

Winding Down with Confidence: Essential Insurance and Risk Management Steps for Design Professionals Closing Their Practice

Closing an architectural or engineering practice, or retiring from an ongoing practice, is a milestone marked by both accomplishment and transition. Design Professionals spend decades shaping communities, influencing skylines, solving complex building issues, and stewarding projects from the first client conversation through to the final punch list. The decision to close a practice, whether a sole proprietorship, partnership, or established design firm, or to retire, should be approached with the same thoughtful planning that guides every project. Some concerns addressed herein also apply to those Design Professionals retiring from an ongoing practice.

Across the country, Design Professionals confront the same reality: although the firm may close, business risks, particularly professional liability exposure, do not end on the last day of business. Buildings remain in use for decades, and claims related to design, construction administration, or contract obligations may arise years after a project is completed. To retire with confidence, Design Professionals must proactively address insurance requirements, documentation obligations, statutory considerations, and administrative responsibilities. After all, having worked a lifetime, the Design Professional has earned the peace and quiet that retirement is supposed to bring.

This article explores five essential areas of risk management that Design Professionals should address before winding down their practice. This resource is designed to help Design Professionals retire with clarity, preparedness, and peace of mind. Many of these same issues face the Design Professional retiring from an active practice that will continue to operate.

1. Securing Tail Coverage for Professional Liability Insurance

Professional liability coverage stands as the most critical component of risk protection for Design Professionals. Unlike general liability policies, which cover bodily injury and property damage on an “occurrence” basis, professional liability is written on a “claims-made” basis. This means that for a claim to be eligible for coverage, the policy must be active at the time the claim is made, not merely when the services were performed. Chances are, a professional liability policy has always covered you. But those policies provide no protection if a claim is submitted after the policy's expiration date. Therefore, the retiring

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Design Professionals need to obtain a policy that will provide protection in their golden years.

Why Tail Coverage is Essential

Architectural and engineering services involve decisions and judgments that may not be scrutinized until long after project completion. Latent construction defects may go unnoticed for years. Changes in building use or ownership may prompt new occupants to reexamine past designs. Even when a Design Professional's work is sound, claims can still be filed due to contractor mistakes, maintenance failures, or misinterpretations of drawings.

A tail policy, or Extended Reporting Period (ERP), enables retired Design Professionals to report claims arising from services rendered before the practice closed. Without a tail, a Design Professional could face a lawsuit without insurance defense or indemnity support, risking devastating financial consequences.

Tail Policy Options and Duration Considerations

Carriers typically offer several tail coverage options that can vary by state and by insurance carrier. In general, options currently range between 1 and 5 years, but other options may be available. We suggest referring to the professional liability policy or conferring with your Insurance Advisor to determine what durations are available prior to closing the business.

Selecting the appropriate duration requires careful evaluation. The ideal tail duration should consider:

- The statutes of limitations and repose in your state
- The nature and complexity of past projects
- Contractual obligations requiring insurance to survive project completion
- Whether any high-risk services, such as structural design, building envelope consultation, or specialty designs, were provided
- Your ability to fund a longer-term tail investment during retirement

Understanding Cost Implications

Purchasing a tail endorsement typically involves a one-time premium, payable in full at the start of the coverage period. The cost of the tail endorsement will be based on the current policy's gross premium cost, which may vary by insurance carrier. Because Design

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Professionals cannot modify or cancel tail coverage once it is issued, it is essential to ensure the right duration and terms are selected.

Budgeting for this expense as part of a retirement plan is wise. Some Design Professionals set aside funds over several years leading up to retirement, specifically for purchasing an ERP.

Working With Your Insurance Advisor

An experienced Insurance Advisor plays a pivotal role in helping Design Professionals navigate the complexities of tail coverage. The Advisor compares the tail options and ensures that the retroactive date remains continuous. The Advisor will be able to explain how the tail options satisfy any ongoing contractual insurance requirements. In addition, the Insurance Advisor can assist with developing risk-reduction strategies during the final years of practice.

