

[First Reprint]

SENATE, No. 3992

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED DECEMBER 19, 2024

Sponsored by:

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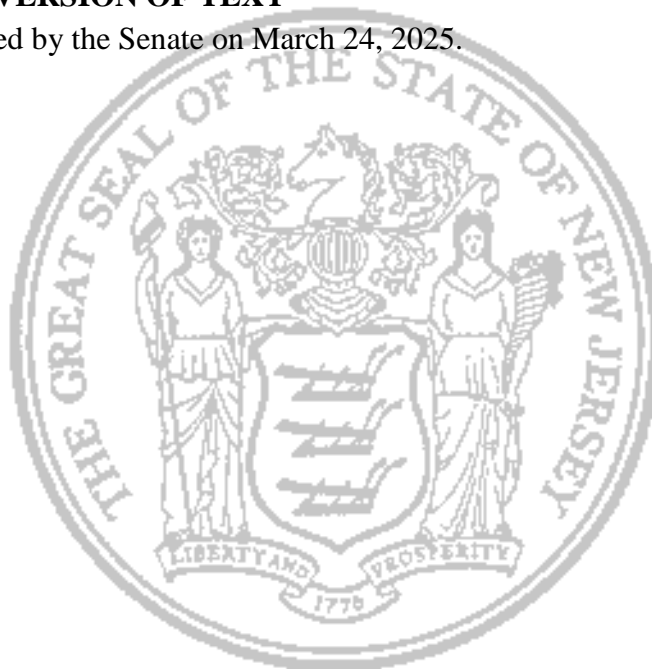
District 14 (Mercer and Middlesex)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As amended by the Senate on March 24, 2025.



(Sponsorship Updated As Of: 6/30/2025)

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

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate floor amendments adopted March 24, 2025.

1 shafts or concrete, masonry, steel, or heavy timber that the primary
2 load bearing system does not deliver a building's load to the
3 foundation;

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

6 (4) a single-family dwelling.

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

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

16 "Structural inspector" means:

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

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

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

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

28

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

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

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

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

- 1 (3) an analysis of the physical status and of the common area
2 components of the buildings and other common areas that the
3 association is obligated to maintain;
- 4 (4) the anticipated costs associated with the building
5 maintenance, as well as the anticipated costs of repair or
6 replacement of common area building components, which are
7 necessary to maintain the structural integrity of the buildings and
8 other common area components that the association is obligated to
9 maintain;
- 10 (5) a reasonable estimate of the cost of:
- 11 (a) future reserve studies;
- 12 (b) reserve study updates; and
- 13 (c) periodic structural inspections required pursuant to section 3
14 of P.L.2023, c.214 (C.52:27D-132.4);
- 15 (6) a reasonable estimate of the costs associated with
16 implementing any corrective maintenance deemed necessary
17 pursuant to section 3 of P.L.2023, c.214 (C.52:27D-132.4);
- 18 (7) a proposed 30-year funding plan or plans, as described in
19 section 7 of P.L.2023, c.214 (C.45:22A-44.3) **【that establishes】** ,
20 which establish the adequate proposed capital reserve funding over
21 a 30-year time period, which shall include a 30-year funding plan
22 that allows the reserve fund to reach a lowest dollar balance of zero
23 during the 30-year plan projection. Nothing in this section shall
24 prohibit the reserve study from including additional funding plans
25 with a minimum fund balance greater than zero, or funding plans
26 with escalating annual contributions, provided the reserve fund
27 balance is not projected to fall below zero dollars; and
- 28 (8) any other information necessary to perform an analysis of
29 the adequacy of the association's capital reserve funds relative to
30 maintaining the structural integrity of buildings and common areas
31 which the association is obligated to maintain.
- 32 b. Associations which have not undertaken a reserve study
33 within five years of the effective date of P.L.2023, c.214
34 (C.52:27D-132.2 et al.) shall undertake a reserve study within one
35 year of the effective date of P.L.2023, c.214 (C.52:27D-132.2 et
36 al.). Associations formed after the effective date of P.L.2023, c.214
37 (C.52:27D-132.2 et al.) shall undertake a reserve study as soon as
38 practicable after the election of a majority of an executive board
39 pursuant to section 5 of P.L.1983, c.30 (C.45:22A-47), but in no
40 event shall such study be undertaken more than two years following
41 the election of a majority of the executive board under section 5 of
42 P.L.1983, c.30 (C.45:22A-47).
- 43 c. **【A covered building owner, as defined in section 2 of**
44 **P.L.2023, c.214 (C.52:27D-132.3),】** An association of a planned
45 real estate development shall ensure that a capital reserve study
46 conducted pursuant to this section shall be reviewed by a licensed
47 architect, engineer, or credentialed reserve specialist and that a

1 capital reserve study be conducted and reviewed at least once every
2 five years.

