

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

Senate Bill 570 (Senator Kelley)
Judicial Proceedings

Condominiums and Homeowners Associations - Reserves and Reserve Studies

This bill requires a study every five years of the reserves required for major repairs and replacement of the common elements of a condominium or the common areas of a homeowners association. The bill also requires the annual budget of a homeowners association to provide for reserves.

Fiscal Summary

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

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

Small Business Effect: None.

Analysis

Bill Summary: For a condominium or homeowners association established on or after October 1, 2009, the governing body of a condominium or a development subject to a homeowners association must have a reserve study conducted at the community's expense at least 30 days, but no more than 90 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 homeowners association established before October 1, 2009, 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 or governing body had a reserve study conducted on or after October 1, 2005. In any event, all condominiums and homeowners associations must have a reserve study conducted at least every five years.

Each reserve study must:

- include a statement of the qualifications of the person who prepared the study;
- be available for inspection and copying by any unit owner or lot owner;
- be reviewed by the governing body in connection with preparing the annual budget; and
- be summarized for submission with the annual proposed budget to the unit owners or lot owners.

The bill also requires the annual budget of a development subject to a homeowners association established on or after October 1, 2009, to provide for reserves.

The bill applies only to a homeowners association that has responsibility under its declaration for maintaining and repairing common areas. The bill does not apply to a homeowners association that issues bonds for the purpose of meeting capital expenditures.

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: SB 291 of 2008, a similar bill, received an unfavorable report from the Senate Judicial Proceedings Committee. Its cross file, HB 993, was referred to interim study by the House Environmental Matters Committee. SB 285 and HB 768 of 2007 received unfavorable reports from Judicial Proceedings and Environmental Matters, respectively.

Cross File: HB 666 (Delegate Braveboy) - Environmental Matters.

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

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