

INSURANCE

Before you begin your business, you should thoroughly investigate your business insurance needs. The insurance industry today can tailor an insurance package to meet the general and specialized needs of almost every business.

Because the insurance problems and needs of each business differ, no general insurance program can be outlined to fit every business. To be completely satisfactory, it should be tailored to fit the individual needs of each business. You should consult with an experienced insurance agent or broker.

TYPES OF INSURANCE

Business insurance is a matter of good business judgment. It is difficult to conceive of a sound business not carrying insurance custom-tailored to its individual needs. Among the basic kinds of coverage you should consider are:

Property Insurance. This protects the owner of the property (or the mortgagee) against loss caused by the actual destruction of a part or all of the property by fire, windstorm, explosion, falling aircraft, riot and other perils.

Business Interruption Insurance (and Other Time Element Coverages). These protect a business against loss of earnings resulting from an interruption caused by damage to or destruction of the physical property. Business interruption insurance will pay you approximately what you normally would have earned. The premiums, especially when part of a complete insurance package, are low. There is also similar insurance which provides coverage if you are hospitalized and have to shut down business.

Liability Insurance (Including Business Automobile). This protects a business against loss arising out of legal liability for death, injury or damage to the person or property of others caused by negligence. Included are obligations to pay medical, hospital, surgical and disability benefits to injured persons, and funeral and death benefits to dependents, beneficiaries or personal representatives of persons who are killed, irrespective of legal liability.

Bonds. Fidelity bonds guarantee against loss due to the dishonesty of employees. Surety bonds guarantee the performance of various types of obligations assumed by contract or imposed by law. Surety bonds are most often used in the construction industry and are often required on public construction projects.

Information on the Minnesota Bonding Program which provides individual fidelity bonds to employers for job applicants who may be denied coverage can be found earlier in the Small Business Assistance Office publication, *A Guide To Starting A Business In Minnesota*, in the section Business Licenses and Permits.

Workers' Compensation Insurance. This provides for payment of compensation benefits, as established by state law, to injured employees of a business. See the section in the *Guide* on Workers' Compensation for additional information.

Group Insurance for Employees. Group life insurance and group health insurance provided as employee benefits must conform to standards established by state and federal statute. These requirements are described in greater detail in the section of the *Guide* on Employee Benefits.

Product Liability. This refers to insurance coverage for any product manufactured by the insured. Coverage applies to the product once it leaves the manufacturer's hands and covers the manufacturer in case the ultimate user of the product sues for bodily injury or property damage.

Social Networking. Technology continues to change the landscape of potential employer liability. With the increasing popularity of online social networking Web sites, organizations should be aware of how employees use such technologies, especially in the workplace. Networking can be valuable, but employers must realize the potential risks and weigh the costs and benefits of allowing access to websites like Facebook and Twitter in the workplace. For assistance in navigating any of these issues, contact your insurance agent or legal counsel.

E-INSURANCE FOR COMPANIES WITH AN ONLINE PRESENCE

With the growth of the Internet and e-commerce, the law regarding business insurance is evolving as coverage is being extended to new areas. Both the insurance industry and the courts are starting to sort out how existing insurance products apply to e-commerce.

Businesses that operate on the Internet face the possibility that their activities may subject them to liability in other jurisdictions. Since the Internet transcends geographical boundaries, one may be subject to a lawsuit in another state or even another country. It is fair to say that any company doing business on the Internet should consider that it is essentially a global business that might be sued in any court and in any territory where its business presence becomes known.

Companies with operations on the Internet are in the business of information publishing, vulnerable to liabilities that typically plague media companies such as defamation, invasion of privacy and intellectual property infringement claims. While these causes of action are not new, an Internet company's assets are more vulnerable to theft or business interruption. Damages associated with intangible assets, such as data theft or loss of business capability, pose risks unique to Internet companies.

As with all insurance, a business must make sure of what is and is not covered by their current insurance before investigating the variety of Internet-specific policies.

HELP FOR BUSINESSES UNABLE TO OBTAIN LIABILITY INSURANCE

The availability and cost of business insurance, particularly professional liability and general commercial liability coverage, have attracted substantial recent attention. To help remedy this problem, two state programs assist businesses that are experiencing difficulty in obtaining liability insurance. These programs are the Joint Underwriting Association (JUA) and the Minnesota Market Assistance Plan (MMAP) program.

The JUA was created to provide liability insurance coverage only to persons or entities unable to obtain insurance through ordinary methods if the insurance is required by statute, ordinance or otherwise required by law, or is necessary to earn a livelihood or conduct a business and serves a public purpose. The legislature specifically authorized the JUA to provide insurance coverage to day care providers, foster parents, foster homes, developmental achievement centers, group homes, sheltered workshops for mentally, emotionally, or physically disabled persons and certain citizen participation groups. The eligibility of other classes of business for JUA coverage is determined on a class by class basis.

The JUA is specifically prohibited by statute from issuing either product liability coverage or environmental impairment coverage. Further, the JUA cannot issue coverage to any business which is conducted substantially outside the state of Minnesota unless the insurance is required by statute, ordinance, or otherwise required by law. The JUA may reject high risk clients and risks it deems hazardous.

After having been unable to find an insurer willing to write the coverage sought, application may be made to the JUA. A copy of each application is forwarded to the Minnesota Market Assistance Program. MMAP has 30 business days to produce a quote for an applicant before the JUA can extend coverage. Upon receipt of an application, the JUA will make a determination whether the risk falls within a class for which the Association has already been activated to provide assistance. The Commissioner of the Minnesota Department of Commerce may publish notices of activation of the JUA for specified new classes of business each week in the *State Register*. The JUA has the authority to insure classes of business for 180 days from the time the notice is published. A public hearing may be held with each notice of activation in order to receive testimony from a class of business to determine whether statutory requirements for JUA coverage have been met.

The actual time frame for issuing a policy is dependent on several factors including whether:

- The appropriate policy form has been approved for use by the JUA Board of Directors;
- A rate schedule has been adopted for that class;
- The class or particular applicant requires committee or Board review prior to quoting;
- The 30-day MMAP period has expired and no quote for coverage has been offered;
- The applicant's current coverage has expired;
- The MMAP has reported to the JUA that no market can be found; or
- The applicant is quoted by MMAP a premium rate ten percent or more in excess of the JUA's rates for similar coverage.