52:27D-132.3, 45:22A-44.2 & 45:22A-44.3
LEGISLATIVE HISTORY CHECKLIST
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LAWS OF: 2025 **CHAPTER:** 132

NJSA: 52:27D-132.3, 45:22A-44.2 & 45:22A-44.3 Modifies capital reserve funding requirements for certain planned real estate developments.

BILL NO: S3992 (Substituted for A5844)

SPONSOR(S) Singleton, Troy and others

DATE INTRODUCED: 12/19/2024

COMMITTEE: **ASSEMBLY:** Housing

SENATE: Community & Urban Affairs

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** 06/30/2025

SENATE: 06/02/2025

DATE OF APPROVAL: 8/21/2025

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (S3992 Sa (1R) enacted)

ADVANCE LAW Yes

PAMPHLET LAW Yes

S3992

INTRODUCED BILL: (Includes sponsor(s) statement) Yes

REPRINT(S): Yes Senate 3/24/25 1R

TECHNICAL REVIEW OF BILL: No

COMMITTEE STATEMENT: **ASSEMBLY**: Yes

SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, ***may possibly*** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: Yes

LEGISLATIVE FISCAL ESTIMATE: No

A5844

INTRODUCED BILL: (Includes sponsor(s) statement) Yes

REPRINT(S): No

TECHNICAL REVIEW OF BILL: No

COMMITTEE STATEMENT: **ASSEMBLY**: Yes

SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, ***may possibly*** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

LEGISLATOR STATEMENT: No

FOLLOWING WERE PRINTED:
To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or mailto:refdesk@njstatelib.org

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

CL/MMcB

P.L. 2025, CHAPTER 132, ***approved August 21, 2025***
Senate, No. 3992 ***(First Reprint)***

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

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

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

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

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

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

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

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

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

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

"Excluded structure" means:

(1) International Standardization Organization ISO Type 1 construction or frame-built construction with combustible walls or

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:
[1]Senate floor amendments adopted March 24, 2025.

roofs, but not including a podium deck on which the frame-built construction is situated;

(2) a building with ancillary elements that are not part of the primary load bearing system such as, but not limited to, elevator shafts or concrete, masonry, steel, or heavy timber that the primary load bearing system does not deliver a building's load to the foundation;

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

(4) a single-family dwelling.

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

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

"Structural inspector" means:

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

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

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

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

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

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

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

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

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

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

(5) a reasonable estimate of the cost of:

(a) future reserve studies;

(b) reserve study updates; and

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

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

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

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

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

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

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

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

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

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

[1]3. Section 7 of P.L.2023, c.214 (C.45:22A-44.3) is amended to read as follows:

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

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

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

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

c. [If an association existing as of the effective date of P.L.2023, c.214 (C.52:27D-132.2 et al.) does not have an adequate reserve fund as described in subsection a. of this section, and the increase in the association's budget line item for reserve funding to render it adequate as set forth in the reserve study would, without reference to any other budget line item adjustments, require an increase of more than 10 percent of the previous year's common expense assessment, the deficiency shall be made adequate within the earlier of the following 10 fiscal years, or the projected date predicted by the reserve study by which absent increased funding, the balance in the association's reserve account would fall below zero. In either case, the annual increase in reserve funding during the required period of time shall be an equal annual line item increase in the reserve fund until the reserve fund is made adequate, notwithstanding causing an increase of more than 10 percent in the annual common expense assessment.】 <u>(Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)</u>

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

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

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

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

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

(b) prior to the execution of a contract for the purchase of a residential unit in the planned real estate development, the seller of the unit shall provide to the buyer a copy of the most recent notice provided to the unit owners of the association pursuant to subparagraph (a) of this paragraph.

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

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

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

[1]**[**3.**]** 4.[1] This act shall take effect immediately.

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

CHAPTER 132

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

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

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

C.52:27D-132.3 Definitions.

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

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

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

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

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

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

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

"Excluded structure" means:

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

a building with ancillary elements that are not part of the primary load bearing system such as, but not limited to, elevator shafts or concrete, masonry, steel, or heavy timber that the primary load bearing system does not deliver a building's load to the foundation;

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

a single-family dwelling.

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

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

"Structural inspector" means:

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

an employee of the bureau who is also an engineer licensed by the State; or

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

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

C.45:22A-44.2 Planned real estate development, association, capital reserve study.

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

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

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

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

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

(5) a reasonable estimate of the cost of:

(a) future reserve studies;

(b) reserve study updates; and

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

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

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

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

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

c. An association of a planned real estate development shall ensure that a capital reserve study conducted pursuant to this section shall be reviewed by a licensed architect, engineer, or credentialed reserve specialist and that a capital reserve study be conducted and reviewed at least once every five years.

