

MANDATORY RESERVE FUNDING & REGULAR RESERVE STUDIES

A. Mandatory Replacement / Repair Reserve Accounts

As of October 1, 2022, all Maryland condo, HOA, and co-op associations must establish and fund reserve accounts (“reserves”) to set aside cash allocated to pay for future required replacements and major repairs of capital components, such as common structural, mechanical, electrical, and plumbing systems, and other common infrastructure the association is obligated to repair or replace. Reserves were previously mandated only in Prince George’s and Montgomery Counties, but the new law alters existing requirements for those counties and expands mandatory reserve funding based on regular 5 year reserve studies mandatory for all community associations statewide.

The specific new law which creates these changes is [House Bill No. 107](#). This law: (1) amends the Maryland Condominium Act, Sections 11-109, 11-109.2, 11-109.4 and 11-110; (2) amends the Maryland Homeowners Association Act, Sections 11B-106.1, 11B-112.2, 11B-112.3 and 11B-117; and (3) amends the Maryland Cooperative Housing Corporation Act, Section 5–6B–26.1.

B. Mandatory Reserve Studies Every 5 Years

All Maryland condominium, HOA, and co-op associations will now be required by law to obtain a professional reserve study that identifies: (1) the capital components the association is required to repair and replace, (2) the normal and remaining useful life and cost to replace/repair each capital component, and (3) the estimated amount of money the association has allocated and will need to set aside annually to fund the required repair and replacement of capital components.

The new laws set minimum credentials for professionals who can perform the required reserve studies, mandating that they: (1) be a state-licensed architect or engineer, (2) be professionally designated as a reserve specialist or analyst by one of two trade associations, the Community Associations Institute or the Association of Professional Reserve Analysts; or (3) have prepared at least 30 reserve studies in the past 3 years or participated in preparing at least 30 reserve studies while employed by a firm that prepares reserve studies.

C. Deadlines to Obtain Reserve Studies Generally

Associations Created Before October 1, 2022

Starting October 1, 2022, the new laws set deadlines for all Maryland condominium, HOA, and co-op associations statewide to obtain the required reserve studies. All associations that *have not* obtained a reserve study since October 1, 2018, must obtain one by October 1, 2023 (next year). Associations that *have* obtained a reserve study since October 1, 2018, must obtain an updated study within 5 years of that last study. All reserve studies must be updated every 5 years thereafter.

Associations Created On or After October 1, 2022

New condominium and co-op associations created on or after October 1, 2022 must have an independent reserved study completed no less than 30 days before the date of the transition meeting at which the developer first turns over control of the association to the homeowners by allowing a homeowner majority to be elected to the association's board (a/k/a "turnover meeting"). Newly formed HOAs must have a reserve study completed between 90 and 30 days before the transition meeting. As such, in all newly created associations, the developer-controlled association board will be required to obtain the initial reserve study in advance of the transition meeting to elect a homeowner majority board for the association. In this manner, the first homeowner-controlled board of directors of a new association will already have a reserve study in hand upon taking over control. The new association's initial reserve study must then be updated every 5 years thereafter.

D. Deadlines to Obtain Reserve Studies in PG & Montgomery County

Prince George's and Montgomery County associations created before October 1, 2022 will have earlier reserve study deadlines than other counties in Maryland because reserve studies were already mandated in Prince George's and Montgomery County before the mandate became statewide under the new law effective October 1, 2022.

Prince George's County

Prince George's County Associations were already required to obtain reserve studies by pre-existing laws that became effective on October 1, 2020. Specifically, all Prince George's County associations created before October 1, 2020 that

had *not* obtained a reserve study since October 1, 2016, were already required to obtain one by October 1, 2021; those that obtained a reserve study since October 1, 2016, are already required to obtain an updated study within 5 years of that last study. Once the reserve study has been obtained under these deadlines, it must thereafter be updated every 5 years.

Also, for new associations in Prince George's County created on or after October 1, 2020, the developer-controlled association is already required to obtain a reserve study for the future major repairs and replacements 30 days before the transition meeting, which is required to be updated by the association every five years thereafter. This pre-existing reserve study requirement for new associations in Prince George's County continues under the new law effective October 1, 2022 as discussed above.

Montgomery County

Montgomery County Associations were already required to obtain reserve studies by pre-existing laws that became effective on October 1, 2021. Specifically, all Montgomery County associations created before October 1, 2021 that had *not* obtained a reserve study since October 1, 2017, are already required to obtain one by October 1, 2022; those that obtained a reserve study since October 1, 2017, are already required to obtain an updated study within 5 years of that last study. Once the reserve study has been obtained under these deadlines, it must thereafter be updated every 5 years.

Also, for new associations in Montgomery Georges County created on or after October 1, 2021, the developer-controlled association is already required to obtain a reserve study for the future major repairs and replacements 30 days before the transition meeting, which is required to be updated by the association every five years thereafter. This pre-existing reserve study requirement for new associations in Montgomery County continues under the new law effective October 1, 2022 as discussed above.

E. Homeowner Access to Reserve studies

Copies of all reserve studies obtained by associations under the new laws as discussed above must be made available to all association members.

F. Mandatory Budgeting to Fund Reserves

The new laws also require all association boards of directors to fund reserves per the most recent study and take the following actions every year when preparing the association's annual budget:

1. The board must review the most recent reserve study in connection with the preparation of the annual proposed budget. Co-op boards are also required to review their reserve studies "annually for accuracy."
2. The board must budget to make annual reserve contributions as recommended in the most recent reserve study. The new law gives boards authority to increase assessments levied to cover required reserve funding, regardless of anything in an association's governing documents that might limit, restrict, or cap assessments, such as requirements for member approval, essentially overriding any existing assessment limitations. Note that if a board intends to borrow money to fund reserves, it must still comply with any governing documents requirements regarding loans.
3. Associations that obtain an initial reserve study for the first time have 3 fiscal years (budget cycles) to fully fund reserves as recommended in that study. While the new law does not include any specific funding deadline for other, non-initial, reserve studies, it is recommended that all associations fully fund their reserve accounts per the most recent reserve study within 3 fiscal years of the study or sooner.
4. The board must submit a summary of the most recent reserve study to all homeowners with the proposed annual budget.

G. Reserve Study Exception for Certain HOAs

Certain HOAs are exempt from the requirements of the new reserve study and funding legal requirements because they have a little or no common area facilities they are responsible for maintaining, repairing and replacing. Specifically, the reserve study requirements under the new law only apply to HOAs that are responsible for maintaining and repairing common areas for which the total initial purchase and installation cost was \$10,000 or more.