

Insurance: Insight and Advice from Inside

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Interview with David Brauner, Senior Insurance Broker OREP.org and Editor of Working RE Magazine



Editor's Note: David Brauner is Senior Broker at David Brauner Insurance Services/OREP.org. He has been providing E&O insurance to appraisers and home inspectors for 20 years. In this interview, he provides insight and advice from the inside on rates, claims, disciplinary actions, coverage and more.

Appraisal Buzz: Insurance professionals often say that not all errors and omissions policies are created equally- that which company/policy is important.

David Brauner: There are a handful of agencies, including our own, who have been around awhile and handle programs written specifically for appraisers/agents and brokers. These programs have underwriters, counsel and other staff who are familiar with the issues and have experience defending them. Some programs have "niche" extras also, like "pre claims" advice and assistance and coverage for responding to state board complaints for appraisers. So yes, it's important to know what you are buying. Most should offer you prior acts as well.

Buzz: You always stress "prior acts." Why is this coverage so important?

Brauner: Most appraisers understand by now that their policies are Claims Made, meaning that claims must be reported during the policy period. The "policy period" ends when a policy is cancelled or allowed to expire. Switching companies at renewal does not result in the loss of prior acts, as long as the switch is completed before the policy expires and the new company provides coverage for prior acts. Not every company does. If you switch to one that does not, you are running the risk of not having coverage for an old report when you need it. Most appraisers realize that claims take a year or two to surface, which is why keeping prior acts coverage is so vital.

Buzz: So it's important that appraisers ask their agent whether they will be getting prior acts?

Brauner: Yes it's vital. Appraisers especially are being sued in record numbers today- even the careful ones. You could be making a big mistake by giving up your coverage for past work.

Buzz: What about complaints against appraisers from state boards?

Brauner: Unfortunately, we are seeing a large number of complaints that are ill-conceived, emotional responses to the dramatic loss in equity many homeowners are suffering. No matter the merit, appraisers have to spend time and resources defending themselves- even if they did nothing wrong. It's not fair but that's the way it is. This is why losing your prior acts coverage can really cost you should a problem arise from the past.

Buzz: Price is always front and center. Why do appraiser premiums continue to rise?

Brauner: Premiums for appraisers have risen over the last two-three years industry-wide, at all carriers, due to an increase in claims. The volume of work created by the refinance boom and housing bubble, and the subsequent pain caused by its collapse, have caught appraisers in the middle. Claims against appraisers have skyrocketed as a result. The good news is that we are seeing signs that the worst may be over.

Buzz: Why do premiums continue to go up on appraisers, even those with clean records?

Brauner: Premiums have risen industry-wide in the last few years for most appraisers, even those with clean records. Risk is always spread over the entire insurance pool. Again, it's not fair but if your record is clean, at our company at least, you can take some comfort in knowing that you are receiving the very lowest premium possible beginning at year one. If your rate goes down each year, I would wonder why I didn't get the lowest rate to begin with.

Buzz: If you have a claim and it's bad enough that an insurance company drops you, how hard is it to get insurance elsewhere?

Brauner: Many times you can obtain coverage from another carrier if you are dropped. We work with several alternate carriers. If you have a claim, don't give up. Sometimes all it takes is a fresh set of eyes, especially if the issue is not too serious. We advise clients to prepare their claim summaries and rebuttals for the best possible outcome: concisely, professionally and with inclusion of new procedures that might prevent the problem from

happening again. Conversely, and I say this with all due respect, handwritten scrawl, ranting, incoherence, blaming others for everything, even if it's true, works less well in persuading an underwriter that you are a good risk. It pays to put time and thought into your response, even if the complaint is frivolous.

Buzz: What other advice do you have for those who find themselves with claims or disciplinary actions?

Brauner: Report the event to your agent/carrier when it happens for your own protection. If you fail to report a claim and let your insurance policy lapse, either intentionally or by forgetting to renew on time, and then try to obtain a defense from the carrier, you may very well be left without coverage, even if you were insured when you did the report. That's the way all appraiser policies work. But if you get a claim or dispute on the record during the policy period by reporting it to your agent, it should be covered down the road even if you let your insurance lapse and the policy is no longer in force. Also, most insurance policies require you to report claims and incidences in a timely manner. Therefore, a carrier can potentially refuse coverage if they feel the delay in reporting hurt the defense. It hardly ever happens but you don't want to be the exception.

Buzz: So honesty is the best policy?

Brauner: For many reasons. You should report claims and disciplinary actions on any and all insurance applications also. It may seem counterintuitive to disclose something that is easier to hide and maddening if the incident or complaint is frivolous. But disclosing is for your own protection. And not just to make sure that there is coverage when you need it. You also don't want to report having "no claims or incidences" on an application and then have a claim surface that you clearly knew about prior to submission of the application. Underwriters are the opposite of insurance agents- underwriters look for any reason possible not to write your business. If they think you failed to disclose something intentionally, they may refuse coverage for what they consider to be dishonesty. If this happens, it makes it harder to get coverage elsewhere, as you might expect.

Buzz: So claims and incidences should be reported by appraisers for their own good?

Brauner: Yes for the reasons stated. Also, receiving professional assistance early can often diffuse an issue and make it go away.

Buzz: Any other advice for those with claims/incidences?

Brauner: Yes, we advise clients to submit their renewal information, including claims

documents, far in advance of expiration to allow adequate time for quoting. Renewals with claims are more complicated and take longer to underwrite. Beginning the process early can relieve the stress of uncertainty as your policy expiration date approaches. And it gives you time to shop.

Buzz: Renewing ahead of time is a good idea for business reasons as well, right?

Brauner: Yes. AMCs and lenders have begun asking appraisers for updated insurance documents well in advance of the policy expiration date, sometimes 30 and even 60 days ahead of time. I take these calls every day from appraisers. Some report being cut off from work until the new documents are furnished, even though the old documents are still current! New docs can usually be furnished in a day or so but no one wants to lose even one job these days. To avoid this scenario, we encourage OREP insureds to renew early. Also, because most AMCs and lenders, who require insurance, require a minimum of \$1 million in coverage, we also advise our clients to purchase this amount up front for the same reason: so they don't have to scramble mid-term to increase their coverage and possibly lose work.

Buzz: What other insurance advice do you have?

Brauner: When asked about the keys to longevity, I once heard a doctor offer this advice: don't smoke and wear your seat belt. In the same spirit, the best advice I can offer about insurance is to make sure you have it when you need it. If you have insurance, renew before the policy expires to ensure continuous coverage for all past work. That is more important today than ever. We contact our insureds through mailings, e-mail and phone calls, as their expiration date approaches, to make sure they know what's at stake. If you're retiring, consider Extended Reporting Period or "tail" coverage so you can sleep at night. This covers your old reports into the future. It can only be purchased from your current carrier and only for a limited time after the policy expires.

Buzz: And if you don't have insurance?

Brauner: If you don't have insurance, consider getting it because even good appraisers and inspectors get sued. Consider this: as expensive as E&O seems these days, the most recent "average cost of defending a claim" that I have seen is \$25,000. If you have to defend yourself out of pocket, that is two to three decades' worth of premium.

Buzz: Any closing thoughts about year ten for OREP.org and Working RE magazine?

Brauner: I'd like to thank everyone who has entrusted their insurance to us over the

years. Our mission at OREP is Business by the Golden Rule, which means treating everyone the way we want to be treated; with honesty, efficiency and courtesy.