

HOUSE BILL 938

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2001 Regular Session  
1r2279  
CF 1r2730

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By: **Delegates Brown and Pitkin**

Introduced and read first time: February 9, 2001

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 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; clarifying  
9 language that if the council of unit owners' bylaws provides that the owner of the  
10 unit where the cause of certain damage or destruction originated is responsible,  
11 the unit owner is responsible for the property insurance deductible; limiting the  
12 monetary liability of a certain unit owner under certain circumstances;  
13 authorizing the council of unit owners to assess a certain unit owner under  
14 certain circumstances; and generally relating to the liability of a certain  
15 condominium unit owner for the council of unit owners' property insurance  
16 deductible under certain circumstances.

17 BY repealing and reenacting, without amendments,  
18 Article - Real Property  
19 Section 11-114(a) and (c)  
20 Annotated Code of Maryland  
21 (1996 Replacement Volume and 2000 Supplement)

22 BY repealing and reenacting, with amendments,  
23 Article - Real Property  
24 Section 11-114(g)(2)  
25 Annotated Code of Maryland  
26 (1996 Replacement Volume and 2000 Supplement)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
28 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) 1. The cost of repair or replacement in excess of insurance  
30 proceeds and reserves is a common expense.

31 2. A PROPERTY INSURANCE DEDUCTIBLE IS NOT A COST OF  
32 REPAIR OR REPLACEMENT IN EXCESS OF INSURANCE PROCEEDS.

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

1 (III) 1. EXCEPT AS OTHERWISE PROVIDED IN THE COUNCIL OF  
2 UNIT OWNERS' BYLAWS, IF THE CAUSE OF ANY DAMAGE TO OR DESTRUCTION OF ANY  
3 PORTION OF THE CONDOMINIUM ORIGINATES FROM A UNIT, THE COUNCIL OF UNIT  
4 OWNERS' PROPERTY INSURANCE DEDUCTIBLE IS A COMMON EXPENSE.

5 2. IF THE COUNCIL OF UNIT OWNERS' BYLAWS PROVIDES  
6 THAT THE OWNER OF THE UNIT WHERE THE CAUSE OF THE DAMAGE OR  
7 DESTRUCTION ORIGINATED IS RESPONSIBLE FOR THE COUNCIL OF UNIT OWNERS'  
8 PROPERTY INSURANCE DEDUCTIBLE, THE UNIT OWNER'S RESPONSIBILITY MAY NOT  
9 EXCEED \$1,000.

10 3. THE COUNCIL OF UNIT OWNERS' PROPERTY INSURANCE  
11 DEDUCTIBLE AMOUNT EXCEEDING THE \$1,000 RESPONSIBILITY OF THE UNIT OWNER  
12 IS A COMMON EXPENSE.

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

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
18 October 1, 2001.