

HOUSE BILL 567

N1, C1

11r0462

By: **Montgomery County Delegation**

Introduced and read first time: January 20, 2021

Assigned to: Environment and Transportation

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 7, 2021

CHAPTER _____

1 AN ACT concerning

2 **Montgomery County – Cooperative Housing Corporations, Condominiums, and**
3 **Homeowners Associations – Reserve Studies**

4 **MC 3–21**

5 FOR the purpose of requiring the governing body of certain cooperative housing
6 corporations in Montgomery County to have a certain reserve study conducted of the
7 common elements of the cooperative housing corporation by a certain date and at
8 certain intervals under certain circumstances; requiring the reserve study conducted
9 of the common elements of a cooperative housing corporation in Montgomery County
10 to meet certain criteria; requiring the annual budget of a cooperative housing
11 corporation in Montgomery County to include certain information if a reserve study
12 indicates a need to budget for reserves; requiring the governing body of a cooperative
13 housing corporation in Montgomery County to provide reserve funds in the annual
14 budget for the cooperative housing corporation in accordance with a reserve study
15 conducted under this Act; establishing that the governing body of a cooperative
16 housing corporation in Montgomery County has the authority to increase a certain
17 assessment notwithstanding certain provisions; altering the content of the annual
18 budget of certain condominiums in Montgomery County; requiring the governing
19 body of certain condominiums in Montgomery County to have a certain reserve study
20 conducted of the common elements of the condominium by a certain date and at
21 certain intervals under certain circumstances; requiring the reserve study conducted
22 of the common elements of a condominium in Montgomery County to meet certain
23 criteria; requiring the governing body of a condominium in Montgomery County to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 provide reserve funds in the annual budget for the condominium in accordance with
 2 a reserve study conducted under this Act; establishing that the board of directors of
 3 a condominium in Montgomery County has the authority to increase a certain
 4 assessment notwithstanding certain provisions; altering the content of the annual
 5 budget of certain homeowners associations; requiring the governing body of certain
 6 homeowners associations in Montgomery County to have a certain reserve study
 7 conducted of the common areas of a homeowners association by a certain date and
 8 at certain intervals under certain circumstances; requiring the reserve study
 9 conducted of the common areas of a homeowners association in Montgomery County
 10 to meet certain criteria; requiring the governing body of a homeowners association
 11 in Montgomery County to provide reserve funds in the annual budget for the
 12 homeowners association in accordance with a reserve study conducted under this
 13 Act; establishing that the governing body of a homeowners association in
 14 Montgomery County has the authority to increase a certain assessment
 15 notwithstanding certain provisions; altering certain definitions; providing for the
 16 application of this Act; and generally relating to reserve studies and annual budgets
 17 of cooperative housing corporations, condominiums, and homeowners associations in
 18 Montgomery County.

19 BY repealing and reenacting, with amendments,
 20 Article – Corporations and Associations
 21 Section 5–6B–26.1
 22 Annotated Code of Maryland
 23 (2014 Replacement Volume and 2020 Supplement)

24 BY repealing and reenacting, with amendments,
 25 Article – Real Property
 26 Section 11–109(c)(16)(v), 11–109.2(c), 11–109.4, 11–110(b)(1)(ii), 11B–106.1(e),
 27 11B–112.2(d), 11B–112.3, and 11B–117(a)(2)
 28 Annotated Code of Maryland
 29 (2015 Replacement Volume and 2020 Supplement)

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

32 **Article – Corporations and Associations**

33 5–6B–26.1.

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

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

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

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

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

7 (b) This section applies only to a cooperative housing corporation in Prince
8 George's County **OR MONTGOMERY COUNTY**.

9 (c) (1) This subsection applies **ONLY** to a cooperative housing corporation
10 established **IN**:

11 **(I) PRINCE GEORGE'S COUNTY** on or after October 1, 2020; **OR**

12 **(II) MONTGOMERY COUNTY ON OR AFTER OCTOBER 1, 2021.**

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

17 (3) **(I) [The] IN PRINCE GEORGE'S COUNTY, THE** governing body
18 shall have a reserve study completed within 5 years after the date of the initial reserve
19 study conducted under paragraph (2) of this subsection and at least every 5 years
20 thereafter.

