



Summary of State Reserve Fund Laws

(September 2013)

Many states have enacted legislation dealing with community association reserve and operating funds to protect owners from fiscal problems and financial hardship. More states may enact similar legislation as community associations continue to gain popularity. The following is a summary of each state reserve fund law.

Reserve Studies are required in the following states: California, Delaware, Hawaii, Nevada, Oregon, Utah and Virginia. Washington statutorily encourages associations to have a reserve study performed every three years unless doing so would impose an unreasonable hardship.

Please remember that community associations are governed by state law, which can vary widely from state to state. This information is intended for general educational and informational purposes only; it may not reflect the most recent developments, and it may contain errors or omissions. The publisher does not warrant or guarantee that the information contained here complies with applicable law of any given state. It is not intended to be a substitute for advice from a lawyer, community manager, accountant, insurance agent, reserve professional, lender, or any other professional.

ALABAMA

The unit owners' associations may adopt and amend budgets for revenues, expenditures and reserves and impose and collect assessments for common expenses from unit owners. Section 35-8A-302(2). Sellers must present buyers with an offering statement of the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacement, and a statement of any other reserves. Section 35-8A-403(5).

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

ALASKA

The unit owners' associations may adopt and amend budgets for revenues, expenditures, and reserves and impose and collect assessments for common expenses from unit owners. Section 34.08.320(2). A public offering statement must include assumptions concerning the calculation of the amount of reserves certified by a certified architect or engineer; the amount included in the budget as a reserve for repairs and replacement including the estimated cost of repair or replacement cost and the estimated useful life of the asset to be repaired or replaced; and a statement of any other reserves. Section 34.08.530(5).

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

ARIZONA

For condominiums, unit owners' associations may adopt and amend budgets for revenues, expenditures, and reserves and impose and collect assessments for common expenses from unit owners. Section 33-1242(2). The resale disclosure statement must include the total amount of money held by the association as reserves. The purchaser must also receive a copy of the most recent reserve study of the association, if any. Section 33-1260.

For planned communities, resale disclosure statement must include the total amount of money held by the association as reserves. The purchaser must also receive a copy of the most recent reserve study of the community, if any. Section 33-1806.

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

Section 10-3830 requires directors of nonprofit corporations to discharged duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner the director reasonably believes to be in the best interests of the corporation.

ARKANSAS

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

CALIFORNIA

On a quarterly basis common interest development boards of directors must review reserve accounts and compare reserves to the previous year. At least once every three years, boards must conduct a competent and diligent visual inspection of the property that the association is obligated to repair, replace restore or maintain as part of a study of the reserve account requirements. The board is to annually review this study to consider and implement necessary adjustments to the board's analysis of the reserve account requirements. See more detailed information in California Civil Code Sections 1365 and 1365.5.

COLORADO

The unit owners' associations may adopt and amend budgets for revenues, expenditures, and reserves and impose and collect assessments for common expenses from unit owners. Section 38-33.3-302.

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

CONNECTICUT

Condominium associations shall provide in the proposed budget for the condominium adequate reserves for capital expenditures. Section 47-88e. Common interest community executive boards, at least annually, shall adopt a proposed budget for the common interest community for consideration by the unit owners. Not later than thirty days after the adoption of a proposed budget, the executive board shall provide to all unit owners a summary of the budget, including a statement of the amount of any reserves, and a statement of the basis on which such reserves are calculated and funded. Section 47-261e. Resale disclosure statement must include the total amount of money held by the association as reserves. Section 47-264(5).

There is no statutory requirement to conduct a reserve study.

DELAWARE

Condominiums must contain within their declaration provisions that mandate that the association create and maintain, in addition to any reserve for contingencies, a fully funded repair and replacement reserve based upon a current reserve study. Section 81-205(14). Condominium disclosure statement must include the current balance in reserves and the most recent reserve study. Section 84-409.

DISTRICT OF COLUMBIA

The unit owners' associations may adopt and amend budgets for revenues, expenditures, and reserves and impose and collect assessments for common expenses from unit owners. Section 42-1903.08. Disclosure statement shall include the amount, or a statement that there is no amount, included in the projected budget as a reserve for repairs and replacement. Section 42-1904.04.

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

FLORIDA

Condominium financial reporting rules must include, but not be limited to, standards for presenting a summary of association reserves, including a good faith estimate disclosing the annual amount of reserve funds that would be necessary for the association to fully fund reserves for each reserve item based on the straight-line accounting method. Section 718-111(13). Annual budgets shall include reserve accounts for items such as, but not limited to, roof replacement, pavement, painting and other items with a replacement cost exceeding \$10,000. Funding for the accounts can be waived by a majority vote at a duly called meeting. Section 718.112(f)(2).

