

CHAPTER 8 OTHER COVERAGES AND OPTIONS

Other Coverages and Options refer to the various insurance written to complement the personal and commercial policies reviewed in the previous chapters. The following are a sampling of those Other Coverages and Options.

8.1 AVIATION INSURANCE

Aviation insurance is a highly specialized field, designed to meet general aviation needs. While the aviation insurance policy is not standardized, the insurance contract contains many adaptations of other familiar general insurance forms- specifically fire and automobile.

Some insurers write aviation insurance on their own contracts. Others participate in one of the several aviation pools or underwriting groups specializing in writing aircraft insurance exclusively. Since the loss exposure is substantial, relative to the number of aircraft insured, and because of the highly specialized underwriting involved, most insurance companies prefer to combine their exposure in this field to participation in one of the several aviation pools or underwriting groups specializing in writing aircraft coverages. Adequate insurance facilities now exist for handling most aviation risks. Due to the highly specialized problems and the potentially catastrophic losses, it is imperative that adequate market capacity for aviation insurance be available. Often times, participation of insurers and re-insurers throughout the world is required in order to provide adequate aviation insurance limits.

8.1a BASIC REQUIREMENTS

Aviation policies require the aircraft to be registered as airworthy as well as the pilot to be certified by the Federal Aviation Agency. The major coverages are:

1. Bodily Injury Liability
2. Property Damage Liability – third party coverage
3. Medical Payments – to claimants

8.1b AIRCRAFT HULL INSURANCE

Hull coverage is provided to protect against the risk of loss or damage to an insured aircraft itself. Two options are generally available for Hull Insurance – Option One – all risks of physical damage on the aircraft not in flight and named peril coverage while in flight. Option Two- all risks policy in any circumstance weather in flight or not. Usually, insurers do not offer the named peril option in their combination Hull and Liability policies. Perhaps the easiest to understand are the two separate coverages, which are offered; both against all risk, one while in motion and the other while not in motion. Both or either of these coverages may be purchased. The most common definition for “in motion” is while the aircraft is moving under its own power or momentum generated therefrom. This includes an aircraft in flight. In all other situations the aircraft is “not in motion”. The “not in motion” basis may not require a deductible, but a deductible normally applies for “in motion” coverage. The deductible is normally expresses as a percentage of value: 2 ½ % 5% and 10% are the most common. Most aircraft hull policies are ‘valued’ policies, but some policies are written on an actual cash value or replacement basis.

Named peril policies include any or of the following coverages:

1. **Fire**
2. **Stationary Land Damage**
3. **Windstorms**
4. **Crash Insurance**
5. **Theft**

CHAPTER 8 OTHER COVERAGES AND OPTIONS

8.1b AIRCRAFT HULL INSURANCE (cont'd)

Essentially, these coverages are the same as other property insurance contracts. The term “crash insurance” is comparable to the protection afforded by automobile collision coverage.

8.1c AIRCRAFT LIABILITY COVERAGES

This coverage is written to cover public and passenger liability and property damage liability. Bodily injury and property damage under the aircraft liability policy is very similar to the automatic liability insurance policy with the exception. In Aircraft Liability coverage, liability to passengers is treated as a separate exposure, totally apart from the liability to others.

A typical aircraft liability policy includes bodily injury liability (excluding passenger liability), passenger liability and property damage liability insurance. Single limit bodily injury and property damage liability (excluding passenger liability), are also available. Essentially, the policy insuring agreement states the company will pay on behalf of the insured all sums which the insured becomes legally obligated to pay as damages because of bodily injury, sickness or disease, including death at any time, or injury to or destruction of property, arising out of ownership, maintenance or use of the aircraft.

The limits of liability are usually applied in the same manner as in automobile liability policies. For example, bodily injury liability limits might be \$100,000 per person, \$300,000 each occurrence and %50,000 each occurrence for property damage liability. Alternatively, “single limit” coverage is commonly written; for example, \$300,000 B.I. and P.D. per occurrence.

The usual territorial limits include the United States, Canada and Mexico. Many times, coverage in Mexico is limited to within 100 miles of the United States’ border.

Coverage normally includes temporary substitute aircraft and, for private business and pleasure craft operators, the use of any non-owned aircraft by or for the named insured.

