

HOUSE BILL 1305

N1, C4

1lr2321

By: **Delegate Arentz**

Introduced and read first time: February 8, 2021

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Condominiums – Mandatory Insurance Coverage – Alterations**

3 FOR the purpose of providing that certain property insurance requirements are applicable
4 to certain elements and units under certain circumstances; providing that for a
5 certain type of unit, the requirement that each unit owner is an insured person under
6 a certain insurance policy with respect to certain liability applies only to common
7 elements; requiring that a loss for certain types of units covered by a certain policy
8 be adjusted with the council of unit owners in a certain manner; providing that a
9 requirement that the council of unit owners repair or replace certain elements or
10 units under certain circumstances applies to certain elements under certain
11 circumstances; making stylistic changes; and generally relating to mandatory
12 insurance coverage for condominiums.

13 BY repealing and reenacting, with amendments,
14 Article – Real Property
15 Section 11–114
16 Annotated Code of Maryland
17 (2015 Replacement Volume and 2020 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
19 That the Laws of Maryland read as follows:

20 **Article – Real Property**

21 11–114.

22 (a) Commencing not later than the time of the first conveyance of a unit to a
23 person other than the developer, the council of unit owners shall maintain, to the extent
24 reasonably available:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (1) Property insurance [on the common elements and units, exclusive of
2 improvements and betterments installed in units by unit owners other than the developer,
3 insuring against those risks of direct physical loss commonly insured against,] in amounts
4 determined by the council of unit owners, but not less than any amounts specified in the
5 declaration or bylaws, **AGAINST RISKS OF DIRECT PHYSICAL LOSS COMMONLY**
6 **INSURED AGAINST:**

7 (I) **FOR ATTACHED OR MULTIFAMILY DWELLING UNITS, ON THE**
8 **COMMON ELEMENTS AND UNITS, EXCLUSIVE OF IMPROVEMENTS AND**
9 **BETTERMENTS INSTALLED IN UNITS BY UNIT OWNERS OTHER THAN THE**
10 **DEVELOPER; AND**

11 (II) **FOR DETACHED UNITS, ON THE COMMON ELEMENTS; and**

12 (2) Comprehensive general liability insurance, including medical
13 payments insurance, in an amount determined by the council of unit owners, but not less
14 than any amount specified in the declaration or bylaws, covering occurrences commonly
15 insured against for death, bodily injury, and property damage arising out of or in connection
16 with the use, ownership, or maintenance of the common elements.

17 (b) The council of unit owners shall give notice to all unit owners of the
18 termination of any insurance policy within 10 days of termination. The declaration or
19 bylaws may require the council of unit owners to carry any other insurance, and the council
20 of unit owners in any event may carry any other insurance it deems appropriate to protect
21 the council of unit owners or the unit owners.

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

24 (1) For property and casualty losses to the common elements and the units,
25 exclusive of improvements and betterments installed in the units by unit owners other than
26 the developer, **OR FOR DETACHED UNITS, PROPERTY AND CASUALTY LOSSES TO THE**
27 **COMMON ELEMENTS**, each unit owner is an insured person under the policy with respect
28 to liability arising out of his ownership of an undivided interest in the common elements or
29 membership in the council of unit owners;

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

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

35 (4) If, at the time of a loss under the policy, there is other insurance in the
36 name of a unit owner covering the same property covered by the policy, the policy is primary
37 insurance not contributing with the other insurance.

1 (d) (1) Any loss **FOR ATTACHED OR MULTIFAMILY DWELLING UNITS**
2 covered by the property policy under subsection (a)(1) of this section shall be adjusted with
3 the council of unit owners, but the insurance proceeds for that loss shall be payable to any
4 insurance trustee designated for that purpose, or otherwise to the council of unit owners,
5 and not to any mortgagee.

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

8 (3) Subject to the provisions of subsection (g) of this section, the proceeds
9 shall be disbursed first for the repair or restoration of the damaged common elements and
10 units, and unit owners and lien holders are not entitled to receive payment of any portion
11 of the proceeds unless there is a surplus of proceeds after the common elements and units
12 have been completely repaired or restored, or the condominium is terminated.

13 (e) An insurance policy issued to the council of unit owners does not prevent a
14 unit owner from obtaining insurance for his own benefit.

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

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

20 (g) (1) **[Any] SUBJECT TO THE APPLICABLE COVERAGE SPECIFIED**
21 **UNDER SUBSECTION (A) OF THIS SECTION, ANY** portion of the common elements and the
22 units, exclusive of improvements and betterments installed in the units by unit owners
23 other than the developer, damaged or destroyed shall be repaired or replaced promptly by
24 the council of unit owners unless:

25 (i) The condominium is terminated;

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

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

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

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

34 (ii) If the cause of any damage to or destruction of any portion of the

1 condominium originates from the common elements or an event outside of the condominium
2 units and common elements, the council of unit owners' property insurance deductible is a
3 common expense.

4 (iii) 1. If the cause of any damage to or destruction of any portion
5 of the condominium originates from a unit, the owner of the unit where the cause of the
6 damage or destruction originated is responsible for the council of unit owners' property
7 insurance deductible not to exceed \$10,000.

8 2. The council of unit owners shall inform each unit owner
9 annually in writing of:

10 A. The unit owner's responsibility for the council of unit
11 owners' property insurance deductible; and

12 B. The amount of the deductible.

13 3. The council of unit owners' property insurance deductible
14 amount exceeding the \$10,000 responsibility of the unit owner is a common expense.

15 (iv) In the same manner as provided under § 11–110 of this title, the
16 council of unit owners may make an annual assessment against the unit owner responsible
17 under subparagraph (iii) of this paragraph.

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

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

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

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

28 (4) (I) If the unit owners vote not to rebuild any unit, that unit's entire
29 common element interest, votes in the council of unit owners, and common expense liability
30 are automatically reallocated upon the vote as if the unit had been condemned under §
31 11–112 of this title, and the council of unit owners promptly shall prepare, execute, and
32 record an amendment to the declaration reflecting the reallocations.

33 (II) Notwithstanding the provisions of this subsection, § 11–123 of
34 this title governs the distribution of insurance proceeds if the condominium is terminated.

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

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

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2021.