

Reserve Study Answers to Know!

Davis-Stirling Common Interest Development Act: CA Civil Code Sections 1350 through 1378



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What CA Civil Code does require:

- Annual evaluation of the Reserve needs of the association
- Annual computation of Reserve Fund Strength (% Funded) and a Reserve Funding plan to meet the reserve needs of the Association
- Annual disclosure of this information to the Association members

A Reserve Study that has been prepared in accordance with National Reserve Study Standards will contain the information necessary to meet the first two of the three main requirements. The third “disclosure” requirement is met through the distribution of the Reserve Study (or more typically, just the Executive Summary) to the members.

An additional “disclosure” requirement was added in 2009 in the form of a 1-page “Assessment and Reserves Disclosure Form” to which the 30-year funding plan from the current Reserve Study is typically attached.

All reserve-related disclosures should be included in the pro-forma budget package that is distributed to Association members prior to the start of each fiscal year.

See Civil Code Sections 1363.005, 1365.a, 1365.b, and 1365.2.5.b.3

What CA Civil Code does not require:

- A minimum Reserve Balance
- A Reserve Study preparer to have special credentials
- Reserve Contributions

– Quiz –

- 1) If Reserve Study information is not included in the Association's annual financial disclosure to the members, can the Board of Directors increase assessments?

See Section 1366.a

- 2) If Reserve Study information is not included in the Association's annual financial disclosure to the members, or if it is not available upon request by a homeowner assembling disclosures for a prospective purchaser, what monetary penalty may be imposed on the Association?

See Section 1368.d

- 3) Under what three circumstances is an Association exempt from Reserve Study requirements?

See Section 1365.5.e, Section 1373, and 1374

- 4) How much can the Board of Directors increase total homeowner assessments without approval of the members?

See Section 1366.b

- 5) How much of a Special Assessment can the Board of Directors impose without approval of the members?

See Section 1366.b

- 6) Can the Board double Reserve contributions without approval of the members?

See Section 1366.b

- 7) In an emergency situation, is the Board limited in the amount of Special Assessment it can impose?

See Section 1366.b

- 8) What are the three defined types of emergencies, where a Board-imposed Special Assessment is not limited in size?

See 1366.b.1,2,3

- 9) Is it considered an “emergency” situation if the Association’s central air conditioner or boiler finally fails after a long service life?

See 1366.b.3

- 10) Can the Board of Directors borrow from Reserves to pay an Operating Account expense?

See 1365.5.c.2

- 11) Is it considered “borrowing” from Reserves if the Association fails to make its budgeted Reserve contribution in order to meet a short-term Operating Fund need?

See 1365.5.c.2

- 12) Does CA Civil Code require that an Association make Reserve contributions?

See Section 1365.a.3.c

- 13) Does CA Civil Code require an Association to maintain a minimum Reserve balance?

See Section 1365.a.2.c

- 14) If the Association holds title to a Unit as a common area asset, can the value of that Unit be considered part of the Reserve Fund, and be included in the “% Funded” calculation?

See Section 1365.a.2

- 15) Is a Co-Op or a Timeshare considered a Common Interest Development?

See Section 1351.c. For more details refer to the “Condominium Bluebook” (Pgs 1-3) which details the types of properties that are covered under the Davis-Stirling Common Interest Development Act (CA Civil Code 1350-1378).

Answer Key:

1. No
2. \$500
3. The three circumstances are:
 - The value of common area assets are $< \frac{1}{2}$ of Association's annual operating budget (excluding Reserve contributions)
 - The property is strictly for industrial or commercial uses
 - There is no common area
4. 20%
5. 5% of the total annual budget
6. Possibly – it depends how much Reserve contributions were (as a part of total budget) to start with.
7. No
8. The three exceptions are:
 - A court-ordered expense (judgment)
 - The personal safety of the owners is at risk
 - An extraordinary expense that could not have reasonably been foreseen
9. No. That is an expense that could have reasonably been foreseen.
10. Yes. But the amount must be repaid within 12 months (unless a delay in repayment is found to be appropriate, and that reasoning is well documented).
11. Yes
12. No
13. No. But the Board must annually disclose to the owners the strength (Percent Funded) of the Reserve Fund.
14. No
15. Yes for Co-ops. No for Timeshares.