

HOUSE BILL 1041

N1

5lr3228

By: **Delegate Roberts**

Introduced and read first time: February 5, 2025

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Homeowners Associations – Reserve Funding Requirements – Exemption**

3 FOR the purpose of providing an exemption to reserve funding requirements for
4 homeowners associations that experience exigent financial circumstances, subject to
5 certain requirements; establishing that a violation of this Act by the governing body
6 of a homeowners association is an unfair, abusive, or deceptive trade practice;
7 authorizing a lot owner to take certain legal action against the governing body of a
8 homeowners association under certain circumstances; and generally relating to
9 reserve funding and homeowners associations.

10 BY repealing and reenacting, with amendments,
11 Article – Commercial Law
12 Section 13–301(14)(xlii)
13 Annotated Code of Maryland
14 (2013 Replacement Volume and 2024 Supplement)

15 BY repealing and reenacting, without amendments,
16 Article – Commercial Law
17 Section 13–301(14)(xliii)
18 Annotated Code of Maryland
19 (2013 Replacement Volume and 2024 Supplement)

20 BY adding to
21 Article – Commercial Law
22 Section 13–301(14)(xliv)
23 Annotated Code of Maryland
24 (2013 Replacement Volume and 2024 Supplement)

25 BY repealing and reenacting, without amendments,
26 Article – Real Property
27 Section 11B–112.2(c)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Annotated Code of Maryland
(2023 Replacement Volume and 2024 Supplement)

BY repealing and reenacting, with amendments,
Article – Real Property
Section 11B–112.2(d)
Annotated Code of Maryland
(2023 Replacement Volume and 2024 Supplement)

BY adding to
Article – Real Property
Section 11B–112.4
Annotated Code of Maryland
(2023 Replacement Volume and 2024 Supplement)

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

Article – Commercial Law

13–301.

Unfair, abusive, or deceptive trade practices include any:

(14) Violation of a provision of:

(xlii) Section 12–6C–09.1 of the Health Occupations Article; [or]

(xliii) Title 14, Subtitle 48 of this article; or

**(XLIV) SECTION 11B–112.4 OF THE REAL PROPERTY
ARTICLE; OR**

Article – Real Property

11B–112.2.

(c) The annual budget shall provide for at least the following items:

(1) Income;

(2) Administration;

(3) Maintenance;

(4) Utilities;

(5) General expenses;

(6) Reserves; and

(7) Capital expenses.

(d) (1) [Subject to paragraph (2) of this subsection] **EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) 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) If the most recent reserve study was an initial reserve study, the governing body shall, within 3 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.

(3) IF THE HOMEOWNERS ASSOCIATION EXPERIENCES EXIGENT FINANCIAL CIRCUMSTANCES, THE GOVERNING BODY MAY FUND RESERVES IN ACCORDANCE WITH A RESERVE RECOVERY PLAN ADOPTED UNDER § 11B–112.4 OF THIS TITLE.

11B–112.4.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “EXIGENT FINANCIAL CIRCUMSTANCES” MEANS SIGNIFICANT FINANCIAL HARDSHIP CAUSED BY AN UNANTICIPATED EVENT SUCH AS:

(I) A FIRE, FLOOD, OR OTHER NATURAL DISASTER THAT INFLICTS SUBSTANTIAL DAMAGE TO REAL PROPERTY;

(II) FRAUD, EMBEZZLEMENT, OR A SIMILAR FINANCIAL MISAPPROPRIATION; AND

(III) ANY SIMILAR EMERGENCY OR CATASTROPHIC EVENT.

(3) “RESERVE RECOVERY PLAN” MEANS A DOCUMENT CREATED BY A GOVERNING BODY THAT IDENTIFIES AND EXPLAINS, IN DETAIL:

(I) THE EXIGENT FINANCIAL CIRCUMSTANCES OF A HOMEOWNERS ASSOCIATION;

(II) DAMAGE CAUSED BY THE EXIGENT FINANCIAL CIRCUMSTANCES, INCLUDING ESTIMATES OF THE COST OF ANY REMEDIAL MEASURES; AND

(III) THE FUNDING STRATEGY, TIMELINE, AND RELATED ACTIONS PLANNED TO BRING THE HOMEOWNERS ASSOCIATION INTO COMPLIANCE WITH THE RESERVE FUNDING REQUIREMENTS UNDER § 11B-112.2(D) OF THIS TITLE.

(B) THIS SECTION APPLIES ONLY TO A HOMEOWNERS ASSOCIATION THAT HAS RESPONSIBILITY UNDER ITS DECLARATION FOR MAINTAINING AND REPAIRING COMMON AREAS.

