

# Insurance Buyers' News



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Construction Costs

March/April 2019

Volume 30 • Number 2

## How Does Green Construction Affect Insurance Costs?

In the next three years developers expect 60 percent of their projects will be green.

**T**he market for green construction projects has grown significantly in the last 10 years and demand for green building activity is poised to grow substantially — to double in some regions, according to a report issued December 2018 by Dodge Data & Analytics. In fact, the report found a 20-point projected jump among those who report currently having a majority of green projects.

“As the world’s largest provider of building technologies,



## This Just In...

**S**cores of lawsuits are being filed against directors and officers by retirement plan participants who claim their companies' 401(k) plans have unnecessary and undisclosed fees.

The lawsuits are a result of *Tibble v. Edison*, a ruling by the U.S. Supreme Court in 2015 that found fiduciaries had an ongoing duty to monitor the performance of investments, including the monitoring of fees, according to Rhonda Prussack, New York-based senior vice president and head of fiduciary and employment practices liability for Berkshire Hathaway Specialty Insurance Co. He was speaking recently to the Professional Underwriting Liability Society's 2019 Directors & Officers Symposium

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we've seen the shift toward more efficient, sustainable buildings," says Chris Nelson, President, Commercial HVAC for Carrier, premier sponsor of the study. "The fact is, green buildings provide a triple win – delivering measurable benefits for building owners, occupants and the public from reduced operating costs, improved indoor air quality and reduced energy consumption. The trends uncovered in this report reflect what we're seeing in our business – building green is good for the public health, the environment, and the bottom line." Not to mention the tax credits that are frequently available and, it could be said, the enhanced social status.

Similar benefits were reported for green building retrofits and renovations. "Retrofitting buildings is critical to meeting our carbon-neutral goals," said American Institute of Architects (AIA) 2018 President Carl Elefante. "This data shows that not only is it good for our planet, but it can also mean an operating cost savings of almost ten percent in the first few years. While that may serve some motivational value, greater incentives and improved policies are necessary in the United States and beyond to make the meaningful building retrofits that we need a reality."

While it's impossible to quantify the extent to which improvements in any of these areas tend to reduce insurance costs, there can be little doubt that there would be higher costs as a consequence of NOT having these improvements. Business interruptions can be minimized when dependency on the electrical grid is reduced. To what extent does poor

indoor environmental quality create workers compensation problems, let alone end up costing employees more for health insurance?

Also, studies show that worker productivity can be significantly impacted by implementing green building design features such as improved lighting, reduction of pollutants, advanced ventilation systems and the use of non-toxic building materials.

Cost has been a challenge though. Green buildings typically cost more to build and therefore require higher insurance valuations. Some companies do offer discounts on green buildings and, as mentioned, there are frequently tax credits available.

The good news is that the Dodge Data & Analytics Report found the perception that green buildings cost more than traditional construction has dramatically declined from over three-quarters in 2012 to under half today.

Similarly, other studies have also shown that over a 20-year life period, some green buildings have yielded \$53 to \$71 per square foot back on investment. In addition, studies of the commercial real estate market have found that LEED and Energy Star certified buildings achieve significantly higher rents, sale prices and occupancy rates as well as lower capitalization rates potentially reflecting lower investment risk.

If you're thinking of building or retrofitting a building to be green, please contact us. We'll help you put together an insurance program to optimize your planning. ■

### *This Just In*

in New York, as reported by *Business Insurance*.

Plan sponsors often have the perception that because 401(k) participants choose their own investments, "their fiduciary duties are watered down," said Kai H. Richter, a partner with plaintiff law firm Nichols Kaster PLLP in Minneapolis. who also attend the Symposium.

"I would strongly suggest that is a perception that will lend itself to liability, because it will not be consistent with the judiciary standards under ERISA," said Mr. Richter. Those standards do not depend on whether it is a 401(k) plan or a pension plan, he said.

Richter suggested plan sponsors should think of their 401(k)s the same way they would think of a pension plan, if they had one (though most don't anymore). ERISA regulations say that even if a participant exercises independent control over assets in an account, the fiduciary is not relieved of the duty to select and monitor the plan's investments.



