



Sen. William R. Haine

Filed: 4/3/2014

09800SB3014sam003

LRB098 19731 HEP 58105 a

1 AMENDMENT TO SENATE BILL 3014

2 AMENDMENT NO. _____. Amend Senate Bill 3014 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Condominium Property Act is amended by
5 changing Section 12 as follows:

6 (765 ILCS 605/12) (from Ch. 30, par. 312)

7 Sec. 12. Insurance.

8 (a) Required coverage. No policy of insurance shall be
9 issued or delivered to a condominium association, and no policy
10 of insurance issued to a condominium association shall be
11 renewed, unless the insurance coverage under the policy
12 includes the following:

13 (1) Property insurance. Property insurance (i) on the
14 common elements and the units, including the limited common
15 elements and except as otherwise determined by the board of
16 managers, the bare walls, floors, and ceilings of the unit,

1 (ii) providing coverage for special form causes of loss,
2 and (iii) providing coverage, at the time the insurance is
3 purchased and at each renewal date, in a total amount of
4 not less than the full insurable replacement cost of the
5 insured property, less deductibles, but including coverage
6 sufficient to rebuild the insured property in compliance
7 with building code requirements subsequent to an insured
8 loss, including: Coverage B, demolition costs; and
9 Coverage C, increased cost of construction coverage. The
10 combined total of Coverage B and Coverage C shall be no
11 less than 10% of each insured insured building value, or
12 \$500,000, whichever is less ~~in a total amount of not less~~
13 ~~than the full insurable replacement cost of the insured~~
14 ~~property, less deductibles, but including coverage for the~~
15 ~~increased costs of construction due to building code~~
16 ~~requirements, at the time the insurance is purchased and at~~
17 ~~each renewal date.~~

18 (2) General liability insurance. Commercial general
19 liability insurance against claims and liabilities arising
20 in connection with the ownership, existence, use, or
21 management of the property in a minimum amount of
22 \$1,000,000, or a greater amount deemed sufficient in the
23 judgment of the board, insuring the board, the association,
24 the management agent, and their respective employees and
25 agents and all persons acting as agents. The developer must
26 be included as an additional insured in its capacity as a

1 unit owner, manager, board member, or officer. The unit
2 owners must be included as additional insured parties but
3 only for claims and liabilities arising in connection with
4 the ownership, existence, use, or management of the common
5 elements. The insurance must cover claims of one or more
6 insured parties against other insured parties.

7 (3) Fidelity bond; directors and officers coverage.

8 (A) An association with 6 or more dwelling units
9 must obtain and maintain a fidelity bond covering
10 persons, including the managing agent and its
11 employees who control or disburse funds of the
12 association, for the maximum amount of coverage
13 available to protect funds in the custody or control of
14 the association, plus the association reserve fund.

15 (B) All management companies that are responsible
16 for the funds held or administered by the association
17 must be covered by a fidelity bond for the maximum
18 amount of coverage available to protect those funds.
19 The association has standing to make a loss claim
20 against the bond of the managing agent as a party
21 covered under the bond.

22 (C) For purposes of paragraphs (A) and (B), the
23 fidelity bond must be in the full amount of association
24 funds and reserves in the custody of the association or
25 the management company.

26 (D) The board of directors must obtain directors

1 and officers liability coverage at a level deemed
2 reasonable by the board, if not otherwise established
3 by the declaration or bylaws. Directors and officers
4 liability coverage must extend to all contracts and
5 other actions taken by the board in their official
6 capacity as directors and officers, but this coverage
7 shall exclude actions for which the directors are not
8 entitled to indemnification under the General Not For
9 Profit Corporation Act of 1986 or the declaration and
10 bylaws of the association. The coverage required by
11 this subparagraph (D) shall include, but not be limited
12 to, coverage of: defense of non-monetary actions;
13 defense of breach of contract; and defense of decisions
14 related to the placement or adequacy of insurance. The
15 coverage required by this subparagraph (D) shall
16 include as an insured: past, present, and future board
17 members while acting in their capacity as members of
18 the board of directors; the managing agent; and
19 employees of the board of directors and the managing
20 agent.

21 (b) Contiguous units; improvements and betterments. The
22 insurance maintained under subdivision (a)(1) must include the
23 units, the limited common elements except as otherwise
24 determined by the board of managers, and the common elements.
25 The insurance need not cover improvements and betterments to
26 the units installed by unit owners, but if improvements and

1 betterments are covered, any increased cost may be assessed by
2 the association against the units affected.

