

business insurance

Florida Supreme Court upholds 1986 reform law

TALLAHASSEE, Fla.—The Florida Supreme Court last week upheld most sections of the state's controversial tort reform and insurance rate regulation law.

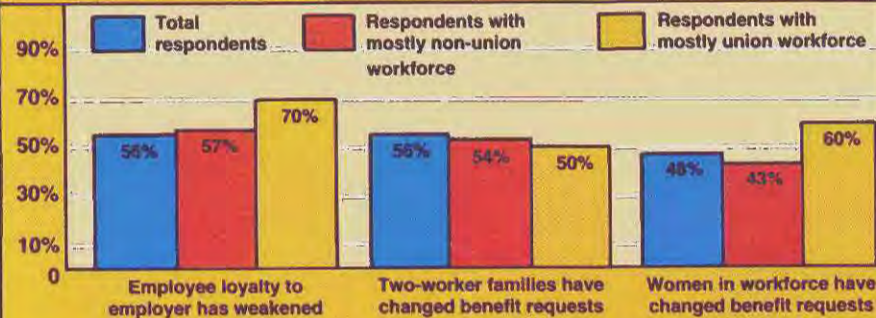
The law, passed by the state Legislature last June over insurance industry objections, called for a rollback of liability rates to 1984 levels, authorized the formation of a property/casualty joint under-

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employee benefit board

Workforce trends' effect on benefits



Source: BI Survey

Chart: Amy Palmer

Employees demand more from benefit plans: Survey

By ALISON KITTRELL

Demographic and economic trends are changing the attitudes and employee benefit demands of the American workforce, according to employee benefit managers.

A majority of the employee benefit managers who responded to a recent *Business Insurance* survey agreed that loyalty to employers is lower than in previous years and that the increase in two-worker families is changing what employees seek in their benefit packages.

The benefit managers were evenly split, however, over whether the influx of women, per se, into their workforces has changed employees' benefit requests.

"Employees are more demanding—more aware of their benefit package in comparison to other companies' benefit packages," said the corporate benefits manager for a manufacturing company with 2,300 U.S. and 1,200 international employees.

Fifty members of the *Business Insurance* Employee Benefit Board responded to a survey on the effect of workforce changes. The survey asked the benefit managers to examine their employees' attitudes and employee benefit requests in light of several trends identified by social scientists as significantly changing the American workforce.

Those trends include:

- Employees are exhibiting less loyalty to employers—and are less likely to spend their entire careers with one employer—than were employees in previous generations.

Social scientists attribute this phenomenon in part to increasing technology. Workers who possess such skills are courted by several employers and are able and willing to shop around for the best deal. And, if a better offer comes along, they are likely to take it.

In addition, the experts say, the recent increase in acquisitions and mergers, as well as recent layoffs in many industries, leave employees feeling less confident that their employers can give them lifelong security.

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Plaintiffs' bar sues to close Wellington

By STEPHEN TARNOFF

PITTSBURGH—Calling efforts by the Asbestos Claims Facility a "sham" and "irrational," and claiming that the facility violates antitrust laws, a lawsuit financed by asbestos plaintiffs' attorneys is seeking to break up the facility.

The suit, a class action filed April 15 on behalf of all current and future asbestos claimants, accuses the facility and its members of unlawfully combining to eliminate competition in settling asbestos cases and to impose arbitrary limits on members' liability and costs.

The suit, filed in U.S. District Court in Pennsylvania, seeks a ruling that the facility and its members have unlawfully conspired to restrain trade and have engaged in boycotting, price-fixing and monopolistic practices with respect to its settlement and defense efforts.

In addition, the lawsuit, which does not seek monetary damages, asks the court to dissolve the facility, which was created under the Wellington Agreement.

"What we hope it will do is to break up Wellington," said major asbestos plaintiffs' attorney Fred Baron, with the Dallas firm of Baron & Budd. "This is not a bluff lawsuit. We're going for it."

The plaintiffs named in the lawsuit are five persons allegedly injured from exposure to asbestos and asbestos products produced by facility members and the representative of an individual who died allegedly from an asbestos-related disease. All have cases pending in state or federal court in Pennsylvania.

However, the suit also was filed on behalf of a

proposed class of an estimated 50,000 persons with pending asbestos claims and all future victims, projected to number in the tens of thousands.

Named as defendants are the facility and its current 51 asbestos producer and insurer members.

The lawsuit charges: "Far from serving the interests of the parties, the courts, and the public in the fair and expeditious resolution of asbestos health claims, the Wellington facility has shown

itself to be an industrial combination deploying its members' combined economic power in the service of their collusive self-interest and for...unlawful anti-competitive purposes...."

"The Wellington Facility and its members have engaged in concerted action to eliminate competi-

tion in the disposition of asbestos health claims so as to thwart the recourse and remedies provided by law to asbestos victims and to impose arbitrary limitations on the liabilities and costs incurred by the defendants with respect to asbestos health claims," the suit contends.

The suit alleges that contrary to claims by the facility, the facility has reduced the number of claims resolved rather than increasing them.

Last week, the attorney for the plaintiffs, Elihu Inselbuch, said it was discovered that the facility reduced the number of settlements through research of 10-K reports filed with the Securities and Exchange Commission. The research centered on one facility participant that listed filings and dispositions of cases before and after the facility was established.

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'What we hope it will do is to break up Wellington,' says plaintiffs' attorney Fred Baron. 'This is not a bluff lawsuit. We're going for it.'

Occupational disease bill could cost firms billions

By ROBERT A. FINLAYSON

WASHINGTON—Employers could be held liable for billions of dollars in additional workers compensation and toxic tort claims and employee medical costs if legislation pending in Congress is enacted as expected.

The legislation, known in both houses as the High Risk Occupational Disease Notification and Prevention Act, would require employers to notify current and past employees who are or have been exposed to hazardous substances in the workplace that they should seek medical testing to determine whether that exposure has or is likely to result in illness or disease.

The legislation, which is on a fast track in both houses of Congress, would require that both current and past employees—going back at least 30 years—be notified individually.

The legislation also would require employers to pay for the medical screenings of hundreds of thousands of employees and provide alternative employment for those employees who are at risk of injury from the substances identified as hazardous by a proposed federal Risk Assessment Board.

And, the legislation would prohibit employers from discriminating against employees or job applicants who are determined to be at risk.

Some businesses are so convinced that the legislation will pass that they are publicly supporting it in order to have some influence over its final form.

But, many groups representing employers and the insurance industry are extremely concerned that the legislation, in any form, would increase both tort and workers compensation liability, as well as health care and personnel costs.

"This bill could literally wipe out all of the tort reforms enacted in the states in the past few years," asserted Thomas A. O'Day, associate vp with the Alliance of American Insurers.

Mr. O'Day also noted that the legislation "really calls for lifetime monitoring of people. It turns the workplace into a national health system."

"When you put this bill in the current climate of lawsuits and reduce causation requirements in product liability lawsuits, you are literally throwing kerosene on a roaring fire," observed Victor Schwartz, counsel to the Product Liability

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Mandated health benefit legislation could force employers to improve plans
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update

Florida tort reform law upheld

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writing association and included a package of tort reforms.

In the ruling issued last Thursday, the court affirmed most of an October 1986 decision by Leon County Circuit Judge Charles E. Miner upholding most of the law.

The court also sustained Judge Miner's decision to eliminate a requirement in the law that insurers retroactively pay rebates to policyholders. Judge Miner had ruled that these rebates could be required only on policies written or renewed after July 1, 1986.

Overruling Judge Miner on one point, the court also voted as unconstitutional a section of the law that provided for a \$450,000 cap on non-economic damages to plaintiffs.

Reaction to the Supreme Court ruling was mixed.

Florida Insurance Commissioner Bill Gunter praised the decision, calling it a "victory for Florida's insurance consumers."

Stephen Masterson, executive director of the Tallahassee-based Academy of Florida Trial Lawyers, said he was pleased with the decision throwing out the cap on non-economic damages, but disappointed that the court did not strike down a provision that limits joint and several liability in some cases.

"We are pleased that the Supreme Court vindicated our view of certain important segments of the act, notably by holding the rebate provision for certain commercial liability insurance policies to be unconstitutional," said Craig A. Berrington, general counsel for the American Insurance Assn. "We believe that the court should have gone further and as we examine the opinion in detail, we will be considering the opportunity to ask the court for a rehearing."

Audit rips RTD claims manager

LOS ANGELES—The Southern California Rapid Transit District board voted Thursday to fire Leonard J. Russo Insurance Services Inc. after an auditor of the claims administrator reported it found hundreds of mismanaged accident and injury claims that cost the district between \$16 million and \$24 million over the past two years.

The auditor, Torrance-based Fisher & Associates Adjusters, said chronic understaffing at LJR Insurance Services resulted in a huge backlog of claims, missed deadlines, inadequate investigation of claims, improper settlements and inefficient use of defense counsel.

"The performance of the LJR Insurance Services office dedicated to the administration of the RTD claims is not as professional and cost-effective as it could be, or should be," the auditors concluded. Further, "the supervision and handling of litigation is often less than superior to industry standards common to the Los Angeles area."

The auditor noted that while LJR Insurance Services is making a good-faith effort to handle claims against the RTD, the administrator is continuing to lose ground in closing more files than are opened. The auditors predicted that "by the end of the year, the situation could literally be out of control."

The RTD board decided to retain LJR Insurance Services for five months beyond the July 31 expiration of its current contract to give the district more time to find a new claims administrator.

Paul Braun, vp of claims administration for LJR Insurance Services, said he disagrees with the auditor's conclusions but that he could not respond to specific allegations because he has not seen the audit.

"We've done a good job in responding to the existing contract," Mr. Braun maintained.

Mr. Braun also denied that the firm was fired. "They are asking for additional services that our contract doesn't address," he said.

The firm plans to bid on the new contract, he added.

Stricter benzene controls eyed

WASHINGTON—The current federal standard for workplace exposure to benzene vapors puts workers at risk of developing leukemia and a rare form of bone cancer, says a study by the National Institute of Occupational Safety and Health.

The study may be used to support a proposal by the Occupational Safety and Health Administration to lower the standard for workplace benzene levels to 1 part per million from 10 ppm.

NIOSH investigators studied rubber industry workers in several U.S. manufacturing plants and concluded that workers exposed to benzene at the 10 ppm level are three times more likely to develop leukemia and four times more likely to develop multiple myeloma, a form of bone cancer, than workers not exposed to the chemical.

Officials with the American Petroleum Institute say the worker population that NIOSH studied was exposed to benzene levels significantly higher than the 10 ppm standard. As a result, API officials say, NIOSH cannot conclude from the study that the 10 ppm standard is unsafe.

However, API officials say they will not oppose the imposition of a 1 ppm standard, if OSHA will specifically state that workers exposed to benzene at this level are not at risk of developing cancer. Such a statement, they hopes would immunize employers from workers' claims that they contracted cancer as a result of exposure to benzene at the 1 ppm level.

General Dynamics loses fight

WASHINGTON—The U.S. Supreme Court ruled last week that St. Louis-based General Dynamics Corp. could not deduct from its federal income taxes reserves for incurred-but-not-reported claims under its group health insurance plan.

Overturning decisions by the U.S. Claims Court and the Federal Circuit U.S. Court of Appeals, the high court ruled 6-3 that General Dynamics' estimate of liability failed the "all-events" test.

The "all-events" test provides that an expense is deductible if all events have occurred that determine an employer's liability

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Court rules firm can recover for pollution to its own land

By STEPHEN TARNOFF

NEW BRUNSWICK, N.J.—The state's public policy to preserve the environment overrides an insurance policy exclusion that prohibits a policyholder from recovering the costs of cleaning up hazardous waste on its own property, a state court judge says.

Middlesex County Superior Court Judge Joseph Sadofski ruled that real estate developer Summit Associates Inc. could recover cleanup costs from Liberty Mutual Fire Insurance Co. under a special multiperil policy, even though the policy contained a specific exclusion for damage to property owned by the policyholder.

Judge Sadofski ruled in favor of Summit because of the strong public policy, stated in a state statute, favoring the cleanup of hazardous waste sites.

In addition, Judge Sadofski ruled the pollution was sudden and accidental, and therefore the pollution exclusion clause in the policy did not preclude coverage for Summit.

He also found that the "occurrence" of the property damage took place during 1983—when Liberty Mutual's policy was in effect—because that was when the damage to the property was manifested.

As a result of the decision, Summit can recover \$596,200 from Liberty Mutual, including \$438,600 for its cleanup costs at the site and \$157,600 in prejudgment interest and attorneys' fees, Judge Sadofski ruled.

"It's the first time there has been any ruling in favor of the insured where there has not been damage to

third-party property," noted Summit attorney Arthur S. Goldstein of the Roseland, N.J., firm of Kimmelman, Wolff & Samson. "That's what makes this case unique."

The insurer plans to appeal the decision, said Liberty Mutual attorney Frank R. Cinquina of the Livingston, N.J., firm of Schwartz & Andolio.

Mr. Cinquina said it was the first case he was aware of in which a court ruled that public policy to preserve a clean environment overrides an exclusion for damage to property owned by the policyholder.

"We don't feel this exclusion is against public policy," Mr. Cinquina said.

The case involved property Summit had purchased from Edison Township, N.J., which previously had been used as a sewage treatment facility. Summit was not informed when it purchased the property that any portion of the treatment facility remained buried at the site, Judge Sadofski noted in his opinion.

Summit also had no notice of any sludge located on the property or knowledge that hazardous substances were buried on the site, according to the court.

In July 1983, workmen discovered a sinkhole from which a dark liquid was seeping. It was determined that the liquid contained several hazardous substances.

Summit subsequently was ordered by government agencies, including the Edison Township Health Department, to remove the substances. Approximately 150 tons of sludge and 50,000 gallons of liquid waste were removed from the property between July 28 and

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Health care consultants switch firms

By DONNA DIBLASE

CHICAGO—Coopers & Lybrand's Actuarial, Benefits & Compensation Group is picking up key health care consultants from William M. Mercer-Meidinger-Hansen Inc.

Two months after the merger of William M. Mercer-Meidinger Inc. and A.S. Hansen Inc., three key Hansen health care consultants have joined the Actuarial, Benefits & Compensation Group of the New York-based accounting firm of Coopers & Lybrand, which is committed to strengthening its health care consulting practice.

And, more Hansen consultants are expected to join Coopers & Lybrand, said Ned Strain, a senior consultant at Coopers & Lybrand. He could not specify how many.

The new Coopers & Lybrand consultants are Joseph Rosmann, formerly a senior principal consultant with Hansen; Donald Penn, formerly a principal consultant with Hansen; and Jeannie Wodarczyk, formerly a group actuary

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Investors pursue Mission American

By STEVE TARAVELLA

LOS ANGELES—California regulators are working to avoid liquidating Mission American Insurance Co. as state guaranty funds pay claims filed by Mission Insurance Co. policyholders.

Mission American, which has written no new or renewal business since Jan. 30 but continues to pay claims, has been under state conservation for about two months. Its subsidiary MIC was ordered liquidated Feb. 24.

Since taking over Mission American, the California Insurance Department has met chiefly with two groups interested in acquiring Mission American's assets/operations: Kramer Capital Partners, an investment team spearheaded by East Coast financier Don Kramer that includes General Electric Credit Corp.; and investors represented by Martin J. Whitman of New York that hold more than 50% of Mission Insurance Group's unsecured debt. Mr. Whitman is chairman of a recently formed committee of MIG creditors.

The department has been represented in negotiations by Karl Rubinstein and William S. Price, the two men appointed to take over the legal and managerial functions, respectively, of MIC and Mission American, and by Insurance Commissioner Roxani M. Gillespie.

"It's moving along, and everybody has a desire to see it come to fruition. I'm very encouraged, but you never know until you sign the dotted line," Mr. Price says.

He says negotiations are "too preliminary" to discuss details of the proposal.

Kramer Capital is attempting to acquire selected Mission American assets and the right to renew its policies, sources close

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✓ This week's editorial agrees that all Americans should have access to the health care system, but does not endorse Sen. Edward Kennedy's efforts to force all employers to provide group health care benefits. **PAGE 8**

✓ The insurance industry shouldn't resist analysis by the Federal Trade Commission, industry leaders warn at the 51st annual Chicago Insurance Day. **PAGE 14.**

✓ The property/casualty insurance industry is on the road to recovery—but it has a long way to go, says a new report from the Insurance Services Office. **PAGE 20**

✓ Combining 401(k) and cafeteria plans is a good idea, say Raymond C. Linstrum, president of CIGNA Employee Benefits Services Inc., and Laura B. Reale, assistant vp-marketing at Connecticut General Life Insurance Co., in Perspective. **PAGE 27**

✓ Fiberglass manufacturers dispute allegations that their product could cause cancer. **PAGE 33**

✓ A malpractice insurance facility including a Vermont risk retention group and a Bermuda-based reinsurer is being organized by attorneys. **PAGE 45**

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Health care plan mandate may force benefit redesign

By JERRY GEISEL

WASHINGTON—Legislation currently being prepared that would require employers to offer group health insurance coverage could force most companies to redesign their employee health care plans to comply with the mandate, experts say.

That legislation, to be introduced next month by Senate Labor and Human Resources Committee Chairman Edward Kennedy, D-Mass., would mandate that employers offer a "minimum, bare-bones" plan.

The legislation had been expected to be introduced in March, but was delayed to enable Kennedy staffers to gain more input from various interest groups.

Sen. Kennedy says employers should be required, as a condition of doing business, to offer a health care plan that protects employees from catastrophic health care expenses.

But while Sen. Kennedy says such a plan would not have to offer "Cadillac-type" benefits, his staff has circulated proposals that call for a minimum mandated plan that would be far more generous than plans now offered by many employers.

For example, according to the most recent outline of the proposal available, annual health care deductibles for hospital and physician services could not exceed \$150 per person or \$300 for family coverage.

By contrast, employers increasingly are requiring deductibles of at least \$200 per year for individual coverage, benefit consultants say.

In addition, according to the outline, copayments for covered services could not exceed 20%. However, no copayments or deductibles could be applied to prena-

tal, well-baby or child preventive care.

The annual out-of-pocket expense for covered services could not exceed \$2,000 per year for individuals, while employees could not be asked to pay more than 20% of the annual premium.

Finally, coverage would have to be extended to part-time workers, currently defined in the outline as those working at least 17.5 hours a week.

By contrast, employers currently often require employees to work at least 20 to 25 hours a week before they will provide them with health benefits.

In total, the minimum benefit package described in the outline "would exceed what a large portion of major companies are now offering," says Mark Ugoretz, executive director of the ERISA Industry Committee, a Washington-based benefits lobbying organization representing large employers.

"This would hardly be a minimum plan," Mr. Ugoretz adds.

"The label 'minimum plan' really does not fit. I would call it a mandatory plan," points out James Klein, manager of pensions and employee benefits at the U.S. Chamber of Commerce in Washington.

However, aides to Sen. Kennedy say the outline is just that, noting the actual legislation could differ.

"The numbers could very well change. These (benefit levels and deductibles) are

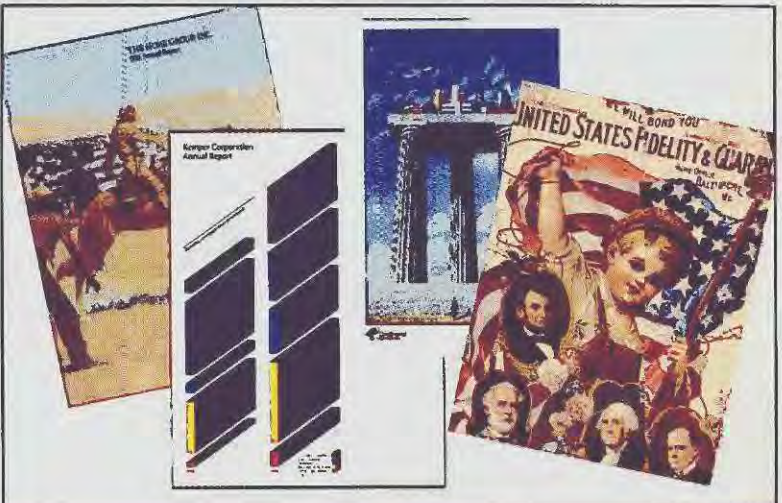
initial ballpark estimates," says Paul Donovan, press secretary of the Senate Labor and Human Resources Committee staff.

"We are not wedded to a particular set of numbers," Mr. Donovan adds.

And, backers of the concept say the goal is to man-



Sen. Kennedy says employers should be required, as a condition of doing business, to offer a health care plan.



Annual reports boast of insurers' recovery

By JAMES M. BURCKE

The times—they are a-changin'. Two years ago, property/casualty insurers' 1984 annual reports were filled with apologies from chief executives to shareholders for lackluster earnings caused by a competitive market, and the officials resolved that rates would be increased (BI, April 27, 1985).

This year, the insurers are celebrating record earnings and even are conceding that, after two years of steep increases, premium rates are now adequate, at least for some lines of commercial insurance.

But, some executives also warn of pending rate competition.

"It is a pleasure to report a year of record earnings for The Chubb Corp.," begins that insurer's 1986 annual report. "Our property and casualty group, making the most of a period of cyclical recovery for which it was well-positioned, was responsible for this dramatic improvement."

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NAIC proposal would gut Risk Retention Act: RIMS

By MEG FLETCHER

LEXINGTON, Ky.—Proposed amendments to the National Assn. of Insurance Commissioners' model risk retention law would unfairly give states more control over risk retention groups, some insurance buyers' representatives contend.

"This model bill does nothing less than completely gut the Risk Retention Act, contrary to the letter and spirit of the law and the intent of the U.S. Congress," said Jon Harkavy, director of governmental affairs for the Risk & Insurance Management Society.

Mr. Harkavy made his remarks at the NAIC's spring zone meeting, held April 12-15 in Lexington, Ky.

In response to his criticism, the NAIC appointed Mr. Harkavy and two other vocal opponents to the amendments to the model law to an NAIC advisory group that will draft the final version of the amendments prior to the NAIC's national summer meeting in June. Another four or five appointments to the group will be made later.

David Thornberry, a member of the Texas Board of Insurance who chaired the meeting, said an advisory group had not been appointed because regulators felt pressured to develop a model risk retention law after the Risk Retention Act was expanded last fall.

Mr. Harkavy termed "draconian" a proposal that a risk retention group be required to work through a licensed agent or broker in each state where a member is located, and not merely where the group is based. This requirement creates a "needless overhead cost" that "doesn't come cheap," he said, because each producer may ask for a commission of as much as 15% of the premium.

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Grand jury, Florida regulators probe truck insurance program

By MICHAEL BRADFORD

PENSACOLA, Fla.—A federal grand jury will hear testimony Tuesday concerning an alleged illegal insurance operation that may have left hundreds of truckers nationwide without insurance.

An attorney for Destin, Fla.-based Transportation Services Inc. confirmed that officers of the company would appear before a grand jury in Pensacola that will hear testimony concerning whether the company illegally sold insurance or acted as an insurance agent.

In addition, the Florida Department of Insurance has served a show-cause order to James F. Beck, who is listed as president of Transportation Services, requesting him to appear at an informal hearing Thursday at the department to answer those same charges.

The department alleged in its order that Transportation Services and Mr. Beck began offering property and casualty insurance through an advertisement in a trucking industry trade magazine in 1986. When contacted by trucking companies, Mr. Beck and others violated the state's insurance code by collecting premiums and issuing coverage binders and insurance certificates without a license, the department charges.

The Florida department also has talked with regulators in Oregon, Texas, Indiana, California, Illinois and North Carolina, which are among the states where Transportation Services allegedly operated (BI, April 6).

Mr. Beck did not respond to telephone messages left at Transportation Services' Destin office.

In an application and affidavit for a search warrant served March 30 on Transportation Services' office, the Federal Bureau of Investigation claimed that the company was promising trucking firms liability insurance for "a significantly lower monthly fee per tractor than it was currently paying or expected to pay" and issued certificates of insurance that indicated coverage was in place when it actually was not.

The FBI also indicated in its affidavit that Mr. Beck "claimed to be an agent for, owner of, or in control of" four other companies that were "utilized in the operations of TSI."

The FBI listed those companies as:

- Reid Transportation Inc. with an office in either Mitchell, Ind., or Destin, or both.
- Mid-South Freight of Texas Inc. with offices in San Antonio, Texas, and either Huntington Beach, Calif., or Destin or both.
- B&B Inc. in San Antonio or Huntington Beach.
- R.E. Thomas Trucking Inc. in Saugus, Calif., Walnut, Calif., or Destin.

While investigations into Transportation Services' business are ongoing, sources indicate that dozens of small to medium-sized trucking companies—and hundreds of trucks—may be without cargo and liability insurance as a result of the operation.

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Profits more than insurers say: GAO

By DEBORAH SHALOWITZ

WASHINGTON—A new government report that says the property/casualty insurance industry made more than \$80 billion in profits during the last decade gives new ammunition to critics who say the industry's claims of financial distress are exaggerated.

The report by the General Accounting Office says the industry generated total aftertax income of \$81.1 billion from 1976 through 1985. This figure is based on GAO calculations that the industry had investment income of \$144.3 billion, underwriting losses (based on undiscounted reserves) of \$64.8 billion and federal income tax credits totaling \$1.6 billion.

The GAO also reported that the insurance industry's average return on net worth has been comparable to that of other industries.

Testifying last week on the GAO's findings at a hearing of the House Subcommittee on Commerce, Consumer Protection and Competitiveness, William J.

Anderson, assistant comptroller general for general government programs at the GAO, added that "data for 1986 shows that the underwriting cycle has turned and is now moving in a positive direction."

The GAO study, the final version of which will be released soon, "indicates that insurance companies were making billions of dollars in aftertax profits while suggesting they had to drastically raise premiums because they were losing money on general liability and medical malpractice insurance," said Rep. James Florio, D-N.J., chairman of the subcommittee.

"If the insurance industry has been profitable, what is the justification for the huge rate increases of the last two years?" asked Rep. Florio. "If current insurance supervision is adequate, why is American business being crushed under huge rate increases that have questionable justification?"

But some industry observers—including a noted in-

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Photo: Deborah Shalowitz
William J. Anderson, assistant comptroller general for general government programs at the GAO, presented the report before a House subcommittee.

Mission insurers

Continued from page 2

to the negotiations say. If it does so, the Whitman group has expressed interest in becoming an investor. With additional capital, Kramer Capital might purchase all of Mission American.

The Whitman group previously said it could infuse up to \$50 million into Mission American (BI, Feb. 16). Kramer Capital officials would not return phone calls last week.

Mr. Price would not say whether additional proposals are pending.

"When you're negotiating, you have to keep all your cards face down on the table," Mr. Price says.

Meanwhile, claim payments to Mission Insurance Co. policyholders are well under way at many state guaranty funds. MIC and the four of its subsidiaries that also are in liquidation face about 24,000 claims nationwide, according to Mr. Price's estimates.

About half of that amount—some 13,000 claims, mostly under workers compensation policies—are being processed by the California Insurance Guaranty Assn.

CIGA has done "an outstanding job," Mr. Price says, noting that it began paying claims within one week of the Feb. 24 liquidation orders.

To assist it, CIGA recently retained two adjusters in Los Angeles—International Surplus Adjusting Services and GAB Business Services Inc. Despite its size and complexity—and partly because of CIGA's performance—MIC's insolvency will be one of the best managed ever, Mr. Price says.

The Florida Insurance Guaranty Assn., which also began making claim payments immediately after the liquidation orders, is now processing them out of the former offices of MIC and Mission National Insurance Co. in Jacksonville, according to Bill Whitcomb, executive assistant.

"We moved right in and picked up some of the same employees to assist us," he says. About five former Mission employees now are on the guaranty fund's payroll, he says. The companies being liquidated reported about \$24.4 million in direct written premiums in Florida, according to their 1985 annual statements.

Many funds in states where Mission wrote substantial premium, like Oregon's, report that it's still too early to say precisely how much money they will need to respond to claims.

But funds in other states where Mission wrote less business, like Ohio's, do not expect the Mission insolvencies to exceed those presented to them by either Transit Casualty Co. or Integrity Insurance Co.

In California, Mr. Price says those working on the liquidation are determined to conduct "a model liquidation."

"This is a very challenging op-

portunity to try to do some good for everyone," Mr. Price says. He sees a lot of enthusiasm among those employees working at MIC today.

However, some employees working on the liquidation are concerned about their jobs. "A number" of MIC's in-house claims processors have been laid off and, as part of the liquidation, more pink slips are expected in the future, Mr. Price said, declining to estimate an amount.

Officially, the liquidation team is still operating under the assumption that MIC and its four units being liquidated face a net insolvency of about \$520 million, Mr. Price said. However, others believe the insolvency will be much higher.

In the meantime, liquidators are doing all they can to increase the flow of incoming reinsurance recoverables, Mr. Price said.

"Every little bit helps, but we're a long ways from home," he says.

"The entire process is going to be long and hard."

But it will have rewards: One insurer, Unigard Security Insurance Co., has tentatively agreed to a settlement of \$34 million, plus up to \$25,000 in legal costs, according to Los Angeles County Superior Court papers.

This is the largest settlement the Mission companies have reached with any company from which it has tried to collect funds. The money, to be paid in a lump sum, would settle liabilities Unigard incurred under excess casualty and quota share reinsurance agreements between March 1972 and March 1984.

In that 12-year period, the insurer—previously known as Unigard Mutual Insurance Co.—contracted with MIC, Mission National, Enterprise Insurance Co., Mission Reinsurance Corp., Pacific Reinsurance Management Corp., Holland-America Insurance Co. and Holland-America Lloyds.

Settlement discussions have been ongoing for months, which may explain why Unigard was not a named defendant in the department's December 1986 lawsuit against some 145 companies that allegedly had not paid MIC more than \$200 million in reinsurance bills.

The settlement is conditioned upon two things, according to Raymond B. Jue, a California deputy attorney general.

First, Judge Ricardo Torres must rule on whether the legal procedures used to arrive at the settlement were correct. He was expected to approve those procedures at a hearing last Friday.

Second, Missouri and Texas regulators must concur with the agreement, since they each regulate one of the settling insurers, Holland-America and Holland-America Lloyds, respectively.

Both states were reviewing the settlement late last week and had given no indications that they would oppose it, says Dana C. Brooks, a Los Angeles attorney working on the liquidation.

"We're very hopeful that they'll agree with us; it's a very reasonable settlement," says Ms. Brooks, who practices with Hennigan & Mercer.

Unigard Chairman Richard S.L. Roddis declined to comment until the agreement is consummated. He referred calls to an executive at John Hancock Property & Casualty Holding Co.—Unigard's Boston parent—who also declined to comment.

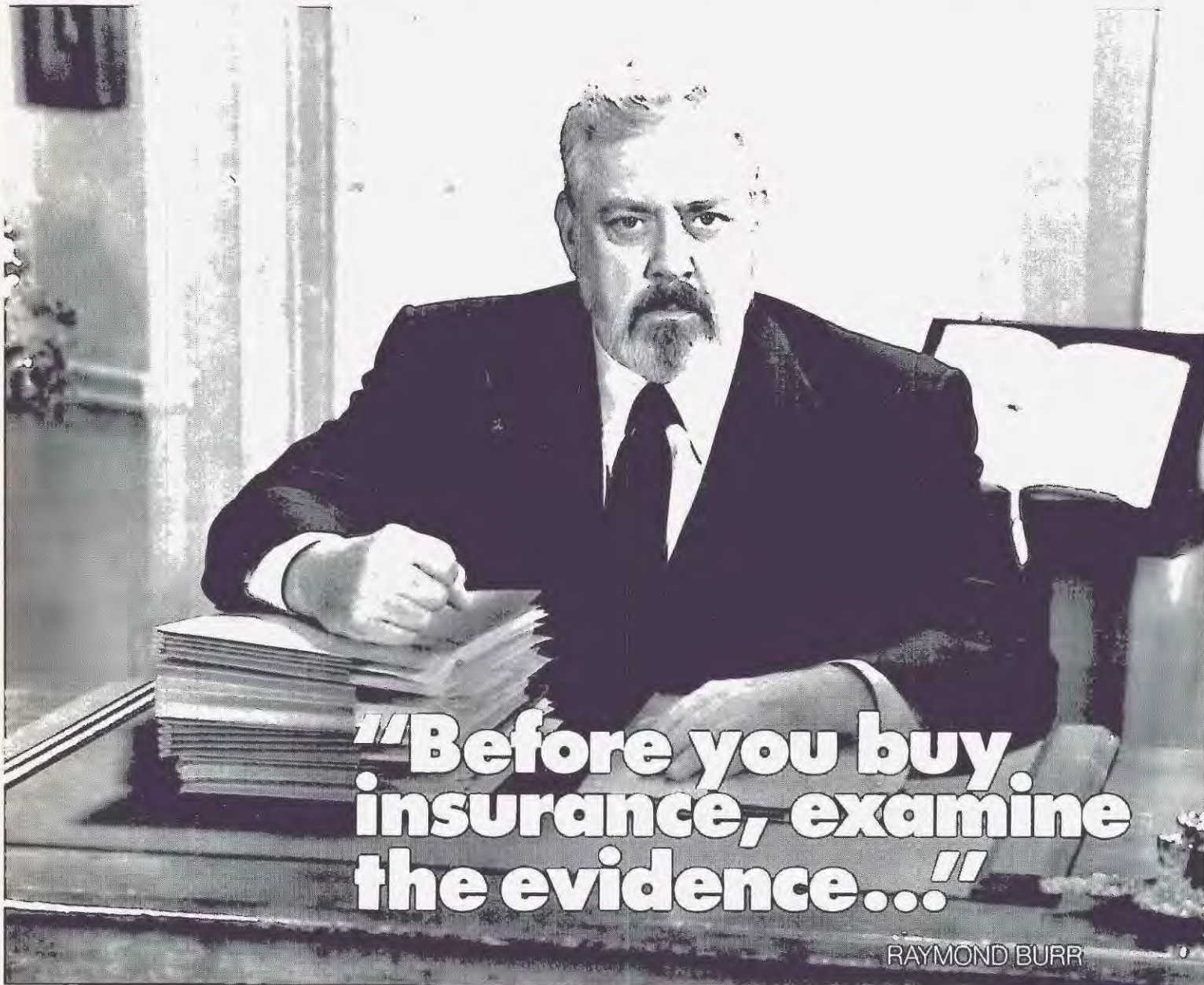
Two of the MIG units participating in the Unigard settlement, PRMC and MIC, also won a legal victory earlier this month.

U.S. Appellate Court Judge Edward C. Reed Jr. ruled April 10 that the U.S. District Court for the Central District of California was acting within its authority when, earlier this year, it appointed an umpire in an arbitration of disputes between PRMC and MIC and insurers that sued to rescind reinsurance and management contracts with them.

The District Court appointed retired General Reinsurance Corp. executive William C. McIlwain Jr. as umpire after the two parties could not agree on one after five months; five of the 12 agreements at issue contained no provision for selecting a neutral umpire. The insurers, led by Ohio Reinsurance Corp., had objected to the court's making the selection.

"There's no further question that we have an arbitration panel that has all the powers to make this thing go," Linda Lasley, a PRMC attorney with Buchalter, Nemer, Fields, Chrystie & Younger, said last week.

