CITY OF HOUSTON GUIDE TO BUSINESS INSURANCE

CITY OF HOUSTON
OFFICE of
BUSINESS OPPORTUNITY

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MISSION STATEMENT

The Office of Business Opportunity is committed to creating a competitive and diverse business environment in the City of Houston by promoting the growth and success of local small businesses, with special emphasis on historically underutilized groups by ensuring their meaningful participation in the government procurement process.

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TYPES OF BUSINESS INSURANCE

Much of the information in this user guide can be found at:
www.tdi.texas.gov/pubs/tdipubs1.html#business

COMMERCIAL PROPERTY INSURANCE

Commercial property insurance helps businesses, including farms and ranches, pay to repair or replace buildings and other property damaged or destroyed because of fire, storm, or other things covered by your policy. It also pays to replace stolen or lost property. Business owners can buy commercial property insurance regardless of whether they own, rent, or lease a building.

If you rent or lease a building, consider tenant coverage that will insure your on-premises property, including machinery, furniture, and merchandise. A building owner's policy doesn't typically cover the contents of the building that belong to you. The cost of tenant coverage is usually less than building coverage because the policy only covers contents.

Businesses with multiple locations can be covered under a single policy, unless they have different functions and different risk profiles. This could be the case if your business has an administrative office and a separate factory. If your business has operations at multiple locations, ask your agent if you need separate policies.

TYPES OF COMMERCIAL PROPERTY POLICIES

There are three types of commercial property policies in Texas. The policies protect against different causes of damage, commonly called "risks." These include fires, lightning storms, windstorms, or damage caused by vehicles and civil commotion.

Be sure to read your policy carefully. You may need to buy additional coverage or specialized policies -- such as flood, windstorm, or crime coverage -- to fully protect your business.

- **Basic form policies** typically cover common risks.
- **Broad form policies** typically cover the common risks in addition to water damage, structural collapse, sprinkler leakage, and damage caused by ice, sleet, or weight of snow.
- **Special form policies** cover all types of risks except those the policy specifically excludes. Common exclusions include damages from flood, earth movement, war, terrorism, nuclear disaster, wear and tear, and insects and vermin.

Most commercial property policies cover damage from windstorms except in counties on the Texas coast. However, companies may exclude windstorm and hail coverage from policies they sell in the 14 coastal counties and parts of Harris County on Galveston Bay. If your business is in one of Texas' coastal counties, you'll need a separate windstorm policy.

REPLACEMENT COST AND ACTUAL CASH VALUE COVERAGE

Commercial property policies provide either replacement cost coverage, actual cash value coverage, or a combination of both. **Replacement cost coverage** will pay to replace your property with new property of like kind and quality, up to the policy's dollar limit. An **actual cash value** policy will pay the replacement cost of the property minus depreciation due to age and normal wear and tear. Although replacement cost coverage is more expensive than actual cash value coverage, it might better ensure that your business fully recovers after a loss.

COMMERCIAL PROPERTY COVERAGE

Commercial property policies are not standardized in Texas. Insurance companies must meet minimum state requirements but may develop their own policies. As a result, coverage and policy terms may vary by insurance company and by policy.

COMMERCIAL MULTI-PERIL (CMP) policies combine multiple coverage -- such as commercial property, liability, inland marine, and commercial auto -- to provide full protection with a single policy. It's typically cheaper to purchase a CMP policy than to purchase the coverage individually.

BUSINESS OWNER PROGRAM (BOP) policies are a common type of commercial policy primarily for small businesses. BOP policies combine property and liability coverage in one policy. Commercial property policies provide various types of coverage, either as part of the base policy or through policy endorsements. Endorsements expand or amend a policy's coverage and usually increase your premium. You can buy certain coverage as separate standalone policies.

FOLLOWING ARE SOME TYPICAL COMMERCIAL PROPERTY COVERAGE:

- Building occupied by the insured coverage
- Newly acquired or constructed buildings coverage
- Employees' personal property coverage
- Off-premises property coverage
- Business interruption coverage
- Extra expense coverage
- Valuable papers coverage
- Ordinance or law coverage
- Boiler and machinery coverage
- Inland marine coverage

OTHER COVERAGE TO CONSIDER

Depending on the type of business you own and where it's located, you might want to consider additional coverage to ensure you're protected.

CRIME COVERAGE

You can buy several types of coverage to protect your business from crime. Common crime coverage include:

- **Loss of glass and money due to theft** pays for damage to glass and for a theft of money resulting from a break-in.
- **Robbery and safe burglary (property other than money)** is a more limited form of coverage that does not include a loss of money or securities.
- **Forgery or alteration** protects your business against forgery or alteration of checks, drafts, promissory notes, or other types of payments.
- **Theft, disappearance, and destruction coverage** insures money, securities, and other property against
- losses, both on your premises and off premises in the custody of an employee or messenger.

A policy may pay losses from crime on either a loss sustained or discovery basis. Loss sustained coverage pays for losses that happened during the policy period, and discovery coverage pays for losses that happened at any time. Both types of crime coverage require that you learn about the crime during the policy period or extended reporting period.

