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By: **Senator Jacobs**  
Introduced and read first time: February 2, 2001  
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Committee Report: Favorable  
Senate action: Adopted  
Read second time: March 6, 2001

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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; 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

1 (1996 Replacement Volume and 2000 Supplement)

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

4 **Article - Real Property**

5 11-114.

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

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

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

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

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

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

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

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

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

34 2. A PROPERTY INSURANCE DEDUCTIBLE IS NOT A COST OF  
35 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) 1. EXCEPT AS OTHERWISE PROVIDED IN THE COUNCIL OF  
6 UNIT OWNERS' BYLAWS, IF THE CAUSE OF ANY DAMAGE TO OR DESTRUCTION OF ANY  
7 PORTION OF THE CONDOMINIUM ORIGINATES FROM A UNIT, THE COUNCIL OF UNIT  
8 OWNERS' PROPERTY INSURANCE DEDUCTIBLE IS A COMMON EXPENSE.

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

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

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

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