Homeowner associations may adopt a budget that includes reserve accounts for capital expenditures and deferred maintenance for which the association is responsible. If reserve accounts are not established, funding of such reserves is limited to the extent that the governing documents limit

increases in assessments, including reserves. Associations may waive reserves with proper notification in their financial statement. Section 720.303(6).

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

GEORGIA

Condominium resale disclosure statement must include the estimated or actual operating budget for the condominium for the current year's reserves. Section 44-3-111.

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

HAWAII

Condominium budgets shall include the amount of money in reserve, future reserve estimates based on a reserve study performed by the association, an explanation of how reserves are computed and the amount to be collected for reserves in the year ahead. The association shall compute the estimated replacement reserves by a formula that is based on the estimated life and the estimated capital expenditure or major maintenance required for each part of the property. The estimated replacement reserves shall include: adjustments for revenues which will be received and expenditures which will be made before the beginning of the fiscal year to which the budget relates; and separate, designated reserves for each part of the property for which capital expenditures or major maintenance will exceed \$10,000. Parts of the property for which capital expenditures or major maintenance will not exceed \$10,000 may be aggregated in a single designated reserve. Section 514B-148.

IDAHO

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

ILLINOIS

The Common Interest Community Act requires the board to give each owner a copy of the proposed annual budget which shall provide for reasonable reserves for capital expenditures and deferred maintenance for repair or replacement of the common elements. 765 ILCS 160/1-45.

The Condominium Act requires the board of managers to adopt a budget that provides for reasonable reserves for capital expenditures and differed maintenance for repair or replacement of the common elements. To determine the amount of reserves appropriate, the board shall take into consideration the any independent professional reserve study which the association may obtain. Any association without a reserve requirement in its condominium instruments may elect to waive in whole or in part the reserve requirements by a vote of 2/3 of the total votes of the association. 760 ILCS 605/9.

Disclosure statement shall include a statement of the status and amount of any reserve or replacement fund and any other fund specifically designated for association projects.

There is no statutory requirement to conduct a reserve study.

INDIANA

All sums assessed by the association of co-owners shall be established by using generally accepted accounting principles applied on a consistent basis and shall include the establishment and maintenance of a replacement reserve fund. The replacement reserve fund may be used for capital expenditures and replacement and repair of the common areas and facilities and may not be used for usual and ordinary repair expenses of the common areas and facilities. Section 32-25-4-4.

There is no statutory requirement to conduct a reserve study.

IOWA

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

KANSAS

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

KENTUCKY

The Horizontal Property Law requires all co-owners to contribute toward the expense of maintaining a replacement reserve fund for repairs and maintenance of the general common elements. Section 381.870.

Condominium unit owners' associations may adopt and amend budgets for revenues, expenditures, and reserves and impose and collect assessments for common expenses from unit owners. Section 981.9167. The resale disclosure statement must include the total amount of any reserves for capital expenditures, if any, and of any portions of those reserves designated by the association for any specified projects. Section 381.9203.

There is no statutory requirement to conduct a reserve study.

LOUISIANA

Associations may adopt and amend budgets for revenues, expenditures, and reserves and make and collect assessments for common expenses from unit owners. Section 9:1123.102. Public offering statements shall include an indication of the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacement. Section 9:1124.102.

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

MAINE

Unit owners associations may adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from unit owners. Section 1603-102. Public offering statements must contain a statement of the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacement and a statement of the amount and purpose of any other reserves. Section 1604-103.

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

MARYLAND

Councils of unit owners have the power to adopt and amend budgets for revenue, expenditures, and reserves and collect assessments for common expenses from unit owners. Section 11-109. The level of reserves is required to be included in the annual budget; however, there is not a required level of reserve funding. Section 11-109.2. Resale certificate must contain the current operating budget of the condominium including details concerning the reserve fund for repair and replacement and its intended use, or a statement that there is no reserve fund. Section 11-1350

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

MASSACHUSETTS

All condominiums shall be required to maintain an adequate replacement reserve fund, collected as part of the common expenses and deposited in an account or accounts separate and segregated from operating funds. Section 183A-10(i). Managing agents shall be responsible for rendering, in no case less frequently than quarterly, a written report to the trustees or the managing board of the organization of unit owners detailing all receipts and expenditures on behalf of the organization, including beginning and ending balances and copies of all relevant bank statements and reconciliations for the replacement reserve fund, and maintain a separate and distinct account for the replacement reserve fund. Section 183A-10(f).

There is no statutory requirement to conduct a reserve study.

MICHIGAN

Condominiums must have a reserve fund for major repairs and replacement of common elements shall be maintained by the associations of co-owners. The administrator may by rule establish minimum standards for reserve funds. Section 559.205.

