

SB3014



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB3014

Introduced 2/7/2014, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

765 ILCS 605/12

from Ch. 30, par. 312

Amends the Condominium Property Act. Makes a technical change in a Section concerning insurance.

LRB098 19731 HEP 54944 b

A BILL FOR

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Condominium Property Act is amended by
5 changing Section 12 as follows:

6 (765 ILCS 605/12) (from Ch. 30, par. 312)

7 Sec. 12. Insurance.

8 (a) Required coverage. No policy of insurance ~~insurance~~
9 shall be issued or delivered to a condominium association, and
10 no policy of insurance issued to a condominium association
11 shall be renewed, unless the insurance coverage under the
12 policy includes the following:

13 (1) Property insurance. Property insurance (i) on the
14 common elements and the units, including the limited common
15 elements and except as otherwise determined by the board of
16 managers, the bare walls, floors, and ceilings of the unit,
17 (ii) providing coverage for special form causes of loss,
18 and (iii) in a total amount of not less than the full
19 insurable replacement cost of the insured property, less
20 deductibles, but including coverage for the increased
21 costs of construction due to building code requirements, at
22 the time the insurance is purchased and at each renewal
23 date.

1 (2) General liability insurance. Commercial general
2 liability insurance against claims and liabilities arising
3 in connection with the ownership, existence, use, or
4 management of the property in a minimum amount of
5 \$1,000,000, or a greater amount deemed sufficient in the
6 judgment of the board, insuring the board, the association,
7 the management agent, and their respective employees and
8 agents and all persons acting as agents. The developer must
9 be included as an additional insured in its capacity as a
10 unit owner, manager, board member, or officer. The unit
11 owners must be included as additional insured parties but
12 only for claims and liabilities arising in connection with
13 the ownership, existence, use, or management of the common
14 elements. The insurance must cover claims of one or more
15 insured parties against other insured parties.

16 (3) Fidelity bond; directors and officers coverage.

17 (A) An association with 6 or more dwelling units
18 must obtain and maintain a fidelity bond covering
19 persons, including the managing agent and its
20 employees who control or disburse funds of the
21 association, for the maximum amount of coverage
22 available to protect funds in the custody or control of
23 the association, plus the association reserve fund.

24 (B) All management companies that are responsible
25 for the funds held or administered by the association
26 must be covered by a fidelity bond for the maximum

1 amount of coverage available to protect those funds.
2 The association has standing to make a loss claim
3 against the bond of the managing agent as a party
4 covered under the bond.

5 (C) For purposes of paragraphs (A) and (B), the
6 fidelity bond must be in the full amount of association
7 funds and reserves in the custody of the association or
8 the management company.

9 (D) The board of directors must obtain directors
10 and officers liability coverage at a level deemed
11 reasonable by the board, if not otherwise established
12 by the declaration or bylaws. Directors and officers
13 liability coverage must extend to all contracts and
14 other actions taken by the board in their official
15 capacity as directors and officers, but this coverage
16 shall exclude actions for which the directors are not
17 entitled to indemnification under the General Not For
18 Profit Corporation Act of 1986 or the declaration and
19 bylaws of the association.

20 (b) Contiguous units; improvements and betterments. The
21 insurance maintained under subdivision (a) (1) must include the
22 units, the limited common elements except as otherwise
23 determined by the board of managers, and the common elements.
24 The insurance need not cover improvements and betterments to
25 the units installed by unit owners, but if improvements and
26 betterments are covered, any increased cost may be assessed by

1 the association against the units affected.

2 Common elements include fixtures located within the
3 unfinished interior surfaces of the perimeter walls, floors,
4 and ceilings of the individual units initially installed by the
5 developer. Common elements exclude floor, wall, and ceiling
6 coverings. "Improvements and betterments" means all
7 decorating, fixtures, and furnishings installed or added to and
8 located within the boundaries of the unit, including electrical
9 fixtures, appliances, air conditioning and heating equipment,
10 water heaters, or built-in cabinets installed by unit owners.

