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**PROPERTY DAMAGE LOSSES****7190.1100 DEFINITIONS.**

Subpart 1. **Scope.** The terms used in parts 7190.1110 to 7190.2010 have the meanings given them in this part.

Subp. 2. **Contamination.** "Contamination" means:

A. the presence of a harmful substance in or on property that resulted from an intentional or accidental release of the harmful substance from a facility; or

B. the imminent and substantial threat of contamination due to the movement of the harmful substance in the direction of the property, as determined by the Pollution Control Agency or the Department of Health or for agricultural chemical contamination, as determined by the Department of Agriculture or the Department of Health.

Subp. 3. **Date of discovery of contamination.** "Date of discovery of contamination" means the date a claimant discovered or should have discovered the contamination of the property.

Subp. 4. **Harmful substance.** "Harmful substance" has the meaning given in Minnesota Statutes, section 115B.25.

Subp. 5. **Residential homestead.** "Residential homestead" means property that qualifies as the owner's homestead under Minnesota Statutes, section 273.124. If the homestead is also a family farm as defined in Minnesota Statutes, section 500.24, subdivision 2, paragraph (b), the property includes one acre of the land surrounding the residence, but does not include any other structures that may be located on it.

**Statutory Authority:** *MS s 115B.34*

**History:** *16 SR 2162*

**7190.1110 PRINCIPAL RESIDENCE.**

For purposes of identifying property losses eligible for compensation under Minnesota Statutes, section 115B.34, the principal residence of the claimant is the property that is:

- A. the claimant's current principal residence under part 7190.1120;
- B. a residence owned but not occupied by the claimant under part 7190.1130;
- C. a residence that was purchased by the claimant after the date of discovery under part 7190.1140;
- D. the claimant's intended principal residence under part 7190.1150;

E. the claimant's past principal residence under part 7190.1160; or

F. sold by the claimant under part 7190.1170.

**Statutory Authority:** *MS s 115B.34*

**History:** *16 SR 2162*

#### **7190.1120 CURRENT PRINCIPAL RESIDENCE.**

The current principal residence of the claimant is the property that is the claimant's residential homestead, except that the residence must be owned and occupied by the claimant, and used for the purposes of a homestead as of the date of discovery of contamination, not the date of assessment.

**Statutory Authority:** *MS s 115B.34*

**History:** *16 SR 2162*

#### **7190.1130 RESIDENCE OWNED BUT NOT OCCUPIED.**

A residence owned but not occupied by the claimant is eligible as the claimant's principal residence if it otherwise qualifies under part 7190.1120 and:

A. the claimant no longer resides at the residence because of marital separation or divorce; or

B. the claimant is a resident of a nursing home or boarding care facility.

**Statutory Authority:** *MS s 115B.34*

**History:** *16 SR 2162*

#### **7190.1140 PROPERTY PURCHASED AFTER DATE OF DISCOVERY.**

A residence purchased by the claimant for use as a residential homestead after the date of discovery of contamination is eligible as the claimant's principal residence if it is used as the claimant's residential homestead and the claimant can show that:

A. a written purchase agreement or contract which committed the claimant to purchase the property was made prior to the date of discovery of contamination; or

B. the property was purchased with the reasonable expectation that the property damage would be fully remedied by public or other funding sources without cost to the claimant.

**Statutory Authority:** *MS s 115B.34*

**History:** *16 SR 2162*

#### **7190.1150 INTENDED PRINCIPAL RESIDENCE.**

Subpart 1. **Description.** Property purchased by the claimant for the purpose of owning and occupying a residence including construction of a new residence on that property is eligible as the claimant's principal residence if the claimant:

A. had purchased the property, or contracted for the purchase of the property, as shown by a written purchase agreement, before the date of discovery of contamination; and

B. can demonstrate to the board that before the date of discovery of contamination the claimant intended to occupy a home as a residential homestead on the property.

Subp. 2. **Claimant's intent.** The intent to occupy a principal residence on the property before the date of discovery of contamination, as required in subpart 1, item B, may be demonstrated by construction contracts or plans, a public listing or advertisement to sell the current residence, or other documents or actions that make a similar showing.

**Statutory Authority:** *MS s 115B.34*

**History:** *16 SR 2162*

**7190.1160 PAST PRINCIPAL RESIDENCE.**

Residential property owned by the claimant that is unoccupied and actively on the market for sale at the time of the discovery of contamination is eligible as the claimant's principal residence if:

A. the property was the residential homestead of the claimant immediately before or at the time of placing the property on the market; and

B. the commitment to change residence and sell the property, evidenced by a purchase agreement, contract for sale, contract with a realtor, or other documentation of active sale listing by the claimant, was made before the date of discovery of contamination.

