



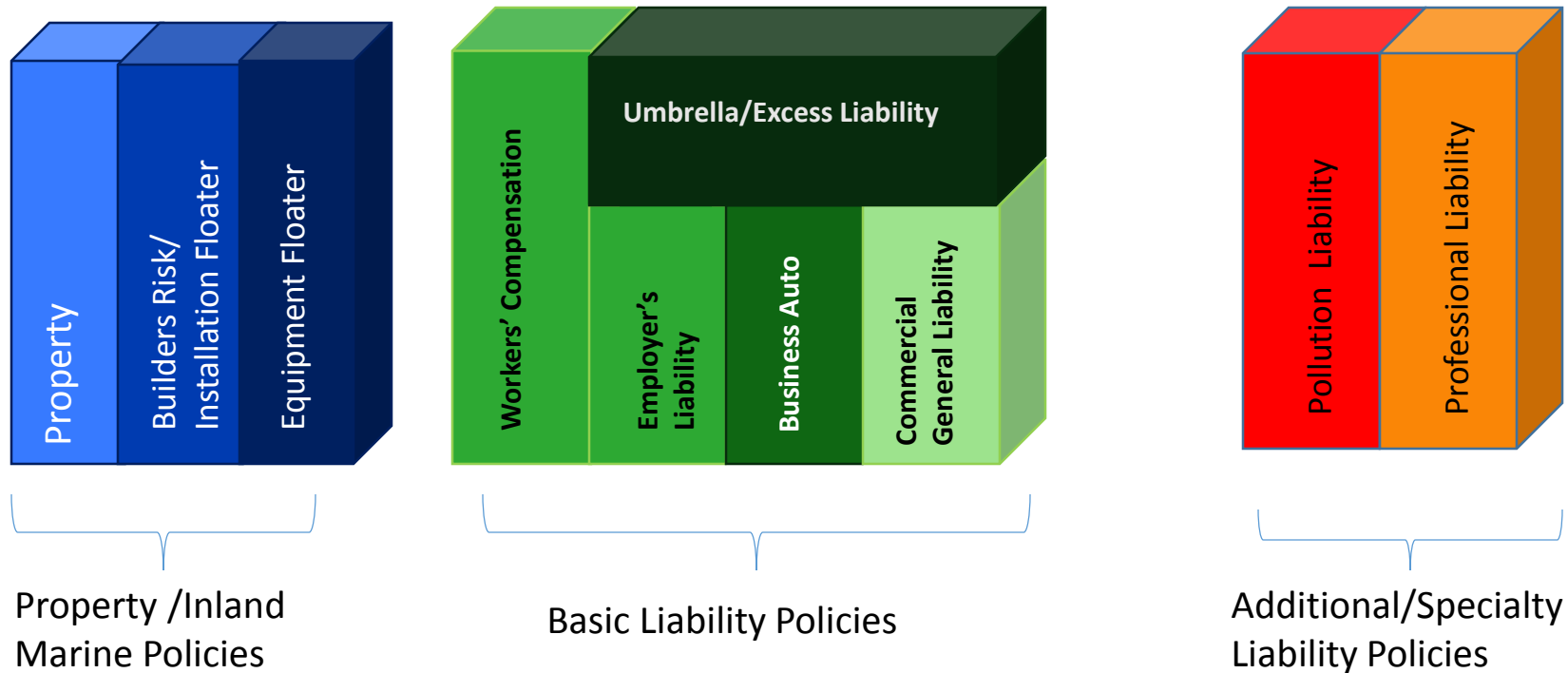
# Insurance Coverage Considerations for Affordable Housing Developers

October 17, 2018

# Goal of this Presentation

- To provide Strength Matters members with an overall understanding of Commercial Insurance policies and program structures
  - That are typically purchased by their peers
  - Alternative program structures to consider/understand
  - Limits Benchmarking
  - That are purchased and/or considered by their peers to address emerging trends such as Cyber / Data Privacy, Environmental Insurance, Social Engineering and other areas of concern.

# Typical Insurance Program



# First Party Insurance Coverages

- Property Insurance
  - Covers the owner or user of property for their loss, or the loss of income from loss or damage is caused by a covered peril, such as Fire, Hail, Water Damage, Wind, or Explosion.
- Different types of Property Insurance
  - Commercial Property – for your permanent assets, (Building, Business Personal Property, Computers, Phone Systems, etc.)
    - Major Coverage Terms you want to include
      - Special Causes of Loss Coverage (“All Risk”)
      - Replacement Cost Valuation
      - No Coinsurance (Agreed Amount)
      - Ordinance & Law
      - Blanket Limits of Insurance or Loss Limit Adequate to Cover Probable Maximum Loss
      - Terrorism if desired or required by Lender
      - Named Windstorm, Flood and/or Earthquake if desired or required by Lender

