



[Back To Education Home](#)

[Back To Education Library](#)

[Print this Page](#)

## Condominium Coverages

*(Editor's Note: The below article is still accurate for some issues. There was, however, a substantial change to Chapter 718 during the 2008 legislative session. To view that article and to see what changes have already taken place and will take place by 1/1/09 please see this article:*

[http://www.fuia.com/web/2008/07/condominium\\_insurance\\_changes\\_fo.aspx](http://www.fuia.com/web/2008/07/condominium_insurance_changes_fo.aspx))

- - - - -

During the 2003 legislative session senate bill 592 made changes to the statutes (Specifically 718.111) that address how insurance coverage must be provided under the condominium master policy and the individual unit owner policies.

The declaration of condominium ("condo docs") no longer dictates the insuring responsibilities for the condominium association or the unit owner. This change applies to every residential condominium association across the state, regardless of the date of its declaration of condominium. During the 2007 special legislative session, the word "residential" was added to the statutes in 718.111(11) and 718.111(11)(a) to indicate that the statutes applied only to residential condominiums.

Below are the significant highlights of the bills:

- The changes apply to every residential condominium in the state, regardless of the date of its declarations.
- In condominiums where there is only one unit in a free standing building the association is not required to insure that building if the condominium declarations require the unit owner to obtain adequate insurance on the condominium property.
- The condominium board may satisfy the requirement to obtain "adequate insurance" if the policy contains a reasonable deductible as determined by the board. There is no definition of "reasonable."
- The master policy shall provide primary coverage for the following:

- All portions of the condominium property located outside the units;
  - The condominium property located inside the units as such property was initially installed, or replacements thereof of like kind and quality and in accordance with the original plans and specifications or, if the original plans and specifications are not available, as they existed at the time the unit was initially conveyed; (*Editor's note: This includes items such as drywall, sheetrock, unfinished walls, unfinished floors, interior doors, interior non-load bearing walls, closet doors, closet rods, bath tubs, sinks, and toilets as long as items such as these were initially installed by the builder or are replacements of like kind and quality.* )
  - All portions of the condominium property for which the declaration of condominium requires coverage by the association.
- The law provides that the following property components are excluded from the property and casualty insurance maintained by the condominium association and shall be insured by the individual unit owners:
    - Floor coverings, wall coverings, and ceiling coverings
    - Electrical fixtures
    - Appliances
    - Air conditioning or heating equipment
    - Water heaters
    - Water filters
    - Built in cabinets and counter tops
    - Window treatments, including curtains, drapes, blinds, and hardware
    - Replacements for any of the above listed property
    - Air conditioning compressors that serve only one unit no matter where located
  - Associations may amend their declarations without regard to mortgagee approval of the amendments affecting insurance requirements.
  - Unit owners are responsible for any interior additions and upgrades that are not of like kind of quality to the original interior building items.
  - Where the unit owner's policy covers the same property that is also covered by the master policy, the unit owner's policy shall be excess over the amount recoverable under the master policy.
  - Unit owner policies shall be without rights of subrogation against the condominium association.
  - It shall be the responsibility of the unit owner to insure real or personal property within the unit that is excluded from the association policy.

The most significant aspect of this statute change is that certain items of building property are now clearly the insurance responsibility of the unit owner and are not covered by the association policy. Some unit owners who carry a low limit of building coverage on their unit owner policy will likely need to increase that coverage to be adequately protected.

In recent months FAIA has been inundated by member agents with questions about how coverage works for certain building items. Commonly mentioned are items such as drywall, windows, interior doors, and baseboards to name a few. Agents advise FAIA that claims

adjusters and/or condo associations are telling unit owners that the items just mentioned are the primary insurance responsibility of the unit owner. The statutes, however, clearly dictate otherwise and no one has ever cited any statutory basis to justify a statement along the lines of "Drywall is the primary responsibility of the unit owner." Clearly, building items such as drywall, windows, doors, and baseboards are "*condominium property located inside the units as such property was initially installed...*" as referenced in the statute and are clearly the primary insurance responsibility of the association. Relating to storm shutters, once they are installed on exterior windows they become "*...condominium property located outside the units...*" and again the statute is very clear that such property is the primary responsibility insurance of the association. While items such as drywall, doors, windows, baseboards, and shutters may be the maintenance responsibility of the unit owner, they are the primary insurance responsibility of the association. Even if the condominium bylaws or documents stated that items such as drywall, windows, doors, baseboards, and exterior shutters were the primary insurance responsibility of the unit owner, Florida statute 718.111 dictates otherwise.

The January 1, 2004 date is significant because the old statute referred to a 1986 date and a 1992 date. Depending on the dates of the condominium declarations (bylaws) it was possible that the master policy would cover items such as the floor coverings, electrical fixtures, appliances, and water heaters to name a few. With the statutory change those 1986 and 1992 dates are eliminated and there is one "common playing field" when it comes to what the master policy will not cover. It's now safe to say that all of the 20,000 or so residential condominium associations in the state all fall under the new law and the "property not covered list" is the same for all residential condominium associations.

