

SENATE BILL 747

N1

(6lr3534)

ENROLLED BILL

— Judicial Proceedings/Economic Matters —

Introduced by **Senator McKay**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Condominiums – Unit Owner Responsibility for Damage or Destruction and**
3 **Mandatory Insurance Coverage**

4 FOR the purpose of providing that a certain unit owner is responsible for a certain cost of
5 repair or replacement for certain portions of a condominium under certain
6 circumstances; requiring a council of unit owners to inform unit owners annually of
7 certain responsibilities; requiring a certain condominium unit owner to obtain a
8 certain insurance policy for the unit; requiring a certain insurance policy to include
9 certain provisions; ~~authorizing a council of unit owners to acquire a certain insurance~~
10 ~~policy and charge a certain assessment under certain circumstances;~~ and generally
11 relating to unit owner responsibility for damage or destruction and mandatory
12 insurance coverage for condominiums.

13 BY repealing and reenacting, with amendments,
14 Article – Real Property

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber / conference committee amendments.



1 (2) (i) The council of unit owners shall give an annual notice, in writing,
2 of any obligation of an owner of a residential, detached unit to obtain property insurance
3 coverage on the unit.

4 (ii) If there is a change in any obligation under subparagraph (i) of
5 this paragraph, the council of unit owners shall promptly provide the unit owner with an
6 updated notice.

7 (c) Insurance policies carried pursuant to subsection (a) of this section shall
8 provide that:

9 (1) Subject to the applicable coverage specified under subsection (a)(1) of
10 this section, each unit owner is an insured person under the policy with respect to liability
11 arising out of the unit owner's ownership of an undivided interest in the common elements
12 or membership in the council of unit owners for property and casualty losses to the common
13 elements and the units, exclusive of improvements and betterments installed in the units
14 by unit owners other than the developer;

15 (2) The insurer waives its right to subrogation under the policy against any
16 unit owner of the condominium or members of his household;

17 (3) An act or omission by any unit owner, unless acting within the scope of
18 his authority on behalf of the council of unit owners, does not void the policy and is not a
19 condition to recovery under the policy; and

20 (4) [If] SUBJECT TO THE RESPONSIBILITY OF A UNIT OWNER UNDER
21 SUBSECTION (G)(2)(III) OF THIS SECTION, IF, at the time of a loss under the policy, there
22 is other insurance in the name of a unit owner covering the same property covered by the
23 policy, the policy is primary insurance not contributing with the other insurance.

24 (d) (1) Subject to the applicable coverage specified under subsection (a)(1) of
25 this section, any loss covered by the property policy shall be adjusted with the council of
26 unit owners, but the insurance proceeds for that loss shall be payable to any insurance
27 trustee designated for that purpose, or otherwise to the council of unit owners, and not to
28 any mortgagee.

29 (2) The insurance trustee or the council of unit owners shall hold any
30 insurance proceeds in trust for unit owners and lien holders as their interests may appear.

31 (3) (i) Subject to the provisions of subsection (g) of this section, the
32 proceeds shall be disbursed first for the repair or restoration of the damaged common
33 elements and, for condominiums with attached units, multifamily units, or detached units
34 located within a condominium not composed entirely of similar detached units that must
35 maintain a property insurance policy on the units, the damaged units.

36 (ii) Unit owners and lien holders are not entitled to receive payment
37 of any portion of the proceeds unless:

1 1. There is a surplus of proceeds after the common elements
2 and, for condominiums with attached units, multifamily units, or detached units located
3 within a condominium not composed entirely of similar detached units that must maintain
4 a property insurance policy on the units, the units have been completely repaired or
5 restored; or

6 2. The condominium is terminated.

7 (e) (1) [An] IN ADDITION TO THE REQUIREMENT IMPOSED ON A UNIT
8 OWNER UNDER § 11-114.3 OF THIS TITLE, AN insurance policy issued to the council of
9 unit owners does not prevent a unit owner from obtaining ADDITIONAL insurance for his
10 own benefit.

11 (2) Unless a council of unit owners exercises the authority under
12 paragraph (3) of this subsection, an owner of a residential, detached unit located within a
13 condominium composed entirely of similar detached units, shall carry homeowners
14 insurance coverage on the entirety of the unit.

15 (3) A council of unit owners may carry homeowners insurance on the
16 entirety of all detached units located within a condominium composed entirely of similar
17 detached units.

18 (f) (1) An insurer that has issued an insurance policy under this section shall
19 issue certificates or memoranda of insurance to the council of unit owners and, upon
20 request, to any unit owner, mortgagee, or beneficiary under a deed of trust.

