



Insuring the Home-Based Business

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The United States has experienced a rapid growth in home-based businesses in the last decade. The latest studies indicate that there are more than 11 million home-based businesses in the country, a figure that is expected to rise in the coming years.¹ A recent survey, however, found that a majority of these businesses do not have the proper insurance coverage.² Many of these businessowners assume that their homeowners insurance policy protects them from any potential losses related to the business.

Most homeowners forms, however, provide little protection for a vast number of home-based businesses due to a variety of property and liability exclusions and limitations. When losses do occur to business operations in which no commercial insurance is available, the businessowner often looks to his or her homeowners policy to provide the necessary protection. In cases where the insurer denies coverage and the case goes to trial, the issue often hinges on the definition of “business” and the particular facts of the business and the loss. In many cases, the courts uphold the business exclusion, leaving the businessowner without coverage.

The solution to this problem is procuring the proper insurance coverage for the home-based business. The necessary insurance can often be obtained through the appropriate homeowners endorsement(s), of which there are several types. For larger home-based businesses, the solution may be a separate businessowners policy (BOP). Insurance agents and brokers who focus on personal lines insurance should become aware of this growing loss exposure and utilize risk management techniques to proactively deal with it. This program should also evaluate other potential insurance gaps and needs for the business, such as automobile, excess liability, professional liability, and workers compensation coverages.

As a result, this discussion focuses on information and statistics concerning home-based businesses, the lack of coverage under standard homeowners policies, how the courts have interpreted the concept of business, available homeowners endorsements for this exposure as well as the BOP, and the additional insurance products necessary to properly handle this burgeoning loss exposure.

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Abstract

Home-based businesses are becoming increasingly common in the United States. Many of these business owners, however, do not realize how inadequate their insurance coverage is. These owners often assume their homeowners policy covers the business. This article explains the many restrictions found in this policy for business-related losses, limitations that are often upheld by the courts. As a result, filling these insurance gaps is a key area in which to focus. The article concludes with a review of other key loss exposures for these businesses, such as automobile, excess liability, and professional liability exposures.

Home-Based Business Statistics

Home-based businesses are a rapidly expanding form of business in the United States, with one study indicating that approximately one in 10 U.S. households operate some type of full- or part-time home-based business.³ These types of businesses make up about 53 percent of the small business population and represent a broad cross-section of U.S. industrial sectors. Approximately 60 percent are in the service industries, 16 percent in construction, 14 percent in retail trade, and the remaining are scattered in transportation, communications, wholesale trade, manufacturing, finance, and other industries.⁴

Home-based businesses tend to be sole proprietorships, employing fewer people and earning less revenue than other businesses. See Table 1 for employment percentages.⁵ See Table 2 for revenue percentages.⁶

Table 1
Home-Based Businesses—Number of Employees

Number of Employees	Percentage
No Employees	91.6
1-4	7.2
5-19	1.0
20 or more	.2

Table 2
Home-Based Businesses—Revenue Size

Annual Gross Receipts	Percentage
Less than \$25,000	77
\$25,000 to \$50,000	19
\$100,000 to \$500,000	3.5
\$500,000 or more	Less than 1

These types of businesses are of particular interest due to their potential as a fountain of economic activity. Homes can serve as business incubators, collectively providing start-ups with an entry point into the business world. Dell Computers, founded in 1984 in a university dorm room, is now the twenty-fifth largest company in the United States.⁷ The Internet, in particular, has played an important role in the development of home-based businesses. For example, Ebay selling has become a popular type of home-based business.⁸ Other popular types of home businesses include massage therapy, business and career coaching, computer consulting, computer repair, elder services, financial advising, and webmastering.⁹

This growth, however, has resulted in many coverage gaps for these businessowners. A recent study conducted by the Independent Insurance Agents & Brokers of America indicated that 58 percent of home-based businesses are without business insurance.¹⁰ For these uninsured businessowners, 87 percent did not understand why separate insurance for the business is necessary. See Table 3 for additional survey responses from uninsured home-based businessowners.