8.1d ADMITTED AIRCRAFT LIABILITY COVERAGE

Admitted Liability is a coverage written as an adjunct to Passenger Liability, not applicable to passengers carried for hire. It provides for principal sum payments for death or dismemberment if (1) the named insured requests it and (2) the company is released from further liability. It is a means by which an insured may save a guest from the necessity of bringing a legal action for injuries.

8.1e MEDICAL PAYMENTS COVERAGE

This coverage provides medical expenses for bodily injuries by accident, without regard to legal liability. The coverage is similar to automobile medical payments insurance in that it provides coverage for medical, surgical, ambulance, hospital, etc., while in, entering into or alighting from the aircraft.

8.1f SPECIAL AVIATION INSURANCE COVERAGES

In addition to coverages applicable to a specific aircraft, miscellaneous other coverages are available in the Aviation Insurance field.

CHAPTER 8 OTHER COVERAGES AND OPTIONS

8.1f SPECIAL AVIATION INSURANCE COVERAGES (cont'd)

1. **Hangar-keeper's Liability Coverage** – this is a form of bailee insurance, which covers the insured's liability for damage to aircraft stored for safekeeping or repair. Comparison in the automobile field would be the garage-keeper's insurance form. The hangar-keeper's liability coverage protects the insured against legal obligations for injury to or destruction of the aircraft of others in the custody of the insured for storage, repair or safe-keeping. The major difference between this policy and garage-keeper's insurance is that latter is written on a named peril basis, whereas hangar-keeper's liability covers all damage not excluded. This coverage is typically written by attaching the hangar-keeper's liability endorsement to the airport liability policy.
2. **Airport and Air Meet Liability** – this coverage provides protection very similar to premises and operations liability under a Commercial General Liability policy. It covers for Bodily Injury Liability and Property Damage Liability.
3. **Product Liability** – this form provides coverages for manufacturers and sales or repair organizations against liability claims, which are attributable to defective products or work.
4. **Cargo Liability** – this coverage protects against legal liability for loss or damage to cargo or baggage.

8.1g EXCLUSIONS

Several important exclusions are found in virtually all aircraft insurance policies. Each of the following exclusions applies to all the coverage for both hull and liability section of the policy. There is no coverage for aircraft not registered under a standard category air-worthiness certificate, in full force and effect, by the Federal Aviation Administration. The policy will not cover while insured aircraft is:

1. Maintained for any purpose other than the use classification permitted in the Policy Declarations.
2. Operated while in flight by:
 - a. Other than the pilot named or described in the Declarations (or pilot endorsement)
 - b. By a declared pilot operating outside the limitations imposed in the Declarations
 - c. In flight under any conditions requiring special permit or waiver from the FAA even if such permit or waiver has been granted

In addition to these general policy exclusions, the following exclusions apply also to hull insurance:

1. There is no coverage for loss caused by conversion, embezzlement or secretion by any lessee or any other person in possession of the aircraft under a bailment lease, conditional sale, mortgage, or other encumbrance
2. All risks coverage exclusions common to other physical damage insurance apply: wear and tear, deterioration, freezing, mechanical or electrical breakdown.

All forms of Liability coverage usually exclude injury to the named insured or an employee, liability assumed under contract and damage to property in the insured's care, custody or control.

8.1h UNDERWRITING CONSIDERATIONS

When underwriting an aircraft hull policy, basic questions on usage as well as the following question are asked:

1. Pilots – qualifications and experience
2. Size – light or heavy aircraft
3. Type – land plane, seaplane or helicopter
4. Age and condition

CHAPTER 8 OTHER COVERAGES AND OPTIONS

8.2 OCEAN MARINE INSURANCE

Ocean marine insurance is principally insurance on vessels and their cargoes. The three main types of ocean insurance are Hull insurance, Protection and Indemnity and Cargo Insurance

8.2a HULL INSURANCE – hull insurance is mainly property insurance covering loss of or damage to vessels and their equipment. Hull insurance often includes collision liability insurance as well, covering the insured's liability for damage to other vessels and their cargoes resulting from collision with the insured vessel. One of the most commonly used hull insurance forms used in the United States market is the American Institute Hull Clauses Form.