# First Party Insurance Coverages

- **Business Income & Extra Expense Incl. Rental Income** – for your loss of income due to a fire, water damage, etc.
  - Include Ordinary Payroll if coverage is desired
  - No Coinsurance
  - Period of Indemnity not limited by expiration date of policy
  - Request waiving any waiting period or separate deductible for Business Income
  - Minimum of 180 days Extended Period of Indemnity

# First Party Insurance Coverages

- Boiler and machinery / Equipment Breakdown - loss due to mechanical or electrical breakdown. Also includes coverage for loss of income.
- **Why is it needed?**
  - **A typical commercial property policy does not cover loss or damage caused by:**
    - Electrical arcing
    - Mechanical breakdown, and
    - Explosion of boilers and pressure vessels
  - Equipment breakdown insurance covers the sudden and accidental, physical damage to equipment that requires its repair or replacement. It applies to equipment in the following categories:
    - Electrical
    - Air Conditioning and Refrigeration
    - Boiler and Pressure Vessel
    - Computer and Communications
    - Mechanical
    - Renewable and Alternative Energy
    - Production Systems

# First Party Insurance Coverages

- Boiler & Machinery / Equipment Breakdown Claims Example\*
- An air conditioning motor burned out in a high-rise, senior citizen's apartment building. Ninety-plus degree temperatures necessitated setting up four rented "spot coolers." Overtime was required to get the motor back on line.
- Property Damage: \$ 83,557  
Extra Expense: \$ 16,794  
Total Loss: \$ 100,351

*\*Source: Munich RE / Hartford Steam Boiler*

# First Party Insurance Coverages

Builders Risk / Course of Construction Coverage – A property insurance policy that is designed to cover property in the course of construction. A Builders Risk policy can insure:

- An existing structure
- Building materials and related items typical to a construction site: temporary structures, scaffolding, construction forms.
- Construction materials stored off-site and in transit.
- Can include coverage for loss of income and other Soft Costs, (construction loan interest, architect fees, legal and accounting fees, etc.)

If utilizing a General Contractor's Builders Risk Policy:

- Ensure that the legal entity(s) of your organization that are entering into the construction contract are added as Named Insureds. This is a common practice in the insurance industry.
- Ensure the policy provides coverage for Loss of Income/Loss of Rents. Many GC Builders Risk policies do not include this as they have not vested interest beyond the completion of the project.



# First Party Insurance Coverages

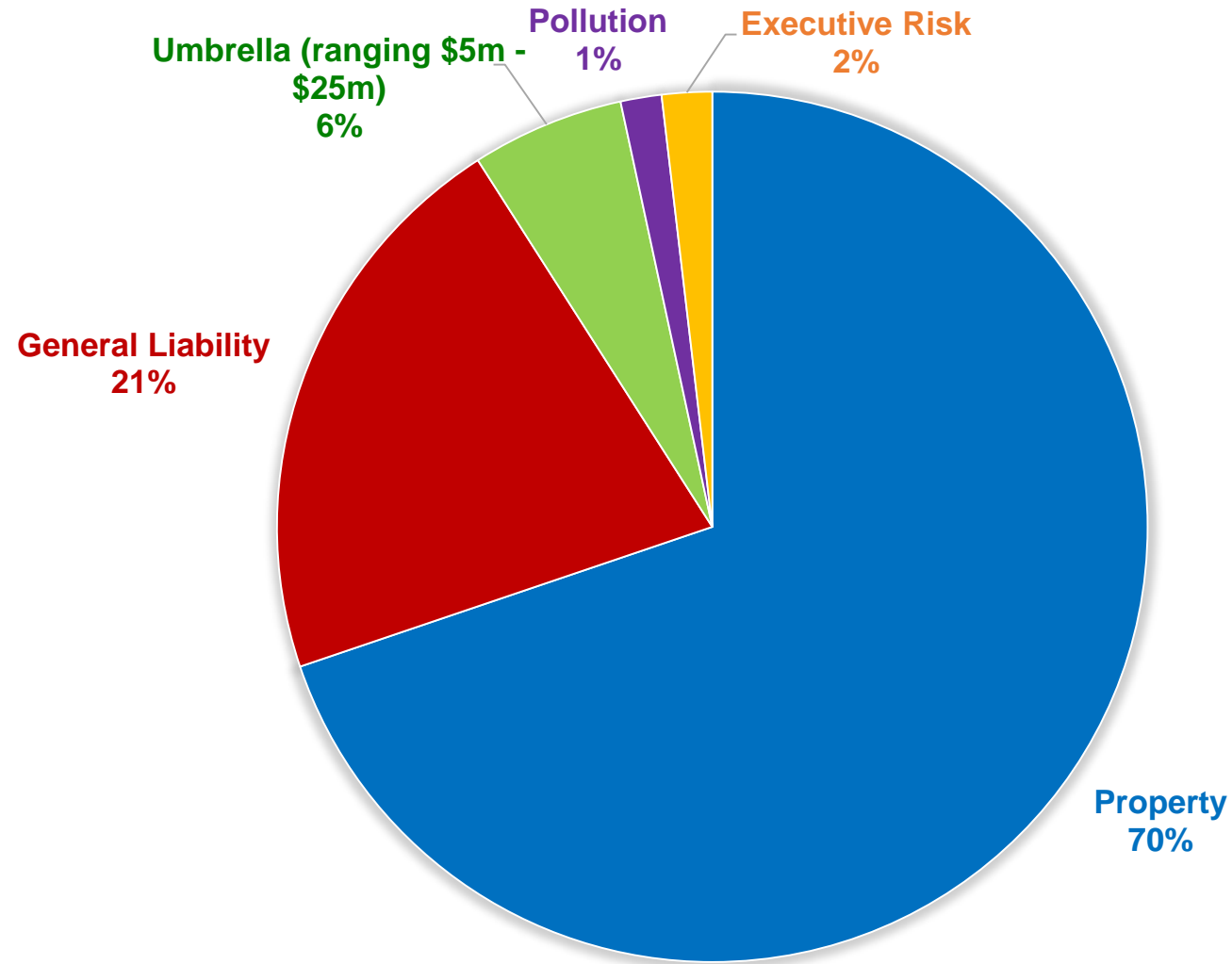
- ***Builders Risk Coverage Issues to bear in mind***
  - Most lenders require a Completed Value builders risk form
  - On a rehab or remodel address the coverage for the existing structure. Many carriers will try to only provide Actual Cash Value for the structure. Replacement Cost coverage is available.
  - On new construction it is important to determine if you want the site preparation, excavations, underground pipes and foundations covered.
  - The scope of the Soft Costs coverage should be specifically discussed by all the insureds.  
Examples of Soft Costs:
    - Interest on Construction Loans
    - Architect Fees
    - Additional Insurance Costs
    - Loss of Rents

