

HB 313 Support Letter 2021.pdf

Uploaded by: Straughn, Karen

Position: FAV

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January 26, 2021

To: The Honorable Kumar Barve
Chair, Environment and Transportation Committee

From: Karen S. Straughn
Consumer Protection Division

Re: House Bill 313 – Cooperative Housing Corporations, Condominiums, and Homeowners Associations – Reserve Studies - Statewide (SUPPORT)

The Consumer Protection Division of the Office of the Attorney General submits the following written testimony in support of House Bill 313 submitted by Delegate Marvin E. Holmes, Jr. This bill requires common ownership communities to conduct reserve studies prior to the first meeting at which members other than the developer have a majority of votes in the association and every five (5) years thereafter. It further requires that an owner or developer of the community provide the amount of the recommended reserve fund to the association at the time of the first meeting and that every annual budget include reserve funds equal to the recommended reserve fund amount. Finally, this bill gives the governing body of the association the authority to increase a levied assessment to cover the recommended reserve funding amount required regardless of any provision in the governing documents restricting assessment increases that may be levied in a year.

Reserve studies review the common elements of an association to determine the major repairs and replacements that may be needed in the future and ensure that the association is properly planning for these estimated costs. Such studies not only help to secure the financial stability of the association, they are also needed to enable members to buy and sell their homes, since most banks and mortgage companies will not lend money to owners who reside in associations that do not have current reserve studies. The costs incurred to do the reserve study will be commensurate with the types and amount of common property that must be maintained, so smaller communities are unlikely to be overburdened by this law.

The Honorable Kumar P. Barve
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Page Two

The Consumer Protection Division has received complaints from associations that have been turned over by a developer who failed to leave any money in the reserve fund, placing the association in a difficult monetary position. The Division has also received calls and complaints from members in associations that are assessed with very high special assessments as a result of not having enough funds in their reserve accounts because reserve studies had not been done for a significant period of time. This bill would help to protect against these scenarios.

For these reasons, we ask that the Environment and Transportation Committee return a favorable report on this bill.

cc: The Honorable Marvin E. Holmes, Jr.
Members, Environment and Transportation Committee

Amendment to HB 313.pdf

Uploaded by: Graf, Lori

Position: FWA

BY: Delegate Holmes
(To be offered in the Environment and Transportation Committee)

AMENDMENTS TO HOUSE BILL 313

AMENDMENT NO. 1

On page 3, line 37, add (IV)” “ **THIS ONLY APPLIES TO ASSOCIATIONS THAT HAVE STRUCTURAL IMPROVEMENTS AND FACILITIES THAT REQUIRE FUTURE REPLACEMENT AND/OR MAJOR REPAIRS THAT JUSTIFY RESERVES PURSUANT TO STANDARD RESERVE STUDY ANALYSIS AND PROCEDURES, RATHER THAN SOLELY REGULAR MAINTENANCE THAT DOES NOT JUSTIFY RESERVES.**

AMENDMENT NO.

On page 9, line 16 add (IV)” “ **THIS ONLY APPLIES TO CONDOMINIUMS THAT HAVE STRUCTURAL IMPROVEMENTS AND FACILITIES THAT REQUIRE FUTURE REPLACEMENT AND/OR MAJOR REPAIRS THAT JUSTIFY RESERVES PURSUANT TO STANDARD RESERVE STUDY ANALYSIS AND PROCEDURES, RATHER THAN SOLELY REGULAR MAINTENANCE THAT DOES NOT JUSTIFY RESERVES.**

MBIA Testimony HB 313 final.pdf

Uploaded by: Graf, Lori

Position: FWA

January 26, 2021

The Honorable Kumar P. Barve
Environment & Transportation Committee
House Office Building, Room 251,
6 Bladen St., Annapolis, MD, 21401

RE: Support of House Bill 313 (Cooperative Housing Corporations, Condominiums, and Homeowners Associations - Reserve Studies - Statewide) With Amendment

Dear Chairman Barve:

The Maryland Building Industry Association (MBIA), representing 100,000 employees of the building industry across the State of Maryland, supports House Bill 313 (**Cooperative Housing Corporations, Condominiums, and Homeowners Associations - Reserve Studies - Statewide**) with a suggested amendment.

This measure requires a study every five years of the reserves required for future major repairs and replacement of the common elements of a condominium or common areas of a homeowners association (HOA). This requirement would apply to all cooperative housing corporations outside of Prince George's County, or an HOA that has more than 20 dwelling units in the development and has responsibility under its declaration for maintaining and repairing the common areas.

Associations should have flexibility to make business decisions regarding funding, which is not available in this bill. Given the significant expense incurred as a result of this bill, we propose inserting language into the bill that would allow for HOA's to avoid the expense of a reserve study if they do not own condominiums that have the potential to require expensive replacements and repairs and thus must maintain funding levels in order to meet those obligations.

MBIA respectfully requests the Committee adopt this amendment and give this measure a favorable report.

Thank you for your consideration.

