

8th Edition

Businessowners Policy Coverage Guide

Commercial Lines Series

George E. Krauss, D.Ed., CPCU, CLU, ChFC, ARM

ALM PROPERTYCASUALTY360
in partnership with
NATIONAL UNDERWRITER

Property of Robert Richardson,

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Dr. George E. Krauss, CPCU, CLU, ChFC, ARM is President of The Magellan Group, Inc., a risk management and consulting firm located in Pittsburgh, Pennsylvania.

Dr. Krauss holds a B.S.B.A. from Robert Morris University in Pittsburgh, Pennsylvania, and a M.Ed. and D.Ed. in adult education from The Pennsylvania State University in State College, Pennsylvania. His insurance career includes a wide range of positions at both agencies and companies with experience in the sales, marketing, underwriting, and claim fields.

Dr. Krauss holds the professional designations of Chartered Property Casualty Underwriter (CPCU) and the Associate in Risk Management (ARM) from The Institutes and Chartered Life Underwriter (CLU) and the Chartered Financial Consultant (ChFC) designations from The American College. He is a former board member of the Pittsburgh Chapter of the Society of Financial Service Professionals (SFSP), former board member of the Pittsburgh Life Underwriters Association (NAIFA), past president of the Allegheny Chapter CPCU Society, and former National Governor of the East Central Region of the CPCU Society.

In addition to his academic background, Dr. Krauss is an active member of the insurance educational community. He is a frequent instructor at various colleges and insurance education associations. He has also acted as an expert witness and consultant in over 300 legal cases involving various aspects of insurance agent, broker, and insurance company practices as well as policy interpretation. He has authored numerous insurance reference manuals including *Homeowners Analysis*, *Personal Auto Analysis*, *Dwelling Policy and Personal Umbrella Policy*, and the *Businessowners Policy Coverage Guide*. In addition, his property and casualty, life, accident and health, and public adjusting study manuals are among the most widely used sources of producer and adjuster licensing preparation in Pennsylvania.

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Christine G. Barlow, CPCU, is Executive Editor of FC&S Expert Coverage Interpretation, an ALM company. Christine has been with The National Underwriter Company since 2006, when she began as an assistant editor. Before joining the National Underwriter Company, she was an underwriting supervisor for Maryland Automobile Insurance Fund, underwriter for Montgomery Mutual Insurance Company, senior underwriter for Old American, and an underwriter for Charter Group. The publications Christine wrote or edited include *Personal Lines Unlocked*, *the Key to Personal Lines Underwriting*, *Homeowners Personal Lines Coverage Guide*, *Commercial Flood Insurance Coverage Guide*, *Personal Flood Insurance Coverage Guide*, *Personal Lines Endorsements Coverage Guide*, *Closing the Gap*, and *Condominium Insurance Coverage Guide*, all published by The National Underwriter Company. She is a speaker or presenter at various insurance related seminars and meetings. Christine graduated cum laude from Towson University, Maryland, with a degree in Sociology/Psychology and a concentration in Gerontology.

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Dedication

To my grandchildren, Henry, Lucinda, and Alice, who bring joy to my life.

G.K.

Preface

In 1996, I undertook the task of writing an annotated analysis of the Insurance Service Office (ISO) Businessowners policy. Twenty- eight years and eight iterations later, I am pleased to present the latest revision. Originally developed by individual insurers, and launched by ISO in 1976, its origin and initial development were patterned after the Homeowners policy, which combines basic property and liability coverages for family exposures. The Businessowners policy employs that same concept in packaging basic property and liability coverages for main street businesses.

Over the years, the revisions mimic the burgeoning small business market by expanding size limitations, adding new classes of eligible businesses, and introducing a wide range of endorsements to meet consumer demands.

The 1997 edition of the ISO Businessowners policy increased the maximum area for mercantile, service, office, and wholesale risks from 15,000 to 25,000 square feet along with an increase in gross sales limits from \$2 to \$3 million per location. In addition to the increased square footage and gross annual sales limits, four new categories of classes became eligible. These new categories included contractors, restaurants, convenience stores with gasoline pumps, and laundries and dry cleaners.

The 2002 edition of the ISO Businessowners policy maintained the same square footage limitations and gross sales limitations for mercantile, service, office, and wholesale risks but expanded new categories of risks to include motels, self-storage facilities, and combination restaurants/convenience stores/gasoline stores.

The 2006 edition of the ISO Businessowners policy maintained the same eligibility criteria as the 2002 edition. Although no new categories of risks were introduced in the 2006 edition, the edition introduced the broadening of a number of coverages.

The 2010 edition of the ISO Businessowners policy further expanded eligibility by raising the total floor square footage from 25,000 to 35,000 and increasing annual gross sales from \$3 to \$6 million per location. Specific new eligible business classes included grocery stores and supermarkets with gasoline sales and casual and fine dining restaurants. Due to the expanded eligibility, substantive revisions were made in the body of the policy form and over thirty new endorsements were introduced.

The 2013 edition of the ISO Businessowners policy maintained the eligibility occupancy groups of the 2010 edition and introduced over thirty major property form changes, four major liability changes, and sixteen new endorsements. Many of the Businessowners policy changes complement ISO revisions made to the commercial package policy's Building and Personal Property 2012 form and Commercial General Liability 2013 form. These revisions and enhancements provide insurance producers and underwriters with the necessary tools to meet the expanding needs of the business owners market.

The 2016 ISO policy introduced a number of new and revised endorsements to address the exposures created by emerging technologies, privacy issues, and terrorism concerns. New endorsements are now available to cover unmanned aircraft, cyber liability, green upgrades, off-premises business income for business vehicles, and revisions brought about by the extension of the Terrorism Risk Insurance Act. In addition to the new endorsements related to the ISO Businessowners program, a chapter on the American Association of Insurance Services (AAIS) Businessowners program summarizing the primary differences between the AAIS and ISO Businessowners programs was introduced.

In 2020, ISO introduced the Micro-Businessowners policy. Specifically designed to insure the rapidly expanding micro-business market (in-home, shared spaces, temporary commercial locations, or mobile space such as a cart or kiosk), it is an alternative to the more robust standard Businessowners policy. Eligibility under the Micro-Businessowners policy is limited to businesses with \$500,000 in gross sales or four employees (including the owner). Coverage can be tailored to the specific micro-business by the Micro-Businessowners Retail, Service and Professional

Liability endorsements. A review of the Micro-Businessowners policy with a summary of how it compares to the standard Businessowners policy is provided as a new chapter.

ISO's newest iteration, the 2024 edition maintains the same dollar limitations on annual gross sales and on annual contractor payroll as the Businessowners 2013 Program but includes a wide range of revisions to address the growing and ever-expanding insurance needs of the small-to-medium size business market. In particular, eligibility has been expanded to include non-auto dealership type classes (body shops, repair shops, inspection services, etc). In addition to the broadened eligibility classes for auto services, the Businessowners 2024 Program includes over one hundred new and revised policy endorsements, many of which were designed to complement ISO's commercial property, liability, auto and crime forms in its Commercial Package Policy program. As with all undertakings, I hope that this annotation will help the insurance and risk management practitioner to better understand the coverages available in the small-to-medium-size business market.

Finally, I would like to express my sincere thanks to two individuals without whom this task would have been impossible. To my office manager, Patricia O'Brien, for carefully reviewing my writings during the research phase of this work and to Karen Sorrell at the National Underwriter Company for conscientiously critiquing this edition as my editor. Your diligent efforts and perseverance will always be appreciated.

George E. Krauss
January 2025

Introduction

The Businessowners policy offered by the Insurance Services Office (ISO) brings the package policy concept to the small-to-medium-sized business market. Its origin and initial development were patterned after the Homeowners policy, which combines basic property and liability coverages for family exposures. The Businessowners policy employs that same concept in packaging basic property and liability coverages for main street businesses.

The 2002 edition of the ISO Businessowners policy was expanded substantially from the original 1997 edition from both eligibility and coverage-enhancement viewpoints. The 2006 edition maintained these revisions and included a number of additional changes that had an impact on coverage (either a reduction or broadening of coverage) and numerous editorial changes that had no affect on coverage.

The 2010 edition of the ISO Businessowners policy further expanded eligibility by raising total floor square footage from 25,000 to 35,000 and increasing annual gross sales from \$3,000,000 to \$6,000,000 per location. Specific new eligible business classes included grocery stores and supermarkets with gasoline sales and casual and fine dining restaurants. Due to the expanded eligibility, substantive revisions were made in the body of the policy form and over thirty new endorsements were introduced.

The 2013 edition of the ISO Businessowners policy maintains the eligibility occupancy groups of the 2010 edition and introduces over thirty major property form changes, four major liability changes, and sixteen new endorsements. Many of the Businessowners policy changes complement ISO revisions made to the commercial package program's Building and Personal Property 2012 form and Commercial General Liability 2013 form.

In 2020, ISO introduced the Micro-Businessowners Program, an addition to the Businessowners Program, specifically geared to the very small business

market that may not have a need for the broader coverages found in the standard Businessowners policy. Micro-businesses are termed such because of their size eligibility, 0-4 employees including the owner, with no more than \$500,000 in gross sales. The first part of the book discusses the standard Businessowners Program, and the Micro-Businessowners Program will be reviewed in Chapter 17.

ISO's most recent iteration of the Businessowners Program (the 2024 edition) maintains the same dollar limitations on annual gross sales and on annual contractor payroll as the 2013 edition but includes a wide range of revisions to address the growing and ever-expanding insurance needs of the small-to-medium size business market. In particular, eligibility has been expanded to include non-auto dealership type classes. Examples of eligible auto service classes include body shops, repair shops, inspection services, detailing services, car washes and similar auto service type operations. Full scale auto dealership operations (either franchised or nonfranchised dealerships) that sell autos and also provide ancillary auto services (auto repair, auto service, auto detailing, etc.) are ineligible under the Businessowner Program and may be insured under the Commercial Auto Policy's auto dealers coverage form.

In addition to the broadened eligibility classes for auto services, the Businessowners Program includes over one hundred new and revised policy endorsements, many of which were designed to complement ISO's commercial property, liability, auto and crime forms in its Commercial Package Policy program. These most recent revisions and enhancements provide insurance producers and underwriters with the necessary tools to meet the expanding needs of the business owner's market.

Eligibility

The following are eligible occupancy groups for the Businessowners program, subject to the criteria that is noted in the following discussion. Unless otherwise noted, eligible risks may not exceed 35,000 square feet in total floor area or exceed \$6,000,000 in annual gross sales at each location. Storage buildings (including business personal property) occupied by the

insured, incidental to an eligible risk and not exceeding 35,000 square feet, may also be included.

Apartments And Condominiums

1. Buildings are eligible for coverage under the Businessowners Program as listed in the Businessowners Classification Table Section of the manual.
2. The 35,000 square foot limitation does not apply to Apartment Buildings.
3. Otherwise eligible incidental occupancies are permitted. However, the total square footage of the incidental occupancies cannot exceed 35,000 square feet.
4. Building owners' business personal property in eligible apartment buildings is eligible for coverage.

Condominium Commercial Unit-owners

Business personal property of owners of condominium units are eligible for coverage under the Businessowners Program as listed in the Businessowners Classification Table Section of the manual.

Auto Service Risks

Building and business personal property for auto service risks are eligible for coverage under the Businessowners Program as listed in the Businessowners Classification Table Section of the manual. Auto service risks listed in the Businessowners Classification Table Section of the manual are the only types of auto service risks eligible for the Businessowners Program.

Contractors

- a. Building and business personal property for contractor risks are eligible for coverage under the Businessowners Program as listed in the Businessowners Classification Table Section of the manual. Contractors listed in the Businessowners Classification Table section

of the Commercial Lines Manual (CLM) are the only types eligible for the Businessowners program.

b. Contractors are subject to the following additional eligibility requirements:

- (1) No more than \$300,000 of annual payroll
- (2) No exterior work at a height of over three stories
- (3) The total cost of subcontracted work cannot exceed more than 10% of the contractor's total annual gross sales; and
- (4) No renting or leasing equipment to others

c. Otherwise eligible incidental occupancies are permitted.

d. The following types of contractors and/or activities are not eligible for the Businessowners Program, regardless of whether or not they engage in eligible activities:

(1) General Contractors. (A General Contractor is a contractor who is responsible for managing an entire project on behalf of the client, rather than just a portion of the project. In addition, a General Contractor hires and coordinates the efforts of subcontractors.)

(2) Contractors who use cranes in their operations.

(3) Contractors who repair, install or service or previously repaired, installed or serviced boilers, burglar alarm systems, automatic fire extinguishing systems, elevators, escalators or computers.

(4) Contractors with products manufactured or sold under the insured's name.

(5) Contractors who engage in or previously engaged in:

(a) Demolition, blasting, wrecking, high pressure boiler work or liquid petroleum gas (LPG) work;

(b) Insulation work;

(c) Lawn chemical spraying operations, except with respect to the operations of a landscape gardener, provided that such landscape gardener operations meet all standards of any statute, ordinance, regulation or license requirement of any federal, state or local government that apply to such operations; and

(d) Hazardous material or pollution abatement operations, including but not limited to asbestos, lead and radon

mitigation and testing.

(6) Contractors who engage in:

- (a) Sales, service or installation of any kind of automatic opening doors or garage doors (residential or commercial);
- (b) Heavy construction, including but not limited to:
 - (i) Bridge, caisson, cofferdam, dam, dike, dry dock, jetty, levee or pier construction;
 - (ii) Cable laying and cable installation;
 - (iii) Crane or derrick installation or rigging;
 - (iv) Dredging;
 - (v) Drilling;
 - (vi) Excavation;
 - (vii) Grading of land;
 - (viii) Iron or steel erection;
 - (ix) Pipeline construction;
 - (x) Sandblasting;
 - (xi) Scaffolding, hoists, tower erection; or
 - (xii) Tunneling;
- (c) Ship repair or painting work;
- (d) "Shop-only" carpentry or sheet metal work;
- (e) Tree service or removal contracting work;
- (f) Waterproofing contracting operations; and
- (g) Installing wood and coal stoves.

Retail

a. General. Building and business personal property for retail risks are eligible for coverage under the Businessowners program as listed in the Businessowner Classification Table section of the CLM subject to the following additional eligibility requirements:

- (1) When a retail risk is engaged in on-site repair, it should be classified as retail, unless there is a specific repair classification in the Businessowners Classification Manual; and
- (2) Related off-site repair up to 25% of total annual sales is eligible.

b. Convenience Food Stores, Grocery Stores and Supermarkets

- (1) Definitions

(a) A convenience food store is an establishment where the primary activity is the retail sale, in limited amounts, of a variety of canned goods, dairy products, prepackaged meats and other incidental grocery items. Newspapers, magazines, refreshment items, cigarettes, beer, wine and novelties may also be sold.

(b) A grocery store or supermarket is an establishment where the primary activity is the retail sale of food, such as canned and frozen foods, fresh fruits and vegetables, and fresh and prepared meats, fish, and poultry. Items typically sold in a convenience food store may also be sold.

(c) A convenience food, grocery store or supermarket with gasoline sales also provides for the sale of gasoline, in addition to the applicable description of activities in Paragraph A.4.b.(1)(a) or A.4.b.(1)(b).

(d) A convenience food store/restaurant with gasoline sales is an establishment described in Paragraphs A.4.b.(1)(a) and A.4.b.(1)(c) which also contains a limited cooking or quick service restaurant as defined in Paragraph A.8.

(2) Eligibility – Convenience Food Stores

Eligible convenience food store risks, with or without eligible limited cooking or quick service restaurants (refer to Paragraph A.8.), and gasoline sales are eligible for the Businessowners Program subject to the following additional requirements:

(a) A minimum of 3,000 square feet in total floor area, when the convenience food store or restaurant provides for the sale of gasoline;

(b) No propane or kerosene tank filling operations.

(3) Eligibility – Grocery Stores and Supermarkets

Eligible grocery store or supermarket risks with gasoline sales are eligible for the Businessowners Program subject to the following additional requirements:

(a) A minimum of 3,000 square feet in total floor area, when the grocery store or supermarket provides for the sale of gasoline;

(b) No propane or kerosene tank filling operations.

(c) Internet Retailers

(1) Definition

An internet retailer conducts retail operations solely over the internet including risks that conduct retail operations over the internet from a location separate from the store operations.

Internet Retail risks are further divided into specific classes based on property susceptibility and defined as follows:

(a) Internet Retail – Low: Risks that primarily sell products with low susceptibility including the retail sales of air conditioning equipment, appliances, auto parts, electrical and lighting, hardware or tools.

(b) Internet Retail – Medium: Risks that primarily sell products with medium susceptibility including bakeries, beverages, candy, clothing (other than formal or specialty), furniture, grocery, health or natural foods, jewelry, toys, or other type of products not included in Internet Retail – Low or Internet Retail – High classifications.

(c) Internet Retail – High: Risks that primarily sell products with high susceptibility including books or magazines, cameras or photographic equipment, clothing (specialty or formal wear), cosmetic or beauty supplies, drugs (pharmacy), dry goods, electronics, fabric, farm or gardening supplies, floor covering, hobby craft or art supply, leather goods, miscellaneous gifts or novelties, musical instruments, music or video (pre-recorded), paper or stationery, or shoes.

(2) Eligibility

Building and business personal property for internet retail risks are eligible for coverage under the Businessowners Program and are subject to the following additional eligibility requirements:

(a) Risks may have no more than 10% of direct retail sales;
and

(b) Risks may not directly import products for retail sale.

Hotels, Motels and Inns

a. Definitions

(1) A bed and breakfast inn is a residence that is either occupied by an owner, manager or caretaker or has an owner, manager or caretaker

occupying another residence on the same premises. This classification does not apply to any operation that provides more than 10 guest bedrooms.

Meals are provided to guests only at no additional charge. If some meals are provided to guests at a separate charge, then that exposure must be separately classified and rated with the appropriate restaurant classification.

(2) A hostel is a lodging that typically has shared living spaces. This could include shared living, sleeping or bathroom space.

(3) A hotel is a lodging that typically has multiple floors, internal stairways and elevators and have internal doors for access. Unlike motels or motor lodging, hotels may also include meeting space and additional services not offered in motels or hostels.

(4) A motel is a lodging that is generally 1-3 stories with limited services and exterior access doors.

b. Eligibility

Building and business personal property for hotel, motel and inn risks are eligible for coverage under the Businessowners Program and Motels are subject to the following additional eligibility requirements:

(1) The 35,000 square foot limitation does not apply;

(2) Buildings with exterior access room entry cannot exceed three stories in height;

(3) Risks with additional eligible restaurant occupancies are permitted;

(4) No seasonal operations (risks that are closed for more than 30 consecutive days);

(5) No bar or cocktail lounge with a separate exterior entry door.

Offices (Including Office and Commercial Condominium Associations)

a. Buildings occupied principally for office purposes each of which does not exceed six stories in height or 100,000 square feet in total floor area are eligible for coverage. The following incidental occupancies are permitted:

(1) Apartments;

(2) Eligible wholesaler and distributor, retail, restaurant, processing and service occupancies and contractors, which in total do not exceed

- 35,000 square feet; and
- (3) Contractors which do not occupy more than 7,500 square feet or more than 15% of the total area; otherwise, classify as a contractor office.
- b. Business personal property in offices that do not occupy more than 35,000 square feet in one building are eligible for coverage.

Processing and Service Risks

Building and business personal property for processing and service risks listed in the Businessowners Classification Table Section of the manual are the only types of processing and servicing risks eligible under the Businessowners Program and are subject to the following additional eligibility requirements:

- a. No more than 25% of annual gross sales may be derived from off-premises operations.
- b. Mixed retail and on-premises repair risks shall be classified as retail.
- c. Fitness studios must be no more than 7,500 square feet in total floor area. Fitness studios that offer childcare or teach contact or combat type studios are not eligible.
- d. Places of worship must be no more than 7,500 square feet in total floor area. Places of worship that offer childcare, event center or full kitchens are not eligible.

Restaurants

Building and business personal property for the following types of restaurants and those listed in the Businessowners Classification Table Section of the manual are the only restaurants eligible for coverage under the Businessowners Program.

- a. Limited Cooking Restaurants
 - (1) Definition
 - Limited cooking restaurants are those where foods are prepared cold or cooked using appliances which do not emit smoke or grease-laden vapors that require an exhaust system (for example,

electric sandwich grills, toasters, warming ovens, roller warmers, infrared snack warmers, microwave ovens, domestic ranges, domestic ovens and pizza ovens). No grilling, open broiling, deep fat frying, roasting, barbecuing, solid fuel cooking (for example, mesquite, charcoal or hardwood) or other processes capable of producing grease-laden vapors requiring an exhaust system are permitted.

(2) Additional Eligibility Requirements

Limited cooking restaurants are subject to the following additional eligibility requirements:

- (a) No more than 7,500 square feet in total floor area;
- (b) Seating capacity no greater than 75;
- (c) With or without table service;
- (d) Sales of beer or wine only. Sales of beer and wine no greater than 25% of total sales. No other liquor sales;
- (e) No bar or cocktail lounge;
- (f) Catering service (that is, service involving serving of food away from the insured's premises) must not exceed 10% of total sales; and
- (g) No seasonal operations (risks that are closed for more than 30 consecutive days).

b. Quick Service Restaurants

(1) Definition

Quick Service restaurants may include limited cooking type appliances and only the following cooking processes capable of producing grease-laden vapors requiring an exhaust system: grilling, enclosed broiling, deep fat frying, roasting, or barbecuing.

(2) Additional Eligibility Requirements

Quick Service restaurants are subject to the following additional eligibility requirements:

- (a) No more than 7,500 square feet in total floor area;
- (b) Seating capacity no greater than 150;
- (c) No table service;
- (d) Sales of beer or wine only; sales of beer and wine no greater than 25 percent of total sales; no other liquor sales;
- (e) No bar or cocktail lounge;

(f) Catering (that is, service involving serving of food away from the insured's premises) not to exceed 10 percent of total sales;

(g) No seasonal operations (risks that are closed for more than thirty consecutive days);

(h) Installation and maintenance of an automatic extinguishing system for cooking equipment equivalent to that which is recommended by NFPA Standard #96.

(3) National Fire Protection Association Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations (NFPA Standard #96).

NFPA Standard #96 includes the following:

(a) An automatic extinguishing system covering hoods, ducts, and all surfaces of grills, ranges, deep fat fryers, and broilers;

(b) A contract for semi-annual inspection and maintenance for the extinguishing system, hood, and ducts;

(c) A manual release in the path of exit from the cooking area;

(d) Temperature settings of systems with detectors above the filters or temperature settings of systems with detectors below the filters set at specified levels;

(e) Portable fire extinguishers of the type described in NFPA Standard #96 that are compatible with the extinguishing agent of the hood and duct fire protection system must be available in the kitchen;

(f) All deep fat fryers equipped with separate high limit controls to shut off fuel when the temperature reaches the level described in NFPA Standard #96;

(g) A minimum clearance between the hood and duct and combustible construction as described in NFPA Standard #96.

c. Full Service Restaurants.

(1) Definition

Full Service restaurants serve moderately priced food in a casual atmosphere to patrons who generally order and are served while seated and pay after eating. Take-out service and the use of a

buffet may also be available. These restaurants may serve no alcoholic beverages; serve beer and wine only; or serve beer, wine, and liquor.

(2) Additional Eligibility Requirements

Full Service restaurants are subject to the following additional eligibility requirements:

- (a) No more than 7,500 square feet in total floor area;
- (b) Seating capacity no greater than 150;
- (c) Sales of beer, wine, or liquor no greater than 50 percent of total sales;
- (d) Catering (that is, service involving serving of food away from the insured's premises) not to exceed 10 percent of total sales;
- (e) No seasonal operations (risks that are closed for more than thirty consecutive days);
- (f) Installation and maintenance of an automatic extinguishing system for cooking equipment equivalent to that which is recommended by NFPA Standard #96, as described in paragraph b.(3) of the CLM;
- (g) No dancing;
- (h) No live entertainment (including karaoke) other than incidental music, such as piano playing, provided by the establishment;
- (i) No bar operations during hours when full table service is not also available; bar operations for the sole purpose of consuming alcoholic beverages are not permitted.

d. Special Types of Restaurants

(1) Brewpub

(a) Definition

A brewpub primarily manufactures beer, ale or malt liquor alcoholic beverages and sells such products on a retail basis for consumption on their premises along with appetizers or meals. A typical feature of many brewpubs is a wide selection of beers available by the glass.

(b) Additional Eligibility Requirements Brewpubs are subject to the following additional eligibility requirements:

- (i) No more than 7,500 square feet in total floor area;

- (ii) Seating capacity no greater than 150;
- (iii) Off-site sales of beer, ale or malt liquor alcoholic beverages no greater than 25% of total sales;
- (iv) Catering (that is, service involving serving of food and alcoholic beverages away from the insured's premises) must not exceed 15% of total sales;
- (v) No seasonal operations (risks that are closed for more than 30 consecutive days);
- (vi) If preparing food other than limited cooking, installation and maintenance of an automatic extinguishing system for cooking equipment equivalent to that which is recommended by NFPA Standard #96, as described in Paragraph A.8.b.(3);
- (vii) No dancing permitted; and
- (viii) No live entertainment (including karaoke) other than incidental music, such as piano playing, provided by the establishment.

(2) Fine Dining

(a) Definition

Fine dining restaurants provide quality food and alcoholic beverages prepared by highly trained chefs and served with a great deal of attention to customers by waitstaff. These restaurants typically have valuable business personal property consisting of furniture, tableware, lighting, art and other items of décor.

(b) Additional Eligibility Requirements

Fine dining restaurants are subject to the following additional eligibility requirements:

- (i) No more than 7,500 square feet in total floor area;
- (ii) Seating capacity no greater than 150;
- (iii) Sales of beer, wine or liquor no greater than 75% of total sales;
- (iv) Catering (that is, service involving serving of food and alcoholic beverages away from the insured's premises) must not exceed 15% of total sales;
- (v) No seasonal operations (risks that are closed for more than 30 consecutive days);

- (vi) Installation and maintenance of an automatic extinguishing system for cooking equipment equivalent to that which is recommended by NFPA Standard #96, as described in Paragraph A.8.b.(3);
- (vii) No dancing permitted;
- (viii) No live entertainment (including karaoke) other than incidental music, such as piano playing, provided by the establishment;
- (ix) Maitre'd supervision of waitstaff and to control customer turnover; and
- (x) Chef supervision of food preparation and other kitchen operations.

(3) Wine Bar

(a) Definition

A wine bar primarily sells wine for consumption on site. A typical feature of many wine bars is a wide selection of wines available by the glass, along with appetizers or meals. Wine bars that are associated with a specific wine retailer or other outlet of wine, where retail off-premises sales exceed 75%, should be classified as Beverage – Beer or Wine – Retail.

(b) Additional Eligibility Requirements

Wine Bars are subject to the following additional eligibility requirements:

- (i) No more than 7,500 square feet in total floor area;
- (ii) Seating capacity of no more than 75;
- (iii) With or Without Table Service;
- (iv) Sales of alcohol other than wine limited to 10% or less of total sales;
- (v) Catering (that is, service involving serving of food and alcoholic beverages away from the insured's premises) must not exceed 10% of total sales;
- (vi) No seasonal operations (risks that are closed for more than 30 consecutive days);
- (vii) If preparing food other than limited cooking, installation and maintenance of an automatic extinguishing system for cooking equipment equivalent

to that which is recommended by NFPA Standard #96, as described in Paragraph A.8.b.(3);
(viii) No dancing permitted; and
(ix) No live entertainment (including karaoke) other than incidental music, such as piano playing, provided by the establishment.

Self-Storage Facilities

Buildings and business personal property for self-storage facilities are eligible under the Businessowners program. The following additional eligibility requirements apply:

- a. Self-storage facilities not to exceed two stories in height; no limitation for floor area
- b. Self-storage facilities that permit cold storage or storage of industrial materials, chemicals, pollutants, and waste are ineligible

Wholesale and Distribution Risks

Building and business personal property for wholesale and distribution businesses listed in the Businessowner Classification Table section of the CLM are the only types of wholesale and distribution risks eligible for the Businessowners program. No more than 25 percent of annual gross sales may be derived from retail operations, and no more than 25 percent of the total floor area may be open to the public. Eligible classifications do not include the operations of manufacturers' representatives or contractors.

Ineligible Occupancies

The following classes are not eligible for the Businessowners Program:

- 1. Automobile motor home, mobile home and motorcycle dealers; parking lots or garages; unless incidental to another otherwise eligible class;
- 2. Bars, and pubs other than eligible Restaurant classifications listed in the Businessowners Classification Table Section of the manual;

3. Condominium associations other than office, commercial or residential condominiums;
4. Buildings occupied in whole or in part for manufacturing other than eligible light manufacturing classifications listed in the Businessowners Classification Table Section of the manual;
5. Household personal property;
6. One- or two-family dwellings unless of garden apartment variety where multiple units are grouped within a single area and are under common ownership, management and control;
7. Banks, building and loan associations, savings and loan associations, credit unions, stockbrokers and similar financial institutions; and
8. Self-storage facilities that provide outdoor storage of any type of motorized vehicles, including campers and recreational vehicles.

Building and Business Personal Property Ownership

When under one ownership, building and business personal property must be included in the same policy.

Computation of Floor Areas

Do not use basement areas not open to the public in computing floor areas.

These eligibility requirements became effective January 8, 2024. Complete details are available in the ISO Commercial Lines Manual.

Comparison of Businessowners 2013 and 2024 Forms

The following represents a comparison of the changes between the Businessowners 2013 and 2024 forms. Changes that reflect a broadening (B) or reduction (R) of coverage are indicated.

Policy Change Area	Businessowners	Businessowners 2024	B	R
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	2013			
Covered Property A.1(6)(b) Buildings	Covers materials, equipment, supplies, on or within 100 feet of the described premises, used for making additions, alterations or repairs to the buildings or structures.	Extends coverage for materials, equipment, supplies on or within 1,000 feet of the described premises, used for making additions, alterations or repairs to the buildings or structures.	.	
Covered Property A.1(6)(c) Buildings	Does not cover antennas (including dish-shaped antennas) and their lead-in wiring, masts or towers <i>attached to buildings</i> .	Covers antennas (including dish-shaped antennas) and their lead-in wiring, masts or towers <i>attached to buildings</i> .	.	
Covered Property A.1(b)(6) Business Personal Property	Does not affirmatively address “Stock”	Affirmatively covers “Stock”	.	
Property Not Covered A.2.e.	Does not cover radio or television antennas (including satellite dishes) and their lead-in wiring, masts, or towers.	Covers antennas (including dish-shaped antennas) and their lead-in wiring, masts or towers <i>attached to buildings</i> .	.	
Additional Coverages A.5.a.(2)(e) Debris Removal	Does not cover debris removal costs of removing deposits of mud or earth from the grounds at the described premises.	Covers debris removal costs of removing deposits of mud or earth <i>inside of buildings</i> at the described premises.	.	

Additional Coverages A.5.f. Business Income	Covers business income loss sustained to property within 100 feet of the described premises.	Extends the business income loss sustained to property within 1,000 feet of the described premises.	•	
Additional Coverages A.5.g. Extra Expense	Covers extra expenses incurred to property within 100 feet of the described premises.	Extends extra expenses incurred to property within 1,000 feet of the described premises.	•	
Additional Coverages A.5.o. Fire Extinguishing Systems Recharge Expense	Covers fire extinguishing systems recharge expense within 100 feet of the described premises.	Extends fire extinguishing systems recharge expense within 1,000 feet of the described premises.	•	
Additional Coverages A.5.p Electronic Data	Covers ransomware	Excludes ransomware		•
Additional Coverages A.5.q Interruption of Computer Operations	Covers business income and extra expense caused by ransomware	Excludes business income and extra expense caused by ransomware		•
Coverage Extensions A.6.c. Outdoor Property	Covers radio or television antennas (including satellite dishes) and their lead-in wiring, masts, or towers subject to peril and dollar limitation.	Covers antennas (including dish-shaped antennas) and their lead-in wiring, masts or towers <i>not attached to</i> buildings subject to peril and dollar limitation.	•	
Coverage Extensions A.6.g. Business Personal Property Temporarily in Portable Storage Units	Covers business personal property temporarily in portable storage	Extends business personal property temporarily in portable storage units	•	

	units within 100 feet of the described premises.	within 1,000 feet of the described premises.		
Property ExclusionB.2.a.Electrical Apparatus	Covers loss or damage to computers due to artificially generated electrical, magnetic, or electromagnetic energy within 100 feet of the described premises.	Extends coverage for loss or damage to computers due to artificially generated electrical, magnetic, or electromagnetic energy to within 1,000 feet of the described premises.	•	
Optional CoveragesG.2.d. Money and Securities	Does not address the specific location of coverage.	Affirmatively limits coverage to the interior of the portion of the building the insured occupies in conducting business.		•
Optional CoveragesG.3.j.(1)(a) Employee Dishonesty	Covers employees for 30 days after termination of service, unless termination is due to theft or any dishonest act of employee	Modifies definition of employee to cover employee for the <i>first 30 days immediately after termination</i> of employment, unless termination is due to theft or any dishonest act of employee		•
Optional CoveragesG.3.j.(2) Employee Dishonesty	Does not address temporary employees when that temporary employee is subject to the insured's direction and control and	Modifies definition of temporary employees when that temporary employee is subject to the insured's direction and control and performing services for the insured.		•

	performing services for the insured.			
Optional CoveragesG.3.j.(5) Employee Dishonesty	Does not cover students or interns having care and custody of property outside any building the insured occupies in conducting their business.	Covers students or interns having care and custody of property outside any building the insured occupies in conducting their business.	.	
Property DefinitionWater DamageH.12.c(2)	Defines off premises accidental discharge claims to ones originating from a municipal water or sanitary system.	Expands definition of off premises accidental discharge claims to ones originating from a <i>potable</i> water supply system or sanitary system.	.	
Liability Definition Auto and Mobile EquipmentF.2.b. and F.12	Defines auto and mobile equipment to include land vehicles and mobile equipment that are subject to a <i>motor vehicle registration law</i> .	Expands definition of an auto and mobile equipment by deleting motor vehicle registration law and including <i>subject to a compulsory, financial responsibility law or other motor vehicle law</i> .	.	
Liability DefinitionInsured Contract F.9.f.	Does not address that the insured contract is limited to the extent of tort liability that is permitted by law.	Narrows definition by affirmatively indicating that an insured contract is limited to the extent of tort liability permitted by law.	.	

Property of Robert Richardson,

About This Book

This book uses an annotated policy format, in which a portion of the form's language is followed by a simple interpretation. Pertinent details are included on that portion's effect on, or applicability to, coverage that is afforded by the Businessowners program.

Policy language is set off by spacing and by type style. The annotations, or descriptions, are printed in larger type.

In general, the text follows the organization of the 2024 Businessowners Coverage Form. Differences among the, 2024, 2013, and previous Businessowners program are explained within the discussions.

Property of Robert Richardson,

Chapter 1 Covered Property

This chapter addresses covered property that may be insured under the Businessowners policy. Property eligible for coverage is grouped into two categories: buildings and business personal property. A separate section specifically addresses the types of property not covered. The Businessowners policy is written on a special form (“open peril”) basis, covering direct physical loss to covered property unless the cause of loss is excluded (addressed in Chapter 4) or subject to policy limitations (addressed in Chapter 5).

The 2013 edition was a revision to the 2010 Businessowners policy. It maintained revisions that were incorporated into the 2010 edition, including the use of a single special property coverage form. Optional specified perils coverage was maintained by adding the Named Perils Endorsement BP 10 09. Three substantive changes were introduced in the 2013 edition. First, in section A.1.b., the form affirmatively identifies structures in which business personal property may be located as covered property. It extends the distance for which coverage applies to business personal property from 100 feet from the building or structure, or 100 feet from the described premises, whichever is greater. This revision was specifically beneficial to business owners who were tenants in high-rise buildings. Second, in sections A.2.d-e., lawns, trees, shrubs, or plants that are part of vegetated roofs (common in “green” building construction) were now part of the building. The third revision in section A.2.i. stated that electronic data that was integrated in and operates or controls the building’s elevator, lighting, heating, ventilation, air conditioning, or security system were now part of the building. Both vegetated roofs and electronic data as defined in this section were also considered part of the building and subject to the policy’s applicable perils, limits of insurance, and other applicable policy terms and provisions. These revisions represented a broadening of coverage.

The 2024 edition maintains the same dollar limitations on annual gross sales and on annual contractor payroll as the 2013 edition, but includes a wide range of revisions to address the growing and ever-expanding

insurance needs of the small-to-medium size business market. In particular, eligibility has been expanded to include non-auto dealership type classes (body shops, repair shops, inspection services, etc.)

In addition to the broadened eligibility classes for auto services, the revised Businessowners Program includes over one hundred new and revised policy endorsements, many of which were designed to complement ISO's commercial property, liability, auto and crime forms in its Commercial Package Policy program. Property eligible for coverage is defined on the form's first two pages. Covered property is classified and defined as buildings (A.1.a) and business personal property (A.1.b.). Coverage applies to these two categories if a limit of insurance is indicated in the declarations. A separate section specifically addresses the types of property not covered (sections A.2.a-j).

In order for coverage to apply under the policy, a direct physical loss must occur to covered property at the premises described in the declarations. The direct physical loss must be caused by or result from a covered cause of loss. This chapter addresses what property is covered, what property is not covered, and what qualifies as direct physical loss.

Introduction

Various provisions in this Policy restrict coverage. Read the entire Policy carefully to determine rights, duties and what is and is not covered.

This statement advises the insured of his responsibility to read the policy. It specifically states that certain provisions restrict coverage and counsels the insured to be aware of his rights and duties. Moreover, it advises the insured to note what is covered and what is not covered. Its purpose is to motivate the insured to read the policy and to clarify any coverage issues prior to loss.

Throughout this Policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the Company providing this insurance.

This provision identifies the two parties to the contract—that is, the named insured and the insurance company. The definition of *insured* for liability coverage purposes differs from the meaning of *named insured* for property coverage purposes:

In Section II—Liability, the word “insured” means any person or organization qualifying as such under Paragraph C. – Who Is An Insured.

The 2024 edition, like the 2002, 2006, and 2010 forms, incorporates the Section II—Liability coverage into a single coverage form. In the 1997 and prior Businessowners policy programs, liability coverage was provided on a form that was separate from the property coverage (BP 00 06). This sentence expands the word *insured* to mean any person or organization that qualifies as an insured under paragraph II. C. Who Is An Insured. In other words, liability coverage is expanded to include other parties that are performing duties in conjunction with the insured business. These other parties that are provided insured status for liability coverage are addressed in Chapter 11.

Definitions

Other words and phrases that appear in quotation marks have special meaning. Refer to Paragraph H. Property Definitions in Section I – Property and Paragraph F. Liability and Medical Expenses Definitions in Section II – Liability.

Certain words and phrases that appear in quotation marks within the policy are defined terms. This is important because very often whether a property item fits or does not fit a definition may determine if coverage exists for that item. If an item is not defined within the policy, the common dictionary meaning most favorable to the insured is used.

Note that some terms are not defined in these sections but are defined within the body of the coverage form. This often occurs when a term or phrase is specific to a coverage. For example, see the covered property (A.1.) and buildings (A.1.a.) sections explained later in this chapter. Both

definitions are contained within the policy body and not in the definitions section. Throughout the form, many such examples exist, all of which are vital to coverage interpretation.

Insuring Agreement

SECTION I – PROPERTY

A. Coverage

We will pay for direct physical loss of or damage to Covered Property at the premises described in the Declarations caused by or resulting from any Covered Cause of Loss.

This part of the policy is the property insuring agreement. It sets forth which types of property are covered and which are not. This insuring agreement requires that four elements be present in order for coverage to be considered.

First, the loss must be a direct physical loss. This means a direct physical consequence of a particular peril. It requires actual physical damage to the property. Examples of direct physical losses include fire, windstorm, or vandalism damage to property. After the loss occurs there must be a reduction in the value of the property. Direct physical losses are separate from indirect or business-type losses. Indirect losses (also known as consequential losses) are not covered under this coverage provision, although they are covered under the additional coverages section of the policy.

Indirect losses result from a direct physical loss. Examples of indirect losses include loss of business income and the incurring of extra expenses as the result of a direct physical loss. For example, a fire destroys a covered office building. The direct physical loss is the destruction of the building. The loss of operational income during the reconstruction period is an indirect or consequential loss that results from the fire. It is a consequence of the fire. Business losses that result from market conditions or obsolescence factors, which are incurred in the normal transaction of business, are not covered.

Examples include reductions in the value of real estate caused by market conditions or loss due to the functional obsolescence of a building or a technologically outdated computer. Such operational losses are not covered under any part of the policy.

Second, the loss must be to covered property. This refers to property that is specified or scheduled within the policy. Certain property is specifically listed as not covered. Property not covered is addressed later in this chapter.

Third, the loss must occur at the described premises specified in the declarations. Limited off-premises coverage is provided under the coverage extensions which are discussed in Chapter 3.

Fourth, the loss must result from a covered cause of loss. Since the property coverage is based on special perils coverage, causes of direct physical loss are covered unless specifically excluded or limited. More restrictive property coverage is available by attaching the Named Perils Endorsement (BP 10 09) to the policy. As noted previously in this chapter, the named perils endorsement was introduced in the 2002 program and was continued in subsequent policy editions. Its purpose is to permit coverage to be written on a named peril basis, under which the cause of loss must be listed on the form in order to trigger coverage. The Named Perils Endorsement parallels the coverage that previously existed under the 1997 Businessowners Standard Property Coverage form.

Covered Property

1. Covered Property

Covered Property includes Buildings as described under Paragraph a. below, Business Personal Property as described under Paragraph b. below, or both, depending on whether a Limit Of Insurance is shown in the Declarations for that type of property. Regardless of whether coverage is shown in the Declarations for Buildings, Business Personal Property, or both, there is no coverage for property described under Paragraph 2. Property Not Covered.

- a. Buildings, meaning the buildings and structures at the premises described in the Declarations, including:
 - (1) Completed additions;
 - (2) Fixtures, including outdoor fixtures;
 - (3) Permanently installed:
 - a. Machinery; and
 - b. Equipment;
 - (4) Your personal property in apartments or rooms furnished by you as landlord;
 - (5) Personal property owned by you that is used to maintain or service the buildings or structures or the premises, including:
 - a. Fire extinguishing equipment
 - b. Outdoor furniture;
 - c. Floor coverings; and
 - d. Appliances used for refrigerating, ventilating, cooking, dishwashing or laundering;
 - (6) If not covered by other insurance:
 - a. Additions under construction, alterations and repairs to the buildings or structures;
 - b. Materials, equipment, supplies and temporary structures, on, or within 1,000 feet of the described premises, used for making additions, alterations or repairs to the building or structures.
 - c. Antennas (including dish-shaped antennas) and their lead-in wiring, masts or towers **attached to the** buildings.

This section describes which types of property are covered. It includes buildings and structures at the premises described in the declarations. Common examples of buildings insured under the Businessowners form include office and apartment buildings and small retail-type businesses. Structures are objects that are attached to the ground at the premises described in the declarations. Common examples of structures insured under the Businessowners form include garages and storage buildings. Both buildings and structures qualify for coverage if they are described in the declarations and a limit of insurance is indicated. It is important to clearly describe the property that is to be insured in the declarations. For example, if a policy is written describing only one building with one limit of

insurance, no coverage would apply to additional buildings or structures located on the premises. Therefore, a declarations page might show that insurance applies to an office building, a garage, and a detached storage building—all at 100 Main Street. If a second detached storage building also existed at 100 Main Street, it would not be covered because the Businessowners policy requires that buildings be specifically listed in order for coverage to apply to them.

Completed additions are additions to a building. They are automatically covered by definition. A completed addition may create an immediate underinsurance problem in the event the insured fails to increase coverage equal to the value of the addition once it is completed. Additions under construction are covered if no other insurance applies under A.1.6. However, once the addition is finished, the amount of building coverage should be increased to reflect the added value or a coinsurance problem may arise.

The term *fixtures* refers to items that are attached to a building that cannot be removed without affecting the value or aesthetics of the structure. Examples of fixtures include intercoms, public address systems, permanently installed blinds, and custom drapes. Also included in this category are outdoor fixtures, which include such items as lights, flag poles, parking stops, mailboxes, and signs.

Examples of machinery and equipment are built-in scales, pulleys, refrigerated lockers, and air-conditioning or heating equipment. Unlike the fixtures category, machinery and equipment must be “permanently installed.” It is a distinction without a difference since the items listed as examples of fixtures are commonly installed in permanent positions while heating and air conditioning equipment may be permanently installed portable items.

Personal property owned by the named insured in an apartment, rooms, or common areas furnished by the insured as a landlord is covered. Examples include appliances that are not considered part of the building—such as free-standing stoves and refrigerators—as well as furniture and other personal property normally found in an apartment or in common areas. The

inclusion of common areas was introduced in the 2002 program and has been maintained in successor policy editions.

Other types of personal property owned by the named insured and used to maintain or service the buildings, structures, or premises are also covered. This category includes property such as snowplows, lawn tractors, fire extinguishers, outdoor furniture, floor coverings, and appliances used for refrigerating, ventilating, cooking, dishwashing, or laundering.

If no other insurance applies (such as a builders risk policy or another commercial policy) to additions under construction, alterations, and repairs to buildings and structures, then this Businessowners policy provides coverage. As noted previously, the value of any additions should be added to the building coverage limit upon completion, or an underinsurance problem may develop.

Section 6(b) provides coverage for materials, equipment, supplies, and temporary structures located on or within 1,000 feet (expanded from 100 feet in the 2024 edition) of the described premises. For example, if a building supply truck delivers materials on, or adjacent (within 1,000 feet) to the business owner's property, coverage applies to the building materials as long as they are to be used for alterations or repairs to insured buildings or structures. This coverage (for building materials) applies only to materials slated for use with existing buildings and structures. If the insured is constructing a new building or structure, this coverage does not apply. In those cases, the business owner should secure a separate policy to cover the exposure.

Section 6(c) addressing antennas (including dish-shaped antennas) and their lead-in wiring, masts or towers *attached* to the insured buildings was introduced in the 2024 edition. This is a broadening of coverage by providing full policy peril and policy limits to these attached building fixtures. Note that these types of fixtures that are *not attached* to the insured buildings are provided under the policy's coverage extensions subject to a peril and dollar limitation.

Business Personal Property

b. Business Personal Property located in or on the building or structures at the described premises or in the open (or in a vehicle) within 1,000 feet of the buildings or structures or within 1,000 feet of the premises described in the Declarations, whichever distance is greater, including:

- (1) Property you own that is used in your business;
- (2) Property of others that is in your care, custody or control, except as otherwise provided in Loss Payment Property Loss Condition E.5.d.
- (3)(b);
- (3) Tenant's improvements and betterments. Improvements and betterments are fixtures, alterations, installations or additions:
 - a. Made a part of the building or structure you occupy but do not own; and
 - b. You acquired or made at your expense but cannot legally remove;
- (4) Leased personal property which you have a contractual responsibility to insure, unless otherwise provided for under Paragraph 1.b. (2); and
- (5) Exterior building glass, if you are a tenant and no Limit Of Insurance is shown in the Declarations for Building property. The glass must be owned by you or in your care, custody or control.
- (6) Stock

This section describes the types of business personal property that are covered. It includes business personal property if located in the building or structure, on the building or structure, outside the building or structure, in the open, or in a vehicle within 1,000 feet of the building or structure *or* within 1,000 feet of the premises described in the declarations, *whichever distance is greater*. The 2013 form introduces two revisions in A.1.b. which were carried forward in the 2024 edition. First, the form affirmatively identifies structures, in addition to buildings, in which business personal property may be located as covered property. Second, the form extends the distance in which coverage applies to business personal property to 1,000 feet from the building or structure or 1,000 feet from the described premises, whichever is greater. This is specifically beneficial to business owners who are tenants in large building complexes where their suite or room address location may be more than 100 feet from the building's or structure's ground level entrance, and as such, not covered under the

predecessor forms. This expansion to 1,000 feet of the building or premises described in the declarations would also apply to business personal property located in vehicles in adjacent parking spaces.

Property means business personal property owned by the insured and used in the insured business. Examples include stock, inventory, furniture, and office equipment.

Item (2) refers to bailee's coverage for businesses such as dry cleaners, tailors, engravers, and watch and jewelry repair shops. Businesses that take possession of property that belongs to others are considered legally to be bailees. The agreement between the property owner (called the bailor) and the bailee is called a bailment contract. Customers expect that bailees will return their property in good condition, so bailees often want to insure such property against all loss, rather than only on a legal liability basis. The 2024 edition, like the predecessor 2002, 2006, 2010 and 2013 Businessowners forms, provides coverage on such property subject to the loss payment condition E.5.d (3)(b). Under the 1997 form, damaged property of others was adjusted at its actual cash value plus the cost of labor, materials, or services furnished or arranged by the insured. For example, a business owner who is repairing a watch with an actual cash value of \$50 may incur repair costs of \$50 for labor, \$25 for parts, and \$10 for special delivery of a part. In such a case, \$135 would be recoverable under this coverage, less any deductible, if the watch is damaged by an insured peril before it is returned to the customer. The 2024 edition, like the 2002, 2006, 2010 and 2013 forms, provides an exception to the actual cash value valuation and states that, if a written contract governs the insured's liability for property of others, the policy responds with the amount for which the insured is liable but no more than the property's replacement cost. This coverage is capped by the limits of insurance indicated in the declarations. No coverage applies for theft if the Named Perils Endorsement (BP 10 09) is added to the policy unless optional burglary and robbery coverage is purchased. The form does include a \$2,500 sublimit of insurance applicable for loss by theft to furs and jewelry and patterns, dies, and molds.

Tenant's improvements and betterments are fixtures, alterations, installations, or additions made a part of the building or structure that is

occupied but not owned by the insured (such as a tenant at a shopping mall). Examples of improvements and betterments include permanent changes such as the construction of interior walls, built-in shelving, or electrical fixtures paid for by the tenant-insured. Coverage applies if the improvement or betterment was acquired or made at the tenant-insured's expense and cannot be legally removed. The phrase "was acquired" means that any improvement and betterment that is acquired at the tenant's expense is covered under business personal property. Once the improvements are made, they become the property of the landlord. And, if the landlord paid to have them installed, they should be insured under building coverage, not business personal property.

The question at times arises over how insurance should be arranged if a business owner decides to rent space because it includes improvements and betterments already in place, thereby saving the expense of installation. In this case, the tenant simply chose to rent premises that already had been improved. The tenant has no insurable interest in the improvements and betterments, and they are not automatically insured as business personal property. In cases in which the lease specifies that the tenant must replace the improvements and betterments if they are destroyed, the tenant should consider having the landlord's building insurance amended to cover the interests of both the landlord and the tenant.

Leased personal property is personal property leased by the insured. This means that if the business has a contractual responsibility to insure leased property (for example, copiers and computers), coverage is provided. The insured cannot also claim coverage under paragraph 1.b (2), which addresses personal property of others.

Exterior building glass covers exterior building glass owned by the tenant-insured or exterior building glass in the care, custody, or control of an insured tenant. This category of covered property was introduced in the 2002 program and continued with subsequent policy editions.

Newly introduced in the 2024 edition under business personal property is the term "stock." The purpose of its affirmative inclusion is to reinforce policy intent.

Property Not Covered

2. Property Not Covered

Covered Property does not include:

- a. Aircraft, automobiles, motortrucks and other vehicles subject to motor vehicle registration;
- b. “Money” or “securities” except as provided in the:
 - (1) Money And Securities Optional Coverage; or
 - (2) Employee Dishonesty Optional Coverage;
- c. Contraband, or property in the course of illegal transportation or trade;
- d. Land (including land on which the property is located), water, growing crops or lawns (other than lawns which are part of a vegetated roof);
- e. Outdoor fences, antennas (including dish-shaped antennas) and their lead-in wiring, masts or towers, not attached to the buildings, signs (other than signs attached to buildings), trees, shrubs or plants (other than trees, shrubs or plants which are part of a vegetated roof), all except as provided in the:
 - (1) Outdoor Property Coverage Extension; or
 - (2) Outdoor Signs Optional Coverage;
- f. Watercraft (including motors, equipment and accessories) while afloat;
- g. Accounts, bills, food stamps, other evidences of debt, accounts receivable or “valuable papers and records”; except as otherwise provided in this Policy;
- h. “Computer(s)” which are permanently installed or designed to be permanently installed in any aircraft, watercraft, motortruck or other vehicle subject to motor vehicle registration. This paragraph does not apply to “computer(s)” while held as “stock”;
- i. “Electronic data”, except as provided under Additional Coverages – Electronic Data. This Paragraph i. does not apply to your “stock” of prepackaged software or to “electronic data” which is integrated in and operates or controls the building’s elevator, lighting, heating, ventilation, air conditioning or security system; or
- j. Animals, unless owned by others and boarded by you, or if owned by you, only as “stock” while inside of buildings.

This section lists property that is not covered by the policy. Most of the property listed here is better insured under separate policies. For example, aircraft, automobiles, motortrucks, and other vehicles subject to motor vehicle registration should be insured under their respective aircraft, personal auto, or commercial policies.

Loss of money and securities and employee dishonesty is not covered. However, either exposure can be insured under the optional coverages section. Note that loss of money resulting from computer fraud and fund transfer fraud is also excluded but may be endorsed via the Computer Fraud and Funds Transfer Fraud endorsement, BP 05 47.

Contraband (illegal or prohibited goods such as counterfeit merchandise or smuggled goods) or property in the course of illegal transportation or trade is not covered. If a business owner claims a loss, and the adjuster discovers it is illegal to possess the merchandise, stolen or otherwise illegally procured, no coverage applies.

Land (including land on which the property is located), water, growing crops, or lawns (other than lawns that are part of a vegetated roof) are also not covered. The 2013 revision introduced coverage for lawns, trees, shrubs, and plants that are part of a vegetated roof. This introduction is part of the “green” trend in building construction in which commercial roofs are incorporating lawns, trees, shrubs, and plants as part of the roof structure to promote energy efficiency and water conservation. The lawn, trees, shrubs, and plants, which are used as a vegetated roof component, are subject to the policy’s applicable perils, limits of insurance, and other applicable policy terms and provisions. This revision represents a broadening of coverage. Note that eligible feed or grain stores—that sell supplies geared to the agricultural community—would have coverage for certain property.

In addition, certain other types of outdoor property—including fences, antennas (including dish-shaped antennas) and their lead-in wiring, masts, or towers, not attached to the buildings, signs (other than signs attached to buildings), and trees, shrubs, or plants (other than trees, shrubs, plants, or lawns which are part of a vegetated roof)—are not covered. An exception applies to outdoor property listed in the outdoor property coverage extension and to outdoor signs in the optional outdoor signs coverage. For

example, the coverage extension (6.c.) for outdoor property provides limits coverage for outdoor fences, antennas (including dish-shaped antennas) and their lead-in wiring, masts or towers not attached to the building, signs (other than signs attached to buildings), trees, shrubs, or plants including any debris removal expense if the loss is caused by fire, lightning, explosion, riot and civil commotion, or aircraft. In this case, the policy will pay up to \$2,500 but not more than \$1,000 for any one tree, shrub, or plant. See Chapter 3, Coverage Extensions, for a discussion of outdoor property. Higher limits for signs are provided under the optional coverage outdoor signs section (G.1.). This subject is addressed in Chapter 7, Optional Coverages.

Watercraft (including motors, equipment, and accessories) is not covered while afloat. However, coverage does apply if the watercraft, motors, equipment, and accessories are on a trailer, in storage, or in dry dock.

The 2002 form added two categories of property not covered (2.g. and 2.h.) that were maintained in the 2006, 2010, 2013 and carried forward into the 2024 edition. They are accounts, bills, food stamps, other evidences of debt, accounts receivable, or valuable papers and records, except as provided in Coverage Extensions 6.e., Valuable Papers, and 6.f., Accounts Receivable. In other words, limited coverage is provided for valuable papers and accounts receivable under these coverage extensions.

The second category of property not covered is computers that are permanently installed or designed to be permanently installed in any aircraft, watercraft, motortruck, or other vehicle subject to motor vehicle registration. The inclusion of this category of property not covered reflects the increased prevalence of computer equipment that is being installed in various vehicles. Computers while held as stock are not subject to this limitation.

The 2006, 2010, and 2013 revisions included electronic data (2.i) as a category of property not covered. Under these forms, and by exception, the only category of electronic data eligible for coverage and not limited under this section was a business owner's stock of prepackaged software. A substantive addition in the 2013 version and carried forward into the 2024 edition is the inclusion of electronic data that is integrated in and operates

or controls the building's elevator, lighting, heating, ventilation, air conditioning, or security system.

Note that coverage to replace or restore electronic data that has been destroyed or corrupted by a covered cause of loss that is not integrated in and operates or controls the building's elevator, lighting, heating, ventilation, air conditioning, or security system is provided under the electronic data additional coverage and subject to a \$10,000 limitation. That additional coverage is reviewed in Chapter 2.

The 2010 revision introduced 2.j as a new category of property not covered that is carried forward in the 2013 and 2024 editions. This category expressly states that covered property does not include animals, *unless* owned by others and boarded by the insured (kennel), or, if owned by the insured, only as stock while inside a building (pet/animal distributor). This revision represented a reduction of coverage.

Note that since the Businessowners policy does not exclude building components (foundations, costs of excavation, and underground pipes and drains) as property not covered, their costs must be considered in setting an adequate insurance limit to comply with the policy's insurance-to-value requirement. This is in contrast to the Building and Personal Property Form of the Commercial Property Policy which affirmatively lists those building components as property not covered. The Businessowners policy's insurance-to-value requirement is reviewed in Chapter 6.

Property of Robert Richardson,

Chapter 2 Additional Coverages

The additional coverages section of the Businessowners policy provides coverage beyond the principal policy perils and the limits of insurance indicated in the declarations. These additional coverages are automatically included in the policy at no additional premium. The 2006 edition added three additional coverages (electronic data, interruption of computer operations, and limited coverage for fungi, wet rot, and bacteria) to the fifteen that were included under the Businessowners 2002 form. The 2010 edition retained all of the 2006 edition revisions and made minor editorial and coverage changes to the additional coverages collapse and civil authority.

The 2013 edition introduced four substantive changes to the 2010 edition. First, in section 5.a.3.b., the form introduces a \$5,000 limit for debris removal of others' property. Second, in section 5.a.4., the form increases the limit for debris removal to \$25,000 (from \$10,000). Third, in section 5.f(2)(a)(ii)ii., extended business income is increased to sixty days (from thirty days). Fourth, in section 5.m.(5), business income coverage is expanded to secondary dependent properties. These revisions represent a broadening of coverage. The 2013 edition retains all of the 2010 revisions to the additional coverage section and makes minor editorial changes to reinforce original intent or complement revisions in policy language. These revisions have no substantive impact on coverage.

The following addresses the eighteen additional coverages of the Businessowners 2024 edition. Of the eighteen additional coverages, minor edits were made to five additional coverages.

Debris Removal

1. Subject to Paragraphs (2), (3) and (4), we will pay your expense to remove debris of Covered Property and other debris that is on the described premises, when such debris is caused by or results from a

Covered Cause of Loss that occurs during the Policy period. The expenses will be paid only if they are reported to us in writing within 180 days of the date of direct physical loss or damage.

2. Debris Removal does not apply to costs to:

- a. Remove debris of property of yours that is not insured under this Policy, or property in your possession that is not Covered Property;
- b. Remove debris of property owned by or leased to the landlord of the building where your described premises are located, unless you have a contractual responsibility to insure such property and it is insured under this Policy;
- c. Remove any property that is Property Not Covered, including property addressed under the Outdoor Property Coverage Extension;
- d. Remove property of others of a type that would not be Covered Property under this Policy;
- e. Remove deposits of mud or earth from the grounds, outside of buildings, of the described premises;
- f. Extract "pollutants" from land or water; or
- g. Remove, restore or replace polluted land or water.

3. Subject to the exceptions in Paragraph (4), the following provisions apply:

- a. The most that we will pay for the total of direct physical loss or damage plus debris removal expense is the Limit of Insurance applicable to the Covered Property that has sustained loss or damage.
- b. Subject to Paragraph (3)(a) above, the amount we will pay for debris removal expense is limited to 25% of the sum of the deductible plus the amount that we pay for direct physical loss or damage to the Covered Property that has sustained loss or damage. However, if no Covered Property has sustained direct physical loss or damage, the most we will pay for removal of debris of other property (if such removal is covered under this Additional Coverage) is \$5,000 at each location.

4. We will pay up to an additional \$25,000 for debris removal expense, for each location, in any one occurrence of physical loss or damage to Covered Property, if one or both of the following circumstances apply:

- a. The total of the actual debris removal expense plus the amount we pay for direct physical loss or damage exceeds the Limit of Insurance on the covered Property that has sustained loss or damage.
- b. The actual debris removal expense exceeds 25% of the sum of the deductible plus the amount that we pay for direct physical loss or damage to the Covered Property that has sustained loss or damage.

Therefore, if Paragraphs (4)(a) and/or (4)(b) apply, our total payment for direct physical loss or damage and debris removal expense may reach but will never exceed the Limit of Insurance on the covered property that has sustained loss or damage, plus \$25,000.

5. Examples

Example #1	
Limit of Insurance	\$ 90,000
Amount of Deductible	\$ 500
Amount of Loss	\$ 50,000
Amount of Loss Payable	\$ 49,500
	(\$50,000–\$500)
Debris Removal Expense	\$ 10,000
Debris Removal Expense Payable	\$ 10,000
	(\$10,000 is 20% of \$50,000)

The debris removal expense is less than 25 percent of the sum of the loss payable plus the deductible. The sum of the loss payable and the debris removal expense (\$49,500 + \$10,000 = \$59,500) is less than the Limit of Insurance. Therefore the full amount of debris removal expense is payable in accordance with the terms of Paragraph (3).

Example #2	
Limit of Insurance	\$ 90,000
Amount of Deductible	\$500

Amount of Loss	\$ 80,000
Amount of Loss Payable	\$ 79,500
	(\$80,000–\$500)
Debris Removal Expense	\$ 40,000
Debris Removal Expense Payable	
Basic Amount	\$ 10,500
Additional Amount	\$ 25,000

The basic amount payable for debris removal expense under the terms of Paragraph (3) is calculated as follows: $\$80,000 (\$79,500 + \$500) \times .25 = \$20,000$; capped at \$10,500. The cap applies because the sum of the loss payable (\$79,500) and the basic amount payable for debris removal expense (\$10,500) cannot exceed the Limit of Insurance (\$90,000).

The additional amount payable for debris removal expense is provided in accordance with the terms of Paragraph (4), because the debris removal expense (\$40,000) exceeds 25 percent of the loss payable plus the deductible (\$40,000 is 50 percent of \$80,000), and because the sum of the loss payable and debris removal expense ($\$79,500 + \$40,000 = \$119,500$) would exceed the Limit of Insurance (\$90,000). The additional amount of covered debris removal expense is \$25,000, the maximum payable under Paragraph (4). Thus, the total payable for debris removal expense in this example is \$35,500; \$4,500 of the debris removal expense is not covered.

The debris removal provision (5.a.) states that the insurer will pay for removal of debris of covered property caused by a covered peril occurring during the policy period. However, the insured must make the coverage demand in writing within 180 days of the direct physical loss or damage or at the end of the policy period, whichever is earlier. The amount of debris removal coverage payable is established through two clauses.

