



General Assembly

January Session, 2007

Amendment

LCO No. 7034

HB0528607034HDO

Offered by:

REP. MEGNA, 97th Dist.

REP. O'CONNOR, 35th Dist.

REP. HARKINS, 120th Dist.

To: House Bill No. 5286

File No. 240

Cal. No. 218

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

1 Strike everything after the enacting clause and insert the following
2 in lieu thereof:

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 Section 47-83 of the general statutes is repealed and the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

5 The declarant and the association of unit owners, by its board of
6 directors, manager or other authorized agent shall, without prejudice
7 to the right of each unit owner to insure his own unit for his own
8 benefit, obtain for the condominium the following forms of insurance:
9 (1) A master policy affording fire, extended coverage and additional
10 perils in an amount sufficient for repair or replacement of the
11 buildings and improvements, or portions of the buildings and
12 improvements that in whole or in part comprise the common elements,

13 with reasonable deductibles and coinsurance clause as the board of
14 directors deems appropriate; and (2) a liability master policy, in an
15 amount specified by the condominium instruments, covering the unit
16 owners' association, the board of directors, the managing agent, if any,
17 all persons acting or who may come to act as agents or employees of
18 the foregoing, and all unit owners and other persons entitled to occupy
19 any unit or other portion of the condominium. The declarant and the
20 association, by its board of directors, the managing agent or other
21 authorized agent, [may] shall obtain such other policies as may be
22 required or authorized by the condominium instruments, or as the unit
23 owners may by vote direct, including, without limitation, workers'
24 compensation insurance, liability insurance on motor vehicles owned
25 by the association and nonowned and rented vehicles, officers' and
26 directors' indemnity policies, flood insurance in the event the
27 condominium is located in a flood hazard area, as defined and
28 determined by the National Flood Insurance Act, as amended (USC 42
29 Section 4101, P.L. 93-234), and specialized policies covering lands or
30 improvements in which the unit owners' association has or shares
31 ownership or other rights. When any policy or instrument has been
32 obtained by or on behalf of the declarant or the unit owners'
33 association, written notice thereof and of any subsequent changes in
34 values or limits therein or termination thereof shall be promptly
35 furnished to each unit owner. All insurance coverage obtained for the
36 condominium under this section shall be written in the name of the
37 association of unit owners, for the benefit of each of the unit owners
38 and their mortgagees as their interests may appear in the percentages
39 of their undivided interest in the common elements established in the
40 condominium instruments. [Premiums] To the extent required by the
41 condominium instruments, the cost of such insurance coverage shall
42 be assessed against the units in proportion to risk. Otherwise,
43 premiums shall be common expenses. Losses may be made payable to
44 a trustee for restoration or distribution for the benefit of such unit
45 owners and mortgagees as their interest may appear.

46 Sec. 2. Subsection (a) of section 47-84 of the general statutes is

47 repealed and the following is substituted in lieu thereof (*Effective*
48 *October 1, 2007*):

49 (a) Except as hereinafter provided, damage to or destruction of any
50 building or improvement located on the condominium parcel or
51 serving the condominium shall be promptly repaired and restored by
52 the declarant or the association, using the proceeds of insurance, if any,
53 on such building or improvement for that purpose and all costs for
54 repair or reconstruction in excess of available insurance proceeds,
55 regardless of whether such excess is the result of the application of a
56 deductible under insurance coverage, shall be a common expense.

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

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

80 units.

81 (b) In the case of a building that is part of a cooperative or that
82 contains units having horizontal boundaries described in the
83 declaration, the insurance maintained under subdivision (1) of
84 subsection (a) of this section, to the extent reasonably available, shall
85 include the units, but need not include improvements and betterments
86 installed by unit owners.

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

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

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

112 appear. Subject to the provisions of subsection (h) of this section, the
113 proceeds shall be disbursed first for the repair or restoration of the
114 damaged property, and the association, unit owners and lien holders
115 are not entitled to receive payment of any portion of the proceeds
116 unless there is a surplus of proceeds after the property has been
117 completely repaired or restored, or the common interest community is
118 terminated.

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

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

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

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

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2007	47-83
Sec. 2	October 1, 2007	47-84(a)
Sec. 3	October 1, 2007	47-255