

# the TOOLBOX

Fall 2016

## Expert in contractor insurance answers your questions

The CCB asked Oregon retired insurance broker Kelly Atwood some questions about liability insurance and bonds. Atwood specialized in contractor insurance during his 45 years in business. Here are his answers.

*(Note: This information is intended to help you develop questions for your agent. This information is general; you may have unique circumstances. Always get answers to your specific insurance questions from a qualified, licensed agent.)*

### FINDING INSURANCE

#### **How do I find an agent?**

Exclusive agents work for companies like State Farm, Farmers, Allstate, etc., and are generally limited to selling their company-specific products. Independent insurance brokers, on the other hand, have access to multiple markets and multiple companies, including surplus lines carriers that accept risks that other companies may not.

#### **Do most agents sell both surety bonds and liability insurance? Will I get a better deal if I buy both from one agent?**

Most insurance brokers market surety bonds and liability insurance. There are companies that will give a discount on the surety bond if the liability insurance is purchased as well. Generally, it benefits the construction contractor to purchase from a broker as the broker may get a better rate on both coverages.

#### **Is it important to find an agent who specializes in contractor insurance (liability and surety bonds)?**

Over the last 15 years, the construction exposure has been a huge loss item for insurance companies. As a result, many companies will not cover exterior envelope exposures (windows, doors, siding, roofing, garage doors, etc.). This is particularly true in the Pacific Northwest because water intrusion issues are just part of living here. Agencies that specialize in construction coverage know the types of insurers and the companies that will provide higher-risk policies.



Construction  
Contractors Board

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## LIABILITY INSURANCE

### **Under what circumstances does my liability insurance cover workmanship claims?**

General liability insurance, as a rule, does NOT cover poor workmanship. However, it DOES cover the property damage resulting from negligence or poor workmanship. For example, a plumber mounts a sink on a wall and drills through the water line during the installation. Later, the water leak causes damage to the wall and floor. A claim is filed with the plumber's insurance company. The company pays for the repair to the wall and floor but does not cover replacing the pipe.

### **What are exclusions and what are some typical ones in the construction industry?**

Exclusions are events or occurrences (losses) that are NOT covered by the insurance policy. There are policies to cover some exclusions, but not all. Common exclusions are intentional acts, negligence, "exterior installation and finish systems" (EIFs), asbestos, lead-based paint, subsidence (cave-in or sink), garage door installation, and window installation. The outer envelope and vapor/moisture barrier risks are generally excluded or limited in coverage. An agent experienced in construction insurance can explain what is covered and not covered.

### **I'm retiring soon and want to make sure I have coverage for at least a few years in case a client files a claim. What do I need to know?**

Oregon's statute of repose lasts for 10 years from the date of the last completed project. It is highly recommended to carry general liability insurance for the 10-year period following the final project. This will ensure that if a claim is filed, the contractor has coverage for defense costs involved with sorting out who (often which subcontractor) has the completed operations coverage for the work in question. A minimum liability policy will cover defense costs, subject to a deductible.

### **What is completed operations?**

The CCB requires contractors to carry completed operations insurance. This is an occurrence type of policy that covers losses based on the date the loss occurred, even if this is years after a project is completed.

