

# SENATE BILL 386

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CF HB 58

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By: **Senator Benson**

Introduced and read first time: January 27, 2020

Assigned to: Judicial Proceedings

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## 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  
31 has the authority to increase a certain assessment notwithstanding certain

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



provisions; defining certain terms; providing for the application of this Act; and generally relating to reserve studies and annual budgets of cooperative housing corporations, condominiums, and homeowners associations.

BY adding to

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

BY repealing and reenacting, with amendments,

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

BY adding to

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

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

### **Article – Corporations and Associations**

#### **5–6B–26.1.**

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

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

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

(3) STATES THE ESTIMATED COST OF REPAIR OR REPLACEMENT OF 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 20 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) INCLUDE A STATEMENT OF THE QUALIFICATIONS OF THE PERSON**  
31 **WHO PREPARED THE RESERVE STUDY;**

32           **(2) BE AVAILABLE FOR INSPECTION AND COPYING BY ANY UNIT**  
33 **OWNER;**

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

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

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

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

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

#### Article – Real Property

11–109.

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

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

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

(ii) 1. Before the date of the meeting held under subparagraph

(i) of this paragraph, the developer shall deliver to each unit owner notice that the requirements of subparagraph (i) of this paragraph have been met.

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

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

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

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

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

3. The tangible property of the condominium; and

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

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

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

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

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

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

1 11-109.2.

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

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

5 (1) Income;

6 (2) Administration;

7 (3) Maintenance;

8 (4) Utilities;

9 (5) General expenses;

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

13 (7) Capital items.

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

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

24 (e) The adoption of a budget shall not impair the authority of the council of unit  
25 owners to obligate the council of unit owners for expenditures for any purpose consistent  
26 with any provision of this title.

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

29 **11-109.4.**

30 **(A) IN THIS SECTION, “RESERVE STUDY” MEANS A STUDY OF THE RESERVES**  
31 **REQUIRED FOR FUTURE MAJOR REPAIRS AND REPLACEMENT OF THE COMMON**

**ELEMENTS OF A CONDOMINIUM THAT:**

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

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

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

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

**(B) THIS SECTION APPLIES ONLY TO A CONDOMINIUM THAT HAS MORE THAN 20 UNITS.**

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

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

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

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

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

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

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

**(1) INCLUDE A STATEMENT OF THE QUALIFICATIONS OF THE PERSON WHO PREPARED THE RESERVE STUDY;**

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

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

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

11–110.

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

**(II) THE BOARD OF DIRECTORS HAS THE AUTHORITY TO INCREASE THE ASSESSMENT LEVIED TO COVER THE RESERVE FUNDING AMOUNT REQUIRED UNDER § 11–109.4 OF THIS TITLE, NOTWITHSTANDING ANY PROVISION OF THE DECLARATION, ARTICLES OF INCORPORATION, OR BYLAWS RESTRICTING ASSESSMENT INCREASES OR CAPPING THE ASSESSMENT THAT MAY BE LEVIED IN A FISCAL YEAR.**

11B–106.1.

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

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

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

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



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

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

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

9                   (1)     The deeds to the common areas;

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

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

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

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

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

21                  (7)     The financial records of the homeowners association from the date of  
22 creation to the date of transfer of control, including budget information regarding estimated  
23 and actual expenditures by the homeowners association and any report relating to the  
24 reserves required for major repairs and replacement of the common areas of the  
25 homeowners association;

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

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

29                  (10)    Any insurance policies in effect;

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

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

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

(14) The tangible property of the homeowners association;

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

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

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

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

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

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

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

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

11B–112.2.

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

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

(2) The annual proposed budget may be sent to each lot owner by electronic transmission, by posting on the homeowners association’s home page, or by including the

1 annual proposed budget in the homeowners association's newsletter.

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

4 (1) Income;

5 (2) Administration;

6 (3) Maintenance;

7 (4) Utilities;

8 (5) General expenses;

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

12 (7) Capital expenses.

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

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

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

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

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

31 **11B-112.3.**

1           **(A) IN THIS SECTION, “RESERVE STUDY” MEANS A STUDY OF THE RESERVES**  
2 **REQUIRED FOR FUTURE MAJOR REPAIRS AND REPLACEMENT OF THE COMMON**  
3 **AREAS OF A HOMEOWNERS ASSOCIATION THAT:**

4                   **(1) IDENTIFIES EACH STRUCTURAL, MECHANICAL, ELECTRICAL, AND**  
5 **PLUMBING COMPONENT OF THE COMMON AREAS AND ANY OTHER COMPONENTS**  
6 **THAT ARE THE RESPONSIBILITY OF THE HOMEOWNERS ASSOCIATION TO REPAIR**  
7 **AND REPLACE;**

8                   **(2) STATES THE ESTIMATED REMAINING USEFUL LIFE OF EACH**  
9 **IDENTIFIED COMPONENT;**

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

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

14           **(B) (1) THIS SECTION APPLIES ONLY TO A HOMEOWNERS ASSOCIATION**  
15 **THAT:**

16                   **(I) HAS MORE THAN 20 DWELLING UNITS IN THE**  
17 **DEVELOPMENT; AND**

18                   **(II) HAS RESPONSIBILITY UNDER ITS DECLARATION FOR**  
19 **MAINTAINING AND REPAIRING COMMON AREAS.**

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

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

24                   **(2) THE GOVERNING BODY OF THE HOMEOWNERS ASSOCIATION**  
25 **SHALL HAVE AN INDEPENDENT RESERVE STUDY COMPLETED NOT MORE THAN 90**  
26 **CALENDAR DAYS AND NOT LESS THAN 30 CALENDAR DAYS BEFORE THE MEETING OF**  
27 **THE HOMEOWNERS ASSOCIATION REQUIRED UNDER § 11B–106.1(A) OF THIS TITLE.**

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

32           **(D) (1) THIS SUBSECTION APPLIES TO A HOMEOWNERS ASSOCIATION**

1 ESTABLISHED BEFORE OCTOBER 1, 2020.

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

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

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

12 (1) INCLUDE A STATEMENT OF THE QUALIFICATIONS OF THE PERSON  
13 WHO PREPARED THE RESERVE STUDY;

14 (2) BE AVAILABLE FOR INSPECTION AND COPYING BY ANY LOT  
15 OWNER;

16 (3) BE REVIEWED BY THE GOVERNING BODY OF THE HOMEOWNERS  
17 ASSOCIATION IN CONNECTION WITH THE PREPARATION OF THE ANNUAL PROPOSED  
18 BUDGET; AND

19 (4) BE SUMMARIZED FOR SUBMISSION WITH THE ANNUAL PROPOSED  
20 BUDGET TO THE LOT OWNERS.

21 11B-117.

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

25 (2) THE GOVERNING BODY OF A HOMEOWNERS ASSOCIATION HAS  
26 THE AUTHORITY TO INCREASE AN ASSESSMENT LEVIED TO COVER THE RESERVE  
27 FUNDING AMOUNT REQUIRED UNDER § 11B-112.3 OF THIS TITLE,  
28 NOTWITHSTANDING ANY PROVISION OF THE DECLARATION, ARTICLES OF  
29 INCORPORATION, OR BYLAWS RESTRICTING ASSESSMENT INCREASES OR CAPPING  
30 THE ASSESSMENT THAT MAY BE LEVIED IN A FISCAL YEAR.

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