

USE AND OCCUPANCY

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No doubt more has been said on this subject than on any other single kind of special insurance in recent years, but in many cases it still seems to be thought quite as much of a mystery as the coinsurance clause was when first brought into use.

As a matter of fact, the principle of use and occupancy insurance is very simple. We all recognize the fact that even though every dollar of physical loss to property may be repaid by the regular fire insurance, the merchant or manufacturer or property owner will suffer an indirect loss because his premises and equipment are not available for carrying on his business. The manufacturer makes his money by producing goods and selling them. If he cannot produce it is useless to sell and therefore he must have the use of his factory or else his business will largely cease and with it his chance for profit.

It is at this point where the regular fire insurance drops the burden of loss that use and occupancy picks it up and carries it until the premises are restored to a productive condition. The cover is a broad one and includes not only the net profits but also those items of expense commonly referred to as fixed or maintenance charges that cannot be escaped during a period of forced suspension. Among these are taxes and ground or other rent; interest on notes and bonds; salaries and directors' fees; royalties for machinery or processes which are payable whether operating or not; wages of foremen and such skilled help as could not be laid off; cost of lighting, heating, watchman and general maintenance consistent with a condition of idleness; and other fixed charges or special items of expense or indebtedness which cannot be eliminated during a suspension of operations.

Not a Battle of Wits

We need not dwell very long on the technical side of such insurance, but there are a few features which might be referred to in passing. First, let me point out that this form of indemnity deals with the period of time the other side of the fire. It is the future, not the past, that is contemplated. The profits of the past are of value in determining the amount of insurance to be carried or the loss to be paid only as the future may be expected to reflect the past. The earnings may be greater or they may be less and the true spirit of such insurance must take into account all the factors present at the time of the fire, and all of those which reasonable men can forecast for the period of suspension, in order to justify it as real indemnity, not merely a business gamble or a battle of wits between the insured and the adjuster.

For this reason our forms should be simple, clear and unambiguous with sufficient elasticity so that the conditions actually present may determine the loss rather than a set of conditions preconceived at the time of issuing the policy. Valued forms of use and occupancy are in most cases as unsound as valued policies on buildings.

Another feature is that use and occupancy insurance is intended to cover the loss resulting because the premises cannot be used for their normal purposes. In a manufacturing establishment this means the production of goods; in a store the sale of goods. For this reason it is not intended to cover loss of profits on goods already manufactured nor loss of profits on a stock of goods in a store, but rather the loss of profits, because in the future beyond the fire goods cannot be produced or sold.

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