

INSURANCE SCHOOLS, INC.

Continuing Education System

Personal Lines Property Insurance

INSURANCE SCHOOLS, INC.
CONTINUING EDUCATION SYSTEM

Personal Lines – Property Insurance

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(11/07)

Preface

While a great deal of care had been taken to provide accurate and current information, the ideas, suggestions, general principals and conclusions presented in this course/text are subject to local, state and federal laws and regulations, court cases and any revisions of the same. The student is thus urged to consult legal counsel regarding any points of law. This course/ text should not be used as a substitute for competent legal advice.

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Introduction to Insurance Schools' Continuing Education System

Each course in Insurance Schools Continuing Education Systems is organized to deliver the course material in a clear, concise manner. Each section is designed to help you comprehend the main points quickly and easily so that you will pass the final exam and receive your continuing education credit hours. Read the section below and follow the tips provided for the best results.

HOW TO EFFECTIVELY USE THE CE SYSTEM

- Read each section thoroughly. Pay particular attention to the Important Point sections and policy analysis sections that will help clarify the material.
- At the end of each chapter, there are review questions to help re-enforce the material and to prepare you to take the final exam.
- Complete the Review Questions at the end of each section and check your answers using the Review Questions Answer Sheet provided. If you do not feel comfortable with the number of questions you were able to correctly answer, review the material in that section again.
- Your final exam will be scored and Insurance Schools, Inc. will send the proper notification to your state insurance department.

COURSE OBJECTIVES

The topics to be discussed in this course are as follows:

1. The standard fire policy
2. Dwelling insurance
3. Homeowners insurance

This course is designed to take the student through the various property insurance products. A full discussion of the purpose of the form, eligibility requirements, perils, exclusions, and other policy provisions are included. The course is written in such a way as to clarify practically every clause in these policies by way of examples and policy analysis.

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Section One

The Standard Fire Policy

The Standard Fire Policy is the basis for all Property Insurance Policies

The standard fire policy was written and eventually revised in New York in 1943. The form contains 165 lines and became the basis or foundation of property insurance policies we use today. Most of the states adopted this form as it was written, while a few states have made minor modifications. It is the only policy to have its wording standardized by law.

The form is included in this section so you can refer to it at any time. There are only two pages to the form.

The first page consists of the declarations page with insuring agreements. The named insured, mailing address, effective and expiration date of the policy, property covered, and perils covered are included on this page. The perils of property insurance are the insuring agreement. In addition the rates, premiums, limits of coverage, and signature of agent are also shown. Since this contract is not a stand-alone policy, other coverage forms are attached with their form number shown on the declaration page. For example: to cover a dwelling, the dwelling form would be attached. To cover commercial property, the commercial property form is attached. Additional peril coverage endorsements can also be added to broaden coverage's.

The insuring agreement at the bottom of the first page is brief but contains a great deal of information. The provisions are discussed as follows:

- The coverage in most states starts at 12:01 A.M. (standard time). There is a group of states on the very last line of the first page of the form, which lists the states that require the effective time to be 12:00 noon.
- The insurance applies to the named insured and legal representatives. Should the insured die, the insured's legal representatives would be covered while acting in that capacity for the deceased.
- Once a covered loss has occurred, the policy states that the insurance company will pay the actual cash value of the loss or the actual cost to repair or replace the damaged property with like kind and quality. Excluded is loss by the insured as a result of a business interruption (loss of income). Nor is there coverage for the increased cost to repair as mandated by an ordinance or law regarding construction. Perhaps the insured has a destroyed frame building and the ordinance requires reconstruction with brick. The insured must pay the difference for the additional construction costs. There are forms available to purchase this gap in coverage for the increased cost of construction.

- The policy insures against all direct loss by the perils of fire and lightning. The form also includes coverage for the removal of property (when endangered by insured perils) as stated in the insuring agreement. If the covered property is moved elsewhere to protect it from damage, the policy provides coverage for five days on an “all risk” basis. For example: Should the endangered property that has been removed for protection be stolen, then coverage applies even though theft is not an insured peril when the property is at the insured location prior to a loss.

The second page consists of the conditions and exclusions in the policy. These are contained in the 165 lines that are really simply numbered provisions in the policy.

Some of the most important provisions are discussed as follows:

Lines 1-6

Coverage is voided if the insured is guilty either before or after a loss of concealment or misrepresented of a material fact. Perhaps the insured is doing something illegal on the premises and conceals this from the insurance company. This would void the policy.

Lines 7-10

This provision excludes coverage for certain types of property. For example: accounts, bills, currency, deeds, evidence of debt and money are not covered. Bullion and manuscripts can be covered if listed specifically on the policy.

Lines 11-27

There are certain perils that the form excludes from coverage. These consist of perils such as war, military action, invasion, insurrection etc. Also excluded is loss caused by government authority except to prevent the spread of fire. Therefore, should there be a fire on the insured's block and its ordered that the insured's building be removed to prevent the spread of fire, the insured is covered.

Neglect of the insured to use all reasonable means to protect and preserve the covered property from loss at the time of loss and after the loss is excluded. The insured cannot simply let a building burn to the ground and not call the fire department, for example.

Lines 28-35

This clause suspends coverage if certain conditions exist, but restores coverage if the condition or conditions are removed.

A loss that occurs while the hazard is increased by any means within the control or knowledge of the insured is not covered. If an insured with knowledge allows a hazard to exist that causes a loss, the loss is not covered.

The policy also excludes coverage if the building intended for occupancy is vacant or unoccupied for a period of 60 consecutive days. In property insurance, vacant means the building is empty. Unoccupied means that the building contains contents, but the building is not occupied. For example, a dwelling can have furniture but no one is living there.

Lines 36-37

Specifically excludes coverage for explosion and riot unless fire ensues and then only for the ensuing fire loss.

Let's assume there is an explosion and the building is heavily damaged and then catches fire. The explosion damage is excluded but the damage caused by the fire is covered. This creates a problem in adjusting the claim since some determination has to be made as to the separation of the two causes of damage.

Lines 86-89

Please refer to the form under the "pro-rata liability clause". This clause prevents the insured from collecting over insurance.

If the insured owns a building worth \$50,000 and insures it with five companies for \$50,000 each, he would not be entitled to receive \$250,000 in case of a total loss to the building. Each company would pay its pro-rata share of the loss. In this example each company would pay \$10,000.

Lines 123-140

This item deals with the problem that sometimes arises as to the value of the damaged property. If there is disagreement between the insured and the insurance company, regarding the value of the claim, the "appraisal clause" provides a remedy for both. Each party can select a neutral appraiser and they in turn will select an umpire to try to resolve the problem of the value of the loss. Sometimes, if requested, a judge will act as the umpire to settle the dispute. Each party must pay their fair share of the expenses for the appraisers and umpire.

Lines 141-147

This provision gives the insurance company two options to settle a loss. The first option is for the company to take possession of the property and pay the insured its appraised value. The second option is to pay the actual cash value of the loss or to repair, rebuild or replace with like kind and quality the destroyed property. The latter is generally the way the loss is adjusted.

Lines 148-149

This clause deals with the abandonment of property by the insured to the insurance company in case of a loss. This clause forbids the insured to do this. The insured cannot have a claim and expect the company to pay the policy limits, take possession of the property, and allow the insured to walk away. The insured must prove his loss by getting estimates to repair, provide records as requested by the insurance company and render a final proof of loss.

Lines 150-161

The insurance company must pay the claim within 60 days of receiving a proof of loss from the insured. A lawsuit against the insurance company is forbidden unless all the policy requirements have been complied with and commenced within twelve months after the loss.

Lines 162-165

This provision allows the insurance company the right to surrogate against a third party that may have caused the loss paid by the company. Any amounts recoverable are usually assigned to the company.

John's neighbor is burning leaves. The fire gets out of hand and spreads to John's house. The insurance company pays John's loss and then files a claim against the neighbor for reimbursement of the money it paid on John's behalf. This is called the subrogation clause.

Additional Forms Used in Conjunction with the Standard Fire Policy

Prior to 1970, the SFP (Standard Fire Policy) was used in conjunction with a variety of property forms. Commercial property, business interruption, dwellings, farm property, builders risks are just a few of the types of forms that were attached to the SFP.

Other perils forms could also be attached to broaden coverage. One such form was called the "extended coverage endorsement". These six additional perils included the following:

1. Windstorm and hail (interior is covered if exterior sustains damage)
2. Explosion (explosion of steam boilers are excluded)
3. Riot, riot attending a strike and civil commotion
4. Smoke damage (excluding agricultural smudging or industrial operations)
5. Aircraft (the actual physical contact with the insured property)
6. Vehicle damage to the insured property. (Non-owned vehicle hitting a building)

Another endorsement covering vandalism and malicious mischief (VMM) could also be added for a small additional premium. By way of definition, vandalism is when damage is done randomly without regard to the ownership of the property. Malicious mischief is when damage is done to someone's property and the owner is known by the perpetrator.

There was also an "all risk" form (we now call it an "open perils" form) that covers all causes of loss except those, which the form excluded. Instead of naming the perils to be insured against, the form covers all loss

except those that are excluded. For example flood and earthquake are excluded as well as war and nuclear energy losses.

The Standard Fire Policy – Now a part of the past

The standard fire policy for the most part has been replaced by newer and easier to read forms. However, many of the provisions contained in the standard fire policy are also contained in the newer forms. Some states still require that all the provisions (165 lines) be in the property insurance policies that cover buildings or contents. The newer forms with improved coverage formats, have greatly reduced the number of insurance forms we use today.

The reader should be aware that the number of days under the removal clause in the standard fire policy (SFP), which is five days, might be different in other property insurance policies. Also the treatment of coverage when the property is vacant or unoccupied will be different in the other property insurance forms as well.

Review Questions ?

1. The Standard Fire Policy is a stand-alone policy.

True

False

2. How many additional perils are included in the extended coverage endorsement (EC)?

Two

Five

Six

Eight

3. In most states the coverage takes effect at:

12:00 noon

12:01 a.m.

12:00 midnight

12:01 p.m.

4. The basic SFP included coverage for which of the following perils?

A. Fire and lightning

B. Fire, lightning, and removal of property

C. Fire, lightning and extended coverage perils

D. Fire, lightning, removal of property, and extended coverage perils.

5. Vacancy and unoccupancy for sixty continuous days affect the coverage as follows:

- A. Can void coverage
- B. Has no affect on the coverage
- C. Affects only certain perils

6. Should the insured suffer a fire loss to his building, the policy will also cover loss of income.

- A. True
- B. False

7. Mr. Jones has a building worth \$50,000. He purchases three policies from three different companies in the amount of \$50,000 each. He has a total loss. How much will he collect?

- A. \$150,000
- B. \$50,000
- C. \$75,000
- D. \$100,000

8. How long does the removal coverage stay in effect after a loss?

- A. 10 days
- B. 7 days
- C. 5 days
- D. 14 days

9. Which of the following can be insured under the Standard Fire Policy?

- A. Stocks and bonds
- B. Money and securities
- C. Deeds and evidences of debt
- D. Personal Property

10. Concealment and fraud can affect coverage as follows:

- A. Decreases the amount recoverable by 50%.
- B. Coverage decreased based on the percentage of proven concealment or fraud.
- C. Will void the coverage.
- D. Concealment and fraud can only affect coverage if discovered.

Review Answers

1. B
2. C
3. B
4. B
5. A
6. B
7. B
8. C
9. D
10. C

SECTION ONE- THE STANDARD FIRE POLICY

[Click here to review a copy of the Standard Fire Policy.](#)

Section Two

Dwelling Forms

Introduction

Stand-alone dwelling forms are now used to cover property. It is important to fully understand the coverages, perils, and exclusions.

In the previous chapter we discussed the Standard Fire Policy and the fact that it was used to attach the dwelling forms to cover the insured's property. Today, the insurance industry has developed stand-alone dwelling forms to cover dwellings. Most dwellings that are owner occupied are covered under homeowner type policies. Prior to the homeowner policy, some companies used a form call the comprehensive dwelling insurance policy. It merely combined dwelling property insurance with personal liability coverage to form a package policy (a policy that provides more than one coverage part).

The need for the dwelling policy is based on a variety of reasons. Perhaps the dwelling does not qualify for a homeowner policy because of its age, physical condition, location, insured's loss record, number of family units or the fact that it is not occupied the owner.

IMPORTANT POINT: Some companies prefer to cover seasonal dwellings, camps and mobile homes under the dwelling program although they can be covered under a homeowners policy.

Premiums for the dwelling policy are somewhat higher than the homeowner policy and offer less coverage on items such as theft and personal liability coverage which must be added by endorsement.

A dwelling of up to four family units (this can vary by state) can be covered under the dwelling policy and they **do not** have to be owner occupied. A maximum of five boarders or roomers is allowed. However, under the homeowner program, the dwelling unit cannot exceed four families but one unit **must be** occupied by the owner. Units over four families must be covered under the commercial forms.

The dwelling property program initiated by Insurance Services Office in 1974 replaced and standardized the various regional dwelling building and contents forms that were written in accordance with territorial fire rule books. Out of this developed the simplified language dwelling 77 policy program comprising three dwelling property forms: DP-1, the basic form; DP-2, the broad form; and DP-3 the special form.

The dwelling forms were revised for the 1989 dwelling program, and included many provisions that were previously located in amendatory endorsement DP-330 and special provisions endorsement DP-300. Additionally, changes regarding additional coverages and loss settlement that were made in the 1984 homeowners forms were incorporated in the dwelling property forms.

The forms have been revised once again and are known as the Dwelling 2002 program with an edition date of December 2002. These new forms contain many coverages, such as ordinance and law, that were included by amendatory endorsement beginning in 1994.

Parts of the Dwelling Policy – Coverages

The dwelling policy, with permissible optional coverage's, consists of the following:

1. **The declaration page** which includes the effective date, name and address of the insured, description of the covered property, limits of coverage, premiums, mortgagee and other miscellaneous information.
2. **Dwelling coverage form** (lists the perils) --there are three forms from which to choose.
3. **Optional theft endorsement** (either the limited or broad form).
4. **Optional personal liability endorsement.** This covers premises liability and the personal activities of the named insured and relatives of the same household.
5. **Other permissible endorsements** that are similar to the homeowner program such as earthquake and the inflation guard endorsement.

As mentioned there are three dwelling forms. They are the basic (DP1), broad (DP2) and the special (DP3). Obviously, the basic form will be the least expensive because of its limited number of perils and restricted coverage under some of those perils. The other two forms will be slightly more expensive because of the broader coverage. Most agents today will steer away from the basic form in favor of using the broader forms. The reason is to avoid coverage problems in case of a loss.

Coverages Included Under the Dwelling Forms

	Basic	Broad	Special
A--Dwelling	Yes	Yes	Yes
B--Other Structures	Yes	Yes	Yes
C--Personal Property	Yes	Yes	Yes
D--Rental Value	Yes	Yes	Yes
C--Additional Living Expense	No	Yes	Yes

Coverages Defined:

A. Dwelling means:

Dwelling insures the residential dwelling, any structures attached to it, and materials and supplies on or adjacent to the location that are used for construction, alteration or repair of any structures at the described location. If not otherwise covered by the policy, building equipment and outdoor equipment used for the service of and located on the “described location”.

Form Analysis:

A dwelling with an attached garage, greenhouse or deck would be considered one structure. Building materials, though not currently part of the structure, but intended to be used for the structure, are also considered part of the dwelling coverage. A ladder or lawn mover used to service the premises, if not otherwise covered by the policy, are also part of the dwelling coverage.

B. Other Structures means:

The policy covers structures set apart from the dwelling by a clear space. The fact that they are connected to the main residence by a fence or a utility line still means they are a separate structure. Buildings used for business, farming or manufacturing purposes are excluded from coverage. Buildings that are rented to others, not a tenant of the dwelling, are excluded unless they are used as a private garage.

Form Analysis:

The form makes it clear that the “other structure” should be on the same premises as the residence. Also the use of the structure for business, manufacturing or farming is prohibited. Lastly, if rented to a non-tenant of the residence, only structures used as a private garage are eligible for coverage.

In all the three forms, this coverage is 10% of the dwelling limit. If a dwelling is insured for \$100,000, the other structures are covered for total of \$10,000. If additional coverage is needed, the coverage can be increased.

Note that under the DP1 form, this coverage is part of the coverage on the dwelling limit. It is not additional insurance. Under the DP2 and DP3 forms, the coverage is additional to the dwelling limit. Thus if under a DP1 the dwelling and private garage are destroyed by fire, the limit on the dwelling is all the insured can collect. But, under the other two forms, the insured can collect the limit shown on the dwelling and the extra 10% for the outbuilding.

C. Personal Property means:

The policy covers personal property, usual to the occupancy as a dwelling, owned or used by the insured or family residing with the insured while on the described location.

At the insured's request, the insurance company will cover personal property owned by a guest or servant while the personal property is on the described premises.

In order for the insured to have coverage for the insured's personal property, a limit must be shown on the declarations page.

This section of the policy gives protection to personal property at the insured location (will provide 10% of coverage C for personal property off premises, other than rowboats and canoes), owned by the insured or members of his/her family residing with the insured and usual to the occupancy of the dwelling. This 10% of coverage C is worldwide coverage but is part of the coverage C limit and not additional insurance. Nor is there coverage for servants and guests off premises.

