

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 analysis to be conducted and a review of a reserve 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

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 analysis -- Reserve fund.

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

- (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) 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 analysis -- Reserve fund.**

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

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

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

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

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

73 (i) for daily maintenance expenses, unless a majority of association members vote to  
74 approve the use 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.