

April 25, 2018

CIRCULAR LETTER TO ALL MEMBER COMPANIES

Re: Dwelling Policy Program  
Revised DP 32 32 Special Provisions - North Carolina  
Assignment of Benefits and Reasonable Repairs

The Commissioner of Insurance has recently approved revisions to the DP 32 32 – Special Provisions – North Carolina which is designed for use in North Carolina on a mandatory basis with the Dwelling Policy Program.

The revised endorsement revises the *Reasonable Repairs* provision under Other Coverages and revises the *Assignment* provision under Conditions.

For your convenience, please find attached a copy of revised endorsement DP 32 32, Special Provisions - North Carolina.

These changes become effective in accordance with the following Rule of Application:

These changes are applicable to all new and renewal policies becoming effective on or after October 1, 2018.

Please see to it that this circular is brought to the attention of all interested personnel in your company.

Sincerely,

Andy Montano

Director, Personal Lines

AM:ko  
Attachments  
P-18-1

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## SPECIAL PROVISIONS – NORTH CAROLINA

### DEFINITIONS

The following definition is added:

"Fungi" means any type or form of fungus, including mold or mildew and any mycotoxins, spores, scents or by-products produced or released by fungi.

### COVERAGES

Paragraph **C.2.e.(2)** is replaced by the following:

- (2) We do cover motor vehicles or other motorized land conveyances not required to be registered for use on public roads or property which are:
  - (a) Used to service the Described Location; or
  - (b) Designed to assist the handicapped;

In Basic Coverage Form **DP 00 01**, Paragraph **5. Rental Value** under **E. Other Coverages** is replaced by the following:

#### 5. Rental Value

You may use up to 10% of the Coverage **A** limit of liability for loss of fair rental value as described in Coverage **D**. We will pay only 1/12 of this 10% for each month the rented part of the Described Location is unfit for its normal use.

Payment under this coverage reduces the Coverage **A** limit of liability by the amount paid for the same loss.

In Broad Form **DP 00 02** and Special Form **DP 00 03**, Paragraph **5. Rental Value And Additional Living Expense** under **F. Other Coverages** is replaced by the following:

#### 5. Rental Value And Additional Living Expense

You may use up to 10% of the Coverage **A** limit of liability for loss of both fair rental value as described in Coverage **D** and additional living expense as described in Coverage **E**.

This coverage is additional insurance.

Under **F. OTHER COVERAGES**, Paragraph **6. Reasonable Repairs** is replaced by the following:

#### 6. Reasonable Repairs

**a.** In the event that covered property is damaged by a Peril Insured Against, we will pay the reasonable cost incurred by you for necessary measures taken solely to protect against further damage

**b.** If the measures taken involve repair to other damaged property, we will pay for those measures only if that property is covered under this policy and the damage to that property is caused by a Peril Insured Against.

**c.** Coverage provided under **a.** and **b.** does not:

**(1)** Increase the limit of liability that applies to the covered property; or

**(2)** Relieve you of your duties, in case of a loss to covered property, described in **Section I – Conditions, D.2. Duties After Loss**; and is limited to the greater of:

**(3)** \$3,000; or

**(4)** 1% of your Coverage **A** limit of liability;

unless we grant you approval within 72 hours of your request to exceed the limit. In such circumstance we will pay only up to the additional amount for the measures we authorize.

If we fail to respond to you within 72 hours of your request to us and the damage is caused by a Peril Insured Against you may exceed the amount stated above only up to the cost incurred by you for the reasonable repairs necessary to protect the covered property from further damage.

**d.** In the event such repairs are undertaken, we have the right to inspect the repairs and the removed property which, to the extent possible, you are required to retain.

(This is Paragraph **6.** under **E. Other Coverages** in Form **DP 00 01.**)

The following is added under Paragraph **F. Other Coverages**:

#### 13. "Fungi", Wet Or Dry Rot, Or Bacteria

**a.** We will pay up to a total of \$5,000 for:

- (1) Direct physical loss to property covered under Coverage **A** – Dwelling, Coverage **B** – Other Structures and Coverage **C** – Personal Property caused by, resulting from, or consisting of "fungi", wet or dry rot, or bacteria if the direct result of a Peril Insured Against; and
- (2) The necessary increase in costs which you incur to maintain your normal standard of living when the Described Location is uninhabitable due to a loss caused by, resulting from, or consisting of "fungi", wet or dry rot, or bacteria which is the direct result of a Peril Insured Against.

