–6B–26.1.

21 (a) In this section, “reserve study” means a study of the reserves required for
22 future major repairs and replacement of the common elements of a cooperative housing
23 corporation that:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (1) Identifies each structural, mechanical, electrical, and plumbing
2 component of the common elements and any other components that are the responsibility
3 of the cooperative housing corporation to repair and replace;

4 (2) States the normal useful life and the estimated remaining useful life of
5 each identified component;

6 (3) States the estimated cost of repair or replacement of each identified
7 component; and

8 (4) States the estimated annual reserve amount necessary to accomplish
9 any identified future repair or replacement.

10 **(B) NOTWITHSTANDING SUBSECTIONS (C) AND (D) OF THIS SECTION, THIS**
11 **SECTION DOES NOT APPLY TO A COOPERATIVE HOUSING CORPORATION IF AT LEAST**
12 **TWO-THIRDS OF THE MEMBERS OF THE COOPERATIVE HOUSING CORPORATION**
13 **VOTE AGAINST HAVING AN INDEPENDENT RESERVE STUDY CONDUCTED.**

14 **[(b)] (C)** (1) This subsection applies only to a cooperative housing corporation
15 established in:

16 (i) Prince George's County on or after October 1, 2020;

17 (ii) Montgomery County on or after October 1, 2021; or

18 (iii) Any county other than Prince George's County or Montgomery
19 County on or after October 1, 2022.

20 (2) The governing body of the cooperative housing corporation shall have
21 an independent reserve study completed not less than 30 calendar days before the first
22 meeting of the cooperative housing corporation at which the members other than the owner
23 have a majority of votes in the cooperative housing corporation.

24 (3) The governing body shall have an updated reserve study completed
25 within 5 years after the date of the initial reserve study conducted under paragraph (2) of
26 this subsection, which shall be updated at least every 5 years thereafter.

27 **[(c)] (D)** (1) (i) This paragraph applies only to a cooperative housing
28 corporation established in Prince George's County before October 1, 2020.

29 (ii) If the governing body of a cooperative housing corporation has
30 had a reserve study conducted on or after October 1, 2016, the governing body shall have
31 an updated reserve study conducted within 5 years after the date of that reserve study and
32 at least every 5 years thereafter.

1 (iii) If the governing body of a cooperative housing corporation has
2 not had a reserve study conducted on or after October 1, 2016, the governing body shall
3 have a reserve study conducted on or before October 1, 2021, and an updated reserve study
4 at least every 5 years thereafter.

5 (2) (i) This paragraph applies only to a cooperative housing corporation
6 established in Montgomery County before October 1, 2021.

7 (ii) If the governing body of a cooperative housing corporation has
8 had a reserve study conducted on or after October 1, 2017, the governing body shall have
9 an updated reserve study conducted within 5 years after the date of that reserve study and
10 at least every 5 years thereafter.

11 (iii) If the governing body of a cooperative housing corporation has
12 not had a reserve study conducted on or after October 1, 2017, the governing body shall
13 have a reserve study conducted on or before October 1, 2022, and an updated reserve study
14 at least every 5 years thereafter.

15 (3) (i) This paragraph applies to a cooperative housing corporation
16 established in any county other than Prince George's County or Montgomery County before
17 October 1, 2022.

18 (ii) If the governing body of a cooperative housing corporation has
19 had a reserve study conducted on or after October 1, 2018, the governing body shall have
20 an updated reserve study conducted within 5 years after the date of that reserve study and
21 at least every 5 years thereafter.

22 (iii) If the governing body of a cooperative housing corporation has
23 not had a reserve study conducted on or after October 1, 2018, the governing body shall
24 have a reserve study conducted on or before October 1, 2023, and an updated reserve study
25 at least every 5 years thereafter.

26 [(d)] (E) Each reserve study required under this section shall:

27 (1) Be prepared by a person who:

28 (i) Has prepared at least 30 reserve studies within the prior 3
29 calendar years;

30 (ii) Has participated in the preparation of at least 30 reserve studies
31 within the prior 3 calendar years while employed by a firm that prepares reserve studies;

32 (iii) Holds a current license from the State Board of Architects or the
33 State Board for Professional Engineers; or

1 (iv) Is currently designated as a reserve specialist by the Community
2 Association Institute or as a professional reserve analyst by the Association of Professional
3 Reserve Analysts;

4 (2) Be available for inspection and copying by any unit owner;

5 (3) Be reviewed by the governing body of the cooperative housing
6 corporation in connection with the preparation of the annual proposed budget; and

7 (4) Be summarized for submission with the annual proposed budget to the
8 unit owners.

9 **[(e)] (F)** To the extent that a reserve study conducted in accordance with this
10 section indicates a need to budget for reserves, the budget shall include:

11 (1) For the capital components, the current estimated:

12 (i) Replacement cost;

13 (ii) Remaining life; and

14 (iii) Useful life;

15 (2) The amount of accumulated cash reserves set aside for the repair,
16 replacement, or restoration of capital components as of the beginning of the fiscal year in
17 which the reserve study is conducted and the amount of the expected contribution to the
18 reserve fund for the fiscal year;

19 (3) A statement describing the procedures used for estimation and
20 accumulation of cash reserves in accordance with this section; and

21 (4) A statement of the amount of reserves recommended in the study and
22 the amount of current cash for replacement reserves.