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

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

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

11

12 ^{13.} Section 7 of P.L.2023, c.214 (C.45:22A-44.3) is amended to
13 read as follows:

14 7. a. An association of a planned real estate development shall
15 obtain a reserve study including a 30-year funding plan in order to
16 ensure that the association has adequate reserve funds available to
17 repair or replace the capital assets located on the common elements
18 and facilities that the association is obligated to maintain without
19 need to create a special assessment or loan obligation, except **【**that
20 in those cases in which a capital asset reaches the end of its
21 established useful life earlier than predicted by the reserve study,
22 nothing herein is intended to prevent the imposition of a special
23 assessment or obtaining a loan**】** as permitted pursuant to subsection
24 e. of this section. These reserve funds shall be used for the repair or
25 replacement of components that have reached the end of their
26 established useful life as set forth in the most recent reserve study
27 undertaken pursuant to section 6 of P.L.2023, c.214 (C.45:22A-
28 44.2).

29 b. **【**When an expenditure of the reserve funds is required to
30 repair or replace a component pursuant to subsection a. of this
31 section, the association shall use only the amount of reserve funds
32 allocated by the reserve study to make such repair or replacement,
33 unless:

34 (1) the use of such additional funds from the reserve fund is not
35 reasonably anticipated to prevent or interfere with the ability of the
36 association to undertake additional repairs or replacements in the
37 five years subsequent to the additional expenditure; and

38 (2) the association's executive board adopts a written resolution
39 requiring that the expenditure of these additional funds shall be
40 recovered within the following five fiscal years.**】** (Deleted by
41 amendment, P.L. , c.) (pending before the Legislature as this
42 bill)

43 c. **【**If an association existing as of the effective date of
44 P.L.2023, c.214 (C.52:27D-132.2 et al.) does not have an adequate
45 reserve fund as described in subsection a. of this section, and the
46 increase in the association's budget line item for reserve funding to
47 render it adequate as set forth in the reserve study would, without

1 reference to any other budget line item adjustments, require an
2 increase of more than 10 percent of the previous year's common
3 expense assessment, the deficiency shall be made adequate within
4 the earlier of the following 10 fiscal years, or the projected date
5 predicted by the reserve study by which absent increased funding,
6 the balance in the association's reserve account would fall below
7 zero. In either case, the annual increase in reserve funding during
8 the required period of time shall be an equal annual line item
9 increase in the reserve fund until the reserve fund is made adequate,
10 notwithstanding causing an increase of more than 10 percent in the
11 annual common expense assessment.】 (Deleted by amendment,
12 P.L. , c.) (pending before the Legislature as this bill)

13 d. 【If an association existing as of the effective date of
14 P.L.2023, c.214 (C.52:27D-132.2 et al.) does not have an adequate
15 reserve fund as described in subsection a. of this section, and the
16 increase in the association's budget line item for reserve funding to
17 render it in conformity with the reserve study would, without
18 reference to any other item adjustments, require an increase of less
19 than 10 percent of the previous year's common expense assessment,
20 the deficiency shall be made adequate within the following two
21 fiscal years.】 (Deleted by amendment, P.L. , c.) (pending
22 before the Legislature as this bill)

23 e. An association existing as of the effective date of P.L.2023,
24 c.214 (C.52:27D-132.2 et al.) shall, to fund the association's capital
25 reserve fund, either:

26 (1) fund the capital reserve fund in accordance with one of the
27 funding plans set forth in the most recent capital reserve study
28 prepared on behalf of the association pursuant to paragraph (7) of
29 subsection a. of section 6 of P.L.2023, c.214 (C.45:22A-44.2); or

30 (2) fund the capital reserve fund in an amount equal to 85
31 percent of one of the capital reserve funding plans pursuant to
32 paragraph (7) of subsection a. of section 6 of P.L.2023, c.214
33 (C.45:22A-44.2), and set forth in the most recent capital reserve
34 study prepared on behalf of the association, provided that:

35 (a) prior to the adoption of an annual budget to fund the capital
36 reserve fund account pursuant to this paragraph, the association
37 shall provide a notice to all unit owners of the association in 20-
38 point bold font, which specifies that the executive board of the
39 association has elected to fund the capital reserve fund at 85 percent
40 of the funding plan recommended by the association's 30-year
41 capital reserve study and funding plan. The notice shall provide the
42 year in which a special assessment or loan is anticipated as a result
43 of the reduced funding of the capital reserve fund, and the
44 anticipated amount of the special assessment or loan that shall be
45 required as a result of the decision by the executive board of the
46 association; and

47 (b) prior to the execution of a contract for the purchase of a
48 residential unit in the planned real estate development, the seller of

1 the unit shall provide to the buyer a copy of the most recent notice
2 provided to the unit owners of the association pursuant to
3 subparagraph (a) of this paragraph.

4 (3) The funding method authorized pursuant to paragraph (2) of
5 this subsection shall not be utilized by an association for more than
6 five fiscal years of the association next following the effective date
7 of P.L. , c. (pending before the Legislature as this bill).

8 f. An association created after the effective date of P.L.2023,
9 c.214 (C.52:27D-132.2 et al.) shall fund its capital reserve fund
10 account in accordance with one of the capital reserve funding plans
11 set forth in the association's most recent capital reserve study.¹

12 (cf: P.L.2023, c.214, s.7)

13

14 ¹**[3.]** 4.¹ This act shall take effect immediately.