



COMMERCIAL PROPERTY INSURANCE

# New Rules Aim to Ease Availability Crisis

**W**ITH THE California commercial property market increasingly stressed with fewer and fewer insurers willing to write policies in the Golden State, the state insurance commissioner has floated a plan aimed at easing the crisis.

The main thrust of the new proposal is to make it easier for insurers to get their rate-hike requests approved, efforts that have been stifled due to laws that have been on the books since the early 1990s from a law known as Prop. 103. As well, insurers are limited in the types of data they can use to justify rate increases, which has constrained them from being able to ask for hikes that are adequate to cover their potential liabilities.

The proposed rule changes, along with others that are coming this year, are aimed at luring insurers back into the marketplace after one carrier after another has either stopped writing commercial property in the state altogether, or restricted how many policies they will write in California, and where.

While insurers are still writing policies in California, their numbers are shrinking, making renewals a difficult process for many businesses. Insurers have also gotten pickier about properties they are willing to cover, with some setting limits on the age of a building and taking into consideration whether the property owner has filed any claims in the last three years.

### The commissioner's plan

Insurance Commissioner Ricardo Lara's proposed regulations, one of those prongs, would allow insurers to use catastrophe models to better predict insurance rates for wildfire, terrorism and flooding. Currently, they are only allowed to use historical claims data, which is backward-looking and does not account for the surge in risk and costs that's occurred during the last five to 10 years.

As well, they are not allowed to consider the growing risk caused by climate change, or wildfire risk mitigation measures taken by communities or regionally as a result of local, state and federal investments.

Mark Sektnan, vice president for state government relations for the American Property Casualty Insurance Association, said this change would go a long way towards addressing the insurance crisis in the state.

"As Californians grapple with record inflation and become increasingly vulnerable to climate-driven extreme weather, including catastrophic wildfires, this is a critically needed tool to help identify future risks more accurately and set rates that reflect our new reality," he said. "More accurate ratemaking will help restore balance to the insurance market and ensure all Californians have access to the coverage they need."

The trade-off for consumers will be the likelihood of more insurers coming back into the market to write commercial property and homeowner's insurance in exchange for them asking for large rate hikes.

The latest proposed regulation follows another that was introduced in late February that would speed up approvals of rate-increase requests. These can sometimes

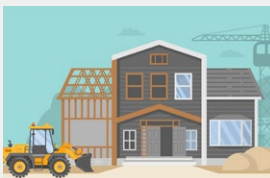
*See 'Rate' on page 2*

## FOUR FACTORS BEHIND INSURANCE CRISIS



Massive wildfire insurance claim losses, which have increased exponentially

as wildfires have grown more destructive and in number.



The cost of rebuilding, which has surged as construction and material

costs have exploded.



The rising cost of reinsurance, which carriers buy to cover themselves if they have

catastrophic claims.



Difficulties in getting rate hikes approved.



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# Model Violence Prevention Plan Has Been Published

**C**AL/OSHA has published a model plan to help employers comply with a new law requiring that they have in place a workplace violence plan.

The model is designed to provide structure for employers to create their own plans. Businesses have the option to use the model plan, create their own or use another plan template. Alternatively, they may incorporate workplace violence prevention into their current injury and illness prevention plan.

The new requirements are the result of SB 553, which was signed into law last year in response to increases in workplace violence incidents around the country.

Cal/OSHA has posted the model plan and a fact sheet for general industry [here](#). The model plan is written for a broad spectrum of employers, and companies will need to revise it and add their own information to address the specific needs of their workplace.

Cal/OSHA notes that employers who plan to use the model should identify an individual or individuals to be responsible for implementing the plan, and ensure that they:

- Review the full requirements of the new law (Labor Code sections 6401.7 and 6401.9).
- Review the requirements for each of the elements found in the model plan and fill in the parts that will focus the plan on their particular workplace.
- Obtain the active involvement of employees and their authorized employee representatives in developing and implementing the plan.
- Make the plan available and easily accessible to affected employees, authorized employee representatives, and representatives of Cal/OSHA upon request.