The panel has scheduled arbitration in Los Angeles to begin July 13 and continue for five or six days, she says. Ohio Re's counsel declined comment.



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Advancements in medicine are helping Americans live longer than ever. But not everyone is financially prepared for a longer life.

Particularly retirees who end up needing expensive long-term care. Currently, that's 6 million people. That number should be 14 million by the year 2020.

Personal savings are seldom enough to pay the costs of retirement health care. And Medicare and Medicaid are only a partial solution. Companies with retirement health care benefits also face the problem of unfunded future liabilities.

Additional solutions must be found to address this retirement health care cost issue that will eventually affect every person, company and institution in our country. Ideas that go beyond traditional products.

At NWNL Group, we're developing an employee benefit program called LifeScope® that would provide for a person's retirement and working years. What makes the LifeScope Program unique is its comprehensive approach to providing benefits. It is more than life insurance and a nursing home policy.

By managing the delivery of health care and planning for future needs, the LifeScope Program can find alternatives that make health care more affordable, while allowing individuals to live independently. The program's benefits would be voluntary, flexible and portable.

Many elements of the LifeScope Program have already been put into place through current NWNL Group benefit programs. Using our resources as the nation's 10th largest

group insurance company, we will soon be adding more elements.

To find out more about NWNL Group and the LifeScope Program, contact Ginny Patrick, NWNL Group, Box 20, Minneapolis, MN 55440 or call (612) 372-5784. Because now is the time to begin solving the problems of providing health care in the future.

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The right benefits for today.
The right ideas for the future.™

Sources for statistics: Employee Benefit Research Institute, 1985; National Underwriter, 1986.

A division of Northwestern National Life Insurance Company, Minneapolis, MN (not admitted in the State of New York). The North Atlantic Life Insurance Company of America, Jericho, NY (a member of the NWNL Companies).

opinions

Look before you leap

WE BELIEVE that all Americans should have access to the health care system, but we are not ready to jump on Sen. Edward Kennedy's bandwagon to force all employers to provide health care benefits (see story, page 3).

We are not convinced that this is the best solution to the problem of Americans uninsured for health care.

More information about the uninsured is needed before the best solution can be crafted.

Based on statistics from the Employee Benefit Research Institute, about two-thirds of the 34.8 million uninsured Americans in 1985 were employed or dependents of employees. But, why did these employees not buy health insurance themselves? Could they not afford it? Was it not available? How many simply chose not to buy health insurance and to spend their money on other products or services?

Also, we need to consider how effective the health care continuation provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985 are in providing health insurance to those who previously lost coverage after leaving a job. How many more people would have had health care coverage in 1985 if COBRA had been in effect?

Of the other one-third of the 34.8 million uninsured Americans without an employment link, how many could not afford insurance, how many couldn't find it and how many simply chose not to buy it?

Knowing the answers to these questions will help

policy makers develop broader solutions to the problem of the uninsured. And, the policy makers tackling this problem should include employers, insurers and health care providers.

Some possible solutions we suggest, while not an exhaustive list, include:

- Create a federal income tax incentive for individuals to buy health insurance by making all health insurance premium payments tax-deductible.

- Develop pools, organized by state governments, to provide coverage to individuals. Structure the pools to attract commercial insurance companies to underwrite the coverage.

- Expand health insurance programs for the poor, financed by general tax revenues.

None of these alternatives would force individuals to buy health insurance if they chose not to, while forcing employers to provide health insurance would have that result. But, if public policy is to be that all people who can afford health insurance must have it while health insurance for the poor is subsidized, then why not place the mandate on the individual instead of the employer?

After these and other alternatives are considered, it may be that employers, insurers and health care providers agree that mandated health insurance, coupled with some type of public program, is needed. The precedent for such a mandate is the minimum wage.

But, before Congress acts on this issue, we want to see more analysis and debate.

letters

Some car rental clients receive higher limits

To the editor: Your cover story "Car rental cover changes drive up employer risk" (BI, March 9) was more than a bit misleading about Budget Rent a Car Corp.'s liability coverage for renters. Your article did not clearly differentiate between those renters who have corporate accounts with car rental companies and those who do not.

Budget Rent a Car was quoted as offering only the minimum statutory re-

quirement for liability protection. This is not entirely accurate. For renters who have a commercial account with Budget Rent a Car, the liability protection offered is \$100,000 for bodily injury, \$300,000 total per occurrence, and \$25,000 for property damage per occurrence. This was not conveyed in your article.

The article also implied that all Budget renters are held responsible for the full value of the car. This is not true. Renters

with a commercial account with Budget who do not accept the Collision Damage Waiver are financially responsible for either \$2,000 or \$3,000 if the car is returned damaged, depending on the account and provided the Rental Agreement has not been violated.

Allyson Zedler

Press Liaison
Corporate Communications
Budget Rent a Car Corp.
Chicago

Caption writer crapped out

To the editor: I knew it! I knew it! Thanks to *Business Insurance*, I now know what I've been doing wrong on my past trips to Las Vegas.

The picture and caption on page T-4 of your Vegas supplement (BI, March 23) shows clearly that I have been playing roulette at the wrong type of table. For sure, my luck will change and I have you to thank.

Richard J. Suglia

Professional Risk Advisors
Independence, Ohio

To the editor: I enjoyed your section on the RIMS conference in Las Vegas. But, I had to smile when I saw a picture of a crap table captioned with a comment relating to the game of roulette (BI, March 23). And, in bold letters above the picture is the statement: "You can't play if you don't know the rules."

How true!

Kenneth H.W. Earle

Business Insurance welcomes letters from its readers. Please keep your comments as brief as possible. We reserve the right to edit letters for clarity or space. We will not publish unsigned letters. Send your comments to Letters to the Editor, Business Insurance, 740 N. Rush St., Chicago, Ill., 60611.

Business shouldn't take blame for COBRA

To the editor: In the article "Aide Says Business Created COBRA Problem" (BI, April 6), Phyllis Borzi blames the Consolidated Omnibus Budget Reconciliation Act (an example of ill-advised legislation), on business for trying to bring the legislators to their senses.

Too often these days, too much of what these people vote on they have so little knowledge of—rather, it's all in the heads of their "staffers" who got them to vote their prejudices.

Doesn't Ms. Borzi realize that the 2% charged by employers is not enough to cover the cost for most employers, and that the cost of this is only going to show up in the products or services rendered by the company?

Investors are not going to pay for COBRA, as Ms. Borzi seems to think. Even though COBRA is a headache to administer, we benefit administrators will find a way (after all, we did with the Employee Retirement Income Security Act; as poorly as it was drafted).

Ms. Borzi should understand, as other staffers, that American business may appear to be a "deep pocket" that can continually be tapped, but sooner or later "the piper must be paid."

I suppose that by then the congressional staffers will all either have written books or will be on some university payroll "doing their thing."

Joseph D. Young

Weston, Conn.

Las Vegas is no place for a convention

To the editor: Thank you for your editorial "Show Town No Town for RIMS" (BI, April 13). It is about time a journal of your stature takes an editorial position about conventions and meetings being held in that dreadful area, the Las Vegas "Strip." (No disparagement to the rest of the city!)

Several years ago I attended a Professional Insurance Agents convention there and, after the treatment accorded me, made a strong complaint to the association and also vowed never to return to that area of Las Vegas.

Besides the points you already mentioned, we found the complete absence of

any semblance of traditional "Western hospitality." Surliness and rudeness were evident most of the time.

If one finds gambling distasteful, he or she might as well be an alien from outer space.

After three days there we came away with the feeling that Las Vegas has all the worst features of New York City (including placing your life in jeopardy if you choose to be a pedestrian) but none of the many redeeming qualities that make New York a great city.

S.J. Davidian

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Notification act

Continued from page 1

Alliance and a partner with the Washington law firm of Crowell & Moring.

"We are basically talking about a bill that will have an inestimable impact on our liability system," says James A. Anderson Jr., director of government relations for the National Assn. of Wholesale-Distributors. "It takes a system that is already uncertain and furthers the characteristics of unpredictability."

Both proponents and opponents of the bills, S. 79 in the Senate and H.R. 162 in the House, say it is likely that Congress will approve this legislation by a wide margin, perhaps as early as August.

While the administration has threatened to veto the measure, many Washington lobbyists following the issue say a presidential veto is unlikely because it would hand the Democrats a political club with which to bludgeon Republican candidates in next year's presidential election.

Final markup of S. 79 by the Senate Labor Subcommittee is expected tomorrow, with markup by the full Senate Labor and Human Resources Committee set for May 12.

The House Subcommittee on Health and Safety late last week was expected to accept and mark up a substitute bill almost identical to the Senate measure. That bill is expected to be reviewed by the full House Education and Labor Committee soon.

The legislation's potential cost to employers is incalculable, because such a program has never been attempted on such a broad basis, opponents of the legislation say.

"The only thing you can be sure of about this bill is that whatever estimate you hear, it's too low," asserted Henry Chajet, senior counsel for the American Mining Congress.

In making their case against this legislation, lobbyists for the Alliance and the National Assn. of Manufacturers point to a pilot employee notification study sponsored by the National Institute for Occupational Safety and Health between 1978 and 1981.

In that study, NIOSH notified 800 employees at a chemical firm in Augusta, Ga., that they had been exposed to a harmful substance at work. Subsequently, \$335 million in tort lawsuits were filed against the employer.

Based on that study, the current proposed legislation would result in lawsuits requesting damages of \$112 billion during the first year of the notification program, Mr. Chajet said.

While many of these claims probably would be dismissed, the defense costs alone would be "staggering," he said.

In addition to the liability that would be created by the proposal, opponents of the legislation say the medical screening and the anti-discrimination provisions contained in the Senate bill would cost millions in additional personnel and benefit costs.

Mr. Chajet pointed out that in 1977, NIOSH said the direct cost of notifying and providing medical screenings for the 21 million employees covered by Occupational Safety and Health Administration standards would be \$1.5 billion.

"You could easily double that cost based on 1987 dollars," he said.

"This bill will drive personnel costs through the roof and have a devastating impact on small- and medium-sized businesses," Mr. Anderson of the NAW predicted. "I don't believe the costs can be credibly estimated, and the benefits are not readily discernable."

"There is a big question whether business, especially small business, can afford these costs," agreed

Susan E. Spangler, association director of loss prevention and control with NAM.

Ms. Spangler claimed that the anti-discrimination provisions of the bill also pose "a major problem" for employers. She predicted that the provisions would encourage employees fired for cause to charge they were fired because they were notified they were a member of an employee group exposed to a harmful substance.

"The burden is on the employer to prove the employee was not fired because he or she was a member of a population at risk," Ms. Spangler pointed out.

There are a lot of hidden costs and problems with this bill that you don't see when you first look at it," Ms. Spangler said. "But when you look at it closely, it becomes clear that it would be a bureaucratic nightmare, a legal nightmare and a cost nightmare."

She also said that the legislation "could be the final push that con-

vinces a company to go out of the country."

Mr. Schwartz said the legislation must be modified to prohibit any tort action against an employer complying with the law.

"If you do not do that, I guarantee the bill will spawn thousands of tort suits over the next few years," he warned.

The legislation, if enacted, would give employees the opportunity to sue their employer for failing to disclose a hazardous condition prior to the time of the mandated notification, Mr. Schwartz noted.

"There is almost always some evidence that would support a claim that an employer knew or should have known of the risk," he said.

Mr. Schwartz explained that under some state statutes, if an employer knew of a hazardous condition but failed to notify its employees, it is regarded as an intentional act for which employees can file tort claims outside the

workers compensation system.

Further, the notifications themselves could prompt a huge number of workers compensation stress claims from employees and former employees who become concerned that they may contract cancer or some other long-latency illness, Mr. Schwartz predicted.

The number of workers compensation claims related to job stress is climbing, and experts are predicting that these cases will dominate the occupational disease field during the next few years (BI, March 2).

The entire notification program is "an invitation to a lot of people who don't have and never will have a legitimate claim to come forward," the NAW's Mr. Anderson said.

"Just the cost of defense will be enormous," he predicted.

"The biggest concern we have with both bills is the very real possibility of liability that will stem from individual notification,"

NAM's Ms. Spangler said.

"The result will be a lot of unwarranted lawsuits that should not be filed and that will result in a great deal of attorneys' fees," Ms. Spangler predicted.

The Senate bill does contain language, which is now under consideration in the House, designed to prevent employee groups notified that they are being or have been exposed to a harmful substance from using the notifications as evidence in tort or workers compensation claims.

But opponents of the bill say such a provision would be easy to circumvent, because the information contained in the notices is readily available from other sources.

In fact, the bill's opponents say the legislation would create a list of employees that plaintiffs' attorneys could easily obtain and use to file massive class-action lawsuits.

"That's the thing that makes it so

Continued on facing page



PERFORMA

Continued from facing page
 devastating," according to Mr. Schwartz.

"Our American lawyers have flown to Bhopal, India, to get cases. Surely they can go down to HHS," Mr. Schwartz added, referring to the U.S. Department of Health and Human Services in Washington, where a list of employees that have been notified would be kept.

Obtaining the list would be as simple as filing a Freedom of Information Act request, Mr. Schwartz pointed out.

The federal Risk Assessment Board that would be established under the legislation would determine which employee groups should be notified.

The board's determination would be based on clinical or epidemiological studies of a particular substance that indicate workers exposed to the substance are likely to become ill.

The Senate bill says that the Risk

Assessment Board is to "make every reasonable effort to notify or coordinate notification of not less than 300,000 employees per year." Similar language now is under consideration in the House.

The Senate bill says priority must be given to notifying employee populations "likely to benefit from medical surveillance or health counseling."

Each notification would include identification of: the occupational health hazard; the disease or diseases associated with exposure to the hazard; and any known latency periods from the time of exposure to the time of clinical manifestation of a disease.

Notices also would have to include information on the advisability of seeking medical monitoring; the most beneficial type of monitoring or health counseling for the disease associated with the risk; the name and address of the nearest occupational and environmental health center; and an ex-

'There are a lot of hidden costs and problems that you don't see when you first look at it. But when you look at it closely, it is clear that it would be a bureaucratic nightmare, a legal nightmare and a cost nightmare,' Ms. Spangler says.

planation of the employee's rights under the law.

Once the Risk Assessment Board had selected a group of employees to be notified, the employer would be responsible for providing—at no cost to current employees—any recommended testing, evaluation or medical monitoring if any exposure occurred during the employee's tenure with that employer. However, the Senate bill does not explain who would pay the cost of screening retirees and former employees who currently are unemployed.

If the employee was not exposed

to the substance at his or her current workplace, the employer could charge the employee for the cost of testing and monitoring, but only to the extent that the cost exceeds what would be paid by the employee's existing group health care benefits.

The proposed legislation would prohibit employers from discriminating against any employee or applicant for employment on the basis that the employee or applicant is or has been a member of a population determined by the Risk Assessment Board to be at risk of disease.

Further, it says if it is medically determined that a notified employee should be moved to a less hazardous job, the employer must provide—if available—alternative employment at the same rate of pay and benefits.

Under the Senate bill, if a less hazardous job is not available, the employer must continue to pay the employee at the current wage and benefit rate for one year. Similar language is under discussion in the House.

The Senate bill includes provisions that establish a comment period and a public hearing on each decision by the Risk Assessment Board to notify a particular employee population.

In addition, the Senate bill has been amended to provide a mechanism for the employer to challenge such decisions by the board in both an administrative and judicial proceeding.

However, the Senate bill also provides a mechanism that allows employees to sue the Risk Assessment Board for not seeking a notification for a particular employee population.

Passage of this legislation is one of the top priorities of the AFL/CIO. And, labor leaders have found considerable support for the legislation in both the House and the Senate.

So far, the business community has not been able to mount an effective lobbying campaign to bring pressure on Congress to block the legislation.

In fact, several major business trade groups and a handful of major U.S. corporations are supporting the Senate bill.

Those business groups and companies supporting S. 79 say publicly that changes made in the bill by the Senate Labor subcommittee of the Labor and Human Resources Committee have made the bill acceptable.

But privately, several lobbyists familiar with the negotiations in the Senate say the companies supporting the legislation believe they cannot defeat the bill and so have no choice but to work with the subcommittee if they want to have any influence on the legislation.

At least some of the concerns raised by these trade groups and companies were addressed in a complete overhaul of the Senate bill April 9 during subcommittee markup, including inclusion of provisions that provide for judicial review of the Risk Assessments Board's decisions and restrict the kind of scientific studies the board may use to identify the employee groups it will notify.

But the price the Senate sponsors of the bill extracted for accepting these changes was public support for S. 79 by those groups and companies that negotiated the amendments.

A lobbyist for one of the companies now supporting the Senate bill called the legislation "terrifying. My job as a lobbyist is to make it less terrifying, and if the price of these changes is to support the bill, well that's life in the big city."

S. 79 now has the support of such groups and companies as the Chemical Manufacturers Assn.; the American Electronics Assn.; Crum & Forster Corp.; Occidental Petroleum Corp.; International Business Machines Corp.; General Electric Co.; and Digital Equipment Corp.

Still, the vast majority of the business community opposes the legislation, according to lobbyists with the Alliance NAM and the U.S. Chamber of Commerce.

"Right now, most of the business community is outright opposed to the whole idea or has deep reservations about it," pointed out the Alliance's Mr. O'Day.

Opponents of the measure say the Senate bill is unacceptable, and they do not expect they will support the final version of the House bill.



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INSURANCE VS RISK.

Trucking cover

Continued from page 3

Thomas Kenefick, transportation insurance specialist for the American Trucking Assn., said "it would be too hard to identify how many trucks are involved," but he estimated that the number reaches at least into the hundreds.

The FBI said in its affidavit that an investigation it began in mid-1986 has identified at least 42 trucking companies that had dealings with Transportation Services.

The FBI said most of the companies made monthly payments ranging from \$350 to \$500 per truck to Transportation Services under the assumption that the Florida company was providing liability and cargo insurance.

Sources say the insurance operation offered truckers hauling non-hazardous cargo \$750,000 in liability limits, the minimum amount of coverage required by the ICC.

As part of its investigation, the

FBI reviewed the files of five of the 42 trucking companies that it says paid "premiums" to Transportation Services. The companies made nearly \$158,000 in payments to either the Florida firm or the others companies with which Mr. Beck was purportedly connected, according to the FBI affidavit.

The FBI said the five companies that paid "premiums" but did not receive any coverage were Starbird Enterprises Inc. in Jacksonville, Fla.; Topco Enterprises Inc. of Plymouth, N.C.; Shuttle Express Co. of Taft, Fla.; Zerkle Trucking Co. of Southpoint, Ohio; and Thompson Truck Lines Inc. of Chattanooga, Tenn.

According to the FBI's affidavit, Zerkle alone made more than \$91,000 in payments.

In an ad placed in Transport Topics magazine, Transportation Services offered liability coverage, cargo and physical damage coverage and other services, such as safety consulting, permit and li-

cence services, and accounts receivable financing.

Mr. Kenefick said the \$350 to \$500 per-truck monthly charges were "tempting for a lot of carriers" whose insurers were either canceling coverage or charging premiums well above those quoted by Transportation Services.

The FBI said in its affidavit that trucking companies that responded to the ad were instructed to insure one or a small number of trucks through coverage bound by the trucker's own insurance agent and then instruct the agent to file the insurance certificates with the ICC, as required by law.

The agent also was to be told that the other vehicles in the fleet were being leased and added as additional insureds to the policies of Reid Transportation, R.E. Thomas, Dawn Transportation Inc. of San Ysidro, Calif., East & West Transportation Systems Inc. of San Dimas, Calif., or other companies, the FBI affidavit says.

Dawn and East & West were described in the FBI's affidavit as "agricultural cooperative" transportation companies headquartered in Mexico. The FBI alleges Mr. Beck was associated with the companies, which were set up to "use an exemption to avoid the necessity for obtaining ICC authority."

If a trucking company's insurance agent refused to place coverage, either Transportation Services or the trucking company then applied for coverage in the assigned risk plan in the state where the trucker was located, the FBI said.

When the ICC receives insurance certificates from a trucking company's agent or the assigned risk plan, it considers that "the traveling public is protected, because the ICC filing covers the entire fleet of the motor carrier, even though only one motor vehicle may be insured," the FBI stated.

An ICC official confirmed that

once an insurance certificate is received, the federal agency considers the entire company insured. If an uninsured truck is involved in an accident, the ICC will look to the insurer listed on the certificate to pay claims.

In most cases, "the insurer decides that it's easier to pay the claim than to litigate," the ICC official said.

Because of the ICC's stance, "the biggest problem is for the insurance industry," the ATA's Mr. Kenefick pointed out. "Those companies that wrote the one-truck policies have no idea how many are behind it."

But as the FBI noted in its affidavit, an insurer will consider only those vehicles listed in its policy as insured. If an insurer is forced to make payments as the result of an accident involving an uninsured vehicle, the insurer "will come back to the motor carrier for back premiums and/or the amount of any judgment or settlement it had to pay."

Therefore, "the deception perpetrated by TSI would not come to light unless a TSI 'insured' carrier was involved in an accident resulting in the filing of an insurance claim," the affidavit states.

The ATA's Mr. Kenefick said he had been told by trucking companies that Transportation Services apparently has paid some small claims filed to its office by trucking companies that have paid for "coverage."

The insurers that were listed on the certificates of insurance issued by Transportation Services include CNA Insurance Cos., Lloyd's of London, Fireman's Fund Insurance Cos., Industrial Indemnity Co., Royal Insurance Co. and Savoy Reinsurance Co. Ltd., an insurer domiciled in Turks and Caicos.

A source who asked not to be identified said Savoy wrote coverage for 10 trucks on a policy issued to R.E. Thomas Inc. but later canceled the insurance when Savoy was alerted that its name was being used on insurance certificates issued on behalf of about 25 or 30 other trucking companies.

Paul Kutik, an official with Savoy, confirmed that Savoy had written the coverage but canceled soon after it learned that its name had been used on other insurance certificates. He would not elaborate further.

In filings with the Texas Railroad Commission, Savoy was named as a reinsurer on coverage written for about a dozen trucking firms. The filings said that the direct insurance coverage had been written by Swiss Reinsurance Group, though Swiss Re later denied it had agreed to front the risks for Savoy (BI, Jan. 19). The Texas Board of Insurance is investigating unauthorized use of Swiss Re's name in this case by American Transportation Underwriters, a surplus lines agency in Athens, Texas, according to the board.

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Officers Liability, Professional Liability, Impaired Risk or other insurance products, you can be confident that Brougner will give you nothing less than a command performance.

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Continued from facing page
devastating," according to Mr. Schwartz.

"Our American lawyers have flown to Bhopal, India, to get cases. Surely they can go down to HHS," Mr. Schwartz added, referring to the U.S. Department of Health and Human Services in Washington, where a list of employees that have been notified would be kept.

Obtaining the list would be as simple as filing a Freedom of Information Act request, Mr. Schwartz pointed out.

The federal Risk Assessment Board that would be established under the legislation would determine which employee groups should be notified.

The board's determination would be based on clinical or epidemiological studies of a particular substance that indicate workers exposed to the substance are likely to become ill.

The Senate bill says that the Risk

Assessment Board is to "make every reasonable effort to notify or coordinate notification of not less than 300,000 employees per year." Similar language now is under consideration in the House.

The Senate bill says priority must be given to notifying employee populations "likely to benefit from medical surveillance or health counseling."

Each notification would include identification of: the occupational health hazard; the disease or diseases associated with exposure to the hazard; and any known latency periods from the time of exposure to the time of clinical manifestation of a disease.

Notices also would have to include information on the advisability of seeking medical monitoring; the most beneficial type of monitoring or health counseling for the disease associated with the risk; the name and address of the nearest occupational and environmental health center; and an ex-

'There are a lot of hidden costs and problems that you don't see when you first look at it. But when you look at it closely, it is clear that it would be a bureaucratic nightmare, a legal nightmare and a cost nightmare,' Ms. Spangler says.

planation of the employee's rights under the law.

Once the Risk Assessment Board had selected a group of employees to be notified, the employer would be responsible for providing—at no cost to current employees—any recommended testing, evaluation or medical monitoring if any exposure occurred during the employee's tenure with that employer. However, the Senate bill does not explain who would pay the cost of screening retirees and former employees who currently are unemployed.

If the employee was not exposed

to the substance at his or her current workplace, the employer could charge the employee for the cost of testing and monitoring, but only to the extent that the cost exceeds what would be paid by the employee's existing group health care benefits.

The proposed legislation would prohibit employers from discriminating against any employee or applicant for employment on the basis that the employee or applicant is or has been a member of a population determined by the Risk Assessment Board to be at risk of disease.

Further, it says if it is medically determined that a notified employee should be moved to a less hazardous job, the employer must provide—if available—alternative employment at the same rate of pay and benefits.

Under the Senate bill, if a less hazardous job is not available, the employer must continue to pay the employee at the current wage and benefit rate for one year. Similar language is under discussion in the House.

The Senate bill includes provisions that establish a comment period and a public hearing on each decision by the Risk Assessment Board to notify a particular employee population.

In addition, the Senate bill has been amended to provide a mechanism for the employer to challenge such decisions by the board in both an administrative and judicial proceeding.

However, the Senate bill also provides a mechanism that allows employees to sue the Risk Assessment Board for not seeking a notification for a particular employee population.

Passage of this legislation is one of the top priorities of the AFL/CIO. And, labor leaders have found considerable support for the legislation in both the House and the Senate.

So far, the business community has not been able to mount an effective lobbying campaign to bring pressure on Congress to block the legislation.

In fact, several major business trade groups and a handful of major U.S. corporations are supporting the Senate bill.

Those business groups and companies supporting S. 79 say publicly that changes made in the bill by the Senate Labor subcommittee of the Labor and Human Resources Committee have made the bill acceptable.

But privately, several lobbyists familiar with the negotiations in the Senate say the companies supporting the legislation believe they cannot defeat the bill and so have no choice but to work with the subcommittee if they want to have any influence on the legislation.

At least some of the concerns raised by these trade groups and companies were addressed in a complete overhaul of the Senate bill April 9 during subcommittee markup, including inclusion of provisions that provide for judicial review of the Risk Assessment Board's decisions and restrict the kind of scientific studies the board may use to identify the employee groups it will notify.

But the price the Senate sponsors of the bill extracted for accepting these changes was public support for S. 79 by those groups and companies that negotiated the amendments.

A lobbyist for one of the companies now supporting the Senate bill called the legislation "terrifying." My job as a lobbyist is to make it less terrifying, and if the price of these changes is to support the bill, well that's life in the big city."

S. 79 now has the support of such groups and companies as the Chemical Manufacturers Assn.; the American Electronics Assn.; Crum & Forster Corp.; Occidental Petroleum Corp.; International Business Machines Corp.; General Electric Co.; and Digital Equipment Corp.

Still, the vast majority of the business community opposes the legislation, according to lobbyists with the Alliance NAM and the U.S. Chamber of Commerce.

"Right now, most of the business community is outright opposed to the whole idea or has deep reservations about it," pointed out the Alliance's Mr. O'Day.

Opponents of the measure say the Senate bill is unacceptable and they do not expect they will support the final version of the House bill.

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Trucking cover

Continued from page 3

Thomas Kenefick, transportation insurance specialist for the American Trucking Assn., said "it would be too hard to identify how many trucks are involved," but he estimated that the number reaches at least into the hundreds.

The FBI said in its affidavit that an investigation it began in mid-1986 has identified at least 42 trucking companies that had dealings with Transportation Services.

The FBI said most of the companies made monthly payments ranging from \$350 to \$500 per truck to Transportation Services under the assumption that the Florida company was providing liability and cargo insurance.

Sources say the insurance operation offered truckers hauling non-hazardous cargo \$750,000 in liability limits, the minimum amount of coverage required by the ICC.

As part of its investigation, the

FBI reviewed the files of five of the 42 trucking companies that it says paid "premiums" to Transportation Services. The companies made nearly \$158,000 in payments to either the Florida firm or the others companies with which Mr. Eeck was purportedly connected, according to the FBI affidavit.

The FBI said the five companies that paid "premiums" but did not receive any coverage were Sunbird Enterprises Inc. in Jacksonville, Fla.; Topco Enterprises Inc. of Plymouth, N.C.; Shuttle Express Inc. of Taft, Fla.; Zerkle Trucking Co. of Southpoint, Ohio; and Thompson Truck Lines Inc. of Chattanooga, Tenn.

According to the FBI's affidavit, Zerkle alone made more than \$91,000 in payments.

In an ad placed in *Transport Topics* magazine, Transportation Services offered liability coverage, cargo and physical damage coverage and other services, such as safety consulting, permit and li-

cence services, and accounts receivable financing.

Mr. Kenefick said the \$350 to \$500 per-truck monthly charges were "tempting for a lot of carriers" whose insurers were either canceling coverage or charging premiums well above those quoted by Transportation Services.

The FBI said in its affidavit that trucking companies that responded to the ad were instructed to insure one or a small number of trucks through coverage bound by the trucker's own insurance agent and then instruct the agent to file the insurance certificates with the ICC, as required by law.

The agent also was to be told that the other vehicles in the fleet were being leased and added as additional insureds to the policies of Reid Transportation, R.E. Thomas, Dawn Transportation Inc. of San Ysidro, Calif., East & West Transportation Systems Inc. of San Dimas, Calif., or other companies, the FBI affidavit says.

Dawn and East & West were described in the FBI's affidavit as "agricultural cooperative" transportation companies headquartered in Mexico. The FBI alleges Mr. Beck was associated with the companies, which were set up to "use an exemption to avoid the necessity for obtaining ICC authority."

If a trucking company's insurance agent refused to the place coverage, either Transportation Services or the trucking company then applied for coverage in the assigned risk plan in the state where the trucker was located, the FBI said.

When the ICC receives insurance certificates from a trucking company's agent or the assigned risk plan, it considers that "the traveling public is protected, because the ICC filing covers the entire fleet of the motor carrier, even though only one motor vehicle may be insured," the FBI stated.

An ICC official confirmed that

once an insurance certificate is received, the federal agency considers the entire company insured. If an uninsured truck is involved in an accident, the ICC will look to the insurer listed on the certificate to pay claims.

In most cases, "the insurer decides that it's easier to pay the claim than to litigate," the ICC official said.

Because of the ICC's stance, "the biggest problem is for the insurance industry," the ATA's Mr. Kenefick pointed out. "Those companies that wrote the one-truck policies have no idea how many are behind it."

But as the FBI noted in its affidavit, an insurer will consider only those vehicles listed in its policy as insured. If an insurer is forced to make payments as the result of an accident involving an uninsured vehicle, the insurer "will come back to the motor carrier for back premiums and/or the amount of any judgment or settlement it had to pay."

Therefore, "the deception perpetrated by TSI would not come to light unless a TSI 'insured' carrier was involved in an accident resulting in the filing of an insurance claim," the affidavit states.

The ATA's Mr. Kenefick said he had been told by trucking companies that Transportation Services apparently has paid some small claims filed to its office by trucking companies that have paid for "coverage."

The insurers that were listed on the certificates of insurance issued by Transportation Services include CNA Insurance Cos., Lloyd's of London, Fireman's Fund Insurance Co., Industrial Indemnity Co., Royal Insurance Co. and Savoy Reinsurance Co. Ltd., an insurer domiciled in Turks and Caicos.

A source who asked not to be identified said Savoy wrote coverage for 10 trucks on a policy issued to R.E. Thomas Inc. but later canceled the insurance when Savoy was alerted that its name was being used on insurance certificates issued on behalf of about 25 or 30 other trucking companies.

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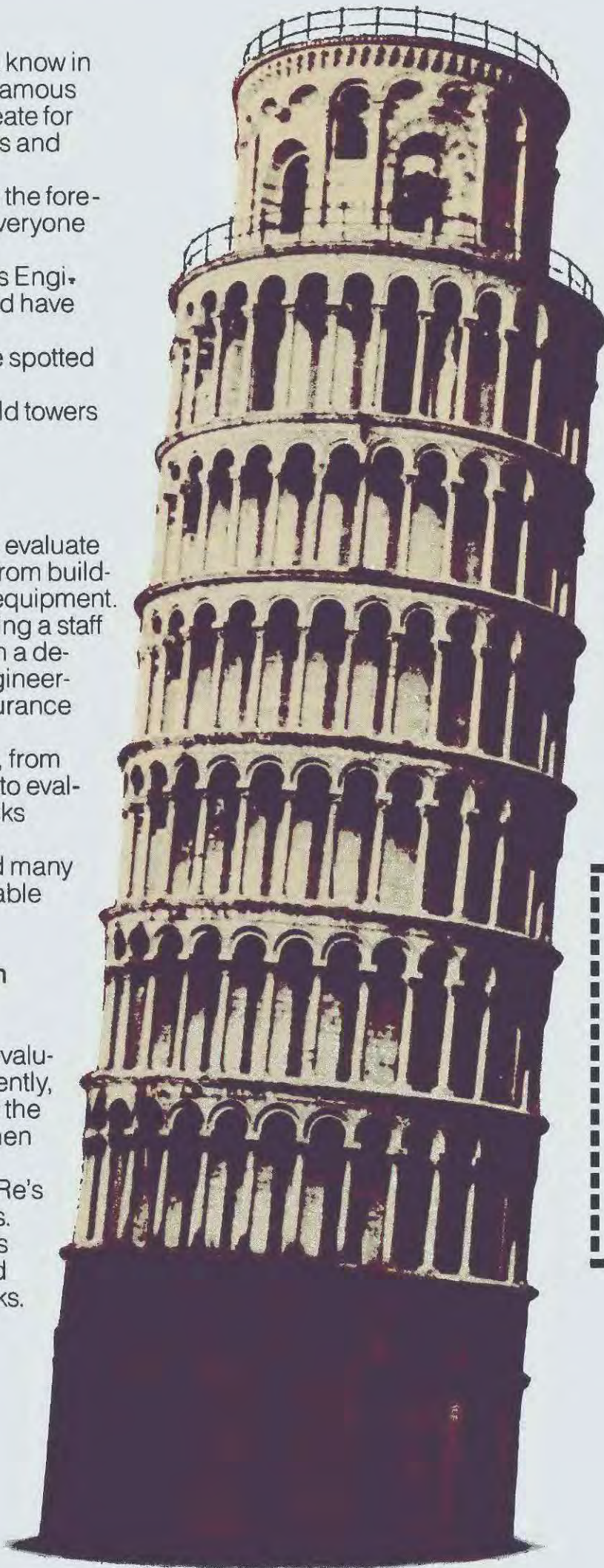
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Panel advocates FTC study insurance

By LINDA J. COLLINS

CHICAGO—Because of the current legislative focus on the insurance industry, the industry should not resist proposed federal studies of its operations, warn industry representatives.

To resist such scrutiny "might indicate to the government there is something to hide," said Raymond L. Hayes, president of the National Assn. of Insurance Brokers and senior vp of Rollins Burdick Hunter in Chicago.

Proposed governmental studies of insurance company operations, the potential for repeal or modification of the McCarran-Ferguson Act and the impact of the Risk Retention Act of 1986 were the key topics of a panel discussion held during the 51st annual Chicago Insurance Day.

