



**BOARD OF COUNTY COMMISSIONERS  
OFFICE OF THE COMMISSION AUDITOR**

**M E M O R A N D U M**

**TO:** Honorable Jose 'Pepe' Diaz, Chairman  
and Members, Board of County Commissioners

**FROM:** Adeyinka Majekodunmi, CPA  
Commission Auditor

**DATE:** December 2, 2021

A handwritten signature in blue ink, appearing to read "Adeyinka", with a large, stylized flourish underneath.

**SUBJECT: Research on Condominium Associations Emergency Repair Funding**

The attached OCA report requested by Commissioner Danielle Cohen Higgins, District 8, is being shared with the members of the Board of County Commissioners.

An electronic copy will be posted on the Commission Auditor's website. If you have any questions, please feel free to contact our office at 305-375-4354.

cc: Honorable Mayor Daniella Levine Cava  
Geri Bonzon-Keenan, County Attorney  
Gerald K. Sanchez, First Assistant County Attorney  
Jess M. McCarty, Executive Assistant County Attorney  
Jimmy Morales, Chief Operations Officer  
Edward Marquez, Chief Financial Officer  
Morris Copeland, Chief Community Services Officer  
Jennifer Moon, Chief, Office of Policy and Budgetary Affairs  
Melissa Adames, Director, Clerk of the Board  
OCA All Staff



# **OFFICE OF THE COMMISSION AUDITOR**

## **Research on Condominium Associations Emergency Repair Funding**

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**November 16, 2021**

Yinka Majekodunmi, CPA  
Commission Auditor

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## **I. Introduction**

### **a. Purpose**

On August 2, 2021, District 8 Commissioner, Danielle Cohen Higgins, requested that the Commission Auditor conduct research documenting jurisdictions across the United States that have an emergency structural relief fund for condominium associations which would allow them to immediately access low-interest loans when it has been determined that a building needs emergency structural repairs and the association does not have sufficient reserves to make the necessary repairs.

### **b. Scope**

The project's scope will consist of the following:

1. An overview of public programs or public-private partnerships at the federal, state, and local level that allows private applicants and condominium associations to access zero or low-interest loans to finance repairs of real property, with a particular emphasis on the fund structures of such programs.
2. An overview of existing legislation at the federal, state, and local level setting forth: (a) the general structures and duties of condominium associations, (b) the maintenance requirements of condominium association reserve funds, (c) the rules governing special assessments, and (d) the voting requirements for association board decisions regarding reserve fund maintenance and levying of special assessments.
3. An overview of proposed legislation at the federal, state, and local level regulating the minimum levels of condominium association reserve funds and requirements to avoid deferral of necessary maintenance. In addition, the scope will include an overview of recent Florida Bar Condominium Law and Policy on Life Safety Task Force recommendations regarding potential reforms to state condominium laws on inspection requirements, length of time between recertification, and requirements regarding the funding of reserve accounts.

### **c. Methodology**

OCA's methodology for this research consists of the following: (1) gather data from select local, state, and federal agencies nationwide to verify the existence and fund structure of public or public-private programs that allow owners of real property to secure zero or low-interest loans for repairs to real property, (2) solicit information from industry experts, academics, and local officials (i.e., CEO of Association Reserves, Chief of Public Policy for the Miami Association of Realtors, and Chair of the Florida Bar Condominium Law and Policy on Life Safety Task Force<sup>1</sup>) to document proposed reforms to state law which are being proffered to avert the occurrence of another building collapse similar to the Surfside condominium collapse.

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<sup>1</sup> OCA contacted these individuals directly during the drafting phase of this report.

## II. Overview

### Background

The Champlain Towers South condominium collapse of June 24, 2021 resulted in the death of 98 people and destruction of 136 condominium units. This event has prompted much discussion among industry experts and local, state, and federal policymakers over what potential changes and reforms can be brought forth to avert the reoccurrence of such a disaster in the future. One area for reform is focused on the ability of condominium associations to finance emergency repairs when reserves have been significantly depleted or external financing is unavailable. The idea to utilize an existing or new mechanism by which condominium associations can secure financing for emergency structural repairs comes in light of recent findings that the Champlain Towers condominium association had only \$706,000, or 6.9%, of the \$10.3 million which a third-party association reserve consultancy, Association Reserves, recommended that the association have reserved for necessary repairs.<sup>2</sup>

The lack of such reserves complicated the association's efforts to secure the funds needed to complete repairs. A presentation to residents in December 2020 stated that "two major HOA [Homeowner Associations] lenders declined" the Champlain Towers association for loans and placed the association in the "higher risk category" due to its relatively low monthly maintenance fees and the lack of funds saved in its reserves.<sup>3</sup>

