

IDAHO REAL ESTATE COMMISSION'S (IREC'S) GROUP REAL ESTATE ERRORS & OMISSIONS GROUP PROGRAM
Administered by Rice Insurance Services Company, LLC (RISC) and issued by Continental Casualty Company
Overview of the October 1, 2011 - October 1, 2012 Group Program

All active Idaho real estate brokers, salespersons, and firms are required to carry errors and omissions (E&O) insurance as a condition of licensure. The IREC has contracted with RISC to administer the group E&O program for Idaho licensees. RISC provides all servicing, including claims handling, policy issuance, marketing mailings, and customer service, for the group program. RISC's management team specializes in handling group programs for states that require real estate E&O insurance. Continental Casualty Company, a CNA insurance company, is the insurance carrier for the group program. The CNA insurance group is one of the largest writers of commercial property casualty insurance in the United States and is rated "A (Excellent)" by A.M. Best.

The group program is designed exclusively to provide professional liability insurance for Idaho real estate licensees. Even the most careful professional may make an honest mistake or be the victim of a frivolous lawsuit. Under the group program, the carrier is responsible for defending and paying covered damages, up to the limits of liability, on covered claims.

Answers to the most frequently asked questions about the group program are provided below. If you have additional questions or would like clarification, don't hesitate to contact RISC.

1. What kinds of claims are covered?

- Claims in which an insured receives a written demand for money or services seeking damages and alleging a negligent act, error, or omission in the performance or failure to perform professional services (subject to the terms and conditions of the policy).
- Claims in which an insured has been served with a lawsuit seeking damages and alleging a negligent act, error, or omission in the performance or failure to perform professional services (subject to the terms and conditions of the policy).
- Institution of arbitration or mediation proceedings against an insured seeking damages and alleging a negligent act, error, or omission in the performance or failure to perform professional services (subject to the terms and conditions of the policy).
- To be covered, claims must be first made against an insured during the policy period and reported in writing to RISC during the policy period.

2. What kinds of claims are not covered? All licensees are urged to read the entire policy and examine the portion of the policy entitled "Exclusions."

3. Who is covered?

- Individuals who hold an active license issued by the IREC and pay the required premium ("Insured Licensees");
- Heirs, executors, administrators, or assigns of the Insured Licensee in the event of such Insured Licensee's death, incapacity, insolvency, or bankruptcy but only to the extent the Insured Licensee would have been covered under this policy;
- Unlicensed employees of and under the direct supervision of the Insured Licensee but only while acting in the course and scope of their employment and assisting the Insured Licensee in the performance of his/her professional services; and
- Any real estate firm that the Insured Licensee represents but only for its vicarious liability for a negligent act, error, or omission arising out of Insured Licensee's professional services.

4. What are the limits of liability for claims?

- Under the standard group policy, the per claim limit of liability for each Insured Licensee is \$100,000, which is the most the carrier will pay for all damages arising out of the same or related negligent acts, errors, or omissions. The aggregate limit of liability is \$300,000. This means that the most damages the carrier will pay for each Insured Licensee for all claims combined during the individual policy period is \$300,000.
- Claim expenses are paid in addition to, and not within, the limits of liability for claims covered under the basic policy.
- The limits of liability apply separately to each Insured Licensee.
- Higher limits are available to individual licensees, as discussed in more detail below.

5. Are higher limits available?

- Individual licensees may purchase endorsements that increase the limits of liability to (a) \$250,000 per claim with a \$500,000 aggregate or (b) \$500,000 per claim with a \$1,000,000 aggregate. Individual licensees whose real estate activity is at least 75% residential sales and who have had no claims in the past 5 years may purchase the \$250,000/\$500,000 endorsement for an additional premium of \$139 per year or the \$500,000/\$1,000,000 option for an additional \$314. Licensees whose real estate activity is less than 75% residential sales or who have had a claim in the past 5 years may purchase the \$250,000/\$500,000 endorsement for an additional premium of \$214 or the \$500,000/\$1,000,000 option for an additional \$439.
- We offer firm excess policies with limits of liability of \$250,000, \$500,000, and \$1,000,000 underwritten by Continental Casualty Company, a CNA insurance company. To qualify for an excess policy, all of the firm's licensees must be insured under the group policy. Rates for firm excess coverage will be provided following submission of an excess application by the firm's qualifying broker or officer and underwriting approval. The excess program is not guaranteed-issue; however, most Idaho firms qualify for coverage. Please call us if you have any questions.

6. How much is the premium? The fully earned annual premium, including all taxes, is \$186. Payment must be included with the enrollment form if you enroll by mail. If you enroll online, you may pay by credit card. Please note there is a \$5 fee for online enrollment. After the group policy's inception date, the premium will be prorated by month of enrollment. Note that since all premiums are fully earned at the inception date, no refunds are permitted after that time. Additional coverages, discussed further below, are available by endorsement for additional premiums.

7. How do I obtain coverage? You may enroll in the group program online at www.risceo.com and download your certificate of coverage immediately. There is a non-refundable \$5 fee for online enrollment. You may also enroll by mail by sending RISC a completed enrollment form with a check or money order payable to RISC (do not submit your premium to the IREC). Real estate firms with 10 or more licensees may opt to use our multiple licensee renewal form, which allows the firm to electronically renew all licensees at one time. Only checks and money orders are currently accepted for multiple licensee renewal.

8. What is the deductible? There is a \$1,000 deductible for damages and no deductible for claim expenses.

9. Where does coverage apply? Licensees who are domiciled in Idaho are covered for errors and omissions committed anywhere in the world, provided the licensee is licensed in the state where the professional services were rendered and the services would require a license under Idaho law if they had been performed in Idaho. However, if the claim involves a lawsuit, the lawsuit must be brought within the United States, its territories or possessions.

Licensees not domiciled in Idaho are covered for Idaho transactions only. However, a nonresident licensee will be treated as domiciled in Idaho if his/her principal real estate license is affiliated with a real estate office located in Idaho and he/she resides within 50 miles of the Idaho state line.

10. What is the coverage period? This group policy period is October 1, 2011 to October 1, 2012. Each licensee's individual policy period commences on the date the licensee obtained coverage under the group policy by paying the appropriate premium and ends with the cancellation or termination of the licensee's coverage under the group policy.

The group policy is written on a claims made and reported basis. It applies only to claims first made and reported to the Company during the individual policy period or any applicable extended reporting period. Additionally, the negligent act, error, or omission must have occurred on or after the retroactive date, which is the date the licensee first obtained real estate E&O coverage and since which time has continuously maintained coverage, with no gaps.

11. What happens if a claim is not made until after this policy expires? This is a claims made and reported policy. The claim must be made and reported to the Company during the individual policy period or any applicable extended reporting period.

An automatic extended reporting period is provided if the Insured Licensee's license is retired, placed on inactive status, or expires. This allows the policy to apply to claims first made and reported up to 90 days after the date of the cancellation or non-renewal, provided the negligent act, error, or omission is committed after the retroactive date and prior to the effective date of cancellation or non-renewal.

Licensees who are not renewing coverage may be interested in purchasing Optional Extended Reporting Period Coverage, commonly known as "Tail Coverage." Tail Coverage may be purchased to cause the policy to apply to claims first made and reported up to 3 years after the effective date of cancellation or non-renewal, as long as the negligent act, error, or omission is committed after the retroactive date and before the effective date of cancellation or non-renewal. Tail Coverage can only be purchased within 90 days after termination of the policy. Tail Coverage is important because many claims are not made until years after the subject transaction occurs.

- 12. How are claims handled?** A claim must be reported in writing to the Company as soon as possible after it is first made but in no event more than 90 days after the insured first became aware of the claim. To protect the insured's interest and ensure that coverage conditions are not violated, it is essential to properly report claims. Immediate action is required by the licensee and/or broker.

To report a claim, visit our website www.risceo.com or call our claims specialists at (800) 637-7319, ext. 1, for a Notice of Claim form. Complete and submit the Notice of Claim form and other pertinent documents. Cooperate fully with RISC; defense counsel, if assigned; and your own firm's management. We are happy to answer questions regarding claims and related coverage issues, provided the claim has been submitted to us in writing.

