

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 1157

(Senator Carozza)

Judicial Proceedings

Cooperative Housing Corporations, Condominiums, and Homeowners
Associations - Funding of Reserve Accounts

This bill requires specified funds for the reserve account of a cooperative housing corporation, residential condominium, or homeowners association (HOA) to be *deposited* on or before the last day of each fiscal year. The bill extends, from three years to five years, the amount of time after an initial reserve study that such entities have to attain the annual reserve funding level as recommended in the study. In addition, the bill explicitly requires HOAs and residential condominiums to review the reserve study annually *for accuracy*.

Fiscal Summary

State Effect: The bill does not materially affect State operations or finances.

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

Small Business Effect: Minimal.

Analysis

Current Law: Pursuant to legislation enacted over the last several years, cooperatives, residential condominiums, and 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 must be prepared by an individual who meets specified requirements.

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 cooperatives, condominiums, and HOAs (commonly known as common ownership communities), see the **Appendix – Common Ownership Communities**.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See HB 534 of 2023.

Designated Cross File: HB 281 (Delegate Holmes) - Environment and Transportation.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Department of Legislative Services

Fiscal Note History: First Reader - March 29, 2024
km/jkb

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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.