

SB576 (2026 Session)

Cooperative Housing Corporations and Condominiums - Emergency Use of Reserve Funds

FAVORABLE WITH AMENDMENT

As written, SB576 imagines the impossibility of a community vote after a minimum of 10 days notice to deal with an emergency that is not defined. As written, the bill also encourages the use of tax exempt funds for a non-tax exempt purpose which conflicts with IRS regulations. The requested amendments are as follows:

11-109.4

(f)(4) Reserves may be used **IN AN EMERGENCY** for purposes other than those specified in the funding plan ~~IN AN EMERGENCY~~ if [the] **THE EMERGENCY IS FOR A CONDITION WHICH, IF NOT CORRECTED, COULD REASONABLY RESULT IN A THREAT TO THE HEALTH OR SAFETY OF THE UNIT OWNERS OR A SIGNIFICANT RISK OF DAMAGE TO THE CONDOMINIUM. SUBJECT TO SUBPARAGRAPH 6 OF THIS PARAGRAPH.**

(5) ~~RESERVES MAY BE USED FOR PURPOSES OTHER THAN THOSE SPECIFIED IN THE FUNDING PLAN IF~~ **RESERVES MAY BE USED FOR OPERATING EXPENSES** ~~PURPOSES OTHER THAN THOSE SPECIFIED IN THE FUNDING PLAN IF~~ THE USE OF THE FUNDS IS APPROVED BY AN AFFIRMATIVE VOTE OF AT LEAST TWO-THIRDS OF THE UNIT OWNERS IN GOOD STANDING IN THE COUNCIL OF UNIT OWNERS, **SUBJECT TO SUBPARAGRAPH 6 OF THIS PARAGRAPH.**

(6) USE OF RESERVES UNDER SUBPARAGRAPH 4 OR 5 OF THIS PARAGRAPH IS ONLY PERMITTED IF:

(I) **THE** funds are repaid to the reserve fund within 5 years after their use; ~~AND~~

(II) **THE BORROWED FUNDS ARE NOT CLAIMED AS RESERVE FUNDS ON A FILING OF FORM 1120 OR ANY OTHER FILING TO THE INTERNAL REVENUE SERVICE DURING THE BORROWING PERIOD.**

~~[(5)]~~ (7) A governing body shall review progress toward compliance with the funding plan developed under this subsection at each annual meeting of the [governing body] **COUNCIL OF UNIT OWNERS.**

Senator Jennings is tackling an important issue. Last year, the General Assembly accidentally created a slush fund making it easy to abuse decades of savings by unit owners. The lobby for cooperatives is usually successful at killing legislation. The chance to win their support may be gone due to the initial draft language, so if necessary please be prepared to eliminate the provisions on cooperatives so that at least condominiums can close the loophole.

Thank you.