Week of January 7, 1980

business insurance

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Special report: More self-funding

The search for more economical ways to fund risk and corporate cash flow demands will encourage more corporations to self-fund risks in the 1980s, says a *BI* special report on captives and self-insurance trends. **Page 17.**

Merging risks

Folding the risk management program of an acquired company into the parent company's risk plan requires a delicate touch. **Page 74.**

Piracy, fraud rob ship insurers

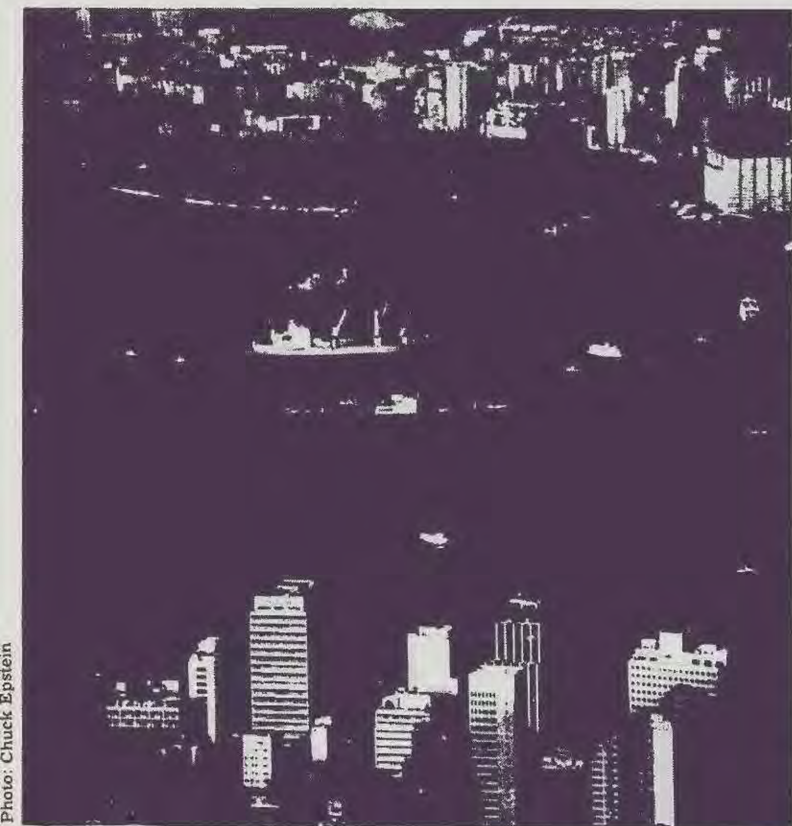

Photo: Chuck Epstein

Harbor suspicion

Piracy and fraud threaten cargo ships sailing to and from ports such as Hong Kong.

By ELLIS SIMON

NEW YORK—Piracy on the high seas, phony cargo losses and other marine fraud—big problems for London and Far Eastern underwriters—are not killing U.S. underwriters, but are making them skeptical of risks in world trouble spots.

"Total losses could be as high as $1 billion, but that's a guess," explained George Howard, general manager of the London-based Salvage Assn. that coordinated the four-month investigation by the Far East Regional Investigation Team (FERIT).

Marine rates have been unaffected so far, say insurers, though underwriters in the Far East alone have paid $100 million in claims since 1977. An additional $45 million in claims are pending more investigation into what may be losses from falsified bills of lading, unauthorized diversion of cargo and scuttling of ships.

U.S. underwriters' losses are much less, but the problem has forced tightening of underwriting standards for some cargo risks.

Losses on direct business and reinsurance of dubious marine risks could cost Insurance Co. of North America in excess of $1 million, said Henry Englisch, assistant vp in charge of marine and aviation claims.

Several claims are presently under investigation for possible fraud and the number of such losses is a "major concern," he said. The fraudulent claims could multiply since "once these things start, they tend to get a lot of imitators," he added.

American International Underwriters, which writes some marine risks in the Far East, has suffered losses as well. But AIU recognized the problem early and with careful underwriting kept its losses to a minimum compared with national markets in the Far East, according to Capt. Michael Hall, AIU marine claims manager.

AIU's Far East offices are instructed to "look with suspicion" before insuring cargo moving on independently owned vessels whose owners were not known, Panamanian-registered ships and old ships, he said.

The cost of marine fraud has been felt by virtually every sector of the economy, with bankers and the shippers hit worse than insurers, said a spokesman for Lloyd's of London.

Most of the frauds have involved ships and cargoes moving on regional runs, such as from Hong Kong to the Philippines or Singapore. Little in the way of U.S.-origin or U.S.-bound goods has been involved.

However, domestic insurers should not "close their eyes to the problem," said AIU assistant vp Robert Roth. "You could be insuring a one-shot deal for a client with cargo in a Hong Kong warehouse that he wants shipped to a customer in Singapore."

Marine fraud is not limited to the Orient.

Fraud is suspect in cargo losses of between $13.4 million and $15.7 million that have occurred around Lebanon, noted a spokesman for the London marine market.

Many of the losses in the Medi-

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Lloyd's, S. Africa team to write riot insurance

By JOHN MAES

LONDON—Lloyd's of London and South African insurers are forming a pool to underwrite political riot coverage in the racially troubled Republic of South Africa.

Underwriters in Lloyd's Non-Marine Underwriting Assn. will participate in the pool being formed by the registered insurers in South Africa, a Lloyd's source said. Lloyd's syndicates are registered in that country.

Under the arrangement, political riot coverage will be issued as part of underlying fire policies provided by the individual insurers. Lloyd's would stand to lose business in that country if it did not join because more and more potential clients will want consolidated fire and riot coverage. The pool will be the primary outlet for its purchase.

"The idea is to have a pooling arrangement for political riots coverage and all registered insurers in South Africa are invited to join," the Lloyd's source said.

It's unclear exactly what types of risks will be covered, but they mostly will be non-marine.

Development of the pool created a short-lived stir at Lloyd's when a protest was raised by Stephen Merrett, chairman of the Merrett-Dixey Syndicate, the largest at Lloyd's.

Mr. Merrett, while not opposed to Lloyd's syndicates' participation, objected to what he originally thought was the commitment of his syndicate members to the pool without his consent or notifying individual underwriters. Merrett-Dixey specializes in marine underwriting.

Mr. Merrett said he considered this a violation of Lloyd's protocol and told his syndicate members that the Corporation of Lloyd's committee should order that all underwriters concerned be informed of the pool before agreement was reached with the South African companies.

Describing a letter sent last month to syndicate members covering a variety of topics, Mr. Merrett said he "took the view that the underwriters always ought to be involved in any acceptance of risk—and it was not clear that that had been done."

Mr. Merrett said he later learned, however, there had been no attempt to involve members of his syndicate without proper notification.

"It was a simple problem that was rather simply resolved," he told *Business Insurance*.

Mr. Merrett said he doubts whether his syndicate will participate because "we've not been formally asked to join." ■

NEWSPAPER

Quebec fire
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editorial

The weekly BI: News you use

EIGHTEEN MONTHS of planning and reorganizing have gone into making *Business Insurance* the best possible weekly package of news and information for insurance buyers, brokers, insurers, consultants and anyone else dealing in the insurance marketplace.

This issue heralds the start of a new era for decision-making information, for all of us and all of you. Appropriately enough, it coincides with the dawning of a decade likely to bring with it further changes in the channels of insurance distribution and the practices of those of you who buy this commodity we know as insurance.

As we mentioned in this column Oct. 31, 1977, on the occasion of our 10th anniversary, we've found a lot to write about over the years. Part of the fun of covering this business has been learning there are many more stories breaking than we've had space for: There's no shortage of material to fill your weekly newspaper.

BI's success can be credited to two factors: your

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for your information

Underwriting loses $1.8 billion; experts fear a cycle downturn

NEW YORK—The property and casualty insurance business in 1979 registered a net loss of approximately $1.86 billion on underwriting operations, beginning what many industry experts believe will be a three-year downturn in the underwriting cycle, the Insurance Information Institute says.

The total underwriting loss, based on the institute's preliminary estimates, reflects a statutory underwriting loss of approximately $618 million and an estimated $1.24 billion in policyholder dividends.

The industry recorded a net gain from underwriting operations of approximately $1.30 billion in 1978.

The institute estimates net investment gain for 1979 at $8.9 billion, a 22% increase from the 1978 total of $7.3 billion, which is expected to push insurers' results to 1979 levels.

Total property/casualty written premium volume for 1979 is estimated at $90.1 billion, up from $81.7 billion. The industry's net income from all operations, after taxes, is estimated at $6.5 billion, or about 4.9% of total revenues, compared with $7.2 billion, which represented 6.1% of total revenues in 1978.

Insurers told to pay claims

DENVER—A federal court here has ordered five insurance companies to pay more than $6.6 million in insurance claims to Standard Metals Co. of New York.

Standard sued insurers Mission Insurance Co.; Lloyd's of London; Merchant, Fire, Marine & Inland Insurance Co. of Pennsylvania, and Birmingham Fire Insurance of Pennsylvania 14 months ago, charging the companies failed to compensate Standard for losses arising from a cave-in at the firm's Silverton, Colo., gold, silver and zinc mine.

Northbrook Insurance Co., which also insured the Silverton mine, settled out of court in December 1978, shelling out $1.6 million, about $900,000 less than the $2.5 million Standard sought.

The five insurers had refused to pay damages, contending Standard's coverage was limited to above-ground facilities.

Lloyd's broker buys Ashby

LONDON—Lloyd's broker C.E. Heath is buying the Ashby & Co. underwriting agency whose three syndicates were suspended last August after they exceeded permitted premium limits on non-marine insurance in 1978-79 (*BI*, Sept. 17, 1979).

No major financial loss is expected for Ashby because of the underwriting incident. The risks were conventional and involved a binding authority that is still being investigated.

The syndicates will become Marten syndicates.

Second opinion drive begins

WASHINGTON—The U.S. Department of Health, Education and Welfare will begin an advertising campaign this month to encourage people to obtain a second medical opinion before undergoing non-emergency surgery.

The campaign, which will include television and radio announcements along with brochures and posters, will espouse the merits of second opinions. A toll-free telephone number (800-638-6833) through which interested persons can contact physicians to obtain one will be promoted.

Iran losses cost $4 million

NEW YORK—The Foreign Credit Insurance Assn. will report that in the 1979 fiscal year it paid out $4 million in claims tied directly to commercial and political losses in Iran.

In its new fiscal year report, due to be published sometime this month, FCIA says the $4 million is part of the overall total of $10 million in claims paid during the year.

Despite shaky relations between the two countries, some U.S. corporations still have assets in Iran but many are underinsured against expropriation and other political risks (*BI*, Nov. 26, 1979).

Insurance office approved

WASHINGTON—The Office of Management and Budget has approved the establishment of a new federal agency—over the objections of insurance industry trade groups—that will scrutinize a wide range of insurance issues affecting the federal government.

The new office, to be known as the Office of Insurance Analysis, will be located in the Treasury Department.

The insurance office is expected to have a professional staff of 10 and initially would be looking at such issues as indemnification of government contractors as well as the government's role as a self-insurer. More significantly, the office would centralize federal involvement in insurance issues.

The new office can't get going until Congress funds it.

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Photo: Wide World

42 die, 50 hurt in Quebec club fire

Marsh & McLennan's Toronto office brokered liability insurance for Falconbridge Nickel Mines Ltd., owners of a social club in Chapais, Quebec, where 42 New Year's revelers were killed and 50 injured in a fire set by "someone playing a joke."

The party was an annual fund-raising event for the local Lions Club. It's unknown whether the Lions had, through contractural agreement, indemnified Falconbridge against liability resulting from the party.

The fire, at Le Club Opemiska, a 25-year-old wooden structure in this mining village 310 miles north of Montreal, was believed to be caused by one of the partygoers. He allegedly set a match to one of the tree branches used as holiday decorations inside the buildings, said Quebec provincial police officials in Chicoutimi.

Falconbridge's Opemiska copper mine is Chapais' principal employer and many of the victims are believed to be miners and their families. The company's group life insurance program is handled by the Toronto office of William M. Mercer Ltd.

Bowring sues to quash M&M information release

By LEN STRAZEWSKI and JOHN MILLER

NEW YORK—Secret financial information passed to Marsh & McLennan Cos. by Lloyd's broker C.T. Bowring Co. Ltd. to fuel profit-pooling plans may blow up in the face of the U.K. broker, according to a Bowring suit filed here.

The suit charges that M&M could jeopardize Bowring's competitive position if the secret information is made public—a likely event if M&M pursues its current plans to attempt to buy Bowring by acquiring its stock. The information would be released if M&M filed its intention to buy Bowring with the Securities and Exchange Commission.

London sources suggest the explosive secret data may include practical underwriting and marketing information that details Bowring's private connections with specific Lloyd's of London syndicates.

The original profit-pooling discussions between M&M and Bowring, announced more than a year ago, were touted to insurance buyers as a way to speed and enhance access to those Lloyd's underwriters.

London insurance industry speculation suggests that release of the private competitive data on Bowring may speed the flow of risks to the New York Insurance Exchange and U.S. insurers. Bowring's financial status, including data never released to shareholders, may become public.

U.S. broker and insurer sources, however, say the whole information issue is a big dud.

"The information M&M got from Bowring is not going to contain any underwriting data," a knowledgeable U.S. broker remarked. "Bowring's financial information is well-known to anyone who does business with the London market."

American International Group, one of the largest U.S. commercial insurers, which competes regularly with Lloyd's and also has a large investment in the New York Insurance Exchange, "has no idea what the secret information could be" and expects nothing that could give it an edge over Lloyd's and a Lloyd's broker, a spokesman said.

Marsh & McLennan would not comment on the suit or reveal what data the broker has received from Bowring that could hurt Bowring's business.

M&M is continuing to study the possibility of making Bowring shareholders an offer, in spite of Bowring's public rejection of such a plan.

"It is inconceivable to us that Bowring's board would arbitrarily refuse to consider an offer regardless of its terms before one is made," an M&M spokesman said. "We continue to hope that M&M and Bowring can go forward in a constructive and friendly manner."

M&M's decision on whether to try to buy Bowring is imminent, said M&M's investment banker in London, S.G. Warburg & Co. Ltd. Viscount Garmoyle, the British aristocrat who headed a special Warburg delegation to discuss M&M's possible attempt to buy Bowring, told *Business Insurance* that although no date has been set for an offer, "the market should not be kept in suspense and there must be a time pressure on M&M to make its intentions clear in the near future."

Morgan Stanly & Co. is the Marsh & McLennan's U.S. investment adviser. ▪

errors & omissions

• In the Nov. 26, 1979, issue, Norman Hoffman, a Perspective section contributor and assistant professor of the New York College of Insurance, was misidentified as adjunct assistant professor on loan from Kane Miller Corp., an identification based on outdated information from the college. Mr. Hoffman no longer is employed by Kane Miller.

Contest still open

There's still time to nominate a candidate for the *Business Insurance* Risk Manager of the Year award.

The deadline for nominations is Jan. 21.

Fill out a nominating statement that describes how the candidate fulfills the nine criteria for an outstanding risk manager and submit the nominating statement along with a letter from an executive of the corporation or organization the risk manager works for and your own nominating letter.

Nominating guidelines are available from *Business Insurance*, 740 N. Rush St., Chicago, Ill. 60611; 312-649-5278.

Health plug: Exercise and a check

By KATHRYN J. McINTYRE

NASHVILLE—Hospital Corp. of America here pays its employes to run miles, hoping they won't run up medical bills.

One of the world's largest providers of health care services is paying employes to bicycle, run, walk and swim, reasoning that healthier employes won't need to visit the doctor as often.

"With healthier people, we're bound to hold down health care costs," says Robert A. Reeves, vp-insurance at HCA.

Employes are paid 4 cents a mile for bicycling, 16 cents a mile for running or walking and 64 cents a mile for swimming.

HCA president Thomas F. Frist Jr., an avid runner who dreamed up the exercise incentive program for HCA employes, last month distributed checks totaling $2,833.10 to 68 employes who had earned money in the first six months of the program. The checks were handed out after a special one-mile run in which Dr. Frist jogged along.

"I got a check for $11.40," said Mr. Reeves. "I ran 140 miles—25 miles a week."

Photo: Hospital Corp. of America

While other companies are building or renting exercise facilities to encourage employes to work out their muscles as well as their minds (*BI*, Dec. 10, 1979), HCA decided to challenge employes at its mild-climate headquarters to take an imaginary 12-month trip to HCA international offices and get paid for running.

The 68 HCA employes almost completed the 28,400 mile trip from Nashville to London, Tripoli, Cairo, Beirut, Riyadh, Manila, Sydney and back to Nashville in the first six months: Participants logged 24,629.7 miles. Dr. Frist ran up 1,757 of those miles.

To ensure that employes are exercising often enough to have an effect, there's a minimum number of miles to be logged each week in order to be paid: 120 miles a month bicycling, 30 miles a month walking or running or eight miles a month swimming.

Of 380 corporate employes eligible to run around the world, 107 signed up—nearly a 30% participation. Only 68, however, had met their minimum quotas.

To quantify the success of what is already a morale and muscle building program, HCA measured the blood pressure of participants at the beginning of the program last June. Blood pressures will be taken again at the end of the one-year pilot program to test the theory that exercise makes healthier employes.

HCA will evaluate the program next June and decide whether to continue it.

In the meantime, Mr. Reeves is considering other programs to control the cost of health care services for HCA employes. He envisions testing a program of self-insurance and health promotion in 1981. "We could take several hospitals, go self-insured on benefits and take some of the cash flow and spend it on health promotion," Mr. Reeves said. "Then we could analyze the results to see if we have reduced costs."

Currently HCA employes are insured under a contributory Blue Cross/Blue Shield program. ■

Idea with mileage

Employes at Hospital Corp. of America in Nashville find it pays to exercise. The company pays workers for each mile logged in hopes of holding down medical costs.

Aviation: Big disasters and low rates could scare off reinsurers

By JOHN MILLER

LONDON—Aviation insurance faces a tough decade ahead if reinsurers decide to withdraw some of their support facilities and reduce surplus capacity, warns Jack H. Hine, president of the International Union of Aviation Insurers.

Last year proved to be disastrous for aviation underwriters. The London market is paying a large chunk of the heavy losses from DC10 crashes in Chicago and Mexico City and last month's crashes of a Turkish Airlines Fokker F-28 in Turkey and a Pan Am Boeing 747 cargo plane in London. Hull values were $5 million for the F-28 and $45 million for the 747.

"If there's moderate contraction in capacity, it will be welcome," Mr. Hine said. "But if there's a heavy fall and cover for existing aircraft values and liability limits is no longer available, then there'll be a lot of difficulty for both airlines and bankers. Their requirements might well be in jeopardy."

Mr. Hine, underwriter for British Aviation Insurance Co. with more than 40 years of market experience, says it's more likely capacity will start to contract by 1981, when long-term contracts come up for renewal, unless premium levels rise.

The U.K. market, he admits, misjudged world insurers' reaction to the Tenerife disaster in 1977, which cost $63 million in hull values to the two Boeing 747s owned by Pan Am and KLM, as well as large sums for the death toll of more than 600.

"We tried to apply corrective action for ratings at that time, but our efforts proved to be too severe and could not be sustained," Mr. Hine said. "But now reinsurers will choose to withdraw from the scene if direct underwriters don't apply any remedies to counter the effects of reduced premiums.

> "It's going to be a tough decade ahead of us," warns Jack Hine, president of the International Union of Aviation Insurers.

"The longer the present situation persists, the more severe the reaction is likely to be. There's a widespread feeling that little can be done until the bulk of long-term contracts expire toward the end of this year and next," he said.

"Already we've introduced a code of practice in an effort to bring some stability into our market and remove some of the more blatant aberrations. Its achievements are very limited, but it's no longer possible to negotiate new long-term contracts except in a few specialized areas such as U.S. airport liability and cover on satellites."

Demand for more capacity for aircraft hulls is unlikely. New types coming into production in the next few years will be smaller than the jumbo jet and are not scheduled to exceed current maximum values, Mr. Hine anticipates.

"They're designed for medium stage lengths and will carry fewer passengers than the Boeing 747," he predicts. "The only pressures, therefore, will be due to inflation and the possibility of higher agreed liability limits for passengers. But even these will cause little difficulty as current programs are greater than any liability loss experienced up to the present.

"There may be some determined action to unify limits of liability between world nations, but there are various viewpoints, so this won't be easily resolved," Mr. Hine said.

"It's going to be a tough decade ahead of us, however. It's highly dangerous to look to investment income for salvation, irrespective of premium levels," he warned. "This has been ignored for too long and underwriters are leading business at substandard terms by reinsuring a disproportionate amount of their acceptance. It's small wonder they're a discredited race. They must reestablish their reputation as responsible judges of the business offered, even if they lose some accounts as a result."

Paris, Tokyo and the New York Insurance Exchange are alternative markets to London, Mr. Hine says, and some airlines may make greater use of them.

But he wants an improved attitude among aviation insurance brokers, as terms of credit now operating in the London market have led to premium payments taking as much as a year to get to their destination. "Underwriters suspect some of these delays are not entirely accidental," he adds.

Mr. Hine is urging underwriters to demand fuller information on risks presented by brokers and to embody all material factors in the main part of each slip. But he admits it's partly the fault of underwriters if they neglect to use their judgment and ask the right questions when risks are put before them. ■

Illinois exchange confers on rules, computer study

By MARY ELLEN McKEE

CHICAGO—The contours of the Illinois Insurance Exchange may take shape this month with votes on the constitution and bylaws, blueprints for getting capital and a feasibility study on computer systems.

The legal aspects of the exchange, how the exchange will work with insurance departments in other states and applications for brokers and syndicates may also be voted on by the interim board at its Jan. 15 meeting.

James M. Skelton, executive director of the interim board and an insurance department official, says the board has made tremendous progress in the past three weeks. But he admits start-up of the exchange isn't exactly around the corner.

One of the most pressing issues for the interim board is deciding whether to authorize a feasibility study on the cost and ease of implementing a computer system starting from scratch versus using outside firms for the hardware, maintenance and training.

Illinois is touting the planned computer capability of its exchange as making it more flexible and more efficient than the New York Insurance Exchange (*BI*, Nov. 26, 1978).

The Risk Exchange Inc. (REX) of Oldwick, N.J., a computerized reinsurance network, has already presented its services to the interim board along with three other computer service organizations, Mr. Skelton noted. Based on the presentations, the interim board realized more detailed information is needed before making a decision on the computerization of the Illinois Insurance Exchange.

Engaging a company to conduct a feasibility study does not mean the original computer design proposed for the Illinois Insurance Exchange has been swept by the wayside, Mr. Skelton emphasized. "The interim board wants to make sure that it is not biting off more than it can chew."

The computer design was largely the brainchild of Richard Friedman, an attorney in the Chicago law firm of Epton Mullin Miller & Druth Ltd.

"REX has direct application to an exchange entity," said REX president Henry Kramer. "Too often people overlook the administration, accounting and bookkeeping that goes into setting up a computer system. Once a company or entity decides to use a computer system the internal work really begins.

"In essence, the exchange deals in futures. The system should be set up to issue policies, pay claims, change policies, collect cash and periodically furnish reports," Mr. Kramer said. "By relying on an outside company the exchange will get the computer hardware and the training capabilities without a huge capital investment." ■

Shippers may overcharge

NEW YORK—Shipowners may be collecting more than they need from shipping customers to cover the insurance war risk surcharge levied on ships in the Persian Gulf.

Effective Jan. 26, steamship lines subscribing to the "8,900" rate agreement on goods moving between East Coast and Persian Gulf ports will impose a $3.75 per ton surcharge on cargo not stored in containers. The surcharge will be $85 for 20-foot containers, $170 for 35-foot containers and $190 for 40-foot containers. For LASH (lighter aboard ship) barges, the surcharge will be $1,425.

Shippers are levying the surcharge to recoup the increased cost of insurance since U.S. and London hull insurers in November imposed a war risk surcharge on vessels calling on Persian Gulf ports.

The insurance surcharge is five cents per $100 hull value on ships calling on non-Iranian ports and 10 cents per $100 hull value on ships visiting Iran (*BI*, Dec. 24, 1979).

None of the ships in the "8,900" agreement is now carrying cargo between the U.S. and Iran.

The shippers' surcharge will typically add about 3% to shipping costs on goods moving between the U.S. and the Persian Gulf, but shipping rates vary with the commodity. For a 40-foot container of bed linens, the $190 surcharge would be in excess of a $4,840 base rate and a $1,135 bunker surcharge.

But the $190 shippers' surcharge would more than compensate for the higher war risk premium charged steamship lines. A $40 million container ship carrying 500 40-foot containers between the U.S. and the Persian Gulf would receive additional revenues of $95,000 from the shippers' surcharge, but the hull insurance war risk surcharge presently costs $20,000.

New year ushers in increased FICA tax

WASHINGTON—Social Security taxes, which have been soaring in recent years to pay for increasingly generous benefits, went up again this month.

The maximum wage base for payroll taxes increased Jan. 1 to $25,900 from $22,900. A worker who earned $25,900 in 1979 paid $1,403.77 in Social Security taxes. The worker who earns $25,900 this year will have to fork over an additional $183.90 to the government for a total of $1,587.67 in FICA taxes.

Employe contributions are matched equally by employers.

More tax increases are slated, but Congress is considering legislation to reduce the tax.

The payroll tax rate is supposed to jump next year to 6.65% on an employe's first $29,700 of salary. The current tax rate is 6.13% on the first $25,900 of wages. More increases are expected in the 1980s to keep up with the cost of benefits, which are indexed to inflation.

Business groups and some members of Congress have become increasingly concerned about the continuing spiral in Social Security taxes. Losing an ever increasing amount of gross salary to taxes, workers have less cash and the situation is slowing economic activity, business leaders complain.

Among the ideas Congress will consider to cut Social Security taxes is Rep. Al Ullman's (D-Ore.) suggestion that a 10% value added tax be imposed on the price of property or services sold, including insurance policies.

This 10% VAT, which would raise $130 billion annually, would allow a rollback in Social Security taxes to 4.5% for both employes and employers.

Alternately, White House chief inflation fighter Alfred Kahn suggests the proceeds of an oil windfall profits tax be used to reduce the payroll tax.

Finally, Congress also is expected to consider the recommendation of the Social Security Advisory Council, a blue-ribbon federal panel, that Medicare, which consumes 1.05% of the 6.13% payroll tax, be funded by general revenues generated by personal and corporate income taxes (*BI*, Dec. 24, 1979).

By removing Medicare from the payroll tax, the Social Security tax could be pared to 5.6% until the year 2005. ■

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Insurer sues ABC for fraud

NEW YORK—American Broadcasting Co. here is being sued for $275 million by an insurance company charging the network with entrapment, intrusion and production of false and fraudulent news.

American Family Life Assurance Co. of Columbus, Ga., objected to an ABC news report last November on insurance fraud that included comments on cancer insurance and American Family.

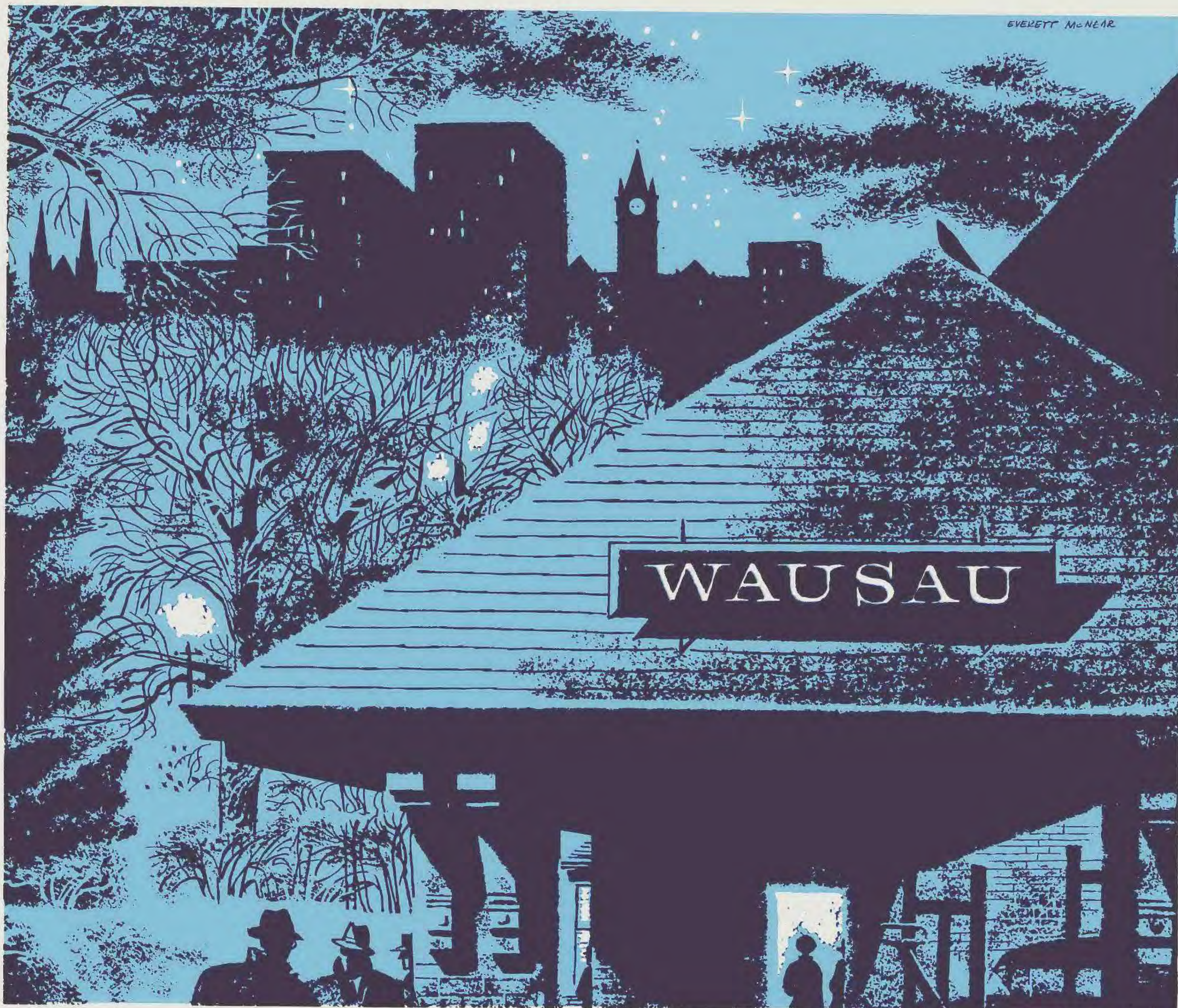
"They talked about cancer insurance and fraud and featured our company. Since we're not defrauding anyone we took exception," said Lee Parker, vp for investor relations at American Family.

ABC is insured for broadcasters errors and omissions by Lloyd's of London under a $1 million policy. Excess insurance under a layered program to $45 million also covers broadcasters' E&O losses (*BI*, April 30, 1979).

An American Family insurance executive, George Benford, is also suing ABC for $4.2 million, charging the network violated his privacy when it used a hidden camera to film his sales presentation to two elderly women.

Mr. Benford is seeking $200,000 in compensatory damages and $4 million in punitive damages for the broadcast of part of his insurance sales pitch to two women. Mr. Benford is the Maryland manager for American Family.

Also named in the suits against ABC are members of the House Select Committee on Aging who cooperated on the report. ■



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Delay tort reform, study says

PITTSBURGH—States should put tort reform bills on the back burner until more complete and accurate product liability information becomes available, a Carnegie-Mellon University study recommends.

Before tort reform is attempted, the states should pass detailed product liability reporting laws requiring insurers to reveal, among other things, the amount of settlements paid on behalf of policyholders.

"Such an insurance reporting system would provide information, which could lead to the elimination or perhaps the reduction of the uncertainty and confusion that presently exists with regards to product liability," according to the study.

Conducted by students in Carnegie's Department of Engineering and Public Policy and Graduate School of Urban and Public Affairs, the study looked at product liability legislation that has passed or is pending in 37 states as well as product liability cases that had been filed in Pennsylvania.

Some state legislatures have passed tort reform bills in response to complaints that the number of product liability suits has exploded in the 1970s, but the Carnegie study suggests these concerns may be unjustified.

For example, in Allegheny County court, which encompasses the Pittsburgh metropolitan area, the number of product liability cases filed between 1975 and 1978 has hovered around the 100 mark each year.

In federal court in the Pittsburgh district, the number of new cases also remained stable between 1975 and 1977, with about 42 new cases filed each year.

"Based on our research, the enormous volume predicted in the number of suits filed is unsubstantiated," the report said.

Risk retention bill stalls in House; revisions likely

By JERRY GEISEL

WASHINGTON—Legislation permitting companies to pool their product liability risks in federally chartered insurance cooperatives is stalled in Congress.

The House Consumer Protection and Finance subcommittee had been expected to approve the Administration-backed Risk Retention Act (H.R. 5571) late last month.

But the vote never took place after informal objections were raised by Rep. Matthew Rinaldo (R-N.J.). Although Rep. Rinaldo is a cosponsor of the legislation, he apparently is concerned that not enough time has been spent scrutinizing the measure at the subcommittee level, sources said.

Rep. Rinaldo wants spelled out in greater detail what can be done about the possible problem of trade associations requiring members to purchase other association services as a prior condition for participation in an association-sponsored pool.

Rep. Rinaldo is expected to introduce an amendment clearing up the possible problems presented by association-sponsored pools, as well as other amendments clarifying the extent of control the federal government will have over the pools, when the subcommittee resumes consideration of the legislation later this month.

Despite objections raised by Rep. Rinaldo, the odds are considered better than even that the subcommittee will approve the measure early this year. Rep. Richardson Pryor (D-N.C.), chairman of several hearings on the bill, said recently that passage of the Risk Retention Act is a top-priority issue for the committee.

Drafted by the Commerce Department and endorsed by the Carter Administration, the proposal would allow firms to band together to form risk retention groups, pooling all or a portion of the participants' product liability exposures. The risk retention groups would be exempt from state insurance regulations and instead would be regulated by the Commerce Department.

Before deciding whether to allow a risk retention group to operate, the Commerce Department would review the group's assets, reserves, loss prevention efforts and management expertise. Business groups want the regulatory role of the Commerce Department to be limited to setting reserve requirements (*BI*, Nov. 12, 1979).

Premiums paid into the risk retention groups would be tax deductible if spreading and sharing of risk satisfies Internal Revenue Service requirements.

By tailoring insurance regulations to meet the needs of businesses forming their own insurance cooperatives and allowing them the same tax deductions companies are given for purchasing insurance from commercial insurers, more competition will be injected into the insurance marketplace, according to the Commerce Department.

Although several major business groups have endorsed the Risk Retention Act, insurance trade associations are generally opposed, contending product liability and other insurance problems are best handled at the state level. ▪

Accountants not liable

WASHINGTON—Accountants will no longer be automatically liable for misleading interim financial statements that they have not given a full audit, the Securities and Exchange Commission has decided.

The SEC adopted the exemption to encourage accountants to participate more in the issuing of interim statements. Accountants will still be liable under antifraud provisions of federal securities law. ▪

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Calif. cities pursue fire pool monopoly

By RHONDA L. RUNDLE

LOS ANGELES—Despite towering restraint-of-trade and other legal obstacles, enthusiasm for community-funded fire insurance monopolies as a possible alternative to traditional indemnification is still running strong among a score of California cities.

In-depth legal analysis of municipal fire insurance must be the first step, concluded the MFI committee of the League of California Cities at a recent meeting.

Besides antitrust barriers to MFI, constitutional debt limitation laws also prohibit city councils from taking actions that saddle residents with long-term financial obligations.

Further complicating the legal picture, Propositions 4 and 13 have spread confusion among California cities over their authority to impose new taxes or fees. Proposition 13 requires two-thirds of the voters to approve new taxes. Proposition 4 puts a lid on state spending.

The MFI committee is also discussing the possibility of expanding its investigation to review the overall relationship between cities and insurers, notes Clark Goecker, assistant director of the league. Specifically, he said, many city authorities believe insurers' fire grading systems are obsolete and do not truly reflect a municipality's ability to respond to a fire emergency.

Proposition 13 has created a climate, if not a critical need, for cities to explore a wide gamut of innovative funding alternatives, Mr. Goecker points out. Proponents say MFI creates an incentive to prevent fires because it links indemnification to actual losses (*BI*, Sept. 17, Nov. 12).

The California tax initiative has launched MFI into the limelight, admits Vernon Haven, city manager of Mill Valley, Calif. But he stresses that the MFI concept has been knocking around Mill Valley, Mountain View and a handful of other Northern California towns for five years. Proposition 13 just boosts municipal self-insurance one step further, he says.

The league has also been in contact with W. Victor Slevin, chairman of the insurance industry group established in October to study MFI and related issues, Mr. Goecker reports. "If the executive board of the league approves, the two committees may meet together sometime in the future to discuss mutual concerns," the league's assistant director says.

"There is a tremendous need to link fire prevention, risk management and indemnity," maintains Mr. Haven of Mill Valley, because funds for maintaining even current levels of firefighting are drying up in some towns.

Many municipalities are meeting fire department payrolls with state bailout funds. If these run out within the next few years, firefighting forces may be severely cut back. This could lead to an alarming flare-up of fire losses and almost certain increases in property insurance costs.

There is no incentive for insurance companies to prevent losses, Mr. Haven says. "They'll just charge more premium." Mill Valley's city manager stresses that his objective is to explore all sorts of innovative funding mechanisms, not just MFI.

The MFI committee is tentatively scheduled to meet again Jan. 30 before making its recommendations to the league's executive board in February. ■

Calif. fears safety cuts

LOS ANGELES— Californians didn't bargain for cuts in safety services when they approved Proposition 13. But that's what they'll get once present bailout funds dry up at the end of this fiscal year, the state's city fathers say.

Municipal fire insurance is one tack concerned city officials are taking to manage the impending crisis. Another approach is a budding statewide initiative supported by the state's fire and police unions.

The proposed constitutional amendment would ensure fire, police and emergency medical services have first call on municipal funds throughout the Golden State. It also stipulates that levels of protection provided by these services cannot be cut.

Supporters will set out next month to collect 553,790 valid signatures needed to qualify the measure for the November 1980 ballot.