8.2b PROTECTION AND INDEMNITY – protection and indemnity (P&I) covers a wide range of liability exposures and miscellaneous expenses (such as fines and penalties) that a ship-owner might incur. The most notable liability exposures covered by P&I are injuries to crew members and other persons on board the insured vessel, damage to property (other than vessels) struck by the insured vessel and the insured ship-owner's for damage to cargo being carried by the insured vessel.

8.2c CARGO INSURANCE – the third main type of marine insurance is cargo insurance, which covers a shipper's or consignee's interest in property being transported by vessels. Ocean marine cargo insurance also covers the insured goods during land transit that connects with the ocean conveyance. An ocean cargo policy can also be extended to cover inland shipments and international air shipments. This type of policy is often referred to as an open cargo policy because it covers all shipments made by the insured. For infrequent shippers, a trip transit policy can be obtained to cover a specified shipment only.

8.2d FRIGHT INSURANCE – this insurance is an indirect loss coverage that reimburses the payor for loss of income that would be earned for moving the cargo. For example, a shipper of cargo would be exposed to the loss of freight charges if the voyage were interrupted.

8.2e IMPLIED WARRANTIES – this warranty requires the vessel to be seaworthy and its cargo to be properly packaged. The vessel must stay on course and follow an agreed route and must be for a legal purpose.

8.2f PERILS – Ocean Marine Policies are usually written on a named peril or open peril basis. Standard exclusions are losses due to:

1. War
2. Strike
3. Riots
4. Civil Commotion
5. Decay
6. Deterioration
7. Inherent Vice

Named peril policies provide coverage for perils of the sea such as:

1. Wind
2. Waive action
3. Collision
4. Sinking
5. Standing or Capsizing
6. Fire
7. Lightning

CHAPTER 8 OTHER COVERAGES AND OPTIONS

8.2f PERILS (cont'd)

8. Earthquake
9. Pirating
10. Thieves
11. Jettison
12. All other like perils, losses and misfortunes

8.2g GENERAL AND PARTICULAR AVERAGE – General and Particular Average are loss adjustment provisions in an Ocean Marine Policy. General Average means a voluntary and deliberate sacrifice that was made for the benefit of all concerned and which must be shared by all parties in proportion to their interest. An example being the unloading of or jettison of cargo into the sea in order to save the ship from sinking. Particular Average means a partial loss with no requirements to share the loss.

8.2h “INCHMAREE”

Subject to the conditions of the policy, this insurance also covers loss of or damage to the vessel directly caused by the following:

1. Accidents in loading, discharging or handling cargo or in bunkering
2. Accidents in going on or off, or while on dry-docks, graving docks, graving dock, ways, gridirons or pontoons
3. Explosions on shipboard or elsewhere
4. Breakdown of motor generators or other electrical machinery and electrical connections, thereto, bursting of boilers, breakage of shafts or any latent defect in the machinery or hull, (excluding the cost and expense of replacing or repairing the defective part)
5. Breakdown of or accidents to nuclear installations or reactors not on board the insured Vessel
6. Contact with aircraft, rockets or similar missiles or with any land conveyance
7. Negligence of Charterers and/or Repairers, provided such Charterers and/or Repairers are not an Assured hereunder;
8. Negligence of Masters, Officers, Crew or Pilot; provided such loss or damage has not resulted from want of the diligence by the Assured, the Owners or Managers of the Vessel, or any of them. Masters, Officers, Crew or Pilots are not to be considered Owners within the meaning of this clause should they hold shares in the Vessel

8.3 NATIONAL FLOOD INSURANCE PROGRAM

In the wake of all the flooding in this country over the past several years, property owners are encouraged to purchase Flood Insurance. Unfortunately, most property owners are unaware of limitations of their property with respect to floods. One of the general exclusions of the policies previously discussed is flood-related water. One reason for this exclusion is the catastrophic nature of floods. Since insurance cannot provide indemnification against nearly certain loss, private insurers have avoided writing flood policies. With this in mind, the National Flood Act was placed into effect in 1968 in an effort to reimburse the property owner for these uninsurable losses. However, the act also required eligible communities to implement plans to reduce the potential for future flooding. In 1973 the Flood Disaster Protection Act restricted Federal relief funding for flood-prone areas where flood insurance was available but not purchased. In other words, if a homeowner was deemed to live in an area where flood insurance was available and the homeowner decided to take the risk of not purchasing the available flood insurance, that homeowner could not seek relief through any government relief act.

