
A BILL FOR AN ACT

RELATING TO CONDOMINIUM RESERVE REQUIREMENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 514B-148, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending its title and subsections (a) through (d)
4 to read:

5 "**§514B-148 Association fiscal matters; budgets and**
6 **replacement reserves.** (a) The budget required under section
7 514B-144(a) shall include a summary with at least the
8 following[+] details:

9 (1) The estimated revenues and operating expenses of the
10 association;

11 (2) [~~Information~~] Disclosure as to whether the budget has
12 been prepared on a cash or accrual basis;

13 (3) The estimated costs of fire safety equipment or
14 installations that meet the requirements of a life
15 safety evaluation required by the applicable county
16 for any building located in a county with a population
17 greater than five hundred thousand; provided that the
18 reserve study may forecast a loan or special



1 assessment to fund life safety components or
2 installation;

3 [~~3~~] (4) The balance of the total replacement reserves
4 fund of the association as of the date of the budget;

5 [~~4~~] (5) The estimated replacement reserves assessments
6 that the association will require to maintain the
7 property based on a reserve study performed by or on
8 behalf of the association; provided that the reserve
9 study, if not prepared by an independent reserve study

10 preparer, shall be reviewed by an independent reserve
11 study preparer[; ~~provided further that the reserve~~

12 ~~study shall be reviewed or updated at least] not less~~
13 than every three years; provided further that a

14 managing agent with industry reserve study
15 designations shall not be considered as having a
16 conflict of interest for purposes of this paragraph;

17 [~~5~~] (6) A general explanation of how the estimated
18 replacement reserves assessments are computed[;] and
19 detailing:

20 (A) The identity, qualifications, and potential
21 conflicts of interest of the person or entity



1 performing the reserve study, update, or any
2 review thereof;

3 (B) Disclosure of any component of association
4 property omitted from the reserve study and the
5 basis for the omission;

6 (C) Planned increases in the estimated replacement
7 reserve assessments over the thirty-year plan;
8 and

9 (D) Whether the actual estimated replacement reserves
10 assessments for the prior year as defined in the
11 study was less than the assessments provided for
12 in the reserve study, and, if so, by how much,
13 and explaining the impact of the lesser
14 assessments on future estimated replacement
15 reserves assessments;

16 [~~6~~] (7) The amount the association must collect for the
17 fiscal year to fund the estimated replacement
18 reserves [~~7~~] assessments; and

19 [~~7~~] (8) Information as to whether the amount the
20 association must collect for the fiscal year to fund
21 the estimated replacement reserves assessments was



1 calculated using a per cent funded or cash flow plan.
2 The method or plan shall not circumvent the estimated
3 replacement reserves assessments amount determined by
4 the reserve study pursuant to paragraph [~~(4)~~] (5).

5 (b) The association shall assess the unit owners to either
6 fund a minimum of fifty per cent of the estimated replacement
7 reserves assessments or fund one hundred per cent of the
8 estimated replacement reserves assessments when using a cash
9 flow plan; provided that a new association need not collect
10 estimated replacement reserves assessments until the fiscal year
11 ~~[which]~~ that begins after the association's first annual
12 meeting. For each fiscal year, the association shall collect
13 the amount assessed to fund the estimated replacement reserves
14 assessments for that fiscal year [~~reserves~~], as determined by
15 the association's plan.

16 (c) The association shall compute the estimated
17 replacement reserves assessments by a formula that is based on
18 the estimated life and the estimated capital expenditure or
19 major maintenance required for each part of the property. The
20 estimated replacement reserves assessments shall include:



1 (1) Adjustments for revenues [~~which~~] that will be received
2 and expenditures [~~which~~] that will be made before the
3 beginning of the fiscal year to which the budget
4 relates; and

5 (2) Separate, designated reserves for each part of the
6 property for which capital expenditures or major
7 maintenance will exceed \$10,000. Parts of the
8 property for which capital expenditures or major
9 maintenance will not exceed \$10,000 may be aggregated
10 in a single designated reserve.

11 (d) No association or unit owner, director, officer,
12 managing agent, or employee of an association who makes a good
13 faith effort to calculate the estimated replacement reserves
14 assessments for an association shall be liable if the estimate
15 subsequently proves incorrect."

16 2. By amending subsection (f) to read:

17 "(f) The requirements of this section shall override any
18 requirements in an association's declaration, bylaws, or any
19 other association documents relating to preparation of budgets,
20 calculation of replacement reserve requirements, assessment and



1 funding of replacement reserves, and expenditures from
2 replacement reserves with the exception of:

- 3 (1) Any requirements in an association's declaration,
4 bylaws, or any other association documents [~~which~~
5 that require the association to collect more than
6 fifty per cent of replacement reserve requirements; or
7 (2) Any provisions relating to upgrading the common
8 elements, such as additions, improvements, and
9 alterations to the common elements."

10 3. By amending subsection (h) to read:

11 "(h) As used in this section:

12 "Capital expenditure" means an expense that results from
13 the purchase or replacement of an asset whose life is greater
14 than one year, or the addition of an asset that extends the life
15 of an existing asset for a period greater than one year.

16 "Cash flow plan" means a minimum thirty-year projection of
17 an association's future income and expense requirements to fund
18 fully its replacement reserves requirements each year during
19 that thirty-year period, except in an emergency; provided that
20 it does not include a projection of special assessments or loans
21 during that thirty-year period, except in an emergency.



1 "Emergency situation" means any extraordinary expenses:

2 (1) Required by an order of a court;

3 (2) Necessary to repair or maintain any part of the
4 property for which the association is responsible
5 where a threat to personal safety on the property is
6 discovered;

7 (3) Necessary to repair any part of the property for which
8 the association is responsible that could not have
9 been reasonably foreseen by the board in preparing and
10 distributing the annual operating budget;

11 (4) Necessary to respond to any legal or administrative
12 proceeding brought against the association that could
13 not have been reasonably foreseen by the board in
14 preparing and distributing the annual operating
15 budget; or

16 (5) Necessary for the association to obtain adequate
17 insurance for the property that the association must
18 insure.

19 "Independent reserve study preparer" means any
20 organization, company, or individual with a reserve study
21 certification from an industry organization.



1 "Major maintenance" means an expenditure for maintenance or
2 repair that will result in extending the life of an asset for a
3 period greater than one year.

4 "Replacement reserves" means funds for the upkeep, repair,
5 or replacement of those parts of the property, including but not
6 limited to roofs, walls, decks, paving, and equipment, that the
7 association is obligated to maintain."

8 SECTION 2. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 3. This Act shall take effect upon its approval.



Report Title:

Condominiums; Budgets; Fire Safety Equipment; Fire Safety Installation; Replacement Reserves Assessments Study

Description:

Authorizes a condominium association to provide a summary of the required information in its budget. Authorizes a condominium association's reserve study to forecast a loan or special assessment to fund life safety equipment or installations for any building located in a county with a population greater than five hundred thousand. Authorizes a condominium association to use a third party to conduct a reserves study on behalf of the condominium. Clarifies the information to be included in the description of how the estimated replacement reserves assessments are computed. (CD1)

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