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Florida Legislature Passes Condo Glitch Bill...Again Travis Miller

Last year, the Florida legislature passed revisions to the state's condominium insurance laws attempting to correct troublesome provisions adopted in the prior year. Unfortunately, the condo "glitch" legislation was part of a bill that Governor Crist vetoed for other reasons, leaving Florida's condominium insurance laws intact for another year.

In the 2010 session, the legislature again has passed condo "glitch" legislation. The provisions relating to association policies and unit owners policies are part of a larger condominium insurance package (SB 1196) this year, so insurers will be awaiting action on the broader bill by Governor Crist in the coming weeks.

Loss Assessment Coverage:

The bill creates a new section 627.714 governing loss assessment coverage under unit owners' policies. The statute continues existing law by requiring unit owners' policies to provide at least \$2000 in property loss assessment coverage. However, the specific characteristics of the coverage have changed slightly. The loss assessment limit applies to all assessments made as a result of the same direct loss to the condominium property, regardless of the number of assessments levied by the association. In addition, losses for which assessments are levied must be of a type covered by the unit owners' policies.

A deductible of up to \$250 may be applied to the loss assessment coverage, unless a deductible applies to other property losses sustained by the unit owner resulting from the same direct cause of loss. In the latter case, no deductible may be applied to the loss assessment coverage. The statute also specifies that the maximum amount of loss assessment coverage available to a unit owner is the amount in effect on the day before the loss occurrence, meaning that the insured cannot increase his or her loss assessment protection for an event that has already occurred.

The bill also specifies that individual unit owners' policies must contain provisions stating that the coverage under those policies is excess over amounts recoverable under any other policy covering the same property.

Adequate "Property" Insurance:

Current law requires condominium associations to obtain adequate "hazard" insurance, which has raised questions of interpretation. This reference is being clarified to require associations to obtain adequate "property" insurance. A reference to determining the "full insurable value" of condominium property every three years is being updated to require the "replacement cost" to be determined every three years.

Unit Owners' Coverage:

In recent years, the legislature has attempted to better define the relative insurance responsibilities of associations and unit owners. Under current law, the association policy excludes personal property within the unit or limited common areas, 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. The new bill clarifies these items are the insurance responsibility of the unit owner to the extent they are within the boundaries of the unit and serve only the unit.

The bill deletes a current law that specifies improvements or additions to condominium property that benefit fewer than all of the unit owners are the insurance responsibility of the unit owners having use of the property or may be insured by the association at the expense of the unit owners having use of the property.

The legislature also has deleted a provision of current law requiring unit owners to provide evidence of insurance upon the request of the association and allowing the association to purchase insurance on behalf of unit owners without insurance at the unit owners' expense.

The bill also would eliminate current law specifying that associations must be listed as additional named insureds and loss payees under unit owners' policies.

As we saw with the "glitch" bill last year, we cannot assume that the Governor will sign bills presented to him by the legislature. To follow the status of SB 1196, please consult our website at www.radeylaw.com.