

HOUSE BILL 58

N1, C1
HB 900/19 – ENT

(PRE-FILED)

01r0831
CF 01r0861

By: **Delegate Holmes**

Requested: October 4, 2019

Introduced and read first time: January 8, 2020

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

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

4 FOR the purpose of requiring the governing body of certain cooperative housing
5 corporations to have a reserve study conducted of the common elements of the
6 cooperative housing corporation by a certain date and at certain intervals under
7 certain circumstances; requiring the reserve study conducted of the common
8 elements of a cooperative housing corporation to meet certain criteria; requiring the
9 owner of a residential rental facility transitioning to a cooperative housing
10 corporation to deliver certain funds within a certain period of time after a certain
11 meeting; requiring the annual budget of a cooperative housing corporation to include
12 certain reserve funds; establishing that the governing body of a cooperative housing
13 corporation has the authority to increase a certain assessment notwithstanding
14 certain provisions; altering the reserve funds a certain condominium developer is
15 required to deliver to the officers or board of directors of a condominium within a
16 certain period of time after a certain meeting; altering the content of the annual
17 budget of certain condominiums; requiring the governing body of certain
18 condominiums to have a reserve study conducted of the common elements of the
19 condominium by a certain date and at certain intervals under certain circumstances;
20 requiring the reserve study conducted of the common elements of a condominium to
21 meet certain criteria; establishing that the board of directors of a condominium has
22 the authority to increase a certain assessment notwithstanding certain provisions;
23 altering the content of the annual budget of certain homeowners associations;
24 altering the reserve funds a certain developer is required to deliver to the governing
25 body of a homeowners association within a certain period of time after a certain
26 meeting; requiring the governing body of certain homeowners associations to have a
27 reserve study conducted of the common areas of a homeowners association by a
28 certain date and at certain intervals under certain circumstances; requiring the
29 reserve study conducted of the common areas of a homeowners association to meet
30 certain criteria; establishing that the governing body of a homeowners association

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 has the authority to increase a certain assessment notwithstanding certain
 2 provisions; defining certain terms; providing for the application of this Act; and
 3 generally relating to reserve studies and annual budgets of cooperative housing
 4 corporations, condominiums, and homeowners associations.

5 BY adding to

6 Article – Corporations and Associations
 7 Section 5–6B–26.1
 8 Annotated Code of Maryland
 9 (2014 Replacement Volume and 2019 Supplement)

10 BY repealing and reenacting, with amendments,

11 Article – Real Property
 12 Section 11–109(c)(16), 11–109.2, 11–110(b)(1), 11B–106.1, 11B–112.2, and
 13 11B–117(a)
 14 Annotated Code of Maryland
 15 (2015 Replacement Volume and 2019 Supplement)

16 BY adding to

17 Article – Real Property
 18 Section 11–109.4 and 11B–112.3
 19 Annotated Code of Maryland
 20 (2015 Replacement Volume and 2019 Supplement)

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

23 **Article – Corporations and Associations**

24 **5–6B–26.1.**

25 **(A) IN THIS SECTION, “RESERVE STUDY” MEANS A STUDY OF THE RESERVES**
 26 **REQUIRED FOR FUTURE MAJOR REPAIRS AND REPLACEMENT OF THE COMMON**
 27 **ELEMENTS OF A COOPERATIVE HOUSING CORPORATION THAT:**

28 **(1) IDENTIFIES EACH STRUCTURAL, MECHANICAL, ELECTRICAL, AND**
 29 **PLUMBING COMPONENT OF THE COMMON ELEMENTS AND ANY OTHER COMPONENTS**
 30 **THAT ARE THE RESPONSIBILITY OF THE COOPERATIVE HOUSING CORPORATION TO**
 31 **REPAIR AND REPLACE;**

32 **(2) STATES THE ESTIMATED REMAINING USEFUL LIFE OF EACH**
 33 **IDENTIFIED COMPONENT;**

34 **(3) STATES THE ESTIMATED COST OF REPAIR OR REPLACEMENT OF**
 35 **EACH IDENTIFIED COMPONENT; AND**

1 **(4) STATES THE ESTIMATED ANNUAL RESERVE AMOUNT NECESSARY**
2 **TO ACCOMPLISH ANY IDENTIFIED FUTURE REPAIR OR REPLACEMENT.**

