

BUDGET

I. INTRODUCTION – Preparing and approving the annual budget is one of the most important functions of the Board of Directors. The starting point for calculating the budget is the actual expenses of the Association for the preceding year. Frequently the Bylaws or Declaration will establish deadlines for the Budget to be adopted or provided to the owners which must be complied with. The budget must be a good faith estimate of the expenses of the Association for the fiscal year for which it was prepared.

II. Content of Budget (Condominiums: 61B-22.003)

Required Elements for Operating Budget:

- (1) Estimated common expenses or expenditures on at least an annual basis.
- (2) Disclose beginning and ending dates of period covered by the budget.
- (3) Disclose the total assessment for each unit type according to proportion of ownership on monthly basis, or such other installment period for which assessments will be due.

(Note: Assessments shall be collected not less frequently than quarterly)

- (4) Include all estimated common expenses including the categories set forth in Section 718.504(21)(c), F.S. Reserves for capital expenditures and deferred maintenance required by Section 718.112(2)(f), F.S. must be included and shall not be waived or reduced prior to mailing the proposed annual budget to the unit owners. If any statutory budget category is not applicable, it shall be listed followed by an indication that it is inapplicable.
- (5) Include a schedule stating each reserve account as a separate line item with the following disclosures:
 - (a) Total estimated useful life of the asset
 - (b) Estimated remaining useful life of asset
 - (c) Estimated replacement cost or deferred maintenance expense of the asset.
 - (d) Estimated fund balance as of the beginning of the period for which the budget will be in effect.
 - (e) If applicable, the Developer's total funding obligation, when all units are sold, for each converter reserve account established pursuant to Section 718.618, F.S.

- (6) Separate schedule of any other reserve funds to be restricted by the Association as a separate line item with the following disclosures:
 - (a) Intended use of the restricted funds
 - (b) Estimated funds balance as of the beginning of the period for which the budget will be in effect.
- (7) Unrestricted expenses (not restricted as to use, i.e. non-reserves) shall be set forth in the operating budget.
- (8) Requirements of Budget under 718.504(21)(c)
 - (a) Expenses for the Association and Condominium
 - (i) Administration
 - (ii) Management fees
 - (iii) Maintenance
 - (iv) Rent for recreational and other commonly used facilities
 - (v) Taxes on Association Property
 - (vi) Taxes on leased areas
 - (vii) Insurance
 - (viii) Security Provisions
 - (ix) Other expenses
 - (x) Operating Capital
 - (xi) Reserves
 - (xii) Fees payable to Florida Division of Land Sales, Condominiums and Mobile Homes
 - (b) Expenses for a Unit Owner
 - (i) Rent for unit, if subject to a lease
 - (ii) Rent payable by the unit owner to the lessor or agent under any recreational lease or lease for the use of commonly used facilities,

which use and payment is a mandatory condition of ownership and is not included in the common expense or assessment for common maintenance paid by the unit owners to the Association.

III. Reserves – Crucial, Statutory component of a condominium/cooperative budget. Not required for homeowners associations unless the governing documents provide otherwise.

(1) Section 718.112(2)(f); Rule 61B-22.005

Statutorily Required Reserves: Capital expenditures and deferred maintenance including roofing, painting, paving and any other item for which the deferred maintenance or replacement cost exceeds \$10,000.00, shall be included in the budget (subject to waiver or reduction by approval of the unit owners). The Association may consider each asset of the Association separately, or may group similar or related assets together.

(2) Calculating Reserves Required by Statute:

Reserves required by 718.112(2)(f)2 shall be calculated by a formula that will provide funds equal to the total estimated deferred maintenance or replacement cost over the remaining useful life of the asset.

