

HOUSE BILL 401

N1, C1

2lr0915

By: **Prince George's County Delegation**

Introduced and read first time: January 19, 2022

Assigned to: Environment and Transportation

Committee Report: Favorable

House action: Adopted

Read second time: March 1, 2022

CHAPTER _____

1 AN ACT concerning

2 **Prince George's County – Cooperative Housing Corporations, Condominiums,**
3 **and Homeowners Associations – Reserve Studies**

4 **PG 403–22**

5 FOR the purpose of altering language relating to requirements for reserve studies for
6 cooperative housing corporations, condominiums, and homeowners associations in
7 Prince George's County to be consistent with the corresponding requirements in
8 Montgomery County; and generally relating to reserve studies of cooperative housing
9 corporations, condominiums, and homeowners associations in Prince George's
10 County.

11 BY repealing and reenacting, with amendments,
12 Article – Corporations and Associations
13 Section 5–6B–26.1
14 Annotated Code of Maryland
15 (2014 Replacement Volume and 2021 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Real Property
18 Section 11–109.4 and 11B–112.3
19 Annotated Code of Maryland
20 (2015 Replacement Volume and 2021 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

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 That the Laws of Maryland read as follows:

2 **Article – Corporations and Associations**

3 5–6B–26.1.

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

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

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

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

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

16 (b) This section applies only to a cooperative housing corporation in Prince
17 George’s County or Montgomery County.

18 (c) (1) This subsection applies only to a cooperative housing corporation
19 established in:

20 (i) Prince George’s County on or after October 1, 2020; or

21 (ii) Montgomery County on or after October 1, 2021.

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

26 (3) (i) In Prince George’s County, the governing body shall have [a] AN
27 **UPDATED** reserve study completed within 5 years after the date of the initial reserve study
28 conducted under paragraph (2) of this subsection [and], **WHICH SHALL BE UPDATED** at
29 least every 5 years thereafter.

30 (ii) In Montgomery County, the governing body shall have an
31 updated reserve study completed within 5 years after the date of the initial reserve study
32 conducted under paragraph (2) of this subsection, which shall be updated at least every 5
33 years thereafter.

1 (d) (1) (i) This paragraph applies only to a cooperative housing corporation
2 established in Prince George's County before October 1, 2020.

3 (ii) If the governing body of a cooperative housing corporation has
4 had a reserve study conducted on or after October 1, 2016, the governing body shall have
5 [a] **AN UPDATED** reserve study conducted within 5 years after the date of that reserve
6 study [and], **WHICH SHALL BE UPDATED** at least every 5 years thereafter.

7 (iii) If the governing body of a cooperative housing corporation has
8 not had a reserve study conducted on or after October 1, 2016, the governing body shall
9 have a reserve study conducted on or before October 1, 2021, [and] **WHICH SHALL BE**
10 **UPDATED** at least every 5 years thereafter.

11 (2) (i) This paragraph applies only to a cooperative housing corporation
12 established in Montgomery County before October 1, 2021.

13 (ii) If the governing body of a cooperative housing corporation has
14 had a reserve study conducted on or after October 1, 2017, the governing body shall have
15 an updated reserve study conducted within 5 years after the date of that reserve study,
16 which shall be updated at least every 5 years thereafter.

17 (iii) If the governing body of a cooperative housing corporation has
18 not had a reserve study conducted on or after October 1, 2017, the governing body shall
19 have a reserve study conducted on or before October 1, 2022, which shall be updated at
20 least every 5 years thereafter.

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

22 (1) Be prepared by a person who:

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

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

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

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

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

33 (3) Be reviewed by the governing body of the cooperative housing

1 corporation in connection with the preparation of the annual proposed budget; and

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

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

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

7 (i) Replacement cost;

8 (ii) Remaining life; and

9 (iii) Useful life;

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

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

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

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

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

26 Article – Real Property

27 11–109.4.

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 condominium in Prince
30 George’s County or Montgomery County that:

31 (1) Identifies each structural, mechanical, electrical, and plumbing
32 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) (i) In Prince George's County, the governing body shall have [a] **AN**
17 **UPDATED** reserve study completed within 5 years after the date of the initial reserve study
18 conducted under paragraph (2) of this subsection [and], **WHICH SHALL BE UPDATED** at
19 least every 5 years thereafter.

