DECEMBER 9, 1985

business insurance®

Reporting weekly for corporate risk, employee benefit and financial executives/$1.50 a copy; $52 a year

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update

Missouri court issues order to liquidate Transit Casualty

JEFFERSON CITY, Mo.—The Missouri Division of Insurance, which took control of Transit Casualty Co. two weeks ago in hopes of rehabilitating the company, will liquidate the troubled insurer (*BI*, Dec. 2).

Cole County Circuit Court last Tuesday issued a liquidation order for the company, which is domiciled in Missouri but headquartered in Los Angeles. A negative cash flow of

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Guaranty funds levy record charges

By STEVE TARAVELLA

LOS ANGELES—Property/casualty insurers are forking over record assessments this year to state guaranty funds to cover policyholders' claims against a rash of insolvent property/casualty insurers.

California and Florida alone are assessing insurers licensed in their states $85 million this year—the amount insurers were assessed by all states in the previous record year, 1981.

Assessments in three other states that know they will levy large assessments this year bring the 1985 assessment in just five states to $118.5 million (see chart).

And in one of those states—Florida—insurers have already paid the maximum assessment permitted in one year in three of its four claim assessment categories.

State guaranty funds respond to policyholder claims against insolvent insurers licensed in their state, generally capping claim payments to a maximum amount. Workers compensation claim payments, however, usually are not capped.

Licensed insurers in each state are assessed the money as needed to cover the guaranty fund claim payments, with assessments capped at 1% to 2% of an insurer's net direct written premiums in the previous year.

Only New York state prefunds its guaranty fund liabilities.

States levying large assessments

State	Gross assessments 1985	Gross assessments 1984	Net assessments 1969-84	Maximum payment per claim
California	$55 million	0	$100 million	$500,000
Florida	$30 million	$42 million	$117 million	$300,000
Maryland	$13 million	0	$2.8 million	Unlimited
Georgia	$10.5 million	0	$3.2 million	$100,000
Illinois	$10 million*	$5.9 million	$20 million	$150,000

* Estimate

Chart: Amy Palmer

These guaranty fund assessment costs are passed onto policyholders in higher premium charges, or else they drain insurers' profits.

Assessments to cover guaranty fund claim payments exploded last year, when insurers were assessed $74.1 million by all property/casualty guaranty funds—nearly 15% of the total $527.8 million in gross assessments made by guaranty funds from the first fund formations in 1969 and the early 1970s to year-end 1984.

(Insurers' net assessments through 1984 total $393.2 million, since $134.6 million was refunded from proceeds of the sale of insolvant companies' assets and excess funds when loss projections were overestimated.)

The huge assessments in 1984 and 1985 were needed to cover a two-year rash of insurance company insolvencies, including some large insolvencies such as Ideal Mutual Insurance Co. and more recently Union Indemnity Insurance Co.

Twenty property/casualty insurers were declared insolvent in 1984, tying the previous record in 1975 of 20 insolvencies.

So far this year, 18 property/casualty insurers have gone broke, according to Richard J. Marcus, executive secretary of the Schaumburg, Ill.-based National Committee on Insurance Guaranty Funds, which monitors property/casualty guaranty funds.

But, Mr. Marcus cautions that this number is preliminary: Although 1984 insolvencies totaled 20, at this time last year, NCIGF tallied only 14 or 16 insolvencies.

Not tallied by NCIGF, for example, are the insolvencies of Mission Insurance Co. and Transit Casualty Co.

While Mission may be rescued to prevent calls on guaranty funds (*BI*, Dec.2), Transit Casualty was placed into liquidation last week by the Missouri Insurance Department. The liquidation order against Transit triggers the remaining state guaranty funds around the country that respond only after a company is placed in liquidation. Some state funds begin paying claims when an insurer is declared insolvent.

"The heavens just opened up and dumped on us," one guaranty fund director says of the past two years.

Fears of more insurance company insolvencies next year are prompting concern that the current state guaranty fund system won't hold up under increasing demands.

The National Assn. of Insurance Commissioners meeting this week is expected to consider a proposal to exclude from guaranty fund coverage policyholders of a certain size and specific types of insurance, such as directors and officers liability insurance and fi-

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Aviation capacity may be cut in half

By STACY SHAPIRO

LONDON—Airlines and aircraft manufacturers next year may be able to find only half the insurance they currently buy.

And, the price they pay will climb.

While capacity is shrinking and rates are rising for most lines of commercial insurance due to huge underwriting losses accumulated over several years throughout the industry, the upheaval in the aviation insurance market is the direct result of record aviation losses suffered in 1985.

Aviation losses in 1985 totaled at least $660 million and could approach $1 billion (see story, page 32).

Excess-of-loss reinsurers in London, which expect to pay the bulk of these catastrophic claims, are going into 1986 renewal negotiations resolving to limit their capacity and raise rates to reduce their exposure and recover from their 1985 losses.

"I believe that, as a result of the excess-of-loss market, there will be a dramatic shortage of capacity in the aviation market—by as much as 50%," says Barry Coleman, aviation underwriter for the Harvey Bowring syndicates at Lloyd's of London.

Other underwriters and brokers in London—the world's major aviation insurance and reinsurance market—agree, warning that:

- Airlines and aircraft manufacturers may be able to buy only $250 million to $400 million in aviation liability coverage. Currently, major airlines and aircraft manufacturers purchase between $700 million and $1 billion of liability coverage.
- Airlines will have a tough time buying enough hull insurance to fully cover their wide-body aircraft. Currently, new Boeing 747 jetliners, the most expensive commercial aircraft, are insured for as

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NEWSPAPER

ISO defense cost proposal to create problems: Lawyers

By ROBERT A. FINLAYSON

LOS ANGELES—Lawyers, whose fees are potentially at stake, want a say in the insurance industry's plan to include defense costs within the aggregate limits of commercial general liability insurance.

Their preliminary analysis: The proposal will create more problems than it will solve.

Several members of a newly formed task force set up by the American Bar Assn.'s Tort and Insurance Practices Section rattle off a litany of problems that would be created by the inclusion of defense costs within policy limits.

The 11-member task force, however, has not yet developed an official position on the issue.

Established in October to examine the Insurance Services Office's plan to include defense costs within CGL policy limits beginning next July, the task force includes both defense and plaintiffs' attorneys and attorneys representing policyholders and insurers.

The defense bar has a 'very important stake in this issue from an economic standpoint. . . .' says task force member John Dunne.

Task force members hope to meet with ISO and with insurers to discuss their concerns about the defense cost-containment plan, according to James W. Ferriman, a counsel to the Philadelphia law firm of Hecker Rainer Brown and chairman of the task force.

Mr. Ferriman says that the task force is now examining the issue and will report its findings to the ABA Tort and Insurance Practices Section in February.

"We do want the opportunity to express the concern we have from a professional responsibility point of view," Mr. Ferriman says.

But before the task force makes public its findings, "We want to give the ISO and the industry a chance to respond to our concerns," he adds.

Speaking as individuals, most members of the task force told *Business Insurance* that ISO's plan to include defense costs within policy limits will:

- Further erode the ability of insurers to control litigation involving their policyholders.
- Force policyholders to make unwise settlements with claimants to avoid exhausting their policy limits by defending claims.
- Prompt bad-faith claims against insurers.
- Make it difficult for insurance buyers and their brokers to calculate the needed limits of insurance.
- Create administrative problems for insurers.

While most members of the task force agree that defense costs are rising rapidly, they oppose putting defense costs within limits, saying that it will not solve the problem.

"The criticism about legal expenses is justified," says task force member Ronald E. Mallen, a partner with Long & Levit in San Francisco. "Legal expenses are out of control. But I don't think the solution is to cut off your nose to spite your face. It just doesn't work."

ISO's proposal "immediately goes to the worst problems imaginable and hits them 100% of the time."

Defense costs have been included within the limits of various policy forms for many years, but Mr. Mallen says, "My concern about the ISO position is that it would establish this as the standard, rather than the exception."

There would be legal cases in which including defense costs within policy limits would encourage the defense counsel to economize, "but what I'm focusing

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Transit Casualty liquidation

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about $2 million a week forced regulators to give up rehabilitation efforts and seek liquidation, explained Glenn R. Jourdan, the division's chief examiner.

The company reported a $12.6 million statutory insolvency in its Sept. 30 quarterly statement, but the division believes the deficit to be at least $53 million, Mr. Jourdan says.

Massachusetts comp reform

BOSTON—A Massachusetts workers compensation reform package is set to be signed by Gov. Michael S. Dukakis tomorrow in what is being billed as a "mega-event" for workers comp.

The compromise measure, S. 2596—formerly H. 6850—calls for increased benefits to injured workers. It also includes a complete overhaul of the system's administration, including creation of a Department of Industrial Accidents to replace the current 12-member Industrial Accident Board (*BI*, Nov. 18, Sept. 30, March 11).

Some provisions in the legislation take effect Jan. 1, while others are effective later next year.

William McCarthy, general counsel for the Associated Industries of Massachusetts, called the package a major achievement and "acceptable" to business, and Martin Foley, legislative director for the AFL-CIO, labeled it "a great piece of legislation."

Both lobbyists credited two national work comp experts—John F. Burton Jr. of Cornell University and John Lewis, an attorney in Coconut Grove, Fla.—who served as consultants on the bill.

CNA covered in alleged theft

NEW YORK—CNA Insurance Cos. has adequate insurance to cover any losses related to the alleged theft of about $3 million by one of its New York managers from the account of CNA client Pan American World Airways Inc.

But even if there weren't insurance, Chicago-based CNA "has adequate surplus to cover the loss, as would be expected of an insurance company with $2 billion in equity," said a CNA spokesman.

Pasquale Elio Agnese, 38, administrative manager of CNA's New York office, was named in a complaint filed in U.S. District Court in Manhattan. As part of his duties, Mr. Agnese controlled the Pan Am account, and the complaint says Pan Am paid more than $9 million in premiums to CNA during the past three years.

However, a recent CNA internal audit showed that some $3 million of those premiums were embezzled. The federal complaint alleges Mr. Agnese indicated Pan Am overpaid its premium by the $3 million. He allegedly put into motion internal reports to have that amount credited to Pan Am. But when refund checks were drafted, they were issued to several companies and individuals other than Pan Am, the complaint notes.

One recipient was a Ford dealership in Long Island, N.Y., which received two checks totaling $44,000. Employees at the dealership told the FBI Mr. Agnese bought a 1985 Jaguar there.

The complaint says Mr. Agnese has been a CNA employee for 20 years, with roughly a $44,000 annual income. He was arrested on wire fraud charges Nov. 30 in Key West, Fla., and last week was still in custody, with bond set at $3 million.

New York to weigh legislation

ALBANY, N.Y.—A special session of the New York Legislature on Tuesday called by the governor is expected to consider a package of bills, including one to give people exposed to toxic substances more time to file lawsuits. Another bill would address municipal liability insurance problems.

The bills are being drafted by Gov. Mario Cuomo's office.

The bill on exposure to toxic susbtances would allow plaintiffs three years after the first appearance of symptoms of illness to file a suit. Currently, people exposed to toxic substances have three years after exposure to file lawsuits.

Because the bills were not finalized late last week, the spokeswoman could not comment on specifics of the proposal addressing municipal liability insurance. She said only that the bill would seek to continue coverage for municipalities that cannot afford sharply rising premiums while the state studies long-term solutions to the problems of high rates and lack of capacity.

Gov. Cuomo is also seeking legislation that would allow insurers to write medical malpractice coverage on a claims-made rather than an occurrence policy form, the spokeswoman says.

Probe salvage won't help rates

LONDON—Satellite launch insurers will recoup most if not all of the claim they paid to Hughes Aircraft Co. for the loss of the Syncom IV-F3 probe, but the recovery will not lower launch insurance

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Vol. 19, No. 49—*Business Insurance* (ISSN 0007-6864) is published weekly at 740 Rush St., Chicago, Ill. 60611. Second-class postage is paid at Chicago, Ill., and at additional mailing offices. Postmaster: Send address changes to *Business Insurance*, circulation department, 740 Rush St., Chicago, Ill., 60611; 312-649-5221. Copyright 1985 by Crain Communications Inc.

Seaway says shipper must pay for repairs to damaged bridge

By MICHAEL BRADFORD

VALLEYFIELD, Quebec—The St. Lawrence Seaway Authority expects the owner of the freighter that struck the seaway's St. Louis bridge and knocked a span into the water Nov. 29 to pay for the repairs to the bridge.

The waterway was closed for 2½ days until the debris from the fallen bridge could be cleared away.

The Seaway Authority says it will seek to recover the $2 million to $5 million cost of repairs to the bridge, which spans the Beauharnois Canal, from Scindia Steam Navigation Co. Ltd. in Bombay, India, owner of the freighter Jala Godavari. The authority already faces substantial out-of-pocket expenses to shore up a collapsed lock on the Welland Canal (*BI*, Oct. 21),

Norm Willans, the Seaway Authority's general counsel, said last week the seaway was reopened Dec. 2 and contractors had been hired to repair the St. Louis bridge.

"We're holding the vessel responsible," said Mr. Willans. "If they don't pay, we will certainly sue the owners."

The shipowner's liabilities will be covered by Steamship Mutual Underwriting Assn. (Bermuda) Ltd., according to Capt. A.K. Singh, claims manager in Steamship's London office.

But, he said Steamship still does not know what, if

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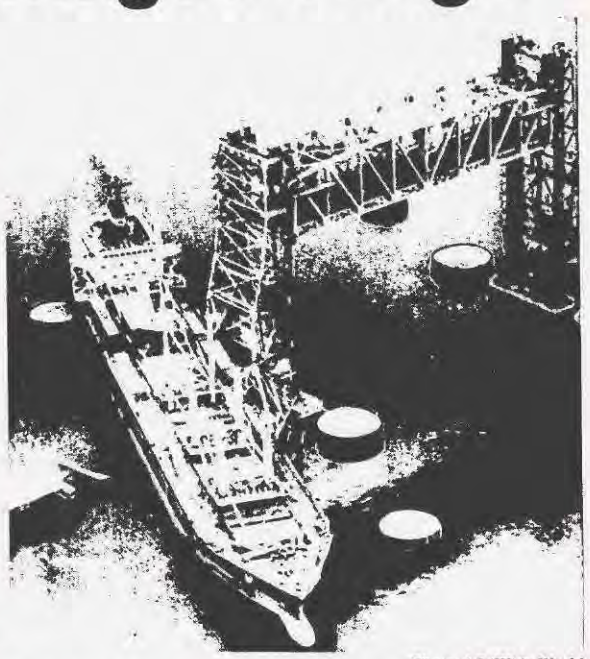

Photo: AP/Wide World

The freighter Jala Godavari rests against the St. Louis bridge in the St. Lawrence Seaway.

DiBlase promoted to *BI* staff reporter

CHICAGO—Donna DiBlase has been promoted to staff reporter in the Chicago office of *Business Insurance*, Editor Kathryn J. McIntyre announces.

Ms. DiBlase joined the *BI* staff in January as a proofreader. Prior to that, she worked in the typesetting department of Crain Communications Inc. in Chicago. Crain publishes *Business Insurance*.

Ms. DiBlase

Ms. DiBlase, 23, earned a bachelor's degree in journalism from Loyola University of Chicago in 1984.

Ms. DiBlase replaces Associate Editor Diane Kastiel, who joined the staff of *Business Marketing*, another magazine published by Crain.

As staff reporter, Ms. DiBlase will concentrate on covering employee benefit issues for *Business Insurance*. She can be reached at 312-649-5393.

Court hears arguments on punitive damages

By JERRY GEISEL

WASHINGTON—At least one U.S. Supreme Court justice questions whether the high court should rule on the constitutionality of punitive damages.

The court last week heard oral arguments on whether a $3.5 million punitive damage award assessed in a bad-faith action against Aetna Life Insurance Co. violated the Eighth and the 14th amendments of the U.S. Constitution (*BI*, Dec. 2).

In addition, Aetna argued it did not receive an unbiased hearing upon appeal to the Alabama Supreme Court because one of the justices was involved in a class action against another insurer.

Theodore B. Olson, an attorney for Aetna, told the court that punitive damages are unconstitutional because they are like a "lottery or windfall" and are awarded without standards.

Such awards are made with "passion and prejudice," he said, noting big, disliked companies may be hit with the highest awards.

But Justice John Paul Stevens asked Mr. Olsen if the court should decide the constitutionality of punitive damages when other issues in the Aetna case—most notably whether the Alabama justice was biased against insurers—may not have been fully reviewed by lower courts.

Mr. Olson disagreed. The Supreme Court should not allow the punitive damage question "to disappear," he said.

Another justice took issue with Aetna's assertion that it did not receive a fair, unbiased hearing.

Justice William Rehnquist questioned whether the Alabama justice who ruled to affirm the punitive damage award was biased

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Comp rates to rise in '86: NCCI

By CAROL CAIN

PHOENIX, Ariz.—The new year will bring another round of workers compensation rate increases, according to a National Council on Compensation Insurance official.

Workers compensation rates increased an average 15.5% across the country this year soley because of loss experience, said Robert L. Hilton, senior vp of the NCCI, a national workers compensation ratemaking, statistical and educational organization based in New York.

And next year will be as bad as 1985, Mr. Hilton warns, "meaning, we'll be asking for a whole round of increases again, double-digit figures, some very big."

The 15.5% average increase was based on rate increases approved so far this year by state insurance regulators because of loss experience. It does not include rate increases due to higher benefit levels, Mr. Hilton said.

This average increase is the highest since 1976, when workers compensation rates rose an average 9.7% because of loss experience.

"But current rates will not do the job. . . .We'll have to look for higher rates in 1986," he said.

Mr. Hilton was part of a battery of NCCI vps who spoke about the workers compensation market during the annual meeting of the Conference of Insurance Legislators, held Nov. 21-24 in Phoenix.

COIL is an organization of state legislators supporting better understanding of insurance, state insuran regulation and insurance legislation. It opposes federal intervention into the rights of states to legislate insurance matters.

Mr. Hilton told the legislators that insurers' loss ratios reveal the sorry situation of the current workers compensation market. Insurers consider a 70% loss ratio as acceptable, but the most recent data shows an aggregate workers compensation loss ratio of 83.1% for the second quarter of 1985, compared with an 82.2% in the second quarter of 1984.

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Questionnaires due

Business Insurance will publish its annual directory of employee benefit consultants in the Dec. 23 issue, which also will include a spotlight report on employee benefit topics.

Listings in the directory are provided as an editorial service and are published free of charge; however, consultants who wish to be included must complete and return a *Business Insurance* questionnaire.

If you provide benefit consulting services and have not received a questionnaire, you should request one immediately by calling 312-649-5279. All questionnaires must be received in *BI*'s Chicago office no later than Tuesday.

Facing the crisis

Deductions for self-insurers suggested

By JERRY GEISEL

WASHINGTON—Allowing employers tax deductions for self-insured loss reserves could help ease the commercial property/casualty insurance crisis, a Reagan administration official says.

Frank Swain, chief counsel for advocacy for the U.S. Small Business Administration, told a Senate subcommittee last week that Congress should consider enacting legislation that would authorize such tax deductions.

Permitting tax deductions for contributions to self-insured loss reserves is "worth looking into," Mr. Swain said.

Currently, companies are allowed only to deduct insurance premiums and self-insured losses when they are paid. Companies cannot deduct money set aside this year to pay claims in future years.

But, Mr. Swain warned that his suggestion might not be warmly received by the Internal Revenue Service, which would be concerned about the loss of federal tax revenue if such deductions were allowed.

Mr. Swain was among administration officials, legislators, risk managers and insurance industry officials who testified at the first comprehensive congressional hearing this year on commercial insurance prices and availability.

Legislators attending the hearing, held Dec. 3 by the Senate Commerce Subcommittee on Business, Trade and Tourism, said they are becoming aware of commercial insurance buyers' problems and are prepared to offer some help.

The risk managers ticked off dramatic illustrations of how liability insurance capacity has dried up and how rates have soared.

And insurance industry officials explained why the industry is hiking prices.

Rep. John Porter, R-Ill., who appeared as a witness, said the U.S. civil justice system is at the root of the insurance crisis and specific tort reform changes should be enacted, preferably at the state level.

Mr. Porter advocated, for example, capping awards for pain and suffering and other non-economic damages in liability cases in which health care providers and state and local governments are defendants.

He also suggested eliminating joint and several liability in favor of a return to a comparative negligence standard for municipal liability suits.

Under joint and several liability, one party can be held responsible for all the damages caused by other parties.

Under a comparative negligence standard, a party's liability is limited to the damages resulting from its own negligence.

Sen. John D. Rockefeller IV, D-W.Va., who has oppposed legislation to establish a uniform federal product liability law, said the "sense of panic" among small employers has caused him to reconsider his opposition to federal tort reform (see story, page 3).

Other senators tried to comfort insurance buyers,

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Panel releases new draft of tort reform bill

By JERRY GEISEL

WASHINGTON—Cigarette and alcoholic beverage manufacturers would be subject to state, not federal, law under the latest federal product liability reform proposal drafted by Senate Commerce Committee staff members.

The draft bill, the second that has been prepared by the staffers, adds a new section to make clear that tobacco products and alcoholic beverages would remain covered by state product liability statutes and not by the proposed uniform federal product liability reform law.

Other new sections in the revised bill further restrict punitive damage awards and impose insurance requirements for non-U.S. manufacturers.

Many other sections, like one that limits how long manufacturers are responsible for the safety of their products, remain unchanged from a previous draft released in July (*BI*, Aug. 5; May 27).

The new exclusion affecting the tobacco and alcholic beverage industries comes at a time when tobacco companies are facing damage suits around the country from people who claim that cigarette smoking damaged their health and that cigarettes are defective products.

The exclusion was put in the bill to ease a touchy political problem, one source speculated.

The earlier draft prepared by the Commerce Committee staff had excluded tobacco and alcoholic beverage manufacturers from another section of the bill that provides plaintiffs who waive their right to sue with "no-fault" compensation for lost wages and uncovered medical expenses.

Sources speculate that the staff found it difficult to justify excluding tobacco and alcoholic beverage manufacturers from the proposal's no-fault section while giving those industries protection from product liability suits in the tort reform provisions of the bill.

It's possible that the latest tort reform proposal may not be the final legislation that will be considered by the Commerce Committee.

Committee Chairman John Danforth, R-Mo., said it would be premature to endorse any specific provisions, noting that the proposal "is only a staff working draft."

But Sen. Danforth, who directed his staff to draft a new product liability measure after the Commerce Committee in June declined to report a comprehensive tort reform bill, S. 100, introduced by Sen. Robert Kasten, R-Wis., said the drafting process is "making real progress."

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U.S. courts unable to handle toxic torts, Rand study reports

By STEPHEN TARNOFF

SANTA MONICA, Calif.—Documenting the national calamity of asbestos litigation, a new study by the Rand Corp.'s Institute for Civil Justice calls for a national commission to recommend how the U.S. tort system could better respond to future toxic tort litigation.

The current system of handling asbestos litigation is faltering under the weight of thousands of cases, according to a 124-page report released last week by the institute, a research organization supported by grants from 250 corporations, foundations, professional and trade organizations and individuals.

"Injured workers have little power, lawyers have conflicting interests, courts defer to other priorities, dispositions are slow, recoveries are inconsistent, medical discovery is tailored to trials that do not take place rather than settlements that do, legal battles are repetitive and transaction costs are high," the study says.

"Of these problems, the most serious are the high costs, slow pace, variation in outcomes, limits to individualized responses and the ad hoc process through which group dispositions have been adopted," according to the study, "Asbestos in the Courts—The Challenge of Mass Toxic Torts."

The legal system's inability to adequately handle asbestos litigation has resulted in group settlements that sometimes benefit attorneys more than victims and creates serious conflicts of interest for plaintiffs' attorneys, the study found.

And, the delays in disposing cases have benefited both defendants and plaintiffs' attorneys, the study says.

The report also questions whether an asbestos claims facility, recently established by insurers and asbestos producers to handle asbestos claims outside the court system, is a feasible alternative for future toxic tort litigation (see story, page 40).

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Federal cause of action in Superfund opposed

By ROBERT A. FINLAYSON

WASHINGTON—Risk management and insurance industry representatives last week were fighting attempts to amend a House Superfund reauthorization bill that would add a federal cause of action to the pollution cleanup law.

The House was not expected to take a final vote on the Superfund reauthorization until late last week or early this week.

Insurance industry sources say they do not expect Congress to finish work on a Superfund reauthorization until early next year. A House-Senate conference committee will have to reconcile differences between the House bill and legislation passed by the Senate in September before the bill goes to President Reagan (*BI*, Sept. 30).

The bill being considered by the House last week was a compromise worked out by leaders of the Energy and Commerce Committee and the Public Works and Transportation Committee (*BI*, Nov. 4).

Last week, 10 amendments to the bill were pending on the House floor including one by Rep. Barney Frank, D-Mass, that would add a federal cause of action to the Superfund law.

