

“Buy the Right Insurance: It Could Make All the Difference,” FCAP Managers Report

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Purchasing insurance is often expensive, time consuming, and confusing. However, today is the right time to make sure you have the proper insurance coverage in place and to confirm that your insurance company has the financial strength to handle the claims process. That way you can rest comfortably knowing that you will be in the right

position to navigate an insurance claim with your insurance company should the need arise.

For starters, condominium associations should be familiar with Fla. Stat. 718.111(11)(f). This will help condominium associations understand the minimum level of insurance coverage it should purchase. That statute mandates that condominiums must provide primary insurance coverage for the following:

1. All portions of the condominium property as originally installed or replacement of like kind and quality, in accordance with the original plans and specifications.
2. All alterations or additions made to the condominium property or association property pursuant to §718.113(2).
3. The coverage must exclude all personal property within the unit or limited common elements, and floor, wall, and ceiling coverings, electrical fixtures, appliances, 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 the unit and serve only such unit. Such property and any insurance thereupon are the responsibility of the unit owner.

All condominium associations should meet the minimum requirements imposed by Fla. Stat. 718.111(11)(f).

Moreover, the condominium association’s bylaws should likewise be reviewed

and analyzed. It is possible that the association's bylaws may impose additional requirements regarding insurance coverage. You do not want to be in a situation where the insurance purchased complies with Fla. Stat. 718.111(11)(f) but fails to otherwise comply with the specific requirements set forth in your bylaws.

Speaking of avoiding sticky insurance coverage issues, condominium associations should not fall into the trap of underinsuring the property to save a buck. Property managers and/or boards of directors may be tempted to underinsure their property to save money on insurance premiums, especially during these tough economic times. However, if there is not ample insurance coverage in the event of a catastrophic event, such as a massive hurricane strike, then property managers and/or boards of directors may face potential liability from unit owners as a direct result of failing to secure adequate insurance coverage. Don't "buy yourself a claim" by deliberately underinsuring your property with an eye towards saving money on the yearly premium. That decision may come back to haunt you.

Another area where many associations get tripped up in is understanding the difference between replacement cost coverage and actual cost coverage. Replacement cost coverage will pay you for the item in today's dollars. On the other hand, actual cash value will pay you the replacement cost of the damaged property minus any depreciation. While replacement cost coverage may cost more, it is generally recommended and preferred to actual cash value.

Speaking of catastrophic claims, numerous insurance companies went out of business after Hurricane Andrew struck South Florida in 1992. Many of those insurance companies simply did not have the financial strength to handle the onslaught of catastrophic claims that arose from the Hurricane Andrew's aftermath.

In the event of a major storm or catastrophic claim, you do not want to be stuck with an insurance company that is going broke as it will negatively impact your claim. Worse, it could leave you in a position where you will be unable to make a recovery even though you paid your insurance premiums in a timely manner. Therefore, you should check the financial strength of your insurance company. Make sure they have the financial strength to handle your potential policy limits insurance claim and similar claims for the vast number of their insureds.

What happens if your insurance company goes out of business and cannot pay the covered damage you sustained? It depends on whether you purchased insurance coverage from a Florida admitted insurance company. What that means is an "admitted" insurance company is permitted to do business in the state of Florida. As an "admitted" insurance company, they are required to submit their policy forms, charges for premiums, and other information, to the state of Florida for the state's review and approval. These "admitted" insurance companies are backed by the Florida Insurance Guarantee Association (FIGA.) FIGA steps into the shoes of any "admitted" Florida insurance company that

happens to go out of the business.

On the other hand, there is an entire market of non-admitted insurance companies that offer insurance coverage to condominiums in Florida. These companies may use policy forms that are not typically used in Florida. Moreover, these non-admitted insurance companies may require the insured to litigate any insurance claim outside of Florida, which means you may be required to find an attorney in Wyoming or North Dakota if your non-admitted insurance company requires you to bring your Florida insurance claim out of state. Also, if your non-admitted insurance company goes out of business, then you will likely not be afforded the protections offered by FIGA.

Buying insurance is never easy. Not all insurance companies are created equal. Not all insurance coverages are the same. There are many details that one needs to understand when buying insurance coverage. Don't be guided just by the cost of insurance. Understand the scope of coverages you are purchasing. Make sure that coverage complies with Florida law and meets the requirements set forth in your bylaws. Don't cut corners and underinsure your property just to save a buck and understand the differences between admitted and non-admitted carriers. These are but just a few issues that should be addressed when buying insurance and buying the right insurance could make all the difference if your property suffers a catastrophic loss.

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