21 **(II) IN MONTGOMERY COUNTY, THE GOVERNING BODY SHALL**
22 **HAVE AN UPDATED RESERVE STUDY COMPLETED WITHIN 5 YEARS AFTER THE DATE**
23 **OF THE INITIAL RESERVE STUDY CONDUCTED UNDER PARAGRAPH (2) OF THIS**
24 **SUBSECTION, WHICH SHALL BE UPDATED AT LEAST EVERY 5 YEARS THEREAFTER.**

25 (d) (1) **(I)** This [subsection] **PARAGRAPH** applies **ONLY** to a cooperative
26 housing corporation established **IN PRINCE GEORGE'S COUNTY** before October 1, 2020.

27 **[(2)] (II)** If the governing body of a cooperative housing corporation has
28 had a reserve study conducted on or after October 1, 2016, the governing body shall have a
29 reserve study conducted within 5 years after the date of that reserve study and at least
30 every 5 years thereafter.

31 **[(3)] (III)** If the governing body of a cooperative housing corporation has
32 not had a reserve study conducted on or after October 1, 2016, the governing body shall
33 have a reserve study conducted on or before October 1, 2021, and at least every 5 years
34 thereafter.

1 **(2) (I) THIS PARAGRAPH APPLIES ONLY TO A COOPERATIVE**
2 **HOUSING CORPORATION ESTABLISHED IN MONTGOMERY COUNTY BEFORE**
3 **OCTOBER 1, 2021.**

4 **(II) IF THE GOVERNING BODY OF A COOPERATIVE HOUSING**
5 **CORPORATION HAS HAD A RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1,**
6 **2017, THE GOVERNING BODY SHALL HAVE AN UPDATED RESERVE STUDY**
7 **CONDUCTED WITHIN 5 YEARS AFTER THE DATE OF THAT RESERVE STUDY, WHICH**
8 **SHALL BE UPDATED AT LEAST EVERY 5 YEARS THEREAFTER.**

9 **(III) IF THE GOVERNING BODY OF A COOPERATIVE HOUSING**
10 **CORPORATION HAS NOT HAD A RESERVE STUDY CONDUCTED ON OR AFTER**
11 **OCTOBER 1, 2017, THE GOVERNING BODY SHALL HAVE A RESERVE STUDY**
12 **CONDUCTED ON OR BEFORE OCTOBER 1, 2022, WHICH SHALL BE UPDATED AT LEAST**
13 **EVERY 5 YEARS THEREAFTER.**

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

15 (1) Be prepared by a person who:

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

18 (ii) Holds a bachelor's degree in construction management,
19 architecture, or engineering or equivalent experience and education;

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

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

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

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

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

30 (f) To the extent that a reserve study conducted in accordance with this section
31 indicates a need to budget for reserves, the budget shall include:

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

1 (i) Replacement cost;

2 (ii) Remaining life; and

3 (iii) Useful life;

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

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

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

12 (g) (1) The governing body of a cooperative housing corporation shall provide
13 funds to the reserve in accordance with the most recent reserve study and shall review the
14 reserve study annually for accuracy.

15 (2) The governing body of a cooperative housing corporation has the
16 authority to increase an assessment levied to cover the reserve funding amount required
17 under this section, notwithstanding any provision of the articles of incorporation, bylaws,
18 or proprietary lease restricting assessment increases or capping the assessment that may
19 be levied in a fiscal year.

20 **Article – Real Property**

21 11–109.

22 (c) (16) (v) In Prince George’s County **AND MONTGOMERY COUNTY**, the
23 replacement reserves delivered under subparagraph (iv)2 of this paragraph shall be equal
24 to at least the reserve funding amount recommended in the reserve study completed under
25 § 11–109.4 of this title as of the date of the meeting.

26 11–109.2.

27 (c) In Prince George’s County **AND MONTGOMERY COUNTY**, the reserves
28 provided for in the annual budget under subsection (b) of this section shall be the funding
29 amount recommended in the most recent reserve study completed under § 11–109.4 of this
30 title.

31 11–109.4.

1 (a) In this section, “reserve study” means a study of the reserves required for
 2 future major repairs and replacement of the common elements of a condominium in Prince
 3 George’s County **OR MONTGOMERY COUNTY** that:

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

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

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

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

13 (b) This section applies only to a condominium in Prince George’s County **OR**
 14 **MONTGOMERY COUNTY**.

