



TransRe Market Outlook: New York State's Commercial Umbrella

TransRe's Market Outlook: How to stay ahead of New York State's Commercial Umbrella Market

This article explores the recent favorable trends impacting commercial umbrella business in NY State and provides an outlook for the future.

An underwriter of small commercial business in the state of New York would be happy to see the continuation of some of the recent profitability for commercial umbrella business. However, as the economy picks up momentum, these trends may lead to increased opportunities, but perhaps not as profitable as in past years. As with many other states, the financial crisis of 2007–2009 left a sizable hole in New York's economy, with increased joblessness and business closures. With an improving economy brings changes to insurance exposures, especially for commercial umbrella business. Yet, some caution should be taken in expecting favorable historical trends to continue. The following are some factors which concern commercial umbrella policy underwriting in particular.

Loss Trends

It's axiomatic for underwriters to adjust historical losses to reflect current trends when pricing business, including adjustments for inflation. In all states inflation was relatively low following the financial crisis. By way of contrast, the inflation rate had averaged 3.3% prior to that time. In the years since the financial crisis, inflation has only averaged 1.6%.¹

While insurance loss costs typically grow higher than general inflation over time, as general inflation saw decreased rates post-crisis, similarly, liability loss amounts saw much lower rates of increase. With that in mind, at Trans Re we have seen three distinct periods of umbrella loss trend factors over the past fifteen years: (1) high loss trend factors in the years prior to the financial crisis through 2007, (2) benign or moderate trend factors immediately post the financial crisis (2008–2011) and (3) higher-than-moderate trend factors in the recent years since 2012.

Revitalized Economic Growth in NY

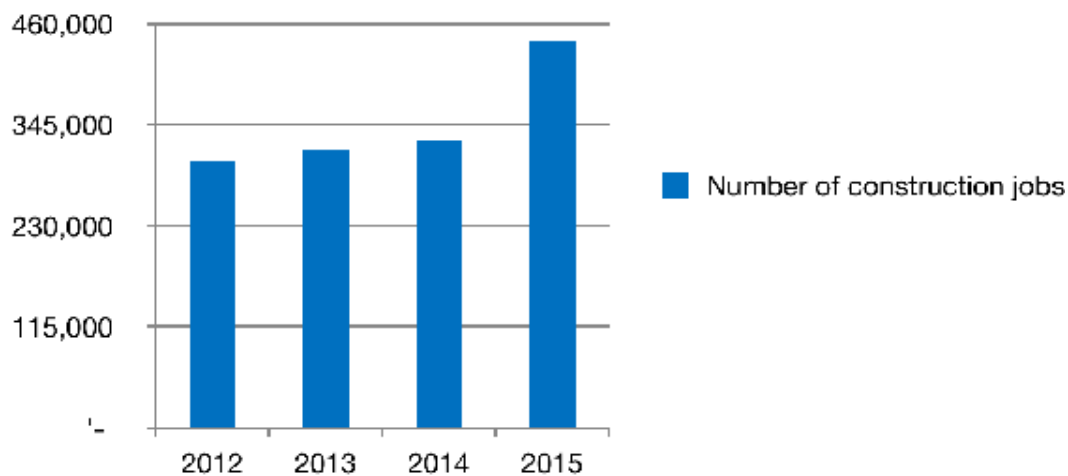
During the financial crisis, insurer portfolios were subject to several beneficial circumstances that led to reduced loss activity in their books, particularly reduced large loss activity. Influencing this reduction were fewer businesses overall, and lower revenue/reduced numbers of employees for those that remained which yielded lower levels of insurance exposures. However, based on TransRe's analyses, insurers experienced reductions in umbrella loss activity beyond what was indicated by the

aforementioned exposure reductions. All of this leads us to ask, what will the rates of loss activity associated with growing exposures be, now that we are into the ninth year of this long economic recovery?

Dramatic Increase in Construction

Commercial umbrella coverage is commonly required in the contractor trades in order to gain access to jobs. This is good news for insurers writing commercial umbrella business, but it comes with some additional risks.

Construction Employment in NY



Source: data.ny.gov/Economic Development/Jobs By Industry

In NY as elsewhere in the US, the level of construction activity had been consistently lower throughout years that followed the financial crisis.² Now that we are starting to see more robust construction activity requiring commercial umbrella policy coverage in order to bid and win jobs, what does this mean for insurers going forward?

- A change in mix of classes of business from one with fewer and less severe claims to one that is weighted more toward construction classes with the potential for greater frequency and severity.
- The number of entry level construction workers is expected to increase with demand, bringing with it the potential for a higher accident rate than previous years.
- As the economy continues to improve and infrastructure projects are able to be funded, an increase in the number of more hazardous construction projects is expected, with a related increase in potential for large contractor losses.

Rates of fatalities for contractor classes are higher in general than for other major risk classifications. As a result, insurance rates for contractors are often higher than for other class groups; however, there can be large differences between categories of contractors; paying careful attention to some of the specific activities of a construction operation is critical for proper underwriting and pricing.

New York Labor Law

The unique set of laws known as the NY Labor Law³ holds general contractors and property owners strictly liable for damages arising from an elevation-related accident to a subcontractor's employee, including when an employee ignored safety rules at a job site. New York is currently the only state with a law that makes general contractors and property owners absolutely liable for worker injuries. Workers are covered under GL and umbrella policies for injuries that would otherwise be covered under workers compensation ("WC") policies in other states. As a result of the NY Labor Law, insurers writing New York commercial insurance cover more injuries through the primary GL and commercial umbrella policies compared to other states. However, we assess that using other states' GL and umbrella loss information would be less reliable as a benchmark because of the different mix of exposures when matched against NY State.

