

287 Linden Street
Wellesley, MA 02482
Phone: (781) 235-3100

77 North Street
Medfield, MA 02052
(508) 359-9909

Lougee Insurance
24 Bay Road
Duxbury, MA 02331
(781) 934-6500

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Insurance Group has been
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Corcoran & Havlin Insurance Group

■ An insurance update
For financial officers

■ News, Views &
Current Events

■ A publication of the
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MANAGING YOUR RISKS, PROTECTING YOUR INTERESTS

Employee Spotlight: Tom Storella

Tom Storella joined the Corcoran & Havlin Insurance Group in March, 2013 as the Commercial Lines Marketing Manager. Tom has over 19 years of insurance industry experience. He has worked for several companies, both on the carrier side and agency side, including AIG, Marsh USA and USI. His area of specialized expertise is in Construction and Transportation insurance, but has dealt with all types of industries. Tom brings a true risk management partnership approach to all types of accounts, and works with our clients to ensure that C&H understands their business so we can focus on servicing their insurance program and addressing their concerns.



Surveying the Changing Landscape of Insurance Premiums

By Tom Storella, Corcoran & Havlin

Over the last couple of years, you may have noticed that your insurance premiums have been slowly increasing. Three years ago, the insurance industry had been in what is known as a "soft marketplace". A "soft marketplace" is a period where the industry is very aggressive with their pricing, and premium reductions (as well as rate reductions) are readily available.

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How to Determine Whether Workers are Employees or Independent Contractors

The United States Department of Labor and the Internal Revenue Service have combined their efforts to help various states share resources and information that will expose worker classification violations. Employers found to be in violation could face paying back taxes, back pay to workers, missed overtime, retroactive benefits, interest, fines, staff effort charges and legal fees. With situations where there are multiple violations or willful negative intent, the penalties and fines are worse. In addition to the money a violation would cost, employers would also face the negative effects of this damaging information being made available to the public.

To start, employers may think about whether they have control over a worker's performance and work outcomes. This is not based on whether an employer decides to exercise control. It is a matter of whether the employer actually has the legal ability to control the workers in these areas. The IRS has a set of rules called the Common Law Rules, which cover the categories of financial control, behavioral control and relationship classifications. None of these factors are individually decisive. The entire situation must be evaluated to make an accurate determination. In addition to these evaluations, employers may take the Economic Reality test from the Department of Labor. This test is based on the Fair Labor Standards Act and includes six factors that are similar to those used by the IRS.

One of the best ways to show that a worker is not an employee but an independent contractor is to show proof of that individual's ownership of a business. In addition to this, employers can show proof that the worker's tasks are not an integral part of the employer's business.

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Patrick Byrnes

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George Doherty

Debi Drury

Beth Eyster

Tom Fitzgerald

Tim Graham

Virginia Handerhan

Alan Heinlein

Jack Keefe

Jane Loomis

Skip Lougee

Paul McDonald

Beth McDonough

Mary Mullin

Martha Mullin

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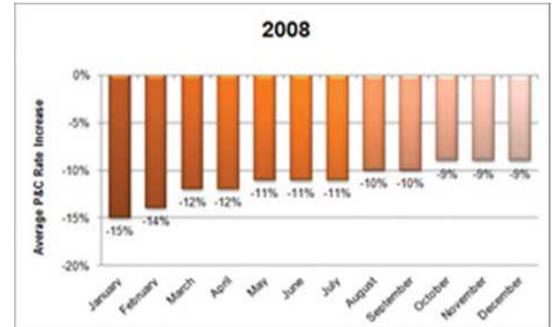
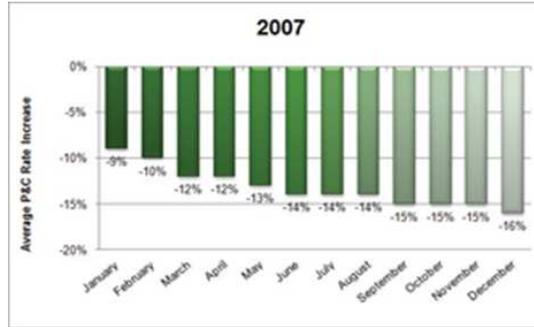
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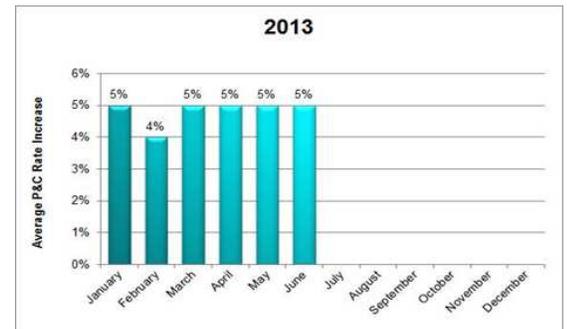
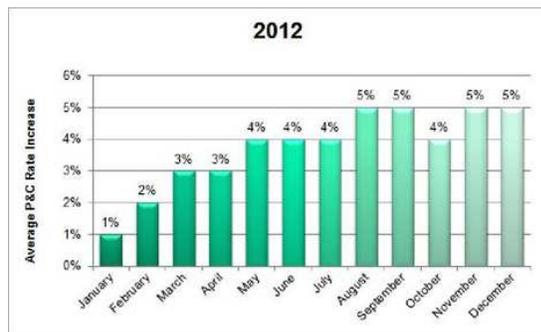
Managing your risk,
protecting your interests.

