



# Leading Executives Fear Employment Practices Liability Lawsuits

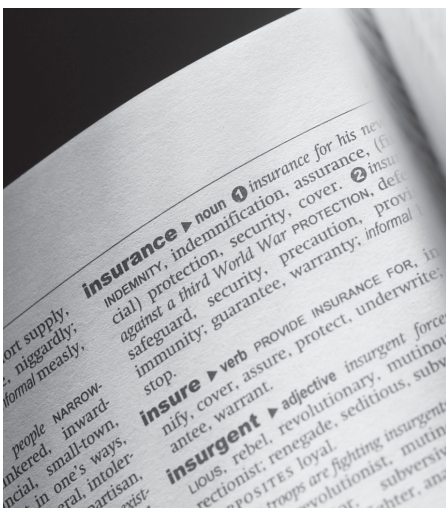
Pollara, an independent public opinion and market research firm, recently conducted a survey of 451 for-profit companies in the United States. Ninety percent of these companies had annual revenues of less than \$25 million.

About 50 percent of these executives felt that their firms would be adding jobs soon. More than 10 percent said that they anticipated completing a major acquisition in the near future.

When queried about what they thought were the events that could cause the most financial impact on their operations, 36 percent of respondents believed that an employment practices liability (EPL) lawsuit would cause their respective company the greatest financial damage. Sixteen percent of the respondents believed an EPL charge would be levied against their companies in the next year. Twenty-one percent had experienced such an event in the last five years totaling as much as \$750,000.

Of the executives surveyed, 54 percent felt that employees would steal company funds or other company assets. This represents an increase of 24 percent over a similar study conducted five years earlier.

These are real fears expressed by companies that aren't huge by industry standards. These are everyday companies, many not unlike your own. These threats are real and should be addressed by every business with employees. Neither of the exposures detailed above are automatically covered in the standard commercial policy.



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## Subrogation...What is it?

Subrogation is a method by which your insurance company can seek reimbursement against a third party who is at fault in a claim that has resulted in a loss to you. Sometimes your insurer will pay a claim to you for property that was damaged by someone else. When your insurer acts on your behalf in this way, they ask you to transfer to them your rights to collect against the wrongdoer. Using rights of subrogation, your insurer then goes after reimbursement from the other party.

This can be very useful to you if your business needs to move quickly to return to full operation after a loss, and the wrongdoer's insurer is taking too long to settle a claim.

## Bailment Coverages

### No Benefit to Bailee

One of the conditions in the commercial property policy is that there is no insurance under the policy for the benefit of others who may have their property entrusted to you. For instance, if you have equipment at a vendor for repair and it is damaged, the vendor cannot seek recovery under your commercial property policy. Your insurance company could settle with you, and using the rights of subrogation, proceed against the guilty party for reimbursement.

### Liability of Bailees

What types of businesses have bailment exposures? Some good examples would include dry cleaners and television repair businesses. A bailment is a legal relationship that arises when one person (the bailor) turns over possession of personal property to another person (the bailee) under an agreement where the bailee is under a duty to return identical property to the bailor.

When a bailment involves the transfer of property where no compensation is involved, it is referred to as a “gratuitous bailment.” An example would be when a neighboring business asks if they can store property temporarily on your property. If the bailment is for the mutual benefit of both parties, the bailee is referred to as a “bailee for hire” or commercial bailment.

In most cases, commercial bailments are for the mutual benefit of the bailee and the bailor. The degree required in a commercial bailment requires the bailee to use only the degree of care that an ordinarily prudent person would use in handling his or her own property. As a result of this standard, the bailee’s liability is usually limited to loss or damage that results from the bailee’s negligence. If the bailor’s property was destroyed in a fire, the bailee would not be liable for damage unless the bailee’s negligence caused the fire.

Give our office a call if you have more questions regarding bailee coverages.

## Employee Dishonesty



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Thefts committed by employees account for more than half of all commercial crime-related losses. In many cases, losses are large enough that the employer does not have the ability to absorb the loss. In fact, some experts believe that as much as 30 percent of business failures involve some element of employee theft or embezzlement.

The employee dishonesty exposure is more significant than most managers realize, yet only about 25 percent of mercantile businesses protect themselves with this coverage. These losses total billions of dollars each year.

Loss control techniques can go a long way to reducing employee theft. Regardless of the fact that there is or isn’t insurance coverage, loss control is imperative. A business should establish careful financial controls for handling of its funds. A retail establishment may have a policy of balancing cash registers twice a day, or may go as far as installing video surveillance equipment. Bookkeepers and financial clerks should always operate in a world of checks and balances, and no single employee should ever have total control of a business’s finances.

If you feel like this type of fidelity coverage might be needed in your operation, give us a call.