23 **[(f)] (G)** (1) (i) Subject to subparagraph (ii) of this paragraph, the
24 governing body of a cooperative housing corporation shall provide funds to the reserve in
25 accordance with the most recent reserve study and shall review the reserve study annually
26 for accuracy.

27 (ii) If the most recent reserve study was an initial reserve study, the
28 governing body shall, within 3 fiscal years following the fiscal year in which the initial
29 reserve study was completed, attain the annual reserve funding level recommended in the
30 initial reserve study.

31 (2) The governing body of a cooperative housing corporation has the
32 authority to increase an assessment levied to cover the reserve funding amount required
33 under this section, notwithstanding any provision of the articles of incorporation, bylaws,

1 or proprietary lease restricting assessment increases or capping the assessment that may
2 be levied in a fiscal year.

3 Article – Real Property

4 11–109.4.

5 (a) In this section, “reserve study” means a study of the reserves required for
6 future major repairs and replacement of the common elements of a condominium that:

7 (1) Identifies each structural, mechanical, electrical, and plumbing
8 component of the common elements and any other components that are the responsibility
9 of the council of unit owners to repair and replace;

10 (2) States the normal useful life and the estimated remaining useful life of
11 each identified component;

12 (3) States the estimated cost of repair or replacement of each identified
13 component; and

14 (4) States the estimated annual reserve amount necessary to accomplish
15 any identified future repair or replacement.

16 (b) **(1) [This] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
17 **SUBSECTION, THIS section applies only to a residential condominium.**

18 **(2) THIS SECTION DOES NOT APPLY TO A RESIDENTIAL**
19 **CONDOMINIUM IF AT LEAST TWO–THIRDS OF UNIT OWNERS IN GOOD STANDING VOTE**
20 **AGAINST HAVING AN INDEPENDENT RESERVE STUDY CONDUCTED.**

21 (c) (1) This subsection applies only to a condominium established in:

22 (i) Prince George’s County on or after October 1, 2020;

23 (ii) Montgomery County on or after October 1, 2021; or

24 (iii) Any county other than Prince George’s County or Montgomery
25 County on or after October 1, 2022.

26 (2) The governing body of the condominium shall have an independent
27 reserve study completed not less than 30 calendar days before the meeting of the council of
28 unit owners required under § 11–109(c)(16) of this title.

29 (3) The governing body shall have an updated reserve study completed
30 within 5 years after the date of the initial reserve study conducted under paragraph (2) of
31 this subsection and at least every 5 years thereafter.

1 (d) (1) (i) This paragraph applies only to a condominium established in
2 Prince George's County before October 1, 2020.

3 (ii) If the governing body of a condominium has had a reserve study
4 conducted on or after October 1, 2016, the governing body shall have an updated reserve
5 study conducted within 5 years after the date of that reserve study and at least every 5
6 years thereafter.

7 (iii) If the governing body of a condominium has not had a reserve
8 study conducted on or after October 1, 2016, the governing body shall have a reserve study
9 conducted on or before October 1, 2021, and an updated reserve study at least every 5 years
10 thereafter.

11 (2) (i) This paragraph applies only to a condominium established in
12 Montgomery County before October 1, 2021.

13 (ii) If the governing body of a condominium has had a reserve study
14 conducted on or after October 1, 2017, the governing body shall have an updated reserve
15 study conducted within 5 years after the date of that reserve study and at least every 5
16 years thereafter.

17 (iii) If the governing body of a condominium has not had a reserve
18 study conducted on or after October 1, 2017, the governing body shall have a reserve study
19 conducted on or before October 1, 2022, and an updated reserve study at least every 5 years
20 thereafter.

21 (3) (i) This paragraph applies only to a condominium established in any
22 county other than Prince George's County or Montgomery County before October 1, 2022.

23 (ii) If the governing body of a condominium has had a reserve study
24 conducted on or after October 1, 2018, the governing body shall have an updated reserve
25 study conducted within 5 years after the date of that reserve study and at least every 5
26 years thereafter.

27 (iii) If the governing body of a condominium has not had a reserve
28 study conducted on or after October 1, 2018, the governing body shall have a reserve study
29 conducted on or before October 1, 2023, and an updated reserve study at least every 5 years
30 thereafter.