# First Party Insurance Coverages

## ***Builders Risk Coverage Issues to bear in mind***

- Coverage for Weather Events if the Roof and/or the Building Envelope is compromised or not completed
- Earthquake Coverage and/or Flood Coverage. Understand the definition of Flood – it can vary from insurer to insurer.
- Understand when your Builders Risk coverage expires
  - The policy expires or is cancelled;
  - The project is accepted by its owner or purchaser;
  - When the property is put to its intended use.
  - Make sure this provision is aligned to your construction contract

# Typical Premium Distribution of a Multi-Family Insurance Program



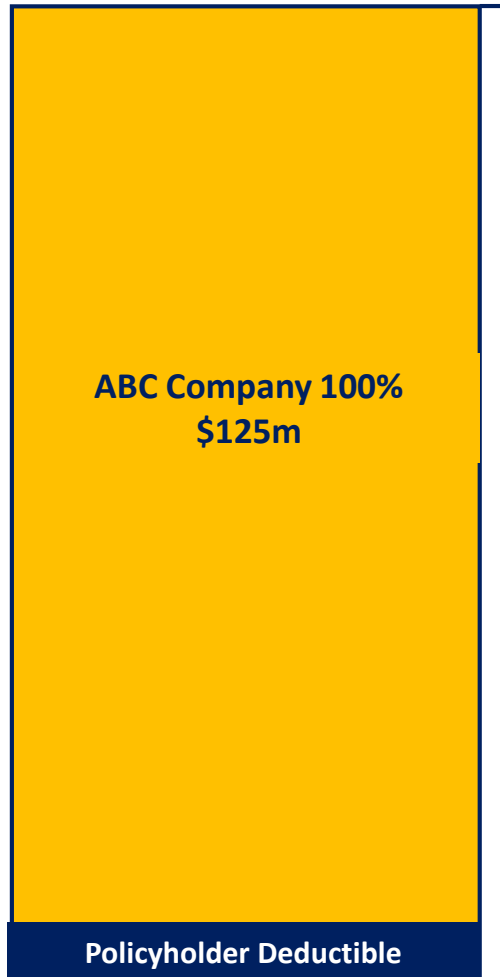
# Factors Impacting Property Insurance Premiums

- Damage from Named Windstorms which cause both Wind & Flood damage along with Convective Storms, (Wind & Hail), have constricted the number of markets for Multi-Family Housing.
  - Hurricanes Harvey, Irma, Maria, Florence and Michael are more water events, (storm surge and precipitation), versus wind events. This is causing Flood\* Insurance rates, (especially in High Hazard flood areas), to increase significantly.
- Multi-family portfolios, (especially Frame), continue to be a difficult class of business for insurers due to historical adverse loss history.
  - Many carriers require multi-family accounts to be written on an annual (plus) aggregate program to protect them from attritional losses and frequency of larger claims.

