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HO Practical Concerns

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Ryan Bankas

CEUs: 2

Massachusetts Association
of Insurance Agents



HO PRACTICAL CONCERNS



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This material has been designed for use in training programs for insurance industry personnel. It is not intended to be used as a complete reference resource on the programs and coverages outlined herein.

The programs use “standard” policy forms and endorsements for the purposes of discussing the exposures to loss that may exist, some of the coverage options available to treat them, and to provide a framework for discussions with carriers you represent concerning the programs they have available.

Coverages, rules and materials presented during this program may differ from those used by individual insurance companies. Contact individual carriers for details about interpretations of their eligibility requirements, particular insurance contracts and rates.

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SEWER BACK-UP

Exposure

- Sewage backups are frequently caused by the city's sewage system.
- Losses can easily cause tens of thousands of dollars in damage and make the house unlivable.

Municipality Issues:

- A common culprit is a blockage in a city sanitary main, yet often water backup losses, caused by a city-owned and -maintained sewage systems,- are not recoverable from the city.
 - Many cities and/or states have laws granting them governmental immunity
 - Others cities have laws that limit their responsibility, for example:
 - Only if they were aware of the problem and failed to take proper steps, or
 - If it is determined that a combination of city-owned and home owner-owned tree roots caused the sewer backup, the city may only be willing to pay part of the loss.
 - Some cities limit the maximum amount payable to a set figure that is often woefully inadequate to repair the damage

The HO Policy:

- There is also **no coverage for this loss** under his or her own unendorsed homeowners policy
 - The HO policy **contains a water exclusion** that precludes coverage for losses involving water **that (a) backs up through sewers or drains** or (b) overflows or is discharged from a sump, sump pump, or related equipment.

SEWER BACK-UP

Section I - GENERAL EXCLUSION

SECTION I – EXCLUSIONS

A. We do not insure for loss caused directly or indirectly by any of the following. Such loss is excluded regardless of any other cause or event contributing concurrently or in any sequence to the loss. These exclusions apply whether or not the loss event results in widespread damage or affects a substantial area.

3. Water

This means:

a. Flood, surface water, waves, including tidal wave and tsunami, tides, tidal water, overflow of any body of water, or spray from any of these, all whether or not driven by wind, including storm surge;

b. Water which:

(1) Backs up through sewers or drains; or

(2) Overflows or is otherwise discharged from a sump, sump pump or related equipment;

c. Water below the surface of the ground, including water which exerts pressure on, or seeps, leaks or flows through a building, sidewalk, driveway, patio, foundation, swimming pool or other structure; or

d. Waterborne material carried or otherwise moved by any of the water referred to in **A.3.a. through **A.3.c.** of this exclusion.**

This Exclusion **A.3.** applies regardless of whether any of the above, in **A.3.a.** through **A.3.d.**, is caused by an act of nature or is otherwise caused.

This Exclusion **A.3.** applies to, but is not limited to, escape, overflow or discharge, for any reason, of water or waterborne material from a dam, levee, seawall or any other boundary or containment system.

However, direct loss by fire, explosion or theft resulting from any of the above, in **A.3.a.** through **A.3.d.**, is covered.

SEWER BACK-UP

Section I - GENERAL EXCLUSIONS - COVERAGES A & B ONLY

B. We do not insure for loss to property described in Coverages A and B caused by any of the following. However, any ensuing loss to property described in Coverages A and B not precluded by any other provision in this Policy is covered.

1. Weather conditions. However, this exclusion only applies if weather conditions contribute in any way with a cause or event excluded in A. above to produce the loss.
2. Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body.

3. Faulty, inadequate or defective:

- a. Planning, zoning, development, surveying, siting;
 - b. Design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction;
 - c. Materials used in repair, construction, renovation or remodeling; or
 - d. Maintenance;
- of part or all of any property whether on or off the "residence premises".

