



General Assembly

January Session, 2011

**Raised Bill No. 6613**

LCO No. 4716

\*04716\_\_\_\_\_JUD\*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

**AN ACT CONCERNING INSURANCE REQUIREMENTS UNDER THE  
COMMON INTEREST OWNERSHIP ACT.**

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

1 Section 1. Section 47-255 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2011*):

3 (a) Commencing not later than the time of the first conveyance of a  
4 unit to a person other than a declarant, the association shall maintain,  
5 to the extent reasonably available and subject to reasonable  
6 deductibles: (1) Property insurance on the common elements and, in a  
7 planned community, also on property that must become common  
8 elements, insuring against those risks of direct physical loss commonly  
9 insured against, which insurance, after application of any deductibles  
10 shall be not less than eighty per cent of the actual cash value of the  
11 insured property at the time the insurance is purchased and at each  
12 renewal date, exclusive of land, excavations, foundations and other  
13 items normally excluded from property insurance policies; (2) flood  
14 insurance in the event the condominium is located in a flood hazard  
15 area, as defined and determined by the National Flood Insurance Act,  
16 as amended, USC 42 Section 4101, P.L. 93-234, and the unit owners by

17 vote direct; (3) commercial general liability insurance, including  
18 medical payments insurance, in an amount determined by the  
19 executive board but not less than any amount specified in the  
20 declaration, covering all occurrences commonly insured against for  
21 bodily injury and property damage arising out of or in connection with  
22 the use, ownership or maintenance of the common elements and, in  
23 cooperatives, also of all units; and (4) fidelity insurance.

24 (b) In the case of a building that is part of a cooperative or that  
25 contains units [divided by] having horizontal boundaries described in  
26 the declaration, [or by vertical boundaries that comprise or are located  
27 within common walls between units,] the insurance maintained under  
28 subdivision (1) of subsection (a) of this section, to the extent reasonably  
29 available, shall include the units, [and all] but need not include  
30 improvements and betterments installed by unit owners. [, unless the  
31 declaration limits the association's authority to insure all  
32 improvements and betterments or the executive board decides, after  
33 giving notice and an opportunity for unit owners to comment, not to  
34 insure such improvements and betterments. In the case of common  
35 interest communities containing more than twelve units, unless the  
36 association insures all improvements and betterments, the association  
37 shall:

38 (1) Prepare and maintain a schedule of the standard fixtures,  
39 improvements and betterments in the units, including any standard  
40 wall, floor and ceiling coverings covered by the association's insurance  
41 policy;

42 (2) Provide such schedule at least annually to the unit owners in  
43 order to enable unit owners to coordinate their homeowners insurance  
44 coverage with the coverage afforded by the association's insurance  
45 policy; and

46 (3) Include such schedule in any resale certificate prepared pursuant  
47 to section 47-270.]

48 (c) If the insurance described in subsections (a) and (b) of this  
49 section is not reasonably available, the association promptly shall  
50 cause notice of that fact to be given to all unit owners pursuant to  
51 section 47-261c. The declaration may require the association to carry  
52 any other insurance, and the association may carry any other insurance  
53 it considers appropriate to protect the association or the unit owners.

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

65 (e) Any loss covered by the property insurance policy under  
66 subdivision (1) of subsection (a) of this section and subsection (b) of  
67 this section shall be adjusted with the association, but the insurance  
68 proceeds for that loss are payable to any insurance trustee designated  
69 for that purpose, or otherwise to the association, and not to any holder  
70 of a security interest. The insurance trustee or the association shall  
71 hold any insurance proceeds in trust for the association, unit owners  
72 and lien holders as their interests may appear. Subject to the provisions  
73 of subsection (h) of this section, the proceeds shall be disbursed first  
74 for the repair or replacement of the damaged property, and the  
75 association, unit owners and lien holders are not entitled to receive  
76 payment of any portion of the proceeds unless there is a surplus of  
77 proceeds after the property has been completely repaired or replaced,  
78 or the common interest community is terminated.

79 (f) An insurance policy issued to the association does not prevent a

80 unit owner from obtaining insurance for his own benefit.

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

90 (h) (1) Any portion of the common interest community for which  
91 insurance is required under this section which is damaged or  
92 destroyed shall be repaired or replaced promptly by the association  
93 unless (A) the common interest community is terminated, in which  
94 case section 47-237 applies, (B) repair or replacement would be illegal  
95 under any state or local statute or ordinance governing health or  
96 safety, or (C) at least eighty per cent of the unit owners, including  
97 [every] each owner of a unit or assigned limited common element that  
98 will not be rebuilt, vote not to rebuild. The cost of repair or  
99 replacement in excess of insurance proceeds and reserves, regardless  
100 of whether such excess is the result of the application of a deductible  
101 under insurance coverage, is a common expense.

102 (2) If the entire common interest community is not repaired or  
103 replaced, (A) the insurance proceeds attributable to the damaged  
104 common elements shall be used to restore the damaged area to a  
105 condition compatible with the remainder of the common interest  
106 community, and (B) except to the extent that other persons will be  
107 distributees, (i) the insurance proceeds attributable to units and limited  
108 common elements that are not rebuilt shall be distributed to the  
109 owners of those units and the owners of the units to which those  
110 limited common elements were allocated, or to lien holders, as their  
111 interests may appear, and (ii) the remainder of the proceeds shall be

112 distributed to all of the unit owners or lien holders, as their interests  
113 may appear, in proportion to the common expense liabilities of all of  
114 the units.

115 (3) If the unit owners vote not to rebuild any unit, that unit's  
116 allocated interests are automatically reallocated on the vote as if the  
117 unit had been acquired by eminent domain under subsection (a) of  
118 section 47-206, and the association promptly shall prepare, execute and  
119 record an amendment to the declaration reflecting the reallocations.

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

123 Sec. 2. Section 47-216 of the general statutes is repealed and the  
124 following is substituted in lieu thereof (*Effective October 1, 2011*):

125 (a) Except as provided in section 47-217, sections 47-202, 47-204, 47-  
126 205, 47-206, 47-218, 47-221, 47-222, 47-223, subsections (b), (d), (i) and  
127 (j) of section 47-236, sections 47-237, 47-240 and 47-244, subsection (f) of  
128 section 47-245, sections 47-250, 47-251, 47-252, 47-253, [47-255,] 47-257,  
129 47-258, 47-260, 47-261b, 47-261c, 47-261d, 47-261e, 47-270 and 47-278, to  
130 the extent necessary in construing any of those sections, apply to all  
131 common interest communities created in this state before January 1,  
132 1984; but those sections apply only with respect to events and  
133 circumstances occurring after January 1, 1984, and do not invalidate  
134 existing provisions of the declaration, bylaws or surveys or plans of  
135 those common interest communities.

136 (b) Section 47-210 and subsections (b) to (d), inclusive, of section 47-  
137 225, as amended by this act, apply to all common interest communities  
138 created in this state prior to January 1, 1984, but shall not invalidate  
139 existing provisions of the declarations, bylaws or surveys or plans of  
140 those common interest communities.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	47-255
Sec. 2	<i>October 1, 2011</i>	47-216

**Statement of Purpose:**

To eliminate certain insurance requirements under the Common Interest Ownership Act enacted in Public Act 09-225, including requirements with respect to buildings containing units divided by vertical boundaries and applicability of requirements to common interest communities created before January 1, 1984, and make technical changes.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*