3 Common elements include fixtures located within the
4 unfinished interior surfaces of the perimeter walls, floors,
5 and ceilings of the individual units initially installed by the
6 developer. Common elements exclude floor, wall, and ceiling
7 coverings. "Improvements and betterments" means all
8 decorating, fixtures, and furnishings installed or added to and
9 located within the boundaries of the unit, including electrical
10 fixtures, appliances, air conditioning and heating equipment,
11 water heaters, ~~or~~ built-in cabinets installed by unit owners,
12 or any other additions, alterations, or upgrades installed or
13 purchased by any unit owner.

14 (c) Deductibles. The board of directors of the association
15 may, in the case of a claim for damage to a unit or the common
16 elements, (i) pay the deductible amount as a common expense,
17 (ii) after notice and an opportunity for a hearing, assess the
18 deductible amount against the owners who caused the damage or
19 from whose units the damage or cause of loss originated, or
20 (iii) require the unit owners of the units affected to pay the
21 deductible amount.

22 (d) Other coverages. The declaration may require the
23 association to carry any other insurance, including workers
24 compensation, employment practices, environmental hazards, and
25 equipment breakdown, the board of directors considers
26 appropriate to protect the association, the unit owners, or

1 officers, directors, or agents of the association.

2 (e) Insured parties; waiver of subrogation. Insurance
3 policies carried pursuant to subsections (a) and (b) must
4 include each of the following provisions:

5 (1) Each unit owner and secured party is an insured
6 person under the policy with respect to liability arising
7 out of the unit owner's interest in the common elements or
8 membership in the association.

9 (2) The insurer waives its right to subrogation under
10 the policy against any unit owner of the condominium or
11 members of the unit owner's household and against the
12 association and members of the board of directors.

13 (3) The unit owner waives his or her right to
14 subrogation under the association policy against the
15 association and the board of directors.

16 (f) Primary insurance. If at the time of a loss under the
17 policy there is other insurance in the name of a unit owner
18 covering the same property covered by the policy, the
19 association's policy is primary insurance.

20 (g) Adjustment of losses; distribution of proceeds. Any
21 loss covered by the property policy under subdivision (a)(1)
22 must be adjusted by and with the association. The insurance
23 proceeds for that loss must be payable to the association, or
24 to an insurance trustee designated by the association for that
25 purpose. The insurance trustee or the association must hold any
26 insurance proceeds in trust for unit owners and secured parties

1 as their interests may appear. The proceeds must be disbursed
2 first for the repair or restoration of the damaged common
3 elements, the bare walls, ceilings, and floors of the units,
4 and then to any improvements and betterments the association
5 may insure. Unit owners are not entitled to receive any portion
6 of the proceeds unless there is a surplus of proceeds after the
7 common elements and units have been completely repaired or
8 restored or the association has been terminated as trustee.

9 (h) Mandatory unit owner coverage. The board of directors
10 may, under the declaration and bylaws or by rule, require
11 condominium unit owners to obtain insurance covering their
12 personal liability and compensatory (but not consequential)
13 damages to another unit caused by the negligence of the owner
14 or his or her guests, residents, or invitees, or regardless of
15 any negligence originating from the unit. The personal
16 liability of a unit owner or association member must include
17 the deductible of the owner whose unit was damaged, any damage
18 not covered by insurance required by this subsection, as well
19 as the decorating, painting, wall and floor coverings, trim,
20 appliances, equipment, and other furnishings.

21 ~~If the unit owner does not purchase or produce evidence of~~
22 ~~insurance requested by the board, the directors may purchase~~
23 ~~the insurance coverage and charge the premium cost back to the~~
24 ~~unit owner. In no event is the board liable to any person~~
25 ~~either with regard to its decision not to purchase the~~
26 ~~insurance, or with regard to the timing of its purchase of the~~

1 ~~insurance or the amounts or types of coverages obtained.~~

2 (i) Certificates of insurance. Contractors and vendors
3 (except public utilities) doing business with a condominium
4 association under contracts exceeding \$10,000 per year must
5 provide certificates of insurance naming the association, its
6 board of directors, and its managing agent as additional
7 insured parties.

8 (j) Non-residential condominiums. The provisions of this
9 Section may be varied or waived in the case of a condominium
10 community in which all units are restricted to nonresidential
11 use.

12 (k) Settlement of claims. Any insurer defending a liability
13 claim against a condominium association must notify the
14 association of the terms of the settlement no less than 10 days
15 before settling the claim. The association may not veto the
16 settlement unless otherwise provided by contract or statute.

17 (l) The changes to this Section made by this amendatory Act
18 of the 98th General Assembly apply only to insurance policies
19 issued or renewed on or after June 1, 2015.

20 (Source: P.A. 92-518, eff. 6-1-02.)

21 Section 99. Effective date. This Act takes effect June 1,
22 2015."