

# Current Trends in HOA Insurance: A Legal Perspective



Community Association  
Underwriters of America, Inc.'s  
Seminar 2007

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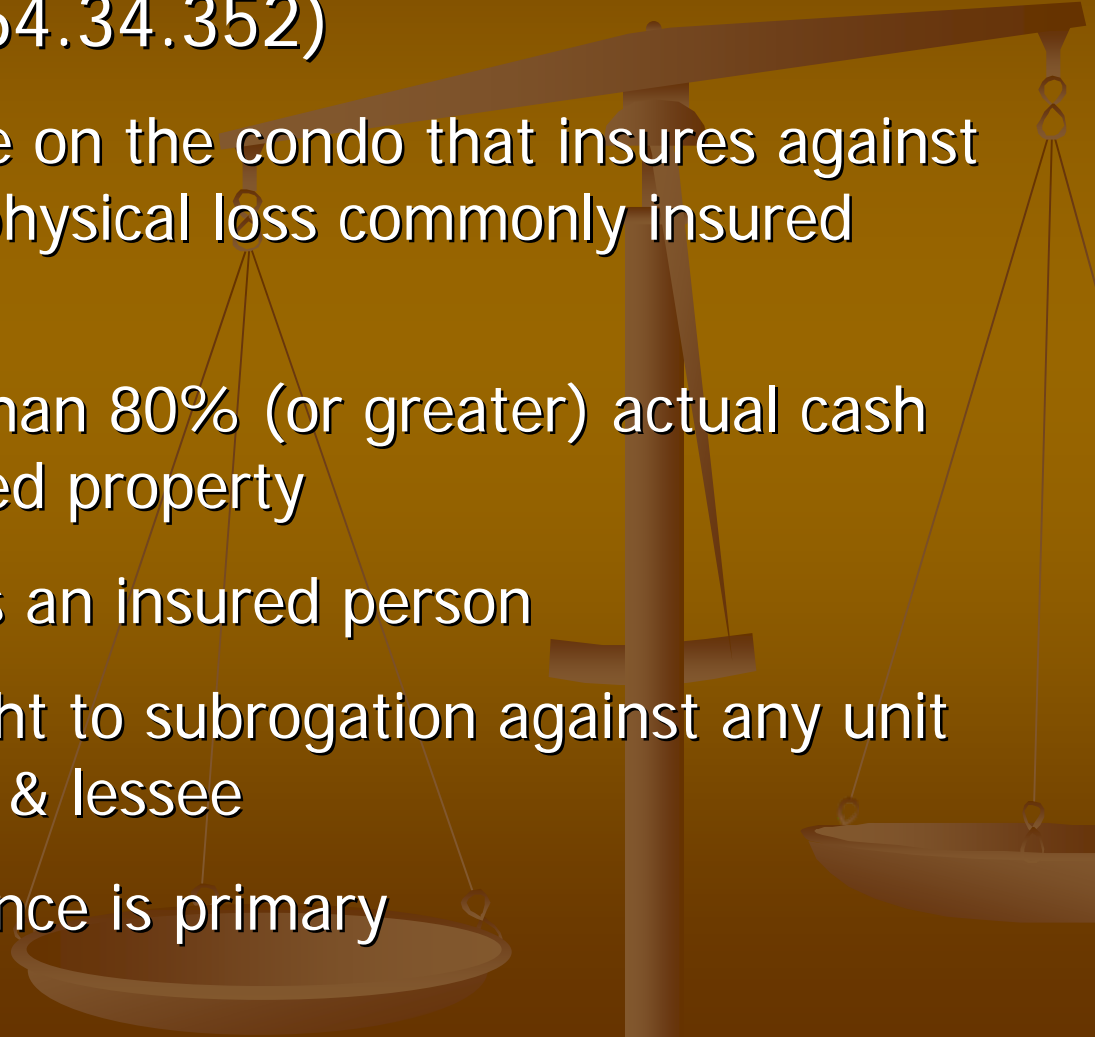
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# Overview