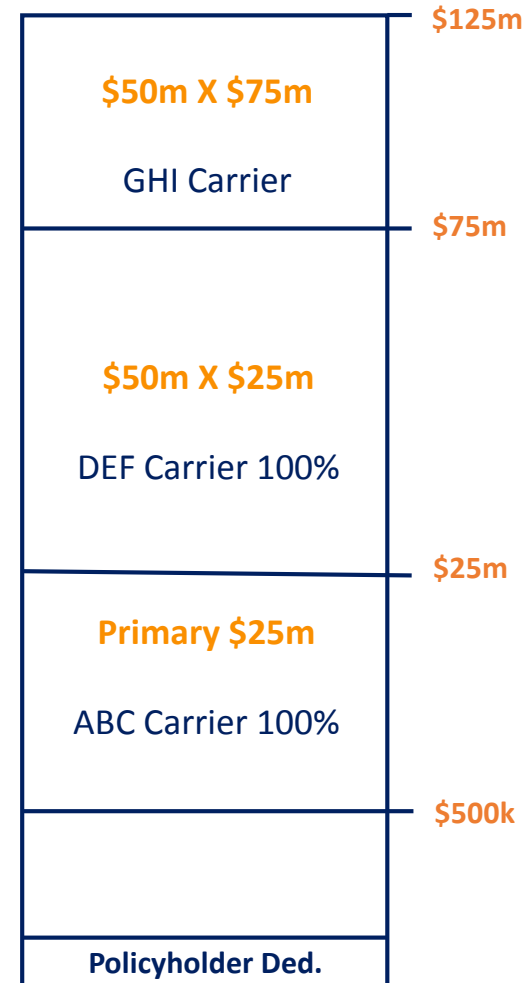
*\*On July 31, 2018, the President signed legislation passed by Congress that extends the National Flood Insurance Program's (NFIP's) authorization to November 30, 2018.*

# Property Insurance Program Structure Options

SINGLE CARRIER STRUCTURE



LAYERED VERTICAL STRUCTURE



# Property Insurance Program Structures

\$100M	\$75M xs \$25M	\$50M xs \$50M		
Carrier \$ Share % Share Layer Premium Share Premium	RSUI \$25,000,000 33%	Arrowhead \$33,333,333 67%		
\$50M		\$25M xs \$25M		
Carrier \$ Share % Share Layer Premium Share Premium		Colony \$9,166,667 37%	Maxum \$3,750,000 15%	Novae (Maxum) \$3,750,000 15%
\$25M	\$15M xs \$10M			
Carrier \$ Share % Share Layer Premium Share Premium	LIU/Ironshore \$7,500,000 50%		Markel \$7,500,000 50%	
\$10M	\$10M			
Carrier \$ Share % Share Layer Premium Share Premium Carrier \$ Share % Share Layer Premium Share Premium	London \$8,500,000 85%	Aspen \$750,000 po \$5M x/s \$5M 15%		
		Everest \$750,000 po \$5M Primary 15%		
Plus Aggregate Deductible	\$25,000: \$750,000 plus aggregate			
Maintenance Deductible	\$50,000			

# What is an Annual (Plus) Aggregate Program for Property Insurance?

- One of the keys to this program structure is the word “Plus”
- “Plus” means the policyholder retains (self-insures) more than the each claim /occurrence deductible
- Basic Example:
  - Policyholder will have an each occurrence deductible most likely \$25,000 or higher
  - The Annual (Plus) Aggregate will sit on top of this deductible to absorb claims that exceed the deductible but smaller than the carrier prefers to handle
  - Catastrophic Perils such as Earthquake, Flood, Named Storm rarely erode the Annual (Plus) Aggregate
  - One the Annual (Plus) Aggregate is Eroded a Maintenance Deductible will still be in place to avoid the insurance carrier from paying first dollar.

# Property Annual (Plus) Aggregate Claims Example

- Annual Aggregate = \$750,000
- Each Occurrence Deductible = \$25,000
- Annual Aggregate Retention: In addition to the each occurrence deductible the policyholder shall be responsible for amounts exceeding the each occurrence deductible up to and not to exceed the Annual Aggregate Retention of \$750,000
- Causes of Loss Eroding Annual Aggregate: ***All Perils Except***: Earthquake, Flood, and/or Named Storm as determined by the National Weather Service
- Maintenance Deductible After Erosion of Annual Aggregate: \$50,000



# Property Annual (Plus) Aggregate – Claims Example 1

In our previous scenario, \$25k Deductible and \$750,000 Annual Aggregate.

What would be the amounts for the following categories if the policyholder had a \$200,000 Careless Smoking Fire

1. Insured Deductible
2. Dollar Amount Eligible to Erode Annual Aggregate
3. Insurance Company Payment
4. Remaining Annual Aggregate



# Property Annual (Plus) Aggregate – Answers: Claims Example 1

In our previous scenario, \$25k Deductible and \$750,000 Annual Aggregate, what would be the amounts for the following categories if the policyholder had a \$200,000 Careless Smoking Fire

1. Insured Deductible - \$25,000
2. Dollar Amount Eligible to Erode Annual Aggregate - \$175,000  
(\$200,000 less \$25,000)
3. Remaining Annual Aggregate after loss - \$575,000 (\$750,000 less \$175,000)
4. Payment Made by Insurance Carrier - \$0

## Property Annual (Plus) Aggregate – Claims Example 2

Same program but Claim # 2 is water damage from a frozen pipe. Total incurred dollars for this claim is \$150,000.

