

INSURANCE DIVISION

Mission

To administer the Insurance Code for the protection of the insurance-buying public while supporting a positive business climate.

Purpose

The Insurance Division ensures the financial soundness of insurers, the fair treatment of consumers, and the affordability and availability of insurance products:

- Licenses insurance companies, producers (agents), and consultants.
- Reviews insurance products and premium rates and monitors insurer solvency.
- Monitors insurers and producers to enforce insurance laws, issuing penalties for violations as appropriate.
- Helps resolve consumer complaints, advocates reforms to address common consumer problems, and educates the public about insurance issues.

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Construction Claims Task Force and Contractors

Overview of Insurance, Bonds and Warranties
Prepared for Construction Claims Task Force June 28, 2006

	Bond	Basic General Liability (Premises & Operations)	Commercial General Liability(Premises & Operations with Completed Operations)	1st Party Warranty	3rd party Warranty
What is Covered?	Payment up to bond limit to repair damage due to workmanship. Failure to complete work. Payment award is determined by CCB.	Bodily injury and property damage caused by contractor's negligence while project is in progress. Defense costs for covered claims.	Bodily Injury and property damage caused by contractor's negligence during construction and after completion. Defense costs for covered claims.	Some states specify what must be included. This varies but generally covers design, material, workmanship and latent defect.	Varies by contract but generally covers design, materials, workmanship and latent defect. Some states have specific coverage that must be included.
What is NOT covered?	Resulting property damage. Defense cost. Consequential damage.	Completed project. Workmanship. Construction defect. Failure to complete work.	Breach of contract, workmanship and failure to complete work are excluded.	Resulting damage or injury. Consequential damage.	Resulting damage to parts of the home not specifically outlined in the contract. Bodily Injury and consequential damages.
How is this regulated in Oregon?	Surety insurers must be authorized to operate in Oregon. Filing of surety forms is not required.	Admitted insurers must file rates and have policy forms approved by the Insurance Division.	Admitted insurers must file rates and have policy forms approved by the Insurance Division.	No express warranty in statute. Limited implied warranty applies by court decision.	No current regulation in Oregon for residential warranty contracts not sold as stand alone products.
How is this regulated elsewhere?	Surety Insurers must be authorized in each state where they operate. Filing of surety forms is not required.	Varies by state but generally forms and rates must at least be filed with the state's insurance department.	Varies by state, but generally forms and rates must at least be filed with the state's insurance department.	Varies by state. Some states create specific conditions where warranty must apply. Explicit warranty by contractors can vary by contract in voluntary states. 13 states have some statutory requirement.	Varies by state. Some states regulate warranty products and require that they be filed when offered.
Benefit to consumers?	Provides funds to redo incorrect work or complete work not finished by the contractor as determined by CCB Dispute Resolution.	Protects for bodily injury and resulting property damage due to contractors' negligence only while construction is in progress.	Protects consumers from resulting damages incurred due to contractor's negligence both during the construction and after completion.	Provides direct means of redress through builder as opposed to 3rd party warranty or regulators.	Provides protection for failure of systems and construction defects for specified periods.
Benefit to contractors?	Fulfills the CCB's bonding requirement	Fulfills the CCB's insurance requirement and provides a defense against suits for work in progress.	Fulfills the CCB's insurance requirement and provides a defense against suits for both work in progress and completed operations.	Can limit payment of incidental or consequential damages.	Obligates contractor only to specific warranty periods for certain items. Reduces potential for other litigation.

