

SOUTH FLORIDA

“A minefield for the unwary”: Florida condo owners adapt to post-Surfside laws

Data show nearly 750 buildings statewide could be out of compliance, as older inventory sits on the market



Analytics Miami's Ana Bozovic, Haber Law's Jonathan Goldstein and NSI Insurance Group CEO Oscar Seikaly (Alive Coverage, Law, NSI Insurance Group, Getty)

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Key Points

Florida condo associations are facing mounting financial and logistical pressures to comply with post-Surfside safety laws, including mandatory milestone structural inspections and fully funded reserves.

Stricter mortgage financing rules from Fannie Mae and Freddie Mac,[^] combined with expensive special assessments for major repairs, have contributed to a stagnant market for older condos priced below \$1 million. Industry experts warn that managing these complex, multimillion-dollar renovation projects is a major challenge, particularly for smaller or self-managed associations lacking professional oversight.

A clearer picture of Florida's older condo market is emerging as condo associations across the state embark on multimillion-dollar repairs, a result of the deadly Surfside collapse of 2021.

A low-rise condo complex built 43 years ago in West Palm Beach sold at a bankruptcy auction this week for \$13.5 million. The Green Terrace community had \$1.4 million in unpaid water bills^{A d v e r t i s e m e n t} and \$1.5 million in code enforcement violations. A pair of developers bought the 84-unit, 13-building property.

In South Florida in particular, many condo owners are feeling the pain. They're forced to comply with condo safety laws passed after the 2021 collapse of Champlain Towers South, an oceanfront building in Surfside, which trapped over a hundred residents, killing 98 people. The tragedy drove a bigger divide between older buildings and newer ones.

Condo associations that maintained their buildings have fared better than those that deferred maintenance, repairs and funding their financial reserves. But not all older buildings are in bad shape. Some of those that needed to whip into shape did, or are in the process of it.

Buyers are increasingly aware.

The luxury market has continued to outperform lower price points. Typically, the more affordable housing stock is also often in need of repairs or renovations, making it less affordable in reality.

In the first half of this year, condo sales above \$1 million were up 143 percent compared to the same period in 2019, before the pandemic boom. In the same period, condo sales under \$1 million were 27 percent below 2019 levels, according to Multiple Listing Service data provided by Analytics Miami.

Mike Simonsen, chief economist at Compass International Holdings, said the older segment of the condo market has been one of the biggest inventory drivers in Florida since 2021.

“That part of the market is stagnant,” he said.

That trend likely will continue, since Fannie Mae recently retired its limited review process, which allowed lenders to approve conventional mortgages without a deep dive into a condo association’s finances. Freddie Mac also retired its version, the streamlined review process. The change requires lenders to verify that building budgets are using the highest recommended reserve allocations. They can no longer use a baseline funding method, which allowed reserve cash balances to approach zero.

All of that means that it’s harder to get a traditional mortgage for a condo unit.

Before Fannie and Freddie’s latest crackdown on condo financing, Fannie blacklisted more than 1,400 condo buildings in Florida, and nearly half of those were in South Florida, the Miami Herald reported last year.

More changes are coming. A condo building’s reserves now have to meet a minimum of 15 percent of the annual budgeted income assessment, up from 10 percent. When using the full review process, lenders have to comply with this requirement for loan applications beginning Jan. 4.

The numbers

Florida's condo safety law requires milestone structural inspections for condo and co-op buildings that are three stories and taller at 30 years of age and

every decade after. Buildings closer to the coast are required to complete their milestone inspections at age 25. Most associations are also required to begin fully funding their reserves in their budgets by the end of this year. For budgets passed on or before the end of 2028, condo associations can vote to pause or reduce reserve contributions for up to two consecutive years, only if the association completed their milestone inspection within the past two years and has to divert funds to pay for structural repairs. The latter does not apply to developer-controlled associations.

Florida is the poster child for condo living, the good and the bad. The state's share of condos, about 1.5 million units, represents about 20 percent of all condos in the U.S. There are more than 23,000 condo associations in Florida.

Compliance with the post-Surfside legislation is uneven.

Statewide, at least 3,839 condo buildings qualify for the condo safety law passed in 2022, according to data provided by HOA Contact Lists, a database of homeowners and condominium association contacts, officers and property records. In South Florida, nearly 1,200 buildings in Miami-Dade, 780 in Broward and 447 in Palm Beach County fall under the 2022 legislation. HOA Contact Lists looked at buildings' age and coastal status.

Nearly 750 buildings statewide are marked as likely past due in terms of compliance.

