

Consumer Council Senate Support for HB 107 (Reserv

Uploaded by: Armstead Jones

Position: FAV

BRIAN E. FROSH
Attorney General

WILLIAM D. GRUHN
Chief
Consumer Protection Division

ELIZABETH F. HARRIS
Chief Deputy Attorney General



CAROLYN QUATTROCKI
Deputy Attorney General

WRITER'S DIRECT DIAL NO.

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER COUNCIL

March 29, 2022

To: The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee

From: Armstead Jones, Chair
Consumer Council of Maryland

Re: House Bill 107 – Cooperative Housing Corporations, Condominiums, and Homeowners Associations – Reserve Studies - Statewide (SUPPORT)

The Consumer Council of Maryland supports House Bill 107, sponsored by Delegate Marvin E. Holmes, Jr., which would require common ownership communities to conduct regular reserve studies to determine how much the community will require for necessary maintenance and repairs. The Surfside Condominium collapse in Florida highlights the critical need for common ownership communities to conduct reserve studies. While such a requirement has been enacted for Montgomery and Prince George's Counties, the Consumer Council believes that a Statewide reserve study requirement is warranted.

The Consumer Council is an advisory body to the Consumer Protection Division in the Office of the Attorney General with members representing businesses, consumers and the public who are appointed by the Governor.

House Bill 107 would require an association to conduct a reserve study prior to the first meeting at which members other than the developer have a majority of votes in the association and an updated study every five (5) years thereafter. It further requires that an owner or developer of the community provide the amount of the recommended reserve fund to the association at the time of the first meeting. It provides a three-year period to meet the amount required by the initial reserve study and that every subsequent annual budget include reserve funds equal to the recommended reserve fund amount. Finally, this bill gives the governing body of the association the authority to increase a levied assessment to cover the recommended reserve funding amount required regardless of any provision in the governing documents restricting assessment increases that may be levied in a year.

The Honorable William C. Smith, Jr.
House Bill 107
March 29, 2022
Page Two

Reserve studies review the common elements of an association to determine the major repairs and replacements that may be needed in the future and ensure that the association is properly planning for these estimated costs. Such studies not only help to secure the financial stability of the association, but they are also needed to enable members to buy and sell their homes, since many banks and mortgage companies will not lend money to owners who reside in associations that do not have current reserve studies. The costs incurred to do the reserve study will be commensurate with the types and amount of common property that must be maintained, so smaller communities are unlikely to be overburdened by this law.

The Consumer Protection Division has reported to the Consumer Council that it has received complaints from associations that learned after a transfer of control that the developer failed to leave any money in the reserve fund, placing the association in a difficult monetary position. The Division has also reported receiving calls and complaints from members of associations who are assessed with very high special assessments as a result of not having enough funds in their reserve accounts because reserve studies had not been done for a significant period of time. House Bill 107 would help to protect against these scenarios and help to prevent a Surfside Condominium disaster from occurring in Maryland.

For these reasons, the Consumer Council asks that the Judicial Proceedings Committee return a favorable report on House Bill 107.

cc: The Honorable Marvin E. Holmes, Jr.
Members, Judicial Proceedings Committee

HB107 Crossover Support 2022.pdf

Uploaded by: Karen Straughn

Position: FAV

BRIAN E. FROSH
Attorney General

ELIZABETH F. HARRIS
Chief Deputy Attorney General

CAROLYN QUATTROCKI
Deputy Attorney General



WILLIAM D. GRUHN
Chief
Consumer Protection Division

Writer's Fax No.

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

Writer's Direct Dial No.

410-576-7942
kstraughn@oag.state.md.us
Fax: 410-576-7040

March 29, 2022

To: The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee

From: Karen S. Straughn
Consumer Protection Division

Re: House Bill 107 – Cooperative Housing Corporations, Condominiums, and Homeowners Associations – Reserve Studies - Statewide (SUPPORT)

The Consumer Protection Division of the Office of the Attorney General submits the following written testimony in support of House Bill 107 submitted by Delegates Marvin E. Holmes, Jr., et al. This bill requires common ownership communities to conduct reserve studies prior to the first meeting at which members other than the developer have a majority of votes in the association and an updated reserve study every five (5) years thereafter. It further requires that an owner or developer of the community provide the amount of the recommended reserve fund to the association at the time of the first meeting and that every annual budget thereafter include reserve funds equal to the recommended reserve fund amount. For associations that may have difficulty meeting the reserves needed to comply with the requirements of this bill, there is a provision allowing the association to fund the reserves need over three immediately successive budget cycles following the initial reserve study. Finally, this bill gives the governing body of the association the authority to increase a levied assessment to cover the recommended reserve funding amount required regardless of any provision in the governing documents restricting assessment increases that may be levied in a year.

