

## PART 9 – INSURANCE

### Property insurance required for strata corporation

- 149** (1) The strata corporation must obtain and maintain property insurance on
- (a) common property,
  - (b) common assets,
  - (c) buildings shown on the strata plan, and
  - (d) fixtures built or installed on a strata lot, if the fixtures are built or installed by the owner developer as part of the original construction on the strata lot.
- (2) For the purposes of subsection (1) (d) and section 152 (b), “fixtures” has the meaning set out in the regulations.
- (3) Subsection (1) (d) does not apply to a bare land strata plan.
- (4) The property insurance must
- (a) be on the basis of full replacement value, and
  - (b) insure against major perils, as set out in the regulations, and any other perils specified in the bylaws.

### Liability insurance required for strata corporation

- 150** (1) The strata corporation must obtain and maintain liability insurance to insure the strata corporation against liability for property damage and bodily injury.
- (2) The insurance must be of at least the amount required in the regulations.

### Errors and omissions insurance

- 151** The strata corporation may obtain and maintain errors and omissions insurance for council members against their liability and expenses for errors and omissions made in the exercise of their powers and performance of their duties as council members.

### Optional strata corporation insurance

- 152** The strata corporation may obtain and maintain insurance in respect of the following:
- (a) a peril or liability of the strata corporation that is not referred to in section 149 or 150;
  - (b) fixtures built or installed on a strata lot that were not built or installed by the owner developer as part of the original construction on the strata lot.

### Insurable interest

- 153** The strata corporation has an insurable interest in any property insured under section 149 or 152.

### Review and report on insurance

- 154** The strata corporation must

- (a) review annually the adequacy of the strata corporation's insurance, and
- (b) report on the insurance coverage at each annual general meeting.

**Named insureds**

- 155** Despite the terms of the insurance policy, named insureds in a strata corporation's insurance policy include
- (a) the strata corporation,
  - (b) the owners and tenants from time to time of the strata lots shown on the strata plan, and
  - (c) the persons who normally occupy the strata lots.

**Payment of insurance proceeds**

- 156** Despite the terms of the insurance policy, in making a payment, other than a payment arising from the liability of the strata corporation, under the strata corporation's insurance policy, an insurer must make the payment
- (a) to the order of the insurance trustee designated by the bylaws, or
  - (b) if an insurance trustee is not designated, to the order of the strata corporation to be held in trust until paid out under section 157.

**Application of insurance money**

- 157** Insurance money received under section 156 with respect to damaged property must be used to repair or replace the damaged property without delay unless the strata corporation decides not to make the repair or replacement under section 159.

**Insurance deductible**

- 158**
- (1) Subject to the regulations, the payment of an insurance deductible in respect of a claim on the strata corporation's insurance is a common expense to be contributed to by means of strata fees calculated in accordance with section 99 (2) or 100 (1).
  - (2) Subsection (1) does not limit the capacity of the strata corporation to sue an owner in order to recover the deductible portion of an insurance claim if the owner is responsible for the loss or damage that gave rise to the claim.
  - (3) Despite any other section of this Act or the regulations, strata corporation approval is not required for a special levy or for an expenditure from the contingency reserve fund to cover an insurance deductible required to be paid by the strata corporation to repair or replace damaged property, unless the strata corporation has decided not to repair or replace under section 159.

**Decision not to repair or replace**

- 159** (1) The strata corporation may, by a resolution passed by a 3/4 vote at an annual or special general meeting held no later than 60 days after the receipt of the money referred to in section 156, decide not to repair or replace the damaged property.

- (2) Subject to section 160, if the strata corporation decides not to repair or replace the damaged property, the insurance trustee or the strata corporation that receives the payment under subsection (1) of this section holds the money and any interest on the money in trust for each person who has an interest in the money, including the holder of a registered charge, and
- (a) must distribute the money according to each person's interest, or
  - (b) if an application is made under section 160, must distribute the money in accordance with the order made under that section.

**Court orders**

- 160** (1) If the strata corporation decides not to repair or replace the damaged property and the strata plan is not cancelled, any of the following persons may apply to the Supreme Court for an order under this section:
- (a) an owner;
  - (b) the holder of a registered charge against a strata lot;
  - (c) an insurer of land shown on the strata plan;
  - (d) any other person the court considers an appropriate person.
- (2) On application by a person referred to in subsection (1), the court may, by order, implement a scheme to do one or more of the following:
- (a) rebuild some or all of the damaged property or to make some other use of the land;
  - (b) provide for the interests of the owners and registered charge holders on a just and equitable basis.
- (3) The court may make any order it considers advisable to give effect to the scheme, including, without limitation, orders with respect to
- (a) the payment of insurance money received by the strata corporation,
  - (b) the discharge of the liabilities of the strata corporation, the persons liable to contribute to the discharge and their share of the liability,
  - (c) the amendment of the strata plan,
  - (d) the transfer or conveyance of the interest of owners whose strata lots have been wholly or partially destroyed to the other owners in proportion to the unit entitlements of the strata lots of the other owners, and for the compensation of the owners whose interests have been transferred or conveyed,
  - (e) the sale of land shown on the strata plan, or the sale of the common assets, and
  - (f) the distribution of any of the common assets of the strata corporation.

**Owner's insurance**

- 161** (1) Despite the *Insurance Act* or any other law, an owner may obtain and maintain insurance for any or all of the following:

- (a) loss or damage to the owner's strata lot and the fixtures referred to in section 149 (1) (d)
    - (i) against perils that are not insured by the strata corporation, and
    - (ii) for amounts that are in excess of amounts insured by the strata corporation;
  - (b) fixtures in the owner's strata lot, other than the fixtures referred to in section 149 (1) (d);
  - (c) improvements to fixtures referred to in section 149 (1) (d);
  - (d) loss of rental value of the owner's strata lot in excess of insurance obtained and maintained by the strata corporation;
  - (e) liability for property damage and bodily injury, whether occurring on the owner's strata lot or on the common property.
- (2) Despite this Act, the *Insurance Act* or any other law, an owner of a strata lot in a bare land strata plan may obtain and maintain insurance on buildings or fixtures built or installed on the strata lot.

**Contribution**

- 162** Despite the terms of the insurance policy,
- (a) neither the strata corporation's insurance policy nor an owner's insurance policy is liable to be brought into contribution with another policy unless the other policy is issued on the same property, and
  - (b) neither the strata corporation's insurance policy nor the owner's insurance policy is "other insurance" in relation to another policy unless the other policy is issued on the same property.

**PART 10 – LEGAL PROCEEDINGS AND ARBITRATION****Division 1 – Suits Against the Strata Corporation****Strata corporation may be sued**

- 163** (1) The strata corporation may be sued as representative of the owners with respect to any matter relating to the common property, common assets, bylaws or rules, or involving an act or omission of the strata corporation.
- (2) An owner may sue the strata corporation.

**Preventing or remedying unfair acts**

- 164** (1) On application of an owner or tenant, the Supreme Court may make any interim or final order it considers necessary to prevent or remedy a significantly unfair
- (a) action or threatened action by, or decision of, the strata corporation, including the council, in relation to the owner or tenant, or