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Table 3
Uninsured Home-Based Businesses—Survey Responses

Reason for Uninsured Status	Percentage
Other insurance unnecessary since they had a homeowners policy	39
Business was too small or posed no risk	29
No reason	19
Total of all home business owners who do not realize need for separate insurance	87

The survey indicated further that these businessowners assumed that insurance for fledgling home-based businesses was too expensive. A further response indicated that 11 percent of these businesses without insurance experienced a loss.¹¹

Coverage Limitations under Homeowners Policies

The assumption that standard homeowners policies provide coverage for home-based businesses is a dangerous one. This policy contains an assortment of property and liability restrictions for business-related loss exposures. Note that the “business” definition is also an important provision to review when ascertaining coverage.

Business Property Restrictions

The Insurance Services Office, Inc. (ISO) Homeowners 3–Special Form (HO 3), a commonly used form promulgated in 2000, precludes property coverage for “other structures” such as a detached garage or separate non-dwelling building, from which any “business” is conducted. Thus, if the insured operates a home-based business out of his detached garage, this structure is not covered.

A related exclusion stipulates that any structure used to store business property solely owned by an insured or a tenant of the dwelling would be covered, provided that the stored items do not include liquid fuel. For example, if Mary stores training materials used in her home business in her storage shed in the backyard, coverage would be provided for the shed. However, if Mary stores fuel supplies for a jet ski rental business in the detached garage, coverage would *not* be afforded for the shed.¹² An exception preserves coverage for the structure if the fuel is in a permanently installed fuel tank of a vehicle or craft stored in the structure.

The HO 3 also specifies a \$2,500 limitation on property located *on* the residence premises, used primarily for business purposes. Thus, if the insured has a \$4,000 computer, used primarily for her home-based graphic art business, which is stolen from her home or damaged in a fire, the loss paid is limited to \$2,500.¹³

In addition, the HO 3 contains a \$500 limitation on business property located *away* from the residence premises. Thus, if the insured is taking the same computer to a repair shop and it is stolen out of her car, the loss paid is limited to \$500.¹⁴ The American Association of Insurance Services (AAIS) homeowners form contains a \$250 limit on business property located away from the insured premises.

Business Liability Restrictions

An even greater loss exposure concerns legal liability for a home-based business since most homeowners policies contain liability exclusions for business-related activities. The ISO HO 3 excludes bodily injury or property damage “arising out of 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.’” The policy, however, does allow an exception for businesses engaged in the “rental of an insured location (a) on an occasional basis if it is used only as a residence, (b) in part for use only as a residence, unless a single family unit is intended to be used by the occupying family to lodge more than two roomers or boarders, or (c) in part, as an office, studio, school, or private garage.” A second exception concerns an insured under age 21 involved in a part-time, self-employed business without any employees.¹⁵ The vast majority of home-based businesses, however, do not fit into these two categories.

Another important liability exclusion pertains to professional services. The HO 3 excludes any type of bodily injury or property damage arising out of the providing of or failure to provide professional services. The courts generally rule that a professional service is one requiring specialized knowledge or mental, rather than manual, skills.

The homeowners policy is intended to cover personal loss exposures, not professional exposures. For example, if John is an attorney who works out of his home, he needs to procure a separate professional liability or errors and omissions (E&O) liability policy to protect himself from lawsuits stemming from his professional acts.¹⁶

“Business” Definition

The next issue pertains to the definition of a “business.” The ISO HO 3 defines a “business” as a trade, profession, or occupation engaged in, regardless if it is on a full-time, part-time, or occasional basis. Any other activities an insured participates in for money or other compensation qualifies as a “business” with certain exceptions. (Note that many insurer homeowners forms do not contain any exceptions to the business definition.) Four minor business-related type exposures are specified as non-business activities and are thus covered under the HO 3.