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

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

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

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

C.45:22A-44.3 Planned real estate development, association, reserve study, 30-year funding plan, adequate reserve funds.

7. a. An association of a planned real estate development shall obtain a reserve study including a 30-year funding plan in order to ensure that the association has adequate reserve funds available to repair or replace the capital assets located on the common elements and facilities that the association is obligated to maintain without need to create a special assessment or loan obligation, except as permitted pursuant to subsection e. of this section. These reserve funds shall be used for the repair or replacement of components that have reached the end of their established useful life as set forth in the most recent reserve study undertaken pursuant to section 6 of P.L.2023, c.214 (C.45:22A-44.2).

b. (Deleted by amendment, P.L.2025, c.132)

c. (Deleted by amendment, P.L.2025, c.132)

d. (Deleted by amendment, P.L.2025, c.132)

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

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

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

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

(b) prior to the execution of a contract for the purchase of a residential unit in the planned real estate development, the seller of the unit shall provide to the buyer a copy of the most recent notice provided to the unit owners of the association pursuant to subparagraph (a) of this paragraph.

(3) The funding method authorized pursuant to paragraph (2) of this subsection shall not be utilized by an association for more than five fiscal years of the association next following the effective date of P.L.2025, c.132.

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

4. This act shall take effect immediately.

Approved August 21, 2025.

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.

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

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

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

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

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

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

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

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

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

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

"Excluded structure" means:

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

(2) a building with ancillary elements that are not part of the primary load bearing system such as, but not limited to, elevator 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.

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

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

(4) a single-family dwelling.

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

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

"Structural inspector" means:

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

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

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

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

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

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

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

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

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

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

(5) a reasonable estimate of the cost of:

(a) future reserve studies;

(b) reserve study updates; and

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

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

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

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

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

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

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

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

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

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

3. This act shall take effect immediately.

STATEMENT

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

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

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

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

[First Reprint]

SENATE, No. 3992

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED DECEMBER 19, 2024

Sponsored by:
Senator TROY SINGLETON
District 7 (Burlington)
Assemblywoman YVONNE LOPEZ
District 19 (Middlesex)
Assemblyman STERLEY S. STANLEY
District 18 (Middlesex)
Assemblywoman TENNILLE R. MCCOY
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)

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

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

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

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

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

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

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

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

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

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

"Excluded structure" means:

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

(2) a building with ancillary elements that are not part of the 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 <u>thus</u> is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Senate floor amendments adopted March 24, 2025.

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

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

(4) a single-family dwelling.

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

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

"Structural inspector" means:

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

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

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

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

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

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

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

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

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

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

(5) a reasonable estimate of the cost of:

(a) future reserve studies;

(b) reserve study updates; and

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

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

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

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

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

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

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

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

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

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

[1]3. Section 7 of P.L.2023, c.214 (C.45:22A-44.3) is amended to read as follows:

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

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

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

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

c. [If an association existing as of the effective date of P.L.2023, c.214 (C.52:27D-132.2 et al.) does not have an adequate reserve fund as described in subsection a. of this section, and the increase in the association's budget line item for reserve funding to render it adequate as set forth in the reserve study would, without reference to any other budget line item adjustments, require an increase of more than 10 percent of the previous year's common expense assessment, the deficiency shall be made adequate within the earlier of the following 10 fiscal years, or the projected date predicted by the reserve study by which absent increased funding, the balance in the association's reserve account would fall below zero. In either case, the annual increase in reserve funding during the required period of time shall be an equal annual line item increase in the reserve fund until the reserve fund is made adequate, notwithstanding causing an increase of more than 10 percent in the annual common expense assessment.] (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

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

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

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

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

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

(b) prior to the execution of a contract for the purchase of a residential unit in the planned real estate development, the seller of the unit shall provide to the buyer a copy of the most recent notice provided to the unit owners of the association pursuant to subparagraph (a) of this paragraph.

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

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

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

[1]**[**3.**]** 4.[1] This act shall take effect immediately.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 3992

STATE OF NEW JERSEY

DATED: JANUARY 30, 2025

The Senate Community and Urban Affairs Committee reports favorably Senate Bill No. 3992.

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

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

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

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

ASSEMBLY HOUSING COMMITTEE

STATEMENT TO

[First Reprint]
SENATE, No. 3992

STATE OF NEW JERSEY

DATED: JUNE 19, 2025

The Assembly Housing Committee reports favorably Senate Bill No. 3992 (1R).