The data is a strong indicator of what's going on, but it is not official, because each municipality tracks things differently, another complicated and confusing layer that condo owners and prospective buyers have to navigate.

A state report released this summer found that building officials determined that 8,736 condo buildings completed their phase-one inspections, and 1,575 buildings completed their phase-two inspections. Nearly 1,600 extensions of initial milestone inspection deadlines were granted, and 94 percent of those were given to buildings in coastal municipalities — the majority in Miami-Dade, Broward and Palm Beach counties.

BY THE NUMBERS

Florida's condo safety laws require:

Condo associations must begin fully funding their reserves for budgets adopted on or after the end of 2024

Milestone structural inspections for condo and co-op buildings that are at least three stories tall and 30 years of age; buildings closer to the coast are required to complete inspections at age 25

Florida's landscape:

Florida's share of condos, about 1.5 million units, represents 20 percent of all condos in the U.S.

More than 23,000 condo associations exist in Florida

At least 3,839 condo buildings in Florida fall under the 2022 condo safety law requirements

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Market analyst Ana Bozovic, who owns the brokerage Analytics Miami, said it's important for buyers to do a deep dive into a building's financial and physical condition, including its reserves, special assessments, completed and upcoming work, insurance, and the association's overall ability to maintain the property, before committing to purchasing in that building.

“Two buildings of the same age can present completely different risk profiles, so a deep dive is essential,” she said. Older buildings that are well maintained, have taken care of larger projects and are setting aside sufficient reserve funds can be “very compelling” for buyers. Units in those buildings typically sell for below the replacement cost.

“We simply cannot find comparable units today trading anywhere close to the prices of some existing product, and we will not be able to in the future,” she said.

A comparable unit in a well-maintained building may be more expensive at face value than a similar unit in a building that needs work, which means sellers and buyers should factor that into discounts or other incentives in buildings that have major projects on the horizon.

“There is certainly pressure in parts of the older condo market, particularly where owners are confronting assessments, higher monthly costs or significant upcoming work,” Bozovic said. “Those costs have to be incorporated into what a buyer is willing to pay.”

There’s also the risks associated with buying into buildings that have yet to do the work.

Owners in older buildings that aren’t up to current codes or require repairs typically have higher out-of-pocket costs, said NSI Insurance Group CEO Oscar Seikaly. “After insurance pays, there’s an out of pocket amount that somebody has to pay over and above, and that is the additional burden that you incur, or that you end up with, when you’re dealing with older buildings,” he said.

Prospective condo buyers should look at their deductibles and personal exposure “outside of paying my normal dues, paying my insurance premiums, and all that stuff,” Seikaly added.

“Most people don’t even know what it is until they get hit with it, and when they get hit with it, they’re like, ‘Oh my God, we have to change the condo management. They don’t know what they’re doing.’ Nobody’s ripping anybody off. You have a bunch of people that are working for free to safeguard the building and manage it properly,” he said.

Repair projects can cost tens of millions of dollars.

In 2022, the board at Murano at Portofino, a 37-story, 189-unit tower at 1000 South Pointe Drive, embarked on the first \$30 million phase of a massive repair and renovation project, which called for work involving the stucco, balconies and waterproofing, as well as nonessential upgrades. Phase two shut down the pool deck and tennis courts, which are still stripped and inaccessible, images show. Murano is 24 years old, so just shy of the age that will trigger the state’s requirements. Some buildings, especially with that many units, have been working on some of these projects for years.

Many condo boards are underestimating the complexities of managing projects of that size, said Haber Law attorney and equity partner Jonathan Goldstein.

More associations are trending toward hiring management companies, if they don’t already have one. A majority, 465 buildings out of 747, that have likely not completed their milestone inspections yet have no professional management company on record, according to HOA Contact Lists. Of those 465 self-managed buildings, 241 buildings have fewer than 50 units and 159 have fewer than 30 units.

“Very few associations, and fewer every day, are self-managed,” Goldstein said.

Handling these big projects is becoming a massive issue that’s “never been more complicated,” Goldstein said. His firm has seen an influx of these repair and maintenance projects post-Surfside. At the same time, board-led fraud is becoming a bigger concern.

Goldstein stressed the need for securing multiple bids, understanding the scope of work, securing performance bonds and the adequate insurance, and being prepared for cost overruns.

“At the association level, it’s one of the crux moments in the life of a condominium. Handling it the wrong way can have financial reverberations for years to come,” he said. “It really is a minefield for the unwary.”