The coverage provided above is the only coverage under Coverage **A** – Dwelling, Coverage **B** – Other Structures, Coverage **C** – Personal Property, and if provided in this policy, Coverage **D** – Fair Rental Value and Coverage **E** – Additional Living Expenses, for damage or loss caused by, resulting from, or consisting of "fungi", wet or dry rot, or bacteria caused directly or indirectly regardless of any other cause or event contributing concurrently or in any sequence.

- b. The \$5,000 limit is the most we will pay for the cost:
  - (1) To remove "fungi", wet or dry rot, or bacteria from covered property;
  - (2) To tear out and replace any part of the building or other covered property as needed to gain access to the "fungi", wet or dry rot, or bacteria; and
  - (3) Of any testing of air or property to confirm the absence, presence or level of "fungi", wet or dry rot, or bacteria whether performed prior to, during or after removal, repair, restoration or replacement. The cost of such testing will be provided only to the extent that there is a reason to believe that there is the presence of "fungi", wet or dry rot, or bacteria.
- c. The coverage provided above applies only when such loss or costs are the result of a Peril Insured Against that occurs during the policy period and only if all reasonable means were used to save and protect the property from further damage at or after the time of the occurrence of that Peril Insured Against.

- d. If there is covered loss or damage to covered property, not caused, in whole or in part, by "fungi", wet or dry rot, or bacteria, loss payment will not be limited by the terms of this Other Coverage, except to the extent that "fungi", wet or dry rot, or bacteria causes an increase in the loss. Any such increase in the loss will be subject to the terms of this Other Coverage.

This is additional insurance and is the most we will pay for the total of all loss or costs payable under this Other Coverage regardless of the number of locations insured or the number of claims made. No deductible applies to this coverage.

(This is Paragraph **9.** under **E.** Other Coverages in Form **DP 00 01.**)

#### **PERILS INSURED AGAINST**

Basic Coverage Form **DP 00 01** and Broad Coverage Form **DP 00 02** only.

Under **2. Windstorm Or Hail**, Paragraph **b.** is replaced by the following:

- b. To the following property when outside of the building, unless specifically shown on Endorsement **DP 32 19** or the Declarations Page:
  - (1) Signs or cloth awnings, including their supports;
  - (2) Radio or television antennas or aerials, including their lead-in wiring, masts or towers;
  - (3) Swimming pools;
  - (4) Screens, including their supports, around a swimming pool, patio or other areas;
  - (5) Fences, property line and similar walls, including seawalls;
  - (6) Bathhouses, cabanas, greenhouses, hot-houses, pergolas, slathouses, trellises;
  - (7) Outdoor equipment used to service the Described Location;
  - (8) Structures located over water, whether or not permanently attached to the ground, including the property in or on the structure; or

Basic Coverage Form **DP 00 01** only.

Under **2. Windstorm Or Hail**, the following paragraph is added:

- c. Caused by frost or cold weather, or ice (other than hail), snow or sleet, whether driven by wind or not.

**Broad Coverage Form DP 00 02 only.**

Under **2. Windstorm Or Hail**, the following paragraphs are added:

- c. To lawns, plants, shrubs or trees; or
- d. Caused by frost or cold weather, or ice (other than hail), snow or sleet, whether driven by wind or not.

Special Coverage Form **DP 00 03** only.

Under **B. Coverage C – Personal Property**, Paragraph **2. Windstorm Or Hail** is replaced by the following:

**2. Windstorm Or Hail**

This peril does not include loss:

- a. To property contained in a building caused by rain, snow, sleet, sand or dust unless the direct force of wind or hail damages the building causing an opening in a roof or wall and the rain, snow, sleet, sand or dust enters through this opening;
- b. To plants, shrubs or trees; or
- c. Caused by frost or cold weather, or ice (other than hail), snow or sleet, whether driven by wind or not.

In Special Coverage Form **DP 00 03**, under **A. Coverage A – Dwelling** and **Coverage B – Other Structure** and in Endorsement **DP 04 65**, under **Perils Insured Against**, Paragraph **2.c.(8)(c)** is replaced by the following:

- (c) Smog, rust, or other corrosion;

**GENERAL EXCLUSIONS**

Basic Coverage Form **DP 00 01**, Broad Coverage Form **DP 00 02** and Special Coverage Form **DP 00 03**.

