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§5–6B–26.1.

(a) (1) In this section the following words have the meanings indicated.

(2) "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:

(i) Using an itemized list, clearly identifies each structural, mechanical, electrical, and plumbing component of the common elements and any other components that:

1. Are the responsibility of the cooperative housing corporation to repair and replace; and

2. If applicable, meet a minimum cost of repair or replacement, as determined by the governing body, that is:

A. Reasonably based on the expenses of the cooperative housing corporation; and

B. Not a minor expense that is otherwise addressed by the budget of the cooperative housing corporation;

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

(iii) States the estimated cost of repair or replacement of each identified component;

(iv) States the estimated annual reserve amount necessary to accomplish any identified future repair or replacement; and

(v) States the quantity or size of each identified component using the appropriate measurement, such as unit amount, square footage, or cubic feet.

(3) "Updated reserve study" means, for the common elements since the prior reserve study was completed within the previous 5 years, a study that:

(i) Revises replacement cost, remaining life, and useful life estimates;

(ii) Analyzes work performed and amounts spent; and

(iii) Identifies whether any maintenance contracts are in place.

(b) (1) This subsection applies only to a cooperative housing corporation established in:

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

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

(iii) Any county other than Prince George's County or Montgomery County on or after October 1, 2022.

(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) 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.

(c) (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 an updated reserve study conducted within 5 years after the date of that reserve study and 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 an updated reserve study 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 and 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, and an updated reserve study at least every 5 years thereafter.

(3) (i) This paragraph applies to a cooperative housing corporation established in any county other than Prince George's County or Montgomery County before October 1, 2022.

(ii) If the governing body of a cooperative housing corporation has had a reserve study conducted on or after October 1, 2018, the governing body shall have an updated reserve study conducted within 5 years after the date of that reserve study and 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, 2018, the governing body shall have a reserve study conducted on or before October 1, 2023, and an updated reserve study at least every 5 years thereafter.

(d) Each reserve study and updated 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) Has participated in the preparation of at least 30 reserve studies within the prior 3 calendar years while employed by a firm that prepares reserve studies;

(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.

(e) 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.

(f) (1) (i) 1. Subject to paragraph (2) of this subsection and subparagraph (ii) of this paragraph, the governing body of a cooperative housing corporation shall deposit funds to the reserve account in accordance with the most recent reserve study or updated reserve study and the funding plan required under subsection (g) of this section on or before the last day of each fiscal year and shall review the reserves and the most recent reserve study or updated reserve study annually to determine whether there is adequate funding in accordance with the funding plan required under subsection (g) of this section.

2. The annual review under subsubparagraph 1 of this subparagraph does not require a reserve study or updated reserve study in addition to the reserve study requirements under subsections (b) and (c) of this section.

(ii) Subject to paragraph (2) of this subsection, if the most recent reserve study was an initial reserve study, the governing body shall, within 5

fiscal years following the fiscal year in which the initial reserve study was completed, attain the annual reserve funding level recommended in the initial reserve study in accordance with the funding plan under subsection (g) of this section.

(2) (i) The governing body of a cooperative housing corporation may determine by a two–thirds majority vote that the cooperative housing corporation and the members are experiencing a financial hardship that limits the ability to fund reserves that are required under paragraph (1)(i) or (ii) of this subsection.

(ii) Subject to subparagraphs (iii) through (v) of this paragraph, if a governing body makes a financial hardship determination based on the reserve funding requirements of paragraph (1)(i) or (ii) of this subsection:

1. The cooperative housing corporation may reasonably deviate from that reserve funding requirement; and

2. The funding level under that requirement shall be at least the funding amount necessary for the purposes specified under subsection (g)(3) of this section.

(iii) 1. Except as provided in subsubparagraph 2 of this subparagraph, a cooperative housing corporation may not deviate from the reserve funding requirements of paragraph (1)(i) or (ii) of this subsection for a period of more than 1 fiscal year following the financial hardship determination.

2. The governing body may renew a financial hardship determination under subparagraph (i) of this paragraph by a two–thirds majority vote to extend the period that a cooperative housing corporation may deviate from the reserve funding requirement by 1 fiscal year following the renewal.

(iv) The governing body shall:

1. Make good faith efforts to resolve the financial hardship and resume funding reserves as required under paragraph (1)(i) or (ii) of this subsection;

2. Maintain detailed documentation of the good faith efforts made under item 1 of this subparagraph; and

3. Treat the documents under item 2 of this subparagraph as records for examination and copying under § 5–6B–26 of this subtitle.

(v) 1. All members shall be given reasonable notice in advance of a vote on an initial or a renewal of a financial hardship determination under this paragraph.

2. A vote on an initial or a renewal of a financial hardship determination under this paragraph may be taken only at a regular or special meeting of the cooperative housing corporation.

(3) 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.

(g) (1) The governing body of a cooperative housing corporation shall, in consultation with a person identified under subsection (d)(1) of this section, develop a funding plan to determine how to fund the reserves necessary under this section.

(2) In developing the funding plan under this subsection, the governing body shall select one of the following methods to achieve the reserve funding under this section:

(i) The component method;

(ii) The cash flow method;

(iii) The baseline funding method;

(iv) The threshold cash flow method; or

(v) Any other funding method consistent with generally accepted accounting principles.

(3) A funding plan developed under this subsection shall prioritize adequate amounts for repair and replacement of common elements of the cooperative housing corporation that are necessary for:

(i) The health, safety, and well–being of the occupants;

(ii) Ensuring structural integrity, such as roofing replacements and maintaining structural systems;

(iii) Essential functioning, such as plumbing, sewer, heating, cooling, and electrical infrastructure; and

(iv) Any other essential or critical purpose, as determined by the governing body.

(4) Reserves may be used for purposes other than those specified in the funding plan if the funds are repaid to the reserve fund within 5 years after their use.

(5) A governing body shall review progress toward compliance with the funding plan developed under this subsection at each annual meeting of the governing body.

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