

**Superseded 7/1/2014**

**57-8-7.5 Reserve analysis -- Reserve fund.**

- (1) As used in this section:
  - (a) "Reserve analysis" means an analysis to determine:
    - (i) the need for a reserve fund to accumulate money to cover the cost of repairing, replacing, or restoring common areas and facilities that have a useful life of no fewer than three years but less than 30 years, when the cost cannot reasonably be funded from the general budget or other funds of the association of unit owners; and
    - (ii) the appropriate amount of any reserve fund.
  - (b) "Reserve fund line item" means a line item in the annual budget of an association of unit owners that identifies the amount to be placed into a reserve fund.
- (2) Except as otherwise provided in the declaration, a management committee shall:
  - (a)
    - (i) subject to Subsection (2)(a)(ii), cause a reserve analysis to be conducted no less frequently than every six years; and
    - (ii) if no reserve analysis has been conducted since March 1, 2008, cause a reserve analysis to be conducted before July 1, 2012; and
  - (b) review and, if necessary, update a previously conducted reserve analysis no less frequently than every three years.
- (3) The management committee may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the management committee, to conduct the reserve analysis.
- (4) A reserve analysis shall include:
  - (a) a list of the components identified in the reserve analysis that will reasonably require reserve funds;
  - (b) a statement of the probable remaining useful life, as of the date of the reserve analysis, of each component identified in the reserve analysis;
  - (c) an estimate of the cost to repair, replace, or restore each component identified in the reserve analysis;
  - (d) an estimate of the total annual contribution to a reserve fund necessary to meet the cost to repair, replace, or restore each component identified in the reserve analysis during the component's useful life and at the end of the component's useful life; and
  - (e) a reserve funding plan that recommends how the association of unit owners may fund the annual contribution described in Subsection (4)(d).
- (5) Each year, an association of unit owners shall provide:
  - (a) a summary of the most recent reserve analysis, including any updates, to each unit owner; and
  - (b) a complete copy of the most recent reserve analysis, including any updates, to a unit owner upon request.
- (6)
  - (a) An association of unit owners shall include a reserve fund line item in its annual budget.
  - (b) The amount of the reserve fund line item shall be determined by:
    - (i) the management committee, based on the reserve analysis and the amount that the management committee determines is prudent under the circumstances; or
    - (ii) the declaration, if the declaration requires an amount greater than the amount determined under Subsection (6)(b)(i).
  - (c) Within 45 days after the day on which an association of unit owners adopts its annual budget, the unit owners may veto the reserve fund line item by a 51% vote of the allocated voting

interests in the association of unit owners at a special meeting called by the unit owners for the purpose of voting whether to veto a reserve fund line item.

- (d) If the unit owners veto a reserve fund line item under Subsection (6)(c) and a reserve fund line item exists in a previously approved annual budget of the association of unit owners that was not vetoed, the association of unit owners shall fund the reserve account in accordance with that prior reserve fund line item.
- (7)
- (a) Subject to Subsection (7)(b), if an association of unit owners does not comply with the requirements described in Subsection (5) or (6) and fails to remedy the noncompliance within the time specified in Subsection (7)(c), a unit owner may file an action in state court for:
    - (i) injunctive relief requiring the association of unit owners to comply with the requirements of Subsection (5) or (6);
    - (ii) \$500 or actual damages, whichever is greater;
    - (iii) any other remedy provided by law; and
    - (iv) reasonable costs and attorney fees.
  - (b) No fewer than 90 days before the day on which a unit owner files a complaint under Subsection (7)(a), the unit owner shall deliver written notice described in Subsection (7)(c) to the association of unit owners.
  - (c) A notice described in Subsection (7)(b) shall state:
    - (i) the requirement in Subsection (5) or (6) with which the association of unit owners has failed to comply;
    - (ii) a demand that the association of unit owners come into compliance with the requirements; and
    - (iii) a date, no fewer than 90 days after the day on which the unit owner delivers the notice, by which the association of unit owners shall remedy its noncompliance.
  - (d) In a case filed under Subsection (7)(a), a court may order an association of unit owners to produce the summary of the reserve analysis or the complete reserve analysis on an expedited basis and at the association of unit owners' expense.
- (8)
- (a) A management committee may not use money in a reserve fund:
    - (i) for daily maintenance expenses, unless a majority of the members of the association of unit owners vote to approve the use of reserve fund money for that purpose; or
    - (ii) for any purpose other than the purpose for which the reserve fund was established.
  - (b) A management committee shall maintain a reserve fund separate from other funds of the association of unit owners.
  - (c) This Subsection (4) may not be construed to limit a management committee from prudently investing money in a reserve fund, subject to any investment constraints imposed by the declaration.
- (9) Subsections (2), (3), (4), and (6) do not apply to an association of unit owners during the period of declarant management.
- (10) This section applies to each association of unit owners, regardless of when the association of unit owners was created.