The April 15 meeting, held in Chicago's Palmer House, was sponsored by the Independent Insurance Agents of Illinois and the Chicago Board of Underwriters.

The Senate recently passed and sent to the House a proposal to permit the Federal Trade Commission to undertake a study of certain property/casualty insurance rates (BI, April 13).

Under the McCarran-Ferguson Act—which places regulation of the insurance industry at the state level and partially exempts insurers from federal antitrust laws—the FTC can study or investigate the insurance industry only under certain circumstances, explained Frederick W. Beck, executive vp and general counsel for the Alliance of American Insurers in Schaumburg, Ill.

Mr. Beck maintains that such a study could be a positive thing for the industry. "If they do a study like this, it may take some of the pressure off of those who would repeal McCarran," he said.

Opponents of McCarran-Ferguson "allege that there is conspiratorial action among insurers, pointing to things like pricing and tort reform." Such a study might clear up some of the misconceptions about the insurance industry, Mr. Beck explained.

"I don't believe there was any collusion, but to resist the Feds looking into our business is wrong," added Mr. Hayes.

Andre Maisonpierre, president of the Reinsurance Assn. of America in Washington, D.C., agreed. "We are sending the wrong message to people in Congress and the administration when we lobby against studies of the industry. We should recognize that there is a responsibility on the part of the federal government to see if we are, in fact, operating and regulated properly," he said.

Members of the insurance community have to remember that "McCarran-Ferguson is not a constitutional product, but an act of Congress," Mr. Maisonpierre cautioned. "How does Congress know if we are being adequately regulated by the states, if we do not allow the Feds to take a look at what we do?" he asked.

Such an investigation would unquestionably reveal a number of problems with state regulations, acknowledged former Iowa Insurance Commissioner Bruce Foudree, now with the law firm of Mitchell, Williams, Selig & Tucker in Chicago, specializing in insurance regulatory law.

But Mr. Foudree predicts that if the federal government "were to do a fair overview of state regulation and what it has done, they would conclude that it has done overall a generally good job of supervising the area of insurance to the benefit of the public. . . particularly if you were to compare it to the kind of

job that the federal government could do, based on its record of demonstrated history where it has attempted to get into supervising insurance."

Mr. Maisonpierre agreed that there are many deficiencies in state regulation of insurance. But he charges that those supporting repeal of McCarran-Ferguson are comparing state regulation to "a perfect utopian system" of federal regulation.

"There is no such thing (as a perfect system) in the regulatory environment," Mr. Maisonpierre continued. "I think a fairer measure

of adequacy is how well state regulation measures to federal regulation of other financial institutions."

Mr. Maisonpierre is confident that state regulation of the insurance industry would measure favorably against the federal regulation of the banking industry or the savings and loan industry.

"We are concerned about the number of insurance company insolvencies but, by God, they are a drop in the bucket compared to the insolvencies of banks and savings and loans," he said.

Mr. Beck urged the audience to

"get behind state regulation and take action in those states where there is a problem with state regulation," to decrease the likelihood of repeal or modification of the McCarran-Ferguson Act.

While panelists' opinions varied on some issues, the six panelists agreed that repeal or modification of the McCarran-Ferguson Act would have a detrimental effect on the insurance industry.

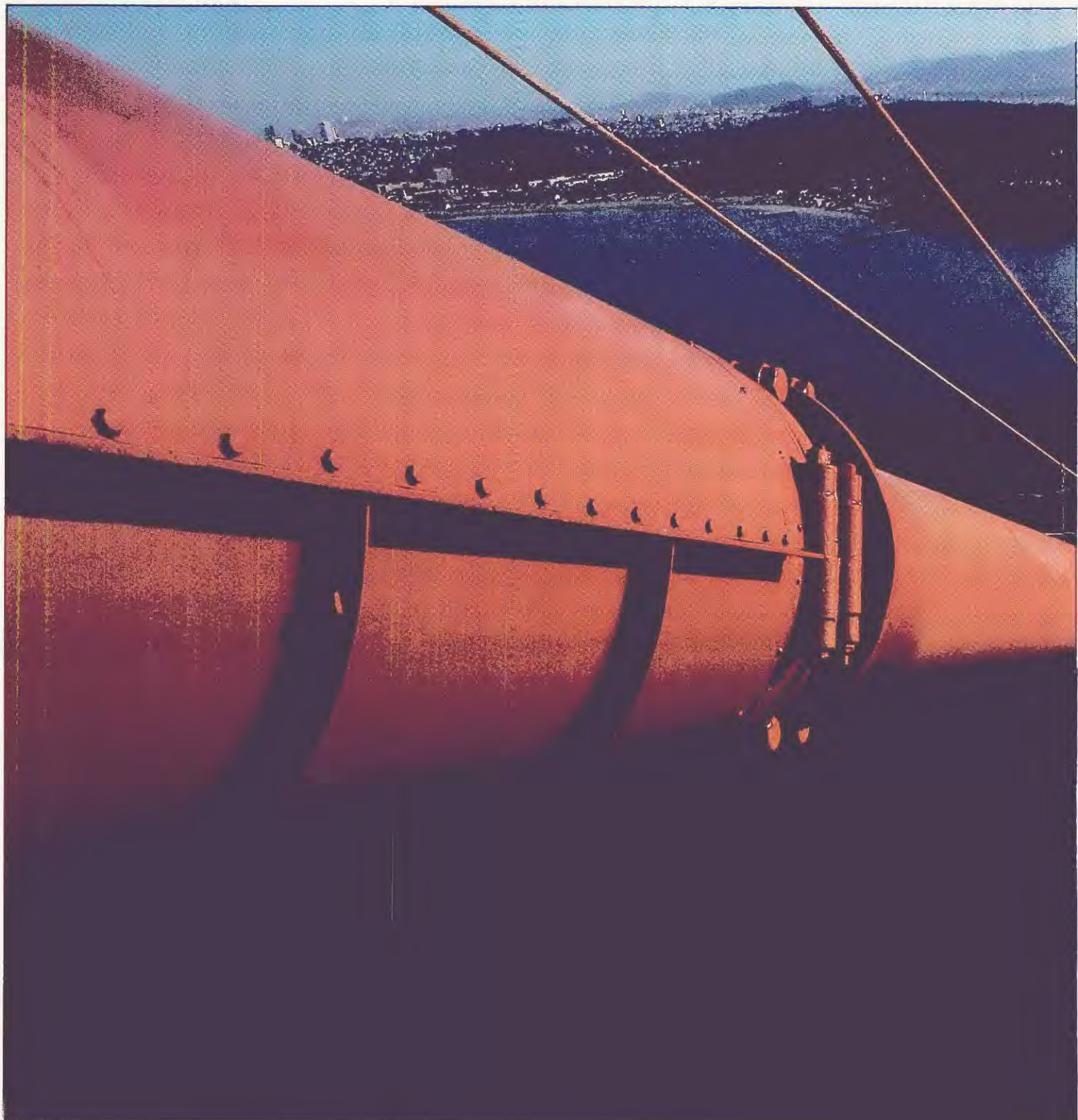
Although legislators and others who seek changes in the act plan to substitute federal regulation for state regulation, "my guess is if there is any modification or tin-

kering with McCarran, what we're going to have is more regulation at the federal level on top of a very deeply entrenched state regulatory system," predicted Mr. Beck of the Alliance.

"We aren't going to have fewer problems, we're going to have more," he said, adding: "The people who are going to be hurt by changes in McCarran are small business owners, smaller insurance companies, and even bigger insurance companies, if you're talking about a relatively small line or a state in which they don't have

Continued on facing page

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Continued from facing page much volume."

Insurers need to be able to share loss data to properly set rates, insurers contend.

But, if the act is amended, insurers will be uncertain how much they will be able to collaborate, Mr. Beck said. In addition to conferring on rating information and policy forms, insurers now collaborate on testimony before legislators and in filing briefs with courts, he noted.

If McCarran-Ferguson is modified, Mr. Beck also anticipates a rash of private lawsuits, since under antitrust regulations, individuals who file a lawsuit can recover treble damages.

"This is another retirement program for the plaintiff's bar," he

quipped.

The industry needs to recognize that the proposed repeal of McCarran-Ferguson "is a political move by consumer advocates and politicians who feel that they must do something in response to the crisis we have just been through," said William S. Sirola, Chicago-based Midwest regional manager for the Insurance Information Institute.

He said that the ability to amend or repeal the McCarran-Ferguson Act represents "the only tag on the insurance industry that the federal government has."

And although many insurance industry representatives are actively lobbying to retain the language of the McCarran-Ferguson Act, they should not underestimate their opposition, warned Mr. Mai-

sonpierre of the RAA.

"State attorney generals, through their organizations, have passed a resolution and are actively lobbying for repeal of McCarran-Ferguson. The National Conference of State Legislators also has passed a resolution and is actively lobbying for repeal," Mr. Maisonpierre pointed out.

"It is only natural for legislators in Washington to respond to the concerns of their constituency, and to say that this problem is going to go away is foolish," said Mr. Hayes of the NAIB.

"Availability, affordability and insolvency issues have the attention of the folks in Washington," Mr. Hayes stressed. However, he predicted that "repeal of McCarran-Ferguson or the immunity fac-

tor is not going to do a thing to improve competition."

Those seeking amendments to the act may have good intentions, but they could be creating long-term problems, Mr. Sirola agreed. If the act is amended somewhat now, and "we happen to go into another cycle in another five or 10 years, then they'll be forced to do something even more dramatic" in response to the next cycle, such as creating a federal regulatory agency, he said.

"Once you've got the federal bureaucracy and regulatory agency in place, it never goes away," Mr. Sirola warned, stressing that those in the insurance industry who are worried about the immediate impact of changes in the act should recognize that "down the road it

could get much worse."

"There is frustration and a general impression among members of Congress that there's something wrong at the state level that's got to be fixed and they're going to fix it at the federal level...not that this has worked in the past," said Mr. Foudree.

Many legislators do not understand the principles behind the insurance mechanism and how it works, Mr. Foudree stressed, so their "logic is flawed."

Rather than focusing on establishing a mechanism for federal regulation of the industry, opponents of McCarran-Ferguson are attempting "to do away with the antitrust exemption and therefore allow greater competition to occur. But we've just come through a period of intense competition" that created many of the problems the industry is facing today, Mr. Foudree commented.

Although the panelists were unanimously opposed to repeal of McCarran-Ferguson, their viewpoints on the Risk Retention Act of 1986 differed.

Agents from the audience voiced their concerns about loss of business to risk retention groups and about the stability of these alternative markets.

Insurers do not mind competing with risk retention groups as long as they are competing on an even playing field, Mr. Beck said. However he is concerned about the potential for significant losses that exists when "homogeneous sharers of certain exposures are bound together in one insuring group."

The insurance mechanism is based upon the spread of risk among a number of different industries, while risk retention groups are not, Mr. Beck said.

"Any major court decision or any new break in technology to discover new carcinogens or pollutants strikes all of them equally across the board. There is no diversity in a membership of a risk retention group," he said.

"To me it seems an awful lot like sending the sister ship of the Titanic into the ice flows to pick up survivors," he added.

On the other hand, regulators are taking a "pretty objective view toward the act," according to Mr. Foudree. He said that the Risk Retention Act was one of the "top issues" at the most recent NAIC zone meeting (see story page 30).

But Mr. Hayes said, while NAIB supported the act, it is concerned about the insolvency issue.

"The problem we think is going to occur with the Risk Retention Act is you had individuals having trouble finding insurance. Now you are going to have groups who have trouble finding insurance," said Donald D. Mauger, executive director of the Chicago-based Surplus Lines Assn. of Illinois.

"They may then go to companies that are not financially solvent to solve their problems, which could cause significant problems down the road," Mr. Mauger speculated. He added: "We think that possibly the surplus lines people are going to do better with risk retention groups than the admitted market."

Mr. Maisonpierre said that the reinsurance industry "looks upon risk retention groups as we look upon any other customers. They will be evaluated as such."

He said reinsurance underwriters examine the quality of the managers of the group, their experience, the capital base, the brokers working with the group and a number of other factors. "Reinsurers will provide the coverage if the price is right," Mr. Maisonpierre added.

The panel was moderated by Dr. Edwin Scott Overman, president of the American Institute for Property & Liability Underwriters, the Insurance Institute of America and the Insurance Testing Institute, all located in Malvern, Pa. ■

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PCW members to discuss Lloyd's offer

By CAROLYN ALDRED

london

LONDON—A meeting of up to 450 members of non-marine syndicates formerly managed by PCW Underwriting Agencies Ltd. is expected to be held in London next week to discuss the settlement proposal offered by Lloyd's of London earlier this month (*BI*, April 13).

The PCW 1985 Committee, which represents some 450 of the members worst hit by the syndicates' losses, hopes to arrange a meeting for syndicate members and their advisers "during the first week of May," said a spokesman.

However, the committee already says that some members will not agree to the settlement.

Under the 103 million pound (\$165.8 million) settlement offered by Lloyd's earlier this month, Lloyd's will contribute 45 million pounds (\$72.5 million) from its Central Fund and will cover any underwriting losses related to the former PCW syndicates exceeding the current estimated shortfall of 235 million pounds (\$378.4 million). Lloyd's also will pay 2.9 million pounds (\$4.7 million) to the Inland Revenue to end tax disputes involving PCW members.

Thirty-seven other organizations—including 26 Lloyd's members' agencies, accountants, law firms and brokers—will contribute 55 million pounds (\$88.6 million) to the settlement.

Meanwhile, the 1,547 PCW members belonging to the PCW non-marine syndicates must pay 34 million pounds (\$54.7 million) toward the settlement to help fund the syndicates' losses. The members also must relinquish their rights to sue Lloyd's and must transfer to Lloyd's their rights to sue other parties to the settlement.

However, the PCW Committee has criticized the settlement and claims that 400 names will have to pay between 25,000 pounds and 220,000 pounds (\$40,250 to \$354,200) each under the proposal.

"Some names will find it difficult, if not impossible, to pay the claims and some names probably won't accept the offer," said the spokesman for the PCW Committee.

The committee is advising members to consult their accountants and look into the tax implications of the settlement before attending the meeting.

Ferry disaster

The owner of the British passenger ferry that capsized off the Belgian coast last month is taking legal action against companies that transported dangerous chemicals on board the vessel.

Townsend Thoresen, a subsidiary of Peninsular & Oriental Steam Navigation Co., has sent summonses to "several companies who were transporting undeclared dangerous chemicals" on the *Herald of Free Enterprise*, said a spokeswoman for the ferry company.

The summonses put the haulage companies on notice that the ferry company believes the haulage companies would be liable for any pollution caused by last month's accident.

She would not give details of the summonses except to say the legal action was being taken in Belgium, the country where the trucks boarded the ferry.

"The action is being taken to apportion liability and to ensure that we are not held responsible for the leakage of chemicals that were not supposed to have been on the ferry," said the spokeswoman.

She refused to disclose what dangerous chemicals are known to have been on the stricken ferry, "but each substance is in small

quantities," she added.

Also, daily pollution checks have not identified any major leak, she noted.

Under British law, all haulage companies must declare what products are being shipped across the English Channel both to customs officials and to the ferry operators.

Some substances can only be carried on cargo ferries, not passenger ferries like the *Herald of Free Enterprise*, if they are particularly toxic, explosive or flammable, said the spokeswoman.

Townsend Thoresen has unlimited liability insurance, except for pollution cleanup for which there

is a \$300 million limit.

The insurance is led by Standard Steamship Protection & Indemnity Assn. (Bermuda) Ltd. (*BI*, March 16).

Meanwhile, the death toll from the tragedy has risen with about 200 people now feared dead. So far 175 bodies have been recovered, press reports say.

Earlier this month, Townsend Thoresen said it would pay up to 51.6 million pounds (\$83.3 million) to disaster victims and their survivors (*BI*, April 13). Last month, the company had contended that international agreements limited its liability to 20 million pounds (\$32.3 million).

Profit-sharing plan

The British-based employees of food manufacturer H.J. Heinz Co. Ltd. will be offered stock in the U.S.-based parent company as part of a new profit-sharing plan to be introduced at the British unit next month.

The "prosperity sharing" plan, as it is called by the company, will be introduced to Heinz's 3,750 employees in the British unit's headquarters and at the company's two British production plants.

Under the program, employees are offered a choice between a taxable cash payment or an allocation of shares of Heinz stock. The amount of the benefit will vary based on the company's return on total assets, said Ronald Attree, remuneration benefits manager for

the British unit.

The program, which is the first of its kind to be introduced by Heinz anywhere in the world, is linked to an overall drive by the company to increase its efficiency, said Mr. Attree.

"The prosperity sharing plan is an integral part of a total plan which includes the injection of new capital, equipment and changes in working practices," Mr. Attree said.

Market competition




Suggestions that commercial insurers in the United States are entering a rate war has adversely affected property/casualty insurance stock prices on both sides of the Atlantic, according to a London stock analyst.

Continued on facing page

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Continued from facing page

"The companies continue to produce firm evidence that, across the board, commercial rates are rising, albeit modestly, but insurance brokers see greater evidence of competition and some talk of price cuts now coming into casualty lines," said Andrew Goodwin, an analyst with London stockbroker Phillips & Drew.

Signs of competition are returning to the market sooner than expected, he noted in a recent market analysis.

"Given that without doubt we are at a changing point in the rating environment in the U.S., it is perhaps not surprising that there is quite a wide variance as to the current trend in rates," he said.

Also, the different views of the market expressed by brokers and insurance companies also can be explained by different stances adopted by policyholders, Mr. Goodwin added.

"The one main source of business

for the major alphabet brokers is the big-ticket business from the Fortune 500-type clients. Here, the sharp rise in rates over the last two years has led to the establishment of pools, captives and associations, which has taken business away from the traditional insurance market and may have led to increased competitive conditions," the analysis states.

Meanwhile, coverage for small and medium-sized businesses, the pricing of which is monitored by insurance companies rather than brokers, is not yet the subject of competition. "However, softness in one area can quickly feed through into other parts of the market," said Mr. Goodwin. Meanwhile, "sentiment towards" property/casualty insurance stocks "is likely to remain sensitive to indications on U.S. ratings," he added.

The stock analyst recommends taking a "defensive position" toward British insurers with large U.S. exposures and shifting stock

portfolios in favor of British companies with a low exposure to U.S. commercial lines business such as General Accident Fire & Life Assurance Corp. P.L.C. and Sun Alliance & London Insurance P.L.C.

Felony investigation

One of the Conservative Party politicians accused of applying for more than the legal amount of shares in a privatized British company would lose his membership in Lloyd's of London if "found guilty of having committed a felony," said a Lloyd's spokesman.

Keith Best, a Conservative member of Parliament, announced earlier this month that he would resign his seat in the House of Commons at the next national election after admitting that he had applied for six times the legal limit of shares when British Telecom's public offering was launched by the British government last year.

Under Lloyd's constitution, membership is canceled if the member "commits a felony," although the term "felony" is not defined, said a Lloyd's spokesman.

No criminal charges have been filed against Mr. Best.

Pollution claims

Asbestos claims are a terrible trauma for liability underwriters, but pollution claims could be far worse, warned a Lloyd's of London claims manager.

"There are already more pollution coverage lawsuits than in the whole history of the asbestos saga," says Jim Teff, claims manager of Janson Green Management Ltd. U.S. companies will pay enormous costs to clean up the environment under rules promulgated by the Environmental Protection Agency, he noted.

"Where can these corporations turn for the vast cost of this operation? The answer of course is to

their liability insurers," Mr. Teff told members of the Admiralty Law Institute at Tulane Law School in New Orleans last month.

Pollution incidents will raise many more coverage issues than asbestos cases have, and far more policyholders will exhaust their liability insurance limits to pay pollution claims than asbestos claims, he added.

The recent reauthorization of Superfund also is worrying underwriters, he noted.

"It is estimated that the specific change of the cleanup criteria from transportation (of wastes) to the absolute destruction of the contaminated ground will push the cost of the average National Priority List site up from \$8 million to \$50 million-plus," said Mr. Teff.

The insurance industry's reaction to these changes will be to exclude all land-based pollution coverage from future policies, he warned.

Furthermore, "underwriters will depart from their current position of saying they may pay (punitive damages) in appropriate cases and move to absolute exclusions.

"If dates of loss and occurrence forms are going to be abused to provide coverage where there should be none, underwriters will increasingly be forced to use narrow, defensive policy forms such as the Lloyd's claims-made form," he added.

Meanwhile, asbestos claims continue to mount, said Mr. Teff.

"When the Asbestos Claims Facility started nearly two years ago, the major assureds had 35,000 cases and were getting 600 new cases a month. The facility has managed to achieve a settlement rate of about 800 cases per month. But when I tell you that the increase is such that in January alone it received 3,000 new cases you can see the scale of the problem," he said.

In addition, there is now a new wave of asbestos cases using "another damaging change in the law"—the erosion of the exclusive remedy doctrine in workers compensation laws that bars a worker from suing his or her employer for occupational injuries, he added.

U.S. tort reform

The Reagan administration remains firmly committed to enacting tort reform, according to U.S. Assistant Attorney General Richard Willard.

"We will work in the courts and in the legislatures—at both the state and federal levels of our system—to advance this cause," promised Mr. Willard at a meeting of the Insurance Institute of London earlier this month.

Already at the state level, tort reform has been a "great success," he noted. "In the past year, over two-thirds of our 50 states have adopted some kind of tort reform legislation."


Comings & goings

Gordon Martin has been appointed a director of Independent Engineering Services Ltd., a company providing specialist insuring engineering services to underwriters, brokers and policyholders.

Tony Green and Paul Voller have been appointed directors of the Alexander Howden Group Ltd.'s North American non-marine division. In addition, Ian Johnson and Cliff Mitchell have been appointed directors of the company's international non-marine division and David Conley was appointed director of Howden's marine worldwide division.

Alexander Howden Reinsurance Brokers Ltd. appointed Morris Mindel as director of the non-marine reinsurance division and Danny Green as director of the aviation reinsurance division. ■

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Toronto-based Pafco Holdings launches insurance unit in U.S.

markets

Pafco Financial Holdings Ltd. of Toronto has launched a U.S. insurance subsidiary that will write all types of commercial property/casualty coverage for small businesses in 11 states.

Pafco General Insurance Co. Inc. of Indianapolis has been capitalized at \$5 million.

In addition, the Pafco Financial Holdings has created Symons International Group Inc. to act as the manager and holding company for Pafco General Insurance.

Symons also will acquire \$32 million in annual premium volume, plus physical assets and staff from American Underwriters Group Inc. and American Interinsurance Exchange both of Indianapolis. American Underwriters Group is

the manager of American Interinsurance Exchange, which writes high-risk auto coverage.

Besides this auto coverage, Pafco General Insurance plans to write \$4 million to \$5 million in commercial coverage, says Alan G. Symons, president of Symons International.

Pafco General Insurance will retain \$15 million of the \$32 million in premiums and cede the remainder to affiliates Pafco Insurance Co. of Canada and Symons General Insurance Co. of Canada. The Canadian companies, with surplus of \$40 million, write commercial lines

coverage, jewelers block coverage and high-risk auto coverages.

Pafco General and Symons International are located at 4720 Kingsway Drive, Indianapolis, Ind. 46205; 317-259-6300.

New multiline insurer

Markel American Insurance Co., a new multiline property/casualty insurer, has begun operating in Virginia.

Tony Markel, executive vp of Markel Service Inc., will serve as president of Markel American.

Capitalized at \$4 million, the company initially will write auto liability coverage for the long-haul trucking industry and animal mortality insurance.

The company is located at Innsbrook Corporate Center, 4400 Cox Road, Glen Allen, Va. 23060-4901; 804-273-1400.

Pennsylvania insurer

Spectrum General Insurance Co. has been granted a license in Pennsylvania.

Spectrum, which has \$500,000 in capital and surplus, writes commercial automobile physical damage policies with limits of \$200,000 per vehicle. A motor truck cargo program is available.

John P. Welch, president, will serve as senior operating officer. Carl R. Sadler, executive vp, will oversee underwriting. Mr. Welch was formerly president of special programs and the reinsurance division of Orion Group. Mr. Sadler has held senior underwriting positions with Northland Insurance Co. and Insurance Co. of North America.

The company is located at P.O. Box 1027, Valley Forge Towers N., 3000 Valley Forge Circle, Suite G-09, King of Prussia, Pa. 19406; 215-783-7229.

Mergers/acquisitions

Poe & Associates Inc. in Tampa, Fla., has acquired Ragolia & Co. Insurance Brokers Inc. of Pennington, N.J., and TDA Professional Insurance Services Inc. of Houston. Ragolia & Co. specializes in commercial insurance and professional liability coverage for optometrists. TDA specializes in commercial insurance and professional liability coverage for dentists.

Stop Loss International Inc., an Indianapolis-based underwriting manager for specific and aggregate stop loss insurance, acquired Specialized Benefits Plans, an Indianapolis-based wholesaler of fully insured individual and group products.

New offices

North Star Reinsurance Corp. has moved its headquarters to Morris Corporate Center I, 300 Interpace Parkway, Parsippany, N.J. 07054.

Casualty Actuaries Inc. has moved to 12115 Lackland Road, Suite 370, St. Louis, Mo. 63146-4012; 314-878-5002.

Harleysville Insurance Cos. has moved its Chesapeake, Md., branch office. At the same time, Harleysville's Towson, Md., office will be merged with the Chesapeake office. The combined office will be located at 1 Mall North, Suite 200, 10025, Governor Warfield Parkway, Columbia, Md. 21044; 301-997-9616.

Rollins Burdick Hunter Co. has opened a new branch office in Minneapolis at 45 S. Seventh St., Plaza 7, Suite 2108, Minneapolis, Minn. 55402; 612-333-5500.

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Industry needs further recovery: ISO

By ALISON KITTRELL

The property/casualty insurance industry appears to be on the road to recovery—but it still has a long way to go, and many potential pitfalls remain, says a recent report by the Insurance Services Office.

In its report, "1986 Insurer Financial Results: An Analysis of the Strength of the Property/Casualty Insurance Industry's Recovery," ISO acknowledges that the industry's 1986 results "show a significant improvement in profitability."

For example, the report notes that the industry posted a return on net worth of 13.1%, up from 3.9% in 1985, and surplus grew by \$16.9 billion, or a 22.4% increase.

But, ISO says these figures do not paint that optimistic a picture for several reasons, including:

- Positive financial results in 1986 follow several years of decline for the industry.

- 1986 was relatively free of natural disasters and was a year in which the industry enjoyed record realized capital gains.

- The industry enjoyed an unusually high influx of new capital—\$16.1 billion—during the years 1984-86. But, there is no guarantee that influx of capital will continue, and in fact it slowed during 1986.

- It is not enough for the insurance industry merely to meet the costs of doing business. Because of its unique position as "one of the financial cornerstones of the United States," the industry also must grow "to meet the needs of an expanding American economy."

- Several potential problems remain. Among the most serious are uncollectible reinsurance, continued year-end losses for several insurers, tax reform and an effort by some states to limit insurers' ability to set rates freely.

In discussing the 1986 results of the U.S. property/casualty industry, ISO emphasizes that those results, while encouraging, come in the wake of some very bad years.

For example, underwriting income had declined for seven consecutive years prior to 1986, reaching a record loss of \$25 billion in 1985. The trend was reversed in 1986, but the industry still posted a \$15.8 billion underwriting loss.

The return on net worth was 13.1% in 1986—up from 3.9% in 1985 and 1.8% in 1984.

The industry posted operating income of \$5.6 billion in 1986—but that followed two years of record losses.

And, the industry had a record \$12.7 billion in net income after taxes in 1986, but that was after dismal showings in the two previous years, when operating losses were barely offset by tax credits and realized capital gains.

Realized capital gains also are largely responsible for the 1986 record in net income. "More than 50% of the 1986 net income came from a record amount of realized capital gains," ISO reports.

In fact, the report notes that one of the big problems facing the industry is that "insurers continue to depend on income other than that generated from day-to-day insurance operations."

"Operating income, the sum of underwriting income and investment income, was \$5.6 billion in 1986—contributing less than 45% to the industry's total net aftertax income of \$12.7 billion."

And, the report continues, "This operating income was more than 25% higher than might otherwise have been expected because of 1986's unusually low payments for claims resulting from natural catastrophes."

That good fortune has made the 1986 results appear better than

they might actually be, according to the report: "If the industry had incurred a more normal level of claim amounts due to catastrophes and if realized capital gains had contributed a 10-year average rate to net income instead of an extraordinary amount, the 1986 return on net worth would have been approximately 9%" rather than 13.1%.

Even the 13.1% return on net worth only means that the industry finally is approaching average profitability, the report says. The Fortune 500 industrial companies earned an average 13% return over the seven years from 1979 to 1985; during that time, the property/casualty insurance industry's return averaged less than 9%.

"The insurance industry must do better than just survive—it must

grow to meet the demands of an expanding American economy," ISO says. "This growth is possible only if the industry can offer a sufficient economic return to investors so that their capital will be attracted over the long term."

And, ISO says, there are several potential roadblocks to the industry's offering that economic return.

First of all, insolvencies and financial problems continue for individual insurers. During 1984-86, a record 56 insurers were declared insolvent, and 110 insurers lost money in 1986.

One major reason for the problems facing individual property/casualty insurers is the increasing difficulty of collecting from reinsurance companies.

Eight reinsurers have been liquidated since 1983, and an addi-

tional 11 reinsurers reported that their 1985 surplus was less than half their 1982 surplus. As a result, "reinsurance that was once believed to be reliable may, in fact, be uncollectible," the report says.

This is especially ominous because "property/casualty insurers have become increasingly dependent on reinsurance."

Reinsurance recoverables represented \$73 billion—or 96%—of the property/casualty industry's surplus in 1985. In comparison, it represented \$26 billion—or 60%—of surplus in 1979, ISO says.

In addition to these threats from within, ISO says, the property/casualty industry faces threats from without.

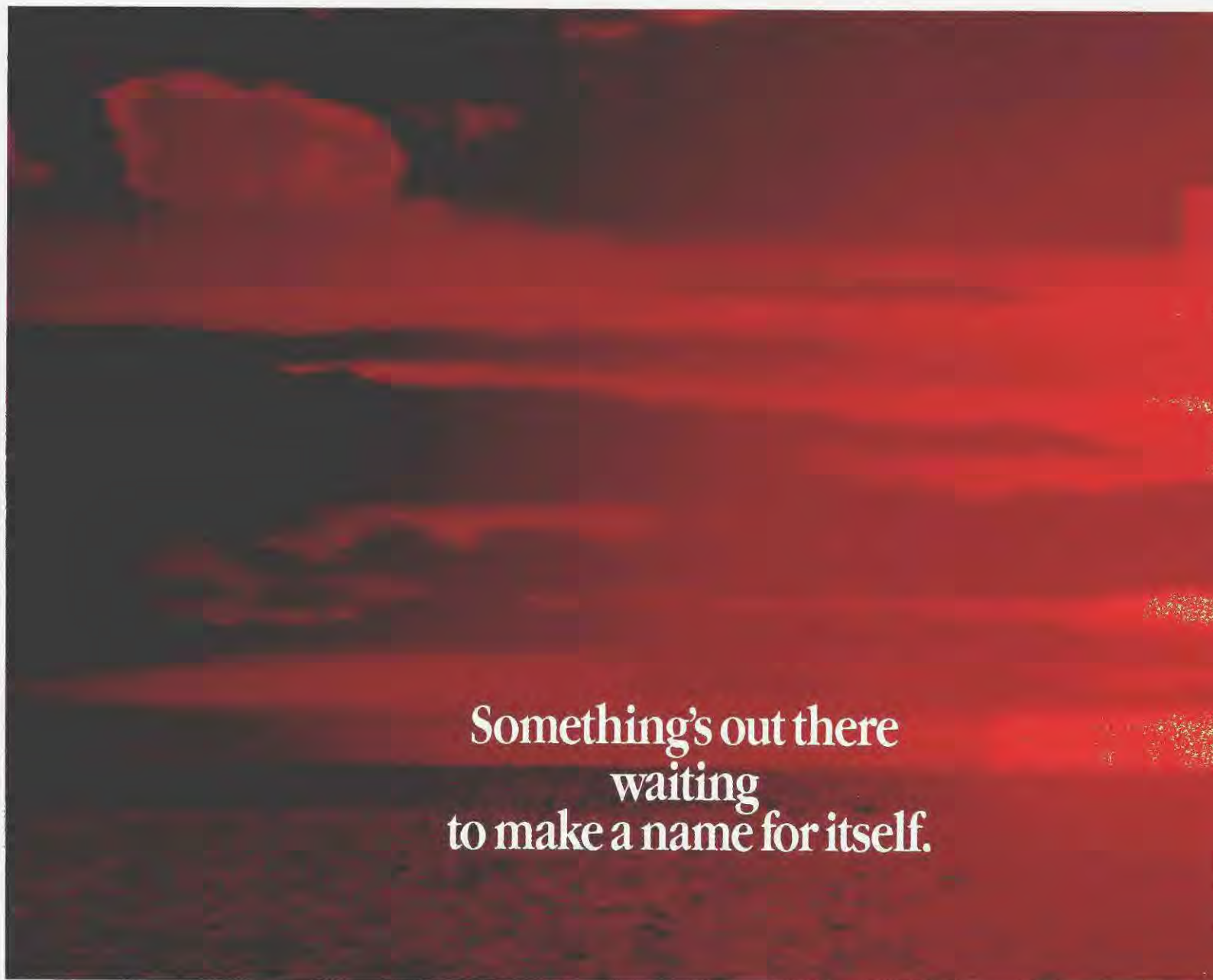
For example, the Tax Reform Act of 1986 is expected to increase the tax liabilities for most insurers.

Another threat is posed by state regulators who have moved away from competitive rating systems, requiring insurers to obtain prior approval for some or all rates.

Finally, the tort system is increasing expenses for insurers. Insurers' legal defense costs have increased in each of the past nine years, and now represent 32% of incurred claim totals.

The ISO report concludes that although 1986 results were promising, the industry cannot lose sight of the continuing problems and uncertainties it faces.

"Only prudent management, cost-based pricing and astute investment strategies can place individual insurers in a position to deliver returns adequate to support the growing insurance needs of the American economy," ISO says. ■



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Continental execs fear effect of trade war

LONDON—A trade war between the United States and Japan will cause more harm to the U.S. insurance industry than rate competition, two Continental Corp. executives contend.

"Nothing will impact the (U.S.) economy more quickly," said Charles A. Parker, executive vp of Continental. "Just the expectations of a trade war will cause manufacturing to decline quickly. This will have more impact on our business than a (change) on premiums. A trade war is serious and shouldn't be taken lightly."

"It will be one of the most critical and debated issues," added John P. Mascotte, Continental's chairman and chief executive officer. "Cooler heads should make themselves heard on this subject."

Earlier this month, after *Busi-*

worldwide

ness Insurance spoke to the Continental officers in London, the U.S. government imposed 100% duties on Japanese electronic imports.

Mr. Parker is so worried about the impact trade barriers would have on the insurance industry that he sent a telegram to President Reagan voicing his concern.

Trade barriers could turn a modest economic recovery in the United States into "a slowdown or recession," Mr. Parker contended. As a result of trade barriers, manufacturing may decline, which would mean fewer risks to insure, he said.

