

SB0063/463923/1

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL 63
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with “requiring” in line 4 down through “funds;” in line 5; in line 11, after “level;” insert “authorizing a cooperative housing corporation, a residential condominium, or a homeowners association to reasonably deviate from certain reserve funding requirements following a certain financial hardship determination by the governing body;”; in line 12, after “requiring” insert “the governing body of a cooperative housing corporation,”; in the same line, after “condominium” insert a comma; in the same line, after “the” insert “reserves and the most recent reserve study or updated”; in line 13, strike “for accuracy” and substitute “to determine whether there is adequate funding in accordance with a certain funding plan; altering the definition of “reserve study” to provide that the governing body of a cooperative housing corporation, a residential condominium, or a homeowners association may determine a minimum cost of repair or replacement for components, subject to certain restrictions”; in line 15, after “requirements;” insert “altering a certain provision of law relating to component costs and the application of certain reserve study requirements to a homeowners association;”; in line 16, after “to” insert “the funding of reserve accounts,”; in the same line, after “studies” insert a comma; after line 22, insert:

“BY repealing and reenacting, without amendments,

Article - Real Property

Section 11-109.2(b) and 11B-112.2(c)

Annotated Code of Maryland

(2023 Replacement Volume and 2024 Supplement)”;

in line 25, strike “11-109.2(b) and (c)” and substitute “11-109.2(c)”; and in the same line, strike “11B-112.2(c) and (d)” and substitute “11B-112.2(d)”.

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AMENDMENT NO. 2

On page 2, in line 13, after “replace;” insert “AND”

2. IF APPLICABLE, MEET A MINIMUM COST OF REPAIR OR REPLACEMENT, AS DETERMINED BY THE GOVERNING BODY, THAT IS:

A. REASONABLY BASED ON THE EXPENSES OF THE COOPERATIVE HOUSING CORPORATION; AND

B. NOT A MINOR EXPENSE THAT IS OTHERWISE ADDRESSED BY THE BUDGET OF THE COOPERATIVE HOUSING CORPORATION;”.

On page 5, strike beginning with “IF” in line 1 down through “STUDY” in line 3; in line 14, after “to” insert “PARAGRAPH (2) OF THIS SUBSECTION AND”; in line 16, after “study” insert “OR UPDATED RESERVE STUDY”; in line 18, after “the” insert “RESERVES AND THE MOST RECENT RESERVE STUDY OR UPDATED”; in the same line, strike “for accuracy” and substitute “TO DETERMINE WHETHER THERE IS ADEQUATE FUNDING IN ACCORDANCE WITH THE FUNDING PLAN REQUIRED UNDER SUBSECTION (G) OF THIS SECTION”; strike beginning with “OF” in line 19 down through “ACCURACY” in line 20 and substitute “UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH”; in line 22, strike “If” and substitute “SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF”; in line 25, after “study” insert “IN ACCORDANCE WITH THE FUNDING PLAN UNDER SUBSECTION (G) OF THIS SECTION”; and in line 26, after “(2)” insert “(I) THE GOVERNING BODY OF A COOPERATIVE HOUSING CORPORATION MAY DETERMINE BY A TWO-THIRDS MAJORITY VOTE THAT THE COOPERATIVE HOUSING CORPORATION AND THE MEMBERS ARE EXPERIENCING A FINANCIAL HARDSHIP THAT LIMITS THE ABILITY TO FUND RESERVES THAT ARE REQUIRED UNDER PARAGRAPH (1)(I) OR (II) OF THIS SUBSECTION.”

(II) SUBJECT TO SUBPARAGRAPHS (III) THROUGH (V) OF THIS PARAGRAPH, IF A GOVERNING BODY MAKES A FINANCIAL HARDSHIP DETERMINATION BASED ON THE RESERVE FUNDING REQUIREMENTS OF PARAGRAPH (1)(I) OR (II) OF THIS SUBSECTION:

1. THE COOPERATIVE HOUSING CORPORATION MAY REASONABLY DEVIATE FROM THAT RESERVE FUNDING REQUIREMENT; AND

2. THE FUNDING LEVEL UNDER THAT REQUIREMENT SHALL BE AT LEAST THE FUNDING AMOUNT NECESSARY FOR THE PURPOSES SPECIFIED UNDER SUBSECTION (G)(3) OF THIS SECTION.

