



# Newsletter

JANUARY 2009

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Our office will be closed for the following holidays:

January 21, 2008 – Martin Luther King Jr. BD

February 18, 2008 – Presidents Day

Our next newsletter will be mailed out the beginning of April 2009.

Remember if you have an article that you would like to contribute to our newsletter just fax it to us for our review. We must receive the article no later than March 15<sup>th</sup> for our April newsletter.

## INSIDE THIS ISSUE

- 1 Eight Essential Insurances
- 2 How to Slash Your Insurance Cost – JANUARY SPECIAL on 1000+ business forms
- 3 Foreclosure Miracles – Sham Foreclosure Sale
- 4 Avoid Deficiency on Loans – Crisis in the Future

## EIGHT ESSENTIAL INSURANCES MOST BUSINESSES OVERLOOK

Protection of your business must finally include a comprehensive insurance program to shield your business from as many possible claims, sources of liability and opportunity for loss as the business can reasonably afford to pay.

Most businesses carry basic fire and general liability insurance, yet these may not be the most important coverages for your business. Consider these eight often overlooked insurances:



- *Credit insurance*: Covers you for bad debts and should be considered to insure the collectability of extraordinarily large debts that would sink your company if unpaid.
- *Accounts receivable insurance*: Reimburses you for your inability to collect receivables due to physical casualty to your books of account or receivable records.
- *Profits and commission insurance*: Consider this if you are a commission agent. It reimburses you for lost profits or commissions due you in the event the company you sell for fails to provide the product to your customer after you made the sale.

- *Business interruption insurance:* Pays your ongoing overhead and lost profits until your business can become operational again following a casualty.
- *Supplemental perils:* Fire insurance covers only fire. This protects you from sprinkler damage or vandalism following a fire.
- *Floater and transit coverage:* This insurance takes several forms. A floater covers goods wherever they are located. A transit policy covers goods only along a specific route.
- *Bonding insurance:* Absolutely essential to protect yourself from embezzlement by employees with access to large sums of money.
- *Extended coverage:* Your standard liability policy covers you for negligent acts within your place of business. To protect yourself for wrongful acts beyond your business premises buy extended coverage.

Review your insurance needs annually. As a business grows and takes on new activities and procedures its insurance needs also change.

## HOW TO SLASH YOUR INSURANCE COSTS

Concerned about the cost for more insurance? A few cost-cutting strategies can more than compensate for the expense of increased protection where it counts:

- Analyze the cost for each type of insurance you now carry. You may find one type coverage had its premiums increase by 300 percent whereas other coverages decreased. Armed with this information you can better decide what coverage is worthwhile and what coverage should be reduced or eliminated.
- Increase deductibles. Absorb the first \$1000 to \$5000 in losses and you'll reduce premiums substantially.
- Has your property been recently reclassified? Fire insurance, for example, is based on the rating for your building. The rating board considers the neighborhood, tenants and general condition of the property. Perhaps a bakery opened beside you. This, for example, can dramatically increase your rating because of the increased fire hazard.

You have the right to check your property rating to contest any changes.

- Invest in sprinklers, fire extinguishers, smoke and fire detectors or a fire wall between you and a high-risk tenant. It pays big dividends.
- Take advantage of free programs that reduce insurance costs. For instance, progressive companies obtain reduced vehicle insurance premiums by enrolling their drivers in drivers' education classes.
- Located in a "red line" or distressed area? You may be eligible for federal insurance or governmentally subsidized coverage. Inquire at the office of your state insurance commissioner.
- Do you belong to a trade association? Many companies report substantial savings by joining a group program sponsored by their associations. If your association doesn't offer such an arrangement, encourage your association to check into it. It can dramatically boost membership as well as insurance savings.
- If you own multiple businesses, investigate a package policy. This can reduce premiums by 25 percent or more.
- Buy only the insurance you need. As equipment depreciates, lower the coverage to conform to those decreasing values. Remember, an insurance company is only obligated to pay fair value for any lost asset. Any insurance beyond that fair value is a wasted payment.
- Shop around. Insurance rates are fixed in only a few states. Decide what coverage you want and have five companies bid. Repeat the process every few years. A company with the lowest rates today may be noncompetitive three years from now.

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### JANUARY SPECIAL!!!!

During the month of January you can receive 1000+ business and legal forms from [www.bizlegalforms.com](http://www.bizlegalforms.com) at a discount of 25% by using the promotional code "biz-usa".

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## **HOW A FORECLOSURE CAN WORK MIRACLES FOR YOU**

Foreclosure of your real estate, personal property or even business assets may be the ideal way to safely transfer your property with the fewest questions raised by inquisitive creditors.

What if you plan to file bankruptcy but own property with a modest equity? If you transfer the property the transfer must be disclosed in any bankruptcy filed within the following twelve months. Even without bankruptcy, your creditors may attack the sale as a fraudulent conveyance. Moreover, a transfer wouldn't clear the property of any junior liens or attachments that remain attached to the property.

If your objective is to save the property with the least possible trouble from other creditors, then encourage your lender to conduct a friendly foreclosure. The lender can re-sell the property to a corporation you organize to accept title. A corporation is recommended rather than a limited partnership or trust, since a corporation offers greater privacy and allows you to more completely conceal your ownership. Make your lender your ally so both come out ahead. The lender may cooperate if you offer incentives such as higher interest. Your lender, however, may happily participate if only to keep the property; and his mortgage, out of bankruptcy.