Such a provision would allow citizens to sue companies for third-party damages in federal court using the Superfund's strict, joint and several liability provisions. Currently, citizens can use only state tort law when

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Photo: AP/Wide World

Three Rivers Stadium, the home of the Pittsburgh Pirates, is being sold as part of a plan to keep the National League baseball franchise in Pittsburgh for at least five more years.

Insurance a hit for Pirates

By ROBERT A. FINLAYSON

PITTSBURGH—Credit financial guarantee insurance with a save.

A financial guarantee insurance policy is going to bat to keep the Pittsburgh Pirates in the Iron City for at least five more years.

Pittsburgh will keep its major league baseball franchise for at least that long, thanks to a $31 million bond issue—backed by financial guarantee insurance—that will facilitate the sale of the Pirates to a group of local investors committed to keeping the team in their city.

Mayor Richard S. Caliguiri released on Nov. 21 the details of a complex financing arrangement that will help the Pittsburgh-based investor group purchase the Pirates from owner John W. Galbreath, who has threatened to sell or move the team because of sagging attendance and rising costs.

The financing plan is based on a $31 million general obligation bond issue that will allow the Pittsburgh Stadium Authority to sell Three Rivers Stadium, the home of the Pirates. The bond, which is insured by Financial Guaranty Insurance Co., will retire the original indenture on the stadium that had prohibited the sale of the stadium.

The stadium will be sold for about $125 million, including a $25 million down payment, to one group of investors, who then will lease it back to the stadium authority.

The stadium authority will turn the $25 million down payment over to the city to repay past and future subsidies. The city will then transfer the $25 million to the Urban Redevelopment Authority, which in turn will lend the $25 million to another group of investors.

These investors will kick in an additional $25 million of their own money to purchase the Pirates and provide for at least five years of working capital, according to Pittsburgh Finance Director Ronald C. Schmeiser.

The bond issue is secured by lease agreements with the Pirates and the Pittsburgh Steelers football team, concession revenues, direct taxes, a 10%

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Supreme Court

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because of his participation in the class action.

"He had no bias," Justice Rehnquist said, adding that the Alabama justice only showed "dissatisfaction" with another insurer.

But Mr. Olson replied "the decision was tainted" because of the jurist's involvement in the class action.

The attorney for the plaintiffs, Jack Goodman of the Washington firm of Pierson, Ball & Dowd urged the Supreme Court not to decide the punitive damage issue because it is not a matter of "constitutional dimension."

The role of the states in developing tort law is paramount, Mr. Goodman argued, noting there is no direct constitutional limit on the amount of punitive damages that can be assessed.

Chief Justice Warren Burger then asked Mr. Goodman if a constitutional issue would exist if the award were $30 million instead of $3.5 million, but Mr. Goodman insisted the dollar amount of the punitive award did not matter.

Plaintiffs' attorney Jack Goodman of the Washington firm of Pierson, Ball & Dowd urged the Supreme Court not to decide the punitive damage issue because it is not a matter of 'constitutional dimension.'

The chief justice persisted asking if court intervention would be justified if the punitive damage award were $350 million. Mr. Goodman again said the dollar figure was irrelevant, saying that common-law development and remedies are for lower courts to decide.

The case involves the partial denial of a medical claim filed by Margaret Lavoie, who was covered under an Aetna group health policy. Aetna paid only $1,378 of the $3,028 claim, contending Ms. Lavoie could have been treated on an outpatient basis rather than being hospitalized and the tests she received were not "usual and customary."

Ms. Lavoie later sued for $1,650, the remainder of the claim, plus punitive damages.

In 1982, a jury awarded Ms. Lavoie the $1,650, plus $3.5 million in punitive damages. The award subsequently was affirmed by the Alabama Supreme Court.

In addition to the punitive damages issue, the U.S. Supreme Court last week agreed to review three other cases affecting employers. The questions raised by those cases include:

- Should product liability suits filed against Merrell Dow Pharmaceuticals Inc. by Canadian and British women who took the anti-nausea drug Bendectin be heard in state, federal or foreign courts?
- Are 1983 amendments to the Social Security Act that bar state and local governments from opting out of Social Security constitutional?
- Should tax-exempt trade groups pay taxes on income that they receive from providing group insurance policies to their members?

The Bendectin case involves a jurisdictional question concerning a lawsuit filed against Merrell Dow by British and Canadian citizens who allege Bencectin caused birth defects.

The lawsuit originally was filed in state court in Ohio, but Merrell Dow successfully petitioned to have the case removed to a federal court.

U.S. District Court Judge Carl Rubin then dismissed the suit, ruling the case did not involve a federal question and should be tried in foreign courts.

Attorneys for the women appealed Judge Rubin's decision, and the 6th U.S. Circuit Court of Appeals said the federal court did not have jurisdiction. The case was remanded to the Ohio state court.

Merrell Dow then asked the Supreme Court to review the case.

If the Supreme Court upholds the appellate court, hundreds of other foreign women could sue Merrell Dow in state court.

However, a Supreme Court reversal probably would block suits by foreigners in U.S. court since a federal appeals court already has dismissed such suits.

While attorneys representing the women argue there is no basis for federal jurisdiction in the case, Merrell Dow said that federal questions often arise in lawsuits "which also present claims of a purely local nature."

The Social Security case involves a provision in the Social Security Amendments Act of 1983 that bars state and local governments from withdrawing from the program on or after April 20, 1983.

That ban, which was designed to curb a growing loss of Social Security payroll tax revenues, was challenged by the state of California and a group of California public entities known as Public Agencies Opposed to Social Security Entrapment.

The public entities argued that the withdrawal ban violated a "contract" they and other state and local governments had with the federal government.

That contract, which is contained in agreements in Section 418 of the 1950 amendments to the Social Security Act, said that state and local governments could opt out of Social Security two years after giving notice to the federal government.

A U.S. District Court in California ruled in favor of the public entites, saying the 1983 law infringes on the entities' contractual right to withdraw from the program.

The U.S. Justice Department then petitioned the Supreme Court to review the decision, bypassing the appellate court level.

The Justice Department contends the Social Security Act makes it clear that Congress has the right to modify any of the Act's provisions.

The Section 418 agreements do not "impose an independent check of Congress' exercise of its sovereign authority" to adjust the Social Security obligations of state and local employers, the department said in its brief.

The outcome of the case is important to both public and private employers.

If local and state governments win their case, they can continue to leave the Social Security program, possibly lowering their retirement program costs.

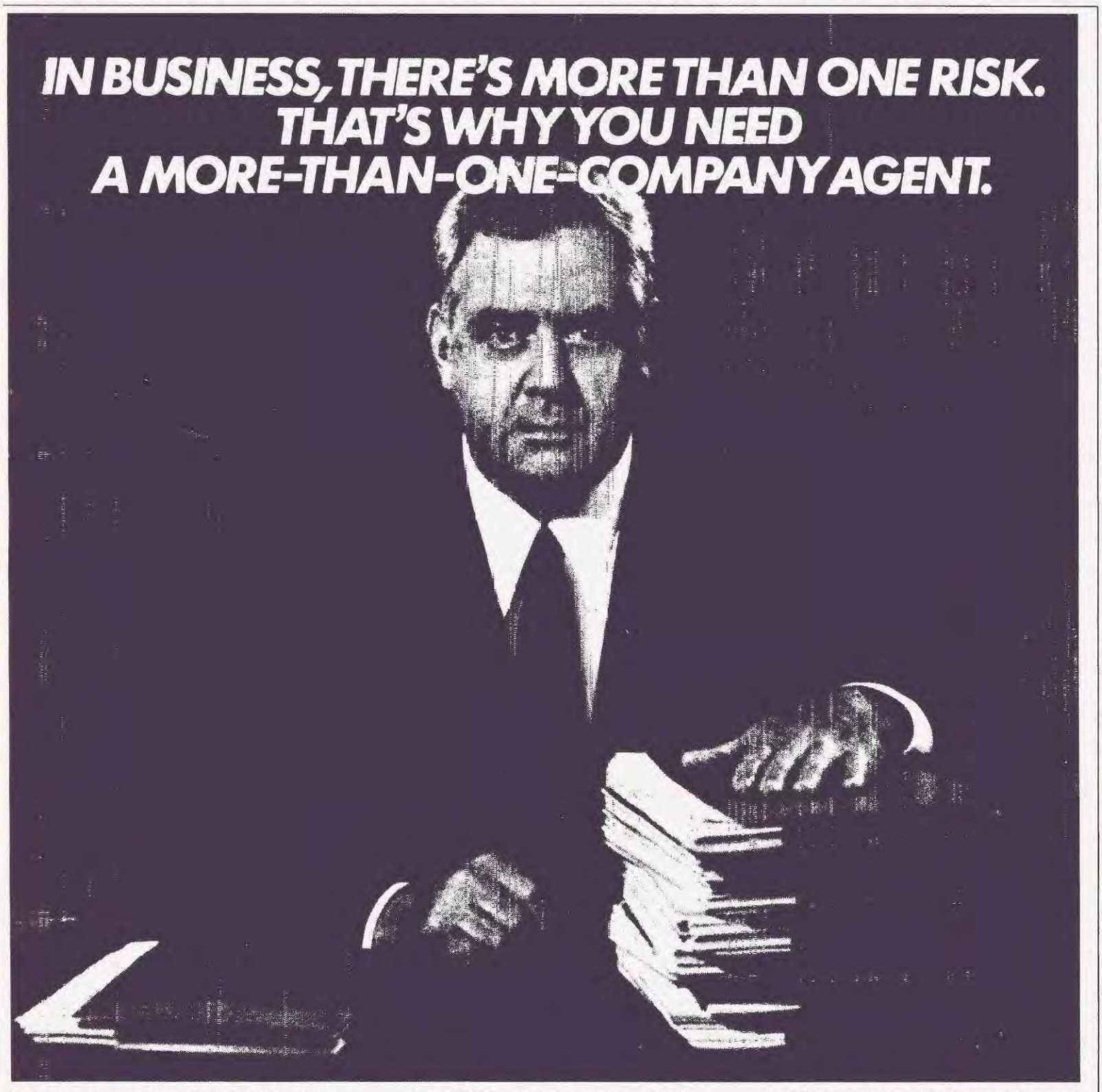
However, if public entities are allowed to withdraw from the program, it could increase the payroll taxes that private employers and employees must pay to finance Social Security.

If Congress had not stopped public entities from leaving Social Security, the withdrawals would have cost the Social Security trust funds $500 million to $1 billion in lost revenues annually, the Justice Department noted in papers filed with the court.

The outcome of the trade association insurance case could have ramifications for other professional organizations that provide insurance plans for their members.

The justices will hear a dispute between the American Bar Endow-

Continued on page 6



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Supreme Court

Continued from page 4

ment, a tax-exempt research arm of the American Bar Assn., and the Internal Revenue Service over whether the endowment must pay taxes on income earned by selling insurance to ABA members.

ABA members can purchase life and health insurance coverage, written by New York Life Insurance Co. and Mutual of Omaha, through a program administered by the endownment. The insurance plans are experience-rated and the endowment receives dividends from the insurers for premiums exceeding claims costs.

The endownment applies these dividends to finance various educational and charitable activities. The endowment claims the money is covered by its tax-exempt status, and ABA members are told by the endowment they can deduct excess premiums they pay as charitable contributions.

If Congress had not stopped public entities from leaving Social Security, the withdrawals would have cost the Social Security trust funds $500 million to $1 billion in lost revenues annually, the Justice Department notes.

However, the IRS contends the dividends received by the endowment are unrelated business income and, thus, should be treated as taxable income.

The IRS determined that the endowment's gross policy dividends between 1979 and 1981 totaled $19 million. After deducting administrative expenses, the IRS said the endowment should have paid $6 million in taxes.

The endowment paid the deficiency and then filed suit against the IRS in claims court, which later ruled in favor of the endowment. The claims court said the dividends were immune from the unrelated business income tax because they did not arise from a "trade or business."

This finding later was affirmed by a federal appeals court in Washington.

The Justice Department notes in papers filed with the Supreme Court that the outcome of the case is of considerable importance. The IRS in recent years has received dozens of requests for private letter rulings from trade groups on whether the unrelated business income tax applies to the insurance operations of tax-exempt groups. ■

Chicago transit authority weighs joint coverage plan

By MEG FLETCHER

CHICAGO—The Chicago-area Regional Transportation Authority is considering a proposal to save at least $1.25 million in annual insurance costs through the joint purchase of liability and property insurance for its three independent operating divisions.

Consultants from broker Rollins Burdick Hunter Co. in Chicago told the RTA board of directors last week that the joint purchase of insurance could save an estimated $1 million annually, according to Dan Leffers, RTA division manager for regional operations analysis.

In addition, the broker suggested the three operating divisions could save from $250,000 to $500,000 annually by seeking a higher joint deductible, Mr. Leffers said.

In October, the RTA agreed to pay RBH up to $50,000 on a consulting basis to recommend how its metropolitan bus and rail operations can cope with soaring premiums and a lack of insurance limits.

The largest of the RTA's units, the Chicago Transit Authority, has been without any excess liability insurance and without some property insurance coverage since its coverage expired Sept. 7 (*BI*, Sept. 16). The CTA operates more than 2,000 buses and 1,200 rail cars.

The CTA's annual premium for $30 million in excess property coverage recently increased 27% to $644,000 from $507,000 for the second year of a three-year contract.

Metra and Pace, the RTA's two other operating divisions, have individual liability and property insurance, but they face substantial rate hikes in 1986.

Metra, which operates more than 1,000 commuter rail cars under service agreements with some private rail lines, is paying $3.6 million for $38 million in liability insurance and $926,000 for $45 million in property insurance.

Pace, which operates between 500 and 600 suburban buses and other vehicles, is paying $377,000 for $40 million in liability insurance and $140,000 for $8 million in property insurance.

But, Pace's coverage is due to renew in January, and it expects a premium increase of 200% to 300%, Mr. Leffers said.

The RBH consultants also suggested the RTA spend about $100,000 to establish a standardized joint loss history for the three divisions, Mr. Leffers said.

Each district now maintains its own loss history "with varying degrees of usefulness," he said.

For example, in its loss history, the CTA records the date when a claim is paid, rather than when it occurred, he explained.

The proposals by Rollins Burdick Hunter are "pretty creative" and could result in "pretty significant" savings, Mr. Leffers said. But, he said it is hard to quantify the potential savings because the insurance market is so volatile.

And, he noted that linking the three divisions for insurance purposes would pose several problems.

For example, the operating divisions differ in the kind of property they insure and the method they use to determine insurable values.

And, Pace may fear that its insurance costs will increase if it is linked with city rail and bus operations, he explained.

Mr. Leffers also said Metra is "actively considering" joining the offshore captive insurance company, Railroad Assn. Insurance Ltd., that is being established by an informal group of members of the Railroad Insurance Management Assn. (*BI*, Oct. 7).

While the feasibility of joint insurance purchase is being considered, RTA officials are expected to implement some of the consultant's other suggestions, Mr. Leffers said.

Pace is studying a proposal to self-insure its workers compensation risk, a move RBH said could save $100,000 annually, he said.

And, Pace and Metra are expected to adopt the good claims processing and subrogation procedures of the CTA, he said.

Rollins Burdick Hunter's report also praised the the divisions' "strong" property conservation program and safety and loss-control measures, Mr. Leffers said.

If approved, the joint insurance plan may be implemented by next summer, when Metra's liability cover is due for renewal, he said. ■

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opinions

Tort reform drive not new

SELF-PROCLAIMED consumer advocate J. Robert Hunter isn't speaking for professional risk managers when he declares that the U.S. civil justice system is not responsible for the commercial insurance crisis.

And, he is dead wrong when he contends that insurers were silent on the need to reform the tort system during the competitive insurance marketplace.

Mr. Hunter, president of the National Insurance Consumer Organization in Alexandria, Va., told a Senate subcommittee hearing last week that the current insurance crisis "is not related to the tort law" (see story, page 3).

He maintains that "the crisis was created by insurance industry ratemaking practices."

There is no doubt that the insurance industry's new stiff underwriting practices are an effort to recover huge underwriting losses created by too many years of underpricing its products. Even insurers will admit that.

But, it is absurd to suggest that insurers' underwriting losses are not partly the result of a runaway civil justice system that is determined to find guilty defendants for every injury, without regard to fault, and to dole out awards far in excess of the injured party's economic losses.

Mr. Hunter also hasn't been keeping a very keen eye on the insurance industry he is supposed to be monitoring if he missed until recently insurers' pleas for civil justice reform.

Since the product liability insurance crisis of the mid-1970s, insurers have advocated changes in tort law and the entire civil justice system at the state and federal level.

It's true that insurance company executives began to lose their audiences for speeches on tort reform during the competitive insurance market. And, it's true that even many risk managers lost some of their enthusiasm for tort reform when insurance was plentiful and prices were cheap.

Now that insurance is hard to find and expensive, insurers and risk managers are back on the speaking circuit advocating civil justice reform. Their audiences are at last attentive, painfully aware that the price and availability of insurance depend upon restoring common sense, consistency and predictablity to the civil justice system.

It's simplistic to suggest that insurers are advocating civil justice reform only to divert attention from their own mismanagement in the past. As much as they wanted to promote civil justice reform during the competitive insurance marketplace, it was tough to sell air conditioners to Eskimos.

letters

Dallas fire code more strict than survey suggests

To the editor: As a consultant to the city of Dallas who prepared fire code revisions that were adopted in January 1984, I have noted several errors in the article "Most Fire Codes Are Lax on Furnishings: Survey" (*BI*, Nov. 18):

- The city of Dallas requires all hotels of greater than 7,500 square feet to be fully sprinklered, with the sprinkler system arranged to cause an automatic local and remote alarm. This is viewed to be equivalent—and superior—to hotels having a "full detection system." All but the smallest hotels must comply.
- An alarm system connected to the fire department is required in hotels greater than 7,500 square feet, not only in high-rise hotels. All but the smallest hotels must comply.
- The city of Dallas code *does* require the provision of self-closing doors.
- The city of Dallas code requires automatic elevator recall in all multistory buildings, not only high-rise buildings.

Carl F. Baldassarra
Engineering Manager
Schirmer Engineering Corp.
Deerfield, Ill.

■ *Edward V. Clougherty, chemist for the Boston Fire Department, which conducted the survey, said, "Our information is based on answers to the survey questions returned to us by the Dallas Fire Department. Copies of the survey results were sent to the Dallas Fire Department before the survey was published."*

Industry must have claims-made form

To the editor: In reply to S.H. Staubitz' letter (*BI*, Nov. 11): The casualty insurance industry has anything but avoided its social responsibility—to the tune of billions of dollars in losses paid.

No one can deny the use of cash-flow underwriting. We also might be reminded of the great benefits reaped by the public from depressed industry prices.

Large influential insurance brokers could refuse to sell claims-made policies, but that may further reduce capacity and insurers while the losses and exorbitant court awards continue.

I believe claims-made is a necessity for the survival of the casualty insurance industry. If claims-made does become prevalent, I think you will see a much more concerned and informed public, from agents and brokers right down to insureds and their risk managers.

Jim Van Slyke
Commercial Casualty Underwriter
Guaranty National Insurance Co.
Englewood, Colo.

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 should weigh risk-financing options

To the editor: Amen to S.H. Staubitz' letter (*BI*, Nov. 11). The only problem is that it will fall on deaf ears in the casualty insurance industry.

I agree with the letter's statement, "Risk managers must refuse to accept coverage written on a claims-made basis," but I believe they must do more. Risk managers must take positive and aggressive action to implement risk-financing alternatives that will lessen their company's future dependence upon the commercial insurance market, which has proven itself to be unstable, unpredictable and inadequate.

It's time risk managers begin to work together through the Risk & Insurance Management Society to develop methods to share more risk with each other and make long-term commitments not to go back to the unreliable commercial insurance market when it again comes begging for business.

Financing such risk-sharing and pooling facilities requires substantial investments. To the resistant I say, "Keep in mind, you are investing in yourselves and will benefit in the rewards." This seems much preferable to enriching the undeserving casualty insurance industry.

Lawrence J. Bell, CPCU., A.R.M.
Assistant Vp-Risk Management
Revco D.S. Inc.
Twinsburg, Ohio

Claims-made form is no cure for insurers' ills

To the editor: "Claims-made insurance will pass the cost of our liability system along to the insured, and they in turn will include it in the cost of their products," according to James E. Gustafson and Dorothy Zelenko in their Nov. 11 Perspective article.

This is precisely what does not happen when using the "claims-made" form. The cost of losses that arise out of present activities cannot be included in the cost of goods and services because the claims-made premium only contemplates those losses that will be known within a year. All other losses go unfunded and cannot be included in present expenses. Profits are therefore overstated, so Uncle Sam and the shareholders split what would otherwise fund those losses.

The next generation of buyers will assume the additional costs of today's goods and services.

No responsible client of the business wants limitless coverage. What the client wants is to know if a risk has been transferred. If it can be transferred, so be it. If it can't, then other arrangements must be made. That's risk management.

Claims-made transfers the risk only provisionally, totally dependent on future events over which the purchaser has little control.

The "extended reporting period" would resolve some concerns, but it is abundantly clear that not all insureds will have this option. There have been a proliferation of forms, many of which do not provide an unlimited discovery period. For the insured who buys such a policy today, there is no guarantee that the provisions will be available on the next renewal.

Nor will the "claims-made" approach cure insurance companies of habitually under-reserving and continually underpricing, the real causes of wild fluctuations in cost and availability of insurance.

If the energy used to promote the "claims-made" concept were used to attempt to find appropriate measures of loss potential, the future of the business and its clients would be much brighter.

Charles A. McAlear, CPCU
Chairman
McAlear Associates
Grand Rapids, Mich.

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ADVERTISING: New York: 212-210-0133; Chicago: 312-649-5276; Los Angeles: 213-651-3710
COMMUNICATIONS: New York: 212-210-0132
CIRCULATION: Chicago: 312-649-5221

Published by Crain Communications Inc., Chicago
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Published weekly at 740 Rush St., Chicago, Ill. 60611, Telex 25-4248, Cable CRAINCOM. Offices: 220 E. 42nd St., New York, N.Y. 10017, Telex 604207 CRAIN COM NYK; Suite 814, National Press Building, Washington, D.C. 20045; 6404 Wilshire Blvd., Los Angeles, Calif. 90048; 20-22 Bedford Row, London WC1R 4EB, England. $1.50 a copy. $52 a year in U.S. Canada and all other foreign add $16 for surface mail. Europe and Middle East only add $45 for air delivery. First-class mail to U. S. and Canada only, add $48. Bermuda only, $97 per year expedited delivery. WILLIAM STRONG, vp-circulation. ROBERT FIORITO, *circulation manager*. ROGER DiGREGORIO, *fulfillment director*. Four weeks' notice required for change of address. Send subscription correspondence to Circulation Department, Business Insurance, 740 Rush St., Chicago, Ill. 60611, or phone 312-649-5221. Microfilm copies are available from University Microfilms, 300 Zeeb Road, Ann Arbor, Mich. 48013. Microfiche copies available: Bell & Howell, Micro Photo Division, Old Mansfield Road, Wooster, Ohio 44691. Portions of the editorial content of this issue are available for reprint or reproduction in other media. For information and rates to reproduce in general circulation media, contact: ART MERTZ, The Crain Syndicate, 740 Rush St., Chicago, Ill. 60611, 312-649-5303. For reprints or reprint permission contact: Reprint Department, Business Insurance, 220 E. 42nd St., New York, N.Y. 10017, 212-210-0229.

