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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/10/2009	.	
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The Committee on Banking and Insurance (Fasano) recommended the following:

**Senate Amendment (with directory and title amendments)**

Delete lines 136 - 246  
and insert:  
of the foregoing which are located within the boundaries of the unit and serve only such unit. Such property and any insurance thereupon shall be the responsibility of the unit owner.

(g) A condominium unit owner's policy shall conform to the requirements of s. 627.714. ~~Every hazard insurance policy issued or renewed on or after January 1, 2009, to an individual unit owner must contain a provision stating that the coverage~~



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12 ~~afforded by such policy is excess coverage over the amount~~  
13 ~~recoverable under any other policy covering the same property.~~  
14 ~~Such policies must include special assessment coverage of no~~  
15 ~~less than \$2,000 per occurrence. An insurance policy issued to~~  
16 ~~an individual unit owner providing such coverage does not~~  
17 ~~provide rights of subrogation against the condominium~~  
18 ~~association operating the condominium in which such individual's~~  
19 ~~unit is located.~~

20 ~~1. All improvements or additions to the condominium~~  
21 ~~property that benefit fewer than all unit owners shall be~~  
22 ~~insured by the unit owner or owners having the use thereof, or~~  
23 ~~may be insured by the association at the cost and expense of the~~  
24 ~~unit owners having the use thereof.~~

25 ~~2. The association shall require each owner to provide~~  
26 ~~evidence of a currently effective policy of hazard and liability~~  
27 ~~insurance upon request, but not more than once per year. Upon~~  
28 ~~the failure of an owner to provide a certificate of insurance~~  
29 ~~issued by an insurer approved to write such insurance in this~~  
30 ~~state within 30 days after the date on which a written request~~  
31 ~~is delivered, the association may purchase a policy of insurance~~  
32 ~~on behalf of an owner. The cost of such a policy, together with~~  
33 ~~reconstruction costs undertaken by the association but which are~~  
34 ~~the responsibility of the unit owner, may be collected in the~~  
35 ~~manner provided for the collection of assessments in s. 718.116.~~

36 ~~1.3.~~ All reconstruction work after a property casualty loss  
37 shall be undertaken by the association except as otherwise  
38 authorized in this section. A unit owner may undertake  
39 reconstruction work on portions of the unit with the prior  
40 written consent of the board of administration. However, such



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41 work may be conditioned upon the approval of the repair methods,  
42 the qualifications of the proposed contractor, or the contract  
43 that is used for that purpose. A unit owner shall obtain all  
44 required governmental permits and approvals prior to commencing  
45 reconstruction.

46 ~~2.4.~~ Unit owners are responsible for the cost of  
47 reconstruction of any portions of the condominium property for  
48 which the unit owner is required to carry property ~~casualty~~  
49 insurance, and any such reconstruction work undertaken by the  
50 association shall be chargeable to the unit owner and  
51 enforceable as an assessment pursuant to s. 718.116. ~~The~~  
52 ~~association must be an additional named insured and loss payee~~  
53 ~~on all casualty insurance policies issued to unit owners in the~~  
54 ~~condominium operated by the association.~~

55 ~~3.5.~~ A multicondominium association may elect, by a  
56 majority vote of the collective members of the condominiums  
57 operated by the association, to operate such condominiums as a  
58 single condominium for purposes of insurance matters, including,  
59 but not limited to, the purchase of the property ~~hazard~~  
60 insurance required by this section and the apportionment of  
61 deductibles and damages in excess of coverage. The election to  
62 aggregate the treatment of insurance premiums, deductibles, and  
63 excess damages constitutes an amendment to the declaration of  
64 all condominiums operated by the association, and the costs of  
65 insurance shall be stated in the association budget. The  
66 amendments shall be recorded as required by s. 718.110.

