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BULLETIN 23-15

Date: September 28, 2023

To: All Property and Casualty Insurers and Insurance Producers

Re: Changes to § 11-114 of the Real Property Article Pursuant to House Bill 98 Relating to the Obligation of Condominium Owners and the Council of Unit Owners of a Condominium to Purchase Insurance.

The purpose of this Bulletin is to clarify two issues regarding the homeowners insurance that the owners of residential, detached condominium units are required to maintain effective October 1, 2023.

House Bill 98, enacted during the 2023 legislative session, changes the property insurance requirements for condominiums set forth in §11-114 of the Real Property Article, *Annotated Code of Maryland*. See Md. Acts 2023, Ch. 186. The changes include *reducing* the coverage that the council of unit owners (the “council”) is required to maintain for residential detached units and *mandating* that the owners of residential, detached units maintain homeowners insurance on the entire unit. **The changes are effective October 1, 2023.** <https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/HB0098>.

Currently, §11-114 requires the council to maintain comprehensive general liability insurance and property insurance on the common elements, as well as for *all* units, exclusive of improvements and betterments installed in units by the unit owners. As of October 1, the council is no longer required to maintain property insurance for residential, detached unit themselves. Rather, as of that date, the council is required to maintain property insurance against risks of direct physical loss commonly insured against:

- 1) For attached or multifamily dwelling units, the common elements *and units*, exclusive of improvements and betterments installed in units by unit owners other than the developer; and
- 2) For detached units, *only* on the common elements.

In addition, effective October 1, the owner of a residential detached unit is required to carry homeowners insurance coverage on the entirety of the unit, §11-114 (e)(2). Nothing in the statute prevents the council from voluntarily providing coverage to the owner of a detached residential unit through a policy obtained by the council. Nothing in the statute requires the unit owner to identify the council as an additional insured on the unit owner’s policy.

It has come to the attention of the Administration that some insurance producers are advising the owners of residential, detached units that the mandated homeowners insurance must be acquired under a

separate policy issued directly to the unit owner. That is not what the statute requires. Nothing in the statute prevents the council from voluntarily providing coverage to the owner of a detached residential unit through the policy obtained by the council. If the council elects to purchase a policy that provides the mandated coverage for a detached residential unit, the unit owner is not also required to purchase a separate policy.

The Administration has been informed that there are councils that intend to provide the mandated coverage to residential, detached units through a policy issued to the council. Therefore, before an insurance producer advises the owner of a residential, detached unit to purchase a homeowners policy covering the unit in its entirety, the insurance producer should confirm what, if any, coverage will be provided by the council to the owner of the residential, detached unit, including the amount of any applicable deductible.

As a reminder, if the cause of any damage to or destruction of any portion of the condominium originates from a unit, the owner of the unit from which the cause of the damage or destruction originated is responsible to the council for the amount of the deductible that must be satisfied under the council's property insurance policy, if any, up to \$10,000. The council is still required to inform each unit owner annually in writing of:

- 1) The unit owner's responsibility for the council of unit owners' property insurance deductible;
and
- 2) The amount of the deductible.

For additional information regarding homeowners insurance or condominium master policy coverage, please visit our website at www.insurance.maryland.gov or contact Danilsa Marciniak at 410-468-2119.

KATHLEEN A. BIRRANE

By: **signature on original**

Danilsa Marciniak
Acting Associate Commissioner
Property and Casualty