

2009 Good News/Bad News for Professional Liability Insurance

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A continuing soft insurance market spells good news for engineers regarding the cost of professional insurance (PLC).

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According to a recent survey of 13 leading A/E insurance companies, stiff competition in the market place is keeping rates at or below last year's level. There is, however, a dark cloud looming over the cost of PLI.

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The premium for professional liability insurance is based on firm billing volume and for determining the cost of the premium, the billings are often averaged over the previous two or three year period.

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That means the steep decline in revenue experienced by many firms over the past year will not be fully incorporated into their premium calculations this year. So, although the rates may be flat or declining, the actual premium may be similar to or even higher than last years. Unless a firm is growing, expect PLI to be a larger percentage of your overhead.

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The annual nationwide survey – carried out by the National Society of Professional Engineers/Professional Engineers in Private Practice (NSPE-PEPP), the Risk Management Committees of the American Institute of Architects (AIA), and the American Council of Engineering Companies (ACEC) – compiles information relating to coverage, exclusions, claim trends, and the insurer's history, among other issues.

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General findings from the interview process include:

- A/E firm revenues are reported to have gone down 15 to 20% in the past year. This can create a difficult situation for renewals since the premium is often based on a three year average.

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- Even though the market in general is soft, some insurance carriers are indicating that they are underwriting at a loss to stay competitive in the market place. They see this as a warning that the market will harden up in the future.

- Several carriers reported that they have updated policy language in the past year. Although most are broad in coverage, firms should have new policy language reviewed by appropriate risk management professionals.

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- More firms are choosing to go without coverage, especially small firms. One insurance carrier indicated that 58% of their small firms leaving the program were going bare. If you are using a firm that does not have PLI coverage, you are exposing yourself to additional risk.

- Insurance carriers reported some problems in collecting the deductibles from their insured A/E firms. Be sure your deductible is within your ability to pay.

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- Frequency of claims experienced in the A/E industry, as well as the severity of the claims, have remained fairly stable although some carriers reported slight upticks in both. There were an increase in claims related to occupancy timing (delay claims) reported.

- Condominiums/multi-family housing and school projects are still generating significant numbers of claims.

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- The use of Building Information Modeling (BIM) is increasing especially in vertical design. In prior years there were concerns expressed about risk associated with using BIM but claims have been negligible to date.

- "Green design" and LEED certification are raising concerns of unrealistic expectations and performance guarantees. However, there have been few reported claims related to "Green Design."

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- Technology risks related to network interruptions, transmitting of viruses, and coverage for lost or stolen computers, including privacy information and identity theft, are being treated differently by the various carriers. The trend appears to be that coverage is provided as long as the claim stems from the normal course of providing professional services. One carrier has a specific endorsement that can be purchased to cover technology risks. None of the carriers interviewed indicated any significant claims activity related to technology risks.

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•As far as advice to A/Es, purchase your insurance intelligently, using an informed broker. Make sure the carrier is financially stable (check A.M. Best ratings), has good claims service and has a pro-active risk management program. Likewise, you should obtain the services of a knowledgeable broker that understands professional liability insurance. Brokers are earning between 6% to 10% or more of your premium so make sure you are getting your money's worth. Are they specialized in the A/E market place? Can they help you fine tune your application? Do they know how to negotiate with the carrier? Do they know the pitfalls of changing carriers?

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- Summary & Conclusion

- Q & A

- Discussion