

## **NEW GROUP PROGRAM FOR MONTANA REAL ESTATE BROKERS AND SALESPERSONS MESSAGE FROM THE OFFICIAL PROVIDER**

Rice Insurance Services Company, LLC is pleased to have been selected to provide the group real estate errors and omissions (E&O) insurance program for the Montana Board of Realty Regulation (the "Board"). The insurance carrier is Continental Casualty Company, a CNA insurance company, rated "A, Excellent" by A.M. Best.

The group program is designed to offer actively-licensed Montana real estate brokers and salespersons affordable E&O insurance that exceeds the new State requirements. This type of program is not new to us—our management team has more experience with group real estate E&O programs than anyone else in the business. We manage the group program for the vast majority of states with similar programs.

### **NEXT STEPS**

We are working diligently to open enrollment in the group program as soon as possible in light of the Board's November 1 license renewal deadline. Appropriate filings are being submitted to the Insurance Department of the Office of the Montana State Auditor for review and approval prior to marketing the program.

[Click here to see highlights of the proposed group program.](#) Once approved, you may enroll in the group program online at our website, <https://enroll2.risceo.com/>, with a Visa or MasterCard (enrollment by mail will also be available). Licensees may also purchase insurance outside the group program, provided coverage meets Montana minimum requirements and proof of coverage is provided to the Board in compliance with State law.

### **ADDITIONAL INFORMATION**

[Click here for answers to frequently asked questions.](#) We will add additional information on our website, [www.risceo.com](http://www.risceo.com), once approved by the Insurance Department. Feel free to contact us at 1-800-637-7319 (8:30 a.m. to 5:00 p.m. EST) or email at [info@risceo.com](mailto:info@risceo.com).

We are looking forward to working with Montana licensees!

This information is for illustrative purposes only and is not a contract. This information is intended to provide a general overview of certain products, services, and situations encountered in the course of our business. This information does not amend any E&O policy in any way. The program referenced herein is underwritten by Continental Casualty Company, a CNA insurance company. Only the applicable policy can provide the actual terms, coverages, amounts, conditions, and exclusions, which may be subject to change without notice. In the event of a claim, the nature and extent of coverage is determined based upon the claim's facts, circumstances, and allegations and application of the relevant policy's terms, conditions, and exclusions. The E&O program described herein is only available in certain Montana. CNA is a registered trademark of CNA Financial Corporation. Copyright © 2019 CNA. All rights reserved. Prepared by Rice Insurance Services Company, LLC © 2020

## **HIGHLIGHTS OF THE PROPOSED PROGRAM, Subject to Insurance Department of the Office of the Montana State Auditor Approval**

**Proposed Premium Only \$168 per Licensee.** Any actively-licensed Montana real estate broker or salesperson may enroll in the group program for the same low premium.

**Proposed Group Policy Period November 1, 2020 – November 1, 2021.** Each licensee's individual policy period will begin the later of November 1, 2020 or the date we receive the licensee's premium payment. Licensees who enroll after November 2020 may pay a prorated premium.

**Proposed Damages Deductible \$1,000, No Defense Cost Deductible.** Only one damages deductible applies if the claim involves more than one insured associated with the same real estate firm at the time of the professional services giving rise to the claim.

**Proposed Limits of Liability \$100,000 per Claim per Licensee / \$300,000 Aggregate.** The limits of liability apply to the payment of covered damages. There is no limit on the amount of defense costs the insurance carrier will pay in connection with a covered claim. Endorsements to increase individual licensees' limits of liability to \$250,000 per claim / \$750,000 aggregate and \$500,000 per claim / \$1,000,000 aggregate were also proposed.

**Proposed Sublimits of Liability.**

- \$25,000 per Discrimination Claim per Licensee / \$25,000 Aggregate.
- \$10,000 per Environmental Claim per Licensee / \$20,000 Aggregate.
- \$5,000 per Escrow Claim per Licensee / \$10,000 Aggregate.
- \$5,000 per Lock Box Claim per Licensee / \$10,000 Aggregate.
- \$100,000 per Primary Residence Claim per Licensee / \$300,000 Aggregate (conditions apply).

**Proposed Limited Regulatory Complaint Coverage.** \$2,500 for fees, costs, and expenses resulting from the investigation, adjustment, defense, and appeal per complaint to a real estate regulatory board or commission / \$5,000 aggregate.

**Proposed Limited Subpoena Coverage.** \$2,500 for an attorney to represent the insured in connection with a subpoena / \$2,500 aggregate.

**Proposed Supplemental Coverage Security Breach Notification.** \$5,000 maximum reimbursement to the real estate firm for costs incurred to provide required notification to clients of a security breach when information may have been disclosed or used in an unauthorized manner, regardless of number of licensees involved.

**PROPOSED OPTIONAL ENDORSEMENTS,  
Subject to Insurance Department of the Office of the Montana State Auditor Approval**

**\$250,000 per Claim / \$750,000 Aggregate Increased Limits of Liability Endorsement, Proposed Premium \$100.** Increases the individual licensee's limits of liability to \$250,000 per claim / \$500,000 aggregate.

