



## HOW TO AVOID THE 7 DEADLY SINS OF BUYING GENERAL LIABILITY INSURANCE

By John Baccarella



Inside This Special Report.....

## **“HOW TO AVOID THE 7 DEADLY SINS WHEN BUYING GENERAL LIABILITY INSURANCE” !!**

**And how you as a Contractor can finally get the peace of mind you work so hard for!**

**By John Baccarella**

This report was put together at the request of my clients. I have been talking about the **7 Deadly Sins** for years.

Ten years ago, this report would not have been necessary, but times have changed.

Ten years ago you could bid a job complete the job and move on to the next job. Lawsuits happened just to the next guy. Insurance policies were simple and life was wonderful.....

General liability insurance has changed drastically in the last ten years and now there are traps... not intentional traps, but changes in the industry that you have to keep abreast of.

This brings us to the **7 Deadly Sins**..



## Choosing The Wrong Agent or Broker

### 99% of Insurance Brokers in California Have No Clue How To Handle a Construction Account!!

As strange as this may seem, your biggest problem might be your current insurance agent or broker. Not that he is not trying to do a good job, but if he does not handle Construction insurance on a *day-to-day basis* he is out of touch with a marketplace that is changing day to day. Keeping up with the Construction Industry is a *full time job*.

If your broker is not Independent he may not have the tools *Available* to do a good job. Non-Independent agents must represent one company only. He may not represent the best company for your business.

Baccarella Insurance Services Inc represents EVERY insurance company in California who wants construction accounts.

We concentrate all our efforts on construction insurance. Our slogan says it all "Construction Insurance is our ONLY Business"



## Occurrence vs. Claims Made.

### **Violating This Sin Can Wipe Out Your Entire Life's Savings**

Construction claims made policies became popular in the mid 1980's and have been around ever since. The promise of these policies were lower rates, but at what long-term damage? In some instances there is no cost savings. Claims made policies for a contractor are the worst possible policy you can buy. Let me explain: Claims made policies allow you to make a claim on your policy only during the policy year they are in force. **Contractors have claims down the road not in the same year as the project is built!**

If you want to leave that company and go to another company you will have to purchase **additional** insurance to cover you for the next 10 years...*that's right 10 years!* Why? Because the law allows customers to file a lawsuit for construction problems up to 10 years after the project was completed.

➤ Here is an example:

You build a new room addition, everything goes well and you and your customer are very happy with the final outcome... 4 years later your customer calls you and says that the roof is leaking and water came in the house and ruined his new \$25,000 grand piano. He expects you to repair the roof, the drywall, wallpaper, carpets and, of course, replace the grand piano...

Claims- made **will not allow** you to file a claim 4 years later unless you stayed with the same company the whole time. If you intend to shop other companies after the claims made policy expires you must make a decision, since you cannot make a claim against a claims made policy after the policy expires **unless you buy extended liability coverage called a "tail."** The tail coverage extends the period of time you can report a claim.

If you decide not to buy the "tail" you will not be able to report a claim against the claims made policy. ? And to make matters worse, some companies do not offer the 10-year extension.

When your policy comes up for renewal with claims- made policy you must decide.

- Do I leave the company and pay the additional insurance for coverage for the next 10-year period or go without.
- Do I stay with the same company? Their prices on the New Year may stay the same or go up sharply.
- Do I switch to another company who has better rates and coverages?

This limits the marketplace for you, and makes it harder to accept a better bid from another carrier. **Claims made policies may work in other lines of insurance, but for Contractors they are a disaster.**

Take time after reading this report to look for your policy and see if your current policy is either an occurrence form or claims made...

**In addition to thinking about Claims Made Policies, Two other things have popped up in the contractors insurance marketplace, and neither one of them are good! They do lower the cost, but before buying a policy with a Sunset Clause or a Manifestation Clause... here are the facts about those policies.**

### **Sunset Clause**

Some policies sold in California have a sunset clause, just what is a sunset clause?

