

Bill No. SB 4-A

Barcode 632058

CHAMBER ACTION

Senate

House

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The Committee on Banking and Insurance (Deutch) recommended
the following amendment:

Senate Amendment (with title amendment)

On page 171, between lines 4 and 5,

insert:

Section 33. Subsection (11) of section 718.111,
Florida Statutes, is amended to read:

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

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1 from the effective date of this act, evaluating premium
 2 increases or decreases for associations, unit owner premium
 3 increases or decreases, recommended changes to better define
 4 common areas, or any other information the Office of Insurance
 5 Regulation deems appropriate.

6 (a) A unit-owner controlled association operating a
 7 residential condominium shall use its best efforts to obtain
 8 and maintain adequate insurance to protect the association,
 9 the association property, the common elements, and the
 10 condominium property required to be insured by the association
 11 pursuant to paragraph (b). If the association is developer
 12 controlled, the association shall exercise due diligence to
 13 obtain and maintain such insurance. Failure to obtain and
 14 maintain adequate insurance during any period of developer
 15 control shall constitute a breach of fiduciary responsibility
 16 by the developer-appointed members of the board of directors
 17 of the association, unless said members can show that despite
 18 such failure, they have exercised due diligence. The
 19 declaration of condominium as originally recorded, or amended
 20 pursuant to procedures provided therein, may require that
 21 condominium property consisting of freestanding buildings
 22 where there is no more than one building in or on such unit
 23 need not be insured by the association if the declaration
 24 requires the unit owner to obtain adequate insurance for the
 25 condominium property. An association may also obtain and
 26 maintain liability insurance for directors and officers,
 27 insurance for the benefit of association employees, and flood
 28 insurance for common elements, association property, and
 29 units. Adequate insurance, regardless of any requirement in
 30 the declaration of condominium for coverage by the association
 31 for "full insurable value," "replacement cost," or the like,

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1 may include reasonable deductibles as determined by the board
2 based upon available funds or predetermined assessment
3 authority at the time that the insurance is obtained.

4 1. Windstorm insurance coverage for a group of no
5 fewer than three communities created and operating under
6 chapter 718, chapter 719, chapter 720, or chapter 721 may be
7 obtained and maintained for the communities if the insurance
8 coverage is sufficient to cover an amount equal to the
9 probable maximum loss for the communities for a 250-year
10 windstorm event. Such probable maximum loss must be determined
11 through the use of a competent model that has been accepted by
12 the Florida Commission on Hurricane Loss Project Methodology.
13 Such insurance coverage is deemed adequate windstorm insurance
14 for the purposes of this section.

15 2. An association or group of associations may
16 self-insure against claims against the association, the
17 association property, and the condominium property required to
18 be insured by an association, upon compliance with the
19 applicable provisions of ss. 624.460-624.488, which shall be
20 considered adequate insurance for the purposes of this
21 section. A copy of each policy of insurance in effect shall be
22 made available for inspection by unit owners at reasonable
23 times.

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

27 1. All portions of the condominium property located
28 outside the units;

29 2. The condominium property located inside the units
30 as such property was initially installed, or replacements
31 thereof of like kind and quality and in accordance with the

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1 original plans and specifications or, if the original plans
2 and specifications are not available, as they existed at the
3 time the unit was initially conveyed; and

4 3. All portions of the condominium property for which
5 the declaration of condominium requires coverage by the
6 association.

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8 Anything to the contrary notwithstanding, the terms
9 "condominium property," "building," "improvements," "insurable
10 improvements," "common elements," "association property," or
11 any other term found in the declaration of condominium which
12 defines the scope of property or casualty insurance that a
13 condominium association must obtain shall exclude all floor,
14 wall, and ceiling coverings, electrical fixtures, appliances,
15 air conditioner or heating equipment, water heaters, water
16 filters, built-in cabinets and countertops, and window
17 treatments, including curtains, drapes, blinds, hardware, and
18 similar window treatment components, or replacements of any of
19 the foregoing which are located within the boundaries of a
20 unit and serve only one unit and all air conditioning
21 compressors that service only an individual unit, whether or
22 not located within the unit boundaries. The foregoing is
23 intended to establish the property or casualty insuring
24 responsibilities of the association and those of the
25 individual unit owner and do not serve to broaden or extend
26 the perils of coverage afforded by any insurance contract
27 provided to the individual unit owner. Beginning January 1,
28 2004, the association shall have the authority to amend the
29 declaration of condominium, without regard to any requirement
30 for mortgagee approval of amendments affecting insurance
31 requirements, to conform the declaration of condominium to the

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1 coverage requirements of this section.

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

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

24
25 (Redesignate subsequent sections.)

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28 ===== T I T L E A M E N D M E N T =====

29 And the title is amended as follows:

30 On page 10, line 12, after the semicolon,

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1 insert:

2 amending s. 718.111, F.S.; providing for
3 windstorm insurance for condominium
4 associations;

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