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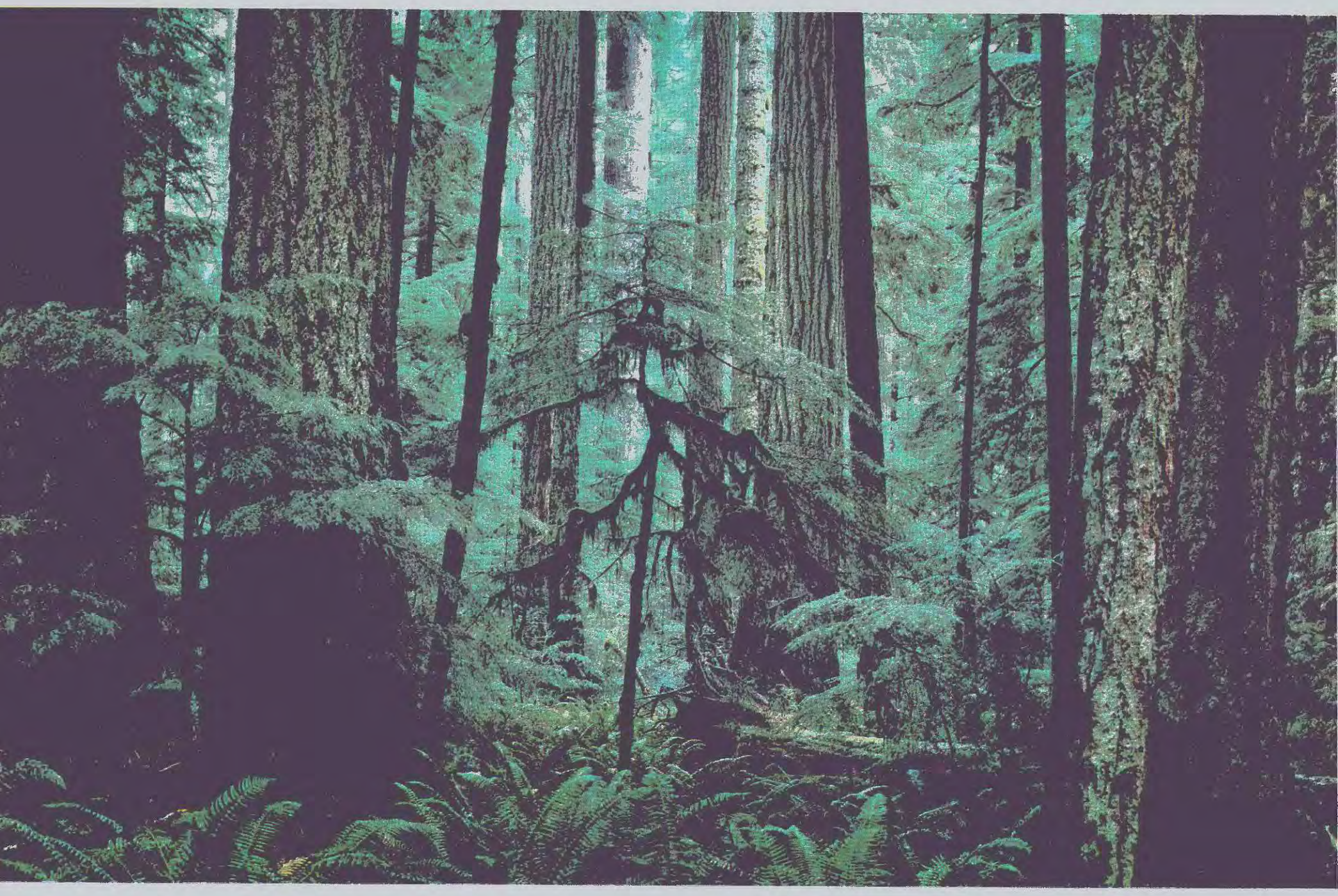

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Chicago may establish risk management office

CHICAGO—The city of Chicago is considering appropriating $350,000 for fiscal 1986 to establish a formal risk management office.

The city's proposed Risk and Benefit Management Office would be a division of the Department of Finance. The office, which would be run by a risk manager, would also include a benefits manager, a claims manager and a casualty manager in addition to support staff.

Last June, the city hired Nathaniel Williams, formerly a risk manager at Northbrook, Ill.-based Dart & Kraft Inc., to organize the proposed Risk and Benefit Management Office.

Mr. Williams outlined a 12-point schedule of goals for the program's first year, including:

- Identfiying potential catastrophic property losses and buying more coverage to transfer more risk to private insurers. Currently, the city only buys commercial coverage for its three airports and the Chicago Skyway toll road, with annual premiums totaling about $2 million.

The city self-insures the remainder of its property risks.

- Preparing quarterly reports and distributing to all city department heads the claims history of their respective departments, identifying recurrent sources of losses like unrepaired potholes, faulty equipment and bad drivers.
- Establishing accurate data bases on all employees, their dependents, their benefits and their payment of deductibles and other group insurance-related charges. Mr. Williams says he had identified nearly $7 million that can be saved through better benefits management. The city's benefits and pension costs total about $150 million.
- Participating in all collective bargaining processes with city unions to ensure that benefits packages are within the city's cost-containment guidelines.

While the city is considering formalizing its risk and benefit management program, Chicago is already is learning how risk management techniques can save money. Earlier this year, the torts division of the city's Department of Law began a reorganization to better handle a backlog of 6,500 liability suits against the city, with more experienced lawyers handling tougher cases and adjusters handling smaller claims.

James Montgomery, the city's corporation counsel, says the efficiencies have lowered the average judgment against the city so far this year to 1975 levels, adjusted for inflation.

Once the new system is fully operational, Mr. Montgomery believes the city will save up to $5 million each year through more judicious handling of suits. That's a savings of 18% based on next year's budget request for $27.1 million to cover judgments against the city.

—Crain News Service

OPIC reports rise in revenue, profit

WASHINGTON—The Overseas Private Investment Corp. chalked up revenues and profits during its last fiscal year.

During fiscal 1985, OPIC issued $5.3 billion in insurance coverage for 140 projects, topping its previous high of $4.3 billion, which was set in 1984.

OPIC reported gross revenues of $124.5 million during fiscal 1985, compared with $113.3 million in 1984.

OPIC is the federal agency that provides political risk insurance to U.S. countries investing in less-developed countries.

The agency's net income for the year was about $100 million, which is an increase from $97.2 million in fiscal 1984.

As of Sept. 30, capital and reserves stood at $984 million, which was up from $883 million a year earlier.

During 1985, OPIC reached agreements with Cape Verde, Colombia, Ecuador, Guinea-Bissau and Tonga making political risk insurance available for companies interested in investing in those countries.

OPIC insurance coverages are now available in more than 100 less-developed countries around the world. ■

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"Simulator training itself is what I'd call a 'loss avoidance' technique since many aviation accidents happen during training. With a regular program of simulator training, pilots become more proficient in the safe operation of their aircraft—and the training process itself is completely safe.

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"In fact, our chief pilot at CIGNA has trained with FlightSafety for years and is a current Pro Card holder. If your responsibility for risk management includes business aircraft, you ought to check it out."

FlightSafety International operates over 70 simulators at 26 locations and trains more than 17,000 pilots annually. FlightSafety is also a leader in maritime training and power generation training. For more information call collect to Jim Waugh, V.P. Marketing at (718) 565-4120 or write FlightSafety International, Dept. U125, Marine Air Terminal, LaGuardia Airport, Flushing, N.Y. 11371. Telex 667573UW.

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markets

Ryder Systems buys firm managing bond insurance

Ryder System Inc. in Miami has acquired Municipal Issuers Service Corp. a White Plains, N.Y., company that manages one of the largest municipal bond financial guarantors in the United States.

MISC provides financial analyses, marketing and administrative services to the Municipal Bond Insurance Assn. The association is a consortium of five insurance companies that guarantees prinicipal and interest payments on municipal debt obligations (*BI*, May 27).

Members of the MBIA are Aetna Casualty & Surety Co., Fireman's Fund Insurance Cos., The Travelers Indemnity Co., Aetna Insurance Co. and Continental Insurance Co.

M. Anthony Burns, president and chief executive officer of Ryder, noted the acquisition of MISC is not the first foray into the insurance business for Ryder.

Ryder owns managing general agencies in Florida and Alabama and has been involved in insurance-related businesses for 15 years, he said.

"MISC will be an important addition to Ryder System. The company enjoys an outstanding reputation in the municipal bond financial guarantee services business," he said.

He added that MISC's "profile fits exactly with Ryder System's announced strategy to expand its business with the acquisitions of specialized and regional managing general agencies."

Risk management

Seidman & Seidman/BDO, the large New York-based accounting firm, will offer its clients risk management consulting services through an association with The JLS Group Inc., a brokerage and risk management consulting firm also based in New York.

"Seidman continuously seeks to offer needed services to our clients. Through this arrangement, our clients will be able to receive integrated risk management and better protect their businesses," said John D. Abernathy, chief executive partner of Seidman & Seidman/BDO.

The services will be offered through a new Seidman division, Seidman & Seidman/JLS Division. Among the services to be offered will be analyses of a company's exposures, reviews of a company's existing insurance program and loss-control reviews.

The JLS Group Inc. has three offices and 70 employees.

Greek affiliate

Pearson & Georgi International Inc., a reinsurance broker and underwriting manager in Hoboken, N.J., has formed a new affiliate in Athens, Greece.

Pearson & Georgi (Europe) Ltd. will operate as an underwriting manager for sister company P.G.A. Ltd., a reinsurance underwriter in Athens.

Pearson & Georgi (Europe) is located at 312 Syngrou Ave., 176 73, Athens, Greece; 301-951-2739 or 301-951-8125.

PPO for self-insurers

A preferred provider organization called SouthCare Medical Alliance has been formed to provide health care benefits to self-insured plans already in place at Atlanta businesses.

Funding and management of SouthCare is provided by the 11 member hospitals and 1,350 physicians that provide services to the PPO.

The SouthCare physicians and hospitals are located throughout the seven-county metropolitan Atlanta area, which includes the cities of Marietta, Smyrna, Norcross, Decatur, Austell and East Point.

Developers of the PPO say the cost of care provided by one of the 11 non-profit associate hospitals averages 30% less than the cost of care at other Atlanta hospitals.

The PPO is not intended to replace a company's existing health care program, but to enhance

Continued on page 16

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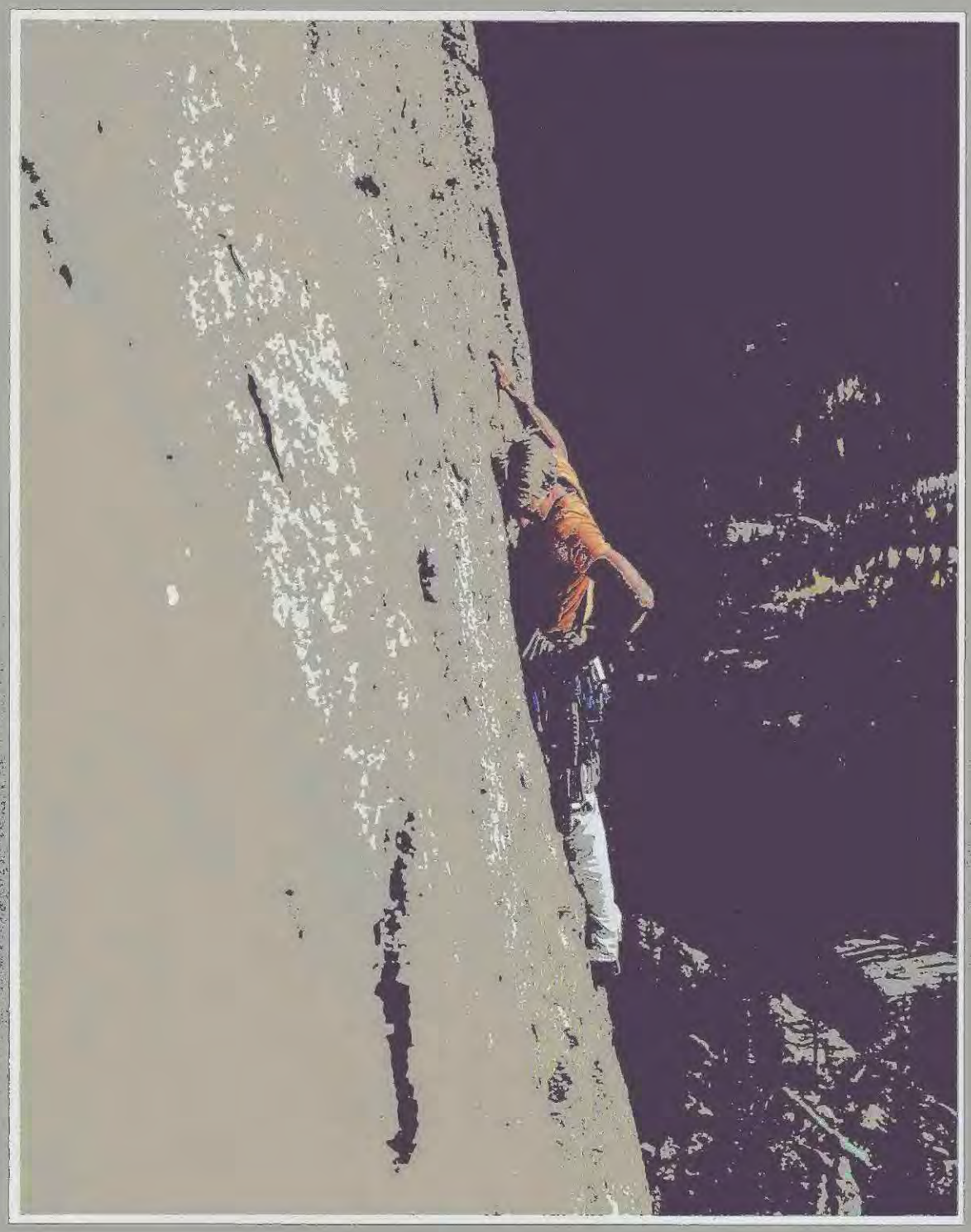

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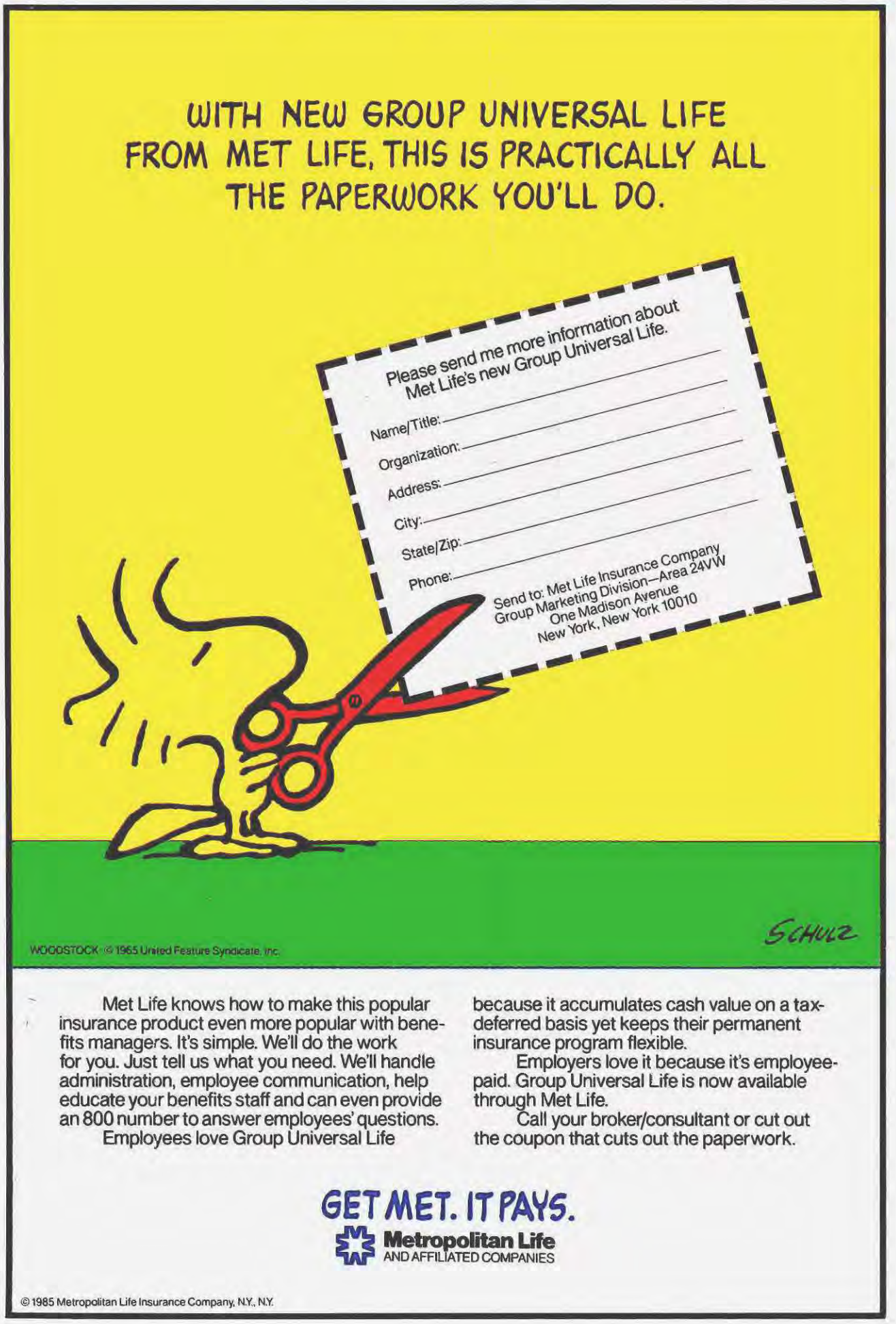

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markets

Continued from page 14

health care benefits already in place, SouthCare points out.

Because health care can be provided less expensively by SouthCare hospitals, employers can offer workers incentives to use the PPO.

And, features like utilization reviews will reduce employer costs by eliminating some unnecessary treatments, the PPO says.

SouthCare subscribes to the Utilization Management Program of the Greater Atlanta Coalition on Health Care. UMP reviews health care to ensure that all hospital admissions are medically appropriate.

SouthCare is located at 1730 Peachtree Summit, 401 W. Peachtree St. N.W., Atlanta, Ga. 30308; 404-688-2440.

Plan adds doctors

AWARE Gold, an alternative to health maintenance organizations that was introduced last year by Blue Cross and Blue Shield of Minnesota, has increased the number of member physicians and health care professionals to 5,800 through a recent enrollment campaign.

The year-old plan added nearly 1,000 physicians, who will provide health care services to subscribers throughout Minnesota.

Blue Cross/Blue Shield of Minnesota introduced AWARE Gold to provide the advantages of an HMO, while allowing patients to see a wide variety of physicians.

"The campaign was extremely successful for two reasons," said Richard Wagenman, vp of provider relations at Blue Cross/Blue Shield of Minnesota.

"We not only built a larger network, but we added specialty groups to strengthen its composition," Mr. Wagenman said.

Software provider

A new company, Risk Systems Ltd., offers clients standard and customized software packages that perform several risk management information functions.

Risk Systems, with offices in Atlanta and Highland Park, Ill., offers software packages that operate on IBM Personal Computers. The software packages also have the capacity to link with a company's mainframe system.

RSL says it can develop software tools with standard and customized applications in several areas, including claims management and administrative functions for all lines of business, management of various exposures, management of company assets and claims litigation.

RSL's offices are located at 2310 Parklake Drive, Suite 300; Atlanta, Ga. 30345; 404-938-3228; or 600 Central Ave., Suite 333, Highland Park, Ill. 60035; 312-831-6653.

HMO acquisition

Chicago-based Michael Reese Health Plan, a health maintenance organization owned by Michael Reese Hospital & Medical Center, will acquire a Chicago community health center and transform it into the HMO's ninth Chicago-area medical facility.

When the merger with Hyde Park-Kenwood Community Health Center takes effect Jan. 1, Reese will add about 8,000 to 10,000 of the center's prepaid clients to its current 97,000 members. The center's nine doctors and 32-member support staff will become Reese employees.

Barry Averill, exeuctive director of the Resse plan, expects the center will eventually serve 15,000 to 20,000 patients.

Mergers/acquisitions

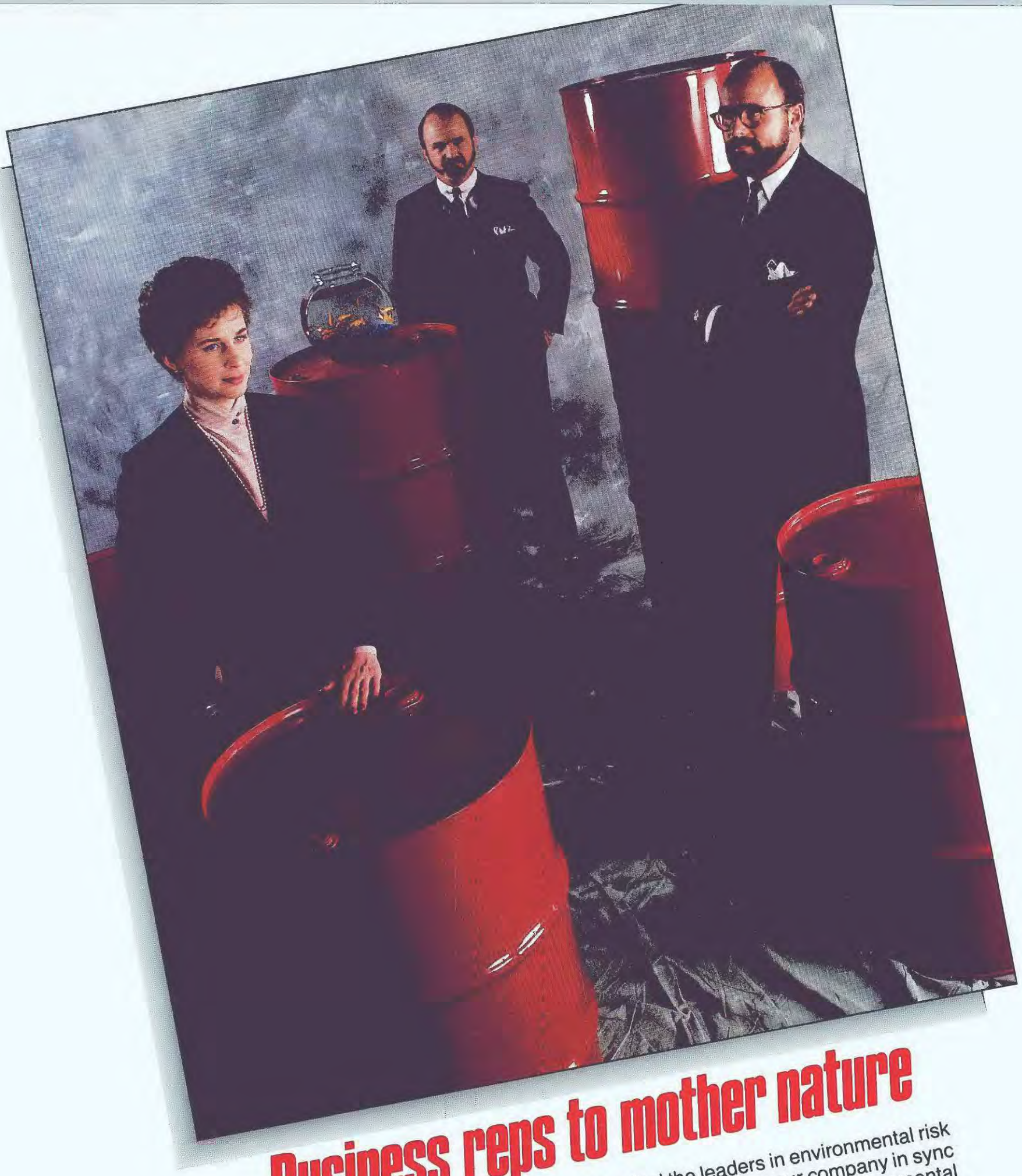
Poe & Associates Inc. of Tampa, Fla., the nation's 15th largest broker with 1984 revenues of $24.3 million, has acquired **Insurance Management Services Inc.** of Orlando, Fla.

New offices

Brocklehurst International Associates Inc. is moving to the Allied-Northborough Building, 12941 Interstate Highway 45 N., Suite 516, Houston, Texas 77060; 713-820-1621.

Johnson & Higgins Willis Faber Ltd. has moved to new offices at 595 Bay St., Suite 400, P.O. Box 153, Toronto, Ontario M5G 2G9; 416-598-1877.

The Freeport, Ill., branch of **General Casualty Cos.**, a Reliance Group affiliate, has moved to 1125 S. Kawanis Drive, Freeport, Ill. 61032. ■



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datebook

DEC. 20. The Economy 1986 and Beyond luncheon program in Chicago, sponsored by the Assn. of Certified Employee Benefit Specialists; $25. Tom Gaffigan, Assn. of Certified Employee Benefit Specialists, P.O. Box 600, Chicago, Ill. 60690; 312-732-3988

JAN. 10-11. Fifth Annual Occupational Health Nursing Principles and Certification Review course in Newark, N.J., sponsored by the Occupational Health Consulting division of Fireman's Fund Risk Management Services Inc.; $225. Also **Jan. 24-25** in Cincinnati; **Feb. 7-8** in Dallas; **Feb. 21-22** in Schaumburg, Ill.; **Feb. 23-March 1** in Torrance, Calif.; and **March 14-15** in Arlington, Va. Annette B. Haag, Director, Occupational Health Consulting, Fireman's Fund Risk Management Services Inc., P.O. Box 3890, San Rafael, Calif. 94912; 415-492-7753.

JAN. 12-14. Paradox of the '80s: Regulating Health Care in a Deregulated Environment conference in Washington, sponsored by the Group Health Foundation; $285 for members before Dec. 11, $335 after Dec. 11; $325 for non-members before Dec. 11, $375 after Dec. 11. Conference Office, Group Health Foundation, 624 Ninth St., N.W., Suite 730, Washington, D.C. 20001.