67 (j) Any portion of the condominium property required to be  
68 insured by the association against property ~~casualty~~ loss  
69 pursuant to paragraph (f) which is damaged ~~by casualty~~ shall be



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70 reconstructed, repaired, or replaced as necessary by the  
71 association as a common expense. All property hazard insurance  
72 deductibles, uninsured losses, and other damages in excess of  
73 property hazard insurance coverage under the property hazard  
74 insurance policies maintained by the association are a common  
75 expense of the condominium, except that:

76 1. A unit owner is responsible for the costs of repair or  
77 replacement of any portion of the condominium property not paid  
78 by insurance proceeds, if such damage is caused by intentional  
79 conduct, negligence, or failure to comply with the terms of the  
80 declaration or the rules of the association by a unit owner, the  
81 members of his or her family, unit occupants, tenants, guests,  
82 or invitees, without compromise of the subrogation rights of any  
83 insurer ~~as set forth in paragraph (g)~~.

84 2. The provisions of subparagraph 1. regarding the  
85 financial responsibility of a unit owner for the costs of  
86 repairing or replacing other portions of the condominium  
87 property also apply to the costs of repair or replacement of  
88 personal property of other unit owners or the association, as  
89 well as other property, whether real or personal, which the unit  
90 owners are required to insure ~~under paragraph (g)~~.

91 3. To the extent the cost of repair or reconstruction for  
92 which the unit owner is responsible under this paragraph is  
93 reimbursed to the association by insurance proceeds, and, to the  
94 extent the association has collected the cost of such repair or  
95 reconstruction from the unit owner, the association shall  
96 reimburse the unit owner without the waiver of any rights of  
97 subrogation.

98 4. The association is not obligated to pay for repair or



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99 reconstruction or repairs of property casualty losses as a  
100 common expense if the property casualty losses were known or  
101 should have been known to a unit owner and were not reported to  
102 the association until after the insurance claim of the  
103 association for that property casualty was settled or resolved  
104 with finality, or denied on the basis that it was untimely  
105 filed.

106 (n) The association is not obligated to pay for any  
107 reconstruction or repair expenses due to property casualty loss  
108 to any improvements installed by a current or former owner of  
109 the unit or by the developer if the improvement benefits only  
110 the unit for which it was installed and is not part of the  
111 standard improvements installed by the developer on all units as  
112 part of original construction, whether or not such improvement  
113 is located within the unit. This paragraph does not relieve any  
114 party of its obligations regarding recovery due under any  
115 insurance implemented specifically for any such improvements.

116 Section 2. Section 627.714, Florida Statutes, is created to  
117 read:

118 627.714 Residential condominium unit owner coverage; loss  
119 assessment coverage required; excess coverage provision  
120 required.—Coverage under a unit owner's residential property  
121 policy shall include property loss assessment coverage of at  
122 least \$2,000 per occurrence for an assessment made as a result  
123 of a direct loss to the property owned by all members of the  
124 association collectively when such loss is the type of loss  
125 covered by the unit owner's residential property insurance  
126 policy, up to the limit of liability in effect at the time of  
127 the assessment. Every individual unit owner's residential



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128 property policy must contain a provision stating that the  
129 coverage afforded by such policy is excess coverage over the  
130 amount recoverable under any other policy covering the same  
131 property.  
132

133 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

134 And the directory clause is amended as follows:

135 Delete line 41

136 and insert:

137 Section 1. Paragraphs (a), (b), (c), (d), (f), (g), (j),  
138 and (n)

139

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

141 And the title is amended as follows:

142 Delete lines 26 - 36

143 and insert:

144 requiring that condominium unit owner's policies conform to  
145 certain provisions of state law; deleting provisions relating to  
146 certain hazard and casualty insurance policies; conforming  
147 provisions to changes made by the act; creating s. 627.714,  
148 F.S.; requiring that coverage under a unit owner's policy for  
149 certain assessments include at least a minimum amount of loss  
150 assessment coverage; requiring that every property insurance  
151 policy to an individual unit owner contain a