A reduction in exports will affect not only global insurers but also

U.S. insurers that write only domestic business, Mr. Mascotte added. "The U.S. is finding out that to trade worldwide it has to be competitive. That costs money and jobs. It is simplistic to assume we can go back to the Eisenhower era. We are a complex world economy."

Continental is the third-largest market offering global insurance packages to multinational corporations after American International Group Inc. and CIGNA Corp., according to Mr. Mascotte.

Continental now has offices in more than 40 countries and is represented by local underwriters in another 60 countries, he said.

Mr. Mascotte and Mr. Parker

stopped in London on their third annual tour of European cities to talk with institutional investors about Continental's results and future strategy.

"We are telling them that we have participated in the recovery in the U.S.," Mr. Mascotte noted. "We are also telling them that 1987 prospects are better than 1986."

This year will be a "maintenance" year for premium volume, Mr. Mascotte predicted. "We are not seeing a huge growth in premiums," but premium volume won't decline, he said.

—By Stacy Shapiro

French regulations

PARIS—French insurers believe the French government within the next few weeks will complete new

insurance regulations to replace the "obsolete and useless" insurance regulations currently in use.

The new code, the "Code d'Assurance," probably will detail rules under which insurers must operate, like solvency ratios, and outline how insurance company accounting should be presented, said Serge Magnon, assistant general director of the French Federation of Insurance Companies.

Details of the new code are being drawn up by a government committee. "The work is extremely confidential, and no one knows yet how the laws are going to be changed," Mr. Magnon said. However, he expects that the new code will be completed within the next few weeks.

The new code is one of three government reforms affecting the insurance industry, according to a speech given last month by Edouard Balladur, French minister of state for the economy, finance and privatization.

The government also plans to introduce legislation in the fall that will increase competition in the French market, he said. The legislation will reinforce the European Court of Justice's ruling last year that all European Community nations must allow insurance companies to trade across EC country borders (*BI*, Dec. 15, 1986).

In addition, the French last year decided to make it illegal for the government to fix insurance prices. France and the United Kingdom are the only EC countries to ban insurance tariffs.

The government also is selling off its state-owned insurance companies, Mr. Balladur noted.

The first company scheduled to be sold is France's second-largest insurance group, Assurances Generales de France.

"It, in fact, has proved to be fairly difficult to privatize AGF, because there have been considerable technical difficulties in putting a valuation on the assets of an insurance company," Mr. Magnon said. A group of experts is still studying AGF's accounts in an attempt to fix a price for the company's shares.

—By Will Henderson and Denise Claveloux



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Bill would codify comp pools' tax-exempt status

By DEBORAH SHALOWITZ

washington

WASHINGTON—Self-insured workers compensation pools would receive permanent tax-exempt status under a bill introduced this month by Sen. Donald W. Riegle Jr., D-Mich., and co-sponsored by Sen. Carl M. Levin, D-Mich.

The bill, S. 1019, would amend the Internal Revenue Code to ensure the tax-exempt status of group self-insured workers compensation funds. A companion House bill, H.R. 1709, was introduced earlier this spring by Rep. Guy Vander Jagt, R-Mich., and co-sponsored by almost all of the Michigan representatives.

Historically, workers compensation self-insurance pools have operated as mutual insurance companies—collecting premiums from

their members to pay operation costs and claims, and returning excess money as dividends. Such mutual operations are not taxed since they retain no funds.

Last year, however, an IRS audit of a Michigan pool resulted in a notice for \$18 million in back taxes, interest and penalties (BI, Oct. 27, 1986).

The IRS argues that since these funds are not actually mutual insurance funds, they should not be treated as such for tax purposes, according to Sen. Riegle.

But others claim the IRS code is unclear regarding the status of self-insured workers comp pools.

A moratorium on the taxation of

work comp pools will continue until Aug. 16.

Child-care mandate

Employers would not be allowed to deduct group health plan expenses unless the plan includes first-dollar coverage for pediatric preventive health care, under a bill introduced by Sen. John H. Chafee, R-R.I.

The bill, S. 968, would require businesses to include children's preventive care and health supervision services in their employee health benefit packages for the insurance premiums to be deductible as a business expense. A compan-

ion bill, H.R. 1449, was introduced in the House last month by Rep. Edger L. Jenkins, D-Ga.

Under Sen. Chafee's bill, care for children up to 18 years old would include complete physical examinations, immunizations, laboratory procedures, vision tests, hearing tests and developmental and behavioral assessments.

Sen. Chafee's current proposal is quite similar to legislation he introduced in 1985 (BI, April 1, 1985), but has two major changes, one of his legislative aides said.

Sen. Chafee's current proposal would not allow employers to charge a deductible for this preventive pediatric coverage, but would allow copayments. His 1985 bill did not address deductibles. Also, the age limit for coverage of children was lowered from 21 in

the 1985 bill to 18 in the current proposal.

The potential savings for individuals stemming from the bill are "substantial and self-evident," declared Sen. Chafee. However, "unless the government provides incentives for all insurers to offer preventive and supervisory health care services, it will be difficult to break through the existing design of private health care plans which focus on acute care. Individual insurance companies regard preventive services as additive in cost, rather than as a mechanism for long-term savings."

Sen. Chafee said that children screened through an early and periodic screening program run by Medicaid, the state-supported program that provides health care for the poor, cost Medicaid less than those that weren't screened.

For example, children in Ohio screened through the program were 30% less costly to Medicaid than other children, according to Sen. Chafee.

"It would make sense that a similar return on investment in preventive health care would occur in the private sector," concluded the senator.

EPA proposal

Owners and operators of underground tanks used to store petroleum would have to buy between \$1 million and \$6 million in environmental impairment liability insurance or provide one of several alternative financial responsibility mechanisms under rules proposed by the U.S. Environmental Protection Agency.

These financial responsibility rules are part of a major regulatory program the EPA is proposing for the more than 1.4 million underground storage tanks in the United States.

Under the proposed rules, owners or operators will have the option of satisfying the financial responsibility requirements by passing a stiff financial test, buying EIL insurance, providing a letter of credit, purchasing a surety bond or purchasing an indemnity contract.

The amount of coverage required under the rules is based on the number of tanks owned or operated and ranges from a \$1 million annual aggregate for one to 12 tanks to a \$6 million aggregate for more than 341 tanks.

Owners or operators that fail the financial test and cannot buy insurance or purchase one of the other financial instruments may qualify for a "suspension of enforcement," although the proposal is unclear on exactly how such a suspension is obtained.

The proposed rules will not take effect for several months, and the EPA plans several public hearings on the proposal in May and June.

OPIC results

The Overseas Private Investment Corp. had another record year in fiscal 1986, which ended Sept. 30.

Fiscal 1986 net income for OPIC, the federal agency that provides political risk insurance and finance services to U.S. companies investing in developing countries, totaled a record \$101.2 million, up from \$100.5 million in 1985.

Capital and reserves also hit a record \$1.1 billion in fiscal 1986, a 10% increase over the previous year's record \$984 million.

The agency also reported insurance premiums of \$1.4 billion in fiscal 1986. In the first six months of fiscal 1987, from Oct. 1, 1986, through March 31, 1987, OPIC issued a total of \$544.4 million in insurance for 25 projects. ■

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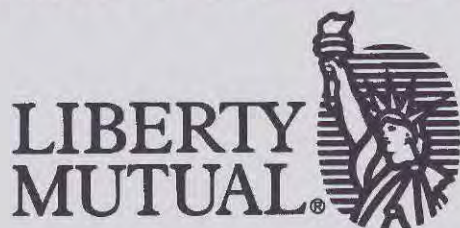
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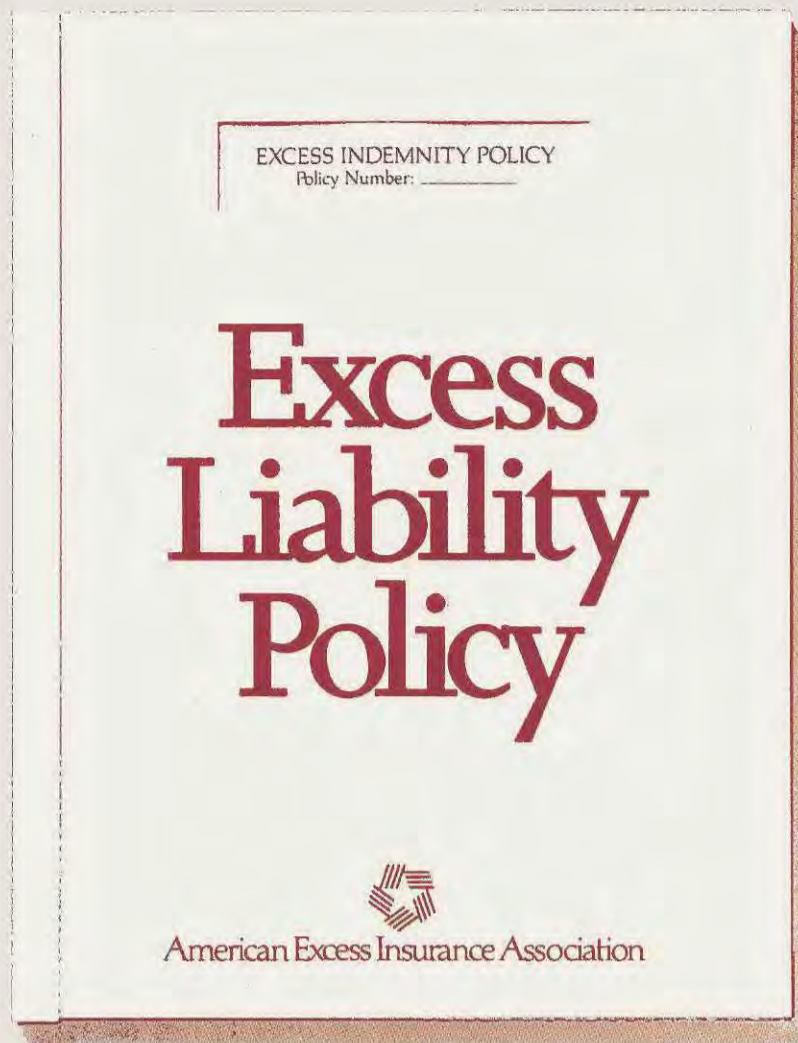
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IMPROVED CHOICE

Adding 401(k) to cafeteria plan benefits employers, employees

By Raymond C. Linstrum
and Laura B. Reale

IN THE WAKE OF The Tax Reform Act of 1986, it appears that 401(k) plans should maintain their status as the fastest growing employee benefit of the 1980s.

Also gaining in popularity are cafeteria plans, as authorized by Section 125 of the Internal Revenue Code and which also have been preserved by the 1986 tax reform package. The appeal of both plans has led many benefits managers and financial planners to wonder if the two plans have a future together. That is: Should employers include the 401(k) with a flexible benefits program?

We feel the answer for most employers is yes.

In fact, combining a 401(k) plan with a program of flexible benefits is one way to take full advantage of Section 125, and numerous "flex" employers already have taken this triumphant approach to plan design.

A 401(k) plan can be used to complement a cafeteria plan in two basic ways. One approach is to offer both plans separately. Each employee may use employer provided contributions or credits and/or salary reduction amounts to purchase a selection of benefits available under the cafeteria plan.

A Section 125 plan may offer employees a variety of taxable and non-taxable benefit choices, including: cash; vacation time; group term life insurance; coverage under accident, health, disability, dental, qualified group legal services or dependent care assistance plans; and qualified cash or deferred arrangements as defined in Section 401(k).

The 401(k) would not, however, be one of the optional benefits offered in the cafeteria plan menu. Instead, each employee would fund the separate 401(k) plan through a separate salary reduction agreement with the employer.

The alternative approach is to incorporate the 401(k) plan fully in the Section 125 flexible benefit plan. In this way, the 401(k) plan becomes one of the optional benefit offerings under the cafeteria plan and employer contributions not used to purchase other benefits can be contributed to the 401(k) plan along with regular salary reduction deferrals. The overall limit on employee contributions to the 401(k) plan would, of course, continue to apply.

We feel most benefit managers, particularly those at medium-size and larger firms, should take advantage of the credit methodology allowed by Section 125 and offer Section 401(k) as one of the plan options. The potential advantages to the employer for combining a 401(k) plan with a Section 125 in this way are:

- ✓ It provides employees a tax-favored investment option for excess flexible benefit credits.
- ✓ It eases employee communications—the employer has to explain the concept of choice and salary reduction only once.
- ✓ It increases employees' satisfaction with the benefit package because employees are given additional choice and flexibility.
- ✓ It simplifies administration: Enrollment and processing are coordinated.
- ✓ It provides employees with an incentive to opt for lower-cost health care benefits since the "freed-up" flexible benefit plan credits can be directed to the 401(k).

For many of the same reasons, combining a 401(k)



plan with a program of flexible benefits can be quite attractive to employees. Employees can elect low- or moderately priced health benefits that still provide adequate protection, have excess credits remain non-taxable and, at the same time, augment their future retirement income.

This feature becomes even more important in light of new restrictions on eligibility for deductible contributions to Individual Retirement

Accounts. For the employee, depositing those Section 125 credits *directly* to a 401(k) account is much more convenient than taking them as cash and then completing a separate 401(k) enrollment form to convert the amount to a 401(k) contribution.

The advantages of combining a 401(k) plan with a Section 125 plan for both employers and employees are: increased employee satisfaction and augmented retirement income.

Advantages to employers only are: ease of employee communications, simplified administration and incentive for health care cost containment.

For employees only, the advantages of a combination are: a tax-favored benefit option and contribution convenience.

Combining the retirement savings plan with the flexible benefits plan may not be the best course for all employers. There are several factors benefits managers and financial planners must consider, including:

- ✓ Will the employer want to offer a cash option in the Section 125 flexible plan for use by employees who have excess credits remaining after selecting their benefit coverages?
- ✓ Will the results of Internal Revenue Service-required non-discrimination tests for cafeteria and 401(k) plans be affected?
- ✓ Should the employer match Section 125 credits that are contributed to the 401(k) plan?
- ✓ Will the annual enrollment process required

for cafeteria plans cause any special problems?

The inclusion of a 401(k) provision may, for all practical purposes, mandate the adoption of a cash option plan in the program. Proposed Section 125 regulations specify that elective contributions may be directed to a Section 401(k) plan that is combined with a Section 125 plan. Internal Revenue

Code Section 401(k) proposed regulations define elective contributions as those that

result from salary-deferred elections by the employees in lieu of cash.

That is, if excess credits are allowed to be invested in a 401(k), they must also be eligible to be turned into hard cash for the employee. Employers are sometimes reluctant to turn benefit dollars into straight cash, in part due to concerns that employees will "take the money and run."

Another factor to be considered when evaluating whether to combine the 401(k) as part of the flexible benefits program or to offer it separately is whether an employer is currently meeting the 401(k) non-discrimination test by only a narrow margin.

Currently, a finding of discrimination in the 401(k) plan may render the entire flexible benefits plan discriminatory if a Section 125 flexible plan is combined with a 401(k) arrangement. Under the new uniform non-discrimination rules enacted under the 1986 legislation, this "domino effect" on the remainder of the cafeteria plan may not necessarily be true.

These new non-discrimination rules, which impact all traditional employer-provided group term life insurance and health plans as well as 401(k) and cafeteria plans, will need final regulations before such issues can be clarified. The concern is that the contribution of excess credits into the 401(k) plan could cause the average deferral percentage (ADP) of highly compensated participants to actually increase, which in turn

Continued on next page

Raymond C. Linstrum is president of CIGNA Employee Benefits Services Inc., a unit of CIGNA Corp. in Hartford, Conn. Laura B. Reale is assistant vp-marketing in the Group Pension Division of Connecticut General Life Insurance Co., a Hartford-based CIGNA Corp. unit.

General finance affects risk management

By The Insurance Institute of America

The following question and answer are drawn from the curriculum for the Associate in Risk Management designation awarded by the Insurance Institute of America. They represent the type of question asked, and possible answers to, the three examinations for the A.R.M. designation.

This month's material, drawn from the December 1986 national examination in ARM 56-Risk Financing, illustrates how many risk management decisions are influenced by the same factors that affect an organization's overall financial management, thus requiring coordination of risk management with general finance.

Q: An organization's choices among alternative risk financing techniques

depend, in large part, on the characteristics of the potential losses to be financed and the characteristics of the organization. Assume that an organization that currently relies heavily on commercial insurance is considering establishing self-funded reserves through which to retain losses from certain exposures.

Explain in detail whether each of the following circumstances would favor greater reliance on a self-funded reserve and less reliance on commercial insurance:

- The frequency of accidental losses, but not their size, increases.
- The organization needs cash for some potentially highly profitable ventures.
- Interest rates rise.

A: • As losses become more

A.R.M. exercises

numerous, but do not individually increase in size, they become more predictable, more nearly "budgetable." Therefore, this change in loss experience favors increased retention through the self-funded reserve and less transfer of diminishing risk to the insurer.

• Profitable opportunities to use cash should tend to dissuade an organization's management from establishing or adding to reserves for losses.

Any money placed in such reserves typically must remain liquid to pay for losses when they occur, thus generating only a relatively low rate of return compared with what the organization could earn by buying insurance and investing the remaining funds in the new profitable ventures.

- Rising interest rates may increase

reliance on either insurance or self-funded reserves, depending on the circumstances.

Normally, higher interest rates and investment returns would tend to favor the self-funded reserves, through which an organization could control—and earn more interest on—its own money.

However, if an insurer offers a "cash-flow plan" for paying premiums and crediting policyholders with earnings on reserves that are higher than the organization could generate through its own reserves, then rising interest rates may tend to lead to greater reliance on insurance.

The sample questions and answers used in this column are taken from the Associate in Risk Management designation curriculum of the IIA. For more information on the content of the A.R.M. program, write Dr. G.L. Head, Vp, Insurance Institute of America, P.O. Box 314, Malvern, Pa. 19355.

Disability cover continues despite one day of work: Court

A one-day return to work did not separate two periods of recurrent disability under a group disability insurance policy, the Supreme Judicial Court of Maine ruled.

Raymond Johnson obtained coverage under a group disability policy in connection with a mortgage transaction on his house. On Sept. 16, 1980, while the policy was in force, Mr. Johnson was seriously injured in an accident necessitating amputation of his leg.

John Hancock Mutual Life Insurance Co. paid his disability benefits for 18 months in accordance with the insurance contract.

Mr. Johnson attempted to resume work on Dec. 22, 1981, but worked only on that day. He was not

401(k) complements cafeteria plan

Continued from previous page

could cause a previously "passing" 401(k) plan to "fail" after a flex plan and a 401(k) are combined.

This outcome would be most likely for a 401(k) plan that already was on the edge of failing the non-discrimination tests.

Depending on salary levels of employees choosing to contribute credits into the 401(k) plan, employee deferral percentages and other plan design options would need to be revised to bring the 401(k) plan into compliance.

Examples of such revisions could be to reallocate highly compensated salary deferrals to an aftertax thrift account, to increase the employer match to generate more participation by lower-paid employees or to lower employee contributions to acceptable levels.

If a 401(k) plan includes an employer matching contribution feature, then a decision must be made as to whether the excess benefit credits that an employee may direct to the 401(k) plan will be matched. Many 401(k) plan sponsors provide a "match"—typically 25% or 50%—to the salary reduction contribution made by the plan participant, usually up to a maximum contribution of 5% or 6% of pay.

If an employee is not already contributing at the maximum 5% or 6% for "matching" purposes, then it may make sense for the employer to match any excess credits contributed to the 401(k), subject to the overall plan design limitation. Otherwise, the employee would be forced to achieve the same objective by receiving the excess credits as cash and simultaneously entering into a new 401(k) salary reduction agreement that reflects the additional amount.

legal briefs

able to work thereafter. Mr. Johnson sought benefits under the policy.

John Hancock denied additional coverage. Mr. Johnson sued but lost in the trial court.

On appeal, Mr. Johnson argued that the policy was ambiguous and that he suffered from a recurring disability, thus obligating John Hancock to pay additional benefits. The policy did provide for coverage for a recurring disability arising out of the same cause before the expiration of six consecutive months after the date of termination of

such previous period of disability.

The appellate court said that Mr. Johnson's one-day return to work did not separate the two periods of recurring disability. Even if it did, the court said, Mr. Johnson would be entitled to further benefits because of the six-month period.

Johnson vs. John Hancock Mutual Life Insurance Co., Supreme Judicial Court of Maine, March 3, 1986 (BI/01/J.-\$10).

These abstracts were prepared by Cases Unlimited Inc. Copies of these decisions are available by sending a \$10 check payable to Cases Unlimited to Business Insurance, 740 N. Rush St., Chicago, Ill. 60611. List the number for each opinion.

Of course, the major negative to this approach is that the employer's cost could increase, albeit slightly, because of higher "matching" contributions and less Social Security FICA savings. Sections 125 credits that are directed to a 401(k) plan lose their exemption from FICA taxes.

Combining a flexible plan and a 401(k) plan also can affect employee enrollment procedures.

In a stand-alone 401(k) plan, the major enrollment process is conducted just once, and employees may change their elections on an individual basis, subject to plan administrative rules.

In some cases, employees may not change either the rate of their contribution or their investment mix (i.e., equity, fixed income, money market, company stock, etc.) for many years. Other employees may change both the amount and the mix two or three times a year.

In a flexible benefit plan, employees are required to re-enroll annually and their elections must remain in effect for the entire 12-month plan year unless a qualified life status event occurs (i.e., divorce, marriage, death, addition of dependents, loss of spouse's job).

When a 401(k) plan is combined with the Section 125 program, excess benefit credits deposited into the 401(k) also would be subject to the rules of the flexible plan. This would mean that the ability to change either the amount of that contribution or how that contribution is invested would not be permitted with respect to those excess credits.

It would appear, however, that the flexibility in these two areas with regard to the basic employee salary reduction contributions to the 401(k) plan would be preserved.

We recommend most companies combine the

Section 401(k) plan with the Section 125 plan, except where an employer is unwilling to provide a cash option or where an employer may have difficulty in meeting the non-discrimination test.

This approach is appropriate even for smaller employers that want their flexible benefits and retirement savings plan designs to be straightforward and easy to administer. Combining them makes good sense as long as it is supported by a strong systems capability and quality enrollment support.

It should be pointed out that a separate retirement savings plan can be communicated and administered along with the cafeteria plan. Combining or integrating the plans by allowing excess credits to be deposited directly into the 401(k) plan is not a prerequisite of centralized administration.

For a benefits manager who already has adopted a 401(k) plan and then decides to implement a flexible benefits program, it is strongly recommended that the entire 401(k) be re-enrolled to consolidate all employee choices into one master record-keeping data base.

Otherwise, it may be too cumbersome to identify those employees who participate in the ordinary 401(k), but who do not elect to contribute excess credits to the 401(k).

Again, the systems support available is an important consideration in the plan design decisions.

The 401(k) option is still a highly attractive, tax-advantaged investment for fulfilling employees' long-term retirement needs. When managed properly, it can represent a valued addition to a flexible benefits program.

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NAIC model law

Continued from page 3

Mr. Harkavy fears that if individual states adopt the NAIC model law with this restriction, risk retention and purchasing groups also may be subject to more state regulations, which the 1986 federal act was designed to preempt.

Attorney Michael J. Mullen, with the Washington law firm of Crowell & Moring who represents risk retention groups, also criticized the amendment requiring a risk retention group to operate through licensed agents or brokers in states other than where it is based.

"I certainly recognize the legitimate concern to make sure that you have full power to act against any fraudulent or deceptive acts or against any hazardous financial condition," Mr. Mullen commented. "We are just concerned about adding additional requirements that appear to be inconsistent with some provisions of the federal act."

Mr. Mullen said he found other "troubling" provisions in amendments to the NAIC's model act that appeared to be inconsistent with the federal act, including:

- Requiring a risk retention group in one state to comply with an injunctive order issued in another state by a court of competent jurisdiction or by a U.S. District Court based on a finding of financial impairment or hazardous financial condition.

Mr. Mullen said a federal court order could be binding nationwide, but not a state court injunction.

The NAIC's Mr. Thornberry said the provision stemmed from ambiguous language in the federal act.

- Making a risk retention group that violates any provision of the model law subject to fines and penalties applicable to licensed insurers generally, including revocation of its license and/or the right to do business in a state.

The federal act requires a court order to prevent a risk retention group in hazardous financial condition from operating, Mr. Mullen said.

- Requiring a purchasing group to specify its marketing plan and pay a filing fee.

- Notifying risk retention or purchasing group members that their source of coverage may not be subject to the protection of all state regulations, including guaranty funds.

Mr. Mullen said this provision could be acceptable if other non-admitted insurers also were required to give similar notice.

The NAIC model act has no legal authority. It is designed primarily to give the states guidance when they draft legislation to implement the federal Risk Retention Act.

Last year's changes to the 1981 Risk Retention Act allow public and private entities with similar risks to band together to self-fund or purchase all types of commercial liability coverages except workers compensation. The 1981 law applied to only product liability and completed operations insurance.

Under the expanded law, entities can establish a special multiowner captive insurance company—called a risk retention group—or form a group to purchase insurance on a group basis—known as a purchasing group.

A risk retention group chartered in one state is free to operate nationwide without having to obtain prior rate and policy form approval from every state in which it does business. Also, the groups do not have to use licensed, commercial insurers as fronts to avoid run-ins with regulators.

While advocates of risk retention groups embraced the NAIC's model law after a compromise was

reached at the NAIC's December 1986 meeting in Orlando, Fla., the proposed amendments to the model law are drawing criticism (*BI*, Dec. 15, 1986).

The amendments restore the model act to its "initial, unacceptable form with even more onerous restrictions," complained Mr. Harkavy.

However, Illinois Insurance Director John Washburn said that state regulators are not out to kill the act, but they do have real concerns about risk retention groups' solvency and market conduct, as well as how they will be taxed.

The Risk Retention Act has "taken away the ultimate leverage a state has, which is the licensing leverage," Mr. Washburn said. So, state insurance regulators are trying to deal with these concerns under a new structure. "It is very difficult," he said.

The NAIC consistently has opposed risk retention groups because state regulators feared many

The amendments restore the model act to its 'initial, unacceptable form,' says Mr. Harkavy.

of the groups would lack sophisticated insurance knowledge and become insolvent, leaving members unprotected since the groups will not be backed by state guaranty funds.

"I see what's happening with certain individual insurance departments. They are hoping (the risk retention act) will die a natural death in the sense that market conditions will improve or we will litigate this sucker to death," Mr. Harkavy said.

In an interview following the meeting, he declined to identify the insurance departments to which he

referred.

However, Richard C Hsia, deputy superintendent of the New York Insurance Department, criticized Mr. Harkavy's "blunderbuss" attack of the model act amendments, when his main concern is limited to the question of local agents.

In response to some concerns from regulators that purchasing groups will buy coverage from fly-by-night offshore insurers, Washington attorney Beth Kravetz said she interprets the federal act to allow states to require that purchasing groups buy insurance coverage only from insurers admitted in the state in which the risk is located or from authorized surplus lines insurers.

Ms. Kravetz, who specializes in advising risk retention groups, represents Washington, D.C.-based HOW Insurance Co., the first major domestic risk retention group formed under the original 1981 Risk Retention Act.

Other proposed changes to the NAIC's model risk retention law include:

- Restricting public entities from obtaining liability insurance from any purchasing group or any risk retention group not chartered in their home states.

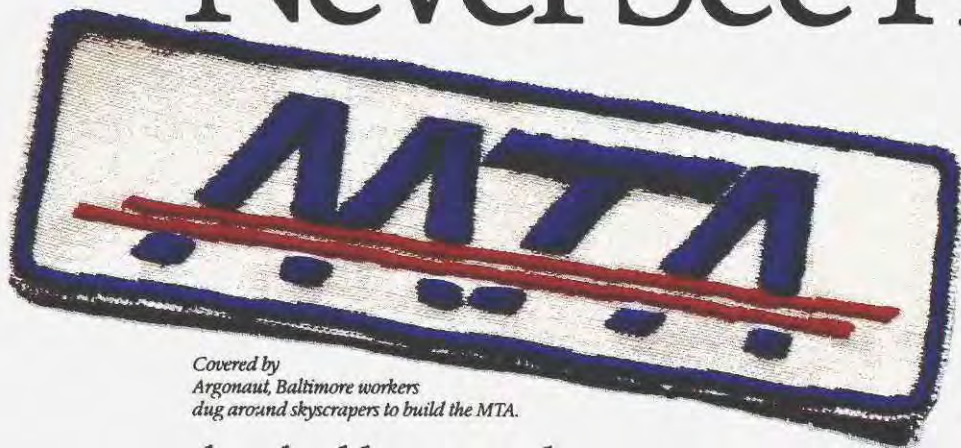
- Excluding insurance obtained from a risk retention group not chartered in a state from being used to demonstrate financial responsibility for a license or permit to undertake specific activities.

- Taxing purchasing group premiums at the same rate and subject to the same interest, fines and penalties for non-payment as those applicable to premiums paid for similar coverage by commercial insurer policyholders.

- Specifying that a purchasing group may not purchase insurance policies with deductibles or self-insured retentions unless the deductible or SIR is the sole responsibility of the individual members of the purchasing group. ■



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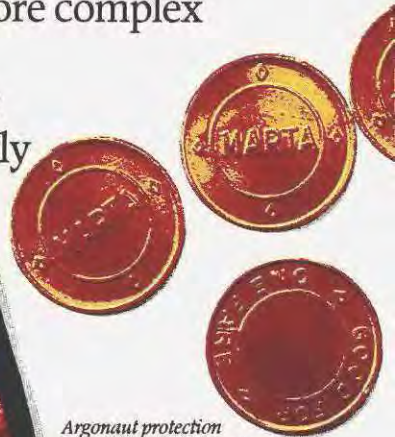
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NAIC ready to meet challenges: Regulators

By MEG FLETCHER

LEXINGTON, Ky.—The National Assn. of Insurance Commissioners stands ready to meet challenges posed by marketplace changes and federal officials who want to regulate the insurance industry, officials say.

"Our resources and abilities have never been stronger," said Arkansas Insurance Commissioner Robert M. Eubanks III during the opening session of the NAIC's zone meeting in Lexington, Ky., earlier this month.

State insurance regulators won't allow themselves to be lulled by the emerging semblance of coverage availability because buyers—and would-be buyers—still face affordability and availability problems, said Mr. Eubanks, who

chairs the organization's Southeast zone.

In addition, state regulators say they won't be brushed aside by some vocal federal officials who want to modify or repeal the McCarran-Ferguson Act, which gives states the primary authority to regulate the insurance industry and grants insurers limited exemptions from antitrust laws.

Federal Trade Commission Chairman Daniel Oliver "blames our current insurance problems on a lack of competition," Mr. Eubanks said, noting he was airing his personal views.

He pointed out that federal intervention in the insurance industry in the past has caused a variety of problems.

State insurance commissioners gathered behind closed doors dur-

Regulators won't allow themselves to be lulled by the emerging semblance of coverage availability because buyers—and would-be buyers—still face affordability and availability problems, says Arkansas Commissioner Robert Eubanks.

ing the NAIC meeting to discuss the best strategy to meet those challenges.

State regulators also considered several other topics during their meeting:

FTC questionnaire

Several state insurance commissioners discussed—outside the meeting—the intent of a seven-page questionnaire they received

from the FTC that focuses on wide range of questions about the operations of state insurance departments.

According to a spokesman from the New York Insurance Department, the FTC query stems from a complaint the agency received.

Terry Winslow, deputy director of the FTC's bureau of competition, said that the FTC has the right to investigate insurance-re-

surety insurance, but also asks a later matters for possible violations of federal laws unless the matter is specifically excluded from its authority.

In addition, the FTC can study insurance-related matters if requested by the commerce committees of either the U.S. House or Senate. However, Mr. Winslow said he is not aware of Congress asking for a surety study of this type.

The inquiry has prompted the New York Insurance Department to schedule a public hearing on surety insurance at 10 a.m. May 13 at the department's New York office, the department spokesman said.

Annual statements

All property/casualty and life insurance companies licensed to do business in New York, New Jersey and Texas will be asked to resubmit versions of their annual statements on computer disk, the NAIC's data collection working group decided.

Format problems—ranging from the very minor to the extensive—are necessitating the request as part of the NAIC's pilot program for enhancing data collection, said Nevada Insurance Commissioner David A. Gates.

NAIC representatives will meet with the insurers' software vendors to help explain problems with individual companies' submissions, Mr. Gates said. Contrary to some companies' estimates, the resubmission should require only a couple of hours work for most insured representatives, he added. No deadlines have been set for the resubmissions.

The goal of the computer program is to enable insurers to electronically transfer their financial statements to regulators. Mr. Gates estimated that the program is now about 80% successful, and predicted that the remaining problems will be ironed out soon.

Medicare pilot program

Several commissioners formed a working group to develop legislative and regulatory initiatives to help the federal Office of Prepaid Healthcare implement a pilot program for Medicare recipients.

The pilot program is designed to deliver Medicare payments to employers, unions and anyone responsible for providing Medicare benefits to retirees, according to Tina Boesz, senior policy analyst (BI, Feb. 16).

Members of the working group include those who serve on the NAIC's State and Federal Health Insurance Legislative Policy Task Force.

Long-term health care

A preliminary draft of regulations for the NAIC's Long-Term Care Insurance Model Act was presented to a task force concerned with Medicare supplements, long-term care and other limited benefit plans.

Issues still to be decided include standardizing Medicare-related definitions nationally and extending benefits after a policy has been canceled, said Andrea Lazar, director of government relations for Blue Cross/Blue Shield of Phoenix, Ariz. She chaired the advisory group that prepared the model regulations.

Securities task force

The NAIC's task force on the valuation of securities announced formation of a six-member advisory group of representatives of the securities industry.

The group will advise members of the task force on how insurers' securities should be valued. ■

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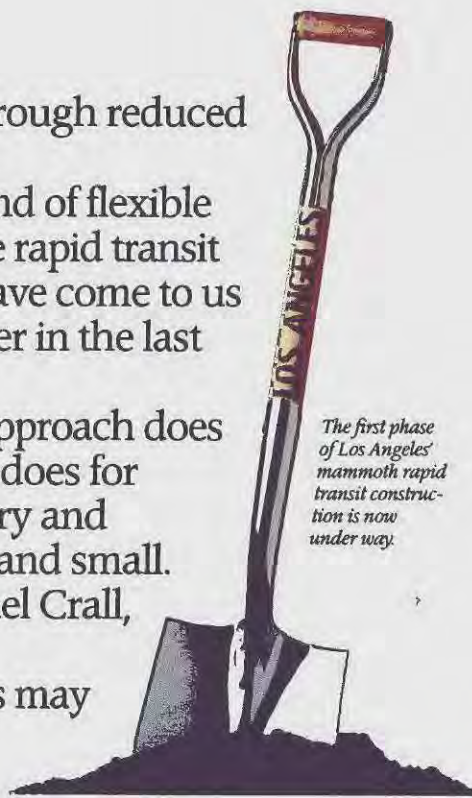
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Argonaut

Continental offers malpractice coverage

Continental Corp. is now writing primary and excess medical malpractice insurance for hospitals and groups of doctors nationwide.

