

Insurance Coverage Limits

Introduction

Many community associations hire outside companies for property management, pool maintenance, landscaping and snow removal. Whenever an association contracts for these services, there is a potential exposure to third-party litigation and other damages resulting from work performed by the company or their actions.

The association board of directors has a fiduciary duty to its membership to verify that any company hired by the association, including their property management company, has the appropriate insurance coverage and adequate limits in place. Unfortunately, the latter is often overlooked by many boards.

An association may easily verify the insurance coverage and limits for a company by requesting a certificate of insurance (COI). It is important to remember that a COI only confirms that the insurance coverage and limits were in effect at the time the certificate was prepared. There is no guarantee that insurance has not or will not be cancelled; that coverage limits will not be exhausted by other claims; or that other endorsements have not been added to the policy, reducing the amount of coverage available.

Do not assume that a company you hire has adequate insurance coverage. Your service contract should specify the type of coverage and the minimum limits that you require the company to carry. At a minimum, associations should require companies to carry General Liability, Commercial Auto and Workers' Compensation coverage. In addition to these coverages, you should require your management company to carry Professional Liability, Fiduciary Liability and Fidelity coverage.

The minimum insurance limits discussed in this article are provided for illustrative purposes only and should not be construed as coverage limits recommended by CAU for your association. This determination should be made in collaboration with your insurance agent and based on locale and the specific exposures faced by your association.

What CAU Recommends

- > Use only qualified and insured contractors and service providers.
- > Require a Certificate of Insurance with a minimum limit as discussed in this article from each contractor, including your property management company.
- > Do not sign a contract provided by a contractor without a review by the association's legal counsel.
- > Verify that your snow removal contractor actually has liability coverage for snow removal operations.

Need More Information?

Consult with your legal counsel and insurance agent to review business contracts, assess exposures and to offer advice as to the type and level of insurance protection required.



Associations may request additional information on this topic by contacting CAU's Loss Control Department.

General Liability (GL)

GL policies cover certain legal liability for damages because of acts or omissions that cause harm to a third-party including the association, home owners, and their tenants or guests and business invitees. The harm can be in the form of bodily injury, property damage, personal injury or advertising injury.

There are two sub-lines of coverage on a GL policy; Premises and Operations which covers exposures at the third party's place of business; and Products and Completed Operations which covers exposures away from their place of business, such as on the association's property.

A GL policy has aggregate limits, per occurrence limits, and sub-limits. Aggregate limits are the most an insurer will pay for covered losses in a single policy year. There is a general aggregate and a separate aggregate for Products and Completed operations. A per occurrence limit is the most an insurer will pay for a single covered loss under either of the sub-lines. There may be sub-limits for medical expenses, and fire damage to property rented by the other party.

A \$2,000,000 aggregate limit and a \$1,000,000 per occurrence limit is common on many GL policies. Higher and lower limits are available. This is the minimum coverage limit that an association should require.

When an association is contracting with a landscaping company for snow and ice removal, it is critical to verify that the contractor is covered for bodily injury and property damage arising out of snow plowing operations. Most liability policies written for landscaping companies specifically exclude this coverage, and the contractor must pay an additional premium to obtain the coverage. The association can verify this by reviewing the contractor's liability policy and declarations.

Workers' Compensation (WC)

WC provides coverage for an employee's medical costs and lost wages resulting from a work related injury or occupational disease. If a contractor used by an association does not have WC coverage then these costs may revert back to the association. In most states the fees paid to the contractor would be considered additional payroll under the association's WC policy. This will result in additional premium owed by the association.

Each state has statutory requirements relating to coverage limits.

Commercial Auto (CA)

CA policies cover damage to a company's vehicles and third-party bodily injury and property damage resulting from the operation of their vehicles.

Each state has statutory requirements for minimum liability coverage limits which must be carried on a CA policy. The association should require a minimum limit no less than \$1,000,000.

Professional Liability

Professional Liability is a special liability policy that provides coverage for errors and omissions, legal liability resulting from negligence and other exposures created through the provision of professional services. It generally will attach to certain losses outside of the coverages provided by the General Liability policy.

\$5,000,000 is a common coverage limit for a professional liability policy. Higher and lower limits are available but the association should require a minimum limit no less than \$1,000,000.

Fiduciary Liability

Fiduciary Liability covers the exposures a fiduciary faces in their service as an executor, administrator or trustee. Since the management company handles the association's funds, this coverage will cover losses resulting from mishandling of the funds. Typically, for a management company, their Fiduciary Liability is covered under their own Professional Liability or Errors and Omissions policy or under the Directors and Officers policy of the association they are managing.

Coverage limits for Fiduciary Liability must be sufficient to cover the full value of the association's operating and reserve accounts.

Fidelity

Fidelity coverage provides coverage for the internal theft of association funds or other assets. A property management company may either secure their own Fidelity coverage (if coverage is extended to third party monies), or be extended coverage under the policy issued to the association.

Coverage limits for Fidelity must be sufficient to cover at least 3 months (25%) of the associations operating budget and the full value of their replacement reserves. The minimum limit may vary by state so it is important to determine the coverage you should carry in collaboration with your insurance agent.