

SB 6215 - H COMM AMD  
By Committee on Judiciary

ADOPTED 03/04/2008

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 64.34 RCW  
4 under the subchapter heading "Article 3" to read as follows:

5 (1) An association is encouraged to establish a reserve account to  
6 fund major maintenance, repair, and replacement of common elements,  
7 including limited common elements that will require major maintenance,  
8 repair, or replacement within thirty years. A reserve account shall be  
9 established in the name of the association. The board of directors is  
10 responsible for administering the reserve account.

11 (2) Unless doing so would impose an unreasonable hardship, an  
12 association shall prepare and update a reserve study, in accordance  
13 with the association's governing documents and RCW 64.34.224(1). The  
14 initial reserve study must be based upon a visual site inspection  
15 conducted by a reserve study professional.

16 (3) Unless doing so would impose an unreasonable hardship, the  
17 association shall update the reserve study annually. At least every  
18 three years, an updated reserve study must be prepared and based upon  
19 a visual site inspection conducted by a reserve study professional.

20 (4) This section and sections 2 through 6 of this act apply to  
21 condominiums governed by chapter 64.32 RCW or this chapter and intended  
22 in whole or in part for residential purposes. These sections do not  
23 apply to condominiums consisting solely of units that are restricted in  
24 the declaration to nonresidential use. An association's governing  
25 documents may contain stricter requirements.

26 NEW SECTION. **Sec. 2.** A new section is added to chapter 64.34 RCW  
27 under the subchapter heading "Article 3" to read as follows:

28 (1) A reserve study as described in section 1 of this act is  
29 supplemental to the association's operating and maintenance budget. In

1 preparing a reserve study, the association shall estimate the  
2 anticipated major maintenance, repair, and replacement costs, whose  
3 infrequent and significant nature make them impractical to be included  
4 in an annual budget.

5 (2) A reserve study shall include:

6 (a) A reserve component list, including quantities and estimates  
7 for useful life of each reserve component, remaining useful life of  
8 each reserve component, and current repair and replacement cost for  
9 each component;

10 (b) The date of the study and a statement that the study meets the  
11 requirements of this section;

12 (c) The level of reserve study performed:

13 (i) Level I: Full reserve study funding analysis and plan;

14 (ii) Level II: Update with visual site inspection;

15 (iii) Level III: Update with no visual site inspection;

16 (d) The association's reserve account balance;

17 (e) The percentage of the fully funded balance that the reserve  
18 account is funded;

19 (f) Special assessments already implemented or planned;

20 (g) Interest and inflation assumptions;

21 (h) Current reserve account contribution rate;

22 (i) Recommended reserve account contribution rate;

23 (j) Projected reserve account balance for thirty years and a  
24 funding plan to pay for projected costs from those reserves without  
25 reliance on future unplanned special assessments; and

26 (k) Whether the reserve study was prepared with the assistance of  
27 a reserve study professional.

28 (3) A reserve study shall include the following disclosure:

29 "This reserve study should be reviewed carefully. It  
30 may not include all common and limited common element  
31 components that will require major maintenance, repair, or  
32 replacement in future years, and may not include regular  
33 contributions to a reserve account for the cost of such  
34 maintenance, repair, or replacement. The failure to include a  
35 component in a reserve study, or to provide contributions to a  
36 reserve account for a component, may, under some circumstances,  
37 require you to pay on demand as a special assessment your share

1 of common expenses for the cost of major maintenance, repair,  
2 or replacement of a reserve component."

3 NEW SECTION. **Sec. 3.** A new section is added to chapter 64.34 RCW  
4 under the subchapter heading "Article 3" to read as follows:

5 An association may withdraw funds from its reserve account to pay  
6 for unforeseen or unbudgeted costs. The board of directors shall  
7 record any such withdrawal in the minute books of the association,  
8 cause notice of any such withdrawal to be hand delivered or sent  
9 prepaid by first-class United States mail to the mailing address of  
10 each unit or to any other mailing address designated in writing by the  
11 unit owner, and adopt a repayment schedule not to exceed twenty-four  
12 months unless it determines that repayment within twenty-four months  
13 would impose an unreasonable burden on the unit owners.

14 NEW SECTION. **Sec. 4.** A new section is added to chapter 64.34 RCW  
15 under the subchapter heading "Article 3" to read as follows:

16 (1) Where more than three years have passed since the date of the  
17 last reserve study prepared by a reserve study professional, the owners  
18 of the units to which at least twenty percent of the votes are  
19 allocated may demand, in writing, to the association that the cost of  
20 a reserve study be included in the next budget and that the study be  
21 obtained by the end of that budget year. The written demand must refer  
22 to this section. The board of directors shall, upon receipt of the  
23 written demand, provide unit owners making the demand reasonable  
24 assurance that the board of directors will include a reserve study in  
25 the next budget and, if the budget is not rejected by the owners, will  
26 arrange for the completion of a reserve study.

