

HOUSE BILL 107

N1, C1
HB 313/21 – ENT

(PRE-FILED)

2lr0596

By: ~~Delegate Holmes~~ **Delegates Holmes, Foley, Healey, Lehman, and Terrasa**

Requested: September 29, 2021

Introduced and read first time: January 12, 2022

Assigned to: Environment and Transportation

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 10, 2022

CHAPTER _____

1 AN ACT concerning

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

4 FOR the purpose of making statewide certain provisions relating to reserve studies;
5 requiring the governing body of certain cooperative housing corporations,
6 condominiums, or homeowners associations to have a reserve study conducted of the
7 common elements of the cooperative housing corporation, condominium, or
8 homeowners association and to update the study at certain intervals; imposing
9 certain requirements relating to the annual budget of a cooperative housing
10 corporation, condominium, or homeowners association; authorizing the governing
11 body of a cooperative housing corporation, condominium, or homeowners association
12 to increase a certain assessment; and generally relating to reserve studies and
13 annual budgets of cooperative housing corporations, condominiums, and
14 homeowners associations.

15 BY repealing and reenacting, with amendments,
16 Article – Corporations and Associations
17 Section 5–6B–26.1
18 Annotated Code of Maryland
19 (2014 Replacement Volume and 2021 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article – Real Property

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



Section 11–109(c)(16)(v), 11–109.2(c), 11–109.4, 11–110(b)(1)(ii), 11B–106.1(e),
11B–112.2(d), 11B–112.3, and 11B–117(a)(2)
Annotated Code of Maryland
(2015 Replacement Volume and 2021 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Corporations and Associations

5–6B–26.1.

(a) In this section, “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:

(1) Identifies each structural, mechanical, electrical, and plumbing component of the common elements and any other components that are the responsibility of the cooperative housing corporation to repair and replace;

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

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

(4) States the estimated annual reserve amount necessary to accomplish any identified future repair or replacement.

(b) [This section applies only to a cooperative housing corporation in Prince George’s County or Montgomery County.

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

(i) Prince George’s County on or after October 1, 2020; [or]

(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.

1 (3) [(i) In Prince George's County, the governing body shall have a
2 reserve study completed within 5 years after the date of the initial reserve study conducted
3 under paragraph (2) of this subsection and at least every 5 years thereafter.

4 (ii) In Montgomery County, the] **THE** governing body shall have an
5 updated reserve study completed within 5 years after the date of the initial reserve study
6 conducted under paragraph (2) of this subsection, which shall be updated at least every 5
7 years thereafter.

8 **[(d)] (C)** (1) (i) This paragraph applies only to a cooperative housing
9 corporation established in Prince George's County before October 1, 2020.

10 (ii) If the governing body of a cooperative housing corporation has
11 had a reserve study conducted on or after October 1, 2016, the governing body shall have
12 **[a] AN UPDATED** reserve study conducted within 5 years after the date of that reserve
13 study and at least every 5 years thereafter.

14 (iii) If the governing body of a cooperative housing corporation has
15 not had a reserve study conducted on or after October 1, 2016, the governing body shall
16 have a reserve study conducted on or before October 1, 2021, and **AN UPDATED RESERVE**
17 **STUDY** at least every 5 years thereafter.

18 (2) (i) This paragraph applies only to a cooperative housing corporation
19 established in Montgomery County before October 1, 2021.

20 (ii) If the governing body of a cooperative housing corporation has
21 had a reserve study conducted on or after October 1, 2017, the governing body shall have
22 an updated reserve study conducted within 5 years after the date of that reserve study[,
23 which shall be updated] **AND** at least every 5 years thereafter.

24 (iii) If the governing body of a cooperative housing corporation has
25 not had a reserve study conducted on or after October 1, 2017, the governing body shall
26 have a reserve study conducted on or before October 1, 2022, [which shall be updated] **AND**
27 **AN UPDATED RESERVE STUDY** at least every 5 years thereafter.

28 **(3) (I) THIS PARAGRAPH APPLIES TO A COOPERATIVE HOUSING**
29 **CORPORATION ESTABLISHED IN ANY COUNTY OTHER THAN PRINCE GEORGE'S**
30 **COUNTY OR MONTGOMERY COUNTY BEFORE OCTOBER 1, 2022.**

31 **(II) IF THE GOVERNING BODY OF A COOPERATIVE HOUSING**
32 **CORPORATION HAS HAD A RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1,**
33 **2018, THE GOVERNING BODY SHALL HAVE AN UPDATED RESERVE STUDY**
34 **CONDUCTED WITHIN 5 YEARS AFTER THE DATE OF THAT RESERVE STUDY AND AT**
35 **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.

[(e)] (D) Each 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 ~~Holds a bachelor's degree in construction management, architecture, or engineering or equivalent experience and education;~~

(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.

[(f)] (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.

[(g)] (F) (1) (I) The SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE governing body of a cooperative housing corporation shall provide funds to the reserve in accordance with the most recent reserve study and shall review the reserve study annually for accuracy.

