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Acknowledgments

IIAT appreciates the contributions of the following persons for assisting with reviewing this publication and providing advice regarding the content. Any errors remaining in the final text, however, are the sole responsibility of IIAT and the author.

William Gammon III
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Austin

Patrick L. Watkins
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Galveston Insurance Associates
Galveston

Randy Wipf
Texas Windstorm Insurance Association
Austin

Connie Niemann Heyer
Niemann & Heyer, LLP
Austin
### April 2014

**Summary of Revisions to May 2009 Edition**

<table>
<thead>
<tr>
<th>Page #</th>
<th>Explanation of Changes</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>Change address for downloading Uniform Condominium Act.</td>
</tr>
<tr>
<td>9</td>
<td>Amend Section 82.002(c) of Chapter 82 (Uniform Condominium Act), as amended by HB 2075 effective September 1, 2013.</td>
</tr>
<tr>
<td>19</td>
<td>Amend Section 82.111(c) of Chapter 82 (Uniform Condominium Act), as amended by HB 2075 effective September 1, 2013, by adding language allowing the purchase of insurance policies with “commercially reasonable deductibles as the board determines appropriate or necessary.”</td>
</tr>
<tr>
<td>21</td>
<td>Change edition date of ISO form CP 00 17 from 04 02 to 10 12.</td>
</tr>
<tr>
<td>24</td>
<td>Change debris removal additional limit from $10,000 to $25,000.</td>
</tr>
<tr>
<td>34-35</td>
<td>Amend “Deductibles” section and add Exhibit 8.5 to reflect changes and additions introduced by HB 2075 effective September 1, 2013.</td>
</tr>
<tr>
<td>37</td>
<td>Change the number of participating and non-participating communities in the National Flood Insurance Program as of October 2008.</td>
</tr>
<tr>
<td>39</td>
<td>Add wind turbines to list of property excluded on TWIA policy.</td>
</tr>
<tr>
<td>40</td>
<td>Change maximum limit available on TWIA policy.</td>
</tr>
<tr>
<td>55-60</td>
<td>Change references from “Texas Homeowners” policy forms to “TDI Homeowners” policy forms.</td>
</tr>
<tr>
<td>61</td>
<td>Add references to edition date 05 11 for ISO Homeowners Unit Owners Form 6 and the 10 percent sublimit for personal property located in a self-storage facility.</td>
</tr>
<tr>
<td>63</td>
<td>Change sublimit on endorsement HO 04 69 from $5,000 to “as low as $5,000 or other limit shown in the endorsement.”</td>
</tr>
<tr>
<td>64</td>
<td>Mention that a sublimit of $1,000 for loss assessment resulting from a deductible does not apply to the 05 11 edition of endorsement HO 04 35, as it does on previous editions of the endorsement and the TDI form.</td>
</tr>
<tr>
<td>68</td>
<td>Change the TWIA definition of “primary residence” as regards availability of coverage for Additional Living Expense.</td>
</tr>
<tr>
<td>69</td>
<td>Change maximum limit available on TWIA policy.</td>
</tr>
<tr>
<td>70</td>
<td>Add Flood Insurance for condominium unit owners.</td>
</tr>
<tr>
<td>74-76</td>
<td>Amend the language of Section 82.111 (Insurance) of the Texas Uniform Condominium Act to reflect changes made by HB 2075 effective September 1, 2013.</td>
</tr>
<tr>
<td>81</td>
<td>Change mailing address and URL for Community Associations Press.</td>
</tr>
</tbody>
</table>
Introduction –
Insuring Condominiums in Texas

Condominium: A form of real property with portions of the real property designated for separate ownership or occupancy, and the remainder of the real property designated for common ownership or occupancy solely by the owners of those portions. Real property is a condominium only if one or more of the common elements are directly owned in undivided interests by the unit owners. Real property is not a condominium if all of the common elements are owned by a legal entity separate from the unit owners, such as a corporation, even if the separate legal entity is owned by the unit owners.

(Texas Uniform Condominium Act, Chapter 82, Texas Property Code, Section 82.003 (a) (8))

There are an estimated 12,000 condominium associations in Texas of all sizes and types – residential, commercial, mercantile and office. Texas residential condominium associations contain an estimated 500,000 units that house more than 1,000,000 persons – owners and tenants as well as temporary occupants of vacation rental units.¹

Arranging insurance on condominiums, whether on behalf of a condominium association or an individual unit owner, requires skill, experience, legal knowledge, and more than a passing familiarity with the wide range of insurance products available for condominiums.

This publication has been written to educate everyone involved in the process of arranging insurance and adjusting claims on condominiums in Texas – insurance company underwriters, claims adjusters, insurance agents, property managers, condominium developers, attorneys, condominium board members, individual unit owners, and lenders – about the complex issues involved in covering condominium property and liability exposures. The goal of this publication is to de-mystify the issues, the process and the insurance policies so that everyone ends up on the same page without controversy when a claim occurs.

¹ Based on an extrapolation of data provided by the Community Associations Institute at www.caionline.org.
In The Beginning:
Documents You Must Have

There is no way to arrange insurance or adjust a claim for a condominium association or individual unit owner without copies of the following documents in hand:

- **The Texas Uniform Condominium Act.** This is legislation that regulates the formation and governance of condominiums in Texas. It is Chapter 82 of the Texas Property Code, available for viewing or downloading from the Texas Legislature Online website (http://www.statutes.legis.state.tx.us/Docs/PR/htm/PR.82.htm). Section 82.111 provides the regulations relating to insurance on all condominiums no matter when they were built or formed. If the condominium was formed prior to 1994, certain provisions of the original Condominium Act (Chapter 81) may come into play as well.

- **The Condominium declaration** (and any amendments thereto). This document creates a condominium and is filed with the county where the condominium is located. The association office, property manager or a unit owner should be able to furnish a copy of the declaration. Sometimes, additional information regarding insurance can be found in the **condominium bylaws and rules**.

- **The Condominium master insurance policy or Condominium unit owner’s policy** (whichever is involved in the placement or claim adjustment).

This publication will frequently cite the Act, as well as typical provisions found in condominium declarations and standard condominium insurance policies.

**Is It a Condominium or Is It Something Else?**

Condominiums come in all shapes and sizes. A condominium may look like a project of single family homes or duplexes, or a low-rise apartment project, or a high-rise hotel. Sometimes condominiums may be referred to as town houses or townhomes.

A condominium is a creature of state law – see the next section describing the Texas Uniform Condominium Act. It is created by recording a declaration in the county where the property is located. If the condominium association was formed in 1994 or later, the declaration must contain the name of the condominium and the name must include the word “condominium” or be followed by the words “a condominium” or a phrase that includes the word “condominium.”

Another project may be called town houses or townhomes, but it is not a condominium if a condominium declaration has not been recorded. This type of project is generally a group of fee-simple dwellings where the owner of each dwelling also owns the land under the dwelling. There is no shared ownership of the dwelling or the land underneath the dwelling, although there may be some shared ownership of other real estate associated with the project, such as recreational facilities.

The difference between a condominium and a townhome is significant, especially when it comes to insurance. If it is a condominium, then it must be insured as a condominium on special forms designed for condominiums. The dwellings in a townhome or town house project are typically insured separately by each owner on a residential property insurance policy, like a homeowners policy, while the structures owned in common are typically insured on a standard commercial property insurance policy.
What Condominium Managers and Owners Should Expect from Insurance Agents

Condominium insurance is a complex matter involving legal documents and contracts which affect the way insurance should be provided. Insurance agents are NOT lawyers. They should not be expected to provide legal advice about condominium laws, declarations and bylaws.

At the most basic level, insurance agents are expected to provide the insurance that is requested by the condominium manager or unit owner. They can and should provide advice about insurance policies and coverages appropriate for condominium projects and units.

Condominium management is a business, even when undertaken by uncompensated board members, and should be operated like a business. Business owners seek legal advice from experienced attorneys when their business is subject to legal and contractual requirements, and condominium managers should do the same. An attorney should interpret the laws and contracts and advise condominium managers what kinds and amounts of insurance are required by those laws and contracts. They should not expect an insurance agent to do this for them or to determine the appropriate amounts of insurance needed to adequately cover the condominium project.

Condominium unit ownership is like owning a home in that it is generally the largest single asset in which the owner has an investment. However, unit ownership is more complicated than owning a home because of the laws and contracts affecting the ownership. Unit owners are well-advised to seek the advice of their personal attorneys and the condominium managers regarding insurance requirements. They should not expect their insurance agents to interpret the laws and contracts or provide advice on the appropriate amounts of insurance needed to adequately cover their most important investment.
The Texas Uniform Condominium Act

To understand the complex issues regarding insurance coverage for condominium associations and unit owners, one must first understand Texas laws regarding the formation and governance of condominiums. The first Texas law to address the condominium form of property ownership was enacted in 1963 and is known as the Texas Condominium Act – now Chapter 81 of the Texas Property Code. This law “enables” condominium ownership and is characterized by brevity, rigidity and a lack of unit-owner protections.

By the early 1970s, it was apparent that the Texas Condominium Act was inadequate to deal with the variety and complexity of the emerging condominium market. Development of a new law began with the National Conference of Commissioners on Uniform State Laws. This group published a uniform condominium act in 1977 and made it available to state legislatures throughout the country.

The Uniform Condominium Act was first proposed to the Texas Legislature in 1981 but was not passed into law until 1993. The legislation was signed by Gov. Ann Richards on May 22, 1993, to be effective January 1, 1994. It is now Chapter 82 of the Texas Property Code and known as the Texas Uniform Condominium Act. This new law is long, flexible and provides significant protections for individual unit owners.

The Texas Uniform Condominium Act applies to condominiums for which the declaration was recorded on or after January 1, 1994. The 1963 law applies to condominiums for which the declaration was recorded before January 1, 1994, except for certain sections of the Uniform Act that apply even to the older condominiums – including the insurance section (see below). Unit owners of older condominiums can vote to amend the declaration so that the condominium is governed by the new law. (See Exhibit 1)

Even though Chapter 81 applies to older condominiums in general, the legislature decided that certain provisions of Chapter 82 were so important, they made those provisions applicable to older condominiums, too. One of these provisions is the section describing insurance requirements for condominiums. Therefore, all condominiums in Texas are subject to the insurance requirements in Section 82.111 of the Texas Uniform Condominium Act. (See Exhibit 2)
# Exhibit 1

## Condominium Laws – Preamble and Applicability

<table>
<thead>
<tr>
<th>TEXAS PROPERTY CODE</th>
<th>TEXAS PROPERTY CODE</th>
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<tr>
<td>CHAPTER 81. CONDOMINIUMS CREATED BEFORE ADOPTION OF UNIFORM CONDOMINIUM ACT</td>
<td>CHAPTER 82. UNIFORM CONDOMINIUM ACT</td>
</tr>
<tr>
<td>§ 81.001. SHORT TITLE. This chapter may be cited as the Condominium Act.</td>
<td>§ 82.001. SHORT TITLE. This chapter may be cited as the Uniform Condominium Act.</td>
</tr>
<tr>
<td>§ 81.0011. APPLICABILITY. (a) This chapter applies only to a condominium regime created before January 1, 1994. A condominium regime created on or after January 1, 1994, is governed by Chapter 82. (b) A condominium regime created before January 1, 1994, to which this chapter applies is also governed by Chapter 82 as provided by Section 82.002.</td>
<td>§ 82.002. APPLICABILITY. (a) This chapter applies to all commercial, industrial, residential, and other types of condominiums in this state for which the declaration is recorded on or after January 1, 1994. A condominium for which the declaration was recorded before January 1, 1994, may be governed exclusively under this chapter if either: (1) the owners of units vote to amend the declaration, in accordance with the amendment process authorized by the declaration, to have this chapter apply and that amendment is filed for record in the condominium records in each county in which the condominium is located; or (2) a declaration or amendment of declaration was recorded before January 1, 1994, and the declaration or amendment states that this chapter will apply in its entirety on January 1, 1994.</td>
</tr>
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## Exhibit 2

Condominium Law – Applicability to all Condominiums

<table>
<thead>
<tr>
<th>PROPERTY CODE</th>
<th>CHAPTER 82. UNIFORM CONDOMINIUM ACT</th>
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<tbody>
<tr>
<td>§ 82.002. APPLICABILITY.</td>
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</tr>
<tr>
<td>(c) This section and the following sections apply to a condominium in this state for which the declaration was recorded before January 1, 1994: Sections 82.005, 82.006, 82.007, 82.053, 82.054, 82.102(a)(1)-(7), (a)(12)-(21), (f), and (g), 82.108, 82.111, 82.113, 82.114, 82.116, 82.157, and 82.161. The definitions prescribed by Section 82.003 apply to a condominium in this state for which the declaration was recorded before January 1, 1994, to the extent the definitions do not conflict with the declaration. The sections listed in this subsection apply only with respect to events and circumstances occurring on or after January 1, 1994, and do not invalidate existing provisions of the declaration, bylaws, or plats or plans of a condominium for which the declaration was recorded before January 1, 1994.</td>
<td>All condominiums in Texas are subject to the insurance requirements of Section 82.111 no matter when they were built.</td>
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Common Elements and Units

The most important step in writing property insurance on the real property of a condominium project is to determine which items of real property should be insured on the condominium master policy (with the association of co-owners or its designee as the named insured), which items should be insured on the unit owner’s policy (with the unit owner as the named insured), and which items may need to be covered on both policies.

The condominium laws and declarations describe two types of real property in a condominium project: Common Elements (owned in common by all unit owners) and The Unit or Apartment (owned solely by the unit owner). The laws give condominium developers and associations some flexibility and discretion to use different definitions in the condominium declarations. See Exhibit 14 in the Appendix to see how the old law and the new law define Common Elements and Units.

Generally speaking, the unit or apartment includes everything within the unfinished interior walls, floor and ceiling of a unit – from the paint or wallpaper to the bathroom fixtures and everything in between – and the common elements include all the other real property in the condominium project. Some common elements include real property that is used by one or more units but not all the units and are called limited common elements. Common elements that are not limited common elements are called general common elements.

The primary interest of everyone involved in the condominium insurance process should be to simplify the adjustment and payment of a property claim when condominium real property is damaged by a cause of loss that is covered on the condominium master policy.

<table>
<thead>
<tr>
<th>Best Practice for Insuring Condominium Real Property</th>
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<tbody>
<tr>
<td>All real property – no matter who owns it – should be insured on the association master property policy for the benefit of all unit owners and their mortgagees.</td>
</tr>
<tr>
<td>(This is the All-Inclusive Method described below.)</td>
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</table>

This position is supported in general not just by insurance agents and insurance companies, but also by none other than the state legislators who first drafted the Uniform Condominium Act back in 1980. (See Exhibit 3 for comments concerning the insurance section of the uniform act as drafted by the National Conference of Commissioners on Uniform State Laws.)

While it’s easy to state such a lofty goal, it’s not always easy to accomplish. In actual practice, and under various provisions of the insurance section in the Texas Uniform Condominium Act, there are three possible ways that condominium real property can be insured: Bare Walls, Original Specifications, and All-Inclusive. (See Exhibit 4.)
The Bare Walls Method for Insuring Condominium Property

The “Bare Walls” method calls for a strict separation of insurance coverage between real property owned in common by all unit owners (the “common elements”) versus real property owned solely by the unit owner (the “unit”). This method was common prior to enactment of the Texas Uniform Condominium Act in 1994. Indeed, the complications of adjusting claims under the Bare Walls concept – especially in so-called “stacked” units – was one of the driving forces behind implementation of the uniform laws across the country during the 1980s and early 1990s.

Under the Uniform Condominium Act, the Bare Walls method cannot be used when the condominium includes “stacked” units in a multi-story building (see Exhibit 4).

Sample “Bare Walls” Provision in Condominium Declarations

**Insurance – Association.** The Association shall obtain insurance for all portions of the Condominium Regime as required by Section 82.111 of the Uniform Act, other than those portions which constitute Units. The Board may also obtain such other insurance in such reasonable amounts as the Board may deem desirable.

**Insurance – Owner.** Each Owner shall be solely responsible for and will obtain insurance on such Owner’s Unit and its contents, including all wall and floor coverings, appliances and all parts of the Unit which are not Common Elements. Each Owner will also be required to insure the Limited Common Elements assigned to each Owner’s Unit, other than those Limited Common Elements which the Association is required or elects to maintain.
Advantages and Disadvantages of the Bare Walls Method

<table>
<thead>
<tr>
<th>Advantages</th>
<th>Disadvantages</th>
</tr>
</thead>
<tbody>
<tr>
<td>• The association property insurance policy costs less because the amount of insurance is less than the replacement value of the total project.</td>
<td>• The definitions of common elements and units are difficult to follow.</td>
</tr>
<tr>
<td>• Losses within individual units aren’t reported to the association property insurer and thus don’t affect future underwriting acceptability and pricing.</td>
<td>• It is virtually impossible to accurately establish separate insurable values for common elements and units.</td>
</tr>
<tr>
<td>• The covered causes of loss may be different on policies carried by the association and unit owners, resulting in coverage for some losses and no coverage for others.</td>
<td>• The total amount of insurance carried by the association and the unit owners may not be sufficient to rebuild the entire condominium project.</td>
</tr>
<tr>
<td>• The claims adjustment and rebuilding process can be a nightmare after a major catastrophe, involving multiple insurance policies, multiple claims adjusters, different contractors, uninsured units and unit owners, and coordination of claims payments.</td>
<td>• Each policy has its own deductible, resulting in individual deductibles for each unit owner and the possibility of an assessment against each unit owner for the association deductible.</td>
</tr>
<tr>
<td>• The association may try to avoid conflicts by requiring unit owners to purchase certain types of policies or to buy individual insurance from a particular company or agent – a potential restraint of trade issue if a unit owner wants to use another agent or company.</td>
<td></td>
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</table>
The Original Specifications Method for Insuring Condominiums

With the “Original Specifications” method, the association is responsible for insuring all real property – the common elements and the units – but only to the extent of the original specifications when the condominium project was first built. In other words, improvements or additions to the units made by individual unit owners are not included in the association master policy. Examples of such improvements could include granite counter tops instead of the original tile, premium light fixtures, luxury-grade carpeting, and top-of-the-line built-in appliances.