27 (2) In the event a written demand is made and a reserve study is  
28 not timely prepared, a court may order specific performance and award  
29 reasonable attorneys' fees to the prevailing party in any legal action  
30 brought to enforce this section. An association may assert  
31 unreasonable hardship as an affirmative defense in any action brought  
32 against it under this section. Without limiting this affirmative  
33 defense, an unreasonable hardship exists where the cost of preparing a  
34 reserve study would exceed ten percent of the association's annual  
35 budget.

36 (3) A unit owner's duty to pay for common expenses shall not be  
37 excused because of the association's failure to comply with this

1 section or sections 2 through 6 of this act. A budget ratified by the  
2 unit owners under RCW 64.34.308(3) may not be invalidated because of  
3 the association's failure to comply with this section or sections 2  
4 through 6 of this act.

5 NEW SECTION. **Sec. 5.** A new section is added to chapter 64.34 RCW  
6 under the subchapter heading "Article 3" to read as follows:

7 Subject to section 4 of this act, the decisions relating to the  
8 preparation and updating of a reserve study must be made by the board  
9 of directors of the association in the exercise of the reasonable  
10 discretion of the board. Such decisions must include whether a reserve  
11 study will be prepared or updated, and whether the assistance of a  
12 reserve study professional will be utilized.

13 NEW SECTION. **Sec. 6.** A new section is added to chapter 64.34 RCW  
14 under the subchapter heading "Article 3" to read as follows:

15 Monetary damages or any other liability may not be awarded against  
16 or imposed upon the association, the officers or board of directors of  
17 the association, or those persons who may have provided advice or  
18 assistance to the association or its officers or directors, for failure  
19 to: Establish a reserve account; have a current reserve study prepared  
20 or updated in accordance with sections 1 through 5 of this act; or make  
21 the reserve disclosures in accordance with section 2 of this act and  
22 RCW 64.34.410(1)(oo) and 64.34.425(1)(s).

23 **Sec. 7.** RCW 64.34.010 and 1993 c 429 s 12 are each amended to read  
24 as follows:

25 (1) This chapter applies to all condominiums created within this  
26 state after July 1, 1990. RCW 64.34.040 (separate titles and  
27 taxation), RCW 64.34.050 (applicability of local ordinances,  
28 regulations, and building codes), RCW 64.34.060 (condemnation), RCW  
29 64.34.208 (construction and validity of declaration and bylaws), RCW  
30 64.34.212 (description of units), RCW 64.34.304(1) (a) through (f) and  
31 (k) through (r) (powers of unit owners' association), RCW 64.34.308(1)  
32 (board of directors and officers), RCW 64.34.340 (voting-proxies), RCW  
33 64.34.344 (tort and contract liability), RCW 64.34.354 (notification on  
34 sale of unit), RCW 64.34.360(3) (common expenses-assessments), RCW  
35 64.34.364 (lien for assessments), RCW 64.34.372 (association records),

1 RCW 64.34.425 (resales of units), RCW 64.34.455 (effect of violation on  
2 rights of action; attorney's fees), sections 1 through 6 of this act  
3 (reserve studies and accounts), and RCW 64.34.020 (definitions) to the  
4 extent necessary in construing any of those sections, apply to all  
5 condominiums created in this state before July 1, 1990; but those  
6 sections apply only with respect to events and circumstances occurring  
7 after July 1, 1990, and do not invalidate or supersede existing,  
8 inconsistent provisions of the declaration, bylaws, or survey maps or  
9 plans of those condominiums.

10 (2) The provisions of chapter 64.32 RCW do not apply to  
11 condominiums created after July 1, 1990, and do not invalidate any  
12 amendment to the declaration, bylaws, and survey maps and plans of any  
13 condominium created before July 1, 1990, if the amendment would be  
14 permitted by this chapter. The amendment must be adopted in conformity  
15 with the procedures and requirements specified by those instruments and  
16 by chapter 64.32 RCW. If the amendment grants to any person any  
17 rights, powers, or privileges permitted by this chapter which are not  
18 otherwise provided for in the declaration or chapter 64.32 RCW, all  
19 correlative obligations, liabilities, and restrictions in this chapter  
20 also apply to that person.

21 (3) This chapter does not apply to condominiums or units located  
22 outside this state.

23 (4) RCW 64.34.400 (applicability-waiver), RCW 64.34.405 (liability  
24 for public offering statement requirements), RCW 64.34.410 (public  
25 offering statement-general provisions), RCW 64.34.415 (public offering  
26 statement-conversion condominiums), RCW 64.34.420 (purchaser's right to  
27 cancel), RCW 64.34.430 (escrow of deposits), RCW 64.34.440 (conversion  
28 condominiums-notice-tenants), and RCW 64.34.455 (effect of violations  
29 on rights of action-attorney's fees) apply with respect to all sales of  
30 units pursuant to purchase agreements entered into after July 1, 1990,  
31 in condominiums created before July 1, 1990, in which as of July 1,  
32 1990, the declarant or an affiliate of the declarant owns or had the  
33 right to create at least ten units constituting at least twenty percent  
34 of the units in the condominium.