FLOOD INSURANCE

Some insurance companies include flood coverage in their commercial property policies for areas with a low flood risk. However, most flood insurance is available only through the National Flood Insurance Program (NFIP). Some insurance companies may provide flood coverage in addition to NFIP coverage. To qualify for NFIP coverage, your business must be located within an NFIP-participating community. These communities have adopted federal building and floodplain management programs to reduce the likelihood of flood damage. Special flood hazard areas are areas within NFIP communities that are at high risk for flooding. NFIP requires all structures within these areas to have flood insurance.

Note: More than 25 percent of all floods in the United States occur in areas designated as low-to-moderate risk. You should consider flood insurance even if your business is outside a hazard area.

SMALL EMPLOYER HEALTH INSURANCE

Texas law allows insurance companies to sell small employer health insurance plans with a wide variety of features and benefits. The variety of options can make choosing a health plan challenging, but it can also mean that you'll find a plan that closely meets you and your employees' needs.

SMALL-EMPLOYER ELIGIBILITY

Texas insurance law defines a small employer as a business with two to 50 eligible employees. To be considered an eligible employee, someone must meet all of the following requirements:

- work at least 30 hours per week
- not be a temporary, part-time, or seasonal employee
- not be covered by another group health plan.

The number of eligible employees – not total employees – determines whether a business is a small employer. For example, if your business has 60 total employees, it could still qualify if six of the workers are part-time and four have coverage through some other source, such as a spouse's health plan. Sole proprietors, partners, and independent contractors are also eligible employees if the business chooses to offer them health care coverage. Business owners count toward the eligible employee total. If you offer a health plan to your employees, you must make it equally available to all of your eligible employees and their dependents. At least 75 percent of a small employer's eligible employees must participate in the health plan. Companies must always round down when calculating the number of participating eligible employees. For example, a five-employee group would achieve 75 percent participation if three eligible employees participate. Seventy-five percent of five is 3.75, and 3.75 rounded down is three. If a business only has two eligible employees, the law requires both employees to participate. A husband and wife working in a business count as two separate employees. Neither of the employees is eligible for coverage as a dependent of the other.

TYPES OF PLANS

Insurance companies sell two types of small employer plans. Plans with minimum features and coverage required by state law are called state-mandated plans. Plans that don't offer all the required features are called consumer choice plans.

Consumer choice plans must provide coverage for the following four state-mandated coverage:

- Phenylketonuria treatment, if prescription drugs are covered
- Complications of pregnancy
- Minimum hospital stay after childbirth (federally mandated)
- Reconstruction surgery following a mastectomy (federally mandated).

Although consumer choice plans are sometimes called standard plans, the coverage provided are not standardized. Each company's consumer choice plan may be different, and a company may offer several different consumer choice plans. Your premium will generally be lower for consumer choice plans.

Consumer choice plans also may be different depending on if an insurance company or an HMO sells the plan. For example, HMO consumer choice plans must pay for 20 outpatient mental health visits per enrollee per year, and must include basic health care services, such as inpatient, outpatient, and preventative services. Consumer choice plans sold by insurance companies don't have to include these coverage. Insurance companies and HMOs must tell small employers which state-mandated coverage are not in their plans. The policy or evidence of coverage must also include additional disclosures.

OTHER REQUIRED BENEFITS

State law requires certain health plans – including small employer health plans – to pay up to $200 every five years for cardiovascular disease screening tests. Men older than 45 and younger than 76 and women older than 55 and younger than 76 who are diabetic or at risk of developing coronary heart disease are eligible for the coverage.

PROVIDING COVERAGE

Employers must give new employees at least 31 days from their start date to enroll in a plan. After this time, employees may be required to wait up to one year for the next open enrollment period to join. Insurance companies must offer a 31 -day open enrollment period annually.

You may choose to require employees who enroll in a plan to wait up to 90 days before being eligible for benefits. The company may not charge you or the employee a premium during this period.

PREEXISTING CONDITIONS AND WAITING PERIODS

Companies may require participants to wait a certain amount of time before receiving coverage for preexisting medical conditions. Plans generally have different rules for preexisting conditions. Plans using the open-enrollment requirement cannot require new members to wait more than one year before covering their preexisting conditions. New enrollees who were continuously covered for 12 months by a previous plan also do not have a preexisting condition waiting period, as long as no more than 63 days passed between the ending date of the old coverage and the effective date of the new coverage. This means the new plan would immediately cover the employee's preexisting conditions.

Employees with fewer than 12 months of coverage under a previous plan receive credit toward the preexisting condition waiting period on a month-for-month basis. For the previous coverage to be considered creditable, it must have been in effect in the 12 months prior to the start of the new coverage. For example, an employee who was covered for three months at any time in the prior year would receive three months' credit and would only have to wait nine months before preexisting conditions are covered.

Insurance companies cannot refuse to provide health coverage for your employees because of illnesses or preexisting conditions. Companies are also prohibited from using health-related factors – such as employees' prior claims experience or conditions caused by violent family situations – to decide whether to provide coverage.

