

Who Needs Prior Acts Coverage?

Don't be fooled by marketing gibberish that might imply that you don't need to maintain your prior acts coverage in your Real Estate Errors and Omissions Insurance policy. **YOU NEED IT.**

I realize that these are tough economic times and with the downturn of the real estate market many Real Estate Appraisers are struggling to survive. However, one of the most important business decisions you can make is to continue your Errors and Omissions insurance coverage. No one ever thinks they are going to have a claim. However as long as homeowners continue to struggle to meet mortgage payments and fall short of refinance requirements due to lowered property values, Real Estate Appraisals will be scrutinized and questioned.

Many Real Estate Appraisers assume that if they paid for an insurance policy then they have coverage under that policy forever. This is not true and this not how claims-made policies works.

If your policy is written on a claims- made basis (most professional liability policies are), then your prior acts date is typically the date of the first policy you purchased. Some carriers will offer what is called "full prior acts". This means that there is no specific date in the past that your prior acts are limited by. Your prior acts date is carried forward each year if you renew your policy without a lapse in coverage. You are then covered back to your prior acts date in the event of a claim subject to your policy terms, conditions and exclusions.

Let's demonstrate how a claims-made policy works.

John Smith purchased a Real Estate Appraiser policy on 2/1/2000. He renewed his policy each year by 2/1 to avoid having a lapse in his coverage. His current policy will have a prior acts date on it of 2/1/2000. Mr. Smith's policy would respond to a claim that is reported during his current policy period for work he performed between 2/1/2000 and 2/1/2011 subject to the terms, conditions and exclusions of the policy form.

If Mr. Smith were to switch insurance companies before his current policy expired on 2/1/2011, his new carrier should pick up his prior acts coverage back to 2/1/2000 and the new insurance company would respond to a new claim that was reported during the policy period for work done between 2/1/2000 and 2/1/2012.

If Mr. Smith let his policy lapse and did not renew it on 2/1/2011 or went with an insurance company that did not offer prior acts - should he have a claim for work he did between 2/1/2000 and 2/1/2011- **he would have no coverage** unless he purchased an Extended Reporting Period Endorsement.

Most claims or complaints are reported several years after the actual appraisal was performed. There are statutes of limitations which typically vary by state and by allegation that may protect a Real Estate Appraiser from being held responsible for damages. However there is still the cost of defense which can far exceed the cost of your insurance contract.

An Extended Reporting Period is an Endorsement you can purchase from your current carrier during a specified time period if you do not renew your policy, retire, switch to another carrier who does not provide you with prior acts coverage or let your policy lapse. It is an extension of time you can purchase from the carrier to respond to a claim for work done between your prior acts date and your policy expiration date. Costs vary depending on your insurance company. Some may offer free options for Retirees and Death and Disability as well as options you can purchase for a one, two or three year period of time. **An Extended Reporting Period does not cover any services performed in the future.** It only provides an extension of time in which to report a claim for work done in the past. It is a **onetime option** available to an Insured and once the Extended Reporting Period expires it cannot be renewed.

The long and the short of it is - giving up your prior acts coverage may be one of the worst business decisions a professional could make. All those years of maintaining adequate protection by renewing each year and keeping your prior acts coverage would be gone- just when you need the coverage the most. Maintain your prior acts coverage until you no longer are performing any professional services then review your policy options and/or discuss with an Insurance professional your Extended Reporting Period options.