Insurance Coverage for Public Libraries*

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On behalf of North Carolina Commisioner of Insurance John Ingram, his staff, and with my personal appreciation I am glad to be with you today and sincerely hope that what I have to say will be of benefit to all of you.

Before going into the subject which I was specifically asked to present, I think it important that you know something about the Division of the Department of Insurance which I represent.

The Consumer Insurance Information Division was created by Commissioner Ingram on October 1, 1973 when all of those staff members providing some form of consumer service in each division were united and additional individuals were added. These persons, known as Complaint Analysts, were carefully chosen for their personal interest in people because, quite specifically, this Division is known as "The Peoples' Division" of the Department. A Director, a young ordained minister, was named to head the Division as a Deputy Commissioner and I was assigned to provide the technical support.

We now have 14 Analysts, serving in three sections: Life and Health, Fire and Casualty and Automobile Claims. We will handle some 30,000 inquiries and complaints by personal visit, telephone and correspondence this year. We have two incoming WATS lines and a newspaper issued quarterly and are moving into a radio series. We will patiently, professionally and most compassionately accept any call on any form of insurance bought and sold in North Carolina.

In addition to providing direct service and corrective relief for these people, we provide the Commissioner with a monitoring service which permits him to know the needs of the insuring public and take legislative or corrective action to reduce these problems and end all forms of mistreatment and discrimination.

While tthe majority of our calls and inquiries come from citizens not expected to know the complex technicalities of insurance, a surprising number come from

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those one might expect to know more than they do simply because insurance is not a frequent subject of their concern.

Therefore, at the risk of insulting the intelligence of this audience, but merely to be as helpful and informative as possible, I have elected to go over some fundamentals of insurance before we go directly to your problems.

In any event, this information may help you in your personal insurance matters.

Insurance is a device whereby a person (firm, corporation, organization, association or group) may transfer the risk of loss to a company established by law and approved to accept a sum of money known as a "premium." The concept requires that a substantial number of persons also transfer their risk for the accumulation of funds from which the individual losses of those paying premiums will be paid. The transaction is arranged through a contract known as a "policy."

The party transferring his risk is known as the "insured" or "policyowner." The party accepting the risk is known as the "insurer."

The transaction results in the insured paying a known charge in exchange for the insurer accepting the possibility of a loss of an unknown amount. The aspect of "gambling" is removed as the insurer is aware in advance through historic studies and statistics as to what losses to expect but not necessarily from which insured they will come.

To avoid the possibility of "outgo" exceeding "income," the insurer estimates the premium required provided an approximate number of policies are sold. In addition, it reserves a portion of all premiums collected and augments this by investing the balance in profitable stocks, bonds and other securities following payment of operating costs.

Also, in the event an insurer accepts a risk in excess of an amount which would overtax the reserves established for losses, it may transfer that excess to another insurer in the form of "reinsurance."

The insurance business, although generally regarded by the public as a single, inseparable entity, is actually divided into segments.

Property insurance provides financial protection against loss or damage to the insured's property caused by such perils as fire, windstorm, hail, explosion, riot, aircraft, motor vehicles, vandalism, malicious mischief, riot and civil commotion, and smoke.

Liability insurance provides protection for the insured against loss arising out of his legal liability resulting from injuries to other persons or damage to their property.

Life insurance provides for payment of a specified amount on the insured's death, either to his estate or to a designated beneficiary; or in the case of an endowment policy, to the insured himself at a specified date.

Accident and health insurance is a type of coverage that pays benefits, including reimbursement for loss of income, in case of sickness, accidental injury or accidental death.

The foregoing is a most general description of these segments and any number of additional forms of protection can be found as extensions of the headings shown above.

In addition, there are many other forms of protection that do not necessarily fall within any of the above categories. Two examples are title insurance and credit insurance.

There are basically three types of insurance companies operating in the United States. The first two are the most commonly known and used.

Mutual insurance companies are owned by the insured or policyowner when his business is placed with it. There are no shareholders in the mutual company and the directors are designated by the insureds following which, as a board, appoint the executive staff. After all expenses and losses are paid, any excess may be returned fully or partially in the form of "dividends" to the insureds. The number of mutual companies operating in North Carolina which may assess its insureds if the experience requires is very limited.

Stock insurance companies are capitalized by public purchase of their shares and the shareholders own the company. Profits are paid as dividends to the shareholders. Some stock companies, however, do issue participating policies and pay dividends on certain classes of risk to the insured or policyowner.