CONTINUING COVERAGE

State regulations and a federal law called COBRA (Consolidated Omnibus Budget Reconciliation Act) allow employees to maintain benefits for a while after separation from the job. It is your legal responsibility to inform employees of their rights to continue coverage. Former employees who choose to continue their coverage through COBRA or state continuation must pay the full cost of the plan. You are not obligated to contribute toward their premiums, even if you previously paid a share. Ask your carrier about your responsibilities regarding COBRA.

PAYING FOR COVERAGE

The law doesn't require employers to contribute toward health benefit plan premiums. However, many companies require employers to pay at least 50 percent of the plan's premiums. Employers may choose to pay a higher percentage than the company requires. Insurance companies must offer dependent coverage to all eligible employees. Employers are usually not required to contribute toward the cost of dependent coverage. If the employer doesn't contribute, employees pay all or some of

the premium costs themselves. Premiums may increase at each renewal term because of rising health care costs and employee claims experience. Claims experience is the number of people the plan covers and their medical and prescription history.

Texas law caps small-employer rate increases due to health factors – such as the amount of employee claims experience – at 15 percent per year. State law also protects businesses who buy small employer health insurance by prohibiting insurance companies from discontinuing coverage without a reason and allowing small employers to form cooperatives to negotiate lower insurance rates.

FEDERAL HEALTH REFORM

The Patient Protection and Affordable Care Act – the federal health care reform law– requires insurance companies to provide additional coverage and strengthens consumer protections beginning with health insurance policies issued or renewed after September 23, 2010. For more information and regular updates, visit TDI's Federal Health Care Reform Resource Page at www.tdi.texas.gov/consumer/cpmhealthcare.html. Businesses with 25 or fewer full-time employees that pay for at least 50 percent of premiums and pay average annual wages below $50,000 may be eligible for a tax credit of up to 35 percent (25 percent for nonprofits) of the premiums the business pays. The credits increase in 2014.

SHOPPING FOR COVERAGE

Because premiums, deductibles, copayments, and coinsurance levels can vary widely from plan to plan, it pays to shop around. The following useful tips can help you find the best deal for your money:

- **Be sure you understand coverage when comparing plans and rates.** If you chose a consumer choice plan over a state-mandated plan, the company or agent is required to explain in writing which coverage you don't have.
- **Plans with higher deductibles, copayments, and employee share of coinsurance generally will have lower premiums.** Keep in mind that your employees will also have to pay more out of pocket when they access services or benefits.
- **Consider factors other than cost, such as a company's financial strength and complaint record.** You can learn a company's financial rating, as determined by an independent rating organization, by calling the Texas Department of Insurance (TDI) Consumer Help Line. You can also learn information about the frequency of consumer complaints filed against specific companies by calling the TDI Consumer Help Line 1-800-252-3439
- **Look into purchasing cooperatives.** These are groups of employers with similar health care needs who join together to negotiate discounted rates for shared plans. For a list of registered purchasing cooperatives in Texas, call the Consumer Help Line or visit our website.
- **Buy only from licensed insurance companies and HMOs.** Selling unlicensed coverage is illegal in Texas. If you buy from an unlicensed company, your employees' claims could go unpaid and you could be held liable for the full amount of your employees' claims and losses. Guaranty associations pay the claims of licensed companies that become insolvent. You can learn whether a company is licensed by calling the Consumer Help Line or by viewing the company profiles on our website.
- **Understand that employee health coverage is different from workers' compensation insurance, which covers only job-related injuries and illnesses.** Although workers' compensation insurance is not required in Texas, it protects you from high damage awards in the case of workplace accidents. Providing regular health coverage to your employees is not a legal alternative to providing workers' compensation insurance. Read TDI's Workers' Compensation Insurance publication for more information.

Note: Use www.HealthCare.gov to learn rates for small employer health insurance in your area. Visit TDI's Small Employer Health Benefit Plan Rate Guide for assistance.

WORKERS' COMPENSATION INSURANCE

For additional information see the "Houston Employer Resource Guide" or for general information about Workers' Compensation Insurance and requirements, call the TDI Customer Service Hotline @ 1-800-372-7713 Workers' Compensation insurance pays medical and income benefits to workers who are injured at work or have work-related diseases or illnesses.

This type of insurance protects workers by assuring that they are compensated for their injuries. It also helps employers because it relieves them of liability for claims and gives them certain legal protections, including immunity from most injury lawsuits. Workers get benefits based on the type and severity of their injuries. There are four types of workers' compensation
benefits:

- Income benefits pay a portion of a worker's lost wages.
- Medical benefits pay for medical care to treat the work injury.
- Burial benefits pay for some funeral expenses.
- Death benefits pay some lost wages to the family of a worker killed on the job.

Workers' Compensation does not pay for injuries that

- are intentional or self-inflicted
- result from horseplay or voluntary drug or alcohol intoxication
- result from voluntary participation in off-duty recreational, social, or sports events
- result from "acts of God," unless the job has a high risk of injury from such acts
- are inflicted by someone else for personal reasons unrelated to employment.

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