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Appraisers: It's not a good idea to attach proof of your E&O coverage to your appraisal reports

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A few lenders and many appraisal management companies require appraisers to attach proof of their professional liability (E&O) insurance to their appraisal reports. This is a wrongheaded requirement. It's a bad practice - bad for the appraiser, the lender and appraisal management company. It is perfectly reasonable for a client or an AMC to ask for proof of E&O insurance and ask to receive updated insurance information each year. That's common to many professions, but there is no good reason to require that the information be included within or attached to your appraisal reports. Lawyers like myself certainly don't attach proof of our malpractice insurance to our opinion letters or legal briefs.

The main reason why we advise against it is that a majority of claims these days are actually filed by property owners and borrowers. These parties are neither clients nor intended users. Attaching your E&O declarations page to an appraisal report simply invites a few more of these parties to threaten or bring claims against you. I don't want to overstate the problem because the existence of insurance does not have anything to do with most claims -- lenders and borrowers will generally sue you regardless. But for a few people, seeing insurance information attached your report will spark the idea of making a claim. We've seen claims from borrowers who've alleged things as petty as square footage being off by 2% and then expect a payment as if your E&O were a manufacturer's warranty. (Claims like this, of course, are defended and rarely result in any recovery to the claimant.) We realize that some lenders and AMCs nevertheless require appraisers to attach their E&O to reports. There's no law or regulation against the wrongheaded practice, but we suggest that you try to reason with them and explain:

1. You are happy to supply the lender or AMC with a copy of your E&O declarations page that they can keep on file.
2. Attaching your E&O to your report not only exposes you to unnecessary risk of claims by third parties but it also makes it more likely that the lender or AMC will be dragged into a case filed by a homeowner or borrower. (Yes, we've seen lenders and AMCs themselves dragged into lawsuits that borrowers would not have filed until they saw a declarations page.)

If those lines of reasoning don't work, we suggest attaching your E&O information only when required for a specific client. Don't make it a general practice.

Aside from the above points, the idea of attaching E&O information to appraisals just doesn't make sense because all appraiser E&O insurance is written on a claims made basis. This means that the insurance policy that will cover an appraiser is not the policy that the appraiser has in place on the date of the appraisal and which would be attached to the appraisal but rather the policy that the appraiser has in place years later when the lawsuit is filed or the claim asserted. Unless a claim is made very soon after the appraisal - which is rare, the policy attached to the appraisal will not be

relevant to the claim.

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