Why do I need liability insurance?

The postman slips on your unsalted/unsanded driveway and is unable to return to work. He sues you for medical expenses, pain, suffering and lost income. Your dog bites your next door neighbour and your neighbour sues. Someone gets sick from one of your products and subsequently sues your business. You injure someone in a car accident and wind up in court, incurring hefty legal bills. Any one of these scenarios could happen, and would be financially devastating without proper liability coverage.

Liability insurance is a way of protecting yourself in the event that you are found to be legally responsible for unintentionally harming somebody, including both bodily injury and property damage. Without it, you will be on your own if you are sued for any number of reasons — some more foreseeable than others.

Everyone is at risk of being sued for negligence causing property damage or bodily injury, and court awards and legal fees are getting more and more expensive. With liability insurance coverage, your insurer has a duty to defend you. It will cover legitimate claims against you up to the limit of coverage, including the costs of settling claims and your defence costs. Liability insurance, therefore, provides peace of mind that is priceless.

Familiarize yourself with the law and take appropriate measures.

For drivers throughout Canada, automobile liability insurance is mandatory. This system provides financial protection for drivers who are held liable for injury or loss sustained by others as a result of the operation of their vehicles.

While liability insurance for homeowners is not mandated by law, it is highly recommended and normally required to qualify for a mortgage. Without this coverage, courts expect that you will take practical measures to ensure that anyone visiting your property is safe from harm. For example, if there is a snowfall, you will be expected to clear the snow and ice within a reasonable period following the weather event. You can go online and read the occupier’s liability legislation for your province to get a better idea of what is expected of a responsible homeowner.

Liability coverage is important for drivers.

There are many types of liability coverage, and you should inquire about the limits and exclusions of each. Automobile liability coverage will pay for claims against a driver, including legal fees, up to the limit of coverage. Some provinces have implemented what is known as “no-fault insurance.” This does not mean that there is no fault determined in accidents. Rather, it means that accident victims claim compensation from their own insurers regardless of whether or not they are at fault.

If the accident victim is not at fault for the accident, they could have the right to claim against the at-fault driver for additional compensation. In general, the higher the “no-fault” threshold in your province, the less involved the courts are. For cases where injuries meet or surpass these thresholds, lawsuits are permitted. For example, in Ontario, claimants or representatives of claimants who are severely injured or killed in auto collisions may sue for pain and suffering if the threshold is met. Thresholds can be monetary, such as a particular dollar amount of insured medical expenses. There can also be verbal thresholds, such as a specific description of what is classified as a severe injury or loss or impairment of bodily functions.

Homeowners and tenants should have enough liability coverage.

The personal liability section of homeowner’s and tenant’s insurance applies both at home and anywhere in the world. It covers you for any injury you unintentionally inflict on others, and for accidental damage to other people’s property. Certain limitations and exceptions will apply to this coverage, so see your insurance advisor for details. It is important to note that liability insurance does not apply to injuries sustained by policyholders themselves or by members of their immediate households.
In other words, your insurer will not cover lawsuits against family members if you decide to sue them for causing you harm in your shared home. Also of note, deductibles — the portion of money you typically pay towards claims — do not apply to homeowner’s liability coverage.

Some homeowner’s and tenant’s insurance policies offer voluntary medical payments liability coverage, which covers reasonable medical expenses incurred within one year of the accident, if you injure another person unintentionally or if they are injured accidentally on your premises. There is usually a lower limit on this coverage, such as $2,000. The coverage is available even if you are not legally responsible and could be used, for example, if someone incurs medical expenses after tripping over his own shoelace at your house.

There is also a voluntary payment for damage to property of others coverage, which covers you regardless of whether you are considered legally liable. You should ask your advisor what the exclusions and limits are for voluntary liability coverage.

**Businesses also need liability protection.**

Commercial general liability insurance (or CGL) is the most basic form of business insurance. CGL policies may cover the following business liability exposures:

- bodily injury
- property damage
- personal injury (such as slander and libel)
- advertising injury
- tenant’s legal liability
- non-owned automobile insurance (eg, employees/volunteers using their own cars while working on behalf of an employer/organization)

Directors’ and officers’ insurance (D & O) covers people who serve on boards of directors for “wrongful acts,” such as actual or alleged errors, omissions, false statements, and breach of duty. This includes people who participate on the boards of non-profit organizations, condominium corporations, etc.

Errors and omissions insurance (called E & O, professional liability insurance or malpractice insurance) provides protection for those who provide professional advice or services. E & O is extremely important if you deal with clients who may claim that something you did on their behalf was done in error and that this mistake has caused them harm or cost them financially. You may benefit from this type of liability coverage if you are a designer, financial planner or consultant, travel agent, or health care professional, for example.

Depending on the type of business you are involved with, you may benefit from some of the many other riders and endorsements available.

**What do I do if they decide to sue?**

If you have liability insurance and receive a lawsuit notice, do not try to take matters into your own hands. Contact your lawyer and your insurance company right away and provide a copy of the letter. Depending on what province you live in, an injured person may have many years after an accident to file a lawsuit against you. Under your liability coverage, your insurance company is bound to defend you subject to the terms, conditions and limitations of your policy.

You should be prepared to go to a court reporter’s office with a lawyer from your insurer to tell your version of events. You will be required to answer questions under oath, which will help the court determine liability.

**Liability costs are increasing.**

Whereas $500,000 may have been a sufficient liability limit 10 years ago, today this is dangerously low. Court awards and legal fees are getting bigger, and the courts are finding people and businesses liable in situations they would not have in years past.

If an injured plaintiff is unable to work and the homeowner is found liable, the court settlement could include the lost future employment earnings, which could be very significant. With these sorts of possibilities in mind, insurance companies these days are recommending that you purchase liability limits of $2,000,000 and higher, so that you are not financially at risk if the unthinkable occurs. After all, insurance is all about protecting you from just this sort of thing.

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