Outlined below are programs at the federal, state, and local level which are available for homeowners (not exclusively condominium unit owners) to finance structural repairs and improvements to real property. We also inquired about programs designed specifically for condominium associations. One such program currently exists in the state of Minnesota, and it has been explained in Section III of this document. The need for a dedicated program to fund emergency structural repairs is all the more pressing considering that municipalities in South Florida are beginning to ramp up inspections of aging apartment buildings after the Champlain Towers South condominium collapse at Surfside which has resulted in the evacuation of numerous apartment complexes.<sup>45</sup>

## III. Public and Private Housing Repair Programs

### Federal Programs

The federal government currently has several programs to help homeowners make home repairs and renovations. Although these are not specifically for condominium associations, policymakers can utilize

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<sup>2</sup> Casey Tolan, Curt Devine, and Francesca Giuliani-Hoffman, *A 2020 report found Surfside condo lacked funds for necessary repairs. One expert called it a 'wake-up call'*, CNN, July 8, 2021, <https://www.cnn.com/2021/07/08/us/surfside-collapse-condo-finances-invs/index.html>

<sup>3</sup> Ibid.

<sup>4</sup> N'dea Yancey-Bragg, *Miami orders hundreds of residents to evacuate 8-story condo building deemed unsafe*, USA TODAY, August 10, 2021, <https://www.usatoday.com/story/news/nation/2021/08/10/miami-condo-residents-ordered-evacuate-unsafe-building/5549967001/>

<sup>5</sup> Madeleine Wright and Amanda Batchelor, *2 Bay Harbor Islands apartment buildings evacuated after being deemed unsafe structures*, LOCAL10, September 3, 2021, <https://www.local10.com/news/local/2021/09/02/bay-harbor-islands-apartment-building-evacuated-after-being-deemed-an-unsafe-structure/>

the structure of these programs to design a program geared uniquely to condominium associations. The table below outlines a few such programs currently in operation.

<b>FHA Section 223(f)— Multifamily Mortgage Insurance Programs<sup>6</sup></b>	
<b>Relevant Agency</b>	Federal Housing Administration (FHA)
<b>Program Description</b>	The Section 223(f) program allows FHA to insure a mortgage for a multi-family rental project. Minor repairs may be financed through the 223(f) program provided the repairs are completed within 12 months of loan closing. Properties requiring substantial rehabilitation are not eligible for mortgage insurance under this program.
<b>Target Recipient/s</b>	Private profit-motivated and non-profit developers who meet FHA requirements for mortgagors. Allowing aging condominiums access to the 223(f) program will require a statutory change; however, FHA insurance may allow a condominium to refinance debt incurred due to a rehabilitation project at more favorable terms. <sup>7</sup>
<b>Fund Structure</b>	The 223(f) program has maximum loan-to-value (LTV) rates based on the income characteristics of residents: 85% LTV for projects that meet the definition of affordable housing and 83.3% LTV for market-rate properties. The 223(f) program requires that the remaining life of the project permit at least a 10-year loan term. The maximum loan term is 35 years or 75% of the estimated life of the project.
<b>FHA Section 234(d)—Insurance of Blanket Mortgage for Condominium Project<sup>8</sup></b>	
<b>Relevant Agency</b>	Federal Housing Administration (FHA)
<b>Program Description</b>	Section 234(d) of the National Housing Act authorizes FHA to insure blanket mortgages for the construction or rehabilitation of multi-family structures where housing units will be sold as individual condominium units upon project completion. While the Section 234(d) program remains authorized in federal statutes no loans have been insured under this program for several years. Condominium developers typically obtain their own construction financing and use FHA insurance under Section 234(c) to finance the sales of the individual units.
<b>Target Recipient/s</b>	Private profit-motivated developers and other sponsors who meet FHA requirements for mortgagors.
<b>Fund Structure</b>	Insured mortgages may be used to finance construction and substantial rehabilitation of multi-family housing structures where the individual units will be sold as condominiums under Section 234(c).
<b>Fannie Mae Moderate Rehab Loan Program (MRLP)<sup>9</sup></b>	
<b>Relevant Agency</b>	Fannie Mae
<b>Program Description</b>	Fannie Mae Moderate Rehabilitation Loans are intended for the moderate rehabilitation of apartment and multi-family properties.