Insurance companies add sunsets clauses to their policies in order to limit how long they have to pay a claim.

In California, a contractor is responsible for the work they do for 10 years after the job is finished. If you buy an occurrence policy you have coverage for the 10 years.

If the policy you buy has a sunset clause attached, it limits the insurance company to only pay claims for only two years after the policy period! (some sunset clauses are 4 years)

That means you are on the hook for the other 8 years!. Not a happy thought.

Bottom line is, policies with sunset clauses cost less money, but there is a reason, the insurance company is on the hook for 2 years after the policy period instead of the 10 year California law.

Good deal for them, not so good a deal for the contractor.

Beware of policies containing sunset clauses.

## Manifestation Policies

This type of policy is a tricky one.

The claim must manifest itself during the policy period. That means the claim must show itself during the policy period.

That all sounds good but it not that easy.

If you have water damage, when does it manifest itself? When the work was done originally? When someone saw the water damage?

A lot of unanswered questions and confusion, again these policies are less expensive and they should be. When a loss occurs, you want coverage, you do not want a debate about is the claim covered or not!



## INSURANCE COMPANY RATING

Insurance Companies are given a grade; just think about the grades you received in high school or college. A,B,C,D,F. Insurance companies are given a financial report card by the A.M. Best Company.

An Insurance company with less than an "A" rating can be a potential problem for two reasons, 1. There is a risk of the company going out of business and 2. If you work for the state, county or city, they will usually not accept any company less than an "A" rating. Also if you hire on as a subcontractor most general contractors will not accept any rating less than an "A". With some state government offices and general contractors not accepting your liability insurance, you will be limited to the type of jobs you can accept.

If you do not know your Company Rating feel free to call my office at any time, we will be glad to look it up for you.



## EXCLUSIONS

First off let's get one thing clear... All policies have exclusions. You hear terms like all risk, special form, comprehensive, full coverage. Those phrases do not mean there are no exclusions.

In a contractors general liability policy all the exclusions are listed on the (Dec) front page of the policy or on the second page of the policy. The problem is that they are usually listed by form number, not by name.

In order to make sure you understand the exclusions, look at the form numbers on the front page and go find that form (by number) in the policy. (Usually the form number is in the bottom left hand corner)

If you see a form number on the front of the policy but you cannot find that form in the policy, your policy is **not complete!** Someone forgot to add that form to the policy when the policy was put together. People make mistakes! If you find a form number on the front of the policy and cannot find that form in the policy Call your insurance broker and ask them for the missing page(s). It may be a very important exclusion.

The exclusions are critical, when you get a proposal for insurance the first thing you should look at are the exclusions.

For instance, if you are a concrete contractor and you do house pads, if you have exclusion for foundation work in your policy you have a problem. The worse thing is you will not find out about your problem until you have a claim and it is denied, by then it's too late.

Here is a list of exclusions I have found in many policies; this list is **by no means "all inclusive"**.

Look over this list and see what exclusion would apply to your operation.

DESIGNATED WORK	Claims arising from any classification or class code not listed on the declaration page of this policy. For example: You are a roofing contractor and you get a quote that is 50% less than all other quotes. The policy comes in and your company is classified as a landscape contractor. Any claims will be denied because you were not classed correctly.
INDEPENDENT CONTRACTORS	Claims arising out of: The acts or omissions of independent contractors while working on behalf of any insured, or the negligent hiring or contracting, investigation, supervision, training, retention of any independent contractor for whom any insured is or ever was

