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Understanding and Managing Liability Insurance Needs for Collecting Institutions

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- **NYCON**
  - State association in NYS with 3,000 members
  - Provide a wide range of TA /Training services, group business products & services, information, state & federal advocacy, etc.
- **Innovative Charitable Initiatives (ICI)**
  - Fiscal agent/ incubation services for emerging nonprofits or divested programs
  - Employment administration
  - Services available nationally
- **Board Strong**
  - Board matching tool (online www.boardstrong.org)
- **Council Services Plus (CS Plus)**
  - Social enterprise insurance brokerage firm (employee benefits and liability insurance)
  - Risk management consultation

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Overview of Today's Topic

- Why consider Insurance
- Types of Insurance you may want/need for your collecting institution
  - CGL, D&O (& EPL), BPP, Auto, SSP, ISC, UMB and others
- Managing your Insurance
  - Your Policy, COI's (certificate of insurance) and Claim Reporting
- Renewing/keeping your coverage
  - Working with a Broker and the "Industry"

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Defining Insurance

- The aim of insurance is to reduce financial uncertainty and make accidental loss manageable. It does this substituting payment of a small, known fee—an insurance premium—to a professional insurer in exchange for the assumption of the risk a large loss, and a promise to pay in the event of such a loss.

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Why Get Insurance

- Statutory obligations
- Legal obligations
  - Funding contracts
  - Event contracts
  - Leases
  - Donor expectations/requirements (collections and money)
- Best practices
  - Preserve assets (from accidental loss from accidents, theft, etc)
  - Attract donors, staff & board members
- In case you get sued

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Types of Insurance You Might Need

- Commercial General Liability (CGL)
  - Bodily injury
  - Property damage
  - Personal & Advertising injury
  - Products & Completed Operations
  - Medical payments
- Limits of liability
  - Per occurrence
  - Aggregate

LIMITS	
EACH OCCURRENCE	$1,000,000
DAMAGE TO RENTED PREMISES (Ea occurrence)	$500,000
MED EXP (Any one person)	$20,000
PERSONAL & ADV INJURY	$1,000,000
GENERAL AGGREGATE	$2,000,000
PRODUCTS - COMP/OP AGG	$2,000,000

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Types of Insurance You Might Need

- Directors & Officers Liability (D&O)
  - Board Liability
  - Employment Practices (EPLI)
  - Entity coverage
  - Wrongful Acts
- Volunteer Protection Act (NYS)
  - Board immunity
    - Not paid, acting within the scope of duties & not grossly negligent in their actions.
- Prioritizing D&O and CGL

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Types of Insurance You Might Need

- Property
  - Building (owned)
  - Contents/Business Personal Property (BPP)
  - Business Income
- Deductibles/Retention
- Replacement cost and Coinsurance rules
- Flood Insurance

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Types of Insurance You Might Need

- Insuring Your Collection
  - Valuation challenge
  - BPP vs Fine Arts
  - Inland Marine (another parties property temporarily held/housed by your organization)
- Insuring Your Historic Building
  - ACV (Actual Cost Value) vs RC (Replacement Cost)
    - ACV: Initial cost to buy or market value of property or item less depreciation for the number of years you had it.
    - RC: calculated using the initial price tag paid for the items or the cost of physically building the property when it was purchased, regardless of any potential depreciation.

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Types of Insurance You Might Need

- Auto Coverage
  - Non-Owned/Hired Auto- When a vehicle not “owned” is used by a volunteer or employee on behalf of the organization.
    - The Employee (or Volunteer’s) personal auto insurance will address their negligence, but not the allegations of negligent supervision.
  - Owned Auto- when the organization owns (registered) and operates the vehicle
    - Liability
    - Physical Damage

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Types of Insurance You Might Need

- Professional Liability
  - Holding yourself out as the “Expert”
  - Professional Exclusions on a CGL Policy
- Improper Sexual Conduct/Abuse
  - Do you serve any “vulnerable population”?
- Umbrella Liability
  - A good way to have higher limits without increasing each “underlying” policy

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Types of Insurance You Might Need

- Some other insurance you may need
  - Crime, Fidelity, Employee Dishonesty (related to theft)
  - Business Interruption (replacing lost revenue when operations halted)
    - Virus (COVID) exclusion
  - Extra Expense (pays for additional costs in excess of normal operating expenses that an organization incurs to continue operations while its property is being repaired or replaced after having been damaged by a covered cause of loss)
  - Cyber Liability- Notification expense (of parties impacted) versus liability
  - Fiduciary Liability (protect from claims related to mismanagement of assets)
  - Employee Benefits Liability
  - Participant (and Volunteer) Accident Coverage
  - Builders Risk (related to construction)

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Managing Your Insurance

Understanding your Policy

Most polices are written in a similar format and use the same language.

