

Excerpts from the CONDOMINIUM ACT, 2009

Amended:

2010 c31 s4; 2014 cC-10.1 s58

Interpretation

(y) "reserve fund" means a fund established under section 49 ;

(z) "reserve fund study" means a periodic study to determine whether the amount of money in the reserve fund and the amount of contributions collected by the corporation are adequate to provide for the projected costs of major repair and replacement of the common elements and assets of the corporation;

Reserve fund and reserve fund study

49. (1) The corporation shall establish and maintain a reserve fund for major repair and replacement of the common elements and assets of the corporation including, where applicable, roofs, exteriors of buildings, roads, sidewalks, sewers, heating, electrical and plumbing systems, elevators, laundry, recreational and parking facilities.

(2) Where a corporation has, as one of its objects, the management of a property consisting of less than 10 units, the corporation shall assess and collect the owners' contributions to the reserve fund in an amount that would result in the amount of the reserve fund becoming, and continuing to be, within 5 years after this subsection comes into force or, where the corporation is created after the commencement of this subsection, within 5 years after the corporation is created, 100% of the annual operating budget of the corporation.

(3) Where a corporation was created under the Condominium Act in force immediately before the commencement of this Act and has as one of its objects, the management of a property consisting of 10 or more units, the corporation shall, upon the commencement of this Act, complete a reserve-fund study respecting the corporation within 2 years of the coming into force of this Act in accordance with subsection (4) and provide it to the registrar upon request.

(4) A reserve-fund study respecting a corporation that is required by this Act shall be completed in accordance with the regulations, contain the information, opinions and recommendations and be prepared by the person or a member of the class of persons as prescribed by the regulations.

(5) Where this section requires that a reserve fund study respecting a corporation be completed, that corporation shall, within each 10-year period after the expiry of the time limit for filing a reserve fund study, complete a reserve-fund study in accordance with subsection (4) and provide it to the registrar upon request.

(6) Where a reserve-fund study respecting a corporation is completed in accordance with this section and the amount of the reserve fund of the corporation is less than the minimum

amount that the reserve-fund study recommends that the fund ought to be, the corporation shall assess and collect contributions from the owners in an amount that shall result in the reserve-fund amount recommended by the study being achieved within the period of time recommended in the study and continuing to be at least the minimum amount recommended in the reserve-fund study.

(7) The cost of conducting a reserve fund study shall be a common expense that the board may charge to the common expense fund.

(8) All contributions collected for a reserve fund shall be paid into the reserve fund and used only for those purposes referred to in subsection (1) and the reserve fund shall be deposited and maintained in a chartered bank or a credit union in the province or invested in securities in which trustees are permitted by law to invest trust funds.

(9) The declarant shall contribute to the reserve fund in the amount set out in the declaration for all units he or she holds and for all units that are not sold .

(10) A fund set up for a purpose mentioned in subsection (1) is and is considered to be a reserve fund notwithstanding that it may not be so designated and shall only be used for the purpose for which the fund was established.

(11) The reserve fund constitutes an asset of the corporation and shall not be distributed to an owner except upon withdrawal of the property from this Act.

(12) The obligation of an owner to contribute towards the common expenses, the reserve fund and a contingency fund shall not be avoided by waiver of the right to use the common elements or by abandonment.

(13) Surplus in the operating budget of a corporation at the end of the fiscal year of the corporation shall be applied either against future common expenses or be paid into the reserve fund, but shall not, other than on withdrawal of the property from this Act, be distributed to the owners.

[2009 cC-29.1 s49](#)

Contingency fund

50. The corporation may establish a contingency fund to be used for the purpose provided in the by-laws.

Source: <http://www.assembly.nl.ca/Legislation/sr/statutes/c29-1.htm#49>