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09/28/2024

Your Questions, Our Answers - Various Personal Lines Topics

1:15 PM - 2:15 PM

Irene Morrill

1 CEU

Sponsored by Arbella Insurance Group

Your questions, our answers miscellaneous personal lines



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with
Irene Morrill, CPCU, CIC, ARM, CRM, MLIS, CRIS, LIA, CPIW
Insurance Consultant
Massachusetts Association of Insurance Agents

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2014 DP v 1988 DP form

We received notice that Company X is going to begin using the 2014 policy form for renewals and new business.

I am almost done with my AILP designation and understand policy editions can vary.

Do you have a quick cheat sheet on any standout differences between the two forms?



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2014 DP v 1988 DP form

I do not have any “checklist” ...I checked with IIABA and they don’t have one either.

Going from the DP 1988 to DP 2014 is like going from the HO-91 to HO-2011 with the nuances in

enhancing business restriction

changing coverage C excluded property

enhancing motor vehicle exclusion

adding water and steam as excluded property

Additional coverage changes

collapse add'l coverage to language like HO 2000/2011

ordinance or law coverage built into policy



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2014 DP v 1988 DP form

Going from the DP 1988 to DP 2014 is like going from the HO-91 to HO-2011 with the nuances in

changing lead in language to DP-3 – “risks of direct physical loss”

remove the word “vermin” from exclusion

adding exclusion for nesting/infestation

freezing of plumbing exclusion applies whether building occupied or unoccupied

“enhancing” earth movement exclusion ...no coverage “whatever” causes

Named perils for contents changes

smoke peril enhanced to include puffbacks

power surge peril – more words ... restrictive like HO-2000/2011



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2014 DP v 1988 DP form

Going from the DP 1988 to DP 2014 is like going from the HO-91 to HO-2011 with the nuances in

Condo endorsement changes

DP 17 66 Other insurance provision modified to provide primary coverage if loss subject to master policy insurance “but for” master policy deductible

DP 04 63 Property loss assessment removes “special limit of \$1000 due to loss assessments purely because of master policy deductible”

other property endorsements

Water back up/sump overflow ...reads like HO-2011

allows higher limit but new language stating “originates on premises”



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DP form comparison

Some overall important differences or similarities in the DP-1,2,3 to keep in mind when selling dwelling fire policies



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DP form comparison

DP building definition includes Building/outdoor equipment – ladders, maintenance equipment, lawn mower – (CP/BOP adds to building also)

Unlike HO policy no free contents so that equipment covered here if no Coverage C purchased

A. Coverage A – Dwelling (HO all editions)
 1. We cover:
 a. The dwelling on the "residence premises" shown in the Declarations, including structures attached to the dwelling; and
 b. Materials and supplies located on or next to the "residence premises" used to construct, alter or repair the dwelling or other structures on the "residence premises".
 2. We do not cover land, including land on which the dwelling is located.

7/88
COVERAGE A – Dwelling
 We cover:
 1. the dwelling on the Described Location shown in the Declarations, used principally for dwelling purposes, including structures attached to the dwelling;
 2. materials and supplies located on or next to the Described Location used to construct, alter or repair the dwelling or other structures on the Described Location; and
 3. if not otherwise covered in this policy, building equipment and outdoor equipment used for the service of and located on the Described Location.
 This coverage does not apply to

12/02
A. Coverage A – Dwelling
 1. We cover:
 a. The dwelling on the Described Location shown in the Declarations, used principally for dwelling purposes, including structures attached to the dwelling;
 b. Materials and supplies located on or next to the Described Location used to construct, alter or repair the dwelling or other structures on the Described Location; and
 c. If not otherwise covered in this policy, building equipment and outdoor equipment used for the service of and located on the Described Location.
 2. We do not cover land, including land on which the dwelling is located.

7/14
A. Coverage A – Dwelling
 1. We cover:
 a. The dwelling on the Described Location shown in the Declarations, used principally for dwelling purposes, including structures attached to the dwelling;
 b. Materials and supplies located on or next to the Described Location used to construct, alter or repair the dwelling or other structures on the Described Location; and
 c. If not otherwise covered in this Policy, building equipment and outdoor equipment used for the service of and located on the Described Location.
 2. We do not cover land, including land on which the dwelling is located.

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DP form comparison

Once buy some Coverage A dwelling - "get" some other coverages for "free"

7/88	12/02	7/14
<p>OTHER COVERAGES</p> <p>1. Other Structures. You may use up to 10% of the Coverage A limit of liability for loss by a Peril Insured Against to other structures described in Coverage B.</p> <p>Use of this coverage does not reduce the Coverage A limit of liability for the same loss.</p>	<p>F. Other Coverages</p> <p>1. Other Structures</p> <p>You may use up to 10% of the Coverage A limit of liability for loss by a Peril Insured Against to other structures described in Coverage B.</p> <p>This coverage is additional insurance.</p>	<p>F. Other Coverages</p> <p>1. Other Structures</p> <p>You may use up to 10% of the Coverage A limit of liability for loss by a Peril Insured Against to other structures described in Coverage B.</p> <p>This coverage is additional insurance.</p>

Other Structures 10% in addition to Coverage A

Additional limit in all DP editions if need more show the additional amount needed on Dec Page in Coverage B

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DP form comparison

Once buy some Coverage A dwelling - "get" some other coverages for "free"

7/88	12/02	7/14
<p>5. Rental Value and Additional Living Expense. You may use up to 10% of the Coverage A limit of liability for loss of both fair rental value as described in Coverage D and additional living expense as described in Coverage E.</p> <p>Use of this coverage does not reduce the Coverage A limit of liability for the same loss.</p>	<p>5. Rental Value And Additional Living Expense</p> <p>You may use up to 20% of the Coverage A limit of liability for loss of both fair rental value as described in Coverage D and additional living expense as described in Coverage E.</p> <p>This coverage is additional insurance.</p>	<p>5. Rental Value And Additional Living Expense</p> <p>You may use up to 20% of the Coverage A limit of liability for loss of both fair rental value as described in Coverage D and additional living expense as described in Coverage E.</p> <p>This coverage is additional insurance.</p>

Rental value ... additional limit to Coverage A

1988 edition only 10% Coverage A additional limit

2002 and 2014 20% Coverage A ...additional limit

Show more on Dec Page in Coverage D section if not sufficient

I'd suggest 12-24 months of rental income

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DP form comparison

Once buy some Coverage A dwelling - "get" some other coverages for "free"

