

PROPERTY &amp; CASUALTY

# Potential Insurance Coverage Gaps or Exclusions

## That May Surprise Condo Associations at Claim Time



Hurricanes and windstorms can cause varying degrees of damage that may be covered differently based on the policy. Here is a list of potential insurance coverage gaps and possible exclusions Associations should consider for hurricanes or windstorms to help prepare before an event or file a claim after an event.

### Wind-Driven Rain

Hurricanes and windstorms can cause water intrusion through windows, doors and other exterior openings. Typically, adjusters and building consultants will inspect the building envelope for any potential damage that may have occurred to allow water to enter the building. If there is no visible evidence of physical damage, such as roof damage or holes in the exterior from wind-driven debris, interior water damage will likely be classified as “wind-driven rain.” Frequently, policies with locations in coastal wind regions have specific language regarding wind-driven rain.

- Some policies exclude wind-driven rain if there is no associated physical damage to the building envelope. As a result, there is no recovery unless you can show physical damage to the roof or exterior that allowed water to enter the building.
- Some policies provide a specific sublimit for wind-driven rain. This sublimit may be significantly less than the overall policy limit.



### Ordinance and Law

After a loss occurs, specific ordinances may be in place that dictate how a structure can be rebuilt (construction type, materials, size, etc.). Some policies include a separate sublimit for ordinance-related work if it is required because of an insurable event and if the insured was not required to comply with the order prior to the loss. Other policies exclude expenses of this nature in their entirety.

## Protection and Preservation of Property

Insureds frequently incur expenses in advance of a storm to help protect their property, such as boarding windows/doors. Some policies do include coverage for protection and preservation of property expenses.

- Frequently an insurable event, such as a hurricane, must be “imminent” for coverage to extend. Additionally, the work must usually be “temporary” in nature only.
- There will likely be a separate sublimit for these types of expenses.
- Even if the loss does not ultimately materialize, coverage can still extend (assuming other qualifiers are satisfied). However, the deductible that would have applied had the threatened loss occurred (such as a hurricane) generally applies.
- Track incurred expenses/invoices, including internal labor utilized and submit them as part of your claim.

### Utility Service Interruption

After an area-wide event, utilities (power, water, sewer, etc.) may be interrupted because of damage.

- Some policies may exclude losses that are a result of utility service interruptions. If there is coverage, a separate sublimit may likely apply.
- Specific conditions may need to be satisfied before coverage applies:
  - » Frequently, a specified outage length must be met or exceeded prior to coverage extending (24 or 48 hours, for example). The time period can be considered a waiting period or coverage qualifier.
  - » Generally, there must be property damage from an “insurable loss” to the utility company’s facilities. Some policies will exclude damage to specific property (such as overhead lines). Additionally, the damage may have to be within a certain distance from an insured location. For example, the damage must be within five miles.
  - » To the extent possible, it can be helpful to document any damage to utility supplier’s property after a loss to support your claim.



## Flood Versus Wind Coverage

Oftentimes, condos and associations in coastal wind areas will have separate policies for wind damage and flood damage. You may have to notify both carriers if you have sustained flood and wind damage. This will likely result in two separate adjustment teams being involved with your claim: one addressing only flood and one addressing only wind.

- Generally, flood includes rising bodies of water (such as oceanic storm surge) or accumulation of water on normally dry land. Damage from this type of activity should be reported to the flood carrier.
- Water damage that results from wind-created openings in the building envelope is generally considered part of the wind (non-flood) policy.
- The flood and wind adjusters will investigate the property and surrounding area to determine the extent of damage caused by each event.
- Water damage can occur from a flood and from rain coming through a wind-created opening. This combination can complicate a definitive determination on causation. When this happens, ask the adjusters to work together in apportioning the damage causation. Otherwise, the Association can be in the middle of a dispute between carriers and potentially be left with a gap in coverage.



## Deductibles

Application of deductibles may vary greatly between policies and potentially between locations.

- **Hurricane Deductible:** Often, there will be a separate deductible for “Hurricanes” or “Named Windstorms.” Check the policy definitions to understand when this deductible applies. For example, check to see if it applies to hurricanes, tropical storms or a specific wind speed.
- **Percent of Value (SOV) (subject to minimum):**
  - » A percentage deductible is one of the most common approaches to hurricane or flood losses in policies. In this scenario, a percentage stipulated in the policy (such as 3% or 5%) is applied to the values at the property to determine the deductible. There may also be a minimum deductible threshold outlined in the policy.
  - » We suggest reviewing deductible wording closely to determine if the percentage applies to the total insured values at the property, just the property values (excluding business interruption and/or contents), values as reported at renewal or actual values at risk at the time of loss. Percentages may also be applied to the amount of loss, as opposed to the values at risk.
- **Per Building/Structure:** This deductible arrangement is advantageous when there are multiple buildings on the premises and not all of them have been damaged. Instead of the stipulated percentage being applied to the values at the entire property, the percentage is applied only to the building or buildings that have sustained damage.
- **Annual Aggregate:** Some policies include a larger annual aggregate deductible, which is reduced after an identified occurrence (for example, if losses exceed \$1M). For policies with this arrangement, we suggest tracking all expenses even if the deductible is not exceeded. This will be helpful in case another storm occurs within the same year.

## Exclusions

- Swimming pools are generally not covered by the flood policy.
- Mold:
  - » May be excluded entirely or coverage only extended if mold results from a covered cause of loss and reasonable efforts were used to mitigate damages.
  - » May be a separate sublimit.
- Docks, piers and wharves are generally excluded from coverage.
- Paved surfaces, such as sidewalks, parking lots, etc., are frequently excluded from coverage. Landscaping, plants and trees may also be excluded or sublimited (overall sublimit and per plant sublimit may apply).

## Other Considerations

- Review association governing documents (By-Laws and Articles of Incorporation) to identify insurance requirements between Association and Unit Owners. Typical insurance apportionment approaches include: “All-in” (generally, the Association is responsible for restoring the entire unit to original condition; improvements are the Unit Owner’s responsibility) or “Bare walls” (the Association covers drywall/subfloor, but finishes such as carpet, paint and fixtures remain Unit Owner’s responsibility).
- Confirm if any state laws apply. For example, Florida has statutorily fixed the insurance requirements between Associations and Unit Owners.

The above are a sampling of issues that may occur with Associations/condo owners after a large storm. We recommend reviewing your specific policy and discussing potential impacts with your insurance broker.



## How Brown & Brown Can Help

The Brown & Brown Claims team can help you with the following:

- Review carrier coverage positions
- Advocate for customer interest
- Follow up with adjuster(s) (field and desk) to confirm status of claim, monitor progress and discuss next steps in adjustment
- Strategize on loss submission to adjuster
- Facilitate communication when there are issues



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