

Insurance Buyers' News



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Liability

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Why Now is a Great Time for a Policy Review

If it's been one or two years since your last risk and insurance policy review, you are likely due.

Your operations have probably changed. Read the list below, ask yourself these questions and decide if it's time to call your broker. Don't forget there are many exposures that may have seemed relatively unlikely in the past but are becoming increasingly more common — such as liability for cyber activity, social media liability, sexual harassment liability, and more.

- 1 Has your business had a change of name or ownership? Your policies should reflect any name or ownership changes. Failure to have the proper “named in-



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This Just In...

The U. S. Department of Homeland Security has launched the National Risk Management Center with the aim of collaborating with the private sector to identify and reduce cyber threats and develop risk management strategies to better deal with those threats.

The new center was announced in late July by U. S. Secretary of Homeland Security Kristjen Nielsen at the DHS National Cybersecurity Summit in New York City. The Center “would recast what is now NPPD, or the National Protection and Programs Directorate — our cybersecurity arm — into an ambitious operational agency capable of better confronting digital threats,” said Nielsen.

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sured” listed in the policy could affect your coverage. Has your business been involved in any mergers or acquisitions? Business policies typically provide coverage to new acquisitions for only a short period of time, such as 30 days. After that, you must change your policy to cover any new entities.

- 2 Have you added or changed any products or services? If you have, how does that change your risk exposures?
- 3 Has your business acquired any real property, changed or added locations in the past year? You will need property coverage on any new locations. In addition, review your liability coverage, including your commercial auto policy, to be sure you have coverage for claims that occur in any of your locations. Workers' compensation policies, employee health coverage and other employee benefits are state-specific, so your workers' compensation and benefits packages will need updating, too.
- 4 Have you made improvements to your building, or have construction costs in your area increased? If so, will the current limits of your property policy cover the cost of rebuilding if your property suffered a total loss? (Remember that you do not need to insure the value of your land, only any improvements.)
- 5 Have you made any significant purchases of equipment or other business property during the past year? A commercial property policy or business owner's package policy automatically provides coverage

for “business personal property” up to the policy's business personal property limits. Although any type of property that isn't real estate or a fixture is considered personal property, most policies have lower sublimits for certain types of personal property. These include computers and other electronic data processing equipment, cash and cash equivalents, antiques, art and collectibles. You can obtain specialized coverage, called floater policies, for these types of personal property.

- 6 Do you hold anything belonging to others in safekeeping? Businesses that hold property of others in safekeeping can become liable if that property is lost, stolen or damaged, even if the loss is not their fault. Insurance can cover these obligations toward third parties.
- 7 Does your organization use or store personal information on others? This includes medical records and other personal information, in addition to financial data such as credit card numbers. If your data is hacked or lost, putting your employees' or customers' personal information at risk of theft, your firm could become liable for notifying potential victims of the breach and providing assistance to identify theft victims. (This can include free credit monitoring and credit cleanup services). You might face lawsuits for invasion of privacy or negligence, along with investigations by governmental authorities. Specialized data breach or cyber liability policies have evolved to help businesses address these types of claims.

This Just In

The goal of the center is to be the primary contact resource for companies that experience a cyber-attack. Whether the center will succeed in that depends on how the private sector responds, say critics.

Private sector risk managers are wary of losing control and don't want “someone to swoop in and take over,” said Marcus Christian, a partner at Mayer Brown and former executive assistant U.S. attorney at the Southern District of Florida to *Property Casualty 360*. “They want their interests protected.”

Most companies like to protect their liability by maintaining the option of keeping things close to the vest, according to Bill Conner, founder and CEO of cybersecurity technology provider SonicWall. “One of the issues is once you get involved in from a private industry side, your lawyers get uncomfortable real quick with how much you say publicly,” he said.

Conner does think, however, that DHS has shown itself to be easy to do business with and this will inspire some private companies to “embrace the new DHS effort,” he said

- 8 Do you have employment practices liability coverage? The standard business owner policy or commercial general liability policy excludes employment-related claims. Employment practices liability insurance protects an employer from defense and settlement costs for employment-related lawsuits, such as wrongful termination,

discrimination and harassment.

- 9** Has your exposure to natural disasters changed? Flood plains and weather patterns can change over time, which may increase your exposure to damage due to natural disasters. Business policies exclude coverage for flood; you can obtain coverage through the National Flood Insurance Program or private insurers. The NFIP covers buildings up to \$500,000 and business personal property (building contents) up to \$500,000.
- 10** Does your insurance program include business income and extra expense insurance? Business income insurance, also known as business interruption insurance, reimburses an insured for loss of business income caused by an insured disaster. In other words, if a fire (an insured cause of loss) damaged your premises and forced the business to close for repairs, the policy would cover resulting loss of income. The business owner policy (BOP) includes some business interruption coverage. Your insurance broker can help you determine how much coverage you need. Coverage should take into consideration not only property damage but loss of revenue and extra expenses that occur when a disaster causes a temporary shut-down.