The amount of the current year contribution to each reserve component shall be the sum of the following:

- (a) The total amount necessary to bring a negative component balance to zero; and
- (b) The total estimated deferred maintenance expense or replacement cost less the estimated balance of the reserve item as of the beginning of the period for which the budget will be in effect. The remainder, if greater than zero, shall be divided by the estimated remaining useful life of the item. The formula may be adjusted each year for changes in estimates and deferred maintenance performed during the year and may consider factors such as inflation and earnings or invested funds.

Note: In calculating reserves, an Association should consider utilizing an engineer or other expert in an effort to be accurate in its calculations.

(3) Non-Statutory Reserves – Reserves not required by the Act are not required to be calculated pursuant to any specific formula.

(4) Funding – Reserves included in the budget are common expenses and must be fully funded unless waived or reduced. Reserves shall be funded in same frequency that assessments are due from owners.

- (5) Waiver or Reduction of Reserves: Any vote to waive or reduce statutory reserves shall be effective for only one annual budget. Vote to waive or reduce statutory reserves for any fiscal year is approval of a majority of the voting interests present, in person or proxy, at a meeting at which a quorum is established.

Note: The Board is not required to have the unit owners vote on the waiver or reduction of reserves, but if no vote is held or if the requisite percentage of owners do not approve the waiver or reduction, the Association must fully fund the statutory reserves for such fiscal year. Such full funding includes making up for past year(s) the funding of reserves was waived or reduced.

- (6) Use of Reserves: Pursuant to Section 718.112(2)(f)3, Florida Statutes, reserve funds and any interest accruing thereon shall remain in the reserve account or accounts, and shall only be used for authorized reserve expenditures unless their use for other purposes is approved in advance by a majority vote at a duly called meeting of the Association.

IV. Multi-Condominium Association/Limited Common Elements

- (1) Except as provided in Section 718.111(6) (regarding consolidated financial operations for multi-condominium associations); the Association must provide separate budgets for each condominium operated by the Association in addition to a budget for the Association. Each budget must include:
- (a) Estimated expenses specific to a condominium such as the maintenance, deferred maintenance or replacement of the common elements of the condominium to be provided in the budget for such specific condominium.
 - (b) Estimated expenses not specific to a condominium, such as maintenance of property serving more than one condominium, which shall be provided in the Association budget.
 - (c) Multicondominium associations created after June 30, 2000, or that have created separate ownership interests of the common surplus of the association for each unit as provided in 718.104(4)(h) and 718.110(12), Florida Statutes, must include each unit's share of the expenses of the Association described in (b), which shall be shown in each condominium budget. Multicondominium associations created prior to July 1, 2000, that have not created separate ownership interests of the common surplus of the association for each unit as provided in 718.104(4)(h) and 718.110(12), Florida Statutes, must include each condominium's share of the expenses of the Association described in (b), which shall be shown in each condominium budget.
- (2) Associations operating separate condominiums in a consolidated manner, need only utilize a single consolidated budget (See 718.111(6), Florida Statutes).

- (3) Limited Common Elements – If an association maintains limited common elements at the expense of only those owners entitled to use them, the budget shall include a separate schedule or schedules, conforming to the requirements of Rule 61B-22.003, of all expenses specifically applicable to such limited common elements, including any applicable reserves. Such schedule(s) may group the maintenance expense of any limited common element for which the declaration provides that the maintenance and expense is to be shared by a group of unit owners.
- (4) Waiver of Reserves. Each condominium operated by the Association votes separately regarding the waiver/reduction of reserves and such vote shall not be effective unless as to a particular condominium unless conducted at a meeting at which a majority of the voting interests in that condominium are present, in person or by proxy, and a majority of those present, in person or by proxy, vote to waive or reduce reserves.