The insurer, which is writing the coverage exclusively on a claims-made policy form, is offering groups of at least 10 doctors up to \$2 million in primary coverage, with no deductible. Alternatively, it is willing to write up to \$5 million in coverage excess of \$5 million, said Timothy Mitchell, a Continental vp.

For hospitals, Continental is willing to write primary limits of \$1 million per claimant and \$3 million aggregate, plus \$4 million in excess coverage above those limits, said Mr. Mitchell. There also would be an automatic small deductible whose size has not yet been determined.

products & services

As an alternative, Continental will write a \$5 million layer excess of \$5 million for hospitals.

Mr. Mitchell would not specify how much business Continental plans to write except to say it will be in the "multimillions of dollars."

"We have the ability to be a very major writer in this line of business," he said. Given the right jurisdiction, price and risk, "we have a big risk appetite."

He would not provide any information on reinsurance arrangements.

Continental now has about 12 people working in its medical malpractice unit, Mr. Mitchell said,

"but we plan to double the staff by the end of the year and double it again by 1988."

He said although many insurers have stopped writing medical malpractice coverage in recent years, he believes Continental's approach will "allow us to be in the business for a long time and to prosper."

Mr. Mitchell said Continental plans to be selective on where it writes the business, writing only in jurisdictions where the legislative climate has been favorable.

Continental also has the advantage, he said, of starting in the medical malpractice insurance business with a clean slate.

Continental plans to accept busi-

ness only from brokers and agents experienced in the medical malpractice area, he said.

For more information, contact a Continental agent.

Case management

A new case management program designed to reduce catastrophic medical claims costs has been introduced by Intracorp and CIGNA RE Corp., two units of Philadelphia, Pa.-based CIGNA Corp.

Called RECOVERI, the program pre-certifies all inpatient hospitalizations, focusing on admission only when medically necessary and only for as long as necessary; gives early notice of potentially catastrophic claims; and provides individual case management, said

George Hartz, a CIGNA RE vp.

"RECOVERI benefits both clients and patients," says Linda Fellows, assistant vp and director of CIGNA Re's group reinsurance underwriting.

The combined effect of the services "can help lower medical costs an average of \$12 to \$14 for every \$1 spent on case management services," said Mr. Hartz.

"For patients, the program can speed recovery and reduce complications by assuring timely and appropriate medical care," added Ms. Fellows.

CIGNA RE is so confident the program will produce significant savings that it will fully reimburse its reinsurance clients for the cost of Intracorp's case management services if the medical expenses for any covered employee exceed the reinsurance deductible, Mr. Hartz said.

RECOVERI is marketed by CIGNA RE, which markets life and health reinsurance, and is administered by Intracorp, one of the nation's largest and oldest providers of medical care cost-containment services. Intracorp also offers the program to employers.

The program is billed on a per-case, time and expense basis, Mr. Hartz said.

Intracorp controls costs by using a nationwide network of professional case managers to assure proper, cost-effective use of medical services, according to the company.

Case managers check on the adequacy of the diagnostic facility and the patient's treatment, identification of alternate treatment sites, such as nursing homes or extended care facilities, arrangements for home health care and coordination of outpatient treatment and rehabilitation.

For more information on RECOVERI, contact Linda Fellows, Assistant Vp, CIGNA RE Corp., Hartford, Conn. 06152; 203-726-4215.

Pension training

A series of three computer-based training diskettes is being offered by Financial Benefits Inc. to teach basic pension and profit-sharing information.

The package is designed by Life Instructors Inc. to be self-correcting, with lessons interspersed with questions. A mastery test at the end of each tutorial covers all material.

The Pension Basics tutorial discusses basic plan design alternatives such as defined benefit, profit-sharing, money purchases, target benefit and combination plans. Funding methods, vesting schedules, integration and top-heavy benefits are covered in-depth.

In addition, the diskettes explain death benefits, taxation and government reporting requirements.

The series runs on IBM XT, AT and compatible computers with 256K of memory and includes: "Pension Basics," "IRAs and Keoghs" and "Applications for Qualified Plans."

Individual tutorials can be purchased for \$199, while the package of three costs \$495.

For more information, contact the marketing department at Financial Benefits Inc. at 1611 Loma St., Santa Barbara, Calif. 93103; 805-564-0065.

RMIS survey

The 1986 Risk Management Information Systems survey is available in the January/February issue of Risk Management Reports.

The fifth survey of RMIS, edited by James D. Blinn of the Tilling-

Continued on next page

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BI

Continued from facing page
hast Division of Towers, Perrin, Forster & Crosby Inc., reflects the consolidation of improvements that have occurred in the past four years.

The 1986 RMIS Survey presents three classes of systems: multiple-user claims information systems, personal or microcomputer claims information systems and software systems focusing on automation of clerical or analytical activities. The 1986 survey includes 79 separate systems.

Each category is organized into seven exhibits: presentation of vendors and their systems; basis objectives and costs of the systems; input characteristics; key output; hardware and software; special capabilities; and systems evaluation.

Single-copy price of the survey is \$50 from Tillinghast Publications, 722 Post Road, Darien, Conn. 06820; 203-655-9791.

Work comp info

The revised Workers Compensation Claims Characteristics, which examines the major aspects of compensation claims experience, is available from the National Council on Compensation Insurance.

The revision updates the earlier edition and adds new exhibits on claimant characteristics, attorney involvement, rehabilitation costs, cumulative injury and occupational disease, and claim size distribution, according to Frank White, vp and actuary.

The data used is from the Call for Detailed Claim Information, a data collection program designed to collect specific information on workers compensation indemnity claims. Administered by NCCI since 1979, it includes information, as of July 1986, on claims in 16 states and on claims filed under the Longshoremen and Harbor Workers' Act.

The book is available to NCCI members for \$50 and to non-members for \$65 by writing to NCCI, P.O. Box 027240, Miami, Fla. 33102-9990. Members will be billed. Non-members must enclose payment.

OSHA guide

A two-volume guide covering all legal and regulatory information regarding the OSHA Hazard Communication Standard has been developed by Industrial Training Systems Corp. of Marlton, N.J.

Volume I of the HAZCOM Manual contains all the background and legal requirements of the standard and an explanation as to who is responsible for what and when it needs to be done.

Also provided are sample pages of all necessary forms, compliance check lists, suppliers of hazardous materials labels and a producer/distributor index of audiovisual training programs.

Volume II of the manual is a model hazard communication program and a glossary of more than 200 relative terms.

This two-part, 315-page guide is priced at \$295. Additional copies of Volume II are available for \$45 apiece.

ITS also has produced "Hazard Communication: Supervisory Overview," a 10-minute video program, as a supplement to the HAZCOM Manual.

The video informs supervisory personnel of the requirements of the OSHA hazard communication standard and explains the role supervisors play in preparing their company for compliance. The video is available in any format for \$200 when purchased in with the HAZCOM Manual. If purchased separately, the video costs \$400.

For more information, call Angela Loundes, Industrial Training Systems Corp., 200 W. Stow Road, Marlton, N.J. 08053; 800-922-0782.

McCue to assist Home president

John McCue, formerly senior vp at the Home Insurance Co. in New York, has been appointed assistant to the president. In this position, Mr. McCue will manage special projects and assist President James Meenaghan in the day-to-day administrative duties. He also will be a member of the operations management group, the company's executive management committee.

Mr. McCue joined the company in 1983 as a vp and field manager for the Boston office. He has since held several executive positions in the company including senior vp responsible for the company's property insurance business.

In other insurer changes:

Deborah Kweller has been promoted to vp at Fairmont Insurance Co. in Burbank, Calif. Ms. Kweller was previously Fairmont's director

comings & goings: industry

of internal operations.

Robert Hogan and **James Cavitt** have been promoted to senior vps at Superior National Insurance Co. in Woodland Hills, Calif. Mr. Hogan has been in charge of workers compensation since the company was established in 1985, while Mr. Cavitt has headed the company's property/casualty insurance business.

Edward J. Smith Jr. and **John S. Ward Jr.** elected vps of American Mutual Liability Insurance Co. and American Mutual Insurance Co. of Boston. Mr. Smith is manager of American Mutual's Lexington, Ky., service center. Mr. Ward is manager of the insurer's Atlanta



Mr. Ward



Mr. Smith

service center.

Ronald J. Bonitati promoted to vp-product support, regional operations for Allendale Insurance in Johnston, R.I. Mr. Bonitati joined Allendale, a member of the Factory Mutual System,

in 1970. Prior to this promotion, he served as vp and district sales manager of the Stamford, Conn., office.

At the commercial insurance division of Aetna Life & Casualty Corp. in Hartford, Conn., the following vps were promoted to senior vps: **William H. Boornazian**, senior vp-national accounts; **John J. Dwyer**, senior vp-bond; **David A. Kocher**, senior vp-claim; **Nicholas F. Miller Jr.**, senior vp and actuary-actuarial and industry affairs and financial services; **Diedrich D. Oglesbee**, senior vp-field manage-



Mr. Bonitati

Continued on next page

MISCELLANEOUS PROFESSIONAL LIABILITY

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The Board of Directors are pleased to announce the successful completion of a private placement of common stock arranged through:

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The Principal Investors are:

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through Morgan Capital Corporation
Kleinwort Benson Limited

The proceeds of this placement have increased the Company's capital and surplus to in excess of \$18,000,000.

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Continued from previous page ment; and Brian E. Scott, senior vp-product development and underwriting.

John S. Rosenbaum named vp and national director-structured settlements at the North American Co. for Life & Health Insurance in Chicago. In his new position, Mr. Rosenbaum will direct activities relating to structured settlements including marketing and underwriting specific product lines.

At Chubb & Son Inc. the following employees were elected vps: Emilia M. Accardi, vp-Baltimore branch manager; John H. Gillespie, vp-Boston branch manager; Alan C. Brown, vp-national manager of the energy resources group; Gerald W. Brown, vp-manager of the financial institutions department.

John T. Riordan joined Inter-County Hospitalization Plan Inc. in Horsham, Pa., as executive vp-diversified operations. Mr. Riordan will be responsible for the operation of Inter-County's subsidiaries and the organizations with which Inter-County maintains management contracts. Most recently, Mr. Riordan was president of Intra-America Life Insurance Co., the New York subsidiary of Colonial Penn Group. Inter-county Hospitalization Plan Inc. and its sister plan, Inter-County Health Plan Inc., are non-profit health insurers.

Robert V. McGuigan named senior vp of commercial lines at Great American Insurance Cos.' Cincinnati administrative office. Mr. McGuigan, who has been with Great American for 33 years, has been senior vp of commercial underwriting at affiliate Great American-Midwest Inc. in Cincinnati.

David C. Scheil named vp and actuary at Transamerica Insurance Co. in Los Angeles. He will be responsible for commercial lines pricing and analysis.

Reinsurance

Lewis H. Paul promoted to senior vp at Frankona Reinsurance Co.-J.S. Branch in Kansas City, Mo.



Mr. Paul

In addition to his current underwriting and marketing duties, Mr. Paul will be responsible for treaty administration. He was formerly secretary and reinsurance director for Great American Reinsurance Inc. in Cincinnati.

Excess/surplus

John A. Dunbar joined Market Service Inc. in Richmond, Va., as vp-special risks. Previously, Mr. Dunbar worked at Interstate National Corp. as vp-underwriting and marketing. In his new position, Mr. Dunbar will be responsible for underwriting services directed at large commercial accounts, development of group programs and reinsurance negotiations.



Mr. Dunbar

Agents/brokers

Richard K. Gaines named vp of The Daniel & Henry Co. of St. Louis. Mr. Gaines also heads his own insurance brokerage/consulting firm, Richard K. Gaines & Associates.



Mr. Gaines

At Rollins Burdick Hunter Co. in Oakland, Calif., Charles W. Bates and Mark A. Niebuhr promoted to vps. Prior to their promotions, both were account executives.

Jack Probelus joined broker Braishfield Insurance Associates of Massachusetts Inc. as executive vp in charge in developing the company's New England operation. Mr. Probelus previously served as Boston-based senior vp for Marsh & McLennan Inc.

HMOs/PPOs

Robert J. Erra appointed president and chief executive officer of Western Health Plans in San Diego, Calif. Previously, Mr. Erra was with Santa Barbara Medical Foundation Clinic, where he was executive vp and chief administrative officer. Western Health Plans operates health maintenance organizations in Southern California and Nevada.

Other suppliers

Tony Hammer joined Towers, Perrin, Forster & Crosby to manage communication consulting in the Chicago office. Prior to joining TPF&C, Mr. Hammer was responsible for communication consulting for the Dallas office of The Wyatt Co.

Peter G. Baldwin appointed president of Loss Control Management Corp. in Rockville, Md. Mr. Baldwin will be responsible for corporate planning, business development and management oversight. Previously, Mr. Baldwin was a vp.

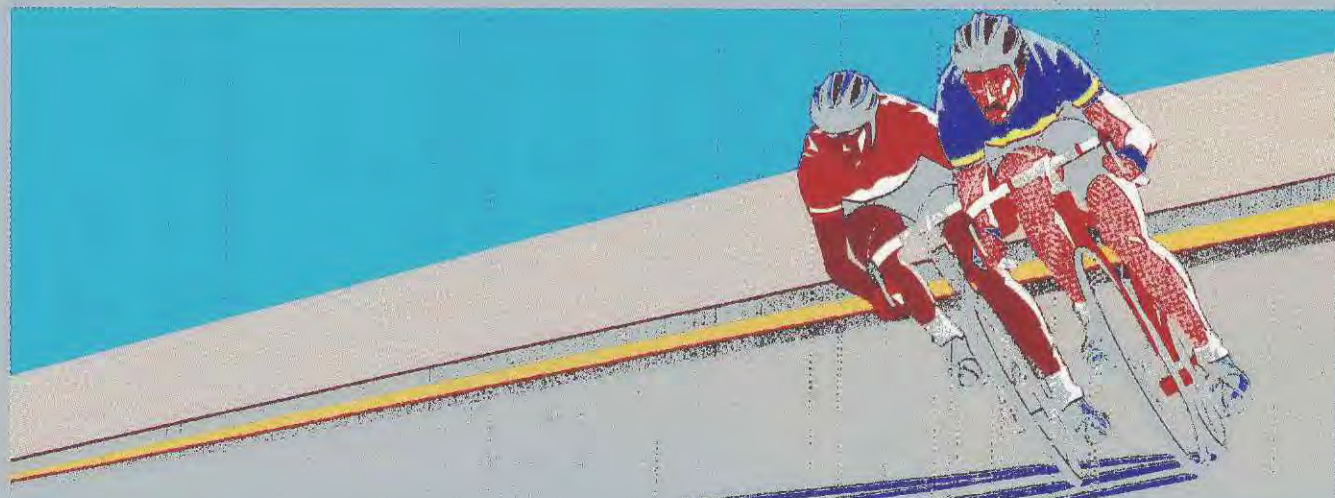
Ellen Rhodes promoted to flexible benefits specialist at Blue Cross and Blue Shield of New Hampshire in Concord. Ms. Rhodes will be responsible for providing education and administrative services to New Hampshire companies interested in offering flexible benefits. Previously, she served as a benefit cost management consultant for the company.

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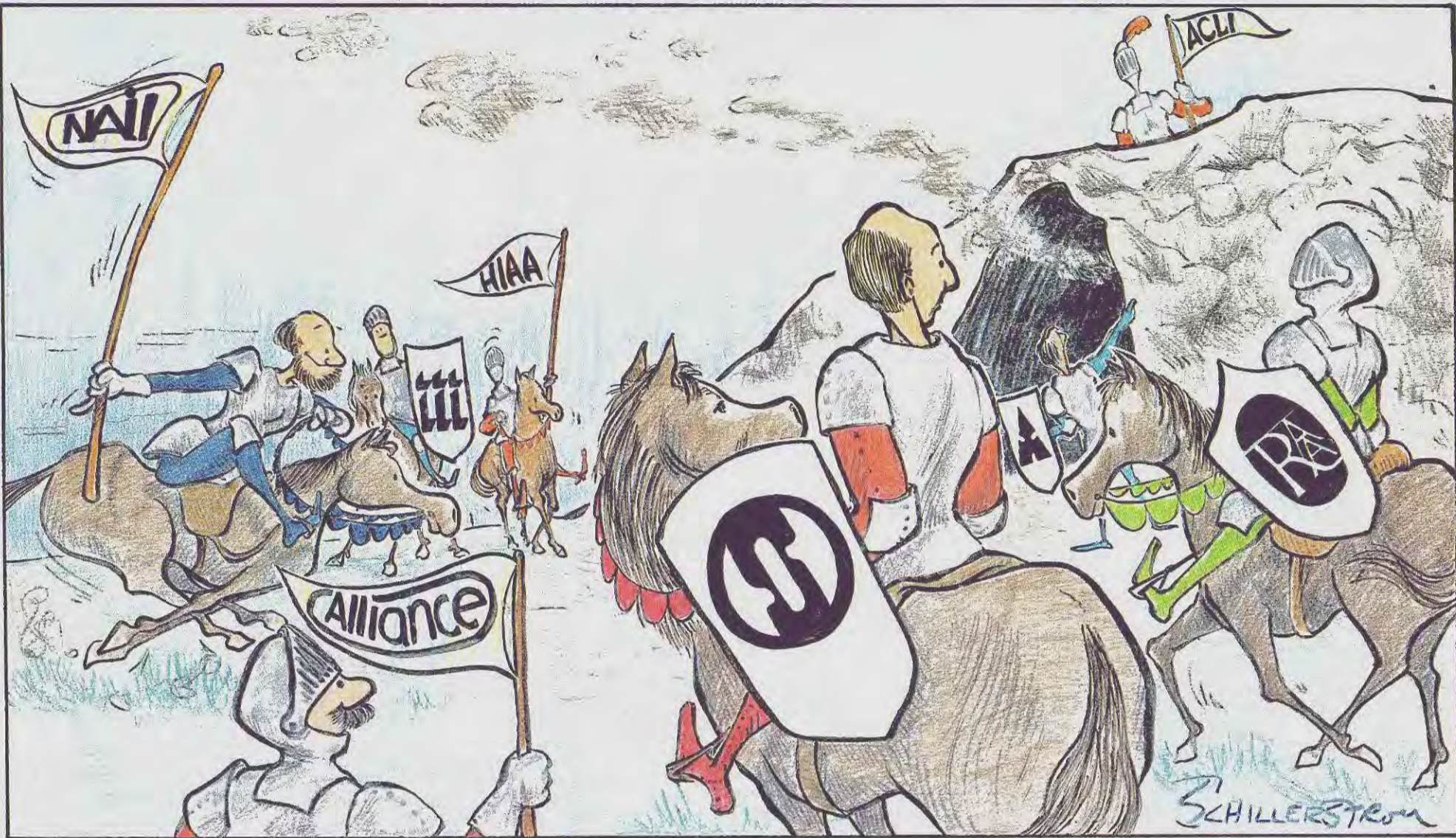
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United front

Insurance trade associations strive for cooperation

By STACY ADLER

"United we stand, divided we fall," should be the battle cry of the major insurance trade associations, according to several Washington lawyers and lobbyists.

And, they say, if the associations don't work together, this expression could become their epitaph.

"Public policy makers look at the industry as a monolith rather than a diverse, atomized industry," says Leslie Cheek, senior vp-federal affairs in the Washington office of Crum & Forster Corp. "They aren't interested in the distinctions we make."

The trade associations represent different segments of the insurance industry—life vs. health vs. property/casualty, with three major property/casualty associations (see stories, pages 36B-36H). Therefore, it often is difficult to achieve a consensus, but associations would be more effective if they presented a united front, says Mr. Cheek.

The associations must work together and "simplify their message so that no matter who a legislator talks to he gets the same message," Mr. Cheek says.

Many of the goals of the insurance trade associations are the same.

All of the associations are fighting to stop repeal or amendment of the McCarran-Ferguson Act, and the three major property/casualty insurance trade associations are promoting tort reform.

And, association leaders are realizing the need to work together to achieve these goals.

"We realized early on . . . that insurance and liability issues would be an extremely high priority in the legislative process and would require our collective effort," says Alliance of American Insurers President Frank W. Nutter. "We agreed among the trades, in cooperation with the Insurance Services Office and the Insurance Information Institute, to . . . jointly undertake a legislative strategy in this area and to communi-

cate regularly."

Mr. Nutter stresses that within the past year, the industry's lobbying efforts involving tort and insurance legislation have spawned the most substantive cooperation in recent history among the three property/casualty insurer trade associations—the Alliance, the National Assn. of Independent Insurers and the American Insurance Assn.

Each of these three has different roots in the property/casualty insurance industry: The Alliance with mutual insurers, the NAI with smaller insurers and the AIA with the large stock companies.

"I have been really pleased with the cooperation we have achieved in this concentrated effort. In years past, we have each done our own thing and this level of cooperation has really not been seen before," Mr. Nutter says.

AIA President Robert E. Vagley says the AIA also is committed to working more closely with other insurance trade groups. This cooperation can be as simple as identifying a needed budget to support tort reform in a state and then sharing the obligations.

"That cooperation doesn't automatically translate into 100 wins and no losses, but it will lead to more wins than without cooperation," he says.

Another example of greater cooperation with other insurance trade associations occurred in January when Mr. Vagley and American Council of Life Insurance President Richard Schweiker established a new coalition of insurer and agent groups to resist repeal the McCarran-Ferguson Act.

Efforts like those of the AIA to reach out to other trade groups are endorsed by many.

"We see much more cooperation with other trade associations on civil justice reform. That helps all of us," says Frank Bruton, vp-state government relations with Aetna Life & Casualty Co. in Hartford, Conn.

But while the association leaders talk about the need for widespread cooperation among the trade associations, it's

not always the case.

The associations failed, for example, to take a united stand on the Tax Reform Act of 1986 and the Superfund reauthorization.

The insurance industry could have accomplished more in shaping the tax bill if it had been united, says NAI President Lowell Beck. "When push came to shove—the industry was not, in fact, as unified as it should have been," he says.

Steve Broadie, senior consultant-taxation and finance at the Alliance, agreed. "We would have had a better tax bill if we could have stayed united," he says.

Likewise, the AIA fought a lonely, uphill battle last year when the Superfund legislation came up for renewal.

According to Melvin Stark, a consultant who advised the AIA on Superfund, "we found we were doing it alone" mostly because the legislation has the greatest impact on the group's members.

However, Mr. Cheek says one association could effectively lead a lobbying effort in Washington. What is important is that the industry present a unified message, whether that message is presented jointly or by one association, he says.

The main reason for the divisiveness among the trade associations, according to Mr. Broadie, is an inability to reach a consensus.

Mr. Cheek agrees: "Clearly, in an industry as diverse as the insurance business, on some issues it is difficult to find a consensus."

One Washington lawyer says: "In order to maintain credibility, associations try to out-shout one another at their meetings to show to their members they are zealous. But they then become locked into rigid positions" that are difficult for other associations to support.

This "cowboy mentality," he adds, prevents the associations from coming to a consensus.

No doubt it is this inability to form a consensus that spawned the growth of so many trade associations. ■

Alliance plugs members into legislation

By LINDA J. COLLINS

SCHAUMBURG, Ill.—The 170-member companies of the Alliance of American Insurers will be on-line with the trade association's computerized legislative and regulatory tracking system by year-end.

The system, which has been refined periodically since it was developed nine years ago, assists the Alliance in lobbying for state tort reform and in its efforts to minimize increases in insurance regulation.

The Schaumburg, Ill., association substantially enhanced its computer system this year. In addition to tracking legislative activity, the system now tracks any regulatory changes introduced or enacted by state insurance departments, environmental services departments or other government agencies that could affect the property/casualty insurance industry.

"By the end of the year, we expect to go on line with our members," said Alliance President Franklin W. Nutter. This will give the association's members the opportunity to immediately access information on legislation or regulation of special interest to them.

In addition, the Alliance's six regional offices will be on-line with the system by year-end.

The system now is capable of storing the status of a bill or proposed regulation, its sponsors, the Alliance's position on the legislation, if any, and predictions on how the legislation or regulation will move.

Not including regulatory actions, "We review about 17,000 pieces of legislation a year" in the tracking system, Mr. Nutter pointed out. However, "many of those bills won't move, pass or get a full hearing," he



Mr. Nutter

added.

The Alliance's tort reform lobbying is primarily directed at the state level, according to Mr. Nutter. "The fulcrum of this debate is in state legislatures, although we have also testified and lobbied at the federal level."

Although the Alliance and other industry groups began lobbying for tort reform as early as late 1984, "the reaction among legislators and regulators to increased regulation of the insurance industry did not really begin to surface until mid-1986," he noted.

"While insurers could have anticipated some backlash to the marketplace practices of insurers, I don't know that anyone could have appreciated the stridency with which these efforts to regulate the insurance industry came."

Because of this backlash, the Alliance has been faced with a two-pronged lobbying effort to keep increases in state regulation of insurance to a minimum while pushing for state tort reform measures.

Mr. Nutter stressed that within the past year, the industry's lobbying efforts for tort and insurance legislation have spawned the most substantive cooperation among the three property/casualty insurer trade associations—the Alliance, the National Assn. of Independent Insurers and the American Insurance Assn.—in recent history.

"We realized early on... that insurance and liability issues would be an extremely high priority in the legislative process and would require our collective effort. We agreed among the trades, in cooperation with the Insurance Services Office and the Insurance Information Institute to... jointly undertake a legislative strategy in this area and to communicate regularly," Mr. Nutter explained.

"I have been really pleased with the cooperation we have achieved in this concentrated effort. In years past, we have each done our own thing and this level of cooper-

ation has really not been seen before," he added.

Mr. Nutter, who became president of The Alliance in 1984, had been president of the Reinsurance Assn. of America from 1981-1984 after serving as its general counsel since 1978.

The Alliance has lobbyists in every state, including counsels on retainer in 48 states as lobbyists. In addition, eight regional managers are all registered lobbyists and five federal lobbyists work in the Alliance's Washington, D.C. office. Mr. Nutter added that some of the other Alliance staff members are registered lobbyists in a few states and can lobby on specific issues as the need for lobbying arises.

The Alliance was founded in 1922 and has a national staff of nearly 150 people. In addition to the Washington office and its home office in Schaumburg—which also houses three Midwest regional managers—the association has regional facilities in Atlanta; Austin, Texas; Boston; New York and San Francisco.

Each of the Alliance's nine regional managers is assisted by a media relations specialist who deals with that region's local media.

Any mutual or stock property/casualty insurer licensed in the United States is eligible for membership in the Alliance.

In addition to the legislative and regulatory tracking service, the Alliance provides members other services, including:

- Lobbying support at the state and federal level on tort reform, insurance industry regulation, workers compensation, environmental law, corporate law and any other issues affecting the insurance industry.

For example, on the federal level, the association has lobbied extensively to maintain state regulation of the insurance industry

under the McCarran-Ferguson Act. Some consumer groups and legislators have been pushing for federal regulation.

The Alliance's efforts have included contacting Senate and House Judiciary Committee members to encourage their support of the McCarran-Ferguson Act, enlisting the active support of member insurers and trying to change the views of consumer groups and others who are calling for federal regulation of insurance, said Mr. Nutter.

He explained that this effort is essential, because "In the past, much of the debate over the McCarran-Ferguson Act was fostered by antitrust purists, such as academics and legal scholars. This year, we have all those people plus a number of business and consumer groups pushing for federal regulation, which makes the potential for legislative changes far greater."

- Assistance in educating the press, consumer organizations, employers, labor unions and the public at large about the property/casualty industry and insurance company operations.

The Alliance does this through press interviews, brochures, leaflets, audio-visual presentations, a news service, information kits and other education materials.

- A quarterly magazine, the Journal of American Insurance, with a circulation of about 25,000. The magazine is distributed to state legislators, congressmen, judges, business trade associations and consumer groups, as well as to the Alliance membership.

- Informational services that include loose-leaf reference books and an extensive series of periodic bulletins.

There are bulletins designed for chief executive officers, financial officers, claims managers, loss control specialists and marketing representatives. Other bulletins detail

Continued on next page

ACLI grapples with society's problems

By MICHAEL BRADFORD

WASHINGTON—Two of the biggest issues the American Council of Life Insurance considers critically important to its membership are problems it says are potentially devastating to society as well.

Richard S. Schweiker, president of the Washington-based ACLI, said acquired immune deficiency syndrome and the strain an aging population is putting on pension savings are two of the most serious crises facing the 635-member association of life insurers.

The group is using its resources to battle these two problems, for which it sees no easy or quick solutions.

"I hope, given time, we have answers to those two problems," said Mr. Schweiker. "But right now, we don't have any answers to them."

Mr. Schweiker, who joined the ACLI in 1983 after serving as Secretary of Health and Human Services, has led its growth from just 400 life insurance company members in his first year as president.

ACLI members are responsible for 94% of the life insurance in force in the United States, with total assets of approximately \$900 billion—95% of all those held by U.S. life insurance companies. ACLI members also hold 96% of all the reserves in domestic pension plans held by life insurers.

But Mr. Schweiker stresses that "I'm not as concerned about growth as I am about solving the problems. I really think that because we are a fairly good-sized trade association, our problems reflect the country's problems."

Life insurers, he pointed out, are particularly concerned about the effect the AIDS epidemic could have on their industry and the nation.

From an industry standpoint, the ACLI expects to continue fighting legislative proposals that restrict an insurer's ability to require testing for the AIDS antibody before it underwrites life insurance.

Last year, the District of Columbia passed legislation that disallows the use of AIDS-related tests as part of the underwriting application process. A lawsuit filed by the ACLI and the Health Insurance Assn. of America challenging the law's constitutionality failed. The ACLI is expecting similar legislative proposals in several other states this year.

"AIDS is a very serious epidemic in this country," said Mr. Schweiker. "Obviously it's going to hit everybody in every industry, but it particularly hits life and health insurance."

In the last year, the ACLI has spent \$1.5 million to help educate the public about the disease through contributions to the American Red Cross, a research grant, and a contribution to the National AIDS Network, an information clearing-house. "Education is the only weapon we have against AIDS presently. . . . Right now we're putting most of our money into educational efforts."

The ACLI's efforts against AIDS could shift "if we see

some possible ways to help either in the vaccine area or in the medication area. But right now there's nothing on the immediate horizon to encourage us."

Mr. Schweiker said statistics show that more people will die of AIDS in the year 1991 alone than died during 10 years of fighting in Vietnam. According to the 1987 World Almanac, 47,321 people died in battle between Aug. 4, 1964, and Jan. 27, 1973. In addition, another 10,700 deaths were attributed to the war.

"And when we get that kind of death rate, which we're locked into now barring some medical breakthrough which we don't see, that's going to be a real traumatic experience for this country," he said.

The council also is looking closely at the impact a rapidly growing aging population will have on "long-term savings and pension policies in this country."

"By the year 2000, you'll have two workers paying for every retiree in this country, in terms of Social Security benefits," he pointed out. "It's going to be a horrendous burden on the Social Security system."

In addition, the Tax Reform Act of 1986 "decreased the value of pension and retirement savings," noted Mr. Schweiker.

"I think that was a mistake. I think we're going to have to review that and figure a way to combine both the federal and private sectors to solve the senior citizens bulge that is going to hit about 10 years from now."

"I really believe that we're really heading for a problem with not enough pensions and savings set aside for when our baby boom generation retires," Mr. Schweiker said.

The "serious challenge," he added, "is not just for the industry, but for the entire country. By the year 2000, people are going to spend about 25% of their lives in retirement. We're not used to that. We don't know how to cope with that. People don't have the long-term health insurance, the annuities or the pensions to support 25% of their life in retirement."

Besides the issues of AIDS and pension worries for an aging population, the ACLI is active on many fronts. The staff of 130 professionals that include public relations, government relations and administrative services personnel represents ACLI members "to the public, the press, the states and Congress," said Mr. Schweiker.

"And we also are a forum where they can resolve their public policy differences, express their opinions and take stands on the key issues," that affect life insurers, he added.

The ACLI's Social Research Services division—renamed Strategic Research earlier this year—tracks public opinion and demographic trends, monitors actuarial findings on sub-

jects like mortality and keeps up with other elements of the life insurance underwriting process.

The ACLI also maintains what it calls a "center for corporate public involvement, which encourages our companies to get involved in their communities with urban projects," he said. "This is unusual for a trade association."

ACLI members also participate in the association's efforts by serving on various committees.

Barrett N. Sidel, vp of government and civic affairs for CIGNA Corp. in Bloomfield, Conn., pointed out that his company lobbies actively as part of ACLI committees when pertinent issues arise.

For example, CIGNA has joined ACLI committees' lobbying efforts to influence legislation regarding pension issues, AIDS testing, taxation of life insurers' assets and other concerns.

But Mr. Sidel pointed out that the ACLI itself is involved "not so much in lobbying, but more in getting to the underlying issues" that affect life insurers—"getting feedback from the insurers and then deciding what the ACLI can do about it," he explained.

Once the issues are clarified and a position is defined, the actual lobbying efforts are carried out by rank-and-file members like himself, Mr. Sidel noted.

He praised the ACLI for helping shape tax reform in 1986, which Mr. Schweiker considers the group's most significant legislative success in recent years.

"There's no question that the tax reform effort of the last two years was our biggest success," said the ACLI's president. "We were severely at risk because the proposal initially was to tax the policies of every policyholder we had. . . . Not only would it have been a horrendous bookkeeping nightmare, it really would have attacked the basic product to the point where the financial security of (policyholders) would have been in serious jeopardy, aside from the impact on the industry."

Jerome Atkinson, assistant secretary and counsel for Montgomery Ward Life Insurance Co. in Schaumburg, Ill., agreed that the ACLI performed well in its tax reform lobbying efforts.

"The council does a good job at the federal level," noted Mr. Atkinson. But although he has not worked with the group on state-level issues, he said his impression is that the council does not move as quickly on those problems.

"They tend to react faster to federal issues," he said, suggesting that part of the reason the council moves more quickly at the federal level is simply because "they're based in Washington, close to Capitol Hill."

The ACLI's only other shortcoming might stem from its size, Mr. Atkinson added. "They're so large that sometimes it's hard to get them to move. But that's true of any bureaucracy."

Continued on next page



Mr. Schweiker

Alliance

Continued from previous page

tax changes, federal developments, litigation, premium auditing and a number of other issues.

Reference books include: Agents Licensing and Qualification Laws; Federal Income Tax Instructions for Mutual Insurance Companies; a State Filing Guide; a State Tax Guide; a Survey of Workers Compensation Laws; and a Workers Compensation State Administrative Directory.

"These are practical, pragmatic tools available at no charge as part of the membership fee," Mr. Nutter said, explaining that members can request as many copies of the reference materials as they need.

- Legal research and counseling services, including informing members about legal matters and court cases of concern to the insurance industry and filing amicus curiae briefs when court cases may have national impact on the insurance industry.

- Claims-related services including technical support and periodic meetings for claims personnel. The Alliance also keeps

members informed of new claims service trends and techniques.

- An extensive industry research program. The Alliance, which has six full-time researchers on staff, generates studies on such topics as insurance regulation, product liability, workers compensation, residual market mechanisms, and compensation surveys for insurance company executives and employees.