(II) THE GOVERNING BODY MAY FUND THE RESERVE REQUIRED BY THE INITIAL RESERVE STUDY OVER THREE IMMEDIATELY SUCCESSIVE BUDGET CYCLES FOLLOWING THE FISCAL YEAR IN WHICH THE INITIAL RESERVE STUDY IS CONDUCTED.

(2) 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.

Article – Real Property

11–109.

(c) (16) (v) [In Prince George’s County and Montgomery County, the] **THE** replacement reserves delivered under subparagraph (iv)2 of this paragraph **FOR A RESIDENTIAL CONDOMINIUM** shall be equal to at least the reserve funding amount recommended in the reserve study completed under § 11–109.4 of this title as of the date of the meeting.

11–109.2.

(c) **(1)** [In Prince George’s County and Montgomery County, the] **THE** **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE** reserves provided for in the annual budget under subsection (b) of this section **FOR A RESIDENTIAL CONDOMINIUM** shall be the funding amount recommended in the most recent reserve study completed under § 11–109.4 of this title.

(2) THE GOVERNING BODY MAY FUND THE RESERVES REQUIRED BY THE INITIAL RESERVE STUDY OVER THREE IMMEDIATELY SUCCESSIVE BUDGET CYCLES FOLLOWING THE FISCAL YEAR IN WHICH THE INITIAL RESERVE STUDY IS CONDUCTED.

11–109.4.

(a) In this section, “reserve study” means a study of the reserves required for future major repairs and replacement of the common elements of a condominium [in Prince George’s County or Montgomery County] that:

(1) Identifies each structural, mechanical, electrical, and plumbing component of the common elements and any other components that are the responsibility of the council of unit owners to repair and replace;

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

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

(4) States the estimated annual reserve amount necessary to accomplish any identified future repair or replacement.

~~(b) This section applies only to a RESIDENTIAL condominium in Prince George’s County or Montgomery County.~~

~~(c)~~ (1) This subsection applies only to a condominium established in:

(i) Prince George’s County on or after October 1, 2020; [or]

(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 condominium shall have an independent reserve study completed not less than 30 calendar days before the meeting of the council of unit owners required under § 11–109(c)(16) of this title.

(3) [(i) In Prince George’s County, the governing body shall have a reserve study completed within 5 years after the date of the initial reserve study conducted under paragraph (2) of this subsection and at least every 5 years thereafter.

(ii) In Montgomery County, the] **THE** governing body shall have an updated reserve study completed within 5 years after the date of the initial reserve study

1 conducted under paragraph (2) of this subsection[, which shall be updated] AND at least
2 every 5 years thereafter.

3 ~~[(d)]~~ ~~(c)~~ (1) (i) This paragraph applies only to a condominium established
4 in Prince George's County before October 1, 2020.

5 (ii) If the governing body of a condominium has had a reserve study
6 conducted on or after October 1, 2016, the governing body shall have [a] **AN UPDATED**
7 reserve study conducted within 5 years after the date of that reserve study and at least
8 every 5 years thereafter.

9 (iii) If the governing body of a condominium has not had a reserve
10 study conducted on or after October 1, 2016, the governing body shall have a reserve study
11 conducted on or before October 1, 2021, and **AN UPDATED RESERVE STUDY** at least every
12 5 years thereafter.

13 (2) (i) This paragraph applies only to a condominium established in
14 Montgomery County before October 1, 2021.

15 (ii) If the governing body of a condominium has had a reserve study
16 conducted on or after October 1, 2017, the governing body shall have an updated reserve
17 study conducted within 5 years after the date of that reserve study[, which shall be
18 updated] AND at least every 5 years thereafter.

19 (iii) If the governing body of a condominium has not had a reserve
20 study conducted on or after October 1, 2017, the governing body shall have a reserve study
21 conducted on or before October 1, 2022, [which shall be] AND AN updated **RESERVE STUDY**
22 at least every 5 years thereafter.

23 **(3) (I) THIS PARAGRAPH APPLIES ONLY TO A CONDOMINIUM**
24 **ESTABLISHED IN ANY COUNTY OTHER THAN PRINCE GEORGE'S COUNTY OR**
25 **MONTGOMERY COUNTY BEFORE OCTOBER 1, 2022.**

26 **(II) IF THE GOVERNING BODY OF A CONDOMINIUM HAS HAD A**
27 **RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1, 2018, THE GOVERNING**
28 **BODY SHALL HAVE AN UPDATED RESERVE STUDY CONDUCTED WITHIN 5 YEARS**
29 **AFTER THE DATE OF THAT RESERVE STUDY AND AT LEAST EVERY 5 YEARS**
30 **THEREAFTER.**

31 **(III) IF THE GOVERNING BODY OF A CONDOMINIUM HAS NOT HAD**
32 **A RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1, 2018, THE GOVERNING**
33 **BODY SHALL HAVE A RESERVE STUDY CONDUCTED ON OR BEFORE OCTOBER 1, 2023,**
34 **AND AN UPDATED RESERVE STUDY AT LEAST EVERY 5 YEARS THEREAFTER.**

35 ~~[(e)]~~ ~~(D)~~ Each 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** ~~Holds a bachelor's degree in construction management, architecture, or engineering, or equivalent experience and education;~~

(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 condominium 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.