21 (2) An insurer may cancel an insurance policy issued under this section in
22 accordance with § 27-603 of the Insurance Article.

23 (g) (1) Subject to the applicable coverage specified under subsection (a)(1) of
24 this section, any portion of the common elements and the units, exclusive of improvements
25 and betterments installed in the units by unit owners other than the developer, damaged
26 or destroyed shall be repaired or replaced promptly by the council of unit owners unless:

27 (i) The condominium is terminated;

28 (ii) Repair or replacement would be illegal under any State or local
29 health or safety statute or ordinance; or

30 (iii) 80 percent of the unit owners, including every owner of a unit or
31 assigned limited common element which will not be rebuilt, vote not to rebuild.

32 (2) (i) 1. The cost of repair or replacement in excess of insurance
33 proceeds and reserves is a common expense.

1 2. A property insurance deductible is not a cost of repair or
2 replacement in excess of insurance proceeds.

3 (ii) If the cause of any damage to or destruction of any portion of the
4 condominium originates from the common elements or an event outside of the condominium
5 units and common elements, the council of unit owners' property insurance deductible is a
6 common expense.

7 (iii) 1. If the cause of any damage to or destruction of any portion
8 of the condominium originates from a unit, the owner of the unit where the cause of the
9 damage or destruction originated is responsible for **THE LEAST OF:**

10 A. **THE TOTAL COST OF THE REPAIR OR REPLACEMENT;**

11 B. **THE AMOUNT OF** the council of unit owners' property
12 insurance deductible [not to exceed \$10,000] **AS SPECIFIED IN THE COUNCIL OF UNIT**
13 **OWNERS' PROPERTY INSURANCE POLICY; OR**

14 C. **\$25,000.**

15 2. The council of unit owners shall inform each unit owner
16 annually in writing of:

17 A. The unit owner's responsibility [for the council of unit
18 owners' property insurance deductible] **UNDER SUBSUBPARAGRAPH 1 OF THIS**
19 **SUBPARAGRAPH; and**

20 B. The amount of the **COUNCIL OF UNIT OWNERS'**
21 **deductible AS SPECIFIED IN THE COUNCIL OF UNIT OWNERS' PROPERTY INSURANCE**
22 **POLICY.**

23 3. The **ACTUAL AMOUNT OF THE** council of unit owners'
24 property insurance deductible amount exceeding the [**\$10,000**] responsibility of the unit
25 owner **UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH** is a common expense.

26 (iv) In the same manner as provided under § 11-110 of this title, the
27 council of unit owners may make an [annual] assessment against the unit owner
28 responsible under subparagraph (iii) of this paragraph.

29 (3) If the damaged or destroyed portion of the condominium is not repaired
30 or replaced:

31 (i) The insurance proceeds attributable to the damaged common
32 elements shall be used to restore the damaged area to a condition compatible with the
33 remainder of the condominium;

1 (ii) The insurance proceeds attributable to units and limited
 2 common elements which are not rebuilt shall be distributed to the owners of those units
 3 and the owners of the units to which those limited common elements were assigned; and

4 (iii) The remainder of the proceeds shall be distributed to all the unit
 5 owners in proportion to their percentage interest in the common elements.

6 (4) (i) If the unit owners vote not to rebuild any unit, that unit's entire
 7 common element interest, votes in the council of unit owners, and common expense liability
 8 are automatically reallocated upon the vote as if the unit had been condemned under §
 9 11-112 of this title, and the council of unit owners promptly shall prepare, execute, and
 10 record an amendment to the declaration reflecting the reallocations.

11 (ii) Notwithstanding the provisions of this subsection, § 11-123 of
 12 this title governs the distribution of insurance proceeds if the condominium is terminated.

13 (h) The council of unit owners shall maintain and make available for inspection a
 14 copy of all insurance policies maintained by the council of unit owners.

15 (i) The provisions of this section do not apply to a condominium all of whose units
 16 are intended for nonresidential use.

17 **11-114.3.**

18 (A) (1) **THIS SECTION APPLIES ONLY TO A CONDOMINIUM COMPOSED**
 19 **ENTIRELY OF UNITS INTENDED FOR RESIDENTIAL USE.**

20 (2) **THIS SECTION DOES NOT APPLY TO DETACHED UNITS OF A**
 21 **CONDOMINIUM COMPOSED ENTIRELY OF SIMILAR DETACHED UNITS.**

22 (B) (1) **A UNIT OWNER SHALL MAINTAIN A CONDOMINIUM UNIT OWNER**
 23 **INSURANCE POLICY OR A SUBSTANTIALLY SIMILAR PROPERTY INSURANCE POLICY**
 24 **ON THE UNIT.**

