

Department of Legislative Services
2010 Session

FISCAL AND POLICY NOTE

House Bill 28 (Delegate Braveboy)
Environmental Matters

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, as specified, to provide for reserves.

Fiscal Summary

State Effect: If the Consumer Protection Division of the Office of the Attorney General receives fewer than 50 complaints per year stemming from the bill, the additional workload can be handled with existing resources.

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

Small Business Effect: None.

Analysis

Bill Summary: If a condominium or a homeowners association has more than 100 units, and is established on or after October 1, 2010, the governing body of the condominium or homeowners association must conduct an independent reserve study at the community's expense. The reserve study must be carried out at least 30 days, but no more than 90 days, prior to the first meeting of the condominium's council of unit owners after units representing 50% of the votes have been conveyed to initial purchasers or the first meeting of the homeowners association after a majority of 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 condominium's council of unit owners or governing body of a homeowners association must conduct a reserve study.

If a condominium or a homeowners association has more than 100 units, and is established before October 1, 2010, the condominium's council of unit owners or governing body of the homeowners association must conduct a reserve study by October 1, 2011, unless the council or association had a reserve study conducted on or after October 1, 2006. In any event, all condominiums and homeowners associations must conduct a reserve study 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, 2010, 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, unit owners must be assessed for current common expenses and reserves for future expenses 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, 2008, and 2009. SB 570 and HB 666 of 2009 received unfavorable reports from the Senate Judicial Proceedings Committee and House Environmental Matters Committee, respectively. SB 291 of 2008 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 the Senate Judicial Proceedings Committee and House Environmental Matters Committee, respectively.

Cross File: None.

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

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