

Business Interruption Insurance Part I

by Charles H. Cox

Business Income and Extra Expense insurance coverage provides for the loss of income or the incurrence of extra expenses above and beyond normal operating expenses to continue operations after a direct physical loss of or damage to property has occurred. The loss or damage may be caused by or result from a covered cause of loss. This basic coverage may not meet the needs of all ice arena owners/operators. Beginning in this issue of the EDGE, we will explore some typical coverage limitations found in many Business Income and Extra Expense coverage forms and ways to address these limitations.

Extended Business Income coverage provides for an additional period of coverage (often 30 days or more) for lost income beyond the time the property has been repaired, rebuilt or replaced and operations have resumed. Once a facility has been repaired, rebuilt or replaced, it may take an extended period of time to get your business back to the level of income producing operations enjoyed prior to the loss. In some cases, competitors may have taken your customers while you were repairing your facility. Just because you have opened the doors and are ready for business does not mean your customers will be knocking down your door to do business. It may take awhile to get your business back to its pre-loss level of income generation, and if your company cannot reasonably expect to do so within the time period afforded in the basic coverage form, additional coverage will be needed.

Whatever extended period of indemnity is appropriate for your business will need to be factored in when determining the amount of insurance to purchase.

Radio or Television Antenna — Loss caused by or resulting from direct physical loss or damage to radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers is often excluded. This exclusion is particularly noteworthy in view of today's increasing dependence on electronic communications. Some insurers offer an endorsement or coverage extension that eliminates this exclusion.

Ordinance or Law Coverage — If the reconstruction or repair of a building takes longer to accomplish in order to comply with ordinances or laws, many time element coverage forms will not pay for the resulting loss of income or any extra expenses incurred, above normal expenses to continue operations, or they will provide an insignificant amount of coverage by means of a coverage extension.

The “Period of Restoration” is the time during which business income and extra expense losses are paid. According to Insurance Service Office (ISO) forms, for business income losses, the period begins after a specified number of hours (the deductible) following the physical damage or, in the case of Extra Expense, immediately after the physical damage (no deductible applies to Extra Expense coverage). The “Period of Restoration” ends on the date when the property “should be repaired, rebuilt or replaced with reasonable speed and similar quality or the date when business is resumed at a new permanent location,” whichever date is earlier. The “Period of Restoration” does not include “any increased period required due to the enforcement of any ordinance or law that regulates the construction, use, or repair, or requires the tearing down of any property.”

ISO's Ordinance or Law — Increased Period of Restoration endorsement is available for an additional premium, and it amends the definition of “Period of Restoration” so that it specifically

includes “any increased period required due to the enforcement of an ordinance or law that regulates the construction, use, or repair, or requires the tearing down of any property.” It does not include “loss caused by or resulting from the enforcement of any ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants.”

When selecting this optional coverage, it is necessary to adjust the amount of Business Income coverage to reflect this extended period of indemnity. Some non-ISO forms include an extended period of indemnity in connection with ordinances or laws; they may be subject to a specific sub-limit.

In the next issue of the EDGE, we will continue our review of “Business Interruption Insurance for Ice Arenas.”

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