

HOUSE BILL 313

N1, C1

1lr0468

(PRE-FILED)

By: **Delegate Holmes**

Requested: August 12, 2020

Introduced and read first time: January 13, 2021

Assigned to: Environment and Transportation

Committee Report: Favorable with amendments

House action: Recommended to Environment and Transportation, February 23, 2021

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 3, 2021

CHAPTER _____

1 AN ACT concerning

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

4 FOR the purpose of requiring the governing body of certain cooperative housing
5 corporations in the State to have a reserve study conducted of the common elements
6 of the cooperative housing corporation by a certain date and updated at certain
7 intervals under certain circumstances; requiring the reserve study conducted of the
8 common elements of a cooperative housing corporation to meet certain criteria;
9 requiring the annual budget of a cooperative housing corporation to include certain
10 information if a reserve study indicates a need to budget for reserves; requiring the
11 governing body of a cooperative housing corporation to provide reserve funds in the
12 annual budget for the cooperative housing corporation in accordance with a reserve
13 study conducted under this Act; establishing that the governing body of a cooperative
14 housing corporation has the authority to increase a certain assessment
15 notwithstanding certain provisions; altering the content of the annual budget of
16 certain condominiums; requiring the governing body of certain condominiums to
17 have a reserve study conducted of the common elements of the condominium by a
18 certain date and updated at certain intervals under certain circumstances; requiring
19 the reserve study conducted of the common elements of a condominium to meet
20 certain criteria; requiring the governing body of a condominium to provide reserve
21 funds in the annual budget for the condominium in accordance with a reserve study
22 conducted under this Act; establishing that the board of directors of a condominium

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.



1 has the authority to increase a certain assessment notwithstanding certain
 2 provisions; altering the content of the annual budget of certain homeowners
 3 associations; requiring the governing body of certain homeowners associations to
 4 have a reserve study conducted of the common areas of a homeowners association by
 5 a certain date and updated at certain intervals under certain circumstances;
 6 requiring the reserve study conducted of the common areas of a homeowners
 7 association to meet certain criteria; requiring the governing body of a homeowners
 8 association to provide reserve funds in the annual budget for the homeowners
 9 association in accordance with a reserve study conducted under this Act; establishing
 10 that the governing body of a homeowners association has the authority to increase a
 11 certain assessment notwithstanding certain provisions; altering certain definitions;
 12 providing for the application of this Act; making stylistic changes; and generally
 13 relating to reserve studies and annual budgets of cooperative housing corporations,
 14 condominiums, and 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 2020 Supplement)

20 BY repealing and reenacting, with amendments,
 21 Article – Real Property
 22 Section 11–109(c)(16)(v), 11–109.2(c), 11–109.4, 11–110(b)(1)(ii), 11B–106.1(e),
 23 11B–112.2(d), 11B–112.3, and 11B–117(a)(2)
 24 Annotated Code of Maryland
 25 (2015 Replacement Volume and 2020 Supplement)

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

28 **Article – Corporations and Associations**

29 5–6B–26.1.

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

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

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

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

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

5 (b) [This section applies only to a cooperative housing corporation in Prince
6 George's County.

7 (c)] (1) This subsection applies to a cooperative housing corporation
8 established IN:

9 (I) **PRINCE GEORGE'S COUNTY** on or after October 1, 2020; OR

10 (II) **ANY COUNTY OTHER THAN PRINCE GEORGE'S COUNTY ON**
11 **OR AFTER OCTOBER 1, 2021.**

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

16 (3) The governing body shall have ~~a~~ AN UPDATED reserve study completed
17 within 5 years after the date of the initial reserve study conducted under paragraph (2) of
18 this subsection and at least every 5 years thereafter.

19 [(d)] (C) (1) (I) This [subsection] PARAGRAPH applies ONLY to a
20 cooperative housing corporation established IN **PRINCE GEORGE'S COUNTY** before
21 October 1, 2020.

22 [(2)] (II) If the governing body of a cooperative housing corporation has
23 had a reserve study conducted on or after October 1, 2016, the governing body shall have ~~a~~
24 AN UPDATED reserve study conducted within 5 years after the date of that reserve study
25 and at least every 5 years thereafter.

26 [(3)] (III) If the governing body of a cooperative housing corporation has
27 not had a reserve study conducted on or after October 1, 2016, the governing body shall
28 have a reserve study conducted on or before October 1, 2021, and AN UPDATED RESERVE
29 STUDY at least every 5 years thereafter.

