

Chapter 433

(House Bill 567)

AN ACT concerning

Montgomery County – Cooperative Housing Corporations, Condominiums, and Homeowners Associations – Reserve Studies**MC 3–21**

FOR the purpose of requiring the governing body of certain cooperative housing corporations in Montgomery County to have a certain reserve study conducted of the common elements of the cooperative housing corporation by a certain date and at certain intervals under certain circumstances; requiring the reserve study conducted of the common elements of a cooperative housing corporation in Montgomery County to meet certain criteria; requiring the annual budget of a cooperative housing corporation in Montgomery County to include certain information if a reserve study indicates a need to budget for reserves; requiring the governing body of a cooperative housing corporation in Montgomery County to provide reserve funds in the annual budget for the cooperative housing corporation in accordance with a reserve study conducted under this Act; establishing that the governing body of a cooperative housing corporation in Montgomery County has the authority to increase a certain assessment notwithstanding certain provisions; altering the content of the annual budget of certain condominiums in Montgomery County; requiring the governing body of certain condominiums in Montgomery County to have a certain reserve study conducted of the common elements of the condominium by a certain date and at certain intervals under certain circumstances; requiring the reserve study conducted of the common elements of a condominium in Montgomery County to meet certain criteria; requiring the governing body of a condominium in Montgomery County to provide reserve funds in the annual budget for the condominium in accordance with a reserve study conducted under this Act; establishing that the board of directors of a condominium in Montgomery County has the authority to increase a certain assessment notwithstanding certain provisions; altering the content of the annual budget of certain homeowners associations; requiring the governing body of certain homeowners associations in Montgomery County to have a certain reserve study conducted of the common areas of a homeowners association by a certain date and at certain intervals under certain circumstances; requiring the reserve study conducted of the common areas of a homeowners association in Montgomery County to meet certain criteria; requiring the governing body of a homeowners association in Montgomery County to provide reserve funds in the annual budget for the homeowners association in accordance with a reserve study conducted under this Act; establishing that the governing body of a homeowners association in Montgomery County has the authority to increase a certain assessment notwithstanding certain provisions; altering certain definitions; providing for the application of this Act; and generally relating to reserve studies and annual budgets

of cooperative housing corporations, condominiums, and homeowners associations in Montgomery County.

BY repealing and reenacting, with amendments,
 Article – Corporations and Associations
 Section 5–6B–26.1
 Annotated Code of Maryland
 (2014 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,
 Article – Real Property
 Section 11–109(c)(16)(v), 11–109.2(c), 11–109.4, 11–110(b)(1)(ii), 11B–106.1(e),
 11B–112.2(d), 11B–112.3, and 11B–117(a)(2)
 Annotated Code of Maryland
 (2015 Replacement Volume and 2020 Supplement)

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

Article – Corporations and Associations

5–6B–26.1.

(a) In this section, “reserve study” means a study of the reserves required for future major repairs and replacement of the common elements of a cooperative housing corporation that:

(1) Identifies each structural, mechanical, electrical, and plumbing component of the common elements and any other components that are the responsibility of the cooperative housing corporation to repair and replace;

(2) States the normal useful life and the estimated remaining useful life of each identified component;

(3) States the estimated cost of repair or replacement of each identified component; and

(4) States the estimated annual reserve amount necessary to accomplish any identified future repair or replacement.

(b) This section applies only to a cooperative housing corporation in Prince George’s County **OR MONTGOMERY COUNTY**.

(c) (1) This subsection applies **ONLY** to a cooperative housing corporation established **IN**:

- (I) **PRINCE GEORGE'S COUNTY** on or after October 1, 2020; OR
- (II) **MONTGOMERY COUNTY ON OR AFTER OCTOBER 1, 2021.**

(2) The governing body of the cooperative housing corporation shall have an independent reserve study completed not less than 30 calendar days before the first meeting of the cooperative housing corporation at which the members other than the owner have a majority of votes in the cooperative housing corporation.

(3) (I) [The] **IN PRINCE GEORGE'S COUNTY, THE** governing body shall have a reserve study completed within 5 years after the date of the initial reserve study conducted under paragraph (2) of this subsection and at least every 5 years thereafter.

(II) **IN MONTGOMERY COUNTY, THE GOVERNING BODY SHALL HAVE AN UPDATED RESERVE STUDY COMPLETED WITHIN 5 YEARS AFTER THE DATE OF THE INITIAL RESERVE STUDY CONDUCTED UNDER PARAGRAPH (2) OF THIS SUBSECTION, WHICH SHALL BE UPDATED AT LEAST EVERY 5 YEARS THEREAFTER.**

(d) (1) (I) This [subsection] **PARAGRAPH** applies **ONLY** to a cooperative housing corporation established **IN PRINCE GEORGE'S COUNTY** before October 1, 2020.