**3. Water Damage** is replaced by the following:

**3. Water**

This means:

- a. Flood, including but not limited to flash flood, surface water, waves, including tidal wave and tsunami, seiche, tides, tidal water, overflow of any body of water, or spray from any of these, all whether or not driven by wind, including storm surge;
- b. Water which:
  - (1) Backs up through sewers or drains; or
  - (2) Overflows or is otherwise discharged from a sump, sump pump or related equipment;
- c. Water below the surface of the ground including water which exerts pressure on, or seeps, leaks or flows through a building, sidewalk, driveway, patio, foundation, swimming pool or other structure; or

- d. Waterborne material carried or otherwise moved by any of the water referred to in **3.a.** through **3.c.** of this Exclusion.

This Exclusion (**3.**) applies regardless of whether any of the above, in **3.a.** through **3.d.** is caused by an act of nature, an act of man or is otherwise caused.

This Exclusion (**3.**) applies to, but is not limited to, escape, overflow or discharge, for any reason, of water or waterborne material from a dam, levee, seawall or any other boundary or containment system whether natural, man-made or is otherwise made.

However, direct loss by fire or explosion resulting from any of the above, in **3.a.** through **3.d.**, is covered.

(This is Exclusion **A.3.** in Forms **DP 00 01** and **DP 00 03.**)

**8. Intentional Loss** is replaced by the following:

**8. Intentional Loss**

Intentional loss means any loss arising out of any act you or any person or organization named as an additional insured commits or conspires to commit with the intent to cause a loss.

This exclusion only applies to the person insured who commits or conspires to commit an act with an intent to cause a loss.

(This is Paragraph **A.8.** in Form **DP 00 03.**)

The following exclusion is added:

**10. "Fungi", Wet Or Dry Rot, Or Bacteria**

"Fungi", Wet Or Dry Rot, Or Bacteria means the presence, growth, proliferation, spread or any activity of "fungi", wet or dry rot, or bacteria other than as provided in Other Coverage, "Fungi", Wet Or Dry Rot, Or Bacteria.

(This is General Exclusion **A.10.** in Forms **DP 00 01** and **DP 00 03.**)

Basic Coverage Form **DP 00 01** only.

Exclusion **B.** is replaced by the following:

- B.** We do not cover loss to lawns, plants, shrubs or trees.

Special Coverage Form **DP 00 03** only.

The following exclusion is added to Paragraph **A.:**

**11. Windstorm Or Hail To Certain Property When Outside Of The Building**

This exclusion applies to the following property when outside of the building unless specifically shown on Endorsement **DP 32 19** or the Declarations Page:

- a. Signs or cloth awnings, including their supports;

- b. Swimming pools;
- c. Screens, including their supports, around a swimming pool, patio or other areas;
- d. Fences, property line and similar walls, including seawalls;
- e. Bathhouses, cabanas, greenhouses, hot-houses, pergolas, slathouses, trellises;
- f. Outdoor equipment used to service the Described Location; or
- g. Structures located over water, whether or not permanently attached to the ground, including the property in or on the structure.

**CONDITIONS**

Under **D. Duties After Loss:**

Paragraph **5.c.** is replaced by the following:

- c. Submit to examination under oath, while not in the presence of any other insured under the policy, and sign the same;

The following is added to the end of Paragraph **6.:**

However, if a state of disaster is proclaimed or declared for the State of North Carolina or for an area within the state in accordance with North Carolina law and the covered property that has sustained loss is located within the geographic area designated in the disaster proclamation or declaration, this 60-day period shall not commence until the expiration of the disaster proclamation or declaration, including all renewals of the proclamation or 45 days, whichever is later.

In Broad Coverage Form **DP 00 02** and Special Coverage Form **DP 00 03**, under **E. Loss Settlement**, Paragraph **2.a.** is replaced by the following:

- 2. Buildings under Coverage **A** or **B** at replacement cost without deduction for depreciation, subject to the following:
  - a. If, at the time of loss, the amount of insurance in this policy on the damaged building is 80% or more of the full replacement cost of the building immediately before the loss, we will pay the cost to repair or replace, after application of any deductible and without deduction for depreciation, but not more than the least of the following amounts:
    - (1) The limit of liability under this policy that applies to the building;
    - (2) The replacement cost of that part of the building damaged with material of like kind and quality and for like use; or
    - (3) The necessary amount actually spent to repair or replace the damaged building on the premises described in the policy or some other location within the State of North Carolina.