JAN. 13-17. Modern Safety Management in Atlanta, sponsored by the International Loss Control Institute; $695. International Loss Control Institute, P.O. Box 345, Loganville, Ga. 30249; 800-554-6001; 404-466-2208 in Georgia.

JAN. 20-21. Developing and Managing an Employee Medical Monitoring Program course in Los Angeles, sponsored by the University of Southern California Institute of Safety and Systems Management; $350. University of Southern California, Institute of Safety and Systems Management, Office of Extension and In-Service Programs, University Park, Los Angeles, Calif. 90089-0021; 213-743-6523/6524.

JAN. 21-22. Annual Flexible Compensation conference in Arlington, Va., sponsored by Charles D. Spencer & Associates Inc.; $400 to subscribers of the EBPR Research Reports; $475 to non-subscribers. Charles D. Spencer & Associates Inc., 222 W. Adams St., Chicago, Ill. 60606; 312-524-6400.

JAN. 23. Current Developments in the Use of Letters of Credit in the Insurance Industry conference in New York, sponsored by Executive Enterprises Inc.; $595 for the first registrant from an organization; $495 for subsequent registrants from the same organization. Executive Enterprises Inc., 33 W. 60th St., New York, N.Y. 10023-7988.

JAN. 29. An Insurance Odyssey (The Twentieth Century) meeting in Minneapolis, sponsored by the Insurance Federation of Minnesota; free of charge. Insurance Federation of Minnesota, 1310 Pioneer Building, P.O. Box 1467, St. Paul, Minn. 55101; 612-292-1099.

JAN. 29-31. Regulation of Chemicals in the Global Environment: Protecting the Public Against Hazards from Chemicals program in Brussels, Belgium, sponsored by The Bureau of National Affairs; $420. International Chemicals Symposium Registrar, BNA Conferences, The Bureau of National Affairs Inc., 2550 M St. N.W., Suite 699, Washington, D.C. 20037; 800-424-9890, 202-452-4420 in Washington.

FEB. 12-13. London Market and its Future conference in London, sponsored by Risk Research Group Ltd.; 293.25 pounds (approximately $411); 517.50 pounds (approximately $725) for two registrants from same organization. Judith Hobday, Risk Research Group Ltd., Bridge House, 181 Queen Victoria St., London, EC4V 4DD; 01-441-236-2175.

FEB. 17-19. Fifth Annual Pension Seminar in Kissimmee, Fla., sponsored by Corbel & Co.; $395. Brenda Chatham, Registrar, Corbel & Co., P.O. Box 17548, Jacksonville, Fla. 32245-7548; 904-731-4455.

FEB. 19. OSHA Hazard Communication conference in Springfield, Ill., sponsored by the Illinois State Chamber of Commerce; $45 for ISCC members; $70 for non-members. Also **Feb. 25** in Chicago. Carol Jensen, Illinois State Chamber of Commerce, 20 N. Wacker Drive, Chicago, Ill. 60606; 312-372-7373.

MARCH 5-7. Life Safety Symposium in College Park, Md., sponsored by the Society of Fire Protection Engineers; $515 for members; $545 for non-members. Lisa Juliano, Administrative Assistant, Society of Fire Protection Engineers, 60 Batterymarch St., Boston, Mass. 02110; 617-482-0686.

MARCH 11. Captives in Brief workshop in Hamilton, Bermuda, sponsored by Tillinghast, Nelson & Warren Inc.; $300. Micki Briskin, Tillinghast, Nelson & Warren Inc., 722 Post Road, Darien, Conn. 06820-4796; 203-655-9791.

MARCH 12-14. 10th International Captive Insurance & Reinsurance Forum in Hamilton, Bermuda, sponsored by Tillinghast, Nelson & Warren Inc.; $750; $675 for additional registrants from same organization. Micki Briskin, Tillinghast, Nelson & Warren Inc., 722 Post Road, Darien, Conn. 06820-4796; 203-655-9791.

MARCH 13-14. Workers Compensation: Your Safety and Health Balance Sheet course in Los Angeles, offered by the University of Southern California; $150 per day. University of Southern California, Institute of Safety and Systems Management, Office of Extension and In-Service Programs, Los Angeles, Calif. 90089-0021; 213-743-6523.

MARCH 18-20. Reasoning Reinsurance seminar, in Irving, Texas, offered by the University of Dallas; $525. Bruce Evans, University of Dallas, 1845 E. Northgate Drive, Irving, Texas 75062-4799; 214-721-5360.

MARCH 23-28. 13th Workers Compensation College at Duke University, Durham, N.C., sponsored by the International Assn. of Industrial Accident Boards & Commissions; $300 for IIABC members; $400 for non-members. IIABC College, P.O. Box 79109, Jackson, Miss. 39236; 601-355-4582.

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Comp rates

Continued from page 2

And from July 1, 1984, to June 30, 1985, the loss ratio stood at 86.6%, compared with 78% from July 1, 1983, to June 30, 1984.

In 1984, Mr. Hilton added, 11 states posted a workers compensation loss ratio of 100% or greater, meaning that benefit costs exceeded earned premium. These states were Oregon, with a 136% loss ratio; Maine, 131%; Minnesota, 118%; Louisiana, 112%; Colorado, 109%; Kentucky, 106%; Arizona, 105%; Oklahoma, 103%; Georgia, 101%; Texas, 101%; and Illinois, 100%.

Never in the past 35 years have more than three states produced a workers compensation loss ratio above 100% in the same year, and in 24 of those years no state posted a loss ratio exceeding 100%, he said.

When insurer expenses and policyholder dividends are included, the workers compensation industry's underwriting results become even worse, Mr. Hilton said.

Nine states reported workers compensation combined ratios of 140% or greater in 1984, he said, noting that more states are expected to join this group in 1985.

The nine states with combined ratios of 140% or greater last year were: Oregon, with a combined ratio of 180%; Maine, 169%; Minnesota, 162%; Louisiana, 149%; Arizona, 148%; Colorado, 148%; Oklahoma, 143%; Kentucky, 141%; and Texas, 140%.

Mr. Hilton said there are several reasons for the current condition of the workers compensation market:

- There has been increased pressure in recent years to increase benefits to injured workers.
- There are more workplace accidents today. More people are in the workforce today and many of them are "green" workers with little experience, Mr. Hilton said.
- Medical costs have escalated.
- Attorney involvement in workers compensation claims has grown.
- Different types of claims that were not originally intended to be covered by the workers compensation system, like occupational disease claims, are finding their way into the system.

Mr. Hilton suggested three ways to solve the current dilemma:

- Increase workers compensation rates.
- Decrease work comp benefits.
- A combination of the two approaches.

"The legislator must be concerned that price meets with cost," Mr. Hilton told the COIL conference, noting that legislators are responsible for drafting state workers compensation laws.

However, some legislators attending the COIL meeting said they were not happy with recent actions taken by workers compensation insurers to control their underwriting losses.

Maine state Rep. Joseph C. Brannigan, D-Portland, pointed to the current court battle in his state in which the insurance industry, including the NCCI, is challenging state legislation adopted earlier this year that reduces benefits and rates (*BI*, Oct. 1).

If insurers want legislators to take difficult steps to reduce workers compensation costs, they must support legislators' efforts, Rep. Brannigan said.

'A decrease in coverage with an increase in cost is unacceptable,' says Rep. Mautino.

And, Illinois state Rep. Richard A. Mautino, D-Spring Valley, said: "A decrease in coverage with an increase in cost is unacceptable. . . .It's difficult to sell to my constituents."

The NCCI's Mr. Hilton empathized with Rep. Mautino, noting that legislators are in a difficult position with pressures from all sides. He pledged that NCCI would give legislators statistical and educational assistance to help them make workers compensation decisions. ■

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COIL resolution urges study of financial guarantee cover

By CAROL CAIN

PHOENIX, Ariz.—State legislators are joining with state insurance regulators to monitor the multibillion-dollar financial guarantee insurance market.

A model financial guarantee law is being drafted by the National Assn. of Insurance Commissioners and is expected to be adopted by that group during its winter meeting this week in Reno, Nev.

The model law will define what coverage should be considered financial guarantees, what type of insurers should be allowed to write financial guarantees and whether financial guarantee losses should be covered by state guaranty funds.

And, the Conference of Insurance Legislators adopted a resolution during its annual meeting last month asking its Integrated Financial Services Task Force to study the NAIC model and the issues surrounding financial guarantee insurance and to prepare a report to which legislators can refer.

In addition to the resolution on financial guarantees, the insurance lawmakers also adopted several others resolutions at their meeting last month.

Many of these resolutions oppose attempts by the federal government to usurp the traditional right of states to regulate insurance.

In one resolution, COIL opposes any method of federal taxation of insurers that would vary from traditional statutory accounting rules adopted by state regulators for property/casualty insurers to calculate reserves.

"COIL strongly urges Congress to refrain from pursuing alternative methods of taxation of property and casualty insurance companies that discourage sound and adequate loss reserving and are inconsistent with the statutory accounting rules adopted by the states to insure the solvency and financial stability of insurance companies," according to the resolution.

In two other resolutions, COIL urges state legislatures to work together to share information and enact legislation to regulate companies and individuals who provide financial planning services.

"The regulation of financial planners may be pre-empted by the federal government if the states fail to take responsible action," notes one of the resolutions.

"COIL urges states to cooperatively take steps to create an interstate reporting network for governmental agencies to monitor the investments, acquisitions, interrelationships and diversification of business organizations that provide financial services," it says.

Although financial services are not insurance per se, David E. Roberts, the 1984-85 COIL president said: "Everyone at this point is getting involved in insurance. . .so we have to take a look at financial services."

Mr. Roberts also is an Arkansas state representative, representing Little Rock as a Democrat.

In one other resolution adopted by COIL, the group commended the efforts of an NAIC advisory committee that released a report in June on occupational disease issues.

However, COIL stopped short of endorsing the findings of that NAIC report, since COIL members did not have time to read it, said Charles O. Davis, executive director of COIL.

The report on occupational disease issues was endorsed by the NAIC in June (*BI*, June 10, June 17) and by the International Assn. of Industrial Accident Boards & Commissions in August (*BI*, Sept. 9).

In other business at COIL's annual meeting, North Carolina state Rep. R.D. Beard, D-Fayetteville, was elected president.

Other new officers are Rhode Island Rep. Irving H. Levin, D-Cranston, president-elect; Georgia Rep. J. Crawford Ware, D-Hogansville, vp; New York Sen. Donald M. Halperin, D-Brooklyn, secretary; and Florida Sen. Mattox Hair, D-Jacksonville, treasurer.

About 400 people, including representatives from the insurance industry and spouses, attended this year's COIL annual meeting. Next year's meeting will b Nov. 13-16 in Nashville, Tenn.

COIL has set two educational seminars for 1986, scheduled for March 7-9 in Raleigh, N.C., and Aug. 1-3 in Hershey, Pa.

Information about COIL is available from its headquarters, 1776 Churchview Drive, P.O. Box 217, Brookfield, Wis. 53005; 414-782-6669. ■

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New Florida coalition targets reforming civil justice system

TALLAHASSEE, Fla.—A newly formed business coalition is hoping that legislative proposals and a public education campaign will help cure the state's civil justice woes.

Tallahassee-based Project Civil Reform Inc., a non-profit corporation that was formed in October by the Florida Assn. of Insurance Agents, has sent out membership requests to utilities, insurers, retailers, physicians and representatives of the general business community.

Project Civil Reform is planning to present several bills to modify the state's joint and several liability doctrine when the Florida Legislature convenes next spring, according to Jim Brainerd, executive director of the project.

Unsuccessful attempts earlier this year by various interest groups to modify the laws provided the push to form a unified front for next year's effort, he said.

"There were just too many people singing different tunes," Mr. Brainerd said.

A drafting committee already has been set up by the project to develop reform legislation, he said. One proposal would be to limit the dollar amount for which defendants can be held liable to an amount representing their percentage of the total liability.

While the corporation's initial agenda is focused on modifying joint and several liability, other aspects of tort reform, like capping punitive damage awards and placing limits on attorneys' fees, also may be considered, Mr. Brainerd said.

"We want to cure the problem, not just treat the system," Mr. Brainerd commented.

According to Mr. Brainerd, Florida leads the nation in the number of million-dollar court awards. "A lot of the public don't realize they are paying the bill for that."

In addition to drafting reform legislation, Project Civil Reform plans to increase public awareness of the problems stemming from the civil justice system, Mr. Brainerd said.

The organization's current strategy includes visiting newspaper and television editorial boards and developing a speakers' bureau to address civic groups.

The project is also producing a videotape that will feature a discussion of the tort system's current shortcomings by representatives from hospitals, state educational institutions and municipalities.

Because Project Civil Reform hopes to be broad-based, its participants are hoping it will carry more clout with legislators and the public than if it were composed solely of insurance industry representatives.

"We want to make it clear that it's small business, large business, city taxpayers. . .anybody that has traditionally been a deep pocket," Mr. Brainerd said. ■

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*Employee Benefit Plan Review, April 1985

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BI 11/85

Lawmakers push for regulation of Lloyd's

By STACY SHAPIRO

LONDON—A powerful movement is under way in Parliament to force Lloyd's of London to be regulated under proposed financial services legislation.

If the members of Parliament leading this movement are successful, Lloyd's will be regulated by the Securities and Investment Board, a British version of the U.S. Securities and Exchange Commission that is part of the proposed legislation.

Lloyd's always has regulated itself, and current self-regulatory powers are granted by the Lloyd's Act of 1982.

The Securities and Investment Board, a new agency to be proposed in a bill to be introduced in Parliament next year, will be a statutory body to monitor institutions that handle investments in Britain.

The Securities and Investment Board would be designed to establish tight rules of conduct and grant wider powers to investigators of financial fraud.

Lloyd's so far has not been included as one of the markets to be regulated by the Securities and Investment Board because of its current self-regulation and because its principal business is insurance, not investments.

The financial services bill would not regulate Lloyd's insurance and reinsurance business and, thus, would not directly affect policyholders.

Lloyd's Chairman Peter Miller opposes including Lloyd's in the new financial services bill. And, Michael Howard, British minister of corporate and consumer affairs, recently said that Lloyd's will not be mentioned in the bill except in one or two "peripheral exemptions."

However, several members of Parliament, including Labor Party members Brian Sedgemore and Bryan Gould, continually have attacked Lloyd's in the House of Commons during the past several weeks and have called for Lloyd's to be included in the financial services bill.

Mr. Gould, who speaks for the Labor Party on trade matters, said singling out Lloyd's for inclusion in the bill is a political move to embarrass Prime Minister Margaret Thatcher's Conservative goverment.

But, he added, "The chance to embarrass the government is nil unless there is substance to the argument."

Mr. Gould also said there is support among members of Parliament from all political parties to include Lloyd's in the financial services bill.

"I think there is a powerful case for Lloyd's to be brought into the bill," he said.

During the past five years, numerous scandals have been uncovered at Lloyd's that were overlooked by Lloyd's officials because the alleged practice of reinsuring into offshore captives to derive personal benefits was considered common market practice, according to Mr. Gould.

Although policyholders have not been affected by the scandals, Lloyd's members have, Mr. Gould pointed out.

For instance, members of PCW Underwriting Agencies Ltd. and Alexander Howden Underwriting Ltd. have had more than $100 million in syndicate funds misappropriated, Mr. Gould has said in Parliament.

In addition, Mr. Sedgemore recently asked Mrs. Thatcher's government why no one had been prosecuted in the Howden and PCW cases.

Sir Patrick Mayhew, the British attorney general, told Mr. Sedgemore in a written statement that there has been "serious delay" in getting admissible evidence for witnesses who are not in British jurisdiction.

Sir Patrick also said there was insufficient evidence to justify "certain criminal proceedings or an application for extradition of any person on certain grounds," though he added that "a way is vigorously being sought to overcome the problems I have mentioned."

Mr. Gould said he wants Lloyd's to be included in the financial services bill "to protect members from disreputable acts."

"There are people at the heart of Lloyd's who did not know what was acceptable practice and what wasn't," he said.

"Self-regulation outside an independent statutory body cannot work, not so much because there is possible fraud but because members who are close to the market do not always know what practices are right and what practices are wrong," he continued.

Mr. Gould admits that Lloyd's new self-regulatory act has been in effect only three years and that therefore there really has not been time to determine whether the act provides for sufficient regulation of the market.

But, he says, "The problem is that in any financial institution the opportunities for misdeeds are unlimited. Considering every other institution will be regulated by the (Securities and Investment Board), it is difficult to argue that Lloyd's—based on its current record—should be exempt.

"And, considering that Lloyd's scandals helped push the financial services bill into existence, why should Lloyd's be exempt?" he asked.

Mr. Gould also believes that putting Lloyd's under the regulation of the Securities and Investment Board will benefit policyholders as well as Lloyd's members.

"The effect on the corporate policyholder will be diffuse and long-term, but it will be beneficial because it will make Lloyd's stronger," he said.

Lloyd's apparently is concerned about Mr. Gould's attempt to include Lloyd's under the financial services bill. Mr. Miller recently warned Mr. Gould that new regulation could interfere with the marketplace.

Mr. Gould's response: "I told him what I told you."

Unimar probe

Alleged improprieties at Lloyd's of London involving Peter Cameron-Webb, former chairman of PCW Underwriting Agencies Ltd., and investigated by former Lloyd's Chairman Peter Green have been referred for possible criminal charges

Last week, the British Department of Trade and Industry sent an

Continued on next page

london line

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Continued from previous page
80-page report to the director of public prosecution.

The report stated that there was "prima facie evidence of fraud in matters relating to the Unimar affair," a department spokeswoman confirmed.

Unimar, a Monte Carlo-based brokerage that provided reinsurance for Mr. Cameron-Webb's syndicates while he was at PCW, had been investigated personally by Sir Peter before other allegations of wrongdoing at PCW surfaced in 1982.

At the time of his investigation, Sir Peter found no evidence of wrongdoing and did not press any charges against Mr. Cameron-Webb.

After the investigation, Mr. Cameron-Webb left PCW and resigned from Lloyd's. Mr. Cameron-Webb is now an underwriter for Usher Syndicate Ltd. at the Insurance Exchange of the Americas in Miami.

Lloyd's current chairman, Peter Miller, told Lloyd's members at Lloyd's annual general meeting in June that "my predecessor as chairman carried out an investigation into a contract placed by PCW —the so-called Unimar investigation—and concluded that there had been no dishonesty.

"His findings have since been confirmed by the independent inquiry into PCW," Mr. Miller said, referring to a 1983 report by Queen's counsel Simon Tuckey prepared at the request of a special Lloyd's committee investigating PCW.

The Department of Trade and Industry came across Unimar during its investigation into PCW and its parent, Lloyd's broker Minet Holdings P.L.C.

The investigation into the alleged misappropriation of millions of dollars of PCW syndicate funds is continuing, according to the spokeswoman for the Department of Trade and Industry. ■

Broker is hoping to launch new type of satellite cover

By STACY SHAPIRO

WASHINGTON—U.S. space insurance broker Corroon & Black Inspace hopes to launch a new kind of satellite coverage to help control skyrocketing satellite launch insurance costs and to interest more insurers in writing the coverage.

Inspace's new "cargo bay" coverage would insure the value of a satellite from the time it is placed in the cargo bay of a space shuttle until the time it is deployed by shuttle astronauts, said Inspace President Brian Stockwell.

The coverage also would pay the cost of relaunching a satellite that is damaged while it is in a shuttle's cargo bay, he said.

However, Inspace's proposed coverage would not cover a satellite once it is deployed by astronauts aboard a shuttle but before it begins operating. It is at this phase of a satellite launch that most losses occur.

Under the plan, probe owners would have to find separate coverage for these risks or self-insure.

Traditional satellite launch insurance generally covers a probe from the time it is launched into space until 180 days after it is placed into an orbit, by which time the satellite is usually operational.

Mr. Stockwell believes that Inspace's initiative could ease the problems satellite owners face in finding launch-related coverages at a reasonable price.

Although Mr. Stockwell notes no satellite losses have occurred while stored in a shuttle cargo bay, the period during which satellites are stored in the shuttle represents the largest accumulation of insured satellite risk during a shuttle flight.

An accident during that time could destroy all satellites aboard a shuttle, costing underwriters up to $300 million if three probes are launched on one mission.

Mr. Stockwell hopes the fact that no cargo bay losses have ever been incurred will convince underwriters that previously have not written satellite launch or life insurance coverage to write the cargo bay coverage.

"We want to offer this kind of coverage to non-satellite insurers in the property and marine markets, for instance, because there is such a low risk," he said.

Sources say the rates for "cargo bay" coverage could range from 5% to 10% of a satellite's insured value, compared with 20% to 30% of insured value now being quoted for standard satellite launch insurance.

Mr. Stockwell would not comment on possible rates.

Rates increased to their current level following the unprecedented $253 million dollar loss of three satellites in less than two weeks during September.

Since the beginning of 1984, satellite underwriters have suffered more than $600 million in losses, one observer says, adding that insurers' loss ratio since satellite risks were first written in the 1960s exceeds 200%.

At least one satellite owner is handling the capacity crunch and ballooning rates by self-insuring.

The KU-1 satellite owned by RCA Corp. that was successfully launched by the shuttle last week was the first commercial satellite whose launch risks were not commercially insured. RCA self-insured the risks and is considering self-insuring a second probe scheduled to be deployed in December because of the lack of availabile satellite insurance (*BI*, Nov. 18).

Before finalizing its "cargo bay" coverage proposal, Inspace wants the National Aeronautics and Space Administration's "blessing" because the agency's support will attract new satellite insurers, Mr. Stockwell said. "We do not believe it is doable without NASA's endorsement," he said.

At the moment, NASA is finalizing a "memorandum of understanding" that will say the agency "recommends such a facility," confirmed Robert Berman, an attorney for NASA in Washington.

And, any action by NASA will not mean the space agency is becoming involved in the satellite insurance business, he emphasized.

"There is no action on the part of NASA to change the availability of insurance," Mr. Berman said. "It only shows a recognition of what they (Inspace) are doing."

Only once has NASA become involved in insurance: when it approved a a package put together by brokers in June 1983 to satisfy NASA's third-party liability insurance requirement.

NASA requires that each satellite owner separately purchase $500 million of liability coverage for its probe, but it also will accept $1 billion of coverage provided for all probes launced aboard one shuttle. The coverage is administered by International Technology Underwriters Inc. in Washington.

NASA's Mr. Berman notes that "unlike liabilities, we have no mandatory requirements that spacecraft must be insured during a launch" for property risks. ■

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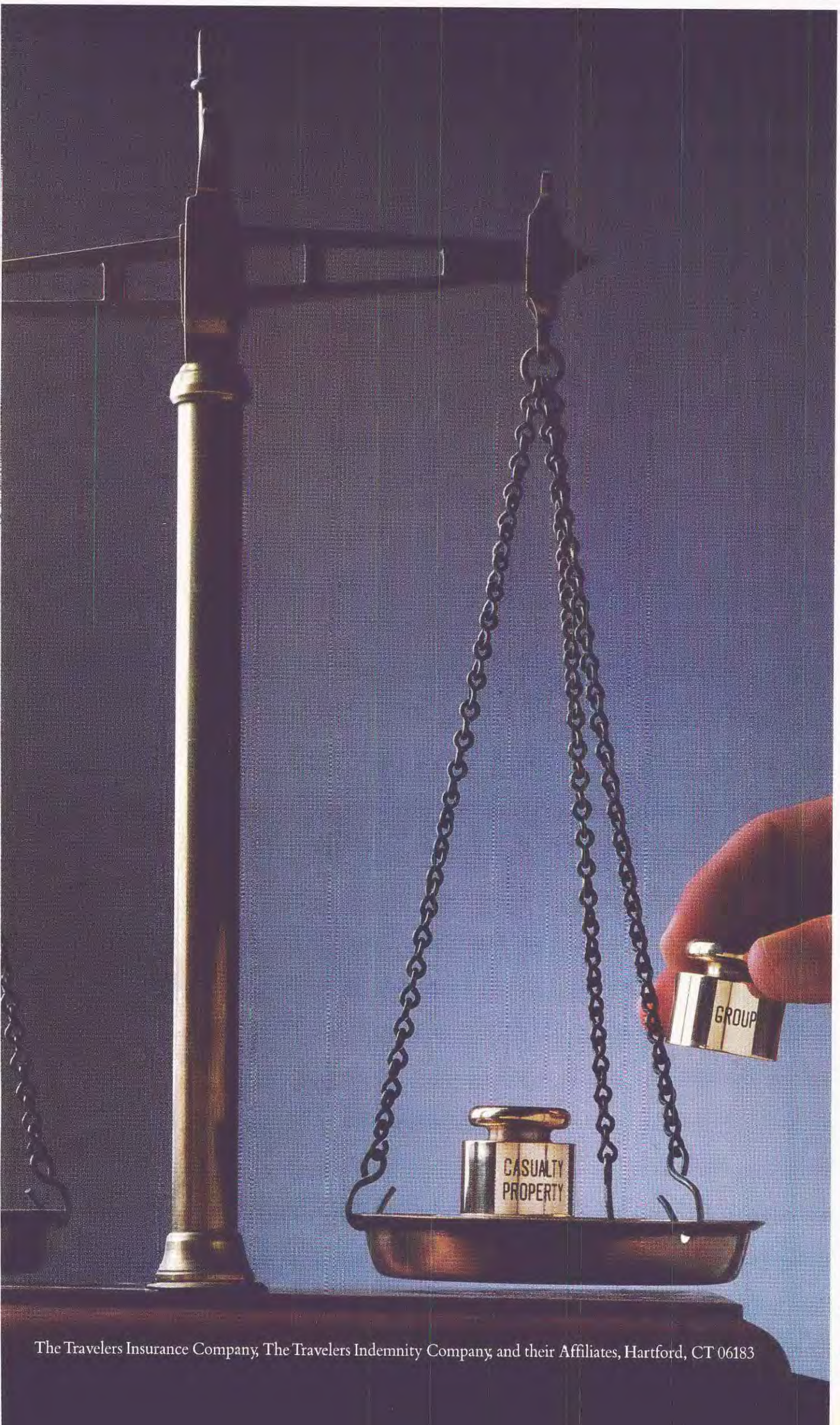

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THE FALL GUYS

Planning can cut on-the-job losses

By Robert Pater and Robert Button

RISK MANAGERS KNOW that people are falling down on the job—literally.