35 **Sec. 8.** RCW 64.34.020 and 2004 c 201 s 9 are each amended to read  
36 as follows:

1 In the declaration and bylaws, unless specifically provided  
2 otherwise or the context requires otherwise, and in this chapter:

3 (1) "Affiliate" means any person who controls, is controlled by, or  
4 is under common control with the referenced person. A person  
5 "controls" another person if the person: (a) Is a general partner,  
6 officer, director, or employer of the referenced person; (b) directly  
7 or indirectly or acting in concert with one or more other persons, or  
8 through one or more subsidiaries, owns, controls, holds with power to  
9 vote, or holds proxies representing, more than twenty percent of the  
10 voting interest in the referenced person; (c) controls in any manner  
11 the election of a majority of the directors of the referenced person;  
12 or (d) has contributed more than twenty percent of the capital of the  
13 referenced person. A person "is controlled by" another person if the  
14 other person: (i) Is a general partner, officer, director, or employer  
15 of the person; (ii) directly or indirectly or acting in concert with  
16 one or more other persons, or through one or more subsidiaries, owns,  
17 controls, holds with power to vote, or holds proxies representing, more  
18 than twenty percent of the voting interest in the person; (iii)  
19 controls in any manner the election of a majority of the directors of  
20 the person; or (iv) has contributed more than twenty percent of the  
21 capital of the person. Control does not exist if the powers described  
22 in this subsection are held solely as security for an obligation and  
23 are not exercised.

24 (2) "Allocated interests" means the undivided interest in the  
25 common elements, the common expense liability, and votes in the  
26 association allocated to each unit.

27 (3) "Assessment" means all sums chargeable by the association  
28 against a unit including, without limitation: (a) Regular and special  
29 assessments for common expenses, charges, and fines imposed by the  
30 association; (b) interest and late charges on any delinquent account;  
31 and (c) costs of collection, including reasonable attorneys' fees,  
32 incurred by the association in connection with the collection of a  
33 delinquent owner's account.

34 (4) "Association" or "unit owners' association" means the unit  
35 owners' association organized under RCW 64.34.300.

36 (5) "Board of directors" means the body, regardless of name, with  
37 primary authority to manage the affairs of the association.

1 (6) "Common elements" means all portions of a condominium other  
2 than the units.

3 (7) "Common expenses" means expenditures made by or financial  
4 liabilities of the association, together with any allocations to  
5 reserves.

6 (8) "Common expense liability" means the liability for common  
7 expenses allocated to each unit pursuant to RCW 64.34.224.

8 (9) "Condominium" means real property, portions of which are  
9 designated for separate ownership and the remainder of which is  
10 designated for common ownership solely by the owners of those portions.  
11 Real property is not a condominium unless the undivided interests in  
12 the common elements are vested in the unit owners, and unless a  
13 declaration and a survey map and plans have been recorded pursuant to  
14 this chapter.

15 (10) "Contribution rate" means, in a reserve study as described in  
16 section 1 of this act, the amount contributed to the reserve account so  
17 that the association will have cash reserves to pay major maintenance,  
18 repair, or replacement costs without the need of a special assessment.

19 (11) "Conversion condominium" means a condominium (a) that at any  
20 time before creation of the condominium was lawfully occupied wholly or  
21 partially by a tenant or subtenant for residential purposes pursuant to  
22 a rental agreement, oral or written, express or implied, for which the  
23 tenant or subtenant had not received the notice described in (b) of  
24 this subsection; or (b) that, at any time within twelve months before  
25 the conveyance of, or acceptance of an agreement to convey, any unit  
26 therein other than to a declarant or any affiliate of a declarant, was  
27 lawfully occupied wholly or partially by a residential tenant of a  
28 declarant or an affiliate of a declarant and such tenant was not  
29 notified in writing, prior to lawfully occupying a unit or executing a  
30 rental agreement, whichever event first occurs, that the unit was part  
31 of a condominium and subject to sale. "Conversion condominium" shall  
32 not include a condominium in which, before July 1, 1990, any unit  
33 therein had been conveyed or been made subject to an agreement to  
34 convey to any transferee other than a declarant or an affiliate of a  
35 declarant.

36 ~~((11))~~ (12) "Conveyance" means any transfer of the ownership of  
37 a unit, including a transfer by deed or by real estate contract and,

1 with respect to a unit in a leasehold condominium, a transfer by lease  
2 or assignment thereof, but shall not include a transfer solely for  
3 security.

4 ~~((+12+))~~ (13) "Dealer" means a person who, together with such  
5 person's affiliates, owns or has a right to acquire either six or more  
6 units in a condominium or fifty percent or more of the units in a  
7 condominium containing more than two units.

