

RESERVE FUNDS and RESERVE FUND STUDIES

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Subject to few exceptions, every condominium corporation is required to establish a reserve fund for the purpose of providing for the payment of:

- any unforeseen common expenses, and
- any major repairs or replacement of common property, common facilities, services units or assets of the corporation, as defined by the corporation's bylaws and condominium plan, which may include:
 - roofs, building exteriors, roads, sidewalks, sewers, heating, electrical and plumbing systems, elevators, laundry, recreational facilities, parking facilities, and
 - any units or portions of units designated to be the responsibility of the Corporation through the Corporation's bylaws.

(Clause 55(1)(b) and subsection 55(3) of the Act)

A corporation determines the amount required for the reserve fund through a reserve fund study. Subject to few exceptions, every corporation is required to conduct a reserve fund study by a qualified person within three years of the date of the corporation's first annual meeting, and every five years thereafter.

(Subsection 58.1(3)(a) of the Act and section 51.2 of the Regulations)

A written report of every reserve fund study must be prepared as prescribed in Form FF and presented to the owners at the next annual meeting.

(Subsection 58.1(6) of the Act and subsection 51.4(1) and section 51.5 of the Regulations)

At every annual meeting, the board must prepare and present an annual report on the reserve fund that identifies the following:

- the amount of the reserve fund as of the last day of the preceding fiscal year; and
- all payments made into and out of the reserve fund for that year and the sources and uses of those payments.

(Section 58.2 of the Act)

The cost of conducting the reserve fund study is a common expense that the board may charge to the reserve fund.

(Subsection 58.1(7) of the Act)

Once the amount required for the reserve fund is determined, the corporation shall apportion the amount among the owners in accordance with their unit factors, unless an alternative scheme of apportionment is set out in the bylaws with the approval of 75% of the owners. Contributions to the reserve fund levied on owners shall be combined with contributions to the common expense fund to form the condominium fees.

(Section 58 and subsection 56(1)(b) of the Act and section 51 of the Regulations)

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The moneys in a reserve fund are an asset of the corporation to be held in trust for the prescribed purpose of the reserve fund only, and cannot be used for the day-to-day management of the corporation. The board is responsible for managing the reserve fund and has the power to determine when expenditures for items covered by the reserve fund are required in accordance with the purpose for which the fund is intended. However, the bylaws can place limits on the powers of the board.

(Section 61, subsection 55(4), and section 39(1) of the Act)

A corporation may invest any portion of the reserve fund that is not immediately required by the corporation, but only in investments permitted pursuant to *The Trustee Act, 2009*, which include any form of property or security in which a reasonably prudent investor would invest while exercising reasonable care, skill, diligence, and judgement, having regard to:

- general economic conditions;
- the possible effects of inflation or deflation;
- the expected tax consequences;
- the role of each investment within the overall portfolio of trust property;
- the expected total return from income and appreciation of capital;
- other resources of the trust beneficiaries;
- the need for liquidity, regularity of income and preservation or appreciation of capital; and
- an asset's special relationship or value to the purposes of the trust or its beneficiaries.

Any interest earned on the investment of a reserve fund is to be added to and form part of the fund.

(Section 60 of the Act and section 24 and section 25 of The Trustee Act, 2009)

On the Estoppel Certificate (prescribed Form GG), information about the reserve fund must be provided to potential purchasers, including:

- the amount of the reserve fund and of the contribution levied;
- the amount of any reserve fund contributions or arrears owing for the unit;
- the manner in which contributions are payable (e.g. annual or monthly installments) and can be paid (e.g. credit card, automatic withdrawal, post-dated cheque);
- whether the corporation has passed a reapportionment for contributions;;
- the qualifications and liability insurance of the person who conducted the reserve fund study, and his or her relationship to the corporation; and
- whether the funding plan adopted by the corporation conforms with the recommendations of the reserve fund study.

Note: Unless otherwise noted, all references to the Act refer to *The Condominium Property Act, 1993* and all references to the Regulations refer to *The Condominium Property Regulations, 2001*. These statutes, along with the forms referenced above, can be found at the Government of Saskatchewan Queen's Printer: <http://www.qp.gov.sk.ca/>

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