Ordinance or law ... same in all 3 editions

-but NOT in 7/88 – added by Amendatory endorsement DP 01 20 10 99

Similar to HO policy discussion

DP 04 71 buys more – similar to way HO does

12. Ordinance Or Law

- a. The Ordinance Or Law limit of liability determined in b. or c. below will apply with respect to the increased costs you incur due to the enforcement of any ordinance or law which requires or regulates:
- (1) The construction, demolition, remodeling, renovation or repair of that part of a covered building or other structure damaged by a Peril Insured Against;
 - (2) The demolition and reconstruction of the undamaged part of a covered building or other structure, when that building or other structure must be totally demolished because of damage by a Peril Insured Against to another part of that covered building or other structure; or
 - (3) The remodeling, removal or replacement of the portion of the undamaged part of a covered building or other structure necessary to complete the remodeling, repair or replacement of that part of the covered building or other structure damaged by a Peril Insured Against.
- b. If you are an owner of a Described Location, and that location:
- (1) Is insured for Coverage A or Unit-Owners Building Items, you may use up to 10% of the limit of liability that applies to Coverage A or Unit-Owners Building Items at each Described Location; or
 - (2) Is not insured for Coverage A or Unit-Owners Building Items, you may use up to 10% of the total limit of liability that applies to Coverage B at each Described Location.
- c. If you are a tenant of a Described Location, you may use up to 10% of the limit of liability that applies to Improvements, Alterations And Additions at each Described Location. Also, the words "covered building" used throughout this Other Coverage 12. Ordinance Or Law, refer to property at such a Described Location covered under Other Coverage 3. Improvements, Alterations And Additions.
- d. You may use all or part of this ordinance or law coverage to pay for the increased costs you incur to remove debris resulting from the construction, demolition, remodeling, renovation, repair or replacement of property as stated in a. above.
- e. We do not cover:
- (1) The loss in value to any covered building or other structure due to the requirements of any ordinance or law; or
 - (2) The costs to comply with any ordinance or law which requires you or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, pollutants in or on any covered building or other structure.
- Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

This coverage is additional insurance.

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DP form comparison

2002 and 2014 DP-2 and DP-3 also include more additional coverages (1988 DP form found in the amendatory endorsement DP 01 20)

Glass breakage

Collapse ...similar to HO policy

Typical broad/special form additional coverages

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DP form comparison

**Loss settlement
similar to HO policy**

**Personal Property
ALWAYS ACV ...no
R/C endorsement as in
HO program**

**Buildings – R/C if
carry 80% building
value**

1. Property of the following types:
 - a. Personal property;
 - b. Awnings, carpeting, household appliances, outdoor antennas and outdoor equipment, whether or not attached to buildings; and
 - c. Structures that are not buildings;
 at actual cash value at the time of loss but not more than the amount required to repair or replace
2. Buildings under Coverage A or B at replacement cost without deduction for depreciation, subject to the following:
 - a. If, at the time of loss, the amount of insurance in this policy on the damaged building is 80% or more of the full replacement cost of the building immediately before the loss, we will pay the cost to repair or replace, after application of any deductible and without deduction for depreciation, but not more than the least of the following amounts:
 - (1) The limit of liability under this policy that applies to the building;
 - (2) The replacement cost of that part of the building damaged with material of like kind and quality and for like use; or
 - (3) The necessary amount actually spent to repair or replace the damaged building.
 If the building is rebuilt at a new premises, the cost described in (2) above is limited to the cost which would have been incurred if the building had been built at the original premises.
 - b. If, at the time of loss, the amount of insurance in this policy on the damaged building is less than 80% of the full replacement cost of the building immediately before the loss, we will pay the greater of the following amounts, but not more than the limit of liability under this policy that applies to the building:
 - (1) The actual cash value of that part of the building damaged; or
 - (2) That proportion of the cost to repair or replace, after application of deductible and without deduction for depreciation, that part of the building damaged, which the total amount of insurance in this policy on the damaged building bears to 80% of the replacement cost of the building.

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DP form comparison

Perils

Coverage A and B – covered unless excluded like HO-3

Coverage C Personal Property – named perils like HO-3

DP-2 – named perils ALL Coverages A, B, C, D, E

NO “theft” peril must add by endorsement

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DP form comparison

DP-1 – why use

1. Vacant property
2. Dwelling under major renovations
3. Dwelling in poor condition



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DP form comparison



IMPORTANT

Important differences to note DP-1 v. DP-2/3

No option for Additional living expense ... would need HO-4 if this is the form for the building

Additional coverage differences – other structures

1. Other Structures

You may use up to 10% of the Coverage A limit of liability for loss by a Peril Insured Against to other structures described in Coverage B.

Payment under this coverage reduces the Coverage A limit of liability by the amount paid for the same loss.

NOT additional limit of insurance as in DP-2 or DP-3

Can USE 10% of Coverage A for other structures but that reduces the Coverage A limit available for the dwelling

DP-2 and 3 – ADDITIONAL limit of insurance

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DP form comparison


 IMPORTANT

Important differences to note DP-1 v. DP-2/3

No option for Additional living expense ... would need HO-4 if this is the form for the building

Additional coverage differences – loss of rents (DP 2002 and 2014 editions)

5. Rental Value

You may use up to 20% of the Coverage A limit of liability for loss of fair rental value as described in Coverage D. We will pay only 1/12 of this 20% for each month the rented part of the Described Location is unfit for its normal use.

Payment under this coverage reduces the Coverage A limit of liability by the amount paid for the same loss.

NOT additional limit of insurance as in DP-2 or DP-3

**Can USE 20% of Coverage A for rental income - restricted to 1/12 of this per month
AND**

Using it reduces the Coverage A limit available for the dwelling

DP-2 and 3 – ADDITIONAL limit of insurance and no 1/12 restriction

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DP form comparison


 IMPORTANT

Important differences to note DP-1 v. DP-2/3

No option for Additional living expense ... would need HO-4 if this is the form for the building

Additional coverage differences – loss of rents (7-88 DP edition)

5. Rental Value. You may use up to 10% of the Coverage A limit of liability for loss of fair rental value as described in Coverage D. We will pay only 1/12 of this 10% for each month the rented part of the Described Location is unfit for its normal use.

Payment under this coverage reduces the Coverage A limit of liability by the amount paid for the same loss.

NOT additional limit of insurance as in DP-2 or DP-3

**Can USE 10% of Coverage A for rental income - restricted to 1/12 of this per month
AND**

Using it reduces the Coverage A limit available for the dwelling

DP-2 and 3 – ADDITIONAL limit of insurance and no 1/12 restriction

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DP form comparison

Important differences to note DP-1 v. DP-2/3**IMPORTANT****Additional coverage differences –****DP-1 does not have the following additional coverages found in DP-2/3****Building glass****Collapse****Ordinance or Law**

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DP form comparison

Important differences to note DP-1 v. DP-2/3**IMPORTANT****Perils differences****DP-3 – open perils building/16 named perils contents – similar to HO-3 but not exact****DP-2 – 16 named perils building and contents ...similar to DP-3 contents named perils**

**DP-1 – 9 lonely named perils – building or contents ...some that “sound” like a DP-2 or 3
 peril are NOT as broad as found in the DP-2 or 3
 (VMM, explosion, windstorm, vehicles, smoke
 no “leaky pipe coverage)**

3 premium charges to get these 9 named perils**Fire****Extended Coverage Perils****VMM**

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DP form comparison

Important differences to note DP-1 v. DP-2/3**IMPORTANT**

Perils differences

DP-1 No building or contents coverage for

Falling objects

Weight ice/snow

Accidental discharge

Sudden cracking/bursting pipes

Freezing pipes

Power surge

Volcanic eruption



NO DP form provides Theft of contents ...buy with endorsement in \$1000 increments ... DP-1 endorsement not as broad as the one used with DP-2 or 3

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DP form comparison

Important differences to note DP-1 v. DP-2/3**IMPORTANT**

**Loss settlement DP-1 – always ACV ...
building or contents**

**E. Loss Settlement**

Covered property losses are settled at actual cash value at the time of loss but not more than the amount required to repair or replace the damaged property.

