



General Assembly

Amendment

January Session, 2007

LCO No. 7051

HB0528607051HRO

Offered by:
REP. WITKOS, 17th 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 Section 47-83 of the general statutes is repealed and the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. Such vote shall be taken at a meeting of the
32 unit owners called for the purpose of considering the additional
33 insurance coverage in accordance with section 47-250. When any
34 policy or instrument has been obtained by or on behalf of the declarant
35 or the unit owners' association, written notice thereof and of any
36 subsequent changes in values or limits therein or termination thereof
37 shall be promptly furnished to each unit owner. All insurance
38 coverage obtained for the condominium under this section shall be
39 written in the name of the association of unit owners, for the benefit of
40 each of the unit owners and their mortgagees as their interests may
41 appear in the percentages of their undivided interest in the common
42 elements established in the condominium instruments. [Premiums] To
43 the extent required by the condominium instruments, the cost of such
44 insurance coverage shall be assessed against the units in proportion to
45 risk. Otherwise, premiums shall be common expenses. Losses may be
46 made payable to a trustee for restoration or distribution for the benefit
47 of such unit owners and mortgagees as their interest may appear.

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

49 repealed and the following is substituted in lieu thereof (*Effective*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

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

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 Section 47-255 of the general statutes is repealed and the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

61 (a) Commencing not later than the time of the first conveyance of a
62 unit to a person other than a declarant, the association shall maintain,
63 to the extent reasonably available: (1) Property insurance on the
64 common elements and, in a planned community, also on property that
65 must become common elements, insuring against all risks of direct
66 physical loss commonly insured against or, in the case of a conversion
67 building, against fire and extended coverage perils. The total amount
68 of insurance after application of any deductibles shall be not less than
69 eighty per cent of the actual cash value of the insured property at the
70 time the insurance is purchased and at each renewal date, exclusive of
71 land, excavations, foundations and other items normally excluded
72 from property policies; (2) flood insurance in the event the
73 condominium is located in a flood hazard area, as defined and
74 determined by the National Flood Insurance Act, as amended, USC 42
75 Section 4101, P.L. 93-234, and the unit owners by vote direct. Such vote
76 shall be taken at a meeting of the unit owners called for the purpose of
77 considering the flood insurance coverage in accordance with section
78 47-250; and [(2)] (3) liability insurance, including medical payments
79 insurance, in an amount determined by the executive board but not
80 less than any amount specified in the declaration, covering all
81 occurrences commonly insured against for death, bodily injury and

82 property damage arising out of or in connection with the use,
83 ownership or maintenance of the common elements and, in
84 cooperatives, also of all units.

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

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

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

109 (e) Any loss covered by the property policy under subdivision (1) of
110 subsection (a) and subsection (b) of this section shall be adjusted with
111 the association, but the insurance proceeds for that loss are payable to
112 any insurance trustee designated for that purpose, or otherwise to the
113 association, and not to any holder of a security interest. The insurance

114 trustee or the association shall hold any insurance proceeds in trust for
115 the association, unit owners and lien holders as their interests may
116 appear. Subject to the provisions of subsection (h) of this section, the
117 proceeds shall be disbursed first for the repair or restoration of the
118 damaged property, and the association, unit owners and lien holders
119 are not entitled to receive payment of any portion of the proceeds
120 unless there is a surplus of proceeds after the property has been
121 completely repaired or restored, or the common interest community is
122 terminated.

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

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

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

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

162 (i) The provisions of this section may be varied or waived in the case
 163 of a common interest community all of whose units are restricted to
 164 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