

## **Reserve Study and Related Laws Summary**

**The Civil Code requirements for reserve studies include but are not limited to the following:**

- **Perform Reserve Study at least every 3 years**
- **Update Reserve Study annually**
- **Identify all common area components with less than 30-year life**
- **Estimate life expectancy for those components**
- **Estimate costs to repair or replace those components**
- **Compile statement of annual contributions to cover the costs**
- **Calculate "Percent Funded"**
- **Prove the adequacy of the reserve contributions with a 30- year cash flow**

### **§ 5300. Annual Budget, Reserves and other Required Disclosures**

- (a) Notwithstanding a contrary provision in the governing documents, an association shall distribute an annual budget report 30 to 90 days before the end of its fiscal year.
- (b) Unless the governing documents impose more stringent standards, the annual budget report shall include all of the following information:
- (1) A pro forma operating budget, showing the estimated revenue and expenses on an accrual basis.
  - (2) A summary of the association's reserves, prepared pursuant to Section 5565.
  - (3) A summary of the reserve funding plan adopted by the board, as specified in paragraph (5) of subdivision (b) of Section 5550. The summary shall include notice to members that the full reserve study plan is available upon request, and the association shall provide the full reserve plan to any member upon request.
  - (4) A statement as to whether the board has determined to defer or not

undertake repairs or replacement of any major component with a remaining life of 30 years or less, including a justification for the deferral or decision not to undertake the repairs or replacement.

- (5) A statement as to whether the board, consistent with the reserve funding plan adopted pursuant to Section 5560, has determined or anticipates that the levy of one or more special assessments will be required to repair, replace, or restore any major component or to provide adequate reserves therefore. If so, the statement shall also set out the estimated amount, commencement date, and duration of the assessment.
- (6) A statement as to the mechanism or mechanisms by which the board will fund reserves to repair or replace major components, including assessments, borrowing, use of other assets, deferral of selected replacements or repairs, or alternative mechanisms.

### **§ 5305 Annual Review of Association Financial Statement by CPA**

Unless the governing documents impose more stringent standards, a review of the financial statement of the association shall be prepared in accordance with generally accepted accounting principles by a licensee of the California Board of Accountancy for any fiscal year in which the gross income to the association exceeds seventy-five thousand dollars (\$75,000). A copy of the review of the financial statement shall be distributed to the members within 120 days after the close of each fiscal year, by individual delivery pursuant to Section 4040.

### **§ 5310 Distribution of Annual Policy Statement to Members**

- (a) Within 30 to 90 days before the end of its fiscal year, the board shall distribute an annual policy statement that provides the members with information about association policies. The annual policy statement shall include all of the following information:
  - (1) The name and address of the person designated to receive official communications to the association, pursuant to Section 4035.
  - (2) A statement explaining that a member may submit a request to have notices sent to up to two different specified addresses, pursuant to subdivision (b) of Section 4040.

- (3) The location, if any, designated for posting of a general notice, pursuant to paragraph (3) of subdivision (a) of Section 4045.
- (4) Notice of a member's option to receive general notices by individual delivery, pursuant to subdivision (b) of Section 4045.
- (5) Notice of a member's right to receive copies of meeting minutes, pursuant to subdivision (b) of Section 4950.
- (6) The statement of assessment collection policies required by Section 5730.
- (7) A statement describing the association's policies and practices in enforcing lien rights or other legal remedies for default in the payment of assessments.
- (8) A statement describing the association's discipline policy, if any, including any schedule of penalties for violations of the governing documents pursuant to Section 5850.
- (9) A summary of dispute resolution procedures, pursuant to Sections 5920 and 5965.
- (10) A summary of any requirements for association approval of a physical change to property, pursuant to Section 4765.
- (11) The mailing address for overnight payment of assessments, pursuant to Section 5655.
- (12) Any other information that is required by law or the governing documents or that the board determines to be appropriate for inclusion.
  - (b) The annual policy statement shall be made available to the members pursuant to Section 5320.

