

HOMEOWNER ASSOCIATION RESERVE ACCOUNT

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen H. Urquhart

House Sponsor: Don L. Ipson

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

► requires reserve accounts of condominium and other homeowner associations to be funded adequately beginning July 1, 2013.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

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



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

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

33 (2) Except as otherwise provided in the declaration, a management committee shall:

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

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

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

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

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

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

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

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

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

52 (5) Subsections (2), (3), ~~§~~ [and] ~~§~~ (4) ~~§~~ , and (6) ~~§~~ do not apply to an association
52a of unit owners during
53 the period of declarant management.

54 (6) Beginning July 1, 2013, a management committee shall ensure that a reserve fund
55 ~~§~~ [contains the appropriate amount of money] is being appropriately funded ~~§~~ , as determined
55a by the reserve analysis, to meet the
56 needs for which the reserve fund is established.

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

58 **57-8a-211. Reserve analysis -- Reserve fund.**

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

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

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

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

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

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

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

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

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

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

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

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

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

82 (5) Subsections (2), (3), ~~§~~ **[and]** ~~§~~ (4) ~~§~~ **, and (6)** ~~§~~ do not apply to an association
82a during the period of
83 administrative control.

84 (6) Beginning July 1, 2013, a board shall ensure that a reserve fund ~~§~~ **[contains the**
85 **appropriate amount of money] is being appropriately funded** ~~§~~ **, as determined by the reserve**
85a **analysis, to meet the needs for**
86 **which the reserve fund is established.**

Legislative Review Note
as of 2-3-11 1:50 PM

Office of Legislative Research and General Counsel

FISCAL NOTE

S.B. 89

SHORT TITLE: Homeowner Association Reserve Account

SPONSOR: Urquhart, S.

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

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

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.