First, the insurer's exposure under debris removal is limited to 25 percent of the direct physical loss plus the deductible. For example, if a building has a limit of insurance of \$100,000 with a \$1,000 deductible, and it incurs a \$60,000 loss, the insurer will pay up to \$15,000 (25 percent of [\$59,000 plus \$1,000]) for debris removal. The Businessowners form limits the total

payments for direct physical loss *and* debris removal to the limit of insurance. In other words, the insured may not collect more than the limit of insurance. Therefore, in the case of the \$100,000 limit of insurance and a \$100,000 loss, the total amount payable is capped by the limit of insurance. The insurer would pay the loss (\$100,000 – \$1,000 deductible = \$99,000). The amount of debris removal payable would be limited to \$1,000 because the total of the loss payable (\$99,000) and the debris removal allowed (\$1,000) is capped by the \$100,000 limit of coverage under clause 5. a. (3).

Secondly, however, an additional \$25,000 per location limit applies if the limit of insurance is exhausted. In other words, an additional \$25,000 of debris removal coverage per location and per occurrence applies if the sum of the direct physical loss and debris removal expense exceeds the limit of insurance, or the debris removal expense exceeds the amount payable under the 25 percent debris removal coverage limitation. Using the same scenario but increasing the debris removal expense to \$35,000, the insurer would pay \$1,000 under 5.a.(3) and up to an additional \$25,000 under 5.a.(4). The alternative use of this coverage would apply primarily in total loss situations. For example, if a building has a limit of insurance of \$100,000, and the loss is \$100,000 plus \$25,000 to haul away debris, the insurer would pay the loss minus the \$1,000 deductible (\$99,000), \$1,000 of debris removal under 5.a. (3), and an additional \$25,000 debris removal under 5.a. (4), for a total payment of \$125,000. The \$25,000 additional limit for debris removal may be increased by the Debris Removal Additional Insurance (BP 14 98) endorsement.

The 2013 edition introduced, and the 2024 edition continues, several new categories of property not covered to complement the introduction of coverage that is now available for debris removal of others' property. The policy form maintains as property not covered debris removal costs associated with the extraction of pollutants from land and water or the removal or replacement of polluted land or water. Although coverage for the extraction of pollutants is specifically excluded under the debris removal additional coverage, a \$10,000 per location limit applies under the pollutant clean up and removal additional coverage, 5.h., which is addressed later in this chapter.

The policy form covers the removal of debris of others' property that sustains direct physical loss or damage. This coverage is subject to a \$5,000 limit at each location and to all the terms of the debris removal coverage.

An example would be a windstorm or lightning strike that damages a neighboring property that falls onto the business owner's property.

Similar coverage is also provided under coverage extensions for debris removal of trees, shrubs, and plants of others (neighboring property owners) subject to specified perils and limited to \$2,500 and a \$1,000 per tree, shrub, and plant. This specific subject is further addressed under coverage extension 6.c in Chapter 3.

The policy form also specifies that debris removal coverage does not apply to the cost to remove a policyholder's property that is not insured under the policy; property in the insured's possession that is not covered; property owned by or leased by a landlord, unless the tenant is contractually obligated to provide insurance and the property is insured under the policy; property that is property not covered, including property addressed under the outdoor property coverage extensions; property of others of a type that would not be covered property; and deposits of mud or earth from the grounds outside of buildings, of the described premises. The inclusion of these categories of property as not being covered is due to the Businessowners policy's expansion to cover the removal of debris of others' property which under predecessor forms was not covered.

The 2024 edition made one revision to this additional coverage by affirmatively covering the removal of mud or earth from the grounds *within the insured building(s)* at the described premises.

Preservation of Property

If it is necessary to move Covered Property from the described premises to preserve it from loss or damage by a Covered Cause of Loss, we will pay for any direct physical loss of or damage to that property:

1. While it is being moved or while temporarily stored at another location; and
2. Only if the loss or damage occurs within thirty days after the property is first moved.

To protect covered property, coverage is provided for property being removed from the described premises for up to thirty days (increased from ten days on pre-1996 forms) and applies to any direct physical loss that occurs to property during this time period. This, in effect, is all perils coverage insuring any cause of loss triggered by a covered peril. For example, if a business is on fire, coverage is provided for business personal property while it is being transported and stored at another location. The property is covered for “any direct physical loss,” and not just for covered causes of loss. Consequently, coverage would also apply if a flood, earthquake, or any other type of direct physical loss damaged the property during this thirty-day period.

However, this coverage applies only if the business personal property is endangered by a covered cause of loss. For example, if a flood requires an insured to remove property, no coverage is provided since flood is an excluded cause of loss under the policy. It is important to note that coverage provided under the preservation of property coverage does not increase the business personal property coverage limit.

Fire Department Service Charge

When the fire department is called to save or protect Covered Property from a Covered Cause of Loss, we will pay up to \$2,500 for service at each premises described in the Declarations, unless a different limit is shown in the Declarations. Such limit is the most we will pay regardless of the number of responding fire departments or fire units, and regardless of the number or type of services performed.

This Additional Coverage applies to your liability for fire department service charges:

1. Assumed by contract or agreement prior to loss; or

2. Required by local ordinance.

The Businessowners policy will pay up to \$2,500 (increased from \$1,000 under the 2002 form) if an insured enters into a contract assuming such charges prior to a loss or is required by ordinance to pay for fire department service calls. The 2013 edition introduces language to clarify that the \$2,500 limit applies to each premises described in the declarations regardless of the number of fire departments, fire units, or services provided. This coverage applies only if the service call is necessitated by a covered cause of loss.

If the insured's municipality has an ordinance requiring the insured to pay for fire department service calls, and the insured calls the fire department to extinguish a fire, coverage applies up to \$2,500. In this example, an ordinance requires the business owner to pay the service charge, and the call was the result of a covered cause of loss. If, however, the insured's fire or burglar alarm system malfunctions causing the fire department to answer a false alarm, no coverage would apply since the cause of loss (alarm malfunction) is not covered under the policy. The Businessowners program includes the Fire Department Service Contract endorsement (BP 12 02). This endorsement requires the insured to maintain a service contract with a privately owned fire department for fire protection. An insurer may require the endorsement whenever a property is located in a remote location.

Collapse

The coverage provided under this Additional Coverage – Collapse applies only to an abrupt collapse as described and limited in Paragraphs d.(1) through d.(7).

1. For the purpose of this Additional Coverage – Collapse, abrupt collapse means an abrupt falling down or caving in of a building or any part of a building with the result that the building or part of the building cannot be occupied for its intended purpose.

The additional coverage, collapse, defines what does or does not constitute collapse. This approach was introduced in the 2002 form with the addition

of the collapse definition within the additional coverage. *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 part of the building cannot be occupied for its intended purpose.” For collapse coverage to apply there must be (1) a falling down or caving in, (2) which makes the building uninhabitable for its intended use, and (3) is caused by one of the named perils listed in (d.2), which is explained later in this section. Before this definition was introduced in the 2002 edition, arguments could be advanced that the building had a loss of structural integrity, and as such, a collapse claim could be argued without an actual collapse. The success of this argument was reduced by the introduction of the definition of *collapse* that requires the building to “fall down” or “cave in,” or to make the building uninhabitable for coverage to apply. For example, if a roof caves in due to weight of ice and snow (which is a covered specified cause of loss), causing the building to be uninhabitable, coverage applies. If, however, built-in shelving collapses due to the weight of its contents (also a covered cause of loss), no coverage would apply since falling shelving would not generally make the building uninhabitable for its intended use. The 2010 edition inserted the word *abrupt* before the word *collapse* throughout the balance of this additional coverage to reinforce the requirement that the collapse be abrupt rather than gradual.

(2) We will pay for direct physical loss or damage to Covered Property, caused by abrupt collapse of a building or any part of a building that is insured under this Policy or that contains Covered Property insured under this Policy, if such collapse is caused by one or more of the following:

- a. Building decay that is hidden from view, unless the presence of such decay is known to an insured prior to collapse;
- b. Insect or vermin damage that is hidden from view, unless the presence of such damage is known to an insured prior to collapse;
- c. Use of defective material or methods in construction, remodeling or renovation if the abrupt collapse occurs during the course of the construction, remodeling or renovation.
- d. Use of defective material or methods in construction, remodeling or renovation if the abrupt collapse occurs after the construction,

remodeling or renovation is complete, but only if the collapse is caused in part by:

- (i) A cause of loss listed in Paragraph (2)(a) or (2)(b);
- (ii) One or more of the “specified causes of loss”;
- (iii) Breakage of building glass;
- (iv) Weight of people or personal property; or
- (v) Weight of rain that collects on a roof.

(3) This Additional Coverage – Collapse does not apply to:

- a. A building or any part of a building that is in danger of falling down or caving in;
- b. A part of a building this is standing, even if it has separated from another part of the building; or
- c. A building that is standing or any part of a building that is standing, even if it shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion.

Provision (2) furnishes collapse coverage for direct physical loss to covered property in the course of remodeling, renovation or construction due to defective materials or methods. Coverage would also apply even if the collapse occurred after remodeling, renovation or construction is completed provided the collapse is caused in part by a cause of loss specified in (2) (a) through (d). Examples include collapse caused by hidden decay, hidden insect or vermin damage, weight of people or personal property, weight of rain, including collapse caused by defective materials or methods. For example, if fire, windstorm, or explosion—all specified causes of loss—causes a building to collapse, coverage applies. Similarly, coverage for collapse would apply if the cause of collapse were hidden decay, hidden insect or vermin damage, weight of people or personal property, weight of rain, or in the event defective materials or methods.

To further clarify collapse, the 2024 edition carries forward the three examples provided in prior editions of what is not considered to be collapse. Collapse would not include the following:

1. A building or any part of a building that is in danger of falling down or caving in is not considered to be in a state of collapse. For instance, if a roof is bowed or sagging and is in danger of falling down or caving

in, the mere state of being bowed or sagging does not trigger collapse coverage.

2. A part of a building that is standing is not considered to be in a state of collapse, even if it has separated from another part of the building. An example is a building addition that becomes detached from the main structure and remains standing. The mere detachment of the addition from the building does not trigger collapse coverage.
3. A building or any part of a building that is standing is not considered to be in a state of collapse even if it shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage, or expansion. If a ceiling, for example, is bowed or sagging and shows evidence of cracking, the mere state of being bowed or sagging and showing evidence of cracking does not trigger collapse coverage.

The 2006 edition introduced in paragraph (2) the phrase “or that contains Covered Property insured under this policy.” This phrase grants coverage to a lessee’s personal property in the event of a building collapse, whether the policy also covers the building. The revision introduced in the 2006 edition has been carried forward in subsequent policy editions.

4. With respect to the following property:
 - a. Awnings;
 - b. Gutters and downspouts;
 - c. Yard fixtures;
 - d. Outdoor swimming pools;
 - e. Piers, wharves and docks;
 - f. Beach or diving platforms or appurtenances;
 - g. Retaining walls; and
 - h. Walks, roadways and other paved surfaces;

if an abrupt collapse is caused by a cause of loss listed in Paragraphs (2)(a) through (2)(d), we will pay for loss or damage to that property only if such loss or damage is a direct result of the abrupt collapse of a building insured under this Policy and the property is Covered Property under this Policy.

This provision limits collapse coverage to the cited categories of property (4)(a) through (h) only if the collapse is caused by a cause of loss cited in paragraphs (2)(a) through (2)(d). For example, if hidden decay, hidden

insect damage, weight of people or personal property, or defective materials or methods caused an awning to collapse, no coverage applies. If, however, a building collapsed causing any of these categories of property to collapse, coverage applies. Loss to this type of property that is caused by any of the specified causes of loss is covered. So, for example, if a windstorm (a specified cause of loss) damages an awning or causes yard fixtures to collapse without an entire building collapsing first, coverage would apply.

(5) If personal property abruptly falls down or caves in and such collapse is not the result of abrupt collapse of a building, we will pay for loss or damage to Covered Property caused by such collapse of personal property only if:

- a. The collapse was caused by a cause of loss listed in Paragraphs (2)(a) through (2)(d) of this Additional Coverage;
- b. The personal property which collapses is inside a building; and(c)
The property which collapses is not of a kind listed in Paragraph (4), regardless of whether that kind of property is considered to be personal property or real property.

The coverage stated in this Paragraph (5) does not apply to personal property if marring and/or scratching is the only damage to that personal property caused by the collapse.

(6) This Additional Coverage – Collapse does not apply to personal property that has not abruptly fallen down or caved in, even if the personal property shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion.

(7) This Additional Coverage – Collapse will not increase the Limits Of Insurance provided in this Policy.

(8) The term Covered Cause of Loss includes the Additional Coverage – Collapse as described and limited in Paragraphs d.(1) through d.(7).

This provision limits loss to personal property if the collapse is caused by one of the specified perils; is located inside a building; and is not an awning, gutter, downspout, yard fixture, outdoor swimming pool, pier, wharf, dock, beach or diving platform, retaining wall, a walk, roadway, or other paved surface. Collapse does not apply to personal property that has not abruptly fallen down or caved in, even if the personal property shows

evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage, or expansion. Collapse coverage does not increase the limits of insurance under the policy.

Over the years, the meaning of collapse has been the center of many court cases. Prior to the 1990s, most courts held collapse to mean that a building must actually fall down into a heap of rubble. More recently, some courts have interpreted collapse to mean a substantial loss of the structural integrity of the building. Due to this broadened legal interpretation, the 2002 and subsequent policy editions have maintained and enhanced this policy language to clarify its coverage intentions.

Water Damage, Other Liquids, Powder, or Molten Material Damage

If loss or damage caused by or resulting from covered water or other liquid, powder or molten material occurs, we will also pay the cost to tear out and replace any part of the building or structure to repair damage to the system or appliance from which the water or other substance escapes.

We will not pay the cost to repair any defect that caused the loss or damage, but we will pay the cost to repair or replace damaged parts of fire extinguishing equipment if the damage:

1. Results in discharge of any substance from an automatic fire protection system; or
2. Is directly caused by freezing.

Under this provision, if a water pipe leaks due to a defect (not a covered cause of loss), the cost to tear out the wall to get to the water pipe is covered, as well as any consequential water damage (unless it involves the excluded backup or overflow of sewers, drains, or sumps). The cost to repair the pipe would not be covered. If, however, the water pipe is part of an automatic fire protection system, and a discharge results due to a defect, the insurer will pay the cost to repair or replace the damaged parts of the fire extinguishing equipment and the consequential water damage.

Similarly, if the automatic fire protection system froze and broke due to freezing temperatures, coverage would apply to the cost to repair or replace the damaged parts of the fire extinguishing equipment and the consequential water damage.

Business Income

1. Business Income

- a. We will pay for the actual loss of Business Income you sustain due to the necessary suspension of your “operations” during the “period of restoration”. The suspension must be caused by direct physical loss of or damage to property at the described premises. The loss or damage must be caused by or result from a Covered Cause of Loss. With respect to loss of or damage to personal property in the open or personal property in a vehicle, the described premises include the area within 1,000 feet of such premises.

With respect to the requirements set forth in the preceding paragraph, if you occupy only part of a building, your premises mean:

- (i) The portion of the building which you rent, lease or occupy;
- (ii) The area within 1,000 feet of the building or within 1,000 feet of the premises described in the Declarations whichever distance is greater (with respect to loss of or damage to personal property in the open or personal property in a vehicle); and
- (iii) Any area within the building or at the described premises, if that area services, or is used to gain access to, the portion of the building which you rent, lease or occupy.

Coverage applies to actual loss of business income sustained by the business owner due to the necessary suspension of operations during the period of restoration. This statement limits business income coverage to the business owner’s actual losses incurred during the period of restoration. The period of restoration is defined in a later section of the coverage form. It begins seventy-two hours after a direct physical loss causes the suspension

of the business owner's operations, and it ends on the date the property should be repaired or replaced with reasonable speed and similar quality or the date the business is resumed at a new location. Although not defined in the policy, reasonable speed is typically interpreted to mean the time period that a contractor, based on the details of the situation, would take to complete repairs to the damaged property.

Although the direct physical loss must occur at the described premises, and the cause of loss must be covered under the policy, the direct physical damage need not occur to property covered under the policy. For example, if a business owner has certain high-valued merchandise insured under a separate commercial policy, and that merchandise is vandalized (a covered cause of loss), requiring several weeks to replace and causing a business income loss, the business income coverage would apply as long as the high-valued merchandise was on the described premises.

The policy defines the insured's premises to be the portion of the building rented, leased, or occupied; the area within 1,000 feet of the building or within 1,000 feet of the premises described in the declarations, whichever is greater; and any area within the building or on the site that is used to service the described premises. This description limits the possibility that the insured may attempt to claim a business income loss caused by an insured peril that occurs off premises.

(b) We will only pay for loss of Business Income that you sustain during the "period of restoration" and that occurs within 12 consecutive months after the date of direct physical loss or damage. We will only pay for ordinary payroll expenses for 60 days following the date of direct physical loss or damage, unless a greater number of days is shown in the Declarations.

This statement limits the insurer's obligation to make payments for business income loss sustained during the period of restoration that occurs within twelve months of the date of direct physical loss. Although the loss must occur during the policy period, payments may extend beyond the end of the policy period. In addition, ordinary payroll expenses are paid only for sixty days from the date of direct physical loss or damage. This limitation was introduced in the 1996 revision and is carried forward in subsequent

editions. The impact of this limitation is further accentuated by the restrictive definition of *ordinary payroll* (see section f. (1) (d)) in the form). The 2010 edition introduced several endorsements to modify coverage. The Business Income, Extra Expense and Related Coverages Limit of Insurance (BP 14 06) endorsement allows for a dollar limit of insurance. The Business Income and Extra Expense – Revised Period of Indemnity (BP 14 07) endorsement allows for a specified number of days. Either of these endorsements would replace the twelve consecutive month period in the policy form. The Discretionary Payroll Expense (BP 14 30) endorsement allows for an increase in the number of days for ordinary payroll rather than the policy’s sixty days.

The term *period of restoration*, as cited in this section and defined in the definitions section of the form, imposes a seventy-two-hour time deductible on business income losses. The seventy-two-hour time period can be eliminated by purchasing endorsement BP 04 41, Business Income – Increased Period of Restoration (No Waiting Period), which eliminates the time deductible.

(c) Business Income means the:

- (i) Net Income (Net Profit or Loss before income taxes) that would have been earned or incurred if no physical loss or damage had occurred, but not including any Net Income that would likely have been earned as a result of an increase in the volume of business due to favorable business conditions caused by the impact of the Covered Cause of Loss on customers or on other businesses; and
- (ii) Continuing normal operating expenses incurred, including payroll.

Business income is the net income (the net profit or loss before income taxes) plus continuing normal operating expenses (including payroll) that is lost due to a suspension of business operations.

To determine a business income loss, a comparison is made between historical net income and actual net income during the period of business interruption. For example, if historical income (prior year or prior months) was \$20,000 per month (\$100,000 sales minus \$80,000 expenses), and

actual net income during the period of interruption is a \$10,000 loss (\$0 sales minus \$10,000 expenses), the business would incur a business income loss of \$30,000 per month (\$20,000 net income plus \$10,000 expenses). A business income loss is the difference between the net income that would have been earned under normal business conditions and the net profit or loss that actually occurred during the period of restoration. It does not include prospective net income that is based upon favorable business conditions.

(d) Ordinary payroll expenses:

(i) Means payroll expenses for all your employees except:

- i. Officers;
- ii. Executives;
- iii. Department Managers;
- iv. Employees under contract; and
- v. Additional Exemptions shown in the Declarations as:
 - Job Classifications; or
 - Employees.

(ii) Include:

- i. Payroll;
- ii. Employee benefits, if directly related to payroll;
- iii. FICA payments you pay;
- iv. Union dues you pay; and
- v. Workers' compensation premiums.

Ordinary payroll includes payroll, employee benefits (if directly related to payroll), FICA payments, union dues paid by the insured, and workers compensation premiums. The salaries of officers, executives, department managers, employees under contract, and additional exemptions shown in the declarations are not considered in ordinary payroll computations.

(2) Extended Business Income

- a. If the necessary suspension of your "operations" produces a Business Income loss payable under this Policy, we will pay for the actual loss of Business Income you incur during the period that:

- (i) Begins on the date property except finished stock is actually repaired, rebuilt or replaced and “operations” are resumed; and
 - (ii) Ends on the earlier of:
 - i. The date you could restore your “operations”, with reasonable speed, to the level which would generate the Business Income amount that would have existed if no direct physical loss or damage had occurred; or
 - ii. 60 consecutive days after the date determined in Paragraph (a)(i) above, unless a greater number of consecutive days is shown in the Declarations.
- However, Extended Business Income does not apply to loss of Business Income incurred as a result of unfavorable business conditions caused by the impact of the covered Cause of Loss in the area where the described premises are located.
- b. Loss of Business Income must be caused by direct physical loss or damage at the described premises caused by or resulting from any Covered Cause of Loss.
- (3) With respect to the coverage provided in this Additional Coverage, suspension means:
- a. The partial slowdown or complete cessation of your business activities; or
 - b. That a part or all of the described premises is rendered untenable, if coverage for Business Income applies.
- (4) This Additional Coverage is not subject to the Limits of Insurance of Section I – Property.

In order to be covered, loss of business income must be caused by direct physical loss or damage at the described premises caused by or resulting from any covered cause of loss. This provision extends business income after the date property should actually be repaired, rebuilt, or replaced with reasonable speed and operations resumed. It pays extended business income for up to sixty days (increased in the 2013 edition from thirty days) from or until the business income equals the amount that would have existed if no direct physical loss or damage had occurred. For example, if a business resumes operations and after sixty days its business income is \$70,000, and

its normal business income would have been \$100,000, extended business income will pay the difference of \$30,000. Extended business income applies for a maximum of sixty days (or a greater number if indicated in the declarations) after resumption of operations and is not subject to a limit of insurance.

The Businessowners form includes a definition of *suspension*. The definition specifies that the business does not have to be shut down completely in order for business income coverage to be triggered. Either a partial or complete shutdown may be considered a suspension, or part or all of the described premises (for example, the insured office building) must be untenable because of direct physical loss caused by a covered cause of loss. In the case of a multi-tenanted building, the described premises may encompass more than just the portion occupied by the BOP-insured tenant.

The 2006 edition replaced the word *and* with the word *or* between paragraph (3) (a) and (3) (b). This revision conveys that in order for the condition of suspension to be met, and business income coverage to apply, that either (a) the partial shutdown or complete cession of business activities or (b) a part or all of the described premises be rendered uninhabitable must occur. In other words, either (a) or (b) triggers business income coverage under the 2006 edition. Under the 2002 edition, both (a) and (b) trigger business income coverage. The revision introduced in the 2006 edition was carried forward to subsequent policy editions.

Extra Expense

1. We will pay necessary Extra Expense you incur during the “period of restoration” that you would not have incurred if there had been no direct physical loss or damage to property at the described premises. The loss or damage must be caused by or result from a Covered Cause of Loss. With respect to loss of or damage to personal property in the open or personal property in a vehicle, the described premises include the area within 1,000 feet of such premises. With respect to the requirements set forth in the preceding paragraph, if you occupy only part of a building, your premises mean:
 - a. The portion of the building which you rent, lease or occupy;

- b. The area within 1,000 feet of the building or within 1,000 feet of the premises described in the Declarations, whichever distance is greater (with respect to loss of or damage to personal property in the open or personal property in a vehicle); and
 - c. Any area within the building or at the described premises, if that area services, or is used to gain access to, the portion of the building which you rent, lease or occupy.
- 2. Extra Expense means expense incurred:
 - a. To avoid or minimize the suspension of business and to continue “operations”:
 - (i) At the described premises; or
 - (ii) At replacement premises or at temporary locations, including relocation expenses, and costs to equip and operate the replacement or temporary locations.
 - b. To minimize the suspension of business if you cannot continue “operations”.
 - c. To:
 - (i) Repair or replace any property; or
 - (ii) Research, replace or restore the lost information on damaged “valuable papers and records” to the extent it reduces the amount of loss that otherwise would have been payable under this Additional Coverage f. Business Income.
- 3. With respect to the coverage provided in the Additional Coverage, suspension means:
 - a. The partial slowdown or complete cessation of your business activities; or
 - b. That a part or all of the described premises is rendered untenable, if coverage for Business Income applies.
- 4. We will only pay for Extra Expense that occurs within 12 consecutive months after the date of direct physical loss or damage. This Additional Coverage is not subject to the Limits of Insurance of Section I – Property.

Extra expenses incurred during the period of restoration are covered. Like business income coverage, the loss or damage must be caused by or result from a covered cause of loss. Common examples of extra expenses include

the costs of renting new office space, leasing computers and office machines, and the installation of new telephone equipment.

What qualifies as an extra expense? Basically, almost anything that reduces the amount paid under the business income portion of the policy. Like business income, the insurer's obligation to make payments for extra expense is limited to expenses that occur within twelve months of the date of direct physical loss or damage. Unlike business income, extra expense is not subject to the seventy-two-hour time deductible (see *period of restoration* definition in Chapter 8).

The 2006 edition replaced the word *and* with the word *or* between paragraph (3) (a) and (3) (b) in the extra expense additional coverage just like it did in the business income additional coverage. This revision conveys that in order for the condition of suspension to be met, and extra expense coverage to apply, that either (a) the partial shutdown or complete cessation of business activities or (b) a part or all of the described premises be rendered uninhabitable must occur. In other words, either (a) or (b) triggers extra expense coverage under the 2006 edition. Under the 2002 edition, both (a) and (b) trigger extra expense coverage. The revision introduced in the 2006 edition was carried forward to subsequent policy editions. Note that like the business personal property and business income sections of the 2024 edition, the extra expense section extends the insured's premises to the area within 1,000 feet of the building or within 1,000 feet of the premises described in the declarations, whichever distance is greater.

Pollutant Clean-up and Removal

We will pay your expense to extract "pollutants" from land or water at the described premises if the discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused by or results from a Covered Cause of Loss that occurs during the Policy period. The expenses will be paid only if they are reported to us in writing within 180 days of the date on which the Covered Cause of Loss occurs.

This Additional Coverage does not apply to costs to test for, monitor or assess the existence, concentration or effects of "pollutants". But we

will pay for testing which is performed in the course of extracting the “pollutants” from the land or water.

The most we will pay for each location under this Additional Coverage is \$10,000 for the sum of all such expenses arising out of Covered Causes of Loss occurring during each separate 12-month period of this Policy.

Costs incurred to extract pollutants from land or water at the described premises are covered if the discharge, dispersal, seepage, migration, release, or escape of the pollutants is caused by a covered cause of loss. For example, if oil or gasoline leaks from containers after an earthquake and causes a pollution claim, no coverage applies because earthquake is not a covered cause of loss. If, however, a fire causes gasoline or oil cans to ignite and burst causing oil or gasoline to spill into the soil, coverage would apply to have the gasoline or oil extracted from the soil. To qualify for this coverage the loss must be reported to the insurer in writing within 180 days of the date of direct physical loss or damage, or the end of the policy period, whichever comes first. This additional coverage is subject to an annual aggregate limit of \$10,000 per location.

Civil Authority

When a Covered Cause of Loss causes damage to property other than property at the described premises, we will pay for the actual loss of Business Income you sustain and necessary Extra Expense caused by action of civil authority that prohibits access to the described premises, provided that both of the following apply:

1. Access to the area immediately surrounding the damaged property is prohibited by civil authority as a result of the damage, and the described premises are within that area but are not more than one mile from the damaged property; and
2. The action of civil authority is taken in response to dangerous physical conditions resulting from the damage or continuation of the Covered Cause of Loss that caused the damage, or the action is taken to enable a civil authority to have unimpeded access to the damaged property.

Civil Authority Coverage for Business Income will begin 72 hours after the time of the first action of civil authority that prohibits access to the described premises and will apply for a period of up to four consecutive weeks from the date on which such coverage began.

Civil Authority Coverage for necessary Extra Expense will begin immediately after the time of the first action of civil authority that prohibits access to the described premises and will end:

1. Four consecutive weeks after the time of that action; or
2. When your Civil Authority Coverage for Business Income ends; whichever is later.

The definitions of Business Income and Extra Expense contained in the Business Income and Extra Expense Additional Coverages also apply to Civil Authority Additional Coverage. The Civil Authority Additional Coverage is not subject to the Limits of Insurance of Section I - Property.

If a civil authority (such as the police or fire department) prohibits access to the described premises due to a direct physical loss caused by a covered peril to property other than at the described premises, coverage applies. For example, if an explosion occurred across the street from the insured premises, causing the fire department to close down the street and the insured to suffer a loss of business income or to incur extra expenses, coverage would be provided. Generally, something such as a local fire will not trigger a business income or extra expense loss, but other perils such as large-scale rioting or natural disasters will. The 2006 and prior Businessowners forms provided coverage under civil authority subject to a seventy-two hour time deductible for up to three consecutive weeks or until the business income coverage ends, whichever is later. The 2010 edition and subsequent policy editions revised this additional coverage in two areas. First, it introduced a geographical radius limitation requiring that the covered peril occur no more than one mile from the damaged property. This limitation was added to reinforce the original intent of providing coverage in cases where there is a prohibitive action of civil authority due to damage by a covered peril that is in close proximity to the insured premises. And, second, it extended the civil authority coverage period from three weeks to four weeks. The 2010 revision represented a reduction in coverage due to

the geographical mileage limitation and a broadening of coverage due to the extension of the civil authority coverage period from three weeks to four weeks. These revisions were carried forward to subsequent policy editions.

Money Orders and “Counterfeit Money”

We will pay for loss resulting directly from your having accepted in good faith, in exchange for merchandise, “money” or services:

1. Money orders issued by any post office, express company or bank that are not paid upon presentation; or
2. “Counterfeit money” that is acquired during the regular course of business.

The most we will pay for any loss under this Additional Coverage is \$1,000.

Coverage applies to U.S. and Canadian money orders and counterfeit money accepted in good faith subject to a \$1,000 limitation.

Forgery or Alteration

1. We will pay for loss resulting directly from forgery or alteration of any check, draft, promissory note, bill of exchange or similar written promise of payment in “money” that you or your agent has issued, or that was issued by someone who impersonates you or your agent.
2. If you are sued for refusing to pay the check, draft, promissory note, bill of exchange or similar written promise of payment in “money”, on the basis that it has been forged or altered, and you have our written consent to defend against the suit, we will pay for any reasonable legal expenses that you incur in that defense.
3. For the purpose of this coverage, check includes a substitute check as defined the Check Clearing for the 21st Century Act and will be treated the same as the original it replaced.
4. The most we will pay for any loss, including legal expenses; under this Additional Coverage is \$2,500 unless a higher Limit Of Insurance is

shown in the Declarations.

This additional coverage pays for the loss of money resulting from the forgery or alteration of outgoing checks, drafts, or promissory notes. Often insured businesses try to trigger this coverage after accepting a check forged on another business's bank account. Coverage will not respond to that type of loss because the forged document must be drawn on the insured business's account. Legal defense will also be provided in the event the insured is sued for refusal to pay a check on the basis that it is a forged or altered document. This coverage is subject to a \$2,500 limitation for loss, including legal defense, unless a higher amount is indicated in the declarations.

The 2006 edition inserted paragraph k.(3) to address the federal Check Clearing for the 21st Century Act (Check 21) that became effective on October 28, 2004. Among other things, Check 21 provides for the use of substitute checks (paper reproductions of both the front and back of original checks) to promote efficiencies in the banking system. The additional coverage forgery and alteration covers the forgery and alteration of substitute checks. The revision introduced in the 2006 has been carried forward to subsequent policy editions.

Increased Cost of Construction

1. This Additional Coverage applies only to buildings insured on a replacement cost basis.
2. In the event of damage by a Covered Cause of Loss to a building that is Covered Property, we will pay the increased costs incurred to comply with the minimum standards of an ordinance or law in the course of repair, rebuilding or replacement of damaged parts of that property, subject to the limitations stated in Paragraphs (3) through (9) of this Additional Coverage.
3. The ordinance or law referred to in Paragraph (2) of this Additional Coverage is an ordinance or law that regulates the construction or repair of buildings or establishes zoning or land use requirements at the described premises and is in force at the time of loss.

4. Under this Additional Coverage, we will not pay any costs due to an ordinance or law that:
 - a. You were required to comply with before the loss, even when the building was undamaged; and
 - b. You failed to comply with.
5. Under this Additional Coverage, we will not pay for
 - a. The enforcement of or compliance with any ordinance or law which requires demolition, repair, replacement, reconstruction, remodeling or remediation of property due to contamination by “pollutants” or due to the presence, growth, proliferation, spread or any activity of “fungi”, wet rot or dry rot; or
 - b. Any costs associated with the enforcement of or compliance with an 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”, “fungi”, wet rot or dry rot.
6. The most we will pay under this Additional Coverage, for each described building insured under Section I - Property, is \$10,000. If a damaged building(s) is covered under a blanket Limit of Insurance which applies to more than one building or item of property, then the most we will pay under this Additional Coverage, for each damaged building, is \$10,000.

The amount payable under this Additional Coverage is additional insurance.

This additional coverage applies only to buildings insured on a replacement cost basis. It provides up to \$10,000 in coverage for each described building if a covered cause of loss creates an increase in construction costs mandated by the minimum standards of a building ordinance or law.

Coverage does not apply to any cost due to an ordinance or law that the insured was required to, but failed to comply with, prior to the loss. For example, if the named insured failed to install a fire escape that was required by the city when the building was constructed, and a subsequent fire loss occurs, the insurer would not be obligated to pay the \$10,000 because of clause (4) (a) and (b).

This additional coverage does not apply to costs due to an ordinance or law that requires the insured or others to test, monitor, clean up, or assess the effects of pollutants. The \$10,000 per building limitation is additional insurance above the limit shown on the policy.

The 2013 edition introduces the words *minimum standards* in 1.(2) and the word *compliance* in 1.(5) (a) and (b) to reinforce its position that the additional coverage applies only the *minimum standards* of an ordinance or law and that the additional coverage will not pay for the enforcement of *compliance* with any ordinance or law related to construction detoxification or the effects of pollutants. The editorial revision was implemented to reinforce original intent and has no effect on coverage.

The 2006 edition inserted paragraph (5)(a)(b) to address enforcement of any ordinance or law requiring demolition, repair, replacement, reconstruction, remodeling, or remediation of property due to contamination by pollutants or due to the presence, growth, proliferation, spread, or any activity of fungi, wet or dry rot, or bacteria. The inclusion of this language was necessary since the 2006 edition added a separate additional coverage covering limited fungi, wet rot, dry rot, and bacteria (discussed later in this chapter). The changes introduced in the 2006 edition were carried forward to subsequent policy editions.

(7) With respect to this Additional Coverage:

- a. We will not pay for the Increased Cost of Construction:
 - (i) Until the property is actually repaired or replaced, at the same or another premises; and
 - (ii) Unless the repair or replacement is made as soon as reasonably possible after the loss or damage, not to exceed two years. We may extend this period in writing during the two years.
- b. If the building is repaired or replaced at the same premises, or if you elect to rebuild at another premises, the most we will pay for the Increased Cost of Construction is the increased cost of construction at the same premises.
- c. If the ordinance or law requires relocation to another premises, the most we will pay for the Increased Cost of Construction is the

increased cost of construction at the new premises.

(8) This Additional Coverage is not subject to the terms of the Ordinance Or Law Exclusion, to the extent that such exclusion would conflict with the provisions of this Additional Coverage.

(9) The costs addressed in the Loss Payment Property Loss Condition in Section I – Property do not include the increased cost attributable to enforcement of or compliance with an ordinance or law. The amount payable under this Additional Coverage, as stated in Paragraph (6) of this Additional Coverage, is not subject to such limitation.

Item 7 addresses the loss conditions under the increased cost of construction additional coverage. The insurer will not pay for the increased cost of construction until the property is actually repaired or replaced; the increased cost must be incurred before it is reimbursed. The repairs or replacement must be made as soon as reasonably possible, but in a period not to exceed two years unless the insurer extends the period.

Should the insured elect to repair or replace the building at the same premises or to rebuild at another location, the maximum amount payable is the increased cost of construction at the same premises. To illustrate how this would apply, assume the following. A building is damaged in the amount of \$100,000. A building ordinance requires that the owner include a steel fire escape that was not previously on the building at a cost of \$7,000. If the insured *voluntarily* rebuilds at another location, the maximum amount payable would be \$107,000. If, however, an ordinance or law *requires* that the building be relocated, the insurer would pay the \$100,000 plus an additional \$10,000 for any increased cost of construction.

However, if an ordinance or law requires relocation (due to the severity of destruction or zoning laws), only the increased cost of construction at the new location applies. In other words, the insured may not claim an increased cost of construction based on the original location and then utilize those additional proceeds at the new location.

Item 8 clarifies that this additional coverage does not apply to the ordinance and law exclusion. See Chapter 4 for additional analysis on ordinance and law. Item 9 states that the \$10,000 per building location limit is not subject to the loss payment property loss condition.

Business Income from Dependent Properties

1. We will pay for the actual loss of Business Income you sustain due to physical loss or damage at the premises of a dependent property or secondary dependent property caused by or resulting from any Covered Cause of Loss.

However, this Additional Coverage does not apply when the only loss at the premises of a dependent property or secondary dependent property is loss or damage to “electronic data”, including destruction or corruption of “electronic data”. If the dependent property or secondary dependent property sustains loss or damage to “electronic data” and other property, coverage under this Additional Coverage will not continue once the other property is repaired, rebuilt or replaced.

The most we will pay under this Additional Coverage is \$5,000 unless a higher Limit Of Insurance is indicated in the Declarations.

2. We will reduce the amount of your Business Income loss, other than Extra Expense, to the extent you can resume “operations”, in whole or in part, by using any other available:
 - a. Source of materials; or
 - b. Outlet for your products.
3. If you do not resume “operations”, or do not resume “operations” as quickly as possible, we will pay based on the length of time it would have taken to resume “operations” as quickly as possible.
4. Dependent property means property owned by others whom you depend on to:
 - a. Deliver materials or services to you, or to others for your account. But services does not mean water supply services, wastewater removal services, communication supply services or power supply services;
 - b. Accept your products or services;
 - c. Manufacture your products for delivery to your customers under contract for sale; or
 - d. Attract customers to your business.The dependent property must be located in the coverage territory of this Policy.
5. Secondary dependent property means an entity which is not owned or operated by a dependent property and which;

- a. Delivers materials or services to a dependent property, which in turn are used by the dependent property in providing materials or services to you; or
- b. Accepts materials or services from a dependent property, which in turn accepts your materials or services.

A road, bridge, tunnel, waterway, airfield, pipeline or any other similar area or structure is not a secondary dependent property.

Any property which delivers any of the following services is not a secondary dependent property with respect to such services:

- (i) Water supply services;
- (ii) Wastewater removal services;
- (iii) Communication supply services; or
- (iv) Power supply services.

The secondary dependent property must be located in the coverage territory of this Policy.

6. The coverage period for Business Income under this Additional Coverage:

- a. Begins 72 hours after the time of direct physical loss or damage caused by or resulting from any Covered Cause of Loss at the premises of the dependent property or secondary dependent property; and
- b. Ends on the date when the property at the premises of the dependent property or secondary dependent property should be repaired, rebuilt or replaced with reasonable speed and similar quality.

7. The Business Income coverage period, as stated in Paragraph (6), does not include any increased period required due to the enforcement of or compliance with any ordinance or law that:

- a. Regulates the construction, use or repair, or requires the tearing down of any property; or
- b. 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”.

The expiration date of this Policy will not reduce the Business Income coverage period.

8. The definition of Business Income contained in the Business Income Additional Coverage also applies to this Business Income From

Dependent Properties Additional Coverage.

Business income from dependent properties was introduced in the 2002 form and carried forward into subsequent policy editions. It pays for the actual loss of business income sustained by the insured due to physical loss or damage at the premises of a dependent property. The loss at the dependent property must be caused by a covered cause of loss. The most the insurer will pay under the additional coverage is \$5,000 unless a higher limit is indicated in the declarations. *Dependent property* means property owned by others that the insured depends on to (1) deliver materials or services (e.g., produces parts for the insured), (2) accept the insured's products (e.g., a distributor for the insured), (3) manufacture the insured's product (e.g., a manufacturer that produces products that are resold by the insured), or (4) attract customers (e.g., a high volume business that attracts customers to the insured's business).

The 2013 edition introduced, and the 2024 edition continued, secondary dependent property as a coverage. *Secondary dependent property* means an entity that is not owned or operated by a dependent property and that (1) delivers materials or services to a dependent property, which in turn uses the dependent property in providing materials or services to the insured (e.g., produces parts for the insured); or (2) accepts materials or services from a dependent property, which in turn accepts the insured's materials or services (e.g., a distributor for the insured). A road, bridge, tunnel, waterway, airfield, pipeline, or any other similar area or structure is not a secondary dependent property, nor is any property that delivers water supply services, wastewater removal services, communication supply services, or power supply services. An example of a secondary dependent property would be the insured's supplier (a dependent property) that is unable to deliver products or services due to the interruption in the business of an entity (e.g., a manufacturer) upon which the supplier depends. In secondary dependent property scenarios, the insured business owner has no direct business relationship with the manufacturer. The \$5,000 limitation applies to dependent property or secondary dependent properties unless a higher limit of insurance is indicated in the declarations. The introduction of secondary dependent property represents a broadening of coverage.

This coverage does not include any increased period required due to the enforcement of any ordinance or law. A seventy-two-hour deductible applies.

The tragic events of September 11, 2001, illustrated the extensive business income loss exposures of small businesses. In addition to providing coverage for loss of business income for companies situated in the damaged area, many businesses that did not suffer direct damage incurred loss of income due to their inability to deliver materials, accept products, or attract customers. Many of these may fall within the category of dependent properties. Business income from dependent properties is triggered by the actual loss of business income that the insured sustains due to physical loss or damage at a premises of a dependent property that was caused by a covered cause of loss. In other words, the business owner's property need not be damaged to collect under the provision for business income from a dependent property.

The 2006 edition inserted a paragraph under m.(1) stating that coverage is not triggered when the only damage at the premises of the dependent property is damage to electronic data. In other words, if a covered cause of loss damaged the electronic data at a dependent property, business income coverage would not be triggered. If a covered cause of loss damaged electronic data *and* other property at a dependent property, business income coverage would be triggered based upon the damage to other property and not continue after the other property is repaired, rebuilt, or replaced. The revision introduced in the 2006 was carried forward with subsequent policy editions.

Glass Expenses

1. We will pay for expenses incurred to put up temporary plates or board up openings if repair or replacement of damaged glass is delayed.
2. We will pay for expenses incurred to remove or replace obstructions when repairing or replacing glass that is part of a building. This does not include removing or replacing window displays.

Coverage for glass expenses was introduced in the 2002 edition and carried forward in subsequent policy editions. It pays for expenses incurred by the insured to put up temporary plates or board up openings if repair or replacement of damaged glass is delayed. The insurer will also pay for expenses incurred to remove or replace obstructions when repairing or replacing glass that is part of a building. This coverage does not include removing or replacing the window displays of the business.

Fire Extinguisher Systems Recharge Expense

1. We will pay:
 - a. The cost of recharging or replacing, whichever is less, your fire extinguishers and fire extinguishing systems (including hydrostatic testing if needed) if they are discharged on or within 1,000 feet of the described premises; and
 - b. For loss or damage to Covered Property if such loss or damage is the result of an accidental discharge of chemicals from a fire extinguisher or a fire extinguishing system.
2. No coverage will apply if the fire extinguishing system is discharged during installation or testing.
3. The most we will pay under this Additional Coverage is \$5,000 in any one occurrence.

Fire extinguisher system recharge expense was also introduced in the 2002 edition and carried forward in subsequent policy editions. It pays the cost of recharging or replacing the insured's fire extinguisher system (including hydrostatic testing) if the system is discharged within 1,000 feet of the described premises. This coverage also applies to covered property damaged by an accidental discharge of the fire extinguisher system. A \$5,000 limit applies per occurrence.

Electronic Data

1. Subject to the provisions of this Additional Coverage, we will pay for the cost to replace or restore "electronic data" which has been destroyed or corrupted by a Covered Cause of Loss. To the extent that

- “electronic data” is not replaced or restored, the loss will be valued at the cost of replacement of the media on which the “electronic data” was stored, with blank media of substantially identical type.
2. The Covered Cause of Loss applicable to Business Personal Property include a computer virus, harmful code or similar instruction introduced into or enacted on a computer system (including “electronic data”) or a network to which it is connected, designed to damage or destroy any part of the system or disrupt its normal operation. But there is no coverage for loss or damage caused by or resulting from:
 - a. Manipulation of a computer system (including “electronic data”) by any employee, including a temporary or leased employee, or by an entity retained by you, or for you, to inspect, design, install, modify, maintain, repair or replace that system; or
 - b. Ransomware, meaning any software that encrypts “electronic data” held within a computer system and demands a ransom payment in order to decrypt and restore such “electronic data”.
 3. The most we will pay under this Additional Coverage – Electronic Data for all loss or damage sustained in any one Policy year, regardless of the number of occurrences of loss or damage or the number of premises, locations or computer systems involved, is \$10,000, unless a higher Limit Of Insurance is shown in the Declarations. If loss payment on the first occurrence does not exhaust this amount, then the balance is available for subsequent loss or damage sustained in, but not after, that Policy year. With respect to an occurrence which begins in one Policy year and continues or results in additional loss or damage in a subsequent Policy year(s), all loss or damage is deemed to be sustained in the Policy year in which the occurrence began.
 4. This Additional Coverage does not apply to your “stock” of prepackaged software, or to “electronic data” which is integrated in and operates or controls a building’s elevator, lighting, heating, ventilation, air conditioning or security system.

Electronic data was introduced in the 2006 edition and carried forward into the 2010 and 2013 editions. The only substantive change in the 2013 edition was the introduction paragraph (4), which eliminates coverage for a business owner’s stock of prepackaged software as an additional coverage, or to electronic data that is integrated in and operates or controls the

building's elevator, lighting, heating, ventilation, air conditioning, or security system. These two categories of property are covered under the property section of the policy.

The additional coverage, electronic data, pays the cost to replace or restore electronic data that is destroyed by a covered cause of loss. The covered causes of loss are the same as those applicable to the business personal property. Coverage also applies to loss caused by a computer virus, harmful code, or similar instruction introduced into a computer system or network. Coverage does not apply if caused by an employee or an entity retained by the insured to repair, replace or modify the insured's computer system *nor* does coverage apply to ransomware. The exclusion of barring ransomware payments was introduced in the 2024 edition.

The electronic data additional coverage is subject to an annual aggregate limit of \$10,000 that applies regardless of the number of occurrences, premises, locations, or computer systems involved. Higher limits for electronic data coverage are available via a declarations entry. In essence, the additional coverage, electronic data, applies to loss or damage to electronic data that is not covered under the property section. The electronic data additional coverage includes valuable papers and records that may exist as electronic data. This additional coverage is separate and distinct to the coverage extension for valuable papers and records that is described in Chapter 3.

Several endorsements specifically addressing cyber data breach exposures, and providing substantially broader coverages, have been introduced under the Businessowners program in recent years. These cyber data breach endorsements include the following:

- Information Security Protection Endorsement, BP 15 07, which provides first-party cyber/data breach coverage for replacement of electronic data, public relations expense, and security breach expense. This endorsement may also be used to insure third-party cyber/data breach exposures. The next two endorsements listed are written in conjunction with the Information Security Protection Endorsement.
- Payment Card Industry (PCI) – Provide Coverage for Defense Expense and Fines or Penalties Endorsement, BP 15 08, which provides first-

party coverage for fines and penalties assessed for noncompliance with credit card standards.

- Provide Coverage for Dishonest, Malicious or Fraudulent Acts Committed by Employees Endorsement, BP 15 10, which provides first-party coverage for dishonest, malicious, or fraudulent acts committed by an employee.

Interruption of Computer Operations

1. Subject to all provisions of this Additional Coverage, you may extend the insurance that applies to Business Income and Extra Expense to apply to a suspension of “operations” caused by an interruption in computer operations due to destruction or corruption of “electronic data” due to a Covered Cause of Loss.
2. With respect to the coverage provided under this Additional Coverage, the Covered Causes of Loss are subject to the following:
 - a. Coverage under this Additional Coverage – Interruption Of Computer Operations is limited to the “specified causes of loss” and Collapse.
 - b. If the Businessowners Coverage Form is endorsed to add a Covered Cause of Loss, the additional Covered Cause of Loss does not apply to the coverage provided under this Additional Coverage.
 - c. The Covered Causes of Loss include a computer virus, harmful code or similar instruction introduced into or enacted on a computer system (including “electronic data”) or a network to which it is connected, designed to damage or destroy any part of the system or disrupt its normal operation. But there is no coverage for an interruption related to manipulation of a computer system (including “electronic data”) by an employee, including a temporary or leased employee, or by an entity retained by you, or for you, to inspect, design, install, modify, maintain, repair or replace that system.
3. The most we will pay under this Additional Coverage – Interruption Of Computer Operations for all loss sustained and expense incurred in any one Policy year, regardless of the number of interruptions or the number of premises, locations or computer systems involved, is

\$10,000 unless a higher Limit Of Insurance is shown in the Declarations. If loss payment relating to the first interruption does not exhaust this amount, then the balance is available for loss or expense sustained or incurred as a result of subsequent interruptions in that Policy year. A balance remaining at the end of a Policy year does not increase the amount of insurance in the next Policy year. With respect to any interruption which begins in one Policy year and continues or results in additional loss or expense in a subsequent Policy year(s), all loss and expense is deemed to be sustained or incurred in the Policy year in which the interruption began.

4. This Additional Coverage – Interruption Of Computer Operations does not apply to loss sustained or expense incurred after the end of the “period of restoration”, even if the amount of insurance stated in (3) above has not been exhausted.
5. Coverage for Business Income does not apply when a suspension of “operations” is caused by destruction or corruption of “electronic data”, or any loss or damage to “electronic data”, except as provided under Paragraphs (1) through (4) of this Additional Coverage.
6. Coverage for Extra Expense does not apply when action is taken to avoid or minimize a suspension of “operations” caused by destruction or corruption of “electronic data”, or any loss or damage to “electronic data” except as provided under Paragraphs (1) through (4) of this Additional Coverage.
7. This Additional Coverage does not apply when loss or damage to “electronic data” involves only “electronic data” which is integrated in and operates or controls a building’s elevator, lighting, heating, ventilation, air conditioning or security system.

Interruption of computer operations was introduced in the 2006 edition and carried forward into subsequent policy editions. The 2013 edition added paragraph (7), which indicates that this additional coverage does not apply the business owner’s stock of prepackaged software and the inclusion of electronic data that is integrated in and operates or controls the building’s elevator, lighting, heating, ventilation, air conditioning, or security system. As indicated earlier, these two categories of property are covered under the property section of the policy.

Interruption of computer operations provides time element coverage for the actual loss of business income and/or extra expense incurred due to a suspension of operations. The suspension of operations must be caused by an interruption in computer operations resulting from the destruction or corruption of electronic data due to a covered cause of loss. Covered causes of loss are the specified perils as listed in the definitions section (H.12) of the policy *and* the peril collapse. This additional coverage is subject to a \$10,000 aggregate limit of insurance with higher limits available via a declarations entry.

Limited Coverage for “Fungi”, Wet Rot, or Dry Rot

1. The coverage described in Paragraphs r. (2) and r. (6) only applies when the “fungi”, wet rot or dry rot is the result of a “specified cause of loss” other than fire or lightning that occurs during the Policy period and only if all reasonable means were used to save and preserve the property from further damage at the time of and after that occurrence. This Additional Coverage does not apply to lawns, trees, shrubs or plants which are part of a vegetated roof.
2. We will pay for loss or damage by “fungi”, wet rot or dry rot. As used in this Limited Coverage, the term loss or damage means:
 - a. Direct physical loss or damage to Covered Property caused by “fungi”, wet rot or dry rot, including the cost of removal of the “fungi”, wet rot or dry rot;
 - b. The cost to tear out and replace any part of the building or other property as needed to gain access to the “fungi”, wet rot or dry rot; and
 - c. The cost of testing performed after removal, repair, replacement or restoration of the damaged property is completed, provided there is a reason to believe that “fungi”, wet rot or dry rot is present.
3. The coverage described under this Limited Coverage is limited to \$15,000. Regardless of the number of claims, this limit is the most we will pay for the total of all loss or damage arising out of all occurrences of “specified causes of loss” (other than fire or lightning)

which take place in a 12-month period (starting with the beginning of the present annual Policy period). With respect to a particular occurrence of loss which results in “fungi”, wet rot or dry rot, we will not pay more than the total of \$15,000 even if the “fungi”, wet rot or dry rot continues to be present or active, or recurs, in a later Policy period.

4. The coverage provided under this Limited Coverage does not increase the applicable Limit of Insurance on any Covered Property. If a particular occurrence results in loss or damage by “fungi”, wet rot or dry rot, and other loss or damage, we will not pay more, for the total of all loss or damage, than the applicable Limit of Insurance on the affected Covered Property.

If there is covered loss or damage to Covered Property, not caused by “fungi”, wet or dry rot or bacteria, loss payment will not be limited by the terms of this Limited Coverage, except to the extent that “fungi”, wet rot or dry rot causes an increase in the loss. Any such increase in the loss will be subject to the terms of this Limited Coverage.

5. The terms of this Limited Coverage do not increase or reduce the coverage provided under the Water Damage, Other Liquids, Powder or Molten Material Damage or Collapse Additional Coverages.

6. The following applies only if Business Income and/or Extra Expense Coverage applies to the described premises and only if the suspension of “operations” satisfies all the terms and conditions of the applicable Business Income and/or Extra Expense Additional Coverage:

- a. If the loss which resulted in “fungi”, wet rot or dry rot does not in itself necessitate a suspension of “operations”, but such suspension is necessary due to loss or damage to property caused by “fungi”, wet rot or dry rot, then our payment under the Business Income and/or Extra Expense Additional Coverages is limited to the amount of loss and/or expense sustained in a period of not more than 30 days. The days need not be consecutive.
- b. If a covered suspension of “operations” was caused by loss or damage other than “fungi”, wet rot or dry rot, but remediation of “fungi”, wet rot or dry rot prolongs the “period of restoration”, we will pay for loss and/or expense sustained during the delay (regardless of when such a delay occurs during the “period of

restoration”), but such coverage is limited to 30 days. The days need not be consecutive.

Limited coverage for fungi, wet rot, dry rot, and bacteria was introduced in the 2006 edition. Subsequent editions maintain this additional coverage but deletes the term *bacteria* to correspond to other changes within the Businessowners policy. Its purpose is to reinforce its intention of not covering claims involving bacterium or other microorganisms that may induce physical distress, illness, or disease. It provides coverage for direct physical loss to covered property caused by fungi, wet rot, or dry rot including the cost to remove the fungi, wet rot, or dry rot. *Fungi*, which is a defined term in the property definitions section, includes mold, mildew, spores, scents, or by-products produced by the release of fungi. Costs to tear out and replace any part of the building or other property needed to gain access to the fungi, wet rot, or dry rot are also covered. Covered causes of loss are the specified perils as listed in the definitions section (H.12) of the policy *other than* the perils of fire or lightning (which are covered without limitation). For example, if an accidental discharge occurs (a specified cause of loss), causing fungi, wet rot, or dry rot to develop, coverage applies up to the \$15,000 annual aggregate unless a higher amount is indicated via a declarations entry. This additional coverage also places a thirty-day limitation for business income and extra expenses coverage that is triggered by damage to property caused by fungi, wet rot, or dry rot at the described premises. In the event the fungi, wet rot, or dry rot are caused by lightning or more commonly from water used by the fire department to extinguish the fire, the \$15,000 limitation does not apply and coverage is provided up to the policy’s limit of insurance.

The 2013 edition introduced language that was carried forwarded into the 2024 edition indicating that this additional coverage does not apply to lawns, trees, shrubs, or plants that are part of a vegetated roof. As indicated earlier, vegetated roofs are now covered under the property section of the Businessowners policy.

This coverage was previously provided under the 2002 edition by the Limited Fungi or Bacteria Coverage endorsement (BP 05 76) that was retired with the introduction of the 2006 edition.

Property of Robert Richardson,

Chapter 3 Coverage Extensions

The coverage extensions section of the Businessowners policy extends business property coverage to newly acquired and constructed property and to certain categories of other classes of property at no additional premium. These coverage extensions are in addition to the policy's limit of insurance.

The 2013 edition introduced three substantive changes that are carried forward into the 2024 edition. First, in section 6.a.(2), business personal property that is newly acquired at the described premises is not covered. Under prior forms, it was covered for thirty days up to a limit of \$100,000. Second, in section 6.c., the form introduces debris removal coverage for trees, shrubs, and plants that are the property of others. This coverage is limited to specified perils subject to a \$2,500 limit with no more than \$1,000 per tree, shrub, or plant. Third, in section 6.g., the form introduces coverage for business personal property temporarily in portable storage units for up to ninety days, subject to a \$10,000 limit of insurance. The elimination of the \$100,000 coverage grant for newly acquired business personal property at the described premise was a coverage reduction. The introduction of debris removal coverage for others' property and business personal property temporarily in portable storage units represented a broadening of coverage. Finally, the 2013 edition retained all of the 2010 revisions to the coverage extension section and made minor editorial changes to reinforce original intent or complement revisions in policy language. These revisions had no substantive impact on coverage.

The only substantive change in the 2010 edition of the Businessowners policy's coverage extensions was to the outdoor property extension (6.c.). First, the per tree, shrub, and plant sublimit was increased to \$1,000. The predecessor 2006 form provided a limit of \$500. Second, it provided the insured the option to increase the coverage extension limit of \$2,500 for outdoor property to a higher amount as indicated in the declarations page.

The 2006 edition added two substantive revisions in the personal property off-premises extension (6.b.). First, the limit for personal property off-

premises was increased to \$10,000. The predecessor 2002 form provided coverage up to \$5,000. Second, personal property off-premises was broadened to cover *all covered property* (other than money and securities, valuable papers and records, or accounts receivable) while it is in the course of transit or at a premises the insured does not own, lease, or operate. The 2002 edition covered only *business personal property*. Several other minor revisions were made for editorial clarification or to address the introduction of the revised definition referenced in the valuable papers and records coverage extension. Other than these changes, the coverage extensions of the 2006 edition were the same as in the 2002 form.

The 2024 edition made minor revisions to the 2013 edition. Specifically, extending coverage from the described premises to 1,000 feet and revising outdoor property to affirmatively cover outdoor antennas, lead-in wiring, masts and towers *not attached* to buildings. This chapter discusses the seven coverage extensions.

Coverage Extensions

In addition to the Limits of Insurance of Section I - Property, you may extend the insurance provided by this Policy as provided below.

Except as otherwise provided, the following extensions apply to property located in or on the building described in the Declarations or in the open (or in a vehicle) within 1,000 feet of the described premises:

Coverage extensions give the insured the option of extending insurance coverage to certain locations and property not indicated under the covered property section of the policy. Some of them give the insured a window of time in which to report newly acquired property. Others actually add coverage for types of property that otherwise are excluded from coverage in other parts of the form. The extensions are in addition to the limits of insurance.

Newly Acquired or Constructed Property

(1) Buildings

If this Policy covers Buildings, you may extend that insurance to apply to:

- a. Your new buildings while being built on the described premises; and
- b. Buildings you acquire at premises other than the one described, intended for:
 - i. Similar use as the building described in the Declarations; or
 - ii. Use as a warehouse.

The most we will pay for loss or damage under this Extension is \$250,000 at each building.

Newly acquired or constructed property (6.a.) was introduced as a new coverage extension in the 2002 form and carried forward in subsequent policy editions. Under this provision, if the policy covers buildings, the insured may extend the insurance to apply to newly constructed buildings on the described premises or to buildings the insured acquires at another premises. It would not apply to buildings that were located on the insured premises but not reported to the insurer when coverage was purchased. For example, an insured owns an office building, a warehouse, and a separate garage at the insured premises. When the Businessowners policy is purchased, the insured reports only the office building and garage, and only those two buildings are shown on the declarations with a limit of insurance. If a fire levels the complex, the value of the separate warehouse would not be paid under the policy. However, if the business owner had purchased coverage for an existing office building and separate garage and later began to build a warehouse at that premises, the business owner would have thirty days (specified subsequently in the coverage extension) in which to report the warehouse construction to the insurance company and purchase a limit of insurance for it. If the same fire occurred within thirty days of the start of construction, the policy would pay the insured up to \$250,000 for damage to the warehouse. The newly acquired or constructed buildings must be intended for similar use as the building described in the declarations or must be used as a warehouse. If this is the case, the policy will extend up to \$250,000 at each building.

(2) Business Personal Property

If this Policy covers Business Personal Property, you may extend that insurance to apply to:

- a. Business Personal Property, including such property that you newly acquire, at any location you acquire; or
- b. Business Personal Property, including such property that you newly acquire, located at your newly constructed or acquired buildings at the location described in the Declarations.

This Extension does not apply to personal property that you temporarily acquire in the course of installing or performing work on such property or your wholesale activities.

The most we will pay for loss or damage under this Extension is \$100,000 at each building.

This provision extends business personal property to any newly acquired location, including business personal property at a newly constructed building at the location described in the declarations; however, this form introduces one substantive revision: That is the deletion of business personal property that is newly acquired at the described premises. Under prior forms, the Businessowners policy granted coverage for newly acquired business personal property up to a limit of \$100,000 for thirty days. This revision continues to provide that \$100,000 limit of coverage for up to thirty days if the business personal property is located at a newly acquired location as set forth in (2)(a) or if the business personal property is located at the business owner's newly constructed or acquired buildings at the location in the declarations. However, the form eliminates the \$100,000 extension of coverage if the newly acquired business personal property is received at the described premises. Business owners who newly acquire significant values of business personal property (e.g., large inventory delivery) should revise their business personal property limit with a policy change endorsement.

Note that although the policy form eliminates coverage for newly acquired business personal property at the described location as indicated, coverage may apply under C.5 Business Personal Property Limit – Seasonal Increase. This topic is addressed in Chapter 5.

(3) Period Of Coverage

With respect to insurance provided under this Coverage Extension for Newly Acquired Or Constructed Property, coverage will end when any of the following first occurs:

- a. This Policy expires;
- b. 30 days expire after you acquire the property or begin construction of that part of the building that would qualify as Covered Property; or
- c. You report values to us.

We will charge you additional premium for values reported from the date you acquire the property or begin construction of that part of the building that would qualify as Covered Property.

This provision sets forth the extent to which coverage is granted under the newly acquired or constructed property extension. Coverage under this extension ends when any of the following first occurs: (1) the policy expires, (2) thirty days after the property is acquired or construction begins, or (3) the values are reported to the insurer. For example, a business owner acquires a new building on April 1 and moves business personal property from the original premises into the newly acquired premises on April 15. On May 15 a fire destroys the business personal property. In this example, the business personal property is not covered since the loss occurred forty-five days after the date the new premises was acquired. However, coverage may be triggered if the situation is changed slightly. The insured acquires a new building on April 1. On April 15 the insured purchases new business personal property and has it delivered to the new location. On May 13 a fire destroys both the newly acquired building and the newly acquired business personal property. In this situation, the building would not be covered, despite the building property coverage extension, because it was destroyed forty-three days after being acquired. However, the newly acquired business property would be covered up to \$100,000 since it was acquired within the thirty-day automatic extension period.