	legally responsible and whose acts or omissions would be excluded. If you use subs, this exclusion can be a killer.
<b>ASBESTOS</b>	No Coverage for exposures to asbestos, asbestos fiber, or any material containing asbestos or asbestos products, including without limitation, the costs of asbestos removal or damage in the course of effecting such removal (Very common exclusion)
<b>PROFESSIONAL LIABILITY</b>	Claims arising out of the rendering of or failure to render any professional services by you or any engineer, architect or surveyor who is either employed by you or Performing work on your behalf in such capacity. Professional services include: The preparing, approving, or failing to prepare or approve. Maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings; and Supervisory, inspection, architectural or engineering activities. For example, if you make a structural change without the architect's approval, there is no coverage. (Very common exclusion)
<b>Construction Management Errors</b>	* See Professional Liability
<b>CONTRACTORS WARRANTY</b>	This means that if you hire sub contractors, you must get a certificate of insurance from them. If you do not, the amount of your contract with the sub will be added to your payroll or gross receipts and you will be charged. In other words you will pay for the subs general liability. Some companies use a stricter version of this. They require the sub to have the same limits of insurance as you do.
<b>FORMALDEHYDE</b>	Claims arising directly or indirectly out of formaldehyde whether or not the formaldehyde is airborne as a fiber or particle, contained in a product, carried or transmitted on clothing contained in or a part of: any building, building material, insulation product or any component part of any building.
<b>X, C, U</b>	Explosion, collapses, and underground. Not a good exclusion for Grading, Excavation contractors.
<b>CLAIMS IN PROGRESS</b>	* See Prior Claims
<b>KNOWN LOSSES</b>	* See Prior Claims
<b>ROOFING</b>	Some roofing exclusions are plain and

	<p>simple. <b>NO ROOFING.</b> Some are not as strict. You must read the exclusion carefully. Some roofing exclusions say there is no coverage while the roof is under construction or repair. For example: You tore off a roof, since the weather forecast called for sunny skies you decide there is no need to cover the roof overnight. It Rains... There is no coverage. Read all exclusions carefully.</p>
<b>DEMOLITION</b>	Plain and Simple, No demolition
<b>SUBSIDENCE</b>	Insurance does not apply to any liability arising out of Landslide, Mud Flow, Earth Sinking, Earth Rising or Earth Shifting
<b>LEAD</b>	Claims arising out of the actual or alleged presence or actual, alleged or threatened dispersal of lead, lead particles or products containing lead.
<b>EARTH MOVEMENT</b>	See subsidence
<b>NUCLEAR</b>	Self Explanatory
<b>MULTI UNIT RESIDENTIAL</b>	Any work in connection with the pre-construction, construction, post-construction, reconstruction, exterior remodeling or repairs of any multi-unit residential building.
<b>CONDOS</b>	No condos
<b>TOWNHOUSES</b>	No townhouses
<b>APARTMENTS</b>	No apartments
<b>EMPLOYMENT RELATED PRACTICES</b>	Refusal to employ, wrongful termination, Coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or other employment-related practices, policies, acts or omission
<b>PRIOR CLAIMS</b>	Claims that are in progress prior to the commencement of this policy
<b>PESTICIDE, HERBICIDE AND FUNICIDE EXCLUSION</b>	Not a good idea if you are a landscape contractor
<b>Prior ACTS</b>	This is a very severe exclusion. This says that any work you did prior to the policy date is not covered. For contractors this can be a death sentence on all prior work. 99% of all contractor claims occur years after building was built.
<b>Exterior insulation and finish system</b>	Exterior insulation and Finish system means the design, manufacture, construction, fabrication, preparation, installation, application, maintenance or repair, including remodeling, service,

	<b>correction, or replacement, of an exterior insulation and finish system (commonly referred to as synthetic stucco) or any part thereof, or any substantially similar system or any part, including the application or use of conditioners, primers, accessories, flashing, coatings, caulking or sealants in connection with such a system when performed by you.</b>
<b>Pool Pop Up</b>	<b>The elevation of swimming pool due to high water table.</b>
<b>FOUNDATION WORK</b>	<b>Claims arising out of foundation work, including but not limited to the design, specification, inspection, construction, installation, repair, replacement, improvement or reinforcement of any foundation or any part of a foundation. Foundation means the entire substructure below the first floor or frame of a building, including but not limited to any footings, footing beams, piers, grade beams, pilings, pilings or supports upon which the building rests.</b>



## Acceptance

We touched upon this a little when speaking of company ratings, but there are many reasons why governments, general contractors and more and more, smart homeowners who will not accept just any certificate of insurance.

