

BUSINESS INSURANCE

- ❖ Worker's Compensation Insurance ❖ Business Property and Liability ❖
- ❖ Bonding ❖ DC Captive Insurance ❖

An important aspect of any business planning is dealing with potential exposures to loss. Business insurance is the process of transferring potential business-related risks to an insurance company for a price or premium.

The DC Department of Insurance, Securities and Banking (DISB) regulates all financial industries in the District of Columbia. This includes insurance companies and producers, broker-dealers, mortgage lenders and check cashers to name a few.

One of the insurance resources the agency has promoted for small businesses is Insure U for Small Business. Created by the National Association of Insurance Commissioners, of which DISB is a member, Insure U for Small Business is a comprehensive public education program to assist small businesses with information about business risks and insurance options. Insure U for Small Business includes an online education site and public service announcements in English and Spanish.

The Insure U for Small Business curriculum, available at www.insureUonline.org/smallbusiness, includes six categories of vital information to small businesses:

- ❖ Workers' Compensation
- ❖ Group Health and Disability
- ❖ Business Property and Liability
- ❖ Commercial Auto
- ❖ Group Life and Key Person Life
- ❖ Home-based Business Insurance

Business owners are able to review the curriculum's helpful explanations, tips and considerations online.

WORKERS' COMPENSATION INSURANCE

Workers' compensation insurance protects a business owner from claims by employees who experience a work-related injury or illness—sustained either on business premises or due to business operations. In the District, most companies are required to carry workers' compensation insurance for their employees. You will need a separate workers' compensation policy for this type of coverage. Check with the DISB to see what is required for your small business.

Typically, workers' compensation covers the employee's medical expenses, rehabilitation costs and lost wages. If you do not have workers' compensation and one of your employees is injured on the job, your business may be liable for any medical expenses that individual incurs. You might also face fines and penalties for noncompliance.

The U.S. Department of Labor's Occupational Safety & Health Administration (OSHA) offers specific information by industry type and provides other helpful resources to small businesses on how to comply with safety requirements that can limit work injuries. To learn more about OSHA's guidance to small businesses, visit the OSHA website at www.osha.gov/dcsp/smallbusiness.

The Office of Workers' Compensation processes claims and monitors the payment of benefits to injured private-sector employees in the District of Columbia. The program mediates disputes, monitors employer compliance and administers the Special Fund, which provides benefits in cases of uninsured employers or in situations where an injury combines with a pre-existing disability and causes a greater disability. For more information, contact the Office of Workers' Compensation Labor Standards Bureau at 64 New York Avenue, NE, 2nd Floor, Washington, DC 20002 or call **202.671.1000**.

Group Health And Disability

Providing health insurance for employees—by far the single most expensive benefit offered by employers—is one of the greatest challenges many small businesses face today. As business owners know, health insurance is extremely important to most employees and is therefore a very powerful benefit in recruiting and retaining the best workers. Cost and availability of health insurance are the key issues.

Among small private-sector employers (firms with 50 or fewer employees), nearly 60% of all employees worked at firms where health insurance was offered, according to 2005 information posted on the Health and Human Services website (www.hhs.gov).

Small group health insurance provided by insurers is regulated by the District of Columbia. However, federal law mandates that an insurer cannot deny coverage to a small business due to the health status or illness of its employees or their dependents. In addition, self-insured health plans (where an employer insures itself), are regulated by a federal law called ERISA (Employees Retirement Income Security Act of 1974). It is rare for a small company to self-insure its health insurance.

Small business owners are not legally required to offer health insurance. However, in an effort to provide health insurance to those residents without it, several states recently introduced legislation focused on providing universal health coverage. Check with DISB to understand the current laws in the District and how they might affect small businesses.

Group Disability Insurance

As a small business owner, you may want to consider offering disability insurance to your employees should they become ill and unable to work. There are two types of disability insurance:

Short-term disability covers a portion of the policyholder's salary for a short period, typically from three to six months following a disability. The specific time period and percentage of replaced income vary with different policies.

According to the Small Business Administration (SBA), employers may specify a number of days of sick leave paid at 100 percent of salary. The employee can use these before short-term disability begins.

Long-term disability coverage typically begins after the policyholder is disabled and unable to work for at least six months. It can extend for a specified number of years or until the insured retires or reaches the age of 65, depending on the policy selected.

