



# CAMBRIDGE

## PROPERTY & CASUALTY

### SPECIAL REPORT

## ISSUES RELATED TO RELYING ON A TENANT'S COMMERCIAL GENERAL LIABILITY INSURANCE TO PROTECT THE LANDLORD'S INTERESTS

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In the typical lease agreement, a landlord will require that a tenant provide a specific limit of commercial general liability insurance and that the tenant add the landlord as additional insured for liability claims for bodily injury and property damage claims arising out of its tenancy.

- There are a variety of additional insured endorsements that can be used by an insurance company. Attached you will find a typical form. As you can see, under Section A, the landlord as additional insured is only included for claims caused in whole or in part by the tenant's acts or omissions or the acts or omissions of those acting on behalf of the tenant.

For example, in the event of a collapse of a roof causing serious injury, it is unlikely that the additional insured endorsement would respond on the landlord's behalf because the injury would not likely be caused by the acts or omissions of the tenant, unless the tenant had the obligation to maintain the roof.

In most lease agreements, the landlord retains some responsibility for the roof and the four outer walls and, perhaps, some of the mechanical devices within the building. Almost all additional insured endorsements have limitations such as this. The bottom line is that the landlord cannot depend on being an additional insured on the tenant's policy to protect its interests.

- Landlords must always have separate liability insurance covering its interests on a primary basis. Whether or not the charge for this additional insured is passed back to the tenant by way of a common area charge is a matter of negotiating lease provisions.
- In addition, the landlords need to understand that tenants have aggregate limits on their liability insurance policies. This means that multiple claims against a tenant can reduce the limit available to the landlord. If the landlord has separate insurance, the landlord's policy will provide assurance of coverage.

- If the tenant's liability policy is cancelled, it is unlikely that the landlord will know about the cancellation unless there is a specific endorsement requiring this that has been added to the tenant's policy.
- Receiving a certificate of insurance indicating that the landlord has been added as additional insured is never enough to establish coverage because the certificate of insurance typically does not have sufficient terms and conditions information to determine the adequacy of coverage, and landlords are seldom in the position to be able to analyze the certificates of insurance.

The bottom line is that landlords need to have separate and distinct liability insurance for all assets, even if they are an additional insured on the tenant's policy.