Unit owners are responsible for insuring the improvements and additions in their units, as well as personal property, on their own policies.

This method is easy to implement when a condominium project is new. As time passes, however, the number and value of unit-owner improvements may increase to the point where it is difficult if not impossible to determine the appropriate amounts of insurance for the policies purchased by unit owners.

Sample “Original Specifications” Provision in Condominium Declarations

Insurance. The Association shall obtain and maintain insurance coverage required pursuant to Section 82.111 of the Act and such additional coverage as the Association deems necessary or appropriate. The premiums for all insurance coverages maintained by the Association shall constitute a Common Expense and be payable by the Association. An Owner shall be responsible for obtaining and maintaining, at his sole cost and expense, property insurance covering all alterations, additions, betterments and improvements made by an Owner to his Unit and personal property located therein.
### Advantages and Disadvantages of the Original Specifications Method

<table>
<thead>
<tr>
<th>Advantages</th>
<th>Disadvantages</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Unit owners without improvements and additions don’t have to pay additional premium to insure other unit owners’ improvements and additions.</td>
<td>• Unit owners who are not the original owners may not be aware of improvements and additions made by previous owners and thus may be inadequately insured on their individual policies.</td>
</tr>
<tr>
<td>• The appropriate amount of insurance is easier to determine because the association may not be aware of the value of unit owners’ improvements and additions.</td>
<td>• Losses within individual units are reported to the association property insurer and may affect future underwriting acceptability and pricing.</td>
</tr>
<tr>
<td>• Unit owners who are not the original owners may not be aware of improvements and additions made by previous owners and thus may be inadequately insured on their individual policies.</td>
<td>• The covered causes of loss may be different on policies carried by the association and unit owners, resulting in coverage for some losses and no coverage for others.</td>
</tr>
<tr>
<td>• Losses within individual units are reported to the association property insurer and may affect future underwriting acceptability and pricing.</td>
<td>• The claims adjustment and rebuilding process can be more difficult after even a small loss involving a single unit, involving multiple insurance policies, multiple claims adjusters, different contractors, and coordination of claims payments.</td>
</tr>
<tr>
<td>• The covered causes of loss may be different on policies carried by the association and unit owners, resulting in coverage for some losses and no coverage for others.</td>
<td>• Each policy – the association policy and the unit-owners’ policies – has its own deductible, resulting in individual deductibles for each unit owner and the possibility of an assessment against each unit owner for the association deductible.</td>
</tr>
<tr>
<td>• The claims adjustment and rebuilding process can be more difficult after even a small loss involving a single unit, involving multiple insurance policies, multiple claims adjusters, different contractors, and coordination of claims payments.</td>
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</tbody>
</table>
The All-Inclusive Method of Insuring Condominiums

The “All-Inclusive” method is the Best Practice for insuring condominiums because it avoids all the disadvantages cited for the other two methods.

With this method, the property insurance on the condominium is handled just like that of any other commercial enterprise. The replacement value of real property comprising the entire project – common elements as well as the units including any unit-owner improvements – is considered when determining the appropriate amount of insurance.

The problem of unit-owner improvements made without the knowledge of association officials can be mitigated by a rule that requires owners to provide written notice of such improvements at the time they are installed. The rule and the reason for the rule can be publicized in association newsletters and at annual association meetings where the insurance program is discussed.

Sample “All-Inclusive” Provision in Condominium Declarations

**Maintenance of Hazard Insurance.** The Board, on behalf of the Association, shall obtain and maintain at all times a policy or policies of multi-peril type hazard insurance…on a replacement cost basis in an amount not less than that necessary to comply with any co-insurance percentage stipulated in the policy, but not less than eighty percent (80%) of the insurable value (based upon replacement costs) of the Project. Prior to the renewal of any such policy or policies of insurance, the Board shall obtain an appraisal from a qualified appraiser for the purpose of determining the full replacement cost of the Common Elements and the Apartments for the amount of insurance to be effected pursuant hereto.

**Governing Provisions.** All insurance provided above shall be governed by the following provisions: Each Owner shall be required to notify the Board of all improvements made by the Owner to his Apartment, the value of which is in excess of One Thousand Dollars ($1,000).
Advantages and Disadvantages of the All-Inclusive Method

<table>
<thead>
<tr>
<th>Advantages</th>
<th>Disadvantages</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Only one insurance policy and one claims adjuster simplifies the process of settling a claim when a loss affects common elements and units.</td>
<td>• Association officials may not be aware of the extent and value of improvements made by individual unit owners.</td>
</tr>
<tr>
<td>• The appropriate amount of insurance is determined just like any other commercial enterprise, based on the replacement value of all real property in the project.</td>
<td>• Losses within individual units are reported to the association property insurer and may affect future underwriting acceptability and pricing.</td>
</tr>
<tr>
<td></td>
<td>• Owners with less valuable improvements presumably pay higher premiums because the amount of insurance includes an extra amount to cover the more valuable improvements of other unit owners.</td>
</tr>
</tbody>
</table>
Exhibit 3
Comments concerning the Insurance section of the Uniform Condominium Act (1980) as drafted by the National Conference of Commissioners on Uniform State Laws

[The insurance section] represents a significant departure from the present law in virtually all states by requiring that the association obtain and maintain property insurance on both the common elements and the units within buildings with “stacked” units. While it has been common practice in many parts of the country (either by custom or as mandated by statute) for associations to maintain property insurance on the common elements, it has generally not been the practice for the property insurance policy to cover individual units as well. However, given the great interdependence of the unit owners in the stacked unit condominium situation, mandating property insurance for the entire building is the preferable approach. Moreover, such an approach will greatly simplify claims procedures, particularly where both common elements and portions of a unit have been destroyed. If common elements and units are insured separately, the insurers could be involved in disputes as to the coverage provided by each policy.

The Act does not mandate association insurance on units in town house or other arrangements in which there are no stacked units. However, if the developer wishes, the declaration may require association insurance as to units having shared walls or as to all units in the development. Many developments will have some units with horizontal boundaries and other units with no horizontal boundaries. In that case, association insurance as to the units having horizontal boundaries is required, but it is not necessary as to other units.
## Exhibit 4
Condominium Law – Property Insurance

<table>
<thead>
<tr>
<th>PROPERTY CODE</th>
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<tbody>
<tr>
<td>CHAPTER 82. UNIFORM CONDOMINIUM ACT</td>
</tr>
<tr>
<td>(a) Beginning not later than the time of the first conveyance of a unit to a person other than a declarant, the association shall maintain, to the extent reasonably available:</td>
</tr>
<tr>
<td>(1) property insurance on the insurable common elements insuring against all risks of direct physical loss commonly insured against, including fire and extended coverage, in a total amount of at least 80 percent of the replacement cost or actual cash value of the insured property as of the effective date and at each renewal date of the policy;</td>
</tr>
<tr>
<td>(b) If a building contains units having horizontal boundaries described in the declaration, the insurance maintained under Subsection (a)(1), to the extent reasonably available, must include the units, but need not include improvements and betterments installed by unit owners.</td>
</tr>
<tr>
<td>(c) If the insurance described by Subsections (a) and (b) is not reasonably available, the association shall cause notice of that fact to be delivered or mailed to all unit owners and lienholders. The declaration may require the association to carry any other insurance, and the association in any event may carry any other insurance the board considers appropriate to protect the condominium, the association, or the unit owners. Insurance policies maintained under Subsection (a) may provide for commercially reasonable deductibles as the board determines appropriate or necessary. This section does not affect the right of a holder of a mortgage on a unit to require a unit owner to acquire insurance in addition to that provided by the association.</td>
</tr>
</tbody>
</table>

All condominiums in Texas are subject to the insurance requirements of Section 82.111 no matter when they were built.

This provision requires insurance only on the common elements, not the unit – the “bare walls” method. See the exception below for “stacked” units.

In addition, this provision allows for only one specific type of coverage form – an “all-risk” form.

This provision requires insurance on the unit as well as the common elements when the units are “stacked.”

But the declaration may still exclude coverage for owner-installed improvements and betterments – the “original specifications” method.

This provision gives the association board some flexibility to decide what kind of insurance is best, even if the declaration specifies exactly the type of insurance that should be carried. For example, the board may decide that “Bare Walls” wording in the declaration is not appropriate to protect the condominium and may include provision in the bylaws or rules to purchase insurance that includes the units including improvements and betterments – the “All-Inclusive” method.
Insurance for the Condominium Association
Condominium Property Insurance

The Association Master Policy

The most common property insurance form used for condominium association master policies is the Condominium Association Coverage Form (form number CP 00 17) published and distributed by an insurance company trade group known as Insurance Services Office (ISO). This form is specifically designed for condominium projects. Some insurance companies don’t use ISO forms, but other forms designed for insuring condominiums are generally similar and use much of the wording found in ISO forms.

This publication analyzes coverage provided by the standard ISO form CP 00 17 (Edition date 10 12). If the insurance company providing insurance on a condominium uses a different form, it is incumbent on the agent, condominium board members, and adjusters to read the policy carefully in order to understand the coverage being provided.

Covered Property

The Condominium Association Coverage Form provides coverage for real property in which all unit owners have an undivided interest (common elements) and personal property owned by the association or owned indivisibly by all unit owners. In addition, the form covers real property and appliances contained within the units, but only when the “Condominium Association Agreement” requires the association to insure those items. (See Exhibit 5.) That means either the declaration, bylaws or rules must authorize the association to insure the units.

Best Practice for Insuring Condominium Real Property

If the association wants to cover the units on the master policy, amend the condominium declaration, bylaws or rules if necessary to authorize the association to purchase insurance coverage on the units, because the standard association property insurance form covers the units only if the “Condominium Association Agreement” requires coverage on the units.

Generally, there will be a single amount of insurance for the entire project – called “blanket” insurance in insurance jargon – even if there are multiple buildings and structures. The advantage of this method is that a separate amount of insurance does not have to be determined for each building or structure.

On this form, coverage on the building(s) includes items that are not necessarily part of the building structure, so it is important to include the replacement value of these items when determining the appropriate amount of insurance. These items include:

- Outdoor fixtures such as swimming pools, decks, mailboxes, and light poles
- Outdoor furniture
- Household-type appliances used in common areas such as club houses and laundry rooms
- Building materials used for making alterations or repairs
- Personal property owned by the association that is used to maintain or service the structures or premises
In addition to condominium buildings and other structures, the master policy can cover personal property owned in common, such as office furniture and furniture in corridors or hallways. See Exhibit 6. Again, coverage for these items can be provided with a “blanket” amount of insurance so that a separate amount of insurance does not have to be determined for the personal property in each building and in the open.

Certain items of real and personal property are specifically not covered on this form, or are subject to significant limitations, including:

- Roadways, walks, patios or other paved surfaces
- The cost of excavations, grading, backfilling or filling
- Foundations of buildings, structures, machinery or boilers if their foundations are below the ground surface or the lowest basement floor if there is a basement
- Bulkheads, pilings, piers, wharves or docks
- Underground pipes, flues or drains (including yard sprinkler systems)
- Fences
- TV antennas or satellite dishes
- Signs
- Trees, shrubs or plants

All of the above (except trees, shrubs and plants) can be adequately covered by endorsement to the policy or by extension. Since most condominiums contain many of these items, proper coverage should be arranged whenever possible to avoid a significant uninsured exposure.

**Best Practice for Insuring Condominium Property**

Determine which items of property are specifically not covered or subject to significant limitations on the association property insurance form and decide whether coverage can and should be added. If so, include the value of these items in the amount of insurance.

**Covered Causes of Loss and Exclusions**

The condominium master policy must provide coverage for “all risks of direct physical loss commonly insured against” (Section 82.111 of the Texas Uniform Condominium Act – see Exhibit 4). The “standard” industry form for providing the required coverage is the Special Form (ISO form number CP 10 30).

When an insurance policy covers “all risks of direct physical loss,” that doesn’t mean everything is covered that could possibly damage the condominium. The “all-risk” coverage is limited by Exclusions and Limitations specified in the policy. In the following section, certain significant exclusions and limitations are analyzed and discussed, but these aren’t the only ones. Everyone involved in a condominium’s insurance program should read and understand all policy provisions.
Ordinance and Law Exclusion. The policy excludes loss or increased costs that result from the enforcement of any ordinance or law. Most municipalities and other governmental entities pass laws from time to time that regulate the manner in which buildings can be constructed in their jurisdictions. These laws also may contain rules regulating the reconstruction of property after a major loss such as windstorm or fire.

The Ordinance or Law exclusion in the association property insurance policy precludes recovery for three common types of indirect losses arising from the enforcement of building ordinances:

- The value of undamaged portions of a building when damage to the building exceeds some specific threshold of damage. (Example: City ordinance requires an entire building to be demolished and rebuilt in accordance with current building codes when the building suffers damage exceeding 50 percent of its value.)

- The expense to demolish the undamaged portions of a building when the damage to the building exceeds the specified threshold.

- The increase in the cost to repair or replace property in accordance with current building codes. (Examples: ADA requirements, automatic fire sprinklers, water quality requirements).

Coverage for these exposures is usually available by endorsement for an additional premium, but some insurance companies may provide the additional coverage without extra charge.

Water Exclusions and Limitations. The policy excludes some types of water damage, including:

- Flood and surface water, including storm surge from a hurricane. Coverage may be available on an optional and limited basis from some insurance companies, but is generally provided on a separate policy through the National Flood Insurance Program – see Flood Insurance in this publication.

- Water or waste water that backs up or overflows from a sewer, drain or sump. This is a significant exposure for a residential condominium project that contains numerous bathrooms and kitchens. Coverage is generally available, by endorsement or otherwise, but may be subject to a sublimit as low as $25,000.

- Continuous or repeated seepage or leakage of water that occurs over a long period of time. Again, this is a significant exposure for a residential condominium. Coverage may be available on some policies.

- Damage to the building interior or to personal property inside the building caused by rain, unless the outside of the building (roof or walls including windows) first sustains damage by wind or hail or other covered cause of loss. This is sometimes called the wind-driven-rain exclusion. Coverage may be available on some policies.
**Electrical and Mechanical Breakdown and Boiler Explosion Exclusions.** The policy excludes electrical damage to electrical equipment and appliances, mechanical breakdown of machinery and equipment, and explosion of steam boilers. The most obvious exposures to such losses include central heating and air conditioning equipment and boilers. Coverage is generally available by endorsement or a separate policy (called Equipment Breakdown or Boiler & Machinery coverage).

**Pollution Exclusion.** The policy excludes damage to the property caused by a discharge or release of pollutants, unless such release is caused by certain causes of loss – like fire or windstorm. Coverage is generally available by extension or endorsement, but may be subject to a sublimit.

**Debris Removal.** The standard ISO policy covers the direct loss of property when damaged by a covered cause of loss. If the property suffers a significant loss, such as by fire or windstorm, the condominium may incur additional costs to remove the debris from the site before reconstruction can begin. The policy provides additional coverage to cover those expenses, but the amount of additional coverage is limited. The standard policy pays an additional amount up to 25 percent of the amount that is paid for the direct damage (but in no event more than the limit of insurance on the building and/or personal property), plus an additional $25,000 if needed. For losses that are less than total, that may be sufficient, but $25,000 is certainly not sufficient to pay debris removal expenses if the entire limit of liability is used to pay the direct loss. Condominiums should consider purchasing an additional amount of insurance to cover these expenses, either by increasing the limit of insurance on the building (preferred) or with a special endorsement that most insurance companies offer.

**Business Income.** The association property insurance policy only covers direct losses to buildings and personal property. It does not cover loss of income that might result when property is damaged or destroyed. Condominium associations with active rental pools managed by the association, or recreational facilities rented to the public, should consider business income insurance, offered by most insurance companies for an additional premium.

