



# **LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS**

National Government Relations Committee  
Canadian Condominium Institute  
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# LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

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# LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

## 1. INTRODUCTION BY P. ELIA

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This paper is a brief compilation of legislation and related information across Canada on capital asset funding for condominiums, which is also known as reserve fund funding, as it is known in most parts of the country.

The intention of the paper is to outline the general nature of the legislative requirements in each province and territory, as they relate to planning for funding in respect of major capital assets.

We hope that it is of assistance to readers and facilitates discussion on various aspects of reserve funds, including the need for the same, their effectiveness, the challenges of funding “correctly” and the impact of changing economic and demographic realities.

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### 2. AT A GLANCE<sup>12</sup>

	British Columbia	Alberta	Saskatchewan	Manitoba	Ontario	Newfoundland & Labrador	Nova Scotia	New Brunswick
Is there Reserve or Depreciation Funding Requirement for Condominiums ?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Is a Reserve Fund Study (RFS) or Depreciation Report (DR) Mandatory?	Yes; unless <5 units or annually 75% vote to exempt	Yes	Yes for 12+ units <sup>3</sup>	Yes	Yes; some exceptions	Yes for 10+ units	Yes	Yes
How frequently must a RFS/DR be done?	Every 3 years	Every 5 years	Every 5 years <sup>3</sup>	Every 5 years	Every 3 years	Every 10 years	Every 5 years	Every 10 years
Does the funding plan need to be registered?	Yes	No	No <sup>4</sup>	Yes for the amount	No	No	No	Yes if phased development
Are there qualifications as to who may do the RFS/DR?	Yes but only general qualifications	Yes but only general qualifications	Yes	Yes	Yes	Yes	Yes	Yes
Are there penalties for not having a RFS/DR done?	No	Yes	Yes	Yes if RF monies improper <sup>1</sup>	No	Yes	Yes	Yes

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<sup>1</sup> Quebec is not included in this chart as it is outside the scope of the paper; though there are requirements for reserve fund funding in Quebec

<sup>2</sup> Yukon, Northwest Territories & Nunavut (the “Territories”) have no reserve funding requirement

<sup>3</sup> The initial reserve fund study is required within 3 years of the date of the condominium corporation's first annual general meeting. If the condominium corporation was created through a conversion of an existing apartment building, a reserve fund study must be undertaken by the developer before the sale of any unit. After the initial study, a new one is required every 5 years.

<sup>4</sup> The reserve fund study does not have to be registered or filed with the government. There is no provincial condo registry system. A condominium corporation is registered at the Corporate Registry and is required to submit an annual return that contains the address for service and director information only. The reserve fund study is not required to be filed as part of the annual return.

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	<b>British Columbia</b>	<b>Alberta</b>	<b>Saskatchewan</b>	<b>Manitoba</b>	<b>Ontario</b>	<b>Newfoundland &amp; Labrador</b>	<b>Nova Scotia</b>	<b>New Brunswick</b>
Does the RFS/DR need to be disclosed?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
By who/what?	Most recent depreciation report must be attached to information certificate, if one was made	Board must disclose plan to owners prior to the collection of any funds + available for purchasers to inspect	Board must make the reserve fund study available to the Owners at AGMs and by Corporation in estoppel certificate	Board to owners at AGM + by seller to buyer as part of disclosure	In status certificate	Board to owners ASAP + in estoppel certificate	In a reserve-fund status certificate, and reserve-fund study must be filed with the Registrar	In status certificate

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### 3. BRITISH COLUMBIA BY JAMIE BLEAY

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Section 94 of the *Strata Property Act* of British Columbia (the “Act”) and section 6.2 of the regulations to the Act have been enacted to identify the procedure strata corporations are to follow to obtain, from a qualified person, a depreciation report. For the purpose of this summary the “mandatory” dates by which strata corporations are to obtain their first depreciation reports are not really relevant. What is relevant; however, is that strata corporations can, year after year by a resolution passed by a  $\frac{3}{4}$  vote at an annual or special general meeting, waive the requirement to obtain a depreciation report.

Section 94(1) of the Act states that a “qualified person” has the meaning set out in the regulations. The regulations, in addition to identifying who a “qualified person” is (see section 6.2(6) of the regulations and it is this person, generally in consultation with the strata council, who prepares a depreciation report which must include all of the following:

- a. a physical component inventory and evaluation that complies with subsection (2);
- b. a summary of repairs and maintenance work for common expenses respecting the items listed in subsection (2) (b) that usually occur less often than once a year or that do not usually occur;
- c. a financial forecasting section that complies with subsection (3);
- d. the name of the person from whom the depreciation report was obtained and a description of:
  - i. that person's qualifications,
  - ii. the error and omission insurance, if any, carried by that person, and
  - iii. the relationship between that person and the strata corporation;
- e. the date of the report;
- f. any other information or analysis that the strata corporation or the person providing the depreciation report considers appropriate.

The regulations also identify the physical component inventory to be included for the purpose of the evaluation, including a description and estimated service life over 30 years of “those items that comprise the common property, the common assets and those parts of a strata lot or limited common property, or both, that the strata corporation is responsible to maintain or repair under the Act, the strata corporation's bylaws or an agreement with an owner, including, but not limited to, the following items:

- i. the building's structure;
- ii. the building's exterior, including roofs, roof decks, doors, windows and skylights;
- iii. the building's systems, including the electrical, heating, plumbing, fire protection and security systems;
- iv. common amenities and facilities;

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- v. parking facilities and roadways;
- vi. utilities, including water and sewage;
- vii. landscaping, including paths, sidewalks, fencing and irrigation;
- viii. interior finishes, including floor covering and furnishings;
- ix. green building components;
- x. balconies and patios, and
- xi. identify common property and limited common property that the strata lot owner, and not the strata corporation, is responsible to maintain and repair.”

The financial forecasting requirements are detailed in section 6.2(3) of the regulations and include a description of how the current contingency reserve fund is currently being funded and at least 3 cash flow funding models for the contingency reserve fund relating to the maintenance, repair and replacement of the physical component inventory list. The cash flow models may include any one or more of contributions/withdrawals from the contingency reserve fund, special levies and borrowings.

Funding of the cash flow models IS NOT mandatory. Strata corporations may have obtained a detailed depreciation report that identifies several million dollars of maintenance, repairs and replacement over a 30 year period but they are not obligated to put the money aside to pay for these costs. Many strata corporations, having elected to waive a depreciation report, have little idea of the real present day or future “capital” costs they will no doubt face. Those strata corporations who have obtained depreciation reports and have elected to fund, in whole or in part, the future capital costs to fund the repairs, maintenance and replacement, generally use a combination of increased strata fees that are directed into the contingency reserve fund as well as special levies to pay for significant costs.

**See Schedule “A” for Legislation**

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

### 4. ALBERTA BY V. YEE

Section 38 of Alberta's *Condominium Property Act*, 2000, c. 2.22 (the "CPAA") requires that condominiums establish and maintain a capital replacement reserve fund which is to be used for major repairs and replacement of and real/ personal property owned by the condominium corporation, the common property and any property of an owner in respect of a bare land unit that the corporation is required by law to repair and replace. The *Condominium Property Regulation*, Alta. Reg. 168/2000 ("CPRA") s. 23(1) does not outline the specific method for carrying out the reserve fund study, but rather outlines what needs to be discussed in the study. CPRA s. 23(2) stipulates that the study must recommend a funding plan. CPRA s. 23(3) requires that a report to the Board must accompany the reserve fund study, and CPRA s. 23(3)(d) is a catch-all provision for the person conducting the study to include further information.

CPRA s. 24 requires that a reserve fund study must be conducted within 2 years of the condominium's creation or the coming into force of the CPRA on September 1, 2000, and must be conducted every 5 years thereafter. CPRA s. 25 provides that wholly-owned rental buildings are exempt from reserve fund requirements, although CPRA s. 26 requires that if such rental buildings (or units rented from the developer) are offered for sale then a reserve fund study, plan and report must be conducted.

However, it must be noted that the Alberta Court of Queen's Bench, in a 2003 trial decision, has ruled:<sup>3</sup>

[19] ... a Board confronted with an unexpected expenditure then has a duty to revisit the reserve fund plan and make any necessary adjustments to the reserve fund levy to accommodate this unexpected expenditure. In some cases, a whole new reserve fund study might be needed. In other cases, the Board might simply wait for the 5-year anniversary of the reserve fund study, at which time the Act requires a new study in any event. In other cases, the Board could make a special levy, as was done in this case. The Board is also at liberty to fund such expenditures from its general operating account. The Board could also increase the reserve fund levy so that the reserve fund will be back on track. In most cases, the Board will probably use a combination of these techniques.

[20] As I have noted, the Regulations require that the condominium corporation do a reserve fund study at least every 5 years. In my view, this is a minimum requirement only. If it becomes apparent to the Board that the initial reserve fund study was defective in some respects, such as when an unexpected and unbudgeted expenditure actually becomes required, it is incumbent on the Board to re-examine the situation, perhaps even before the 5

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<sup>3</sup> *Scotwick Realty Services Inc. v. Condominium Plan No. 7510479*, 2003 ABQB 550 at paras. 19-20; this decision was considered by the Alberta Provincial Court in *Clyne v. Lear Enterprises Ltd.*, 2009 ABPC 134, but the Court in *Clyne* did not comment on the merits of the *Scotwick* decision.

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years have passed. As I have indicated, these provisions are really only supportive of and secondary to the main concept in the Act, which is that the reserve fund must at all times be adequate to meet the expected repair requirements of the condominium. Therefore, I conclude that the 5-year time limit is merely an outside deadline. It does not relieve the Condominium Board of the responsibility of reviewing the reserve fund within the 5-year period.

[*emphasis added*]

Accordingly, whenever it becomes apparent that the initial reserve fund study was defective or has become defective due to unforeseen circumstances, condominium corporations in Alberta must re-examine their reserve fund study even before the 5 years are up. Although *Scotwick* is not a nationally binding decision, courts in other provinces may find it to be persuasive authority.

CPRA s. 21, unlike its counterparts in Ontario and Newfoundland & Labrador, does not provide a list of professional qualifications necessary for persons or firms conducting reserve fund studies. Instead, it merely requires that such a person or firm be knowledgeable, “based on reasonable and objective criteria”, about depreciating property.

CPRA s. 22 permits the owners of a condominium corporation with 12 or fewer units to vote by special resolution to conduct the reserve fund study themselves. However, condominium corporations who choose to be their own “qualified person” must still ensure that the reserve fund study still meets the statutory criteria.

On March 5, 2012, the Legislative Assembly of Alberta discussed Motion 502, the purpose of which was to urge the provincial government to set specific standards for the “qualified persons” who may perform condominium reserve fund studies. Motion 502 was proposed by Progressive Conservative MPP Mr. Dave Quest, of the riding of Strathcona. Wildrose MPP Mr. Paul Hinman, of the riding of Calgary-Glenmore, rose and spoke about the importance of disclosing the real costs of condominium homeownership to prospective purchasers, which includes having a good reserve fund report to rely on when making such a significant decision like purchasing a condominium. Progressive Conservative MPP Mr. Greg Weadick, of the riding of Lethbridge-West, spoke about the current definition of “qualified persons” in the CPA, and the requirements that home inspectors be licensed by the Alberta government under the *Fair Trading Act* as of September 1, 2011. Liberal MPP Mr. Kent Hehr, of the riding of Calgary-Buffer, spoke about the hardships of special assessments being levied due to inadequate reserve funds. Progressive Conservative MPP Mr. Dave Rodney, of the riding of Calgary-Lougheed, warned against imposing an unnecessarily restrictive list of qualifications, and canvassed the condominium legislation in Ontario, Saskatchewan, and Nova Scotia regarding the qualifications for persons conducting reserve fund studies. With respect to Ontario, Mr. Rodney stated:

I would like to explore for the House the ways in which this type of legislation is played out in other jurisdictions which have taken slightly differing approaches to guarding against unqualified persons assuming this responsibility. For example, the Condominium Act of our friends a few provinces to the east, in Ontario, states that it’s

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mandatory that the person conducting a reserve fund study must meet one of the following criteria, and there are a total of five:

1. Members of the Appraisal Institute of Canada [with] the designation of Accredited Appraiser Canadian Institute.
2. Persons who hold a certificate of practice within the meaning of the Architects Act.
3. Members of the Ontario Association of Certified Engineering Technicians and Technologists who are registered as certified engineering technologists under the Ontario
4. Association of Certified Engineering Technicians and Technologists Act, 1998.
5. Members of the Real Estate Institute of Canada holding the designation of certified reserve planner.
6. Persons who hold a certificate of authorization within the meaning of the Professional Engineers Act.