11 (c) Deductibles. The board of directors of the association
12 may, in the case of a claim for damage to a unit or the common
13 elements, (i) pay the deductible amount as a common expense,
14 (ii) after notice and an opportunity for a hearing, assess the
15 deductible amount against the owners who caused the damage or
16 from whose units the damage or cause of loss originated, or
17 (iii) require the unit owners of the units affected to pay the
18 deductible amount.

19 (d) Other coverages. The declaration may require the
20 association to carry any other insurance, including workers
21 compensation, employment practices, environmental hazards, and
22 equipment breakdown, the board of directors considers
23 appropriate to protect the association, the unit owners, or
24 officers, directors, or agents of the association.

25 (e) Insured parties; waiver of subrogation. Insurance
26 policies carried pursuant to subsections (a) and (b) must

1 include each of the following provisions:

2 (1) Each unit owner and secured party is an insured
3 person under the policy with respect to liability arising
4 out of the unit owner's interest in the common elements or
5 membership in the association.

6 (2) The insurer waives its right to subrogation under
7 the policy against any unit owner of the condominium or
8 members of the unit owner's household and against the
9 association and members of the board of directors.

10 (3) The unit owner waives his or her right to
11 subrogation under the association policy against the
12 association and the board of directors.

13 (f) Primary insurance. If at the time of a loss under the
14 policy there is other insurance in the name of a unit owner
15 covering the same property covered by the policy, the
16 association's policy is primary insurance.

17 (g) Adjustment of losses; distribution of proceeds. Any
18 loss covered by the property policy under subdivision (a)(1)
19 must be adjusted by and with the association. The insurance
20 proceeds for that loss must be payable to the association, or
21 to an insurance trustee designated by the association for that
22 purpose. The insurance trustee or the association must hold any
23 insurance proceeds in trust for unit owners and secured parties
24 as their interests may appear. The proceeds must be disbursed
25 first for the repair or restoration of the damaged common
26 elements, the bare walls, ceilings, and floors of the units,

1 and then to any improvements and betterments the association
2 may insure. Unit owners are not entitled to receive any portion
3 of the proceeds unless there is a surplus of proceeds after the
4 common elements and units have been completely repaired or
5 restored or the association has been terminated as trustee.

6 (h) Mandatory unit owner coverage. The board of directors
7 may, under the declaration and bylaws or by rule, require
8 condominium unit owners to obtain insurance covering their
9 personal liability and compensatory (but not consequential)
10 damages to another unit caused by the negligence of the owner
11 or his or her guests, residents, or invitees, or regardless of
12 any negligence originating from the unit. The personal
13 liability of a unit owner or association member must include
14 the deductible of the owner whose unit was damaged, any damage
15 not covered by insurance required by this subsection, as well
16 as the decorating, painting, wall and floor coverings, trim,
17 appliances, equipment, and other furnishings.

18 If the unit owner does not purchase or produce evidence of
19 insurance requested by the board, the directors may purchase
20 the insurance coverage and charge the premium cost back to the
21 unit owner. In no event is the board liable to any person
22 either with regard to its decision not to purchase the
23 insurance, or with regard to the timing of its purchase of the
24 insurance or the amounts or types of coverages obtained.

25 (i) Certificates of insurance. Contractors and vendors
26 (except public utilities) doing business with a condominium

1 association under contracts exceeding \$10,000 per year must
2 provide certificates of insurance naming the association, its
3 board of directors, and its managing agent as additional
4 insured parties.

5 (j) Non-residential condominiums. The provisions of this
6 Section may be varied or waived in the case of a condominium
7 community in which all units are restricted to nonresidential
8 use.

9 (k) Settlement of claims. Any insurer defending a liability
10 claim against a condominium association must notify the
11 association of the terms of the settlement no less than 10 days
12 before settling the claim. The association may not veto the
13 settlement unless otherwise provided by contract or statute.

14 (Source: P.A. 92-518, eff. 6-1-02.)