

SENATE BILL 345

N1

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By: **Senators Kelley, Forehand, Gladden, and Stone**

Introduced and read first time: January 28, 2010

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Condominiums and Homeowners Associations – Reserves and Reserve**
3 **Studies**

4 FOR the purpose of requiring the governing body or the council of unit owners of
5 certain condominiums to have a reserve study conducted of the common
6 elements of the condominium by a certain date and at certain intervals under
7 certain circumstances; requiring the reserve study conducted of the common
8 elements of a condominium to meet certain criteria; requiring the governing
9 body of certain homeowners associations or certain homeowners associations to
10 have a reserve study conducted of the common areas of the homeowners
11 association by a certain date and at certain intervals under certain
12 circumstances; requiring the reserve study conducted of the common areas of a
13 homeowners association to meet certain criteria; requiring the annual budget of
14 a certain homeowners association development to provide for reserves under
15 certain circumstances; defining certain terms; providing for the application of
16 this Act; and generally relating to the reserves and reserve studies of
17 condominiums and homeowners associations.

18 BY repealing and reenacting, without amendments,
19 Article – Real Property
20 Section 11–109.2 and 11–110(b)(1)
21 Annotated Code of Maryland
22 (2003 Replacement Volume and 2009 Supplement)

23 BY adding to
24 Article – Real Property
25 Section 11–109.4 and 11B–112.2
26 Annotated Code of Maryland
27 (2003 Replacement Volume and 2009 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Real Property**

4 11–109.2.

5 (a) The council of unit owners shall cause to be prepared and submitted to
6 the unit owners an annual proposed budget at least 30 days before its adoption.

7 (b) The annual budget shall provide for at least the following items:

8 (1) Income;

9 (2) Administration;

10 (3) Maintenance;

11 (4) Utilities;

12 (5) General expenses;

13 (6) Reserves; and

14 (7) Capital items.

15 (c) The budget shall be adopted at an open meeting of the council of unit
16 owners or any other body to which the council of unit owners delegates responsibilities
17 for preparing and adopting the budget.

18 (d) Any expenditure made other than those made because of conditions
19 which, if not corrected, could reasonably result in a threat to the health or safety of the
20 unit owners or a significant risk of damage to the condominium, that would result in
21 an increase in an amount of assessments for the current fiscal year of the
22 condominium in excess of 15 percent of the budgeted amount previously adopted, shall
23 be approved by an amendment to the budget adopted at a special meeting, upon not
24 less than 10 days written notice to the council of unit owners.

25 (e) The adoption of a budget shall not impair the authority of the council of
26 unit owners to obligate the council of unit owners for expenditures for any purpose
27 consistent with any provision of this title.

28 (f) The provisions of this section do not apply to a condominium that is
29 occupied and used solely for nonresidential purposes.

30 **11–109.4.**

1 **(A) IN THIS SECTION, “RESERVE STUDY” MEANS A STUDY OF THE**
2 **RESERVES REQUIRED FOR MAJOR REPAIRS AND REPLACEMENT OF THE**
3 **COMMON ELEMENTS OF A CONDOMINIUM CONDUCTED AT THE CONDOMINIUM’S**
4 **EXPENSE AND IN A MANNER ADOPTED BY THE GOVERNING BODY.**

5 **(B) THIS SECTION APPLIES ONLY TO A CONDOMINIUM THAT HAS MORE**
6 **THAN 50 UNITS.**

7 **(C) (1) THIS SUBSECTION APPLIES TO A CONDOMINIUM**
8 **ESTABLISHED ON OR AFTER OCTOBER 1, 2010.**

9 **(2) NOT MORE THAN 90 CALENDAR DAYS AND NOT LESS THAN 30**
10 **CALENDAR DAYS BEFORE THE MEETING OF THE COUNCIL OF UNIT OWNERS**
11 **REQUIRED UNDER § 11-109(C)(16) OF THIS SUBTITLE, THE GOVERNING BODY**
12 **OF THE CONDOMINIUM SHALL HAVE AN INDEPENDENT RESERVE STUDY**
13 **CONDUCTED OF ALL THE COMMON ELEMENTS.**

14 **(3) WITHIN 5 YEARS AFTER THE DATE OF THE INITIAL RESERVE**
15 **STUDY CONDUCTED UNDER PARAGRAPH (2) OF THIS SUBSECTION, AND AT**
16 **LEAST EVERY 5 YEARS THEREAFTER, THE COUNCIL OF UNIT OWNERS SHALL**
17 **HAVE A RESERVE STUDY CONDUCTED.**

18 **(D) (1) THIS SUBSECTION APPLIES TO A CONDOMINIUM**
19 **ESTABLISHED BEFORE OCTOBER 1, 2010.**

20 **(2) IF A COUNCIL OF UNIT OWNERS HAS HAD A RESERVE STUDY**
21 **CONDUCTED ON OR AFTER OCTOBER 1, 2006, THE COUNCIL OF UNIT OWNERS**
22 **SHALL HAVE A RESERVE STUDY CONDUCTED WITHIN 5 YEARS AFTER THE DATE**
23 **OF THAT RESERVE STUDY AND AT LEAST EVERY 5 YEARS THEREAFTER.**

24 **(3) IF A COUNCIL OF UNIT OWNERS HAS NOT HAD A RESERVE**
25 **STUDY CONDUCTED ON OR AFTER OCTOBER 1, 2006, THE COUNCIL OF UNIT**
26 **OWNERS SHALL HAVE A RESERVE STUDY CONDUCTED ON OR BEFORE**
27 **OCTOBER 1, 2011, AND AT LEAST EVERY 5 YEARS THEREAFTER.**

28 **(E) EACH RESERVE STUDY REQUIRED UNDER THIS SECTION SHALL:**

29 **(1) INCLUDE A STATEMENT OF THE QUALIFICATIONS OF THE**
30 **PERSON WHO PREPARED THE RESERVE STUDY;**

31 **(2) BE AVAILABLE FOR INSPECTION AND COPYING BY ANY UNIT**
32 **OWNER;**

1 **(3) BE REVIEWED BY THE GOVERNING BODY IN CONNECTION**
2 **WITH THE PREPARATION OF THE ANNUAL PROPOSED BUDGET; AND**

3 **(4) BE SUMMARIZED FOR SUBMISSION WITH THE ANNUAL**
4 **PROPOSED BUDGET TO THE UNIT OWNERS.**

5 11–110.

