

Simmonds on Bank Insurance



**CONSULTING ON,
BUT NEVER
SELLING,
INSURANCE**

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The Trouble With Employment Practices Liability Insurance

Nobody hires me to help them with the things that are going right with their bank's insurance.

At the same time, I have never found a perfect bank insurance program. They all have mistakes and inefficiencies.

Banks need epli to protect against the financial consequences of job applicants, employees, and former employees who bring suit for discrimination, harassment, wrongful termination, failure to hire, and other workplace torts.

Here's a list of issues to be concerned with in your bank's employment practices liability insurance (epli).

Limits of Coverage - Epli policies will have a limit of coverage for claims. This limit usually includes the cost of defense. So, as you pay your attorney, the policy uses up the limit of coverage available to pay any award or settlement.

Sharing Limits - This is not so much an issue of the epli policy, but of the directors and officers coverage, if the epli and the d&o share limits.

Your directors will not want to hear that epli claims have eaten away at the limits available for d&o claims. Make sure your policy separates claims for d&o and epli into separate "buckets" of coverage.

Low Deductibles - Low deductibles cost you premium dollars. Get quotes for higher deductibles to help pay for higher limits of coverage.

Definition of Harassment - Some policies still only cover "Sexual Harassment." What about harassment based on race, ethnicity, disability. The policy should provide coverage for harassment, including sexual harassment.

Wage Hour Laws - Suits brought against employers for allegations of wage/hour violations are excluded from coverage under most policies, as are ERISA, work comp., and unemployment laws.

Choice of Attorney - Do you pick your attorney or does the insurance company?

Are you taking advantage of the loss control services your insurer offers? Talk with your insurance advisor.



There are no standard bank insurance policies. Each insurance company uses their own policy forms, definitions, exclusions, and limitations.



A regular, detailed, unbiased coverage review is important for all banks and financial institutions.

Bank Insurance Q&A

What risk management strategies will have the most impact on preventing employment practices liability insurance claims?

Here's a quick list:

- Follow your employee handbook or throw it out. If you have rules, follow them. If you're not going to follow your rules you are better off without them.
- Have a labor attorney review your handbook, employment applications, and personnel policies regularly.
- Train all managers regularly in employment law and your procedures.
- Document all adverse action taken against any employee. If the events and conversations are not written down, you might not be able to use them in your defense.

Do we need a separate employment practices liability policy or should the coverage be a part of our directors' and officers' insurance?

The key issue is that employment practices claims not reduce the coverage available for claims against your directors, officers, or other claims against the bank.

Given separate limits and no aggregate coverage amount, it really does not matter if you have a specific policy.

I would suggest that you have the same insurer for your d&o and your epli, if you have separate policies.

Our agent tells us we need to list all of our corporate entities on all our policies. Really?

Yes, on your property, liability, umbrella, auto, and related policies. Most directors' and officer's, bonds, e-banking insurance, and employment practices policies have a provision for subsidiary organizations that eliminates the need for a laundry list of "named insureds."

All entities with employees should be listed on your workers' compensation policy.

To be safe, check with your insurance advisor.

What do you think of the upcoming changes with the ABA / Progressive Insurance program?

I have absolutely no reservations about the change in ownership in the Progressive program. Everything I hear is that banks will see very little difference. The underwriters, claims people, and service people are all staying on. The operation will change its name, and that's about it. They are even staying in the same location. There is no change to policy forms or the insurance behind the program - Best Rated A+ XV, Everest National Insurance.

Behind the scenes, this change will allow for more flexibility, I think. The ABA program was less than a half a percent of Progressive's business. The auto insurer did not really know what to do with this small (to Progressive) operation. This may be an opportunity for the ABA sponsored program to expand into other lines of coverage for banks. More competition is always a good thing for buyers.

Your questions and comments are always welcome. Email Scott@ScottSimmonds.com.

ABOUT SCOTT

Scott has been called, “The Guy with the Big Insurance Brain.” He provides unbiased information and advice to banks and other businesses around the US.

As an insurance consultant Scott does not sell insurance. He does not accept fees or commissions from the insurance agents and companies he works with for his clients.

He has written five books on insurance issues for insurance buyers, including *Simmonds on Bank Insurance* and *The Bank Insurance Assurance Toolbox*. He has been quoted in the Wall Street Journal, Money, Inc., Fortune, Investor's Business Daily, CNN.com, Smart Money, and countless local and industry publications including several state bank association magazines.

Scott has 30 years of insurance experience and has built a specialty practice of helping banks improve their insurance.

He lives and works with his family and new puppy Chloe on the coast of Maine.



Common Bank Insurance Errors Uncovered

Here are a few of the issues we find in our review of bank insurance programs:

- ♦ Missing Entities - Some insurance policies require that entities be listed on the policy for coverage to apply. Some banks have real estate operations or mortgage operations that are separated legal entities. Many community banks manage charitable foundations. These all should be listed.
- ♦ Coinsurance Penalties - Coinsurance can be eliminated by adding the agreed amount endorsement to property insurance policies. Coinsurance is a penalty and never helps you as the insurance buyers. If you have coinsurance, question your agent's dedication to you as a client.
- ♦ Low Deductibles - Property deductibles of \$1,000 are common in the reviews we make of bank insurance. A more reasonable deductible is \$5,000. It will save you premium dollars as well as preserve the future desirability of your bank to insurance companies.
- ♦ Inadequate Umbrella Liability Limits - To me \$5 million of umbrella liability coverage is the minimum for even the smallest bank.
- ♦ Inadequate Extra Expense Coverage - After a fire or other insured loss, extra expense insurance pays for the increases in costs necessitated by the bank's need to continue operations. The coverage can pay for such things as temporary office space, the rent of a bank trailer, and the retrofitting of current office space to handle more people.
- ♦ Inadequate Perils in the Mortgage Impairment Insurance - Mortgage impairment insurance pays for losses to properties you hold a mortgage on when the customer defaults on their loan due to a fire or other catastrophe. Many policies limit the coverage to perils required by mortgage documents - a very low standard in most cases. Look for coverage for special perils, all risk, or other perils basis.
- ♦ Missing Protection on the Banker's Bond - Most insurers offer a wide range of coverages on the banker's bond policy. Many seem to only offer the coverage they are asked to provide. Ask your insurance advisor what other coverage can be added. Safe depository coverage and debit card coverage seem to be the most frequently overlooked.

Our Unbiased Bank Insurance Review Process

www.BankInsuranceReview.com



Five Quick Classes For Bankers Who Buy Insurance for Their Banks

Five fast paced, information filled sessions by Scott Simmonds, an unbiased insurance consultant who specializes in bank insurance issues. Each session includes advice and information not available anyplace else. Here in less than 5 hours is almost everything you need to understand the basics of insurance for your bank. Each session is available as an MP3 file so you can listen on your computer, iPod, or other digital player. Special rate for those who buy all five sessions.

- ✿ Session 1 - Bank Directors' and Officers' Liability Insurance
- ✿ Session 2 - Financial Institution Bond (AKA Bankers' Bond)
- ✿ Session 3 - E Banking, Employment Practices Liability Insurance
- ✿ Session 4 - Bankers' Property, Liability, Workers' Comp Coverage
- ✿ Session 5 - Insurance Management and Bidding Your Insurance

What you need to know to manage your bank's insurance plan. Better coverage. Better premiums. Better service.

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