(III) 1. EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, A COOPERATIVE HOUSING CORPORATION MAY NOT DEVIATE FROM THE RESERVE FUNDING REQUIREMENTS OF PARAGRAPH (1)(I) OR (II) OF THIS SUBSECTION FOR A PERIOD OF MORE THAN 1 FISCAL YEAR FOLLOWING THE FINANCIAL HARDSHIP DETERMINATION.

2. THE GOVERNING BODY MAY RENEW A FINANCIAL HARDSHIP DETERMINATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH BY A TWO-THIRDS MAJORITY VOTE TO EXTEND THE PERIOD THAT A COOPERATIVE HOUSING CORPORATION MAY DEVIATE FROM THE RESERVE FUNDING REQUIREMENT BY 1 FISCAL YEAR FOLLOWING THE RENEWAL.

(IV) THE GOVERNING BODY SHALL:

1. MAKE GOOD FAITH EFFORTS TO RESOLVE THE FINANCIAL HARDSHIP AND RESUME FUNDING RESERVES AS REQUIRED UNDER PARAGRAPH (1)(I) OR (II) OF THIS SUBSECTION;

(Over)

2. MAINTAIN DETAILED DOCUMENTATION OF THE GOOD FAITH EFFORTS MADE UNDER ITEM 1 OF THIS SUBPARAGRAPH; AND

3. TREAT THE DOCUMENTS UNDER ITEM 2 OF THIS SUBPARAGRAPH AS RECORDS FOR EXAMINATION AND COPYING UNDER § 5-6B-26 OF THIS SUBTITLE.

(v) 1. ALL MEMBERS SHALL BE GIVEN REASONABLE NOTICE IN ADVANCE OF A VOTE ON AN INITIAL OR A RENEWAL OF A FINANCIAL HARDSHIP DETERMINATION UNDER THIS PARAGRAPH.

2. A VOTE ON AN INITIAL OR A RENEWAL OF A FINANCIAL HARDSHIP DETERMINATION UNDER THIS PARAGRAPH MAY BE TAKEN ONLY AT A REGULAR OR SPECIAL MEETING OF THE COOPERATIVE HOUSING CORPORATION.

(3)".

AMENDMENT NO. 3

On page 2 in line 12, on page 8 in line 1, and on page 12 in line 17, in each instance, strike "are" and substitute ":

1. ARE".

On page 2 in line 20, on page 8 in line 9, and on page 12 in line 25, in each instance, strike "SQUARE FOOTAGE" and substitute "**QUANTITY OR SIZE**".

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On page 2 in line 21, on page 8 in line 10, and on page 12 in line 26, in each instance, after “COMPONENT” insert “USING THE APPROPRIATE MEASUREMENT, SUCH AS UNIT AMOUNT, SQUARE FOOTAGE, OR CUBIC FEET”.

On page 5 in line 20, on page 7 in line 23, and on page 12 in line 8, in each instance, after “STUDY” insert “OR UPDATED RESERVE STUDY”.

On page 5 in line 34, on page 10 in line 18, and on page 15 in line 13, in each instance, strike “FULLY”.

On page 6 in line 2, on page 10 in line 21, and on page 15 in line 16, in each instance, strike “CONSIDER” and substitute “SELECT ONE OF”.

On page 6 in line 4, on page 10 in line 23, and on page 15 in line 18, in each instance, strike “OR FULL FUNDING”.

On page 6 in line 7, on page 10 in line 26, and on page 15 in line 21, in each instance, strike “AND” and substitute “OR”.

On page 6 in line 14, on page 11 in line 1, and on page 15 in line 27, in each instance, strike “MEMBERS” and substitute “OCCUPANTS”.

On page 6 in line 16, on page 11 in line 3, and on page 15 in line 29, in each instance, strike the second “AND”.

On page 6 in line 17, on page 11 in line 4, and on page 16 in line 1, in each instance, after “PLUMBING” insert “, SEWER, HEATING, COOLING,”.

On page 6 in line 18, on page 11 in line 5, and on page 16 in line 2, in each instance, after “INFRASTRUCTURE” insert “; AND”.

(Over)

(IV) ANY OTHER ESSENTIAL OR CRITICAL PURPOSE, AS DETERMINED BY THE GOVERNING BODY”.