*[Mr. Rodney did not mention the last 3 criteria in GR s. 32(6.), (7.) or (8.)]*

Mr. Speaker, I think you get the impression. There are actually more qualifying criteria, but in the interests of time I will stop there. As you can see, the point is that while the province of Ontario thought it was appropriate to impose some restrictions on who might qualify to conduct such an assessment, it has included an array of options, making the legislation rather inclusive.

Ultimately, all of the aforementioned MPPs that rose to spoke on Motion 502 supported it. Consequently, Motion 502 was carried that day, although a particular set of qualifications to be required of “qualified persons” was not agreed upon. However, I have been unable to ascertain whether or not the Alberta government has undertaken follow-up efforts to investigate setting a list of required qualifications for persons conducting reserve fund studies since March 5, 2012.

CPRA s. 23 does not expressly stipulate that the reserve fund plan must be adopted by the Board within a certain time frame after having received the reserve fund study and reserve fund report. However, given that CPRA s. 24(2) requires that CPRA ss. 23(1)-(6) must be met within 2 years, and CPRA s. 23(4) stipulates that the Board must approve a reserve fund plan, a Corporation must approve its first reserve fund plan within 2 years. Thereafter, CPRA s. 30(b) requires that the Corporation must approve the reserve fund plan within 5 years after the last reserve fund plan was approved.

CPRA ss. 23(6) and (7) provide that in the interim pending Board approval of the reserve fund plan, so long as the Unit Owners have been given copies of the reserve fund plan, the Corporation may continue to collect/expend reserve funds.

**See Schedule “B” for Legislation**

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

### 5. SASKATCHEWAN BY V. YEE

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All condominiums in Saskatchewan are required to have a reserve fund under s. 55 of the *Condominium Property Act, 1993*, ch. 26 (the “**SK Act**”). A reserve fund is created for the purpose of providing payment for unforeseen common expenses; any major repair or replacement of common facilities. Common property, service units or assets of the condominium corporation and any major repair or replacement of any units or portion of units designated in a bylaw passed pursuant to clauses 47(i)(f.1) and (i.1).

With the following exceptions:

- A condominium’s units are owned by the same owner (which can be an individual, partnership or corporation) and its units are rented (or offered for rent) to tenants who don’t plan to buy them;
- If the condominium corporation has fewer than 12 units; *or*
- If all units are intended or used for agricultural purposes.

If the owner of the units ever intends to sell a unit, this exemption no longer applies. As well, the owner may not sell any of the rented units until a reserve fund study is completed and a report is prepared and made available to purchasers.

Corporations that existed on June 16, 2014 are/ were required to conduct a reserve fund study within 3 years and a subsequent study within 10 years thereafter. Corporations that came into existence after June 16, 2014 must a reserve fund study within 3 years after the turnover AGM and within 5 years thereafter. It is not relevant when the condominium was created.

Pursuant to the *Condominium Property Regulations, 2001*, R.R.S. c. C-26.1 Reg. 2 s. 51.6, (the “**SK CPR**”) if the Corporation consists of less than 12 residential units, and is not a new conversion condominium, then it does not have to conduct a reserve fund study or prepare a reserve fund study report.



Pursuant to SK CPR s. 51.7, if the Corporation is a rental apartment building owned by a single owner, then it does not have to maintain a reserve fund, conduct a reserve fund study or prepare a reserve fund study report – except if the units are offered to sale.

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Accordingly, it appears that the province of Saskatchewan has combined the approaches of the Alberta legislature (knowledgeable persons based on reasonable and objective criteria) and Newfoundland & Labrador legislature (a list of classes of professionals), in determining who is qualified to conduct reserve fund studies.

Additionally, s. 51.4(3) of SK CPR requires that developer-conducted reserve fund studies for condominium conversions must not be conducted by parties associated with the developer:

(3) A reserve fund study conducted pursuant to subsection 58.1(4.1) of the “SK Act” must be conducted, and the reserve fund study report must be prepared, by an independent person who is not:

- (a) an owner, employee or agent of the developer;
- (b) a property manager of the developer; or
- (c) otherwise associated with the developer.

Section 58.2 of the SK Act requires a board to ensure that an annual report is prepared with respect to the reserve fund that sets out the amount of the reserve fund as of the last day of the preceding year; all payments made to and from the reserve fund. 

Accordingly, the Board must consider the reserve fund funding plan that is recommended by the person who conducted the reserve fund study when determining the amount required to be contributed to the reserve fund.

**See Schedule “C” for Legislation**

# LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

## 6. MANITOBA BY ROB GIESBRECHT

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### **Capital Asset Funding in Manitoba**

Under Manitoba's new legislative regime (*The Condominium Act* C.C.S.M. c C170 came into force February 1, 2015), every condominium corporation is required to maintain a reserve fund to fund capital repairs and replacements:

#### Reserve fund

143(1) A condominium corporation must establish and maintain a reserve fund, the purpose of which is to provide a sufficient amount that may reasonably be expected to fund the corporation's obligations to maintain and repair as required by Part 9 and the corporation's declaration.

#### Interpretation -repairs and replacement

143(2) The types of repairs and replacements that may be funded by the reserve fund are ones that may reasonably be expected to be necessary over time but that are not normally required on an annual basis. The following are examples of such repairs and replacements:

- a. major repairs to the roof or its replacement;
- b. major repairs to, or replacement of, the structure or exterior of a building on the property;
- c. major repairs to, or replacement of, the heating, air conditioning, electrical or plumbing systems ;
- d. major repairs to, or replacement of, an elevator;
- e. major repairs to, or replacement of, the laundry, recreational or parking facilities;
- f. major repairs to or replacement of, the sidewalks or roads;
- g. major repairs to, or replacement of, the sewer system or utility service connection to the property.

#### Use of reserve fund limited

143(3) The reserve fund may be used only for the purpose for which it is established.

#### Exception

143(4) Despite subsection (3), if the most recent reserve fund study indicates that there is more money in the reserve fund than is required for the purpose for which the fund was established, the reserve fund may be used for other purposes but only if all unit owners give their written consent to do so.

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The requirement to maintain a reserve fund is not new, but the process for considering funding adequacy and timing has been considerably tightened up. Every condominium corporation must, within three years of coming into being (or by January 31, 2018 in the case of existing corporations), obtain a reserve fund study and to update it every five years:

### Reserve fund study

148(1) Subject to the regulations, a condominium corporation must ensure that a reserve fund study is conducted.

### Purpose of study

148(2) The purpose of the reserve fund study is to determine the appropriate amount required for the reserve fund based on the estimated cost of major repairs to or replacement of the common elements, such as those referred to in subsection 143(2), and the expected life span of the common element

### Update

148(3) Subject to the regulations, the condominium corporation must ensure that the reserve fund study is updated.

Reserve fund contributions are made in amounts and at times determined by the Board of Directors of the condominium corporation. There is no legislated minimum contribution; Boards to determine the required amount having regard to the ideal balance set out in the reserve fund study.

### Total annual contribution to be specified in budget

144(1) For each fiscal year, a condominium corporation must:

- (a) determine the total contribution to be made to the reserve fund;
- (b) specify that amount in the budget; and
- (c) determine the amount of each unit owner's contribution by apportioning the amount among the unit owners
- (d) in the proportions specified in the declaration, or
- (e) if no proportions are specified, in the proportions specified in the declaration for contributions to the common expenses.

### Reserve fund balance recommendation

144(2) For the purpose of determining the total contribution to the reserve fund, the condominium corporation must consider the reserve fund balance recommended in the most recent reserve fund study or update.

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Withdrawals from the reserve fund may be made at any time by the Board for the legislated purposes (major repairs and replacements) but may not be withdrawn for any other reason without the unanimous consent of the owners or on a withdrawal of the property from *The Condominium Act*.

### Use of reserve fund limited

143(3) The reserve fund may be used only for the purpose for which it is established.

### Exception

143(4) Despite subsection (3), if the most recent reserve fund study indicates that there is more money in the reserve fund than is required for the purpose for which the fund was established, the reserve fund may be used for other purposes but only if all unit owners give their written consent to do so.

The Board of Directors must report annually to the owners as to activity in the reserve fund and the status of the reserve fund study.

### Condominium Corporation must report to unit owners

144(3) At least once a year at a general meeting of unit owners, the condominium corporation must

- (a) report to the unit owners on the amount that is maintained in the reserve fund; and
- (b) review the most recent reserve fund study or update with the unit owners.

Additional detail on how reserve funds are to be invested and regarding the requirements for reserve fund studies are found in the *Condominium Regulation*, excerpts of which are attached.

Condominium corporations created before February 1, 2015 must have a reserve fund study done within 3 years after February 1, 2015, unless the Corporation has had a study done in the 2 years before February 1, 2015 and the Board believes its current study substantially meets the requirements in ss. 19-23 of MB CR (above mentioned). Even if these two conditions are met, Corporations created before February 1, 2015 still need to update the reserve fund study by the end of the 5th year covered by the study.

New condominium corporations created on or after February 1, 2015 must have a reserve fund study done within 3 years after the declaration and plan are registered.

Accordingly, MB CR allows smaller condominium corporations (with no more than 9 units, no more than 2 storeys, no elevator and no underground parking) to have a reserve fund study done by someone knowledgeable about the Corporation's components, who may be associated with the

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Corporation. However, larger condominiums must retain qualified professionals, with no connection to the Corporation, to conduct reserve fund studies.

Accordingly, when deciding the total annual contribution for the reserve fund, the Board must consider the reserve fund balance that is recommended in the latest reserve fund study or update.

**See Schedule “D” for Legislation**

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

### 7. ONTARIO BY A. CONANT AND P. ELIA

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Reserve Funding for condominiums in Ontario are governed by the *Condominium Act, 1998(Ontario)* (the "Act"). Section 93 requires that all condominium corporations (regardless of type of occupancy, residential or commercial) establish and maintain a separate fund called a Reserve Fund. The Reserve Fund is to be used **solely** for the purpose of major repair and replacement of the common elements and assets of the corporation. This fund must be kept separate and distinct from the corporation's operating bank account or fund and is in the nature of a trust fund. It cannot be used for general operating expenses (e.g. maintenance and repairs).

The section also provides that the condominium corporation shall collect contributions to the reserve fund from the unit owners as part of their contributions to the common expenses. In order to determine whether the amount of money in the reserve fund and the amount of contributions collected by the corporation are adequate for the expected costs of major repair and replacement, the government mandated in Section 94 of the Act that corporations conduct periodic studies, known as reserve fund studies (the "Study").

Section 94 also sets out such matters as the contents of the Studies, the timing of when they shall be undertaken, who can conduct such Studies, their costs, the obligation of a board of directors to establish a plan for the future funding of the reserve fund and the implementation of the funding plan.

The details of the plans, the information and material that each class of Study must include, the standards that must be met in conducting the Studies, those permitted to conduct them, along with other necessary details are not set out in the Act but rather in its Regulations, and in particular Sections 27 to 33 of Ontario Regulation 48/01.

When the Act came into force on May 5, 2001, it provided for transitional rules because prior legislation did not require reserve fund studies. Subsection 94(4) states that corporations created on or after May 5, 2001 (the day the Act came into force) have to conduct their Study within the first year following registration of their Declaration. Condominium Corporations created before this date had transitional rules set out in Section 31 of O.R. 48/01. These are really no longer relevant given that we are 14 years since the Act came into force.

The purpose of the Study is to determine whether the amount of money in the reserve fund and the amount of contributions from the owners is "adequate" to provide for the expected costs of major repair and replacement of the common elements and assets of the corporation. There has been much debate and differences of opinion in the condominium industry in Ontario as to what constitutes "adequate". Consequently, we see different approaches or methodologies in the Studies depending on who is conducting it. It is hoped that with the revisions to the Act, that hopefully will be introduced into Government in 2015, will clarify the methodology that is to be used.