The first exception concerns activities that are *not* described in the next three exceptions, for which an insured receives \$2,000 or less in total compensation during the 12 months preceding the effective date of the policy. For example, John works at a regular daytime job; however, he has a substantial baseball card collection and he occasionally advertises to sell specific cards on the Internet. His revenue from this avocation in the preceding 12 months was \$1,300. If a baseball card customer coming to John’s house slips on the sidewalk and is injured, coverage for this loss arising from this sideline avocation is not affected by the form’s business exclusions and limitations.

The second exception involves volunteer activities in which no compensation is provided other than expenses paid to perform the activity. Suppose that Frank volunteers at a local hospital. He is paid only for his gasoline expenses to and from the hospital. Assume further that he helps an elderly patient sit in a chair and the patient falls and subsequently sues Frank for negligence. The homeowners form does not categorize this situation as a “business” activity; thus, the form’s business exclusion would *not* apply.

The third exception concerns home day care services. Occasional day care services provided for which no compensation is involved, other than the mutual exchange of such services, is *not* considered a “business” exposure. For instance, assume Mary has a 3-year-old child, and her neighbor has a 4-year-old child. If these two women take turns babysitting each other’s children with no exchange of money, this activity does *not* fall into the business category.

The fourth exception pertains to the rendering of home day care services to a relative of an insured. For example, Mary is a retired individual who cares for her mother in Mary’s home. This is *not* considered a “business” activity, regardless of whether any payment is involved.¹⁷

This definition is fairly broad-based; however, the concept of business is not always precise and clear cut. For example, a hobby can eventually turn into a profitable and growing business. Conversely, a sideline business that is not profitable and is operated on an erratic basis may *not* be viewed as a business per se by the courts.

Court Decisions and Interpretation of “Business”

Courts have dealt with the issue of whether business property and business-related activities are covered by the homeowners policy for many years. Often the first step is for the court to ascertain what is meant by the term “business.” A seminal case concerning this topic is *Home Ins. Co. v Aurigemma*, in which the New York Supreme Court ruled that the term “business pursuits” encompassed two elements—continuity and profit motive.¹⁸ Concerning the first element, there must be a customary engagement or a stated occupation. Concerning the second element, there must be proven a means of livelihood, gainful employment, or procuring subsistence or profit. In a later New York appellate court decision, the court ruled that “for purposes of the ‘business pursuits’ exclusion, the ‘business’ engaged in by the insured need not necessarily be limited to his sole occupation.”¹⁹

Court decisions concerning property limitations and liability limitations on business-related losses are important to review in order to fully understand the relevant loss exposures and the gaps that may be created when conducting business or quasi-business activities from the home.

Business Property Limitation/Exclusion

There are two key business property restrictions in the homeowners form to address from a case law perspective—one pertaining to other structures, and one pertaining to business personal property. *Smith v State Farm Fire & Cas. Co.* concerned the preclusion of coverage for other structures used in business.²⁰ The insured’s homeowners policy excluded any non-dwelling structure “used in whole or in part for business purposes” or “rented or held for rental to a person not a tenant of the dwelling, unless used solely as a private garage.” In this case, the insured rented both of her barns to a commercial marina to store boats. The insured listed property rental as a business or profession on her federal tax return and reported \$4,000 gross receipts for three consecutive years.

One of the barns later collapsed due to snow accumulation on the roof. This loss was unrelated to the presence of the boats inside the structure. State Farm denied the claim because the policy’s business and rental exclusions precluded coverage since Smith was renting the barn for business purposes. As a result, the insured brought suit. The district court ruled that the rental conduct was governed by the policy’s rental exclusion and not the general business exclusion. The court ruled that the insured was entitled to coverage because the marina was “functionally using the barn as a private garage.”

The Minnesota Appellate court reversed, ruling that the insurance contract should be “construed so as to harmonize all of its parts,” including the business activities exclusion. The court defined business pursuits as an activity “intended to generate profits or financial gain.”

