



### DIFFERENCE IN CONDITIONS

## A Policy That Can Cover an Earthquake Claim

**T**HE EARTHQUAKE in Napa in last month illustrates the exposure that all businesses in the Golden State have to this unpredictable risk.

While most modern structures are built to withstand earthquakes of a certain size, many older buildings throughout the state are not up to standard, resulting in more damage and replacement costs should a temblor strike.

The reality is that whatever its age, a building could suffer structural damage that could cost millions to repair.

Besides the risk to people and property, many business owners are unfortunately surprised to learn after the fact that their commercial property policy won't cover damage from an earthquake.

Insurers set rates so that the premium they collect on policies will cover any money expected to be paid out in claims. The company spreads the risk of loss over many policies in the hope that only a small number will

suffer damage.

However, large disasters, like floods and earthquakes, will typically affect many policyholders at once, a scenario that many insurers try to avoid – and they do so often by excluding such coverage in their commercial policies.

To fill this gap, you can turn to a “Difference in Conditions” policy.

A DIC policy can be useful if you face either flood or earthquake risk in your area and your property carrier doesn't offer coverage for these risks, cannot provide full limits to cover potential losses, or can only offer this coverage at rates that are essentially cost-prohibitive.

Most property policies are written on an “open perils” basis (meaning they will cover many types of claims resulting from acts of God), but they usually exclude flood and earthquake risk. Besides providing coverage  
*(See 'Insurers' on page 2)*



## What the Policy Covers

THE TYPICAL commercial DIC policy can provide earthquake and/or flood coverage for:

- Buildings.
- Tenant improvements and betterments.
- Business personal property and/or stock.
- Loss of business income, rental income or if you incur extra expenses.

We can help you decide whether a policy is right for you. Call us today!



### CONTACT US



If you have a question about any of the articles in this newsletter or coverage questions, contact your broker at one of our offices.

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## HEALTH BENEFITS

# 60-day Waiting Period Repealed in California

**G**OV. JERRY Brown has signed legislation repealing a California law that required employers in the state to offer health coverage to employees after just 60 days of hiring.

By signing the new legislation, California law will be aligned with federal law, which requires that employers offer health coverage to new employees within 90 days of hiring them.

The bill, SB 1034, was pushed through the Legislature to ease administration and compliance for multi-state employers by ensuring they have just one date to keep in mind when determining when a new hire must be enrolled in a health plan.

The law also clarifies that in California, employers may now simply default to the federal law on that matter and insurers are free to ad-

minister the employer's selected waiting period. In other words, the availability date for the new waiting period will vary by carrier.

Also, SB 1034 changes existing law that requires employers offering a plan to send a written notice to an eligible employee who fails to enroll during an open enrollment period that they may be excluded from coverage for a specified period of time.

The new law instead requires the notice to inform the eligible employee that they may be excluded from eligibility for coverage until the next open enrollment. ❖



*(Continued from page 1)*

## Insurers May Be Willing to Negotiate Coverages and Limits

for flood and earthquake losses, a DIC policy may also be used to provide excess limits over flood and earthquake coverages made available by endorsements to a commercial property policy or through the National Flood Insurance Program.

Furthermore, because a DIC is often written as a type of inland marine insurance, it also may be used to address other risks that may not be covered in commercial property policies, such as property in transit, property overseas, or business interruption claims arising from an earthquake or transit loss.

One thing you should know, however, is that a DIC policy is what's known as a "non-filed" policy.

That means insurers do not have to file rates for approval with state insurance departments, and they have greater flexibility in setting rates and drafting policy language.

Insurers are often willing to negotiate coverages and limits with policyholders. Often, the terms and conditions in a DIC policy can vary in important ways from one insurer to the next, so you need to choose carefully.

Opting for a DIC policy with terms and definitions that conflict

with your underlying commercial property insurance policy can cause coverage problems.

### Does your business need a DIC policy?

You need to ask yourself if you need more protection than that provided by standard property insurance, especially with regard to flood and earthquake perils.

If you live in a region that is prone to earthquakes and your commercial property policy excludes such events, you may need a DIC policy.

This holds true especially for contractors, manufacturers, retailers, and a variety of service and professional businesses.

Since flood or earthquake losses can be catastrophic, no one insurer may be willing to write a DIC policy with the limits requested or needed by the insured. In such cases, two or more insurers may be willing to share the risk on a layered basis or through a quota share (an agreed-on percentage) approach.

We are here to help you by comparing the coverages and exclusions of various DIC policies to find which one would best fit your business's needs. ❖

## CAPITOL REPORT

# New Laws Affecting California Businesses

**C**ALIFORNIA BUSINESSES will have to prepare for new liabilities and expenses as a result of a series of measures Gov. Jerry Brown has signed, now that the legislative session has ended.

The main bills that will affect businesses are one in which companies will be liable for failures of labor contractors to pay wages and cover their employees for workers' compensation, and another that expands the authority of the labor commissioner to issue citations for underpayment of wages.

And earlier in September, Brown signed a measure that will create mandatory paid sick leave at all companies with workers in California.