<sup>6</sup> U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, *Section 223(f)— Multifamily Mortgage Insurance Programs* (2021) [https://www.hud.gov/program\\_offices/housing/mfh/progdesc/purchrefi223f](https://www.hud.gov/program_offices/housing/mfh/progdesc/purchrefi223f)

<sup>7</sup> COMMUNITY ASSOCIATIONS INSTITUTE, *Condominium Safety Public Policy Report Reserve Studies And Funding, Maintenance, And Structural Integrity*, <https://www.caionline.org/HomeownerLeaders/DisasterResources/Documents/CAI%20Condo%20Safety%20Public%20Policy%20Report%2010%2021.pdf>

<sup>8</sup> U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, *Section 234(d)—Insurance of Blanket Mortgage for Condominium Project* (2021)

<sup>9</sup> FANNIE MAE, *Moderate Rehab Loan Program (MRLP)* (2021) <https://mfguide.fanniemae.com/node/3541>

<b>Target Recipient/s</b>	Multi-family project owners that seek to improve their properties. The program is not currently designed to serve condominium associations. <sup>10</sup>
<b>Fund Structure</b>	The minimum per unit cost for rehabilitation work is \$8,000 per unit based on the total number of residential units at the property not the number of units being rehabilitated. Loans have terms of between 5 and 30 years and flexible amortizations of up to 30 years. Loans have an LTV allowance of up to 80%, are non-recourse, and are fully assumable with lender approval.

## State Programs

Several programs currently exist at the state level to assist single-family homeowners in making home repairs and renovations but most of them do not provide financing for condominium associations, with the exception of a program run by the State of Minnesota which was designed specifically to provide a financing mechanism for condominium associations. The table below outlines a few of the programs currently in operation.

<b>Minnesota Housing Improvement Areas Act<sup>11</sup></b>	
<b>State</b>	Minnesota
<b>Program Description</b>	Grants cities authority to create Housing Improvement Areas (HIAs) to finance housing improvements to condominiums or townhome complexes through the issuance of municipal bonds directly to condominium associations.
<b>Target Recipient/s</b>	Condominium associations.
<b>Fund Structure</b>	Cities finance housing improvements by either advancing funds available to the city and then recovering the costs by charging the property owners fees; or issuing general obligation bonds (GOBs) and then imposing fees on the individual condominium unit owners to repay the bonds. The bonds shall bear interest at the rates per annum approved by the Finance Officer in connection with the sale thereof but with a true interest cost not to exceed 7.0% per annum. Fees can be imposed based on the tax capacity of the housing unit, the total square footage of the housing unit, or another method determined by the city. See additional information after the table.*
<b>State Housing Initiatives Partnership Program (SHIP)<sup>12</sup></b>	
<b>State</b>	Florida
<b>Program Description</b>	SHIP partners with local governments to provide funding for emergency home repairs in addition to new construction, rehabilitation, down payment and closing cost assistance, impact fees, construction and gap financing, mortgage buy-downs, acquisition of property for affordable housing, matching dollars for federal housing grants and programs, and homeownership counseling. For example, Martin County's SHIP program provides up to \$40,000 in the form of a zero-interest, deferred payment mortgage to qualifying homeowners for home repairs.

<sup>10</sup>COMMUNITY ASSOCIATIONS INSTITUTE, *Condominium Safety Public Policy Report Reserve Studies And Funding, Maintenance, And Structural Integrity*, <https://www.caionline.org/HomeownerLeaders/DisasterResources/Documents/CAI%20Condo%20Safety%20Public%20Policy%20Report%2010%2021.pdf>

<sup>11</sup>Christopher Kleman, *Housing Improvement Areas*, MN HOUSE RESEARCH (February 2020), <https://www.house.leg.state.mn.us/hrd/pubs/ss/sshia.pdf>

<sup>12</sup> *State Housing Initiatives Partnership (SHIP)*, FLORDIA HOUSING FINANCE CORPORATION <https://www.floridahousing.org/programs/special-programs/ship---state-housing-initiatives-partnership-program>

<b>Target Recipient/s</b>	Single-family owner-occupied units and multi-family affordable housing buildings.
<b>Fund Structure</b>	SHIP funding is derived from a portion of the documentary stamp tax paid on all real estate transactions which is placed in an affordable housing-specific trust fund.
<b>Single Family Rehab (SFR) Program<sup>13</sup></b>	
<b>State</b>	Illinois
<b>Program Description</b>	The SFR program is managed by the State of Illinois Housing Development Authority. The program assists low-income and very-low-income homeowners repair their homes and remove health and safety hazards by repairing or replacing costly maintenance items. All program participants must have household incomes not exceeding 80% of the area median income, based on family size.
<b>Target Recipient/s</b>	Single-family owner-occupied units.
<b>Fund Structure</b>	Funding for the program comes from the Illinois Affordable Housing Trust Fund which receives revenue from a portion of the state's real estate transfer fee. Eligible homeowners will receive up to a maximum of \$45,000 in assistance. Funds will be secured to the property as a forgivable loan with a 5-year recapture agreement.

