

HOMEOWNERS' ASSOCIATION AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen H. Urquhart

House Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill enacts provisions relating to condominium and community associations.

Highlighted Provisions:

This bill:

► requires a reserve study to be conducted and a review of a reserve study on a periodic basis; and

► enacts provisions governing reserve funds of condominium associations and community associations.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

57-8-7.5, Utah Code Annotated 1953

57-8a-211, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **57-8-7.5** is enacted to read:

57-8-7.5. Reserve study -- Reserve fund.



28 (1) As used in this section, "reserve study" means a study to determine:
29 (a) the need for a reserve fund to accumulate money to cover the cost of repairing,
30 replacing, and restoring common areas and facilities that have a useful life of three years or
31 more, but excluding any cost that can reasonably be funded from the general budget or other
32 funds of the association of unit owners; and

33 (b) the appropriate amount of any reserve fund.
34 (2) Except as otherwise provided in the declaration, a management committee shall:

35 (a) (i) subject to Subsection (2)(a)(ii), cause a reserve study to be conducted no less
36 frequently than every five years; and

37 (ii) if no reserve study has been conducted since March 1, 2008, cause a reserve study
38 to be conducted before July 1, 2012; and

39 (b) review and, if necessary, update a previously conducted reserve study no less
40 frequently than every two years.

41 (3) The management committee may conduct a reserve study itself or may engage a
42 reliable person or organization, as determined by the management committee, to conduct the
43 reserve study.

44 (4) (a) A management committee may not use money in a reserve fund:

45 (i) for daily maintenance expenses, unless members of the association of unit owners
46 vote to approve the use of reserve fund money for that purpose; or

47 (ii) for any purpose other than the purpose for which the reserve fund was established.

48 (b) A management committee shall maintain a reserve fund separate from other funds
49 of the association of unit owners.

50 (c) This Subsection (4) may not be construed to limit a management committee from
51 prudently investing money in a reserve fund, subject to any investment constraints imposed by
52 the declaration.

53 (5) Subsections (2), (3), and (4) do not apply to an association of unit owners during
54 the period of declarant management.

55 Section 2. Section **57-8a-211** is enacted to read:

56 **57-8a-211. Reserve study -- Reserve fund.**

57 (1) As used in this section, "reserve study" means a study to determine:

58 (a) the need for a reserve fund to accumulate money to cover the cost of repairing,

59 replacing, and restoring common areas that have a useful life of three years or more, but
60 excluding any cost that can reasonably be funded from the association's general budget or from
61 other association funds; and

62 (b) the appropriate amount of any reserve fund.

63 (2) Except as otherwise provided in the governing documents, a board shall:

64 (a) (i) subject to Subsection (2)(a)(ii), cause a reserve study to be conducted no less
65 frequently than every five years; and

66 (ii) if no reserve study has been conducted since March 1, 2008, cause a reserve study
67 to be conducted before July 1, 2012; and

68 (b) review and, if necessary, update a previously conducted reserve study no less
69 frequently than every two years.

70 (3) The board may conduct a reserve study itself or may engage a reliable person or
71 organization, as determined by the board, to conduct the reserve study.

72 (4) (a) A board may not use money in a reserve fund:

73 (i) for daily maintenance expenses, unless association members vote to approve the use
74 of reserve fund money for that purpose; or

75 (ii) for any purpose other than the purpose for which the reserve fund was established.

76 (b) A board shall maintain a reserve fund separate from other association funds.

77 (c) This Subsection (4) may not be construed to limit a board from prudently investing
78 money in a reserve fund, subject to any investment constraints imposed by the governing
79 documents.

80 (5) Subsections (2), (3), and (4) do not apply to an association during the period of
81 administrative control.

Legislative Review Note
as of 2-25-10 12:08 PM

Office of Legislative Research and General Counsel

S.B. 278 - Homeowners' Association Amendments

Fiscal Note

2010 General Session
State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