**\$500,000 per Claim / \$1,000,000 Aggregate Increased Limits of Liability Endorsement, Proposed Premium \$160.** Increases the individual licensee's limits of liability to \$500,000 per claim / \$1,000,000 aggregate.

**Appraisal Endorsement, Proposed Premium \$200.** Adds insurance for licensed appraisal services. Eligibility requirements: Licensee must be actively licensed as a Montana real estate broker or salesperson and as a Montana real estate appraiser.

**Appraiser Trainee Endorsement, Proposed Premium \$200 per appraiser trainee.** For supervising appraisers to add insurance for the activities of an appraiser trainee while assisting the supervising appraiser in the supervising appraiser's professional services.

**Conformity Endorsement, Proposed Premium \$20.** Insured licensees who also have an active real estate license in another state that requires real estate E&O insurance and has a group program may purchase this endorsement to conform their insurance under the Montana group policy to meet the other state's E&O insurance requirements. This helps those licensees avoid the cost of obtaining separate insurance for each state. Eligibility requirement: Licensee must be actually domiciled in Montana or treated as domiciled in Montana by the policy terms.

**Developed / Constructed by Spouse Coverage Endorsement, Proposed Premium \$250.** Adds sublimits of \$100,000 per developed / constructed by spouse claim / \$300,000 aggregate for claims involving the sale or listing for sale of residential property constructed or developed by the insured licensee's spouse (conditions apply).

**Franchise Endorsement, Proposed Premium \$0 (none).** Adds a franchise group with which the real estate licensee is affiliated as an insured for vicarious liability for covered claims.

**Property Management Endorsement, Proposed Premium \$150.** Adds insurance for specific property management services.

Residential Personal Interest Coverage Endorsement, Proposed Premium \$50. Adds sublimits of \$100,000 per residential personal interest claim / \$300,000 aggregate for claims involving the sale or listing for sale of residential property in which the insured has an ownership or financial interest (conditions apply).

## **FREQUENTLY ASKED QUESTIONS**

**When will coverage under the group program be available?** Real estate brokers and salespersons will be able to enroll in the group program once the filings have been approved by the Insurance Department of the Office of the Montana State Auditor. We are aware of the Board's November 1 license renewal deadline and are working diligently to obtain approval as quickly as possible.

**How do I enroll in the group program?** Once approved by the Insurance Department of the Office of the Montana State Auditor, you may enroll in the group program through our website at <https://enroll2.risceo.com/> with a Visa or MasterCard (a nonrefundable \$5 convenience fee applies to online enrollment) or by mailing us a completed enrollment form with a check or money order for the premium.

**How is a licensee's premium determined?** The basic policy premium and endorsement premiums are the same for every licensee, regardless of claims history.

**When does the deductible apply?** Under the proposed policy, a \$1,000 per claim deductible applies to the payment of damages (a covered settlement or judgment). Only one \$1,000 deductible applies if the claim involves multiple insureds associated with the same real estate firm at the time of the professional services giving rise to the claim.

### **Why have real estate E&O insurance?**

- It's required by state law – All actively licensed Montana real estate brokers and salespersons must carry E&O insurance as of November 1, 2020. We hope you choose the group program, which has been specially tailored for Montana licensees. You may also obtain insurance from other providers, as long as coverage meets State requirements and proof of insurance is provided to the Board in accordance with state law.
- It benefits licensees – Many real estate licensees face a claim at some point in their careers. Some are frivolous but may still lead to thousands of dollars of defense costs, which would be paid by the insurance carrier if covered under an E&O policy. Others are the result of a licensee's honest mistake. If E&O coverage is available, then the insurance carrier would pay covered damages to the claimant on the insured's behalf.
- It benefits the public – The public relies on licensees for guidance through real estate transactions, including the purchase and sale of homes, which may be their largest investment. If an insured licensee has liability for an honest mistake that leads to a claim, damages may be covered under an E&O policy.

### **What is the difference between the insurance program provider and the insurance carrier?**

- RISC is the provider for the group insurance program. We handle all aspects of the program, including mailings, enrollment and renewals, reporting, and answering questions from licensees. We are the point of contact for the Board and licensees.
- Continental is the insurance carrier. Its underwriters determine the appropriate premium and it issues the policy. Any damage or defense cost payments are made by Continental.

### **Do RISC and Continental have real estate E&O experience?**

- Yes, the Rice family formed RISC in 2000 exclusively to administer state-mandated real estate E&O programs. The Rice family and their colleagues have been operating as a business unit specializing in these types of programs since 1989. The vast majority of states with mandatory real estate E&O group programs have selected RISC as their program provider. We have a wealth of knowledge that helps us identify trends impacting real estate licenses.
- Continental, a CNA company, is rated "A (Excellent)" by A. M. Best. CNA provides insurance protection to more than one million businesses and professionals in the United States and internationally, including more real estate agents in the nation than any other insurance carrier.

CNA has 50+ years experience writing professional liability coverage, including 30+ years in real estate E&O.

