

# HOUSE BILL 651

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By: **Delegate Holmes**

Introduced and read first time: February 1, 2017

Assigned to: Environment and Transportation

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 28, 2017

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Real Property – Condominiums and Homeowners Associations – Reserve**  
3 **Studies – Annual Budgets**

4 FOR the purpose of requiring the governing body of certain condominiums to have a reserve  
5 study conducted of the common elements of the condominium by a certain date and  
6 at certain intervals under certain circumstances; requiring the reserve study  
7 conducted of the common elements of a condominium to meet certain criteria;  
8 altering the content of the annual budget of certain homeowners associations;  
9 requiring the governing body of certain homeowners associations to have a reserve  
10 study conducted of the common areas of the homeowners association by a certain  
11 date and at certain intervals under certain circumstances; requiring the reserve  
12 study conducted of the common areas of a homeowners association to meet certain  
13 criteria; defining certain terms; providing for the application of this Act; and  
14 generally relating to reserve studies and annual budgets of condominiums and  
15 homeowners associations.

16 BY repealing and reenacting, without amendments,  
17 Article – Real Property  
18 Section 11–109.2  
19 Annotated Code of Maryland  
20 (2015 Replacement Volume and 2016 Supplement)

21 BY adding to  
22 Article – Real Property  
23 Section 11–109.4 and 11B–112.3

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland  
2 (2015 Replacement Volume and 2016 Supplement)

3 BY repealing and reenacting, with amendments,  
4 Article – Real Property  
5 Section 11B–112.2  
6 Annotated Code of Maryland  
7 (2015 Replacement Volume and 2016 Supplement)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
9 That the Laws of Maryland read as follows:

10 **Article – Real Property**

11 11–109.2.

12 (a) The council of unit owners shall cause to be prepared and submitted to the  
13 unit owners an annual proposed budget at least 30 days before its adoption.

14 (b) The annual budget shall provide for at least the following items:

15 (1) Income;

16 (2) Administration;

17 (3) Maintenance;

18 (4) Utilities;

19 (5) General expenses;

20 (6) Reserves; and

21 (7) Capital items.

22 (c) The budget shall be adopted at an open meeting of the council of unit owners  
23 or any other body to which the council of unit owners delegates responsibilities for  
24 preparing and adopting the budget.

25 (d) Any expenditure made other than those made because of conditions which, if  
26 not corrected, could reasonably result in a threat to the health or safety of the unit owners  
27 or a significant risk of damage to the condominium, that would result in an increase in an  
28 amount of assessments for the current fiscal year of the condominium in excess of 15  
29 percent of the budgeted amount previously adopted, shall be approved by an amendment  
30 to the budget adopted at a special meeting, upon not less than 10 days written notice to the  
31 council of unit owners.

1 (e) The adoption of a budget shall not impair the authority of the council of unit  
2 owners to obligate the council of unit owners for expenditures for any purpose consistent  
3 with any provision of this title.

4 (f) The provisions of this section do not apply to a condominium that is occupied  
5 and used solely for nonresidential purposes.

6 **11-109.4.**

7 (A) IN THIS SECTION, "RESERVE STUDY" MEANS A STUDY OF THE RESERVES  
8 REQUIRED FOR MAJOR REPAIRS AND REPLACEMENT OF THE COMMON ELEMENTS  
9 OF A CONDOMINIUM CONDUCTED AT THE CONDOMINIUM'S EXPENSE AND IN A  
10 MANNER ADOPTED BY THE GOVERNING BODY OF THE CONDOMINIUM.

11 (B) THIS SECTION APPLIES ONLY TO A CONDOMINIUM THAT HAS MORE  
12 THAN 50 UNITS.

13 (C) (1) THIS SUBSECTION APPLIES TO A CONDOMINIUM ESTABLISHED ON  
14 OR AFTER OCTOBER 1, 2017.

15 (2) NOT MORE THAN 90 CALENDAR DAYS AND NOT LESS THAN 30  
16 CALENDAR DAYS BEFORE THE MEETING OF THE COUNCIL OF UNIT OWNERS  
17 REQUIRED UNDER § 11-109(C)(16) OF THIS SUBTITLE, THE GOVERNING BODY OF  
18 THE CONDOMINIUM SHALL HAVE ~~AN INDEPENDENT~~ A RESERVE STUDY CONDUCTED  
19 OF ALL THE COMMON ELEMENTS.