8 ~~((+13+))~~ (14) "Declarant" means:

9 (a) Any person who executes as declarant a declaration as defined  
10 in subsection ~~((+15+))~~ (16) of this section; or

11 (b) Any person who reserves any special declarant right in the  
12 declaration; or

13 (c) Any person who exercises special declarant rights or to whom  
14 special declarant rights are transferred; or

15 (d) Any person who is the owner of a fee interest in the real  
16 property which is subjected to the declaration at the time of the  
17 recording of an instrument pursuant to RCW 64.34.316 and who directly  
18 or through one or more affiliates is materially involved in the  
19 construction, marketing, or sale of units in the condominium created by  
20 the recording of the instrument.

21 ~~((+14+))~~ (15) "Declarant control" means the right of the declarant  
22 or persons designated by the declarant to appoint and remove officers  
23 and members of the board of directors, or to veto or approve a proposed  
24 action of the board or association, pursuant to RCW 64.34.308 (4) or  
25 (5).

26 ~~((+15+))~~ (16) "Declaration" means the document, however  
27 denominated, that creates a condominium by setting forth the  
28 information required by RCW 64.34.216 and any amendments to that  
29 document.

30 ~~((+16+))~~ (17) "Development rights" means any right or combination  
31 of rights reserved by a declarant in the declaration to: (a) Add real  
32 property or improvements to a condominium; (b) create units, common  
33 elements, or limited common elements within real property included or  
34 added to a condominium; (c) subdivide units or convert units into  
35 common elements; (d) withdraw real property from a condominium; or (e)  
36 reallocate limited common elements with respect to units that have not  
37 been conveyed by the declarant.



1        ~~((17))~~ (18) "Dispose" or "disposition" means a voluntary transfer  
2 or conveyance to a purchaser or lessee of any legal or equitable  
3 interest in a unit, but does not include the transfer or release of a  
4 security interest.

5        ~~((18))~~ (19) "Effective age" means the difference between useful  
6 life and remaining useful life.

7        (20) "Eligible mortgagee" means the holder of a mortgage on a unit  
8 that has filed with the secretary of the association a written request  
9 that it be given copies of notices of any action by the association  
10 that requires the consent of mortgagees.

11        ~~((19))~~ (21) "Foreclosure" means a forfeiture or judicial or  
12 nonjudicial foreclosure of a mortgage or a deed in lieu thereof.

13        ~~((20))~~ (22) "Fully funded balance" means the value of the  
14 deteriorated portion of all the reserve components. The fully funded  
15 balance for each reserve component is calculated by multiplying the  
16 current replacement cost of that reserve component by its effective  
17 age, then dividing the result by that reserve component's useful life.  
18 The sum total of all reserve components' fully funded balances is the  
19 association's fully funded balance.

20        (23) "Identifying number" means the designation of each unit in a  
21 condominium.

22        ~~((21))~~ (24) "Leasehold condominium" means a condominium in which  
23 all or a portion of the real property is subject to a lease, the  
24 expiration or termination of which will terminate the condominium or  
25 reduce its size.

26        ~~((22))~~ (25) "Limited common element" means a portion of the  
27 common elements allocated by the declaration or by operation of RCW  
28 64.34.204 (2) or (4) for the exclusive use of one or more but fewer  
29 than all of the units.

30        ~~((23))~~ (26) "Master association" means an organization described  
31 in RCW 64.34.276, whether or not it is also an association described in  
32 RCW 64.34.300.

33        ~~((24))~~ (27) "Mortgage" means a mortgage, deed of trust or real  
34 estate contract.

35        ~~((25))~~ (28) "Person" means a natural person, corporation,  
36 partnership, limited partnership, trust, governmental subdivision or  
37 agency, or other legal entity.

1        ~~((+26+))~~ (29) "Purchaser" means any person, other than a declarant  
2 or a dealer, who by means of a disposition acquires a legal or  
3 equitable interest in a unit other than (a) a leasehold interest,  
4 including renewal options, of less than twenty years at the time of  
5 creation of the unit, or (b) as security for an obligation.

6        ~~((+27+))~~ (30) "Real property" means any fee, leasehold or other  
7 estate or interest in, over, or under land, including structures,  
8 fixtures, and other improvements thereon and easements, rights and  
9 interests appurtenant thereto which by custom, usage, or law pass with  
10 a conveyance of land although not described in the contract of sale or  
11 instrument of conveyance. "Real property" includes parcels, with or  
12 without upper or lower boundaries, and spaces that may be filled with  
13 air or water.

14        ~~((+28+))~~ (31) "Remaining useful life" means the estimated time, in  
15 years, that a reserve component can be expected to continue to serve  
16 its intended function.

17        (32) "Replacement cost" means the current cost of replacing,  
18 repairing, or restoring a reserve component to its original functional  
19 condition.

20        (33) "Residential purposes" means use for dwelling or recreational  
21 purposes, or both.