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**Best Practice for Insuring Condominium Property**

Read the association master policy carefully to determine what causes of loss are excluded or limited. Ask about additional policies or endorsements that may be available to provide coverage for the excluded or limited causes of loss.
### Exhibit 5

**Condominium Property Insurance**

**Association Master Policy – Covered Property – Building**

<table>
<thead>
<tr>
<th>Condominium Association Coverage Form (CP 00 17 - Edition date 10 12)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Building, meaning the building or structure described in the Declarations, including: (1) Completed additions; (2) Fixtures, outside of individual units, including outdoor fixtures; (3) Permanently installed: (a) Machinery and (b) Equipment; (4) Personal property owned by you that is used to maintain or service the building or structure or its premises, including: (a) Fire extinguishing equipment; (b) Outdoor furniture; (c) Floor coverings; and (d) Appliances used for refrigerating, ventilating, cooking, dishwashing or laundering that are not contained within individual units; (5) If not covered by other insurance: (a) Additions under construction, alterations and repairs to the building or structure; (b) Materials, equipment, supplies, and temporary structures, on or within 100 feet of the described premises, used for making additions, alterations or repairs to the building or structure; and (6) Any of the following types of property contained within a unit, regardless of ownership, if your Condominium Association Agreement requires you to insure it: (a) Fixtures, improvements and alterations that are a part of the building or structure; and (b) Appliances, such as those used for refrigerating, ventilating, cooking, dishwashing, laundering, security or housekeeping.</td>
<td>All the items listed in (1) through (5) should be included in the amount of insurance covering the buildings and structures. At this point in the policy, the coverage does NOT include any part of the building that is within the unit, even though it is legally a part of the building.</td>
</tr>
<tr>
<td></td>
<td>If the association wants to cover the units on the master policy (either the “Original Specifications” or “All-Inclusive” method), the declaration, bylaws or rules must so state.</td>
</tr>
</tbody>
</table>
### Exhibit 6
**Condominium Property Insurance**

**Association Master Policy – Covered Property – Personal Property**

<table>
<thead>
<tr>
<th>Condominium Association Coverage Form (CP 00 17 - Edition date 04 02)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>b. Your Business Personal Property located in or on the building described in the Declarations or in the open (or in a vehicle) within 100 feet of the described premises, consisting of the following:</td>
<td>Personal property is covered on the master policy only if it is owned in common by all unit owners.</td>
</tr>
<tr>
<td>(1) Personal property owned by you or owned indivisibly by all unit-owners;</td>
<td></td>
</tr>
<tr>
<td>(2) Your interest in the labor, materials or services furnished or arranged by you on personal property of others;</td>
<td></td>
</tr>
<tr>
<td>(3) Leased personal property for which you have a contractual responsibility to insure, unless otherwise provided for under Personal Property of Others.</td>
<td></td>
</tr>
<tr>
<td>But Your Business Personal Property does not include personal property owned only by a unit-owner.</td>
<td></td>
</tr>
<tr>
<td>c. Personal Property Of Others that is:</td>
<td>Personal property owned by individual unit owners must be insured separately – see Condominium Unit Owners’ Insurance in this publication.</td>
</tr>
<tr>
<td>(1) In your care, custody or control; and</td>
<td></td>
</tr>
<tr>
<td>(2) Located in or on the building described in the Declarations or in the open (or in a vehicle) within 100 feet of the described premises.</td>
<td></td>
</tr>
<tr>
<td>However, our payment for loss of or damage to personal property of others will only be for the account of the owner of the property.</td>
<td></td>
</tr>
</tbody>
</table>
Insurance for the Condominium Association
Condominium Property Insurance

Complications and Challenges

Providing property insurance and adjusting property claims on a condominium can be complicated by several issues, not the least of which are ambiguous insurance and maintenance requirements in the law and condominium declarations. Other challenges include (1) establishing an appropriate amount of insurance to cover replacement costs and avoid a coinsurance penalty; (2) selecting an appropriate deductible amount, deciding how it will be applied and who will pay it; and (3) determining whether mortgagees will be listed on the master policy.

Maintenance and Repair Requirements

Section 82.107 of the Texas Uniform Condominium Act outlines and separates the responsibilities for maintaining, repairing and replacing different portions of the condominium property (see Exhibit 7), and most condominium declarations and/or bylaws contain similar provisions. (Note: Section 82.107 is applicable only to condominium associations formed since 1994.)

It is understandable that unit owners should be held responsible for maintaining the condition and appearance of their apartments, keeping their water heaters and air conditioners in good working order and replacing them when they wear out, and replacing broken windows and doors. Unfortunately, most condominium declarations and/or bylaws do not separate normal maintenance requirements from repair or replacement that becomes necessary following a covered loss.

With this provision in the law or the declarations, a unit owner may be responsible for repair or replacement of certain items in the unit, even when the repair or replacement of these items is covered on the master policy. For example, if wind or hail damages the condominium roof and breaks out windows of individual units, the roof is covered by the master policy but the windows are covered by the unit owners’ policies. The deductibles on all policies would be applied, resulting in higher out-of-pocket expense for all unit owners.

This ambiguity may create a problem when a condominium unit is damaged by a loss that is covered on the master policy. Indeed, this is exactly what caused a lawsuit between a condominium owners association and a unit owner that went all the way to the Maryland Supreme Court for a final decision.

In the case of Anderson et al v. Council of Unit Owners of the Gables on Tuckerman Condominium, the Andersons’ unit suffered extensive water damage when the water heater burst. No other unit was affected. The Andersons asked the association board to report the claim under the association master policy and they apparently refused. The Andersons reported the claim to the insurance company providing their homeowners insurance. That company paid the claim and sued the condominium association because it believed the claim should have been covered by the association master policy.

The condominium law in Maryland is similar to the Texas law as shown in Exhibit 7. The insurance provision in the Gables’ declaration was written on the “All-Inclusive” method, but other sections of the declaration mirrored the law regarding maintenance, repair and replacement of the unit.

The Maryland Supreme Court essentially disregarded the “All-Inclusive” language in the declarations and ruled in favor of the condominium association.
No one really came out ahead in this case, as is usually the case with lawsuits. There were bad feelings among neighbors in the complex, all the owners probably paid an assessment for the legal expenses to defend the lawsuit, and the decision turned "Maryland Condo Insurance Upside Down," according to an article in the trade magazine Insurance Journal. Why? Because if an owners’ association has the right to refuse to report a claim under the master policy just because the loss only affected one unit, then every unit owner will have to carry an amount of insurance equal to the full replacement value of the unit on his or her own homeowners policy. Since this amount of insurance is already covered on the master policy, all the unit owners pay twice for the same amount of insurance – doubling the insurance expense for the entire condominium.

This situation can be avoided. The declaration or bylaws can be worded in such a way so this provision does not apply when the repair or replacement is covered on the master policy.

### Best Practice for Avoiding Repair and Replacement Conflicts

Amend the “repair and replacement” sections in condominium declaration to provide an exception when the repair or replacement is needed due to a loss covered on the association master policy.

### Unit Owner Responsibility for Negligence

Section 82.117 of the Texas Uniform Condominium Act holds unit owners responsible for damage to the condominium caused by the negligence or willful misconduct of the owner, an occupant of the owner’s unit, or the owner or occupant’s family, guests, employees, agents, or invitees, and for costs incurred by the association to obtain compliance, including attorney’s fees whether or not suit is filed (see Exhibit 8). Most condominium declarations and/or bylaws contain similar provisions. (Note: Section 82.117 is applicable only to condominium associations formed since 1994.)

While it may sound good in theory to hold a unit owner responsible for his or her negligence, consider how many ways a simple accident or lack of common sense can lead to an act that would be considered negligence.

For example, a common grease fire in the kitchen is usually caused by inattention or an improper cooking technique. This is negligence. It can happen to anyone. Should a unit owner be responsible to the entire condominium because of a momentary lapse in judgment?

If such a claim were to be presented to and paid by the insurance company on the master policy, it would have no right to recover its payment from the unit owner. (The condominium association coverage form includes a loss condition entitled “Waiver of Right of Recovery” which precludes such recovery.) But what if the claim is small and only involves one unit and the owners’ association refuses to report the claim on the master policy? Then the same situation arises as reviewed above – double the amount of insurance and double the expense.

The situation can likewise be avoided by careful wording in the condominium declaration or bylaws.

### Best Practice for Avoiding Negligence Conflicts

Amend the “negligence” section in condominium declaration to provide an exception when the damage caused by a unit owner’s negligence is a covered loss on the association master policy.
<table>
<thead>
<tr>
<th>PROPERTY CODE</th>
<th>CHAPTER 82. UNIFORM CONDOMINIUM ACT</th>
</tr>
</thead>
<tbody>
<tr>
<td>§ 82.107. UPKEEP OF CONDOMINIUM.</td>
<td></td>
</tr>
<tr>
<td>(a) Except as provided by the declaration or Subsections (b) and (c), the association is responsible for maintenance, repair, and replacement of the common elements, and each unit owner is responsible for maintenance, repair, and replacement of the owner’s unit. Each unit owner shall afford to the association and the other unit owners, and to their agents or employees, access through the owner’s unit reasonably necessary for those purposes. If damage is inflicted on the common elements or on any unit through which access is taken, the unit owner responsible for the damage, or the association if it is responsible, is liable for the prompt repair of the damage.</td>
<td>With this provision in the law or the declaration, a unit owner is responsible for repair or replacement of the unit, even when the repair or replacement of these items is covered on the master policy under the “All-Inclusive” or “Original Specifications” method. This is in direct conflict with the intent to provide coverage for the unit or apartment on the master policy.</td>
</tr>
<tr>
<td>(b) Except as provided by the declaration, each unit owner is responsible for the cost of maintenance, repair, and replacement of any utility installation or equipment serving only the owner’s unit, without regard to whether the installation or equipment is located wholly or partially outside the designated boundaries of the unit. For purposes of this subsection, utility installations and equipment include electricity, water, sewage, gas, water heaters, heating and air conditioning equipment, and television antennas.</td>
<td>With this provision in the law or the declaration, a unit owner is responsible for repair or replacement of the water heater, air conditioning and heating equipment, kitchen and bathroom fixtures, and television antennas, even when the repair or replacement of these items is covered on the master policy. The declaration can be worded in a such a way so this provision does not apply when the repair or replacement is covered on the master policy.</td>
</tr>
<tr>
<td>(c) Except as provided by the declaration, each unit owner is responsible for the cost of maintenance, repair, and replacement of windows and doors serving only the owner’s unit.</td>
<td>With this provision in the law or the declaration, a unit owner is responsible for repair or replacement of windows and doors, even when covered on the master policy.</td>
</tr>
</tbody>
</table>
**Exhibit 8**

**Texas Uniform Condominium Act**

**Negligence of the Unit Owner**

<table>
<thead>
<tr>
<th>PROPERTY CODE</th>
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<tbody>
<tr>
<td>CHAPTER 82. UNIFORM CONDOMINIUM ACT</td>
</tr>
<tr>
<td>Section 82.117. OBLIGATIONS OF UNIT OWNERS.</td>
</tr>
</tbody>
</table>

Without limiting the obligations of the unit owners and except as provided by the declaration, bylaws, rules of the association, or this chapter, the unit owner:

(3) shall pay for damage to the condominium caused by the negligence or willful misconduct of the owner, an occupant of the owner’s unit, or the owner or occupant’s family, guests, employees, contractors, agents, or invitees;

With this provision in the law or the declaration, a unit owner is responsible for repair or replacement of the unit, or perhaps even the entire condominium, when damage is caused by negligence. This is in direct conflict with the intent to cover condominium property – including the units – on the master policy.
Determining an Appropriate Amount of Insurance on the Condominium

After determining what method is required by the declaration – bare walls, original specifications, or all-inclusive – the association managers must determine how much property insurance should be purchased on the master policy.

Simply stated, the appropriate amount of insurance on the association master policy is one that is sufficient to rebuild the insured property in the event it is totally destroyed by a fire, tornado, hurricane or other insured catastrophe. The amount required by law (80 percent of the replacement cost or actual cash value) or by the declaration (as much as 100 percent of replacement cost in some declarations) should be considered the minimum amount and not a recommendation as to the proper amount.

If the master policy provides coverage only on the “bare walls,” the association managers should make an attempt to determine the total amount needed to replace the entire condominium project – including the units – in order to provide some guideline for the amount of insurance needed by individual unit owners.

It’s estimated that about 60 percent of American homes are underinsured by an average of 22 percent, according to a company that provides building-cost data to the insurance industry, and there is no reason to believe this figure is any different for residential condominium projects. An individual’s home is probably his or her largest single investment, so insuring it adequately is an important part of maintaining financial independence.

The amount of insurance should cover the cost of rebuilding the condominium project at current construction costs, not including the value of the land. It’s not a matter of the sum of prices paid by unit owners or the appraised value. The cost of rebuilding could be more or less than the sum of prices paid or what each individual unit would sell for today.

Besides the cost of materials and labor normally considered when thinking about building a condominium project, there are other considerations such as:

- The expense of clearing debris from the property before rebuilding can begin.
- Fees for an architect or other design professional to estimate costs and produce plans to be followed by the contractor.
- Rapid inflation in the cost of building materials and labor following a major catastrophe that affects other properties in the same area.
- Local building codes that require replacement with additional features or more expensive materials.

Ultimately it is the responsibility of the condominium board to establish the value of the condominium project and select an appropriate amount of insurance. This fact is clear in the law as well as the declaration. The insurance company or agent can assist and direct the board to available resources, but there are two primary resources a board can use:
• **Obtain a real estate appraisal from a qualified professional.** Some condominium declarations require the board to obtain an appraisal for insurance purposes at least every three years.

• **Talk to local builders and architects – the original builder and architect if possible.** But keep in mind that they are usually involved in new construction from “scratch.” The cost per square foot for new construction is generally less than the cost to rebuild.

<table>
<thead>
<tr>
<th>Best Practice for Determining the Amount of Property Insurance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Obtain an appraisal at least every three years from a qualified professional appraiser and obtain construction cost information from local building contractors and architects. Include additional amounts that might be necessary to cover debris removal, architects fees, higher post-catastrophe building costs, and more expensive construction to comply with building codes.</td>
</tr>
</tbody>
</table>
Amount of Insurance, Loss Settlement Basis and Coinsurance

As stated above, the amount of insurance to be carried on the association policy should be carefully selected, with consideration given to the requirements stated in the condominium declaration. Almost without exception, the declaration will require an amount of insurance based on the replacement cost of the property.

The standard commercial property insurance policy written for an association generally states that losses will be settled on an actual cash value basis – meaning subject to depreciation – rather than a replacement cost basis. When replacement cost is required or desired, that basis must be elected on the policy, usually by checking a box in the policy declarations or sometimes by attaching a separate endorsement.

The property insurance policy, whether written on an actual cash value or replacement cost basis, almost always contains a coinsurance condition. This provision requires the policyholder to purchase an amount of insurance that is at least 80 percent of the cost to replace the condominium property, when the policy is written on the replacement cost method. If the amount of insurance is not at least 80 percent of the replacement value, then the insurance company is not obligated to pay the full amount of the damage. The association becomes a “coinsurer” to the same extent as the amount of underinsurance. For example, if the replacement value of the buildings is $1,000,000 and the limit of insurance on the association master policy is only $600,000, the insurance company will only pay 75 percent of any loss (up to $600,000) because the association is only carrying 75 percent of the required amount of $800,000. The coinsurance condition can be eliminated – and should be eliminated if the insurance company permits – by selecting an Agreed Value Option.

<table>
<thead>
<tr>
<th>Best Practice for Loss Settlement and Coinsurance</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Insure property on a replacement cost basis.</td>
</tr>
<tr>
<td>• Eliminate the coinsurance condition with an Agreed Value Option.</td>
</tr>
</tbody>
</table>
Deductibles

The condominium property insurance policy will include a deductible clause, and sometimes more than one deductible will apply to different types of losses. The purpose of a deductible is to lower the cost of the insurance by excluding small routine losses, and to encourage the policyholder to prevent losses from occurring at all. The Texas Uniform Condominium Act allows the condominium board to decide on and provide for commercially reasonable deductibles as deemed appropriate or necessary.

The association managers and unit owners should take several factors into consideration when deciding how much the association deductible should be and who will be responsible for paying it.

- Unit owners ultimately pay the association deductible through fees or special assessments. A single loss may be covered by the association policy as well as unit owners’ individual policies which also have deductibles. The total deductible exposure to unit owners should be understood and managed.

- Unit owners’ individual policies generally include coverage for amounts assessed due to a deductible on the association policy, but many policies only provide the coverage after a $250 deductible with a maximum amount payable of $1,000.

- Can the association pre-fund the property deductible amount in a special account through the maintenance fund? If so, a special assessment will be needed only if the fund is depleted.

- The association declaration or bylaws should clearly state whether the association deductible amount is a common expense assessable to all unit owners, even if a loss affects only one or a few units. The Texas Uniform Condominium Act contains provisions regarding deductible payments – see Exhibit 8.5.

Listing Mortgagees on the Master Policy

Insurance companies and agents seem to be in perpetual conflict with lenders who want to be included by name as mortgagees on the association master policy.

From the insurance agent’s perspective, adding mortgagees to an insurance policy covering a condominium association entails considerable extra effort, with numerous policy endorsements required in order to name a multitude of mortgage holders, at the time the policy is originally written as well as during the policy term whenever a lender sells the mortgage or a condominium owner refines his or her unit or a unit is transferred to a new owner.

And to what purpose? The Texas Uniform Condominium Act requires insurance proceeds to be paid to the association or its designated insurance trustee. (See Exhibit 9) The standard mortgage clause on the condominium association coverage form – as amended by the mandatory Texas Changes form (CP 01 47) – precludes the mortgage holder from receiving any portion of an insurance payment in the event of a loss.

The only right a mortgage holder gains by being named on the association master policy is the right to receive advance notice if the policy is canceled or if the insurance company decides not to renew the policy.

