

Risk of Cyber Liability: Real for Property Owners

by Kevin D. Smith, CPCU, ARM
The Graham Company



Among the many risks that property owners must manage is the risk of cyber liability. Years ago, privacy of residents' and tenants' personally identifiable data was confined to filing cabinets and office computers, but now this data exists electronically in the cloud, on laptops, smartphones or tablet devices, often in addition to the paper files. Access points for this data are everywhere, and the information can be easily transmitted. What's more concerning is that cyber criminals are on the lookout for this data and they are becoming more sophisticated every day. If that is not enough to worry about, state and federal regulations are being enacted that require a duty of care for this data, and complying can be difficult.

Cyber Liability insurance is relatively new and has become the fastest growing line of coverage over the last 10 years. Few industries are immune to the risk of data breaches that can include customer, vendor or employee data. Like with any risk, it is relative to the type and amount of exposure an individual company faces. For property owners and managers, the amount of data collected on employees, tenants or prospective tenants can be immense, and a breach of this data would not only be embarrassing but also costly. Cyber Liability insurance can provide a level of protection from this emerging risk and should be evaluated as part of any risk management program.

COSTS

Costs resulting from a breach can vary greatly, and when you take into account lost revenue or reputational damage, they can be significant. The costs associated with the breach include defense and judgment costs from lawsuits as well as notification and credit-monitoring expenses. Consider just the costs of notification and credit monitoring for a multifamily property manager with 3,000

tenants. The cost of notification and credit monitoring after a breach can range from \$30 to \$50 per person. If the data lost compromised 3,000 records, these costs alone would be over \$100,000.

NOT JUST CYBER CRIMINALS, BUT EMPLOYEES

Breaches can happen in a variety of ways, and there is no shortage of news examples of significant breaches. The FTC reports that identity theft complaints were up 32 percent in 2012, and over 12 million people have been a victim of identity theft.

While cyber criminals account for much of these instances, there is also the threat of human error of employees that causes data to be lost, for example: laptops left in cabs, smartphones lost, USB drives left in the open and stolen or simply emailing a file with this data to the wrong address. While encryption can be a line of defense against the release of this data, many times it is not sophisticated enough or it simply does not exist on every computer or device. In 2012, Blue Cross Blue Shield of Tennessee paid a \$1.5 million settlement for penalties under the HITECH Act (The Health Information Technology for Economic and Clinical Health) for a breach of over 1 million patient records after the theft of computer hard drives (with unencrypted health information).

The use of third parties, such as a rent payment portal, does not eliminate the risk. The company that selected the third party would also be involved in a lawsuit or breach since they selected and promote the third party for tenant rent payments. A lawsuit would examine what level of due diligence was done by the property manager to select the third-party rent payment portal and their security measures.

PREVENTION IS KEY

Preventing breaches with security protocols is a no-brainer and often a requirement of state or federal government. Good security and prevention measures also make you a more appealing risk for Cyber Liability underwriters, which help keep costs down if insurance is purchased.

It begins with identifying the type of information collected and putting policies in place to protect this data. This protection can range from employment policies to control employee behavior, such as policies on downloading unauthorized software and rules related to personal device usage to technology solutions such as keeping anti-virus software up-to-date and complex password protection measures. Your IT department should regularly monitor security measures and look for signs of attempted breaches. Many companies have used an outside consultant to perform an audit of the cyber security systems in place to determine vulnerable areas.

SUMMARY

The threat of lost data, the ensuing costs and potential liability for property owners and managers is real and growing each year. Companies spend a lot of money and effort on keeping this data safe, but the sheer number of incidents suggests that it is only a matter of time before companies experience some sort of breach. Legislation, insurance protection as well as cyber-criminal activity continue to evolve, and it has become an issue that warrants proper attention. When reflecting on the amount and type of sensitive data that your company collects and reading countless news stories about identify theft and data breaches keeps you from sleeping, it is time to consider Cyber Liability coverage. ■

Kevin Smith holds the Chartered Property and Casualty Underwriter (CPCU) designation and the Associate in Risk Management (ARM) designation. He joined The Graham Company in 1999 and is responsible for new business development and is the Team Leader for the Real Estate Industry Team. Kevin was named to The Graham Company's Leadership Group in 2006 and Management Committee in 2009. He can be reached at 215-701-5323 or ksmith@grahamco.com



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