

Commercial Property Insurance

Coverage Gets Scarce in At-Risk Areas

AS WILDFIRES grow in number, intensity and scope, the cost of paying for the resulting claims is causing a property insurance crisis in some parts of the state that shows no sign of disappearing anytime soon.

Commercial property insurance rates have skyrocketed for businesses in areas exposed to wildfire risks. Many have received non-renewal notices and have had to secure coverage with the market of last resort, the California FAIR Plan.

Here's what's going on and what your options are if your commercial property policy is non-renewed.

What insurers are doing

While rates are increasing nominally in most of California's larger cities due to higher construction costs, it's a different story in smaller cities and towns.

Insurers are responding. Some are pulling out of the state or ceasing to write policies in areas they deem high risk and are issuing non-renewal notices.

Those that continue to write business in high-risk areas are taking steps to rein in their risk.

- Increasing rates** – Many carriers have more than doubled rates for at-risk properties.
- Hiking deductibles** – Many carriers are raising deductibles in wildfire-prone areas.
- Stricter terms** – Some insurers are limiting the amount they will pay out if a building is destroyed. That can sometimes be as low as 20% of the value, meaning the rest would have to be covered out of pocket by the property owner.

Protective measures insurers may require

Defensible space: Maintain a defensible space around your building, usually all the way to the property line. You can find a thorough description of how to create a defensible space [here](#).

Non-combustible materials and other measures: Using only non-combustible building materials, such as fire-proof shingles for your roof. The insurer may require you to shore up roofs, gutters, vents and siding and ensure there are no gaps that would allow embers to penetrate. They may require exterior wall cladding made of noncombustible siding materials.

Reliable water supply: Insurers are requiring property owners to have clear access to a reliable water supply, including proximity to public hydrants and the possible installation of private-site yard hydrants. The availability of a reliable water supply is critical and should be evaluated frequently. You may also consider installing a back-up water supply, such as a fire pump and tank.

Routine clearing: Insurers are requiring property owners to have a routine property clearing regimen that includes regularly removing dried vegetation from the property and removing debris or other flammable materials. Debris and vegetation are the tinder for large fires.



Creating Defensible Space

- Zone 0:** 0-5 feet. No trees, only short bushes, non-combustible ground cover like gravel or pavers, remove overhanging branches and dead or dry vegetation.
- Zone 1:** 5 to 30 feet. Space trees, keep branches 10 feet from other trees, remove dead vegetation and shrubbery that is flammable, if near wood structures.
- Zone 2:** 30 to 100 feet. Keep grass mown, space shrubs and trees, remove leaves, debris.

See 'Options' on page 2

Law Bars Discrimination Against Cannabis Users

GOVERNOR GAVIN Newsom has signed into law legislation that would bar employers from discriminating against employees and job applicants who use cannabis on their time off.

The law amends the California Fair Employment and Housing Act to prohibit discrimination against an individual based on “an employer-required drug screening test” that detects the presence of “nonpsychoactive cannabis metabolites in their hair, blood, urine, or other bodily fluids.”

The new law does not bar employers from drug-testing, but it does impose restrictions on what they can do in response to a positive test.

The law, AB 2188, prohibits employers from discriminating against employees and job prospects, or otherwise penalizing them for either:

- Their use of cannabis off the job and away from work, or
- An employer-required drug test that detects cannabis in their system (from either a hair, blood, urine or bodily fluid sample).

Employer rights

The law is not a green light for workers to use or possess cannabis on the job. Also, it won't impinge on an employer's rights to maintain a drug-free workplace.

They do also have some leeway in trying to judge someone's impairment, but it comes down to the type of test they use.

Acceptable tests

There are two types of tests:

- Ones that detect the presence of tetrahydrocannabinol (THC), the chemical compound in cannabis that causes impairment and psychoactive effects.
- Ones that detect the presence of nonpsychoactive cannabis metabolites, which is what is left after the body metabolizes THC. These metabolites do not indicate that an individual is impaired, but only reveal whether they have consumed cannabis recently (up to a month in the case of a urine test).

Under the new law, employers would be authorized to take disciplinary action if a THC test is positive, but not if they detect nonpsychoactive cannabis metabolites in their system. The latter is the more common type of test available.

Exemptions

There are some exemptions in AB 2188, in particular:

- It does not apply to workers in the building and construction trades. Employers would still be allowed to make employment decisions for workers and applicants who use cannabis in their off hours and test positive for nonpsychoactive cannabis metabolites.
- The law does not apply to applicants or employees hired for positions that require a federal government background investigation or security clearance in accordance with regulations issued by the U.S. Department of Defense or other federal agencies.
- The law does not preempt state or federal laws requiring applicants or employees to be tested for controlled substances as a condition of employment, receiving federal funding or federal licensing-related benefits, or entering into a federal contract.

The takeaway

Employers have time to change any policies they have in place concerning drug-testing and cannabis use. The law takes effect Jan. 1, 2024.

Remember, you can still take action against someone who is impaired at work. ❖



Continued from page 1

You Have Options If Your Policy Is Not Renewed

Your options if canceled

If you've been cancelled by your insurer, we can mount a search for replacement coverage. If all California-licensed insurers that we have access to reject your policy, we have two choices:

The non-admitted market – These are insurers that are not licensed in the state of California, but they are viable insurance companies nonetheless. They can offer policies that may not cover everything a homeowner's policy from an admitted insurer would have. Policies can often be customized for the insured.

California FAIR Plan – We can only go to the FAIR Plan if you've thoroughly exhausted the options available through the voluntary market and been denied coverage.

