Our personal lines clients are finding interesting ways of adding value, beauty and utility to their homes. But, does the Homeowners policy adequately protect them?

As always, I address the ISO Homeowners policy.

Types of Property Covered by a Homeowners Policy
Since the HO-3 Special form is sold more than any other form, that is what will be discussed. An ISO homeowners (HO-3) policy is very comprehensive in the scope of property to which it will apply (PS. so is the HO-6 Unitowner policy).

When teaching homeowners coverage, I generally make a statement that the HO-3 contemplates every type of property that your insured owns or uses. Property is either covered, limited or excluded.

All property breaks down to either “real” or “personal”. Real property is that which stays or is affixed to the land such as the house, the garage, the fence, the driveway, etc. A definition of real property is:

Land and most things attached to the land, such as buildings and vegetation. Growing crops, since they are physically attached to the soil, are generally considered real property. The definition of “land” includes not only the surface of the earth, but also everything above and beneath it. Thus, the ownership of a tract of land theoretically includes both the airspace above it and the soil from its surface to the center of the earth.

Personal property is defined as:

All tangible property not classified as real property.

Real Property and the HO Policy
Real property is broken down into two types in the HO-3 (or HO-5). It is either Coverage A Dwelling or Coverage B Other Structure. Under both of these coverages “land” is excluded. Under Coverage B all other structures are covered if they are NOT used for business other than renting as a garage. (I know there is another give back under the HO-2000 or HO-2011 but unimportant for this discussion).

I’m not saying all LOSSES are covered ... I’m saying essentially all real property that is “manmade” is. The only problem with manmade other structures would be business use.
Landscaping or trees, shrubs, plants and lawns are provided minimal coverage under the Section I Additional Coverages. There is a limitation of value per tree, shrub or plant as well as an overall value limit of 5% of Coverage A. There is also a restriction to just a few measly perils!

**Personal Property and the HO Policy**

If it isn’t real property then it is personal property and addressed under Coverage C Personal Property.

Does Coverage C have limitations? You bet ... we call them “special” as if we are doing something wonderful for you. We limit “intellectual property” or personal records to $1000 or $1500 depending on the HO edition. We limit business personal property to an on residence premises limit and an off residence premises limit. The on the residence premises is $2500 in all the HO editions. This encompasses ALL types of business property including products. The off the residence premises limit varies by the HO edition.

Coverage C has exclusions of coverage for certain types of property. Business “intellectual” property/data is excluded. Other items such as animals, birds or fish are excluded. The ISO HO also excludes aircraft (as a conveyance not a toy), hovercraft and other motorized land conveyances. Check the policy for other property type exclusions.

The point is ... the policy covers it ... unless it states it doesn’t. The situation causing the LOSS to the property might not be covered ... but that is a different issue.

**Solar Panels and the HO Policy**

This must be the new wave as I have had two questions in the last month as to whether the HO policy covers these items.

Does the policy cover them ... yes ... as just discussed. There is NO specific exclusion of solar panels in the HO-91, HO-2000 or HO-2011.

My question to the agents was ... where ARE they. Are they attached TO the dwelling, in which case they are dwelling. If they are free standing and separate, they could then be Coverage B or Coverage C.

**Panels as Dwelling**

I “googled” solar panels and no matter who sold them there was a version that attached to the roof or was installed in the roof. Those are now part of the dwelling covered under Coverage A.
I then questioned - how many panels are there, what is the value and what is the current limit on Coverage?

A. We strive for 100% of value but we know that the HO policy penalizes the loss payment on ALL losses if the Coverage A limit isn’t at LEAST 80% of the dwelling value the second prior to the loss!

Also, many of our clients have the Additional limits of Liability for Coverages A, B, C, D - Massachusetts endorsement HO 05 02 or the Specified Additional Amount of Insurance for Coverage A - Dwelling Massachusetts HO 05 08 on their HO policies to provide a higher limit of coverage for the “catastrophic” loss situation. But we have to be VERY careful with these endorsements. They both “assume” that one starts the policy at 100% dwelling valuation. One must ALSO inform the carrier if the building is modified by 5%. The exact language is as follows:

A. If you have:
   1. Allowed us to adjust the Coverage A limit of liability and the premium in accordance with:
      a. The property evaluations we make; and
      b. Any increases in inflation; and
   2. Notified us, within 30 days of completion, of any improvements, alterations or additions to the building insured under Coverage A which increase the replacement cost of the building by 5% or more;

So, how extensive an investment in solar panels attached to their dwelling did the insured make???

