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Reserve Studies in Washington The New Standard

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On March 21, 2008, Gov. Christine Gregoire signed into law Senate Bill 6215 requiring every condominium owner association (“COA”), with few exceptions, to prepare a reserve study. The legislation is effective as of June 12, 2008. Prior to the law’s passage, there was no reserve-study requirement, although existing legislation empowered boards of directors to “adopt and amend budgets for . . . reserves.” RCW 64.34.304(1)(b).

The new legislation has been added to the Washington Condominium Act as sections 380-390 of RCW 64.34. In section 380 a COA is “encouraged” to establish a reserve account “to fund major maintenance, repair and replacement of common elements,” including limited common elements that will require major maintenance, repair and replacement within 30 years. The legislature’s use of the word “encouraged” instead of “shall” tells us that the reserve account is not required by law; however, a COA must prepare a reserve study and update it annually unless doing so would impose an “unreasonable hardship.” The legislature defines “unreasonable hardship” as a situation where the cost of the study would exceed 10 percent of the COA’s annual budget. If the COA does establish a reserve account, it must segregate the account from operating funds and any transaction affecting the reserve account, including the issuance of checks, must require the signature of at least two persons who are officers or directors of the association. RCW 64.34.372(2).

The legislation also specifies that the initial reserve study must be based on a visual site inspection conducted by a “reserve study professional.” An updated study must be prepared based again on a visual site inspection by a reserve study professional at least every three years. Annual updates of a reserve study based on a visual site inspection by a reserve study professional can thus be made for two successive years without another site inspection by a reserve study professional, and the law does not require that the intermediate updates be performed by a reserve study professional—an association could make the updates itself. A “reserve study professional” is defined as “an independent person suitably qualified by knowledge, skill, training, or education to prepare a reserve study” that meets the statutory requirements. RCW 64.34.020(35). While this definition does not require particular credentials, it does require two key things: independence and competence.

If the COA delegates the preparation of a reserve study to a reserve study professional, the COA still has ultimate responsibility under the law. Specifically, “the association shall estimate” the anticipated major maintenance, repair, and replacement costs. RCW 64.34.382. Indeed, “decisions relating to the preparation and updating of a reserve study must be made by the board of directors of the association in the exercise of the reasonable discretion of the board. Such decisions must include whether a reserve study will be prepared or updated, and whether the assistance of a reserve study professional will be utilized.” RCW 64.34.388.



What’s more, the new legislation requires certain information to be presented in the reserve study. Thus, the study must include a reserve component list, (including quantities and estimates for useful life for each reserve component) the remaining useful life of each reserve component, and the current repair or replacement cost for each reserve component. A reserve component is defined as a common element “whose cost of maintenance, repair, or replacement is infrequent, significant, and impractical to include in an annual budget.” RCW 64.34.020(34). The study must indicate its date and a statement that it meets the requirements of RCW 64.34.382. Further, the study must contain a statement whether it is a Level I, II or III: a Level I study is a full reserve study with funding analysis and plan; a Level II study is an update with a visual site inspection; and a Level III study is an update with no visual site inspection. The legislation also requires a laundry list of items that the study must include such as: the association’s reserve account balance (if any); the percentage of the fully funded balance that the reserve account is funded; special assessments already implemented or planned; interest and inflation assumptions; current reserve account contribution rate; recommended reserve account contribution rate; projected reserve account balance for thirty years and a funding plan to pay for projected costs from those reserves without reliance on future unplanned special assessments; and whether the reserve study was prepared with the assistance of a reserve study professional. RCW 64.34.382. Finally, the study must include language to the effect that the study may not include all common elements that may require major maintenance, repair, or replacement and may not include regular contributions to a reserve account for the cost of such work, and accordingly a special assessment could be required.

If more than 3 years have passed since the board of directors had a reserve study professional prepare a reserve study, unit owners holding 20% or more of the voting power can vote to demand that the cost of a reserve study be included in the next year’s budget and that the study be prepared. RCW 64.34.386. If the board of directors receives such a demand, it must advise the unit owners that submitted it that the board will include the cost of the study in the upcoming year’s budget and, if the budget is approved, will arrange for completion of the reserve study. If the board thereafter fails to act, a unit owner can seek a court order directing specific performance and an award of its attorney’s fees. An owner’s duty to pay common expenses is not excused by a board’s failure to act in accordance with such a demand.


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An association may withdraw funds from its reserve account to pay for "unforeseen or unbudgeted costs." RCW 64.34.384. However, in such event the board of directors must notify every unit owner in writing and must adopt a repayment schedule of not more than 24 months unless it would impose an unreasonable burden on the unit owners.

If a COA does not prepare a reserve study or fails to complete annual updates to the study, as long as it discloses those facts regarding lack of a reserve study to prospective buyers prior to the sale of any condominium, the new law immunizes the association, the board of directors and "those persons who may have provided advice or assistance to the association or its officers or directors" from monetary liability. Those persons also have immunity from liability for failing to make the disclosure required to be included in a reserve study (see above) or the disclosure required in the public offering statement and resale certificate when a reserve study has not been prepared. RCW 64.34.390. If the association does not have a reserve study that was prepared in accordance with the requirements of the new law, then the public offering statement used by the declarant and any resale certificate issued by the association must include the following disclosure: "This association does not have a current reserve study. The lack of a current reserve study poses certain risks to you, the purchaser. Insufficient reserves may, under some circumstances, require you to pay on demand as a special assessment your share of common expenses for the cost of major maintenance, repair, or replacement of a common element." RCW 64.34.410(1)(o) and 64.34.425(1)(s).

The new law applies not only to condominiums created after the effective date of the act (June 12, 2008), but to all condominiums "intended in whole or in part for residential purposes," whether created under the 1990 Condominium Act or the 1963 Horizontal Property Regimes Act. However, the new reserve study provisions apply to pre-Condo Act condominiums "only with respect to events and circumstances occurring after July 1, 1990, and do not invalidate or supersede existing, inconsistent provisions of the declaration, bylaws, or survey maps or plans of those condominiums." RCW 64.34.010(1). 



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