30 (2) (I) **THIS PARAGRAPH APPLIES TO A COOPERATIVE HOUSING**
31 **CORPORATION ESTABLISHED IN ANY COUNTY OTHER THAN PRINCE GEORGE'S**
32 **COUNTY BEFORE OCTOBER 1, 2021.**

1 **(II) IF THE GOVERNING BODY OF A COOPERATIVE HOUSING**
 2 **CORPORATION HAS HAD A RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1,**
 3 **2017, THE GOVERNING BODY SHALL HAVE ~~A~~ AN UPDATED RESERVE STUDY**
 4 **CONDUCTED WITHIN 5 YEARS AFTER THE DATE OF THAT RESERVE STUDY AND AT**
 5 **LEAST EVERY 5 YEARS THEREAFTER.**

6 **(III) IF THE GOVERNING BODY OF A COOPERATIVE HOUSING**
 7 **CORPORATION HAS NOT HAD A RESERVE STUDY CONDUCTED ON OR AFTER**
 8 **OCTOBER 1, 2017, THE GOVERNING BODY SHALL HAVE A RESERVE STUDY**
 9 **CONDUCTED ON OR BEFORE OCTOBER 1, 2022, AND AN UPDATED RESERVE STUDY**
 10 **AT LEAST EVERY 5 YEARS THEREAFTER.**

11 **[(e)] (D)** 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 unit owner;

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

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

27 **[(f)] (E)** To the extent that a reserve study conducted in accordance with this
 28 section indicates a need to budget for reserves, the budget shall include:

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

30 (i) Replacement cost;

31 (ii) Remaining life; and

1 (iii) Useful life;

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

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

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

10 [(g)] (F) (1) The governing body of a cooperative housing corporation shall
11 provide funds to the reserve in accordance with the most recent reserve study and shall
12 review the reserve study annually for accuracy.

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

18 Article – Real Property

19 11–109.

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

24 11–109.2.

25 (c) [In Prince George’s County, the] **THE** reserves provided for in the annual
26 budget under subsection (b) of this section shall be the funding amount recommended in
27 the most recent reserve study completed under § 11–109.4 of this title.

28 11–109.4.

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

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

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

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

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

7 (b) [This section applies only to a condominium in Prince George's County.

8 (c)] (1) This subsection applies **ONLY** to a condominium established **IN:**

9 (I) **PRINCE GEORGE'S COUNTY** on or after October 1, 2020; **OR**

10 (II) **ANY COUNTY OTHER THAN PRINCE GEORGE'S COUNTY ON**
11 **OR AFTER OCTOBER 1, 2021.**

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

15 (3) The governing body shall have ~~a~~ **AN UPDATED** reserve study completed
16 within 5 years after the date of the initial reserve study conducted under paragraph (2) of
17 this subsection and at least every 5 years thereafter.

18 [(d)] (C) (1) (I) This [subsection] **PARAGRAPH** applies **ONLY** to a
19 condominium established **IN PRINCE GEORGE'S COUNTY** before October 1, 2020.

20 [(2)] (II) If the governing body of a condominium has had a reserve study
21 conducted on or after October 1, 2016, the governing body shall have ~~a~~ **AN UPDATED**
22 reserve study conducted within 5 years after the date of that reserve study and at least
23 every 5 years thereafter.

24 [(3)] (III) If the governing body of a condominium has not had a reserve
25 study conducted on or after October 1, 2016, the governing body shall have a reserve study
26 conducted on or before October 1, 2021, and **AN UPDATED RESERVE STUDY** at least every
27 5 years thereafter.

28 (2) (I) **THIS PARAGRAPH APPLIES ONLY TO A CONDOMINIUM**
29 **ESTABLISHED IN ANY COUNTY OTHER THAN PRINCE GEORGE'S COUNTY BEFORE**
30 **OCTOBER 1, 2021.**

31 (II) **IF THE GOVERNING BODY OF A CONDOMINIUM HAS HAD A**
32 **RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1, 2017, THE GOVERNING**

1 BODY SHALL HAVE ~~A~~ AN UPDATED RESERVE STUDY CONDUCTED WITHIN 5 YEARS
2 AFTER THE DATE OF THAT RESERVE STUDY AND AT LEAST EVERY 5 YEARS
3 THEREAFTER.

4 (III) IF THE GOVERNING BODY OF A CONDOMINIUM HAS NOT HAD
5 A RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1, 2017, THE GOVERNING
6 BODY SHALL HAVE A RESERVE STUDY CONDUCTED ON OR BEFORE OCTOBER 1, 2022,
7 AND AN UPDATED RESERVE STUDY AT LEAST EVERY 5 YEARS THEREAFTER.

