

HOUSE BILL 401

N1, C1

2lr0915

By: **Prince George's County Delegation**

Introduced and read first time: January 19, 2022

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Prince George's County – Cooperative Housing Corporations, Condominiums,**
3 **and Homeowners Associations – Reserve Studies**

4 **PG 403–22**

5 FOR the purpose of altering language relating to requirements for reserve studies for
6 cooperative housing corporations, condominiums, and homeowners associations in
7 Prince George's County to be consistent with the corresponding requirements in
8 Montgomery County; and generally relating to reserve studies of cooperative housing
9 corporations, condominiums, and homeowners associations in Prince George's
10 County.

11 BY repealing and reenacting, with amendments,
12 Article – Corporations and Associations
13 Section 5–6B–26.1
14 Annotated Code of Maryland
15 (2014 Replacement Volume and 2021 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Real Property
18 Section 11–109.4 and 11B–112.3
19 Annotated Code of Maryland
20 (2015 Replacement Volume and 2021 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.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) In this section, “reserve study” means a study of the reserves required for
2 future major repairs and replacement of the common elements of a cooperative housing
3 corporation that:

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

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

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

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

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

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

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

18 (ii) Montgomery County on or after October 1, 2021.

19 (2) The governing body of the cooperative housing corporation shall have
20 an independent reserve study completed not less than 30 calendar days before the first
21 meeting of the cooperative housing corporation at which the members other than the owner
22 have a majority of votes in the cooperative housing corporation.

23 (3) (i) In Prince George’s County, the governing body shall have **[a] AN**
24 **UPDATED** reserve study completed within 5 years after the date of the initial reserve study
25 conducted under paragraph (2) of this subsection **[and], WHICH SHALL BE UPDATED** at
26 least every 5 years thereafter.

27 (ii) In Montgomery County, the governing body shall have an
28 updated reserve study completed within 5 years after the date of the initial reserve study
29 conducted under paragraph (2) of this subsection, which shall be updated at least every 5
30 years thereafter.

31 (d) (1) (i) This paragraph applies only to a cooperative housing corporation
32 established in Prince George’s County before October 1, 2020.

33 (ii) If the governing body of a cooperative housing corporation has
34 had a reserve study conducted on or after October 1, 2016, the governing body shall have

1 [a] AN UPDATED reserve study conducted within 5 years after the date of that reserve
2 study [and], WHICH SHALL BE UPDATED at least every 5 years thereafter.

3 (iii) If the governing body of a cooperative housing corporation has
4 not had a reserve study conducted on or after October 1, 2016, the governing body shall
5 have a reserve study conducted on or before October 1, 2021, [and] WHICH SHALL BE
6 UPDATED at least every 5 years thereafter.

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

9 (ii) If the governing body of a cooperative housing corporation has
10 had a reserve study conducted on or after October 1, 2017, the governing body shall have
11 an updated reserve study conducted within 5 years after the date of that reserve study,
12 which shall be updated at least every 5 years thereafter.

13 (iii) If the governing body of a cooperative housing corporation has
14 not had a reserve study conducted on or after October 1, 2017, the governing body shall
15 have a reserve study conducted on or before October 1, 2022, which shall be updated at
16 least every 5 years thereafter.

17 (e) Each reserve study required under this section shall:

18 (1) Be prepared by a person who:

19 (i) Has prepared at least 30 reserve studies within the prior 3
20 calendar years;

21 (ii) Holds a bachelor's degree in construction management,
22 architecture, or engineering or equivalent experience and education;

23 (iii) Holds a current license from the State Board of Architects or the
24 State Board for Professional Engineers; or

25 (iv) Is currently designated as a reserve specialist by the Community
26 Association Institute or as a professional reserve analyst by the Association of Professional
27 Reserve Analysts;

28 (2) Be available for inspection and copying by any unit owner;

29 (3) Be reviewed by the governing body of the cooperative housing
30 corporation in connection with the preparation of the annual proposed budget; and

31 (4) Be summarized for submission with the annual proposed budget to the
32 unit owners.

33 (f) To the extent that a reserve study conducted in accordance with this section

1 indicates a need to budget for reserves, the budget shall include:

2 (1) For the capital components, the current estimated:

3 (i) Replacement cost;

4 (ii) Remaining life; and

5 (iii) Useful life;

6 (2) The amount of accumulated cash reserves set aside for the repair,
7 replacement, or restoration of capital components as of the beginning of the fiscal year in
8 which the reserve study is conducted and the amount of the expected contribution to the
9 reserve fund for the fiscal year;

10 (3) A statement describing the procedures used for estimation and
11 accumulation of cash reserves in accordance with this section; and

12 (4) A statement of the amount of reserves recommended in the study and
13 the amount of current cash for replacement reserves.

14 (g) (1) The governing body of a cooperative housing corporation shall provide
15 funds to the reserve in accordance with the most recent reserve study and shall review the
16 reserve study annually for accuracy.

17 (2) The governing body of a cooperative housing corporation has the
18 authority to increase an assessment levied to cover the reserve funding amount required
19 under this section, notwithstanding any provision of the articles of incorporation, bylaws,
20 or proprietary lease restricting assessment increases or capping the assessment that may
21 be levied in a fiscal year.

22 Article – Real Property

23 11–109.4.

