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## Legislature Enacts Major Change to Condominium Act

by John D. Sullivan

Just before the end of the last legislative session, the Washington Legislature passed, and the Governor signed, Senate Bill 6512 amending the Condominium Act. This new consumer protection law takes effect June 12, 2008, and affects condominium developers as well as owners' associations and sellers and buyers of individual units.

This change is intended to take the surprise out of the cost of owning a condominium. In the past, new owners of condominiums were often surprised when they received a large bill from their owners' association to repair or replace a common element, such as the roof, parking lot, lobby, or recreational area. Prior to the passage of SB 6215, the Condominium Act did not require condominium associations to plan for or maintain levels of reserve funding for emergency repairs (although some individual condominium declarations do). In fact, they were not even required to conduct studies to determine when common elements will need to be replaced or repaired and what it will cost.

The new law changes that. It requires residential condominium associations to

conduct annual reserve studies to determine condo owners' future maintenance and repair costs for common elements. The study must include components that may need repair or replacement but whose infrequent and significant nature make them impractical to include in an annual budget. The owners' association must:

- Prepare an initial reserve study based upon a visual site inspection by a reserve study professional;
- Update the study annually; and
- Update the study based upon a visual site inspection by a reserve study professional at least every three years.

A "reserve study professional" is an independent person suitably qualified by knowledge, skill, experience, training or education to prepare a study in accordance with the statute. If the last reserve study prepared by a reserve study professional is more than three years old, then owners of units accounting for at least 20% of the owner votes may require that a new study be done.

There is an exception to all these requirements if it would impose an "unreasonable hardship" on the association, but the statute does not define "unreasonable hardship."

The new law encourages residential condominium associations to establish reserve accounts based on their study to fund major repairs or replacement of common elements, but does not go so far as to require these accounts — which was the goal of some consumer advocates. If an association funds a reserve account, the revised Act allows it to withdraw funds from the account for other unforeseen expenses, but only if it gives the unit owners prior notice and sets up a repayment schedule for the reserve account not longer than 24 months.

Beginning in June, developers must include a copy of the current reserve account study as part of

the Public Offering Statement. Similarly, when individuals re-sell units, the owners' association must include the study with the required Resale Certificate. If the owners association does not have such a study, then it must disclose that fact in writing to the potential buyer.



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