8 [(e)] (D) Each reserve study required under this section shall:

9 (1) Be prepared by a person who:

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

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

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

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

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

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

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

24 11-110.

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

30 11B-106.1.

31 (e) [In Prince George's County, the] **THE** replacement reserves delivered under
32 subsection (d)(13) of this section shall be equal to at least the reserve funding amount

1 recommended in the reserve study completed under § 11B–112.3 of this title as of the date
2 of the meeting.

3 11B–112.2.

4 (d) [In Prince George’s County, reserves] **RESERVES** provided for in the annual
5 budget under subsection (c) of this section shall be the funding amount recommended in
6 the most recent reserve study completed under § 11B–112.3 of this title.

7 11B–112.3.

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

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

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

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

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

19 (b) (1) This section applies only to a ~~homeowners association [in Prince~~
20 ~~George’s County] that has **HOMEOWNERS ASSOCIATION:**~~

21 (i) **THAT HAS** responsibility under its declaration for maintaining
22 and repairing common areas; **AND**

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

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

28 (c) (1) This subsection applies **ONLY** to a homeowners association established
29 **IN:**

30 (i) **PRINCE GEORGE’S COUNTY** on or after October 1, 2020; **OR**

1 **(II) ANY COUNTY OTHER THAN PRINCE GEORGE’S COUNTY ON**
2 **OR AFTER OCTOBER 1, 2021.**

3 (2) The governing body of the homeowners association shall have an
4 independent reserve study completed not more than 90 calendar days and not less than 30
5 calendar days before the meeting of the homeowners association required under §
6 11B-106.1(a) of this title.

7 (3) The governing body shall have ~~an~~ **AN UPDATED** reserve study completed
8 within 5 years after the date of the initial reserve study conducted under paragraph (2) of
9 this subsection and at least every 5 years thereafter.

10 (d) (1) **(I) This [subsection] PARAGRAPH applies ONLY to a homeowners**
11 **association established IN PRINCE GEORGE’S COUNTY before October 1, 2020.**

12 **[(2)] (II) If the governing body of a homeowners association has had a**
13 **reserve study conducted on or after October 1, 2016, the governing body shall have ~~an~~ AN**
14 **UPDATED reserve study conducted within 5 years after the date of that reserve study and**
15 **at least every 5 years thereafter.**

16 **[(3)] (III) If the governing body of a homeowners association has not had a**
17 **reserve study conducted on or after October 1, 2016, the governing body shall have a reserve**
18 **study conducted on or before October 1, 2021, and AN UPDATED RESERVE STUDY at least**
19 **every 5 years thereafter.**

20 **(2) (I) THIS PARAGRAPH APPLIES ONLY TO A HOMEOWNERS**
21 **ASSOCIATION ESTABLISHED IN ANY COUNTY OTHER THAN PRINCE GEORGE’S**
22 **COUNTY BEFORE OCTOBER 1, 2021.**

23 **(II) IF THE GOVERNING BODY OF A HOMEOWNERS ASSOCIATION**
24 **HAS HAD A RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1, 2017, THE**
25 **GOVERNING BODY SHALL HAVE ~~an~~ AN UPDATED RESERVE STUDY CONDUCTED WITHIN**
26 **5 YEARS AFTER THE DATE OF THAT RESERVE STUDY AND AT LEAST EVERY 5 YEARS**
27 **THEREAFTER.**

28 **(III) IF THE GOVERNING BODY OF A HOMEOWNERS ASSOCIATION**
29 **HAS NOT HAD A RESERVE STUDY CONDUCTED ON OR AFTER OCTOBER 1, 2017, THE**
30 **GOVERNING BODY SHALL HAVE A RESERVE STUDY CONDUCTED ON OR BEFORE**
31 **OCTOBER 1, 2022, AND AN UPDATED RESERVE STUDY AT LEAST EVERY 5 YEARS**
32 **THEREAFTER.**

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

34 (1) Be prepared by a person who:

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

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

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

7 (iv) Is currently designated as a reserve specialist by the Community
8 Association Institute or as a professional reserve analyst by the Association of Professional
9 Reserve Analysts;

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

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

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

15 11B-117.

16 (a) (2) The governing body of a homeowners association [in Prince George's
17 County] has the authority to increase an assessment levied to cover the reserve funding
18 amount required under § 11B-112.3 of this title, notwithstanding any provision of the
19 declaration, articles of incorporation, or bylaws restricting assessment increases or capping
20 the assessment that may be levied in a fiscal year.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2021.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.