"With this constitutional amendment, financial support for these important services can no longer be used as a political football by some elected officials," declares retired fire chief Walt Meagher, chairman of the campaign.

Howard Jarvis supports the proposal, although he will likely concentrate his campaigning energies on another initiative on the June ballot to cut the state income tax.

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editorial opinions

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Continued from page 1

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Toward this end, beginning today, you'll see new regular columns and features in *BI*, as well as our effort to focus the news and package it so you'll have an accurate gauge of what's happening anywhere in the world that will affect the practice of risk management, the price or availability of insurance, or the settlement of claims. An expanded staff of 17 editorial people (up from 11 a year ago) and a network of correspondents are at your service.

In these pages you'll find comprehensive news of your suppliers of insurance risk management related services, packaged in several regular new features entitled Someone You Should Know, Comings and Goings: Industry, the Markets, *BI* Ticker, and Products & Services. *BI* Ticker, for example, will provide you with a weekly roundup of timely financial news about insurers, brokers, reinsurers, and so on. Every other week, *BI* Ticker will feature not only the week's financial news but also will contain the exclusive *Business Insurance* Industry Stock Index. Compiled for us by Altman Information Systems in Chicago, the unique computerized report on the stock price movements of a select group of 73 insurance industry firms traded on U.S. markets will be presented in a composite form.

Financial overviews

With this biweekly index will be a table of 88 stocks of insurance companies, conglomerates/holding companies and insurance brokers showing stock price movement during the latest two-week period. Accompanying this table will be a list of 13 British insurance company and London brokerage firm stocks supplied to us by Kitcat & Aiken, a securities firm in London.

On a regular biweekly basis, *BI* associate editor Stuart Emmrich will write a special report focusing on financial results released in the latest two weeks and discussing with industry analysts the outlook for the commercial insurance business in coming weeks and months.

Our aim is to provide you with the best possible concise overview of the financial health of the industry with which you have dealings or in which you work.

International news is being expanded for two reasons: risk management and insurance are by nature international in scope, and a growing number of corporate executives who influence insurance-buying decisions transact business with foreign markets. Under the regular Worldwide heading you'll find news you can use from Canada, Europe, Asia, South America, Great Britian, Africa, Australia and anywhere else there are things happening.

Solving your problem

Have a question about coverage? Want to know about risk management education programs? Need to find information on HMOs? Write to *BI*'s new Action Line column and we'll help you locate either the date you need or someone who can help you solve the problem or find an answer.

As smaller companies grow, as larger companies acquire smaller firms and as medium-sized firms apply the principles of scientific management they encounter special insurance, benefits and risk management problems. Focusing on these management concerns is features editor Len Strazewski in his new monthly column dubbed Growing Pains. His wide-ranging discussions of issues affecting corporate insurance managers, benefit managers and financial executives will dissect the problems you encountered yesterday or last week and must solve tomorrow.

You'll discover more usable information from now on about the essential risk management elements of loss prevention and control, with stories and news ranging from the latest techniques to the latest hardware.

In the Perspective section of our newspaper, you'll find not only the authoritative features that have appeared regularly for 12 years, but will be able to draw from a periodic column, Security Matters, by security expert Lisa Thorsen; a new feature called Loss Controls, and a section called Books & Ideas in which Z'ev Kronish and other contributors will critique the latest publications of interest to risk and benefit managers.

Features remain

Not to worry that any of the timely and successful features now appearing in *BI* will disappear. You'll find Benefit Beat, Letters, Info, Datebook, Around the States, People, riskWatch, London Line, Editorial Opinions, and others as usual.

The news will land on your desks twice as often, and to put it there we'll hustle twice as fast. Indeed, the pace has long since quickened in our New York, Chicago, Washington and L.A. offices. Deadlines were daily when we were biweekly; now they arrive even more frequently, and at times we think we live in Ulcerville. Our copy transmission machines are seldom unused; paper flies from reporter's desk to editor's desk to copy editor's desk to typesetter to proofreader and onto dummied pages faster than you can say retrospectively rated.

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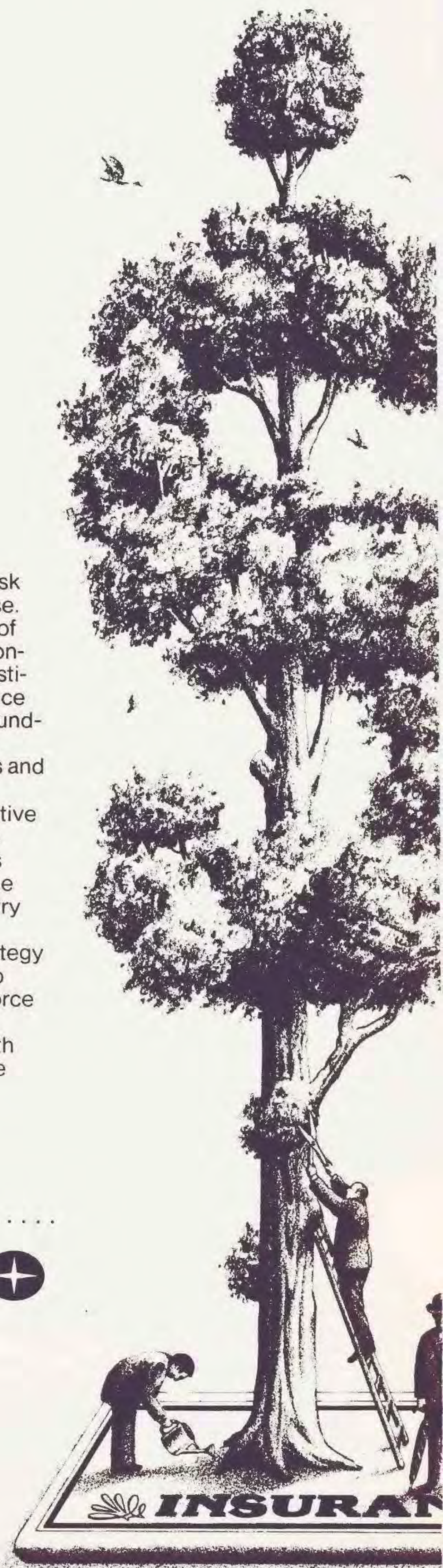

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Aviation underwriters sue aircraft maker

By JOHN MAES

LOS ANGELES—U.S. Aviation Underwriters Group, the primary hull and liability insurer for Continental Airlines, is suing McDonnell Douglas Corp. for more than $40 million in connection with a 1978 DC10 accident that killed four persons.

The suit filed here recently alleges negligent and defective design of the DC10 by McDonnell Douglas resulted in the March 1, 1978, accident at Los Angeles International Airport. The aircraft caught fire when a fuel tank ruptured during an aborted takeoff after a tire blew out.

Four persons died, 28 others were injured and the airplane was almost destroyed.

The tire blowout, landing gear failure, fuel tank rupture, fuel spillage and fire were caused by negligent design, manufacture, testing, analysis and maintenance of the plane, the suit contends. Also named as defendant in the action is Sargent Industries Inc., which makes emergency escape slides for the DC10.

Another suit also charges Goodyear Tire & Rubber Co., B.F. Goodrich Co. and Cleveland Pneumatic Co., a landing gear manufacturer, with design negligence.

The $40 million being sought is roughly equivalent to what insurers paid for loss of the aircraft and personal injury and death claims incurred from the accident, said John Brennan, president of U.S. Aviation. Several cases arising from the crash are still in court, he said.

Taking McDonnell Douglas to court was a "last resort" in U.S. Aviation's efforts to recover for losses in the crash, Mr. Brennan said. The insurer had tried previously to negotiate a settlement with the aircraft company, but no agreement was reached, he said.

"There were a number of conversations held over a period of time regarding a settlement," he said. But when the talks did not produce the desired result. "We decided reluctantly to file a lawsuit. Litigation," he said, "was kind of a last resort."

It's not unusual for insurers to sue to recover expenses, but aircraft makers are not often sued by aviation insurers, Mr. Brennan said. Settlements are often worked out before litigation is threatened, he explained.

U.S. Aviation has also discussed with McDonnell Douglas possible reimbursement for last year's May 25 disaster at Chicago's O'Hare Airport, when an American Airlines DC10 crashed, killing 273 persons. Mr. Brennan would only say another suit in connection with that crash "is a possibility."

U.S. Aviation is lead underwriter for American's hull and liability coverage. ■

New insurer to cover truckers

EAST BRUNSWICK, N.J.—A new insurance company set to roll in New Jersey could ease liability insurance woes for state truckers.

The Atlantic Coast Carriers Insurance Co., a subsidiary of the Atlantic Coast Carriers Holding Co., will offer truckers a $1 million combined single-limit liability policy.

Truckers previously have complained that they had trouble obtaining more than $500,000 of coverage from standard insurers, limiting their access to the excess market.

ACC, which expects to be issuing its first policies in March, will be capitalized at $3 million. The capital is being raised through the sale of 300,000 shares of stock at $10 a share by ACC's holding company. The 1,300-member New Jersey Motor Truck Assn. here has invested $90,000 in the holding company through the purchase of 9,000 shares of stock.

Aside from offering coverage for truckers, ACC also will write commercial vehicle liability and physical damage coverage on tractors, trailers and company owned cars.

The trucking association declined to release further details. ■

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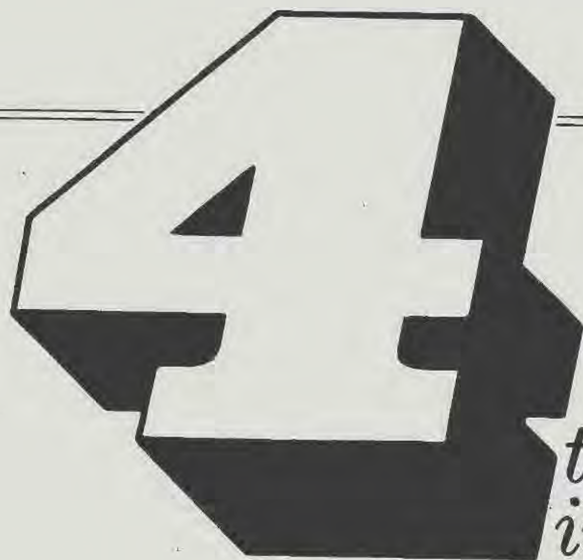
captives: money machines?



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Summary annual reports

Senate delays pension report reform

By JERRY GEISEL

WASHINGTON—A leading pension rights advocate wants a Senate committee to hold off action on a variety of pension bills until pension plan participants are given a chance to testify.

"I am asking you to defer consideration of this legislation until you can hear from the individuals who will be hurt by these bills," Karen Ferguson, director of the Pension Rights Center, said at a Senate Finance Committee hearing.

The Finance Committee held a round of hearings last month on two major pieces of pension legislation: the ERISA Improvements Act of 1979 (S. 209), introduced by Sen. Harrison Williams (D-N.J.) and Sen. Jacob Javits (R-N.Y.), and a pension simplification bill (S. 1089) proposed by Sen. Lloyd Bentsen (D-Texas).

The Williams-Javits bill calls for tax credits to small employers who start new pension plans, tax deductions for employe contributions to corporate pension plans, mandatory joint and survivor's death benefits and a new single agency to administer ERISA.

Sen. Bentsen's measure, like the Williams-Javits bill, would eliminate mandatory dissemination of

"People have to be able to study the information," says Karen Ferguson.

summary annual reports to all employes. However, employes still could request a copy and an outline of the plan would have to be posted.

Posting pension plan information, in the words of Ms. Ferguson, "makes no sense. People have to be able to study the information and for that they need to be able to take it with them."

Summary annual reports inform participants if their pension plan is getting a reasonable return on its investments, who is managing the money and whether there are any party-in-interest transactions.

The Labor Department also urged the committee not to take any action on dropping the summary annual report requirement until the department can measure how effective its new streamlined summary annual report has been in slashing employers' paperwork burden (*BI*, Sept. 4, 1978).

Assistant Secretary of Labor William Hobgood recommended the committee revise an amendment, added to the Williams-Javits bill before it passed the Labor and Human Resources Committee in May, that opens the door for the states to pass laws requiring employers to offer certain health care benefits to their employes.

The amendment, proposed by Sen. Edward Kennedy (D-Mass.) and Sen. Alan Cranston (D-Calif.), would overturn a series of U.S. district court rulings that a section of ERISA preempts states from imposing benefit requirements.

Employer groups oppose the amendment. They contend the expected jumble of varying state regulations would impose costly administrative burdens on businesses, which will have to continually revamp their benefit plans to comply with the changing state regulations.

Daniel I. Halperin, deputy assistant secretary of the Treasury, questioned if mandatory joint and survivor's benefits for widows and widowers whose spouses die before reaching a pension plan's early retirement age (usually 55) are a "wise course" to take.

Group life insurance plans are probably a better vehicle for ensuring survivors have adequate retirement income than a pension plan doing "double service" as a retirement plan and a life insurance plan, Mr. Halperin said. ▪

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House bill seeks single ERISA agency

WASHINGTON—Rep. John Erlenborn (R-Ill.) and Rep. Barber Conable (R-N.Y.) have added their names to the growing list of congressmen who want to see the federal pension law administered by a single federal agency.

In legislation (H.R. 6053) introduced last month, the two congressmen call for the creation of a single agency to enforce ERISA and scrap the current tripartite system of administration. The agency, the Employe Benefit Administration (EBA), would take over the present ERISA-related responsibilities of the Labor Department, Internal Revenue Service and Pension Benefit Guaranty Corp. within three years from the bill's passage.

The current multiagency system of administration has prevented the development of a "rational and coherent" national pension policy Rep. Erlenborn said.

However, the Labor Department recently testified before several congressional committees recommending that Congress hold off action on the single agency approach until a federal study is released later this month examining the effectiveness of the Administration's reorganization of ERISA enforcement, dividing responsibility between the IRS and the Labor Department.

The EBA's five members would include a chairman selected by the President. Other nominees would be chosen from lists prepared by the Labor Department and the IRS.

Under another part of the bill, employes would be allowed to deduct $1,000 or 15% of income, whichever is less, for contributions

Rep. John Erlenborn seeks to consolidate ERISA enforcement in a single agency.

into a corporate pension plan. Currently, employe contributions into employers' pension plans are not tax deductible.

More than a dozen other bills pending in Congress also call for liberalizing the tax code to permit tax deductions for employe pension contributions. But the Treasury is opposed to the idea, fearing a huge loss of revenue.

In an effort to reduce employers' paperwork burdens, the bill proposes to eliminate mandatory dissemination of summary annual reports. However, employes still could request a copy.

While business groups generally approve of dumping the summary annual report, pension rights groups oppose the elimination, arguing that the reports give plan participants a better handle on how their pension plans are investing their money.

The measure has been referred to the House Ways and Means Committee and the Education and Labor Committee. Hearings have not been set yet. ■

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Munson insurer files suit

AKRON, Ohio—Cornhill Insurance Co. Ltd., a British underwriter, is asking a federal court here to declare invalid an insurance policy covering the aircraft that carried New York Yankees catcher Thurman Munson to his death last Aug. 2.

Cornhill has filed a suit contending it is not liable for any claims arising from Mr. Munson's estate because he was violating policy provisions when he was killed as his Cessna Citation jet crashed at Akron-Canton Airport. He was practicing takeoffs and landings.

Cornhill is the lead underwriter on the risk that includes coverage from Lloyd's of London.

The company contends Mr. Munson violated the policy provision requiring him to fly with pilot-instructor Phillip Bradley until accumulating 100 hours of flying time. Mr. Munson had only 42 hours and Mr. Bradley was not on board when the $1.2 million aircraft crashed. Cornhill insured the hull for full value as well as for third-party liability for property damage and personal injury. ■

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captives/self-insurance

Corporate coffers to swell in 1980 with bonus of self-funding: Execs

BI ROUNDUP

CHICAGO—Tossed bags of risks by a capacity-crunched insurance industry in the mid-1970s, corporations are filling money bags with the financial advantages of self-insurance and captives.

The coffers of existing captive insurance companies will bulge in the 1980s, more companies will bundle up their risks with other companies in group funding arrangements and some late starters will finally decide to hold on to some of their own risks, risk management experts say.

Few experts predict, however, that there will be as many corporate self-insurance plans formalized in captive insurance companies as in the 1970s.

But considering captives and self-insurance as one risk management technique, Duane E. Allen, assistant treasurer of The Hanna Mining Co. in Cleveland, says, "There will be an increasing amount of self-insurance because it's the most economical way to fund risk."

With inflation climbing unabated and interest rates at record levels, cash flow commands careful scrutiny at large corporations, observes Charles E. Hiatt of the Hiatt Co., a risk management consulting firm in Malibu, Calif. "Self-insurance is bound to grow as increasingly sophisticated financial managers study all sources of investment return and cash flow," he says.

Only Robert A. Reeves, vp-insurance at Hospital Corp. of America in Nashville, foresees less dramatic growth of self-insurance and captive programs. "We're in a phase where self-insurance and captives will grow with the rate of inflation with the soft market and flat growth of the insurance industry," he said.

While most risk management pundits interviewed by *Business Insurance* expect continued growth of self-insurance plans—either funded or unfunded—few predict that formalizing self-insurance plans with captive insurers can keep up the pace of the 1970s in the 1980s.

"We're nearing the saturation point of pure captives," said Mr. Reeves, referring to wholly owned insurance subsidiaries underwriting only parent company business.

Indeed, the favored captive haven of Bermuda has nearly 1,000 captives domiciled there, with 120 to 150 formed in 1979, probably the biggest year ever.

But Shelton Burgess, registrar of companies, won't admit the market is saturated, expecting at least more trade association captives.

Mr. Allen at Hanna Mining predicts additional large companies will form captives "particularly for casualty risks because casualty risks will continue to grow and prefunding will be necessary."

But self-insurance plans will grow faster than captives, maintains agent and consultant Robert Spears of Lyman Sheets in Lansing, Mich. "We're not seeing the surge in captives we saw five years ago," he says, arguing that self-insurance is less complicated and less expensive than setting up a captive.

"My guess is that the rate of formation of captives will decline and the premium volume in those existing will increase," observes Robert C. Goshay, vp in the San Francisco brokerage offices of Marsh & McLennan.

The corporate sphere of influence has broadened, putting the brakes on captive formation, he says. It's no longer the risk manager alone who's involved, but the tax people, international finance people and other corporate executives keeping an eye cocked on their prerogatives, he notes.

"The market's too soft now to spur growth in captives, but if we get another crunch we'll probably see a few more," Mr. Goshay said.

Nearly everyone interviewed, however, predicts that group or association owned insurance companies will bag the most risks in this decade.

"Trade associations haven't given it the attention it deserves," chides Mr. Reeves of Hospital Corp. of America.

Mr. Goshay of M&M predicts a tightened insurance market next year will convince more companies in specific industries to throw their risks together into one bag, such as for product liability.

But, he notes, "I guess I'm in sort of a minority because I don't think general purpose association captives are very viable. The problem of holding an association together in a soft market is a very, very difficult one."

Peter Lederer, an attorney with Baker & McKenzie in New York who has advised group captives, also foresees more growth of cap-

Continued on page 20

Firms fear raid on work comp reserves

By MARGARET LeROUX

No one will admit it

"I don't want to become the target of an Internal Revenue Service Investigation," said a risk manager who admitted privately his firm tax deducts self-insured work comp reserves.

SAN FRANCISCO—Corporations throughout the U.S. are tax deducting payments made to self-insured reserves for workers compensation claims, but are afraid to admit it.

"I don't want to become the target of an Internal Revenue Service investigation," said one risk manager who admitted the practice.

"Everyone is doing it but no one will admit it," said another risk manager.

It's not that these corporations are knowingly defying the IRS code; they are following an appeals court ruling the IRS threatens to test again.

In the now famous Crescent Wharf & Warehouse Co. case heard in 1975 by the 9th Circuit Court of Appeals in California, the court ruled the warehouse company's reserves for incurred but unpaid and uncontested workers compensation claims met the all events test and were therefore tax deductible.

This was a startling reversal of the IRS interpretation of the tax code, which requires that all events contributing to a loss must have occurred for the loss to be tax deductible. The IRS maintained that employers who self-insure workers compensation losses have contingent liabilities that are therefore not tax deductible.

Although the IRS didn't appeal the decision, it announced its nonacquiescence in the case. That means the IRS is putting the public on notice that it could further contest the issue in another circuit or a higher court, an IRS spokesman said.

"The IRS wants a case it knows it can beat," the IRS spokesman explained.

Crescent Wharf waged an ultraconservative defense for its claims reserves, which made the case hard for the IRS to beat, observers agree.

In the meantime, self-insured corporations are using the Crescent Wharf decision as a basis for tax deducting reserves for workers compensation claims, risk managers and risk management consultants say.

"Most companies are taking a more aggressive tax posture since Crescent Wharf," said the risk manager for a San Francisco based corporation.

"You can develop a strategy (toward self-insured reserves) that permits you operating efficiency and is within the law," said the risk manager of the Northern California Fortune 500 company.

"Several companies are using the Crescent Wharf case as a potential defense. We are recommending companies take the deduction," said Felix Kloman, president of Risk Planning Group in Darien, Conn.

But reaction among clients of The Wyatt Co. has been "rather mixed," says consultant Warren Brockmeier.

Wyatt is advising clients to take a deduction if they meet the criteria of the Crescent Wharf case, he said: reserves are for uncontested claims, they relate to specific cases, not on an aggregate basis, and there is an outside claims administrator.

At Warren, McVeigh & Griffin, consultants don't go so far as to recommend taking the deduction.

"We refer them to the Crescent Wharf case," said Bud Griffin, "and explain the ramifications. A lot depends on the tax posture of the tax and financial people in the corporation."

Attorneys who have studied the Crescent Wharf decision say there is a lot to be gleaned from it.

"The appeals court ruled that an injury to an employe is the incident that establishes the fact of liability," said an attorney who studied the Crescent Wharf case.

"Workers compensation cases are unique in that liability occurs regardless of fault. Contributory negligence is not an issue," the attorney said.

Another point in the Crescent Wharf case, the issue of "reasonable accuracy," was included in a stipulated judgment but wasn't reported. The warehouse company was within the guidelines for reasonable accuracy established by a tax court ruling in 1951, said a source involved in the case.

"The court was concerned about how close we came in estimating the reserves," said Al Schmidt, president of R.L. Kautz & Co., the claims administration firm for Crescent Wharf during the contested period. "We came within 10% of the amount actually paid."

Because Crescent Wharf used an outside administrator during the time period included in the appeals court ruling, the court felt more comfortable with the accuracy of the estimated reserves, Mr. Schmidt said. The company now administers claims in-house.

"The courts don't like the idea of the people doing the reserving being the same ones holding the cookie jar," he noted.

Yet a third consideration for self-insurers attempting to emulate the defense of Crescent Wharf is contested claims. The warehouse company eliminated all contested claims filed by employes with the workers compensation board from consideration in its appeal.

This approach was "overly cautious," said one attorney familiar with the case. "I don't think a company self-insured for workers comp would have to go that far today."

If it's a contest about something basic, such as an appeal over the length of time the employe is disabled or if an injury clearly occurred before employment, the claim could be included in deductible reserves, the lawyer added. ■

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Employe benefit self-funding may mean more work

By MARGARET LeROUX

SAN FRANCISCO—Choosing to self-insure employe benefit plans will increase the workload, demand a larger staff and take "three months at the very minimum—even that's an optimistic estimate."

That was the message from representatives of three San Francisco companies that self-insure benefits to the members of the newly formed Bay Area Benefit Managers.

"Improved financial position and cash flow advantages" are two advantages of self-insuring, said Karen Kamimoto, benefit plan administrator for Potlatch Corp.

There should be a minimum of 1,500 lives covered by the benefit program before self-funding is considered, she said. For employe groups with 300 to 1,000 lives, a minimum premium program might be considered, she added.

Stop-loss insurance is available for self-funded benefit programs, but it's very expensive, according to the experience of several benefit managers attending the December meeting.

Insurance companies are showing 20% to 30% annual increases in stop-loss coverage over the current premiums, while group premiums run 10% to 15%, the benefit managers said.

"If you go self-insured, you'll need increased expertise on your staff," Ms. Kamimoto said. "You won't be able to refer those tricky questions to the insurance company."

A healthy boost to a corporation's cash flow can result from a switch to self-insurance, said Ellen Egbert, administrator of government compliance reports and employe communications for Del Monte Corp.

After being acquired by RJR Industries, Del Monte took an administrative services only approach to its group health plan, with annual savings estimated to be $600,000.

Del Monte received a $9 million refund representing reserves for the plan, formerly insured with The Equitable Life Assurance Society of America.

Another result of a change from an insured to a self-insured or administrative services only approach to employe benefits is a reevaluation of services, said Allison L. Witzel, employe benefits manager at Dean Witter Reynolds Inc. "You suddenly start realizing how much your consultant is costing," she said. "You may want to question whether you're getting your money's worth. Having to pay a consultant out of your budget really changes the relationship," she added.

For the stock brokerage firm, the decision to self-fund employe benefits, made in August, presented another challenge: how to invest the reserves.

"You can imagine, with 3,000 stockbrokers among the 9,000 employes, we had a lot of suggestions," Ms. Witzel said. As of Jan. 1, reserves for Dean Witter employe benefits, which represent about three months worth of claims, are being invested in a liquid asset fund.

The Bay Area Benefit Managers group was formed in April 1979 with the leadership of Sara Gingrich, health and welfare plans manager for Levi Strauss & Co.

Membership is open only to benefit managers and serves as a forum for discussions of current trends, problems and techniques in managing U.S. employe benefit plans.

"We also serve as a resource of fellow benefit managers to offer insight, advice and answers to your questions," said Martin S. Brown, retirement plans manager for the Clorox Co. and a member of the group's planning committee. ■

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Firms' coffers swell with bonus of self-insurance

Continued from page 17

tives formed to underwrite specific risks. "There will be combinations in areas of risks not easily adapted by the commercial market," he said. The recent formation of a captive by nuclear power plant owners to cover the cost of replacement fuel needed when a nuclear reactor is knocked out is a perfect example, he said (*BI*, Nov. 26).

Mr. Reeves noted that a less exotic but very expensive risk—workers compensation—is a prime candidate for formalized self-insurance programs.

"The near term problem is workers compensation," he said. "People are focusing on rate increases brought about by increased benefits. Senior executives see costs are up and we will see moves away from fixed dollar programs to self-insurance and captives. There will be a lot of growth here."

Impending legislation

The only development that could slow the growth of trade association captives, it's noted, would be passage of the Commerce Department's proposed Risk Retention Act. That bill would allow companies to pool product liability risks in cooperatives regulated by the federal government and afford participants the tax advantages of purchasing insurance.

"Watch the Risk Retention Act and pooling for product liability," Mr. Reeves said. "That could be a factor if passed."

Insurance companies owned by unrelated companies and their captives, such as Corporate Insurance & Reinsurance Co. Ltd. and Hopewell, are also expected to grow in this decade. The bundling and redistribution of risks not only improves the capacity of the individual captives, but is also expected to withstand Internal Revenue Service probes for tax deductibility of premiums paid to the captives.

"A lot more will pool casualty risks when they realize the financial aspects of it," said Mr. Allen of Hanna Mining, a participant in CIRCL.

Continued attacks by the IRS on parent companies that tax deduct premiums paid to wholly owned insurance subsidiaries will especially promote the formation of more group owned captives, Mr. Allen says.

But generally, few observers fear much effect on captive development by pokes at captive bundles from the IRS. Either they aren't convinced it's a fierce attack or they think the threat of an IRS attack has already make its mark.

"I haven't heard anything to make me think captives are a number one audit issue," says Mr. Lederer of Baker & McKenzie. "But we need to wait another couple years to see how consistent the application of the IRS position is."

Tax issues

"Everyone has already assessed the down side risk of a captive," says Mr. Reeves of Hospital Corp. of America. "If the IRS wins, captives won't disappear and they wouldn't get into any more outside business."

Felix Kloman, president of Risk Planning Group in Darien, Conn., disagrees. He gives the IRS only a 25% chance of winning its argument against captives. But should the IRS win, he foresees the collapse of some of the smaller captives and the larger ones going after outside business to establish themselves as insurers.

J. Richard Barnes, insurance commissioner in Colorado, is optimistic that captives formed in his state under the special captive insurance company law will ultimately be treated for tax purposes like any other insurer, granting their parent companies tax deductions for premiums paid.

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Viable alternative?

"I don't think general purpose association captives are very viable," says Robert Goshay, left. Robert Reeves, right, suggests workers compensation is a good risk for such a captive.

"The IRS will take the position—within the next 12 months—that properly regulated offshore captives will be treated no differently than a commercial insurer," Mr. Barnes said.

But no one else is predicting such a domestically prejudiced attitude by the IRS. Barring such a switch, continued captive growth will be offshore, most say, to take advantage of the more relaxed regulation and tax advantages.

Potential problems

"I wouldn't encourage Tennessee and Colorado captives. The IRS will be sure to touch them," said William Hare, president of Risk Administration Services Inc. in Greenwich, Conn. "It is not that cheap to go into an out-of-country captive, but one of the reasons you do it is freedom. No one is telling you how to invest your money. The insurance commissioners of both these states tell you what you can and what you can't do."

Mr. Hare conceded that there's only the potential for problems in these states; nothing has happened yet to scare away any captives. But in Colorado, he said, the insurance commissioner can review every decision to go into third-party business, which might be a deterrent to a captive considering moves in this area. ▪

In-house claims job debated

CHICAGO—A risk manager who manages his own captive predicts more corporations will bring the work in-house, but service sellers disagree.

"There will be more in-house administration of self-insurance plans," said Robert A. Reeves, vp-insurance at Hospital Corp. of America in Nashville. "With the numbers getting bigger, you can justify hiring an employe. And with more captives maturing and risk managers becoming managers, it's natural we'll see less reliance on outside companies."

There's great value in having a third-party claims administrator in self-insured workers compensation programs, counters Robert Goshay, vp of Marsh & McLennan. It's easier to satisfy state reporting requirements and the outside firm becomes a buffer between employe and employer.

"I don't see much in-house management of captives," he said.

Charles Hiatt of the Hiatt Co. says more sophisticated computer facilities are also available on a contract basis. ▪

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Figures show commitment

Bermuda firms take few solvency risks

By KATHRYN J. McINTYRE

HAMILTON, Bermuda—A West Coast company suffering severe financial problems pulled out the $2.5 million in capital and surplus it had in its Bermuda insurance company—but not for long.

The money was restored after Bermuda insurance regulators contacted the parent company's chairman to complain, *Business Insurance* learned. The captive is now running off its business in a solvent position.

An undercapitalized Bermuda captive, however, is apparently the exception. Captive insurance companies here aren't taking as many risks as they reasonably and legally could if the registrar of companies' business estimates are correct.

"The capital and surplus committed here is shocking," says Shelton Burgess, the registrar of companies. "I'm guessing it will exceed $2 billion."

This capital commitment precedes capital demands of the solvency regulation that now governs captives formed after Jan. 1 and will control after Jan. 1, 1981, existing captives that filed for a one-year exemption.

With gross premiums written in Bermuda estimated at $2 billion to $3 billion and capital and surplus exceeding $2 billion, captives are underutilizing their capital and surplus, Mr. Burgess says.

A conservative premium to capital and surplus ratio is two-to-one. The Bermuda Insurance Act of 1978 allows companies to take in premiums totaling five times statutory capital and surplus and 10 times capital and surplus exceeding $1.2 million.

While Mr. Burgess admits to be guessing at capital and surplus totals now, tallied results from regulatory exemption applications filed by insurance companies may be available soon.

As of the end of December, close to 800 insurers had filed for the one-year exemption from regulation under the insurance act, which took effect Jan. 1. The exemption application asked for the same financial information as the financial reports to be filed for next year, but the information gathered now won't be used for regulatory action.

Instead, the applications will be reviewed by the registrar and aggregate figures on premium volume and capital and surplus of the Bermuda market could be compiled. Already, from the applications and new captive registration, it's known there are nearly 1,000 captives in Bermuda, 120 to 150 of which were registered in 1979.

Only one insurance company—a captive underwriting its parent company's casualty risks—has filed for an exemption from the financial reporting and solvency regulations as allowed under the act.

It hasn't been decided whether a flat exemption will be granted or if special regulations will be drawn up for the company, Mr. Burgess said.

Most companies, however, are content to comply with the regulations and the insurance act rather than risk indicating that they are less than insurance companies by asking for the regulatory exemption. The Internal Revenue Service, when challenging the deductibility of premiums paid to a captive, could cite an exemption from Bermuda regulation to bolster its case that the captive is not a bona fide insurance company, it's agreed.

The final regulations implementing the law are now out and differ from the drafts (*BI*, Aug. 6, 1979) only in their simpler format, Mr. Burgess noted. ■

Windstorm losses

Insured losses resulting from heavy windstorm damage in Wyoming and Colorado Dec. 4-5 are estimated at $7.5 million by the American Insurance Assn. The storm is Catastrophe Number 39.

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Bahamas, states expect to nurture captive growth

By VALERIE BERG

CHICAGO—The Bahamas, Colorado and Tennessee will remain fertile ground for new captives, which will continue to sprout in 1980 as the seeds planted in the late 1970s take root, say persons involved in regulating and managing captives in those areas.

Compared with Bermuda, which supports nearly 1,000 captives, these areas are small captive havens. But the promoters of these alternative domiciles are turning hopeful eyes to future growth.

"I'm optimistic about it," says John Ray, vp of Bahamas Underwriters Services Ltd., which manages three captives in the Bahamas. "The government is anxious to get the captive business back to the Bahamas."

The country's 1969 Insurance Act was revised 18 months ago to exclude offshore captives from the 1% gross premium tax payable by domestic insurers and government reporting procedures were liberalized. When the 1969 law took effect, a few captives kept their registered office in the Bahamas but were managed elsewhere, Mr. Ray says, and one of those is moving back after being managed in Bermuda.

Of the three captives managed by Bahamas Underwriters, one is for Charter Oil Co., of which Bahamas Underwriters is also a subsidiary. Charter this fall acquired the majority of shares in the Bahamas Oil Co. refinery in Freeport, and Bahamas Underwriters formed a Charter captive to insure the refinery's risks. Mr. Ray would not name the other two captives.

Other companies have expressed interest in captive formulation, he said. "The only snag I see is the length of time it takes to form a captive, four to five weeks, where in the Caymans it only takes two days," he said.

In the U.S., Colorado insurance commissioner J. Richard Barnes is optimistic that captives formed under Colorado's special law will be treated for tax purposes like any commercial insurer. If Colorado captives win such favorable treatment from the IRS, the first state to pass a law encouraging captives would have a competitive edge.

But so far, Colorado still has only 25 active captives in its state, although a few parent companies are discussing forming Colorado captives, Mr. Barnes said.

In the East, in the hills of Tennessee, at least five captives are expected to join the current two in 1980, says Paul J. Tidwell, director of financial affairs for the Tennessee insurance department. "We've got one that's already come in and made a commitment for licensing, probably by February," he says. Although he declined to name the company, Mr. Tidwell said it is a major corporation that already has captives in Colorado and Bermuda.

At present, the only captives doing business under Tennessee's special captive law are Parthenon Insurance Co., a subsidiary of Hospital Corp. of America, and Hospital Underwriting Group, owned by hospital management companies.

The five likely captive candidates are mainly Tennessee corporations. Four are pure captives and the other is a major medical association.

Tennessee will only license captives to write professional liability and comprehensive general liability, Mr. Tidwell said, and Colorado's liberal captive law, allowing more lines of insurance to be written by captives, may be keeping some prospects from forming captives in Tennessee.

The tandem captive idea, in which a risk is underwritten by a Tennessee captive and reinsured with an offshore captive, has yet to find any takers. "People haven't said too much about it to us," Mr. Tidwell said. ■

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Lawyers' mutual draws members despite objection

CHICAGO—A Bermuda-based lawyers' mutual insurance company has logged two-thirds of its enrollment goal despite a competitor's appeal to the target market to ignore the captive.

Attorneys' Liability Assurance Society Ltd. is now underwriting professional liability insurance for more than 40 large law firms employing more than 4,000 lawyers.

"We set 6,000 insureds by April 1 as our target," said Thomas Chittenden, senior vp at Marsh & McLennan and president of ALAS. "It's likely we'll make it."

No one knows if a letter and legal opinion sent to most large U.S. law firms by Alexander & Alexander cautioning against involvement with ALAS has hurt the new company's business.

A 19-page legal opinion on ALAS prepared by the Chicago law firm of Lord, Bissell & Brook warned that "ALAS and those associated with it, including certain member firms, may be confronted with serious regulatory and state tax problems which could impair ALAS's ability to function as a viable alternative insurance market."

Alexander & Alexander owns Shand, Morahan & Co. Inc., a major marketer of lawyers professional liability insurance.

"The letter said they felt the company might be operating illegally, but their real concern was ALAS would cut into Shand's business," Mr. Chittenden charged. ALAS is operating legally, he maintained.

"It's hard to say if the letter cut into our enrollment," he said.

A&A released the letter and legal opinion to *Business Insurance*, saying it believed the warnings were important.

ALAS was formed last year by 16 large law firms that objected to the premium increases insurers were handing down for professional liability insurance.

M&M, the broker for the large Chicago law firm of Mayer, Brown & Platt, began working on the project in 1978.

On Oct. 1, 1979, ALAS started underwriting professional liability insurance for 35 law firms.

The claims-made policy provides coverage of $10 million per occurrence and $20 million aggregate, with a minimum self-insured retention of $100,000. The retention may be increased to $250,000 to $500,000 for underwriting considerations.

The premium is a flat $950 per practicing attorney except in California, where lawyers are charged $1,850 each for the insurance. "The loss experience is worse in California and there are more plaintiffs' attorneys," Mr. Chittenden said. The California surcharge "is similar to the commercial market spread," he noted.

The $950 per attorney premium elsewhere is "lower than some commercial rates and higher than others," Mr. Chittenden said.

Each law firm insuring with ALAS has contributed $300 per practicing attorney to the company's capital, giving ALAS an estimated $1.2 million in capital.

ALAS buys quota share reinsurance from a London company, splitting losses and legal expenses 50-50 with the reinsurer.