Personal Property Off-Premises

You may extend the insurance provided by this Policy to apply to your Covered Property, other than “money” and “securities”, “valuable papers and records” or accounts receivable, while it is in the course of

transit or at a premises you do not own, lease or operate. The most we will pay for loss or damage under this Extension is \$10,000, unless a higher Limit Of Insurance for Personal Property Off-premises is shown in the Declarations.

Business personal property may also be extended to cover property while it is in the course of transit or at a premises the insured does not own, lease, or operate. This coverage does not apply to money and securities, valuable papers and records, or accounts receivable. Covered business personal property is subject to a \$10,000 limitation.

Coverage under this extension applies to two separate exposures. First, it pertains to property not owned by the named insured. For example, coverage would apply to damage to personal property caused by a fire in a hotel room or at a business associate's office. And second, it applies to property in transit within and between locations within the coverage territory as defined in the property general conditions section of the form. For example, if property were shipped from California to Hawaii, coverage applies since it is within the policy territory. However, no coverage would apply to property shipped from California to Mexico because Mexico is outside the coverage territory. This coverage applies if shipped by ground, air, or water transportation.

In addition to the dollar limitation of \$10,000, personal property off-premises also covers all covered property other than money and securities, valuable papers and records, or accounts receivable, while it is in the course of transit or at a premises the insured does not own, lease, or operate. The 2002 edition covered only business personal property. This means that personal property owned by the insured and used to maintain the building or structure on the premises (e.g., snowplow, lawn tractor, or elevator motor) is now covered in transit or at a nonowned premises. For example, if a piece of equipment used to service the premises was in transit or being serviced by a bailee, coverage would apply while in transit and while in the care, custody, and control of the bailee. Note that business owners with property exposures beyond the reach of this limited off-premises coverage extension may insure the exposure with the Specified Business Personal Property Temporarily Away From Premises Endorsement, BP 14 79.

Outdoor Property

You may extend the insurance provided by this Policy to apply to your outdoor fences, antennas (including dish-shaped antennas) and their lead-in wiring, masts or towers not attached to the buildings, signs (other than signs attached to buildings), trees, shrubs and plants (other than trees, shrubs or plants which are part of a vegetated roof), including debris removal expense. Loss or damage must be caused by or result from any of the following causes of loss:

1. Fire;
2. Lightning;
3. Explosion;
4. Riot or Civil Commotion; or
5. Aircraft.

The most we will pay for loss or damage under this Coverage Extension at the described premises is \$2,500, unless a higher Limit Of Insurance for Outdoor Property is shown in the Declarations, but not more than \$1,000 for any one tree, shrub or plant.

Subject to all aforementioned terms and limitations of coverage, this Coverage Extension includes the expense of removing from the described premises the debris of trees, shrubs and plants which are the property of others, except in the situation in which you are a tenant and such property is owned by the landlord of the described premises.

Insurance may be extended to outdoor fences, antennas (including dish-shaped antennas), and their lead-in wiring, masts or towers *not attached to the building*, signs (other than signs attached to buildings), trees, shrubs, and plants (other than trees, shrubs, or plants that are part of vegetated roofs), including debris removal expense. Coverage for this outdoor property is only provided if caused by or resulting from fire, lightning, explosion, riot or civil commotion, or aircraft. Note that antennas (including dish-shaped antennas), their lead-in wiring, masts or towers *attached to the insured building* are covered under Section I Property A.1(6)(c) which includes broader policy peril coverage.

The coverage extension for outdoor property is limited to \$2,500 with no more than \$1,000 paid for any one tree, shrub, or plant. The Businessowners form permits the insured the option to increase the coverage extension limit of \$2,500 for outdoor property to a higher amount as indicated in the declarations page. Higher limits of insurance are also available for outdoor signs (whether attached to buildings or not) under the optional property coverage for outdoor signs. This extension adds limited coverage for items that are excluded under the property not covered section.

One substantive change that was introduced in the 2013 edition and carried forward in the 2024 edition is coverage for removal of trees, shrubs, and plants that are the property of others. This coverage extension covers the removal of trees, shrubs, and plants that are the property of others (except trees, shrubs, plants owned by the landlord of an insured tenant) if caused by the specified perils of fire, lightning, windstorm, riot or civil commotion, or aircraft. This coverage extension is limited to \$2,500 with no more than \$1,000 paid for any one tree, shrub, or plant.

Note that similar, but broader peril coverage for debris removal is provided under the additional coverage 5.a.(3)(b), discussed in Chapter 2.

Personal Effects

You may extend the insurance that applies to Business Personal Property to apply to personal effects owned by you, your officers, your partners or “members”, your “managers” or your employees, including temporary or leased employees. This extension does not apply to:

1. Tools or equipment used in your business; or
2. Loss or damage by theft.

The most we will pay for loss or damage under this extension is \$2,500 at each described premises.

Business personal property coverage may be extended to cover personal effects owned by the named insured, business officers, partners, members or managers, or employees, including temporary or leased employees of the business. This extension does not apply to tools or equipment used in the

named insured's business or to loss or damage by theft. For example, if an employee's coat or purse is damaged by fire (covered peril), coverage applies. If, however, that same coat or purse is stolen (excluded peril), coverage does not apply. Similarly, tools owned by employees and used in their work for the business should be insured elsewhere because coverage for that exposure is not included. This coverage extension is limited to \$2,500 at each described premises.

The 2002 form added managers and members, and the 2013 edition added temporary or leased workers as covered classes under personal effects. Both additions were carried forward to the 2024 edition. As defined later in the form, a *manager* means a person serving in a directorial capacity for a limited liability company; a *member* means an owner of a limited liability company represented by its membership interest, who may also serve as a manager; a *leased worker* means a person leased to the insured by a labor leasing firm under an agreement between the insured and the labor leasing firm to perform duties related to the conduct of insured's business. Leased workers do not include temporary workers; and *temporary worker* means a person who is furnished to the insured to substitute for a permanent employee on leave or to meet seasonal or short-term conditions.

Valuable Papers and Records

1. You may extend the insurance that applies to Business Personal Property to apply to direct physical loss or damage to "valuable papers and records" that you own, or that are in your care, custody or control, caused by or resulting from a Covered Cause of Loss. This Coverage Extension includes the cost to research, replace or restore lost information on "valuable papers and records" for which duplicates do not exist.
2. This Coverage Extension does not apply to:
 - a. Property held as samples or for delivery after sale; and
 - b. Property in storage away from the premises shown in the Declarations.

Business personal property may also be extended to apply to valuable papers and records owned by the named insured or in the named insured's

care, custody, or control if caused by a covered cause of loss. Examples of valuable records and papers include blueprints, deeds, maps, historical documents, and general business records including software. This coverage extension includes the cost to research lost information on valuable papers and records for which duplicates do not exist. The damage or loss of valuable papers and records must be the result of a direct covered cause of loss. The form defines *valuable papers and records* to include inscribed, printed, or written, documents, manuscripts, and records including abstracts, books, deeds, drawings, films, maps, and mortgages. For example, if a fire damages a manuscript, coverage applies to the cost to research the lost information and the labor costs incurred to recreate the destroyed information. Similarly, if blueprints were destroyed, this coverage would pay to have the blueprints redrawn.

However, coverage would not apply if records are lost due to an error or malfunction. For example, if a business loses its records because of a programming error, coverage will not apply to have the records recreated because programming errors are excluded as a cause of loss.

Likewise, coverage does not apply to property held as samples or for delivery after sale or to property in storage away from the premises shown in the declarations.

The 2006 edition deleted electronic media and records, which were applicable to this coverage extension in the 2002 form. Electronic media and records were incorporated into the term *electronic data*, and coverage is provided under the electronic data additional coverage.

- (3) The most we will pay under the Coverage Extension for loss or damage to “valuable papers and records” in any one occurrence at the described premises is \$10,000, unless a higher Limit Of Insurance for “valuable papers and records” is shown in the Declarations. For “valuable papers and records” not at the described premises, the most we will pay is \$5,000.

The extension for valuable papers and records is subject to a per occurrence limit of \$10,000 at the described premises and a per occurrence limit of \$5,000 off the described premises. These limits were introduced in the 2002

edition. Higher limits of insurance for valuable papers and records are available if a higher limit is purchased and indicated in the declarations.

(4) Loss or damage to “valuable papers and records” will be valued at the cost of restoration or replacement of the lost or damaged information. To the extent that the contents of the “valuable papers and records” are not restored, the “valuable papers and records” will be valued at the cost of replacement with blank materials of substantially identical type.

Under this condition, if a loss occurs to valuable records and papers, the insurer will pay to restore or replace lost or damaged information. For example, if blueprints are damaged or destroyed, coverage will apply to have the drawings reproduced. In the event the blueprints, or other valuable papers or records are not restored, the loss to the valuable papers and records will be valued at the cost of replacement with blank materials of substantial identical type.

(5) Paragraph B. Exclusions in Section I – Property does not apply to this Coverage Extension except for:

- a. Paragraph B.1.c., Governmental Action;
- b. Paragraph B.1.d., Nuclear Hazard;
- c. Paragraph B.1.f., War And Military Action;
- d. Paragraph B.2.f., Dishonesty
- e. Paragraph B.2.g., False Pretense;
- f. Paragraph B.2.m. (2) of Errors Or Omissions; and
- g. Paragraph B.3.

The section B. exclusions of this policy do not apply except for the government action, nuclear hazard, war and military action, dishonesty, false pretense, errors or omissions, weather conditions, acts or decisions, or negligent work exclusions. Only these cited exclusions from the property section exclusions apply to coverage extension losses.

Accounts Receivable

1. You may extend the insurance that applies to Business Personal Property to apply to accounts receivable. We will pay:
 - a. All amounts due from your customers that you are unable to collect;
 - b. Interest charges on any loan required to offset amounts you are unable to collect pending our payment of these amounts;
 - c. Collection expenses in excess of your normal collection expenses that are made necessary by loss or damage; and
 - d. Other reasonable expenses that you incur to re-establish your records of accounts receivable; that result from direct physical loss or damage by any Covered Cause of Loss to your records of accounts receivable.
2. The most we will pay under the Coverage Extension for loss or damage in any one occurrence at the described premises is \$10,000, unless a higher Limit Of Insurance for accounts receivable is shown in the Declarations.
For accounts receivable not at the described premises, the most we will pay is \$5,000.

Accounts receivable are the records of money owed a business by its customers. Business personal property coverage may be extended to apply to accounts receivable records that are damaged by a covered cause of loss. This coverage extension pays for amounts due from customers that the named insured is unable to collect after the records are damaged or destroyed by a covered cause of loss. It includes interest charges on loans required to offset amounts that cannot be collected pending payment. Collection expenses in excess of the named insured's normal collection expenses are also covered. In addition, other reasonable expenses that the named insured incurs to reestablish records of accounts receivable are also covered. Under this coverage, a \$10,000 limit applies to any one occurrence at the described premises (unless a higher limit is purchased and indicated in the declarations), and \$5,000 applies at any other location. These limits were introduced in the 2002 edition. Higher limits of insurance for accounts receivable are available if purchased and indicated in the declarations.

(3) Paragraph B. Exclusions in Section I – Property does not apply to this Coverage Extension except for:

- a. Paragraph B.1.c., Governmental Action;
- b. Paragraph B.1.d., Nuclear Hazard;
- c. Paragraph B.1.f., War And Military Action;
- d. Paragraph B.2.f. Dishonesty;
- e. Paragraph B.2.g. False Pretense;
- f. Paragraph B.3.; and
- g. Paragraph B.6. Accounts Receivable Exclusion.

The property exclusions of the form do not apply except for the government action, nuclear hazard, war and military action, dishonesty, false pretense, weather conditions, acts or decisions, negligent work, and accounts receivable exclusions. Only these cited exclusions from the property exclusions paragraph B. apply to coverage extension losses.

Business Personal Property Temporarily in Portable Storage Units

1. You may extend the insurance that applies to Business Personal Property to apply to such property while temporarily stored in a portable storage unit (including a detached trailer) located within 1,000 feet of the buildings or structures described in the Declarations or within 1,000 feet of the described premises, whichever distance is greater.
2. The limitations under Paragraph A.4.a.(5) also applies to property in a portable storage unit.
3. Coverage under this extension:
 - a. Will end 90 days after the Business Personal Property has been placed in the storage unit;
 - b. Does not apply if the storage unit itself has been in use at the described premises for more than 90 consecutive days, even if the Business Personal Property has been stored there for 90 or fewer days as of the time of loss or damage.
4. Under this Coverage Extension, the most we will pay for the total of all loss or damage to Business Personal Property at the described premises is \$10,000 (unless a higher Limit of Insurance is shown in the Declarations for Business Personal Property Temporarily in Portable Storage Units) regardless of the number of storage units.

5. This extension does not apply to loss or damage otherwise covered under this Coverage Form or an endorsement to the Coverage Form, and does not apply to loss or damage to the storage unit itself.

The 2013 edition introduced, and the 2024 form carried forward, the coverage extension for business personal property temporarily in portable storage units. Under this coverage extension, business personal property temporarily stored in a portable storage unit (including a detached trailer) that is located within 1,000 feet of the buildings or structures described in the declarations or within 1,000 feet of the described premises, whichever is greater, is covered. This coverage extension applies for a ninety-day period beginning when the business and personal property is first placed in the temporary portable storage unit. Note that if the storage unit itself has been in use at the described premises for more than ninety consecutive days, no coverage applies to business personal property even if the business personal property is placed in the storage unit for less than ninety days. This coverage extension is subject to a \$10,000 limit of insurance with higher dollar amounts available.

Property of Robert Richardson,

Chapter 4 Property Exclusions

Exclusions are provisions that state what the insurer does not intend to cover. Although exclusions are listed in a separate section, exclusionary language is found throughout the policy. Such exclusionary language serves the same purpose as an exclusion. For example, in the Named Peril Endorsement, the cause of loss smoke, by exception, excludes damage or loss caused by smoke from agricultural, smudging, or industrial operations. Similarly, the cause of loss explosion excludes loss or damage caused by rupture, bursting, or operation of pressure relief valves. Both are examples of exclusions that appear in the causes of loss section of the policy endorsement.

Exclusions may include exceptions. In other words, an exception may give coverage back to the insured under very specific circumstances. A common example of an exception to an exclusion is the following fire coverage provided under the earth movement, nuclear hazard, and water exclusions. Other examples include the intentional destruction of buildings under governmental action and the freezing of water pipes caused by off-premises power failure. Both are examples of coverage provided by an exception to an exclusion. For these reasons it is important to understand and familiarize yourself with the entire policy.

The 2006 edition introduced two exclusions—fungi, wet rot, dry rot, and bacteria (B.1.i.) and continuous or repeated seepage or leakage of water (B.1.p.)—and made minor editorial revisions to other exclusions for clarity. The 2010 edition maintained these revisions, renamed the power failure exclusion as utility services, introduced two new exclusions—virus or bacteria (B.1.j.) and additional exclusion loss or damage to products (B.4.)—and broadened the exception to an exclusion in the business income and extra expense exclusion (B.5).

The 2013 edition introduces four substantive revisions in the property exclusions sections. Two of the revisions are in the earth movement exclusion, B.1.b. First, earth movement is broadened to include tremors and

aftershocks as excluded perils. Second, the exclusion incorporates all volcanic actions (airborne volcanic blasts or airborne shock waves; ash, dust, or particulate matter; or lava flow) that occurs within a 168-hour period to constitute a single occurrence. This represents a reduction in coverage.

The other revisions are in the dishonesty exclusion, B.2.f. Under this exclusion, an exception to the exclusion extends coverage for acts of destruction by authorized representatives. In addition, for others to whom property may be entrusted (tenants, bailees), the exclusion is narrowed to apply only to theft. This represented a broadening of coverage. The 2013 edition retains all of the 2010 revisions to the property exclusion section and makes minor editorial changes to reinforce original intent or complement revisions in policy language. These revisions had no substantive impact on coverage.

The 2024 edition introduced one minor revision. That is the extending to 1,000 feet from the described premises, coverage (by exception) to the electrical apparatus exclusion.

The following addresses the exclusions found in the 2024 Businessowners policy's property coverage section.

B. 1 Exclusions

1. We will not pay for loss or damage caused directly or indirectly by any of the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss. These exclusions apply whether or not the loss event results in widespread damage or affects a substantial area.

This statement means that the insurer will not provide coverage for any loss or damage listed in the exclusions section. Furthermore, any loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss. This is the standard concurrent causation language excluding coverage when a claim has concurrent causes of loss, one covered and one excluded. By exception, a number of

exclusions provide coverage for some sequential-type losses caused by fire (commonly referred to as following fire coverage) and other perils (explosion, glass breakage, volcanic action, and specified causes of loss) as indicated in the specific exclusion.

The 2002 form introduced the sentence, “These exclusions apply whether or not the loss event results in widespread damage or affects a substantial area.” The addition of this sentence is to eliminate the tendency of some courts to hold that the policy exclusions apply only to catastrophic events, thereby granting coverage to noncatastrophic events. For example, neither earth movement (a noncatastrophic event) nor earthquake (a catastrophic event) is covered. This lead-in language reinforces the policy’s original intention that neither catastrophic nor noncatastrophic events that arise from the excluded perils are covered.

Ordinance or Law

1. The enforcement of or compliance with any ordinance or law:
 - a. Regulating the construction, use or repair of any property; or
 - b. Requiring the tearing down of any property, including the cost of removing its debris.
2. This exclusion, Ordinance Or Law, applies whether the loss results from:
 - a. An ordinance or law that is enforced even if the property has not been damaged; or
 - b. The increased costs incurred to comply with an ordinance or law in the course of construction, repair, renovation, remodeling or demolition of property or removal of its debris, following a physical loss to that property.

This exclusion eliminates coverage for loss caused by the enforcement or compliance of any ordinance or law regulating the construction, use, or repair of any property or requiring the tearing down of any property, including the cost of removing its debris. The 2013 edition added the word *compliance* in the exclusion to reinforce its original intent with no impact on coverage. Although limited coverage is provided elsewhere under the Businessowners policy (i.e., \$10,000 for increased cost of construction),

that amount is generally inadequate to meet the exposures faced by many businesses. For example, if a building is severely damaged by a fire and new ordinances or laws (e.g., American with Disabilities Act) require the redesign of stairways to accommodate wheelchairs, only \$10,000 is available. Similarly, if the local municipality requires that a building be torn down after a partial loss (condemned and demolished), higher limits of coverage would also be needed. Higher limits of insurance to meet these and related post-loss exposures are available by purchasing the Ordinance Or Law Coverage endorsement (BP 04 46).

Earth Movement

1. Earthquake, including tremors and aftershocks and any earth sinking, rising or shifting related to such event;
 2. Landslide, including any earth sinking, rising or shifting related to such event;
 3. Mine subsidence, meaning subsidence of a man-made mine, whether or not mining activity has ceased;
 4. Earth sinking (other than sinkhole collapse), rising or shifting including soil conditions which cause settling, cracking or other disarrangement of foundations or other parts of realty. Soil conditions include contraction, expansion, freezing, thawing, erosion, improperly compacted soil and the action of water under the ground surface.
- But if Earth Movement, as described in Paragraphs (1) through (4) above, results in fire or explosion, we will pay for the loss or damage caused by that fire or explosion.

Under the 1997 form, earth movement included earthquake; landslide; mine subsidence; or earth sinking, rising, or shifting. The 2002 form introduced a broadened definition of *earth movement* by also excluding events related to earthquake or landslide. In addition, the term *mine subsidence* was clarified to include man-made mines whether mining activity has ceased. In other words, this broadened exclusion eliminated earth movement related to earthquake or landslide and mine subsidence, regardless if the mine is actively or inactively in operation. The 2013 edition continued the broadening of that exclusion by including *tremors* and *aftershocks* as excluded perils.

Earth sinking addresses soil conditions. Specifically included in the exclusion are soil conditions that cause settling, cracking, or other disarrangement of foundations or other parts of realty. Soil conditions include contraction, expansion, freezing, thawing, erosion, improperly compacted soil, and the action of water under the ground surface. Point (4) further amplifies the extent of this exclusion. By exception, sinkhole collapse is covered.

Fire or explosion damage that results from earth movement is covered. This is the *following fire* coverage introduced previously. It applies to several of the policy's exclusions granting sequential-type coverage. For example, if an earthquake damages a building, no coverage applies. If, however, the earthquake causes the building to shift off its foundation, causing a natural gas line to ignite an explosion and a subsequent fire to occur, coverage applies to the subsequent explosion and fire damage. The initial damage caused by the earthquake to the foundation would be excluded. This exclusion can be modified by the Earthquake And Volcanic Eruption Endorsement (BP 10 03) or by the Earthquake And Volcanic Eruption (Sub-Limit) endorsement (BP 10-11), which was introduced in the 2010 edition.

(5) Volcanic eruption, explosion or effusion. But if volcanic eruption, explosion or effusion results in fire, building glass breakage or volcanic action, we will pay for the loss or damage caused by that fire, building glass breakage or volcanic action.

Volcanic action means direct loss or damage resulting from the eruption of a volcano when the loss or damage is caused by:

- a. Airborne volcanic blast or airborne shock waves;
- b. Ash, dust or particulate matter; or
- c. Lava flow.

With respect to coverage for volcanic action as set forth in Paragraphs 5(a), 5(b) and 5(c), all volcanic eruptions that occur within any 168-hour period will constitute a single occurrence. Volcanic action does not include the cost to remove ash, dust or particulate matter that does not cause direct physical loss or damage to Covered Property.

This exclusion applies regardless of whether any of the above, in

Paragraphs (1) through (5), is caused by an act of nature or is otherwise caused.

This exclusion eliminates coverage for volcanic eruption, volcanic explosion, or volcanic effusion (i.e., volcanic water and mud); however, fire or explosion damage that results from volcanic eruption, volcanic explosion, or volcanic effusion is covered. For example, if a volcano erupts causing lava to damage a building, no coverage applies. If, however, the lava ignites a fire that subsequently damages the building, then coverage applies. Any initial damage caused by the volcanic lava would be excluded.

The sequential damage caused by volcanic action (that is, by airborne volcanic blast or airborne shock waves, ash, dust, or particulate matter, or lava flow) is covered if it results from a volcanic eruption. This exception to the exclusion of earth movement corresponds to the covered cause of loss for volcanic action. Note that the 2013 edition incorporated all volcanic actions (airborne volcanic blasts or airborne shock waves; ash, dust, or particulate matter; or lava flow) that occurs within a 168-hour period to constitute a single occurrence.

Governmental Action

Seizure or destruction of property by order of governmental authority.

But we will pay for loss or damage caused by or resulting from acts of destruction ordered by governmental authority and taken at the time of a fire to prevent its spread, if the fire would be covered under this Policy.

This exclusion eliminates coverage for loss of or damage to property caused by governmental action, seizure, or destruction. By exception to this exclusion, coverage applies to loss or damage to property caused by or resulting from acts of destruction ordered by governmental authority and taken at the time of a fire to prevent its spread. For example, if the Drug Enforcement Administration or the Internal Revenue Service seizes or destroys property, coverage does not apply. If, however, a governmental authority (fire or safety department) orders a building destroyed in order to

create a fire stop to halt the spread of fire, coverage applies to the destroyed building.

Nuclear Hazard

Nuclear reaction or radiation, or radioactive contamination, however caused.

But if nuclear reaction or radiation, or radioactive contamination, results in fire, we will pay for the loss or damage caused by that fire.

The nuclear hazard exclusion eliminates coverage for loss or damage of property caused by nuclear reaction, radiation, or radioactive contamination of any type. Fire that results from these excluded perils is covered. For example, if a property is contaminated by the discharge of radioactive material, no coverage applies. If, however, radioactive material causes a fire, the resulting damage caused by the fire is covered.

Utility Services

The failure of power, communication, water or other utility service supplied to the described premises, however caused, if the failure:

1. Originates away from the described premises; or
2. Originates at the described premises, but only if such failure involves equipment used to supply the utility service to the described premises from a source away from the described premises.

Failure of any utility service includes lack of sufficient capacity and reduction in supply.

Loss or damage caused by a surge of power is also excluded, if the surge would not have occurred but for an event causing a failure of power.

But if the failure or surge of power, or the failure of communication, water or other utility service results in a Covered Cause of Loss, we will pay for the loss or damage caused by the Covered Cause of Loss. Communication services include but are not limited to service relating to Internet access or access to any electronic, cellular or satellite

network.

This exclusion does not apply to loss or damage to “computer(s)” and “electronic data”.

The 2010 edition renamed the power failure exclusion to utility services to better capture the nature of this exclusion. Two substantive revisions were made within the exclusion. First, the exclusion specifically includes communication (meaning services relating to Internet access or access to any electronic, cellular, or satellite networks) and water as utility services. These are common services that are currently addressed in the optional coverage endorsements. Paragraph (1) eliminates coverage for loss or damage of property caused by the failure of power, communication, water, or other utility services supplied to the described premises *if the failure occurs away from the described premises*. Its focus is on events that involve an off-premises supplier. The classical example of this exclusion would be a fire at a public electric generating station that causes a power outage at the described premises that results in spoilage of refrigerated food. In this example, no coverage would apply because the loss arose from an off-premises occurrence. The inclusion of the terms *communication* and *water* as utility services reinforces the exclusion’s intent to not cover loss originating from such utilities. So for example, if a water plant or a communication station is damaged by any cause, resulting in a loss or damage to property, no coverage applies.

Paragraph (2) eliminates coverage for loss or damage of property caused by a utility failure that originates *at the described premises* when such failure involves equipment used to provide utility services supplied by an off-premises provider. For example, if a communications company’s equipment (e.g., transmission lines or cables) is on the described premises, and the equipment causes a failure of power or communication, no coverage applies. The addition of the language in paragraph (2) complements the language in paragraph (1), precluding coverage for utility failure that relates to an off-premises provider. The inclusion of paragraph (2) represents a reduction in coverage.

The 2006 edition introduced, as part of the exclusion, the phrase “lack of sufficient capacity and reduction in supply.” This language reinforces the

utility services exclusion to include brownouts and similar power shortages. For example, if an electrical transformer is struck by lightning several miles from the described premises, no coverage applies. Similarly, if a brownout occurs causing a reduction or elimination of power, no coverage applies.

If, however, the failure of power, communication, water, or other utility service results in a covered cause of loss, any ensuing damage is covered. For example, if the power service were interrupted off premises and, because of this interruption the business owner's sprinkler system froze and broke, any damage caused by the broken sprinkler system (including subsequent water damage) would be covered.

Ensuing coverage applies even if the off-premises power failure was not caused by a covered cause of loss. For example, if the power transformer malfunctions causing an ensuing loss (frozen sprinkler system), coverage applies.

The last sentence of this exclusion is an exception to the exclusion that grants coverage for computers and electronic media and records if caused by power failure. Under the 1997 form, this coverage was activated by endorsement. The inclusion of this exception was introduced in the 2002 form and carried forward in subsequent editions. Coverage for spoilage of food, medicine, or flowers caused by breakdown, contamination, or power outage may be added to the policy under the Spoilage Coverage endorsement (BP 04 15). Similar coverage may also be added to the policy to cover loss resulting from utility service interruption under the Utility Service – Direct Damage (BP 04 56) endorsement and business income under the Utility Services – Time Element (BP 04 57) endorsement.

War and Military Action

1. War, including undeclared or civil war;
 2. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents;
- or

3. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

This exclusion eliminates coverage for loss or damage of property caused by war and military action. Although the possibility of this occurring is fairly remote in the United States, Puerto Rico, and Canada (coverage territory), the more common exposure is that of a terrorist attack. Business owners whose operations are prone to a terrorist attack (e.g., airports, train stations, or urban locations) can manage this exposure through a series of terrorism endorsements, which are reviewed in Chapter 16, Businessowners Program Endorsements.

Water

1. Flood, surface water, waves (including tidal wave and tsunami), tides, tidal water, overflow of any body of water, or spray from any of these, all whether or not driven by wind (including storm surge);
2. Mudslide or mudflow;
3. Water that backs up or overflows or is otherwise discharged from a sewer, drain, sump, sump pump or related equipment;
4. Water under the ground surface pressing on, or flowing or seeping through:
 - a. Foundations, walls, floors or paved surfaces;
 - b. Basements, whether paved or not; or
 - c. Doors, windows or other openings; or
5. Waterborne material carried or otherwise moved by any of the water referred to in Paragraph (1), (3) or (4), or material carried or otherwise moved by mudslide or mudflow.

This exclusion applies regardless of whether any of the above, in Paragraphs (1) through (5), is caused by an act of nature or is otherwise caused. An example of a situation to which this exclusion applies is the situation where a dam, levee, seawall or other boundary or containment system fails in whole or in part, for any reason, to contain the water.

But if any of the above, in Paragraphs (1) through (5), results in fire, explosion or sprinkler leakage, we will pay for the loss or damage caused by that fire, explosion or sprinkler leakage.

This exclusion eliminates coverage for loss or damage of property caused by water. Under this exclusion, *water* means flood, surface water, waves (including tidal wave and tsunami), tides, tidal water, overflow of any body of water, or the spray from any of these, all whether driven by wind or not; mudslide and mudflow; and water that backs up or overflows or is otherwise discharged from a sewer, drain, sump, sump pump, or related equipment. It also includes water under the ground surface pressing on, flowing, or seeping through foundations, walls, floors or paved surfaces, basements, whether paved or not, or doors, windows, or other openings. For example, if heavy rains cause a river to overflow its banks and water to enter a building through its walls, doors, windows, or sewers, no coverage would apply. The 2010 edition introduced Flood Coverage (BP 10 79) to insure the flood peril. Coverage is also available under a flood policy through the National Flood Insurance Program.

Water damage is also excluded if water backs up through a basement floor drain, or if it is underground and exerts pressure on, or seeps through, foundations, walls, floors, basements, doors, windows, or other openings.

By exception to this exclusion, coverage is provided for property if water damage results in fire, explosion, or sprinkler leakage. In that case, the damage caused by the fire, explosion, or sprinkler leakage is covered. For example, if floodwater damages a building, no coverage applies. If, however, floodwater causes the gas line to break causing a fire, coverage applies to the ensuing fire damage. Coverage for water back-up and sump overflow may be purchased under the Water Back-up and Sump Overflow endorsement (BP 04 53).

The 2010 revision was editorial in nature, expounding on the term *waves* to include tidal wave and tsunami, the phrase *water that backs up or overflows* to include water that is otherwise discharged, and the term *sump* to include sump pumps or related equipment. It also introduces language paragraph (5) to reemphasize the original intent of not covering flood loss arising from any cause (either an act of nature or other cause). These editorial revisions were implemented to reinforce original intent and have no impact on coverage.

Although the water damage exclusion is far reaching, accidental discharge type losses (e.g., leakage of a sprinkler system) and interior property damage due to ice dams are covered. Also, note that the 2013 edition expanded the definition of *water damage* (see Chapter 8 on property definitions) to include an accidental discharge or leakage of water or waterborne material as the direct result of the breaking apart or cracking of a water or sewer pipe that is located off the described premises and is part of municipal potable water system (drinking water) or municipal sanitary sewer system (waste water system), if the breakage or cracking is caused by wear and tear. This is an affirmative grant to certain accidental off-premises discharges.

Certain Computer-Related Losses

1. The failure, malfunction or inadequacy of:
 - a. Any of the following, whether belonging to any insured or to others:
 - (i) “Computer” hardware, including microprocessors or other electronic data processing equipment as may be described elsewhere in this Policy
 - (ii) “Computer” application software or other “electronic data” as may be described elsewhere in this Policy;
 - (iii) “Computer” operating systems and related software;
 - (iv) “Computer” networks;
 - (v) Microprocessors (“computer” chips) not part of any “computer” system; or
 - (vi) Any other computerized or electronic equipment or components; or
 - b. Any other products, and any services, data or functions that directly or indirectly use or rely upon, in any manner, any of the items listed in Paragraph (a) above;
due to the inability to correctly recognize, distinguish, interpret or accept one or more dates or times. An example is the inability of computer software to recognize the year 2000.
2. Any advice, consultation, design, evaluation, inspection, installation, maintenance, repair, replacement or supervision provided or done by you or for you to determine, rectify or test for, any potential or actual

problems described in Paragraph (1) above.

However, if excluded loss or damage, as described in Paragraph (1) above results in a “specified cause of loss” under Section I – Property, we will pay only for the loss or damage caused by such “specified cause of loss”.

We will not pay for repair, replacement or modification of any items in Paragraphs (1)(a) or (1)(b) to correct any deficiencies or change any features.

Although computer equipment is covered under business personal property for covered perils, the policy excludes loss to computer equipment, application software, electronic data or records, or any computerized parts caused by failure, malfunction, or inadequacy of computers to recognize and interpret dates or times. For example, a computer system may control the time that a machine should turn off. If the computer fails to recognize the appropriate time, and the machine is damaged from overheating, there would be no coverage.

Also excluded is any advice, consultation, evaluation, inspection, installation, maintenance, repair, replacement, or supervision provided to determine the problem(s) cited in paragraph (1) of the exclusion. By exception to the exclusion, coverage is provided if an excluded loss or damage cited in paragraph (1) results in a specified cause of loss, the insurer will pay for loss or damage caused by that specified cause of loss. For example, if a computer time and date malfunction occurs, no coverage applies. If, however, in the example provided previously, the computer fails to recognize the time to turn off a machine, the machine overheats, and a fire ignites, coverage applies because fire is a specified cause of loss.

“Fungi,” Wet Rot or Dry Rot

Presence, growth, proliferation, spread or any activity of “fungi”, wet rot or dry rot.

But if “fungi”, wet rot or dry rot results in a “specified cause of loss”, we will pay for the loss or damage caused by that “specified cause of loss”.

This exclusion does not apply:

1. When “fungi”, wet rot or dry rot result from fire or lightning; or
2. To the extent that coverage is provided in the Limited Coverage for “Fungi”, Wet Rot Or Dry Rot Additional Coverage, with respect to loss or damage by a cause of loss other than fire or lightning.

The 2006 edition introduced the exclusion for fungi, wet rot, or dry rot, and bacteria. The essence of this exclusion was retained in the 2010 form, although bacteria was moved to a new exclusion. This exclusion eliminates from coverage losses caused by the presence, growth, proliferation, spread, or any activity of fungi, wet rot, or dry rot. By exception to the exclusion, coverage applies if fungi, wet rot, or dry rot result from fire or lightning (up to the policy’s limits) or as provided under the additional coverage fungi, wet rot, or dry rot (up to \$15,000). In the event that fungi, wet rot, or dry rot somehow result in a specified cause of loss (e.g., fire, lightning, windstorm, or hail) coverage applies for the loss or damage caused by that specified cause of loss. Note that the 2010 edition deleted the word *bacteria* from the exclusion and incorporated it in the virus or bacteria exclusion.

Virus or Bacteria

1. Any virus, bacterium or other microorganism that induces or is capable of inducing physical distress, illness or disease.
2. However, the exclusion in Paragraph (1) does not apply to loss or damage caused by or resulting from “fungi”, wet rot or dry rot. Such loss or damage is addressed in Exclusion i.
3. With respect to any loss or damage subject to the exclusion in Paragraph (1), such exclusion supersedes any exclusion relating to “pollutants”.

The 2010 edition incorporated into the Businessowners form provisions of the Exclusion of Loss Due to Virus or Bacteria endorsement (BP 06 01), which was withdrawn. The intent of this exclusion is to eliminate payment for damage caused by, or resulting from, any virus, bacterium, or other microorganism that induces or is capable of inducing physical distress,

illness, or disease. It is meant to eliminate claims involving contamination by disease-causing agents, including but not limited to pandemic or unorthodox transmission of infectious material (e.g., avian or bird flu, SARS, Rotavirus, Coronavirus). This exclusion does not apply to loss or damage caused by or resulting from fungi, wet rot, or dry rot. Incorporation of this exclusion into the Businessowners property form has no impact on coverage.

B.2. Exclusions

2. We will not pay for loss or damage caused by or resulting from any of the following:

Electrical Apparatus

Artificially generated electrical, magnetic or electromagnetic energy that damages, disturbs, disrupts or otherwise interferes with any:

1. Electrical or electronic wire, device, appliance, system or network; or
2. Device, appliance, system or network utilizing cellular or satellite technology.

For the purpose of this exclusion, electrical, magnetic or electromagnetic energy includes but is not limited to:

1. Electrical current, including arcing;
2. Electrical charge produced or conducted by a magnetic or electromagnetic field;
3. Pulse of electromagnetic energy; or
4. Electromagnetic waves or microwaves.

But if fire results, we will pay for the loss or damage caused by fire.

We will pay for loss or damage to “computer(s)” due to artificially generated electrical, magnetic or electromagnetic energy if such loss or damage is caused by or results from:

1. An occurrence that took place within 1,000 feet of the described premises; or
2. Interruption of electric power supply, power surge, blackout or brownout if the cause of such occurrence took place within 1,000 feet of the described premises.

The electrical apparatus exclusion eliminates coverage for loss of or damage to property caused by artificially generated electrical, magnetic, or electromagnetic energy that damages, disturbs, disrupts, or otherwise interferes with any electrical or electronic wire, device, appliance, system, or network including cellular or satellite technology. For example, if a rodent gnaws through electrical wiring causing an electrical short (i.e., artificially generated current), and that electrical short damages a telephone system or similar electronic device, no coverage applies. Similarly, if the insured is making electrical repairs and causes an electrical short that damages equipment, no coverage applies.

By exception to this exclusion, coverage is provided for property if the electrical short (artificially generated electrical current) causes fire damage. For example, if a rodent's gnawing on electrical wiring or the insured's incompetence in conducting repairs causes an electrical short that sparks a fire, coverage applies to the ensuing fire damage.

The 2002 form introduced computers as building personal property and by exception, granted coverage for computers if loss is caused by (1) artificially generated electrical current, magnetic energy, or electromagnetic energy if the occurrence took place within 1,000 feet of the described premises; or (2) an interruption of electric power supply, power surge, blackout, or brownout if the cause of the occurrence takes place within 1,000 feet of the described premises. So, if the rodent noted previously chews through a wire in a building on the premises and causes an electrical arc that damages a computer, coverage would be triggered because the occurrence happened on the insured premises. Coverage applies to losses caused by artificially generated electric current or an interruption of electrical current if the cause of the occurrence took place within 1,000 feet of the described premises.

The only substantive change in the 2010 edition was the introduction of updated language to reflect current technology with respect to power sources (i.e., magnetic and electromagnetic energy). The editorial revisions have no impact on coverage.

Note that coverage to electric apparatus may be broadened under the optional coverage, equipment breakdown protection coverage.

Consequential Losses

Delay, loss of use or loss of market.

This exclusion eliminates coverage for various types of consequential loss. For example, a hurricane whips through several states. Because so many businesses are damaged, contractors are not able to repair a business place for six months. Even though the damage to the property is insured on the Businessowners policy, the lost-opportunity cost of not being able to use the premises would not be added to the amount paid. Likewise, if an insured business place were destroyed and, during the reconstruction period, 50 percent of the insured's customers were lost, the insurer would not compensate the insured for the permanent loss of customers (loss of market).

Smoke, Vapor, Gas

Smoke, vapor or gas from agricultural smudging or industrial operations.

An example of this exclusion's application is if a nursery uses smudge pots (less common today due to the use of propane or electric heaters) to keep its plants protected from the frost, and smoke damages the business owner's building or contents. In that situation, coverage would not apply. Similarly, if smoke were discharged from a smoke stack causing damage to property, coverage would not apply. However, if other types of smoke that are not excluded damage property, coverage would apply. For example, a gas forced-air-furnace may cause a puff back of smoke requiring walls to be cleaned and repainted. Similarly, smoke from a fireplace may damage walls

if the fireplace flue is not opened properly. Both are examples of damage caused by smoke that is sudden and accidental, and, as such, are covered because they are not specifically excluded.

Steam Apparatus

Explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control. But if explosion of steam boilers, steam pipes, steam engines or steam turbines results in fire or combustion explosion, we will pay for the loss or damage caused by that fire or combustion explosion. We will also pay for loss or damage caused by or resulting from the explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.

The explosion of steam boilers, steam pipes, steam engines, or steam turbines is not covered, but a fire or combustion explosion involving this type of property would be covered. Also, by exception to this exclusion, coverage is provided for damage caused by explosion of gases or fuels from within a furnace. Subsequent fire damage caused by this peril is also covered. For additional examples, see the discussion in Chapter 15.

Note that coverage to steam apparatus may be broadened under the optional coverage, equipment breakdown protection coverage.

Frozen Plumbing

Water, other liquids, powder or molten material that leaks or flows from plumbing, heating, air conditioning or other equipment (except fire protective systems) caused by or resulting from freezing, unless:

1. You do your best to maintain heat in the building or structure; or
2. You drain the equipment and shut off the supply if the heat is not maintained.

If the insured either fails to maintain heat in the building or structure or fails to drain the equipment and shut it off if heat is not maintained, and pipes

freeze, no coverage will apply to the loss. If the insured maintains heat in the building or structure or attempts to drain the system and shut off the water supply, and the plumbing systems freezes, coverage applies.

Dishonesty

Dishonest or criminal acts (including theft) by you, anyone else with an interest in the property, or any of your or their partners, “members”, officers, “managers”, employees (including temporary or leased employees), directors, trustees, or authorized representatives, whether acting alone or in collusion with each other or with any other party; or theft by any person to whom you entrust the property for any purpose, whether acting alone or in collusion with any other party.

This exclusion:

1. Applies whether or not an act occurs during your normal hours of operation;
2. Does not apply to acts of destruction by your employees (including temporary or leased employees) or authorized representatives; but theft by your employees (including temporary or leased employees) or authorized representatives is not covered. With respect to accounts receivable and “valuable papers and records”, this exclusion does not apply to carriers for hire. This exclusion does not apply to coverage that is provided under the Employee Dishonesty Optional Coverage.

This exclusion eliminates coverage for loss or damage resulting from dishonest or criminal acts (including theft) by the named insured or the named insured’s partners, members, officers, managers, employees, directors, trustees, or authorized representatives, whether acting alone or in collusion with each other or with any other party; or theft by any person to whom property has been entrusted. For example, if an employee or authorized representative steals merchandise, no coverage applies under this provision. This exclusion applies whether the individual acts alone or in collusion with others. It makes no difference if the act(s) occurs during hours of employment or not. This exclusion does not apply to acts of

destruction by employees (including temporary or leased employees), so vandalism by an employee or leased employee is covered by exception. The 2013 edition extended the exception to this exclusion for acts of destruction by authorized representatives. In addition, for others to whom property may be entrusted (tenants, bailees), the exclusion is narrowed to apply only to the peril of theft. Coverage for employee theft is available under the optional employee dishonesty coverage, but no coverage is available for any type of theft perpetrated by the named insured.

False Pretense

Voluntary parting with any property by you or anyone else to whom you have entrusted the property if induced to do so by any fraudulent scheme, trick, device or false pretense.

The false pretense exclusion applies to loss caused by fraud, trick, or false pretense. For example, if an individual impersonates a customer and convinces one of the insured's employees to release a customer's property to the imposter, no coverage would apply.

Exposed Property

Rain, snow, ice or sleet to personal property in the open.

No coverage applies to personal property exposed to rain, snow, ice, or sleet in the open (meaning outdoors). Under the 2010 edition, coverage would apply to exposed personal property indoors because the exclusion is so narrowly written. For example, if a window or skylight is left open and personal property is damaged by rain, coverage would apply. However, the 2013 edition broadened limitation 4.a.(5), which is discussed in Chapter 5, negating coverage for damage to the interior of a building or structure by rain, snow, sleet, ice, sand, or dust unless the building first was damaged by a covered cause of loss and the damaged area permitted the damaging elements to enter.

Collapse

1. Collapse, including any of the following conditions of property or any part of the property:

- a. An abrupt falling down or caving in;
- b. Loss of structural integrity, including separation of parts of the property or property in danger of falling down or caving in; or
- c. Any cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion as such condition relates to Paragraph i. (1)(a) or i.(1)(b).

But if collapse results in a Covered Cause of Loss at the described premises, we will pay for the loss or damage caused by that Covered Cause of Loss.

2. This Exclusion i. does not apply:

- a. To the extent that coverage is provided under the Additional Coverage – Collapse; or
- b. To collapse caused by one or more of the following:
 - (i) The “specified causes of loss”;
 - (ii) Breakage of building glass;
 - (iii) Weight of rain that collects on a roof; or
 - (iv) Weight of people or personal property.

Collapse is excluded unless it falls within the definition of *collapse* as set forth in the additional coverage for collapse. If collapse results in a covered cause of loss, coverage applies. For example, if a collapse causes a gas line to erupt and a fire ensues, coverage applies to the ensuing fire damage.

Pollution

We will not pay for loss or damage caused by or resulting from the discharge, dispersal, seepage, migration, release or escape of “pollutants” unless the discharge, dispersal, seepage, migration, release or escape is itself caused by any of the “specified causes of loss”. But if the discharge, dispersal, seepage, migration, release or escape of “pollutants” results in a “specified cause of loss”, we will pay for the loss or damage caused by that “specified cause of loss”.

No coverage applies to loss or damage caused by a discharge, dispersal, seepage, migration, release, or escape of pollutants unless the discharge,

dispersal, seepage, migration, release, or escape is itself caused by a specified cause of loss. For example, if gasoline leaks (an excluded cause of loss) from its container and causes a pollution claim, no coverage applies to the leaking container, the gasoline, or the subsequent damage. If, however, gasoline fumes cause a fire to ignite (a nonexcluded cause of loss) coverage would apply to all fire-damaged property up to the limit of insurance subject to any other policy limitations (such as \$10,000 additional coverage limit for pollution cleanup).

Neglect

Neglect of an insured to use all reasonable means to save and preserve property from further damage at and after the time of loss.

The 2002 form introduced the neglect exclusion. The insured must use all reasonable means to save and preserve property from further damage at and after the time of loss. The requirement to use all reasonable means to save and preserve property from further damage at and after the time of loss is also included in the duties in the event of loss or damage (E.3.) section under the property loss conditions. The inclusion of this requirement as an exclusion reinforces the insurer's position that it will not pay for losses that are the result of the insured's failure to attempt to save and protect property.

Other Types Of Loss

1. Wear and tear;
2. Rust or other corrosion, decay, deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself;
3. Smog;
4. Settling, cracking, shrinking or expansion;
5. Nesting or infestation, or discharge or release of waste products or secretions, by insects, birds, rodents or other animals;
6. Mechanical breakdown, including rupture or bursting caused by centrifugal force.
This exclusion does not apply with respect to the breakdown of "computer(s)";
7. The following causes of loss to personal property:

- a. Dampness or dryness of atmosphere;
- b. Changes in or extremes of temperature; or
- c. Marring or scratching.

But if an excluded cause of loss that is listed in Paragraphs (1) through (7) above results in a “specified cause of loss” or building glass breakage, we will pay for the loss or damage caused by that “specified cause of loss” or building glass breakage.

This group of exclusions eliminates coverage for property losses due to normal use and lack of care by the insured.

For example, no coverage applies to damage caused by natural deterioration due to ordinary use, such as the fact that floor coverings eventually become worn and depreciate because of normal use. The same is true for property conditions that are inevitable—iron rusts, metal corrodes, and perishables such as food decay.

Smog, a mixture of fog and smoke, causes property to discolor over time, and, consequently, its effects are not covered.

Normal occurrences such as settling, cracking, shrinking, or expansion are all affected by atmospheric (natural) conditions or events, so, absent a covered cause of loss, no coverage applies to those events either.

Likewise, losses caused by the nesting or infestation or discharge or release of waste products or secretions by insects, birds, rodents, or other animals are excluded. For example, if an animal nests in a building, no coverage will apply to have the animal removed. Similarly, if insects that secrete fluids nest in a building, no coverage applies for removal of the secretion or the insects. However, if the insects or vermin cause hidden damage that results in collapse, coverage may be provided under the additional coverage for collapse.

This group of exclusions also eliminates coverage for mechanical breakdown, including rupture or bursting caused by centrifugal force. Note that mechanical breakdown may be covered under the optional coverage for equipment breakdown protection coverage.

Likewise, coverage for damage to personal property caused by dampness or dryness of atmosphere, changes in or extremes of temperature, or marring or scratching is also excluded. These occurrences result from atmospheric conditions and normal wear and tear.

However, through an exception to this exclusion, coverage applies if an excluded cause of loss as listed in (1) - (7) results in a specified cause of loss or building glass breakage. For example, if aluminum wiring (a hidden defect) causes a fire (a nonexcluded cause of loss) that damages covered property, coverage applies to the property damaged by the fire.

The 2006 and subsequent policy editions made one minor change in this exclusion; that was the deletion of the word *fungi* in (2). This deletion was necessary with the introduction of the additional coverage for fungi, wet rot, and dry rot.

Errors Or Omissions

Errors or omissions in:

1. Programming, processing or storing data, as described under “electronic data” or in any “computer” operations; or
2. Processing or copying “valuable papers and records”.

However, we will pay for direct physical loss or damage caused by resulting fire or explosion if these causes of loss would be covered by this Coverage Form.

This exclusion eliminates coverage in the event an insured makes an error or omission in programming, processing, or storing data in any computer operation or in processing or copying valuable papers and records. By exception to this exclusion, coverage will apply to any ensuing loss caused by fire or explosion.

Installation, Testing, Repair

Errors or deficiency in design, installation, testing, maintenance, modification or repair of your “computer” system including

“electronic data”.

However, we will pay for direct physical loss or damage caused by resulting fire or explosion if these causes of loss would be covered by this Coverage Form.

This exclusion eliminates coverage in the event an insured makes an error or deficiency in design, installation, testing, maintenance, modification, or repair of the insured’s computer system, including electronic data. So, no coverage applies to damages that arise from the incorrect installation of a computer system or the upgrading of a system. By exception to this exclusion, coverage will apply to any ensuing loss caused by fire or explosion.

Electrical Disturbance

Electrical or magnetic injury, disturbance or erasure of “electronic data”, except as provided for under the Additional Coverages of Section I – Property.

However, we will pay for direct loss or damage caused by lightning.

This exclusion eliminates coverage in the event of an electrical or magnetic injury, a disturbance, or an erasure of electronic data, except as provided under the additional coverages in Section I – Property. Limited coverage under the additional coverages of Section I – Property applies in two areas. First, a \$10,000 limitation applies to restore electronic data that is destroyed by a covered cause of loss under the electronic data additional coverage (5.p.). A second, separate \$10,000 limitation applies to loss of business income or extra expense incurred due to a suspension of operations resulting from an interruption of computer operations additional coverage (5.q.). By exception to the electrical disturbance exclusion, electrical or magnetic injury, disturbance, or erasure of electronic data coverage is granted if the direct loss or damage is caused by lightning.

Continuous or Repeated Seepage or Leakage of Water

Continuous or repeated seepage or leakage of water, or the presence or condensation of humidity, moisture or vapor, that occurs over a period of 14 days or more.

This exclusion was introduced in the 2006 edition. The exclusion eliminates water losses that result from continuous and repeated seepage or leakage of water, or the presence of condensation of humidity, moisture, or vapor that occurs over a period of fourteen days. The purpose of this exclusion is to place an affirmative duty upon the part of the insured to take proactive steps to minimize potential water claims that are commonly the result of maintenance-type issues.

B.3 Exclusions

3. We will not pay for loss or damage caused by or resulting from any of the following Paragraphs a. through c. But if an excluded cause of loss that is listed in Paragraphs a. through c. results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

a. Weather Conditions

Weather conditions. But this exclusion only applies if weather conditions contribute in any way with a cause or event excluded in Paragraph B.1. above to produce the loss or damage.

b. Acts Or Decisions

Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body.

c. Negligent Work

Faulty, inadequate or defective:

1. Planning, zoning, development, surveying, siting;
2. Design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction;
3. Materials used in repair, construction, renovation or remodeling; or
4. Maintenance; of part or all of any property on or off the described premises.

Under the Businessowners form, if weather conditions, acts or decisions, or negligent work cause damage or loss, no coverage applies, absent a resulting covered cause of loss. For example, if a contractor constructs a home with defective wiring or installs a defective furnace, (excluded under 3.c.), and a fire occurs (a covered peril), coverage is provided for the fire damage. The actual negligent installation is excluded, but the ensuing fire loss is covered. Following are specific examples of how this exclusion applies:

- Weather conditions that contribute in any way with the ordinance or law, earth movement, governmental action, nuclear hazard, power failure, war and military action, and water exclusions: if a torrential rain (a weather condition) causes earth movement (exclusion B.1b.) to damage the insured's building, no coverage applies.
- Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body: if a government entity acts incorrectly by opening up a floodgate (an act or a decision), causing flood water (exclusion B.1.g) to damage the insured's building, no coverage applies.
- Negligent work caused by faulty, inadequate, or defective planning, zoning, development, surveying, or siting: if an insured purchases a new building that is zoned or surveyed improperly, no coverage is provided.
- Negligent work caused by faulty, inadequate, or defective design: if a building is constructed with an inadequate or damaged drainage system (defective design) that causes the property to become unstable and move off its foundation (earth movement exclusion B.1b.), no coverage applies.
- Negligent work caused by faulty, inadequate materials used in repair, construction, renovation, and remodeling: if the roof of a building begins to sag due to defective wood material, no coverage is provided. Note that under the additional coverage d.(2)(f), if defective building materials cause a collapse to occur during the course of construction, coverage is provided.
- Negligent work caused by faulty, inadequate materials used in maintenance: if paint peels, chips, and deteriorates over time and as such, requires normal maintenance, no coverage applies. Note that

although this exclusion is far reaching, if an excluded cause of loss listed in paragraphs a. through c. (weather conditions, acts or decisions or negligent work) results in a covered cause of loss (fire, theft, vandalism, etc.), coverage applies.

Additional Exclusion

The following applies only to the property specified in this Additional Exclusion:

Loss or Damage to Products

We will not pay for loss or damage to any merchandise, goods or other product caused by or resulting from error or omission by any person or entity (including those having possession under an arrangement where work or a portion of the work is outsourced) in any stage of the development, production or use of the product, including planning, testing, processing, packaging, installation, maintenance or repair. This exclusion applies to any effect that compromises the form, substance or quality of the product. But if such error or omission results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

This exclusion was introduced in the 2010 edition. Its purpose is to reinforce original intent with an explicit provision excluding claims related to production errors such as the introduction of foreign matter, addition of wrong ingredient or element, or an inaccurate measurement. This type of exposure is a business risk. For example, assume a printer produces a print run and outsources the binding function to a bindery that incorrectly binds the print material—in this example, no coverage is provided. Note that there is coverage for printer's errors or omissions under the Printer's Errors and Omissions Liability endorsement (BP 08 04). More comprehensive coverage for manufacturing type business exposures is available on stand-alone Manufacturing Errors and Omissions policies.

Business Income and Extra Expense Exclusions

- a. We will not pay for:
 - 1. Any Extra Expense, or increase of Business Income loss, caused by or resulting from:
 - a. Delay in rebuilding, repairing or replacing the property or resuming “operations”, due to interference at the location of the rebuilding, repair or replacement by strikers or other persons; or
 - b. Suspension, lapse or cancellation of any license, lease or contract. But if the suspension, lapse or cancellation is directly caused by the suspension of “operations”, we will cover such loss that affects your Business Income during the “period of restoration” and any extension of the “period of restoration” in accordance with the terms of the Extended Business Income Additional Coverage.
 - 2. Any other consequential loss.
- b. With respect to this exclusion, suspension means:
 - 1. The partial slowdown or complete cessation of your business activities; and
 - 2. That a part or all of the described premises is rendered untenable, if coverage for Business Income applies.

This exclusion applies solely to the additional coverage provisions for business income and extra expense. It eliminates coverage for any extra expense or increase in business income loss caused by a delay in rebuilding, repairing, or replacing the property or in resuming operations due to interference at the location by strikers or other persons. It also applies to any suspension, lapse, or cancellation of a license, lease, or contract, except if the suspension, lapse, or cancellation is directly caused by the suspension of operations. In that case, such losses that affect business income during the period of restoration are covered. The 2010 edition added to 5.a.(1)(b) the phrase “and any extension of the ‘period of restoration’ in accordance with the terms of the Extended Business Income Additional Coverages.” In other words, business income and extra expense was expanded to cover loss caused by or resulting from suspension, lapse, or cancellation of any license, lease, or contract *during the extension of the period of restoration* (commonly thirty days or a greater period if indicated in the declarations).

This represented a broadening of coverage over the 2006 edition. All other consequential losses are excluded.

The 2002 form added a definition of the word *suspension* to include a partial slowdown or complete cessation of business activities or if a part of the described premises is rendered untenable. This definition, which also appears in the business income coverage grant, makes it clear that loss of business income from a partial shutdown qualifies for coverage.

Accounts Receivable Exclusion

The following additional exclusion applies to the Accounts Receivable Coverage Extension:

We will not pay for:

- a. Loss or damage caused by or resulting from alteration, falsification, concealment or destruction of records of accounts receivable done to conceal the wrongful giving, taking or withholding of “money”, “securities” or other property. This exclusion applies only to the extent of the wrongful giving, taking or withholding.
- b. Loss or damage caused by or resulting from bookkeeping, accounting or billing errors or omissions.
- c. Any loss or damage that requires any audit of records or any inventory computation to prove its factual existence.

These additional exclusions apply solely to the accounts receivable extension. Damage or loss to accounts receivable caused by alteration, falsification, concealment, or destruction of records to conceal a theft or fraudulent act, such as wrongfully giving or taking money, is excluded. For example, if accounts receivable records were falsified in order to hide an employee’s theft of money, coverage under the accounts receivable extension would not apply. This exclusion applies only to the extent of the wrongful act. Additional exclusions apply to loss or damage caused by or resulting from bookkeeping, accounting, or billing errors or omissions, which would not be considered direct physical loss caused by an insured

peril. There also is no coverage for loss discovered at inventory or during an audit if there were no other proof that loss had occurred.

Property of Robert Richardson,

Chapter 5 Limits of Insurance, Deductibles, and Special Coverage Form Limitations

This chapter addresses the limits of insurance, deductible provisions, and special property coverage limitations found in the Businessowners policy. Limits of insurance (or just limits) refer to the maximum amount that will be paid under the policy. The Businessowners policy contains several limits that require the payment of a premium and several automatic increases in the limits of insurance that are provided in the policy at no additional premium. These provisions are reviewed at the beginning of this chapter.

The deductible provisions address the amounts the named insured must absorb before the insurer is obligated to pay a covered claim. These provisions are addressed after the limits of insurance.

The third section in this chapter addresses the policy's special coverage limitations. Specifically, the coverage limitations are on boilers and steam equipment; property that is missing; unauthorized transfer of property; interior building or personal property; fragile articles; lawns, trees, shrubs, or plants; and dollar limitations on furs, jewelry, patterns, dies, and molds.

The 2010 edition introduced several minor revisions—building limit automatic increase percentage changed to 8 percent, business personal property limit seasonal increase changed to 25 percent, animals owned or boarded by the insured as stock—which are carried forward in the 2013 version.

The 2013 edition introduced one substantive change and two other minor revisions for clarification purposes. First, section A.4.a.(5) extends the limitation pertaining to loss or damage caused by or resulting from rain, snow, sleet, ice, sand, or dust to apply to personal property in a building or structure. Under the predecessor Businessowners forms, this limitation

applied only to the building or structure. This revision brings the Businessowners form in alignment with the companion ISO commercial property limitation and represents a reduction in coverage. Other revisions are found in A.4.a(6), which addresses the introduction of policy language that limits coverage applicable to vegetated roof structures, and A.4.c., which affirmatively permits higher limits of insurance for fur, jewelry, pattern, dies, and molds.

The 2024 edition introduces two minor revisions with no impact on coverage. First, the 8% default increase applicable to buildings in the Businessowners form is being removed, providing the insurers the ability to enter a percentage that may be more representative of market conditions. Second, the deductibles provision is being revised to reinforce original intent of a per occurrence, per location deductible application. The following address the limits of insurance, deductibles, and special coverage form limitation of the Businessowners policy.

Limits of Insurance

1. The most we will pay for loss or damage in any one occurrence is the applicable Limits Of Insurance of Section I – Property shown in the Declarations.
2. The most we will pay for loss of or damage to outdoor signs attached to buildings is \$1,000 per sign in any one occurrence.
3. The amounts of insurance applicable to the Coverage Extensions and the following Additional Coverages apply in accordance with the terms of such coverages and are in addition to the Limits of Insurance of Section I– Property:
 - a. Fire Department Service Charge;
 - b. Pollutant Clean-up And Removal;
 - c. Increased Cost Of Construction;
 - d. Business Income From Dependent Properties;
 - e. Electronic Data; and
 - f. Interruption Of Computer Operations.

4. Building Limit – Automatic Increase

- a. In accordance with Paragraph C.4.b., the Limit of Insurance for Buildings will automatically increase by the annual increase percentage shown in the Declarations.
- b. The amount of increase will be:
 1. The Building limit that applied on the most recent of the policy inception date, the Policy anniversary date, or any other policy change amending the Building limit; times
 - (a) The percentage of annual increase shown in the Declarations, expressed as a decimal (example: 8% is .08); or
 2. The number of days since the beginning of the current Policy year, or the effective date of the most recent policy change amending the Building limit, divided by 365.

Example

If: The applicable Building limit is \$100,000. The annual percentage increase is 8%. The number of days since the beginning of the policy year (or last policy change) is 146.

The amount of increase is

$$\$100,000 \times .08 \times 146 \div 365 = \$3,200.$$

5. Business Personal Property Limit – Seasonal Increase

- a. Subject to Paragraph 5.b., the Limit of Insurance for Business Personal Property is automatically increased by:
 1. The Business Personal Property – Seasonal Increase percentage shown in the Declarations; or
 2. 25% if no Business Personal Property – Seasonal Increase percentage is shown in the Declarations; to provide for seasonal variances.
- b. The increase described in Paragraph 5.a. will apply only if the Limit Of Insurance shown for Business Personal Property in the Declarations is at least 100% of your average monthly values during the lesser of:
 1. The 12 months immediately preceding the date the loss or damage occurs; or

2. The period of time you have been in business as of the date the loss or damage occurs.

In the Businessowners policy, the maximum amount payable per occurrence is the limit indicated in the declarations. The policy specifies a number of sublimits that apply to certain types of covered property.

Attached outdoor signs are covered up to \$1,000, subject to the causes of loss or the specified perils indicated in the Named Perils Endorsement. This amount for outdoor signs attached to the building is within the building's limit of insurance. Note that under the coverage extension for outdoor property, detached outdoor signs are covered for the limited perils of fire, lightning, explosion, riot or civil commotion, or aircraft up to a limit of \$2,500. All six coverage extensions and six additional coverages (fire department service charge, pollution clean-up and removal, increased cost of construction, business income from dependent properties, electronic data, and interruption of computer operations) are in addition to the limits of insurance. The impact of the other additional coverages on the limits of insurance is dictated by the specific wording of the additional coverage provisions.