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

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

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

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

The bill further requires:

- an association existing as of January 8, 2024 to fund the reserve fund either: in accordance with the most recent reserve study and funding plan; or in an amount equal to 85 percent of one of the association's reserve funding plans;
- if the association chooses to fund the reserve fund in an amount equal to 85 percent of the association's reserve funding plan, the association to provide certain notice to the

unit owners and provide the year in which a special assessment or loan is anticipated as a result of the reduced funding of the reserve fund, and the amount of the anticipated special assessment or loan; and

- the seller of a unit within an association that has elected to fund the reserve fund at 85 percent to provide to the buyer a copy of the most recent notice provided to the unit owners of the association concerning the association's decision to fund the reserve fund at 85 percent.

The bill prohibits an association from funding the reserve fund at 85 percent for more than five fiscal years and specifies that an association created after January 8, 2024 is to fund the association's reserve fund in accordance with the capital reserve funding plan set forth in the association's most recent reserve study.

Lastly, the bill removes certain language concerning an association's reserve fund from existing law.

As reported by the committee, Senate Bill No. 3992 (1R) is identical to Assembly Bill No. 5844, which was also reported by the committee on this date.

STATEMENT TO

SENATE, No. 3992

with Senate Floor Amendments
(Proposed by Senator SINGLETON)

ADOPTED: MARCH 24, 2025

These floor amendments:

(1) remove language specifying that, for cases in which a capital asset reaches the end of its established useful life earlier than predicted by the capital reserve study (reserve study), nothing is to prevent the association of a planned real estate development from imposing a special assessment or obtaining a loan;

(2) remove language requiring an association, when capital reserve funds (reserve fund) are required to repair or replace a component contained in the reserve study, to use only the amount of reserve funds allocated by the reserve study to make the repair or replacement specified, unless certain criteria are met;

(3) remove language requiring an association existing as of January 8, 2024, the effective date of P.L.2023, c.214 (C.52:27D-132.2 et al.), to make the association's reserve fund adequate in certain time periods, if the association's reserve fund is not adequate and would require certain increases in the association's annual common expense assessment;

(4) require an association existing as of January 8, 2024 to fund the reserve fund either: in accordance with the most recent reserve study and funding plan; or in an amount equal to 85 percent of one of the association's reserve funding plans;

(5) require that, if the association chooses to fund the reserve fund in an amount equal to 85 percent of the association's reserve funding plan, the association is to provide certain notice to the unit owners and provide the year in which a special assessment or loan is anticipated as a result of the reduced funding of the reserve fund, and the amount of the anticipated special assessment or loan;

(6) require the seller of a unit within an association that has elected to fund the reserve fund at 85 percent to provide to the buyer a copy of the most recent notice provided to the unit owners of the association concerning the association's decision to fund the reserve fund at 85 percent;

(7) prohibit an association from funding the reserve fund at 85 percent for more than five fiscal years; and

(8) specify that an association created after January 8, 2024 is to fund the association's reserve fund in accordance with the capital reserve funding plan set forth in the association's most recent reserve study.

ASSEMBLY, No. 5844

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED JUNE 12, 2025

Sponsored by:
Assemblywoman YVONNE LOPEZ
District 19 (Middlesex)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.

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

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

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

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

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

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

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

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

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

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

"Excluded structure" means:

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

(2) a building with ancillary elements that are not part of the primary load bearing system such as, but not limited to, elevator 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 <u>thus</u> is new matter.

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

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

(4) a single-family dwelling.

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

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

"Structural inspector" means:

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

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

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

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

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

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

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

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

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

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

(5) a reasonable estimate of the cost of:

(a) future reserve studies;

(b) reserve study updates; and

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

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

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

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

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

c. ⟦A covered building owner, as defined in section 2 of P.L.2023, c.214 (C.52:27D-132.3),⟧ <u>An association of a planned real estate development</u> shall ensure that a capital reserve study conducted pursuant to this section shall be reviewed by a licensed architect, engineer, or credentialed reserve specialist and that a capital reserve study be conducted and reviewed at least once every five years.

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

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

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

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

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

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

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

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

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

c. [If an association existing as of the effective date of P.L.2023, c.214 (C.52:27D-132.2 et al.) does not have an adequate reserve fund as described in subsection a. of this section, and the increase in the association's budget line item for reserve funding to render it adequate as set forth in the reserve study would, without reference to any other budget line item adjustments, require an increase of more than 10 percent of the previous year's common expense assessment, the deficiency shall be made adequate within the earlier of the following 10 fiscal years, or the projected date predicted by the reserve study by which absent increased funding, the balance in the association's reserve account would fall below zero. In either case, the annual increase in reserve funding during the required period of time shall be an equal annual line item increase in the reserve fund until the reserve fund is made adequate, notwithstanding causing an increase of more than 10 percent in the annual common expense assessment.] (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

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

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

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

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

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

(b) prior to the execution of a contract for the purchase of a residential unit in the planned real estate development, the seller of the unit shall provide to the buyer a copy of the most recent notice provided to the unit owners of the association pursuant to subparagraph (a) of this paragraph.