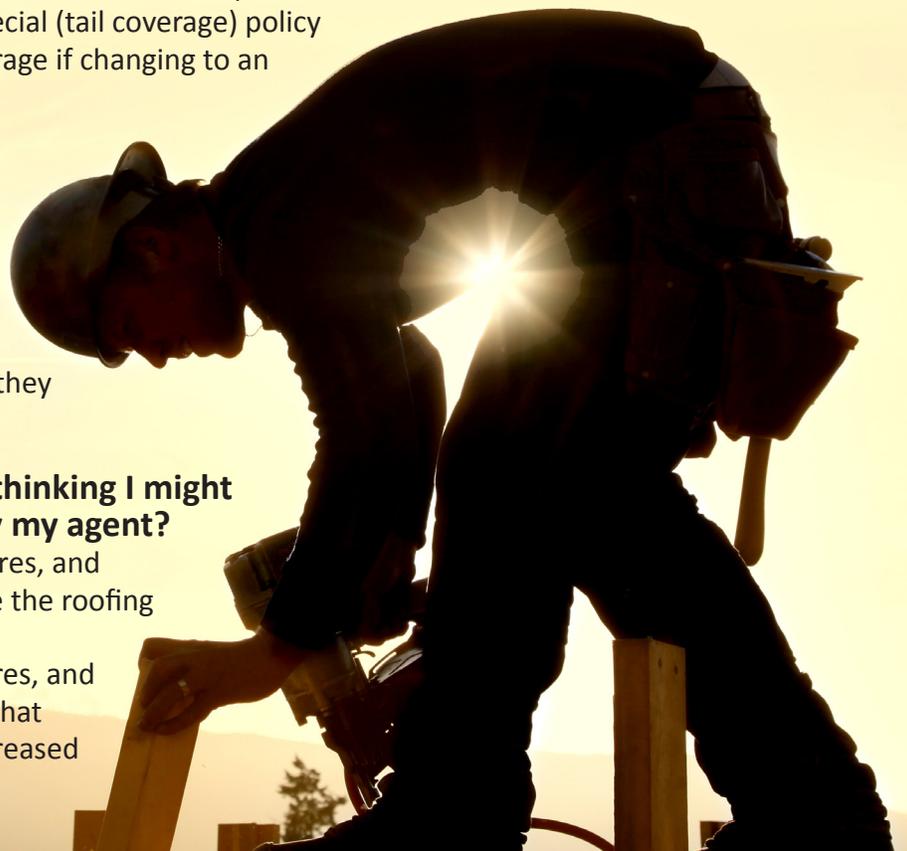
In contrast, a claims-made policy requires that specific policy to be in force at the time of the loss. Claims-made policies are NOT the best option for the construction industry and require a special (tail coverage) policy to be purchased to avoid a gap in coverage if changing to an occurrence policy.

### **If I switch insurance companies, what do I need to be careful about?**

If an individual changes companies with occurrence-type coverage, there is no concern. The companies will subrogate to resolve a claim, meaning they will work out payment between them.

### **Normally I paint houses but I'm thinking I might learn roofing. Do I need to notify my agent?**

Absolutely. Roofing has its own exposures, and many insurance companies do NOT like the roofing exposure. A qualified agent can walk a contractor through the roofing exposures, and the insurance carriers that will accept that exposure. To avoid claim denials or increased





## Key contacts

- Licensing questions:  
503-378-4621
- Report unlicensed activity: 503-934-2229
- Dispute resolution (mediation) questions:  
503-934-2247
- Education questions:  
503-934-2227

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Susan Steward, Portland

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premiums, you must disclose all the types of construction work you perform to your agent. If you change anything in your operations, your agent needs to know.

## **If I forget to make a payment, do I get a notice before my policy is canceled?**

All insurance carriers are required to send notice of cancellation 30 days prior to a cancellation. In many cases, the agency also sends a delinquent notice to the contractor.

## **What are certificates of insurance and additional insureds?**

Certificates of insurance are simply proof that an individual has insurance coverage to conduct the business they are conducting. General contractors require certificates of insurance from subcontractors to make sure their subs are insured and that the subcontractors insurance is primary in the event of a claim for the subcontractors work/damage.

Additional insured are individuals or companies that have a financial interest in the project and want to have the other parties' (general contractor's, subcontractor's, supplier's) insurance as the primary insurance in the event of a loss. They are named as covered (additional) insureds on the insurance policy. This is standard business practice in the construction industry.

## **If I have subcontractors, do I need to make sure they have as much insurance as me? What happens if my sub turns out not to have general liability insurance?**

Many insurance companies require the general contractor to only contract with subcontractors that carry the same limits of insurance as they do. If the general contractor fails to follow through, a claim could be denied. Or, contractors that don't meet that requirement might get paid less on a claim because the insurance company will adjust the settlement based on the difference between what the subcontractor actually carried and was supposed to carry based on terms of the contract. If the subcontractor does not have general liability insurance, the general contractor could be obligated to pay the claim or pay a bigger premium for liability insurance. It is **IMPERATIVE** that general contractors verify their subs have adequate coverage.

