

Department of Legislative Services
 Maryland General Assembly
 2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1187 (Delegate McComas)
 Environment and Transportation

Reserve Funding Assistance Program - Establishment

This bill establishes the Reserve Funding Assistance Program – administered by the Department of Housing and Community Development (DHCD) – to assist eligible residents with the payment of increased assessments as a result of a required reserve study for a common ownership community (COC). The Governor must include \$10.0 million in the annual budget bill for the program beginning in fiscal 2026, and DHCD must adopt implementing regulations. The bill also decreases the maximum interest rate on late assessments for condominiums, from 18% to 10%.

Fiscal Summary

State Effect: General fund expenditures increase by \$242,700 in FY 2025 for DHCD administration of the Reserve Funding Assistance Program. Future year expenditures reflect mandated funding beginning in FY 2026, as discussed below. Revenues are not affected. **This bill establishes a mandated appropriation beginning in FY 2026.**

(\$ in millions)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	0.2	10.0	10.0	10.0	10.0
Net Effect	(\$0.2)	(\$10.0)	(\$10.0)	(\$10.0)	(\$10.0)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill does not affect local government operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: A resident of a COC may apply for the program. To be eligible for program assistance, an applicant must (1) have a disability, as specified; (2) be at least age 62; or (3) be unable to work due to an injury or medical condition.

The required regulations for DHCD must establish application procedures for eligible applicants and standards for evaluating applications and providing funding to residents under the program.

The bill also decreases the maximum interest rate allowed for late assessments (from 18% to 10%) and alters the standard interest rate for late assessments if no rate is codified in a condominium's governing documents (from 18% to 10%).

Current Law: Pursuant to legislation enacted over the last several years, residential condominiums, cooperative housing corporations, and homeowners associations (HOAs) (subject to limited exception) in the State are required to conduct reserve studies; statutory provisions specify the time by which initial and updated reserve studies must be completed.

A reserve study means a study of the reserves required for future major repairs and replacement of the common elements of a cooperative or condominium, or the common areas of an HOA, that:

- identifies each structural, mechanical, electrical, and plumbing component of the common elements or common areas and any other components that are the responsibility of the cooperative, condominium, or HOA to repair and replace;
- states the normal useful life (for cooperatives and condominiums) and the estimated remaining useful life of each identified component;
- states the estimated cost of repair or replacement of each identified component; and
- states the estimated annual reserve amount necessary to accomplish any identified future repair or replacement.

Each reserve study must:

- be available for inspection and copying by any unit owner or lot owner;
- be reviewed by the governing body of the cooperative, condominium, or HOA in connection with preparing the annual budget (cooperatives must also explicitly review the study annually for accuracy); and
- be summarized for submission with the annual proposed budget to the unit owners or lot owners.

The governing body of a cooperative, condominium, or HOA must provide funds to the reserve in accordance with the most recent reserve study and has the authority to increase an assessment levied to cover the reserve funding amount required – despite any provision of the articles of incorporation, declaration, bylaws, or proprietary lease, as applicable, restricting assessment increases or capping the assessment that may be levied in a fiscal year. The governing body of a cooperative, condominium, or HOA, if the most recent reserve study was an initial reserve study, must attain the annual reserve funding level recommended by the reserve study within three fiscal years following the fiscal year in which the initial reserve study was completed.

For more information on cooperative housing corporations, condominiums, and HOAs (commonly known as common ownership communities), see the **Appendix – Common Ownership Communities**.

State Expenditures: General fund expenditures increase by \$242,714 in fiscal 2025 for DHCD administration of the Reserve Funding Assistance Program and by \$10.0 million annually beginning in fiscal 2026, reflecting the bill’s mandated funding.

DHCD requires additional resources to implement and administer the Reserve Funding Assistance Program. Specifically, the bill necessitates the hiring of one program manager, one financial analyst, and one part-time information technology specialist. Although mandated funding does not begin until fiscal 2026, this analysis assumes that staff begin in October 2024 to, among other responsibilities, develop required regulations and program processes to prepare for program awards beginning July 1, 2025. Accordingly, general fund expenditures increase by \$242,714 for staff and associated start-up and operating costs in fiscal 2025, which accounts for the bill’s October 1, 2024 effective date.

Full-time Positions	2.0
Part-time Contractual Position	0.5
Salaries and Fringe Benefits (Including Contractual Position)	\$221,350
One-time Start-up Costs	19,338
Other Operating Costs	<u>2,026</u>
FY 2025 Administrative Expenditures	\$242,714

Future year *administrative* expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses and assumed termination of the part-time contractual position during fiscal 2026. Although DHCD advises – and the Department of Legislative Services (DLS) concurs – that additional staffing resources may be needed in future years, depending on the procedures ultimately adopted to administer the program and the volume of applicants, without experience under the bill DLS is unable to reliably estimate the need for additional staff beyond those accounted for in this fiscal and policy note. To the extent, however, that additional

resources are required, DHCD can request additional positions through the annual budget process.

Beginning in fiscal 2026, \$10.0 million in mandated annual funding for the program is available. For purposes of this analysis, it is assumed that such funding may be used for administrative costs. As administrative costs increase each year, slightly less is available for applicants under the program.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Department of Budget and Management; Department of Housing and Community Development; Department of Legislative Services

Fiscal Note History: First Reader - March 3, 2024
km/jkb

Analysis by: Donavan A. Ham

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

Appendix – Common Ownership Communities

When a person purchases a single-family home, condominium, or an interest in a cooperative housing corporation, he or she may also be required to join an association of owners, which is intended to act in the common interests of all the homeowners, condominium unit owners, or cooperative owners in the community. Collectively, these associations are often referred to as common ownership communities (COCs). In Maryland, a growing number of newly constructed or newly converted residences are located in some form of a COC. Because registration of the various COCs is not required statewide, the exact number of COCs in Maryland is unknown. However, the Foundation for Community Association Research estimated that there were 7,100 community associations with an estimated 1 million residents in these associations in the State in 2023.

The affairs of a condominium are governed by a council of unit owners, which comprises all unit owners. Among other powers, the council of unit owners has the power to impose assessments on the unit owners to pay common expenses. A council of unit owners may delegate its powers to a board of directors, officers, or a managing agent. Condominiums are governed under Title 11 of the Real Property Article.

Many new housing developments are subject to a homeowners association (HOA) that is created by a governing document and has the authority to impose mandatory fees on lots in the development in connection with the provision of services or for the benefit of the lots, the lot owners, or the common areas. HOAs are governed under Title 11B of the Real Property Article.

A cooperative housing corporation or “cooperative” is a corporation that owns real property. A resident of a cooperative does not own his or her unit; instead, the person owns an interest in the corporation, which leases the unit to the person for residential use. Cooperatives are governed by the laws in Title 5, Subtitle 6B of the Corporations and Associations Article.

Condominiums and HOAs may be authorized by their governing documents to impose liens on units or lots to collect unpaid assessments or fees. In a cooperative, the governing documents usually provide for the collection of delinquent fees, and evictions for outstanding fees are generally pursued by way of a landlord-tenant action.

Task Force on Common Ownership Communities

With a growing number of Marylanders residing in COCs, and 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 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.

The task force's report also featured findings and recommendations relating to the creation of an ombudsman in local governments. Since the report's release, Prince George's County created its Common Ownership Communities Program in 2007 with the stated purpose of assisting governing bodies, as well as owners and residents of HOAs, residential condominiums, and cooperative housing corporations, with education, training, and alternative dispute resolution. Charles and Montgomery counties have offices dedicated to COCs that predate the task force.