



Senate Bill 3992 Amending Legislation to S2760 Structural Integrity & Reserve Funding

LEGISLATIVE UPDATE 9.16.25

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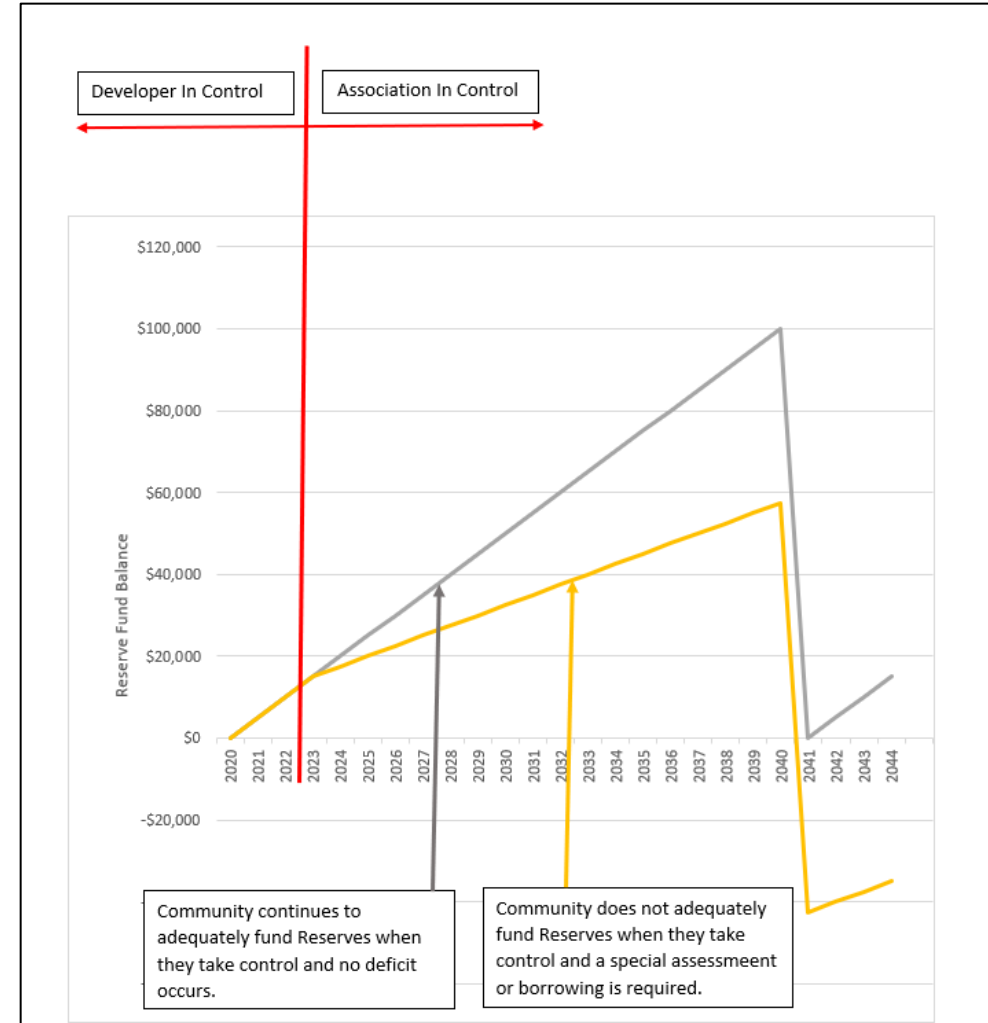
Introduction and Need for the Legislative Change

- S2760 Signed into law on January 8, 2024
- Some legislators expressed concerns
- CAI LAC responded and worked with Senator Singleton and Assemblywoman Lopez on S3992
 - Provided clarification on some provisions
 - Mandates an additional funding option
 - Provides 5-year option for funding

New Law Amends Reserve Section of S2760, ONLY.

