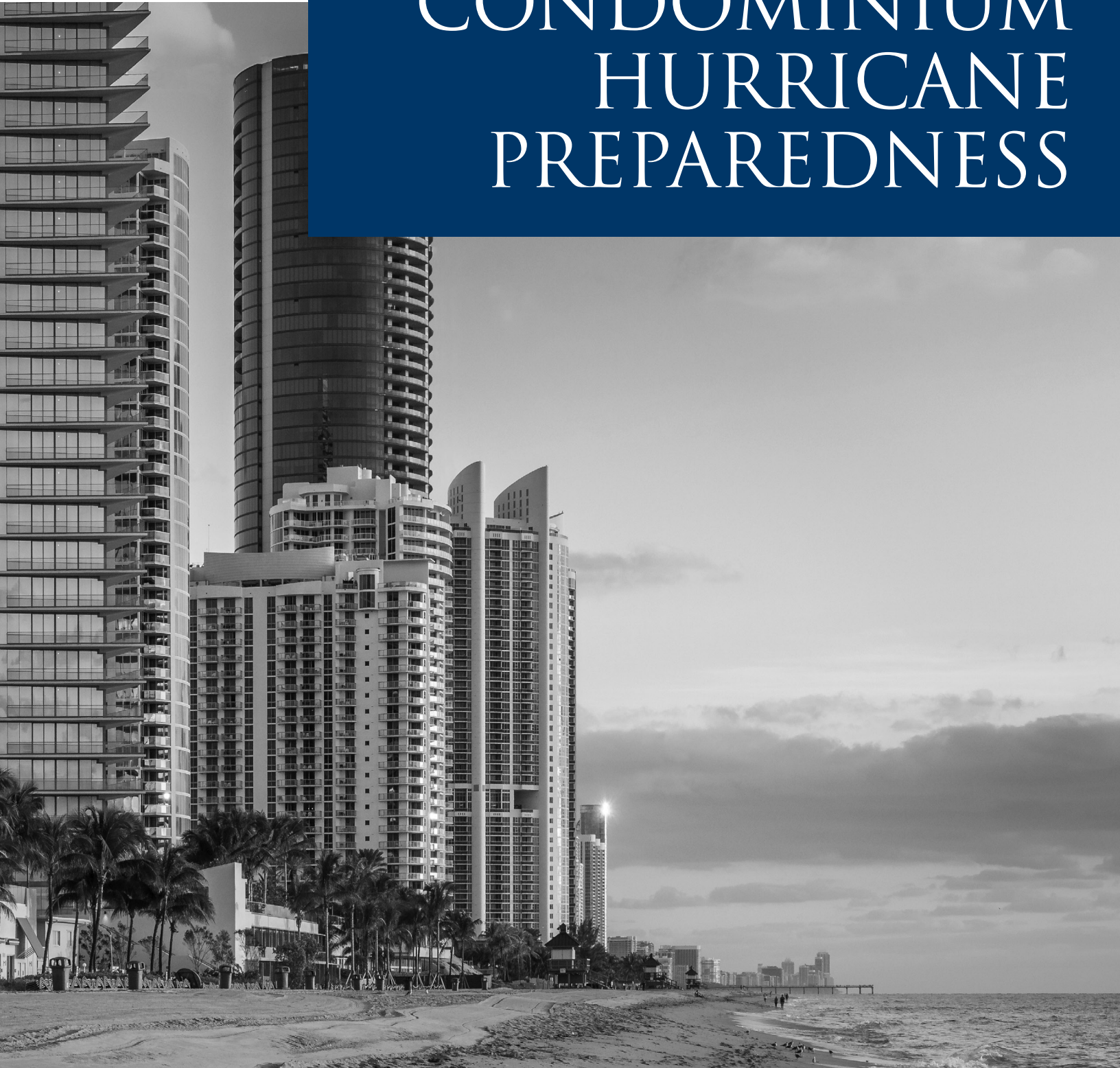


CONDOMINIUM HURRICANE PREPAREDNESS



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CONTENTS

01 Sachs Sax Caplan /
Merlin Law Group

02 Take Note Of Your
Deductible

03 What To Do
Before Hurricane
Season

04 What To Do After A
Tropical Storm Or
Hurricane Warning Is
Issued

05 What To Do If There
Is An Evacuation
Order?

06 What To Do After A
Tropical Storm Or
Hurricane

07 Consider Retaining
An Attorney

08 Take Precautions To
Avoid Disaster

09 Consider Retaining
An Attorney



SACHS SAX CAPLAN / MERLIN LAW GROUP

Sachs Sax Caplan is teaming up with Merlin Law Group to provide the best representation for condominiums, homeowners associations and other community associations with their first-party property claims. First Party Property claims are when you have a claim against your own insurance company, as opposed to when you have a claim against someone else's insurance company. Examples of First Party Claims are when your Association has a claim against your own insurer for Hurricane damages, for damages caused by broken water or sewer lines, for damages caused by fires, for large vandalism claims, etc. Merlin Law Group is the largest law firm in the United States focusing on first-party property cases and has over 35 years' experience. We will be producing multiple resources to assist with planning for hurricane season

and dealing with potential hurricane claims. Please contact Sachs Sax Caplan if you have any questions.

Florida is home to many large condominium properties. Some are on or near the shoreline. When hurricane season hits, these properties are susceptible to extensive damage that can be costly to repair. If your property is in a flood or evacuation zone, there is a greater responsibility to take preventative measures to avoid damage. Insurance policies are designed to protect these large multi-family properties, but is there more that can be done to ensure that the property is secure? This Condominium Hurricane Checklist will help guide property-owners in taking the right steps toward safeguarding their condominiums and the residents living within them.

TAKE NOTE OF YOUR DEDUCTIBLE

The first step is for the Board to review the community's insurance policy. Take note of the policy's hurricane deductible, as this can fluctuate between policies. Hurricane deductibles are typically 2%, 5%, or 10% of the property's total insured value. The higher the deductible, the lower the cost of the policy. The Board should calculate what it would cost if it suffered a loss which exceeds its deductible, meaning that the association is responsible for the cost of the entire deductible. This could be in the millions of dollars. If this amount is not available in any type of reserve fund, the Board must determine a way of generating the capital to cover the deductible in the event of significant damage or a total loss as a result of a hurricane. This is typically done by special assessment but can be done via loans or other methods.



WHAT TO DO BEFORE HURRICANE SEASON

There are multiple items that associations need to address in preparation for hurricane season. The size of the property and number of residents may introduce other challenges but following these simple guidelines can assist condominium owners in readying their property for potential storm damage.

