

2017 Regular Session

HOUSE BILL NO. 469

BY REPRESENTATIVES FALCONER AND STOKES

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CONDOMINIUMS: Provides relative to the Louisiana Condominium Act

1 AN ACT

2 To amend and reenact R.S. 9:1121.103(3) and (5), 1123.112(A)(introductory paragraph) and
3 (1), (B), (C)(introductory paragraph) and (1), and (E) and to enact R.S.
4 9:1123.102(17), relative to the Louisiana Condominium Act; to provide for
5 definitions; to provide for powers of unit owner associations; provides for procedure;
6 provides for insurance requirements; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 9:1121.103(3) and (5), 1123.112(A)(introductory paragraph) and (1),
9 (B), (C)(introductory paragraph) and (1), and (E) are hereby amended and reenacted and R.S.
10 9:1123.102(17) is hereby enacted to read as follows:

11 §1121.103. Definitions

12 As used in this Part:

13 * * *

14 (3)(a) "Unit" means a part of the condominium property subject to individual
15 ownership that is the responsibility of the unit owner. A unit may include air space
16 only. A unit includes such accessory rights and obligations as are stipulated in the
17 condominium declaration.

18 (b) "Unit" shall also include all of the following personal property and
19 replacement of all of the following when located within the unit or its limited
20 common elements and when serving only the unit:

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§1123.112. Insurance; requirements; procedure; penalties

A. Commencing not later than the time of the first conveyance of a unit to a person other than a declarant, the association shall maintain, to the extent reasonably available, all of the following:

(1) Property insurance on the common elements ~~and units~~, exclusive of improvements and betterments installed in units by unit owners, insuring against all risks of direct physical loss commonly insured against. The total amount of insurance after application of any deductibles shall be not less than eighty percent of the actual cash value of the insured property, exclusive of land, excavations, foundations, and other items normally excluded from property policies; ~~and~~.

* * *

B. If the insurance described in Subsection A is not maintained, the association promptly shall cause notice of that fact to be hand-delivered or sent prepaid by United States mail to all unit owners. The declaration may require the association to carry any other insurance, and the association in any event may carry any other insurance it deems appropriate to protect the association ~~or the unit owners~~.

C. Insurance policies carried pursuant to Subsection A ~~must~~ shall provide that:

(1) Each unit owner is an insured person under the policy with respect to liability arising out of his ownership of an individual interest in the common elements or membership in the association. Neither a unit owner nor his lessee or occupant shall be required to be an insured person covered by the policy maintained by the association for any liability arising out of use of the unit or the condition thereof.

* * *

E.(1) ~~An insurance policy issued to the association does not prevent a unit owner from obtaining insurance for his own benefit~~ A unit owner shall be required to carry both of the following:

1 (a) A property insurance policy with limits equal to at least eighty percent
2 of the actual cash value of the unit.

3 (b) A general liability insurance policy with limits not less than one hundred
4 thousand dollars.

5 (2) The cost of repairing or replacing a unit is the responsibility of the unit
6 owner.

7 (3)(a) The condominium association board or its hired manager may request,
8 in writing, proof of any property and general liability insurance policy from any unit
9 owner but not more than three times per calendar year.

10 (b) The unit owner shall have ten days from the date of receipt to respond to
11 the request and shall include a copy of the policy, binder, certificate, or any other
12 relevant document deemed satisfactory by the board.

13 (c) The board may assess any reasonable fines, file liens, initiate any court
14 proceedings necessary for foreclosure of a unit, or pursue any other remedy available
15 by law when a unit owner fails to respond to a written request for the information
16 required pursuant to the provisions of this Paragraph.

17 (d) The board shall provide to a unit owner reasonable notice and an
18 opportunity to be heard prior to the imposition of any of the penalties described in
19 Subparagraph (c) of this Paragraph.

20 (4)(a) In the event that a unit owner desires to lease his unit, the lessee shall
21 be insured for his contents and liability pursuant to a renter's insurance policy. The
22 liability limits for the policy shall not be less than one hundred thousand dollars.