If the mortgagee must have some evidence of the condominium property insurance for its file, the agent can provide an ACORD Certificate of Property Insurance (Form 24) upon request.
**Exhibit 8.5**

**Texas Uniform Condominium Act**

**Deductible**

<table>
<thead>
<tr>
<th>PROPERTY CODE</th>
<th>CHAPTER 82. UNIFORM CONDOMINIUM ACT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 82.111 Insurance</td>
<td></td>
</tr>
<tr>
<td>(c) ...Insurance policies maintained under Subsection (a) may provide for commercially reasonable deductibles as the board determines appropriate or necessary.</td>
<td></td>
</tr>
<tr>
<td>(j) If the cost to repair damage to a unit or common element covered by the association’s insurance is less than the amount of the applicable insurance deductible, the party who would be responsible for the repair in the absence of insurance shall pay the cost for the repair of the unit or common element.</td>
<td></td>
</tr>
<tr>
<td>(k) If the association’s insurance provides coverage for the loss and the cost to repair the damage to a unit or common element is more than the amount of the applicable insurance deductible, the dedicatory instruments determine payment for the cost of the association’s deductible and costs incurred before insurance proceeds are available. If the dedicatory instruments are silent, the board of directors of the association by resolution shall determine the payment of those costs, or if the board does not approve a resolution, the costs are a common expense. A resolution under this subsection is considered a dedicatory instrument and must be recorded in each location in which the declaration is recorded.</td>
<td></td>
</tr>
<tr>
<td>(l) If damage to a unit or the common elements is due wholly or partly to an act or omission of any unit owner or a guest or invitee of the unit owner, the association may assess the deductible expense and any other expense in excess of insurance proceeds against the owner and the owner’s unit.</td>
<td></td>
</tr>
</tbody>
</table>

When damage is less than the association deductible, a unit owner may be individually responsible for paying the full amount of the deductible. Section 82.107 (see Exhibit 7) requires the unit owner to repair or replace certain items pertaining to the unit, unless the declaration, bylaws or rules say otherwise.

When damage is more than the association deductible, the declaration, bylaws or rules (or a board resolution, if those items are silent) determine who is responsible for paying the deductible amount.

Unless the declaration, bylaws or rules say otherwise, Section 82.117 (Exhibit 8) requires a unit owner to pay for all damage to the condominium when the damage is caused by negligence. This paragraph “l” permits the association to assess the deductible amount against the responsible unit owner, as well as any amounts in excess of the deductible.
If the mortgagee insists that it be named on an insurance policy, and that the amount of insurance on that policy bear some relationship to the loan amount, the unit owner should purchase a condominium homeowners policy with a sufficient amount of insurance on the unit and name the mortgagee on that policy.

### Best Practice for Listing Mortgagees on the Property Policy

Do not list mortgagees on the association master policy. It is not necessary. The Texas Uniform Condominium Act prohibits mortgagees from receiving payment in the event of a loss. If desired, the insurance agent or company can provide an ACORD Certificate of Property Insurance to mortgagees upon request.

### Exhibit 9

**Texas Uniform Condominium Act**

**Payment of Loss**

<table>
<thead>
<tr>
<th>PROPERTY CODE</th>
<th>CHAPTER 82. UNIFORM CONDOMINIUM ACT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 82.111 Insurance</td>
<td></td>
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</tbody>
</table>

(e) A claim for any loss covered by the policy under Subsection (a)(1) must be submitted by and adjusted with the association. The insurance proceeds for that loss shall be payable to an insurance trustee designated by the association for that purpose, if the designation of an insurance trustee is considered by the board to be necessary or desirable, or otherwise to the association, and not to any unit owner or lienholder.

(f) The insurance trustee or the association shall hold insurance proceeds in trust for unit owners and lienholders as their interests may appear. Subject to Subsection (i), the proceeds paid under a policy must be disbursed first for the repair or restoration of the damaged common elements and units, and unit owners and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the condominium is terminated.

These two sections requires property losses to be paid to the association (or its designated trustee) and not to individual unit owners or their mortgagees.

Unit owners and mortgagees are not entitled to receive payment of any portion of insurance proceeds unless there is a surplus after repairs have been made.
Insurance for the Condominium Association
Condominium Property Insurance

Flood Insurance

Damage caused by flood is excluded on the commercial property policy, so a separate policy is needed to cover that type of loss. Generally speaking, the only policy available to cover this exposure is the policy developed by the National Flood Insurance Program (NFIP) and sold through insurance agents either directly for NFIP or for commercial insurers participating in the “Write-Your-Own” program.

The NFIP has developed a special policy for condominiums. It is called the Residential Condominium Building Association Policy (RCBAP). Special rules and rates apply. When a condominium association is eligible for the RCBAP, this is the only policy form that should be used. If an association is not eligible for the RCBAP, the available amounts of insurance are lower, the coverage is not as broad, and the cost is likely to be greater.

The RCBAP is available to condominiums located in communities eligible for the NFIP “Regular Program.” This program represents the final phase of a community’s participation in the NFIP and a Flood Insurance Rate Map for the community is in effect. The alternative program is known as the “Emergency Program” which is the initial phase of a community’s participation. If a community does not participate in either program, property located in that community is not eligible for flood insurance through the NFIP. For a list of Texas communities (towns and counties) and their participation status, go to the FEMA website at www.fema.gov/cis/TX.pdf. As of October 2012, there were 1,162 communities in the Regular Program, 72 communities in the Emergency Program, and 146 communities not participating in either NFIP program.

Unlike the commercial property policy, the RCBAP is designed to cover the units as well as common elements in all cases, without distinction as to the method described in the law or condominium declaration (all-inclusive or original specifications or bare walls).

Covered Causes of Loss

The flood insurance policy covers damage to covered buildings and contents caused by flood, which sounds simple enough, but the policy goes to great length to define exactly what that means:

1. A general and temporary condition of partial or complete inundation of two or more acres of normally dry land area or of two or more properties (at least one of which is your property) from: Overflow of inland or tidal waters; Unusual and rapid accumulation or runoff of surface waters from any source; Mudflow.

2. Collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels that result in a flood.
Covered Property

The policy covers damage to the condominium building including all units within the building and the improvements within the units. In addition, the policy covers personal property owned by the unit owners in common, but not personal property owned by an individual unit owner.

The following types of property are not covered by the flood insurance policy, and can't be covered even for additional premium:

- Personal property not inside a fully enclosed building
- Buildings (and personal property therein) located entirely in, on, or over water
- Land, lawns, trees, shrubs, plants
- Underground structures and equipment
- Paved surfaces outside the perimeter of a building
- Fences, retaining walls, docks
- Swimming pools or hot tubs or their equipment wherever located

Amounts of Insurance

The NFIP sets the maximum amount of building insurance by law at $250,000 times the number of units in the building in the “regular” program. For personal property owned in common, the maximum amount is $100,000 per building. In the emergency program, the maximum amounts are $35,000 per unit for buildings that contain one to four units or $100,000 per unit for buildings that contain more than four units, and $10,000 per building for association-owned personal property.

If the maximum permitted limit is not sufficient to cover the full value of the condominium project, excess flood coverage may be available from other insurance companies.
Insurance for the Condominium Association

Condominium Property Insurance

Windstorm and Hail Insurance

If the condominium is located in the first “tier” of counties along the Texas coast (or a small portion of southeast Harris County), the association master policy may exclude damage caused by windstorm and hail. This is done at the insurance company’s option by attaching the state-approved wind and hail exclusion endorsement. When this exclusion is attached, the condominium association may be eligible to purchase windstorm and hail insurance from the Texas Windstorm Insurance Association (TWIA).

TWIA is a “pool” of all property insurance companies authorized to write coverage in Texas. It issues an insurance policy covering windstorm and hail only.

Covered Property

When a TWIA policy is written on a condominium association, it includes Form TWIA-280 (Condominium Property Form – Additional Policy Provisions). This form limits coverage to property in which each of the condominium units owners has an undivided interest. In other words, it is designed for the “Bare Walls” concept. If coverage is desired on the units, Form TWIA-282 must be attached, indicating one of two options: Option #1 for the “Original Specifications” concept or Option #2 for the “All-Inclusive” concept.

The policy covers the building or structure specified in the declarations, meaning everything which is legally part of the building or structure, except machinery which is not used solely in the service of the building. For example, air conditioning and water-heating equipment are included as part of the building, but swimming pool equipment is not. In addition, the policy covers business personal property (including swimming pool equipment) owned in common by the association when a separate amount of insurance is designated for such property.

The following items of property are specifically excluded from coverage, and coverage on these items is not available:

- Breakaway walls or personal property contained within a breakaway wall enclosure.
- Motor vehicles, except certain vehicles not subject to motor vehicle registration while located in a fully enclosed building.
- Watercraft, unless located on land in a fully enclosed building on the described location.
- Wind turbines.

The following items are excluded, but coverage is available by specifically listing them in the policy declarations with a separate amount of insurance, but the structures must comply with stringent building code requirements:

- Wharves, docks, piers, boathouses, bulkheads or other structures located over or partially over water and personal property in or on the structures.
- Radio or TV towers, antennas, or satellite signal receiving equipment.
• Outside signs.

• Greenhouses.

• Cloth awnings.

The following types of structures are common to condominiums. They should be identified and insured with a separate amount of insurance if coverage is desired and available. The structures must comply with stringent building code requirements to qualify for coverage in TWIA.

• Fences

• Swimming pools

• Light poles

**Covered Causes of Loss**
The policy covers direct damage to covered property caused by windstorm or hail, subject to the following significant exclusions:

• Water damage resulting from flood, storm surge, surface water, tidal water, waves, tides, tidal waves, seiche, overflow of streams or other bodies of water, tsunami, or spray from any of these causes of loss, whether driven by wind or not.

• Water damage caused by rain, whether driven by wind or not, unless wind or hail first makes an opening in the walls or roof of the building. (This is referred to as the “wind-driven-rain” exclusion. Coverage for this type of loss to the interior of a unit can be purchased on a separate TWIA residential policy by an individual unit owner; see Insurance for Condominium Unit Owners later in this publication.)

• Loss resulting from seizure or destruction of property by order of governmental authority.

• Loss or damage resulting from power failure or other utility service if the failure occurs away from the described premises.

• Damage to electrical devices caused by electricity from artificial causes; and

• Loss or damage caused by mold, including testing.

There are other exclusions, so policyholders and agents should review the policy carefully.

**Extensions of Coverage**
The TWIA policy covers the following losses automatically by extension of coverage:

• **Debris Removal.** The expense to remove debris of covered property after the property has been damaged by windstorm or hail is covered, up to the amount of insurance carried on that property. As mentioned in a previous section of this publication, the amount of insurance carried on a building should be set sufficiently high to cover the replacement value of the building plus the estimated cost of debris removal expense.
• **Preservation of Property.** If property can be moved from the location prior to a hurricane, the policy covers the expense to do so, and will cover any damage that occurs during the process of moving or while temporarily stored at another location, for up to 30 days.

• **Reasonable Repairs.** After a covered loss damages property, the policy covers reasonable costs incurred for necessary repairs made solely to protect covered property from future damage.

**Optional Coverages Available by Endorsement**

**Replacement Cost Coverage.** The TWIA policy must be endorsed (Endorsement TWIA-164) to provide for loss settlement on the replacement cost method. Otherwise, the settlement will be based on the actual cash value method, with deduction for depreciation.

**Increased Cost of Construction.** The policy excludes loss or increased costs that result from the enforcement of any ordinance or law. (See the detailed explanation of this loss exposure earlier in this publication.) Coverage for these exposures is available by endorsement (TWIA-432) for an additional premium, subject to a percentage limitation selected by the policyholder – 5, 10, 15 or 25 percent of the amount of insurance on the building. In the event a loss involves this additional insurance, however, the total amount payable cannot exceed the maximum amount of insurance set by law – see Amounts of Insurance below.

**Business Income.** The TWIA policy does not cover loss of income that might result when property is damaged or destroyed. Condominium associations with rental income from a common element such as a club house should consider business income insurance (Endorsement TWIA-17), offered by TWIA for an additional premium.

**Amounts of Insurance**

The TWIA sets a maximum per-building limit of insurance. This limit applies to the building and the personal property in the building. The maximum limit changes periodically (usually annually) based on a construction cost index. It was $4,424,000 as of January 1, 2013.

If the maximum permitted limit is not sufficient to cover the full value of a condominium building and its contents, excess wind coverage may be available from other insurance companies.

**Coinsurance**

The TWIA policy includes a coinsurance condition. The amount of insurance must be at least 80 percent of the cost to replace the insured property when written on the replacement cost method, or 80 percent of the actual cash value if written on the ACV method. If the amount of insurance does not meet this condition, then TWIA is not obligated to pay the full amount of the damage. The association becomes a “coinsurer” to the same extent as the amount of underinsurance.

The coinsurance condition can be waived (for an additional premium) if the amount of insurance is the maximum amount permitted – see Amounts of Insurance above.
Insurance for the Condominium Association

Other Insurance

Liability Insurance

The condominium association is a separate legal entity that can be liable for injury or damage caused by the negligence of its managers and owners or others for whose actions the association may be responsible.

Such injuries or damages may be incurred by unit owners, their guests, or any other individual or entity, while on the condominium property or away from the premises. Whether the association is actually liable is a matter for the lawyers and courts to decide, but claims must be handled and lawsuits must be defended.

Here are only a few examples of the virtually unlimited types of claims that might be made against the association:

- Bodily injury to a person who slips or trips and falls anywhere on the condominium project.
- Damage to property owned by another (including a unit owner) caused by an association employee or manager.
- Death of a child who drowns in the condominium swimming pool.

The Condominium Act requires associations to carry liability insurance on a commercial general liability policy in an amount determined by the Board. See Exhibit 10.

The commercial general liability insurance policy (CGL) is a standard policy form used to cover liability exposures for the premises and operations of all types of businesses including condominiums. The policy covers bodily injury or property damage for which the association is legally liable and arising out of the following exposures:

- **Premises.** The ownership or use of the condominium premises, including the buildings and recreational facilities, such as “slip and fall” claims or swimming pool accidents.
- **Operations.** Operations and activities on the premises or away from the premises, such as injuries or damage caused by association managers or employees.
- **Independent contractors.** Activities of independent contractors hired and/or supervised by the condominium association, such as maintenance workers, yard services, or trade contractors.

In addition, the CGL policy provides these additional coverages:

- **Personal injury liability.** Covers the association's legal liability arising out of specific offenses, including libel, slander, false arrest, false detention, malicious prosecution, wrongful eviction, wrongful entry, or publication that violates privacy. Several of these offenses could be very significant exposures for a condominium association.
• **Medical payments coverage.** Covers reasonable medical expenses incurred by guests on the premises due to accidental injuries. The coverage does not apply to a unit owner or a unit owner's family member. The typical limit for this coverage is $5,000.

The CGL policy complies with the Uniform Condominium Act by including these conditions on a special endorsement:

• Each unit owner is included as an insured person, but only with respect to liability arising out of the ownership, maintenance or repair of common property or the unit-owner’s membership in the association. The policy does not protect the unit owner for injuries that occur in that owner’s unit.

• If a unit owner causes injury or damage and the condominium association is held liable for that injury or damage, the insurance company is not permitted to recover from the unit owner any payments it makes on behalf of the association. (This is called a “waiver of subrogation.”)

Unless a special “insured versus insured” exclusion endorsement is attached, the association policy covers claims made by unit owners against the association for bodily injury to the unit owner or damage to property owned by the unit owner, including the unit owner’s personal property in the unit.

**Determining Limits of Liability**

The association board is responsible for determining what limit of liability insurance is adequate to cover the association’s liability exposures. This is not something the insurance agent can do for the board. It might be a good time to seek the advice of the association’s attorney.

The “typical” limit of liability on a CGL policy, as well as other liability policies carried by the association, is $1,000,000 but the amount that can be carried is limited only by the guidelines of the insurance company providing the policy. If the association board decides it needs more than the maximum limit allowed by the company, then an “umbrella” liability policy can be purchased to reach the desired level of coverage.

If a serious liability claim results in a judgment or settlement in excess of the association’s limit of liability, individual unit owners can be assessed for the difference. Fortunately, most unit owners’ individual insurance policies cover such assessments if the homeowners policy includes loss assessment coverage — see Homeowners Insurance later in this publication.
Exhibit 10
Condominium Law – Liability Insurance

<table>
<thead>
<tr>
<th>PROPERTY CODE</th>
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<tbody>
<tr>
<td>CHAPTER 82. UNIFORM CONDOMINIUM ACT</td>
</tr>
<tr>
<td>§ 82.111. INSURANCE.</td>
</tr>
<tr>
<td>(a) Beginning not later than the time of the first conveyance of a unit to a person other than a declarant, the association shall maintain, to the extent reasonably available:</td>
</tr>
<tr>
<td>(2) commercial general liability insurance, including medical payments insurance, in an amount determined by the board but not less than any amount specified by the declaration covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the common elements.</td>
</tr>
<tr>
<td>(d) Insurance policies carried under Subsection (a) must provide that:</td>
</tr>
<tr>
<td>(1) each unit owner is an insured person under the policy with respect to liability arising out of the person’s ownership of an undivided interest in the common elements or membership in the association;</td>
</tr>
<tr>
<td>(2) the insurer waives its right to subrogation under the policy against a unit owner;</td>
</tr>
<tr>
<td>All condominiums in Texas are subject to the insurance requirements of Section 82.111 no matter when they were built.</td>
</tr>
<tr>
<td>The type of liability policy required (a “commercial general liability” policy or “CGL”) is specified in the law, but the amount of insurance (or limit of liability) is left to the discretion of the board, subject to at least any amount specified in the declaration.</td>
</tr>
<tr>
<td>All CGL policies issued to condominium associations in Texas must include unit owners as insureds in case one or more are sued individually for an accident on common property.</td>
</tr>
<tr>
<td>If a unit owner’s negligence causes the insurance company to pay a claim covered by the CGL, it is not permitted to recover from that unit owner. All CGL policies issued to condominium associations in Texas must include this provision.</td>
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</tbody>
</table>
Insurance for the Condominium Association  
Other Insurance  

Other Commercial Insurance Coverage

So far this publication has concentrated on commercial property and general liability insurance needed by the association. These two types of insurance coverages are usually put together on a single policy called a “package policy.”