22        ~~((+29+))~~ (34) "Reserve components" means common elements whose cost  
23 of maintenance, repair, or replacement is infrequent, significant, and  
24 impractical to include in an annual budget.

25        (35) "Reserve study professional" means an independent person  
26 suitably qualified by knowledge, skill, experience, training, or  
27 education to prepare a reserve study in accordance with sections 1 and  
28 2 of this act.

29        (36) "Special declarant rights" means rights reserved for the  
30 benefit of a declarant to: (a) Complete improvements indicated on  
31 survey maps and plans filed with the declaration under RCW 64.34.232;  
32 (b) exercise any development right under RCW 64.34.236; (c) maintain  
33 sales offices, management offices, signs advertising the condominium,  
34 and models under RCW 64.34.256; (d) use easements through the common  
35 elements for the purpose of making improvements within the condominium  
36 or within real property which may be added to the condominium under RCW  
37 64.34.260; (e) make the condominium part of a larger condominium or a  
38 development under RCW 64.34.280; (f) make the condominium subject to a

1 master association under RCW 64.34.276; or (g) appoint or remove any  
2 officer of the association or any master association or any member of  
3 the board of directors, or to veto or approve a proposed action of the  
4 board or association, during any period of declarant control under RCW  
5 64.34.308(4).

6 ~~((+30+))~~ (37) "Timeshare" shall have the meaning specified in the  
7 timeshare act, RCW 64.36.010(11).

8 ~~((+31+))~~ (38) "Unit" means a physical portion of the condominium  
9 designated for separate ownership, the boundaries of which are  
10 described pursuant to RCW 64.34.216(1)(d). "Separate ownership"  
11 includes leasing a unit in a leasehold condominium under a lease that  
12 expires contemporaneously with any lease, the expiration or termination  
13 of which will remove the unit from the condominium.

14 ~~((+32+))~~ (39) "Unit owner" means a declarant or other person who  
15 owns a unit or leases a unit in a leasehold condominium under a lease  
16 that expires simultaneously with any lease, the expiration or  
17 termination of which will remove the unit from the condominium, but  
18 does not include a person who has an interest in a unit solely as  
19 security for an obligation. "Unit owner" means the vendee, not the  
20 vendor, of a unit under a real estate contract.

21 (40) "Useful life" means the estimated time, in years, that a  
22 reserve component can be expected to serve its intended function.

23 **Sec. 9.** RCW 64.34.304 and 1993 c 429 s 11 are each amended to read  
24 as follows:

25 (1) Except as provided in subsection (2) of this section, and  
26 subject to the provisions of the declaration, the association may:

27 (a) Adopt and amend bylaws, rules, and regulations;

28 (b) Adopt and amend budgets for revenues, expenditures, and  
29 reserves, and impose and collect assessments for common expenses from  
30 unit owners;

31 (c) Hire and discharge or contract with managing agents and other  
32 employees, agents, and independent contractors;

33 (d) Institute, defend, or intervene in litigation or administrative  
34 proceedings in its own name on behalf of itself or two or more unit  
35 owners on matters affecting the condominium;

36 (e) Make contracts and incur liabilities;

1 (f) Regulate the use, maintenance, repair, replacement, and  
2 modification of common elements;

3 (g) Cause additional improvements to be made as a part of the  
4 common elements;

5 (h) Acquire, hold, encumber, and convey in its own name any right,  
6 title, or interest to real or personal property, but common elements  
7 may be conveyed or subjected to a security interest only pursuant to  
8 RCW 64.34.348;

9 (i) Grant easements, leases, licenses, and concessions through or  
10 over the common elements and petition for or consent to the vacation of  
11 streets and alleys;

12 (j) Impose and collect any payments, fees, or charges for the use,  
13 rental, or operation of the common elements, other than limited common  
14 elements described in RCW 64.34.204 (2) and (4), and for services  
15 provided to unit owners;

16 (k) Impose and collect charges for late payment of assessments  
17 pursuant to RCW 64.34.364(13) and, after notice and an opportunity to  
18 be heard by the board of directors or by such representative designated  
19 by the board of directors and in accordance with such procedures as  
20 provided in the declaration or bylaws or rules and regulations adopted  
21 by the board of directors, levy reasonable fines in accordance with a  
22 previously established schedule thereof adopted by the board of  
23 directors and furnished to the owners for violations of the  
24 declaration, bylaws, and rules and regulations of the association;

25 (l) Impose and collect reasonable charges for the preparation and  
26 recording of amendments to the declaration, resale certificates  
27 required by RCW 64.34.425, and statements of unpaid assessments;

28 (m) Provide for the indemnification of its officers and board of  
29 directors and maintain directors' and officers' liability insurance;

30 (n) Assign its right to future income, including the right to  
31 receive common expense assessments, but only to the extent the  
32 declaration provides;

33 (o) Join in a petition for the establishment of a parking and  
34 business improvement area, participate in the rate payers' board or  
35 other advisory body set up by the legislative authority for operation  
36 of a parking and business improvement area, and pay special assessments  
37 levied by the legislative authority on a parking and business

1 improvement area encompassing the condominium property for activities  
2 and projects which benefit the condominium directly or indirectly;

3 (p) Establish and administer a reserve account as described in  
4 section 1 of this act;

5 (q) Prepare a reserve study as described in section 1 of this act;

6 (r) Exercise any other powers conferred by the declaration or  
7 bylaws;

8 (~~(q)~~) (s) Exercise all other powers that may be exercised in this  
9 state by the same type of corporation as the association; and

10 (~~(r)~~) (t) Exercise any other powers necessary and proper for the  
11 governance and operation of the association.