The *reciprocals* form of insurance operation is a device whereby persons combine into a group to insure each other. It does not issue policies and is limited to trade associations. It is managed by an attorney-in-fact.

In addition to the three forms of insurers just described, there are also insurers such as Lloyd's of London which is not a company as such but a group of underwriters undertaking risks for their respective accounts.

Also, the Federal Government is an insurer, in some instances with participation by private companies, providing coverage such as Flood, Hail, Workman's Compensation and other protection.

It should be noted at this point that some firms, corporations or groups elect to become "self-insurers" by establishing initial funds as a reserve and paying in premiums to augment this fund from which losses are paid.

Some insurers distribute or "market" their policies through independent agents only. These agents are independent contractors who may represent any number of companies and who are paid commissions on the sale of the policies.

Other insurers distribute their policies through salaried employees, sometimes also on a salary and commission basis but who represent that company only.

Other distribution systems include insurers that have straight commission agents who also represent that company only. There are also those companies who operate through the independent agency system and also have direct writing agents. Other companies sell by mail only. Such companies must, however, have a licensed agent in North Carolina. Some business is sold by "brokers" who do not represent a particular company but who place business with licensed agents or insurers providing the needed policies for their clients.

North Carolina Law requires that all policies sold to North Carolina residents must be countersigned by a licensed North Carolina agent even though a broker or non-resident agent arranges the sale.

The normal pattern for purchases and sales is for the agent to take an application from the purchaser. Failure of the purchaser to furnish all information required in an application can lead to many problems including loss of protection. There must always be an insurable interest involved.

Following completion of the application, the agent submits it to his company underwriter although some agents have authority to underwrite and accept risks on their own. With the exception of North Carolina automobile liability insurance which must be accepted, the underwriter reviews the application and may accept it and have the policy issued, require additional or explanatory information, require inspection of the risk or examination of the person insured in life and health insurance, may obtain information from outside sources such as credit reports, or may reject the application entirely. In life and health insurance an additional premium may be requested if the person has a health or occupational impairment.

Usually, a full or partial payment of the premium must be made at the time of application although in some instances the agent extends credit to the applicant.

If the application is accepted and the policy issued it is then delivered to the insured. It is essential that the insured or owner inspect the policy to determine if he has what he intended to buy. The law specifies that a purchaser has a certain length of time in which to decide if he wishes to keep the policy in health insurance transactions. If there is any doubt, the policy should not be accepted until corrected or the doubt resolved.

All insurance should be purchased to fill a need for such protection. Once the need has been established the purchaser may either seek an agent or buy from an agent pointing out the need. Sometimes the need originates through the requirement of a third party such as a lending institution seeking protection on the collateral or on the life of a borrower.

Most of the problems arising from the purchase of insurance originate with the failure of the purchaser to fully outline the individual need and of the agent to determine and protect those needs. Since citizens are usually dealing with a potential need only, they are inclined to treat insurance acquisition more casually than if the television set has just failed.

The citizen should always know the amounts of protection being provided and what items or conditions they cover. He should have a distinct understanding with the agent as to what is NOT covered as well as what is covered, in the way of property, liability, and occurrences. Some sources of damage are not insurable or are insurable only at prohibitive costs.

Insurance should always be procured on the basis of need. Often insurance is bought and sold without a genuine need or the need goes unrecognized. Need is

sometimes described as risk identification.

There are at least three basic means of risk identification:

(1) *Insurance Surveys* — A complete review of the properties and operations by a joint effort of insurance representatives and the owners and operators, sometimes accompanied by a form of questionnaire, personal inspection and complete discussion.

(2) *Policy Checklists* — A complete review to determine what the owners and operators presently have against what is needed.

(3) *Logical Classifications* — The identification of all risks in a logical manner and not just insurable risks analyzed on an insurance policy basis. This sometimes requires the assistance of a "consultant," a person or firm which performs the service for a charge to the owner or operator on the basis of expert knowledge and investigation.

Essentially, we are all familiar with the *conventional* needs for protection from fire, wind, explosion, burglary, liability and those coverages we hear about the most. This often appears sufficient to many, but the scope of need goes far beyond this point.