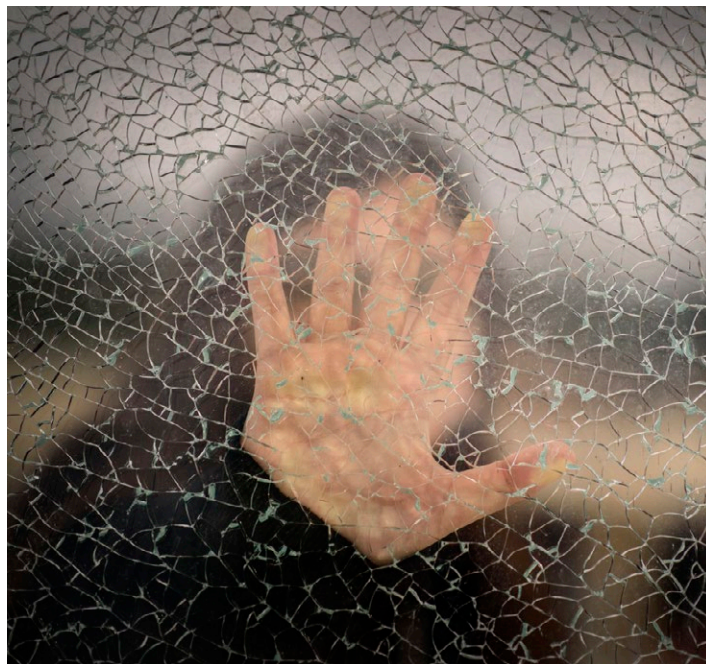
The law also requires you to train your staff on the details of the plan to ensure they know what to do in case of an incident or if they want to report a threat of violence in the workplace.

Employers are required to have a workplace violence prevention plan in place starting July 1.

## Getting started

Employers who are unsure how to proceed with a workplace violence prevention plan should visit the Cal/OSHA website and download the model plan. The same accompanying fact sheet provides further guidance on:

- How to create the plan.
- How to create and maintain a workplace violence log.
- How to train employees on the plan.
- How to comply with the law's record-keeping requirements. ❖



**CLICK HERE FOR EMPLOYER WORK  
VIOLENCE PREVENTION RESOURCES**

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## Rate Hike Requests Can Take Years to Be Considered

take years if the Department of Insurance asks for more supporting documentation, which can reset the rate approval process, delaying final approval. Some insurers have waited more than two years to get their rate hikes even considered.

Current rules “lack clarity and fail to specify the exact materials and information required in a complete rate filing application given the change in times and increased complexity of filing,” according to the Department.

This proposed rule codifies clearer instructions for what supporting documentation insurers must submit when filing for rate increases.

### The takeaway

A public hearing on the proposed catastrophe-modeling regulations will be held on April 23 and it's the department's plan to get these new rules implemented by the end of 2024, along with the rules on speeding up rate-increase requests.

In the coming months, the department plans to propose additional regulations as well as legislation in order to get insurers to write business in the state again.

If enacted, it's hoped that the various planned changes will provide some relief to homeowners and businesses in the state.

We'll keep you posted as this develops. ❖

## WORKERS' COMPENSATION

# Electronics, Construction Class Code Changes

**T**HE WORKERS' Compensation Insurance Rating Bureau of California will recommend changes to class codes for some electronics manufacturing sectors, as well as increases to the wage thresholds for construction industry dual classifications.

The move comes after the Rating Bureau's governing committee unanimously approved proposed changes, which will be sent in March to the state insurance commissioner for approval. If approved, the changes will take effect Sept. 1, 2024. Here's what's on tap:

## Dual-wage increases

The Rating Bureau will also recommend increasing the thresholds that separate high- and low-wage earners in 16 dual-wage construction classes as shown below.

These class codes have vastly different pure premium rates for workers above and below a certain threshold. Lower-wage workers have historically filed more workers' comp claims.

Rates for lower-wage workers are often double the rates for higher-wage workers.

## Electronics manufacturing

Another proposed change would link two more classes to the 8874 companion classification, which was created in September 2022 to cover certain low-risk classes in the electronics industry group.

Currently, 8874 is a companion class that covers payroll for lower-risk jobs in hardware and software design and development, computer-aided design, clerical and outside sales operations for two classes:

- 3681 (manufacturing operations for electronic instruments, computer peripherals, telecommunications equipment), and
- 4112 (integrated circuit and semiconductor wafer manufacturing).

The new proposal would move to 8874 similar low-risk white-collar personnel currently assigned to class 3572 (medical instrument manufacturing) and 3682 (non-electric instrument manufacturing).

The Bureau is also recommending merging class code 3070 (computer memory disk manufacturing) with 3681(2) (computer or computer peripheral equipment manufacturing).

If this recommendation is okayed, the higher pure premium rate of \$0.46 per \$100 of payroll for class code 3681 will apply to the new combined code.