The state administrative code requires the co-owners' association to maintain a reserve fund which, at a minimum, shall be equal to 10% of the association's current annual budget on a noncumulative basis. The funds shall only be used for major repairs and replacement of common elements. Additionally, the following statement shall be contained in the bylaws: "The minimum standard required by this section may prove to be inadequate for a particular project. The association of co-owners should carefully analyze their condominium project to determine if a greater amount should be set aside, or if additional reserve funds should be established for other purposes." Rule 559.511.

There is no statutory requirement to conduct a reserve study.

MINNESOTA

The common interest ownership act requires an association to include in its annual budgets replacement reserves projected by the board to be adequate, together with past and future contributions to replacement reserves, to fund the replacement of common elements. The act also requires the association to reevaluate the adequacy of its budgeted replacement reserves at least every third year after the recording of the declaration creating the common interest community. Section 515B.3-1441. Unit owners associations have the power to adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from unit owners. Section 515B.3-101. Communities must distribute an annual report with a statement of the association's total replacement reserves, the components of the common interest community for which the reserves are set aside, and the amounts of the reserves, if any, that the board has allocated for the replacement of each of those components. Section 515B.3-106. Disclosure statements must include the amount in the budget as replacement reserves and a statement of any other reserves.

There is no statutory requirement to conduct a formal reserve study.

MISSISSIPPI

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

MISSOURI

Unit owners associations may adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners. Section 448.3-102.1. Resale certificates must provide the amount of any reserves for capital expenditures and of any portions of those reserves designated by the association for any specified projects. Section 448.4-109.1.

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

MONTANA

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

NEBRASKA

Unit owners associations may adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners. Section 76-860.

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

NEVADA

The common interest ownership act requires an association to establish adequate reserves, funded on a reasonable basis, for the repair, replacement and restoration of the major components of the common elements. Section 116.3115. Additionally, the executive board of an association is required to conduct a study of reserves at least every five years, review the study to determine if reserves are sufficient, and adjust reserves, if necessary. The statute specifies how the study is to be conducted. Section 116.31152. A public offering statement must include a budget which has a statement of the amount included in the budget as reserves. Section 116.4103.

NEW HAMPSHIRE

Public offering statement must include the status and amount of any reserve for the major maintenance or replacement fund and any portion of such fund earmarked for any specified project by the board of directors. Section 356-B:58.

NEW JERSEY

The association may levy and collect assessments duly made by the association for a share of common expenses or otherwise, including any other moneys duly owed the association, upon proper notice to the appropriate unit owner, together with interest thereon, late fees and reasonable attorneys' fees, if authorized by the master deed or bylaws. All funds collected by an association shall be maintained separately in the association's name. For investment purposes only, reserve funds may be commingled with operating funds of the association. Commingled operating and reserve funds shall be accounted for separately, and a commingled account shall not, at any time, be less than the amount identified as reserve funds. Section 46:8B-15.

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

NEW MEXICO

Unit owners of a condominium association may adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners. Section 47-7C-2. Disclosure statements must make a statement of the amount or a statement that there is no amount included in the budget as a reserve for repairs and replacement and a statement of any other reserves. Section 47-7D-3 and 47-7E.

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

NEW YORK

Condominium bylaws may contain provisions governing the payment, collection and disbursement of funds, including reserves, to provide for major and minor maintenance, repairs, additions, improvements, replacements, working capital, bad debts and unpaid common expenses, depreciation, obsolescence and similar purposes. RRP Section 339-V. Co-operative corporation directors must periodically set aside reasonable sums for reserves. CCO Section 72.

There is no statutory requirement to conduct a reserve study.

NORTH CAROLINA

Unit owners associations may adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners. Section 47C-3-102 and 47F-3-102. Public offering statements must include the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacement and a statement of any other reserves. Section 47C-4-103.

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

NORTH DAKOTA

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

OHIO

Unless otherwise provided in the declaration or bylaws, the condominium unit owners association, through the board of directors, shall adopt and amend budgets for revenues, expenditures, and reserves in an amount adequate to repair and replace major capital items in the normal course of operations without the necessity of special assessments, provided that the amount set aside annually for reserves shall not be less than 10% of the budget for that year unless the reserve requirement is waived annually by the unit owners exercising not less than a majority of the voting power of the unit owners

association. Section 5311.081.

Planned community owners associations, unless otherwise provided in the declaration or bylaws, through its board of directors, shall annually adopt and amend an estimated budget for revenues and expenditures. Any budget shall include reserves in an amount adequate to repair and replace major capital items in the normal course of operations without the necessity of special assessments, unless the owners, exercising not less than a majority of the voting power of the owners association, waive the reserve requirement annually. Section 5312.06.