Other types of insurance coverages or policies are needed to cover exposures not adequately addressed by the two primary types of insurance. These can be purchased either as additions to the package policy or as separate policies.

The Uniform Condominium Act gives authority to the condominium association to purchase other insurance deemed appropriate or necessary – see Exhibit 11.

**Exhibit 11**  
**Condominium Law – Board Authority to Purchase Insurance**

<table>
<thead>
<tr>
<th>PROPERTY CODE</th>
<th>CHAPTER 82. UNIFORM CONDOMINIUM ACT</th>
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<tbody>
<tr>
<td>Sec. 82.102.</td>
<td>POWERS OF UNIT OWNERS’ ASSOCIATION.</td>
</tr>
<tr>
<td>(a) Unless otherwise provided by the declaration, the association, acting through its board, may:</td>
<td></td>
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<tr>
<td>(19)purchase insurance and fidelity bonds it considers appropriate or necessary;</td>
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</table>
Automobile Liability Insurance

If the association owns a motor vehicle, auto liability insurance is needed to protect the condominium association, board and employees from injury or damage caused by the ownership or use of that auto, as well as to satisfy Texas law.

Even if the association doesn’t own a motor vehicle, the liability protection would not be complete without some form of auto liability insurance to cover the association’s potential liability arising from the use of vehicles by others. The association can be liable – or at least required to defend itself if a lawyer believes the association is liable – when someone is using a motor vehicle in some matter that involves the association. Examples of such exposures include:

- An association employee uses a personal auto to pick up the association’s mail or supplies.
- A contractor hired by the association operates a vehicle on the premises or drives to a store to pick up equipment or supplies.
- A unit owner uses a personal vehicle on association business.
- The condominium manager or the manager’s employee uses a personal vehicle on association business.

Automobile liability coverage for exposures arising out of the use of nonowned autos on condominium business can be obtained for a very reasonable premium, either as a separate policy or an endorsement to the package policy. The limit on this coverage should generally be the same as the amount selected for the commercial general liability coverage, with excess limits provided by an umbrella liability policy.

Workers’ Compensation and Employers’ Liability

If the condominium association has any employees, workers’ compensation insurance should be purchased. Although such coverage is not required by Texas law, the association can be exposed to serious financial risk unless it secures its obligations to an employee injured on the job.

The workers’ compensation policy provides the “sole remedy” to an injured employee, who must accept workers’ compensation benefits provided by the policy in accordance with the Texas Workers’ Compensation Act and is not permitted to sue his or her employer. Without workers’ compensation coverage, an injured employee is permitted to sue the employer and such claims are excluded on the commercial general liability policy.

The board is well-advised to purchase a workers’ compensation policy even if the condominium has no regular full-time employees. There may be occasions when someone on the board or even a unit owner hires an individual or firm to perform some work or service on the condominium premises. Whether such workers are considered employees is a legal question that may have to be decided in court – and association board members don’t want to be in court over a matter that can be so easily and inexpensively avoided by purchasing a workers’ compensation policy.

If the condominium association uses a property management company, the management company should be required to provide evidence that it carries workers’ compensation insurance covering its employees while performing work on the condominium premises.
Umbrella Liability

As mentioned in the CGL section, the condominium board should carefully consider the limits of liability needed to protect the association from the consequences of its legal liabilities. If the desired limit exceeds the limits offered by the insurance company providing the CGL and auto liability policies, higher limits can be secured with an umbrella liability policy.

The umbrella liability policy requires certain “underlying” liability policies to provide the “primary” limits of liability, including commercial general liability, automobile liability and workers’ compensation and employers’ liability policies. Should the underlying limit on one of those policies get used up by a large judgment or settlement, the umbrella liability policy then takes over and pays any excess amount up to its limit of liability.

In addition to providing excess limits over the underlying liability policies, some umbrella liability policies cover liability exposures that are excluded on the underlying policies, subject to a small self-insured retention.

Employee Dishonesty – Fidelity Bond

The commercial property insurance policy excludes theft of condominium property (including money) by officers, managers, employees, directors, and trustees. Coverage for such losses can be obtained by purchasing employee dishonesty insurance (sometimes called a fidelity bond).

Despite the name, this coverage can protect the association from losses caused by the dishonesty of unpaid volunteers such as board members and officers, as well as any employees. And while no one wants to think that they have elected a dishonest person to a position of trust, it is prudent for the board to protect the association’s funds with this type of insurance. Generally, the policy must contain a specific endorsement to cover non-compensated officers as employees.

The limit of insurance selected for this coverage should be at least sufficient to cover the association bank account at its anticipated highest balance. However, a determined embezzler can steal much more than that over a long period of time. Higher amounts of employee dishonesty coverage are relatively inexpensive.

If the condominium association uses a property management company, this coverage should specifically cover loss of funds due to the dishonesty of the management company or its employees. Such coverage is usually provided by endorsement.

Directors and Officers Liability

Individuals who serve as directors and officers of the condominium association face personal liability exposures that are not addressed by the association’s CGL policy or by the individual’s personal liability insurance on a homeowners policy.

These persons are responsible for managing the financial affairs of and establishing policies for the association. Such activities may result in claims by others – including other unit owners – that decisions made by the directors or officers, either individually or collectively, resulted in some harm to the organization itself or to the individual making the claim.
Directors and Officers Liability Insurance (D&O) has been developed to protect the association and its directors and officers against these potential losses.

The limit of liability selected for this policy should be set at a limit that provides a level of comfort for the volunteers who serve on the board – at least $1,000,000 is typical. Keep in mind that successive layers above the first $1,000,000 are considerably less expensive than the first layer.
Insurance for Condominium Unit Owners
Unit Owners Property and Liability Insurance

Homeowners Insurance

No matter which method is used to insure the condominium property (all-inclusive, original specifications, or bare-walls), the individual unit owner needs separate property insurance to cover individually-owned personal property while inside the unit and elsewhere, as well as items of real property – the “unit” – that may or may not be covered on the association master policy.

Determining the Proper Amount of Property Insurance

There is no more important decision facing the condominium unit owner than determining how much insurance is needed on personal belongings owned and used by the unit owner’s family and the real property portion of the unit. The consequences of under-insurance could be disastrous for the family in the event of a major loss such as fire, hurricane or tornado.

It is not the insurance company or agent’s job to determine the appropriate amount of insurance needed by a condominium unit owner. Ultimately it is the responsibility of the unit owner to establish the insurance value of the family’s personal belongings and how much coverage is needed on the real property portion of the condominium unit. The insurance company or agent can assist and direct the individual to available resources, but the unit owner should not expect the agent to recommend a particular amount of insurance.

Personal Property. When a family purchases a single family residence, the amount of insurance provided on personal property doesn’t usually receive much consideration. The first item of insurance considered when buying a “standard” homeowners insurance policy is the amount of insurance on the house. That is typically determined by giving consideration to several factors, including the purchase price, demands of the lender, and the estimated cost to rebuild the home if it were totally destroyed. Once the amount of insurance on the home is set, the amount of insurance on personal property is usually set at some percentage of the amount on the home – 60 percent is not unusual. For example, if the amount of insurance on the home is $200,000 then the amount of insurance on personal property would be $120,000.

The condominium unit owner doesn’t have it so easy. There is no “standard” amount of insurance on personal property on a condominium homeowners policy. To determine an appropriate amount of insurance, the unit owner should take a home inventory. This is a detailed list of everything the family owns or uses and an educated estimate of the cost to replace these items if they were stolen or destroyed. More information on this task – and free home inventory software – is available from the Insurance Information Institute at www.iii.org.

If the unit owner is looking for an easy way out or needs to buy insurance before the home inventory can be completed, consider the following methods to set the amount of insurance on personal property:
• If the new condominium owner is moving from a previously-owned private residence, use the same amount of personal property insurance that was carried on the homeowners policy.

• Use a percentage of the condominium purchase price – 75 percent or more.

<table>
<thead>
<tr>
<th>Best Practice for Determining the Amount of Insurance on Personal Property</th>
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<tbody>
<tr>
<td>• The amount of insurance should be determined by the unit owner, not the insurance company or agent.</td>
</tr>
<tr>
<td>• Conduct a home inventory using tools available at <a href="http://www.iii.org">www.iii.org</a>.</td>
</tr>
<tr>
<td>• As an interim measure, use the same amount of insurance carried on a previous homeowners policy, or use a percentage of the condominium purchase price.</td>
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</table>

**Real Property – The Unit.** Now comes the hard part. How much insurance should the unit owner carry on the real property portion of the unit that may or may not be covered on the association master property insurance policy?

As explained earlier in the section describing association property insurance, there are three possible ways that condominium real property can be insured on the association master policy: **Bare Walls, Original Specifications, and All-Inclusive.**

The unit owner should review the declaration and the master policy, read supplemental material provided by the condominium, and talk to association management and others to gain some insight into which of those three concepts is used to insure real property inside the units on the master policy.

But the amount of insurance on the master policy may not be enough to cover the unit owner’s interest no matter which method is used. An independent calculation will help the unit owner decide how much insurance is needed to protect what is probably his or her most valuable investment.

The recommended default – or at least a starting place – should be an amount of insurance that represents the full replacement value of the real property in the unit, no matter which method is used to insure the real property on the condominium master policy, for the following reasons:

• The association master policy is controlled by someone besides the unit owner – generally a group of well-meaning and unpaid volunteers who may not be familiar with the intricacies of a commercial insurance program.

• The master policy could be canceled or not renewed without sufficient notice to the unit owners and their lenders.

• The amount of insurance on the master policy may not be sufficient to cover a total loss. Or, it may be insufficient to cover a partial loss if a coinsurance penalty is applied.

• The association master policy may exclude a cause of loss that is covered by the unit owner’s homeowners policy.
• The association policy may contain a large deductible. If a loss involves only one or a few units, the amount of damage may not exceed the deductible. In this case, the unit owner’s policy will cover the loss up to the amount of the association deductible.

• The association insurance company could be insolvent and unable to meet its financial obligation to pay a claim.

• The association insurance company may have grounds to deny a claim due to violation of a policy condition.

• See “Condominium Property Insurance - Complications and Challenges” earlier in this publication. The condominium declaration may require the unit owner to be responsible for repair or replacement of the water heater, air conditioning and heating equipment, kitchen and bathroom fixtures, television antennas, and other items of real property in the unit, even when the repair or replacement of these items is covered on the master policy. Another provision of the declaration may hold unit owners responsible for damage to the condominium caused by the negligence or willful misconduct of the owner, an occupant of the owner's unit, or the owner or occupant’s family, guests, employees, agents, or invitees, even when such damage is covered on the master policy.

There is no question that carrying the full replacement value on the unit owner’s homeowners policy may duplicate coverage provided on the association master policy. But duplication of coverage is far superior to the alternative: not enough coverage.

A good starting place is for the unit owner to determine how much it would cost to replace the real property inside the unit, using current construction methods and materials. The unit owner can consider a number of factors, including:

• **Unit purchase price.** The original purchase price of a recently-purchased condominium includes land, common elements, and amenities as well as the value of the unit itself, so this amount by itself may not be an accurate measure of the replacement value of the real property inside the unit.

• **Mortgage amount.** Since the original mortgage amount may be simply a function of the unit purchase price, this is as unlikely as the purchase price to be an accurate measure for the appropriate amount of insurance.

• **Replacement cost per square foot.** A contractor or architect who specializes in condominiums or apartments – especially the original contractor who built the condominium project or the original architect who originally designed the condominium – may be able to provide an accurate estimate of the replacement value of the unit.

• **Appraised value.** An experienced professional property appraiser should be able to accurately determine the replacement value of the real property inside the unit excluding the common elements.

Once the unit owner has determined the full replacement value of the unit, then the unit owner can decide whether to insure that amount or something less, based on his or her tolerance for risk, or how much he or she can afford.

As an alternative to carrying an amount of insurance that represents the full replacement value, consider carrying an amount not less than 25 percent of the full replacement value or the amount of the association
deductible, whichever is more. This is an arbitrary percentage, but it is more reasonable than selecting a smaller amount such as $5,000. Coverage on the condominium real property is relatively inexpensive on a homeowners condominium policy, especially when considering the consequences of not having enough insurance.

**Best Practice for Determining the Amount of Insurance on the Unit**

- The amount of insurance should be determined by the unit owner, not the insurance company or agent.

- Determine the full replacement value of the real property in the unit, preferably by engaging the services of a qualified professional property appraiser, or a contractor or architect who specializes in condominiums or apartments.

- Default: Carry an amount of insurance representing the full replacement value of the real property in the unit.

- Alternative: Carry an amount of insurance not less than 25 percent of the full replacement value or the amount of the association deductible, whichever is more.
The most common property insurance form used for condominium unit owners is the condominium version of a homeowners policy. There are two standard forms used in Texas – the Homeowners Condominium Policy developed by the Texas Department of Insurance (TDI) and the Homeowners Unit Owners Form developed and supported by the Insurance Services Office (ISO).

Some insurance companies don’t use either of the standard forms, but use other forms designed for insuring condominium unit owners. These forms are generally similar to and use much of the wording found in ISO forms.

The insurance agent should be able to tell a unit owner which form is being proposed or used to provide insurance on the owner’s unit and personal property.

The homeowners manual rules permit a condominium homeowners policy to be written for corporate or other entity ownership, but some companies may not allow this.

This publication analyzes coverage provided by the two standard homeowners forms. If the insurance company providing insurance on a condominium uses a different form, it is incumbent on the agent, the unit owner, and claims adjusters to read the policy carefully in order to understand the coverage being provided.
Covered Property

The TDI Homeowners Condominium policy provides coverage for real and personal property with a single amount of insurance, using the following descriptions:

- Personal property owned, worn or used by an insured anywhere in the world, with property located away from the condominium subject to a sublimit of 10 percent of the amount of insurance; and

- Alterations, fixtures, installations and additions which are part of the building and contained within the unfinished interior surfaces of the perimeter walls, floors and ceilings; and, the exterior surfaces of balconies and terraces of the condominium.

The policy does not cover property in or on the condominium premises which is defined in the condominium declarations or bylaws as a common element, even if it is a limited common element applicable only to the single unit.

Coverage on real property which is part of the unit may duplicate coverage provided by the association master policy. If a loss occurs and it is covered by the unit owner’s policy and the association policy, this policy specifically states that it is excess over the amount that is collectible under the association policy.

The homeowners policy excludes or limits coverage on certain items of personal property. These provisions are the same on all homeowners policies – whether written on a condominium unit or a private residence, and are therefore not detailed in this publication. See the Unit Owners Coverage Checklist in the Appendix.

Covered Causes of Loss

Two versions of the TDI Homeowners Condominium policy are available – Form B-CON and Form C-CON.

Form B-CON provides coverage only for causes of loss listed in the policy, including:
- Fire and lightning
- Smoke
- Windstorm, hurricane and hail
- Explosion
- Aircraft and vehicles
- Vandalism and malicious mischief
- Riot and civil commotion
- Accidental discharge, leakage or overflow of water from within a plumbing, heating or air conditioning system or household appliance
- Falling objects
- Freezing of plumbing, heating and air conditioning systems and household appliances
- Theft
While this may seem like an all-inclusive list of possible losses, keep in mind that this policy covers the real property as well as personal property. It is inferior to the coverage most home owners obtain on real property in a standard homeowners policy written for a free-standing residence. And, it is does not include the same degree of coverage provided on the condominium units in the association master policy, which is required by the Uniform Condominium Act to provide “all-risk” coverage.

Form C-CON provides coverage for “all-risks of direct physical loss” on the real property as well as personal property. That doesn't mean everything is covered that could possibly damage the condominium unit or the personal property, because the “all-risk” coverage is limited by Exclusions and Limitations specified in the policy (see Exclusions and Limitations below). However, it is considerably better than Form B-CON and should be considered the preferred form by unit owners and their insurance agents.

**Best Practice for Insuring the Condo Unit Owner on the TDI Homeowners Condominium Policy**

| Purchase Form C-CON as it provides “all-risk” coverage (subject to exclusions and limitations) on real and personal property, much broader than the specified causes of loss covered by Form B-CON. |

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**Exclusions and Limitations**

The TDI Homeowners Condominium forms contain significant exclusions and limitations. A few of them are analyzed and discussed below, but these aren't the only ones. The condominium unit owner should read and understand all policy provisions.

