

Insurance

What is the applicable legislation?

The current Act is [The Condominium Property Act, 1993](#).

The current Regulations are [The Condominium Property Regulations, 2001](#).

Both Acts and Regulations contain all recent amendments and are available on the Publications Saskatchewan website at <https://publications.saskatchewan.ca/#/freelaw>.

Who is responsible for insuring a condominium unit?

Responsibility for insuring residential condominium units is shared by the condominium corporation and the unit owner.

The condominium corporation is responsible for obtaining and maintaining insurance against any major perils on its own behalf and on behalf of the owners for all units, common property, common facilities and services units except certain bare land units.

Condominium Corporations must insure “developed bare land units.” A developed bare land unit is a building used for residential purposes that contains more than one unit or a series of buildings used for residential purposes that share common load-bearing walls and continuous roofing.

Condominium corporations may choose to insure bare land units:

- developed for non-residential purposes; and
- developed for residential purposes where units are not joined by common walls and continuous roofing.

Unit owners are responsible for carrying insurance for the contents of their unit and any improvements made to their unit that exceeds the standard for that item described in the standard unit description. Some examples of improvements beyond the standard unit description include:

- Hardwood flooring if the standard unit description includes carpeting or tile; or
- Granite or marble countertops if the standard unit description includes laminate countertops.

Subsections 65(2) and (3) of the Act

Who is responsible for insuring the owner’s furniture, clothing or other personal items?

The unit owner is responsible for insuring their furniture, clothing and other personal items. These items are collectively called the owner’s “contents.”

Section 65 of the Act

Who is responsible for insuring any improvements the owner has made to their unit?

The owner is responsible for insuring any improvements that they have made to their unit.

Subsections 65(2) and (3) of the Act

What is a “developed bare land unit”?

A developed bare land unit will have:

- a building used for residential purposes that contains more than one unit; or
- a series of buildings used for residential purposes that share common load-bearing walls and continuous roofing.

Some examples of residential buildings that may be built on developed bare land units are:

- townhouses;
- row houses;
- duplexes; and
- apartment style units.

If you want to know whether your condominium unit is part of a developed bare land unit, you should look at the approved plan of survey for your condominium. The plan of survey will tell you whether the condominium is a bare land condominium. This is important because not all condominiums that are townhouses, row houses, duplexes or apartment style units are located on a bare land condominium.

Subsection 65(1) of the Act

Can a condominium corporation opt out of carrying insurance required by the Act?

No. The Act states that “the condominium corporation **shall** obtain and maintain” when setting out the insurance obligations of condominium corporations to emphasize that condominium corporations cannot choose not to have the insurance listed in the Act.

Subsections 65(2), (9) and 47(2) of the Act

Can a condominium corporation opt to obtain insurance on units that they are not required to insure?

Yes, condominium corporations may choose to insure more units than they are required to by passing a bylaw.

Subsection 65(4) of the Act

Under what circumstances would a condominium corporation wish to create a bylaw to insure units that they are not required to insure?

A condominium corporation may choose to insure all units in the corporation to:

- ensure that all unit owners receive the same protection from the corporation's insurance policy regardless of the type of unit they own; and/or
- protect any units that the condominium corporation is required to maintain by their bylaws.

Clause 47(1)(f.1) of the Act

What are major perils and who insures against them?

Major perils include: fire, lightning, explosion or implosion, smoke, falling objects, impact by aircraft or land vehicles, riot, vandalism or malicious acts, water escape or rupture, windstorm or hail.

The condominium corporation is responsible for carrying an insurance policy that insures against damage caused by major perils.

Section 62.1 of the regulations

What is a standard unit description?

A standard unit description intended for residential purposes includes a description of any of the standard items that were provided to purchasers by the developer or includes a description of the standard items as described in a bylaw enacted by the corporation, including standard:

- (i) doors and windows;
- (ii) floors, walls and ceiling;
- (iii) lighting fixtures;
- (iv) installations with respect to:
 - (A) the provision of water and sewage and natural gas;
 - (B) the delivery of heat and ventilation; and
 - (C) the provision of electricity, telecommunications and television technologies, smoke detectors, washing machine drainage, clothes dryer outlets and exhaust outlets;
- (v) appliances;
- (vi) kitchen, bathroom and laundry plumbing, fixtures and controls; and
- (vii) kitchen, bathroom and laundry cabinets and counter tops.