[(2)] (II) If the governing body of a cooperative housing corporation has had a reserve study conducted on or after October 1, 2016, the governing body shall have a reserve study conducted within 5 years after the date of that reserve study and at least every 5 years thereafter.

[(3)] (III) If the governing body of a cooperative housing corporation has not had a reserve study conducted on or after October 1, 2016, the governing body shall have a reserve study conducted on or before October 1, 2021, and at least every 5 years thereafter.

(2) (I) **THIS PARAGRAPH APPLIES ONLY TO A COOPERATIVE HOUSING CORPORATION ESTABLISHED IN MONTGOMERY COUNTY BEFORE OCTOBER 1, 2021.**

(II) **IF THE GOVERNING BODY OF A COOPERATIVE HOUSING CORPORATION HAS HAD A RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1, 2017, THE GOVERNING BODY SHALL HAVE AN UPDATED RESERVE STUDY CONDUCTED WITHIN 5 YEARS AFTER THE DATE OF THAT RESERVE STUDY, WHICH SHALL BE UPDATED AT LEAST EVERY 5 YEARS THEREAFTER.**

(III) **IF THE GOVERNING BODY OF A COOPERATIVE HOUSING CORPORATION HAS NOT HAD A RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1, 2017, THE GOVERNING BODY SHALL HAVE A RESERVE STUDY**

CONDUCTED ON OR BEFORE OCTOBER 1, 2022, WHICH SHALL BE UPDATED AT LEAST EVERY 5 YEARS THEREAFTER.

(e) Each reserve study required under this section shall:

(1) Be prepared by a person who:

(i) Has prepared at least 30 reserve studies within the prior 3 calendar years;

(ii) Holds a bachelor's degree in construction management, architecture, or engineering or equivalent experience and education;

(iii) Holds a current license from the State Board of Architects or the State Board for Professional Engineers; or

(iv) Is currently designated as a reserve specialist by the Community Association Institute or as a professional reserve analyst by the Association of Professional Reserve Analysts;

(2) Be available for inspection and copying by any unit owner;

(3) Be reviewed by the governing body of the cooperative housing corporation in connection with the preparation of the annual proposed budget; and

(4) Be summarized for submission with the annual proposed budget to the unit owners.

(f) To the extent that a reserve study conducted in accordance with this section indicates a need to budget for reserves, the budget shall include:

(1) For the capital components, the current estimated:

(i) Replacement cost;

(ii) Remaining life; and

(iii) Useful life;

(2) The amount of accumulated cash reserves set aside for the repair, replacement, or restoration of capital components as of the beginning of the fiscal year in which the reserve study is conducted and the amount of the expected contribution to the reserve fund for the fiscal year;

(3) A statement describing the procedures used for estimation and accumulation of cash reserves in accordance with this section; and

(4) A statement of the amount of reserves recommended in the study and the amount of current cash for replacement reserves.

(g) (1) The governing body of a cooperative housing corporation shall provide funds to the reserve in accordance with the most recent reserve study and shall review the reserve study annually for accuracy.

(2) The governing body of a cooperative housing corporation has the authority to increase an assessment levied to cover the reserve funding amount required under this section, notwithstanding any provision of the articles of incorporation, bylaws, or proprietary lease restricting assessment increases or capping the assessment that may be levied in a fiscal year.

Article – Real Property

11–109.

(c) (16) (v) In Prince George’s County **AND MONTGOMERY COUNTY**, the replacement reserves delivered under subparagraph (iv)² of this paragraph shall be equal to at least the reserve funding amount recommended in the reserve study completed under § 11–109.4 of this title as of the date of the meeting.

11–109.2.

(c) In Prince George’s County **AND MONTGOMERY COUNTY**, the reserves provided for in the annual budget under subsection (b) of this section shall be the funding amount recommended in the most recent reserve study completed under § 11–109.4 of this title.

11–109.4.

(a) In this section, “reserve study” means a study of the reserves required for future major repairs and replacement of the common elements of a condominium in Prince George’s County **OR MONTGOMERY COUNTY** that:

(1) Identifies each structural, mechanical, electrical, and plumbing component of the common elements and any other components that are the responsibility of the council of unit owners to repair and replace;

(2) States the normal useful life and the estimated remaining useful life of each identified component;

(3) States the estimated cost of repair or replacement of each identified component; and

(4) States the estimated annual reserve amount necessary to accomplish any identified future repair or replacement.

