

## **Guest Commentary: Advocacy network helps condo owners keep an eye on Tallahassee legislation**

By EWING SUTHERLAND, Naples

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I welcome I.M. Stackel's article (published Jan. 3, headline "New condo law requires owners to buy insurance policy") as it highlights the confusion facing condominium owners about how the insurance amendments passed in the 2008 Florida legislative session will affect them and their associations.

Recently I have been asked what impact these changes in the Condominium Act relating to insurance will have on owners' individual insurance policies.

Some condominium owners will already have heard from their insurers as to how they will deal with their individual policy coverage renewed after Jan. 1 to comply with the new legislative provisions.

The legislation is detailed, but here are a few highlights which may be helpful in preparing for your policy renewal from the beginning of 2009 in discussion with your insurer or broker, or when purchasing a policy to be in compliance.

Although there has been much use of words like "new" and "changes" in describing the provisions, we should bear in mind that all we condominium owners have been required to have individual home owners' policies (HO-6) since 2004 and the difference is that last year our Legislature gave boards certain powers to enforce that requirement.

It appears that condominium owners' policies will have to cover all material alterations or additions to their units since the original plans and specifications at the time of construction; all personal property within the unit; limited common elements; floor, wall and ceiling coverings; electrical fixtures, appliances, water heaters, water filters, built-in cabinets and countertops; window treatments (including curtains, drapes, blinds, hardware and similar window-treatment components); or replacements of any of the foregoing.

Owners' policies will have to provide excess coverage of no less than \$2,000 per occurrence. That is in respect of the amount over the sum recoverable under any other policy (e.g., that of the individual condominium association) for which the association would be required to make an assessment for the loss which, for example, could be the building's deductible. Also the

association will have to be named as an additional insured and loss payee. The legislation obliges you to provide your association with evidence of your current effective hazard and liability policy and association boards should set up a system for keeping proper records and following up.

The press has also commented that some of the wording of the 2008 legislative provisions is imprecise. These reports are correct and a “glitch” bill(s) seems likely to bring clarity for everyone’s benefit. Regardless of the changes these possible 2009 bills will contain, we are all obliged to comply with the law and you should talk to your broker or insurer for personal guidance.

I consider much of the legislation passed over recent years to have been unnecessary and to have added significantly to the cost of running our individual condominium associations. The new insurance provisions could, however, be helpful should your association suffer a significant loss, because some condominium buildings unfortunate enough to have had claims following hurricanes in recent years faced difficulties in determining which policies of insurance covered the different losses suffered and this unfortunately gave rise to conflicts.

Many associations which have found it difficult to follow developments in Tallahassee and act effectively alone have come together to ensure that their views are understood in Tallahassee by joining the Community Advocacy Network (CAN) as a vehicle to defeat bad bills and promote a positive agenda for communities. CAN’s executive director (quoted by Stackel) is Donna Berger, managing partner of Katzman Garfinkel Rosenbaum, a statewide law firm with a Naples office. KGR devotes its practice to the representation of community associations. As a result, the not-for-profit lobbying arm of the firm, CAN, can assist associations with both state and local campaigns to address developer density issues, municipal zoning and local and state legislative proposals that can impact the manner and cost to operate common interest ownership communities.

We all have active support from our own Sen. Garrett Richter and Reps. Matt Hudson and Tom Grady, to whom we should give our backing in the regular 2008 legislative session.

If you wish to participate and protect your association, contact CAN ([www.canfl.com](http://www.canfl.com)) or me at [ewingsutherland@earthlink.net](mailto:ewingsutherland@earthlink.net) or (239) 643-3975.

*Sutherland is president of the board of the Gulfside condo in Naples and a member of the advisory council of the statewide Community Advocacy Network. “I became interested in association matters in 2004 after our legislators required my building along with many others to comply with a hugely expensive retrofit requirement. The retrofitting requirement has now been significantly ameliorated. However, it highlighted that condominiums and other common-interest communities were being legislated and micromanged without having proper input.” He is a retired senior business executive with an international food and beverages company and sat on its boards in Australia, Hong Kong, China, India, the United Kingdom and Ireland. He and his wife, Christine, have lived in the United States for more than 20 years “and are proud, new Americans of 12 years.”*