Form Analysis:

The contents coverage is covered on an “actual cash value “ basis. This represents the cost new of an item less depreciation. The insured chooses his coverage based on this method of evaluation. Coverage applies while on the residence premises for the insured, family members and at the option of the insured, the property of guests and servants. The 10% of coverage C for worldwide coverage, only applies to the named insured's and family members' property. Obviously, if the insured travels a great deal, there are better ways to cover the property with “all risk” personal property floaters.

The 10% extension does not apply to rowboats and canoes off the premises so coverage for these items only applies on the premises.

Since the form indicates that personal property “owned or used” by the insured is covered, the term used is broad enough to include items that the insured has borrowed or leased. Subject, of course, to the peril coverage the insured has purchased.

C. Rental Value means:

This coverage is an “indirect coverage”. Fire damage to a structure would be considered a “direct loss”. The application of this coverage is the same under forms DP2 and DP3 but different under the DP1.

If there is a covered loss to either the building, outbuilding or contents, that makes that part of a described location rented to others or held for rental unfit for its normal use, this coverage would apply.

The coverage pays the fair rental value, less any expenses that would normally discontinue. The period of time is the shortest time to repair or replace the damaged property.

Under the DP1, the limit of coverage is 10% of the dwelling limit. The insurance company is then required to pay up to 1/12 of this 10% for any one month. Payment under the DP1 form reduces the limit for the dwelling until the property is restored. The coverage, therefore, is not an “additional” amount of insurance.

Under the DP2 and DP3 forms the limit is also 20% of the coverage on the dwelling, but is an “additional” amount of insurance and does not reduce the coverage on the dwelling. Also, under these two forms, coverage for additional living expense is included in the 20% limit. Therefore, the insured has two coverage’s within this 20% limit. We will discuss additional living expense later.

Another clause in all three forms provides coverage should a civil authority prohibit use because of damage to a neighboring location by an insured peril. Perhaps there has been a large fire and the civil authority has blocked off the streets prohibiting entry to the insured’s premises. The rental value coverage would apply to all three forms and also additional living expense for the DP2 and DP3 forms for two weeks.

Form Analysis

The coverage’s under this section are included in the form without additional premium charges to the insured. There are endorsements to allow coverage for rental income to be increased. Remember, the dwelling forms can be used to cover up to a four family unit and the 10% limitation may not be adequate.

The insured is required to start repairs on the damaged property as soon as practical and cannot sit back, collect the coverage, and do nothing. Should the insured decide not to repair or replace the damaged property, the insurance company will pay the insured for the normal period of time it would take to restore the property.

C. Additional Living Expense means:

This means any necessary increase in living expenses incurred by the insured to maintain the household as per the insured’s normal standard of living. Payment is limited to the 20% of the dwelling amount, and ceases when the premises are restored or if the insured has to permanently relocate, and the shortest time required for the household to settle elsewhere.

The same two week civil authority clause also applies to this coverage, should the insured be unable to use his premises because of their actions.

Form Analysis

This coverage pays for the extra living expenses incurred by the insured should the property be damaged by an insured peril. Keep in mind these are over and above the insured's living expenses and are intended to help the insured maintain the household's normal standard of living. The insurance company will resist paying expenses that would exceed the insured's normal standard of living. Should an insured rent a large suite in an expensive hotel and order room service for all the meals, payment would probably be denied.

Also remember that the DP1, does not provide the additional living expense coverage. Only the DP2 and DP3 include additional living expense along with rental reimbursement coverage, with the 20% of Coverage A limit. Again, this applies to either coverage but the maximum percentage of Coverage A is limited to a total of 20% of coverage A if the insured makes a claim for both.

Personal Property Not Covered

There are certain types of personal property excluded from coverage in all the dwelling forms. All three forms are the same in this regard. There are seven classes of property excluded:

1. Accounts, bank notes, bills, bullion, coins, currency, deeds, evidences of debt, gold, other than gold ware, letters of credit, manuscripts, medals, money, notes other than bank notes, passports, personal records, platinum, securities, silver other than silverware, tickets and stamps.
2. Animals, birds or fish
3. Aircraft and parts. Aircraft means any contrivance used or designed for flight, except model or hobby aircraft not used or designed to carry people or cargo.
4. Motor vehicles or all motorized land conveyances. This includes:
 - a. their equipment and accessories; or
 - b. any device or instrument for the transmitting, recording, receiving or reproduction sound or pictures which is operated by power from the electrical system of the motor vehicles or all the motorized land conveyances, including:
 1. accessories or antennas; or
 2. tapes, wires, records, discs, or other media for use with any such device or instrument while in or upon the vehicle or conveyance.

We do cover vehicles or conveyances not subject to motor vehicle registration which are:

- a. used to service the Describe Location; or
 - b. designed for assisting the handicapped.
5. Watercraft, other than rowboats or canoes
6. Data, including data stored in:
- a. books of account, drawings or other paper records; or
 - b. electronic data processing tapes, wires, records, discs or other software media.

However, we do cover the cost of blank recording or storage media, and of pre-recorded computer programs available on the retail market.

7. Credit cards or fund transfer cards.

Form Analysis

The dwelling forms do not include, as do the homeowner policy forms, special limits of coverage for certain items. Limited coverage for jewelry, furs, guns, money, watercraft, and trailers is provided under the Homeowner policy for these items. This is because there is less (perils) coverage under the dwelling forms.

Therefore, should an insured have these exposures, special personal property floaters are available with broader coverage. Theft coverage for these items can be added to the dwelling policy by using either the limited or broad form theft endorsement that will be discussed later.

Other Coverages Under The Forms

To eliminate a few gaps in coverage should the insured have a loss, the policy includes additional coverages:

1. Debris Removal

When a loss occurs, the insured will incur costs to remove the damaged property. This is called debris. The debris removal coverage is limited to “reasonable expense” resulting from a covered loss. This coverage is provided but the amount spent is included in the limit of coverage on the property. Therefore, this is not an additional amount of “free” coverage.

2. Improvements, Alterations, and Additions

This coverage only applies to a tenant of the property. The form allows the insured to apply up to 10% of the contents limit carried to apply to any improvements, alterations, and additions added to the landlord's property. Under the basic DP1 form, the amount of this loss is included in the insured's contents limit and is not additional insurance. Under the DP2 and DP3 forms the 10% coverage is in addition (extra) to the contents coverage carried by the insured.

3. Reasonable Repairs

When an insured has a loss, it is his/her responsibility to protect the property from further loss. There was a case where the roofing blew off an insured's dwelling during a storm. The insured did nothing to protect the unprotected roof. Another storm occurred before the adjuster appeared to adjust the first claim. As a result of rain that came through the unprotected roof, additional severe damaged occurred. The adjuster denied the additional damage on the basis that the insured was neglectful in not protecting the property from further loss.

That is the purpose of the "reasonable repair" clause. The insurance company will pay all reasonable costs spent to protect the property from further damage. The amount spent by the insured is included in the limit of coverage and is not "additional" insurance.

4. Fire Department Service Charge

All the dwelling forms provide a limit of \$500.00 for fire department service charges incurred by the insured. This is included in all the dwelling forms as well as the homeowner forms. This limit is an additional (free) coverage for the insured.

5. World-wide Coverage

The insured may use up to 10% of the coverage C limit of liability for loss by a peril insured against to property covered under coverage C except rowboats and canoes while anywhere in the world.

6. Property Removed

The policy provides very broad coverage in excess of the perils insured against (the form states "against direct loss from any cause") if the property is removed to protect it from the perils insured against for 30 days.

7. Trees, Shrubs and Other Plants (DP-2 and DP-3 only)

The form provides limited coverage for trees, shrubs and other plants for "specified perils" of loss. The perils are listed in the form and do not include the perils of wind or lightning. The limit is 5% of coverage A but no more than \$500 on any one tree, shrub or plant.

Example: If an insured carries \$90,000 on the dwelling, 5% or \$4500 would apply to damage under this coverage. However, a maximum limit of \$500.00 applies to any one item.

8. Glass or Safety Glazing Material (DP-2 and DP-3 only)

This additional coverage appears only in the broad and special forms. The coverage has three parts: (1) the breakage of glass or safety glazing material from the perils insured against; (2) the breakage of glass or safety glazing material caused by earth movement; and (3) the direct physical loss to covered property caused by the broken glass (as when fragments scratch a piece of furniture). There is no coverage, however, for any other loss that may result if glass is broken. For example, if a thief breaks a window to gain entrance to the insured premises and then steals furnishings, there is no coverage unless theft coverage has been arranged.

Glass is covered which is part of a covered building, storm door or storm window. Coverage is included if caused directly by earth movement. Direct loss also includes loss to covered property caused solely by the pieces, fragments or splinters of broken glass or safety glazing material which is part of a building, storm door or storm window. Glass breakage does not apply if the dwelling has been vacant for more than 60 consecutive days except for loss caused by earth movement.

9. Ordinance or Law (DP-2 and DP-3 only)

Previously this coverage had to be added by endorsement. The 2002 forms DP-2 and DP-3 include this coverage. Coverage applies with respect to the increased costs of construction after a covered loss has incurred due to the enforcement of any ordinance or law which regulates the construction, demolition, remodeling, renovation or repair of the structure. The insured may use of to 10% of the coverage A limit for this coverage. This coverage is additional insurance under the DP-2 and the DP-3 forms. There are several limitations to this additional coverage and the student would be prudent to review the form.

10. Collapse (DP-2 and DP-3 only)

This peril insures for risk of direct physical loss to covered property involving collapse of a covered building or any part of the building caused by one or more of the following:

- a. Perils insured against in this policy;
- b. Hidden decay;
- c. Hidden insect or vermin damage;
- d. Weight of contents, equipment, animals or people;
- e. Weight of rain which collects on a roof;
- f. Use of defective material or methods in construction, remodeling or renovation if collapse occurs during the course of the construction, remodeling or renovation.

Loss to an awning, fence, patio, pavement, swimming pool, underground pipe, flue, drain, cesspool, septic tank, foundation, retaining wall, bulkhead, pier, wharf, or dock is included under items b, c, d, e and f unless the loss is a direct result of collapse of a building. Collapse does not include settling cracking, shrinking bulging or expansion.

IMPORTANT POINT: The revised 2002 forms define collapse as an abrupt falling down or caving in of a building or any part of a building with the result that the building or any part of the building cannot be occupied for its current intended purpose.

🔍 Form Analysis

This peril includes coverages that are very important. Note that the peril covers the building or any part of the building that should collapse. Hidden decay (perhaps water has caused support beams to rot) or termites have destroyed the sub-structure. As long as these are hidden and unknown to the insured at the time of the collapse, coverage would apply.

Perhaps the drain on a flat roof become clogged and a large storm occurs. If the rain accumulates and causes the roof to collapse, coverage would apply. The carrier may attempt to use neglect as a basis for denial of this type of claim because of failure to clean the drain.

Suppose an insured decides to tear down an 18 foot weight bearing wall to create a “great room” and causes the second floor to collapse because of defective construction methods. Coverage would apply.

Dwelling Forms – Perils and Exclusions

The three dwelling forms differ greatly in the coverage as respects the perils insured against. The DP1 and DP2 forms are named peril forms. Each peril that is covered will be listed in the form. If it is not listed then there would not be coverage unless separate coverage is purchased by endorsement where available. The DP3 form is “all risk” or as we say today an “open peril form”, on the dwelling and other structures. The personal property coverage provided by the DP3 is named peril coverage similar to those perils in the DP2 form.

BASIC FORM (DP-1) PERILS

Unless excluded in the general exclusions, the form provides the following peril coverages.

1. Fire or Lightning

🔍 Form Analysis

These terms are not defined in the policy. However, the general accepted definition of fire is: a rapid oxidation, accompanied by a flame, spark or glow. It must be sudden and unexpected. A long-term predictable process such as scorching is not covered. It must also be an unfriendly, hostile fire. A friendly fire is one, which is contained in the place intended for it such as a fireplace. Only direct damage caused by hostile fire (including smoke from the hostile fire) is covered by this peril. Lightning is defined as electricity atmospherically produced by nature. It is not an artificial electrical current.

2. Internal Explosion

The form states the following: Internal explosion, meaning explosion in the dwelling or other structure covered on the described location or in a structure containing personal property covered. Explosion does not mean:

- a. electric arcing
- b. breakage of water pipes
- c. breakage of pressure relief devices

This peril does not include loss by explosion of steam boilers, or steam pipes, if owned or leased by the insured or under the insured' control.

Form Analysis:

This peril is very broad in that all types of explosions, except those excluded, are covered if they take place on the insured premises. The last clause deletes coverage for steam boilers in owned, leased or under the control of the insured. Should an insured have covered personal property in a non-owned building, and the steam boiler is not under the insured's control, then coverage would apply. Note the policy refers to a steam boiler and not a hot water heating boiler.

Typical insured explosions would include the explosion of a hot water tank, a furnace explosion, a stove, a pressure cooker and a hot water heating boiler.

ADDING THE EXTENDED COVERAGE PERILS TO THE DP1

As you may recall, under the Standard Fire Policy (SFP), a separate endorsement was used to add the extended coverage peril coverages (EC). The DP1 dwelling form includes a section for these EC coverages but coverage only applies if there is a premium shown for EC on the declarations page of the policy.

By purchasing this coverage the insured will also be covered for the following additional perils:

1. Windstorm or Hail
2. Explosion

 Form Analysis:

When the extended coverage endorsement perils are included, the peril of explosion replaces the peril of explosion described under 1B of the basic form. The peril still does not apply to steam boilers owned or leased or under the control of the insured. However, the peril is not tied to the interior part of the dwelling or other structure covered on the described premises. Nor does the explosion have to occur on the insured's location.


3. Civil Commotion

4. Aircraft, including self propelled missiles and spacecraft. (Damage to the insured property caused by these items.

5. Vehicles

This peril does not include loss:

- a. Caused by a vehicle owned or operated the insured or a resident of the described location, or
- b. Caused by any vehicle to fences, driveways and walls.

 Form Analysis:

If the insured or a resident hits the insured property with a vehicle, coverage is excluded. Should someone else damage the property with their vehicle, then coverage would apply. However, anyone striking a fence, driveway or wall with a vehicle, coverage would be excluded.

6. Smoke, meaning sudden and accidental damage from smoke.

This peril also excludes smoke from a fireplace or agricultural smudging or industrial operations.

7. Volcanic Eruption other than loss caused by earthquake, land shock waves or tremors.

Note: *Airborne shock waves would be covered and the ash from an eruption.*

VANDALISM OR MALICIOUS MISCHIEF

To activate this coverage, the insured must pay an additional premium as shown on the declarations page of the policy. The peril is described as follows:

8. Vandalism or malicious mischief.

This peril does not include loss:

- a. to glass other than glass building blocks;
- b. by pilferage, theft, burglary or larceny, but damage to the building caused by burglars will be covered; or
- c. to property on the described premises if the dwelling has been vacant for more than 60 consecutive days immediately before a loss. A dwelling under construction is not considered vacant so if damaged because of vandalism or malicious mischief, the insured would be covered.

Form Analysis of the DP1 Form

As we can see, this form is very limited with only basic perils available. In the DP2 form, the extended coverage perils are included in the form and are somewhat broader than those provided by the DP1 form. For example the smoke and vehicle perils are broader as we will see when we review the other forms. Vandalism or malicious mischief coverage is included in the DP2 form.

BROAD FORM (DP-2) PERILS

The broad form DP2 contains all the perils provided by the DP1 including the extended coverage perils and vandalism or malicious mischief. In addition, the form includes several more important perils.

Some of the perils provided by the DP1 with the extended coverage perils, are broader under the DP2 form.

IMPORTANT POINT: The DP-2 form broadens these EC perils: explosion, smoke and vehicles.

The following are the main examples where coverage differs:

1. Explosion:

The form does not place the same restrictions as does the DP1 with the EC perils coverage. Steam boiler explosions are covered on or off the insured's location that damage the insured's Covered property. There are no restrictions on the type of explosion under the DP2 form.

2. Vehicles:

The only restriction applies to loss to a fence, driveway or walk if damage is caused by a vehicle owned or operated by the insured or resident of the described location. Therefore, if the insured runs into his house with a car there is coverage. But no coverage to a fence is provided. If a third party either hits the house or fence with a vehicle then coverage applies.

3. Smoke:

There are no restrictions for loss caused by smoke from a fireplace. If the insured starts a fire in his fireplace and forgets to open the damper, the resultant smoke damage is covered. (Note: The DP-2 has broadened the EC perils so that there are no restrictions for loss caused by smoke from a fireplace. The DP-1 would not cover this loss.)

ADDITIONAL PERILS UNDER BROAD FORM DP2

There are eight other perils under the broad form. They are as follows:

1. Damage by burglars

The basic form DP1 with vandalism or malicious mischief endorsement, includes damage to the building caused by burglars. The broad form provides this coverage as a separate peril, (damage done by burglars to the building and its contents.)

2. Falling objects

This peril does not include loss:

- a. To the inside of a building or property contained in the building unless the roof or outside wall of the building is first damaged by a falling object.
- b. To outdoor radio and television antennas and aerials including their lead-in wiring, masts and towers, outdoor equipment, awnings and fences.

NOTE: The clause also excludes damage to the object itself. In addition, types of falling objects are not described so basically any damage by any falling object is covered.

