



nerej

Breakdown of the different types of insurance that may be applicable to real estate professionals

February 24, 2011 - Spotlights

Assisting business owners with their insurance needs for over twenty years has taught me that many professionals are great at doing their "job," but sometimes need support in understanding or managing the administrative aspects of running a business. The complexities of the insurance world add to the stress. This is more than true for real estate professionals. Great salespeople, outgoing personalities, good with numbers....maybe not so good with insurance? Well, have no fear! Let's break down the different types of insurance that may be applicable to most real estate professionals. You may or may not need all these types of insurance, but a working knowledge of various types of policies will assist you in becoming a more educated consumer and in obtaining proper coverage when setting up your plan with your insurance advisor.

Errors & Omissions Insurance

Errors and Omissions insurance is also known as E&O, Professional Liability or Malpractice Insurance. This coverage is designed for those performing "professional" services in a transactional manner, as opposed to a builder constructing a dwelling, for example. Like its name, Errors and Omissions insurance protects the insured should they commit, or are alleged to have committed, an error or omission in performing their professional duties. This could include failure to fulfill a contractual obligation, inaccuracy of work performed or failure to comply with accepted industry or government requirements. For an appraiser, it might mean not using proper comps; for a real estate agent, not disclosing pertinent information about a property. A key feature of E&O insurance is called "Retro-Active Coverage." Most claims against professionals come long after the transaction was completed: a home buyer may not realize their purchase was overvalued until they might try to refinance two years later. Maintaining continuous, uninterrupted insurance ensures that your retro-active date remains intact.

Commercial General Liability Insurance

Commercial General Liability insurance, or CGL, protects a business from claims resulting from bodily injury or property damage against another party. The classic example is a person falling on the steps leading into your office. However, CGL coverage extends to any location you are performing a service. For example, a person attending an open house slips and falls resulting in injury, or a property manager fails to fully drain the pipes resulting in freezing and water damage. CGL policies are often expanded into Business Owner Policies, or BOP's. A BOP offers considerably more coverage, including coverage for the insured's business property if it is stolen or damaged or business interruption protection if the business is shut down due to some loss or

disaster. A BOP may also cover valuable papers, some data protection, employee dishonesty, limited coverage for employment practices and a host of other features. Despite broad coverage, BOP's and CGL's are typically good values as a purchase for many real estate professionals.

Directors and Officers Liability

Directors and Officers liability insurance is essential for non-profits organizations as well as publicly-traded companies. D&O insurance protects board members and officers from expectations of damages made against their company or organization due to management decisions or actions. Board members and officers may be held personally liable for the actions of company management, and few people would be willing to sit on a board without this protection. D&O insurance differs from Errors and Omissions insurance in that E&O protects the company from performance failure or negligence in regards to its products or services, while D&O protects board members from any personal liability resulting from the actions of management. No professional association or non-profit should be without Directors and Officers liability insurance.

Employment Practices

Liability Insurance

Technically considered a part of Directors and Officers coverage, Employment Practices Liability Insurance can be purchased as stand-alone coverage and is important for any business that has employees. Employment Practices Liability (EPLI) insurance protects businesses from the financial consequences associated with a variety of employment-related lawsuits, such as negligence lawsuits affecting a company's human resources department, charges of racial or age discrimination, sexual harassment, wrongful termination, or noncompliance with the Americans with Disabilities Act. Once considered important for only larger businesses, EPLI is important for any business with employees and has become more affordable for smaller operations. Numerous sources indicate over 50% of insurance claims made against D&O policies were employment-practice related. As noted above, a good Business Owners Policy may offer some limited protection for discrimination or harassment claims made by an employee. Either option must be thoroughly evaluated as coverage can vary widely from any policy or insurer.

Cyber-Liability/Privacy

Protection Insurance

Until recently, this type of insurance was considered important, and affordable, for only the largest corporations. This is no longer the case. Even the smallest businesses in some way store customer data, sometimes without even realizing it. For example, your copy machine may keep a digital record of every copy it makes. When the lease is up and the copier goes back to the company, so may important confidential data. The convenience of laptops, smart phones and tablets may make everyone's job easier, but the incredible amount of data accessible through these devices poses a tremendous potential for a data leak if you leave your smart phone at the coffee shop! A business processing credit cards or on-line payment also has a risk. Non-profit groups are not exempt from these concerns, as they often store personal data about members, including financial information about membership dues. Other concerns are computer hacking, dumpster diving, employee misuse or accidental disclosure. And it is not just electronic data that we must be concerned about, as the risk is equally present with paper files or documents. Many states have enacted strong privacy laws with significant penalties. Purchasing Privacy Protection insurance should be considered by all businesses and organizations.

This represents just a brief review of important insurance coverage for businesses and professionals. Policies, cost and coverage vary widely amongst insurers. With claim frequency still spiraling upward for real estate professionals, understanding the options and consulting with a knowledgeable insurance professional can assist in better managing risk for your business.

John Torvi is director of marketing and sales at The Herbert H. Landy Insurance Agency, Inc., Needham, Mass.

New England Real Estate Journal - 17 Accord Park Drive #207, Norwell MA 02061 - (781) 878-4540