

SB0089S01 compared with SB0089

~~deleted text~~ shows text that was in SB0089 but was deleted in SB0089S01.

inserted text shows text that was not in SB0089 but was inserted into SB0089S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will not be completely accurate. Therefore, you need to read the actual bill. This automatically generated document could experience abnormalities caused by: limitations of the compare program; bad input data; the timing of the compare; and other potential causes.

Senator Stephen H. Urquhart proposes the following substitute bill:

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~~ community associations to ~~be funded adequately beginning July 1, 2013~~ allow owners annually to decide whether and, if so, how to fund a reserve fund; and
- ▶ specifies the applicability of reserve fund provisions.

Money Appropriated in this Bill:

None

Other Special Clauses:

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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:

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

(b) the appropriate amount of any reserve fund.

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

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

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

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

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

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

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

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

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

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

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

~~(6) Beginning July 1, 2013, a management committee shall ensure that~~An association of unit owners shall:

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

(i) present the reserve study; and

(ii) provide an opportunity for unit owners to discuss reserves and to vote on whether to fund a reserve fund ~~contains the appropriate amount of money, as determined by the reserve analysis, to meet the needs for which the reserve fund is established~~ and, if so, how to fund it and in what amount;

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

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

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

57-8a-211. 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, replacing, and restoring common areas that have a useful life of three years or more, but excluding any cost that can reasonably be funded from the association's general budget or from other association funds; and

(b) the appropriate amount of any reserve fund.

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

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

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

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

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

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

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

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

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

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

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

~~(6) Beginning July 1, 2013, a board shall ensure that~~ An association shall:

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

(i) present the reserve study; and

(ii) provide an opportunity for lot owners to discuss reserves and to vote on whether to

fund a reserve fund ~~{contains the appropriate amount of money, as determined by the reserve analysis, to meet the needs for which the reserve fund is established.~~

Legislative Review Note

~~as of 2-3-11 1:50 PM~~

~~Office of Legislative Research and General Counsel~~ and, if so, how to fund it and in what amount;

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

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