3. Weight of ice, snow or sleet which causes damage to a building or property contained in the building


This peril does not include loss to an awning, fence, patio, pavement, swimming pool, foundation, retaining wall, bulkhead, pier, wharf or dock.

4. Accidental discharge or overflow of water or steam from within a plumbing, heating, air conditioning or automatic fire protective sprinkler system or from a household appliance. We also pay for tearing out and replacing any part of a covered building necessary to repair the system or appliance from which the water or steam escapes. This peril does not include loss:

- a. To a building caused by constant or repeated seepage or leakage over a period of weeks, months or years.
- b. On the describe premises if the dwelling has been vacant for more than 30 consecutive days immediately before the loss. A dwelling being constructed is not considered vacant:

- c. To the system or appliance from which the water or steam escaped;
- d. Caused by or resulting from freezing except as provided in the peril of freezing below; or
- e. On the described location caused by accidental discharge or overflow which occurs off the described location. (Note: this could be a broken city water line, for example.)

With this peril, a plumbing system does not include a sump, sump pump or related equipment.

 Form Analysis:

This peril has sometimes caused some confusion. The insurance company is not obligated to pay for the part of a system or appliance that broke. If a water pipe breaks in a wall, the part that bursts is not covered. The company will pay to tear out the wall to get to the broken part and replace the wall.

- 5. Sudden and accidental tearing apart, cracking burning or bulging of a steam or hot water heating system, air conditioning or automatic fire protective sprinkler system, or an appliance for heating water

This peril does not include loss caused by freezing except as provided in the peril of freezing.

Example: A hot water heating boiler bursts and floods the dwelling ruining floors and carpeting. Under this peril the damage is covered plus the damage to the boiler. Therefore the policy would pay for a replacement boiler. There is not an exclusion under this peril for damage to the appliance itself.

- 6. Freezing of a plumbing, heating, air conditioning or automatic fire protective sprinkler system or of a household appliance

This peril does not include loss on the described location while the dwelling is vacant, unoccupied or being constructed, unless you have used reasonable care to:

- a. maintain heat in the building; or
- b. shut off the water supply and drain the system and appliance of water. (Simply shutting off the water will not suffice, as the system must be drained as well).

- 7. Sudden and accidental damage from artificially generated electrical current

This peril does not include loss to a tube, transistor or similar electronic component.

🔍 Form Analysis:

The peril excludes losses such as a power surge that damages a television, radio or computer. However, a power surge that ruins kitchen appliances would appear to be covered because they don't have tubes etc. This would make a good argument in case of a loss.

8. Volcanic Eruption other than loss caused by earthquake, land shock waves or tremors

🔍 Form Analysis:

Earth movement or trembling is not covered. However, airborne shock waves are covered. Lava flow or ash from the volcano eruption is also covered.

GENERAL EXCLUSIONS OF THE DP2 FORM

1. Ordinance or law, meaning enforcement of any ordinance or law regulating the use, construction, repair, or demolition of a building or other structure, unless specifically provided under this policy.


🔍 Form Analysis:

Should a frame dwelling be destroyed by fire and an ordinance requires rebuilding with brick, the additional construction costs must be borne by the insured. If a structure is deemed to be a danger to the citizens because of its condition and is ordered to be demolished, the policy excludes coverage for these costs. However, if the building must be removed to prevent the spread of fire to other structures, then coverage does apply.

2. Earth Movement, meaning earthquake including land shock waves or tremors before during or after a volcanic eruption; landslide; mine subsidence; mudflow; earth sinking, rising or shifting; unless direct loss by:
- a. fire;
 - b. explosion; or
 - c. breakage of glass or safety glazing material which is part of a building, storm door or storm window.

If a, b, or c ensues then we will only pay for the ensuing loss.


IMPORTANT POINT: Flood, earthquake and mudslide are all exclusions under the DP-2.

 Form Analysis:

As we can see if, as a result of the earth movement, a fire, explosion or glass breakage occurs, the policy will pay the ensuing loss.


3. Water Damage, meaning:

- a. Flood, surface water, waves, tidal water, overflow of a body of water, or spray from any of these, whether or not driven by wind;
- b. Water which back ups through sewers or drains or which overflows from a sump; or
- c. Water below the surface of the ground including water which exerts pressure on or leaks through a building, sidewalk, driveway, foundation, swimming pool or other structure, caused by or resulting from human or animal forces or any act of nature.

 Form Analysis:


Direct loss by fire or explosion resulting from water damage is covered. Therefore, should a dwelling catch fire or explode during a flood, the actual damage caused by the fire or explosion is covered. The flood damage is not covered.

4. Power Failure, meaning the failure or other utility service if the failure takes place off the described location. But, if a peril insured against ensues on the described location, we will pay only for that ensuing loss.

 Form Analysis:

The other excluded perils we just discussed provided coverage for fire and explosion that ensued. Under the power failure exclusion, coverage is provided if the power failure occurs on the insured premises if it's a peril we insure against. If lightning causes power to go off on the premises and the food in a freezer spoils, coverage would apply.

5. Neglect, meaning your neglect to use all reasonable means to save and preserve property at and after the time of loss.

 Form Analysis:

If the insured suffers a fire and has on hand a fire extinguisher, the insured is expected to use it. If a storm blows off the roof, the insured is expected to have it temporarily covered to prevent additional damage.

6. War - Self- explanatory
7. Nuclear Hazard, to the extent set forth in the Nuclear Hazard Clause of the conditions.
8. Intentional Loss, meaning any loss arising out of any act committed:
 - a. By or at the direction of you or any person or organization named as an additional insured, and
 - b. With the intent to cause a loss

Note: This excludes arson type losses.

The general exclusions are basically the same for the DP1 (basic), DP2 (broad) and the DP3 (special) forms.

SPECIAL FORM DP-3

The DP-3 special form is the broadest of the dwelling forms. The form provides “open perils”, previously called “all risk perils” on the dwelling and unattached structures on the insured premises. As in the DP-2 form, collapse is a separate additional coverage peril, and reads the same for both forms. The form is not “all risk” coverage on the contents of the insured dwelling. The form provides named peril coverage similar to the DP-2 broad form.

IMPORTANT POINT: The DP-3 form provides the most comprehensive coverage in the Dwelling Property program.

DP-3 EXCLUSIONS

In all the “all risk” property forms there will be many additional exclusions. This is due to the fact that if the loss is not specifically excluded, it is covered. Some of the exclusions listed below have been condensed. The student should refer to the specific form for additional clarification.

- a. Freezing of plumbing, heating, air conditioning or automatic fire protective sprinkler system, or of a household appliance unless the insured has maintained heat in the building or shut off the water supply and drained the systems;
- b. Freezing, thawing, pressure or weight of water or ice, whether wind driven or not to a fences, pavement, patio or swimming pool, footing, foundation, bulkhead, wall, or any other structure or device, that supports all or part of a building or other structure, retaining wall or bulkhead that does not support all or part of a building or other structure or a pier, wharf or dock;
- c. Theft of property not part of a covered building or structure;
- d. Theft in or to a dwelling or structure under construction;
- e. Wind, hail, ice snow or sleet to:
 - 1. Outdoor radio and television antennas and aerials including their lead-in wiring, masts or towers; or
 - 2. Trees, shrubs, plants or lawns;
- f. Vandalism and malicious, theft or attempted theft, and any ensuing loss caused by any intentional and wrongful act committed in the course of the vandalism or malicious mischief, theft or attempted theft, if the dwelling has been vacant for more than 60 consecutive days immediately before the loss. (A dwelling being constructed is not considered vacant);
- g. Constant or repeated seepage or leakage of water over a period of weeks;
- h. Wear and tear, marring, or deterioration;
- i. Mechanical breakdown, latent defect, inherent vice, or any quality in property that causes it to damage or destroy itself;
- j. Smog, rust or other corrosion, mold, wet or dry rot;
- k. Smoke from agricultural smudging or industrial operations;
- l. Discharge of pollutions unless caused by a peril insured against named under coverage C;
- m. Settling, shrinking, building or expansion, including resultant cracking of bulkheads, pavements, patios, footings, foundations, walls, floors, roofs or ceilings; or
- n. Birds, vermin, rodents, insects or domestic animals.

Form Analysis:

Remember the DP3 (special form) provides “named peril” coverage on the personal property. Therefore, the same exclusions that apply to DP2 will also apply to the DP3 personal property perils.

Loss Settlement Provisions of Dwelling Forms

Before we discuss these provisions, certain terms need to be defined as their meaning have special significance in the adjusting of losses.

Actual Cash Value

Actual cash value in claims adjusting, means the cost new of the destroyed property, less applicable depreciation. The adjuster is supposed to use the cost new of the item in today's dollars and not what it cost originally. Therefore, if an insured owns a bedroom suite that cost \$3,000 five years ago and cost \$5,000 today, the adjuster should apply depreciation to the \$5,000 value.

Replacement Cost Value

Basically, replacement cost provides new for old coverage. Depreciation is not deducted from the cost new value of the damaged property.

Loss Adjustment Under The DP2 Form

All losses under this form are adjusted on an "actual cash value basis". Therefore, depreciation is applied to both the buildings and contents coverage.

Loss Adjustment Under The DP2 and DP3 Forms

If the insured carries at least 80% of replacement cost value on the dwelling, claims are paid on the basis of "replacement cost". Should the insured carry less than 80% to value, the claim will be adjusted either on an "actual cash value basis" or the cost to repair or replace, less the deductible and without deduction for depreciation, that part of the building damaged, which the total amount of insurance bears to 80% of the replacement cost of the building. This last provision can be confusing. Let's review an example:

Example: An insured's dwelling would cost \$100,000 to replace. To get full replacement cost coverage, the insured is required to carry coverage of at least 80% or \$80,000. The insured can carry up to \$100,000 if desired, in case there is concern of having a total loss. The insured decides to carry only \$60,000. He suffers a \$20,000 loss. The company has two options for payment and must pay the larger of the two:

1. The actual cash value of that part of the building damage, or
2. Penalize the insured based on a percentage of the underinsured amount. Using the above example of the amount required, the amount actually carried, and the amount of the loss, the formula would be:

The amount of insurance carried (\$60,000), divided by the amount of insured required (\$80,000), times the amount of the loss (\$20,000).

$\$60,000 \text{ divided by } \$80,000 \text{ times } \$20,000 = \$15,000 \text{ paid by the company}$
The insured loses \$5,000 because of his failure to carry 80%

Both the DP2 and DP3 forms provide replacement cost coverage on structures if the insured carries at least 80% of their replacement cost value.

Personal Property Loss Settlements

All the dwelling forms provide actual cash value coverage for personal property losses. The ISO forms do not provide for the purchasing of replacement cost coverage for personal property under the dwelling program.

Optional Endorsements for the Dwelling Forms

1. Inflation Guard Coverage - Provides a method of automatically increasing the insured's coverage during the policy period because of inflation.
2. Earthquake Coverage - Can be added by endorsement.
3. Broad Form Theft Coverage - Remember that none of the forms provide theft of personal property. Coverage can be purchased to include on premises theft and off premises theft.
4. Limited Theft Coverage - Can be added but off premises theft is excluded under this form.
5. Personal Liability Supplement - Some companies allow this coverage to be attached by endorsement while others use a separate policy. This important coverage will be discussed when we review the homeowner forms.

Review Questions ?

1. An insured's gas furnace exploded. Does coverage apply under the DP1 form?

- A. Yes
- B. No

2. A steam boiler explodes in a dry cleaning building and destroys the insured's dwelling. The insured did not purchase the extended coverage perils. Does the DP1 form cover this loss?

- A. Yes
- B. No

3. An aerosol can of paint explodes in the insured's storage building and does damage. Is the loss covered by the DP1 form?

- A. Yes
- B. No

4. The insured went on vacation and left the upstairs window open. A storm occurred and wind and rain entered the window and destroyed contents. Is the loss covered by the DP1 form?

- A. Yes
- B. No

5. The insured has purchased the extended coverage perils. His neighbor's furnace explodes and damages the insured's dwelling. Would the insured have coverage under the DP1 form?

- A. Yes
- B. No

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6. The insured leaves for a three-week vacation. During his absence his pipes freeze and burst. He turned off the water but did not drain the lines. He also turned off the heat. Will the insured be covered under the DP2 form?
- A. Yes
 - B. No
7. A tree falls on the insured's house and destroys the roof. Is the loss covered by the DP2 form?
- A. Yes
 - B. No
8. A heavy snow causes the insured's roof to collapse. Is the loss covered by the DP2 form?
- A. Yes
 - B. No
9. The insured's dishwasher pump cracks and water leaks out and destroys the floor. Is the loss covered under the DP2 form?
- A. Yes
 - B. No
10. Mr. Jones's hot water heater burst and water did extensive damage to the dwelling. The DP2 form will cover the damage and also the cost to replace the hot water tank.
- A. Yes
 - B. No

SECTION TWO - DWELLING FORMS

11. Mrs. Jones loses control of her vehicle and destroys her fence. Is the loss covered?

A. Yes

B. No

12. A raccoon has entered the dwelling and caused considerable damage. Is the loss covered.

A. Yes

B. No

13. Squirrels have entered the home between the walls and caused damage. Is the loss covered?

A. Yes

B. No

14. During the night the insured is awakened by a mosquito, without turning on a light he accidentally grabs a can of spray paint instead of the insecticide. He sprays the walls, floor and ceiling with black paint. Is this covered?

A. Yes

B. No

15. Snow and ice have accumulated on the insured's awning while he is away for the weekend. The awning collapses and is destroyed. Is the loss covered?

A. Yes

B. No

Review Answers

1. A Yes, because it occurred on the insured's location.
 2. B No, because the explosion was off the insured's location.
 3. A Yes, because the loss occurred at the insured's location.
 4. B No, because the structure did not first sustain damage by the wind.
 5. A Yes. The explosion peril is broader when EC is added.
 6. B No, because the insured must turn off the water and drain the lines.
 7. A Yes, because this form covers falling objects.
 8. A The form covers collapse of this cause.
 9. A The loss is covered but the pump is not.
 10. A Yes, the entire loss is covered because of the peril of "sudden and accidental tearing apart".
 11. A Yes, the special form would cover this loss.
 12. A This damage was caused by a wild animal and the loss is covered.
 13. B No, a squirrel is a rodent, not a mammal, so the loss is excluded.
 14. A Yes, the DP3 form covers this loss.
 15. A Yes, the DP3 covers this claim.
-

SECTION TWO - DWELLING FORMS

[Click here to review the DP 3 Policy Form](#)

Section Three

The Homeowners Policy

Introduction

The Homeowners Policy combines property insurance, theft and liability coverages into one insurance contract.

We have spent a great deal of time discussing the forerunners of the Homeowners Policy. Even though the Standard Fire Policy and the Dwelling Policy are still being used today, it is the Homeowners Policy that is the most popular. The reasons are obvious. This policy form is a “package policy” of coverages. It combines property insurance, theft and liability coverages into one insurance contract. These contracts are greatly discounted in price as compared with buying individual policies that would offer the same or similar coverages. The customer has only one premium billing, which can be paid in a variety of ways depending on the insurance company.

IMPORTANT POINT: Since this contract is a very competitive tool, the insurance companies are more stringent in their underwriting approach. They obviously want to provide coverage on the “better-than-average” risk. They want the dwelling to be owner occupied with not more than four families. Modern heating and plumbing systems, wiring according to code, a stable neighborhood, an insured of good character with little or no previous loss history are most desirable to the insurance company. Quality construction is another factor along with “pride of ownership”. Location and fire protection accessibility affects the premium. Lastly, the credit and criminal record are also reviewed.

Agents will normally find that the application for homeowners insurance will be somewhat more comprehensive than under dwelling forms. Questions concerning the ownership of certain personal items such as animals, guns, furs, jewelry, business personal property, boats and other collectible items usually appear on the application.

There are various Homeowners forms designed to meet the needs of the consumer. They are as follows:

1. Forms 2 and 3 are designed to cover the dwelling and its contents.
2. Form 4 (called the tenants form) is used to cover contents of the insured in a rented dwelling or apartment.
3. Form 5 is the new deluxe HO form which provides open peril coverage on both buildings and their contents.
4. Form 6 is used to cover owners of condominiums.
5. Form 8 is an “actual cash value” policy to cover older or less desirable owner occupied dwellings.

Many companies use different names to describe their policies but the coverages provided are basically the same.

Eligibility - Seasonal and Mobile Homes (not Farms)

Eligible seasonal dwellings can be written under the Homeowner forms. Usually a separate policy is written on the seasonal dwelling. The risk can even be located out of state to be eligible. The liability coverage is usually provided under the policy covering the main residence. Mobile homes are also eligible but most companies prefer not to cover them under this program because of their loss history based on less than standard construction. Usually a fire loss to a mobile home is a total or very substantial loss. Some will provide coverage on the “modular” homes that contain better construction standards and materials than the mobile home.

Most all companies refuse to write farms under this program and consider them not eligible. Farmowner policies, similar to the Homeowner policies, are used because of the unique nature and exposures of a farm or ranch.

Incidental Business Occupancy

The drafters of the Homeowner policy recognized the need to allow certain business occupancies to be covered under the Homeowner policy. These must be incidental to the occupancy of dwelling and fall within those classes of business acceptable to the insurance company. A part-time auto repair shop would not be legible for example, because of the excessive fire exposure as well as the liability factor. There are a variety of endorsements used to cover the eligible incidental “business” exposures.

