

# Building owners facing insurance crisis

BY KATHERINE CONRAD

While building owners may have breathed a sigh of relief when President Bush signed the Terrorism Risk Insurance Act a month ago, the insurance crisis besieging the commercial real estate industry is far from over.

Terrorism coverage has been handled — for now — but mold has reared its ugly head and no one knows how bad it will become. An even larger issue, however, is how to pay for insurance premiums that have soared 50 percent, and even 100 percent in some cases.

Although Walter Finch, executive vice president of the Building Owners and Managers Association, is thrilled that building owners have been offered protection from terrorism under the new legislation, he worries about how skyrocketing premiums for such insurance coverage will be paid.

“Terrorism (insurance) will be available and it will be guaranteed by the government. It’s not overly onerous and it’s required by most lenders. That was a major concern,” Finch said. “But it wasn’t debilitating. It’s the huge jump in premiums that’s feeling very difficult. I don’t know how it will play out.”

Terrorism insurance had hamstringing the construction industry. Many projects were unable to get off the ground because lenders wouldn’t sign on until insurance was provided.

Insurance companies had balked at providing terrorism coverage after the financial blow dealt by the Sept. 11 attacks of last year. Under the new law, the federal government promised to provide \$100 billion to cover losses stemming from a terrorist attack. The government’s share is 90 percent of the losses above the deductible.

Now that the question of coverage has been answered, the question of paying premiums looms.

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- Facing a \$34.8 billion deficit, the Legislature may take a new look at Proposition 13. Rumor has it that the lawmakers may consider splitting the tax rolls and taxing commercial property at a higher rate than residential property.
- Whether the danger from mold is real, it could wreak havoc on the market. Building owners and managers will be taking the threat more seriously.
- The commercial real estate market has yet to recover, and many still say the bottom hasn’t been reached. Building owners and managers will work hard to keep current tenants and even harder to find new ones.

Depending on factors such as the location of a building, its age, loss history and class of construction, property owners generally pay 5 cents to 50 cents per \$100 of coverage. Before the Sept. 11 attacks, insuring a \$100 million location would have cost between \$50,000 and \$500,000.

Since the attack, the same building could cost between \$82,500 and \$825,000, according to John Vipiana, a real estate insurance broker with the Heffernan Group, one of the largest insurance brokerages in the state.

Vipiana advises building owners and managers to begin researching insurance coverage at least four months before a policy expires. He also advises property owners to “buy in bulk,” as it were, by grouping several buildings or even several policies. Also, companies can consider raising their deductibles in an effort to keep their premiums from climbing too high.

Despite taking such steps, experts caution that soaring insurance costs probably are here to stay. Vipiana describes the developments that have led to the huge premium jumps as a “perfect storm.” The factors include Sept. 11, mold, corporate scandals, the economy and perhaps even worse — the collapse of the stock market. For more than a decade, premiums steadily decreased because insurance companies were kept flush by their investment portfolios.

“The stock market was basically the profit center for the industry,” said Jean Hurricane, an insurance attorney at the Walnut Creek firm Morgan Miller and Blair. “Because the stock market was booming for so long, it became part of the industry, part of how they calculated their risk. They invested their premiums.”

The widespread losses in the stock market have forced insurance companies to find other sources of cash. Not surprisingly, they have raised rates and, oftentimes, lowered benefits.

“The real issue is, you are getting less insurance and you’re paying a lot more for it,” Hurricane said. “I’ve had clients whose premiums have doubled in one year with less coverage and full-blown exclusions.”

Mold is the unknown quantity. California passed a mold disclosure law that took effect Jan. 1, 2002, but it’s toothless. No one is required to disclose anything regarding mold until the state creates mold contamination and mold remediation standards. The deadline for the standards is July 2003. Finch wonders how the state, with its gargantuan deficit, can find the funds to study the issue.

Clifford Horner, a partner in the Alamo law firm Berding & Weil LLP, cautions building owners and managers to take concerns about mold seriously.

“It’s an area that needs to be managed.



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**Attorney Jean Hurricane says property owners are going to be paying a lot more — for less insurance.**

Response teams need to be put in place with mold assessment and then remediation to solve the problem if that is what is needed. You need to have those people lined up beforehand and also have your management team well versed in calls,” Horner said. “It hasn’t mushroomed yet. Will it mushroom? I don’t know.”

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