Basic Coverage Form **DP 00 01**, Broad Coverage Form **DP 00 02** and Special Coverage Form **DP 00 03**.

**G. Appraisal** is replaced by the following:

**G. Appraisal**

If you and we fail to agree on the value or amount of any item or loss, either may demand an appraisal of such item or loss. In this event, each party will choose a competent and disinterested appraiser within 20 days after receiving a written request from the other. The two appraisers will choose a competent and impartial umpire. If they cannot agree upon an umpire within 15 days, you or we may request that a choice be made by a judge of a court of record in the state where the dwelling on the Described Location shown in the Declarations is located. The appraisers will separately set the amount of loss. If the appraisers submit a written report of an agreement to us, the amount agreed upon will be the amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will set the amount of loss. Each party will:

- 1. Pay its own appraiser; and
- 2. Bear the other expenses of the appraisal and umpire equally.

In no event will an appraisal be used for the purpose of interpreting any policy provision, determining causation or determining whether any item or loss is covered under this policy. If there is an appraisal, we still retain the right to deny the claim.

**J. Suit Against Us** is replaced by the following:

**J. Suit Against Us**

No action can be brought against us unless there has been full compliance with all of the terms under this policy and the action is started within three years after the date of loss.

(This is Condition **K.** in Form **DP 00 01.**)

**L. Loss Payment** is replaced by the following:

**L. Loss Payment**

We will adjust all losses with you. We will pay you unless some other person is named in the policy or is legally entitled to receive payment. We will pay within 60 days after the amount is finally determined.

This amount may be determined by:

- 1. Reaching an agreement with you;
- 2. Entry of a final judgment; or
- 3. The filing of an appraisal award with us.

(This is Condition **M.** in Form **DP 00 01.**)

Paragraph **T. Assignment** is replaced by the following:

**T. Assignment**

1. Assignment of this policy will not be valid unless we give our written consent.
2. The benefits of this policy that may be available to you following a covered loss may not be assigned unless:
  - a. All duties listed in **Section 1 -Conditions, D. Duties After Loss** are performed by you, and
  - b. An inspection of the damage has been conducted by an adjuster authorized by us, or we give our written consent.

(This is Condition U. in Form DP 00 01.)

The following condition is added and applies to all risks located in Protection Class 9, 9E, 9S or 10 in the State of North Carolina:

**AA.Vacancy And/Or Unoccupancy (Unprotected Dwellings)**

1. Coverage is extended for the described dwelling while it is vacant for not more than 60 consecutive days immediately before the loss; or unoccupied for not more than 90 consecutive days immediately before the loss.
2. If the vacancy or unoccupancy exceeds the respective period stated above, coverage must be extended for an additional period of vacancy and/or unoccupancy by use of Endorsement **DP 32 52**, otherwise all coverage on such dwelling shall be suspended during the period of vacancy or unoccupancy.
3. "Unoccupied" means the dwelling is entirely furnished but with personal habitants temporarily absent, provided the dwelling is secured against intrusion during this period; except as otherwise provided in this policy for certain specified perils.
4. A building being constructed shall not be considered vacant.

(This is Condition Z. in Form **DP 00 02** and Form **DP 00 03**.)

The following condition is added to Basic Coverage Form **DP 00 01**, Broad Coverage Form **DP 00 02** and Special Coverage Form **DP 00 03**:

**BB.Choice Of Law**

This policy is issued in accordance with the laws of North Carolina and covers property or risks principally located in North Carolina. Any and all claims or disputes in any way related to this policy shall be governed by the laws of North Carolina.

(This is Condition **AA.** in Form **DP 00 02** and Form **DP 00 03**.)

**SPECIAL CONDITIONS**

When this policy insures real property of a condominium association, the following Provisions 1. through 3. apply:

1. **Conditions, Other Insurance And Service Agreement** is replaced by the following:

1. **Other Insurance And Service Agreement**

If, at the time of loss, there is other insurance or a service agreement, in the name of a unit-owner, covering the same property covered by this policy, this policy shall provide primary insurance.