Certificates of Insurance are not being accepted for the following:

1. Additional Insured Endorsement (CG2018 11/85) when is an additional insured endorsement not an Additional Insured Endorsement? There are many kinds of Endorsements with different language. **The CG 2010 11/85 has become the Additional Insured Endorsement of choice.** Many general contractors and others will not accept any other certificate. You must be very careful here, most companies now charge for these certificates anywhere from \$100 - \$1,000 each. If the costs of these new certificates are not in your bid you're losing money.

### Update

When I wrote this report over 3 years ago, item #1 above was true, but times have changed.

It's not that #1 is not true anymore, it is, but insurance companies that do business in California will not longer sell the CG 2010 11 85 to anyone doing **residential construction** of any kind. It still is available, on a limited basis to contractors who do commercial work ONLY. If you do only 1% residential you will not be able to purchase the CG 20 10 11 85.

And... it is not an option either. Offering to purchase the form for an additional cost will still not do you any good. It is just not available in California at this time for residential contractors.

You can still get additional insured endorsements, but not the CG 20 10 11 85.

Primary Endorsements – along with the above Additional Insured Endorsement, many people are asking for primary endorsements, 99% of all insurance companies have an additional charge for these as well, mostly from \$100- \$1,000 each.

2. Waiver of Subrogation – Another endorsement that has become popular. This is seen more in Workers Comp but does come up in General Liability. There is an additional charge for this endorsement.



## Subcontractors

### *This one is potentially a killer*

I have seen dozens of companies go out of business on this subject alone within the past 10 years. *It's usually your best friend or someone you were just trying to help out.*

When you hire a subcontractor to do work for you, *he must* carry General Liability insurance and he must have the *same limits of liability as you do*. For example, if you have a General Liability insurance policy with a \$1,000,000 limit the subcontractor that you hired must also have the same.

What happens if your sub does not carry general liability? The problem Arises when your general liability company comes and audits your books at the end of the year. If you do not have a Certificate of Insurance for the sub your general liability company will add it to your payroll and **You** will end up paying the general liability for the sub contractor who did not buy it.

I can hear you now...It's not fair.... fair or not, it's in the insurance Contract. Let's look at the insurance company's side on this subject. If there is a problem on the job, whom is the customer going to sue? He is going to sue the subcontractor **and** the General Contractor. The insurance company has no recourse against the subcontractor and must defend the entire lawsuit, while the subcontractor walks away. Now, I do not expect you to have sympathy for an insurance company, but now you know how it works.

**Now you know why I call it the Best friend or the someone you were Trying to help out killer. You feel sorry for them – And you pay the price.**



## ADMITTED VS. NON-ADMITTED COMPANIES

Admitted Companies are companies that are licensed in the State of California and contribute to the California Insurance Guarantee Association (C. I. G. A.)

C.I.G.A is a pool of money set aside by the State of California. Everyone who buys General Liability insurance in California is charged a percentage of his or her insurance premiums to go into the pool. This pool of money is set aside to handle claims by people in the State whose Insurance Company cannot pay their claims. C.I.G.A. will pay claims if there are no other companies to pay claims. The maximum CIGA will pay on any claim is \$500,000. If there are other companies to pick up the claim, C.I.G.A. will not share in the claim.

Non-Admitted companies do not contribute to the CIGA pool. If a Non-Admitted company goes out of business, you have no recourse....

Non-Admitted companies are not necessarily a bad deal. They fill a gap in California and provide competition for the Contractor business. However if you use a Non Admitted company with a bad rating you might be asking for trouble.

## Update 12/2008

There are only 3-5 companies in California who are admitted companies who will write a policy for a contractor. If you are a very small contractor, there is a chance you can fit into one of these companies.

Larger contractors, multi unit contractors, tract home contractors will find it almost impossible to find an admitted carrier at the time of this writing.