12 (2) The declaration may not impose limitations on the power of the  
13 association to deal with the declarant which are more restrictive than  
14 the limitations imposed on the power of the association to deal with  
15 other persons.

16 **Sec. 10.** RCW 64.34.410 and 2005 c 456 s 19 are each amended to  
17 read as follows:

18 (1) A public offering statement shall contain the following  
19 information:

20 (a) The name and address of the condominium;

21 (b) The name and address of the declarant;

22 (c) The name and address of the management company, if any;

23 (d) The relationship of the management company to the declarant, if  
24 any;

25 (e) A list of up to the five most recent condominium projects  
26 completed by the declarant or an affiliate of the declarant within the  
27 past five years, including the names of the condominiums, their  
28 addresses, and the number of existing units in each. For the purpose  
29 of this section, a condominium is "completed" when any one unit therein  
30 has been rented or sold;

31 (f) The nature of the interest being offered for sale;

32 (g) A brief description of the permitted uses and use restrictions  
33 pertaining to the units and the common elements;

34 (h) A brief description of the restrictions, if any, on the renting  
35 or leasing of units by the declarant or other unit owners, together  
36 with the rights, if any, of the declarant to rent or lease at least a  
37 majority of units;

- 1 (i) The number of existing units in the condominium and the maximum  
2 number of units that may be added to the condominium;
- 3 (j) A list of the principal common amenities in the condominium  
4 which materially affect the value of the condominium and those that  
5 will or may be added to the condominium;
- 6 (k) A list of the limited common elements assigned to the units  
7 being offered for sale;
- 8 (l) The identification of any real property not in the condominium,  
9 the owner of which has access to any of the common elements, and a  
10 description of the terms of such access;
- 11 (m) The identification of any real property not in the condominium  
12 to which unit owners have access and a description of the terms of such  
13 access;
- 14 (n) The status of construction of the units and common elements,  
15 including estimated dates of completion if not completed;
- 16 (o) The estimated current common expense liability for the units  
17 being offered;
- 18 (p) An estimate of any payment with respect to the common expense  
19 liability for the units being offered which will be due at closing;
- 20 (q) The estimated current amount and purpose of any fees not  
21 included in the common expenses and charged by the declarant or the  
22 association for the use of any of the common elements;
- 23 (r) Any assessments which have been agreed to or are known to the  
24 declarant and which, if not paid, may constitute a lien against any  
25 units or common elements in favor of any governmental agency;
- 26 (s) The identification of any parts of the condominium, other than  
27 the units, which any individual owner will have the responsibility for  
28 maintaining;
- 29 (t) If the condominium involves a conversion condominium, the  
30 information required by RCW 64.34.415;
- 31 (u) Whether timesharing is restricted or prohibited, and if  
32 restricted, a general description of such restrictions;
- 33 (v) A list of all development rights reserved to the declarant and  
34 all special declarant rights reserved to the declarant, together with  
35 the dates such rights must terminate, and a copy of or reference by  
36 recording number to any recorded transfer of a special declarant right;
- 37 (w) A description of any material differences in terms of

1 furnishings, fixtures, finishes, and equipment between any model unit  
2 available to the purchaser at the time the agreement for sale is  
3 executed and the unit being offered;

4 (x) Any liens on real property to be conveyed to the association  
5 required to be disclosed pursuant to RCW 64.34.435(2)(b);

6 (y) A list of any physical hazards known to the declarant which  
7 particularly affect the condominium or the immediate vicinity in which  
8 the condominium is located and which are not readily ascertainable by  
9 the purchaser;

10 (z) A brief description of any construction warranties to be  
11 provided to the purchaser;

12 (aa) Any building code violation citations received by the  
13 declarant in connection with the condominium which have not been  
14 corrected;

15 (bb) A statement of any unsatisfied judgments or pending suits  
16 against the association, a statement of the status of any pending suits  
17 material to the condominium of which the declarant has actual  
18 knowledge, and a statement of any litigation brought by an owners'  
19 association, unit owner, or governmental entity in which the declarant  
20 or any affiliate of the declarant has been a defendant, arising out of  
21 the construction, sale, or administration of any condominium within the  
22 previous five years, together with the results thereof, if known;