- **Access to Residential Units** – Depending on the rules of the property, the association may already have access to each individual unit. If not, it is important to obtain a working key for each unit. This may come in handy for after the storm when having to inspect units for damage.
- **Create a Plan for Residents** – Associations should put together a hurricane preparedness plan for residents. This plan should outline steps to take before, during, and after a storm. It should also document any evacuation guidelines in the event of a mandatory evacuation.
- **Advise Residents of Their Rights and Obligations Under Their Own Insurance Policy** – Your residents may (wrongfully) believe that damage to their individual units is covered under the Association Insurance Policy. Your residents should already know that the Association's policy only covers common areas and the building itself, and not the interior of their units and their contents, but many don't. You should advise residents that if they incur damage and have their own policy, they should immediately document their claim and contact their insurance company. If they don't have their own policy, they should either obtain one, or be aware that they are self-insuring. Many other comments in this document (create a plan, document a loss, consider contacting public adjusters or other vendors after a loss) may also apply to residents.
- **Videotaping or Photographing Property** – Associations should already be documenting the

physical state of their property annually either through video or photographs for insurance purposes. This video should document both the exterior and interior (common areas open to public; not including individual units) of the condominium. A copy of the video should be given to the property manager, at least one Board member, and possibly the insurance broker.

- **Proper Data and Document Storage** – All hard copy documents should be stored in a weather resistant facility, possibly even offsite to avoid any potential damage. Files and documents should be stored in water resistant storage containers. All electronic data should be backed up on an external hard drive or stored in a web or cloud-based service. Be sure to check digital backup status weekly.
- **Resident Contact Information** – Associations should have contact information for all residents of the condominium. This includes accurate phone numbers, email addresses, and physical addresses.
- **Keep Updated Vendor List** – Associations should have multiple vendors that could come in handy after a storm hits. These may include landscapers, restoration specialists, public adjusters, damage assessment experts, engineers, plumbers, electricians, etc. It is important to have an established list of vendors prior to a storm so that the association knows who to contact when needed.
- **Consider Landscaping Maintenance** – Associations should consider trimming palms and other large trees at least once a year in preparation of hurricane season. Trimming palms can reduce damage from high winds and other hurricane-related factors.