Class 3070 currently has a pure premium rate of \$0.25 per \$100 of payroll and the new rate would be phased in at 25% per year until class 3070 is eliminated and all employers are moved to class 3681. ❖

## DUAL-CLASS CODE CHANGES COMING 9/1\*

Classification		Current per hour threshold	Recommended threshold
5027/5028	Masonry	\$32	\$35
5190/5140	Electrical Wiring	\$34	\$36
5183/5187	Plumbing	\$31	\$32
5185/5186	Automatic Sprinkler Installation	\$32	\$33
5201/5205	Concrete or Cement Work	\$32	\$33
5403/5432	Carpentry	\$39	\$41
5446/5447	Wallboard Installation	\$38	\$41
5467/5470	Glaziers	\$36	\$39
5474/5482	Painting/Waterproofing	\$31	\$32
5484/5485	Plastering or Stucco Work	\$36	\$38
5538/5542	Sheet Metal Work	\$29	\$33
5552/5553	Roofing	\$29	\$31
5632/5633	Steel Framing	\$39	\$41
6218/6220	Excavation/ Grading/Land Leveling	\$38	\$40
6307/6308	Sewer Construction	\$38	\$40
6315/6316	Water/Gas Mains	\$38	\$40

\*Proposed

## TESTING POSITIVE

# Drug Use Skyrockets among American Workers

**D**RUG USE is rapidly increasing among American workers, as more states liberalize marijuana laws, cocaine makes a resurgence and more people abuse amphetamines and heroin.

A new study by Quest Diagnostics Inc., a workplace drug-testing lab, found that the number of workers testing positive for illicit drugs is higher than at any time in the past two decades.

That puts employers in a tricky predicament, particularly if employees are using at work, which could reduce productivity and also make them more susceptible to workplace injuries since they may not be as focused as they should be on their work.

While there were marked increases in positive tests for most illicit drugs, the surprising exception was prescription opioids like hydrocodone and oxycodone, thanks to stricter enforcement in many jurisdictions around the country.

Marijuana is the most commonly used drug among U.S. workers and was identified in 2.5% of all urine tests for the general workforce in 2021, up from 2.4% a year earlier.

The highest increases for marijuana usage among workers seemed to be in states that have legalized the recreational use of cannabis.

The number of workers testing positive in Colorado rose 11%, while in Washington there was a 9% increase. The rates of increase were more than double the increase nationwide in 2016.

## Implications for businesses

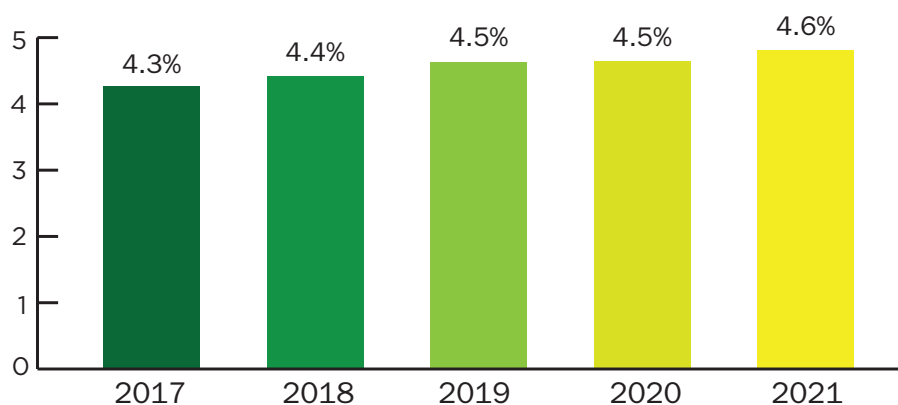
About 12% of workers who die on the job test positive for drugs or alcohol in their system at the time of the incident. And incidentally, one OSHA study found that the most dangerous occupations, like construction and mining, also have the highest drug use rates among workers.

## Substance Abuse Fallout

- Poor work performance.
- Often call in sick or arrive late.
- Frequently change workplaces.
- Struggle with productivity.
- Injure themselves or others.

## TRENDING HIGHER

Percent of employee urine tests coming up positive.



## POSITIVE TESTS PER DRUG

Amphetamine: Up 8%

Marijuana: Up 4.6%

Heroin: 0% (after 146% increase in four years prior)

Oxycodone: Down 4%

Cocaine: Up 12%

## The takeaway

If you're concerned, you can initiate an effective workplace drug program that includes drug testing before hiring and during employment — and the consequences for violating the rules.

You may also want to consider an employee assistance program for workers who feel they may have a problem, as well as for those who feel they're developing a problem. And you may also want to consider holding meetings about health and safety and drug use.

Provide education about what addiction looks like and why people begin to abuse drugs and/or alcohol. ❖

