NEWS OF VALUE

LEGISLATIVE UPDATE: DC CONDO STATUTE, VA WORKERS COMPENSATION, AND NATIONAL FLOOD INSURANCE PROGRAM

DC's New Condo Statute Includes New Insurance Requirements

The District of Columbia recently enacted a new act that makes substantial changes to current law and will affect all DC community associations. The law modernizes the statute and provides for changes in several areas, including insurance.

Owners may now be required to pay part of the bill for fixing building damage from issues that originate in their units. Unless the governing documents provide otherwise, the unit owner will be responsible for the association's insurance deductible up to $5,000. This amount may be assessed against the owner's unit. If the cause of any damage to a portion of the common elements originates from the common elements, the association's property insurance deductible will be considered a common expense.

In addition, all owners are required to obtain their own condominium owner's insurance (HO–6 policy) with property coverage at a minimum of $10,000 and personal liability insurance coverage at a minimum of $300,000. Currently, most association documents just encourage such insurance.

Virginia's Workers Compensation Law Increases Penalties

In Virginia, an employer is required by state law to insure for workers compensation when it regularly employs more than two part-time (or full-time) employees. Uninsured employers are now subject to a civil penalty up to a maximum of $250 per day of noncompliance and a maximum penalty of $50,000, plus collection costs.

Because the law had not been updated in many years, the penalties were not in line with the cost of workers compensation insurance coverage, so sometimes employers would risk not having worker's compensation insurance and face penalties instead of having the actual insurance. The higher fine is expected to cause employers to obtain the proper coverage rather than risk facing the penalty.

Updates to National Flood Insurance Program

The National Flood Insurance Program (NFIP) is in the process of implementing Congressionally-mandated reforms required by the Homeowner Flood Insurance Affordability Act of 2014 that repeal and modify the Biggert-Waters Flood Insurance Reform Act of 2012 (BW–12). While the new law is implemented, policyholders are encouraged to maintain and keep their current flood insurance policies. Allowing policies to lapse will leave policyholders unprotected.

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Changes to Flood Insurance Subsidies

Several provisions of both the 2012 and 2014 laws apply to older buildings constructed before the effective date of the community's first Flood Insurance Rate Map (FIRM). Such buildings are referred to as "pre-FIRM." Many pre-FIRM buildings located in high-risk flood zones have flood insurance policies with subsidized rates. Most subsidies remain, although they will be phased out over time. The rate of phaseout will depend on the type of policy.

Refunds

BW–12 required an immediate move to property-specific, full-risk rates when pre-FIRM properties were sold or new policies issued. Some policyholders saw significant premium increases. The new law allows a return to subsidized rates for most properties—and refunds of the difference paid between the subsidized rate and current full-risk rate. FEMA is working with participating insurance companies to start the refund process by the end of this year.

Rate Changes When Properties Are Sold

The 2014 law protects policyholders from significant and unanticipated increases in flood insurance costs that could impact their property sales. Subsidized rates continue to apply, and as of May 1, 2014, both the policy and its subsidized rates can be transferred to the new owner. Grandfathered rates can also be transferred at the time of sale.

Surcharges

A new surcharge will be added to all new and renewed policies to offset the subsidized policies and achieve the financial sustainability goals of BW–12. A policy for a primary residence will include a $25 surcharge. All other policies will include a $250 surcharge. This new surcharge will be included on all policies, including full-risk-rated policies and Preferred Risk Policies, and will be implemented in 2015.

Deductibles

To help homeowners manage their premium costs, the law raises maximum residential deductible limits from $5,000 to $10,000.

For More Information

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July 2014