

HOUSE BILL 567

N1, C1

11r0462

By: **Montgomery County Delegation**

Introduced and read first time: January 20, 2021

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

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

4 **MC 3-21**

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 conducted of the common areas of a homeowners association by a certain date and
2 at certain intervals under certain circumstances; requiring the reserve study
3 conducted of the common areas of a homeowners association in Montgomery County
4 to meet certain criteria; requiring the governing body of a homeowners association
5 in Montgomery County to provide reserve funds in the annual budget for the
6 homeowners association in accordance with a reserve study conducted under this
7 Act; establishing that the governing body of a homeowners association in
8 Montgomery County has the authority to increase a certain assessment
9 notwithstanding certain provisions; altering certain definitions; providing for the
10 application of this Act; and generally relating to reserve studies and annual budgets
11 of cooperative housing corporations, condominiums, and homeowners associations in
12 Montgomery County.

13 BY repealing and reenacting, with amendments,
14 Article – Corporations and Associations
15 Section 5–6B–26.1
16 Annotated Code of Maryland
17 (2014 Replacement Volume and 2020 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article – Real Property
20 Section 11–109(c)(16)(v), 11–109.2(c), 11–109.4, 11–110(b)(1)(ii), 11B–106.1(e),
21 11B–112.2(d), 11B–112.3, and 11B–117(a)(2)
22 Annotated Code of Maryland
23 (2015 Replacement Volume and 2020 Supplement)

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

26 **Article – Corporations and Associations**

27 5–6B–26.1.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **(II) IF THE GOVERNING BODY OF A COOPERATIVE HOUSING**
2 **CORPORATION HAS HAD A RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1,**
3 **2017, THE GOVERNING BODY SHALL HAVE AN UPDATED RESERVE STUDY**
4 **CONDUCTED WITHIN 5 YEARS AFTER THE DATE OF THAT RESERVE STUDY, WHICH**
5 **SHALL BE UPDATED AT LEAST EVERY 5 YEARS THEREAFTER.**

6 **(III) IF THE GOVERNING BODY OF A COOPERATIVE HOUSING**
7 **CORPORATION HAS NOT HAD A RESERVE STUDY CONDUCTED ON OR AFTER**
8 **OCTOBER 1, 2017, THE GOVERNING BODY SHALL HAVE A RESERVE STUDY**
9 **CONDUCTED ON OR BEFORE OCTOBER 1, 2022, WHICH SHALL BE UPDATED AT LEAST**
10 **EVERY 5 YEARS THEREAFTER.**

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

12 (1) Be prepared by a person who:

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

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

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

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

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

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

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

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

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

30 (i) Replacement cost;

31 (ii) Remaining life; and

1 (iii) Useful life;

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

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

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

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

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

18 Article – Real Property

19 11–109.

20 (c) (16) (v) In Prince George’s County **AND MONTGOMERY COUNTY**, the
21 replacement reserves delivered under subparagraph (iv)2 of this paragraph shall be equal
22 to at least the reserve funding amount recommended in the reserve study completed under
23 § 11–109.4 of this title as of the date of the meeting.

24 11–109.2.

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

29 11–109.4.

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

33 (1) Identifies each structural, mechanical, electrical, and plumbing
34 component of the common elements and any other components that are the responsibility

1 of the council of unit owners to repair and replace;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (1) Be prepared by a person who:

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

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

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

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

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

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

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

23 11-110.

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

30 11B-106.1.

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

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

3 11B–112.2.

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

7 11B–112.3.

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

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

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

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

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

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

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

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

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

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

28 (2) The governing body of the homeowners association shall have an
29 independent reserve study completed not more than 90 calendar days and not less than 30
30 calendar days before the meeting of the homeowners association required under §
31 11B–106.1(a) of this title.

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

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

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

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

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

15 (II) IF THE GOVERNING BODY OF A HOMEOWNERS ASSOCIATION
16 HAS HAD A RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1, 2017, THE
17 GOVERNING BODY SHALL HAVE AN UPDATED RESERVE STUDY CONDUCTED WITHIN
18 5 YEARS AFTER THE DATE OF THAT RESERVE STUDY, WHICH SHALL BE UPDATED AT
19 LEAST EVERY 5 YEARS THEREAFTER.

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

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

26 (1) Be prepared by a person who:

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

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

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

33 (iv) Is currently designated as a reserve specialist by the Community

1 Association Institute or as a professional reserve analyst by the Association of Professional
2 Reserve Analysts;

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

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

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

8 11B–117.

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

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