25 (2) **AN INSURANCE POLICY REQUIRED UNDER PARAGRAPH (1) OF**
 26 **THIS SUBSECTION SHALL INCLUDE:**

27 (I) **COVERAGE FOR THE COUNCIL OF UNIT OWNERS' PROPERTY**
 28 **INSURANCE DEDUCTIBLE OR A PORTION OF THE DEDUCTIBLE REQUIRED UNDER §**
 29 **11-114 OF THIS TITLE;**

30 (II) ~~**A COVERAGE LIMIT THAT IS SUFFICIENT TO REPAIR OR**~~
 31 ~~**REPLACE THE UNIT OWNER'S PERSONAL PROPERTY OR THE CONTENTS OF THE UNIT;**~~

1 ~~(III) LOSS OF USE COVERAGE IN AN AMOUNT SUFFICIENT TO~~
2 ~~PROVIDE ALTERNATE HOUSING FOR AT LEAST 12 MONTHS IF THE UNIT OWNER~~
3 ~~CANNOT LIVE IN THE UNIT;~~

4 ~~(IV) PERSONAL LIABILITY COVERAGE OF AT LEAST \$500,000;~~

5 ~~(V) LOSS ASSESSMENT COVERAGE OF AT LEAST \$25,000; AND~~

6 ~~(VI)~~ (III) DWELLING OR BUILDING PROPERTY COVERAGE OF AT
7 LEAST THE GREATER OF:

8 1. \$25,000; OR

9 2. THE AMOUNT NECESSARY TO REPAIR AND REPLACE:

10 A. ~~ALTERATIONS, ADDITIONS, IMPROVEMENTS AND~~
11 ~~BETTERMENTS, AND INVESTMENTS MADE BY THE CURRENT OWNER OR ACQUIRED~~
12 ~~BY THE CURRENT UNIT FROM ANY PREVIOUS OWNER OTHER THAN THE DEVELOPER;~~
13 AND

14 B. UPGRADES CONVEYED TO THE UNIT OWNER THAT
15 ARE THE RESPONSIBILITY OF THE UNIT OWNER TO INSURE UNDER THE BYLAWS OF
16 THE CONDOMINIUM.

17 (C) THE BYLAWS OF A CONDOMINIUM MAY NOT REQUIRE A UNIT OWNER TO
18 MAINTAIN AN INSURANCE POLICY THAT INCLUDES COVERAGE AMOUNTS IN EXCESS
19 OF THE REQUIREMENTS UNDER SUBSECTION (B) OF THIS SECTION.

20 (D) EACH UNIT OWNER SHALL PROVIDE EVIDENCE OF THE INSURANCE
21 POLICY REQUIRED UNDER SUBSECTION (B) OF THIS SECTION TO THE COUNCIL OF
22 UNIT OWNERS:

23 (1) ANNUALLY; AND

24 (2) ON REQUEST BY THE COUNCIL OF UNIT OWNERS.

25 (E) ~~(1) IF A UNIT OWNER DOES NOT MAINTAIN AN INSURANCE POLICY AS~~
26 ~~REQUIRED UNDER SUBSECTION (B) OF THIS SECTION, THE COUNCIL OF UNIT~~
27 ~~OWNERS MAY ACQUIRE AN INSURANCE POLICY ON BEHALF OF THE UNIT OWNER.~~

28 ~~(2) A COUNCIL OF UNIT OWNERS THAT ACQUIRES AN INSURANCE~~
29 ~~POLICY ON BEHALF OF A UNIT OWNER UNDER PARAGRAPH (1) OF THIS SUBSECTION~~
30 ~~MAY CHARGE THE INSURANCE PREMIUM AS AN ASSESSMENT TO THE UNIT OWNER.~~

1 ~~(3) FOR AN INSURANCE POLICY ACQUIRED ON BEHALF OF A UNIT~~
 2 ~~OWNER UNDER THIS SUBSECTION, THE INSURANCE CARRIER SHALL PAY DIRECTLY~~
 3 ~~TO THE COUNCIL OF UNIT OWNERS THE PORTION OF THE COUNCIL'S DEDUCTIBLE~~
 4 ~~THAT THE UNIT OWNER IS RESPONSIBLE FOR UNDER § 11-114 OF THIS TITLE THE~~
 5 ~~ABSENCE OF INSURANCE COVERAGE UNDER THIS SECTION DOES NOT LIMIT A UNIT~~
 6 ~~OWNER'S RESPONSIBILITY UNDER § 11-114(G)(2)(III) OF THIS TITLE.~~

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 8 October 1, ~~2026~~ 2027.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.