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Condo owners brace for steep costs — with post-Surfside reforms on the way

By David Lyons
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Sell now or pay later?

It could become an unpleasant choice for many South Florida condominium owners, ahead of a new state building inspection law driven by last year's catastrophic collapse of the Champlain Towers South building in Surfside.



By the time Florida's updated condo safety law goes into effect in 2025, many owners may have decided that it's too costly to stay in their decades-old, high-rise condominiums.

For tens of thousands of Florida condominium residents, the new law potentially means forking over large payments to boost reserve accounts and probable special assessments to fund major structural repairs. The new rules stand to price many residents out of their buildings, particularly those people on fixed incomes, professional advisers say.

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Moreover, condo owners who lease their units to year-round residents are either lifting rents or putting their properties up for sale, according to real estate agents and consultants who advise associations.

“You are talking about assessments that are going to dwarf your maintenance payments,” said David Haber, of David Haber Law in Miami, whose firm advises associations.

Facing change

The new law requires the following:

- At 30 years old, buildings three stories and higher must be inspected. Thereafter, inspections must be conducted every 10 years. If built before July 1, 1992, the first structural inspection must be performed before Dec. 31, 2024.
- Buildings less than three miles from the coast must be inspected at the 25-year mark and again every 10 years.
- Inspection reports must identify significant structural deterioration, whether it's dangerous or unsafe, and whether it should be repaired. Copies of reports must be distributed to all condo unit owners.
- Condo boards must conduct reserve studies every 10 years to determine how much money owners must be assessed to cover future repairs. The studies are planning tools that analyze the health of an association's finances and physical property as it prepares for major repairs and replacement projects.
- Boards are barred from waiving the reserve requirement or using reserve money for other purposes.

[[RELATED: Condo owners must prepare now for new condo safety law | Opinion](#)]

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For years, members of many Florida condo associations have voted each year to waive setting aside money for reserves, the equivalent of a rainy-day fund covering large expensive repairs in their buildings. Waivers were previously permitted under state law as long as a majority of unit owners voted to approve them.

Waivers are still permitted under the new law but are limited to components not related to structural integrity. Thus, funding waivers cannot be approved for projects such as the roof, load bearing walls, electrical systems, plumbing, windows and foundations, among other items.

[The collapse at Surfside](#), a disaster that killed 98 people, led to the disclosure that the condo's board members and other residents had waged protracted arguments over the cost of major structural repairs.

No official cause of the collapse has been identified by the National Institute of Standards and Technology, a federal agency whose investigators have been gathering evidence including steel and concrete samples. Investigators are also interviewing survivors and people who participated in the rescue effort.



High-rise condominiums along Fort Lauderdale beach are among those facing tighter inspections and financial rules under a new state law passed by the Legislature this year.

But the catastrophe generated a ripple effect around the state: If a building Surfside's age could collapse, what is the fate of countless other high-rise condominiums?

Many of them, particularly along Florida's coastlines, have been pummeled by wind, rain and saltwater and require constant attention, experts say. Built in 1981, the 12-tower Champlain Towers South was undergoing a 40-year inspection mandated by Miami-Dade County.

"I think there is a little bit of a 9/11 effect here," said Joshua Tomey, of Black Briar Management in Miami, referring to how a deadly tragedy can trigger immediate lawmaking or regulatory measures to ensure it doesn't happen again.

Concerned about safety

After the collapse in Surfside, lawmakers at state and local levels did swing into action to buttress inspection requirements, or to install regulations where there were none at all. The latter instance applied to most every county in the state except for Miami-Dade and Broward, the only counties that had 40-year inspection requirements in place.

An industry official said that anecdotally, engineers charge in a range between \$10,000 and \$30,000.

The Condominium Association Institute, a Virginia-based advocacy organization with 42,000 members in the U.S., Canada and elsewhere, said there are 1.5 million units in Florida, with 37% in Broward and Miami-Dade. Of the statewide figure, 75% of the units are in buildings constructed before 1990.

Dawn Bauman, senior vice president of government and public affairs at the institute, says the number of residents who are leaving their condos for financial reasons is incalculable at this point. “We don’t have specific data that says whether people are moving out of condos or not,” she said in an interview.

The Broward, Palm Beaches & St. Lucie Realtors and [Realtor.com](https://www.realtor.com) both said they lack data on the movement of people in or out of older condos.

