

# RISC Rice Insurance Services Company, LLC

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## MISSISSIPPI REAL ESTATE AGENT ERRORS & OMISSIONS INDEPENDENT INSURANCE PROGRAM OVERVIEW OF THE JULY 1, 2011 – JULY 1, 2012 POLICY

Pursuant to Mississippi law, all active Mississippi real estate brokers, broker-salespersons, and salespersons are required to carry errors and omissions (E&O) insurance. RISC is excited to continue to offer E&O insurance to Mississippi licensees through an independent real estate E&O program. The independent program is designed exclusively to provide Mississippi licensees with E&O insurance that complies with the Mississippi Real Estate Commission's (MREC's) requirements and Mississippi law.

RISC is the most experienced provider of real estate E&O policies in Mississippi. RISC specializes in real estate E&O insurance and provided the Mississippi group program for 16 years. Our current customers will not notice any changes in service. As with the group program, RISC will provide all servicing, including claims handling, policy issuance, marketing, mailings, and customer service, for the independent program. The policy is underwritten by Continental Casualty Company, a CNA insurance company. 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.

Even the most careful professional may make an honest mistake or be the victim of a frivolous lawsuit. Under the independent program, the carrier is responsible for defending and paying covered damages, up to the limits of liability, on covered claims.

Answers to frequently asked questions about the independent 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 have been unknown and unforeseen at the inception of the policy period.
- 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 policyholders are urged to read the entire policy and examine the portion of the policy entitled "**Exclusions**" for a listing of excluded claims.

### 3. Who is covered?

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

### 4. What are the limits of liability for claims?

- Under the basic independent policy, the per claim limit of liability 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 \$500,000. This means the most damages the insurance carrier will pay for all claims combined during the individual policy period is \$500,000.
- Claim expenses are in addition to, and not within, the limits of liability for claims and lock box claims, except for fair housing/discrimination claims and escrow/earnest money claims.

### 5. Are any additional coverages included in the basic policy?

- Yes, the independent program provides coverages that were not included in the prior group policy. Specifically, the independent program automatically includes coverage for fair housing/discrimination claim, escrow/earnest money disputes, and lock box claims, as discussed further below.
- Fair Housing/Discrimination: Sublimits of \$30,000 per claim (damages and claim expenses) with a \$30,000 aggregate for covered fair housing/discrimination claims.
- Escrow/Earnest Money Disputes: Sublimits of \$10,000 per claim (damages and claim expenses) with a \$25,000 aggregate for covered escrow claims.
- Lock Box: Sublimits of \$20,000 (damages) with a \$20,000 aggregate for covered lock box claims. Defense costs paid in connection with a lock box claim do not deplete the applicable limits.

### 6. Is there any coverage for properties that I own or in which I have an ownership interest?

Claims involving properties in which the policyholder, the policyholder's spouse, or a company the policyholder owns has more than a 10% ownership interest are generally excluded. However, the policy includes coverage for the sale or listing of the policyholder's primary residence under certain conditions.

## 7. How much is the premium?

Your premium depends on whether your real estate business consists of 75% or more\* residential sales\*\* and whether you have had a claim in the past 5 years\*\*\*. If your real estate business consists of 75% or more of residential sales and you have not had a claim in the past 5 years, then the fully earned premium, including all taxes, is \$167. If your real estate business consists of less than 75% of residential sales or you have had a claim in the past 5 years, then the fully earned premium, including all taxes, is \$209.

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 \$5.00 convenience fee for online enrollment. After the inception date of the policy, 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.

\* To determine the percentage of your real estate activity income derived from Residential Sales, divide your income derived from Residential Sales by the amount of your total real estate activity income.

\*\* Residential sales means sales of properties zoned for and occupied exclusively as residences for four families or less. Residential sales also includes: (1) sales of vacant land, provided the land is zoned for residential use and is not a development project of four or more residences and (2) sales of farm property that will be a buyer's principal residence and where a buyer will derive no more than 25% of total income from farming. Commercial sales and renting, leasing, managing, or appraising residential or commercial property are not residential sales.

\*\*\* For purposes of calculating the premium, a claim made against your firm for your acts is considered a claim against you.

## 8. How do I obtain coverage?

You may purchase an independent E&O policy online at [www.risceo.com](http://www.risceo.com) and download your certificate of coverage immediately. Please note there is a non-refundable \$5.00 convenience fee for online enrollment. You may also enroll by mail by sending RISC a completed Enrollment Form, along with a check or money order payable to RISC (do not submit your premium to the MREC). For real estate firms with 10 or more licensees, we also offer an optional multiple licensee renewal form, which allows the firm to renew for all licensees at one time. Only checks and money orders are currently accepted for multiple licensee renewal.

## 9. What if I don't pay my premium timely?

Mississippi law requires all active real estate licensees to carry and maintain E&O insurance. If you do not pay your premium timely, the MREC may inactivate your license and assess fines. Additionally, you will lose prior acts coverage, a valuable feature of the policy. See number 13, below, for more information regarding prior acts coverage. If you fail to purchase coverage timely, call RISC immediately to see if you qualify for reinstatement back to July 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 yourself from uncovered claims and to avoid a gap in coverage, penalties, and fines.

## 10. What is the deductible?

There is \$1,000 deductible for damages, which applies to all claims, including discrimination claims and escrow claims, except for lock box claims. A combined \$250 deductible for damages and claim expenses applies to lock box claims only.

