Tenant Liability Insurance Program

Turning Insurance into a Profit Center

Introduction

As a landlord or as a tenant, it is important to have insurance that provides liability protection for the ownership, operation and maintenance of rented premises. Owners are susceptible to the liability for tenants and guests if they fail to keep the premises safe (i.e. defective conditions of rental property, environmental hazards, criminal activity, etc.). The risks associated with leased/rented properties differ from owner occupied properties; as such different insurance is available to meet the differing needs of owners/managers and tenants. Tenant Liability Insurance is available in these circumstances, to the benefit of the owner/manager and tenants.

Tenant Liability Insurance is not true Renters (HO-4) Insurance. It is a Master Commercial Insurance Policy in the name of the owner/manager (Landlord) with tenants named as additional insureds, resulting in protection for both the Landlord and the tenants. An additional benefit to Tenant Liability Insurance for an owner/manager is the ability to turn it into a profit center. The financial benefit to a Landlord is tangible. The limit per tenant is negotiated on a master basis ($50k to $200k per tenant) and contents coverage can also be included on a supplemental basis ($10k to $50k per tenant).

Program Goals

The primary purpose of all Landlord purchased, endorsed or sponsored programs is to protect the Landlord’s property insurance program or property insurance deductible from losses caused by the tenant. Coverages should be designed such that Tenant’s Legal Liability insurance (for perils such as fire, smoke and water damage) dovetail with the Landlord’s property insurance.

It is also necessary to protect the Landlord from frivolous litigation as tenants are the primary source of bodily injury and property damage liability. This may be from actions including: assault & battery, sexual molestation, operating an unlicensed day care, animal bites and the use of firearms. The list is endless. When plaintiff attorneys discover that a liable tenant has no assets and no insurance, litigation turns to the Landlord from failure to provide a safe premises. Interestingly, this is a lesser concern to many Landlords though the exposure could be significantly greater than loss of property.

There are over 200 Renters programs readily available to consumers. Even with mandatory insurance requirements in the lease, as much as 75% of all tenants will refuse to purchase Renters Insurance. This can be fraught with logistical problems and create numerous liabilities for the Landlord. Tenant Liability Insurance allows a Landlord to protect tenants who refuse to protect themselves.

While some Landlords seek only the benefit of insurance protections, some are looking for a source of revenue. As briefly mentioned in the introduction, Tenant Liability Insurance provides the Landlord with an opportunity to turn the program into a profit center. This can be accomplished through a couple different structures.
Coverage Options Available to Tenants

<table>
<thead>
<tr>
<th>Coverage</th>
<th>Renters Insurance</th>
<th>Tenant Personal Liability</th>
<th>Tenant Premise Liability</th>
<th>Tenant Legal Liability</th>
</tr>
</thead>
<tbody>
<tr>
<td>On-Premise Bodily Injury and Property Damage</td>
<td>X</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Certain Off-Premise Bodily Injury and Property Damage</td>
<td></td>
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<td>X</td>
<td>X</td>
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<tr>
<td>Legal Liability (Fire, Smoke, Water Damage, etc.) to Landlord’s Property</td>
<td>X</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Legal Liability (Fire, Smoke, Water Damage, etc.) to Other Tenant’s Property</td>
<td></td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Personal Property (Contents)</td>
<td>X</td>
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<td></td>
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<tr>
<td>Additional Living Expenses</td>
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There are a variety of coverage options available to tenants (see table above); however, the impact of coverages have varied implications for both the tenant and the Landlord. It is important to understand the implications in order to realize the full benefits and downsfalls of each program.

**Renters Insurance** provides a convenience for both tenants and Landlords. There are over 200 Renters programs nationally; most of which are readily available through local insurance agents or the internet. This type of insurance indirectly protects the Landlord from an occasional tenant defaulting due to loss of assets. It also protects the renter from on-premise and off-premise bodily injury, can cover additional living expenses in the event of a loss, covers a renter’s personal property, legal liability to the Landlord’s or other tenant’s property as well as property damage. For a renter, this coverage is the most comprehensive. However, even if the lease mandates it, the Landlord has no insurable interest in the tenant’s contents or requiring a tenant to insure such contents. Various legal liabilities are created by a Landlord entering the stream of commerce in the placement of insurance.

