

57-8a-407 Damage to a portion of project -- Insurance proceeds.

- (1)
 - (a) If a portion of the project for which insurance is required under this part is damaged or destroyed, the association shall repair or replace the portion within a reasonable amount of time unless:
 - (i) the project is terminated;
 - (ii) repair or replacement would be illegal under a state statute or local ordinance governing health or safety; or
 - (iii)
 - (A) at least 75% of the allocated voting interests of the lot owners in the association vote not to rebuild; and
 - (B) each owner of a dwelling on a lot and the limited common area appurtenant to that lot that will not be rebuilt votes not to rebuild.
 - (b) If a portion of a project is not repaired or replaced because the project is terminated, the termination provisions of applicable law and the governing documents apply.
- (2)
 - (a) The cost of repair or replacement of any lot in excess of insurance proceeds and reserves is a common expense to the extent the association is required under this chapter to provide insurance coverage for the lot.
 - (b) The cost of repair or replacement of any common area in excess of insurance proceeds and reserves is a common expense.
- (3) If the entire project is damaged or destroyed and not repaired or replaced:
 - (a) the association shall use the insurance proceeds attributable to the damaged common areas to restore the damaged area to a condition compatible with the remainder of the project;
 - (b) the association shall distribute the insurance proceeds attributable to lots and common areas that are not rebuilt to:
 - (i) the lot owners of the lots that are not rebuilt;
 - (ii) the lot owners of the lots to which those common areas that are not rebuilt were allocated; or
 - (iii) lien holders; and
 - (c) the association shall distribute the remainder of the proceeds to all the lot owners or lien holders in proportion to the common expense liabilities of all the lots.
- (4) If the lot owners vote not to rebuild a lot:
 - (a) the lot's allocated interests are automatically reallocated upon the lot owner's vote as if the lot had been condemned; and
 - (b) the association shall prepare, execute, and submit for recording an amendment to the declaration reflecting the reallocations described in Subsection (4)(a).

Amended by Chapter 152, 2013 General Session