Our agency checks the availability of admitted carriers on a daily basis.

The California Insurance Commissioner has determined that certain types of insurance are not available from admitted insurers and has placed these types of insurance on a list.

The California Department of Insurance has published a list of **Eligible Non Admitted Insurance Companies.**, California's Insurance Commissioner stated "This list serves as a reassurance to consumers that

these companies have passed muster with the Department of Insurance before making their products available to Californians”.

**P.S. Please be aware of anyone offering you coverage with a non admitted carrier who is not on the following list:**

**If you are insured with a non admitted company I urge you to go look at your policy and look for the company on the list, If they are not there, you should call your agent to find out why.**

**If you are reading this report on the internet, the following LESLI list is current.**

**The list changes frequently. If this report was emailed or mailed to you, go to our website at [www.bacins.com](http://www.bacins.com) and click on the 7 Deadly Sins Report, at our website, the list is automatically updated whenever there is a change.**

### **List of Eligible Surplus Line Insurers**

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**AS OF: December 13, 2001**

## **Something New is Happening in the world of construction insurance.**

### **Is a Risk Retention Group (RRG) right for your company?**

#### **Advantages and Disadvantages of a RRG**

A RRG is an insurance company owned by its members, some of the key advantages offered by risk retention groups (RRGs) to their members relate to the control members obtain over their liability programs. This control often translates into lower rates, broader coverage, effective loss control/risk management programs, participation by RRG members in favorable loss experience, access to reinsurance markets, and stability of coverage, notwithstanding insurance market cycles.

Advantages:

- Affordable rates (usually 22-34% lower than traditional insurance)
- More likely to accept types of construction companies traditional insurance companies do not want. (roofing is a good example)
- Will accept new start up construction companies without surcharges.

- Loss runs not needed.

Disadvantages:

- RRG's are Non Admitted and have no Rating.
- Acceptance – City, State, Government, and Large GC's will not accept the certificate.
- No guaranty fund availability for members.

Who is best suited for a RRG?

RRG's are a perfect fit for small contractors who work directly with homeowners. RRG's offer great saving in the following classes

- Custom Home Builders
- HVAC
- Plumbing
- Remodeling
- Roofing
- Concrete
- Grading
- Electrical
- Framing
- Any other class than traditional insurance companies are not interested in.

# The Baccarella

**way of doing business ...**

1. **Real live people answer our phone.** No voice mail. Our hours are 8:00 to 5:00 daily. We even answer the phone during lunchtime!
2. **TOLL FREE numbers. 877-587-4999 877-373-5608 FAX**
3. **Customer Service Reps** who understand contractor insurance.
4. **Certificates of Insurance** requests processed the same day.
5. **One stop shopping for contractors.** We handle Auto, Equipment, Workers Comp, property, Bonding, Umbrella's, Health Insurance, Life Insurance Pension plans. If a contractor needs it we have it.
6. **Before you Sign Service.** Before you sign your next contract, send us a copy of the insurance requirements in the contract. We will match up your current insurance package to the requests of the General Contractor, Developer or government agency and see if you have the coverage they are requesting.

We will tell you if you have what they want or if they are requesting insurance you do not have. If you do not have what is requested we can quickly tell you what the additional cost will be **before you sign** the contract. If you need to buy additional insurance to satisfy the contract you can make sure it is in your bid.

**If you are a new contractor, this is a must.... And it's free!**

**FREE Certificates of Insurance Guidebook Available Online**

I have written a practical guide to sending and receiving certificates of insurance. This book describes in detail every single line on the certificate of insurance and is a great way to make sure your certificate file is in proper order. A step-by-step tutorial for the beginner to the experienced. A great teaching aid for new employees.

**WARNING:**  
**DO NOT ACCEPT ANOTHER CERTIFICATE OF INSURANCE**  
**UNTIL YOU READ THESE PAGES**

If you own a construction business, you need this information. The information basically covers all you need to know about accepting certificates of insurance. Whether you are hiring a sub-contractor or sending out your certificate to a general contractor, city, or homeowner. These are tips and secrets you need to use in your construction business. It applies to all construction projects. It doesn't matter if you have been the business one-year or 25 years the information is, in some cases, shocking!

