

Bringing you real solutions to real claims



TAILGATE TALK

SUB VANISHES ...CLAIMS APPEAR! WHERE'S THE CERT??

Why is receiving a copy of your Subs' Cert important?

- Your sub-contractor's claims stay with your subcontractor!
- You save money...
- You save time from defending claims not yours to begin with...
- Your insurance remains stable...



THE PROBLEM:

A General Contractor (GC) built a single family home in 2004. The home was purchased at the end of 2004. In December of 2005, the homeowner sustained extensive water damage from a broken pipe. The damage totaled nearly \$135,000. It was determined that the broken pipe was due to faulty installation by the Plumbing Contractor.

The GC had a contract with the Plumbing Contractor which included defense and indemnification language. The contract also required that the GC be listed as an additional insured on the Plumbing Contractor's policy. However, the GC failed to secure a certificate of insurance from the Plumbing Contractor prior to the home

being built in 2004. This became a problem when this loss was reported. The Plumbing Contractor went out of business in early 2005 and the owner could not be located. Therefore, the GC had no way of identifying the Plumbing Contractor's insurance carrier in order to tender the loss. As a result, the GC's carrier will have to resolve this \$135,000 loss.

THE SOLUTION:

The above loss clearly illustrates what can happen if the homebuilder fails to obtain and retain Certificates of Insurance from their Subcontractors. It also illustrates why the homebuilder should consider using some selection criteria when hiring a subcontractor.

How long has the subcontractor been in business? Do they have a good reputation with other builders they worked for? Have they had any losses from their prior work? Do they carry insurance with adequate limits? Do they have a financially sound insurance carrier? These are but a few things a homebuilder may wish to consider when hiring a subcontractor to work for them.

A certificate of insurance serves a valuable function:

1. It provides the name of the insurance carrier so claims from their work can be properly tendered.
2. It also allows you to check to be sure they carry adequate limits of insurance, which should be at least the same as yours.
3. It should identify the project name the subcontractor worked on and show that you have been included as an Additional Insured. However, only the receipt of an actual AI endorsement is considered proof by most courts that the insurance carrier intended to add you to the subcontractor's GL policy as an Additional Insured.
4. It provides you with the subcontractor's insurance policy period so you can be sure to obtain an updated renewal certificate.

It is important to remember that not only should you receive the Certificate of Insurance prior to the start of work and then obtain updated certificates when they expire, but you should also maintain them for the number of years your state allows for claims to be reported. This time period is known as the Statute of Limitations or Repose.

If in the above example, a construction defect loss didn't get reported until 5 years after the house was built, would you still know who the subcontractor was? Is the subcontractor still in business or have they moved out of state? For these reasons Certificates of Insurance, AI forms and signed Contracts should be maintained for the number of years allowed by law for claims to be reported on your work.

www.homebuilderscoverage.com

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