

Legislation Laws & Statutes

First ... About our Book

The chapter you are about to read (next page) is identical to the material in our book "Reserve Fund Essentials". This 94-page book covers a wealth of need-to-know reserve-related wisdom. Its 17 chapters deliver insights, suggestions and processes designed to ensure that co-owned and co-managed properties create healthy reserve funds that can be managed to everyone's satisfaction.

Thirteen chapters can be accessed from our website oliver-group.com/rfund. (Click on Book/Articles). The four chapters that cannot be accessed are "**Reserve Fund Fundamentals**" and "**Reserve Funds: What Does Adequate Really Mean?**" These are major, significant chapters and are included in our "Reserve Fund Essentials" book. To find out more about the book and how to order it, please click [MORE](#).

Now ... About the Authors

You may wish to learn more about the authors of "Reserve Fund Essentials" (and the chapter you are about to read). To do this click [MORE](#).

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A Brief Coverage of What's Going On Along with a Few Opinions

Our book includes lots of ways that persons associated with co-owned communities can run their organizations better. We might even say that, in regard to reserve funds anyway, if our suggested approaches were embraced, there might not be any need at all for protection under The Law. This chapter will look at the legislative picture briefly, and thus add a legal dimension to the other aspects we have covered.

Anything “legal” is, almost by definition, long, lengthy and yes, infinitely boring. But if it weren’t for laws, where would we be? We might find that if we looked at laws related to causing bodily harm, the prohibitions would be similar across state or provincial boundaries. Same with automobile operation, and with behaving wildly in public. Not so with the operation of co-owned properties.

A quick look at easily accessible sources¹ shows that in the U.S. 36 states have some sort of “Condo” legislation dealing with reserve funds and 14 have none. Of those 36 states that do, many have only minimal legislation. In Canada, 5 provinces have statutes on the books that can be described as “meaningful”, and 8 (including Territories) do not.

¹ We acknowledge our sources as (1) In the U.S. the book “Reserve Funds: How and Why Community Associations Invest Assets” (2005), and (2) In Canada, the book “Reserve Funding for Condominiums”(2003).

Being the first edition on “Reserve Fund Essentials” we’re not perfectly sure just who, exactly will be reading our book. But it’s likely that at least some of our readers have some sort of interest in actively engaging themselves in efforts to improve existing laws in their areas, or if they have no legislation at all, to persuade their governments that statutes should be drawn up.

To that end, we’d simply like to bring to your attention, Ontario’s “Condominium Act, 1998”. Ontario is Canada’s most populous province, with an estimated 7,500 condominium corporations (and hundreds more, it seems, being built each year). Your authors are familiar with the Condo Act (its short name), and we thought it worthwhile to bring it to your attention — parts of it, at least, could perhaps serve as models for similar statutes in your region.

To see the Act in its entirety you can go to the website of the CCI, the Canadian Condominium Institute. CCI is the Canadian equivalent of the CAI in the states — the Community Associations Institute. You can get to it by typing in this URL: <http://www.ccitoronto.org/Condoact/default.asp>. We think the Condo Act might possibly be one of the “better ones” around. Seems to cover all the bases, and covers each one in detail.

The reserve fund section is Section 93. In connection with reserve funds, we believe, again, that the coverage is protective, as it should be, but we’ll just take a minute here to mention three issues that could use some attention, in our opinions.

These three issues are ...

- The absence of any requirement to submit information to a government branch to ensure that the Boards were acting in compliance with the Act. For example, the Act requires that certain financial tables be prepared related to the reserve funds of the corporations, but beyond the requirement to distribute them to the unit owners, there is no central “check” on their completion or soundness.
- The word “adequate” is used to describe the proper level of reserve fund balances, but there is no definition of adequacy. Our approach to the matter, covered in this book, is one that may be considered — an objective, well-defined, quantitative definition of what an adequate balance really looks like. There are no doubt other approaches as well, but so far they seem not to have emerged.
- A “grey area” that needs some attention, is the difference between maintenance and operating expenses. Some maintenance costs clearly end up as reserve fund expenditures, and properly so. Periodic overhaul of elevators would be an example. But others are more nebulous. Doing pointing work on brick facings for instance.

Obviously, legislation is a mammoth area to tackle, and we have had to limit our treatment of it to the material you’ve seen, above. In any case, in the right hands at the right time, we trust some of you will find it of value.