

Opinion

Be wary of unregulated property insurance companies

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There is a dangerous trend in the property insurance market affecting commercial residential condos. Associations are increasingly becoming insured by unregulated or "surplus lines" companies. By doing so, they risk forfeiting consumer protections against excessive rate hikes, reduced coverage levels and good-faith claims handling. They are also left without the back-up protections provided by the Florida Insurance Guarantee Association if the carrier is financially unable to pay claims.

This should not be. Surplus lines insurance was intended for risks that the standard or "admitted" insurance market would not cover. For example, standard companies will not write policies for high risk or unusual situations such as personal injury for professional athletes, expensive boats and cars, day care centers' liability or very old homes in coastal areas.

A robust, private market of standard or admitted property insurance companies exists in Florida, willing to insure condo associations. These companies are regulated by Insurance Commissioner Kevin McCarty and his team at the Florida Office of Insurance Regulation. They must be approved for the rates that they charge and the coverage they offer. They must handle claims in good faith and treat policyholders fairly and honestly. And in the rare event that they falter or become insolvent, their policyholders have outstanding claims paid by FIGA, a fund that is backed by Florida policyholders who pay into it when the need arises.

So why are condo associations choosing surplus lines policies over the standard market? Part of the reason is a public policy failure to provide enough FIGA coverage. Surplus lines agents correctly point to the outdated coverage limit of \$100,000 per condo, set in the 1970s. A Florida Association for Insurance Reform survey concluded that 62 percent of condo associations would not have enough money to rebuild. The limit must be raised to \$300,000 — the same as for single-family residences.

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But this cannot be an excuse to write policies with surplus lines carriers when there are ample choices in the standard market. To safeguard property owners who might unknowingly take out a surplus lines policy,

Florida insurance agents must get three rejection letters from standard insurance companies before they can place a policy into a surplus lines company. Also, Florida agents cannot place a policy with a surplus lines company if better coverage or lower premiums are available within the standard admitted marketplace.

Unfortunately, some licensed Florida insurance agents have been side-stepping this statute and referring condo owners into the surplus lines insurance market. Thankfully, Florida CFO [Jeff Atwater](#) has remained diligent in his agency's enforcement efforts to stop insurance agents from going around the statute, and his office protects consumers by levying steep financial penalties on those who don't follow the rules.

But a group of Florida's insurance agents is lobbying the [Florida Legislature](#) to exempt them from complying with F.S. 626.916 when binding commercial residential coverage. This would affect thousands of condo owners and undermine the regulated admitted insurance marketplace that legislators and regulators have worked so hard to establish. FAIR supports F.S. 626.916 and urges condo owners to be wary of being referred into the surplus lines insurance market. We also urge condo associations, agents and others to support our efforts to achieve "condo parity" through an increase in the FIGA limit.

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