PART 8
INSURANCE

Property to be insured by corporation
170
(1) A condominium corporation must obtain and maintain property insurance, against loss resulting from destruction or damage caused by fire or any other peril prescribed in the regulations or specified in the bylaws, on

(a) the common property; a) les parties communes;
(b) any common assets; and
(c) the units, but not including any additions, improvements or upgrades made to a unit by its owners.

(2) Despite paragraph (1)(c) but subject to the regulations, the corporation is not required to insure any buildings or other improvements on any bare land unit, regardless of when or by whom they were built.

(3) The property insurance must be on a full replacement cost basis where no deduction is made from the settlement for depreciation of the property if, the insured property having been destroyed or damaged, it is replaced or repaired.

(4) Despite subsection (1), a corporation is not required to obtain or maintain insurance against a peril which poses no risk to the property being insured.

(5) A corporation may obtain and maintain property insurance

(a) against additional perils not required by the regulations or bylaws; or
(b) if required by the bylaws, on the improvements made to the units by unit owners against loss resulting from destruction or damage caused by any peril specified in the bylaws.

(6) If a corporation places insurance under paragraph (5)(a), it may continue that insurance unless it is prohibited from doing so by an ordinary resolution.

(7) The corporation has an insurable interest in any property insured under this section.

General liability insurance to be carried by corporation
171 A condominium corporation must obtain and maintain general liability insurance against liability it incurs arising out of

(a) any act or omission of any of its directors and officers with respect to carrying out their functions and duties;
(b) a breach of duty as the occupier of the common property; or
(c) the ownership, use or operation of any common assets, including machinery, equipment, pressure vessels and vehicles.

Directors' and officers' liability insurance
172 A condominium corporation must purchase and maintain directors' and officers' liability insurance as set out in subsection 71(3).

Annual review and report on insurance
173 A condominium corporation must
  (a) review the adequacy of the corporation's insurance each year; and
  (b) report on the insurance coverage at each annual general meeting.

Insurance placed by developer
N/A

Named insureds
175 Despite the terms of the insurance policy, the named insureds in a corporation's insurance policy include
  (a) the corporation;
  (b) the owners and tenants from time to time of the units; and
  (c) the persons who normally occupy the units.

Payment of insurance proceeds by property insurer
176 Despite the terms of the insurance policy, any payment by an insurer under a policy of property insurance, otherwise than for liability of the corporation, must be paid to
(a) the insurance trustee designated in the bylaws; or
(b) if no insurance trustee is designated in the bylaws, the corporation, to be held in trust until disposed of in accordance with section 177.

Use of insurance proceeds by corporation
177 If a condominium corporation receives insurance money under section 176, it must use the money without delay to repair or replace the insured property that was damaged or destroyed, unless the corporation decides at a general meeting held not more than 60 days after receipt of the insurance proceeds
  (a) by a special resolution, to terminate the condominium under Part 12;
  (b) by a unanimous resolution, not to make the repair or replacement; or
  (c) by a special resolution, to hold the money in trust pending a court order under section 182.

Insurance deductible
178
(1) Subject to the regulations, the payment of an insurance deductible by a condominium corporation in respect of a claim on the corporation's insurance is a common expense.

(2) Subsection (1) does not limit the right of the corporation to recover the deductible portion of an insurance claim from a unit owner or other person if that unit owner or person is responsible for the loss or damage that gave rise to the claim.

(3) Despite any other provision of this Act or the regulations, the approval of eligible voters is not required for a special levy or for an expenditure from the reserve fund to cover an insurance deductible required to be paid by the corporation to repair or replace damaged property, unless the corporation has decided under paragraph 177(b) not to repair or replace it.

Unit owner's insurance
179
(1) Despite the *Insurance Act* or any other law, a unit owner may obtain and maintain insurance for
(a) loss or damage to the unit owner's unit
(i) against perils that are not insured by the corporation, or
(ii) for amounts that are in excess of the amounts insured by the corporation;
(b) any additions, improvements or upgrades to the unit made by the unit owner or by a prior unit owner of the unit;
(c) loss of rental value of the unit in excess of insurance obtained and maintained by the corporation, if any; or
(d) general public liability for property damage and bodily injury, whether occurring on the unit, the common property or a common asset that is real property.

(2) Despite this Act, the *Insurance Act* or any other law, an owner of a bare land unit may obtain and maintain insurance on buildings on the unit.

Excess insurance
180 Despite the *Insurance Act* or any policy of insurance, if insurance is placed both by a condominium corporation and by a unit owner against a loss resulting from destruction of or damage to the units or the common property,
(a) the insurance placed by the corporation is deemed to be first loss insurance; and
(b) the insurance placed by the unit owner in respect of the same property that is insured by the corporation is deemed to be excess insurance.

Copies of insurance policies
181
(1) A condominium corporation must, within 30 days after receiving a written request from a unit owner or the purchaser or mortgagee of a unit, provide a copy of the corporation's insurance policy to the person who made the request.

(2) A corporation must, within 10 days after receiving a written request from a unit owner or the purchaser or mortgagee of a unit, provide a certificate confirming insurance in the prescribed form to the person who made the request.

(3) A corporation may charge a fee for a copy or certificate provided under this section, of not more than the amount set out in the regulations, and may refuse to supply the copy or certificate until the fee is paid.

Settlement scheme for damage to property
182
(1) If a condominium corporation decides not to repair or replace damaged property that includes one or more units, and the condominium is not terminated under Part 12, any of the following persons may apply to the Supreme Court for an order under this section
(a) the corporation;
(b) a unit owner;

(c) a holder of an encumbrance against a unit registered at the land titles office;
(d) an insurer of the property; and
(e) any other person the court considers appropriate.

(2) On an application under this section, the court may by order settle a scheme

(a) to replace or repair some or all of the damaged property or to make some other use of the land; or
(b) to provide for the interests of the unit owners and registered encumbrance holders on a just and equitable basis

(3) The court may make any order it considers necessary or expedient to give effect to the scheme, including orders

(a) directing the application of insurance money received by the corporation in respect of damage to property;
(b) directing payment of money by the corporation or by the unit owners or by some one or more of them;
(c) directing an amendment of the condominium plan as the court thinks fit;
(d) directing the transfer of the interest of unit owners whose units have been wholly or partially destroyed to the other unit owners in proportion to the unit entitlement of the units of the other owners, and the compensation of the owners whose interests have been transferred;
(e) directing the sale of land shown on the condominium plan, or the sale of the common assets;
(f) directing the distribution of any of the common assets of the corporation; and
(g) imposing any terms and conditions it thinks fit.

(4) On an application to the court under this section, an insurer who has insured the property against destruction of units or damage to the building has the right to appear in person or by agent or counsel.