

SENATE BILL REPORT

SB 6616

As of February 3, 2016

Title: An act relating to reserve studies and special assessments for homeowners' associations.

Brief Description: Concerning reserve studies and special assessments for homeowners' associations.

Sponsors: Senator Benton.

Brief History:

Committee Activity: Financial Institutions & Insurance: 2/03/16.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Staff: Shani Bauer (786-7468)

Background: Homeowners Associations. A homeowners' association (HOA) is an organization consisting of the homeowners and property owners within a residential development. HOAs are usually created by a land developer or builder of a planned residential development pursuant to a declaration of covenants, conditions, and restrictions. The duties and powers of an HOA are defined by the Homeowners' Association Act (HOAA), the HOA's declaration and other governing documents, and the law governing the HOA's legal entity - e.g., nonprofit corporation law.

An HOA's officers and directors are required to carry out certain duties, including providing homeowners with notice and a ratification process for the annual budget; keeping sufficient records; preparing annual financial statements; and providing homeowners with notice and an opportunity to be heard before levying a fine. Other duties may be required by the HOA's governing documents and the law governing the HOA's legal entity.

HOA Budgets. The HOA board is responsible for adopting an annual budget and special budgets as needed. Within 30 days of adoption, the board must set a date for a meeting with owners to consider ratification of the budget. The board must provide owners with a budget summary and set a meeting time at least 14 days, but not more than 60 days, out. Unless the budget is rejected by a majority of owners voting either in person or by proxy, the budget is deemed ratified.

A budget summary must include:

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- the current amount of regular assessments budgeted for contribution to the reserve account;
- if additional regular or special assessments are to be imposed, the date the assessments are due, the amount of the assessments, and the purpose of the assessments;
- whether currently projected reserve account fund balances will be sufficient to meet the HOA's obligation for major maintenance repair or replacement of reserve components over the next 30 years;
- if reserve account balances are not projected to be sufficient, what additional assessments may be necessary to ensure sufficient funds;
- the estimated amount recommended in the reserve account at the end of the current fiscal year based on the most recent reserve study, the projected reserve account cash balance at the end of the fiscal year; and the percent funded at the date of the last reserve study;
- the estimated amount recommended in the reserve account based upon the most recent reserve study at the end of each of the next five budget years; and
- if the funding plan approved by the HOA is implemented, the projected reserve account cash balance in each of the next five budget years and the percent funded for each of those years.

Reserve Studies and Accounts. Unless doing so would impose an unreasonable hardship, an HOA with significant assets must prepare and update a reserve study every three years. "Significant assets" means the replacement value of the major reserve components is 75 percent or more of the gross budget of the association. A reserve study is a study based upon a visual inspection by a reserve study professional that analyzes and reports major maintenance, repair, and maintenance needed by the HOA over the next 30 years that would not be covered by the normal budget and recommended contribution rates to maintain a reserve account sufficient to cover those expenses.

An HOA is encouraged, but not required, to establish a reserve account with a financial institution to fund major maintenance, repair, and replacement of common elements that will be needed within 30 years.

Summary of Bill: A special assessment may not be used for any purpose other than the purpose disclosed at the time of imposition, or before imposition of the special assessment for items noted in a reserve study.

Before hiring a reserve study professional, the board of directors must obtain three competing bids.

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: PRO: This bill arises to address situations where homeowners are presented with large assessments for repairs that should be covered by a reserve account. For example, a person purchased a condo in a 109 unit complex and was given no information from the realtor on condo operations or necessary repairs. Shortly after moving in, the person received a bill in the mail for a special assessment of \$35,000. After electing a new board and obtaining a loan for the repairs, the final cost was \$25,500 for each unit. The law needs to require a board to maintain a reserve account in order to cover these expenses. Homeowners should have the right to believe that money assessed as a special assessment should be used for the purpose it was stated. There are some issues with the language in the bill that could use some work.

CON: The intent behind the bill is valid. Disclosure is of the utmost importance when a potential purchaser is looking to purchase a home, especially regarding reserves and maintenance of organization. The law does not currently mandate the reserve account be funded, but the organization strongly supports doing so. It is not necessarily that money is misspent, but often a failure to plan results in large assessments that homeowners are required to pay. As to the language of the bill, special assessment is not defined and is often not used in HOA governing documents. The bill is unclear how a special assessment can be used before collection of the entire amount. It is confusing how the special assessment may be used for reserve items. If the special assessment exceeds amounts needed, what is to be done with the excess. Three bids will be expensive to obtain for annual updates of a reserve study completed after the initial study. The board is not required to get three bids for other services so it does not seem to make sense here.

Persons Testifying: PRO: Leslie Austin Johnson, Indian Hills Condominium Association; Bob Mitchell, Washington REALTORS.

CON: Kathryn Hedrick, Community Associations Institute.

Persons Signed In To Testify But Not Testifying: No one.