

Hurricane Insurance Prep Is Key For Fla. Condos And HOAs

By **Kelly Corcoran** (June 30, 2022)

We are one month into the Atlantic hurricane season, and unlike years past, we have yet to have a named storm make landfall. Thankfully, Floridians have only had to deal with a tropical depression and the associated heavy rainfall.

It was a good dry run for what the National Oceanic and Atmospheric Administration predicted as an above-average season, with 14-21 named storms. It is also a good reminder to prepare for the worst but hope for the best.



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One way for community associations to prepare for hurricane season is to review their existing insurance policies to confirm adequate coverage. For community associations in Florida, adequate coverage depends on whether the association is governed by Chapter 718 or Chapter 720 of the Florida Statutes.

For homeowners associations governed by Chapter 720, the association's governing documents control necessary insurance coverages. For condominium associations governed by Chapter 718, the requirements are controlled by statute and include, but are not limited to, coverage for the full insurable value of the property, replacement cost coverage and a deductible consistent with industry standards. We recommend associations review their policies before every hurricane season.

There are also several types of coverages to review, including property, windstorm and flood.

Property policies cover the cost to repair, rebuild or replace the property that suffered direct physical loss or damage caused by a covered cause of loss. Whether a cause of loss is covered depends on if the policy is an all-risks policy or a named perils policy. Most property policies do not include coverage for damage caused by a flood. In this instance, an owner must procure a separate policy covering flood damage.

Most property policies include coverage for damage caused by a windstorm or hurricane. What varies for this coverage is the deductible that applies. Policies typically have a separate deductible for a loss caused by a hurricane or windstorm versus a loss caused by all other perils.

The all-other-perils deductible is a fixed amount, e.g., \$2,500, whereas hurricane or windstorm deductibles are a percentage of the insured value of the building, e.g., 1%, 2% or 5%. For example, if a building's insured value is \$1 million and the hurricane deductible is 5%, then the deductible would be \$50,000.

Two other important coverages to review are replacement cost and ordinance or law coverages. Replacement cost coverage provides coverage for the cost to repair or replace the damaged property without subtracting its depreciation. Ordinance or law coverage includes coverage for the cost to upgrade a building to meet local building codes or ordinances (i.e., electrical, fire suppression systems, roof) after a covered loss.

Lastly, the association should review its policies for any endorsements added after the main

form insuring agreement. Insurance companies have increasingly been adding limitations and exclusions through endorsements, which run the risk of being overlooked if the entire policy is not reviewed.

For instance, a sublimit or cap on coverage related to damage caused by water intrusion or a separate higher deductible on claims for roof damage has recently been added.

In addition to reviewing the association's insurance policies, the board should discuss disaster and restoration plans. A disaster plan includes necessary steps to prepare the property for hurricane season.

The plan consists of prestorm action items such as identifying vulnerabilities and threats, mitigating known issues, and documenting the property's condition. It also includes action items leading up to a storm's landfall, such as a final walk-through of the property, full or partial shutdown of the property or building, planned communications to owners and tenants, and purchase of supplies as necessary.

After the storm, one of the first steps to take is to implement the restoration plan. A restoration plan includes, but is not limited to, assessing and documenting damage to the property, communicating with the owners and tenants, contacting vendors, and beginning the mitigation and repair process. It is essential to document all actions taken after a storm. For instance, photograph the property before, during and after any work is performed and save all proposals and invoices.

In conjunction with implementing the restoration plan, the association should immediately notify its insurance company of a loss. The importance of this is twofold.

First, insurance companies are inundated with claims after a storm, and reporting the loss earlier will put the association toward the front of the line. Second, insurance policies contain a notice of loss provision, which establishes all the requirements for a notice.

At a minimum, the notice will include insured's name, location and basic description of the loss. By statute, a notice of a claim must be submitted within two years of the date of loss.[1]

Once notified, the insurance company will open a claim and assign an adjuster to investigate the loss. The investigation process typically includes:

- Inspection of the property;
- Completion of a sworn proof of loss by the association;
- Submission of association records;
- An examination under oath; and
- A coverage determination.

It is important to keep a record of all communications with the insurance company during this process. A record of the insurance company's actions or inactions may be necessary for future litigation should the insurance company not fulfill its obligations under the policy.

Common defenses raised by insurance companies include late notice and exclusions for damage caused by failure to maintain, wear and tear, preexisting damage, and construction defects.

Preparation is vital to prevent as much damage as possible during inclement weather. However, should the property sustain damage, being equipped to make the best case possible for maximum recovery is essential.

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[1] Florida Statute 627.70132.