

## 1999 ASSEMBLY BILL 723

February 8, 2000 – Introduced by Representatives LA FAVE and SYKORA, cosponsored by Senator GROBSCHMIDT. Referred to Committee on Housing.

1     **AN ACT to amend** 703.10 (2) (e), 703.16 (2) and 703.33 (1) (d); and **to create**  
2             703.165 of the statutes; **relating to:** condominium budgets and reserve  
3             accounts.

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### *Analysis by the Legislative Reference Bureau*

Current law contains various provisions related to condominiums, such as the procedure that must be followed to create a condominium, the ownership interest of a person purchasing a condominium unit, requirements for bylaws governing the administration of a condominium, rights and responsibilities of a condominium association, how expenses of the condominium are to be paid and disclosures that must be made by a condominium unit seller to a prospective purchaser. This bill adds requirements for a reserve account and an annual budget.

Under current law, the expenses of a condominium as a whole, as opposed to the expenses of the individually owned units in a condominium, are called “common expenses”. Common expenses are paid through assessments against the individual unit owners. Assessments that are collected for certain future common expenses, such as capital repairs and replacements, are called “reserves”. The bill requires the board of directors (board) of a condominium association to establish a reserve account, for the purpose of holding reserves, as an interest-bearing, federally insured account at a bank, savings bank, savings and loan association or credit union. The board must develop, and annually evaluate, a long-range reserve account plan to determine the amount that must be contributed to reserves each year by the unit owners. In developing and evaluating this plan, the board must consider

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such things as the estimated remaining useful life of the major common elements, the estimated cost of repairing or replacing the major common elements that have a remaining useful life of less than 20 years, the interest or other earnings that will accrue to the reserve account and the total annual contribution that will be required to meet the obligations of the association to repair and replace common elements. The bill specifies that funds in the reserve account may be used only for repair and replacement of common elements and may not be used for routine expenditures, such as normal or routine repair or maintenance of common elements, or for customary services, such as snow or trash removal. The board may, however, make withdrawals or transfers from the reserve account for purposes other than repair or replacement of common elements if at least 51% of the unit owners having 66% or more of the votes approve of the withdrawal or transfer at a special meeting of the association. The board must repay such an approved withdrawal or transfer over a period of not more than seven years, and, when approved, the amount of the withdrawal or transfer may not exceed 40% of the total amount in the reserve account and there may be no other outstanding withdrawals or transfers.

The bill requires the board annually to record a reserve account report in its minutes and with the county register of deeds. The report must include the beginning and ending balances in the reserve account for the reporting period, the amounts and sources of all funds added to the account during the period and the amounts and purposes of all expenditures from the reserve account during the period. The bill provides that, if a unit owner requests an audit of the reserve account, the board must contract with an independent certified accountant for an audit and provide the results to the requesting party. The board may, however, require the requesting party to pay the cost of the audit. The bill requires a person selling a unit in a condominium to disclose to prospective purchasers information about reserves and the reserve account, such as the amount in the reserve account, anticipated expenditures from the reserve account for repairing or replacing common elements and anticipated contributions to reserves by the purchaser.

The bill also requires the board to prepare and distribute to all unit owners a detailed annual budget. The budget must include all anticipated common expenses and surpluses, the amount in the reserve account, the anticipated expenditures from and contributions to the reserve account, the total amount of the assessments to be levied against the unit owners, any other sources of income to the association and any other anticipated expenditure by the association.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 703.10 (2) (e) of the statutes is amended to read:

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1           703.10 (2) (e) The manner of assessing against and collecting from unit owners  
2 their respective shares of the common expenses, including amounts for deposit in the  
3 reserve account under s. 703.165 (2).

4           **SECTION 2.** 703.16 (2) of the statutes is amended to read:

5           703.16 (2) FUNDS FOR PAYMENT OF COMMON EXPENSES OBTAINED BY ASSESSMENTS.  
6 Funds for the payment of common expenses ~~and for, including~~ the creation of  
7 reserves ~~for the payment of future common expenses,~~ shall be obtained by  
8 assessments against the unit owners in proportion to their percentage interests in  
9 the common elements or as otherwise provided in the declaration.

10          **SECTION 3.** 703.165 of the statutes is created to read:

11          **703.165 Budget and reserve requirements. (1) ANNUAL BUDGET.** (a) No  
12 later than the first day of the 6th month beginning after the effective date of this  
13 paragraph .... [revisor inserts date], and annually thereafter, each board of directors  
14 shall prepare and distribute to all unit owners a detailed annual budget setting forth  
15 all of the following:

- 16           1. All anticipated common expenses and common surpluses.
- 17           2. The amount and purpose of each anticipated expenditure from reserves.
- 18           3. The amount and source of all anticipated contributions to reserves.
- 19           4. The amount in the reserve account.
- 20           5. The total amount of assessments to be levied against unit owners.
- 21           6. The amount and source of any other income of the association.
- 22           7. The amount and purpose of any other anticipated expenditure by the  
23 association.