2. **Conditions, Paragraph J. Subrogation**, the following sentence is added:

However, we waive any rights of recovery against a unit-owner or member of the unit-owner's household.

3. An act or omission by a unit-owner, unless acting within the scope of his authority on behalf of the condominium association, will **not** preclude recovery by you under this policy.

All other provisions of this policy apply.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **SPECIAL PROVISIONS – NORTH CAROLINA**

### **DEFINITIONS**

The following definition is added:

"Fungi" means any type or form of fungus, including mold or mildew and any mycotoxins, spores, scents or by-products produced or released by fungi.

### **COVERAGES**

Paragraph **C.2.e.(2)** is replaced by the following:

- (2) We do cover motor vehicles or other motorized land conveyances not required to be registered for use on public roads or property which are:

- (a) Used to service the Described Location; or  
(b) Designed to assist the handicapped;

In Basic Coverage Form **DP 00 01**, Paragraph **5. Rental Value** under **E. Other Coverages** is replaced by the following:

#### **5. Rental Value**

You may use up to 10% of the Coverage **A** limit of liability for loss of fair rental value as described in Coverage **D**. We will pay only 1/12 of this 10% for each month the rented part of the Described Location is unfit for its normal use.

Payment under this coverage reduces the Coverage **A** limit of liability by the amount paid for the same loss.

In Broad Form **DP 00 02** and Special Form **DP 00 03**, Paragraph **5. Rental Value And Additional Living Expense** under **F. Other Coverages** is replaced by the following:

#### **5. Rental Value And Additional Living Expense**

You may use up to 10% of the Coverage **A** limit of liability for loss of both fair rental value as described in Coverage **D** and additional living expense as described in Coverage **E**.

This coverage is additional insurance.

Under **F.OTHER COVERAGES**, Paragraph **6. Reasonable Repairs** is replaced by the following:

#### **6. Reasonable Repairs**

- a. In the event that covered property is damaged by a Peril Insured Against, we will pay the reasonable cost incurred by you for necessary measures taken solely to protect against further damage  
b. If the measures taken involve repair to other damaged property, we will pay for those measures only if that property is covered under this policy and the damage to that property is caused by a Peril Insured Against.

c. Coverage provided under **a.** and **b.** does not:

- (1) Increase the limit of liability that applies to the covered property; or

- (2) Relieve you of your duties, in case of a loss to covered property, described in **Section I – Conditions, D.2. Duties After Loss**; and

is limited to the greater of:

- (3) \$3,000; or

- (4) 1% of your Coverage **A** limit of liability;

unless we grant you approval within 72 hours of your request to exceed the limit. In such circumstance we will pay only up to the additional amount for the measures we authorize.

If we fail to respond to you within 72 hours of your request to us and the damage is caused by a Peril Insured Against you may exceed the amount stated above only up to the cost incurred by you for the reasonable repairs necessary to protect the covered property from further damage.

- d. In the event such repairs are undertaken, we have the right to inspect the repairs and the removed property which, to the extent possible, you are required to retain.

(This is Paragraph **6.** under **E. Other Coverages** in Form **DP 00 01.**)

The following is added under Paragraph **F. Other Coverages**:

#### **13. "Fungi", Wet Or Dry Rot, Or Bacteria**

- a. We will pay up to a total of \$5,000 for:

- (1) Direct physical loss to property covered under Coverage **A** – Dwelling, Coverage **B** – Other Structures and Coverage **C** – Personal Property caused by, resulting from, or consisting of "fungi", wet or dry rot, or bacteria if the direct result of a Peril Insured Against; and
- (2) The necessary increase in costs which you incur to maintain your normal standard of living when the Described Location is uninhabitable due to a loss caused by, resulting from, or consisting of "fungi", wet or dry rot, or bacteria which is the direct result of a Peril Insured Against.

The coverage provided above is the only coverage under Coverage **A** – Dwelling, Coverage **B** – Other Structures, Coverage **C** – Personal Property, and if provided in this policy, Coverage **D** – Fair Rental Value and Coverage **E** – Additional Living Expenses, for damage or loss caused by, resulting from, or consisting of "fungi", wet or dry rot, or bacteria caused directly or indirectly regardless of any other cause or event contributing concurrently or in any sequence.