6 (b) (1) Funds for the payment of current common expenses and for the
7 creation of reserves for the payment of future common expenses shall be obtained by
8 assessments against the unit owners in proportion to their percentage interests in
9 common expenses and common profits.

10 **11B–112.2.**

11 **(A) IN THIS SECTION, “RESERVE STUDY” MEANS A STUDY OF THE**
12 **RESERVES REQUIRED FOR MAJOR REPAIRS AND REPLACEMENT OF THE**
13 **COMMON AREAS OF A HOMEOWNERS ASSOCIATION CONDUCTED AT THE**
14 **HOMEOWNERS ASSOCIATION’S EXPENSE AND IN A MANNER ADOPTED BY THE**
15 **GOVERNING BODY.**

16 **(B) (1) THIS SECTION APPLIES ONLY TO A HOMEOWNERS**
17 **ASSOCIATION THAT:**

18 **(I) HAS MORE THAN 50 DWELLING UNITS IN THE**
19 **DEVELOPMENT; AND**

20 **(II) HAS RESPONSIBILITY UNDER ITS DECLARATION FOR**
21 **MAINTAINING AND REPAIRING COMMON AREAS.**

22 **(2) THIS SECTION DOES NOT APPLY TO A HOMEOWNERS**
23 **ASSOCIATION THAT ISSUES BONDS FOR THE PURPOSE OF MEETING CAPITAL**
24 **EXPENDITURES.**

25 **(C) (1) THIS SUBSECTION APPLIES TO A HOMEOWNERS ASSOCIATION**
26 **ESTABLISHED ON OR AFTER OCTOBER 1, 2010.**

27 **(2) NOT MORE THAN 90 CALENDAR DAYS AND NOT LESS THAN 30**
28 **CALENDAR DAYS BEFORE THE FIRST MEETING OF THE HOMEOWNERS**
29 **ASSOCIATION AT WHICH THE LOT OWNERS, OTHER THAN THE DECLARANT, HAVE**
30 **A MAJORITY OF VOTES IN THE HOMEOWNERS ASSOCIATION, THE GOVERNING**
31 **BODY OF THE HOMEOWNERS ASSOCIATION SHALL HAVE AN INDEPENDENT**
32 **RESERVE STUDY CONDUCTED OF ALL THE COMMON AREAS.**

1 **(3) WITHIN 5 YEARS AFTER THE DATE OF THE INITIAL RESERVE**
2 **STUDY CONDUCTED UNDER PARAGRAPH (2) OF THIS SUBSECTION, AND AT**
3 **LEAST EVERY 5 YEARS THEREAFTER, THE HOMEOWNERS ASSOCIATION SHALL**
4 **HAVE A RESERVE STUDY CONDUCTED.**

5 **(D) (1) THIS SUBSECTION APPLIES TO A HOMEOWNERS ASSOCIATION**
6 **ESTABLISHED BEFORE OCTOBER 1, 2010.**

7 **(2) IF A HOMEOWNERS ASSOCIATION HAS HAD A RESERVE STUDY**
8 **CONDUCTED ON OR AFTER OCTOBER 1, 2006, THE GOVERNING BODY OF THE**
9 **HOMEOWNERS ASSOCIATION SHALL HAVE A RESERVE STUDY CONDUCTED**
10 **WITHIN 5 YEARS AFTER THE DATE OF THAT RESERVE STUDY AND AT LEAST**
11 **EVERY 5 YEARS THEREAFTER.**

12 **(3) IF A HOMEOWNERS ASSOCIATION HAS NOT HAD A RESERVE**
13 **STUDY CONDUCTED ON OR AFTER OCTOBER 1, 2006, THE GOVERNING BODY OF**
14 **THE HOMEOWNERS ASSOCIATION SHALL HAVE A RESERVE STUDY CONDUCTED**
15 **ON OR BEFORE OCTOBER 1, 2011, AND AT LEAST EVERY 5 YEARS THEREAFTER.**

16 **(E) EACH RESERVE STUDY REQUIRED UNDER THIS SECTION SHALL:**

17 **(1) INCLUDE A STATEMENT OF THE QUALIFICATIONS OF THE**
18 **PERSON WHO PREPARED THE RESERVE STUDY;**

19 **(2) BE AVAILABLE FOR INSPECTION AND COPYING BY ANY LOT**
20 **OWNER;**

21 **(3) BE REVIEWED BY THE GOVERNING BODY IN CONNECTION**
22 **WITH THE PREPARATION OF THE ANNUAL PROPOSED BUDGET; AND**

23 **(4) BE SUMMARIZED FOR SUBMISSION WITH THE ANNUAL**
24 **PROPOSED BUDGET TO THE LOT OWNERS.**

25 **(F) (1) THIS SUBSECTION APPLIES TO A DEVELOPMENT**
26 **ESTABLISHED ON OR AFTER OCTOBER 1, 2010.**

27 **(2) THE ANNUAL BUDGET SHALL PROVIDE FOR RESERVES.**

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2010.