## **SURETY BONDS**

### **What happens if my surety bond is used to pay a claim?**

A surety bond is secured by the financial assets of the contractor obtaining the bond. Bonds are designed to assist homeowners in getting claims resolved although employees, suppliers and others can also access the bond if they are not paid. Once a bond is exhausted, the bonding company will go to the contractor to recover its funds. If the contractor does not repay the bonding company, the contractor may find it **VERY** difficult to obtain a new bond, which is required by the CCB for a contractor's license.

# Important things to know about bond and insurance certificate requirements - share with your agent

Licensing Manager Laurie Hall

While most people know the dollar amounts required for bond and insurance related to construction contractor licensing, many people are not aware that Oregon Administrative Rules are also specific about the information that is required to be on all surety bonds and insurance certificates. If your bond and/or insurance don't meet all of these requirements, CCB **cannot legally** issue, renew, or reinstate your license.

## Bonds must be:

1. Issued on the form adopted by CCB, including the bond number.
2. Issued on behalf of the individual or entity name EXACTLY as it appears on the application. For sole proprietors, this would be the licensee's full legal name, **including your middle name**. For any business registered with the Oregon Corporation Division, this would be the entity name EXACTLY as it is filed with the Corporation Division. For partnerships, this would be the full legal name, **including middle names**, of all partners, except limited partners.
3. The amount required by law.
4. The name of the surety company.
5. Signed and dated by an authorized agent and include a Power of Attorney.

## Insurance certificates must include:

1. Name, address, phone of insurance agent.
2. The name of insurance company.
3. Individual or entity name EXACTLY as it appears on the application. For sole proprietors, this would be the licensee's full legal name, **including your middle name**. For any business registered with the Oregon Corporation Division, this would be the entity name EXACTLY as it is filed with the Corporation Division. For partnerships, this would be the full legal name, **including middle names**, of all partners, except limited partners.
4. Policy number.
5. Effective dates of coverage.
6. Coverage in at least the amount required.
7. A statement that products and completed operations coverage is included.
8. CCB listed as certificate holder.

**STATE OF OREGON  
CONSTRUCTION CONTRACTORS BOARD**

**RESIDENTIAL  
SURETY BOND**

CCB # (if already issued) \_\_\_\_\_ Surety company's bond # \_\_\_\_\_ 1

2 \_\_\_\_\_ (the "Principal") is a "residential contractor" as defined by ORS 701.005. The Principal is applying for a license and residential endorsement from the Construction Contractors Board of the State of Oregon, or for renewal of its license and endorsement, and as a condition of the license is required by ORS Chapter 701 to furnish a bond in the penal sum of \$ \_\_\_\_\_, issued by a corporation authorized to do business in the State of Oregon (the "Surety"), subject to the conditions stated in this bond.

4 \_\_\_\_\_ (the "Surety") hereby binds itself, its respective heirs, personal representatives, administrators, successors and assigns to pay to the State of Oregon the sum of \$ \_\_\_\_\_ 3

The obligation of the Surety under this bond is void if in accordance with ORS Chapter 701 and OAR Chapter 812 the Principal pays all amounts as determined by the Construction Contractors Board to be paid by the Principal; otherwise this obligation remains in full force and effect.

This bond is for the exclusive purpose of ensuring payment of determination orders of the Construction Contractors Board in accordance with ORS Chapter 701.

This bond is one continuing obligation, and the liability of the Surety for the aggregate of all claims which may arise under this bond may in no event exceed the amount of the penal sum of this bond.

This bond is effective on the date the Principal meets all requirements for licensing or renewal and remains continuously in effect until depleted by claims paid under ORS Chapter 701, unless the Surety sooner cancels the bond. The Surety may cancel this bond and be relieved of further liability for work performed by the Principal on contracts entered after cancellation by giving 30 days' written notice to the Principal and the Construction Contractors Board of the State of Oregon. Cancellation does not limit the responsibility of the Surety for determination orders relating to the work period as defined by OAR Chapter 812.

This bond shall not be valid for purposes of licensing in accordance with ORS Chapter 701 unless filed with the Construction Contractors Board within sixty (60) days of the date shown below.