Building limit automatic increases under the 2006 and prior forms were based upon the percentage chosen by the named insured. The 2010 edition and its successor 2013 edition indicate that the limit of insurance for buildings automatically increases by 8 percent unless a higher or lower limit chosen by the insured is indicated in the declarations. The 2024 edition provides the insurer the option of using a percentage based upon market conditions. The formula used to calculate the increase is based on one of the following:

- The building limit on the last renewal date;
- The policy's inception date; or
- The date of the last change to the limit times the annual percentage increase shown in the declarations times the number of days since the beginning of the current policy year divided by 365. For example, if the applicable building limit is \$100,000, the annual percentage increase is 8 percent, and the number of days since the beginning of

the policy year (or effective date of last policy change) is 146, the amount of increase is $\$100,000 \times .08 \times 146/365$ or \$3,200.

This means that, if a percentage is indicated in the declarations (e.g., 8 percent), the building coverage will increase on a prorated basis during the policy term to reflect that percentage. In the example, if a loss would occur on the 146th day the policy was in effect, the building limit would be \$103,200.

Under certain circumstances, the business personal property limit may also automatically increase. The increase, up to 25 percent, is to provide for seasonal variations. In order for this increase to apply, the business owner must maintain business personal property insurance limits equal to 100 percent of the business's average monthly values during the twelve-month period prior to loss. In the event the business has been in operation for less than twelve months, that period is used as an alternative. For example, if the business personal property was valued at \$100,000 from January through November, and in December the value was \$400,000, the business owner's average monthly values would be \$125,000 (\$1,500,000 divided by 12). If the business owner carried a business personal property limit of \$125,000 or more during this period, the limits of insurance would automatically be increased to \$156,250.

This seasonal increase benefit provision, in effect, mandates a 100 percent insurance-to-value requirement on business personal property. For all intents and purposes, the business owner may have to over insure his business personal property to capitalize on this benefit. For this reason, it would be prudent not to overemphasize or oversell the benefits of this policy provision. The 2010 edition and subsequent policy editions permit the insured the option of choosing a seasonal percentage increase other than the standard 25 percent.

Deductibles

1. We will not pay for loss or damage in any one occurrence until the amount of loss or damage exceeds the Deductible shown in the Declarations. We will then pay the amount of loss or damage in excess

of the deductible up to the applicable Limit of Insurance of Section I – Property. If one occurrence results in loss or damage at more than one location, the deductible will apply separately to loss or damage at each location that has sustained loss or damage.

The deductible provisions address the amounts the named insured must absorb before the insurer is obligated to pay a covered claim.

Businessowners policies generally have a standard \$500 deductible applicable to property losses (D.) and may have a second deductible applicable to Optional Coverages (D.2.).

The insurer will pay for loss or damage after the deductible amount is exceeded up to the limits of insurance indicated in the declarations. This is a per occurrence deductible, meaning that only one deductible applies per occurrence regardless of how many types of property are damaged. The deductible applies to all property coverages unless an optional coverage is chosen. In that case, the optional coverage deductible will apply. No deductible applies to fire department service charge, business income, extra expense, civil authority, and fire department extinguisher systems recharge expense. Optional fixed dollar deductibles of \$250, \$1,000, and \$2,500 are available along with optional windstorm or hail percentage deductibles of 1 percent, 2 percent, and 5 percent under the Windstorm or Hail Percentage Endorsement (BP 03 12). Optional deductibles may be chosen by the business owner based upon his preference or required by the underwriter as a condition to policy issuance. For example, some areas of the country are susceptible to severe windstorm and hail losses. In these cases, a percentage deductible may be utilized. Similarly, an underwriter may require a higher deductible to manage a perceived morale hazard.

2. Regardless of the amount of the Deductible, the most we will deduct from any loss or damage under all of the following Optional Coverages in any one occurrence is the Optional Coverage Deductible shown in the Declarations:

- a. Money and Securities;
- b. Employee Dishonesty;
- c. Outdoor Signs; and

d. Forgery or Alteration.

But this Optional Coverage Deductible will not increase the Deductible shown in the Declarations. This Deductible will be used to satisfy the requirements of the Deductible in the Declarations.

This means that if loss or damage occurs that is insured by an optional coverage, the optional coverage would apply exclusively. In other words, the business owner's base deductible will not be applied in the loss.

3. No deductible applies to the following Additional Coverages:

- a. Fire Department Service Charge;
- b. Business Income;
- c. Extra Expense;
- d. Civil Authority; and
- e. Fire Extinguisher Systems Recharge Expense.

No dollar deductible applies to the additional coverages of fire department service charge, business income, extra expense, civil authority, and fire extinguisher system recharge expense. Although no dollar deductible applies to any of the listed coverages, a seventy-two-hour time deductible applies to business income and civil authority. Seventy-two hours must elapse after the occurrence before a business income or civil authority loss is covered, and the insured must assume the cost of that first seventy-two hours of loss. Some may refer to this as a waiting period or time deductible. There is no waiting period for the extra expense additional coverage.

The following example illustrates the application of policy deductibles. A policy provides coverage on a business complex that includes a building, business personal property, a warehouse, and the business income generated by the operation. The property is insured to value, and there is a \$1,000 deductible on the real and business personal property and a seventy-two-hour deductible on the business income coverage. A fire badly damages the main building and destroys half its contents. The warehouse suffers minimal damage. The \$1,000 deductible would be taken off the total direct property loss of combined real (main building and warehouse) and business personal property. The insured would have to absorb the first seventy-two

hours of business income loss. No deductible would be applied to the fire department service charge and the cost of recharging fire-extinguishing systems on the premises.

Limitations

a. We will not pay for loss of or damage to:

1. Steam boilers, steam pipes, steam engines or steam turbines caused by or resulting from any condition or event inside such equipment. But we will pay for loss of or damage to such equipment caused by or resulting from an explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.
2. Hot water boilers or other water heating equipment caused by or resulting from any condition or event inside such boilers or equipment, other than an explosion.
3. Property that is missing, where the only evidence of the loss or damage is a shortage disclosed on taking inventory, or other instances where there is no physical evidence to show what happened to the property. This limitation does not apply to the Optional Coverage for Money and Securities.
4. Property that has been transferred to a person or to a place outside the described premises on the basis of unauthorized instructions.
5. The interior of any building or structure, or to personal property in the building or structure, caused by or resulting from rain, snow, sleet, ice, sand or dust, whether driven by wind or not, unless:
 - a. The building or structure first sustains damage by a Covered Cause of Loss to its roof or walls through which rain, snow, sleet, ice, sand or dust enters; or
 - b. The loss or damage is caused by or results from thawing of snow, sleet or ice on the building or structure.
6. Lawns, trees, shrubs or plants which are part of a vegetated roof, caused by or resulting from:
 - a. Dampness or dryness of atmosphere or of soil supporting the vegetation;

- b. Changes in or extremes of temperature;
- c. Disease;
- d. Frost or hail; or
- e. Rain, snow, ice or sleet.

b. We will not pay for loss of or damage to the following types of property unless caused by the “specified causes of loss” or building glass breakage:

- 1. Animals, and then only if they are killed or their destruction is made necessary.
- 2. Fragile articles such as glassware, statuary, marble, chinaware and porcelain, if broken. This restriction does not apply to:
 - a. Glass that is part of the exterior or interior of a building or structure;
 - b. Containers of property held for sale; or
 - c. Photographic or scientific instrument lenses.

c. For loss or damage by theft, the following types of property are covered only up to the limits shown (unless a higher Limit Of Insurance is shown in the Declarations):

- 1. \$2,500 for furs, fur garments and garments trimmed with fur.
- 2. \$2,500 for jewelry, watches, watch movements, jewels, pearls, precious and semi-precious stones, bullion, gold, silver, platinum and other precious alloys or metals. This limit does not apply to jewelry and watches worth \$100 or less per item.
- 3. \$2,500 for patterns, dies, molds and forms.

The Businessowners policy covers direct physical loss to covered property unless the loss is excluded or limited. In addition to the exclusions set forth in Chapter 4, the Businessowners policy lists three limitations due to its special perils (“all risks”) approach. Limitation 4.a. eliminates coverage for loss or damage of property caused by explosion of steam boilers, steam pipes, steam engines, or steam turbines owned or leased by the named insured or under the named insured’s control. By exception to this limitation, coverage applies if explosion of steam boilers, steam pipes, steam engines, or steam turbines results in fire or combustion explosion. In

these cases, the loss or damage caused by the fire or combustion explosion is covered.

A related limitation eliminates coverage for loss to hot water boilers or other water heating equipment caused by or resulting from any condition or event inside such equipment other than an explosion. For example, if a hot water boiler cracks due to pressure, no coverage applies. If, however, the gas pilot light malfunctions causing an explosion, coverage does apply. Note that enhanced coverage for steam boilers, steam pipes, hot water boilers, and similar mechanical objects is found under the optional mechanical breakdown coverage.

Not surprisingly, no coverage applies to missing property when there is no evidence that it was stolen, such as forcible signs of entry or exit or other physical evidence. Coverage is also eliminated if an employee voluntarily gives property to an individual based upon unauthorized instructions.

The 2013 edition introduced personal property into limitation 4.a.(5). Under this limitation interior damage from the elements to any building or structure, or to personal property in the building or structure, is not covered *unless* a covered cause of loss first damages the building's or structure's roofs or walls, permitting rain, snow, sleet, ice, sand, or dust to enter or the damage is caused by the thawing of snow or ice on the building. For example, interior damage to a building or to personal property would not be covered if an insured left a window or door open, which permitted water from a driving rain to enter the structure and damage it. However, coverage would apply if high winds shattered a window, permitting water from the driving rain to enter the structure and cause damage.

Also covered would be interior water damage caused by the freeze-thaw cycle even when exterior damage is not present. For example, interior water damage to a building, such as stains on ceilings and walls, caused by the thawing of snow or ice on its roof would be covered, even in the absence of exterior damage.

Note that under prior Businessowners forms, damage to personal property was covered if a window or door was left open, permitting water from a driving rain to enter the structure and damage personal property. The

introduction of personal property into this limitation brings the Businessowners form in alignment with the companion ISO commercial property limitation. The inclusion of personal property in this limitation represents a reduction in coverage.

As a result of 2013 edition's inclusion of vegetated roofs as covered property under the building portion of the policy, certain limitations are introduced to eliminate coverage for vegetation loss caused by dampness or dryness of atmosphere or soil, changes in or extremes of temperature, disease, frost, hail, rain, snow, ice, or sleet. These limitations supplement the related property exclusion found in the property exclusion section of the policy. For example, if a vegetated roof of a building is damaged as the result of fire, lightning, or windstorm (covered perils), coverage would apply. If, however, the vegetated roof of a building were damaged by dampness or dryness of atmosphere or soil, changes in or extremes of temperature, disease, frost, hail, rain, snow, ice, or sleet, coverage would not apply. The introduction of this limitation has no effect on the coverage provided for vegetated roofs under the building portion of the Businessowners policy.

The 2010 edition introduced, and subsequent editions continue the limitation for loss to animals. Limitation 4.b.(1) applies to animals that are killed or required to be destroyed resulting from a specified cause of loss or from building glass breakage. Note that only animals owned by others and boarded by the insured or owned by the insured as stock inside a building are covered. For example, if a business owner operated a pet store, coverage would apply to animals lost in a fire (a specified cause of loss). If, however, the animals acquired a disease requiring them to be destroyed, no coverage applies.

Limitation 4.b.(2) eliminates coverage for loss or damage to fragile articles (e.g., glassware, statuary, marbles, chinaware, and porcelain) if broken unless caused by a specified cause of loss or building glass breakage. For example, if the business owner drops a statue and breaks it, no coverage applies. If, however, fire damages a statue, coverage applies. By exception to this restriction, coverage applies to the covered causes of loss for interior glass, containers of property held for sale (such as display cases), and photographic or scientific instrument lenses.

Limitation 4.c. provides coverage for loss or damage to property caused by theft of up to \$2,500 each for fur items; jewelry items; and patterns, dies, molds, or forms. Jewelry and watches worth \$100 or less per item do not apply to the \$2,500 limitation. The policy form provides an option to have a higher limit of insurance.

Property of Robert Richardson,

Chapter 6 Conditions

Property Loss Conditions

This chapter addresses the property loss conditions of the Businessowners policy. The conditions set forth the duties and obligations of the named insured and the insurer throughout the claims process. In addition, they address how property claims will be settled at the time of loss, including how disagreements will be arbitrated. The named insured should strictly comply with property loss conditions since a violation of a policy condition may void coverage. Similarly, an insurer must exercise great care in complying with policy conditions including strict adherence to each respective state's claim settlement practices act.

The 2006 edition included several minor editorial revisions for clarity purposes and the deletion of the loss settlement conditions for the electronic media and records limitation and valuable papers and records. These two loss settlement conditions were incorporated into the additional coverages for electronic data and interruption of computer operations. The effects of these changes were primarily cosmetic, although the interruption of computer operations does place a dollar limitation for business income losses. These subjects are discussed in detail in Chapter 2.

The 2010 edition made one substantive change to the Businessowners form, that being under the loss payment provision addressing party walls.

The 2013 edition had only one minor revision: the addition of the word *compliance* in the loss payment provision 5.d. That provision reinforced the form's original intent to limit coverage to the cost to repair, rebuild, or replace damaged property to be in compliance with (not exceeding) any ordinance or law regulating the construction of damaged property. The use of the word *compliance* corresponds to its use in other sections of the Businessowners policy and has no impact on coverage.

The 2024 edition includes the policy conditions of its predecessor policy form with no changes.

Abandonment

There can be no abandonment of any property to us.

This condition simply means that the business owner may not abandon property to the insurer and claim a total loss. For example, property may be damaged from a covered cause of loss, but it may also be repairable. In these instances, the insured is prohibited from merely abandoning the property to the insurance company and demanding that the company replace all of it.

Appraisal

If we and you disagree on the value of the property or the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser. The two appraisers will select an umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately the value of the property and amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If there is an appraisal, we will still retain our right to deny the claim.

Appraisal is a method used to determine the value of a loss. The appraisal condition establishes a procedure to settle the question of valuation when the business owner and the insurer cannot agree. The language in the 2024 form has been updated to make this abundantly clear. An appraisal establishes the value of the loss, not whether or not coverage exists. In such

cases, either party may demand an appraisal in writing, after which each party selects a competent and impartial appraiser, who in turn selects an impartial umpire. If the two appraisers cannot agree on an umpire, either appraiser may ask a judge in the applicable jurisdiction to choose the umpire. Each appraiser will then separately issue a valuation of the loss. If the two appraisers cannot agree, the umpire will step in. A decision of any two is binding. The appraisal process promotes claim settlement and helps reduce legal expenses because it helps the parties avoid potentially lengthy and expensive legal action. When appraisal is demanded, each party pays the cost of its own appraiser, and all other costs are shared equally.

The insurer reserves the right to deny the claim regardless of the outcome of the appraisal. For example, the insurer could still deny the claim if, during the appraisal process, the insurer discovered that the claim was fraudulent.

Duties in the Event of Loss or Damage

- a. You must see that the following are done in the event of loss or damage to Covered Property:

After a loss occurs, the named insured is required to perform certain duties as a condition of coverage. Failure to perform one or more of these duties may void coverage for the loss in question or even for the entire policy. In addition, claim denials centering on the action or inaction of the named insured after a loss are quite common.

1. Notify the police if a law may have been broken.

The police notification requirement promotes several important objectives. First, it encourages the insured to inventory stolen or damaged items soon after the loss has occurred. This promotes claims accuracy. Second, it minimizes fraudulent theft claims by requiring the named insured to make a police report. Third, notification gives police an opportunity to investigate the loss, thereby increasing the possibility of apprehending the criminals and recovering stolen property. Fourth, the reporting of theft losses promotes certain socio-economic goals by permitting law enforcement the

opportunity to focus their efforts on such crimes and their effects on the community.

- (2) Give us prompt notice of the loss or damage. Include a description of the property involved.

The named insured must give prompt notice to the insurance company or agent. Prompt notice is not defined in the policy, but it is widely held to mean timely notice or as soon as practicable. For example, an insured may not know a loss has occurred or that it is covered. In these cases, coverage will still apply as long as the insured's delay has not affected the insurer's ability to investigate the claim. The primary purpose of this condition is to ensure that the insurer's rights will not be prejudiced by the insured's actions or inactions (e.g., late notice or failing to cooperate). Claims involving late notice must be carefully reviewed.

- (3) As soon as possible, give us a description of how, when and where the loss or damage occurred.

The named insured is required as soon as possible to give the insurer a description of how, when, and where the loss has occurred. Its purpose is to assist the insurer in appraising the extent and severity of the loss.

- (4) Take all reasonable steps to protect the Covered Property from further damage, and keep a record of your expenses necessary to protect the Covered Property, for consideration in the settlement of the claim. This will not increase the Limit of Insurance of Section I — Property. However, we will not pay for any subsequent loss or damage resulting from a cause of loss that is not a Covered Cause of Loss. Also, if feasible, set the damaged property aside and in the best possible order for examination.

The named insured must take measures to protect damaged property from further damage from a covered cause of loss. Depending on the loss scenario, this could include hiring a contractor to board up windows or to begin pumping water out of the building after a loss occurs. These costs are covered and included in the limits of insurance. To aid in the claims

settlement process, the named insured should also separate damaged property from undamaged property.

Coverage under this condition applies only after a covered cause of loss has damaged property. For example, if a building is in imminent danger of being damaged by a hurricane, and the building owner hires a contractor to place plywood over windows, coverage would not apply for such a preventive measure. If, however, the hurricane struck and damaged the plywood covering the windows, coverage would apply to the plywood covering the windows. And, if the windows were boarded up after the hurricane struck and windows had been blown out, the cost would be covered because the windows were covered in an effort to prevent further wind damage or vandalism and theft.

It is important to understand that such costs to protect covered property from further damage may put the insured in a somewhat unusual situation of having to determine whether the original loss is covered. So, if an insured incurs costs after a flood (a cause of loss that is not covered on the Businessowners form) to prevent further flood damage, the costs would not be paid by the insurer. The form also requires that the costs be *reasonable*, which is a subjective term. Typically, using plywood to board up windows would be reasonable, but using expensive hardwood may not be.

(5) At our request, give us complete inventories of the damaged and undamaged property. Include quantities, costs, values and amount of loss claimed.

The named insured must give the insurer a complete inventory of all property (both damaged and undamaged) listing the quantities, costs, values, and the amount of loss claimed. Typically, the insurance company adjuster assists in this process.

(6) As often as may be reasonably required, permit us to inspect the property proving the loss or damage and examine your books and records.

Also permit us to take samples of damaged and undamaged property for inspection, testing and analysis, and permit us to make copies from your books and records.

In order to fully assess the extent of the loss or damage, the insurer is permitted to inspect damaged property as often as may be reasonably required. The insurer may also examine and copy the business owner's books and records as needed.

(7) Send us a signed, sworn proof of loss containing the information we request to investigate the claim. You must do this within 60 days after our request. We will supply you with the necessary forms.

This provision requires the named insured to send a signed, sworn proof of loss statement containing the information the insurer requests to investigate the claim. Typically, the insurance company adjuster assists the named insured in completing the inventory and worksheets needed to determine the amount of claim. At that time, the named insured usually signs the proof of loss. If the insurer forwards a formal written demand for a proof of loss, it may be an indication that the insurer believes that the claim is suspicious. Since the proof of loss is a sworn statement, information provided on it that later proves to be false may serve to invalidate the policy on the basis of material misrepresentation.

(8) Cooperate with us in the investigation or settlement of the claim.

In order to make the claims process go smoothly the insured must cooperate with the insurer in the settlement of the claim. For instance, if the named insured has knowledge of certain facts pertaining to the claim, she may not avoid answering questions or assisting in the claims process.

(9) Resume all or part of your "operations" as quickly as possible.

Since the Businessowners policy provides business income and extra expense coverage, an insured may not delay the resumption of business operations. In the event the insured chooses not to resume operations, business income will be paid during the period of restoration based upon an agreement between the named insured and insurer. If an agreement cannot be reached (not an uncommon event), either party may invoke the appraisal condition or initiate litigation. As noted in Condition 4, insureds may not bring legal action against the insurer unless they have complied with the terms of the insurance policy.

b. We may examine any insured under oath, while not in the presence of any other insured and at such times as may be reasonably required, about any matter relating to this insurance or the claim, including an insured's books and records. In the event of an examination, an insured's answers must be signed.

It is not uncommon for the insurer to require the insured(s) to make a sworn statement under oath of the facts relevant to the loss. This examination is conducted by the insurer's attorney and documented by a court reporter. Examinations under oath of multiple insureds may be conducted separately to minimize the possibility of collusion. In some cases, the insured's credibility is impeached during the examination and inconsistencies are used as the basis of a claim denial or a negotiated settlement.

Legal Action against Us

No one may bring a legal action against us under this insurance unless:

- a. There has been full compliance with all of the terms of this insurance; and
- b. The action is brought within two years after the date on which the direct physical loss or damage occurred.

Prior to initiating legal action, the insured must first comply with all the terms of the policy. If a claim cannot be settled, the named insured must file legal action within two years after the date of direct physical loss.

Loss Payment

In the event of loss or damage covered by this Policy:

- a. At our option, we will either:
 - 1. Pay the value of lost or damaged property;
 - 2. Pay the cost of repairing or replacing the lost or damaged property;

3. Take all or any part of the property at an agreed or appraised value; or
4. Repair, rebuild or replace the property with other property of like kind and quality, subject to Paragraph d.(1)(e) below.

This condition gives the insurer the option of paying for the lost or damaged property, paying for the property's repair or replacement value, or taking the property at an agreed salvage value. It also permits the insurer the option to repair, rebuild, or replace the property with other property of like kind and quality, subject to the policy limitations relating to ordinance or laws. At times the insured and insurer may disagree over whether property can be replaced at the value set by the insurer. In such situations, provision a. (4) permits the insurer to actually replace the property instead of giving the insured the money to do so.

- b. We will give notice of our intentions within 30 days after we receive the sworn proof of loss.

The insurer must notify the insured within thirty days after receiving the proof of loss on how the claim will be paid if it chooses to exercise any of the loss payment options.

- c. We will not pay you more than your financial interest in the Covered Property.

This sentence limits claim payments to the named insured's financial interest in the covered property.

- d. Except as provided in Paragraphs (2) through (7) below, we will determine the value of Covered Property as follows:

1. At replacement cost without deduction for depreciation, subject to the following:
 - a. If, at the time of loss, the Limit of Insurance on the lost or damaged property is 80% or more of the full replacement cost of the property immediately before the loss, we will pay the cost to repair or replace, after application of the

deductible and without deduction for depreciation, but not more than the least of the following amounts:

This condition requires the named insured to maintain a limit of insurance equal to at least 80 percent of the property's full replacement value at the time of loss, not at policy inception. If the insured maintains this minimum limit of insurance, the loss will be adjusted on a repair or replacement cost basis without a deduction for depreciation. The deductible indicated in the declarations is then subtracted from the cost to repair or replace the damaged property.

Here is an example of how the amount paid at time of loss is determined: if a building has a replacement value of \$1 million, and the insured carries coverage of at least 80 percent or \$800,000, no underinsurance penalty or depreciation on the building will be deducted for any loss up to the \$800,000 coverage limit. The deductible is then subtracted to arrive at the settlement amount. This insurance-to-value requirement may be deleted by attaching the Removal of Insurance-to-Value Provision (BP 04 83), which was introduced in the 2002 program.

- i. The Limit of Insurance under Section I – Property that applies to the lost or damaged property;
- ii. The cost to replace, on the same premises, the lost or damaged property with other property:
 - i. Of comparable material and quality; and
 - ii. Used for the same purpose; or
- iii. The amount that you actually spend that is necessary to repair or replace the lost or damaged property.

If a building is rebuilt at a new premises, the cost is limited to the cost that would have been incurred had the building been built at the original premises.

These points address the maximum the named insured may collect if the limit of insurance that is in effect at the time of loss equals 80 percent or more of the property's replacement value. The insurer will pay the *least* of the three options listed.

The first point limits the amount payable to the limit of insurance indicated in the policy.

The second limits the amount payable to the replacement of lost or damaged property on the same premises, with other property of comparable material and quality and used for the same purpose. For example, if the business owner decides to rebuild at another location, the amount paid by the insurer will be based upon the loss and reconstruction costs at the original location.

The third option limits the amount payable to the amount actually spent to repair or replace the lost or damaged property. For example, if a business owner makes repairs to his property rather than hiring a contractor, the business owner will be paid only the amount actually spent on repairs and not the contractor's profit margin because the business owner would not incur the profit margin cost.

Finally, this provision permits the insured to rebuild at a new premises, as long as the costs do not exceed the costs that would have been incurred had the building been built at the insured's present location. For example, the cost to rebuild an office building at the current location is \$650,000, and the limit of insurance is \$725,000. The insured wants to move to a new location closer to the highway interchange. However, the cost to rebuild at the optional site is \$725,000. The most the insurer will pay is \$650,000, even though the limit of insurance is \$725,000.

(b) If, at the time of loss, the Limit of Insurance applicable to the lost or damaged property is less than 80% of the full replacement cost of the property immediately before the loss, we will pay the greater of the following amounts, but not more than the Limit of Insurance that applies to the property:

- i. The actual cash value of the lost or damaged property; or
- ii. A proportion of the cost to repair or replace the lost or damaged property, after application of the deductible and without deduction for depreciation. This proportion will equal the ratio of the applicable Limit of Insurance to 80% of the full replacement cost of the property.

Example

The full replacement cost of property which suffers a total loss is \$100,000. The property is insured for \$70,000. 80% of the full replacement cost of the property immediately before the loss is \$80,000 ($\$100,000 \times .80 = \$80,000$). A partial loss of \$25,000 is sustained. The amount of recovery is determined as follows:

Amount of recovery

$$\$70,000 \div \$80,000 = .875$$

$$.875 \times \$25,000 = \$21,875$$

According to this condition, if the property is not insured to at least 80 percent of its full replacement cost at the time of loss, the insurer will pay the greater of the property's actual cash value or the proportion of the cost to repair or replace the lost or damaged property, after application of the deductible and without a deduction for depreciation. This proportion will equal the ratio of the applicable limit of insurance to 80 percent of the cost of repair or replacement.

For example, if a building has a replacement value of \$1 million and, at the time of loss the insured had in effect a \$600,000 limit of insurance, the loss payment penalty will be settled as follows:

The business owner was insured to 75 percent of the amount required (the amount required was 80 percent of the \$1 million replacement cost or \$800,000; the \$600,000 limit in effect represents 75 percent of the \$800,000 required). Consequently, a loss settlement penalty of 25 percent will be applied. The insured would receive \$75,000 minus the deductible on a \$100,000 partial loss.

As an alternative, the insured may choose to accept a claim settlement on an actual cash value basis rather than accepting the penalty for carrying a limit of insurance that is too low. To illustrate this option, consider a \$100,000 roof claim with the same limits of insurance indicated in the preceding example. In this example, the claim settlement is 75 percent of the loss or \$75,000. However, if the roof that sustains the loss is six years old (life expectancy thirty years) its actual cash value is \$80,000 ($30 \div 6 = 5$ or 20 percent depreciation). In this case, the insured may choose the actual cash value option since it provides a higher settlement (\$80,000 versus \$75,000 before deductible).

The actual cash value (ACV) amount is determined as replacement cost minus depreciation. The replacement cost is calculated from various manuals that include the material and labor costs for construction in the applicable geographic area. The depreciation figure that is subtracted from the replacement cost is based upon various depreciation guides and typically requires a visual inspection of the property. Factors that affect the property's ACV include the year of construction, type of construction, repairs made to the property over its life, and present condition. For example, a newly constructed building will have the same replacement value and actual cash value. However, after twenty years, the building's replacement cost will have increased due to inflation, but its actual cash value will have decreased due to depreciation.

Note that the determination of actual cash value has resulted in many disputes, especially when attempting to settle claims involving older buildings with obsolete features. To remedy this problem, some courts have adopted the broad evidence rule that takes all relevant factors (such as market value, replacement cost, depreciation, and obsolescence) into consideration when valuing property. A few states even define *actual cash value* to mean market value.

(c) You may make a claim for loss or damage covered by this insurance on an actual cash value basis instead of on a replacement cost basis. In the event you elect to have loss or damage settled on an actual cash value basis, you may still make a claim on a replacement cost basis if you notify us of your intent to do so within 180 days after the loss or damage.

After making an ACV claim, the named insured has 180 days after the date of loss to make a subsequent claim for additional payment under the replacement cost conditions of the policy. For example, if the named insured sustains a \$50,000 loss on January 1, the adjuster may pay \$40,000 as actual cash value payment on January 30. The insured has until June 28 (180 days after date of loss) to make a demand for the \$10,000 hold back on the payment. The adjuster will reinspect the property to ensure that repairs have been made prior to releasing the \$10,000 hold back payment.

(d) We will not pay on a replacement cost basis for any loss or damage:

- i. Until the lost or damaged property is actually repaired or replaced; and
- ii. Unless the repair or replacement is made as soon as reasonably possible after the loss or damage.

However, if the cost to repair or replace the damaged building property is \$2,500 or less, we will settle the loss according to the provisions of Paragraphs d.(1)(a) and d.(1)(b) above whether or not the actual repair or replacement is complete.

Payment will not be made on a replacement cost basis until the property is actually repaired or replaced. In addition, the repairs or replacement must be made as soon as possible. This provision complements the previous provision addressing the named insured's right to make a claim on an actual cash value basis before actual repair or replacement is completed.

The 2002 form introduced an exception to loss payment provision (d), permitting settlement on a replacement cost basis for any building loss up to \$2,500 before repair or replacement is completed. This provision is subject to the insurance-to-value clauses discussed previously.

(e) The cost to repair, rebuild or replace does not include the increased cost attributable to enforcement of or compliance with any ordinance or law regulating the construction, use or repair of any property.

No additional insurance is available to cover the enforcement of or compliance with any ordinance or law regulating the construction, use, or repair of any property. For example, a building incurs damage that would cost \$100,000 to repair as is with wooden interior doors. However, a state ordinance requires that solid steel doors be used in the repairs at an additional cost of \$25,000. The amount recoverable would be based on the \$100,000 estimate, not \$125,000.

Note that the 2013 edition introduced the word *compliance* in this loss payment provision to reinforce its original intent to limit coverage to the cost to repair, rebuild, or replace damaged property to be in compliance with (not exceeding) any ordinance or law regulating the construction of

damaged property. The use of the word *compliance* corresponds to its use in other sections of the Businessowners policy and has no impact on coverage.

- (2) If the Actual Cash Value – Buildings option applies, as shown in the Declarations, Paragraph (1) above does not apply to Buildings. Instead, we will determine the value of Buildings at actual cash value.

If the named insured chooses the actual cash value option, the insurer will determine the value of buildings at actual cash value and not replacement cost.

Although the form is generally written on a replacement cost basis with an actual cash value option, the insured may also choose the Functional Building Valuation (BP 04 84) endorsement or the Functional Business Personal Property Valuation (BP 04 85) endorsement. These two endorsements were introduced in the 2002 program. The endorsements permit property to be insured below replacement cost because less costly, but functionally equivalent, materials can be used to repair or replace the property. The endorsements amend the insurance-to-value clauses of the form so that the insured will not incur a coinsurance penalty at the time of loss.

- (3) The following property at actual cash value:
- a. Used or second-hand merchandise held in storage or for sale;
 - b. Property of others. However, if an item(s) of personal property of others is subject to a written contract which governs your liability for loss or damage to that item(s), then valuation of that item(s) will be based on the amount for which you are liable under such contract, but not to exceed the lesser of the replacement cost of the property or the applicable Limit of Insurance;
 - c. Household contents, except personal property in apartments or rooms furnished by you as a landlord;
 - d. Manuscripts; and
 - e. Works of art, antiques or rare articles, including etchings, pictures, statuary, marble, bronzes, porcelain and bric-a-brac.

These categories of property are settled at actual cash value and not at replacement cost. In some cases, they may represent items that are difficult

to value. Provision (3) (b) was revised from that of the 1997 form, which stated that property of others was valued at ACV—but not for more than the insured was liable plus the costs of materials and labor. The 2002 form provided an exception to the actual cash valuation provision that was continued in subsequent editions. It states that a written contract governing the insured’s liability for property of others will be used when determining the payment. However, the settlement still is limited by the replacement cost of the property covered in the written contract or the applicable limit of liability.

If other than ACV is needed, the property may be better insured under a separate inland marine floater.

(4) Glass at the cost of replacement with safety glazing material if required by law.

If a local building law or ordinance requires that glass be replaced with safety glazing material (safety glass), additional coverage is provided to cover the increased cost.

(5) Tenants’ improvements and betterments at:

a. Replacement cost if you make repairs promptly.

b. A proportion of your original cost if you do not make repairs promptly. We will determine the proportionate value as follows:

(i) Multiply the original cost by the number of days from the loss or damage to the expiration of the lease; and

(ii) Divide the amount determined in Paragraph (i) above by the number of days from the installation of improvements to the expiration of the lease.

If your lease contains a renewal option, the expiration of the renewal option period will replace the expiration of the lease in this procedure.

c. Nothing if others pay for repairs or replacement.

The phrase “tenants’ improvements and betterments” refers to permanent changes made at the tenant’s expense to property the tenant is leasing. They are insured as business personal property. For example, a tenant moves into new retail space and remodels the storefront (e.g., painting, windows, and

lighting) to attract new customers. These changes would be considered tenant's improvements and betterments because the tenant paid to have the changes made and, since they are part of the building, cannot be legally removed. Settlement would be made at replacement cost if the named insured tenant made repairs promptly. If the tenant-insured does not make repairs promptly, the amount paid is based upon the tenant's use interest in the property. If another party—such as the building owner—replaces the improvements and betterments, the tenant-insured is not allowed to recover for any share of the loss.

For example, if a tenant signs a lease for ten years and at that time makes \$100,000 in improvements and betterments in the leased space, the tenant has a use interest of \$100,000 that is amortized over the ten-year period. If a loss occurred at the end of five years, the value of the use-interest in the tenant's improvements and betterments would be \$50,000.

Improvements and betterments do not include trade fixtures. Trade fixtures include counters, displays, or equipment used by the business owner. Since these items can be removed when the business owner vacates the premises, they are not considered improvements and betterments.

(6) Applicable only to the Optional Coverages:

- a. "Money" at its face value; and
- b. "Securities" at their value at the close of business on the day the loss is discovered.

Any covered loss applicable to money will be paid at face amount, and any covered loss applicable to securities is covered at their value at the close of business on the day the loss is discovered. *Money* and *securities* are defined terms on the form. Based on the definitions, rare coins would not be considered money and should be insured separately.

(7) Applicable only to accounts receivable:

- a. If you cannot accurately establish the amount of accounts receivable outstanding as of the time of loss or damage;
 - (i) We will determine the total of the average monthly amounts of accounts receivable for the 12 months

- immediately preceding the month in which the loss or damage occurs; and
 - (ii) We will adjust that total for any normal fluctuations in the amount of accounts receivable for the month in which the loss or damage occurred or for any demonstrated variance from the average for that month.
- b. The following will be deducted from the total amount of accounts receivable, however that amount is established:
- (i) The amount of the accounts for which there is no loss or damage;
 - (ii) The amount of the accounts that you are able to re-establish or collect;
 - (iii) An amount to allow for probable bad debts that you are normally unable to collect; and
 - (iv) All unearned interest and service charges.

This condition addresses how the insurer will determine an accounts receivable loss if the named insured cannot accurately establish its outstanding accounts receivable at the time of loss. In that event, the insurer will determine the monthly accounts receivable based upon the prior twelve-month average and make adjustments for normal fluctuations. From this amount the insurer will deduct the amounts for undamaged accounts, reestablished accounts, normal bad debts, and all unearned interest and service charges.

- e. Our payment for loss of or damage to personal property of others will only be for the account of the owners of the property. We may adjust losses with the owners of lost or damaged property if other than you. If we pay the owners, such payments will satisfy your claims against us for the owners' property. We will not pay the owners more than their financial interest in the Covered Property.

The insurer may settle claims for loss or damage to property of others directly with the owners of that property. In that event, the amount paid will satisfy the named insured's claims against the insurer under the policy. If the insurer undertakes these settlements, the most that will be paid is the financial interest the claimant has in covered property.

f. We may elect to defend you against suits arising from claims of owners of property. We will do this at our expense.

This condition states that the insurer may, at its option, defend the named insured against lawsuits brought by the owners of property that is damaged and covered under the policy. In these cases, the insurer will pay for the defense.

g. We will pay for covered loss or damage within 30 days after we receive the sworn proof of loss, provided you have complied with all of the terms of this Policy, and:

(1) We have reached agreement with you on the amount of loss;

or

(2) An appraisal award has been made.

Once the insurer and insured have reached an agreement on a loss settlement or an appraisal award has been made, the insurer will pay that amount within thirty days of receipt of a sworn proof of loss. The named insured must have complied with all policy terms in order for this condition to apply.

h. A party wall is a wall that separates and is common to adjoining buildings that are owned by different parties. In settling covered losses involving a party wall, we will pay a proportion of the loss to the party wall based on your interest in the wall in proportion to the interest of the owner of the adjoining building. However, if you elect to repair or replace your building and the owner of the adjoining building elects not to repair or replace that building, we will pay you the full value of the loss to the party wall, subject to all applicable policy provisions including Limits of Insurance and all other provisions of this Loss Payment Condition. Our payment under the provisions of this paragraph does not alter any right of subrogation we may have against any entity, including the owner or insurer of the adjoining building, and does not alter the terms of the Transfer Of Rights Of Recovery Against Others To Us Condition in this Policy.

This condition was introduced in the 2010 edition. Its purpose is to address how a claim is settled in the event a loss occurs and the damaged property

includes a party wall (common in townhouse and condominium developments). The policy defines a *party wall* as a wall that separates and is common to adjoining buildings that are owned by different parties. Since the adjoining wall is subject to numerous legal variations (e.g., tenancy in common or unilateral ownership with easement rights) and property owners may refuse or be unable to repair their interest in the party wall, a coverage issue may arise. This condition is introduced to minimize this problematic issue by making payment reflecting the insured's interest in the party wall, and, in the event the adjoining property owner elects not to repair or replace their interest in the party wall, pay the full value of the party wall subject to all other policy provisions. In other words, the insurer may pay the full amount of the damaged party wall and subrogate against the adjoining property owner under the transfer of rights of recovery against others to us policy condition

Recovered Property

If either you or we recover any property after loss settlement, that party must give the other prompt notice. At your option, you may retain the property. But then you must return to us the amount we paid to you for the property. We will pay recovery expenses and the expenses to repair the recovered property, subject to the Limit of Insurance of Section I – Property.

This condition provides that in the event the named insured or the insurer recovers property after a claim payment was made, either party will notify the other. In some instances, stolen property may be recovered after a payment is made to the insured. If this occurs, the insured has the option to determine whether to accept the recovered property or to accept the indemnity payment that has already been paid. In most cases, the insured retains the indemnity payment, which in turn permits the insurance company the right to take possession of the property for salvage value. This clause supports the indemnification goal of the insurance transaction. If the insured were allowed to keep recovered property as well as a loss payment, he would be enriched instead of being indemnified.

Resumption of Operations

We will reduce the amount of your:

- a. Business Income loss, other than Extra Expense, to the extent you can resume your “operations”, in whole or in part, by using damaged or undamaged property (including merchandise or stock) at the described premises or elsewhere.
- b. Extra Expense loss to the extent you can return “operations” to normal and discontinue such Extra Expense.

If a business continues to operate after a loss, the income received will be used to reduce the business income claim. For example, if a business owner continues operations by selling damaged merchandise, the sale of this merchandise will reduce the business income claim.

As discussed previously, business income payments are limited to the actual loss of business income that arises from the necessary suspension of business during the period of restoration. A suspension may be a total or partial shutdown. This condition encourages the business owner to resume operations as quickly as possible.

Vacancy

a. Description Of Terms

1. As used in this Vacancy Condition, the term building and the term vacant have the meanings set forth in Paragraphs (a) and (b) below:
 - a. When this Policy is issued to a tenant, and with respect to that tenant’s interest in Covered Property, building means the unit or suite rented or leased to the tenant. Such building is vacant when it does not contain enough business personal property to conduct customary operations.
 - b. When this Policy is issued to the owner or general lessee of a building, building means the entire building. Such building is vacant unless 31% of its total square footage is:
 - (i) Rented to a lessee or sub-lessee and used by the lessee or sub-lessee to conduct its customary

operations; and/or

(ii) Used by the building owner to conduct customary operations.

2. Buildings under construction or renovation are not considered vacant.

This vacancy condition defines *vacancy* for tenants, building owners, and buildings under construction. When a Businessowners policy is issued to a tenant, the building (meaning the unit or suite rented) is considered vacant when the unit or suite does not contain enough business personal property to conduct customary operations.

When a Businessowners policy is issued to the owner of the building (meaning the entire building), the building is considered vacant unless 31 percent of its total square footage is rented or used to conduct customary operations. For example, if a building contains 10,000 square feet and a major tenant occupying 7,000 square feet vacates the premises, the building is considered vacant since only 30 percent of the building is rented. Finally, buildings under construction or renovation are not considered vacant. In the 2002 program, the wording of this condition was changed slightly from the 1997 form, but the end result is the same.

The 31 percent occupancy requirement can be modified by the Vacancy Changes (BP 04 86) endorsement, which permits an optional occupancy percentage to be entered for premises and building indicated on its schedule.

b. Vacancy Provisions

If the building where loss or damage occurs has been vacant for more than 60 consecutive days before that loss or damage occurs:

1. We will not pay for any loss or damage caused by any of the following even if they are Covered Causes of Loss:
 - a. Vandalism;
 - b. Sprinkler leakage, unless you have protected the system against freezing;
 - c. Building glass breakage;

- d. Water damage;
 - e. Theft; or
 - f. Attempted theft.
2. With respect to Covered Causes of Loss other than those listed in Paragraphs (1)(a) through (1)(f) above, we will reduce the amount we would otherwise pay for the loss or damage by 15%.

If a building is vacant for more than sixty consecutive days before loss or damage, no coverage will apply to loss or damage caused by vandalism, sprinkler leakage (unless the insured has protected the system against freezing), building glass breakage, water damage, theft, or attempted theft. For example, if a building is vacant for more than sixty consecutive days, and vandals damage property, no coverage applies. Similarly, if the insured turns off the heat in a building, and the sprinkler system freezes and breaks, no coverage applies. These are logical exclusions because the chance of their occurring in a vacant building is higher than in an occupied building.

The exclusion for freezing to the sprinkler system applies only if the insured fails to maintain heat beyond sixty days.

Finally, all other covered causes of loss that occur after a building is vacant beyond sixty consecutive days will be reduced by 15 percent. For example, if a fire causes \$100,000 in damage to a building, the claim is reduced by 15 percent (to \$85,000). This limitation may be modified by the Vacancy Permit (BP 04 87) endorsement.

Property General Conditions

This section addresses the form's property general conditions. These conditions specify the duties and obligations of the named insured and the insurer as they apply to the property coverage of the policy in general. The property general conditions address the control of property, mortgageholders, no benefit to bailee, and the policy period and coverage territory conditions.

Control of Property

Any act or neglect of any person other than you beyond your direction or control will not affect this insurance.

The breach of any condition of this Coverage Form at any one or more locations will not affect coverage at any location where, at the time of loss or damage, the breach of condition does not exist.

Any act or neglect of any person, unless under the named insured's direction or control, will not affect coverage. For example, if a person intentionally vandalizes property, coverage applies. Similarly, if a tenant fails to maintain heat in the business owner's rental unit, causing pipes to freeze and burst, coverage applies. The key factor in both cases is that the named insured did not have control over the action (vandalism) or neglect (failure to maintain heat).

Should the named insured breach a condition (i.e., certain types of neglect and/or intentional acts) with respect to one location, and the policy provides coverage for a second location, the breach will not void coverage at the second location. For example, a business partner sets his office building on fire at the same time lightning strikes an insured building at a second location. No coverage would apply to the building damage at the first location since it was caused by a breach of a policy condition (intentional act by the named insured). However, the loss at the second location (lightning) would be covered since the breach occurred only at the first location.

Mortgageholders

- a. The term "mortgageholder" includes trustee.

This condition expands the definition of *mortgageholder* to include trustees. In some states, a deed of trust or trust deed is used in place of a mortgage. The trust instrument is a means by which legal title of property is placed in one or more trusts to secure the repayment of a debt or performance of a duty. For the purpose of this policy, the terms *mortgagee* and *trustee* mean the same.

b. We will pay for covered loss of or damage to buildings or structures to each mortgageholder shown in the Declarations in their order of precedence, as interests may appear.

If a mortgageholder is named in the policy, any loss amount payable for damage to buildings or structures will be paid to each mortgageholder in order of their precedence and as their interests appear. The mortgageholder and insured's names are to appear on all draft payments on mortgaged buildings and other structures. If more than one mortgageholder is listed in the policy, the first mortgageholder is paid first, the second mortgageholder second, and so forth. A common practice of mortgageholders is to monitor the disbursement of insurance proceeds, thereby ensuring that the mortgaged property will be repaired in accordance with the provisions of the original mortgage agreement.

c. The mortgageholder has the right to receive loss payment even if the mortgageholder has started foreclosure or similar action on the building or structure.

Even if the mortgageholder has begun foreclosure or similar procedures, the mortgageholder still has the right to receive loss payments from a policy written in the name of the insured business owner.

d. If we deny your claim because of your acts or because you have failed to comply with the terms of this Policy, the mortgageholder will still have the right to receive loss payment if the mortgageholder:

1. Pays any premium due under this Policy at our request if you have failed to do so;
 2. Submits a signed, sworn proof of loss within 60 days after receiving notice from us of your failure to do so; and
 3. Has notified us of any change in ownership, occupancy or substantial change in risk known to the mortgageholder.
- All of the terms of this Policy will then apply directly to the mortgageholder.

This condition, in effect, creates a separate contract between the mortgageholder and the insurance company. It guarantees the

mortgageholder coverage equal to the extent of his interests in the property for loss or damage caused by the insured or any third party. This includes not only negligent acts that are covered under the policy, but also intentional acts that are excluded. For example, if the insured engages in arson, fraud, or other conduct in violation of a policy condition, the insurance company is obligated under the policy to pay the mortgageholder any loss payment, subject to compliance with policy conditions. These conditions are the same conditions that the named insured was obligated to follow. They include the following:

1. Paying the premium in the event the insured fails to do so. This typically occurs when the mortgageholder receives a notice of cancellation after the insured failed to pay the premium. The payment of the premium would be a condition precedent of any loss payment.
2. Filing a signed, sworn proof of loss in order to make a formal claim. This proof of loss must be filed within sixty days after receiving notice from the insurance company of the insured's failure to file a proof of loss. This provision permits the mortgageholder to act in place of the insured and in accordance with the mortgagee's interest in the property.
3. Notifying the insurance company of any change in ownership, occupancy or substantial change in risk of which the mortgageholder is aware. For example, if the mortgageholder has knowledge that a building has changed occupancy and fails to notify the insurance company of this increase in risk, coverage may be denied.

If the mortgageholder has complied with these conditions, all the terms of the policy will apply directly to the mortgageholder.

e. If we pay the mortgageholder for any loss or damage and deny payment to you because of your acts or because you have failed to comply with the terms of this Policy:

1. The mortgageholder's rights under the mortgage will be transferred to us to the extent of the amount we pay; and

2. The mortgageholder's right to recover the full amount of the mortgageholder's claim will not be impaired.

At our option, we may pay to the mortgageholder the whole principal on the mortgage plus any accrued interest. In this event, your mortgage and note will be transferred to us and you will pay your remaining mortgage debt to us.

If the insurer pays the mortgageholder for any loss or damage and denies payment to the named insured due to a policy violation, the mortgageholder's rights under the mortgage will be transferred to the insurer. For example, if the insured commits arson and the insurer successfully denies coverage, the insurer will generally pay off the mortgage balance.

When this occurs, the mortgageholder will transfer to the insurer the named insured's mortgage, thereby requiring the named insured to make mortgage payments to the insurer.

f. If we cancel this Policy, we will give written notice to the mortgageholder at least:

1. 10 days before the effective date of cancellation if we cancel for your non-payment of premium; or
2. 30 days before the effective date of cancellation if we cancel for any other reason.

g. If we elect not to renew this Policy, we will give written notice to the mortgageholder at least 10 days before the expiration date of this Policy.

If the insurer cancels the policy it must give at least ten days advance written notice for nonpayment of premium and at least thirty days advance written notice for any other reason. Note that state cancellation laws supersede these requirements. (See *FC&S Cancellation & Nonrenewal* for details on each state's requirements).

If the insurer elects not to renew the policy it must give the insured at least ten days written notice. As indicated, state cancellation and nonrenewal

laws will supersede these requirements.

No Benefit to Bailee

No person or organization, other than you, having custody of Covered Property will benefit from this insurance.

A bailee is “one to whom goods are bailed; the party to whom personal property is delivered under a contract of bailment.” Under the Uniform Commercial Code it is “a person who by warehouse receipt, bill of lading, or other document of title acknowledges possession of goods and contracts to deliver them.”

The no benefit to bailee condition limits coverage to covered property in the insured’s custody. It excludes any assignment or granting of coverage to any person or organization holding, storing, or moving property for a fee (e.g., repair shops or trucking companies). For example, the named insured is having office furniture refinished, and while in the possession of the refinisher (the bailee), the office furniture is destroyed. In this case, no coverage may be assigned or granted under the Businessowners policy to benefit that bailee.

Policy Period, Coverage Territory

Under Section I - Property:

a. We cover loss or damage commencing:

1. During the policy period shown in the Declarations; and
2. Within the coverage territory or, with respect to property in transit, while it is between points in the coverage territory.

b. The coverage territory is:

1. The United States of America (including its territories and possessions);
2. Puerto Rico; and
3. Canada.

This condition limits the policy time period and territory. The policy period is indicated on the declarations as commencing at 12:01 a.m. standard time at the address shown in the declarations. Policies are typically written for a one-year period. The coverage territory includes the United States of America (including its territories and possessions), Puerto Rico, and Canada.

The property is covered while in transit between points within the coverage territory. For example, property would be covered between California and Hawaii, but not covered between California and Mexico. Note that the coverage territory can be amended by adding the Business Personal Property Limited International Coverage (BP 16 33) endorsement to the policy. This endorsement and the endorsements Property in Process of Manufacture by Others Limited International Coverage (BP 16 34), Business Income from Dependent Properties Limited International Coverage (BP 16 35), and Extra Expense from Dependent Properties Limited International Coverage (BP 16 36) can be added to the policy. Each were introduced in the 2024 edition providing additional underwriting tools to insure the continued expansion of the Businessowners policy market.

Property of Robert Richardson,

Chapter 7 Optional Coverages

This chapter addresses the optional coverages of the Businessowners policy. Optional coverages are extra coverages chosen by the named insured that require the payment of an additional premium. The Businessowners policy includes four optional coverages: outdoor signs, money and securities, employee dishonesty, and equipment breakdown protection coverage (previously mechanical breakdown). It is important to keep in mind that an insured must elect to include one or all of the optional coverages, and the selected coverages must be indicated on the policy declarations page. Otherwise the optional coverages are not available.

Under the 1997 form, optional coverage was available for interior glass and robbery and burglary. These optional coverages were eliminated in the 2002 program since both interior glass and robbery and burglary coverage were placed within the coverage form. This same format was continued in subsequent editions. In the event the Businessowners policy is endorsed to provide named peril coverage (discussed in chapter fifteen), the optional coverage for money and securities is replaced with the more limiting burglary and robbery coverage. Burglary and robbery coverage under the Named Perils endorsement limits coverage to 25 percent of the business personal property limit for the perils of burglary and robbery. In addition, a sublimit of \$2,500 applies to furs, jewelry, semi-precious stones, bullion, patterns, dies, molds, and forms on the Named Perils form.

The 2006 edition included one substantive change over the 2002 program that has been carried forward in subsequent policy editions: that is the introduction of the definition of *employee* to include former employees (up to thirty days), consultants, leased workers, and student interns. Other than that change, the 2006 edition was the same as the 2002 policy.

The 2010 edition renamed the mechanical breakdown optional coverage as equipment breakdown protection coverage, incorporating the language of the Equipment Breakdown Protection Coverage endorsement (BP 04 59) into the optional coverage. Since the Equipment Breakdown Protection

Coverage endorsement is more comprehensive than the previously used optional coverage mechanical breakdown, its incorporation in the 2010 edition represented a broadening of coverage. Other revisions included options to select a fixed dollar deductible and the ability to increase or decrease the seventy-two-hour time deductible related to business income and extra expense with respect to equipment breakdown.

The subsequent edition carried forward the 2010 form changes, introducing one substantive revision and one revision to reinforce original intent. The substantive revision to the employee dishonesty optional coverage eliminates coverage for loss or damage caused by an employee if the employee had also committed theft or any other dishonest act prior to the effective date of the policy, and the insured learned of that theft or dishonest act prior to the policy period shown in the declarations. If the insured—including partners, members, officers, directors, or trustees of the business—had knowledge of an employee's theft or dishonest act prior to the policy's effective date, no coverage would apply to any employee dishonesty loss associated with that employee.

The other revision is to the money and securities option coverage, which clarifies that an employee includes a temporary or leased employee.

The 2024 edition introduced several revisions. First, money and securities coverage is limited to the interior of the building the insured occupies. Second, the definitions of an *employee* and *temporary employee* are modified. And third, employee dishonesty coverage applies to persons having care and custody of property outside the insured's business.

The following addresses the four optional coverages of the Businessowners policy.

Optional Coverages

If shown as applicable in the Declarations, the following Optional Coverages also apply. These coverages are subject to the terms and conditions applicable to property coverage in this Policy, except as provided below:

Outdoor Signs

- a. We will pay for direct physical loss of or damage to all outdoor signs at the described premises;
 - 1. Owned by you; or
 - 2. Owned by others but in your care, custody or control.
- b. Paragraph A.3., Covered Causes Of Loss and Paragraph B., Exclusions in Section I—Property do not apply to this Optional Coverage, except for:
 - 1. Paragraph B.1.c., Governmental Action;
 - 2. Paragraph B.1.d., Nuclear Hazard; and
 - 3. Paragraph B.1.f., War And Military Action.
- c. We will not pay for loss or damage caused by or resulting from:
 - 1. Wear and tear;
 - 2. Hidden or latent defect;
 - 3. Rust;
 - 4. Corrosion; or
 - 5. Mechanical breakdown.
- d. The most we will pay for loss of or damage in any one occurrence is the Limit Of Insurance for Outdoor Signs shown in the Declarations.
- e. The provisions of this Optional Coverage supersede all other references to outdoor signs in this Policy.

Signs attached to covered buildings are considered outdoor fixtures and covered up to \$1,000. They are covered as part of the building and included within the building limit of insurance. However, as discussed in Chapters 3 and 5, signs that are not attached to covered buildings are insured for up to \$2,500 for damage by a limited number of perils, which are identified on the form. This coverage for freestanding signs may not be sufficient, so the Businessowners policy offers additional insurance under this optional coverages section.

If outdoor signs are indicated in the declarations, coverage applies up to the limit of insurance specified on the declarations page for outdoor signs. Coverage applies to property owned by and property in the named insured's care, custody, and control. Outdoor signs coverage is provided on an all risk-type basis, excluding loss or damage caused by wear and tear, hidden or latent defect, rust, corrosion, or mechanical breakdown. In addition, general exclusions apply to loss or damage caused by government action, nuclear hazard, war, and military action.

Money and Securities

a. We will pay for loss of "money" and "securities" used in your business while at a bank or savings institution, within your living quarters or the living quarters of your partners or any employee (including a temporary or leased employee) having use and custody of the property, at the described premises, or in transit between any of these places, resulting directly from:

1. Theft, meaning any act of stealing;
2. Disappearance; or
3. Destruction.

The 1997 special form and the unendorsed subsequent forms cover money and securities at a bank or savings institution, within the named insured's living quarters, within the named insured's partner's living quarters, at an employee's (including a temporary or leased employee) living quarters when the employee or temporary or leased employee has custody of the property, at the described premises, or in transit between any of these places. Note that the 2013 edition clarifies that an employee includes temporary or leased employee. The coverage limit is selected by the insured, and a typical limit would be \$10,000. The limit of coverage, however, should be based on the maximum exposure the business has for loss of money and securities.

Coverage for money and securities includes theft, disappearance, or destruction. Theft, disappearance, or destruction is substantially broader coverage than the burglary and robbery coverage that was originally

provided in the 1997 standard form and currently incorporated in the Named Perils (BP 10 09) endorsement. Theft, disappearance, or destruction covers theft, disappearance, and destruction of property, whereas burglary and robbery coverage requires evidence of forcible entry (burglary) or threat of force (robbery).

For example, if a thief reaches into a cash register and steals money while the business owner is attending to another customer, coverage applies under money and securities since money and securities covers the perils of theft, disappearance, or destruction, and does not require threat of force.

Coverage would not apply if the business owner were insured under the Named Perils endorsement since that form covers only burglary or robbery. Theft, disappearance, or destruction is broader than burglary or robbery since it includes any act of stealing, disappearance, or destruction, so consequently it covers any type of theft, disappearance, or destruction, subject to policy exclusions.

The disappearance or destruction causes of loss are not defined in the policy, and, as such, must be given a broad interpretation. For example, an employee, while exiting an elevator, drops an envelope containing money that he was to take to the bank. When the elevator door reopens, the envelope is gone but the employee did not see anyone take it. In this case, coverage applies under disappearance.

Finally, the destruction cause of loss refers to a loss in which money or securities are destroyed. For example, if a fire damages the business and money is destroyed, coverage would apply under this option.

b. In addition to the Limitations and Exclusions applicable to Section I —Property, we will not pay for loss:

1. Resulting from accounting or arithmetical errors or omissions;
2. Due to the giving or surrendering of property in any exchange or purchase; or
3. Of property contained in any “money”-operated device unless the amount of “money” deposited in it is recorded by a continuous recording instrument in the device.

This paragraph excludes loss to money and securities resulting from accounting errors, the giving or surrendering of property in any exchange or purchase, or property contained in any money-operated device (e.g., vending machine) unless the amount of money deposited in it is recorded by a continuous recording instrument in the device.

c. The most we will pay for loss or damage in any one occurrence is:

1. The limit shown in the Declarations for Inside the Premises for “money” and “securities” while:
 - a. In or on the described premises; or
 - b. Within a bank or savings institution; and
2. The limit shown in the Declarations for Outside the Premises for “money” and “securities” while anywhere else.

d. With respect to this Optional Coverage, “premises” means the interior of that portion of any building you occupy in conducting your business.

This section limits the amount payable by the insurer to the amount indicated in the declarations (either inside the premises or outside the premises). Typical limits selected by many insureds are \$10,000 on premises and \$2,000 elsewhere. The amount of coverage should be dictated by the maximum amount of exposure at any time either inside or outside of the premises. The 2024 edition added paragraph d. which limits coverage related to money and securities to the interior of that portion of the building the insured occupies in conducting business. This is a reduction in coverage.

e. All loss:

1. Caused by one or more persons; or
2. Involving a single act or series of related acts; is considered one occurrence.

This limits loss or damage to one occurrence regardless if more than one person is involved or if a series of related acts is involved.

f. You must keep records of all “money” and “securities” so we can verify the amount of any loss or damage.

In order that the insurer can verify the amount of loss or damage, the named insured must keep accurate records of all money and securities kept on the insured premises.

Employee Dishonesty

a. We will pay for direct loss of or damage to Business Personal Property and “money” and “securities” resulting from dishonest acts committed by any of your employees acting alone or in collusion with other persons (except you or your partner) with the manifest intent to:

1. Cause you to sustain loss or damage; and also
2. Obtain financial benefit (other than salaries, commissions, fees, bonuses, promotions, awards, profit sharing, pensions or other employee benefits earned in the normal course of employment) for:
 - a. Any employee; or
 - b. Any other person or organization.

The insurer will pay the named insured for losses caused by the dishonest acts of an employee whether acting alone or in collusion with another, except a named insured or a partner, a restriction of coverage that is typical in employee dishonesty coverage forms. For example, if an employee, in collusion with another employee, steals money or property from a business, coverage applies. If, however, the employee acts in collusion with a partner, no coverage applies.

b. We will not pay for loss or damage:

1. Resulting from any dishonest or criminal act that you or any of your partners or “members” commit whether acting alone or in collusion with other persons.
2. Resulting from any dishonest act committed by any of your employees (except as provided in Paragraph a.), “managers” or directors:

- a. Whether acting alone or in collusion with other persons; or
 - b. While performing services for you or otherwise.
- 3. The only proof of which as to its existence or amount is:
 - a. An inventory computation; or
 - b. A profit and loss computation.
- 4. Caused by an employee if the employee had also committed theft or any other dishonest act prior to the effective date of this Policy and you or any of your partners, “members”, “managers”, officers, directors or trustees, not in collusion with the employee, learned of that theft or dishonest act prior to the policy period shown in the Declarations.

Coverage will not apply to dishonest acts of the named insured, partners, or members whether acting alone or in collusion. In addition, there is no coverage for loss of money or property if the only proof of its existence is an inventory computation or a profit and loss computation.

The 2013 edition introduced paragraph b.(4), which eliminates coverage for loss or damage caused by an employee if the employee had also committed theft or any other dishonest act prior to the effective date of the policy, and the insured learned of that theft or dishonest act prior to the policy period shown in the declarations. Partners, members, officers, directors, or trustees of the business are included as insureds. In effect, this means that if the insured—including partners, members, officers, directors, or trustees of the business—had knowledge of an employee’s theft or dishonest act prior to the policy’s effective date, no coverage would apply to any employee dishonesty loss associated with that employee. Although this revision resulted in a reduction of coverage, the 2013 edition introduced the Employee Dishonesty – Named Employee (BP 14 83) endorsement to cover scheduled employees that are known to have previously committed theft or any dishonest act prior to the effective date of the policy.

- c. The most we will pay for loss or damage in any one occurrence is the Limit Of Insurance for Employee Dishonesty shown in the Declarations.

This provision limits the amount payable to the limits of insurance for employee dishonesty as shown in the declarations.

d. All loss or damage:

1. Caused by one or more persons; or
2. Involving a single act or series of related acts; is considered one occurrence.

e. If any loss is covered:

1. Partly by this insurance; and
2. Partly by any prior cancelled or terminated insurance that we or any affiliate had issued to you or any predecessor in interest; the most we will pay is the larger of the amount recoverable under this insurance or the prior insurance.

We will pay only for loss or damage you sustain through acts committed or events occurring during the policy period.

Regardless of the number of years this Policy remains in force or the number of premiums paid, no Limit of Insurance cumulates from year to year or period to period.

Items d. and e. limit loss or damage to one occurrence regardless of whether more than one person is involved or a series of related acts is involved. Coverage applies only to loss or damage sustained through dishonest acts or events occurring during the policy period. Limits of insurance may not be added together from year to year in an effort to increase the insured's coverage.

For example, a business owner purchases \$10,000 of employee dishonesty coverage in policy period A. When the policy renews, the insured increases the coverage to \$15,000. An employee—without the business owner knowing—begins to take money from the payroll account in the last quarter of policy period A. The employee continues the scheme for another eight months (into the renewal policy period) before being discovered. During the eleven months of the scheme, the employee made off with \$22,000. The most that the business owner can recover under the two business owner policies is \$15,000—the *larger* of the coverage limits that applied during the time the scheme was perpetrated. The limits over the two policy periods are *not* added together just because the loss bridged the two policy periods.

f. This Optional Coverage is cancelled as to any employee immediately upon discovery by:

1. You; or
2. Any of your partners, “members”, “managers”, officers or directors not in collusion with the employee; of any dishonest act committed by that employee before or after being hired by you.

