

Commercial Property

Wildfires Make for Difficult Insurance Market

MORE BUSINESSES in wildfire-prone areas are facing a difficult commercial property insurance market as insurers reduce their exposure and some have left the market altogether.

Many businesses in areas that have already been ravaged by fires in the past, or those located in areas that are near forests and large grassy areas, are seeing their premiums increase – sometimes substantially by 300% or 400%.

Also, more businesses are finding few insurers that are willing to cover their properties.

According to a new report by insurance rating firm AM Best, California wildfires have caused over \$4 billion in commercial property losses for insurers in three of the past four years.

It's expected that 2021 fire losses could be even greater than those of the prior four years.

The fallout

- Some insurers have stopped writing property insurance in high-risk areas.
- Most insurers are increasing their rates substantially in high-risk areas.
- Insurers are requiring policyholders to have mitigation measures like defensible space (see below).
- Many policies have worse terms. One winery owner interviewed by the *Los Angeles Times* said that his premium was typically \$200,000 with a \$25,000 deductible. His new policy costs \$800,000 and includes a \$500,000 deductible, and would only cover 20% of the value of his buildings.

The new playbook

Many insurers are applying three metrics in evaluating exposure to fire:

Brush mapping – This is a map of the tinder and brush, nearby trees and other items that could contribute to your building(s) catching fire.

Wildland-urban interface – The closer that a building is to nature, the more at risk it is. A wildland-urban interface is defined by the Forest Services as a place where “humans and their development meet or intermix with wildland fuel.”

Concentration of properties an insurer covers in your area – If your carrier has a high concentration of policies for other properties in your area, they may opt to non-renew policies in order to reduce their exposure.

See 'FAIR Plan' on page 2

PROTECTING YOUR COMMERCIAL PROPERTY

- **Zone 1 (0-5 feet):** Concrete, gravel mulch and low-growing plants or lawns are good choices for this zone. Avoid combustible materials.
- **Zone 2 (5-30 feet):** Vegetation island. Prune low tree branches. Remove shrubs.
- **Zone 3 (30-100 feet):** Thin out vegetation between trees. Don't let tree canopies touch.



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Workplace Safety

Firms Mull Premium Surcharges for Unvaxxed Staff

SOME EMPLOYERS are implementing a new incentive for their workers to get vaccinated against COVID-19: Charging them higher health insurance premiums if they don't.

A brief from consulting firm Mercer reported that employers are looking at surcharging the health insurance premiums for employees who refuse vaccination for reasons other than disability or sincere religious belief. Many employers already apply similar surcharges for employees who use tobacco.

Delta Airlines recently told its workers that they will face \$200 monthly increases on their health insurance premiums starting Nov. 1 if they aren't vaccinated against COVID-19, citing steep costs to cover employees who are hospitalized with the virus.

When health plans incur large claim costs, they must either accept lower profits or make up the difference by spreading the costs among plan participants. Charging higher premiums penalizes vaccinated and unvaccinated employees alike.

The U.S. Equal Employment Opportunity Commission has said that it is permissible for employers to require workers to be vaccinated.

However, many employers have been hesitant to take that step, fearing negative employee reactions, waves of resignations, potential lawsuits and bad publicity.

Freedom of choice

Surcharging premiums for unvaccinated workers may be an appealing option for some employers. Instead of ordering staff to get vaccinated, they would leave them free to choose.

Those who would rather bear higher costs as a consequence of refusing a vaccine would be free to make that choice. In turn, vaccinated employees would not have to subsidize the health care costs of colleagues who make riskier decisions.

A Mercer spokesperson has estimated that any surcharges would be in the range of \$500 to \$1,300 per year.

Extra costs like that might induce reluctant workers to get

the shots. If unvaccinated employees decide to get vaccinated in order to avoid a surcharge, the workplace should be safer and more productive. Absenteeism due to illness can negatively impact productivity. ❖



THINGS TO CONSIDER

Employers need to consider the following:

- The EEOC has provided guidelines for employers wishing to offer vaccine incentives. Employers should stay within those guidelines.
- Are the incentives necessary? They might not be in areas or workplaces where vaccination rates are already high.
- The line between “encouraging” and “coercing” employees to get vaccinated is not well-defined. Employers should avoid imposing surcharges that could be viewed as coercive.
- Some employees have pre-existing health conditions that make the vaccinations unsafe. Others seriously practice religions that forbid their use. Federal law requires employers to accommodate these workers.

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The California FAIR Plan Is the Market of Last Resort

Coverage options

If all insurers have rejected a property, we have two options:

The non-admitted market – These insurers, which include Lloyd's of London, are usually willing to write buildings in higher-risk areas, but they too have increased their underwriting criteria.

The California FAIR Plan – If we cannot find an insurer in the non-admitted market, the last choice is the FAIR Plan, which is the market of last resort for property owners that cannot get coverage elsewhere.

Policies cover losses from fire, lightning and explosion only. Also, policies are limited in what they will pay out, so if you have millions of dollars tied up in equipment and/or inventory, the policy may not be enough to cover all the damage you incur from a wildfire.

The maximum limit for commercial properties is \$3 million for structures and \$1.5 million for all other coverages, for a combined \$4.5 million limit for all commercial properties at one location. But there are some exceptions.

Your options if you go to the FAIR Plan

If the FAIR Plan coverage is not enough for your needs, we can find another insurer that provides excess coverage that would kick in at a certain dollar amount of damage.

And for risks that are not covered, we would have to also find you a “differences in conditions” policy. Combined with FAIR Plan coverage, adding such a policy can nearly mimic the coverage of a commercial policy. ❖

Avoiding Builder's Risk Coinsurance Mistakes

COINSURANCE CLAUSES are commonly found in a builder's risk completed value policy.

