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By: **Senator Jacobs**  
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Committee Report: Favorable with amendments  
Senate action: Adopted  
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CHAPTER \_\_\_\_\_

1 AN ACT concerning

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

3 FOR the purpose of requiring a certain condominium unit owner to pay the council of  
4 unit owners' property insurance deductible under certain circumstances;  
5 clarifying a certain term for provisions of law relating to the cost of repair or  
6 replacement in excess of insurance proceeds under a council of unit owners'  
7 property insurance policy; clarifying language that the property insurance  
8 deductible is a common expense under certain circumstances; authorizing the  
9 council of unit owners to opt out of certain provisions of law regarding the  
10 liability of a certain unit owner for the property insurance deductible under  
11 certain circumstances; limiting the monetary liability of a certain unit owner  
12 under certain circumstances; ~~requiring the council of unit owners to provide~~  
13 ~~certain notice to a unit owner of the potential liability for the property insurance~~  
14 ~~deductible under certain circumstances~~; authorizing the council of unit owners  
15 to assess a certain unit owner under certain circumstances; and generally  
16 relating to the liability of a certain condominium unit owner for the council of  
17 unit owners' property insurance deductible 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 1999 Supplement)

23 BY repealing and reenacting, with amendments,  
24 Article - Real Property  
25 Section 11-114(g)(2)

1 Annotated Code of Maryland  
2 (1996 Replacement Volume and 1999 Supplement)

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

5 **Article - Real Property**

6 11-114.

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

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

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

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

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

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

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

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

33 (g) (2) (I) ~~A.~~ 1. The cost of repair or replacement in excess of insurance  
34 proceeds and reserves is a common expense.

35 ~~B.~~ 2. A PROPERTY INSURANCE DEDUCTIBLE IS NOT A  
36 COST OF REPAIR OR REPLACEMENT IN EXCESS OF INSURANCE PROCEEDS.

1 (II) IF THE CAUSE OF ANY DAMAGE TO OR DESTRUCTION OF ANY  
2 PORTION OF THE CONDOMINIUM ORIGINATES FROM THE COMMON ELEMENTS, THE  
3 COUNCIL OF UNIT OWNERS' PROPERTY INSURANCE DEDUCTIBLE IS A COMMON  
4 EXPENSE.

5 (III) EXCEPT AS OTHERWISE PROVIDED IN THE COUNCIL OF UNIT  
6 OWNERS' BYLAWS, IF THE CAUSE OF ANY DAMAGE TO OR DESTRUCTION OF ANY  
7 PORTION OF THE CONDOMINIUM ORIGINATES FROM A UNIT AND RESULTS FROM A  
8 TORTIOUS ACT OR OMISSION OF THE UNIT OWNER:

9 1. THE OWNER OF THE UNIT WHERE THE CAUSE OF THE  
10 DAMAGE OR DESTRUCTION ORIGINATED IS RESPONSIBLE FOR THE COUNCIL OF  
11 UNIT OWNERS' PROPERTY INSURANCE DEDUCTIBLE IN AN AMOUNT NOT EXCEEDING  
12 \$1,000; AND

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

15 (IV) IN THE SAME MANNER AS PROVIDED UNDER § 11-110 OF THIS  
16 ARTICLE, THE COUNCIL OF UNIT OWNERS MAY MAKE AN ANNUAL ASSESSMENT  
17 AGAINST THE UNIT OWNER RESPONSIBLE UNDER SUBPARAGRAPH (III) OF THIS  
18 PARAGRAPH.

19 ~~(V) COMMENCING NOT LATER THAN THE TIME OF THE FIRST~~  
20 ~~CONVEYANCE OF A UNIT TO A PERSON OTHER THAN THE DEVELOPER, THE COUNCIL~~  
21 ~~OF UNIT OWNERS SHALL NOTIFY A UNIT OWNER, IN THE PUBLIC OFFERING~~  
22 ~~STATEMENT, OF THE POTENTIAL RESPONSIBILITY FOR THE COUNCIL OF UNIT~~  
23 ~~OWNERS' PROPERTY INSURANCE DEDUCTIBLE, AND THAT PROPERTY AND LIABILITY~~  
24 ~~INSURANCE FOR THE UNIT OWNER'S BENEFIT MAY BE OBTAINED.~~

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 October 1, 2000.