

The Scoop on Reserves

Delegate Marvin E. Holmes, Jr.

There is a lot of confusion surrounding the requirements of a reserve study and the funding calculations to be met as a result of a reserve study. As the original author of this legislation beginning in 2017, there have been many revisions to reserve requirements in Maryland and across the United States. The Champlain Towers South collapse in Florida in 2021 which killed 98 people, has been proven to be primarily due to the Board of Directors not taking the recommendations of many engineering, and maintenance professionals repeatedly suggesting the absolute necessity to repair and replace major structural items in their building. The reserve study and its funding requirements have gained increased discussion across the United States because of this catastrophe.

Maryland legislation has never been based on the Florida tragedy and the conditions of that coastal state are vastly different from ours. There is one connecting issue that all Common Ownership Communities (COC) have in common, however, and it is the need for public area maintenance, repair, and periodic replacement. For eight years I have been trying to accurately address Maryland's particular needs and requirements, and to that end, more revisions are forthcoming.

Current Maryland law for reserve studies tried to discern the difference between an initial reserve study and an "updated" reserve study, but there seems to still be some misunderstanding between the two. Therefore, new language will be proposed in the upcoming 2025 legislation session to clarify the differences between the two.

A "Reserve Study" will be defined as an initial "Level I" study specifically used to determine the amount of funding required for future major repairs and replacement of the common elements. The new language will define a "Level I" study as a tabular listing of the component inventory, to include each component, and its quantity to determine useful life, remaining life, and current replacement cost of that item. The first reserve study must also be based upon a visual site inspection conducted by a reserve study professional.

The new language to be proposed to the 2025 General Assembly, which begins on January 8, and ends on April 7, 2025, will be more detailed on the definition of an "Updated Reserve Study". One revision is that an "Updated Reserve Study" may not require a visual site inspection, because the quantities and measurements of each component have not likely changed.

An "Updated Reserve Study" will analyze any work completed since the prior study was implemented, it will estimate the remaining useful life and replacement cost since the prior study was performed, and it will take into consideration money spent and the types of work finished since the prior reserve study was approved by the Board. This will include any maintenance contracts currently in place and will revise the useful life and remaining useful life of those items within the study. This clarification will significantly reduce the cost between a Level I study and an Updated Reserve Study.

The type of funding needed after the reserve study has been completed has been misinterpreted also. The existing language in the Reserve Study law, intentionally did not require or dictate the type of funding that must be calculated. This was done in an attempt to suggest that the Reserve Study Specialist needs to communicate with the Board Members to discuss the various types of funding calculations available. As it turns out, because of the lack of identifying the various types of funding mechanisms available, many Board Members erroneously assumed that the absence of defining language, by default, meant “Full Funding”.

Therefore the 2025 legislation will require that the Reserve Study Provider determine, in consultation with the Boards of Director, a Funding Plan that may include, but should not be limited to the Component Funding Method, Full Funding, Cash Flow Method, Baseline Funding, Threshold Cash Flow Method, or other funding plans as accepted by Generally Accepted Accounting Principles (GAAP). I am hopeful that this will eliminate the most conservative Full Funding calculation that is currently being used by most COC’s because not all COC’s need this type of funding. An alternative calculation method can reduce incremental assessments.

There will be other language edits to the current law, which is entitled, *Cooperative Housing Corporations, Condominiums, and Homeowners Associations - Funding of Reserve Accounts and Preparation of Funding Plans*. Hopefully, you will find this article useful. If you have additional comments or suggestions, please feel free to contact my office.

About Delegate Marvin E. Holmes, Jr.

Marvin.Holmes@house.state.md.us
301-858-3310

First elected to the Maryland House of Delegates in 2002

General Assembly House of Delegates Current Assignments:

- Environment and Transportation Committee
- Chair, Housing and Real Property Subcommittee of the Environment and Transportation Committee
- Land Use and Ethics Subcommittee of the Environment and Transportation Committee
- Vice Chair, Rules and Executive Nominations Committee
- Joint Committee on Administrative, Executive, and Legislative Review (AELR)
- Maryland Veterans Caucus
- Legislative Black Caucus of Maryland, Inc.
- Maryland Legislative Latino Caucus

Current Professional Occupation:

- M.E. Holmes Entreprises, LLC
 - Chief Executive Officer (CEO)
 - Real Estate Investment
 - Residential Property Management
 - Land Use Consultant
- Century 21, New Millenium Real Estate Brokerage
 - Realtor®,
 - Graduate Realtor Institute (GRI),
 - Certified Manager of Community Associations (CMCA),
 - Association Management Specialist (AMS)
- NAI Michael Company Commercial Real Estate
 - Brokerage
 - Commercial Property Management
 - Development Consulting