Mr. Chittenden declined to identify the reinsurer, but *Business Insurance* learned that both Insurance Co. of North America and Merrett Dixey Syndicate at Lloyd's of London refused to write reinsurance for the company because of their commitment to the commercial marketplace. Merrett Dixey does business with J.H. Minet, a leading lawyers professional liability underwriter, and INA wants to underwrite state bar association plans through INAX.

ALAS is open only to law firms with more than 40 lawyers that are headquartered outside New York City. ▪

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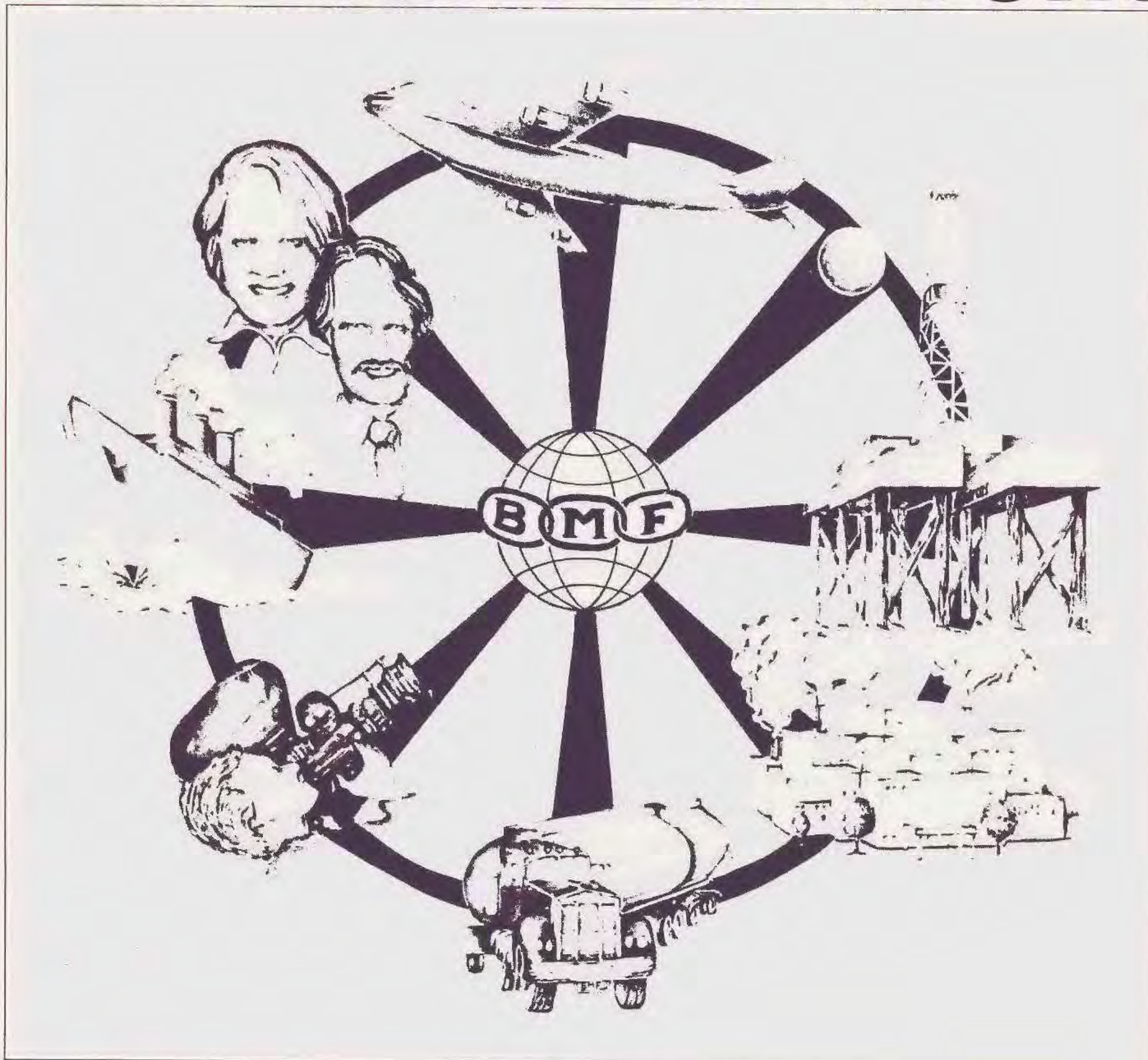

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Carnation appeal asks for decision on IRS reasoning

By KATHRYN J. McINTYRE

LOS ANGELES—The first court ruling on the Internal Revenue Service's logic for attacking transactions with captive insurers could be handed down in Carnation Co.'s appeal of a tax court judge's decision against the firm.

"That's what we're looking for," said J. Patrick Whaley, Carnation's attorney.

Both Carnation and the IRS are debating the IRS's economic family theory in their briefs to the 9th circuit court of appeals here. The IRS's attack on transactions with captive insurers is based on its economic family theory.

But the appeals court's decision on whether a policy purchased from a captive insurer is insurance and a deductible business expense isn't expected for a couple of years because of the court's heavy caseload, Mr. Whaley said.

The economic family theory, first espoused by the IRS in Revenue Ruling 77-316, holds that a captive insurer can't sell insurance to a parent because as members of the same economic family there can't be any risk-shifting (*BI*, Sept. 19, 1977).

Risk-shifting is necessary for a valid insurance transaction, the Supreme Court has ruled.

Without insurance, transactions with a captive constitute self-insurance and aren't tax deductible as a business expense, the IRS says.

But the tax court, in ruling against Carnation in December 1978, didn't consider the economic family theory. Instead, it held that an agreement between American Home Assurance Co. and Carnation Co. that Carnation's Bermuda captive would be further capitalized canceled any insurance agreement (*BI*, Jan. 8, 1978).

The IRS espouses the theory that a captive can't sell insurance to a parent because as members of the same economic family there can be no risk-shifting.

In ruling on the appeal, the 9th circuit court could hand down the first court ruling on the economic family theory, Mr. Whaley said.

Tax attorneys who defend the validity of transactions with captive insurers argue that the IRS's economic family theory is erroneous because it conflicts with sections of the tax code recognizing the independence of related companies for tax purposes.

The IRS is arguing, however, that its theory doesn't conflict with the tax code.

Briefs in the case, filed over the last two months, also offer an interesting commentary on the question of whether writing insurance for unrelated companies or sharing ownership of a captive voids the economic family theory. Carnation asked these questions in its first brief filed with the court.

The IRS answered: "In the context of determining the deductibility of insurance payments made by a taxpayer to a related corporation, the precise delineation of the limits upon the application of the legal principle set forth here by the commissioner might indeed call for close analysis, but there is no reason to suppose that the courts would not prove equal to the tax... The facts here require no such venturing into troubled waters..."

Mr. Whaley cautioned against interpreting the IRS's reply to mean that outside business or multiple owners could remove a captive from the economic family theory, as many tax lawyers suggest.

The IRS response "was just a way to avoid the difficulties the economic family theory presents," Mr. Whaley said.

Carnation's attorney is, however,

Continued on next page

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Carnation asks ruling on logic of IRS attack

Continued from previous page
taking comfort in the IRS admission in its brief that $120,000 of capital in the Bermuda captive was at risk in the 1972 property insurance arrangement, involving a fronting agreement with American Home.

"Since the government admits we were at risk for $120,000 of contributed capital and since the IRS considers premiums paid to a captive capital contributions, then the amount of capital increases as premiums are paid in," Mr. Whaley said.

"This might mean that we could lose this case, but it would be a different situation a few years down the road as capital builds up in the captive," he concluded.

The courts would have to determine how much of the $1.75 million premium that American Home paid the captive to reinsure the property risk is deductible by Carnation, Mr. Whaley said.

If this scenario is played out by the court, it would certainly give credence to tax attorneys' arguments that a fully capitalized captive could fend off IRS attacks. ▪

Colo. wins round with IRS

CHICAGO—While Carnation Co. fights a captive battle against the IRS in the 9th circuit court of appeals, captive proponents are waging their own offenses to legitimize captive insurers.

Colorado insurance commissioner J. Richard Barnes, a feisty promoter of captives chartered under his state's special law, says he has won a concession from the IRS.

"The IRS has indicated there will be no new audits of Colorado captives without clearing them with an insurance expert in the North Atlantic region who will coordinate the audits," Mr. Barnes said.

"We expect to meet with this man in New York in 30 to 60 days to talk about Colorado captives," he added.

Colorado captives came under IRS audits for the first time last fall (*BI*, Oct. 1, 1979).

Meanwhile, The Captive Insurance Cos. Assn. has hired the New York law firm of Baker & McKenzie to draft legislation allowing tax deductions for self-insurance reserves and payments to captive insurance companies.

CICA intends to lobby Congress to pass such legislation (*BI*, Oct. 15, 1979).

Washington law firms will be interviewed this month and one will be chosen to help with the lobbying effort, said Robert A. Reeves, vp-insurance at Hospital Corp. of America, who is coordinating the lobbying effort. ▪

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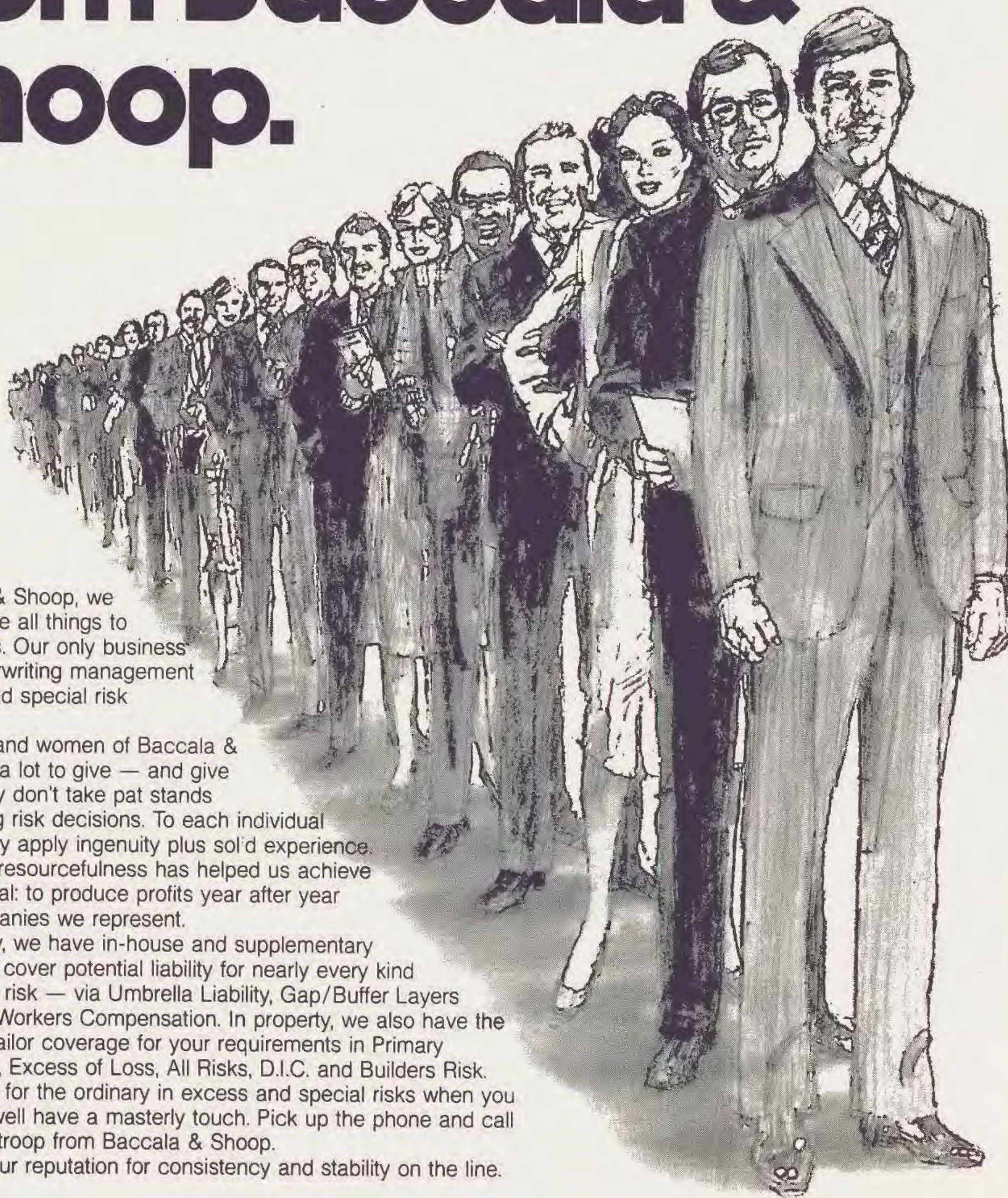

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Growing trend

Captive rentals may buy tax trouble

By JERRY GEISEL and JOHN MAES

WASHINGTON—Small firms strapped for capital that "rent" captives may be buying tax troubles.

In typical rental arrangements, a policyholder pays a premium to an offshore insurance company owned by someone else. The bulk of the premium is used to reinsure most of the risk with the remainder of the premium set aside in special accounts to pay losses not covered by reinsurance.

Supporters of the small but growing rent-a-captive movement champion the trend as a way smaller firms can enjoy the fruits of captive ownership. The arrangement grants access to the reinsurance market and often lowers premium costs without the capital commitment to a captive.

About a dozen small and medium sized manufacturing companies are renting Bermuda-based American-British Insurance & Annuity Co. Six or seven policyholders rent out Anglo-American Insurance Co. Ltd., owned by former Johnson & Higgins executive Clayton Chambers, who also manages American-British. A truckers association is renting another captive.

But some insurance buyers are troubled by the rental arrangements. One risk manager at a major pharmaceutical corporation turned his thumbs down at an invitation to become a rent-a-captive policyholder. He contends that captive rentals are a "sham" with no transfer of risk to the captive, and thus no insurance is involved.

"I'd get clobbered from my tax and legal people every time I talk about captive rentals," said the risk manager, who did not want to be identified. He thinks captive rentals won't get going until the IRS rules on a test case.

Rent-a-captive managers, such as Mr. Chambers of Venture Management Ltd. in Bermuda, argue that rent-a-captive policyholders can deduct their premiums as a business expense, giving them a considerable advantage over captive owners, which the Internal Revenue Service says cannot deduct premiums paid to wholly owned offshore insurance subsidiaries.

A variation on the rent-a-captive concept, Aneco Reinsurance Co. Ltd., thinks it has the tax issue beat, but not all agree (*BI*, Oct. 29, 1979).

There could also be trouble in regulatory circles. Shelton Burgess, registrar of companies in Bermuda, warns rent-a-captives better be risk-taking entities because if they are not, "I don't want to know about it because it's not insurance."

Such arguments disturb Mr. Chambers and other rent-a-captive enthusiasts. "If a company pays a $10,000 premium and has received a $1 million product liability policy—that is insurance," he insists.

Arguments aside, policyholders insist rent-a-captives are working for them.

Warren Webster, president of Joyce-Cridland Co. in Dayton, Ohio, says he's saving money and is satisfied with his rental agreement with American-British Insurance & Annuity Co. in Bermuda. American-British is owned by 11 private investors.

Mr. Webster and other members of the Automotive Lift Institute, a trade association, had considered forming an association captive to underwrite product liability insurance, but they couldn't raise enough capital, Mr. Webster said.

"Two years ago we were being priced out of the market and we almost couldn't afford anything that was offered us," Mr. Webster said. "It's not that the coverage wasn't available to us, it was just high-priced."

The company now has $1 million worth of coverage for premiums of approximately $93,000, 20% less than what Joyce-Cridland uses to pay for the insurance, Mr. Webster said. "And if our history is good the premiums will be reduced," he said.

In the first policy year, Joyce-Cridland retained about $50,000 of the risk, but the company now bears none of it, reinsuring it out, he said. So far, Joyce-Cridland hasn't filed a claim.

Another company, Wirtz Manufacturing Co. Inc. in Port Huron, Mich., has also saved money on its product liability insurance by renting American-British, said Jack Wild, vp of finance for the firm. About $50,000 has been shaved from its $500,000 annual insurance costs, he said.

"We're very pleased with it," Mr.

Continued on next page

"American-British is only paying out reinsurance or the insured's money," says Clayton Chambers.

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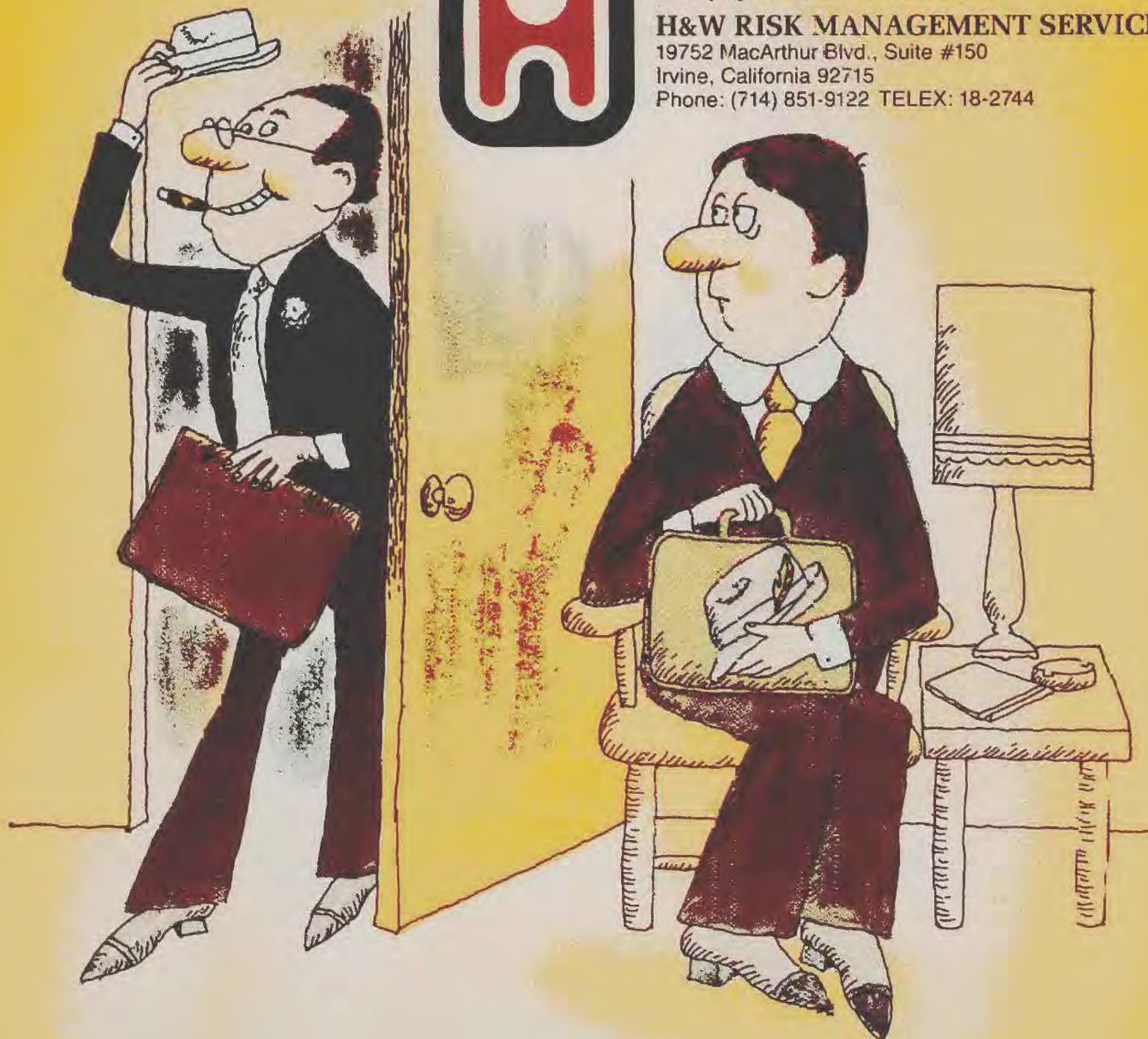

Rentals may buy trouble

Continued from previous page

Wild said. "We haven't had any claims yet because we only went in on April 15, 1979. So we've had little to judge it by, but if and when we do have a claim, we feel we have a good arrangement and we hope we can save money in this area."

It's not the prospect of cost savings alone that attracted them to American-British, the corporate officials said. They also expect better, more personalized service and a greater voice in claims handling.

Mr. Webster said he's encountered insurers who take a "don't bother us attitude" while investigating claims. But under the current arrangement, claims are handled by the corporation's attorneys and adjustment bureaus. "I just feel we'll have a greater say in the claims process," he said.

"We have a say in the settlement and a hand in all procedures," Mr. Wild said.

Both say product liability is the only risk currently insured by American-British and there are no plans to add any new risks to the rental captive. But they leave the door open to expanding their use of the operation if there is potential for savings.

William H. Green, who heads American-British, said about a dozen small and medium sized manufacturers are renting the company, paying $1 million in premium volume annually. The highest premium paid into the company is $200,000 and the lowest $80,000. Average premium is between $125,000 and $150,000.

Four new contracts are also in the works that would bring in enough premium volume "to double our present premiums," Mr. Green said.

He identified the prospective clients only as a direct sales firm, a large Chicago merchandizing firm, a financial planning company and a chain of small convenience-style grocery stores that has more than 100 outlets.

American-British offers policyholders up to $2 million of product liability and comprehensive general liability coverage.

A potential policyholder meets with Venture Management to iron out the amount of coverage needed and the rate. Part of the premium stays within American-British in a separate account as a self-insured retention, but the bulk is used to buy reinsurance on the policy American-British is writing for the client. As a result, American-British has no direct exposure since the client's reserve account pays for the first level of losses, while reinsurance covers higher losses.

"American-British is only paying out the reinsurance or the insured's money," Mr. Chambers explained. "There is no way American-British can lose money."

Policyholders, however, do earn interest on their underwriting accounts with American-British. If a policyholder were to withdraw, for example, after five years and had no losses, he could collect the balance in the reserve account, less reinsurance management expenses, plus the interest earned.

Management fees are handled as a flat amount, Mr. Chambers said. "We don't normally work on a percentage basis. It would depend on how much work we think we would have to do. But in a usual case, normal management fee would be $5,000 or $6,000." Five percent of premium is a good rule of thumb in determining the management fee, Mr. Chambers added.

While American-British is rented out by individual policyholders, Nittany Insurance Ltd., an affiliate of IM of America, a Chevy Chase, Md., brokerage and consulting firm, has rented its facility to 20 trucking equipment firms, offering $1 million of comprehensive general liability coverage.

The companies are paying about 15% less than under their prior policies. The rent-a-captive has meant "adequate coverage at a reasonable price," said LeRoy Abbott, president of IM of America.

During the product liability crunch of the 1970s, truck body and equipment companies found themselves being squeezed out of the liability insurance market.

Even though the firms' insurers were paying out less than $1 in claims for every $4 in premiums, the insurance industry was throwing up roadblocks when it came time to issue policies.

For some trucking equipment firms, premiums jumped to $140,000 from $800. Other companies couldn't get adequate insurance protection at any price.

The equipment firms, through their trade association, the Washington-based Truck Body & Equipment Assn., "rented" Nittany. TBEA set up a for-profit subsidiary, TBEA Service Corp., which holds a rental contract with Nittany.

Of the premium dollars flowing into Nittany from TBEA Service Corp., about 30% is used to purchase reinsurance, 50% goes to pay retained losses, while another 20% pays for administrative expenses, Mr. Abbott said. Unlike American-British, Nittany also offers policyholders loss control and claims adjusting services.

The trucking equipment firms are paying an average of $25,000 for $1 million of comprehensive general liability, including product liability protection. That's about 15% less than what most were paying for coverage from their previous insurers. The highest premium paid into Nittany, which is managed by Association Insurance Consultants Ltd., is $250,000, while the lowest premium is $15,000.

Premium flow currently is about $500,000 from 20 policyholders and that figure could more than double to $1.2 million from 45 policyholders by the end of 1980, Mr. Abbott said.

For a small trade association like the TBEA, whose members have average sales of about $1 million, a rent-a-captive makes sense, one broker says. "It allows you to build up a book of business as well as capital and surplus that could be moved over when the trade group wants to start its own captive." ■

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Determining Risk

With the magnitude of business risks expanding, sophisticated techniques are being developed to determine more precisely the optimum degrees of risk retention for a company's exposures.

A brief review by INA of an insurance topic of interest to business executives.

In an increasingly demanding economic environment, corporate financial executives are reexamining the capital and cash flow needs of their businesses. Part of this analysis focuses on the cost of business insurance, which in the typical corporation has risen in direct proportion to expanded exposures. In this environment, corporate risk managers are attempting to structure their insurance programs to help enhance cash flow without jeopardizing financial results through inadequate protection against losses.

Specifically, they are looking for ways that will help determine the most productive retention levels for their companies' growing exposures to risk and financial loss, recognizing that the ability and willingness to bear risks can vary sharply from one company to another.

For example, it might be advantageous to retain, either partially or completely, such exposures as automobile fleet physical damage and workers' compensation, where losses tend to have a high degree of predictability. Dollars that would otherwise be committed to insurance premiums would then be available for corporate use. Before setting specific retention levels, however, a determination is needed of the maximum amount of loss, in dollars, a company would be willing to bear.

Based on trend analysis, the availability of coverages and, most important, personal knowledge and judgment, there are several approaches to establishing this amount.

Maximum retention limits

Perhaps the most common, particularly for publicly held companies, is an earnings-per-share determination, in which uninsured losses are retained up to the limit where they will adversely impact the company's financial results. This figure is sometimes set at five percent of the company's operating earnings for its most recent year. Thus, a company reporting pretax earnings of $60 million would not retain risks with a maximum possible loss in excess of $3 million.

Retention Levels

A second method is to use a percentage of net working capital, generally between one percent and five percent. This method is frequently employed because it is based on corporate liquidity.

And a third method is based on an earnings-and-surplus yardstick. Here the limit of retained losses is set at a given percentage of current retained earnings, plus an equal percentage of average pretax earnings over the preceding several years.

In each case the figure represents an aggregate maximum retention for all lines. It is usually fixed at the beginning of each fiscal year to reflect an up-to-date picture of the company's financial position.

Arriving at specific retention levels

Having ascertained a maximum retention amount, the next step is to determine the optimum choice among a number of possible specific retention levels.

This is done by a fairly complicated procedure. Essentially, it consists of taking two variables – the maximum retention figure expressed as a company risk tolerance level, and another factor called the "risk-adjusted cost" – and using them as the two axes of a graph. Various retention options (such as complete self-insurance, $10,000 deductible, $50,000 deductible) are then plotted on the graph as curves. The best decision at a given risk tolerance level is that option having the lowest risk-adjusted cost.

An example is a large integrated oil company with an experience of 720 property damage claims, both open and closed, over a recent three-year period. The average severity was $11,214, with a maximum possible loss per occurrence of $2.5 million. The expected frequency was 240 occurrences a year and the expected aggregate loss was $2,691,464.

After taking into account both the expense of self-insurance and the premiums for commercial insurance with various deductibles, risk curves were computed and plotted for a number of options. They included full retention of the risks by the company; partial retention, with a large deductible; and full coverage by commercial insurance. The results indicated that at the company's risk tolerance level, the preferable option would be an insurance policy with a deductible of $1 million.

Even with the assistance of techniques such as these, setting risk retention levels remains a subtle and sometimes demanding process. Risk managers have found that consultation with insurance agents, brokers, and companies providing insurance products as well as self-insurance services is often invaluable in arriving at viable solutions.

* * *

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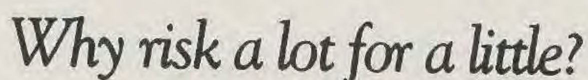

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Elevator installers organize captive to drop premiums

By JERRY GEISEL

CHEVY CHASE, Md.—Elevator contractors thought they were being taken for a ride by the insurance industry.

Premiums for many of the contractors, who build and install elevators, had doubled over a five-year period even though losses had not increased.

"Some companies were going bare," recalled LeRoy Abbott, president of IM of America, a brokerage and consulting firm based here. "Other firms' premiums were going up more than their experience justified."

But instead of letting premiums go through the roof, the contractors hit the stop button and banded together through their trade association to form a Bermuda group-owned insurance company.

Twenty-five elevator contractors, along with the Atlanta-based National Assn. of Elevator Contractors, have set up NAEC Insurance Co. Ltd. to provide $1 million of comprehensive general liability coverage. Umbrella coverage, up to $5 million, is available through IM of America.

Policies are being issued by First General Insurance Co. of Atlanta, which is being reinsured by NAEC. NAEC is taking the first $250,000 of coverage and 14 reinsurers are taking the next $750,000 of risk.

Interest in NAEC began last year when members became increasingly concerned that "their premiums did not seem to reflect their actual loss experiences," Mr. Abbott said.

To try to put the lid on premium increases, the elevator contractors retained IM of America to survey the firms' insurance costs and recommend an alternative insurance program.

The IM of America survey, which looked at 51 elevator contractors' loss experiences between 1974 and 1978, found the firms with average sales of $1.5 million weren't getting a very good return on their premium dollar.

In that five-year period, only about $1 million was paid out in claims, a bare fourth of the $4 million the 51 surveyed firms had paid out for liability coverage.

After analyzing the data, IM of America, along with the elevator contractors, determined that an offshore group-owned insurance company offered the best means of keeping premiums related to experience and cutting costs for members with good loss records.

NAEC Insurance Co. Ltd. was incorporated earlier this year with a capital and contributed surplus of $380,000.

Premiums paid into NAEC range from $3,000 to $100,000, averaging $32,000. Although each policyholder is individually rated, participants are paying an average 15% less than under their prior policies, Mr. Abbott said.

Policies are issued annually. After a year or two, the NAEC program will be reviewed and rates could be adjusted downward, Mr. Abbott said. Other alternatives include increasing coverage or paying dividends based on loss experience.

Right now NAEC has 25 policyholders. Premium flow could top $1.2 million from 51 policyholders by the end of the program's first full year and exceed $2.5 million from 70 participating companies within five years, Mr. Abbott said.

In order to join the program, a company must be a member of the National Assn. of Elevator Contractors. It also must allow its facilities to be inspected by NAEC safety and loss control engineers.

Claims are being adjusted by Crawford & Co. with IM of America supervising the handling of claims. Management services are being provided by Association Insurance Consultants Ltd. ■

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Liberal laws OK more municipal pools

By MARY ANN MATLOCK

NEW YORK—Increasingly liberal insurance laws in some states are allowing more government entities to band together to take the plunge into self-insurance pools.

But in states where legislation doesn't specifically allow pooling—such as New Jersey, Montana and Nebraska—attempts to form pools have been fruitless. Some regulators and industry observers also take a guarded view of the idea.

Statewide insurance pools run by groups of local governments are specifically allowed by legislation in 20 states, says Jill Kennedy, program consultant for the National League of Cities and president of Kennedy & Floyd Associates in Oklahoma City.

This past year alone, Connecticut, Kansas, Washington, Tennessee and Louisiana gave the go-ahead to government risk pooling.

"Laws are becoming more permissive rather than more restrictive," says Gus Krause.

Texas, which allowed municipal pools in 1974, was the forerunner of the pooling concept. Other states with specific legislation allowing government risk pooling are Alabama, California, Colorado, Florida, Illinois, Kentucky, Maine, Michigan, Nevada, New Hampshire, New Mexico, North Carolina, Oklahoma and Oregon.

All 20 states allow pooling for workers compensation while some allow pools for liability coverage. Only four states—California, Colorado, Oklahoma and Oregon—allow pooling mechanisms for all types of insurance.

"Laws are becoming more permissive rather than restrictive in this area," said Gus Krause, FCAS, vp of Edward H. Friend and Co., Washington, D.C., an actuarial/consulting firm.

"There's been very little resistance on the part of state authorities to allow the quasi-public sector to do this," said Jack Hettrick, executive vp of Penn-General Services Corp.

In some states that have not passed legislation authorizing the pools, proponents have argued that such pools are legal under intergovernmental cooperation laws.

"In most states, intergovernmental cooperation allows local governments to contract to do with each other what they could do individually," said James I. Bliss, president of Governmental Insurance Managers Inc. in Bloomington, Ill.

"There may be general legislation that would allow it. In most states the question hasn't been raised," he said.

Spokesmen from numerous state insurance departments agreed the complex question of whether municipal self-insurance pooling is allowed under existing general laws has rarely been raised.

State regulators in New Jersey, New York, Nebraska and South Dakota doubt pooling is allowed under present law, but couldn't be certain.

"The legislation is not quite down on that point," said David Chambers, director of the League of Municipalities in Nebraska. He said the league will bring in a consultant in January to examine the limits of existing law, but admitted, "I feel we would have to do some changing."

In Montana, the question of municipal self-insurance pools has been presented to the state attorney general. The league of counties and cities raised the question there, said Josephine Driscoll

Continued on next page

Tex. work comp pool exceeds cities' goals

AUSTIN, Tex.—The successful track record of the Texas Municipal League—the first major self-insurance pool formed by cities for workers compensation—makes a believer out of administrator William Martin.

"I've become somewhat of an apostle," Mr. Martin said. "The program has operated beautifully. It has grown tremendously—more than expected."

The Texas self-insurance pool boasts of a membership of nearly 500 cities with an annual premium volume of $31 million. Equally impressive is the savings to participants, which Mr. Martin said is running annually at about 40% less than the cost of conventional insurance.

"We've probably been more responsible than the industry" says William Martin.

When the program started in July 1974, it had 130 participating cities and an annual standard premium volume of $5 million.

"We have a formula that deleted all profits, which is a savings of about 25% right there," Mr. Martin said. Eliminated were the cost of acquisition fees, commissions and taxes. Also, interest earnings of about 9% of premium are returned to participating cities annually.

Complementing these savings is the pool's loss ratio of about 50%, compared with the 72% average in the private sector in Texas.

This record, Mr. Martin said, shows that pools, if operated properly, not only can save money but also dispel the belief that municipalities are a bad risk.

Mr. Martin cautions that careful study and the advice of a consulting firm and attorney are needed before governments jump into an intergovernmental self-insurance pool. "We've been careful in what we do. We've probably been more responsible than the industry," he said.

Although the program's trustees have not taken any conclusive steps to allow the program to expand into other insurance areas, Mr. Martin foresees growth. It seems natural that within a year the program will expand into general liability, fleet/auto liability and public officials liability, he said.

The league just recently purchased a group employe benefit program from a conventional insurer. By doing this, Mr. Martin said, the league will obtain hard data on which a possible self-insurance pool for this coverage could be based in the future. There are 140 cities in the group benefit program after seven months.

"This is also going to be a winner," Mr. Martin said. ▪

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Laws fuel pooling

Continued from previous page

chief deputy insurance commissioner.

To determine whether pooling is allowed under a broad statute in New Mexico, the state's municipal league drafted specific legislation on the matter. This was done "to make sure no questions were asked and we were not under the regulation of the insurance commissioner," said league director Bill Fulginiti.

In New York state, legislation is being drafted to allow intergovernmental pooling. The legislation will be based on reactions received from a series of public hearings and a local government survey, said Alan Billingsley, senior legislative fiscal analyst on the ways and means committee.

"I think the climate calls for it. It's our attempt to answer a need," he said.

In New Jersey some interest has been expressed in pooling, although "I wouldn't say it was a lot of pressure," said Jack Trafford, executive director of the New Jersey Municipal League.

The state constitution may prohibit intergovernmental insurance pools, said Herman Hanssler, deputy commissioner of insurance in New Jersey. The clause, "No government entity can extend its credit to a corporation or municipality," could nix the chances for pooling, he said.

Whether or not the authority to pool has been challenged on a legal basis, observers have noted an increased interest in the concept.

"Many jurisdictions are taking a close look at insurance alternatives, but not at an extremely rapid pace," said Mr. Bliss of Governmental Insurance Managers. He attributed this window-shopping attitude to soft market conditions and statutory limitations.

"In jurisdictions where pools aren't allowed there is pressure to change legislation," added Mr. Krause of Edward H. Friend.

Reports of substantial savings by numerous pools after relatively short terms of operation have caused many government entities to examine this alternative. Rising insurance costs or difficulty in obtaining specific types of coverage also have made pooling attractive.

Generally, pools are spread evenly between county and city groups and are frequently formed by groups of the same general size, Mr. Krause said. Often workers compensation is the first coverage pooled.

The self-funded retention for smaller pools can range from $100,000 to $250,000, with a substantially larger amount for larger pools. The premiums for excess insurance are still significant, with anywhere from 15% to 40% of total deposits of self-insurance pools being paid for commercial excess insurance, Mr. Krause said.

After a couple of years, it appears pool costs are 25% to 40% lower than conventional insurance in terms of initial savings and premium reductions, according to published reports.

Some observers are viewing the proclaimed successes skeptically.

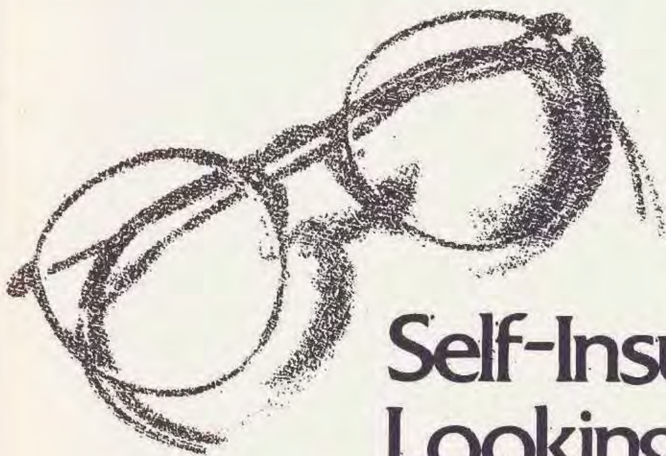
"The idea of pooling is extremely complex and not a very easy task," said Albert B. Lewis, New York superintendent of insurance. "Pools should not be a catch-all and easy solution to market problems in the immediate future."

Mr. Krause of Edward H. Friend, though an advocate of pooling, said that "from an overview it is difficult to understand how there can be such a substantial difference between the cost of commercial insurance and the cost in a pooling mechanism."

Pools will result in hard-dollar savings on expenses since their expense margin should be lower than that of an insurance company, he said, but added, "Reported experience of pools generally is showing less losses than implied by provisions in commercial insurance premiums.

"It's a very large difference and if you look in from the outside I'd strongly urge administrators to consider having someone undertake a review of their liability position," he said.

