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ANALYSIS

Florida Bill Aimed At Condo Regulations Prompts Lawyers to Prepare for Wave of Work

Florida-based lawyers focused on condominium and homeowners association law are keeping an eye on House Bill 913's progress through the state legislature. The measure promises some consequential changes to condo regulations.

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Insurance Law



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What You Need to Know

- The Florida legislature is proposing a bill to address Florida's condo crisis.
- Condos have been struggling with meeting recently imposed regulations that followed the collapse of Champlain Tower in 2021.
- Although addressing the issues has been top of mind for residents and lawmakers, lawyers are concerned over some of its language.

[House Bill 913](#) is in the process of moving through Florida's legislature, and it promises to make consequential changes regarding condo safety regulations.

Following the collapse of the Champlain Towers South condominium in 2021, state lawmakers have since sought to tweak condo safety regulations multiple times. But some of those changes have drastically increased the standard of maintaining aging condos throughout the state, now requiring condos to make pricey repairs if they've fallen behind on them over the years. Those repairs have led to financial stress for many condos as they seek to comply with the regulations and face the possibility of becoming unaffordable.

However, many condos blew past a major deadline set by recent laws to comply with safety regulations, prompting lawmakers to put stricter measures in place to force condos to comply. Those stricter measures lie in HB 913, which is still awaiting final approval from lawmakers.

But as many lawyers focused on condo laws contemplate whether the state's decision to approach condos with a stick as opposed to a carrot is the best course, they're certainly anticipating an increase in work either way.

"[The new laws are] making our phones ring. It's flooding our inboxes," Becker & Poliakoff shareholder Donna DiMaggio Berger said. "In the past, there were a lot of smaller associations that were very informal. You could have a 36-unit condo that's four

stories high that's now implicated with all of this. They may be self managed. They maybe called an attorney once a year if they had a random collection issue. Now they need us on speed dial to try to figure out everything they need to do. The stakes are much higher.”

While HB 913 is probably well-intentioned, according to DiMaggio Berger, a former Tallahassee lobbyist, it also resembles Frankenstein with all of its complicated moving parts. Like many bills in the past, it has been stuffed with an abundance of new regulations that seem to be all over the place and even contradict each other’s goals at times.

One of its largest proposed changes is restricting the ability for condos to obtain insurance through the state-run insurer Citizens if they haven’t met their deadlines for inspections and repairs. As premiums have shot up because of a brewing insurance crisis in the state, Citizens has gone from being the last-resort insurer to becoming a popular option.

However, lawyers argue that threatening to take away insurance from condos only makes it harder for them to comply with regulations.

“We want to encourage them to do the inspections timely to make sure the buildings are safe. But what else makes a building safe? Having proper insurance coverage,” DiMaggio Berger said. “So on the one hand, we're saying you’ve got to get these engineering reports done on time, but guess what, if you don't, not only are you not going to have an engineering report, but now you're not going to have insurance coverage either.”

On the other hand, the bill also creates a rule allowing condo boards to bypass unit owners to take out loans and impose special assessments, fees charged to unit owners when an emergency expense comes up. In these cases, the emergency expenses are for the studies and repairs required to comply with Florida’s shifting condo laws.

In the past, condo boards have struggled to impose special assessments because unit owners voted against them, according to Eisinger Law partner Alessandra Stivelman, making it hard to achieve necessary repairs. That inability to impose the assessments has led to some of the difficulty in complying with state regulations. But the new law promises to make it easier for condo boards.

“If [a loan] is for the necessary repair and maintenance of the condominium for safety reasons, then the board is allowed to obtain a loan and pass a special assessment. So

in that sense, it could be very helpful to the communities that are struggling to get the necessary approval in order to do the necessary maintenance and comply with the statute,” Stivelman said.

The third major change in the bill bans companies from handling both the structural integrity reserve studies and the repairs simultaneously. This is meant to eliminate any potential conflict of interest.

Although it’s unclear whether companies were upcharging for either service, David Kim, senior counsel at Schwartz Sladkus Reich Greenberg Atlas, says it’s a good preventative measure.

“I don’t think associations gave it much thought to not have the repairs done by that same entity that provided the initial report. It’s just a convenient one-stop shop,” Kim said. “I hate to say it, but there may be some companies that try to take advantage of the situation, so they may be charging exponentially greater amounts than what would typically be needed to make these repairs. And I’m not saying that is what’s occurring ... I think this helps to alleviate any type of conflict that may be there.”

The 104-page bill does include many other changes, like more transparency from condo boards. But the three issues mentioned are the main shifts lawyers in the space are keeping an eye on.

Now, those lawyers are waiting to see if the bill passes as it still sits in the Florida House awaiting further legislative approval. Its passage is still not guaranteed, but addressing the issue has been a top priority for years as outcry over condo affordability has persisted while the need to ensure condo safety stays top of mind for politicians.

Because the bill is still in its early stages, the language could change before it gets approved. But the biggest question is whether the language around barring condos from obtaining insurance through Citizens will remain.

“It’s very well intended, but extremely concerning in that an association is required to obtain insurance. Citizens is considered an insurance company of last resort, meaning nobody else really wants them. So if the association can’t obtain Citizens, they’re going to be in violation of the law, which requires an association to have insurance. They’re going to be in violation of their declaration, which is going to require them to have insurance,” co-chair of Haber Law’s condominium and HOA practice Marnie Dale Ragan said.