DP-2 and 3 R/C for buildings if carry 80% RC

DP-2 and 3 ACV for contents ...always

DP-1 is cheapest ...but CONSIDER THE DIFFERENCES

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DP form comparison

Recap additional coverage issues DP-1 v. DP-2/3**DP-1 Coverage A 300,000**

Consider serious fire/tornado loss

Total loss dwelling

\$30,000 loss to barn

\$10,000 loss of rents

TOTAL loss \$340,000

DP-1 only pay \$300,000

Can USE limit for other structures or rents but
REDUCES Dwelling limit

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DP form comparison

Recap additional coverage issues DP-1 v. DP-2/3**DP-2 or 3 Coverage A 300,000**

Consider serious fire/tornado loss

Total loss dwelling

\$30,000 loss to barn

\$10,000 loss of rents

TOTAL loss \$340,000

DP-2 or 3 will pay \$340,000

All editions give 10% coverage A add'l for other structures

1988 gives 10% additional Coverage A for rents/2002/2014 gives 20%

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DP form comparison

Must add liability by endorsement

Coverages provided

Personal Liability \$100,000 base for BI/PD

Medical Payments to Others \$1,000 per person

Remember Massachusetts short-term rental law need \$1million coverage if rent out on short term basis – renting for less than 31-day intervals

POLICY NUMBER: PERSONAL LIABILITY
DL DS 02 07 14

PERSONAL LIABILITY POLICY DECLARATIONS

Company Name:

Producer Name:

Named Insured:

Mailing Address:

The Residence Premises Is Located At The Above Address Unless Otherwise Stated:

Policy Period Year(s)

Number Of Year(s):
From: 12:01 AM standard time at the residence premises
To: 12:01 AM standard time at the residence premises

We will provide the insurance described in this Policy in return for the premium and compliance with all applicable policy provisions.

Coverage is provided where a premium or limit of liability is shown for the coverage.

Coverages	Limit Of Liability
L – Personal Liability	\$ Each Occurrence
M – Medical Payments To Others	\$ Each Person
	Premium
Basic Policy Premium	\$
Additional Premium Charges Or Credits Related To Other Coverages Or Endorsements:	\$
	\$
	\$
Total Premium	\$

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DP form comparison

Always add Personal Injury endorsementtoo

Coverages provided
wrongful invasion
Invasion of privacy

PERSONAL LIABILITY
DL 24 82 02 03

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PERSONAL INJURY

DEFINITIONS
The following definitions are added:
"Personal injury" means injury arising out of one or more of the following offenses, but only if the offense was committed during the policy period:
1. False arrest, detention or imprisonment;
2. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or agent;
3. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or agent;
4. Oral or written publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services; or
5. Oral or written publication of material that violates a person's right of privacy.
"Fungus" means any type or form of fungus, including mold or mildew, and any mycotoxins, spores, scents or by-products produced or released by fungi.
However, this does not include any fungi that are on, or contained in, a good or product intended for consumption.

LIABILITY COVERAGES
A. Coverage L – Personal Liability
Personal Injury Coverage
If a claim is made or suit is brought against an "insured" for damages resulting from an offense, defined under "personal injury", to which this coverage applies, we will:
1. Pay up to our limit of liability for the damages for which an "insured" is legally liable. Damages include prejudgment interest awarded against an "insured"; and
2. Provide a defense at our expense by counsel of our choice, even if the suit is groundless, false or fraudulent. We may investigate and settle any claim or suit that we decide is appropriate. Our duty to settle or defend ends when our limit of liability for the offense has been exhausted by payment of a judgment or settlement.

EXCLUSIONS
With respect to the coverage provided by this endorsement, the exclusions under Coverage L – Personal Liability and Coverage M – Medical Payments are deleted and replaced by the following:
This insurance does not apply to:
1. "Personal Injury":
a. Caused by or at the direction of an "insured" with the knowledge that the act would violate the rights of another and would inflict "personal injury";
b. Arising out of oral or written publication of material, if done by or at the direction of an "insured" with knowledge of its falsity;
c. Arising out of oral or written publication of material whose first publication took place before the beginning of the policy period;
d. Arising out of a criminal act committed by or at the direction of an "insured";
e. Arising out of liability assumed by an "insured" under any contract or agreement except any indemnity obligation assumed by an "insured" under a written contract directly relating to the ownership maintenance or use of the premises;
f. Sustained by any person as a result of an offense directly or indirectly related to the employment of this person by an "insured";
g. Arising out of or in connection with a "business" conducted from an "insured location" or engaged in by an "insured", whether or not the "business" is owned or operated by an "insured" or employs an "insured". This exclusion applies but is not limited to an act or omission, regardless of its nature or circumstances, involving a service or duty rendered, promised, owed, or implied to be provided because of the nature of the "business";
This exclusion does not apply to:
(1) The rental or holding for rental of an "insured location";
(a) On an occasional basis if used only as a residence;

DL 24 82 02 03 © ISO Properties, Inc., 2002 Page 1 of 3

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DP form comparison

**Tenant Relocation Coverage
Add to Multi family homes –
N/A to 1 family home rental**

**\$750 for tenant losing housing
due to fire**

**Terrorism exclusion can be
Added – or buyback coverage**

DWELLING PROPERTY
DP 04 97 02 06

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.
TENANTS RELOCATION EXPENSE – MASSACHUSETTS**

This endorsement is required by Massachusetts law. This policy provides "relocation expense" benefits as follows:

1. Relocation Expense

When a "rented living quarters" in a building covered by this policy is made uninhabitable as a result of a loss by fire, this policy covers "relocation expense" incurred by the tenant or lawful occupant to relocate to other living quarters in the shortest possible time.

2. Definitions

a. "Relocation expense" means documented, reasonable and necessary costs and living expenses, including:

- (1) Costs of packing, insuring, storing and carting household goods;
- (2) Costs of securing new utility services less refunds from discontinued services at the damaged premises;
- (3) Cost of searching for other quarters;
- (4) Costs of disconnecting and reconnecting household appliances;
- (5) Additional living expenses while searching for or awaiting possession of other quarters or the restoration of existing quarters, including costs of hotel room rental;
- (6) The security deposit and first month's rent for a new rental unit if the security deposit of last month's rent is not already due and owing from the landlord to the tenant; and
- (7) Clothing and furniture replacement, commencing with the date of damage to the covered building and not limited by the expiration date of this policy.