Current reserves may understate the ultimate cost of the pool's liabilities, Mr. Krause said, particularly when inflation is significant. Depending on how funds are set up, illusory savings can result in the short run, followed by additional and possibly substantial deferred costs as claims are paid. ■



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Self-insurance may stun shrinking firm

By LEN STRAZEWSKI

BOISE, Idaho—Smaller firms that want to punch up their cash flow and slumping competitive edge by self-insuring workers compensation may be walking into a technical knockout, says an administrator and broker here who specializes in self-insurance.

Some smaller corporations, backed into a corner by bigger competitors and a recessive economy, are breaking all the rules of a good self-insurance plan, according to Merle Colpron, underwriting/marketing administrator of Diversified Risk Management Services, a self-insurance administrator that also brokers stop-loss policies for clients.

"While many small firms have had much success self-insuring comp, we like to get involved with small firms that are in the middle of a strong growth pattern," explained Mr. Colpron. "However, we have also had experience with firms on a down trend that are losing the cash flow necessary to self-insure."

Firms fighting a losing battle with inflation and competition are more likely to want to self-insure because they think they are getting more for their cash-flow and are "desperately reaching around for some cash-flow advantage," he said.

These firms may demand self-insurance services against the better judgment of a consultant or third-party administrator and later take their blows as they pay claims from the same pocket they use for business bills.

Surety bonds may also be hard to come by for already weakening businesses, added Mr. Colpron, because unlike the standard markets, the surety bond markets are reluctant to take anything but perfectly sound business.

A few firms are choosing self-insurance wrongly because they have poor control over their own exposures or products and do not want to invest in proper safety and loss control, he said.

"Firms that use delivery drivers, for example, present a large exposure that is usually not under the constant supervision of management," explained Mr. Colpron. "After the driver checks in for the day, he is outside the range of procedures that could cut down losses."

Small drug manufacturers whose products may present unknown hazards are also poor candidates for self-insurance plans that lean heavily on a tight cash-flow.

Some small companies simply lack the liquid assets to maintain a self-insurance program. Seasonal, one product-manufacturers, like Christmas ornament designers whose largest orders occur prior to Christmas and are limited through the year, should probably avoid self-insuring, Mr. Colpron said.

Recreational vehicle manufacturers and other firms hurt by gasoline shortages also make poor candidates for self-insurance, he noted.

Small corporations that normally pay at least $250,000 in workers compensation insurance premiums and have a strong pattern of growth, however, can use self-insurance's greater control of cash flow to an advantage, reports Mr. Colpron.

Usually, a small firm would retain slightly over $100,000 of the risk, depending upon the benefit levels of the state. In California, where DRMS has a large branch, self-insured retentions average $100,000. But in states like Oregon and Illinois in which benefit levels have risen, retention often gets above $125,000, according to Mr. Colpron, with some coinsurance before stop-loss coverage kicks in.

"In general, the self-insured retention is 95% to 98% of the working amount of the risk," he explained. "Five percent to 8% of the risk is transferred. As benefits go up, though, the retention usually goes up. The regular premium that you might have paid, of course, becomes your loss payment fund."

If a firm's regular workers compensation insurance premiums are below the $250,000 minimum Mr. Colpron prefers, the corporation may be able to tap self-insurance advantages by combining its general liability costs with workers compensation in a self-insured program.

"We have found that a good way to pick up the minimum aggregate for self-insurance for small businesses is to add the total premiums paid for workers compensation with the total general liability premiums," noted Mr. Colpron, "because the general liability exposure may be well within the limits we can set for workers comp."

So a firm that pays $175,000 for workers compensation insurance and an additional $150,000 for general liability can amass a large enough loss payment fund of over $300,000.

"Retailers and grocery wholesalers respond particularly well to this kind of technique," added Mr. Colpron, "because the exposures are related and limited by the work."

Safety and loss control, however, remain important and necessary components of a good self-insurance program for small firms.

"Even though insurers usually do a better job with loss control than an individual business, I have seen remarkable loss improvements based on the tremendous attitude change that occurs when a firm realizes that losses are now being paid out of the firm's bank account," remarked Mr. Colpron. ■

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SINCE 1967

Small firms can boldly self-insure benefits: Bank vp

By LEN STRAZEWSKI

SIOUX FALLS, S.D.—Small businesses can self-insure employe benefits without fear, once they get over the nagging feeling they have no insurance, according to a banker here who instituted self-insurance two years ago.

"Especially for a bank, self-insurance sounds pretty radical," noted Calvin Stilwell, vp of the First National Bank of Sioux Falls. "The biggest problem I had in selling the program to the officers was psychological: overcoming the idea that we had no insurance."

The self-insured group health benefit plan, instituted in March 1978, has cost the First National Bank of Sioux Falls "about 70% of what we would've paid in premiums," explained Mr. Stilwell.

The plan, which covers 140 lives, has a stop-loss policy with Safeco Insurance Co. that kicks in above a $15,000 per case retention and a $70,000 aggregate retention. The bank also purchases group life insurance from Safeco.

"We began in March with a $5,000 per case maximum (retention) and a $50,000 aggregate," explained Mr. Stilwell, "but we increased the retention this year when we didn't approach either of the limits.

"Our business is pretty good for Safeco," he added, "because they've never had to pay a claim." The stop-loss policy peaks at $500,000.

The bank taps a local claims administrator, Employe Services Inc., to process claims and will expand self-insurance coverage to long-term disability later this year. A self-insured dental plan is on the drawing board for 1981.

"We are obviously a low risk business, so we have no trouble getting insurance, but when you are self-insured you always know what you are paying for and are never concerned that you are just paying someone to shuffle papers," Mr. Stilwell added.

John Timmer, president of Employe Services Inc., who first presented the self-insurance concept to the bank, says self-insurance of benefits is growing among small firms. And for good reason, he adds.

"Frankly, there's no real insurance for group health or short term disability. You are just giving money to an insurer to pay your bills for you," he said. "Routine medical bills are almost always lower than what you would've paid in premiums."

Mr. Timmer, however, warns firms to keep self-insured retentions small. Though firms with a minimum of 50 lives covered by a plan can feel safe in self-insurance, he says, these firms should have stop-loss plans that can start coverage as low as $15,000 aggregate.

"There is definitely insurance in catastrophic hospital bills plans," he said, "and all self-insurance plans should include a stop-loss layer of coyerage."

Stop-loss coverage is available "from dozens of insurers at reasonable rates, especially Safeco, Northwestern Life & Casualty and also Lloyd's," he added. ■

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Rays scorch Boardwalk

ATLANTIC CITY—The plexiglass construction of Caesar's new Boardwalk Regency Hotel may be causing a fire risk on Atlantic City's Boardwalk.

Panels of the angular plexiglass are warping inward, and the sun's rays bouncing off the plexiglass have scorched the pine planks of the Boardwalk, city officials say.

Caesar's has agreed to replace the warped panels, officials say, but they are still worried that builders of new hotels in the area will include similar construction. ■

Premium export problems

Foreign risks can hamper captive: Vp

NEW YORK—It's not just how much premium volume foreign risks will generate that helps tip the scales for or against a captive insurer but also in what country the risks are located, an insurance company executive says.

If, for example, the foreign subsidiaries to be insured by the captive are all located in South America, a captive wouldn't be a good idea even if the premium volume to be generated were $5 million, says William Crowley, vp of AFIA Worldwide Insurance Co.

The reason? South American governments are notorious for not allowing much insurance premium to be exported out of the country.

"In a multinational corporation, the overall premium should be at least $1 million under normal circumstances. That's when you start thinking about a captive," he said. "Then if $800,000 of that will go to the captive, then go ahead. But if only $200,000 would be able to flow to it, then forget it."

In a theoretical chart prepared by Mr. Crowley for a presentation on captives sponsored by the World Trade Center here, he pointed out how the mix of countries in a corporation's activities might be the deciding factor in whether to form a captive.

For instance, if the company's subsidiaries had a total of $500,000 generated in paid premiums spread among Argentina, Brazil, Colombia, Venezuela, Japan, the Philippines, Australia, France, Mexico and Indonesia, only $228,500 of that would be exportable.

Brazil and the Philippines were the two worst examples, with those countries letting out none of the $90,000 and $40,000 generated in premiums. France and Japan were the least burdensome, with $45,000 of $50,000 in premiums exported.

If the mix of countries were changed to Singapore, South Africa, Belgium, Denmark, Japan, New Zealand, Australia, France, Guatemala and the United Kingdom, that same $500,000 of paid premium translated into $455,000 in exportable premium. The most any country of that list would retain is 10% of the total premium. ■

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Funds boost coverage

LAKELAND, Fla.—Two major Florida self-insured workers compensation funds have boosted at no charge the amount of coverage against third-party lawsuits they offer participating employers.

Both funds, one sponsored by the Associated Industries of Florida and the other by the Florida Retail Federation, increased to $1 million from $100,000 the liability insurance known as Coverage B of the workers compensation policy.

Coverage was increased because "liberal court decisions" have expanded the exposure of employers to third-party suits, said C.C. Dockery, president of Summit Consulting Inc. here which manages the two funds.

Although state workers compensation laws protect employers from lawsuits filed by injured workers, employers can still be sued in connection with work-related accidents and need Coverage B protection, Mr. Dockery explained.

The wife of an injured worker, for example, could sue an employer for loss of consortium, or sexual relations, with her husband. Or a machine tool builder who lost a huge product liability award could sue the employer to recover the award, charging an unsafe workplace caused the accident.

Meanwhile, the Associated Industries of Florida Self-Insurers Fund has tentatively recommended, pending the approval of the state department of labor, distributing about $500,000 to members based on 1978 loss experience, Mr. Dockery said. ■

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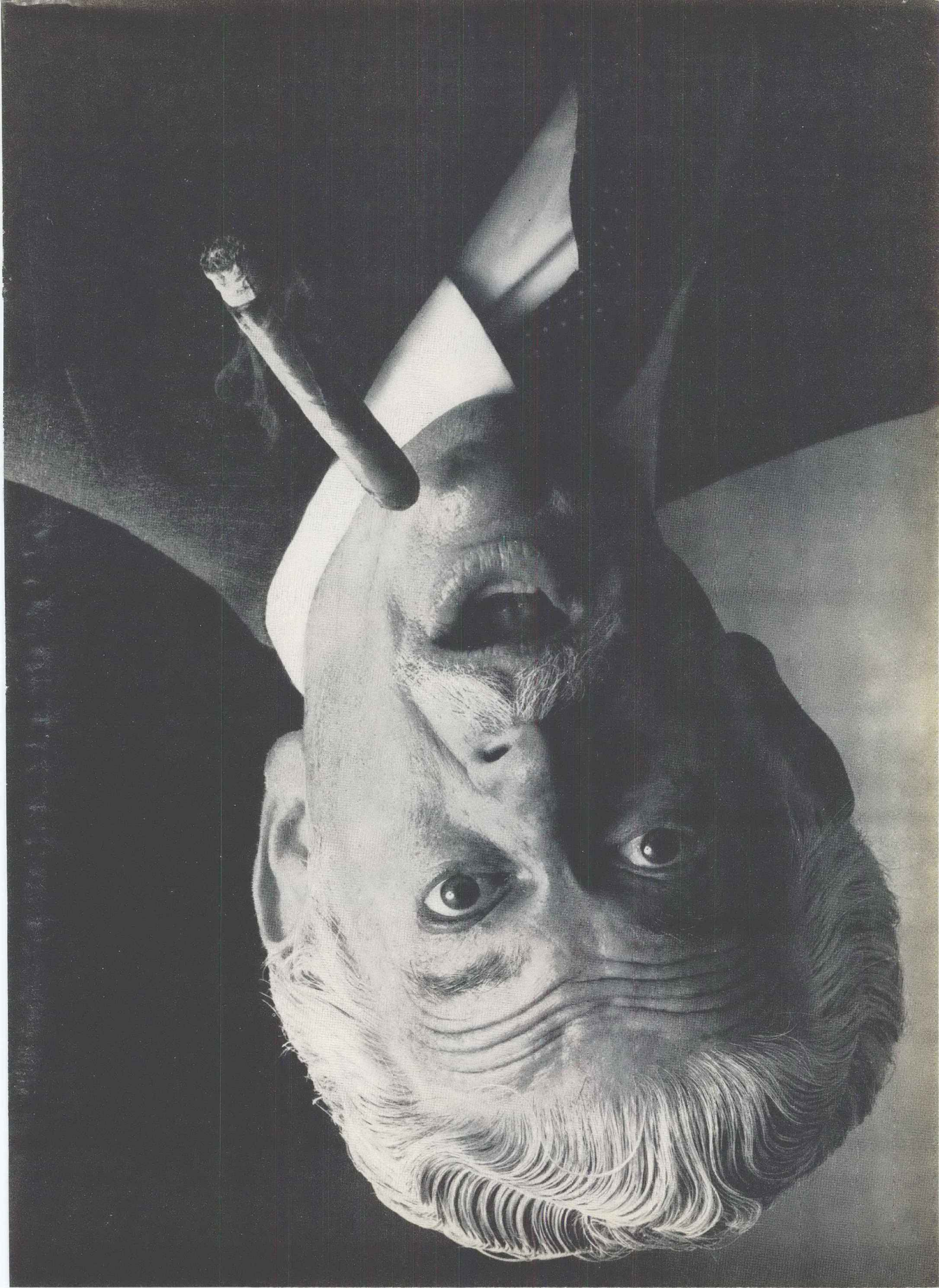

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How not to be captive to your captive.

A captive program is not for everyone. But for those seriously thinking about one, an important consideration is how to operate it in a way that doesn't place you in a bind but allows you to achieve your objectives.

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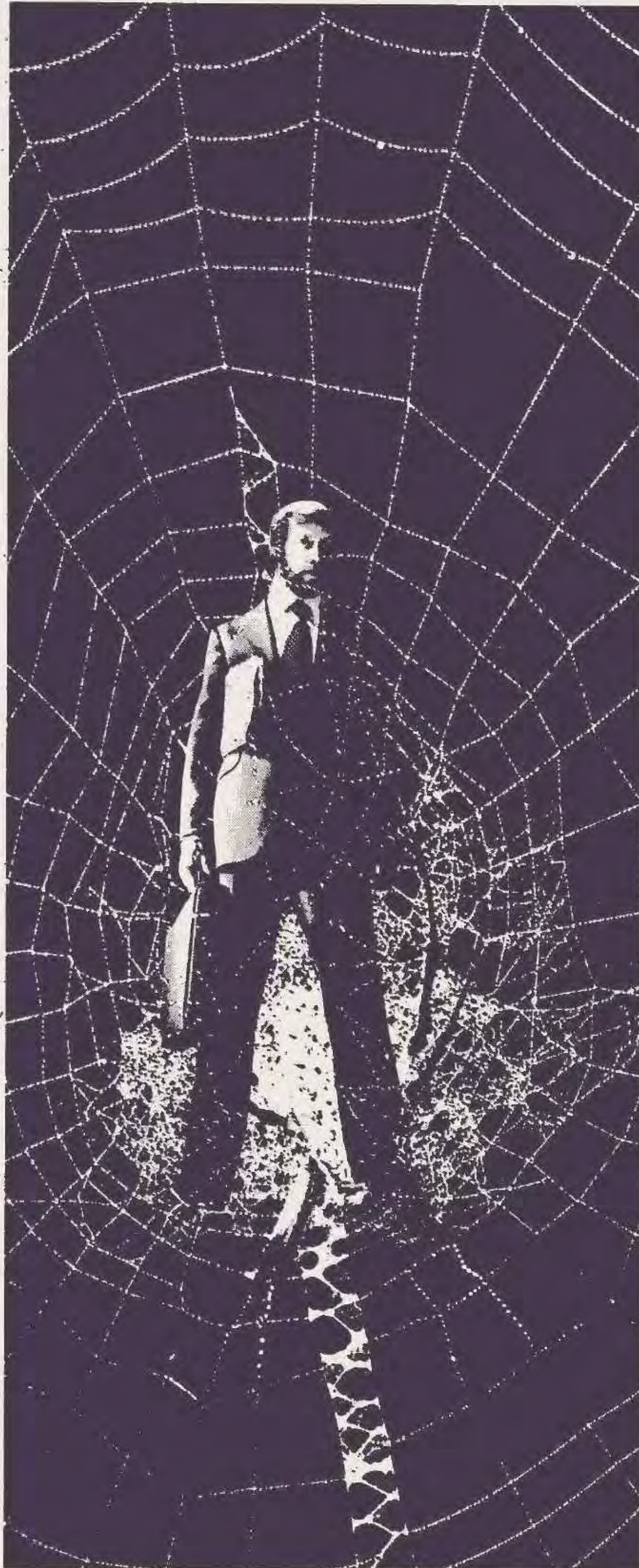

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perspective

Captive risks

By Harry L. Shuford

EVIDENCE IS ACCUMULATING. Problems are emerging. Concern is beginning to grow. There now is no doubt: Captive insurance is risky business.

A few years ago, captive insurance was perceived to be little more than a special form of self-insurance. Today, that one-sided generalization is wrong. The captive insurance industry has become an integral part of the world's insurance underwriting capacity.

The earnings retained by captive insurers, for example, have supported increased retentions of the risk coverages provided to affiliated companies. This has reduced pressures on rates and has expanded the availability of coverages elsewhere in the world's insurance markets. Similar benefits have accrued as captive insurers utilize their capital structure to underwrite the risks of unrelated economic units.

The impetus for both developments is essentially the same: increased profits. A necessary consequence, however, has been a sharp jump in the odds of unsatisfactory captive company performance.

In the future, this potential bottom line exposure can only increase. Better planning and financial control of captive operations will be essential if the captive insurance industry is to remain strong, dynamic and a positive force in the insurance world. The first step toward planning and control is to identify the elements producing risk; a conceptual framework is needed.

The captive insurer is an insurance company. And like any other insurance company, it has two primary sources of profit: underwriting and investments. Thus, the bottom line risks extend well beyond losses on specific coverages underwritten. Indeed, from the corporate perspective, risk ultimately is a measure of the uncertainty in the firm's expected profitability or rate of return. Approached in this way, risk becomes a key element of every management decision, from underwriting to investment, from capital structure to personnel organization.

Data compiled by A.M. Best & Co. provides some understanding of the potential volatility of insurance company profits. They are summarized in the accompanying chart and cover all stock chartered property and casualty companies reporting results in the U.S. from 1946 through 1977.

Underwriting profit margins for this key sector of the industry have fluctuated markedly from year to year. Perhaps more surprising, however, is the impression that over time these margins have been centered on zero: a long-term break-even proposition. This impression is correct; in fact, on a cumulative basis, underwriting produced a slight deficit for the quarter century ending in 1970.

Investment returns have been the mainstay of industry profitability. And yet, when measured relative to premiums, investment performance has produced far greater swings in total profitability than has its underwriting counterpart.

The object of this analysis is not to stress the importance of investments. Rather, it is an attempt to show that the bottom line performance of insurance companies, including captives, is sensitive to a range of considerations beyond those affecting the severity and frequency of underwriting losses. There is a growing need to plan for and control these sources of risk.

Planning and financial control are concepts that normally are not associated with captive management. In fact, many risk managers initially resist the suggestion that such "sophisticated" ideas may be useful in handling their captive. On further examination, however, their attitude generally changes. The challenge is to approach the issue with an open mind. The result is an understanding of the objectives of planning and control and an appreciation of the potential benefit to the risk manager and his firm.

There are two major categories of planning applications: strategy development and short-term budgeting. Each has a role in captive management. Developing monthly budget projections, for example, may help close a communication gap between a risk manager and the firm's financial management.

Almost every major industrial com-

Continued on page 52

Harry L. Shuford is vp of the financial research and planning division of Fred S. James Cos. Inc. He has a Ph.D. in economics from Yale University.

Financial officer calls the shots

By Gavin R. Arton

IN MOST CORPORATIONS that own captives, the chief financial officer is not an insurance man and his only contact with the subject is that it is a sizable expense item on his budget. When captives first appeared, CFOs seized on them not as profit centers but as a method for reducing overhead and saving their corporations money.

More recently, however, as the desirability of expansion has been brought to their attention, the opportunity to take advantage of the capital already in the company has led to the CFOs adding capital/surplus to the company for even greater return. More effective management of assets and the opportunity for added profit and offshore cash accumulation are other motivators.

An expanded captive provides an opportunity for diversification, allows for continued deductibility of direct premiums and resultant continued cost savings and ultimately, the realization of a profit center in an area formerly a cost center.

The risks faced by any type of company considering diversifying its business—whether it be manufacturing or insurance—are considerable. However, unlike a manufacturer, the insurance company can be much more fragile in nature, for its "inventory" is cash that can be subject to risks totally unrelated to the pure business risks of the parent.

These financial risks that must be weighed by the CFO are:

- Shareholders' reaction.
- The impact of spiraling inflation.
- Foreign exchange fluctuations.
- Liquidity of assets.
- Cash flow.
- Artificial profits and early profit-taking.
- Embarrassment to the parent company if the entry is unsuccessful.

The shareholders of a major non-insurance corporation would have a difficult time rationalizing the cost of an unsuccessful entry into the insurance industry. To the CFO, a substantial loss in a field far removed from the corporation's normal business would be difficult to explain. Similarly, a financial analyst following a company faced with such a situation would have to have second thoughts about what image to present to the market.

Spiraling inflation causes no end of problems for those involved in certain classes of business. In long tail business with current levels of inflation running at 10% or higher, an outstanding claim with no increase in true loss amount can, with compounding, double in eight years or even less time if currency fluctuations are a factor.

The problem of foreign exchange can be brought home with the recent example of the fire in October 1977 at the Ford Motor Co.'s warehouse in Cologne, Germany. In far less than a year, a 25% increase in the value of the deutsche mark occurred and many U.S. underwriters who considered themselves fully reserved in dollars were faced with a 25% increase in actual loss cost when the time came to pay in DMs.

Liquidity of assets is absolutely essential. Many financial managers of professional insurance companies recommend that a substantial portion of an investment portfolio be in bonds with a maturity date of two years or less. The Mid-Atlantic Insurance Co.—which was a Bermuda-based company but not a captive—failed in the early 1970s because most of its investments were in real estate. When funds were needed to pay for the catastrophic losses mainly as a result of Cyclone Tracy in 1974, they simply were not available. The company was forced into liquidation.

Cash flow to a CFO most often means

Continued on page 52

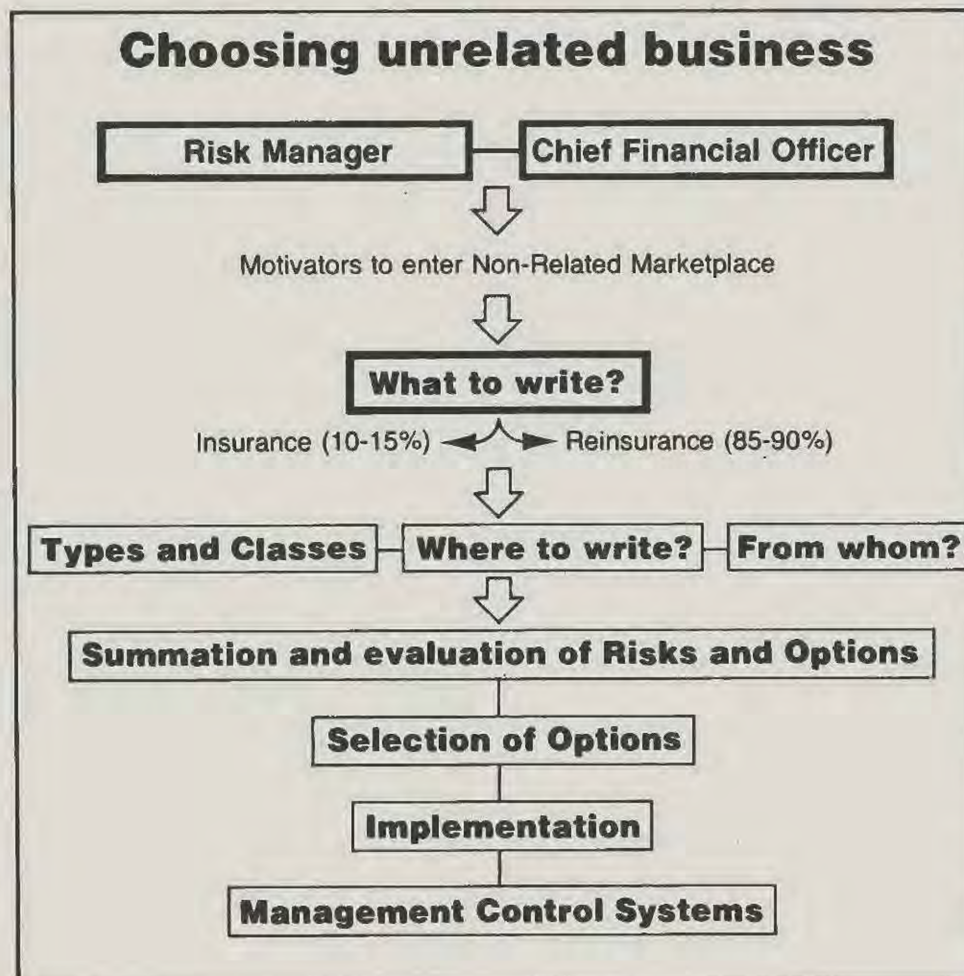


Chart: Toby Roberts

Gavin R. Arton is a native of Bermuda and a former manager of captives for American International Group. He is currently AIG's director of investor relations and is completing an M.B.A. degree from the New York College of Insurance.

perspective

Rapidly developing domiciles

6 offer home for captive

By Anthony Demas

THE INCREASING IMPORTANCE and success of captive insurance companies over the past 10 years have encouraged the rapid development of several captive domicile facilities and communities, in particular Bermuda, Cayman Islands, Curacao, Guernsey, Colorado and Tennessee. These communities offer different financial and operational environments to corporations seeking a suitable domicile for an insurance subsidiary.

Bermuda

There is good reason for Bermuda's early start and consistent lead as the dominant center for captive insurance companies. Bermuda has encouraged international business and, in particular, the insurance business, which today supports a substantial financial community of more than 3,500 international companies representing more than 18% of Bermuda's national income. After tourism, international business is Bermuda's largest economic activity.

There is virtually no unemployment in Bermuda, which is a British Crown colony with a common law legal system. The peaceful rule has been interrupted by unrest twice over the past 10 years, but this has been controlled, with the island and its business community returning to order and business as usual each time.

Bermuda's financial services environment is good, even with its limited number of four banks: N.T. Butterfield & Sons; Bank of Bermuda; Bermuda National, with 40% Bank of Nova Scotia ownership, and Bermuda Provident, with 40% Barclay's ownership. There is good legal and public accounting representation in Bermuda. Bermuda's new insurance law will impose minimum capital requirements for captives: 20% of the first $6 million in premiums subject to a minimum of $120,000 and 10% of premiums in excess of $6 million. The only investment restriction is that local Bermuda investments are not permitted.

The Insurance Act of 1978, which became effective Jan. 1, will have a minimal effect on captives. Regulations were drafted with the voluntary assistance of the insurance and insurance management community.

In addition to the capitalization requirement, solvency certificates, signed by two directors and the manager, are required. An Insurance Registration Subcommittee reporting to the minister of finance, the official insurance advisory body to government, is responsible for the review of professional and product liability insurance.

Anthony Demas is vp and head of M&M Risk Management Services.

Cayman Islands

The Cayman Islands recently have attracted considerable attention as a captive domicile. A politically stable, self-governing British Crown colony with no political parties, the Cayman Islands have a population of approximately 14,000. Their business community has grown to include approximately 9,000 registered international companies, of which about 25%, mostly banks, trust and trading companies, are active. Reportedly, there are 150 to 250 captives.

The financial services environment of the Cayman Islands is good, with an excellent banking system and good legal and public accounting representation. Currently, there are no investment restrictions on captives, though the insurance law of 1979 permits the governor to make regulations on solvency margins.

The insurance law of 1979, enacted Sept. 5, designates insurance companies doing business outside of the Caymans as class B.

Class B-restricted category includes captives or association captives underwriting related business. There are no minimum capital requirements for this class. The class B-unrestricted category comprises captives underwriting unrelated business, whether or not they underwrite related business. These captives are required to have a minimum net worth requirement of: $100,000 (Cayman) for general business, that is, non life, accident and health, or long-term policies; $200,000 (Cayman) for long-term business only, and $300,000 (Cayman) for both general and long-term business. ($1 Cayman equals $1.20 U.S. dollar.)

A superintendent of insurance must be appointed before the law may be implemented.

Other provisions of the Insurance Act of 1979 require captives to furnish written confirmation to the government that the books of accounts are kept according to accepted practices.

The governor may make future regulations to include liquidity margins for class B insurers.

The Confidential Relationship (Preservations) Law, enacted in September 1978 to preserve the privacy of companies, imposes penalties on persons divulging privileged information to third parties.

Curacao

The largest of the Netherlands Antilles Islands, Curacao is a possible domicile, particularly for Dutch companies. Considered one of the most stable islands in the Caribbean, almost 40% of the national income is derived from the more than 4,500 international companies operating in Curacao, including such large companies as Phillips, Royal Dutch/Shell and Schlumberger. Few captives are domiciled in Curacao at present.

In the Netherlands Antilles, corporate income is taxable at a rate ranging from 24% to 40%. Special consideration, however, is given to offshore captives. For example, tax officials will assume 80% of underwriting profits are from outside of Curacao and not taxable. The maximum tax on the 20% balance is 6%. Investment income is taxed at 3%. There is no capital gains tax, no dividend tax and no withholding tax.

In large part, the attraction for Dutch companies is that remittance of profits to the Netherlands is not taxed. In addition, there is no currency control. The minimum authorized capital is $600,000 with 20% ($120,000) paid in. An audit can be expressed in any currency.

At this time, Curacao has no captive insurance regulation. Representation of legal and public accounting firms is good. Insurance management facilities are very limited.

There is no real offshore insurance community in Curacao, but there is a substantial international commercial reinsurance and intermediary system.

Guernsey

Guernsey is the second largest of the Channel Islands and, unlike Jersey, the largest, it permits and encourages the development of captives and is a rapidly growing site.

Guernsey is self-governing, politically stable and independent of the United Kingdom, even though the U.K. is responsible for its external affairs and defense. Guernsey has a unique relationship with the European Economic Community, as Guernsey was subject to the special protocol attached to the U.K. treaty with the EEC, which allowed the island to preserve its economic link to the U.K. and establish a firm, free trading financial link with the EEC.

Guernsey's large international financial community includes more than 40 international banks. Reportedly, more than 100 captives are currently domiciled on the island. Although Guernsey's income tax rate is 20%, there is an exemption for captives writing solely related business. These captives are not taxed on underwriting profits, but the 20% tax on investment

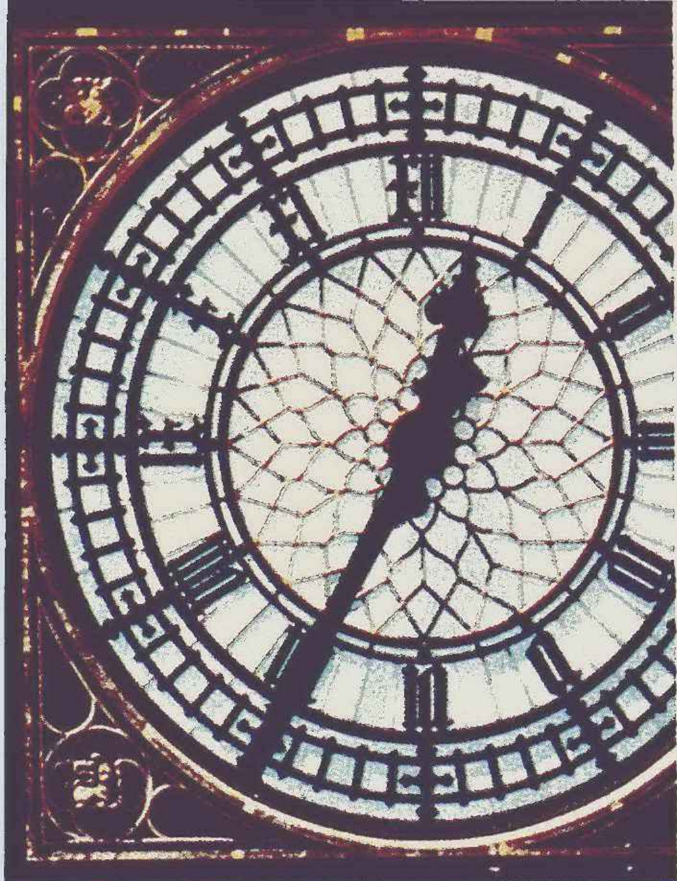
Continued on page 52

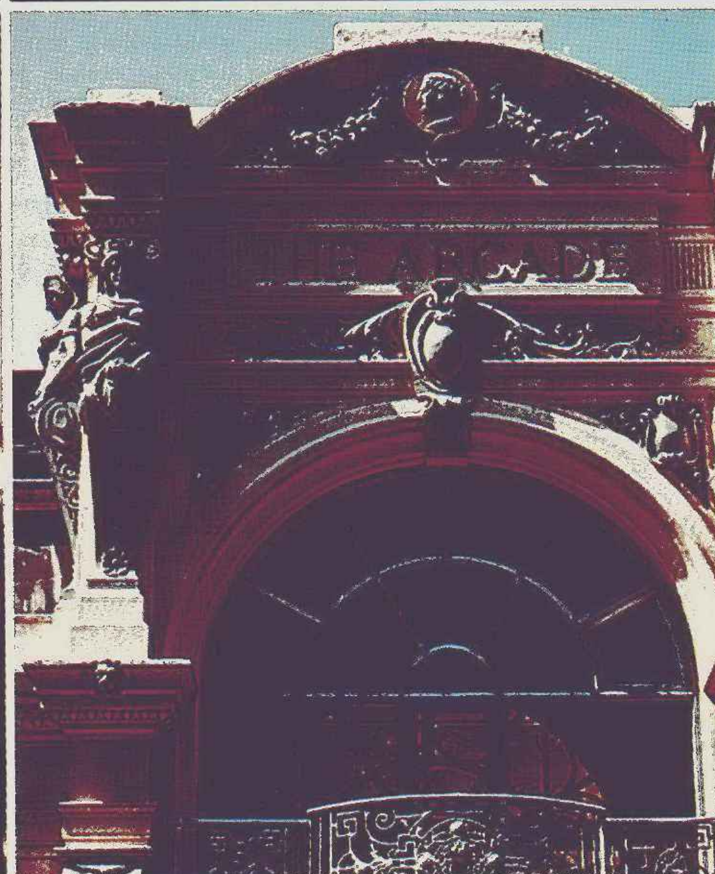
Commercial Resources

Domicile	Local Income Tax	Banking	Insurance Management Companies	Legal and Public Accounting	Communications
Bermuda	None	Limited but good	The most comprehensive of all domiciles. Excellent	Good	Good
Cayman Islands	None	Good	Limited but expanding	Good	Fair to good
Curacao	20% of underwriting profits taxed at a maximum rate 6%	Good	Limited	Good	Fair to good
Guernsey	"Pure" captives not taxed on underwriting profits. 20% tax on investment income and underwriting of unrelated business	Good	Provided principally by major British brokers and companies	Good	Good
Colorado	1% state premium tax. No state income tax. 46% federal income tax.	Good	Good	Good	Good
Tennessee	Same as Colorado	Good	Limited but good	Good	Good

Captive Costs

Domicile	Estimated No. of Captives	Minimum Capital Requirement	Initial Fees/ Taxes	Annual Fees/ Taxes	Currency Control
Bermuda	More than 1,000	20% of first $6 million subject to $120,000 minimum, plus 10% of premium over $6 million	Franchise tax: $1,500 0.25% on authorized capital	Franchise tax: $1,500	Effectively none
Cayman Islands	150 to 250	None for class B restricted companies	License fee: $3,600 Registration fee: 0.1% on authorized capital with $2,200 maximum	License fee: $3,600 Annual fee: 0.05% on authorized capital with $1,500 maximum	Effectively none
Curacao	Few	$600,000 with 20% paid in	None	None	Effectively none
Guernsey	More than 100	None	Document fee: 0.5% on authorized capital	None	Under control of Bank of England
Colorado	28	$750,000 for wholly owned captive. $1 million for association captive	None	None	None
Tennessee	2	$750,000 for wholly owned captive. $1 million for association	None	None	None





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perspective

Risky captive enterprise requires plan

Continued from page 49

pany has a comprehensive annual plan or budget. Imagine the confusion generated when, say, the treasurer's division tries to include the insurance subsidiary in a budgeting system designed for a manufacturing organization. Among other things, the system highlights sales, production and the cost of goods sold. But in the case of the captive, a significant component of the "cost of goods sold," for example, is an expense which, while incurred, cannot be identified: losses incurred but not reported. Each year's expenses, moreover, include corrections to expenses incurred in prior years.

It is hardly surprising that many financial officers tend to view their insurance subsidiary with some skepticism. If they do not understand it they are not likely to feel comfortable using it. An annual plan tailored specifically for the captive may be a solution, particularly if it includes a procedure for comparing actual with planned performance on a regular basis. The financial staff may not understand the captive, but it will appreciate the professionalism in its management. Periodic reports on planned versus actual performance can prove to be an effective communications device.

Budgetary planning systems seldom extend beyond a 12- to 18-month horizon. By comparison, strategic planning takes a long-term perspective. The strategic process involves the identification of goals and the evaluation of strategies that seem capable of attaining these longer term goals. Budget systems are designed primarily to project what will happen; strategic systems are aimed at determining what we want to happen.

Today many risk managers and corporate financial officers are pondering the problem of converting their captive from a cost containment division to an active profit center. Some possible alternatives have been discussed throughout the industry: participating in international reinsurance treaties, joining captive pools, increasing retentions within the captive. Others are less widely known: syndicate operations with the New York Insurance Exchange, more aggressive investment portfolio programs. The range ultimately is limited only by the ingenuity of the individuals examining the captive's future course of action.

Strategic planning evaluates the range of options relative to goals established for the subsidiary: rate of return, risk of unprofitable results, level of service to subsidiaries and friction with government agencies are examples. The risk manager should recognize that even without planning there is some strategy at least implicitly being used to operate the captive. It should help all parties involved if that strategy were stated formally. It would help the risk manager, the captive manager and the corporate financial manager, as well as the broker and fronting insurer.