# 7 Ways to Improve Company Driver Safety

If you have trucks to provide service offsite or to deliver products, you probably either have dedicated drivers or at least many of your employees spend a substantial amount of their time on the road. Here are seven tips for improving safety and reducing costs:

## 1 Make sure your drivers have safety gear onboard

Stock your trucks with warning triangles, first aid kits, LED flares, warning flags, and make sure employees have access to safety vests, helmets, gloves, and other apparel as needed.

## 2 Keep your trucks well maintained

Maintain a consistent inspection routine for all your vehicles. Not only will they be more dependable, it can save money in the long run helping you avoid big repair bills. Inspect critical components such as steering, brakes, tires, wheels, couplers, and suspension.

## 3 Make sure your drivers follow basic good driving rules for trucks

- ✱ Slow down, especially with big trucks that don't corner like a Ferrari and take corners and ramps very slowly
- ✱ Avoid traffic — avoid peak traffic times, if possible
- ✱ Leave a lot of room in front
- ✱ Keep lane changes to a minimum — especially with big trucks
- ✱ Be extra cautious at night
- ✱ Use a GPS
- ✱ Check the weather. Sometimes it's best to reschedule. Always be prepared for the weather at hand and take proper precautions.

## 4 Hire a safety manager

Having a safety manager means you and other members of your management team can focus on other matters. Having a highly-trained person who is dedicated to safety will most likely accomplish your safety goals much more effectively. Safety manager duties include driver instruction, monitoring safety records, and



ensuring compliance with DOT, OSHA, and HazMat laws.

## 5 Identify and address your biggest violations first

If you've been ignoring or setting aside safety issues for a while, triage them. Focus on the bigger issues first. Whether it's bad brake connections, damaged or discolored windshields, broken turn signals, or uncertified fire extinguishers, identify the biggest troublemakers and focus on those first.

## 6 Hire good drivers

You need to check on a person's motor vehicle records (MVR) of course. This will show any tickets they've received or accidents

they have been involved in. But because you're hiring someone who is going to be driving on behalf of the company a significant portion of the time, you also want them to be safety conscious. Needless to say, avoid hiring someone with multiple moving violations, especially for speeding or failing to obey signals. Studies have shown that these habitually careless drivers are more likely to become involved in accidents. Moreover, try to hire drivers with a real commitment to safety.

The Department of Transportation has a Pre-Employment Screening Program you may want to check out. Companies using the PSP have lowered their crash rate by 8 percent when screening new hires and 17 percent for drivers-out-of-service (drivers taken out of service as a result of a DOT Roadside Inspection). <https://www.psp.fmcsa.dot.gov/psp/default.aspx>

### **7 Make safety training a regular event**

Whether it's with meetings, surveys, videos, pamphlets — with an end goal of zero accidents. Take the opportunity to discuss the importance of driver safety in multiple formats. Ryder provides several excellent truck driver training courses: <http://www.rydersafetyservices.com/online-training> ■

## The Honest Truth about Employee Dishonesty

**One in every 35 employees was apprehended for theft from their employer in 2017, according to the 30th Annual Retail Theft Survey, down from 27 in 2016. 40,286 dishonest employees were apprehended in 2017, down four percent from 2016.**

**W**hile these are improvements from the previous year, employee theft continues to be a serious problem.

Employee dishonesty is the most important crime coverage for most businesses. Most basic business package policies do not include crime coverage beyond a baseline amount, so unless you already have employee dishonesty coverage, you will need to add it to your basic policy.

When adding commercial crime coverage to your package, you typically get a limit of at least \$10,000 for "loss of and direct loss from damage to money, securities and property other than money and securities resulting directly from employee dishonesty." You will also usually get a \$10,000 limit for "theft, including disappearance or destruction, of money and securities," with separate \$10,000 limits applying to loss inside or outside the premises. Most policies also provide up to \$10,000 in forgery coverage.

### Prevent Employee Dishonesty

While insurance for employee dishonesty helps you recover from losses, employers need to implement sound risk management practices to prevent or at least control employee dishonesty.

Keep in mind that in most incidents of embezzlement (theft by a person in a position of trust), the people involved often possess the following characteristics. They:

- ✱ Are trusted and long-term employees
- ✱ Embezzle property rather than money
- ✱ Have been doing this for a long time
- ✱ Rarely take vacations or time off
- ✱ Have debt or gambling problems
- ✱ Act in collusion with outside people

With a good system of internal controls, you can reduce or eliminate opportunities for employee dishonesty in the first place.