Permitted incidental occupancies include, but are not limited to, business or professional offices, private schools (like dancing or music lessons), photography, daycare, etc. Property coverage for business personal property is limited both on and off the premises. In addition, the liability for these incidental businesses is usually limited to “on premises” liability as opposed to “on and off” premises.

Some liability endorsements have been developed to cover certain situations “off” premises such as the corporal punishment coverage for school teachers. However, where the business has a liability exposure that can extend “off” premises, a separate general liability policy should be written to avoid gaps in coverage where the limited Homeowner forms won’t properly address the issue. An example would be a real estate agent with an incidental office in the home but much of the business is conducted off the premises.

Please note that if “other structures” on the premises are used for an incidental business, endorsements are also required to provide coverage. Lastly, additional contents coverage may be needed as a result of the incidental business occupancy. Endorsements are available for this purpose. For example, the ISO forms contain a \$2,500 limit for business contents on the premises. By adding endorsement HO 04 42, this limitation is removed and allows full coverage under coverage C, contents

coverage. The insured could be underinsured unless the limit is increased. The “off premises” limit on business personal property is only \$500.

Another method of insuring a business located on an insured’s residence premises is to use the endorsement “Home Business Insurance Coverage” (HO 07 01 10 00). It provides both business property and liability coverage for a variety of home businesses. The business must be owned by the named insured, or by a partnership, joint venture, or organization comprised solely of the named insured and resident relatives. Coverage is provided for business property leased by the insured so long as there is a contractual responsibility to insure it. There is coverage for accounts receivable and valuable papers and records.

Time element coverages include business income, extended business income, extra expense and loss of business income because of the action of a civil authority (subject to a 72-hour time deductible).

Liability coverage is on an aggregate basis, and includes coverage for premiums operations, advertising injury, and personal injury. Coverage for the products/completed operations hazard is limited to the amount shown for coverage E; all other business liability is limited to twice the combined limits of coverages E and F.

Coverage Limits and Limitations

The homeowners policy, like the dwelling forms, provides some coverage for other structures pertaining to the premises. This limit varies according to the number of dwelling units in the dwelling. The homeowners policy also provides contents coverage and again, the percentage of the coverage A limit is based on the number of dwelling units in the structure. All provide liability coverage for personal activities. Forms HO2, HO3, HO-5 and the HO-8 forms provide dwelling coverage. Review the following for clarification:

- Coverage A – Dwelling: Full replacement cost coverage as long as the insured carried 80% to value. The insured selects a limit for Coverage A. The minimum amount is subject to each individual company’s underwriting rules and guidelines.
- Coverage B – Other Structures: 10% of Coverage A for one or two family dwellings and 5% of Coverage A for three or four family dwellings.
- Coverage C – Personal Property: 50% of Coverage A for one or two family dwellings, 30% for three family dwellings and 25% for a four family dwelling.
- Coverage D – Loss of Use: 30% of Coverage A on HO-2, HO-3 and HO-5; 30% of Coverage C on HO-4; 50% of Coverage C on HO-6; and 10% of Coverage A on HO-8.

Additional coverage can be provided should the insured need higher limits on the “other structures”. This is also true of contents coverage. Should the insured elect to

purchase “replacement cost” coverage on the contents, special care should be taken to determine an adequate amount to avoid underinsurance.

A typical Homeowners Declarations page using the HO-3 Form covering a one or two family dwelling would look like the following:

Section I

Coverage A: Dwelling coverage	\$200,000
Coverage B: Other structures	20,000
Coverage C: Personal property	50,000
Coverage D: Additional living expenses	60,000

Section II

Personal liability	\$100,000
Medical Payments each person	1,000
Property of others	1,000

As you can see, the Homeowners policy is divided into two sections, namely Section I, Property Coverage and Section II, Liability Coverage.

Section I – Property Coverage

Coverage A – Dwelling

The ISO form covers the dwelling including any structures attached to the dwelling and; materials and supplies on or next to the residence premises used to construct, alter or repair the dwelling or other structure on the residence premises.

A fence or power line connecting two structures would not qualify as one structure. A breezeway connecting two structures would be considered by most, one structure. Note also that the materials are covered on or “next to” the residence premises. Perhaps the insured has stored building materials in his next door neighbor’s garage or an adjacent lot. These materials would be covered. If stored in a building downtown, they would not be covered.

The forms specify that coverage does not apply to the land, including land on which other structures are located. Some companies do include in certain forms, land restoration coverage when the structure has been damaged or destroyed by an insured peril.

Coverage B – Other Structures

Other structures that are set apart from the dwelling by a clear space and connected only by a fence, utility line or similar connection are covered separately with a limit equal to 10% of the dwelling limit unless otherwise increased by endorsement. These structures are covered for the same perils as the dwelling.

There are some limitations of coverage in the form for “other structures”. Coverage is not provided for other structures:

1. Used in whole or in part for “business”; or
2. Rented or held for rental to any person not a tenant of the dwelling, unless used solely as a private garage.

Item 1 would require an endorsement to permit occupancy as an incidental business. Under item two, coverage is further limited if rented to someone other than a tenant.

It is not unusual for an insured to own a private structure situated elsewhere other than on his premises. This could be a private garage, a garden shed, etc. ISO endorsements HO 04 91 and HO 04 92 can be used to provide the coverage.

Coverage C – Personal Property

This section in the policy requires close scrutiny as more coverage problems seem to arise from losses on personal property. This is mainly due to the special limits placed on certain items as well as lack of peril coverage in the forms. Some items such as antiques can cause loss adjustment problems. The peril of “breakage” is only covered if caused by an insured peril in the form chosen. An example: The insured drops an expensive vase and breaks it. The Homeowners policy would not respond. But if the wind blows out a window and causes the vase to break, the Homeowners policy would cover the loss. Special personal property floaters are available to close some of the coverage gaps. Even the broadest “all-risk” ISO HO forms are not as broad as most of the inland marine floater forms.

The Homeowners form covers personal property owned or used by the insured while it is anywhere in the world. At the insured’s request, property of others can also be included in the loss at the insured’s residence. Furthermore, property of a guest or residence employee can also be included at any residence occupied by the insured. Note that property of guests or residence employee’s does not have to be located on the residence premises. It is covered wherever the insured is residing at the time of the loss. It is up to the insured to either agree to cover these items of others or not.

Please refer to the first sentence of the last paragraph. The form actually covers two types of property. The first is property owned by the insured. The second is property used by the insured. Property used by the insured could be a rented riding lawn mower, a neighbor’s set of expensive tools, etc. Should these items be destroyed by an insured peril, coverage would apply, minus the deductible. The clause does not specify that the

insured must be held legally liable for coverage to apply. We will discuss the aspects of legal liability when we cover personal liability coverage.

IMPORTANT POINT: There is a limitation of coverage on items the insured may keep at a secondary location where the insured sometimes resides. The wording in the form is as follows:

“Our limit for personal property usually located at the “insured’s” residence, other than the “residence premises”, is limited to 10% of the limit of liability for coverage C, or \$1,000, whichever is greater. Personal property in a newly acquired principal location is not subject to this limitation for 30 days from the time you begin to move the property there.” (Keep in mind we are discussing secondary locations where the insured sometimes resides.)

Therefore, property usually located on “other than the residence premises” (meaning the primary residence), is subject to this limitation. Clothing or other personal items that the insured and his family may take to the secondary residence would not be subject to this limitation since these items are normally located at the primary residence of the insured.

Property a student takes to college would be subject to this limitation. However, there would be an argument on the location of the personal property items such as clothing since they are now usually kept at another location other than the primary residence and would now fall under this 10% limitation. Note that the limitation applies to property at a residence. Should the insured have property stored in a storage building, this clause would not apply, the total limit for coverage C would apply.

Special Limits of Liability for Personal Property

There are certain types of property that are not fully covered by the perils insured against in the policy. These limitations should be brought to the attention of the insured. Coverage for some of the items can be increased by endorsement but many will have to be dealt with in a different matter.

IMPORTANT POINT: Personal article floaters are commonly used to fill the gaps. The forms will vary by state as to these limitations. Some companies will also modify these limits. These limits do not increase the overall coverage C limit as they are included within the coverage C limit.

Briefly stated, they are as follows:

1. \$200 on money, bank notes, bullion, gold other than goldware, silver other than silverware, platinum, coins and medals.
 2. \$1,500 on securities, accounts, deeds, etc. In other words, valuable papers and records.
 3. \$1,500 on watercraft, including their trailers, furnishings, equipment and outboard engines or motors. Coverage is limited for certain perils. No coverage for wind or hail unless the above items are in a fully enclosed building. No
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coverage for theft away from the residence premises. An inland marine form or separate boat policy would better suit the needs of the insured.

4. \$1,500 on trailers not used with watercraft. Theft coverage does not apply if away from the residence premises. Basically, any trailer used for personal use can be included. These could be included under a personal auto policy for physical damage if their value warranted it and coverage would be much broader.
5. \$1,500 for loss by theft of jewelry, watches, furs, precious and semi-precious stones. This limit does not apply per item. The limit is the aggregate total for all these items. Consider the exposure of misplacing or losing jewelry or a stone from a ring. The "open peril" contents form HO 00 15 04 91 would provide coverage but only for the \$1,500 limit. A jewelry floater would provide much broader coverage for higher valued items.
6. \$2,500 for loss by theft of firearms. Again, this is an aggregate limit for the theft of all firearms.
7. \$2,500 for the theft of items such as silverware, goldware, etc.
8. \$2,500 on property, on the "residence premises", used at any time or in any manner for business purposes.
9. \$500 on business property away from the premises. This limit does not apply to electronic devices described in items 10 and 11 below. The limit for items 8 and 9 can be increased by using endorsement HO 04 02. For HO 04 42 is used when the business is conducted on the premises.
10. \$1,500 for electronic equipment while in or upon a motor vehicle if designed to be operated by the vehicle's electrical power. The limit for this category also includes accessories, antennas, tapes, wires, records, discs, or other media that are used with the electronic apparatus. For coverage to apply, the actual adapter that plugs into the DC power socket, must be present at the time of the loss.
11. \$1,500 for electronic equipment not in a motor vehicle but away from the insured's residence but equipped to be operated using a motor vehicle's electrical power. Business property is also included. The accessories are also included in the limit.

FORM ANALYSIS:

How does the standard loss deductible apply to losses that are subject to special limits? We have noted that many items are covered up to the limit on coverage C except for theft. Let's assume that the insured suffers a theft loss of \$500 in money, \$2,000 in jewelry and \$3,000 in guns. A total theft loss of \$5,500.

The deductible is subtracted from the total loss leaving a balance of \$5,250. The policy will pay only \$200 in money, \$1,000 for the jewelry and \$2,000 for the guns or a total of \$3,200. The insured would lose the difference plus the deductible.

Property Not Covered

There are eleven categories of property not covered by the homeowners policy. We will discuss these briefly.

1. Articles separately described and specifically insured. CAUTION!! This clause would completely eliminate any coverage for items such as jewelry, furs, guns, silverware, etc. that are covered under an inland marine floater. If the limit on the floater is too low for the item, the HO policy will not be excess and pay the underinsured amount.
2. Animals, birds or fish. Note: the limitation does not mention insects such as a bee hive or reptiles.
3. Motor vehicles or all motorized land conveyances. Note: an exception is made for vehicles or conveyances not subject to motor vehicle registration which are:
 - a. Used to service an “insured’s” residence; (Note: riding lawn mowers and all-terrain vehicles would be covered if used to service the insured’s premises.
 - b. Designed for assisting the handicapped.

It would appear that the coverage provided by a) and b) is so narrow as to exclude any motorized recreational vehicle owned by the insured. This would also include battery operated toys that can be used as a conveyance by a child.

4. Aircraft or parts. This includes any contrivance used or designed for flight. This does not include hobby aircraft not designed to carry people or cargo.
5. Property of roomers, boarders or other tenants, except property of roomers and boarders related to the “insured”.
6. Property in an apartment regularly rented or held for rental to others by an “insured” except as provided in Additional Coverages. Note: This exclusion, if strictly applied, could eliminate any coverage for any personal property rented by the insured to others while off the “insured’s” residence premises.
7. Property rented or held for rental to others off the residence premises. Note: This exclusion, if strictly applied, could eliminate any coverage for any personal property rented by the insured to others while off the insured’s residence premises.
8. Business data, including such data stored in:
 - a. Books of account, drawings or other paper records; or
 - b. Electronic data processing tapes, wires, records or other software media; Note: the policy will cover blank recording data and the computer programs that can be purchased in the retail market.

Those persons that do work at home for others such as income tax preparation could have a real problem if all the records and data in a computer were lost in a

fire. In cases like this the agent should suggest valuable papers and records coverage along with an electronic data processing policy. Coverage should be modified to include property of others.

9. Credit cards or fund transfer cards except as provided in Additional Coverage. Note: Under Additional Coverage (6), the form provides \$500 in coverage.
10. Hovercraft and Parts – Refers to self-propelled motorized ground effect vehicles, including air cushion vehicles and flarecraft.
11. Water or steam – Water or steam that passes through an insured's water meter is clearly not covered nor water from an insured's own well. The earlier forms left this question of coverage subject to argument.

Coverage D – Loss of Use

Loss of use is a form of “time element” coverage. This clause is triggered when the insured residence suffers a loss as a result of a peril covered by the form. As we know, the perils will differ according to the Homeowner form being used. For a period of time, the insured may not be able to live in his home and must find another place to temporarily reside while the damaged premises are being restored. Should the insured own a duplex and the rented portion of the premises has been damaged, a loss of rental income will occur. While there would be no coverage for the tenant's inconvenience in having to move elsewhere, the insured would be entitled to the loss of rental income.

Thus, we have two types of coverage under this clause. The first is additional living expense and the second would be the loss of rental income or fair rental value. In case of a loss, the insured cannot sit back and do nothing. Work to restore the premises should commence as soon as possible as the company is only obligated to pay for the “period of time” the premises are untenable or the average amount of time it would take to restore the premises should the insured decide not to repair the damaged premises. The expiration date of the policy is not a factor as coverage continues until the premises are restored or a settlement under this coverage is reached.

Additional Living Expense

It should be kept in mind that the coverage is for any increase in living expense, and not to reimburse ordinary living expenses. Let's assume for example, a fire damages an insured's home and the family must move to a motel. They incur expenses for meals, dry cleaning and laundry. Their mortgage payment of \$950 will continue. Their grocery bill while a home is \$700 per month. Laundry is normally done at home and the dry cleaning bill of \$60 per month is the same. The motel bill is \$1,200 per month and their eating out bills total \$1,300 per month. Laundry at the Laundromat is \$125 per month. The insured is entitled to be reimbursed the increased living expenses of \$975.

The insured cannot seek a more lavish motel or resort, plus meals, than his normal standard of living.

Some other expenses may also enter the picture. Assume the insured owns a pet and the motel will not accept them. The animal must be boarded at a kennel. These additional

expenses would be covered. Perhaps the insured is disabled and needs special equipment to maintain his standard of care, these too would be covered.

Loss of Rents

If part of the premises are rented to others or held for rental and a covered loss renders the premises untenable, coverage would apply. The policy would pay the loss of rents or the fair rental value less any expenses that would discontinue (discontinued utilities, for example).

Loss or expense due to the cancellation of a lease or rental agreement is not covered. Like additional living expense, payment will be made only for the shortest required time to repair or replace the damaged premises and coverage does not cease with the expiration date of the policy.

Prohibited Use Coverage

This clause is also part of the loss of use coverage. Perhaps the insured's premises have not sustained any damage as a result of a fire or hurricane but cannot occupy the premises because a civil authority prevents occupancy. Perhaps the neighboring premises have been severely damaged and the civil authority wants to avoid injuries or do an investigation. The coverage under loss of use will be paid for up to two weeks.

Additional Coverages

Many of the additional coverages under the Homeowners policy are similar to those under dwelling forms.

1. Debris Removal:

When an insured suffers a covered loss such as fire or windstorm, the debris must be removed from the premises. The policy provides coverage to address this issue. These costs are included in the policy limit. Should the insured use the entire policy limit to restore the premises, the policy will pay an extra 5% of the limit of liability as additional insurance to cover this expense. The coverage only applies if the premises are damaged by an insured peril.

The policy will also pay for reasonable expenses up to \$1,000 for the removal from the "residence premises" of:

1. Your tree(s) felled by the peril of windstorm or hail or weight of ice, snow or sleet; or
 2. A neighbor's tree(s) felled by a peril insured against under Coverage C; provided the tree(s):
 3. Damage(s) a covered structure; or
 4. Does not damage a covered structure, but:
 - Block(s) a driveway on the "residence premises" which prevent(s) a "motor vehicle", that is registered for use on public roads or property, from entering or leaving the "residence premises", or
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- Block(s) a ramp or other fixture designed to assist a handicapped person to enter or leave the dwelling building.

The overall limit is \$1,000 but no more than \$500 for the removal of any one tree. Item four is a new item added to the HO program.

2. Reasonable Repairs:

When an insured suffers a loss, it is the responsibility of the insured to protect the property from further damage. The company will pay the reasonable cost for these temporary repairs. Should a storm blow out the windows, the company would pay for plywood or other materials to temporarily prevent further damage.