What this means for the unit owner is that increased coverage may be required under the unit owner policy. When advised of this fact it's likely that the first call will be to the insurance agency with the question of, "How much coverage should I carry?" That answer is the same today as it was when the first condominium policy was written decades ago, "Whatever limit you think is appropriate." The agency should not select a limit of insurance. Only after reading the statute and the condominium declarations can a unit owner know what his insurance responsibility is. The amount of coverage should be based on:

- The property not covered by the master policy shown above
- Any property which the association bylaws require unit owners to insure
- Additions and alterations inside the unit which are not of like kind and quality when compared to the original installed property.

Again, the declaration of condominium no longer dictates the insuring responsibilities for the condominium association or the unit owner. This applies to all new and renewal policies issued on or after January 1, 2004. The Florida Statutes now dictate the insuring responsibilities for the residential condominium association and the unit owner.

With the new statute it's important for agency staff to understand the scope of the change. Existing unit owners and associations may need to be contacted to make any needed adjustments to policies. Condominium coverage can be confusing and it's important that proper coverage be in place.

The statutes pertaining to this issue are below.

**718.111 The association.**

*(11) INSURANCE.—In order to protect the safety, health, and welfare of the people of the State of Florida and to ensure consistency in the provision of insurance coverage to condominiums and their unit owners, paragraphs (b) and (c) are deemed to apply to every residential condominium in the state, regardless of the date of its declaration of condominium.*

*It is the intent of the Legislature to encourage lower or stable insurance premiums for associations described in this section. Therefore, the Legislature requires a report to be prepared by the Office of Insurance Regulation of the Department of Financial Services for publication 18 months from the effective date of this act, evaluating premium increases or decreases for associations, unit owner premium increases or decreases, recommended changes to better define common areas, or any other information the Office of Insurance Regulation deems appropriate.*

*(a) A unit-owner controlled association operating a residential condominium shall use its best efforts to obtain and maintain adequate insurance to protect the association, the association property, the common elements, and the condominium property required to be insured by the association pursuant to paragraph (b). If the association is developer controlled, the association shall exercise due diligence to obtain and maintain such insurance. Failure to obtain and maintain adequate insurance during any period of developer control shall constitute a breach of fiduciary responsibility by the developer-appointed members of the board of directors of the association, unless said members can show that despite such failure, they have exercised due diligence. The declaration of condominium as originally recorded, or amended pursuant to procedures provided therein, may require that condominium property consisting of freestanding buildings where there is no more than one building in or on such unit need not be insured by the association if the declaration requires the unit owner to obtain adequate insurance for the condominium property. An association may also obtain and maintain liability insurance for directors and officers, insurance for the benefit of association employees, and flood insurance for common elements, association property, and units. Adequate insurance, regardless of any requirement in the declaration of condominium for coverage by the association for "full insurable value," "replacement cost," or the like, may include reasonable deductibles as determined by the board. An association or group of associations may self-insure against claims against the association, the association property, and the condominium property required to be insured by an association, upon compliance with ss. 624.460-624.488. A copy of each policy of insurance in effect shall be made available for inspection by unit owners at reasonable times.*

*(b) Every hazard insurance policy issued or renewed on or after January 1, 2004, to protect the condominium shall provide primary coverage for:*

- 1. All portions of the condominium property located outside the units;*
- 2. The condominium property located inside the units as such property was initially installed, or replacements thereof of like kind and quality and in accordance with the original plans and specifications or, if the original plans and specifications are not available, as they existed at the time the unit was initially conveyed; and*
- 3. All portions of the condominium property for which the declaration of condominium requires coverage by the association.*

*Anything to the contrary notwithstanding, the terms "condominium property," "building," "improvements," "insurable improvements," "common elements," "association property," or any other term found in the declaration of condominium which defines the scope of property or casualty insurance that a condominium association must obtain shall exclude all floor, wall, and ceiling coverings, electrical fixtures, appliances, air conditioner or heating equipment, water heaters, water filters, built-in cabinets and countertops, and window treatments, including curtains, drapes, blinds, hardware, and similar window treatment components, or replacements of any of the foregoing which are located within the boundaries of a unit and serve only one unit and all air conditioning compressors that service only an individual unit, whether or not located within the unit boundaries. The foregoing is intended to establish the property or casualty insuring responsibilities of the association and those of the individual unit owner and do not serve to broaden or extend the perils of coverage afforded by any insurance contract provided to the individual unit owner. Beginning January 1, 2004, the association shall have the authority to amend the declaration of condominium, without regard to any*

*requirement for mortgagee approval of amendments affecting insurance requirements, to conform the declaration of condominium to the coverage requirements of this section.*

*(c) Every hazard insurance policy issued or renewed on or after January 1, 2004, to an individual unit owner shall provide that the coverage afforded by such policy is excess over the amount recoverable under any other policy covering the same property. Each insurance policy issued to an individual unit owner providing such coverage shall be without rights of subrogation against the condominium association that operates the condominium in which such unit owner's unit is located. All real or personal property located within the boundaries of the unit owner's unit which is excluded from the coverage to be provided by the association as set forth in paragraph (b) shall be insured by the individual unit owner.*

*(d) The association shall obtain and maintain adequate insurance or fidelity bonding of all persons who control or disburse funds of the association. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the association or its management agent at any one time. As used in this paragraph, the term "persons who control or disburse funds of the association" includes, but is not limited to, those individuals authorized to sign checks and the president, secretary, and treasurer of the association. The association shall bear the cost of bonding.*

-----

*Copyright FAIA, 7/31/08, David Thompson*