"Relocation expense" does not mean:

- (1) Loss caused by the termination of a lease or other agreement; or

(2) Down payments, legal fees and closing costs incidental to the purchase of other quarters.

b. "Rented Living Quarters" means a room, suite of rooms or apartment rented as a single residential unit by one or more persons.

"Rented Living Quarters" does not mean one or more rooms occupied by one or more persons as roomers in a hotel, motel, public or private lodging or rooming house where the premises are occupied on a transient basis.

3. Limit Of Liability

The liability for "relocation expense" under this policy is limited to not more than \$750 for a "rented living quarters".

4. No Deductible

The deductible provisions of this policy do not apply to the "relocation expense" benefits.

5. Other Insurance

a. If at the time of loss, the tenant or lawful occupant has other insurance that covers "relocation expense", we shall not be liable for any loss under this coverage until the liability of such other insurance has been exhausted.

b. If you have other insurance that covers "relocation expense", payment under this policy will be prorated with such insurance for the smaller of the incurred "relocation expense" or \$750 all after application of the other insurance of the tenant or lawful occupant.

6. Loss Settlement

The claims of all persons occupying the "rented living quarters" will be settled with and payment made to the tenant or lawful occupant renting the quarters from the building owners, or lessor.

All other provisions of this policy apply.

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LLC and DP policy

**We have a client that we write DP3 covering a three-family dwelling.
The dwelling is owned by an LLC and the named insured on the DP3 is the LLC.
The client is listed as the resident agent and the manager of the LLC.**

A question came up when her personal umbrella company wouldn't include this property on her umbrella, as it is owned in an LLC (We do not write her primary home or umbrella) .

She asked us to add her and her husband as additional insured's on the DP3, which we cannot do, per the ins. company underwriter.

She is an attorney and has read the jacket of the DP policy. As a result, she has asked us the following question regarding the Personal Liability section (definitions) of the policy DL 24 01 0788 Page 1 of 5, Sections 4 and 8 .

**4. "insured location" means:
a. the "residence premises;"**

**8. "residence premises" means:
a. the one family dwelling, other structures, and grounds; or
b. that part of any other building;
where you reside and which is shown as the "residence premises" in the Declarations.**

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LLC and DP policy

She says the insured location is not her residence (which we know, it was listed as a 3-family rented dwelling on the application).

She is hung up on the part that says “residence premises.

Is there somewhere in the DP3 policy we can direct her to, to show it also insures a rented dwelling?

What she is looking for is evidence that she is covered personally for liability. We also offered an excess liability quote for the LLC/property.

Thanks for any insight you can provide.

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LLC and DP policy

The good news of a DP policy ... eligibility allows ownership by an LLC

You didn't show me dec page so I'm not sure that I understand “ the client is listed as the resident agent and the manager of the LLC”

The definition of “insured” under the DP/DL does NOT include “managers or members” of the LLC as does a BOP or CGL – so IF the individual is ALSO listed ON the dec page then there could be SOME insured status ... if not ...

none

3. "insured" means you and residents of your household who are:
 a. your relatives;
 b. other persons under the age of 21 and in the care of any person named above

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LLC and DP policy

Back when I knew people at ISO ... and was on the national IIA committee that met with ISO I asked WHY DL liability is written as it is for TENANT occupied structures ...

- 1) DL 24 01 Personal Liability is essentially “comprehensive personal liability” as found in the HO policy
- 2) HOWEVER ...when the property is tenant occupied (LLC occupying doesn't count) ... then a second endorsement DL 24 11 (premises liability) is added to REMOVE 99.9% of the language of the DL 24 01

Coverage is restricted to JUST “premises” liability

I suggested this is a STUPID way of doing it ...the answer was “duh ...all the definitions and other exclusions are in the DL 24 01)

I would have written two separate endorsements for liability ...one that is for owner occupied (and why the heck wasn't an HO policy used) and one for non-owner/tenant occupied

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LLC and DP policy

In a tenant occupied structure, the definition of “insured location” is useless other than the “residence premises” ...which doesn't work as well in tenant occupied situations or “thing owned” situations.

Show her the DL 24 11 ... providing premises liability and removing the “business exclusion” for THIS location.

The LLC/named insured has liability coverage for that declared location only – which is the typed in “Jamaica Plain location “

Unless her name is on the dec page
and then

if it states “Betty as LLC manager”

this would be her only claim to fame for insured status ...

if she is NOT mentioned on the dec page she is NOT an insured under the DP/DL ...
only the LLC is ...

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LLC and DP policy

She's a lawyer and bought in the name of an LLC instead of her personal name ...for **WHAEVER** reason ...
 she can't have it both ways ...
 company doesn't have to add her as additional insured because she as a person has **NO** "insurable interest" as far as they are concerned in this structure.

Isn't the point of an LLC to get your **PERSONAL** responsibility/liability protected???

That's what lawyers tell our other clients ...who then want to see their person names on a policy

PUP's don't like the LLC approach either ...heck some of them still don't like the personal trust issue ...

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LLC and DP policy

There is no "evidence" of her "personal liability" being insured ...
 she chose the LLC route ...now she's stuck with it ...

or sell a BOP that will cover the members

C. Who Is An Insured

1. If you are designated in the Declarations as:

...

c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.

But ...even still only so far as "respects the conduct of the LLC business" for members or duties as managers

One can't have it both ways ...legally protecting one's personal assets by buying something in a the name of an LLC - and then not believing one's personal issues/assets are protected ... is interesting to say the least ..

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Bank demand for loan amount

We have a bank who is looking to require their client to have the full loan amount covered under replacement cost for DP3.

I did read over the tech talk about what looked to be the HO3 product and how they are legally not able to require that.

Does that hold true as well for the DP3?

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Bank demand for loan amount

CHAPTER 183. ALIENATION OF LAND. CONVEYANCE BY DEED.

Section 66. Required insurance; limitation.

A bank, lending institution, mortgage company or any mortgagee doing business in the commonwealth, when making a mortgage loan, **shall not** require, as a condition of a mortgage or as a term of a mortgage deed, that the mortgagor purchase casualty insurance on property which is the subject of the mortgage in **an amount in excess of the replacement cost of the buildings or appurtenances on the mortgaged premises**. For purposes of this section, a bank, lending institution, mortgage company or mortgagee shall include, but not be limited to, any bank as defined in section one of chapter one hundred and sixty-seven, any national bank, national banking association, federal savings bank, federal savings and loan association and federal credit union. The terms "replacement cost", "buildings" or "appurtenances" as used in this section shall be consistent in meaning with such terms as used in policy forms approved by the commissioner of insurance.

CHAPTER 175. INSURANCE. GENERAL PROVISIONS.

Section 95. Fire insurance; over-insurance; prohibition; term of policy.

No company, and no officer or agent thereof, and no insurance broker shall knowingly issue, negotiate, continue or renew or cause or permit to be issued, negotiated, continued or renewed any fire insurance policy upon property or interests within the commonwealth of an amount which, with any existing insurance thereon, **exceeds the fair value of the property**, nor for a longer term than seven years.