Insurance Terms Glossary
 Prepared for Construction Claims Task Force
 June 28, 2006

Admitted Market	Insurer licensed to do business in Oregon and subject to jurisdiction of the Insurance Division to meet financial solvency standards, file forms for approval and rates for review when required by law. Admitted carriers are subject to the protection of the Oregon Guaranty Association. Sometimes referred to as the "standard market"
Bodily Injury	Liability for physical harm or death of a person caused by negligent or intentional acts or omissions of an insured. It includes sickness or disease contracted by the injured person as a result of an injury.
Care Custody & Control	The status of property temporarily placed in the possession of another person or company, called a bailee. Use of the term in a contract transfers responsibility for the safekeeping of the property to the bailee, pending its return to the owner (the bailor). Liability policies usually exclude coverage for damage to property in the insured's care, custody or control, but they can be endorsed to afford protection.
Claims Made	A liability policy that provides coverage for an injury or loss if the claim is first reported or filed during the policy period. This is in contrast to the broader occurrence policy forms, which cover injury or loss that occurs during the policy period, regardless of when the claim is first made. Generally, medical malpractice, professional liability, and high hazard product liability policies are written on a claims-made basis.
Completed Operations	Liability insurance for injury or damage resulting from real or alleged faults in work completed by the insured. Completed operations insurance is purchased by commercial insureds who provide services (e.g., plumbers, painters, carpenters), whereas manufacturers require product liability insurance. In most commercial liability forms, products and completed operations coverages are combined.
Consequential Damages	Property loss from a peril that is not the immediate cause of loss; an indirect loss (e.g., a business interruption loss, extra expense, lost rent, etc.) arising out of an insured's inability to use property damaged by another peril.
Construction Defect	Refer to American Actuarial report draft Page 2
Express Warranty	A statement (e.g., a provision of a contract) guaranteeing that an item or service is of a certain quality or condition.
Faulty Work or Your Work Exclusion	An exclusion in products-completed operations insurance that prevents an insured from recovering for a loss to his or her own work due to the insured's poor craftsmanship. However, the exclusion does not apply to damage to other property caused by the insured's faulty work or defective product.
Implied Warranty	Courts have sometimes ruled that a warranty exists, even though it is not explicitly stated, when the warranty is implied or inferred from the nature of the transaction and circumstances. Example: It is accepted as an implied warranty in most jurisdictions that if a contractor builds a house, it is habitable and acceptable as a safe dwelling place.
Latent Defect	This term applies to a defect that is not readily visible or noticeable and has not yet come forth but may emerge and develop. Poor plumbing, a rotting water tank, lack of proper insulation or drainage are all latent defects to watch out for

Occurrence Policy	A liability policy for claims arising out of incidents that occur during the policy period, regardless of whether the policy is still in effect at the time the claim is made.
Property Damage	Physical injury to tangible property
Retroactive Date	A date stipulated in a claims-made liability policy declarations section as the first date of incidents covered by the policy. The retroactive date is designed to provide coverage for claims resulting from incidents that take place prior to the current policy term. Renewal claims-made policies usually have the retroactive date of the first policy issued to the insured. When this is not done, there is a gap in coverage.
Surety	The individual or entity that guarantees the legal liability for the debt, default, or failure to perform a duty
Surplus Lines	A risk or a part of a risk for which there is no market available through the original broker or agent in its jurisdiction. Therefore, it is placed with nonadmitted insurers on an unregulated basis, in accordance with the surplus or excess lines provisions of the state law. (G)
Warranty	A promise, either written or implied, that the material and workmanship of a product are without defect or will meet a specified level of performance over a specified period of time.
Work in Progress	Work in progress insurance coverage limits the protection to damage and injury which occur while the contractor is working on a project. Once the project is completed(or abandoned) no coverage applies for damage or injury that arise as a result of the contractors work.
Workmanship	The quality and completeness of work. Generally to complete work to comply with an acceptable standard of usefulness for the intended purpose.
Wrap Policy	Insurance on large construction projects arranged by the owner or general contractor in such a way that all interests involved (those of the owner, general contractor, subcontractors, architect, engineer, and surveyors) are combined and insured under one policy with a single insurer. Generally, it includes workers' compensation, general liability, umbrella liability, and builders' risk insurance; occasionally, it is only workers' compensation. It is designed to reduce the project's overall insurance costs and provide a coordinated project safety program.
Your Work	An exclusion in products-completed operations insurance that prevents an insured from recovering for a loss to his or her own work due to the insured's poor craftsmanship. However, the exclusion does not apply to damage to other property caused by the insured's faulty work or defective product.

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June 28, 2006