

**SENATE, No. 1013**

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**STATE OF NEW JERSEY**

**221st LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

**Sponsored by:**

**Senator LINDA R. GREENSTEIN**

**District 14 (Mercer and Middlesex)**

**SYNOPSIS**

Prohibits condominium associations from assessing insurance deductibles to individual unit owners or groups of unit owners.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1   **AN ACT** concerning condominium association insurance policies  
2       and amending P.L.1969, c.257.

3

4       **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6

7       1. Section 3 of P.L.1969, c.257 (C.46:8B-3) is amended to read  
8 as follows:

9       3. The following words and phrases as used in **[this act]**  
10 P.L.1969, c.257 (C.46:8B-1 et seq.) shall have the meanings set  
11 forth in this section unless the context clearly indicates otherwise:

12       a. "Assigns" means any person to whom rights of a unit owner  
13 have been validly transferred by lease, mortgage or otherwise.

14       b. "Association" means the entity responsible for the  
15 administration of a condominium, which entity may be incorporated  
16 or unincorporated.

17       c. "Bylaws" means the governing regulations adopted under  
18 **[this act]** P.L.1969, c.257 (C.46:8B-1 et seq.) for the administration  
19 and management of the property.

20       d. "Common elements" means:

21       (i) the land described in the master deed;

22       (ii) as to any improvement, the foundations, structural and  
23 bearing parts, supports, main walls, roofs, basements, halls,  
24 corridors, lobbies, stairways, elevators, entrances, exits and other  
25 means of access, excluding any specifically reserved or limited to a  
26 particular unit or group of units;

27       (iii) yards, gardens, walkways, parking areas and driveways,  
28 excluding any specifically reserved or limited to a particular unit or  
29 group of units;

30       (iv) portions of the land or any improvement or appurtenance  
31 reserved exclusively for the management, operation or maintenance  
32 of the common elements or of the condominium property;

33       (v) installations of all central services and utilities;

34       (vi) all apparatus and installations existing or intended for  
35 common use;

36       (vii) all other elements of any improvement necessary or  
37 convenient to the existence, management, operation, maintenance  
38 and safety of the condominium property or normally in common  
39 use; and

40       (viii) such other elements and facilities as are designated in the  
41 master deed as common elements.

42       e. "Common expenses" means expenses for which the unit  
43 owners are proportionately liable, including but not limited to:

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (i) all expenses of administration, maintenance, repair and  
2 replacement of the common elements, including deductibles on  
3 insurance coverage;

4 (ii) expenses agreed upon as common by all unit owners; and

5 (iii) expenses declared common by provisions of **【this act】**  
6 P.L.1969, c.257 (C.46:8B-1 et seq.) or by the master deed or by the  
7 bylaws.

8 f. "Common receipts" means:

9 (i) rent and other charges derived from leasing or licensing the  
10 use of common elements;

11 (ii) funds collected from unit owners as common expenses or  
12 otherwise; and

13 (iii) receipts designated as common by the provisions of **【this**  
14 **act】** P.L.1969, c.257 (C.46:8B-1 et seq.) or by the master deed or  
15 the bylaws.

16 g. "Common surplus" means the excess of all common receipts  
17 over all common expenses.

18 h. "Condominium" means the form of ownership of real  
19 property under a master deed providing for ownership by one or  
20 more owners of units of improvements together with an undivided  
21 interest in common elements appurtenant to each such unit.

22 i. "Condominium property" means the land covered by the  
23 master deed, whether or not contiguous and all improvements  
24 thereon, all owned either in fee simple or under lease, and all  
25 easements, rights and appurtenances belonging thereto or intended  
26 for the benefit thereof.

27 j. "Developer" means the person or persons who create a  
28 condominium or lease, sell or offer to lease or sell a condominium  
29 or units of a condominium in the ordinary course of business, but  
30 does not include an owner or lessee of a unit who has acquired his  
31 unit for his own occupancy.

32 k. "Limited common elements" means those common elements  
33 which are for the use of one or more specified units to the exclusion  
34 of other units.

35 l. "Majority" or "majority of the unit owners" means the  
36 owners of more than **【50%】** 50 percent of the aggregate in interest  
37 of the undivided ownership of the common elements as specified in  
38 the master deed. If a different percentage of unit owners is required  
39 to be determined under **【this act】** P.L.1969, c.257 (C.46:8B-  
40 1 et seq.) or under the master deed or bylaws for any purpose, such  
41 different percentage of owners shall mean the owners of an equal  
42 percentage of the aggregate in interest of the undivided ownership  
43 of the common elements as so specified.

44 m. "Master deed" means the master deed recorded under the  
45 terms of section 8 of **【this act】** P.L.1969, c.257 (C.46:8B-1 et seq.),  
46 as such master deed may be amended or supplemented from time to

1 time, being the instrument by which the owner in fee simple or  
2 lessee of the property submits it to the provisions of this chapter.

3 n. "Person" means an individual, firm, corporation,  
4 partnership, association, trust or other legal entity, or any  
5 combination thereof.

6 o. "Unit" means a part of the condominium property designed  
7 or intended for any type of independent use, having a direct exit to a  
8 public street or way or to a common element or common elements  
9 leading to a public street or way or to an easement or right of way  
10 leading to a public street or way, and includes the proportionate  
11 undivided interest in the common elements and in any limited  
12 common elements assigned thereto in the master deed or any  
13 amendment thereof.

14 p. "Unit deed" means a deed of conveyance of a unit in  
15 recordable form.

16 q. "Unit owner" means the person or persons owning a unit in  
17 fee simple.

18 (cf: P.L.1979, c.157, s.1)

19

20 2. Section 15 of P.L.1969, c.257 (C.46:8B-15) is amended to  
21 read as follows:

22 15. Subject to the provisions of the master deed, the bylaws,  
23 rules and regulations and the provisions of **【this act】** P.L.1969,  
24 c.257 (C.46:8B-1 et seq.) or other applicable law, the association  
25 shall have the following powers:

26 (a) Whether or not incorporated, the association shall be an  
27 entity which shall act through its officers and may enter into  
28 contracts, bring suit and be sued. If the association is not  
29 incorporated, it may be deemed to be an entity existing pursuant to  
30 **【this act】** P.L.1969, c.257 (C.46:8B-1 et seq.) and a majority of the  
31 members of the governing board or of the association, as the case  
32 may be, shall constitute a quorum for the transaction of business.  
33 Process may be served upon the association by serving any officer  
34 of the association or by serving the agent designated for service of  
35 process. Service of process upon the association shall not constitute  
36 service of process upon any individual unit owner.

37 (b) The association shall have access to each unit from time to  
38 time during reasonable hours as may be necessary for the  
39 maintenance, repair or replacement of any common elements  
40 therein or accessible therefrom or for making emergency repairs  
41 necessary to prevent damage to common elements or to any other  
42 unit or units. The association may charge the unit owner for the  
43 repair of any common element damaged by the unit owner or his  
44 tenant; provided, however, the association shall not pass the cost of  
45 an insurance deductible to a unit owner or his tenant, or a group of  
46 unit owners or their tenants for the repair of any common element  
47 or unit not intentionally damaged by them.

1 (c) The association may purchase units in the condominium and  
2 otherwise acquire, hold, lease, mortgage and convey the same. It  
3 may also lease or license the use of common elements in a manner  
4 not inconsistent with the rights of unit owners.

5 (d) The association may acquire or enter into agreements  
6 whereby it acquires leaseholds, memberships or other possessory or  
7 use interests in lands or facilities including, but not limited to  
8 country clubs, golf courses, marinas and other recreational  
9 facilities, whether or not contiguous to the condominium property,  
10 intended to provide for the enjoyment, recreation or other use or  
11 benefit of the unit owners. If fully described in the master deed or  
12 bylaws, the fees, costs and expenses of acquiring, maintaining,  
13 operating, repairing and replacing any such memberships, interests  
14 and facilities shall be common expenses. If not so described in the  
15 master deed or bylaws as originally recorded, no such membership  
16 interest or facility shall be acquired except pursuant to amendment  
17 of or supplement to the master deed or bylaws duly adopted as  
18 provided therein and in **[this act]** P.L.1969, c.257 (C.46:8B-  
19 1 et seq.). In the absence of such amendment or supplement, if  
20 some but not all unit owners desire any such acquisition and agree  
21 to assume among themselves all costs of acquisition, maintenance,  
22 operation, repair and replacement thereof, the association may  
23 acquire or enter into an agreement to acquire the same as limited  
24 common elements appurtenant only to the units of those unit owners  
25 who have agreed to bear the costs and expenses thereof. Such costs  
26 and expenses shall be assessed against and collected from the  
27 agreeing unit owners in the proportions in which they share as  
28 among themselves in the common expenses in the absence of some  
29 other unanimous agreement among themselves. No other unit owner  
30 shall be charged with any such cost or expense; provided, however,  
31 that nothing herein shall preclude the extension of the interests in  
32 such limited common elements to additional unit owners by  
33 subsequent agreement with all those unit owners then having an  
34 interest in such limited common elements.

35 (e) The association may levy and collect assessments duly made  
36 by the association for a share of common expenses or otherwise,  
37 including any other moneys duly owed the association, upon proper  
38 notice to the appropriate unit owner, together with interest thereon,  
39 late fees and reasonable attorneys' fees, if authorized by the master  
40 deed or bylaws.

41 All funds collected by an association shall be maintained  
42 separately in the association's name. For investment purposes only,  
43 reserve funds may be commingled with operating funds of the  
44 association. Commingled operating and reserve funds shall be  
45 accounted for separately, and a commingled account shall not, at  
46 any time, be less than the amount identified as reserve funds. A  
47 manager or business entity managing a condominium, or an agent,  
48 employee, officer, or director of an association, shall not

1 commingle any association funds with his or her funds or with the  
2 funds of any other condominium association or the funds of another  
3 association as defined in section 3 of P.L.1977, c.419 (C.45:22A-  
4 23).