SEWER BACK-UP - PERILS

SECTION I – PERILS INSURED AGAINST

General
Exclusions

A. Coverage A – Dwelling And Coverage B – Other Structures

1. We insure against direct physical loss to property described in Coverages A and B.

2. **We do not insure, however, for loss:**

a. Excluded under Section I - Exclusions;

b. Involving collapse . . .

c. Caused by:

(1) Freezing of a plumbing, heating, air conditioning or automatic fire protective sprinkler system or of a household appliance, or by discharge, leakage or overflow from within the system or appliance caused by freezing. . .

(2) Freezing, thawing, pressure or weight of water or ice, whether driven by wind or not, to a . .

(3) Theft:

(a) If such loss arises out of or results from "home-sharing host activities"; or

(b) In or to a dwelling under construction, or of materials and supplies for use in the construction until the dwelling is finished and occupied;

(4) Vandalism and malicious mischief, and any ensuing loss . . .

(5) Mold, fungus or wet rot. . . .

(6) Any of the following:

(a) Wear and tear, marring, deterioration;

(b) Mechanical breakdown, latent defect, inherent vice or any quality in property that causes it to damage or destroy itself;

(c) Smog, rust or other corrosion, or dry rot;

(d) Smoke from agricultural smudging or industrial operations;

(e) Discharge, dispersal, seepage, migration, release or escape of pollutants unless the discharge, dispersal, seepage, migration, release or escape is itself caused by a Peril Insured Against named under Coverage C. . .

(f) Settling, shrinking, bulging or expansion, including resultant cracking, of bulkheads, pavements, patios, footings, foundations, walls, floors, roofs or ceilings;

(g) Birds, rodents or insects;

(h) Nesting or infestation, or discharge or release of waste products or secretions, by any animals; or

(i) Animals owned or kept by an "insured".

Exception To c.(6)

Unless the loss is otherwise excluded, **we cover loss** to property covered **under Coverage A or B** resulting from an **accidental discharge or overflow of water or steam from within a:**

(i) Storm drain, or water, steam or sewer pipe, off the "residence premises"; or

(ii) Plumbing, heating, air conditioning or automatic fire protective sprinkler system or household appliance on the "residence premises". This includes the cost to tear out and replace any part of a building, or other structure, on the "residence premises", but only when necessary to repair the system or appliance. However, such tear out and replacement coverage only applies to other structures if the water or steam causes actual damage to a building on the "residence premises".

We do not cover loss to the system or appliance from which this water or steam escaped. For purposes of this provision, a plumbing system or household appliance does not include a sump, sump pump or related equipment or a roof drain, gutter, downspout or similar fixtures or equipment.

General Exclusions

Section I – Exclusion A.3. Water, Paragraphs a. and c. that apply to surface water and water below the surface of the ground do not apply to loss by water covered under c.(5) and (6) above.

Under 2.b. and c. above, any ensuing loss to property described in Coverages A and B not precluded by any other provision in this Policy is covered.

SEWER BACK-UP - PERILS

Coverage C – Personal Property:

General
Exclusions

We insure for direct physical loss to the property described in Coverage C caused by any of the following perils *unless the loss is excluded in Section I – Exclusions.*

1. Fire or lightning
2. Windstorm or hail
3. Explosion
4. Riot or civil commotion
5. Aircraft
6. Vehicles
7. Smoke
8. Vandalism or malicious mischief
9. Theft
10. Falling objects
11. Weight of ice, snow or sleet

12. Accidental discharge or overflow of water or steam from a plumbing, heating, air conditioning system, automatic sprinkler system or from within a household appliance

13. Sudden and accidental tearing apart, cracking,

burning or bulging of a steam or hot water heating system, air conditioning or automatic sprinkler system or water heating appliance

14. Freezing of a plumbing, heating, air conditioning or automatic sprinkler system or household appliance (does not include a sump, sump pump or related equipment, roof gutters, etc.) only if reasonable care has been taken to: 1) Maintain heat in the building; OR 2) Shut off the water supply and drain all systems and appliances 3) If the building is protected by an automatic fire protective sprinkler system, reasonable care must be taken to continue the water supply and maintain heat for coverage to apply

15. Sudden and accidental damage from artificially generated electrical current

16. Volcanic eruption

SEWER BACK-UP - ISO Endorsement

If there is any doubt it would be best to have the insured consider purchasing ISO’s “**Limited Water Back-Up & Sump Discharge or Overflow coverage**” (HO 04 95) for sewer backup coverage **or** their carrier’s similar form.