These laws apply to ALL property policies in the state of Massachusetts – personal or commercial policies

38

Property management firm as additional insured

I have a property management company requesting to be added to our insureds dwelling fire policy as an additional insured or additional interest.

The carriers are stating no exception will be made and we will be unable to satisfy their request.

I was looking into it and it seems like it's pretty standard in other states so I was hoping you could give me some feedback on this.

Should the carriers be allowing us to add them even though they have no interest in the real property?

Or should the property management company be leaving this out of their contacts?

39

Property management firm as additional insured

Property managers are easily added to BOP's and CPP's ...but not DPs ...

there is an additional insured endorsement - it could work ...but the company doesn't have to provide it ...

There is no "additional interest" endorsement for the DP program as there is with the HO program

Honestly, I think the Property management firm should add the dwelling property owner to ITS commercial policy as an additional insured

40

Vacant v unoccupied

I have client with fully furnished home. Tenant moved out 10/25 and client is out of country until 12/29 – just over 60 days.

I am questioning “vacant” vs “unoccupied” on DP3 – exclusion/limitations apply if vacant but vacant is not defined. Can I get assistance with this?

Email to my underwriter won’t comment on “unoccupied”.

41

Vacant v unoccupied

**The generic policy discusses “vacant” regarding
Freezing of pipes ...if vacant or unoccupied – unless heat maintained or water shut off**

Vandalism after 30 days of vacancy

Glass breakage after 30 days of vacancy

These are built into the ISO DP form

42

Vacant v unoccupied

It is the MA law ... regarding “fire” that is the problem

This clause is added to EVERY property policy in MA ...HO/DP/BOP/CP

Unless otherwise provided in writing we will not be liable for loss caused by fire or lightning occurring while a described building is vacant, whether intended for occupancy by owner or tenant, beyond a period of 60 consecutive days for residential purposes of three units or less, and 30 consecutive days for all other residential purposes.

Goes back to the “60’s urban renewal days” ...of buy them ... vacate them and burn them

43

Vacant v unoccupied

The “textbook” definition of “vacant” is ... no people ...no stuff
“unoccupied” means ...just ...”no people”

Though ...that hasn’t always worked in court

Some judges found “vacant” to mean:

“lacks amenities minimally necessary for human habitation” – keeping a couple of chairs in a building that has no one in it

Or

“lacks intention to return” ...

44

Vacant v unoccupied

So, the owner is out of the country ...and the tenant has left, and NO tenant can be shoved in there before 60 days?

Doesn't the owner have at least ONE "wayward" relative that needs a place to stay for a little bit?

This is a tough one for the owner ...
has it been a good risk ...is it still a good risk?
Is it a furnished apartment?

If it is furnished and when the client gets back it will be rented out ...that could help ...
This is when having a property manager is best.

I can't guarantee anything ... how big is the loss when it happens ...

45

Vacant v unoccupied

Thanks for your input. I think I should offer a vacant policy to client and let her decide on how to proceed for the few days that will come into play.

Appreciate your help.

46

What can be put on a binder for the DP

So the mortgage officer wants either
 copy of the RCE
 Guaranteed Replacement Cost endorsement
 Or
 statement saying value is the “full replacement cost” or 100% replacement cost.....
 help

47

What can be put on a binder for the DP

Banks are a pain in the butt.
 If you asked the carrier if you could send the RCE (since it is their proprietary property) and they said no ...well ...that's it

If you didn't ask and decide to complete and send an RCE ...then I would have a disclaimer something like:

building replacement value determined by questions regarding building construction and materials asked by company X proprietary software valuation program, answers given by client to those questions and the costs for such materials utilized in company X software valuation program for identified materials and construction methods

Or something like this to keep yourself out of EO court

48

What can be put on a binder for the DP

The bank has a “right” to request replacement cost ...but not “guaranteed” replacement cost

183:66 Required insurance: limitation

Section 66. A bank, lending institution, mortgage company or any mortgagee doing business in the commonwealth, when making a mortgage loan, shall not require, as a condition of a mortgage or as a term of a mortgage deed, that the mortgagor purchase casualty insurance on property which is the subject of the mortgage in an amount in excess of the replacement cost of the buildings or appurtenances on the mortgaged premises.

49

What can be put on a binder for the DP

Thanks! I'll look into sending an RCE with all of the recommended notations!

Btw: The loan amount is for \$200k - The house is Insured for \$500k so it's not even an issue for the bank requesting coverage in the amount of the loan!!!!

50

What can be put on a binder for the DP

I have a client who has 3 rental properties

1 Is a 1 family, the others are 2 families

I have each covered via a DP-3 with liability added to each.

Minimal personal property, \$5000.

He thinks a BOP policy would serve him well....

If I remember correctly you wrote an article once that spoke to that fact you and your husband chose the DP route rather than the BOP.

Could you tell me which is best....and why.

51

BOP v DP

Other structures coverage – Dwelling Fire

The DP form whether 1988, 2002 2014 provides 10% of the Coverage A limit for other structures located on the described location. The DP 2002/2014 states:

F. Other Coverages

1. Other Structures

You may use up to 10% of the Coverage A limit of liability for loss by a Peril Insured Against to other structures described in Coverage B.

This coverage is additional insurance.

The DP 1988 states:

OTHER COVERAGES

1. Other Structures. You may use up to 10% of the Coverage A limit of liability for loss by a Peril Insured Against to other structures described in Coverage B.

Use of this coverage does not reduce the Coverage A limit of liability for the same loss.

One only needs to identify an Other Structures limit on the Dwelling Declarations page if a higher limit than 10% of the Coverage A building limit is necessary.

52

BOP v DP

Other Structures - BOP

The BOP does NOT provide “free” other structures coverage. The definition of building in the BOP is very broad and can INCLUDE other structures but it does NOT provide “free” coverage.

The BOP definition of building is:

- a. *Buildings, meaning the buildings and structures at the premises described in the Declarations, including:*

One MUST identify the other structure on the BOP dec page

53

BOP v DP

Equipment for building and property maintenance**DP form language**

The 1988, 2002 and 2014 DP forms include the following in the definition of building:

- c. *If not otherwise covered in this policy, building equipment and outdoor equipment used for the service of and located on the Described Location.*

So the purchase of personal property coverage would not be necessary for these items. The values can be included in Coverage A.

Unless the apartments are rented furnished only Coverage A would be necessary.

54

BOP v DP

Equipment for building and property maintenance**BOP coverage form language**

The BOP building language is even more inclusive as shown below, the building value will definitely include:

- (4) Your personal property in apartments, rooms or common areas furnished by you as landlord;
- (5) Personal property owned by you that is used to maintain or service the buildings or structures or the premises, including:
 - (a) Fire extinguishing equipment;
 - (b) Outdoor furniture;
 - (c) Floor coverings; and
 - (d) Appliances used for refrigerating, ventilating, cooking, dishwashing or laundering;

The BOP policy definitely allows all furnishings to be included in building value and business personal property would not be necessary. In this case the BOP language is more comprehensive than DP policy language.

55

BOP v DP

Loss of Rental income – DP form

The DP forms give a free but specific limit of insurance for loss of rental income. The DP 2002/2014 provides 20% of the Coverage A limit.