5 If authorized by the master deed or bylaws, the association may  
6 levy and collect a capital contribution, membership fee or other  
7 charge upon the initial sale or subsequent resale of a unit, which  
8 collection shall be earmarked for the purpose of maintenance of or  
9 improvements to common elements to defray common expenses or  
10 otherwise, provided that such charge shall not exceed nine times the  
11 amount of the most recent monthly common expense assessment for  
12 that unit.

13 (f) If authorized by the master deed or bylaws, the association  
14 may impose reasonable fines upon unit owners for failure to comply  
15 with provisions of the master deed, bylaws or rules and regulations,  
16 subject to the following provisions:

17 A fine for a violation or a continuing violation of the master  
18 deed, bylaws or rules and regulations shall not exceed the maximum  
19 monetary penalty permitted to be imposed for a violation or a  
20 continuing violation under section 19 of the "Hotel and Multiple  
21 Dwelling Law," P.L.1967, c.76 (C.55:13A-19).

22 On roads or streets with respect to which Title 39 of the Revised  
23 Statutes is in effect under section 1 of P.L.1945, c.284 (C.39:5A-1),  
24 an association may not impose fines for moving automobile  
25 violations.

26 A fine shall not be imposed unless the unit owner is given  
27 written notice of the action taken and of the alleged basis for the  
28 action, and is advised of the right to participate in a dispute  
29 resolution procedure in accordance with subsection (k) of section 14  
30 of P.L.1969, c.257 (C.46:8B-14). A unit owner who does not  
31 believe that the dispute resolution procedure has satisfactorily  
32 resolved the matter shall not be prevented from seeking a judicial  
33 remedy in a court of competent jurisdiction.

34 (g) Such other powers as may be set forth in the master deed or  
35 bylaws, if not prohibited by P.L.1969, c.257 (C.46:8B-1 et seq.) or  
36 any other law of this State.  
37 (cf: P.L.2007, c.165, s.1)

38  
39 3. Section 24 of P.L.1969, c.257 (C.46:8B-24) is amended to  
40 read as follows:

41 24. (a) Damage to or destruction of any improvements on the  
42 condominium property or any part thereof or to a common element  
43 or elements or any part thereof covered by insurance required to be  
44 maintained by the association shall be repaired and restored by the  
45 association using the proceeds of any such insurance. **[The]**  
46 Except as provided in subsection (b) of section 15 of P.L.1969,  
47 c.257 (C.46:8B-15), the unit owners directly affected shall be

1 assessed on an equitable basis for any deficiency and shall share in  
2 any excess.

3 (b) If the proceeds of such insurance shall be inadequate by a  
4 substantial amount to cover the estimated cost of restoration of an  
5 essential improvement or common element or if such damage shall  
6 constitute substantially total destruction of the condominium  
7 property or of one or more of the buildings comprising the  
8 condominium property or if ~~75%~~ 75 percent of the unit owners  
9 directly affected by such damage or destruction voting in  
10 accordance with the procedures established by the by-laws shall  
11 determine not to repair or restore, the association shall proceed to  
12 realize upon the salvage value of that portion of the condominium  
13 property so damaged or destroyed either by sale or such other  
14 means as the association may deem advisable and shall collect the  
15 proceeds of any insurance. Thereupon the net proceeds of such  
16 sale, together with the net proceeds of such insurance shall be  
17 considered as one fund to be divided among the unit owners directly  
18 affected by such damage or destruction in proportion to their  
19 respective undivided ownership of the common elements. Any  
20 liens or encumbrances on any affected unit shall be relegated to the  
21 interest in the fund of the unit owners.

22 (c) The master deed or the by-laws may make other and  
23 different provision covering the eventualities set forth in paragraphs  
24 (a) and (b) of this section or covering other results of damage or  
25 destruction to any part or all of the condominium property,  
26 notwithstanding the provisions of paragraphs (a) and (b). If the  
27 master deed or by-laws shall require insurance against fire and other  
28 casualty with respect to individual units, it shall also provide for the  
29 application of the proceeds and the rights and obligations of unit  
30 owners in case of damage or destruction.

31 (cf: P.L.1969, c.257, s.24)

32

33 4. This act shall take effect immediately.

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#### STATEMENT

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38 This bill would prevent condominium associations from  
39 assessing insurance deductibles to individual unit owners or groups  
40 of unit owners. Under current law, a condominium association can  
41 pass the cost of any deductible arising from a claim under the  
42 association's insurance policy to an individual unit owner. This bill  
43 would prevent condominium associations from placing the burden  
44 of a deductible on one owner or a group of owners. The bill would  
45 ensure that unit owners realize the full benefit of an association's  
46 insurance policy, which is the pooling of risks among a large group  
47 of similarly situated individuals.