

CONDOMINIUM FACT SHEET:

RESERVE FUND

What is the applicable legislation?

The current Act is [The Condominium Property Act, 1993](#).

The current Regulations are [The Condominium Property Regulations, 2001](#).

Both the Act and the Regulations contain all recent amendments and are available on the Queen's Printer website at www.qp.gov.sk.ca.

What is the purpose of a reserve fund?

A reserve fund is established for the purpose of providing for the payment of:

- any unforeseen common expense, including the cost of the reserve fund study if not paid from common expenses;
- any major repair or replacement of common property, common facilities, services units or assets of the corporation;
- any roofs; exteriors of buildings; roads; sidewalks; sewers; heating, electrical and plumbing systems; elevators; laundry; recreational and parking facilities; and
- any major repair or replacement of any unit that is designated to the corporation through the bylaws.

Subsections 55(3) and 58.1(7) of the Act

How does the corporation determine the amount required for the reserve fund?

The Act and the Regulations do not set an amount to be contributed to the reserve fund. The condominium corporation is responsible to determine the amount by taking into account:

- the anticipated repair and replacement requirements of the common property, common facilities and services units; and
- the most recent reserve fund study and report, if any.

Section 51 of the Regulations

How is a reserve fund held by the corporation?

The moneys in a reserve fund of a corporation are an asset of the corporation. The fund shall be held in such a manner that the moneys in the fund, including interest, are readily identifiable at all times and shall be held in trust for the purposes allowed by the Act.

Section 61 of the Act

Does every condominium corporation have to have a reserve fund?

Yes. The only exception is a corporation that has all units intended or used for agricultural purposes. Only in that case can a corporation be exempted from the requirement of having a reserve fund and the exemption must be approved by a special resolution.

Subsection 11(c) of the Regulations

Can we use a surplus in the reserve fund for day-to-day management of the condominium corporation?

No. The reserve fund money is not to be used for the daily running of the corporation. However, the reserve fund can be used for unforeseen common expenses.

Subsections 55(3) and (4) of the Act

What do we do if our condominium's reserve fund is deficient or under-funded?

The corporation may pass a bylaw requiring a special assessment. A special assessment is an additional payment or a levy that a condominium corporation has to impose when unexpected shortfalls or unexpected expenditures occur in the budget or when an expensive item has to be replaced and there is not enough money in the reserve fund to cover for it.

If the reserve fund expenditure is not required right away, the corporation could also explore increasing contributions to gradually bring the reserve fund in line with the expected financial expenditures from the fund.

Clause 47(1)(i.1) of the Act

Can contributions to the reserve fund be refunded or distributed?

No part of a reserve fund is to be distributed or refunded to an owner of a unit unless the property ceases to be part of the condominium corporation.

Section 61 of the Act

Can the money in a reserve fund account be invested?

Yes. The reserve fund money that is not immediately required can be invested. The investment can be made only to those investments in which a trustee may invest pursuant to *The Trustee Act, 2009*. The interest earned forms part of the reserve fund.

Section 60 of the Act

Is the owner's consent required before expenditures can be made from the reserve fund?

Generally speaking, the board is responsible for running the day to day operation of the corporation. Therefore, the board is at liberty to spend the reserve fund for the purposes allowed by the Act. However, the bylaws can be made to limit this power in a variety of ways.

Section 39(1) of the Act

What information has to be provided on the reserve fund to the owners?

A board has to prepare an annual report with respect to the reserve fund that sets out the following:

- the amount of the reserve fund as 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.

This report must be made available to the owners at the annual meeting.

Section 58.2 of the Act

What information has to be provided on the reserve fund to purchasers?

On the Estoppel Certificate (Form GG), the following information on the reserve fund has to be provided to purchasers in regards to the unit being sold:

- the amount of the reserve fund contribution levied;
- the amount of any reserve fund contributions or arrears owing;
- the manner in which the reserve fund contribution can be payable (for example, by annual or monthly instalments);
- the manner in which the contributions can be paid (for example, by credit card, automatic withdrawal, post-dated cheques etc.); and
- whether the contributions have been effected by a reapportionment.

Form GG of the Regulations

The contents of this factsheet are intended to convey general information only. It is not intended to be and should not be relied upon for legal advice in any circumstance. You should always seek the advice of legal counsel.