**ASSEMBLY BILL 723****SECTION 3**

1 (b) An annual budget adopted by a board of directors under par. (a) shall  
2 provide for reasonable reserves in the reserve account in accordance with the  
3 long-range reserve account plan under sub. (2) (b).

4 **(2) RESERVE ACCOUNT; BUDGETING AND RESERVE PLAN.** (a) No later than the first  
5 day of the 4th month beginning after the effective date of this paragraph .... [revisor  
6 inserts date], the board of directors shall establish a reserve account for the  
7 association, to hold all reserves. The reserve account shall be an interest-bearing,  
8 federally insured account at a bank, savings bank, savings and loan association or  
9 credit union.

10 (b) The board of directors shall develop and annually evaluate and revise, as  
11 necessary, a long-range reserve account plan. In accordance with this plan, the  
12 board of directors shall annually determine the amount that is necessary to be  
13 contributed to the reserve account for the needs of the condominium, assess unit  
14 owners a sufficient amount for contributions to reserves and deposit the assessments  
15 collected into the reserve account. In developing and evaluating the long-range  
16 reserve plan and in providing for reasonable reserves under sub. (1) (b), the board  
17 of directors shall take into consideration all of the following:

18 1. The results of any independent professional reserve study conducted on  
19 behalf of the association.

20 2. The estimated cost of the repair or replacement of all major common  
21 elements that have a remaining useful life of less than 20 years and that the  
22 association has the duty to repair or replace.

23 3. The estimated remaining useful life of all major common elements.

24 4. The amount of interest or other earnings attributable to the reserve account.

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1           5. An estimate of the total annual contribution to the reserve account that is  
2 necessary to meet the obligations of the association to repair and replace common  
3 elements.

4           6. A comparison between the amounts held in the reserve account and the  
5 anticipated costs to repair and replace, as necessary, the common elements.

6           **(3) USE OF RESERVE ACCOUNT.** Except as provided in sub. (4), the funds in the  
7 reserve account, including accrued interest, may be used only for major repairs and  
8 replacement of common elements. Funds in the reserve account may not be used for  
9 routine expenditures such as normal or routine repair or maintenance of common  
10 elements or customary services such as snow or trash removal.

11           **(4) SPECIAL WITHDRAWALS OR TRANSFERS FROM RESERVE ACCOUNT.** The board of  
12 directors may withdraw or transfer funds from the reserve account for a purpose  
13 other than those specified in sub. (3) if all of the following conditions are met:

14           (a) The amount and specific purpose of the withdrawal or transfer from the  
15 reserve account is approved at a special meeting of the association by the affirmative  
16 vote of at least 51% of unit owners having 66% or more of the votes.

17           (b) The board of directors creates a repayment schedule that specifies the time  
18 period for repayment of the withdrawal or transfer and that contains a schedule of  
19 periodic amounts for the repayment of the withdrawal or transfer.

20           (c) The term of the repayment schedule is not longer than 7 years.

21           (d) The amount of the withdrawal or transfer is not greater than 40% of the  
22 total value of the reserve account at the time the withdrawal or transfer is approved  
23 under par. (a).

24           (e) No other withdrawal or transfer from the reserve account is outstanding.

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1           **(5) REPORTING REQUIREMENTS.** Beginning in 2001, the board of directors, on  
2 behalf of the association, shall annually, no later than March 31, record in its minutes  
3 and with the register of deeds of the county where the condominium is located a  
4 report on the reserve account of the association setting forth all of the following:

5           (a) A statement of the amounts held in the reserve account at the beginning and  
6 at the close of the previous one-year period.

7           (b) The amounts and sources of funds added to the reserve account during the  
8 previous one-year period.

9           (c) The amounts expended from the reserve account during the previous  
10 one-year period and a description of the purposes for which the amounts were  
11 expended.

12           **(6) AUDIT.** Upon the written request of any unit owner, the board of directors  
13 shall contract with an independent certified accountant to audit the reserve account  
14 and provide the results of the audit to the requesting party. The board of directors  
15 may require the requesting party to pay the reasonable costs of the audit.

16           **SECTION 4.** 703.33 (1) (d) of the statutes is amended to read:

17           703.33 **(1) (d)** A copy of the projected annual operating budget for the  
18 condominium ~~including reasonable details concerning~~ setting forth all anticipated  
19 common operating expenses, anticipated expenditures from the reserve account for  
20 repair or replacement of common elements, the amount in the reserve account, the  
21 estimated monthly payments by the purchaser for assessments, including  
22 anticipated contributions by the purchaser to reserves, and the estimated monthly  
23 charges for the use, rental or lease of any facilities not part of the condominium.

24           **SECTION 5. Initial applicability.**