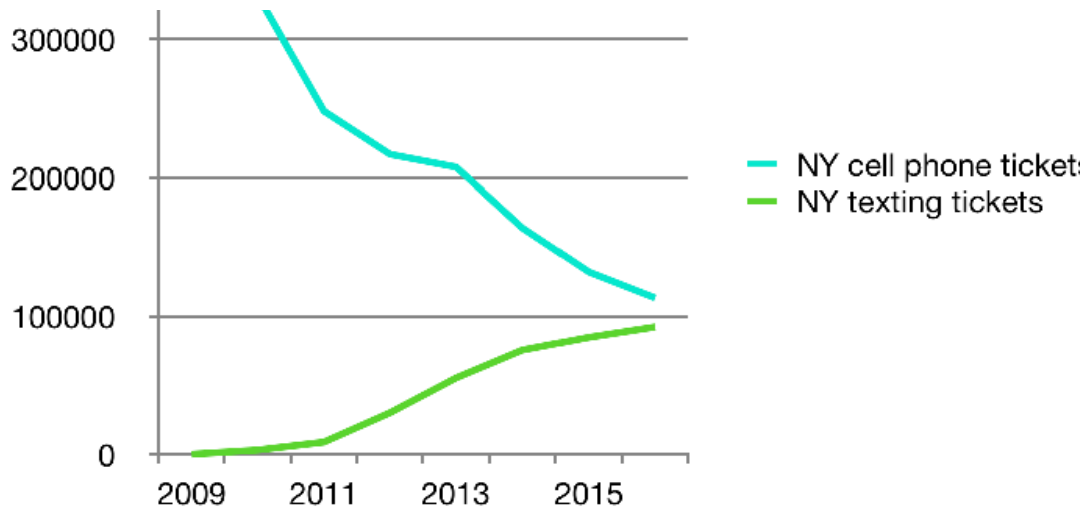
Insurers have responded to NY contractor exposures in a number of ways. Some have required proof that general contractors and property owners are additional named insureds of any subcontractors in connection with their projects. The benefit of this approach is to have the exposure under NY Labor Law pass back (via the certificate of additional insured status) to the subcontractor. Other insurers have opted to require court-approved policy language to indemnify general contractors and property owners on any contract, rider, or purchase order involving a subcontractor. As a result of these actions, claim frequency and severity have declined for property owners and general contractors.

Auto Exposures

In the years immediately following the financial crisis, insurers were seeing fewer commercial auto primary and umbrella losses due to higher oil prices and lower economic activity. More recently, however, insurers are now experiencing the opposite trend of more commercial auto losses due

to an increasing number of commercial vehicles on the road and the perils of distracted driving.

In spite of vehicle safety advances, “Driver inattention/distraction” has remained consistent as contributing to one in five NY accidents for years following the law which prohibited cell phone use while driving (2001).⁴ In addition, nearly 50% of all related fatalities in NY State are non-occupant, largely driven by high auto fatality rates in the congested downstate region.⁵ Historically, the five boroughs have seen the most traffic tickets for cell phone use or texting, however in recent years; the upstate region has seen increases, especially for texting while driving. Surely this will factor into commercial umbrella losses going forward as technology use remains strong.



Source: Institute for Traffic Safety and Management Research (Albany)

Monitoring the Commercial Umbrella Portfolio

For commercial umbrella, monitoring a portfolio is more important than ever following these and other trends. Given (1) the reporting lag associated with commercial umbrella policy claims and (2) the low number of expected claims per exposure, expected losses are more volatile and less predictable than primary insurance. Spotting trends in a portfolio can be challenging as a result.

Some thoughts on portfolio management would include:

- Closely monitoring location of projects away from insured headquarters or mailing address, as a company based outside downstate NY might be working on downstate projects.
- Monitoring loss information against expectations, by class code and locale, for changes and shifts.
- Benchmarking competitor premium charges for umbrella policies, by limit, including impacts of judgment modifiers.
- Analyzing policy wording and underwriting guidelines as these trends play out, including updates to referral processes.

Conclusion

Many of the trends that benefitted commercial umbrella insurance results in the past ten years are expected to have a less favorable impact on NY liability portfolios in the foreseeable future. Fatal occupational work injuries for example had fallen during 2006–2009 and was level in 2009–2013, but has been on the rise since then.⁶ Construction employment over the next ten years is expected to grow much faster than the average for all other workers. As contracting and manufacturing output grow beyond historical levels and trucking activity continues to expand, many of the beneficial trends of the period post the crisis are reversing. It is therefore critical that NY insurers make accurate risk assessments in underwriting these exposures within this developing climate.

1 Federal Reserve, Consumer Price Index


2 U.S. Bureau of the Census, Total Construction Spending

3 NYS statutes 240, 241 (Labor Law provisions)

4 Institute for Traffic Safety Management and Research (ITSMR) Albany

5 National Highway Traffic Safety Administration

6 U.S. Bureau of Labor Statistics



TransRe's Commercial Umbrella expertise includes best-in-class underwriting, responsive service, value-added and creative solutions for clients.

We are a recognized market leader with proficiency and flexibility to deliver solutions on time. Our team is ready and able to evaluate client portfolios and exposures to ensure continued profitable growth.

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