

2019 Regular Session

HOUSE BILL NO. 426

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

1 AN ACT

2 To amend and reenact R.S. 9:1123.112(C), relative to condominiums; to provide with

3 respect to insurance policies; to provide for a determination of liability; to provide

4 with respect to the primary association policy; to provide for coverage of betterments

5 and improvements; to provide with respect to a unit owner's property insurance

6 policy; to provide with respect to condominium bylaws; and to provide for related

7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 9:1123.112(C) is hereby amended and reenacted to read as follows:

10 §1123.112. Insurance

11 \* \* \*

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

13 (1) Each unit owner is an insured person under the policy with respect to

14 liability arising out of ~~his~~ the unit owner's ownership of an individual interest in the

15 common elements or membership in the association.

16 (2) The association's insurer waives its right to subrogation under the policy

17 against any unit owner of the condominium or members of his household.



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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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HB 426 Reengrossed

2019 Regular Session

Hilferty

**Abstract:** Provides with respect to the liability of condominium association and unit owner insurance policies.

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

Present law 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.

Present law requires the association policy to provide that each unit owner is insured under the policy, that the association's 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. Proposed law retains present law.

Present law provides 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. Proposed law deletes present law.

Present law provides that the association insurance policy does not prevent a unit owner from obtaining insurance for his own benefit. Proposed law retains present law and further provides that when a unit owner does purchase a policy and a loss is sustained, the association policy shall remain primary for the loss of common elements, structural elements and components, and fixtures and improvements of the condominium units. The unit owner policy shall be responsible for betterments and improvements installed by the unit owner.

Proposed law provides that betterments and improvements are upgrades that are of a higher quality than those originally constructed within the unit.

(Amends R.S. 9:1123.112(C))

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Clarify that the association's insurer waives the right to subrogation against a unit owner.
2. Remove the provision indicating that the association bylaws shall rule when determining liability.
3. Remove the requirement that the association policy is primary in instances in which a loss would be potentially covered by the association policy and the unit owner policy.
4. Provide that the association policy shall remain primary for the loss of common elements, structural elements and components, and fixtures and improvements

of the condominium units and that the unit owner policy shall be responsible for betterments and improvements installed by the unit owner.

5. Provide that a feature shall not be considered a betterment or improvement unless it is of higher quality than the item that it replaces.
6. Remove any liability of the association policy to cover any damage for which the unit owner is liable.