- 13. What if there is a potential claim with no written demand?** If during the individual policy period, the insured becomes aware of any negligent act, error, or omission that may reasonably be expected to be the basis of a claim and gives written notice to the Company of such negligent act, error, or omission; the reason for anticipating a claim; and other details including, but not limited to, the dates and persons involved, the identity of the anticipated or possible claimants, and how the insured first became aware of the potential claim, then any claim subsequently made against the insured and reported to the Company arising out of such reported conduct shall be deemed to have been made when the Company was given notice of the potential claim.
- 14. Is appraisal activity covered?** The policy excludes appraisal activity that requires licensing or certification other than a real estate license. Insured Licensees who have both active real estate and appraisal licenses may purchase an endorsement that adds services performed as a licensed real estate appraiser to the policy's definition of professional services for an additional premium (fully earned and inclusive of taxes) of \$200.
- The group policy does not provide coverage for appraisers or appraiser trainees who do not have active real estate licenses. These individuals are not eligible to purchase coverage through the group policy and are advised to purchase other coverage for their appraisal services. If the firm has an excess policy, then it is subject to all of the provisions of the primary policy and its coverage only applies if the underlying coverage applies. Thus, because there is no coverage under the group policy for appraisers or appraiser trainees who are not also real estate licensees, then there is no coverage under the excess policy for these individuals.
- 15. Are rental, leasing, and property management covered?** The policy applies to professional services performed by the licensee as a real estate broker or salesperson as defined in Idaho law and that require a real estate license. The policy excludes property management activities that do not require a real estate license. An endorsement is available to remove this exclusion and add leasing and property management services, as defined in the endorsement, to the policy's definition of professional services for an additional premium (fully earned and inclusive of taxes) of \$150.
- 16. Are other coverages available?** For no additional cost, the policy includes a Limited Claim Expense Fair Housing Endorsement that provides coverage for defense costs up to \$2,500 per claim and \$5,000 in the aggregate for covered fair housing/discrimination claims.

The optional endorsements below are also available to individual licensees. Some endorsements require additional premiums, as indicated below. Optional endorsements will become effective the later of October 1, 2011, or the date RISC receives the completed Enrollment Form and applicable payment.

- Conformity Endorsement conforms your policy to comply with requirements of other states where you have an active real estate license and that require E&O coverage (additional premium of \$15, regardless of number of states at time of issuance).
- Earnest Money/Escrow Deposits Endorsement provides coverage for defense costs up to \$2,500 per claim and \$5,000 in the aggregate for covered earnest money/escrow deposit claims under certain conditions (additional premium of \$20).
- Environmental Endorsements are available to (a) provide coverage for defense costs up to \$2,500 per claim and \$5,000 in the aggregate for covered environmental claims (additional premium of \$5) or (b) provide coverage for damages and defense costs up to \$10,000 per claim and in the aggregate for covered environmental claims (additional premium of \$35).
- Fair Housing Endorsements are available to provide coverage for damages and defense costs up to (a) \$10,000 per claim and in the aggregate (additional premium of \$15) or (b) \$25,000 per claim and in the aggregate for covered fair housing/discrimination claims (additional premium of \$24).
- Regulatory Complaints Endorsement provides coverage for defense costs up to \$2,500 per complaint and \$5,000 in the aggregate for complaints to a real estate regulatory board or commission under certain conditions (additional premium of \$15).
- Higher Limits Endorsements increase the policy's limits of liability to (a) \$250,000 per claim and \$500,000 in the aggregate or (b) \$500,000 per claim and \$1,000,000 in the aggregate (see question 5 for premium amounts).
- Franchise Endorsement adds a franchise group with which you are affiliated to the definition of real estate firm, since some franchise groups require specifically tailored language. Please contact us if you need a franchise endorsement (no additional premium).
- Appraisal Endorsement is available to active real estate licensees who are also licensed appraisers. This endorsement is not available to, and the policy provides no coverage for, appraisers or appraiser trainees who do not have active real estate licenses (additional premium of \$200).
- Leasing & Property Management Endorsement applies to covered claims alleging leasing and property management services, as defined in the policy (additional premium of \$150).
- Primary Residence Endorsement provides coverage for the sale or listing of the licensee's primary residence under certain conditions (additional premium of \$15).

- 17. What if I have additional questions?** We suggest all licensees read the sample policy, which is available on our website www.risceo.com. Please retain a copy of the policy for your records. Insured Licensees will receive a Certificate of Coverage after payment of the premium due. If you have any questions, you may visit our website or call us at (800) 637-7319, ext 1.

NOTICE: If you do not pay your premium timely, the IREC will inactivate your license and impose a fine up to \$5,000 for failure to comply with the mandatory insurance requirement. In addition, you will lose prior acts coverage, a valuable feature of the policy. The "retroactive date" of the policy determines if you have coverage for acts that occurred prior to the policy's effective date. The "retroactive date" is the date you first obtained, and from which have continuously maintained, E&O insurance, with no gaps. If you failed to purchase coverage timely, call RISC immediately to see if you qualify for reinstatement back to October 1, 2011, which may avoid a gap in coverage and loss of your retroactive date. However, curing a gap in coverage will not remedy noncompliance with mandatory insurance laws. **Always pay your premium on time to protect against uncovered claims and to avoid fines, penalties, and a gap in coverage.** If you currently have coverage other than with the state group program and you have received notice of a claim, you should immediately report the claim to your current carrier to prevent jeopardizing potential coverage for the claim.

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