

FINAL BILL REPORT

ESHB 1309

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Synopsis as Enacted

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

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Roberts, Appleton, Rodne, Springer, Hasegawa, Ryu, Eddy, Green, Kagi and Kelley).

House Committee on Judiciary
Senate Committee on Financial Institutions, Housing & Insurance

Background:

In 2008 the Condominium Act and the Horizontal Property Regimes Act were amended to require condominium associations 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. Homeowners' associations (HOAs) are not required to conduct reserve studies.

Condominium Associations and Reserve Studies.

A "reserve study" identifies the major maintenance, repair, and replacement expenses that a condominium 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 variety of information such as a reserve component list and the balance of the association's reserve account. A condominium association is not required to conduct a reserve study if the cost of a study exceeds 10 percent of the annual budget.

Condominium 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

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renovations that, in the absence of a reserve account, would require the condominium association to impose a special assessment upon the owners.

Homeowners' Associations.

A HOA is a legal entity with membership comprised of the owners of residential real property located within a development or other specified area. A HOA typically arises from restrictive covenants recorded by a developer against property in a subdivision. The purpose of a HOA is to manage and maintain a subdivision's common areas and structures, to review design, and to maintain architectural control.

Under the Homeowners' Association Act, the HOA may exercise powers necessary and proper for the governance and operating of the association. It must prepare annual financial statements and provide homeowners with notice of and a ratification process for the annual budget. It is not required to conduct reserve studies or to maintain reserve accounts.

Summary:

The requirements of condominium associations concerning reserve components and summaries of annual budgets are amended. Reserve study and reserve account requirements are adopted with respect to HOAs.

Condominium Associations.

A condominium association is required to comply with the reserve study requirement if the association has significant assets. For the purposes of condominium associations, "significant assets" means that the current total cost of major maintenance, repair, and replacement of the reserve components is 50 percent or more of the gross budget of the association, excluding reserve account funds.

A reserve study's reserve component list must include roofing, painting, paving, decks, siding, plumbing, windows, and any other building component that would cost more than 1 percent of the annual budget for major maintenance, repair, or replacement. If one of the components is not included, the study must explain the basis for the exclusion.

The board of directors must disclose information to owners regarding reserve studies with the summary of the annual budget. The list of required information includes:

- the current amount of regular assessment budgeted for contribution from the reserve account;
- any regular or special assessments and the date of such assessments;
- the sufficiency of reserve funds for the next 30 years and, if the funds are insufficient, notice of a possible assessment; and
- the projected balances of the reserve account at the end of the next five budget cycles.

Homeowners' Associations.

Homeowners' associations with significant assets are required to prepare an initial reserve study based upon a visual site inspection conducted by a reserve study professional. The study must be updated annually and must include a visual site inspection every three years by a reserve study professional.

When more than three years have passed since the date of the most recent reserve study prepared by a professional, the owners to which at least 35 percent of the votes in the association are allocated may demand that a reserve study be conducted in the next budget year. The board of directors must provide the owners with reasonable assurance that a study will be conducted if the next budget is not rejected by a majority of the owners in the association.

A HOA is not required to comply with the reserve study requirements if: there are 10 or fewer homes in the HOA; the cost of the reserve study exceeds 5 percent of the HOA's annual budget; or the HOA does not possess significant assets. For the purposes of HOAs, "significant assets" means that the current replacement value of the major reserve components is 75 percent or more of the HOA's gross budget, excluding reserve account funds.

Homeowners' associations are encouraged to establish reserve accounts, supplemental to the annual operating budget, to fund major maintenance, repair, and replacement of common elements. Similar to the new requirement for condominium associations, HOAs must disclose information to owners regarding reserve accounts and reserve studies with the summary of the annual budget.

Monetary damages or any other liability may not be awarded against the association, the officers, or board of directors, or those who may have provided 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.

Votes on Final Passage:

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| House | 93 | 5 | |
| Senate | 48 | 1 | (Senate amended) |
| House | 95 | 1 | (House concurred) |

Effective: January 1, 2012