5. Rental Value And Additional Living Expense

You may use up to 20% of the Coverage A limit of liability for loss of both fair rental value as described in Coverage D and additional living expense as described in Coverage E.

This coverage is additional insurance.

The DP 1988 only provides 10% of the Coverage A limit.

5. Rental Value and Additional Living Expense. You may use up to 10% of the Coverage A limit of liability for loss of both fair rental value as described in Coverage D and additional living expense as described in Coverage E.

Use of this coverage does not reduce the Coverage A limit of liability for the same loss.

56

BOP v DP

The good news with the DP forms is that there is no “time limit” only a \$ limit.

In today’s world the insured needs to consider:

1. how long it will take to rebuild
2. how long it takes to get the building permit
3. add a padding on for the time it takes the building inspector, contractor and insurance company to argue
4. how much more than the “free” limit is necessary

57

BOP v DP

Loss of Rental Income and the BOP

The BOP policy – any edition gives an “unlimited amount of coverage” (actual loss sustained) BUT for a limited amount of time.

f. Business Income

(1) Business Income

- (a) We will pay for the actual loss of Business Income you sustain due to the necessary suspension of your "operations" during the "period of restoration". The suspension must be caused by direct physical loss of or damage to property at the described premises. The loss or damage must be caused by or result from a Covered Cause of Loss. With respect to loss of or damage to personal property in the open or personal property in a vehicle, the described premises include the area within 100 feet of the site at which the described premises are located.
- (b) We will only pay for loss of Business Income that you sustain during the "period of restoration" and that occurs within 12 consecutive months after the date of direct physical loss or damage. We will only pay for ordinary payroll expenses for 60 days following the date of direct physical loss or damage, unless a greater number of days is shown in the Declarations.

58

BOP v DP

Loss of Rental Income and the BOP

If it takes longer than 12 months to rebuild then loss of rental income coverage just ENDS.

The 2010 and 2013 editions of the BOP offer endorsements to modify this 12 month restriction. But do companies offer them?

59

BOP v DP

Ordinance or law coverage

DP 1988 by endorsement, built into DP 2002 and 2014

Ordinance or law coverage – dwelling form

The DP 2002 builds in 10% Coverage A limit for ordinance or law coverage.

12. Ordinance Or Law
 - a. The Ordinance Or Law limit of liability determined in b. or c. below will apply with respect to the increased costs you incur due to the enforcement of any ordinance or law which requires or regulates:
 - (1) The construction, demolition, remodeling, renovation or repair of that part of a covered building or other structure damaged by a Peril Insured Against;
 - (2) The demolition and reconstruction of the undamaged part of a covered building or other structure, when that building or other structure must be totally demolished because of damage by a Peril Insured Against to another part of that covered building or other structure; or
 - (3) The remodeling, removal or replacement of the portion of the undamaged part of a covered building or other structure necessary to complete the remodeling, repair or replacement of that part of the covered building or other structure damaged by a Peril Insured Against.

.....

....

This coverage is additional insurance.

60

BOP v DP

Ordinance or law coverage DP

This additional limit of insurance can be used for upgrading damaged property; tearing down undamaged property; as well as the value of this undamaged property itself that must be torn down; and upgrading the undamaged property when rebuilding.

Additional coverage can be purchased in 25% increments of the Coverage A limit with the DP 04 71 Ordinance or Law endorsement.

61

BOP v DP

Ordinance or law ...BOP

BOP and ordinance or law coverage

The BOP policy provides very limited ordinance or law coverage.

I. Increased Cost Of Construction

(1) This Additional Coverage applies only to buildings insured on a replacement cost basis.

(2) In the event of damage by a Covered Cause of Loss to a building that is Covered Property, we will pay the increased costs incurred to comply with enforcement of an ordinance or law in the course of repair, rebuilding or replacement of damaged parts of that property, subject to the limitations stated in Paragraphs (3) through (9) of this Additional Coverage.

....

(6) The most we will pay under this Additional Coverage, for each described building insured under Section I – Property, is \$10,000. If a damaged building(s) is covered under a blanket Limit of Insurance which applies to more than one building or item of property, then the most we will pay under this Additional Coverage, for each damaged building, is \$10,000.

The amount payable under this Additional Coverage is additional insurance.

62

BOP v DP

Ordinance or law ...BOP

The BOP only gives \$10,000 ordinance coverage for upgrades to damaged building items only.

This is a far cry from 10% of Coverage A as provided in the DP form.

There is an ordinance or law endorsement BP 04 46 which allows the purchase of undamaged value that must be torn down; the cost to tear down this undamaged value; and the cost to upgrade both damaged and undamaged building values.

The newer BOP editions also allows loss of rental income coverage to continue during the additional time period required for repairing to “code”.

63

BOP v DP

Perils/Causes of losses – dwelling and BOP

The Special DP form only has 2 pages of exclusions whereas the BOP special form has more than 5 pages of exclusionary language.

Rain, sleet, snow damage to interior of the building

An important coverage issue to address is rain, sleet or snow damage to the interior of the building. The DP-3 will pay for interior damage whether an “opening” was created in the building or not. The DP Special Form will pay the building loss even if the rain enters in an opened window as there is no exclusion.

The BOP Special Form is more restrictive. The BOP requires a covered cause of loss to create the opening:

4.Limitations

a. We will not pay for loss of or damage to:

.....

(5) The interior of any building or structure caused by or resulting from rain, snow, sleet, ice, sand or dust, whether driven by wind or not, unless:

(a) The building or structure first sustains damage by a Covered Cause of Loss to its roof or walls through which the rain, snow, sleet, ice, sand or dust enters; or

(b) The loss or damage is caused by or results from thawing of snow, sleet or ice on the building or structure.

64

BOP v DP

Artificially generated current – power surge losses to building

The BOP forms have a comprehensive exclusion for building or contents damage:

2. We will not pay for loss or damage caused by or resulting from any of the following:

a. Electrical Apparatus

Artificially generated electrical, magnetic or electromagnetic energy that damages, disturbs, disrupts or otherwise interferes with any:

- (1) Electrical or electronic wire, device, appliance, system or network; or**
 - (2) Device, appliance, system or network utilizing cellular or satellite technology.**
- For the purpose of this exclusion, electrical, magnetic or electromagnetic energy includes but is not limited to:**
- (1) Electrical current, including arcing;**

.....

.....

This exclusion combined with mechanical breakdown and utility services exclusions make the purchase of an equipment breakdown policy a necessity.

The DP forms do not have such an “electrical” exclusion but do have a mechanical breakdown and “off premises” power failure exclusion. Some companies offer a “mechanical breakdown” coverage option but the DP is a better option than BOP as there are fewer peril exclusions.

65

BOP v DP

Liability issues – Dwelling and BOP**Personal injury**

The DL form does NOT include “personal injury” liability which could be important from an “invasion of privacy” or “wrongful entry” standpoint.

Personal Injury coverage DL 24 82 should be added to dwelling liability coverage form.