Employee dishonesty coverage automatically terminates for a dishonest employee when the named insured, partners, members, officers, or directors discover the dishonest act. As noted previously, employee thefts often continue over a period of time, with limited amounts of money being taken repeatedly. Once an insured discovers an employee theft or other dishonest act, coverage on those employees for future dishonest acts is canceled.

In addition, if an employer discovers that an employee was involved in a dishonest act before being hired, coverage is immediately cancelled for that employee. The term *dishonest act* is not defined in the form. Therefore, the discovery of any dishonesty on the part of a current employee that occurs during or prior to his employment by the insured could be used to invalidate coverage on the employee. This could have a potentially far-reaching impact on coverage, so insureds should check with their carrier about coverage immediately upon discovery of any dishonest actions of employees.

g. We will pay only for covered loss or damage sustained during the policy period and discovered no later than one year from the end of the policy period.

The insurance policy in force will pay an employee dishonesty loss caused by an employee that is discovered within one year from the end of the policy period. For example, if a policy is effective on January 1, 2024, and it expires on December 31, 2024, employee dishonesty losses occurring during the policy period are covered if discovered by December 31, 2025 (one year after expiration). Losses reported after that date are not covered under the policy. This provision functions similarly to the extended reporting provision of a claims-made liability policy.

h. If you (or any predecessor in interest) sustained loss or damage during the policy period of any prior insurance that you could have recovered under that insurance except that the time within which to discover loss or damage had expired, we will pay for it under this Optional Coverage, provided:

1. This Optional Coverage became effective at the time of cancellation or termination of the prior insurance; and
2. The loss or damage would have been covered by the Optional Coverage had it been in effect when the acts or events causing the loss or damage were committed or occurred.

If the named insured fails to discover an employee dishonesty loss during the one-year discovery period, coverage will be provided if the insured maintained continuous coverage and if the loss would have been covered by both the policy in effect when the acts occurred and the terms of this optional coverage. In other words, coverage would apply after one year under the new policy if the insured did not have a gap in coverage.

To illustrate how this may apply, assume a policy is written with Company A effective on January 1, 2024, and expiring on December 31, 2024 (the same policy term as noted in the previous example). Assume further that coverage was renewed for successive policy terms with a different insurer (Company B) without a gap in coverage. An employee steals money on several occasions between January 1, 2024, and December 31, 2024, but the losses are not discovered until January 30, 2026. In this example, the new insurer (Company B) would be liable even though the loss, which occurred during Company A's policy term, was not discovered until one month after the end of Company A's one-year discovery period. This would be true as long as there was no gap in coverage between the policies written by Company A and Company B, Company A's policy would have applied to the loss, and Company B's optional coverage for employee dishonesty also would have applied to the occurrence.

- i. The insurance under Paragraph h. above is part of, not in addition to, the Limit of Insurance applying to this Optional Coverage and is limited to the lesser of the amount recoverable under:

1. This Optional Coverage as of its effective date; or
2. The prior insurance had it remained in effect.

Paragraph i. specifies that in the event coverage is afforded based upon paragraph h., the limit of insurance is to be considered part of, and not in addition to, the current optional coverage. In addition, coverage is limited to the *lesser* of the amount recoverable under the optional coverage or prior insurance coverage. For example, if the previous employee dishonesty limit was \$25,000 (policy A) and the current employee dishonesty limit is \$50,000 (policy B), only \$25,000 of employee dishonesty coverage (policy A's limit) is available for any employee dishonesty loss that occurred during the term of policy A but was not discovered until after policy A's discovery period ended.

j. With respect to the Employee Dishonesty Optional Coverage in Paragraph G.3., employee means:

1. Any natural person:
 - a. While in your service and for the first 30 days immediately after termination of service; unless such termination is due to theft or any dishonest act committed by the "employee";
 - b. Whom you compensate directly by salary, wages or commissions; and
 - c. Whom you have the right to direct and control while performing services for you;
2. Any natural person who is furnished temporarily to you:
 - a. To substitute for a permanent "employee", as defined in Paragraph 3.j.(1), who is on leave; or
 - b. To meet seasonal or short-term work load conditions; while that person is subject to your direction and control and performing services for you.
3. Any natural person who is leased to you under a written agreement between you and a labor leasing firm, to perform duties related to the conduct of your business, but does not mean a temporary "employee" as defined in Paragraph 3.j(2)
4. Any natural person who is a former "employee", partner, "member", "manager", director or trustee retained by you as a

- consultant while performing services for you; or
5. Any natural person who is a guest student or intern pursuing studies or duties; or
 6. Any natural person who is your “manager”, director or trustee while:
 - a. Performing acts within the scope of the usual duties of an “employee”; or
 - b. Acting as a member of any committee duly elected or appointed by resolution of your board of directors or board of trustees to perform specific, as distinguished from general, directional acts on your behalf.

But “employee” does not mean:

any agent, broker, factor, commission merchant, consignee, independent contractor or representative of the same general character not specified in Paragraph 3.j,

k. If either you or we recover any property, with respect to covered loss or damage to property under this Optional Coverage, that party must give the other party prompt notice of such recovery. Any such recovery shall be applied, net of the expenses of such recovery as follows:

1. First, to you in satisfaction of your covered loss or damage in excess of the amount paid under this Optional Coverage;
2. Second, to us in satisfaction of the amount paid in lost settlement under this Optional Coverage;
3. Third, to you in satisfaction of any applicable deductible; and
4. Fourth, to you in satisfaction of any loss or damage to such property not covered under this Optional Coverage.

Recoveries do not include any recovery:

1. From insurance, suretyship, reinsurance, security or indemnity taken for our behalf; or
 2. Of original “securities” after duplicates of them have been issued.
- With respect to this Optional Coverage, Paragraph **E.6.**

Recovered Property Property Loss Condition of Section I -
Property does not apply.

The 2006 edition introduced subparagraph j. This paragraph provides a definition of *employee* within the context of the employee dishonesty coverage (G.3). Under this definition an employee includes any person in the insured's service or for thirty days after termination. The insured must compensate and have direct control of the person. The definition also includes temporary workers, leased employees, consultants who were former employees, directors, partners or trustees, and students or interns while inside any building the insured occupies. This definition represented a broadening of coverage over the 2002 program since the term *employee* was not defined and the 2006, 2010, and 2013 editions go beyond the dictionary definition of an employee to cover former employees (up to thirty days), consultants, leased workers, and student interns.

The 2024 edition made further revisions to the employee dishonesty optional coverage in two primary areas. One area relates to the definition of an employee and the second area relates to loss settlement.

In relation to the definition of an employee, coverage applies to employees for the first 30 days immediately after termination of service. The prior edition did not use the word *immediately*. This 30-day extension does not apply in the event termination of service is due to theft or any dishonest act committed by the terminated employee. This is a reduction in coverage. Temporary employees are covered when they are subject to the insured's direction and control. The prior edition did not address the supervision and control aspect of temporary workers. This is a reduction of coverage. Finally, coverage is extended to guest students and interns *outside* of the insured's place of business. The prior edition affirmatively excluded outside coverage. This is a broadening of coverage.

The second area addressed in the revised form relates to loss settlement. It requires that both the insured and insurer give prompt notice to each other in the event either party recovers lost or damaged property. Recoveries are then applied first to the named insured to recover their covered loss in excess of the amount paid under the policy and then to the insurer in

satisfaction of amounts paid in settlement of the claim. This revision replaces the form's Section I – Property Loss Condition E.6.

Equipment Breakdown Protection Coverage

a. We will pay for direct loss of or damage to Covered Property caused by or resulting from a mechanical breakdown or electrical failure to pressure, mechanical or electrical machinery and equipment.

Mechanical breakdown or electrical failure to pressure, mechanical or electrical machinery does not mean any:

1. Malfunction including but not limited to adjustment, alignment, calibration, cleaning or modification;
2. Leakage at any valve, fitting, shaft seal, gland packing, joint or connection;
3. Damage to any vacuum tube, gas tube, or brush; or
4. The functioning of any safety or protective device.

b. Paragraphs A.4.a.(1) and A.4.a.(2), Limitations, do not apply to this Optional Coverage.

c. With respect to the coverage provided by this Optional Coverage, the following exclusion in Paragraph B. Exclusions do not apply:

1. Paragraph B.2.a. Electrical Apparatus;
2. Paragraph B.2.d. Steam Apparatus; and
3. Paragraph B.2.1.(6) Mechanical Breakdown.

d. With respect to the coverage provided by this Optional Coverage, Paragraph G1.c.(5) of the Outdoor Signs Optional Coverage does not apply.

e. If a dollar deductible is shown in the Declarations for this Optional Coverage, we will first subtract the applicable deductible amount from any loss we would otherwise pay. We will then pay the amount of loss in excess of the applicable deductible up to the applicable limit for this coverage.

If no optional deductible is chosen for this Optional Coverage, the Property Deductible shown in the Declarations applies.

f. With respect to Additional Coverage 5.f. Business Income and 5.g. Extra Expense, if the 72-hour time period in the definition of “period of restoration” (hereinafter referred to as time deductible) is amended for this Optional Coverage as shown in the Declarations, we will not

pay for any Business Income loss that occurs during the consecutive number of hours shown as the time deductible in the Declarations immediately following a mechanical breakdown or electrical failure. If a time deductible is shown in days, each day shall mean 24 consecutive hours.

With respect to the coverage provided by this Optional Coverage, any time deductible shown in the Declarations for Equipment Breakdown Protection Coverage supersedes any time deductible otherwise applicable to the Business Income coverage provided by this Policy.

g. With respect to the coverage provided by this Optional Coverage, Paragraph H. Property Definitions is amended as follows:

1. "Computer" means:

- a. Programmable electronic equipment that is used to store, retrieve and process data; and
- b. Associated peripheral equipment that provides communication, including input and output functions such as printing and auxiliary functions such as data transmission.
"Computer" includes those used to operate production-type machinery or equipment.

h. Whenever any covered pressure, mechanical or electrical machinery and equipment is found to be in, or exposed to, a dangerous condition, any of our representatives may suspend coverage provided by this Optional Coverage for loss from a mechanical breakdown or electrical failure to that pressure, mechanical or electrical machinery and equipment.

However, coverage provided by this Optional Coverage may be reinstated for loss from a mechanical breakdown or electrical failure to that pressure, mechanical or electrical machinery and equipment if the reasons for the suspension are found by any of our representatives to no longer exist.

We may suspend or reinstate this Optional Coverage by mailing or delivering a written notification regarding the suspension or reinstatement to:

1. Your last known address; or
2. The address where the pressure, mechanical or electrical machinery and equipment is located.

This notification will indicate the effective date of the suspension

or reinstatement.

If the coverage provided by this Optional Coverage is not reinstated, you will get a pro rata refund of premium. But the suspension will be effective even if we have not yet made or offered a refund.

The 2010 edition renamed the mechanical breakdown optional coverage, incorporating the language of the Equipment Breakdown Protection Coverage endorsement (BP 04 59) into the optional coverage. This optional coverage insures against direct loss of or damage to covered property caused by or resulting from a mechanical breakdown or electronic failure to pressure, mechanical, or electrical machinery and equipment. Examples of covered losses under the equipment breakdown protection coverage include the breakdown of electrical apparatus (generators, transformers, cables), steam apparatus (turbines, boilers, pipes) and mechanical equipment (heating and air conditioning equipment, refrigeration equipment, copiers, outdoor signs). Although the Businessowners policy automatically covers this property for certain causes of loss (e.g., fire, lightning, or windstorm), no coverage applies for equipment breakdown, hence the need for this optional coverage.

Mechanical breakdown or electrical failure to pressure, mechanical, or electrical machinery does not mean any malfunction, including but not limited to adjustment, alignment, calibration, cleaning, or modification; leakage at any valve, fitting, shaft seal, gland packing, joint, or connection; damage to any vacuum tube, gas tube, or brush; or the functioning of any safety or protective device.

The Businessowners form also permits the insured to choose deductible options in two areas. First, the insured may elect a fixed dollar deductible applicable to this optional coverage. In the event no deductible is chosen, the coverage form's deductible applies. And second, insureds may increase or decrease the seventy-two-hour time deductible related to business income with respect to equipment breakdown.

Like prior forms, if any covered pressure, mechanical, or electrical machinery and equipment is found to be in a dangerous condition, coverage may be temporarily suspended by a representative of the insurer. In such

cases, the insurer must deliver or mail a written notice indicating the date of suspension to the named insured's last known address or to the address where the pressure, mechanical, or electrical machinery and equipment is located.

Since the language of the Equipment Breakdown Protection Coverage endorsement (BP 04 59) has been incorporated into the optional coverage, BP 04 59 has been withdrawn from the Businessowners program. Incorporation of this language into the policy as an optional coverage represents a broadening of coverage.

Property of Robert Richardson,

Chapter 8 Property Definitions

This chapter addresses the definitions found in the property part of the Businessowners policy. Definitions are extremely important in contract interpretation and analysis. They clarify terms that are used in the policy, and coverage may be granted or denied based on whether a piece of property falls within a specific definition or not. Terms defined in the policy may or may not have the same meaning as given in the dictionary. In fact, if a particular term found in the policy is not defined, that too can have an effect on coverage. Generally, in those cases, the common dictionary definition is used and, depending on the context within the policy, coverage may be broadened.

Over the years, the number of definitions found in policies has increased. This is usually due to litigation involving a policy term that was considered ambiguous. Consequently, ISO and various independently filed insurers have included additional terms and definitions to minimize such allegations.

Many definitions are listed in a separate section but, like exclusions, others are found throughout the form. For example, the terms *covered property* and *buildings* are defined in the coverage section, while the terms *burglary* and *robbery* are defined in the Named Perils endorsement.

The 2002 edition introduced six definitions (computer, counterfeit, electronic media and records, manager, member, and stock) to complement the six definitions (money, operations, period of restoration, pollutants, securities, and valuable papers and records) that were included in the 1997 program. The 2006 edition renamed or revised three definitions (counterfeit money, electronic data, and valuable papers and records) and introduced a definition—fungi. These changes were for clarification purposes and had no effect on coverage. The Businessowners 2010 edition made no changes to the property definitions.

The 2013 edition introduced one substantive revision in section 12.c.(2) to the water damage definition. Water damage now includes an accidental

discharge or leakage of water or waterborne material as the direct result of the breaking apart or cracking of a water or sewer pipe that is located off the described premises and is part of municipal potable water system (drinking water) or municipal sanitary sewer system (waste water system) if the breakage or cracking is caused by wear and tear. This represents a broadening of coverage. The 2013 edition also included in this revision the word *compliance* in the definition *period of restoration* to reinforce original intent. This has no impact on coverage.

The 2024 edition made one minor revision to *water damage* under the specified causes of loss section (H.12.c.(2)). Water damage now references the section of the pipe connected to a water supply or sewer system and broadens coverage to potable water supply systems and sanitary supply systems operated by a public or private utility service provided.

Computer

1. “Computer” means:

- a. Programmable electronic equipment that is used to store, retrieve and process data; and
- b. Associated peripheral equipment that provides communication, including input and output functions such as printing and auxiliary functions such as data transmission.

“Computer” does not include those used to operate production-type machinery or equipment.

Computers were defined and coverage was introduced in the 2002 form. Under the 1997 program, coverage was provided by endorsement.

Computer means programmable electronic equipment that is used to store, retrieve, and process data. Associated peripheral equipment (e.g., printers and scanners) is also covered. This definition does not cover computers used to operate production-type machinery. For example, if a die cutting machine were computer controlled, coverage would not apply to the computer equipment to operate the die cutter. However, coverage would apply to computers and associated peripherals used by a business in its day-to-day operations or computers and associated peripherals held as stock for

sale. Note that coverage for computers used with production-type equipment may be covered under the optional coverage for mechanical breakdown.

Counterfeit Money

2. “Counterfeit money” means an imitation of “money” that is intended to deceive and to be taken as genuine.

The 2002 form introduced the definition of *counterfeit*, which was renamed *counterfeit money* in the 2006 edition. Its purpose, when incorporated into the additional coverage for money orders and counterfeit money, is to limit an insurer’s loss to an imitation of an actual valid original that is intended to deceive and to be taken as the original. This definition reflects the concerns insurers have with the advent of new computer and printing technology that make counterfeiting a relatively low cost endeavor. The renaming of the definition has no effect on coverage.

Electronic Data

3. “Electronic data” means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a “computer” or device connected to it, which enable the “computer” or device to receive, process, store, retrieve or send data.

The 2002 form introduced the definition of *electronic media and records*, which was renamed *electronic data* in the 2006 edition. The form defines *electronic data* as information, facts, or computer programs stored, created, used, or transmitted to or from computer software (including systems and applications), or on hard drives, CD-ROMs, tapes, drives, or any other

storage device used with electrically controlled equipment. The revised definition reflects the broad scope of electronic data. Coverage applicable to this definition is found in the electronic data additional coverage.

Fungi

4. “Fungi” means any type or form of fungus, including mold or mildew, and any mycotoxins, spores, scents or by-products produced or released by “fungi”.

The 2006 form introduced the definition of *fungi*. This definition was previously included in the Limited Fungi or Bacteria Coverage endorsement (BP 05 76) but now is incorporated into the Businessowners policy as an additional coverage. Fungi includes mold, mildew, and any mycotoxins (product of a metabolic process), spores (reproductive unit of a fungus), scents (distinctive odors), and other by-products of fungi. Coverage applicable to this definition is found in the additional coverage for fungi, with a limitation of \$15,000, when caused by certain specified causes of loss, and without a limitation if caused by the perils of fire and lightning.

Manager

5. “Manager” means a person serving in a directorial capacity for a limited liability company.

Member

6. “Member” means an owner of a limited liability company represented by its membership interest, who also may serve as a “manager”.

The definitions for *manager* and *member* reflect the possibility that a Businessowners policy may be written to cover limited liability companies.

Money

7. “Money” means:

- a. Currency, coins and bank notes in current use and having a face value; and
- b. Traveler’s checks, register checks and money orders held for sale to the public.

The policy defines *money* as currency, coins, and bank notes in current use and having a face value; and travelers checks, register checks, and money orders held for sale to the public. Obviously an insured’s collection of Confederate currency would not fall within that definition and would not be covered.

Operations

8. “Operations” means your business activities occurring at the described premises.

This term is especially important in business income and extra expense claims. The term *operations*, as used in this policy, means the named insured’s business activities at the described premises.

Period of Restoration

9. “Period of restoration”:

- a. Means the period of time that:
 - 1. Begins:
 - (a) 72 hours after the time of direct physical loss or damage for Business Income coverage; or
 - (b) Immediately after the time of direct physical loss or damage for Extra Expense coverage; caused by or resulting from any Covered Cause of Loss at the described premises; and
 - 2. Ends on the earlier of:
 - (a) The date when the property at the described premises should be repaired, rebuilt or replaced with

reasonable speed and similar quality; or

(b) The date when business is resumed at a new permanent location.

- b. Does not include any increased period required due to the enforcement of or compliance with any ordinance or law that:
1. Regulates the construction, use or repair, or requires the tearing down of any property; or
 2. 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”.
- The expiration date of this Policy will not cut short the “period of restoration”.

The period of restoration limits the time during which indemnity for business income losses is payable. It begins seventy-two hours after the time of direct physical loss for business income coverage or immediately for extra expense coverage. The period of restoration is triggered by a covered cause of loss at the described premises. The period of restoration ends on the date when the property at the described premises 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 is sooner.

Since the period of restoration measures the amount of loss that will be paid, it is commonly at the center of claim disputes. In particular, the phrase “should be repaired, rebuilt or replaced with reasonable speed and similar quality” often triggers debate. The actual time to rebuild or replace damaged property can vary considerably, depending upon conditions at the time of the loss. Factors such as weather conditions, transportation, labor, and availability of materials often affect the time needed to restore the property and reinstitute operations. Consequently, these factors must be considered in evaluating the period of restoration. Those that are beyond the insured’s control should not adversely reduce the period of restoration.

However, the insurer will subtract the time taken by unnecessary delays on the part of the insured business owner from the period of restoration during which business income will be paid. So, if the business owner fails to obtain

proposals for building repairs in a timely fashion, or if the insured refuses to let repairs begin as soon as the contractor can start, the delay will reduce the period of restoration.

In addition, the period of restoration does not include any additional time required due to the enforcement of or compliance with any ordinance or law that regulates construction, use, or repair; requires the tearing down of any property; or requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, or in any way respond to or assess the effects of pollutants. The 2013 edition added the word *compliance* in the definition of *period of restoration* to reinforce original intent. This has no impact on coverage.

The period of restoration does not end with the expiration date of the policy. For example, if the period of restoration begins one month before policy expiration, benefits are paid until the period of restoration ends.

Pollutants

10. “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.

This definition of *pollutants* is broad. Its purpose is to set forth the wide range of conditions, reactions, and processes that may be categorized under this definition. Although this definition is far reaching, the Businessowners property coverage sections include a \$10,000 limit for pollution cleanup and removal. (See Additional Coverages 5.h.)

Securities

11. “Securities” means negotiable and non-negotiable instruments or contracts representing either “money” or other property and includes:

- a. Tokens, tickets, revenue and other stamps (whether represented by actual stamps or unused value in a meter) in current use; and

- b. Evidences of debt issued in connection with credit or charge cards, which cards are not issued by you; but does not include “money.”

Securities, negotiable, and non-negotiable instruments or contracts representing either money or other property include tokens, tickets, revenue, and other stamps (whether represented by actual stamps or unused value in a meter) in current use. Also included are evidences of debt issued in connection with credit or charge cards (e.g., charge slips), which are not issued by the named insured. This definition does not include *money*.

Specified Causes of Loss

12. “Specified causes of loss” means the following:

Fire; lightning; explosion; windstorm or hail; smoke; aircraft or vehicles; riot or civil commotion; vandalism; leakage from fire extinguishing equipment; sinkhole collapse; volcanic action; falling objects; weight of snow, ice or sleet; water damage.

- a. Sinkhole collapse means the sudden sinking or collapse of land into underground empty spaces created by the action of water on limestone or dolomite. This cause of loss does not include:
 - 1. The cost of filling sinkholes; or
 - 2. Sinking or collapse of land into manmade underground cavities.
- b. Falling objects does not include loss of or damage to:
 - 1. Personal property in the open; or
 - 2. The interior of a building or structure, or property inside a building or structure, unless the roof or an outside wall of the building or structure is first damaged by a falling object.
- c. Water damage means:
 - 1. Accidental discharge or leakage of water or steam as the direct result of the breaking apart or cracking of any part of a system or appliance (other than a sump system including its related equipment and parts) containing water or steam; and

2. Accidental discharge or leakage of water or waterborne material as the direct result of the breaking apart or cracking of a water or sewer pipe caused by wear and tear when the pipe is located off the described premises and is connected to or is part of a potable water supply system or sanitary sewer system, operated by a public or private utility service provider pursuant to authority granted by the state or government subdivision where the described premises are located.

But water damage does not include loss or damage otherwise excluded under the terms of the Water Exclusion. Therefore, for example, there is no coverage in the situation in which discharge or leakage of water results from the breaking apart or cracking of a pipe which was caused by or related to weather-induced flooding, even if wear and tear contributed to the breakage or cracking. As another example, and also in accordance with the terms of the Water Exclusion, there is no coverage for loss or damage caused by or related to weather-induced flooding which follows or is exacerbated by pipe breakage or cracking attributable to wear and tear.

To the extent that accidental discharge or leakage of water falls within the criteria set forth in Paragraph c.(1) or c.(2) of this definition of “specified causes of loss”, such water is not subject to the provisions of the Water Exclusion which preclude coverage for surface water or water under the ground surface.

This definition narrows coverage for certain losses by restricting the covered causes of loss that trigger coverage. This definition lists the fourteen specific causes of loss that trigger coverage in certain circumstances. For example, under the additional coverage for collapse, loss is triggered if caused by the *specified causes of loss* as defined in this section. Therefore, collapse of a building caused by the weight of snow, ice, or sleet would be covered, but collapse of that same building would not be covered if earth movement caused it. In addition, *sinkhole collapse*, *falling objects*, and *water damage* are defined.

The sinkhole collapse definition limits coverage to loss or damage to covered property caused by the sudden sinking or collapse of land into underground empty spaces created by the action of water on limestone or dolomite. It limits coverage only to sinkhole collapse and does not apply to loss or damage caused by earthquake or mine subsidence. These are separate perils that may be insured by endorsement or through the purchase of a mine subsidence policy. Note that if a loss is determined to be caused by sinkhole collapse, with no damage to covered property, no coverage applies to the cost of filling or repairing the sinkhole. For example, if a sinkhole appears on the insured's lawn or parking space, with no damage to the insured's building, coverage will not apply to repair the sinkhole.

The falling objects definition excludes losses caused by falling objects to personal property in the open. In addition, coverage for the interior of the building and personal property apply only if the falling object damages the roof or outside wall.

The water damage definition limits water damage to loss or damage caused by accidental discharge or leakage of water or steam as the direct result of the breaking apart or cracking of any part of a system or appliance containing water or steam. For example, if a water pipe broke, coverage would apply to the ensuing water damage. Water damage from a sump system (used to pump water out of sub-basements) including its related equipment and parts is not covered.

The 2013 edition added paragraph 12.c.(2) to the water damage definition. Water damage now includes an accidental discharge or leakage of water or waterborne material as the direct result of the breaking apart or cracking of a water or sewer pipe that is located off the described premises and is part of municipal potable water system (drinking water) or municipal sanitary sewer system (waste water system) if the breakage or cracking is caused by wear and tear. For example, if a municipal water pipe located in a public street breaks apart or cracks due to wear and tear, and that water inundates the business owner's building and damages covered property, coverage applies. The subject of coverage being applicable to a property inundated by an off-premises accidental discharge has been the source of much debate. Many jurisdictions have found coverage for such situations. The

introduction of this language affirmatively grants this coverage. This represented a broadening of coverage.

The 2024 edition further revised the water damage definition in two areas. First, reference is now made to the section of the pipe that is connected to the water supply or sewer system. Second, reference to municipal systems is replaced with potable water supply systems and sanitary supply systems operated by a public or private utility service under the authority of a state or local government. This represents a broadening of coverage.

Note that the water damage definition provides two examples emphasizing that water damage is not covered if the discharge or leakage is related to weather-induced flooding *or* pipe breakage or cracking that is exacerbated by weather-induced flooding, even if caused by wear and tear.

Stock

13. “Stock” means merchandise held in storage or for sale, raw materials and in-process or finished goods, including supplies used in their packing or shipping.

Stock, first defined in the 2002 form, is merchandise held in storage or for sale, raw materials, and in-process or finished goods, including supplies used in their packing or shipping.

Valuable Papers and Records

14. “Valuable papers and records” mean inscribed, printed, or written:

- a. Documents;
- b. Manuscripts; and
- c. Records;

including abstracts, books, deeds, drawings, films, maps, or mortgages.

But “valuable papers and records” does not mean “money” or “securities”.

The definition of *valuable papers and records* includes inscribed, printed, or written documents; manuscripts; and records including abstracts, books, deeds, drawings, films, maps, and mortgages. Valuable papers and records do not include money and securities. Coverage applicable to valuable papers and records is found in the valuable papers and records coverage extension, with limitations of \$10,000 on premises and \$5,000 off premises.

Property of Robert Richardson,

Chapter 9 Business Liability Coverage

The Businessowners policy is written with a liability coverage section that includes two primary coverages: business liability and medical expenses. Business liability pays third parties (not an insured, but a claimant) sums the insured is legally obligated to pay because of bodily injury or property damage. It is typically triggered by an allegation of a negligent act upon the part of an insured. The business liability coverage also provides a legal defense. Medical expense coverage pays third parties for their medical expenses incurred at the insured premises or arising out of the insured's operations resulting from an accident. Medical expenses are paid regardless of fault. Business liability and medical expense coverage described in this chapter may be excluded or limited by other provisions within the Businessowners policy.

The 2010 edition retained all the 2006 edition revisions and made minor editorial revisions for clarity which have been carried forward to subsequent policy editions.

Insuring Agreement

Business Liability

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury", "property damage", "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury", "property damage", "personal injury and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate

any “occurrence” or any offense and settle any claim or “suit” that may result. But:

1. The amount we will pay for damages is limited as described in Paragraph D. – Liability And Medical Expenses Limits Of Insurance in Section II – Liability; and
2. Our right and duty to defend end when we have used up the applicable Limit of Insurance in the payment of judgments or settlements or medical expenses.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Paragraph f. Coverage Extension – Supplementary Payments.

The preceding paragraphs comprise the insuring agreement of business liability coverage. The insurer will pay those sums that the insured becomes legally obligated to pay as damages because of *bodily injury*, *property damage*, *personal injury*, or *advertising injury*. Claim examples of these terms include bodily injuries arising from a slip-and-fall due to the insured’s failure to maintain the insured premises or due to the insured’s defective product, property damage arising from a fire due to a contractor’s negligent use of a propane torch, personal injury arising from the detainment of a customer for suspicion of shoplifting, and advertising injury arising from the insured’s use of another’s advertisement idea in an advertisement. These terms are defined and reviewed in Chapter 13.

The 2010 edition added the phrase “or any offense” within the insuring agreement to more accurately represent a personal and advertising injury claim. The introduction of this phrase had no impact on coverage.

Coverage under this insuring agreement is triggered if the insured is determined to be legally obligated based upon the facts of an incident. Although not defined within the policy, *legally obligated* is held to be broad in scope and encompasses unintentional torts, intentional torts, statutes, and common or contract law. The insurer will pay damages if the insured is found to be legally obligated and the actions that gave rise to the obligation fall within the scope of the policy.

In addition to the duty to pay damages, the insurer has a duty to defend any lawsuit seeking damages. However, the insurer has no duty to defend the insured against any bodily injury, property damage, or personal or advertising injury claim to which the insurance does not apply. For example, an insurer would have no duty to defend an insured or to pay damages if an insured intentionally struck and injured another person. Coverage for this act would be denied because the result is an expected or intended injury (see Chapter 10). However, if the insured accidentally struck and injured a person, the insurer would have a duty to defend and pay sums if the insured were found to be legally obligated.

Thus, there are two important and separate duties required under a liability policy: the duty to defend and the duty to indemnify.

A distinct and separate obligation to defend is created apart from the insurer's duty to provide coverage. This duty is broad and extends to claims that are clearly, or even arguably, within the scope of coverage. Any doubts regarding the insurer's duty to defend under the policy must be resolved in favor of the insured. As long as a claim falls potentially within the scope of coverage and the policy is potentially in effect on the date of the loss, the insurer has a duty to defend. If an insurer refuses to defend at the outset it does so at its own peril and exposes itself to possible bad faith punitive damage penalties.

The determination of whether a defense must be provided is based upon the allegations set forth in the complaint and the terms of the policy. If the complaint includes multiple counts, the insurer is required to defend the insured until all counts that fall within the policy parameters have been settled.

Under the duty to indemnify, the insurer agrees to indemnify its insureds against liability for bodily injury and property damage. However, the duty to indemnify is narrower than the duty to defend and is applicable only when the insured is liable on the basis of conduct that falls within the scope of coverage.

Finally, no other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under the supplementary

payments coverage extension. For example, damages that arise from bodily injury, property damage, or personal or advertising injury are covered under the business liability coverage grant. Other amounts payable for claim-related costs might be covered under supplemental payments.

b. This insurance applies:

1. To “bodily injury” and “property damage” only if:
 - a. The “bodily injury” or “property damage” is caused by an “occurrence” that takes place in the “coverage territory”;
 - b. The “bodily injury” or “property damage” occurs during the policy period; and
 - c. Prior to the policy period, no insured listed under Paragraph C.1. Who Is An Insured and no “employee” authorized by you to give or receive notice of an “occurrence” or claim, knew that the “bodily injury” or “property damage” had occurred, in whole or in part. If such a listed insured or authorized “employee” knew, prior to the policy period, that the “bodily injury” or “property damage” occurred, then any continuation, change or resumption of such “bodily injury” or “property damage” during or after the policy period will be deemed to have been known before the policy period.
2. To “personal and advertising injury” caused by an offense arising out of your business, but only if the offense was committed in the “coverage territory” during the policy period.

Coverage for bodily injury and property damage applies if caused by an occurrence that takes place in the coverage territory and within the policy period. Coverage for personal and advertising injury applies if caused by an offense arising out of the insured’s business. Note that the Businessowners policy excludes coverage for certain personal and advertising injury if the business owner is in the advertising, broadcasting, publishing, or Internet publishing business. This topic is further addressed in Chapter 13.

The 2002 form added provision (c), which states that this insurance applies only if no insured or employee authorized to receive notice of an occurrence or claim knew prior to the policy period that bodily injury or property damage had occurred. In other words, if an insured or authorized

employee had knowledge of a claim, any continuation of the bodily injury or property damage would be considered to have been known before the policy period and therefore not covered:

c. “Bodily injury” or “property damage” which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph C.1. Who Is An Insured or any “employee” authorized by you to give or receive notice of an “occurrence” or claim, includes any continuation, change or resumption of “bodily injury” or “property damage” after the end of the policy period.

This provision mirrors the language found in b. (1) (c). The provision restates that coverage will apply only to bodily injury or property damage that occurs during the policy period and was not, prior to the policy period, known to have occurred to any insured or authorized employee.

d. “Bodily injury” or “property damage” will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph C.1. Who Is An Insured or any “employee” authorized by you to give or receive notice of an “occurrence” or claim:

1. Reports all, or any part, of the “bodily injury” or “property damage” to us or any other insurer;
2. Receives a written or verbal demand or claim for damages because of the “bodily injury” or “property damage”; or
3. Becomes aware by any other means that “bodily injury” or “property damage” has occurred or has begun to occur.

This provision specifies when a bodily injury or property damage claim will be deemed to have been known to occur. First, the injury or damage is reported to the insurer. Second, an insured or another authorized person receives written or verbal claim for damages due to injury or property damage. And third, an insured or other authorized person becomes aware of bodily injury or property damage by any other means (e.g., news broadcast, print media, Internet posting).

The purpose of provisions 1. b., c., and d. is to eliminate *continuous injury* claims, that is, claims that span more than one policy period. Before the introduction of this language, courts commonly held that injury or damage known by the insured prior to the beginning of the policy period might be covered by the policy if the insured's legal liability had not been established prior to the policy's effective date. Under the current policy language, once an insured or other specified person—such as an employee authorized to give notice of loss—gains knowledge of injury or damage, coverage will not apply to bodily injury or property claims that arise from the occurrence in subsequent policy years.

Coverage still would apply under the policy term in which the original damage or injury occurred, but the possibility of having successive policies apply to the claim is now eliminated.

e. Damages because of “bodily injury” include damages claimed by any person or organization for care, loss of services or death resulting at any time from the “bodily injury”.

Damages include bodily injury claimed by any person or organization for care, loss of services, or death resulting at any time from the bodily injury. The term *bodily injury* is defined in the liability definitions section.

f. Coverage Extension – Supplementary Payments

1. We will pay, with respect to any claim we investigate or settle, or any “suit” against an insured we defend:
 - a. All expenses we incur.

The insurer pays all expenses incurred by the insurer in adjusting claims. For example, if a court of law finds a business owner liable for his policy limit of \$1,000,000, and the insurer incurred \$50,000 to investigate and litigate the lawsuit, the \$50,000 is paid in addition to the \$1,000,000 policy limit as a supplementary payment.

(b) Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which

Business Liability Coverage for “bodily injury” applies. We do not have to furnish these bonds.

The insurer will pay up to \$250 for the cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which business liability coverage for bodily injury applies. This supplementary payment has limited application because damages arising from many uses of *autos*, a defined term on the policy, are excluded from coverage. However, the supplementary payment may be triggered if a court requires a bond after a business owner is involved in an accident while driving a nonowned auto on insured premises or when an accident involves another type of vehicle, such as mobile equipment. If a bail bond is needed, the insurer does not have to furnish the bond but can purchase it from another insurer or from a bonding company.

(c) The cost of bonds to release attachments, but only for bond amounts within our Limit of Insurance. We do not have to furnish these bonds.

The insurer will also pay premiums on bonds to release attachments. For example, a court may attach a vehicle of an out-of-state resident to guarantee that the out-of-state resident will appear in court. In this instance, the business owner can have his vehicle released by providing the court with a release of attachment bond. The bond’s limit may not exceed the liability limit of insurance. Like the bail bond example, the insurer is not required to issue the bond itself but may purchase one from another insurer or from a bonding company.

(d) All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or “suit”, including actual loss of earnings up to \$250 a day because of time off from work.

The insurer will pay up to \$250 per day to reimburse the insured for time taken off from work and for expenses incurred assisting the insurer in the defense of a claim. For example, if the insurer requested the business owner to attend a trial, the insurer will pay up to \$250 per day for loss of earnings and travel expenses.

(e) All court costs taxed against the insured in the “suit”. However, these payments do not include attorneys’ fees or attorneys’ expenses taxed against the insured.

All court costs taxed against the insured in the suit are covered. For example, a court may assess the insured filing fees to file documents related to the legal proceedings. In this case, the insurer will pay these costs. The 2010 edition inserted the word *court* in the first sentence of this paragraph to reinforce the original intent of covering only court costs. This intent is further reinforced with the addition of the second sentence indicating that these court payments do not include attorney fees or attorney expenses taxed against the insured. The introduction of this language had no impact on coverage.

(f) Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the Limit of Insurance, we will not pay any prejudgment interest based on that period of time after the offer.

Prejudgment interest, if awarded by the court, is covered and accrues from the date of the injury or property damage. However, if the insurer offers to pay the limit of insurance and the claimant rejects that offer, prejudgment interest payments will not accrue after the time that offer was made.

(g) All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within our Limit of Insurance.

These payments will not reduce the limit of liability.

Interest accrues on a verdict from the time of judgment until the amount is paid, the insurer has offered to pay, or the funds have been deposited with a court. The seven supplementary payments that this provision outlines are in addition to the limits of insurance.

(2) If we defend an insured against a “suit” and an indemnitee of the insured is also named as a party to the “suit”, we will defend that indemnitee if all of the following conditions are met:

- a. The “suit” against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an “insured contract”;
- b. This insurance applies to such liability assumed by the insured;
- c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same “insured contract”;
- d. The allegations in the “suit” and the information we know about the “occurrence” are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
- e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such “suit” and agree that we can assign the same counsel to defend the insured and the indemnitee; and
- f. The indemnitee:
 - i. Agrees in writing to:
 - i. Cooperate with us in the investigation, settlement or defense of the “suit”,
 - ii. Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the “suit”;
 - iii. Notify any other insurer whose coverage is available to the indemnitee; and
 - iv. Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
 - ii. Provides us with written authorization to:
 - i. Obtain records and other information related to the “suit”; and
 - ii. Conduct and control the defense of the indemnitee in such “suit”.

An indemnitee is the individual or business named in a contract of indemnity that is to be indemnified or protected by the other party (the indemnitor). For example, a tenant business owner’s lease agreement may require a tenant (the indemnitor) to indemnify the building owner (the indemnitee) for certain loss exposures. This policy provision says that if the

tenant business owner is defended and the building owner (the indemnitee) is also named as a party to the suit, the insurer will also defend the building owner as an indemnitee if all the conditions indicated in a. through f. are met. Most of these points mirror the duties and responsibilities of the named insured tenant business owner.

(3) So long as the above conditions in Paragraph (2) are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provision of Paragraph B.1.b.(2) Exclusions in Section II – Liability, such payments will not be deemed to be damages for “bodily injury” and “property damage” and will not reduce the limits of insurance.

If all of the cited conditions are met by the indemnitee, the insurer will pay attorney fees incurred in the indemnitee's defense, necessary litigation expenses incurred by the insurer, and necessary litigation expenses incurred by the indemnitee as supplementary payments. Since these expenses are not considered damages, their payment does not erode the limit of liability.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

- a. We have used up the applicable Limit of Insurance in the payment of judgments or settlements; or
- b. The conditions set forth above, or the terms of the agreement described in Paragraph (2)(f) above, are no longer met.

The insured's obligation to pay supplementary payments ends when the limit of insurance is exhausted or the indemnitee fails to comply with the conditions in f.

Medical Expenses

- a. We will pay medical expenses as described below for “bodily injury” caused by an accident:

1. On premises you own or rent;
2. On ways next to premises you own or rent; or
3. Because of your operations; provided that:
 - a. The accident takes place in the “coverage territory” and during the policy period;
 - b. The expenses are incurred and reported to us within one year of the date of the accident; and
 - c. The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

In this clause the insurer agrees to pay medical expenses for bodily injury caused by an accident if the bodily injury occurs on the named insured’s premises, rental location, or on ways next to these locations. Coverage also applies to the named insured’s operations. The accident causing bodily injury must take place in the coverage territory during the policy period. The accident must also be reported within one year of the date of the accident, and the injured person must agree to submit to an examination as often as the insurer reasonably requires.

b. We will make these payments regardless of fault. These payments will not exceed the Limit of Insurance of Section II – Liability. We will pay reasonable expenses for:

1. First aid administered at the time of an accident;
2. Necessary medical, surgical, X-ray and dental services, including prosthetic devices; and
3. Necessary ambulance, hospital, professional nursing and funeral services.

Unlike business liability (A.1.) coverage, which requires the insured to be legally obligated for sums to be paid, medical expenses are paid regardless of fault. For example, if a customer injures himself through his own carelessness (choosing to cross a wet floor that is marked off), medical expense coverage will be provided. However, under business liability, that same customer would be paid only if it were determined that the insured was legally liable for his injuries.

In the medical payments coverage part, medical expenses are paid up to the medical expense limit listed on the declarations page. Eligible medical expenses include first aid administered at the time of an accident; necessary medical, surgical, X-ray, and dental services, including prosthetic devices; and necessary ambulance, hospital, professional nursing, and funeral services.

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Chapter 10 Businessowners

Liability Exclusions

Exclusions are provisions that state what the insurer does not intend to cover. Although these liability exclusions are listed in a separate section, exclusionary language is found throughout the policy. Such exclusionary language serves the same purpose as an exclusion.

An exclusion may also have an exception. An exception gives coverage back to the insured. Examples of these exceptions include the host liquor exception (B.1.c.) to the liquor liability exclusion and the reasonable force exception (B.1.a.) to the expected or intended injury exclusion. Because exceptions may broaden coverage under certain specific conditions, it is important to understand and familiarize yourself with the entire policy.

The 2006 edition added three liability exclusions to the sixteen that were included in the 2002 program. The three exclusions are electronic data, criminal acts, and distribution of materials in violation of statutes. Two of the exclusions, electronic data (B.1.q) and criminal acts (B.1.r), were previously incorporated within the 2002 form and are now separate exclusions. This change had no effect on coverage. The third exclusion, distribution of materials in violation of statutes (B.1.s.), excludes liability arising out of the Telephone Consumer Protection Act and the CAN SPAM Act. The introduction of this exclusion represented a reduction in coverage.

The 2010 edition made minor editorial revisions to the professional services exclusion (B.1.j.), the personal and advertising injury exclusion (B.1.p.), electronic data exclusion (B.1.q), and the recording and distribution of material or information in violation of law exclusion (B.1.s). These revisions had no impact on coverage.

The 2013 edition introduced three substantive revisions. First, under section B.1.c.(3), the liquor liability exclusion affirmatively eliminates coverage for allegations that a business owner is negligent in the supervision, hiring,

employment, training, or monitoring of others by an insured or providing or failing to provide transportation with respect to any person that may be under the influence of alcohol. The introduction of this language is a reduction in coverage in states where courts have ruled that the liquor liability exclusion is inapplicable for liquor related claims alleging negligent supervision of employees handling alcohol, failure to detain an intoxicated customer, or failure to provide transportation.

Second, the exclusion affirmatively covers claims when a business owner permits a person to bring alcoholic beverages onto the business owner's premises for consumption, whether or not a fee is charged or a license is required for such activity. In other words, if a business owner permits customers to bring their own alcoholic beverage (BYO) onto the premises for consumption, this action will not be considered to be in the business of selling, serving or furnishing alcoholic beverages, and not subject to the policy exclusion.

Third, under section B.1.q., the electronic data exclusion introduces an exception to the exclusion affirming that the exclusion does not apply to liability for damages because of bodily injury. This represents a broadening of coverage.

The 2013 edition added the phrase *in any manner* in the personal and advertising injury exclusion for consistency with the definition of personal and advertising injury. This has no impact on coverage.

The 2024 edition made two editorial revisions. First, in several of the exclusions the phrase *against any insured* is included in relation to alleged negligence or wrongdoing. This revision reinforces original intent and has no substantive impact on coverage. Second, in the auto and mobile equipment exclusions, reference to *motor vehicle registration* is removed. This revision when read in conjunction those definitions results in a broadening of coverage.

The following addresses the exclusions found in the Businessowners liability coverage section. This includes the business liability exclusions, medical expense coverage exclusions, and the nuclear energy liability exclusions that are applicable to both coverage areas.

Exclusions Applicable to Business Liability Coverage

Expected or Intended Injury

“Bodily injury” or “property damage” expected or intended from the standpoint of the insured. This exclusion does not apply to “bodily injury” resulting from the use of reasonable force to protect persons or property.

This exclusion eliminates coverage for bodily injury or property damage that is expected or intended from the standpoint of the insured. By exception to this exclusion, coverage applies to bodily injury resulting from the use of reasonable force to protect persons or property. For example, if an insured intentionally strikes and injures another person, no coverage applies. However, if that insured strikes and injures another person while using reasonable force to protect persons or his property, coverage applies.

Contractual Liability

“Bodily injury” or “property damage” for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

Contractual liability is liability assumed under contract or agreement. By exception to this exclusion, coverage applies to certain types of contractual liability. These are outlined in points (1) and (2).

1. That the insured would have in the absence of the contract or agreement; or

Liability coverage applies for damages that the insured would have in the absence of a contract or agreement. To illustrate how this may occur, consider the following: a tenant business owner, who is insured on a Businessowners policy, leases space from a building owner. The lease agreement includes a provision stating that the tenant will hold the building owner harmless from claims arising out of the tenant’s negligence. A customer of the tenant is injured because the tenant

failed to maintain safe premises and to comply with public safety regulations. In this example, the tenant is provided coverage for a business liability claim arising from the unsafe conditions of the premises because coverage would exist even in the absence of the lease agreement.

2. Assumed in a contract or agreement that is an “insured contract”, provided the “bodily injury” or “property damage” occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an “insured contract”, reasonable attorneys’ fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of “bodily injury” or “property damage”, provided:
 - (a) Liability to such party for, or for the cost of, that party’s defense has also been assumed in the same “insured contract”;
 - and
 - (b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

Insured contract is a defined term and includes items such as lease agreements, sidetrack agreements, easements or license agreements, obligations required by ordinance, and elevator maintenance agreements. Such insured contracts are covered on the form for liability for damages assumed under them. For example, a tenant business owner’s lease agreement may require the tenant to protect the building owner from certain loss exposures arising out of the tenant’s premises. Similarly, an easement agreement (an agreement that permits one property owner to traverse another property owner’s land) may require the insured to protect the property owner for certain loss exposures arising out of the insured’s use of the property owner’s property. Both are examples of insured contracts.

Contractual liability coverage applies only to bodily injury or property damage claims *arising after* the execution of the agreement or contract. For example, if a business owner enters into a contract that retroactively assumes liability for claims arising prior to the execution of the contract, coverage does not apply.

Finally, reasonable attorney fees and necessary litigation expenses incurred by the other party to the agreement or contract are covered. This is contingent upon the liability being assumed in the same insured contract and attorney's fees and expenses being limited to civil and alternative dispute resolution proceedings.

Liquor Liability

“Bodily injury” or “property damage” for which any insured may be held liable by reason of:

1. Causing or contributing to the intoxication of any person;
2. The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
3. Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in:

- (a) The supervision, hiring, employment, training or monitoring of others by that insured; or
- (b) Providing or failing to provide transportation with respect to any person that may be under the influence of alcohol;

if the “occurrence” which caused the “bodily injury” or “property damage” involved that which is described in Paragraph (1), (2) or (3) above.

However, this exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. For the purposes of this exclusion, permitting a person to bring alcoholic beverages on your premises, for consumption on your premises, whether or not a fee is charged or a license is required for such activity, is not by itself considered the business of selling, serving or furnishing alcoholic beverages.

The liquor liability exclusion eliminates coverage if the insured causes or contributes to the intoxication of any person. This includes furnishing

alcohol to minors, being under the influence of alcohol, or violating any statute, ordinance, or regulation relating to the sale, gift, distribution, or use of alcoholic beverages. The exclusion applies only if the named insured is in the business of manufacturing, distributing, selling, serving, or furnishing alcoholic beverages.

The main purpose of this exclusion is to eliminate coverage for organizations such as bars, taverns, and restaurants that manufacture or sell alcohol. Over the years, numerous legal cases have centered on the issue of what “in the business” means. Courts have generally found this exclusion to be unambiguous, excluding liability under Businessowners policies when the insured is a tavern or bar. These types of exposures should be covered under a separate liquor liability policy.

By exception to this exclusion, coverage is granted to businesses that are not in the business of manufacturing, distributing, selling, serving, or furnishing alcoholic beverages. This, in essence, provides host liquor liability coverage. For example, if a business owner has an office function or picnic and alcohol is served, but not sold, coverage would apply.

The 2013 edition introduced additional language under paragraph (3) affecting the application of the exclusion in two areas. First, the exclusion affirmatively eliminates coverage for allegations that a business owner is negligent in the supervision, hiring, employment, training, or monitoring of others by an insured or providing or failing to provide transportation with respect to any person that may be under the influence of alcohol. The introduction of this language is a reduction in coverage in those states where courts have ruled that the liquor liability exclusion is inapplicable for liquor-related claims alleging negligent supervision of employees handling alcohol, failure to detain an intoxicated customer or failure to provide transportation.

Second, the exclusion affirmatively covers claims when a business owner permits a person to bring alcoholic beverages on to the business owner’s premises for consumption, whether a fee is charged or a license is required for such activity. In other words, if a business owner permits customers to bring their own alcoholic beverages (BYO) onto the premises for consumption, this action will not be considered to be in the business of

selling, serving, or furnishing alcoholic beverages and not subject to the policy exclusion. This represented a broadening of coverage.

The 2013 edition also revised Amendment Liquor Liability Exclusion – Exception for Scheduled Activities (BP 04 19) to exclude coverage for liquor liability if an insured permits any person to bring any alcoholic beverages on the insured's premises for consumption, except for the premises described in the schedule. This endorsement limits the policy's coverage for liquor liability to those premises indicated in the endorsement and excludes coverage for liquor liability at any other premises.

Two liquor liability endorsements, which were introduced in the 2002 edition, are used to meet the needs of business owners that are in the business of manufacturing, distributing, selling, serving, or furnishing alcohol. Liquor Liability (BP 04 88) endorsement provides liquor liability coverage up to the policy's limit of liability. The alternative Liquor Liability Coverage (BP 04 89) endorsement is written subject to two limits of liability (liquor liability aggregate and each common cause limits) that may be different than the policy's limit of liability.

The 2024 edition introduced two new endorsements; one is a reintroduction. Amendment – Liquor Liability Exclusion (BP 04 18) is reintroduced to provide the most restrictive exclusion related to alcohol related activities. It was withdrawn when BP 04 88 was introduced, but the endorsements serve different purposes so it is being reintroduced. It excludes coverage if the insured (a) manufactures, sells, or distributes alcoholic beverages; (b) serves or furnishes alcoholic beverages for a charge (e.g., periodic fundraising event); (c) serves or furnishes alcoholic beverages without a charge if a liquor license is required; or (d) permits any person to bring any alcohol on the premises for consumption. This endorsement is similar to BP 04 19 but does not provide an exception for scheduling of activities where alcoholic beverages are consumed. The other endorsement introduced in 2024 is Amendment – Liquor Liability Exclusion – Limited Exception For Bring Your Own Alcohol (BP 16 32) which is similar to (BP 04 18 and BP 04 19) except that it does not exclude BYO (Bring Your Own) alcohol at the scheduled premises.

Workers' Compensation and Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

Coverage for any obligation of the insured under a workers compensation, disability benefits, unemployment compensation, or any similar law is eliminated by this exclusion. These exposures are typically excluded under liability forms because they are covered under a workers compensation or disability benefits policy.

Employer's Liability

“Bodily Injury” to:

1. An “employee” of the insured arising out of and in the course of:
 - (a) Employment by the insured; or
 - (b) Performing duties related to the conduct of the insured's business; or
2. The spouse, child, parent, brother or sister of that “employee” as a consequence of Paragraph (1) above.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an “insured contract”.

Business liability coverage does not apply if an employee is injured due to employment- or work-related duties. This exclusion is extended to the spouse, child, parent, brother, or sister of the employee as a consequence of the employee's employment or work-related duties. Coverage for these types of claims may be paid under the employer's liability part of the workers compensation policy.

Similarly, Businessowners liability coverage does not apply if the insured is liable as an employer or in any other capacity. For example, if a power tool

is defective and causes an injury to an employee, the employee will be covered under workers compensation and may have a separate cause of action against the tool manufacturer. In the event the employer is subsequently brought into the suit against the tool manufacturer, the employer's Businessowners liability coverage will not respond. Coverage for this type of claim—which may be referred to as a third-party-over suit—may be available under the employer's liability part of the business owner's workers compensation policy.

This exclusion also applies to any obligation to share damages with or repay someone else who must pay damages because of an injury.

An exception to this exclusion applies to liability assumed under an insured contract. For example, if an insured agrees to hold harmless or indemnify another party for liability arising out of the insured's negligence, including injury to employees of the insured, coverage should be provided under the Businessowners liability as an insured contract. Refer back to the previous example of the employee being injured on a power tool. If his employer had held the tool manufacturer harmless for injury to his employees under an insured contract, the exclusion would not apply.

The pollution exclusion—the next one that applies to liability coverage—has two sections. The first deals with bodily injury or property damage arising from pollutants; the second deals with cleanup costs.

Pollution

1. "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":
 - (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:
 - i. "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the

- building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;
- ii. "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or
 - iii. "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";

The first part of the pollution exclusion excludes bodily injury or property damage caused by pollutants at any location that was ever owned, occupied, rented, or loaned to any insured. By exception to this exclusion, coverage applies to the following:

1. Bodily injury if sustained within a building and caused by smoke, fumes, vapor, or soot produced by or originating from equipment that is used to heat, cool, or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or guests. Under the Businessowners 2002 form, this exception to the exclusion applied only to smoke, fumes, vapor, or soot from equipment used to heat that building. For example, if the insured's furnace produced fumes that caused a third party to become sick, coverage applied. The 2006 edition provided a broadening of the exception to the exclusion by adding cooling or dehumidifying equipment that is used to heat water. In other words, if the insured's water heater, air conditioner, or dehumidifier produces fumes (e.g., carbon monoxide or nitrogen dioxide) that cause a third party to become sick, coverage applies.
2. Bodily injury or property damage for which the named insured may be held liable, if the named insured is a contractor and the owner or lessee of the premises, site, or location is an additional insured on the contractor's policy. The additional insured status must be connected to the named insured contractor's ongoing operations that are being

performed for the additional insured at that premises, site, or location. In addition, the premises, site, or location must never have been owned, occupied by, rented to, or loaned to any insured, other than that additional insured. For example, a contractor who is insured on a Businessowners policy is doing electrical work in an office building. As part of the contract, the building owner is an additional insured on the electrical contractor's policy. The contractor ruptures some tanks at the site, and escaping pollutants injure customers of the building owner. The contractor, who caused the injury, would be covered because the property owner is an additional insured on his policy.

3. Bodily injury or property damage arising out of heat, smoke, or fumes from a hostile fire. For example, if a hostile fire causes a building or property to burn, and the fumes injure a third party, coverage applies. Hostile fire, as defined on the form, is a fire that breaks out from the area in which it is supposed to be confined.

- (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;

- (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:

- i. Any insured; or

- ii. Any person or organization for whom you may be legally responsible;

Bodily injury or property damage caused by pollutants at any location used for the handling, storage, disposal, processing, or treatment of waste is excluded. The operative word in (b) and (c) is *waste*, which is defined on the policy to include materials to be recycled, reconditioned, or reclaimed. Insureds who handle, store, transport, dispose of, or treat waste should obtain coverage from a specialty policy as damage or injury arising from a waste site—including a former waste site—is excluded.

The exclusion extends to any person or organization for whom the named insured may be legally responsible. For example, if a business owner dumps pollutants in a landfill, no coverage applies, even if the disposal was legal at the time. The same would be true if the insured hired a trucker to take garbage to a landfill and agreed to be legally responsible for the actions of

the trucker, who may not have disposed of the materials properly, leading to injury or damage. Again, the handling of waste is an exposure that should be insured on a specialty policy or through an additional insured endorsement on a waste company's policy.

(d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:

- i. "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;
- ii. "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or
- iii. "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire"; or

Paragraph (d) excludes pollution coverage at any site if the insured or insured's subcontractor is performing operations and pollutants are brought on to the site. By exception to this exclusion, coverage applies to the following:

1. Bodily injury or property damage arising out of the escape of fuels, lubricants, or other operating fluids that are needed to perform the normal electrical, hydraulic, or mechanical functions necessary for the operation of mobile equipment. For example, coverage would apply if a contractor's backhoe leaked oil from its motor and caused property damage or bodily injury at a job site.
2. Bodily injury or property damage sustained within a building and caused by the release of gases, fumes, or vapors from materials brought into that building in connection with operations being performed by the named insured or on the named insured's behalf by a contractor or subcontractor. For example, coverage would apply if fumes or vapors from paints or varnishes being used by the named insured caused an individual in the building to become sick as long as the named insured brought the paints to the building.
3. Bodily injury or property damage arising out of heat, smoke, or fumes from a hostile fire. For example, coverage would apply if smoke and fumes from a hostile fire caused an individual to become sick. Likewise, the exception would allow property damage coverage if heat from a hostile fire that was caused by an insured business owner ruined the paint on cars parked in the insured's parking lot.
 - (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

This portion of the exclusion eliminates coverage for bodily injury or property damage arising out of testing, monitoring, cleanup, removal, or assessment of pollutants at any location on which a contractor or subcontractor is working on the insured's behalf. For example, a business owner may purchase a building that is located on the site of a former service station. Before opening, the business owner hires a contractor to remove the underground gasoline tanks that had been used by the former service station. If nearby property is damaged because gasoline leaks during this process, the named insured would not have coverage under her Businessowners policy.

The next set of pollution-related exclusions deals with costs or expenses arising out of testing for, cleaning up, or otherwise responding to the effects of pollutants.

- (2) Any loss, cost or expense arising out of any:
 - (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants; or

If loss occurs—or if expenses arise from—a request, demand, order, or statutory or regulatory requirement to test, monitor, clean up, or assess the effects of pollutants, coverage will not apply.

- (b) Claim or “suit” by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of “pollutants”.

If a governmental authority files a suit or claim demanding the business owner test, monitor, clean up, or assess the effects of pollutants, the policy will not pay for the testing and cleanup. Likewise, fines by organizations such as the Environmental Protection Agency (EPA) are not subject to payment under the policy.

However, this paragraph does not apply to liability for damages because of “property damage” that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement or such claim or “suit” by or on behalf of a governmental authority.

This paragraph was introduced in the 2002 form. Its intent is to preclude coverage for any pollution cleanup or testing the insurer may undertake, while allowing coverage for property damage for which the insured would be liable even in the absence of the governmental demand. The effect of this exception to the exclusion allows for the possibility of coverage for actual property damage that is permitted elsewhere on the form. Recall the example in which an electrical contractor causes a pollution-related injury

at a job site. If the polluting materials that escaped from the ruptured tanks also caused property damage, coverage would be in place even if a cleanup order had been issued.

A number of pollution endorsements are available to meet the needs of the business owner and the insurer. The Pollution Exclusion—Limited Exception for a Short-Term Pollution Event (BP 04 90) endorsement broadens coverage by adding exceptions to the policy’s pollution exclusion for short-term pollution events. *Short-term pollution* event is defined on the endorsement in general as a pollution incident that has a definite beginning and ends within forty-eight hours, does not repeat a previous discharge, and does not arise from underground storage tanks or a hostile fire.

The Pollution Exclusion—Limited Exception for Designated Pollutants (BP 04 91) endorsement alters the pollution exclusion to cover liability resulting from the escape or release of a designated pollutant as indicated in the endorsement schedule. The Total Pollution Exclusion (BP 04 92) endorsement (sometimes referred to as an Absolute Pollution Exclusion) is used when insurers want to broaden the pollution exclusions included in the form. The Total Pollution Exclusion with a Building Heating Equipment Exception and a Hostile Fire Exception (BP 04 93) endorsement is an alternative to the Total Pollution Exclusion (BP 04 92) endorsement. It provides limited pollution coverage for bodily injury or property damage arising out of smoke or fumes from a hostile fire and bodily injury arising out of smoke, fumes, vapor, or soot from building heating equipment. The Limited Pollution Liability Extension (BP 04 94) endorsement broadens coverage to include the release of pollutants from owned, occupied, rented, or loaned premises and locations on which the insured is performing nonenvironmental operations. Finally, a business owner that is applying pesticides or herbicides may secure coverage for that exposure through the Pesticide or Herbicide Applicator Coverage (BP 07 08) endorsement.

Aircraft, Auto, or Watercraft

“Bodily injury” or “property damage” arising out of the ownership, maintenance, use or entrustment to others of any aircraft, “auto” or

watercraft owned or operated by or rented or loaned to any insured. Use includes operation and “loading or unloading”.

Coverage for aircraft, autos, or watercraft, including loading and unloading of aircraft, auto, or watercraft, is excluded. The Businessowners liability coverage was not designed to cover the typical exposures of aircraft, autos, or watercraft; however, coverage is provided in certain cases involving loading or unloading of these vehicles. (See definition of *loading or unloading* in the definitions section).

For example, if a business owner is loading property onto a truck by means of a forklift and the property falls off and injures a customer, Businessowners liability coverage applies. If, however, the business owner is loading property onto a truck by means of a hand truck and the property falls, injuring a customer, Businessowners liability coverage will not apply. This exposure is covered under the Business Auto Policy.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the “occurrence” which caused the “bodily injury” or “property damage” involved the ownership, maintenance, use or entrustment to others of any aircraft, “auto” or watercraft that is owned or operated by or rented or loaned to any insured.

This paragraph was introduced in the 2002 form to clarify policy intent. Specifically, coverage does not apply to claims alleging negligent hiring or supervision if the claim involves the ownership or use of aircraft, autos, or watercraft. This paragraph was introduced to minimize the possibility of courts finding coverage under a negligent hiring or supervision theory for claims that otherwise would be excluded on the policy.

Aircraft, auto, and watercraft exposures should be insured under separate aircraft, auto, or watercraft policies; however, the Businessowners form provides coverage in the following limited circumstances.

This exclusion does not apply to:

1. A watercraft while ashore on premises you own or rent;

This means that liability coverage would apply to a watercraft while on shore on the premises owned by the named insured. For example, if a small child is attracted to the business owner's watercraft that is on a trailer in the business's driveway, and that child subsequently falls off the watercraft and injures himself, coverage would apply.