For more information about this position, please contact Lori Graf at 410-800-7327 or lgraf@marylandbuilders.org.

cc: House Environment and Transportation Committee Members

HB 313 - MoCo - DHCA (GA 21)

Uploaded by: Samman, Amy

Position: FWA



Montgomery County

Office of Intergovernmental Relations

ROCKVILLE: 240-777-6550

ANNAPOLIS: 240-777-8270

HB 313

DATE: January 22, 2021

SPONSOR: Delegate Holmes

ASSIGNED TO: Environment and Transportation

CONTACT PERSON: Amy Samman (amy.samman@montgomerycountymd.gov)

DEPT. OF HOUSING AND COMMUNITY AFFAIRS POSITION: Support with Amendment

Cooperative Housing Corporations, Condominiums, and Homeowners Associations – Reserve Studies – Statewide

This bill requires the governing body of a common ownership community (COC) to commission a study of the COC's reserves every five years. The study would include an analysis of the amount of reserve funds needed to support future major repairs and replacement of the COC's common elements and common areas. This bill applies to condominiums, housing cooperatives, and homeowners' associations.

Montgomery County's Department of Housing and Community Affairs (MCDHCA) supports House Bill 313 with an amendment. Montgomery County's House Delegation introduced a similar local bill (House Bill 567/MC 3-21) this year. The bill reflects a recommendation from Montgomery County's Covid-19 COC Distress Workgroup based on concerns that members of COC governing bodies often lack the knowledge and expertise necessary to identify the improvements that need to be made to common elements and common areas and a timeline for making those improvements. This may result in those improvements not being budgeted for in advance, requiring the need for unanticipated resident special assessments or the loss of use of common elements and common areas altogether.

MCDHCA believes reserve studies will assist governing bodies in determining the appropriate level of reserve funding necessary to avoid burdening residents with frequent special assessments which may help these communities maintain financial solvency.

The Montgomery County House Delegation approved an amendment to House Bill 567/MC 3-21 that would require COCs in Montgomery County to update a reserve study periodically following an initial study rather than undertaking an entirely new study. This would ensure that the reserve studies remain accurate and up to date without requiring an entirely new study when it may not be necessary. This amendment has been discussed with the sponsor of House Bill 313. The suggested amendment language is on page 2.

For the foregoing reasons, MCDHCA respectfully requests a favorable with amendment report on House Bill 313.

On page 3, strike in their entirety, lines 26 through 30, insert:

“(II) 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.

HB 313 - MoCo - DHCA (GA 21).pdf

Uploaded by: Samman, Amy

Position: FWA



Montgomery County

Office of Intergovernmental Relations

ROCKVILLE: 240-777-6550

ANNAPOLIS: 240-777-8270

HB 313

DATE: January 22, 2021

SPONSOR: Delegate Holmes

ASSIGNED TO: Environment and Transportation

CONTACT PERSON: Amy Samman (amy.samman@montgomerycountymd.gov)

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LATE TESTIMONY for HB 313

Uploaded by: Samman, Amy

Position: FWA



Montgomery County

Office of Intergovernmental Relations

ROCKVILLE: 240-777-6550

ANNAPOLIS: 240-777-8270

HB 313

DATE: January 22, 2021

SPONSOR: Delegate Holmes

ASSIGNED TO: Environment and Transportation

CONTACT PERSON: Amy Samman (amy.samman@montgomerycountymd.gov)

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Reserve Studies Variance Request Appeal

Uploaded by: Associations Institute, Community

Position: UNF

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John Taylor, Member
Aimee Winegar, CMCA, LSM, PCAM, Member

January 26, 2021

Community Associations Institute
Government & Public Affairs Committee
Community Associations Institute
6402 Arlington Blvd., Suite 500
Falls Church, VA 22042

Members of the Committee:

Thank you for your prompt action on our request for a variance to the position we may take on Maryland HB313—Reserve Studies. We will oppose this bill, however, many members of our LAC and a vocal portion of our membership were pleased to see such legislation last year which was adopted affecting only Prince George’s County. This year, there are two bills, HB313 and HB567, which propose to expand the law statewide.

Our managers have reported that the push back they receive at budget time on increasing assessments to fully fund reserve vanished under this law. Our communities will soon be funded in order to meet future replacement and safety needs. We welcome this legislation.

Further, the variance requires two amendments that we think are undesirable. First, to exempt or make voluntary the participation by homeowners associations. Many HOAs have significant amenities and infrastructure such as pools, clubhouses, roads, underground pipes, street lights and entry features. We have seen these deteriorate or close due to underfunding. Funding reserves is just as important for HOAs as for condominiums and cooperatives. Second, we know that some managers produce their own reserve studies and the law would require either designation or demonstrated competency. If a manager has produced a sufficient quantity of reserve studies, they would qualify, but we do not think the intent of the legislation would be served to allow just anyone to prepare the study, potentially skewing it to achieve low contributions that would not require increases in assessments.

By way of this letter, the Maryland Legislative Action Committee is requesting reconsideration of the variance from CAI’s public policy relating to mandatory reserve studies and consideration of these points as you redefine your public policy.

Sincerely,

Community Associations Institute
Maryland Legislative Action Committee

Maryland Legislative Action Committee
Post Office Box 6636
Annapolis, Maryland 21401