The good news is the BOP automatically covers “personal injury and advertising injury”.

66

BOP v DP**Liability issues – Dwelling and BOP****Pollution issues**

BOP ...lengthy exclusion

DL ...no ISO pollution exclusion any edition

There are other coverage issues but the above discussions seem to be the most “glaring” coverage differences.

For my money I’d rather have the dwelling form than the BOP.

If there is a premium savings by going to the BOP make sure it is a BIG BIG one and that you have identified the important coverage differences.

It is NOT all about ...price

67

PUP and being a certified therapy dog team

I have a customer and her dog that are a certified therapy dog team and was wondering if her umbrella would cover that.

She will be going to nursing homes and veterans' homes etc.

I am sure that the HO-3 would not, but I have heard umbrellas have gap coverage.

Am I stupid for thinking there might be coverage for something like this?

Or is this a commercial exposure? Please advise.

68

PUP and being a certified therapy dog team

Every PUP that I have read has a “business” exclusion ...or two ... so ... I don’t know under what capacity that person is doing this

Agent response:

All volunteer, no compensation.

There is no “the PUP” ...but the ISO PUP ...would have no other exclusion that would apply.

It would be an underwriter’s decision as to whether the risk is acceptable.

69

PUP and trusts

I am getting some conflicting info when asking if various carriers will list a trust on their Umbrella.

I’ve had some carriers say we can add the trust as AI as long as the primary is listed in the individual name with the trust listed as AI.

Then I’ve had some carriers say they won’t cover a trust on their personal umbrella.

Would the trust be covered if it was named in a lawsuit or just the individuals as trustees?

I just want to make sure if the lawsuit names the trust that the Umbrella would respond.

70

PUP and trusts

Personal umbrellas have always been non-standard ...so whatever answer you get – is that carrier's answer.

My HO carrier is my auto and PUP. I have the HO-91 so the trust is an additional insured as it is on the PAP...and the way the definition of "insured" reads in my PUP ...it has the same coverage

The trust is a separate entity ...but we are the trustees (which is NOT necessarily the case in every situation) ...so if the trustee is sued ...the company is on it anyway.

Most companies wont make a trust a "named insured" on a PUP ...and rightly so ...but I would "bet" ..that the PUP is covering it in some way shape or form ...based on the definition of insured in the PUP

71

PUP declination over age

Can a Massachusetts carrier decline to write an umbrella based solely on age?

I have a carrier declining a risk based solely on the client being over age 75.

Wasn't sure this was allowed in MA?

72

PUP declination over age

So .. Personal umbrella has always been non-standard and a company can have whatever underwriting rules they want.

Years ago an agent sent a letter to all his clients suggesting they buy PUPs ... received a lot of response from the over 65 set ...and unfortunately he found that companies didn't want them ...

Better to have a PUP before old ...have a good driving record and maybe the company will keep us – that's my plan.

73

PUP declination property in Florida

Company X has been non-renewing our umbrellas when they discover a Florida property (that they don't write) is insured with a carrier who has been downgraded to a B rating.

I have gone to all my outside resources and can't find an umbrella carrier who will write when there is a B carrier.

If the client wanted to remove the Florida property from the umbrella, Company X still non-renews the umbrella. Have you heard of this?

74

PUP declination property in Florida

We are entering a hard market ...commercial and personal lines.

Personal umbrella has ALWAYS been non-standard. Commercial and Personal PUPs have always wanted A+ underlying carriers

With all the issues in Florida ...they are trying to legislate insurance a tad more ...

ISO has a lot of endorsements but I haven't seen one that excludes a specific location for the PUP ...so then it might be a "maintenance of underlying" limits issue and Company X doesn't want to play.

75

PUP declination property in Florida

I don't know what RLI will write – you could contact Grace Roche at groche@massagent.com as she is the RLI program manager for Number One Agency

My other standard "market" suggestions are

www.bigimarkets.com

or

www.mynewmarkets.com

Sorry, but I fear this is the beginning of the tip of the ice cube

76

PUP and business

Many clients have class 30 on their Personal Auto policies but Personal Umbrellas generally have the business use exclusion.

I am wondering if there are any Umbrella carriers that you have heard of that would cover class 30 situations.

I am at a loss because I have a doctor married to a contractor. The doctor wants an Umbrella but it excludes business use. The contractor has a Personal Auto policy not a commercial one. He doesn't even have class 30 yet but we are working on that.

I have heard of some Personal Umbrella companies allowing for landlord rental activities but never one that would make an allowance for class 30 auto use. Are you aware of any?

77

PUP and business

All PUPs have a business use exclusion ...but in an exclusion ... coverage can be given back ...this is how the ISO PUP does it ...

coverage is provided for certain types of rental, and business use of a defined category of "auto" ...

See exclusion 3 of the ISO pup ...

So ... business use might be covered ... if the type of vehicle is an auto ...

E. "Auto" means:

- 1.** A private passenger motor vehicle, motorcycle, moped or motor home;
- 2.** A vehicle designed to be pulled by a private passenger motor vehicle or motor home; or
- 3.** A farm wagon or farm implement while towed by a private passenger motor vehicle or motor home.

78

PUP and business	<p>3. "Bodily injury", "personal injury" or "property damage" arising out of or in connection with a "business":</p> <p>a. Engaged in by an "insured"; or</p> <p>b. Conducted from:</p> <p>(1) Any part of a premises owned by or rented to an "insured"; or</p> <p>(2) Vacant land owned by or rented to an "insured".</p> <p>This exclusion (A.3.) applies but is not limited to an act or omission, regardless of its nature or circumstance, involving a service or duty rendered, promised, owed, or implied to be provided because of the nature of the "business".</p> <p>However, this exclusion (A.3.) does not apply to:</p> <p>(1) The rental or holding for rental of:</p> <p>(a) The residence premises shown in the Declarations:</p> <p>(i) On an occasional basis if used only as a residence;</p> <p>(ii) In part, for use only as a residence, unless a single-family unit is intended for use by the occupying family to lodge more than two roomers or boarders; or</p> <p>(iii) In part, as an office, school, studio or private garage;</p>	<p>(b) Any part of a one- to four-family dwelling, other than the residence premises, to the extent that personal liability coverage is provided by "underlying insurance";</p> <p>(c) A condominium, cooperative, or apartment unit, other than the residence premises, to the extent that personal liability coverage is provided by "underlying insurance";</p> <p>(2) Civic or public activities performed by an "insured" without compensation other than reimbursement of expenses;</p> <p>(3) An insured minor involved in self-employed "business" pursuits, which are occasional or part-time and customarily undertaken on that basis by minors. A minor means a person who has not attained his or her:</p> <p>(a) 18th birthday; or</p> <p>(b) 21st birthday if a full-time student;</p> <p>(4) The use of an "auto" you own, or a temporary substitute for such "auto", by you, a "family member" or a partner, agent or employee of you or a "family member" while employed or otherwise engaged in the "business" of:</p> <p>(a) Selling;</p> <p>(b) Repairing;</p> <p>(c) Servicing;</p> <p>(d) Storing; or</p> <p>(e) Parking;</p> <p>vehicles designed for use mainly on public highways;</p> <p>(5) The use of an "auto" for "business" purposes, other than an auto business, by an "insured";</p>	<p>Covers business use of owned or non-owned auto</p>