HO 04 95

HO 04 95 01 14

LIMITED WATER BACK-UP AND
SUMP DISCHARGE OR OVERFLOW COVERAGE

Limited Water Back-up And Sump Discharge Or Overflow Limit Of Liability:	\$
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section I – Property Coverages

E. Additional Coverages



The following coverage is added:

Limited Water Back-up And Sump Discharge Or Overflow Coverage

We will pay up to the Limit Of Liability shown in the Schedule for direct physical loss, not caused by the negligence of an "insured", to property covered under Section I caused by water, or waterborne material, which:

1. **Originates from within the dwelling** where you reside **and backs up through sewers or drains; or**
2. **Overflows or is discharged from a:**
 - a. Sump, sump pump; or
 - b. Related equipment;

even if such overflow or discharge results from mechanical breakdown or power failure. This coverage does not apply to direct physical loss of the sump pump, or related equipment, which is caused by mechanical breakdown or power failure.

This coverage does not increase the limits of liability for Coverage A, B, C or D stated in the Declarations.

B. Section I – Perils Insured Against

With respect to the coverage provided under this endorsement, Paragraphs:

- A.2.c.(6)(b) in Form HO 00 03;
- A.2.e.(2) in Form HO 00 05;
- 2.j.(2) in Endorsement HO 05 24;
- 3.j.(2) in Endorsement HO 17 31; and
- 2.c.(6)(b) in Endorsement HO 17 32;

are replaced by the following:

Latent defect, inherent vice or any quality in property that causes it to damage or destroy itself;

C. Section I – Exclusions

With respect to the coverage provided under this endorsement:



1. The Water Exclusion is replaced by the following:

Water

This means water which **backs up through sewers or drains, or overflows or is discharged from a sump, sump pump or related equipment, as a direct or indirect result of:**

- a. **Flood, surface water, waves, including tidal wave and tsunami, tides, tidal water, overflow of any body of water, or spray** from any of these, all whether or not driven by wind, including storm surge;
- b. **Water below the surface of the ground**, including water which exerts pressure on, or seeps, leaks or flows through a building, sidewalk, driveway, patio, foundation, swimming pool or other structure; or
- c. **Waterborne material carried or otherwise moved by any of the water referred to** in Paragraphs C.1.a. and C.1.b. of this exclusion.

This exclusion applies regardless of whether any of the above, in Paragraphs C.1.a. through C.1.c., is caused by an act of nature or is otherwise caused.

This exclusion applies to, but is not limited to, escape, overflow or discharge, for any reason, of water or waterborne material from a dam, levee, seawall or any other boundary or containment system.

However, direct loss by fire, explosion or theft resulting from any of the above, in Paragraphs C.1.a. through C.1.c., is covered.

2. The Power Failure Exclusion does not apply.

All other provisions of this policy apply.

DOMESTIC WORKER INJURIES

THE EXPOSURE

- Your insured has **decided to act as their own general contractor and build an addition to their home.** They will be **hiring several sub-contractors** to take on parts of the project.
- Along with the construction project, the insured **has just hired a nanny and a gardener.**
- Unfortunately, the **insured is now informing you about these exposures when reporting the serious injury sustained by one of these hired parties.**
- **Is there any coverage?**
- **What if a person, doing work for the insured, injuries another and the insured is sued? Is there any coverage?**

MA WC LAWS

MA WC Law – M.G.L. 152

Who is an employer?

5) "Employer", an individual . . . **HOWEVER**, that the owner of a dwelling house having not more than three apartments and who resides therein, **or the occupant of a dwelling house of another who employs persons to do maintenance, construction or repair work on such dwelling house or on the grounds or buildings appurtenant thereto shall not** because of such employment **be deemed to be an employer . . .**

Who is an employee?

