

Newsletter



Robinson Sheppard Shapiro
Avocats • Lawyers

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New Legislative Provisions on Insurance and Condominiums

On December 13, 2018, new provisions in the Civil Code of Québec relating to insurance and divided co-ownership came into effect. Several new rules have been introduced.

Firstly, if property for which the syndicate contracted insurance is damaged, the syndicate will have the choice to present or not an insurance claim for the damage caused to the insured property.

If the syndicate submits such a claim, the insurer will be barred from filing a subrogated claim against a co-owner or a member of a co-owner's household, or against a person in respect of whom the syndicate is required to provide liability insurance. However, this prohibition will not apply if the claim is based on bodily or moral injury, or if the injury is due to an intentional or gross fault of a co-owner.

If, however, the syndicate does not make a claim under its insurance, it will have to repair the damages with diligence. As in the case of the insurer, the syndicate will be barred from suing a co-owner, a member of his household or a person for whom it was held to provide insurance, such as a director or officer of the syndicate.

The syndicate will be allowed to claim from co-owners the amount of applicable deductibles and the amount of damages caused to property in which the syndicate has an insurable interest, however solely by contributing toward common expenses.

In addition, the syndicate will be allowed to claim compensation from a co-owner for damage caused by his fault. However, we believe that, in this case, the claim would be restricted to damages that the syndicate is otherwise allowed to claim, i.e. the insurance deductible, in case of under-insurance and non-covered damages, as per art 1074.2 C.C.Q. This last rule is of public order and cannot be derogated from.

Finally, the insurance obtained by the syndicate will be considered a primary insurance in the event that a co-owner had also obtained insurance covering the same property.



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