CHAPTER 8 OTHER COVERAGES AND OPTIONS

8.3a “WRITE YOUR OWN” (WYO) vs. GOVERNMENT – the National Flood Insurance Act was originally a joint venture between the government and private insurers. After the joint venture ended in 1973, the government underwrote all flood insurance. In 1983, the government invited private insurers to participate in a “Write Your Own” program in order to increase the base and geographical distribution of flood insurance. Another benefit to this agreement was an improvement in service and claim handling. Under this agreement, a “Write Your Own” company would sell flood policies under their own name, collect the premiums, service the policyholders, adjust the claims and pay the losses. These losses are then reinsured by the National Flood Insurance Program (NFIP). If the “Write Your Own” company loses money on the program, the NFIP makes up the difference. Any profits made are returned to the government.

8.3b ELIGIBILITY – the following are the requirements for eligibility:

1. A community that agrees to adopt flood control measures
2. There is a 30 day waiting period for new applications
3. There is a 30 day waiting period for endorsements to increase coverage
4. Building types:

	Emergency Amount	Maximum Amount
Single Family Dwelling	\$35,000	\$250,000
2-4 Family Dwelling	\$100,000	\$250,000
Other Residential	\$100,000	\$250,000
Non-residential or Small Business	\$100,000	\$500,000

Note: An exception to the 30 day waiting period applies in the event the applicant is purchasing coverage prior to and/or in conjunction with a loan. Also, while an application is being processed, the amount or recovery is limited to the emergency amounts listed above.

8.3c PERIL COVERAGES – this policy provides for direct loss by floor at the described location caused by:

1. The overflow of inland or tidal waters
2. The rapid and unusual accumulation of runoff or surface waters from any source
3. Mudslides proximately caused by flood
4. Inundation of water from rising lakes for 90 consecutive days
5. Collapse or subsidence of land by erosion, waves or current or water exceeding normal cycles

8.3d LIMITS – the flood policy excludes the following types of property:

1. Accounts
2. Bills
3. Currency
4. Deeds
5. Evidence of Debt
6. Money
7. Securities
8. Bullion
9. Manuscripts
10. Lawns
11. Trees, shrubs and plants
12. Livestock
13. Fences
14. Retaining walls
15. Outdoor swimming pools
16. Wharves, piers and docks
17. Motor Vehicles

CHAPTER 8 OTHER COVERAGES AND OPTIONS

8.3d LIMITS (cont'd)

- 18. Underground structures
- 19. Septic tanks and wells

Note: Almost any building that is walled and principally above ground (property in basements excluded) and affixed to a permanent site is eligible.

8.3e DEDUTIBLES – flood policies carry a standard \$500 deductible. This deductible applies separately to the dwelling and also to the contents.

8.4 OTHER POLICIES

8.4a BOAT OWNERS – boat owners coverage provides for both physical damage and liability coverage. It is generally written on an “open perils” basis. Named peril coverage is available.

Section 1 Coverages:

Coverage A – Vessels – including attached fixtures (lights, horns, etc.)

Coverage B – Outboard Motors – including fuel containers and start up equipment

Coverage C – Trailers – specifically designed towing trailers for the vessel

Coverage D – Miscellaneous Boating Equipment – safety and operations accessories (life jackets, oars, anchors, fire extinguishers, etc.)

Property not covered includes:

1. Water Skies
2. Scuba equipment
3. Photographic equipment
4. Fishing or sporting equipment
5. Food and beverages
6. Clothing
7. Jewelry and other personal effects
8. Any device designed for flight
9. Televisions, radios or VCR's

Perils not covered includes:

1. Weathering
2. Rust or corrosion
3. Dishonest or illegal acts
4. Freezing
5. Overheating of engines
6. Marring, scratching, chipping, denting or deterioration
7. Mysterious disappearance

8.4b DIFFERENCES IN CONDITIONS (DIC) INSURANCE – DIC Insurance is frequently written in conjunction with commercial property policies. The DIC reduces the chance of an uninsured loss by covering additional perils and by **filling gaps in the coverage** provided by the ordinary property forms. DIC policies are normally written on an “open peril” basis, but most DIC's exclude damage caused by fire, as well as certain other perils. Typical perils provided by this insurance are earthquake and flood.

