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## **Update - The current liability insurance market for real estate professionals**

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As the regional real estate market becomes more stabilized with increasing traditional home sales, an up-tick in pricing and greater activity in the commercial area, so too is the landscape for professional liability insurance for real estate professionals becoming more stable. The mortgage and foreclosure environments of the past several years resulted in higher premiums and stricter underwriting guidelines (what is called a "hardening" of the market) due to a substantial increase in insurance claims for almost all real estate professionals. Especially hard hit were appraisers, title agents and attorneys involved in real estate transactions. Of note is that a significant amount of these claims were related to transactions occurring roughly from 2004-2008, the years that most of the lending and inflated-value issues were prevalent. As a good majority of those problems have washed themselves out - at least from an insurance claims perspective - such claims are diminishing, leading to a more policy holder-friendly environment.

It can be noted that not all insurers chose to fully participate in this hardening insurance market. I am pleased to state that our company was amongst those that purposefully made a commitment to be an accessible market for real estate agents and appraisers with none to marginal price increases and underwriting restrictions. Some carriers did show more substantial premium increases or dropped out of the market altogether. What follows are some current professional insurance trends and how they may affect your practice.

**Real Estate Agents & Brokers:** Despite being in the middle of almost all transactions, real estate agents and brokers experienced the least increase in errors and omissions claims compared to fellow professionals. Consequently, their insurance environment remained relatively stable. Claims against them continued to be focused on disclosure and purchase and sale compliance issues rather than the valuation and lending issues that negatively impacted other professions. Real estate brokerages with good claim experience should continue to expect a strong and competitive professional insurance market.

**Real Estate Appraisers:** Conversely, real estate appraisers experienced a significant increase in errors and omissions claims, though N.E. appraisers fared much better than their counterparts in other parts of the country. Justly or not, appraisers took much of the hit resulting from problem loans and transactions from that 2004-2008 period. Additional consequences negatively impacting the appraisal community included increased regulation (USPAP, UAD, etc) as well as sometimes burdensome demands from lenders and appraisal management companies. There is some indication that insurance claims are finally diminishing. Appraisers with positive claims experience will be able to obtain reasonably-priced coverage, while those with a negative claim or disciplinary history will pay a premium for coverage. The Landy Agency continues to work with groups like MBREA and others to mitigate some potentially negative impacts of regulations and other demands

on appraisers that could negatively impact the procurement of errors and omissions insurance.

**Real Estate Attorneys:** Just a few years ago, real estate law was a favored underwriting category for insurance carriers. That has substantially changed with those attorneys involved in closings and/or title work generally experiencing higher malpractice insurance costs. Some carriers have stopped writing this area of practice altogether. Because of the Landy Agency's connections with many specialty Bar Associations in N.E., we have established relationships with a number of excellent insurance carriers, allowing us to utilize the insurer with the best "appetite" for a particular law firm's areas of practice. This generally results in more appropriate pricing and coverage options. As with appraisers, most attorneys in N.E. have escaped the more turbulent consequences in other parts of the country, though those practicing in real estate law should expect changing market conditions for their malpractice coverage.

**Title Agents:** The professional insurance market for title agents has probably changed the most. Insurance carriers continue to leave this segment due to on-going claims severity. Capacity is down and prices are up and the market shows little sign of reacting to a generally more positive real estate environment. Several good insurers remain in the market however, though premium increases have taken hold for even those title agents with positive claims experience.

The "State of the Professional Real Estate Insurance Market" seems to be trending in more positive directions for many professional groups. As some normalcy returns to the market, it is expected that claim frequency will continue to diminish over time. Some professionals will experience this trend as it relates to the cost and availability of their insurance sooner than others. Like all economic markets, the insurance landscape is cyclical. Increased professional diligence, strong advocacy from member organizations, and improving economic conditions will continue to bring a more favorable insurance environment for real estate professionals.

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