Having the right insurance policies and the right amount of coverage will make a difference when a claim occurs. For more information, please contact us. ■

Lightning Strikes

You cannot prevent lightning from striking, but you can take steps to minimize the damage it can cause.



Deaths by lightning in 2018 are down so far from the average (18 fatalities vs. 49 on average). But lightning is the leading cause of injury and death from natural disaster other than floods. However, even though most people struck by lightning survive, they often suffer from a variety of long-term, debilitating symptoms.

In terms of physical damage, a Carnegie-Mellon study found that lightning affected 33 percent of US businesses at some point. So, what can you do to protect your people and property from lightning?

Insurance industry sources estimate that between 3 and 7 percent of all property/casualty claims are related to lightning strikes in any given year. Between 2007 and 2011, lightning caused an average of 22,600 fires per

year, according to an analysis by the National Fire Protection Association. Most of these fires occurred outdoors, but 7 percent occurred in non-residential structures. These fires caused an average of \$108 million in direct property damage each year.

When you consider lightning's power, the damage it causes comes as no surprise. Lightning travels more than 90,000 miles per second and exceeds 50,000 degrees F. A single bolt of lightning has an average of 20,000 amps of electricity — enough to power a light-bulb for three months. When this incredible force hits earth, it can cause one of the following types of damage:

- 1 Impact, fire, singeing or melting:** When lightning hits an object or building directly, the force can break or damage the object.

For example, lightning is the single leading cause of damage to church steeples. Since a lightning bolt is narrow, however, the actual point of impact often suffers little noticeable damage.

Lightning's intense heat causes many other problems for property owners. Lightning is the single leading cause of fires in lumberyards. When lightning hits a combustible surface, such as a shake roof, it can spark a fire.

- 2 Electrical injection:** When lightning hits a building, the building's wiring (electrical, telephone or data) can pick up part of the current. This extra current can damage electrical and equipment connected to the system.
- 3 Power surges:** Lightning can also enter a building indirectly, through wiring, cables or plumbing or when it hits surrounding ground. In rural areas in particular, lightning can travel through wires for long distances. According to Dr. Ronald B. Standler, a physicist who studies lightning and consults on lightning safety, "The electromagnetic fields from the current in a lightning stroke can induce currents and voltage in wire and cables inside a building. Such surge currents are typically less intense than direct injection of current, but can easily vaporize integrated circuits in computers, modems, electronic control circuits, etc."

Risk Management

You cannot prevent lightning from striking, but you can take steps to minimize the damage it can cause.

- 1** Ensure your building complies with updated building codes, which require installation of air terminals (or lightning rods), wires and plumbing to be grounded and other measures designed to divert the force of lightning strikes.
- 2** Where possible, use dedicated circuits for computers, building monitoring systems and other delicate electronics so they do not have to share circuits with power-hungry devices, such as air conditioners.
- 3** Protect computers and electronics by plugging these devices into surge protectors instead of directly into the power socket.
- 4** Check surge protectors at least once a year. Most have a signal light that indicates the unit is working.
- 5** During a thunderstorm, turn off computers and unplug the power cord. Unplug your modem, network or cable connection to prevent a surge from entering your computer through these wires.

Insurance Considerations

Even the basic commercial property policy includes coverage for lightning damage. If a lightning bolt hit your building and caused a fire, your policy would cover the claim. However, standard commercial property policies provide lower limits for computers and electronic equipment and do not cover electronic data losses. You can buy a coverage extension that will provide up to \$2,500 in coverage—but most businesses will need additional coverage. For more information on insuring computers and data, please contact us. ■

Don't Be a Fake Accident Victim

Auto accidents cost hundreds of billions of dollars each year and in some places, like New York City and Los Angeles, nearly one out of three accidents may not be an "accident" at all, according to the National Insurance Crime Bureau (NICB).

In one type of fake accident, dishonest drivers maneuver innocent drivers into car crashes. While the innocent driver may sustain only minor injury or damage to their cars, fraudsters conspire with third parties such as shady health care facilities and/or their employees and garages and greatly exaggerate their claims, pocketing huge profits and inflating your insurance premiums.

Typical targets for fake accidents are new, rental or commercial ve-

hicles because they tend to be well insured. Also vulnerable are women driving alone and seniors, because they are thought to be less confrontational when involved in a collision.