Reserve studies review the common elements of an association to determine the major repairs and replacements that may be needed in the future and ensure that the association is properly planning for these estimated costs. Such studies not only help to secure the financial stability of the association, they are also needed to enable members to buy and sell their homes, since most banks and mortgage companies will not lend money to owners who reside in associations that do not have current reserve studies. The costs incurred to do the reserve study will be commensurate with the types and amount of common property that must be maintained, so smaller communities are unlikely to be overburdened by this law.

The Honorable William C. Smith, Jr.
HB 107
March 29, 2022
Page Two

The Consumer Protection Division has received complaints from associations that have been turned over by a developer who failed to leave any money in the reserve fund, placing the association in a difficult monetary position. The Division has also received calls and complaints from members in associations that are assessed with very high special assessments as a result of not having enough funds in their reserve accounts because reserve studies had not been done for a significant period of time. This bill would help to protect against these scenarios.

For these reasons, we ask that the Judicial Proceedings Committee return a favorable report on this bill.

cc: The Honorable Marvin E. Holmes, Jr.
The Honorable Linda Foley
The Honorable Anne Healey
The Honorable Mary A. Lehman
The Honorable Jen Terrasa
Members, Judicial Proceedings Committee

HB107 Letter of Support.docx.pdf

Uploaded by: Tyler Abbott

Position: FAV



Maryland

Department of the Environment

Larry Hogan
Governor

Boyd Rutherford
Lieutenant Governor

Ben Grumbles
Secretary

March 29, 2022

The Honorable William C. Smith
Judicial Proceedings Committee
Miller Senate Office Building, 2 East
Annapolis, Maryland 21401

Re: House Bill 107 – Cooperative Housing Corporations, Condominiums, and Homeowners Associations – Reserve Studies – Statewide

Dear Chair Smith and Members of the Committee:

The Maryland Department of the Environment (MDE or the Department) has reviewed HB 107, entitled *Cooperative Housing Corporations, Condominiums, and Homeowners Associations – Reserve Studies – Statewide*, and would like to offer our support for this bill.

HB 107 expands the existing requirement for housing cooperatives (co-ops), condominiums (condos), and homeowners' associations (HOAs) to have independent reserve studies performed and updated every 5 years. Currently, these requirements only apply in Prince George's and Montgomery counties, and HB 107 would expand these requirements statewide.

The independent reserve study is required to identify the common elements that the governing body is responsible for maintaining and repairing, the useful lives of those common elements, estimated costs for repair and maintenance, and estimated annual reserve amount needed. At the outset of a condo or HOA development, the developer must transfer reserve funding to the HOA or condo, equal to the reserve funding that is recommended in the initial reserve study. Every 5 years after the initial reserve study, the reserve study must be updated, and the recommended reserve amount must be used in the preparation of the budget. Co-ops, HOAs, and condos are authorized to increase assessments charged to home/unit owners to cover the reserve funding specified in the reserve study, even if bylaws or other documents would otherwise limit the increase of such assessments.

The requirements in HB 107 would be beneficial for MDE as they would provide additional due diligence and financial security, thereby better ensuring that the environment and public health are protected. A couple of examples of common elements that would be captured through the reserve study and transfer of reserve funding are shared water and wastewater facilities that are under the control of the co-op, condo, or HOA, as well as environmental covenants to maintain land use controls (LUCs) that are common elements of the co-op, condo, or HOA.

HB 107 would ensure that there is a periodic independent assessment of the reserve funds needed for these purposes, and that the reserve funds needed are incorporated into the budget for the co-op, HOA, or condo. It would also ensure that governing bodies always have the authority to collect assessments from unit/homeowners to cover reserve costs. While the proposed legislation would not change any obligations of a co-op, HOA, or condo that exist under an environmental covenant or shared facility agreement, it would be helpful in ensuring that governing bodies include adequate funds in the budget to cover the expected future

Page 2

costs of repairing or replacing any water and wastewater facilities, as well as LUCs that are common elements.

Thank you for your consideration. We will continue to monitor HB 107 during the committee's deliberations, and I am available to answer any questions you may have. Please feel free to contact me at 410-260-6301 or tyler.abbott@maryland.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Tyler Abbott", written over a horizontal line.

Tyler Abbott

cc: The Honorable Marvin E. Holmes, Jr.