Article - Real Property

[Previous][Next]

§11B–112.2.

(a) This section applies only to a homeowners association that has responsibility under its declaration for maintaining and repairing common areas.

(b) (1) The board of directors or other governing body of a homeowners association shall cause to be prepared and submitted to the lot owners an annual proposed budget at least 30 days before its adoption.

(2) The annual proposed budget may be sent to each lot owner by electronic transmission, by posting on the homeowners association's home page, or by including the annual proposed budget in the homeowners association's newsletter.

(c) The annual budget shall provide for at least the following items:

(1) Income;

(2) Administration;

(3) Maintenance;

(4) Utilities;

(5) General expenses;

(6) Reserves; and

(7) Capital expenses.

(d) (1) Subject to paragraphs (2) and (3) of this subsection and in accordance with the funding plan under § 11B–112.3(f) of this title, reserves provided for in the annual budget under subsection (c) of this section shall:

(i) Be the funding amount recommended in the most recent reserve study or updated reserve study completed under § 11B–112.3 of this title; and

(ii) Be deposited in the reserve account on or before the last day of each fiscal year.

(2) Subject to paragraph (3) of this subsection, if the most recent reserve study was an initial reserve study, the governing body shall, within 5 fiscal years following the fiscal year in which the initial reserve study was completed, attain the annual reserve funding level recommended in the initial reserve study in accordance with the funding plan under § 11B–112.3(f) of this title.

(3) (i) The governing body of a homeowners association may determine by a two–thirds majority vote that the homeowners association and the lot owners are experiencing a financial hardship that limits the ability to fund reserves that are required under paragraph (1) or (2) of this subsection.

(ii) Subject to subparagraphs (iii) through (v) of this paragraph, if a governing body makes a financial hardship determination based on the reserve funding requirements of paragraph (1) or (2) of this subsection:

1. The homeowners association may reasonably deviate from that reserve funding requirement; and

2. The funding level under that requirement shall be at least the funding amount necessary for the purposes specified under § 11B–112.3(f)(3) of this title.

(iii) 1. Except as provided in subsubparagraph 2 of this subparagraph, a homeowners association may not deviate from the reserve funding requirements of paragraph (1) or (2) of this subsection for a period of more than 1 fiscal year following the financial hardship determination.

2. The governing body may renew a financial hardship determination under subparagraph (i) of this paragraph by a two–thirds majority vote to extend the period that a homeowners association may deviate from the reserve funding requirement by 1 fiscal year following the renewal.

(iv) The governing body shall:

1. Make good faith efforts to resolve the financial hardship and resume funding reserves as required under paragraph (1) or (2) of this subsection;

2. Maintain detailed documentation of the good faith efforts made under item 1 of this subparagraph; and

3. Treat the documents under item 2 of this subparagraph as records for examination and copying under § 11B–112 of this title.

(v) 1. All lot owners shall be given reasonable notice in advance of a vote on an initial or a renewal of a financial hardship determination under this paragraph.

2. A vote on an initial or a renewal of a financial hardship determination under this paragraph may only be taken at a regular or special meeting of the homeowners association.

(4) (i) The governing body of a homeowners association shall annually review the reserves and the most recent reserve study or updated reserve study to determine whether there is adequate funding in accordance with the funding plan required under § 11B–112.3(f) of this title.

(ii) The annual review under this paragraph does not require a reserve study or updated reserve study in addition to the reserve study requirements under § 11B–112.3 of this title.

(e) (1) The budget shall be adopted at an open meeting of the homeowners association or any other body to which the homeowners association delegates responsibilities for preparing and adopting the budget.

(2) (i) The board of directors or other governing body of a homeowners association shall submit the adopted annual budget to the lot owners not more than 30 days after the meeting at which the budget was adopted.

(ii) The adopted annual budget may be submitted to each lot owner by electronic transmission, by posting on the homeowners association's home page, or by inclusion in the homeowners association's newsletter.

(3) (i) Notice of the meeting at which the proposed budget will be considered shall be sent to each lot owner.

(ii) Notice under subparagraph (i) of this paragraph may be sent by electronic transmission, by posting on the homeowners association's home page, or by including the notice in the homeowners association's newsletter.

(f) Except for an expenditure made by the homeowners association because of a condition that, if not corrected, could reasonably result in a threat to the health or safety of the lot owners or a significant risk of damage to the development, any expenditure that would result in an increase in an amount of assessments for the current fiscal year of the homeowners association in excess of 15% of the budgeted amount previously adopted shall be approved by an amendment to the budget adopted at a special meeting for which not less than 10 days' written notice or notice by electronic transmission shall be provided to the lot owners.

(g) The adoption of a budget does not impair the authority of the homeowners association to obligate the homeowners association for expenditures for any purpose consistent with any provision of this title.

[Previous][Next]