On page 6, strike in their entirety lines 19 and 20 and substitute:

“(4) RESERVES MAY BE USED FOR PURPOSES OTHER THAN THOSE SPECIFIED IN THE FUNDING PLAN IF THE FUNDS ARE REPAYED TO THE RESERVE FUND WITHIN 5 YEARS AFTER THEIR USE.”.

On page 11, strike in their entirety lines 6 and 7 and substitute:

“(4) RESERVES MAY BE USED FOR PURPOSES OTHER THAN THOSE SPECIFIED IN THE FUNDING PLAN IF THE FUNDS ARE REPAYED TO THE RESERVE FUND WITHIN 5 YEARS AFTER THEIR USE.”.

On page 16, strike in their entirety lines 3 and 4 and substitute:

“(4) RESERVES MAY BE USED FOR PURPOSES OTHER THAN THOSE SPECIFIED IN THE FUNDING PLAN IF THE FUNDS ARE REPAYED TO THE RESERVE FUND WITHIN 5 YEARS AFTER THEIR USE.”.

AMENDMENT NO. 4

On page 2, strike beginning with “ANALYZES” in line 25 down through “(II)” in line 26; in line 27, strike “AND”; and strike beginning with “(III)” in line 28 down through “WORK” in line 29 and substitute “**(II) ANALYZES WORK**”.

On page 3, in line 1, strike “2.” and substitute “**(III)**”; and in the same line, strike “WHETHER” and substitute “**IDENTIFIES WHETHER**”.

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On page 8, strike beginning with “ANALYZES” in line 14 down through “(II)” in line 15; in line 16, strike “AND”; strike beginning with “(III)” in line 17 down through “WORK” in line 18 and substitute “(II) ANALYZES WORK”; in line 19, strike “2.” and substitute “(III)”; and in the same line, strike “WHETHER” and substitute “IDENTIFIES WHETHER”.

On pages 12 and 13, strike beginning with “ANALYZES” in line 30 on page 12 down through “(II)” in line 1 on page 13.

On page 13, in line 2, strike “AND”; strike beginning with “(III)” in line 3 down through “WORK” in line 4 and substitute “(II) ANALYZES WORK”; in line 5, strike “2.” and substitute “(III)”; and in the same line, strike “WHETHER” and substitute “IDENTIFIES WHETHER”.

AMENDMENT NO. 5

On page 6 in line 8, and on page 10 in line 27, in each instance, strike “OTHER FUNDING METHODS ACCEPTED BY” and substitute “ANY OTHER FUNDING METHOD CONSISTENT WITH”.

AMENDMENT NO. 6

On page 7, strike beginning with the comma in line 4 down through the second “STUDY” in line 6.

On page 7 in line 8, and on page 11 in line 22, in each instance, strike “paragraph (2)” and substitute “PARAGRAPHS (2) AND (3)”.

On page 7 in line 16, and on page 12 in line 1, in each instance, strike “If” and substitute “SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, IF”.

(Over)

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On page 11, strike beginning with the comma in line 18 down through the second “STUDY” in line 20.

AMENDMENT NO. 7

On page 7 in line 20, and on page 12 in line 5, in each instance, strike “A” and substitute “THE GOVERNING BODY OF A”.

On page 7 in line 20, and on page 12 in line 5, in each instance, after “SHALL” insert “ANNUALLY”.

On page 7 in lines 22 and 23, and on page 12 in lines 7 and 8, in each instance, strike “OF THE RESERVE STUDY FOR ACCURACY” and substitute “UNDER THIS PARAGRAPH”.

AMENDMENT NO. 8

On page 7, in line 19, after “study” insert “IN ACCORDANCE WITH THE FUNDING PLAN UNDER § 11-109.4(F) OF THIS TITLE”; in line 20, after “(3)” insert “(I) THE GOVERNING BODY OF A RESIDENTIAL CONDOMINIUM MAY DETERMINE BY A TWO-THIRDS MAJORITY VOTE THAT THE CONDOMINIUM AND THE UNIT OWNERS ARE EXPERIENCING A FINANCIAL HARDSHIP THAT LIMITS THE ABILITY TO FUND RESERVES THAT ARE REQUIRED UNDER PARAGRAPH (1) OR (2) OF THIS SUBSECTION.