11–110.

(b) (1) (ii) The board of directors of a **RESIDENTIAL** condominium [in Prince George's County or Montgomery County] has the authority to increase the assessment levied to cover the reserve funding amount required under § 11–109.4 of this title, notwithstanding any provision of the declaration, articles of incorporation, or bylaws restricting assessment increases or capping the assessment that may be levied in a fiscal year.

11B–106.1.

(e) [In Prince George's County and Montgomery County, the] **THE** replacement reserves delivered under subsection (d)(13) of this section shall be equal to at least the reserve funding amount recommended in the reserve study completed under § 11B–112.3 of this title as of the date of the meeting.

11B–112.2.

(d) **(1)** [In Prince George's County and Montgomery County, reserves] **RESERVES SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, RESERVES** provided

for in the annual budget under subsection (c) of this section shall be the funding amount recommended in the most recent reserve study completed under § 11B–112.3 of this title.

(2) THE GOVERNING BODY MAY FUND THE RESERVES REQUIRED BY THE INITIAL RESERVE STUDY OVER THREE IMMEDIATELY SUCCESSIVE BUDGET CYCLES FOLLOWING THE FISCAL YEAR IN WHICH THE INITIAL RESERVE STUDY IS CONDUCTED.

11B–112.3.

(a) In this section, “reserve study” means a study of the reserves required for future major repairs and replacement of the common areas of a homeowners association [in Prince George’s County or Montgomery County] that:

(1) Identifies each structural, mechanical, electrical, and plumbing component of the common areas and any other components that are the responsibility of the homeowners association to repair and replace;

(2) States the estimated remaining useful life of each identified component;

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

(4) States the estimated annual reserve amount necessary to accomplish any identified future repair or replacement.

(b) (1) This section applies only to a homeowners association [in Prince George’s County or Montgomery County that]:

(I) THAT has responsibility under its declaration for maintaining and repairing common areas; AND

(II) FOR WHICH THE TOTAL INITIAL PURCHASE AND INSTALLATION COSTS FOR ALL COMPONENTS IDENTIFIED IN SUBSECTION (A)(1) OF THIS SECTION IS AT LEAST \$10,000.

(2) This section does not apply to a homeowners association that issues bonds for the purpose of meeting capital expenditures.

(c) (1) This subsection applies only to a homeowners association established in:

(i) Prince George’s County on or after October 1, 2020; [or]

(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 homeowners association shall have an independent reserve study completed not more than 90 calendar days and not less than 30 calendar days before the meeting of the homeowners association required under § 11B-106.1(a) of this title.

(3) [(i) In Prince George's County, the governing body shall have a reserve study completed within 5 years after the date of the initial reserve study conducted under paragraph (2) of this subsection and at least every 5 years thereafter.

(ii) In Montgomery County, the] **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] **AND** at least every 5 years thereafter.

(d) (1) (i) This paragraph applies only to a homeowners association established in Prince George's County before October 1, 2020.

(ii) If the governing body of a homeowners association has had a reserve study conducted on or after October 1, 2016, the governing body shall have [a] **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 homeowners association 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 homeowners association established in Montgomery County before October 1, 2021.

(ii) If the governing body of a homeowners association 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[, which shall be updated] **AND** at least every 5 years thereafter.

(iii) If the governing body of a homeowners association 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, [which shall be updated] **AND AN UPDATED RESERVE STUDY** at least every 5 years thereafter.

(3) (I) THIS PARAGRAPH APPLIES ONLY TO A HOMEOWNERS ASSOCIATION ESTABLISHED IN ANY COUNTY OTHER THAN PRINCE GEORGE'S COUNTY OR MONTGOMERY COUNTY BEFORE OCTOBER 1, 2022.

(II) IF THE GOVERNING BODY OF A HOMEOWNERS ASSOCIATION HAS HAD A RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1, ~~2017~~ 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 HOMEOWNERS ASSOCIATION HAS NOT HAD A RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1, ~~2017~~ 2018, THE GOVERNING BODY SHALL HAVE A RESERVE STUDY CONDUCTED ON OR BEFORE OCTOBER 1, ~~2022~~ 2023, AND AN UPDATED RESERVE STUDY AT LEAST EVERY 5 YEARS THEREAFTER.

(e) Each 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 ~~Holds a bachelor's degree in construction management, architecture, or engineering or equivalent experience and education;~~

(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 lot owner;

(3) Be reviewed by the governing body of the homeowners association in connection with the preparation of the annual proposed budget; and

(4) Be summarized for submission with the annual proposed budget to the lot owners.

11B-117.

(a) (2) The governing body of a homeowners association [in Prince George's County or Montgomery County] has the authority to increase an assessment levied to cover the reserve funding amount required under § 11B-112.3 of this title, notwithstanding any

1 provision of the declaration, articles of incorporation, or bylaws restricting assessment
2 increases or capping the assessment that may be levied in a fiscal year.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2022.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.