

HOUSE BILL REPORT

SSB 5461

As Passed House - Amended:

April 7, 2009

Title: An act relating to reserve account and study requirements for condominium associations.

Brief Description: Concerning reserve account and study requirements for condominium associations.

Sponsors: Senate Committee on Financial Institutions, Housing & Insurance (originally sponsored by Senator Haugen).

Brief History:

Committee Activity:

Judiciary: 3/25/09, 3/26/09 [DPA].

Floor Activity

Passed House - Amended: 4/7/09, 98-0.

Brief Summary of Substitute Bill (As Amended by House)

- Exempts condominium associations of 10 or fewer owners from reserve account and study requirements if two-thirds of the owners agree to the exemption every three years.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 10 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Kelley, Kirby, Ormsby, Roberts, Ross and Warnick.

Staff: Courtney Barnes (786-7194)

Background:

The Condominium Act governs the management of all residential condominiums built in Washington after July 1, 1990. The Horizontal Property Regimes Act governs those built before July 1, 1990. Last year the Legislature amended the Condominium Act and the

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Horizontal Property Regimes Act to require a condominium association (association) to conduct an initial reserve study by a reserve study professional, updated annually with a visual site inspection every three years, unless doing so would impose an unreasonable hardship.

Condominium Reserve Studies.

A reserve study identifies the major maintenance, repair, and replacement expenses that an association will incur over time that are not practical to include in an annual budget. The purpose of a reserve study is to evaluate the expected cost of future repair and maintenance of common elements.

A reserve study must include:

- a reserve component list;
- the date of the study;
- the level of study performed;
- the balance of the association's reserve account;
- the percentage of the fully funded balance that the reserve account is funded;
- special assessments already implemented or planned;
- interest and inflation assumptions;
- current and recommended reserve account contribution rates; and
- the projected reserve account balance for 30 years and a funding plan to pay for projected expenses without reliance on future unplanned special assessments.

Condominium Reserve Accounts.

Associations are authorized and encouraged to establish reserve accounts independent of the annual operating budget, administered by the board of directors, to fund the maintenance, repair, and replacement of common elements.

A reserve account consists of funds contributed by condominium owners, supplemental to the association's annual operating budget, to fund major maintenance, repair, and replacement of common elements that will be required within 30 years. Examples of common elements include a condominium's lobby, roof, parking lot, recreational areas, roads, and sidewalks. The purpose of the reserve account is to offset the financial burden of necessary future renovations that, in the absence of a reserve account, would require the association to impose a special assessment upon the owners.

Condominium Reserve Disclosures.

A reserve disclosure is a statement on a unit's resale certificate or public offering statement indicating that the association lacks a reserve study and, as a result, the purchaser may be at risk. By statute, a copy of the current reserve study, or a disclosure that the association does not have a reserve study, must be included in a unit's public offering statement or resale certificate.

Summary of Amended Bill:

Condominium Reserve Studies and Accounts.

A condominium association with 10 or fewer unit owners is exempt from the reserve account and study requirements under the Condominium Act or the Horizontal Property Regimes Act if two-thirds of the owners agree to exempt the association. The unit owners must agree to maintain the association's exemption by a two-thirds vote every three years.

Condominium Reserve Disclosures.

A unit's public offering statement or resale certificate must contain the disclosure required by statute that the association does not have a reserve study, despite the association's exemption from reserve account and study requirements.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The bill lifts the burden from small condominium associations that may not be able to afford a reserve study or would prefer to use the money otherwise spent on a reserve study for another purpose, such as making repairs. Under current law, condominium associations do not have to conduct reserve studies if doing so would impose an unreasonable hardship. The law is unclear as to what qualifies as an unreasonable hardship and how an association may make such a determination. The bill allows smaller associations to exempt themselves from the requirements of a reserve study if two-thirds of the owners agree to the exemption. The striking amendment requires the owners to agree to maintain the association's exemption by a two-thirds vote every three years. The striking amendment does not impose any additional burden on condominium owners.

(Opposed) None.

Persons Testifying: Kathryn Hedrick, Community Association Institute; and Sue Karahalios.

Persons Signed In To Testify But Not Testifying: None.