

INSURANCE 101: Looking Ahead

By
Genny Dill

As 2005 draws to a close, many of you are looking ahead to the New Year. While you are planning for next year's programs, events, and budget, it is a good time to think about how to keep your liability exposures and your insurance costs from getting out of hand.

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Simple Tips to Reduce Your Liability Exposures

Put it in writing. Whether it's a contractor you've hired to fix your roof or a clown you've hired to entertain the kids, make sure you have a contract that outlines each party's duties and responsibilities. Your contract should also contain a "Hold Harmless Agreement." A Hold Harmless Agreement is a written agreement stating that your organization will not be held liable for claims arising out of the operations of the other party.

Make sure vendors and contractors are insured. You don't want to assume the liability of your vendors and contractors. To prevent this from happening, require them to show proof of insurance coverage. This should be outlined in an insurance clause in your contract. Ideally, you should receive a Certificate of Insurance and be named as "Additional Insured" on the other party's insurance policy. The General

Liability coverage limits on the certificate should match your own policy limits, and Workers' Compensation coverage should also be included if the other party is using employees to perform the work.

Security. Whether you are having a cool after-school program for kids, or a fun festival on Main Street, make sure that your organization provides adequate security. Conduct a criminal background check on any adults who will be working with children to help ensure that the kids will be safe with them. Talk to your local police department about obtaining criminal background checks, or perform an Internet search yourself. It is also a good idea

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to have security personnel at your events. Your community may provide security in the form of on- or off-duty police officers, or you may be able to entice a local security firm to donate personnel for your event.

Safe entertainment. We all enjoy festivals and carnivals, and families with children especially love the rides and activities provided. Be sure to choose safe entertainment for kids. "Moon bounces," those inflatable houses where kids go inside and jump until they exhaust themselves, are a big favorite for local festivals. What many organizations don't

know is that their insurance companies don't like them nearly as much. Why? Many moon bounce providers charge a low, flat rate to drop off the inflatable, leaving you to use untrained personnel to set up, operate, and supervise the activity. The vendor will often charge you more money to include an operator/attendant.

According to the Consumer Products Safety Commission, the most common injuries resulting from these types of attractions are contusions, lacerations, and head and neck injuries. Most of these injuries result from collisions between younger and older children, kids falling out or off of the device, children attempting flips, wind gusts unexpectedly blowing over an inadequately secured device, and rapid deflation of the device caused by sudden loss of fan power.



If your organization must have one of these attractions, we highly recommend that you take the following steps when securing the vendor:

- Make sure the vendor has adequate insurance coverage, including “Participant’s Coverage.” Insist on being named to the vendor’s policy as an “Additional Insured,” even if it costs more to do so.
- Pay the extra money to have the vendor bring a trained operator/attendant to properly set up and supervise the attraction.
- Hire a vendor with a proven track record. Ask if they have ever had injuries or deaths resulting from their devices, and ask what extra measures they take to prevent accidents.

Trained alcohol servers.

Many adult-oriented or all-ages festivals include the serving of alcohol. The best way to reduce your liability exposure is to have a local restaurant or bar provide the alcohol and servers, as well as the “Liquor Liability” coverage. Another option is to use only volunteers who have experience serving alcohol and who have attended an alcohol-service training class.

The Right Tools, the Right Coverage

Reducing your exposure to a loss is a great start to protecting your organization; however there is still no guarantee that a loss will not occur. That is why most of us have insurance, whether for our car, our home, our business, or our health. But what type of insurance should you buy? Listed below are some types of insurance that a typical Main Street program should consider, and their general definitions:

- **General Liability:**
Defends third-party property damage and bodily injury claims arising out of the day-to-day operations, and premises, of the organization. Some insurance companies will include coverage for special events by endorsement.
- **Special Event Liability:**
Defends third-party property damage and bodily injury claims arising out of specifically scheduled events sponsored by or hosted by the organization.

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Insurance fact or fiction?

Take the test...

If my building is not in a flood plain, I don’t need flood insurance.

Wrong! Did you know that, according to FEMA, 25 percent of all flood claims occur in a low-to-moderate flood hazard zone? That means that one of every four flood claims occurs in areas where most people feel they have little or no risk of flooding.

My property is covered for all risks.

