

# Recovery of Insurance Deductible

This publication is intended to provide general information only and is not a substitute for legal advice.

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## Introduction

Regulations that came into effect on January 1, 2020 have clarified the options that corporations can use to recover insurance deductible costs.

Condominium corporations can recover the cost of an insurance deductible from an owner where the damage and resulting insurance claim originated in their unit or exclusive possession area (for example a storage space). Some common claims include damage caused by fire, smoke, flooding, or damage caused by the sudden and accidental escape of water from a plumbing, heating, or air conditioning system or a domestic appliance. The recovery of the deductible ensures that the corporation and other owners do not bear the burden of this cost.

As of January 1, 2020, the legislation caps the amount of the deductible that can be recovered from an owner (often referred to a “chargeback”) at \$50,000. Previously there was no cap on the deductible chargeback.

For deductible costs up to \$50,000, condominium corporations do not have to prove negligence on the part of the owner to recover the deductible.

## Exceptions

There are three instances addressed in the legislation where damage originating from someone’s unit cannot result in a deductible chargeback:

- if the damage is due to construction defects;

- if it’s caused by an act or omission of the condominium corporation, or someone employed by the corporation;
- if the damage is normal structural deterioration.

An owner is also not responsible if the claim is caused by something that happened outside of their unit or exclusive possession area, such as in the hallway of a building.

## How condominium insurance works

Under the *Condominium Property Act* and the Condominium Property Regulation, condominium corporations are required to have property insurance covering units located in a building for their full replacement value, subject to any reasonable deductible agreed to by the board and the insurer.

The regulation allows corporations to require, through their bylaws, condominium owners to purchase coverage for the amount of the corporation’s deductible, to a maximum of \$50,000. Condominium corporations must notify owners if there is a change in the amount of the corporation’s deductible so that adequate coverage can be secured. Owners may request a copy of the corporation’s current insurance certificate, including the amount of the deductible. For additional information about the documents an owner may request, please refer to “Condominium Documents” fact sheet, available at <https://www.alberta.ca/condominium-rules.aspx>.

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A bare land corporation is required to insure the common property and managed property against those perils that present a risk to the property, units or managed property. Bare land condominiums may have other insurance requirements included in their bylaws. Bare land condominium boards may want to consult their legal counsel and insurance providers for more information and guidance on what to insure.

## Insured perils

Perils covered in standard policies include:

- fire;
- leakage from fire protective equipment;
- lightning;
- smoke;
- windstorm;
- hail;
- explosion of natural gas, coal gas or manufactured gas;
- water damage caused by flood (referred to as overland flooding);
- water damage caused by sewer back-up or the sudden and accidental escape of water or steam from a plumbing, heating, sprinkler or air conditioning system or a domestic appliance that is located within an insured building;
- impact by aircraft, spacecraft, watercraft and land vehicles;
- riot, vandalism or a malicious act, other than vandalism or a malicious act caused by an owner of the unit or by an occupant or tenant;
- any other perils required by the corporation's bylaws.

Some insurers have a range of deductibles that vary in value, depending on the peril being covered. Other insurers have a single amount for the corporation's deductible.

## Types of insurance

Typically, a condominium corporation is not required to insure improvements within an owner's unit, or the contents of the unit, such as furniture or other

personal belongings. For further information about the components that would be covered by the corporation's insurance, compared to the components covered by an owner's insurance, please see the "Standard Insurable Unit Description" fact sheet, available at <https://www.alberta.ca/condominium-rules.aspx>.

## Notification of changes to insurance coverage

When there is a change in the amount of the deductible payable in the event of a claim, the replacement value of the coverage, any addition to permitted exclusions, or the standard insurable unit description (SIUD), the corporation is required to provide each owner with written notice of the change, and also provide a copy of the insurance certificate. The notice to owners and the copy of the certificate must be provided within 30 days of the date the corporation receives the insurance certificate.

The corporation must also notify owners as soon as possible if the corporation's insurance policy is cancelled.

## What owners can do

Owners should review their individual policies to determine if they already have coverage for the corporation's deductible, and determine if the coverage is adequate. Owners should also review the SIUD for their corporation to determine what parts of their unit are improvements that might require the owner to provide insurance coverage.

Owners of bare land units should also review the bylaws of their corporation, to determine what responsibilities the corporation has for repairing, maintaining and insuring managed property and what parts of the property the owner should be insuring with their personal insurance.

Condominium owners may also want to speak to an insurance broker to obtain quotes and review policies from multiple insurance providers, to compare the cost for coverage and the components that are covered.

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