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NEWSALERT

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.



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.



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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. ❖

Courts: Crime, Cyber Policies Offer Best Cover

BUSINESSES THAT are hit by wire transfer scams are increasingly finding it difficult to get their claims paid unless they have either a crime or cyber insurance policy that covers “computer fraud.”

Wire transfer fraud occurs when an employee is duped into wiring funds into the fraudster’s account. Courts around the country have held that this type of fraud is covered under the computer fraud portion of policies, typically crime or cyber insurance coverage.

If you have neither, you may be out of luck if your firm has funds stolen in this manner.

How wire transfer fraud works

1. Criminals identify the individual in the company who can authorize a wire transfer, such as a senior manager or owner. They may also identify a person in one of the company’s trusted clients.
2. Once they know who can authorize a transfer, they will work to compromise their e-mail account through malware or other means so they can hijack it and send e-mails from it. Alternatively, they may set up an e-mail account with an address that closely resembles that of the authorized individual.
3. The scammers then use the e-mail account to send messages to employees and instruct them to wire funds to a designated account, and – poof – the money’s gone after the employee complies.

What the courts are saying

Courts have mostly found that computer fraud provisions under cyber and crime insurance policies cover this type of fraud.

COVERAGE DECISIONS

- In 2018 and 2019, the Second, Sixth and 11th district courts found in three separate cases that an insurer’s computer fraud coverage must pay for the losses.
- In 2022, the Ninth U.S. District Court found that a \$200,000 wire transfer loss was covered under two parts of the company’s insurance policy: the computer fraud and funds transfer fraud provisions.
- In 2022, the U.S. District Court in Alaska found that the city of Unalaska’s crime insurance policy’s computer crime and “impersonation fraud” provisions would both cover a \$638,000 loss.

What you can do

We can review your insurance policies to see if they would cover this type of attack.

Most likely you’ll need crime or cyber coverage. A policy may specifically cover wire transfer fraud under separate social engineering or impersonation fraud coverage, which often will have lower liability limits than the computer fraud portion of the policy. ❖



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Contractors with No Workers Will Need Coverage

A NEW LAW will require almost all contractors in California to carry workers' compensation coverage, regardless of if they have employees or not.

According to the author of the bill, State Sen. Bill Dodd, D-Napa, the new law was necessary due to the tendency of many small contractors to claim they have no employees, when in fact they regularly hire day laborers or undocumented aliens.

Since a firm with only an owner and no employees is not required to carry workers' comp coverage, those workers would not be covered if they are injured on the job.

As a result, the worker would have to pay out of pocket for medical care and would be out lost wages, which workers' compensation insurance would cover. Many, desperate for cash, end up suing the entity or individual who hired the contractor to achieve redress.

There is also a competition issue. Contractors who follow the law are often at a cost disadvantage when bidding against those that don't purchase workers' compensation coverage and use off-the-books labor.

Currently, only roofers are required to carry workers' comp insurance even if they claim to have no employees.

Two-phase introduction

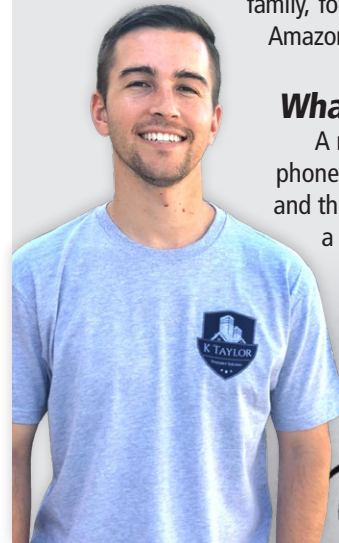
Gov. Gavin Newsom in September signed into law SB 216, which was sponsored by the Contractors State License Board. The law will take effect in two phases:

1. High-priority sectors first – Starting July 1, 2023, it will require the following contractors to carry workers' compensation coverage regardless of whether they have employees or not:

- Concrete (C-8 license),
- Heating and air conditioning (C-20),

THE K TAYLOR INSURANCE SOLUTIONS "THANK YOU" REFERRAL PROGRAM

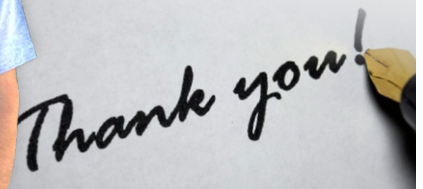
Your referrals mean the world to us. We work hard to earn each referral with great service and appreciation for your business every day. As a way of saying thank you to clients that refer friends and family, for each referral you will receive a \$20 Amazon gift card.



What qualifies as a referral?

A referral is when we are contacted by phone, e-mail or social media for a quote and that friend or family member becomes a client of K Taylor Insurance Solutions.

Don't worry, we ask every caller how they found us.



- Asbestos abatement contractors (C-22), and
- Tree service contractors (D-49).

2. All sectors – Starting Jan. 1, 2026, it applies to all licensed contractors or applicants for licensure, regardless of classification, unless they are organized as a joint venture and file a certificate of exemption from workers' compensation.

The law requires the Contractors State License Board to suspend the license of any of the specified contractors if, between July 1, 2023 and Jan. 1, 2026, it finds a contractor had employees and did not have comp coverage. ❖

OSHA's Most-Cited Safety Violations

Fed-OSHA recently announced its top 10 most frequently cited workplace safety violations for 2022.

- Fall Protection – General Requirements
- Hazard Communication
- Respiratory Protection
- Ladders
- Scaffolding
- Lockout/Tagout
- Powered Industrial Trucks
- Fall Protection – Training Requirements
- Personal Protective and Life-saving Equipment – Eye and Face Protection
- Machine Guarding