"Employee", every person in the service of another under any contract of hire, express or implied, oral or written . . . EXCEPT (g) a **person whose employment is not in the usual course of the trade, business, profession or occupation of his employer**

The provisions of this chapter **SHALL REMAIN ELECTIVE** as to employers of seasonal or casual **or part-time domestic servants.** For the purpose of this paragraph, a **part-time domestic servant** is one who **works in the employ of the employer less than sixteen hours per week.**

DOMESTIC WORKER INJURIES

INDEPENDENT CONTRACTORS

Employee vs. Independent Contractor Massachusetts: M.G.L. chapter 149, Section 148B

Guidelines or Criteria vary by state

- 1) Who controls the work
- 2) Who has the right to hire/fire
- 3) Who provides the tools and supplies

In MA, a person performing any service shall be considered an employee UNLESS:

1. the **individual is free from control and direction in connection with the performance of the service**, both under his contract for the performance of service and in fact; and
2. the **service is performed outside the usual course of the business of the employer**; and
3. the **individual is customarily engaged in an independently established trade, occupation, profession of business of the same nature** as that involved in the service performed.

DOMESTIC WORKER INJURIES

ISO DEFINITIONS:

"Employee" means:

"Employee" means an employee of an "insured", or an employee leased to an "insured" by a labor leasing firm under an agreement between an "insured" and the labor leasing firm, **whose duties are other than those performed by a "residence employee"**.

"Residence employee" means:

a. An employee of an "insured", or an employee leased to an "insured" by a labor leasing firm, under an agreement between an "insured" and the labor leasing firm, **whose duties are related to the maintenance or use of the residence premises**, *including household or domestic services*; or

b. One who **performs similar duties elsewhere** not related to the "business" of an "insured".

A "residence employee" **does not include a temporary employee** who is furnished to an "insured" to **substitute for a permanent "residence employee"** on leave or to meet seasonal or short-term workload conditions.

"Insured" means:

5. "Insured" means:

a. You and residents of your household who are:

(1) Your relatives; or

(2) Other persons under the age of 21 and in your care or the care of a resident of your household who is your relative;

b. A student enrolled in school full-time, as defined by the school, who was a resident of your household before moving out to attend school, provided the student is under the age of: (1) 24 and your relative; or (2) 21 and in your care or the care of a resident of your household who is your relative; or

c. Under Section II:

(1) With respect to **animals or watercraft to which this policy applies, any person or organization legally responsible for these animals or watercraft which are owned by you or any person described in 5. a. or b.** "Insured" does not mean a person or organization using or having custody of these animals or watercraft in the course of any "business" or without consent of the owner; or

(2) With respect to a **"motor vehicle" to which this policy applies:**

 **(a)** Persons while **engaged in your employ** or that of any person described in 5. a. or b.; or

(b) Other persons using the vehicle on an "insured location" with your consent.

Under both Sections I and II, when the word an immediately precedes the word "insured", the words an "insured" together mean one or more "insureds".

THE ISO HO POLICY – Insuring Agreements

ISO LIABILITY & MEDICAL PAYMENTS COVERAGE (Coverage E & Coverage F)

SECTION II - LIABILITY COVERAGES

A. Coverage E — Personal Liability

If a **claim is made or a suit is brought** against an "insured" for damages because of "bodily injury" or "property damage" **caused by an "occurrence" 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 "occurrence" has been exhausted by payment of a judgment or settlement.

B. Coverage F — Medical Payments To Others

We will **pay the necessary medical expenses** that are **incurred or medically ascertained within three years** from the **date of an accident causing "bodily injury"**. Medical expenses means reasonable charges for medical, surgical, x-ray, dental, ambulance, hospital, professional nursing, prosthetic devices and funeral services. **This coverage does not apply** to you or **regular residents** of your household **except "residence employees"**.

THE ISO HO POLICY – Exclusions

ISO Liability Coverage – Coverage E

Exclusion:

4. "Bodily injury" to any person eligible to receive any benefits voluntarily provided or required to be provided by an "insured" under any:

- a. Workers' compensation law . . .