Who is responsible to create a standard unit description?

Beginning June 16, 2014 the developer must provide a standard unit description for any new condominium plan.

Existing condominium corporations may also establish standard unit descriptions in their bylaws.

Clause 2(1)(z.01) of the Act
Section 11.1 of the Regulations

What is the standard unit description used for?

The standard unit description is used to assist the condominium corporation, unit owners and their insurers to determine what the condominium corporation is responsible to insure, and what the unit owner is responsible to insure.

For example, the standard unit description may indicate that the condominium corporation is responsible for laminate countertops. The owner may have granite countertops. This means that if there were a fire in the unit that damaged the countertops, the condominium corporation's insurance policy would be responsible for covering the laminate countertops and the unit owners' insurance would be responsible for covering the added costs associated with granite countertops.

Subsection 65(3) of the Act

Who is responsible for paying the deductible for a claim on the corporation's insurance policy?

The answer to this question depends on the type of the loss and the cause of the damage.

In some circumstances the condominium corporation is responsible for the deductible and may pay it out of the common expense fund.

In other circumstances, it may be appropriate to charge it to a particular unit owner who caused the damage. Please seek legal advice and advice from your insurance professional on this issue.

Subsections 65(5), (6) and (7) of the Act

Are there circumstances where a condominium corporation is not required to carry insurance on some or all of the units on their condominium plan?

Yes, bare land condominium corporations may choose to carry insurance on bare land units within their plan if those bare land units are:

- used for commercial or other non-residential purposes;
- constructed for residential purposes and:
 - contain only one residential unit per building; and

- the residential units are not connected with shared load-bearing walls and continuous roofing.

For example, commercial bare land units and residential bare land units with a single detached house built per unit do not have to be insured by the condominium corporation.

The corporation:

- must insure all “developed bare land units”; and
- may choose to insure bare land units that are not “developed bare land units.”

If you want to know whether your condominium unit is part of a developed bare land unit, you should look at the approved plan of survey for your condominium. The plan of survey will tell you whether the condominium is a bare land condominium. This is important because not all condominiums that are townhouses, row houses, duplexes or apartment style units are located on a bare land condominium.

Please seek legal advice and advice from your insurance professional if your condominium corporation needs advice on what insurance it should maintain.

Subsections 65(1) and (2) of the Act

Can an owner obtain additional insurance?

Yes. Even though the condo corporation insures the building, you will need to buy your own insurance for the contents of your individual unit and any improvements made to it.

Subsection 65(13) of the Act

Can an owner file an individual claim under the corporation’s insurance policy?

The corporation is required to carry insurance on its behalf and on behalf of the owners.

Procedures for making a claim may vary from insurer to insurer. Please contact your insurer to discuss the required procedures to make a claim under the corporation’s insurance policy.

Subsection 65(2) of the Act

Does the corporation have to notify owners before filing an insurance claim, or before filing a lawsuit?

Subject to any requirements found in the bylaws of the corporation, the Act does not specify that the corporation is required to notify owners before filing an insurance claim or before filing a lawsuit. The corporation is required to present a report on the insurance coverage at each annual general meeting.

The report must include the following items:

- (a) the insurance policy or a description of the insurance particulars, including:
 - the name of the insurance carrier;
 - the name of the insurance agent;
 - the amount of insurance;
 - the renewal date;
 - any additional endorsements; and
 - the deductible;
- (b) a list of any reported claims, including:
 - the amount of the claim;
 - the type of loss;
 - the cause of loss;
 - whether the deductible was recoverable from a unit owner; and
 - the impact on the insurance premium; and
- (c) the premium.

Subsection 65(11) of the Act

Section 62.2 of the regulations

What other types of insurance do condominium corporations have to obtain?

The corporation must obtain insurance:

- for liabilities arising due to its breach of duty as occupier of the common property, common facilities or service units;
- for liabilities arising from its ownership, or arising from the use and operation by it or its own behalf, of boilers, machinery, pressure vessels and motor vehicles;
- against liabilities incurred by a board member or officer of the corporation due to act or omission in discharging the duties unless they acted in bad faith; and
- against liabilities incurred by a board member or officer of the corporation for carrying out the function and duties of the member or the board.

Subsection 65(9) of the Act

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condos@gov.sk.ca