All Studies, regardless of their class, must have two components: (a) physical analysis; and (b) financial analysis. The physical analysis is to consist of the component inventory of the corporation, meaning an inventory of each item of the common elements and assets that require, or are expected to require major repair or replacement within at least 30 years (for all costs in excess of \$500). The physical analysis also is to include an assessment of each item in the component inventory, including

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such information as its actual or estimated year of acquisition, present age, normal expected lifespan, estimated year for its major repair or replacement, etc.

The financial analysis of Studies are also divided into two components: (a) a description of the financial status of the reserve fund as of the date of the study; and (b) a recommended funding plan projected over a period of at least 30 consecutive years, beginning with the current fiscal year, that shows the minimum balance of the reserve fund during the period and detailed information for each projected year of the study. The detailed information is to include such items as the estimated costs of major repair or replacement based on the current costs for the year in which the Study is conducted; estimated costs at the estimated time of the repair or replacement, based on an assumed annual inflation rate; estimated opening and closing balances, etc.

The Regulations also require that the person conducting the Study review numerous documents including the corporation's documents (e.g. declaration and by-laws, review of the corporation, the definition of a standard unit if one exists, the most recent audited financial statements of the corporation, any reciprocal cost-sharing agreements, most recent reserve fund study, etc. The complete list of the contents of reserve fund studies are set out in Section 29 of O.R. 48/01.

There are three classes or types of permitted Studies, which pursuant to Section 28 of O.R. 48/01 are:

- (1) comprehensive;
- (2) updated study based on a site inspection; and
- (3) updated study not based on a site inspection. These studies are listed in descending order of comprehensiveness, review and analysis required, and ultimately the cost of the Study.

A comprehensive study is based on an actual visual site inspection; inspection of each item in the component inventory; a verification of records of the corporation which should include reserve fund bank account balances via statements; and interviews with the directors and officers of the corporation that the person conducting the study considers appropriate. The preparation of this assessment requires the review of a variety of prescribed documentation. An updated study not based on a site inspection is based on a verification of records of the corporation and interviews with those of its directors, officers, employees and agents that the person conducting the study considers appropriate. In addition to the material that a reserve fund study is required to contain, the study may contain all further information and analysis that the person conducting the study or the board considers appropriate or necessary, such as information regarding shared facilities obligations.

Section 33 stipulates that in the following fiscal year after the reserve fund study was completed, the condominium corporation must propose a plan for future funding of the reserve fund. Condominium corporations created before May 1, 2001 must propose a plan for future funding within 15 years from the date of the first reserve fund study conducted after May 1, 2001.

Pursuant to Section 95(9) of the Act, the plan for future funding must be sent to the owners and the auditor within 15 days after being proposed.

LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A  
PROVINCIAL BASIS

**See Schedule “E” for Legislation**

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

### 8. QUEBEC BY P. ELIA

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There is a requirement in Quebec for Syndicate co-owners to determine the amount of money that should be in the fund after estimating the costs of major repairs and the replacement of the common elements. Each owner's contribution to the fund must be at least 5 percent of their contribution to the common expenses. Upon registration the developer is an owner and must contribute to the reserve fund as an owner of a unit.

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

### 9. NEW BRUNSWICK BY P. WILLIAMS AND P. ELIA

Pursuant to section 38(2) of the *Condominium Property Act*, SNB 2009, c C-16.05 NB Act, a corporation is required to establish and maintain a reserve fund for the purpose of undertaking a substantial addition, alteration or improvement to or renovation of the common elements or the cost of a substantial change in the assets of the corporation as per section 42(1). All contributions collected for a reserve fund shall be paid into the reserve fund and deposited and maintained in a bank, credit union or trust company in the Province or invested in an eligible security, which is defined term.

A fund set up for any of the purposes referred to in [subsection 42\(1\)](#) is deemed to be a reserve fund even if it is not designated as a reserve fund. A reserve fund constitutes an asset of the corporation and shall only be distributed to an owner when the governance of the condominium property by this Act is terminated.

Where a condominium consists of no more than 10 units reserve fund - condominium properties of not more than 10 units, the amount in the reserve fund for the corporation shall be equal to 100% of the annual operating budget of the corporation, or a greater percentage if specified in the by-laws. A corporation shall assess and collect the owners' contributions to the reserve fund in an amount that results in the fund meeting the requirements of that subsection within 5 years after the registration of the declaration and description.

For condominium properties of more than 10 units, the corporation shall complete a reserve fund study every 10 years and shall submit it to the Director no later than 30 days after it is completed. In this case a corporation must complete an update of a reserve fund study every 3 years or any time there is a significant change in the assets of the corporation and shall submit it to the Director no later than 30 days after it is completed.

Pursuant to subsection 40(4), a corporation shall maintain a reserve fund in an amount that meets the minimum amount recommended in the reserve fund study. The corporation is required to specially assess and collect the owner's contributions to the reserve fund in an amount that would result in the fund meeting the minimum funding recommendation of the reserve fund study.

A corporation continued under [section 66](#) to which [subsection 39\(1\)](#) applies shall meet the reserve fund requirements in [subsection 39\(1\)](#) within 5 years after the commencement of that subsection.

A corporation continued under [section 66](#) to which [section 40](#) applies shall prepare and file a reserve fund study under [section 40](#) within 5 years after the commencement of that section.

**See Schedule "G" for Legislation**

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

### 10. NOVA SCOTIA BY P. ELIA

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*In Nova Scotia, the Condominium Act, R.S.N.S. 1989, c. 85 (“NS Act”)* provides for a reserve fund study. A corporation is required to establish and maintain a reserve fund for major repair and replacement of the common elements and assets of the corporation including, where applicable and without limiting the generality of the foregoing, roofs, exteriors of buildings, roads, sidewalks, sewers, heating, electrical and plumbing systems, [and] elevators, laundry, recreational and parking facilities. A reserve-fund study includes several components such as a comprehensive reserve-fund study, covering a period of at least 20 years, in accordance with Section 79 every 10 years; updates of the reserve-fund studies in accordance with Section 80, at 5-year intervals or at any time that there is significant change to the assets of the corporation; a reserve-fund status certificate in accordance with Section 81; and for certain prescribed reserve-fund studies a separate document attached to the cover that discloses any components that are anticipated to require repair or replacement within the first 10 years of the condominium corporation's operation together with the anticipated cost of the repair or replacement for each component, in accordance with information contained in the reserve-fund status certificate.

For a reserve-fund study required under subsection 31(1DA) of the Act if fewer than 10 units are being created consists of a physical analysis in accordance with subsections 79(2), (3), (4) and (5), including a spreadsheet covering a minimum period of 10 years listing:

- (i) each of the components of the common elements
- (ii) the anticipated life spans of the components of the common elements,
- (iii) the cost to repair or replace each of the components of the common elements,
- (iv) the estimated dates by which the components will require either repair or replacement,
- (v) a total amount specified for each year that there are expenditures anticipated for the components of the common elements;

A reserve-fund study required under subsection 31(1DA) of the Act shall include, before registration of the declaration, an updated certification by the person who prepared the reserve-fund study that (a) outlines any deficiencies in the renovations contemplated in the reserve-fund study; (b) provides a monetary value for completion of any deficiencies outlined under clause (a); and (c) confirms that the information in the reserve-fund study is still accurate. The declarant must pay the value of any deficiencies outlined in the updated certification into the reserve fund before the registration of the declaration. Payments paid into a reserve fund) must be held in trust until the management of the corporation is under the control of an elected board of directors.

Updates of the reserve fund are prescribed periodically.

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

### 11. PRINCE EDWARD ISLAND BY P. ELIA

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There is no requirement that all condominium corporations have a reserve fund, there is no obligation on a developer to put aside funds to address the same.

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

### 12. NEWFOUNDLAND & LABRADOR BY V.YEE

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Newfoundland's *Condominium Act 2009*, R.S.N.L. 1990, c. C-29 (the "NL Act"), specifically section 4 provides for a very comprehensive list of requirements for reserve fund studies. Section 4(7) replaces other province's requirement of a reserve fund study report directed to the Board [such as Alberta's CPR s. 23(3)], with a reserve fund status certificate presumptively directed to prospective purchasers.

Section 5 is identical to Ontario's s. 30 in outlining the specific method to be undertaken and records to be reviewed by the person conducting the reserve fund study.

NL Act s. 49(2) does not mandate reserve fund studies for condominium corporations consisting of less than 10 units. Instead, the amount in the Corporation's reserve fund must equal 100% of the Corporation's annual budget, and must be fully funded within 5 years of the coming into force of the NL Act on December 1, 2011, or the Corporation's creation date if same is after December 1, 2011.

NL Act s. 49(3) requires that where the corporation consists of 10 or more units, a reserve fund study must be conducted within 2 years of the condominium's creation or December 1, 2011. NL Act s. 49(5) stipulates that a reserve fund study must be completed every 10 years thereafter.

CR s. 3 has the most restrictive list of qualified persons permitted to conduct reserve fund studies out of the 3 provinces, as CR s. 3 has only adopted the first 4 qualifications from Ontario's list in GR s. 32(1).

Although CR s. 4(5)(b) contains one of the most exhaustive requirements of the provinces with respect to what is required to be discussed in the reserve fund plan, there is no statutory requirement that the Board actually adopt the recommended plan.

**See Schedule "F" for Legislation**

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

### 13. YUKON BY P. ELIA

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There is no requirement that all condominium corporations have a reserve fund, there is no obligation on a developer to put aside funds to address the same.

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

### 14. NORTHWEST TERRITORIES BY P. ELIA

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In conducting the capital reserve fund study of a Condominium Corporation in the Northwest Territories, the qualified person must:

- (a) determine the current amount of funds, if any, included in the corporation's capital reserve fund;
- (b) determine the depreciating property that may need to be repaired or replaced within the next 25 years, given the circumstances under which the property is normally used or will be used;
- (c) determine the present condition or state of repair of the depreciating property and provide an estimate as to when each component of the depreciating property will need to be repaired or replaced;
- (d) provide an estimate of the costs of repairs to or replacement of the depreciating property, using as a basis for that estimate costs that are not less than the costs existing at the time that the capital reserve fund report is prepared;
- (e) provide an estimate of the life expectancy of each component of the depreciating property once that component has been repaired or replaced;
- (f) recommend the amount of funds that should be included in or added to the corporation's capital reserve fund in order to provide the necessary funds to establish and maintain or to maintain, as the case may be, a capital reserve fund for the purposes of section 19.10; and
- (g) describe the basis for determining
  - (i) the amount of the funds under paragraph (a), and
  - (ii) the amount in respect of which the recommendation was made under paragraph (f).

Upon completing the reserve fund study, the qualified person must submit in writing to the Board a capital reserve fund report that outlines:

- (a) the qualifications of that person to carry out the study and prepare the report;
- (b) whether or not the person is an employee or agent of or is otherwise associated with the Condominium Corporation or with any person who performs management or maintenance services for it;
- (c) the findings of the study;
- (d) any other matters that may be prescribed or that the person considers relevant.

For Condominium Corporations that were created after February 1, 2009, the first capital reserve fund study and its accompanying report must be completed and presented at the second AGM of the Condominium Corporation. For Corporations that were created before February 1, 2009, However, if a study that substantially complies with the statutory requirements for a capital reserve fund study was completed within 3 years of February 1, 2009, then the Corporation has 5 years from the date of that study to complete a formal capital reserve fund study. Subsequent studies must be conducted every 5 years after the date of the previous study.

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

Persons qualified to conduct capital reserve fund reports are persons who, “based on reasonable and objective criteria,” are knowledgeable with respect to:

- (a) a particular type of component;
- (b) the operation and maintenance of the particular type of component; and
- (c) the costs of replacement of or repairs to the particular type of component

The following are considered to be qualified persons pursuant to NWT Reg s. 7(3):

- (a) an individual to whom the Minister has issued a certificate of qualification in a trade under section 10 of the Apprenticeship, Trade and Occupations Certification Act to the extent that the certificate relates to a particular type of component;
- (b) an individual who is a member of the Appraisal Institute of Canada holding the designation Accredited Appraiser Canadian Institute (AACI);
- (c) an individual who holds a certificate of registration within the meaning of the Architects Act;
- (d) an individual who is a member of the Real Estate Institute of Canada holding the designation Certified Reserve Planner (CRP);
- (e) a professional engineer who holds a certificate of registration within the meaning of the Engineering and Geoscience Professions Act; and
- (f) a person who employs or otherwise retains the services of an individual who is qualified under paragraphs (a) to (e) and who is employed or otherwise retained to conduct the study.