At some point it is necessary to develop a set of budget projections that is consistent with the strategic plan established for the captive. The role of financial control is to monitor actual results to ensure developments are proceeding according to plan. Significant variances between actual and budget projections serve as an early warning system. The process allows the risk manager to open a channel of communication and to establish credibility with senior management.

Supporters of the captive concept may attempt to dismiss this analysis of financial performance as being irrelevant. They are correct to note the differences between the standard U.S. insurer and the typical captive. But the differences between the two are diminishing. ■

Financial exec risks embarrassment

Continued from page 49

dividend payments from the captive to the parent company. When writing non-related business, the temptation to declare dividends on "premature" profits is always great because premiums are generally earned at a much quicker rate than losses are settled.

In many cases the CFO, on seeing a large earned premium, has been quick to insist upon dividend payments, particularly in a year where the parent company has not met its own income objectives.

Another concept of cash flow usually unfamiliar to a CFO used to the normal credit terms of, say, a manufacturing concern is the amount of time, particularly in reinsurance, taken to settle accounts. It is not uncommon for professional companies to have lengthy computer runs of accounts more than 90 days past due.

Often the CFO of an aggressive organization expects all of his profit centers to provide annual returns in line with corporate goals. In order to meet parent company objectives, risk managers have been known to ask the captive manager to free some of his incurred but not reported loss reserves in order to produce the desired bottom line. Particularly as more and more companies pursue casualty business for its income potential, the CFO must be aware of the risk that accompanies such premium and maintain prudent reserves.

Finally, for the CFO there is the risk of "embarrassment" to the parent company if the captive becomes a burden and has to be rescued or abandoned at considerable cost. The cost of entry (i.e., capitalization and other start-up costs) versus the return on investment must be analyzed. There are two very good examples presently.

The first is Gulf Oil's Insco Ltd., which has been capitalized at $10 million. In 1977 and 1978, Insco paid dividends to Gulf of $10 million and $13 million, respectively. Insco, particularly in 1978, began aggressively underwriting a nonrelated account which at the end of the year accounted for more than 50% of its total net premium income of $66.5 million.

The point to be made here is that the underwriting "jury" is still out on the long-term success of Insco's large-scale entry into the non-related marketplace. Paying dividends too soon could prove folly indeed.

The second example that complements the first is Armco Steel's Bellefonte Insurance Co., which expanded its operation into the non-related marketplace in the late 1960s. Since 1974, Armco and/or its affiliated companies have made surplus contributions to Bellefonte of some $34 million, including more than $7.2 million in the first half of 1978 to help the company maintain its Best's A (excellent) rating in 1978, changed to B in 1979.

The second example also brings to light the risk of the sustainability of such income sources as nonrelated business. A lesser Best's rating means the quality of business shown to that company in the future will probably also be less. The CFO must be able to analyze the reversibility of the decision made when entering the non-related marketplace. In Armco's case, there is no turning back. ■

Six locations vie for captive business

Continued from page 50

income does apply. Captives writing unrelated business are taxed on both the underwriting of unrelated business and all investment income.

Currency exchange controls are the same as those in the U.K. and are under the authority of the Bank of England. With the recent major relaxation of U.K. exchange controls, it appears captives may no longer be required to have sterling capital, even though they are resident companies for exchange.

Under the pending insurance legislation, there are no minimum capital requirements for captives.

The proposed insurance regulation will require annual registration with the finance committee, authorization for writing of each class of business and confidential filing of financial accounts. Captives are considered resident companies for income tax.

U.S. domiciles

The growth of offshore insurance companies has prompted several states to begin looking into the possibility of bringing "home" some of the same concepts that motivated corporations to form offshore insurance subsidiaries. Within the past seven years, two states—Colorado in 1972 and Tennessee in 1978—established enabling legislation that relaxed certain aspects of their insurance laws to encourage the formation of domestic captives.

The enabling legislation in both jurisdictions is quite similar. Both states permit letters of credit to satisfy the minimum capital and surplus requirements of $750,000 for a wholly owned captive insurance company and $1 million for an association captive. Captive insurance companies are exempt in each jurisdiction from participating in compulsory social insurance pools.

In contrast to offshore domiciles, Colorado and Tennessee have strict regulations. Captives must submit annual statutory insurance financial reports to the insurance departments and must comply with state requirements of policy forms and rates. Both states exempt captive insurance companies from local state income taxes, but they do impose a 1% state premium tax on all direct insurance premiums written. Reinsurance premiums are exempt from this 1% state premium if the policy-issuing company that is reinsuring risks to the captive pays premium taxes.

Both states regulate the amount of capital required to underwrite risks beyond the minimum capital surplus requirements, in accordance with the traditional 2 to 1 or 3 to 1 applied to commercial insurance companies. The states are also empowered to apply the statutory restriction that specifies that coverage for individual risks may not exceed 10% of capital and surplus, although this test is not strictly enforced.

The principal difference between these two domestic captive domiciles has to do with the class of business that can be underwritten by the captive insurance company. Colorado does not restrict the types of risks a captive insurance company may underwrite for its related corporations and, under the reinsurance provisions of the enabling legislation, a captive may underwrite unrelated business. However, the underwriting of unrelated reinsurance business would require the insurance commissioner's approval.

Tennessee's enabling captive legislation, on the other hand, limits the underwriting of captive insurance companies to professional liability or errors and omissions coverages, combined with comprehensive general liability risks. Under the reinsurance provisions applicable to the captive's insurance company, the Tennessee law does not restrict the underwriting of specific lines of coverage or related business. However, current interpretation is that the intent is to not include coverages other than professional liability or errors and omissions combined with comprehensive general liability.

Neither state permits captive insurance companies to underwrite personal lines insurance. ■

Colleges organize captive

NEW YORK—Seven Eastern universities have reservations in Bermuda this winter—for Genesis Ltd., a captive insurance company to underwrite their liability risks.

"It's all set to go and should get off the ground pretty soon," said Mary Breighner, risk manager at Columbia University.

Although no exact starting date has been set, she said the captive would start by underwriting comprehensive general liability insurance and umbrella excess liability insurance for the universities.

Coverage for workers compensation is being considered, she said.

The limits of coverage have not been determined yet, Ms. Breighner said, nor have the potential savings been projected. "I couldn't really give you the dollar figure. It's going to depend on our own experience," she explained.

Universities involved in the venture along with Columbia include Brown, Delaware, New York, Princeton, Temple and Rutgers.

These institutions all met the requirements for membership, including an ongoing risk management program to control losses and a full-time risk manager.

Criteria for future members will have to be established by the board of directors, Ms. Breighner said, although she is sure the captive would be exclusively for universities and colleges.

The idea for a university captive was started about two years ago and has gone through various phases (*BI*, Jan. 9, 1978). At one time, 11 universities expressed interest in forming the captive.

The captive was recommended by Johnson & Higgins after it reviewed the universities' needs. ▪

Aneco taps broker for chief

NEW YORK—Aneco Reinsurance Co. Ltd.'s appointment of Andrew J. Barile to head its U.S. operations puts Mr. Barile in the unusual position of running underwriting and brokering companies capitalized by separate interests.

In addition to becoming president of Aneco Group, a subsidiary of Bermuda-based Aneco Re (*BI*, Oct. 29), Mr. Barile continues as president of Andrew Edwards & Co., reinsurance brokers and consultants specializing in handling third-party business for offshore captive insurance companies.

Aneco Reinsurance Co. Ltd. is a publicly held company; Andrew Edwards is a privately held firm.

Aneco Group consists of Aneco Group of America Inc., an insurance holding company; Aneco Insurance Co. of America, an excess/surplus company; Aneco Syndicate Ltd., a member of the New York Insurance Exchange; Aneco Reinsurance Co. of North America, an admitted reinsurer; Anexco Inc., an excess and surplus lines management company, and Aneco Marketing Co. Ltd., a risk management company.

Andrew Edwards produces less than 5% of the business written by Aneco Group and Aneco Group is a participant in less than 5% of Andrew Edwards reinsurance transactions, Mr. Barile said. ▪

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Price battles feed more self-funding: Brokers, buyers

By MARY ELLEN McKEE

CHICAGO—Most self-insurers and captive users have resisted the lure of buying back into the competitive conventional market, but as competition spreads to excess markets they are buying dramatically higher limits at slashed rates.

Far from chiseling down the number of companies self-funding, the competitive marketplace has made self-insurance very attractive to those who already self-insure and those contemplating the move, say consultants, risk managers and brokers.

Competitive insurance markets allow risk managers to maintain the same self-insured retention levels from year to year while getting a break on the price of the excess policy and interest rates, they say.

"The cost of excess insurance has dipped so considerably that it's not uncommon for a company to be able to pick up a $1 million excess policy for $100,000," said George Betterley, president of a Boston-based risk management consulting firm bearing his name. Two years ago that was an unthinkable price tag, he added.

Competitive markets, however, have curbed captive growth slightly, but not for long, Mr. Betterly observed. "Because of reasonable pricing on most property and casualty business, buyers are simply thinking twice before forming a captive. But soft markets won't last forever," he said.

Only one broker reported smaller self-insured retentions in the competitive insurance market. SIRs in cash flow retrospectively rated plans shrink in a competitive market, said Richard Miller, president of Corroon & Black Corp. "What was $25,000 retention before the tight market went to a $250,000 retention in the tight market and has become a $50,000 to $100,000 retention in the present market," he said.

More agree that self-insurance programs reached several benchmarks within the past year, heralding the continued and steady growth of self-insurance in the next decade.

First, the larger companies and the veterans of the self-insurance concept have begun assuming a bigger chunk of the risks, says George Corde, senior vp of Frank B. Hall & Co. If assuming a greater part of the risk produces positive results for a company, it's very unlikely a company would return to the conventional market again, Mr. Corde explained.

"Five years ago $1 million self-assumption (of risk) was quite uncommon, five years from now we will see self-assumption as high as $5 million," predicted the Frank B. Hall senior vp. More companies taking smaller chunks of their risks into the conventional marketplace for coverage will prolong the soft market conditions until after 1981, he said.

Another benchmark in the continued popularity of self-insurance is that companies that have self-insured group health benefits for at least five years are saving money when compared with those using the conventional market, sources say.

"No matter how low premiums get, there are still some areas where even stiff competition isn't going to bring prices down very much," said a benefits manager for a West Coast-based company. "Those areas are definitely group health insurance workers compensation, where the premium rates are affected by double-digit inflation and the rising cost of hospital and medical care."

The West Coast company has self-insured its group health insurance benefits for five years for slightly more than 25,000 employes worldwide. "Our rates are consid-

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erably lower than what is available in the conventional marketplace," the benefits manager boasted.

The company has increased funding to a 501(c)(9) trust only once—from 15% to 20% in January 1976—and the benefits manager expects that increase to be sufficient until the end of 1980. He has been hearing that insurance companies are going after 20% increases each year.

"A competitive marketplace is of no consequence when dealing with group health benefits," he said. "So there's really nothing holding companies back from at least self-funding group health benefits since markets are not that soft at all."

With the good results the company has seen from self-insuring group health benefits, it will probably start self-insuring its long-term disability by the end of 1980.

Butler International Inc., White Castle System Inc., Control Data Corp., Beatrice Foods Co., Tanenbaum-Harbor Co. Inc. and Del Monte Corp., all of which self-insure group health benefits and workers compensation, are reporting results similar to the company on the West Coast.

"I estimate we have saved at least 10% each year since we self-insured our benefits program," said Lorraine Legg, benefits manager for Del Monte Corp. of San Francisco. "As a matter of fact, I know at least four companies on the West Coast considering self-insuring based on our positive results," she boasted.

Felix Kloman, president of consultant Risk Planning Group Inc. of Darien, Conn., sees the entry of Liberty Mutual Insurance Co. into paid-loss retrospective rating plans as another indication that self-insurance is here to stay.

"Many companies that refused to write paid-loss retrospective rating plans a few years ago are now offering them to clients with a great deal of zeal," agreed Charles L. Ruoff, senior vp of Fred S. James & Co.

Although fewer companies are looking to captives, formalized self-insurance programs, says Mr. Betterley of the Betterley Consulting Group, the captive concept hasn't come and gone. "A year or two down the line when markets tighten up the captive will once again play a very important role in providing a place for hard-to-place risks," he predicted.

In many cases, the current rates in the marketplace could appear to make going the captive route a little silly, said Philip J. Brown Jr., executive vp of Marsh & McLennan. But "major corporations use the insurance subsidiary (captive) as part of the overall risk management plan for the company," he said. "What that means is that a company using a captive isn't very likely to pull in and out of the captive according to fluctuations in the marketplace."

Six months ago, Pullman Inc. formed a captive for its property and liability coverage. "Once a company like Pullman makes the decision to form a captive, it's the result of long, hard thinking and the captive is simply a cog in a company's long-term risk management program," said Jeff Pennock, risk manager for Pullman Inc.

"All the competitive pricing in the world couldn't change the potential profit and loss impact we expect to see the captive have on our company," he said.

"In my opinion, the soft markets will not last more than one more year," observed a risk manager for a West Coast company. "The current market softness, especially in the casualty area, has only slightly diminished the initial impact of captives."

Mr. Kloman of the Risk Planning Group maintains the current soft market conditions haven't curbed

"A company isn't very likely to pull in and out of the captive," says Philip Brown.

captive growth at all. The most recent edition of Risk Management Reports, which RPG publishes, listed more than 800 captives, significantly more than last year, and 70 management companies, up from 45 the year before.

"If anything, innovations are being made by the insurance companies to meet the needs of today's risk manager, self-insurance programs and captives," Mr. Kloman argued.

"As both buyers and brokers are becoming more sophisticated, they are looking to implement a program with the long-term goals in mind," he said. But in order to adequately engineer a total risk financing program with long-term goals, a buyer has to consider the three funding vehicles of insurance, self-insurance and captives, he said.

Buyers can also no longer keep up with the roller coaster directions of the market, said Mr. Ruoff of Fred S. James.

"A company has to decide on what direction it wants to take in a risk management program and then follow it for a period of time. The business is starting to respond and realize the importance of long-term relationships and captives and self-insurance definitely should be long-term commitments," he said. ▪

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Computer forecasts self-funding needs

By RHONDA L. RUNDLE

FRESNO, Calif.—Empty-handed after shopping the contract administrators for a computer program to meet his city's self-insurance needs, Fresno risk manager Bruce Codding teamed up with a city computer whiz and concocted his own software from scratch.

"We wanted loss data in plain English to show offending city divisions," Mr. Codding explained. Computer printouts typically employ a system of code numbers to identify the cause of an accident, he pointed out.

The program Mr. Codding devised is in plain English. Now a risk management representative meets regularly with city department heads and can talk straight. The 11 by 14 inch printouts say "hit from behind" or "rear-ended other vehicle." They name names and break down losses into divisions such as public works, finance and transit. These hard facts force city personnel to sit up and take notice of what is causing losses.

Unfortunately, it's too soon to report the results of these talks, Mr. Codding admits. Fresno has just finished its first full year of solid loss data reporting. And before the 39-year-old former claims adjuster signed on board three years ago, the city did not keep loss data. That makes accurate before and after comparisons practically impossible.

But other achievements stemming from Fresno's five-year-old decision to create a risk management department and go self-insured are easier to quantify. Total incurred losses and expenses have increased 19% over the past two years while municipal expenditures in the rapidly growing city of 200,000 have jumped 50% in the same time period.

The Fresno self-insurance program is distinguished by its use of computerized loss data reporting and forecasting. "We've not seen many municipalities doing sophisticated loss forecasting," observed Bud Griffin, a partner in the risk management consulting firm of Warren, McVeigh & Griffin.

In some cities, he added, property losses are so low there's no sense in using computer forecasting. Higher frequencies for liability and workers compensation demand more highly refined techniques, however.

Fresno reached a crossroads in its insurance program in 1975, the year premiums skyrocketed for municipal coverage. Short on insurance knowhow, Fresno contracted a risk management consulting firm to sort out alternatives. Its recommendations: hire a risk manager and self-insure.

"When I arrived, self-insurance existed in principle but not in practice for property and liability exposures," recalled Mr. Codding, who landed the risk manager's job in the finance department. A fledgling workers compensation self-insurance program was off and running under the aegis of the personnel department.

Property losses commanded Mr. Codding's attention first. He established a self-insured retention of $500,000 with an excess policy underwritten by Industrial Indemnity up to limits of $101 million, the full valuation of Fresno's real and personal property.

Once the bugs were flushed out of the property self-insurance program, Mr. Codding says, a similar fund was set up to handle the liability exposure. That retention is for $500,000, capped with a $9.5 million excess policy underwritten by Columbia Casualty and another $15 million on the top written by Granite State.

Marsh & McLennan in Fresno handles all the city's excess lines coverage. The brokerage firm's engineering staff also surveys city properties nine or 10 times a year to pinpoint potential danger spots. It recently uncovered some hazards in the public walkways at the zoo, Mr. Codding noted.

Fresno maintains three separate reserve funds for property, liability and workers compensation claims. Each is set up on an incurred basis so losses can be traced to the year they occurred and comparisons made with property valuations, total city budget and other factors.

Juggling computer-generated data produces statistics on average reserves by type of loss, average payments by type of loss and other information that helps Mr. Codding forecast future funding needs. Once a year, each fund is replenished through city budget allocations.

Stopgap contingency reserves

La. city wages war on losses

BATON ROUGE—With a full year of loss reporting under its belt, Fresno is ready to beef up its loss prevention efforts.

On this front, the city might take a tip from Baton Rouge, another self-insured municipality with comparable property and casualty exposures that revved up an extremely aggressive loss prevention campaign about 18 months ago.

Risk and insurance manager Wesley Scott solicits safety recommendations from a city loss control committee, which checks out and evaluates accidents weekly. Safety proposals arising out of these investigations are taken to the risk management committee chaired by Mr. Scott, who initiates appropriate action.

The police department, for instance, was charging up big losses caused by officers' hot pursuit of suspects through the city streets. Modern radio communications make such dangerous automobile chases unnecessary under most circumstances, the risk management committee argued. The police department thought so too and agreed to discipline offending officers.

Other changes made by the committee included tightening handrails along city walkways, installing safety glass in a convention facility and altering the steps of municipal garbage trucks.

Like Fresno, Baton Rouge maintains individual reserve accounts for each of its self-insured lines, including workers compensation, general liability, fire and extended coverage, false arrest and automobile liability. ■

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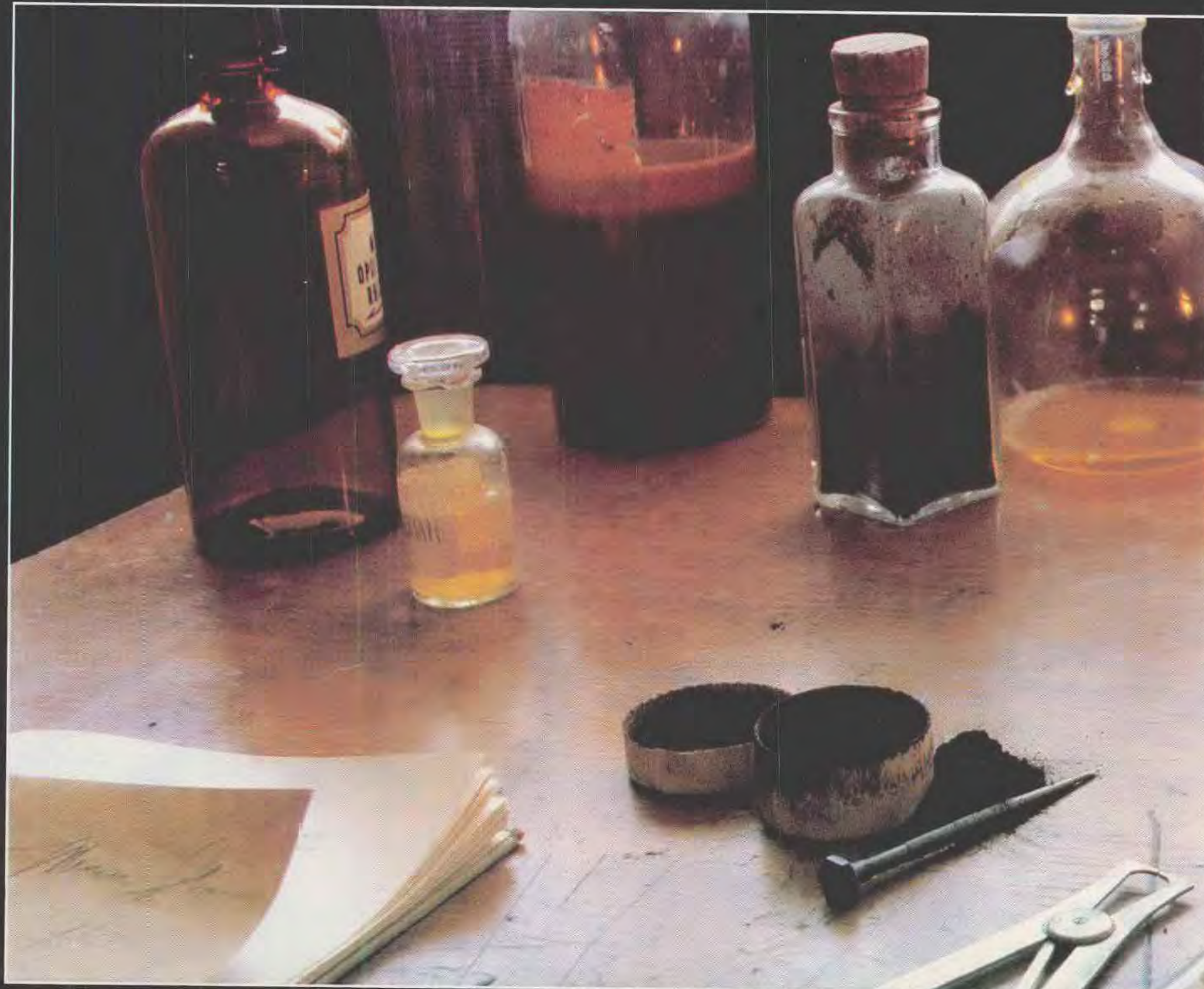

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also exist in each fund to bail the central California city out of emergencies. "This cushion could keep city services rolling without interruption in case of a catastrophic loss," Mr. Codding noted. Fresno seems remarkably free from the threat of earthquakes, hurricanes, floods and other natural disasters, however.

Premium savings through self-insurance have been particularly high in Fresno's transit division consisting of 100 buses, 12 vans and six vehicles, Mr. Codding says. Fleet mileage has doubled since 1975, he pointed out, so premium costs would have gone up proportionately. "When the self-insurance loss figures are compared to the premium which would have been charged, the city saved $358,000," he said.

Shortly after his arrival, Mr. Codding also brought claims administration into his division. That responsibility had resided in the city attorney's office, where every claim—no matter how small—was automatically shipped out to Underwriters Adjusting Co. Today the claims examiner, Rose Marie Reyes, tracks every claim from the initial notice of loss through trial, if there is one.

Photo: Rhonda Rundle

Straight talk

'We wanted loss data in plain English to show offending city divisions,' says Bruce Codding, risk manager of Fresno, Calif.

"We attend all our own settlement conferences right along with the city attorney," Mr. Codding said. An independent legal firm is hired to assess the city's liability exposure. The city risk manager has personal loss settlement authority up to $1,000, and up to $6,500 with approval of the attorney and chief administrative officer. The remaining 5% of total claims requires the city council's seal of approval for payment.

Like so many other municipal risk managers, Mr. Codding has seen the wisdom of switching his excess lines renewal date from July 1—start of the classic fiscal year—to April 1. "We've gotten out of the queue," he says, "and that's helped us to negotiate excess coverages." Insurers still have ample reinsurance money then, he adds.

There've been other unexpected spin-offs from the city's decision to hire a risk manager. Mr. Codding has successfully renegotiated several city contracts in which insurance was an issue. Three years ago, he persuaded a bond underwriter to drop some costly insurance requirements, resulting in an estimated first year premium savings of $250,000. The risk management department also handles certain of the city's accounts receivable and has significantly improved the recovery ratio.

Next year, Mr. Codding intends to focus his energies on loss prevention. After all, he sums up, the best way to cut losses is to prevent them from happening. ▪

U.S. court upholds OSHA rules

WASHINGTON—The U.S. District Court of Appeals has upheld the Occupational Safety and Health Administration's standards requiring industry to spend hundreds of millions of dollars to protect workers from cotton dust disease.

The decision approved the agency's requirement that industry install engineering controls and change work practices to protect employes working with cotton.

In addition, the court rejected complaints by labor unions that the agency's standards to control cotton dust were too lax.

In not accepting the agency's standard for the cottonseed oil industry, the decision said the court was unable to discern the basis for the standard and asked for reconsideration or clarification of that portion of the rules.

Chief Judge David L. Bazleon wrote in his opinion that estimates of the number of workers "exposed daily to cotton dust and its attendant risks" range from 250,000 to 800,000. ▪

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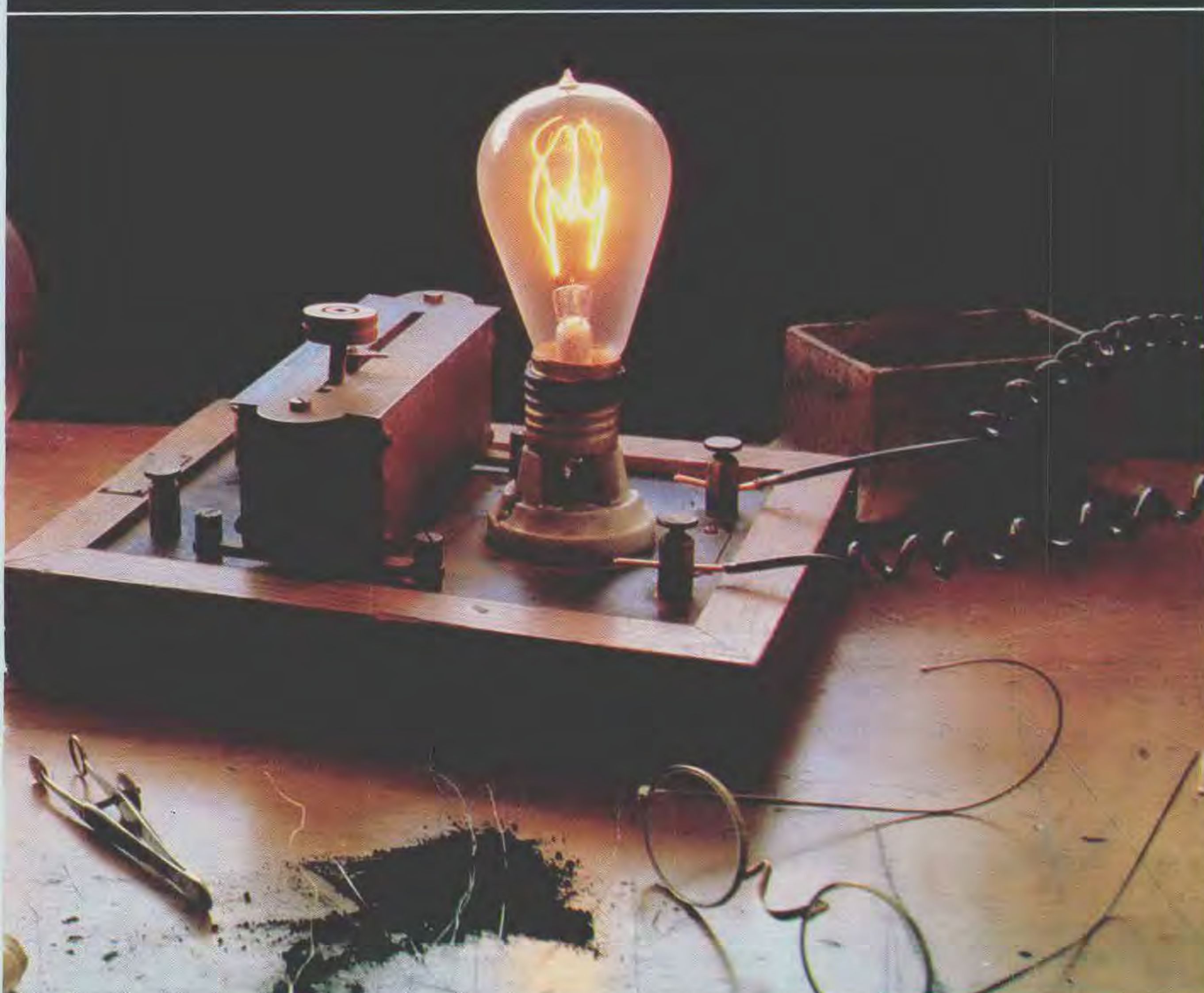

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Itel's captive sale ends firm's plan to insure lessees

SAN FRANCISCO—When Itel Corp. sold its Bermuda-based reinsurance subsidiary, Belvedere Insurance Co. Ltd., last month, it ended an ambitious plan to sell insurance to the corporation's lessees.

Belvedere was formed in June 1978—a time when the leasing company was experiencing tremendous growth and was heavily involved in computer rental, said Stephen A. Hause, director of risk management.

It was during this time that the corporation's officials first considered a plan to provide its lessees with insurance on Itel-rented computers.

However, the 10-year-old Itel has faced a dramatic financial turnaround recently, resulting in losses of $176 million for the third quarter of 1979, wholesale layoffs of Itel personnel and Itel's withdrawal from the computer leasing business.

Belvedere has grown, now writing property and casualty reinsurace premiums in excess of $10 million this year, most of which was non-Itel business.

However, the financial problems forced Itel, currently involved in complex litigation over losses in its computer operations, to sell the reinsurance subsidiary to the insurer's principal executives for $5.7 million.

The insurance for lessees plan was a victim of the resulting financial setbacks. William O. Ward, the new president of Belvedere and former vp of Itel's insurance division, said the reinsurance subsidiary did not do any business with the firm's computer lessees.

For the future, the reinsurance company intends to increase its capitalization to $20 million, says chairman Mark A. Schimbor. Mr. Schimbor had been president of Itel's insurance division.

The other principal executive is Francis J. Carter, who will manage the reinsurance company from Bermuda.

Financing for Belvedere, arranged through New York investment bankers Donaldson, Lufkin & Jenrette, will be contributed by Sprout Group, the firm's venture-capital arm, and General Atlantic Investments Ltd., a Bermuda-based private investment company.

Belvedere now expects to do reinsurance business with other captives, Mr. Ward said. Asked whether the company would reinsure Itel, he replied, "We'd consider them on a normal business basis." ▪

HMOs win popularity, poll says

WASHINGTON—Corporations are taking a number of steps to curb the skyrocketing costs of health care, a major business organization reports.

According to a survey of about 1,000 business executives conducted by the U.S. Chamber of Commerce and the Gallup Organization, more than 28% of businesses surveyed added an optional health maintenance organization plan to their conventional group health plans for employes.

Another 14% of surveyed firms started a self-funded or self-administered health plan, with 13% of firms started employe health education programs.

Twenty-four percent of surveyed executives said their companies intend to modify their employe benefit plans in the next year to contain health care costs, while 10% plan to offer an HMO to employes. ▪

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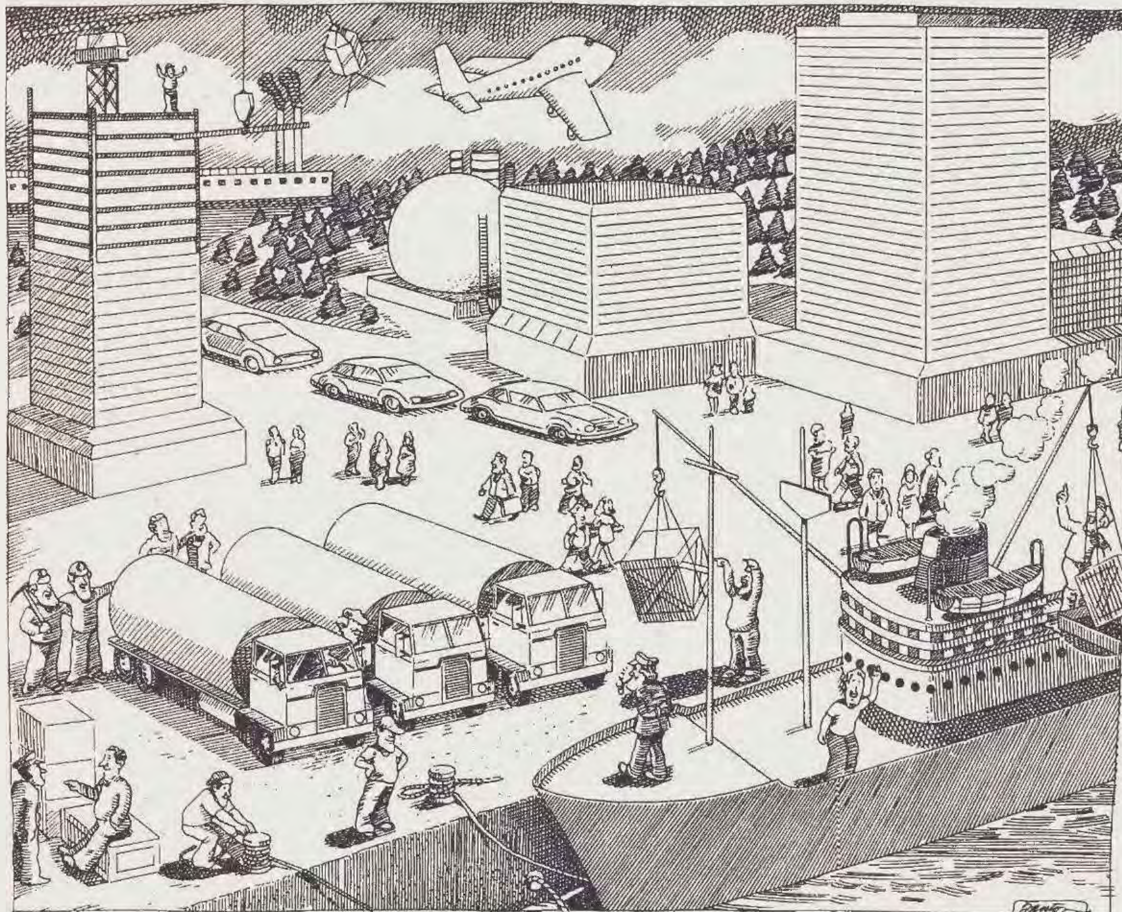

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Reinsurance pool may hold danger, some experts say

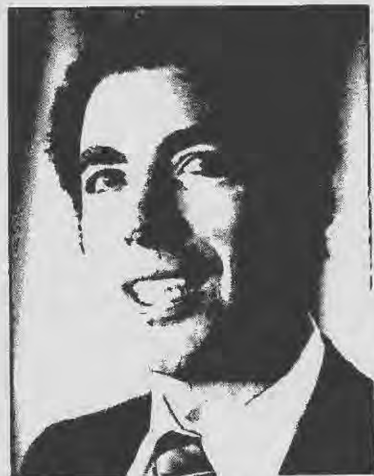
By ELLIS SIMONS

NEW YORK—Captive insurance companies are casting off fear of the unknown and diving into reinsurance pools in pursuit of pearls of profits and protection from Internal Revenue Service challenges.

But sharks may be lurking amid the treasured third-party business, experts warn. Underwriting results of the pools are almost universally incomplete and may contain a long payoff period that can bite off a chunk of an investor, they say.

Captive willingness to join the pools seems to be unlimited, underwriting managers say. "I don't have any problems attracting captives to participate in the pool," said James Lyon, president of California Reinsurance Management Corp. "They come to us."

Mr. Lyon, whose Pool V is composed of 25 captives, says if he solicited business he could attract more captive participation. But he fears uncontrolled growth of the pool—diminishing its ability to be a selective underwriter—would dilute its profitability.



"It takes an experienced underwriter to tell the good from the bad," says Paul Ingrey.

Prudential Reinsurance Corp. senior vp Paul Ingrey seconds Mr. Lyon's assessment of interest in the pools.

Prudential's Management Underwriting Facility, with 53 captives plus some traditional insurers participating, writes annual premiums of $60 million to $70 million. Prudential retains half the risk, but the same amount of premium could probably be handled by the pool if Prudential cut its participation back to, say, 20%, he predicted.

Captives have emerged into reinsurers of outside risks to avoid run-ins with the Internal Revenue Service and as a result of the perceived profits to be made in the business.

They have had two alternatives in diversifying, Mr. Lyons noted: participating in one or more pools or forming their own underwriting staffs. But the experience of Bellefonte Insurance Co., a captive that emerged into a $262.5 million insurer (*BI*, Oct. 15, 1979) has soured captives on the latter path, he added.

Sophisticated captive operators report that the only way to keep from getting lost among the whirlpool of pools is to chart them in advance and know exactly who owns whom. It also pays to accept business from more than one underwriting manager.

But perhaps no more than one-fifth of the 800 to 1,000 active Bermuda captives doing unrelated reinsurance business follow these rules, one underwriting manager says.

Reinsurance business is available to captives through a wide range of sources. Large insurers, such as Prudential Re, American International Group and Kemper Re, offer captives a quota share in certain lines of their business.

Underwriting managers such as

Continued on next page

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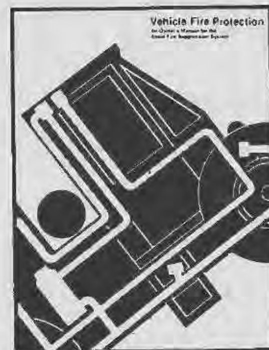

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Pools may be dangerous

Continued from previous page

J.H. Blades and brokers Alexander & Alexander and Frank B. Hall & Co. offer insurance business to captives through pools in which their small insurance company subsidiaries share in the risk, such as Blades' St. Johns, A&A's Hemisphere and Hall's Union Indemnity.

Marsh & McLennan Cos. is a part owner of London-based Tower Hill Insurance Co., which cedes reinsurance to several Bermuda captives.

Most of the pools have been formed in the past two to four years. Therefore, they haven't been operating long enough to measure their underwriting results because many casualty claims haven't been closed.

Prudential's M.U.F. will produce an underwriting profit for its first year, 1977, Mr. Ingrey predicted, but the last claims might not be paid for 12 years. It's too early to predict the results for 1978 and 1979, he added.

California Re's captive pool has underwriting results available because its business is largely property catastrophe, which isn't subject to the longtail effect.

