

AVAILABLE

- ✦ Directors, Officers and Organization Liability
- ✦ Employment Practices Liability
- ✦ Fiduciary Liability
- ✦ Crime Insurance
- ✦ Nonrescindable and noncancellable policies
- ✦ Most favorable venue punitive damage coverage
- ✦ Retention waiver for early settled claims
- ✦ \$100,000 sublimit for class-action wage and hour claims defense
- ✦ HIPPA fines and penalties coverage (by endorsement)
- ✦ Defense costs in addition to limit of liability in many cases (Fiduciary only)
- ✦ Fiduciary includes Voluntary Compliance and Delinquent Filer Penalties coverage

ADVANTAGES

AAA (Superior) rated carrier (AM Best)
Up to \$5,000,000 in limits
No minimum premium

ALSO AVAILABLE

Standalone EPLI
Cyber Liability
Miscellaneous E&O

CONTACT US

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fax 800-456-6590

PRIVATE COMPANY D&O LIABILITY INSURANCE

Directors & Officers Liability Insurance (D&O) covers a privately held company and its senior level management against lawsuits addressing their performance of corporate duties and responsibilities. **A D&O policy is designed to protect:**

- the company against exposures not covered by its General Liability (GL) policy and
- the personal assets of its directors, officers and upper management when they are sued and held personally liable for wrongful acts of the company.

Companies that answer to shareholders and creditors as well as customers and employees should have a D&O policy in place in addition to their GL policy.

5 REASONS WHY PRIVATE COMPANIES NEED D&O INSURANCE

1. **Like any company, small businesses make mistakes**, and are as liable as large corporations when something goes wrong. D&O insurance addresses how management handles their company's affairs.
2. **Small businesses generally do not have in-house legal representation or risk management** and are not insulated by layers of red tape like larger companies, making them easier targets for lawsuits.
3. **Incorporating as a Limited Liability Company (LLC.) does not necessarily offer protection** for a company or the personal assets of the directors, officers and senior level managers. D&O liability can be potentially unlimited.
4. **In the event of a lawsuit**, a company might exhaust funds protecting itself, leaving nothing to protect the interests of its directors and officers.
5. **D&O claims are costly.** A private company D&O lawsuit averages over \$400,000.*

* "Defending D&O Claims: Private and Nonprofit," PLUS Presentation, Dave Schooler and Tom Rizzuto

EXAMPLES OF COMMON D&O ALLEGATIONS

Misrepresentations to a customer, vendor or business partner. *A medical supplies distributor needs to raise capital and tells an investor that it is close to securing contracts with several local physician groups. Based on this information and the distributor's recent financial statements, the investor provides funding. The contracts fall through and profits slump. The investor sues the distributor, its directors and officers, alleging they induced the investor to fund the company through material misrepresentations of its financial condition.*

Tortious interference with contract. *A company hires a sales manager who has an employment contract with a competitor. The competitor sues for damages due to losing its top sales performer on the grounds that the company interfered with the competitor's contractual relationship with its employee.*

Government investigations and actions. *OSHA sues the directors of a construction company for not responding to continued notices of violations regarding scaffolding and ladders.*

Breach of the implied covenant of good faith and fair dealing. *A furniture store asks a supplier to increase production because of the expected sales surge during the holiday season. Sales increase, but the store uses a different supplier to fulfill orders. The original supplier sues, alleging that it suffered financial loss as a result of the store's breach of its implied covenant of good faith and fair dealing.*

Commercial disparagement and negligent interference with business relations. *In a newspaper article, an HVAC company's president comments that a competitor's technicians are unskilled, unqualified and provide poor customer service. The competitor files suit, alleging commercial disparagement and business interference.*

Fraud in the sale of a business. *The owner of a small parts manufacturer decides to sell his business to a regional firm and provides the firm with financial statements and other materials to assess the proper valuation of the company. Upon review, the firm determines the asset value and quality of the manufacturing equipment had been grossly inflated, thus negatively impacting the company's valuation. The firm sues the former owner for its fraudulent representations of financial condition.*