ISO Medical Payments Coverage – Coverage F

Exclusion:

Coverage F – Medical Payments To Others. Coverage F **does not apply** to “bodily injury”:

2. To any person eligible to receive benefits voluntarily provided or required to be provided under any:

- a. Workers' compensation law

THE NANNY

Liability for Insured: *Coverage does not appear to be impacted by employing a nanny.*

- The insured has **an increased exposure for legal liability arising out of the Nanny's activities**, but there is no exclusion that is triggered by having a nanny.
- A **lawsuit by the Nanny** for bodily injury or property damage is **not excluded**
- However, with the growing awareness by parents of potential mistreatment or abuse of their kids by childcare providers, **some parents have installed video monitoring systems in their homes (so-called “nanny-cams”)**.
 - The insured **could face a potential lawsuit** from Nanny for **invasion of privacy or similar offenses**.
 - The **standard HO Policy only provides liability coverage for bodily injury and property damage**. For a variety of reasons, the **insured should add some form of personal injury coverage**.
 - **ISO HO endorsement for Personal Injury (HO 24 82) excludes “injury sustained by any person as a result of an offense directly or indirectly related to the employment of this person by the insured.”**
 - **Personal umbrellas typically provide some form of personal injury coverage**, however, personal umbrellas are not uniform.
 - **ISO's Umbrella exclusion reads the same as the HO PI endorsement**

WORKERS' COMPENSATION COVERAGE

WC BENEFITS: As prescribed by state law

- **Disability**
- **Unlimited Medical**
- **Rehabilitation**
- **Death Benefits**

So, even if not required by law, it is probably a good idea to consider voluntarily providing coverage.

If the “domestic worker” is NOT covered by the State’s WC law

- If the State **DOES ALLOW** an “exempt employer” to purchase coverage for a domestic worker a **WC policy can be purchased** by the homeowner. **However, the unendorsed WC policy WILL NOT pay benefits to the domestic worker** since the policy **ONLY** provides coverage for those that are covered by the act.
- **Therefore, an endorsement - *Voluntary Compensation and Employers Liability Coverage for Residence Employees Endorsement*, would need to be added.**
- This endorsement provides voluntary workers compensation coverage for residence employees. **They would be eligible to receive the same benefits that the state law grants to covered workers, on a no-fault basis.**

The Benefits of purchasing a WC policy:

Part 1 = Workers’ Compensation:

- No fault**
- Work related:** *Arising out of and in the course of employment*
- Occupational Injury and Disease**
- Pays:** *Disability, medical, rehabilitation and death benefits*

Part 2 = Employers Liability

- Fault**
- Claims:** *Gross negligence, spouses/dependents, third party over , and dual capacity*
- Limits:** *\$100,000 for BI, \$500,000 Aggregate, \$100,000 for disease*

Part 3 = Other States Insurance

- Other states not listed in Part 1**
- Excludes monopolistic states:** *North Dakota, Ohio, Washington, Wyoming*
- Excludes states the insurer is not licensed to do business in**

TRUSTS

BACKGROUND- Insurance Challenges

Insurance – The Basics:

- The **HO** policy was developed to meet the **needs of individuals and families.**
- The contract **provisions address coverage protection for individuals**, not entities such as a trust
- A traditional **HO policy does not convey any contractual benefits to any party other than a person**
- The policy indicates that **coverage applies to "you"** (named insured and resident spouse) and **"family members."**

Trust vs. Insurance:

- The basic principle of a trust is that it **separates the title of the property into two distinctive parts:**
 1. **Legal title to the property** including the right to dispose of it (*the trustee's rights*)
 2. **Equitable or beneficial title to the property** which provides the right to use and derive benefits from the property (*the residents rights – usually the grantor or beneficiary*)
- Since a **trust is not a natural person**, then it cannot have a spouse or family members
- **When the trust owns the home and no adjustments are made to the basic HO policy, the coverage may inadequate**

TRUSTS

The Historical Law of Trusts:

Personal trust law **developed in England at the time of the Crusades** during the 12th and 13th centuries.

At the time, **land ownership** in England was based on the feudal system. When a **landowner left England to fight in the Crusades, he needed someone to run his estate** in his absence, often to pay and receive feudal dues. To achieve this, he **would convey ownership of his lands to an acquaintance, on the understanding that the ownership would be conveyed back on his return.** However, Crusaders would often **return to encounter the legal owners' refusal to hand over the property.**

Unfortunately for the Crusader, English common law did not recognize his claim. As far as the King's courts were concerned, **the land belonged to the trustee, who was under no obligation to return it.** The Crusader had no legal claim.

