



Sen. William R. Haine

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LRB098 19731 HEP 57208 a

1 AMENDMENT TO SENATE BILL 3014

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3014 by replacing  
3 everything after the enacting clause with the following:

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 shall be  
9 issued or delivered to a condominium association, and no policy  
10 of insurance issued to a condominium association shall be  
11 renewed, unless the insurance coverage under the policy  
12 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,

1 (ii) providing coverage for special form causes of loss,  
2 and (iii) providing coverage, at the time the insurance is  
3 purchased and at each renewal date, in a total amount of  
4 not less than the full insurable replacement cost of the  
5 insured property, less deductibles, but including coverage  
6 sufficient to rebuild the insured property in compliance  
7 with building code requirements subsequent to an insured  
8 loss, including: Coverage A, loss to the undamaged portion  
9 of the building; Coverage B, demolition costs; and Coverage  
10 C, increased cost of construction coverage. The combined  
11 total of Coverage B and Coverage C shall be no less than  
12 10% of each insured insured building value, or \$500,000,  
13 whichever is less in a total amount of not less than the  
14 full insurable replacement cost of the insured property,  
15 less deductibles, but including coverage for the increased  
16 costs of construction due to building code requirements, at  
17 the time the insurance is purchased and at each renewal  
18 date.

19 (2) General liability insurance. Commercial general  
20 liability insurance against claims and liabilities arising  
21 in connection with the ownership, existence, use, or  
22 management of the property in a minimum amount of  
23 \$1,000,000, or a greater amount deemed sufficient in the  
24 judgment of the board, insuring the board, the association,  
25 the management agent, and their respective employees and  
26 agents and all persons acting as agents. The developer must

1 be included as an additional insured in its capacity as a  
2 unit owner, manager, board member, or officer. The unit  
3 owners must be included as additional insured parties but  
4 only for claims and liabilities arising in connection with  
5 the ownership, existence, use, or management of the common  
6 elements. The insurance must cover claims of one or more  
7 insured parties against other insured parties.

8 (3) Fidelity bond; directors and officers coverage;  
9 workers' compensation.

10 (A) An association with 6 or more dwelling units  
11 must obtain and maintain a fidelity bond covering  
12 persons, including the managing agent and its  
13 employees who control or disburse funds of the  
14 association, for the maximum amount of coverage  
15 available to protect funds in the custody or control of  
16 the association, plus the association reserve fund.

17 (B) All management companies that are responsible  
18 for the funds held or administered by the association  
19 must be covered by a fidelity bond for the maximum  
20 amount of coverage available to protect those funds.  
21 The association has standing to make a loss claim  
22 against the bond of the managing agent as a party  
23 covered under the bond.

24 (C) For purposes of paragraphs (A) and (B), the  
25 fidelity bond must be in the full amount of association  
26 funds and reserves in the custody of the association or

1 the management company.

2 (D) The board of directors must obtain directors  
3 and officers liability coverage at a level deemed  
4 reasonable by the board, if not otherwise established  
5 by the declaration or bylaws. Directors and officers  
6 liability coverage must extend to all contracts and  
7 other actions taken by the board in their official  
8 capacity as directors and officers, but this coverage  
9 shall exclude actions for which the directors are not  
10 entitled to indemnification under the General Not For  
11 Profit Corporation Act of 1986 or the declaration and  
12 bylaws of the association. The coverage required by  
13 this subparagraph (D) shall include, but not be limited  
14 to, coverage of: defense of non-monetary actions or  
15 resulting damages; defense of breach of contract; and  
16 decisions related to the placement or adequacy of  
17 insurance. The coverage required by this subparagraph  
18 (D) shall include as an insured: past, present, and  
19 future board members while acting in their capacity as  
20 members of the board of directors; the managing agent;  
21 and employees of the board of directors and the  
22 managing agent.

23 (E) The board of directors must obtain workers'  
24 compensation insurance, including coverage of the  
25 employer's liability.

26 (b) Contiguous units; improvements and betterments. The

1 insurance maintained under subdivision (a) (1) must include the  
2 units, the limited common elements except as otherwise  
3 determined by the board of managers, and the common elements.  
4 The insurance need not cover improvements and betterments to  
5 the units installed by unit owners, but if improvements and  
6 betterments are covered, any increased cost may be assessed by  
7 the association against the units affected.

8 Common elements include fixtures located within the  
9 unfinished interior surfaces of the perimeter walls, floors,  
10 and ceilings of the individual units initially installed by the  
11 developer. Common elements exclude floor, wall, and ceiling  
12 coverings. "Improvements and betterments" means all  
13 decorating, fixtures, and furnishings installed or added to and  
14 located within the boundaries of the unit, including electrical  
15 fixtures, appliances, air conditioning and heating equipment,  
16 water heaters, ~~or~~ built-in cabinets installed by unit owners,  
17 or any other additions, alterations, or upgrades installed or  
18 purchased by any unit owner.

19 (c) Deductibles. The board of directors of the association  
20 may, in the case of a claim for damage to a unit or the common  
21 elements, (i) pay the deductible amount as a common expense,  
22 (ii) after notice and an opportunity for a hearing, assess the  
23 deductible amount against the owners who caused the damage or  
24 from whose units the damage or cause of loss originated, or  
25 (iii) require the unit owners of the units affected to pay the  
26 deductible amount.

1 (d) Other coverages. The declaration may require the  
2 association to carry any other insurance, ~~including workers~~  
3 ~~compensation~~, employment practices, environmental hazards, and  
4 equipment breakdown, the board of directors considers  
5 appropriate to protect the association, the unit owners, or  
6 officers, directors, or agents of the association.

7 (e) Insured parties; waiver of subrogation. Insurance  
8 policies carried pursuant to subsections (a) and (b) must  
9 include each of the following provisions:

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

14 (2) The insurer waives its right to subrogation under  
15 the policy against any unit owner of the condominium or  
16 members of the unit owner's household and against the  
17 association and members of the board of directors.

18 (3) The unit owner waives his or her right to  
19 subrogation under the association policy against the  
20 association and the board of directors.

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

25 (g) Adjustment of losses; distribution of proceeds. Any  
26 loss covered by the property policy under subdivision (a) (1)

1 must be adjusted by and with the association. The insurance  
2 proceeds for that loss must be payable to the association, or  
3 to an insurance trustee designated by the association for that  
4 purpose. The insurance trustee or the association must hold any  
5 insurance proceeds in trust for unit owners and secured parties  
6 as their interests may appear. The proceeds must be disbursed  
7 first for the repair or restoration of the damaged common  
8 elements, the bare walls, ceilings, and floors of the units,  
9 and then to any improvements and betterments the association  
10 may insure. Unit owners are not entitled to receive any portion  
11 of the proceeds unless there is a surplus of proceeds after the  
12 common elements and units have been completely repaired or  
13 restored or the association has been terminated as trustee.

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

26 ~~If the unit owner does not purchase or produce evidence of~~

1 ~~insurance requested by the board, the directors may purchase~~  
2 ~~the insurance coverage and charge the premium cost back to the~~  
3 ~~unit owner. In no event is the board liable to any person~~  
4 ~~either with regard to its decision not to purchase the~~  
5 ~~insurance, or with regard to the timing of its purchase of the~~  
6 ~~insurance or the amounts or types of coverages obtained.~~

7 (i) Certificates of insurance. Contractors and vendors  
8 (except public utilities) doing business with a condominium  
9 association under contracts exceeding \$10,000 per year must  
10 provide certificates of insurance naming the association, its  
11 board of directors, and its managing agent as additional  
12 insured parties.

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

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

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