3 **(B) THIS SECTION APPLIES ONLY TO A COOPERATIVE HOUSING**
4 **CORPORATION THAT HAS MORE THAN 50 UNITS.**

5 **(C) (1) THIS SUBSECTION APPLIES TO A COOPERATIVE HOUSING**
6 **CORPORATION ESTABLISHED ON OR AFTER OCTOBER 1, 2020.**

7 **(2) THE GOVERNING BODY OF THE COOPERATIVE HOUSING**
8 **CORPORATION SHALL HAVE AN INDEPENDENT RESERVE STUDY COMPLETED NOT**
9 **MORE THAN 90 CALENDAR DAYS AND NOT LESS THAN 30 CALENDAR DAYS BEFORE**
10 **THE FIRST MEETING OF A COOPERATIVE HOUSING CORPORATION AT WHICH THE**
11 **MEMBERS OTHER THAN THE OWNER HAVE A MAJORITY OF VOTES IN THE**
12 **COOPERATIVE HOUSING CORPORATION.**

13 **(3) THE GOVERNING BODY SHALL HAVE A RESERVE STUDY**
14 **COMPLETED WITHIN 5 YEARS AFTER THE DATE OF THE INITIAL RESERVE STUDY**
15 **CONDUCTED UNDER PARAGRAPH (2) OF THIS SUBSECTION AND AT LEAST EVERY 5**
16 **YEARS THEREAFTER.**

17 **(D) (1) THIS SUBSECTION APPLIES TO A COOPERATIVE HOUSING**
18 **CORPORATION ESTABLISHED BEFORE OCTOBER 1, 2020.**

19 **(2) IF THE GOVERNING BODY OF A COOPERATIVE HOUSING**
20 **CORPORATION HAS HAD A RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1,**
21 **2016, THE GOVERNING BODY SHALL HAVE A RESERVE STUDY CONDUCTED WITHIN 5**
22 **YEARS AFTER THE DATE OF THAT RESERVE STUDY AND AT LEAST EVERY 5 YEARS**
23 **THEREAFTER.**

24 **(3) IF THE GOVERNING BODY OF A COOPERATIVE HOUSING**
25 **CORPORATION HAS NOT HAD A RESERVE STUDY CONDUCTED ON OR AFTER**
26 **OCTOBER 1, 2016, THE GOVERNING BODY SHALL HAVE A RESERVE STUDY**
27 **CONDUCTED ON OR BEFORE OCTOBER 1, 2021, AND AT LEAST EVERY 5 YEARS**
28 **THEREAFTER.**

29 **(E) EACH RESERVE STUDY REQUIRED UNDER THIS SECTION SHALL:**

30 **(1) BE PREPARED BY A PERSON WHO:**

31 **(I) HAS PREPARED AT LEAST 30 RESERVE STUDIES WITHIN THE**
32 **PRIOR 3 CALENDAR YEARS;**

1 **(II) HOLDS A BACHELOR'S DEGREE IN CONSTRUCTION**
2 **MANAGEMENT, ARCHITECTURE, OR ENGINEERING, OR EQUIVALENT EXPERIENCE**
3 **AND EDUCATION; OR**

4 **(III) HOLDS A CURRENT LICENSE FROM THE STATE BOARD OF**
5 **ARCHITECTS OR THE STATE BOARD FOR PROFESSIONAL ENGINEERS;**

6 **(2) BE AVAILABLE FOR INSPECTION AND COPYING BY ANY UNIT**
7 **OWNER;**

8 **(3) BE REVIEWED BY THE GOVERNING BODY OF THE COOPERATIVE**
9 **HOUSING CORPORATION IN CONNECTION WITH THE PREPARATION OF THE ANNUAL**
10 **PROPOSED BUDGET; AND**

