

at which the budget will be adopted shall be mailed or electronically delivered to the owner of each unit not less than fourteen (14) days prior to that meeting. The proposed budget shall be detailed and shall show the amounts budgeted by income and expense classifications.

ISSUE #1

Statutory Reserves for Capital Expenditures and Deferred Maintenance. In addition to annual operating expenses, the proposed budget must include reserve accounts for capital expenditures and deferred maintenance as required by law. These accounts shall include, but are not limited to, roof replacement, building painting, elevator replacement and maintenance, and paver replacement. The amount to be reserved shall be computed by a formula based upon estimated life and replacement cost of each item. These reserves shall be funded unless the members subsequently determine by majority vote of those present in person or by proxy at a duly called meeting to fund no reserves or less than adequate reserves for a fiscal year. The vote to waive or reduce reserves, if any is taken, may be taken only after the proposed budget has been distributed to the unit owners as required in 6.2 above. Reserves funded under this paragraph, and all interest earned on such reserves, shall not be commingled with operating funds (unless combined for investment purposes), and shall be used only for the purposes for which they were reserved, unless their use for other purposes is permitted by law or is approved in advance by a majority vote at a members' meeting called for that purpose. Operating and reserve funds may be invested in combined accounts, but such funds shall be accounted for separately, and the combined account balance may not, at any time, be less than the amount identified as reserve funds in the combined account, or the minimum amount required by law. Operating and reserve funds may be combined in the quarterly assessment paid by unit owners, provided that the operating and reserve funds are segregated within 30 days after receipt (unless combined for investment purposes).

6.4 Other Reserves. In addition to the statutory reserves provided in Section 6.3 above, or in place of them if the members so vote, the Board may establish one or more "contingency reserves" as defined in Rule 61B-22.001(4), Florida Administrative Code, as the same may be amended from time to time. The purpose of these contingency reserves is to provide financial stability and to avoid the need for special assessments on a frequent basis. The amounts proposed to be so reserved shall be shown in the proposed annual budget as a line item in the operating portion of the budget. These funds may be spent for any purpose approved by the Board.

6.5 Assessments. Regular annual assessments based on the adopted budget shall be paid either monthly, or quarterly, as determined by the Board. Failure to send or receive notice of assessments shall not excuse the obligation to pay. If an annual budget has not been adopted at the time the first installment for a fiscal year is due, it shall be presumed that the amount of such installment is the same as the last installment and shall be continued at such rate until a budget is adopted and pro rata assessments are calculated, at which time any overage or shortage shall be added or subtracted from each unit's next due installment.

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. 6.3 (p. 11): Outdated reserve waiver clause contradicts mandatory post-milestone SIRS requirements.

Statutory / Legal Reference: Fla. Stat. § 718.112(2)(f) (HB 1021)

Statutory Comparison: Effective under HB 1021, condominium and cooperative associations cannot waive or reduce reserves for items required by a Structural Integrity Reserve Study (SIRS), nor use structural reserve funds for non-scheduled purposes without statutory exemptions.

CURRENT WORDING IN DOCUMENT:

Statutory Reserves for Capital Expenditures and Deferred Maintenance. In addition to annual operating expenses, the proposed budget must include reserve accounts for capital expenditures and deferred maintenance as required by law.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Provided, however, that reserve funding for components covered by a Structural Integrity Reserve Study (SIRS) pursuant to Fla. Stat. § 718.112(2)(g) cannot be waived, reduced, or used for any purpose other than their designated structural replacement.