

# HOUSE BILL NO. 5019

September 19, 2023, Introduced by Reps. Fitzgerald, Rheingans, Conlin and Tsernoglou and referred to the Committee on Economic Development and Small Business.

A bill to amend 1978 PA 59, entitled  
"Condominium act,"  
by amending section 105 (MCL 559.205).

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1       Sec. 105. (1) After the effective date of the amendatory act
- 2       that added this subsection, an association of co-owners shall
- 3       conduct an initial reserve study in accordance with any of the
- 4       following:
- 5       (a) For a condominium project established on or after the

1 effective date of the amendatory act that added this subsection, no  
2 later than 30 days before the transitional control date. For  
3 purposes of this subdivision, a developer shall require the  
4 association of co-owners to conduct the reserve study.

5 (b) For a condominium project established before the effective  
6 date of the amendatory act that added this subsection, by doing any  
7 of the following:

8 (i) Conducting a reserve study no later than 3 years after the  
9 effective date of the amendatory act that added this subsection if  
10 the association of co-owners has not previously conducted a reserve  
11 study or had a previous reserve study updated within the past 5  
12 years before the effective date of the amendatory act that added  
13 this subsection.

14 (ii) Executing a contract, within 3 years after the effective  
15 date of the amendatory act that added this subsection, with an  
16 individual described under subsection (4) to prepare the reserve  
17 study and conducting the reserve study within 1 year after the date  
18 of executing the contract under this subparagraph.

19 (2) After the initial reserve study conducted in accordance  
20 with subsection (1), an association of co-owners must conduct a  
21 subsequent reserve study or update the most recent reserve study at  
22 least once every 5 years.

23 (3) Subsections (1) and (2) apply to an association of co-  
24 owners that meets all of the following conditions:

25 (a) Has the responsibility under the condominium documents for  
26 maintaining, replacing, and repairing common elements.

27 (b) Either of the following:

28 (i) Has an annual budget in excess of \$20,000.00.

29 (ii) Operates a condominium project that has more than 20

1 condominium units.

2 (4) A reserve study conducted under subsections (1) and (2),  
3 or updated under subsection (2), must be prepared by an individual  
4 who meets at least 1 of the following requirements:

5 (a) Has participated in the preparation of at least 30 reserve  
6 studies within the past 3 calendar years while employed by a firm  
7 that prepares reserve studies.

8 (b) Has prepared at least 30 reserve studies within the past 3  
9 calendar years.

10 (c) Holds a current license from the Michigan board of  
11 architects or the Michigan board of professional engineers.

12 (d) Is currently designated as a reserve specialist by the  
13 Community Association Institute or as a professional reserve  
14 analyst by the Association of Professional Reserve Analysts.

15 (5) A reserve study conducted under subsections (1) and (2),  
16 or updated under subsection (2), and the written notice required  
17 under subsection (8), must be available for inspection and copying  
18 by an owner of a condominium unit, a prospective purchaser of a  
19 condominium unit, or a mortgagee.

20 (6) On completion of a reserve study under subsection (1) or  
21 (2), or an update to a reserve study under subsection (2), the  
22 board of directors for an association of co-owners shall establish  
23 a reserve funding plan in accordance with the reserve study and  
24 communicate the funding plan, including any change made to the  
25 funding plan, to the association of co-owners in writing. The board  
26 of directors of the association of co-owners must review the  
27 reserve study in connection with the preparation of each year's  
28 annual proposed budget.

29 (7) A reserve fund for major repairs and replacement of common

1 elements ~~shall~~**must** be **established and** maintained by the  
2 ~~associations~~**association** of co-owners. ~~The administrator may by~~  
3 ~~rule establish minimum standards for reserve funds.~~**The amount**  
4 **annually budgeted for the reserve study must be adequate, including**  
5 **past and future contributions to the reserve fund, to fund, in**  
6 **accordance with the reserve study funding plan established by the**  
7 **board, the repair or replacement of the common elements that the**  
8 **association of co-owners is obligated to repair or replace under**  
9 **the condominium documents because of ordinary wear and tear, or**  
10 **discontinuance. A reserve fund must be held in a separate account**  
11 **that is different from the operating fund account of the**  
12 **association of co-owners.**

13 (8) In connection with the distribution of the annual budget,  
14 the board of directors of the association of co-owners must send a  
15 written notice annually to the association of co-owners regarding  
16 the balance of the funds currently held in the reserve fund. The  
17 written notice required to be sent under this subsection must  
18 include the following language in capital letters:

19 "THIS BUDGET WAS PREPARED ON CONSIDERATION OF THE ASSOCIATION OF  
20 CO-OWNERS' MOST RECENT RESERVE FUNDING PLAN THAT WAS CONDUCTED ON  
21 \_\_\_\_\_, 20\_\_\_\_, AND RECENTLY UPDATED ON \_\_\_\_\_, 20\_\_\_\_.  
22 COPIES OF THE RESERVE STUDY AND THE ASSOCIATION OF CO-OWNERS'  
23 RESERVE FUNDING PLAN ARE AVAILABLE TO ANY OWNER OF A CONDOMINIUM  
24 UNIT, ON REQUEST. IF THERE IS A NEED FOR A MAJOR REPAIR OR  
25 REPLACEMENT OF COMMON ELEMENTS, THE COST OF WHICH EXCEEDS THE  
26 AMOUNT OF THE RESERVE FUND, THE ASSOCIATION OF CO-OWNERS MAY NEED  
27 TO FUND THE REPAIR OR REPLACEMENT OF THE COMMON ELEMENTS THROUGH  
28 INCREASED OR ADDITIONAL ASSESSMENTS, SPECIAL ASSESSMENTS, OR  
29 BORROWING.".

1           (9) The administrator may promulgate rules under the  
2 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
3 24.328, that establish the minimum standards for reserve funds.  
4 Rules promulgated pursuant to this subsection must not be  
5 inconsistent with this section.

6           (10) As used in this section, "reserve study" means a study of  
7 reserve funds required to pay for future major repairs and  
8 replacement of the common elements in a condominium that meets all  
9 of the following criteria:

10           (a) Identifies each structural, mechanical, electrical, and  
11 plumbing component of the common elements and any other components  
12 that are the responsibility of the association of co-owners to  
13 repair or replace in accordance with the condominium documents.

14           (b) States the normal useful life and the estimated remaining  
15 useful life of each identified component.

16           (c) States the estimated current cost of repair or replacement  
17 of each identified component.

18           (d) States the estimated annual reserve amount necessary to  
19 accomplish any identified future repair or replacement of the  
20 components.