If only one admitted insurance company is willing to write your policy, no matter how steep the premium is, you cannot go to the FAIR Plan for coverage.

Not only are FAIR Plans more expensive, but they offer fewer coverage options and lower policy limits. That said, the limits have doubled in 2022 to \$6.8 million per policy. ❖

If Your Firm Uses Drones, Get Proper Coverage

IF YOUR company uses drones or plans to use them as part of your operations, you are faced with a unique set of risks that can leave you exposed to a variety of possible liabilities.

That's why it's important that you are properly insured to cover any legal liability in the event of property damage, bodily injury or other claims by third parties.

Your commercial property policy won't cover the claims and you'll need a policy that specifically covers commercial drones, particularly for the following:

Liability risks: If your drone crashes, you can face claims for property damage, bodily injuries and financial damages that occur in day-to-day drone operations.

And as drone operators face heavier regulation, they also face the potential of expensive liability claims.

Cyber risk: If hackers access your drone, they could take control of it and crash it into a ground object or aircraft. They can also intercept sensitive data that's being transmitted from the drone to the control station.

Invasion of privacy: Some of the biggest concerns about drones surround the right to privacy.

Using a drone to fly over someone's property with the intent to capture video, pictures or sound is an invasion of privacy under state law.

Coverage and costs

Liability coverage: This coverage is standard in drone insurance policies. It protects your business against legal liability for property damage or bodily injury caused by your company's drone. It also includes coverage for invasion-of-privacy lawsuits.

Coverage includes medical costs for injured parties as well as legal costs, including lawyer fees, settlements and judgments.

Commercial drone liability insurance is typically offered starting at \$500,000 per occurrence, but you can opt for higher coverage as well. Some policies may cover up to \$25 million per claim.

The cost of coverage will depend on a number of factors, like the type of work the drone is employed for, the experience of your drone pilot(s), the policy deductible, accident history and the

location where you'll be operating the drone.

Your insurance policy limits should be commensurate with your risks, and the higher your limits the higher the premium.

Physical damage coverage: Depending on your policy, it may also cover damage to the drone itself if it's damaged. If not, you can secure additional hull coverage that covers the full replacement cost of the drone, plus any attached equipment like cameras and other technology.

Hull coverage typically ranges from 8-12% of the replacement cost of your drone and its equipment. If you need \$10,000 in hull coverage, you'd be looking at additional premium of \$800 to \$1,200 per year.

Why Some Businesses Need Coverage

- The company SkyPan was sued by the Federal Aviation Administration for taking and publishing aerial drone photos over restricted areas. The company agreed to pay a \$200,000 fine.
- A California-based drone photography company was sued by a wedding guest who lost the use of her eye when a drone made contact with her face. A court upheld the right of the company's commercial liability insurer to refuse to defend the case since the policy excluded coverage of aircraft.

The takeaway

If your organization is starting to use drones for its operations, it's crucial that you secure drone liability insurance at a minimum. The ramifications for your business if your drone injures a third party can be devastating. ❖

DOES YOUR BUSINESS NEED COVERAGE?

CALL US! 916-306-1550



Teach Your Staff to Be Defensive Drivers

WHEN YOU have staff who drive on the job, you have to ensure they do so safely to avoid accidents that can injure themselves as well as other drivers or pedestrians.

While your workers' compensation insurance will cover an employee's injuries, your commercial auto insurance would cover claims for third party injuries.

But an accident can also result in lost productivity and higher insurance rates. If someone is seriously injured or killed, your company can be sued for negligence.

Every time one of your employees gets behind the wheel, they should remember the importance of using defensive driving techniques. That's why it's important you train them properly.

Defensive driving can save lives. It means staying alert, avoiding distractions and being ready for anything – such as an erratic driver, bad weather, road hazards and slow-moving vehicles. It also means avoiding bad habits.



Train employees to avoid:

- Aggressive driving
- Tailgating
- Drowsy driving
- Speeding
- Moving in and out of traffic
- Using their phone

And remember to:

- Be aware of blind spots
- Slow down at intersections
- Keep a safe following distance
- Minimize distractions

Safety training tips

Teaching your employees about defensive driving not only lets them know it's a priority for you, but also an expectation of their performance.

During your safety meeting, discuss the importance of using these defensive driving techniques:

Be aware of surroundings – Check mirrors frequently and scan conditions 20 to 30 seconds ahead. Watch for pedestrians, bicyclists and pets along the road.

Pay attention – Avoid distractions (eating and cell phones).

Avoid aggressive driving – If another motorist shows signs of aggressive driving, don't engage them. Instead, slow down or pull over to avoid that driver.

Get plenty of rest – When motorists don't get enough sleep, they increase their chances of getting into an accident. Getting enough rest goes hand in hand with safe driving.

Don't depend on other drivers – Don't assume another driver is going to move out of the way. Drive defensively and be considerate of other drivers.

Follow the three-second rule – When the car in front of you passes a certain point, count three full seconds. If you reach that same point in less than three seconds, you're following too close.

Have an escape route – In all driving situations, the best way to avoid potential danger is to position the vehicle where it has the best chance of seeing and being seen by other drivers.

Try to have someplace to move your vehicle if the immediate path is suddenly blocked.

The takeaway

We cannot control what other drivers do, but we can control how we drive. Defensive driving techniques can help your employees reduce the chance of getting into a traffic accident and potentially hurting themselves or someone else.

Regularly remind your driving staff to be on the defensive when they get behind the wheel. ❖