BUSINESS PROPERTY AND LIABILITY

Property insurance protects small business owners from losses due to damage to physical space or equipment, or as a result of theft. For insurance purposes, a business' property includes the physical building in which it resides, as well as its other assets. All the following, owned or leased, can be considered business property: the actual building; inventory; furniture, equipment and supplies; machinery; computers and other data processing equipment; valuable papers, books and documents; artwork and antiques; television sets, VCRs, DVD players, satellite dishes; signs, fences and outdoor property not attached to a building; and non-tangible items such as trademarks and copyrights.

There are three types of property insurance plans:

- ❖ **Basic form**, which includes losses resulting from a fire, lightning, windstorm, hail and explosion, plus the cost of removing property to protect it from further damage.
- ❖ **Broad form**, which includes basic plus extended coverage for other types of perils, such as a roof collapse (e.g. caused by snow or ice), riot and civil commotion, etc.
- ❖ **Special form**, which includes basic and broad, and covers all direct physical losses except conditions specifically excluded as listed in the policy.

With property insurance you can buy either actual cash value or replacement cost insurance.

Actual cash value insurance reimburses you for the value of lost, damaged or stolen goods after depreciation is taken into consideration. Replacement cost insurance reimburses you the amount it would take to replace, rebuild or repair damages with materials of similar kind and quality, without deducting for depreciation.

Business Interruption/Continuation Insurance

This type of insurance covers lost earnings due to a circumstance covered by one of the property insurance plans you purchased, such as a fire or theft, that shuts down your business for an extended period of time. Business interruption/continuation insurance covers expenses associated with running a business, such as payroll and utility bills, based on the company's financial records.

Business interruption/continuation coverage can be added to a property insurance policy or purchased as part of a package insurance product.

Liability Insurance

If someone falls while visiting your business premises, or a customer is hurt by a product your business sells, you can be held responsible. That is the risk that liability insurance covers.

Liability insurance, also called Commercial General Liability (CGL), covers four categories of events for which you could be held responsible: bodily injury; damage to others' property; personal injury, including slander and libel; and false or misleading advertising. CGL coverage pays for the injured party's medical expenses. Please note that this insurance does not include your employees who are covered by workers' compensation.

There are three types of legal damages people may sue you for that are typically covered by a CGL policy:

- ❖ **Compensatory damages:** financial losses suffered by the injured party and future losses they may suffer resulting from an injury they claim in the lawsuit.
- ❖ **General damages:** non-monetary losses suffered by the injured party, such as “pain and suffering” or “mental anguish.”
- ❖ **Punitive damages:** additional penalties and charges the defendant must pay.

Standard liability insurance does *not* protect a business against:

- ❖ Claims from sexual harassment, wrongful termination of employees, failure to employ or promote, or race and gender lawsuits.
- ❖ Claims related to operating an automobile or truck.
- ❖ Wrongful practices by professional service providers (e.g. health care providers, lawyers and consultants). Professional Liability insurance—or Errors and Omissions insurance—is needed to cover these events.

As with other liability insurance policies, premiums for professional liability coverage depend on the type of professional service being provided and its level of risk.

Other types of liability insurance include:

- ❖ An **umbrella liability policy** provides extra protection above a standard policy. Umbrella policy coverage limits are typically within the \$1 million to \$5 million range and are appropriate for business owners who have large assets or may be especially vulnerable to lawsuits.
- ❖ **Crime Insurance** protects businesses from theft and malicious damage, such as employee embezzlement.
- ❖ “**E-insurance**” or **Internet Business Insurance** covers web-based businesses for damages caused by computer hackers and viruses.



DID YOU KNOW?

Even trespassers can sue you if they fall and get hurt on your business premises.

Commercial Auto Insurance

All motorized vehicles, whether used for personal or business purposes, need auto insurance. Automobile liability insurance covers medical expenses for injured persons and damages to the property of other individuals as a result of a motor vehicle accident caused by the insured's negligence.

While the types of coverage provided by personal and commercial auto insurance policies are essentially the same, there are important distinctions. Typically, commercial auto insurance policies have higher liability limits, for example \$1 million. They may also have provisions that cover rented and other non-owned vehicles, including employees' cars driven for company business.