**Ordinance and Law Exclusion.** The policy excludes loss or increased costs that result from the enforcement of any ordinance or law. As explained in the section on the association property insurance, the exposure could be significant and the unit owner's policy should include coverage if possible. Unfortunately, coverage is not available on the TDI Homeowners Condominium form.

**Water Exclusions and Limitations.** The policy excludes some types of water damage, including:

- Flood and surface water, including storm surge from a hurricane. Coverage may be available on a separate policy through the National Flood Insurance Program – see Flood Insurance in this publication.

- Damage to personal property inside the building caused by rain, unless the outside of the building (roof or walls including windows) first sustains damage by wind or hail or other covered cause of loss. This is sometimes called the wind-driven-rain exclusion. (Note: This exclusion applies only to Form B-CON. Wind-driven-rain damage to personal property is covered by Form C-CON.)
Electrical and Mechanical Breakdown Exclusions. The policy excludes electrical damage to electrical equipment and appliances or mechanical breakdown of machinery, appliances and mechanical devices.

Theft While Unit Is Rented Exclusion. The policy excludes theft of personal property caused by a tenant or member of the tenant’s household while any portion of the residence premises is rented to others. Endorsement HO-380 (for Form B-CON) or HO-381 (for Form C-CON) can be attached to eliminate this exclusion except with respect to money and jewelry.

Extensions of Coverage or Additional Coverage

The TDI Homeowners Condominium Policy contains several extensions of coverage that may be important for unit owners. Other extensions, as noted below, are available but must be purchased separately for an additional premium.

Debris Removal. If the property suffers a significant loss, such as by fire or windstorm, the unit owner may incur significant additional costs to remove the debris from the unit or the site before reconstruction can begin. The debris removal extension covers these additional costs, but only to the extent that the limit of insurance hasn’t been used up by the direct loss. Additional coverage is not available on the TDI form.

Loss of Use. If the unit is damaged by a covered cause of loss to the extent that the unit is uninhabitable, this extension of coverage pays the additional expenses incurred by the unit owner and family to move to another residence and maintain their normal standard of living. If the unit is rented to another person at the time of the damage, the extension pays the fair rental value to the unit owner while the unit is repaired. The limit of liability for this additional coverage is 20 percent of the amount of insurance on the policy.

Rental to Others. If the unit is rented to others (even occasionally), the Unit Owners Rental to Others endorsement (HO-380 for Form B-CON or HO-381 for Form C-CON) should be purchased for an additional premium. The endorsement removes the property and liability exclusions that would otherwise apply when a unit is rented.

Other Structures. If the unit owner solely owns a separate structure on the premises of the condominium project, such as a garage or storage unit not covered on the association master policy, endorsement HO-180 should be purchased for an additional premium to cover the structure.

Loss Assessment. Under the Texas Condominium Law and the condominium declaration, a unit owner can be assessed for financial losses incurred by the condominium association. Endorsement HO-382 should be purchased for an additional premium to cover such assessments when they result from causes of loss covered by the unit owner’s policy, including property losses that are not fully covered by the association master policy. This could result from an inadequate amount of insurance or a large deductible on the master policy.
With regard to this additional coverage, Form C-CON is certainly preferable to Form B-CON since the property coverage on Form C-CON more closely mirrors the broad coverage generally provided by the master policy. If the unit owner is assessed for a property loss that doesn't result from a cause of loss covered on the unit owner's policy, the assessment is not covered by this additional coverage.

The loss assessment endorsement contains a separate deductible of $250 and a separate limit of liability selected by the unit owner. The unit owner should consider purchasing the maximum available limit, usually $50,000. However, the endorsement contains a maximum limit of $1,000 for an assessment resulting from a deductible in the condominium association master policy.

**Loss Settlement and Valuation**

The TDI Homeowners Condominium form provides replacement cost coverage on real property (the alterations, fixtures, installations and additions that are part of the building), but personal property is covered on an actual cash value basis (subject to depreciation). Replacement cost coverage is available by attaching endorsement HO-101.

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**Best Practice for Insuring the Condo Unit Owner on the TDI Homeowners Condominium Policy**

- If the unit is rented to others, purchase the Unit Owners Rental to Other endorsement.
- If the unit owner solely owns a separate structure, purchase the Other Structures endorsement.
- Purchase the Loss Assessment endorsement for the maximum available limit.
- Attach the replacement cost coverage endorsement for personal property.
Insurance for Condominium Unit Owners
Unit Owners Property and Liability Insurance

ISO Homeowners
Unit Owners Form – Property Coverage

This publication analyzes coverage provided by the standard ISO Homeowners Unit Owners Form 6 (Edition Date 05 11). If the insurance company providing insurance uses a different form or edition date, it is incumbent on the agent unit owner and adjusters to read the policy carefully in order to understand the coverage being provided.

Covered Property

The ISO Homeowners Unit Owners Form (Form 6) requires the unit owner to select two separate amounts of insurance – one for real property included in the “unit” (dwelling coverage) and the other for personal property.

The dwelling coverage includes the following descriptions:

• Alterations, appliances, fixtures and improvements which are part of the building contained within the unit.

• Items of real property which pertain exclusively to the unit.

• Property which is your insurance responsibility under a corporation or association of property owners agreement.

• Structures owned solely by the unit owner at the location of the unit (such as a separate garage or storage building).

The personal property coverage includes personal property owned or used by an insured anywhere in the world. Property located at another residence or in a self-storage facility is subject to a sublimit of 10 percent of the amount of insurance on personal property.

Coverage on real property which is part of the unit may duplicate coverage provided by the association master policy. If a loss occurs and it is covered by the unit owner’s policy and the association policy, this policy specifically states that it is excess over the amount that is collectible under the association policy.

The homeowners policy excludes or limits coverage on certain items of personal property. These provisions are the same on all homeowners policies – whether written on a condominium unit or a private residence, and are therefore not detailed in this publication. (See the Unit Owners Coverage Checklist in the Appendix.)
Covered Causes of Loss

The ISO Homeowners Condominium policy (Form 6) provides coverage only for causes of loss listed in the policy, including:

- Fire and lightning
- Smoke
- Windstorm and hail
- Explosion
- Aircraft and vehicles
- Vandalism and malicious mischief
- Riot and civil commotion
- Accidental discharge, leakage or overflow of water from within a plumbing, heating or air conditioning system, or an automatic fire protective sprinkler system, or a household appliance
- Falling objects
- Freezing of plumbing, heating and air conditioning systems and household appliances
- Theft
- Weight of ice, snow or sleet
- Sudden and accidental tearing apart, cracking, burning or bulging of a steam or hot water heating system, an air conditioning or automatic fire protective sprinkler system, or an appliance for heating water
- Sudden and accidental damage from artificially generated electrical current
- Volcanic eruption

While this may seem like an all-inclusive list of possible losses, keep in mind that this policy covers the real property as well as personal property. It is inferior to the coverage most home owners obtain on real property in a standard homeowners policy written for a free-standing residence. And, it does not include the same degree of coverage provided on the condominium units in the association master policy, which is required by the Uniform Condominium Act to provide “all-risk” coverage.

The ISO Homeowners Condominium Form can be expanded by endorsement (actually, two separate endorsements) to provide coverage for “all-risks of direct physical loss.” Form HO 17 90 provides “all-risk” coverage on personal property, and Form HO 17 91 provides “all-risk” coverage on the real property. That doesn't mean everything is covered that could possibly damage the condominium unit or personal property, because the “all-risk” coverage is limited by Exclusions and Limitations specified in the policy (see Exclusions and Limitations on the next page). However, it is considerably better than the unendorsed Unit Owners Form and should be considered the preferred method for covering personal property and the unit by unit owners and their insurance agents.

Best Practice for Insuring the Condo Unit Owner on the ISO Homeowners Unit Owners Form

- Purchase endorsement HO 17 90 to provide “all-risk” coverage (subject to exclusions and limitations) on personal property, much broader than the specified causes of loss covered by unendorsed Unit Owners Form.

- Purchase endorsement HO 17 91 to provide “all-risk” coverage (subject to exclusions and limitations) on real property (the “unit”), much broader than the specified causes of loss covered by unendorsed Unit Owners Form.
Exclusions and Limitations

The ISO Homeowners Condominium forms contain significant exclusions and limitations. A few of them are analyzed and discussed below, but these aren't the only ones. The condominium unit owner should read and understand all policy provisions.

Ordinance and Law Exclusion. The policy excludes loss or increased costs that result from the enforcement of any ordinance or law. As explained in the section on the association property insurance, the exposure could be significant. The ISO Homeowners Unit Owners Form includes a coverage extension that provides this coverage with an additional amount of insurance based on 10 percent of the amount of coverage on the dwelling.

Water Exclusions and Limitations. The policy excludes some types of water damage, including:

- Flood and surface water, including storm surge from a hurricane. Coverage may be available on a separate policy through the National Flood Insurance Program – see Flood Insurance in this publication.

- Damage to the building interior or to personal property inside the building caused by rain, unless the outside of the building (roof or walls including windows) first sustains damage by wind or hail or other covered cause of loss. This is sometimes called the wind-driven-rain exclusion. (Note: This exclusion does not apply when the “all-risk” forms are attached – HO 17 90 for personal property or HO 17 91 for the dwelling. Wind-driven-rain damage to the building interior or personal property is covered by these forms.)

- Damage caused by constant or repeated seepage or leakage of water or steam over a period of weeks, months or years. (Note: Coverage for this type of loss may be available by purchasing endorsement HO 04 83 - Water Damage.)

- Damage caused by water or water-borne material which backs up through sewers or drains. (Note: Coverage for this type of damage can be obtained with endorsement HO 04 69, subject to a sublimit as low as $5,000 or other limit shown in the endorsement.)

Mechanical Breakdown Exclusion. The policy excludes mechanical breakdown of machinery, appliances and mechanical devices.

Electrical Damage to Electronic Apparatus. The policy excludes loss to tubes, transistors, electronic components or circuitry that are a part of appliances, fixtures, computers, home entertainment units or other types of electronic apparatus. (Note: This exclusion does not apply when the “all-risk” forms are attached – HO 17 90 for personal property or HO 17 91 for the dwelling.)

Theft While Unit Is Rented Exclusion. The policy excludes theft of property caused by a tenant or member of the tenant’s household while any portion of the residence premises is rented to others. Endorsement HO 17 33 can be attached to eliminate this exclusion except with respect to money and jewelry.
Extensions of Coverage or Additional Coverage

The ISO Homeowners Condominium Policy contains several extensions of coverage that may be important for unit owners. Other extensions, as noted below, are available but must be purchased separately for an additional premium.

Debris Removal. If the property suffers a significant loss, such as by fire or windstorm, the unit owner may incur significant additional costs to remove the debris from the unit or the site before reconstruction can begin. The debris removal extension covers these additional costs to the extent that the limit of insurance hasn't been used up by the direct loss. An additional amount of coverage up to 5 percent of the limit of liability is available if the limit is used up by the direct loss.

Loss of Use – Additional Living Expense. If the unit or condominium premises is damaged by a covered cause of loss to the extent that the unit is uninhabitable, this extension of coverage pays the additional expenses incurred by the unit owner and family to move to another residence and maintain their normal standard of living. If the unit is rented to another person at the time of the damage, the extension pays the fair rental value to the unit owner while the unit is repaired. The typical limit for this additional coverage is 20 percent of the amount of insurance on the dwelling, but the amount can be increased for an additional premium. If the unit owner carries a minimal amount on the dwelling, the additional amount should be purchased so this coverage limit will be adequate.

Rental to Others. If the unit is rented to others (even occasionally), the Unit Owners Rental to Others endorsement (HO 17 33) should be purchased for an additional premium. The endorsement removes the property and liability exclusions that would otherwise apply when a unit is rented.

Loss Assessment. Under the Texas Condominium Law and the condominium declaration, a unit owner can be assessed for financial losses incurred by the condominium association. The ISO Homeowners Unit Owners Form automatically provides additional coverage for such assessments but only up to $1,000. Endorsement HO 04 35 should be purchased for an additional premium to provide a higher limit of coverage.

This extension covers assessments when they result from causes of loss covered by the dwelling portion of the unit owner’s policy, including property losses that are not fully covered by the association master policy. This could result from an inadequate amount of insurance or a large deductible on the master policy.

With regard to this additional coverage, the “all-risk” form HO 17 91 for the dwelling is certainly preferable since the property coverage with the endorsement more closely mirrors the broad coverage generally provided by the master policy. If the unit owner is assessed for a property loss that doesn’t result from a cause of loss covered on the unit owner’s policy, the assessment is not covered by this additional coverage.

The policy deductible applies to the loss assessment coverage.

The unit owner should consider purchasing the maximum available limit, usually $50,000 on endorsement HO 04 35. The 05 11 edition of this endorsement does not contain a maximum limit of $1,000 for an assessment resulting from a deductible in the condominium association master policy, as do previous editions of the endorsement and the TDI Homeowners Condominium form.
Loss Settlement and Valuation

The ISO Homeowners Condominium form provides replacement cost coverage on real property (the dwelling), but personal property is covered on an actual cash value basis (subject to depreciation). Replacement cost coverage is available by attaching endorsement HO 23 04.

<table>
<thead>
<tr>
<th>Best Practice for Insuring the Condo Unit Owner on the ISO Homeowners Condominium Policy</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Purchase endorsement HO 04 69 to cover backup of sewers and drains.</td>
</tr>
<tr>
<td>• Purchase endorsement HO 04 83 to cover damage caused by constant or repeated seepage or leakage of water.</td>
</tr>
<tr>
<td>• If the unit is rented to others, purchase the Unit Owners Rental to Other endorsement HO 17 33.</td>
</tr>
<tr>
<td>• Purchase the Loss Assessment endorsement HO 04 35 for the maximum available limit.</td>
</tr>
<tr>
<td>• Attach the replacement cost coverage endorsement HO 23 04 for personal property.</td>
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</tbody>
</table>
Insurance for Condominium Unit Owners
Unit Owners Property and Liability Insurance

Windstorm and Hail Insurance

If the condominium is located in the first “tier” of counties along the Texas coast, or a small portion of southeast Harris County, the unit owner’s policy may exclude damage caused by windstorm and hail. When this exclusion applies, the unit owner may be eligible to purchase windstorm and hail insurance from the Texas Windstorm Insurance Association (TWIA).

TWIA is a “pool” of all property insurance companies authorized to write coverage in Texas. It issues an insurance policy covering windstorm and hail only.

Covered Property

When a TWIA policy is written on a condominium unit owner, it is similar to the TDI Homeowners Condominium form in that it includes real and personal property with a single limit of insurance, covering the following:

• Personal property owned or used by an insured anywhere in the world, with property located away from the condominium subject to a sublimit of 10 percent of the amount of insurance; and

• Alterations, fixtures, installations and additions which are part of the building and contained within the unfinished interior surfaces of the perimeter walls, floors and ceilings; and, the exterior surfaces of balconies and terraces of the condominium.

The policy does not cover property in or on the condominium premises which is defined in the condominium declarations or bylaws as a common element, even if it is a limited common element applicable only to the single unit.

Coverage on real property which is part of the unit may duplicate coverage provided by the association master policy. If a loss occurs and it is covered by the unit owner’s policy and the association policy, this policy specifically states that it is excess over the amount that is collectible under the association policy.

Covered Causes of Loss

The policy covers direct damage to covered property caused by windstorm or hail, subject to the following significant exclusions:

• Water damage resulting from flood, storm surge, surface water, tidal water, waves, tides, tidal waves, seiche, overflow of streams or other bodies of water, tsunami, or spray from any of these causes of loss, whether driven by wind or not. (Coverage may be available on a separate policy through the National Flood Insurance Program – see Flood Insurance in this publication.)

• Water damage caused by rain, whether driven by wind or not, unless wind or hail first makes an opening in the walls or roof of the building. This is commonly called the wind-driven-rain exclusion and can be eliminated by attaching endorsement TWIA-320 for an additional premium – see below.)
• Loss resulting from seizure or destruction of property by order of governmental authority.

• Loss or damage resulting from power failure or other utility service if the failure occurs away from the described premises. Limited coverage for such losses is available by attaching endorsement TWIA-320 for an additional premium – see below.

• Damage to electrical devices caused by electricity from artificial causes.

• Loss or damage caused by mold, including testing.

• Loss or increased costs that result from the enforcement of any ordinance or law. (See the detailed explanation earlier in this publication.) Coverage for these exposures as they relate to the building items for which the unit owner might be responsible is not available to the unit owner from TWIA.

• If the unit is rented to others or available for rental to others, no coverage is available on the TWIA policy for the loss of rental income resulting from a windstorm. Coverage may be available, however, on the Unit Owners Homeowners policy, despite the windstorm exclusion on that policy.

There are other exclusions, so policyholders, claims adjusters and agents should review the policy carefully.

Extensions of Coverage

The TWIA policy covers the following losses automatically by extension of coverage:

Debris Removal. The expense to remove debris of covered property after the property has been damaged by windstorm or hail is covered, up to the amount of insurance carried on that property.

Property Removed. If property can be moved from the location prior to a hurricane, the policy covers the expense to do so, and will cover any damage that occurs during the process of moving or while temporarily stored at another location, for up to 30 days.

Reasonable Repairs. After a covered cause of loss damages property, the policy covers reasonable costs incurred for necessary repairs made solely to protect covered property from future damage.

