

## Liability Insurance Exclusions of which Property Owners should be aware

These have not been kind times to apartment landlords, multi-family [real estate investors](#) and owners.

The COVID-19 pandemic spurred [eviction moratoriums](#) nationwide, leaving many owners with no choice but to continue to pay to maintain and finance their properties with less rent coming in and no recourse to remove non-paying tenants. Insurance premiums, meanwhile, have been rising.

At the same time, a far-less-noticed threat to their investment can be found in the fine print of their insurance policies: Exclusions that are increasingly cropping up for **Assault and Battery** claims.



Landlords, of course, can be and have been repeatedly sued over claims – sometimes justified, sometimes not – that they've failed to ensure the safety of tenants.

That responsibility goes beyond just cleaning up slippery floors or repairing broken stairs. It also means taking appropriate security measures so that tenants are not left at an unreasonable risk for being victimized in a criminal attack.

Imagine an apartment building equipped with security cameras, buzzers and self-locking doors designed to allow only residents, their guests and authorized personnel to enter the building. Despite all that, an intruder somehow manages to enter the building and assaults a tenant. The tenant sues the owner for bodily injury.

It happens all the time.

In fact, juries have delivered multimillion-dollar awards to plaintiffs who have sued landlords, particularly if multiple crimes have been committed on the property or if the landlord did not take proper precautions.

## **Firearms Exclusion**

Let's start with a coverage dispute involving a Georgia bar's GL policy containing a firearms endorsement.<sup>1</sup> The form excluded bodily injury "arising out of the manufacture, importation, sales, distribution, gunsmithing, ownership, maintenance, or use of firearms or weapons." The shooter was a third-party on the premises. The bar sought coverage for the wrongful death action, contending that the exclusion was ambiguous because it failed to say *who* had to use the firearm. The argument made was that the shooter could be an employee, a customer, or someone walking in off the street, and the failure to specify to whose use the firearm exclusion applied rendered it ambiguous. The federal court initially agreed, but later reversed its own decision and held that the lack of limiting language on use "means it applies to anyone's use" of a firearm. In succinct language, the court stated:

*"The absence of limiting language as to whose use is excluded does not render the exclusion ambiguous because breadth does not equate to ambiguity."*

## **Animals Exclusion**

This endorsement can read differently from carrier to carrier, but most of these exclusions state that the insurance company will not pay a claim as a result of an animal. If this exclusion is present on your policy, it is essential to know what kind of animals your tenants might or might not have. It would then be necessary to avoid allowing those types of animals on the premises.