**Tenant Personal Liability** replicates the liability section of a Renter’s Policy. Regrettably, the Landlord has no direct interest in the off-premise activities of the tenant and the program’s profitability can be erased by a tenant’s off-premise activities.

**Tenant Premise Liability** helps to protect the Landlord from deep pocket litigation such as: attack by tenant pets, assault & battery by tenants, undisclosed child care activities or other criminal acts by tenants. Due to lack of tenant assets, Landlords are regularly sued for claims such as failure to provide a safe premise. There are no major cons to this type of coverage as it is reasonable to require tenants to have this coverage.

**Tenant Legal Liability** targets property losses of primary concern to the Landlord. Coverage can be limited to Landlord’s property only. However, this does not provide first line of defense to Landlord from deep pocket claims.
Comparison of Coverage Options

Commercial Insurance Policy - The largest single cost component of a Renters Insurance Policy is set-up, issuance and accounting. This accounts for roughly 40% of the premium of a typical Renters policy. Issuance of a commercial policy to a commercial entity (Landlord) eliminates this expense.

Tenant Premise Liability - This coverage provides a first dollar source of recovery for damages caused by the tenant as well as shield the Landlord from some frivolous litigation. A Tenant Legal Liability product would be the logical second choice. The expected loss cost is generally under $10 per tenant, per month, allowing for the construction of a viable long-term program.

Forced Placed Coverage - An optimal program distances the Landlord from the pitfalls and liabilities associated with the conducting of the “business of insurance”. The Landlord is not involved in the sale of insurance to a Tenant Insured. The Landlord is the purchaser of forced-placed insurance to meet the contractual requirements of their lease agreement. There is 30 years of case law in the lender forced-placed arena, setting precedent on the Landlord’s right to require tenant coverage for their interest and how to legally force-place upon failure to do so.

Affordable Coverage - The average Renter’s Insurance policy now runs between $180 and $250. The lower premium policies are usually predicated upon purchase of automobile insurance from that same insurer and are limited to the best perceived risks after complete underwriting. This product should be fairly priced (for example, $10 per month) and it should produce a reasonably high penetration with optimal spread of risk and optimal results.

Sharing in Program Results – There are two different means by which the Landlord can legally share in program results. Like any program, the insured needs to be committed that everyone from top management to the local Property Managers are engaged to guarantee fair and equitable compliance by all tenants with the insurance requirements of the lease agreement. The sharing of program results can be achieved in a traditional risk transfer arrangement or through the use of a captive insurance company.

CAPTIVE INSURANCE COMPANY OPPORTUNITY

Tenant Liability Insurance

The opportunity for a Landlord to participate in the profits of a Tenant Liability program exists at a potentially higher amount through the use of a captive insurance company. A properly structured Tenant Liability Insurance program will offer reasonable levels of compensation that are not in violation of state law. Provided that premium volume to the insurer can support it, it is possible to construct a program that offers a profit opportunity to the owner of the captive in a tax preferred structure.
**Security Deposit Insurance**

Another profit opportunity with a captive insurance company exists through Security Deposit Insurance. Security deposits are collected by Landlords to cover a variety of items, including unpaid rent, utility bills or damages. For a tenant, this can be a financial burden and potentially keep them from securing adequate or more desirable housing. The waiting period to have the security deposit returned can also delay a tenant from securing the housing they want in the future. For Landlords, security deposits can turn into a burden rather than a benefit due to all of the state regulations associated with security deposits. All-in-all, security deposits can be a burden for all parties involved.

Security Deposit Insurance is a new concept that allows tenants to pay a reduced monthly or upfront insurance premium instead of coming up with a large cash security deposit when signing a new lease. With this type of program, the insurance company pays the Landlord within a reasonable period of time, alleviating many hassles. Security Deposit Insurance can also make tenant(s) more liquid, freeing up more of their cash and potentially increasing a tenant’s ability to pay rent on time. This program creates a real benefit for Landlords as the program can lead to an additional revenue source.

**Conclusion**

As long as there are tenants, Landlords will need to ensure they have the necessary coverage to protect themselves against any perils that may arise from having tenants. Regardless of the size of premises being rented, whether it’s a large apartment complex facility or condo high rise, it is advisable for Landlords to have a Tenant Liability Insurance program. The revenue source from a captive structure is an added benefit for any Landlord.

**Disclaimer**

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