



RESERVES

In 2004 the Ohio legislature passed House Bill 135, which provided sweeping changes to how Condominiums in the state of Ohio work. Perhaps the most important change was regarding Reserves:

[The Board must]...Adopt and amend budgets for revenues, expenditures, and reserves in an amount adequate to repair and replace major capital items in the normal course of operations without the necessity of special assessments, provided that the amount set aside annually for reserves must not be less than 10% of the budget for that year unless the reserve requirement is waived annually by the unit owners exercising not less than a majority

Still, many Condominium Associations fail to meet the law's requirements, by not relying on the advice of a professional Reserve Engineer, instead deciding from year to year what projects need to be done.

How can you determine what an "adequate" amount is to repair major items without getting a professional Reserve Study?

Even if the Reserve Study is **wrong**, it provides a legal defense, because the Board was relying on the advice of a professional, and acting in good faith. Recent legal precedent is to find the Association guilty of gross negligence for failing to adequately plan, in cases where a Special Assessment was levied to pay for Capital items. Directors and Officers insurance coverage may not apply in cases of gross negligence. Even past Board Members can be sued.

Note that 10% is not necessarily "an amount adequate." The law stipulates that the amount be adequate **and** at least 10%. Many people have been led to believe that 10% is adequate—it may not be!

Note that there is an 'out': a majority of the unit owners may vote, annually, to waive this requirement. However, in most cases this is not a good idea.