The court rejected the insured’s contention that since she is a financial analyst, the property rental is not her “trade, occupation, or profession.” The court ruled that the policy excludes coverage for “business purposes,” not the singular “business purpose,” implying that the exclusion is not restricted solely to the insured’s primary occupation. The court agreed with State Farm’s position that the boat storage rental created business risks and liability not contemplated by the insured’s homeowners coverage.

The various restrictions on business personal property have also been challenged in court. In *Asbury v Indiana Union Mut. Ins. Co.*, this limitation was struck down by the court.²¹ The insured, a mill operator, was also a hunter for sport. The insured stored over 100 pelts in his deep freezer; he had received money from the sale of skins in the past. The pelts, valued at approximately \$3,500, were stolen from his home, and he filed a claim with his homeowners insurer. Indiana Union Mutual denied the claim, citing the business property exclusion. The insured filed suit, contending that he never relied on the sale of animal skins to make a living. The district court upheld the business exclusion and the case was appealed. The Indiana appellate court reversed the decision, ruling that the hunting and skinning of animals was more closely related to a hobby than a business. It found that “each case is fact-sensitive for determining whether a particular activity is ‘business’ or involves ‘business property.’”

In *Mack v Nationwide Mut. Fire Ins. Co.*, the court upheld the business property exclusion.²² In this case, the insured’s musical equipment valued at nearly \$27,000 and used to perform for money, was stolen. Nationwide offered to pay only \$500, which was the limit for business personal property under the applicable homeowners policy. As a result, the insured filed suit. The insured contended that his musical interests were more related to a hobby in that he used them more for pleasure than any business activity. He further argued that the business property exclusion was ambiguous because “business property” was not defined in the policy. The Ohio appellate court disagreed, finding that he did receive remuneration of cash or musical instruments in exchange for his musical services. The court also stipulated that the “mere absence of a definition in an insurance contract does not make the meaning of the term ambiguous.” It applied the plain and ordinary meaning to the phrase “business property.”

Business Liability Exclusion

The business liability exclusion has been challenged even more frequently than the business property restrictions. In a few cases, the courts have struck down the exclusion. In *State Auto Prop. & Cas. Ins. Co. v Reynolds*, the insured’s dog bit a professional dog handler.²³ The injured party filed a claim against the insured, who turned in the loss notice to his homeowners insurer, State Auto. The insurer declined coverage, citing the business pursuits liability exclusion. State Auto contended that the insured had facilities in his home to breed and raise Akita show dogs for money, which included a kennel behind his home. The insurer later filed a declaratory judgment action.

The South Carolina Appellate court found that this activity was part-time, particularly since the insured had other business interests. The court struck down the business pursuits liability exclusion, finding that there was no profit motive in this activity since it was more hobby-oriented than business-oriented.

More often, however, the business pursuits exclusion is upheld by the courts. In *Wiley v Travelers Ins. Co.*, the insured’s dog bit a guest who responded to an advertisement regarding a St. Bernard puppy for sale.²⁴ The claim was filed with the homeowners insurer, but Travelers denied coverage under the business pursuits exclusion. The insured held a full-time job as a salesman and argued that the dog operations were only part-time and more of a hobby than a business. The insured further argued that any profits he did make were inconsequential.

The Oklahoma Supreme Court upheld the exclusion, ruling that the addition of a “profit motive is all that is necessary to make an activity both a hobby and a business pursuit.” It further stated that “whether there is or is not actual profit is immaterial.” The court viewed a business in a comprehensive manner, stating that “profit motive, not actual profit, makes a pursuit a business pursuit.”

In *Pacific Indem. Ins. Co. v Aetna Cas. & Sur. Co.*, the insureds' horse kicked and injured an independent contractor hired to care for their animals.²⁵ The injured party filed suit against the insureds, who turned the claim over to their homeowners insurer. Aetna refused to defend or indemnify the insureds, arguing that they were engaged in a business pursuit since they boarded many horses at their farm for \$480 per month per horse.