**Who can enroll in the group program?** Once approved, any actively-licensed Montana real estate broker or salesperson may purchase insurance through the group policy.

**Who is insured under the group policy?**

- The licensee who pays the required premium
- The insured licensee's unlicensed employees, as defined in the policy. (Support staff employed by the licensee, under the licensee's supervision and control, assisting the licensee in the performance of the licensee's professional services. Unlicensed employees do not include an owner, officer, or director; any other staff member who is not under the licensee's direct supervision or assisting the licensee in the performance of the licensee's professional services; or appraisal trainees or anyone who manages property, even if under the licensee's supervision and control.)
- The insured licensee's heirs, executors, administrators, or assigns in the event of the licensee's death, incapacity, or bankruptcy but only to the extent coverage would be available to the licensee.
- The insured licensee's spouse or domestic partner but only for claims (a) arising solely out of such status and (b) seeking damages from certain types of property. No coverage is provided for any act, error, or omission of a spouse or domestic partner.
- Any real estate firm or real estate franchisor that the insured licensee represents but only for its vicarious liability for negligent acts, errors, or omissions in the licensee's professional services and only to the extent coverage would be available to the licensee.

**How does the broker or salesperson's insurance through the group policy insure the real estate firm?** Coverage under the proposed group policy will be issued to individual licensees and follows each insured licensee from firm to firm. The insurance insures both the individual licensee and any real estate firm the licensee represents for its vicarious liability for negligence in the licensee's professional services. The policy continues to insure the real estate firm even if the licensee moves on, provided the licensee maintains continuous coverage from the time of the professional services and has coverage through RISC when the claim is made. At no cost, the broker of a real estate firm may request a Firm Vicarious Liability for Professional Services of Former Licensees Endorsement to insure the firm for vicarious liability for professional services of former licensees under certain conditions, including that all of the firm's affiliated licensees be insured under the group policy at the time the claim is made against the firm.

**Does the group policy insure professional services performed before the policy's effective date?**

For a claim to be covered under the group policy, the professional services must have occurred after the insured licensee's retroactive date. The retroactive date is the date from which the licensee has maintained continuous, uninterrupted real estate E&O insurance on a claims-made basis. If there is even a one-day gap in coverage between the date of the professional services and the claim, the policy will not apply, even if insurance was in effect at the time of professional services and again when the claim is made. We maintain records of licensees who purchase insurance through our programs. If a claim is made against an insured involving professional services performed before they were insured with us, we will ask the insured for proof of continuous real estate E&O insurance (a certificate of coverage or declarations page) from the date of the subject professional services.

**When must a claim be made for the group policy to apply?**

- As a claims-made-and-reported policy, the proposed group policy will apply to claims that are both first made against the insured and first reported to RISC during the individual policy period or any applicable extended reporting period (ERP, commonly known as "tail coverage"). It does not apply to claims made before the beginning of the individual policy period. Nor does it apply to claims made after the end of the individual policy period unless an ERP is in place.
- Automatic ERP – For licensees who do not renew coverage through the group policy because their license is retired, inactivated, or allowed to expire, the policy provides a 90-day ERP.
- Optional ERP Endorsement – Licensees who do not renew coverage through the group policy for any reason may purchase a 1, 2, 3, or 5 year ERP endorsement for 100%, 150%, 200%, or 300%.

respectively, of the expiring premium, including any endorsement premium. Optional ERP endorsements can only be purchased within 90 days after the licensee's policy ends.

**What if I have notice of claim or potential claim?** Immediately report it in writing to your current insurance carrier before your current policy period expires, so that carrier can determine if any coverage applies to the claim or potential claim. Failure to do so can jeopardize any coverage that may otherwise be available. Your current insurance policy may not provide coverage for a claim that is not reported until after your current policy expires. The proposed group policy will not apply to a claim if, before the beginning of the licensee's policy period, the claim had already been made against the insured or the insured had reason to believe a situation may lead to a claim.

**Where does coverage apply / What if I am also licensed in another state?**

- For insured licensees domiciled in Montana, the proposed group policy applies to professional services performed anywhere the licensee has an active real estate license, provided the professional services would otherwise be covered under the policy if they had been performed in Montana. For insureds not domiciled in Montana, the proposed group policy only applies to professional services performed in Montana.
- The following states also mandate real estate E&O coverage and have a group program: Alaska, Colorado, Idaho, Iowa, Kentucky, Louisiana, Mississippi, Nebraska, New Mexico, North Dakota, Rhode Island, South Dakota, Tennessee, and Wyoming. Licensees who are actively licensed in Montana and one of these states may purchase a conformity endorsement to confirm their insurance under the Montana group policy to meet the other state's minimum E&O insurance requirements, so long as the licensee is actually domiciled in Montana or considered to be domiciled in Montana under the policy terms.
- Domicile is the place where a person has his/her permanent home to which he/she returns or intends to return. A person may have more than one residence but only one domicile. The group policy only applies to claims brought within the United States of America, its territories or possessions