20 (3) WITHIN 5 YEARS AFTER THE DATE OF THE INITIAL RESERVE  
21 STUDY CONDUCTED UNDER PARAGRAPH (2) OF THIS SUBSECTION, AND AT LEAST  
22 EVERY 5 YEARS THEREAFTER, THE GOVERNING BODY SHALL HAVE A RESERVE  
23 STUDY CONDUCTED.

24 (D) (1) THIS SUBSECTION APPLIES TO A CONDOMINIUM ESTABLISHED  
25 BEFORE OCTOBER 1, 2017.

26 (2) IF THE GOVERNING BODY OF A CONDOMINIUM HAS HAD A  
27 RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1, 2013, THE GOVERNING  
28 BODY SHALL HAVE A RESERVE STUDY CONDUCTED WITHIN 5 YEARS AFTER THE DATE  
29 OF THAT RESERVE STUDY AND AT LEAST EVERY 5 YEARS THEREAFTER.

30 (3) IF THE GOVERNING BODY OF A CONDOMINIUM HAS NOT HAD A  
31 RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1, 2013, THE GOVERNING  
32 BODY SHALL HAVE A RESERVE STUDY CONDUCTED ON OR BEFORE  
33 OCTOBER 1, 2018, AND AT LEAST EVERY 5 YEARS THEREAFTER.

34 (E) EACH RESERVE STUDY REQUIRED UNDER THIS SECTION SHALL:

1           **(1) INCLUDE A STATEMENT OF THE QUALIFICATIONS OF THE PERSON**  
2 **WHO PREPARED THE RESERVE STUDY;**

3           **(2) BE AVAILABLE FOR INSPECTION AND COPYING BY ANY UNIT**  
4 **OWNER;**

5           **(3) BE REVIEWED BY THE GOVERNING BODY OF THE CONDOMINIUM**  
6 **IN CONNECTION WITH THE PREPARATION OF THE ANNUAL PROPOSED BUDGET; AND**

7           **(4) BE SUMMARIZED FOR SUBMISSION WITH THE ANNUAL PROPOSED**  
8 **BUDGET TO THE UNIT OWNERS.**

9 11B-112.2.

10           (a) This section applies only to a homeowners association that has responsibility  
11 under its declaration for maintaining and repairing common areas.

12           (b) (1) The board of directors or other governing body of a homeowners  
13 association shall cause to be prepared and submitted to the lot owners an annual proposed  
14 budget at least 30 days before its adoption.

15           (2) The annual proposed budget may be sent to each lot owner by electronic  
16 transmission, by posting on the homeowners association's home page, or by including the  
17 annual proposed budget in the homeowners association's newsletter.

18           (c) The annual budget shall provide [information on or expenditures] for at least  
19 the following items:

20           (1) Income;

21           (2) Administration;

22           (3) Maintenance;

23           (4) Utilities;

24           (5) General expenses;

25           (6) Reserves; and

26           (7) Capital expenses.

27           (d) (1) The budget shall be adopted at an open meeting of the homeowners  
28 association or any other body to which the homeowners association delegates  
29 responsibilities for preparing and adopting the budget.

1           (2)   (i)    Notice of the meeting at which the proposed budget will be  
2 considered shall be sent to each lot owner.

3                   (ii)   Notice under subparagraph (i) of this paragraph may be sent by  
4 electronic transmission, by posting on the homeowners association's home page, or by  
5 including the notice in the homeowners association's newsletter.

6           (e)    Except for an expenditure made by the homeowners association because of a  
7 condition that, if not corrected, could reasonably result in a threat to the health or safety  
8 of the lot owners or a significant risk of damage to the development, any expenditure that  
9 would result in an increase in an amount of assessments for the current fiscal year of the  
10 homeowners association in excess of 15% of the budgeted amount previously adopted shall  
11 be approved by an amendment to the budget adopted at a special meeting for which not  
12 less than 10 days' written notice shall be provided to the lot owners.

13           (f)    The adoption of a budget does not impair the authority of the homeowners  
14 association to obligate the homeowners association for expenditures for any purpose  
15 consistent with any provision of this title.