We must now talk about "First Party" and "Third Party" coverages. The "First Party" coverage is that which protects what we own. The owner is the "First Party." The insurance company is the "Second Party." The other term for this is "indemnity protection" (vs. liability protection). Simply stated, the question of *whether* the insurance company owes is not an issue as a rule, but merely *what* the insurance company owes.

"Third Party" protection is usually liability. The *First Party* is the insured, the *Second Party* is the company and the *Third Party* is the one making claim against the *First Party*. This is the contract under which the insurer assumes, for a premium, the position of the insured. For the moment, let's omit the aspect of insurance. If I *negligently* injure you or damage your property, you have a claim against me and I am responsible to you. If I have no insurance I must meet this obligation personally. If I have insurance, then the insurance company pays the obligation for me, or, if the claim is contestable, it defends me.

There are many that believe that if there is insurance in force, it must pay such claim but actually, the insurer does not have to do any more than I would have to do . . . without insurance.

There is an exception to this, which we will touch on later . . . many liability policies, even the homeowners, have a coverage condition which may pay small claims without regard to my liability . . . this is "Medical Payments" insurance. It was designed to minimize the potential of a more serious demand and assume what some might consider a moral obligation to the "Third Party."

As a majority of us probably know, when a claim goes to court the existence or identification of insurance is not admissible. The insurer's attorney is defending the insured, not the insurer.

In years gone by, and still under some circumstances, one must have had a policy for each risk . . . fire . . . storm . . . liability . . burglary . . . *etc.* Now, policies are issued which incorporate coverage for all these risks or can be tailored to assume them, and other risks through endorsements (called "riders" in the life and health insurance business).

As a rule, one company may undertake the entire risk but if it does not and more than one policy is issued, it is imperative that all policies read the same . . . this is known as "concurrency" in the vernacular of the insurance industry.

You will hear the term "coinsurance" mentioned. This is a nightmare to many policyholders and I feel compelled to add this explanation. If the percentage of "coinsurance," (that amount which the owner elects to insure himself), is, say 80%, this is what happens. Assume your building is worth $100,000. You are required to maintain $80,000. You only have $60,000 of the value in force. If you have a loss of $10,000, the insurance company owes you $60,000/$80,000 of the $10,000 or $7,500, which simply means that you, intentionally, or more likely unintentionally, elected to carry 25% of your loss. If, of course, you have $80,000 in force, you will get the full amount of loss up to that $80,000, there will be no penalty. This is why most of us must constantly up-grade our insurance to meet the increase in valuation which has been phenomenal in recent years.

What is the "worth"? The actual cash value which is replacement cost less depreciation, if any. This is legally recognized.

In North Carolina, we have two forms of package policies. One is the *Public and Institutional Property Form,* known as the *P.I.P.* The other is the *Special Multi-Peril Form* known as the *S.M.P.* Both forms are adaptable to the library. There are some conditions in which one might be preferable to the other. For example, the PIP has a periodic inspection program which is objectionable to some insureds. It also has a limited valuable papers coverage. The SMP has the usual broad form. Finally, the SMP is the more flexible.

Both provide basic, conventional coverage such as fire and extended coverage protection but both may be written on all risk basis. The policies cover all buildings and structures and all personal property owned by the insured and property of others for which the insured assumed liability prior to the loss, the insured's liability imposed by law for loss of personal property of others and the insured's interest in personal property belonging in whole or in part to others. Replacement cost insurance is available . . . a form of protection which, when the insured meets certain amounts of insurance requirements, will eliminate depreciation on a partial loss and pay for replacement, if the property is replaced, up to the amount of insurance maintained.

The policies may be endorsed to include fine art, extra expense insurance, exhibition coverage, boiler and machinery protection, movable articles off-premises and virtually tailored to the full needs of the insured outside of providing protection on vehicles.

The insurance may be written blanket or specific, one amount flexibly applicable to all items or specific amounts limiting coverage to the amount applicable to the individual item. Many policies contain exclusions and special attention must be focused on what is *not* covered as well as what *is* covered.

At this point we add what is generally known as crime coverage. There are several forms of such protection and inquiry should be made of the insurance advisor which is best for the respective installation.

One of the most general forms is a "comprehensive dishonesty, destruction and disappearance" insurance which can provide "all risk protection" for money on and off the premises.

Blanket Crime policies which broaden the foregoing and Fidelity Bonds which protect for acts of fraud, dishonesty, forgery, theft, larceny, embezzlement, wrongful abstraction, willful misapplication, misappropriation or any criminal acts of employees covered are also available.