After receiving a capital reserve fund report, the Board must prepare a capital reserve fund plan and present it to the owners at the next AGM.

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

### 15. NUNAVUT BY P. ELIA

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There is no requirement that all condominium corporations have a reserve fund, there is no obligation on a developer to put aside funds to address the same.

# LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

## SCHEDULE “A” BRITISH COLOUMBIA

### STRATA PROPERTY ACT [SBC 1998]

#### Part 6 — Finances

##### Division 1 — Operating Fund and Contingency Reserve Fund

Strata Corporation responsible for common expenses

*91 The strata corporation is responsible for the common expenses of the strata corporation.*

Operating fund and contingency reserve fund

*92 To meet its expenses the strata corporation must establish, and the owners must contribute, by means of strata fees, to*

*(a) an operating fund for common expenses that*

*(i) usually occur either once a year or more often than once a year, or*

*(ii) are necessary to obtain a depreciation report under section 94, and*

*(b) a contingency reserve fund for common expenses that usually occur less often than once a year or that do not usually occur.*

Minimum and maximum contributions to contingency reserve fund

*93 Subject to the requirements set out in the regulations, the strata corporation must determine the amount of the annual contribution to the contingency reserve fund.*

Depreciation report

*94 (1) In this section, "qualified person" has the meaning set out in the regulations.*

*(2) Subject to subsection (3), a strata corporation must obtain from a qualified person, on or before the following dates, a depreciation report estimating the repair and replacement cost for major items in the strata corporation and the expected life of those items:*

*(a) for the first time,*

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

(i) *December 14, 2013, in the case of a strata corporation that existed on December 14, 2011, or*

(ii) *the prescribed date, in all other cases;*

*(b) if the strata corporation has, before or after the coming into force of this section, obtained a depreciation report that complies with the requirements of this section, the date that is the prescribed period after the date on which that report was obtained;*

*(c) if the strata corporation has, under subsection (3) (a), waived the requirement under this subsection to obtain a depreciation report, the date that is the prescribed period after the date on which the resolution waiving the requirement was passed.*

*(3) A strata corporation need not comply with the requirement under subsection (2) to obtain a depreciation report on or before a certain date if*

*(a) the strata corporation, by a resolution passed by a 3/4 vote at an annual or special general meeting within the prescribed period, waives that requirement, or*

*(b) the strata corporation is a member of a prescribed class of strata corporations.*

*(4) A depreciation report referred to in subsection (2) must contain the information set out in the regulations.*

### Management of contingency reserve fund

**95** *(1) The strata corporation must account for money in the contingency reserve fund separately from other money of the strata corporation.*

*(2) The strata corporation must invest all of the money in the contingency reserve fund in one or the other or a combination of the following:*

*(a) those investments permitted by the regulations;*

*(b) insured accounts with savings institutions in British Columbia.*

*(3) Any interest or income earned on the money in the contingency reserve fund becomes part of the fund.*

*(4) Despite subsection (2), the strata corporation may lend money in the contingency reserve fund to the operating fund as permitted by the regulations.*

### Expenditures from contingency reserve fund

**96** *The strata corporation must not spend money from the contingency reserve fund unless the expenditure is*

*(a) consistent with the purposes of the fund as set out in section 92 (b), and*

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

*(b) approved or authorized as follows:*

- (i) the expenditure is first approved by a resolution passed by*
  - (A) a majority vote at an annual or special general meeting if the expenditure is*
    - (I) necessary to obtain a depreciation report under section 94, or*
    - (II) related to the repair, maintenance or replacement, as recommended in the most current depreciation report obtained under section 94, of common property, common assets or the portions of a strata lot for which the strata corporation has taken responsibility under section 72 (3), or*
  - (B) a 3/4 vote at an annual or special general meeting if the expenditure is not described in clause (A) (I) or (II);*
- (ii) the expenditure is authorized under section 98.*

### Expenditures from operating fund

**97** *The strata corporation must not spend money from the operating fund unless the expenditure is*

- (a) consistent with the purposes of the fund as set out in section 92 (a), and*
- (b) first approved by a resolution passed by a 3/4 vote at an annual or special general meeting, or authorized*
  - (i) in the budget, or*
  - (ii) under section 98 or 104 (3).*

### Unapproved expenditures

- 98** (1) *If a proposed expenditure has not been put forward for approval in the budget or at an annual or special general meeting, the strata corporation may only make the expenditure in accordance with this section.*
- (2) *Subject to subsection (3), the expenditure may be made out of the operating fund if the expenditure, together with all other unapproved expenditures, whether of the same type or not, that were made under this subsection in the same fiscal year, is*
- (a) less than the amount set out in the bylaws, or*
  - (b) if the bylaws are silent as to the amount, less than \$2 000 or 5% of the total contribution to the operating fund for the current year, whichever is less.*
- (3) *The expenditure may be made out of the operating fund or contingency reserve fund if there are reasonable grounds to believe that an immediate expenditure is necessary to ensure safety or prevent significant loss or damage, whether physical or otherwise.*

# LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

*(4) A bylaw setting out an amount for the purposes of subsection (2) (a) may set out further conditions for, or limitations on, any expenditures under that provision.*

*(5) Any expenditure under subsection (3) must not exceed the minimum amount needed to ensure safety or prevent significant loss or damage.*

*(6) The strata corporation must inform owners as soon as feasible about any expenditure made under subsection (3).*

## **STRATA PROPERTY REGULATION**

### **Part 6 — Finances**

#### Contributions to contingency reserve fund

**6.1** *For the purposes of section 93 of the Act, the amount of the annual contribution to the contingency reserve fund for a fiscal year, other than the fiscal year following the first annual general meeting, must be determined as follows:*

*(a) if the amount of money in the contingency reserve fund at the end of any fiscal year after the first annual general meeting is less than 25% of the total amount budgeted for the contribution to the operating fund for the fiscal year that has just ended, the annual contribution to the contingency reserve fund for the current fiscal year must be at least the lesser of*

*(i) 10% of the total amount budgeted for the contribution to the operating fund for the current fiscal year, and*

*(ii) the amount required to bring the contingency reserve fund to at least 25% of the total amount budgeted for the contribution to the operating fund for the current fiscal year;*

*(b) if the amount of money in the contingency reserve fund at the end of any fiscal year after the first annual general meeting is equal to or greater than 25% of the total amount budgeted for the contribution to the operating fund for the fiscal year that has just ended, additional contributions to the contingency reserve fund may be made as part of the annual budget approval process after consideration of the depreciation report, if any, obtained under section 94 of the Act.*

*[en. B.C. Reg. 238/2011, Sch. 1, s. 2.]*

#### Depreciation report

**6.2** *(1) For the purposes of section 94 of the Act, a depreciation report must include all of the following:*

*(a) a physical component inventory and evaluation that complies with subsection (2);*

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

*(b) a summary of repairs and maintenance work for common expenses respecting the items listed in subsection (2) (b) that usually occur less often than once a year or that do not usually occur;*

*(c) a financial forecasting section that complies with subsection (3);*

*(d) the name of the person from whom the depreciation report was obtained and a description of*

*(i) that person's qualifications,*

*(ii) the error and omission insurance, if any, carried by that person, and*

*(iii) the relationship between that person and the strata corporation;*

*(e) the date of the report;*

*(f) any other information or analysis that the strata corporation or the person providing the depreciation report considers appropriate.*

*(2) For the purposes of subsection (1) (a) and (b) of this section, the physical component inventory and evaluation must*

*(a) be based on an on-site visual inspection of the site and, where practicable, of the items listed in paragraph (b) conducted by the person preparing the depreciation report,*

*(b) include a description and estimated service life over 30 years of those items that comprise the common property, the common assets and those parts of a strata lot or limited common property, or both, that the strata corporation is responsible to maintain or repair under the Act, the strata corporation's bylaws or an agreement with an owner, including, but not limited to, the following items:*

*(i) the building's structure;*

*(ii) the building's exterior, including roofs, roof decks, doors, windows and skylights;*

*(iii) the building's systems, including the electrical, heating, plumbing, fire protection and security systems;*

*(iv) common amenities and facilities;*

*(v) parking facilities and roadways;*

*(vi) utilities, including water and sewage;*

*(vii) landscaping, including paths, sidewalks, fencing and irrigation;*

*(viii) interior finishes, including floor covering and furnishings;*

*(ix) green building components;*

*(x) balconies and patios, and*

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

*(c) identify common property and limited common property that the strata lot owner, and not the strata corporation, is responsible to maintain and repair.*

*(3) For the purposes of subsection (1) (c), the financial forecasting section must include*

*(a) the anticipated maintenance, repair and replacement costs for common expenses that usually occur less often than once a year or that do not usually occur, projected over 30 years, beginning with the current or previous fiscal year of the strata corporation, of the items listed in subsection (2) (b),*

*(b) a description of the factors and assumptions, including interest rates and rates of inflation, used to calculate the costs referred to in paragraph (a),*

*(c) a description of how the contingency reserve fund is currently being funded,*

*(d) the current balance of the contingency reserve fund minus any expenditures that have been approved but not yet taken from the fund, and*

*(e) at least 3 cash-flow funding models for the contingency reserve fund relating to the maintenance, repair and replacement over 30 years, beginning with the current or previous fiscal year of the strata corporation, of the items listed in subsection (2) (b).*

*(4) For the purposes of subsection (3) (e), the cash-flow funding models may include any one or more of the following:*

*(a) balances of, contributions to and withdrawals from the contingency reserve fund;*

*(b) special levies;*

*(c) borrowings.*

*(5) If a strata corporation contributes to the contingency reserve fund based on a depreciation report, the contributions in respect of an item become part of the contingency reserve fund and may be spent for any purpose permitted under section 96 of the Act.*

*(6) For the purposes of section 94 (1) of the Act, "**qualified person**" means any person who has the knowledge and expertise to understand the individual components, scope and complexity of the strata corporation's common property, common assets and those parts of a strata lot or limited common property, or both, that the strata corporation is responsible to maintain or repair under the Act, the strata corporation's bylaws or an agreement with an owner and to prepare a depreciation report that complies with subsections (1) to (4).*

*(6.1) The date prescribed for the purposes of section 94 (2) (a) (ii) of the Act with respect to a strata corporation that is formed after December 14, 2011, is the date that is 6 months after*

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

- (a) the date of the strata corporation's second annual general meeting, or*
  - (b) if the second annual general meeting of the strata corporation has been waived under section 41 of the Act, the last date by which the strata corporation would otherwise have been required to hold that meeting.*
- (6.2) For certainty, a meeting held under section 230 of the Act must not be considered a second annual general meeting for the purposes of subsection (6.1) of this section.*
- (7) The following periods are prescribed:*
  - (a) for the purposes of section 94 (2) (b) of the Act, 3 years;*
  - (b) for the purposes of section 94 (2) (c) of the Act, 18 months;*
  - (c) for the purposes of section 94 (3) (a) of the Act, the one year period immediately preceding the date on or before which the depreciation report is required to be obtained.*
- (8) A strata corporation is prescribed for the purposes of section 94 (3) (b) of the Act if and for so long as there are fewer than 5 strata lots in the strata plan.*

*[en. B.C. Reg. 238/2011, Sch. 1, s. 2; am. B.C. Reg. 89/2013, s. (c).]*

### Management of contingency reserve fund

- 6.3** *(1) For the purposes of section 95 (4) of the Act, the strata corporation may only lend money in the contingency reserve fund to the operating fund if both of the following conditions are met:*
- (a) the loan is to be repaid by the end of that fiscal year of the strata corporation;*
  - (b) the loan is for the purpose of covering temporary shortages in the operating fund resulting from expenses becoming payable before the budgeted monthly contributions to the operating fund to cover these expenses have been collected.*
- (2) The strata corporation must inform owners as soon as feasible of the amount and purpose of any loan made under this section.*

# LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

## SCHEDULE “B”

### ALBERTA

#### METHOD OF CONDUCTING STUDY AND CONTENTS OF STUDY

Section 23(1)-(3) of the CPR provides:

23(1) *The board must retain a qualified person to carry out a study of the depreciating property for the purposes of determining the following:*

- (a) *an inventory of all of the depreciating property that, under the circumstances under which that property will be or is normally used, may need to be repaired or replaced within the next 25 years;*
- (b) *the present condition or state of repair of the depreciating property and an estimate as to when each component of the depreciating property will need to be repaired or replaced;*
- (c) *the estimated costs of repairs to or replacement of the depreciating property using as a basis for that estimate costs that are not less than the costs existing at the time that the reserve fund report is prepared;*
- (d) *the life expectancy of each component of the depreciating property once that property has been repaired or replaced.*

(2) *In carrying out the reserve fund study under subsection (1), the qualified person must also do the following:*

- (a) *determine the current amount of funds, if any, included in the corporation’s reserve fund;*
- (b) *recommend the amount of funds, if any, that should be included in or added to the corporation’s reserve fund in order to provide the necessary funds to establish and maintain or to maintain, as the case may be, a reserve fund for the purposes of section 38 of the Act;*
- (c) *describe the basis for determining*
  - (i) *the amount of the funds under clause (a), and*
  - (ii) *the amount in respect of which the recommendation was made under clause (b).*

(3) *On completing the reserve fund study under this section, the person who carried out the study must prepare and submit to the board a reserve fund report in writing in respect of the study setting out the following:*

- (a) *the qualifications of that person to carry out the reserve fund study and prepare the report;*
- (b) *whether or not the person is an employee or agent of or otherwise associated with the corporation or any person who performs management or maintenance services for the corporation;*

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

- (c) *the findings of the reserve fund study in respect of the matters referred to in subsections (1) and (2);*
- (d) *any other matters that the person considers relevant.*

### FREQUENCY OF STUDY

Sections 24-26 of the CPR provide:

*24(1) If a corporation is in existence immediately before September 1, 2000, the board must, before September 1, 2002, meet the requirements of section 23(1) to (6).*

*(2) If a condominium plan is registered on or after September 1, 2000, the board must not later than 2 years from the day that the condominium plan is registered meet the requirements of section 23(1) to (6).*

*(3) Notwithstanding subsection (1), if a corporation has, within the 5 years before September 1, 2000, completed a study that is the same as or substantially the same as a reserve fund study, the board must, before September 1, 2002, meet the requirements of section 23(4) in the same manner as if that study were a reserve fund study.*

*25 Where on or after September 1, 2000*

- (a) *the certificate of title to each of the units included in a condominium plan is registered in the name of the same owner or the same group of owners, and*
- (b) *those units are rented or offered for rent to persons as tenants who are not purchasers and are not intended to be purchasers,*
- (c) *the board is exempted from preparing a reserve fund study and a reserve fund plan and maintaining a reserve fund.*

*26(1) Notwithstanding sections 24 and 25, if the owner*

- (a) *of premises to which section 16 of the Act applies offers those premises for sale, or<sup>4</sup>*
- (b) *of units to which section 25 applies offers those units for sale and if as a result of the sale of any of those units section 25 would no longer apply in respect of those units*  
*the owner shall not sell any of those premises or units until*
- (c) *a reserve fund study is carried out and a reserve fund report is prepared in accordance with section 23, and*
- (d) *a reserve fund plan is prepared in accordance with section 23.*

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<sup>4</sup> Section 16 of the CPA provides: "If a purchaser of a residential unit, prior to receiving title to the unit, rents that unit from the developer, the amount that the developer may charge the purchaser as a security deposit in respect of the unit shall not exceed one month's rent charged for the unit."

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

*(2) The reserve fund report and the reserve fund plan referred to in subsection (1) must be made available for inspection by any person purchasing a unit referred to in subsection (1).*

Section 30 of the CPR stipulates that the reserve fund study must be conducted every 5 years:<sup>5</sup>

*30 At the conclusion of 5 years from the day that the most recent reserve fund plan was approved, the corporation must, in accordance with the same procedures, requirements and restrictions to which section 23 is subject,*

- (a) carry out a reserve fund study,*
- (b) prepare a reserve fund report,*
- (c) approve the reserve fund plan, and*
- (d) provide to the owners for the owners' information copies of the approved reserve fund plan referred to in clause (c) prior to the collection of any funds for the purposes of those matters dealt with in the reserve fund report referred to in clause (b) and that are to be carried out pursuant that report.*

### QUALIFICATIONS OF PERSON CONDUCTING STUDY

Section 21(1)(c) of the CPR states:

- (c) "qualified person" means, in respect of the depreciating property, an individual who, based on reasonable and objective criteria, is knowledgeable with respect to*
  - (i) the depreciating property or that type of depreciating property,*
  - (ii) the operation and maintenance of the depreciating property or that type of depreciating property, and*
  - (iii) the costs of replacement of or repairs to, as the case may be, the depreciating property or that type of depreciating property;*

Section 21(2) of the CPR states:

*(2) For the purposes of section 23, a reference to a qualified person includes a corporate entity if the corporate entity, in carrying out the functions of a qualified person, employs or otherwise retains the services of an individual who is a qualified person to carry out those functions.*

Section 22 of the CPR states:

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<sup>5</sup> *Leeson v. Condominium Plan No. 9925923*, 2014 ABQB 20 at para. 6.

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

22 Notwithstanding section 21(2), if a condominium plan consists of not more than 12 units, the corporation may, in respect of that condominium plan, carry out the functions of a qualified person if authorized to do so by a special resolution.

### PLAN FOR FUTURE FUNDING

Section 23(4)-(7) of the CPR provides:

- (4) *On receiving the reserve fund report under subsection (3), the board must, after reviewing the reserve fund report, approve a reserve fund plan*
- (a) *under which a reserve fund is to be established, if one has not already been established, and*
  - (b) *setting forth the method of and amounts needed for funding and maintaining the reserve fund.*
- (5) *A reserve fund plan approved under subsection (4) must provide that, based on the reserve fund report, sufficient funds will be available by means of owners' contributions, or any other method that is reasonable in the circumstances, to repair or replace, as the case may be, the depreciating property in accordance with the reserve fund report.*
- (6) *Notwithstanding that a reserve fund plan has been approved under subsection (4), the corporation must provide to the owners for the owners' information copies of that approved reserve fund plan prior to the collection of any funds for the purposes of those matters dealt with in the reserve fund report on which the approved reserve fund plan was based and that are to be carried out pursuant that report.*
- (7) *Until such time that a corporation has approved a reserve fund plan under subsection (4) and has met the requirement under subsection (6) so as to be eligible to collect funds in respect of the reserve fund, the corporation may, notwithstanding subsection (6), collect or otherwise receive funds for a fund that is similar in nature to a reserve fund and may make expenditures from and generally continue to operate that fund.*

# LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

## SCHEDULE “C”

### SASKATCHEWAN

#### METHOD OF CONDUCTING STUDY AND CONTENTS OF STUDY

Section 51.3 of SK CPR provides:

#### **Contents of reserve fund study**

*51.3(1) A person conducting a reserve fund study shall include:*

- (a) a statement of assumptions regarding inflation, interest, maintenance and affordability in the context of quality and expense that were made in making the report;*
- (b) a funding plan based on:
  - (i) a physical analysis; and*
  - (ii) a financial analysis that shows the amount of the annual contribution required to be paid into the reserve fund to adequately offset expenditures for the major repair or replacement of a component; and**
- (c) the opinion of the person conducting the study that the fund should be adequate to offset the expenditures for the major repair or replacement of the components if the corporation makes contributions recommended as a result of the study.*
- (2) The physical analysis mentioned in sub clause (1)(b)(i) shall be based on a component assessment report containing:
  - (a) the component inventory;*
  - (b) the component assessment;*
  - (c) the anticipated useful life of each component;*
  - (d) the remaining useful life of each component, including maintenance and repairs; and*
  - (e) the current replacement cost of each component.**
- (3) A component that is scheduled for major repair or replacement in the year of the reserve fund study is deemed to have no remaining useful life.*
- (4) The component inventory mentioned in clause (2)(a) shall be based on:
  - (a) a visual site review;*
  - (b) a review of the corporation’s architectural, structural, mechanical, electrical, landscaping and site services plans;*
  - (c) a review of the condominium plan and bylaws; and*
  - (d) a review of the corporation’s history with respect to the maintenance, replacement and repair of its components and any planned changes to its components.**
- (5) The component assessment mentioned in clause (2)(b) shall be based on:
  - (a) an on-site review of the major common property, common facilities and services unit’s components, including consideration of aesthetics;**

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

- (b) a review of:*
  - (i) structural and architectural plans;*
  - (ii) previous inspection reports; and*
  - (iii) maintenance records; and*
- (c) interviews with the directors, employees and agents of the corporation.*
- (6) The financial analysis mentioned in sub clause (1)(b)(ii) shall consist of an evaluation and analysis of the corporation's reserve fund income and expenses, and shall include:*
  - (a) the current reserve fund balance;*
  - (b) the estimated interest payable on the reserve fund balance over the period of the study;*
  - (c) the repair and replacement schedule, including dates and cost outlay;*
  - (d) the anticipated effect of inflation on reserve fund expenses over the period of the study;*
  - (e) a master reserve fund spread sheet; and*
  - (f) projected cash flow tables, including:*
    - (i) data indicating whether the current annual contribution is adequate, over a period of at least 25 consecutive years, to address the repair and replacement schedule; and*
    - (ii) details of several possible fund accumulation scenarios covering a period of at least 25 consecutive years:*
      - (A) indicating a recommended annual contribution adequate to address the repair and replacement schedule;*
      - (B) demonstrating the compounding of the interest earned on the fund into the fund; and*
      - (C) demonstrating the utilization of the interest as a portion of the contributions to the fund.*

Section 51.4 of SK CPR provides, in part:

### **Reserve fund study report**

*51.4(1) The person conducting the reserve fund study shall complete a reserve fund study report in Form FF at the time the study is completed.*

*(2) The reserve fund report shall include a statement as to whether the person conducting the study and preparing the report is an owner, employee or agent of the corporation or is a property manager of or otherwise associated with the corporation.*

### FREQUENCY OF STUDY

Section 58.1 of the SK Act provides, in part:

### **Reserve fund study required**

*58.1(1) In this section, "study" means a reserve fund study.*

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

(2) *Subject to subsections (4) and (4.1), a corporation that exists on the coming into force of this provision shall ensure that a study is conducted and a written report is prepared in accordance with this section:*

*(a) within three years after the coming into force of this provision; and*

*(b) within the prescribed period after the date of the previous study.*

(3) *A corporation that is constituted pursuant to subsection 34(1.1) after the coming into force of this provision shall ensure that a study is conducted and a written report is prepared in accordance with this section:*

*(a) within three years after the date on which the corporation's first annual meeting was convened in accordance with section 38; and*

*(b) within the prescribed period after the date of the previous study.*

(4) *If a study that substantially complies with subsections (5) and (6) has been conducted for a corporation within three years before the coming into force of this provision, that corporation shall ensure that a study is conducted in accordance with subsection (5) and a written report prepared within the prescribed period after the date of the previous study.*

(4.1) *A developer who intends to make an application for approval of a plan that creates conversion units shall ensure a study is conducted before the sale of any unit shown on the plan.*

(5) *Every study must be conducted in the prescribed manner.*

(6) *A written report of every study conducted pursuant to this section must be prepared in the prescribed manner and prescribed form.*

Section 51.2 of SK CPR provides:

### **Reserve fund study requirements**

*51.2 For the purposes of section 58.1 of the Act, a corporation shall ensure that a reserve fund study is conducted by a qualified person and a written report prepared by a qualified person every five years.*

### **Exception**

*51.6(1) For the purposes of this section, "unit" does not include parking units or services units.*

*(2) Subject to subsection (3), if a corporation has, as one of its objects, the management of less than 12 units, the corporation is exempted from the requirement to conduct a reserve fund study and to prepare a reserve fund study report.*

*(3) This section does not apply to reserve fund studies required pursuant to subsection 58.1(4.1) of the Act.*

### **Exception**

*51.7(1) The corporation is exempted from conducting a reserve fund study, preparing a reserve fund study report and maintaining a reserve fund, if:*

*(a) the certificate of title to each of the units included in a condominium plan is registered in the name of the same owner; and*