“It feels like there might be concerns — ‘Oh my God, we have this law that passed in Florida and that’s going to increase the cost,’” Bauman said. “But will it increase costs for every single building in Florida? No. There are many, many buildings already doing what the law requires for the most part.”

A 2020 survey of associations, conducted for a foundation with ties to the institute by Zogby International, showed that 60% of the people who live in a condominium said their association maintains a reserve study. The survey showed 71% supported investing in the reserve funds.

“We have more buy-in now than then,” Bauman asserted.

She acknowledged that the number of older buildings in South Florida is sizable.

“That doesn’t mean those buildings haven’t been maintained,” she said. “That doesn’t mean the buildings haven’t had the work done that needs to be done.”

But several condo association advisers and consultants in South Florida believe the new law will result in an uneven playing field for present and future condo residents.



In observance of the one-year anniversary of the deadly Surfside Condominium Collapse, the 60-story Paramount Miami Worldcenter skyscraper lights up the Miami skyline with a digital memorial message to the families of the victims of the June 24, 2021, catastrophe. (Eva Marie Uzcategui/AP)

“When Champlain happened, it just put the whole thing in overdrive,” said Miami condo attorney Joe Hernandez, of Weiss Serota Helfman Cole & Bierman. “Now there are going to be mandatory reserves. What was already an unfavorable situation for residents in older buildings is now even more so.”

And some argue the new law contains uncertainties that must be resolved.

“There are still a lot of questions that remain on these laws that are being passed,” said Joshua Tomey, of Black Briar Management, an association advisory firm in Miami.

“What we don’t know yet is the state’s expectations that not only do reserves have to be funded, but do associations have to make up for funding that has not been made after waiving funding over the last few years?” he asked.

Bauman believes the law’s intent is to require unfunded reserves to be funded by its start date.

Tomey also worries about how quickly a major industry can muster the ability to comply.

“These laws need refinement to be realistic in how it can be addressed in a short period of time,” he said. “How do you have a multibillion-dollar industry pivot so quickly?”

Others suggest there might be a new universe of haves and have-nots.

“The costs of owning a condominium are going up, period,” said Jonathan Weislow, vice president and head of the HOA and condo association team at the Amicon consultancy firm in Miami. “People are seeing insurance costs are doubling if not tripling.”

That’s in addition to increases in energy and interest rates.



“You are going to have people on fixed incomes are not going to be able to live in these condos,” he said. “What’s going to happen to these people? Where are they going to go?”

“It’s foreseeably going to cause a problem,” he said.

One way out: terminations

Potentially, the South Florida market will end up seeing the the termination of condo associations and the sale of their buildings to developers, an activity that is already underway.

“I think that’s coming,” he said. “It’s going to be a long process. It’s not an ideal process. It gives owners the way out of paying the maintenance fees. Developers are licking their chops right now and they should be.”

[[RELATED: What rights? Last holdout condo owners in Boca fight investor’s termination bid](#)]

Condo and high-rise apartment developer Related is among the developers actively seeking properties along the coast for redevelopment into luxury buildings.

Many unit owners are deciding to take up investors on their offers and buy a new residence with the cash. But analysts note that the sellers won’t be replicating their beachfront style as it’s too expensive.

Loan programs for associations and residents

For those associations and residents under financial pressure to pay for repairs, U.S. Reps. Charlie Crist and Debbie Wasserman Schultz introduced legislation designed to provide federal loan programs through the Department of Housing and Urban Development.

One bill, introduced in April, is a program to help individuals pay their special assessments.

The second bill, introduced earlier this month, would provide “rapid financing for critical condo repairs.” Under this scenario, the borrowers would be the associations.

Crist, while attending a political event in Fort Lauderdale on Saturday, told the South Florida Sun Sentinel he believes the proposals have a good chance of being passed.

“I think we have a pretty good shot at it, I really do,” he said. “As so many people are familiar with what happened at Surfside, it almost speaks for itself, to be honest, and it’s such a powerful emotional issue.

“I think it’s a nonpartisan thing, really, and it should be,” he added.

Will the condo way of life continue?



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Given the growing expense facing owners and their associations, is the condo way of living headed for the history books?

“I don’t think so because there are a lot of new condominiums,” Hernandez said. “There are a lot of new projects in the works.

“There seems to be healthy demand for good projects that are well located. If the associations take the right steps to build up reserves early, then it can work.”

