

TECHNICAL ADVISORY

INDEPENDENT INSURANCE AGENTS OF LOUISIANA

TA 166

SEPTEMBER 7, 2000

SUBJECT: HOMEOWNERS AND PROPERTY IN STORAGE

BACKGROUND: The proliferation of mini-storage facilities over recent years has raised a number of property and liability coverage issues under the Homeowners Policy.

MAIN POINTS: **Scope of Coverage C.** The Homeowners Policy provides extremely broad coverage for personal property.

Coverage C – Personal Property. We cover personal property owned or used by an insured while it is anywhere in the world.

Our limit of liability for personal property usually located at an insured's residence, other than the residence premises, is 10% of the limit of liability for Coverage C, or \$1,000, whichever is greater.

Subject to certain restrictions discussed below, personal property owned or used by an insured is covered worldwide.

10% limit. While often misinterpreted as limiting all off-premises personal property coverage to 10% of the Coverage C limit, the actual wording only applies the 10% limit to personal property that is "*usually located at an insured's residence, other than the residence premises.*" That is, for the restriction to apply, the insured must have more than one residence. In addition, the personal property must be "*usually located*" there. For example, if the insured has a second home, the Coverage C on the Homeowner's Policy covering his or her main residence only extends 10% of the Coverage C limit to personal property usually kept at the second home. For personal property the insured takes back and forth, the 10% limit would not apply.

The 10% limit would also not apply to personal property that is usually kept at a residence that is not an *insured's*

residence. Personal property in storage at a friend's or family member's house would not be subject to the 10% limit. Personal property of college students is subject to the 10% limit, according to most insurance experts. In most cases, the 10% limit under the parents' Homeowners Policy is usually sufficient, but coverage can be increased, as described below (or, the student can purchase an HO-4 policy).

To increase coverage for personal property usually located at an insured's other residence, either those with second homes, or those with college kids, the HO 04 50 - "Increased Limit on Personal Property in Other Residences" endorsement is available.

Mini-warehouses. Personal property stored in a mini-warehouse is not subject to the 10% limit under the insured's Coverage C. The 10% limit only applies to "*property usually located at an insured's residence, other than the residence premises.*" A mini-warehouse is clearly not a residence, thus the 10% limit does not apply to property stored there; full Coverage C applies, subject to other restrictions discussed below.

Business Property. While Coverage C basically applies to personal property worldwide, there are certain restrictions of coverage, in addition to the 10% limit discussed above. Under "Special Limits of Liability," Coverage C is limited to:

8. *\$2500 on property, on the residence premises, used at any time or in any manner for any business purpose.*
9. *\$250 on property, away from the residence premises, used at any time or in any manner for any business purpose."*

The HO 04 12 – Increased Limits on Business Property, does not provide any additional coverage for business property in storage. Under the endorsement, the increase in limits on business property does not apply to:

- a. *Business property in storage or held as a sample or for sale or delivery after sale; or*
- b. *Business property pertaining to a business actually conducted on the residence premises.*

An insured with any substantial amounts of business property, whether on premises or off, should be written in a policy more specifically designed to the business exposures. **Theft.** The Coverage C named peril for theft contains several limitations relevant to personal property in storage (or otherwise off-premises).

This peril does not include loss caused by theft that occurs off the residence premises of:

- a. Property while at any other residence owned by, rented to, or occupied by an insured, except while an insured is temporarily living there. Property of a student who is an insured is covered while at a residence away from home if the student has been there at any time during the 45 days immediately before the loss;*
- b. Watercraft, and their furnishings, equipment and outboard engines or motors; or*
- c. Trailers and campers.*

Insureds who use a mini-warehouse to store watercraft and equipment, or trailers and campers, have no theft coverage for such property.

Valuation. While the standard valuation provision for personal property in the Homeowners Policy is ACV, most policies have the HO 04 90 Personal Property Replacement Cost endorsement added. However, there is a provision under Property Not Eligible that relates to property in storage.

- 1. Property Not Eligible*
 - d. Articles that are outdated or obsolete and are stored and not being used.*

Note that the provision has two elements that must both be present for the property to not be eligible for replacement cost. First, the property must be outdated or obsolete. Second, the property must be stored (since the form language doesn't specify otherwise, it should be assumed that this could mean stored on premises or off). Said another way, "junk in storage" is not eligible for replacement cost. However, other property in storage, including that in a mini-warehouse, etc., is clearly eligible for replacement cost.

Liability. Aside from property issues, insureds who store personal property off premises, especially in a mini-warehouse, could have certain liability exposures. For example, if the insured stored a propane gas grill, or containers of gasoline, paints, cleaning solvents, etc., or imprudently stacked heavy objects, and injury or damage to third parties resulted, a lawsuit would likely ensue.

The basic insuring agreement under Section II provides coverage for bodily injury or property damage for which an insured is legally liable, unless excluded. Many storage-related liability claims would likely be framed as arising out of a premises the insured either owned or exercised some measure of control over, such as a rented mini-warehouse unit. Section II excludes claims *“arising out of a premises that is not an insured location.”* However, included within the definition of *“insured location”* is *“any part of a premises occasionally rented to an insured for other than business use.”* Therefore, an insured’s legal liability for bodily injury or property damage arising out of the non-business rental of a mini-warehouse is covered.

Contractual. One additional factor usually present in the renting of a mini-warehouse unit is the signing of a rental contract by the insured. Such contracts are usually written in favor of the lessor, and lessees can unwittingly incur substantial contractual liability exposures. Here is a sample from an actual mini-warehouse lease:

“Lessee agrees to indemnify and hold Lessor harmless from any and all expenses, damages, claims, or causes of action arising directly or indirectly from any activities under this lease, even though caused in whole or in part by the negligence of the Lessor.”

The Homeowners Policy provides extremely broad contractual coverage:

2. Coverage E – Personal Liability, does not apply to:

a. Liability:

(2) Under any contract or agreement. However, this exclusion does not apply to written contracts:

(a) That directly relate to the ownership, maintenance or use of an insured location; or

(b) Where the liability of others is assumed by the insured prior to an occurrence;

Unless excluded in (1) above or elsewhere in the policy.

Most routine, non-business rentals of a mini-warehouse unit by an insured would be covered under Section II.

Watercraft. One additional storage-related issue in Section II deals with watercraft. The Homeowners policy contains three categories of watercraft which are exceptions to the watercraft exclusion, based on type of propulsion, length, etc. The third category relates to watercraft in storage.

This exclusion does not apply to watercraft:

(3) That are stored.

An insured who negligently stored their watercraft with the gas tanks open, for example, in which an explosion causes bodily injury or property damage, would have coverage under Section II, even though operation of the watercraft might otherwise be excluded.

Conclusion. While the Homeowners Policy provides broad coverage for insureds in most storage-related situations, there are certain specific exposures that are not covered. Agency staff should be aware of potential gaps in coverage, and make appropriate recommendations to insureds, when handling new and renewal Personal Lines business.

**NECESSARY
ACTION:**

Circulate this Technical Advisory to all Personal Lines staff.