



CYBER RISKS & INSURANCE

DURFEY-HOOVER-BOWDEN INSURANCE AGENCY

Data Breach has been much in the news of late. Although breaches at major corporations (e.g. Target) make the headlines, a recent study reported that large cap and mega-cap corporations combined accounted for only 5% of reported claims. Smaller organizations account for the vast majority of data breach incidents. Also of interest is the fact that a greater number of breach incidents result from stolen laptop computers than from hackers.

Consequences of a Breach

The consequences of a data breach involve both liability to others and direct loss to your company. Post breach, your company will incur cost of forensics to determine the scope and source of the breach and legal expenses to determine reasonable and/or statutorily required responses. The initial response typically requires notification being sent to customers whose records have been breached and the establishing of a response hot-line along with the offer of credit or identity monitoring.

Your company could also face damages from law suits alleging invasion of privacy and actual losses due to the breach – and even if no liability is found - significant defense costs will likely be incurred.

The breach might also disrupt your business causing a loss of income until such time as the computer system is operational.

Standard Coverage Issues

None of these losses are covered by traditional property and liability insurance policies. The insurance market is busily adding exclusions to their existing policies to clarify their intent not to provide any coverage for these cyber exposures. What is required is a policy specifically designed to handle these issues: Cyber Insurance.

Cyber Insurance

Cyber coverage is a relatively new, non-standard insurance policy form with significant variation in coverages provided, terminology used, and company underwriting standards. Broadly, the policies provide coverage for your company's legal liability arising out of a data breach; crisis management costs, such as forensics and notification and monitoring expenses; and first party costs such as loss of business income.

Coverage responds to the unintentional disclosure of personally identifiable information (PII) or third party corporate information. That disclosure could have been caused by a hacker, virus, lost laptop, lost storage device, data sent in error, or lost/stolen paper files. Cyber coverage can provide a response to a cyber event that reimburses losses and minimizes damage to your organization's reputation.

EXAMPLE COVERAGES FROM THE POLICY OF A MAJOR PROVIDER OF CYBER COVERAGE
ACTUAL COVERAGE PROVIDED VARY BY CARRIER AND COVERAGE SELECTION

COVERAGE FOR YOUR LEGAL LIABILITY | THIRD PARTY

Information Security & Privacy Liability

- Theft, loss or unauthorized disclosure of Personally Identifiable, Non-public Information
- Due to failure to secure against computer breach, deletion of data stored, transmission of malicious code to 3rd party, participation of insured computer system in denial of service attack
- Failure to timely disclose incident above in violation of breach notice law

Crisis Management & Public Relations

- Hiring consultant to deal with the event
- Cost of voluntary notification
- Costs of government mandated public notices

Privacy Breach Response Services

- Forensic costs to identify problem
- Costs to notify effected individuals
- Costs of offering call center services to notified individuals
- Costs of offering either credit or identity theft monitoring services
- Legal costs to identify required response

Regulatory Defense & Penalties

- Civil proceeding commenced by FTC, FCC, or any federal, state local or foreign government

PCI Fines & Costs

- Fines and costs associated with Payment Card Industry violations

Website Media Content Liability

For one or more of the following acts:

- Defamation, libel, slander
- Violation of privacy rights including public disclosure of private facts
- Commercial appropriation of name, persona, voice or likeness
- Plagiarism, piracy, misappropriation of ideas
- Infringement of copyright, domain name, trademark, trade name/dress, logo
- Improper deep-linking or framing

COVERAGE FOR DAMAGE TO YOUR PROPERTY | FIRST PARTY

COVERAGE FOR LOSSES RESULTING FROM A DATA BREACH

Cyber Extortion Loss

- Demand for money to prevent an attack or disclosure of information

Computer Fraud / Electronic Funds Transfer

- Loss of insured's money or securities due to failure of security system

First Party Data Protection

- Loss must be caused by a security breach
- Covers:
 - Forensics
 - Data Recovery Expenses
 - Interruption of your business due to inability to use computer system
 - Lost Data