

HOUSE BILL REPORT

SB 6215

As Passed House - Amended:

March 4, 2008

Title: An act relating to reserve accounts and studies for condominium associations.

Brief Description: Concerning reserve accounts and studies for condominium associations.

Sponsors: By Senators Tom, Honeyford and McCaslin.

Brief History:

Committee Activity:

Judiciary: 2/20/08, 2/22/08 [DPA].

Floor Activity:

Passed House - Amended: 3/4/08, 92-2.

Brief Summary of Bill (As Amended by House)

- Requires a residential condominium association, unless doing so would impose an unreasonable hardship, to: (1) prepare an initial reserve study based upon a visual site inspection conducted by a reserve study professional; (2) update the study annually; and (3) arrange for a visual site inspection every three years by a reserve study professional.
- Encourages, but does not require, a residential condominium association to establish a reserve account, supplemental to the association's annual operating budget, to fund major maintenance, repair, and replacement of common elements.
- Requires a condominium public offering statement or resale certificate to include: (1) a copy of the current reserve study, or (2) a disclosure to the potential buyer stating that the association does not have a reserve study.

HOUSE COMMITTEE ON JUDICIARY

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.

Majority Report: Do pass as amended. Signed by 10 members: Representatives Lantz, Chair; Goodman, Vice Chair; Warnick, Assistant Ranking Member; Ahern, Flannigan, Kirby, Moeller, Pedersen, Ross and Williams.

Staff: Lara Zarowsky (786-7123).

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. Neither statute requires a condominium association (association) to maintain particular levels of funding to pay for repairs or replacement of common elements.

Associations must prepare an annual financial statement, using standard accounting procedures, which may include cost projections for future costs related to common elements. Associations have the authority to adopt and amend annual budgets, and to impose assessments on unit owners. Governing documents may include a provision requiring the association to maintain adequate reserves. Condominium resale certificates must contain a statement of the amount of any reserves for repair and replacement and the portion of those reserves currently designated for any specific project.

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 in the next 20 to 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 upon the owners a substantial special assessment.

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 *not* to inspect for defects, but to evaluate the expected cost of future repair and maintenance of common elements.

A reserve study is performed by a **reserve study professional**, an independent person suitably qualified by knowledge, skill, experience, training, or education to prepare a reserve study.

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.

Summary of Amended Bill:

A condominium association (association) is authorized and required 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.

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 balance;
- 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 a minimum of 20 years, and a funding plan to pay for projected expenses without reliance on future unplanned special assessments.

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.

Bars the award of monetary damages or any other liability against the association, the officers, or board of directors, or those who may have provided advice or assistance to the association for failure to: (1) establish a reserve account; (2) have a reserve study prepared or updated; or (3) make reserve disclosures.

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.

Definitions are provided for the following terms: contribution rate; fully funded balance; replacement expense; reserve component; reserve study professional; and useful life.

Appropriation: None.

Fiscal Note: Not requested.

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

Staff Summary of Public Testimony:

(In support) This is an important bill because condominiums are one of the few affordable methods of ownership available today. Too often we see someone barely scraping by to get into a condo, and they soon receive a notice that they are required to pay sometimes tens of thousands of dollars in a short period of time. We need to be sure that buyers who are getting into these units for finance reasons are protected from that and don't become foreclosures, which are on an increase.

This bill is about disclosure for current condominium owners and prospective buyers.

(Opposed) None.

Persons Testifying: Kathryn Hedrick, Washington State Chapter of Community Association Institute.

Persons Signed In To Testify But Not Testifying: None.