

HOUSE BILL 249

N1

9lr1229

By: **Delegate Stein**

Introduced and read first time: January 24, 2019

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Condominiums – Responsibility for Property Insurance Deductibles**

3 FOR the purpose of altering, in the case of a council of unit owners' responsibility to repair
4 or replace damage to certain portions of a condominium, the circumstances under
5 which the council of unit owners' property insurance deductible is a common expense;
6 altering the circumstances under which a unit owner is responsible for the council of
7 unit owners' property insurance deductible; providing for the application of this Act;
8 and generally relating to the responsibility for property insurance deductibles in
9 condominiums.

10 BY repealing and reenacting, with amendments,
11 Article – Real Property
12 Section 11–114(g)
13 Annotated Code of Maryland
14 (2015 Replacement Volume and 2018 Supplement)

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

17 **Article – Real Property**

18 11–114.

19 (g) (1) Any portion of the common elements and the units, exclusive of
20 improvements and betterments installed in the units by unit owners other than the
21 developer, damaged or destroyed shall be repaired or replaced promptly by the council of
22 unit owners unless:

23 (i) The condominium is terminated;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (ii) Repair or replacement would be illegal under any State or local
2 health or safety statute or ordinance; or

3 (iii) 80 percent of the unit owners, including every owner of a unit or
4 assigned limited common element which will not be rebuilt, vote not to rebuild.

5 (2) (i) 1. The cost of repair or replacement in excess of insurance
6 proceeds and reserves is a common expense.

7 2. A property insurance deductible is not a cost of repair or
8 replacement in excess of insurance proceeds.

9 (ii) If the cause of any damage to or destruction of any portion of the
10 condominium originates from the common elements **OR AN EVENT OUTSIDE OF THE**
11 **CONDOMINIUM UNITS AND COMMON ELEMENTS**, the council of unit owners' property
12 insurance deductible is a common expense.

13 (iii) 1. **[If EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 3**
14 **OF THIS SUBPARAGRAPH, IF** the cause of any damage to or destruction of any portion of
15 the condominium originates from a unit, the owner of the unit where the cause of the
16 damage or destruction originated is responsible for the council of unit owners' property
17 insurance deductible not to exceed \$5,000.

18 2. The council of unit owners shall inform each unit owner
19 annually in writing of:

20 A. The unit owner's responsibility for the council of unit
21 owners' property insurance deductible; and

22 B. The amount of the deductible.

23 3. The council of unit owners' property insurance deductible
24 amount exceeding the \$5,000 responsibility of the unit owner is a common expense,
25 **UNLESS THE BYLAWS OF THE COUNCIL OF UNIT OWNERS EXPRESSLY PROVIDE THAT**
26 **A UNIT OWNER IS RESPONSIBLE FOR PAYMENT OF THE FULL DEDUCTIBLE AMOUNT**
27 **NOT TO EXCEED \$25,000.**

28 (iv) In the same manner as provided under § 11-110 of this title, the
29 council of unit owners may make an annual assessment against the unit owner responsible
30 under subparagraph (iii) of this paragraph.

31 (3) If the damaged or destroyed portion of the condominium is not repaired
32 or replaced:

1 (i) The insurance proceeds attributable to the damaged common
2 elements shall be used to restore the damaged area to a condition compatible with the
3 remainder of the condominium;

4 (ii) The insurance proceeds attributable to units and limited
5 common elements which are not rebuilt shall be distributed to the owners of those units
6 and the owners of the units to which those limited common elements were assigned; and

7 (iii) The remainder of the proceeds shall be distributed to all the unit
8 owners in proportion to their percentage interest in the common elements.

9 (4) If the unit owners vote not to rebuild any unit, that unit's entire
10 common element interest, votes in the council of unit owners, and common expense liability
11 are automatically reallocated upon the vote as if the unit had been condemned under §
12 11–112 of this title, and the council of unit owners promptly shall prepare, execute, and
13 record an amendment to the declaration reflecting the reallocations. Notwithstanding the
14 provisions of this subsection, § 11–123 of this title governs the distribution of insurance
15 proceeds if the condominium is terminated.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all
17 policies of property and casualty insurance issued, delivered, or renewed in the State to a
18 condominium council of unit owners as required under Section 11–114 of the Real Property
19 Article on or after October 1, 2019.

20 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2019.