(2) A watercraft you do not own that is:

(a) Less than 51 feet long; and

(b) Not being used to carry persons or property for a charge;

Liability coverage applies to nonowned (i.e., rented or borrowed) watercraft that are less than fifty-one feet and not being used to carry persons or property for a fee. For example, if the business owner rents a small boat to entertain customers, coverage would apply. The 2002 form increased the eligible watercraft size from twenty-six to fifty-one feet.

(3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;

If the business owner parks nonowned autos on, or on the ways next to premises owned or rented by the business owner, liability coverage applies. This coverage is liability coverage (i.e., negligent operation of a vehicle) and not bailees coverage (i.e., care, custody, and control). So, for instance, if one of the named insured's employees, while parking a customer's auto, strikes and injures another customer, liability coverage applies. If, however, the business owner parks the customer's auto and later, while attempting to retrieve it, discovers it is vandalized or stolen, no coverage applies. This latter example is a bailee's exposure that may be covered under an appropriate garagekeepers form.

(4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or

Liability assumed under any insured contract for the ownership, maintenance, or use of aircraft or watercraft is not excluded. For example, if

the business owner charters a boat or an aircraft, and the owners of the boat or aircraft require a hold-harmless agreement, coverage would be provided since it is an insured contract.

(5) “Bodily injury” or “property damage” arising out of:

- (a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of “mobile equipment” if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or
- (b) The operation of any of the following machinery or equipment:
 - i. Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
 - ii. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

If a business owner is operating any of the types of equipment listed in this exclusion (for example, cherry pickers, air compressors, or pumps) and the operation causes bodily injury or property damage, coverage is provided. For example, a cherry picker is being used on the insured premises to replace lighting. Coverage would apply if the cherry picker damaged a customer’s parked auto. Similarly, if the business owner painting his building with an air compressor negligently over sprays the building and damages a customer’s auto, coverage applies.

Paragraph (5) (a) was modified in the 2006 edition by eliminating coverage in states that subject a land motor vehicle to a compulsory or financial responsibility law or other motor vehicle insurance or motor vehicle registration law. In other words, if a business owner is using a land motor vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance, no coverage applies.

Note that due to the increased use of unmanned aircraft vehicles (commonly referred to as drones), ISO has introduced several endorsements that serve the dual purpose of clarifying existing coverage and offering business

owners the ability to add coverage for drone-related operations. These endorsements include the following:

- Exclusion – Unmanned Aircraft Endorsement, BP 15 11, which provides options to expressly exclude bodily injury and property damage and personal and advertising injury arising out of the ownership, maintenance, use, or entrustment to others of any unmanned aircraft.
- Limited Coverage For Designated Unmanned Aircraft Endorsement, BP 15 12, which provides options to expressly include bodily injury and property damage and personal and advertising injury for designated unmanned aircraft with respect to operations or projects designated in the endorsement schedule.
- Limited Coverage For Unmanned Aircraft (Scheduled And/Or Blanket Coverage (BP 15 94) covers direct physical loss or damage of covered property caused by a covered cause of loss. Coverage can be written on a scheduled or blanket basis with either an actual cash value or replacement cost settlement option. Business income coverage can also be added. Coverage does not apply to unmanned aircraft when rented, leased, or loaned to others or for loss or damage if the unmanned aircraft is used to deliver merchandise or goods to another. A companion endorsement titled Amendment of Coverage Territory For Unmanned Aircraft – Worldwide Coverage (BP 15 95) can be used to expand coverage territory worldwide (subject to exceptions). Both endorsements which were introduced in 2024 represent a broadening of coverage.

Mobile Equipment

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

1. The transportation of “mobile equipment” by an “auto” owned or operated by or rented or loaned to any insured; or

This exclusion eliminates liability coverage for claims arising out of the transportation of mobile equipment. For example, if a contractor was transporting a forklift on a truck trailer, no coverage would apply if the

trailer or the forklift overturned, causing bodily injury or property damage. Bodily injury and property damage arising out of this example would be covered under the Truck Owner's Commercial Auto Liability Policy.

(2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition or stunting activity.

Likewise, liability coverage arising out of the use of mobile equipment while practicing for or preparing to compete in any racing, speed, demolition, or stunting activity is also excluded. So, for example, if a business owner uses his forklift, tractor, or all-terrain vehicle to compete in a farm show race, no coverage applies.

War

"Bodily injury", "property damage" or "personal and advertising injury", however caused, arising directly or indirectly, out of:

1. War, including undeclared or civil war;
2. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
3. Insurrection, rebellion, revolution, usurped power, or action taken by government authority in hindering or defending against any of these.

The 2002 form eliminated coverage for contractual assumed liability claims due to war, whether or not declared, or any act or condition incident to a war. For example, if a business owner assumes liability under a contract for manufacturing a weapons system component that causes bodily injury or property damage, no coverage applied.

The 2006 edition incorporated language from the mandatory War Liability Exclusion Endorsement (BP 05 14), which is not needed with subsequent editions of the form, which incorporate the language without needing an endorsement. The exclusion was expanded beyond contractual assumed liability to include all war and warlike actions. The revised language adds

undeclared civil war; warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign, or other authority using military personnel or other agents; and usurped power or action taken by government authority in hindering or defending against insurrection, rebellion, or revolution. The incorporation of this language has no affect on coverage.

Professional Services

“Bodily injury”, “property damage” or “personal and advertising injury” caused by the rendering or failure to render any professional service. This includes but is not limited to:

Bodily injury, property damage, or personal or advertising injury due to the rendering or failure to render *any* professional service is not covered. Although the policy cites various professional services and their related activities, the types of services listed within each category are not all inclusive. In other words, professional services not listed may not be covered.

Each of the following professional service categories is self-explanatory.

1. Legal, accounting or advertising services;
2. Preparing, approving or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications;
3. Supervisory, inspection or engineering services;
4. Medical, surgical, dental, X-ray or nursing services treatment, advice or instruction;
5. Any health or therapeutic service treatment, advice or instruction;
6. Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement or personal grooming;
7. Optometry or optical or hearing aid services including the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;
8. Body piercing services; and
9. Services in the practice of pharmacy.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the “occurrence” which caused the “bodily injury” or “property damage”, or the offense which caused the “personal and advertising injury”, involved the rendering or failure to render of any professional service.

The 2002 program introduced exclusion number 9, which eliminates coverage for services performed in the practice of pharmacy. Under the 1997 form, professional liability for druggists was provided. The introduction of this exclusion represented a reduction in coverage from the 1997 program.

The 2010 edition enhanced this exclusion by adding language to expressly address, in part, claims alleging negligence or other wrongdoing in the hiring, employment, training, supervision, or monitoring of others by the insured. This revision had no impact on coverage.

A number of endorsements are available to meet the needs of business owners who perform professional services and are subject to the unendorsed policy’s exclusionary language. They include the Barber Shops and Hair Salons Professional Liability (BP 08 01) endorsement, Beauty Salons Professional Liability (BP 08 09) endorsement, Funeral Directors Professional Liability (BP 08 02) endorsement, Optical and Hearing Aid Establishments (BP 08 03) endorsement, Photography – Makeup and Hairstyling (BP 07 84) endorsement, Printers Errors and Omissions Liability (BP 08 04), Veterinarians Professional Liability (BP 08 05) endorsement, Pharmacists – Broad Coverage (BP 08 06) endorsement, and Pharmacists (BP 08 07) endorsement. In addition to these endorsements, coverage may also be added for errors or omissions in the administration of employee benefits under the Employee Benefits Liability Coverage (BP 04 98) endorsement and management liability under the Condominium, Co-Ops, Association – Directors and Officers Liability (BP 17 24) endorsement.

Damage to Property

“Property damage” to:

1. Property you own, rent or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another’s property;

This exclusion eliminates coverage for property owned, rented, or occupied by the business owner. The 2002 form added language to clarify its intent that coverage would not apply to any costs or expenses incurred by the insured, or any other person, organization, or entity, for repair, replacement, enhancement, restoration, or maintenance of such property for any reason, including prevention of injury to a person or damage to another’s property.

These exposures are either covered under the Businessowners property coverage or by a specialized policy.

- (2) Premises you sell, give away or abandon, if the “property damage” arises out of any part of those premises;

This language excludes damage to property that has been sold, given away, or abandoned. To illustrate this situation, consider the following: a business owner sells a building with a defective furnace and fails to disclose this deficiency to the prospective buyer. The business owner will not be afforded coverage in the event he is sued as a result of damage caused by the defective furnace.

By exception to this exclusion, coverage applies if the premises is “your work” and was never occupied, rented, or held for rental by the insured. If the property that is sold is the named insured’s work (such as may be the case with a home builder) and never occupied, rented, or held for rental by the named insured (home builder), coverage applies.

- (3) Property loaned to you;

This exclusion eliminates coverage for damage or loss to property loaned to the named insured. An exception (that appears at the end of this section) to

this exclusion applies to liability assumed under a sidetrack agreement. A sidetrack agreement is a type of hold harmless agreement between a railroad and an insured in which the railroad's sidetrack, built on the insured's premises, serves the insured. For example, a sidetrack may be a small section of track on the business owner's property that leads up to or past a business owner's loading dock to be used for loading shipments onto railcars.

(4) Personal property in the care, custody or control of the insured;

Personal property in the care, custody, and control of the insured is excluded from coverage. An exception to this exclusion applies to liability assumed under a sidetrack agreement (see previous annotation).

(5) That particular part of real property on which you or any contractor or subcontractor working directly or indirectly on your behalf is performing operations, if the "property damage" arises out of those operations; or

Property damage coverage for real property is excluded when the business owner, or his contractor or subcontractor, is performing operations on that property. For example, if an electrical contractor causes a short in a building's main electrical panel that results in the building burning down, coverage would apply to the building. However, no coverage applies to "that particular part" (i.e., the electrical panel) of the building upon which the electrician was actually performing his operation.

(6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

This sentence eliminates property damage coverage to that particular part of any property that must be restored, repaired, or replaced because the insured's work was incorrectly performed. If a cement contractor, for example, uses an incorrect concrete mixture, which results in a cracking driveway, no coverage would apply to pay for redoing the work.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the

contents of such premises, rented to you for a period of seven or fewer consecutive days. A separate Limit of Insurance applies to Damage To Premises Rented To You as described in Paragraph D. Liability And Medical Expenses Limit Of Insurance in Section II – Liability.

This is an exception to the exclusion that gives back coverage if the property is owned, rented, or occupied (see paragraph 1); loaned to the insured (see paragraph 3); or in the care, custody, or control of the insured (see paragraph 4). The referenced sections of this exclusion do not apply to property damage (other than damage by fire) to premises rented to the insured for a period of seven or fewer consecutive days.

An example of coverage that is permitted under these exceptions is the rental of a hotel room. If an insured negligently knocks over and damages hotel-room property that she is renting for seven or fewer consecutive days, the property damage would be covered. If, however, the insured negligently causes a fire, coverage would not apply. Coverage for this exposure (commonly referred to as legal liability) is covered in Section II – Liability D.3 under Damage To Premises Rented To You. Note that the 2006 edition deleted the peril *explosion* from the exclusion. This represents a broadening in coverage.

Paragraph (2) of this exclusion does not apply if the premises are “your work” and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to “property damage” included in the “products-completed operations hazard”.

These exceptions create windows of coverage for specific situations. The type of damage addressed in the third exception (pertaining to paragraph (6)) may be excluded elsewhere on the policy—such as through exclusions 1., damage to your product, or m., damage to your work. This give and take of coverage points out the need to read the entire policy when determining whether coverage is available.

Damage to Your Product

“Property damage” to “your product” arising out of it or any part of it.

This exclusion eliminates coverage if the insured’s product is damaged and the damage arises out of the product itself or any part of it. For example, an insured manufactures forced-air gas furnaces. If one of the furnaces malfunctions and causes a fire that destroys the furnace, no coverage applies to the manufacturer’s product (the furnace).

Damage to Your Work

“Property damage” to “your work” arising out of it or any part of it and included in the “products-completed operations hazard”.

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

This exclusion eliminates liability coverage for the insured’s work arising out of that work or any part of it and included in the products-completed operations hazard. In other words, the policy does not cover the poor workmanship of the named insured. This is considered a business risk not covered by insurance. By exception to this exclusion, coverage applies if a subcontractor performed the work for the named insured. For example, if a subcontractor negligently installs electrical wiring, causing a fire, coverage applies to the named insured for the electrical work and peripheral fire damage. The electrical work would have been excluded from the claim settlement if the named insured had completed it.

Damage to Impaired Property or Property Not Physically Injured

“Property damage” to “impaired property” or property that has not been physically injured, arising out of:

1. A defect, deficiency, inadequacy or dangerous condition in “your product” or “your work”; or

This exclusion deals with damage to *impaired property*, a defined term on the form. In essence, the definition equates impaired property with tangible property—other than the named insured’s work or product—that cannot be used because it incorporates the named insured’s faulty product or work. Impaired property can also mean tangible property—other than the named insured’s work or product—that cannot be used because the named insured failed to meet the terms of an agreement. The definition further requires that, in order to qualify as impaired property, the property must be able to be restored or used if the named insured’s product or work is replaced or fixed or if the named insured fulfills terms of the agreement. The meaning of *impaired property* is extremely important in determining whether coverage under the policy will be triggered or excluded.

The exclusion eliminates coverage caused by impaired property or property that has not been physically injured arising out of a defect, deficiency, inadequacy, or dangerous condition in the insured’s product or work. To illustrate this, consider the following: a business owner manufactures a defective computer chip that is sold to a computer manufacturer. The computer manufacturer installs this defective chip in its computers and markets them to the public. It is subsequently discovered that the computers are not performing properly and the exclusive cause is the defective computer chip. Consequently, the computer manufacturer’s property (the computer) is impaired due to the defective computer chip. In this example, the chip manufacturer has no coverage since its defective product (computer chips) caused the computers to be impaired. In addition, the computers would work if the faulty chips were removed and replaced, another requirement in the definition.

(2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion eliminates coverage due to a delay or failure by the insured or anyone acting on the insured’s behalf to perform a contract or agreement in accordance with its terms. For example, a business owner agrees to produce a product on a specified date for inclusion in a sales campaign. The business owner fails to meet the contract deadline, and the other business suffers a property damage loss. In this scenario, no coverage would apply.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to “your product” or “your work” after it has been put to its intended use.

This is an exception to an exclusion providing coverage for loss of use of other property arising out of sudden and accidental physical injury to the insured’s product or work after it has been put to its intended use. For example, if the named insured defectively installed a furnace in an apartment building, and the furnace subsequently explodes, coverage would apply to the apartment building owner’s loss of use claim.

Recall of Products, Work, or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

1. “Your product”;
2. “Your work”; or
3. “Impaired property”;
if such product, work or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

In the event the business owner withdraws, recalls, inspects, or repairs its products, work, or impaired property, coverage for any loss associated with these actions is eliminated. For example, if a manufacturer discovers one of its products presents a risk of injury to the public, no coverage applies to the cost involved in recalling the product. Individual product recall coverage may be purchased for this exposure.

Although Businessowners liability provides coverage for personal or advertising injury, it is excluded in the following situations.

Personal and Advertising Injury

“Personal and advertising injury”:

1. Caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict “personal and advertising injury”;

This paragraph was introduced in the 2002 form to emphasize that coverage will not apply if the insured had knowledge that the act would cause personal and advertising injury.

- (2) Arising out of oral or written publication, in any manner, of material, if done by or at the direction of the insured with knowledge of its falsity;

This exclusion eliminates coverage under personal or advertising injury that arises out of oral or written publication, in any manner, of material if done by or at the direction of the insured with knowledge of its falsity. An example is a business owner who publishes a comparative advertisement and disseminates information about a competitor that she knows is false. No coverage applies to a claim against the business owner. If, however, the business owner unknowingly publishes false information, coverage applies. Note that the 2013 edition adds the phrase *in any manner* in this exclusion for consistency with the definition of *personal and advertising injury*.

- (3) Arising out of oral or written publication, in any manner, of material whose first publication took place before the beginning of the policy period;

This sentence eliminates coverage for injuries arising out of oral or written publication, in any manner, of material whose first publication took place before the beginning of the policy period.

- (4) For which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement;

Coverage for which the insured has assumed liability in a contract or agreement is also excluded. However, this exclusion does not apply to

liability for damages that the insured would have in the absence of the contract or agreement.

(5) Arising out of a breach of contract, except an implied contract to use another's advertising ideas in your "advertisement";

This exclusion reinforces the fact that the Businessowners liability form is not meant to apply to breach of contract claims. The exception at the end of the exclusion involves an implied contract, which may be legitimately inferred from the way the parties have acted or by the law. An example is an advertising idea that a business acquaintance tells the insured about. If the acquaintance indicates that he expects to be paid for the idea, and the insured uses the idea knowing that the acquaintance expects compensation, an implied contract has been created. If some personal or advertising injury arises out of the insured's violation of the implied contract, coverage would respond to the resultant claim because of the exception to the exclusion.

(6) Arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement";

This statement excludes coverage for loss caused by the failure of goods, products, or services to conform to advertised quality or performance. For example, if a business owner advertises that his insulated replacement windows will result in a 50 percent reduction in heating costs, no coverage applies if the windows do not perform as advertised. This type of claim and the associated repercussions are business risks that are not insurable.

(7) Arising out of the wrong description of the price of goods, products or services stated in your "advertisement";

This sentence eliminates coverage caused by the wrong description of the price of goods, products, or services. For example, if a business owner runs an advertisement indicating a product price of \$9.99 when he meant \$99.99, no coverage applies if customers demand the product at the \$9.99 price. This type of claim and the associated repercussions are business risks that are not insurable.

(8) Committed by an insured whose business is:

- (a) Advertising, broadcasting, publishing or telecasting;
- (b) Designing or determining content of websites for others; or
- (c) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs 14.a., b., and c, of “personal and advertising injury” under Paragraph F. Liability And Medical Payments Definitions.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, by itself, is not considered the business of advertising, broadcasting, publishing or telecasting:

This excludes coverage for personal or advertising injury committed by an insured whose business is advertising, broadcasting, publishing, or telecasting. An exception to the exclusion applies under Paragraphs 14. a., b., and c., that grants coverage for false arrest, malicious prosecution, and invasion of privacy.

Note that the 2002 form expanded this exclusion to include Web designing and Internet-related activities (see (8) (b) and (c)). This exposure may be covered under a separate advertising, broadcasters, or Web services liability policy. Additional exclusions related to Internet activities are listed in paragraphs (11) and (13).

(9) Arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of “pollutants” at any time;

(10) With respect to any loss, cost or expense arising out of any:

- (a) Request, demand or order that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of “pollutants”; or
- (b) Claim or “suit” by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing or in any way responding to, or assessing the effects of “pollutants”;

These exclusions eliminate coverage for claims arising out of the actual, alleged, or threatened discharge, dispersal, seepage, migration, release, or escape of pollutants at any time. They were originally introduced in the

1997 form. Their purpose is to eliminate allegations that pollution coverage applies since it (the pollutant) wrongfully entered or invaded a right of private occupancy. The need for this language developed after some courts applied the definition of *personal injury* to pollution losses and found coverage. Minor editorial revisions were introduced in the 2002 form, but its intent is the same: to eliminate coverage for losses arising out of actual, alleged, or threatened discharge, dispersal, seepage, migration, release, or escape of pollutants at any time.

(11) Arising out of an electronic chatroom or bulletin board the insured hosts, owns or over which the insured exercises control;

This exclusion eliminates coverage for liability arising out of Internet activities such as chat rooms or bulletin boards that the insured hosts or exercises control over. This exclusion was introduced in the 2002 form to address Internet activities.

(12) Arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights. Under this exclusion, such other intellectual property rights do not include the use of another's advertising idea in your "advertisement". However, this exclusion does not apply to infringement, in your "advertisement", of copyright, trade dress or slogan;

This exclusion eliminates coverage for liability arising out of infringement of copyright, patent, trademark, trade secret, or other intellectual property rights. The 2010 edition inserted a second sentence to reinforce that this exclusion does not apply to personal and advertising injury arising out of other intellectual property rights that involve the use of another's advertising idea in the insured's advertisement. The revision has no impact on coverage.

By exception to the exclusion, coverage is granted to infringement in the insured's advertisement or copyright, trade dress, or slogan. In other words, if the insured produces a comparative advertisement or mimics a competitor, coverage applies as long as the infringement appears in the named insured's *advertisement*, which is a defined term.

(13) Arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatags, or any other similar tactics to mislead another's potential customers.

This exclusion eliminates coverage for liability arising out of Internet activities such as the unauthorized use of another's name or product in the insured's email address, domain name, Web address, or similar misleading activity. This exclusion was also introduced in the 2002 program to address Internet activities.

Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

However, this exclusion does not apply to liability for damages because of "bodily injury".

As used in this exclusion, electronic data means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software) hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a computer or device connected to it, which enable the computer or device to receive, process, store, retrieve or send data.

This exclusion was introduced in the 2006 edition. Its purpose was to reinforce that the liability section of the business owners coverage form does not provide coverage for loss of electronic data. The 2006 revision was for clarification purposes and had no impact on coverage. The 2010 edition updated the definition of *electronic data* to include "repositories of computer software" and inserted a definition of the term *computer programs*. These revisions had no impact on coverage. The 2013 edition introduces an exception to the electronic data exclusion to provide that the

exclusion does not apply to liability for damages because of bodily injury. An example would be a contractor who installs electronic data equipment that subsequently injures the property owner due to its improper installation. In this example, coverage would apply. This represents a broadening of coverage.

Two liability endorsements addressing the electronic data exposure were introduced in the 2006 edition: Electronic Data Liability – Broad Coverage (BP 05 96) and Extended Reporting Period For Electronic Data Liability – Broad Coverage (BP 05 97).

Criminal Acts

“Personal and advertising injury” arising out of a criminal act committed by or at the direction of the insured.

This was a new standalone exclusion in the 2006 edition. It was previously incorporated in the personal and advertising injury exclusion of the 2002 form. Its purpose is to exclude personal and advertising injury that arises out of a criminal act committed by or at the direction of an insured.

Consider the following illustration: a business owner distributes a newsletter promoting an investment in a fictitious company. If her actions are deemed to be criminal in nature, the policy will not provide coverage.

Recording and Distribution of Material or Information in Violation of Law

“Bodily injury”, “property damage” or “personal and advertising injury” arising directly or indirectly out of any action or omission that violates or is alleged to violate:

1. The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
2. The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
3. The Fair Credit Reporting Act (FCRA) and any amendment of or addition to such law, including the Fair and Accurate Credit

- Transaction Act (FACTA); or
4. Any federal, state, or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003, or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

This exclusion was introduced in the 2006 edition and revised in the 2010 edition to more explicitly address actions or omissions related to the recording and distribution of materials or information in violation of law. Its purpose is to eliminate from coverage bodily injury, property damage, and personal and advertising injury claims arising directly or indirectly out of any action or omission that violates or is alleged to violate the Telephone Consumer Protection Act (TCPA) of 1991, the CAN-SPAM Act of 2003, the Fair Credit Reporting Act (FCRA), or any law or their amendments.

TCPA addresses telephone marketing practices, including the establishment of a do-not-call registry. It also prohibits the use of any telephone facsimile machine, computer, or other device to send unsolicited advertisements.

The CAN-SPAM Act imposes similar limitations on the transmissions of unsolicited emails. So, for example, if a business owner calls individuals listed on a do-not call registry or forwards unsolicited faxes or emails, no coverage applies. Since some state courts have found coverage under the 2002 form (and similar liability forms), the 2006 edition was revised to eliminate this possibility. The 2010 edition added additional language to enhance this exclusion. This revision had no impact on coverage.

Exclusions c., d., e., f., g., h., i., k., l., m., n. and o. in Section II – Liability do not apply to damage by fire to premises while rented to you, or temporarily occupied by you with permission of the owner. A separate Damage To Premises Rented To You Limit of Insurance applies to this coverage as described in Paragraph D. Liability And Medical Expenses Limits of Insurance in Section II – Liability.

This paragraph eliminates most of the previously cited exclusions (except a., b., j. and p.) to damage caused by fire to the premises rented or temporarily occupied by the business owner. For example, if a professional

listed in exclusion j. causes a fire that damages the building he occupies, coverage would apply to the fire damage up to the limit indicated in the limits of insurance.

Exclusions a., expected or intended injury, and b., contractual liability, also still apply. For example, if a business owner intentionally burns down a building he rents, no coverage applies based upon exclusion a.

Exclusions Applicable to Medical Expense Coverage

We will not pay expenses for “bodily injury”:

- a. To any insured, except “volunteer workers”.

No coverage applies to anyone qualifying as an insured under the Businessowners form. By exception, medical payments are provided for individuals who qualify as volunteer workers. *Volunteer workers*, which is a defined term on the form, include individuals who perform work for the named insured without compensation. Work-related medical expenses that are incurred by any insured (including employees) should be provided by the business owner’s workers compensation policy.

- b. To a person hired to do work for or on behalf of any insured or a tenant of any insured.

According to this exclusion, no coverage applies to any person hired to do work for or on the behalf of any insured or a tenant of any insured. For example, if a business owner hires a painter and the painter falls and incurs medical expenses, no coverage applies. Likewise, medical payments would not be available if a tenant of the insured had hired the injured painter. Such workers should be insured through workers compensation insurance.

- c. To a person injured on that part of premises you own or rent that the person normally occupies.

No coverage applies to a person injured on the part of the premises the named insured owns or rents and that the person normally occupies. For instance, if an insured's employee falls in his own office and is injured, no coverage applies. Coverage for this exposure is provided by the tenant's workers compensation policy.

d. To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

No coverage applies to a person, whether an employee of any insured, if benefits for the bodily injury are payable or must be provided under a workers compensation or disability benefits law or a similar law. For example, if an insured's employee is injured at work, the Businessowners medical payments section will not provide coverage. Similarly, if a licensee is injured on the business owner's premises while she is working, coverage will not be provided under the Businessowners medical payments coverage. In both examples, the respective workers compensation policies of the business owner and licensee should provide coverage.

e. To a person injured while practicing, instructing or participating in any physical exercises or games, sports or athletic contests.

The 2006 edition broadened this exclusion to include any person injured while practicing, instructing, or participating in any physical exercises, games, sports, or athletic contests. The 2002 edition referenced only injury while *taking part in athletics* (which implies a trained individual). The inclusion of the words *practicing, instructing, or participating in* any physical exercises, games, or sports reinforces the policy's intent to eliminate all types of athletic activities.

For example, under the 2006 edition, medical expense coverage did not apply to injuries resulting from casual athletic activities such as a pick-up football game at a company picnic, or injuries resulting from using exercise equipment on the premises, or more rigorous activities that require training such as a company-sponsored sports team. Coverage for these exposures would generally be provided under a workers compensation policy, medical expense policy, or a specialty policy.

The addition of informal athletic activities in this exclusion results in a reduction of coverage. This exclusion applies only to bodily injury applicable to the medical expense coverage and that no similar exclusion applies under the business liability coverage. In other words, the business owner can still be held legally liable for its activities and the Businessowners liability coverage will still respond.

f. Included within the “products – completed operations hazard”.

Medical payments coverage does not apply to injuries that fall within the products-completed operations hazard. For example, if a business owner improperly installs a furnace that explodes, causing bodily injury to a third party, medical payments are not provided. Bodily injury in this example may be covered under the products-completed operations hazard if legal liability for the injury can be demonstrated.

g. Excluded under Business Liability Coverage.

Bodily injury that is excluded under business liability coverage is also excluded under medical expense coverage.

Exclusions Applicable to Business Liability and Medical Expense Coverages

Applicable to Both Business Liability Coverage and Medical Expenses Coverage – Nuclear Energy Liability Exclusion

This insurance does not apply:

- a. Under Business Liability Coverage, to “bodily injury” or “property damage”:
 - 1. With respect to which an insured under the Policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any

such policy but for its termination upon exhaustion of its limit of liability; or

This paragraph excludes coverage if the business owner is also an insured under certain nuclear energy liability policies. The exclusion also applies if the business owner would be an insured under such a policy if its limit of liability had not previously been used up.

(2) Resulting from the “hazardous properties” of “nuclear material” and with respect to which:

- (a) Any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof; or
- (b) The insured is, or had this Policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

This section excludes coverage resulting from the hazardous properties of nuclear material that organizations are required by law to maintain financial protection against. This exclusion also applies to the insured who is or, absent a Businessowners policy, would be entitled to indemnity from the United States government or agency.

b. Under Medical Expenses Coverage, to expenses incurred with respect to “bodily injury” resulting from the “hazardous properties” of “nuclear material” and arising out of the operation of a “nuclear facility” by any person or organization.

Medical expense coverage resulting from the hazardous properties of nuclear material and arising out of the operation of a nuclear facility is excluded on the Businessowners form.

c. Under Business Liability Coverage, to “bodily injury” or “property damage” resulting from the “hazardous properties” of the “nuclear material”; if

- 1. The “nuclear material”:

- (a) Is at any “nuclear facility” owned by, or operated by or on behalf of, an insured; or
 - (b) Has been discharged or dispersed therefrom;
- 2. The “nuclear material” is contained in “spent fuel” or “waste” at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an insured; or
- 3. The “bodily injury” or “property damage” arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any “nuclear facility”; but if such facility is located within the United States of America, its territories or possessions or Canada, this Exclusion **(3)** applies only to “property damage” to such “nuclear facility” and any property thereat.

This paragraph excludes business liability coverage resulting from the hazardous properties of the nuclear material if the nuclear material is at any nuclear facility owned or operated by the business owner. Coverage is also excluded if nuclear material has been discharged or dispersed from such facilities.

- d. As used in this exclusion:
 - 1. “Byproduct material” has the meaning given it in the Atomic Energy Act of 1954 or in any law amendatory thereof;
 - 2. “Hazardous properties” include radioactive, toxic or explosive properties;
 - 3. “Nuclear facility” means:
 - (a) Any “nuclear reactor”;
 - (b) Any equipment or device designed or used for:
 - i. Separating the isotopes of uranium or plutonium;
 - ii. Processing or utilizing “spent fuel”; or
 - iii. Handling, processing or packaging “waste”;
 - (c) Any equipment or device used for the processing, fabricating or alloying of “special nuclear material” if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of

plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;

(d) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of “waste”; and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

4. “Nuclear material” means “source material”, “special nuclear material” or “byproduct material”;
5. “Nuclear reactor” means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;
6. “Property damage” includes all forms of radioactive contamination of property;
7. “Source material” has the meaning given it in the Atomic Energy Act of 1954 or in any law amendatory thereof;
8. “Special nuclear material” has the meaning given it in the Atomic Energy Act of 1954 or in any law amendatory thereof;
9. “Spent fuel” means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a “nuclear reactor”;
10. “Waste” means any waste material:
 - (a) Containing “byproduct material” other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its “source material” content; and
 - (b) Resulting from the operation by any person or organization of any “nuclear facility” included under Paragraphs (a) or (b) of the definition of “nuclear facility”.

In essence, this set of nuclear exclusions and related explanations make it clear that nuclear exposures are either uninsurable or better insured elsewhere.

Property of Robert Richardson,

Chapter 11 Who Is an Insured

This chapter addresses the status of insureds for Businessowners liability coverage. The Who Is An Insured provision addresses who may be granted coverage under the liability portion of the form. The 2002 form expanded insured status by including *volunteer workers*. The 2006 edition included minor editorial revisions for clarification purposes and the deletion of insured status for operations of mobile equipment that is subject to motor vehicle law. The only change to the 2010 edition was the addition of a *trust* as an insured entity. The 2024 edition makes no revisions from its predecessor form.

Who Is an Insured

1. If you are designated in the Declarations as:
 - a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.

If a business is formed as a sole proprietorship, the individual named in the declarations and that person's spouse are insured, but only with respect to the conduct of a business owned solely by that individual. So, for example, if the sole proprietor business owner owns a second business also as a sole proprietor, coverage will not apply to that other business. A separate policy must be used to cover it.

- b. A partnership or joint venture, you are an insured. Your members, your partners and their spouses are also insureds, but only with respect to the conduct of your business.

This is similar to a., except it addresses partnerships.

- c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business.

Your managers are insureds, but only with respect to their duties as your managers.

This category of insured status was introduced in 1997 to reflect the increased usage of the limited liability company structure. Under this approach the individual(s) named in the declarations and members of the limited liability company are considered insureds. Managers of the limited liability company are also insureds.

d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your “executive officers” and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

If the business is an organization other than a partnership, joint venture, or limited liability company—such as a corporation—it is an insured. In addition, executive officers and directors are insureds but only with respect to their duties as officers or directors of the organization. Stockholders are also insureds but only with respect to their liability as stockholders. Clearly the form is meant to provide coverage for liability arising from the insured business and not from nonbusiness activities in which insureds may engage.

e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

The 2010 edition introduced a trust as a category of insured status. A trust is an entity created to hold assets for the benefit of persons or entities with trustees managing the trust and often holding title on behalf of the trust. Coverage for trustees extends only to their duties as trustees.

2. Each of the following is also an insured:

a. Your “volunteer workers” only while performing duties related to the conduct of your business, or your “employees”, other than either your “executive officers” (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while

performing duties related to the conduct of your business. However, none of these “employees” or “volunteer workers” are insureds for:

- (1) “Bodily injury” or “personal and advertising injury”:
 - a. To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), or to a co-“employee” while in the course of his or her employment or performing duties related to the conduct of your business, or to your other “volunteer workers” while performing duties related to the conduct of your business;
 - b. To the spouse, child, parent, brother or sister of that co-“employee” as a consequence of Paragraph (a) above;
 - c. For which there is any obligation to share damages with or repay someone else who must pay damages of the injury described in Paragraphs (a) or (b); or
 - d. Arising out of his or her providing or failing to provide professional health care services.

The 2002 form introduced the term *volunteer workers* within the provision of this section. A defined term, volunteer workers are persons who are not employees of the insured, who donate their work, and who act at the direction of the insured without pay or compensation (See exact definition in the definitions section.)

A business organization’s employees are covered for acts within the scope of their employment or while they are performing duties related to the conduct of business. For example, if an employee mops a floor and negligently leaves it wet, which causes a customer to slip and be injured, coverage applies to claims arising out of the employee’s negligent act. If, however, the employee were acting outside the scope of his authority (i.e., performing duties for himself or for others), the policy may not consider him an insured for the negligent act, and he may not be covered for a resulting claim filed against him. The business owner, however, could be an insured for this type of claim.

Other specific occurrences that are excluded are bodily injury or property damage caused by an employee to an insured, including a coemployee in the course of employment. This exclusion is extended to the spouse, child, parent, brother, or sister of that coemployee as a consequence of paragraph (1) (a). For example, if an employee becomes irate and physically injures another employee, the business liability portion of the policy will not respond to a claim against the employee who caused the injury. This exclusion typically is referred to as the *fellow employee* or *coemployee* exclusion. The named insured business also may not have coverage under the Businessowners form for the claim because of the workers compensation and employer's liability exclusions found in section II B., Liability Exclusions.

No coverage is available for employees for bodily injury arising out of their failure to provide professional healthcare services. Professional healthcare services would include services performed by a health professional (e.g., doctor or nurse). For example, if a company nurse negligently provides first aid to an injured employee, no coverage would apply for a claim against the nurse. If however, a worker at the company plant negligently provided first aid to a fellow plant worker, coverage would apply for a claim against the employee who is not a healthcare professional. If the insured business were brought into either of these claims, the form would respond on behalf of the business.

Finally, under the 1997 form, coverage was provided to retail druggists. This was eliminated in the 2002 form and represented a reduction in coverage. The 2006, and subsequent forms maintain this limitation.

- (2) "Property damage" to property:
 - (a) Owned, occupied or used by,
 - (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by; you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

If an employee damages property that is owned, occupied, used, rented to, or in the care, custody, or control of the insured or employees, coverage will

not apply for claims against the employee because he is not an insured for the situation.

- b. Any person (other than your “employee” or “volunteer worker”), or any organization while acting as your real estate manager.

The business owner’s real estate manager who is not an employee is considered an insured and covered under the Businessowners liability coverage. For example, if an apartment building owner has a real estate broker managing his apartment building, the real estate manager is considered an insured and covered under the Businessowners liability. If, however, the real estate manager were an employee of the apartment building owner, she would need to seek coverage as an employee and not as a real estate manager.

- c. Any person or organization having proper temporary custody of your property if you die, but only:
 - (1) With respect to liability arising out of the maintenance or use of that property; and
 - (2) Until your legal representative has been appointed.

A person or organization that has temporary custody of a business owner’s property attains insured status at the business owner’s death. This insured status applies only to liability arising out of the maintenance or use of the business owner’s property and ends when a legal representative has been appointed.

- d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Policy.

The business owner’s legal representative is an insured when the business owner dies, but only with respect to duties as such. The legal representative will have all of the business owner’s rights and duties under the policy.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

Finally, no person or organization is an insured with respect to the conduct of any current or past partnership, joint venture, or limited liability company not shown as a named insured in the declarations. Organizations such as partnerships and joint ventures must actually be named on the policy in order for liability coverage to extend to claims arising from their operations.

Additional Insured Endorsements

The Who Is An Insured provision limits insured status to the parties set forth in the form. Other individuals and entities may be added as insureds by using any one of the available additional insured endorsements to address the individual needs of the business owner, such as one of these endorsements:

- Additional Insured – Automatic Status For Designated Operations (BP 15 82)
- Additional Insured – Automatic Status When Required In Written Contract Or Agreement (BP 15 83)
- Additional Insured – Co-owner Of Insured Premises (BP 04 11)
- Additional Insured – Building Owner (BP 12 31)
- Additional Insured – Controlling Interest (BP 04 06)
- Additional Insured – Co-Owner of Insured Premises (BP 04 11)
- Additional Insured – Engineers, Architects Or Surveyors (BP 04 13)
- Additional Insured Executors, Administrators, Trustees Or Beneficiaries (BP 15 86)
- Additional Insured – Designated Person or Organization (BP 04 48)
- Additional Insured – Engineers, Architects, or Surveyors (BP 04 13)
- Additional Insured – Engineers, Architects or Surveyors Not Engaged by the Named Insured (BP 04 49)
- Additional Insured – Grantor of Franchise (BP 14 05)
- Additional Insured – Grantor of Licenses (BP 15 88)
- Additional Insured – Grantor of Licenses – Automatic Status When Required By Licensor (BP 15 89)
- Additional Insured – Lessor of Leased Equipment (BP 04 16)
- Additional Insured – Lessor Of Leased Equipment – Automatic Status When Required In Lease Agreement With You (BP 15 87)

- Additional Insured – Managers or Lessors of Premises (BP 04 02)
- Additional Insured – Mortgagee, Assignee or Receiver (BP 04 09)
- Additional Insured – Owners, Lessees or Contractors (BP 04 50)
- Additional Insured – Owners, Lessees or Contractors – Automatic Status For Other Parties When Required In Written Construction Agreement (BP 14 87)
- Additional Insured – Owners, Lessees or Contractors – Automatic Status When Required In A Written Construction Agreement With You (BP 04 51)
- Additional Insured – Owners, Lessees or Contractors – Completed Operations (BP 14 02)
- Additional Insured – Owners or Other Interests from Whom Land Has Been Leased (BP 04 10)
- Additional Insured – State Or Political Subdivisions – Permits (BP 04 52)
- Additional Insured – State or Political Subdivision – Permits Relating to Premises (BP 04 07)
- Additional Insured – Unit Owners Of Townhouse Associations (BP 04 08)
- Additional Insured – Vendors (BP 04 47)
- Additional Insured – Vendors – Automatic Status When Required In Agreement (BP 15 84)
- Named Insured – Building Owner (BP 12 31)

A summary of each endorsement is included in Chapter 16.

Property of Robert Richardson,

Chapter 12 Liability and Medical Expense Limits and General Conditions

This chapter addresses both the liability and medical expense limits of insurance as well as the general conditions found in the business liability coverage section. The term *limits of insurance* refers to the maximum amount that will be paid under the policy. The 2006 edition included minor editorial revisions to complement changes made in previous sections. The primary change in this section was the inclusion of the Damage to Premises Rented to You limit as part of the applicable aggregate limit. This represented a reduction in coverage over the 2002 edition. Other than that substantive change, the Liability and Medical Expense Limits and General Conditions sections of the 2006 edition were the same as in the Businessowners 2002 form. The Businessowners 2010 edition, as its successor editions, makes no substantive changes to the Liability and Medical Expense Limits and General Conditions.

Liability and Medical Expense Limits

D. Liability And Medical Expenses Limits Of Insurance

1. The Limits Of Insurance of Section II – Liability shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
 - a. Insureds;
 - b. Claims made or “suits” brought; or
 - c. Persons or organizations making claims or bringing “suits”.

This statement limits the amount paid to the limit of insurance shown in the declarations regardless of the number of insureds, claims, or persons or organizations bringing suit. For example, if the business liability section of

the declarations indicates a \$1 million limit of insurance and two individuals bring suit arising out of the same occurrence, the most the insurer will pay is \$1 million.

2. The most we will pay for the sum of all damages because of all:
 - a. “Bodily injury”, “property damage” and medical expenses arising out of any one “occurrence”; and
 - b. “Personal and advertising injury” sustained by any one person or organization;
is the Liability and Medical Expenses limit shown in the Declarations. But the most we will pay for all medical expenses because of “bodily injury” sustained by any one person is the Medical Expenses limit shown in the Declarations.

This paragraph limits the amounts paid for bodily injury, property damage, and medical expenses arising out of any one occurrence to the amounts indicated in the declarations. To illustrate how this applies consider the following: a business owner maintains \$1 million in liability coverage and \$5,000 in medical expenses coverage. An explosion occurs and ten individuals are injured. In this example, the maximum amount the insurer will pay is \$1 million. This maximum amount (\$1 million) is the total of the sums that will be paid for bodily injury, property damage, and medical expenses in one occurrence.

Personal and advertising injury, although included within the liability limit of insurance, is subject to the same \$1 million limitation sustained for injury by any one person or organization.

The final sentence of this paragraph limits the amount paid for all medical expenses due to bodily injury to a per person limit. For example, the maximum amount each of the ten claimants involved in the explosion from the previous example would receive under medical expenses is \$5,000 each. Such medical expense payments would decrease the amount available to pay liability claims arising from the same occurrence.

3. The most we will pay under Business Liability Coverage for damages because of “property damage” to a premises while rented to you or in the case of fire while rented to you or temporarily occupied by you with

permission of the owner is the applicable Damage To Premises Rented To You limit shown for that premises in the Declarations. For a premises temporarily occupied by you, the applicable limit will be the highest Damage To Premises Rented To You Limit shown in the Declarations.

This section limits the amount available to pay for property damage to the premises rented to or temporarily occupied by the business owner with permission of the building owner. Coverage applies only to property damage caused by fire and is subject to the Damage to Premises Rented to You (fire legal liability under prior forms) limit shown in the declarations. Consider the following illustration: a tenant-business owner carries a limit of \$50,000 under Damage to Premises Rented to You. An employee negligently drops a lit cigarette into a wastebasket. A fire ensues, resulting in damage to the area the business owner occupies. The amount of damage is \$75,000. The policy's Damage to Premises Rented to You coverage will pay its limit of insurance of \$50,000. The balance of the claim is not covered under the Businessowners form. Note that in the 2002 edition, this limit applied to fire *and* explosion. This coverage was narrowed in the 2006 edition, applying only to fire and represented a reduction in coverage.

4. Aggregate Limits

The most we will pay for:

- a. All "Bodily injury" and "property damage" that is included in the "products-completed operations hazard" is twice the Liability and Medical Expenses limit.
- b. All:
 - (1) "Bodily injury" and "property damage" except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard";
 - (2) Plus medical expenses;
 - (3) Plus all "personal and advertising injury" caused by offenses committed;is twice the Liability and Medical Expenses limit.

Subject to Paragraph a. or b. above, whichever applies, the Damage To Premises Rented To You Limit is the most we will pay for damages because

of “property damage” to any one premises, while rented to you, or in the case of fire, while rented to you or temporarily occupied by you with permission of the owner.

The Limits of Insurance of Section II – Liability apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

The first part of the aggregate limit applies to bodily injury or property damage under the products-completed operations hazard. In this case, the most the insurer will pay is twice the liability and medical expenses limit. This increase in limits was introduced in the 2002 form. Under the 1997 program, the amount available for the products-completed operations was limited to the single liability and medical payments limit.

The second part of the aggregate limit applies to all other injury or damage, including medical expenses arising from all occurrences during the policy period. In this case, the aggregate limit is twice the liability and medical expenses limit. In other words, there are two aggregates. One applies to the products-completed operations hazard (4.a.), and one applies to all other injury or damage except property damage to premises rented to, or temporarily occupied by, the business owner arising out of fire (Damages to Premises Rented to You). The aggregate limit that applies to all other losses, including medical expenses, is also equal to twice the liability and medical payment limit. One notable change in this section from the 2006 revision was the replacement of the paragraph following 4.b. This language makes the Damages to Premises Rented to You limit of insurance subject to the applicable aggregate limit of insurance.

The limits of insurance of this policy apply separately to each consecutive annual period and to any remaining period of fewer than twelve months, starting with the beginning of the policy period shown in the declarations, unless the policy period is extended after issuance for an additional period of fewer than twelve months. In that case, the additional period will be

deemed part of the last preceding period for purposes of determining the limits of insurance. This paragraph means that the limits of insurance are for a twelve-month term and in the event a policy term is extended at expiration for a period of fewer than twelve months, a new aggregate will not apply.

Liability and Medical Expense General Conditions

This section addresses the liability and medical expense general conditions of the Businessowners liability coverage. These conditions set forth the duties and obligations of the named insured and the insurer as they apply to the liability and medical expenses of the policy in general. The liability and medical expenses general conditions address bankruptcy; duties in the event of occurrence, offense, claim, or suit; financial responsibility laws; legal actions against us; and separation of insureds.

E. Liability And Medical Expense General Conditions

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Policy.

The bankruptcy or insolvency of the insured or of the insured's estate will not relieve the insurer of its obligations under this policy. In other words, if a claim and/or lawsuit is pending at the time the business owner becomes bankrupt or insolvent, the insurer will pay claims in accordance with the policy provisions. The bankruptcy does not void the coverage.

2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and

(3) The nature and location of any injury or damage arising out of the “occurrence” or offense.

This condition requires the insured to notify the insurer of an occurrence or an offense that may result in a claim as soon as practicable. The notice should include how, when, and where the occurrence or offense took place. The notice should also include the names and addresses of any injured persons and witnesses and the nature and location of any injury or damage arising out of the occurrence or offense. If no claim is made or no suit is filed, this notice need not be in writing (see the following additional requirement).

b. If a claim is made or “suit” is brought against any insured, you must:

- (1) Immediately record the specifics of the claim or “suit” and the date received; and
- (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or “suit” as soon as practicable.

This condition requires additional reporting duties in the event an occurrence or offense becomes a claim or suit. In these cases, the insured is required to immediately record the specifics of the claim or suit and notify the insurer as soon as practicable. Notice of claim or suit must be in writing.

c. You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or “suit”;

This condition requires the insured to immediately send copies of demands, notices, summonses, or other legal papers received in connection with the claim or suit. This requirement is important since the insurer will investigate the claim to determine its liability. It is also important in that a failure to answer a lawsuit within the time stipulated may result in a default judgment against the insured. For these reasons, it is important to place the

insurer on immediate notice when these types of documents or demands are made.

(2) Authorize us to obtain records and other information;

The insured is required to authorize the insurer to obtain records and other information. For example, the insurer may request a business's books or financial records to assist in determining a claim.

(3) Cooperate with us in the investigation, or settlement of the claim or defense against the "suit"; and

The insured is also required to cooperate with the insurer in the investigation or settlement of the claim or defense against the suit. For example, if the insured is a witness to an incident, the insured must cooperate with the insurer by giving a statement.

(4) Assist us, upon our request, in the enforcement of any right against any person or organization that may be liable to the insured because of injury or damage to which this insurance may also apply.

This condition requires the insured to assist the insurer in the enforcement of any right against any person or organization that may be liable to the insured because of injury or damage to which this insurance may also apply. For example, if a third party's actions contributed to an injury to which the Businessowners liability coverage applies, the business owner is required to cooperate. This cooperation may involve testifying against the third party.

d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

If the insured chooses to pay all or part of a claim without the insurer's consent, the insurer will not reimburse the insured. An exception to this applies for first aid. To illustrate how this may occur, consider the following: a customer slips on the business owner's wet floor, which requires that the customer be taken to a hospital emergency room. The customer demands that the business owner pay the ambulance and

emergency room costs of \$1,000 plus \$10,000 for the customer's pain and suffering associated with the fall. In the event the business owner makes both payments, the insurer would pay only \$1,000 to reimburse the costs associated with the first aid. The voluntary payment of \$10,000 is not covered.

Failure by the insured to comply with any of these duties may result in coverage being voided.

3. Legal Action Against Us

No person or organization has a right under this Policy:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Policy unless all of its terms have been fully complied with.

This provision requires compliance with all terms of the policy prior to initiation of a legal action against the insurer.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Policy or that are in excess of the applicable Limit of Insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

The insurer is not liable for damages that are not payable under the terms of this policy or that are in excess of the applicable limit of insurance.

4. Separation Of Insureds

Except with respect to the Limits of Insurance of Section II – Liability, and any rights or duties specifically assigned in this Policy to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and

- b. Separately to each insured against whom claim is made or “suit” is brought.

Other than the limits of insurance and any rights or duties specifically assigned in this policy to the first named insured, this coverage applies separately to each named insured and separately to each insured against whom a claim is made or a suit is brought. This was previously referred to as the severability clause.

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Chapter 13 Liability and Medical Expense Definitions

This chapter addresses the liability and medical expense definitions of the Businessowners form. Definitions are extremely important in contract interpretation and analysis. They clarify terms that are used in the policy, and coverage frequently hinges upon them.

Over the years, the number of definitions found in policies has increased substantially. Basically, this is due to litigation over ambiguities in terms and words used in insurance policies. Consequently, the Insurance Services Office and insurers that independently file their own forms have included additional terms and definitions to minimize such allegations.

Although policy definitions are listed in a section titled as such, definitions, like exclusions, are also found throughout the policy.

The 2006 edition included several minor editorial revisions for clarification purposes and one substantive change to the definitions of *auto* and *mobile equipment*. That one substantive change eliminated from coverage autos and mobile equipment that are subject to any compulsory or financial responsibility law or other motor vehicle insurance or motor vehicle registration law where it is licensed or principally garaged. This represents a reduction in coverage in states that mandate registration of these types of vehicles. Coverage for over-the-road land motor vehicles and certain types of mobile equipment may be covered by a commercial auto policy. The only change in the 2010 edition from the 2006 edition was a minor editorial revision in the mobile equipment definition. The 2013 edition makes no revisions from its predecessor form. The 2024 edition made two substantive revisions. First, the phrase *motor vehicle registration law* is deleted in the *auto* and *mobile equipment* definitions. This revision now parallels the policy language of ISO's commercial auto and commercial general liability policies. This revision, when viewed in conjunction with the auto, aircraft or watercraft exclusion, may broaden coverage for snowmobiles, ATVs and

similar conveyances that are not designed for public roads and not subject to motor vehicle laws. Second, coverage will not apply to the tort liability the insured assumes from another party under an insured contract, to the extent it is prohibited by law. Depending upon the state, this may be a reduction in coverage.

Liability and Medical Expenses Definitions

1. “Advertisement” means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:
 - a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
 - b. Regarding websites, only that part of a web-site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.

The definition of *advertisement* was introduced in the 2002 edition. Its purpose is to define advertisement with specific attention to electronic communication on the Internet and the displaying of websites. Under this definition, *advertisement* means a notice that is broadcast or published to the general public or specific market segments about the insured’s goods, products, or services for the purpose of attracting customers or supporters to the insured’s business.

The meaning of *advertisement* becomes critical for the application of coverage under the personal and advertising liability coverage section. For example, coverage is excluded under exclusion p. (6) for “personal and advertising injury arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your ‘advertisement.’” So, if a business owner said its product would perform in a certain way in an advertisement, and the product did not produce the advertised results, personal and advertising injury coverage would be excluded by virtue of exclusion p. (6). However, if that same business owner made the same claim in an individual sales call—not in a notice broadcast or published to a broader audience—the exclusion would not

apply and coverage might be triggered if other policy requirements for coverage were met.

2. “Auto” means:

- a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
- b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

However “auto” does not include “mobile equipment”.

Autos are defined as land motor vehicles including trailers or semitrailers designed for travel on public roads. This definition also includes attached machinery or equipment.

This definition was revised in the 2006 edition with the insertion of 2.a. and 2.b., which eliminates from coverage liability arising out of the use of any land vehicle that is subject to any compulsory or financial responsibility law or other motor vehicle insurance or motor vehicle registration law where it is licensed or principally garaged. This represented a reduction in coverage in states that mandate registration of these types of vehicles. The 2024 edition further revised the definition of auto by deleting the phrase *motor vehicle registration law*. The revision, when viewed in conjunction with the auto, aircraft or watercraft exclusion, has no impact on coverage. Coverage for over-the-road land motor vehicle exposures may be covered by a commercial auto policy. Limited coverage (i.e., liability only) for automobile exposures is available by adding the Hired Auto and Non-Owned Auto Liability (BP 04 04) endorsement to the policy.

The term *auto* does not include mobile equipment. The term *mobile equipment* is a separate term that is defined later in this chapter.

3. “Bodily injury” means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.

This standard definition of *bodily injury* means that the sums payable for a bodily injury claim include the cost for sickness, disease, and death. Bodily injury is commonly held to be a narrow term encompassing only physical injuries to the body and their consequences. It typically does not include emotional distress.

4. “Coverage territory” means:

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
- b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in Paragraph a. above; or
- c. All other parts of the world if the injury or damage arises out of:
 - (1) Goods or products made or sold by you in the territory described in Paragraph a. above; or
 - (2) The activities of a person whose home is in the territory described in Paragraph a. above, but is away for a short time on your business; or
 - (3) “Personal and advertising injury” offenses that take place through the Internet or similar electronic means of communication;provided the insured’s responsibility to pay damages is determined in a “suit” on the merits in the territory described in Paragraph a. above or in a settlement we agree to.

The coverage territory described in a. and b. encompasses the United States (including its territories and possessions), Puerto Rico, and Canada and international waters or airspace between these locations.

Item c. provides coverage worldwide if the injury or damage arises out of goods or products made or sold by the business owner in that territory, or the activities of a person who is away from the defined territory for a short time on business. The insured’s responsibility to pay damages is determined in a suit on the merits in the described territory or in a settlement the insurer agrees to. For example, if a business owner makes a product in the United States and sells it in Europe, liability coverage would apply if the business owner’s liability were determined in a suit brought in the United States,

Puerto Rico, or Canada. For coverage to apply, the product must be made or sold by the business owner in the United States, Puerto Rico, or Canada.

The 2002 form added to the coverage territory personal and advertising injury offenses that take place through the Internet or similar electronic means of communication.

5. “Employee” includes a “leased worker”. “Employee” does not include a “temporary worker”.

Leased workers fall under the category of employees. A *temporary worker* is defined separately and means a person who is furnished to the business owner to substitute for a permanent employee on leave or to meet seasonal or short-term workload conditions.

6. “Executive officer” means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.

This definition clarifies that an executive officer is a person holding any of the officer positions created by an organization’s charter, constitution, by-laws, or similar document. The purpose of this definition is to differentiate between an *executive* and an *employee*.

7. “Hostile fire” means one which becomes uncontrollable or breaks out from where it was intended to be.

The 2002 form introduced the term *hostile fire* to mean one that becomes uncontrollable or breaks out from where it was intended to be. This comports with other standard definitions of *hostile fire*.

8. “Impaired property” means tangible property, other than “your product” or “your work”, that cannot be used or is less useful because:

- a. It incorporates “your product” or “your work” that is known or thought to be defective, deficient, inadequate or dangerous; or
- b. You have failed to fulfill the terms of a contract or agreement; if such property can be restored to use by:

- (1) The repair, replacement, adjustment or removal of “your product” or “your work”; or
- (2) Your fulfilling the terms of the contract or agreement.

The term *impaired property*, used in liability exclusion (B.1.n) to eliminate liability coverage for losses due to impaired property, is defined here as “tangible property other than the business owner’s product or work product that cannot be used or is less useful, or in the alternative can be restored to use.”

To illustrate how impaired property can impact a products liability claim, consider the following: a business owner manufactures a computer chip that is sold to a computer manufacturer. The computer manufacturer installs this chip in its computers and markets them to the public. It is subsequently discovered that the computers are not performing properly and the exclusive cause is determined to be defective computer chips.

Consequently, the computer manufacturer’s property (the computer) is impaired due to the defective computer chip. In this example, the chip manufacturer (the insured business owner) is not covered since its defective product (the computer chips) caused the computers to be impaired. This problem (the impaired computers) can be rectified if the computer chips are replaced. The cost of the replacement would not be covered as it is classified a business risk.

9. “Insured contract” means:

Business liability provides contractual liability coverage for claims involving insured contracts. There are six categories of insured contracts afforded contractual liability coverage.

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an “insured contract”;

A contract for a lease of premises is considered an insured contract, except for that portion of the contract that indemnifies any person or organization

for damage by fire to premises while rented to, or occupied by, the business owner with permission of the owner. In other words, damage to premises rented to you (i.e., fire legal liability) coverage is not included as part of an insured contract. For example, if a customer falls in a tenant business owner's premises, the building owner is protected under the tenant business owner's liability coverage if the tenant had assumed the building owner's liability for the premises in the lease. If, however, an employee of the business owner accidentally drops a lit cigarette causing a building fire, the resulting fire damage is not covered under the business liability coverage. Rather, it is considered under the damage to premises rented to you limit.

b. A sidetrack agreement;

A sidetrack agreement is an agreement between the owners of a premises and a railroad with a railroad sidetrack (i.e., an access track) that services the business owner's property, usually a warehouse or loading dock facility. Typically, the business owner agrees to hold the railroad harmless if an accident occurs while the railroad is delivering goods on the sidetrack to the business's warehouse. Sidetrack agreements are considered insured contracts under Businessowners liability coverage.

c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;

An easement agreement is the right to use, access, or traverse property of another. A license agreement basically gives similar rights. Easement or license agreements protect the property owner who gives the business owner the right to use, access, or traverse his property.

Easement and license agreements in connection with construction or demolition operations on or within fifty feet of a railroad are not considered insured contracts.

d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;

Insured contracts include an obligation when required by law to indemnify a municipality, except in connection with work performed for a municipality. For example, assume a business owner erects a sign that extends over a public walkway that becomes dislodged and injures a pedestrian. The Businessowners policy will indemnify the municipality for the bodily injuries sustained by the pedestrian. Local ordinances commonly require property owners to indemnify the municipality if the public is injured on public property (sidewalks, parks, facilities, etc.) caused by the business owner's actions and activities even when no written contract is entered into between the business owner and the municipality. Note this coverage (9.d.) does not apply to contract work performed on behalf of the municipality (construction, repair or maintenance work). This type of insured contract requires an agreement between the parties as set forth in paragraph 9.f.

e. An elevator maintenance agreement;

An elevator maintenance agreement is an agreement between an elevator service company and the building owner. In these cases, the building owner agrees to hold harmless the elevator maintenance company and, in effect, assume all responsibility for claims arising out of the use of the elevator.

f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. However, such part of a contract or agreement shall only be considered an "insured contract" to the extent your assumption of the tort liability is permitted by law. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Simply stated, an insured contract also includes agreements in which the insured assumes the tort liability of another party to pay for bodily injury or property damage to a third party or organization. An example is a contract in which an insured contractor agrees to indemnify an entity (another contractor or property owner including a municipality) for claims arising out of the insured contractor's negligence. These types of agreements

(broad, intermediate or limited) are common in the construction field and are designed to transfer liability. The 2024 revision inserted the sentence “However, such part of a contract or agreement shall only be considered an “insured contract” to the extent your assumption of the tort liability is permitted by law.” Its purpose is to avoid the tort liability an insured assumes of another party to the extent that the assumption of such liability is prohibited in a particular state. The final sentence of that paragraph defines tort liability. Its purpose is to reinforce the intent of the paragraph to cover tort liability and not other types of liability (warranties, breaches) that may be part of the contract.

Paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies a railroad for “bodily injury” or “property damage” arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing;
- (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - a. Preparing, approving or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - b. Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

Point (1) excludes indemnifications of a railroad for bodily injury or property damage arising out of construction or demolition operations as outlined. These exposures are typically covered under a railroad protective liability policy.

Point (2) excludes the professional activities of an architect, engineer, or surveyor. These exposures are typically covered under a professional liability policy.

10. “Leased worker” means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. “Leased worker” does not include a “temporary worker”.

This definition reflects the increased usage of leased workers in the work force. Under the policy, leased workers are treated like employees from a coverage viewpoint.

11. “Loading or unloading” means the handling of property:

- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or “auto”;
- b. While it is in or on an aircraft, watercraft or “auto”; or
- c. While it is being moved from an aircraft, watercraft or “auto” to the place where it is finally delivered;

but “loading or unloading” does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or “auto”.

The definition of *loading or unloading*, as used in Businessowners liability insurance, excludes coverage for injury or damage arising out of the transporting of property on aircraft, watercraft, or autos. For example, if a business owner were loading property with a forklift onto a truck, and the property falls and injures a customer, Businessowners liability coverage applies. If, however, a business owner is loading property by means of a hand truck onto a truck, and the property falls and injures a customer, coverage will not apply. This exposure should be insured under the business auto policy.

12. “Mobile equipment” means any of the following types of land vehicles, including any attached machinery or equipment:

- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b. Vehicles maintained for use solely on or next to premises you own or rent;
- c. Vehicles that travel on crawler treads;
- d. Vehicles, whether self-propelled or not, on which are permanently mounted:

(1) Power cranes, shovels, loaders, diggers or drills; or

- (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e. Vehicles not described in Paragraphs a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - (2) Cherry pickers and similar devices used to raise or lower workers;
- f. Vehicles not described in Paragraphs a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not “mobile equipment” but will be considered “autos”:

- (1) Equipment designed primarily for:
 - a. Snow removal;
 - b. Road maintenance, but not construction or resurfacing; or
 - c. Street cleaning;
- (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, “mobile equipment” does not include land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law where they are licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered “autos.”

This definition sets forth in detail the wide range of mobile equipment that is covered under Businessowners liability. By exception, certain types of equipment are not classified as mobile equipment. These include self-propelled vehicles designed for road construction or maintenance use, such

as snow or street cleaning equipment, or self-propelled vehicles with permanently attached equipment, such as mounted cherry pickers, air compressors, or sprayers. These types of vehicles should be insured under a commercial auto policy.

The 2006 edition inserted a paragraph after 12.f. (3) to stipulate that mobile equipment subject to a compulsory or financial responsibility law or other motor vehicle insurance or motor vehicle registration law is not covered. This represented a reduction in coverage in states that mandate registration of these types of equipment. Mobile equipment subject to compulsory or financial responsibility laws or other motor vehicle insurance or motor vehicle registration laws should be insured under an appropriate commercial auto policy. The 2010 edition added the phrase “or motor vehicle registration law” in the second sentence of the last paragraph to parallel with the first sentence. The 2024 edition revised the definition of mobile equipment by deleting the phrase *motor vehicle registration law* which was introduced in 2010 edition. The 2024 revision when viewed in conjunction with the auto, aircraft or watercraft exclusion may broaden coverage (depending upon the state) for snowmobiles, ATVs and similar conveyances that are not designed for public roads and not subject to motor vehicle laws.