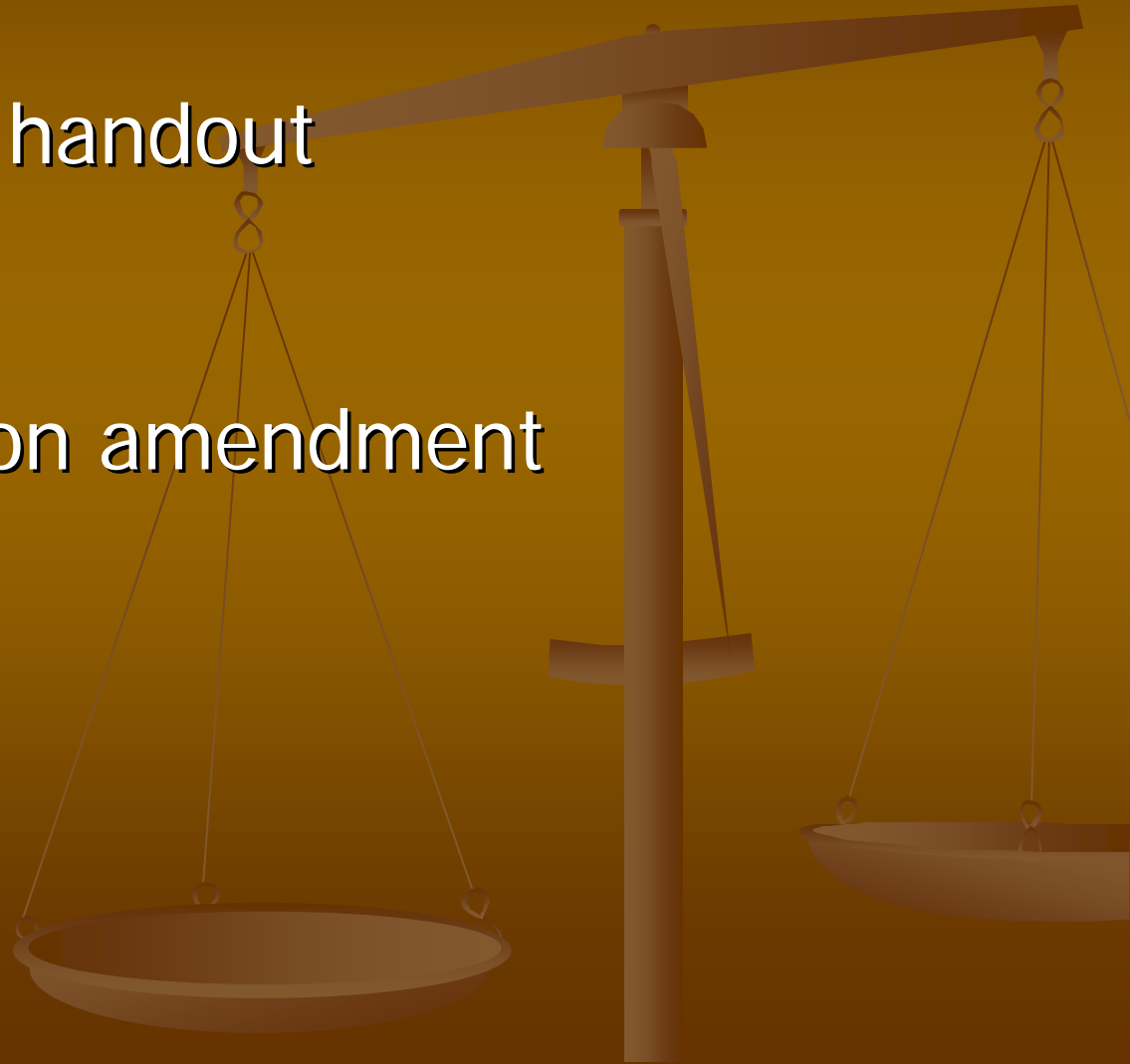
- Pertinent statutory requirements
- Shifting deductible/uncovered losses onto individual homeowners
- Diminution of some types of insurance proceeds available to HOAs
  - First-party claims
  - Third-party claims
- Dangers/Risks of master policies