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

- (b) those units are rented or offered for rent to persons as tenants who are not purchasers and are not intended to be purchasers.*
- (2) If the owner of units to which subsection (1) applies offers those units for sale and if, as a result of the sale of any of those units, subsection (1) would no longer apply with respect to those units, the owner shall not sell any of those units until a reserve fund study is carried out and a reserve fund study report is prepared.*
- (3) The reserve fund study report must be made available for inspection by any person purchasing a unit mentioned in subsection (1).*

### QUALIFICATIONS OF PERSON CONDUCTING STUDY

Section 51.2 of SK CPR provides:

#### **Reserve fund study requirements**

*51.2 For the purposes of section 58.1 of the Act, a corporation shall ensure that a reserve fund study is conducted by a qualified person and a written report prepared by a qualified person every five years.*

“Qualified person” is defined in s. 51.1(d) of SK CPR, which provides:

#### **Reserve fund studies**

*51.1 In this section and in sections 51.2 and 51.3:*

*[...]*

*(d) “qualified person” means an individual who holds liability insurance in a minimum amount of \$1,000,000 and, based on reasonable and objective criteria, is knowledgeable with respect to:*

- (i) components or a particular type of component;*
- (ii) the operation and maintenance of components or a particular type of component;*
- and*
- (iii) the costs of replacement of or repairs to components or a particular type of component;*

*and includes:*

- (iv) a licensed applied science technologist within the meaning of The Saskatchewan Applied Science Technologists and Technicians Act;*
- (v) a member of the Appraisal Institute of Canada holding the designation of Accredited Appraiser Canadian Institute;*
- (vi) a person who holds a certificate of practice within the meaning of The Architects Act, 1996;*
- (vii) a member of the Real Estate Institute of Canada holding the designation of Certified Reserve Planner; and*
- (viii) a licensed professional engineer within the meaning of The Engineering and Geoscience Professions Act.*

# LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

## PLAN FOR FUTURE FUNDING

Section 51.3(1)(b) of SK CPR provides:

### **Contents of reserve fund study**

*51.3(1) A person conducting a reserve fund study shall include:*

*[...]*

*(b) a funding plan based on:*

*(i) a physical analysis; and*

*(ii) a financial analysis that shows the amount of the annual contribution required to be paid into the reserve fund to adequately offset expenditures for the major repair or replacement of a component ...*

Section 58 of the SK Act provides:

### **Contributions to reserve funds**

*58(1) The corporation shall, from time to time:*

*(a) determine the amounts required for the reserve fund for the purposes of subsection 55(3) in accordance with the prescribed procedure; and*

*(b) subject to subsection (2), determine the amount that is payable by an owner as the owner's contribution to the reserve fund by apportioning the amounts determined pursuant to clause (a) among the owners in accordance with the prescribed procedure.*

*(2) The regulations may prescribe an owner's minimum contribution to the reserve fund.*

*(3) Repealed. 1997, c.7, s.18.*

*(4) A fee levied pursuant to clause 56(1)(b):*

*(a) subject to subsection (2), is due and payable on the passing by the corporation of a resolution levying the fee and in accordance with the terms of the resolution; and*

*(b) may be recovered by the corporation by an action for debt from the person who was the proper owner when the default occurred and when:*

*(i) the resolution was passed; or*

*(ii) the action was instituted.*

Section 51 of the SK CPR provides:

### **Reserve fund contributions**

*51 The corporation shall determine the amount required for the reserve fund by taking into account:*

*(a) the anticipated repair and replacement requirements of the common property, common facilities and services units; and*

*(b) the most recent reserve fund study and report, if any.*

# LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

## SCHEDULE “D”

### MANITOBA

#### PART 6 CONDOMINIUM CORPORATION FINANCIAL MATTERS

##### Reserve Funds

#### Reader's aid

*18 See section 143 of the Act for the purpose of the reserve fund and the types of repairs and replacements that may be funded by the reserve fund. See section 148 of the Act for the purpose of the reserve fund study.*

#### Reserve fund study requirements

*19(1) A reserve fund study must be dated and must consist of the condominium corporation's component inventory described in section 20; a physical analysis described in section 22; a financial analysis described in section 23; a summary of the study described in section 24; and the information about the person who conducted the study set out in subsection 25(4).*

*19(2) A reserve fund study may also contain further information and analysis that the person conducting the study or the board considers appropriate.*

*19(3) The board must determine the period that the reserve fund study is to cover, which must be at least 30 years.*

#### Component inventory

*20(1) For the purpose of a reserve fund study, a component inventory means a detailed list of the common elements, the common assets and, if applicable, any other item or items for which the condominium corporation is responsible -either listed individually or grouped together as a collection of items of the same type - that meet both of the following criteria:*

- 1. An item or group of items of the same type that requires or is expected to require major repair or replacement and in respect of which the cost of the repair or replacement is a common expense.*
- 2. An item or group of items of the same type for which*
  - (a) the major repair or replacement cost is \$1,000 or more; or*

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

*(b) the major repair or replacement cost is less than \$1,000 and the cost is not normally covered by the condominium corporation's budget as an operating expense.*

*20(2) Despite paragraph 2 of subsection ( 1) a group of items of the same type for which the total cost of major repair or replacement is \$1,000 or more may be excluded from the component inventory if*

- (a) the repair or replacement cost of each individual item is less than \$500; and*
- (b) the cost is normally covered by the condominium corporation's budget as an operating expense.*

### **Requirements for person conducting the reserve fund study**

*21 The person conducting a reserve fund study must*

- (a) physically attend at the property to visually assess, to the extent practicable, the items or types of items in the component inventory;*
- (b) interview those directors, officers, employees and agents of the condominium corporation, and any other provider of a service or services to the corporation or its employees or agents, whom the person conducting the study considers appropriate;*
- (c) review the condominium corporation's declaration, plan and by-laws;*
- (d) include a statement in the study that the person meets the requirements in this regulation for conducting a reserve fund study; and*
- (e) sign the reserve fund study.*

### **Physical analysis**

*22(1) A physical analysis must consist of an assessment of each item or type of item in the component inventory and a statement in the reserve fund study of*

- (a) its current age;*
- (b) its useful life span; and*
- (c) the remaining years in the item or type of item's useful life span as of the date of the reserve fund study.*

*22(2) In determining an item's remaining useful life span, the assessment must take into account the item's current condition, previous known maintenance on the item, and any anticipated future maintenance required for the item.*

### **Financial analysis**

*23(1) A financial analysis must consist of*

- (a) a statement of the current reserve fund balance;*

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

- (b) *a statement of the assumed annual inflation rate and the assumed annual interest rate;*
- (c) *a projected repair and replacement schedule showing for each year covered by the reserve fund study the current cost of each major repair or replacement for an item or type of item;*
- (d) *a schedule setting out for each year covered by the reserve fund study
  - i. *the projected reserve fund balance , assuming annual contributions at the rate specified in the budget (as required by clause 144(1)(b) of the Act) for the year in which the study is done, and the estimated interest at the assumed annual interest rate,*
  - ii. *(HJ the total current cost of the major repairs and replacements to be done that year, and*
  - iii. *the reserve fund surplus or deficit after the total cost under sub clause ( ii) Is deducted from the projected reserve fund balance under sub clause (i); and*
  - iv. *a statement of the reserve fund’s ideal balance for each year covered by the reserve fund study.**

23(2) *To calculate the ideal balance for a reserve fund for each year covered by a reserve fund study, the person conducting the reserve fund study must*

- (a) *apply the formula in subsection (3) to each item or type of item in the component inventory; and*
- (b) *add together each amount calculated under clause (a).*

23(3) *The following formula applies for the purpose of subsection (2):*  
*(current age -;- useful life span) x current cost*

23(4) *As part of the financial analysis, the person conducting the reserve fund study must review the following records and documents if they are in the custody or under the control of the condominium corporation:*

- (a) *existing warranties. guarantees and service contracts for each Item in the component Inventory;*
- (b) *architectural , structural, engineering, mechanical, electrical and plumbing plans for the buildings and structures on the property;*
- (c) *plans and specifications for the buildings and structures on the property;*
- (d) *plans and specifications for roads, sidewalks and surface parking areas;*
- (e) *) plans and specifications for underground site services, site grading, drainage and landscaping, and television, radio or other communications*

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

*services for the property;*

- (f) *(0 repair and maintenance records and schedules;*
- (g) *(g) any other records of the condominium corporation that the person conducting the study requires to conduct the analysis.*

### **Reserve fund study summary**

- 24(1) *A reserve fund study summary must include*
- (a) *the balance in the reserve fund as of the date of the study;*
  - (b) *for each year covered by the reserve fund study,*
    - (i) *the ideal balance of the reserve fund,*
    - (ii) *the total current cost under sub clause 23(1)(d)(ii) for major repairs and replacements anticipated during that year; and*
  - (c) *the opinion of the person conducting the reserve fund study as to whether the current rate of funding of the reserve fund will be adequate to fund the anticipated expenditures for the major repair or replacement of the items or types of items in the component inventory.*

24(2) *In addition to the information mentioned in subsection (1), a reserve fund summary must include the following statements:*

**Caution:** The Ideal balance of the reserve fund is the amount recommended for each year of the reserve fund study to pay for major repairs and replacements. It is based on estimates of when the work will be needed. If there is not enough money in the reserve fund to pay for major repairs and replacements, the unit owners may have to pay for those costs through a special assessment.

When comparing the actual balance with the ideal balance, be aware that some work may be done earlier or later than expected, or may be paid for from an account other than the reserve fund. When this happens, the comparison may no longer show whether the amount of money in the reserve fund is adequate.

24(3) *For the purpose of clauses 51(1)(c) and (2)(n) and 251(3)(c) of the Act, a summary of the reserve fund study means the summary described in this section.*

### **Who may conduct a reserve fund study?**

25(1) *Subject to subsections (2) and (3), only the following persons may conduct a reserve fund study:*

- (a) *a person who holds a valid registration under The Architects Act to practice as an architect in Manitoba;*
- (b) *a person who holds a valid registration under The Engineering and Geoscientific Professions Act to practice as a professional engineer in Manitoba;*

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

- (c) *a person who holds a valid certificate as a certified applied science technologist or certified engineering technologist under The Certified Applied Science Technologists Act ;*
  - (d) *a member of the Appraisal Institute of Canada who holds a valid designation as an Accredited Appraiser Canadian Institute;*
  - (e) *a member of the Real Estate Institute of Canada who holds a valid designation as a Certified Reserve Planner.*
- 25(2) *A person who conducts a reserve fund study may not be*
- (a) *a director, officer or employee of the condominium corporation;*
  - (b) *a manager under a property management agreement with the condominium corporation;*
  - (c) *a partner, employer or employee of a person referred to in clause (a) or (b);*
  - (d) *the spouse, common-law partner, son or daughter of a director or officer of the condominium corporation or the son or daughter of the spouse or common-law partner of a director or officer of the condominium corporation;*
  - (e) *a unit owner of the condominium corporation ; or*
  - (f) *an occupant of a unit in the property.*
- 25(3) *Despite subsection (1) and (2), a person may conduct a reserve fund study (other than a study required under section 50 of the Act) if*
- (a) *the property that is the subject of the reserve fund study meets each of the following criteria :*
    - (i) *it includes fewer than 10 units,*
    - (ii) *it does not include any building that is more than two storeys above ground .*
    - (iii) *it does not contain an elevator.*
    - (iv) *it does not include underground parking facilities; and*
  - (b) *the person is knowledgeable -in the board's opinion and based on reasonable and objective criteria - about the items or types of items included in the component inventory, their operation or maintenance and their repair or replacement cost.*
- 25(4) *A person who conducts a reserve fund study must include in the study*
- (a) *a statement of the person's credentials for conducting the study, including any relevant knowledge, experience and professional qualifications and whether he or she meets a requirement under subsection (1);*
  - (b) *a statement disclosing any direct or indirect Interest in any agreement or transaction to which the condominium corporation is a party; and*
  - (c) *in the case of a person referred to in clause (3) (b), a statement disclosing whether he or she is also a person described in subsection (2).*

# LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

## **Condominium Corporation to notify owners reserve fund study is available**

- 26 *A condominium corporation must notify the unit owners that a reserve study or update or a summary of it has been done and make copies of it available to them as soon as practicable after it is conducted.*

## **Information-insurancecoverage**

- 27 *A person who conducts a reserve fund study must provide to the condominium corporation at its request.*
- (a) details about the person's Insurance coverage, including the type and amount of the coverage and any deductible; and*
  - (b) a copy of the insurance policy certificate, if any.*

## **Updates**

*Sections 19 to 27 apply to updates to reserve fund studies, with the necessary changes.*

### Time period for conducting studies

- 29(1) A condominium corporation created on or after the day of the coming into force of the Act must ensure that a reserve fund study is conducted within three years after the day the declaration and plan are registered.
- 29(2) A condominium corporation must ensure a reserve fund study is updated by the end of the fifth year covered by the study or latest update.
- 29(3) Subject to subsection (4), a condominium corporation created before the day of the coming into force of the Act must ensure that a reserve fund study is conducted within three years after that day.
- 29(4) If the board is of the opinion that a reserve fund study conducted within two years before the day of the coming into force of the Act substantially meets the requirements in sections 19 to 23. the condominium corporation
- (a) is not required to ensure that a new study is conducted; and*
  - (b) must ensure that the reserve fund study is updated as required by subsection (2).*
- 29(5) Despite subsection (2), an amalgamated corporation must ensure that a reserve fund study is updated by the end of the fifth year covered by the earliest completed reserve fund study referred to in clause 251(3)(c) of the Act.
- 29(6) This section does not apply to a reserve fund study that is required to be conducted under section 50 of the Act. Instead, the declarant, the owner-developer or the subsequent owner of all

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

the units must ensure that such a reserve fund study is updated by the end of the fifth year covered by the study or latest update.

# LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

## SCHEDULE “E”

### ONTARIO

#### METHOD OF CONDUCTING STUDY AND CONTENTS OF STUDY

Section 30 of the GR provides:

30(1) *The person conducting a reserve fund study shall sign it.*

30(2) *A comprehensive study or an updated study based on a site inspection shall be based on,*

- b) a visual site inspection of the property, including a visual inspection of each item in the component inventory where practicable;*
- c) all other inspections of each item in the component inventory that the person conducting the study considers appropriate or necessary;*
- d) a verification of records of the corporation; and*
- e) interviews with those of the corporation's directors, officers, employees and agents that the person conducting the study considers appropriate.*

30(3) *As part of preparing the assessment described in clause 29(2) (b) in a comprehensive study or updating the assessment in an updated study based on a site inspection, the person conducting the study shall review,*

- a) all existing warranties, guarantees and service contracts for each item in the component inventory;*
- b) the as-built architectural, structural, engineering, mechanical, electrical and plumbing plans for the property that are in the custody or under the control of the corporation;*
- c) the as-built specifications for the buildings that are in the custody or under the control of the corporation;*
- d) the plans for underground site services, site grading, drainage and landscaping, and television, radio or other communications services for the property that are in the custody or under the control of the corporation;*
- e) the repair and maintenance records and schedules in the custody or under the control of the corporation; and*
- f) all other records of the corporation that the person conducting the study requires in order to prepare the assessment.*

30(4) *An updated study not based on a site inspection shall be based on a verification of records of the corporation and interviews with those of its directors, officers, employees and agents that the person conducting the study considers appropriate.*

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

30(5) *In addition to the material that a reserve fund study is required to contain, the study may contain all further information and analysis that the person conducting the study or the board considers appropriate or necessary.*

### FREQUENCY OF STUDY

Section 31 of the GR provides:

31(1) *A corporation created before the day section 94 of the Act comes into force shall conduct a comprehensive study within three years of that day except if,*

*(a) on that day it has a comprehensive study that meets the requirements of this Regulation; and*

*(b) it conducts an updated study based on a site inspection within three years of that day.*

31(2) *The reserve fund study that subsection 94(4) of the Act requires a corporation created on or after the day section 94 of the Act comes into force to conduct within the year following the registration of the declaration and description shall be a comprehensive study.*

31(3) *A corporation shall conduct a reserve fund study within three years of completing the reserve fund study that it is required to conduct under subsection (1) or (2), as the case may be, and after that, within every three years after completing the immediately preceding reserve fund study.*

31(4) *A reserve fund study that a corporation is required to conduct under subsection (3) shall be,*

*(a) a comprehensive study;*

*(b) an updated study not based on a site inspection, if the immediately preceding reserve fund study for the corporation was a comprehensive study or an updated study based on a site inspection; or*

*(c) an updated study based on a site inspection, if the immediately preceding reserve fund study for the corporation was an updated study not based on a site inspection.*

### QUALIFICATIONS OF PERSON CONDUCTING STUDY

Section 32 of the GR provides:

32(1) *Subject to subsection (2), the following classes are prescribed as persons who may conduct a reserve fund study:*

- 1. Members of the Appraisal Institute of Canada holding the designation of Accredited Appraiser Canadian Institute.*
- 2. Persons who hold a certificate of practice within the meaning of the Architects Act.*

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

3. *Members of the Ontario Association of Certified Engineering Technicians and Technologists who are registered as certified engineering technologists under the Ontario Association of Certified Engineering Technicians and Technologists Act, 1998.*
4. *Members of the Real Estate Institute of Canada holding the designation of certified reserve planner.*
5. *Persons who hold a certificate of authorization within the meaning of the Professional Engineers Act.*
6. *Graduates of Ryerson University with a Bachelor of Technology (Architectural Science) — Building Science Option or Architecture Option.*
7. *Members of the Canadian Institute of Quantity Surveyors holding the designation of professional quantity surveyor.*
8. *Members of the Association of Architectural Technologists of Ontario holding the designation of architectural technologist, architecte-technologue or registered building technologist under the Association of Architectural Technologists of Ontario Act, 1996.*

32(2) *A person who conducts a reserve fund study shall not,*

- (a) *be a director, officer or property manager of the corporation;*
- (b) *directly or indirectly, have an interest in,*
  - (i) *a contract or transaction to which a director or officer of the corporation is a party in a capacity other than as a director or officer of the corporation, or*
  - (ii) *a proposed contract or transaction to which a director or officer of the corporation will be a party in a capacity other than as a director or officer of the corporation;*
- (c) *be the spouse, son or daughter of a director or officer of the corporation or son or daughter of the spouse of a director or officer of the corporation;*
- (d) *be an owner as defined in the Act in relation to the corporation; or*
- (e) *be a person who lives on the property managed by the corporation under section 17 of the Act.*

32(3) *In subsection (2), "same-sex partner" [Repealed O. Reg. 300/05, s. 1(2).] "spouse" means,*

- (a) *a spouse as defined in section 1 of the Family Law Act, or*
- (b) *either of two persons who live together in a conjugal relationship outside marriage.*

32(4) *A person who conducts a reserve fund study shall be insured under a policy of liability insurance that includes,*

- (a) *coverage for liability for errors, omissions and negligent acts arising out of conducting or not conducting a reserve fund study, subject to the exclusions, conditions and terms that are consistent with normal insurance industry practice;*
- (b) *a policy limit for each single claim of not less than \$1 million per occurrence;*

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

- (c) an aggregate policy limit in the amount of not less than \$2 million per year for all claims in the year or an automatic policy reinstatement feature; and*
- (d) a maximum deductible amount of \$3,500 per occurrence.*

*32(5) A person who conducts a reserve fund study shall ensure that the policy of liability insurance is valid at the time the reserve fund study is completed and is kept valid for a period of at least three years after that time.*

*32(6) Upon request, the person shall provide to the corporation a certificate of the policy of liability insurance.*

### PLAN FOR FUTURE FUNDING

Section 33 of the GR provides:

*33(1) Except in the case of a corporation to which subsection (2) applies, the prescribed period of time for the purpose of subsection 94(8) of the Act shall be the fiscal year of the corporation following the fiscal year in which the reserve fund study is completed.*

*33(2) In the case of all reserve fund studies that a corporation created before the day section 94 of the Act comes into force is required to conduct after that date under subsection 31(1) and within 15 years after the date of the first reserve fund study that it is required to conduct after that coming into force date, the prescribed period of time for the purpose of subsection 94(8) of the Act shall be 15 years from the date of that first reserve fund study.*

*33(3) The notice that the board is required to send under subsection 94(9) of the Act shall be in the form that is entitled "Notice of Future Funding of the Reserve Fund" and dated September 1, 2011, as it appears on the Government of Ontario website.*

# LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

## SCHEDULE "F" NEWFOUNDLAND & LABRADOR

### METHOD OF CONDUCTING STUDY AND CONTENTS OF STUDY

Sections 4-5 of the CR provide:

4(1) *A reserve fund study shall consist of*

- (a) *a physical analysis;*
- (b) *a financial analysis; and*
- (c) *a reserve fund status certificate.*

4(2) *The physical analysis required under paragraph (1)(a) shall consist of*

- (a) *the component inventory of the corporation; and*
- (b) *an assessment of each component that states the following:*
  - (i) *its actual or estimated year of acquisition,*
  - (ii) *its present or estimated age,*
  - (iii) *its normal life expectancy,*
  - (iv) *its remaining life expectancy,*
  - (v) *the estimated year for its major repair or replacement,*
  - (vi) *its estimated cost of major repair or replacement as of the date of the study, and*
  - (vii) *the percentage of that cost of major repair or replacement to be covered by the reserve fund and the adjusted cost resulting from the application of that percentage.*

4(3) *A component that is scheduled for major repair or replacement in the year of the reserve fund study is considered to have no remaining life expectancy.*

4(4) *In preparing the component inventory of the corporation for the purpose of paragraph (2)(a), the person conducting the reserve fund study shall review*

- (a) *the declaration and description; and*
- (b) *the current by-laws or proposed by-laws of the corporation establishing what constitutes a standard unit.*

4(5) *The financial analysis required under paragraph (1)(b) shall consist of the following:*

- (a) *a description of the financial status of the reserve fund as of the date of the reserve fund study; and*
- (b) *a recommended funding plan projected over a period of at least 30 consecutive years, beginning with the current fiscal year of the corporation, that shows the minimum balance of the reserve fund during the period and, for each projected year,*
  - (i) *the estimated cost of major repair or replacement of the common elements and assets of the corporation based on current costs for the year in which the study is conducted,*

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

- (ii) the estimated cost of major repair or replacement of the common elements and assets of the corporation at the estimated time of the repair or replacement based on an assumed annual inflation rate,*
- (iii) the annual inflation rate described in subparagraph (ii),*
- (iv) the estimated opening balance of the reserve fund,*
- (v) the recommended amount of contributions to the reserve fund, determined on a cash flow basis, that are required to adequately offset the expected cost in the year of the expected major repair or replacement of each item in the component inventory,*
- (vi) the estimated interest that will be earned on the reserve fund based on an assumed annual interest rate,*
- (vii) the annual interest rate described in subparagraph (vi),*
- (viii) the total of the amounts described in subparagraph (v) and (vi),*
- (ix) the increase, expressed as a percentage, in the recommended amount of contributions to the reserve fund over the recommended amount of contributions for the immediately preceding year, and*
- (x) the estimated closing balance of the reserve fund.*

*4(6) In preparing the financial analysis described in subsection (5), the person conducting the reserve fund study shall review,*

- (a) the most recent audited financial statements of the corporation or, in the case of a corporation that has as one of its objects the management of a property consisting of less than 10 units, the most recent financial statements of the corporation; and*
- (b) the most recent reserve fund study of the corporation.*

*4(7) A reserve-fund status certificate required pursuant to paragraph (1)(c) shall be completed by the person preparing the reserve-fund study at the time the study is completed and shall provide*

- (a) the balance in the reserve-fund at the beginning of the current year;*
- (b) the annual contribution to the reserve-fund recommended to be made during the current and subsequent fiscal years of the study period;*
- (c) a statement summarizing the repair, maintenance and replacement recommendations in the study;*
- (d) the date when a new reserve fund study is required to be completed under subsection 49(5) of the Act; and*
- (e) the opinion of the person preparing the study that the fund should be adequate to offset the expenditures for the major repair or replacement of the components if the corporation makes contributions as recommended in the study.*

*4(8) The person conducting the reserve fund study shall sign it.*

*5(1) A reserve fund study shall be based on,*

- (a) a visual site inspection of the property, including a visual inspection of each component where practicable;*

