

BURGEE PROGRAM

By GowrieGroup

Club Insurance is Like Gybing, You Need to Think Ahead

Gowrie Group February 2014



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Club Insurance is Like Gybing, You Need to Think Ahead (and remember to duck!)







SAILING LEADERSHIP

True or false, or it depends on your policy?

- 1. We don't need liquor liability insurance because we don't sell liquor.
- 2. Most claims happen on the water.
- 3. Our insurance covers junior sailors swimming off boats and docks.
- 4. Our club insurance covers floods.
- 5. Our insurance would pay to restore our historic clubhouse after a fire.
- 6. Our insurance covers sexual molestation and abuse.
- 7. Employees don't file allegations against yacht clubs.
- 8. Directors & Officers are excluded from coverage on our policy.
- 9. Severe weather is occurring more frequently.
- 10.1 am Level One certified so I am covered by "US Sailing's Insurance"





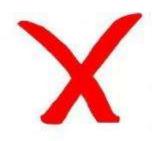
Have you heard anyone say this before?

We can't do "that," our insurance doesn't allow it.

- Are you sure "that" is true?
- Coverages can be added
- Coverages change over time
- Policy can be customized

Don't worry about it, we have great insurance.

- This is not a smart strategy
- Read your 300 page policy
- Ask questions
- If it isn't stated in the policy, you may not be covered





1. True, False, or It Depends. We don't need liquor liability insurance because we don't sell alcohol



Do you sell drink tickets at regatta parties?



Do you bill members for attending social events that serve alcohol?



Host Liquor Liability Insurance may not be adequate coverage

Is your club: "In the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages"

Host Liquor Liability Insurance

- Varies by state, but you may not have coverage for:
 - o Cocktail parties that members are billed for
 - Regattas parties with drink tickets or entry fees
 - Post racing beers on the deck

Considerations:

- Know your local and state liquor ordnances
- Permits may be needed
- You may need a Full Liquor Liability policy
- Verify if your umbrella policy covers over your liquor policy





2. *True, False, or It Depends. Most claims happen on the water*



On the Water?



On Land?



Many more claims on land than on the water

By Volume (# of claims)

- 1. Boat damage
- 2. Property damage (non-dock)
- 3. Workers compensation
- 4. Slip & Falls (Liability)
- 5. D&O / EPLI
- 6. Dock damage
- 7. Theft
- 8. Auto
- 9. JR Sailing

10. Liquor liability

*Burgee Program data analysis, 2007 to 2009, claims over \$5,000.

By \$'s of Claim Payout*

- 1. Dock damage
- 2. Property damage (non-dock)
- 3. Slip & Falls (Liability)
- 4. Workers compensation
- 5. Boat damage
- 6. Liquor liability
- 7. D&O/EPLI
- 8. Theft
- 9. Auto
- 10. JR Sailing



3. True, False, or It Depends. Our insurance covers junior sailors swimming off boats and docks





Know what is excluded from coverage

EXCLUSIONS. This insurance does not apply to loss, damage, liability or expense directly or indirectly caused by or contributed to or resulting from:

Marine Liability

- 2.7. Any liability, loss, damage, or expense arising out of swimming, snorkeling, diving, or similar activities
- 2.8. Any liability, loss, damage, or expense arising due to the failure of the Insured to have a competent employee of the Insured at all times in charge of any watercraft being navigated

2.9. Towing of boats

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Note: 2.7 and 2.8 are policy text copied from an enforce policy for a yacht club.





Know what voids your coverage

WARRANTIES.

This insurance shall be void unless:

OWNED WATERCRAFT INSURANCE



- 3.1. The watercraft insured are maintained by the Insured in a seaworthy condition at all times during the term of this insurance
- 3.2. The watercraft insured are operated by duly qualified persons, as required by federal, state or local regulation

Note: Policy text copied from an enforce policy for a yacht club.

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4. True, False, or It Depends? Our club's insurance covers flood



Hurricane Irene, 2011. Sachems Head Yacht Club in CT



Hurricane Sandy, 2012. Hyannis Port Yacht Club in MA. Image: Cape Code Times, Steve Heaslip



Hurricane Carol, 1954. Edgewood Yacht Club in RI Image: NOAA



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Flood Insurance should be considered for each building and docks/piers

National Flood Insurance Program (NFIP, FEMA):

- Coverage capped at \$500,000 per building
- Each policy only covers a single building
- Values are depreciated
- Retaining walls, decks, docks and piers are NOT covered
- Not just for coastal properties; rivers and lakes also flood
- If more than 50% damage, have to rebuild to NFIP standards

Excess Flood Insurance:

- Can be purchased to cover above the FEMA limits
- · Available outside of NFIP

Dock & Pier Coverage:

Burgee Program includes flood and wave-wash coverage for docks and piers



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5. True, False, or It Depends? Our insurance would pay to restore our historic clubhouse after a fire



Southern Yacht Club (SYC) during Hurricane Katrina (2005)



The new Southern Yacht Club, 2010





The difference between restoration coverage and replacement coverage matters

Coverage Considerations

- Only Restoration Coverage restores to original condition
- Building limits matter
- Limits need to include cost to build to code, and to zoning & ordinance laws
- Be aware of Co-Insurance, Actual Cash Value, Sub-limits, and Deductibles
- Partial losses can be complicated

Property Valuations are Critical

- Frequent appraisals are essential (about every 3 yrs)
- Replacement values and construction costs increase
- Dock systems expand
- Out buildings are overlooked



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6. True, False, or It Depends? Our insurance covers sexual molestation and abuse



Member romance with summer-staff gone wrong...



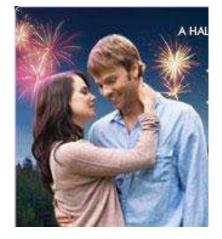
Physical contact by a camp counselor to a camper...



Some General Liability policies exclude coverage for sexual molestation and abuse

Inappropriate physical contact between parties could result in allegations:

- College-age sailing coach and teenage racer
- General manager and young adult member
- Day-camp counselor and camper
- Member to another member



Coverage considerations

- Read your General Liability policy carefully for exclusions
- EPLI includes coverage for sexual harassment (non-physical)
- Consider 3rd party EPLI coverage (vendors)



7. True, False, or It Depends? Employees don't file allegations against yacht clubs





Failure to promote?





Wrongful termination?

EPLI claims are frequent and complicated

Employment Practices Liability Insurance (EPLI)

Protects clubs for litigation alleging discrimination, wrongful termination, failure to promote, sexual harassment, retaliation, and more.

EPLI lawsuits on the rise, clubs and flag officers exposed

- 2011 and 2012 accounted for highest numbers of filed EPLI claims*
- Over a 5 year period, 6 of 10 employers will face an employee lawsuit
- Small employers (less than 100 employees) account for 50% of claims
- Most claims (80%) settle for between \$20,000 and \$40,000
- Average compensation award is more than \$200,000

If you suspect a claim might be filed, and you are in the Burgee Program

- Burgee Program clubs receive complementary consultations from Jackson Lewis law firm
- Chubb pays for defense costs, as long as the claim is defendable

*Source: US Equal Employment Opportunity Commission, 2012; Hartford Steam Boiler Inspection & Ins Co.





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8. True, False, or It Depends? Directors & Officers are excluded from coverage on our policy



Are our flag officers covered?



Directors & Officers need coverage for bodily injury, property damage, and for their decisions

Club Officers and Directors are at risk for complex lawsuits

- Management errors and omissions
- Unintended financial mismanagement
- Violation of state/federal laws
- Race management errors and omissions
- Membership discrimination

Coverage comes from multiple policies

- Bodily injury and property damage covered on general liability policy
- Decision making covered on a separate D&O policy (additional policy)
- Umbrella should cover over all policies





9. True, False, or It Depends? Severe weather is occurring more frequently

A Hurricane in late October?



Hurricane Sandy, October 30 2012. Image: NOAA

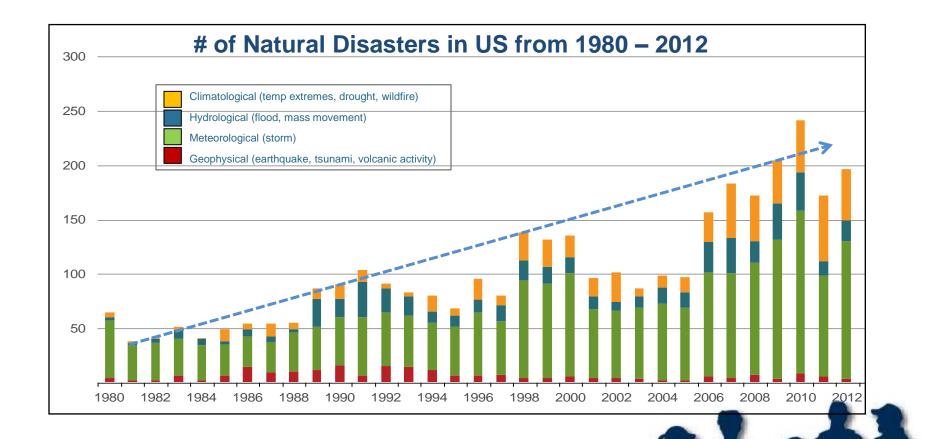
Polar Vortex!?