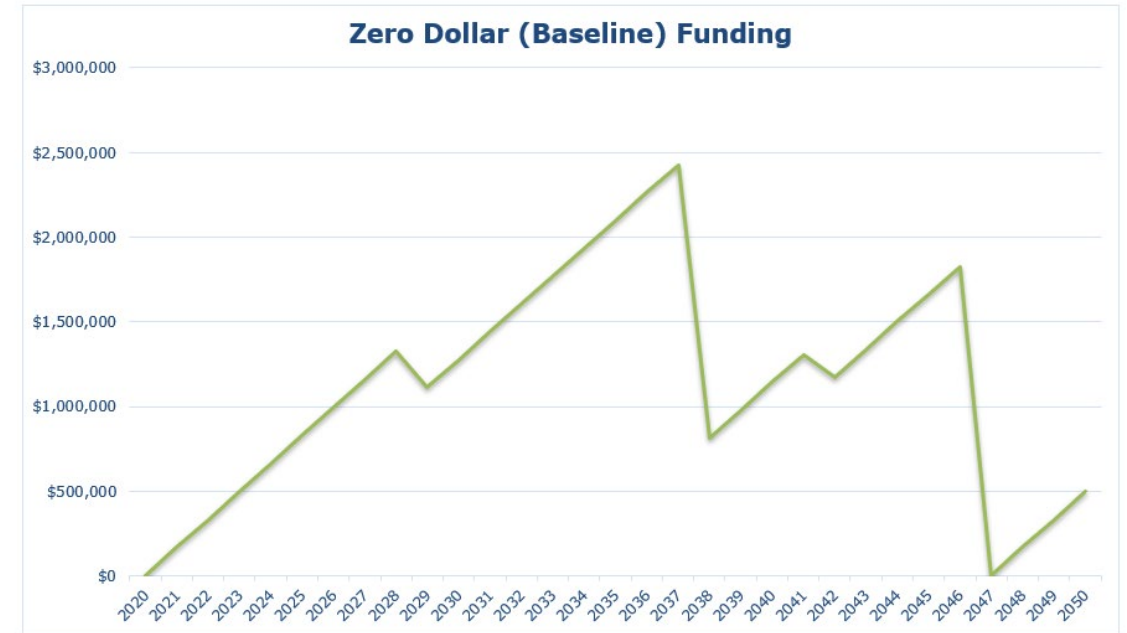
A reminder.

Why has this happened ?



New Law Amends Reserve Section of S2760, ONLY.

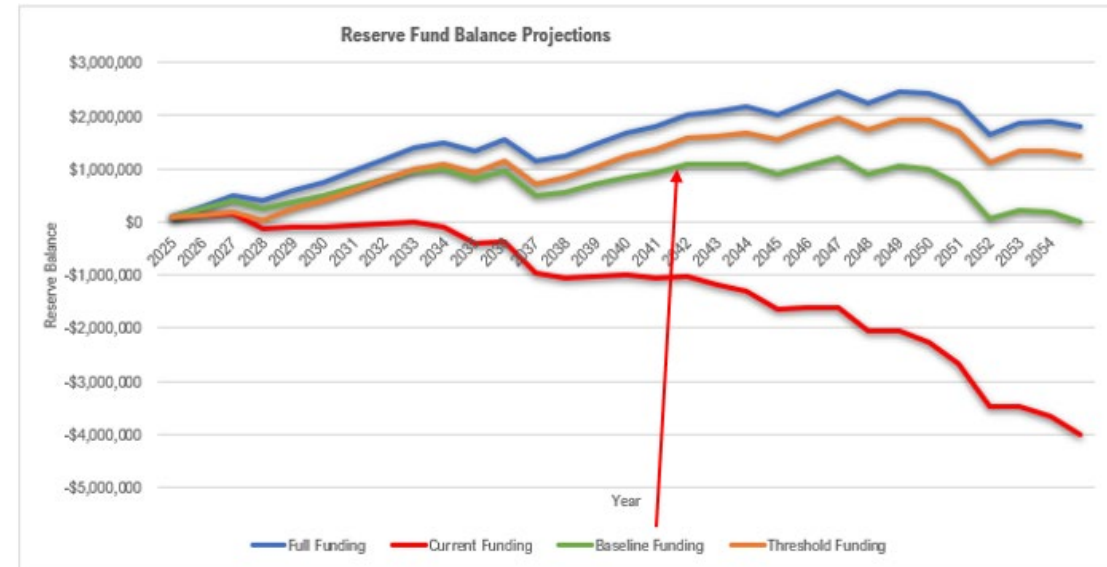
- The word “adequate” has been clarified
- “balance in the associations reserve fund will not fall below zero dollars as set forth in associations 30-year funding plan”
 - Per CAI Reserve Study Standards “Baseline Funding”