#### **\*Additional Information on Minnesota Housing Improvement Areas Act**

The state of Minnesota currently has a program that is designed specifically to provide direct financial assistance to condominium associations for improvements to condominiums or townhome complexes.

This program allows cities to provide emergency financing to condominium associations to fund necessary repairs and refurbishments by leveraging the city's bonding authority. Minnesota state statutes, [Sections 428A.11-428A.21](#) (the "Housing Improvement Areas Act") grant cities the authority to create Housing Improvement Areas (HIAs), defined as an area in a city in which housing improvements in condominiums or townhome complexes may be financed with the assistance of the city, or the city's economic development authority (EDA) or housing and redevelopment authority (HRA).<sup>14</sup> The key steps required to establish an HIA is as follows:

1. At the request of at least 50 percent of the owners of the housing units in the proposed area.
2. The city prepares an ordinance that specifies the geographical boundaries of the area.
3. The city states the basis for imposing fees and the number of years the fees will be imposed.
4. The city makes a finding that without the HIA, the proposed improvements could not be made, and specifies if the city, the EDA, or HRA will implement the ordinance.<sup>15</sup>

Before the establishment of the HIA, the governing body of the city must: (1) provide full disclosure of public expenditures, as well as the terms of any loans, bonds, or other financing arrangements for housing improvement area projects and (2) determine whether the association or the implementing entity will contract for the housing improvements.

<sup>13</sup> *Illinois Affordable Housing Trust Fund Single Family Rehabilitation (SFR) Program Grant Application*, ILLINOIS HOUSING DEVELOPMENT AUTHORITY <https://www.ihda.org/wp-content/uploads/2016/08/2016-TF-SFR-Application-Final.pdf>

<sup>14</sup> Christopher Kleman, *Housing Improvement Areas*, MN HOUSE RESEARCH (February 2020), <https://www.house.leg.state.mn.us/hrd/pubs/ss/sshia.pdf>

<sup>15</sup> Ibid.



Once the HIA has been established, the city can leverage its bonding authority to issue bonds in the amount it deems necessary to pay for the expenses estimated to be incurred in making the improvements, including every item of cost from inception to completion and all fees and expenses incurred in connection with the improvements. Cities finance housing improvements by either advancing funds available to the city and then recovering the costs by charging the property owners fees; or issuing general obligation bonds (GOBs) and then imposing fees on the individual condominium unit owners to repay the bonds. The bonds shall bear interest at the rates per annum approved by the Finance Officer in connection with the sale thereof but with a true interest cost not to exceed 7.0% per annum. Fees can be imposed based on the tax capacity of the housing unit, the total square footage of the housing unit, or another method determined by the city. Note that repayment can also be structured through assessments rolled into the property tax bill of the condominium owner.

To pay off the bond obligations, the city can impose fees on the housing units within the HIA at a rate deemed necessary to pay the principal, interest, and premiums on the bonds issued. The debt obligations can also be paid from any other special assessments or revenues available to be pledged for their payment by the condominium association. Before the imposition of any fees, the city must hold a hearing and within six months of the public hearing, the city may adopt a resolution imposing a fee within the area not exceeding the amount expressed in the notice. Prior to adoption of the resolution approving the fee, the condominium associations located in the HIA are to submit to the city a financial plan prepared by an independent third party that provides for the associations to “finance maintenance and operation of the common elements in the condominium and a long-range plan to conduct and finance capital improvements.”

The City of Minneapolis has established the following HIAs as of the present date: the Calhoun Place Housing Improvement Area, the Wellington Condominium Housing Improvement Area, Condos on Blaisdell Housing Improvement Area, and the Summit House Housing Improvement Area.