V. Budget Adoption

- (1) Under most condominium, homeowners association and cooperative documents, the Board of Directors is responsible for the adoption of the budget for the Association. Although the governing documents for most communities authorize the board of directors to adopt the budget, the governing documents for many communities limits the amount the budget and/or specific budgeted expenses may be increased without the consent of a specified percentage of the membership of the association. It is important to review the provisions of the declaration and bylaws in order to ascertain whether there are any restrictions or limitations on the adoption of the budget by the board of directors.
- (2) Section 718.112(2)(e) provides that the board must hand deliver, mail, or electronically transmit to each unit owner a meeting notice and copy of the proposed annual budget not less than fourteen (14) days prior to the meeting of the unit owners or the board at which the budget will be considered. Evidence of compliance with such fourteen (14) day notice must be made by an affidavit executed by an officer of the association or the manager or other person providing notice of the meeting and filed among the official records of the association. Such meeting must be open to the unit owners.

Note: If the governing documents provide greater notice (i.e. 30 days) must be provided to the owners, such provisions shall control.

- (3) Section 718.112(2)(e)2a of the Condominium Act provides that if an adopted budget for a condominium association requires assessments against unit owners in any fiscal year which exceed 115 percent of the assessments for the preceding year, the board, upon written request from at least 10 percent of all voting interests, shall call a special meeting of the unit owners within twenty-one (21)

days after adoption of the annual budget. At the special meeting, which must be conducted within 60 days after adoption of the annual budget, the unit owners may consider and adopt a substitute budget. Unless the bylaws require a greater percentage, the adoption of a substitute budget requires an approval by a majority of all the voting interests. If a meeting of the owners has been called and a quorum is not attained or a substitute budget is not adopted by the owners, the budget adopted by the Board of Directors shall go into effect as scheduled. In determining whether assessments exceed 115% of similar assessments in prior years, any authorized provisions for reasonable reserves for repair or replacement of the condominium property, anticipated expenses which are not anticipated to be incurred on a regular or annual basis, or assessments for betterments to the condominium property must be excluded from the computation.

Note: If the governing documents are more restrictive than the statute, then the provisions of the documents must be complied with regarding the adoption of the budget.

- (4) With respect to homeowners associations, Section 720.303(6), Florida Statutes, provides that an association must prepare an annual budget which must reflect the estimated revenues and expenses for that year and the estimated surplus or deficit as of the end of the current year. Such budget must also set out separately all fees or charges for recreational amenities, whether owned by the association, the developer, or another person. The association is required to provide each member with a copy of the annual budget or a written notice that a copy of the budget is available upon request at no charge to the member. Such copy of the budget must be provided to the member within the time limits set forth in 718.303(5), Florida Statutes, regarding access to the official records of the association.

VI. Insufficiency of Budget; Amendment of Budget

- (1) In the event the budget proves to be insufficient to meet the actual expenses of the association due to expenses being greater than anticipated, and/or unanticipated expenses, or otherwise, the budget may be increased through amendment. With respect to amending condominium budgets, such amendment should be adopted in accordance with the same procedure utilized to approve the original budget such that the amendment is approved in accordance with Section 718.112(2)(e) and any applicable provisions of the condominium documents. Frequently the declaration or bylaws will also provide the manner in which an increase in the budget is collected from the unit owners. In addition to amending the budget, levying special assessments or borrowing money are alternative means to meet the expenses of the association if the budgeted assessments are insufficient, however, the association must be careful to comply with the requirements of the governing documents regarding levying special assessments or borrowing funds. The Association must also comply with the fourteen (14) day notice provision of the Condominium Act to levy special assessments.

VII. Budget Committee Meetings.

- (1) Section 718.112(2)(c); Meetings of any committee which makes recommendations to the board of directors regarding the association budget is subject to the provisions of Section 718.112(2)(c) regarding notice and unit owner attendance and participation applicable to meetings of the board of directors.

VIII. Official Records

- (1) The minutes of the association shall reflect the adoption of the budget and a copy of the proposed and adopted budgets, and all amendments thereto, must be maintained as part of the financial records of the association among the official records of the association. Such records shall be available for inspection and copying by any unit owner in accordance with the applicable provisions of the condominium, cooperative and homeowners association acts.

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