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By: **Delegates Leopold and Krysiak**  
Introduced and read first time: January 27, 1999  
Assigned to: Economic Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Real Property - Maryland Condominium Act - Unit Owner Liability**

3 FOR the purpose of requiring a certain unit owner to pay the council of unit owners'  
4 property insurance deductible under certain circumstances; clarifying a certain  
5 term for provisions of law relating to the cost of repair or replacement in excess  
6 of insurance proceeds under a council of unit owners' property insurance policy;  
7 clarifying language that the property insurance deductible is a common expense  
8 under certain circumstances; authorizing the council of unit owners to opt out of  
9 certain provisions of law regarding the liability of a certain unit owner for the  
10 property insurance deductible under certain circumstances; limiting the  
11 monetary liability of a certain unit owner under certain circumstances;  
12 requiring the council of unit owners to provide certain notice to a unit owner of  
13 the potential liability for the property insurance deductible under certain  
14 circumstances; authorizing the council of unit owners to assess a certain unit  
15 owner under certain circumstances; and generally relating to the liability of a  
16 certain unit owner for the council of unit owners' property insurance deductible  
17 under certain circumstances.

18 BY repealing and reenacting, without amendments,  
19 Article - Real Property  
20 Section 11-114(a) and (c)  
21 Annotated Code of Maryland  
22 (1996 Replacement Volume and 1998 Supplement)

23 BY repealing and reenacting, with amendments,  
24 Article - Real Property  
25 Section 11-114(g)(2)  
26 Annotated Code of Maryland  
27 (1996 Replacement Volume and 1998 Supplement)

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

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**Article - Real Property**

2 11-114.

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

6 (1) Property insurance on the common elements and units, exclusive of  
7 improvements and betterments installed in units by unit owners, insuring against  
8 those risks of direct physical loss commonly insured against, in amounts determined  
9 by the council of unit owners but not less than any amounts specified in the  
10 declaration or bylaws; and

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

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

18 (1) Each unit owner is an insured person under the policy with respect to  
19 liability arising out of his ownership of an undivided interest in the common elements  
20 or membership in the council of unit owners;

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

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

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

29 (g) (2) (I) The cost of repair or replacement in excess of insurance  
30 proceeds and reserves is a common expense. A PROPERTY INSURANCE DEDUCTIBLE IS  
31 NOT A COST OF REPAIR OR REPLACEMENT IN EXCESS OF INSURANCE PROCEEDS.

32 (II) IF THE DAMAGE OR DESTRUCTION OF ANY PORTION OF THE  
33 CONDOMINIUM ORIGINATES FROM THE COMMON ELEMENTS, THE COUNCIL OF UNIT  
34 OWNERS' PROPERTY INSURANCE DEDUCTIBLE IS A COMMON EXPENSE.

35 (III) EXCEPT AS OTHERWISE PROVIDED IN THE COUNCIL OF UNIT  
36 OWNERS' BYLAWS, IF THE DAMAGE OR DESTRUCTION OF ANY PORTION OF THE  
37 CONDOMINIUM ORIGINATES FROM A UNIT:

1                                   1.       THE OWNER OF THE UNIT WHERE THE DAMAGE OR  
2 DESTRUCTION ORIGINATED IS RESPONSIBLE FOR THE COUNCIL OF UNIT OWNERS'  
3 PROPERTY INSURANCE DEDUCTIBLE IN AN AMOUNT NOT EXCEEDING \$1,000; AND

4                                   2.       THE DEDUCTIBLE AMOUNT EXCEEDING THE \$1,000  
5 RESPONSIBILITY OF THE UNIT OWNER IS A COMMON EXPENSE.

6                                   (IV)     IN THE SAME MANNER AS PROVIDED UNDER § 11-110 OF THIS  
7 ARTICLE, THE COUNCIL OF UNIT OWNERS MAY MAKE AN ANNUAL ASSESSMENT  
8 AGAINST THE UNIT OWNER RESPONSIBLE UNDER SUBSECTION (G)(2)(III) OF THIS  
9 SUBSECTION.

10                                  (V)     COMMENCING NOT LATER THAN THE TIME OF THE FIRST  
11 CONVEYANCE OF A UNIT TO A PERSON OTHER THAN THE DEVELOPER, THE COUNCIL  
12 OF UNIT OWNERS SHALL NOTIFY A UNIT OWNER, IN THE PUBLIC OFFERING  
13 STATEMENT, OF THE POTENTIAL RESPONSIBILITY FOR THE COUNCIL OF UNIT  
14 OWNERS' PROPERTY INSURANCE DEDUCTIBLE, AND THAT PROPERTY AND LIABILITY  
15 INSURANCE FOR THE UNIT OWNER'S BENEFIT MAY BE OBTAINED.

16       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
17 October 1, 1999.