

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.