11 **(4) BE SUMMARIZED FOR SUBMISSION WITH THE ANNUAL PROPOSED**
12 **BUDGET TO THE UNIT OWNERS.**

13 **(F) WITHIN 30 DAYS AFTER THE FIRST MEETING OF A COOPERATIVE**
14 **HOUSING CORPORATION AT WHICH THE MEMBERS OTHER THAN THE OWNER HAVE**
15 **A MAJORITY OF THE VOTES IN THE COOPERATIVE HOUSING CORPORATION, THE**
16 **OWNER SHALL DELIVER TO THE COOPERATIVE HOUSING CORPORATION RESERVE**
17 **FUNDS EQUAL TO AT LEAST THE RESERVE FUNDING AMOUNT RECOMMENDED IN THE**
18 **RESERVE STUDY COMPLETED UNDER SUBSECTION (C) OF THIS SECTION AS OF THE**
19 **DATE OF THE MEETING.**

20 **(G) ANY ANNUAL BUDGET OF THE COOPERATIVE HOUSING CORPORATION**
21 **SHALL INCLUDE RESERVE FUNDS EQUAL TO AT LEAST 80% OF THE FUNDING**
22 **AMOUNT RECOMMENDED IN THE MOST RECENT RESERVE STUDY COMPLETED**
23 **UNDER SUBSECTION (C) OR (D) OF THIS SECTION.**

24 **(H) THE GOVERNING BODY OF A COOPERATIVE HOUSING CORPORATION**
25 **HAS THE AUTHORITY TO INCREASE AN ASSESSMENT LEVIED TO COVER THE RESERVE**
26 **FUNDING AMOUNT REQUIRED UNDER THIS SECTION, NOTWITHSTANDING ANY**
27 **PROVISION OF THE ARTICLES OF INCORPORATION, BYLAWS, OR PROPRIETARY**
28 **LEASE RESTRICTING ASSESSMENT INCREASES OR CAPPING THE ASSESSMENT THAT**
29 **MAY BE LEVIED IN A FISCAL YEAR.**

30 **Article – Real Property**

31 11–109.

32 (c) (16) (i) A meeting of the council of unit owners to elect a board of
33 directors for the council of unit owners, as provided in the condominium declaration or
34 bylaws, shall be held within:

1 1. 60 days from the date that units representing 50 percent
2 of the votes in the condominium have been conveyed by the developer to members of the
3 public for residential purposes; or

4 2. If a lesser percentage is specified in the declaration or
5 bylaws of the condominium, 60 days from the date the specified lesser percentage of units
6 in the condominium are sold to members of the public for residential purposes.

7 (ii) 1. Before the date of the meeting held under subparagraph
8 (i) of this paragraph, the developer shall deliver to each unit owner notice that the
9 requirements of subparagraph (i) of this paragraph have been met.

10 2. The notice shall include the date, time, and place of the
11 meeting to elect the board of directors for the council of unit owners.

12 (iii) If a replacement board member is elected, the term of each
13 member of the board of directors appointed by the developer shall end 10 days after the
14 meeting is held as specified in subparagraph (i) of this paragraph.

15 (iv) Within 30 days from the date of the meeting held under
16 subparagraph (i) of this paragraph, the developer shall deliver to the officers or board of
17 directors for the council of unit owners, as provided in the condominium declaration or
18 bylaws, at the developer's expense:

19 1. The documents specified in § 11–132 of this title;

20 2. The condominium funds, including operating funds,
21 replacement reserves **EQUAL TO AT LEAST THE RESERVE FUNDING AMOUNT**
22 **RECOMMENDED IN THE RESERVE STUDY COMPLETED UNDER § 11–109.4 OF THIS**
23 **TITLE AS OF THE DATE OF THE MEETING**, investment accounts, and working capital;

24 3. The tangible property of the condominium; and

25 4. A roster of current unit owners, including mailing
26 addresses, telephone numbers, and unit numbers, if known.

27 (v) 1. This subparagraph does not apply to a contract entered
28 into before October 1, 2009.