<b>The Calhoun Place Housing Improvement Area<sup>16</sup></b>	
<b>Housing project name</b>	Calhoun Place Apartments (107 units)
<b>Improvements to be undertaken</b>	<ol style="list-style-type: none"> <li>1. Replacement of the Exterior Insulation and Finishing System (EFIS), including the sheathing below it.</li> <li>2. Replacement of all the windows and balcony doors, including lowering the balcony door thresholds down to the level of the balconies.</li> <li>3. Repainting the balcony railings and all of the other metal components of the balconies and their support systems.</li> <li>4. Resurfacing balcony decks.</li> <li>5. Repairing the balcony decks and the posts of the balcony railings, as needed.</li> </ol>
<b>Bond amount</b>	Not to exceed \$2,350,000 in principal plus \$350,000 of financing costs including capitalized interest, debt service reserve, costs of issuance of the bonds and city processing fee.

<sup>16</sup> Code of Minneapolis § 16.421.10

[https://library.municode.com/mn/minneapolis/codes/code\\_of\\_ordinances?nodeId=MICOOR\\_TIT16PLDE\\_CH421H\\_OIMAR\\_ARTICAPLHOIMAR&showChanges=true](https://library.municode.com/mn/minneapolis/codes/code_of_ordinances?nodeId=MICOOR_TIT16PLDE_CH421H_OIMAR_ARTICAPLHOIMAR&showChanges=true)



<b>The Wellington Condominium Housing Improvement Area<sup>17</sup></b>	
<b>Housing project name</b>	Wellington Condominiums (24 units)
<b>Improvements to be undertaken</b>	<ol style="list-style-type: none"> <li>1. Repairing back porches/stairways.</li> <li>2. Repairing masonry facade.</li> <li>3. Electrical system upgrade.</li> </ol>
<b>Bond amount</b>	Not to exceed \$1,520,000 in principal plus \$175,000 of financing costs including capitalized interest, debt service reserve, costs of issuance of the bonds and city processing fee.
<b>Condos on Blaisdell Housing Improvement Area<sup>18</sup></b>	
<b>Housing project name</b>	Condos on Blaisdell (54 units)
<b>Improvements to be undertaken</b>	<ol style="list-style-type: none"> <li>1. Replacing/repairing windows, frames, and brick to prevent water intrusion.</li> <li>2. Rehabilitating parking garage and parking deck above garage.</li> <li>3. Replacing ventilation, first floor domestic water lines and air conditioning.</li> </ol>
<b>Bond amount</b>	Not to exceed \$4,150,000 in principal plus \$440,000 of financing costs including capitalized interest, debt service reserve, costs of issuance of the bonds and city processing fee.
<b>The Summit House Housing Improvement Area<sup>19</sup></b>	
<b>Housing project name</b>	The Summit House (297 units)
<b>Improvements to be undertaken</b>	<ol style="list-style-type: none"> <li>1. Replacing equipment for heating, cooling and ventilation, including completing related structural and electrical work.</li> <li>2. Replacing building roofs.</li> <li>3. Installing new emergency generators.</li> <li>4. Renovation of parking garages.</li> </ol>
<b>Bond amount</b>	Not to exceed \$18,560,000 in principal plus \$2,760,000 of financing costs including capitalized interest, debt service reserve, costs of issuance of the bonds and city processing fee.

<sup>17</sup> Code of Minneapolis § 16.421.110

[https://library.municode.com/mn/minneapolis/codes/code\\_of\\_ordinances?nodeId=MICOOR\\_TIT16PLDE\\_CH421H\\_OIMAR\\_ARTIIWECOHOIMAR&showChanges=true](https://library.municode.com/mn/minneapolis/codes/code_of_ordinances?nodeId=MICOOR_TIT16PLDE_CH421H_OIMAR_ARTIIWECOHOIMAR&showChanges=true)

<sup>18</sup> Code of Minneapolis § 16.421.210

[https://library.municode.com/mn/minneapolis/codes/code\\_of\\_ordinances?nodeId=MICOOR\\_TIT16PLDE\\_CH421H\\_OIMAR\\_ARTIIICOBLOHOIMAR&showChanges=true](https://library.municode.com/mn/minneapolis/codes/code_of_ordinances?nodeId=MICOOR_TIT16PLDE_CH421H_OIMAR_ARTIIICOBLOHOIMAR&showChanges=true)

<sup>19</sup> Code of Minneapolis § 16.421.310

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## Local Programs

Several programs currently exist at the local level to assist homeowners in making home repairs and renovations. As is the case at the state level, most of the programs are only accessible to single-family homeowners rather than condominium unit owners or condominium associations. The table below outlines a few of the programs currently in operation.