3. Trees, Shrubs and other Plants (not included in HO-1 form):

These items are covered only for a limited number of perils. The perils are: fire or lightning, explosion, riot or civil commotion, aircraft, vehicles not owned or operated by a resident of the "residence premises", vandalism or malicious mischief or theft. The limit is 5% of the dwelling limit but not more than \$500 on any one tree, shrub or plant. Note that wind, hail, ice, weight of ice or snow is not covered.

4. Fire Department Service Charge:

This coverage does not apply if the property is located within the city limits, municipality or fire district furnishing the fire department response. This is designed for rural areas where the insured has a contract or agreement with a fire department. The limit the policy will pay is \$500.

5. Property Removed:

Should the property be endangered by peril insured against, the policy will cover removed property for 30 days anywhere it is stored. This is "all-risk" coverage. The perils are not listed so basically any loss is covered. Should the dwelling be on fire and the insured moves out a couch while it is raining, the water damage would be covered. After 30 days the property is covered under Coverage C as it was prior to the loss.

6. Credit Card, Fund Transfer Card, Forgery and Counterfeit Money:

This clause has several parts and has an aggregate limit of only \$500. Many companies offer higher limits. The ISO form used to increase the limit is HO 04 54. The insuring agreements are as follows:

- a. The legal obligation of the insured when his credit card has been stolen and used.
- b. Loss resulting from theft or unauthorized use of a fund (ATM) transfer card.

Note: These funds are withdrawn from the insured's account and not drawn from a credit card company. Higher limits are needed.

- c. Loss to an insured caused by a forgery or alteration of any check or negotiable instrument.
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Note: The clause does not specify incoming or outgoing checks so both are covered.

- d. Loss to an insured through the acceptance in good faith of counterfeit United States or Canadian paper currency. Note: Only the currency of two countries are covered. Other foreign currencies would be excluded. Some exclusions are worth noting. The policy will not pay for the use of a credit card or fund transfer card used by a resident of your household. So is a teenager or other family member takes the credit card and makes unauthorized charges the policy would not pay.

Loss from someone you have entrusted with these cards is also excluded. Lastly, the policy will not respond if the insured has not complied with all the terms and conditions under which the cards were issued. No deductible applies to this coverage.

Defense Coverage: The company may investigate and settle any claim and defend the insured. However, this duty ends when the company has paid its limit of \$500. They will also defend if a suit is brought against the insured under the credit card and fund transfer card coverage. They also have the right to defend the insured or the insured's bank against any suit under the forgery coverage.

7. Loss Assessment Coverage:

Many residential sub-divisions have formed Property Owner Associations (POA). These associations are obviously made up of the members of the subdivision. They sometimes own property collectively such as a golf club house, swimming pool house, etc. When the POA property is damaged by an insured peril under the insured's policy, (other than earthquake, land shock waves or tremors, during or after a volcanic eruption) the association may make a loss assessment charge against the property owners. The policy will pay up to \$1,000 for these assessments. Loss assessments made by any governmental body is not covered. This would include fines made against the POA or other penalties.

8. Collapse:

The HO-8 forms do not include the collapse hazard coverage. Coverage is found in the other forms. There is coverage for damage to both buildings and personal property caused by:

- a. Coverage C perils
 - b. Hidden decay
 - c. Hidden insect or vermin damage
 - d. Weight of contents, equipment, animals or people
 - e. Weight of rain that collects on the roof
 - f. Use of defective material or methods in construction, remodeling, or renovation if collapse occurs during the course of the construction, remodeling or renovation.
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Obviously, if the Coverage C perils (fire, wind, hail, etc.) causes the structure to collapse, the loss would be covered. What has been added to the collapse hazard include some unusual circumstances. One normally thinks that damage from decay or insects would be excluded. However, the form makes an exception if the damage is hidden.

Collapse is defined as an abrupt falling down or caving in of a building or any part of a building with the result that the building or any part of the building cannot be occupied for its current intended purpose.

Item (f) is also an interesting clause. Since it covers defective material and methods during the construction, it's a limited form of errors and omissions coverage. Should the insured cause the damage the insurance company would have no choice but to pay the claim. If work is performed by a contractor the company could, and no doubt would, subrogate against the contractor for the payment of the damages.

Coverage for certain types of property is excluded for collapse coverage. These items include awnings, swimming pools, fences, patios, pavements, underground piping, flues, drains, cesspools, septic tanks, bulkheads, docks, piers or retaining walls unless they are damaged as a direct of the collapse of the building.

9. Glass or Glazing Material:

This clause has two insuring agreements. The first will cover the breakage of glass that is part of a building or a storm door or window. The second covers property as a result of glass breakage. Should a window be broken and bits of the glass damage other property such as interior furniture, the damage is covered.

If the covered premises are vacant (meaning the structure is empty of contents and people) for more than 30 days prior to the loss, the coverage does not apply to glass breakage. Also, should there be a requirement by an ordinance or law that that broken glass be replaced with safety glazing materials, the insurance company must pay for the betterment.

10. Landlord's Furnishings & Tenants Improvements:

The form provides up to \$2,500 for appliances, carpeting and other household furnishings contained in an apartment on the residence premises that is regularly rented or held for rental to others. The Coverage C perils (named perils coverage) would apply exclusive of the peril of theft. The HO-4 form does not have this coverage, replacing it with 10% of the Coverage C limit for improvements and betterments that the tenant has added to the premises they occupy. Example: The tenant has purchased and had installed upgraded kitchen cabinets. The HO-6 form (for owners of condos) contains neither clause.

11. Ordinance or Law:

With the filing of the special provisions forms, ISO now provides 10% of the limit of liability or Coverage A (dwelling) for ordinance or law. This coverage responds when a dwelling is damaged so that the scope of repairs require bringing it up to code. Older homes are most vulnerable to code requirement enhancements. Heating, plumbing and wiring codes have greatly changed over the years. A partial loss to a home built in 1950 could require a great deal of cost to bring the dwelling up to code requirements.

The 10% applies when a loss results and the property and has to be rebuilt, repaired or demolished in accordance with the enforcement of any building code.

12. Grave markers and Mausoleums:

Grave markers, including mausoleums, on or away from the insured's premises are covered for a limit of \$5,000. The Coverage C perils apply to this coverage.

Section I – The Named Perils Coverages

As we have learned from our discussions of the various dwelling forms, property coverages are designed either on a named peril, open peril, or a combination of each. Forms HO-2, HO-4, HO-6 and HO-8 are strictly name peril forms. If the perils are not listed in the form, no coverage applies in case of a loss from an unlisted peril.

Under the HO-3 form, open peril (formerly called all-risk) coverages apply to the buildings insured under the policy. If the peril is not excluded then coverage would apply. Therefore, the form will contain several additional exclusions. The broad form (HO-2) perils, apply to the contents coverage unless the HO-15 form is attached. When HO-15 is attached then the contents are also insured on an “open peril” basis. Another way of describing the difference in the two concepts of perils is that the “named peril” forms describe what is covered while the “open peril” forms describe what is not covered.

In those states that have adopted the HO-5 form, the HO-15 endorsement is no longer used since the HO-5 form provides open peril coverage on both the structures and their contents.

We will discuss the perils in the order in which they appear on the forms. Form HO-3 will be discussed later.

Fire or Lightning

Obviously, direct loss by fire lightning would include the damage caused by the flame, smoke, soot and water damage caused by the firefighters. Perhaps the firemen have axed their way through a roof or door to gain access or to vent the blaze. This is also part of the loss. This peril is not described in the form and has, for years, been subject to interpretation by insurance scholars as well as the courts. The fire must be a “hostile” fire as opposed to a “friendly” fire. Scorching from the heat from a friendly fire (in a fireplace) would not be covered. The same damage from a hostile fire would cover scorching.

Suppose a furnace fails to shut off the gas at the proper time and the furnace stays on and overheats doing damage to a wall or floor. The fire is still in a friendly place (inside the furnace) but the excessive heat caused by the malfunction of the furnace causes the damage. Has the fire at that point become unfriendly? Some courts, in their decisions, have now broadened the peril of fire to include this type of overheating.

Windstorm or Hail

This peril includes damage to the interior of the building if the building is damaged first by windstorm or hail. Should a tree be blown down by a windstorm it is assumed that wind is

the proximate cause of the loss and the additional damage to the dwelling and contents would be covered as a result of the damage caused by the fallen tree. The wind or hail must be strong enough to create an opening where damage caused by rain, sand, snow, sleet or water occurs. The main thing to remember is that an “opening” must be created. Sometimes wind drives water up and under roof shingles and then enters the dwelling. This can cause a loss problem since the shingles may not be visibly damaged. The fact to be debated in this instance is, was there damage that created an opening? Does damage include the mere “lifting” of the shingles to allow the rain to penetrate the interior?

Assume the homeowner decides to replace the roof. All the old roofing is removed thus leaving cracks (openings) in the plywood covering the dwelling. Plastic and canvas are placed over the areas to be re-roofed. A sudden storm blows off the plastic and canvas resulting in rain entering the dwelling causing damage to the insulation and ceilings. Some courts have differed as to whether the opening was adequately covered or not. One court held that the temporary covering was sufficient to allow coverage and another held that it was not permanent enough and was considered to be non-structural and ruled no coverage.

Explosion

This peril is not defined by the policy except that it does not include volcanic eruption. Explosions from heating systems, a hot water tank or even a can of gasoline for the lawnmower would be covered.

Riot or Civil Commotion

Again, this peril is not defined by the policy. A review of the term in Webster's, a “riot” is a “violent public disorder, specifically; tumultuous disturbance of the public peace by three or more persons assembled together and acting with a common intent.” One or two persons throwing rocks at a house would not fit this definition. This is vandalism or malicious mischief.

Aircraft

This peril also includes self-propelled missiles and spacecraft. Physical contact does not have to be made with the covered property so sonic boom would be covered. Damage done to the dwelling by a hobby aircraft would also be covered so long as it is motorized.

Vehicles

The HO-8 form covers damage by vehicles to buildings, fences, driveways, walks, lawns, trees, shrubs and plants except by a “resident” of the premises. The HO-2 covers the building if damaged by a “resident” of the premises but, also excludes the other items excluded by the HO-8 form. HO-3 covers all the mentioned items except lawns, trees, shrubs or plants caused by a “resident”. Note the form says “resident” and not the term “occupant”. Should a relative visit for a few days and cause damage to a fence with their vehicle coverage would apply. The vehicle does not have to make contact with the damaged property. Perhaps the vehicle has caused a rock to be thrown that hits the side of an aluminum sided house and causes damage.

Smoke

The policy only limits the smoke perils to exclude loss caused by agricultural or industrial operations. The smoke does not have to originate from the insured premises. Perhaps the neighbor's home has caught on fire and smoke enters the insured's dwelling. Smoke from fireplaces, except under the HO-8, is also covered. The definition of smoke also includes an invisible vapor which causes damage. There are occasions when no fire need be present, as when a furnace malfunctions, causing smoke to leak into the residence.

Vandalism and Malicious Mischief

There have been major changes in this coverage. Coverage does not apply if the premises has been vacant for more than 60 consecutive days (previously 30 days). The clause has also been amended to exclude any ensuing losses caused by any intentional and wrongful act committed in the course of vandalism or malicious mischief. So, if the dwelling has been vacant for more than 60 consecutive days, is vandalized and the vandals set fire to the dwelling, the fire damage would not be covered. Previously, the fire loss would be covered as a separate issue.

The term malicious mischief refers to and is defined as "willful destruction from actual ill will towards its owner or possessor." Vandalism is the random damage without the element of ill will towards a specific party or parties. It is, however, the intentional destruction or defacement of property. There is some variance in dictionaries and court interpretations as to the meanings of these terms. We have included what we feel are the most popular and accepted definitions. By including both terms, the insured is protected regardless of some of the different interpretations. Note: A dwelling under construction is not considered to be vacant so coverage would apply to a dwelling damaged by vandals.

Theft

This is a peril included in all the HO forms but has to be purchased separately if a dwelling form is used. The peril includes damage from attempted theft and loss of property from a known place when it is likely that the property has been stolen. Unlike some of the commercial crime policies, signs of forcible entry does not have to be proved. If the insured lays money on the kitchen table with the front door left unlocked, leaves the premise and then discovers the money is missing, coverage would apply.

The peril does, however, have certain reasonable limitations as follows:

- a. If caused by an insured.
- b. In or to a dwelling under construction, or of materials and supplies for use in the construction until the dwelling is finished and occupied; or
- c. That part of the premises rented to others by the insured.

Theft limitations while "off the residence premises":

- a. Except while the insured is temporarily living there; property of a student who is an insured is covered while at a residence away from home if the student has been there at anytime during the 45 days immediately before the loss.

Note: The first part deals with situations where the insured has a secondary residence.

- b. There is no off-premises theft coverage in named perils homeowner forms for “watercraft, and their furnishings, equipment and outboard engines or motors.”

Note: That the limitation applies to items used with or part of the watercraft. The limitation would not apply to other personal property such as fishing gear, camping equipment, etc.

- c. Trailers and campers are not covered off-premises for theft.

Falling Objects

This peril does not provide coverage to the inside of the structure unless the outside has first sustained damage. Nor is the damage for the object that fell covered. Assume that the insured has purchased a set of exercise weights. They are brought into the home and dropped on an expensive tile floor. Several pieces are damaged as well as part of a wall. Since the outside of the structure was not involved, the loss is excluded. We have already discussed the manner in which the forms address the treatment of trees that have fallen on the structure.

Weight of Ice, Snow or Sleet

The form HO-2 states that the peril includes damage to a structure or property inside the structure. However, loss to awnings, fences, patios, pavements, swimming pools, foundations, retaining walls, piers, wharves or docks is excluded. Sometimes this weight will cause a roof to sag without collapsing. The HO-3 also covers ice-damming which can cause thawing water to back up under the eaves from clogged gutters. If water stains the walls and damages ceilings, there would be coverage under the HO-3 since thawing is not an exclusion. Some courts have held that the gutters are part of the dwelling plumbing system and that water that seeps in a building because of frozen gutters is covered under this peril. Therefore, the HO-2 form could respond. However, its far better to rely on the HO-3 for this type of claim.

Accidental Discharge or Overflow of Water

IMPORTANT POINT: The next three perils relate to plumbing, heating or fire sprinkler systems. The perils cover the “accidental discharge or overflow of water or steam” from within plumbing, heating, air conditioning or automatic fire protective sprinkler system or from a household appliance. Included is the cost to tear out and replace any part of the building on the “residence premises” necessary to repair the system or appliance from which

the water escapes. The form does not consider a part of plumbing to consist of a sump pump or related equipment. Note: The HO-8 form does not include this peril.

There are a few limitations. Assume the pump to a clothes washer has cracked and water escapes and does severe damage to the dwelling. The pump is not covered but the resultant damage is. Suppose a water line in a wall starts to leak and ruins the wall. The peril will pay to tear out and replace the wall to get at the pipe, but will not pay for the pipe. Water damage from freezing is excluded but picked up under another peril. Suppose the insured forgets to turn off a waterhose and leaves it beside the house. The water enters the basement and causes damage to the walls and carpet. The loss is covered.

Should there be an accidental discharge of water off the insured's premises, but causes loss to the insured's property, the loss is covered. Suppose a fire hydrant is struck by a hit-and-run driver. Water enters the insured's premises and causes damage to the structure. The loss is covered. Should a next door neighbor leave a water hose on and water enters the insured's premises the loss is also covered. This is new in the HO-2000 forms. Note: Damage to contents is not covered.

Note: The form specifies "dwelling" and does not mention "other structures" on the premises. It is assumed that a vacant guest house would be covered as would a garage, etc.

This peril has also been broadened by eliminating the exception to coverage due to "constant or repeated seepage or leakage or a period of weeks, months or years." Coverage will now apply unless the insured takes no action once damage is apparent.

Sudden and Accidental Tearing Apart, Cracking, Burning or Bulging

This type of damage again relates to a steam or hot water heating system, air conditioning or automatic fire protective sprinkler system or an appliance for heating water. Again, the peril of freezing is excluded as it is covered by the next peril in the form.

This peril cannot be applied in the same way as the peril of "accidental discharge" since the word "sudden" implies something more violent such as an explosion. Notice also, that the peril relates to a system that contains water. An electric heating system would not be covered if it overheated and cracked, burned or tore apart since. Unlike the peril of "accidental discharge", this peril covers the system itself.

Freezing

The last peril affecting plumbing, heating, air conditioning or automatic sprinkler systems and household appliances is the peril of freezing. Should the dwelling be vacant, unoccupied or being constructed, coverage does not apply unless the insured does the following:

1. Maintain heat in the building; or
 2. Shut off the water supply and drain the system and appliances of water. (The insured must do both.)
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Sudden and Accidental Discharge from Artificially Generated Electrical Currents

The only limitation in this peril is the exclusion of loss to a tube, transistor or other similar electronic component.

An artificially generated current is any electrical current other than naturally electrical charges such as lightning or static electricity. Note also that even though tubes, transistors and similar components are excluded, other parts are covered.

Volcanic Eruption

This is the last “named peril” in the form. The clause states that this peril covers volcanic eruption other than loss caused by earthquake, land shock waves or tremors.

