

WAVECREST INSURANCE GUIDELINES
WATER DAMAGE CLAIMS

Section 514B-143, Hawaii Revised Statutes requires all condominium associations to purchase and maintain property insurance on the common elements and, to the extent reasonably available, shall include the units, the limited common elements, except as otherwise determined by the board, but excluding improvements and betterments to the units installed by the unit owners.

The Section also requires all condominium associations to purchase and maintain commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use or management of the property.

Under subparagraph (d) of Section 514B-413, HRS, the law authorizes boards of directors, in the case of a claim for damage to a unit or the common elements, to (1) pay the deductible amount as a common expense; (2) after notice and an opportunity for a hearing, assess the deductible amount against the owners who caused the damage or from whose units the damage or cause of loss originated; or (3) require the unit owners of the units affected to pay the deductible amount.

The deductible under the Association's insurance policy(s) is now \$10,000.00.

The following INSURANCE DEDUCTIBLE POLICY now applies:

“Insurance Deductible Policy
Damage Caused by Common Element

1. In the event a claim is made under the Association's insurance policy(s) for damage to a unit or the common elements caused solely by a defect in a common element, the Association shall be responsible for paying the deductible amount as a common expense. In the event the value of such a claim is less than the deductible amount, the Association shall be responsible for paying the claim as a common expense.

Example: A unit sustains water damage from a burst common element pipe in the walls.

Notwithstanding the above, in the event the Association's insurance policy(s) do not cover improvements and betterments to the units installed by unit owners, the Association shall not be responsible for paying the deductible amount (or the value of a claim if it is less than the deductible amount) in the event a claim is made for damage to unit improvements and betterments. For purposes of

this paragraph, "improvements and betterments" as defined in Section 514B-143(b) means "all decorating fixtures, furnishings installed or added to and located within the boundaries of the unit, including electrical fixtures, appliances, air conditioning and heating equipment, water heaters or built-in cabinets installed by unit owners."

If improvements and betterments are covered by the Association's insurance policy(s), the Association shall pay the deductible amount (or the value of a claim if it is less than the deductible amount) in the event a claim is made for damage to unit improvements and betterments. However, any increased cost may be assessed by the Association against the units affected.

Damage Caused by Unit Owner

2. In the event a claim is made by a unit owner under the Association's insurance policy(s) for damage to the owner's unit, other units, or the common elements, which damage is caused by the unit owner or other occupants or guests of the owner's unit, or from whose unit the damage or caused of loss originated, the said unit owner shall be responsible for paying the deductible amount. In the event the value of such a claim is less than the deductible amount, the said unit owner shall be responsible for paying the claim as a personal expense. Alternately, said unit owner should check his/her individual homeowner's policy for coverage for the claim, if any.

Examples: A unit's toilet leaks or washing machine hose burst causing water damage to lower units or to the common elements. A unit owner or occupant negligently or deliberately allows the bathroom to overflow causing water damage to lower units or to the common elements.

3. In the event the Board of Directors intends on assessing the deductible amount to a unit owner who caused the damage or from whose unit the damage or cause of loss originated (#2 above), written notice shall be given to the unit owner and an opportunity to be heard. Hearings will usually be held at the next scheduled Board meeting following the written notice.

4. Depending upon the circumstances, the Board reserves the right to require the unit owners of the units affected to pay the deductible amount. In that event, the notice and hearing requirements set forth in #3 above shall apply.

5. All unit owners are encouraged to review their individual homeowner's insurance policies (HO-6) to insure that their policies include loss assessment coverage with sufficient limits of coverage to cover the deductible amount.