

Friday, November 5, 2021
9:00 AM – 10:15 AM

Workshop 19

**Drafting Lease Insurance Requirements: You Can't Always Get What You Want,
But Did You Get What You Need?**

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- I. Introductions
- II. Challenges in drafting Insurance provisions in leases
 - A. Outdated Insurance Language
 - B. Outdated Insurance Requirements
 - C. Missing Coverage Requirements
 - D. Updated ISO Form Restrictions for Additional Insureds
 - E. Current Legal Climate
- III. Keeping Insurance Language Up to Date
 - A. Vocabulary to Avoid
 - 1. Casualty
 - 2. Co-Insured
 - 3. Personal Injury
 - B. Preliminary Terms
 - 1. Coverage Limit
 - 2. Deductible vs. Self-Insured Retention
 - 3. Per Location Aggregate Limit
 - 4. Whose Insurance is Primary
 - C. Menu of Policy Coverage Options
 - 1. Commercial General Liability
 - 2. Umbrella Liability
 - 3. Commercial Auto
 - 4. Non-Owned Auto
 - 5. Property Insurance
 - 6. Builders Risk Insurance
 - 7. Business Income Insurance
 - 8. Liquor Liability Insurance
 - 9. Workers Compensation Insurance
 - 10. Employers Liability Insurance
 - 11. Pollution Insurance
 - 12. Specialty Insurance
- IV. Menu of Insurance Limit Requirements
 - A. Lease Agreement Examples
 - 1. Lower Risk Tenants
 - (a) Workers Compensation / Employers Liability
 - (b) Commercial Auto Liability
 - (c) Commercial General Liability
 - (d) Umbrella Liability
 - (e) Property Insurance

- (f) Business Interruption Insurance
 - (g) Builders Risk
 - 2. Mid Risk Occupancy
 - 3. High Risk Occupancy
 - 4. Commercial Lease Agreement with Liquor Exposure
 - 5. Commercial Lease Agreement with Liquor Exposure (Bix Box)
 - 6. Commercial Lease Agreement with Pollution Exposure
 - 7. Ground Lease Agreement
 - 8. Additional Insureds
- B. Contractor / Vendor Agreements
 - 1. Standard Contractors/Vendors (Low Risk)
 - (a) Workers Compensation / Employers Liability
 - (b) Commercial Auto Liability
 - (c) Commercial General Liability
 - (d) Umbrella Liability
 - 2. Standard Contractors/Vendors (Moderate Risk)
 - 3. Standard Contractors/Vendors (High Risk)
 - 4. Contractors with Pollution Exposure
 - 5. Contractors with Professional Liability / Errors & Omissions Exposure
 - 6. Note on Property Management Contracts
- V. Coverage Issues and Claims Examples
 - 1. Property Management Contract Example
 - 2. Non-Owned Auto Insurance Example
 - 3. Waiver of Subrogation Example
 - 4. Deductible Example
 - 5. Gross Negligence
- VI. Contractual Risk Allocation, a Summary
 - A. Indemnification and Hold Harmless Provisions
 - B. Additional Insured Status: the Certificate of Insurance is Not Enough
 - C. Relationship between Coverage, AI Status and the Contractual Indemnity
 - D. Waiver of Subrogation
- VII. The Houdini Dilemma and the Certificate of Insurance