

HOUSE BILL 313

N1, C1

11r0468

(PRE-FILED)

By: **Delegate Holmes**

Requested: August 12, 2020

Introduced and read first time: January 13, 2021

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Cooperative Housing Corporations, Condominiums, and Homeowners**
3 **Associations – Reserve Studies – Statewide**

4 FOR the purpose of requiring the governing body of certain cooperative housing
5 corporations in the State to have a reserve study conducted of the common elements
6 of the cooperative housing corporation by a certain date and at certain intervals
7 under certain circumstances; requiring the reserve study conducted of the common
8 elements of a cooperative housing corporation to meet certain criteria; requiring the
9 annual budget of a cooperative housing corporation to include certain information if
10 a reserve study indicates a need to budget for reserves; requiring the governing body
11 of a cooperative housing corporation to provide reserve funds in the annual budget
12 for the cooperative housing corporation in accordance with a reserve study conducted
13 under this Act; establishing that the governing body of a cooperative housing
14 corporation has the authority to increase a certain assessment notwithstanding
15 certain provisions; altering the content of the annual budget of certain
16 condominiums; requiring the governing body of certain condominiums to have a
17 reserve study conducted of the common elements of the condominium by a certain
18 date and at certain intervals under certain circumstances; requiring the reserve
19 study conducted of the common elements of a condominium to meet certain criteria;
20 requiring the governing body of a condominium to provide reserve funds in the
21 annual budget for the condominium in accordance with a reserve study conducted
22 under this Act; establishing that the board of directors of a condominium has the
23 authority to increase a certain assessment notwithstanding certain provisions;
24 altering the content of the annual budget of certain homeowners associations;
25 requiring the governing body of certain homeowners associations to have a reserve
26 study conducted of the common areas of a homeowners association by a certain date
27 and at certain intervals under certain circumstances; requiring the reserve study
28 conducted of the common areas of a homeowners association to meet certain criteria;
29 requiring the governing body of a homeowners association to provide reserve funds
30 in the annual budget for the homeowners association in accordance with a reserve

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 study conducted under this Act; establishing that the governing body of a
 2 homeowners association has the authority to increase a certain assessment
 3 notwithstanding certain provisions; altering certain definitions; providing for the
 4 application of this Act; and generally relating to reserve studies and annual budgets
 5 of cooperative housing corporations, condominiums, and homeowners associations.

6 BY repealing and reenacting, with amendments,
 7 Article – Corporations and Associations
 8 Section 5–6B–26.1
 9 Annotated Code of Maryland
 10 (2014 Replacement Volume and 2020 Supplement)

11 BY repealing and reenacting, with amendments,
 12 Article – Real Property
 13 Section 11–109(c)(16)(v), 11–109.2(c), 11–109.4, 11–110(b)(1)(ii), 11B–106.1(e),
 14 11B–112.2(d), 11B–112.3, and 11B–117(a)(2)
 15 Annotated Code of Maryland
 16 (2015 Replacement Volume and 2020 Supplement)

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

19 **Article – Corporations and Associations**

20 5–6B–26.1.

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

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

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

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

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

33 (b) [This section applies only to a cooperative housing corporation in Prince
 34 George’s County.

35 (c)] (1) This subsection applies to a cooperative housing corporation

1 established IN:

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

3 (II) ANY COUNTY OTHER THAN PRINCE GEORGE'S COUNTY ON
4 OR AFTER OCTOBER 1, 2021.

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

9 (3) The governing body shall have a reserve study completed within 5 years
10 after the date of the initial reserve study conducted under paragraph (2) of this subsection
11 and at least every 5 years thereafter.

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

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

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

23 (2) (I) THIS PARAGRAPH APPLIES TO A COOPERATIVE HOUSING
24 CORPORATION ESTABLISHED IN ANY COUNTY OTHER THAN PRINCE GEORGE'S
25 COUNTY BEFORE OCTOBER 1, 2021.

26 (II) IF THE GOVERNING BODY OF A COOPERATIVE HOUSING
27 CORPORATION HAS HAD A RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1,
28 2017, THE GOVERNING BODY SHALL HAVE A RESERVE STUDY CONDUCTED WITHIN 5
29 YEARS AFTER THE DATE OF THAT RESERVE STUDY AND AT LEAST EVERY 5 YEARS
30 THEREAFTER.

31 (III) IF THE GOVERNING BODY OF A COOPERATIVE HOUSING
32 CORPORATION HAS NOT HAD A RESERVE STUDY CONDUCTED ON OR AFTER
33 OCTOBER 1, 2017, THE GOVERNING BODY SHALL HAVE A RESERVE STUDY
34 CONDUCTED ON OR BEFORE OCTOBER 1, 2022, AND AT LEAST EVERY 5 YEARS
35 THEREAFTER.