The NICB identifies four typical schemes to look out for:

- 1 Panic Stop:** Typically, the fraudster vehicle, usually an older car, is carrying passengers. It pulls in front of an innocent driver's car and a backseat passenger watches for the target to be distracted by something. The person in the backseat alerts the fraudster driver to slam on the brakes suddenly. The innocent driver rear-ends the fraudster's vehicle.
- 2 Drive Down:** The innocent driver merges into traffic after being motioned to do so by the seemingly helpful fraudster. As the innocent driver tries to merge, the fraudster speeds up and causes a collision. After the accident, the fraudster denies motioning permission to merge, insisting the target was being aggressive.
- A variation of this occurs when a fraudster driving down the street from the opposite direction motions a target to cross the double line into a driveway, then speeds up and hits them. Since a driver making a left turn must always yield to oncoming traffic, the innocent will be held at fault.
- 3 Side Swipe:** In situations where there is a dual left turn lane, the innocent driver in the inner lane is sideswiped by the fraudster in the outer lane.
- 4 Swoop and Squat:** Three cars are in-

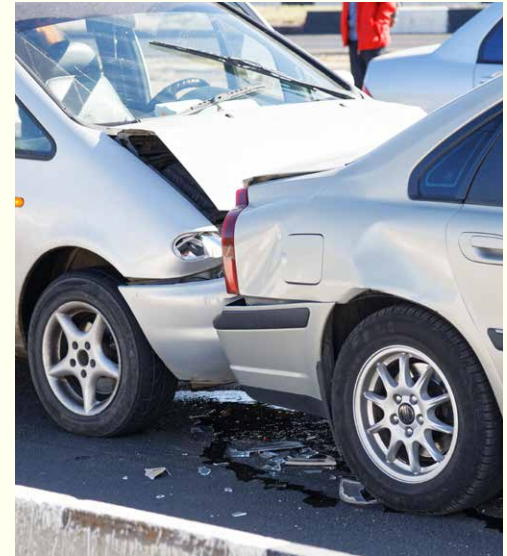
involved. The "squat" car pulls in front of the innocent's car. Suddenly, the "swoop" vehicle pulls up in front of the "squat" car and slams on the brakes, causing the "squat car" to also apply its brakes as the innocent rear ends the "squat" car. The "swoop" car drives off, but the innocent is responsible for hitting the "squat" car.

A variation of the swoop-and-squat occurs on freeways, where three fraudster cars plus the innocent are involved. The same maneuver is used but the third fraudster boxes the innocent in so he can't change lanes to avoid hitting the "squat" car.

Don't Be a Victim

To avoid becoming a victim of these "staged accidents," observe the following:

- ✳ Avoid tailgating at all times and focus on driving defensively.
- ✳ Call the police immediately to the accident scene.
- ✳ Document all damage with the camera on your cell phone or with a disposable camera you keep in the car in case of emergencies. Also take pictures of the occupants of the other vehicle.
- ✳ Obtain the names and driver's license numbers of all occupants in the other car. Take detailed notes of what exactly happened. The more information you have, the more equipped you are to fight a fraudulent claim. When possible, your notes should include driver's license numbers, car insurance information, names,



addresses and phone numbers of all parties involved in a crash.

- ✳ Obtain the names and key information from witnesses.
- ✳ Report your suspicions to your insurance agent immediately.
- ✳ Be wary of people who suddenly appear at an accident ("runners" and "cappers"), trying to direct you to particular doctors and attorneys. Same goes for tow trucks who show up without being contacted first.
- ✳ Don't trust physicians who insist you file a personal injury claim after an accident, especially if you're not hurt.

If you think you've been the victim of automobile insurance fraud, don't hesitate to call your agent. ■

Lightning DOES Strike Twice

Lightning detection technology can protect people and property from danger and damage.

Lightning hits the ground in the U.S. about 15-20 million times per year. It occurs more often in certain areas than others. For example, you're more likely to see a lightning storm — and to be struck by lightning — in Florida than in any other state. Even within Florida, certain areas seem to attract lightning more than others, such as towers, areas near standing water, etc.

Certain types of buildings are also more likely to be struck by lightning. The Ohio Insurance Institute reported that 30 percent of all church fires are lightning-related...probably not surprising due to their construction.

Some companies offer lightning detection and prediction systems. Lightning detection systems monitor your area for lightning strikes. When they detect lightning, an alarm will sound.

Lightning prediction systems monitor the electromagnetic field disruptions (or static) in the atmosphere. When EMF disruptions increase to the point that a lightning strike is likely, an alarm will sound.

Lightning detection and prediction systems are most useful for businesses or organizations such as sports arenas, water parks, etc. where large groups of people are outdoors. For more information on protecting your visitors, employees and property and mitigating the risk of lightning-related injuries and property damage, please contact us. ■



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