- Declarations- this is an overview of the named insured, the effective dates, the coverage & limits of liability and the price.
- Definitions- Terms referenced within the policy are defined more clearly. For example, the term Insured may be defined here.

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Managing Your Insurance

Understanding your Policy

- Insuring Agreements- this is where the insurer describes what the policy will cover.
- Conditions- these pages outline the duties of the insured and the insurer, how the policy will respond any options (such as an audit) the parties may have a right to.
- Endorsements & Exclusion- these are pages that will add, further define or change any coverage or language mentioned in the policy.

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Managing Your Insurance

- Certificates of Insurance (COI's)
  - In it's purest form, a COI only conveys the existence of coverage as of the date of the certificate.
  - Sometimes an entity asks not only for proof, but to be insured with you (noted as an additional insured, or A/I). This may or may not require company approval.
  - Some entities not only require a COI, noting them as an A/I, but also want the policy endorsed to show them listed in the policy. This will require company approval and take some time to issue the endorsement.

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Managing Your Insurance

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location(s) Of Covered Operations
Any person or organization that you are required to add as an additional insured on this policy, under a written contract or agreement currently in effect, or becoming effective during the term of this policy. The additional insured status will not be afforded with respect to liability arising out of or related to your activities as a real estate manager for that person or organization.	**All insured premises and operations**

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Managing Your Insurance

- Claims- Incidents and Accidents

While it is sometimes clear when you need to notify your broker/carrier of a claim, sometimes it is not always evident that you should.

It is always advisable to put your carrier “on notice” if something occurs that you think may result in a claim, even if you are not sure it may be covered.

Reporting “incidents” do not affect your claims history or future rates (unless they are excessive).

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Renewing & Keeping Your Coverage

- Rating basis
  - This is the driving factor in the cost of your insurance. You may be rated based upon the number of people you serve or the sq. footage of your office. As those factors change, so may your rate.

- Know your rating basis and notify your broker if it changes substantially.

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Renewing & Keeping Your Coverage

- Special Events
  - Most every nonprofit holds events, meetings and fundraisers. Carriers who know nonprofits will place an endorsement on the policy to cover all events that are “typical and normal”.
  - Only those events outside of this endorsement will require prior approval of coverage.

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Renewing & Keeping Your Coverage

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

FUND RAISING EVENTS ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. This insurance applies to "bodily Injury", "property damage", and "personal and advertising injury" arising out of all of your fund raising events with the following exceptions unless scheduled in paragraph C. below:

- Parades sponsored by the Insured
- Aircraft
- Motorcycle runs and automobile rallies
- Fireworks – exhibitors operated by the Insured.
- Firearms
- Animals – other than house pets
- Carnivals and fairs with mechanical rides sponsored by the Insured
- Rock, Hip-Hop or Rap concerts – with admission over 500 people
- Events including contact sports
- Rodeos sponsored by the Insured
- Political Rallies
- Any event lasting more than 5 days (including otherwise acceptable events)
- Any event with greater than 500 people at any one time (including otherwise acceptable events)
- Any event with liquor provided by the Insured if a license is required for such activity.
- Any activities by third party telemarketing, direct mail, or internet advertising (including spam) firms.

B. **Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) related to your fund raising events, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf. However, third party telemarketing, direct mail, or internet advertising (including spam) firms shall not be Insureds.

C. Schedule of fund raising events:

Event(s)	Start Date	Finish Date	Premium

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Renewing & Keeping Your Coverage

- Working with brokers and the “Industry”
  - Qualities of a good Broker
    - Dedication
    - Communication
    - Time
  - Qualities of a good “Client”
    - Inclusion
    - Understanding
    - Communication

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Renewing & Keeping Your Coverage

- Working with brokers and the “Industry”
  - Industry Protocols
    - Only one broker can approach a company on your behalf (first come, first serve)
    - Many carriers will not offer a quote Mid-term
    - Many carriers will not quote until 90 days prior to your renewal.
    - Most carriers have minimum premium thresholds

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