

COMMERCIAL PROPERTY COVERAGE

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 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

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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.



WORKERS' COMPENSATION

COVID-19 Payroll Reporting Rules Sunset

THE WORKERS' Compensation Insurance Rating Bureau's two temporary payroll reporting rules to reflect changes brought on by the COVID-19 pandemic stay-at-home orders have sunsetted.

The move came after Gov. Gavin Newsom's June 9 executive order which revoked the statewide stay-at-home order that had been in place since March 19, 2020.

After the stay-at-home order took effect, the Rating Bureau issued new rules for classifying staff who were suddenly working remotely, as well as payroll reporting for staff who were at home but not working.

The Coronavirus Disease 2019 (COVID-19) rules that expired are:

A. Classifying remote workers in the Classification 8810 – Clerical Office Employees – As a result of the California stay-at-home order, many employers have altered employees' duties so they could be accomplished from home, and often those duties are clerical-like in nature.

Under the rule, an employee could be assigned payroll Classification 8810 if:

- Their duties met the definition of a “clerical office employee” while working from home,

- Their payroll for the balance of the policy period was not assignable to a standard classification that specifically excludes clerical office employees.

Expiration: This rule expired Aug. 10.

B. Salaries of non-working staff – Salaries paid to workers who were at home not working, yet still collecting a paycheck, would be excluded from payroll for workers' comp premium calculation purposes when the payments were less than or equal to the employee's regular rate of pay.

Expiration: This rule expired July 11.

The takeaway

What this means is that if you have been classifying remote workers under Classification 8810, they should now be returned to their original classification. Also, the rules still require that you maintain records that document any changes in duties for your staff during the period these rules were in effect and they were working from home.

The rules also require you to maintain records of their payroll during that period. ❖



FILLING UP: With the stay-at-home orders expired, the special classification for employees working remotely due to the pandemic has sunsetted.

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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 (see story on page 4).

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. ❖

Key-Person Insurance: Small Business Lifeline

WOULD YOU hesitate to buy fire insurance for your lab or office building? Of course not. What about liability insurance in case someone slips on your steps? Same answer. But have you insured what could be your most valuable asset – your top employees? If not, you should consider “key-person” insurance.

Protecting your most valuable asset

The know-how, judgment and experience that build a business are found in people, not equipment or machinery. The company president, its key scientist or other essential employee helps develop new products, attract investors and generate profits. Those people could be your most important asset.

But what happens if a company’s chief researcher or other key worker dies? The firm might fall into disarray and investor capital could dry up. By insuring its top employees with “key-person” insurance, however, the business may be more likely to survive the loss.

Key-person insurance (previously known as “key-man”) offers a financial safety net. It can provide the cash needed to hire a replacement and keep the business running. That’s why savvy firms looking to keep their businesses running smoothly can benefit from key-person policies.

How it works

Key-person insurance can be structured in several ways. Typically, the business buys a life insurance policy on the life of the key person. The company is the owner, premium payer and beneficiary of the policy. The covered person could be the

company’s founder, its patent-generating scientist or anyone else critical to the business.

The policy may be term insurance or cash value life insurance. The premiums paid by the company are not tax deductible. And while life insurance benefits are normally not subject to income tax, the death benefit received by a corporation from a key-person policy may be subject to the alternative minimum tax. Key-person insurance can also be set up to fund buyout arrangements or deferred compensation plans for a retired top employee.

Additional benefits

Besides helping to stabilize a company’s financial position following an essential employee’s death, key-person insurance can:

- Serve as collateral for bank loans.
- Pay off company debt or hold off creditors seeking to collect following the key person’s death.
- Instill loyalty and enthusiasm in the insured employee.
- Provide funds needed to purchase a deceased owner’s stock.

Ask yourself how much it will cost to replace a key employee in the event of death, and where the cash will come from. Check with a reputable financial professional to find out how key-person insurance can help provide some answers. ❖

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NON-ADMITTED CARRIERS

The Option When No Insurers Will Cover You

SOME BUSINESSES are finding fewer insurers willing to underwrite certain types of coverage that are seeing rapidly rising claims costs, particularly in liability lines as well as property insurance in areas with exposure to natural catastrophes.

When no insurers that are licensed in California are willing to write a policy, we as your agent can go to another market made up of insurers that are not licensed or regulated by the state.

It's called the surplus lines (or "non-admitted") market, and it can be a valuable alternative for insurance buyers.

As insurers get more selective writing some risks, it's important for you as an insurance buyer to understand this market.

Why use a non-admitted carrier?

The most well-known non-admitted insurer is Lloyd's of London, famous for insuring insurance companies and celebrities' or sports figures' body parts and global sporting events. Often non-admitted insurance companies are located in other states or domiciled abroad, like Bermuda or another tax-haven country.

Unlike licensed insurance companies, non-admitted companies do not have to obtain approval from state regulators for the policy forms they use or the rates they charge.

Filling a void

Non-admitted companies insure businesses that licensed insurers may avoid or restrict underwriting for, such as:

- Businesses in sectors where the cost of claims is suddenly rising, resulting in fewer licensed insurers willing to write policies.
- Firms and sectors with histories of frequent or large claims.
- Businesses with the potential for severe losses, such as amusement parks or manufacturers of power tools.
- New companies.
- Homes and commercial properties that are vulnerable to extreme events such as hurricanes and wildfires.
- Properties that require very large amounts of insurance.

Since they are not regulated by the state, non-admitted insurers can offer creative coverage options and they can quickly and easily introduce new types of insurance that businesses need.

Some types of policies that are standard today, such as cyber insurance and employment practices liability insurance, got their start in the non-admitted market.

State laws typically permit a broker to obtain coverage from a non-admitted insurer only if they cannot find coverage from admitted insurers. A broker cannot use a non-admitted insurer just to get a lower premium. Admitted insurers can only be used when the coverage is not available from the admitted insurers.

Risks

There are risks associated with non-admitted insurers. State insurance departments do not regulate or supervise non-admitted insurers. State back guarantee funds are not available for non-admitted insurers which go insolvent.

Your broker can mitigate the risks for non-admitted insurance. First, many states have a list of approved non-admitted insurers. Brokers should only use insurers on these approved lists.

Second, many non-admitted insurers are owned by large insurance holding companies. Travelers, Nationwide, Liberty Mutual and other well known insurance companies have subsidiaries that are non-admitted in some states. Use of these subsidiaries is safer than stand-alone non-admitted insurers.

Lastly, non-admitted insurers are rated by AM Best as well. Brokers should ensure the non-admitted insurers meet the size and quality threshold they establish for their admitted insurers. Because the guarantee funds do not respond, financial size and strength are important for non-admitted insurers.

The takeaway

Despite the risks, the non-admitted market serves an important function, giving buyers a place to get needed coverage that would be otherwise unavailable.

Those who think they may need to tap this market should consult with us to find the right coverage at an acceptable price. ❖

TO THE ENDS OF THE EARTH: *Sometimes we have to bind insurance with overseas insurers that are willing to accept unusual risk and high claims-cost sectors.*