

2017 -- H 5223

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

RELATING TO PROPERTY - CONDOMINIUM LAW - INSURANCE

Introduced By: Representatives Solomon, Phillips, Coughlin, Johnston, and O'Brien

Date Introduced: January 26, 2017

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 34-36.1-3.13 of the General Laws in Chapter 34-36.1 entitled
2 "Condominium Law" is hereby amended to read as follows:

3 **34-36.1-3.13. Insurance.**

4 (a) Commencing not later than the time of the first conveyance of a unit to a person other
5 than a declarant, the association shall maintain, to the extent reasonably available:

6 (1) Property insurance on the common elements insuring against all risks of direct
7 physical loss commonly insured against or, in the case of a conversion building, against fire and
8 extended coverage perils. The total amount of insurance after application of any deductibles shall
9 be not less than eighty percent (80%) of the actual cash value of the insured property at the time
10 the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations
11 and other items normally excluded from property policies; and

12 (2) Liability insurance, including medical payments insurance, in an amount determined
13 by the executive board but not less than any amount specified in the declaration, covering all
14 occurrences commonly insured against for death, bodily injury, and property damage arising out
15 of or in connection with the use, ownership, or maintenance of the common elements and any
16 property owned or leased by the association.

17 (b) In the case of a building containing units having horizontal boundaries described in
18 the declaration, the insurance maintained under subdivision (a)(1), to the extent reasonably
19 available, shall include the units, but need not include improvements and betterments installed by

1 unit owners.

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

7 (d) Insurance policies carried pursuant to subsection (a) must provide that:

8 (1) Each unit owner is an insured person under the policy with respect to liability arising
9 out of the owner's interest in the common elements or membership in the association;

10 (2) The insurer waives its right to subrogation under the policy against any unit owner or
11 member of the owner's household;

12 (3) No act or omission by any unit owner, unless acting within the scope of his or her
13 authority on behalf of the association, will void the policy or be a condition to recovery under the
14 policy; and

15 (4) If, at the time of a loss under the policy, there is other insurance in the name of a unit
16 owner covering the same risk covered by the policy, the association's policy provides primary
17 insurance.

18 (e) Any loss covered by the property policy under subdivision (a)(1) and subsection (b)
19 must be adjusted with the association, but the insurance proceeds for that loss are payable to any
20 insurance trustee designated for that purpose, or otherwise to the association, and not to any
21 mortgagee or beneficiary under a deed of trust. The insurance trustee or the association shall hold
22 any insurance proceeds in trust for unit owners and lien holders as their interests may appear.
23 Subject to the provisions of subsection (h), the proceeds must be disbursed first for the repair or
24 restoration of the damaged property, and unit owners and lien holders are not entitled to receive
25 payment of any portion of the proceeds unless there is a surplus of proceeds after the property has
26 been completed, repaired or restored, or the condominium is terminated.

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

29 (g) An insurer that has issued an insurance policy under this section shall issue
30 certificates or memoranda of insurance to the association and, upon written request, to any unit
31 owner, mortgagee, or beneficiary under a deed of trust. The insurer issuing the policy may not
32 cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or
33 nonrenewal has been mailed to the association, each unit owner and each mortgagee or
34 beneficiary under a deed of trust to whom a certificate or memorandum of insurance has been

1 issued at their respective last known addresses.

2 (h) Any portion of the condominium for which insurance is required under this section
3 which is damaged or destroyed shall be repaired or replaced promptly by the association unless
4 (1) the condominium is terminated, (2) repair or replacement would be illegal under any state or
5 local health or safety statute or ordinance, or (3) eighty percent (80%) of the unit owners,
6 including every owner of a unit or assigned limited common element which will not be rebuilt,
7 vote not to rebuild unless insurance proceeds are adequate to rebuild. The cost of repair or
8 replacement in excess of insurance proceeds and reserves is a common expense. If the entire
9 condominium is not repaired or replaced, (1) the insurance proceeds attributable to the damaged
10 common elements must be used to restore the damaged area to a condition compatible with the
11 remainder of the condominium, (2) the insurance proceeds attributable to units and limited
12 common elements which are not rebuilt must be distributed to the owners of those units and the
13 owners of the units to which those limited common elements were allocated, or to lienholders, as
14 their interests may appear, and (3) the remainder of the proceeds must be distributed to all the unit
15 owners or lienholders, as their interests may appear, in proportion to the common element
16 interests of all the units. If the unit owners vote not to rebuild any unit, that unit's allocated
17 interests are automatically reallocated upon the vote as if the unit had been condemned under §
18 34-36.1-1.07(a) and the association promptly shall prepare, execute, and record an amendment to
19 the declaration reflecting the reallocations. Notwithstanding the provisions of this subsection, §
20 34-36.1-2.18 governs the distribution of insurance proceeds if the condominium is terminated.

21 (i) In the event a unit owner sustains damage to the owner's unit as a result of an event
22 that is covered under the insurance coverage purchased in accordance with this subsection, then
23 upon written request to the condominium association, the unit owner shall be entitled to a written
24 copy from the condominium association of the insurance company damage appraisal or any
25 damage appraisal in regard to damage to the owner's unit, within fourteen (14) calendar days of
26 the date of the unit owner's request, or within fourteen (14) days of the association's receipt of the
27 damage appraisal, whichever is later. If coverage for the damage to a unit is denied for any reason
28 or is deemed to be valued below the policy deductible, then the unit owner shall also be entitled
29 to receive, from the association, a copy of the letter detailing the determination.

30 ~~(j)~~ (j) The provisions of this section may be varied or waived in the case of a
31 condominium all of whose units are restricted to nonresidential use.

32 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO PROPERTY - CONDOMINIUM LAW - INSURANCE

1 This act would entitle a condominium unit owner to a written copy of an insurance
2 company damage appraisal within fourteen calendar days of the date of the unit owner's request
3 from the condominium association or within fourteen (14) days of the receipt of the appraisal by
4 the association.

5 This act would take effect upon passage.

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