



**Board Members of Island Management Associations:** The Florida Legislature has enacted changes to the Florida Condominium Act via Senate Bill 995 and House Bill 601. As these changes encompass many areas, we have outlined the most important that we feel will affect our Associations immediately.

**RED** – interpretation as of date

**BLUE** – Action Island Management and/or Association will take.

- Amends F.S. 718.111(13) to permit financial reporting waiver vote to be taken prior to commencement of fiscal year for which waiver vote is taken.  
**Attorneys have interpreted that we can still have the vote during the fiscal year as long as it is not past the end of the fiscal year. So either prior (if your Annual Meeting is before Jan 1) or sometime before the end of the fiscal year. Island Management will monitor all financial waiver votes on Annual Meeting proxies as we have in past.**
- Amends F.S. 718.111(13) to prohibit waiver of financial reporting requirements for more than 3 consecutive years.  
**Associations will now have to have a review, compilation or audit starting in 2012. This cost will have to be budgeted. This is ONLY for Associations with 50 or more units. If you currently Waive Statutory Financial Reporting, Island Management will now add the year number (1, 2, or 3) to the Proxy Vote so that all will know when reporting is to take place and it can be budgeted.**
- Amends F.S. 718.112(2)(d) to default to one year board terms with an exception for two year staggered terms if approved by a majority of the voting interests.  
**Eliminates any Board term more than 2 years. If your By-Laws allows for 2 year terms, you can have a vote of the owners, prior to the next applicable Annual Meeting, to “opt-out” of this statutory change and follow the By-Laws. If your By Laws are silent or say anything different you will have to amend your By Laws, prior to the next applicable Annual Meeting. This takes effect the time the Board seat comes up for re-election, so if you are currently in your 1st year of a 2 year term you remain on the Board. Island Management has reviewed all Associations By-Laws to record who has language and who is silent. We will be advising individual Boards via the Property Manager. If the Association desires to “opt-out” or amend your By-Laws we are recommending that you hold a Special Members Meeting immediately prior to the Annual Meeting. We will need to send out an additional notice and proxy. This can be discussed with your Property Manager.**
- Amends F.S. 718.112(2)(d) to provide that a director who is suspended or removed by the Division, or who is delinquent in the payment of any fee or assessment, is not eligible for board membership.  
**Island Management will have to review all “Intent To Run” forms, prior to the Annual Meeting, and disqualify any candidates who are delinquent.**

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- Amends F.S. 718.112(2) (d) 3 to require the association's first notice of election package to include a "certification form", to be prepared by the Division, attesting that candidate has read and understands, to the best of their ability, the governing documents of the association and the provisions of F.S. 718 and applicable administrative rules.

Upon receipt of the form from the Division Island Management will include it with our mailing of First Notice of the Annual Meeting.

- Adds F.S. 718.113(6) to require that any condominium building greater than three stories in height must, at least every 5 years, obtain a physical inspection report from an architect or engineer. Provides for waiver of requirement by vote of majority of the voting interests present at a meeting during the five-year period.

This will affect many small condominiums, especially on Sanibel/Captiva. Currently condominiums are built 3 stories OVER an open parking area. The City of Sanibel has deemed these buildings 4 story buildings. Many small buildings will now require this inspection.

Island Management will monitor this provision to see if it, at any time, it gets re-written, or changed. We have until 2013 to initiate the first set of inspections. The Association can "opt-out" of this requirement by obtaining a vote of majority of the voting interests present at meeting during the 5 year period. Island Management will discuss this with their Boards to see if any would like to immediately "opt-out".

- Adequate hazard insurance shall be "based upon" the replacement cost of the property to be insured as determined by an independent insurance appraisal. Full insurable value shall be determined at least once every 36 months.

All Associations will have to have an appraisal and purchase "hazard" insurance as per the replacement cost determined in that appraisal. Currently appraisals are only required for Wind and Flood insurance. Hazard insurance (fire/property) now has to meet replacement costs.

Island Management, upon insurance renewals, will work together with insurance agents to ensure proper coverage is purchased. This may increase the operating budget.

- The board must establish insurance deductibles at an open board meeting, with notice sent to each unit owner and posted conspicuously on the condominium property at least 14 days in advance. The notice must state the proposed deductible and the available funds and assessment authority relied upon by the Board and estimates any potential assessment against each unit.

The Board will have to establish the insurance deductibles and vote on them in a duly called Board meeting with at least 14 days notice. The notice needs to estimate the potential assessment against each unit. What assessment? A Special Assessment to cover the deductible? A Special Assessment to cover "unknown" costs that may occur like uninsurable items such as landscaping and gazebos or boardwalks? The provision is very vague.

Island Management will advise their Boards to vote on their insurance deductibles at their upcoming Budget Adoption Meeting. The Budget Adoption Meeting must be noticed 14 days in advance and is a good time to disclose the deductibles. Island Management will include, on the notice, the estimated "potential assessment" that may occur for meeting the deductible only. No forecast of other costs will be included for they are not known.

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- Rewrites F.S. 718.111(11), the insurance section of the Condominium Act, in its entirety. Provides for the following:

1) Association coverage excludes personal property within units or common elements, 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 treatments or replacements thereof.

**A/C condensers now have to be insured by the Association.**

Island Management will work together with local insurance agents to see if such coverage will be available.

2) All HO-6 (owner's contents policies) policies issued or renewed on or after January 1, 2009 must contain a provision that coverage is excess to the association's coverage. HO-6 policies must include "special assessment coverage" of no less than \$2,000.00 per occurrence.

Island Management will work together with local insurance agents to see if such coverage will be available. Most insurers dropped this coverage years ago.

3) Associations must require owners to provide evidence of HO-6 insurance and may "force-place" HO-6 insurance with a right of lien, if the owner fails to do so.

**The statute actually states "The Association shall require each owner to provide evidence of a currently effective policy of hazard and liability insurance upon request..." Upon request? What happens if we do not request it? Also, the statute says that "...the Association may purchase a policy of insurance on the owners behalf....and collect from the owner..". The big word is "may"....the revision does not say the Association "has" to purchase the policy.**

Island Management will monitor this change directly with the local condo attorneys we are in contact with. A "wait and see" attitude has been advised by one attorney for he believes some of these insurance changes will be unrealistic and challenged.

Re-construction After Casualty – there is a conflict concerning the repair and maintenance (after casualty) issues found in the 2004 Statute changes and the wording of many Associations governing documents. The 2008 changes attempt to implement that "any portion of the condominium property required to be insured by the association against casualty loss....shall be reconstructed, repaired or replaced as necessary by the association as a common expense." But, the statute gives you an opportunity to "opt-out" of this requirement and provide re-construction as per the originally recorded documents with a majority vote of the owners.

Island Management will be seeking the advice of local attorneys and working individually with each Association to determine which course of action is in the best interest of the Association.

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