There are also *Welfare and Pension Plan Bonds, Public Employee Blanket Bonds* and *Public Official Bonds* to afford similar protection.

This leads us into an "aside." Good records, inventories, accounts and wherever possible, photographs of property, all stored at a location which will not be destroyed in the event of a serious loss, will minimize loss adjustment problems.

There are some miscellaneous coverages that I will simply mention as a matter of touching all bases.

Flood Insurance — Subject to availability by area.

Earthquake — Usually sells well after a light tremor.

Water Damage — This would be incorporated under the "All Risk" form but if "All Risk" is not purchased, give it a serious consideration.

Transit — Covers shipment of displays, art work, etc. Be sure to learn if your basic protection includes this; it can be purchased as a single shipment cover or as a continuous coverage.

Another consideration:

Deductibles — Some policies have automatic, required deductibles but sometimes savings can be realized by adding deductible provisions.

Loss Prevention and Loss Control — To omit any reference to this would be shortchanging you. I am confident that you know of the importance of safety, good housekeeping, fire protection. The two volumes I previously mentioned have a wealth of information on this subject. Make no mistake, it is important, to your jobs and to your ability to obtain protection.

Considered by many to be much more important than property insurance is the very broad field of *Liability* protection. From the person injured when falling on the Library steps to the one on whose head an entire shelf of books may suddenly descend, claims may occur from the general operations, exclusive of vehicles. If not subject to immunity from suit, and even then, these represent problems much greater than the collection of overdue book fees.

The broadest coverage available is *Comprehensive General Liability*. These policies may be tailored by endorsement to fit the needs of the insured. One strong suggestion in placing such protection is to have the word "occurrence" substituted for "accident," for bodily injury claims to get the broadest possible effect. An example of this would be the consumption of excessively chlorinated water resulting in illness. This would not be an "accident" but would be an "occurrence."

Again, the decision of how much liability to maintain is one which should rest with the advisor and authorities.

Some governmental entities maintain what are known as "Umbrella" or "Excess" policies over and above the general liability to take care of catastrophies such as a multiple death or injury situation resulting from a fire during a large gathering.

The principal type of protection at this juncture is, of course, Workman's Compensation protection. It is in this field where expert and legal guidance is essential as to which employees are exempt and which should be covered.

There appears to be a needless concern on the part of many that volunteers are not eligible. This is incorrect. Our compensation rules and forms provide for an endorsement known as "Voluntary Compensation." The compensation premium is based on a classification table and the rates to each classification are applied to the payroll for such classifications. The rule provides that volunteers' services may be evaluated as though paid to a regular employee performing the same duties and the payroll recorded as though they were paid. Your compensation company should be asked about this coverage.

Over and above the compensation protection is the general area of *Employee Benefits. Group Life, Health and Disability* plans are to be considered as well as *Pension Plans.* If the city, county or governmental agency under which you function does not provide for such protection, your insurance advisor may be consulted for plans suitable for your staff. If it is preferred that part-time and volunteer workers not be included, special plans may be available on an individual basis although availability may be a problem.

The last area to be covered is perhaps the most troublesome to many. This area is what I have elected to name the "Outside Operations."

I believe that I have said enough about movable equipment and exhibits to permit you to know that those articles such as audio visuals, cameras, projectors, viewers and the like can be covered away from the library, under the coverage of the library, in the vehicle, at the school, and elsewhere by endorsement or "Floater Policies." Exhibition materials, displays and similar exposures may be so endorsed or special policies obtained. In any event, the location, security, and risk degree from fire, theft, and vandalism may dictate the need for special attention on special occasions and notification to your insurance advisor.

The remaining subject to be treated is vehicular coverage. First, we will deal with the Physical Damage aspect, loss to the vehicle by fire, theft, collision and other perils. These units may be covered by individual policies or fleet policies, depending on the number. Where possible, also ask for "non-owned" protection to take care of such loss to vehicles of the volunteer, rented or leased.

Be sure, as in all policies, that the name of anyone having an insured interest is shown in the policy. This is especially important when there is joint ownership. The "non-owned" protection will, of course, not name the owner as it is not known in advance in all cases.

Some entities elect to take their own loss on this type coverage and have "self-insured" plans which would not permit extension of coverage, other than by agreement in advance of loss to property of others.