Slips, trips and falls are the third major cause of accidents at the worksite, accounting for about 15.8% of all disabling injuries.

The National Safety Council estimates that disabling falling injuries number 250,000 to 300,000 per year, with 1,200 to 1,600 fatalities.

And, falling injuries are pervasive throughout all industries. They are the largest source of accidents in finance, insurance and real estate; the second-largest accident source in services and mining; and the third-largest accident source in agriculture, forestry and fishing, construction, manufacturing, transportation and public utilities, wholesale trade, retail trade and state and local government.

Who falls? Everyone, it seems. The problem is not just people working from heights. Surprisingly, 58% of disabling falls occur from the same level, rather than an elevated height.

And, most elevated falls are from relatively low heights. A recent 24-state survey determined that 30% of elevated falls were from a height of less than 5 feet, and 60% were from a height of less than 10 feet.

Falling injuries are not restricted to blue-collar workers or any other one group. In fact, slips, trips and falls are the largest source of injury among professional, technical, clerical and private household workers; the second-largest source among managers, administrators, farm laborers and foremen; and the third-largest source of injury among service workers, laborers, transport and other operatives craftsmen, salespeople and farmers and farm managers.

Although there are no nationwide statistics on the cost of falls—or any other specific injuries—it is possible to sample the data in different states.

New York employers, for example, spent more than $128 million in compensation for falls, based on 1983 closed cases—an average of $6,472 for elevated falls and $5,118 for falls from the same level.

Washington state organizations reported more than $34 million in direct costs and almost 700,000 lost workdays due to injuries caused by falls in 1984.

From coast to coast, in large states and small, the costs are enormous.

Personnel professionals estimate that one day's absence costs an organization double that employee's salary in lost productivity, replacement, salary and benefits. At this estimate, falls are especially insidious.

Oregon reports an average workers compensation claim from same-level falls results in 82 lost workdays; from elevated falls, the average is 111 lost workdays.

How many thousands of dollars would that be for someone on your payroll?

According to national safety expert David Thelan: "Employee injuries disrupt productivity, increase downtime, disrupt production schedules and add to hiring, scheduling and training costs. Further, the bad press which frequently follows a major accident (and sometimes even a minor one) can seriously impair the image of a firm in the community and on the open market."

Fatal injuries are especially negative, and falls are the second-leading cause of accidental death—after motor vehicle accidents—in the United States.

Let us also remember that there are incalculable costs of human suffering.

But, it is possible to do something about the problem. Traditional strategies have focused on worksite cleanliness, protection equipment for elevated work, signs and suitable shoes.

But, much more can be done to reduce losses resulting from falls. Specifically:

- First, determine the nature of your losses from falls.
- Second, engineer the environment to reduce the risks of falls.
- Third, educate all workers to identify the remaining risks and generally to prevent slips, trips and falls.
- Fourth, train employees. Identify those with a high incidence or probability of falling. Provide them with

Continued on next page

perspective

Book examines facts on malpractice

"Medical Malpractice: Theory, Evidence and Public Policy"
By Patricia M. Danzon
Published by Harvard University Press, 79 Garden St., Cambridge, Mass. 02138
$17.50 hardcover, 264 pages

By Alison Kittrell

THE ISSUE OF medical malpractice has returned to the forefront of public thought, nearly a decade after the malpractice coverage crisis of the 1970s.

Faced with huge losses, medical malpractice insurers are raising rates. And, faced with higher insurance costs, medical professionals are lobbying for changes in the system—sometimes with success.

Patricia M. Danzon, an associate professor at the Center for Health Policy Research and Education at Duke University, believes that amid the din, one voice has been missing: the voice of empirical reason.

In her book, Ms. Danzon attempts to answer the question of whether, based on economic models and calculations, the tort system for malpractice liability is cost-effective to society as a whole.

She asks: "Does the law that holds medical providers liable for injuries arising out of professional negligence provide benefits at least equal to the costs? Could the law be modified to reduce the costs without loss of benefits, or to increase the benefits for a given cost?"

books & ideas

What follows is a detailed, empirical study of malpractice claims and the mechanisms for compensating victims of medical negligence. Insurers and physicians probably will not be pleased with all of her conclusions but, as primary players in malpractice reform, they would benefit from a study of her data.

First, Ms. Danzon says that several criticisms of the malpractice system often cited by insurers and medical professionals are unfounded.

She says, "Far from being excessive, the number of claims (filed) falls short of the number of incidents of malpractice." She cites evidence that almost 1% of hospital admissions have resulted in an injury due to negligence, but only one in 25 of those was compensated through the tort system.

And, she says that although first-party liability is the most efficient form of compensation for injury because so much less of the compensation dollar is depleted by litigation and administrative costs, first-party liability requires that the consumer—in this case, the patient—be informed enough to assume responsibility.

And, she says, in the case of medical care, laymen usually are not sufficiently informed, although she urges changes in the system to encourage patients to take more responsibility for their care.

In fact, she does offer several suggestions of ways to make the tort system more fair, including:

- Replacing individual awards with a schedule of benefits. "The schedule should provide benefits comparable to those people buy voluntarily: compensation of medical expenses, up to limits such as those found in typical major medical health insurance policies, and up to 70% of pretax wage loss, which on average implies full replacement of aftertax income."

She says awards for pain and suffering should be paid "only in cases of severe injury and should be a scheduled amount based on age, disability and characteristics of the injury."

- Benefits should be determined at the time of trial but paid periodically over time.
- Statutes of limitations should be short—she suggests three years for adults and longer for minors—and should run from the time of the injurious act, not from the time of the discovery of the injury.

But, statutes of limitations should not apply "in cases of fraud or concealment," and medical practitioners found guilty of such conduct should have to pay an uninsurable fine.

Ms. Danzon's examination of the malpractice system is exhaustive and based as much as possible on factual evidence, although she admits that such evidence often is missing.

It is, therefore, one of the few studies of the issue that is based on fact rather than frenzy. And, as such, it is worth taking a look at, even if you don't like everything you see. ■

Planning can help cut worktime losses from falls

Continued from previous page
the skills to do their jobs while protecting themselves from fall hazards specific to their work, and to master techniques that reduce the severity of unavoidable falls.

A combination of risk management technology, modern training and fall protection principles can be applied to this pervasive problem.

And, strong safety education and training also can enhance employee morale and the organization's image.

Determining the nature of losses from falls is the first step. And, many organizations do not keep specific records on this problem.

We recommend that organizations track:

- The number of falls.
- When falls occur—for example, at a specific time of month, two hours before the end of a shift, at the beginning of the week, the day before vacation.
- Who falls, by occupation, sex, age, seniority.
- Where falls happen—stairs, gravel parking lot, lunchroom, near a certain machine.
- Lost time and direct and indirect costs, such as direct compensation, direct medical costs, future related medical costs, replacement costs, estimated costs of lowered productivity.
- Contributing causes to the fall.

Also, interview "victims" and witnesses for their perceptions of the incident.

Robert Pater is a principal in FallSafe, a safety consulting organization based in Portland, Ore.

The second step is to correct environmental hazards that contribute to falls, such as slick spots due to leakages or material on the floor; floor surfaces with contrasting friction; minor changes in surface elevation, such as plastic carpet protectors under office chairs; dim or high-contrast lighting; obstacles that obscure vision; and exposure to weather-related hazards.

Identify your organization's environmental risks and decide on cost-effective corrective action. Have your staff make this assessment or use a knowledgeable consultant.

The third step is to educate employees. And, an educational effort that prevents one claim resulting from a fall pays for itself.

Employees fall less when they realize it is in their own best interests to avoid falling injuries, understand environmental and personal risk factors and are provided with simple injury prevention and reduction techniques.

Many employees do not realize the personal costs of falling. These include:

- Pain that doesn't stop at the end of the workday.
- Lost income. Generally, workers compensation covers a maximum of two-thirds of salary. And, in addition to losing one-third of their salary, injured workers can forfeit potential income from any part-time jobs.
- Doctor's appointments.
- Lost recreational time.
- Loss of mobility, which can interfere with virtually every aspect of their day-to-day life.
- Future limitations and weaknesses.

In real life, people rarely recover 100% from a severe injury. Pain spots and re-injury points can be created.

Employees also should be educated about the environmental hazards and any personal hazards they face.

Many contributing causes of falling injuries are individual, and ultimately, these can be controlled only by individual employees. These include:

- Physical condition. Poor balance, obesity, gait, advanced pregnancy and physical stiffness or weakness can contribute to the frequency and severity of falls.
- Attention. A distracted employee is more likely to fall.
- Carrying objects. The way most people carry objects blocks their vision and raisies their center of gravity. This is especially dangerous on stairs. But there are methods of carrying that avoid these dangers, and employees should be trained in these methods.
- Dress and shoes.
- Vision. What a person can't see can trip them. Dirty goggles or bifocals can be disorienting.
- Use of drugs or alcohol.

When employees understand their stake in preventing falls and their personal and environmental risk factors, they can make adjustments to prevent injuries caused by falling.

For example, adjoining surfaces with different friction are known to be fall traps, so employees can remind themselves to slow down when stepping from carpet to concrete.

Employees should make a fall-prevention plan. They also can learn simple techniques that make them less susceptible to falling injuries.

Such techniques include improving walking balance in cluttered or slippery areas, gripping rails correctly, carrying safely, climbing and descending stairs on balance, protecting vital organs in unavoidable falls, and safely dispersing the impact of unavoidable falls.

But, high-risk workers need skills that education alone cannot provide. Their training must address their specific work conditions: Employees who work high above the ground have different fall problems than their floor-level counterparts.

Training also should give high-risk employees the opportunity to practice assessment of, planning for and reducing risks in an environment that safely simulates their working conditions.

Such training uses supervised repetition of techniques to develop correct mental and physical impulses.

For example, employees who carry boxes around a plant can be trained to make quick decisions: If you start to fall, do you hold the object to you or throw it away? If you throw it, in which direction do you throw it? If you hold it, how and to what part of your body?

Employees can practice falling while carrying boxes. But, make sure the training is in a highly controlled environment; it is essential that employees are not injured during safety training.

High-risk workers also can learn how to help one another prevent and reduce falls. For example, they can practice techniques of physically cushioning a co-worker's fall, minimizing injury to them both.

In conclusion, it is important to make fall prevention part of your loss-control program. Include it in all job orientations. Address fall prevention in safety and staff meetings. Use eye-catching signs to remind employees of fall-prevention practices.

Falling continues to be a major source of financial loss and human suffering. Risk managers can take action and make a difference. ■

Robert Button is a principal in FallSafe, a safety consulting organization based in Portland, Ore.

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washington

Senate confirms Kass to fill long-vacant top pension post

By JERRY GEISEL

WASHINGTON—The Labor Department finally has a new pension administrator.

The Senate last month confirmed Dennis Kass as the new assistant secretary in charge of the Office of Pension and Welfare Benefit Programs.

Mr. Kass is a former managing director at Equitable Investment Management Corp., a unit of New York-based Equitable Life Assurance Society of the United States. He fills a position that has been vacant since last January, when Robert A.G. Monks resigned to go into private business.

Since Mr. Monks' resignation, the pension administrator's slot has been elevated to the assistant secretary level.

Mr. Kass is the third person to be named by the Reagan administration to fill the top pension position at the Labor Department. Prior to Mr. Monks' one-year stint, the pension administrator's job was filled by Jeffrey Clayton, a Salt Lake City attorney, who resigned in September 1983 after two years in the position.

In sharp contrast, only one person—Washington attorney Ian Lanoff—held the position of pension administrator during the Carter administration.

High turnover of pension administrators is one reason why the Labor Department has had such little impact on the pension and retirement provisions in tax overhaul legislation, observers say.

For example, no Labor Department officials were present when the House Ways and Means Committee last month voted to reduce maximum annual benefits that can be funded through qualified defined benefit plans and contributions made to defined contribution plans (*BI*, Nov. 11).

MPPAA case

The Supreme Court last week heard oral arguments in a case challenging the constitutionality of the Multiemployer Pension Plan Amendments Act of 1980, but questions the justices asked offer few clues on how the court will rule.

Under that act, multiemployer pension plans have the power to demand payments—known as withdrawal liability—from employers departing the plans to pay for a share of the plans' unfunded vested benefits.

Attorneys representing an employer and a trustee of a multiemployer pension plan told the court that withdrawal liability is unconstitutional because it allows the taking away of private property without just compensation.

But Justice William Rehnquist questioned if withdrawal liability is any different from other federal laws, like the Social Security Act, which force employers to pay taxes for social benefits.

Justice Sandra Day O'Connor asked several procedural questions concerning the amount of withdrawal liability the employer had been asked to pay and what method had been used to calculate the liability.

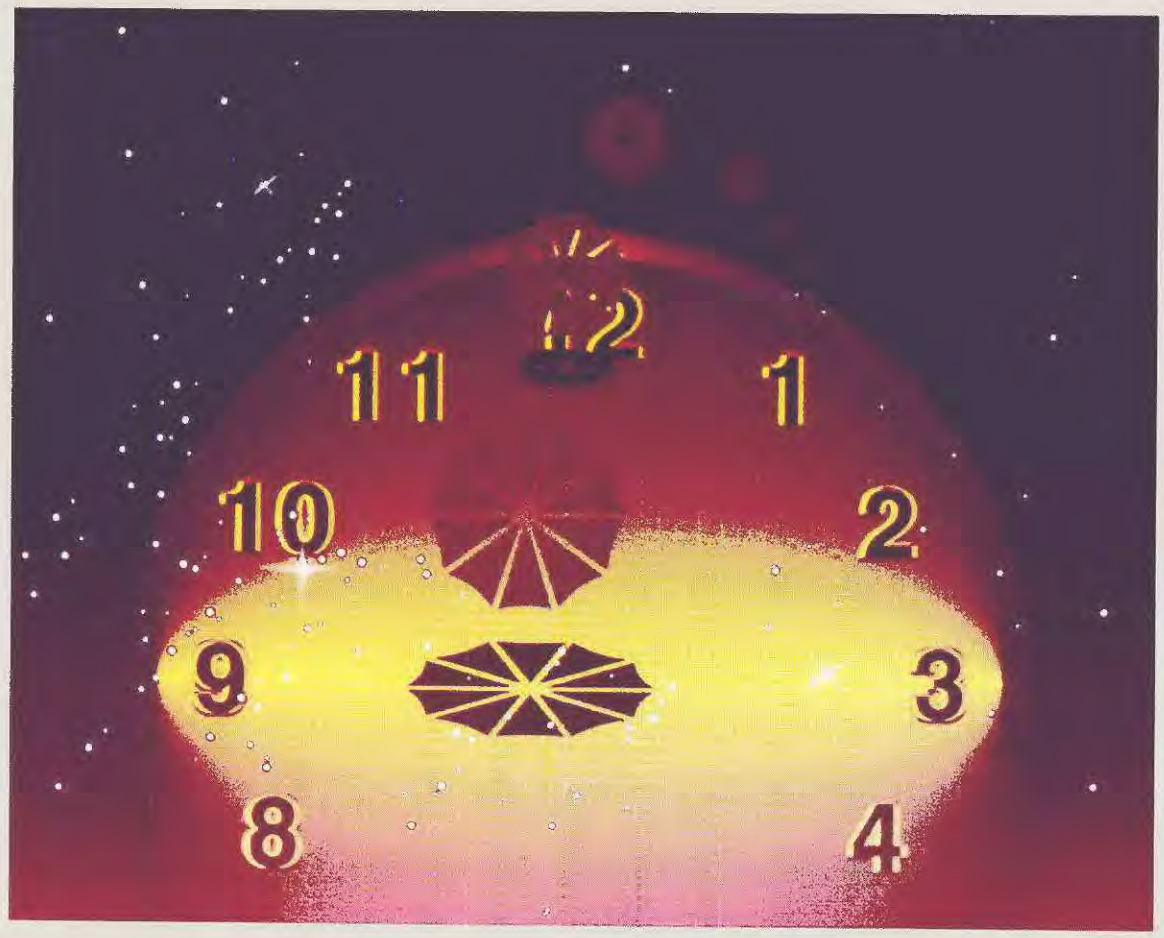
Pension Benefit Guaranty Corp. attorney Baruch Fellner told the court that basic fairness and justice dictate that employers leaving a multiemployer pension plan should be the ones to pay for the promised but unfunded benefits.

Otherwise, the burden of higher contributions to pay for those benefits would fall on companies remaining in a plan, Mr. Fellner said.

But Richard Freeman, an attorney for Woodward Sand Co., the small privately owned Santee, Calif., company that challenged the multiemployer act after it was slapped with a $201,000 withdrawal liability claim by the Operating Engineers Pension Trust, disagreed.

He said withdrawing employers should not be penalized for events, like benefit and funding decisions made by multiemployer plan trustees, over which they have no control.

A decision in the case is expected before the court's current term expires in late June (*BI*, Oct. 21). ■



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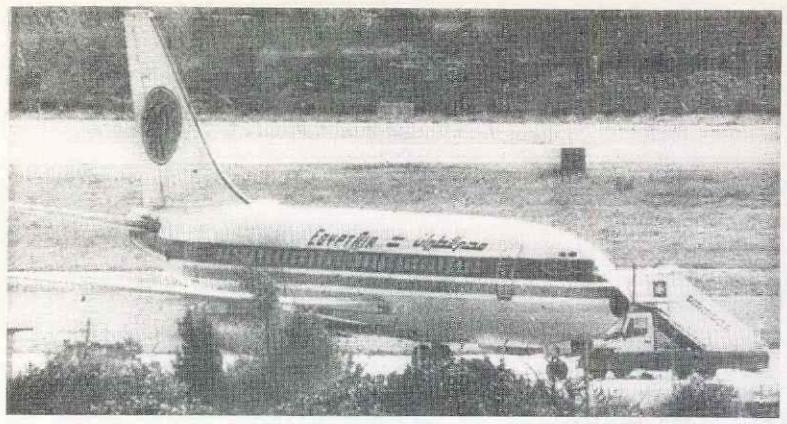

Photo: AP/Wide World

Aviation underwriters face claims from last month's hijacking of an Egyptair jetliner to Malta. The jetliner was heavily damaged.

Aviation market

Continued from page 1

much as $95 million.

- Aircraft manufacturers will find the aviation product liability insurance market even tighter than it was in 1985. Aircraft manufacturers earlier this year faced rate increases of up to 200%, higher deductibles and, in some cases, insufficient capacity (*BI*, Feb. 11).
- Aviation underwriters may no longer write any satellite risks because of horrendous satellite losses.

Losses on satellite insurance, some of which is written by aviation insurers and reinsurers, also are taking their toll on the aviation reinsurance market. Satellite losses totaled more than $600 million in the past two years (see story, page 23).

And, underwriters say, claims have rolled in on aviation product liability policies, but no estimates of the total losses were available.

Last week, as brokers and reinsurance underwriters began their negotiations for 1986 aviation reinsurance renewals, London market sources said reinsurers were planning to hike the rates they charge ceding companies up to 700%.

"The fact is that it is the excess-of-loss reinsurance market that paid all the losses this year, and they want to get their money back as quickly as possible," said one aviation reinsurance broker.

Also, reinsurers will no longer write high excess layers and will no longer write coverage for non-aviation liability exposures faced by airlines, sources say.

Since these actions will force primary aviation underwriters to retain more risk, airlines will find less hull and liability insurance available.

"Whereas an airline could get $700 million of liability insurance, now it can get only $250 million to $400 million," said one aviation excess-of-loss reinsurer. "The bargain days are over," he added.

"I think the liability limits will be reduced dramatically, and it will be impossible to find $1 billion of (liability) coverage," says Mr. Coleman. "And, there will be difficulty placing $100 million" in hull coverage for wide-body aircraft, he predicts.

Mr. Coleman says he believes the aviation market will remain tight for at least four years.

Although brokers and underwriters say they are not yet sure how high hull and liability rates will rise in 1986, they note the rate hikes will be in addition to rate hikes already imposed by underwriters in the second half of this year.

Since the crash of three major commercial airliners in the summer, aviation hull insurance rates have increased at least 10%, while liability rates have jumped at least 25%.

"There has been a general hardening of rates—liabilities more than hull—because underwriters know they will pay more for excess-of-loss coverage," said Wally Corbett, aviation underwriter and manager for Minster Insurance Co. Ltd. in London.

"The question is still how much reinsurance you are going to get," he adds.

Since 1983, most aviation underwriters have purchased excess-of-loss aviation reinsurance—which pays losses above an agreed-upon sum in exchange for a fixed premium—instead of proportional reinsurance (*BI*, Sept. 19, 1983).

Proportional reinsurance, also known as pro-rata reinsurance, describes all forms of reinsurance in which the reinsurer shares with the ceding company a portion of the original premium and, thus, a portion of all losses.

In an attempt to limit their losses, reinsurers limited the amount of proportional reinsurance written for aviation risks after 1983, when aviation insurers reported record hull losses of $302 million (*BI*, March 26, 1984).

As a result of the changes in the reinsurance market and 1983's huge losses, aviation insurance rates zoomed up to 150% for some airlines during 1984, compared with rate cuts of 2% to 10% the previous year.

However, relatively mild aviation losses in 1984—including only $60 million in hull losses—meant that rates either held steady or rose only slightly when airlines renewed their coverages earlier this year.

One aviation insurance broker, Tony Bolton, chairman and chief executive of Bowring Aviation Ltd., suggests the aviation market should consider changes—including a return to proportional reinsurance—to create capacity and to smooth out what have become almost annual market upheavals.

"Maybe there should be a return to the traditional approach of having pro-rata treaties, which are only terminated after notice of cancellation has been given and discussion undertaken between those reinsurers and the direct underwriters about what can be done if necessary to restore an account to profitability," Mr. Bolton recently told an audience at the Insurance Institute of London.

