

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

Senate Bill 291 (Senator Kelley)
Judicial Proceedings

Condominiums and Homeowners Associations - Assessments and Reserves

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 State finances or operations. If the Attorney General’s Office receives fewer than 50 complaints per year stemming from the bill, the additional workload could be handled with existing resources.

Local Effect: The bill would not directly affect local finances or operations.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: For a condominium or homeowners association established on or after October 1, 2008, the developer of a condominium or a development subject to a homeowners association must have a reserve study conducted at the developer’s cost at least 30 days before the first meeting of • the council of unit owners after units representing 50% of the votes have been conveyed to initial purchasers; or • the homeowners association at which the lot owners, other than the developer, have a majority of votes. Within five years after this first required reserve study and at least every five years thereafter, the council of unit owners or homeowners association must have a reserve study conducted.

For a condominium or a development established prior to October 1, 2008, the council of unit owners or governing body must have a reserve study conducted by October 1, 2010. This requirement does not apply if the council of unit owners has had a reserve study conducted on or after October 1, 2005. In any event, all condominiums and developments must have a reserve study conducted at least every five years. The bill defines a developer as a person that • builds a development served by a homeowners association; or • succeeds to the rights and liabilities of the person that created the development served by a homeowners association.

A homeowners association's annual budget must provide for reserves. The bill's provisions relating to reserves and reserve studies only apply to a homeowners association that has responsibility under its declaration for maintaining and repairing common areas.

Notwithstanding any provision in the declaration or the bylaws, a condominium's developer must pay each installment of a unit's annual assessment for common expenses until the unit is sold. Notwithstanding any provision in the declaration, bylaws, or other governing documents, a developer must pay each installment of a lot's annual homeowners association assessment for common areas until the lot is sold. These requirements apply only to a condominium or development established on or after October 1, 2008.

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 five 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 in its final report, issued December 2006. 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: Similar bills were introduced in 2007. SB 285 received an unfavorable report from the Senate Judicial Proceedings Committee, and HB 768 received an unfavorable report from House Environmental Matters Committee.

Cross File: HB 993 (Delegate Braveboy) – Environmental Matters.

Information Source(s): Office of the Attorney General (Consumer Protection Division), Department of Legislative Services

Fiscal Note History: First Reader - February 25, 2008
mll/jr

Analysis by: Alexander M. Rzasa

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