1. Insured Deductible
2. Dollar Amount Eligible to Erode Annual Aggregate
3. Insurance Company Payment
4. Remaining Annual Aggregate – prior to claim is \$575,000



## Property Annual (Plus) Aggregate – Answers: Claims Example 2

Same program but Claim # 2 is water damage from a frozen pipe. Total incurred dollars for this claim is \$150,000.

1. Insured Deductible - \$25,000
2. Dollar Amount Eligible to Erode Annual Aggregate - \$125,000  
(\$150,000 less \$25,000)
3. Remaining Annual Aggregate - \$450,000 (\$575,000 less \$125,000)
4. Insurance Carrier Payment - \$0

# Property Annual (Plus) Aggregate Claims Example

Cause of Loss	Total Incurred Claims Dollars	Policy Holder Deductible Payment	Total Incurred Less Policy Holder Deductible	Dollar Amount Eligible to Erode Plus Aggregate (Amount Excess Policy Holder Deductible)	Policyholder Annual Aggregate Payment (Responsible for all Losses Until Agg is Eroded)	Carrier Payment	Remaining Annual Aggregate
Careless Smoking Fire	\$ 200,000	\$ 25,000	\$ 175,000	\$ 175,000	\$ 200,000	\$ -	\$ 575,000
Sink Overflow as a result of tenant	\$ 50,000	\$ 25,000	\$ 25,000	\$ 25,000	\$ 50,000	\$ -	\$ 550,000
Rain / Wind Storm (Not a Named Storm)	\$ 155,000	\$ 25,000	\$ 130,000	\$ 130,000	\$ 155,000	\$ -	\$ 420,000
Kitchen Fire	\$ 100,000	\$ 25,000	\$ 75,000	\$ 75,000	\$ 100,000	\$ -	\$ 345,000
Hurricane Michael Wind Damage*	\$ 500,000	\$ 100,000	\$ 400,000			\$ 400,000	\$ 345,000
Frozen Pipes Burst	\$ 250,000	\$ 25,000	\$ 225,000	\$ 225,000	\$ 225,000	\$ -	\$ 120,000
Tenant Hits Sprinkler Head while Moving Mattress	\$ 86,000	\$ 25,000	\$ 61,000	\$ 61,000	\$ 61,000	\$ -	\$ 59,000
Candle Fire in Tenant Unit**	\$ 95,000	\$ 25,000	\$ 70,000	\$ 59,000	\$ 59,000	\$ 11,000	\$ -
Building Damage after Vehicle Struck Bldg	\$ 88,000	\$ 50,000	\$ 38,000	\$ -	\$ -	\$ 38,000	\$ -
<b>Total Payments</b>	<b>\$ 1,524,000</b>	<b>\$ 325,000</b>	<b>\$ 1,199,000</b>	<b>\$ 750,000</b>	<b>\$ 850,000</b>	<b>\$ 449,000</b>	

\*Named Windstorm claims do not erode the Annual Aggregate

\*\*The Total Incurred Dollars of this claim less the policyholder deductible exceed the remaining Annual Aggregate thereby requiring the insurance carrier to pay the amount excess of the Policyholder's Deductible plus the remaining Annual Aggregate

**Policyholder's Total Cost for this policy term is \$1,175,000 (Deductible Payments plus Policyholder Annual Aggregate Payments)**

# Annual (Plus) Aggregate Accounting

- There are two components to an Annual Aggregate Property Insurance Program
  - Premium
  - Annual (Plus) Aggregate Amount – Typically Called a Loss Fund
- First year of program most policyholders fund to the full amount
- Billed as separate line items: Premium and Loss Fund
- Loss Funds *are not* tax deductible
- If loss fund is not used in one policy term a policyholder may roll it over to the next term and possibly not fully fund the new Loss Fund (Annual Aggregate Amount)

# Workers Compensation / Employers Liability

Covers workers injured on the job, whether they're hurt on the workplace premises or elsewhere, or in auto accidents while on business. It also covers work-related illnesses.

- Coverage is provided for medical expenses and lost wages while injured, and also provides payments to surviving immediate family members in the case of death
- Typically does not apply on the way to/from work
- Coverage A: Workers' Compensation- Statutory
  - Note the State in which the ongoing work and/or project is located
- Coverage B: Employers' Liability - Coverage provided by the workers compensation policy to the insured (employer) for liability to employees for work-related bodily injury or disease, other than liability imposed on the insured by a workers compensation law.