**Statutory Authority:** *MS s 115B.34*

**History:** *16 SR 2162*

**7190.1170 RESIDENTIAL PROPERTY THAT HAS BEEN SOLD.**

Residential property that has been sold by the claimant is eligible as the claimant's principal residence if:

A. the property was the residential homestead of the claimant on the date of discovery of contamination; and

B. the claimant was assessed or otherwise realized the loss before the sale or at the time of the sale, or the claimant expressly agrees in the sale agreement to reimburse the buyer when the amount of loss becomes known.

**Statutory Authority:** *MS s 115B.34*

**History:** *16 SR 2162*

**7190.1180 TWO PROPERTIES MAY QUALIFY.**

If a claimant owns both a current principal residence under part 7190.1120 and an intended principal residence under part 7190.1150, both properties are eligible as the claimant's principal residence.

If a claimant owns both a current principal residence under part 7190.1120 and a past principal residence under part 7190.1160, both properties are eligible as the claimant's principal residence.

**Statutory Authority:** *MS s 115B.34*

**History:** *16 SR 2162*

**7190.1190 ELIGIBLE LOSSES RELATED TO REPLACEMENT OR DECONTAMINATION OF PRIMARY SOURCE OF DRINKING WATER.**

**Subpart 1. Limitation.** Property damage losses related to the replacement or decontamination of the primary source of drinking water are limited to the costs of replacement or decontamination of the system that:

A. services the individual claimant's property only; or

B. extends distribution of an existing municipal water supply to the property.

The cost of construction of a system that provides for the expansion of the community water system or that provides benefits to the community in general is not eligible.

**Subp. 2. Operational as of date of discovery.** Except as provided in subpart 3, to be eligible for replacement or decontamination expenses, the primary source of drinking water for a claimant's property as described in subpart 1 must be operational and in use by the property owner on the date of discovery of contamination.

**Subp. 3. Private wells under construction.** A private drinking water well located on property that qualifies as the claimant's principal residence under part 7190.1110 is eligible for replacement or decontamination expenses that exceed

the anticipated contract costs for construction of the well if at the time of discovery of contamination:

- A. the well is under construction on the property; or
- B. a binding contract for construction of the well has been entered into.

**Statutory Authority:** *MS s 115B.34*

**History:** *16 SR 2162*

#### **7190.2000 HARDSHIP.**

For purposes of determining eligibility for compensation for losses incurred in the sale of a principal residence under Minnesota Statutes, section 115B.34, subdivision 2, paragraph (a), clause (2), or losses incurred as a result of the inability of an owner to sell a principal residence under Minnesota Statutes, section 115B.34, subdivision 2, paragraph (a), clause (3), the factors in item A or B constitute a hardship to the owner.

A. An urgent need to sell the residence based on a special circumstance, including the following:

- (1) loss of household income;
- (2) owner's job relocation;
- (3) catastrophic medical expenses for which the owner is responsible; or
- (4) owner's physical disability.

B. An urgent need to sell a property due to a commitment to purchase a new residence, if the claimant:

- (1) committed in writing to the purchase of the new residence and publicly listed or advertised to sell the property before the date of discovery of contamination; and
- (2) the discovery of contamination occurred during the time the property was on the market.

**Statutory Authority:** *MS s 115B.34*

**History:** *16 SR 2162*

#### **7190.2010 ELIGIBLE LOSSES ASSOCIATED WITH THE NEED TO MAINTAIN TWO RESIDENCES.**

**Subpart 1. Eligible losses.** Losses eligible for reimbursement under Minnesota Statutes, section 115B.34, subdivision 2, paragraph (a), clause (3), include all essential utilities, property tax, necessary homeowner's insurance, mortgage interest expenses, and other property maintenance expenses. The claimant must have incurred the expenses on the principal residence after it had been on the market for a time equal to the average days on the market for comparable home sales outside the area of contamination. Average days on the market shall be determined from the multiple listing service data of the local real estate association for the listing year and locale.

**Subp. 2. Additional expenses.** Additional property maintenance expenses are compensable to the extent that they are determined by the board to be necessary to maintain the property value and marketability.

**Statutory Authority:** *MS s 115B.34*

**History:** *16 SR 2162*