### **§ 5320. Right to Distribute either Full or Summary of Reports**

- (a) When a report is prepared pursuant to Section 5300 or 5310, the association shall deliver one of the follow documents to all members, by individual delivery pursuant to Section 4040:
  - (1) The full report.
  - (2) A summary of the report. The summary shall include a general description of the content of the report. Instructions on how to request a complete copy of the report at no cost to the member shall be printed in at least 10-point boldface type on the first page of the summary.

- (b) Notwithstanding subdivision (a), if a member has requested to receive all reports in full, the association shall deliver the full report to that member, rather than a summary of the report.

**§ 5550. Reserve Study Inspection Frequency, Contents, Funding Plan**

- (a) At rest once every three years, the board shall cause to be conducted a reasonably competent and diligent visual inspection of the accessible areas of the major components that the association is obligated to repair, replace, restore, or maintain as part of a study of the reserve account requirements of the common interest development, if the current replacement value of the major components is equal to or greater than one-half of the gross budget of the association, excluding the association's reserve account for that period. The board shall review this study, or cause it to be reviewed, annually and shall consider and implement necessary adjustments to the board's analysis of the reserve account requirements as a result of that review.
- (b) The study required by this section shall at a minimum include:
- (1) Identification of the major components that the association is obligated to repair, replace, restore, or maintain that, as of the date of the study, have a remaining useful life of less than 30 years.
  - (2) Identification of the probable remaining useful life of the components identified in paragraph (1) as of the date of the study.
  - (3) An estimate of the cost of repair, replacement, restoration, or maintenance of the components identified in paragraph (1).
  - (4) An estimate of the total annual contribution necessary to defray the cost to repair, replace, restore, or maintain the components identified in paragraph (1) during and at the end of their useful life, after subtracting total reserve funds as of the date of the study.
  - (5) A reserve funding plan that indicates how the association plans to fund the contribution identified in paragraph (4) to meet the association's obligation for the repair and / replacement of all major components with an expected remaining life of 30 years or less, not including those components that the board has determined will not be replaced or repaired.

**§ 5560. Reserve Funding Plan Adoption; Assessments Needed for Adequate Funding**

- (a) The reserve funding plan required by Section 5550 shall include a schedule of the date and amount of any change in regular or special assessments that would be needed to sufficiently fund the reserve funding plan.
- (b) The plan shall be adopted by the board at an open meeting before the membership of the association as described in Article 2 (commencing with Section 4900) of Chapter 6.
- (c) If the board determines that an assessment increase is necessary to fund the reserve funding plan, any increase shall be approved in a separate action of the board that is consistent with the procedure described in Section 5605.

**§ 5565. Contents of Association's Reserve Summary**

The summary of the association's reserves required by paragraph (2) of subdivision (b) of Section 5300 shall be based on the most recent review or study conducted pursuant to Section 5550, shall be based only on assets held in cash or cash equivalents, shall be printed in boldface type, and shall include all of the following:

- (a) The current estimated replacement cost, estimated remaining life, and estimated useful life of each major component.
- (b) As of the end of the fiscal year for which the study is prepared:
  - (1) The current estimate of the amount of cash reserves necessary to repair, replace, restore, or maintain the major components.
  - (2) The current amount of accumulated cash reserves actually set aside to repair, replace, restore, or maintain major components.
  - (3) If applicable, the amount of funds received from either a compensatory damage award or settlement to an association from any person for injuries to property, real or personal, arising out of any construction or design defects, and the expenditure or disposition of funds, including the amounts expended for the direct and indirect costs of repair of construction or design defects. These amounts shall be reported at the end of the fiscal year for which the study is prepared as separate line items under cash reserves pursuant to paragraph (2). Instead of complying with the requirements set forth in this paragraph, an association that is obligated to issue a review of its financial statement pursuant to Section 5305 may include in the review a statement containing all of the information required by this paragraph.

- (c) The percentage that the amount determined for purposes of paragraph (2) of subdivision (b) equals the amount determined for purposes of paragraph (1) of subdivision (b).
- (d) The current deficiency in reserve funding expressed on a per unit basis. The figure shall be calculated by subtracting the amount determined for purposes of paragraph (2) of subdivision (b) from the amount determined for purposes of paragraph (1) of subdivision (b) and then dividing the result by the number of separate interests within the association, except that if assessments vary by the size or type of ownership interest, then the association shall calculate the current deficiency in a manner that reflects the variation.

