

THE 2006 FLORIDA STATUTES

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 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 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.

The following table is a guide to help identify Hazard Insurance coverage responsibilities for unit owners and condominium associations based with Florida Statute 718.

Residential Building Elements hazard insurance	Unit owners insurance responsibility	Condo assoc. insurance responsibility
A. VERTICAL WALLS		
1. Exterior Building Walls		
A. Mesh, Lath, Sheathing, Glass, Block, Stucco (Painted)		X
B. Studs, Insulation.		X
C. Unfinished Sheet Rock/Drywall.		X
D. Interior Wall Area of Exterior Wall (Paint, Tile or Wallpaper or other Wall Covering)	X	
2. Unit Interior Walls Including Party Walls		
A. Block, Studs, Insulation.		X
B. Unfinished Sheet Rock/Drywall.		X
C. Interior Wall Area (Paint, Tile or Wallpaper or Other Wall coverings)	X	
3. Common Area Interior Walls		
A. Block, Studs, Insulation.		X
B. Unfinished Sheet rock/Drywall.		X
C. Interior Wall Area (Paint, Tile or Wallpaper or other Wall Coverings)		X
B. HORIZONTAL FLOORS INCL. CEILINGS		
1. Unit Interior Floors		
A. Concrete, Gypcrete, Framing, Plywood, Insulation.		X
B. Floor Coverings.	X	
2. Common Area Floors		
A. Concrete, Gypcrete, Framing, Plywood, Insulation.		X
B. Floor Coverings.		X
3. Unit Interior Ceilings and Roof Area		
A. Concrete, Gypcrete, Framing, Plywood, Insulation, Sheet Rock or Drywall.		X
B. Paint and Texture Finishes (Popcorn, etc.)	X	
4. Common Area Ceilings and Roof Area		
A. Concrete, Gypcrete, Framing, Plywood, Insulation, Sheet Rock or Drywall.		X
B. Paint and Texture Finishes (Popcorn, etc.)		X
C. ROOFING — UNIT INTERIOR & COMMON AREAS		
A. All Framing, Structural Supports, Decking, Insulation, and Roof Cover.		X
D. MISCELLANEOUS UNIT INTERIOR FIXTURES		
A. Electrical Fixtures, Appliances, Air Handlers, Compressors if servicing a Single Condominium Unit, Water Heaters and Cabinetry.	X	