<b>0% Interest Home Repair Loan Program<sup>20</sup></b>	
<b>County/Municipality</b>	City of Detroit
<b>Program Description</b>	The 0% Interest Home Repair Loan Program offers interest-free loans to help Detroit homeowners invest in and repair their homes – promoting public health and safety, increasing property values and helping residents secure and maintain homeowner’s insurance.
<b>Target Recipient/s</b>	Single-family homes, condominium units, and townhouses occupied by owners.
<b>Fund Structure</b>	Loans range in value from \$5,000 to \$25,000 and are drawn from a combination of HUD Community Development Block Grants and private funding from the Bank of America and Quicken Loans. <sup>21</sup>
<b>Single-Family Rehabilitation Loan Program<sup>22</sup></b>	
<b>County/Municipality</b>	Los Angeles County
<b>Program Description</b>	Assists low-income owner-occupied households with one to two units in need of rehabilitation.
<b>Target Recipient/s</b>	Single-family owner-occupied homes.
<b>Fund Structure</b>	The program provides 3% interest deferred loans that are due and payable upon sale or transfer. The maximum loan amount is \$25,000 and the funding source for the loans are HUD Community Development Block Grants (‘Single-Family Loan CDBG’, ‘HOME Residential Sound Insulation CDBG’, and ‘Handyworker CDBG’)
<b>HomeFix Program<sup>23</sup></b>	
<b>County/Municipality</b>	New York City
<b>Program Description</b>	Provides low and zero-interest loans to owner-occupants of 1-to-4-unit family homes with a maximum household income of 165% of AMI to finance home repairs, physical improvements, and support services.
<b>Target Recipient/s</b>	One- to four-unit family homes occupied by owners.
<b>Fund Structure</b>	Loan interest rates range from 0% to 5% and may be partially or fully forgiven depending on credit score and household income.
<b>The Basic Systems Repair Program<sup>24</sup></b>	
<b>County/Municipality</b>	Philadelphia

<sup>20</sup> 0% Interest Home Repair Loans, CITY OF DETROIT PLANNING & DEVELOPMENT DEPARTMENT (2014), <http://www.detroithomeloans.org/>

<sup>21</sup> Kate Roff, 0%-interest loan program puts economic power in hands of Detroit homeowners, MODELDMEDIA (August 4, 2020), <https://www.modeldmedia.com/features/LISCHomeRepairsLoan.aspx>

<sup>22</sup> Program 20: Ownership Housing Rehabilitation Assistance, LOS ANGELES COUNTY DEPARTMENT OF REGIONAL PLANNING, <https://planning.lacounty.gov/housing/program20>

<sup>23</sup> HomeFix Program Term Sheet, NYC DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT (HPD) <https://www1.nyc.gov/assets/hpd/downloads/pdfs/services/homefix-term-sheet.pdf>

<sup>24</sup> Basic Systems Repair Program, PHILADELPHIA HOUSING DEVELOPMENT CORPORATION, <https://phdcphila.org/residents/home-repair/basic-systems-repair-program/>

<b>Program Description</b>	Provides free repairs to correct electrical, plumbing, heating, structural, and roofing emergencies in owner-occupied homes for eligible low-income homeowners.
<b>Target Recipient/s</b>	Owner-occupied single-family homes.
<b>Fund Structure</b>	Fully funded from a 0.1% percent increase in the real estate transfer tax.

#### **IV. Existing Legislation Related to Condominium Association Reserve Funds**

##### **Reserve Requirements – State Law**

Condominium associations are governed by Chapter 718, Florida Statutes, which delineates their powers and duties. In §718.112 regarding association bylaws, subsection §718.112(f)(2)(a) prescribes that, in addition to annual operating expenses, the budget must include reserve accounts for capital expenditures and deferred maintenance. The only capital expenditures this section expressly requires to be accounted for in reserves are roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost.<sup>25</sup> While the provision specifies that any other item that has a deferred maintenance expense or replacement cost that exceeds \$10,000 must be included, expenses such as electrical and plumbing are not expressly listed and thus are often not accounted for by condominium associations.<sup>26</sup> The amount to be reserved must be calculated using a formula based on the estimated remaining useful life and estimated replacement cost or deferred maintenance expense of each reserve item and may be adjusted annually to account for any changes.<sup>27</sup>

Current law authorizes condominium associations to waive these reserve requirements by a majority vote at a duly called meeting of the association. If a majority vote is attained, an association may operate with fewer reserves than otherwise required by law or no reserves at all.<sup>28</sup>

HB 995, passed by the 2008 Florida State Legislature, required condominium associations to hire engineers or architects to conduct a professional reserve study every five years.<sup>29</sup> The required study would produce an estimate of the reserves needed to keep up with repairs. The law was repealed by the 2010 Florida State Legislature via HB 663, an omnibus bill related to building safety.<sup>30</sup>

##### **Emergency Powers**

Section 718.1265, Florida Statutes, governs a condominium association's emergency powers, which are triggered by a state of emergency being declared in the area encompassed by the association. The law permits, without unit owners' approval, the condominium association to borrow money and pledge

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<sup>25</sup> §718.112(f)(2)(a), Fla.Stat.