This tactic works well with a secured lender who may hold a security interest (mortgage) on a car, boat, airplane, or even business assets. The objective is to have the asset transferred to a third-party by foreclosure rather than direct sale from you. Unless your creditors can show it was not a commercially reasonable sale-or that there was open collusion between you and your lender-they cannot set the foreclosure sale aside.

## **HOW TO SPOT A SHAM FORECLOSURE SALE**

It's painful, but also therapeutic, to attend an auction of your property. But do attend so you can be certain the auction sale is conducted in a commercially reasonable manner and likely to bring the highest possible price. This checkup is vital when you are responsible for any deficiency and want the property sold at or above the amount of the mortgage. Don't fool yourself. Lenders do conduct bad auctions. They may intentionally suppress the price so they can end up with the property at a bargain price while you end up with a jumbo deficiency on the note. Don't be victimized. Here's what to look for:

- Rush bidding, with insufficient time for counter-bids.

- Discouraging bidders with negative remarks about the property.
- Unrealistic terms of sale, such as a high deposit or fast closing.
- Insufficient notice. Auction ads that inadequately announced the sale, or were advertised too soon before the auction.

You can protect yourself from these tricks. Hire another auctioneer-preferably from another city so that relationships with the lender's auctioneer will not be a factor. Have your auctioneer attend the auction with you. Bring a tape recorder so you can record the proceeding. Once the lender knows he cannot steal your property you can be saved from a big deficiency and may even find surplus funds from the sale returned to you.

## **THREE POINTERS TO WIN BACK YOUR PROPERTY AFTER FORECLOSURE**

All is not necessarily lost even after your lender takes your property by foreclosure. You may convince the lender to sell you back your home, auto, boat or other foreclosed asset. Why would a lender sell you back your property after your lender went to the trouble to foreclose? There are three reasons:

- The lender may have anticipated selling the property at a higher price to an outside buyer. If that buyer didn't materialize the lender may have no reasonable alternative but to sell the property back to you.
- The lender may now see you in a stronger financial condition, particularly if the foreclosure eliminated other liens and attachments against the property, or you went through bankruptcy to free yourself of burdensome debts.
- The lender may want to quickly dispose of the property to avoid storage or maintenance costs.

If you want your property back, convince the lender that you won't default again. If the collateral was your home, ask the lender to rent the house back to you for an amount equal to the mortgage payments. Prove you can make timely payments, perhaps for six or nine months, and the lender may develop sufficient confidence in you to deed you back the property. Property is never lost until you have no chance to reclaim it.

# HOW TO AVOID A DEFICIENCY ON YOUR LOAN

If you have property foreclosed upon or repossessed you can lose far more than the property. In most states you can also be liable for a deficiency. A deficiency is the difference between what you owe your lender (including attorneys fees and costs) and what the lender sells the collateral for at foreclosure.

Your lender must usually go to court to obtain the deficiency judgment but this is easily obtained. Once the lender has the deficiency judgment he can enforce it like any other judgment. How can you avoid a deficiency judgment?

- Offer the lender the collateral, waiving all foreclosure proceedings and rights of redemption. Be a cooperative borrower and help your lender avoid hassles and legal costs. The lender will then be more inclined to accept the property and forget about deficiencies. This is certainly so if you can convince the lender you are judgment proof.
- Find a buyer for the collateral. You'll obtain a much higher price, and incur less of a deficiency, if you can sell the property privately without a distress or auction sale.

Whether you avoid a deficiency judgment or not, there's still another asset of considerable importance to protect – your credit rating. If it's futile to resist foreclosure then your objective should be to fully cooperate with the lender. However, in addition to a release from any deficiency, demand assurances from the lender that the loan default or foreclosure will not

Injure your credit rating. Always obtain these lender concessions in writing.

Check your timing. Negotiate these points with a lender when he most senses the danger of interference and opposition from you. That's when "cooperation" is a bargaining chip – not after the foreclosure when you no longer have leverage.

## THERE'S A FINANCIAL CRISIS IN YOUR FUTURE

It may come as a nasty surprise but there's an excellent chance you'll lose your entire life savings to catastrophic illness or nursing home costs. Many people do. Unfortunately, our current Medicare and Medicaid laws are rigged so the average American family loses everything they own should one spouse require long-term nursing home care. Only when you and your spouse become virtually impoverished does Medicaid pay your nursing home costs. Until you qualify for Medicaid assistance you must spend-down and pay the nursing home whatever wealth you accumulate over the years. Think about it. Your financial security is suddenly wiped out. Your children and other loved ones inherit nothing despite your lifetime of labor. This is certainly not how most people envision their final years, yet many Americans do end up precisely this way.

This problem discriminates most against the average family. These are the families too wealthy to qualify for Medicaid benefits and too poor to finance their long-term nursing home costs without losing all or most of their assets. These are the families, who rightfully concerned about present or future nursing home costs, must restructure their financial affairs so they can qualify for Medicaid's long-term care benefits. These are the families who will preserve at least some of the financial independence and security every family needs. If that's your situation and you want to achieve this financial security, you must understand how Medicaid works, how it decides who qualifies for Medicaid assistance, and how you must manipulate the system so you too can get free nursing home care, as so many other families do.

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