

SENATE, No. 3992

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED DECEMBER 19, 2024

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

SYNOPSIS

Modifies capital reserve funding requirements for certain planned real estate developments.

CURRENT VERSION OF TEXT

As introduced.



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2

1 AN ACT concerning capital reserve funding requirements for certain
2 planned real estate developments and amending P.L.2023, c.214.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 2 of P.L.2023, c.214 (C.52:27D-132.3) is amended to
8 read as follows:

9 2. As used in P.L.2023, c.214 (C.52:27D-132.2 et al.):

10 "Adequate" or "adequacy" means a sum of money, however
11 invested or held by an association of a planned real estate
12 development, that, in accordance with the professional standards
13 applied by the reserve specialist, architect, or engineer performing
14 or overseeing the study, is sufficient so that the balance in the
15 association's reserve fund, required pursuant to section 7 of
16 P.L.2023, c.214 (C.45:22A-44.3), will not fall below zero dollars as
17 set forth in the association's 30-year funding plan, prepared as part
18 of a reserve study, regardless of whether the reserve study was
19 conducted within five years of the effective date of P.L.2023, c.214
20 (C.52:27D-132.2 et al.), or conducted pursuant to section 6 of
21 P.L.2023, c.214 (C.45:22A-44.2).

22 "Balcony" means an extension of the interior living space of the
23 building that extends outwards from the facade of a covered
24 building and is exposed to the elements.

25 "Bureau" means the Bureau of Housing Inspection in the
26 Department of Community Affairs.

27 "Corrective maintenance" means maintenance to be undertaken
28 following the detection of deterioration of the primary load bearing
29 system with the goal of remediating the condition reported by the
30 structural inspector.

31 "Covered building" means a residential condominium or
32 cooperative building that has a primary load bearing system that is
33 comprised of a concrete, masonry, steel, or hybrid structure
34 including, without limitation, heavy timber and a building with
35 podium decks, but not including an excluded structure.

36 "Covered building owner" means the owner of a covered
37 building, whose name appears of record with the county clerk or
38 register, or the association of a common interest community.

39 "Excluded structure" means:

40 (1) International Standardization Organization ISO Type 1
41 construction or frame-built construction with combustible walls or
42 roofs, but not including a podium deck on which the frame-built
43 construction is situated;

44 (2) a building with ancillary elements that are not part of the
45 primary load bearing system such as, but not limited to, elevator
46 shafts or concrete, masonry, steel, or heavy timber that the primary

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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1 load bearing system does not deliver a building's load to the
2 foundation;

3 (3) a building that is not a condominium or cooperative, and
4 consists primarily of rental dwellings; or

5 (4) a single-family dwelling.

6 "Podium deck" means a structural slab or deck that transfers
7 applied loads from the structure above to the structure below.

8 "Primary load bearing system" means the assemblage of
9 structural components within a building comprised of columns,
10 beams, or bracing that by contiguous interconnection form a path by
11 which external and internal forces applied to the building are
12 delivered to the foundation. The foundation as well as any
13 connected or attached balconies shall be included as part of the
14 primary load bearing system evaluation.

15 "Structural inspector" means:

16 (1) a construction official, as that term is used in section 8 of
17 P.L.1975, c.217 (C.52:27D-126), who is also an engineer licensed
18 by the State;

19 (2) an employee of the bureau who is also an engineer licensed
20 by the State; or

21 (3) an engineer licensed by the State who has the same
22 qualifications required of an engineer under contract with the
23 enforcing agency with whom the covered building owner contracts
24 to perform inspections of covered buildings under section 3 of
25 P.L.2023, c.214 (C.52:27D-132.4).

26 (cf: P.L.2023, c.214, s.2)

27

28 2. Section 6 of P.L.2023, c.214 (C.45:22A-44.2) is amended to
29 read as follows:

30 6. a Any association of a planned real estate development shall
31 undertake and fund a capital reserve study which shall determine or
32 assess the adequacy of the association's capital reserve funds to
33 meet the anticipated costs of replacement or repair of the capital
34 assets of a common interest community that the association is
35 obligated to maintain. All capital reserve studies shall be prepared
36 in conformity with the latest edition of the National Reserve Study
37 Standards of the Community Associations Institute or similar
38 standards by another recognized national organization. A capital
39 reserve study conducted pursuant to this section shall be performed
40 or overseen by a reserve specialist who is credentialed through the
41 Community Associations Institute or an engineer or architect who is
42 licensed by the State and shall include, but be not limited to, the
43 following:

44 (1) the association's capital reserve fund balances;

45 (2) the association's anticipated income and expenses;

46 (3) an analysis of the physical status and of the common area
47 components of the buildings and other common areas that the
48 association is obligated to maintain;

