

SENATE BILL REPORT

SB 5461

As Reported by Senate Committee On:
Financial Institutions, Housing & Insurance, February 17, 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: Senator Haugen.

Brief History:

Committee Activity: Financial Institutions, Housing & Insurance: 2/10/09, 2/17/09 [DPS].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Majority Report: That Substitute Senate Bill No. 5461 be substituted therefor, and the substitute bill do pass.

Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin, McDermott, Parlette and Schoesler.

Staff: Philip Brady (786-7460)

Background: Reserve studies are used by condominium associations to plan for major repairs, replacement, and the costs associated with repairs and replacement of the condominium community's common elements, including lobbies, roofs, parking lots, or recreation areas. They are also used to determine the necessary size of a reserve fund account. Reserve fund accounts are maintained to pay for major repairs to and replacements of common elements.

Condominiums created before or on July 1, 1990, are subject to the Horizontal Property Regimes Act, and all others are subject to the Condominium Act. In 2008 the Legislature amended the Condominium Act to require condominium associations created after July 1, 1990, to conduct reserve studies and update them annually. Studies are not required if preparing them would present an unreasonable hardship. A reserve study is automatically an unreasonable hardship if it would cost more than 10 percent of the association's annual budget, though lower percentages may still be an unreasonable hardship. Both the initial study and the study every third year must be conducted by a reserve study professional.

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.

Public offering statements and sellers' disclosures must either include 1) a copy of the current reserve study, or 2) a statement that there is no reserve study available along with disclosure of the risks faced by the buyer because of the lack of a reserve study.

Summary of Bill (Recommended Substitute): Condominium associations with ten or fewer condominium owners are exempt from reserve study requirements if two thirds of the owners agree to the exemption.

EFFECT OF CHANGES MADE BY FINANCIAL INSTITUTIONS, HOUSING & INSURANCE COMMITTEE (Recommended Substitute): The original bill exempted all condominium associations with ten or fewer units and limited common areas. The current bill expands the exemption to all associations with ten or fewer owners where two thirds of the owners agree to being exempted.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: The Legislature tries to do good things, but sometimes there are unexpected consequences. Passing this bill would be a reasonable measure to help small condo associations. The current law requires people who want to obey the law to pay \$1,500 to \$2,000.

CON: Removing the reserve study requirement would be fine for condo associations full of conscientious people, but those associations are the exception rather than the rule. The reserve study requirement is a reasonable mechanism to help association members avoid large, surprising special assessments. Conscientious associations can avoid doing reserve studies by not requesting them. Reserve studies are basic disclosures that benefit people who need protection and is fundamentally an issue of consumer protection. Deferred maintenance can lead to surprising special assessments for new owners, particularly in associations that don't plan properly. People need to know what they're buying. Unreasonable hardship provisions already protect small associations for whom the study is too expensive.

Persons Testifying: PRO: Senator Haugen, prime sponsor.

CON: Bob Mitchell, Washington Realtors; Kathryn Hedrick, Alan Crandall, Brian McLean, Washington Chapter of the Community Associations Institute.