The Lord Chancellor:

The disgruntled Crusader would then petition the king, who would refer the matter to his Lord Chancellor. The **Lord Chancellor could do what was "just" and "equitable"**, and had the **power to decide a case according to his conscience.**

The Lord Chancellor would consider it **"unconscionable" that the legal owner could go back on his word and deny the claims of the Crusader** (the "true" owner). Therefore, he would find in favor of the returning Crusader.

Over time, it became known that the Lord Chancellor's court (the Court of Chancery) would continually recognize the claim of a returning Crusader. The **legal owner would hold the land for the benefit of the original owner, and would be compelled to convey it back to him when requested.**

The Crusader was the "beneficiary" and the acquaintance the "trustee". The term *use of land* was coined, and in time developed into what we now know as a *trust*.

TRUSTS

Trust Basics

A trust typically has three parties, the grantor, trustee, and beneficiary.

- **Grantor**—this person (a) works with an experienced attorney to establish the trust fund, (b) determines the type of trust and the management terms, and (c) donates the property (e.g., investment funds, real estate, a private business) to the fund.
- **Beneficiary**—the person for whom the trust is established. Although the assets in the trust do not belong to the beneficiary per se, they will be managed in such a way to benefit this party. The grantor's specific instructions and rules determine how the beneficiary will gain from the trust.
- **Trustee**—the party who is responsible for verifying the trust fund maintains its duties as set forth in the trust documents and according to state law. This party can be a single individual, an institution (such as a bank), or multiple trusted advisors. For a living trust (see below), the grantor and the trustee may be the same person. (In this event, a successor trustee would be named after the grantor(s) has become incapacitated or died.) But if the grantor does not have the expertise or the ability to do this, the grantor can appoint an experienced trustee for the trust. The trustee is typically paid a small management fee. Some trusts designate that the trustee manage the trust assets. Other trusts may require the trustee to select a qualified financial advisor to direct the money.

Different Types of Trusts

The insured has two main types of trusts from which to choose.

- Irrevocable trust
- Revocable (or living) trust

An irrevocable trust, as the name implies, cannot be changed. The trust transfers the grantor's assets out of their estate; no property can be removed from the trust nor can it be dissolved. An irrevocable trust has considerable tax advantages and offers extra protection from creditors.

In contrast, a **revocable trust** is more flexible. Property can be added and removed at will while the grantor is alive. If the situation changes, such a trust can be dissolved. Such assets, however, cannot be removed from the taxable estate at the time of death. In addition, a living trust will not protect the assets from creditors' seizures. A revocable trust will typically convert to an irrevocable trust on the grantor's death.

TRUSTS

INSURING TRUSTS - Residences

How insurance policies respond to insuring a residence held in trust is **dependent on which one of the ISO HO editions** an insurance carrier is currently offering in the marketplace

THE 1991 HO EDITION:

There is **no HO category or eligibility that addresses insuring a non-person entity**

The ISO Personal Manual Rule 104.A (HO 2, or 3):

Five eligibility situations are addressed:

1. The **owner-occupant** of a one-, two-, three-, or four-family dwelling used only for private residential purposes is eligible for the homeowners form
2. The **purchaser-occupant** (named insured) who has entered into a long-term installment contract to purchase the dwelling is eligible for the homeowners policy. Under this arrangement, the purchaser must reside in the dwelling, but the title does not pass from the seller until all the contract terms are satisfied.
3. The **occupant of a dwelling under a life estate arrangement** is eligible for the homeowners policy provided the dwelling limit is at least 80% of its replacement cost.
4. A **dwelling in the course of construction** is eligible provided the policy is issued solely in the name of the intended owner-occupant.
5. A situation in which two or more apartment units in a two-, three-, or four-family dwelling are occupied by **co-owners** is eligible provided each occupies distinct living quarters with separate entrances. A homeowners policy could be issued to one of the co-owner occupants of the dwelling, and it could be endorsed to cover the interest of the other co-owner.

