

OVERVIEW
RESERVE ACCOUNT; RESERVE STUDY &
MAINTENANCE PLAN REQUIREMENTS
OREGON CONDOMINIUM ACT

The Oregon Condominium Act ("OCA"), ORS Chapter 100, formerly titled the "Unit Ownership Law," was enacted by the 1963 Legislature and became effective June 13, 1963. All condominiums are created under and governed by the OCA.

General Requirements Under OCA

Several significant dates govern condominium reserve account, reserve study and maintenance plan requirements under the OCA. The dates (effective dates of legislation) determine or affect:

- ◆ If a reserve account is required.
- ◆ Specific requirements of the reserve account.
(items for which reserves must be established).
- ◆ If a reserve study is required.
- ◆ Reserve study requirements.
- ◆ If a maintenance plan is required.
- ◆ Maintenance plan requirements.
- ◆ Additional provisions governing the reserve accounts,
reserve studies and maintenance plans.

The most significant dates are:

January 1, 1982 (*HB 3132, Chapter 647, Oregon Laws 1981*): Reserves required. Legislation requires the bylaws of a condominium to provide for the establishment of a reserve account.

Affects: Condominiums created on or after date.

October 23, 1999 (*HB1206, Chapter 677, Oregon Laws 1999*): Reserve study required. Reserve study is required to be conducted or updated annually. Reserve account requirements expanded to include exterior painting.

Affects: Condominiums created on or after date. *See * (Exceptions) Below.*

Reserve Study: Condominiums created before date as provided under ORS 100.175(6).

Special Note: A reserve study is only required under the OCA if a reserve account is required under the OCA or the declaration or bylaws require a reserve account and a reserve study is then required under ORS 100.175(6).

January 1, 2006 (*SB 955, Chapter 543, Oregon Laws 2005*): Requires reserve study to include a maintenance plan.

Affects: Condominiums required to have a reserve study (condominiums created on or after October 23, 1999 or electing reserve study under ORS 100.175(6)).

September 27, 2007 (*HB 2665, Chapter 409, Oregon Laws 2007*): Items for which reserves must be established changed. Maintenance plan provisions removed from reserve study; maintenance plan made separate requirement; other related changes made.

Affects: Reserve account requirements: condominiums created on or after date.

Maintenance plan requirements: condominiums created on or after date; condominiums required to have reserve study when created or electing reserve study (and maintenance plan after date) under ORS 100.175(6) *See * (Exceptions) Below.*

**Exception for Duplex and Single Unit Condominiums:* HB 2665 creates an exception from the reserve study and maintenance plan requirements for certain duplex and single unit condominiums. See ORS 100.175(5) below, as amended by Section 23, HB 2665.

Additional Requirements

The requirements under the OCA noted above are minimum requirements. The bylaws (or declaration for condominiums created before January 1, 1982) may require that reserves be established for more items than were required under the OCA when the condominium was created

REQUIREMENTS UNDER ORS 100.175 (AS OF SEPTEMBER 27, 2007)

Reserve Account Requirements: Condominiums Created on or after September 27, 2007:
ORS 100.175(2)(a) provides:

(a) A reserve account shall be established to fund major maintenance, repair or replacement of those common elements all or part of which will normally require major maintenance, repair or replacement in more than one and less than 30 years, for exterior painting if the common elements include exterior painted surfaces, and for such other items as may be required by the declaration or bylaws. The reserve account need not include:

(A) Items that can reasonably be funded from the general budget or other funds or accounts of the association; or

(B) A reserve for limited common elements for which maintenance and replacement are the responsibility of one or more but less than all, unit owners under the provisions of the declaration or bylaws.

Reserve Study Requirements: Condominiums Created on or after October 23, 1999. See # Below.
ORS 100.175(3) provides:

(a) The board of directors of the association annually shall conduct a reserve study or review and update an existing study to determine the reserve account requirements and may:

(A) Adjust the amount of payments in accordance with the study or review; and

(B) Provide for other reserve items that the board of directors, in its discretion, may deem appropriate.

(b) The reserve study shall:

(A) Identify all items for which reserves are or will be established;

(B) Include the estimated remaining useful life of each item as of the date of the reserve study; and

(C) Include for each item, as applicable, an estimated cost of maintenance and repair and replacement at the end of the item's useful life.

Maintenance Plan Requirements: Condominiums Created on or after October 23, 1999. See # Below.
ORS 100.175(4) provides:

(a) The board of directors shall prepare a maintenance plan for the maintenance, repair and replacement of all property for which the association has maintenance, repair or replacement responsibility under the declaration or bylaws or this chapter. The maintenance plan shall:

- (A) Describe the maintenance, repair and replacement to be conducted;
 - (B) Include a schedule for the maintenance, repair and replacement;
 - (C) Be appropriate for the size and complexity of the maintenance, repair and replacement responsibility of the association; and
 - (D) Address issues that include but are not limited to warranties and the useful life of the items for which the association has maintenance, repair or replacement responsibility.
- (b) The board of directors shall review and update the maintenance plan described under this subsection as necessary.

****Reserved Study and Maintenance Plan Requirements:*** *Condominiums created before October 23, 1999, ORS 100.175(6)(a) provides:*

(a) If the declaration or bylaws require a reserve account, the reserve study requirements of subsection (3) of this section and the maintenance plan requirements of subsection (4) of this section first apply to the association of a condominium recorded prior to October 23, 1999:

(A) Upon adoption of a resolution by the board of directors in accordance with the bylaws providing that the requirements of subsections (3) and (4) of this section apply to the association; or

(B) Upon submission to the board of directors of a petition signed by a majority of unit owners mandating that the requirements of subsections (3) and (4) of this section apply to the association.

Note: A reserve study and maintenance plan conducted under ORS 100.175(6) must be completed within one year of the date of adoption of the resolution or submission of the petition to the board of directors.

Exception for Duplex and Single Unit Condominiums: ORS 100.175(5)(a) provides:

Except as provided in paragraph (b) of this subsection, the reserve study requirements under subsection (3) of this section and the maintenance plan requirements under subsection (4) of this section do not apply to a condominium consisting of one or two units, excluding units used for parking, storage or other uses ancillary to a unit:

(A) After the sale of the first unit to a person other than a successor declarant, if the condominium is created on or after September 27, 2007; or

(B) If the condominium was created before September 27, 2007, notwithstanding any requirement in the declaration or bylaws.

(b) The reserve study requirements under subsection (3) of this section and the maintenance plan requirements under subsection (4) of this section apply to a flexible condominium or a staged condominium created on or after September 27, 2007, if the condominium might in the future consist of more than two units.

Additional Provisions: *ORS 100.175 includes additional provisions governing the reserve account, including limitations on use and restrictions on borrowing from the account. See ORS 100.175.*

Elimination of Requirement to Provide Information: As of September 27, 2007, there is no longer a requirement that owners be provided a written summary of the reserve study or any revisions to the previously required 30-year maintenance plan adopted by the board of directors or the declarant as a result of the reserve study.

THE DOCUMENTS AND INFORMATION MUST BE AVAILABLE FOR INSPECTION AND DUPLICATION BY OWNERS IN ACCORDANCE WITH ORS 100.480.