There is no statutory requirement to conduct a reserve study.

OKLAHOMA

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

OREGON

The declarant, on behalf of a homeowners association, shall conduct an initial reserve study, prepare an initial maintenance plan and establish a reserve account. A reserve account shall be established to fund major maintenance, repair or replacement of all items of common property which will normally require major maintenance, repair or replacement, in whole or in part, in more than one and less than 30 years. The board of directors of the association annually shall conduct a reserve study or review and update an existing study to determine the reserve account requirements. After review of the reserve study or reserve study update, the board of directors may, without any action by owners adjust the amount of payments as indicated by the study or update and provide for other reserve items that the board of directors, in its discretion, may deem appropriate. Section 94.595 and 100.175. Following a turnover of power from the declarant to the association, the board of directors at least annually shall adopt a budget for the planned community and include moneys to be allocated to the reserve account. Section 94.645 and 100.412. However, the board of directors, with the approval of all owners, may elect not to fund the reserve account for the following year. Section 94.595 and 100.175.

PENNSYLVANIA

Unit owners associations may adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners. Section 3302 and 5302. Disclosure statements must statement of the amount or a statement that there is no amount included in the budget as a reserve for repairs and replacement and a statement of any other reserves. Section 3402 and 5402.

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

RHODE ISLAND

Unit owners associations may adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners. Section 34-36.1-3.02. Public offering statements for condominiums must disclose a budget detailing the amount of reserves sufficient for painting exterior surfaces, replacing roofing, resurfacing roadways or other items subject to declaration. Must also disclose itemized life spans for common elements and expected impact on assessments. Section 34-36.1-4.03.

There is no statutory requirement to conduct a reserve study.

SOUTH CAROLINA

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

SOUTH DAKOTA

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

TENNESSEE

Unit owners associations may adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners. Section 66-27-402. Disclosure statements must include the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacements, and whether or not any study has been done to determine their adequacy, if a study has been done, where the study will be made available for review and inspection, and a statement of any other reserves. Section 66-27-503.

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

TEXAS

Unit owners associations may adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners. Section 82.102. Resale statements must include the amount of reserves, if any, for capital expenditures and of portions of those reserves designated by the association for a specified project. Section 82.157.

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

UTAH

Condominium management committees must cause a reserve analysis to be conducted no less frequently than every six years and review and, if necessary, update a previously conducted reserve analysis no less frequently than every three years. The management committee may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the management committee, to conduct the reserve analysis. An association of unit owners shall annually present the reserve study and provide an opportunity for unit owners to discuss reserves and to vote on whether to fund a reserve fund and, if so, how to fund it and in what amount. Section 57-8-7.5 and 57-8a-211.

There is no statutory requirement to fund reserves.

VERMONT

Unit owners associations may adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners. Section 27A-3-102. Public offering statement must include the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacement and statement of any other reserves. Section 27A-4-103.

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

VIRGINIA

Associations must conduct a reserve study at least once every five years to determine the necessity and amount of reserves required to repair, replace and restore the common elements or capital components. The board of directors must review the study at least annually and make adjustments as the board determines to keep the funding of reserves sufficient. The statutory provisions on reserves also include requirements for the contents of the association budget if reserves are determined to be a necessity. Section 55-79.83.1 and 55-514.1. Resale certificates must include the current reserve study report or a summary thereof, a statement of the status and amount of any reserve or replacement fund and any portion of the fund designated for any specified project by the association. Section 55-79.97.

WASHINGTON

Unit owners associations may adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners, and establish and administer a reserve account and prepare a reserve study. Section 64.34.304 and 64.38.020. The 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. Section 64.34.388. Associations are 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, or replacement within 30 years. Unless doing so would impose

an unreasonable hardship, an association with significant assets shall prepare and update a reserve study. The initial reserve study must be based upon a visual site inspection conducted by a reserve study professional. Unless doing so would impose an unreasonable hardship, the association shall update the reserve study annually. At least every three years, an updated reserve study must be prepared and based upon a visual site inspection conducted by a reserve study professional. Section 64.34.380 and 64.38.065. The public offering statement shall include copies of the association's current reserve study, if any. If the association does not have a reserve study, the public offering statement shall contain 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." Section 64.34.410.

WEST VIRGINIA

Unit owners associations may adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners. Section 36B-3-102. Public offering statement must include the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacement and statement of any other reserves. Section 36B-4-103.

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

WISCONSIN

An association may, with the written consent of a majority of the unit votes, create or terminate a statutory reserve account. Section 703.163.

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

WYOMING

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.