(II) SUBJECT TO SUBPARAGRAPHS (III) THROUGH (V) OF THIS PARAGRAPH, IF A GOVERNING BODY MAKES A FINANCIAL HARDSHIP DETERMINATION BASED ON THE RESERVE FUNDING REQUIREMENTS OF PARAGRAPH (1) OR (2) OF THIS SUBSECTION:

1. THE CONDOMINIUM MAY REASONABLY DEVIATE FROM THAT RESERVE FUNDING REQUIREMENT; AND

2. THE FUNDING LEVEL UNDER THAT REQUIREMENT SHALL BE AT LEAST THE FUNDING AMOUNT NECESSARY FOR THE PURPOSES SPECIFIED UNDER § 11-109.4(F)(3) OF THIS TITLE.

(III) 1. EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, A RESIDENTIAL CONDOMINIUM MAY NOT DEVIATE FROM THE RESERVE FUNDING REQUIREMENTS OF PARAGRAPH (1) OR (2) OF THIS SUBSECTION FOR A PERIOD OF MORE THAN 1 FISCAL YEAR FOLLOWING THE FINANCIAL HARDSHIP DETERMINATION.

2. THE GOVERNING BODY MAY RENEW A FINANCIAL HARDSHIP DETERMINATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH BY A TWO-THIRDS MAJORITY VOTE TO EXTEND THE PERIOD THAT A RESIDENTIAL CONDOMINIUM MAY DEVIATE FROM THE RESERVE FUNDING REQUIREMENT BY 1 FISCAL YEAR FOLLOWING THE RENEWAL.

(IV) THE GOVERNING BODY SHALL:

1. MAKE GOOD FAITH EFFORTS TO RESOLVE THE FINANCIAL HARDSHIP AND RESUME FUNDING RESERVES AS REQUIRED UNDER PARAGRAPH (1) OR (2) OF THIS SUBSECTION;

2. MAINTAIN DETAILED DOCUMENTATION OF THE GOOD FAITH EFFORTS MADE UNDER ITEM 1 OF THIS SUBPARAGRAPH; AND

3. TREAT THE DOCUMENTS UNDER ITEM 2 OF THIS SUBPARAGRAPH AS RECORDS AVAILABLE FOR EXAMINATION AND COPYING UNDER § 11-116 OF THIS TITLE.

(Over)

(v) 1. ALL UNIT OWNERS SHALL BE GIVEN REASONABLE NOTICE IN ADVANCE OF A VOTE ON AN INITIAL OR A RENEWAL OF A FINANCIAL HARDSHIP DETERMINATION UNDER THIS PARAGRAPH.

2. A VOTE ON AN INITIAL OR A RENEWAL OF A FINANCIAL HARDSHIP DETERMINATION UNDER THIS PARAGRAPH MAY BE TAKEN ONLY AT A REGULAR OR SPECIAL MEETING OF THE CONDOMINIUM.

(4);

and in line 21, strike “RESERVE STUDY ANNUALLY FOR ACCURACY” and substitute “**RESERVES AND THE MOST RECENT RESERVE STUDY OR UPDATED RESERVE STUDY TO DETERMINE WHETHER THERE IS ADEQUATE FUNDING IN ACCORDANCE WITH THE FUNDING PLAN REQUIRED UNDER § 11-109.4(F) OF THIS TITLE**”.

On page 8, in line 2, after “replace;” insert “**AND**

2. IF APPLICABLE, MEET A MINIMUM COST OF REPAIR OR REPLACEMENT, AS DETERMINED BY THE GOVERNING BODY, THAT IS:

A. REASONABLY BASED ON THE EXPENSES OF THE CONDOMINIUM; AND

B. NOT A MINOR EXPENSE THAT IS OTHERWISE ADDRESSED BY THE BUDGET OF THE CONDOMINIUM;”.

AMENDMENT NO. 9

On page 12, in line 4, after “study” insert “**IN ACCORDANCE WITH THE FUNDING PLAN UNDER § 11B-112.3(F) OF THIS TITLE**”; in line 5, after “(3)” insert “**(I)**

THE GOVERNING BODY OF A HOMEOWNERS ASSOCIATION MAY DETERMINE BY A TWO-THIRDS MAJORITY VOTE THAT THE HOMEOWNERS ASSOCIATION AND THE LOT OWNERS ARE EXPERIENCING A FINANCIAL HARDSHIP THAT LIMITS THE ABILITY TO FUND RESERVES THAT ARE REQUIRED UNDER PARAGRAPH (1) OR (2) OF THIS SUBSECTION.