"Planning the restoration of pro-

Continued on page 32

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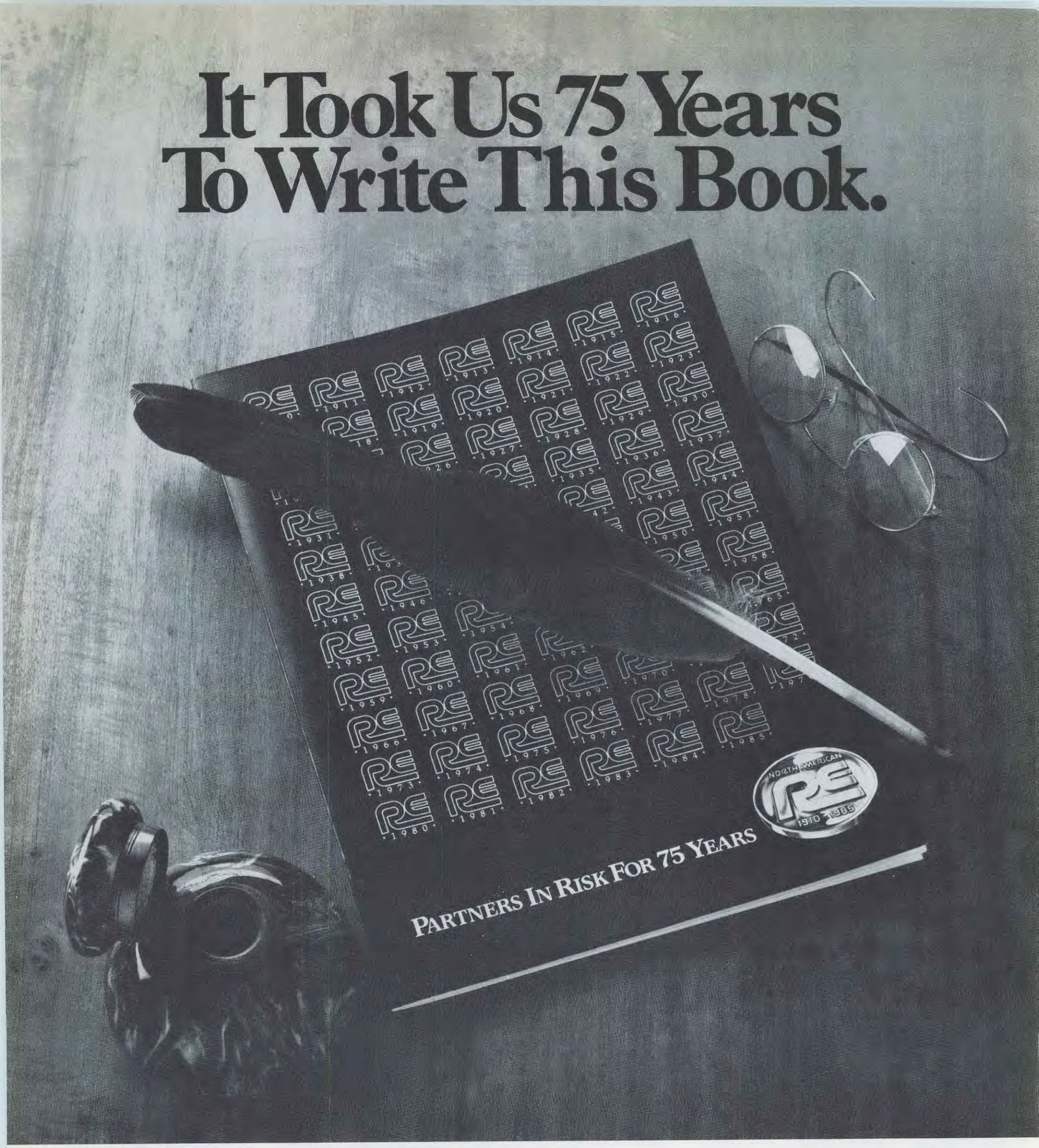

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Aviation insurers face record losses from '85

By STACY SHAPIRO

LONDON—Aviation underwriters are facing at least $659.8 million in hull and liability claims from commercial aviation losses so far this year, a new record, according to statistics supplied by London insurance market sources.

And, if partial hull losses, satellite losses and losses related to airplane hijackings, including the recent hijacking of an Egyptair Boeing 737 to Malta, are added to this amount, aviation underwriters could be looking at more than $1 billion in claims, according to the sources.

These record losses will cause aviation insurance capacity to tighten drastically next year (see story, page 1).

As of Dec. 1, at least 1,303 people have been killed and more than 100 others injured in commercial aviation accidents. This, at a minimum, will bring airlines' liability losses to more than $382 million, according to statistics supplied by sources in London and compiled by *Business Insurance*.

In 1984, just two passengers died in commercial aviation accidents.

The 1985 liability total does not include a $12 million liability reserve set up for victims of a Trans World Airlines jet hijacked June 14 by Arab terrorists.

Also, as of Dec. 1, airline hull losses so far in 1985 amount to at least $277.5 million. However, this amount could rise to more than $320 million if hull losses not recorded by *Business Insurance* are included, sources say.

In 1984, hull losses totaled only $60 million. The previous record for aviation hull losses, $302 million, was set in 1983.

Among the aviation accidents in 1985 were some of the worst air disasters in history, including the worst single-plane crash ever.

Five hundred twenty of the 524 people aboard a Japan Air Lines Boeing 747 were killed Aug. 12 when the plane crashed into a mountainside (*BI*, Aug. 19). According to reports, the pilot lost control of the aircraft when part of the tail section fell off after takeoff from Tokyo.

The tail section had been repaired four years earlier by employees of Seattle-based Boeing Co. Boeing has agreed to share liability for the accident with JAL, although the terms of the agreement have not yet been worked out (*BI*, Oct. 28).

The hull loss has been set at $35 million. In addition, underwriters have reserved $175 million for liability payments.

The most-expensive hull loss in history occurred when an Air India Boeing 747 mysteriously exploded June 23 in midair over the Irish Sea on its way to London from Montreal, killing 303 passengers and 22 crew members (*BI*, July 1).

The Air India hull was insured for $95 million and a spare engine aboard was insured for an additional $3.5 million.

In addition to the hull loss, underwriters have set up a $25 million liability reserve for the Air India crash.

It has not yet been proved what caused the explosion, although Indian Sikh terrorists are suspected. Currently, hull underwriters and war risk underwriters are sharing the loss equally.

In addition, underwriters are reserving significant amounts for liability claims from two other commercial airline crashes.

A Delta Air Lines Lockheed L-1011 crashed on landing in Dallas during a thunderstorm Aug. 2, killing 131 people and injuring 31 (*BI*, Aug. 12).

Underwriters have paid a $24.7 million claim for the Delta aircraft and have set aside $125 million for liability claims. So far, $2 million of the liability reserve has been spent.

Delta is suing to force the U.S. government to pay part of the losses, claiming the crash was caused by the negligence of one or more air traffic controllers employed by the Federal Aviation Administration (*BI*, Sept. 9).

Finally, on Aug. 22, a British Airtours Boeing 737 jetliner crashed on takeoff in Manchester, England, killing 55 of the 137 people aboard bound for a holiday in Greece (*BI*, Aug. 26).

Reports in Britain say there has been a settlement between British Airtours, a subsidiary of British Airways, and the manufacturers of the engine and the plane. So far, however, British Airways' underwriters have not been informed of any settlement.

The underwriters have set up a $10 million liability fund to pay British Airtours' losses.

Following is a chronological listing of major commercial air disasters so far this year:

- **Jan. 2**—An Eastern Airlines Boeing 727 crashes into a mountain in Bolivia; 28 passengers and eight crew members are killed. Hull losses, $20.5 million; liability losses, $6 million.
- **Feb. 6**—An Airborne Express DC-9 crashes on takeoff in Philadelphia; no casualties. Hull losses and liability losses not available.
- **Feb. 19**—An Iberia Boeing 727 crashes on landing at the Bilbao, Spain, airport; 141 passengers and seven crew members are killed. Hull losses, $12.9 million; liability losses, $16 million.
- **March 16**—A UTA Boeing 747 catches fire on the ground in Paris; no casualties. Hull losses, $61 million after underwriters received $24 million in salvage; no liability losses.
- **March 26**—A Satena F-28 crashes into a mountain on landing near Florencia, Colombia; 40 passengers and six crew members are killed. Hull and liability losses not available.
- **April 15**—A Thai Airways Boeing 737 crashes on landing in Thailand; four passengers and seven crew members are killed. Hull losses, $7.8 million; liability losses, $300,000.
- **June 12**—An Alia Boeing 727 hull is blown up at airport in Beirut, Lebanon. Hull and liability losses not available.
- **June 13**—A Transports Aeriens du Benin Boeing 707 crashes on takeoff in Libya; no fatalities known. Hull and liability losses not available.
- **June 23**—An Air India Boeing 747 crashes off the coast of Ireland; 303 passengers, 22 crew members are killed. Hull losses, $98.5 million, including $3.5 million for a spare engine; liability losses, $25 million.
- **Aug. 2**—A Delta Air Lines Lockheed L-1011 crashes on landing in Dallas; 131 people are killed, 31 injured. Hull losses, $24.7 million; liability losses, $125 million.
- **Aug. 12**—A Japan Air Lines Boeing 747 crashes into a mountain after takeoff from Tokyo; 520 people are killed, four injured. Hull losses, $35 million; liability losses, $175 million.
- **Aug. 21**—A Middle East Airlines Boeing 720 is destroyed at Beirut airport. Hull and liability losses not available.
- **Aug. 22**—A British Airtours Boeing 737 crashes on takeoff in Manchester, England; 55 of 137 people aboard are killed. Hull losses, $14 million; liability losses, $10 million.
- **Sept. 6**—A Midwest Express DC-9 crashes after takeoff in Milwaukee; 31 people are killed. Hull losses, $3.1 million; liability losses, $25 million.

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Aviation market

Continued from page 30

portional capacity support to the London Market could be seen as an act of enlightened self-interest," he said.

Mr. Bolton added that no matter what approach underwriters take, it is not in clients' best interests for the London market to cut aviation insurance capacity.

"Now underwriters in this market might say there is nothing unfortunate about a reduction in capacity," he said. "But, it surely cannot be right for our marketplace to rejoice in a condition where we cannot satisfy the needs of our customers.

"If we do not look for the ways in which we can provide the product our client wants, then either somebody else with greater imagination or organizational flair than we can show will do it or else we will force industries to look at ways in which they can manage their risks and exposures amongst themselves to the exclusion of a major part of the traditional insurance market," he said.

Mr. Bolton also said that airlines are becoming disenchanted with continual warnings of rate increases that aviation underwriters have given each year, noting that underwriters have already launched a "campaign" that buyers "can expect tough times ahead."

"It means that for the third year running, with many of the market's major renewals coming up for consideration, negotiations will be conducted with both buyer and seller under a considerable amount of duress," Mr. Bolton said.

A major airline trade association has threatened to bypass the aviation insurance market if capacity significantly shrinks next year.

Tightening capacity may give the International Air Transport Assn. an incentive to write hull and liability coverage for its 126 member airlines through two now-dormant captive insurers in Bermuda, says Tony Kelly, the IATA's assistant director on industry monetary affairs in Geneva, Switzerland.

IATA has threatened since March 1984 to activate the captives, formed in 1970-71, and has completed a feasibility study on the possibility (*BI*, May 28, 1984).

"We are waiting for London renewals at the beginning of the year," Mr. Kelly explained, adding that the group is "concerned more about a capacity shortage than about rate increases." ■

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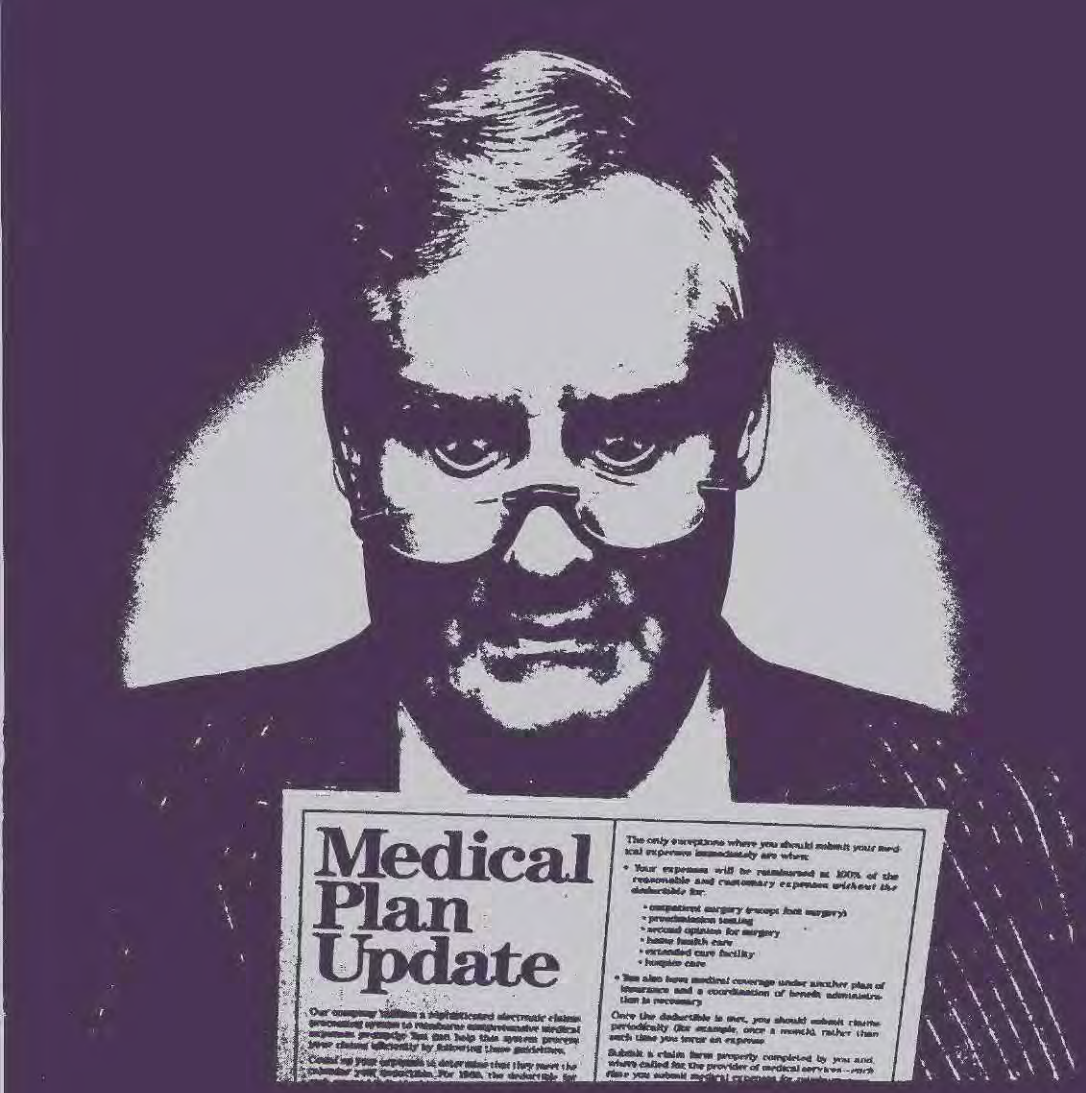

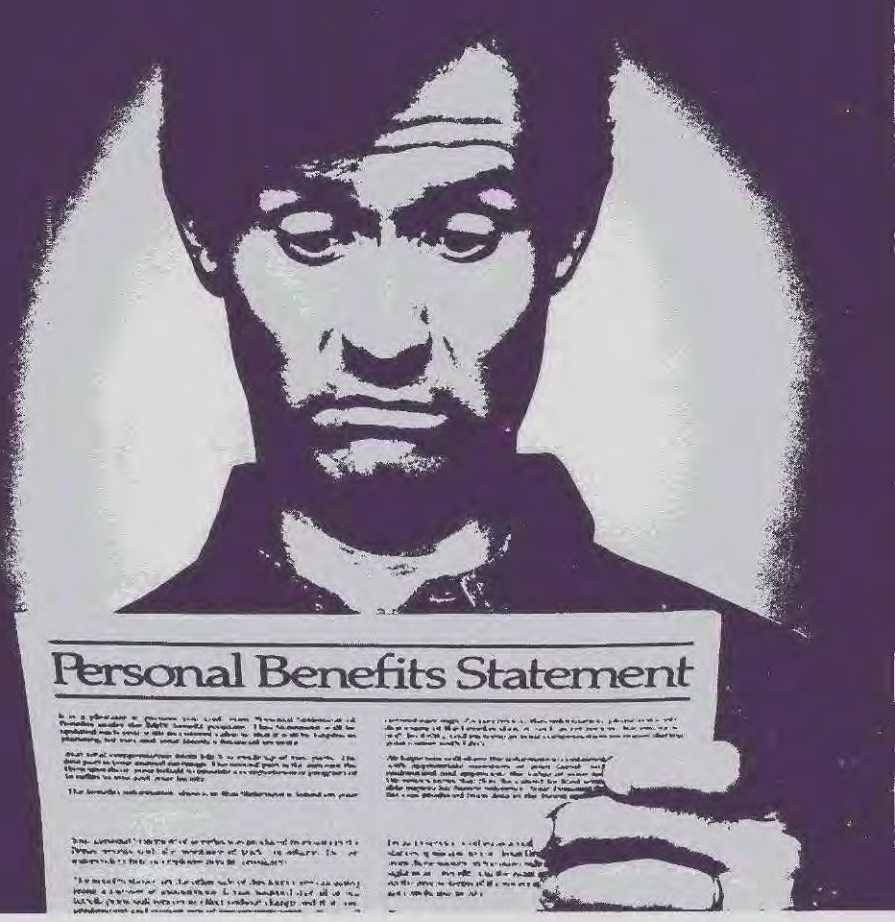

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Financial guarantee

Continued from page 3
entertainment tax on all stadium tickets and the general obligation credit of the city of Pittsburgh.

In addition, because the bond issue is insured by New York-based FGIC, the bonds carry a triple-A rating from both Moody's Investors Service Inc. and Standard & Poor's Corp. ratings services, according to a spokesman for FGIC.

The insurance on the bond issue guarantees timely payment of interest and principal.

"Our insurance makes it possible for the city to offer its debt at a lower rate, saving the city of Pittsburgh millions of dollars in interest payments," said FGIC Chairman Gerald L. Friedman.

The bond issue will pay 9% interest with a maturity date of 2011.

The city of Pittsburgh paid a premium of 83 basis points or about $633,000 for coverage on the bond.

This transaction represents the fourth bond issue that FGIC has insured for Pittsburgh since the company was founded two years ago.

And, around the country, such financial guarantee coverage for municipal bonds has become increasingly popular recently, as municipalities are searching for ways to attract investors back to the bond market (*BI*, May 27).

Financial Guaranty Insurance Co. is a wholly owned subsidiary of FGIC Corp., which in turn is owned by General Electric Credit Corp.; General Reinsurance Corp.; Lumbermans Mutual Insurance Co.; J.P. Morgan; Merrill Lynch, Pierce, Fenner & Smith; Shearson Lehman; and Mr. Friedman.

FGIC will have about $200 million in capital by the end of this year, according to a company spokesman.

The company will be eligible for a rating from A.M. Best Co. in 1990. ■

Seaway damage

Continued from page 2
any, liability it will bear.

"We are waiting for a full report," he said. "Lawyers are investigating the situation and looking to see if there are any liabilities."

Like all protection and indemnity clubs, Steamship Mutual has no limit on the amount of liability claims it will pay except for a $300 million pollution liability limit.

Experts estimate that ships stranded when the waterway is closed lose an average of $15,000 per day. Mr. Willans said owners of the approximately 50 ships that sat idle because of the closing could seek to recover lost revenue from Scindia.

He said last week that an investigation was continuing to determine why the freighter went out of control, veering and striking a stationary portion of the span instead of passing underneath the raised bridge.

The vessel is insured for an unknown amount in India through lead underwriter New India Insurance Co. in Bombay, and reinsured in the world market, according to a spokesman for Scindia. The spokesman said the insurance is sufficient to cover damage to the vessel.

'We're holding the vessel responsible. If they don't pay, we will certainly sue,' says Mr. Willans.

New India Insurance Co. has hired the Salvage Assn. in London to evaluate the damage to the ship and the bridge, but there are no details yet, according to a spokesman for the Salvage Assn.

As of late last week, the ship was still lodged in the bridge, although it was expected to be removed over the weekend.

When the ship crashed into the bridge, four vehicles fell from the bridge into the water, Mr. Willans noted.

Two people were pulled from the water and treated for minor injuries at a hospital, he said. Several others were able to flee the area before their vehicles tumbled into the canal.

The seaway has seen more than its share of closures recently, Mr. Willans noted.

The most recent closing of the waterway comes less than two months after it was shut down for repairs because of the collapsed lock at the Welland Canal.

More than 600 notices of intent to sue the authority have been filed by various shipping interests—including owners, charterers and cargo owners—that lost revenue when their ships were trapped in the seaway.

Mr. Willans declined to comment on the Seaway Authority's property and liability insurance except to say that the deductibles are "quite high."

Also, the St. Louis bridge is just a few miles from another bridge that malfunctioned last year and left 164 vessels stranded for about three weeks (*BI*, Dec. 17, 1984).

●

London Editor Stacy Shapiro also contributed to this story.

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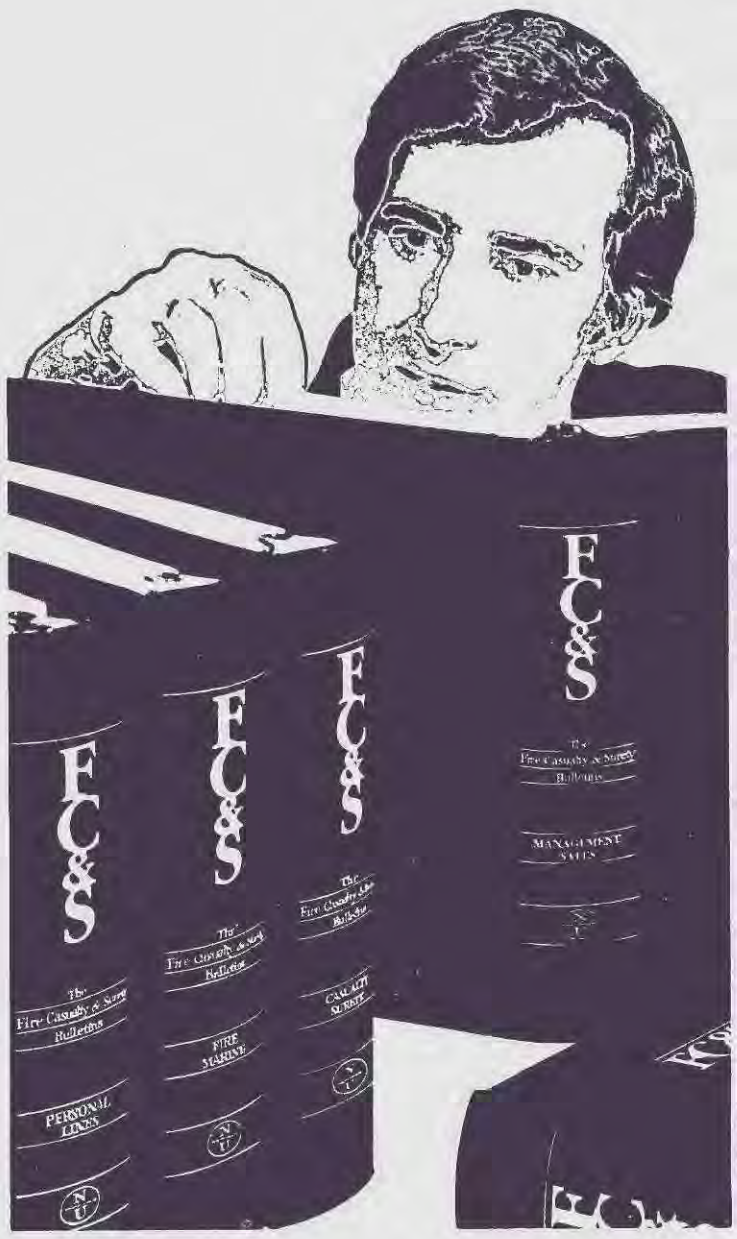

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Insurance crisis

Continued from page 3

saying the lawmakers are aware of the problems in the property/casualty insurance industry and will not kick the issue under the table.

"I don't think there is any more important issue before the Commerce Committee than insurance costs and product liability," said Sen. John Danforth, R-Mo., chairman of the Senate Commerce Committee.

Sen. Rockefeller reported that public officials have said at every West Virginia town meeting he has attended this year that they have been unable to obtain insurance.

Insurance costs "may be the most fundamental issue before the committee," Sen. Rockefeller said.

Risk managers were there to convince them it is the most fundamental issue.

Richard Heydinger, director of risk management for Hallmark Cards Inc. in Kansas City, Mo., said Hallmark paid less than $500,000 for $500 million of excess comprehensive general liability insurance in 1984. This year, Hallmark could obtain only $250 million of excess coverage at twice of last year's cost, he said. And that coverage included numerous restrictions.

Trying to renew coverage for next year "has been painstakingly slow and produced utter frustration," said Mr. Heydinger, who also is vp-government affairs for the Risk & Insurance Management Society.

So far, Hallmark has been able to line up commitments for just $11 million of excess liability coverage in 1986, and Mr. Heydinger doubts whether the company will be able to obtain more than $75 million to $100 million in coverage.

Municipal risk managers are in much the same situation.

Mark Ferraro, risk manager for the city of Dallas, said the city's liability insurers told Dallas in May that its excess limits would be cut to $5 million from $50 million, while premiums would be hiked 958% to $1.5 million from $157,000.

"Since buying $5 million of insurance coverage for $1.5 million was completely unacceptable to the city of Dallas, the decision was made to go bare," he testified.

"This leaves the city exposed to a possible catastrophic loss. Even a city with the financial strength of Dallas needs the ability to transfer the risk of catastrophic losses to an insurance company," added Mr. Ferraro, who spoke on behalf of the Public Risk & Insurance Management Assn.

William C. Wyer, president of the Delaware State Chamber of Commerce in Wilmington, gave several examples of how liability insurance premiums have leaped for several Delaware cities. For instance, liability premiums for Rehoboth, a seaside community, climbed 500% to $21,000 from $3,500, while the premium for the city of Dover increased 177% to $146,232 from $52,850, he said.

"If these trends continue, curtailment of city services or even going bare are very real possibilities for these cities," he added.