# Third-Party Insurance Coverages

## General Liability

- Coverage for Bodily Injury, Property Damage, Personal & Advertising injury as a result of your negligence or legal liability.
- Covers Liability assumed under contract as defined by the policy
- Types of Claims/Allegations Covered by General Liability
  - Slips & Falls
  - Wrongful Eviction or Wrongful Entry
  - Property damage to a tenant or guest's property
  - Assault & Battery\*
  - Abuse & Molestation\*

*\*The standard ISO General Liability policy provides defense and payment of damages for allegations unless excluded. The coverages with an asterisk might be excluded or only provided on a limited basis by a small sub-limit.*

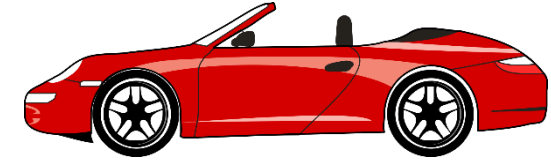
- It is important that your broker review all coverage forms and endorsements to ensure you have the coverages needed for your operations.





# Third-Party Insurance Coverages

## Automobile



### Third-Party Coverages

- Provides automobile liability and property damage coverage. Liability coverage is for property damage or bodily injury to a 3<sup>rd</sup> party caused in some way by the insured driver's negligence.
- Remember to include Hired & Non-Owned Liability

### First-Party Coverages

- Auto physical damage coverage is for property damage to the insured's vehicle itself
- Hired Auto Physical Damage is readily available

# Third-Party Insurance Coverages



## **Umbrella / Excess Liability**

- A policy or set of policies designed to provide protection to your business against catastrophic losses.
- An Umbrella policy that only provides coverage terms and conditions that the primary /underlying policies provide is called an Excess Liability policy.
  - These policies might also be more restrictive than the primary / underlying policies.
  - Typical additional exclusions might be a Total Pollution Exclusion, Liquor Liability Exclusion
- Typically written to provide additional limits to the following primary liability policies: *(Commonly referred to as Underlying Policies)*
  - General Liability – see previous page
  - Auto Liability – Owned and/or Hired & Non-Owned Liability
  - Employers Liability – this is Part B. of the Workers Compensation policy. It does not provide additional limits for Statutory Workers Compensation Benefits.
  - Employee Benefits Liability – this policy is an Errors & Omissions policy for the administration of your Employee Benefits plans.