(II) SUBJECT TO SUBPARAGRAPHS (III) THROUGH (V) OF THIS PARAGRAPH, IF A GOVERNING BODY MAKES A FINANCIAL HARDSHIP DETERMINATION BASED ON THE RESERVE FUNDING REQUIREMENTS OF PARAGRAPH (1) OR (2) OF THIS SUBSECTION:

1. THE HOMEOWNERS ASSOCIATION MAY REASONABLY DEVIATE FROM THAT RESERVE FUNDING REQUIREMENT; AND

2. THE FUNDING LEVEL UNDER THAT REQUIREMENT SHALL BE AT LEAST THE FUNDING AMOUNT NECESSARY FOR THE PURPOSES SPECIFIED UNDER § 11B-112.3(F)(3) OF THIS TITLE.

(III) 1. EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, A HOMEOWNERS ASSOCIATION MAY NOT DEVIATE FROM THE RESERVE FUNDING REQUIREMENTS OF PARAGRAPH (1) OR (2) OF THIS SUBSECTION FOR A PERIOD OF MORE THAN 1 FISCAL YEAR FOLLOWING THE FINANCIAL HARDSHIP DETERMINATION.

2. THE GOVERNING BODY MAY RENEW A FINANCIAL HARDSHIP DETERMINATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH BY A TWO-THIRDS MAJORITY VOTE TO EXTEND THE PERIOD THAT A HOMEOWNERS ASSOCIATION MAY DEVIATE FROM THE RESERVE FUNDING REQUIREMENT BY 1 FISCAL YEAR FOLLOWING THE RENEWAL.

(Over)

(IV) THE GOVERNING BODY SHALL:

1. MAKE GOOD FAITH EFFORTS TO RESOLVE THE FINANCIAL HARDSHIP AND RESUME FUNDING RESERVES AS REQUIRED UNDER PARAGRAPH (1) OR (2) OF THIS SUBSECTION;

2. MAINTAIN DETAILED DOCUMENTATION OF THE GOOD FAITH EFFORTS MADE UNDER ITEM 1 OF THIS SUBPARAGRAPH; AND

3. TREAT THE DOCUMENTS UNDER ITEM 2 OF THIS SUBPARAGRAPH AS RECORDS FOR EXAMINATION AND COPYING UNDER § 11B-112 OF THIS TITLE.

(V) 1. ALL LOT OWNERS SHALL BE GIVEN REASONABLE NOTICE IN ADVANCE OF A VOTE ON AN INITIAL OR A RENEWAL OF A FINANCIAL HARDSHIP DETERMINATION UNDER THIS PARAGRAPH.

2. A VOTE ON AN INITIAL OR A RENEWAL OF A FINANCIAL HARDSHIP DETERMINATION UNDER THIS PARAGRAPH MAY ONLY BE TAKEN AT A REGULAR OR SPECIAL MEETING OF THE HOMEOWNERS ASSOCIATION.

(4);

in line 6, strike “RESERVE STUDY ANNUALLY FOR ACCURACY” and substitute “**RESERVES AND THE MOST RECENT RESERVE STUDY OR UPDATED RESERVE STUDY TO DETERMINE WHETHER THERE IS ADEQUATE FUNDING IN ACCORDANCE WITH THE FUNDING PLAN REQUIRED UNDER § 11B-112.3(F) OF THIS TITLE**”; and in line 18, after “replace;” insert “**AND**”

2. IF APPLICABLE, MEET A MINIMUM COST OF REPAIR OR REPLACEMENT, AS DETERMINED BY THE GOVERNING BODY, THAT IS:

A. REASONABLY BASED ON THE EXPENSES OF THE HOMEOWNERS ASSOCIATION; AND

B. NOT A MINOR EXPENSE THAT IS OTHERWISE ADDRESSED BY THE BUDGET OF THE HOMEOWNERS ASSOCIATION;”.

On page 12 in line 28, and on page 15 in line 26, in each instance, strike “ELEMENTS” and substitute “AREAS”.

On page 13, in line 10, strike “initial purchase and installation” and substitute “REPAIR OR REPLACEMENT”.

On page 15, in line 11, strike “A” and substitute “THE GOVERNING BODY OF A”; in line 16, strike “HOMEOWNERS” and substitute “GOVERNING BODY”; and in line 22, strike “OTHER FUNDING METHODS” and substitute “ANY OTHER FUNDING METHOD”.

On page 16, in line 5, after “A” insert “GOVERNING BODY OF A”.