

## MANAGING LEGAL LIABILITY SERIES: Insurance Factsheet

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In life, everything you do has liability exposures from driving to the store to inviting friends to your home for a cookout. The level of exposure represents your vulnerability to legal action. For automobile liability protection you purchase Auto insurance. For homeowner liability protection you purchase Homeowner insurance. For agricultural entrepreneurs, the exposure to legal risks increases with each step taken to grow your agricultural business. Therefore, it is critical to think about, talk about, and purchase the right liability insurance protection.

### Homeowner's Insurance.

Standard homeowner's insurance policies typically do not provide coverage for commercial operations such as the sale of produce, cottage food operations or agritourism activities.

Sample Exclusion: Liability coverage does not apply "to bodily injury or property damage because of or arising out of a business owned or financially controlled by an insured or by a partnership or joint venture of which an insured is a partner or member."

Persons operating businesses from the home may also lose coverage on the structure/contents as a result of a loss resulting from the business (i.e. fire loss).

### Farmowner Policy Definition

A farmowner policy includes several key definitions. You should review your own farmowner policy for the definitions that apply to your specific contract. They may read as follows:

- "Farming" means the ownership, maintenance, or use of premises for the production of crops or the raising or care of livestock, including all necessary operations.
  - Crops and livestock are the key words. When you engage in activities that are outside of these parameters, your farm will need another type of insurance.
- "Farming" also includes the operations of roadside stands and farm markets maintained principally for the sale of the "insured's" own farm products but it typically does not include other retail activities.
  - On your farm policy, you may have a statement that allows your farm stand to be included on your farmowner policy.
- "Business" means a trade, a profession, or an occupation, all whether full or part time. (*Basically anything you're doing other than farming.*)

- "Business" includes services regularly provided by an "insured" ... for which an "insured" is compensated. (*A mutual exchange of like services is not considered compensation.*)

### **Liability Insuring Agreement**

All liability insurance policies have an Insuring Agreement. You should read your own liability policy for its specific Insuring Agreement wording. It may read, in part, as follows:

"We" (*your insurance company*) will defend a suit seeking damages if the suit resulted from "bodily injury" or "property damage" not excluded under this coverage.

The insurance company is on your side against any attorney or individual issuing a complaint.

### **Farmowner Policy Coverage**

A typical base farmowner policy provides certain coverage. You should review your own policy declarations page of your specific policy and coverage. You can expect to see something like the following:

- Premises and operations liability protection
- Products liability coverage provides coverage for "raw" products only.
  - If the raw product is altered by you (a value-added product), there is no products coverage under the base farmowner policy. For example,
    - The base farmowner policy will cover the production of apples. But the policy will not cover the production of apple cider/juice or any other product made from the apples.
    - When a farmer combines multiple types of lettuce into a salad mix, it is considered a value added product and would not be covered under the base farmowner policy.
  - Coverage can be obtained by adding an endorsement to the Farmowner or writing a separate policy.

### **Farmowner Liability Exclusions**

All liability insurance policies have exclusions. You should review your own policy for specific wording. Typical exclusions might read as:

- "Bodily injury" or "property damage" which results from activities related to the "business" of an "insured."
  - On a standard Farmowner policy, business is considered anything other than farming (i.e. agritourism activities).
  - Sometimes "incidental" business pursuits, within a certain receipts limit, are covered (or can be endorsed) to the policy - such as roadside stands or custom farming activities.
    - *Obtainability will depend on the wording in the policy and your insurance carrier's available endorsements*

## Activities/Exposures and Insurance Solution Possibilities

*Farm activities should be discussed with your insurance agent and include a tour of the property allowing the agent to actually see what and how the activity is being done.*

Activity/Exposure	Insurance Solution
Farming -crops or livestock	<p>Farmowner policy or Homeowner policy with a Farm endorsement (<i>depends on the insurance company that carries your policy</i>).</p> <p>General Liability Policy</p>
Agribusiness or agritourism – ordinarily conducted on your premises or on another premises by you other than crop or livestock farming.	<p>General Liability policy or other specialty liability policy (like Equine)</p> <p>A General Liability Insuring Agreement may read as follows:            “We (your insurance company) will pay those sums that the insured becomes legally obligated to pay as damages because of “bodily injury” or “property damage” to which this insurance applies.”</p>
Special event - such as a fair, carnival, exhibition, fundraising activity, Halloween maze or other event of <i>short duration</i> .	Special Event Policy
Agribusiness or agritourism – ordinarily conducted on your premises or on another premises by you other than crop or livestock farming.	General Liability policy or other specialty liability policy (like Equine)
Farming -crops or livestock	Farmowner policy or Homeowner policy with a Farm endorsement ( <i>depends on the insurance company that carries your policy</i> )
You have a website and sell produce from your farm over the web. You take on-line orders and accept credit card payments over the internet through a third party payment service (i.e. PayPal®).	<p>Cyber Liability policy or endorsement on General Liability or Farmowner policy if available</p> <p>Common causes for lawsuits are copyright infringement, invasion of privacy or other types of issues that arise when operating on the web. Particularly if you have others responsible for the content on your site, you are open to some of these claims.<sup>1</sup></p> <p><i>**Includes Websites, Facebook, Twitter, Email,</i></p>

	<p><i>Text messages, etc.</i></p> <p>Excerpt from  <a href="http://liabilityinsurancefacts.com/ar/cyber-liability-insurance.php">http://liabilityinsurancefacts.com/ar/cyber-liability-insurance.php</a></p>
You have farm employees and/or use H2A Guest workers.	Workers' Compensation policy or Employers' Liability endorsement on the Farmowner policy (if available)

### Sample Checkpoint Review

As you plan your review of your insurance coverage, the following table may help you in discussing your needs with your insurance company. For each activity, you may need a separate policy or an endorsement on your current policy.

The candid discussion you have with your insurance agent along with the available endorsements or programs of the insurance company will guide your decision.

Farm Activity List	Insurance Policy List
You have 400 acres, 6 pleasure horses, corn and wheat crops and various farm animals	Farmowner policy
You have the above plus have decided to stock and sell horse feed and horse care products. (You do not re-package or re-label the products.)	General Liability policy
You have the above and are now boarding 10 horses for others and giving horseback riding lessons.	Equine Liability policy
You have the above plus have a Halloween corn maze the last two weeks of October.	Special Event policy or an additional classification on the General Liability policy
You have the above and now have your own website. You advertise your farm, your horse products, horse boarding, horseback riding lessons and the corn maze on it. You also advertise on your Facebook® page.	Cyber Liability policy

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You feel you need some additional liability protection.	Commercial Umbrella policy
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### **Insurance Resources**

- [liabilityinsurancefacts.com](http://liabilityinsurancefacts.com) provides liability information.
- [www.vwc.state.va.us](http://www.vwc.state.va.us) offers guidelines on Workers' Compensation insurance.
- <http://www2.iii.org/glossary/> lists insurance terminology with definitions.