- Loss control and loss prevention courses and personal consultations, as well as a wide range of print and audiovisual technical support material.

- Educational correspondence programs, including Introduction to Insurance, General Principles of Insurance and Supervisory Management. The Alliance also publishes a Policy Kit for Students of Insurance, a reference work of property/casualty coverage forms and endorsements.

In addition to these membership services, which are covered by the annual assessment fee, the Alliance also arranges a number of meetings and conferences each year that are held in different areas of the country.

Regularly scheduled meetings include: the

Alliance Annual Meeting, the Alliance—American Insurance Assn. Claims Conference, a Conference on Company Communications, an Insurance Technical Conference, a Law Seminar, a Marketing Management Conference, a Personnel Management Conference, a Property and Casualty Underwriting Seminar, a Tax Seminar and an Underwriting Management Workshop.

Mr. Nutter explained that the Alliance also arranges one-time seminars on specific topics when members indicate a need for such a seminar.

While member companies are charged a fee for attending these seminars and workshops, the Alliance does not attempt to generate profits from this service, Mr. Nutter said. "We charge for the costs of meals, etc., to break even," he explained.

The Alliance has a 22-member board of directors comprised of chief executive officers of member insurance companies. The board includes a 10-member executive committee.

"The board of directors is elected annually by the full membership and the board elects

the chairman. We rotate the chairmanship between large and small insurance company CEOs" to ensure that the board represents the needs of all members, Mr. Nutter said.

The Alliance also has more than 30 advisory committees for various insurance-related topics. The committees fall under four general categories—policy development, technical, planning and services and task forces.

"The advisory boards are not limited as to the number of people who participate. In fact, we encourage participation in these committees by all members," Mr. Nutter stressed.

Member insurers are assessed an annual fee based upon their premium writings for that year. The assessment is \$750 per million of premium with a minimum annual assessment of \$1,000. A cap provides that no one member is assessed a figure representing more than 15% of the Alliance's annual budget.

The Alliance of American Insurers is located at 1501 Woodfield Road, Suite 400 W., Schaumburg, Ill., 60195; 312-490-8500.

ACLI

Continued from previous page

Mr. Atkinson pointed out that although Montgomery Ward Life is not like most ACLI members, the council is a valuable resource.

"We are unlike most members in that we are a direct-response underwriter," he said. The insurer sells coverage solely through newspapers, mailings and other forms of the media, he explained.

"We work with (the ACLI) on the mass-marketing committee, along with other direct-response writers," said Mr. Atkinson. The focus of the committee is the same as those that address problems confronting more traditional types of life insurance company members, he added.

"We take on various issues on the state and federal level," he explained.

For example, he pointed out, the direct-response underwriter members of the ACLI rallied successfully against proposed legislation that would have restricted the way

The ACLI is lobbying to thwart attempts to allow banks broader entry into the insurance business.

those insurers do business.

While the ACLI is focusing on long-term problems like the acquired immune deficiency syndrome epidemic and concerns over pensions and savings, it also faces two important challenges in 1987, said Mr. Schweiker.

The group is lobbying actively to thwart attempts to allow banks broader entry into the insurance business. "There are proposals to change banking laws to eliminate the separation of banking and insurance," said Mr. Schweiker.

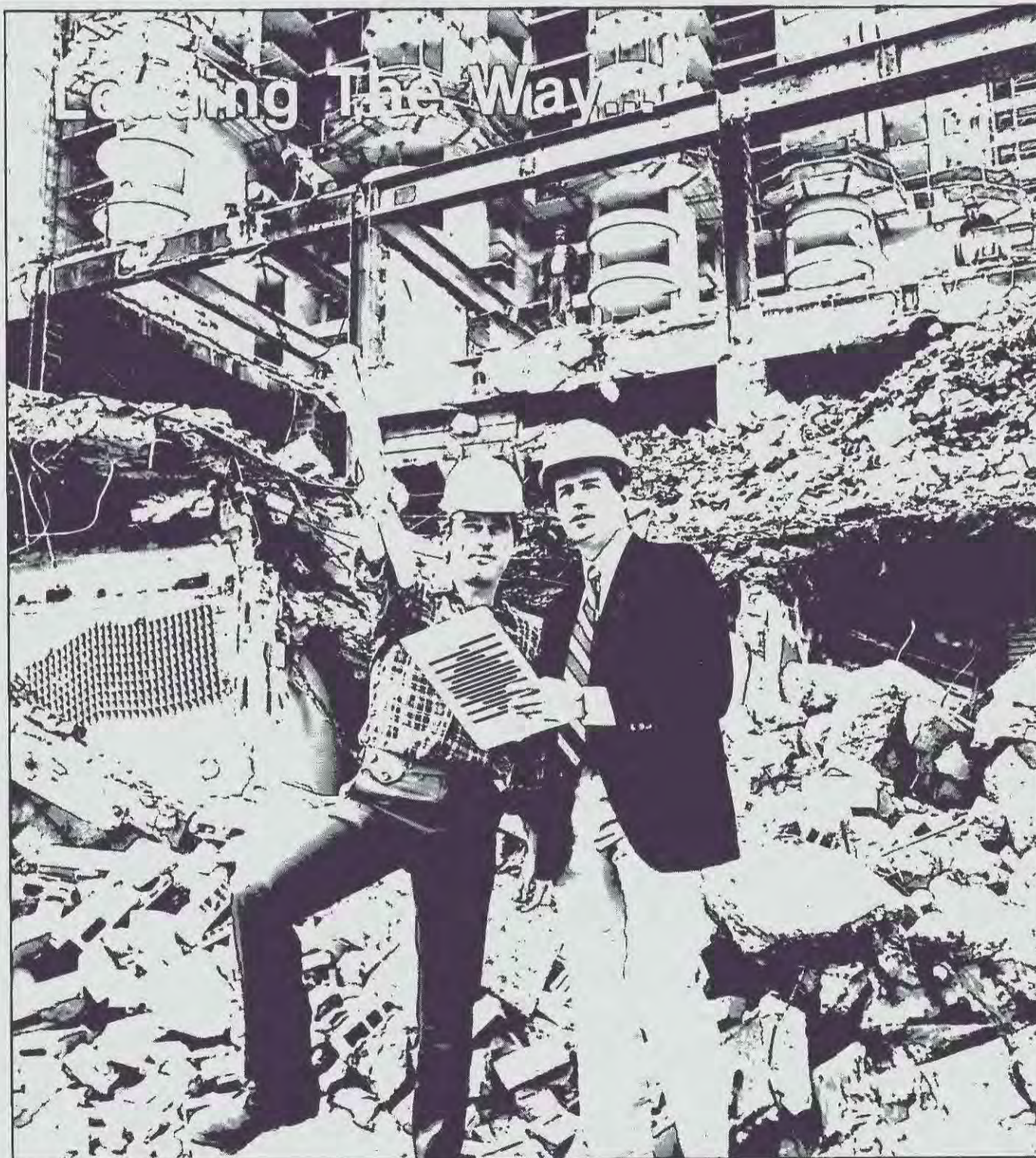
"We are opposing that. That is an issue that is very much up-front," he said.

The ACLI also is fighting to preserve the McCarran-Ferguson Act, which exempts insurers from federal antitrust laws by providing for the state regulation of insurance.

"If it is repealed," said Mr. Schweiker, "it would provide for both federal and state regulation. We would have a dual regulatory system, unlike any other industry, which would be a nightmare."

ACLI dues are based on formula that considers variables such as premium volume and the company's assets. The minimum annual dues is \$2,340.

The ACLI is located at 1001 Pennsylvania Ave. N.W., Suite 500, Washington, D.C. 20004-2599; 202-624-2000.



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AIA establishes strong Washington base

By JERRY GEISEL

WASHINGTON—The American Insurance Assn. is transforming itself into a Washington-based industry powerhouse.

In the seven months since AIA's board of directors voted to move the trade group's headquarters to Washington from New York, the 171-member property/casualty trade group has taken several steps to strengthen its new Washington base.

It has relocated a number of key New York-based departments to Washington, including its law and policy development and research departments, while boosting the number of staff in the Washington office to 34 from 18 a year ago.

While the AIA will continue to expand in Washington, including a move later this year to larger quarters near its current offices on Connecticut Avenue, it also has beefed up the talent in its Washington office.

For example, recent additions to the AIA Washington staff include David Pratt, vp-federal affairs, who had been U.S. Senate secretary to the majority, and Craig Berrington, the AIA's new general counsel, who had been a former deputy assistant secretary at the Labor Department.

"David (Pratt) is probably one of the most skilled legislative tacticians in Washington. He probably personally knows 75 or 80 Senators. At the same time, Craig (Berrington) is a tremendous lawyer," notes AIA President Robert E. Vagley.

The AIA, organized in 1965 through the merger of several trade associations, will need a strong Washington presence as the industry is likely to face intense congressional scrutiny and attacks.

Already, industry critic Sen. Howard Metzenbaum, D-Ohio, has begun a push to repeal the McCarran-Ferguson Act. The AIA strongly supports the 42-year-old law, which leaves primary regulation of the industry with the states and gives insurers a limited exemption from the federal antitrust laws.

Given the increased pressure Washington has had and will continue to exert on the industry, a move to the nation's capital was in order, said Mr. Vagley.

"There was uniform agreement that this was the place to

be. We are a government affairs organization and the federal government is in Washington, not New York or Albany," Mr. Vagley said.

The AIA already is reaping the benefits of a Washington base, says Mr. Vagley.

For example, when business organizations called a recent, urgent meeting in Washington on legislation that would require employers to provide employees with notices on hazards in the workplace, the AIA was able to attend.

"It was an urgent meeting. We didn't have to panic because our people were here and not in different places," Mr. Vagley recalled.

And, in a less specific, but just as important way, Mr. Vagley notes that bringing more departments to Washington has made the AIA a more effective lobbying group.

For example, transferring the AIA's law department to Washington from New York has given the AIA's lobbyists a convenient, powerful resource.

"If there is a problem on Capitol Hill involving a tough, technical question, the lobbyists can bring the lawyers with them," Mr. Vagley says.

But the AIA is far more than just a Washington-based insurance trade association.

The AIA maintains regional offices in Atlanta, Boston, Chicago, Houston, New York and San Francisco, while the Washington office also serves as the AIA's Mid-Atlantic regional office.

The AIA employs a staff of 126, including 31 attorneys and 28 other professionals.

In addition, New York-based American Insurance Services Group, an AIA subsidiary, provides technical services to both AIA members and non-members. These services include access to large data bases of claims history.

And, at the state level, the AIA has a representative in every state to keep track of issues across the nation.

While the AIA's membership roster has not grown significantly in recent years—today there are 171 members compared with 169 five years ago—Mr. Vagley says the organization now is in a "growth mode" and is actively recruiting

new members.

"Including the energy of other new companies improves us as an organization," he says.

Any insurance company licensed to do business in any domestic state or U.S. possession or territory is eligible to join the AIA, whose members provide about 25% of the commercial property/casualty insurance written in the United States.

AIA annual dues are based on on premium volume written in the United States, its territories and possession. The minimum annual dues is \$1,500.

A prospective member should view the AIA as a kind of a profit center, Mr. Vagley says.

"We are an organization that exists in the government affairs arena. This is an activity that has the capacity to influence the bottom line," he says.

Mr. Vagley says the AIA's most significant success last year at the federal level was minimizing the damage of tax reform.

While the Tax Reform Act of 1986 will exact a significant amount of new taxes from the industry—estimated at about \$7.5 billion over the next five years—Mr. Vagley says the legislation was a vast improvement over an initial Treasury Department proposal for the discounting of reserves.

"The Treasury Department proposal was devastating. It was ill-founded and would not have worked. It would have wreaked havoc," he says.

But without the AIA and other trade groups lobbying, Mr. Vagley believes the Treasury Department proposal, or a similar measure, could have become law.

On the downside, Mr. Vagley says the AIA's biggest disappointment was not being able to convince legislators—while they were reauthorizing the federal Superfund law—to pass amendments to state that the act does not impose joint and several liability on companies disposing hazardous wastes.

While the industry was promoting a very solid reform, the proposal died in a hostile political environment, Mr. Vagley said.

"We were promoting a good, solid reform. But it just didn't fly politically. That was the reality," he said.

Mr. Vagley said the lesson on the Superfund failure is to

Continued on facing page



Mr. Vagley

HIAA expands scope to managed care

By DONNA DIBLASE

WASHINGTON—Managed health care is very much on the minds of members and officers of the Health Insurance Assn. of America.

The issue is so hot that the HIAA is proposing changes to the organization's statement of mission to reflect a new commitment to assist member companies involved in managed care plans.

"In the past two or three years, we have seen a movement toward managed care and a movement by our member companies in this direction. With this movement, marketing and regulations will change," predicts James L. Moorefield, the HIAA's president.

"To respond to this, we will be making a change to our mission statement that will reflect our need as an organization to be involved in serving our members that are involved in managed care," he said.

This change is important to some members, like New York-based Metropolitan Life Insurance Co., which are very involved in managed care programs.

"As the HIAA looked at itself, it realized that it was dealing with only insured health plans. Many members are involved not only in uninsured plans, but also in HMOs and PPOs," noted Philip Briggs, vice chairman of the board at Metropolitan and a member of the board of directors of HIAA.

"The feeling was that the HIAA would have to broaden its mission or it would become obsolete," he added.

And, along with a new mission statement, the organization soon will have a new president, he said.

Carl J. Schramm, associate professor of health policy and management at Johns Hopkins University's School of Hygiene and Public Health, will succeed Mr. Moorefield, who is retiring on May 4.

In addition to these changes, the HIAA will continue to offer its members a variety of research, support and information services, Mr. Moorefield noted.

Currently, 345 health insurers are members of the HIAA, he said.

Any health insurer licensed to underwrite coverage in the United States is eligible for membership in the HIAA.

Members' dues are based on the amount of health insurance premium they wrote in the previous calendar year. The minimum as-

essment is \$1,700, based on an assessment of about 43¢ per \$1,000 of premiums written. However, the assessment charge per \$1,000 drops as premiums written reach into the billions of dollars.

HIAA's headquarters are in Washington and it has a satellite office in Chicago, where the state legislative affairs staff is located. The organization employs 96 professionals and clerical employees.

"About half of these are professionals or administrative employees. We have 12 attorneys on our state legal affairs staff. We have six staff members on our federal affairs staff, three of which are attorneys," Mr. Moorefield explained.

Legislative lobbying and support HIAA's major services.

"We service our membership in regulatory and legislative areas at the state and federal levels through testimony and representation," he noted.

The organization's greatest recent legislative victory was "our success in convincing Congress not to tax employee health insurance benefits as part of the tax reform package. We developed a real grass-roots campaign," he said.

"We put together a coalition effort of employers, unions, consumer groups and others," noted Jim Dorsch, Washington counsel for the HIAA.

"By the time tax reform was passed and enacted, not only did Congress decide not to tax employee health insurance, but it also allowed for a 25% tax deduction for self-employed individuals who purchase health insurance. This was our biggest victory," Mr. Dorsch added.

But, along with this victory, "we've lost a few too," Mr. Moorefield admitted.

The HIAA was unsuccessful in its efforts to halt recent local legislation in the District of Columbia that prohibits insurers from testing prospective policyholders for acquired immune deficiency syndrome. "As a result, most life and health insurers have stopped writing in D.C.," he said, referring to individual policies.

HIAA members say the legislative support provided by the organization is one of the most valuable benefits of belonging.



Mr. Moorefield

"It is helpful to have the interest of the health insurance industry represented by one voice where possible," observed Brian Quigley, counsel in the government and public affairs department of The Travelers Corp. in Hartford, Conn.

"HIAA develops a consensus within the industry and represents us in states and before Congress," he added.

Mr. Briggs of Metropolitan noted that, "the HIAA monitors all of the legislation being presented in Washington. It then determines what the position of the health insurance industry should be and how it should be presented. The major service provided by HIAA is one of dealing with the legislation."

And, "they provide a lot of representation in Washington. Their presence is valuable because we don't have the staff to do this," said John Pearson, chairman and chief executive officer of Minneapolis-based Northwestern National Life Insurance Co.

"And, while we have operations in many states, we don't have any representation in many of them. HIAA provides this representation. And, while most medium- to small-sized companies like Northwestern National Life may have company representatives on legislative issues, many of us need the collective forces of a membership," Mr. Pearson added.

This is a major reason that most health insurers become members of HIAA, Mr. Moorefield observed.

"Most companies don't have the legislative staff to track the large number of bills relating to health insurance. But, even the large companies with these capabilities still want to join because we represent the whole industry," he explained.

But, along with legislative support, the HIAA also offers information and research services, he said.

"We serve a public information role, whereby we keep the public and legislators informed of what is happening in the health insurance industry. We also serve a research function, providing members with statistics on the marketplace and the cost of health care," he explained.

And, a consumer and professional relations division "provides information to consumers and health care providers, now that many member companies are working with providers," Mr. Moorefield said.

Mr. Pearson of Northwestern National Life noted that, "one of the benefits HIAA brings to its membership is that it really provides us with a good interface with consumers and the health care profession in ways that few of us could do on our own."

The HIAA also offers a health insurance education program. "We now have about 25,000 students studying health insurance in particular," he added.

"The insurance education program is a very big plus of membership," said Mr. Pearson of Northwestern National Life. "We endorse this program and encourage our employees to participate on a voluntary basis."

Another benefit of membership in the HIAA is that health insurers are able to keep in touch with their competition, he added.

"Our management encourages our people to be involved in the various committees and other activities of the HIAA because rubbing shoulders with the competition brings new ideas to everyone," Mr. Pearson said.

Along with escalating health care costs, there are many other issues confronting health insurers, Mr. Moorefield said.

"Providing health insurance to all Americans is our biggest concern. Currently, at the federal level, there are several proposals to restructure the Medicare system, which we don't believe is necessary," he noted.

"Another concern of our members is to provide basic and catastrophic coverage to the 35 million Americans who are uninsured or underinsured for a catastrophic illness," he continued.

"At the state level, there are similar issues. A number of states have moved to provide coverage for the indigent and uninsured through state pools, which we support. We want to make sure all Americans have access to insurance and health care," Mr. Moorefield said.

While the HIAA is not taking an active role in the movement for tort reform, the organization is watching legislative action in the states, he said.

"With medical malpractice, punitive damages and so forth, there is a cost that eventually gets transmitted back to the insurance companies and the policyholders. They are paying for this," he noted.

The Health Insurance Assn. of America is located at 1001 Pennsylvania Ave. N.W., Washington, D.C. 20004-2599; 202-223-7800.

Continued from facing page
measure the political climate and plan a legislative strategy long before an issue is ready to be debated.

And, now the AIA is doing just that.

For example, it is plowing new resources into its policy development and research department to give the AIA more time to prepare for future issues.

"Superfund lives for five more years. We can begin to work now (through policy development and research department) to develop a sensible approach so we have our act together when Superfund comes up again," according to Mr. Vagley.

Mr. Vagley says a goal of the AIA is to work more closely with other insurance trade associations, a goal that he and other AIA members say the association is meeting.

For example, Mr. Vagley says the major insurance trade associations now are cooperating with one another in the area of tort reform.

This cooperation can be as simple as identifying a needed bud-

greater number would be the better number," Mr. Vagley says.

McCarran-Ferguson also has allowed the industry to develop standardized policy forms, a benefit to both agents and buyers, he says.

By contrast, without a McCarran-Ferguson exemption, "Can you imagine 3,400 property/casualty companies developing different policy forms and the difficulty buyers would have trying to understand the different policies and the frustration agents would have trying to explain those policies," Mr. Vagley observes.

While the threat of a McCarran-Ferguson repeal is real, Mr. Vagley is confident that when legislators get to the merits of the issue, the industry will prevail.

The American Insurance Assn. is located at 1025 Connecticut Ave. N.W., Washington, D.C. 20036; 202-293-3010.

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Mr. Vagley says a goal of the AIA is to work more closely with other insurance trade associations.

get to support tort reform in a state and then sharing the obligations.

"That cooperation doesn't automatically translate into 100 wins and no losses, but it will lead to more wins than without cooperation," he says.

Another example of greater cooperation with other insurance trade associations occurred in January when Mr. Vagley and American Council of Life Insurance President Richard Schweiker established a major new coalition of insurer and agent trade groups to resist moves to repeal the McCarran-Ferguson Act.

The AIA's reaching out to other trade groups is endorsed by its members.

"We see much more cooperation with other trade associations on civil justice reform. That helps all of us," says Frank Bruton, vp-state government relations with Aetna Life & Casualty Co. in Hartford, Conn.

Mr. Vagley says the biggest challenge the AIA and the industry faces this year is congressional attempts to amend or repeal the McCarran-Ferguson Act.

While McCarran-Ferguson repeal is being advanced as a step toward improving competition, the reality, Mr. Vagley says, is just the opposite.

"A repeal in my judgment would be inherently anti-competitive and anti-consumer," he says.

While the industry exemption—under McCarran-Ferguson—from federal antitrust laws is narrow, it also is vital, according to Mr. Vagley.

This exemption, among other things, allows insurers to share loss information collected and distributed through a central entity—the Insurance Services Office.

Without such data, small insurers "would have to shoot in the dark (in developing rates)...and how long could they exist?" Mr. Vagley asks.

Inevitably, smaller insurers would go by the wayside, resulting in greater concentration in the industry.

"From the vantage point of the buyer, would they like hundreds of different options to choose from or, say, just a dozen. I would think the



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III polishes image of insurance industry

By JUDY GREENWALD

NEW YORK—These are difficult days for the Insurance Information Institute.

The III's mission is to improve public understanding of the property/casualty insurance industry, but this has been vastly complicated by the wide publicity about the problems of insurance affordability and availability.

It means a once low-profile industry has now become a highly visible one, says Mechlin D. Moore, the III's president.

But Mr. Moore believes the III has been up to the task. "We have had a challenge to explain the reasons for many of these problems, and I think we've done a relatively good job of doing that," he says.

The III's more than 300 members account for about 40% of the personal and commercial property/casualty insurance written in the United States, according to Mr. Moore.

In addition to improving the industry's public image, the institute's other primary purpose is "to keep our members informed of trends in society which have an impact on the insurance business," said Mr. Moore.

"We are not involved in lobbying, or direct work on legislation," Mr. Moore stressed. "We are really a fact-finding, research, educational, communications organization."

Mr. Moore says one important factor that has helped the III's credibility in improving the industry's image is its longevity.

"It's been around for 28 years now, and has developed a reputation for delivering fast information on our business for people who have to report on the business," said Mr. Moore. Most of those who work with the III, he said, find its staff "knowledgeable and

very responsive."

The III's information resources include books, monographs, research reports, leaflets, educational publications, slides and even brief motion pictures.

One major issue the institute is now dealing with is the industry's improved profitability in light of rising insurance prices. To help explain the situation, the III has released a pamphlet, called "The Road to Recovery, Questions and Answers about the Financial Performance of the Property and Casualty Insurance Industry."

The pamphlet points out, for instance, that the property/casualty industry registered a "sub-par" performance between 1976 and 1985, both in comparison with other segments in the financial services industry and the Fortune 500.

Part of the problem in dealing with this issue is the public's skepticism about large institutions in general.

This has been highlighted in the insurance industry's case, he noted, by the turmoil of the past three years.

Ironically, said Mr. Moore, the III has learned people's attitudes toward their own property/casualty insurers is generally higher than it is toward the industry as a whole. This is a reflection, he believes, both of the high visibility of the industry's problems as well as of "the pretty good level of service" people feel they are getting from their own insurers.

To help solve the problem of the industry's image, the III has launched a national television advertising campaign.

The first commercial, said Mr. Moore, describes the Insurance Institute for Highway Safety's role in improving auto safety. The second describes how the insurance industry created, and still strongly supports, Underwriters' Laboratories Inc., which in-

creases consumers' confidence in products' safety. The third describes the industry's efforts to improve workplace safety.

The theme running through all three, Mr. Moore said, is "We do a lot more than sell insurance."



Mr. Moore

The impact of the television campaign appears to be positive, said Mr. Moore, although he adds the response to the III's public relations program has been mixed.

Industry critics such as Ralph Nader "are speaking from a very entrenched point of view," he explained. "We are being as successful in developing a positive response to the insurance industry as we can be expected to be, given the current environment."

Mr. Moore noted that in addition to improving the industry's image, the III has been active in promoting tort reform.

The III, and the industry in general, said Mr. Moore, "has been extremely successful in putting that issue before the public." A recent survey conducted by Louis Harris & Associates on behalf of Aetna Life & Casualty Co. indicated a substantial majority of the public favors making the tort system fairer (BI March 16).

Mr. Moore noted last year the III co-sponsored an inter-disciplinary symposium on civil justice issues with Fordham University in New York. The participants—most of whom were attorneys—agreed that reform, including modification of joint and several liability and of punitive damage awards, is needed, said Mr. Moore.

The symposium, he noted, won the III a "silver anvil" award from the Public Rela-

tions Society of America.

Institute services include an electronic data base, more formally known as the Insurance Bibliographic Information System.

Also available are data base reports on such topics as tax reform, which are updated monthly. The data base also issues a report every morning at 8:30 describing what has been written about the insurance industry.

Insurers who have worked with the III generally have high praise for it.

"I think it's an extremely valuable organization," said John P. Madigan Jr., vp at Chubb & Son Inc. in Warren, N.J. "It's an organization that's grown enormously in recent years under Mechlin Moore's leadership."

"It's a very useful organization," said a spokesman for Kemper Corp. of Long Grove, Ill. "We have an industry with many, many different companies," he said.

Many of these, he said, are too small to build expertise on particular issues.

"It's useful to the public and, therefore, also to the insurance industry to have a place where people can turn to for authoritative information from the insurance industry's perspective," the Kemper spokesman said.

Leslie Cheek, senior vp-federal affairs for Crum & Forster Corp. in Washington, said the III can be looked at from two perspectives—its role in improving the industry's overall image, and its assistance on specific legislative and regulatory issues.

"Their usefulness to the industry on both counts has improved dramatically under Mechlin Moore's leadership," he said.

The III, he said "looks ahead to try and anticipate the general problems that the industry is having in order to be able to shape public opinion in those broad issues."

These admirers said the organization has

Continued on facing page

ISO keeping insurers up to date with data

By JUDY GREENWALD

NEW YORK—"The question is data. Who's got the data?," says Fred Marcon, senior executive vp and chief operating officer of the Insurance Services Office Inc., describing insurers' pressing need for information today.

The answer, said Mr. Marcon, is ISO does. With one of the largest insurance data bases, "ISO is there to provide solid, quantified information to insurers in order to aid them in their selection and pricing practices."

ISO provides insurers with policy forms and endorsements as well as pricing suggestions, said Mr. Marcon.

It also disseminates statutorily required statistical and actuarial information to regulators on insurers' behalf. ISO acts as a filing agent for companies giving it that authorization as well. The non-profit corporation is not, however, a lobbying organization, Mr. Marcon stressed.

ISO's 1,350 members account for 80% of the business written in the commercial lines area and 40% in the personal lines area. It has 10 regional offices and a base in New York.

ISO has two subsidiaries. ISO Commercial Risk Services Inc. provides services for commercial fire and allied lines, including rates, rules and forms pertaining to commercial property coverages. It also conducts property rating surveys on commercial and personal properties to assist companies in setting accurate rates for them.

ISO Telecommunications Inc., also known as ISOTEL, is a nationwide telecommunications network used to transmit rating information to any participating company.

Mr. Marcon said he wants to see ISO continue to improve its data base. "I'd like to see us capture more data in a timely fashion," he says. There is a need for this data not only among insurers, but for regulators on both the state and federal levels, said Mr. Marcon, adding ISO's three "publics" include producers as well.

ISO has recently received widespread attention from all three of its publics because of its claims-made commercial general liability policy form, which it introduced in addition to an occurrence CGL form. While the claims-made form is now available for use in most states, it is generally being used for primary coverage only on the most hazardous and largest businesses (BI, July 21, 1986).

"I am not disappointed, nor am I surprised," said Mr. Marcon, discussing the failure of the claims-made form to be more widely used. ISO's original intent was to present "a valuable option for insurers for difficult liability-type risks" and it has accomplished this, he said.

Mr. Marcon added he believes that over time, the claims-made form will be used with greater frequency because of the "degree of certainty" it offers insurers.

He noted as well that with a return to competition in the

marketplace, and the improvement in insurers' profits, there is less interest in the form than there was just 18 months ago.

Another ISO project is a recently released study of insurers' 1986 profitability that puts the industry's improving results in perspective, said Mr. Marcon. ISO is also releasing a study that examines the industry's profits over time and compares them with those of 80 to 90 other industries.

ISO has been active as well in the tort reform area, which Mr. Marcon described as the most important issue facing the insurance industry today. Although tort reform is essentially a societal issue and not an insurance issue, he said, "We have to be concerned as to how this issue is ultimately resolved."

"Our first contribution may have been perceived as a stonewall," Mr. Marcon admitted, however. ISO told legislators it could not precisely measure the impact of various tort reform measures on insurance prices.

ISO is making efforts, however, to clarify the relationship between tort reform and rates. A commissioned study is expected to be released soon showing the impact of various tort reform measures on six key types of claims. However, "it will not say that implementation of this type of tort reform is worth 'x' dollars," Mr. Marcon stressed.

A second ISO study, scheduled for release in 18-24 months, will examine the claim files of its affiliates, and provide "solid, quantified information" on tort reform's effectiveness.

The difference between the two studies, said Mr. Marcon, is that the first short-term study will deal with typical claims, while the second will go into actual claim files.

Mr. Marcon said because ISO is not a trade association, he could not comment on the possible repeal of the McCarran-Ferguson Act, which could result in state regulation of insurance companies.

He added, however, that he believes ISO's pricing and coverages information encourages competition because the data eases insurers' initial entry into the marketplace.

"Where can an insurer go to decide how much they should charge to insure a lumberyard?" asked Mr. Marcon. "There are very few insurers today whose data base allows appropriate advisory pricing without the ISO benchmark."

He noted insurers remain free to modify this benchmark. Without ISO's advice, however, Mr. Marcon added, insurers' prices would be necessarily skewed toward the prices of their top competitor. ISO's data, he said, gives them knowledge of what others are charging as well.

ISO's forms are also beneficial to the marketplace, said Mr. Marcon. For instance, someone buying a homeowners' policy can be assured that whichever insurer he uses, the policy will be essentially the same, with only minor variations.

ISO has changed considerably since its creation in 1972, when several rating and data services combined, he said.

Originally, he noted, it had 5,700 employees. Today, it has 2,740. "It's evolving," he said, "we are performing different services for insurers than we did 10 to 15 years ago."

"We are constantly looking at all services," said Mr. Marcon. "Either they stand the light of day, or we shut them down." One service ISO no longer performs is auditing and coding individual policies. With insurers' introducing their own automation services, "the need for that service was not as great as it was so we stopped it," said Mr. Marcon.

Another way ISO has evolved, he said, is in the way it collects revenues. Today, 55% of its \$160 million in revenues is generated through unit billing, with insurers charged according to the services they receive. This compares with just 2% 10 years ago. The remaining 45% of its income is generated by assessments based on a formula including premium volume, services provided and the number of states in which services are provided. Credit is given for statistical data provided to ISO.

ISO's ultimate goal, he said, is for unit billing to account for 85% of revenues within the next five years. It does not plan to increase the percentage beyond 85%, however, he noted, because "there is a point where the cost of fine tuning is not worth it."

Not only is unit billing more equitable, because it charges insurers on the basis of how much they use ISO's services, but it gives ISO the opportunity to see if its products are "really flying" as well, said Mr. Marcon. When ISO began to charge a few dollars for its manuals instead of giving them away free, demand for them dropped off almost 35%.

"I believe this has been a significant shift in philosophy. It makes us more bottom-line oriented, and less bureaucratically oriented," said Mr. Marcon.

Insurers praise the organization. Jerry Collins, secretary at the Hartford Insurance Group, said, "They've certainly performed well for us," both in meeting filing requirements in states and in the bulletins available for use by Hartford's underwriting staffs.

Wally Snow, assistant secretary at the Reliance Insurance Group, who works in the passenger auto and homeowners area, said ISO has been "extremely helpful" to his company in providing forms. For an insurer, he said, "It would be very difficult to come up with its own unique private passenger auto policy" to meet requirements in individual states throughout the country.

"Our use of ISO is an integral part of our operation at the personal lines level, and we feel they fit the bill," said Mr. Snow.

"It's an essential organization," said John Bowdish, commercial lines underwriting officer at the Kemper Corp., who was recently appointed to ISO's commercial lines committee, and has been active in other ISO committees in the past.

An organization such as ISO is needed so that individual insurers do not have to gather and analyze statistical data on their own determine rates, he said. "Without it, we would be a very expensive industry to run."

The Insurance Services Office Inc. is located at 160 Water St., New York, N.Y. 10038; 212-487-5000.



Mr. Marcon



NAII defends increased insurer profitability

By STACY ADLER

DES PLAINES, Ill.—As an insurance industry advocate, the National Assn. of Independent Insurers is leading efforts to persuade legislators and the public that increased insurer profits do not mean prices are out of line.

"We have a serious communication issue in front of us," says Lowell Beck, president of the NAII.

"Having come through such a difficult time financially, we are faced with what appears to be very heavy profitability," Mr. Beck explained.

"And communicating to the public what that means is the biggest issue facing us right now."

But, 1986 was an unusual year because there were few very expensive catastrophes at the same time prices rose "to a more realistic level," Mr. Beck said.

Combined with a strong stock market and capital gains, these factors helped insurers increase their profits.

But, as Mr. Beck said, "It isn't as it appears to be."

Much of the money insurers show as profit will be used to bolster their reserves and their policyholder surplus, he said.

"It is very difficult to be able to convey this to state legisla-

tors. They just see that bottom line there. They see how much it has increased over last year. It's a very big issue," Mr. Beck said.

Insurers fear that the appearance of unusually large profits will encourage Congress to repeal or amend the McCarran-Ferguson Act.



Mr. Beck

The NAII is fighting changes to the act because insurers want to be able to use pooled loss data when establishing their rates.

The association was formed in 1945—the same year the McCarran-Ferguson Act was passed—by 39 small, independent insurers that wanted to abolish rate-making bureaus and set rates competitively.

Today, there are more than 515 NAII members still fighting to maintain this competitive marketplace.

"We want to avoid the repeal or the amendment of the McCarran-Ferguson Act," Mr. Beck said. "In many of the small to medium-sized companies it could hurt them drastically because of their inability to take ad-

vantage of pooled data.

"If it is amended so that we are subject totally to the anti-trust law in every respect, then we will be open to all kinds of litigation and confusion," he added.

The NAII also fears that amending the McCarran-Ferguson Act would pave the way for federal regulation of the insurance industry. And since many of the NAII members are one-state companies, Mr. Beck believes federal control would be devastating.

"To even think in terms of subjecting those one-state companies like Tennessee Farmers Mutual to a federal agency would be just chaos," he said.

Most members belong to the NAII because they support the McCarran-Ferguson Act and feel they will have more influence in Washington if they band together.

As August P' Alegi, vp and actuary of GEICO General Insurance Co. in Des Moines, Iowa, said, "We couldn't agree more with the NAII. We are very close to them philosophically."