29 2. A. In this subparagraph, “contract” means an
30 agreement with a company or individual to handle financial matters, maintenance, or
31 services for the condominium.

32 B. “Contract” does not include an agreement relating to the
33 provision of utility services or communication systems.

1 3. Until all members of the board of directors of the
2 condominium are elected by the unit owners at a transitional meeting as specified in
3 subparagraph (i) of this paragraph, a contract entered into by the officers or board of
4 directors of the condominium may be terminated, at the discretion of the board of directors
5 and without liability for the termination, not later than 30 days after notice.

6 (vi) If the developer fails to comply with the requirements of this
7 paragraph, an aggrieved unit owner may submit the dispute to the Division of Consumer
8 Protection of the Office of the Attorney General under § 11-130(c) of this title.

9 11-109.2.

10 (a) The council of unit owners shall cause to be prepared and submitted to the
11 unit owners an annual proposed budget at least 30 days before its adoption.

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

13 (1) Income;

14 (2) Administration;

15 (3) Maintenance;

16 (4) Utilities;

17 (5) General expenses;

18 (6) **[Reserves] RESERVE FUNDS EQUAL TO AT LEAST 80% OF THE**
19 **FUNDING AMOUNT RECOMMENDED IN THE MOST RECENT RESERVE STUDY**
20 **COMPLETED UNDER § 11-109.4 OF THIS TITLE; and**

21 (7) Capital items.

22 (c) The budget shall be adopted at an open meeting of the council of unit owners
23 or any other body to which the council of unit owners delegates responsibilities for
24 preparing and adopting the budget.

25 (d) Any expenditure made other than those made because of conditions which, if
26 not corrected, could reasonably result in a threat to the health or safety of the unit owners
27 or a significant risk of damage to the condominium, that would result in an increase in an
28 amount of assessments for the current fiscal year of the condominium in excess of 15
29 percent of the budgeted amount previously adopted, shall be approved by an amendment
30 to the budget adopted at a special meeting, upon not less than 10 days written notice to the
31 council of unit owners.

32 (e) The adoption of a budget shall not impair the authority of the council of unit
33 owners to obligate the council of unit owners for expenditures for any purpose consistent

1 with any provision of this title.

2 (f) The provisions of this section do not apply to a condominium that is occupied
3 and used solely for nonresidential purposes.

4 **11-109.4.**

5 (A) IN THIS SECTION, "RESERVE STUDY" MEANS A STUDY OF THE RESERVES
6 REQUIRED FOR FUTURE MAJOR REPAIRS AND REPLACEMENT OF THE COMMON
7 ELEMENTS OF A CONDOMINIUM THAT:

8 (1) IDENTIFIES EACH STRUCTURAL, MECHANICAL, ELECTRICAL, AND
9 PLUMBING COMPONENT OF THE COMMON ELEMENTS AND ANY OTHER COMPONENTS
10 THAT ARE THE RESPONSIBILITY OF THE COUNCIL OF UNIT OWNERS TO REPAIR AND
11 REPLACE;

12 (2) STATES THE ESTIMATED REMAINING USEFUL LIFE OF EACH
13 IDENTIFIED COMPONENT;

14 (3) STATES THE ESTIMATED COST OF REPAIR OR REPLACEMENT OF
15 EACH IDENTIFIED COMPONENT; AND

16 (4) STATES THE ESTIMATED ANNUAL RESERVE AMOUNT NECESSARY
17 TO ACCOMPLISH ANY IDENTIFIED FUTURE REPAIR OR REPLACEMENT.

18 (B) THIS SECTION APPLIES ONLY TO A CONDOMINIUM THAT HAS MORE
19 THAN 50 UNITS.

20 (C) (1) THIS SUBSECTION APPLIES TO A CONDOMINIUM ESTABLISHED ON
21 OR AFTER OCTOBER 1, 2020.

22 (2) THE GOVERNING BODY OF THE CONDOMINIUM SHALL HAVE AN
23 INDEPENDENT RESERVE STUDY COMPLETED NOT MORE THAN 90 CALENDAR DAYS
24 AND NOT LESS THAN 30 CALENDAR DAYS BEFORE THE MEETING OF THE COUNCIL OF
25 UNIT OWNERS REQUIRED UNDER § 11-109(C)(16) OF THIS SUBTITLE.