**§ 5570. Official Required Assessment and Reserve Funding Disclosure Summary**

- (a) The disclosures required by this article with regard to an association or a property shall be summarized on the following form:

"Assessment and Reserve Funding Disclosure Summary For the Fiscal Year Ending \_\_\_\_\_"

(1) The regular assessment per ownership interest is \$\_\_\_\_\_ per \_\_\_\_\_. Note: If assessments vary by the size or type of ownership interest, the assessment applicable to this ownership interest may be found on page \_\_\_\_\_ of the attached summary.

(2) Additional regular or special assessments that have already been scheduled to be imposed or charged, regardless of the purpose, if they have been approved by the board and/or members:

Date Assessment will be due:	Amount per ownership interest per month or year (if assessments are variable, see note immediately below):	Purpose of the assessment:
	Total:	

Note: If assessments vary by the size or type of ownership interest, the assessment applicable to this ownership interest may be found on page \_\_\_\_\_ of the attached report.

(3) Based upon the most recent reserve study and other information available to the board of directors, will currently projected reserve account balances be sufficient at the end of each year to meet the association's obligation for repair and/or replacement of major components during the next 30 years?  
 Yes \_\_\_\_\_ No \_\_\_\_\_

(4) If the answer to (3) is no, what additional assessments or other contributions to reserves would be necessary to ensure that sufficient reserve funds will be available each year during the next 30 years that have not yet been approved by the board or the members?

Approximate date assessment will be due:	Amount per ownership interest per month or year
	Total:

(5) All major components are included in the reserve study and are included in its calculations.

(6) Based on the method of calculation in paragraph (4) of subdivision (b) of Section 5570, the estimated amount required in the reserve fund at the end of the current fiscal year is \$\_\_\_\_\_, based in whole or in part on the last reserve study or update prepared by \_\_\_\_\_ as of \_\_\_\_\_ (month), \_\_\_\_\_ (year). The projected reserve fund cash balance at the end of the current fiscal year is \$\_\_\_\_\_, resulting in reserves being \_\_\_\_\_ percent funded at this date.

If an alternate, but generally accepted, method of calculation is also used, the required reserve amount is \$ \_\_\_\_\_. (See attached explanation)

(7) Based on the method of calculation in paragraph (4) of subdivision (b) of section 5570 of the Civil Code, the estimated amount required in the reserve fund at the end of each of the next five budget years is \$\_\_\_\_\_, and the projected reserve fund cash balance in each of those years, taking into account only assessments already approved and other known

revenues, is \$\_\_\_\_\_, leaving the reserve at \_\_\_\_\_ percent funding. If the reserve funding plan approved by the association is implemented, the projected reserve fund cash balance in each of those years will be \$\_\_\_\_\_, leaving the reserve at \_\_\_\_\_ percent funding.

Note: The financial representations set forth in this summary are based on the best estimates of the preparer at that time. The estimates are subject to change. At the time this summary was prepared, the assumed long-term before-tax interest rate earned on reserve funds was \_\_\_\_\_ percent per year, and the assumed long-term inflation rate to be applied to major component repair and replacement costs was \_\_\_\_\_ percent per year.

(b) For the purposes of preparing a summary pursuant to this section:

- (1) "Estimated remaining useful life" means the time reasonably calculated to remain before a major component will require replacement.
- (2) "Major component" has the meaning used in Section 55530. Components with an estimated remaining useful life of more than 30 years may be included in a study as a capital asset or disregarded from the reserve calculation, so long as the decision is revealed in the reserve study report and reported in the Assessment and Reserve Funding Disclosure Summary.
- (3) The form set out in subdivision (a) shall accompany each annual budget report or summary thereof that is delivered pursuant to Section 5300. The form may be supplemented or modified to clarify the information delivered, so long as the minimum information set out in subdivision (a) is provided.
- (4) For the purpose of the report and summary, the amount of reserves needed to be accumulated for a component at a given time shall be computed as the current cost of replacement or repair multiplied by the number of years the component has been in service divided by the useful life of the component. This shall not be construed to



require the board to fund reserves in accordance with this calculation.