79

PUP territory
<p>I have a client traveling to Iceland</p> <p>Since her MA auto policy doesn't provide / extend coverage outside the US / Territories in Iceland –</p> <p>She asked if her Umbrella policy would provide liability coverage if she didn't purchase auto liability coverage on her rental vehicle.</p> <p>I'm guessing No – since she wouldn't have Primary auto liability coverage.</p>

80

PUP territory

You should ask the PUP carrier. The answer is “it depends”

Regarding PUP and worldwide auto

1. This could be a “broadening of coverage” ...where PUP considers auto BI/PD in places other than where the MAP would go ..subject to the Self Insured Retention (SIR) – This is what my PUP carrier does ...If I have an accident in USA, Canada, US territories or Puerto Rico I must have underlying auto or I have a major gap. In all other parts of the world – my PUP doesn’t require underlying auto and will pay after my SIR/deductible ...which on my PUP is \$250.
2. The PUP carrier could cover but STILL require auto underlying limits ... This is what RLI requires ...
3. The PUP carrier could add an endorsement to the PUP – Auto Follow Form DL 98 12 (ISO version) – which says that the PUP only covers where the underlying auto would

So ...there is no “the answer” ... it depends on the PUP carrier

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PUP territory

PERSONAL LIABILITY
DL 98 12 02 15

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**PERSONAL UMBRELLA LIABILITY POLICY
AUTO LIABILITY FOLLOWING FORM ENDORSEMENT**

With respect to the coverage provided by this endorsement, the provisions of the Policy apply unless modified by the endorsement.

I. Definitions

With respect to “bodily injury” or “property damage” arising out of the ownership, maintenance, occupancy, operation, use, loading or unloading of any “auto”, the definition of “retained limit” is replaced by the following:

“Retained limit” means:

1. The retained policy limits for auto liability coverage shown in the Declarations; and
2. The total limits of any other coverage provided by “underlying insurance” and any other insurance that applies to an “occurrence” which:
 - a. Are available to an “insured”; or
 - b. Would have been available except for the bankruptcy or insolvency of an insurer providing “underlying insurance”.

II. Exclusions

The following exclusion is added:

The coverages provided by this Policy do not apply to “bodily injury” or “property damage” arising out of:

- A. The ownership of any “auto” by an “insured”;
- B. The maintenance, occupancy, operation, use, loading or unloading of any “auto” by any person;
- C. The entrustment of any “auto” by an “insured” to any person;
- D. The failure to supervise or negligent supervision of any person involving any “auto” by an “insured”; or
- E. Vicarious liability, whether or not imposed by law, for the actions of a child or minor involving any “auto”.

However, this exclusion does not apply to the extent that auto liability coverage is provided by “underlying insurance” at the time of the “occurrence”.

82

PUP – why buy

I recently heard from a client who requested cancellation of their umbrella policy on the basis of a conversation the had with a litigator (also family member).

The insured was told that jointly held assets, whether retirement assets or otherwise, are treated differently than individually owned assets and that laws vary state to state.

My client is in the process of changing his resident state from MA to FL. He is married.

Our agency general advise is that an umbrella policy protects your assets and retirement savings in that the umbrella policy will pay a court judgement and legal fees so you do not need to liquidate those assets to pay those costs.

What do you know about how assets held for retirement, in a specific retirement account or not and assets held jointly or individually, may impact the need for or amount of umbrella coverage needed?

83

PUP – why buy

Here is my client email quote.

“What I've come to learn is that retirement assets vs. other types of assets are usually treated differently and whether property is held jointly or individually is very important in terms of court judgments.

Also, I'm told these laws vary from state to state. In retrospect, I think I should have consulted an attorney before taking out umbrella insurance.

I still want umbrella insurance for us but, unlike before, I feel I need to make a better-informed decision when taking out a policy.”

84

PUP – why buy

I am not a lawyer and cannot speak to these issues.

Personally I have an umbrella and will keep it until I cannot afford it or pass away and I think the “pass away” will happen first.

I buy an umbrella for a few reasons

1. I could have an “unintended event” where someone is SERIOUSLY INJURED and personally that would horrify me. I know that there is no amount of money that can give someone the ability to walk again or a family member back ...but the anger and grief MIGHT feel a little better if the survivors are not left destitute.

2. I also don't want to lose my assets ...but that is secondary to me

85

PUP – why buy

3. I have the “luxury” of purchasing UM/UIM coverage in my umbrella - and so ... it can be “all about me”. If I'm willing to throw a lot of money at other people to make their life a little easier ...wellheck ...why NOT me ... why have \$\$ to modify my home if I lose the ability to walk ...why not make sure that there is money to have someone come in and care for me ...the way I WANT to be cared for and not have to go to some facility where I am “just another bed”

4. Why not have \$\$ for my surviving husband

86

PUP – why buy

I find lawyers interesting when they tell parents ...put the car in the kids name ...and then only buy small limits ...because in MA ... if they have an accident ... no one can come after the parents ...
GREAT

So ... does the lawyer know that low BI means ...low UM/UIM and they **MUST** use their own limits regardless of the vehicle that their butt is in

That a judgment can last for 20 years ... and I **WILL** find out that mom/dad are sending that rugrat to college and I **WILL** sue ...and make that kid's life miserable

I think it interesting that the lawyer "assumes" the accident is going to happen in MA ...a small dinky little state that borders, RI, CT, NY, NH, VT ...that all have different laws

I would suggest to my client that they get all this advice "in writing" so it will make suing the lawyer for malpractice much easier ...if things change and they were not told ...or it wasn't correct in the first place.

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PUP – why buy

I would never be able to learn enough to give advice about old age, retirement and assets ...there are some LAH agents that might know ... Also I think it **VERY** dangerous for **YOU** to try to give advice regarding that topic ... from an EO standpoint ...

Obviously this client doesn't care about anyone that gets in their way ...and other than suggesting that UM/UIM in an umbrella is a **GOOD** thing for them ... the lawyer has given them a reason to save insurance money ... by getting rid of the umbrella and then possibly reducing auto and HO liability limits.

I've sent this to Dan Foley, Esq., MAIA's Legal Consultant to see if he wants to say anything

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PUP – why buy

Dan Foley, Esq., MAIA's Legal consultant said:

I totally agree with what Irene stated in her response to you. Like Irene, I also have an Umbrella policy and unless it becomes unaffordable, I will not cancel it for the same reasons that Irene mentioned.

Sure, you can put the car in the kid's name, but I would caution against buying lower limits. I agree with what Irene said.

I am not a legal expert in retirement funds and funding and assets. I would suggest that you seek professional advice on how best to protect these assets.

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Thank you for attending...

**Your questions,
our answers
Miscellaneous Personal Lines**



Irene Morrill imorrill@massagent.com

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