CHAPTER 8 OTHER COVERAGES AND OPTIONS

8.5 RESIDUAL MARKETS

8.5a F.A.I.R (Fair Access to Insurance Requirements) – FAIR is an acronym for Fair Access to Insurance Requirements. FAIR plans are State supervised pools that provide a market to individuals who are unable to secure insurance through standard insurance carriers. As an example, a home in an area of city where there are abandoned houses may find it difficult to purchase insurance from many insurance companies. The FAIR Plans can provide coverage for fire, extended perils and Vandalism and Malicious Mischief for an additional premium. Although the FAIR Plan provides for insureds under marginal conditions, there are exposures that the FAIR Plan may consider uninsurable. They are as follows:

1. Property that is vacant and subject to trespassing
2. Property in violation of law or public policy
3. Property in violation of building codes
4. Property subject to poor housekeeping
5. Property damaged by fire which has not been repaired

Note: The FAIR Plan cannot refuse coverage because of environmental hazards, such as proximity to landfills that are beyond the control of the insured.

8.5b SURETY BONDS

Suretyship is not insurance. Although suretyship is transacted within the structure of the property and liability insurance business, there are important differences. Suretyship dates back over 4,500 years, whereas insurance in the form resembling today's practice is only about 300 years old.

Surety bonds may be affected through companies specializing in that field, but most of the business is written in multiple line companies which maintain specialty departments for servicing surety bonds.

8.5c SURETYSHIP vs. INSURANCE

A contract of suretyship, or surety bond is one wherein a third party guarantees the fulfilling of an obligation by one party to another. This partial definition of a surety bond identifies the first difference between suretyship and insurance: a three-party contract, rather than two (insurer and insured).

Insurance pays to or on behalf of insureds, without recourse for recovery against insureds and without regard to insured's resources. An additional element of suretyship is that if the one making the guarantee is called upon to pay because of default by the one who was to perform, the "right to recovery" exist against the non-performer. In this sense, the one making the guarantee is only lending its credit to the transaction. In theory, there would be no losses under surety bonds. The bonding company would refuse to give a guarantee on behalf of one though to be unable to fulfill the obligation, and if called upon, would have the right of recovery against the defaulter. But of course there are losses, as those who default on obligations may never be able to make good. Recovery against those who default is known as "salvage".

Historically, protection for employers against loss from dishonesty of employees has been treated in the field of suretyship, with the surety having the right to "salvage" against an employee who caused a loss. Coverage was written under "fidelity bonds". The newer trend is to cover this exposure on an insurance basis.

Property and liability insurance policies are cancelable and non-renewable. It should be obvious that a surety bond would be of little value as a guarantee if the bonding company could escape its obligation, once given and relied upon. Accordingly, a surety bond is non-cancellable.

CHAPTER 8 OTHER COVERAGES AND OPTIONS

8.5d PARTIES TO A BOND

The three parties to a contract of suretyship are:

1. **Principal** – the one who undertakes to perform, to fulfill a contract, or to meet an obligation.
2. **Obligee** – the one who is to be guaranteed that the principal will perform.
3. **Surety** – the one who guarantees the performance of the principal to the obligee (“the bonding company”).

At times, there may be yet another party to a surety arrangement. It may include an “indemnitor” – one who agrees to reimburse the surety for any loss it may suffer from having bonded the principal. When a prospective principal seeks a bond, bearing in mind that sureties intend only to lend their credit and not suffer any losses, the surety may condition acceptance on the principal providing a satisfactory indemnitor.

An example of a situation calling for an indemnitor would be the surety’s satisfying itself that the principal has the capabilities to perform the obligation, but is lacking the necessary financial resources to carry it safely through to completion.

8.5e THE BONDING PROCESS

When a prospective principal comes to a surety in need of bond, so as to perform a function, or get a license, or appeal a court judgment, or get out of jail, or whatever else be that demands the guarantees provided by a surety, a delicate underwriting process begins. The surety is out to satisfy itself that there will be no default.

Depending upon the nature of the guarantee, the surety will wish to satisfy itself on (1) the character of the principal (dependable reputation to warrant the surety’s trust?), (2) the principal’s financial resources (capital) and (3) the experience or capabilities of the principal to perform.

