

Insurance at a premium for contractors

Oregon builders have to add to home prices to cover liability costs.

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Sunco Homes and Remodeling was hammered with a 400 percent increase in its liability insurance premiums last year. When a buyer purchases one of the Salem builder's new homes, they will pay an extra \$1,300 to offset the company's insurance costs.



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Rudy Goerke cuts cultured stone for the porch columns of a Sunco Homes and Remodeling house in Keizer recently. Local builders have had to contend with rapidly rising liability insurance rates.

Dan Dorn, president of Sunco, said he was "one of the lucky ones." Dorn saw the trends and had time to prepare his business for higher insurance premiums, although the skyrocketing cost still came as a shock.

Pacific Renaissance LCC, a Salem plaster and stucco contractor, decided it couldn't raise its prices to cover insurance premiums that are 300 percent higher than a few years ago. Instead, the company's workers are shouldering the burden.

"Guys will take a pay cut to keep working," said DJ Thommen, Pacific Renaissance's owner.

It is not interest rates or building material costs that are the top-of-mind issues for construction contractors these days.

Soaring liability insurance premiums are causing construction contractors to leave the business and raise home prices. The cost of insurance has shot up by triple digit percentages and even more, regardless of the contractor's record for filing claims.

Insurance rates for contractors doing commercial construction also have surged, but nothing comparable to the increases experienced by general contractors and a wide range of subcontractors building single-family homes and apartments. Meanwhile, debate is raging about whether the required insurance is doing more harm than good.

"We're going to lose a lot of small family businesses that aren't putting consumers at risk. They're building wonderful homes and they're being priced out of existence by this insurance mandate," said Craig Smith, administrator of the Construction Contractors Board, a state agency that regulates building contractors.



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Builders throughout the state are trying to keep a lid on liability insurance costs and possibly lower their insurance premiums.

High liability costs hurt builders

In Oregon, home builders are legally required to have a minimum of \$500,000 worth of liability coverage. In practice, Oregon builders actually need to carry at least \$1 million in coverage to do business, industry officials said.

Many construction contractors say they see the value of liability insurance, but wince at the steep rate increases in recent years.

Some smaller-job contractors who paid \$1,500 for liability insurance four years ago are now being told to pay \$15,000 for liability

Smith recently testified at an Oregon Insurance Division hearing, telling agency officials the situation “constitutes an emergency.” The average liability insurance bill for a single-family homebuilder in Oregon is about \$8,000 per year. A few of the state’s largest residential contractors pay more than \$1 million per year for liability coverage.

Liability insurance wasn’t supposed to work this way.

The coverage, which became mandatory for Oregon contractors in 1973, was intended to protect consumers when a construction accident or building problem damaged their property. Likewise, builders could fall back on their insurance to avoid crippling financial losses.

Oregon Department of Justice officials have opposed any attempt to reduce the insurance requirements. To pass risks that are now covered by the contractor’s insurance to the home buyer is “simply unacceptable,” the agency stated in a memorandum to the insurance division.

The flip side is that all home buyers pay for this protection when builders pass along the cost, which on average amounts to about \$2,000 extra for a new home, according to a survey by the construction contractors board.

A quagmire of litigation, combined with insurers leaving a business that has become too risky, is behind the insurance mess.

Construction-industry officials and insurers cite a litany of reasons for the soaring costs.

Building-defect lawsuits

Builders are increasingly getting slapped with lawsuits over mold and “sick-building syndrome” when moisture trapped in buildings creates health hazards.

Some legal experts say the toxic-mold problem could lead to more insurance losses than asbestos claims. Faulty siding and improperly installed synthetic stucco has generated a large number of suits. The Pacific Northwest’s damp climate has insurance companies doubly worried about their exposure.

“The litigation industry has found a new pot of gold in construction defects,” said Chuck Day of Adair Homes Inc., a Beaverton-based homebuilder.

The company has never made a claim on its insurance, but its premiums have skyrocketed in recent years. Adair has added almost \$1,000 onto the price of its homes to offset the insurance costs.

Mounting losses

Insurers have dropped entire classes of business to boost their profitability. Builders and developers of housing tracts and apartments, who face the additional risk of class-action suits, have had the most difficult time getting insurance and face the steepest price increases.

“The mold potential has got the insurance companies scared to death,” said Kelly Atwood, president and chief executive officer of Contractors Insurance Services Inc. in Lake Oswego, an insurance agency that deals specifically with contractors. Kelly, a 30-year veteran of the insurance industry, said insurance rates have started to stabilize but it may take several years before they begin to fall.

Liberty Northwest has paid \$3.15 for every dollar it collected from residential general contractors in Oregon over the past four years combined, according to testimony given to

coverage, according to the Construction Contractors Board.

The high cost is having an effect on the industry. Despite the boom in home construction, the number of licensed contractors in Oregon has fallen from

4,600 to just over 3,900 in four years.

state regulators. For residential roofers, \$4.50 was paid for every dollar collected, company officials said.

Other insurers have left the market. Contractors building apartments and multifamily projects in Oregon currently have no choice but to buy their liability insurance from a “surplus lines” carrier, which charge higher premiums than standard carriers.

Escalating defense costs

When lawsuits are filed, every contractor and subcontractor who worked on the project is hauled into court. Insurance companies must spend money defending contractors who have had little or no connection to the alleged problem. The complex litigation can cost tens of thousands of dollars in legal fees.

Insurers have responded by raising prices and adding more and more exclusions in their policies. Builders assert that the stripped-down policies provide little protection to their business or consumers.

“Instead of sending me 20 pages telling me what it doesn’t cover, they could probably send me one page telling what it does cover,” said John Loney, of J.R. Loney Construction, a Salem-area home builder at an insurance division hearing.

Insurers caving-in

Contractors complain that insurance carriers often opt for a settlement, even when the plaintiff has a flimsy case. The result is rising premiums or dropped coverage.

Jeffrey Paul Fish, of Fish Construction NW Inc., told insurance regulators about how a simple insurance claim over a fence and tree damaged in a construction accident escalated into a \$16,000 lawsuit. Fish’s said his insurance agent promised to “take that S.O.B to the mat,” but the insurance company settled the case for \$15,000.

When it was time to renew the company’s liability insurance, Fish’s former insurance carrier refused to provide a quote. The only provider that could be found wrote a policy with an annual premium of more than \$119,000 — a 1,500 percent increase.

How can the building industry find a way out of the insurance conundrum?

A quick-fix that will protect consumers and bring down insurance costs for builders probably isn’t available, but industry officials have suggested some starting points.

One possible solution would start in the courtroom. Builders in Oregon are currently on the hook for construction defects found in their projects for 10 years, and some have suggested reducing that time period. Others want to see tort reform to reduce lawsuit claims to actual damages and reasonable attorney fees.

The Oregon Building Industry Association, which represents the home-building industry, has started to explore a plan to self-insure its members through a limited liability corporation. In concept, the association could carefully screen the builders allowed into the self-insured group, keep a lid on costs and lower premiums.

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