31 (e) Each reserve study required under this section shall:

32 (1) Be prepared by a person who:

33 (i) Has prepared at least 30 reserve studies within the prior 3
34 calendar years;

1 (ii) Has participated in the preparation of at least 30 reserve studies
2 within the prior 3 calendar years while employed by a firm that prepares reserve studies;

3 (iii) Holds a current license from the State Board of Architects or the
4 State Board for Professional Engineers; or

5 (iv) Is currently designated as a reserve specialist by the Community
6 Association Institute or as a professional reserve analyst by the Association of Professional
7 Reserve Analysts;

8 (2) Be available for inspection and copying by any unit owner;

9 (3) Be reviewed by the governing body of the condominium in connection
10 with the preparation of the annual proposed budget; and

11 (4) Be summarized for submission with the annual proposed budget to the
12 unit owners.

13 11B-112.3.

14 (a) In this section, "reserve study" means a study of the reserves required for
15 future major repairs and replacement of the common areas of a homeowners association
16 that:

17 (1) Identifies each structural, mechanical, electrical, and plumbing
18 component of the common areas and any other components that are the responsibility of
19 the homeowners association to repair and replace;

20 (2) States the estimated remaining useful life of each identified component;

21 (3) States the estimated cost of repair or replacement of each identified
22 component; and

23 (4) States the estimated annual reserve amount necessary to accomplish
24 any identified future repair or replacement.

25 (b) (1) This section applies only to a homeowners association:

26 (i) That has responsibility under its declaration for maintaining and
27 repairing common areas; and

28 (ii) For which the total initial purchase and installation costs for all
29 components identified in subsection (a)(1) of this section is at least \$10,000.

30 (2) This section does not apply to a homeowners association [that]:

1 **(I) THAT** issues bonds for the purpose of meeting capital
2 expenditures; **OR**

3 **(II) IF AT LEAST TWO-THIRDS OF THE LOT OWNERS IN GOOD**
4 **STANDING VOTE AGAINST HAVING AN INDEPENDENT RESERVE STUDY CONDUCTED.**

5 (c) (1) This subsection applies only to a homeowners association established
6 in:

7 (i) Prince George's County on or after October 1, 2020;

8 (ii) Montgomery County on or after October 1, 2021; or

9 (iii) Any county other than Prince George's County or Montgomery
10 County on or after October 1, 2022.

11 (2) The governing body of the homeowners association shall have an
12 independent reserve study completed not more than 90 calendar days and not less than 30
13 calendar days before the meeting of the homeowners association required under §
14 11B-106.1(a) of this title.

15 (3) The governing body shall have an updated reserve study completed
16 within 5 years after the date of the initial reserve study conducted under paragraph (2) of
17 this subsection and at least every 5 years thereafter.

18 (d) (1) (i) This paragraph applies only to a homeowners association
19 established in Prince George's County before October 1, 2020.

20 (ii) If the governing body of a homeowners association has had a
21 reserve study conducted on or after October 1, 2016, the governing body shall have an
22 updated reserve study conducted within 5 years after the date of that reserve study and at
23 least every 5 years thereafter.

24 (iii) If the governing body of a homeowners association has not had a
25 reserve study conducted on or after October 1, 2016, the governing body shall have a reserve
26 study conducted on or before October 1, 2021, and an updated reserve study at least every
27 5 years thereafter.

28 (2) (i) This paragraph applies only to a homeowners association
29 established in Montgomery County before October 1, 2021.

30 (ii) If the governing body of a homeowners association has had a
31 reserve study conducted on or after October 1, 2017, the governing body shall have an
32 updated reserve study conducted within 5 years after the date of that reserve study and at
33 least every 5 years thereafter.

1 (iii) If the governing body of a homeowners association has not had a
2 reserve study conducted on or after October 1, 2017, the governing body shall have a reserve
3 study conducted on or before October 1, 2022, and an updated reserve study at least every
4 5 years thereafter.

5 (3) (i) This paragraph applies only to a homeowners association
6 established in any county other than Prince George's County or Montgomery County before
7 October 1, 2022.

8 (ii) If the governing body of a homeowners association has had a
9 reserve study conducted on or after October 1, 2018, the governing body shall have an
10 updated reserve study conducted within 5 years after the date of that reserve study and at
11 least every 5 years thereafter.

12 (iii) If the governing body of a homeowners association has not had a
13 reserve study conducted on or after October 1, 2018, the governing body shall have a reserve
14 study conducted on or before October 1, 2023, and an updated reserve study at least every
15 5 years thereafter.

16 (e) Each reserve study required under this section shall:

17 (1) Be prepared by a person who:

18 (i) Has prepared at least 30 reserve studies within the prior 3
19 calendar years;

20 (ii) Has participated in the preparation of at least 30 reserve studies
21 within the prior 3 calendar years while employed by a firm that prepares reserve studies;

22 (iii) Holds a current license from the State Board of Architects or the
23 State Board for Professional Engineers; or

24 (iv) Is currently designated as a reserve specialist by the Community
25 Association Institute or as a professional reserve analyst by the Association of Professional
26 Reserve Analysts;

27 (2) Be available for inspection and copying by any lot owner;

28 (3) Be reviewed by the governing body of the homeowners association in
29 connection with the preparation of the annual proposed budget; and

30 (4) Be summarized for submission with the annual proposed budget to the
31 lot owners.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 2024.