(b) This section applies only to a condominium in Prince George's County **OR MONTGOMERY COUNTY**.

(c) (1) This subsection applies **ONLY** to a condominium established **IN**:

(I) PRINCE GEORGE'S COUNTY on or after October 1, 2020; **OR**

(II) MONTGOMERY COUNTY ON OR AFTER OCTOBER 1, 2021.

(2) The governing body of the condominium shall have an independent reserve study completed not less than 30 calendar days before the meeting of the council of unit owners required under § 11-109(c)(16) of this title.

(3) **(I)** ~~The~~ **IN PRINCE GEORGE'S COUNTY, THE** governing body shall have a reserve study completed within 5 years after the date of the initial reserve study conducted under paragraph (2) of this subsection and at least every 5 years thereafter.

(II) IN MONTGOMERY COUNTY, THE GOVERNING BODY SHALL HAVE AN UPDATED RESERVE STUDY COMPLETED WITHIN 5 YEARS AFTER THE DATE OF THE INITIAL RESERVE STUDY CONDUCTED UNDER PARAGRAPH (2) OF THIS SUBSECTION, WHICH SHALL BE UPDATED AT LEAST EVERY 5 YEARS THEREAFTER.

(d) (1) **(I)** This [subsection] **PARAGRAPH** applies **ONLY** to a condominium established **IN PRINCE GEORGE'S COUNTY** before October 1, 2020.

[(2)] (II) If the governing body of a condominium has had a reserve study conducted on or after October 1, 2016, the governing body shall have a reserve study conducted within 5 years after the date of that reserve study and at least every 5 years thereafter.

[(3)] (III) If the governing body of a condominium has not had a reserve study conducted on or after October 1, 2016, the governing body shall have a reserve study conducted on or before October 1, 2021, and at least every 5 years thereafter.

(2) (I) THIS PARAGRAPH APPLIES ONLY TO A CONDOMINIUM ESTABLISHED IN MONTGOMERY COUNTY BEFORE OCTOBER 1, 2021.

(II) IF THE GOVERNING BODY OF A CONDOMINIUM HAS HAD A RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1, 2017, THE GOVERNING BODY SHALL HAVE AN UPDATED RESERVE STUDY CONDUCTED WITHIN 5 YEARS

AFTER THE DATE OF THAT RESERVE STUDY, WHICH SHALL BE UPDATED AT LEAST EVERY 5 YEARS THEREAFTER.

(III) IF THE GOVERNING BODY OF A CONDOMINIUM HAS NOT HAD A RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1, 2017, THE GOVERNING BODY SHALL HAVE A RESERVE STUDY CONDUCTED ON OR BEFORE OCTOBER 1, 2022, WHICH SHALL BE UPDATED AT LEAST EVERY 5 YEARS THEREAFTER.

(e) Each reserve study required under this section shall:

(1) Be prepared by a person who:

(i) Has prepared at least 30 reserve studies within the prior 3 calendar years;

(ii) Holds a bachelor's degree in construction management, architecture, or engineering, or equivalent experience and education;

(iii) Holds a current license from the State Board of Architects or the State Board for Professional Engineers; or

(iv) Is currently designated as a reserve specialist by the Community Association Institute or as a professional reserve analyst by the Association of Professional Reserve Analysts;

(2) Be available for inspection and copying by any unit owner;

(3) Be reviewed by the governing body of the condominium in connection with the preparation of the annual proposed budget; and

(4) Be summarized for submission with the annual proposed budget to the unit owners.

11-110.

(b) (1) (ii) The board of directors of a condominium in Prince George's County **OR MONTGOMERY COUNTY** has the authority to increase the assessment levied to cover the reserve funding amount required under § 11-109.4 of this title, notwithstanding any provision of the declaration, articles of incorporation, or bylaws restricting assessment increases or capping the assessment that may be levied in a fiscal year.

11B-106.1.

(e) In Prince George's County **AND MONTGOMERY COUNTY**, the replacement reserves delivered under subsection (d)(13) of this section shall be equal to at least the

reserve funding amount recommended in the reserve study completed under § 11B–112.3 of this title as of the date of the meeting.

11B–112.2.

(d) In Prince George’s County **AND MONTGOMERY COUNTY**, reserves provided for in the annual budget under subsection (c) of this section shall be the funding amount recommended in the most recent reserve study completed under § 11B–112.3 of this title.

11B–112.3.