- b. The \$5,000 limit is the most we will pay for the cost:
  - (1) To remove "fungi", wet or dry rot, or bacteria from covered property;
  - (2) To tear out and replace any part of the building or other covered property as needed to gain access to the "fungi", wet or dry rot, or bacteria; and
  - (3) Of any testing of air or property to confirm the absence, presence or level of "fungi", wet or dry rot, or bacteria whether performed prior to, during or after removal, repair, restoration or replacement. The cost of such testing will be provided only to the extent that there is a reason to believe that there is the presence of "fungi", wet or dry rot, or bacteria.
- c. The coverage provided above applies only when such loss or costs are the result of a Peril Insured Against that occurs during the policy period and only if all reasonable means were used to save and protect the property from further damage at or after the time of the occurrence of that Peril Insured Against.

- d. If there is covered loss or damage to covered property, not caused, in whole or in part, by "fungi", wet or dry rot, or bacteria, loss payment will not be limited by the terms of this Other Coverage, except to the extent that "fungi", wet or dry rot, or bacteria causes an increase in the loss. Any such increase in the loss will be subject to the terms of this Other Coverage.

This is additional insurance and is the most we will pay for the total of all loss or costs payable under this Other Coverage regardless of the number of locations insured or the number of claims made. No deductible applies to this coverage.

(This is Paragraph **9.** under **E.** Other Coverages in Form **DP 00 01.**)

#### **PERILS INSURED AGAINST**

Basic Coverage Form **DP 00 01** and Broad Coverage Form **DP 00 02** only.

Under **2. Windstorm Or Hail**, Paragraph **b.** is replaced by the following:

- b. To the following property when outside of the building, unless specifically shown on Endorsement **DP 32 19** or the Declarations Page:
  - (1) Signs or cloth awnings, including their supports;
  - (2) Radio or television antennas or aerials, including their lead-in wiring, masts or towers;
  - (3) Swimming pools;
  - (4) Screens, including their supports, around a swimming pool, patio or other areas;
  - (5) Fences, property line and similar walls, including seawalls;
  - (6) Bathhouses, cabanas, greenhouses, hot-houses, pergolas, slathouses, trellises;
  - (7) Outdoor equipment used to service the Described Location;
  - (8) Structures located over water, whether or not permanently attached to the ground, including the property in or on the structure; or

Basic Coverage Form **DP 00 01** only.

Under **2. Windstorm Or Hail**, the following paragraph is added:

- c. Caused by frost or cold weather, or ice (other than hail), snow or sleet, whether driven by wind or not.



**Broad Coverage Form DP 00 02 only.**

Under **2. Windstorm Or Hail**, the following paragraphs are added:

- c. To lawns, plants, shrubs or trees; or
- d. Caused by frost or cold weather, or ice (other than hail), snow or sleet, whether driven by wind or not.

Special Coverage Form **DP 00 03** only.

Under **B. Coverage C – Personal Property**, Paragraph **2. Windstorm Or Hail** is replaced by the following:

**2. Windstorm Or Hail**

This peril does not include loss:

- a. To property contained in a building caused by rain, snow, sleet, sand or dust unless the direct force of wind or hail damages the building causing an opening in a roof or wall and the rain, snow, sleet, sand or dust enters through this opening;
- b. To plants, shrubs or trees; or
- c. Caused by frost or cold weather, or ice (other than hail), snow or sleet, whether driven by wind or not.

In Special Coverage Form **DP 00 03**, under **A. Coverage A – Dwelling** and **Coverage B – Other Structure** and in Endorsement **DP 04 65**, under **Perils Insured Against**, Paragraph **2.c.(8)(c)** is replaced by the following:

- (c) Smog, rust, or other corrosion;

**GENERAL EXCLUSIONS**

Basic Coverage Form **DP 00 01**, Broad Coverage Form **DP 00 02** and Special Coverage Form **DP 00 03**.