Mr. Alegi said the main benefit his company derives from membership in the NAII is representation in Washington.

Continued on next page

III

Continued from facing page

some weaknesses, however. Mr. Cheek noted any organization that tries to influence the public "can always use more people."

"Like any organization that's an association, it's as strong as its members make it," said the Kemper spokesman, noting that State Farm Insurance Co., a major property/casualty insurer, is not a member.

A State Farm spokesman said the insurer rarely joins any association, however. "We feel we can do a better job of representing our own people than have someone else doing it for us," he said.

Mr. Moore said despite the absence of State Farm from its roster, the III has a "very good national perspective." One of the III's strengths, in fact, said Mr. Moore, is that "we have amongst our members companies that represent all segments of the industry."

Nevertheless, Mr. Moore said he would like to significantly increase the proportion of the industry the III represents so that it can raise additional financial resources to develop needed support programs.

The III, he noted, now generates the revenues for its \$8 million budget through membership fees, which are based on premiums; through advertising in its bi-monthly magazine, Insurance Review, and through fees it receives for doing public relations work for 30 other insurance organizations, including the Insurance Services Office.

"We have the tools and the management systems to achieve our two-fold mission if we have the resources, so my primary goal over the next five years is to increase those resources," said Mr. Moore.

In discussing the III's weaknesses, Mr. Cheek also commented that "clearly in an industry as diverse as the insurance business, on some issues it's difficult to find a consensus." He added this is less a weakness of the institute, though, than it is of the industry overall.

Mr. Moore agreed. "That's an industry problem. I think you'll find it would be an issue in the industry trade association of almost any organization that is attempting to reflect a common point of view."

It is the III's responsibility to report the facts of the industry to the public, Mr. Moore added. "If there is a consensus, we say so," he said.

If there is not, he said, it reports who disagrees "and encourages the reporter to go talk to those people and find out more background information. We don't believe that our function is restricted by lack of consensus."

The Insurance Information Institute is located at 110 William St., New York, N.Y. 10038; 212-669-9200.



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Stronger and Bolder Than Ever

RAA is working to make its voice heard

By DEBORAH SHALOWITZ

WASHINGTON—Like a young woman singing in a large soprano section, the Reinsurance Assn. of America is struggling to make its voice heard in the chorus of the insurance industry.

Although younger than its peers and sometimes overpowered by their size, the RAA's voice can often be heard in Washington.

And, this voice is bound to become stronger in coming years as the U.S. reinsurance industry grows, predicts Andre Maisonpierre, the group's president.

The need for reinsurance "will grow by leaps and bounds," predicts Mr. Maisonpierre, so despite its "low-key membership approach," the RAA's membership in five years will be "considerably" greater than its current level of 30.

The main purpose of the organization, which was created in 1969, is "to represent members on legislative and regulatory issues." To that end, the RAA testifies frequently at the state and federal levels.

But, "we recognize that both within the entire insurance industry and the business community, from the legislative standpoint, our power is limited by our size," said Mr. Maisonpierre. He added that no matter how much the RAA

grows in coming years, "there's no way we can acquire the political clout that the other (insurance associations) have."

The RAA provides members with information on legislative and regulatory developments around the country, maintaining contact with all 50 state insurance commissioners.

But the RAA is not a full-service trade organization, maintains Mr. Maisonpierre, because the group's educational activities are "quite limited" and it does not offer training programs or hold seminars for employees of member companies.

Members point out, however, that the education that a professional receives through the exchange of ideas facilitated by the RAA committees is invaluable.

The RAA lets us "help each other understand the problems of the industry," noted Michael G. Fitt, chairman, president and chief operating officer of Employers Reinsurance Corp. in Overland Park, Kan.

Mr. Fitt will be installed as chairman of the RAA next month at the group's annual meeting in Washington, D.C.

The RAA also gathers data on the reinsurance industry, although that is not one of its mainstream activities, Mr. Maisonpierre said. There are five membership requirements for joining the RAA:

- A company must be a professional reinsurer. Although some RAA members do write direct insurance, for most members reinsurance is more than 90% of their business.

- A company must be domiciled in the United States. An RAA member company may be owned by a foreign company, but not by a foreign government.

- An RAA member company must maintain a minimum surplus of at least \$25 million.

- The company must be licensed in at least five states, including one major state, such as California, New York or Florida.

NAII

Continued from previous page

But while the goals of the association have remained the same since its inception, the membership has changed.

Traditionally, the NAII has been known as the bedrock of personal lines insurers, but today the membership of commercial lines insurers is growing.

"While the NAII historically has been thought of as a personal lines association... that is changing," Mr. Beck said. "Commercial writings are growing significantly."

Membership in the NAII now spans nearly all lines of insurance from the one-state farm bureau companies to the international insurance companies that write many lines of insurance. Mr. Beck attributes the legislative successes of the association to its wide and diverse membership. This diversity was clear when stock insurers, mutual insurers, excess/surplus insurers and many others gathered in Naples, Fla., earlier this month to attend the spring board of governors meeting.

As Mr. Beck said, "We have enormous diversity. We have the very largest of the companies to many of the smallest."

Another reason the NAII has been successful is because its members are familiar with the political arena and are willing to work hard to achieve their goals, Mr. Beck said.

"They are scrappy, fighting companies," said Mr. Beck.

Their determination has paid off over the years. Through its lobbying efforts the NAII helped to:

- Prevent the passage of federal no-fault auto liability legislation in the 1970s.

- Reduce the mandatory insurance requirement in the trucking deregulation bill

and eliminate the possibility of dual regulation for motor carrier insurers.

- Defeat unisex rating legislation.

In 1986, the NAII—like most insurance associations—was preoccupied with trying to minimize the onerous effects of the Tax Reform Act of 1986.

"The tax law was not a victory," Mr. Beck said, "but we could have gotten much worse legislation than we did."

Under the new tax law, insurers no longer are able to take immediate, full tax deductions for reserves established for future losses. Instead, insurers are required to discount their loss reserves based on the mid-term applicable federal rate, which is the market rate of return on U.S. government obligations with remaining maturities of between three and nine years (*BI*, Aug. 25, 1986).

Mr. Beck said the insurance industry could have accomplished more in relation to the tax bill if it had been united.

"When push came to shove—the industry was not in fact as unified as it should have been," he said.

"It was an example of how you don't win victories on a major effort like that," he added.

On the state level, the NAII has actively supported tort reform. By arming insurers and business leaders with statistical data and filing amicus curiae briefs, the association has been working alongside these groups to encourage tort reform.

But Mr. Beck points out that lobbying costs money—lots of money. In 1986 the NAII raised more than \$100,000 for its political action committee in Washington. And in the 1987, Mr. Beck hopes the group can give the same amount to its PAC.

"It is extremely difficult to raise that

• The company cannot have failed more than four of 14 IRIS solvency tests conducted by the National Assn. of Insurance Commissioners.

American reinsurers write approximately 75% of the reinsurance for American businesses, and RAA members write 80% to 85% of that amount, according to Mr. Maisonpierre. The dues for RAA members are assessed based on a formula of less than 0.01% of assessable premiums written, which are the majority of reinsurance premiums written.

The chief executive officer of each member company is on the board of directors of the organization. Committees are made up of other key professionals from member companies. This format keeps the group efficient, according to T. Darlington Semple, resident counsel and secretary of American Reinsurance Co. in New York.



Mr. Maisonpierre

Looking ahead, Mr. Maisonpierre said that the RAA will focus on two sensitive issues this year.

The first is the recovery of claims under retrocessional agreements, which are reinsurance policies issued by one reinsurer to another reinsurer. "The problem is that some reinsurers have reinsured large amounts of business... and there may well be some problem in collecting that reinsurance," explained the RAA's Mr. Maisonpierre.

This could be due to the second reinsurer becoming insolvent or being domiciled in a country that doesn't export hard cash.

For example, Mr. Maisonpierre said that it is extremely difficult for a reinsurer to collect money from a South American reinsurer or one based in the Middle East.

The second sensitive issue that the RAA will focus on this year is "whether loss reserves are, in fact, adequate," said Mr. Maisonpierre. He said it is "much more difficult for a reinsurer to ascertain loss reserves (than an insurer) because it takes so much longer for losses to develop."

Furthermore, most reinsurance contracts for property/casualty insurance are written so that they absorb huge claims, said Mr. Maisonpierre.

For example, many of the reinsurance policies covering asbestos were written in the 1950s, when insurers had a retention of \$50,000 or \$100,000—a large retention at the time. Now, however, awards for damages from asbestos claims are millions of dollars, and the reinsurer picks up most of the tab, said Mr. Maisonpierre.

On the federal level, Mr. Maisonpierre said that the RAA plans to address, along with the U.S. Department of the Treasury, tax treaties that exempt certain foreign reinsurers from federal excise taxes, which are 1% for reinsurance and 4% for direct insurance.

Among countries with tax treaties, which the RAA says put U.S. reinsurers at a competitive disadvantage, are: the United Kingdom, France, Italy, Soviet Union, Cyprus, Barbados and Romania.

The "worst" treaty from the U.S. reinsurers' point of view is the tax treaty with the United Kingdom because it waives the excise tax even when the U.K. reinsurer cedes the busi-

ness to a reinsurer in a country without a tax treaty with the United States.

"The U.K. may be acting as a front for other countries," Mr. Maisonpierre said.

The RAA also objects to the treaty with Barbados and the pending treaty with Bermuda because there is no income tax assessed in those jurisdictions and the theory behind waiving excise taxes is to avoid double taxation, Mr. Maisonpierre said.

"The less the U.S. insurance industry depends on the rest of the world, the better off we are," claimed Mr. Maisonpierre. "But if we provide a competitive advantage" to foreign reinsurers, that dependency is likely to grow.

Internally, the RAA is trying to develop methods to assess what additional taxes the reinsurance industry will face as a result of tax reform, how those tax liabilities will affect the cost of reinsurance and if those changes will be large enough to influence the purchasing decisions of those buying reinsurance.

The group's biggest legislative success was the 1984 adoption by the National Assn. of Insurance Commissioners of a model law for credit for reinsurance. The model law dictates under what conditions an insurer or reinsurer can take credit on its annual statement for reinsurance purchased.

The requirements under the model law include: the reinsurer must be licensed in the state of the insurer's domicile or in a state with similar solvency or licensing requirements; or, the reinsurer must have a dedicated trust fund of at least \$20 million in a U.S. Federal Reserve member bank or the reinsurer must provide to the insurer a letter of credit issued by a Federal Reserve member bank.

About 30 to 35 states meet these standards and three or four exceed the standards, Mr. Maisonpierre said. "There is, however, a question as to the extent to which the states are enforcing the regulations in the law," he observed.

On the down side, Mr. Maisonpierre said that he regrets not fighting more strongly for a federal premium tax, a legislative proposal that eventually did not pass. Mr. Maisonpierre explained that when the rest of the insurance industry decided to delay support for a federal premium tax, the RAA went along for the sake of solidarity. But "had we moved independently and separately, we could have gotten a federal premium tax" instead of discounting of loss reserves, which is "too complex" and "undermines the solvency of the industry," he said.

The RAA's biggest accomplishment in the past few years has been the education of legislators and regulators on what reinsurance is and how it fits in to the whole insurance picture.

"Reinsurance was a low-profile thing," said Mr. Maisonpierre, and no one really understood what it was.

The RAA has five professional staff members, including Mr. Maisonpierre. Three of the staff, the senior vp, the vp and general counsel, and the assistant general counsel, are attorneys. The fifth staff person is a legislative assistant. Four support people also work for the organization.

The Reinsurance Assn. of America is located at 1819 L St. N.W., Seventh Floor, Washington, D.C., 20036; 202-293-3335.

money. When you're talking about \$100,000 that isn't money that companies give, that money comes directly from the personal pocketbooks of company executives," he said.

"It is a lot more money than people realize. A lot of people have to give quite a bit to reach \$100,000," he added.

In addition to enhancing its fund-raising effort, Mr. Beck hopes the NAII can improve its communication network. The NAII is one of the largest insurance associations, and distributing information to all of its members nationwide and internationally is a challenge.

The association annually publishes more than a dozen reports including:

- The weekly "Legislative Reporter" that tracks the progress of 8,000 bills each year and analyzes more than 2,500 bills.

- The weekly "Washington Report" on what Congress is doing in the insurance field.

- "Workcomp Focus" on special memorandums on new laws and important court cases.

But Mr. Beck said the organization still needs to work on improving its communications efforts. He hopes in 1987 the association can incorporate some of the latest electronic and computerized techniques for rapidly transmitting information.

In addition, the NAII produced an award-winning film on the dangers of drinking and driving, "Just Along for the Ride." The educational film won several awards from the Public Relations Society of America for ex-

cellence in corporate film making.

"We have had enormous success in our efforts to get educational information into the schools around the country," Mr. Beck said, noting that millions of students have seen the film.

The NAII maintains offices in Washington; Boston; Annapolis, Md.; Sacramento, Calif.; and its home office in Des Plaines, Ill. More than 175 people work in the various offices.

"One of our strengths is that we focus very heavily on having a professional, expert, high quality staff of people who not only know Washington and how to lobby, but who are experts in the various fields in their own right," he said.

GEICO's Mr. Alegi agreed. "The NAII has a very qualified staff," he said, adding that John B. Crosby, senior vp and general counsel at NAII, "is the best in the business."

Joe Lancaster, executive vp and chief executive officer of Tennessee Farmers Mutual Insurance Co. in Columbia, Tenn., says his organization depends on the NAII staff.

"A small company like ours simply does not have the staff to stay on top of the industry every day the way the NAII can. They give us information we couldn't otherwise get."

Membership in the NAII is open to any U.S.-domiciled insurance company. According to Robert Wegenke, senior vp and secretary of the NAII, dues are assessed according to the number of states a company writes business in and the amount of direct-written premiums it has. The minimum assessment is \$1,500. Mr. Wegenke says the sliding scale "produces a more equitable" assessment.

The National Assn. of Independent Insurers is located at 2600 River Road, Des Plaines, Ill. 60018; 312-297-7800.



Benefit changes

Continued from page 1

• The increase in the number of couples in which both people work has resulted in many employees seeking to "trade" the traditional core benefits such as health insurance—which they may receive through their spouse—for other benefits.

• The influx of women into the workforce has increased the desire for benefits that make child-rearing easier, such as dependent care and flexible scheduling, as well as for maternity and child care leaves. And, the aging of the population in general has left many workers responsible for their elderly parents, also increasing the desire for dependent care benefits and flexible scheduling.

Of the total respondents to the BI survey, 56% said they perceived a weakening of employee loyalty to their employers. Forty percent said they perceived no such weakening of employee loyalty and 4% did not answer.

Some 64% of the respondents said that more than half their workforce was made up of hourly employees, while 34% said most of their workers were salaried employees and 2% said their workforce was about evenly split.

But, those benefit managers whose workforces were older, unionized or mostly male were more likely to perceive a weakening of loyalty.

For example, only 35% of those benefit managers with workforces that have more women than men said they saw a weakening of employee loyalty, compared with 65% of those with workforces made up mostly of men.

Of the 50 respondents to the survey, 62% said their workforce was more than half male, and 34% said it was more than half female. Two percent said their workforce was about half male and half female, and 2% did not answer.

And, 70% of the respondents with predominantly unionized workforces and 72% of those with workforces that averaged older than 40 said employee loyalty was weakening, compared with only 57% of those with mostly non-union workers and 50% of those with younger employees.

Of the respondents, 74% said their workforce was less than 50% unionized. Twenty percent said it was more than 50% unionized, 2% said it was split evenly between union and non-union workers and 4% did not answer.

Regarding age of workers, 60% said that the average age of their workforce was less than 40 years old. Some 36% said the average age was more than 40 years old and 4% did not answer.

Some of those who perceived a weakening of loyalty seemed to lay the blame on the companies. For example, the corporate manager of benefits and insurance for an oil refining company with 900 employees said, "Companies are looking at the short-term profits, not at the long-term effect on employees and communities."

Others, like the corporate manager of employee benefits for a manufacturing, sales and service company with 8,000 employees, blamed a "change in work ethics. Employees no longer have a commitment to their work."

But, he also cited the "fear of layoffs, mergers/acquisitions and downsizing."

And, most of the respondents said they believed the weakening of employee loyalty was caused by such business realities.

For example, the benefit manager of a manufacturing company with 800 employees said weakening of employee loyalty was "a result of more (companies) being acquired by other companies more than once."

The director of personnel admin-

istration for a chemical company with 27,000 employees said, "As companies restructure and 'downsize,' and as mergers take their toll, employees now realize that they must be responsible for themselves and their careers. Companies no longer are providing 'cradle-to-grave' security and employees realize it."

And, the director of compensation and benefits for a textile manufacturer with 24,000 employees said, "Competition for jobs is intense. 'White-collar' job security is decreasing—so is hourly job security. Companies no longer practice the long-term loyalty they used to. So employees are forced to depend more on themselves and less on the company."

On the question of changes caused by an increase in two-worker families, 56% of the total respondents said they believed this increase has resulted in changes in benefit requests. Some 38% said they perceived no such change, 4%

did not answer and 2% said they did not know.

But, 64% of the respondents with workforces averaging under age 40 said they thought two-worker families had caused a change in benefit requests, compared with only 44% of the respondents with older workforces.

Half the respondents with mostly unionized workforces said they perceived a change caused by two-worker families, compared with 54% of the respondents with mostly non-union workers. And, 58% of the respondents with predominantly male workforces said they had experienced a change in benefit requests, compared with 53% of the respondents with mostly female workforces.

The change most-often mentioned by the respondents was an increase in requests for flexibility in benefits.

The manager of administration for a manufacturer of frozen sandwiches with 540 employees re-

ported a new demand for "probably greater flexibility in selecting benefits that might be duplicated between employers."

The vp of personnel and labor relations for a health care and education firm with 3,200 employees agreed that employees are "seeking more flexible benefit approaches."

And, the director of benefits planning for a paper and publishing company with 19,500 employees said, "Employees want to tailor coverage to the needs of two workers, both of whom have certain benefits provided by each employer. This moved us into a full cafeteria plan for non-bargaining

Continued on next page

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Benefit mandate

Continued from previous page

dents of those employees, according to EBRI.

While business groups agree that the problem of the uninsured must be addressed, they oppose a health care benefit mandate on both philosophical and practical grounds.

"You are interfering with company internal benefit decisions," says the NAM's Ms. Canner.

At the same time, business lobbyists say compliance with a health benefit mandate would be an administrative nightmare.

For example, Sen. Kennedy's staff says an employer would not have to offer the identical benefits to comply with the federal benefit mandate, but rather benefits that were the "actuarial equivalent."

For example, an employer could make up for the higher deductibles in its health care plan by offering a dental plan as well.

But determining "actuarial equivalent" benefits may be impossible, some experts say.

"You can't measure (actuarially) certain health care features," notes Linda Havlin, a consultant with Hewitt Associates in Lincolnshire, Ill.

Consultants note it would be especially difficult to place a value on benefits offered through a flexible benefit arrangement, under which employees are allowed to choose from a wide range of benefit options.

"Flexible benefit plans would be a real wild card," says Mr. Ugoretz of the ERISA Industry Committee.

"The Kennedy plan would put some real constraints on how far you could go with a flexible plan," says William J. Arnone, a benefits consultant in the Los Angeles office of Buck Consultants Inc.

In addition, the Treasury Department—in attempting to draft regulations to guide employers in complying with the health care continuation provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985—is tied up in knots over how to determine appropriate premiums for self-funded health care plans.

"The Treasury Department has found that determin-

ing actuarial equivalents is not a simple task," says Mr. Davey of Johnson & Higgins.

Since any health care benefit mandate that Congress might approve would give regulatory agencies the authority to develop rules on how to measure the value of benefits, employers might have to wait for years before such rules are published.

While business groups remain opposed to a health care mandate, some that support the idea believe it is in the best interest of companies with health care plans to back such a proposal.

For example, Ms. Ignagni of the AFL-CIO says employers with health care plans should realize they are subsidizing employees of companies without health care coverage.

This subsidy occurs because hospital administrators shift costs of the uninsured onto patients with health care coverage. This cost-shifting inflated the health care bills of those covered by health insurance by about \$5 billion in 1985, according to the Health Insurance Assn. of America, a Washington-based trade group.

"Employers should be asking themselves how long they are going to be willing to subsidize their competitors without health care plans," Ms. Ignagni points out.

Others say there are ways Congress could increase health care coverage without a federal benefit mandate.

For example, James Dorsch, Washington counsel for the HIAA, says Congress could pass legislation to allow the self-employed to take a full deduction for their health insurance premiums. Only 25% of the premium currently is tax-deductible.

In addition, health care costs for small employers—which are least likely to offer group health insurance coverage—could be cut substantially if Congress barred states from imposing specific benefit requirements on insured plans, said Mr. Dorsch.

For example, legislation passed in Maryland in the early 1970s that requires insured plans to offer extensive mental health and alcohol abuse benefits has inflated plan costs by between 12% and 17%, the HIAA says. ■

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Committee hears debate on mandated health care

By JERRY GEISEL

WASHINGTON—Requiring all employers to provide group health insurance could result in an administrative nightmare for all employers, a congressional committee was told late last week.

Enforcing a health care mandate, such as the one now being drafted by Sen. Edward Kennedy, D-Mass., (see story, page 3) would result in the creation of a "horrendous" new federal bureaucracy, said John J. Polk, executive director of the Council of Smaller Enterprises, a division of the Cleveland Chamber of Commerce.

Mr. Polk, speaking last week before the Senate Small Business Committee, said employers would face the new burden of having to certify to this new agency that their plans meet federal standards.

Such a mandate would create "a new layer of bureaucracy and regulation, which, even in its simplest summary form, is conceptually horrendous," Mr. Polk said.

Also at the hearing, the first this year on how a federal health care mandate would affect employers, especially smaller firms, a parade of witnesses said more should be done to encourage employers to offer group health care programs.

Frank Swain, chief counsel for advocacy with the U.S. Small Business Administration, recommended changing the tax law to increase to 100% from 25% the tax deduction that the self-employed can take for health care premiums.

"From a small business perspective... the tax treatment makes all the difference," Mr. Swain said.

Fredric Rohm, president of the New Castle County Chamber of Commerce in Newark, Del., urged a national effort to encourage trade associations to offer coverage to members. The New Castle Chamber of Commerce provides coverage to about 1,000 companies, many of them smaller firms.

"Encouraging the kind of program we offer to small firms, rather than mandating an inflexible program to all companies, would be a welcome first step by the federal government," Mr. Rohm said.

Powell Jenkins, the operator of a small hardware store in Rocky Mount, N.C., told the committee that more small employers would offer group health insurance if they could receive tax credits for the purchase.

These tax credits could, for example, be used to offset payroll taxes and help improve a small company's cash-flow, Mr. Powell pointed out.

Insurers testifying at the hearing advocated federal legislation to prevent states from imposing specific benefit mandates on health care policies they sell.

These mandated benefit laws are adding between 4% and 15% in additional costs to insured policies, said Michael J. Manley, second vp for The Travelers Insurance Cos. in Hartford, Conn.

A federal pre-emption of state mandated benefit plans "would be a major first step to lowering the costs of health insurance for small businesses," Mr. Manley said in his written testimony.

Senate Small Business Committee members offered their own suggestions to improve access to health care coverage.

For example, Sen. Alan Dixon, D-Ill., suggested the creation of state pools, comparable to current assigned risk pools for automobile insurance, from which small employers could buy a bare-bones policy.

And, Sen. Tom Harkin, D-Iowa,

recommended "all of us ought to bear the burden" of providing coverage to the uninsured through health insurance pools funded by general revenues.

Committee Chairman Dale Bumpers, D-Ark., said government bears some of the responsibility for the rise in the number of people without health insurance.

He noted that in Arkansas, cuts in Medicaid have made it much tougher for the poor to receive health care coverage.

For example, the cuts have gone so deep that a family of four with an income of over \$3,300 would not be eligible for coverage.

"You have to be absolutely destitute in the state of Arkansas to get Medicaid," Sen. Bumpers said. ■

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 * Source Business/Occupational breakdown of qualified circulation, November 24, 1986 issue, as submitted to BPA for December 1986 BPA Publisher's Statement.



Cleveland 'right-to-know' law ignored

By LORETTA ASHYK

CLEVELAND—A year after Cleveland enacted its much-ballyhooed "right-to-know" law regulating hazardous chemicals in the workplace, fewer than one-quarter of the city's affected businesses are in compliance.

Capt. Chris Gance, the city's chief inspector for fire prevention, echoed the sentiments of Greater Cleveland Growth Assn. officials and safety consultants by blaming the 24% compliance rate on both ignorance and confusion about the law on the part of employers.

Capt. Gance also said some businesses simply may be dragging their feet and hoping they will not get caught.

"A lot of people know we're understaffed, and they may just be taking their chances and waiting until we come around" to comply with the law, he said.

The right-to-know ordinance, which took effect in March 1986, requires employers to inform the city about such items as what hazardous materials are stored in their buildings and where they are located on the premises.

Employers also are required to train workers to handle hazardous materials and provide documentation on those training programs to the city's Fire Prevention Bureau, which is responsible for enforcing the ordinance.

The compliance figure was an extrapolation based on inspections conducted by the bureau in the last year, Capt. Gance said.

The bureau conducted 4,258 complete inspections and 11,705 inspections in total, he said. Some partial inspections are performed in response to complaints or as follow-ups to previous inspections.

While a similar federal law enforced by the Occupational Safety and Health Administration primarily covers industrial manufacturers, Cleveland's right-to-know ordinance affects nearly all employers in the city. Approximately 6,800 businesses are expected to be affected by

the law, Capt. Gance said.

The bureau conducts its inspections on the basis of "life safety" first, so buildings that house large concentrations of people are a top priority, Capt. Gance noted.

The bureau starts with schools, nursing homes and hospitals and then "works its way down" to industrial manufacturers, he explained.

Mr. Gance believes that although there has been more publicity about this ordinance than almost any in the city's history, many employers still are not aware that they must be in compliance. Some employers mistakenly believe that if they are in compliance with OSHA regulations, they do not need to report to the city, he noted.

"Despite the city's and the Growth Assn.'s efforts to disseminate information on this, there are firms out there that simply don't know the law applies to them," said Jack Licate, deputy director of governmental relations for the Greater Cleveland Growth Assn.

However, Phillip Howard, president of Howsafe Corp., a Cleveland-based safety consulting firm, said that compared with other cities, Cleveland has not done enough to make employers aware of the new law.

For example, he said that in Cincinnati, the city's fire department sent letters to employers advising them of its right-to-know ordinance, bought full-page newspaper advertisements and held large-scale seminars sponsored by the Cincinnati Chamber of Commerce to explain the law to local companies.

Cincinnati Assistant Fire Chief Charles Collini said compliance with that city's 4-year-old law has been nearly 100%, based on the city's yearly inspections.

Mr. Collini said the law has been a valuable tool in helping the fire department react to fires that involve chemicals.

He said employees also say they have a greater sense of security in working with hazardous materials.

Although the city of Cleveland did not advertise its right-to-know law, the ordinance was the subject of numerous newspaper articles and radio and television reports, according to Capt. Gance.

He also noted that the city's Fire Prevention Bureau has conducted seminars on the ordinance upon requests of trade groups and that the city also printed some 4,000 informational packets that explain the law and compliance procedures.

In addition to the problem of a lack of employer awareness about the law, it appears that some companies have delayed filing compliance forms, betting the city will not get around to inspecting their facilities, Capt. Gance pointed out.

The Fire Prevention Bureau has a staff of 33, which includes administrative personnel and field inspectors, Capt. Gance said. The right-to-know law applies to 28,000 buildings in the city, and yearly inspection of all of them is impossible, he added.

But, as more employees become knowledgeable about their rights under the law—specifically their rights to be made aware of hazardous materials in the workplace—more complaints may be filed against employers, according to Mr. Howard of Howsafe. Sooner or later, all companies will be forced into compliance, he said.

Efforts to make employees aware of their rights already are under way. Stuart Greenberg, research director for the Council on Hazardous Materials, a Cleveland-based non-profit educational group, said the council plans to make presentations before unions and trade associations.

It also has educational materials and a slide show on the law.

Penalties for not complying with the law range from a \$100 to a \$1,000 fine and up to 60 days in jail.

—Crain News Service

Liability concerns corporate boards

The increased liability facing directors of major U.S. corporations is causing many of them to consider giving up their board positions, a survey says.

A whopping 93% of those responding to a survey by Touche Ross & Co. feel increased directors' liability will impede recruitment of talented, experienced individuals to serve on boards.

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Asbestos claims facility

Continued from page 1

"We believe it applies to the major producers," said Mr. Inselbuch with the New York firm of Caplin & Drysdale. "We believe that overall it is true."

Mr. Inselbuch said that the plaintiffs are not seeking emergency measures from the court in its lawsuit.

"It's too important an issue to try to create an artificial crisis in the courthouse," he said. "It requires careful analysis and appropriate resolution by the courts."

Mr. Inselbuch, who also represents the committee of asbestos litigants in the Manville Corp. reorganization proceedings, added that he was asked by plaintiffs' attorneys to begin considering a lawsuit against the facility last summer.

Mr. Baron noted that the suit is being financed by a large number of plaintiffs' attorneys who did not want to bring suit in their own names and risk retaliation from Wellington in settling claims.

There is case law in the circuit where the suit is filed that supports the plaintiffs' suit, Mr. Baron claimed. "There are cases exactly on point."

The suit is filed in the same federal district court where last December a judge raised several potential antitrust problems with the Wellington facility.

Other plaintiffs' attorneys contacted said they support the thrust of the lawsuit.

"Whether the antitrust suit wins or not, it reflects a uniform disenchantment of the plaintiffs' bar with Wellington," said Robert R. Hatten with the Newport News, Va., firm of Patten, Wornom & Watkins. "On a gut level, I'm with them completely."

Mr. Hatten said that while Wellington has made it administratively easier to settle asbestos cases, "I'm settling exactly the same number of cases as I always did."

Another plaintiffs' attorney who asked not to be identified said he also supports the lawsuit. "It (Wellington) is a modern-day Trojan horse," he said.

But a facility official last week said the suit was "without merit" and that the facility plans to "vigorously contest" the complaint.

"Unfortunately, the complaint reflects a complete lack of understanding by the plaintiffs' attorneys about the purpose of the facility and its significant accomplishments to date," Lawrence Fitzpatrick, vp-law for the Wellington facility, said in a prepared statement.

Mr. Fitzpatrick said that the complaint ignores the fact that since the facility was established it has resolved more than 7,500 asbestos-related injury claims. The figure represents more than 25% of all claims pending when the facility was established and far exceeds the disposition rate in any prior 19-month period of asbestos litigation, he contended.

"By calling for a dissolution of the facility, the plaintiffs' attorneys are, in effect, advocating a return to the former state of chaos that existed prior to the creation of the facility," Mr. Fitzpatrick asserted.

"This would once again ensure that over 61% of all dollars spent on closed asbestos claims would go for expenses such as attorneys' fees, rather than to individuals actually suffering from asbestos-related injuries," he said.

"It's pathetic," fumed one facility member who asked not to be identified. "The plaintiffs' bar is starting to squeal. It's beneath contempt. It's just harassment."

The much-heralded Asbestos Claims Facility was created to help resolve the massive asbestos litigation problem. In June 1985, 50 insurers and policyholders involved in asbestos litigation signed the Wellington Agreement, which was named for former Yale Law School Dean Harry H. Wellington, who chaired the negotiations that resulted in the historic agreement.

The expressed hope of facility members was to resolve more fairly and efficiently the already huge backlog of asbestos lawsuits and the hundreds of new lawsuits filed each month.

Some proponents of the facility hoped it would be a model for settlement of other massive litigation involving toxic substances.

Throughout the facility's history, however, many plaintiffs' attorneys have criticized it, contending that the facility was set up primarily to reduce defendants' costs and to encourage litigation rather than settlements.

Among the allegations in the 45-page complaint are that the facility and its members have:

- Eliminated competition among themselves in the handling and disposition of asbestos health claims and marshaled their combined resources against the claimants.
- Made the prosecution of asbestos health claims more cumbersome, time-consuming and expensive for the injured.
- Used their combined economic power to blunt and resist normal settlement incentives and significantly

reduced the number of cases resolved annually by members.

- Produced a set of alternative dispute resolution procedures so "skewed and irrational that they can only be described as a sham."

The facility recently authorized the establishment of alternative dispute resolution procedures geared toward resolving claims outside of the courts (BI, March 23).

In their lawsuit, the plaintiffs seek to characterize the Wellington facility's settlement and defense of asbestos claims as anti-competitive and in violation of antitrust laws.

The suit contends that the settlement and defense of asbestos claims have a substantial impact on interstate commerce and itself constitutes a distinct line of commerce.

Prior to the establishment of the facility, each asbestos producer or its insurer independently processed, evaluated, negotiated and settled or defended asbestos claims, which gave rise to a settlement process based on individual economic self-interest and competition among various defendants, the lawsuit says.

However, "having combined in the Wellington facility,

'Whether the antitrust suit wins or not, it reflects a uniform disenchantment of the plaintiffs' bar with Wellington. On a gut level, I'm with them completely,' says plaintiffs' attorney Robert R. Hatten of Patten, Wornom & Watkins.

members no longer address the claims against them on an individual basis."

The plaintiffs allege that by its settlement and defense practices, the facility has conspired to unreasonably restrain trade while engaging in price fixing and a boycott in violation of Section 1 of the Sherman Antitrust Act.

In addition, they allege that the facility has monopolized, attempted to monopolize and conspired to monopolize the settlement and defense of asbestos claims, in violation of Section 2 of the Sherman Act.

The suit also contends that the facility has engaged in unfair competition and a civil conspiracy.

The suit alleges that among the ways in which the facility has violated these sections are by:

- Eliminating competition among facility members and between members and non-facility members in the processing, evaluation, settlement and defense of asbestos claims.

- Reducing facility members' claim costs while subjecting asbestos claimants to higher costs and procedural obstacles frustrating the "just, equitable and speedy" disposition of claims.

- Imposing arbitrary limits on amounts paid in settlement of asbestos claims and forcing asbestos claimants to receive less compensation than if the facility members acted individually.

- Prohibiting the facility from negotiating settlements that reflect claims against members for punitive damages, and not settling claims when a claimant does not have an actual physical impairment or dysfunction at the time the claim is brought.

- Creating a "sham" ADR program calculated to obstruct, hinder and delay the settlement of asbestos-related health claims.

- Providing for the waiver by members of all insurance coverage and certain indemnity and contribution claims against each other.

- Making the facility the sole agent to evaluate, settle, pay or defend all asbestos health claims; refusing to negotiate or settle asbestos health claims individually; and prohibiting the settlement of any claim on behalf of fewer than all of its members.

Individuals associated with the formation of Wellington said last week that the group had received advice on antitrust concerns when the agreement was created.

According to Mr. Wellington, now Sterling professor of law at Yale, the insurer group of members had hired counsel to advise them on such antitrust matters.

Although he was uncertain whether producers had outside antitrust counsel, he noted that producer attorneys generally were associated with large law firms that had antitrust departments. "I would be surprised if they were not consulted on the antitrust implications of the settlement agreement," he said.