Optional Coverages Available by Endorsement

Replacement Cost Coverage. The TWIA policy covers real property (the “unit”) and personal property on an actual cash value or depreciated basis. The policy must be endorsed (Endorsement TWIA-365) for an additional premium to cover property on the replacement cost method. Otherwise, the settlement will be based on the actual cash value method, with deduction for depreciation.

Additional Living Expense. If the condominium unit is the insured’s primary residence, coverage is available for the additional expenses incurred by the unit owner and family to move to another residence and maintain their normal standard of living. There are three conditions which must exist for the condominium to be considered the insured's primary residence: (1) The dwelling must be the place where the named insured normally lives as his or her principal residence as of the date of loss; (2) the dwelling must be the place where the named insured normally lives as his or her principal residence during the majority of the policy period; and, (3) the description of the condominium on the Declarations Page must stipulate “Primary Dwelling.” The policy must be endorsed (Endorsement TWIA-320) and there is an additional premium. If the unit is not the unit owner's primary residence, this coverage is provided by the Unit Owners
Homeowners policy despite the windstorm exclusion attached to that policy. The limit for this additional coverage is 20 percent of the amount of insurance on the policy.

**Consequential Loss.** This option covers loss of refrigerated or frozen foods caused by loss of power as a result of wind or hail damage to utility equipment and connections, subject to a $500 limit (after the deductible) if the equipment or connections are located away from the premises. The policy must be endorsed (Endorsement TWIA-320) and there is an additional premium.

**Wind-Driven Rain Coverage.** The basic policy excludes damage caused by rain, whether driven by wind or not, unless wind or hail first makes an opening in the walls or roof of the building. This is commonly called the wind-driven-rain exclusion and can be eliminated by attaching endorsement TWIA-320 for an additional premium.

As noted above, endorsement TWIA-320 must be attached to the TWIA policy in order to obtain coverage for additional living expense, consequential loss, and wind-driven rain. This endorsement can be attached and is effective only if the unit owner maintains a separate homeowners condominium unit owners policy.

### Best Practice for Insuring the Condo Unit Owner on the Texas Windstorm Insurance Association Policy

- Purchase endorsement TWIA-365 to cover personal property on a replacement cost basis.
- Purchase endorsement TWIA-320 to provide additional coverage for Consequential Loss, Additional Living Expense and Wind-Driven-Rain.

### Amounts of Insurance

The TWIA sets a maximum limit of insurance. This limit applies to the unit owner’s personal property as well as coverage on the unit real property when the two are combined into a single amount of insurance. The maximum limit changes periodically (usually annually) based on a cost index. It was $374,000 as of January 1, 2013.
Insurance for Condominium Unit Owners
Unit Owners Property and Liability Insurance

Flood Insurance

Damage caused by flood is excluded on the unit owners policy, so a separate policy is needed to cover that type of loss. Generally speaking, the only policy available to cover this exposure is the policy developed by the National Flood Insurance Program (NFIP) and sold through insurance agents either directly for NFIP or for commercial insurers participating in the “Write-Your-Own” program.

The appropriate NFIP form for condominium unit owners is the Dwelling Form. Coverage is available for the unit and personal property within the unit.

When a flood insurance policy covers personal property owned by a condominium unit owner, the policy also covers interior walls, floor and ceiling for not more than 10 percent of the limit for personal property. For the reasons previously stated, an amount representing 10 percent of the personal property limit is probably not sufficient. When a higher limit is needed on the unit, the unit owner can purchase building coverage on the Dwelling Form.

As stated in the Flood Insurance section for condominium associations, the NFIP uses the Residential Condominium Building Association Policy (RCBAP) for association coverage on the buildings. The RCBAP is designed to cover the units as well as common elements in all cases, without distinction as to the method described in the law or condominium declaration (all-inclusive or original specifications or bare walls). However, for the reasons stated previously, the unit owner is well-advised to purchase flood coverage on the unit as well as the personal property in the unit.

Owners of condominium units on the ground level of a project should certainly consider purchasing flood insurance. Owners of units on floors above the ground level should purchase flood coverage as well. Not only can a flood affect an above-ground-level unit even if the flood waters don’t extend beyond the first level, it’s entirely possible that a flood can cause an entire building to collapse. Another reason for above-ground-level unit owners to purchase flood insurance is that the policy includes coverage for flood-related losses to association property when such losses are the subject of an assessment by the association – see below.

Loss Assessment Coverage

A flood policy that covers a condominium unit also includes coverage for flood-related losses to association property when such losses are charged against the unit owners by assessment. The limit for this coverage is the amount of insurance purchased on the unit (dwelling coverage) on the unit owner’s policy. Such assessment is covered only if the damage to the common elements by flood exceeds the amount that is recoverable from the association’s flood insurance policy.
The homeowners policies for condominium unit owners provide personal liability insurance for the unit owner as part of the same policy that covers the unit owner's property. This is exactly the same liability insurance a homeowner would receive on a standard homeowners insurance policy covering a free-standing dwelling.

The personal liability coverage protects the unit owner if a claim or suit is brought against him or her because of bodily injury or property damage caused by (or alleged to be caused by) the unit owner's negligence or the negligence of a family member. Subject to a number of exclusions, the coverage applies to such bodily injury or property damage occurring anywhere in the world.

In addition, the liability section of the homeowners policy provides a limited amount of medical payments coverage. This coverage pays medical expenses incurred by a unit owner’s guest if the guest is injured on the condominium premises, without regard to any negligence on the part of the unit owner.

**Exclusions and Limitations**

Since the liability exclusions on the homeowners policy are not unique to condominium owners, this publication will concentrate on a couple of exclusions that may have particular significance to condominium owners.

**Rental Property.** The liability coverage doesn’t apply when the condominium unit is rented to others or held for rental to others. The unit owner should purchase the Unit Owner Rental to Others endorsement to eliminate this exclusion.

**Loss Assessment.** Under the Texas Condominium Law and the condominium declaration, a unit owner can be assessed for financial losses incurred by the condominium association, including liability losses that exceed the limit of liability carried by the condominium association or that are excluded by the master policy. The homeowners policy excludes such assessments in the basic coverage form. Coverage for this exposure – to the extent that the liability claim against the association is not subject to an exclusion on the homeowners policy – is available by extension or endorsement, depending on the type of homeowners policy.

The ISO condominium homeowners policy includes an automatic extension that provides up to $1,000 for assessments charged against the unit owner when the assessment results from bodily injury or property damage not excluded on the homeowners policy. Endorsement HO 04 35 should be attached for an additional premium to provide a higher limit of coverage up to $50,000.

The TDI homeowners condominium policy does not contain an automatic extension, but coverage should be purchased with endorsement HO-382 up to the maximum available limit of $50,000.
<table>
<thead>
<tr>
<th>Best Practice for Insuring the Condo Owner’s Liability Exposures on the Unit Owners’ Homeowners Policy</th>
</tr>
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<tbody>
<tr>
<td>• Purchase the maximum available limit as well as a personal umbrella liability policy.</td>
</tr>
<tr>
<td>• Purchase the Unit Owners Rental to Others endorsement for additional premium if the unit is ever rented to others.</td>
</tr>
<tr>
<td>• Purchase the loss assessment coverage endorsement for the maximum available limit.</td>
</tr>
</tbody>
</table>
Section 82.111 - Insurance

(a) Beginning not later than the time of the first conveyance of a unit to a person other than a declarant, the association shall maintain, to the extent reasonably available:

(1) property insurance on the insurable common elements insuring against all risks of direct physical loss commonly insured against, including fire and extended coverage, in a total amount of at least 80 percent of the replacement cost or actual cash value of the insured property as of the effective date and at each renewal date of the policy; and

(2) commercial general liability insurance, including medical payments insurance, in an amount determined by the board but not less than any amount specified by the declaration covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the common elements.

(b) If a building contains units having horizontal boundaries described in the declaration, the insurance maintained under Subsection (a)(1), to the extent reasonably available, must include the units, but need not include improvements and betterments installed by unit owners.

(c) If the insurance described by Subsections (a) and (b) is not reasonably available, the association shall cause notice of that fact to be delivered or mailed to all unit owners and lienholders. The declaration may require the association to carry any other insurance, and the association in any event may carry any other insurance the board considers appropriate to protect the condominium, the association, or the unit owners. Insurance policies maintained under Subsection (a) may provide for commercially reasonable deductibles as the board determines appropriate or necessary. This section does not affect the right of a holder of a mortgage on a unit to require a unit owner to acquire insurance in addition to that provided by the association.

(d) Insurance policies carried under Subsection (a) must provide that:

(1) each unit owner is an insured person under the policy with respect to liability arising out of the person’s ownership of an undivided interest in the common elements or membership in the association;

(2) the insurer waives its right to subrogation under the policy against a unit owner;

(3) no action or omission of a unit owner, unless within the scope of the unit owner’s authority on behalf of the association, will void the policy or be a condition to recovery under the policy; and

(4) if, at the time of a loss under the policy, there is other insurance in the name of a unit owner covering the same property covered by the policy, the association’s policy provides primary insurance.
(e) A claim for any loss covered by the policy under Subsection (a)(1) must be submitted by and adjusted with the association. The insurance proceeds for that loss shall be payable to an insurance trustee designated by the association for that purpose, if the designation of an insurance trustee is considered by the board to be necessary or desirable, or otherwise to the association, and not to any unit owner or lienholder.

(f) The insurance trustee or the association shall hold insurance proceeds in trust for unit owners and lienholders as their interests may appear. Subject to Subsection (i), the proceeds paid under a policy must be disbursed first for the repair or restoration of the damaged common elements and units, and unit owners and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the condominium is terminated.

(g) An insurance policy issued to the association does not prevent a unit owner from obtaining insurance for the owner’s own benefit.

(h) The insurer issuing the policy may not cancel or refuse to renew it less than 30 days after written notice of the proposed cancellation or nonrenewal has been mailed to the association.

(i) Except as provided by this section, any portion of the condominium for which insurance is required that is damaged or destroyed shall be promptly repaired or replaced by the association unless the condominium is terminated, repair or replacement would be illegal under any state or local health or safety statute or ordinance, or at least 80 percent of the unit owners, vote to not rebuild.

Each owner of a unit may vote, regardless of whether the owner’s unit or limited common element has been damaged or destroyed. A vote may be cast electronically or by written ballot if a meeting is not held for that purpose or in person or by proxy at a meeting called for that purpose. A vote to not rebuild does not increase an insurer’s liability to loss payment obligation under a policy, and the vote does not cause a presumption of total loss. The cost of repair or replacement in excess of the insurance proceeds and reserves is a common expense. If the entire condominium is not repaired or replaced, any insurance proceeds attributable to the damaged common elements shall be used to restore the damaged area to a condition compatible with the remainder of the condominium, the insurance proceeds attributable to units and limited common elements that are not rebuilt shall be distributed to the owners of those units and the owners of the units to which those limited common elements were assigned, or to their mortgagees, as their interests may appear, and the remainder of the proceeds shall be distributed to all the unit owners as their interests may appear. If the unit owners vote to not rebuild any unit, that unit’s allocated interests shall be automatically reallocated on the vote as if the unit had been condemned, and the association shall prepare, execute, and record an amendment to the declaration reflecting the reallocation. Section 82.068 governs the distribution of insurance proceeds if the condominium is terminated.
(j) If the cost to repair damage to a unit or common element covered by the association’s insurance is less than the amount of the applicable insurance deductible, the party who would be responsible for the repair in the absence of insurance shall pay the cost for the repair of the unit or common element.

(k) If the association’s insurance provides coverage for the loss and the cost to repair the damage to a unit or common element is more than the amount of the applicable insurance deductible, the dedicatory instruments determine payment for the cost of the association’s deductible and costs incurred before insurance proceeds are available. If the dedicatory instruments are silent, the board of directors of the association by resolution shall determine the payment of those costs, or if the board does not approve a resolution, the costs are a common expense. A resolution under this subsection is considered a dedicatory instrument and must be recorded in each location in which the declaration is recorded.

(l) If damage to a unit or the common elements is due wholly or partly to an act or omission of any unit owner or a guest or invitee of the unit owner, the association may assess the deductible expense and any other expense in excess of insurance proceeds against the owner and the owner’s unit.

(m) The provisions of this section may be varied or waived if all the units in a condominium are restricted to nonresidential use.
### Exhibit 14

**Texas Condominium Laws**

#### Definitions of Common Elements and Units or Apartments

<table>
<thead>
<tr>
<th>TEXAS PROPERTY CODE</th>
<th>TEXAS PROPERTY CODE</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>CHAPTER 81. CONDOMINIUMS CREATED BEFORE ADOPTION OF UNIFORM CONDOMINIUM ACT</strong></td>
<td><strong>CHAPTER 82. UNIFORM CONDOMINIUM ACT</strong></td>
</tr>
<tr>
<td>(5) “Common elements” means all portions of a condominium other than the units and includes both general and limited common elements.</td>
<td>(14) “General common elements” means common elements that are not limited common elements.</td>
</tr>
</tbody>
</table>

(6) “General common elements” means the property that is part of a condominium regime other than property that is part of or belongs to an apartment in the regime, including:

- (A) land on which the building is erected;
- (B) foundations, bearing walls and columns, roofs, halls, lobbies, stairways, and entrance, exit, and communication ways;
- (C) basements, flat roofs, yards, and gardens, except as otherwise provided;
- (D) premises for the lodging of janitors or persons in charge of the building, except as otherwise provided;
- (E) compartments or installation of central services such as power, light, gas, water, refrigeration, central heat and air, reservoirs, water tanks and pumps, and swimming pools; and
- (F) elevators and elevator shafts, garbage incinerators, and all other devices and installations generally existing for common use.
(7) “Limited common elements” means a portion of the common elements allocated by unanimous agreement of a council of owners for the use of one or more but less than all of the apartments, such as special corridors, stairways and elevators, sanitary services common to the apartments of a particular floor, and similar areas or facilities.

(17) “Limited common element” means a portion of the common elements allocated by the declaration or by operation of Section 82.052 for the exclusive use of one or more but less than all of the units.

(1) “Apartment” means an enclosed space, regardless of whether it is designed for residential or other use, that consists of one or more rooms in a building and that has a direct exit to a thoroughfare or to a common space that leads to a thoroughfare.

(23) “Unit” means a physical portion of the condominium designated for separate ownership or occupancy, the boundaries of which are described by the declaration.
§ 81.105. APARTMENT BOUNDARIES.

(a) The boundaries of an apartment in a condominium regime are the interior surfaces of the apartment’s perimeter walls, floors, and ceilings, and the exterior surfaces of the apartment’s balconies and terraces.

(b) Except for common elements, the portions of a building on the boundaries of an apartment in a condominium regime and the airspace within those boundaries are part of the apartment.

(c) In interpreting a legal instrument relating to an apartment or to an apartment that has been reconstructed substantially according to the original plans of the apartment, the physical boundaries of the apartment are conclusively presumed to be the proper boundaries of the apartment regardless of settling, rising, or lateral movement of the building containing the apartment and regardless of variances between boundaries shown on the plat of the building and the actual boundaries of the building.

§ 82.052. UNIT BOUNDARIES.

Except as otherwise provided by the declaration or plat:

(1) if walls, floors, or ceilings are designated as boundaries of a unit, then all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring, and any other materials constituting part of the finished surfaces are a part of the unit, and all other portions of the walls, floors, or ceilings are a part of the common elements;

(2) if any chute, flue, duct, wire, conduit, bearing wall, bearing column, or any other fixture is partially within and partially outside the designated boundaries of a unit, then the portion serving only that unit is a limited common element allocated solely to that unit, and the portion serving more than one unit or the common elements is a part of the general common elements;

(3) subject to Subdivision (2), the spaces, interior partitions, and other fixtures and improvements within the boundaries of a unit are a part of the unit; and

(4) shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, patios, and exterior doors and windows or other fixtures designed to serve a single unit, but located outside the unit’s boundaries, are limited common elements allocated exclusively to that unit.
Agents who insure condominium associations and unit owners often offer to serve their clients by reading or reviewing condominium legal documents such as the Uniform Condominium Act and condominium declarations and bylaws.

Agents are caught in a Catch-22 when reviewing these documents. To run from the task would call into question the agent’s professional service. On the other hand, to tackle the project with no written guidelines or disclaimers could be disastrous for the agent and agency, as well as the customer. The most commonsense approach is the middle ground: agree to review the documents subject to disclosures and disclaimers. Of primary importance is to state in writing that the agent is only reviewing the insurance requirements of the contract and is not providing legal advice.

Below is a proposed disclaimer letter that can be used by agents when reviewing condominium legal documents. This proposed disclaimer should be reviewed with the agency’s legal counsel prior to actual use with an insured.

**Sample Disclaimer Letter**

Our agency has at your request reviewed the condominium legal documents indicated above. Specifically, we reviewed only the insurance requirements in these documents as specified above.

The scope of our review was to determine if the current insurance you have placed (or will place) through our Agency addresses the types and amounts of insurance coverage referenced by the documents. We have identified the significant insurance obligations, and have attached a summary of the items required in your insurance program to meet the requirements of the documents. Upon your authorization, we will make the necessary changes in your insurance program.

We will also be available to discuss any insurance requirements with your attorney, if desired.