The biggest bills are:

## Ban on Arbitration Agreements for Certain Civil Code Violations

AB 2617 prohibits mandatory arbitration agreements, pre-litigation settlement agreements, and severance agreements, which include a waiver of any alleged violations of hate crimes provisions under the Civil Code or the right to pursue such claims in court.

The California Chamber of Commerce has lamented the passage of the bill, saying that it directly interferes with the Federal Arbitration Act and California Arbitration Act.

## 'Waiting Time' Wage Enforcement

AB 1721 expands the labor commissioner's power to issue citations for underpayment of wages to include waiting-time penalties.

Waiting time is defined as the time when an employee is at the workplace but waiting to clock in when it gets busy, such as in a restaurant.

The labor commissioner has been cracking down on this act. Under

the old law, waiting-time penalties under Labor Code section 203 may only be recovered as part of an administrative hearing or civil action.

This new law allows the commissioner to issue citations.

## Mandatory Paid Sick Leave for All California Employers

AB 1522, known as the Healthy Workplaces, Healthy Families Act of 2014, requires that all employers with workers in California provide paid sick leave, beginning on July 1, 2015.

Under this new law, "employer" means any person or entity employing another person under any appointment or contract of hire. There is no exception for "small" employers.

Workers will accrue one hour of paid sick leave for every 30 hours worked, provided that such employee has worked in California for at least 30 or more days within one year of their commencement of employment.

Employers may have sick leave policies that provide employees with greater benefits than those mandated by the new law.

## Employers Will Be Liable for Labor Contractors

AB 1897 requires client employers to share, with their labor contractors, liability for the payment of wages and failure to obtain valid workers' compensation coverage.

This measure squarely takes aim at outfits called professional employment organizations (PEOs), which bundle payroll and workers' comp services into one and become the employer of record, allowing the hiring company to not worry about these details.

But, some PEOs have failed to secure workers' comp coverage in the past or greatly underreported payroll to reduce the premiums they pay. And some have failed to adequately pay the workers. ❖





WORKPLACE SAFETY

# Cal/OSHA in Major Construction Industry Sweep

**C**ALIFORNIA CONSTRUCTION firms should be ready for Cal/OSHA inspections after the agency announced that it has been deploying its investigators to worksites throughout the state.

The goal, according to Cal/OSHA, is to “determine whether adequate measures have been taken to identify safety hazards and prevent injury.”

The inspection drive came after four consecutive construction workplace deaths in as many days in May.

The recent incidents in California illustrate the danger of falls in the construction industry:

- On May 18, a construction worker was killed when a railroad bridge he was dismantling in downtown Riverside collapsed, crushing him.
- On May 20 in San Diego, a worker near the top of a 22-foot rebar column was killed when the column fell on him.

- On May 20, a worker on a San Mateo project tumbled 9 feet from a wall, sustaining fatal head injuries.
- On May 21, a worker at a residential project in San Jose fell to his death from a three-story building.

Investigators will be specifically checking safety railings, personal fall protection devices and equipment, and tie-offs. They will also be looking for trench hazards, equipment safety and proximity to power lines.

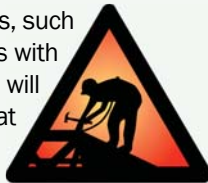
In announcing the inspections, Cal/OSHA reminded employers that if its investigators find a lack of fall protection or serious hazards, they can issue stop-work orders at the site, which will be in force until the hazard is abated.

Additionally, employers deemed to be in violation of safety standards will likely be cited and ordered to correct the violations. ❖

## Fall Prevention Tips

OSHA RECOMMENDS a three-step strategy for preventing construction workplace falls. It includes the following:

**Plan ahead** – When working from heights, such as ladders, scaffolds and roofs, plan projects with safety in mind. Begin by deciding how the job will be done, what tasks will be involved, and what safety equipment may be needed.



When estimating the cost of a job, you should include safety equipment, and plan to have all the necessary equipment and tools available at the construction site.

**Provide proper equipment** – If your employees are working at elevations of 6 feet or higher, they are at risk of serious injury or death if they fall.

Under OSHA regulations you are required to provide fall protection and the right equipment for the job, including ladders, scaffolds and safety gear. Different ladders and scaffolds are appropriate for different jobs.

For roof work, there are many ways to prevent falls. If workers use personal fall arrest systems, for example, provide a harness for each worker who needs to tie off to the anchor. Make sure the system fits. Prior to a shift, inspect your fall protection equipment to ensure it's in good condition and safe to use.

**Train on equipment safety** – While equipment can save lives, your employees still need to know how to use it properly. Train your workers in proper set-up and safe use of the specific equipment they will use to complete the job.

Train them in recognizing hazards and in the care and safe use of ladders, scaffolds, fall protection systems and other equipment they'll be using on the job.

If you want more information, federal OSHA has a fall-prevention web page with training materials, educational materials and more. You can find it here: [www.osha.gov/stopfalls/index.html](http://www.osha.gov/stopfalls/index.html)



**SAFETY ON HIGH:** Whenever your crew members are working at elevations of six feet or higher, they need to be using the right fall protection equipment.