15 (c) (1) This subsection applies **ONLY** to a condominium established **IN**:

16 (I) **PRINCE GEORGE’S COUNTY** on or after October 1, 2020; **OR**

17 (II) **MONTGOMERY COUNTY ON OR AFTER OCTOBER 1, 2021**.

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

21 (3) (I) ~~The~~ **IN PRINCE GEORGE’S COUNTY, THE** governing body shall
 22 have a reserve study completed within 5 years after the date of the initial reserve study
 23 conducted under paragraph (2) of this subsection and at least every 5 years thereafter.

24 (II) **IN MONTGOMERY COUNTY, THE GOVERNING BODY SHALL**
 25 **HAVE AN UPDATED RESERVE STUDY COMPLETED WITHIN 5 YEARS AFTER THE DATE**
 26 **OF THE INITIAL RESERVE STUDY CONDUCTED UNDER PARAGRAPH (2) OF THIS**
 27 **SUBSECTION, WHICH SHALL BE UPDATED AT LEAST EVERY 5 YEARS THEREAFTER.**

28 (d) (1) (I) This [subsection] **PARAGRAPH** applies **ONLY** to a condominium
 29 established **IN PRINCE GEORGE’S COUNTY** before October 1, 2020.

30 [(2)] (II) If the governing body of a condominium has had a reserve study
 31 conducted on or after October 1, 2016, the governing body shall have a reserve study
 32 conducted within 5 years after the date of that reserve study and at least every 5 years
 33 thereafter.

1 **[(3)] (III)** If the governing body of a condominium has not had a reserve
2 study conducted on or after October 1, 2016, the governing body shall have a reserve study
3 conducted on or before October 1, 2021, and at least every 5 years thereafter.

4 **(2) (I) THIS PARAGRAPH APPLIES ONLY TO A CONDOMINIUM**
5 **ESTABLISHED IN MONTGOMERY COUNTY BEFORE OCTOBER 1, 2021.**

6 **(II) IF THE GOVERNING BODY OF A CONDOMINIUM HAS HAD A**
7 **RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1, 2017, THE GOVERNING**
8 **BODY SHALL HAVE AN UPDATED RESERVE STUDY CONDUCTED WITHIN 5 YEARS**
9 **AFTER THE DATE OF THAT RESERVE STUDY, WHICH SHALL BE UPDATED AT LEAST**
10 **EVERY 5 YEARS THEREAFTER.**

11 **(III) IF THE GOVERNING BODY OF A CONDOMINIUM HAS NOT HAD**
12 **A RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1, 2017, THE GOVERNING**
13 **BODY SHALL HAVE A RESERVE STUDY CONDUCTED ON OR BEFORE OCTOBER 1, 2022,**
14 **WHICH SHALL BE UPDATED AT LEAST EVERY 5 YEARS THEREAFTER.**

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

16 (1) Be prepared by a person who:

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

19 (ii) Holds a bachelor's degree in construction management,
20 architecture, or engineering, or equivalent experience and education;

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

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

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

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

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

31 11-110.

1 (b) (1) (ii) The board of directors of a condominium in Prince George's
2 County **OR MONTGOMERY COUNTY** has the authority to increase the assessment levied
3 to cover the reserve funding amount required under § 11-109.4 of this title,
4 notwithstanding any provision of the declaration, articles of incorporation, or bylaws
5 restricting assessment increases or capping the assessment that may be levied in a fiscal
6 year.

7 11B-106.1.

8 (e) In Prince George's County **AND MONTGOMERY COUNTY**, the replacement
9 reserves delivered under subsection (d)(13) of this section shall be equal to at least the
10 reserve funding amount recommended in the reserve study completed under § 11B-112.3
11 of this title as of the date of the meeting.

12 11B-112.2.

13 (d) In Prince George's County **AND MONTGOMERY COUNTY**, reserves provided
14 for in the annual budget under subsection (c) of this section shall be the funding amount
15 recommended in the most recent reserve study completed under § 11B-112.3 of this title.

16 11B-112.3.