Of course not! As much as we’d like to tell you that one single policy will cover all of your potential property losses, unfortunately that is impossible. The popular term “All Risks” is an aged insurance term that is actually defined as covering all perils (risks), except those that are specifically excluded on your policy. You may purchase risk-specific policies to fill in the gaps of some of those exclusions, such as flood, wind, and earthquake. When looking for property insurance, be sure to ask your agent what property form they are using and what the exclusions are.

If you don’t own your office, you don’t need liability coverage.

Not true! Even if your landlord does not require you to have the coverage, you can still be held legally liable if someone slips and falls while visiting your office. In addition, your General Liability policy should cover you while you are temporarily away from your premises, as well as all other “day-to-day” operations of the organization.

Our board of directors is made up of volunteers; they can’t be sued.

Incorrect. While some states do have statutes designed to protect volunteers and nonprofit organizations, it does not mean you cannot be sued. Worse, if you are sued, those statutes may not protect you. The cost of defense alone can often be higher than the settlement. Be sure to protect your board members by purchasing Directors and Officers Liability coverage.

What's Wind and What's Water?

This year's very active hurricane season, and the tremendous amount of loss that resulted, has created a greater need for disaster coverage clarification and possibly new legislation. Often it can be difficult to figure out which policy will cover damages after a storm. If you are located in a hurricane-prone region, perhaps you have purchased "Wind Coverage" through your property insurance company, or through a state "Wind Pool" and flood insurance through the National Flood Insurance Program.

The National Flood Insurance Program caps building coverage for homeowners at \$250,000 and businesses at \$500,000, while wind coverage can typically be purchased for much higher limits. That is why some Louisiana lawmakers are asking the federal government to step in and create a safety net to help fill the gap for consumers whose claims for flood insurance do not cover all of the damages that would have been paid for under their wind policy. So while we cannot answer the question "which will pay?" except on a case-by-case basis, we can arm you with information so that you are a better-informed consumer.

The National Flood Insurance Program defines a flood as: "A general and temporary condition of partial or complete inundation of two or more acres of normally dry land or of two or more properties (at least one of which is your property) from:

- Overflow of inland or tidal waters;
- Unusual and rapid accumulation or runoff of surface waters from any source;
- Mudflow (defined as 'a river of liquid and flowing mud on the surfaces of

normally dry land areas, as when earth is carried by a current of water'); and

- Collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels that result in a flood as defined above."



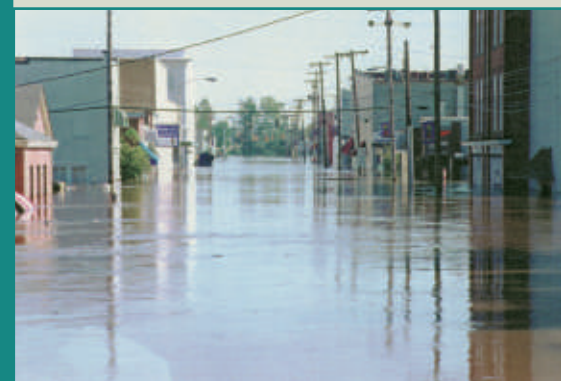
Wind policy language may vary from company to company, but the general thought is that the only type of loss covered would be a *direct* loss resulting from wind. Examples of direct wind loss with water damage occur, for example, when a tree falls onto your building and creates an opening for wind-driven rain or when your roof blows off and the rain subsequently inundates your house. Generally, tidal waters that are coerced by wind are still considered a flood peril, not a wind peril.

In the coming year, we are likely to see many attempts to revise legislation in disaster-prone areas as legislators respond to their constituents' calls to make disaster insurance less confusing and more consumer friendly.

Until that time, it is wise to discuss your exposure to wind, flood, and other disasters with your insurance agent. Remember, it's your agent's job to help you assess your exposures and understand what is and is not covered on your policies, so that you can make an informed decision when purchasing your insurance.

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- **Directors and Officers Liability:** Defends claims as a result of the management or alleged mismanagement of the organization. This coverage will also defend the board members individually if they are brought to suit as individuals, as a result of their management decisions within the organization. *This coverage is typically excluded on a General Liability policy.*
- **Liquor Liability:** Defends claims attributed to the serving of alcoholic beverages, such as over-serving and serving minors. *This coverage is typically excluded on a General Liability policy.*
- **Workers' Compensation:** Covers "on the job" injuries to employees of the organization. This coverage does not include injuries to volunteers, unless the policy has been specifically endorsed and you have paid the additional premium for the coverage. Most states require Workers' Compensation for businesses and organizations with as few as one part-time employee.
- **Volunteer Accident Coverage:** This is an inexpensive policy that



covers accidental death and dismemberment benefits, as well as medical expenses incurred by a volunteer who is injured during the course of volunteering. Visit www.main-street.org for a sample copy of a volunteer waiver. A waiver doesn't preclude the need to have this coverage, but it may help protect you if a volunteer does file a lawsuit.