It is critical, when hiring, to thoroughly

screen and obtain background information on job candidates, to the legal extent possible. This may be difficult in certain states. At least ten states (California, Colorado, Connecticut, Hawaii, Illinois, Maryland, Nevada, Oregon, Vermont and Washington) have laws restricting or forbidding employers from pulling credit reports, even with permission. There is also legislation pending in many other states. Check the National Conference of State Legislatures website for an update: <http://www.ncsl.org/research/financial-services-and-commerce/use-of-credit-information-in-insurance-2016-legislation.aspx>

In states where obtaining credit reports as well as criminal reports, workers' comp records and other background information is legal, the federal Fair Credit Report Act (FCRA) requires employers to obtain the candidate's written consent. You must also let them know you may reject their application on the basis of what's in the report and you must provide notice once your decision is made, sending an "adverse action notice," if necessary.

Providing notice not only gets you off the hook for violating any privacy rights or concerns, but candidates with something they want to keep private will take themselves out of the running. For full details on "What Employers Need to Know" about complying with the FCRA and laws enforced by the Equal Employment Opportunity Commission, visit [https://www.eeoc.gov/eeoc/publications/background\\_checks\\_employers.cfm](https://www.eeoc.gov/eeoc/publications/background_checks_employers.cfm)

In addition to obtaining background information, where possible, an effective employee dishonesty risk management plan will also:



- ✱ Focus on hiring only people who seem truly interested in the company's future
- ✱ Create internal controls and supervision standards
- ✱ Require and verify countersignatures on all checks
- ✱ Require all payments be made in non-cash form
- ✱ Reconcile bank accounts monthly
- ✱ Develop written audit procedures and perform annual audits
- ✱ Be sure to include inventory audits, which are high theft targets.

### Employee Dishonesty Is More Significant than You Think

There is a general perception that "theft and abuse in companies" are "isolated acts that cost an organization little," according to Jack L. Hayes International, authors of the 30th Annual Retail Theft Survey. Many people

also think "most employees are caught stealing inexpensive items such as 'pens, pencils and paper-clips' from their employers." This is not true. \$38,941,012 was stolen and recovered from dishonest employees in 2016, the total amount stolen is unknown.

A lot of people think embezzlement is one big score and it's over with," says Doug Karpp, crime and fidelity product head at Hiscox, an insurance company. But that's not always the case. Some cases involved the theft of small amounts of money over many years, he said.

Those small amounts can really add up. The average loss for cases that continued for five years or more was \$2.2 million, and for cases lasting 10 years or more the loss was \$5.4 million.

For information about adding employee dishonesty coverage to your business insurance plan, please contact us. ■

# Benefits of Green Construction

Saving the environment can also save money.

- ✱ **Siting and design efficiency** – the goal is to minimize impact in terms of a building's location and the surrounding environment.
- ✱ **Energy efficiency** – includes minimizing air leakage with high performance windows and insulation, reducing the need for natural light by maximizing solar gain with strategic placement of walls and windows, and implementing renewable energy sources through solar, wind and hydro power, and biomass. A related objective is to reduce the impact on the electrical grid by reducing peak demand and implementing sustainable energy features such as sufficient indoor thermal mass, good insulation, photovoltaic panels, thermal or electrical energy storage systems and smart building (home) energy management systems.
- ✱ **Water efficiency** – to the extent feasible, facilities should increase their dependence on water that is collected, used, purified, and reused on-site.
- ✱ **Materials efficiency** – building materials from “green” sources are preferred, such as recycled products, materials from certified forests and rapidly renewable plant materials like bamboo and straw.



- ✱ **Indoor environmental and quality enhancement** – Typically, most building materials and cleaning/maintenance products emit gases, some of them toxic, such as many VOCs (volatile organic compounds), including formaldehyde. One objective is to avoid these gases which can have a detrimental impact on occupants' health, comfort, and productivity. Other objectives include improving a building's thermal quality with improved airflow and personal temperature control and using hypo-allergenic building materials such as wood. ■

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