

MONTANA REAL ESTATE BROKERS AND SALESPERSONS

NEW ERRORS AND OMISSIONS (E&O) INSURANCE REQUIREMENT EFFECTIVE NOVEMBER 1, 2020.

[ONLINE ENROLLMENT THROUGH THE BOARD'S GROUP E&O PROGRAM NOW AVAILABLE – Click here to enroll online and download proof of coverage immediately upon completion of purchase.](#)

Montana real estate license renewal procedures require all brokers and salespersons to apply to renew their license with the Board on or before October 31, 2020. The Legislature also required that the Montana Board of Realty Regulation (the "Board") offer a group E&O policy to its salespersons and brokers. Rice Insurance Services Company, LLC (RISC) was selected as the official group policy provider. The insurance carrier is Continental Casualty Company, a CNA insurance company, rated "A, Excellent" by A.M. Best.

Montana procedures and requirements for license renewal require all licensed brokers and salespersons to apply to renew their license on or before October 31, 2020. Effective NOVEMBER 1, 2020, all licensed real estate brokers and salespersons are required to maintain continuous E&O insurance. [Online enrollment through the group policy is now available](#), and licensees may download proof of coverage immediately upon purchase. Licensees may also enroll in the group program by mail. Due to COVID-19, postal services are processing and delivering much higher than normal volume, which is contributing to delivery delays across the country. For this reason and the late launch of the group program, online enrollment is encouraged in order to meet the November 1 deadline. Licensees may purchase insurance outside the group program, provided coverage meets state requirements and proof of coverage is provided to the Board as required by state law. New licensees must obtain insurance before their license can be activated. Failure to timely obtain or renew E&O insurance is a violation of Montana real estate licensing law.

MESSAGE FROM THE OFFICIAL PROVIDER

RISC is pleased to have been selected to provide the group program. It's tailored to offer 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 are looking forward to working with Montana licensees!

ENROLLMENT INSTRUCTIONS

[Online enrollment](#) is encouraged for licensees who wish to purchase insurance through the group program in light of the upcoming October 31 license renewal deadline. Proof of coverage may be downloaded immediately upon completion of online enrollment. (Visa and MasterCard accepted for online enrollment, a nonrefundable \$5 convenience fee applies.)

Licensees may also enroll by mail by visiting www.risceo.com to download an enrollment form to complete and send to RISC with a check or money order for the applicable premium. We will make every effort to expedite enrollment forms received by mail, but please be mindful that postal services are processing and delivering much higher than normal volume due to COVID-19, which is contributing to delivery delays across the country. For this reason and the late launch of the group program, online enrollment is encouraged.

GROUP POLICY INFORMATION

Low Annual Premium

\$168 per Licensee. Once premium has been paid and the policy coverage has incepted, you may not cancel the policy.

Group Policy Period

November 1, 2020 – November 1, 2021. Licensees who enroll before November 1, 2020 will have an effective date of November 1, 2020. Licensees who enroll after November 1, 2020 will have an inception date of the day RISC receives the licensee's *completed application and premium*. If you have current insurance and need coverage to begin after November 30, 2020, a prorated enrollment form is available on our website, www.risceo.com.

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 are available to increase individual licensees' limits of liability to \$250,000 per claim / \$750,000 aggregate and \$500,000 per claim / \$1,000,000 aggregate.

Deductible

\$1,000 Damages Deductible \$1,000, No Defense Cost Deductible. 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.

[Click here to see group program highlights, including automatic sublimits of liability and available optional endorsements.](#)

[Click here for answers to frequently asked questions.](#)

RISC suggests all licensees review a sample policy, including the Exclusions section. A sample policy and additional information are available on www.risceo.com or by requesting one from RISC by email at info@risceo.com or phone toll-free at 1-800-637-7319, ext. 1 (8:30 a.m. to 5:00 p.m. Eastern Time).

