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Risk Bulletin: Risk Transfer for Condominium, Apartment Complex and Homeowners Associations

Introduction: Every time you hire a contractor, enter a maintenance, or service or vendor agreement, or lease out a building or equipment, chances are you sign a contract detailing the terms of the agreement. Such contracts should also transfer the responsibility to pay for liability accidents from you to the contractor, service provider, tenant, or manufacturer. Without an effective risk transfer program, you can be held responsible for these losses even though they may not have been directly caused by you. An effective risk transfer program will help to protect your assets and lower your insurance costs.

How can you control this exposure?

When entering into these contracts, you have the opportunity to use your own contract, or amend the other party's contract to include provisions that require the other party to:

- Hold you harmless and indemnify you from all monetary damages owed because of liability losses arising from the work, product, or service provided.

- Provide you with a certificate of insurance to verify adequate insurance coverage for the exposures.
- Add you as an additional insured on their Commercial General Liability Policy.

All these measures help to ensure that the responsibility for any loss has been transferred to the appropriate party.

Essential administration

You should have a structured administrative program to maintain your certificates of insurance and contracts. Be sure to obtain Certificates of Insurance from vendors, tenants, contractors/subcontractors, and service/rental providers in conjunction with the signing of the contract.

The Certificates of insurance may indicate that you have been added as an additional insured for general liability coverage, but that must be substantiated through a contractual requirement and/or a manual endorsement. If you are not shown as an additional insured, return the Certificate with a request to be added as an additional insured to the policy and confirm status through contract review.

While contracts can stipulate minimum limits for insurance coverages, certificates of insurance will simply confirm the current coverages and limits.

General guidelines for low hazard operations are:

- General Liability & Auto: \$1,000,000/occurrence, accident
- Professional (if applicable): \$2,000,000 per claim
- Higher limits are prudent for more hazardous operations or if exposures change

Certificates of insurance expire when the policies they represent expire. The certificates you receive should be setup on a diary system so that when the policies of your contractors, vendors, etc., renew, you request and receive new certificates, verifying you being included as an additional insured on the renewed policies.

Retain copies of certificates for at least ten years after they expire, the longest possible statute of limitations period.

Contractual hold harmless and indemnification agreements are often difficult to evaluate and may be limited by state statutes. This will be less of an issue if you use your own contract with standard language for hold harmless, indemnification and additional insured requirements that have been approved by your attorney.

If you do not use your own contract, have your attorney review all contracts prior to your signing them. This will assist you in making well informed decisions about the possible assumption of liabilities.

An effective administrative control program will assist you in protecting your interests. See your attorney and your insurance agent – they can provide valuable insights into risk transfer and may assist you regarding your certificate of insurance program.



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