

IT'S YOUR Business

FROM THE COMMERCIAL INSURANCE GROUP OF
BRITTON-GALLAGHER & ASSOCIATES, INC.



Escalating Building Material Costs Make Strong Case to Re-evaluate Insurance Coverage



Worldwide demand for building materials has increased due to massive construction projects in China and the rebuilding of tsunami-ravaged Southeast Asia. As a result, the cost of these materials has also sharply risen.

Through the second quarter of 2006, Marshall Swift/Boeckh Corp. (a company who continually monitors building material costs, wage rates and code variations) has found that building costs continue to escalate at rates that are significantly higher than general inflation figures.

According to MSB, the average wage rate for the year increased 0.8% and the average material cost was up 7.3%. Specific figures for the twelve month period between second quarter 2005 and second quarter 2006, as compiled by Marshall Swift / Boeckh Corp. (MSB), are summarized below.

- **Drywall** up 18.8%
- **Asphalt Shingles** up 10.7%
- **Felt Roofing Paper** up 5.2%
- **Ready Mix** up 9.8%
- **Copper Pipe** up 29.3% (This larger-than-normal increase is again due to the decline in output from some copper mines and inventories that have dropped due to increased demand from the housing market.)
- **Copper Wire** up 46.3%
- **PVC Pipe** up 15.3%
- **Structural Steel** up 4.6%
- **Steel Deck** up 9.1%

It's Your Business

Welcome to *It's Your Business*, a free publication from Britton-Gallagher for our Commercial Lines customers. We hope you'll enjoy receiving our newsletter. It's filled with timely tips and topics to help your business thrive and prosper in today's ever-changing business arena. As always, if you have any questions or comments, we'd love to hear from you. Feel free to give us a call at 1.800.607.4711. We look forward to serving you.

These persistent inflationary trends underscore the importance of commercial property owners regularly evaluating whether to increase insured values to adjust for higher rebuilding costs. Industry studies have indicated that more than 70 percent of commercial properties are at least 40 percent underinsured. And yet, Property and Equipment Breakdown policies are frequently renewed "as is."

Does Your Company Need Employee Practices Liability?

What 30 years ago was an amiable relationship between employers and employees has become one of an almost adversarial relationship. The number of lawsuits filed by employees against their employers is rising. While most suits are filed against large corporations, no company is immune to such lawsuits.

What does Employee Practices Liability Insurance Cover?

EPLI shields employers, directors, officers and the corporate entity from allegations of a variety of wrongful employment acts alleged by any current, former and prospective employees. It provides protection against many kinds of employee lawsuits, including:

- Sexual harassment
- Failure to employ or promote
- Discrimination
- Wrongful discipline

- Wrongful termination
- Deprivation of career opportunity
- Breach of employment contract
- Mismanagement of employee benefit plans
- Negligent evaluation
- Wrongful infliction of emotional distress

What does Employee Practices Liability Insurance Cost?

The cost of EPLI coverage depends on your type of business, the number of employees you have and various risk factors such as whether your company has been sued over employment practices in the past. The policy covers legal costs, whether your company wins or loses the suit, but typically does not pay for punitive damages or civil criminal fines. Liabilities covered by other insurance policies such as workers' compensation are excluded from EPLI policies.

How you can prevent employee lawsuits.

- Create effective hiring and screening programs to avoid discrimination in hiring
- Post corporate policies throughout the workplace and in employee handbooks
- Show employees what steps to take if they are the object of sexual harassment or discrimination by a supervisor
- Make sure supervisors understand which behaviors are not permissible
- Document everything that occurs and the steps your company is taking to prevent and solve employee disputes

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Protect Your Board with Directors and Officers Coverage

With personal assets on the line, many qualified individuals are opting out of serving on boards for fear of losing their personal wealth. Directors and Officers (D&O) coverage can help you attract individuals to serve the interest of your organization.

Most states recognize three grounds for director liability: breach of fiduciary duty, negligence, and bad faith/unauthorized conduct. However, many state legislatures have responded to increasing director liability claims by passing "shield" laws. These laws allow corporate articles of incorporation to include provisions which eliminate director liability for most breaches of fiduciary duty. The reasoning is that without

such laws on the books, trusteeship would be so hazardous that responsible individuals will avoid becoming directors.

Even with the new shield laws, a D&O policy is important, because the corporation could become financially impaired without payment from the policy. Other reasons to consider a D&O policy: it guarantees a safety net for the individual director or officer in the event of corporate insolvency; in the event of a takeover or merger, the director or officer could be faced with a hostile management unwilling to honor reimbursement provisions; and finally, the D&O policy may be broader in scope than the indemnification agreement with the corporation.

The New Bankruptcy Laws in a Nutshell

Before the new Bankruptcy laws took effect in October 2005, Chapter 7 bankruptcy allowed filers to walk away clean from unsecured debts and protect all future earnings from repayment.

The new law requires means testing for Chapter 7 bankruptcy. Any person earning more than their state's

median income with at least \$100 in excess monthly income may not be eligible for Chapter 7 bankruptcy. Filers meeting this new criterion would find themselves using the Chapter 13 bankruptcy rules.

Chapter 13 bankruptcy requires the use of future earnings above an IRS guidelines earning limit to make repayment of debt equal to the smaller of 25 percent of unsecured debt or five years, whichever is shorter.

While the new rules may make it more difficult for small entrepreneurs who have had a bankruptcy, those who are successful should find better credit terms and find it easier to extract payment from bankrupt customers.



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