The *Automobile Liability* Coverage is another matter, indeed. Surely, the vehicles owned require coverage, but what about those not owned? The vehicle of the volunteer, the rented units?

Assuming no problem in covering the owned units, suppose we start with the volunteer. First, we will assume the volunteer has his own insurance and that it is in force. Generally, if the unit is used without any form of remuneration, there is no problem, not any more than doing work for the Red Cross, the Church or a social club. Our private passenger automobile policies permit us to transport guests.

But what occurs when there is remuneration? Normally, if such remuneration does not generate a profit over and above the normal operating costs, there is no problem. If it does, then there may be one.

In either event, any volunteer should have a clear understanding with his insurance agent and/or company, preferably in writing over and above the policy, that his use will not impair his protection.

But suppose it is impaired, suspended, or has expired? The answer is in the maintenance of "non-owned" broad form coverage by the library so that protection is extended to the library and the volunteer. This works both ways as the volunteer may also want to consider such coverage for protection in operating vehicles of others, rented vehicles and commercial vehicles. Sometimes, this coverage may be difficult to obtain.

Two other forms of coverage should be mentioned. We consider the Uninsured Motorist Coverage most important. This does for the insured driver and his passengers what the other driver, who is negligent, would do if he had insurance. Also, we suggest high limits on medical payments insurance. This adds uncontested protection for the driver and passengers.

Q: Our books are insured in the library and on the bookmobile but we have been told that we cannot insure our audio-visual equipment because it will be checked out and used outside of the library. Under the circumstances can we insure our audio-visual equipment?

A. By arrangement with the insurer, by extension of existing coverage or by a special "floater" policy.

Q: Is a county library required to have liability insurance or are such government buildings exempt from liability suits?

A: This question should be referred to your attorney, board or Justice Department for clarification.

Q: What percentage of reconstruction cost would be considered adequate building insurance coverage? 80 per cent? 90 per cent? What?

A: Assuming that you wish to have enough insurance to rebuild the property, this would depend on the potential residual value remaining after the loss. This is influenced by the type of construction, the fire protection, the type of loss. For example, a frame building without fire protection would likely have little residual value; it would be totally consumed. On the other hand, if a masonry building was struck directly by a tornado or was destroyed by a gas explosion, it also might have little residual value. To be sure, maintain 100 per cent, any lesser amount is a speculation. Bear in mind that to meet the replacement cost conditions of the policy, one must maintain at least 80 per cent.

Q: What is the best way to acquire art work exhibition protection? Should it be included in general policy for building or purchased as needed?

A: This would depend on the extent of such exhibitions. Preferably, the coverage, on and off premises, should be included in the basic policies and sufficient insurance maintained to assure enough coverage to meet coinsurance requirements. If this is occasional then the coverage may be arranged for each such exhibit but this introduces the possibility of oversight in some instances. Obviously, the values involved, the location of the exhibit and the possibility of damage is of consideration.

Q: How much coverage would be considered adequate for artwork exhibitions?

A: This will depend on the values involved, the susceptibility to loss, such as type of area, location, security, etc. and the policy conditions which may require a certain amount of insurance to value to be in effect.

Q: What is the best way to handle automobile insurance for volunteers on the bookmobile?

A: We believe this has been answered in that under protection for liability the policy should be arranged to cover such liability of the volunteer worker as well as the regular employee when the bookmobile is being operated by them.

Q: What to do about coverage for volunteer workers who use their own cars and are reimbursed for mileage only?

A: If this has not been answered, we will comment that, as a rule — and this should be cleared with the volunteer's own insurance company by the volunteer — if the remuneration does not generate a profit and create a "taxi," "for hire," "common carrier" or "bus" situation, the volunteer's policy should cover. To avoid loss of protection for the library, non-owner coverage should be considered. Since the absence of workman's compensation is mentioned, the question may have to do with personal injury coverage and we refer to the personal accident policy previously mentioned. The broad form is known as "Death, Dismemberment and Disability."

Q: What is considered adequate vehicular coverage for a public library?

A: This is a two-part matter. As to liability and property damage, one should consider the extent of use, any immunity conditions, number of vehicles, capability of the operators and be guided by legal advisors.

As to physical damage. The values involved, the types of vehicles, the extent of use and, perhaps basically, whether the owner wants to recover or become a form of self-insurer and ammortize the loss over a period of time. Fire, Theft and Collision, Comprehensive where available should be obtained when coverage is desired.