Formerly managed by Alliance Reinsurance Management Corp., a corporate entity parallel to California Re, the pool had premium volume of $254,000 and a 47.57% combined ratio in 1977. In 1978 it wrote $2 million in premiums at an 81.53% combined ratio and for the first 11 months of 1979 wrote $2.3 million in premiums at an 89.23% combined ratio, Mr. Lyon said.

But, "People getting into (pooling) facilities have to be careful they are not being had," he warned.

"You have to avoid dealing with bandits," said Duane Allen, assistant treasurer of Cleveland-based Hanna Mining Corp. "You have to talk with the promoters of these pools and talk to people who know them to find out if they are going to be there for a long time or are going to rip you off."

"Almost every reinsurance proposal makes sense on the surface," Prudential's Mr. Ingrey added. It takes an experienced underwriter to tell the good from the bad, he added. "Not every bad deal comes from a bandit or shark."

Captive operators looking for third-party business should avoid accepting lines they are unfamiliar with, Mr. Ingrey warns. They should also make sure the party offering the business has an interest in it that goes beyond just getting it placed, he said.

California and Alliance Reinsurance Management Cos. are not risk takers, but they are owned by insurers participating in the pools they manage, Mr. Lyon said. In addition to the captive pool, Mr. Lyon manages two pools of traditional insurers.

Participation in reinsurance pools provides captive operators an easy source of third-party business with a good spread of risk at the expense of giving up control over underwriting, said Mr. Allen of Hanna Mining.

By hiring its own underwriter, the captive could pick its own risks, but "probably will see only the worst segment of the business," he continued. A captive acting alone would be a much less important market than a pool of several insurers.

Mr. Allen, whose captives participate in the California Re and Prudential pools in addition to a London-based facility, favors underwriting managers based in the U.S. or London over Bermuda. "There are few people to choose from in Bermuda and they are on the edge of the business," Mr. Allen says.

Aneco Reinsurance Co. Ltd., a Bermuda-based reinsurer that cedes risk to several captives, requires them to have capital and surplus of at least $2.5 million, said Andrew Barile, president of Aneco Group of America, the firm's U.S. subsidiary. Aneco also reviews the other business the captives write and requires them to buy catastrophe protection. "A lot of little net (limited participation) lines can become gross lines if not carefully managed," Mr. Barile said.

A.T.O.'s captive does not have a reinsurance protection treaty because of its small size, Mr. Fowler said.

Seeking business from outside sources, either independently or through participating in a pool run by an underwriting agency or insurance company, is not the only way a captive can diversify its business from writing solely the parent company's risk.

Pools such as Hopewell, CIRCL and First Island, in which participants reinsure each other's risks, accomplish the purpose of changing the character of the captive's business, said Richard J. Rice, vp at Johnson & Higgins, First Island's manager.

"If a reinsurance pool such as First Island is recognized as changing the characteristics of the business, it works. Captives don't have to go into the shark-infested waters of the tough reinsurance market," he said.

But captives with underutilized capital that see a "fair opportunity for making a profit," as Mr. Allen of Hanna Mining did, will be attracted to the reinsurance business. ▪

N.Y. syndicate plans

NEW YORK—The New York Insurance Exchange could become a source of third-party business for captive insurance companies.

Donald Montgomery, president of Celina Financial Group of Celina, Ohio, is leading an effort to capitalize an exchange syndicate with investment by about 28 captive insurance companies (*BI*, Oct. 15).

Plans for the syndicate, to be known as the Heartland Group, haven't been finalized, but it is conceivable that captives with an interest in Heartland would cede reinsurance to the syndicate as well as take a quota-share participation in the business written by Heartland on the insurance exchange, Mr. Montgomery said.

Aneco Syndicate is also seeking investment by captive insurance companies. Its private placement memorandum, distributed in early December, offered interests in the syndicate for $112,000.

Andrew Barile, president of Aneco Group of America, the U.S. holding company that includes the syndicate, does not see providing third-party business to captives as a reason for captives to invest, however.

Sasse affair gets April date with court

london line

By JOHN MILLER

LONDON—British High Court Judge Michael Mustill will hear litigation against Lloyd's and other parties involved in quarrels over the Sasse Syndicate affair at a special court session next April unless they reach a settlement first.

The aim of the hearing is to determine blame for Sasse's $41 million in losses. Some syndicate members say individual underwriting agents should have warned them that the syndicate was running into trouble and others blame Lloyd's for not discovering Sasse's difficulties in time.

Another important issue is the binding authority granted to Florida-based Denhar Underwriting Agency that enabled it to run up syndicate losses of more than $25 million on U.S. fire risks. The court may be asked to find if there was any carelessness by the syndicate before this authority was issued.

The fire losses were turned in to the Brazilian IRB Group, the reinsurer, which has so far refused to settle litigation begun last fall (*BI*, Oct. 1, 1979).

$2.2 million suit

Lloyd's marine insurers are planning to contest a $2.2 million lawsuit over a cargo of canned meat that was on its way to strife-torn Lebanon when the Greek freighter carrying it was sunk off Cyprus.

The consignor, Euro-Afro Traders of London, wants to recover the money from 27 Lloyd's syndicates that joined the slip, led by underwriter Colin Hart of L.E. Hart Syndicate, when cover for the voyage was taken out last March.

The firm had hoped the consignment would reach the Lebanese port of Jounie safely, as the meat was supposed to have been sold to the Palestine Liberation Organization, but Israeli attacks prevented it from getting to port in time. The shipment was transferred to another vessel, the Makedonia, which sank off Cyprus after developing engine trouble, and the cargo was lost.

A suit has been filed in Britain's High Court to recover the insurance money for the lost cargo, but attorneys for the Lloyd's syndicates say they will fight the action on the ground of non-disclosure of material facts.

Near collision

Aviation insurers were recently spared a $40 million payout when four U.S. fighter planes nearly collided with an Air France Concorde as it began its flight from Dulles Airport outside Washington, D.C.

Military flight controllers at Fort Monroe, Va., have been blamed for the split-second error.

Two of the planes came within 10 to 15 feet of the French airliner as they flashed across its path, believing the air space was clear.

The Concorde, with 16 passengers and nine crew members, had been given clearance for its flight and was moving into the supersonic stage 70 miles out over the Atlantic when it was nearly hit.

Insurers have had a good experience so far with the nine Concordes in service, and regard the aircraft as one of their least troublesome risks, though exposures total nearly $400 million for hull values alone.

Air France insures its four planes for $40 million to $53 million according to individual classification and British Airways covers its five Concordes for $42 million each. The French market covers the Air France risks, with reinsurance in London and elsewhere, and Lloyd's and the U.K. market have substantial interest in the British Airways risks.

U.S. acquisition

U.K.'s Guardian Royal Exchange insurance company is strengthening its U.S. connections through its $47 million takeover of Midwestern Fidelity Corp., which writes business in Ohio, Indiana and Kentucky with net premium income of $46 million in its latest financial year.

Guardian Royal is not trying to be as big in the U.S. market as Commercial Union or other majors, says managing director Peter Dugdale, as it intends to expand business slowly and selectively on a profit-oriented basis.

It bought Tower Insurance Co. of Wisconsin during 1979 and the new stake will bring its U.S. premium income to nearly $100 million, representing about 5% of its total premium inflow.

Tanker losses

The U.K. marine insurance market will receive claims of more than $20 million in the loss of the 50,000-ton Romanian tanker Independenta, which blew up in the Bosporus after hitting a Greek freighter, Evraly, in Turkish waters outside Istanbul.

The tanker was insured for $40 million with ADAS, Romania's state-owned insurance agency, but at least half was reinsured in the London market. More than 18,000 vessels use the Bosporus every year.

$300 million loss

Premiums for Britain's state-controlled Export Credits Guarantee Department will probably have to be raised following losses of $300 million in the past year.

The department has paid out $130 million to firms on whose export contracts Iran has defaulted since the revolution last February, and has also paid another $130 million to businessmen who found it difficult to get money for Turkish contracts.

Some officials fear it will have to pay another $90 million on Iranian deals and that claims will also come in from merchants who have been doing business with Zambia, Nigeria and the Sudan, where there have been political troubles.

Administrative cuts

The U.K. government is planning to cut back the number of administrative officials in its Trade Department's insurance division, which controls the solvency of more than 800 insurers and 360 Lloyd's syndicates.

Officials are protesting the move, initiated as part of Prime Minister Margaret Thatcher's economy campaign, on the grounds that it will endanger the public. ■

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• **"Loss Assumption"** is an article reprinted from Financial Executive outlining the basic risk management process that a corporation should consider to reduce the total cost of risk. It also discusses the loss assumption indicators that tend to measure financial strengths and tells how to draw up a risk potential matrix. For a free copy write William S. McIntyre, RIMCO Risk Management Inc., Suite 180, 10300 N. Central Expressway, Dallas, Tex. 75231.

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• "There Is No Insurance In Self-Insurance" is a pamphlet prepared by Union Labor Insurance Co. outlining the risk involved in **self-funding**. The pamphlet looks at ERISA and the legal considerations, the estimated savings versus the guarantees, reserves and investment return, deficit forgiveness, stop-loss coverage and net dollar savings. For a free copy write The Union Labor Life Insurance Co., 850 Third Ave., New York, N.Y. 10022.

• Cook, Treadwell & Harry Inc. is offering a promotional brochure describing its **risk management** services. For a free copy write E.W. Cook, president, Cook Treadwell & Harry Inc., P.O. Box 17986, Memphis, Tenn. 38117.

• The Risk Planning Group Inc. is offering a booklet of papers presented at the second international **captive insurance company conference of 1979.** The articles cover topics ranging from legal, tax and financial requirements relating to captives in various domiciles to a broad overview of the current captive scene and a discussion of where captive insurance companies may be heading. Cost is $25. Write Risk Planning Group Inc., 722 Post Rd., Darien, Conn. 06820.

• Are There **Potentially Dangerous Gaps in Your Insurance Program?** is the name of a booklet recently prepared by Marsh & McLennan Inc. The booklet explains how a client can best evaluate the adequacy of its current coverage. For a free copy, write Tim Paulsen, Dept. 94, Marsh & McLennan, Inc., 1221 Ave. of the Americas, New York, N.Y. 10020.

• The 1978-79 edition of the **Source Book of Health Insurance Data** is available from the Health Insurance Institute. The 20th edition of this book provides information on major forms of health insurance including hospital, surgical, physicians expense, major medical, disability and dental insurance. For a free copy, write the Health Insurance Institute, 1850 K St. N.W., Washington, D.C. 20006.

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riskWatch

Ignorance of safety takes high human toll

By RHONDA L. RUNDLE

American Airlines flight 191 didn't have to crash last May 25, at least one expert argues.

It did because the hydraulic system design on the DC10 jumbo jet violates a fundamental principle of safety engineering, contends Willie Hammer, senior scientist for Hughes Aircraft in Culver City, Calif. The principle: No single failure should destroy both primary and secondary support systems.

If this simple principle had been observed, American flight 191 would have flown without its left engine, he believes.

Rundle

Similarly, in products ranging from missiles to mouthwash, the basic principles of safety design are blithely overlooked, Mr. Hammer says. No sector is exempt; Mr. Hammer thinks the failures to observe good safety engineering practices occur in the manufacture of consumer, commercial, industrial and military products.

In the DC10 crash last May that killed 273 people, a so-called "single-point failure"—a crack in the pylon engine assembly—touched off a fatal chain of events. As flight 191 climbed into the skies above Chicago's O'Hare Airport on a routine takeoff, the left engine tore loose from the wing, causing crippling stresses that ripped out the plane's primary hydraulic lines as well as the safety back-up system.

Disaster might have been averted, Mr. Hammer laments, had the two hydraulic systems been separated on the wing of the craft. In that case, the single-point failure would have wiped out one but not both sets of hydraulic lines. On May 25 when the hydraulic system was cut, the left wing slat closed, causing the plane to lose its lift and flip over, plummeting to the ground.

Accidents caused by bad safety design don't necessarily involve negligence, nor are they the result of cost-conscious corner-cutting. More often, the engineers responsible simply don't know enough about safety principles, say the safety experts who analyze the problems. The alarming truth is, few engineers know much more about safe design than the faithful consumers who buy their useful but potentially unsafe products.

The end result is that Uncle Sam spends millions of taxpayer dollars each year to protect us with product recalls, workplace safety orders and class-action lawsuits. Unfortunately, these remedies are often too late to save many victims from booby-trapped products. The Consumer Product Safety Commission, the National Highway Traffic Safety Administration, the Occupational Safety and Health Administration and others are really councils of last resort. A more effective approach would key safety into every manufactured product when it is on the drawing board.

Safety engineers, however, are a rare breed. Product designers are usually mechanical, chemical or structural engineers who don't learn safety principles in class.

Engineering schools say they don't have time to teach safety; industry says it can't dictate academic curricula, and professional certification examiners say they can't test what the schools don't teach. This is how Jerome Lederer, former NASA director of safety, describes the dilemma.

Perhaps the quickest way to stop this vicious cycle, proponents of product safety design believe, is to persuade the National Council of Engineering Examiners in South Carolina to add safety problems to its reservoir of examination questions. Fifty-two out of 55 engineering registration jurisdictions within the U.S. utilize the National Council's questions. Engineering schools presumably gear instruction to help students pass those registration exams.

The council pooh-poohs such suggestions, however, contending it already tests safety knowledge. But safety-related questions are not the same as those that measure understanding of basic principles, Mr. Hammer points out. A mechanical engineer may know how to install a blower system to reduce contaminants in a chemical manufacturing plant, but can he spot a potential single-point failure in design of a Pinto fuel pump? Does he even know what a single-point failure is?

Though more lawsuits and higher awards are changing the economics of product liability in favor of greater safety design, in the final analysis safety is still a matter of conscience, not an issue of dollars and cents.

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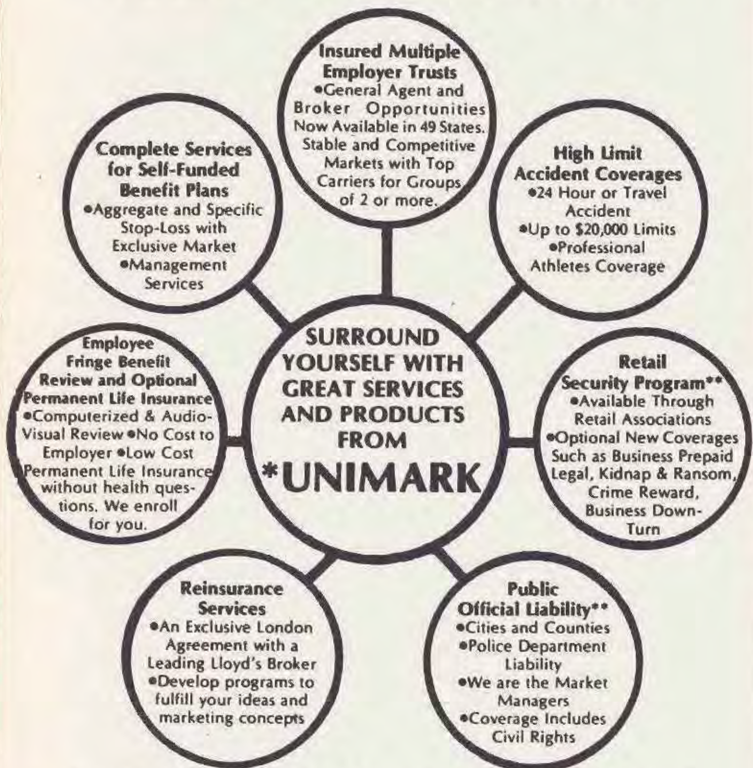

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Fla. appeals court upholds workers comp review law

TALLAHASSEE—The 1st district court of appeal has upheld a critical portion of the new Florida workers compensation law, saying it was properly given sole review of industrial insurance cases.

A three-judge panel rejected arguments by three Dade County people that the legislature violated the state constitution by not requiring cases to be heard by the appeals court covering the geographical area in which the job-related accident occurred.

The constitution says the five appeals courts will review "administrative acts as prescribed by general law," judge E.R. Mills said. Lawmakers put that provision into effect by deciding to give the Tallahassee appeals court review of worker's compensation cases, he said.

Meanwhile, a transitional rating program designed to prevent sharp dislocations in the premiums employers pay for workers compensation insurance has been given a year extension.

Insurance commissioner Bill Gunter had urged the National Council on Compensation Insurance to agree to extend the payroll limitation transition program for one year beyond the Dec. 31, 1979, expiration date. If the transition program expired, employers who pay higher wages would have been hit by significantly higher workers compensation premiums.

The council agreed to a one-year extension and a 25% or $50 limit on premium increases, whichever is greater. The transitional program was developed four years ago to reduce the impact of switching from a maximum premium base of $100 per week per employe to a system using an employer's total payroll to compute premiums.

around the states

$2.4 million award

ST. JOSEPH—A jury has awarded an unemployed Hartford man nearly $2.4 million, three years after he filed a lawsuit charging Parke-Davis Co. with dispensing a drug that caused him to go blind. The Berrien County circuit court jury granted Michael Mooney, 21, the largest judgment ever awarded in the Southwestern Michigan county court.

Mr. Mooney got $2 million plus 6% interest per year on the judgment, or $371,700, retroactive to the date the lawsuit was filed against the company. His suit contended he was "needlessly and negligently harmed" by Parke-Davis because the firm did not warn the medical profession that the drug Dilantin could cause Stevens-Johnson syndrome. The illness causes blindness and falling off of skin.

Homeowners sue

ESCANABA—Homeowners in this Upper Michigan mining town are suing 21 mining companies and the Chicago & North Western Transportation Co., charging the firms with trespassing, negligence and nuisance for damages they say were caused by iron ore pellet dumping. The homeowners' suit seeks unspecified actual and punitive damages.

Nicholas Bridges, attorney for the 58 homeowners, said homeowners are plagued by noise, dust and tremors when iron ore is unloaded from rail cars at Escanaba. The iron is mined at four major mines in the Marquette area, all principally owned by the Cleveland Cliffs Iron Mining Co., then shipped about 70 miles by rail to Escanaba, Mr. Bridges said.

In 1974, Escanaba homeowners won a $220,000 lawsuit against the Chicago & North Western. After that suit, Mr. Bridges said, the railroad erected a dirt wall to screen the noise but it has proved ineffective.

Walter Hansen, attorney for the Cleveland mining company, said he was "astonished" that the mining companies would be named in the suit. "They're being sued for what a product was claimed to have done 80 miles away," Mr. Hansen said.

Mandated coverage

CARSON CITY—Nevada drivers must carry proof of liability insurance in their vehicles to comply with the state's mandatory insurance law, enacted Jan. 1.

Businesses with 10 or more vehicles and those that insure their fleet under a blanket policy should obtain a single certificate of coverage from the insurer. In lieu of a separate card for each vehicle, a Department of Motor Vehicles stamp reading "fleet" will be imprinted on each registration card. Other business-owned vehicles must carry a separate card showing proof of insurance as required of all passenger cars.

Persons unable to produce such valid evidence after Jan. 1 are subject to a fine outlined in the mandatory insurance statute. The new law takes effect with repeal of the state's no-fault automobile insurance statute for personal injury.

Asbestos case

GROTON—The family of a former employe of Electric Boat Division of General Dynamics Corp. in Connecticut who died of asbestosis has been awarded $77,000 in workers compensation, interest and cost-of-living adjustments.

The family of Joseph LaPlante of New London will be paid by Insurance Co. of North America.

About 185 cases have been brought against Electric Boat, and about 40 have been tried and decided in favor of the workers, the LaPlante family's attorney says.

Arson control

TALLAHASSEE—Florida has been awarded a $412,941 federal grant to expand its fight against arson, the only Southeastern state to participate in the $9 million nationwide program.

In the arson control program, nine states will develop specialized training for arson investigators, provide specially trained legal staff for police and fire departments and increase public awareness of the problem.

Arson annually costs insurers an estimated $1.5 billion, Florida insurance commissioner Bill Gunter said. ■

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Third-quarter results

Inflation gives boost to written premiums

NEW YORK—Insurers are reporting good, but not spectacular, third-quarter results.

Premiums written are still rising, for the most part, boosted by inflation. Net income is bolstered by investments, which are continuing to be the salvation of some companies, more than offsetting losses in most cases. Despite the profits from areas other than underwriting, 1979 results are continuing to slide, however, and some red ink showed up in Reliance's underwriting results. Zurich-American's underwriting results showed heavy losses in the latest period.

* * *

Crum & Forster reported after-tax operating income reached $110.8 million, up 17% from the September 1978 figure. Net income, which includes capital gains, was up 25% to $117 million.

Property damage brought about by Hurricanes Frederic and David during September just about wiped out gains in the casualty and property insurance business realized during July and August. Operating income in those lines rose only 3% to $36 million in the three-month period.

But investment income during the same period jumped 30% to $36 million.

Net premiums written by Crum & Forster were up almost 11% during the first nine months.

The company is still in the black on its underwriting operations, but the adjusted underwriting profit of $3.9 million for the first nine months skidded from 1978's $26.5 million.

* * *

American International Group, despite approximately $10 million in losses related to Hurricanes Frederic and David, showed a gain in net operating income of 19% to $58.3 million for the third quarter of 1979.

Gross premiums increased 16% to $775 million, while net premiums went up 5.8% to $415 million during the same three-month period. The hurricane losses brought adjusted underwriting profits during the third quarter to $17 million, down 19% from the 1978 figure of $21 million. For the first nine months of 1979, underwriting profits rose 1.6% to $63 million, compared with $62 million in 1978.

Net investment income again proved a boon for AIG. The third-quarter increase was 34%, up to $41 million, while the nine-months total for investment income increased 34% to $116 million.

* * *

Pretax operating income for the **Reliance Group's** insurance operations dipped by about 10% in the third quarter, to $27.6 million. For the first nine months of the year, pretax insurance income was up 2% to $86.9 million, compared with $88.7 million a year ago.

A pretax underwriting loss of $2.2 million was recorded in the third quarter for property and liability insurance operations, compared with an income of $5.4 million during the same period in 1978. For the nine months that loss totaled $2 million, compared with a 1978 profit of $17.6 million.

The hurricanes were blamed for most of those losses, although company spokesmen said an increase in surety bond claims also aggravated the situation.

Net investment income took some of the sting off the loss experiences, increasing 25% during the third quarter to $26.9 million.

* * *

BI ticker

Pretax net income for the property and casualty operations of the **Zurich-American Insurance Cos.** reached $27.1 million during the first nine months of 1979.

Net written premiums increased 13% in the last three-month period to $289 million, but an underwriting loss for the period of $11.4 million was a large increase from last year's $1.4 million loss.

Investment income, however, was up 42.4%, to $38.3 million from $26.9 million.—*Stuart Emmrich*

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JAN. 14-18. Total Loss Control Management seminar in Houston, sponsored by the International Safety Academy; $495 fee or $455 for three or more from same company. ISA, P.O. Box 19600, 10575 Katy Freeway, Houston, Tex. 77024; 713-932-9400.

JAN. 21-22. Health Hazard Awareness Course, in Portland, Ore. sponsored by American Society of Safety Engineers; $125 fee for members, $155 for nonmembers. Also **Jan. 24-25** in San Francisco; **Jan. 28-29** in Los Angeles; **March 10-11** in Boston; **March 13-14** in White Plains, N.Y.; **March 20-21** in Reston, Va.; **April 10-11** in Chicago; **April 14-15** in Detroit; **April 17-18** in St. Louis. ASSE, 850 Busse Hwy., Park Ridge, Ill. 60068; 312-692-4121.

JAN. 21-23. Modern Loss Control Management, in Sarasota, Fla., sponsored by the International Safety Academy; $375 tuition or $350 each for three or more from same company. ISA, P.O. Box 19600, 10575 Katy Freeway, Houston, Tex. 77024; 713-932-9400.

JAN. 21-23. Fundamentals of Employe Benefits, in New York, sponsored by the American Management Assns.; $495 for members, $570 nonmembers. Also **Feb. 4-6** in Chicago; **March 3-5** in Atlanta; **April 28-30** in Cleveland. AMA, 135 W. 50th St., New York, N.Y. 10020; 212-586-8100.

JAN. 21-23. How to Design an Effective Loss Prevention Program if You Go Self-Insured, in Los Angeles, sponsored by American Management Assns.; $450 for members, $520 nonmembers. AMA, 135 W. 50th St., New York, N.Y. 10020; 212-586-8100.

JAN. 21-24. Inspector Training, in Houston, sponsored by International Safety Academy; $425 tuition or $385 for each of three or more from same company. Also **April 8-11, July 8-11, Sept. 29-Oct. 2, Dec. 15-18.** ISA, P.O. Box 19600, 10575 Katy Freeway, Houston, Tex. 77024; 713-932-9400.

JAN. 22-23. Captive Insurance: The Decisions for 1980, in Los Angeles, sponsored by Advanced Management Research International Inc.; $595 fee, $550 per person for two or more. 1370 Avenue of the Americas, New York, N.Y. 10019; 212-974-0800.

JAN. 22-25. Hazardous Materials Seminar, in Nashville, sponsored by The Colorado Committee on Hazardous Material Safety and the Nashville Hazardous Risk Advisory Committee; $75 fee. Contact Darrel J. Behrendsen, chairman of the training unit, Colorado Committee on Hazardous Materials Safety, P.O. Box 22533, Welshire Station, Denver, Colo. 80222; 303-575-5722.

JAN. 24-25. Behavior Modification Techniques, sponsored by International Safety Academy in Sarasota, Fla.; $245 tuition or $220 each for three or more from same company. Also **Jan. 30-31, March 20-21, May 29-30, July 21-22, Sept. 3-4, Nov. 13-14,** all in Houston; **March 13-14** in Atlanta; **April 24-25** in Overland Park, Kan. ISA, P.O. Box 19600, 10575 Katy Freeway, Houston, Tex. 77024; 713-932-9400. ■

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U.K. brokers win consulting pact for power station

worldwide

A TREATY BETWEEN Argentina and Paraguay to construct a 3,300-megawatt power station across the Prana River at a cost of $3 billion has led to a rich consulting contract for U.K. brokers H. Clarkson (Overseas) Ltd.

A Clarkson team, headed by Dr. Eric M. de Saventhem, will evaluate the risks under the consultant contract before marketing the coverage. Carlos A. Pollitzer, president of Clarkson Argentina South America, will be the local director of the project.

The Prana River Yacyreta power station will provide electricity for Buenos Aires and North Argentina.

Angola reinsurance

Oil, marine and international liability risks valued at $75 million, insured by the nationalized insurance company of the African country of Angola, will be reinsured in British and U.S. markets, according to the reinsurance broker.

"The African insurers are in the same position the Italian companies were several years ago," noted William Sherar, president of Sherar, Cook & Gardner, New Orleans-based commercial and reinsurance brokers. "They reinsure nearly all of their risks."

Mr. Sherar, whose firm also brokers reinsurance for nationalized insurers in Libya and other African countries, expects the nationalized insurers will increase their risk retention in coming years, following Continental European trends as in Italy.

Sherar, Cook & Gardner is also marketing insurance for a large North Sea oil rig owned by a consortium of U.S. and overseas firms and valued at $1.5 billion to $2 billion.

Working under the direction of an unnamed U.K. broker, Sherar, Cook & Gardner will be placing reinsurance with Lloyd's and European and South American insurers. The majority of business will land in Britain.

The risk will be "hitting the markets late this year," Mr. Sherar said, and premiums are likely to be 1% to 2% of the final risk value.

Social Security pact

The United States and Germany have signed an international Social Security agreement to eliminate dual coverage in the future for employes who work in both of the countries.

Under the agreement, an employe sent by his employer from the U.S. to Germany, or vice versa, will continue Social Security coverage in the country from which he is sent and will no longer be required to participate in both systems.

The "totalization" arrangement also will provide that if an individual has at least six quarters of coverage under the U.S. Social Security system and a period of coverage under the other country's system, both periods of coverage will be combined to establish eligibility for benefits.

The share of benefits paid from each system will be prorated.

China project

People's Insurance Co. of China has insured Chrysoberyl River Development Ltd., a Hong Kong company building a Canton residential project, against delays caused by war, riots, political demonstrations or similar disruptions.

The Chrysoberyl project is apparently the first housing contract to be insured by the Peking government and the first to be insured by China on its construction schedule and on imports of Hong Kong building materials to be purchased with foreign currency. China's stability has been a major concern to investors. ■

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UAW wins higher pension, ends strike at Caterpillar

benefit beat

More than 40,000 United Auto Workers members in six states won expanded pension and health benefits from Peoria-based Caterpillar Tractor Co., ending a 78-day strike.

Under the new three-year contract, pension benefits were raised to $800 a month from $700 and will be increased $30 every six months during the life of the contract. The maximum yearly dental benefit was increased to $1,000 from $750; optometrist's payments were raised to $24 from $20, with further increases scheduled; payments for single-vision lenses were raised to $14.50 from $10 and to $21.75 for contact lenses, up from $15. Hearing aid benefits were expanded to include retirees and surviving spouses, and surgical coverage was expanded to cover all dependents.

Metropolitan Life writes the insurance coverage for the UAW.

Account moves

Chicago-based Trans Union Systems Corp. has switched its entire group benefit business for 17,000 employes to The John Hancock Insurance Co. from The Equitable Insurance Co. for speedier and more efficient claims handling.

"John Hancock's computerized claims processing system was the deciding factor. Cost was not really an issue here since both companies quoted us a price within $500 of each other," said Betty Broome, benefits administrator for the company. "We are definitely getting more for our money with John Hancock," she said.

Under the new contract, John Hancock will furnish Trans Union with frequent statistical reports, especially on the number and amounts of claims being paid by coverage. Trans Union expects this service to assist them in benefit planning for the future.

In the switch, Trans Union is also adding a dental program for its 6,029 salaried employes which will go into effect Jan. 1. Under the dental plan, the company will pay 100% for preventive and diagnostic treatment and 75% for therapeutic and restorative treatment. The company will pay 50% for major surgical treatment after a $50 deductible.

All dental costs are subject to a $750 calendar maximum, except for orthodontic costs for dependents under 19 years old which are subject to a $500 lifetime maximum.

Pensions increased

Morristown, N.J.-based Allied Chemical has approved pension increases and medical plan improvements for retirees at a cost increase to the company of more than $2 million annually.

The pension increase will apply to all employes who retired from Allied Chemical before 1977 and will equal 1% of current pension for each year of retirement before July 1, 1979, with an additional increase of 1% for each year of retirement before 1966.

Changes in medical benefits will mean reduced contributions and increased benefits for many.

AT&T pension hike

American Telephone & Telegraph Co. has approved an increase in pensions for 8,100 retired employes from the company's headquarters and its Long Island unit and similar proposals will be presented to the directors of Bell System associated companies.

If approved, the first-year cost to Bell companies will be $75 million. Currently 205,000 persons are receiving Bell System pensions.

Monthly AT&T pensions will be increased 16% for those who retired before Jan. 31, 1977, and increases for those retiring later will be about .45% for each month of retirement through November 1979. The increase must be approved by the IRS.

•

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Bayly, Martin & Fay appoints Roblee CFO

comings & goings: industry

LOS ANGELES—John W. Roblee has been appointed chief financial officer of Bayly, Martin & Fay International Inc. Mr. Roblee most recently served as vp and chief financial officer at James S. Kemper & Co., with responsibility for financial planning, acquisitions and operational administration. He began his career with Peat, Marwick, Mitchell & Co. in Chicago in 1955, then founded his own CPA firm, John W. Roblee & Co., in Milwaukee in 1959.

Other brokers moving:

David R. Anderson to senior vp of Marsh & McLennan Inc. Mr. Anderson also serves as assistant manager and senior account executive in the St. Louis office.

Virginia M. Geist to corporate secretary for Rollins Burdick Hunter Co. in Chicago from assistant corporate secretary. Also, **James H. Butler** to senior vp-marketing from senior vp and coordinator of the marketing department of RBH of Illinois Inc.

Hugh Shippey to vp and national surety bond manager of Albert M. Bender Co. Inc. of San Francisco.

Samuel M. Kikla to vp-actuarial services of Fred S. James & Co. Inc. of Pa. in the Philadelphia office where he will service actuarial and other benefit consulting clients in the Northeastern U.S.

Howard E. Bacon to chairman of the board of Bayly, Martin & Fay-Philadelphia and **Patrick J. Gilmore** to president and CEO.

E. Ray Carter to managing vp of the Richmond office of Alexander & Alexander from A&A's corporate staff in Baltimore, where he coordinated the company's merger and acquisition program.

Stuart A. Keen promoted to senior vp of Johnson & Higgins of California.

Frank A. Wallenberg to director of operations of Maginnis & Associates Inc., a Chicago-based agency, from National Ben Franklin Life Insurance Co.

Glenn Isiminger to president, general marketing division of H&W Insurance Services, a California-based excess/surplus lines broker, from president of H&W Insurance Services of Illinois. Also, **Wayne Barber** to manager of H&W's new commercial properties division.

Insurers

Three Royal-Globe executives were promoted when chairman and chief executive officer J. Roy Nicholas relinquished the office of president. William C. Simpson, an executive vp since 1973, was appointed president and chief operating officer. George W. Ansbro, senior vp-personal lines since 1976, has been named executive vp with overall supervision of marketing and underwriting operations. Arthur F.S. Evans is promoted to senior vp with senior executive responsibility for marketing. He retains executive responsibility as marine manager and for the international department.

Other insurers moving:

George T. Holbrook to Reliance Insurance Cos. in Philadelphia as senior vp-bond operations, responsible for fidelity and surety activities nationwide, from Seaboard Surety in New York City.

Richard G. Mulholland to vp-public and community relations for the U.S. Insurance Group in Morristown, N.J., from Crum & Forster Life Insurance Co. (New Jersey).

John A. Antonakes and **James W. Roop** to vps of Liberty Mutual Insurance Co. and **George E. Lepage** to assistant vp and manager of the home office motor transport underwriting department.

Richard W. Wigmore to national accounts marketing manager of Marketpac International Inc., a member of American International Group.

Paul W. Bright to manager of the underwriting support unit of the national accounts division of Chicago-based CNA.

Mounir F. Naguib promoted to assistant vp of Swett & Crawford, directing the company's engineering services. ■

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When Bache acquired us in 1978, we embarked on a fast-paced acquisition program of our own. We also penetrated new markets—like marine insurance—and broadened our involvement in existing markets.

Our growth is a calculated expansion, based on sensitive leadership from Bache's progressive management. It's growth measured in figures that far outpace the industry's standards: revenues up 50%; premium volume up 70%; a leap to 14th place among the nation's top 20 brokers.

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Product liability panel gets 9-month reprieve

By JERRY GEISEL

washington

THE COMMERCE Department's Task Force on Product Liability and Accident Compensation will be around another nine months.

The task force, which has been probing the nation's product liability problems since 1976, had been set to disband at the end of 1979. But the Commerce Department extended funding for the task force for an additional nine months.

The extra time will be used to complete a year-long probe of insurance company ratemaking practices, as well as to provide research support for the Administration-backed Risk Retention Act, a proposal that would allow firms to pool product liability risks under federal charter.

Task force chairman Victor Schwartz is expected to remain in his current position.

OSHA under attack

Sen. Richard Schweiker (R-Pa.) has renewed his bid to curb the power of the Occupational Safety and Health Administration.

The Pennsylvania Republican introduced legislation (S. 2153) late last month to exempt 90% of the nation's four million workplaces—those with good safety records—from routine OSHA inspections.

The legislation is similar to a measure Congress passed last fall that barred OSHA from conducting routine safety inspections at firms with fewer than 11 employes (*BI*, Sept. 3, 1979).

Meanwhile, the General Accounting Office is charging in a recent report that OSHA is unfairly concentrating its inspections on smaller firms and that its compliance investigations fail to turn up potentially serious safety hazards.

Swine flu

Sen. David Durenberger (R-Minn.) is calling for speedier government processing of claims filed by persons injured in the Ford Administration's ill-fated swine flu immunization program.

Charging the Justice Department has dragged its feet in reviewing claims, Sen. Durenberger has proposed (S. 2037) a seven-member federal commission be established. The commission would have a maximum of 240 days to conduct hearings, make determinations and award payments to swine flu victims.

Currently, under the Federal Tort Claims Act, the Justice Department reviews all claims and rules on their validity. If the department decides a claim is valid, it negotiates the settlement.

If the Justice Department decides a claim is not valid, a plaintiff can sue the government in U.S. district court. A plaintiff is only allowed to seek compensatory and actual damages.

More than 3,600 claims asking for more than $3.35 billion in damages have been lodged against the government. Only 40 to 50 claims have been settled for a total of about $1 million.

Labor Department

The Pittsburgh Testing Laboratory has agreed to retroactively amend its pension plan to meet ERISA's minimum standards.

The testing company had amended its employe benefit plan Jan. 1, 1977, to comply with ERISA standards on pension eligibility. But in a suit filed in U.S. district court, the Labor Department charged that these amendments should have been made retroactive to Jan. 1, 1976, when ERISA went into effect for most private pension plans.

In a consent order announced last month, PTL agreed to a court order requiring that the amended plan take effect as of ERISA's 1976 effective date and that those entitled to benefits under those new terms be paid within 60 days.

Six additional retirees now will be eligible to collect pension benefits as a result of moving up the effective date of the pension plan amendments, a Labor Department spokeswoman said. ■

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1. CAPTIVE & SELF-INSURANCE REVIEW	JAN 7	DEC 20 CLOSED

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1. CAPTIVE & SELF-INSURANCE REVIEW	JAN 7	~~Dec 20~~
2.	JAN 14	~~Jan 2~~
3.	JAN 21	Jan 9
4. Spotlight Report: Workers Compensation	JAN 28	Jan 16
5.	FEB 4	Jan 23
6.	FEB 11	Jan 30
7. RISK MANAGEMENT SERVICES	FEB 18	Feb 5
8.	FEB 25	Feb 12
9. Spotlight Report: Computers/Quantitative Techniques	MAR 3	Feb 20
10.	MAR 10	Feb 27
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Case may define plan fiduciary, legal experts say

By RHONDA L. RUNDLE

LOS ANGELES—Identifying the bona fide fiduciaries of a pension plan may be among the first issues in any ERISA "prudent man" lawsuit.