- **Hurricane Shutters** – According to Florida Statute Chapter 718.113(5), “Each Board or administration of a residential condominium shall adopt hurricane shutter specifications for each building within each condominium operated by the association which shall include color, style, and other factors deemed relevant by the Board.” Residents have the right to install shutters on their own, however the Board can decide to install shutters on all units at the association’s expense. Pay attention to weather bulletins and warnings in determining the best course of action regarding installing hurricane shutters.
- **Consider Hiring a Boarding Contractor(s)** – Associations can either decide to board all windows or just common area windows. Either way, associations should consider contracting a vendor ahead of time to come onto the property and install shutters upon there being a hurricane or tropical storm warning.
- **Consider Contracting Hurricane Disaster Response Team** – There are engineering firms specializing in hurricane disaster response. If your condominium property is in a high-risk area, it may be wise to contract such a firm ahead of time. A contract will ensure the firm comes onto the property after a hurricane to survey damage and detail any repairs needed in official written report. In some cases, these firms can even begin to seek bids from repair contractors and supervise restorative work. Such a report would be beneficial in filing a claim with your insurance company. Associations typically must sign a pre-contract with a hurricane response firm due to them being bogged down with cases after a storm. This may require an annual retainer fee. Associations must weight the costs and benefits of a retainer.





WHAT TO DO AFTER A TROPICAL STORM OR HURRICANE WARNING IS ISSUED

When a tropical storm or hurricane warning is issued in your area, it is time to take preventative action. The following represents a list of things to do which your Association should address upon the issuance of an official warning. Many of these items may or should be done in conjunction with your Association Property Manager or the Association Property Management Company.

- **Conduct Board and Resident Meetings** – The Board and management should meet to go over any hurricane action plans and delegate individual responsibilities. After this, another community meeting may be set up where residents can come to ask questions and get helpful information.
- **Distribute Hurricane Plan to Residents** – If not done so already, associations should distribute any hurricane preparedness plan documentation to residents. Additional copies should be made readily available in common areas.
- **Check Document and Data Storage** – As discussed in the previous section, appropriate measures should be taken in securing both hard copy and digital information. Physical documents must be stored in weather resistant containers and facilities. Digital information must be backed up either on external hard drive, cloud-based solution, or both.
- **Pay Outstanding Invoices** – Any outstanding invoices should be paid up to at least two weeks from the potential storm. This will cover any payments and ensure no late fees are incurred.
- **Relocate Any Exterior Furnishings** – Any exterior property such as lounge chairs, umbrellas, tables, etc., should be brought inside to a safe storage location. This also goes for any potted plants, garbage containers, or propane tanks or grills. Any items that cannot be relocated must be properly secured to sustain high winds.
- **Turn Off Any Automated Systems** – All irrigation systems should be shut off in preparation for a hurricane. Shutting off common area air conditioning units may also help prevent damage.
- **Put Up Hurricane Shutters** – Put up hurricane shutters in accordance with Board's approved plan for boarding common area and/or residential unit windows.

WHAT TO DO IF THERE IS AN EVACUATION ORDER?

If your county issues a mandatory evacuation order and your property is within the declared evacuation zone, it is the association's responsibility to communicate that to residents. Tasks should be delegated among Board members or resident volunteers to ensure each base is covered. This step is particularly important given that Board members may have their own units to look after. Many of these items may or should be done in conjunction with your Association Property Manager or the Association Property Management Company. Associations should take the following steps after an evacuation order is given:

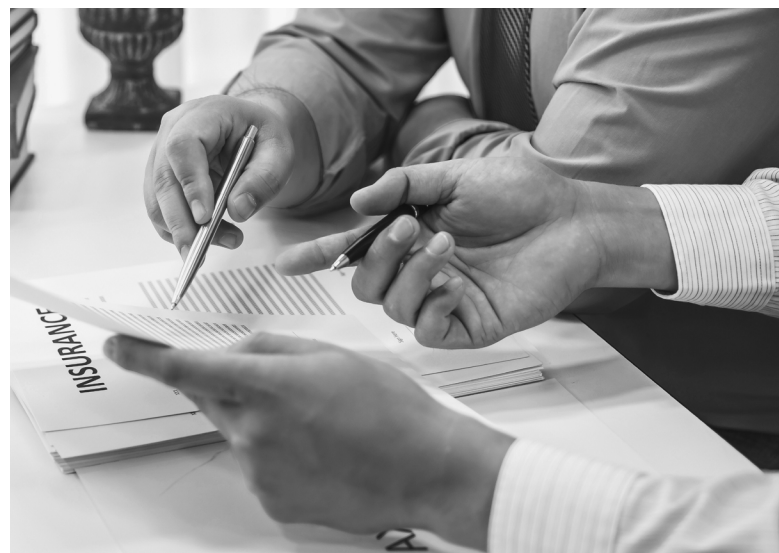
- **Notify Residents** – All residents should be notified that an evacuation order has been issued. This can be done through email, through posted notices in common areas, by posting notices on or under unit doors or in residents mail centers, by telephone, etc.
- **Provide Assistance** – Associations may wish to provide evacuation assistance to disabled or elderly residents. This may require making arrangements before hurricane season starts.
- **Shut Off Access System** – Associations may want to disable any access systems to doors and other entrances. This will aid residents in being able to enter and leave the property freely and may help with evacuation of the residents. These systems can be reactivated once it is ensured that all residents are off the property.
- **Disable Elevator Service** – Once all residents are evacuated off the property, all elevators should be disabled. This will prevent possible damage should power be lost due to the storm.
- **Confirm All Residents are Evacuated** – Staff must confirm that all residents are evacuated from the property. This may involve knocking on each individual door to ensure all residents are offsite.



WHAT TO DO AFTER A TROPICAL STORM OR HURRICANE

There is a lot of work to be done on the association's end after a storm clears. As with the other phases of a hurricane action plan, tasks should be delegated out to individuals. This ensures each action item is completed. Many of these items may or should be done in conjunction with your Association Property Manager or the Association Property Management Company. Associations should complete the following:

- **Survey and Document Damage** – Board members should return to the property once safe to do so and photograph any damages. This should be done in addition to any contracted firms coming out to do the same. Having a Board member photograph the damage reinforces any evidence noted by an outside firm.
- **Keep Residents Updated** – Residents will be keen to make their way back to the property. Associations should keep residents informed on any actions being taken, the status of the property, projected timelines for when residents can begin moving back in, and any other related matters. Residents should also be notified of any areas that are restricted due to excessive damage.
- **File Any Insurance Claims** – If there is damage, the Board should immediately take action to file a claim with the property's insurance broker. Any photographs, videos, or damage reports should be included in the claim. The insurance company should be able to answer any questions and let you know if other information is required for the claim.
- **Remind Your Residents to Document and File Their Own Insurance Claims for Their Individual Units.**
- **Consider Hiring a Public Adjuster** – Public adjusters can provide their own damage report to policyholders. This could help if your insurance company's estimate of damages is off the mark of what you consider to be fair. If the claim goes to litigation, a public adjuster's report will be valuable evidence in supporting your claim.
- **Reactive All Systems** – Any systems that were shut off in preparation of the hurricane must be activated when safe. This includes all irrigation systems, security protocols, power to units, etc.
- **Remove Shutters** – Any shutters should be removed from windows once safe. If the glass underneath the shutters is broken, do not remove shutters. Be sure to note any damage to windows before attempting repairs.
- **Begin Contacting Vendors** – If the association has a list of vendors prepped, they should begin contacting them to initiate repairs on the property. This also includes debris cleanup and vendors that can assess all systems to determine whether they are still functioning.



CONSIDER RETAINING AN ATTORNEY

After a hurricane damages your property, if your insurance company delays your payment, offers a settlement which is insufficient to cover your damages (less deductible), or even denies your claim, your Association should consider retaining an attorney specializing in hurricane claims and who knows the law that applies requiring insurance companies to pay what is owed. By retaining such an attorney, the insurance company knows you have hired a firm with experience and the resources necessary to get the right result. The Association will also have many vendors requesting executed agreements. An experienced attorney can help guide your Association through the best steps to begin rebuilding your property. Should you wish, Sachs Sax Caplan is available to assist you with these issues.

TAKE PRECAUTIONS TO AVOID DISASTER

Hurricanes can be devastating. In larger condominium properties with many residents, repairs and insurance claims can become costly. With appropriate preventative measures taken, associations can minimize their expenses down the road after sustaining hurricane damage. Having a coordinated plan will set up the association to get their property back to working order.

Be sure to review your insurance policy as it relates to hurricane damage. Contact your insurance broker with any questions before a storm hits. Once the claim filing process begins, your insurance company should be of assistance throughout the process. If you are unsure of your policy or dissatisfied with your insurance company's handling of the claim, consider reaching out to an experienced law firm specializing in property insurance claims.



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