Trend is clear, natural disasters in the US are on the rise

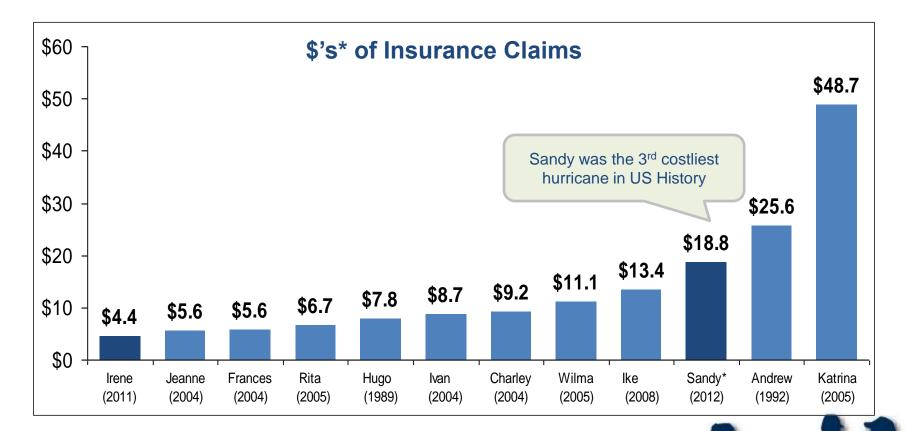


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Source: MR NatCatSERVICE

10 of 12 most costly* hurricanes occurred in the last 10 years



Sources: PCS estimate as of 4/13; Insurance Information Institute. *Note: Insurance dollars adjusted to 2012 dollars using the CPI.

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10. True, False, or It Depends? I am Level One certified so I am covered by "US Sailing's Insurance"





Private coach?

Hired by US Sailing as a Championship clinic coach?





Every situation is different when it comes to insurance for certified instructors



US Sailing extends its own commercial insurance to protect certified instructors (CI). The situation determines which insurance is primary or excess.

1. Cl is gainfully employed by a sailing school, community program, or club. Sailing organization provides primary insurance coverage, **US Sailing's insurance is excess**.

2. Cl volunteers to help a school, community program, or club run a clinic. Sailing organization provides primary insurance coverage, US Sailing's insurance is excess.

3. CI volunteers or is paid to run or coach a clinic at a US Sailing Event or Champs. US Sailing's insurance is primary.

4. Cl is a race coach for hire, a sole proprietor, or establishes a corporation/LLC to teach or coach sailors. US Sailing's insurance does not apply. The Cl must purchase his own insurance.



Insurance considerations for certified race administration officials and certified classifiers



US Sailing names certified race officials and classifiers on 4 policies:

- 1. General liability
- 2. Hull and P&I
- 3. Umbrella
- 4. D&O Liability

Other insurance protection might be available to Certified Race Officials and Certified Classifiers personally beyond what US Sailing offers:

- 1. If the Certified person is considered a volunteer at the hosting yacht club, the club's insurance might offer protection
- 2. If the Certified Classifier has a personal umbrella policy, it may protect him/her for their activities on behalf of a not-for-profit



Smart questions to ask your insurance broker

- 1. Does our policy exclude swimming?
- 2. Do we have full liquor liability coverage, and is it under our umbrella?
- 3. Do we have coverage for flood and wave wash damage to our docks/piers?
- 4. Would a dock claim be depreciated?
- 5. Is Regatta Liability built into our policy?
- 6. Does our umbrella policy go over our MOLL and Marine GL polices?
- 7. Do we have flood insurance coverage on each building?
- 8. Do we have restoration coverage on our clubhouse?
- 9. Does our yacht policy have a navigational limit?
- 10. Are there **seaworthiness warrantees** on our boats?
- 11. Do we have Jones Act coverage on our instructors, launch drivers, and dock hands?
- 12. Does our policy cover sexual molestation and abuse?
- 13. Are member, employees, and volunteers included as "additional insureds" on our policy?
- 14. Do we have hull and liability coverage on borrowed boats?
- 15. Do we have coverage for race management errors?
- 16. Do we have coverage for accidental fuel spills?

The Burgee Program by Gowrie Group. <u>www.burgeeprogram.com</u>, 800.262.8911



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A Sense of Calm: Brought to you by The Burgee Program



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The Burgee Program insures:

- More than 50% of sailing organizations in the US
- Nearly 1,000 entities in total, including clubs, schools, and community programs

Team behind the program is best in class:

- Managed by marine experts at Gowrie Group
- Underwritten by Chubb
- Endorsed by US SAILING



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Learn more:

- www.burgeeprogram.com
- 800.262.8911

Your Opinion Matters

Please "check-in" to this session on the Sailing Leadership Forum app and complete the session survey

Or

Complete one of the yellow survey forms in the back of the room and drop in the box

Thank you for attending our session: "Club Insurance is Like Gybing, You Need to Think Ahead" By Gowrie Group



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