23 (b) The board may prohibit any lease agreement when the board has not been
24 provided proof of the renter's insurance policy prior to completion of the lease
25 agreement.

26 (c) The board or its hired manager may request, in writing, proof of any
27 renter's insurance policy from any lessee but not more than three times per calendar
28 year.

- (2) Window treatments including drapes, blinds, hardware, and similar window treatment components.

Present law enumerates a list of powers held unit owners' association. Proposed law adds to the list of enumerated powers allowing the association to impose assessments for the failure of a unit owner or his lessee to obtain insurance as required by proposed law.

Present law requires, in pertinent part, that commencing not later than the time of the first conveyance of a unit to a person other than a declarant, the association shall maintain, to the extent reasonably available property insurance on the common elements and units, exclusive of improvements and betterments installed in units by unit owners, insuring against all risks of direct physical loss commonly insured against. Proposed law removes reference to "and units" by which the association is no longer required to maintain property insurance on units; rather, they will be required to maintain property insurance on the common elements, exclusive of improvements and betterments installed in units by unit owners, insuring against all risks of direct physical loss commonly insured against.

Present law provides, in pertinent part, that "the association in any event may carry any other insurance it deems appropriate to protect the association or the unit owners." Proposed law removes the reference to "or the unit owners" by which the association may now carry any other insurance it deems appropriate to protect the association only.

Present law requires that insurance policies carried pursuant to present law must provide that each unit owner is an insured person under the policy with respect to liability arising out of his ownership of an individual interest in the common elements or membership in the association. Proposed law clarifies that neither a unit owner nor his lessee or occupant shall be required to be an insured person covered by the policy maintained by the association for any liability arising out of use of the unit or the condition thereof.

Present law states that an insurance policy issued to the association does not prevent a unit owner from obtaining insurance for his own benefit. Proposed law deletes present law.

Proposed law requires that a unit owner be required to carry a property insurance policy with limits equal to at least 80% of the actual cash value of the unit and a general liability insurance policy with limits not less than \$100,000.

Proposed law clarifies that the cost of repairing or replacing the unit is the responsibility of the unit owner.

Proposed law authorizes the condominium association board or its hired manager to request, in writing, proof of any property and general liability insurance policy from any unit owner but not more than 3 times per calendar year.

Proposed law provides that the unit owner shall have 10 days from the date of receipt to respond to the request and shall include a copy of the policy, binder, certificate, or any other relevant document deemed satisfactory by the board.

Proposed law authorizes the board to assess any reasonable fines, file liens, initiate any court proceedings necessary for foreclosure of a unit, or to pursue any other remedy available by law when a unit owner fails to respond to a written request for the information required pursuant to the provisions proposed law.

Proposed law requires the board to provide to a unit owner reasonable notice and an opportunity to be heard prior to the imposition of any of the penalties described in proposed law.

Proposed law requires that, in the event that a unit owner desires to lease his unit, the lessee be insured for his contents and liability pursuant to a renter's insurance policy. The liability limits for the policy shall not be less than \$100,000.

Proposed law authorizes the board to prohibit any lease agreement when the board has not been provided proof of the renter's insurance policy prior to completion of the lease agreement.

Proposed law authorizes the board or its hired manager to request, in writing, proof of any renter's insurance policy from any lessee but not more than 3 times per calendar year.

Proposed law requires the board to give the lessee 10 days from the date of receipt to respond to the request and requires the lessee to include a copy of the policy, binder, certificate, or any other relevant document deemed satisfactory by the board.

Proposed law provides that failure of the lessee to produce evidence of a satisfactory renter's insurance policy shall subject the unit owner to the penalties described in proposed law.

(Amends R.S. 9:1121.103(3) and (5), 1123.112(A)(intro. para.) and (1), (B), (C)(intro. para.) and (1), and (E); Adds R.S. 9:1123.102(17))