Broader interpretations of fiduciary liability under ERISA have created a legal gray zone here, legal and insurance experts say.

ERISA experts believe fiduciary standards under ERISA are so high that corporate trustees are not solely responsible for pension trusts. Legal suits based on the "prudent man" principle, in fact, may name many defendants, including the corporate board of directors and union or employer association.

In one of the first tests of this doctrine, an Eastern Airlines pilot is suing his employer and the Air Line Pilots Assn. to recover more than $5.3 million invested in real estate by the pilots' pension fund (*BI*, Oct. 29).

"There's not enough case law on ERISA yet to say whether a board of directors and possibly employe associations can totally escape responsibility for pension fund decisions," says Neil A. Burger, vp of Martin E. Segal & Co., New York-based consultants. It might be possible to successfully sue them on the basis that they made poor choices of individuals to act as fiduciaries to a retirement committee.

Union executives responsible for pension matters won't admit that union representatives who serve as watchdogs on employer-sponsored pension committees act as fiduciaries.

If the union representatives exercise discretionary powers over the plan, they share fiduciary liability with plan trustees, ERISA experts agree.

But there's no pat procedure governing the purchase of insurance to cover union representatives' liability exposure.

The most common approach is for the plan to buy a policy naming all fiduciaries as insureds, Mr. Burger says. This covers most, if not all, the people who operate the fund, including trustees and plan committee members.

"Oftentimes a sponsoring corporation may purchase a fiduciary liability policy to cover trustees of the pension fund," Mr. Burger says. "It's conceivable that in single-employer plans which include union representatives on a retirement committee, the employer might charge back a portion of the insurance premium to the union."

More likely, he thinks, the union would negotiate this charge as part of a total benefits package.

But there's really no standardization, say union officials, underwriters and legal experts. Plan size, the participation of employe representatives in Taft-Hartley trusts and individual versus multiemployer aspects of pension plans collectively affect decisions about fiduciary liability insurance.

"It would be unusual for the sponsoring employer to buy a policy for employer representatives on a plan and not include union representatives," says Jim Bradley, underwriter for Chubb-Pacific in San Francisco, a major insurer of fiduciary liability.

"It's perfectly logical for the corporation providing the benefit to pay the costs of fiduciary liability, says Theodore Bernstein, associate director of welfare and health benefits for the International Ladies Garment Workers Union.

Like other union executives responsible for pension matters, however, Mr. Bernstein was unwilling to admit that union watchdogs act as fiduciaries. ■

Consultant expands

Consultant Carl Terzian Associates has expanded to new offices at 1 Century Plaza, 2029 Century Park East, Suite 3190, Los Angeles, Calif., 90067; 213-557-3087.

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Merging risk programs requires delicate blend

By MARGARET LeROUX

SAN FRANCISCO—Folding the risk management program of an acquired company into the parent company's plan can be as delicate a process as folding egg whites into a chocolate mousse: The blend is critical.

The risk management staff at Levi Strauss & Co. here is beginning to consolidate into its risk management plan the insurance programs of a new subsidiary, Diversified Apparel Enterprises, formerly Koracorp Industries Inc.

Across the country, in the Manhattan corporate headquarters of Kennecott Copper Corp., the risk management staff is completing the coordination of Kennecott insurance programs with those of Carborundum Corp.

The two efforts present case studies of the risk management considerations involved in corporate mergers.

The liability policies of Levi's new subsidiary have already been folded into the jeans manufacturer's corporate program. The transition of DAE's workers compensation plan from fully insured to self-insured will be completed within six months.

At present, Levi's is maintaining an arm's length relationship with DAE, following a corporate policy of allowing the new subsidiary time to get used to the acquisition.

Emily M. Schmitz continues as risk manager at DAE, reporting to the vp of financial services there. "I'm working with Levi Strauss, not taking orders from them," she said.

Recipe for success

"You have to avoid duplication of costs wherever you can by folding in programs," says Tina Haley of Levi Strauss & Co.

When Carborundum was acquired by Kennecott almost three years ago, there was a similar transition period during which both companies maintained separate insurance and risk management departments. This ended with the promotion of Edith Lichota, Carborundum's assistant treasurer in charge of risk management, to manager of insurance and risk management for both companies.

Ms. Lichota now oversees a combined risk management staff of eight, with two risk managers reporting to her: Frederick Ziegler at Carborundum and Walter Wilson at Kennecott.

Besides assembling the ingredients for the acquisition process as at Levi Strauss, and applying the final touches, as at Kennecott, are a variety of recipes being followed by risk management departments throughout the U.S. as the corporate urge to merge continues despite federal attempts to curb takeovers.

In Mountainview, Calif., Gary Goerz was recently named risk manager for Fairchild Camera & Instrument Corp. after Fairchild was acquired by Schlumberger Ltd.

The appointment of Mr. Goerz, former assistant risk manager at Guy F. Atkinson Co. in San Francisco, comes after a four-year period during which risk management for the camera company was handled by its broker, Marsh & McLennan (*BI*, Oct. 15).

Mr. Goerz reports to treasurer Ron Alessio, who indicated the acquisition by Schlumberger has resulted in very few changes. "It's too early to tell what the consequences of the merger will be," Mr. Alessio said.

When the acquisition was announced May 21, it was noted that Fairchild would continue to operate autonomously. But in November, Fairchild's president was replaced by an officer from Schlumberger.

Mr. Alessio said the change in executives didn't affect the risk and insurance management functions. "As far as I know we're still operating as a separate entity," he said.

The same recipe was followed at Del Monte Corp. in San Francisco, which was acquired by RJR Industries in 1978, said A.C. Hart, assistant treasurer, insurance and risk management.

Because of "the different natures of our businesses" and "the sheer size of our separate companies," Mr. Hart said, "we remain fairly autonomous."

Where economics demanded combining insurance policies of the two corporations, such as directors and officers liability, he said, Del Monte was folded into the corporate policy of RJR.

Del Monte is also included in the parent company's excess and umbrella policies.

Both Mr. Hart and Ms. Lichota emphasized that blanket statements cannot be made about what happens to risk management programs or personnel after a merger or acquisition.

Carborundum's union with Kennecott was a marriage of companies approximately equal in size, yet with different properties and operations.

"The programs we had in place had to be maintained," Ms. Lichota said. "The workload was such that a risk manager for either company couldn't do both."

At Levi's, risk manager Tina Haley noted that in a merger or acquisition, "You have to review the insurance programs of both companies, compare them and take the better of the two approaches.

"You have to avoid duplication of costs wherever you can by folding in programs," she said, "but there may be different loss experience or you may have some markets you want to protect or other marketing reasons for keeping the two programs separate."

In acquiring Koracorp, Levi's is keeping the property insurance of the two companies separate for the time being, "because there's a great divergence in our types of property," Ms. Haley said.

Dinner Levison in San Francisco remains the broker for property coverage for the new subsidiary, while Marsh & McLennan, Levi's broker, is handling the liability program.

Ms. Schmitz at DAE and Ms. Haley agree the acquisition has gone smoothly. "But that's not to say there wasn't a great deal of taking programs apart and analyzing them," Ms. Haley said.

But the challenges of what to do with the staff can far outweigh problems with insurance.

"A high degree of insecurity develops on the staffs of both the acquiring and acquired company," Ms. Lichota said. "You have to deal with it very carefully. The most important thing to do is make sure your good people don't become so insecure they don't wait out the coordination process."

The best advice for a risk manager involved in a merger or acquisition is to continue to do a good job, says Gerald Surfus, risk manager at Kaiser Cement & Gypsum Corp., who led a seminar on risks involved in mergers and acquisitions for the Northern California chapter of RIMS.

"Keep cool," he said. "If you've been doing a credible job and have the support of management, absent a power play, you'll probably be one of the survivors." ■

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ah ALEXANDER HOWDEN CAPTIVE MANAGEMENT, LTD.

Merger requires risk manager's study: Consultant

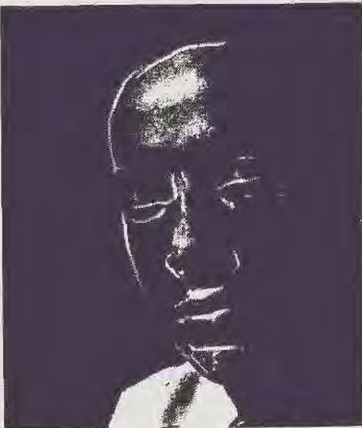
SAN FRANCISCO—There are three stages important for risk managers in the merger or acquisition process, according to consultant Thomas G. Briggin.

Before the merger or acquisition agreement is signed, the risk manager for the company initiating the move should obtain copies of major insurance policies and find out if any of them have been canceled or not renewed.

"Obtain a complete loss history as far back as possible," Mr. Briggin said.

Other major contracts, agreements or leases should be reviewed for risk management implications and OSHA recommendations should be scrutinized, particularly if there are serious violations or penalties, said Mr. Briggin, who has just moved to The Wyatt Co. from Warren, McVeigh & Griffin.

During the interim phase, when the agreement to acquire or merge is signed but not yet in effect, the risk manager should determine which company is liable for property that may be transferred. If any liability claims arise during this period, it should be clearly indicated which company is responsible.



"Obtain a complete loss history as far back as possible," says consultant Thomas Briggin.

"The risk manager of the acquiring company should require that the company being acquired maintain its own insurance in force until otherwise advised," Mr. Briggin said. If any insurance policies come up for renewal during this period, the risk manager for the acquisitor should review them.

Sometimes specific wording should be included in the acquisition agreement so the acquisitor has access to the other company's insurance.

Once the takeover is a fait accompli, the role of risk manager becomes more active, he said.

If the acquired company has a different broker, the new relationship between the broker and acquisitor should be outlined. A decision should be made on allowing the acquired company to maintain its relationship with the broker and the broker should be informed of its responsibilities.

The acquired company's risk management staff should be reviewed and any risk management manuals or written guidelines should be studied with a view toward incorporating them into the overall program.

Loss control measures, from sprinkler systems to fidelity bonds, should be appraised. What are the standards of the company? Are they compatible with those of the acquiring company?

If the acquired company has a self-insured program or a captive, how will it be integrated into the existing program?

If the acquired company uses an outside administrator for claims services, it's a good idea not to change the relationship unless there's an overriding difference.

If the acquired company is self-insured, reserves should be checked for liability and tax considerations.

Combining the insurance programs of merged companies can create problems if the loss experience of one is bad or if the risks are nonrelated. ■

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Questions & Answers #3

A conversation with Tom MacKenzie, Manager of Prudential Reinsurance Company of America's office in Toronto.

Q. It's convenient that you are located in Toronto, but do you really know the Canadian market?

A. We staff our offices—in Canada and the U.S.—with capable, experienced underwriters who know the markets they serve. For example, here in Toronto, our entire staff is Canadian, and we have considerable autonomy to quote and bind risks as we see fit. This assures a fast response to your needs.

Q. Are you taking a long-range view of the market?

A. The fact is, Prudential Reinsurance Company of America has been serving this market since the Company was founded six years ago. I think you can sense our commitment by looking at the record of our parent company, The Prudential Insurance Company of America. Prudential has made an outstanding contribution to Canada since it began doing business in this country 70 years ago. It is our intention to carry that sense of commitment and heritage to the reinsurance market, and to build strong, long-term relationships.

Q. Do you write pro rata and excess?

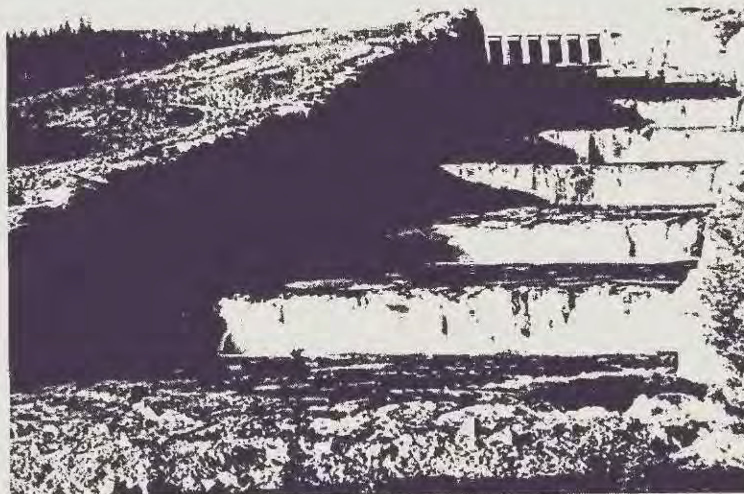
A. We recognize that certain companies have a preference. However, we feel that both approaches are viable ways of doing business. Thus, we will approach risks on either a *pro rata or excess basis*, and feel we can do a good job either way. And we can be more flexible in responding to your needs.

Q. Do you have any preference as to type of risk?

A. We'll write all kinds of risks, large or small, standard or complex. We have the capacity to write big risks and the experience to analyze unusual and challenging situations.

Q. Do you provide a market for DIC?

A. Yes. Prudential Re writes this type of property coverage. Of course we prefer to write it in conjunction with other lines of business property.



PruRe takes on high-value risks like this spillway at LG2, part of La Grande Complex, the most powerful hydroelectric plant in North America.

Tom MacKenzie, Manager of Prudential Reinsurance Company of America's office in Toronto.

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INAX targets banks for blanket E&O plan

By LEN STRAZEWSKI

CHICAGO—Corporations may soon be able to purchase one policy from INAX Underwriters Inc. to cover all professional liability exposures if fiduciary liability exposures can be pinned down better, says INAX president John Van Cleave.

INAX Underwriters Inc., a division of INA Corp., is already putting the blanket plan together for banks, Mr. Van Cleave told *Business Insurance*.

"We've been trying to analyze a bank's total professional liability exposure," Mr. Van Cleave explained, "because it seems like a good model of all exposures."

The bank blanket plan would cover general errors and omissions, directors and officers liability, fiduciary liability and trust, insurance and cash transfer department errors and omissions. If needed, the blanket plan could be expanded to include coverage for an in-house legal department.

A financial institution package plan would be a prototype for a general corporate professional liability product, Mr. Van Cleave said.

Blanket plan

'The savings would be in speed and efficiency,' says John Van Cleave, president of INAX Underwriters Inc.

"The advantage for the firms would be that there would be no coverage gaps," he explained, "but there may not be a cost savings. The savings would be in speed and efficiency."

American International Group already offers a combined professional liability policy for banks and corporations, says Joseph P. DeAlessandro, president of National Union Fire Insurance Co. of Pittsburgh, an AIG company.

For banks, AIG will issue one policy covering directors and officers liability, fiduciary liability, outside ERISA exposures and trust department errors and omissions. But "we've not written that many," Mr. DeAlessandro admitted.

"I've been espousing packaging for a long time," he added, to prevent a risk from falling between the cracks of various professional liability policies.

AIG also underwrites combined directors and officers liability and fiduciary liability insurance policies for corporations. "We'd consider adding other risks, too," Mr. DeAlessandro said.

Corporations are already seeing slashed professional liability rates, Mr. Van Cleave said, as much as 35% lower in some areas.

Soft markets and increased competition between INAX, AIG, Shand Morahan and Fireman's Fund, the largest professional liability underwriters, have already forced a 25% to 35% price decrease in other lines, too, he said. "We're not in a price war, but there's nothing like good competition to make the price right," Mr. Van Cleave said, "and several carriers including St. Paul and CNA have gotten back into the business."

In New York, INAX has filed for a 42% rate reduction for the Society of Certified Public Accountants and in Maryland, lawyers E&O rates have dropped more than 40% in some cases, he noted.

Gauging fiduciary and the related trust exposures is the big stumbling block to a blanket plan, Mr. Van Cleave says. ERISA related exposures have been one of the big obstacles to the expansion of INAX into fiduciary liability coverage.

GATX Inc., a managing general agent purchased last year by INA to provide a staff nucleus for INAX, had been one of the larger fiduciary liability underwriters. INAX now refuses that business, except to protect D&O coverage clients.

"In general, we do not write ERISA coverages," Mr. Van Cleave explained, "because in my opinion, fiduciary liability exposures related to ERISA have really never been tested."

The potentially large losses are one reason INAX did not continue the GATX business of ERISA coverages.

As managing general agents, GATX did not retain the risk but made underwriting decisions for other specialty insurers. INAX, Mr. Van Cleave says, retains a very high percentage of risk for INA, which makes it wary.

INAX, though has several other special liability coverages on the drawing boards to jump into its lineup of lawyers, architects, accountants and insurance agents E&O and D&O liability coverages.

In addition to a blanket program for corporations that may be ready early next year, INAX will be providing school board liability coverage beginning in January. Adjusters E&O, bank trust E&O and possibly a counselors E&O plan to cover health care related counseling exposures will be promoted next year.

Controlling losses is another issue on which INAX has turned its research department loose, tapping the techniques used in property loss control seminars.

"Usually an E&O insurer's only attempt to limit losses is a checklist for an insured on Dos and Don'ts," Mr. Van Cleave said. "What we are doing is turning loss control into a continuing program of seminars."

INAX has budgeted $250,000 this year for professional E&O prevention seminars for lawyers, accountants, architects and insurance agents.

The first series of seminars for lawyers, unveiled in Alaska where INAX's program is sponsored by the local bar, drew 300 lawyers.

"We can't tell a lawyer how to be a better lawyer, of course," Mr. Van Cleave notes, "but we can help him with the administrative matters of running his office that create exposure, including docket control, missing deadlines and statute of limitations."

The seminars, presented by professional peers and INAX, are followed up with newsletters. The next series of lawyer seminars will be held in Indiana in January. Architect, insurance agent and accountant seminars will begin later in 1980. ■

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Most firms stop pension accruals at 65, poll shows

NEW YORK—Additional pension benefits will not be accrued by employes working past age 65 in more than 80% of 108 companies responding to a recent survey.

An overwhelming percentage of utility company respondents—91%,—and 70% of non-utility company respondents said pension accruals have been frozen at age 65.

The study was conducted one year after the 1978 amendments to the Age Discrimination in Employment Act raised the permissible mandatory retirement age to 70 from 65. EBASCO Risk Management Consultants Inc. in New York contacted 50 utility companies and 250 other companies for the survey. Responses were obtained from 20 utilities and 88 non-utilities.

In reviewing pension plans in light of the change in mandatory retirement age, 62% of respondents said they sought advice from lawyers, while 32% said they turned to personnel experts and outside consultants for advice. Almost half, 45%, said they were guided by the company's overall policy toward older workers.

Though continuation of pension benefit accruals was not immediately mandated by the retirement age change, 80% of respondents said they expect the courts will seek equitable treatment for all workers, regardless of age.

Despite this expectation, 75% of respondents said they are not overly concerned about effects of the amendment.

Employers surveyed were divided as to whether accruing benefits for workers past age 65 would increase pension costs. Of the 85% of respondents who said they asked their actuaries this question, half said costs would decrease while half expected increases.

An overwhelming percentage of utility company respondents, 85%, said extending benefits past age 65 would encourage employes to work longer. The non-utility group was divided on this question.

Considering continued inflation, 75% of survey respondents said they would strongly resist being committed to an open-ended inflation protection obligation such as an automatic cost-of-living provision.

However, 43% of the companies said sharing the cost of this type of protection with the employes is one solution to combating inflation for retirees.

Only 4% of companies said they expect to adopt an automatic cost-of-living adjustment within the next five years.

Currently, 14% of utilities and 4% of non-utilities have adopted automatic cost-of-living provisions in their retirement programs. Retirement benefit increases are granted on an ad hoc basis by 64% of utilities and 36% of non-utilities in the study.

No attempt to aid the retiree in fighting inflation has been made in the past 10 years by 23% of utilities and 56% of non-utilities, according to the survey.

Defined contribution plans should only be used to supplement defined benefit pension plans, said 54% of respondents. Twenty-four percent of respondents said defined contribution plans were the most cost-effective benefit, but 52% said that if asset growth did not keep pace with inflation, the glamour of these plans would disappear. ■

Fireman's branch

Fireman's Fund Insurance Cos. opened a new branch office Jan. 1 to serve suburban Chicago and the surrounding rural area. William W. Ehlers, former vp and manager of Fireman's Davenport branch, heads the new branch. It will be housed with the Chicago branch until May, when it will move to a permanent office in the Rolling Meadows area.

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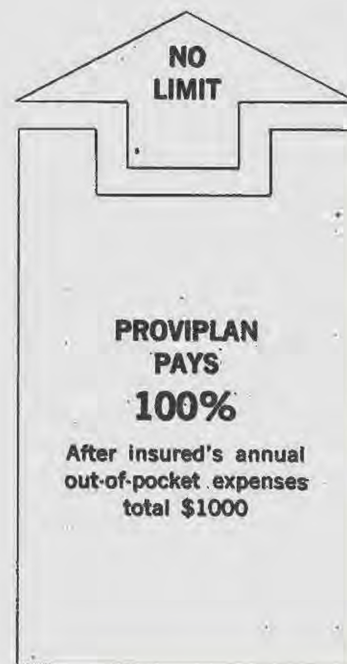

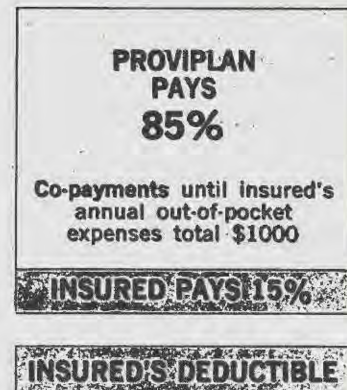

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Hospital liability

Increasing awards push premiums up

By VINCE DiPAOLO
Crain News Service

CHICAGO—Hospital professional liability awards are increasing in number and severity, pushing hospital premium rates up in 1980 and sharply higher in 1981 and 1982, a Modern Healthcare survey of insurance providers found.

The increases follow two years of relatively steady claims experience that resulted in a 9% reduction in per-bed hospital professional liability premiums in 1979.

Higher awards and a greater number of claims will result in commercial insurers withdrawing from markets, with heavy losses resulting in another malpractice insurance crisis in 1981 and 1982, insurers believe. All agree, however, the "tight" availability won't be as bad as between 1974 and 1976 when the rates quoted to some hospitals by commercial insurers were three and four times the previous year's premium.

Commercial insurers and captive insurance companies owned by multihospital systems and sponsored by state hospital associations were surveyed by the Crain Communications magazine. They insure 49% of the nation's hospitals, which operate 37% of the nation's beds.

On average, hospital insurance premiums per bed in 1979 dropped 9.1% to $542 from $595 a year earlier. Claims-made policy subscribers saw the greatest savings, with their premium per bed averaging $418, down 16.6% from $503 in 1978. Subscribers to occurrence policies netted a 2.6% cut in premiums to $672 per bed from $691 a year earlier.

The premium per bed statistics in this survey can most effectively be used to note trends in premiums for various classifications from year to year. Comparisons between types of insurers (commercial vs. state association-sponsored vs. multihospital system-owned) aren't recommended because of the wide variations in the risks insured and the variance in the limits of per-occurrence and aggregate coverage.

St. Paul Fire & Marine Insurance Co., a commercial insurer writing claims-made policies, is able to offer such low premiums for primary coverage ($291 per bed) because it insures mostly smaller hospitals (average size, 81 beds) in rural areas offering less complicated services and having less risk exposure, explained James L. Groves, risk manager for the American Hospital Assn.

Mr. Groves also noted that St. Paul's coverage limits ($100,000 per occurrence/$300,000 aggregate) are much lower than most hospital association-sponsored captives. The lowest per-occurrence coverage was twice that of St. Paul's and most had aggregate coverage of $3 million or more, a survey of seven of the leading state captives found.

Still higher coverage limits are responsible for the more expensive premiums for multi-unit captive insurance, Mr. Groves explained. For example, Hospital Underwriters Group offers excess insurance covering up to $7.5 million per occurrence and $30 million aggregate, with a $500,000 deductible. American Medical International's Denver Insurance Co. covers up to $2 million per occurrence and $10 million aggregate.

Insurance Premium Rates for Carriers and Captives

	Premium per bed '79	Premium per bed '78	Premium per hospital '79	Premium per hospital '78	Premiums (000) '79	Premiums (000) '78	Occupied Beds '79	Occupied Beds '78	Hospitals '79	Hospitals '78
Commercial insurance carriers										
Claims-Made	$291	$363	$23,793	$29,718	$34,000	$40,000	116,925	110,307	1,429	1,346
Occurrence	499	479	98,284	93,438	47,373	47,373	95,000	99,000	482	507
Total	384	417	42,581	47,152	81,373	87,373	211,925	209,307	1,911	1,853
State hospital association-sponsored captive insurance companies										
Claims-Made	622	713	119,630	133,884	41,990	46,190	67,500	64,800	351	345
Occurrence	818	950	126,073	151,359	38,200	37,991	46,708	39,979	303	251
Total	701	802	122,477	140,924	80,100	83,991	114,208	104,779	654	596
Multihospital system-sponsored captive insurance companies										
Claims-Made	714	953	62,292	87,500	2,990	3,850	4,190	4,040	48	44
Occurrence	940	984	109,904	91,299	34,400	35,150	36,608	35,739	313	341
Total	916	980	103,573	101,299	37,390	39,000	40,798	39,779	361	385
Totals										
Total Claims-Made	419	503	43,206	51,896	78,980	90,040	188,615	179,147	1,828	1,735
Total Occurrence	673	690	109,265	109,658	119,973	120,514	178,316	174,718	1,098	1,099
Grand Total	542	595	68,041	74,296	198,953	210,554	366,931	353,865	2,924	2,834

Modern Healthcare chart/December 1979

"Premiums have hit the floor. You'll see them climb in 1980 and escalate in 1981," said Robert Van Hauer, risk manager for the Health Central Insurance Co. in Minneapolis. Insurers began offering claims-made policies instead of occurrence coverage when the malpractice crisis hit in the mid-1970s.

While claims-made policies were initially less expensive, hospitals will eventually pay more as claims are filed on malpractice occurrences from several years earlier, Mr. Van Hauer said. The survey found that in 1979 the percentage of hospitals and beds covered by claims-made policies increased to 67.4% and 51.4% in 1979 (1,828 hospitals and 188,615 beds) from 67.1% and 50.7% respectively, a year earlier.

Physician experience in premiums paid and in severity and number of malpractice awards is a good predictor of hospital experience. Pennsylvania Hospital Insurance Co. president Don Steffes noted that while his company has reduced rates in the past six months, physician insurers in Colorado recently raised their premium rates 20%.

Stiff competition held down hospital malpractice rates in 1979. St. Paul reported a 19.3% cut in per-bed premiums and a 15% reduction in hospital gross premiums written nationwide.

St. Paul wrote claims-made policies covering about 11.5% of the nation's hospital beds in 20.4% of the nation's hospitals in 1979. The bidding was fierce in some markets. Two years ago, St. Paul and the North Carolina Hospital Assn. Trust each cut their premium rates by one-third, according to Allan W. Rinne, vp of the trust.

Ohio reportedly has eight commercial insurers in addition to the hospital association's Ohio Hospital Insurance Co. captive vying for the hospital malpractice premium dollar.

St. Paul cut its rates after it realized it had overcharged hospitals earlier, said Robert Nugent, vp for underwriting for the New York Hospital Assn.'s Hospital Underwriters Mutual Insurance Co.

Commercial insurers don't overcharge intentionally, a spokesman for one company said. They merely project a continued escalation in claims and severity, which sometimes doesn't materialize.

Last year, stabilizing claims experience and stiff competition led some commercial insurers to reduce rates in some states.

"In periods of heavy competition, the normal tendency is to try to keep rates competitive even if it means cutting them sometime," said John Pecorino, manager of loss control and education for Aetna Life & Casualty.

Commercial insurance companies are willing to take up to a 5% indemnity loss on premiums written in some states, because they can reinvest the premiums at 12% and more than make up for the shortfall.

Changing social attitudes and the inflation-recession economy are prime factors in the escalating number and severity of malpractice claims and awards.

"People expect more. Whenever there is an injury they feel they should be compensated, regardless of whether or not there is any professional liability," Aetna's Mr. Pecorino said.

Media exposure of incidences of hospital and physician malpractice and particularly of astronomical settlements in California have made people in other parts of the country more malpractice conscious.

"We have patients' relatives sitting in hospital rooms with tape recorders and charting everything that goes on, looking for malpractice incidents," said Tony Zumbano, assistant manager of the claims management department of Marsh & McLennan. "That kind of scrutiny is going to bring in more claims, but it remains to be seen if it will result in any more or any larger settlements."

Large awards once limited to California, are starting to turn up in other parts of the country.

Countersuits against attorneys and plaintiffs have reduced frivolous claims, but they have also raised the average amount of settled claims.

With inflation running in double-digits, rapidly increasing severity of settlements is inevitable, says Steve Takahashi of American Medical International's Denver Insurance Co. subsidiary.

During an inflation-recession period, there's more of a tendency to file a malpractice claim instead of shrugging it off, another captive official noted.

"The more publicity we see, the more claims we see," St. Paul's Walt Marquis said. "Before, in little towns, people looked on a hospital as their own and its employes as their friends, but today they are demanding a lot more accountability from hospitals."

A jury's attitude toward an award is "to take money away from the big insurance company and give it to the poor plaintiff" without considering that all hospital users eventually pay for that award through higher hospital rates, Mr. Marquis said.

Bob Atkins, president of All Risk Corp. in Winter Park, Fla., which manages trust funds set up by the Florida and Louisiana Hospital Assns., says, "Better patient care can produce more claims. Hospitals are doing more complex operations, such as open heart surgery and, as a result, face greater risk of malpractice suits."

Insurers report that the number and severity of claims are increasing in California, southern Florida, Texas and New York, but at a slower rate than before. In the past, these areas have been highly malpractice conscious and the rest of the nation is now catching up. The biggest increases in severity and number of claims filed in 1979 are in the South and the Intermountain region.

Some major captives are also showing hefty award increases. Multi-Hospital Mutual Insurance Ltd., which represents 16,296 beds in 80 hospitals, estimates its average payment per settled claim has almost doubled in the past year to about $50,000. Hospital Corp. of America's Parthenon Insurance Co. reports its average settlement has increased 26% to $5,800. PHICO's average settlement is up 6% to $10,700.

Structured agreements are usually used in settlements of more than $100,000 and are most effective in settling claims involving children. The structured or annuity settlement provides income for the plaintiff over a number of years.

Hospitals should be able to turn to their state-sponsored captives if commercial availability dries up again, captive officials believe. However, unless hospital insurance captives bolster their loss reserves, "three or four years from now, many of them may be in oblivion," says Richard F. Biondi, associate actuary and manager of the commercial actuarial division of the Insurance Services Office in New York City.

Captives will have to be well reserved to withstand the burst of claims filed on behalf of minors that will come in between 1982 and 1984—seven years after the captives began issuing claims-made policies. ■

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Seminars combat malpractice problem

Crain News Service

CHICAGO—Insurance companies, brokers, consultants and attorneys are adding educational services to their risk management wares to avert another malpractice premium crisis.

Brokers, consultants and insurers are holding seminars at hospitals to teach employes how to minimize risk and reduce the number of claims.

Attorneys are teaching hospitals to identify possible claims early so measures can be taken to reduce the amount of malpractice awards. All stress better incident reporting to reduce risk.

But the benefits of such programs can't be measured by fewer claims or smaller awards.

"No one can say 'if you use our services, we can save you X amount in premiums or malpractice claims,'" remarked John Marek, vp at Alexander & Alexander Inc. in New York City.

The number of incidents reported may increase and more claims may be made after a hospital implements a good risk management program, said William Storie, account executive for health care services at Fred S. James & Co. Inc. in Chicago. But even more claims would be filed without the program, he believes.

Brokers such as Fred S. James, Alexander & Alexander and Marsh & McLennan Cos. Inc. in New York City, along with consultants like RIMCO Risk Management Inc. in Dallas and Wyatt Co. in Chicago are making hospital employes more aware of liability and teaching them to keep accurate and timely records.

Marsh & McLennan trains employes in many areas of risk management—from maintaining the hospital and its equipment to avoiding back injury.

Alexsis Risk Management Services Inc. in Chicago, a subsidiary of Alexander & Alexander, teaches nurses to keep comments objective on patient charts. "Subjective comments can be incriminating," said Charles Milazzo, loss control manager for hospitals.

All Risks Corp. in Winter Park, Fla., encourages hospitals to assure nurses they won't be fired if they report an error—to remove any punitive fear.

The term medication error has been changed to medication variation, vp Raymond E. Haines said. The agency also has an IV documentation program so hospitals can prove that IVs have been checked hourly.

Some brokers and insurance companies work with hospitals to develop and implement standard policies and procedures to protect a facility from liability. Marsh & McLennan, Alexander & Alexander and St. Paul Risk Services, a subsidiary of St. Paul Fire & Marine Insurance Co., send out consultants to observe procedures in operating and emergency rooms and make suggestions for standardization, which helps limit risk.

> Insurers are offering more risk management services to keep hospital malpractice premiums down.

"We can't judge medical competence," said Mr. Storie of Fred S. James, "but we can make sure the checks and balances are there."

Insurance companies are offering more risk management services to keep premiums down and compete with the ever-increasing number of self-insurance programs set up for hospitals. But most of them lag behind brokers and consultants in the extent of their programs, Mr. Storie said.

Several insurance companies are providing a nurse and a loss-control consultant to audit hospitals and suggest ways to reduce risk, he said. Before, insurers provided insurance only on the basis of a walk-through inspection.

Aetna Life & Casualty Co. in Hartford, Conn., however, has a compulsory risk management program for all hospitals it insures. The insurer performs a liability audit of a hospital and tailors its educational sessions to address vulnerable areas. Seminars also "make hospitals aware of common liability problems before they become theirs," said D. John Pecorino, manager of professional liability loss control and education.

Aetna is considering expanding its educational services and offering them to hospitals it doesn't insure. The company is selling seminars on a limited basis through its Aetna Tech program.

Attorneys, too, are offering educational programs to show hospitals how to identify potential claims, because the sooner they're resolved the more money a hospital saves. Law firms are teaching hospital risk managers how to handle less significant potential claims and to defer the more serious ones to attorneys. ■

HEW premium refund rates invite big awards: Insurers

Crain News Service

CHICAGO—Hospitals won't vigorously fight malpractice claims filed by Medicare and Medicaid patients if the reformulation of malpractice reimbursement rates by HEW's Health Care Financing Administration is allowed to stand, industry sources believe.

Officials of insurance companies and captives operated by multihospital systems and sponsored by state hospital associations think the new HCFA formula encourages hospitals to maximize malpractice awards to Medicare and Medicaid patients.

Insurers contend the new rules will increase hospitals' administrative costs but are divided on whether the payment method will affect the federal government's share of premium payments.

In July, HCFA began reimbursing hospitals for malpractice premiums in proportion to the ratio of dollars awarded to Medicare and Medicaid beneficiaries to all malpractice award recipients. The hospital industry is contesting the ruling in court, contending the new formula doesn't take into account the administrative cost of an insurance program for the cost of defending against doubtful claims.

Even if the share of premiums paid Medicare/Medicaid patients ends up the same under the new formula, hospitals will still lose money because of the increased cost of record-keeping required by the new reimbursement formula, said Robert Van Hauer, risk manager for Health Central Insurance Co. in Minneapolis.

The only person who is likely to come out ahead is the Medicare/Medicaid patient who files a malpractice claim, hospital insurers believe.

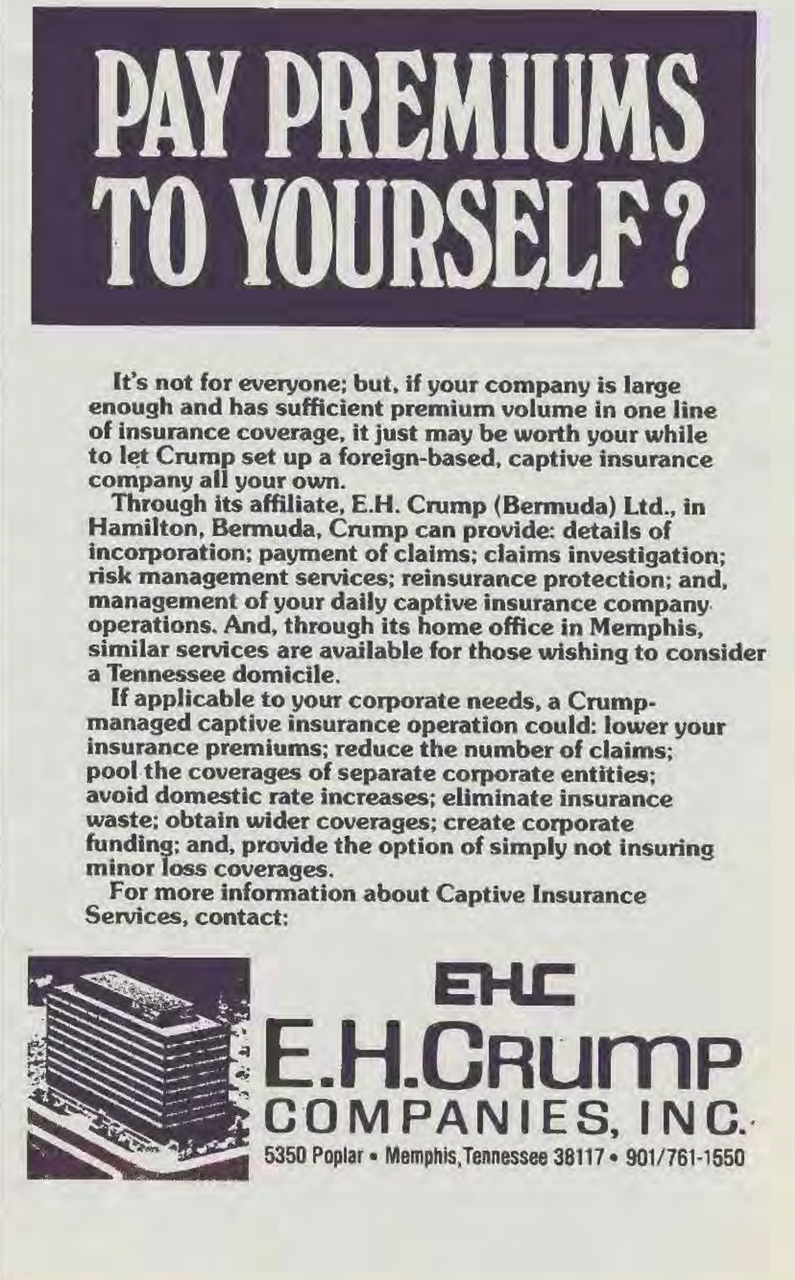
"It's foolishness to go out and fight a Medicare or Medicaid claim under this reimbursement system," said a spokesman for Multi-Hospital Mutual Insurance Ltd. in Hamilton, Bermuda.