2. Establishing a Robust Record-Retention Plan

Design Professionals retiring from practice must consider how they will retain access to project records that may be essential if a claim arises. Even with tail coverage in place, the ability to produce drawings, emails, meeting minutes, and other documentation can significantly influence the defense of a claim. We discuss these issues in general terms, but they warrant a thoughtful discussion with the firm's attorney and accountant.

Why Document Retention Still Matters

When Design Professionals defend a claim, the quality and availability of records often determine the strength of the defense. Comprehensive documentation can demonstrate that the Design Professional met the standard of care, made decisions based on available information, and communicated clearly with owners, contractors, and consultants.

Without proper records, defending claims becomes more difficult, potentially increasing liability exposure. Don't forget the adage 'if it's not documented, it didn't happen'. For this reason, every retiring Design Professional should create a clear, organized, and accessible long-term archive.

What Records Should Be Retained?

Design Professionals should maintain several important categories of documents to support potential future claims or inquiries. These include all contracts, amendments, and subconsultant agreements, as well as construction documents such as drawings,

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specifications, addenda, and revisions. They should also retain project correspondence, including emails, letters, and meeting minutes, along with submittal logs, shop drawing reviews, RFIs, and field reports. In addition, records such as change orders, directives, cost estimates, and value-engineering documentation should be preserved, together with insurance policies, certificates, and endorsements. Financial materials, including invoices, billing records, payroll information, and tax filings, must also be kept, and any digital models or relevant BIM files should be archived for long-term accessibility. In some cases, the Design Professional may also retain hard copies of critical records, especially for projects involving public infrastructure or long-term facilities.

Recommended Retention Periods

Record retention requirements vary by state and project type. Many Design Professionals follow a general guideline of retaining records for 7 to 10 years. However, if any jurisdiction where the Design Professional has practiced has an extended statute of repose, sometimes up to 15 years, retention plan should align with the longest applicable period. Remember also, these statutes are not static; they often change over the years.

Furthermore, federal or state-funded projects may impose specific retention requirements. Review contract terms to ensure compliance before purging files.

Digital Archiving Best Practices

Digitizing records ensures long-term accessibility and mitigates the risk of lost documents. Best practices for digital archiving include converting all paper files into searchable PDFs using OCR technology and organizing the archives by project number and year, keeping them easy to navigate. A combination of cloud-based storage and external drives should be used to ensure redundancy and long-term access. Maintaining a simple and consistent folder structure further reinforces accessibility, while documenting the storage location and access instructions ensures that records can be retrieved when needed. Finally, all passwords and file descriptions should be stored in a secure master list to safeguard the integrity and usability of the archive.

Assigning Responsibility for Archived Records

Although a firm may no longer operate, someone must still serve as the custodian of its records. Design Professionals often appoint:

- A trusted former employee or partner
- Their legal counsel

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- An adult family member
- Their insurance broker

This custodian should understand how records are stored and how to access them if needed. It is also helpful to provide written guidance on what situations warrant the retrieval of archived documents.

3. Understanding Statutes of Limitations and Repose

A critical component of winding down a Design Professional practice is understanding the legal time frames for filing claims. These time frames play a defining role in determining how long Design Professionals remain exposed to liability.

Statute of Limitations

This is the period after an injury or defect is discovered (or reasonably should have been discovered) during which a claimant may file a lawsuit. Discovery may occur long after construction is complete, meaning the liability period can extend well beyond the Design Professional's last day of business.

Statute of Repose

This establishes a strict outer boundary beyond which no action can be brought, regardless of when the issue was discovered. The repose period begins at substantial completion and varies widely by state.

How These Laws Influence Retirement Planning

In states with longer repose periods, Design Professionals remain exposed for a considerable time. For example:

- Some states have a six-year repose period
- Others extend to ten or twelve years
- A few states allow claims up to fifteen years after completion

Understanding these laws helps Design Professionals determine appropriate tail coverage duration, record retention timelines, and retirement planning strategies.