23 (cc) Any rights of first refusal to lease or purchase any unit or  
24 any of the common elements;

25 (dd) The extent to which the insurance provided by the association  
26 covers furnishings, fixtures, and equipment located in the unit;

27 (ee) A notice which describes a purchaser's right to cancel the  
28 purchase agreement or extend the closing under RCW 64.34.420, including  
29 applicable time frames and procedures;

30 (ff) Any reports or statements required by RCW 64.34.415 or  
31 64.34.440(6)(a). RCW 64.34.415 shall apply to the public offering  
32 statement of a condominium in connection with which a final certificate  
33 of occupancy was issued more than sixty calendar months prior to the  
34 preparation of the public offering statement whether or not the  
35 condominium is a conversion condominium as defined in RCW  
36 64.34.020(~~(+10)~~) (11);

37 (gg) A list of the documents which the prospective purchaser is

1 entitled to receive from the declarant before the rescission period  
2 commences;

3 (hh) A notice which states: A purchaser may not rely on any  
4 representation or express warranty unless it is contained in the public  
5 offering statement or made in writing signed by the declarant or by any  
6 person identified in the public offering statement as the declarant's  
7 agent;

8 (ii) A notice which states: This public offering statement is only  
9 a summary of some of the significant aspects of purchasing a unit in  
10 this condominium and the condominium documents are complex, contain  
11 other important information, and create binding legal obligations. You  
12 should consider seeking the assistance of legal counsel;

13 (jj) Any other information and cross-references which the declarant  
14 believes will be helpful in describing the condominium to the  
15 recipients of the public offering statement, all of which may be  
16 included or not included at the option of the declarant;

17 (kk) A notice that addresses compliance or noncompliance with the  
18 housing for older persons act of 1995, P.L. 104-76, as enacted on  
19 December 28, 1995;

20 (ll) A notice that is substantially in the form required by RCW  
21 64.50.050;

22 (mm) A statement, as required by RCW 64.35.210, as to whether the  
23 units or common elements of the condominium are covered by a qualified  
24 warranty, and a history of claims under any such warranty; (~~and~~)

25 (nn) A statement that the building enclosure has been designed and  
26 inspected as required by RCW 64.55.010 through 64.55.090, and, if  
27 required, repaired in accordance with the requirements of RCW  
28 64.55.090; and

29 (oo) If the association does not have a reserve study that has been  
30 prepared in accordance with sections 1 and 2 of this act or its  
31 governing documents, the following disclosure:

32 "This association does not have a current reserve study.  
33 The lack of a current reserve study poses certain risks to you,  
34 the purchaser. Insufficient reserves may, under some  
35 circumstances, require you to pay on demand as a special  
36 assessment your share of common expenses for the cost of major  
37 maintenance, repair, or replacement of a common element."



1 (2) The public offering statement shall include copies of each of  
2 the following documents: The declaration, the survey map and plans,  
3 the articles of incorporation of the association, bylaws of the  
4 association, rules and regulations, if any, current or proposed budget  
5 for the association, the balance sheet of the association current  
6 within ninety days if assessments have been collected for ninety days  
7 or more, the association's current reserve study, if any, and the  
8 inspection and repair report or reports prepared in accordance with the  
9 requirements of RCW 64.55.090.

10 If any of the foregoing documents listed in this subsection are not  
11 available because they have not been executed, adopted, or recorded,  
12 drafts of such documents shall be provided with the public offering  
13 statement, and, before closing the sale of a unit, the purchaser shall  
14 be given copies of any material changes between the draft of the  
15 proposed documents and the final documents.

16 (3) The disclosures required by subsection (1)(g), (k), (s), (u),  
17 (v), and (cc) of this section shall also contain a reference to  
18 specific sections in the condominium documents which further explain  
19 the information disclosed.

20 (4) The disclosures required by subsection (1)(ee), (hh), (ii), and  
21 (ll) of this section shall be located at the top of the first page of  
22 the public offering statement and be typed or printed in ten-point bold  
23 face type size.

24 (5) A declarant shall promptly amend the public offering statement  
25 to reflect any material change in the information required by this  
26 section.

27 **Sec. 11.** RCW 64.34.425 and 2004 c 201 s 4 are each amended to read  
28 as follows:

29 (1) Except in the case of a sale where delivery of a public  
30 offering statement is required, or unless exempt under RCW  
31 64.34.400(2), a unit owner shall furnish to a purchaser before  
32 execution of any contract for sale of a unit, or otherwise before  
33 conveyance, a resale certificate, signed by an officer or authorized  
34 agent of the association and based on the books and records of the  
35 association and the actual knowledge of the person signing the  
36 certificate, containing:

