

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

Senate Bill 285

(Senators Kelley and Hooper)

Judicial Proceedings

Real Property - Condominiums and Homeowners Associations - Reserve Study

This bill requires a “reserve study” to be performed for a condominium or a homeowners association in a development that has common areas.

Fiscal Summary

State Effect: The bill would not directly affect governmental operations or finances.

Local Effect: None – see above.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: The developer of a condominium or declarant of a development subject to a homeowners association must have a reserve study conducted before the first unit in a condominium or the first lot in a development is sold. Within five years after the transfer of control to a condominium’s council of unit owners or a homeowners association’s governing body, the council or governing body must have a reserve study conducted.

For a condominium or a development established prior to October 1, 2007, the council of unit owners or governing body must have a reserve study conducted by October 1, 2010. The requirement does not apply if the council of unit owners or governing body has had a reserve study conducted since October 1, 2004.

The bylaws or other governing documents of a homeowners association or the bylaws of a condominium must state the frequency with which a reserve study must be conducted. If the bylaws or other governing documents of a condominium or development were approved before October 1, 2007 and do not provide for a reserve study, the bylaws or other governing documents must be amended by October 1, 2010 to comply with these requirements. A homeowners association's annual budget must provide for reserves.

Notwithstanding any provision in the declaration or the bylaws, a condominium's developer must pay each installment of a unit's annual assessment until the unit is sold. Notwithstanding any provision in the declaration, bylaws, or other governing documents the declarant of a development must pay each installment of a lot's annual assessment until the lot is sold. These requirements apply only to a condominium or development established on or after October 1, 2007.

Current Law: A condominium's annual budget must provide for reserves and capital items among the expenses of the condominium. In a condominium, money for the payment of current common expenses and the creation of reserves for the payment of future common expenses must be obtained by assessments against the unit owners in proportion to their percentage interests in the common expenses and common profits.

No provision specifically governs the contents of a homeowners association's budget, including whether the budget must provide for reserves.

Background: Chapter 469 of 2005 established the Task Force on Common Ownership Communities. The full task force met 10 times during 2006 and conducted 5 public hearings, at which public comments were solicited. In addition, subcommittees comprising task force members met several times. The task force made several recommendations on various topics. This bill reflects one of those recommendations. The task force reported that many aging communities faced financial difficulty because assessments had been insufficient to repair capital components under common ownership.

Additional Information

Prior Introductions: None.

Cross File: HB 768 (Delegate McConkey, *et al.*) – Environmental Matters.

Information Source(s): Secretary of State, Department of Legislative Services

Fiscal Note History: First Reader - February 16, 2007
nas/jr

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