17 (a) In this section, "reserve study" means a study of the reserves required for
18 future major repairs and replacement of the common areas of a homeowners association in
19 Prince George's County **OR MONTGOMERY COUNTY** that:

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

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

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

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

28 (b) (1) This section applies only to a homeowners association in Prince
29 George's County **OR MONTGOMERY COUNTY** that has responsibility under its declaration
30 for maintaining and repairing common areas.

31 (2) This section does not apply to a homeowners association that issues
32 bonds for the purpose of meeting capital expenditures.

1 (c) (1) This subsection applies ONLY to a homeowners association established
2 IN:

3 (I) PRINCE GEORGE'S COUNTY on or after October 1, 2020; OR

4 (II) MONTGOMERY COUNTY ON OR AFTER OCTOBER 1, 2021.

5 (2) The governing body of the homeowners association shall have an
6 independent reserve study completed not more than 90 calendar days and not less than 30
7 calendar days before the meeting of the homeowners association required under §
8 11B-106.1(a) of this title.

9 (3) (I) ~~The IN PRINCE GEORGE'S COUNTY, THE~~ governing body shall
10 have a reserve study completed within 5 years after the date of the initial reserve study
11 conducted under paragraph (2) of this subsection and at least every 5 years thereafter.

12 (II) IN MONTGOMERY COUNTY, THE GOVERNING BODY SHALL
13 HAVE AN UPDATED RESERVE STUDY COMPLETED WITHIN 5 YEARS AFTER THE DATE
14 OF THE INITIAL RESERVE STUDY CONDUCTED UNDER PARAGRAPH (2) OF THIS
15 SUBSECTION, WHICH SHALL BE UPDATED AT LEAST EVERY 5 YEARS THEREAFTER.

16 (d) (1) (I) This [subsection] PARAGRAPH applies ONLY to a homeowners
17 association established IN PRINCE GEORGE'S COUNTY before October 1, 2020.

18 [(2)] (II) If the governing body of a homeowners association has had a
19 reserve study conducted on or after October 1, 2016, the governing body shall have a reserve
20 study conducted within 5 years after the date of that reserve study and at least every 5
21 years thereafter.

22 [(3)] (III) If the governing body of a homeowners association has not had a
23 reserve study conducted on or after October 1, 2016, the governing body shall have a reserve
24 study conducted on or before October 1, 2021, and at least every 5 years thereafter.

25 (2) (I) THIS PARAGRAPH APPLIES ONLY TO A HOMEOWNERS
26 ASSOCIATION ESTABLISHED IN MONTGOMERY COUNTY BEFORE OCTOBER 1, 2021.

27 (II) IF THE GOVERNING BODY OF A HOMEOWNERS ASSOCIATION
28 HAS HAD A RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1, 2017, THE
29 GOVERNING BODY SHALL HAVE AN UPDATED RESERVE STUDY CONDUCTED WITHIN
30 5 YEARS AFTER THE DATE OF THAT RESERVE STUDY, WHICH SHALL BE UPDATED AT
31 LEAST EVERY 5 YEARS THEREAFTER.

32 (III) IF THE GOVERNING BODY OF A HOMEOWNERS ASSOCIATION
33 HAS NOT HAD A RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1, 2017, THE
34 GOVERNING BODY SHALL HAVE A RESERVE STUDY CONDUCTED ON OR BEFORE

1 **OCTOBER 1, 2022, WHICH SHALL BE UPDATED AT LEAST EVERY 5 YEARS**
2 **THEREAFTER.**

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

4 (1) Be prepared by a person who:

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

7 (ii) Holds a bachelor's degree in construction management,
8 architecture, or engineering or equivalent experience and education;

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

11 (iv) Is currently designated as a reserve specialist by the Community
12 Association Institute or as a professional reserve analyst by the Association of Professional
13 Reserve Analysts;

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

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

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

19 11B-117.

20 (a) (2) The governing body of a homeowners association in Prince George's
21 County **OR MONTGOMERY COUNTY** has the authority to increase an assessment levied
22 to cover the reserve funding amount required under § 11B-112.3 of this title,
23 notwithstanding any provision of the declaration, articles of incorporation, or bylaws
24 restricting assessment increases or capping the assessment that may be levied in a fiscal
25 year.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2021.