

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1041 (Delegate Roberts)
Environment and Transportation

Homeowners Associations - Reserve Funding Requirements - Exemption

This bill establishes a process under which a homeowners association (HOA) that experiences exigent financial circumstances may be exempted from existing reserve funding requirements. Generally, an HOA experiencing exigent financial circumstances may deviate from reserve funding requirements under current law if specified actions are taken by the governing body, including the adoption of a reserve recovery plan. To the extent that a violation of the bill by a governing body affects a lot owner, the violation is an unfair, abusive, or deceptive trade practice under the Maryland Consumer Protection Act (MCPA), subject to MCPA's civil and criminal penalty provisions. A lot owner that suffers damages as a result of a violation by a governing body may bring an action for injunctive relief and damages.

Fiscal Summary

State Effect: The bill's imposition of existing penalty provisions does not have a material impact on State finances or operations. The Office of the Attorney General, Consumer Protection Division, can handle the bill's requirements with existing resources.

Local Effect: The bill's imposition of existing penalty provisions does not have a material impact on local government finances or operations.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Definitions

“Exigent financial circumstances” generally means significant financial hardship caused by an unanticipated event, such as a natural disaster that inflicts substantial damage to real property, financial misappropriation, or a similar emergency or catastrophic event.

“Reserve recovery plan” means a document created by a governing body that identifies and explains in detail (1) the exigent financial circumstances of an HOA; (2) damage caused by the circumstances, including cost estimates of any remedial measures; and (3) the funding strategy, timeline, and related actions planned to bring the association into compliance with reserve funding requirements.

Exemption for Exigent Financial Circumstances

An HOA experiencing exigent financial circumstances may reasonably deviate from reserve funding requirements (as required under current law) if the governing body:

- adopts, by a two-thirds majority of the governing body, a reserve recovery plan within 90 days of discovery of the exigent financial circumstances;
- makes good faith efforts to comply with the reserve recovery plan and restore reserve funding to required levels within a reasonable period of time;
- maintains detailed documentation of efforts to address the exigent financial circumstances and the implementation of the reserve recovery plan; and
- provides quarterly updates to lot owners on the plan’s progress.

The governing body must notify lot owners at least five days before voting to approve a reserve recovery plan and provide a copy of the adopted plan to each lot owner.

The reserve recovery plan and related documentation must be made available for examination and copying by lot owners, as specified. A governing body must provide these records to a unit of State government upon request.

An HOA may not deviate from the reserve funding requirements for more than three calendar years for each exigent financial circumstance that an HOA experiences. This limitation is in addition to any other applicable time period. If a governing body fails to comply with the requirements and prohibitions of the bill, it must comply with reserve

funding requirements indicated in the reserve study (as otherwise required under current law).

The bill's provisions are applicable only to an HOA that has responsibility under its declaration for maintaining and repairing common areas.

Current Law:

Reserve Study Requirement

Pursuant to legislation enacted over the last several years, HOAs (subject to limited exception) in the State are required to conduct reserve studies; statutory provisions specify the time by which initial and updated reserve studies must be completed.

A reserve study means a study of the reserves required for future major repairs and replacement of the common areas of an HOA, that:

- identifies each structural, mechanical, electrical, and plumbing component of the common elements or common areas and any other components that are the responsibility of the HOA to repair and replace;
- states the estimated remaining useful life of each identified component;
- states the estimated cost of repair or replacement of each identified component; and
- states the estimated annual reserve amount necessary to accomplish any identified future repair or replacement.

Each reserve study must:

- be available for inspection and copying by any unit owner or lot owner;
- be reviewed by the governing body of the HOA in connection with preparing the annual budget; and
- be summarized for submission with the annual proposed budget to the unit owners or lot owners.

The governing body of an HOA must provide funds to the reserve in accordance with the most recent reserve study and has the authority to increase an assessment levied to cover the reserve funding amount required – despite any provision of the articles of incorporation, declaration, bylaws, or proprietary lease, as applicable, restricting assessment increases or capping the assessment that may be levied in a fiscal year. The governing body of an HOA, if the most recent reserve study was an initial reserve study, must attain the annual reserve funding level recommended by the reserve study within three fiscal years following the fiscal year in which the initial reserve study was completed.