(a) In this section, “reserve study” means a study of the reserves required for future major repairs and replacement of the common areas of a homeowners association in Prince George’s County **OR MONTGOMERY COUNTY** that:

(1) Identifies each structural, mechanical, electrical, and plumbing component of the common areas and any other components that are the responsibility of the homeowners association to repair and replace;

(2) States the estimated remaining useful life of each identified component;

(3) States the estimated cost of repair or replacement of each identified component; and

(4) States the estimated annual reserve amount necessary to accomplish any identified future repair or replacement.

(b) (1) This section applies only to a homeowners association in Prince George’s County **OR MONTGOMERY COUNTY** that has responsibility under its declaration for maintaining and repairing common areas.

(2) This section does not apply to a homeowners association that issues bonds for the purpose of meeting capital expenditures.

(c) (1) This subsection applies **ONLY** to a homeowners association established **IN:**

(I) PRINCE GEORGE’S COUNTY on or after October 1, 2020; OR

(II) MONTGOMERY COUNTY ON OR AFTER OCTOBER 1, 2021.

(2) The governing body of the homeowners association shall have an independent reserve study completed not more than 90 calendar days and not less than 30 calendar days before the meeting of the homeowners association required under § 11B–106.1(a) of this title.

(3) (I) ~~The~~ **IN PRINCE GEORGE’S COUNTY, THE** governing body shall have a reserve study completed within 5 years after the date of the initial reserve study conducted under paragraph (2) of this subsection and at least every 5 years thereafter.

(II) IN MONTGOMERY COUNTY, THE GOVERNING BODY SHALL HAVE AN UPDATED RESERVE STUDY COMPLETED WITHIN 5 YEARS AFTER THE DATE OF THE INITIAL RESERVE STUDY CONDUCTED UNDER PARAGRAPH (2) OF THIS SUBSECTION, WHICH SHALL BE UPDATED AT LEAST EVERY 5 YEARS THEREAFTER.

(d) (1) (I) This [subsection] PARAGRAPH applies ONLY to a homeowners association established **IN PRINCE GEORGE’S COUNTY** before October 1, 2020.

[(2)] (II) If the governing body of a homeowners association has had a reserve study conducted on or after October 1, 2016, the governing body shall have a reserve study conducted within 5 years after the date of that reserve study and at least every 5 years thereafter.

[(3)] (III) If the governing body of a homeowners association has not had a reserve study conducted on or after October 1, 2016, the governing body shall have a reserve study conducted on or before October 1, 2021, and at least every 5 years thereafter.

(2) (I) THIS PARAGRAPH APPLIES ONLY TO A HOMEOWNERS ASSOCIATION ESTABLISHED IN MONTGOMERY COUNTY BEFORE OCTOBER 1, 2021.

(II) IF THE GOVERNING BODY OF A HOMEOWNERS ASSOCIATION HAS HAD A RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1, 2017, THE GOVERNING BODY SHALL HAVE AN UPDATED RESERVE STUDY CONDUCTED WITHIN 5 YEARS AFTER THE DATE OF THAT RESERVE STUDY, WHICH SHALL BE UPDATED AT LEAST EVERY 5 YEARS THEREAFTER.

(III) IF THE GOVERNING BODY OF A HOMEOWNERS ASSOCIATION HAS NOT HAD A RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1, 2017, THE GOVERNING BODY SHALL HAVE A RESERVE STUDY CONDUCTED ON OR BEFORE OCTOBER 1, 2022, WHICH SHALL BE UPDATED AT LEAST EVERY 5 YEARS THEREAFTER.

(e) Each reserve study required under this section shall:

(1) Be prepared by a person who:

(i) Has prepared at least 30 reserve studies within the prior 3 calendar years;

(ii) Holds a bachelor's degree in construction management, architecture, or engineering or equivalent experience and education;

(iii) Holds a current license from the State Board of Architects or the State Board for Professional Engineers; or

(iv) Is currently designated as a reserve specialist by the Community Association Institute or as a professional reserve analyst by the Association of Professional Reserve Analysts;

(2) Be available for inspection and copying by any lot owner;

(3) Be reviewed by the governing body of the homeowners association in connection with the preparation of the annual proposed budget; and

(4) Be summarized for submission with the annual proposed budget to the lot owners.

11B-117.

(a) (2) The governing body of a homeowners association in Prince George's County **OR MONTGOMERY COUNTY** has the authority to increase an assessment levied to cover the reserve funding amount required under § 11B-112.3 of this title, notwithstanding any provision of the declaration, articles of incorporation, or bylaws restricting assessment increases or capping the assessment that may be levied in a fiscal year.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 30, 2021.