26 (3) THE GOVERNING BODY SHALL HAVE A RESERVE STUDY
27 COMPLETED WITHIN 5 YEARS AFTER THE DATE OF THE INITIAL RESERVE STUDY
28 CONDUCTED UNDER PARAGRAPH (2) OF THIS SUBSECTION AND AT LEAST EVERY 5
29 YEARS THEREAFTER.

30 (D) (1) THIS SUBSECTION APPLIES TO A CONDOMINIUM ESTABLISHED
31 BEFORE OCTOBER 1, 2020.

1 **(2) IF THE GOVERNING BODY OF A CONDOMINIUM HAS HAD A**
2 **RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1, 2016, THE GOVERNING**
3 **BODY SHALL HAVE A RESERVE STUDY CONDUCTED WITHIN 5 YEARS AFTER THE DATE**
4 **OF THAT RESERVE STUDY AND AT LEAST EVERY 5 YEARS THEREAFTER.**

5 **(3) IF THE GOVERNING BODY OF A CONDOMINIUM HAS NOT HAD A**
6 **RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1, 2016, THE GOVERNING**
7 **BODY SHALL HAVE A RESERVE STUDY CONDUCTED ON OR BEFORE OCTOBER 1, 2021,**
8 **AND AT LEAST EVERY 5 YEARS THEREAFTER.**

9 **(E) EACH RESERVE STUDY REQUIRED UNDER THIS SECTION SHALL:**

10 **(1) BE PREPARED BY A PERSON WHO:**

11 **(I) HAS PREPARED AT LEAST 30 RESERVE STUDIES WITHIN THE**
12 **PRIOR 3 CALENDAR YEARS;**

13 **(II) HOLDS A BACHELOR'S DEGREE IN CONSTRUCTION**
14 **MANAGEMENT, ARCHITECTURE, OR ENGINEERING, OR EQUIVALENT EXPERIENCE**
15 **AND EDUCATION; OR**

16 **(III) HOLDS A CURRENT LICENSE FROM THE STATE BOARD OF**
17 **ARCHITECTS OR THE STATE BOARD FOR PROFESSIONAL ENGINEERS;**

18 **(2) BE AVAILABLE FOR INSPECTION AND COPYING BY ANY UNIT**
19 **OWNER;**

20 **(3) BE REVIEWED BY THE GOVERNING BODY OF THE CONDOMINIUM**
21 **IN CONNECTION WITH THE PREPARATION OF THE ANNUAL PROPOSED BUDGET; AND**

22 **(4) BE SUMMARIZED FOR SUBMISSION WITH THE ANNUAL PROPOSED**
23 **BUDGET TO THE UNIT OWNERS.**

24 11-110.

25 (b) (1) **(I) Funds for the payment of current common expenses and for the**
26 **creation of reserves for the payment of future common expenses shall be obtained by**
27 **assessments against the unit owners in proportion to their percentage interests in common**
28 **expenses and common profits.**

29 **(II) THE BOARD OF DIRECTORS HAS THE AUTHORITY TO**
30 **INCREASE THE ASSESSMENT LEVIED TO COVER THE RESERVE FUNDING AMOUNT**
31 **REQUIRED UNDER § 11-109.4 OF THIS TITLE, NOTWITHSTANDING ANY PROVISION**
32 **OF THE DECLARATION, ARTICLES OF INCORPORATION, OR BYLAWS RESTRICTING**

1 ASSESSMENT INCREASES OR CAPPING THE ASSESSMENT THAT MAY BE LEVIED IN A
2 FISCAL YEAR.

3 11B–106.1.

4 (a) A meeting of the members of the homeowners association to elect a governing
5 body of the homeowners association shall be held within:

6 (1) 60 days from the date that at least 75% of the total number of lots that
7 may be part of the development after all phases are complete are sold to members of the
8 public for residential purposes; or

9 (2) If a lesser percentage is specified in the governing documents of the
10 homeowners association, 60 days from the date the specified lesser percentage of the total
11 number of lots in the development after all phases are complete are sold to members of the
12 public for residential purposes.

