

Understanding the Care, Custody or Control Exclusion

Commercial general liability (CGL) policies often have a care, custody or control (CCC) exclusion written into them. In simple terms, this means that if you take possession of someone else's property and the property is somehow damaged while in your possession, the damage claim could be denied by your insurer based on the CCC exclusion.

Defining Care, Custody and Control

The exposure that triggers the CCC exclusion is created by having someone else's property in your possession. The exclusion applies only to personal property, not real property such as buildings or permanently attached fixtures. Real property is a separate item in your liability policy.

The exclusion applies if any of the three terms are true—not all need to be met. The three terms are defined as:

- **Care:** to have temporary charge, or temporarily having the responsibility of watching over property
- **Custody:** implies safekeeping of property
- **Control:** refers to having power over property

This exclusion has many nuances and the outcome of a case is dependent on individual circumstances. There is no one-size-fits-all answer to what is excluded by the CCC exclusion.

Seemingly small changes in the circumstances—such as how much access the owner has to the property that was damaged—can result in a totally different outcome as to whether property is in the care, custody or control of the insured.

Court cases dealing with the CCC exclusion typically rule that control exercised by the insured must be exclusive, meaning the insured must have total control not shared with any other entity in order for the exclusion to be applicable.

Avoid Coverage Gaps

The best action you can take in order to avoid a denied claim based on the exclusion is to be sure you have appropriate coverage if a customer's property is damaged while in your possession. There are many specialized policies available that can properly protect you and your business, such as inland marine coverage or a garagekeepers policy.

Contact your broker at Gallagher Franchise Solutions today to make sure you have adequate coverage for property that may not be covered in your CGL due to the care, custody or control exclusion.