"From insurers' point of view, we had advice on that issue early on," said John F. Shea Jr., vp and claim counsel for Aetna Life & Casualty Co., who was a major negotiator of the facility for the insurers. Mr. Shea declined to comment on the suit noting he had not seen a copy of the complaint.

Law professors contacted said that the lawsuit raised unique issues.

"I think it is kind of unique," said Harlan M. Blake, a Columbia Law School professor who teaches antitrust law.

"It seems to be highly unusual and raises questions of whether there is an antitrust injury here."

The suit is the second antitrust action filed against the facility. In October 1985, plaintiffs' attorney Robert E. Sweeney filed a lawsuit in U.S. District Court for the Northern District of Ohio.

Mr. Sweeney named himself as the plaintiff and charged the facility with violating federal antitrust, racketeering and monopoly laws (BI, Oct. 28, 1985). That case is still pending. ■

Facilities in Vermont, Bermuda to write malpractice coverage

By ROGER SCOTTON

HAMILTON, Bermuda—A group including several attorneys is investing more than half-million dollars to form new medical malpractice insurance facilities in Vermont and Bermuda.

A six-man team—led by lawyer Neil Chayet of the Boston firm Gaston, Snow & Ely Bartlett—is setting up a Vermont-based risk retention group and a Bermuda-based reinsurance company for doctors.

The risk retention group, Physicians Alliance Mutual, will retain 5% of the business and cede the rest to Grand Alliance Insurance Ltd., which is being incorporated in Bermuda.

Grand Alliance Group Ltd., the Bermuda holding company, will be capitalized at \$20 million, of which \$10 million will be paid up and the rest available in interest-bearing callable funds.

Mr. Chayet, the group's 47-year-old chairman and a medical malpractice specialist, said PAM filed for its Vermont license at the end of March and plans to begin issuing policies July 1.

PAM will offer medical malpractice insurance on a claims-made basis, with limits of up to \$1 million per event and a \$3 million annual aggregate, he said.

In addition, Grand Alliance Risk Management is being set up in Boston to operate a risk management program for members of the group and Grand Alliance Management Information Systems is being set up in Bermuda to develop and maintain the company's computer data base and software systems.

The six men who founded the group have invested about \$600,000 in the new venture. They are: Mr. Chayet; David McElfresh, a former vp of computer software company Lotus Development Corp. in Cambridge, Mass.; Dr. Gary Ja-

cobson, president of the Massachusetts Psychiatrists Assn.; lawyers Howard MacAyeal and Thomas Reardon; and statistician Bernard Wess.

The founders will retain a 60% stake in the Bermuda holding company with the remaining shares held by venture capital investment groups.

Mr. Chayet said that investment bankers Tucker, Anthony & R.L. Day Inc. in Boston, a unit of John Hancock Mutual Life Insurance Co., will seek equity participation from well-respected venture capital groups.

The six men have been working on plans for Grand Alliance for 15 months and have entered into a seven-year consulting and marketing agreement with Alexander & Alexander Services Inc. of New York, which has about 800 hospital clients, Mr. Chayet said.

He predicts that about 3,000 doctors in the initial target states of Massachusetts and Michigan will join the risk retention group during its first year of operation, generating an estimated premium income of \$50 million. Alexander & Alexander predicts that more than 50,000 doctors will purchase coverage through Grand Alliance by 1992, by which time marketing will be under way on a national scale.

But, Mr. Chayet stressed that not all doctors will be allowed access to the Grand Alliance program.

"Coverage will be offered only to physicians who practice within the environment of a managed group setting which has a risk management and quality assurance function, such as a hospital's medical staff," he said.

"There will be a comprehensive underwriting screen designed to identify and exclude from the program the unduly high-risk practitioner. We have reviewed thousands of malpractice cases and have elicited what we call risk

nodes—the reasons why doctors are sued time and again," Mr. Chayet explained. "Medical experts of national prominence are designing risk reduction standards designed to target those risk nodes and reduce or eliminate risk."

"Additionally, we are setting up a proprietary risk management system which will interact with the physician and the hospital risk management system to encourage claim prevention and provide an appropriate response to inappropriate patterns or practice. An early warning system of reportable events will allow the company to intervene quickly in order to limit its risk exposure," he added.

Physicians who purchase coverage from PAM will be eligible for policyholder dividends if a favorable loss experience is established, Mr. Chayet said. But, he noted that premiums will be heavily loaded for the first three years.

The Grand Alliance's risk management program is based on a management information system being designed by Mr. McElfresh.

"The management information system will organize and track large amounts of data which will provide the heart of the Grand Alliance program," according to Mr. Chayet.

The group has entered final negotiations with a candidate for the position of chief executive officer, but Mr. Chayet refused to name the individual.

"All I can tell you is that he will be someone extremely well known in the industry," he said.

Mr. Chayet said he was due in London around the end of the month to negotiate clash coverage for the group with Lloyd's of London underwriters.

The Boston-based lawyer is a member of the Harvard Medical School faculty and the Tufts University Schools of Medicine and hosts a daily CBS radio program called "Looking at the Law." ■

General Dynamics loses fight

Continued from page 2

and if the amount can be calculated with reasonable accuracy. The majority opinion written by Justice Thurgood Marshall states that the last event necessary to fix General Dynamics' liability was the filing of medical care claims from employees. Justice Marshall noted that some employees who received medical care might not have filed claims eligible for reimbursement.

General Dynamics began self-insuring medical claims in 1972. In 1977, the company deducted several million dollars for its liability for some medical benefits not yet claimed by employees.

In the dissenting opinion, Justice Sandra O'Connor said the amount to be deducted was reasonably certain and that the majority's application of the all-events test was "mechanistic and wholly unrealistic."

Congress changed the tax law in 1984 so that no deductions are permissible until claims are paid.

Aetna responds to tort reform

ATLANTA—Hartford, Conn.-based Aetna Life & Casualty Co. will expand its business and possibly reduce commercial bodily injury liability insurance rates in Georgia because of "significant tort reform measures" enacted in that state earlier this month, the insurer says in a letter to Georgia Insurance Commissioner Warren D. Evans (BF, April 20; March 2).

In the letter, Robert J. Clark, president of Aetna's commercial insurance division, and Dean E. Wolcott, president of the personal financial security division, cited provisions in the Georgia tort reform law that limit joint and several liability, permit the introduction of collateral sources into evidence, limit punitive damages and permit judicial modification of jury awards as "especially positive steps in balancing the civil justice system and in encouraging liability insurance availability and affordability."

Aetna plans to expand its commercial writings initially "in lines of business we already write in Georgia—specialty contractors and small businesses," said an Aetna spokesman. "We may expand into other areas when we look at how the law works over time."

"We believe this legislation will reduce Aetna's (commercial) bodily injury liability loss costs in the range of 4% to 6%," with a lesser reduction on package policies, the Aetna executives said. "Savings addressed above will be recognized in the pricing of our products."

Florida mulls malpractice pool

TALLAHASSEE, Fla.—The Florida Insurance Department is asking the Legislature to create a mandatory pool to write medical malpractice coverage for all Florida hospitals and doctors.

The House Insurance Committee is expected to review the proposal this week. The pool is needed due to existing rate increases and those expected, said Insurance Commissioner Bill Gunter.

The proposed pool, the Florida Hospital & Physician Liability Assn., would provide claims-made coverage to all practicing physicians and the more than 200 hospitals in the state. Hospitals would be required to cover their staff physicians for incidents that occur within their facilities, up to the limits required by the state's financial responsibility law for physicians—\$250,000 per event with an annual aggregate of \$750,000. The hospitals would be required to purchase from the pool the minimum medical malpractice insurance required by law: per-claim limits of \$10,000 per bed up to a maximum of \$2.5 million.

Participation in a pool-sponsored risk management program also would be mandated.

If funds are not sufficient to satisfy the claims submitted in a calendar year, the pool would assess all members, based on the number of days of a member's participation during the year.

Briefly noted

The U.S. Customs Service can require applicants for certain jobs to submit to **drug tests**, the 5th U.S. Circuit Court of Appeals in New Orleans ruled, overturning a lower court's decision. . . . The New York-based investment firm of Salomon Brothers Inc. said it is confident it can secure \$1.5 billion in junior securities to help finance the \$4.5 billion bid by the **United Airlines pilots** for the airline. . . . California Gov. George Deukmejian has the authority to disband the **California Division of Occupational Safety and Health**, the state's workplace safety agency, in deference to regulation by the federal Occupational Safety and Health Administration, the San Francisco Superior Court has ruled. The governor's proposal, a budget-cutting move, had been challenged in court by three professional associations, a labor union and Assemblyman Richard E. Floyd, D-Gardena, who sought a preliminary injunction. . . . Shareholders of Chicago-based **Combined International Corp.** approved a 2-for-1 stock split, effective May 12, and a corporate name change to Aon Corp., during the annual stockholders meeting April 23. . . . The 2nd U.S. Circuit Court of Appeals has affirmed a \$180 million settlement of a class-action lawsuit reached nearly three years ago between seven chemical companies and Vietnam veterans exposed to the herbicide **Agent Orange**. The decision last Tuesday means that the veterans and their family members claiming injury from Agent Orange are closer to receiving payment from the settlement, which has grown to \$220 million. . . . Morley P. Thompson, former president and chief executive officer of **Baldwin-United Corp.**, last week settled charges he had violated anti-fraud and reporting provisions of the Securities Exchange Act. Mr. Thompson agreed to a court order barring him from these securities violations in the future, although he neither admitted nor denied any of the allegations in the complaint. Losses in connection with Baldwin's single-premium deferred annuity business helped push the financial services conglomerate into reorganization. ■

Broker revenues continue to rise

financial briefs

Three publicly held insurance brokerages—Marsh & McLennan Cos. Inc., Arthur J. Gallagher & Co. and Poe & Associates Inc.—posted increased revenues in the first quarter.

New York-based Marsh & McLennan, the world's largest insurance brokerage, reported a 26.1% gain in gross revenues for the quarter to \$560 million from \$444.2 million in the first quarter of 1986. M&M's net income for the same period jumped 42.7% to \$92.9 million from \$65.1 million in the first quarter of 1986.

Revenues from M&M's investment management operations soared 82% in the first quarter, though the brokerage reported growth in all of its operations.

Rolling Meadows, Ill.-based Arthur J. Gallagher reported a 9.2% increase in gross revenues for the quarter to \$31.6 million from \$28.9 million in the first quarter of 1986. Gallagher's first quarter net income totaled \$3.4 million, a 23% decrease from \$4.5 million reported in the first quarter of 1986.

Gallagher attributes this decrease in earnings to the return of competitive pricing in commercial lines business; accounts lost to alternative markets; and the brokerage's decision—due to the unavailability of primary errors and omissions coverage—to set up a reserve of \$1.1 million to fund E&O losses.

Poe & Associates' gross revenues increased 3% in the first quarter to \$8.4 million from \$8.2 million in

the first quarter of 1986.

The Tampa, Fla.-based brokerage's net income in the first quarter climbed 0.5% to just more than \$1.2 million from slightly less than \$1.2 million in the first quarter of 1986.

Poe's slow growth rate in the first quarter of 1987 results from continuing adverse market conditions in Florida that followed enactment of insurance and tort reform measures last year (see story, page 1).

Fireman's Fund

Fireman's Fund Corp. reported consolidated net income rose nearly 600% in the first quarter to \$209 million from \$30 million in the first quarter of 1986.

First-quarter 1987 earnings included \$81 million in realized capital gains and \$61 million from the implementation of new pension plan accounting standards.

Operating earnings rose 123% in the first quarter to \$67 million from \$30 million last year.

Net property/casualty premiums written increased 11.9% to \$955.3 million in the first quarter of 1987 from \$854 million in last year's first quarter. Fireman's Fund's property/casualty combined ratio improved to 107.7% in this year's first quarter from 111.7% in the first three months of 1986.

U.S. Facilities

U.S. Facilities Corp., a Costa Mesa, Calif.-based reinsurance holding company, reported 1986 revenues of \$26.3 million, up 126% from \$11.7 million in 1985.

Net premiums earned in 1986 were \$19.5 million compared with \$3.8 million in 1985.

Likewise net income in 1986 increased 164% to \$2 million from \$763,000 in 1985.

Net operating income in 1986 was \$1.5 million up from \$971,000 in 1985.

"Our company is now well-positioned to take advantage of facultative property and casualty reinsurance opportunities, as well as continuing as a leader in the excess group medical stop-loss market," said George Kadonada, chairman and chief executive officer.

Hanover Insurance

Hanover Insurance Cos. in Worcester, Mass., reported net operating income, after tax, in 1986 of \$68.0 million compared with \$10.5 million in 1985.

Net income in 1986, including realized capital gains and extraordinary expense, was \$97.0 million, up from \$23.3 million in 1985.

The combined ratio in 1986 was 101.8%, improved from 110.6% in 1985.

The company reported that net premiums written in 1986 increased 31.4% to \$1.2 billion from \$882.4 million in 1985. ■

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Pollution ruling

Continued from page 2
Sept. 14, 1983, at a cost to Summit of nearly \$438,600.

Summit then sued Liberty Mutual to recover the cleanup and removal costs it had paid. It also sought to recover attorneys' fees and prejudgment interest.

The most unusual aspect of Judge Sadofski's decision is the portion that says the exclusion for damages to property owned by the policyholder was inapplicable because of a strong public policy to remove hazardous wastes.

Judge Sadofski cited a state statute that declares discharges of hazardous substances a threat to the economy and environment in the state and requires prompt containment and removal of the wastes.

"The health, safety and welfare of the people of this state must outweigh the express provisions of the insurance policy in issue," Judge Sadofski ruled.

"As a result, the exclusion clause in this policy which pertains to excluding coverage where the damage is to the policyholder's land must be held inapplicable where the danger to the environment is extreme."

Judge Sadofski said the decision involves weighing two competing interests: the ever-increasing demands on society's resources to control and clean up existing toxic waste sites and the need to interpret insurance contracts by their "plain meaning."

"This policy (of the state) must control over the plain-meaning doctrine in situations such as that presented by this case because of the nature of the case, the potential damage which may result and the cost which may be imposed upon a landowner," he ruled.

Judge Sadofski also noted that this case represented a unique situation involving a landowner that innocently found itself possessing a toxic waste problem because of its acquisition of land. The landowner neither contributed to nor intended that the waste problem occur, but the hazardous substances required immediate removal due to a present or potential health hazard, he said.

"Insurance policies which exclude coverage over damage to property owned by the insured should be held to cover situations

'The exclusion clause in this policy which pertains to excluding coverage where the damage is to the policyholder's land must be held inapplicable where the danger to the environment is extreme,' Judge Joseph Sadofski says.

where, through no fault of the landowner, whether through notice or act or both, toxic waste is found to be present on his property and he is ordered to remove it from the property," he added.

In addition, Judge Sadofski found that the pollution exclusion clause did not bar coverage to Summit.

The pollution exclusion clause provides that insurance does not apply to bodily injury or property damage claims arising out of the discharge of pollutants unless it is "sudden and accidental."

Relying on New Jersey case law, Judge Sadofski found that because the discharge at the property was not "expected or intended" by Summit, it was "sudden and accidental."

"It is clear that the pollution exclusion clause in the policy issued to Summit is inapplicable," Judge Sadofski said. "The discovery on the property was neither 'expected or intended' by Summit. Therefore, it was sudden and accidental within the exception to the pollution exclusion clause."

Judge Sadofski also found that even though Summit was aware that the property was used for a sewage treatment plant, that did not mean that the pollution was expected or intended.

"It is conceivable that the use of the property as a sewage treatment facility would reasonably have made Summit aware that a residue of natural waste continued to exist on the property when Summit acquired it," Judge Sadofski said.

"However, it is not conceivable for Summit to have been aware of the existence of the toxic waste under the surface prior to its discovery in 1983 when Summit began excavations on the property in preparation for improvements.

In addition, Judge Sadofski rejected Liberty Mutual's argument that the "occurrence" triggering coverage took place many years before the policy was issued—at

Health care consultants

Continued from page 2
with Hansen.

"We saw the opportunity to continue the health care consulting practice we were building at Hansen better at Coopers & Lybrand," explained Mr. Rosmann.

Despite the loss of the consultants, Mercer-Meidinger-Hansen will remain strong in the health care consulting area, predicts Joseph Holtzer, an executive vp in Mercer's health care consulting practice.

"We were sorry to see Messrs. Rosmann and Penn leave. But we have always had an edge in this area and we still feel we have an edge," he said.

Mercer-Meidinger had 150 health care consultants prior to the merger, after which it gained 15 health specialists from Hansen, he said.

"Prior to the merger, we had 24 times the health care consulting revenues that Hansen did," Mr. Holtzer said. About 5.2% of Hansen's \$52 million in consulting revenues was in the health and welfare benefits area before the merger (BI, Dec. 22, 1986).

Coopers & Lybrand has more than 80 consultants that specialize in health care, said Frank Raiti, chairman of the group practice in the firm's Philadelphia office.

The firm has four divisions, he said. The auditing division and the tax division represent the largest portion of Coopers & Lybrand's business.

The other two divisions—management consulting services and actuarial, benefits and compensation—offer health care consulting to providers and alternative delivery systems as well as to employers, Mr. Raiti explained.

The three new consultants specialized in alternative delivery systems consulting at Hansen and will help Coopers & Lybrand expand its consulting practice in this area, Mr. Raiti said.

"By joining the knowledge we have of what those structuring these systems want to achieve and what employers want in HMOs and PPOs, we think there are some exciting possibilities in this area," he noted.

One of the major projects recently coordinated by Mr. Rosmann and the health care consultants at Hansen was developing and maintaining a health care data base for employer-members of the American Electronics Assn. in Palo Alto, Calif. This data base is used by several employers to negotiate preferred provider organization agreements (BI, July 14, 1986).

Mercer-Meidinger-Hansen will continue this project, Mr. Holtzer pointed out.

the time the land was polluted with the hazardous waste.

"This argument is squarely against the general rule in New Jersey that personal injury or property damage occurs when actual damage is manifest, regardless of when the act which caused the

damage took place," Judge Sadofski ruled.

Thus, the "occurrence" took place in July 1983 when the toxic waste was discovered and cleaned up by Summit, he said.

Judge Sadofski also ruled that Summit's expenses for cleaning up the site were reasonable and necessary and that there was no evidence it tried to increase the costs to recover a greater sum from Liberty Mutual.

In addition, he awarded Summit attorneys' fees of \$37,000 and prejudgment interest of \$120,600 from July 1984, when the suit against Liberty Mutual was filed, through December 1986.

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Annual reports

Continued from page 3

"Things were pretty gloomy around here in 1984, and I told you about the many problems we had," recalls Robert J. Haugh, chairman of The St. Paul Cos. Inc., in his letter to St. Paul's shareholders.

"Then, in the 1985 report, I state that we had turned the corner and were profitable once again," he continued, adding that the company "had a most successful 1986."

Continental Corp. Chairman John P. Macscotte and President John H. Bretherick Jr. said in their company's annual report that "in fact, it was a good year for the property/casualty industry overall. Needed rate increases, particularly for commercial liability coverages, have tipped the scales of many company income statements and are lifting the industry from the depths of the underwriting cycle."

But, despite the earnings accomplishments in the past two years, the times—and the property/casualty underwriting cycle—could again be a-changin' soon, according to insurer's annual reports.

For instance, some insurers point out that rates in at least some property/casualty lines have reached "adequate" levels.

In USF&G Corp.'s 1986 annual report, Chairman and President Jack Moseley and Paul J. Scheel, president of United States Fidelity & Guaranty Co., observed: "We have achieved price adequacy in commercial property insurance. In commercial automobile and general liability, we reached the point in 1986 where the difference between adequate prices and marketplace prices is now manageable."

As rates approach adequacy, can rate competition be far down the road?

Fireman's Fund Corp.'s annual report, in discussing operations, notes that "1987 will be a year of transition into a more competitive commercial insurance environment."

A letter to shareholders from Chubb Corp.'s top three officers—Chairman Henry U. Harder, Vice Chairman Percy Chubb III and President Dean R. O'Hare—warns that insurers must maintain a sense of vigilance.

"When times are looking better for our property and casualty group, we do not, and must not, regard them as easy times. Maintaining a style of confident wariness, probing and productive, is in order," the three Chubb executives write.

"It would be naive not to expect imbalance to return and, flush with capacity, markets to become more competitive. . . . Our real challenge is to maintain the discipline we have restored during the tight market in the increasingly competitive one that will develop," Chubb points out later in its annual report.

Larry C. Ballard, chairman and chief executive officer of Sentry Insurance, also sees challenging times ahead.

"As we enter 1987, Sentry will be faced with a new set of unique challenges. They are not nearly as glamorous, nor as measurable, as those just accomplished, but are vital if we are to provide Sentry with maximum protection from the insurance industry's next downward cycle, which will start sometime in 1987," Mr. Ballard says.

But, Maurice R. Greenberg, president of American International Group Inc., does not believe rampant competition will reappear in the property/casualty industry.

Mr. Greenberg noted that last year, "some industry observers expected that competitive pressures would soon reappear. We believe, however, that several conditions guard against a return to a destructive marketplace: The industry's reserves remain inadequate, significant amounts of uncollectible reinsurance exist and quality reinsurance is still scarce."

"Also, low interest rates have reduced investment yields, forcing a greater emphasis on underwriting income. In addition, the new tax law, by depressing the industry's aftertax earnings, will require insurers to maintain pricing discipline."

Other insurers point out that, no matter what the market environment, they will not repeat the practices that fostered record insurer losses earlier this decade.

Bradford W. Mitchell, chairman and president of Harleysville Group Inc., says in his company's inaugural annual report, "while recognizing the competitive nature of our business, Harleysville Group will not jeopardize profitability for premium volume: The price of our policies will reflect the quality of our products and our overall costs."

Yet, even with record profits and the prospect that competition may soon return to the property/casualty industry, insurers are also quick to point out that the industry's recovery is not yet complete. And, just as industry spokesmen told a House subcommittee last week (see story, page 3), insurer annual reports point out that the property/casualty industry's return does not match that of other industries.

"While the insurance industry reported generally improved results in 1986, its return on equity remains very low when compared with other industry's," AIG's Mr. Greenberg says.

"Property/casualty stock insurance companies since 1982 have reported an average yearly return on equity of roughly 4.2%. This compares poorly with an average 12.4% return on equity for Standard & Poor's 400 Industrials," Mr. Greenberg says.

"We can expect to see criticism throughout the next year from some who observe our increasing operating income," say Messrs. Moseley and Scheel of USF&G. "While we expect that profits will increase over the next two years, a large percentage gain in earnings by the property/casualty industry beginning in early 1986 masks the fact that

the return on equity is still less than needed. We have recovered only partially from the results of the serious price inadequacies of the later 1970s and early 1980s.

"We will respond vigorously to those who criticize our profits, and we will rededicate our efforts to achieve that required level of profitability so that future growth can be financed through retained earnings," the USF&G executives say. They also vow to "educate legislators and regulators on the absolute need of making a profit."

Many of the insurers are using their annual reports to impress upon shareholders the need for tort reform.

"Although a majority of states enacted some type of tort reform in 1986, excessive awards continued to be made to accident and negligence victims as lawsuits overwhelmed the courts," AIG's Mr. Greenberg points out. "To date, the reforms also fail to bring a return to an equitable, fault-based civil justice system."

"The debate on tort reform will continue," he adds. "We believe the pendulum will ultimately swing toward a more rational solution."

The three Chubb Corp. executives in their letter to shareholders say: "Nor do we intend to lose sight. . . of the long-term social needs for change in the civil justice system. We expect to see a steady growth of underlying public dissatisfaction with our civil justice system, the intolerable costs of operating it and its erratic behavior in compensating injured persons and determining what conduct is to be deterred."

"We do not intend to diminish our own search for ways of reducing the transaction costs of the civil justice system as it is—as an insurer we must cope with them—nor will we lessen support of those who seek politically acceptable reform of the system itself," the Chubb officers say.

And, Harleysville's Mr. Mitchell notes: "To ensure more equitable judgments and costs, we will continue to actively support reform of the civil justice system. We believe such reform will result not only in greater availability of insurance products, but also more predictability in their cost."

However, in a long section in his letter to St. Paul shareholders, Mr. Haugh observes that "insurers should neither promote nor stand in the way of changes in the civil justice system. But there are other appropriate, productive contributions they can make."

Mr. Haugh goes on to explain that insurers can:

- Help prevent "the things that cause injuries, death and property loss" by using their loss control expertise.
- Reduce "friction" costs in the civil justice system by promoting ways "to reduce the expense of delivering the system's benefits."
- Objectively evaluate "the possible con-

sequences of proposed changes to the system."

"Here's where insurers have a lot of work to do. At The St. Paul Cos., we're improving our data base so we can be a better resource to those examining the civil justice system."

In their annual reports, insurers also devoted a space to sometimes lengthy explanations of how the Tax Reform Act of 1986 would hurt their future profits.

For instance, Fireman's Fund says that over the long term, "the company believes that the act will have an adverse impact on Fireman's Fund's future results because it will accelerate the payment of taxes as well as increase the amount of income subject to tax."

In General Re Corp.'s annual report, Chairman Frank W. Munson and President Ronald E. Ferguson pointed out that in the "long term, the Tax Reform Act will likely increase the corporation's tax payments."

"We can and will deal with the increased tax burden," Messrs. Munson and Ferguson add. However, "to do so we may have to redesign some of our products, change some of our pricing methods and continue to re-evaluate our investment strategy from time to time."

USF&G's Mr. Moseley and Mr. Scheel say that the new tax law could help—as well as hurt—the industry.

"On one hand, the effect of the legislation is negative, because it will drain the industry of much-needed capital to support continued growth," they explain. "On the other hand, it might have a positive influence on future pricing decisions because, to achieve the same aftertax results, companies will have to write business at a lower combined ratio than they would have written prior to tax reform."

However, Kemper Corp. says in its annual report that "while it is difficult at this time to predict the precise impact of the act, the company does not presently anticipate the act will have a material effect on its operation and financial results."

British Issues

April 21 Companies	Price	P/E	Div. %	Yield %	High-Low
Coment Union	309	15.4	18.3	5.8	313-309
Genl Accident	323	15.3	39.4	4.1	333-325
Gen Royal Exch	873	13.7	46.5	5.3	883-873
Royal	873	8.3	43.7	4.9	901-873
Sun Alliance	843	13.1	30.3	3.8	843-820

Brokers


CE Heath	489	14.0	34.5	6.8	490-477
Hogg Robinson	385	14.3	16.2	4.1	386-382
JH Minet	268	11.9	12.0	4.3	269-268
Sedg Grp	290	13.2	16.9	5.7	295-290
Stow Wrightson	428	15.3	18.3	4.2	431-427
Willis Faber	393	15.1	15.1	3.7	398-388

Source: Philip Olsen/Alan Chilton, Insurance Industry Specialists Kitcat & Aitken Stockbrokers, London

BI Industry Stock Report

April 23, 1987 4/17/87 thru 4/23/87

Brokers	Price	% Chg.	P/E	\$ Div.	% Yld.	High	Low	Vol.(000)	
Alexander & Alexander Svcs	NYSE	27.00	-4.0	26.0	1.00	3.7	27.75	27.00	412.0
Baldwin & Lyons Inc	OTC	21.00	-8.7	9.1	0.20	1.0	25.00	21.00	3.6
Corroon & Black Corp	NYSE	29.25	-4.1	13.0	0.84	2.9	30.63	29.25	262.3
Gallagher Arthur J & Co	OTC	20.50	-8.9	15.8	0.40	2.0	21.50	20.50*	71.5
Hall Frank B & Co Inc	NYSE	13.00	0.0	0.0	0.00	0.0	13.13	12.88	76.6
Marsh & McLennan Cos Inc	NYSE	61.63	-3.7	16.8	1.90	3.1	64.50	61.63	990.2
Poe & Assoc Inc	OTC	13.25	0.0	16.8	0.40	3.0	13.25	13.25	11.8
AGENTS/BROKERS	AVERAGE			15.2		2.7			
Conglomerates & Holding Cos.									
Anderson Clayton(Ranger/PanAm)	NYSE	65.63	0.0	18.8	0.00	0.0	0.00	0.00	0.0
Arco Inc	NYSE	10.00	-3.6	0.0	0.00	0.0	10.13	9.88	942.0
Berkley W R Corp	OTC	27.75	-4.3	11.6	0.24	0.9	28.00	27.75	927.0
Berkshire Hathaway Inc Del	OTC	3400.00	0.3	232.6	0.00	0.0	3440.00	3400.00	0.4
CIGNA Corp	NYSE	59.00	-1.3	9.3	2.80	4.7	60.00	58.63	1,006.3
ChNA Finl Corp (CNA)	NYSE	50.25	-0.7	12.5	0.00	0.0	54.63	50.25	275.1
General Re Corp	NYSE	54.88	-2.0	20.0	1.00	1.8	56.00	54.88	1,333.3
ITT (Hartford Group)	NYSE	55.50	-2.2	15.7	1.00	1.8	57.88	55.50	3,422.2
Sears Roebuck & Co. (Allstate)	NYSE	53.25	-2.7	13.8	2.00	3.8	53.38	51.38	6,132.0
Transamerica Corp (Occidental)	NYSE	33.38	-2.2	7.5	1.76	5.3	34.25	33.38	1,172.1
CONGLOMERATES/HOLDING COS.	AVERAGE			83.6		0.2			
Insurers									
Aetna Life & Cas Co	NYSE	56.88	-3.0	9.2	2.76	4.9	58.25	56.38	2,207.9
American General Corp	NYSE	37.00	-2.0	10.3	1.25	3.4	38.00	37.00	1,407.6
Ameri Heritage Life Invst Co	NYSE	42.50	0.0	14.7	1.32	3.1	42.63	42.50	2.6
American Intl Finl Corp	OTC	16.50	1.5	0.0	1.12	6.8	17.00	16.50	8.3
American Intl Group Inc	NYSE	65.25	-2.2	16.2	0.25	0.4	69.50	65.25	1,473.6
Aneco Reins Ltd	OTC	2.88	-4.2	11.5	0.00	0.0	3.00	2.88	13.3
Avanco Corp	NYSE	42.13	-1.2	15.3	0.50	1.2	43.13	42.13	16.5
Business Mens Assurn Co Amer	OTC	26.75	-0.9	0.0	1.10	4.1	27.25	26.75	16.1
Chubb Corp	NYSE	55.38	-2.4	9.8	1.68	3.0	56.50	55.38	646.9
Combined Intl Corp	NYSE	49.25	-0.5	8.9	2.40	4.9	50.25	49.00*	289.2
Continental Corp	NYSE	44.38	-2.7	12.3	2.60	5.9	46.00	44.38	514.8
Crown Life Ins Co	OTC	310.00	0.0	10.7	6.40	2.1	310.00	310.00	0.4
Durham Corp	OTC	48.25	5.5	16.2	1.36	2.8	48.25	45.25	13.8
Farmers Group Inc	OTC	42.75	1.2	13.8	1.20	2.8	42.75	42.75	578.3
Fairmont Finl Inc	AMEX	18.13	-2.0	12.5	0.00	0.0	18.63	18.13	79.2
Fireman Fd Corp	NYSE	35.63	2.5	12.2	0.40	1.1	35.75	35.00	863.5
Fremont Gen Corp	OTC	17.38	-2.1	0.0	0.48	2.8	17.50	17.25	117.8
Great West Life Assurn Co	OTC	700.00	0.0	14.4	18.00	2.6	0.00	0.00	0.0
Home Group Inc	AMEX	20.13	3.2	7.0	0.20	1.0	20.50	20.00	172.4
Hanover Ins Co	OTC	65.00	-0.8	9.8	0.72	1.1	66.00	65.00	60.9
Harleysville Group Inc	OTC	17.88	0.7	5.8	0.40	2.2	17.88	17.63	23.2
Hartford Steam Boiler Insptn	OTC	64.00	-1.5	15.0	2.00	3.1	65.75	64.00	152.9
Kens City Life Ins	OTC	27.25	-0.9	10.5	0.96	3.5	27.50	27.25	48.4
Kemper Corp	OTC	31.00	0.0	12.4	0.60	1.9	31.00	30.25	549.8
Liberty Corp S C	NYSE	38.38	-1.3	13.5	0.72	1.9	39.00	38.38	7.5
Lincoln Natl Corp Ind	NYSE	47.38	0.5	10.4	2.16	4.6	47.88	46.88	588.3
Mission Ins Group Inc	PAC	2.00	0.0	0.0	0.00	0.0	4.38	0.69	5.6
Monumental Corp	OTC	55.63	0.0	18.8	0.00	0.0	55.63	55.63	1.1
Nac Re Corp	OTC	26.00	-1.0	40.0	0.00	0.0	26.00	25.75	37.5
Nobel Ins Ltd	OTC	13.75	-3.5	10.3	0.37	2.7	14.25	13.75	379.0
Northwestern Natl Life Ins	OTC	24.88	-1.0	7.5	0.96	3.9	25.13	24.88	376.7
Ohio Cas Corp	OTC	39.25	-4.8	13.0	1.68	4.3	40.75	38.50*	473.5
Old Rep Intl Corp	OTC	25.25	3.6	10.6	0.80	3.2	25.75	24.38	241.2
Orion Cap Corp	NYSE	24.00	1.1	10.0	0.76	3.2	24.00	23.50	60.4
Protective Corp	OTC	15.75	1.6	10.2	0.70	4.4	15.75	15.50	99.9
Provident Life & Acc Ins Co	OTC	20.88	-0.2	9.7	0.84	4.0	21.75	20.88*	238.1
St Paul Cos Inc	OTC	42.25	-1.2	12.2	1.76	4.2	43.25	42.25	605.5
SAFEOD Corp	OTC	49.75	-3.4	10.3	1.70	3.4	51.75	49.25	782.6
Score II S Corp	OTC	13.75	0.0	21.8	0.00	0.0	13.75	13.63	61.3
Selbels Bruce Group Inc	OTC	15.75	2.4	0.0	0.80	5.1	16.25	15.75	119.5
Selective Ins Group Inc	OTC	23.75	-1.0	10.9	0.92	3.9	24.25	23.75	77.9
Statesman Group Inc	OTC	5.00	2.6	5.7	0.05	1.0	5.00	5.00	206.6
Tokio Marine & Fire Ins Co	OTC	98.13	-0.0	110.3	0.17	0.2	98.13	98.13	19.1
Torchmark Corp	NYSE	28.88	0.9	10.3	1.20	4.2	29.00	28.63	356.8
Travelers Corp	NYSE	45.13	-1.6	10.1	2.28	5.1	46.30	45.00	3,331.6
Trenwick Group Inc	OTC	14.50	-3.3	37.2	0.00	0.0	15.00	14.50*	63.1
United Fire & Cas Co	OTC	27.00	-0.9	10.4	0.80	3.0	27.25	27.00	6.2
United States Fid & Cty Co	NYSE	38.13	-2.9	10.6	2.48	6.5	40.00	38.13	1,076.8
Unum Corp	NYSE	21.75	-7.0	8.7	0.40	1.8	23.50	21.75*	535.2
UsLife Corp	NYSE	38.75	-2.2	9.9	1.20	3.1	40.63	38.75	410.5



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