This makes it clear that the shaking of the earth or any type of loss from earth-movement is excluded. What is not excluded and covered is the air shock waves, lava flow, ash, dust, airborne blasts, particular matter, etc. For the removal of this matter from the premises to be covered, there must be direct physical damage to the property covered. Just because dust settles on the roof, there must be roof damage for the peril to apply. This peril does not cover damage to lawns, trees, shrubs or plants. Therefore, debris removal would not apply even if these items were damaged or destroyed.

Missing Perils

There are a few perils that the ISO form does not cover but other company forms may. Sinkhole collapse is not mentioned nor is earthquake coverage. These coverages can be purchased by endorsement under the ISO by using HO-99 for sinkhole collapse and the HO-54 for earthquake. Flood will have to be purchased as a separate policy.

Open Perils Coverages and General Exclusions

As we previously mentioned, the named peril forms name exactly what is covered. The burden of proof as to the cause of loss is the responsibility of the insured. When “open peril” coverage applies, it is up to the insurance company to prove that the loss is not covered based on policy exclusions. This distinction gives the insured the advantage in case of a questionable loss.

IMPORTANT POINT: There are only a few forms that provide the “open perils” coverage. Form HO-3 provides open peril coverage for dwellings and detached structures. To open peril coverage for contents, form HO-15 is used. The form HO-6 (condo units form) provides named perils coverage but can be endorsed by HO 17 32 to cover building items on an open peril basis and HO 17 31 is used to broaden the contents coverage.

Understanding the Exclusions

We have stated that under the open peril form the loss is covered unless excluded. The insuring agreement in the forms is very short and reads as follows:

“We insure against risk of direct loss to property described in Coverages A and B only if that loss is a physical loss to property. We do not insure, however, for loss.

This insuring clause is followed by exclusions. Many of the exclusions are the same as previously reviewed in our discussion of the named perils. Several are added because the form is very broad and if the insurance company wishes to exclude a cause of loss, it must be stated in the exclusions. Otherwise, the loss will be covered. In the named peril forms, oftentimes exclusions or limitation of coverage will be included in the insuring agreement of the peril. For example, the perils of freezing and vandalism or malicious mischief may limit coverage if the premises are vacant or unoccupied.

Exclusions:

1. Involving collapse, other than as provided in Additional Coverage;
2. Caused by:
 - a. Freezing of a plumbing, heating, air conditioning or automatic fire protective sprinkler system or household appliance, or by discharge, leakage or overflow from within the system or appliance caused by freezing. This exclusion applies only when the dwelling is vacant, unoccupied or being constructed, unless reasonable care has been used to:
 - 1) Maintain heat in the building; or
 - 2) Shut off the water supply and drain the system and appliances of water.

Note: These are the same limitations contained in the named perils form.

- b. Freezing, thawing, pressure of water or ice, whether driven by wind or not, to a:
 - 1) Fence, pavement, patio or swimming pool;
 - 2) Foundation, retaining wall, or bulkhead; or
 - 3) Pier, wharf or dock;

Note: These are basically the same limitations contained in the named peril forms.

- c. Theft in or to a dwelling under construction, or of materials and supplies for use in construction until the dwelling is finished and occupied;

Note: We have emphasized that the dwelling, even though completed, is not covered for the peril of theft until it's occupied as respects building materials and supplies. If the insured moved some personal items into the house and they were stolen before the dwelling was occupied, coverage would apply.

- d. Vandalism and malicious mischief and any ensuing loss caused by any intentional and wrongful act committed in the course of vandalism or malicious mischief if the dwelling has been vacant for more than 60 days. A dwelling
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being constructed is not considered to be vacant. Remember, as we discussed earlier, any ensuing loss caused by vandals is excluded.

- e. Mold, fungus or wet rot is excluded. However, the policy does insure for loss caused by mold, fungus or wet rot that is hidden within the walls or ceilings or beneath the floors or above the ceilings of the structure if such loss results from accidental discharge or overflow of water or steam from within:
 - Plumbing, heating, air-conditioning or automatic fire protective sprinkler system or household appliance on the “residence premises”; or
 - A storm drain or water, steam or sewer pipes off the “residence premises.” This does not apply to a sump pump, or related equipment or a roof drain, gutter, downspout or similar fixture or equipment.

Note: This is a new change and intended to define the circumstances under which mold, fungus or wet rot would be covered when such damage is hidden from view.

Additional Special Exclusions

The next exclusions are applicable only to open peril Homeowner coverages. They are intended to rule out two types of losses. The first include losses that happen over a period of time. These types of losses are not sudden and unexpected losses. They are, however, expected to occur over a period of time.

The second type of excluded losses are those that are controllable with reasonable care by the insured. Gross misconduct or disregard by the insured will lead to a loss. Perhaps the insured has left the windows open during a storm and the rain enters and causes damage to the carpet.

The form states that any of the following are excluded:

- 1) Wear and tear, marring, deterioration;
- 2) Inherent vice, latent defect, mechanical breakdown;

Note: Over time, aluminum siding, stucco, or house paint will begin to deteriorate. Motors in a heating system will wear out. A hot water tank will eventually need to be replaced, etc.

- 3) Smog, rust or other corrosion, mold, wet or dry rot;
- 4) Smoke from agricultural smudging or industrial operations;
- 5) Discharge, dispersal, seepage, migration, release or escape of pollutants unless the discharge, dispersal, seepage, migration, release or escape is itself caused by a peril insured against under Coverage C of this policy.

Note: Should a loss occur as a result of the “named perils” under Coverage C (contents coverage) then pollution coverage applies in conjunction with the peril that causes the loss.

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed;

Note: The form now excludes coverage for some losses that were previously covered. If the insured accidentally spills paint on the carpet, a pollutant has been released and the loss would not be covered.

- 6) Birds, vermin, rodents, or insects; or

Note: The form does not refer to wild animals such as deer, raccoons, etc. Damage to an insured's property caused by a squirrel would be excluded because they are rodents.

- 7) Animals owned or kept by an "insured."

Note: Damage caused by a visitor's animal is not excluded. Routine maintenance and care for a dwelling precludes allowing owned or kept animals to damage carpet, furniture, etc. However, should the animals, vermin, rodents, etc. cause a fire, the resulting fire loss would be covered.

The last clause clarifies that if any of the above excluded items cause water damage, the damage will be covered, including the cost of tearing out and replacing any part of the building necessary to repair the system or appliance. The loss to the system or appliance from which water escaped is not covered. Example: The water hose to the clothes washer wears out and causes a water leak. The damage to the structure is covered but not the water hose.

General Property Exclusions

The following eight exclusions apply to all the Section I property coverages. A paragraph before the exclusions states that the policy will not respond to pay any direct loss or indirect loss as a result of these excluded perils regardless of any other cause or event contributing concurrently or in any sequence to the loss.

1. Ordinance or Law:

The exclusion means the enforcement of any ordinance or law regulating the construction, repair, or demolition of a building or other structures, unless specifically provided by the policy. Remember in the ISO 1994 special provisions clause, loss resulting from the operation of laws regulating construction, repair, or demolition of a structure is an additional coverage (10% of the Coverage A limit). If your state has not adopted this form, then no coverage would apply.

For older homes that are not constructed to meet modern day codes this, coverage is very important. In some areas if the dwelling is over 50% destroyed, the law states that the structure must be demolished. This cost could quickly consume the 10% limitation. For partial losses where the wiring, heating and plumbing is not up to present day codes can also cause a coverage limit problem.

2. Earth Movement:

Earth movement means land shock waves before, during or after a volcanic eruption (airborne shock waves that damage covered property are covered); landslide; mine subsidence; mudslides; and earth sinking, rising or shifting. However, if any of these excluded items results in a fire, theft or explosion, that loss is covered.

The apparent intent is to exclude earth movement by “natural” causes rather than “man-made”. There was a court case that involved damage to an insured’s dwelling caused by a neighbor’s construction operation that caused the hillside above it to collapse. The court held that the exclusion was ambiguous and that only natural events were intended to be excluded. ISO will probably revise the form to include natural and man-made earth movement losses. Some other insurance company forms already have this clarification.

3. Water Damage:

The water damage exclusion is similar to that for earth movement in that resulting losses from fire, explosion and theft is covered. Water damage means flood, surface water or tidal overflow; backup of sewer or drain (most companies offer this coverage for an additional premium), overflow from a sump; or occur below the surface of the ground and exert pressure on or seep or leak into buildings.

4. Power Failure:

This exclusion applies to losses from the failure of power or other utility service if the failure occurs off of the residence premises. However, just as in the two preceding exclusions, resulting losses such as fire or other covered perils are covered.

Assume a storm has caused power lines to break. The break in the lines occurred off the insured’s premises. As a result, the food in the insured’s freezer spoils. The loss is not covered because spoilage is not an insured peril.

5. Neglect:

If an insured fails to use all reasonable means to protect the insured property at and after the time of loss, may find coverage excluded. Should an insured’s house catch on fire and he/she fails to call the fire department, the company would probably deny the claim for the ensuing damage. Assume a tree falls on the roof and creates an opening through which rain could enter and cause additional damage. The insured is obligated by this clause to protect the property from further loss or damage. The insurance company will pay all reasonable costs to protect the property from further loss.

6. War:

This clause is very broad in its exclusion of war or similar activities. The policy excludes coverage as follows:

- 1) Undeclared war, civil war, insurrection, rebellion or revolution;
 - 2) Warlike act by a military force or military personnel; or
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- 3) Destruction, seizure or use for a military purpose.

Discharge of a nuclear weapon will be deemed a warlike act, even if accidental.

The loss must be actually caused by one of the above to be excluded. If there is a war, and at the same time the insured's house catches fire, then coverage would apply if the cause of the fire was not related to the exclusions.

7. Nuclear Hazard:

Any nuclear reaction, radiation or contamination, no matter how caused, is excluded. Also noteworthy is the fact that loss caused by the nuclear hazard will not be considered loss caused by fire, explosion or even smoke. An insured cannot claim that damage from the detonation of a nuclear device is actually the result of explosion and though loss caused by direct or indirect nuclear hazard is excluded, direct loss by fire resulting from this hazard is covered.

8. Intentional Loss:

This clause excludes coverage for damage by the insured or at the direction of an insured and with intent to cause a loss.

Some claims are difficult to prove that an insured intentionally caused the loss. One housewife set her kitchen on fire three times in order to have it remodeled at the expense of the insurance company. Had she kept quiet about her deeds instead of bragging to a friend, she may have been successful in getting away with it.

Courts and state laws vary as to allowing this clause to apply to the spouse that had no knowledge of the fraudulent act of the other. The forms currently exclude coverage for the innocent spouse. In the state of Washington, the insurance commissioner ruled that there was "no basis for ignoring losses sustained by innocent co-insureds". This advisory applied to existing policies, so that claims that had been denied were to be re-evaluated.

Other Property Exclusions

The last part of this section of exclusions deals with weather conditions, acts or decisions and faulty, inadequate or defective items. Ensuing losses, if not otherwise excluded, or excepted are covered. Remember that ensuing means "happens as a consequence of":

- A. Weather conditions except those that are covered by the perils are excluded. Assume a very cold winter and heating bills have tripled. The additional costs are not covered.
 - B. Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body is not covered. Assume state officials have decided to lower the water levels at a dam. Several homes are flooded when water is released. A number of insureds seek coverage by arguing that the real cause of loss was not flood but the decision to release the water.
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C. Faulty, inadequate or defective actions are also excluded. This exclusion has four parts:

- 1) Planning, zoning, development, surveying, citing. Suppose a housing development is situated too close to a river that is known to flood. The site is defective and flooding as a result of this planning is excluded. Assume that the contractor's surveyor has made an error and homes are built on the wrong property and must be removed. Again, coverage is excluded.
- 2) Design, specifications, workmanship, repair, construction, renovation, remodeling, grading and compacting errors or omissions are not covered.
- 3) Materials used in repair, construction, renovation or remodeling are not covered if they are faulty or defective.
- 4) Maintenance of part or all of the property whether on or off the residence premises. So if an insured constructs a home in a flood prone area, is the victim of poor construction, bad materials, design and maintenance, etc., the policy would not respond unless there is a covered ensuing loss that causes damage.

Section 1 – Conditions

There are 16 conditions listed in the ISO HO-3 form. Many of these have been discussed in our review of the Dwelling policy. This clause and its sections are very important as it spells out the obligations and duties of the insurance company and the insured in case of a loss. How the loss will be evaluated (actual cash value or replacement cost) in respects to the classes of property (buildings or contents or special items). Briefly, these are as follows:

1. Insurable Interest and Limit of Liability:

The company will only pay a loss to those that have an insurable interest. The company will obviously not pay more than the limit of liability. In many cases the policy may contain clauses that increase the limit because of inflation by using the inflation guard endorsement. Some companies offer a provision that the replacement cost of the buildings is on a "guaranteed replacement cost basis" based on the insured's agreement to carry insurance to value.

2. Duties in case of a loss:

In this clause there are several things the insured must agree to do. Among these are:

- a. Give prompt notice of claim to the company or the agent.
 - b. Notify the police in case of theft.
 - c. Notify the credit card company in case of a loss.
 - d. Protect the property from further loss.
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- e. Make reasonable and necessary repairs to protect the property and keep records.
- f. Prepare an inventory of damaged personal property showing value with proof value.
- g. As often as required by the company the insured must:
 - 1) Time and Cause of Loss.
 - 2) State the interest of the insured and of others.
 - 3) Declare if other insurance is involved.
 - 4) Reveal changes in title or occupancy of the property during the policy period.
 - 5) Specifications of damaged buildings and detailed repair estimates.
 - 6) Inventory of damaged personal property.
 - 7) Receipts for additional living expenses and/or records of fair rental value.
 - 8) Evidence of a credit card loss, fund transfer card, counterfeit money, stating the amount of loss.

If the insured fails to perform, according to these obligations, a problem with the claim will occur. The insureds should be advised that the burden of proof rests with them. No one in the real world keeps receipts for everything they have purchased over the years. Nor are records kept on inherited items and gifts. The only plausible solution is to take video pictures and store them in a safe place away from the premises. Updating is very important. However, the company may still require additional receipts, proof of purchase or value documentation.

3. Loss Settlements:

We have already discussed in our Dwelling review the difference between “actual cash value” and “replacement cost”. Briefly stated, actual cash value is replacement cost less depreciation. If the insured carries at least 80% of the value of the dwelling the loss will be paid on a replacement cost basis. Contents (unless the replacement cost endorsement is attached) will be paid on an actual cash value basis. If the insured does not carry the required amount on the dwelling he will suffer a penalty based upon the extent underinsurance exists. Please refer to the form for additional details.

4. Loss to a Pair or Set:

In some cases this can cause an adjustment problem. Assume the insured has a “one of a kind” set of salt and pepper shakers. The set is worth \$1,000. One is destroyed in a fire. The value has been greatly diminished. Most insureds would expect to receive

\$1000, being the value of the set before the loss. The company will pay the loss as follows:

- a. Repair or replace any part to restore the pair or set to its value before the loss; or
- b. Pay the difference between the actual cash value of the property before and after the loss.

Since one of the set cannot be repaired or replaced, the company would probably pay only \$500.

5. Glass Replacement:

If required by law, the glass will be replaced with safety glass.

6. Appraisal

The purpose of this clause is to provide a means to settle disputes in regard to the value of the damaged property. This clause is also found in other property insurance policies and also the auto insurance policies.

Each party selects an appraiser. If they cannot agree, then they select an umpire. If they cannot agree on an umpire they can request that a judge makes the umpire selection. Each party must pay the expense for the appraisers and umpire.

7. Other Insurance:

Occasionally, the property may be insured by more than one insurance carrier. This may occur when a company refuses to write the entire risk because of its value, location, or previous loss history. Assume a dwelling has a value of \$2,000,000 and is split evenly between two insurance carriers. In case of a loss, each one would pay half of the loss. Remember that this clause would not apply to personal property that is more specifically insured under a personal property floater. The floater would be the only source of coverage.

8. Suit Against the Company:

No action can be brought against the company until two things have occurred. First, all the policy provisions have been complied with and action is started within one year of the loss.

9. Company Option:

Within 30 days after the company has received the insured's proof of loss, they can repair or replace any part of the damaged property. For example, because of a storm the insured's roof is destroyed and furniture is damaged. The company can replace or repair the furniture.

10. Loss Payment:

The payment of the loss will be payable 60 days after proof of loss is received and:

- a. An agreement has been made with the insured.
- b. There is an entry of a final judgment; or
- c. There is a filing of an appraisal award with the company.

Note: Many states have modified this clause as to the number of days payment must be made after the company has agreed to pay the claim.

11. Abandonment of Property:

The clause merely reads: "We need not accept any property abandoned by an "insured". The insured cannot simply ask the company for payment, abandon the property to the company and walk away.

12. Mortgage Clause:

This is an extremely broad clause in favor of a mortgagee. Should the company deny a claim because the insured intentionally caused the loss, the mortgagee will not be affected to the extent of their insurable interest if they do the following:

- a. Notify the insurance company if they have knowledge of any change of occupancy or change in the risk;
- b. Pays the premium on the policy;
- c. Submits a proof of loss should the insured fail to do so.

In addition, the company is required to send cancellation notice to the mortgagee. Should the company fail to do so and there is a loss, the company must pay the insurable interest of each mortgagee to the extent of their insurable interest.