Surety represents and warrants that it is authorized to transact surety business in the State of Oregon.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**SURETY:**  
Name: \_\_\_\_\_  
By: \_\_\_\_\_  
As: ATTORNEY-IN-FACT

Principal Name of Attorney-in-Fact or Agent \_\_\_\_\_  
Title \_\_\_\_\_  
Agency Address \_\_\_\_\_ Phone \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

**Please note:** This bond is not valid until filed and licensing is completed with the Construction Contractors Board.

PLEASE COMPLETE THE CHECKLIST ON THE BACK OF THIS FORM

**SAMPLE CERTIFICATE OF LIABILITY INSURANCE - -- REQUIRED FIELDS** DATE (MM/DD/YY) \_\_\_\_\_

1 **\*PRODUCER\*** - Name and address of insurance producer  
Phone number is also helpful

2 **\*INSURANCE AGENT OR BROKER\*** - Name, address and phone number of insurance agent or broker

3 **\*INSURED\*** - Sole Proprietor name OR entity name of insured EXACTLY as it is registered with the Oregon Secretary of State Corporation Division. Questions? Call 503-378-4621

**\*COMPANY\***  
A\* \_\_\_\_\_ INSURANCE COMPANY  
B \_\_\_\_\_ INSURANCE COMPANY, if applicable  
C \_\_\_\_\_  
D \_\_\_\_\_

**COVERAGES**

THIS IS TO CERTIFY THAT THE POLICIES OF LIABILITY INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

COV. LTR.	*TYPE OF INSURANCE*	*POLICY NUMBER*	*POLICY EFFECTIVE and EXPIRATION DATES (MM/DD/YYYY)*	*LIMITS*
4	<b>GENERAL LIABILITY</b>			<b>GENERAL AGGREGATE</b> \$2,000,000
	<input type="checkbox"/> COMMERCIAL GENERAL LIABILITY			<b>PRODUCTS/COMPL/OP AGG</b> \$2,000,000
	<input type="checkbox"/> EXCESS/MAINT. <input type="checkbox"/> OCCUR			<b>PERSONAL &amp; ADV INJURY</b> \$1,000,000
	<b>OWNER'S &amp; CONTRACTORS PROF</b>			<b>EACH OCCURRENCE</b> \$1,000,000
	<b>Contractual Liability</b>			<b>FIRE DAMAGE</b> (Any one fire) \$ N/A
				<b>MED EXP</b> (Any one person) \$ N/A
	<b>AUTOMOBILE LIABILITY</b>			<b>COMBINED SINGLE LIMIT</b> \$ N/A
	<input type="checkbox"/> ANY AUTOS			<b>BODILY INJURY</b> (Per person) \$ N/A
	<input type="checkbox"/> ALL OWNED AUTOS			<b>BODILY INJURY</b> (Per accident) \$ N/A
	<input type="checkbox"/> SCHEDULED AUTOS			<b>PROPERTY DAMAGE</b> \$ N/A
	<input type="checkbox"/> HERED AUTOS			<b>EACH OCCURRENCE</b> \$ N/A
	<input type="checkbox"/> NON-OWNED AUTOS			<b>AGGREGATE</b> \$ N/A
	<b>EXCESS LIABILITY</b>			<b>WC/SAT-FORY LIMITS</b> \$
	<input type="checkbox"/> UMBRELLA FORM			<b>EL EACH ACCIDENT</b> \$ N/A
	<input type="checkbox"/> OTHER THAN UMBRELLA FORM			<b>EL DISEASE - POLICY LIMIT</b> \$ N/A
	<b>WORKER'S COMPENSATION AND EMPLOYER'S LIABILITY</b>			<b>EL DISEASE - EA EMPLOYEE</b> \$ N/A
	<input type="checkbox"/> THE PROPRIETOR/PARTNERS/EXECUTIVE OFFICERS ARE: <input type="checkbox"/> INCL <input type="checkbox"/> EXCL			
	<b>*DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS*</b>			
	<b>CCB license number</b>			
	<b>*CERTIFICATE HOLDER* - Exactly as shows below</b>			
8	<b>OREGON CONSTRUCTION CONTRACTORS BOARD</b> PO Box 14140 Salem OR 97309-5052			<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE POLICIES BE CANCELLED OR MATERIALLY CHANGED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL _____ DAYS (EXCEPT _____ DAYS FOR NON-PAYMENT) WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPROSE NO OBLIGATION OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES. <b>*AUTHORIZED REPRESENTATIVE* SIGNATURE REQUIRED</b> (Electronic Signature Is acceptable)