Several factors related to ownership and use of vehicles determine whether a personal or commercial policy is appropriate. These include:

- ❖ Who owns or leases the vehicle—you individually or the business as an entity
- ❖ Who drives the vehicle—you or your employees
- ❖ How the vehicle is principally used—for example, transporting people, delivering packages or carrying hazardous materials

You might also want to consider the purchase of collision and comprehensive (other than collision) coverage to protect yourself against damage to your vehicle.

Group Life and Key Person Life

GROUP LIFE INSURANCE

Some small business owners offer group life insurance to employees. Group life insurance can be part of an employee benefit plan that is paid for by the employer or a voluntary offering, whereby the employee pays for the coverage.

For policies paid by a business owner, the benefit can often be equivalent to a full year's salary, an amount that may not be sufficient for some people. These types of policies can be viewed as an added benefit or "supplemental" to other life coverage an employee may already have.

If an employee wants additional coverage on top of what an employer is willing to purchase, for double or triple times his/her salary as an example, he or she may have to pay for it individually instead. Purchasing additional coverage outside of what is offered through the group policy will likely require that the employee undergo a medical exam to determine the level of insurability based on his or her health. However, a voluntary life insurance policy can provide

significantly more coverage, depending on the amount of money an employee wants to spend individually for that type of policy.

Group life insurance policies tend to be less expensive than those purchased individually based on the fact that many group policies are only effective while an employee within the group is employed at that particular company. Most group life insurance is sold on a term basis. Term life insurance pays a death benefit if the policyholder passes away within a specified time period.

In general, term life insurance is much less expensive than permanent life. In fact, term life premiums have decreased markedly during the past decade due to the fact that Americans are living longer on average.

To figure out a group rate, the insurance company will usually consider the following factors about a business: the number of employees within the group; average age of employees; ratio of female to male (based on the statistic that women tend to live longer than men); number of smokers; and risk factors associated with the business.

Based on the business risk, for example, a marketing firm would probably have a lower group rate than a roofing company for equivalent coverage.

Generally, group life insurance policies are “guaranteed issue,” meaning that employees do not need to undergo a medical examination to be eligible. An employee who has a serious medical condition may still be a part of the group, as long as he or she is still an active worker. However, employees out on disability leave are not eligible for group life insurance until they return to work, unless they went on leave after the policy had been issued.

KEY PERSON LIFE INSURANCE

Within a small company, there are typically some “key people” who are critical to the success of the business. These individuals may be limited to the business’ founders or partners, or defined more broadly to include other employees responsible for running a critical aspect of the business, such as the senior marketing or sales manager, or a chief engineer or software developer, in the case of a technology company.

The death of key personnel can likely cause a serious impact on your business’ bottom line. Therefore, many small firms choose to purchase Key Person life insurance policies. As the policy owner, the company is the beneficiary and receives the proceeds when the insured key employee dies. The payout can help the company by providing:

- ❖ Cash to weather the loss and continue operations until a new employee can be hired and trained to carry out the functions of the deceased.
- ❖ The funding to buy out the key person's heirs, if ownership rights of the business are involved.

In some cases, a small business seeking a loan from a bank or trying to raise capital from outside investors may be required by the lender or investor to carry life insurance for its partners. The bank may even require that the small business provide a collateral assignment agreement that gives the bank first rights to the policy proceeds to cover outstanding loans due in the event of one of the owner's deaths.

Types of Key Person Policies

Like individual life insurance policies, Key Person life insurance policies may be purchased as term life or permanent life policies.

Term life insurance covers the insured for a term of one or more years. It pays a death benefit only if the insured dies within that term. Term insurance generally offers the best value for your premium dollar. However, it does not build up cash value. It may not be renewable at the end of the term or may cost considerably more to continue.

Permanent life insurance, which goes by several names, such as whole life, universal life and variable life, typically includes both a death benefit and cash value. Because of the cash value element, premiums tend to be higher than for term life insurance.

Home-based Businesses

Home-based businesses are those businesses exclusively run from a home and no other location. They comprise roughly half of all U.S. businesses and generate a huge amount of economic activity, according to the Small Business Administration (SBA). Some of the top types of home-based businesses are the following:

- ❖ Professional, scientific and technical services
- ❖ Consultants and freelancers
- ❖ Construction
- ❖ Retail
- ❖ Specialized services (e.g. music instructors, day-care, etc.)