The insureds argued that they each had full-time jobs unrelated to the horse boarding business. They contended that this activity was secondary in nature. The Connecticut Supreme Court disagreed with "such a narrow interpretation," finding a profit motive in this activity. It found this to be a business pursuit activity "further bolstered by the fact that, for every year in question, the insureds filed farm business federal income tax returns and claimed substantial annual depreciation of their property under various IRS codes."

Numerous other courts have upheld the business pursuits liability exclusion.²⁶

ISO Business-Related Homeowners Endorsements

There are clearly gaps in coverage for home-based businesses under the unendorsed homeowners policy, gaps that are often enforced by the courts. Different homeowners endorsements, however, can be added to address loss exposures arising from these businesses but many of them still leave gaps in coverage. For example, a simple way of expanding the limit for business property under the homeowners policy is via ISO's increased limits on business property (HO 04 12) endorsement. This homeowners endorsement increases the \$2,500 limit of liability for business property located on the residence premises by the amount shown in the endorsement schedule up to \$10,000.²⁷ The problem with this endorsement, however, is that it does not affect the business liability exclusion. Thus, its value to home-based businessowners is suspect.

Another endorsement, the business pursuits (HO 24 71) endorsement, is also not the best option for the home-based businessowner. This endorsement expands business pursuits liability coverage and is geared toward occupational categories such as sales, clerical, and instructional. The endorsement, however, does not apply to any business that is either owned or financially controlled by the insured or by a partnership of which the insured is a member.²⁸

A better option is ISO's home business insurance coverage (HO 07 01) endorsement, promulgated in 2000 due to the growing number of home-based businesses in the United States. There are four principal classifications applicable to this program, as shown in Table 4.²⁹

Table 4
ISO Home Business Classifications

Classification	Description
Office	Applicable when the business concerns professional or administrative activities for its customers. Examples include accounting, résumé writing, telephone answering, and technical writing.
Service	Applicable when the business provides repair or other services for its customers. Examples include computer repair, pet-sitting, bicycle repair, clock and jewelry repair, housecleaning, and photography.
Sales	Applicable when the business involves product sales, other than crafts made in the home or other structures and when sold from the home. Examples include the sale of books, magazines, costume jewelry, cosmetics, household products, plants and flowers, and stationery.
Crafts	Applicable when the business involves selling from the home, other structures, or other locations, crafts made in the home or other structures. Examples include crafts such as ceramics, dolls, flower arrangements, miniatures, and quilts.

The home business must meet the following four criteria in order to be eligible for coverage under this endorsement:

- It must be owned by (a) the named insured, or (b) a partnership, joint venture, or other organization that is composed only of the named insured and resident family members.
- The business must be operated from the residence premises, which is primarily used and designed for private residential purposes.
- The business can have up to three employees but cannot produce gross annual receipts over \$250,000. Larger businesses need to be insured under the appropriate commercial coverage forms, such as the businessowners policy (BOP).
- The business cannot involve the (a) manufacture, sale, or distribution of food; and (b) manufacture of personal care products and the sale or distribution of these types of products. However, the exception concerns a business involved in the sale or distribution of nationally recognized personal care products (e.g., Avon) manufactured by a reputable company.³⁰

This endorsement (informally referred to as HOBIZ) provides business property, business income, extra expense, personal liability, and medical payments coverage. Additional business property covered include accounts receivables and valuable papers and records.³¹

Valuable liability coverage not found in the unendorsed homeowners form is provided with this endorsement. For example, personal liability coverage is extended to include personal and advertising injury, covering incidents such as infringement upon copyrights in advertising and written publication of material that violates a person's right to privacy. Products and completed operations coverage can also be included in the liability coverages.³² Note that there is no professional liability coverage (e.g., accountants' errors and omissions) with this endorsement. A separate professional liability or errors and omissions (E&O) policy is necessary to cover this loss exposure.