GROUP PROGRAM HIGHLIGHTS

Annual Premium

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

Group Policy Period

November 1, 2020 – November 1, 2021. Licensees who enroll before November 1, 2020 will have an effective date of November 1, 2020. Licensees who enroll after November 1, 2020 will have an inception date of the day RISC receives the licensee's *completed application and premium*.

Deductible

\$1,000 Damages Deductible, 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.

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 are available to increase individual licensees' limits of liability to \$250,000 per claim / \$750,000 aggregate and \$500,000 per claim / \$1,000,000 aggregate.

Sublimits of Liability.

- **Discrimination Claim – \$25,000** per Discrimination Claim per Licensee / **\$25,000** Aggregate.
- **Environmental Claim – \$10,000** per Environmental Claim per Licensee / **\$20,000** Aggregate.
- **Escrow Claim – \$5,000** per Escrow Claim per Licensee / **\$10,000** Aggregate.

- **Lock Box Claim – \$5,000** per Lock Box Claim per Licensee / **\$10,000** Aggregate.
- **Primary Residence Claim – \$100,000** per Primary Residence Claim per Licensee / **\$300,000** Aggregate (conditions apply).

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.

Limited Subpoena Coverage.

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

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.

OPTIONAL ENDORSEMENTS AVAILABLE

Increased Limits of Liability Endorsement \$250,000 per Claim / \$750,000 Aggregate

\$100 Endorsement Premium. Increases the individual licensee's limits of liability to \$250,000 per claim / \$500,000 aggregate.

Increased Limits of Liability Endorsement \$500,000 per Claim / \$1,000,000 Aggregate

\$160 Endorsement Premium. Increases the individual licensee's limits of liability to \$500,000 per claim / \$1,000,000 aggregate.

Appraisal Endorsement

\$200 Endorsement Premium. Adds insurance for licensed appraisal services. Eligibility requirements: Licensee must be hold a Montana real estate broker or salesperson license and a Montana real estate appraiser license.

Appraiser Trainee Endorsement

\$200 per Appraiser Trainee Endorsement Premium. 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

\$20 Endorsement Premium. 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

\$250 Endorsement Premium. 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

No Additional Cost. Adds a franchise group with which the real estate licensee is affiliated as an insured for vicarious liability for covered claims.

Property Management Endorsement

\$150 Endorsement Premium. Adds insurance for specific property management services.

Residential Personal Interest Coverage Endorsement

\$50 Endorsement Premium. 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

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? 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 licensed Montana real estate brokers and salespersons must carry E&O insurance as of November 1, 2020. RISC hopes 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. RISC handles all aspects of the program, including mailings, enrollment and renewals, reporting, and answering questions from licensees. RISC is 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. RISC's management team has a wealth of knowledge in issues and trends impacting real estate licensees.
- 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? Any 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 group policy is issued to individual licensees pay the required premium 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. If you fail to enroll timely, call RISC immediately to see if you qualify to backdate your individual policy period to November 1, 2020 (subject to insurance carrier approval, \$20 cost if requested more than 60 days after group policy inception). This procedure will not remedy noncompliance with mandatory insurance laws.

RISC maintains records of licensees who purchase insurance through its programs. If a claim is made against an insured involving professional services performed before they were insured with RISC, proof of continuous real estate E&O insurance (a certificate of coverage or declarations page) from the date of the subject professional services will be requested from the insured.

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

- As a claims-made-and-reported policy, the group policy applies 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. It's important

to consider an ERP endorsement upon nonrenewal, because claims often arise years after the subject transaction occurred.

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 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. Any claim under the group policy must be reported to us in writing during the individual policy period in which it is first made against the insured. For further instructions and a notice of claim form, visit www.risceo.com then select the "Resources" tab and click "Forms" or call RISC toll-free at 1-800-637-7319, ext. 2.

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

- For insured licensees domiciled in Montana, the 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 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 conform 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

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 © 2020 CNA. All rights reserved. Prepared by Rice Insurance Services Company, LLC © 2020