All but one of the 16 witnesses before the subcommittee agreed several factors—including the civil justice system and poor industry pricing practices—combined to produce the current crisis.

The lone dissenter—J. Robert Hunter, president of the National Insurance Consumer Organization in Alexandria, Va.—placed the blame solely on past pricing.

"The crisis was created by insurance industry ratemaking practices," Mr. Hunter argued. "The crisis is not related to the tort law."

Mr. Hunter, who was federal insurance administrator during the Carter administration, said insurers "bent over backward" to write "dreaded" liability insurance at cut rates in the early 1980s.

Then, not a word was whispered about problems with the tort system, he contended. But, as losses mounted due to inadequate prices, insurers began to blame their problems on the tort system, he said.

States have "miserably failed" to regulate the insurance industry, Mr. Hunter continued. He explained that states allowed rates to fall too low in the late 1970s and early 1980s and are now permitting rates to rise too quickly.

He recommended that Congress re-examine the McCarran-Ferguson Act, the federal law that leaves primary regulation of the insurance industry to the states. He also urged an expansion of the federal Risk Retention Act so employers can set up captive insurers or purchase all lines of liability insurance on a group basis with minimal interference from state regulators.

The Risk Retention Act now grants such an exemption from state regulation only to employers that buy product liability insurance on a group basis or set up special captives, known as risk retention groups, to insure their product liability risks.

Insurance industry officials agreed that today's large underwriting losses can be partly attributed to previous cut-rate pricing.

"Insurers did compete too hard for the premium dollar," admitted James Kimble, senior counsel for the American Insurance Assn. in Washington.

But, Mr. Kimble and other industry officials placed most of the blame for higher liability insurance rates on the legal system.

Mavis Walters, senior vp in the Washington office of the Insurance Services Office, said courts have ruled that liability insurance must cover damages from both sudden and non-sudden leaks of toxic waste, although non-sudden pollution was specifically excluded.

In addition, joint and several liability has been imposed on users of hazardous-waste dump sites, not only for future incidents, but also for all past incidents, she said.

"It is the near impossibility of determining actuarially sound prices in such a legal environment that has stopped insurers from insuring certain risks," Ms. Walters said. ■

Tort reform bill

Continued from page 3

Hearings on the new draft are not expected until January.

And, business groups declined to comment last week until they have studied the new bill.

If enacted, the measure would pre-empt varying state product liability statutes with one uniform federal law. This new law would give more certainty and balance to the legal system, supporters say.

Besides the exclusion affecting the tobacco and alcohol industries, the latest proposal also makes a significant change in the way punitive damages are assessed.

Under the proposal, plaintiffs seeking punitive damages would face two trials. The first would determine if the product was defective and whether the plaintiff is entitled to compensatory damages.

If compensatory damages are awarded, a second trial would be held to determine if punitive damages should be awarded.

Deciding punitive damages in a separate legal proceeding would help product manufacturers, one defense attorney said. Jurors deciding compensatory damages would not be biased by the size and profitability of the product manufacturer, since those issues normally come up only in the context of whether punitive damages should be awarded, the attorney said.

Under the draft, punitive damages could only be awarded if compensatory damages were awarded.

And, like the first draft proposed by the staff, the latest proposal specifies that judges set the amount of punitive damages, though juries could determine whether punitive damages should be awarded.

Also, the draft would bar punitive damages if the unsafe aspect of a product met regulations approved by Congress or a federal agency.

For example, if an automobile gas tank met National Highway Traffic Safety Administration regulations, an automaker would not be liable for punitive damages if the tank exploded upon impact.

Another new section in the latest draft gives the secretary of commerce power to propose regulations spelling out how much product liability insurance certain foreign manufacturers must carry.

This section—which one source says is aimed at so-called "fly-by-night" companies—would apply only to foreign manufacturers that are not incorporated or registered to do business in the United States. Apparently, it would not apply to those with full-fledged U.S. operating subsidiaries.

Like the first draft, the new proposal says government aerospace and defense contractors could not be sued if their products met government contract specifications.

Both drafts would give manufacturers of capital goods, like a printing press, an absolute defense if their products were more than 25 years old at the time of an accident.

Non-manufacturers, like wholesalers and distributors, also would be protected from most suits. Generally, they only could be sued if a court was unable to enforce a judgment against a manufacturer. ■

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(Exclusively through Agents and Brokers)

Defense costs

Continued from page 1

on is a whole new generation of conflicts, bad-faith claims and unwarranted settlement demands, where the solution is worse than the disease you're trying to cure," Mr. Mallen explains.

Jon Harkavy, director of governmental affairs for the Risk & Insurance Management Society and a member of the ABA task force, is more direct: "I fail to see how ISO's plan will serve as litigation cost containment."

Mr. Harkavy detects "a fair amount of agreement among defense and plantiffs' counsels, even among those not on the task force, that they do not like defense within limits."

Louis B. Potter, executive director of the Defense Research Institute in Chicago and a member of the task force, says that most defense attorneys realize that insurers are facing "monstrous litigation costs, but our feeling is that defense within limits will make it worse because it will result in a lot of bad-faith judgments against the insurers."

John R. Dunne, a partner with the law firm of Rivkin, Radler, Dunne & Bayh and a member of the task force, says the defense bar has a "very important stake in this issue from an economic standpoint and they are also concerned about the impact on the consumer in terms of premium cost."

Insurance industry representatives admit that including defense costs within policy limits will require policyholders to buy more insurance. But, they add, they expect lower limits of insurance to cost less, allowing policyholders to buy more coverage.

Members of the task force are sensitive to accusations that they simply are trying to protect attorneys' legal fees. Mr. Ferriman notes that the task force includes members that represent insurers and policyholders, along with defense and plaintiffs' attorneys.

Who would control defense litigation is a major concern to lawyers in the debate over including defense costs within policy limits.

Insurers advocating the inclusion of defense costs within policy limits say it will encourage policyholders to be more economic in their direction of claims defense.

But, historically, insurance companies have tried to maintain tight control over litigation of third-party claims against their policyholders, notes Mr. Potter. And, in most cases, the insurer selects and instructs legal counsel, he says.

"Defense within limits will greatly erode the ability of the insurer to control litigation," he says. "By including defense costs within limits, they link together every lawsuit the insured may become involved with."

This, he says, would further aggravate the natural conflict between the insurer and the policyholder—the insurer wants to settle and the policyholder wants to fight every claim.

Mr. Potter says that the defense bar is caught in the middle between the policyholder and the insurer.

Other members of the task force agree. Mr. Harkavy maintains that most defense attorneys believe that they are already walking a thin line between the obligation they owe to the insurer and to the policyholder.

"If you have defense within limits, the policyholder will have the complete right to control the litigation. That seems to be the assessment of every counsel I've talked to," Mr. Harkavy says. "I don't think the carriers realize the degree to which they are going to give up control of litigation; nor do I think the average policyholder is ready to take control of litigation, as he is going to have to."

Currently, the defense counsel has an obligation to both the insurer and the policyholder. "That's based on the fact that the insurer is providing defense above and beyond the limits of the policy," Mr. Harkavy explains. "But, if you take that away, I think the courts will say there is no dual loyalty."

Mr. Harkavy and other members of the task force explain that in giving up control of third-party litigation against their policyholders, insurers will lose much of their ability to control settlements. And, including defense costs within policy limits will encourage policyholders to settle claims that even insurers would say probably should be litigated.

Risk managers generally want more control over litigation against their companies, but not at the expense of limits available to pay indemnity claims.

Noting that several states—including California, Illinois, and New York—already recognize policyholders' rights to counsel independent from the insurer in some cases, Mr. Mallen says ISO's proposal will simply bolster the trend of allowing the insured to select independent counsel.

"And," Mr. Mallen says, "the independent counsel the insured's picked is going to say one thing: Pay what's left of the limits. A settlement that's unreasonable at the outset becomes more reasonable as the limits erode," he explains.

In the case of a claims-made policy, Mr. Harkavy says he sees risk managers waiting until the end of the year to decide whether to fight or settle a claim. "If the risk manager sees that he has only two or three claims and is nowhere near his policy limits, he's probably going to want to defend the hell out of it," even if it would be more cost-effective to settle the claim.

By the same token, if the policyholder has almost exhausted the policy's limits, he may settle a claim that probably should be litigated, fearing that defense costs would eat up the remaining policy limits and leave him holding the bag for the ultimate settlement cost of the claim.

In addition to costing insurers control of litigation and triggering ill-advised settlements, including defense cost within CGL policy limits will spark a new round of bad-faith claims against insurers, several members of the ABA task force warn.

"Every time the aggregate policy limit is busted because of defense costs and there's nothing left to pay the plaintiff, I see punitive damages against the insurance company," Mr. Harkavy concludes.

Once the limits of a policy are exhausted, Mr. Potter explains, the problem of how to proceed arises. "The insurance company wants to walk away at some point, but the insured is still there and the defense counsel is still there and the litigation is still there."

Mr. Potter points out that the courts are generally "not very sympathetic to insurance companies anyway," and this proposal simply opens up more opportunities for bad-faith claims whenever there is not enough insurance coverage remaining to pay the plaintiff.

Mr. Mallen says that if policy limits are adequate, including defense costs within policy limits will have no effect. But, if defense costs threaten to erode the limits for indemnity payments, both the insurer and the policyholder will be hurt, he adds.

"This creates a logical insolvable conflict in that any dollars spent on defense take away from the client's protection," he says. "The only safe course for the insured is to have the case settled within the policy limits, regardless of merit," he concludes.

Mr. Mallen sees other problems arising from the proposal. Determining the amount of coverage needed for defense costs in addition to indemnity payments will be difficult, he says.

'I fail to see how ISO's plan will serve as litigation cost containment,' says Mr. Harkavy.

Furthermore, he sees administrative problems in that the insurer will have to track defense costs on a monthly basis rather than paying lawyers at the end of the year.

If insurers do not track defense costs on a monthly basis, they could find that a policyholder's limits were exhausted by defense costs months earlier, but the policyholder was not informed at the time. That could also open insurers to bad-faith actions, he warns.

Other members of the committee include Joseph A Bambury Jr., general counsel for Royal Insurance Group in New York; Leonard Decof of Decor & Grimm in Providence, R.I.; Christopher C. Mansfield, general counsel for Liberty Mutual Insurance Cos. in Boston; John J. Martin of Bingham Englar Jones & Houston in New York; David S. Shrager of Shrager McDaid & Loftus in Philadelphia; and John W. Thornton of Thornton Roschman & Morano in Miami. ■

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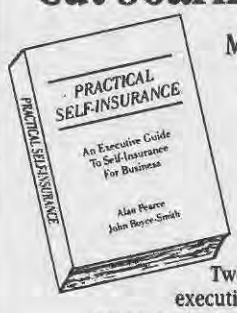

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Guaranty funds

Continued from page 1
nancial guarantee policies (*BI*, Nov. 25).

The proposal before the NAIC would deny policyholders whose net worth exceeds $10 million access to the funds for recovery of first-party claims.

The new restrictions on guaranty fund coverage are designed to lessen the burden on surviving insurers and protect the funds from running out of their assessment authority to cover claims against insolvent insurers.

Last year, for example, the Hawaii Insurance Guaranty Assn. assessed its maximum of 2% of net direct written premiums, assessing a total of $10.6 million. The amount covered claims payments.

This year, Hawaii has assessed only 1% to collect $6.5 million, according to Clifford House, the fund's administrator.

Assessments this year in other states that historically have levied the largest assessments to fill the coffers of their guaranty funds show why insurers are concerned.

The California Insurance Guarantee Assn. expects to assess insurers $55 million this year, more than ever before, according to John Gates, the fund's executive director in Los Angeles.

The Florida Insurance Guaranty Assn., one of the largest in total payments since its inception, has assessed its licensed insurers the maximum allowable—1% of net direct written premium—in three of its four claim assessment categories.

Florida has assessed the maximum allowed this year to cover workers compensation, auto liability and auto physicial damage claims. Only its "all other" category is permitted more assessments.

In previous years, Florida has levied the 1% maximum in one or two categories, but not in three, reports P.J. Meunier III, the fund's manager in Jacksonville.

'. . .We're paying for bad management and poor underwriting practices,' says Mr. Gates.

The $30 million assessment this year against Florida's 450 licensed insurers will enable the fund to pay policyholders an estimated $50 million, up from $14 million last year, Mr. Meunier says.

The 1985 assessments in Florida will cover claims payments, but if the assessments were to fall short, the fund could borrow money from licensed insurers, borrow money from banks or seek advance payments from the receivers of insolvent companies.

The smaller assessment in 1985 than the $42 million assessed in Florida in 1984 was made possible by interest on loss reserves and proceeds from the sale of assets of other insolvent companies.

The fund is now paying claims on 20 insolvencies, 12 of which occurred in the last two years.

The Maryland Insurance Guaranty Assn. will assess insurers about $13 million this year; it asked for nothing in either 1984 or 1983, according to Joseph R. Petr, executive director and counsel.

"This year, they're coming in heavy," Mr. Petr says of insurer insolvencies.

Maryland's is the only fund that does not cap claim payments, but Maryland's Legislature is considering a bill proposed by the state Insurance Department that would cap payouts at $300,000.

Claims for surety losses would be excluded under the proposal. Maryland's is one of less than a dozen funds that respond to surety losses.

The Georgia Insurers Insolvency Pool has collected $10.5 million this year to cover eight insolvencies—after three years during which the state's 450 licensed insurers were spared any assessments.

The Georgia fund will pay policyholders an estimated $3 million this year—nearly the $3.4 million it paid out during the 14 years between 1970 and 1984.

Unfortunately, Georgia "hit the jackpot this last year," notes Percy Marchman, administrator of the fund.

Georgia's guaranty fund now pays out up to $100,000 per claim. That is up from the $50,000 per-claim cap it applied prior to July 1.

Illinois might assess its 700 insurers an estimated $10 million this year, up from about $5.9 million last year, says James Stevenson III, manager of the Illinois Insurance Guaranty Fund in Chicago.

Pennsylvania, which ranks third among all states in assessments through 1984, will determine the 1985 assessment within the next few weeks. Officials there were unable to predict what the figure might be, but it is expected to be significant.

Through 1984, the Pennsylvania Insurance Guaranty Assn. assessed insurers $25.9 million.

Guaranty funds are preparing for more activity next year.

"All indications are that insolvencies will continue. Nineteen eighty-six looks like a bad year," observes Florida's Mr. Meunier.

Two months ago, directors of Florida's fund adopted contingency plans designed to keep the fund properly staffed if several major insolvencies were to strike simultaneously, reports Mr. Meunier.

Additional insurance company insolvencies in 1986 would certainly increase demands on guaranty funds, but guaranty fund managers do not appear concerned that their funds will not be able to meet demands.

Assessments are based on premiums written in the previous year, and premiums this year rose swiftly on the strength of big rate hikes. As a result, guaranty funds in 1986 will have access to an even larger premium base than they do this year.

Concern that guaranty fund assessments could drive surviving insurers into insolvency, too, may be unfounded.

Insurers can pass on the cost of guaranty fund assessments to their policyholders.

And, if an insurer can show that paying a guaranty fund assessment would impair its financial strength, the guaranty fund could excuse the company from its obligation, notes NCIGF's Mr. Marcus.

Nonetheless, insurance companies would like to see less guaranty fund activity.

"They've never liked the idea of being assessed to pay for the insolvencies of their competitors. The more they're assessed, the less they like it, so now that assessments are up, they like it even less," says Phillip Schwartz, vp-financial reporting at the American Insurance Assn. in New York.

"From a cold business standpoint, we're paying for bad management and poor underwriting practices," observes California's Mr. Gates.

Georgia's Mr. Marchman says that state's guaranty fund tries a positive approach. "The better job we do in the insolvency, the better the image will be of the insurance industry, which is already bad," he suggests.

While guaranty fund assessments aren't welcomed by insurers, few policyholders turning to the funds have complaints.

"I'm generally impressed with the way the various state guaranty funds have taken over," reports Thomas A. Duffield, vp-insurance and risk management at Archer-Daniels-Midland Co. Inc. in Decatur, Ill. Numerous state funds are now handling ADM's workers compensation claims since Ideal Mutual Insurance Co. was placed in liquidation by the New York Insurance Department early this year (*BI*, Jan. 14; Feb. 11).

Ideal Mutual had acted as a fronting insurer for ADM, reinsuring ADM's workers compensation business with ADM's Cayman Islands-based captive insurer. ■

New York's fund unique

While guaranty funds in most states are levying record assessments to cover claims against insolvent insurers, New York's guaranty fund is paying claims with money collected more than 10 years ago.

New York's Property/Casualty Insurance Security Fund is the only property/casualty guaranty fund in the country that prefunds for its liabilities. New York maintains at least a $150 million balance in its fund.

New York last assessed licensed insurers in 1973, when it collected $15 million to $20 million, says Frank D'Amico, director of taxes and accounts in Albany.

Anytime the fund falls below $150 million, licensed insurers are assessed 0.5% of net direct written premiums during the previous year.

With $180 million on hand now, New York's fund does not expect to make a new assessment for at least another year.

For the 12 months ending March 1, 1985, New York's fund had paid out $21.5 million.

New Jersey's guaranty fund originally also was pre-funded, but it switched to its current post-assessment method in 1974.

update

Probe salvage won't help rates

Continued from page 2
rates, sources say.

Underwriters paid the $85 million claim when the Syncom, which was to be leased to the U.S. Navy, was disabled in April by an engine malfunction (*BI*, April 22). In August shuttle astronauts fixed the engine, which lifted the probe into proper orbit. Late last month, the probe was turned over to the Navy, Hughes said.

According to an agreement under which the underwriters paid the claim, insurers will receive $32 million from Hughes 30 days after the satellite's acceptance by the Navy. In addition, Hughes and the insurers will divide the lease payments from the Navy during the second through the fifth year of the lease. The insurers should receive $65 million to $85 million, underwriters say (*BI*, Aug. 19).

Coverage for the probe was written by U.S. underwriters led by International Technology Underwriters Inc., London underwriters and French underwriters.

GOP drafts 'alternative' tax bill

WASHINGTON—A "Republican alternative" to the tax plan approved last week by the House Ways and Means Committee proposes higher 401(k) salary deferral limits, no cuts in maximum pension benefits and fewer new taxes on property/casualty insurers.

The alternative, released last week by House Republican leaders, proposes a $12,000 maximum annual limit on 401(k) salary deferrals, compared with a $7,000 limit approved by the committee.

Under the alternative, maximum contributions to Individual Retirement Accounts would be reduced dollar for dollar by 401(k) deferrals exceeding $10,000. The committee bill would reduce IRA maximum contributions by any amount deferred to a 401(k) plan.

The alternative, which Republicans want the full House to consider, makes no changes in 401(k) non-discrimination rules and retains the current $90,000 limit on the annual benefit paid per retiree by a defined benefit pension plan and the $30,000 limit on annual contributions per participant to a defined contribution plan. The committee bill proposes complex 401(k) non-discrimination rules and cut in defined benefit and defined contribution limits to $77,000 and $25,000, respectively.

However, the GOP alternative calls for taxing employees on employer-paid premiums for the first $50,000 of term life insurance coverage. The Ways and Means bill keeps this benefit tax-free.

While imposing a tax on portions of property/casualty insurers' unearned premium income, the alternative makes no mention of some insurer taxes approved by the committee (*BI*, Nov. 25).

Superfund reauthorization

Continued from page 3
they file legal actions seeking restitution for bodily injury and property damage stemming from exposure to hazardous wastes.

A similar amendment was narrowly defeated by the House last year during consideration of Superfund reauthorization legislation. That bill died when the Senate failed to take action on it.

Insurance industry lobbyists also hope to persuade the House to include language that would establish a mechanism to encourage voluntary settlements of Superfund cleanup litigation.

Insurers contend that the Environmental Protection Agency's current settlement policy regarding Superfund suits is too litigation-oriented. They want an amendment to the Superfund law that would require the EPA to calculate the contributions of individual companies to a waste site so that the companies can make settlement offers before the cleanup cost of the site is litigated.

Insurers also hope to persuade the House to change language in the bill that would pre-empt state statutes of limitations in toxic exposure cases.

The compromise bill considered by the House would allow personal injury suits to be brought in state courts based on the date an individual discovers that he or she was injured, rather than on the date that the person was exposed to hazardous waste.

While most state statutes of limitations are based on the date an injury is discovered, about a dozen states base their statutes of limitations on the date of exposure. Insurers want the Superfund language modified to retain the status quo in those states.

However, insurers do not plan to lobby against the so-called citizen suit provisions in the House bill, which would allow citizens to file suit in federal court to force companies to clean up hazardous-waste sites.

Under the current Superfund law, only the Environmental Protection Agency has the authority to bring such cleanup actions. ■

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Asbestos facility not the answer

SANTA MONICA, Calif.—An asbestos claims facility set up to handle asbestos claims outside the court system may not be the answer for resolving future mass toxic tort claims, according to the most recent study on asbestos litigation by the Rand Corp.'s Institute for Civil Justice.

Without criticizing the concept, the study says that the recently created asbestos claims facility is not a substitute for the tort system.

"It is more an adjunct to, than a substitute for, the tort system," the study says.

And, the study points out, the facility was organized only after extensive asbestos litigation had established ground rules. Many issues resolved by asbestos litigation enabled the parties to agree on elements of the facility, the study says. Litigation for other mass torts has not been as well developed.

The facility was created "after extensive experience has been achieved in an informal allocation of responsibility among participants in several different asbestos markets," the study observes.

"In this context, coordinated negotiations primarily involve how much a claim is worth rather than whether it is compensable."

This may not be the case with future toxic tort litigation, the study warns.

"In future mass litigation marked by uncertainty over whether claimants can make their cases stick at trial, a claims facility may not be workable, at least not until the potential gains of plaintiffs and defendants, as well as the relative burdens of defendants, have been established through sufficient experience with ordinary litigation."

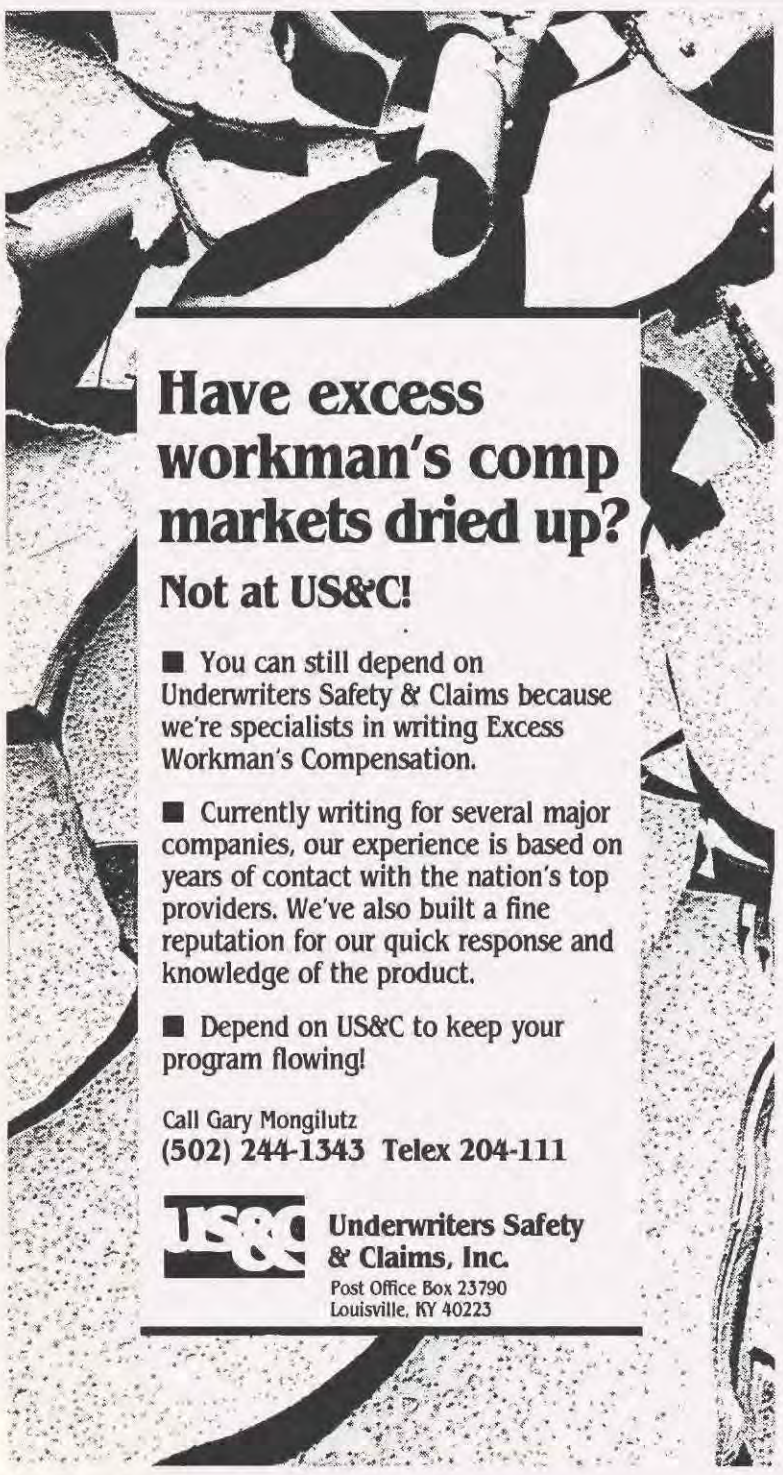
The study says that it is far from clear that the facility will work even for asbestos.