As previously mentioned, the surety may require a financially responsible indemnitor, if the principal is lacking in financial resources. Another underwriting tool used by sureties is “collateral”. If the bond contains a financial guarantee (the principal having to pay a given amount at some date or on the happening of some contingency), the surety may require that the bond be collateralized by deposit of cash or other valuable property to be held by the surety for the lifetime of the bond, subject to return when the principal has fulfilled the obligation. The surety may require partial collateral in relationship to the bond amount (or “penalty” as it is called in bonding terminology), or for 100% of the penalty.

Still another underwriting tool to protect against loss is “joint control”. This is a process wherein the surety and principal exercise joint control over assets and might be required, for example, in administration of an estate. The surety is protected in that the principal must get the surety to “sign off” on any disbursements, and the surety can thus satisfy itself that such disbursements are proper.

Once the surety has satisfied itself, the bond is executed by an “attorney-in-fact”. In general practice, sureties appoint their general lines agents as “attorney-in-fact” through a limited power of attorney to execute bonds of certain types, subject to certain maximum penalties, requiring that others be executed by their own specialists.

The form of the bond may be one required by the obligee, given to the principal to have executed, or a standard bonding company form may be used. Normally, surety bonds are fairly simple instruments, identifying the parties, describing the obligation, and stating the guarantee.

CHAPTER 8 OTHER COVERAGES AND OPTIONS

8.5e THE BONDING PROCESS cont'd

The obligee, of course, may be concerned with the ability of the surety to fulfill the bond's guarantee, if called upon. One reference in common usage is the "U.S. Treasury Department List" which shows for each company the maximum penalty acceptable for that company on any bond required by the federal government.

8.5f CONTRACT BONDS

The greatest emphasis in suretyship is directed toward contract bonds, which are provided to guarantee the fulfillment of a contractual obligation – particularly, agreement for construction and for supply goods.

Law on construction work for public bodies normally requires contract bonds. The majority of private construction work is not bonded, presumably because a private owner has greater latitude in choosing a contractor, and the cost of the bond will be added to the contractor's price. There are four principal sub-classification of contract bonds:

1. **Bid Bond** – this form of bond is required to accompany a bid for a contract, which will require that the successful bidder furnish further bond if awarded the job. The guarantee is that if the bid is accepted, the bidder will enter into the contract and will satisfy further bonding requirements for the job. If the obligee awards the contract and the bidder refuses to perform the work (for example, because of an error in bid calculation) or furnish required bond, the bid bond guarantees to the obligee payment for the difference between the amount of that bid and the bid of another which is accepted. The bid bond is provided by the surety, which will ultimately furnish the additional required bond. Thus the surety underwrites the bid bond based on the concept that it will eventually have the "bond the job".
2. **Performance Bond** – this bond guarantees indemnification to the obligee for any losses resulting from the principal's failure to complete the contract work in accord with specifications. While the surety does not guarantee completion, its guarantee being only financial, in many cases the surety does enter into a default situation and see the project through to completion. The surety's lease expensive fulfillment of its promise may be to have the defaulting contractor complete the work and pay the costs thereof. Alternately, the surety may call in another contractor. It may, however, simply pay the additional costs of letting the obligee have some else finish the work.
3. **Payment Bond** – this bond guarantees that all labor and material for the project will be paid by the contractor upon completion of work. This assures the obligee there will be no mechanic's liens or similar problems after completion. A payment bond is generally required when a performance bond is needed and they frequently are combined as a single instrument.
4. **Maintenance Bond** – if, by the specifications or operation of law, the principal is responsible after completion and acceptance to correct faulty work or replace a defective materials, a maintenance bond may be required. This form guarantees that such obligations will be met. Again, this may be included as part of the Performance and Payment Bond.

In addition to the following principal sub-classifications of contract bonds, notice should be given to two other types:

5. **Subdivision Bond** – this bond may be required by a permitting authority to guarantee that promised streets, sidewalks, sewers, streetlights and other required improvements will be installed.
6. **Supply Contract Bond** – one who is purchasing goods from another may require a Supply Contract Bond, which guarantees delivery at an agreed upon price.

CHAPTER 8 OTHER COVERAGES AND OPTIONS

8.5g FIDUCIARY AND COURT BONDS

Bonds are frequently required by courts in various forms of litigation. There are two general types of Judicial Bonds, “Fiduciary” and “Court”.

