

RCW 64.90.470 Insurance. (1) Commencing not later than the time of the first conveyance of a unit to a person other than a declarant, the association must maintain in its own name, to the extent reasonably available and subject to reasonable deductibles:

(a) Property insurance on the common elements and, in a plat community or miscellaneous community, also on property that must become common elements, insuring against risks of direct physical loss commonly insured against, which insurance, after application of any deductibles, must be not less than eighty percent of the actual cash value of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations, and other items normally excluded from property policies;

(b) Commercial general liability insurance, including medical payments insurance, in an amount determined by the board, but not less than any amount specified in the declaration, covering all occurrences commonly insured against for bodily injury and property damage arising out of or in connection with the use, ownership, or maintenance of the common elements and, in cooperatives, of all units;

(c) Fidelity insurance; and

(d) Other insurance required under the declaration.

(2) In the case of a building that contains units divided by horizontal boundaries described in the declaration, or vertical boundaries that comprise common walls between units, the insurance maintained under subsection (1)(a) of this section, to the extent reasonably available, must include the units and, unless provided otherwise in the declaration, all improvements and betterments to the units.

(3) If the insurance described in subsections (1) and (2) of this section is not reasonably available, the association must promptly cause notice of that fact to be given to all unit owners. The association may carry any other insurance it considers appropriate to protect the association or the unit owners.

(4) Insurance policies carried pursuant to subsections (1) and (2) of this section must provide that:

(a) Each unit owner 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;

(b) The insurer waives its right to subrogation under the policy against any unit owner or member of the unit owner's household;

(c) Any act or omission by a unit owner, unless acting within the unit owner's scope of authority on behalf of the association, does not void the policy and is not a condition to recovery under the policy; and

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

(5) Any loss covered by the property insurance policy under subsection (1)(a) and (b) of this section must be adjusted with the association, but the insurance proceeds for that loss are payable to any insurance trustee designated for that purpose, or otherwise to the association, and not to any holder of a security interest. The insurance trustee or the association must hold any insurance proceeds in trust for the association, unit owners, and lienholders as their interests may appear. Subject to subsection (8) of this section, the proceeds must be disbursed first for the repair or replacement of the damaged property, and the association, unit owners, and lienholders are not entitled to receive payment of any portion of the proceeds

unless there is a surplus of proceeds after the property has been completely repaired or replaced, or the common interest community is terminated.

(6) An insurance policy issued to the association does not prevent a unit owner from obtaining insurance for the unit owner's own benefit.

(7) An insurer that has issued an insurance policy under this section must issue certificates or memoranda of insurance to the association and, upon a request made in a record, to any unit owner or holder of a security interest. The insurer issuing the policy may not modify the amount or the extent of the coverage of the policy or cancel or refuse to renew the policy unless the insurer has complied with all applicable provisions of chapter 48.18 RCW pertaining to the cancellation or nonrenewal of contracts of insurance. The insurer may not modify the amount or the extent of the coverage of the policy or cancel or refuse to renew the policy without complying with this section.

(8) Any portion of the common interest community for which insurance is required under this section that is damaged or destroyed must be repaired or replaced promptly by the association unless:

(a) The common interest community is terminated, in which case RCW 64.90.290 applies;

(b) Repair or replacement would be illegal; or

(c) Eighty percent of the unit owners, including every unit owner of a unit or assigned limited common element that will not be rebuilt, vote not to rebuild.

(9) The cost of repair or replacement not paid from insurance proceeds is a common expense. If all of the damaged or destroyed portions of the common interest community are not repaired or replaced:

(a) The insurance proceeds attributable to the damaged common elements must be used to restore the damaged area to a condition compatible with the remainder of the common interest community; and

(b) Except to the extent that other persons will be distributees:

(i) The insurance proceeds attributable to units and limited common elements that are not repaired or replaced must be distributed to the unit owners of those units and the unit owners of the units to which those limited common elements were allocated, or to lienholders, as their interests may appear; and

(ii) The remainder of the proceeds must be distributed to all the unit owners or lienholders, as their interests may appear, as follows:

(A) In a condominium, in proportion to the common element interests of all the units; and

(B) In a cooperative, plat community, or miscellaneous community, in proportion to the common expense liabilities of all the units.

(10) If the unit owners vote not to rebuild any unit, that unit's allocated interests are automatically reallocated upon the vote as if the unit had been condemned under RCW 64.90.030, and the association promptly must prepare, execute, and record an amendment to the declaration reflecting the reallocations.

(11) The provisions of this section may be varied or waived as provided in the declaration if all units of a common interest community are restricted to nonresidential use. [2018 c 277 s 315.]