

**HOMEOWNERS' ASSOCIATION AMENDMENTS**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephen H. Urquhart**

House Sponsor: Don L. Ipson

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**LONG TITLE**

**General Description:**

This bill enacts provisions relating to condominium and community associations.

**Highlighted Provisions:**

This bill:

▶ requires a reserve ~~§~~→ [study] analysis ←~~§~~ to be conducted and a review of a reserve

~~§~~→ [study] analysis ←~~§~~ 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

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*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] analysis ←~~§~~ -- Reserve fund.**

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28 (1) As used in this section, "reserve ~~§~~ [study] analysis ~~§~~ " means ~~§~~ [a study] an  
 28a 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 ~~§~~ [study] analysis ~~§~~ to be  
 35a conducted no less

36 frequently than every five years; and

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

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

41 (3) The management committee may conduct a reserve ~~§~~ [study] analysis ~~§~~ itself or  
 41a may engage a  
 42 reliable person or organization, as determined by the management committee, to conduct the  
 43 reserve ~~§~~ [study] 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  
 45a 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  $\hat{S} \rightarrow$  [study] analysis  $\leftarrow \hat{S}$  -- Reserve fund.

57 (1) As used in this section, "reserve  $\hat{S} \rightarrow$  [study] analysis  $\leftarrow \hat{S}$  " means  $\hat{S} \rightarrow$  [~~a study~~] an  
57a analysis  $\leftarrow \hat{S}$  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  $\hat{S} \rightarrow$  [study] analysis  $\leftarrow \hat{S}$  to be  
64a conducted no less  
65 frequently than every five years; and

66 (ii) if no reserve  $\hat{S} \rightarrow$  [study] analysis  $\leftarrow \hat{S}$  has been conducted since March 1, 2008, cause a  
66a reserve  $\hat{S} \rightarrow$  [study] analysis  $\leftarrow \hat{S}$   
67 to be conducted before July 1, 2012; and

68 (b) review and, if necessary, update a previously conducted reserve  $\hat{S} \rightarrow$  [study] analysis  $\leftarrow \hat{S}$   
68a no less  
69 frequently than every two years.

70 (3) The board may conduct a reserve  $\hat{S} \rightarrow$  [study] analysis  $\leftarrow \hat{S}$  itself or may engage a  
70a reliable person or  
71 organization, as determined by the board, to conduct the reserve  $\hat{S} \rightarrow$  [study] analysis  $\leftarrow \hat{S}$  .

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

73 (i) for daily maintenance expenses, unless  $\hat{S} \rightarrow$  a majority of  $\leftarrow \hat{S}$  association members vote  
73a 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.

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**02-25-10 2:05 PM**

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

**Office of Legislative Research and General Counsel**

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**S.B. 278 - Homeowners' Association Amendments**

**Fiscal Note**

2010 General Session  
State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**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.

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