



House Bill No. 5286

Public Act No. 07-68

**AN ACT CONCERNING INSURANCE ON RESIDENTIAL
CONDOMINIUMS AND FLOOD INSURANCE FOR CONDOMINIUMS
LOCATED IN FLOOD HAZARD AREAS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 47-83 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

The declarant and the association of unit owners, by its board of directors, manager or other authorized agent shall, without prejudice to the right of each unit owner to insure his own unit for his own benefit, obtain for the condominium the following forms of insurance: (1) A master policy affording fire, extended coverage and additional perils in an amount sufficient for repair or replacement of the buildings and improvements, or portions of the buildings and improvements that in whole or in part comprise the common elements, with reasonable deductibles and coinsurance clause as the board of directors deems appropriate; and (2) a liability master policy, in an amount specified by the condominium instruments, covering the unit owners' association, the board of directors, the managing agent, if any, all persons acting or who may come to act as agents or employees of the foregoing, and all unit owners and other persons entitled to occupy any unit or other portion of the condominium. The declarant and the

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association, by its board of directors, the managing agent or other authorized agent, [may] shall obtain such other policies as may be required or authorized by the condominium instruments, or as the unit owners may by vote direct, including, without limitation, workers' compensation insurance, liability insurance on motor vehicles owned by the association and nonowned and rented vehicles, officers' and directors' indemnity policies, flood insurance in the event the condominium is located in a flood hazard area, as defined and determined by the National Flood Insurance Act, as amended (USC 42 Section 4101, P.L. 93-234), and specialized policies covering lands or improvements in which the unit owners' association has or shares ownership or other rights. When any policy or instrument has been obtained by or on behalf of the declarant or the unit owners' association, written notice thereof and of any subsequent changes in values or limits therein or termination thereof shall be promptly furnished to each unit owner. All insurance coverage obtained for the condominium under this section shall be written in the name of the association of unit owners, for the benefit of each of the unit owners and their mortgagees as their interests may appear in the percentages of their undivided interest in the common elements established in the condominium instruments. [Premiums] To the extent required by the condominium instruments, the cost of such insurance coverage shall be assessed against the units in proportion to risk. Otherwise, premiums shall be common expenses. Losses may be made payable to a trustee for restoration or distribution for the benefit of such unit owners and mortgagees as their interest may appear.

Sec. 2. Subsection (a) of section 47-84 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(a) Except as hereinafter provided, damage to or destruction of any building or improvement located on the condominium parcel or

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servicing the condominium shall be promptly repaired and restored by the declarant or the association, using the proceeds of insurance, if any, on such building or improvement for that purpose and all costs for repair or reconstruction in excess of available insurance proceeds, regardless of whether such excess is the result of the application of a deductible under insurance coverage, shall be a common expense.

Sec. 3. Section 47-255 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(a) Commencing not later than the time of the first conveyance of a unit to a person other than a declarant, the association shall maintain, to the extent reasonably available: (1) Property insurance on the common elements and, in a planned community, also on property that must become common elements, insuring against all risks of direct physical loss commonly insured against or, in the case of a conversion building, against fire and extended coverage perils. The total amount of insurance after application of any deductibles shall be not less than eighty per cent of the actual cash value of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies; (2) flood insurance in the event the condominium is located in a flood hazard area, as defined and determined by the National Flood Insurance Act, as amended, USC 42 Section 4101, P.L. 93-234, and the unit owners by vote direct; and [(2)] (3) liability insurance, including medical payments insurance, in an amount determined by the executive board but not less than any amount specified in the declaration, covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the common elements and, in cooperatives, also of all units.

(b) In the case of a building that is part of a cooperative or that

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contains units having horizontal boundaries described in the declaration, the insurance maintained under subdivision (1) of subsection (a) of this section, to the extent reasonably available, shall include the units, but need not include improvements and betterments installed by unit owners.

(c) If the insurance described in subsections (a) and (b) of this section is not reasonably available, the association promptly shall cause notice of that fact to be hand-delivered or sent prepaid by United States mail to all unit owners. The declaration may require the association to carry any other insurance, and the association in any event may carry any other insurance it considers appropriate to protect the association or the unit owners.

(d) Insurance policies carried pursuant to subsections (a) and (b) of this section shall provide that: (1) Each unit owner is an insured person under the policy with respect to liability arising out of his interest in the common elements or membership in the association; (2) the insurer waives its right to subrogation under the policy against any unit owner or member of his household; (3) no act or omission by any unit owner, unless acting within the scope of his authority on behalf of the association, will void the policy or be a condition to recovery under the policy; and (4) if, at the time of a loss under the policy, there is other insurance in the name of a unit owner covering the same risk covered by the policy, the association's policy provides primary insurance.

(e) Any loss covered by the property policy under subdivision (1) of subsection (a) and subsection (b) of this section shall be adjusted with the association, but the insurance proceeds for that loss are payable to any insurance trustee designated for that purpose, or otherwise to the association, and not to any holder of a security interest. The insurance trustee or the association shall hold any insurance proceeds in trust for the association, unit owners and lien holders as their interests may appear. Subject to the provisions of subsection (h) of this section, the

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proceeds shall be disbursed first for the repair or restoration of the damaged property, and the association, unit owners and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the common interest community is terminated.

(f) An insurance policy issued to the association does not prevent a unit owner from obtaining insurance for his own benefit.

(g) An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to the association and, on written request, to any unit owner or holder of a security interest. The insurer issuing the policy may not cancel or refuse to renew it until sixty days after notice of the proposed cancellation or nonrenewal has been mailed to the association, each unit owner and each holder of a security interest to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.

(h) (1) Any portion of the common interest community for which insurance is required under this section which is damaged or destroyed shall be repaired or replaced promptly by the association unless (A) the common interest community is terminated, in which case section 47-237 applies, (B) repair or replacement would be illegal under any state or local statute or ordinance governing health or safety, or (C) eighty per cent of the unit owners, including every owner of a unit or assigned limited common element that will not be rebuilt, vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves, regardless of whether such excess is the result of the application of a deductible under insurance coverage, is a common expense. (2) If the entire common interest community is not repaired or replaced, (A) the insurance proceeds attributable to the damaged common elements shall be used to restore the damaged area

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to a condition compatible with the remainder of the common interest community, and (B) except to the extent that other persons will be distributees, (i) the insurance proceeds attributable to units and limited common elements that are not rebuilt shall be distributed to the owners of those units and the owners of the units to which those limited common elements were allocated, or to lien holders, as their interests may appear, and (ii) the remainder of the proceeds shall be distributed to all the unit owners or lien holders, as their interests may appear, in proportion to the common expense liabilities of all the units. (3) If the unit owners vote not to rebuild any unit, that unit's allocated interests are automatically reallocated on the vote as if the unit had been condemned under subsection (a) of section 47-206, and the association promptly shall prepare, execute and record an amendment to the declaration reflecting the reallocations.

(i) The provisions of this section may be varied or waived in the case of a common interest community all of whose units are restricted to nonresidential use.

Approved May 30, 2007