While some home-based businesses grow into full-fledged companies that employ substantial numbers of people, most remain quite small. According to the SBA:

- ❖ 90 percent are sole proprietorships
- ❖ 7.2 percent have fewer than 5 employees

- ❖ Just over 1 percent have 5-19 employees
- ❖ About 0.2 percent have 20 or more employees

Regardless of their exact size or type, home-based businesses like all businesses should be properly insured to protect their assets and their owners against certain risks. Often, home-based businesses are underinsured—a fact their owners discover after an incident occurs when they realize the insurance they have is inadequate to address the magnitude of the problem.

TYPES OF INSURANCE TO CONSIDER

If you have a home-based business or are thinking about starting one, it's a good idea to learn about the range of insurance products available. While your specific business may not require all types of insurance listed, it is important to understand your potential risks and your insurance options.

Home-based business owners should consider the following types of insurance for their business: workers' compensation insurance, property and liability insurance, commercial auto insurance, health insurance, disability insurance and life insurance.

BONDING

There are two general types of bonds available for small businesses. They are Bid or Tender Bonds and Performance Bonds. It is common business practice when tendering for large capital projects for the tender to be supported by a Bid Bond. Most capital works projects put out to tender require the successful tender to lodge a Performance Bond after being awarded the contract.

Bid or Tender Bonds

The Bid Bond is an indication of your company's ability to carry out the work for which is being tendered. Bid Bonds are sought by the contracting party to provide a financial undertaking, should the successful tenderer fail to proceed with the contract for any reason. It is also used as a financial fall-back in the event the successful contracting party is unable to carry out any part of the tender as submitted and it becomes necessary to place the project, or part of it, out for tender again.

Benefits of Bid or Tender Bonds

Demonstrates to the contracting party that the tenderer is a reliable, capable business.

- ❖ Indicates that the tender is genuine with a firm commitment to the project.



DEFINITION

tender—to make or submit a bid (synonyms: offer, bid, proposal)

- ❖ Secures payment for the beneficiary (the contracting party) of the guaranteed amount in the event of:
 - ❖ withdrawal of offer before its expiry date
 - ❖ repudiation of the contract by the tenderer after being awarded
 - ❖ failure of the successful tenderer to provide a replacement

Performance Bonds

Most capital works projects put out to tender require the successful tenderer to lodge a Performance Bond after being awarded the contract. The Performance Bond is an indication that your company has the necessary skills and capabilities to carry out the required work and comply with the agreed terms and conditions of the contract.

Benefits of Performance Bonds

- ❖ Demonstrates to the contracting party that the tenderer has the required skills and financial strength to complete the contract
- ❖ Provides support to your contract
- ❖ Secures payment for the beneficiary (the contracting party) in the event the contract is not fulfilled

Contact your insurance company to find out what they offer for business insurance. You may check out www.businessinsurance.com for business insurance information.

For general inquiries about business insurance in DC, you may contact the DC Department of Insurance, Securities and Banking (DISB) at **202.727.8000** or visit www.disb.dc.gov.

DC Captive Insurance

Captive Insurance is a relatively new type of insurance that allows large organizations to insure themselves instead of seeking insurance on the commercial market. A captive insurance company, or captive, is an insurance company owned by members of a common industry or trade association in order to share the risks of that industry among its members.

Captives allow associations, organizations and groups to take financial control and manage risks by underwriting their own insurance rather than paying premiums to third-party insurers. The potential advantages of such self-insurance include lower costs, protection tailored to the organization's needs, more control over risks and tighter control over financial resources.

To learn about incorporating a captive in Washington, DC, please contact the Department of Insurance, Securities and Banking's Captive Insurance Division at **202.727.1563** or visit www.disb.dc.gov.



for **Small Business**

Protect your business assets and cover your risks.

Let *Insure U for Small Business* help
you choose the right insurance.

- Workers' compensation insurance
- Group health & disability insurance
- Business property & liability insurance
- Commercial auto insurance
- Group life & key person life insurance
- Home-based business insurance

Visit www.InsureUonline.org/smallbusiness



Have trouble securing conventional bank loans for your business?

You may be eligible for the District of Columbia's
Certified Capital Companies program (CAPCO),
an innovative funding source for promising small businesses.

Visit the Department of Insurance, Securities and Banking at
www.disb.dc.gov for more information or call **202-727-5074**.