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Required Funding Option

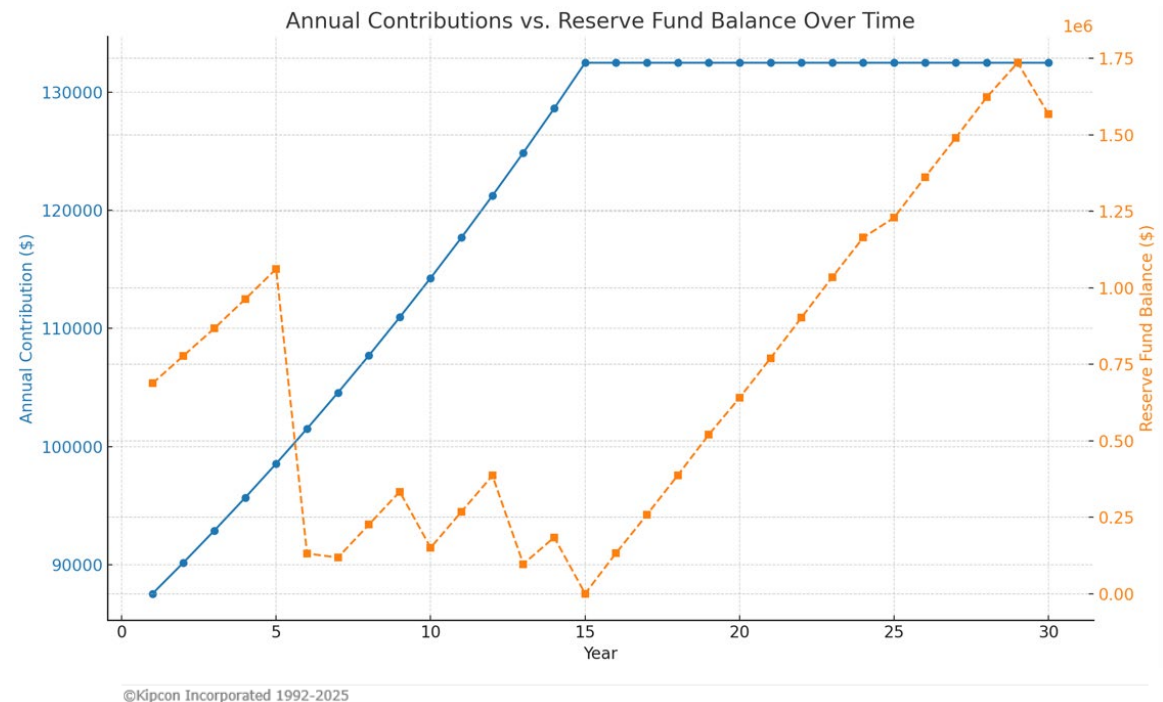
- New law mandates inclusion of Zero Dollar (Baseline Funding) Plan
 - Some reserve specialists resisted including Baseline (or zero dollar) Funding Plan in the reserve study
 - Concerned because Baseline Funding carries greatest risk of association imposing special assessment or borrowing funds
- Does not prohibit inclusion of other plans.



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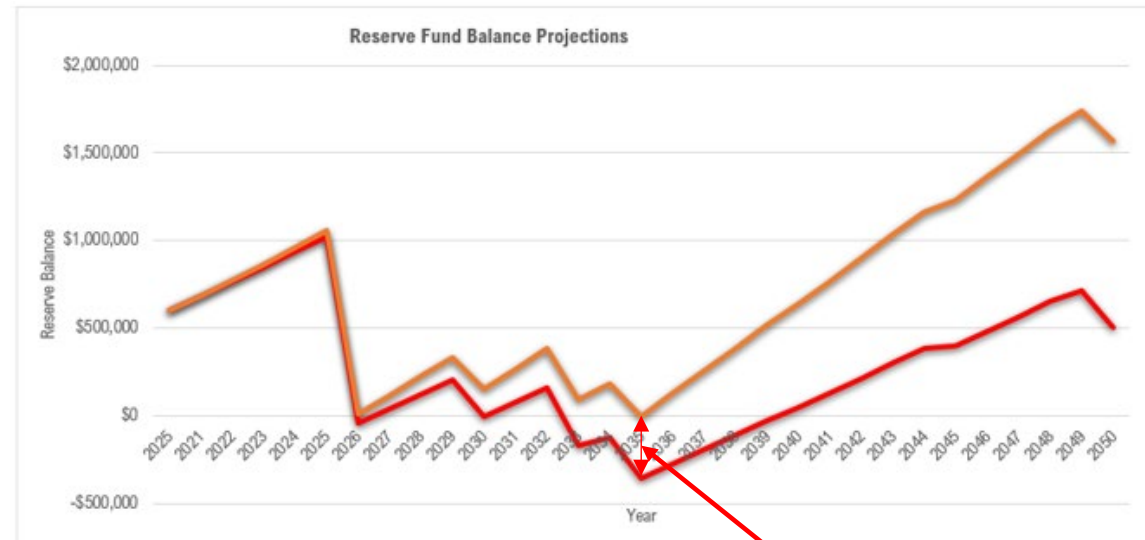
Required Funding Option

- New law makes clear that funding plans need not have fixed annual contribution
 - Contributions may escalate
 - “provided reserve fund balance is not projected to fall below zero dollars”



The 85% Rule

- The Association can “fund the capital reserve amount equal to 85 percent of one of the capital reserve funding plans “
- If Zero Dollar (Baseline) Funding is used it will result in a deficit



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Deficit in 2035 as a result of reducing Zero Dollar (Baseline) funding to 85%

When Funding at 85%, Board Disclosures

- If 85 percent option is chosen, then:
 - Before budget adoption
 - Notice to all owners in 20-point bold font if opting for 85 percent option will cause reserve balance to fall below zero dollars
 - Notice must also indicate resulting amount of predicted special assessment or loan and year

When Funding at 85%, Seller Disclosures

When funding at 85%, prior to the execution of a contract for the purchase of a residential unit, the **SELLER** shall provide the buyer a copy of the most recent notice to unit owners in the association regarding reserve funding.