13 (b) (1) Before the date of the meeting held under subsection (a) of this section,
14 the declarant shall deliver to each lot owner notice that the requirements of subsection (a)
15 of this section have been met.

16 (2) The notice shall include the date, time, and place of the meeting to elect
17 the governing body of the homeowners association.

18 (c) The term of each member of the governing body of the homeowners association
19 appointed by the declarant shall end 10 days after the meeting under subsection (a) of this
20 section is held, if a replacement board member is elected.

21 (d) Within 30 days from the date of the meeting held under subsection (a) of this
22 section, the declarant shall deliver the following items to the governing body at the
23 declarant's expense:

24 (1) The deeds to the common areas;

25 (2) Copies of the homeowners association's filed articles of incorporation,
26 declaration, and all recorded covenants, plats, restrictions, and any other records of the
27 primary development and of related developments;

28 (3) A copy of the bylaws and rules of the primary development and of other
29 related developments as filed in the depository of the county in which the development is
30 located;

31 (4) The minute books, including all minutes;

32 (5) Subject to the restrictions of § 11B–112 of this title, all books and
33 records of the homeowners association, including financial statements, minutes of any
34 meeting of the governing body, and completed business transactions;

1 (6) Any policies, rules, and regulations adopted by the governing body;

2 (7) The financial records of the homeowners association from the date of
3 creation to the date of transfer of control, including budget information regarding estimated
4 and actual expenditures by the homeowners association and any report relating to the
5 reserves required for major repairs and replacement of the common areas of the
6 homeowners association;

7 (8) A copy of all contracts to which the homeowners association is a party;

8 (9) The name, address, and telephone number of any contractor or
9 subcontractor employed by the homeowners association;

10 (10) Any insurance policies in effect;

11 (11) Any permit or notice of code violations issued to the homeowners
12 association by the county, local, State, or federal government;

13 (12) Any warranty in effect and all prior insurance policies;

14 (13) The homeowners association funds, including operating funds,
15 replacement reserves **EQUAL TO AT LEAST THE RESERVE FUNDING AMOUNT**
16 **RECOMMENDED IN THE RESERVE STUDY COMPLETED UNDER § 11B-112.3 OF THIS**
17 **TITLE AS OF THE DATE OF THE MEETING**, investment accounts, and working capital;

18 (14) The tangible property of the homeowners association;

19 (15) A roster of current lot owners, including their mailing addresses,
20 telephone numbers, and lot numbers, if known;

21 (16) Individual member files and records, including assessment account
22 records, correspondence, and notices of any violations; and

23 (17) Drawings, architectural plans, or other suitable documents setting
24 forth the necessary information for location, maintenance, and repairs of all common areas.

25 (e) (1) This subsection does not apply to a contract entered into before October
26 1, 2009.

27 (2) (i) In this subsection, "contract" means an agreement with a
28 company or individual to handle financial matters, maintenance, or services for the
29 homeowners association.

30 (ii) "Contract" does not include an agreement relating to the
31 provision of utility services or communication systems.

1 (3) Until all members of the governing body are elected by the lot owners
2 at a transitional meeting under subsection (a) of this section, a contract entered into by the
3 governing body may be terminated, at the discretion of the governing body and without
4 liability for the termination, not later than 30 days after notice.

5 (f) If the declarant fails to comply with the requirements of this section, an
6 aggrieved lot owner may submit the dispute to the Division of Consumer Protection of the
7 Office of the Attorney General under § 11B-115(c) of this title.

8 11B-112.2.

9 (a) This section applies only to a homeowners association that has responsibility
10 under its declaration for maintaining and repairing common areas.

11 (b) (1) The board of directors or other governing body of a homeowners
12 association shall cause to be prepared and submitted to the lot owners an annual proposed
13 budget at least 30 days before its adoption.

