

Minnesota HOA Loss Assessment Condominium and Townhouse Policies: New Law Clarifies Loss Assessment Coverage Trigger Date

The Big I MN Secures a Victory for Policyholders

A recent legislative effort by Big I MN, in collaboration with the Department of Commerce and the Insurance Federation of Minnesota, has resulted in legislation that clarifies homeowners' association (HOA) loss assessment coverage for Minnesota residents. This new law, Minn. Stat. § 65A.3025, Condominium and Townhouse Policies; Coordination of Benefits for Loss Assessment, aims to achieve uniformity and clarity in the application of loss assessment coverage across policies and how these claims are used in underwriting and rating. Minn. Stat. § 65A.3025 is effective for all policies issued on or after August 1, 2024.

Loss Assessment Coverage & Current Challenges

Coverage for loss assessments can be found in the ISO HO 6 (03/22) policy form and is almost always included in some variation in non-ISO carrier forms. In general, loss assessment coverage applies to the amounts assessed against a unit owner by an HOA due to a direct loss to property owned collectively by all association members. For coverage to apply, the damaged property must be the type covered by the policy and the loss must be the result of a covered peril.

The trigger to establish coverage for loss assessments varies by carrier and policy. Some policies pay covered events if coverage is in effect on the date the loss assessment is levied against the unit owner. Other policies require that coverage be in effect on the date of the covered event. Unit owners, and even agents, are often unaware of these subtle coverage nuances.

New Statutory Loss Assessment Coverage Provisions

Once Minn. Stat. § 65A.3025 goes into effect on August 1, 2024, coverage provided under condominium and townhome policies will apply loss assessment coverage for assessable losses as follows:

Scenario 1: Same Unit Owner on Date of Covered Event and Assessment Date

If the unit owner on the date of the covered event and the date of the loss assessment are the same, then the policy in force on the date of the claim triggering the loss assessment must respond. Payment of loss assessment claims is subject to applicable coverage, policy terms, conditions, limits, and exclusions.

Under this scenario, claims submitted for both loss assessment coverage and damage to covered property owned by the insured will be considered a single loss for underwriting and rating purposes.

Scenario 2: Different Unit Owners on Date of Covered Event and Assessment Date

If the unit owner on the date of the covered event and the date of the loss assessment are different, then the policy in force on the date of the loss assessment will respond to the loss assessment claim. Payment of loss assessment claims is subject to applicable coverage, policy terms, conditions, limits, and exclusions.

Example:

A unit owner purchases a property in an HOA on August 15, 2024 and on October 15, 2024 is assessed for hail damage that occurred to commonly owned property on August 1, 2023. The unit owner's current carrier must respond to the unit owner's loss assessment claim for coverage consideration even though the direct property loss occurred before the current owner purchased the property. All other policy provisions apply.

Clarifying Coverage for Minnesota Policyholders

Minn. Stat. § 65A.3025 provides much-needed clarity for carriers, unit owners, agents, and HOAs in Minnesota. By understanding the two scenarios outlined above, agents can effectively advise policyholders on HOA loss assessment coverage and ensure loss assessment claims are directed to the proper carriers.

Writing insurance for individuals living in an association can be very complicated. Whenever in doubt, direct questions you have about individual risks and applicable policy provisions to your company underwriter.