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

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

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

4. This act shall take effect immediately.

STATEMENT

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

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

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

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

The bill further requires:

- an association existing as of January 8, 2024 to fund the reserve fund either: in accordance with the most recent reserve study and funding plan; or in an amount equal to 85 percent of one of the association's reserve funding plans;

- if the association chooses to fund the reserve fund in an amount equal to 85 percent of the association's reserve funding plan, the association to provide certain notice to the unit owners and provide the year in which a special assessment or loan is anticipated as a result of the reduced funding of the reserve fund, and the amount of the anticipated special assessment or loan; and
- the seller of a unit within an association that has elected to fund the reserve fund at 85 percent to provide to the buyer a copy of the most recent notice provided to the unit owners of the association concerning the association's decision to fund the reserve fund at 85 percent.

The bill prohibits an association from funding the reserve fund at 85 percent for more than five fiscal years and specifies that an association created after January 8, 2024 is to fund the association's reserve fund in accordance with the capital reserve funding plan set forth in the association's most recent reserve study.

Lastly, the bill removes certain language concerning an association's reserve fund from existing law.

ASSEMBLY HOUSING COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5844

STATE OF NEW JERSEY

DATED: JUNE 19, 2025

The Assembly Housing Committee reports favorably Assembly Bill No. 5844.

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

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

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

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

The bill further requires:

- an association existing as of January 8, 2024 to fund the reserve fund either: in accordance with the most recent reserve study and funding plan; or in an amount equal to 85 percent of one of the association's reserve funding plans;
- if the association chooses to fund the reserve fund in an amount equal to 85 percent of the association's reserve funding plan, the association to provide certain notice to the unit owners and provide the year in which a special

assessment or loan is anticipated as a result of the reduced funding of the reserve fund, and the amount of the anticipated special assessment or loan; and

- the seller of a unit within an association that has elected to fund the reserve fund at 85 percent to provide to the buyer a copy of the most recent notice provided to the unit owners of the association concerning the association's decision to fund the reserve fund at 85 percent.

The bill prohibits an association from funding the reserve fund at 85 percent for more than five fiscal years and specifies that an association created after January 8, 2024 is to fund the association's reserve fund in accordance with the capital reserve funding plan set forth in the association's most recent reserve study.

Lastly, the bill removes certain language concerning an association's reserve fund from existing law.

As reported by the committee, Assembly Bill No. 5844 is identical to Senate Bill No. S3992 (1R), which was also reported by the committee on this date.

Governor Murphy Takes Action on Legislation

Posted on - 08/21/2025

TRENTON – Today, Governor Murphy signed the following bills into law:

S-3773/A-5506 (Lagana, Wimberly/Verrelli) - Concerns requirements to report separations from employment under employee leasing agreements

S-3944/A-5125 (Sarlo, Gopal/Calabrese, Carter) - Provides that certain non-profit corporation alcoholic beverage theater licensees include disregarded entities of such corporations; allows certain community theaters to sell alcoholic beverages

S-3992/A-5844 (Singleton/Lopez, Stanley, McCoy) - Modifies capital reserve funding requirements for certain planned real estate developments

A-3424/S-1784 (Reynolds-Jackson, Matsikoudis/McKnight, Turner) - Establishes certain program requirements for school counselor certification; outlines role and duties of school counselor; requires professional development for school counselors; establishes position of School Counselor Liaison in DOE

A-5792/S-4590 (Freiman, Drulis, Hutchison, Quijano/Lagana, Scutari) - Provides for workers’ compensation coverage of certain counseling services for first responders and provides that certain mental health related communications are confidential

Office of Equity (/governor/admin/equity/)

Office of Health Care Affordability and Transparency (/governor/admin/affordablehealthcare/index.shtml)

Boards, Commissions & Authorities (/governor/admin/bca)

New Jersey Puerto Rico Commission (https://www.nj.gov/puertoricocommission/)

Internship Opportunities (/governor/admin/internship.shtml)

Governor's Fellows Program (/governor/admin/fellows)

Governor's Residence - Drumthwacket (http://drumthwacket.org/)

Key Initiatives

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Education (/governor/initiatives/#Education)

Environment (/governor/initiatives/#Environment)

Health (/governor/initiatives/#Health)

Law & Justice (/governor/initiatives/#Justice)

Transportation (/governor/initiatives/#Transportation)

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