13. “Occurrence” means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

The term *occurrence* requires any incident causing a loss to be accidental rather than intentional in order to qualify for coverage. *Accidental* means an unforeseen or unplanned event that is neither expected nor intended by the insured. *Intentional* means the exact opposite and intentional acts are, of course, excluded.

The phrase “including continuous or repeated exposure to substantially the same general harmful conditions” expands an accidental occurrence to include continuous or repeated exposure to substantially the same general harmful conditions. In other words, multiple or repeated exposure to the same conditions is considered a single occurrence. Consider the following example of how this may occur: A business owner’s forklift truck accidentally damages an adjoining business owner’s building during

repeated trips to move merchandise. These incidents will be treated as one occurrence since they were caused by continuous or repeated exposure to substantially the same general harmful conditions.

14. “Personal and advertising injury” means injury, including consequential “bodily injury”, arising out of one or more of the following offenses:

- a. False arrest, detention or imprisonment;
- b. Malicious prosecution;
- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, by or on behalf of its owner, landlord or lessor;
- d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person’s or organization’s goods, products or services;
- e. Oral or written publication, in any manner, of material that violates a person’s right of privacy.
- f. The use of another’s advertising idea in your “advertisement”; or
- g. Infringing upon another’s copyright, trade dress or slogan in your “advertisement”.

Businessowners liability coverage includes personal and advertising injury. Personal and advertising injury includes any one or more of the offenses listed in 14. a. through g. For example, if a business owner had a customer arrested based upon a shoplifting allegation that was later determined to be false, coverage would apply if the customer brought suit. The 2002 form merged together the definitions of *personal injury* and *advertising injury* from the 1997 form into one definition. As noted previously, portions of this combined definition tie closely into the definition of *advertisement*.

15. “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.

The policy definition of *pollutants* is far reaching. It means any solid, liquid, gaseous, or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, and waste. Examples include

radioactive materials, asbestos, oil byproducts, radon gas, and various acids. For instance, if bodily injury or property damage arose from a release of gasoline, coverage would not apply. In the definition, waste includes materials that are recycled, reconditioned, or reclaimed. So, if a business were recycling a pollutant and bodily injury or property damage resulted, coverage would not apply.

16. “Products-completed operations hazard”:

- a. Includes all “bodily injury” and “property damage” occurring away from premises you own or rent and arising out of “your product” or “your work” except:

- (1) Products that are still in your physical possession; or

- (2) Work that has not yet been completed or abandoned.

However, “your work” will be deemed completed at the earliest of the following times:

- a. When all of the work called for in your contract has been completed.

- b. When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.

- c. When that part of the work done at the job site has been put to its intended use by any other person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

The “bodily injury” or “property damage” must occur away from premises you own or rent, unless your business includes the selling, handling or distribution of “your product” for consumption on premises you own or rent.

- b. Does not include “bodily injury” or “property damage” arising out of:

- (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the “loading or unloading” of that vehicle by any insured; or

(2) The existence of tools, uninstalled equipment or abandoned or unused materials.

Business liability covers products-completed operations exposures. Products-completed operations includes bodily injury or property damage occurring away from the business owner's premises that arises out of the business owner's products or work. By exception, products-completed operations does not include products still in the business owner's possession or work that has not been completed or abandoned. Sections (2) (a), (b), and (c) of this definition address when the work is considered completed and therefore eligible for coverage under the products-completed operations hazard.

17. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, electronic data is not tangible property.

As used in this definition, electronic data means information, facts or programs stored as, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

Business liability also covers property damage. *Property damage* generally means physical injury to tangible property, including loss of use. *Property damage* also means loss of use of tangible property that is not physically injured. Within the *property damage* definition, the Businessowners form states that electronic data is not tangible property. It then defines *electronic data* to include information or programs stored that are created or used to transmit to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data

processing devices, or any other media that are used with electronically controlled equipment. This encompassing definition complements the personal and advertising injury exclusion and is a means to eliminate coverage for damage to this type of property.

18. “Suit” means a civil proceeding in which damages because of “bodily injury”, “property damage”, or “personal and advertising injury” to which this insurance applies are alleged. “Suit” includes:

- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

Business liability coverage is triggered when a suit is initiated. A *suit* is a civil proceeding, such as a lawsuit and includes arbitration or alternative dispute resolution.

19. “Temporary worker” means a person who is furnished to you to substitute for a permanent “employee” on leave or to meet seasonal or short-term workload conditions.

This definition classifies a person who is furnished to the business owner as a substitute for a permanent employee on leave or to meet seasonal or short-term workload conditions as a *temporary worker*. This differentiation means that a temporary worker is not subject to the employers liability exclusion of the business liability coverage as are employees and leased workers. In other words, a temporary worker who is injured may be covered under the business owner’s business liability coverage since he is not considered an employee or a leased worker.

20. “Volunteer worker” means a person who is not your “employee”, and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

The definition *volunteer worker* was introduced in the 2002 edition. It means a person who is not an employee of the insured, who donates his work, and who acts at the direction of the insured without pay or compensation. The addition of the *volunteer worker* definition represented a broadening of coverage over the 1997 form.

21. “Your product”:

a. Means:

- (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - a. You;
 - b. Others trading under your name; or
 - c. A person or organization whose business or assets you have acquired; and
- (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

b. Includes:

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of “your product”; and
- (2) The providing of or failure to provide warnings or instructions.

c. Does not include vending machines or other property rented to or located for the use of others but not sold.

The term *your product* includes goods or products manufactured, sold, handled, distributed, or disposed of, except real property, by a person or organization whose business or assets the business owner has acquired. This definition also includes the providing of or the failure to provide warnings or instructions. For example, if a business owner allegedly fails to warn a customer about the safe and proper use of a product, coverage would apply under the Businessowners liability coverage for a claim alleging damages because of a failure to warn.

22. “Your work”:

a. Means:

- (1) Work or operations performed by you or on your behalf; and
- (2) Materials, parts or equipment furnished in connection with such work or operations.

b. Includes:

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of “your work”; and
- (2) The providing of or failure to provide warnings or instructions.

Your work means work or operations performed by you or on your behalf and materials, parts, or equipment furnished in connection with such work or operations. The business owner is covered for property damage to work performed on her behalf by a subcontractor. As with the definition of *your product*, this definition includes coverage if a business owner fails to provide warnings or instructions.

Property of Robert Richardson,

Chapter 14 Businessowners Common Policy Conditions

This chapter addresses the common policy conditions. Unlike other conditions reviewed in preceding chapters, the Businessowners common policy conditions apply to the policy in general (that is, to both property and liability sections). The 2002 form incorporated the common policy conditions into the policy itself by creating Section III, which is titled Common Policy Conditions (Applicable to Section I – Property and Section II – Liability). This is a departure from the 1997 form, which utilized a separate conditions form. The 2006 and 2010 editions continue the same format as the 2002 edition (combining property and liability conditions) and made minor editorial revisions. These revisions were for clarification purposes and have no impact on coverage. The Businessowners 2010 edition, and its successor, the 2013 edition, made no changes to the common policy conditions. The 2024 edition made editorial revisions to its Other Insurance provision to more closely align with ISO's commercial general liability policy. There is no impact on coverage. The following addresses the twelve common policy conditions of the 2024 form. All coverages of the policy are subject to these conditions.

Section III – Common Policy Conditions (Applicable to Section I – Property and Section II – Liability)

Cancellation

1. The first Named Insured shown in the Declarations may cancel this Policy by mailing or delivering to us advance written notice of cancellation.

According to this condition, only the first named insured shown in the declarations may cancel the policy by mailing or delivering to the insurer advance written notice of the cancellation. The common policy conditions form sets forth three separate categories of reasons for an insurer to cancel a policy. Each of the three categories has a different advance time notice.

Special Note: Each state has adopted its own acceptable cancellation and advance notice requirements that supersede these common policy conditions. For complete information on each state's cancellation requirements, refer to the state specific forms included with each specific policy that is issued. This information can also be found in National Underwriter Company's annual *FC&S Cancellation & Nonrenewal* book.

2. We may cancel this Policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
 - a. Five days before the effective date of cancellation if any one of the following conditions exists at any building that is Covered Property in this Policy:
 - (1) The building has been vacant or unoccupied 60 or more consecutive days. This does not apply to:
 - a. Seasonal unoccupancy; or
 - b. Buildings in the course of construction, renovation or addition.
Buildings with 65% or more of the rental units or floor area vacant or unoccupied are considered unoccupied under this provision.

(2) After damage by a Covered Cause of Loss, permanent repairs to the building:

- a. Have not started; and
- b. Have not been contracted for; within 30 days of initial payment of loss.

(3) The building has:

- a. An outstanding order to vacate;
- b. An outstanding demolition order; or
- c. Been declared unsafe by governmental authority.

(4) Fixed and salvageable items have been or are being removed from the building and are not being replaced. This does not apply to such removal that is necessary or incidental to any renovation or remodeling.

(5) Failure to:

- a. Furnish necessary heat, water, sewer service or electricity for 30 consecutive days or more, except during a period of seasonal unoccupancy; or
- b. Pay property taxes that are owing and have been outstanding for more than one year following the date due, except that this provision will not apply where you are in a bona fide dispute with the taxing authority regarding payment of such taxes.

The insurer may cancel with at least five days advance notice in the event that any of the following five conditions exist in relation to the insured property:

1. If a building is vacant or unoccupied (excluding seasonal unoccupancy or buildings in the course of construction, renovation, or addition) for sixty or more consecutive days. Buildings with 65 percent or more of the rental units or floor area vacant or unoccupied are considered unoccupied under this provision.
2. If the business owner has not started or contracted for repairs within thirty days of initial payment of loss.
3. If the business owner's building has an outstanding order to vacate, an outstanding demolition order, or has been declared unsafe by governmental authority.

4. If fixed and salvageable items have been or are being removed from the building by the business owner and are not being replaced. This does not apply to removal that is necessary or incidental to any renovation or remodeling.
5. If the business owner fails to maintain heat, water, sewer service, or electricity for thirty consecutive days or more, except during a period of seasonal unoccupancy. Similarly, if the business owner fails to pay property taxes that are owed and have been outstanding for more than one year following the date due, a cancellation may also be issued. This provision does not apply if the business owner has a legitimate dispute with the taxing authority.
 - b. 10 days before the effective date of cancellation if we cancel for nonpayment of premium.
 - c. 30 days before the effective date of cancellation if we cancel for any other reason.

These items refer to the right of the insurer to cancel with at least ten days advance notice in the event of nonpayment of premium or with at least thirty days advance notice for any other reason.

3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.

The only requirement the insurer has in relation to notifying the insured is to mail or deliver its notice to the first named insured's last known (to the insurer) mailing address. (See number 6. for what constitutes proof of mailing.) The notice of cancellation must state the effective date of cancellation, which is the date the policy period will end.

5. If this Policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.

If the insurer cancels the policy, it will forward a premium refund to the first named insured for the amount of the policy term that was unearned. In the event the policy is cancelled by the insured, the insurer will forward a premium refund to the first named insured that is less than the amount of the premium that was unearned. In other words, the premium refund may be short-rated (an early cancellation penalty charged), and the insured may be paid less than a proportional return premium.

6. If notice is mailed, proof of mailing will be sufficient proof of notice.

This means that if the notice of cancellation is mailed, proof of mailing will be sufficient proof of notice for the cancellation. In other words, the insurer needs only a proof of mailing, such as is provided by a receipt for mailing or express delivery fees, or a list of policy numbers certified as mailed by the post office. A signed and returned receipt such as is provided by registered mail is not required in most states. Check National Underwriter Company's *FC&S Cancellation & Nonrenewal* book for up-to-date requirements regarding proof of mailing.

Changes

This Policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this Policy with our consent. This Policy's terms can be amended or waived only by endorsement issued by us and made a part of this Policy.

This policy is the entire agreement between business owner and insurer. The first named insured as shown in the declarations is the only insured authorized to make changes in the terms of the policy (with the insurer's consent). In other words, the insurer has the final say in determining if certain requests will become effective. Finally, policy terms or conditions can be amended or waived only by use of an endorsement issued by the insurer and made a part of the policy.

Concealment, Misrepresentation, or Fraud

This Policy is void in any case of fraud by you as it relates to this Policy at any time. It is also void if you or any other insured, at any time, intentionally conceals or misrepresents a material fact concerning:

1. This Policy;
2. The Covered Property;
3. Your interest in the Covered Property; or
4. A claim under this Policy.

The insurer may void the policy at any time in the case of fraud or in the event the insured has intentionally concealed or misrepresented a material fact. Fraud is the “intentional perversion of the truth in order to induce another to part with something of value or to surrender a legal right.” A material fact is one that the insurer relies upon when issuing the policy.

To illustrate the impact of this condition, consider the following: a business owner indicates on his insurance application that his building is twenty years old when in fact it is thirty years old. If this discrepancy had no effect on the underwriter’s decision to accept the risk, the misrepresentation is not a material misrepresentation. If, however, the age difference would have caused the underwriter not to accept the risk (very unlikely), it would be considered a material misrepresentation and could be used as the basis to void the policy.

Examination of Your Books and Records

We may examine and audit your books and records as they relate to this Policy at any time during the Policy period and up to three years afterward.

The insurer may examine and audit the business owner’s books and records as they relate to the insurance policy at any time during the policy period and up to three years afterward. This audit provision is typically invoked if a policy is using sales or fees as the basis for determining its premiums.

Inspections and Surveys

1. We have the right to:
 - a. Make inspections and surveys at any time;
 - b. Give you reports on the conditions we find; and
 - c. Recommend changes.
2. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:
 - a. Are safe or healthful; or
 - b. Comply with laws, regulations, codes or standards.
3. Paragraphs 1. and 2. of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.
4. Paragraph 2. of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

The insurer has the right to inspect the business owner's premises or operations at any time and, at its option, provide the business owner with reports on conditions at the premises and recommend changes. These inspections, surveys, reports, or recommendations relate only to insurability and the premiums to be charged. They are not safety inspections.

This condition not only applies to the insurer but also to organizations used by the insurer. For example, if an insurer's inspector fails to disclose a violation of a safety code, the insurer or its inspector is not responsible for injury, damages, or costs incurred because of the violation.

The 2002 form introduced points 3. and 4. to clarify its original intent and to complement the multistate approach of various commercial lines of coverage.

Insurance under Two or More Coverages

If two or more of this Policy's coverages apply to the same loss or damage, we will not pay more than the actual amount of the loss or damage.

If two or more coverages apply to the same loss or damage, the insurer will not pay more than the actual amount of the loss or damage. This condition, in effect, prevents a double recovery (i.e., double payment) for a single loss.

Liberalization

If we adopt any revision that would broaden the coverage under this Policy without additional premium within 45 days prior to or during the Policy period, the broadened coverage will immediately apply to this Policy.

The purpose of this condition is to be fair and treat all insureds the same. Revisions that provide broader coverage without involving additional premium typically apply automatically to policies in force at the time. For example, an insurer adopts a broader definition for a policy term on November 15. The broadened definition applies to policies in force on November 15. In addition, any policy that begins or renews within forty-five days of the adoption of broadened coverage automatically reflects the new language—even if the policy is not officially endorsed with the new language.

Other Insurance

1. If there is other insurance covering the same loss or damage, we will pay only for the amount of covered loss or damage in excess of the amount due from that other insurance, whether you can collect on it or not. But we will not pay more than the applicable Limit of Insurance of Section I – Property.
2. If other valid and collectible insurance is available to the insured for a loss we cover under Business Liability Coverage, our obligations are limited as follows:
 - a. Primary Insurance
This insurance is primary except when Paragraph b. below

applies. If this Insurance is primary, our obligations are not affected unless all of the other insurance is also primary. Then, we will share with all that other insurance by the method described in Paragraph c. below.

b. Excess Insurance

(1) This insurance is excess over:

a. Any of the other insurance, whether primary, excess, contingent or on any other basis:

(i) That is Fire, Extended Coverage, Builders Risk, Installation Risk or similar coverage for “your work”

(ii) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;

(iii) That is insurance purchased by you to cover your liability as a tenant for “property damage” to premises rented to you or temporarily occupied by you with permission of the owner; or

(iv) If the loss arises out of the maintenance or use of aircraft, “autos” or watercraft to the extent not subject to Exclusion B.1.g of Section II – Liability.

b. Any other primary insurance available to you covering liability for damages arising out of the premises or operations for which you have been added as an additional insured.

(2) When this insurance is excess, we will have no duty under Business Liability Coverage to defend any claim or “suit” that any other insurer has a duty to defend. If no other insurer defends, we will undertake to do so, but we will be entitled to the insured’s rights against all those other insurers.

(3) When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

a. the total amount that all such other insurance would pay for the loss in the absence of this Insurance; and

- b. the total of all deductible and self-insured amounts under all that other insurance.
- (4) We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Business Liability Coverage Limits Of Insurance shown in the Declarations.

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable Limit Of Insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based upon the ratio of its applicable Limit Of Insurance to the total applicable limits of insurance for all insurers.

If there is other insurance covering the same loss or damage, the insurer will pay only for the amount of covered loss or damage in excess of the amount due from other insurance, whether the business owner can collect on it or not. If the other insurance permits contribution by equal shares, each insurer contributes equally until it has paid its applicable limit of insurance or none of the loss remains, whichever occurs first. If the other insurer does not permit contribution by equal shares, the policy will contribute by limits. Under contribution by limits, each insurer's share is based on the ratio of its applicable limit of insurance to the total of all applicable limits of all insurers. In any event, the most the insurer will pay is the applicable limit of insurance.

Business liability coverage is considered excess over any other insurance that insures for direct physical loss or damage, such as property insurance. When this insurance is excess, the insurer has no duty under business liability coverage to defend any claim or suit that any other insurer has a duty to defend. In the event no other insurer has this duty, the business owner's insurer will defend but will be entitled to the insured's rights

against all those other insurers. The 2002 form introduced paragraph H.2.b to ensure that coverage is excess over other collectable insurance. The 2024 edition made editorial revisions to H.2 to more closely align with ISO's commercial general liability policy. There is no impact on coverage.

Premiums

1. The first Named Insured shown in the Declarations:
 - a. Is responsible for the payment of all premiums; and
 - b. Will be the payee for any return premiums we pay.
2. The premium shown in the Declarations was computed based on rates in effect at the time the Policy was issued. On each renewal, continuation or anniversary of the effective date of this Policy, we will compute the premium in accordance with our rates and rules then in effect.
3. With our consent, you may continue this Policy in force by paying a continuation premium for each successive one-year period. The premium must be:
 - a. Paid to us prior to the anniversary date; and
 - b. Determined in accordance with Paragraph 2. above.Our forms then in effect will apply. If you do not pay the continuation premium, this Policy will expire on the first anniversary date that we have not received the premium.
4. Undeclared exposures or change in your business operation, acquisition or use of locations may occur during the policy period that are not shown in the Declarations. If so, we may require an additional premium. That premium will be determined in accordance with our rates and rules then in effect.

The first named insured shown in the declarations is responsible for the payment of all premiums. Consequently, the insurer will pay only the first named insured any return premiums due.

The premium charged (shown in the declarations) was computed based on rates in effect at the time the policy was issued, and subsequent premiums will be computed in accordance with the insurer's rates and rules in effect thereafter.

The business owner may continue the policy by paying the premiums to the insurer prior to the anniversary date in accordance with the insurer's rates, rules, and policy forms. If a premium is not paid by the anniversary date, the policy will expire on that date.

If additional exposures or changes in the business owner's operation, acquisition, or use of locations occur, the insurer may require an additional premium. That premium will be determined in accordance with the rates and rules then in effect.

Premium Audit

1. This Policy is subject to audit if a premium designated as an advance premium is shown in the Declarations. We will compute the final premium due when we determine your actual exposures.
2. Premium shown in the Policy as advance premium is a deposit premium only. At the close of each audit period, we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
3. The first Named Insured must keep records of the information we need for premium computation and send us copies at such times as we may request.

The policy is subject to audit if a premium designated as an advance premium is shown in the declarations. An advance, or deposit premium, is an estimate of the final premium, subject to future adjustment, which is paid at the inception of the policy. The insurer will compute the final premium due when the insurer determines the business owner's actual exposures.

The premium shown in the policy as advance premium is a deposit premium only and, at the close of each audit period, the insurer will compute the earned premium for that period and send notice to the first named insured. The due date for audit premiums is the date shown as the due date on the bill. In the event the sum of the advance and audit

premiums paid for the Policy period is greater than the earned premium, the insurer will return the excess to the first named insured. Paragraph J.2. was revised under the 2002 form to incorporate language consistent with the National Association of Insurance Commissioners (NAIC) Statement of Statutory Accounting Principles (SSAP) No. 6 guidelines.

The first named insured must keep records of the information the insurer needs for premium computation and forward this information to the insurer upon request.

Transfer of Rights of Recovery against Others to Us

1. Applicable to Businessowners Property Coverage:

If any person or organization to or for whom we make payment under this Policy has rights to recover damages from another, those rights are transferred to us to the extent of our payment. That person or organization must do everything necessary to secure our rights and must do nothing after loss to impair them. But you may waive your rights against another party in writing:

- a. Prior to a loss to your Covered Property.
- b. After a loss to your Covered Property only if, at time of loss, that party is one of the following:
 - (1) Someone insured by this insurance;
 - (2) A business firm:
 - a. Owned or controlled by you; or
 - b. That owns or controls you; or
 - (3) Your tenant.

You may also accept the usual bills of lading or shipping receipts limiting the liability of carriers.

This will not restrict your insurance.

This condition describes the subrogation process as it applies to Businessowners property coverage. It permits the insurer to be reimbursed by the negligent third party that caused the damage. For example, if a business owner's copier (or other type of equipment) malfunctions and

catches on fire, damaging property, the business owner's insurer will settle the claim with the business owner and subrogate against the copier manufacturer. If this occurs, the business owner must cooperate with the insurer in its attempt to recover the amount paid to the business owner. The business owner may waive his rights against another party in writing before a covered loss occurs.

The named insured may waive his rights against another party in writing after a loss to covered property only if, at time of loss, that party is included as an insured on the policy, owned, or controlled by the named insured, the owner or in control of the named insured, or a tenant of the named insured.

2. Applicable to Businessowners Liability Coverage:

If the insured has rights to recover all or part of any payment we have made under this Policy, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. This condition does not apply to Medical Expenses Coverage.

This is basically the same subrogation provision explained in the first section of the transfer-of-rights clause. By exception, this condition does not apply to medical expense coverages.

Transfer of Your Rights and Duties under This Policy

Your rights and duties under this Policy may not be transferred without our written consent except in the case of death of an individual Named Insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

This final condition prohibits the business owner from transferring her rights and duties under the policy to another without the prior written consent of the insurer. An exception to this is the death of the named

insured. In that case, the rights and duties under the policy will be transferred to the legal representative of the named insured while acting within the scope of those duties.

A Waiver of Transfer of Rights of Recovery Against Others to Us (BP 04 97) endorsement may be added to the policy. Its purpose is to waive subrogation against the third party named in the endorsement. This endorsement must be activated before a loss and is frequently used when the named insured has a close business relationship with the third party.

Property of Robert Richardson,

Chapter 15 Named Perils Coverage

The 2013 edition, like its predecessor form, maintains the use of a single special property coverage form. The Special Property Coverage form (BP 00 03) provides special open perils coverage. This means that, in order for coverage to apply, the peril that causes the direct physical loss must not be excluded in the policy. Special form open perils policies place the burden on the insurer to prove that an applicable exclusion applies in order to deny coverage. The special form coverage (as provided in unendorsed BP 00 03) and its exclusions (B.) are reviewed in Chapter 4, Property Exclusions.

The Businessowners policy may be endorsed to provide named peril coverage by adding the Named Perils endorsement (BP 10 09) to the policy. Under the Named Perils endorsement, coverage applies to perils that cause loss to covered property if they are listed—or named—on the endorsement. Named peril coverage means that, in order for coverage to apply, a named peril listed in the policy must cause the direct physical loss. Named peril policies place the burden on the insured to prove that a named peril caused the loss. The form lists twelve different causes of loss (B. 3.a-1). These causes of loss are similar to those found in other property coverage forms.

This 2013 edition introduces minor editorial revisions to complement other changes in the Businessowners policy. This has no impact on coverage.

The following are the twelve causes of loss covered under the Named Perils endorsement.

Covered Causes of Loss

a. Fire

Fire is not defined within the policy but has generally been defined by the courts as “combustion sufficient enough to produce a spark, flame, or glow.” Fire involves the consumption of material. For example, if property is scorched, blistered, or discolored by extreme heat, no fire has occurred

since there was no consumption of material. These types of perils, which are not covered under the Named Perils endorsement, are prime examples of the importance of the broadened coverage of the Special Property Coverage form of BP 00 03.

b. Lightning

Lightning is another peril that is not defined in the policy. It is considered to be naturally generated electricity from the atmosphere and does not include artificially generated electricity, such as that produced by a utility company or arcing caused by an electrical short. The difference between naturally generated electricity (lightning) and artificially generated electricity (electricity from a power plant or from electrical arcing or power surges) is important since their applicability may affect coverage. For example, if lightning strikes a building and causes a surge in voltage that damages property with electronic components, coverage applies under the lightning peril. However, if a power surge from an electronic generating station damages electronic components, coverage is excluded. These differences were reviewed in Chapter 4, Property Exclusions. Note that in either event (lightning strike or power surge), a following fire loss is covered.

c. Explosion, including the explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass. This cause of loss does not include loss or damage by:

- (1) Rupture, bursting or operation of pressure relief devices; or
- (2) Rupture or bursting due to expansion or swelling of the contents of any building or structure, caused by or resulting from water.

Coverage is provided for damage caused by an explosion caused by gases or fuels (e.g., natural gas or fuel oil) within a furnace or any fired vessel or within the flues or passages through which the gases of combustion pass. The Named Perils endorsement and the Special Coverage form programs were designed to cover this type of explosion. If, however, loss or damage was caused by a rupture, bursting, or operation of pressure relief devices (such as when a valve from a steam boiler ruptures), no coverage would apply. This type of exposure is not covered under the Named Perils

endorsement or Special Coverage form of BP 00 03. Steam boilers and similar equipment pose a greater exposure than explosion caused by natural gas, oil, or coal. Consequently, it is not covered under the explosion peril. Coverage for these more hazardous kinds of exposures can be purchased as optional equipment breakdown protection coverage.

Likewise, rupture or bursting due to expansion or swelling of the contents of any building or structure caused by or resulting from water is also excluded. For example, if a storage container expands and ruptures due to an accumulation of water, no coverage would apply under the explosion peril.

d. Windstorm or Hail, but not including:

- (1) Frost or cold weather;
- (2) Ice (other than hail), snow or sleet, whether driven by wind or not;
- (3) Loss of or damage to awnings or canopies of fabric or slat construction, including their supports, outside of buildings;
- (4) Loss of or damage to the interior of any building or structure, or the property inside the building or structure, caused by rain, snow, sand or dust, whether driven by wind or not, unless the building or structure first sustains wind or hail damage to its roof or walls through which the rain, snow, sand or dust enters; or
- (5) Loss or damage by hail to lawns, trees, shrubs or plants which are part of a vegetated roof.

The purpose of this section is to negate coverage for damage and changes that occur naturally when property is exposed to these elements. For example, roofing materials will become frayed and worn due to the interaction of frost, cold, snow, and sleet on their surface. This damage, which is in essence normal deterioration, usually becomes evident within a few years of the roof's installation. In such cases, no coverage would apply for the deterioration under either the Named Peril endorsement or Special Property Coverage form.

The 2013 edition introduces paragraph d.(5) indicating that damage by *hail* to lawns, trees, shrubs, or plants that are part of a vegetated roof is not

covered. Note that coverage does apply to damage by *windstorm* to lawns, trees, shrubs, or plants that are part of a vegetated roof.

Loss or damage caused by windstorm or hail to awnings or canopies of fabric or slat construction, including their supports, outside of buildings is not covered. For example, if a fabric awning is torn due to high winds, no coverage applies.

In order to trigger coverage for interior damage caused by rain, snow, sand, or dust, wind or hail must first cause an opening in the exterior of the building. For example, if the insured leaves a window or door open and rain damages interior property, no coverage applies. If, however, a strong gale breaks a glass windowpane and rain damages interior property, coverage is available.

Note that due to the catastrophic nature of these perils in wind or hail prone areas (the Atlantic and Gulf coastal states or plains states such as Texas and Oklahoma), insurers commonly offer the Windstorm or Hail Percentage Deductible endorsement, BP 03 12, or choose to exclude the wind and hail perils through the Windstorm or Hail Exclusion endorsement, BP 07 75. When the later endorsement is used, the business owner may secure coverage for the perils of wind and hail through a catastrophe pool or similar facility administered by a governmental agency.

e. Smoke, causing sudden and accidental loss or damage. This cause of loss does not include smoke from agricultural smudging or industrial operations.

An example of this peril is a gas forced-air furnace may cause a puff back of smoke requiring walls to be cleaned and painted. Similarly, smoke from a fireplace may damage walls if the flue is not opened while a fire burns. Both are examples of smoke damage that is sudden and accidental and, as such, are covered under this peril.

Specifically excluded under this peril is smoke damage from agricultural smudging (i.e., the use of smudge pots to produce a smoky fire for protecting certain crops from frost and insects) or industrial operations (i.e., smoke from a neighboring industrial plant). For example, if a nursery uses

smudge pots to keep its plants protected from the frost, and the resultant smoke damages the business owner's building or contents, coverage would not apply. Likewise, coverage would not apply if smoke discharged from a smokestack causes damage to property.

f. Aircraft or Vehicles, meaning only physical contact of an aircraft, a spacecraft, a self-propelled missile, a vehicle or an object thrown up by a vehicle with the Covered Property or with the building or structure containing the Covered Property. This cause of loss includes loss or damage by objects falling from aircraft.

We will not pay for loss or damage caused by or resulting from vehicles you own or which are operated in the course of your business.

This peril requires physical contact between the aircraft or the vehicle (or an object thrown up by a vehicle) and the property damaged. Common examples of covered losses include damage to buildings or personal property caused when an auto crashes into a business owner's building or when rocks are thrown up by a vehicle's tire. This cause of loss also includes loss or damage by objects falling from an aircraft.

However, no coverage applies if the damage is caused by or results from vehicles owned or operated by an insured in the course of the named insured's business.

g. Riot or Civil Commotion, including:

- (1) Acts of striking employees (including temporary or leased employees) while occupying the described premises; and
- (2) Looting occurring at the time and place of a riot or civil commotion.

The terms *riot* or *civil commotion* are not defined in the policy. *Riot* is defined differently by each state but is typically held to mean three or more persons assembled together with a common purpose of causing a public disturbance of the peace and, by acting together to execute their purpose, by force, resisting authority, and by use of force, creating some measure of fear. *Civil commotion* also is not defined but is typically considered an uprising of citizens. Recent examples include the riots and civil commotions that occurred in Ferguson, Missouri, in 2014, in Baltimore,

Maryland, in 2015, and most recently, the George Floyd riots in the summer of 2020.

Included under this peril are the acts of striking employees (including temporary or leased employees) while occupying a described premises. For example, if striking employees take over a plant and intentionally destroy property, coverage is provided under the riot and civil commotion peril.

Similarly, looting that occurs at the time and place of a riot or civil commotion is also covered. Although looting is in effect theft, which is not covered under the named perils endorsement, coverage is afforded in these circumstances.

h. Vandalism, meaning willful and malicious damage to, or destruction of, Covered Property. We will not pay for loss or damage caused by or resulting from theft, except for building damage caused by the breaking in or exiting of burglars.

Vandalism is defined as the willful or malicious damage to or destruction of covered property. It requires intent and motive.

Under this form's vacancy provision, coverage for vandalism is suspended after a building (if owner occupied) or the rented unit (if tenant occupied) is vacant for more than sixty consecutive days before loss or damage occurs. When the policy is issued to the owner of a building, the building is considered vacant unless at least 31 percent of its total square footage is rented to a lessee or if it is not being used to conduct customary operations. When the policy is issued to a tenant, it is considered vacant when the unit or suite leased to the tenant does not have enough business personal property to conduct customary operations. These guidelines are included in the conditions section of the coverage form, BP 00 03. For a complete analysis of vacancy, see Chapter 6, Conditions.

Note that the sixty consecutive-day limitation that applies to vandalism and sprinkler leakage may be deleted with the Vacancy Permit endorsement, BP 04 87.

- i. Sprinkler Leakage, meaning leakage or discharge of any substance from an Automatic Sprinkler System, including collapse of a tank that is part of the system.

If the building or structure containing the Automatic Sprinkler System is Covered Property, we will also pay the cost to:

- (1) Repair or replace damaged parts of the Automatic Sprinkler System if the damage:

- a. Results in sprinkler leakage; or
- b. Is directly caused by freezing.

- (2) Tear out and replace any part of the building or structure to repair damage to the Automatic Sprinkler System that has resulted in sprinkler leakage.

- (3) Automatic Sprinkler System means:

- a. Any automatic fire protective or extinguishing system, including connected:

- (i) Sprinklers and discharge nozzles;
- (ii) Ducts, pipes, valves and fittings;
- (iii) Tanks, their component parts and supports; and
- (iv) Pumps and private fire protection mains.

- b. When supplied from an automatic fire protective system:

- (i) Non-automatic fire protective systems; and
- (ii) Hydrants, standpipes and outlets.

This provision states that, if a sprinkler system leaks, there is an accidental discharge, or its tank collapses, coverage is provided to damaged property. If the Businessowners policy includes building insurance, coverage applies to the loss of the sprinkler system itself. The amount paid in this case would include the cost to repair or replace damaged parts of the sprinkler system if the damage results in sprinkler leakage or is directly caused by freezing. The same vacancy provision limitations that apply to vandalism apply to sprinkler leakage.

- j. Sinkhole Collapse, meaning loss or damage caused by the sudden sinking or collapse of land into underground empty spaces created by the action of water on limestone or dolomite. This cause of loss does not include:

- (1) The cost of filling sinkholes; or

(2) Sinking or collapse of land into manmade underground cavities.

This definition limits coverage to loss or damage caused by the sudden (not gradual) sinking or collapse of land into underground empty spaces created by the action of water on limestone or dolomite. The water source that creates the sinkhole is immaterial. The peril limits coverage only to damage caused by sinkhole collapse and does not apply to loss or damage caused by earthquake or mine subsidence. These are separate perils that may be insured by endorsement or through the purchase of a mine subsidence policy. Coverage does not apply to the cost of filling the sinkhole. So, if an insured building falls into a collapsed sinkhole, coverage would apply for the building. However, if a sinkhole merely collapsed with no damage to insured property, there would be no coverage for the cost to just fill in the sinkhole. And there is no coverage for filling sinkholes that are discovered before collapse.

In addition, the second exception to the peril means that coverage does not apply to the settlement of earth caused by voids created by underground mining. These are manmade underground cavities and, as such, are excluded. Coverage for this type of exposure may be secured through mine subsidence insurance.

k. Volcanic Action, meaning direct loss or damage resulting from the eruption of a volcano when the loss or damage is caused by:

- (1) Airborne volcanic blast or airborne shock waves;
- (2) Ash, dust or particulate matter; or
- (3) Lava flow.

All volcanic eruptions that occur within any 168-hour period will constitute a single occurrence.

This cause of loss does not include the cost to remove ash, dust, or particulate matter that does not cause direct physical loss of or damage to covered property.

Coverage is limited to direct loss or damage caused by volcanic action, which differs from volcanic eruption. Coverage does not apply to loss or damage caused by volcanic eruption unless the volcanic eruption causes volcanic action. *Volcanic eruption* means damage caused by earth tremors

or land shocks that result from a volcanic eruption. This peril is excluded under both the Named Perils endorsement and the Special Property Coverage form.

Volcanic action means airborne blasts or shock waves and resulting volcanic ash, dust matter, or lava flow caused by a volcanic eruption. For example, if there is a volcanic eruption (tremors, land shocks) that causes damage to property, no coverage applies. If, however, a volcanic eruption causes volcanic action (airborne shock waves, ash, dust, lava flow) that causes damage to property, coverage applies under both the Named Perils endorsement and the Special Property Coverage provided on unendorsed BP 00 03.

This cause of loss does not include the cost to remove ash, dust, or particulate matter that does not cause direct physical loss or damage to covered property. For example, if volcanic ash falls onto a building or onto one's personal property, no coverage applies unless the ash causes a direct physical loss. Mere cleanup of volcanic ash is not covered.

This provision limits all volcanic eruptions that occur within any 168-hour period (seven days) to a single occurrence, so that a single deductible would apply to all damage that is caused during the 168 hours.

If desired, coverage for the perils volcanic eruption and earthquake can be added to the policy by use of the Earthquake and Volcanic Eruption endorsement, BP 10 11.

1. Transportation, meaning loss or damage caused by:

- (1) Collision, derailment or overturn of a vehicle;
- (2) Stranding or sinking of vessels; and
- (3) Collapse of bridges, culverts, piers, wharves or docks.

This cause of loss applies only to Covered Property in the course of transit.

This cause of loss applies only to property in the course of transit and covers business personal property subject to the causes listed in the description. Transportation losses that take place off the premises are subject to the property off-premises limitation of \$10,000. However, money

and securities, valuable papers and records, or accounts receivable while in the course of transit are not covered because they are specifically excluded from the \$10,000 coverage extension for personal property off premises.

The \$10,000 limitation applies to both the Named Perils endorsement and the Special Property Coverage form. The \$10,000 limitation for property in transit is an increase from the 2002 form that provided a \$5,000 limitation. See the Coverage Extensions, 6.b Personal Property Off Premises, policy language of BP 00 03 for the specific wording.

The balance of the Named Perils endorsement comports with the exclusionary language and limitations of the Businessowners special form. The primary limitations of the Named Perils endorsement in comparison to the special form is the named peril coverage, elimination of the additional coverage collapse, and the more limiting optional crime coverage of burglary and robbery.

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Chapter 16 Businessowners

Program Endorsements

This chapter addresses the most common Businessowners program endorsements used to amend Businessowners policies. A substantial number of endorsements were introduced under the Businessowners policy 2010 edition reflective of its continued expansion into new eligibility categories. This trend continued in the 2013 edition with the addition of sixteen new endorsements. In 2016, a number of new and revised endorsements were introduced to address exposures created by emerging technologies, privacy issues, and terrorism concerns. The 2024 edition continues the trend of prior editions by introducing new endorsements to meet the ever-increasing needs on both producers and insurers in providing coverage for the business owners market. As with previous editions, many endorsements were amended to complement other provisions of the policy and to reinforce original policy intent.

The endorsements in this chapter are categorized in six groups to reflect each endorsement's intended purpose. The endorsement groups are Additional Insureds, Exclusion/Limitation, Additional Coverage, General, Professional Liability, Terrorism. The descriptions are brief summaries only. For complete information, refer to the actual endorsement. Note that state-specific endorsements are not included in this summary.

Additional Insured Endorsements

These endorsements add individuals and organizations as insureds to the named insured's policy. When this occurs, the additional insured is granted coverage as specified on the additional insured endorsement. The 2006 edition included minor editorial revisions in many of the additional insured endorsements (which had no impact on coverage) and substantive revisions in a number of the additional insured endorsements (which had an impact on coverage). The substantive change centered on the phrase "arising out

of,” which was deleted in the 2006 version. The reason for the elimination of this phrase was that some courts extended coverage for an additional insured’s sole negligence. This was never the intent of the additional insured endorsements. Their purpose was to cover only vicarious liability arising out of the named insured’s negligent acts and not the additional insured’s sole negligence. This was a reduction in coverage in states in which named insureds are permitted to contractually hold harmless an additional insured for the additional insured’s negligence, and courts have enabled coverage for the sole negligence of the additional insured.

The 2010 edition added several additional insured endorsements addressing building owners, grantors of franchises, and owners, lessees, or contractors and completed operations. The introduction of these endorsements represents the continued expansion of the Businessowners Policy Program.

The 2013 edition introduced Additional Insured – Owners, Lessees Or Contractors – With Additional Insured Requirement For Other Parties In Construction Contract (BP 14 87) to specifically provide coverage for upstream parties (the general contractor or project owner of the named insured subcontractor). Consistent in the additional insured endorsements is language limiting insurance to the extent permitted by law (to comply with anti-indemnification laws) and to the extent the named insured is required by contract to provide insurance for the additional insured. If coverage provided to the additional insured is required by contract, the limits of insurance on the named insured’s policy available to the additional insured will be limited to the extent of the contract or to the amount of insurance in the declarations, whichever is less. These revisions, depending on the state of jurisdiction, may be a reduction in coverage.

The 2024 edition includes over one hundred new and revised policy endorsements, many of which address broadened eligibility (auto service risks), additional insured status (reinforcing prior policy language), and exclusionary endorsements (liquor liability, protective safeguards, cannabis, vaping, aircraft) to comport with societal changes. These revisions and enhancements provide insurance producers and underwriters with the necessary tools to meet the expanding needs of the business owners market.

Additional Insured - Automatic Status For Designated Operations (BP 15 82) – This endorsement provides automatic additional insured status in relation to a designed operation. A schedule limits coverage to that portion of the ongoing operation of the additional insured. The endorsement does not apply to bodily injury or property damage in the products-completed operations hazard.

Additional Insured – Automatic Status When Required In Written Contract Or Agreement (BP 15 83) — This endorsement provides automatic additional insured status to any person or organization for whom the named insured is performing ongoing operations when the named insured and such person or organization have agreed in writing in a contract or agreement that such person or organization be included as an additional insured on the named insured's policy. This endorsement is designed for use with non-construction related risks and does not apply to bodily injury or property damage in the products-completed operations hazard. This endorsement (BP 15 83 and BP 15 82) were introduced in 2024 and represents a broadening of coverage.

Additional Insured – Concessionaires Trading Under Your Name (BP 15 85)—This endorsement provides additional insured status to concessionaires shown in the endorsement schedule for the concessionaire's liability when trading under the named insured's name. This endorsement was introduced in 2024 and represents a broadening of coverage.

Additional Insured – Controlling Interest (BP 04 06)—This endorsement adds a person or organization as an additional insured for liability arising out of its financial control of the named insured for ownership, maintenance, or control of the premises.

Additional Insured – Co-owner Of Insured Premises (BP 04 11)—This endorsement adds a person or organization as an additional insured for liability as co-owner of the insured premises.

Additional Insured – Engineers, Architects Or Surveyors (BP 04 13)— This endorsement adds engineers, architects, or surveyors as additional insureds when they are engaged by the insured for premises and operations liability. Professional liability is excluded.

Additional Insured Executors, Administrators, Trustees Or Beneficiaries (BP 15 86) – This endorsement provides additional insured status to executors, administrators, trustees or beneficiaries on policies covering estates of deceased persons or living trusts. This endorsement was introduced in 2024 and represents a broadening of coverage.

Additional Insured – Grantor Of Franchise (BP 14 05)—This endorsement adds a person or organization shown in the schedule but only with respect to their liability as a grantor of a franchise. This endorsement was introduced in the 2010 program.

Additional Insured – Grantor Of Licenses (BP 15 88) — This endorsement provides additional insured status for grantors of licenses as shown in the endorsement. Additional insured status only applies to their liability as a grantor of a license to the additional insured.

Additional Insured – Grantor Of Licenses – Automatic Status When Required By Licensor (BP 15 89) — This endorsement is similar to (BP 15 88) but provides automatic additional insured status for grantors of licenses if an additional insured arrangement is required by the licensor. Both endorsements were introduced in 2024 and represent a broadening of coverage.

Additional Insured – Lessor Of Leased Equipment (BP 04 16)—This endorsement adds an equipment lessor as an additional insured for damages arising from the leasing of its equipment to the named insured. The liability must involve at least contributory negligence by the lessee and must arise out of an occurrence that takes place during the term of the lease. A separate endorsement should be attached for each such lessor added as an additional insured.

Additional Insured – Lessor Of Leased Equipment – Automatic Status When Required In Lease Agreement With You (BP 15 87)—This endorsement is similar to (BP 04 16) but provides automatic additional insured status to persons or organization whom the named insured is obligated in writing in a contract to name as an additional insured. Coverage is restricted to liability arising out of the named insured's

maintenance, operation, or use of the leased equipment. This endorsement was introduced in 2024 and represents a broadening of coverage.

Additional Insured – Managers Or Lessors Of Premises (BP 04 02)—

This endorsement includes as additional insureds designated persons or organizations for their liability as owners of designated premises leased to the named insured. This endorsement was revised in 2024 to eliminate coverage based upon the additional insured's sole negligence. Depending upon the state, this may be considered a reduction in coverage.

Additional Insured – Mortgagee, Assignee Or Receiver (BP 04 09)—

This endorsement adds mortgagees, assignees, or receivers as additional insureds on policies covering owners or general lessees. Construction and alterations are excluded.

Additional Insured – Owners, Lessees Or Contractors – Automatic Status When Required In A Written Construction Agreement with You (Completed Operations) (BP 15 80) — This endorsement adds a person or organization as an additional insured when the named insured and such person or organization have agreed in writing in a contract or agreement that such person or organization be included as an additional insured on the named insured's policy. The work must be performed by that additional insured and included in the products-completed operations hazard.

Additional Insured – Owners, Lessees Or Contractors – Automatic Status For Other Parties When Required In A Written Construction Agreement With You (Completed Operations) (BP 15 81) — This endorsement is similar to BP 15 80 providing additional insured status to that person or organization that the insured has a written contract but also includes anyone that the additional insured is also required by a written contract to add as an additional insured (e.g. upstream parties in construction projects). The work must be performed by that additional insured and included in the products-completed operations hazard. Both BP 15 80 and BP 15 81 were introduced in the 2024 edition and represent a broadening of coverage.

Additional Insured – Owners, Lessees Or Contractors – Completed Operations (BP 14 02)—This endorsement adds a person or organization

shown in the schedule but only with respect to liability for bodily injury or property damage caused, in whole or in part, by the named insured's work at the location designated and described in the schedule of this endorsement. The work must be performed by that additional insured and included in the products-completed operations hazard. This endorsement was introduced in the 2010 program.

Additional Insured – Owners, Lessees Or Contractors – Automatic Status For Other Parties When Required In Written Construction Agreement (BP 14 87)—This endorsement adds as an additional insured any person or organization for whom the named insured is performing *ongoing operations* when the named insured and such person or organization have agreed in writing in a contract or agreement that such person or organization be included as an additional insured on the named insured's policy. This endorsement is similar to (BP 14 51) but provides additional insured status to comply with a construction contract to upstream parties (the general contractor or project owner of the named insured subcontractor). This endorsement was introduced in the 2013 program as a broadening of coverage. The 2024 edition revised the endorsement title.

Additional Insured – Owners, Lessees Or Contractors – Automatic Status When Required In A Written Construction Agreement With You (BP 04 51)—This endorsement adds as an additional insured any person or organization for whom the named insured is performing *ongoing operations* when the named insured and such person or organization have agreed in writing in a contract or agreement that such person or organization be included as an additional insured on the named insured's policy. This endorsement's title was revised in 2024 with no impact on coverage.

Additional Insured – Owners Or Other Interests From Whom Land Has Been Leased (BP 04 10)—This endorsement adds owners or lessors of land leased to the insured for liability coverage. Construction, alterations, and postlease occurrences are excluded. This endorsement was revised in 2024 to eliminate coverage based upon the additional insured's sole negligence. Depending upon the state, this may be considered a reduction in coverage.

Additional Insured – State Or Governmental Agency Or Subdivision Or Political Subdivision – Permits Or Authorizations (BP 04 52)—This endorsement permits a governmental organization to be listed as an additional insured in situations where the governmental organization has issued permits to the insured that allow the insured to perform certain operations for others. This endorsement was renamed in the 2013 edition.

Additional Insured – State Or Governmental Agency Or Subdivision Or Political Subdivision – Permits Or Authorizations Relating To Premises (BP 04 07)—This endorsement permits a governmental organization to be added as an additional insured in relation with certain operations on the premises the insured owns, rents, or controls. This endorsement was renamed in the 2013 edition.

Additional Insured – Unit-Owners Of Townhouse Associations (BP 04 08)—This endorsement adds each individual townhouse owner as an insured, but only with respect to liability as a member of the townhouse association as indicated in the declarations and not with respect to liability arising out of the ownership, maintenance, use, or repair of the property to which the owner has title (e.g., owner’s unit, dedicated storage area, assigned parking space, etc.). The 2024 edition includes this provision restricting additional insured status for a unit-owner’s liability arising out of the ownership, maintenance, use or repair of the insured’s owned dedicated areas. This is a reduction in coverage.

Additional Insured – Vendors (BP 04 47)—This endorsement may be added to policies insuring distributors. It includes as an additional insured a vendor shown in the endorsement’s schedule but only with respect to liability arising out of the vendor’s sale or distribution of the named insured’s products.

Additional Insured – Vendors – Automatic Status When Required In Agreement (BP 15 84)—This endorsement is similar to (BP 04 47) but provides automatic additional insured status to persons or organization whom the named insured is obligated in writing in a contract to name as an additional insured. Coverage would apply to the distribution or sale of any of the named insured’s products in the regular course of the vendor’s

business. This endorsement was introduced in 2024 and represents a broadening of coverage.

Named Insured – Building Owner (BP 12 31)—This endorsement may be used to include a building owner as a named insured under a tenant’s policy, but only with respect to the property coverage provided by this insurance for direct physical loss or damage to the building(s) described in the schedule. This endorsement was introduced in the 2010 program as “Additional Insured – Building Owner” and its title was revised in the 2024 edition.

Exclusionary/Limitation Endorsements

These endorsements exclude or limit certain exposures that may fall within the coverage of the policy. They may be requested by the insured or required by the insurer for underwriting purposes. The 2024 edition introduced or revised over twenty endorsements with a number of the endorsements related to liquor liability, sexual abuse, cannabis, vaping and the genetically modified organism exposure.

Abuse Or Molestation Exclusion – Specified Services (BP 14 11)—This endorsement amends the Businessowners liability coverage form with respect to any services described in the schedule. It excludes abuse or molestation by anyone of any person while in the care, custody, or control of any insured. It also excludes claims arising from negligent employment, supervision, investigation, and other monitoring of individuals whose conduct is excluded by the endorsement. This eliminates coverage for the vicarious liability that a business owner might have for employing individuals who abuse or molest others while engaged in the services described in the endorsement. This endorsement was introduced in the 2010 program.

Amendment – Liquor Liability Exclusion (BP 04 18)—This endorsement was reintroduced in the 2024 edition to provide the most restrictive exclusion related to alcohol related activities. It excludes from coverage if the insured (a) manufactures, sells, or distributes alcoholic beverages; (b) serves or furnishes alcoholic beverages for a charge (e.g., periodic

fundraising event); (c) serves or furnishes alcoholic beverages without a charge if a liquor license is required; or (d) permit any person to bring any alcohol on the premises for consumption. This endorsement is similar to BP 04 19 but does not provide an exception for scheduling of activities where alcoholic beverages are consumed. The reintroduction and use of this endorsement represents a reduction in coverage.

Amendment – Liquor Liability Exclusion – Limited Exception For Bring Your Own Alcohol (BP 16 32)—This endorsement was introduced in the 2024 edition and is similar to (BP 04 18 and BP 04 19) except that it does not exclude BYO (Bring Your Own) alcohol at the scheduled premises.

Amendment – Liquor Liability Exclusion – Exception For Scheduled Premises Or Activities (BP 04 19)—There are six endorsements that address liquor liability issues under the Businessowners policy. Three endorsements add coverage and are addressed in the additional coverage endorsement section of this chapter. This endorsement replaces the policy’s liquor liability exclusion with a more restrictive one. Specifically, it excludes coverage if the insured (a) manufactures, sells, or distributes alcoholic beverages; (b) serves or furnishes alcoholic beverages for a charge (e.g., periodic fundraising event); (c) serves or furnishes alcoholic beverages without a charge if a liquor license is required; or (d) permit any person to bring alcohol on the premises for consumption. By exception, coverage is provided if the insured sells, serves, or furnishes alcoholic beverages at activities described in the schedule or permits any person to bring any alcoholic beverages onto the insured premises for consumption on the premises described in the schedule. The 2024 edition of this endorsement (like BP 04 18 and BP 04 19) exclude claims against any insured alleging negligence or other wrongdoing in the supervision, hiring training or monitoring of others or the failure to provide transportation to individuals under the influence of alcohol.

Amendment Of Personal and Advertising Injury Definition (BP 14 91)—This endorsement deletes from the definition of *personal and advertising injury* the offense of oral or written publication, in any manner, or material

that violates a person's right of privacy. This endorsement was introduced in the 2013 program and represents a reduction of coverage.

Broad Abuse Or Molestation Exclusion (BP 16 39) — This endorsement was introduced in 2024. It excludes liability arising out of the actual, alleged, or threatened abuse or molestation, including but not limited to sexual abuse or molestation, of any person committed by anyone, or the negligent employment, investigation, supervision, reporting to the proper authorities, or failure to report, or retention of a person for whom any insured is or ever was legally responsible and whose conduct would be otherwise excluded under the endorsement. This endorsement represents a reduction in coverage. Other sexual abuse related endorsements introduced in 2024 include:

Sexual Abuse or Sexual Molestation Exclusion (BP 16 40)—This endorsement is similar to BP 16 39, except the endorsement exclusion applies to sexual abuse or sexual molestation only. This endorsement represents a broadening in coverage.

Sexual Abuse Or Sexual Molestation Liability Coverage (BP 16 41)—This endorsement is similar BP 16 40 but provides the option to limit coverage to specifically described premises, projects, contracts or agreements shown in the endorsement schedule. This endorsement represents a broadening of coverage if it replaces BP 04 39.

Sexual Abuse Or Sexual Molestation Of Any Person Committed By The Insured Liability Coverage (BP 16 42)—This endorsement is similar to BP 16 41 except, this endorsement provides coverage only if the act of sexual abuse or sexual molestation of any person is committed *by the insured* rather than anyone. This endorsement represents a broadening of coverage if it replaces BP 04 39.

Sexual Abuse Or Sexual Molestation Liability Coverage (BP 16 43)—This endorsement is similar to 16 41, except this endorsement provides coverage on a claims-made basis.

Sexual Abuse Or Sexual Molestation Of Any Person Committed By The Insured Liability Coverage (BP 16 44)—This endorsement is similar

to 16 42, except this endorsement provides coverage on a claims-made basis.

Supplemental Extended Reporting Period Endorsement For Sexual Abuse Or Sexual Molestation Liability Coverage (BP 16 45)—This endorsement provides a supplemental extended reported period and may be used in conjunction with BP 16 43 and BP 16 44. Use of this endorsement will result in a broadening of coverage.

Cannabis Activity Liability Coverage Aggregate Limit (16 49)—This endorsement provides for a scheduled aggregate liability limit for activity arising out of cannabis activity.

Cannabis Liability Exclusion With Hemp Liability Exception Subject To A Hemp Aggregate Limit (BP 16 50)—This endorsement is similar to BP 15 33, providing a specified aggregate liability limit for hemp coverage.

Cannabis Liability Exclusion With Designated Product Of Work Exemption Subject To Cannabis Products/Completed Operations Aggregate Limit (BP 16 51)—This endorsement provides for a schedule liability limit for designated products or work subject to the cannabis products or completed operations aggregate limit.

Each of the above cannabis endorsements were introduced in 2024 and represent a reduction in coverage.

Cannabis Liability Exclusion (BP 15 32)—This endorsement excludes liability arising out of the design, cultivation, manufacture, storage, processing, packaging, handling, testing, distribution, sale, serving, furnishing, possession or disposal of cannabis; the actual, alleged, threatened or suspected inhalation, ingestion, absorption or consumption of, contact with, exposure to, existence of, or presence of cannabis; property damage to cannabis; and (if Electronic Data Liability – Broad Coverage Endorsement BP 05 96 is attached to the policy) loss of electronic data with respect to any electronic data that is used in the design, manufacture, distribution, sale, serving, furnishing, use or possession of cannabis.

Cannabis Liability Exclusion With Hemp Exception (BP 15 33)—This endorsement contains the same exclusions as in endorsement BP 15 32; however, BP 15 33 contains an exception for liability arising out of hemp operations as described in the form.

Cannabis Liability Exclusion With Hemp And Lessors Risk Exceptions (BP 15 34)—This endorsement contains the same exclusions as in endorsement BP 15 32; however, BP 15 34 contains an exception for liability arising out of hemp operations as described in the form, as well as an exception for lessors risks liability.

All three cannabis liability exclusion endorsements were introduced in 2019 as underwriting tools and editorially revised in 2024 with no impact on coverage.

Communicable Disease Exclusion (BP 14 86)—This endorsement excludes bodily injury, property damage, or personal or advertising injury arising out of the actual or alleged transmission of a communicable disease (e.g., avian or bird flu, SARS, Rotavirus, Coronavirus).

This exclusion applies even if there is a claim for negligence in the supervision, hiring, employing, training, or monitoring of others that may be infected with the spread of the disease; testing for a communicable disease; or the failure to prevent spread of a disease or to report the disease to authorities.

Although the Businessowners policy addresses *contaminates* in its pollution exclusion, this endorsement is introduced to reinforce the policy's original intent of not covering communicable diseases. This endorsement was introduced in the 2013 program and depending upon the state of jurisdiction, this may be a reduction in coverage.

Comprehensive Business Liability Exclusion (All Hazards In Connection With Designated Premises Or Operations) (BP 04 01)—This endorsement excludes specific projects, location hazards, operations, or equipment. The specific project, location hazard, operations, or equipment must be clearly separable and definable.

Coverage For Injury To Leased Workers (BP 04 40)—This endorsement amends the Businessowners liability coverage with respect to the employer’s liability exclusion. It provides that the definition of *employee* does not include leased employees.

Employment-Related Practices Exclusion (BP 04 17)—This endorsement amends the Businessowners liability coverage by excluding bodily injury and personal and advertising injury arising out of employment-related practices. Examples of excluded practices include refusal to employ, termination of employment, coercion, demotion, evaluation, discipline, defamation, harassment, humiliation, discrimination, or malicious prosecution. The 2010 revision added *malicious prosecution* to reinforce original intent of not covering any injury caused by the malicious prosecution of a person. Depending on the state of jurisdiction, this may be a reduction in coverage.

Exclusion – Access Or Disclosure Of Confidential Or Personal Material or Information (BP 15 04)—This mandatory endorsement excludes coverage for bodily injury, property damage, or personal and advertising injury liability arising out of any access to or disclosure of any person’s or organization’s confidential, personal, or nonpublic information. Examples include patents, trade secrets, processing methods, customer lists, credit card information, or health information. The exclusion also applies to claim notification costs, credit monitoring costs, public relation costs, or other related expenses. The exclusion maintains the exception for bodily injury with respect to electronic data. This mandatory endorsement reinforces coverage intent. It was introduced in 2014. It was revised in 2013 to add bodily injury and property damage to the exclusion, and the title was modified. Coverage for the types of exposures indicated are more appropriately covered under the Information Security Protection Endorsement (BP 15 07) or a stand-alone Cyber Liability policy.

Exclusion – Access Or Disclosure Of Confidential Or Personal Information And Data-related Liability – Limited Bodily Injury Exception Not Included (BP 15 05)—This optional endorsement is similar to BP 15 04 (described previously), excluding coverage for personal and advertising injury liability arising out of any access to or disclosure of any

person's or organization's confidential, personal, or nonpublic information. However, it does not provide an exception granting coverage for bodily injury with respect to electronic data. This optional endorsement may be used in lieu of BP 15 04. It was introduced in 2014.

Exclusion – Access Or Disclosure Of Confidential Or Personal Material or Information (Personal And Advertising Injury Only) (BP 15 06)—

This optional endorsement is similar to BP 15 04 and BP 15 05 (described above) excluding coverage for personal and advertising injury liability arising out of any access to or disclosure of any person's or organization's confidential, personal or nonpublic information. This optional endorsement may be used in lieu of BP 15 04 or BP 15 05. This endorsement was introduced in 2014 and editorial changes were made in 2023. Coverage was not affected.

Exclusion – All Hazards In Connection With An Electronic Smoking Device, Its Vapor, Component Parts, Equipment And Accessories (BP 16 23)—This endorsement, excludes from coverage (bodily injury, property damage, person, advertising injury), all hazards in connection with an electronic smoking device, its vapor, component parts, equipment or accessories. A similar endorsement titled Exclusion – Health Hazards, Electronic Smoking Device Vapor (BP 16 24) excludes bodily injury caused by the electronic smoking device (health risk) but grants coverage for bodily injury arising out of the explosion, bursting, or rupturing or an electronic device or any of its components for any reason (accident risk). Both endorsements were introduced in 2024 and represent a reduction in coverage.

Exclusion — Athletic Or Sports Participants (BP 16 17)—This endorsement, which applies to operations in the endorsement schedule, excludes bodily injury to any person arising out of practicing for or participating in any sports or athletic contest or exhibit sponsored by the insured. This exclusion also applies to allegations of negligent supervision, hiring, employing, training or monitoring of others while participating in athletic or sporting events. A similar endorsement titled Exclusion — Athletics Or Sports Participants – All Contests Or Exhibits (BP 16 18) broadens the exclusion to any operation listed in the endorsement schedule

whether or not the named insured sponsors the event. Both endorsements were introduced in 2024 and represent a reduction in coverage.

Exclusion – Cross Suits Liability (BP 16 26) – This endorsement amends the Businessowners liability coverage to exclude coverage for any claim or suit for damages that are brought by a named insured against another named insured. This endorsement was introduced in 2024 and represents a reduction in coverage.

Exclusion – Damage To Work Performed By Subcontractors On Your Behalf (BP 14 19)—This endorsement amends the Businessowners liability coverage by excluding property damage to your work performed on your behalf by any subcontractor at any site or operation. This endorsement was introduced in the 2010 program.

Exclusion – Damage To Work Performed By Subcontractors On Your Behalf – Designated Sites Or Operations (BP 14 20)—This endorsement amends the Businessowners liability coverage by excluding property damage to your work performed on your behalf by any subcontractor at a designated site or operation as shown in the endorsement schedule. This endorsement was introduced in the 2010 program.

Exclusion – Designated Ongoing Operations (BP 16 25)—This endorsement amends the Businessowners liability coverage by excluding bodily injury or property damage arising out of ongoing operations described in the endorsement schedule. This endorsement was introduced in 2024 and represents a reduction in coverage.

Exclusion – Designated Operations Covered By A Controlled (Wrap-Up) Insurance Program (BP 16 27)—This endorsement was introduced in 2024 and amends the businessowners liability coverage by excluding bodily injury or property damage arising out of the insured's ongoing operations as well as within the products completed-operations hazard at the described locations indicated in the endorsement schedule. This exclusion only applies if the named insured is enrolled in a controlled (wrap-up) insurance program. Three other endorsements were introduced at this time to address similar exposures. They are:

Limited Exclusion – Designated Operations Covered By A Controlled (Wrap-Up) Insurance Program (BP 16 28) which grants coverage for the insured's scheduled operations covered by the wrap-up when the program has been cancelled, non-renewed or no longer applies.

Exclusion – Designated Operations Covered By A Controlled (Wrap-Up) Insurance Program – Limited Exception for Additional Insureds (BP 16 29) and Limited Exclusion – Designated Operations Covered By A Controlled (Wrap-Up) Insurance Program – Limited Exception For Additional Insureds (BP 16 30). Both endorsements are similar to BP 16 27 and BP 16 28, however they provide a limited exception to the exclusion for any person or organization as an additional insured who is not enrolled in the controlled wrap-up insurance program.

