
Judiciary Committee

HB 2240

Title: An act relating to reserve studies for certain unit owners' associations.

Brief Description: Concerning reserve studies for certain unit owners' associations.

Sponsors: Representatives Johnson, Ross, DeBolt and Warnick.

Brief Summary of Bill

- Exempts condominium associations with fewer than 50 units, all of which are owner-occupied and limited to residents 55 years and older, from certain reserve study requirements.

Hearing Date: 1/24/14

Staff: Cece Clynch (786-7195).

Background:

Reserve Study Requirements.

A reserve study is supplemental to the operating and maintenance budgets, and identifies the major maintenance, repair, and replacement expenses that a condominium association (association) is expected to 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.

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. The statutory reserve study requirements apply to both. (An association's governing documents may contain stricter requirements.)

Per statute, reserve studies must include:

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- a reserve component list, including quantities and estimates for useful life of each reserve component, remaining useful life of each component, and current repair and replacement cost for each;
- the date of the study;
- the level of reserve study:
 - Level I Full reserve study funding analysis and plan;
 - Level II Update with visual site inspection; or
 - Level III Update with no visual site inspection;
- 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;
- the current reserve account contribution rate;
- the recommended reserve account contribution rate;
- the projected reserve account balance for 30 years and a funding plan to pay for projected costs from those reserves without reliance on future unplanned special assessments; and
- a statement as to whether the reserve study was prepared with the assistance of a reserve study professional.

Unless doing so would impose an unreasonable hardship, an association with significant assets must prepare and update a reserve study. The initial reserve study must be based upon a visual site inspection conducted by a reserve study professional. Thereafter, unless doing so would impose an unreasonable hardship, an association must update the reserve study annually and, at least every three years, have an updated reserve study prepared based upon a visual site inspection conducted by a reserve study professional.

In addition, there is a statutory mechanism by which unit owners may demand preparation of a reserve study. Where more than three years have passed since the date of the last reserve study prepared by a reserve study professional, the owners of the units to which at least twenty percent of the votes are allocated may demand that the cost of a reserve study be included in the next budget and that the study be obtained by the end of that budget year. The board of directors must provide those making the demand reasonable assurance that a reserve study will be included in the next budget and, if the budget is not rejected by the owners, will arrange for the completion of the study. In the event a written demand is made and a reserve study is not timely prepared, a court may order specific performance and award reasonable attorneys' fees to the prevailing party. An association may assert unreasonable hardship as an affirmative defense in any such action.

Definitions.

"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.

"Reserve study professional" means an independent person who is suitably qualified by knowledge, skill, experience, training, or education to prepare a reserve study.

An "unreasonable hardship" exists where the cost of preparing a reserve study would exceed ten percent of the association's annual budget.

Summary of Bill:

Certain associations are made exempt from some of the reserve study requirements. To qualify for the exemption, the association must have fewer than 50 units, the units must be limited to residents 55 and older, and all units must be owner-occupied. After such an association has had at least one reserve study conducted by a reserve study professional, it is exempt from the requirements that:

- the reserve study be updated annually, unless doing so would impose an unreasonable hardship; and
- an updated reserve study be prepared at least every three years, based upon a visual site inspection conducted by a reserve study professional.

Appropriation: None.

Fiscal Note: Not requested.

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