In performing this review, our Agency is not providing legal advice or a legal opinion concerning any portion of the documents. In addition, our Agency is not undertaking to identify all potential liabilities that may arise under these documents.

This review is provided for your information, and should not be relied upon by third parties. Any descriptions of the insurance coverages are subject to the terms, conditions, exclusions and other provisions of the policies and any applicable regulations, rating rules or plans.
**Recommended Sources for Additional Information**


2. Texas Uniform Condominium Act. Property Code Sections 81 and 82; available for download at www.statutes.legis.state.tx.us/Index.aspx

3. Insurance valuation and coverage information for the consumer, from the Insurance Information Institute, at www.iii.org


## Condominium Association Coverage Checklist

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Home phone</td>
<td>Office phone</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Revised by: __________

Today’s date: __________ / __________ / __________

1 = Coverage on policy or recommended
2 = Coverage rejected by insured or not available

### Property

<table>
<thead>
<tr>
<th>Buildings: Limit of Insurance $</th>
<th>Method used to determine limit on building:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Real estate appraisal dated __________ / __________ / __________</td>
<td></td>
</tr>
<tr>
<td>Consultation with builder</td>
<td></td>
</tr>
<tr>
<td>Other-describe: ______________________</td>
<td></td>
</tr>
<tr>
<td>Special Causes of Loss Form</td>
<td></td>
</tr>
</tbody>
</table>

**Coverage includes:**
- Roadways, walks, patios or other paved surfaces
- Cost of excavations, grading, backfilling or filling
- Foundations
- Bulkheads, pilings, piers, wharves or docks
- Underground pipes, flues or drains (yard sprinkler system)
- Fences
- TV antennas or satellite dishes
- Signs attached to the building
- Signs not attached to the building
- Replacement Cost Option
- Agreed Value Option
- Debris Removal-Limit, 04 15 $ __________
- Ordinance or Law Coverage, 04 05
- Condominium Association, 00 17
- Sewer Backup-Limit $ __________
- Water Leakage
- Wind-Driven Rain
- Pollution
- Deductible $ __________
- Personal Property: Limit of Insurance $ __________
- Special Causes of Loss Form
- Replacement Cost Option
- Agreed Value Option
- Other Exclusions:
- Other Extensions:

### Property cont’d.

<table>
<thead>
<tr>
<th>Monthly Limitation:</th>
<th>Agreed Value Option</th>
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<tbody>
<tr>
<td>Extended Period of Indemnity:</td>
<td>Ordinary Payroll, 15 10:</td>
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<tr>
<td>Power, Heat, Ref. Deduction, 15 11:</td>
<td>Electronic Media, 15 19:</td>
</tr>
<tr>
<td>Off. Premises Services, 15 45</td>
<td></td>
</tr>
</tbody>
</table>

### Flood Insurance

- Buildings: Limit of Insurance $ __________
- Personal Property: Limit of Insurance $ __________
- (See attached schedule if more than one building)
- RCBAP Form

### Wind & Hail (TWIA)

- Buildings: Limit of Insurance $ __________
- Personal Property: Limit of Insurance $ __________
- (See attached schedule if more than one building)
- TWIA-280
- TWIA-282
- Option 1-(original specifications)
- Option 2-(All-Inclusive)
- TWIA-164 Replacement Cost
- TWIA-432 Increased Cost of Construction $ __________ %
- Business Income $ __________
- Excess Wind: Building Limit $ __________
- Personal Property Limit $ __________

### General Liability

- Occurrence $ __________
- General Aggregate $ __________
- Products Aggregate $ __________
- Fire Damage Limit $ __________
- Employment Practices Exclusion, 21 47
- Exclude Products, 21 04
- Exclude:
- Additional Insured:
- Liquor Liability, 24 08 Deletes exclusion
- Personal Injury Contractual, 22 74
- Waiver of Subrogation, 24 04
- Employee Benefits Liability

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05/09
### Inland Marine

- Signs, 00 28 $  
- Valuable Papers, 00 67 $  
- Accts. Receivable, 00 66 $  
- Cameras/Musical (00 21) $  
- Fine Arts $  
- Equipment Floater $  
- Bailie Liability $  
- Replacement Cost $  
- Additionally Covered Property $  
- Reporting $  

**Crime**

- A. Employee Dishonesty $  
- Officers covered $  
- Management company covered $  
- B. Forgery/Alteration $  
- C. M&S Inside $  
- M&S Outside $  
- D. Robbery $  
- Safe Robbery $  
- E. Premises Burglary $  
- H. Premises Theft $  
- Robbery $  
- I. Robbery Safe Burglary Form Q

### Business Auto

- Liability $  
- Hired/Nonowned Only $  
- Med Pay/PIP $  
- UM/UIM $  
- Other Than Collision deductible $  
- Specified Causes deductible $  
- Collision deductible $  
- Additional Insured-Lessor, 20 01  
- Additional Insured:  
- Employees as Insureds, 99 33  
- Drive Other Car, 99 33:  
- Garagekeepers, 99 37  
- HIred Car Physical Damage  
- Sound Receiving/Trans. Equipment/Stereos, 99 08  
- Tapes & Records, 99 30  
- Rental Reimbursement, 99 23A  
- Towing & Labor  
- Mexico Coverage Limited, 04 07

### Workers' Compensation

- Employers' Liability $  
- Other States:  
- Foreign Operations  
- USL & HW  
- Maritime  
- Voluntary Compensation  
- Sole Proprietor, Officers, Partners Coverage  
- Waiver of Subrogation  
- Alternate Employer  
- Notice of Material Change Endorsement

### Electronic Equipment Protection

- Hardware $  
- Media $  
- Building Interruption $  
- Extra Expenses $  
- Mechanical Breakdown  
- Electrical Injury  
- Automatic Extinguisher  
- Interruption of Power Off Premises

### Miscellaneous

- Umbrella Liability $  
- Professional Liability  
- Earthquake  
- Difference in Conditions  
- Directors & Officers Liability $  
- Watercraft  
- Aircraft  
- Fiduciary Liability  
- Employee Benefit Mgmt.  
- Employment Practices Liability  
- Environmental Impairment Liability

The recommended coverages have been discussed with me, and I agree to reject the coverages as indicated:

x
## Condominium Unit Owners Coverage Checklist

### ISO Forms

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Home phone</td>
<td>Office phone</td>
</tr>
</tbody>
</table>

Revised by

Today’s date

<table>
<thead>
<tr>
<th>1</th>
<th>2</th>
</tr>
</thead>
</table>
| **Effective date**<br>**HO Form**<br>**Deductible:** $<br>**Coverage A. Dwelling** $<br>**Coverage B. Other Structures** $<br>**Coverage C. Personal Property** $<br>**Coverage D. Loss of Use** $<br>**Coverage E. Personal Liability** $<br>**Coverage F. Medical Payments** $<br>**Property Options**<br>“Special” coverage on Personal Property HO 17 90<br>“Special” coverage on Real Property HO 17 91<br>Replacement Cost for Personal Property HO 23 04<br>Specified Additional Amount on Dwelling HO 04 20 %<br>Increase Limit Jewelry/Furs/etc. HO 04 65 $<br>Increase Business Per. Prop. HO 04 12 $<br>Special Computer Coverage HO 04 72 $<br>Wind and Hail Exclusion HO 04 70<br>Exclusion, Residential Community Property HO 42 10<br>Scheduled Personal Property HO 04 60 (Inc. Breakage ) $<br>Wind and Hail Deductible HO 03 12 $<br>Replacement Cost for Structures HO 04 43<br>Water/Sewer Backup HO 04 69 $<br>Identity Fraud Expense Coverage HO 42 97<br>Home Business Endorsements<br>Refrigerated Property Coverage HO 04 98<br>Golf Cart Physical Damage Coverage HO 05 28<br>Water Damage Coverage HO 04 67<br>Foundation Coverage HO 04 68<br>**Liability Options**<br>Personal Injury Coverage HO 24 50<br>Watercraft Liability HO 24 75<br>Business Pursuits Liability HO 24 71<br>Additional Residence Rented to Others HO 24 70<br>Incidental Farming Personal Liability HO 24 72<br>Farmers Personal Liability HO 24 73<br>**Other Options**<br>Additional Insured<br>Condo Rental to Others HO 17 33<br>Loss Assessment HO 04 35 $<br>© 2009 Independent Insurance Agents of Texas | © 2009 Independent Insurance Agents of Texas 05/09

### Secondary Residence

<table>
<thead>
<tr>
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| **Occupied**<br>**Rented**<br>**Rented to Others**<br>**Location**<br>**Effective date**<br>**Complete separate checklist**<br>**Dwelling Fire Policy**<br>Dwelling Policy Form: $<br>A. Dwelling $<br>B. Other Structures $<br>C. Personal Property $<br>D. Fair Rental Value $<br>Liability and Medical Payments Added to Homeowners<br>Replacement Cost Buildings DP 00 08<br>Windstorm Exclusion DP 05 51<br>Windstorm or Hail Deductible DP 03 12<br>Broad Theft Coverage DP 04 72: On-Premises $<br>Off-Premises $<br>Foundation Coverage DP 05 56<br>Water Damage Coverage DP 05 57<br>**Farm & Ranch**<br>Primary<br>Secondary<br>Rental<br>Effective Date: | **Farm Property**<br>Cov. A. Dwelling $<br>Cov. B. Other Private Structures $<br>Cov. C. Household Personal Property $<br>Cov. D. Loss of Use $<br>Cov. E. Schedule Farm Personal Property $<br>Cov. F. Unscheduled Farm Personal Property $<br>Cov. G. Other Farm Structures $<br>Courses of Loss Form-Basic<br>Courses of Loss Form-Broad<br>Courses of Loss Form-Special<br>Mobile Agricultural Machinery & Equipment $<br>Livestock $<br>Scheduled Personal Property $<br>Sewer and Sump Backup FP 04 02

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<table>
<thead>
<tr>
<th>4/14</th>
<th>Best Practices – Insuring Condominiums in Texas</th>
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<tbody>
<tr>
<td>85</td>
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## Farm Liability

<table>
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<tr>
<td>Limits: Each Occurrence - BI&amp;PD</td>
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<tr>
<td>Each Person/Org. - PI&amp;AI</td>
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<tr>
<td>Each Person - Medical Expense</td>
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<td>Each Fire - Fire Damage</td>
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<td>General Aggregate</td>
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<td>Additional Farm Premises Rented to Others FL 04 29</td>
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<tr>
<td>Business Activities FL 04 43</td>
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<td>Limited Crop Dusting Coverage FL 04 44</td>
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<tr>
<td>Farm Employers Liability and Medical Payments FL 04 65</td>
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<td>Custom Farming Liability FL 04 69</td>
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<td>All-Terrain Vehicle Coverage FL 04 74</td>
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## Personal Automobiles

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<tbody>
<tr>
<td>Effective date</td>
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</tr>
<tr>
<td>Liability</td>
<td>$__________</td>
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<tr>
<td>Uninsured/Underinsured Motorist</td>
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<tr>
<td>Medical Payments</td>
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<td>Personal Injury Protection</td>
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<td>Collision deductible</td>
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<td>Other than Collision deductible</td>
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<td>Additional Insured: Lessor PP 03 19</td>
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<td>Extended Nonowned PP 03 06</td>
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<td>Electronic Equipment PP 03 13</td>
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<td>Customizing Equipment PP 03 18</td>
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<td>Transportation Expenses PP 03 02</td>
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<td>Towing &amp; Labor PP 03 03</td>
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<td>Mexico Limited Coverage PP 03 21</td>
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<td>A&amp;D PP 13 65</td>
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<td>Named Nonowner PP 13 91</td>
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<td>Motor Home Rental PP 03 28</td>
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<td>Joint Ownership Coverage PP 03 34</td>
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<td>Auto Loan/Lease “GAP” Coverage PP 03 35</td>
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<td>Trust Endorsement PP 13 03</td>
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<td>Named Driver Exclusion:</td>
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## Life/Health

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<td>Whole</td>
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<td>Term</td>
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<td>Long Term Care</td>
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## Flood

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<tbody>
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<tr>
<td>Building</td>
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<tr>
<td>Contents</td>
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## Watercraft/Aircraft

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## Miscellaneous

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<tbody>
<tr>
<td>Umbrella</td>
<td>$__________</td>
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<tr>
<td>Retention Self-Insured</td>
<td>$__________</td>
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<td>Earthquake</td>
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<td>Inland Marine:</td>
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## Wind and Hail (TWIA)

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<tbody>
<tr>
<td>Dwelling</td>
<td>$__________</td>
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<td>Personal Property</td>
<td>$__________</td>
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<tr>
<td>Outbuildings</td>
<td>$__________</td>
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<tr>
<td>Replacement Cost-Personal Property TWIA-365</td>
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<tr>
<td>TWIA-320 (Winddriven rain, consequential, ALE)</td>
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## Describe Other Coverages

The recommended coverages have been discussed with me, and I agree to reject the coverages as indicated:

x ____________________________
### Condominium Unit Owners Coverage Checklist

(TDI Forms)

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
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<table>
<thead>
<tr>
<th>Home phone</th>
<th>Office phone</th>
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Revised by

Today’s date / / 

1 2 Coverage on policy or recommended
1 2 Coverage rejected by insured or not available

#### Condo Residence

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</table>

- **Effective date** / / 
- **HO Form:** B-CON C-CON
- **Deductible:** $
- **Coverage B. Personal Property & Unit** $ 
  - **Amount included for personal property** $
- **Coverage C. Personal Liability** $
- **Coverage D. Medical Payments** $

#### Property Options

- **Replacement Cost for Personal Property** $101
- **Agreed Amount on Dwellings** $102
- **Residence Glass Coverage** $105
- **Increase Limit Jewelry/Furs** $110
- **Increase Business Per. Prop.** $111
- **Increase Limit Money/Bankcards** $112
- **Increase Limit Bullion/Val. Pap.** $113
- **TV and Radio Antenna** $120
- **Windstorm Coverage Greenhouse** $121
- **Phys. Surg. and Dentist Outside** $125
- **Personal Computer Coverage** $126
- **$250 Theft Deductible** $130
- **Wind, Hurricane & Hail Exclusion** $140
- **Exclusion, Residential Community Property** $142
- **Scheduled Personal Property** $160
  - **Incl. Breakage** $161
- **Additional Extended Coverage** $170
- **Condo Outbuilding Coverage** $180

#### Liability Options

- **Personal Injury Coverage** $201
- **Office, Private School, Studio** $205
- **Farmers Personal Liability** $210
- **Watercraft Liability** $215
- **Business Pursuits Liability** $220
- **Additional Premises Liability** $225

#### Other Options

- **Additional Insured** $301
- **B CON Rental to Others** $380
- **C CON Rental to Others** $381
- **Loss Assessment** $382

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### Secondary Residence

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- **Occupied**
- **Rented**
- **Rented to Others**
- **Effective date** / / 
- **HO Form:** Complete separate checklist

#### Dwelling Fire Policy

- **Dwelling Policy Form:**
  - **Deductible** $
- **Dwelling** $
- **Personal Property** $
- **Liability and Medical Payments Added to Homeowners**
- **Loss of rents TDP-017 (Form 1)** $
  - **TDP-018 (Form 2)** $
- **Replacement Cost-Personal Property TDP 002**
- **Vacancy Permit TDP-001**
- **Windstorm exclusion TDP-001**
- **Residence Glass TDP-009**
- **Misc. Property Schedule TDP-012:**

#### Farm & Ranch/FRO

- **Primary**
- **Secondary**
- **Rental Dwelling**
- **Effective Date:** / / 
- **TFR Form:**
  - **A. Dwelling** $
  - **B. Pers. Property** $
  - **C. Farm Bldgs** $
  - **D. Farm Property** $
  - **Misc. Prop. Sched 062** $

- **FRO Form:**
  - **A. Dwelling** $
  - **Other Structures** $
  - **B. Personal Property** $
  - **C. Personal Liability** $
  - **Employees Included**
  - **Custom Farming**
  - **Animal Collision**
  - **D. Med. Payments** $
  - **Sched. Prop. 459** $
  - **Common Endorsements**
    - **Windstorm Exclusion 440, 051**
    - **Replacement Cost-Personal Property 401, 052**
    - **Agreed Amount 402, 058**
    - **Residence Glass 405, 059**
    - **Mobile Agricultural Machinery & Equipment 071**
    - **Additional Insured 301**
    - **B CON Rental to Others 380**
    - **C CON Rental to Others 381**
    - **Loss Assessment 382** $

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05/09
### Farm & Ranch/FRO cont’d.

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<tr>
<td></td>
<td>TFR Endorsements</td>
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<td>Scheduled Farm Property 077</td>
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<tr>
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<td>Additional Named Insurance 057</td>
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<td>Loss Payable Clause 060</td>
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<td>Vacancy Clause 061</td>
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<td>Replacement of Farm Building 063</td>
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<td>Fair Rental Value 067, 068 $ / $ / mo.</td>
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<td>Damage by Weight of Ice 069</td>
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<td>Optional Deductible 070</td>
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<td>Jewelry 410 $</td>
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<td>Business Personal Property 411</td>
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<td>Business Pursuits 520</td>
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<td>Additional Premises 525</td>
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<td>Additional Insured 601:</td>
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### Life/Health

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### Flood

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### Watercraft/Aircraft

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