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## Condo declarations will determine who foots bill

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**Q:** My condominium unit was damaged after Hurricane Charley from roof leaks caused by the hurricane. The association's management company ordered a restoration company to tear out most of the ceilings, walls, and kitchen cabinets. Now, the association is saying that we and our insurance company are responsible for the teardown and the rebuilding of the ceilings and walls. Our insurance adjuster is saying that because of the new law, the association is responsible for all repairs. What is the new law and what is the association responsible for? — D.G. (via e-mail)

**A:** The "new law" that your adjuster is probably referring to is amendments to the Condominium Act which became effective on Jan. 1, 2004. These amendments changed Section 718.111(11), Florida Statutes, to specify the portions of the condominium property that the association is responsible for insuring, and also describing the portions of the condominium property that the unit owners are responsible for insuring. The amendment applied to all association policies issued or renewed on or after Jan. 1, 2004.

The main difference in the old and new law is that the new law applies to all condominiums, regardless of when the declaration of condominium was recorded. The prior versions of the law contained certain exceptions for condominiums created prior to 1986 and 1992. The old law and the new law did not change the insurance responsibility for ceilings and walls. The association has always been responsible for insuring that portion of the condominium property.

The confusion over the new law appears to arise primarily with regard to who repairs and who pays for the cost of the repairs. The new law controls who insures the various portions of the condominium property. The new law does not address who is responsible for making repairs to items damaged by a casualty. Just because an association insures an item (such as interior drywall) does not necessarily mean that it is responsible for making repairs or paying for the cost of the repairs if there is a shortfall in the insurance proceeds.

Those issues will be governed by the wording of your particular declaration of condominium and will likely be controlled by those portions of your declaration dealing with repair after casualty. It is not uncommon for declarations to say that if a damaged item is part of the unit, that the unit owners are responsible for making the repairs and for the cost of any shortfalls, notwithstanding the fact that the association may insure that item. Other declarations may say the opposite.

**Q:** Is an association board member required to be physically present at a board meeting in order to be counted for purposes of having a quorum, or can the board member be present by telephone, e-mail, or other electronic device?

— D.D. (via e-mail)