TRUSTS

INSURING TRUSTS – Residences (continued)

THE 1991 HO EDITION:

- Underwriters must be approached and the issues discussed for their determination.
- Possibility the Dwelling policy will be the solution presented for the Trust's residence
- A tenant's HO policy would then be appropriate for those occupying the dwelling

ISO DWELLING:

The dwelling property policy is frequently used for residential properties that do not qualify for a HO policy.

ISO Dwelling Program Eligibility:

The ISO dwelling property forms can be written for individuals & entities. The policy is ONLY a property form and the insured must choose the coverages they wish to purchase:

Coverage A—Dwelling

Coverage B—Other Structures

Coverage C—Personal Property

Coverage D—Fair Rental Value

- **The peril of theft must be added by endorsement**
- **Liability & Medical Payments coverage must be added by endorsement**

TRUSTS

INSURING TRUSTS - Residences

THE 2000/2001 HO EDITIONS:

A new eligibility category for Trusts was added to address the trust issue:

Rule 104.H: Residence Held in Trust (All Forms except HO 4)

A residence held in a trust is eligible for a HO policy under certain circumstances.

The policy can be issued in the name of a trust and trustee when the legal an eligible structure is held solely by the trust and

- the trustee and/or beneficiary or grantor *regularly reside* in the residence held in trust; and
- the residence held in trust is used wholly for *residential purposes*, except for the permitted business occupancies

The residence held in trust (HO 05 43) endorsement is used when the named insured is a trustee to provide coverage to the grantor or beneficiary named in the endorsement schedule.

SCHEDULE*

A. Definitions

1. With respect to the coverages provided by this endorsement, **the word "trustee" is defined as** follows: "Trustee" means the trustee shown in the Declarations as the "named insured". 2. If one or more persons are named in the Schedule above, Definition 5, which defines "insured", Paragraphs a. and b. are extended to include such person with respect to the coverages in the policy that are listed under B. Coverages below.

In addition to the persons named in the Schedule, the definition of "insured" is also extended to include any of the following residents of their household: a. A spouse; b. A relative; or c. Any person under the age of 21 and in the care of a person noted above.

3. Definition 6, which defines "insured location" is deleted and replaced by the following:

6. "Insured Location" means:

a. With respect to the trust and the "trustee", the **following real property but only if legal title to such property is held solely by the trust:** (1) The "residence premises"; (2) The part of other premises, other structures and grounds used by you as a residence; and (a) Which is shown in the Declarations; or (b) Which is acquired by the trust during the policy period for use as a residence by the "trustee" or a person described in 2. above; (3) Any premises used by the "trustee" or a person described in 2. above in connection with a premises described in (1) and (2) above; (4) Vacant land, other than farm land; (5) Land on which a 1-4 family dwelling is being built as a residence to be occupied by the "trustee" or a person described in 2. above; or (6) Individual or family cemetery plots or burial vaults; and

b. With respect to a person described in 2. above, the **following real property:** (1) Any premises used by such person in connection with a premises described in a.(1) and (2) above; (2) Vacant land, other than farm land, owned or rented to such person; (3) Land owned by or rented to such person on which a 1-4 family dwelling is being built as a residence to be occupied by that person; (4) Individual or family cemetery plots or burial vaults; or (5) Any part of a premises occasionally rented to such person for other than "business" use; and

c. With respect to the "trustee" or a person described in 2. above, any part of a premises: (1) Not owned by such person; and (2) Where such person is temporarily residing.

B. Coverages = The following coverages apply to the person named in the Schedule above: **1.** Coverage C - Personal Property; **2.** Coverage D - Loss of Use, Paragraphs 1. Additional Living Expense and **3.** Civil Authority Prohibits Use; **3.** Coverage E - Personal Liability; and **4.** Coverage F - Medical Payments To Others.