4. Reviewing Contractual Insurance and Indemnity Obligations

Even after a Design Professional closes a practice, certain contractual obligations survive. This includes insurance provisions, indemnity clauses, and warranties that extend past project completion.

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Identifying Surviving Contract Provisions

Review all active and recently completed project contracts to identify:

- Indemnification obligations
- Limitations of liability clauses
- Required insurance minimums
- Client notification requirements
- Warranty or guarantee provisions
- Dispute-resolution processes

Because Design Professionals generally strive to avoid warranties that exceed the standard of care, it is important to examine contracts carefully for any unintended obligations.

Managing Legacy Project Responsibilities

Legacy obligations may include responding to owner requests for documentation or to subpoenas for files, providing information during disputes between owners and contractors, and clarifying design intent. And finally, it's not uncommon for to receive inquiries related to warranty-period issues. It's far better to have a plan in place for responding to these issues before they arise. While retired Design Professionals are not expected to perform new services, they may still need to communicate with former clients or provide archived documents upon request.

Legal Review Before Closing the Firm

Consulting with legal counsel before closing the practice ensures:

- Surviving obligations are identified
- Tail coverage aligns with contractual requirements
- The Design Professional understand how long they must remain reachable
- Retirement plans need to account for potential legal inquiries

5. Final Administrative and Risk-Management Steps

Beyond insurance and documentation, Design Professionals must complete several final steps to conclude their business operations properly.

Notify key stakeholders, including:

- Current and former clients
- Subconsultants and planning partners

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- Vendors and software providers
- Licensing boards and registration authorities
- State and local tax agencies

Clear communication helps avoid confusion, ensures compliance with regulations, and allows for the smooth winding down of business operations.

Licenses and Credentials

Design Professionals should evaluate the status of their professional registrations. Options may include retired or emeritus status; inactive license classifications, and/or voluntary surrender of registration. Maintaining a retired or emeritus designation may allow continued use of the title “Architect” or “Engineer” while eliminating continuing education requirements.

Consider keeping some licenses/registrations for a period after retirement, in case the itch to engage in some part-time consulting work arises. Many Design Professionals engage in such consulting roles to keep some ‘fun money’ flowing in. And some Design Professionals are just not ready to completely stop practicing; they enjoy it and want to stay involved in their lifelong profession. If licensed in multiple jurisdictions and no desire exists to practice in some or many of them, terminate those while keeping those where the possibility of future practice remains. Licenses can always be eliminated.

Final Financial Tasks

Completing financial close-out ensures there are no loose ends. Important tasks include:

- Reconciling accounts payable and receivable
- Closing business bank accounts
- Filing final tax returns
- Canceling business registrations
- Documenting final payroll or distributions

Creating a Customized Exit Strategy

A coordinated strategy involving legal counsel, an insurance broker, and an accountant helps ensure that potential liabilities are addressed; all retained records are properly stored; all necessary notifications are made; and finally, that all insurance requirements are satisfied. This collaboration provides a holistic understanding of the firm’s exposure and ensures nothing is overlooked.

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Conclusion

The transition from active practice to retirement is a significant professional milestone for Design Professionals. Although complex, the process can be managed with a structured, thoughtful approach. By addressing professional liability exposure, establishing strong documentation practices, understanding statutory requirements, reviewing contractual obligations, and completing essential administrative steps, Design Professionals can retire with confidence.

With the right planning, a Design Professional's legacy will be protected long after the final project is completed. Retirement should be a time of celebration, reflection, and anticipation of new opportunities, not a period overshadowed by unnecessary risk. With preparation and guidance, Design Professionals can embrace the next chapter knowing they have fully safeguarded the work of a lifetime. Remember to seek advice from trusted legal counsel, accountants, and insurance advisors before finalizing any retirement decision. This is truly a situation where an ounce of prevention is worth a pound of cure.