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

- (b) *all other inspections of each component that the person conducting the study considers appropriate or necessary;*
  - (c) *a verification of records of the corporation; and*
  - (d) *interviews with those of the corporation's directors, officers, employees and agents that the person conducting the study considers appropriate.*
- (2) *As part of preparing the assessment of each component described in paragraph 4 (2)(b), the person conducting the reserve fund study shall review the following documents:*
- (a) *all existing warranties, guarantees and service contracts for each component;*
  - (b) *the as-built architectural, structural, engineering, mechanical, electrical and plumbing plans for the property that are in the custody of or under the control of the corporation;*
  - (c) *the as-built specifications for the buildings that are in the custody of or under the control of the corporation;*
  - (d) *the plans for underground site services, site grading, drainage and landscaping, and television, radio or other communications services for the property that are in the custody of or under the control of the corporation;*
  - (e) *the repair and maintenance records and schedules in the custody of or under the control of the corporation; and*
  - (f) *all other records of the corporation that the person conducting the study requires in order to prepare the assessment.*
- (3) *In addition to the material that a reserve fund study is required to contain, the study may contain all further information and analysis that the person conducting the study or the board considers appropriate or necessary.*

### FREQUENCY OF STUDY

Sections 49(2), (3) and (5) of the NL Act provide:

- (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.*

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

(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.*

### QUALIFICATIONS OF PERSON CONDUCTING STUDY

Section 3 of the CR provides:

3. *The following classes of persons may prepare a reserve-fund study*
- (a) *a member of the Appraisal Institute of Canada holding the designation of Accredited Appraiser Canadian Institute;*
  - (c) *a person licensed under the Architects Act, 2008;*
  - (d) *an engineer registered to practice engineering under the Engineers and Geoscientists Act, 2008; and*
  - (e) *a member of the Real Estate Institute of Canada holding the designation of Certified Reserve Planner.*

### PLAN FOR FUTURE FUNDING

Section 4(5) of the CR provides:

- 4(5) *The financial analysis required under paragraph (1)(b) shall consist of the following:*
- (a) *a description of the financial status of the reserve fund as of the date of the reserve fund study; and*
  - (b) *a recommended funding plan projected over a period of at least 30 consecutive years, beginning with the current fiscal year of the corporation, that shows the minimum balance of the reserve fund during the period and, for each projected year,*
    - (i) *the estimated cost of major repair or replacement of the common elements and assets of the corporation based on current costs for the year in which the study is conducted,*
    - (ii) *the estimated cost of major repair or replacement of the common elements and assets of the corporation at the estimated time of the repair or replacement based on an assumed annual inflation rate,*
    - (iii) *the annual inflation rate described in subparagraph (ii),*
    - (iv) *the estimated opening balance of the reserve fund,*
    - (v) *the recommended amount of contributions to the reserve fund, determined on a cash flow basis, that are required to adequately offset the expected cost in the year of the expected major repair or replacement of each item in the component inventory,*
    - (vi) *the estimated interest that will be earned on the reserve fund based on an assumed annual interest rate,*
    - (vii) *the annual interest rate described in subparagraph (vi),*

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- (viii) the total of the amounts described in subparagraph (v) and (vi),*
- (ix) the increase, expressed as a percentage, in the recommended amount of contributions to the reserve fund over the recommended amount of contributions for the immediately preceding year, and*
- (x) the estimated closing balance of the reserve fund.*

# LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

## SCHEDULE “G” NEW BRUNSWICK

### Condominium Property Act, SNB 2009, c C-16.05

#### Reserve fund - substantial repair and replacement

38(1)

*In this section, “eligible security” means a bond, debenture, guaranteed investment certificate, deposit receipt, deposit note, certificate of deposit, term deposit or other similar instrument that*

*(a) is issued or guaranteed by the Government of Canada or the government of a province of Canada, or*

*(b) is issued by an institution located in the Province insured by either the Canada Deposit Insurance Corporation or the New Brunswick Credit Union Deposit Insurance Corporation. (valeur mobilière admissible)*

38(2) *A corporation shall establish and maintain a reserve fund for the purposes referred to in [subsection 42\(1\)](#).*

38(3) *All contributions collected for a reserve fund shall be paid into the reserve fund and deposited and maintained in a bank, credit union or trust company in the Province or invested in an eligible security.*

38(4) *A fund set up for any of the purposes referred to in [subsection 42\(1\)](#) is deemed to be a reserve fund even if it is not designated as a reserve fund.*

38(5) *A reserve fund shall only be used for the purposes referred to in [subsection 42\(1\)](#).*

38(6) *A reserve fund constitutes an asset of the corporation and shall only be distributed to an owner when the governance of the condominium property by this Act is terminated.*

#### Reserve fund - condominium properties of not more than 10 units

39(1) *Subject to section (2), if a condominium property consists of not more than 10 units, the amount in the reserve fund for the corporation shall be equal to 100% of the annual operating budget of the corporation, or a greater percentage if specified in the by-laws.*

39(2) *A corporation referred to in subsection (1) shall assess and collect the owners’ contributions to the reserve fund in an amount that results in the fund meeting the requirements of that subsection within 5 years after the registration of the declaration and description.*

# LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

## **Reserve fund study - condominium properties of more than 10 units**

40(1) *If a condominium property consists of more than 10 units, the corporation shall complete a reserve fund study every 10 years and shall submit it to the Director no later than 30 days after it is completed.*

40(2) *A corporation referred to in subsection (1) shall complete an update of a reserve fund study every 3 years or any time there is a significant change in the assets of the corporation and shall submit it to the Director no later than 30 days after it is completed.*

40(3) *A reserve fund status certificate, prescribed by regulation, shall be completed by the person who prepares the reserve fund study.*

40(4) *A corporation referred to in subsection (1) shall maintain a reserve fund in an amount that meets the minimum amount recommended in the reserve fund study.*

40(5) *If the amount in the reserve fund of a corporation referred to in subsection (1) is less than the amount required within the period of time recommended in the study, the corporation shall assess and collect the owners' contributions to the reserve fund in an amount that would result in the fund meeting the minimum funding recommendations of the reserve fund study.*

40(6) *The form and contents of a reserve fund study and the persons authorized to prepare it shall be prescribed by regulation.*

## **Contingency fund**

41 *A corporation may establish a contingency fund to be used for the purposes specified in the by-laws.*

## **Reserve fund**

69 *A corporation continued under [section 66](#) to which [subsection 39\(1\)](#) applies shall meet the reserve fund requirements in [subsection 39\(1\)](#) within 5 years after the commencement of that subsection.*

## **Reserve fund study**

70(1) *A corporation continued under [section 66](#) to which [section 40](#) applies shall prepare and file a reserve fund study under [section 40](#) within 5 years after the commencement of that section.*

## **REGULATIONS**

### **RESERVE FUND STUDY**

#### **Contents**

23(1) *A reserve fund study shall consist of a physical analysis and a financial analysis.*

23(2) *The physical analysis shall consist of the following information:*

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

*(a) an inventory of each item of the common elements and assets of the corporation that requires, or is expected to require within 30 years after the date of the study, substantial repair or replacement, if the cost of replacement is \$500 or more; and*

*(b) an assessment that provides the following information for each item in the inventory:*

*(i) the actual or approximate year of acquisition of the item;*

*(ii) the actual or estimated age of the item;*

*(iii) the normal life expectancy of the item;*

*(iv) the remaining life expectancy of the item;*

*(v) the estimated year of the substantial repair or the replacement of the item;*

*(vi) the estimated cost of the substantial repair or the replacement of the item as of the date of the study; and*

*(vii) the percentage of the cost of the substantial repair or the replacement of the item available to be covered by the reserve fund, and the adjusted cost resulting from the application of that percentage.*

**23(3)** *A person preparing an inventory referred to in paragraph (2)(a) shall review the following documents:*

*(a) the declaration and description of the corporation; and*

*(b) the current or proposed by-laws, if any, of the corporation establishing what constitutes a standard unit.*

**23(4)** *A person preparing an assessment referred to in paragraph (2)(b) shall review the following documents if they are in the custody of or under the control of the corporation:*

*(a) the warranties, guarantees and service contracts for each item in the inventory;*

*(b) the architectural, structural, construction, mechanical, electrical and plumbing plans for the condominium property;*

*(c) the specifications for the buildings;*

*(d) the plans for underground site services, site grading, drainage, landscaping, and television, radio or other communication services for the condominium property;*

*(e) the repair and maintenance records and schedules; and*

*(f) all other records of the corporation that the person requires in order to prepare the assessment.*

**23(5)** *The financial analysis shall consist of the following information:*

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

(a) a description of the financial status of the reserve fund as of the date of the study; and  
(b) a recommended funding plan projected over a period of at least 30 consecutive years, beginning with the current fiscal year of the corporation, that includes the minimum balance of the reserve fund during that period and includes the following information for each projected year:

(i) the estimated cost of the substantial repair or the replacement of the common elements and assets of the corporation based on the current costs for the year in which the study is conducted;

(ii) the estimated cost of the substantial repair or the replacement of the common elements and assets of the corporation at the estimated time of the repair or the replacement based on a stated, assumed annual inflation rate;

(iii) the estimated opening balance of the reserve fund;

(iv) the recommended amount of contributions to the reserve fund, determined on a cash flow basis, that are required to offset adequately the expected cost in the year of the expected substantial repair or the expected replacement of each item in the inventory referred to in paragraph (2)(a);

(v) the estimated interest that will be earned on the reserve fund based on a stated, assumed annual interest rate;

(vi) the total of the amounts described in subparagraphs (iv) and (v);

(vii) the increase, if any, in the recommended amount of contributions to the reserve fund over the recommended amount of contributions for the immediately preceding year, expressed as a percentage; and

(viii) the estimated closing balance of the reserve fund.

23(6) A person preparing or updating a financial analysis shall review the following documents:

(a) the most recent financial statements reviewed in accordance with [section 21](#);

(b) all reciprocal cost sharing agreements, if any, of the corporation; and

(c) the most recent reserve fund study of the corporation.

23(7) In addition to the required documents and information, a reserve fund study may contain any further information and analyses that the person conducting the study or the board considers necessary.

### Persons authorized to prepare

24(1) Subject to subsection (2), the following classes of persons may prepare a reserve fund study:

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*(a) members of the New Brunswick Association of Real Estate Appraisers/Association des évaluateurs immobiliers du Nouveau-Brunswick holding the designation of Accredited Appraiser Canadian Institute (AACI);*

*(b) persons who hold certificates of practice under the Architects Act;*

*(c) engineers who are licensed to practice engineering under the Engineering and Geoscience Professions Act;*

*(d) members of the New Brunswick Society of Certified Engineering Technicians and Technologists who are registered as certified engineering technologists under the Engineering Technology Act; and*

*(e) members of the Real Estate Institute of Canada holding the designation of Certified Reserve Planner (CRP).*

24(2) *A person shall not prepare a reserve fund study for a corporation if he or she*

*(a) is the declarant or an owner, director, officer, employee or manager of the corporation;*

*(b) is a partner, employer or employee of the declarant, or of an owner, director, officer, employee or manager of the corporation; or*

*(c) has an interest in a contract to which the corporation is a party.*

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### **Preparation**

25(1) *The person preparing a reserve fund study shall sign it.*

25(2) *A reserve fund study shall be based on information gathered in the following manners:*

*(a) by a visual site inspection of the condominium property;*

*(b) by any other inspection of the items in the inventory referred to in [paragraph 23\(2\)\(a\)](#) that the person conducting the study considers appropriate;*

*(c) by a verification of the records of the corporation; and*

*(d) by interviews with the corporation's directors, officers, employees and agents that the person conducting the study considers appropriate.*

### **Update**

26(1) *Subject to subsection (2), an update of a reserve fund study shall include current information with respect to the financial analysis prepared in accordance with [subsection 23\(5\)](#).*

26(2) *If there has been a substantial addition or improvement to or alteration or renovation of the common elements or a substantial change in the assets of the corporation since a reserve fund study was last completed, an update of the study shall include current information with respect to both the inventory*

## LEGISLATIVE SUMMARY OF RESERVE FUNDS ON A PROVINCIAL BASIS

*prepared in accordance with [paragraph 23\(2\)\(a\)](#) and the assessment prepared in accordance with [paragraph 23\(2\)\(b\)](#).*