HLS 19RS-763 ENGROSSED

2019 Regular Session

HOUSE BILL NO. 426

1

## BY REPRESENTATIVE HILFERTY

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

CONDOMINIUMS: Provides with respect to insurance coverage in condominium units

AN ACT

2 To amend and reenact R.S. 9:1123.112(C)(3) and (E) and to repeal R.S. 9:1123.112(C)(4), 3 relative to condominiums; to provide with respect to insurance policies; to provide 4 for a determination of liability; to provide with respect to the primary association 5 policy; to provide with respect to condominium bylaws; and to provide for related 6 matters. 7 Be it enacted by the Legislature of Louisiana: 8 Section 1. R.S. 9:1123.112(C)(3) and (E) are hereby amended and reenacted to read 9 as follows: 10 §1123.112. Insurance 11 C. Insurance policies carried pursuant to Subsection A must provide that: 12 13 14 (3) No act or omission by any unit owner, unless acting within the scope of 15 his authority on behalf of the association, will void the policy or be a condition to 16 recovery under the policy, and policy. 17 18 E.(1) An insurance policy issued to the association does not prevent a unit 19 owner from obtaining insurance for his own benefit.

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CODING: Words in struck through type are deletions from existing law; words underscored are additions.

1 (2) When a unit owner purchases an insurance policy for his own benefit, the
2 provisions in the condominium association bylaws shall prevail when determining
3 whether the unit owner policy or the association policy covers a loss, taking fault
4 into consideration, as well as which party is responsible for the elements of the
5 property that sustained loss.
6 \* \* \* \*
7 Section 2. R.S. 9:1123.112(C)(4) is hereby repealed in its entirety.

## **DIGEST**

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Hilferty

**Abstract:** Provides that condominium association bylaws shall determine which insurance policy shall cover a loss.

<u>Present law</u> requires that condominium associations purchase property insurance on the common elements and units to insure against all risks of direct physical loss.

<u>Present law</u> also requires the association to purchase comprehensive general liability insurance, including medical payments, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with use, ownership, or maintenance of the common elements.

<u>Present law</u> requires the association insurance to provide that each unit owner is insured under the policy, that the insurer waives rights to subrogation against any unit owner, that no act or omission by a unit owner will void the policy or be a condition to recovery, and that if at a time of loss, there is another insurance in the name of the unit owner covering the same property, the association policy is primary.

<u>Present law</u> provides that if at the time of a loss there is another insurance policy in the name of a unit owner covering the same property covered by the association policy, the association policy is primary insurance not contributing with the other insurance. <u>Proposed law</u> deletes present law.

<u>Present law</u> provides that the association insurance policy does not prevent a unit owner from obtaining insurance for his own benefit. <u>Proposed law</u> retains <u>present law</u> and further provides that when a unit owner does purchase a policy and a loss is sustained, the condominium association bylaws will determine which policy shall compensate for the loss, taking into consideration the fault of the parties and which element of the property was affected.

(Amends R.S. 9:1123.112(C)(3) and (E); Repeals R.S. 9:1123.112(C)(4))