<sup>26</sup> Communication with William Sklar, Chair, Condominium Law and Policy on Life Safety Task Force by phone on August 10, 2021.

<sup>27</sup> §718.112(f)(2)(a), Fla.Stat.

<sup>28</sup> *Id.*

<sup>29</sup> HB 995, 2008 Florida State Legislature, <https://www.flsenate.gov/Session/Bill/2008/995/BillText/er/PDF>.

<sup>30</sup> HB 663, 2010 Florida State Legislature, <https://www.flsenate.gov/Session/Bill/2010/663/BillText/er/PDF>.

association assets as collateral to fund emergency repairs and carry out the duties of the association when operating funds are insufficient.<sup>31</sup> These powers have been in effect throughout the COVID-19 pandemic based on the state of emergency declared by the Florida Governor on March 9, 2020.<sup>32</sup> The state of emergency expired on June 26, 2021 when Florida Executive Order No. 20-52 was not renewed.

## V. Proposals to Reform Legislation Governing Condominium Associations

The section below sets forth select legislation at the state and local level being proposed to reform certain aspects of the condominium inspection process considering the Surfside condominium collapse.

<b>Florida Senate Bill 642/House Bill 329: Community Association Database</b>	
<b>Date Introduced</b>	October 18, 2021
<b>Legislation Summary</b>	Creates a publicly accessible Internet database of condominium associations in the State of Florida. The searchable database will include the following information: (1) the name, e-mail address, and telephone number of each board member; (2) the name, e-mail address, and telephone number of the community association manager or community association management company, if any; (3) a copy of the association's governing documents; (4) a copy of the annual budget and the current assessment amount, including any special assessments, charged to parcel owners; (5) if a reserve study has been conducted, a copy of the most recent reserve study; and (6) copies of any plans, specifications, permits, and warranties related to improvements constructed on the common areas or other property that the association is obligated to maintain, repair, or replace.
<b>Florida Senate Bill 274: Condominium Fraud Investigation Pilot Program</b>	
<b>Date Introduced</b>	September 21, 2021
<b>Legislation Summary</b>	Creates the Condominium Fraud Investigation Pilot Program within the Department of Legal Affairs in the Office of the Attorney General to investigate condominium-related fraud and corruption in Broward, Miami-Dade, and Monroe Counties.
<b>Miami-Dade County Ordinance TBA (File No. 212049)</b>	
<b>Date Introduced</b>	August 24, 2021
<b>Legislation Summary</b>	Creates the “Miami-Dade County Building Safety Recertification Task Force” to review the existing laws, codes, and procedures relating to building inspections and building recertifications in Miami-Dade County and provide recommendations to the Board of County Commissioners for needed changes or improvements to such laws, codes, or procedures.
<b>City of Aventura Ordinance No. 2021-13 Delivery of Engineering Reports (Apt. Complex)</b>	
<b>Date Adopted</b>	August 10, 2021
<b>Legislation Summary</b>	Requires that all community associations, including condo, co-op, and homeowners' associations, share with the city all engineering, architectural and life-safety reports they conduct within 48 hours of receiving them.

<sup>31</sup> §718.1265, Fla. Stat.

<sup>32</sup> Executive Order No. 20-52, State of Florida, [https://www.flgov.com/wp-content/uploads/orders/2020/EO\\_20-52.pdf](https://www.flgov.com/wp-content/uploads/orders/2020/EO_20-52.pdf).

City of Boca Raton <a href="#">Ordinance</a> No. 5589	
<b>Date Adopted</b>	August 24, 2021
<b>Legislation Summary</b>	Require buildings at their 30-year mark to submit an inspection report every 10 years. Building owners must submit a structural report and an electrical report and identify any deficiencies that need to be solved. Boca Raton will give building owners 30 days to put forward a repair plan, which must detail the proposed schedule to complete repairs and to submit applications for any required permits. Building owners who fail to submit the inspection report, get approval of the repair plan, or complete the repairs within the timeframe outlined will be subject to fines or other penalties.

At the state level, Florida Senator Jason Pizzo has stated his intention to file legislation that would address statewide building requirements, statewide re-inspection standards for older buildings, the risk of seawater intrusion, and the financial obligations of condominium associations.

