

## Directors And Officers Liability Insurance

By LES ROBINSON

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*Les Robinson of Northwoods Insurance, Lockport New York explains Directors and Officers Liability Insurance*

Les Robinson of Northwoods Insurance, Lockport New York explains Directors' and Officers' Liability Insurance

### Directors' and Officers' Liability Insurance

This type of insurance is generally purchased by corporations and nonprofit organizations to cover the costs of lawsuits against directors and officers.

Basic, D&O insurance protects directors and officers from liability arising from actions connected to their corporate positions. Due to general expansion in the industry, market pressures and the industry's responses to the development of case law, D&O insurance has expanded beyond its original and basic coverage. Thus, a single policy now may provide multiple and varied options by standard form or endorsement. The individual coverage's discussed below typically are subject to distinct terms, conditions and deductibles, and even may be subject to distinct policy limits or sub limits. However, some common threads run through each coverage offered in a D&O policy. For example, D&O insuring agreements generally specify that coverage is limited to claims first made during the policy period. In addition, the insurer typically does not have a duty to defend but is required to cover the costs of the insured's defense.

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### Key Provisions and Exclusions

Twenty years ago, underwriters offered D&O policies based on two basic forms, and courts had seen very few cases in which they were asked to interpret those policies. Today, the number of D&O policy forms and cases interpreting them has multiplied. Although there are trends and standards within the industry, the specific language found in these policies differs from insurer to insurer and from policy to policy. Any coverage analysis must take into account the specific language found in the policy at issue. As a general matter, clear policy language will govern the application of coverage to a particular claim.

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### Definition of Loss

Loss generally includes damages, judgments, awards, settlements and defense costs. Loss usually excludes fines or penalties, taxes, treble (or other multiplied) damages, and matters uninsurable under law. Where treble or multiplied damages are assessed, a D&O policy generally will cover the base amount, but not the multiplied portion of the loss. Some policies include punitive and exemplary damages in the definition of loss. Where included, coverage of punitive and exemplary damages explicitly is effective only where permitted by applicable law.

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Taking precautions before an accident can help to keep insurance rates down. Following are steps businesses can take to lower the chance of a liability insurance claim:

- Set a high standard for product quality control.
- Make sure all company records are complete and up-to-date.
- Be sure employees are properly trained.

· Check with your insurance company to see what safety steps they recommend for your particular business.

If you have insurance questions please call Les Robinson at 1-800-836-2040 or e-mail at [lrobinson@thenorthwoodscorp.com](mailto:lrobinson@thenorthwoodscorp.com)

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