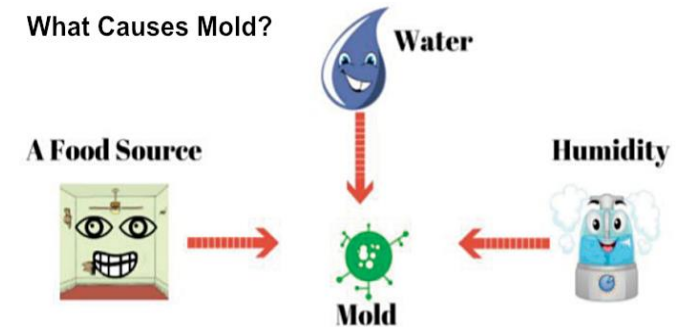
# Third-Party Insurance Coverages

## **Umbrella / Excess Liability Policies Serve Three Purposes**

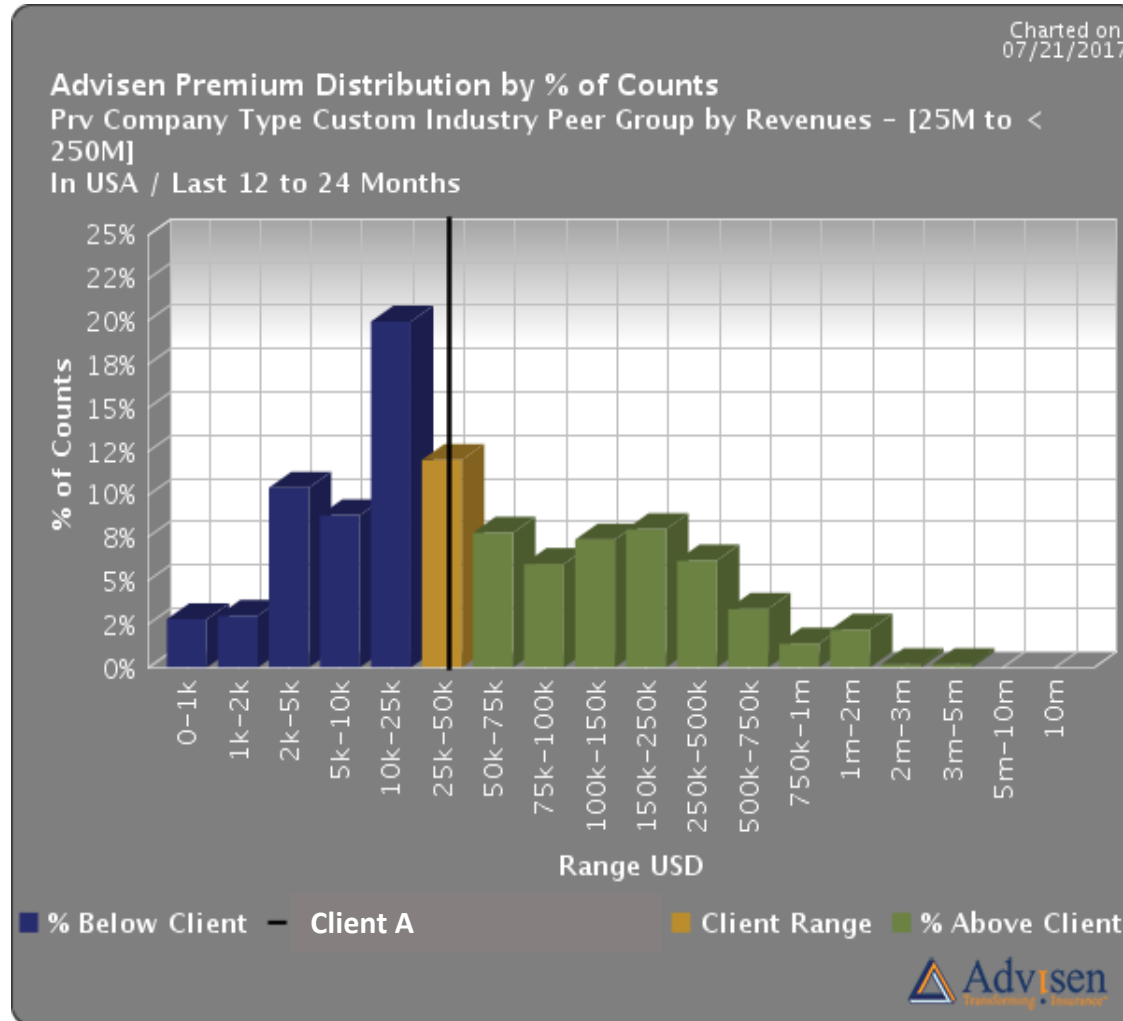
- Provide additional limits to primary liability policies after they have been exhausted by the payment of a covered claim
- Can “drop down” and act as a primary policy if the underlying policy aggregates have been exhausted
  - Example: Policyholder has had an unfortunate year and has exhausted the \$2m Aggregate in place during one policy term.
  - Another slip & fall occurs – the Umbrella policy will step in as first dollar
- May provide coverage for claims not covered by the primary/underlying policies
  - These drop down coverages are becoming less and less available in the market place
  - Most insurance carriers will only provide coverage terms that are available on the primary / underlying policies.
- An Umbrella policy that only provides coverage terms and conditions that the primary /underlying policies provide is called an Excess Liability policy.
  - These policies might also be more restrictive than the primary / underlying policies.
  - Typical additional exclusions might be a Total Pollution Exclusion, Liquor Liability Exclusion

# Environmental (Pollution) Insurance

- Being purchased by more and more Affordable Housing and Market Rate Housing owner/operators
- Types of coverage arising from a Pollution Condition arising on, at or from an insured location.
  - First-Party Clean-Up, (including Loss of Income)
  - Third Party Bodily Injury and Property Damage
  - First and Third Party Transportation
  - Coverage for Non-Owned Disposal Sites
- Important as it typically covers the following items excluded by a General Liability policy
  - Mold
  - Inadvertent Disturbance of Lead-Based Paint and/or Asbestos
  - Legionella
  - Radon
- Can provide coverage for Pre-Existing Conditions Plus New Conditions or New Conditions Only
- Depending on the claim / allegation this policy might provide additional limits over and above a Property or General Liability policy



# Umbrella Benchmarking Tools - Advisen



## Advisen Premium Distribution

by % of Counts

Prv Company Type Custom Industry Peer

Group by Revenues - [25M to < 250M]

In USA / Last 12 to 24 Months

<b>Client:</b>	49.9K
<b>% Below or Equal to Client:</b>	56.7
<b>% Above Client:</b>	43.3

Range USD	% of Counts	Cumulative %
3m-5m	0.2	99.8
2m-3m	0.2	99.6
1m-2m	2.2	99.4
750k-1m	1.4	97.2
500k-750k	3.4	95.8
250k-500k	6.2	92.4
150k-250k	8.0	86.2
100k-150k	7.4	78.2
75k-100k	6.0	70.8
50k-75k	7.8	64.8
25k-50k	12.0	57.0
10k-25k	20.0	45.0
5k-10k	8.8	25.0
2k-5k	10.4	16.2
1k-2k	3.0	5.8
0-1k	2.8	2.8