There are also several more specific endorsements utilized in connection with the HOBIZ endorsement. For example, the additional insured-vendors (HO 07 51) endorsement adds liability coverage for vendors or distributors arising out of the specified vendor's sale or distribution of the named insured's products. Thus, if the insured operates an Amway business in his home and occasionally uses a vendor to help sell these products, the vendor can be designated as an additional insured.³³

The loss payable provisions (HO 07 52) endorsement provides for situations involving a loss payee or lender's loss payee under a contract of sale. For example, assume Donna operates a sole proprietorship out of her home and purchases sophisticated computer equipment for this business. She signs a contract for the sale of this property, including the financing. The computer store has a financial interest in the equipment. Thus, if a major fire decimates Donna's home, the store could be protected with this endorsement.³⁴

The special coverage for valuable papers and records (HO 07 57) endorsement extends coverage for valuable papers and records from a named perils basis to an all-risk basis up to \$2,500. Thus, if the insured sells a limited number of historical documents via the Internet out of his home, broader coverage (e.g., mysterious disappearance) would be provided with this endorsement.³⁵

Table 5
AAIS Home-Based Business Classifications

Classification	Description
Offices	Includes businesses such as word processing, tutoring, real estate agents, counseling, and insurance agents. There is no professional liability coverage and the classification does not contemplate any products or completed operations loss exposures.
Service	Includes businesses such as hair styling, photography, furniture upholstery, and house sitting. There is no professional liability coverage, but cosmetologist's liability coverage is available as an option. Completed work exposures are contemplated in the service rating information.
Retail	Includes the sale of cosmetics, collectibles, vitamins and health care products, and art work. Products liability exposures are reflected in the retail rating information. Businesses, however, that manufacture their own products or sell products packaged under their own label, are ineligible for coverage under the home-based business program.
Crafts	Applicable to businesses that make and sell crafts. This classification includes craft sales at other locations and on consignment. Examples include flower arrangements, wood products, fabrics, and decorative clothing. Products liability exposures are reflected in the crafts rating information.
Food	Applicable to businesses that make, handle, distribute, or sell food to be consumed either on or away from the residence premises. Examples include baked goods, canning, fruit and vegetables stands that do not have pick-your-own operations, and picnic baskets. There is no liquor liability coverage if the insured is involved in manufacturing, distributing, selling, or serving alcohol. Products liability exposures are contemplated in the food rating information.
Bed and Breakfast	Applicable to small bed and breakfast operations with a maximum of six rooms for overnight guests. The bed and breakfast must be owned <i>and</i> operated by one or more persons insured by the underlying policy. A liquor liability exclusion applies for liquor sold for a charge and liquor that is given away and not sold when a license is required for such activities. Products liability covers products consumed on or off the residence premises.

AAIS Home-Based Business Endorsement

AAIS developed a home-based business endorsement in 1998 to be attached to its homeowners, farmowners, or mobile-homeowners policies. There are six principal classifications applicable to this program, as shown in Table 5.³⁶

Ineligible classes include the following:

- contracting operations that offer installation services
- child and adult care services
- home health care services
- lawn care services
- risks with more than a single business conducted on the premises, with some exceptions

To be eligible for coverage, the home business must meet the following requirements:

- The business must be owned by one or more insureds on the underlying policy.
- The business must be an incidental occupancy of the insured residence.
- The annual gross receipts cannot exceed \$250,000.