A **fiduciary bond** is one that guarantees the performance of a person appointed by a court, or named in a will or deed or trust to take possession of property, collect assets, make investments, pay debts, sell assets, carry on a business, distribute property to heirs or any combination of these and related tasks. The guarantee is that the person will perform such tasks honestly and faithfully and make good to the court for any deficiencies found in the performance.

Fiduciary bonds dealing with those who administer estates of deceased persons are called **probate bonds**. Such persons are required to collect the assets, file an inventory, give notice to creditors, pay the debts in proper order, distribute the balance to those entitled under the law and account to the court.

Fiduciary bonds for those who are appointed to manage and preserve property other than estates of decedents are called **conservation bonds**. Examples are those appointed as guardians of minors or incompetents.

A third sub-class of fiduciary bonds are those require of persons appointed to conserve remaining assets and protect creditors. These are known as **insolvency bonds**. These are required of receivers and trustees for bankruptcy and insolvency proceedings, or for one who petitions a court to place another in bankruptcy (to guarantee reimbursement of expense to the alleged bankrupt if ultimately found not to be insolvent).

Court bonds are furnished by both the plaintiffs and defendants in litigation to protect the opposing party from loss in the event the principal fails to show a legal entitlement to the remedy sought.

Some examples of bonds which would be required of a plaintiff, to protect the defendant against wrongful loss; one seeking a **writ of attachment** against another, to prevent that person from disposing of the property in question; one seeking an injunction to restrain a person from doing a certain thing; one who has the property of another seized.

The most obvious need for a bond, which would be required of defendant, is a **bail bond**, to guarantee the appearance in court. Other examples are those required when the defendant wishes to reverse the effect of actions taken by plaintiffs. Examples; to get a release of the attachment when the plaintiff has secured such a writ, to dissolve an injunction, to have seized property returned, to appeal a judgment for money damages, which have been awarded to the plaintiff.

8.5h LICENSE AND PERMIT BONDS

A **license bond** may be required by a public body for a variety of reasons. Such a bond may simply guarantee the licensee will operate in conformity with general laws. Others may be for the purpose of protecting the public against harm from unfair business practices. The bond may guarantee the proper collection and payment of taxes.

Another type may be an **indemnity bond**, holding the governmental body harmless from any injuries or damage caused by the principal’s activities.

A **permit bond** is like a license bond, except it deals with the requirement to get a permit for a specific functions rather than continuous operations. Examples of functions that could require a bond in order to get a permit: an athletic event, an exhibition, existence of a sign, to move a building or to cut down a tree.

CHAPTER 8 OTHER COVERAGES AND OPTIONS

8.5h LICENSE AND PERMIT BONDS (cont'd)

A variation of the license or permit bond is the **franchise bond**, which may be required by a public body when it awards a franchise. It might be required, for example, of a TV cable system, a transportation system or an electric, gas or telephone company.

8.5i MISCELLANEOUS BONDS

There is no limitation on the types of situation wherein suretyship may provide a desired guarantee. The following are just a few:

Public Official Bonds – many public officers, appointive and elective, must provide bonds for their terms of office. The law, which requires the bond, may specify the guarantee that is required. Generally, however, these bonds guarantee the principal will uphold the oath of office and faithfully perform the duties of the office.

Lost Instrument Bond – when a person has lost stock certificates, bonds or similar instruments, a bond is generally required by the issuing company to reissue the document. The bond guarantees to save the issuer harmless from any loss growing out of the lost instrument. An innocent party, for example, may come into possession of the instrument and the issuer may have to honor it for its value. The issuer may specify an amount for the bond (called a fixed penalty bond) or may require a guarantee of payment without limit (these are called open penalty bonds).

Self-Insurance Bond – this type of bond may be provided to an authority as evidence of compliance with an insurance requirement. The most common example is a larger employer who is self-insured for workers compensation or auto liability, to show compliance with state law and guaranteeing financial responsibility to respond to obligations.

Blue Sky Bond – this is a bond required of investment companies, guaranteeing against misrepresentation of securities and defrauding the public generally.

U.S. Internal Revenue Bond – these are required of those who collect and must report taxes for certain controlled commodities. Example are distilleries, wine makers, brewers and manufactures of tobacco products.

Customs Bond – similar to Internal Revenue Bonds, a Customs Bond may be required of those associated with import and export activities, to guarantee that customs required by law will be collected, reported and paid.

Chapter 8 Notes: