

Kentucky Real Estate Errors & Omissions Insurance

RISC Rice Insurance Services Company, LLC

Administrators
www.risceo.com



Under Agreement with the Kentucky Real Estate Commission
April 1, 2009 – April 1, 2010

AN OVERVIEW OF RISC'S GROUP REAL ESTATE ERRORS AND OMISSIONS PROGRAM

All active Kentucky real estate licensees are required to carry errors and omissions insurance as a condition of licensure. The Kentucky Real Estate Commission has contracted with Rice Insurance Services Company, LLC (RISC) to administer the group Errors & Omissions (E&O) insurance program for Kentucky licensees. Continental Casualty Company, one of the CNA insurance companies, is the insurance carrier for the E&O 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.

RISC provides servicing (administrative duties include claims handling, certificate of coverage issuance, marketing mailings, customer service, etc.) of the Kentucky account. The management team of RISC specializes in handling group programs for states with mandatory real estate E&O insurance requirements and has been managing the Kentucky group program (except for three years) since 1989. RISC is located at 4211 Norbourne Boulevard in Louisville, Kentucky.

This program is designed exclusively to provide professional liability insurance for Kentucky Real Estate Licensees. Even the most careful professional cannot always prevent the filing of a frivolous lawsuit nor can he/she preclude making an honest mistake. Under this program, the insurance carrier has the responsibility of defending, as well as paying a settlement or judgment on covered claims, up to the limits of liability. The following is intended to address the most frequently asked questions about the group E&O insurance program.

1. What kinds of Claims are covered?

- A. Claims for which a written demand for money or services is first made against the Insured during the policy period and reported in writing during the policy period.
- B. Claims which were unknown and unforeseen at the inception of the policy period.
- C. Claims arising from a negligent act, error or omission relating to the rendering of or failure to render Professional Services as a real estate licensee.

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?

- A. Individuals who hold an active license issued by the Kentucky Real Estate Commission and who pay the required premium.
- B. 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.
- C. Unlicensed employees of and under the direct supervision of the Insured Licensee, while acting in the course and scope of their employment in rendering Professional Services on behalf of the Insured Licensee.
- D. Any Real Estate Firm that the Insured Licensee 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 Insured Licensee.

4. What is the limit of liability?

- A. The most the insurance carrier will pay for all Damages arising out of the same or related negligent acts, errors or omissions is \$100,000 per Insured Licensee. NOTE: Claim Expenses are in addition to, and not within, the Limits of Liability.
- B. The Limits of Liability apply separately to each Insured Licensee.
- C. The Annual Aggregate Limit is \$1,000,000. This means the most the insurance carrier will pay for each Insured Licensee for all Damages combined during the Individual Policy Period is \$1,000,000.

5. Are higher limits available? Limits of \$250,000 per Claim per Insured Licensee with \$1,000,000 Annual Aggregate are available to individual licensees. Licensees whose real estate activity is at least 75% residential sales and who have had no claims in the past five years may pay an additional premium of \$60 (plus applicable surcharge and taxes) per year to increase limits to \$250,000. Licensees whose real estate activity is less than 75% residential sales and/or who have had claims in the past five years may pay an additional premium of \$90 (plus applicable surcharge and taxes) per year to increase limits to \$250,000.

Higher limits are also available on an underwritten basis for qualified real estate firms domiciled in Kentucky. The principal broker or officer of the firm must complete an excess application form in order to be considered for this excess coverage. All Licensees associated with the firm must be insured under the group policy. This program is also written by Continental Casualty Company. Please call RISC's toll-free number (or local number if calling from Louisville area) if you have any questions.

6. How much is the premium? The annual premium is \$117, plus applicable surcharge and taxes. Your principal broker will have a chart provided by the Commission listing the applicable surcharge and taxes for your location. Payment must be included with your real estate license application or renewal to the Commission. After the inception date of the group policy, the premium will be prorated by month of enrollment. Additional coverages are available by endorsement to the policy for an additional premium. Please see Sections 14 - 16 of this brochure for additional coverages.

7. How do I obtain coverage? Your principal broker should send your premium payment, made payable to the Kentucky Real Estate Commission, along with your license application or renewal to the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, KY 40223. In order to obtain endorsements for additional coverage or higher limits, send a separate check made payable to RISC along with the supplementary enrollment form to RISC, P.O. Box 6709, Louisville, KY 40206-0709.

8. What is the deductible? There is no deductible.

9. Where does coverage apply? Resident Kentucky Licensees are covered for errors and omissions committed anywhere in the world. However, if the Claim results in or from a lawsuit, the lawsuit must be brought within the United States, its territories or possessions. Non-resident Kentucky Licensees are covered for Kentucky transactions only. However, a non-resident Insured Licensee shall be treated as a resident of Kentucky if his/her Principal Real Estate License is affiliated with a real estate office located in Kentucky and the non-resident resides within fifty (50) miles of the Kentucky state line.

10. What is the coverage period? This insurance policy is written on a Claims Made and Reported basis. It applies only to those Claims first made against the Insured and reported to the Company during the Individual Policy Period or any applicable Extended Reporting Period and the negligent act, error or omission must have taken place on or after the Retroactive Date. The Retroactive Date is the date when the first real estate E&O coverage was effective insuring the Insured Licensee on a Claims Made basis and since which time the Insured Licensee has been continuously insured.

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 in the event the Insured Licensee's license is retired, placed on inactive status or allowed to expire. This allows the policy to apply to Claims first made and reported up to 90 days after the effective date of the cancellation or non-renewal so long as the negligent act, error or omission is committed subsequent to the Retroactive Date and prior to the effective date of cancellation or non-renewal.

Optional Extended Reporting Period Coverage, commonly known as Tail Coverage may be purchased to cause the policy to apply to Claims first made and reported up to three (3) years after the effective date of the cancellation or non-renewal so long as the negligent act, error or omission is committed subsequent to the Retroactive Date and prior to the effective date of cancellation or non-renewal. Tail Coverage can only be purchased within 90 days after the Licensee's policy has terminated. Tail Coverage is important because so many professional liability Claims are not made until months after the subject transaction occurs, and some may even be made years after the transaction.

12. How are Claims handled? A Claim must be reported in writing to the Company as soon as possible after the Claim is first made but in no event more than 90 days after the Insured became aware of such Claim. The Claim must be made and reported during the policy period or during an Extended Reporting Period in order to qualify for coverage. A Claim is a written demand for money or services received by the Insured or service of lawsuit or institution of arbitration or mediation proceedings naming the Insured, seeking Damages and alleging a negligent act, error or omission in the performance of Professional Services. It is essential, to protect the Insured's interests and to assure that coverage conditions are not violated, that Claims be properly reported. Immediate action is required by the real estate licensee and/or broker.

To report a Claim, download a Notice of Claim form from our website www.risceo.com or call our Claims Examiner at our administrative office at (800) 637-7319 for a Notice of Claim form. Complete and submit the Notice of Claim form and other pertinent documents. Cooperate fully with the appointed defense attorney(s) and your own company management. RISC will be happy to answer questions regarding the coverage and the Claim, provided the Claim has been submitted in writing to our office.

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 against the Insured and gives written notice to the Company of such negligent act, error or omission and the reason for anticipating a claim, with full particulars, including but not limited to: a. the specific negligent act, error or omission; b. the dates and persons involved; c. the identity of the anticipated or possible claimants; d. the circumstances by which the Insured first became aware of the potential Claim, then any such Claim that arises out of such reported negligent act, error or omission and that is subsequently made against the Insured and reported to the Company shall be deemed to have been made at the time such written notice was given to the Company.

14. Is appraisal activity covered? No, the definition of Professional Services does not include appraisal services. An endorsement is available to include services performed by an Insured Licensee as a licensed real estate appraiser under the definition of Professional Services for an additional premium of \$200 plus applicable surcharge and taxes. Note: This endorsement is only available to those with an active real estate license.