Surveying the Changing Landscape Continued...

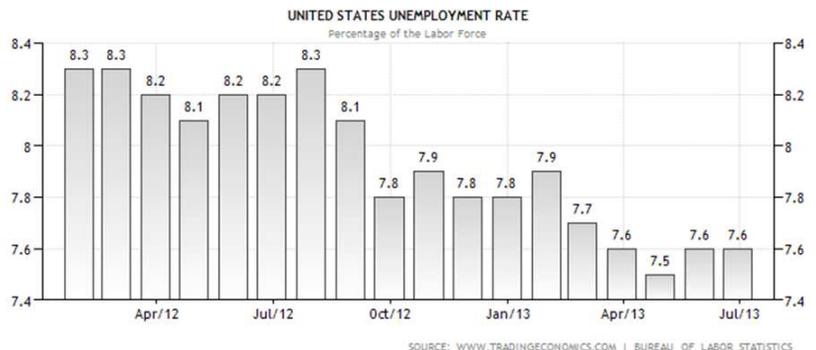
The reasons for this are many, but the main driver is the economic state of the country. Back in late 2007/early 2008, the US economy took a downward spiral. Jobs were being lost at a record pace, and companies were going under due to lack of consumer spending and income being generated, while mortgages and bills (including insurance premiums) remained fixed. Small business could not withstand the impact and with companies going out of business, insurance companies were losing money. In order to offset this, the marketplace had a pricing correction, which offered lower rates for businesses. **This is a chart of the average insurance rate change for the period of 2007:**



Fast forward to 2013. The economy is doing much better. Unemployment is down from a high of 10.7% to rates not seen since 1992. Business is booming. Consumer confidence is rising and people are spending. You weathered the storm and so did the insurance companies. But now that everything is back on track, the insurance companies want their pricing levels back to where they were before the “soft market”.



Here’s how the rate change looks like for 2012 – YTD, compared to the unemployment rate for the same period:



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Surveying the Landscape Continued...

For those who have been in business for 10+ years, you have seen this cyclical marketplace. The premium fluctuations are due to the current state of the economy. Losses, however, do not fluctuate. Insurance companies lose more money during a soft market due to the fact that the losses that are paid out are not in correlation with the premiums being collected. Rates are established at a base line level to offset expected losses on a policy, as well as factoring in profit and administration. When those rates are reduced by up to 50%, the margins are razor thin.

Now I know what you are thinking. The insurance company has millions of dollars collected in premiums – they should be doing ok for themselves. That's not entirely accurate. There are also millions of dollars paid out in losses by insurance companies. Hurricanes along the east coast and in the gulf, earthquakes in California, tornadoes in the Midwest and other natural disasters have a huge impact on the amount of losses an insurance company sustains. In order to adequately fund for these losses, their reserve levels need to be adequate, which is why the rates increase in better economic conditions. The insurance marketplace today is looking for an average rate increase of 6% from the rates they charged in 2012. This is in addition to any increase in revenue or payroll.

As an insurance broker, it is our duty to keep our clients informed, and negotiate the best possible renewal terms and conditions. We talk to the underwriters at various insurance companies daily, to let them know our expectations for our clients. We also advise our clients on ways to minimize their potential exposure through risk management topics, and through industry knowledge. Underwriters look more favorably on a risk that has the proper controls in place, and who show they are committed to safety

Ask your broker today for tips on how to reduce your chances to incur claims and losses, and how we can help you avoid the sticker shock at renewal time.