(C) (1) A HOMEOWNERS ASSOCIATION THAT EXPERIENCES EXIGENT FINANCIAL CIRCUMSTANCES MAY REASONABLY DEVIATE FROM RESERVE FUNDING REQUIREMENTS OF § 11B-112.2(D) OF THIS TITLE IF THE GOVERNING BODY:

(I) WITHIN 90 DAYS AFTER DISCOVERY OF THE EXIGENT FINANCIAL CIRCUMSTANCES, ADOPTS BY A TWO-THIRDS MAJORITY OF THE GOVERNING BODY A RESERVE RECOVERY PLAN TO ADDRESS THE EXIGENT FINANCIAL CIRCUMSTANCES OF THE HOMEOWNERS ASSOCIATION;

(II) MAKES GOOD FAITH EFFORTS TO:

1. COMPLY WITH THE RESERVE RECOVERY PLAN UNDER ITEM (I) OF THIS PARAGRAPH; AND

2. RESTORE THE RESERVE FUNDING TO REQUIRED LEVELS WITHIN A REASONABLE PERIOD OF TIME;

(III) MAINTAINS DETAILED DOCUMENTATION OF:

1. EFFORTS TO ADDRESS THE EXIGENT FINANCIAL CIRCUMSTANCES; AND

2. THE IMPLEMENTATION OF THE RESERVE RECOVERY PLAN; AND

(IV) ON A QUARTERLY BASIS, PROVIDES UPDATES TO LOT OWNERS ON THE PROGRESS OF THE RESERVE RECOVERY PLAN.

(2) A GOVERNING BODY SHALL:

1 (I) NOTIFY ALL LOT OWNERS AT LEAST 5 DAYS BEFORE
2 HOLDING A VOTE TO APPROVE A RESERVE RECOVERY PLAN UNDER PARAGRAPH
3 (1)(I) OF THIS SUBSECTION; AND

4 (II) PROVIDE A COPY OF THE ADOPTED RESERVE RECOVERY
5 PLAN TO EACH LOT OWNER.

6 (D) (1) THE FOLLOWING DOCUMENTS SHALL BE TREATED AS RECORDS
7 FOR EXAMINATION AND COPYING UNDER § 11B–112 OF THIS TITLE:

8 (I) THE RESERVE RECOVERY PLAN; AND

9 (II) THE DOCUMENTATION REQUIRED UNDER SUBSECTION
10 (C)(1)(III) OF THIS SECTION.

11 (2) A GOVERNING BODY SHALL PROVIDE RECORDS DESCRIBED
12 UNDER PARAGRAPH (1) OF THIS SUBSECTION TO A UNIT OF STATE GOVERNMENT ON
13 REQUEST.

14 (E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A
15 HOMEOWNERS ASSOCIATION MAY NOT DEVIATE FROM THE RESERVE FUNDING
16 REQUIREMENTS UNDER § 11B–112.2(D) OF THIS TITLE FOR MORE THAN 3
17 CALENDAR YEARS.

18 (2) THE LIMITATION UNDER PARAGRAPH (1) OF THIS SUBSECTION IS:

19 (I) FOR EACH EXIGENT FINANCIAL CIRCUMSTANCE THAT A
20 HOMEOWNERS ASSOCIATION EXPERIENCES; AND

21 (II) IN ADDITION TO ANY APPLICABLE TIME PERIOD PROVIDED
22 UNDER § 11B–112.2(D) OF THIS TITLE.

23 (F) IF A GOVERNING BODY FAILS TO COMPLY WITH THE REQUIREMENTS
24 AND PROHIBITIONS OF THIS SECTION, THE GOVERNING BODY SHALL COMPLY WITH
25 THE RESERVE FUNDING REQUIREMENTS UNDER § 11B–112.2(D) OF THIS TITLE.

26 (G) (1) TO THE EXTENT THAT A VIOLATION OF THIS SECTION BY A
27 GOVERNING BODY AFFECTS A LOT OWNER, THAT VIOLATION IS:

28 (I) AN UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICE
29 WITHIN THE MEANING OF TITLE 13 OF THE COMMERCIAL LAW ARTICLE; AND

1 **(II) SUBJECT TO THE ENFORCEMENT AND PENALTY**
2 **PROVISIONS CONTAINED IN TITLE 13 OF THE COMMERCIAL LAW ARTICLE.**

3 **(2) A LOT OWNER THAT SUFFERS DAMAGES AS A RESULT OF A**
4 **VIOLATION OF THIS SECTION BY A GOVERNING BODY MAY BRING AN ACTION IN A**
5 **COURT OF COMPETENT JURISDICTION FOR:**

6 **(I) INJUNCTIVE RELIEF; AND**

7 **(II) DAMAGES.**

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2025.