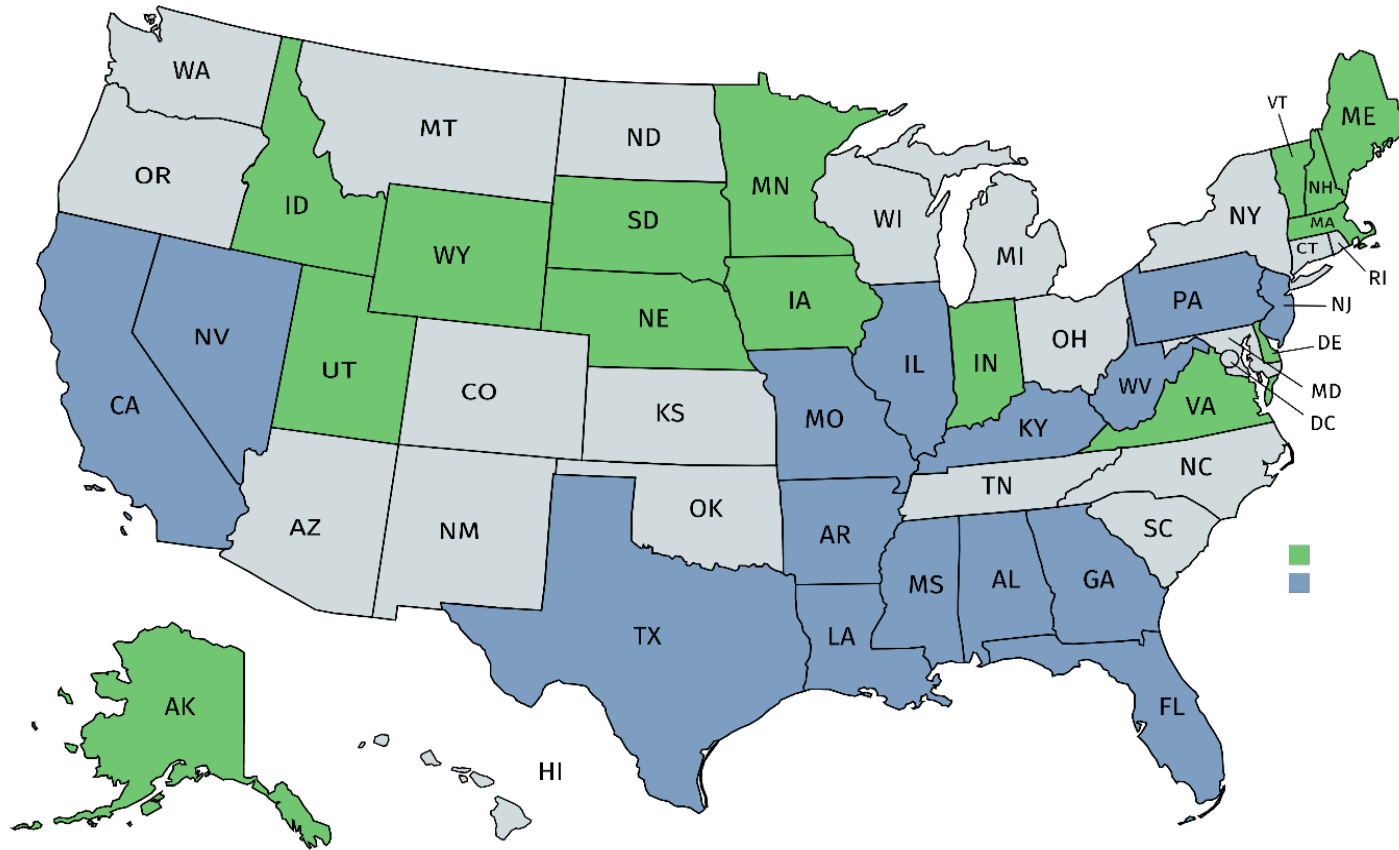
**Program Count:** 499



*The Client's Premium of USD 49,863, when compared to the LOB Peer Group - All, is in the Middle of the range. The chart above illustrates the percentage of program counts that are within each premium range.*

# Umbrella Benchmarking Tools – Harris Poll

Map of Overall Ranking of State Liability Systems  
Best to Worst Legal Systems in America



Top 15 States		Bottom 15 States	
1	South Dakota	36	Arkansas
2	Vermont	37	Nevada
3	Idaho	38	Pennsylvania
4	Minnesota	39	Texas
5	New Hampshire	40	Georgia
6	Alaska	41	New Jersey
7	Nebraska	42	Kentucky
8	Wyoming	43	Alabama
9	Maine	44	Mississippi
10	Virginia	45	West Virginia
11	Delaware	46	Florida
12	Utah	47	California
13	Iowa	48	Illinois
14	Massachusetts	49	Missouri
15	Indiana	50	Louisiana

# Umbrella Benchmarking Tools



1. FLORIDA
2. CALIFORNIA
3. ST. LOUIS, MISSOURI
4. NEW YORK CITY, ASBESTOS LITIGATION
5. PHILADELPHIA, PENNSYLVANIA
6. NEW JERSEY
7. MADISON AND COOK COUNTIES, ILLINOIS
8. LOUISIANA

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# Questions?





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