

GL/E&O INSURANCE

Primary & Non-Contributory Requests

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Signature

Security America RRG customers often receive requests to provide proof of insurance via certificates that include the requirement of “primary and non-contributory insurance.” For reasons explained below, the non-contributory piece of the request is problematic and unfair. It can cause great hardship to the policyholder.

Security America RRG provides primary insurance to its policyholders. That part of the request is easy: in the event of a loss, Security America will be the insurer to step up and respond. We won't wait in the background for some other insurer, such as the claimant's insurer, to initiate action.

The difficulty arises with the non-contributory request. Sometimes to be non-contributory is to waive your rights to recover or ask for contribution from a third party whose negligence causes the loss. At the extreme, it is interpreted as a “no-fault” clause trying to make the insurer and his policyholder pay for a loss that could be caused by another party.

Some of our competitors will provide the non-contributory language. But in reality, providing the language means almost nothing in actual claims practice. Elsewhere in the policy, coverage clauses typically exist that state: “We will not pay unless liability would have otherwise existed under law.” Or, in the “Other Insurance” section: “We will be excess over other collectible insurance.” In addition, there are numerous exclusions that may apply, such as employers' liability or various professional services, such as architectural design.

THE CLAIM SCENARIO CAN EASILY GO LIKE THIS:

- ┌ The party who requested the non-contributory wording makes a claim.
- ┌ Then the insurer who has said they provide non-contributory coverage issues a reservation of rights or denies the claim based on an absence of responsibility/negligence on the part of their insured OR based on one or more of the other policy provisions or exclusions noted above.

This scenario results in unmet expectations and frustration. The customer of the policyholder is upset that the claim is difficult. The insured is angry because the insurer does not meet their expectations for non-contributory coverage.

To avoid these issues and keep unnecessary claims expenses down - and subsequently provide the lowest rates in the insurance industry - Security America actively seeks to educate our policyholders on these and other contract and certificate issues.

The next time a customer asks you to sign a contract requiring you to provide “non-contributory insurance coverage,” think about what that really means and how it could lead to prob-

lems. If you are confused about this issue or have questions about the coverage, just call one of our insurance representatives. We are always happy to help.

Security America RRG provides broad errors and omissions protection in conjunction with a tailored general liability insurance program to members of the ESA. The program is competitively priced, and we encourage you to obtain a quote. For additional information or to request a quote, please visit our Web site at www.securityamericarrg.org or call 1-866-315-3838 to speak with a representative.

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