• **Property Insurance:**

This insurance covers the organization's property, including business contents, building, and business income, against loss by fire, theft, and other perils. Property coverage for Main Streets can often include coverage enhancements such as crime; transit; property of others; and property away from premises, like booths and festival decorations.

The Bottom Line

Main Street programs and other nonprofit organizations often rely on community support and donations to survive. Frequently, this means smaller budgets and a bigger need to cut costs. Don't forgo proper coverage and risk an uninsured

claim, the cost of which could potentially ruin a small non-profit. Instead, take steps to reduce your insurance costs by:

Talking to your agent about available credits for your business insurance policy.

Are you taking control of your liability exposures, and doing what you can to minimize risk? Do you have prior insurance without claims? You may qualify for premium credits!

Utilizing your Main Street businesses and partners.

For example, consider holding your next wine-tasting fund raiser at a local tavern or wine shop, instead of renting a hall or banquet facility for the event. Ask the owner if he or she will provide the Liquor Liability for the event, naming your organization as "Additional Insured." By eliminating the need for you to carry the primary liquor insurance, you could potentially save hundreds of dollars.

Finding a program designed just for you.

Insurance programs, such as the National Trust Insurance Services' Main Street Program, are specifically designed to meet the needs of organizations just like yours. In addition to having a representative with a good understanding of your needs and expectations, insurance programs designed for a specific businesses often have discounted rates for that type of business.

National Trust Insurance Services, LLC, an affiliated entity of The National Trust, has extensive experience insuring individual historic properties, small businesses, preservation organizations, and Main Streets. Our strong relationships with many national insurance companies allow us the flexibility to assemble an insurance package tailored to meet the specific insurance needs of Main Street programs, Main Street businesses, and Main Street property owners.

Genny Dill has worked in the property and casualty insurance market for nearly 13 years, the first half in her native state of California. She joined National Trust Insurance Services in 2003 and has been providing technical assistance, education, and other insurance services to Main Streets, preservation organizations, and historic theaters nationwide.

For more information on this insurance program, please contact us toll free at 866-269-0944.

calendar of events

November 30, 2005
Deadline for HGTV Restore America Grant applications
Website: www.nationaltrust.org/restore_america/ra_grants.html

December 5-9, 2005
NeighborWorks Training Institute
San Francisco, Calif., 202-220-2300
Website: <http://www.nw.org/network/training/SanFrancisco05.asp>

January 18, 2006
NTHP, deadline for nominations to 2006 11 Most Endangered Places
202-588-6141
Website: www.nationaltrust.org/11Most

January 25-27, 2006
North Carolina Main Street Center, Main Street: Community, Connectivity and Change
Salisbury, N.C., 919-733-2850
E-mail: mstreet@ncdca.org
Website: www.ncdca.org/mainst/

January 27, 2006
Connecticut Main Street Center, Building Your Capacity to Revitalize Downtown
Berlin, Conn., 860-280-2337
Website: www.ctmainstreet.org/dri.html

January 26-28, 2006
Local Government Commission, 5th Annual New Partners for Smart Growth: Building Safe, Healthy, and Livable Communities
Denver, Colo., 916-448-1198
E-mail: mkwarren@lgc.org
Website: www.NewPartners.org

February 6-10, 2006
NTMSC, Certification Institute in Professional Main Street Management
Washington, D.C., 202-588-6219
Website: www.mainstreet.org

May 2-4, 2006
Washington Main Street, The 20th Annual Downtown Revitalization Training Institute
Port Angeles, Wash., 360-725-4056
Website: <http://www.cted.wa.gov>

June 4-7, 2006
NTMSC, 2006 National Main Streets Conference
New Orleans, La., 202-588-6219
E-mail: msconference@nthp.org
Website: <http://conference.mainstreet.org>

Calendar entries of state, regional, and national interest may be submitted in writing by the fifth of each month for the following month's newsletter. We reserve the right to edit all entries based on appropriateness and space.