

Department of Legislative Services  
Maryland General Assembly  
2018 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 997 (Delegate Cullison)  
Environment and Transportation

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**Condominiums - Transfer of Control - Common Element Reserves**

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This bill requires a developer, on transfer of control of a condominium to the council of unit owners, to turn over any reserve account records and a specified reserve study. The bill also requires a developer, on the transfer of control of a condominium created by the conversion of residential rental property, to turn over to the council of unit owners a reserve account containing funds equal to at least five times the annual funding amount recommended in the current reserve study report.

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**Fiscal Summary**

**State Effect:** The bill is not anticipated to materially impact State finances or operations.

**Local Effect:** The bill is not anticipated to impact local government finances or operations.

**Small Business Effect:** Minimal.

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**Analysis**

**Bill Summary:** On transfer of control by the developer to the council of unit owners, the developer must turn over a current reserve study report describing the reserves required for major repairs and replacement of the common elements, prepared by a certified engineer, and completed within five years before the date of transfer of control.

**Current Law:** “Common elements” means all of the condominium except the units.

On transfer of control by the developer to the council of unit owners, the developer must turn over documents that, among other specified items, include (1) copies of the

condominium's filed articles of incorporation, recorded declaration, and all recorded covenants, bylaws, plats, and restrictions of the condominium; (2) specified books and records; and (3) the financial records of the condominium from the date of creation to the date of transfer of control, including budget information regarding estimated and actual expenditures by the condominium and any report relating to the reserves required for major repairs and replacement of the common elements of the condominium.

The annual budget of a condominium must provide for reserves and capital items or expenses among the expenses of the condominium. Unit owners must be assessed for current common expenses and reserves for future expenses in proportion to their percentage interests in the common expenses and common profits.

**Background:** Statewide for 2017, Secretary of State registration records show that there are 2,875 condominium regimes, and the State Department of Assessments and Taxation, which maintains assessment records based on class of property, reports that there are 225,947 condominium units.

Condominiums, homeowners associations, and cooperative housing corporations, collectively referred to as common ownership communities (COCs), are home to a growing number of Marylanders. Confronting evidence that some COCs had issues with governance, dispute resolution, and financial stability, the General Assembly created the Task Force on Common Ownership Communities in 2005 (Chapter 469 of 2005). The issues addressed by the task force included the education and training needs of COC boards and prospective buyers, availability of alternative dispute resolution services, special considerations of aging COCs, collection of assessments, and resale of homes within COCs. The task force met 10 times, held five public hearings, and submitted its final report in December 2006. The report's findings and recommendations have served, in subsequent years, as the basis for numerous pieces of legislation intended to improve the operation of COCs.

Among the findings and recommendations of the report that have not yet been codified in statute are several pertaining to reserves of COCs, including (1) the governing board of a COC owning common capital elements should be required to conduct or commission a reserve study at least once every five years to determine the amount and necessity of reserves for anticipated capital replacements, repairs, and improvements; (2) the reserve study should be reviewed annually to determine the amount of reserves to be included in the budget for such replacements; and (3) adjustment should be made annually to COC assessments to maintain adequate reserves for such replacements.

## **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Office of the Attorney General (Consumer Protection Division); Secretary of State; Judiciary (Administrative Office of the Courts); State Department of Assessments and Taxation; Department of Legislative Services

**Fiscal Note History:** First Reader - February 25, 2018  
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Analysis by: Nathan W. McCurdy

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510