



Fine Art Practice

Whitepaper | Studio Insurance: A Guide for Practicing Artists

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Fine Art Insurance

Introduction

Every artist studio is unique. Since the practice of an artist varies as much as the definition of art, finding insurance solutions can be a challenge. Thankfully, an experienced insurance advisor can help. In the following pages, we will take a look at the fundamentals of insuring an artist studio. We'll explore works in progress, commissions, completed works, commercial activities, public projects, general liability, employment practices, medial liability and professional liability.

Despite the variety of artistic practices, nearly every studio should have the same basic insurance structure. Fine Art insurance protects the studio's creative output of completed and partially completed works, including many subcategories explored below. Commercial insurance covers the non-fine art property and liability exposures. Specialized non-property based coverages, also known as executive risk, provide coverage for media liability, cyber, employment practices and other risks. This combination is by no means an exhaustive list of the necessary insurance; you should speak with your broker and attorney to identify what is right for your organization. Instead, these are the minimum coverages to protect your practice from sudden, unforeseen, and potentially ruinous hazards.

Fine Art is excluded under most Commercial Package or Business Owners (BOP) policies. Instead, artist studios need to purchase a specialized fine art insurance policy to protect against financial harm following loss or damage to artworks owned or created by the artist or materials that are part of the creative process. The fine art policy provides coverage for "All Risks" of loss or damage with very few exclusions, on a worldwide basis. This policy is written to cover artwork at the studio, in storage, transit, or while on loan to third parties.

While artworks are in the possession of a borrower or consignee, care should be taken to make sure that the economic expense of coverage should be borne by the beneficial party. This means that borrowers or consignees should bear the cost and responsibility of insuring artist owned artworks under most circumstances.

Establishing limits of insurance and the valuation for artist created works can be tricky. It requires the input of a skilled and experienced insurance broker. Picking a limit of insurance means identifying a basis of valuation methodology for your collection. As creators of artwork, artists have a unique financial relationship to their creative output. Works can be insured in various stages of

completion including works for exhibition or as part of a commission. In other instances, many artists are also collectors, owning works by others—or even their own works—purchased at auction or held in a trust for estate planning purposes. Thought and care should be taken to capture the different valuation strategies for the insurance policy, especially since different insurance companies provide different valuation language.

Non-Commissioned Works

- Works that are 50% or less are valued at material & labor
- Works that are 50% or more are valued at selling price (net to artist after dealer commission) minus 15-20%

Commissioned Works

- Works that are 50% or less are valued at material & labor
- Works that are 50% or more are valued at the full commissioned price
- The commission agreement may have other tables of payment, insurance responsibility, and values. You should work with your broker to align the insurance policy with the commission agreement.

Fine Art Insurance (continued)

Works Created by Others or Works Not for Sale

- Scheduled Value or Current Market Value

Works not for sale due to various reasons can be insured for Scheduled Value or Current Market Value Reference Library, Archive, or Artist Materials

- Materials used to create art can be insured on a fine art policy at replacement cost

Once a basis of valuation is established, the total value is assigned to the collection for insurance purposes. This becomes the limit of insurance. Most policies also contain sublimits, or lower limits than the top-line limit of insurance to capture higher risk circumstances for which the insurance carrier needs to limit its exposure. Therefore, nearly all fine art policies actually have three limits of insurance: named or scheduled locations, transit, and any other location (AOL). The fine art policy may also include additional sublimits for circumstances like basement flood, transit, flood, windstorm, earthquake, other unique conditions identified during the underwriting process.

- **Named Locations:** You should know where the artwork will be most of the time and the total value of the artwork at those locations. Your broker will schedule these permanent locations onto the insurance policy and establish the named locations.

- **Transit:** This limit is typically 25% of the named locations limit. It covers works in transit on a per occurrence basis.

- **Other Locations:** Because insurance companies want to give artists flexibility to manage their operations, there is an understanding that artwork may temporarily need to go to a host of other, unnamed locations. This can be a framer, conservator, museum, warehouse, or any other place should the need arise. Typically, the limit of insurance for unnamed locations is 25% of the named location limit.

- Keep in mind that damage incurred from conservation treatments, framing, or other “work” that could alter the state of an artwork are excluded by most insurance policies. Care should be taken to discuss with your broker any activity that is potentially not covered by your insurance. In fact, the coverage can be added under some specific circumstances.