13. No Benefit to Bailee:

The insurance company will not recognize any assignment or grant any coverage that benefits a person or organization holding, storing or moving property for a fee regardless of any other provision of the policy. Clothes left with a dry cleaning company and destroyed by fire would be an example. The policy will cover the insured but not the dry cleaning company. If the company pays the loss will subrogate against that company.

14. Nuclear Hazard Clause:

Nuclear hazard is defined as "any nuclear reaction, radiation, or radioactive contamination, controlled or uncontrolled or however caused, or any consequence of any of these." Loss caused by the nuclear hazard will not be considered loss by fire, explosion or smoke for the purpose of coverage. However, ensuing losses are covered. Example: A nuclear explosion partially destroys a home. It catches fire and destroys the rest of the property. The rest of the property is covered.

15. Recovered Property:

This clause addresses the salvage or disposal of property for which the insurance company has made payment. Should property be recovered by either party, then that party shall notify the other. The insured has the option to take back the property and pay the insurance company the adjusted amount or let the company keep the recovered property.

16. Volcanic Eruption Period:

The policy defines the period of time considered to be one eruption. One or more eruptions that occur within a 72-hour period will be considered as one volcanic eruption.

Section II – Liability Coverages

Another important part of the Homeowners policy is the personal liability section. The purpose of the coverage is to protect the insured, and relatives in the same household, for liability claims involving bodily injury and property damage to others. The coverage applies to the personal activities of the insured and members of the insured's household. The coverage is not designed to cover the business pursuits of an insured. Both the residence premises and the off-premises activities are covered subject to the exclusions.

The limit for this coverage is a single combined limit, meaning both bodily injury and property damage claims are included in one limit. The minimum limit is usually \$100,000. The medical payment limit (a separate coverage) is for medical claims of others and does not include medical expenses of the insured or relatives living in the same household. A limit of \$1,000 each person, per claim, is usually the minimum. Note: The policy deductible does not apply to liability or medical payment claims.

The coverage sections are as follows:

1. The Liability Insuring Agreement and Applicable Exclusions.
2. Medical Payments to Others.
3. Section II – Additional Coverages
4. Section II – Conditions

The following will help you to better understand the meaning of the coverage terms:

Insured

The named insured, relatives or other persons under the age of 21 and in the care of the insured.

Occurrence

An accident, including continuous or repeated exposure to substantially the same general, harmful conditions, which results, during the policy period in bodily injury or property damage.

Bodily Injury

Bodily harm, sickness or disease, including required care, loss of services and death that results.

Property Damage

Physical injury to, destruction of, or loss of use of tangible property.

Coverage E – Personal Liability

The insuring agreement begins with the following: “If a claim is made or a suit is brought against an “insured” for damages because of “bodily injury” or “property damage” caused by an “occurrence” to which this coverage applies, we will:

Note: After this statement the insurance company is obligated as per the next two paragraphs. Please note that these are two separate and distinct promises. Also note that coverage only applies if coverage is afforded by the policy. If a suit is fraudulently brought against the insured, the company must still act but, only if the type of claim is covered by the insuring clauses. Only bodily injury and property damage claims are covered. The terms “bodily injury” and “property damage” are defined terms in the policy as well as the term “occurrence”.

First Paragraph:

Pay up to our limit of liability for the damages for which the “insured” is legally liable. Damages include prejudgment interest against the “insured”. The term legally liable is not a defined term in the policy. To be legally liable the insured must be guilty of a tort. A tort is a civil wrong and refers to negligence. Generally, the courts deem this to mean: Failure to do what a normal prudent person would do under the same circumstances.

Second Paragraph:

Provide a defense at our expense by counsel of our choice, even if the suit is groundless, false or fraudulent. We may investigate and settle any claim that we decide is appropriate. Our duty to settle or defend ends when the amount we pay for damages resulting from the “occurrence” equals our limit of liability.

Note: This paragraph really says a great deal. The insurance company chooses the legal counsel and not the insured. The insurance company can settle a suit without the insured’s permission. Defense costs are in addition to the limit of liability. Once the policy limits are paid the insured has no coverage.

Hint: Have the insured carry very high limits or write a personal umbrella policy.

Coverage F – Medical Payments to Others

IMPORTANT POINT: There are situations when invited guests are injured on the insured's premises, but the insured is not "legally liable". Perhaps a neighbor has brought their child over for a visit. The child stumbles over its own feet, falls against the corner of a table and cuts its head. The injury requires stitches. Under this coverage, the policy will pay up to \$1,000.00 for the medical expense without regard to who was at fault. It is a "goodwill" type coverage. The policy will pay the necessary medical expenses within three years of the accident.

Coverage applies on the insured's premises and for the insured's off-premises personal activities as well. In addition, there is coverage caused by a "residence employee" in the course of that person's employment. Injuries caused by an insured's animal or one kept by the insured are also covered. Coverage does not apply to the insured, regular residents of the household except "residence employees".

Note: The policy defines "residence employee" as follows: An employee of an insured whose duties are related to the maintenance or use of the residence premises, including household or domestic services or one who performs similar duties elsewhere not related to the business of an insured. Therefore, the policy provides, subject to the exclusions, some coverage for injuries sustained by a "residence employee" and for injuries caused by a "residence employee".

Medical Expenses

The policy is very specific as to the type of expense the policy will honor under this coverage. This clause covers: Reasonable charges for medical, surgical, x-ray, dental, ambulance, hospital, professional nursing, prosthetic devices and funeral expenses. This coverage also applies to injuries sustained by a "residence employee" is a result of their employment. Pain and suffering are not included.

Medical Payment Exclusions

There are certain exclusions that apply just to medical payments. There are others that apply to both medical payments and liability coverages to be discussed later.

Medical Payments Coverage Does Not Apply To:

- A. To a "residence employee" if the bodily injury:
 - 1. Occurs off the "insured location"; and
 - 2. Does not arise out of or in the course of the residence employee's employment by an "insured".

 - B. To any person eligible to receive benefits:
 - 1. Voluntary provided; or
 - 2. Required to be provided; under any:
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- a. Workers' Compensation law;
- b. Non-occupational disability law; or
- c. Occupational disease law

C. Nuclear related

D. To any other person, other than a "residence employee" of an insured, regularly residing on any part of the "insured location".

Note: As we can see, coverage for injuries to a "residence employee" are covered, except where coverage is provided or coverage is required to be provided under Workers' Compensation. Example: The next door neighbor's son occasionally mows the lawn for the insured and is injured while performing this duty. It is doubtful that Workers' Compensation coverage is in place. Therefore, medical payments coverage would apply.

Section II Exclusions

The liability exclusions in the 2000 homeowners forms have been revised. In the 1991 forms, the exclusions contained language that has now been incorporated into the definitions. As a reminder, the following are now found in the definitions section. Therefore, when reviewing the exclusions it is important to keep the following definitions in mind.

1. "Aircraft liability", hovercraft liability", motor vehicle liability" and watercraft liability", subject to the provisions in b. below, mean the following:
 - a. Liability for "bodily injury" or "property damage" arising out of the:
 - (1) Ownership of such vehicle or craft by an "insured";
 - (2) Maintenance, occupancy, operation, use, loading or unloading of such vehicle or craft by any person;
 - (3) Entrustment of such vehicle or craft by an "insured" to any person;
 - (4) Failure to supervise or negligent supervision of any person involving such vehicle or craft by an "insured"; and
 - (5) Vicarious liability, whether or not imposed by law, for the actions of a child or minor involving such vehicle or craft.
 - b. For the purpose of this definition:
 - (1) Aircraft means any contrivance used or designed for flight except MODEL or HOBBY aircraft not used or designed to carry people or cargo;

- (2) Hovercraft means a self-propelled motorized ground effect vehicle and includes, but is not limited to, flarecraft and air cushion vehicles; and
- (3) Watercraft means a craft principally designed to be propelled on or in water by wind, engine power or electric motor.

A. The Motor Vehicle Liability Exclusion

1. Liability and medical payments coverages do not apply to any motor vehicle if, at the time and place of an occurrence:
 - a. The vehicle is required to be registered for it to be used on public roads or property; or
 - b. The involved vehicle is being:
 - (1) Operated in, or practicing for, any prearranged or organized race, speed contest or other competition;
 - (2) Rented to others;
 - (3) Used to carry persons or cargo for a charge; or
 - (4) Used for any business purposes EXCEPT for a motorized golf cart while on a golfing facility.
2. The following describe situations where if the above exclusions do not apply the following may be exceptions and therefore coverage would apply.
 - a. In dead storage on an “insured location”;

A car has been put in the garage after removing the battery, license plate and draining the gas tank. It is considered to be in “dead storage”. Should a third party be injured as a result of this vehicle, coverage in most cases would apply.

There are several court cases concerning vehicles in “dead storage”. In a Tennessee case the vehicle was still operative and was driven on the premises but not on the highway. The license plate had been removed. The court ruled that since the vehicle was not driven on the highway and the license plate was removed, the vehicle was in dead storage.

Another case involved a vehicle in dead storage where the insured's child and a friend were removing a part from the vehicle to sell. The friend was severely burned because the insured's son used a torch to remove the part and the vehicle caught fire. The company tried to deny coverage on the basis of the “maintenance” exclusion. The court ruled that this was not maintenance and that the vehicle was in dead storage because they were trying to remove a part to sell and not repair the vehicle.

Warning: Insured's restoring vehicles or creating one from a kit should purchase coverage for the vehicle under a personal auto policy. Use the date the vehicle is acquired to avoid controversy in case of a claim. In cases where this is not desired, a

letter from the insuring company, clarifying their position, may be helpful because the maintenance exclusion will be a factor since work is being performed on the vehicle.

- b. Used solely to SERVICE an “insured's” residence;
- c. Designed to assist the handicapped and, at the time of an “occurrence” it is:
 - Being used to assist the handicapped person; or
 - Parked on an “insured location”;
- d. Designed for recreational use off public roads and:
 - Not owned by an “insured”; or
 - Owned by an “insured” provided the “occurrence” takes place on an “insured location” as defined in the definitions in the form.

IMPORTANT NOTE: As you can see the insured is covered off public roads if they are operating a non-owned recreational vehicle. If they own it the vehicle must be operated only on the “insured location”. It may be prudent to review the definitions in the homeowner form to study what is considered to be an “insured location”.

- e. A motorized golf cart that is OWNED by an “insured”, designed to carry up to 4 persons, not modified after manufacture to exceed a speed of 25 miles per hour on level ground and, at the time of an “occurrence”, is within the legal boundaries of:
 - (1) A golfing facility and is parked or stored there, or being used by an “insured” to:
 - Play the game of golf or for other recreational or leisure activity allowed by the facility;
 - To travel to or from an area where “motor vehicles” or golf carts are parked or stored; or
 - Cross public roads at designed points to access other parts of the golfing facility; or
 - (2) A private residential community, including its public roads upon which a motorized golf cart can legally travel, which is subject to the authority of a property owners association and contains an “insured's” residence.

IMPORTANT NOTES:

There have been many changes in the Section II exclusions. Some seem to expand coverage such as the broadened coverage for golf carts. In other areas the coverage seems to be more restrictive. A trailer on the premises is covered but if attached to a registered vehicle on the premises the coverage would not apply under the homeowner policy.

The 2000 forms contain additional limitations not found in the earlier forms. There is no liability coverage, for example, if an otherwise covered snowmobile (one owned by an insured and used on an insured location) if the snowmobile is used for any racing activity. There is no coverage for a motorized vehicle that is rented to others, or that is used to carry persons or cargo for a charge, or for any “business” purpose. This latter exclusion does not apply to a golf cart while on a golfing facility, which says something about where many business deals are struck.

There is coverage for a motorized vehicle “solely” used to service an insured's residence. At first blush, the exclusion would appear to apply to, say, an ATV that is used primarily for recreational purposes and occasionally to service the premises. For example, an insured might use the vehicle to drag firewood up to the house. But there might be instances where an insured trailers a lawn tractor to an elderly relative's home to cut the grass. If bodily injury or property damage arises out of this activity, there will be no coverage since the tractor is obviously not used “solely” to service an insured's premises.

In the 1991 forms there was coverage for a motorized vehicle designed for assisting the handicapped. Now, however, such a vehicle must not only be so designed, but it must be in use actually assisting a handicapped person at the time an incident occurs. If a handicapped insured's five year old son climbs into the empty chair and zooms into a neighbor's car, damaging it, there is no coverage.

The motor vehicle exclusions do not apply to “bodily injury” to a “residence employee” arising out of and in the course of the “residence employee's” employment by an insured.

B. The Watercraft Liability Exclusion

1. Liability and medical payments coverage does not apply to any “watercraft liability” if, at the time of an “occurrence,” the involved watercraft is:
 - a. Operated in, or practicing for, any prearranged or organized race, speed contest or other competition. This exclusion DOES NOT apply to a sailing vessel or a predicted long cruise; (a log cruise is similar to a road rally in that navigation skills, rather than speed are tested)
 - b. Rented to others
 - c. Used to carry persons or cargo for a charge; or
 - d. Used for any “business” purpose. (Taking a new business client out for a boat ride could be excluded)

Watercraft that are Exempt from the Exclusions

1. Watercraft exempt from the exclusions are those that are not sailing vessels and are powered by:
-

- a. Inboard or inboard-outdrive engine or motor power of 50 horsepower or less not owned by an “insured” (therefore non-owned watercraft of this type are covered).
- b. Inboard or inboard-outdrive engine or motor power of more than 50 horsepower not owned or rented by an “insured” (therefore a borrowed watercraft of this type is covered).
- c. One or more outboard engines or motors with 25 horsepower or less (therefore these are covered whether owned, non-owned, or borrowed.)
- d. One or more outboard engines or motors with more than 25 total horsepower if the outboard engine or motor is not owned by an “insured” (therefore since its non-owned, coverage would apply to this type of watercraft)
- e. Outboard engines or motors of more than 25 horsepower owned by an “insured” if:
 - i. You acquire them prior to the policy period; and
 - You declare them at policy inception; or
 - Your intention to insure is reported to us in writing within 45 days after you acquire the outboard engines or motors.
 - ii. You acquire them during the policy period.

Note: There is coverage for newly acquired outboard engines or motors but not inboard or inboard-outdrive types. The provisions are self-explanatory but it is better to advise your insured to notify the agent as soon as a boat with motor is acquired. Some types may not be approved by the company and coverage must be arranged elsewhere.

2. Those that are sailing vessels with or without auxiliary power:

- a. Less than 26 feet in overall length (these are covered whether owned or not)
- b. 26 feet or more in overall length, not owned by or rented to an “insured” (borrowed is covered) (The exclusion does not apply to any boat stored so basically any size is covered.)

C. The Aircraft and D. Hovercraft Liability Exclusions

“Aircraft Liability” - The policy does not cover “aircraft liability”.

“Hovercraft Liability” - The policy does not cover “hovercraft liability”

Referring again to definitions, an “aircraft” is “any contrivance used or designed for flight except model or hobby aircraft not used or designed to carry people or cargo.” A “hovercraft” is a “self-propelled motorized ground effect vehicle and includes, but is

not limited to, flarecraft and air cushion vehicles.” An air cushion vehicle is one that moves upon a cushion of air generated by engines on the craft. A flarecraft or wing in ground effect vehicle is one in which the engines provide enough thrust so that the wings enable the vehicle to rise up to 20 feet above land or water.

Although the form states there is no aircraft or hovercraft liability coverage, in fact, “bodily injury” to a “residence employee” arising out of and in the course of the residence employee's employment by an insured is covered. For example, say an insured requested that her residence employee load her luggage on her private plane, and in so doing the residence employee injured his back, there would be coverage unless some type of workers compensation benefits are required to be provided.

E. Coverage E - Personal Liability and Coverage F - Medical Payments to Others

Coverages E and F do not apply to the following:

1. Expected or Intended Injury

“Bodily injury” or “property damage” which is expected or intended by an “insured” even if the resulting “bodily injury” or “property damage”;

- a. Is of a different kind, quality or degree than initially expected or intended; or
- b. Is sustained by a different person, entity, real or personal property, and initially expected or intended.

However, this exclusion does not apply to “bodily injury” resulting from the use of reasonable force by an “insured” to protect persons or property.

🔍 Form Analysis:

The wording for what is frequently referred to as the “intentional act exclusion” has been changed considerably in the 2000 forms. First, the form adds that there is not coverage even if the resulting injury or damage is not what was initially expected or intended, or if the injury or damage occurs to another person or property from what was originally intended. Second, there is an exception for “bodily injury” that results from use of reasonable force (not defined) to protect persons or property. Third, the 1991 form excluded “bodily injury” or “property damage” that was expected or intended by “the insured”, which was changed to “one or more insureds” in the 1994 special provisions.

2. “Business”

The liability and medical payments coverage is designed to cover the personal activities of an “insured” and not to cover certain business activities unless the policy is endorsed to cover those that are permitted and acceptable to the insurance company. The following are the exclusion with the exceptions to the exclusions.

“Bodily injury” or “property damage” arising out or in connection with a “business” conducted from an “insured location” or engaged in by an “insured”, whether or not the “business” is owned or operated by an “insured” or employs an “insured”.

This exclusion does not apply to:

- (1) The rental or holding for rental of an “insured location”:
 - a. On an occasional basis if used ONLY as a residence;
 - b. In part for use only as a residence, unless a single family unit is intended for use by the occupying family to lodge more than two roomers or boarders; or
 - c. In part, as an office, school, studio or private garage, and
- (2) An “insured” under the age of 21 years involved in a part-time or occasional, self- employed “business” with no employees.