"It is an open question whether asbestos plaintiff lawyers intend to cooperate with the ACF, especially since the less than 100% membership of defendants and insurers means that lawsuits will have to be filed in any event, and since negotiating with the ACF involves giving up punitive damages claims against its members," it adds.

Nevertheless, the study says that the facility does promise substantial cost savings, may settle claims before suits are required or may settle them in early or middle stages of litigation rather than in the latter stages as currently occurs.

The asbestos claims facility was created earlier this year after more than two years of negotiations between major asbestos insurers and producers (*BI*, July 1; May 28, 1984).

Fifty asbestos producers and insurers signed the Wellington agreement. The facility, which is represented by counsel for the group rather by separate lawyers, has concluded some settlements.



Rand report

Continued from page 3

The report urges that a national commission should address at least six concerns to improve the "fit" of mass toxic tort claims within the tort system. These include:

- The proper timing for filing claims.
- Legal standards of causation to fit the realities of toxic exposure.
- Theories of liability and damage apportionment.
- Inadequate judicial resources.
- Redundant litigation.
- The national character of mass toxic torts.

However, the report does not make specific recommendations on changes, deferring to a national commission to recommend major policy changes.

The commission should include representatives of industry, labor, consumers, government, physicial scientists, social scientists and legal scholars, the institute says. The commission should not be controlled by participants in the asbestos crises, the institute advises.

If a national commission is not formed, the report warns, "We will likely continue to struggle through the existing thicket of the civil justice system." The result: Some victims would be overcompensated but many more would be ill-attended, lawyers could be overpaid and the ability of the courts to deliver individualized justice to plaintiffs could be jeopardized.

And, maintaining the current system could result in "compromising our capacity to estimate risk and ensure against it."

The current tort system for handling asbestos claims "is not working well," says Deborah R. Hensler, a senior social scientist and leader of the four-member research team that produced the report.

"There are serious systematic problems and, in the interest of handling future litigation like this, we ought to find a better way of handling these claims," she said.

The Rand report warns: "The disposition of asbestos claims will continue to be a major problem well into the future.

"More important, this historical view of the complex asbestos experience raises serious questions about the ability of the tort system to respond to claimants in other toxic tort litigation in a timely, efficient and equitable manner."

This most recent study follows two others by Rand on the problems of asbestos litigation. One of the studies showed that of the $1 billion spent by defendants in the last decade on asbestos litigation, 60% went to defense costs and only 24% to injured claimants, with the rest going to plaintiffs' attorneys (*BI*, Aug. 1, 1983).

For its most recent report, Rand studied how 10 state and federal courts in different regions of the country handled asbestos claims during the mid-1980s.

Currently, more than 30,000 lawsuits have been filed by asbestos victims and it is estimated that 32,000 to 200,000 additional personal injury claims will be filed in the next 30 years at ultimate liability and transaction costs estimated at from $4 billion to $87 billion.

Rand relied on several studies by others in citing such a large range of the ultimate cost. But, these figures do not include more recent classes of asbestos suits, such as those seeking removal of asbestos from buildings, which also seek billions of dollars in damages.

After an initial surge of asbestos claims were filed in the late 1970s and early 1980s, thousands of lawsuits remain clogged in the legal system, generating high litigation costs and, in some cases, extremely slow dispositions, the study found.

For example, in figures collected for 1984, the study shows that less than 32% of claims filed had been disposed of in five jurisdictions, while one jurisdiction—the federal court in Massachusetts—had disposed of less than 1% of the more than 2,100 claims filed.

Also, after six or more years of asbestos litigation in state court in San Francisco, only 11% of the cases had been completed.

Four jurisdictions, however, had "moderate" rates of disposition, including the federal court in Northern California, which disposed of 65% of claims filed.

While courts and attorneys have in some cases worked out informal methods for dealing with some of the problems brought on by the large amount of asbestos litigation, in many cases these have not led to to the rapid disposition of cases.

The peculiarities of asbestos litigation is the root of the problem, the study says, adding asbestos cases are hard to evaluate, troublesome to negotiate and frequently complicated to try.

These peculiarities include the overwhelming number of cases, difficulties in determining when a claim should be brought to court, whether an injury has actually occurred, the appropriate grounds for finding liability, who should contribute to compensation and what share should be paid by each defendant.

These are questions the tort system handles fairly easily for traumatic injuries, but which pose special problems in latent injury cases, the study says.

"For the most part, the courts have insisted on applying traditional notions of claim definition, causation and liability," it says.

Trying to fit these notions, which evolved from a consideration of traumatic injuries, to asbestos injury claims increases transaction costs and leads to a greater variation in outcomes than occurs in other injury claims, it says.

For example, statutes of limitations create problems because asbestos-related diseases often take more than 20 years to appear in a victim. As a result, substantial litigation over how to apply these statutes to asbestos litigation has erupted in many jurisdictions. And, appellate courts have ruled differently, denying rights of action to some plaintiffs while permitting others to bring their suits.

Furthermore, courts and attorneys find it difficult to evaluate asbestos cases because of difficulties in diagnosing asbestos-related diseases, their progressive nature, changes in rules governing asbestos litigation and legal personnel involved in the litigation, the possibilities of punitive damages, wide swings in jury verdicts in cases that have been tried and the uncertain status of certain legal issues.

Negotiation is complicated because of the large number of defendants and the diversity of interests among them, the study adds.

Faced with these problems, plaintiffs and defendants often have resorted to group or block settlement of numerous cases. But, the study notes this can involve conflicts of interest among plaintiffs' attorneys and can reduce the amount plaintiffs collect.

For example, a plaintiffs' attorney has a much greater financial stake in the outcome of a group settlement than for any single client. The study says cases have been "traded" in group settlements, meaning lawyers agree to overcompensate some plaintiffs and undercompensate others.

The study also cites reasons why both defendants and plaintiffs do not have incentives to dispose of cases as quickly as possible.

Casualty insurers that defend asbestos producers, for example, profit from litigation delays in cases with large financial stakes because they can earn interest on loss reserves until claims are paid.

And, when many claims are involved, delays also reduce insurer cash-flow problems.

Also, as cases are prolonged, some plaintiffs die from asbestos-related causes. The wrongful death actions that follow are usually disposed of for less money than the original claim would have been. Or, if the plaintiff dies from an unrelated cause, the amount of any award is likely to be even less.

Plaintiffs' attorneys, meanwhile, also have incentives to delay disposition, the study says. For one, they are reluctant to hire additional staff to settle cases more quickly because of their unwillingness to share their contingent fees.

As a result of all the problems involved, "the rational response of participants in asbestos litigation has been to create a system that superficially looks like litigation, frequently behaves like administration and is often plagued by the snail's pace of the one and the insensitivity to circumstance of the other," the report states.

But, the Rand portrait of the civil justice system dealing with toxic torts and asbestos is not all bleak.

While motivated by the potential for large contingent fees, plaintiffs' attorneys bringing large numbers of cases into the tort system have succeeded in establishing the damaging effects of asbestos and the responsibilities of defendants. ■

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BI Insurance Index

The *Business Insurance* index posted a record high for the fourth consecutive trading period, ending Dec. 4, as industry stocks continued to surge. The *BI* index closed at 412.2 points during the trading period, up 3.8 points from 408.4 points at the close of the previous period. Thirty-five issues posted gains, 16 declined and seven were unchanged. The largest gains were posted by W.R. Berkley Corp., up 18.6%; Business Men's Assurance Co. of America, up 9.6%; Crown Life Insurance Co., up 8.0%; American International Group Inc., up 6.8%; and Statesman Group Inc., up 6.1%. The largest declines were posted by Mission Insurance Group Inc., down 25.0%; Aneco Reinsurance Co. Ltd., down 12.5%; Tokio Marine & Fire Insurance Ltd., down 4.8%; Nobel Insurance Ltd., down 4.2%; and Poe & Associates, down 3.6%. The *BI* stock index increased 0.9% during the latest trading period, which trailed the increases in the major market indicators. The Dow Jones 30 Industrials rose 1.9%, the Standard & Poor's 500 index rose 1.8% and the NYSE composite rose 1.7%.

British Issues

3 Dec Companies	Price pence	P/E	Div. pence	Yield %	1 Week High—Low pence
Comml Union	227	N/M	16.9	7.4	236—227
Genl Accident	705	32.0	31.4	4.5	722—705
Gdn Royal Exch	735	63.9	38.6	5.2	747—735
Royal	765	47.8	35.0	4.6	785—780
Sun Alliance	545	90.8	23.6	4.3	558—540
Brokers					
CE Heath	670	8.7	37.5	5.5	673—663
Hogg Robinson	293	12.2	14.3	4.9	294—287
JH Minet	225	10.2	11.4	5.1	231—225
Sedg Grp	358	14.3	17.8	5.0	370—358
Stew Wrightson	710	13.7	32.8	4.6	723—710
Willis Faber	798	20.5	23.6	3.0	798—793

Source: Philip Olsen/Alan Clifton, Insurance Industry Specialists Kitcat & Aitken Stockbrokers, London

Variety of factors affect brokers' profit margins

By LEONARD M. WILSON

Special to Business Insurance

THE ISSUE OF profit margins in insurance brokerage is an important one.

The current recovery in profit spreads has farther to travel, we think most observers would agree. At what level, though, will the profit margins of publicly owned brokers settle?

The answer to this question will determine the earnings momentum for the major brokers over the next several years.

Mr. Wilson

We began to think about the varied influences on brokerage margins. Some restrain profitability, others lift margins. The interaction of the variables produces a final result that cannot be predicted with any degree of precision.

Client needs are one factor that restrict profit margins. Staffing programs must presuppose that the client is to be adequately serviced.

In the increasingly complex world of corporate insurance, talent carries a high price tag. If profit margins were to get too high, it might be a sign that the broker's capabilities are being stinted, and it might be a harbinger of long-term competitive weakness.

Competition among brokers also works to hold down margins. Brokers do not price their services in a vacuum, but competition most often assumes forms other than commission adjustments. Maintaining competitive position is a cost that brings down the equilibrium level of profits.

Insurance brokerage commissions also currently are subject to scrutiny by both insurance companies and clients. In the current climate of insurance company stress on underwriting profit, acquisition costs have felt the zeal for cost reduction.

Brokers' commissions, for the most part, are not advancing proportionately with the rise in premiums. Whether it be the underwriter's desire to shave expenses or the client's reluctance to go along with a quantum jump in commission, the public brokers quite likely are experiencing some erosion in their commission rates.

The total picture, though, is not a gloomy one. Powerful forces are working to expand brokerage profitability.

Notwithstanding the probable slippage in commission rates, the rise in premium rates has provided an estimated 15% to 20% increment to year-over-year brokerage commissions. But, in perspective, this lift to commissions does not compensate brokers fully for the shrinkage undergone during the long soft market.

Productivity gains also are a key contributor to higher margins. We believe that the investment in data processing during the lean years now is paying off in the form of a slower growth in head count.

Productivity gains are difficult to quantify with any degree of precision. But, annual increments as small as 2% to 3% compounded over a number of years have a significant impact.

Working more subtly, economies of scale make themselves felt as well on the profit side of the ledger. Public brokers are larger today, in part because individual offices have grown in size.

As a general rule, excluding the effect of highly profitable specialties, the larger office can be more profitable because staffing costs and overhead can be spread over a wider revenue base.

The low rate of embedded inflation has quite positive long-range implications for profit margins. The dreadful squeeze on earnings from 1979 through 1983 reflected not only soft premium rates, but also an unseemly high rate of general inflation.

In contrast, employment costs on a per-capita basis should benefit from a low rate of inflation over the balance of this decade.

Other influences on profit margins include the business mix—or more precisely, shifts in mix—and management objectives. A brokerage's management, seeking rapid growth, might be willing to sacrifice higher profit margins to investment spending for faster progress.

We believe that the variables promoting wider margins are a great deal more potent than those working in the other direction. Where this leaves profit margins in the current cycle is still difficult to forecast. In many industries, return on equity can be the yardstick for gauging appropriate profitability. In insurance brokerage, that measure can be deceptive.

We feel that most service businesses have values that do not appear on the balance sheet in the form of expertise and organization. As a consequence, we would argue that shareholders' equity in insurance brokerage as carried on the balance sheet understates true values. Therefore, return on stated equity justifiably should exceed levels in most industries.

In our view, the margins in insurance brokerage, over an extended period, should be in the area of 20% on a pretax basis, and return on stated shareholders' equity should approach 30%. These returns are consistent with a high-quality service business.

Within the universe of public brokers, margins will, to be sure, vary depending upon the business mix and, as we indicated earlier, management objectives.

The current rebound in profit margins may not reach the 1977-78 peaks. But we foresee enough recovery to provide significant earnings momentum for several years. Assessing the variables that dictate profitability necessarily is a continuing process, however, in the analysis of current trends.

Leonard M. Wilson, a special limited partner at L.F. Rothschild, Unterberg, Towbin in New York, specializes in insurance brokerage stocks. He is a member of the New York Society of Security Analysts.

Industry results

The U.S. property/casualty insurance industry reported that net aftertax income rose 118% to $1.49 billion in the first nine months of the year, compared with $685 million in the first nine months of last year.

Written premiums during the first nine months totaled $102.84 billion, up 19.3% from $86.21 billion last year, according to the industry survey by the Insurance Services Office and the National Assn. of Independent Insurers.

Insurers participating in the survey account for 97% of the nation's property/casualty business.

The ISO/NAII findings are comparable to the results of a *Business Insurance* survey of major commercial property casualty underwriters (*BI*, Dec. 2). The insurers participating in the *BI* survey reported a 20.6% increase in net written premiums, compared with the 19.3% increase reported in the industry survey.

ISO and NAII reported that pretax underwriting losses grew 16.4% in the first nine months of 1985 to $17.05 billion from $14.65 billion in the comparable period of 1984. Underwriting losses among the insurers surveyed by *BI* grew only 4.7% over the same period.

The industry's pretax net investment income grew 21.1% in the nine-month period to $17.15 billion from $14.16 billion last year. The insurers surveyed by *BI* reported a 10.7% increase in investment income.

In the third quarter, the industry's net aftertax income grew 207% to $378 million from $123 million in the third quarter of 1984.

Business Insurance surveyed the large insurers only on their nine-month results.

Written premiums for the industry grew 22.2% in the quarter to $36.9 billion from $30.2 billion last year.

However, underwriting losses increased 22.9% to $5.9 billion in the third quarter from $4.8 billion in the comparable quarter of 1984.

Net investment income rose 34% in the quarter to $5.91 billion from $4.41 billion.

A.M. Best Co. separately reported that the property/casualty industry posted an aggregate combined ratio of 115.89% for the first nine months of 1985, compared with a 116.8% combined ratio in the same period of 1984.

The major insurers surveyed by *BI* reported an aggregate combined ratio of 117.4% during the nine-month period, compard with a 120.1% combined ratio in the first nine months of 1984.

According to Best, the industry's nine-month loss ratio stood at 76.86%, up from 76.17% in the comparable period of 1984, while the expense ratio was 26.2%, down from 27.88%. ■

BI Industry Stock Report

December 4, 1985 11/28/85 thru 12/4/85

		Price	% Chg.	P/E	$ Div.	% Yld.	High	Low	Vol.(000)
Brokers									
Alexander & Alexander Svcs	NYSE	32.13	1.6	0.0	1.00	3.1	32.75	31.88	246.7
Baldwin & Lyons Inc	OTC	65.25	5.2	14.4	0.80	1.2	69.00	62.00	2.7
Corroon & Black Corp	NYSE	58.25	1.3	78.7	1.00	1.7	58.63*	58.00	59.7
Crump E H Cos Inc	OTC	19.75	-0.6	21.2	0.25	1.3	19.75	19.75	133.0
Emett & Chandler Cos Inc	OTC	17.50	0.0	30.2	0.00	0.0	18.00	17.50	18.0
Gallagher Arthur J & Co	OTC	48.25	2.1	23.7	0.28	0.6	48.25	47.25	9.7
Hall Frank B & Co Inc	NYSE	27.38	-1.4	0.0	0.00	0.0	28.13	27.38	295.4
Marsh & McLennan Cos Inc	NYSE	83.50	5.0	19.9	2.70	3.2	83.50*	79.75	189.3
Poe & Assoc Inc	OTC	13.50	-3.6	0.0	0.80	5.9	13.75	13.50	3.5
AGENTS/BROKERS	AVERAGE			148.6		1.9			
Conglomerates & Holding Cos.									
American Express(Fireman's Fd)	NYSE	50.00	3.1	16.0	1.36	2.7	50.00*	48.50	5,393.7
Anderson Clayton(Ranger/PanAm)	NYSE	48.50	2.6	33.7	1.32	2.7	48.63*	47.75	38.8
Amco Inc	NYSE	9.75	9.9	0.0	0.00	0.0	9.75	9.38	624.3
Berkley W R Corp	OTC	30.25	18.6	94.5	0.32	1.1	30.25*	27.00	263.5
CIGNA Corp	NYSE	62.50	2.0	30.3	2.60	4.2	62.63	61.63	517.7
CNA Finl Corp (CNA)	NYSE	64.88	5.1	20.3	0.00	0.0	64.88*	62.88	156.4
General Re Corp	NYSE	102.75	2.8	111.7	1.56	1.5	102.75*	99.88	307.0
ITT (Hartford Group)	NYSE	34.50	1.8	10.8	1.00	2.9	34.50	34.50	3,060.0
Sears Roebuck & Co. (Allstate)	NYSE	37.75	1.0	10.6	1.76	4.7	37.75	36.88	2,939.2
Teledyne Inc (Argonaut)	NYSE	279.88	0.2	6.1	0.00	0.0	279.88	279.00	105.6
Transamerica Corp (Occidental & Fred S. James)	NYSE	33.88	0.7	16.4	1.68	5.0	33.88*	32.88	546.1
CONGLOMERATES/HOLDING COS.	AVERAGE			11.6		1.5			
Insurers									
Aetna Life & Cas Co	NYSE	51.13	-1.4	19.2	2.64	5.2	52.50	51.13	1,522.1
American General Corp	NYSE	33.25	2.8	10.1	1.00	3.0	33.25	33.00	1,133.8
Amern Heritage Life Invt Co	NYSE	37.25	1.0	10.7	1.20	3.2	37.25*	36.75	7.4
American Indty Finl Corp	OTC	18.75	1.4	0.0	1.12	6.0	19.25	18.75	14.3
American Intl Group Inc	NYSE	106.13	5.8	26.5	0.44	0.4	106.13*	99.88	380.2
Aneco Reins Ltd	OTC	0.88	-12.5	0.0	0.00	0.0	1.06	0.88	15.8
Avemco Corp	NYSE	36.50	-0.7	14.5	0.60	1.6	36.75	36.25	6.7
Business Mens Assurn Co Amer	OTC	31.50	9.6	8.8	1.04	3.3	32.00*	28.75	50.1
Chubb Corp	NYSE	55.50	4.0	20.1	1.56	2.8	55.50*	53.75	214.9
Combined Intl Corp	NYSE	51.00	1.2	9.3	2.16	4.2	51.00*	50.50	187.5
Continental Corp	NYSE	45.88	0.0	22.7	2.60	5.7	46.25	45.00	478.9
Crown Life Ins Co	OTC	270.00	8.0	16.3	0.00	0.0	270.00	250.00	0.5
Durham Corp	OTC	40.50	0.0	7.5	1.28	3.2	41.00	40.50	6.1
Farmers Group Inc	OTC	70.00	0.0	11.8	1.76	2.5	71.25*	70.00	654.5
Fireman Fd Corp	NYSE	31.75	1.6	0.0	0.30	0.9	31.88	31.00	1,071.7
Fremont Gen Corp	OTC	24.38	2.1	2.4	0.48	2.0	24.63	24.25	159.3
Great West Life Assurn Co	OTC	431.00	0.0	11.1	1.60	0.4	431.00	431.00	0.0
Home Group Inc	AMEX	25.13	0.5	0.0	0.00	0.0	25.63	24.50	471.5
Hanover Ins Co	OTC	50.00	-2.9	52.1	0.56	1.1	51.25	50.00	72.7
Hartford Steam Boiler Insptn	OTC	57.88	0.7	13.6	2.00	3.5	58.25	57.50	12.1
Kans City Life Ins	OTC	30.00	5.3	11.8	0.87	2.9	30.50	28.50	18.2
Kemper Corp	OTC	63.50	-1.6	18.3	1.80	2.8	64.63	63.50	97.0
Liberty Corp S C	NYSE	33.00	2.3	14.3	0.72	2.2	33.00	32.50	15.3
Lincoln Natl Corp Ind	NYSE	51.00	3.3	12.1	2.00	3.9	51.00	49.50	882.8
Mission Ins Group Inc	NYSE	3.00	-25.0	0.0	0.00	0.0	4.00	2.88	510.8
Monumental Corp	OTC	36.00	-0.3	12.2	1.40	3.9	36.38	36.00	14.3
Nobel Ins Ltd	OTC	11.50	-4.2	15.1	0.25	2.2	11.75	11.50	39.3
Northwestern Natl Life Ins	OTC	25.50	-1.9	6.6	0.80	3.1	26.13	25.50	134.0
Ohio Cas Corp	OTC	71.13	-1.7	23.9	2.80	3.9	72.38	71.13	99.1
Old Rep Intl Corp	OTC	33.75	0.4	9.1	0.74	2.2	34.50	33.75	107.4
Orion Cap Corp	NYSE	30.75	3.8	0.0	0.76	2.5	30.75	29.75	56.6
Protective Corp	OTC	21.75	-1.1	8.1	0.66	3.0	22.00	21.50	109.7
Provident Life & Acc Ins Co	OTC	27.75	3.3	7.5	0.76	2.7	27.88*	27.25	297.3
St Paul Cos Inc	OTC	78.88	0.5	0.0	3.00	3.8	78.88	77.25	257.5
SAFECO Corp	OTC	46.13	2.8	16.4	1.60	3.5	46.13*	44.63	213.7
Sri Corp	OTC	18.50	-2.6	616.7	0.80	4.3	18.75	18.25	64.8
Seibels Bruce Group Inc	OTC	21.75	-2.8	4.5	0.80	3.7	22.50	21.75	118.8
Statesman Group Inc	OTC	4.38	6.1	0.0	0.05	1.1	4.38	4.13	60.4
Tokio Marine & Fire Ins Co	OTC	213.50	-4.8	40.2	1.05	0.5	222.00	211.75	6.4
Torchmark Corp	NYSE	24.63	0.5	9.7	0.60	2.4	24.63	23.50	724.3
Travelers Corp	NYSE	47.00	0.8	11.4	2.04	4.3	47.75	46.63	1,376.5
United Fire & Cas Co	OTC	25.50	0.0	11.9	1.20	4.7	25.50	25.50	1.4
United States Fid & Gty Co	NYSE	39.38	4.3	0.0	2.20	5.6	39.38	37.75	694.2
Uslife Corp	NYSE	40.75	3.8	9.2	1.12	2.7	40.75	39.25	91.0
Washington Natl Corp	NYSE	26.75	1.4	9.3	1.08	4.0	26.75	25.88	133.1
Zenith Natl Ins Corp	OTC	22.75	0.0	0.0	0.68	3.0	23.00	22.25	826.9
INSURANCE COMPANIES	AVERAGE			17.1		2.1			

System design: Altman Information Systems

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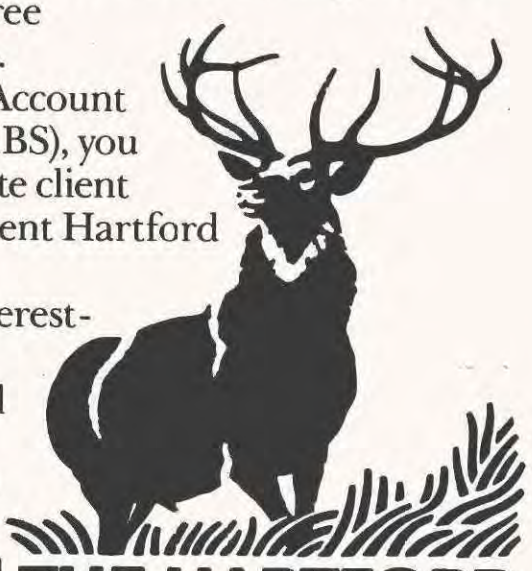

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