5-Year Funding Option

- Law allows associations – for five years from effective date of law – to:
 - Fund in accordance with the reserve study, using any funding plan set forth; or
 - For 5 years from law's effective date fund at 85 percent of any funding plan set forth, including Zero Dollar (Baseline)

Window Of Time To Utilize The 85% Funding

- The availability of using the 85% funding method is effective on August 21, 2025 and will sunset (end) on August 21, 2030.
- The 85% funding method shall not be utilized by an association for more than five (5) fiscal years. Thereafter, Zero Dollar (Baseline) Funding shall be the minimum funding plan.

Time Period To Update The Reserve Study

- All associations must update their reserve study every five (5) years
- Funding at 85 percent will likely result in higher future reserve contributions when next update to study is done

FAQ –Does a board still have a choice of reserve funding levels?

- Yes, a board may choose reserve funding plans which are greater than Zero Base Funding such as Full Funding or Threshold Funding. As previously stated , under this legislation, the option of Zero Dollar(Baseline) funding must be included.
- In addition, the legislation clarifies that the proposed funding plans can include escalating annual contributions provided that the fund balance does not fall below zero dollars during the 30-year funding projection period.

FAQ – In the amended legislation there is a section of the earlier law that was that allowed boards to assess or borrow to fund reserves, if the reserved asset required replacement before the projected useful life expired or where the cost of repair or replacement exceeded to projected amount. May boards still borrow or special assess to fund reserves in this case?

- Yes, boards may still borrow or special assess for reserve funding.
- While one of the purposes of the law was to reduce, to the extent possible, loans or special assessments, nothing in the original or amended laws prohibit a board from borrowing or instituting a special assessment.
- If there are any limitations in the association's governing documents on obtaining a loan or specially assessing (i.e., obtaining a vote of the owners) that must still be followed. The only exception to the foregoing is if a structural repair is required under the law's requirement that certain buildings have a structural inspection, then no vote of the owners is required despite a provision of the governing documents to the contrary.

FAQ – What else was taken out of the original S2760 law?

The sections relating to the two- and ten-year reserve funding catch-up periods for existing deficiencies in the reserve fund that would have resulted in increases in their budgets of, respectively, under or over 10% were eliminated. These sections were replaced with a five-year period to catch up underfunded reserves by allowing a funding level as low as 85% of zero-base funding.

FAQ – Why does the amended S3992 require disclosure to owners by the association of possible special assessment during the five-year period that the association is opting for the 85% funding level?

- Because owners often do not recognize that when a board chooses to underfund the reserve account the impact of that decision will be to require a special assessment or borrowing to fund the cost of repair or replacement of a common-element component.
- In addition, new buyers of homes in an underfunded community will be unlikely to recognize that they will be facing future increased costs as a result of not adequately funding the reserve account. This is the reason for the new law's provision requiring a seller to provide the notice from the association that a special assessment or loan may be required to a buyer of a unit.

FAQ – If our board opts to take advantage of the 85% funding alternative, will the annual financial statement (audit) reflect this and, if so how?

- If the board decides to fund the replacement fund at 85% of the recommended amount, it will be reflected in the footnote relating to the replacement fund. If a board decided to fund below the required minimum, it will have to be disclosed that the board has approved contributions that are below the minimum funding level permitted under the New Jersey law for replacement funding.

FAQ – I was told that each time our association obtains an updated reserve study the new law allows us to take advantage of the 85% funding option. Is this true?

- No, the law is clear that the 85% option is a one-time alternative to adequately funding reserves. It commenced on the new law's adoption and ends five years later. Once the initial five-year period ends in 2030 the option will no longer be available.

FAQ – If we opt for the 85% funding option, will that increase our funding level when we obtain our next reserve update?

- It is likely that funding 85% of the zero-based funding plan will increase the required funding to the reserve account after the five-year period expires.

FAQ – If we opt this year to take advantage of the 85% funding option, must we continue funding at that level for a full five years?

- No. You may choose to fund at 85% for fiscal year 2026 and at any time during the five-year period fund at a level higher than 85%.

FAQ – Is the law's only option to fund at 85% of the zero-base funding level?

- No, an association may fund at 85% (or a higher percentage) of whichever funding plan the board adopts.

S3992 Modifications to Reserve Funding

Questions?

Thank You!