If we **decide to cancel or not to renew** this policy, the *persons named* in the Schedule, if any, **will be notified in writing.**

C. Section II - Liability Coverages - The following is added: **When the "trustee" does not regularly reside on the "residence premises":** **1.** The coverages provided under Coverage E - Personal Liability and Coverage F - Medical Payments To Others for the "trustee" **only apply with respect to "bodily injury" or "property damage" arising out of the ownership, maintenance or use of the "residence premises";** and **2.** There is **no coverage** under this policy for *any resident of the "trustee's" household.*

D. Section II - Exclusions

1. Coverage E - Personal Liability And Coverage F - Medical Payments To Others

The following **exclusion is added:**

"Bodily injury" or "property damage" arising out of **any act or decision or failure to act or decide by the "trustee" in administering the trust** shown in the Declarations, other than as provided in Section II - Liability Coverages above.

2. Coverage E - Personal Liability

Paragraph 6. is deleted and replaced by the following:

6. "Bodily injury" to the "trustee", an "insured" as defined under Definitions 5.a. or b. in the policy form and A.2. above or any person acting on their behalf.

This exclusion also applies to any claim made or suit brought against the "trustee" or an "insured" as defined under Definitions 5.a. or b. in the policy form and A.2. above or any person acting on their behalf: **a.** To repay; or **b.** Share damages with; another person who may be obligated to pay damages because of "bodily injury" to an "insured".

All other provisions of this policy apply.

TRUSTS

INSURING TRUSTS - Residences

THE 2011 & 2022 HO EDITIONS

Trust Endorsement (HO 06 15)

Endorsement Schedule:

A schedule is included that **provides for the entry of:**

- The **name and address of the trust** for informational purposes
- The name(s) and address(es) of the trustee(s) to identify their status as an “insured” under the policy, and
- the name of the trust, if designated as an “insured”

Definition – “Insured”:

1. The definition of “insured” is **revised to include the trust or the trustee** but **only for the following coverages:**
 - a. **Coverage A** – Dwelling and Coverage B – Other Structures
 - b. **Coverage E** – Personal Liability - only with respect *to BI or PD arising out of the ownership, maintenance or use of an “insured location”* as defined in the policy
 - c. **Coverage F** – Medical Payments to Others – only with respect *to BI or PD arising out of the ownership, maintenance or use of an “insured location”* as defined in the policy
2. **In some states, a trust is not recognized as an “insured”.** Therefore, the **endorsement specifies that the trust is an “insured” only if:**
 - The **trust is recognized** in the state as a legal entity **with the ability to sue and be sued**, and
 - **Named as an “insured”** in the Schedule
3. The trustee is only an “insured” with respect to the **duties as a trustee of the trust named in the schedule.**

TRUSTS

INSURING TRUSTS - Residences

Trust Endorsement (HO 06 15) (continued):

Liability – Section II:

- An exception to the “business” definition will provide that the *activities of a trustee in administering the trust* will not be considered a “business” for coverage purposes
- The definition of “insured location” is revised to provide that the definition includes *certain real property if the trust holds the legal title* to the property
- The Coverage E – Personal Liability is amended to exclude **Bodily Injury claims of the Trustee**. *Although the “trustee” is not listed as excluded the exclusion is amended to incorporate any insured as defined in the amended definition of “insured”.*

Conditions – Cancellation and Non-renewal:

- Section I and II Conditions are revised to **provide notice of cancellation or non-renewal to the Trustee named in the schedule**

Additional Provisions – Trust Documents:

- The following provisions are added:
 - a. The **insurer must be provided with trust documents** as often as it reasonably requests
 - b. A **Changes and Notification Requirement provision** provides that **the insurer must be promptly notified of the following changes** to the trust that occur during the policy period:
 1. Changes in the *name of the trust, changes in the trustee*, changes in the trust or *trustee’s mailing address*
 2. **Termination** of the trust
 3. **Death or disability** of a trustee
 4. If the *grantor discontinues residing at the residence premises*

TRUSTS

INSURING TRUSTS - Residences

Trust Endorsement (HO 06 15) (continued):

Personal Injury Endorsement Change:

If the Personal Injury endorsement (HO 04 82) is attached to the policy, Exclusion 1.i. – *which excludes personal injury claims to an insured - incorporates* the trustee