**3. Water Damage** is replaced by the following:

**3. Water**

This means:

- a. Flood, including but not limited to flash flood, surface water, waves, including tidal wave and tsunami, seiche, tides, tidal water, overflow of any body of water, or spray from any of these, all whether or not driven by wind, including storm surge;
- b. Water which:
  - (1) Backs up through sewers or drains; or
  - (2) Overflows or is otherwise discharged from a sump, sump pump or related equipment;
- c. Water below the surface of the ground including water which exerts pressure on, or seeps, leaks or flows through a building, sidewalk, driveway, patio, foundation, swimming pool or other structure; or

- d. Waterborne material carried or otherwise moved by any of the water referred to in **3.a.** through **3.c.** of this Exclusion.

This Exclusion **(3.)** applies regardless of whether any of the above, in **3.a.** through **3.d.** is caused by an act of nature, an act of man or is otherwise caused.

This Exclusion **(3.)** applies to, but is not limited to, escape, overflow or discharge, for any reason, of water or waterborne material from a dam, levee, seawall or any other boundary or containment system whether natural, man-made or is otherwise made.

However, direct loss by fire or explosion resulting from any of the above, in **3.a.** through **3.d.**, is covered.

(This is Exclusion **A.3.** in Forms **DP 00 01** and **DP 00 03.**)

**8. Intentional Loss** is replaced by the following:

**8. Intentional Loss**

Intentional loss means any loss arising out of any act you or any person or organization named as an additional insured commits or conspires to commit with the intent to cause a loss.

This exclusion only applies to the person insured who commits or conspires to commit an act with an intent to cause a loss.

(This is Paragraph **A.8.** in Form **DP 00 03.**)

The following exclusion is added:

**10. "Fungi", Wet Or Dry Rot, Or Bacteria**

"Fungi", Wet Or Dry Rot, Or Bacteria means the presence, growth, proliferation, spread or any activity of "fungi", wet or dry rot, or bacteria other than as provided in Other Coverage, "Fungi", Wet Or Dry Rot, Or Bacteria.

(This is General Exclusion **A.10.** in Forms **DP 00 01** and **DP 00 03.**)

Basic Coverage Form **DP 00 01** only.

Exclusion **B.** is replaced by the following:

- B.** We do not cover loss to lawns, plants, shrubs or trees.

Special Coverage Form **DP 00 03** only.

The following exclusion is added to Paragraph **A.:**

**11. Windstorm Or Hail To Certain Property When Outside Of The Building**

This exclusion applies to the following property when outside of the building unless specifically shown on Endorsement **DP 32 19** or the Declarations Page:

- a. Signs or cloth awnings, including their supports;

- b. Swimming pools;
- c. Screens, including their supports, around a swimming pool, patio or other areas;
- d. Fences, property line and similar walls, including seawalls;
- e. Bathhouses, cabanas, greenhouses, hot-houses, pergolas, slathouses, trellises;
- f. Outdoor equipment used to service the Described Location; or
- g. Structures located over water, whether or not permanently attached to the ground, including the property in or on the structure.

**CONDITIONS**

**Under D. Duties After Loss:**

Paragraph 5.c. is replaced by the following:

- c. Submit to examination under oath, while not in the presence of any other insured under the policy, and sign the same;

The following is added to the end of Paragraph 6.:

However, if a state of disaster is proclaimed or declared for the State of North Carolina or for an area within the state in accordance with North Carolina law and the covered property that has sustained loss is located within the geographic area designated in the disaster proclamation or declaration, this 60-day period shall not commence until the expiration of the disaster proclamation or declaration, including all renewals of the proclamation or 45 days, whichever is later.

In Broad Coverage Form **DP 00 02** and Special Coverage Form **DP 00 03**, under **E. Loss Settlement**, Paragraph 2.a. is replaced by the following:

- 2. Buildings under Coverage **A** or **B** at replacement cost without deduction for depreciation, subject to the following:
  - a. If, at the time of loss, the amount of insurance in this policy on the damaged building is 80% or more of the full replacement cost of the building immediately before the loss, we will pay the cost to repair or replace, after application of any deductible and without deduction for depreciation, but not more than the least of the following amounts:
    - (1) The limit of liability under this policy that applies to the building;
    - (2) The replacement cost of that part of the building damaged with material of like kind and quality and for like use; or
    - (3) The necessary amount actually spent to repair or replace the damaged building on the premises described in the policy or some other location within the State of North Carolina.

Basic Coverage Form **DP 00 01**, Broad Coverage Form **DP 00 02** and Special Coverage Form **DP 00 03**.