20 (ii) In Montgomery County, the governing body shall have an
21 updated reserve study completed within 5 years after the date of the initial reserve study
22 conducted under paragraph (2) of this subsection, which shall be updated at least every 5
23 years thereafter.

24 (d) (1) (i) This paragraph applies only to a condominium established in
25 Prince George's County before October 1, 2020.

26 (ii) If the governing body of a condominium has had a reserve study
27 conducted on or after October 1, 2016, the governing body shall have [a] **AN UPDATED**
28 reserve study conducted within 5 years after the date of that reserve study [and], **WHICH**
29 **SHALL BE UPDATED** at least every 5 years thereafter.

30 (iii) If the governing body of a condominium has not had a reserve
31 study conducted on or after October 1, 2016, the governing body shall have a reserve study
32 conducted on or before October 1, 2021, [and] **WHICH SHALL BE UPDATED** at least every
33 5 years thereafter.

1 (2) (i) This paragraph applies only to a condominium established in
2 Montgomery County before October 1, 2021.

3 (ii) If the governing body of a condominium has had a reserve study
4 conducted on or after October 1, 2017, the governing body shall have an updated reserve
5 study conducted within 5 years after the date of that reserve study, which shall be updated
6 at least every 5 years thereafter.

7 (iii) If the governing body of a condominium has not had a reserve
8 study conducted on or after 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 every 5 years
10 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 condominium in connection
24 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 11B-112.3.

28 (a) In this section, "reserve study" means a study of the reserves required for
29 future major repairs and replacement of the common areas of a homeowners association in
30 Prince George's County or Montgomery County that:

31 (1) Identifies each structural, mechanical, electrical, and plumbing
32 component of the common areas and any other components that are the responsibility of

1 the homeowners association to repair and replace;

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

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

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

7 (b) (1) This section applies only to a homeowners association in Prince
8 George's County or Montgomery County that has responsibility under its declaration for
9 maintaining and repairing common areas.

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

12 (c) (1) This subsection applies only to a homeowners association established
13 in:

14 (i) Prince George's County on or after October 1, 2020; or

15 (ii) Montgomery County on or after October 1, 2021.

16 (2) The governing body of the homeowners association shall have an
17 independent reserve study completed not more than 90 calendar days and not less than 30
18 calendar days before the meeting of the homeowners association required under §
19 11B-106.1(a) of this title.

20 (3) (i) In Prince George's County, the governing body shall have [a] AN
21 **UPDATED** reserve study completed within 5 years after the date of the initial reserve study
22 conducted under paragraph (2) of this subsection [and], **WHICH SHALL BE UPDATED** at
23 least every 5 years thereafter.

24 (ii) In Montgomery County, the governing body shall have an
25 updated reserve study completed within 5 years after the date of the initial reserve study
26 conducted under paragraph (2) of this subsection, which shall be updated at least every 5
27 years thereafter.

28 (d) (1) (i) This paragraph applies only to a homeowners association
29 established in Prince George's County before October 1, 2020.

30 (ii) If the governing body of a homeowners association has had a
31 reserve study conducted on or after October 1, 2016, the governing body shall have [a] AN
32 **UPDATED** reserve study conducted within 5 years after the date of that reserve study
33 [and], **WHICH SHALL BE UPDATED** at least every 5 years thereafter.

1 (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] **WHICH SHALL BE UPDATED** at least
4 every 5 years thereafter.

5 (2) (i) This paragraph applies only to a homeowners association
6 established in Montgomery County before October 1, 2021.

7 (ii) If the governing body of a homeowners association has had a
8 reserve study conducted on or after October 1, 2017, the governing body shall have an
9 updated reserve study conducted within 5 years after the date of that reserve study, which
10 shall be updated at least every 5 years thereafter.

11 (iii) If the governing body of a homeowners association has not had a
12 reserve study conducted on or after October 1, 2017, the governing body shall have a reserve
13 study conducted on or before October 1, 2022, which shall be updated at least every 5 years
14 thereafter.

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

16 (1) Be prepared by a person who:

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

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

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

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

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

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

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

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 October 1, 2022.