All four endorsements addressing controlled wrap-ups were introduced in 2024 and represent a reduction in coverage.

Exclusion – Designated Cannabis Products (BP 16 47)—This endorsement amends the Businessowners liability coverage to exclude bodily injury or property damage included in the products-completed operations hazard and arising out of the insured's products that are cannabis and shown in the endorsement schedule. A similar endorsement **Exclusion – Cannabis Products (BP 16 48)** provides a blanket exclusion on all cannabis products. Both endorsements were introduced in 2024 and represent a reduction in coverage.

Exclusion – Designated Products Endorsement (BP 14 23)—This endorsement amends the Businessowners liability coverage by excluding bodily injury or property damage included in the products-completed operations hazard that arises out the named insured's products as described in the endorsement schedule. This endorsement was introduced in the 2010 program.

Exclusion – Designated Work (BP 14 21)—This endorsement amends the Businessowners liability coverage by excluding bodily injury or property damage included in the products-completed operations hazard that arises out of the insured's work as described in the endorsement schedule. This endorsement was introduced in the 2010 program.

Exclusion – Earth Movement (BP 16 20)—This endorsement excludes liability coverage arising out of earth movement caused by or alleged to be caused by various operations related to a contractor’s work (settling to driveways, sidewalks, refinished surfaces, etc.). Two similar endorsements Exclusion – Earth Movement – Completed Operation (BP 16 21) and Earth Movement – Exclusion For Designated Operation(s) Or Project(s) (BP 16 22) exclude the completed operation exposure and or the designated operation indicated in the endorsement schedule. All three endorsements were introduced in 2024 and represent a reduction in coverage.

Exclusion – Erroneous Delivery Of Mixture And Resulting Failure Of Seed To Germinate – Seed Merchants (BP 14 12)—This endorsement amends the Businessowners liability coverage by excluding property damage arising out of the erroneous delivery of seed, including the failure to deliver seed, delivery of wrong seed, or delivery of seed at the wrong time or season. It also excludes error in mechanical mixture of seed and the failure of seed to germinate. This endorsement was introduced in the 2010 program.

Exclusion – Exterior Insulation And Finishing Systems (BP 14 08)—This endorsement amends the Businessowners liability coverage by excluding bodily injury, property damage, personal injury, or advertising injury arising out of, caused by, or attributed to the design, manufacture, construction, sale, or servicing of any exterior insulation and finishing system that is affixed to a structure. This endorsement was introduced in the 2010 program.

Exclusion – Hired Auto Liability (BP 16 19)—This endorsement modifies the form’s aircraft, auto, watercraft exclusion to eliminate bodily injury or property damage liability arising out of the maintenance, use or entrustment to others of any hired auto (includes operation, loading or unloading); or alleged negligence in the in the supervision, hiring, employment, training or monitoring of others by the insured. This endorsement was introduced in 2024 and represents a reduction in coverage.

Exclusion Of Loss Due To By-Products Of Production Or Processing Operations (Rental Properties) (BP 14 78)—This endorsement was introduced to reinforce the original policy intent of excluding from

coverage the inevitable effects of production operations on a rental property. Although such intent is found in the current property exclusion B.2.c. (which excludes loss or damage from smoke, vapor, or gas from agricultural smudging or industrial operations), some courts have granted coverage (under the vandalism and malicious mischief peril) when a rental property is used as a methamphetamine laboratory. To reinforce original policy intent, this endorsement affirmatively excludes from coverage these types of byproducts of production or processing operations. Depending on the state of jurisdiction, this may be a reduction in coverage. This endorsement was introduced in the 2013 program.

Exclusion Of Terrorism (With Limited Exception) And Exclusion Of War And Military Action (BP 05 12)—This endorsement is the same as BP 05 11 except it is used in states that do have a statute that requires property policies to provide coverage that is at least equal to the New York Standard Fire Policy.

Exclusion Of War, Military Action And Terrorism (BP 05 11)—This endorsement replaces the Businessowners property coverage war and military action exclusion. Its purpose is to eliminate coverage for loss caused by war, military action, and terrorism, and adds a paragraph that supersedes the nuclear hazard exclusion. The endorsement not only excludes war, military action, and terrorism, but it also excludes following fire coverage previously found in the nuclear hazard exclusion.

This endorsement is used in states that do not have a statute that requires property policies to provide coverage that is at least equal to the New York Standard Fire Policy. It includes a \$25 million threshold that is applicable to all acts of terrorism except those involving nuclear, biological, or chemical materials. The terrorism portion of the exclusion is not applicable until damage arising from a terrorism incident exceeds \$25 million.

Exclusion – Personal And Advertising Injury (BP 04 37)—This endorsement amends the Businessowners liability coverage form by excluding all coverage for personal and advertising injury liability. It is mandatory for private detective or investigative agencies, employment agencies, labor union offices, lawyers' offices, political campaign headquarters or offices, and security and patrol agencies.

Exclusion – Products-Completed Operations Hazard (BP 14 22)—This endorsement amends the Businessowners liability coverage by excluding bodily injury and property damage within the products-completed operations hazard. This endorsement was introduced in the 2010 program.

Exclusion – Silica Or Silica-Related Dust (BP 05 17)—This endorsement excludes liability for bodily injury, property damage, and personal and advertising injury arising out of silica or silica-related dust. This endorsement was introduced in the 2006 program.

Exclusion – Unmanned Aircraft (BP 15 11)—This endorsement provides options to expressly exclude bodily injury, property damage, and/or personal and advertising injury arising out of the ownership, maintenance, use, or entrustment to others of any unmanned aircraft (drones). When endorsed to a policy, it deletes coverage that would be applicable to unmanned aircraft that are not owned, operated, rented, or loaned to any insured or liability assumed under any insured contract for the ownership, maintenance, or use of any unmanned aircraft. This endorsement was introduced in 2016.

Fungi Or Bacteria Exclusion (Liability) (BP 05 77)—This endorsement amends the Businessowners coverage by excluding bodily injury, property damage, and personal and advertising injury that would not have occurred in whole or in part but for the actual, alleged, or threatened inhalation or exposure to fungi or bacteria.

Genetically Modified Organism Exclusion (BP 16 15) — This endorsement excludes coverage for bodily injury, property damage or personal or advertising injury arising directly or indirectly out of genetic modification (modify a gene by genetic engineering) whether by design or accident. A similar endorsement titled Genetically Modified Organism Exclusion For Designed Locations Or Products (BP 16 16) permits the scheduling of the operations and designated products. Both endorsements were introduced in 2024 and represent a reduction in coverage.

Limitation Of Coverage To Designated Premises Or Project (BP 04 12)—This endorsement limits coverage for bodily injury, property damage,

personal and advertising injury, and medical expenses payments to designated premises or projects.

Limited Exclusion – Personal And Advertising Injury – Lawyers (BP 14 15)—This endorsement amends the Businessowners liability coverage by not applying to personal and advertising injury arising out of the rendering of or failure to render professional services as a lawyer. This endorsement was introduced in the 2010 and revised in the 2024 program.

Medical Expenses – Exclusion (BP 04 38)—This endorsement amends the Businessowners liability coverage form by excluding medical payments coverage. Use is mandatory when the exposure includes swimming facilities.

Total Pollution Exclusion (BP 04 92)—This endorsement modifies the Businessowners form to eliminate virtually all coverage for pollution incidents. Insurers typically require it when the business owner is involved in certain high-risk activities that may lead to a pollution incident.

Total Pollution Exclusion With A Building Heating Equipment Exception And A Hostile Fire Exception (BP 04 93)—This endorsement modifies the form's pollution exclusion to exclude virtually all coverage for pollution incidents except for bodily injury arising out of smoke, fumes, vapor, or soot from building equipment and bodily injury or property damage arising out of smoke or fumes from a hostile fire. Effective with the 2006 edition, this endorsement broadened an exception to the exclusion by adding *cooling or dehumidifying equipment that is used to heat water*.

War Or Terrorism Exclusion (BP 05 13)—This endorsement excludes coverage for bodily injury, property damage, personal or advertising injury, or medical expenses payments arising from war or terrorism. The terrorism portion is activated when total insured damages arising from a terrorism incident exceeds \$25 million or when fifty or more people die or are seriously injured. Terrorism losses involving nuclear, biological, or chemical materials also are excluded.

Windstorm Or Hail Exclusion (BP 14 84)—This endorsement excludes loss or damage caused directly or indirectly by windstorm or hail. This

exclusion does not apply if windstorm or hail results in a covered cause of loss (windstorm to an electrical system that causes a fire). This endorsement was introduced in the 2013 program and represented a reduction in coverage.

Additional Coverage Endorsements

These endorsements add or extend coverage that is limited under the unendorsed form. The 2024 edition introduced a number of additional endorsements related to eligibility expansion including auto service risks, international coverage, and coverage for unmanned aircraft.

Apartment Buildings (BP 07 75)—This endorsement amends the Businessowners policy to add coverage for pollutant cleanup and removal up to \$25,000, reward payment for information leading to the arrest and conviction of any person committing a crime resulting in loss of or damage to covered property of up to \$5,000, ordinance or law coverage for equipment, lock replacement up to \$5,000, tenant move back expenses up to \$15,000, and tenants' property legal liability coverage.

Auto Service Risks (BP 15 98) — This endorsement was introduced in 2024 to address the specialized needs of auto service risks that are newly eligible under the Businessowners program. Primary coverages include:

Section I – Property Coverage:

Storage tanks (below and above ground) are covered property.

Fire department service charge is increased from \$2,500 to \$5,000.

Pollution clean-up and removal is increased from \$1,000 to \$2,500.

Money orders and counterfeit money is increased from \$1,000 to \$5,000.

Forgery and alterations is increased from \$2,500 to \$5,000.

Reward payment and return of stolen property is provided up to \$5,000.

Lock/repair replacement is \$1,000 subject to a \$100 deductible.

Outdoor property is increased from \$2,500 to \$5,000.

Employee's tools is limited \$10,000 (\$1,000 per employee).

Section II – Liability Coverage

Aircraft, auto or watercraft exclusion is amended to not apply to any non-owned auto.

Added exclusion barring coverage for bodily injury or property damage arising out of a customer's auto when used in any professional or organized racing, demolition or stunt contest or activity.

In addition to the Auto Service Risks (BP 15 98) endorsement, two companion endorsements titled Auto Service Risks – Canine Exclusion (BP 15 99) enables excluding an insured's canine and Auto Service Risks – Supplemental Schedule (BP DS 09) permits scheduling higher property limits were also introduced in 2024. The introduction (BP 15 98) and (BP DS 09) are a broadening of coverage and the introduction of (BP 15 99) is a reduction in coverage.

Broadened Coverage For Damage To Premises Rented To You (BP 04 55)—This endorsement expands coverage under the damage to premises rented to you limit (previously known as fire legal liability) from only fire to broader tenant's liability coverage for property damage to the premises. This was introduced as Business Liability Coverage—Tenants Liability in the 2002 edition and renamed in the 2006 edition.

Business Personal Property Limited International Coverage (BP 16 33)—This endorsement was introduced in 2024 to address the increased need for property coverage outside the form's standard territorial limitations. The endorsement extends personal property coverage to apply while personal property is temporarily in or in-route to or from the described foreign territory. A similar endorsement titled Property In Process Of Manufacturer By Others Limited International Coverage (BP 16 34) covers raw materials and in-process goods while property is manufactured in a foreign territory.

Two other time element endorsements, Business Income From Dependent Properties Limited International Coverage (BP 16 35) *and* Extra Expense From Dependent Properties Limited International Coverage (BP 16 36) may also be endorsed to the policy.

Business Income and Extra Expense – Revised Period of Indemnity (BP 14 07)—This endorsement amends the Businessowners property additional coverages business income and extra expense to the number of consecutive days indicated in the endorsement schedule. This endorsement was introduced in the 2010 program and revised in the 2024 edition permitting the insured the option to indicate the number of consecutive *months* for business income and extra expense coverage. The revision has no impact on coverage.

Business Income Changes – Time Period (BP 04 41)—This endorsement eliminates the seventy-two-hour waiting period on business income, civil authority, and business income from dependent property losses. This endorsement was introduced as Business Income Changes – Increased Period Of Restoration (No Waiting Period) in the 2002 edition and renamed in the 2006 edition. The 2010 edition revised the endorsement to track with Additional Coverage – Civil Authority by extending the period of coverage from three to four weeks.

Business Income, Extra Expense And Related Coverages Limit of Insurance (BP 14 06)—This endorsement amends the Businessowners property additional coverages business income, extra expense, civil authority, business income from dependent properties, and interruption of computer operations to the limit of insurance shown in the endorsement schedule. This endorsement was introduced in the 2010 program.

Cannabis Property Coverage (BP 16 46)—This endorsement provides options to amend the policy form to provide property coverage for cannabis stock, cannabis business income and cannabis extra expense where permitted by local statute or regulation.

Changes – Limited Fungi Coverage (BP 05 76)—This endorsement may be used to change the policy's \$15,000 limit of insurance as set forth in the additional coverages. It also enables the insured to modify the application

of the dollar limit and increase the number of days of business income and extra expense coverage. The 2010 edition deleted the word *bacteria* from the endorsement to reinforce its intention of not covering claims involving bacterium or other microorganism that may induce physical distress, illness, or disease.

Cleaning Services (BP 07 81)—This endorsement amends the Businessowners property and liability coverage. Under the property additional coverage, \$5,000 is provided as a reward payment for individuals who provide information leading to an arrest and conviction or return of stolen property. Coverage also applies to key and lock replacement for a client in the event residential cleaning services lose the client's keys or if the keys are stolen.

Under the property coverage, if the employee dishonesty optional coverage is shown in the declarations, the endorsement covers theft of clients' property (money, securities, other property) resulting directly from theft committed by any of the cleaning services' employees acting alone or in collusion with others.

Under the liability coverage, the insurer will reimburse the cleaning service up to \$5,000 for any one occurrence and \$10,000 as an annual aggregate for property damage claims arising from the work performed by the cleaning service. This endorsement was introduced in the 2010 program and retitled in 2024 with no impact in coverage.

Computer Fraud And Funds Transfer Fraud (BP 05 47)—This endorsement provides coverage for loss to money, securities, and other property resulting directly from the use of any computer to fraudulently cause a transfer of that property from inside the premises or banking premises to a person (other than a messenger) outside those premises or to a place outside those premises. It also provides coverage for loss of money and securities resulting from fraudulent instructions (without the insured's knowledge and consent) directing a financial institution to transfer or deliver money and securities from the insured's transfer account.

Coverage under this endorsement is subject to a limit selected on the endorsement. This endorsement was introduced under the 2006 program.

The 2010 edition eliminated the limitation related to loss of or damage to property that has been transferred to a person outside the described premises on the basis of unauthorized instructions and revises the false pretense exclusion. These changes are a broadening of coverage. The revision also introduced an exclusion eliminating coverage for loss or damage caused by or resulting from the use or alleged use of credit, debit, charge, access, convenience, identification, stored value, or other cards or the information contained on such cards. The addition of this exclusion was a reduction of coverage.

The 2024 edition of this endorsement updates the definition of an employee to be consistent with that of the ISO's Crime program and deletes from coverage an employee benefit plan. This is a reduction in coverage.

Condominium Association Coverage (BP 17 01)—This endorsement modifies Businessowners policy property coverage to comport with the unique aspects of condominium associations in relation to condominium unit-owners. This endorsement and the following condominium endorsement (BP 17 02) were both revised in 2024 to expand coverage to with 1,000 feet of the insured premises.

Condominium Commercial Unit-Owners Coverage (BP 17 02)—This endorsement modifies Businessowners policy property to comport with the unique aspect of condominium unit-owners in relation to condominium associations.

Condominium Commercial Unit-Owners Optional Coverages (BP 17 03)—This endorsement provides coverage for condominium unit-owners in the following two situations:

- (1) Loss assessment coverage applies to assessments charged to the unit-owners by the condominium association as a result of direct physical loss of or damage to property in which each unit-owner has an undivided interest. If the assessment results from a deductible in the association's insurance, the company will not pay more than the amount indicated in the endorsement schedule (either unit sub-limit or association deductible).

(2) Miscellaneous real property coverage applies to condominium property that pertains only to the unit-owner's unit or that the unit-owner must insure according to the condominium association agreement.

The 2024 revision eliminates the \$1,000 unit owner limitation and has replaced that fixed deductible amount with a scheduled deductible amount.

Contractors' Installation, Tools And Equipment Coverage (BP 07 01)—

This endorsement may be used to cover contractors' installations, contractors' tools and equipment, nonowned tools and equipment, and employees' tools. The 2010 edition was revised into the following four coverages:

(1) Contractors' installation coverage permits a scheduled amount for property at each covered job site.

(2) Contractors Tools and Equipment permits a blanket amount limit subject to a selected per item maximum, or as an alternative, a scheduled per item limit of insurance.

(3) Nonowned tools and equipment coverage permits a blanket limit to cover nonowned tools and equipment (e.g., leased, rented).

(4) Employees' tools coverage permits a blanket limit subject to a \$2,500 per employee limit.

The 2024 edition of the endorsement amends the BP 00 03 exclusion section granting coverage for loss or damage caused by earth movement or water to coverages 1 through 4.

Condominium, Co-Ops, Associations – Directors and Officers Liability Endorsement (BP 17 24)—This endorsement was added by the 2010 revision to provide directors and officers liability coverage on businessowners policies insuring eligible condominiums, co-ops, and community associations.

The endorsement will pay on behalf of any insured person any loss that the insured person becomes legally obligated to pay as the result of a claim first made during the policy period or extended reporting period, but only to a claim arising out of a wrongful act committed by the insured person occurring on or after the retroactive date and before the end of the policy period. If the insured person's spouse is included in the claim solely because of such spousal status or the spouse's ownership interest in property or assets that are sought as recovery for the wrongful act, all loss the spouse becomes legally obligated to pay by reason of the claim will be considered as loss the insured person becomes legally obligated to pay. The insurance also applies to the insured person's estate, heirs, legal representative of the deceased insured person, and legal representative of an insured person in the event of incompetency, insolvency, or bankruptcy.

The endorsement also pays on behalf of the association any loss for which the association has indemnified an insured person and that the insured person becomes legally obligated to pay as a result of a qualifying claim. The endorsement will pay on behalf of the association any loss that the association becomes legally obligated to pay as the result of a claim first made during the policy period or extended reporting period, but only to a claim arising out of a wrongful act committed by the association occurring on or after the retroactive date and before the end of the policy period.

The 2024 edition made minor editorial revisions to the endorsement to reinforce coverage intent.

Coverage For Injury To Leased Workers (BP 04 40)—This endorsement is needed in the minority of jurisdictions that do not recognize the business owner who leases workers as the employer of the leased workers.

Debris Removal Additional Insurance (BP 14 09)—This endorsement amends the Businessowners property additional coverage debris removal to the amount indicated in the endorsement schedule. This endorsement was introduced in the 2010 program.

Earthquake And Volcanic Eruption Endorsement (BP 10 03)—This endorsement extends coverage to loss by earthquake or volcanic eruption. The 2024 endorsement has been retitled and revised to include a schedule

for building, business personal property and applicable percentage deductibles.

Earthquake And Volcanic Eruption (Sub-Limit) (BP 10 11)—This endorsement extends coverage to loss by earthquake and volcanic eruption as shown in the schedule of the endorsement. This endorsement was introduced in the 2010 program.

Electronic Commerce (E-Commerce) (BP 05 94)—This endorsement provides coverage for insureds who use the Internet to conduct business. Coverage applies to the replacing and restoring of electronic data that has been destroyed or corrupted by a covered peril as set forth in the endorsement. Coverage also applies for loss of business income and extra expense caused by a covered peril set forth in the endorsement when e-commerce activity is disrupted (up to ninety days), or an interruption in computer network service (up to two weeks). Coverage is limited to a single limit of insurance in the endorsement schedule. A dollar deductible applies to property damage, and an eight-hour waiting period applies to business income and expense. This endorsement was introduced in the 2006 program.

Electronic Data Liability – Broad Coverage (BP 05 96)—This endorsement provides property damage liability coverage for loss of electronic data arising out of an incident. Unlike the Electronic Data Liability – Limited Coverage (BP 05 95) discussed in the next paragraph, the broad coverage version does not require physical injury to tangible property in order to trigger coverage. This endorsement would cover an insured that negligently causes data to be lost or corrupted (transfers a computer virus). Coverage is provided on a claims-made basis subject to an annual aggregate limit of insurance. This endorsement was introduced under the 2006 program. The 2010 edition introduced *trusts* as an insured category. The 2013 edition revised the definition of *electronic data*. The 2014 edition introduced language that excludes damages arising out of any access to or disclosure of a person's or an organization's confidential or personal information. The 2023 edition revised the exclusion for Access or Disclosure of Confidential or Personal Material or Information by separating out the exclusion for Unauthorized Use of Electronic Data.

These changes are a reinforcement of coverage intent. Note that data breach and certain data-related liability are not intended to be covered under this endorsement. Coverage for these exposures are better managed under the Information Security Protection Endorsement (BP 15 07) or a stand-alone Cyber Liability policy.

Electronic Data Liability – Limited Coverage Subject to Cyber Incident Exclusion (BP 05 95)—This endorsement, which was introduced in the 2006 edition, provides property damage liability coverage for loss of electronic data arising out of an occurrence. It is limited in coverage because it applies only to liability for loss of data that results from physical injury to tangible property. This endorsement would cover an insured that negligently causes a power failure (severs computer cables) that leads to a computer malfunction and loss of data.

The 2013 edition broadened coverage with an exception to the electronic data exclusion stating that the exclusion does not apply to liability for damages because of bodily injury. It also revises the definition of *electronic data*.

The 2014 edition introduced language that excludes bodily injury or property damage arising out of any access to or disclosure of confidential or personal information.

The 2023 edition retitled the form Electronic Data Liability – Limited Coverage Subject to Cyber Incident Exclusion. The exclusion for personal and advertising injury was removed and replaced with an exclusion for injury or damage arising from a “cyber incident”. A definition of cyber incident is added.

Like the Electronic Data Liability – Broad Form (BP 05 96) endorsement reviewed previously, these changes are a reinforcement of coverage intent and are better managed under the Information Security Protection Endorsement (BP 15 07) or a stand-alone Cyber Liability policy.

Employee Benefits Liability Coverage (BP 04 98)—This endorsement provides coverage for sums that the insured may become legally obligated to pay because of its error or omission in the administration of the named

insured's employee benefit program. Coverage is provided on a claims-made basis. This endorsement was introduced in the 2002 program and revised in the 2010 edition eliminating liability arising out of the failure of performance of a contract by any insurer. In other words, liability coverage is not extended to a business owners' health insurer that fails to perform in accordance with a contract.

Employee Dishonesty – Named Employee(s) (BP 14 83)—This endorsement amends the property section of the Businessowners policy to cover scheduled employees who are known to have previously committed theft or any other dishonest act prior to the effective date of the policy. This endorsement was introduced in the 2013 program and represented a broadening of coverage.

Employment-Related Practices Liability (BP 05 89)—This endorsement provides coverage for businesses for liability arising out of claims for wrongful acts to which the insurance applies. A *wrongful act* includes wrongful demotion, failure to promote, negative evaluation, reassignment, discipline, or wrongful refusal to employ; wrongful termination, wrongful denial of training, wrongful deprivation of career opportunity, or breach of employment contract; negligent hiring or supervision that results in any wrongful act; retaliatory action against an employee; coercion; harassment; libel, slander, invasion of privacy, defamation, or humiliation; and verbal, physical, mental, or emotional abuse arising out of discrimination. See the actual endorsement for a complete definition.

This is a claims-made endorsement covering claims made on or after the retroactive date and during the policy period or any applicable extended reporting period. Defense expenses and damages are within the annual aggregate limits of insurance listed in the schedule endorsement. This endorsement was introduced under the 2006 program and revised in 2010, introducing the definition *wrongful act* and retiring the definition *injury* to better define the coverage.

Extended Reporting Period For Electronic Data Liability – Broad Coverage (BP 05 97)—This endorsement extends the reporting period related to claims covered under the Electronic Data Liability – Broad Coverage (BP 05 96) endorsement.

Extended Reporting Period For Employee Benefits Liability Coverage (BP 04 99)—This endorsement extends the reporting period related to claims covered under the Employee Benefits Liability Coverage (BP 04 98) endorsement.

Flood Coverage (BP 10 79)—This endorsement amends the Businessowners property coverage when a flood limit of insurance is shown in the declarations or in the flood coverage schedule. It covers loss to covered property caused by flood, subject to a seventy-two hour time deductible. The limit of insurance is written on an occurrence basis subject to an annual aggregate. This coverage is excess over the maximum limit of coverage for which the property is eligible under the National Flood Insurance Program. This provision may be eliminated if the declarations or the flood coverage schedule indicates that the Underwriting Insurance Waiver applies. In other words, coverage can be written on a first dollar basis. This endorsement was introduced in the 2010 program. The 2024 edition is revised to provide debris removal coverage for deposits of mud or earth within insured buildings at the described premises. This revision represents a broadening of coverage. Note that the coverage does not apply to removal of mud or earth from the grounds or outside of buildings.

Food Contamination (BP 04 31)—This endorsement provides coverage in the event the business at the described premises is ordered closed by the Board of Health or any governmental authority as a result of the discovery or suspicion of food contamination. Expenses covered include cleanup expense, cost to replace food, testing expenses, vaccination of employees, and loss of business income including advertising expenses to restore the business's reputation. A limit of insurance is indicated in the endorsement for food contamination and advertising expense.

Hired Auto And Non-Owned Auto Liability (BP 04 04)—This endorsement provides either (or both) nonowned or hired auto coverage. The nonowned auto liability portion provides coverage for any auto that is not owned, borrowed, or hired by the insured, such as an employee using her personal auto to run an errand on behalf of the business owner. The business owner would qualify for liability coverage for such a nonowned auto exposure, although the employee would have to rely on her own auto

insurance for liability coverage. Hired auto liability provides coverage for autos leased, hired, or borrowed by the named insured. An example is a business owner who rents a car while traveling on company business. This endorsement protects the business and provides only liability coverage.

The 2002 edition was revised to extend the nonowned liability coverage to the named insured. The 2006 edition revised the endorsement to include an insured's employee as an insured while using a nonowned auto in the insured's business. It also expanded the definition of *hired auto* to include an "auto that you rent" and expanded the definition of *nonowned auto* to cover members of a partnership for their vicarious liability resulting from another partner's use of his own auto. This represents a broadening of coverage over the 2002 program. The 2010 edition added another insurance provision making explicit that liability coverage provided by the endorsement for autos that are hired autos or nonowned autos is excess over the primary insurance covering such autos.

Hotels, Motels and Inns (BP 07 10)—This endorsement provides coverage for property of others that is in the insured's care, custody, or control, excluding property belonging to guests of the insured's motel. The insured's personal property in motel rooms furnished by the insured as a motel operator is covered.

An additional coverage for the necessary expenses incurred to replace locks (limited to \$2,500 per policy period) for motel rooms resulting from theft or copying of keys or any other legitimate security concern is provided but does not apply to loss caused by vandalism or wear and tear.

Under the liability portion of the Businessowners form, coverage is provided for sums the insured becomes legally obligated to pay as damages because of loss or destruction of or damage to property belonging to motel guests while the property is on the premises or on the insured's possession. The coverage does not apply to samples or articles held for sale; vehicles, including equipment, or any property contained in or on vehicles; and guests' property while in the safe deposit box on the insured's premises. This endorsement's title was revised in 2024 with no impact on coverage.

Hotels, Motels, And Inns – Liability For Guests’ Property In Safe Deposit Boxes (BP 07 11)—This endorsement provides coverage for sums the insured becomes legally obligated to pay as damages because of loss or destruction of or damage to property belonging to the insured’s guests while the property is in a safe deposit box. This endorsement’s title was revised in 2024 with no impact on coverage.

Identity Fraud Expense Coverage (BP 14 01)—This endorsement amends the Businessowners property additional coverage by adding an identity fraud expense limit of \$25,000 as an annual aggregate. Advertising expense to restore the business owners’ reputation is limited to \$5,000. A \$250 per day limit subject to a \$10,000 maximum sublimit applies to loss of income. This endorsement was introduced in the 2010 program.

Increase in Rebuilding Expenses Following Disaster (Additional Expense Coverage On Annual Aggregate Basis) (BP 14 82)—This endorsement may be used to pay for the increase in building expenses that commonly occurs due to labor and material shortages after a natural disaster. A schedule of the premises and buildings is indicated in the endorsement along with an additional expenses coverage percentage. This is written on an annual aggregate basis and triggered by a declaration of a state of disaster by a federal or state authority. This endorsement was introduced in the 2013 program.

Increased Cost Of Loss And Related Expenses For Green Upgrades (BP 14 75)—This endorsement may be used to pay for the increase in cost of loss and related expenses for green upgrades. *Green* is defined in the endorsement to mean enhanced energy efficiency or use of environmentally preferable, sustainable materials, products, or methods in design, construction, manufacture, or operation, as recognized by a Green standards-setter (LEED or ENERGY STAR certified). Examples include upgrading a traditional roof with a vegetated roof and/or the installation of solar panels to reduce energy consumption. Related covered expenses include waste reduction and water recycling, design and engineering professional fees, certification fees and related equipment testing, building air-out and related air testing. This endorsement was introduced in the 2013 program.

Information Security Protection Endorsement (BP 15 07)—This endorsement addresses both first-party and third-party cyber/data breach coverages. It is offered in the following three tiers:

- **Tier 1 First-Party Expense Coverages** applies to the costs of replacing or restoring electronic data or computer programs stored within the insured's computer system that are lost or rendered inaccessible as the direct result of an e-commerce incident. Coverage also applies to public relations and security breach expenses. Tier 1 coverage is automatically provided when the endorsement is attached to the policy and is the base coverage.
- **Tier 2 Third-Party Liability Coverage** covers security breach liability and applies to liability arising out of claims by third-parties for wrongful acts committed by an insured for its failure to maintain the security of personal information in its computer system or in nonelectronic format. When Tier 2 coverage is provided, Tier 1 is provided.
- **Tier 3 Expense Coverages** applies to first-party costs related to extortion (including ransom), business income, and extra expenses related to an e-commerce incident. Third-party website publishing liability is also provided under the Tier 3 Expense Coverage. When Tier 3 coverage is provided, Tiers 1 and 2 are provided. When Tier 3 Expense Coverage is provided, the Additional Coverage A.5q Interruption of Computer operations does not apply.
- This endorsement was introduced in 2015 and revised in 2024 to complement changes made in various endorsements related to cyber liability. The most current revision of this endorsement has no impact on coverage.

Limited Coverage For Unmanned Aircraft (Scheduled And/Or Blanket Coverage (BP 15 94))—This endorsement was introduced in 2024 to address the increased use of unmanned aircraft (drones). The endorsement defines unmanned aircraft as one that is not designed, manufactured, or modified after manufacture to be controlled directly by a person from within or on the aircraft. The endorsement covers direct physical loss or damage of covered property caused by a covered cause of loss. Coverage can be written on a scheduled or blanket basis with either an actual cash

value or replacement cost settlement option. Business income coverage can also be added. Coverage does not apply to unmanned aircraft when rented, leased, or loaned to others or for loss or damage if the unmanned aircraft is used to deliver merchandise or goods to another. A companion endorsement titled Amendment of Coverage Territory For Unmanned Aircraft – Worldwide Coverage (BP 15 95) can be used to expand coverage territory worldwide (subject to exceptions). Both endorsements represent a broadening of coverage.

Limited Coverage For Designated Unmanned Aircraft (BP 15 12)—

This endorsement provides options to expressly include bodily injury, property damage, and/or personal and advertising injury for unmanned aircraft (drones) with respect to operations or projects designated in the schedule of the endorsement. An optional unmanned aircraft liability aggregate limit may be entered into the endorsement. This endorsement was introduced in 2016.

Limited Fungi Or Bacteria Coverage (Liability) (BP 05 78)—This endorsement modifies the Businessowners liability exclusion section to cover bodily injury or property damage arising out of a fungi or bacteria incident. A separate fungi and bacteria liability aggregate limit is indicated in the endorsement schedule. Building owners and/or contractors may use this endorsement to cover bodily injury or property damage arising from a *fungi or bacteria incident*, which is defined on the endorsement.

Limited Pollution Liability Extension (BP 04 94)—This endorsement modifies the pollution exclusion to cover pollution releases from locations on which the insured is performing nonenvironmental operations. A pollution release from a storage tank, ducts, or piping that is below surface is not covered, and neither are cleanup costs mandated by environmental laws.

Liquor Liability (BP 04 88)—This endorsement amends the liquor liability exclusion to provide liquor liability coverage subject to the policy's liability and medical payments limits. This endorsement was introduced in the 2002 program.

Liquor Liability Coverage (BP 04 89)—This endorsement is similar to BP 04 88. It is written subject to two limits (an aggregate and a common cause limit). In addition, no coverage applies to bodily injury or property damage arising out of any alcoholic beverage sold or furnished while any required license is not in effect. The 2002 edition covered situations such as when an insured never obtained a required liquor license or when a license was suspended, expired, cancelled, or revoked. The 2006 revision, by inserting the phrase *not in effect*, resulted in a reduction of coverage that was carried forward into subsequent editions.

Liquor Liability Coverage – Bring Your Own Alcohol Establishments (BP 14 89)—This endorsement extends business liability coverage to include bodily injury or property damage arising out of the selling, serving, or furnishing of any alcoholic beverages, specifically including insureds who permit any person to bring alcoholic beverages on their premises for consumption, whether or not a fee is charged. This endorsement was introduced in the 2013 program.

Loss Or Damage To Invitees' Autos (Legal Liability Coverage) – Scheduled Premises (BP 15 96) — This endorsement covers the insured's legal liability that results from a covered cause of loss for damage or loss (including loss of use) to a customer's auto or to an invitee's auto while the auto is at the premises shown in the schedule. This endorsement does not cover liability arising from any agreement in which the insured accepted responsibility for direct physical loss or damage to autos left in the insured's care nor does it apply to loss or damage to theft or conversion by any insured. A similar endorsement, Loss Or Damage To Invitees' Autos (Legal Liability Coverage) – Care Custody Or Control (BP 15 97) extends coverage to an auto that is left in the insured's care custody and control when the insured is attending or operating the auto at or temporarily away from the premises shown in the schedule. Both endorsements were retitled in 2024 and represent a broadening of coverage.

Newly Acquired Organizations (BP 04 54)—This endorsement amends the liability coverage to provide limited coverage for newly acquired or formed organizations.

Off-Premises Interruption of Business – Vehicles And Mobile

Equipment (BP 10 80)—This endorsement provides business income, extended business income, and extra expense coverage for a business that conducts operations using mobile equipment and vehicles away from the business owners' premises. The endorsement is not designed for businesses with mobile-only operations. Examples of businesses that may have a need for this endorsement include retail stores with delivery/repair services or a restaurant that provides a mobile food service. A description of scheduled property (vehicles or mobile equipment) and an off-premises limit of insurance is indicated in the endorsement. The endorsement does not provide coverage for physical damage to any property or for repair or replacement of any property including scheduled property. This endorsement was introduced in 2014.

Optional Outdoor Property Coverage (BP 10 88)—The Businessowners policy provides limited coverage (maximum \$2,500) for “stock” of outdoor trees, shrubs or plants under its coverage extension. This endorsement was introduced in the 2024 edition amending the Businessowners policy to provide full policy coverage limits for outdoor trees, shrubs or plants which are “stock”. The endorsement is an additional underwriting tool and represents a broadening of coverage.

Ordinance Or Law Coverage (BP 04 46)—The ordinance or law exclusion eliminates coverage for any additional costs associated with repairing a structure in order to comply with a building ordinance or law (e.g., ADA or demolition requirements). This endorsement provides coverage for those types of occurrences.

The 2024 edition has added an option to address the possibility of post-loss changes to any ordinance or law that would impede the insured's ability to begin building repairs and/or occupancy at a location. This could occur after a property loss and prior to the acquisition of the necessary building permits and/or certificate of occupancy. A post-loss direct physical damage and a post-loss business income and extra expense option is available. The option addressing post-loss ordinance or law requirements is a broadening of coverage.

Payment Card Industry (PCI) – Provide Coverage For Defense And Fines Or Penalties (BP 15 08)—This endorsement provides coverage for loss (fines and penalties) assessed against the insured and defense expenses as a result of a claim taken by a credit card company (such as Visa, MasterCard, or American Express) for noncompliance with the Payment Card Industry Data Security Standards. This endorsement was introduced in 2015 and is written in conjunction with the Information Security Protection Endorsement (BP 15 07).

Pollution Exclusion – Limited Exception For A Short-Term Pollution Event (BP 04 90)—This endorsement modifies the pollution exclusion to cover a short-term pollution event. Coverage applies if the escape of pollutants begins at an identifiable time and place, ends no later than forty-eight hours after it begins, and is reported to the insurer as soon as practicable, but no later than fourteen days after the end of the incident. Other requirements for coverage also apply. The endorsement was introduced in the 2006 edition and provided a broadening of an exception to an exclusion by adding cooling or dehumidifying equipment that is used to heat water.

Pollution Exclusion – Limited Exception For Designated Pollutant(s) (BP 04 91)—This endorsement modifies the pollution exclusion to cover the escape, release, or migration of the designated pollutant(s) listed in the endorsement.

Provide Coverage For Dishonest, Malicious Or Fraudulent Acts Committed By Employees (BP 15 10)—This endorsement provides coverage for dishonest, malicious, or fraudulent acts committed by an employee. This endorsement was introduced in 2015 and is written in conjunction with the Information Security Protection Endorsement (BP 15 07).

Restaurants (BP 07 78)—This endorsement amends the Businessowners policy to add coverage for reward payment for information leading to the arrest or conviction of any person committing a crime resulting in the loss of or damage to covered property of up to \$5,000, reasonable costs to remove brands and labels from damaged property, ordinance or law coverage for equipment; lock replacement up to \$1,000, spoilage coverage

of up to \$10,000, food contamination coverage of up to \$10,000 with \$3,000 for advertising expense, legal liability coverage for delivery errors and omissions, and merchandise withdrawal expense coverage of up to \$25,000.

Seed Merchants – Coverage For Erroneous Delivery Or Mixture And Resulting Failure of Seed To Germinate (BP 14 14)—This endorsement amends the Businessowners liability coverage covering damages arising out of the erroneous delivery of seed, including the failure to deliver seed, delivery of wrong seed, or delivery of seed at the wrong time or season. It also covers error in mechanical mixture of seed and the failure of seed to germinate if the failure is caused by the delivery of wrong seed, delivery at the wrong time, or an error in mechanical mixture. This insurance does not apply to property damage arising out of the failure of seed to germinate. This endorsement was introduced in the 2010 program.

Seed Merchants – Coverage For Erroneous Delivery Or Mixture (Resulting Failure of Seed To Germinate Not Included) (BP 14 13)—This endorsement amends the Businessowners liability coverage covering damages arising out of the erroneous delivery of seed including the failure to deliver seed, delivery of wrong seed, or delivery of seed at the wrong time or season, and error in mechanical mixture of seed. This endorsement was introduced in the 2010 program.

Snow Plow Products – Completed Operations Hazard Coverage (BP 14 16)—This endorsement amends the Businessowners liability coverage to provide bodily injury and property damage arising out of the use of any auto for snow or ice removal operations. This endorsement was introduced in the 2010 program.

Specified Business Personal Property Temporarily Away From Premises (BP 14 79)—This endorsement provides coverage with respect to business personal property temporarily away from the described premises in the course of daily business activities and while in the care, custody, and control of an employee of the insured.

The business personal property must be described in the schedule and a limit of insurance indicated. Coverage does not apply if the property is used

for sales activity (exception for fairs and trade shows), in the care of a common or contract carrier or bailee, while airborne or waterborne, or theft from a motor vehicle *unless* there is certain evidence of theft. Coverage may overlap with the personal property off-premises extensions subject to the policy's other insurance provision. This was a new endorsement under the 2013 program and represents a broadening of coverage.

Spoilage Coverage (BP 04 15)—This endorsement is designed for businesses that process, store, or sell perishable stock (e.g., food, medicine, or flowers). Coverage may be purchased to cover breakdown or contamination and power outage. The option is indicated by a declarations entry. The 2021 revision added the Cyber Incident Exclusion or the Cyber Incident Exclusion With Ensuing Cause(s) of Loss Exceptions, whichever applies.

Theft Of Clients' Property Coverage (BP 14 03)—This endorsement amends the Businessowners property coverage if employee dishonesty optional coverage is shown in the declarations. The endorsement covers theft of clients' property (money, securities, other property) resulting directly from theft committed by any of the business owners' employees acting alone or in collusion with others. A limit of \$5,000 applies unless another amount is indicated on the endorsement. This endorsement was introduced in the 2010 program.

Utility Services – Direct Damage (BP 04 56)—Property damage coverage may be extended to cover loss of or damage to covered property described in the schedule that is caused by direct physical loss or damage to off-premises properties providing water, communication, and power supply services. The coverage may either include or exclude overhead transmission lines.

Utility Services – Time Element (BP 04 57)—Through use of this endorsement, time element coverage may be extended to cover loss at the described premises resulting from the failure of utility property including water removal property (introduced in 2013 edition) located outside the covered building, regardless of whether such property is located on or off-premises.

Water Back-Up And Sump Overflow (BP 04 53)—This endorsement provides coverage for water back-up and sump overflow including water damage caused by mechanical breakdown of the sump pump or related equipment (repair of the mechanical equipment is not covered). Coverage does not apply to loss or damage resulting from an insured's failure to keep the sump pump or related equipment in proper working condition or to perform routine maintenance or repair necessary to keep a sewer or drain free from obstructions. Unless a higher limit is indicated in the schedule endorsement, \$5,000 applies per location. The 2010 edition introduced the option to insure the loss of business income and extra expense that results from a water back-up or sump overflow loss. Like the property limit, \$5,000 applies per location unless a higher limit is indicated in the scheduled endorsement. The limits chosen are on an annual aggregate basis. The 2024 edition reinforces original intent that the BP 00 03 mechanical breakdown exclusion is not designed to apply to coverage provided by this endorsement.

General Endorsements

General endorsements amend the policy. The 2024 edition introduced or revised a number of endorsements to meet consumer or underwriting needs including the introduction of the burglary and protective safeguard, revisions to the standard protective safeguards endorsement and the introduction of the premium audit and noncompliance charge,

Amendment Of Insured Contract Definition (BP 05 98)—This endorsement amends the definition of *insured contract*, addressing certain liability assumed by the named insured with respect to the tort liability of another party. Its purpose is to comport with anti-indemnification laws that prohibit provisions in construction contracts that require a party to indemnify another party against liability for that party's own negligence. Depending on the state of jurisdiction, this may be a reduction in coverage. The 2024 edition of this endorsement deletes the professional services exclusion since it is addressed in the BP 00 03 form. This revision is a reinforcement of coverage intent.

Brands And Labels (BP 14 10)—This endorsement amends the Businessowners property coverage and pays the insured the reasonable costs the business owner incurs to stamp the word *salvage* on merchandise or containers or to remove the brands and labels if doing so will not damage the merchandise after it is damaged by a covered cause of loss. The insurer will then take the property for salvage. This endorsement was introduced in the 2010 program.

Burglary And Robbery Protective Safeguards (BP 06 49)—This endorsement was introduced in 2024 to address theft protective safeguards to mitigate burglary and robbery losses. Similar to the Protective Safeguards (BP 04 30) endorsement, which relates to fire protection, BP 06 49 addresses the burglary and robbery exposure of business owners. This endorsement excludes coverage, if prior to the loss event, the insured failed to take actions concerning the maintenance and notification of suspension or impairment of a burglary and robbery protective device. It requires the business owner to maintain the protective safeguard system (e.g., burglary alarm system, security service, etc.) as indicated in the endorsement in complete working order. The insured is required to notify the insurer within forty-eight hours if the system is not functioning (exception applies if the insured can provide at least one watchperson or other means of surveillance during nonworking hours or when unoccupied); mandates that the protective safeguard system be in the “on” position during all nonworking hours and whenever the premises are not occupied; and notify the insurer of any known suspension or impairment of any safeguard system. Failure to comply with the endorsement conditions can result in the denial of a theft and burglary losses and/or the suspension of coverage.

Designated Construction Project(s) General Aggregate Limit Endorsement (BP 14 18)—This endorsement amends the Businessowners liability coverage by providing that a separate designated construction project general aggregate limit applies to specific designated construction projects as indicated in the endorsement schedule. This endorsement was introduced in the 2010 program.

Designated Location(s) General Aggregate Limit (BP 14 17)—This endorsement amends the Businessowners liability coverage by providing an

aggregate limit on a location basis for business risks. The aggregate applies to each location that is designated in the endorsement schedule. This endorsement was introduced in the 2010 program.

Designated Location(s) Products/Completed Operations Aggregate Limit (BP 16 37) and Designated Project(s) Products/Completed Operations Aggregate Limit (BP 16 38)—Both of these endorsements (which are similar to BP 14 17 and BP 14 18) were introduced in 2024 to provide greater flexibility in assigning insurance limits to designated locations. Their use is applicable when a business operation has multiple locations or performs work away from their own premises. The introduction of these endorsements is a broadening of coverage.

The endorsement (BP 16 37) is similar to (BP 14 17) from a coverage perspective, however, it provides greater flexibility in assigning insurance limits to designated locations. Designated Project(s) Products/Completed Operations Aggregate Limit (BP 16 38) is similar to (BP 14 18) from a coverage perspective, however, it provides greater flexibility in assigning insurance limits to designated locations.

The use of either is applicable when a business operation has multiple locations or performs work away from their own premises.

Discretionary Payroll Expense Endorsement (BP 14 30)—This endorsement amends the Businessowners property additional coverage for business income. It modifies ordinary payroll expenses (sixty days under the policy) to the number of days indicated in the endorsement schedule. The job classifications and employees must also be listed in the endorsement schedule. This endorsement was introduced in the 2010 program.

Excess Insurance Provision – Order Of Response – When You Are An Additional Insurance On Other Insurance (BP 15 92)—This endorsement modifies the Businessowners policy making insurance excess over any other insurance available whether primary, excess, or contingent on any other basis. It covers liability for damages arising out of the premises or operations for which the insured has been named as an

additional insured. This endorsement was introduced in 2024 and represents a broadening of coverage (preservation of policy limits).

Fire Department Service Contract (BP 12 02)—This endorsement is used when maintenance of a service contract with a privately owned fire department is required in order for the underwriter to apply a public protection classification.

Functional Building Valuation (BP 04 84)—This endorsement is commonly used to insure older buildings that have wide disparities between their replacement cost and market value or current use. When this endorsement is used, the insured building is rebuilt on a functional replacement cost basis rather than on a like kind and quality or actual cash value basis. This endorsement was introduced in the 2002 program and revised in the 2006 edition to add an optional coverage for business income and expense insurance. The 2024 edition has added an option to address the possibility of post-loss changes to any ordinance or law that would impede the insured's ability to begin building repairs and/or occupancy at a location. This could occur after a property loss and prior to the acquisition of the necessary building permits and/or certificate of occupancy. A post-loss direct physical damage and a post-loss business income and extra expense option is available. The option addressing post-loss ordinance or law requirements is a broadening of coverage.

Functional Business Personal Property Valuation (BP 04 85)—This endorsement is used to insure business personal property on a functional replacement cost basis rather than on a like kind and quality or actual cash value basis. This endorsement was introduced in the 2002 program.

Limitations On Coverage For Roof Surfacing (BP 14 81)—This endorsement amends the Businessowners property loss conditions, providing for an actual cash value settlement and for excluding cosmetic damage to roof surfacing. The cosmetic exclusion applies only to cosmetic damage to the roof surface caused by windstorm or hail. *Cosmetic damage* means that the windstorm or hail caused marring, pitting, or other superficial damage that alters the appearance of the roof's surface but does not prevent the roof from continuing to function as a barrier to the elements. This endorsement was introduced in the 2013 program.

Loss Payable Clause (BP 12 03)—This endorsement provides for naming a loss payee, lender's loss payee, loss payee under a contract-of-sale arrangement, and, under the 2010 edition, adds a building owner as loss payee. Payment of claims for loss or damage is paid jointly to the insured and loss payee as their interests may appear.

Named Perils (BP 10 09) – This endorsement is an alternative to the special open peril coverage of the Businessowners policy form (BP 00 03). Under the Named Perils endorsement coverage applies to direct physical loss caused by the following named perils: fire; lightning; explosion; windstorm or hail; smoke; aircraft or vehicles; riot or civil commotion; vandalism; sprinkler leakage; sinkhole collapse; volcanic action; and transportation losses. Additional limitations and/or restrictions in coverage apply to additional coverage, exclusions, and optional coverages.

Premium Audit Non Compliance Charge (BP 16 31)—This endorsement replaces the form's premium audit condition providing for an audit noncompliance charge to apply if there is a failure to comply with the request for audit information needed by the insurer for premium computation. The insurer must make a number of written attempts to secure audit information prior to assessing the audit premium charge. The endorsement also includes a provision that would allow for the premium audit to be reassessed after the insured receives the bill for the audit noncompliance charge. This endorsement was introduced in 2024 and has no impact on coverage.

Primary And Noncontributory – Other Insurance Condition (BP 14 88)—This endorsement amends the other insurance condition section of the Businessowners policy to expressly state that coverage provided to an additional insured is on a *primary and noncontributory basis*. This endorsement was introduced to complement construction contracts that commonly require that insurance apply on a primary and noncontributory basis when additional insured status is provided. This is a new endorsement under the 2013 program. It has no impact on coverage.

Protective Safeguards (BP 04 30)—The insurer frequently requires this endorsement if the business owner is receiving a protective safeguards credit on its property rate. It requires the business owner to maintain the

protective safeguard system (e.g., sprinkler system, fire alarm, etc.) as indicated in the endorsement in complete working order. The insured is required to notify the insurer within forty-eight hours if the system is not functioning; mandates that the protective safeguard system be in the “on” position at all times; and notify the insurer of any known suspension or impairment of any safeguard system. Failure to comply with the endorsement conditions can result in the denial of a fire loss and/or the suspension of coverage. The 2024 edition introduced the requirement that safeguard systems must be maintained in the “on” position at all times. This explicit requirement for active engagement of the protective safeguard system represents a reduction in coverage.

Removal Of Insurance-To-Value Provision (BP 04 83)—This endorsement amends the loss payment provision and eliminates the insured’s requirement to carry insurance equal to 80 percent of the property’s replacement value. This endorsement was introduced in the 2002 program.

Vacancy Changes (BP 04 86)—This endorsement amends the vacancy property loss condition that permits the 31 percent square footage occupancy requirement to be replaced by the percentage specified in the endorsement. This endorsement was introduced in the 2002 program.

Vacancy Permit (BP 04 87)—This endorsement modifies the vacancy property loss condition. Under the unendorsed policy, no coverage applies to the perils of vandalism and sprinkler leakage if the insured building is vacant over sixty consecutive days. This endorsement may be used to delete the sixty-day vacancy limitation. The 2024 edition of this endorsement deleted the reference to Condominium Commercial Unit-owners Coverage Form as a coverage alternative to the Businessowners Coverage Form.

Waiver Of Transfer Of Rights Of Recovery Against Others To Us (Waiver Of Subrogation) (BP 04 97)—The form states that, if an insured has a right of recovery (i.e., subrogation) against a third party, those rights are transferred to the insurer. This endorsement, which must be activated before a loss occurs, waives the insurer’s rights to subrogate against the negligent third party. It is typically used to assure the named insured and third party that no legal action will be brought against the third party. This

endorsement is frequently used when the named insured has a close business relationship with the third party that is listed in the endorsement schedule. The 2024 edition of this endorsement was modified to provide insurers with increased flexibility in addressing the coverage needs of policyholders who agree to waive their rights of recovery against other parties in which they do not have a direct written contract (e.g., upstream parties such as property owners, lessors or managers, or suppliers or vendors).

Waiver Of Transfer Of Rights Of Recovery Against Others To Us (Waiver Of Subrogation) – Automatic (BP 15 90) — This endorsement provides an automatic waiver of subrogation on a blanket basis to the extent that the insured has waived its right of recovery in a written contract. This endorsement was introduced in 2024.

Windstorm Or Hail Losses To Roof Surfacing – Actual Cash Value Loss Settlement (BP 14 04)—This endorsement amends the Businessowners property loss conditions providing for an actual cash value settlement for windstorm or hail losses to roof surfaces. This endorsement was introduced in the 2010 program.

Windstorm Or Hail Percentage Deductibles (BP 03 12)—This endorsement offers the insured the option of percentage deductibles for windstorm or hail coverage. The deductible amount can be 1, 2, or 5 percent of the limit(s) of insurance applicable to the covered property that has sustained loss or damage directly or indirectly by windstorm or hail, regardless of any other cause contributing to the loss. The deductible applies separately to each building if two or more buildings sustain damage; to building and personal property in that building if both sustain damage; to personal property in each building; and to personal property in the open. This deductible replaces the flat deductible amounts, such as \$250, \$500, \$1,000, or \$2,500.

Professional Liability Endorsements

These endorsements add professional liability and related coverages for certain named business owner exposures. The 2024 edition made minor

editorial revisions to several endorsements.

Barber Shops And Hair Salons Professional Liability (BP 08 01)—This endorsement provides professional liability coverage for bodily injury, property damage, and personal and advertising injury arising out of the rendering of or failure to render barber shop and hair salon services. *Barber shop or hair salon services* means hair cutting, styling, dyeing, shaving, conditioning, and shampooing, including advice or instruction related to these services. It does not include removal of hair by electrolysis, hair implanting or transplanting, or the use of any dye or coloring to eyelashes except mascara or eyebrow pencils. This endorsement was revised under the 2010 program and represented a reduction in coverage. Coverage for a wider range of beauty, barber, and hair salon activities are available under the Beauty Salons and Professional Liability (BP 08 09) endorsement.

Beauty Salons Professional Liability (BP 08 09)—This endorsement provides professional liability coverage for bodily injury, property damage, and personal and advertising injury arising out of the rendering of or failure to render salon services. *Salon services* means hair cutting, styling, dyeing, shaving, conditioning, and shampooing, including advice or instruction related to these services. It also means any additional services described in the endorsement schedule. Any service not falling within the definition of *salon services* or described as an additional service in the endorsement schedule is excluded. This endorsement was introduced in the 2010 program.

Condominium, Co-Ops, Associations – Directors And Officers Liability Endorsement (BP 17 24)—This endorsement amends the Businessowners liability coverage to provide directors and officers liability coverage in the following three areas:

- (1) Management liability coverage insures the wrongful acts of directors and officers in their capacity as directors and officers.
- (2) Association reimbursement coverage pays on behalf of the association for any loss the association has indemnified an insured person.

(3) Association liability coverage makes payment on behalf of the association for loss that the association is legally obligated to pay as a result of wrongful acts committed by the association.

Coverage is written on a claims-made basis. This endorsement was introduced in the 2010 program.

Funeral Directors Professional Liability (BP 08 02)—This endorsement provides professional liability coverage for bodily injury, property damage, personal and advertising injury, or other injury arising out of the rendering or failure to render professional services as a funeral director.

Optical And Hearing Aid Establishments (BP 08 03)—This endorsement provides professional liability coverage for bodily injury, property damage, and personal and advertising injury arising out of the rendering of or failure to render professional services by certified and licensed opticians or hearing aid specialists at the designated premises.

Pesticide Or Herbicide Applicator – Limited Pollution Coverage (BP 07 08)—This endorsement deletes pollution exclusion f.(1)(d), providing limited pollution coverage to pesticide or herbicide applicators when meeting all standards of any statute, ordinance, regulation, or license requirement of any federal, state, or local government that apply to those operations. The endorsement was renamed in the 2013 edition.

Pharmacists (BP 08 07)—This endorsement provides professional liability coverage for bodily injury, property damage, personal and advertising injury, or other injury arising out of the rendering or failure to render professional services of a traditional role of a pharmacist (limited to filling prescriptions and consulting on use of medication). This endorsement was introduced in the 2006 program.

Pharmacists – Broad Coverage (BP 08 06)—This endorsement provides professional liability coverage for bodily injury, property damage, personal and advertising injury, or other injury arising out of the rendering or failure to render professional services as a pharmacist. This endorsement was introduced in the 2002 program and was revised in the 2006 edition to cover the expanded roles of traditional pharmacists (limited to filling

prescriptions and consulting on use of medication) to include other services such as administering injections, initiating or adjusting drug regimes, and performing or interpreting blood tests.

Photography (BP 07 83)—This endorsement modifies the Businessowners property and liability coverages to address the specialized needs of photographer risks. Under property coverage, the endorsement expressly extends business personal property coverage to employees' photographic equipment, reward payment coverage, photographic equipment (cameras, lenses) off-premises coverage, and scheduled photographic equipment coverage.

Under liability coverage, the endorsement provides coverage for failure to deliver photographic product (still and moving images).

This endorsement was introduced under the 2013 program. The 2024 edition of the endorsement extends the radius applicable to various types of coverage to 1,000 feet of the described premises. This represents a broadening of coverage.

Photography – Amendment Of Coverage Territory For “Photographic Equipment” – Worldwide Coverage (BP 07 87)—This endorsement expands property coverage territory for photographic equipment to worldwide, except for any countries listed in the schedule of those countries subject to trade or other economic sanction or embargo by the United States of America. This endorsement may be attached to Photography (BP 07 83) endorsement. This endorsement was introduced in the 2013 program.

Photography – Makeup and Hairstyling (BP 07 84)—This endorsement modifies the Businessowners liability coverage exclusion to cover makeup application or hairstyling services provided in connection with the named insured's business as a photographer. This endorsement was introduced in the 2013 program.

Photography – Supplemental “Photographic Equipment” Schedule (BP DS 07 07)—This endorsement permits the scheduling of photographic equipment, subject to the limits and description in the endorsement. This

endorsement was new under the 2013 program and represents a broadening of coverage.

Printer's Errors and Omissions Liability (BP 08 04)—This endorsement provides liability coverage for the insured's negligent acts, errors, or omissions in providing printing services. It does not apply to claims resulting from publishing functions.

Veterinarians Professional Liability (BP 08 05)—This endorsement is used to provide professional liability coverage for bodily injury, property damage, and personal and advertising injury arising out of the rendering or failure to render professional services as a veterinarian. Eligible veterinarians are those specializing in the treatment of house pets. Specialist veterinarians (e.g., zookeepers, breeders, or show animal handlers) are not eligible.

Terrorism Endorsements

Terrorism endorsements were introduced after enactment of the Terrorism Risk Insurance Act (TRIA) that was signed into law on November 26, 2002. One of the purposes of TRIA is to ensure that coverage is available for certain terrorism losses (both property damage and bodily injury) and, at the same time, provide insurers with some degree of protection in the event of catastrophic certified acts of terrorism. TRIA has been revised and extended several times since its introduction. Originally, TRIA applied only to an act of terrorism that was committed by someone acting on behalf of a foreign person or foreign interest; it defined a *certified act of terrorism* as an act certified by the secretary of the treasury, in concurrence with the secretary of state and the U.S. attorney general; and limited federal participation (reimbursement from the federal government to insurers) to \$100 million.

After several extensions, TRIA now applies to both foreign and domestic terrorism; it removes the Secretary of State from the certification decision process, and provides that the Secretary of Treasury will consult with the Secretary of Homeland Security (in addition to the United States Attorney General); and the \$100 million federal participation increased to \$200

million in 2020. Insurers are also required to provide clear and conspicuous disclosure of the \$100 billion cap on insured terrorism losses. TRIA has been extended through December 31, 2027.

We have grouped the endorsements into general and liability categories. Since the endorsements are complex and far reaching, they should be read in their entirety for a comprehensive understanding.

General Terrorism Endorsements

Applicable to Property and Liability Coverages

Cap On Losses From Certified Acts Of Terrorism (BP 05 23)—This endorsement adds a provision to cap payment of both property and liability losses to amounts outlined in TRIA.

Conditional Exclusion Of Terrorism Involving Nuclear, Biological Or Chemical Terrorism (Relating To Disposition Of Federal Terrorism Risk Insurance Act) (BP 05 65)—This conditional endorsement, if attached to a policy, advises the insured that if the Terrorism Risk Insurance Act (TRIA) is terminated, extended with changes that redefine terrorism, extended under different policy conditions, or extended with changes that increase the insurer's statutory deductible, terrorism coverage will be reduced.

Disclosure Pursuant To Terrorism Risk Insurance Act (BP 05 15)—This endorsement is used to disclose the amount of premium being charged for coverage for certified acts of terrorism as defined in TRIA. It also provides notice that the federal government is sharing in the payment of such terrorism losses.

Exclusion Of Certified Acts Of Terrorism (BP 05 24)—This endorsement excludes coverage for loss or damage caused directly or indirectly by a certified act of terrorism except for ensuing fire loss in following fire states. It was renamed in 2015.

Exclusion Of Certified Acts Of Terrorism Involving Nuclear, Biological, Chemical Or Radiological Terrorism: Cap On Covered Certified Acts Losses (BP 05 26)—This endorsement excludes coverage for loss from a certified act of terrorism carried out by means of dispersal or application of nuclear, biological, chemical, or radiological material, except for ensuing fire loss in following fire states. It also caps payments to amounts delineated in TRIA.

Limitations Of Coverage For Certified Acts Of Terrorism (BP 05 27)—This endorsement permits the scheduling of property and liability limits of insurance for loss caused by certified acts of terrorism including following fire.

Liability Endorsements

Exclusion Of Certified Acts Of Terrorism And Exclusion Of Other Acts Of Terrorism Committed Outside the United States (BP 05 41)—This endorsement excludes injury or damage arising from a certified act of terrorism and excludes injury or damage arising from another act of terrorism committed outside the United States if the total insured damage exceeds \$25,000,000, fifty or more persons sustain death or serious injury, the terrorism involves the use of nuclear materials, the terrorism is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials, or the terrorism involves the release of pathogenic or poisonous biological or chemical materials.

Exclusion Of Other Acts Of Terrorism Committed Outside The United States: Cap On Losses From Certified Acts Of Terrorism (BP 05 38)—This endorsement excludes loss arising from an other act of terrorism committed outside the United States if the total insured damage exceeds \$25,000,000, fifty or more persons sustain death or serious injury, the terrorism involves the use of nuclear materials, the terrorism is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials, or if pathogenic or poisonous biological or chemical materials are released; and caps loss payment as delineated in TRIA arising from a certified act of terrorism.

Exclusion Of Punitive Damages Related To A Certified Act Of Terrorism (BP 05 42)—This endorsement excludes coverage for punitive damages that arise directly or indirectly from a certified act of terrorism.

Property of Robert Richardson,

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[BP DS 01 08 24 Businessowners Policy Declarations](#)

[BP 00 03 08 24 Businessowners Coverage Form](#)

[BP 20 01 04 20 Micro-Businessowners Retail](#)

[BP 20 02 04 20 Micro-Businessowners Service](#)

[BP 22 02 04 20 Micro-Businessowners Professional Liability](#)

[BP 21 01 04 20 Micro-Businessowners Abuse or Molestation Exclusion](#)

[BP 21 03 04 20 Micro-Businessowners Professional Services Exclusion](#)

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