

**ACT No. 228**

2019 Regular Session

HOUSE BILL NO. 426

BY REPRESENTATIVE HILFERTY

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.

18 (3) No act or omission by any unit owner, unless acting within the scope of  
19 his authority on behalf of the association, will void the policy or be a condition to  
20 recovery under the ~~policy, and~~ policy.

21 ~~(4) If, at the time of a loss under the policy, there is other insurance in the~~  
22 ~~name of a unit owner covering the same property covered by the policy, the policy~~  
23 ~~is primary insurance not contributing with the other insurance.~~ (a) A unit owner's  
24 property insurance policy covering betterments and improvements shall be primary

1            for that unit owner's betterments and improvements to the extent of the value of the  
 2            betterments and improvements. The association property insurance policy shall  
 3            remain primary with respect to common elements, structural elements and  
 4            components, and fixtures and improvements of the condominium units that are not  
 5            classified as betterments and improvements to include damages caused by the event  
 6            giving rise to an insurance claim.

7            (b) For purposes of this Subsection, betterments and improvements include  
 8            upgrades or improvements to a particular unit that are of a higher quality than those  
 9            originally constructed within the units subject to the condominium regime. The  
 10           replacement of worn or obsolete items shall not be considered betterments and  
 11           improvements unless the items are upgrades or improvements that are of a higher  
 12           quality than generally exist within units subject to the condominium regime. For  
 13           insurance purposes, at the time of any loss, all unit improvements and betterments  
 14           shall be considered the improvements and betterments of the current unit owner.

15           (5) Nothing in this Section shall be construed to require the association to  
 16           insure a unit owner's individual liability except as set forth in Paragraph (1) of this  
 17           Subsection. Nothing in this Section shall be construed to prevent the association  
 18           from pursuing any deductible or out-of-pocket expenses not covered by the  
 19           association's insurance policies from the negligent unit owner.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_