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INSURANCE

NEWSALERT

Wire Transfer Fraud

Courts: Crime, Cyber Policies Offer Best Cover



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. ❖

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.



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Workers' Compensation

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),
- 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 Lifesaving Equipment – Eye and Face Protection
- Machine Guarding



Claims Inflation

Reinsurance Costs Weigh on Insurance Pricing

COMMERCIAL INSURANCE companies are raising rates in most of their lines to account for increasing claims as well as the cost of claims, but another factor is forcing them to raise their rates further: reinsurance.

Reinsurance helps insurance companies pass on the cost of expensive claims by “ceding” – or paying – part of the premium to the reinsurer. In exchange, the reinsurer agrees to take part of the cost of claims or claims above a certain amount.

These global reinsurance giants have seen their claims payouts explode in the last few years and they continue to face a number of cost pressures.

PRESSURES FACING REINSURERS

- Increasingly large natural catastrophe claims payouts,
- Increasingly large jury awards in liability cases,
- Geopolitical uncertainty from the war in Ukraine,
- Liability payouts resulting from the COVID-19 pandemic,
- Skyrocketing inflation around the world, and
- Significant investment losses.

How reinsurers have responded

Raising rates – The above factors have forced reinsurers to increase what they charge insurance companies and these rate hikes are trickling down into the primary insurance market.

Property catastrophe reinsurance rates in the U.S. have risen by almost 15% in 2022 from the year prior, according to the Guy Carpenter U.S. Property Catastrophe Rate on Line Index. Another report found that reinsurance rates for liability insurance have also

been on the rise, averaging nearly 13% between 2020 and 2021.

Insurance CEOs polled by Moody's Investor Service said reinsurance rates for property risks will increase between 7.5% and 10% at the Jan. 1, 2023 renewals.

Limiting capacity – Some reinsurers are pulling back and not taking on as much risk as they have in the past. They may limit exposure by capping the amount of policies or amount of coverage they are willing to underwrite.

Some have pulled out of underwriting policies for properties in high-risk areas.

Increasing attachment points – Many reinsurers are raising the attachment point for coverage, which is essentially like your insurance company raising your deductible.

That means the insurance company will be on the hook for a larger portion of claims costs. That in turn may prompt the insurer to raise its own rates.

What it means for you

When reinsurers raise rates and their attachment points, it trickles down to primary policies such as yours.

This compounds the effects that higher claims costs are already having on commercial policies.

There are signs that reinsurance rate hikes may accelerate in 2023. The insurance rating firm of A.M. Best Co. says reinsurance rates have been lagging behind increases in primary insurance rates since 2018 and are now catching up.

As a result, “the pace at which pricing continues to harden for property catastrophe exposures seems to be accelerating,” A.M. Best wrote in a recent report. ❖





Property Risk

Vacant Buildings Pose Risks, Insurance Challenges

OFFICE AND commercial building vacancies have exploded since the COVID-19 pandemic hit, leaving many buildings completely empty of tenants or partially occupied.

According to the website *Statista.com*, the average vacancy rate for offices nationwide in the first quarter of 2022 was 12.3%, which is an improvement from 17.4% in the first quarter of 2021.

Unfortunately, when buildings stand vacant they become susceptible to a variety of problems. Vacant properties receive little or no maintenance, attention or security. This can lead to costly problems and loss of insurance coverage.

The dangers

There are roughly 31,000 fires in vacant buildings annually, resulting in dozens of deaths, hundreds of firefighter injuries, and an average \$642 million in property damage.

When vacant buildings receive little or no attention or security, it can lead to problems such as:

- Vandalism
- Theft of fixtures and materials
- Drug use and homeless encampment
- Fires
- Toxic substances on the premises contaminating soil.

Insurance implications

Property insurance policies typically state that if a building is vacant or unoccupied for a certain period – typically 30 or 60 days – then the policy won't cover certain losses, such as damage due to vandalism and malicious mischief. In some cases, the policy may be cancelled if it's vacant for a certain period of time.

If you are faced with one of your properties suddenly vacant, revisit your insurance policy to see if it has a vacancy exclusion and if so, what it says. Some levels of vacancy may be acceptable in some policies.

If the building will stay vacant or unoccupied, you should notify the insurer. That notice will probably lead to a repricing of the policy, but the insurer may also change or cancel the coverage.

If a building is largely vacant, the standard commercial property insurance policy reduces loss payments by 15% for most causes of loss and will not cover some specific losses, such as:

- Vandalism,
- Water damage,
- Fire,
- Glass breakage, and
- Theft.

If you have concerns about a vacant property and what your next step should be, feel free to call us.

Protecting your property

- Visit the property at least weekly, or hire a property manager.
- Clear the exterior of the building of scrap wood, paper, cardboard and brush.
- Remove any toxic substances that could contaminate the area or harm police or firefighters.
- Maintain sidewalks and parking areas in good condition and clear them of snow and ice.
- Erect obstacles to keep cars and pedestrians out of parking lots.
- Hire security guards to watch the building at night, and have exterior lighting turned on.
- Maintain heat or drain the plumbing system to keep pipes from bursting, but keep at least a minimum temperature in areas protected by automatic sprinkler systems.
- Maintain electricity supply to emergency lighting and exit signs.
- Shut off utilities, except where necessary to power desired lighting and alarm systems.
- Maintain fire detection systems and link them to a central station monitoring service.

A vacant building is never a good situation, but with the proper precautions, the owner can maintain its value and keep it secure until new tenants move in. ❖