14 (2) The annual proposed budget may be sent to each lot owner by electronic
15 transmission, by posting on the homeowners association's home page, or by including the
16 annual proposed budget in the homeowners association's newsletter.

17 (c) The annual budget shall provide [information on or expenditures] for at least
18 the following items:

19 (1) Income;

20 (2) Administration;

21 (3) Maintenance;

22 (4) Utilities;

23 (5) General expenses;

24 (6) [Reserves] **RESERVE FUNDS EQUAL TO AT LEAST 80% OF THE**
25 **FUNDING AMOUNT RECOMMENDED IN THE MOST RECENT RESERVE STUDY**
26 **COMPLETED UNDER § 11B-112.3 OF THIS TITLE;** and

27 (7) Capital expenses.

28 (d) (1) The budget shall be adopted at an open meeting of the homeowners
29 association or any other body to which the homeowners association delegates
30 responsibilities for preparing and adopting the budget.

31 (2) (i) Notice of the meeting at which the proposed budget will be
32 considered shall be sent to each lot owner.

1 (ii) Notice under subparagraph (i) of this paragraph may be sent by
2 electronic transmission, by posting on the homeowners association's home page, or by
3 including the notice in the homeowners association's newsletter.

4 (e) Except for an expenditure made by the homeowners association because of a
5 condition that, if not corrected, could reasonably result in a threat to the health or safety
6 of the lot owners or a significant risk of damage to the development, any expenditure that
7 would result in an increase in an amount of assessments for the current fiscal year of the
8 homeowners association in excess of 15% of the budgeted amount previously adopted shall
9 be approved by an amendment to the budget adopted at a special meeting for which not
10 less than 10 days' written notice shall be provided to the lot owners.

11 (f) The adoption of a budget does not impair the authority of the homeowners
12 association to obligate the homeowners association for expenditures for any purpose
13 consistent with any provision of this title.

14 **11B-112.3.**

15 (A) IN THIS SECTION, "RESERVE STUDY" MEANS A STUDY OF THE RESERVES
16 REQUIRED FOR FUTURE MAJOR REPAIRS AND REPLACEMENT OF THE COMMON
17 AREAS OF A HOMEOWNERS ASSOCIATION THAT:

18 (1) IDENTIFIES EACH STRUCTURAL, MECHANICAL, ELECTRICAL, AND
19 PLUMBING COMPONENT OF THE COMMON AREAS AND ANY OTHER COMPONENTS
20 THAT ARE THE RESPONSIBILITY OF THE HOMEOWNERS ASSOCIATION TO REPAIR
21 AND REPLACE;

22 (2) STATES THE ESTIMATED REMAINING USEFUL LIFE OF EACH
23 IDENTIFIED COMPONENT;

24 (3) STATES THE ESTIMATED COST OF REPAIR OR REPLACEMENT OF
25 EACH IDENTIFIED COMPONENT; AND

26 (4) STATES THE ESTIMATED ANNUAL RESERVE AMOUNT NECESSARY
27 TO ACCOMPLISH ANY IDENTIFIED FUTURE REPAIR OR REPLACEMENT.

28 (B) (1) THIS SECTION APPLIES ONLY TO A HOMEOWNERS ASSOCIATION
29 THAT:

30 (I) HAS MORE THAN 50 DWELLING UNITS IN THE
31 DEVELOPMENT; AND

32 (II) HAS RESPONSIBILITY UNDER ITS DECLARATION FOR
33 MAINTAINING AND REPAIRING COMMON AREAS.