A coinsurance clause involves the policyholder becoming a coinsurer of the risk of loss with the insurer. In other words, certain conditions would result in the insurance company not paying the total amount of loss, thereby leaving the policyholder to bear the remainder. The insured and the insurer jointly assume the risk.

The benefit of buying an insurance policy with such a clause is that the policyholder will usually have relatively low premiums compared to other similar policies that don't contain a coinsurance clause.

That said, anyone considering a coinsurance clause should understand what it entails and requires, so that they aren't taken by surprise with penalties if a loss should occur.

A typical coinsurance clause found in a builder's risk completed value policy will say that the insurer will not pay more for any loss than the proportion that the limit of insurance bears to the value of the structure described in the declarations as of the structure's date of completion.

How it works

The way a coinsurance clause works with the policy limit is often a source of confusion for policyholders.

Take a loss of \$20,000 with a policy limit of \$100,000, for instance. It would superficially appear as though the insurer would be responsible for the total loss.

But, once the coinsurance clause is figured into the equation, the carrier might not be responsible for paying the total loss amount. This will depend on the policyholder maintaining enough insurance to avoid the coinsurance penalty.

If the coinsurance is applied, it might look something like this:

Still using the \$100,000 policy and \$20,000 worth of damage from above, the completed value of the project will be determined as \$120,000 at the time of loss.

The value of the \$100,000 policy is only 80% of the \$120,000 actual value of the project. So, the insurer is only responsible to pay

\$16,000, which is 80% of the \$20,000 worth of damage.

Anytime the policyholder receives a lesser sum than what the full value of the claim is because of a shortfall between the completed value of the project and the policy limit, it's termed a coinsurance penalty. The discrepancy between the two numbers can be the result of a number of mistakes made by the policyholder. ❖

COMMON ERRORS

Failing to report extra costs – Policyholders often make the mistake of failing to report when expected costs are surpassed. Any increased completed value must be shown in the policy limit when costs overrun original figures. The best way to make sure the policy limit is updated is by keeping us apprised of the overruns so that the appropriate changes can be made.

Setting limit based on the loan – All too often a policyholder makes the mistake of setting their limit of insurance based on the amount of the construction loan for the structure.

Most of the time, the completed value of the project is greater than the amount of the construction loan. An example would be a significant portion of a building project being funded by cash, but not computing the cash amount when totaling the completed value.

If the insurance is only for the financed amount, then the policyholder will suffer a coinsurance penalty for any losses.

Failing to include profit – Another common mistake occurs when the policyholder doesn't include profit and overhead in the completed value. These are generally figured at 10% for each. If not accounted for, this can cause a substantial coinsurance penalty.

Including too much – Sometimes, it's what shouldn't be included that leads to problems. Land value, excavations and underground work, for example, shouldn't be included in the completed value.

These aren't covered losses on typical policy forms. So, the policyholder would just be paying additional costs for items that wouldn't be covered during loss.





Workplace Safety

Keeping Indoor Workers Cool During Intense Heat

DESPITE A LAW requiring that Cal/OSHA create indoor heat illness regulations by 2019, no regulations are yet on the books, making for a difficult situation as many parts of California are experiencing some of the highest temperatures on record.

The workplace safety agency implemented heat illness prevention regulations for outdoor workers in 2013, but heat waves get longer and more intense, the problem of heat illness is affecting more and more indoor workers.

The Sacramento Bee recently reported on the issue:

- Workers at a fast food establishment went on strike after the air conditioner went out.
- Workers at a Southern California warehouse had to bring fans in to keep cool as temperatures in some parts of the facility reached 113 degrees.

THE MOST AT-RISK WORKSITES

- Warehouses
- Printing facilities
- Laundries
- Manufacturing operations
- Kitchens
- Bakeries
- Boiler rooms
- Repair and body shops

What you can do

While Cal/OSHA has not yet implemented anything for indoor workers, it does have a working draft standard that includes the following highlights:

Maintain one or more cool-down areas at all times – The area must be large enough to accommodate workers sitting in a normal posture without having to be in physical contact with each other.

The cool-down area must be located as close as practicable to the areas where employees are working. The temperature in the indoor cool-down area must be less than 82 degrees.

Employers should encourage workers to take preventative cool-down rests when needed..

Engineering controls – Employers can use engineering controls (air conditioners or fans) to maintain temperature below 87 degrees.

Emergency response procedures – The employer must put in place plans for responding to a heat illness emergency, including:

- A system for communication so that employees can contact a supervisor or emergency medical services if necessary.
- Steps to take when someone has signs or symptoms of heat illness. Depending on the symptoms, they can range from first aid measures to emergency response procedures for serious cases. That would include contacting emergency services.

Employee training – Employers must train their workers in the:

- Environmental and personal risk factors for heat illness.
- Company's heat illness prevention procedures and rules such as employee access to water, cool-down rests and access to first aid.
- Importance of frequent drinks of small quantities of water.
- Way employees can acclimatize to working in heat.
- Signs and symptoms of different stages of heat illness, from mild ones that require only rest to severe to life-threatening symptoms that require immediate emergency services.
- Importance of immediately reporting to a supervisor signs of heat illness in themselves, or in co-workers.
- Employer's procedures for responding to an event, including emergency medical services.

The takeaway

If you have workers in an indoor environment that can get hot during the summer months, in light of this summer's intense heat in many parts of the state, take steps to protect them.

You can still be cited by Cal/OSHA for not protecting indoor workers if you have a health emergency or worker death on your hands due to heat illness. ❖