HOUSE BILL 401

By: Prince George’s County Delegation
Introduced and read first time: January 19, 2022
Assigned to: Environment and Transportation

A BILL ENTITLED

AN ACT concerning

Prince George’s County – Cooperative Housing Corporations, Condominiums, and Homeowners Associations – Reserve Studies
PG 403–22

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

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

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

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

Article – Corporations and Associations


EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
(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) In Prince George’s County, the governing body shall have [a] AN UPDATED reserve study completed within 5 years after the date of the initial reserve study conducted under paragraph (2) of this subsection [and], WHICH SHALL BE UPDATED 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 paragraph applies only to a cooperative housing corporation established in Prince George’s County before October 1, 2020.

(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] AN UPDATED reserve study conducted within 5 years after the date of that reserve study [and], 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, 2016, the governing body shall have a reserve study conducted on or before October 1, 2021, [and] WHICH SHALL BE UPDATED 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

11–109.4.

(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) In Prince George’s County, the governing body shall have a AN UPDATED reserve study completed within 5 years after the date of the initial reserve study conducted under paragraph (2) of this subsection and, WHICH SHALL BE UPDATED 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 paragraph applies only to a condominium established in Prince George’s County before October 1, 2020.

(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 AN UPDATED reserve study conducted within 5 years after the date of that reserve study and, 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 before October 1, 2021, the governing body shall have a reserve study conducted on or before October 1, 2021, WHICH SHALL BE UPDATED 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.
(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) In Prince George’s County, the governing body shall have [a] AN UPDATED reserve study completed within 5 years after the date of the initial reserve study conducted under paragraph (2) of this subsection [and], WHICH SHALL BE UPDATED 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 paragraph applies only to a homeowners association established in Prince George’s County before October 1, 2020.

(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] AN UPDATED reserve study conducted within 5 years after the date of that reserve study [and], 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, 2016, the governing body shall have a reserve study conducted on or before October 1, 2021, [and] WHICH SHALL BE UPDATED 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.

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