1 **(2) THIS SECTION DOES NOT APPLY TO A HOMEOWNERS ASSOCIATION**
2 **THAT ISSUES BONDS FOR THE PURPOSE OF MEETING CAPITAL EXPENDITURES.**

3 **(C) (1) THIS SUBSECTION APPLIES TO A HOMEOWNERS ASSOCIATION**
4 **ESTABLISHED ON OR AFTER OCTOBER 1, 2020.**

5 **(2) THE GOVERNING BODY OF THE HOMEOWNERS ASSOCIATION**
6 **SHALL HAVE AN INDEPENDENT RESERVE STUDY COMPLETED NOT MORE THAN 90**
7 **CALENDAR DAYS AND NOT LESS THAN 30 CALENDAR DAYS BEFORE THE MEETING OF**
8 **THE HOMEOWNERS ASSOCIATION REQUIRED UNDER § 11B-106.1(A) OF THIS TITLE.**

9 **(3) THE GOVERNING BODY SHALL HAVE A RESERVE STUDY**
10 **COMPLETED WITHIN 5 YEARS AFTER THE DATE OF THE INITIAL RESERVE STUDY**
11 **CONDUCTED UNDER PARAGRAPH (2) OF THIS SUBSECTION AND AT LEAST EVERY 5**
12 **YEARS THEREAFTER.**

13 **(D) (1) THIS SUBSECTION APPLIES TO A HOMEOWNERS ASSOCIATION**
14 **ESTABLISHED BEFORE OCTOBER 1, 2020.**

15 **(2) IF THE GOVERNING BODY OF A HOMEOWNERS ASSOCIATION HAS**
16 **HAD A RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1, 2016, THE**
17 **GOVERNING BODY SHALL HAVE A RESERVE STUDY CONDUCTED WITHIN 5 YEARS**
18 **AFTER THE DATE OF THAT RESERVE STUDY AND AT LEAST EVERY 5 YEARS**
19 **THEREAFTER.**

20 **(3) IF THE GOVERNING BODY OF A HOMEOWNERS ASSOCIATION HAS**
21 **NOT HAD A RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1, 2016, THE**
22 **GOVERNING BODY SHALL HAVE A RESERVE STUDY CONDUCTED ON OR BEFORE**
23 **OCTOBER 1, 2021, AND AT LEAST EVERY 5 YEARS THEREAFTER.**

24 **(E) EACH RESERVE STUDY REQUIRED UNDER THIS SECTION SHALL:**

25 **(1) BE PREPARED BY A PERSON WHO:**

26 **(I) HAS PREPARED AT LEAST 30 RESERVE STUDIES WITHIN THE**
27 **PRIOR 3 CALENDAR YEARS;**

28 **(II) HOLDS A BACHELOR'S DEGREE IN CONSTRUCTION**
29 **MANAGEMENT, ARCHITECTURE, OR ENGINEERING, OR EQUIVALENT EXPERIENCE**
30 **AND EDUCATION; OR**

31 **(III) HOLDS A CURRENT LICENSE FROM THE STATE BOARD OF**
32 **ARCHITECTS OR THE STATE BOARD FOR PROFESSIONAL ENGINEERS;**

1 **(2) BE AVAILABLE FOR INSPECTION AND COPYING BY ANY LOT**
2 **OWNER;**

3 **(3) BE REVIEWED BY THE GOVERNING BODY OF THE HOMEOWNERS**
4 **ASSOCIATION IN CONNECTION WITH THE PREPARATION OF THE ANNUAL PROPOSED**
5 **BUDGET; AND**

6 **(4) BE SUMMARIZED FOR SUBMISSION WITH THE ANNUAL PROPOSED**
7 **BUDGET TO THE LOT OWNERS.**

8 11B-117.

9 (a) **(1)** As provided in the declaration, a lot owner shall be liable for all
10 homeowners association assessments and charges that come due during the time that the
11 lot owner owns the lot.

12 **(2) THE GOVERNING BODY OF A HOMEOWNERS ASSOCIATION HAS**
13 **THE AUTHORITY TO INCREASE AN ASSESSMENT LEVIED TO COVER THE RESERVE**
14 **FUNDING AMOUNT REQUIRED UNDER § 11B-112.3 OF THIS TITLE,**
15 **NOTWITHSTANDING ANY PROVISION OF THE DECLARATION, ARTICLES OF**
16 **INCORPORATION, OR BYLAWS RESTRICTING ASSESSMENT INCREASES OR CAPPING**
17 **THE ASSESSMENT THAT MAY BE LEVIED IN A FISCAL YEAR.**

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2020.