

# THE CRITICAL ROLE OF NAMED INSURED WORDING IN REAL ESTATE INSURANCE



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Real Estate

In the intricate world of real estate, where joint ventures, complex ownership structures and unique operational dynamics are the norm, the importance of precise and comprehensive named insured wording in liability (including executive lines) insurance cannot be overstated. While many carriers claim to offer broad named insured endorsements, these generic solutions often fall short of addressing the nuanced needs of real estate companies. Without tailored named insured language, real estate organizations risk significant coverage gaps that could leave them exposed to financial and legal vulnerabilities.

### What is named insured wording?

The term “Named Insured” refers to the entities explicitly covered under a liability insurance policy. This designation is critical because if a lawsuit or claim is brought against an entity that is not listed or covered by the policy’s definition, the claim may not be covered. For real estate companies, this is particularly challenging due to their unique organizational structures and ownership arrangements.

### Why is real estate different?

Real estate organizations often operate through joint ventures, trusts or Special Purpose Entities (SPEs). Private companies may have org charts that are horizontal in nature (i.e., no “parent company”). These structures are designed for specific projects or assets and may involve minority ownership stakes, passive investors or entities with no direct employees or operations. Unfortunately, standard named insured wording often fails to account for these complexities.

#### For example:

- **Joint ventures (JVs):** In many JV agreements, a real estate company may have a minority interest but is still responsible for procuring insurance. Standard broad named insured endorsements may exclude the JV entirely or limit coverage to the company’s percentage of ownership. This creates a significant gap in protection, especially if a claim arises against the JV entity.
- **Non-ownership responsibilities:** Real estate companies may also have financial responsibility or managerial control of assets they do not own, such as when acting as a pension fund advisor. Standard policies often restrict coverage to entities where the insured owns 50% or more, leaving the ownership entities of these assets exposed.

- **Special purpose entities (SPEs):** SPEs, which are often passive ownership entities, are frequently named in lawsuits, particularly when they are counterparties to tenant leases. If these entities are not explicitly listed as named insureds, claims against them may be denied.





## The role of organizational structure

The organizational structure of a real estate company further complicates named insured considerations. Whether the structure is vertical (with a single parent company) or horizontal (with multiple parent companies), it is essential to ensure that all entities are covered under the policy. This requires a thorough review of the named insured wording and, in many cases, the inclusion of a detailed list of entities to avoid coverage gaps.

## Real-world implications

The consequences of inadequate named insured wording can be severe. Consider the case of a real estate client with an Employment Practices Liability (EPL) policy that only listed entities with employees as named insureds. When tenants filed lawsuits against their SPE property alleging discrimination, the claims were denied because the SPEs were not covered under the policy. By working with a knowledgeable broker, the client was able to secure a new policy that included all entities as named insureds, ensuring comprehensive coverage moving forward.

## Solutions for comprehensive coverage

To address these challenges, real estate companies must work with experienced brokers who understand the intricacies of their industry and can craft tailored insurance solutions. Key strategies include:

1. **Customizing named insured language:** Policies should be amended to include entities that may not meet standard ownership thresholds but are controlled through contracts or management agreements. This is particularly important for JVs where the general partner owns a small percentage but retains management control.
2. **Exploring financial institution (FI) products:** FI underwriters often offer broader coverage options for real estate entities compared to commercial private company underwriters.
3. **Creative endorsements:** Solutions such as a “list on file” that can be updated throughout the policy period or endorsements that automatically cover entities owned or controlled by an individual or trust can provide flexibility and peace of mind.



## The bottom line

Named insured wording is not just a technical detail — it is a cornerstone of effective risk management for real estate companies. Without careful attention to this critical aspect of liability insurance, organizations risk leaving themselves exposed to uncovered claims and financial losses. By partnering with a broker who understands the unique needs of the real estate industry, companies can ensure that their insurance policies provide the comprehensive protection they need to thrive in a complex and dynamic market.

At Gallagher, we specialize in crafting tailored insurance solutions for real estate companies. Our expertise ensures that your named insured wording is as robust and comprehensive as your business demands. Let us help you protect your assets, your people and your future.