16   **11B-112.3.**

17           **(A)    IN THIS SECTION, "RESERVE STUDY" MEANS A STUDY OF THE RESERVES**  
18 **REQUIRED FOR MAJOR REPAIRS AND REPLACEMENT OF THE COMMON AREAS OF A**  
19 **HOMEOWNERS ASSOCIATION CONDUCTED AT THE HOMEOWNERS ASSOCIATION'S**  
20 **EXPENSE AND IN A MANNER ADOPTED BY THE GOVERNING BODY OF THE**  
21 **HOMEOWNERS ASSOCIATION.**

22           **(B)    (1)    THIS SECTION APPLIES ONLY TO A HOMEOWNERS ASSOCIATION**  
23 **THAT:**

24                   **(I)    HAS MORE THAN 50 DWELLING UNITS IN THE**  
25 **DEVELOPMENT; AND**

26                   **(II)   HAS RESPONSIBILITY UNDER ITS DECLARATION FOR**  
27 **MAINTAINING AND REPAIRING COMMON AREAS.**

28                   **(2)    THIS SECTION DOES NOT APPLY TO A HOMEOWNERS ASSOCIATION**  
29 **THAT ISSUES BONDS FOR THE PURPOSE OF MEETING CAPITAL EXPENDITURES.**

30           **(C)    (1)    THIS SUBSECTION APPLIES TO A HOMEOWNERS ASSOCIATION**  
31 **ESTABLISHED ON OR AFTER OCTOBER 1, 2017.**

32                   **(2)    NOT MORE THAN 90 CALENDAR DAYS AND NOT LESS THAN 30**  
33 **CALENDAR DAYS BEFORE THE FIRST MEETING OF THE HOMEOWNERS ASSOCIATION**

1 AT WHICH THE LOT OWNERS, OTHER THAN THE DECLARANT, HAVE A MAJORITY OF  
2 VOTES IN THE HOMEOWNERS ASSOCIATION, THE GOVERNING BODY OF THE  
3 HOMEOWNERS ASSOCIATION SHALL HAVE ~~AN INDEPENDENT~~ A RESERVE STUDY  
4 CONDUCTED OF ALL THE COMMON AREAS.

5 (3) WITHIN 5 YEARS AFTER THE DATE OF THE INITIAL RESERVE  
6 STUDY CONDUCTED UNDER PARAGRAPH (2) OF THIS SUBSECTION, AND AT LEAST  
7 EVERY 5 YEARS THEREAFTER, THE GOVERNING BODY SHALL HAVE A RESERVE  
8 STUDY CONDUCTED.

9 (D) (1) THIS SUBSECTION APPLIES TO A HOMEOWNERS ASSOCIATION  
10 ESTABLISHED BEFORE OCTOBER 1, 2017.

11 (2) IF THE GOVERNING BODY OF A HOMEOWNERS ASSOCIATION HAS  
12 HAD A RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1, 2013, THE  
13 GOVERNING BODY SHALL HAVE A RESERVE STUDY CONDUCTED WITHIN 5 YEARS  
14 AFTER THE DATE OF THAT RESERVE STUDY AND AT LEAST EVERY 5 YEARS  
15 THEREAFTER.

16 (3) IF THE GOVERNING BODY OF A HOMEOWNERS ASSOCIATION HAS  
17 NOT HAD A RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1, 2013, THE  
18 GOVERNING BODY SHALL HAVE A RESERVE STUDY CONDUCTED ON OR BEFORE  
19 OCTOBER 1, 2018, AND AT LEAST EVERY 5 YEARS THEREAFTER.

20 (E) EACH RESERVE STUDY REQUIRED UNDER THIS SECTION SHALL:

21 (1) INCLUDE A STATEMENT OF THE QUALIFICATIONS OF THE PERSON  
22 WHO PREPARED THE RESERVE STUDY;

23 (2) BE AVAILABLE FOR INSPECTION AND COPYING BY ANY LOT  
24 OWNER;

25 (3) BE REVIEWED BY THE GOVERNING BODY OF THE HOMEOWNERS  
26 ASSOCIATION IN CONNECTION WITH THE PREPARATION OF THE ANNUAL PROPOSED  
27 BUDGET; AND

28 (4) BE SUMMARIZED FOR SUBMISSION WITH THE ANNUAL PROPOSED  
29 BUDGET TO THE LOT OWNERS.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
31 October 1, 2017.