

26 **57-8a-211**, as last amended by Laws of Utah 2018, Chapter 395

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

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

30 **57-8-7.5. Reserve analysis -- Reserve fund.**

31 (1) As used in this section:

32 (a) "Reserve analysis" means an analysis to determine:

33 (i) the need for a reserve fund to accumulate reserve funds; and

34 (ii) the appropriate amount of any reserve fund.

35 (b) "Reserve fund line item" means the line item in an association of unit owners'

36 annual budget that identifies the amount to be placed into a reserve fund.

37 (c) "Reserve funds" means money to cover:

38 (i) the cost of repairing, replacing, or restoring common areas and facilities that have a  
39 useful life of three years or more and a remaining useful life of less than 30 years, if the cost  
40 cannot reasonably be funded from the general budget or other funds of the association of unit  
41 owners[-]; or

42 (ii) a shortfall in the general budget, if:

43 (A) the shortfall occurs while a state of emergency declared in accordance with Section  
44 53-2a-206 is in effect;

45 (B) the geographic area for which the state of emergency described in Subsection

46 (1)(c)(ii)(A) is declared extends to the entire state; and

47 (C) at the time the money is spent, more than 10% of unit owners ~~Œ~~ that are not

47a members of the management committee ~~Œ~~ in the association are

48 delinquent in the payment of assessments as a result of events giving rise to the state of

49 emergency described in Subsection (1)(c)(ii)(A).

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

51 (a) cause a reserve analysis to be conducted no less frequently than every six years; and

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

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

119 (b) (i) A management committee may not use money in a reserve fund for daily  
 120 maintenance expenses, unless:

121 (A) a majority of the members of the association of unit owners vote to approve the use  
 122 of reserve fund money for daily maintenance expenses; or

123 (B) there exists in the general budget a shortfall that the management committee may  
 124 use reserve funds to cover.

125 (ii) Members of the association of unit owners may prohibit the use of reserve fund  
 126 money for daily maintenance expenses under the circumstances described in Subsection  
 127 (9)(b)(i)(B) by a 51% vote of the allocated voting interest in the association of unit owners at a  
 128 special meeting ~~§~~ :

128a **(A) for which each unit owner receives at least 48 hours notice; and**

128b **(B) ~~§~~ the unit owners call for the purpose of voting whether to prohibit the use of**  
 129 **reserve fund money for daily maintenance expenses under the circumstances described in**  
 130 **Subsection (9)(b)(i)(B).**

131 ~~[(b)]~~ (c) A management committee shall maintain a reserve fund separate from other  
 132 funds of the association of unit owners.

133 ~~[(e)]~~ (d) This Subsection (9) may not be construed to:

134 (i) limit a management committee from prudently investing money in a reserve fund,  
 135 subject to any investment constraints imposed by the declaration[-];

136 (ii) excuse an association from the requirements described in Section 57-8-58; or

137 (iii) permit the use of money in a reserve fund for a legal action described in Section  
 138 57-8-58.

139 (10) Subsections (2) through (9) do not apply to an association of unit owners during  
 140 the period of administrative control.

141 (11) For a condominium project whose initial declaration is recorded on or after May  
 142 12, 2015, during the period of administrative control, for any property that the declarant sells to  
 143 a third party, the declarant shall give the third party:

144 (a) a copy of the association of unit owners' governing documents; and

145 (b) a copy of the association of unit owners' most recent financial statement that  
 146 includes any reserve funds held by the association of unit owners or by a subsidiary of the  
 147 association of unit owners.

148 (12) Except as otherwise provided in this section, this section applies to each  
 149 association of unit owners, regardless of when the association of unit owners was created.

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

151 **57-8a-211. Reserve analysis -- Reserve fund.**

152 (1) As used in this section:

153 (a) "Reserve analysis" means an analysis to determine:

154 (i) the need for a reserve fund to accumulate reserve funds; and

155 (ii) the appropriate amount of any reserve fund.

156 (b) "Reserve fund line item" means the line item in an association's annual budget that  
157 identifies the amount to be placed into a reserve fund.

158 (c) "Reserve funds" means money to cover:

159 (i) the cost of repairing, replacing, or restoring common areas and facilities that have a  
160 useful life of three years or more and a remaining useful life of less than 30 years, if the cost  
161 cannot reasonably be funded from the general budget or other funds of the association[~~;~~]; or

162 (ii) a shortfall in the general budget, if:

163 (A) the shortfall occurs while a state of emergency declared in accordance with Section  
164 53-2a-206 is in effect;

165 (B) the geographic area for which the state of emergency described in Subsection  
166 (1)(c)(ii)(A) is declared extends to the entire state; and

167 (C) at the time the money is spent, more than 10% of lot owners ~~§~~→ **that are not board**  
167a **members** ←~~§~~ in the association are

168 delinquent in the payment of assessments as a result of events giving rise to the state of  
169 emergency described in Subsection (1)(c)(ii)(A).

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

171 (a) cause a reserve analysis to be conducted no less frequently than every six years; and

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

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

176 (4) A reserve fund analysis shall include:

177 (a) a list of the components identified in the reserve analysis that will reasonably  
178 require reserve funds;

179 (b) a statement of the probable remaining useful life, as of the date of the reserve  
180 analysis, of each component identified in the reserve analysis;

212 (i) injunctive relief requiring the association to comply with the requirements of  
 213 Subsection (5), (6), or (7);

214 (ii) \$500 or the lot owner's actual damages, whichever is greater;

215 (iii) any other remedy provided by law; and

216 (iv) reasonable costs and attorney fees.

217 (b) No fewer than 90 days before the day on which a lot owner files a complaint under  
 218 Subsection (8)(a), the lot owner shall deliver written notice described in Subsection (8)(c) to  
 219 the association.

220 (c) A notice under Subsection (8)(b) shall state:

221 (i) the requirement in Subsection (5), (6), or (7) with which the association has failed to  
 222 comply;

223 (ii) a demand that the association come into compliance with the requirements; and

224 (iii) a date, no fewer than 90 days after the day on which the lot owner delivers the  
 225 notice, by which the association shall remedy its noncompliance.

226 (d) In a case filed under Subsection (8)(a), a court may order an association to produce  
 227 the summary of the reserve analysis or the complete reserve analysis on an expedited basis and  
 228 at the association's expense.

229 (9) (a) [~~Unless a majority of association members vote to approve the use of reserve~~  
 230 ~~fund money for that purpose, a~~ A board may not use money in a reserve fund [~~-(i) for daily~~  
 231 ~~maintenance expenses; or (ii)] for any purpose other than the purpose for which the reserve~~  
 232 ~~fund was established, unless a majority of association members vote to approve the use of~~  
 233 ~~reserve fund money for that purpose.~~

234 (b) (i) A board may not use money in a reserve fund for daily maintenance expenses,  
 235 unless:

236 (A) a majority of association members vote to approve the use of reserve fund money  
 237 for daily maintenance expenses; or

238 (B) there exists in the general budget a shortfall that the board may use reserve funds to  
 239 cover.

240 (ii) Association members may prohibit the use of reserve fund money for daily  
 241 maintenance expenses under the circumstances described in Subsection (9)(b)(i)(B) by a 51%  
 242 vote of the allocated voting interest in the association at a special meeting ~~§~~ → :

242a (A) for which each lot owner receives at least 48 hours notice; and

242b (B) ← ~~§~~ the lot owners call