- Business operations cannot be permanently conducted at any other locations under the same legal name.
- The business cannot have more than three employees, including family volunteers.³⁷

Property coverage is expanded to accommodate the needs of the home-based businessowner under the AAIS endorsement. Thus, other structures used to store business property is covered. The full personal property limit applies to business property. Property coverage options include guests' personal property coverage for bed and breakfast businesses, accounts receivables, loss of income, extra expenses, and spoilage coverage.³⁸

The liability limits include a general aggregate limit and a products/completed work hazard aggregate limit. Liability coverage options include personal injury/advertising injury, expanded contractual, non-owner auto/hired auto, cosmetologist's liability, watercraft, and incidental fire legal liability. There is no professional liability coverage under this endorsement.³⁹

Businessowners Policy

For certain home-based businesses that may be ineligible for any type of homeowners endorsement coverage (e.g., businesses whose annual receipts exceed \$250,000), the businessowners policy (BOP) provides another option. The ISO BOP is a package policy designed to provide both property and general liability coverage for eligible small businesses. It is written on special BOP forms and rated in accordance with special BOP rates and rules.

In general, the BOP is designed for insuring small businesses. However, eligibility is based on the nature as well as the size of the insured's business.

For a business to be eligible for coverage under a BOP, none of its locations can exceed 25,000 in square footage (excluding basements not open to the public) and \$3 million in annual gross sales. The following types of businesses are ineligible regardless of their size:

- manufacturers
- auto repair or service stations; auto, motor home, mobile home, and motorcycle dealers; parking lots or garages
- bars and pubs
- places of amusement
- banks and other financial institutions
- self-storage facilities that provide outdoor storage of motorized vehicles of any type

Many of the property coverages that are optional in the home business endorsements are automatically covered under the BOP, such as business income, extra expenses, and valuable papers and records.⁴⁰ Liability coverage under the BOP is similar to those offered through home-based business endorsements, such as personal injury and advertising injury protection. Like the endorsements, the BOP does not provide any professional liability coverage.⁴¹

Note that it is highly advisable that the BOP be written through the same insurer that provides the underlying coverage because business and non-business property and activities are intertwined in a home business situation.

Although the BOP can be written for certain home-based businesses, it is designed for traditional small businesses with commercial locations. Thus, the home-based business endorsements are a preferable way of covering these exposures since the endorsements were written specifically for home businesses.

Other Insurance Lines

The chief focus of this discussion concerns how the unendorsed homeowners policy is insufficient for home-based businesses. However, a brief mention of other types of property and casualty insurance for these businesses is in order. This includes an overview of loss exposures pertaining to automobile, excess liability, professional liability, and workers compensation coverages.

Automobile

In most cases, an insured's personal auto policy (PAP) provides coverage for automobile-related losses arising from the home-based business. For example, the ISO PAP contains a general business liability exclusion, but this exclusion does not apply to the maintenance or use of a private passenger auto, a pickup or van, or a trailer used with one of these vehicles. Thus, a business-related auto loss arising from a large commercial vehicle (e.g., three-ton truck) would not be covered. Most home-based businesses, however, do not utilize vehicles of this size.

There are other personal auto liability exclusions that could apply. For example, there is no bodily injury coverage to an employee of an insured. The home business owner would need to procure workers compensation coverage for this loss exposure.

There is also no liability coverage for a loss arising out of a vehicle being used as a public or livery conveyance. In this case, a commercial auto policy may become necessary, based on the circumstances and the extent of the business use. Note that this exclusion pertains primarily to delivery and conveyance of people (e.g., taxi cab) and not the incidental hauling of property.⁴² Thus, if the insured has a part-time, home-based business of repairing lawn mowers and occasionally delivers the repaired mowers back to customers, this exclusion would not likely apply.

However, if the primary purpose of the vehicle is to deliver products, the exclusion normally holds. In *Morris v Buttney*, the insured owned a delivery service and negligently caused an automobile accident.⁴³ The insured argued for coverage because he hauled property rather than people, contending that the "public or livery conveyance" exclusion applies more to the transporting of passengers as opposed to the delivery of packages. The Wisconsin appellate court disagreed, affirming the circuit court's ruling that this term applies to the "transport for hire of things as well as people."