# Pertinent Statutory Requirements

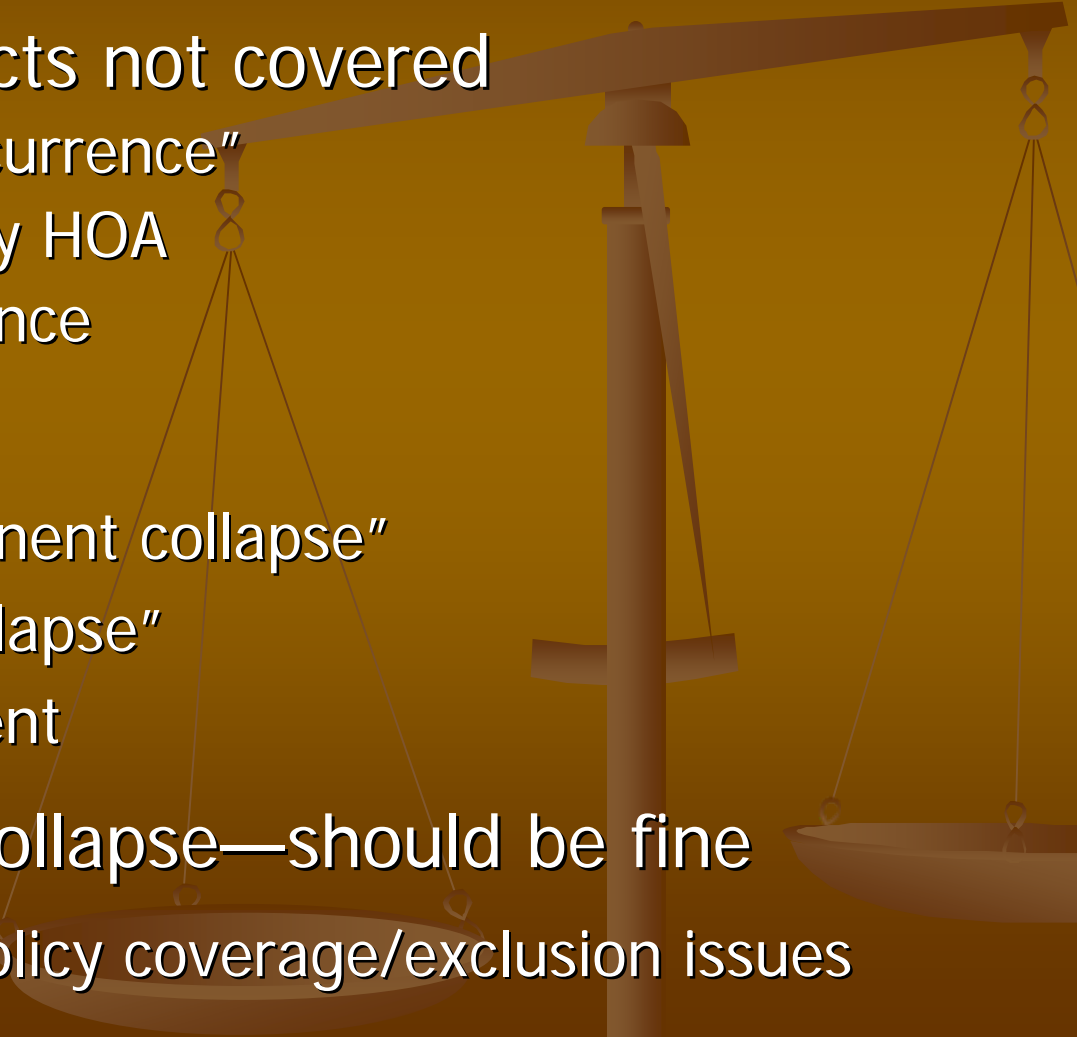
- Condo Act (RCW 64.34.352)
    - Property insurance on the condo that insures against all risks of direct physical loss commonly insured against
    - Amount not less than 80% (or greater) actual cash value of the insured property
    - Each unit owner is an insured person
    - Insurer waives right to subrogation against any unit owner, household & lessee
    - Association insurance is primary
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# Shifting Costs to Individual Homeowners