Independent Contractors Continued...

Workers who are free to be hired by others or who perform freelance work are not considered employees. For every independent contractor used, businesses should keep vendor folders on file. The following paragraphs outline what information should be included in each file.

W-9 Form

Every independent contractor should complete a W-9. This is necessary for creating a 1099 tax document. If the individual does not claim exemption, employers should withhold taxes. For current tax withholding percentage information, discuss the topic with an agent. However, independent contractors should be encouraged to check the box and file their own self-employment taxes.



Invoices

Keep every invoice the contractor submits. Payment should be made based on these documents. If a worker is not an employee, he or she should not submit expense reports. Since mileage & equipment are a contractor's business expenses, contractors should not bill for these items. Make sure all invoices match 1099 forms, which must be sent to the independent contractor after the end of the year.

Proof Of Separate Business

If an independent contractor has his or her own business, keep any items that reflect proof of this. Business stationery, advertisements, brochures, business cards or any similar items are acceptable. For contractors who have their own sites on the Internet, it is important to print copies of any online pages where services are outlined.

Written Contracts

It is important to have a written contract for every independent worker. This document should clearly state the nature of the relationship between the business and the worker. In addition to this, the project's details should be outlined. A contract should include what the business expects from the contractor, the payment terms and any deadlines. Make sure the document is dated and signed by both parties. If a contractor has a tax identification number, this should be included. New contracts should be created for each project when the same contractor is hired for multiple projects. Before classifying a worker as an independent contractor, it is important for a business owner to do his or her homework carefully. Employment laws today are very strict, so discuss any concerns with an agent.

Business Owners face Severe Penalties due to Data Breach Incidents

Data breaches are a large and growing problem for businesses of all sizes: The Data Loss Database - an online resource devoted to documenting reported and unreported lapses in data security - reports that the number of data breach incidents has grown steadily every year for the past four years, and has nearly doubled between 2009 and 2012. As of this writing, the number of known data breach incidents stands at 1,333.

To put the problem in perspective, the same organization reports that there were only 44 such cases in 2004. Although the number of cases appears small, each case can affect a very large number of people. Nationwide insurance recently reported a breach that potentially leaked the Social Security Numbers, drivers' license numbers and dates of birth of 1.1 million people who asked for an online auto insurance quote. (Nationwide has been proactive, contacting those at potential risk and offering them free credit monitoring and identity theft protection insurance for a year.)

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Data Breach Continued...

Severe Penalties

The law is clear: Businesses are responsible for safeguarding personally identifiable information entrusted to their care. This is true whether all your data is on your own employees, or whether you're a company with potentially sensitive information on thousands of people.

Many businesses would potentially be bankrupted in the event of a catastrophic breach of their entire database. But standard business insurance does not typically provide any protection for losses incurred thanks to data breaches.

"My employees are good. They won't steal data"

You are probably right. But inside employees are not the biggest threat. Only about 10 percent of data compromises are attributable to an inside job by employees intentionally looking to steal sensitive data.

Rather, the single largest source of data leak was hacking by outside attackers - responsible for 25 percent of all known data breaches over time. Another 13 percent was attributable to data stored on stolen laptop computers. Poor document shredding and disposal practices were responsible for 7 percent of incidents. Mail accounted for 4 percent, and email accounted for 3 percent. Accidental breaches caused by inside employees accounted for 21 percent of incidents, 57 percent of breaches, however, were caused by agents *outside* of the company or agency.

Insurance Coverage

Data Breach insurance - sometimes known as "cyber insurance," is fairly recent. It's a stand-alone policy that focuses solely on data breaches, as opposed to data loss by other hazards, such as fire and flood.

Policies vary, but a broadly written policy may provide coverage for the following:

- The cost of notifying those affected lost income due to reputation damage
- The cost of providing credit monitoring services to those affected
- The cost of a rehabilitative public relations effort
- The cost of legal defense

Who Is Most At Risk?

The most dangerous risk exposure is in the small business market, say experts. Larger enterprises can afford state-of-the-art network security resources, top-of-the-line HIPAA certification and training for key persons, and a full-time network security compliance staff. Small businesses, on the other hand, face the same potential penalties, but without the in-house resources to mount a top-flight prevention effort. This is the market where data breach insurance is the most vital.



www.chinsurance.com
Phone: (781) 235-3100
Fax: (781) 235-7190

287 Linden Street
Wellesley, MA 02482