For more information on HOAs (which – along with cooperative housing corporations and condominiums – are commonly known as common ownership communities), see the **Appendix – Common Ownership Communities**.

Maryland Consumer Protection Act

An unfair, abusive, or deceptive trade practice under MCPA includes, among other acts, any false, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind which has the capacity, tendency, or effect of deceiving or misleading consumers. The prohibition against engaging in any unfair, abusive, or deceptive trade practice encompasses the offer for or actual sale, lease, rental, loan, or bailment of any consumer goods, consumer realty, or consumer services; the extension of consumer credit; the collection of consumer debt; or the offer for or actual purchase of consumer goods or consumer realty from a consumer by a merchant whose business includes paying off consumer debt in connection with the purchase of any consumer goods or consumer realty from a consumer.

The Consumer Protection Division is responsible for enforcing MCPA and investigating the complaints of aggrieved consumers. The division may attempt to conciliate the matter, issue a cease and desist order, or file a civil action in court. A merchant who violates MCPA is subject to a fine of up to \$10,000 for each violation and up to \$25,000 for each repetition of the same violation. In addition to any civil penalties that may be imposed, any person who violates MCPA is guilty of a misdemeanor and, on conviction, is subject to a fine of up to \$1,000 and/or imprisonment for up to one year.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Department of Legislative Services

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km/jkb

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Appendix – Common Ownership Communities

When a person purchases a single-family home, condominium, or an interest in a cooperative housing corporation, the person may also be required to join an association of owners, which is intended to act in the common interests of all the homeowners, condominium unit owners, or cooperative owners in the community. Collectively, these associations are often referred to as common ownership communities (COC). In Maryland, a growing number of newly constructed or newly converted residences are located in some form of a COC. Because registration of the various COCs is not required statewide, the exact number of COCs in Maryland is unknown. However, the Foundation for Community Association Research estimated that there were 7,100 community associations with an estimated 1.0 million residents in these associations in the State in 2023.

The affairs of a condominium are governed by a council of unit owners, which comprises all unit owners. Among other powers, the council of unit owners has the power to impose assessments on the unit owners to pay common expenses. A council of unit owners may delegate its powers to a board of directors, officers, or a managing agent. Condominiums are governed under Title 11 of the Real Property Article.

Many new housing developments are subject to a homeowner's association (HOA) that is created by a governing document and has the authority to impose mandatory fees on lots in the development in connection with the provision of services or for the benefit of the lots, the lot owners, or the common areas. HOAs are governed under Title 11B of the Real Property Article.

A cooperative housing corporation or "cooperative" is a corporation that owns real property. A resident of a cooperative does not own an individual unit; instead, the person owns an interest in the corporation, which leases the unit to the person for residential use. Cooperatives are governed by the laws in Title 5, Subtitle 6B of the Corporations and Associations Article.

Condominiums and HOAs may be authorized by their governing documents to impose liens on units or lots to collect unpaid assessments or fees. In a cooperative, the governing documents usually provide for the collection of delinquent fees, and evictions for outstanding fees are generally pursued by way of a landlord-tenant action.

Task Force on Common Ownership Communities

With a growing number of Marylanders residing in COCs and evidence that some COCs had issues with governance, dispute resolution, and financial stability, the

General Assembly created the Task Force on Common Ownership Communities in 2005 (Chapter 469 of 2005). The issues addressed by the task force included the availability of alternative dispute resolution services, special considerations of aging COCs, collection of assessments, and resale of homes within COCs. The task force met 10 times, held five public hearings, and submitted its [final report](#) in December 2006. The report's findings and recommendations have served, in subsequent years, as the basis for numerous pieces of legislation intended to improve the operation of COCs.

The task force's report also featured findings and recommendations relating to the creation of an ombudsman in local governments. While a small number of local governments (Charles and Montgomery counties) created such offices before the report's publication, some local jurisdictions have since created programs to regulate or provide oversight of COCs. For example, Prince George's County created its Common Ownership Communities Program in 2007 to assist governing bodies, as well as owners and residents of HOAs, residential condominiums, and cooperative housing corporations, with education, training, and alternative dispute resolution.