- What—Refer to handout
- Why—Rationale
- How—Declaration amendment

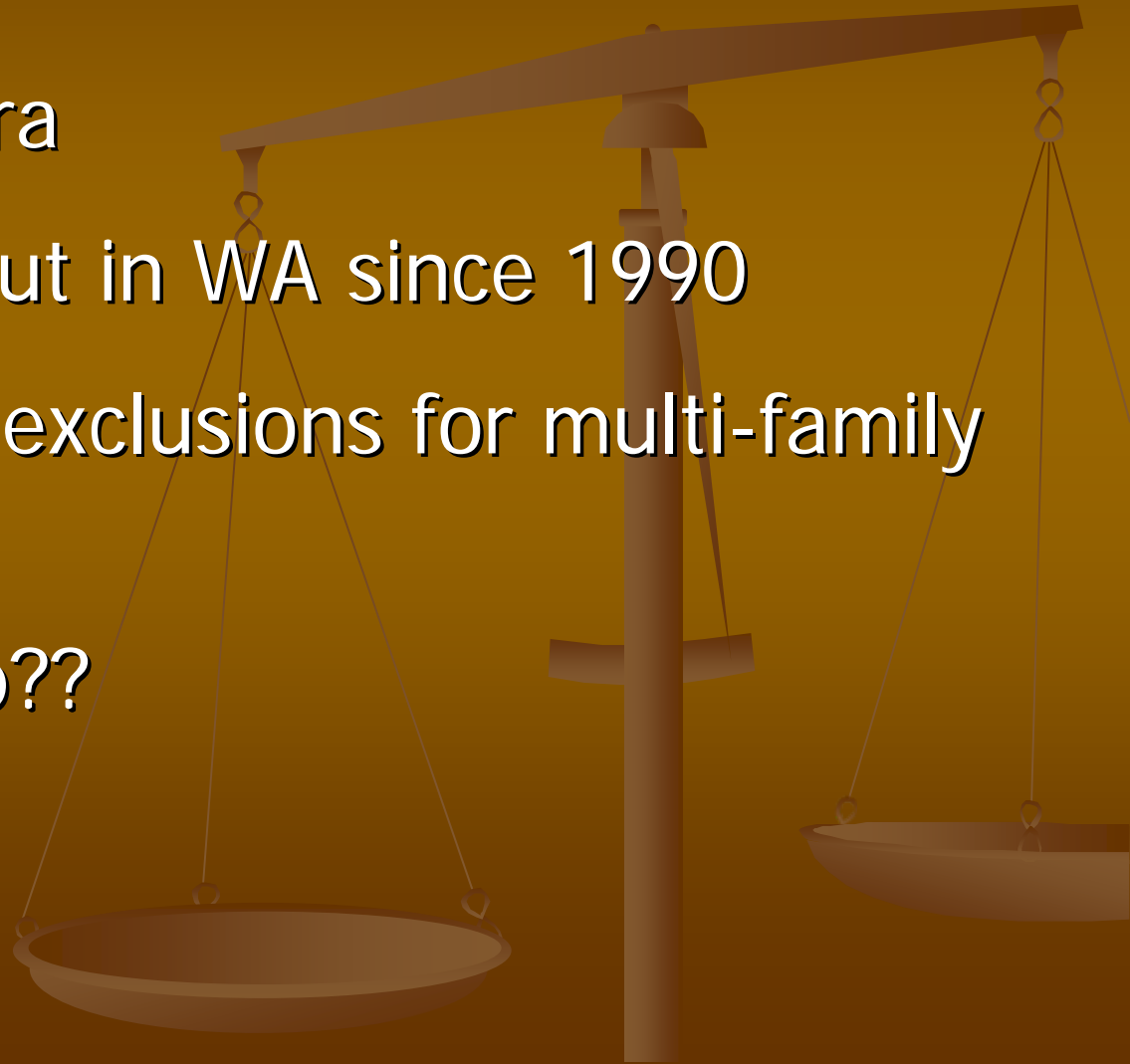


# Diminution of First-Party Insurance Proceeds

- Construction defects not covered
    - Not a “sudden occurrence”
    - Not “controlled” by HOA
    - Third-party insurance
  - Collapse
    - Historically, “imminent collapse”
    - Today, “actual collapse”
    - Very fact-dependent
  - Other than CD / collapse—should be fine
    - Look to specific policy coverage/exclusion issues
- 

# Diminution of Third-Party Insurance Proceeds

- “Condo wars” era
- \$ Billions paid out in WA since 1990
- Ever increasing exclusions for multi-family residential
- RCW 64.55 help??
- WRAP policies



# Dangers/Risks of Master Policies



## ■ What—Group policy

- Property mgr; agency & insurer
- Reduces admin overhead means < costs
- Primary responsibility for service from individual agent to managing agent

## ■ Why

- Cost savings??
- Lower premiums for greater coverage??

# Dangers/Risks of Master Policies



## ■ Pitfalls

- “Spread of Risk” among group policy holders?
  - ❑ Geographic area event (e.g., wind storms, ice/snow; fires; earthquake)
- Claims record (“one for all; all for one”)
- Termination...then what?
- Conflict of interest for mgt company
  - ❑ Significant fee
  - ❑ Named insured
  - ❑ Minimizing claims

# Dangers/Risks of Master Policies



## ■ Pitfalls

- Loss of control as HOA not first named insured
  - Notice?
  - May violate FNMAE and Freddie Mac guidelines
- Likely not consistent with HOA's governing docs
- D&O and other specific endorsements
- Excess or surplus lines insurers / layers

## ■ Advantages

- Lower premiums...at what cost?

# Summary



- Pertinent statutory requirements (RCW 64.34.352; 64.32.220)
- Shifting deductible/uncovered losses onto individual homeowners
- Diminution of some types of insurance proceeds available to HOAs
  - First-party claims
  - Third-party claims
- Dangers/Risks of master policies

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