Detached Panels - Other Structures or Contents?
I’m not sure there is a definitive answer ... other than what the carrier says unless one takes them to court.

Can Solar Panels be Considered a “Structure”?
Looking at dictionary.com ... a structure can mean:
   something built or constructed, as a building, bridge, or dam
or
   anything composed of parts arranged together in some way; an organization

I would ask the carrier as detached solar panels could be the same issue as the above ground pool. Years ago I polled many of our New England HO carriers and asked how the above ground pool with pumps and filtration systems were viewed under the HO policy. Two thirds of the carriers I polled stated “Other Structures” and the remaining one third stated “Personal Property.”
Some insurance carriers might consider detached solar panels to be “other structures” as there is some “permanency” and the panels might be sold with the realty. Other carriers might say “personal property” as the panels can be dismantled and brought with the insured to their new home. It is better to know BEFORE the loss so that the homeowners policy can be properly endorsed if necessary and available.

**Detached Solar Panels as Coverage B**
If they are considered other structures is the coverage B limit sufficient with whatever else is on the property. If not one needs the HO 04 48 Other Structures on the Residence Premises endorsement to make sure there is sufficient coverage. The ISO policy only provides 10% of the Coverage A limit for Coverage B Other Structures. After seeing all the excessive wind/tornado damage in New England over the last few years, I worry about the “total loss.”

The good news about being considered Coverage B is that, under the HO-3 or HO-5, the solar panels will enjoy open perils. The bad news is that the loss payment is ACV not replacement cost. The following is ISO HO-2000/2011 language but the ISO HO-91 is the same ACV for other structures that are not buildings.

1. Property of the following types:
   a. Personal property;
   b. Awnings, carpeting, household appliances, outdoor antennas and outdoor equipment, whether or not attached to buildings;
   c. Structures that are not buildings; and
   d. Grave markers, including mausoleums;
   at actual cash value at the time of loss but not more than the amount required to repair or replace.

**Detached Solar Panels as Coverage C**
If these items are considered Coverage C Personal Property then the bad news under the HO-3 is named perils. Under the HO-91 program I would suggest adding the HO 00 15 Special Form Coverage C endorsement that provides “open perils” to personal property. Under the HO-2000/2011 program I would suggest selling the HO-5 Comprehensive policy that provides “open perils” or special form coverage for personal property. The HO 04 90 Personal Property Replacement cost endorsement, which allows Coverage C Personal Property to be adjusted on a replacement cost basis, should be added to the policy.

**Solar Panels as a Business?**
Another agent stated that his client was going to be paid BY the electric company for supplying energy! Wow! Are we now talking a “solar panel farm?”
IF the client is being paid and not just enjoying reduced electricity costs, then this could be a business! If these items are considered Other Structures, then there is no coverage under the ISO HO policy. If they are considered contents, then the limit on the residence premises is restricted to $2500. The insured would need a business endorsement of some type to cover BOTH the liability and the property aspect. If they also want the potential loss of business income covered due to a loss, then they need the ISO Home Business endorsement or a BOP or a CPP!

Manmade ponds ... Covered or Not?
An agent had a client who had a tree fall and damage their manmade pond. Was there coverage? My answer was ... When you say "manmade" ... are we talking cement? or dug dirt? Cement ... is a structure ... dug dirt ... I doubt it.

If it is a cement pond, then if one needs to drain the water to fix the damage, then the draining of the water could be a reasonable repair cost. What about the refilling of the pond after repair so that it can be used, does the HO policy pay the value of the water?

Under the ISO HO-91, the cost of the refill water would be covered as there is no exclusion under Coverage C Personal Property. Under the HO-2000/2011, the cost to refill pond would not be covered as Coverage C Personal Property excludes "water". (Agent heard from company and they said essentially same thing).

Life is interesting ... and some of your clients’ homes/properties are getting more interesting and valuable by the moment. When did you talk to them last?

Good luck. If I can be of service to you, please call me, Irene Morrill, Vice President of Technical Affairs at 1-800-870-7091 or email me at imorrill@massagent.com. This article has been developed expressly for the members of MAIA. Reprint by other than members without the express permissions of the author is not permitted.