

**Illinois Condominium Property Act**  
**765 ILCS 605/12 et seq.**

**Section 12. Insurance.**

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

(1) Property insurance. Property insurance (i) on the common elements and the units, including the limited common elements and except as otherwise determined by the board of managers, the bare walls, floors, and ceilings of the unit, (ii) providing coverage for special form causes of loss, and (iii) in a total amount of not less than the full insurable replacement cost of the insured property, less deductibles, but including coverage for the increased costs of construction due to building code requirements, at the time the insurance is purchased and at each renewal date.

(2) General liability insurance. Commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use, or management of the property in a minimum amount of \$1,000,000, or a greater amount deemed sufficient in the judgment of the board, insuring the board, the association, the management agent, and their respective employees and agents and all persons acting as agents. The developer must be included as an additional insured in its capacity as a unit owner, manager, board member, or officer. The unit owners must be included as additional insured parties but only for claims and liabilities arising in connection with the ownership, existence, use, or management of the common elements. The insurance must cover claims of one or more insured parties against other insured parties.

(3) Fidelity bond; directors and officers coverage.

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

(B) All management companies that are responsible for the funds held or administered by the association must be covered by a fidelity bond for the maximum amount of coverage available to protect those funds. The association has standing to make a loss

claim against the bond of the managing agent as a party covered under the bond.

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

(D) The board of directors must obtain directors and officers liability coverage at a level deemed reasonable by the board, if not otherwise established by the declaration or bylaws. Directors and officers liability coverage must extend to all contracts and other actions taken by the board in their official capacity as directors and officers, but this coverage shall exclude actions for which the directors are not entitled to indemnification under the General Not For Profit Corporation Act of 1986 or the declaration and bylaws of the association.

(b) Contiguous units; improvements and betterments. The insurance maintained under subdivision (a)(1) must include the units, the limited common elements except as otherwise determined by the board of managers, and the common elements. The insurance need not cover improvements and betterments to the units installed by unit owners, but if improvements and betterments are covered, any increased cost may be assessed by the association against the units affected.

Common elements include fixtures located within the unfinished interior surfaces of the perimeter walls, floors, and ceilings of the individual units initially installed by the developer. Common elements exclude floor, wall, and ceiling coverings. "Improvements and betterments" means all decorating, fixtures, and furnishings installed or added to and located within the boundaries of the unit, including electrical fixtures, appliances, air conditioning and heating equipment, water heaters, or built-in cabinets installed by unit owners.

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

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

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

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

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

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

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

(g) Adjustment of losses; distribution of proceeds. Any loss covered by the property policy under subdivision (a)(1) must be adjusted by and with the association. The insurance proceeds for that loss must be payable to the association, or to an insurance trustee designated by the association for that purpose. The insurance trustee or the association must hold any insurance proceeds in trust for unit owners and secured parties as their interests may appear. The proceeds must be disbursed first for the repair or restoration of the damaged common elements, the bare walls, ceilings, and floors of the units, and then to any improvements and betterments the association may insure. Unit owners are not entitled to receive any portion of the proceeds unless there is a surplus of proceeds after the common elements and units have been completely repaired or restored or the association has been terminated as trustee.

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

If the unit owner does not purchase or produce evidence of insurance requested by the board, the directors may purchase the insurance coverage and charge the premium cost back to the unit owner. In no event is the board liable to any person either with regard to its decision not to purchase the insurance, or with regard to the timing of its purchase of the insurance or the amounts or types of coverage obtained.

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

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

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

(Source: P.A. 92-0518, eff. 6-6-02)

### **Section 12.1. Insurance Risk Pooling Trusts.**

- (a) This Section shall be known and may be cited as the Condominium and Common Interest Community Risk Pooling Trust Act.
- (b) The boards of managers or boards of directors, as the case may be, of two or more condominium associations or common interest community associations, are authorized to establish, with the unit owners and the condominium or common interest community associations as the beneficiaries thereof, a trust fund for the purpose of providing protection of the participating condominium and common interest community associations against the risk of financial loss due to damage to, destruction of or loss of property, or the imposition of legal liability as required or authorized under this Act or the declaration of the condominium or common interest community association.
- (c) The trust fund shall be established and amended only by a written instrument which shall be filed with and approved by the Director of Insurance prior to its becoming effective.
- (d) No association shall be a beneficiary of the trust fund unless it shall be incorporated under the laws of this State.
- (e) The trust fund is authorized to indemnify the condominium and common interest community association beneficiaries thereof against the risk of loss due to damage, destruction or loss to property or imposition of legal liability as required or authorized under this Act or the declaration of the condominium or common interest community association.

(f) Risks assumed by the trust fund may be pooled and shared with other trust funds established under this Section.

(g) (Blank).

(h) (Blank).

(i) No trustee of the trust fund shall be paid a salary or receive other compensation, except that the written trust instrument may provide for reimbursement for actual expenses incurred on behalf of the trust fund.

(j) (Blank).

(k) (Blank).

(l) (Blank).

(m) Each trust fund shall file annually with the Director of Insurance a full independently audited financial statement.

(n) (Blank).

(o) (Blank).

(p) (Blank).

(q) (Blank).

(r) (Blank).

(s) The Director of Insurance shall have with respect to trust funds established under this Section the powers of examination conferred upon him relative to insurance companies by Section 132 of the Illinois Insurance Code.

(t) (Blank).

(u) (Blank).

(v) Trust funds established under and which fully comply with this Section shall not be considered member insurance companies or to be in the business of insurance nor shall the provision of Article XXXIV of the Illinois Insurance Code apply to any such trust fund established under this Section.

(w) (Blank).

(x) The Director of Insurance shall adopt reasonable rules pertaining to the standards of coverage and administration of trust funds authorized under this Section.

**(Source: P.A. 89-97, eff. 7-7-95, P.A. 92-0518, eff. 6-6-02)**