One final applicable liability exclusion pertains to losses emanating from automobile-related business activities such as selling, buying, servicing, storing, or parking vehicles. If the home-based business deals primarily with automobiles (e.g., using the Internet to buy and sell used cars), the PAP's liability coverage does not apply. A separate commercial auto policy is needed in this case.⁴⁴

If the insured uses her automobile in connection with her home-based business, she should advise her agent to verify the appropriate personal auto rating classification is used. The business rate is typically higher than a "drive-to-work" rate, but low business mileage or incidental business use could also be a factor that could decrease the rate.

Excess Liability

A personal umbrella policy or a personal excess liability policy provides high limits of liability to protect an insured against a catastrophic liability loss. These policies grant liability coverage that stacks on top of the primary liability coverage provided by the underlying policy. A personal umbrella policy is highly recommended for the owners of home-based businesses, particularly when customers visit the home.

The personal umbrella policy is structured on either a “stand-alone” or, less commonly, a “following-form” basis. A stand-alone form relies exclusively on its own policy terms, conditions, and exclusions, and is normally a longer form. Conversely, a following-form policy incorporates the terms, conditions, and exclusions of the underlying policies and is thus a shorter form.⁴⁵ Thus, if the insured has a home-based business endorsement of some type and a following-form umbrella policy, then any liability loss covered under the underlying homeowners form/endorsement would also be covered under the personal umbrella form.

If a stand-alone personal umbrella form is used, any business-related restrictions should be examined carefully along with the form’s “business” definition to ascertain if there are gaps in coverage. For this reason, it is best for the home-based businessowner to procure the umbrella policy from the same insurer that provides the homeowners policy.

Professional Liability

Professionals hold themselves out as possessing special skills and experience. They are relied upon by society to exercise intellectual judgment in their particular areas of knowledge. Professional services often form the heart of the home-based business. Examples include legal services, accounting, computer consulting, web mastering, financial advising, career coaching, and technical writing. Liability losses arising from these activities are not covered by the homeowners policy or endorsements nor by the BOP. Thus, a separate professional liability or E&O policy needs to be procured. Professional liability insurance provides coverage to protect traditional professionals (e.g., attorneys) and quasi-professionals (e.g., web masters) against liability incurred as a result of errors and omissions in performing professional services.⁴⁶

Workers Compensation

A high percentage of home-based businesses do not utilize any outside employees. If the business does hire employees, workers compensation insurance may be required subject to the jurisdiction and the number of employees hired. Workers compensation insurance offers a schedule of benefits, payable regardless of any negligence or legal liability on the employer’s part, should an employee become injured on the job. Coverage is available to the owner as well in most jurisdictions.⁴⁷

Conclusion

The strong growth of home-based businesses in America dramatically illustrates the need for insurance agents to proactively engage in more risk management activities with their personal lines clients. Rather than just sell homeowners and personal auto insurance, the agent should actively ask the type of questions that uncover unusual loss exposures. One study indicates that one out of 10 Americans are running a business out of their home.⁴⁸ As a result, specific upfront questions concerning home-based businesses will uncover these activities, leading to the proper insurance coverage and protection for these businessowners. If the insured does have a home-based business, follow-up questions concerning the type of business, annual revenue, number of employees, business visitors to the home, manufacturing processes, and loss control measures are in order. The agent should be an advocate for effective loss control measures for this business, just as the risk manager is for a large company.

There is every indication that home-based businesses will continue to grow in America, particularly with the expanding utilization of the Internet. Unfortunately, a high percentage of these businesses are bereft of the proper insurance, with many of the owners simply assuming that the business will be covered by a standard homeowners policy. This policy, however, contains many business-related exclusions and limitations, with the courts usually enforcing these restrictive provisions. As a result, additional coverage provided by the appropriate homeowners endorsement(s) is typically the best measure to properly cover these business activities. The insurance agent should thus play a proactive role in uncovering these businesses, educating insureds about the potential gaps in insurance protection, and procuring the proper endorsements and policies to adequately protect their clients.

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