



New Condo Law Wreaking Havoc in Florida

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ON JULY 12, 2021, Richard Lubliner, the Managing Member of Lubliner Law PLLC, authored the embedded article about Florida's passage of sweeping legislation in the wake of the partial collapse of Champlain Towers South building located in Surfside, Florida at 1:22 a.m. EST on June 24, 2021, while most occupants were sleeping. 98 people died as a result of this horrific event.

The tragedy was the result of the failure of the Champlain Towers' Board of Directors to act on the imposition of a \$15,000,000 special assessment approved in April 2021, despite the fact the association advised unit owners of structural damage in the building more than 2 years earlier. The special assessment was approved through the assessment process and resulted in unit owners having to pay mind-blowing special assessments that ranged from \$80,190 to \$336,135.00. The deadline for unit owners to pay upfront or choose to pay

a monthly charge fee over 15 years was July 1, 2021, a mere 7 days before the collapse.

In an effort to prevent another deadly collapse, the new law, which goes into effect on December 31, 2024, requires that all buildings at least 3 stories high, and at least 30 years old, undergo an engineering assessment by December 31, 2025, to determine what work needs to be performed. In Miami-Dade, Broward, and Palm Beach counties alone, approximately 25% of condos were built in or before 1993. The 3-story 30-year-old



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requirement will cover a substantial amount of buildings in Florida. These buildings are exposed to salt water which can erode a building's infrastructure which contributed to the building Champlain Tower's collapse.

While well intended, in the embedded article from July 2021, Lubliner warns of the significant negative impact that the law will have on condos subject to it. The engineering assessment has already resulted in the imposition of jaw-dropping special assessments over \$100,000.00, a tremendous amount of money for anyone, especially senior citizens living on a fixed income. The amount of the special assessments can be more than the value of the unit, and owners could be forced to move out while the work is being performed.

Unfortunately, the devastating impact of the law has already been felt as special assessments in the amount of hundreds of thousands of dollars have already been imposed, forcing many unit owners to sell their units for less than fair value and move from Florida to cheaper states such as Tennessee and Alabama. A buyer is not going to pay \$250,000 for a unit worth \$250,000 when a special assessment in the amount of \$50,000 is on the horizon.

In Miami, the unit owners at the Palm Bay Yacht Club, where units were being sold for between \$400,000 to \$500,000, have to pay a whopping \$140,000 special assessment, in some instances over 25% of the value of the unit. Condo prices in Florida are down over 10% since the peak of demand in 2022, while single-family home prices have largely remained stable.

This is also going to increase the cost of insurance which is already sky high. We have seen insurance premiums increase by as much as 2,000%. Many insurance companies have already decided to flee Florida and stop

doing business here, and more will likely do so as a result of this bill.

The bill also has significant implications for lenders that provided mortgages and HELOCs (Home Equity Lines of Credit) as a lender's collateral can be substantially impaired. Let's look at an example. A lender provides a loan to purchase a condo unit in the amount of \$500,000 based on an appraisal of \$750,000. A special assessment in the amount of \$100,000.00 is imposed. Not only is the value of the collateral substantially decreased, but the special assessment can also lead to foreclosure. If the borrower cannot afford to pay both the monthly mortgage payments and the special assessment, the borrower is faced with an impossible decision. Either the borrower stops paying the mortgage or does not pay the special assessment. If the borrower stops paying the mortgage, such results in a default, and the lender may choose to foreclose. If the borrower does not pay the special assessment, the condominium association may end up foreclosing which is a huge problem for the lender because, in Florida, a condominium association's lien is generally superior to a mortgage other than a first mortgage from an institutional lender.

While the law has already had devastating consequences for condo owners, such will only increase once the engineering report is finalized and provided to the associations at which time special assessments will be imposed. At some point in the next few years, we believe the Florida legislature will have to address these severe flaws in the new law as its disastrous consequences will increase. This crisis could result in possibly thousands of foreclosures and the calamity may result in a depressed devalued condo real estate market. **a**