You'll be saving time and money, avoiding mistakes and disastrous situations, and learning secrets other people only wish they knew. Here are a few things I discuss that will avoid costly mistakes and save you thousands of dollars, if not your business entirely.

**SECRETS OF CERTIFICATES OF INSURANCE**  
**It is estimated that 77% of all certificates of insurance are wrong!**

Here's a small sample of the secrets you'll learn when receiving  
CERTIFICATES OF INSURANCE MADE EASY.

- How certificates of Insurance can cost you your Business.
- How certificates of Insurance can cost you thousands of dollars per year!
- How to find errors on Certificates, before the claim.
- How to correct errors on Certificates, before the claim.
- How to detect fraudulent certificates.
- How insurance companies are rated?
- How to make sure your Sub has the correct insurance.
- How a simple auto insurance claim cost you your business.
- Are your subs covered for work comp? Are you Sure?
- What forms should be attached to your certificate to give you the protection you need?

Step-by-Step "Certificate System" for you or your key employee to follow.  
Checklists. Examples.

And over 50 more tips and secrets! There is so much more, I couldn't possibly list it all here. What you have just read is only a small sample of the exciting information you will get when you read Certificates of Insurance Made Easy. You need this kind of straight-up information. If you truly want to avoid paying thousands of dollars for not having the information you need when accepting certificates of insurance. The information I'm offering you is CRUCIAL.

This book contains the results of years of research and features 42 pages of pure dynamite! All of the tips, techniques and secrets are revealed in a step-

by-step, easy to understand format. The book is one-of-a-kind and not found in bookstores.

**Here are some examples:**

General contractor hired a framing sub-contractor to frame two condos. The framing contractor gave the general a certificate of insurance with general liability, auto insurance and workers comp.

One of the framing contractors men came on the jobsite and hit an electrician's truck while backing up. Resulting in a \$25,000 claim. Was the General contractor covered? NO... Find out why on page 18

Same scenario as above, the owner of the framing company falls from the second story. Breaking his leg and a few ribs. Medical bills and time lost totaled \$12,000. He put in a claim against the General contractors work comp insurance. Can he do that? YES! Find out why on page 19-20.

Same scenario as above, two years later a claim for construction defect is received by the general contractor.

The general contractor handed the claim to the sub and never had to turn it in to his insurance company. Find out how he did that on page 23.

The general contractor turned over the claim to the sub, but the sub had no insurance for that kind of claim. The general contractor had to turn it over to his insurance company. There are two reasons this could have happened; the answers are on pages 9 and 15.

My Certificates Of Insurance Made Easy book is available FREE online at [www.bacins.com](http://www.bacins.com)

Certificates Of Insurance Made Easy is not available in paper form, but you can print out the entire book off our website.

I look forward to getting a letter from you, telling me about how **Certificates of Insurance Made Easy** has made it easier for you to sleep at night.. Even though I get an enormous amount of mail, keep the letters coming; I love to hear your success stories!

**Sincerely,**

**John Baccarella**

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**OR**

**Call us toll free 877-587-4999 for a quote over the phone in 3 minutes or less!!**

<b>General Liability Quick Quote</b>	
First Name	
Last Name	
Business Name	
Phone Number	
Fax Number	
Email Address	
Your City	
Your County	
Your Zip Code	
Type of Construction	
Payroll (excluding Owner and Clerical)	\$
Total Gross Receipts	\$
Total Annual Sub Costs	\$
California Contractors License #	
Are you Currently Insured	
If Yes, Who is your current Company	
Please provide a brief description of your operation	

**FAX TOLL FREE TO 877-373-5608 OR  
JUST CALL TOLL FREE 877-587-4999 FOR A QUOTE IN  
LESS THAN 3 MINUTES!! OVER THE PHONE**