- For example, a studio with a \$1M limit of insurance would likely have a named location limit of \$1M, a transit sublimit of \$250,000, and an unnamed location sublimit of \$250,000.

Commercial Insurance

An artist needs to protect the non-art property owned by the studio and maintain liability coverage. These coverages are the same for most commercial operations and can usually be obtained through a Business Owners Policy

(BOP) or a Commercial Package Policy. Like a homeowners’ policy, these policies provide both property and liability coverage, but on a commercial basis.

Commercial Property & General Liability (GL)

On the property side, the sum total of the business personal property (BPP) will determine the needed limit of insurance. The business property will be any property the studio owns or is responsible for by contract, including the value of the fit-out of the studio space, lighting, security, computer equipment, leased equipment or furniture. Fine Art is not covered in the business property and must be insured through a special fine art policy. If you own your building or have a lease that requires you to insure your building, this policy will provide coverage for the replacement cost of your building.

An artist studio has liability exposure in the form of property damage or bodily injury

arising as a result of its business activities. Artists are financially responsible for anything that happens at the studio or arising out of the commercial aspects of their practice. Any kind of accident, like a slip and fall, are the responsibility of the artist. Therefore, it is wise to consider the numerous circumstances that could give rise to a claim since artists are often highly visible in the public sphere. Importantly, artists need to make sure to coordinate their personal liability with the liability of their studio practice, since they are more likely than other business owners to be named personally in any lawsuit.

Many times, an artist also has contractual obligations since most commercial leases will

Commercial Property & General Liability (GL)

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require the studio to carry certain limits of general liability and property insurance. The lease will also frequently require the studio to carry the necessary property insurance limits to restore the rented space in the event of a loss, no matter the party at fault. Meaning, if there is a fire or flood that destroys the studio, the artist is likely responsible for restoring the space. Often, the landlord will look to the

artist's insurance policy to make sure there are necessary funds available to make the repairs. We encourage you to work closely with your attorney and insurance broker because the lease will often require the artist to defend and indemnify the landlord for a specific amount.

General Liability (GL) for Public Projects

Artists are frequently asked to extend general liability (GL) coverage when their work is installed in public. This coverage can be complex and expensive, depending on the location, scale, and budget of the project. Most insurance carriers are not willing to offer short term policies of less than 12 months

and often require minimum premiums. You should work closely with your broker on the various contracts associated with these projects due to the limited appetite among insurance companies to offer coverage.

Umbrella Coverage or Excess Liability

Liability coverage from the commercial package or business owner's policy is called "first dollar" coverage because the carrier is responsible for covering the first dollar of any claim. It is also the most expensive since the likelihood of paying a claim starts small and continues to the limits of insurance. Therefore, most businesses and individuals use a layered approach to obtain higher liability limits and buy excess or umbrella coverage. These policies will respond only after the first dollar coverage has been

exhausted and are therefore more cost effective. Most artists select coverage limits of \$3M - \$10M; you should speak to your broker and explore limits that reflect the exposures of your specific practice. If there are significant assets, it is recommended that the limits of insurance mirror the artist, at least to a certain limit. Because of layering strategies, premiums are not linear, and it is not uncommon to see limits of \$25-50M for artists of significant assets.

Business Interruption (BI)

Commercial insurance also includes coverage for lost business income (BI) or extra expense following a covered loss. This means, if a fire forces the studio to close for a period of time while the space is repaired, the artist may collect insurance proceeds to make up from the lost revenue following the closure. The artist may even be entitled to money

for the extra expense incurred setting up temporary operations in a different space. You should work with your broker to structure the business income and extra expense with realistic limits and have a solid understanding of the kinds of losses that will trigger a BI claim.

Employees: Workers Compensation & Disability

Workers Compensation and Disability insurance is required by most states. These policies cover bodily injury for job-related accidents and the resulting lost wages. Each worker is reported to the state and categorized by the employee's job function, usually with a numeric code called a "class code." This class code becomes the rating basis for the employer and insurance rates are calculated based on payroll submitted by the employer. The insurance company will

apply the rating basis to payroll figures and calculate the premium based on how much payroll is allocated to various employee job functions. An organization with many workers handling and installing artwork will have higher workers' compensation and disability premiums than one with only administrative staff working on computers.