### Florida Bar Condo Law Task Force

The Florida Bar Condominium Law and Policy Life Safety Advisory Task Force released a [report](#)<sup>33</sup> on October 12, 2021, compiling a list of all recommended changes to Florida condominium law, development, construction, association operations, and maintenance to prevent or minimize the likelihood of another building collapse like the Champlain Towers South condominium collapse in the future. Of particular relevance for the purposes of this report are the Florida Bar Task Force recommendations regarding condominium association reserves and unit owner financing. The Task Force issued the following nine recommendations regarding condominium association reserves:

1. Reserve Studies: The Task Force recommends amendments to the Act to require periodic reserve studies for residential condominiums with three or more stories.
2. Reserve Components: The Task Force recommends that commencing with the first association budget year and each year thereafter, the association shall be required to maintain capital replacements/deferred maintenance budget reserves for each component item stated in Section 718.301(4)(p) of the Act and waterproofing ("mandatory reserves").
3. Pooled Reserves: The Task Force recommends eliminating the option for condominiums to maintain pooled reserves for mandatory reserve components under Section 718.301(4)(p) of the Act, and waterproofing.
4. Reserve Disclosures: The Task Force recommends required specific disclosures to unit owners in annual financial statements as to any waivers or reductions of required reserve funding.
5. Reserve Funding: As to deferred maintenance and repair and replacement of the components listed in Section 718.301(4)(p) of the Act, the Task Force recommends that by December 31, 2026, an association be required to establish a fund for each component in an amount equal to not less than 50% of the replacement costs based on the estimated remaining useful life.
6. Developer Waiver of Reserves: The Task Force recommends that the authority of a developer to waive statutorily mandated reserves under Section 718.112(2)(f) of the Act be repealed.
7. Association Waiver of Reserves: The Task Force recommends that the authority to annually waive or reduce mandatory reserves be amended to require the approval of no less than 75 percent of the voting interests present and voting at a meeting at which a quorum is present.

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<sup>33</sup> *Report of the Florida Bar RPPTL Condominium Law and Policy Life Safety Advisory Task Force, FLORIDA BAR CONDOMINIUM LAW AND POLICY LIFE SAFETY ADVISORY TASK FORCE (October 12, 2021).*

8. Use of Reserves: The Task Force recommends that mandatory reserves not be used for non-scheduled purposes other than casualty reconstruction, including deductibles.

Regarding the issue of condominium unit owner financing, the Task Force recommends that the Department of Housing and Urban Development (HUD), the Federal Housing Finance Agency (FHFA), and the Florida Housing Finance Corporation adopt major structural repair financing programs whereby long-term (i.e., 30-year) amortized loans are made available to qualified condominium unit owners on an income/means basis to facilitate the financing of special assessments necessary to address life safety remediation in aging condominium buildings.<sup>34</sup>

## **VI. Conclusion**

In light of the recent events involving the Champlain Towers South condominium collapse, calls to reform condominium law, the building inspection process, and how condominium associations manage their reserves have become a priority. Another area of reform, and the subject of this report, centers around proposals to create government-backed financing options that will provide condominium associations with the ability to secure funding for emergency repairs. OCA identified legislation in the state of Minnesota which allows cities to leverage their bonding authority for the purpose of providing loans to condominium associations. Also listed in this report are several programs at the federal, state, and local level which allow private applicants to access zero or low-interest loans to finance repairs of real property. Although these programs do not offer financing specifically for condominium associations, the structure of the programs can provide the conceptual framework for creating new programs that will address the provision of financing to condominium associations.

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<sup>34</sup> Ibid.

**Report produced by the Office of the Commission Auditor**

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The Office of the Commission Auditor (OCA) was established in September 2002 by Ordinance 03-2 to provide support and professional analysis of the policy, service, budgetary and operational issues before the Miami-Dade Board of County Commissioners. The Commission Auditor's duties include reporting to the Board of County Commissioners on the fiscal operations of County departments, as well as whether the fiscal and legislative policy directions of the Commission are being efficiently and effectively implemented

This report, prepared in collaboration with the Miami-Dade County departments as subject matter experts, is substantially less detailed in scope than an audit in accordance with the Generally Accepted Auditing Standards (GAAS). The OCA plans and performs the review to obtain sufficient, appropriate evidence to provide a reasonable basis for its findings and conclusions based on its objectives; accordingly, the OCA does not express an opinion on the data gathered by the subject matter expert(s).