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

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

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

32 (3) States the estimated cost of repair or replacement of each identified

1 component; and

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

4 (b) This section applies only to a condominium in Prince George's County or
5 Montgomery County.

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

7 (i) Prince George's County on or after October 1, 2020; or

8 (ii) Montgomery County on or after October 1, 2021.

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

12 (3) (i) In Prince George's County, the governing body shall have [a] **AN**
13 **UPDATED** reserve study completed within 5 years after the date of the initial reserve study
14 conducted under paragraph (2) of this subsection [and], **WHICH SHALL BE UPDATED** at
15 least every 5 years thereafter.

16 (ii) In Montgomery County, the governing body shall have an
17 updated reserve study completed within 5 years after the date of the initial reserve study
18 conducted under paragraph (2) of this subsection, which shall be updated at least every 5
19 years thereafter.

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

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

26 (iii) If the governing body of a condominium has not had a reserve
27 study conducted on or after October 1, 2016, the governing body shall have a reserve study
28 conducted on or before October 1, 2021, [and] **WHICH SHALL BE UPDATED** at least every
29 5 years thereafter.

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

32 (ii) If the governing body of a condominium has had a reserve study
33 conducted on or after October 1, 2017, the governing body shall have an updated reserve

1 study conducted within 5 years after the date of that reserve study, which shall be updated
2 at least every 5 years thereafter.

3 (iii) If the governing body of a condominium has not had a reserve
4 study conducted on or after October 1, 2017, the governing body shall have a reserve study
5 conducted on or before October 1, 2022, which shall be updated at least every 5 years
6 thereafter.

7 (e) Each reserve study required under this section shall:

8 (1) Be prepared by a person who:

9 (i) Has prepared at least 30 reserve studies within the prior 3
10 calendar years;

11 (ii) Holds a bachelor's degree in construction management,
12 architecture, or engineering, or equivalent experience and education;

13 (iii) Holds a current license from the State Board of Architects or the
14 State Board for Professional Engineers; or

15 (iv) Is currently designated as a reserve specialist by the Community
16 Association Institute or as a professional reserve analyst by the Association of Professional
17 Reserve Analysts;

18 (2) Be available for inspection and copying by any unit owner;

19 (3) Be reviewed by the governing body of the condominium in connection
20 with the preparation of the annual proposed budget; and

21 (4) Be summarized for submission with the annual proposed budget to the
22 unit owners.

23 11B-112.3.

24 (a) In this section, "reserve study" means a study of the reserves required for
25 future major repairs and replacement of the common areas of a homeowners association in
26 Prince George's County or Montgomery County that:

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

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

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

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

3 (b) (1) This section applies only to a homeowners association in Prince
4 George's County or Montgomery County that has responsibility under its declaration for
5 maintaining and repairing common areas.

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

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

10 (i) Prince George's County on or after October 1, 2020; or

11 (ii) Montgomery County on or after October 1, 2021.

12 (2) The governing body of the homeowners association shall have an
13 independent reserve study completed not more than 90 calendar days and not less than 30
14 calendar days before the meeting of the homeowners association required under §
15 11B-106.1(a) of this title.

16 (3) (i) In Prince George's County, the governing body shall have [a] AN
17 **UPDATED** reserve study completed within 5 years after the date of the initial reserve study
18 conducted under paragraph (2) of this subsection [and], **WHICH SHALL BE UPDATED** at
19 least every 5 years thereafter.

20 (ii) In Montgomery County, the governing body shall have an
21 updated reserve study completed within 5 years after the date of the initial reserve study
22 conducted under paragraph (2) of this subsection, which shall be updated at least every 5
23 years thereafter.

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

26 (ii) If the governing body of a homeowners association has had a
27 reserve study conducted on or after October 1, 2016, the governing body shall have [a] AN
28 **UPDATED** reserve study conducted within 5 years after the date of that reserve study
29 [and], **WHICH SHALL BE UPDATED** at least every 5 years thereafter.

30 (iii) If the governing body of a homeowners association has not had a
31 reserve study conducted on or after October 1, 2016, the governing body shall have a reserve
32 study conducted on or before October 1, 2021, [and] **WHICH SHALL BE UPDATED** at least
33 every 5 years thereafter.

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

3 (ii) If the governing body of a homeowners association has had a
4 reserve study conducted on or after October 1, 2017, the governing body shall have an
5 updated reserve study conducted within 5 years after the date of that reserve study, which
6 shall be updated at least every 5 years thereafter.

7 (iii) If the governing body of a homeowners association has not had a
8 reserve study conducted on or after October 1, 2017, the governing body shall have a reserve
9 study conducted on or before October 1, 2022, which shall be updated at least every 5 years
10 thereafter.

11 (e) Each reserve study required under this section shall:

12 (1) Be prepared by a person who:

13 (i) Has prepared at least 30 reserve studies within the prior 3
14 calendar years;

15 (ii) Holds a bachelor's degree in construction management,
16 architecture, or engineering or equivalent experience and education;

17 (iii) Holds a current license from the State Board of Architects or the
18 State Board for Professional Engineers; or

19 (iv) Is currently designated as a reserve specialist by the Community
20 Association Institute or as a professional reserve analyst by the Association of Professional
21 Reserve Analysts;

22 (2) Be available for inspection and copying by any lot owner;

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

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

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