The definition of a “business” has changed in the 2000 forms. A “business” now includes a trade, occupation or profession “engaged in on a full-time, part-time or occasional basis,” although activities generating no more than \$2000 for an insured for the twelve months before the beginning of the policy period are exempt. There are several different endorsements, including the home business endorsement. If any insured has a home based business exposure it is prudent to review the coverages available. There is still controversy regarding a person traveling on company business and staying at a hotel or merely going out for lunch and cases an accident. At what point is it a personal liability exposure versus a business exposure. Court decisions vary.

3. Professional Services

The policy excludes “bodily injury” or “property damage” arising out of the rendering of or failure to render professional services.

4. “Insured's” Premises Not an “Insured Location”

“Bodily injury” or “property damage” arising out of a premises:

- a. Owned by an “insured”;
- b. Rented to an “insured”;
- c. Rented to others by an “insured”;

that is not an “insured location”.

“Insured location” is a defined term in the homeowners policy, embracing nine kinds of premises that qualify for coverage. No liability coverage is available for owned or rented premises that do not fit one of these nine categories - for example, a dwelling owned at inception of the policy and not listed in the declarations. But the exclusion applies only to liability “arising out of” the premises; an injury is not excluded unless the cause of the injury in some way relates to a condition of the premises. An accidental injury, for example, is not excluded simply because it happens to take place on excluded premises. The exclusion applies only if some causal relationship between a condition of the premises and the accident can be shown.

5. War

“Bodily injury” or “property damage” caused directly or indirectly by war, including the following and any consequence of any of the following is excluded:

- a. Undeclared war, civil war, insurrection, rebellion or revolution;
- b. Warlike act by a military force or military personnel, or
- c. Destruction, seizure or use for a military purpose

Discharge of a nuclear weapon will be deemed a warlike act even if accidental.

6. Communicable Disease

“Bodily injury” or “property damage” which arises out of the transmission of a communicable disease by an “insured” is excluded.

This exclusion was adopted in response to the increased frequency of suits alleging negligent transmission of diseases, particularly sexually transmitted diseases. Note that the exclusion is not limited to diseases that are sexually transmitted, applying as it does to any “communicable disease.” This term is not defined, leaving some doubt as to the extent of its application. However, the language “transmission of a communicable disease by an insured” (emphasis added) suggests only person-to-person transmission by direct physical contact, so the exclusion does not seem to apply to “contagious” diseases transmitted by airborne particles - measles, scarlet fever, etc. - nor to diseases that are transmitted through food or water contamination (i.e., salmonella, botulism, typhoid fever, etc.), even where their spread may be traced to human carelessness. Nonetheless, it remains to be seen what interpretation the courts will give to this exclusionary language. As of this printing no cases other than those involving sexually transmitted diseases have reached the courts.

7. Sexual or Physical Abuse Exclusion

“Bodily injury” or “property damage” arising out of sexual molestation, corporal punishment or physical or mental abuse is excluded.

8. Controlled Substance

“Bodily injury” or “property damage” arising out of the use, sale, manufacture, delivery, transfer or possession by any person of a Controlled Substance(s) as defined by the

Federal Food and Drug Law at 21 U.S.C.A. sections 811 and 812 is excluded. Controlled Substances include but are not limited to cocaine, LSD, marijuana and all narcotic drugs. However, this exclusion does NOT apply to the legitimate use of prescription drugs by a person following the orders of a licensed physician.

The exclusion does not bar coverage if a person correctly using a narcotic or anti-depressant that has been prescribed by his doctor causes injury or property damage because of a reaction to the drug. However, the intentional acts exclusion may apply to some cases that are not reached by this exclusion. For example, if an insured gives Rohypnol (also known as ecstasy or the date rape drug) to a friend, who dies as a result, the exclusion of bodily injury that is expected or intended, even if of a different kind than originally intended, should prevail.

F. Coverage E -Personal Liability Exclusions

The following six exclusions apply to coverage E - Personal Liability, but not to coverage F - Medical Payments.

Coverage E does not apply to:

1. Liability:

- a. For any loss assessment charged against you as a member of an association, corporation or community or property owners, except as provided in D, Loss Assessment under Section II -Additional Coverages.

Note: Coverage for loss assessments levied against owners-in-common because of inadequate insurance on their behalf by the association to cover property or liability claims is not, and was never intended to be, included in the personal liability coverage. Instead, separate loss assessment coverage is available under the additional coverages for section I and section II. Exclusion F.I.a. tracks with the language of the loss assessment additional coverage. As we will see, this limit is \$1,000.

- b. Under any contract or agreement entered into by an “insured”. However, this exclusion does not apply to written contract:
 - That directly relate to the ownership, maintenance or use of an “insured locaton”; or
 - Where liability of others is assumed by you prior to an “occurrence”; unless excluded in a. above or elsewhere in the policy.

Remarks: This exclusion applies to liability “under any contract or agreement,” but then exempts two major kinds of written contracts from the exclusion, thereby allowing coverage for liability assumed under most written contracts unless coverage is excluded elsewhere in the policy. Exempt from the exclusion is liability under written contracts: (1) that relate directly to the ownership, maintenance or use of an insured location, or (2) where the insured has assumed the liability of others prior to an “occurrence” as defined in the policy.

2. “Property damage” to property owned by an “insured”.

This includes costs or expenses incurred by an “insured” or others to repair, replace, enhance, restore or maintain such property to prevent injury to a person or damage to property of others, whether on or away from an “insured location”.

Remarks: This is a standard exclusion common to virtually all liability policies. But the wording of the 2000 forms has been changed considerably from the 1991 homeowners. The 1991 forms precluded coverage for “property damage” to property owned by the “insured.” Therefore, the form did not cover the insured's own property damaged by the insured but did not prevent recovery by one insured for damage to that insured's property by another insured under the policy. Now, however, there is no coverage for property damage to property owned by an insured; damage done by any insured to another insured's property is therefore not covered.

3. “Property damage” to property rented to, occupied or used by or in the care of the “insured.” This exclusion does not apply to “property damage” caused by fire, smoke or explosion.

Remarks: This exclusion is commonly referred to as the “care, custody or control” exclusions found in commercial general liability policies. However, should an insured inadvertently cause a fire in a hotel room resulting in damage, the damage is covered. Many insurers have developed independently filed endorsements eliminating water damage (apart from water bed leakage) or various other perils from the exclusion, as well, but ISO has no standard endorsements or provisions in its homeowners rules for broadening the exemption. The most important application of this exclusion is often found under form HO 00 04 10 00, where the entire house or apartment is rented to the insured, and is therefore subject to the exclusion.

4. “Bodily injury” to any person eligible to receive any benefit voluntarily provided or required to be provided by an “insured” under any:

- Worker's compensation law;
- Non-occupational disability law; or
- Occupational disease law

Remarks: This exclusion applies wherever benefits are required by law to be provided for domestic employees, or have been provided on a voluntary basis. The exclusion does not apply to take away the insured's employers liability protection for injured employees where these benefits are not required by law and have not been provided voluntarily.

5. “Bodily injury” or property damage” for which an “insured” under this policy:

a. Is also an insured under a nuclear energy liability policy issued by the:

- Nuclear Energy Liability Insurance Association;
 - Mutual Atomic Energy Liability Underwriters;
-

- Nuclear Insurance Association of Canada; or any of their successors; or

b. Would be an insured under such a policy but for the exhaustion of its limit.

Remarks: This is a standard and mandatory exclusion, serving to limit the insurance industry's collective liability for nuclear occurrences to the liability provided under nuclear insurance underwriting pools.

6. “Bodily injury” to you or an “insured” as defined in the definitions in the form.

Remarks: This exclusion takes away coverage for liability of one family member for bodily injury to another family member. In states that in whole or part have abrogated the inter-spousal or intra-familial immunity doctrine, i.e., wherein children may sue parents, spouses may sue each other, etc., this exclusion leaves a severe gap in coverage. The gap may have an especially adverse effect with respect to claims brought by persons under age 21 in the care of the insured or resident relatives - e.g., foster children.

Section II - Additional Coverages

Just as we had additional coverages under the property section of the Homeowner policy, there are also additional liability coverages. These additional coverages are in addition to the limits of liability.

A. Claim Expenses:

This clause indicates that expenses the company incurs and those taxed against the insured will be covered. These include premiums on bail bonds and interest on the entire judgment which accrues after entry of the judgment and before it is paid. Keep in mind the company provides the defense of its choice and can incur expense it desires to protect the insured. The company agrees to pay other reasonable expenses incurred by the insured including the actual loss of earnings of an insured subject to \$250.00 per day to appear in court or other hearings. In some forms this daily amount may be higher.

B. First Aid Expenses:

The company will pay expenses for first aid to others incurred by an “insured” for “bodily injury” covered under this policy. Medical expenses for any “insured” is not covered.

C. Damage to Property of Others:

There are cases where damage to property of others is covered under Section I Property Coverages. Under the personal property coverages the policy applies, if caused by an insured peril, to property being used by the named insured. If an insured borrows a riding lawnmower from a neighbor and it is destroyed by fire while in the custody of the insured, the policy would respond to cover the loss.

There are situations where the insured simply damages property of others and the property coverages cannot respond. An example would be where the insured's 12-yearold throws a rock through a neighbor's window on purpose. Maybe the insured has borrowed a neighbors power saw and breaks it. This clause pays regardless of legal liability. The limit is only \$1,000 per claim and is not subject to a deductible.

The clause has the following exclusions:

- a. To the extent of any amount recoverable under Section I of the policy;

Note: If the insured has a loss that is covered by Section I perils, a deductible will apply. The insured can still recover under the "damage to property clause" up to \$1,000.00 which in some cases is the Section I deductible. The coverage is excess.

- b. Caused intentionally by an "insured" who is 13 years of age or older; Note: Acts of children under 13 are covered.
- c. To property of an "insured." (Only covers property of others)
- d. To property owned by or rented to a tenant of an "insured" or a resident in the insured's household. (Property of tenants or other residents is excluded.

Excludes coverage arising out of a business, acts or omissions in connection with premises owned, rented or controlled by an insured other than the insured location. Coverage is also excluded for property damage arising out of the ownership, maintenance or use of aircraft, watercraft or motorized vehicles or all other motorized land conveyances.

Note: This exclusion does not apply to a motorized land conveyance designed for recreational use off public roads, not subject to motor vehicle registration and not owned by the insured.

D. Loss Assessment:

You may remember that under the Section I property coverages a limit of \$1,000 was provided for assessments as a result of damage caused by an insured peril to community property of which the insured is a member.

Under the liability portion of the Homeowner policy a limit of \$1,000 is also provided. This would respond where the property owners' association liability coverage was inadequate to cover a bodily injury or property damage liability claim and the members are assessed for the balance.

This clause also contains a few more coverages for the insured. Coverage is also provided (\$1,000) for the acts of the insured while acting as a director, officer or trustee. The clause contains two stipulations for coverage to apply:

- a. The director, officer or trustee is elected by the members of a corporation or association of property owners; and
-

- b. The director, officer or trustee serves without deriving any income from the exercise of duties which are solely on behalf of a corporation or association of property owners.

Note: Assessments charged by any government body are excluded.

Section II - Conditions

Under this section we will cover eight items. This section spells out the obligations of the company as well as the insured in case of a claim.

1. Limit of Liability:

As a result of claims from one occurrence, the maximum amount payable is the limit of coverage. The limit is the same regardless of the number of insureds, claims made or persons injured. Remember defense costs are in addition to the limit of liability.

2. Severability of Insurance:

The insurance applies separately to each insured. However, the most the company will pay as a result of any one claim is the limit liability.

Example: All three members of a household are sued as a result of an accident. The company will have to defend all three. If the suit is lost, the most the company will pay is the limit of coverage.

3. Duties after Loss:

In case of a loss the insured must give written notice as soon as practical providing all pertinent information. The insured must furnish the insurance company with all correspondence received or requested. The insured must not make voluntary payment unless at the insured's cost. Must cooperate and assist as requested by the company.

4. Duties under Medical Payments:

The insured must provide written proof of the claim and authorize the company to obtain medical records. The injured person must submit to a physical exam by a doctor of the insurance company's choice if requested.

5. Payment of Medical Claim:

A payment of a medical payment claim is not an admission of liability by an insured.

6. Suit Against the Company:

A suit against the insurance company can only be brought after the policy conditions have been in compliance.

7. Bankruptcy of an Insured:

Bankruptcy of an insured will not prevent the insurance company from paying a claim.

8. Other Insurance:

This insurance is excess over other valid and collectible insurance except insurance written specifically to cover as excess over the limits of liability that apply in this policy. (In other words, an umbrella policy.)

Sections I and II - Conditions

This is the last section in the policy and its provisions apply to both the property insurance and liability coverages in the policy.

1. Policy Period:

Loss must occur during the policy period.

Note: Sometimes this can be a problem. Assume a water problem occurs during the policy period and is not discovered. A new carrier assumes the risk and the water leak now becomes more visible and causes damage. The insured did not notice a problem until he reviewed the water bill. Who should pay the claim? Courts differ on this problem but usually the point at which the insured notices the damages is the key.

2. Concealment or Fraud:

This will void the entire policy either before or after a loss. The policy defines these as:

- a. Intentionally concealed or misrepresented any material fact or circumstances.
- b. Engaged in fraudulent conduct; or
- c. Made false statements relating to this insurance.

3. Liberalization Clause:

If the insurance company makes a change under this edition of the policy without additional premium charge, that change will automatically apply to this insurance. Provided that the implementation date falls within 60 days prior to or during the policy period stated in the policy.

4. Waiver or Change of Policy Provisions:

A waiver or change of a provision of this policy must be in writing by the insurance company to be valid. Any request by the insurance company for an appraisal or examination does not waive any of the insurance company's rights.

5. Cancellation:

The insurance can be cancelled by the insured at any time. Cancellation by the insurance company must comply with the laws of the state where the insurance is written. These reasons will vary by state but all will include non-payment of premium. Usually, a ten-day advance notice is required for non-payment of premium.

6. Nonrenewal:

A company can nonrenew a policy but only for specific reasons. A certain number of days notice of nonrenewal must be given to the insured and mortgagee, if any. The reasons and the number of days notice will vary by state. Please consult your state laws.

7. Assignment:

Assignment of the policy will not be valid unless the consent of the company is given.

8. Subrogation:

This clause is used quite often in all property policies as well as auto policies. If the company pays a claim it is entitled to the insured's legal rights to be reimbursed by the party that caused the damage. Sometimes the insured may waive, in writing, the right of subrogation before a loss has occurred. If not waived, the company assumes the right of recovery. Subrogation does not apply to medical payments since it is not a legal liability type of coverage.

9. Death:

If any person named in the declarations of the policy or the spouse (if a resident of the household) dies, the following applies:

1. The company will insure the legal representative of the deceased but only with respect to the premises and property of deceased covered under the policy at the time of death;
 2. "insured" includes:
 - a. Any member of the household who is an insured at the time of death, but only while a resident of the residence premises;
 - b. The person having proper temporary custody of the property until appointment and qualifications of a legal representative.
-

Review Questions ?

1. All of the following are covered under Coverage A of a Homeowners Policy EXCEPT:
 - A. Attached garage
 - B. Construction materials used in building an addition to the dwelling
 - C. Detached garage
 - D. A central air conditioning system

 2. Under the Homeowners Program, theft coverage does not cover theft of property:
 - A. Committed by the insured.
 - B. From a dwelling under construction.
 - C. From the residence of the insured's tenant.
 - D. All of the above.

 3. An apartment dweller would be in the market for a:
 - A. HO-8
 - B. HO-3
 - C. HO-4
 - D. HO-6

 4. The Personal Liability coverage for Mr. Jones' Homeowners policy would cover Jones if:
 - A. His dog bit his neighbor on the nose.
 - B. His 14-year-old son burned down his house.
 - C. He negligently bumped into his son while running to work.
 - D. All of the above.
-

SECTION THREE - THE HOMEOWNERS POLICY

5. A 4-family house may be written under the:
 - A. Dwelling Property Program
 - B. Homeowners Program
 - C. Both A and B
 - D. Neither A nor B

 6. Coverage F of the Homeowners Program applies to:
 - A. The named insured.
 - B. Resident relatives.
 - C. Tenants of the insured.
 - D. Social invitees.

 7. Coverage E of the Homeowners Program involves:
 - A. Premises liability
 - B. Personal activities
 - C. Acts of residence employees
 - D. All of the above

 8. Property damage liability includes:
 - A. Bodily injury
 - B. Personal injury
 - C. Loss of use
 - D. None of the above

 9. Bodily injury liability includes:
 - A. Physical harm
 - B. Sickness
 - C. Death
 - D. All of the above

 10. Coverage E - Personal Liability of the Homeowners Program addresses:
 - A. Legal obligations of the insured resulting from personal activities.
 - B. Occurrences on the insured's premises resulting from an attack of the insured's dog.
 - C. Bodily injury or property damage to a third party.
 - D. All of the above.
-

Review Answers

1. C

2. D

3. C

4. A

5. C

6. D

7. D

8. C

9. D

10. D

SECTION THREE - THE HOMEOWNERS POLICY

[Click here to review the Homeowners Policy Form](#)