**G. Appraisal** is replaced by the following:

**G. Appraisal**

If you and we fail to agree on the value or amount of any item or loss, either may demand an appraisal of such item or loss. In this event, each party will choose a competent and disinterested appraiser within 20 days after receiving a written request from the other. The two appraisers will choose a competent and impartial umpire. If they cannot agree upon an umpire within 15 days, you or we may request that a choice be made by a judge of a court of record in the state where the dwelling on the Described Location shown in the Declarations is located. The appraisers will separately set the amount of loss. If the appraisers submit a written report of an agreement to us, the amount agreed upon will be the amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will set the amount of loss. Each party will:

- 1. Pay its own appraiser; and
- 2. Bear the other expenses of the appraisal and umpire equally.

In no event will an appraisal be used for the purpose of interpreting any policy provision, determining causation or determining whether any item or loss is covered under this policy. If there is an appraisal, we still retain the right to deny the claim.

**J. Suit Against Us** is replaced by the following:

**J. Suit Against Us**

No action can be brought against us unless there has been full compliance with all of the terms under this policy and the action is started within three years after the date of loss.

(This is Condition **K.** in Form **DP 00 01**.)

**L. Loss Payment** is replaced by the following:

**L. Loss Payment**

We will adjust all losses with you. We will pay you unless some other person is named in the policy or is legally entitled to receive payment. We will pay within 60 days after the amount is finally determined.

This amount may be determined by:

- 1. Reaching an agreement with you;
- 2. Entry of a final judgment; or
- 3. The filing of an appraisal award with us.

(This is Condition **M.** in Form **DP 00 01**.)

Paragraph **T. Assignment** is replaced by the following:

**T. Assignment**

1. Assignment of this policy will not be valid unless we give our written consent.
2. The benefits of this policy that may be available to you following a covered loss may not be assigned unless:
  - a. All duties listed in **Section 1 -Conditions, D. Duties After Loss** are performed by you, and
  - b. An inspection of the damage has been conducted by an adjuster authorized by us, or we give our written consent.

(This is Condition U. in Form DP 00 01.)

The following condition is added and applies to all risks located in Protection Class 9, 9E, 9S or 10 in the State of North Carolina:

**AA.Vacancy And/Or Unoccupancy (Unprotected Dwellings)**

1. Coverage is extended for the described dwelling while it is vacant for not more than 60 consecutive days immediately before the loss; or unoccupied for not more than 90 consecutive days immediately before the loss.
2. If the vacancy or unoccupancy exceeds the respective period stated above, coverage must be extended for an additional period of vacancy and/or unoccupancy by use of Endorsement **DP 32 52**, otherwise all coverage on such dwelling shall be suspended during the period of vacancy or unoccupancy.
3. "Unoccupied" means the dwelling is entirely furnished but with personal habitants temporarily absent, provided the dwelling is secured against intrusion during this period; except as otherwise provided in this policy for certain specified perils.
4. A building being constructed shall not be considered vacant.

(This is Condition **Z.** in Form **DP 00 02** and Form **DP 00 03.**)

The following condition is added to Basic Coverage Form **DP 00 01**, Broad Coverage Form **DP 00 02** and Special Coverage Form **DP 00 03**:

**BB.Choice Of Law**

This policy is issued in accordance with the laws of North Carolina and covers property or risks principally located in North Carolina. Any and all claims or disputes in any way related to this policy shall be governed by the laws of North Carolina.

(This is Condition **AA.** in Form **DP 00 02** and Form **DP 00 03.**)

**SPECIAL CONDITIONS**

When this policy insures real property of a condominium association, the following Provisions **1.** through **3.** apply:

**1. Conditions, Other Insurance And Service Agreement** is replaced by the following:

**1. Other Insurance And Service Agreement**

If, at the time of loss, there is other insurance or a service agreement, in the name of a unit-owner, covering the same property covered by this policy, this policy shall provide primary insurance.

**2. Conditions, Paragraph J. Subrogation,** the following sentence is added:

However, we waive any rights of recovery against a unit-owner or member of the unit-owner's household.

**3. An act or omission by a unit-owner, unless acting within the scope of his authority on behalf of the condominium association, will **not** preclude recovery by you under this policy.**

All other provisions of this policy apply.