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BULLETIN 09-22

To: All Property & Casualty Insurance Companies, All Property & Casualty Producers, Condominium Association Management Companies, and All Interested Parties

Re: Condominium Insurance

Date: August 31, 2009

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During the 2009 Legislative Session, the Maryland General Assembly enacted SB 201/HB 287 which amends the Maryland Condominium Act, Section 11-101, *et seq.*, of the Real Property Article, Annotated Code of Maryland ("the Condo Act"). Under this legislation, the condominium association is responsible for the repair or replacement of the common elements and the condominium units, exclusive of improvements and betterments, after a casualty loss that results in damage solely to the unit as well as to damage to the common elements or structure of the condominium. *See* §11-114(g). The new law became effective June 1, 2009.

It has come to the attention of the Maryland Insurance Administration that some management companies for condominium associations are telling unit owners that their claims are not covered by the association's master policy and are telling the insurer for the master policy that there is no claim to be investigated and/or adjusted; essentially blocking the unit owner from making a claim under the master policy. This type of action is inconsistent with the amendments made to the Condo Act.

The Insurance Administration would direct all insurers to Section 11-114(c)(1) of the Condo Act that states as follows: "For property and casualty losses to the common elements and the units, exclusive of improvements and betterments installed in the units by unit owners other than the developer, each unit owner is an insured person under the policy...." Thus, it is the Insurance Administration's interpretation of the Condo Act that each unit owner is an insured under the master policy and may make a claim for a covered loss under the policy and that such a claim cannot be blocked by the management company. While a management company may act as a conduit for claims being made under the master insurance policy, essentially acting as a

third party administrator, it cannot refuse to present a claim for a unit owner. Further, if an insurance producer becomes aware of a claim potentially covered under the master policy, the producer is obligated to report said claim to the insurer for the master policy. Additionally, in the event that the insurer for the association's master policy becomes aware of a claim, it must take reasonable actions to investigate and adjust the claim as per its policy. All insurers owe the association and the individual unit owners a duty of good faith in the handling of these first party claims.

If you have any questions about this Bulletin, please contact P. Randi Johnson, Associate Commissioner, Property & Casualty, by telephone at (410) 468-2301 or by E-mail at prjohnson@mdinsurance.state.md.us.

Ralph S. Tyler, Insurance Commissioner

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