1 **[(e)] (D)** Each reserve study required under this section shall:

2 (1) Be prepared by a person who:

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

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

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

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

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

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

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

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

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

20 (i) Replacement cost;

21 (ii) Remaining life; and

22 (iii) Useful life;

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

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

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

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

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

3 (II) **ANY COUNTY OTHER THAN PRINCE GEORGE'S COUNTY ON**
4 **OR AFTER OCTOBER 1, 2021.**

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

8 (3) The governing body shall have a reserve study completed within 5 years
9 after the date of the initial reserve study conducted under paragraph (2) of this subsection
10 and at least every 5 years thereafter.

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

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

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

20 (2) (I) **THIS PARAGRAPH APPLIES ONLY TO A CONDOMINIUM**
21 **ESTABLISHED IN ANY COUNTY OTHER THAN PRINCE GEORGE'S COUNTY BEFORE**
22 **OCTOBER 1, 2021.**

23 (II) **IF THE GOVERNING BODY OF A CONDOMINIUM HAS HAD A**
24 **RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1, 2017, THE GOVERNING**
25 **BODY SHALL HAVE A RESERVE STUDY CONDUCTED WITHIN 5 YEARS AFTER THE DATE**
26 **OF THAT RESERVE STUDY AND AT LEAST EVERY 5 YEARS THEREAFTER.**

27 (III) **IF THE GOVERNING BODY OF A CONDOMINIUM HAS NOT HAD**
28 **A RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1, 2017, THE GOVERNING**
29 **BODY SHALL HAVE A RESERVE STUDY CONDUCTED ON OR BEFORE OCTOBER 1, 2022,**
30 **AND AT LEAST EVERY 5 YEARS THEREAFTER.**

31 [(e)] (D) Each reserve study required under this section shall:

32 (1) Be prepared by a person who:

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

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

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

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

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

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

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

15 11-110.

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

21 11B-106.1.

22 (e) [In Prince George's County, the] **THE** replacement reserves delivered under
23 subsection (d)(13) of this section shall be equal to at least the reserve funding amount
24 recommended in the reserve study completed under § 11B-112.3 of this title as of the date
25 of the meeting.

26 11B-112.2.

27 (d) [In Prince George's County, reserves] **RESERVES** provided for in the annual
28 budget under subsection (c) of this section shall be the funding amount recommended in
29 the most recent reserve study completed under § 11B-112.3 of this title.

30 11B-112.3.

31 (a) In this section, "reserve study" means a study of the reserves required for
32 future major repairs and replacement of the common areas of a homeowners association

1 [in Prince George's County] that:

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

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

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

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

10 (b) (1) This section applies only to a homeowners association [in Prince
11 George's County] that has responsibility under its declaration for maintaining and
12 repairing common areas.

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

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

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

18 (II) **ANY COUNTY OTHER THAN PRINCE GEORGE'S COUNTY ON**
19 **OR AFTER OCTOBER 1, 2021.**

20 (2) The governing body of the homeowners association shall have an
21 independent reserve study completed not more than 90 calendar days and not less than 30
22 calendar days before the meeting of the homeowners association required under §
23 11B-106.1(a) of this title.

24 (3) The governing body shall have a reserve study completed within 5 years
25 after the date of the initial reserve study conducted under paragraph (2) of this subsection
26 and at least every 5 years thereafter.

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

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

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

4 **(2) (I) THIS PARAGRAPH APPLIES ONLY TO A HOMEOWNERS**
5 **ASSOCIATION ESTABLISHED IN ANY COUNTY OTHER THAN PRINCE GEORGE'S**
6 **COUNTY BEFORE OCTOBER 1, 2021.**

7 **(II) IF THE GOVERNING BODY OF A HOMEOWNERS ASSOCIATION**
8 **HAS HAD A RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1, 2017, THE**
9 **GOVERNING BODY SHALL HAVE A RESERVE STUDY CONDUCTED WITHIN 5 YEARS**
10 **AFTER THE DATE OF THAT RESERVE STUDY AND AT LEAST EVERY 5 YEARS**
11 **THEREAFTER.**

12 **(III) IF THE GOVERNING BODY OF A HOMEOWNERS ASSOCIATION**
13 **HAS NOT HAD A RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1, 2017, THE**
14 **GOVERNING BODY SHALL HAVE A RESERVE STUDY CONDUCTED ON OR BEFORE**
15 **OCTOBER 1, 2022, AND AT LEAST EVERY 5 YEARS THEREAFTER.**

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

17 (1) Be prepared by a person who:

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

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

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

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

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

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

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

32 11B-117.

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

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