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1 (4) the anticipated costs associated with the building
2 maintenance, as well as the anticipated costs of repair or
3 replacement of common area building components, which are
4 necessary to maintain the structural integrity of the buildings and
5 other common area components that the association is obligated to
6 maintain;

7 (5) a reasonable estimate of the cost of:

8 (a) future reserve studies;

9 (b) reserve study updates; and

10 (c) periodic structural inspections required pursuant to section 3
11 of P.L.2023, c.214 (C.52:27D-132.4);

12 (6) a reasonable estimate of the costs associated with
13 implementing any corrective maintenance deemed necessary
14 pursuant to section 3 of P.L.2023, c.214 (C.52:27D-132.4);

15 (7) a proposed 30-year funding plan or plans, as described in
16 section 7 of P.L.2023, c.214 (C.45:22A-44.3) **【that establishes】** ,
17 which establish the adequate proposed capital reserve funding over
18 a 30-year time period, which shall include a 30-year funding plan
19 that allows the reserve fund to reach a lowest dollar balance of zero
20 during the 30-year plan projection. Nothing in this section shall
21 prohibit the reserve study from including additional funding plans
22 with a minimum fund balance greater than zero, or funding plans
23 with escalating annual contributions, provided the reserve fund
24 balance is not projected to fall below zero dollars; and

25 (8) any other information necessary to perform an analysis of
26 the adequacy of the association's capital reserve funds relative to
27 maintaining the structural integrity of buildings and common areas
28 which the association is obligated to maintain.

29 b. Associations which have not undertaken a reserve study
30 within five years of the effective date of P.L.2023, c.214
31 (C.52:27D-132.2 et al.) shall undertake a reserve study within one
32 year of the effective date of P.L.2023, c.214 (C.52:27D-132.2 et
33 al.). Associations formed after the effective date of P.L.2023, c.214
34 (C.52:27D-132.2 et al.) shall undertake a reserve study as soon as
35 practicable after the election of a majority of an executive board
36 pursuant to section 5 of P.L.1983, c.30 (C.45:22A-47), but in no
37 event shall such study be undertaken more than two years following
38 the election of a majority of the executive board under section 5 of
39 P.L.1983, c.30 (C.45:22A-47).

40 c. **【A covered building owner, as defined in section 2 of**
41 **P.L.2023, c.214 (C.52:27D-132.3),】** An association of a planned
42 real estate development shall ensure that a capital reserve study
43 conducted pursuant to this section shall be reviewed by a licensed
44 architect, engineer, or credentialed reserve specialist and that a
45 capital reserve study be conducted and reviewed at least once every
46 five years.

1 d. This section shall not apply to an association of a planned real
2 estate development with less than \$25,000 in total common area
3 capital assets.

4 e. As used in sections 6 and 7 of P.L.2023, c.214 (C.45:22A-
5 44.2 and C.45:22A-44.3):

6 "Adequate" or "adequacy" means the same as those terms are
7 defined pursuant to section 2 of P.L.2023, c.214 (C.52:27D-132.3).

8 (cf: P.L.2023, c.214, s.6)

9

10 3. This act shall take effect immediately.

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STATEMENT

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15 This bill modifies certain requirements concerning the capital
16 reserve study, 30-year funding plan, and capital reserve fund of an
17 association of a planned real estate development (association),
18 required by recently enacted law, P.L.2023, c.214 (C.52:27D-132.2
19 et al.).

20 Specifically, the bill requires a proposed 30-year capital reserve
21 funding plan or plans within a capital reserve study, required
22 pursuant to section 7 of P.L.2023, c.214 (C.45:22A-44.3), to allow a
23 capital reserve fund of an association to reach a dollar balance of
24 zero during the 30-year funding plan projection. The bill permits a
25 capital reserve study to provide additional funding plans that have a
26 minimum fund balance greater than zero, or funding plans with
27 escalating annual contributions, provided the reserve fund balance
28 is not projected to fall below zero dollars.

29 Further, the bill defines the terms "adequate" and "adequacy" to
30 mean a sum of money, however invested or held by an association
31 of a planned real estate development, that, in accordance with the
32 professional standards applied by the reserve specialist, architect, or
33 engineer performing or overseeing the study, is sufficient so that the
34 balance in the association's reserve fund will not fall below zero
35 dollars as set forth in the association's 30-year funding plan,
36 prepared as part of a reserve study.

37 The bill requires an association of a planned real estate
38 development, instead of a covered building owner, to ensure that a
39 capital reserve study is reviewed by a licensed architect, engineer,
40 or credentialed reserve specialist and that a capital reserve study is
41 conducted and reviewed at least once every five years.