## 11. Where does coverage apply?

Policyholders who are domiciled in Mississippi are covered for errors and omissions committed anywhere in the world, so long as the policyholder is licensed in the state where the professional services were rendered and the services would require a license pursuant to Mississippi laws if they had been performed in Mississippi. Further, if the claim involves a lawsuit, the lawsuit must be brought within the United States, its territories or possessions.

Policyholders who are not domiciled in Mississippi are covered for Mississippi transactions only. However, a non-resident policyholder will be treated as domiciled in Mississippi if his/her principal real estate license is affiliated with a real estate office located in Mississippi and he/she resides within fifty (50) miles of the Mississippi state line.

## 12. What is the coverage period?

Each policyholder's individual policy period commences the later of July 1, 2011, or the date the policyholder obtained coverage through the independent program by paying the appropriate premium and ends on July 1, 2012.

The policy is written on a claims made and reported basis. It applies only to claims first made against the insured and reported to the Company during the individual policy period or any applicable extended reporting period. Additionally, the subject negligent act, error, or omission must have occurred on or after the retroactive date. The retroactive date is the date when the policyholder first obtained real estate E&O coverage and since which time has maintained continuous coverage.

## 13. Do I have coverage for prior acts?

Your policy applies to acts and omissions that occurred after the retroactive date of your policy. The retroactive date is the date when you first obtained real estate E&O coverage and since which time have continuously maintained coverage, with no gaps. If you have a gap in coverage, you will lose coverage for any acts or omissions that occurred prior to and through the last day of the gap in coverage. Accordingly, it is important to pay your premium timely to prevent a gap in coverage. If you fail to purchase coverage timely, call RISC immediately to see if you qualify for reinstatement back to July 1, 2011, which may avoid a gap and loss of your retroactive date. Please note that curing a gap in coverage will not remedy noncompliance with mandatory insurance laws.

## 14. 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 policyholder'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 cancellation or non-renewal, as long as the claim would otherwise be covered under the policy and the negligent act, error, or omission is committed subsequent to the retroactive date and prior to the effective date of cancellation or non-renewal.

An optional extended reporting period, commonly known as "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 subsequent to the retroactive date and prior to the date of cancellation or non-renewal. If you had coverage under the 2010 group program and

are not purchasing coverage with RISC for the July 1, 2011 to July 1, 2012 policy period you may be interested in Tail Coverage. Tail Coverage is important because many claims are not made until years after the subject transaction occurs. Tail Coverage can only be purchased within 90 days after termination of the policy. For more information about, or to purchase, Tail Coverage, please call us at (800) 637-7319, ext. 1.

#### 15. How are claims handled?

A claim must be reported in writing to the Company as soon as possible after, but in no event more than ninety (90) days after the insured first became aware of the claim. To protect the insured's interests and to ensure compliance with coverage conditions, it is essential to properly report claims. Immediate action is required by the real estate licensee and/or broker.

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

#### 16. Is appraisal activity covered?

The policy excludes the policyholder's activities as an appraiser if the appraisal activity performed requires licensing or certification other than a real estate license. Policyholders 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 \$250.

The 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 RISC and are advised to purchase other coverage for their appraisal services. The excess policy is subject to all of the provisions of the primary policy and its coverage only applies if the underlying coverage applies. Therefore, because there is no coverage under the policy for licensed or certified appraisers and appraiser trainees who are not also real estate licensees, then likewise, there is no coverage through the excess policy for these individuals.

#### 17. Is rental, leasing, and property management covered?

The policy applies to activities that require a real estate license and are not otherwise excluded from the policy. It is our understanding that current Mississippi Real Estate License Law requires a real estate license to rent, lease, or manage property for a fee or commission. Therefore, the policy applies to the rental, leasing, and management of property, as long as such activities require a real estate license and are not otherwise excluded by the policy.

#### 18. Are other coverages available?

The optional endorsements below are available. Some of these endorsements require an additional premium. Optional endorsements will become effective the later of July 1, 2011, or the date RISC receives the completed Enrollment Form and applicable payment.

- **Conformity Endorsement** conforms your Mississippi policy to comply with insurance requirements of other states that require E&O coverage where you have an active real estate license. (Additional premium required.)
- **Environmental Endorsement** provides coverage for defense costs up to \$2,500 per claim and \$5,000 in the aggregate for covered environmental claims. (Additional premium required.)
- **Regulatory Complaints Endorsement** provides coverage for defense costs up to \$2,500 per complaint and \$5,000 in the aggregate for a complaint to a real estate regulatory board or commission under certain conditions. (Additional premium required.)
- **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 required.)
- **Appraisal Endorsement** is available to active real estate licensees who also are licensed appraisers. (Additional premium required.)
- **Extended Reporting Period (ERP) Endorsement is available to licensees with coverage under the 2010 group program who are not purchasing coverage through RISC for the July 1, 2011 to July 1, 2012 policy period.** In case of cancellation or non-renewal for any reason, you may purchase an ERP Endorsement within ninety (90) days after termination of the 2010 group policy. An ERP Endorsement is important because many E&O claims are not made until years after the underlying transaction occurred. One year, two year, and three year ERP Endorsements are available. (Additional premium required. Please contact us for pricing or to purchase an ERP Endorsement.)

#### 19. What if I have additional questions?

We suggest all that all licensees read the sample policy, which is available on our website, [www.risceo.com](http://www.risceo.com). Please retain a copy of the policy for your records. If you have additional questions, you may visit our website or call us at (800) 637-7319.