15. Are Regulatory Complaints covered? No, the definition of Claim does not include complaints or disputes brought before a real estate regulatory board or commission. The policy does not cover the return or restitution of fees, commissions, expenses or costs or any amounts awarded by a real estate regulatory board or commission. However, if during the policy period, the insured becomes aware that they are the subject of a complaint or dispute brought before a real estate regulatory board or commission, the insured must give written notice to the Company prior to the expiration of the policy period. If such notice is given, then any claim that is subsequently made against the insured and reported to the Company shall be deemed to have been made at the time such written notice was received by the Company. **Note:** A limited defense for Regulatory Complaints is available, see 17 F below.

17. Are there any new coverages or benefits this year? Yes, there are new endorsements automatically attached to the group policy for no additional cost.

A. A NEW Primary Residence Endorsement is automatically attached which will provide coverage up to policy limits for the sale of the licensee's primary residence under certain conditions.

B. A NEW Environmental Endorsement is automatically attached which will provide defense costs AND Damages coverage up to \$5,000 per claim, \$10,000 aggregate for any for environmental claims.

C. A NEW Fair Housing Act Endorsement is automatically attached which will provide defense costs AND Damages coverage up to \$10,000 per claim, \$10,000 aggregate for fair housing claims.

D. A NEW Earnest Money Disputes Endorsement is automatically attached which will provide defense of any **Claim** alleging, arising from or related to the **Insured's** failure to pay, collect or return escrow monies or earnest money deposits. Continental Casualty Company will pay up to a maximum of \$2,500 per **Claim** for **Claim Expenses** only, provided that:(i) such **Insured** has met the requirements of the Kentucky Real Estate Broker License Act governing client funds; and (ii) no fraudulent, dishonest, criminal or malicious act was committed by the **Insured**. The amount payable under this endorsement during the Individual Policy Period shall not exceed \$5,000 in the Aggregate.

E. A Franchise Endorsement is available if you are affiliated with a franchise group which adds to the policy definition of a Real Estate Firm, a franchise group for which the licensee is affiliated.

F. A Limited Claims Expenses Coverage Regulatory Complaints Endorsement is automatically attached which will provide defense of any complaint to a real estate regulatory board or commission as long as the complaint arises from a negligent act, error or omission in the rendering of Professional Services that would otherwise be covered by the policy. Continental Casualty Company will pay Claim Expenses up to a maximum of \$2,500 in defense of such complaint.

18. Are other coverages available? You may purchase additional coverages as separate endorsements to the policy. The Supplemental Enrollment Form is enclosed in the mailing to the principal brokers. Any endorsement to the policy will become effective the date that RISC receives the Supplemental Enrollment Form and endorsement premium. Premium surcharge and taxes applicable for endorsements must be paid to RISC and sent with the Supplemental Enrollment Form to RISC.

If you have a real estate license in another state that has mandatory requirements for insurance, you may obtain a **Conformity Endorsement** to make your Kentucky policy conform to the requirements of that state. There is no additional charge for most mandatory states. Please contact us for specific information about 2-year coverage requirements in Tennessee (if you qualify for the Tennessee conformity endorsement there is a charge of \$15* per year.)

*The premium for the endorsements and prices listed do not include the additional taxes and surcharges which apply. Please indicate your selection of endorsements on your Supplementary Enrollment Form and send the Supplementary Enrollment Form with your check made payable to RISC. Do not send payments for optional coverages and higher limits to the Commission along with the basic premium sent with your license renewal.

17. How does one secure answers to questions about the program that are not answered in the brochure? Read the sample policy. A sample policy is available online at 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 call our administrative office at (800) 637-7319 or our local Louisville number at (502) 897-1876.

NOTICE: Those Licensees who do not renew their policies timely will have as an effective date for E&O coverage, the actual date the E&O premium is received. Further, said Licensees will lose any previously established Retroactive Date (prior acts coverage). The new Retroactive Date will be the date the Kentucky Real Estate Commission receives and accepts the premium.

If you currently have coverage **other** than with the state group program and you have received notice of a Claim, you should report that Claim immediately to your current carrier so as to not jeopardize any potential coverage.

ADMINISTRATIVE OFFICE

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