As one can guess from a system with dynamic staffing that relies on self-reporting, there are opportunities to misclassify employees to

Employees: Workers Compensation & Disability

(continued)

game the system and underreport exposure. State auditors are extremely keen on this kind of misreporting and levy heavy penalties. Regulators also have the authority to audit years of payroll and require makeup charges for the full amount of premium shorted due to misreporting. It is therefore advised to be accurate and complete in any workers' compensation or disability insurance reporting.

It is also worth noting that while many artist studios use temporary or freelance labor for art handling and installation, it is worthwhile to include these workers on the studio's

workers' compensation and disability. The payroll should be included at audit so it can be applied to the rating. Since many of these freelance workers are not paying their own workers' compensation or disability insurance, any injury or claim will likely result in the artist's insurance responding. However, if your temporary workers are paying their own workers' compensation and disability insurance, ask for a certificate of insurance to keep on file. There is no need to pay for duplicate coverage!

Other Coverages

Management Liability: Directors & Officers (D&O), Employment Practices (EPL), and Errors & Omissions (E&O)

Most insurance policies cover claims that arise from property damage; however, there is a group of coverages that respond to financial, non-property related losses, often as it relates to the management and administration of the business.

Employment Practices Liability (EPL) covers an employer from allegations of harassment, discrimination, wrongful termination, or other employment-related suits. It covers defense costs, judgments, and awards. It is important to ensure this policy includes coverage for third parties such as a visitor to the studio's website, a mail carrier, etc. who may lodge a complaint against the studio.

Errors and Omissions (E&O) insurance covers a studio's professional services from allegations of professional services errors. These errors and omissions policies include defense disputes arising from claims of authenticity, alleged monopolistic practices, failure to execute artwork according to conceptualized agreement, or other activity where someone may assert that there was a professional mistake resulting in financial loss.

Cyber

Any organization operating in the present age should have cyber coverage. In the event of a cyber incident, this insurance provides coverage for the costs associated with complying with data security regulations and includes a prearranged legal and technical response. The second part of this coverage

is especially important to artist studios since most do not have dedicated IT and legal teams standing by with experience in data breach response. Hacking, social engineering and ransomware are all on the rise. Without an experienced team, studio staff could spend days or weeks identifying and responding to a cyber event. These policies are reasonably priced, easy to obtain and should be part of any insurance program.

International Operations: Fine Art insurance provides coverages nearly everywhere in the world. As a result, many artists make the erroneous conclusion that their liability, workers compensation and disability coverage similarly will follow them overseas. However, these coverages are nearly always limited to the United States unless endorsed onto the policy. If you are working on a project abroad, there is likely inadequate coverage on your existing Business Owners policy. Talk to your broker about international travel, especially art fairs and exhibitions, to make sure that you are protected outside of the US. It is simple to expand the territory under most circumstances.

Roles and Responsibilities

Insurance Company

Insurance companies set the terms and conditions for coverages, collect premiums, and pay claims. They are usually large organizations with a duty to protect the interest of their shareholders. Many specialty insurance companies are only available through a broker.

Broker

Insurance can be complex and overwhelming. Your insurance broker is a specialist who works on behalf of your organization. They are paid a commission by the insurance company. Make sure that you are getting the most out of your relationship. You are paying for a service. You should get advice and guidance. They should be checking in with you from time to time to capture important information like values per location, updated appraisals, and other details that will affect your coverage. This should be done at least once per year. Your broker has a fiduciary duty to you to provide the best coverage at the best price.

Insurance Marketplace

Insurance companies are competing for your business. Your broker should be discussing this marketplace with you on a regular basis. We recommend regular benchmarking at least every three to five years. It is your broker's job to set up a competitive bidding process from time to

time. But remember, only one broker can approach an insurance company with a risk. Engaging multiple brokers for the same risk can create confusion and drive up costs since your broker cannot use competing quotes to negotiate.

Summary

Artist Studio practices large and small share the same fundamental exposures when it comes to insurance. A well-structured program for a US-based art studio will include:

- Fine Art
- Commercial Package or Business Owners
- Umbrella
- Cyber
- Management Liability

These coverages are not exhaustive but cover the basics. As stewards of the legacy of your artist, you should have a general idea of how these coverages work. Your broker is your advisor. You should get advice, perspective, and guidance when working with them. They should have experience working with artists in addition to other segments of the art world. Insurance protects the long term viability of the studio practice and the careers of artists. Feel free to contact the team at Risk Strategies for help in understanding and managing insurance.

ABOUT RISK STRATEGIES

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