

1 **HOMEOWNER ASSOCIATION RESERVE ACCOUNT**

2 2011 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Stephen H. Urquhart**

5 House Sponsor: Don L. Ipson

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions of the Condominium Ownership Act and the Community
10 Association Act relating to reserve accounts.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ requires condominium and community associations to allow owners annually to
- 14 decide whether and, if so, how to fund a reserve fund; and
- 15 ▶ specifies the applicability of reserve fund provisions.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **57-8-7.5**, as enacted by Laws of Utah 2010, Chapter 46

23 **57-8a-211**, as enacted by Laws of Utah 2010, Chapter 46

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

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

27 **57-8-7.5. Reserve analysis -- Reserve fund.**

28 (1) As used in this section, "reserve analysis" means an analysis 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 analysis to be conducted no less
36 frequently than every five years; and

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

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

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

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

45 (i) for daily maintenance expenses, unless a majority of the members of the association
46 of unit owners 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), and (6)~~ do not apply to an association of unit owners
54 during the period of declarant management.

55 (6) An association of unit owners shall:

56 (a) annually, at the annual meeting of unit owners or at a special meeting of unit
57 owners:

58 (i) present the reserve study; and
59 (ii) provide an opportunity for unit owners to discuss reserves and to vote on whether
60 to fund a reserve fund and, if so, how to fund it and in what amount;

61 (b) prepare and keep minutes of each meeting held under Subsection (6)(a) and
62 indicate in the minutes any decision relating to funding a reserve fund.

63 (7) This section applies to each association of unit owners, regardless of when the
64 association of unit owners was created.

65 Section 2. Section **57-8a-211** is amended to read:

66 **57-8a-211. Reserve analysis -- Reserve fund.**

67 (1) As used in this section, "reserve analysis" means an analysis to determine:

68 (a) the need for a reserve fund to accumulate money to cover the cost of repairing,
69 replacing, and restoring common areas that have a useful life of three years or more, but
70 excluding any cost that can reasonably be funded from the association's general budget or from
71 other association funds; and

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

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

74 (a) (i) subject to Subsection (2)(a)(ii), cause a reserve analysis to be conducted no less
75 frequently than every five years; and

76 (ii) if no reserve analysis has been conducted since March 1, 2008, cause a reserve
77 analysis to be conducted before July 1, 2012; and

78 (b) review and, if necessary, update a previously conducted reserve analysis no less
79 frequently than every two years.

80 (3) The board may conduct a reserve analysis itself or may engage a reliable person or
81 organization, as determined by the board, to conduct the reserve analysis.

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

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

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

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

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

90 (5) Subsections (2), (3), [~~and~~] (4), and (6) do not apply to an association during the
91 period of administrative control.

92 (6) An association shall:

93 (a) annually, at the annual meeting of lot owners or at a special meeting of lot owners:

94 (i) present the reserve study; and

95 (ii) provide an opportunity for lot owners to discuss reserves and to vote on whether to
96 fund a reserve fund and, if so, how to fund it and in what amount;

97 (b) prepare and keep minutes of each meeting held under Subsection (6)(a) and
98 indicate in the minutes any decision relating to funding a reserve fund.

99 (7) This section applies to each association, regardless of when the association was
100 created.