- 1 (a) A statement disclosing any right of first refusal or other  
2 restraint on the free alienability of the unit contained in the  
3 declaration;
- 4 (b) A statement setting forth the amount of the monthly common  
5 expense assessment and any unpaid common expense or special assessment  
6 currently due and payable from the selling unit owner and a statement  
7 of any special assessments that have been levied against the unit which  
8 have not been paid even though not yet due;
- 9 (c) A statement, which shall be current to within forty-five days,  
10 of any common expenses or special assessments against any unit in the  
11 condominium that are past due over thirty days;
- 12 (d) A statement, which shall be current to within forty-five days,  
13 of any obligation of the association which is past due over thirty  
14 days;
- 15 (e) A statement of any other fees payable by unit owners;
- 16 (f) A statement of any anticipated repair or replacement cost in  
17 excess of five percent of the annual budget of the association that has  
18 been approved by the board of directors;
- 19 (g) A statement of the amount of any reserves for repair or  
20 replacement and of any portions of those reserves currently designated  
21 by the association for any specified projects;
- 22 (h) The annual financial statement of the association, including  
23 the audit report if it has been prepared, for the year immediately  
24 preceding the current year;
- 25 (i) A balance sheet and a revenue and expense statement of the  
26 association prepared on an accrual basis, which shall be current to  
27 within one hundred twenty days;
- 28 (j) The current operating budget of the association;
- 29 (k) A statement of any unsatisfied judgments against the  
30 association and the status of any pending suits or legal proceedings in  
31 which the association is a plaintiff or defendant;
- 32 (l) A statement describing any insurance coverage provided for the  
33 benefit of unit owners;
- 34 (m) A statement as to whether there are any alterations or  
35 improvements to the unit or to the limited common elements assigned  
36 thereto that violate any provision of the declaration;
- 37 (n) A statement of the number of units, if any, still owned by the

1 declarant, whether the declarant has transferred control of the  
2 association to the unit owners, and the date of such transfer;

3 (o) A statement as to whether there are any violations of the  
4 health or building codes with respect to the unit, the limited common  
5 elements assigned thereto, or any other portion of the condominium;

6 (p) A statement of the remaining term of any leasehold estate  
7 affecting the condominium and the provisions governing any extension or  
8 renewal thereof;

9 (q) A copy of the declaration, the bylaws, the rules or regulations  
10 of the association, the association's current reserve study, if any,  
11 and any other information reasonably requested by mortgagees of  
12 prospective purchasers of units. Information requested generally by  
13 the federal national mortgage association, the federal home loan bank  
14 board, the government national mortgage association, the veterans  
15 administration and the department of housing and urban development  
16 shall be deemed reasonable, provided such information is reasonably  
17 available to the association; (~~and~~)

18 (r) A statement, as required by RCW 64.35.210, as to whether the  
19 units or common elements of the condominium are covered by a qualified  
20 warranty, and a history of claims under any such warranty; and

21 (s) If the association does not have a reserve study that has been  
22 prepared in accordance with sections 1 and 2 of this act or its  
23 governing documents, the following disclosure:

24 "This association does not have a current reserve study.  
25 The lack of a current reserve study poses certain risks to you,  
26 the purchaser. Insufficient reserves may, under some  
27 circumstances, require you to pay on demand as a special  
28 assessment your share of common expenses for the cost of major  
29 maintenance, repair, or replacement of a common element."

30 (2) The association, within ten days after a request by a unit  
31 owner, and subject to payment of any fee imposed pursuant to RCW  
32 64.34.304(1)(1), shall furnish a resale certificate signed by an  
33 officer or authorized agent of the association and containing the  
34 information necessary to enable the unit owner to comply with this  
35 section. For the purposes of this chapter, a reasonable charge for the  
36 preparation of a resale certificate may not exceed one hundred fifty  
37 dollars. The association may charge a unit owner a nominal fee for  
38 updating a resale certificate within six months of the unit owner's

1 request. The unit owner shall also sign the certificate but the unit  
2 owner is not liable to the purchaser for any erroneous information  
3 provided by the association and included in the certificate unless and  
4 to the extent the unit owner had actual knowledge thereof.

5 (3) A purchaser is not liable for any unpaid assessment or fee  
6 against the unit as of the date of the certificate greater than the  
7 amount set forth in the certificate prepared by the association unless  
8 and to the extent such purchaser had actual knowledge thereof. A unit  
9 owner is not liable to a purchaser for the failure or delay of the  
10 association to provide the certificate in a timely manner, but the  
11 purchaser's contract is voidable by the purchaser until the certificate  
12 has been provided and for five days thereafter or until conveyance,  
13 whichever occurs first."

14 Correct the title.

EFFECT: Replaces instances of the term "expense" with "cost."  
Replaces the term "replacement expense" with "replacement cost" and  
clarifies the definition.

Provides that the purpose of a reserve account is to fund  
components in need of repair or replacement within 30 years.

Clarifies the definition of "contribution rate" to mean the amount  
association members must contribute to avoid a special assessment.

Clarifies the definition of and formulation to calculate "fully  
funded balance."

Clarifies the definition of "useful life."

--- END ---