Instead, hospitals will try to shift as much of the malpractice insurance cost as possible to general liability insurance cost reports. General liability insurance costs are still reimbursed under the old method in which HCFA pays the premium in proportion to Medicare/Medicaid use of all patient services. Under the general liability formula, hospitals can improve their financial position by defending against doubtful claims by Medicare/Medicaid patients.

Another strategy hospitals might employ to maximize federal reimbursement would be to settle all Medicare claims quickly on a lump-sum payment basis while dragging out and structuring all other settlements. This would artificially inflate the Medicare portion of a year's payout and, as a result, increase the federal government's portion of the malpractice insurance premium.

If Blue Cross develops the same reimbursement policy, there will be "a substantial amount of malpractice insurance cost not being paid by anyone," warned Jacque Sammet, president of the Michigan Hospital Assn. Mutual Insurance Co. Most of that unpaid Medicare/Medicaid cost will have to be absorbed by private paying patients, said Robert Reeves, president of Hospital Corp. of America's Parthenon Insurance Co. subsidiary.

The new HCFA formula discourages hospitals from self-insuring. Self-insurance increases a hospital's exposure, yet the new formula doesn't fund administrative and defense expenses—major costs in limiting a self-insured hospital's exposure. ■



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Prompt reports shield against false claims

By DONNA LEIGH YANISH
Crain News Service

BALTIMORE—Hospital staffs are becoming more aware of the need to report incidents as administrators examine problem areas and establish loss prevention programs.

Hospital risk managers agree the dollar volume of malpractice claims will continue to escalate over the next three years. But when incidents are reported and investigated immediately, a hospital can save millions by shielding itself with the facts against unfounded claims.

Reported incidents increased 700% to about 700 a month after a program was initiated two years ago at Johns Hopkins Hospital in Baltimore, said Lois Bittle, administrator of the professional liability and risk prevention program.

"After repeated education sessions physicians are now reporting problems," she said. "But constant education is especially important to keep up the level of awareness."

Armed with facts

"After repeated education sessions physicians are now reporting problems," says Lois Bittle of Johns Hopkins Hospital.

The number of occurrences reported may depend on how a facility defines "incident." Methodist Hospital in Houston broadly defines it as "any activity out of the ordinary," says Roger Akey, director of risk management. "We would rather be deluged with all kinds of information than miss things that could be potential claims," he explained.

Mr. Akey receives reports on everything from spoiled food that never reaches the public to staffing problems. By "overreporting," Methodist avoids having unqualified people making decisions about what may be potential problems, he said.

Risk managers stress the importance of speed in reporting incidents. A shift shouldn't end until an incident report is filed after an occurrence, Mr. Akey believes. "Under no circumstance should an incident be reported later than 24 hours" after its occurrence, he said.

One area of Methodist's facility has a large number of incidents because of the nature of the treatment and staff members personally bring over incident reports twice a day, Mr. Akey explained.

Professional Risk Management Inc., a Los Angeles-based consulting firm, strongly recommends that its clients report incidents as soon as possible, says Niles F. Haton, vp-claims. Some surgeons will stabilize a patient's condition after an incident occurs during surgery, make a call to report the occurrence and then rescrub to complete the operation, he said.

"The extent to which you have incident reporting depends on what you do with the reports," says Gregg C. Waddill, assistant administrator and counsel for St. Luke's Episcopal and Texas Children's Hospitals in Houston.

Hospital Corp. of America in Nashville has developed a computer-based incident analysis program. Maurice J. Castille, vp-loss prevention for HCA's Parthenon Insurance subsidiary, said all of HCA's hospitals use a common reporting form and information put into code and fed into the loss control data analysis center.

Parthenon looks for trends in type of incident, degree of severity, location, age and sex of patient and shift during which the incident occurred, Mr. Castille said. "Each hospital's risk manager should interpret risk findings to take care of any trends," he said.

In later years, consistently high numbers of similar incidents suggest nothing has been done. This is an important aspect of loss prevention, he added.

Hospital risk managers agree that a small percentage of reported incidents are potential claims. Only about 5% of Methodist Hospital's incident reports are potential claims, Mr. Akey estimated. The potential claimant is then interviewed by someone who can get the facts without alarming the patient, he said.

Although more claims are being filed, even more would be brought if risk managers weren't becoming more aggressive against "nuisance claims," administrators agree. Such claims are filed in the hope that hospitals will pay a settlement to avoid litigation when, in fact, no injury has occurred. "If we botched it, we'll pay," Mr. Waddill said, "but there is no more easy money at St. Luke's."

A hospital must control claims handling and be assertive in dealing with the insurance company, he said. "Frankly, the interest of the insurance company may be different from the interest of the hospital," he added. Insurers make more money when they process a claim.

When St. Luke's former insurance company wanted to begin investigating a potential claim, the hospital stopped it and the case died for lack of litigation. The facility developed a self-insurance program three years ago.

How the payment is made depends on the amount of the settlement, risk managers agree. A small settlement for a sprained ankle, for example, would be paid in a lump sum, Mr. Haton said. But it would be to the advantage of both the insurer and the injured party to pay a multimillion dollar jury verdict with a periodic payment, he explained.

If an insurer is aware that the settlement may be large, it may try to reach a reasonable settlement figure and set up a payment structure long before going to trial, he said.

Arbitration doesn't appear to have caught on as a settlement tool outside of the states in which it is mandated. "In the state of California, arbitration is almost as costly as litigation," Mr. Haton said. ▪

H&W division

H&W Insurance Services, national excess/surplus lines broker, has formed a new commercial properties division and has named Wayne Barber, formerly manager of H&W's Los Angeles branch, to manage it. The new division, located at H&W's Encino, Calif., home office, will be exclusively devoted to production and development of commercial property business.

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Mich. governor offers work comp bill

By MARY ELLEN McKEE

LANSING—In an attempt to strong-arm the Michigan task force on workers compensation back into negotiations, Gov. Robert Milliken has submitted a reform bill of his own.

The governor's bill is an abbreviated version of the bill the bipartisan task force had hoped to deliver to the legislature before it recessed for the holidays. Instead of addressing the 16 problem areas the task force has been trying to wrestle with, the governor's version covers only a few problem areas (*BI*, Sept. 17, Dec. 10).

The 16-member task force, consisting of 10 legislators—three Democrats and two Republicans from each house—and six nonvoting advisers representing business and labor groups, has tried unsuccessfully for six months to compromise on disputes over cost-of-living adjustments, coordination of benefits, definition of disability and benefits for heart conditions and mental illness.

So far, the group has only agreed the maximum weekly benefit should be calculated based on 100% of the state average weekly wage and that weekly benefits for part-time workers should not be calculated the same way as benefits for full-time employes are calculated.

"What the governor is trying to do is nudge the task force to move along," said a state official. "He's trying to help them bridge the disappointment of not getting a reform package through this year by providing them with a solid groundwork which they can work from in the coming year."

The governor's bill raises the average weekly wage on which benefits are based to nearly $300 from the current $186 a week for a family with five dependents.

Weekly benefits for part-time employes who work less than 25 hours a week will not be calculated the same as full-time employes under the bill. "We're trying to bring the compensation levels to something that is commensurate with a weekly workload. It's rather unfair for a person earning approximately $5 to $10 a week to be able to bring in a compensation payment," explained Patrick Babcock, director of the Michigan labor department.

The bill also provides a cost-of-living adjustment for persons on long-term disability for more than one year; reduces the workers compensation benefit by Social Security and pension payments; eliminates payments to retirees, and requires that payments for heart conditions and mental illness be considered on an individual basis without relying on court decisions.

To prevent stale claims from going through the system, the statute of limitations is much more rigid under the governor's bill.

"The governor's bill is definitely a compromise," admitted Mr. Babcock of the labor department. "But at this point we're open to anything."

Workers compensation insurance rates in Michigan rose close to 16% in 1979, on top of a 25% increase last year. In 1973, employers paid $488 million in insurance premiums and benefits for workers compensation. This year the total is expected to top $1 billion.

The task force has been anxiously waiting for the governor to intervene in the negotiations and move things along, says a Republican lawmaker serving on the task force.

"In the past two months the legislative task force has met four times and resolved nothing," said Dennis Terrell, an AFL-CIO lobbyist and a non-voting member of the task force.

"A group which started out with such optimism and willingness to compromise has quite predictably turned into an unyielding group," noted Mr. Babcock of the labor department. "Some would say that is just the nature of resolving problems when business and labor have such divergent viewpoints."

As far back as 1974, a committee of business and labor leaders was appointed by Gov. Milliken to develop a new bill, only to report obstacles were "insurmountable."

But the director of labor believes Michigan this time around should have been different.

"Both labor and business are well aware that economically the state will not survive the next five years under the present workers compensation system," Mr. Babcock explained.

A Republican lawmaker on the task force doubts that modifications the task force will inevitably make in the governor's workers compensation bill will end up pleasing anyone.

"That poses a problem since it's unlikely the legislation can pass without all-out support," he said. ■

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Couple sues nuclear plant for stillbirth of daughter

HARRISBURG, Pa—A couple here has filed a $20,000 suit against the owners and operators of the Three Mile Island nuclear plant, charging the March 28 accident there was responsible for the stillbirth of their daughter five months later.

The suit, filed in late December in U.S. district court here, is the first such action alleging actual physical damages as a result of the nation's worst commercial nuclear accident.

Previous liability suits, which have been consolidated in a class-action suit demanding $560 million in damages, seek damages for potential health danger posed by the release of radiation, costs involved in evacuating the area and "mental trauma" caused by the stress of the accident.

At a December press conference coordinated by a Philadelphia public relations firm, Edward and Perri Klick said they lived three miles from the crippled plant and that Mrs. Klick was four months pregnant at the time of the accident. The release of the radioactive gases from the plant endangered the life of their child, the Klicks said.

Mrs. Klick told reporters that doctors had done an autopsy after the stillbirth, but she said they didn't find a cause of death.

"Everything within the child was normal, but it all stopped at once," she said.

But the Klicks acknowledged the autopsy had also not uncovered any specific signs of radiation damage.

The suit asks $20,000 in compensatory and punitive damages from Metropolitan Edison, operator of the plant; General Public Utilities, Met Ed's corporate parent, and Babcock & Wilcox, the plant's designer.

Besides alleging that the three should be responsible for any damage caused by the accident, the suit charges that Metropolitan Edison was negligent in not informing area residents quickly enough of the potential danger.

Mrs. Klick said she called the plant the night of the accident and was told she had nothing to worry about. Two days later the state's governor recommended that all pregnant women and young children within a five mile radius of the plant be evacuated because they could be the most susceptible to the leaking radiation.

None of the defendents would respond to the charges. ■

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BY
ANDREW J. BARILE, CPCU

ABOUT THE AUTHOR

Mr. Barile, President of Aneco Group of America, Inc. and Director of Aneco Reinsurance Company Limited, Hamilton, Bermuda, has been in the insurance and reinsurance business field for twenty years. A graduate of the College of Insurance and New York University Business School, he had been affiliated with Commercial Union, Home, Phoenix of London and Great American Insurance Companies.

He has held executive positions with several leading reinsurance companies, including North American Re, American Re, and Howden Re, a subsidiary of Alexander Howden Group, London.

In mid-1977, Mr. Barile co-founded Andrew Edwards & Company, Inc. active in implementing, managing and reinsuring captive insurance companies. This firm is instrumental in developing the captive insurance company into an expanded profit center.

Late in 1979, Mr. Barile was appointed President of the Aneco Group responsible for the production of reinsurance, excess and surplus lines, and risk management for the various companies within the Group.

A member of the Society of Chartered property and Casualty Underwriters, Mr. Barile is Adjunct Assistant Professor at The College of Insurance, New York, and a noted lecturer and writer in the captive insurance company and reinsurance fields.

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Piracy, fraud rob marine insurers

Continued from page 1

terranean have occurred on goods destined for Saudi Arabia. The problem has reached the point where the Saudi government instructs vendors not to ship on vessels calling on Lebanon, Mr. Englisch noted.

Although most of the fraudulent insurance claims have been on cargo losses, the hull markets have not escaped unscathed. The FERIT investigation cited 23 suspicious ship losses since 1977, 16 of which it attributed to scuttling.

Most of the hull losses were on "rust buckets"—old ships of little insurance value, said a Lloyd's spokesman.

Which markets will ultimately bear the cost of suspicious marine claims has not been determined. "It's very difficult to break down where (the insurance) is," said the spokesman for the London marine insurance market. "The Far East markets were badly hit, but a lot of that has probably come back to London as reinsurance. Some reinsurance is probably in Italy and India."

Data bank

Lloyd's has not analyzed the extent of its losses, its spokesman said.

But the FERIT investigation led to establishment in Hong Kong of a data bank so insurers can compile and exchange information on fraud suspects.

Until recently insurance losses from marine fraud had gone relatively unchecked. "Once a claim has been settled, it's most unusual and very rare for the underwriter to seek recovery for possible fraud," said the Salvage Assn.'s Mr. Howard. Police action is usually the only way to recover fraudulent settlements.

Part of the problem is that several insurers are hit for cargo claims when a ship is lost and, typically, when one market pays a claim, the other underwriters tend to follow suit.

Insurers also must balance their concern over possible fraud against the valid claim of a shipper who has been the victim of a perpetrated fraud, said INA's Mr. Englisch. Often, claims are brought by shippers whose cargo was illegally diverted and sold by unethical ship owners.

"You don't want to delay payment to an insured with a valid loss," Mr. Englisch said. The shipper is also buying insurance against fraud, he added.

Close cooperation

Where fraud is suspected, INA will act unilaterally or with other insurers to investigate, Mr. Englisch said. But sometimes the shipper's claim is paid and the insurer seeks recovery from the ship owner or party believed responsible for the fraud.

In the aftermath of the FERIT investigation, insurers are working closer with banks and police in tracking down fraud perpetrators. They are also improving their claims investigation and being "extremely careful underwriters," according to the spokesman for the London marine insurance market.

INA encourages marine clients to use ocean carriers of good repute and avoid shipping at cheaper rates, Mr. Englisch said. The insurer often investigates ship companies, but occasionally cargoes in other parts of the world are placed aboard ships before action can be taken, he added. ■

Lloyd's delays paying shipping claims: Banker

By JOHN H. MILLER

LONDON—Slow payment of shipping claims by London marine underwriters and brokers is driving business to other marine markets, says a banker.

Many shipowners are moving their risks to other markets in protest against slow claim payment, banking expert Edward L. Harris, vp of Continental Illinois National Bank's international shipping division, told a major London conference.

Brokers were especially singled out by another speaker for delaying claim settlements.

Phil Froude, claims manager for the big Janson Green marine syndicates, said, "Brokers at Lloyd's often send around 10 files at a time because their staffs aren't as good as they used to be and don't want to queue up with just two files in their hands.

"I'm now telling brokers I'll only deal with four files at a time," he said. "Some of the files are more than four months overdue. So some brokers are creating a great backlog of claims all at one time."

But a leading London marine underwriter, John Oliver, denies claims are paid too slowly.

"Mr. Harris is quite wrong when he complains that payments on shipping losses, especially big ones, are being held up in London markets. We feel we're better in this respect than other insurance markets," he told *Business Insurance*.

Indeed, some marine experts here complain that foreign markets are paying losses too quickly, even before salvage and loss adjusting inquiries are completed, in order to build up competitive portfolios.

Lloyd's marine syndicates take in more than $1.5 billion annually and for years have claimed to be the leading shipping insurers. London marine insurance companies take in another $1 billion in premiums.

Addressing delegates from more than 20 countries gathered by Lloyd's to examine insurance aspects of shipping finance, Mr. Harris of Continental Illinois said, "The extreme slowness of claim payments by the London market is the cause of significant problems to the shipowning industry and its banks. Deliberate prevarication is sometimes involved.

"The London market compares highly unfavorably with the Scandinavian, German and some Far Eastern markets, where our experience has been significantly better than in London.

"Ship financing institutions, which have at least $70 billion invested in the world's shipping industry, are naturally very concerned. A number of shipowners are moving their business away to places like Japan, Germany, the Far East and other European markets."

For many ships now insured at Lloyd's or elsewhere, a financial institution has put up 50% to 90% of the funds, Mr. Harris said. So the financier has a larger interest than the shipowner and must focus attention more clearly on marine insurance.

"Banks are now carrying out better policing on policies for mortgaged ships," Mr. Harris said.

Marine brokers were also criticized for holding premiums.

Atlantic Marine Insurance Co., taking in $8 million a year on reinsurance treaties, has warned London brokers that the delays in receiving premiums are so long that it may refuse London business. ■

Lloyd's will increase deposit requirements

LONDON—Deposit levels at Lloyd's will be hiked dramatically in 1980 to ensure great safety for insurance claims in the next five years while other changes may be in the works as Peter Green takes over as Lloyd's chairman for 1980.

Members' own deposit requirements, which already consist of $900 million in securities on their books, will be boosted gradually to at least $2 billion to provide for future market expansion. Lloyd's now has reserve funds of more than $8 billion, of which U.S. and Canadian trust funds represent $5 billion.

Membership will rise only 6.5% to 18,400 for 1980, compared with 22% last year, and there are plans to make new members invest even more in Lloyd's. At present, syndicates normally can write up to 10 times the amount of securities deposited by their members.

The increase in deposit requirements will enable Lloyd's to fight off any competition from the U.S., which provides 60% of its nonmarine business, or close to $2 billion a year. "We're going to get a lot of competition from the U.S. market and it's going to be very intense. After all, there's already a lot of competition within the U.S. market—I should say it's not just red-hot, but more like white-hot by now," Mr. Green told *Business Insurance*.

He expects major changes in Lloyd's structure will be recommended in 1980 by a committee under Sir Henry Fisher that has been looking into Lloyd's disciplinary powers.

"Our disciplinary powers are archaic and tedious, and there's certainly room for change," he agreed. "I expect the report from the Fisher committee will go before the committee of Lloyd's in the spring.

"It may be a U.K. Act of Parliament will be necessary to make some of the changes, as Lloyd's operates under several acts going back to 1871. But this can be done without undue difficulty as time can be granted by Parliament to review any needs of this kind, since Lloyd's is so important to the British insurance industry."

"We're going to get a lot of competition from the U.S. market," says Peter Green of Lloyd's.

As a director and stockholder in the Hogg Robinson broking and underwriting agency group, Mr. Green called for a clarification of rules regarding broker/underwriter links (*BI*, Nov. 26).

"It might be a good idea to clarify the boundaries between these two sides of insurance, but to my mind it's totally unreasonable to say no active broker at Lloyd's should be a member of an underwriting syndicate," he said.

"I would like to see the rules better defined. Maybe you might say that brokers should not be directors of underwriting agencies or that underwriters should not be directors of active broking companies. But you can't undo the past and say that brokers should never own shares in an underwriting agency, or the reverse."

Standards of behavior at Lloyd's will be another concern.

"When so much business is done by word of mouth at Lloyd's we need the highest possible standards and I hope people will continue to trust each other as they have done for many years past when they deal with Lloyd's," Mr. Green said. "Most brokers and underwriters have good relationships, and I find that most problems can be solved amicably when they meet each other." ■

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N.Y. counties start self-funding . . .

By MARY ANN MATLOCK

NEW YORK—Three New York counties rang in the new year promising to save taxpayers money with self-insured workers compensation programs.

Dutchess County expects to save about $150,000 based on a premium estimate of $450,000 in the commercial market for 1980, says Roger Slotkin, president of Lovell Self Insurance Services Inc. in New York.

Mr. Slotkin, whose firm also handles the Putnam County program, said that county expects to save $80,000 to $120,000 based on a commercial premium of $200,000.

In Schenectady County, savings of $100,000 to $150,000 are anticipated based on a premium of $462,000 said A. Albert Shapiro, county finance commissioner.

The loss ratios for Dutchess and Putnam counties ranged from 35% to 50% of premium in the past, Mr. Slotkin said, "indicating there is still a need to come up with alternate methods of purchasing required coverage."

The self-insurance funds will be "treated just like an insurance company" with standard reserving practices being followed for the life of the programs, he said.

In addition to administration, Lovell Self Insurance will conduct safety workshops and seminars for county employes and inspect buildings for safety factors.

These loss prevention efforts, Mr. Slotkin said, should further reduce the costs of workers compensation. "The whole approach is from a prevention standpoint," he said.

Philip Amodeo, commissioner of finance for Dutchess County, said a limited market and rising premium costs prompted construction of the self-insurance program. About 1,500 county workers will be covered by the new program, which carries self-insured retention levels of $250,000 per occurence and $750,000 aggregate.

John Duffy, commissioner of finance for Putnam County, said, "We feel we can save money by self-insuring. The program will have a beneficial effect on the county workforce. The county will stress safety more than it has in the past."

About 500 county employes are covered under the program, which carries self-insured retentions of $200,000 per occurrence and $400,000 aggregate.

Mr. Shapiro said that in the past three years, Schenectady County had a loss ratio of less than 65% of premium. "I couldn't see coming up with that (35%) for administration," he said. About 1,300 workers are covered under the program, which has self-insured retentions of $250,000 per occurrence and $450,000 aggregate.

During the first year of operation, $450,000 will be paid into the reserve fund, Mr. Shapiro said. A.W. Lawrence & Co. of Schenectady will administer the insurance and conduct a safety program similar to the one described by Mr. Slotkin.

All three counties have excess insurance of $3 million for each occurrence and $1 million aggregate.

Spokesmen for all counties involved said that if the new programs succeed they may be expanded to include other types of insurance. ▪

. . . while Fla. colleges form a pool

By MARY ANN MATLOCK

TALLAHASSEE, Fla.—Estimating savings at more than $1 million per year, 23 community colleges in this state are embarking on a self-insurance program for workers compensation and general liability starting Feb. 1.

The colleges will also purchase property insurance as a group through a commercial insurer since state law prohibits self-insurance of property risks, according to Dr. Lee Henderson, director of the community colleges division of the department of education.

"Even with building up the reserve fund, the cost is 50% to 60% what we would pay for commercial insurance," said Dr. Henderson. "It looks almost too good to be true."

Total cost of the program for the first year is estimated at $1.4 million; commercial insurance for the same would cost about $2.8 million, according to Lester Brookner, vp of business affairs at Miami-Dade Community College.

A $1 million reserve fund will be established and $400,000 will be put toward claims service and reinsurance, said Mr. Brookner. Each college will pay a pro rata share of these expenses.

Community college losses have been 23% of premiums paid in 1976-77 and 19% in 1977-78, according to a recent study. "It looked like there would be substantial savings to self-insurer," said Mr. Brookner.

Based on loss experiences, Mr. Brookner said the colleges expect to pay out $400,000 of the $1 million reserve fund the first year.

Miami-Dade Community College has self-insured liability losses for two-and-a-half years and workers compensation for five years.

Under the new program, there is a $150,000 deductible per occurrence, with excess insurance covering the colleges up to $5 million.

State law limits the colleges' liability to $50,000 per person and $100,000 per occurrence, but the colleges are buying more protection against higher judgments.

Currently, 23 of the 28 community colleges in the state of Florida are committed to this self-insurance program. Only a month ago, that number of colleges was 19.

"If they (community colleges) don't join now, I think they'll join by the end of the year," Dr. Henderson said.

The group is now in the process of hiring a broker to provide risk management services under the fiscal administration of Miami-Dade college.

Dr. Henderson said the self-insuring concept has been tossed around for the past eight or nine years.

Legislation that would have allowed the self-insurance program to include property insurance was not passed in the 1978 and 1979 sessions. ▪

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Lawyers set up program to analyze their losses

By RHONDA L. RUNDLE

CHICAGO—Like other industry groups and professionals seeking adequate information about risks, lawsuits and liability losses, the nation's lawyers are setting up their own data collection system.

The growth of legal malpractice exposures and the skyrocketing costs of lawyers' liability insurance are prompting the American Bar Assn. to fund and sponsor a four- to five-year project designed to collect, analyze and publish claims information submitted by 28 insurers currently underwriting lawyers' professional liability insurance in the U.S.

The ABA has been unable to assess, for example, how many attorneys carry professional liability insurance, what mistakes commonly prompt suits against lawyers or which legal specialties pose the biggest risks for underwriters.

A six-month tryout from January through June will test the collection system and uniform cause of loss code devised by the ABA's special committee on lawyers' professional liability. After a brief interval for critique and review, the data center will go on-line in the fourth quarter of 1980, reports John W. Pompelli, ABA staff director.

A package of report forms and claims code information was mailed to each insurer late last month. The ABA is counting on 90% to 95% insurer cooperation.

The data center's annual operating budget is expected to run between $200,000 and $225,000 based on an estimated 14,000 submitted claims, Mr. Pompelli said. Seed money of $70,000 for the pilot project will "probably come from the ABA," he says, although the association hopes for help from attorneys' captive insurance companies in five states. The ABA also has "tentative agreements" from some insurers to kick in a small percentage of paid premiums once the data center is rolling, he said. No firm decisions have been reached regarding funding.

There are approximately 20 questions on the claim report form, including type of legal activity, type of alleged legal error, number of years since the policyholder was admitted into practice as a lawyer and the judgment paid. The form will be filed twice—once just after the claim is opened and again after it is closed.

Attorneys and state bar associations around the country seek malpractice claims information to pinpoint which legal errors most often lead to litigation. Once such data is developed, lawyers hope to correct their errors and to reduce the frequency of malpractice suits and the cost of insurance.

"The legal profession has become a whole new ballgame in the past five years," observed David Peshkin, an Iowa attorney on the ABA's special committee. Advertising, gaining acceptance as an ethical legal practice, combined with increased specialization are creating more of a need to know their implications on legal malpractice risks and liability insurance.

"It's reasonable to assume that insurers might want to use the data to refine underwriting rates," observes Leo Gilmartin, senior vp of American Home Assurance Co. Today, premium rates are rarely based upon a lawyer's professional classification. This could change, he thinks, as more attorneys specialize, standards are established within the legal profession and loss data, broken down by specialization, becomes available.

Although the loss data center is expected to develop better numbers, "we figure that approximately 70% of attorneys in private practice carry some liability coverage," Mr. Gilmartin says. "Within our company 25% to 30% of all legal malpractice claims are for missing appeal deadlines and statutes of limitation." Securities attorneys are surcharged for coverage and "we have a separate program for patent attorneys," he adds.

The ABA will retain professional personnel to conduct the pilot program, including a systems programmer and technical clerks. To keep costs down, the group intends to hire demographics graduate students in the Chicago area.

Although availability of lawyers' malpractice insurance has improved within the past couple years, Mr. Pompelli says there has been no cooling of enthusiasm for the data center. ▪

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United Brands names Davan risk exec

comings & goings: buyers

Michael P. Davan, 33, has been named director of risk management at United Brands Co. in New York. He replaces **Donald L. Schoenewolf**, who left the company. Mr. Davan was previously manager of insurance and employe benefits at Harman International in Lake Success, N.Y. No replacement has been named for him there. Mr. Davan has a B.A. degree in political science from St. John's University and a J.D. degree from St. John's Law School. He reports to Herman Deltzer, vp and treasurer.

* * *

Gerard E. Dorsey, 33, has been promoted from manager of financial services to assistant treasurer at UMC Industries Inc. in Stamford, Conn. In his new position, Mr. Dorsey will be responsible for all facets of corporate insurance and pensions. He has a B.B.A. degree in accounting from Pace University and is also an M.B.A. candidate there. He will report to senior vp and treasurer Willard R. Powell. No replacement has been named for him as manager of financial services.

* * *

Dan C. Jorgensen, 39, has been named vp of corporate insurance and risk management at Citibank in New York. He replaces **Clifford O'Shea**, now risk manager at National Kinney Corp. in New York. Mr. Jorgensen, previously in the international investment area of the bank, reports to Carl W. Desch, senior vp and cashier. He has an M.B.A. degree from Harvard Business School.

* * *

Robert E. Sullivan, vp and treasurer of Harris Corp. in Melbourne, Fla., and **Bryan F. Smith**, general director of Texas Instruments Inc., have been appointed to the Southern Advisory Board of Arkwright-Boston Manufacturers Mutual Insurance Co. They will advise and counsel the insurance company management on company services, industry trends and investments.

Mr. Sullivan was formerly a member of the Central Advisory Board of Arkwright-Boston before Harris relocated to Melbourne from Cleveland. He joined Harris as treasurer in 1971 and was elected vp in 1977. He has an M.B.A. degree from Harvard Business School and a bachelor's degree in business administration from John Carroll University.

Mr. Smith joined Texas Instruments as legal counsel in June 1951 and moved through the corporate ranks to join the board and become general director in 1975. He has a B.A. degree in mathematics from Harvard College, a J.D. degree from Columbia University and an L.L.D. degree from the University of Dallas.

* * *

Paula C. Carter, 28, has been appointed to the newly created position of corporate supervisor of employe benefits at Piedmont Natural Gas Co. Inc., in Charlotte, N.C. She will be responsible for the overall administration of the company's employe benefit package. Ms. Carter will report to C. Henry Shelby, manager of insurance, employe benefits and education. Ms. Carter holds a B.A. degree in psychology from Wake Forest University and an M.A. degree in psychology from Western Kentucky University.

* * *

Richard C. Heydinger, 36, has been named risk management director for Hallmark Cards Inc. in Kansas City, Mo., in a reorganization that moved risk management and insurance into the financial division for the first time. Mr. Heydinger was formerly director of risk management and retirement with Anchor Hocking. He replaces **Jane Hartnett**, who was responsible for insurance at Hallmark for most of her 30 years with the firm in its legal division. She was recently promoted to assistant corporate secretary and is still in the legal division. Mr. Heydinger reports to F.C. Rood, vp-finance. He is responsible for property and casualty risks and insurance and some loss control.

At Anchor Hocking, **James Hill** was promoted to director of risk management to replace Mr. Heydinger. He had been risk manager. He is responsible for property, casualty and group insurance.

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Firms may fight over ERC

NEW YORK—ERC Corp. of Kansas City, parent company of Employers Reinsurance Co. and three life insurance companies, is the prize in an anticipated bidding war between Connecticut General Insurance Co. and Charter Co., a Jacksonville-based energy and insurance holding company.

Connecticut General, which had an $80 per share offer rejected by ERC's board of directors in October, renewed its interest after ERC's board reacted favorably to a $90 per share offer from Charter.

All aspects of the Connecticut General offer, including price, were negotiable, chief executive officer Robert D. Kilpatrick wrote in a letter to ERC chairman Stanford Miller. Mr. Kilpatrick pointed out that his firm's offer was for cash while Charter Co. was offering securities.

Charter is highly leveraged, Mr. Kilpatrick said, and its two principle suppliers of oil, Libya and Iran, are "two of the most volatile" members of OPEC. In addition, Charter's Carey Energy subsidiary "suffered substantial losses during the last five years."

A Charter spokesman said the Connecticut General analysis of his company was based on information that could be interpreted differently by analysts.

Charter's plan for acquiring ERC calls for issuance of 20-year subordinate debentures to acquire between 45% and 49% of ERC's 6.1 million outstanding shares and an exchange of convertible preferred stock on a share-for-share basis to acquire the rest.

Connecticut General has already filed application for an unfriendly takeover of ERC. ▪

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Crum & Forster urges

Free New York Free Trade Zone: Exec

By ELLIS SIMON

NEW YORK—Crum & Forster is promoting legislation to put New York's lightly used Free Trade Zone and fledgling Insurance Exchange on an equal footing, arguing it will expand the flexibility and responsiveness of both markets.

The prime beneficiary to date of the Free Trade Zone, American International Group, counters it's too early to be making changes in the markets.

The Free Trade Zone should be exempt from any regulation on policy rate and form, says C&F vp Robert J. Sullivan, drafter of the proposed bill. Now, the free zone, in which large premium and certain exotic risks can be written, is only exempt from filing requirements on rate and form.

Mr. Sullivan would also exempt free zone business from residual market assessments, such as for FAIR Plan and assigned risk pool losses, except for the state guaranty fund.

This would put the free zone on an equal footing with the New York Insurance Exchange, Mr. Sullivan said.

Because of regulatory cost disadvantages presently endured by licensed insurance companies, enabling legislation for the insurance exchange mandated that direct domestic business destined for the exchange first be rejected by the Free Trade Zone.

Placing the two markets in identical regulatory environments would allow them to compete as equals, eliminating the need for prior rejection by the Free Trade Zone before the insurance exchange could quote on a risk, Mr. Sullivan contends.

The proposed relationship between the free zone and insurance exchange has been debated by brokers and certain insurance companies (*BI*, Sept. 3, 1979).

"The Free Trade Zone in its present form has not achieved its primary purpose," Mr. Sullivan argues. It was designed to allow more rating and policy form flexibility to create a domestic marketplace that could effectively compete with the excess and surplus lines market and Lloyd's for large commercial risks and special classes of unique and unusual coverages, he said.

But instead, "It offers insurers few advantages over the domestic market," he added.

Exemption from rate filing requirements was previously provided under New York's competitive rating law, Mr. Sullivan noted. In addition, free zone insurers are required to comply with state minimum policy provisions, including restrictions on cancellation and nonrenewal and certain mandated policy coverage provisions.

C&F hasn't found a legislative sponsor for the proposed bill yet but Sen. John Dunne, the former chairman of the senate insurance committee who championed the insurance exchange, has expressed interest in reviewing Mr. Sullivan's proposal.

The Insurance Brokers Assn. of the State of New York, which represents the large brokerage houses, has also endorsed the C&F proposal in principle.

"It would be beneficial to have a single regulatory scheme for all insurance markets in New York State, particularly if that would lead to a truly open, competitive system and stronger insurance industry," said association president Robert L. Sanford.

But Maurice R. Greenberg, chief executive officer of American International Group, opposes changing the Free Trade Zone now. "It's a little premature to be making changes in the Free Trade Zone. I'm reasonably confident that if insurance companies give it a chance, it will work," he said.

Mr. Greenberg's companies wrote virtually all business placed in the Free Trade Zone during its first year: about 94.2% of the Free Trade Zone's total of $10,742,101.

That is even more than was reported earlier (*BI*, Dec. 10, 1979) when total Free Trade Zone writings in the first year were set at $3.7 million with AIG taking in 83.2%. Those figures, based on state insurance department statistics, did not include $7 million in premiums written by AIG during the third quarter of 1979 that were omitted from the company's report as a result of computer error.

AIG should write $15 million in Free Trade Zone premium during 1979, Mr. Greenberg predicts. Most of that business is new business for AIG and virtually all of it would otherwise probably have gone to the surplus lines markets, he said.

Mr. Greenberg disputes critics who charge the Free Trade Zone has not fulfilled its purpose. The Free Trade Zone offers the first chance for the domestic insurance industry to deliver policies without waiting for regulatory approval, he said.

"I'm proud of the Free Trade Zone and proud that New York has a place that allows us to compete with more flexible markets. I'd be disappointed if brokers don't support it.

"If the Free Trade Zone is not needed, where will the premium for direct business in the New York Insurance Exchange be?" he asked.

Although Mr. Greenberg refuses to support the C&F proposal now, he says he favors the concept of equal treatment for the Free Trade Zone and insurance exchange. The cost of complying with regulatory requirements, such as the FAIR Plan and assigned risk plans, adds about 6% to the cost of doing business as a licensed New York insurer, he contends.

"We can hardly have a system where one pays social burdens and one does not," Mr. Greenberg said.

As originally proposed by AIG, the Free Trade Zone would have exempted large premium and exotic risks from all regulatory requirements on rate and form, rather than solely the filing requirement, C&F's Mr. Sullivan notes. His bill would put the Free Trade Zone into that posture, he contends.

"Unless the Free Trade Zone is improved, it will pull the New York Insurance Exchange down with it," Mr. Sullivan said. "If the Free Trade Zone and insurance exchange expect to compete with the excess and surplus lines markets, they must have the necessary flexibility, otherwise they can not compete.

Mr. Sullivan doubts his proposal will cost the state revenue and residual market assessments because free zone business was probably "never written in New York in the first place."

Meanwhile, April 1 is the target date for opening the New York Insurance Exchange, says its president, Donald E. Reutershan.

Mr. Reutershan also announced the appointment of Richard A. McCarthy as treasurer of the exchange. Mr. McCarthy was previously employed with G.L. Hodson & Sons Inc., reinsurance intermediaries of New Hyde Park, N.Y. He also worked for 29 years for American International Group. ■

NTSB cites 3 parties for May DC10 crash

WASHINGTON—American Airlines, McDonnell Douglas Corp. and the Federal Aviation Administration must all bear some of the blame for the crash of a DC10 jetliner in Chicago last May 25 that killed 273 persons, says a report issued by the National Transportation Safety Board.

The report, which caps the NTSB's lengthy investigation into the crash, criticizes American for using maintenance procedures that led to the cracking of a pylon-engine assembly that caused an engine to fall off the ill-fated jumbo jet during a takeoff from O'Hare Airport.

It also cites what it calls the vulnerability of the design of the pylon by McDonnell Douglas and the FAA's lack of surveillance and monitoring of airline maintenance procedures.

The board attributes the probable cause of the crash to pylon failure because of the airline's maintenance procedures.

Aviation litigation specialist John J. Kennelly said the report contains no surprises and will not affect the outcome of litigation because the NTSB findings are not usable in court.

If the litigation process is delayed, it will stem from a case pending before the 9th U.S. Circuit Court of Appeals in Los Angeles. The court has yet to rule on whether punitive damages can be awarded in California. The longer the ruling is delayed, the longer it will take to determine whether many surviving families of the crash victims in California can collect punitive damages against American and McDonnell Douglas.

The flight was bound for Los Angeles when it crashed and many of its passengers were from that area.

Mr. Kennelly said about 109 suits have been filed, 102 in federal courts and the others in state courts. He predicted another 100 lawsuits may be filed.

American Airlines has offered settlements to 225 relatives of crash victims thus far. ■

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N.H. publisher Loeb sells profit sharing plan stock

WASHINGTON—William Loeb, the outspoken president and publisher of the Union Leader in Manchester, N.H., has fulfilled the terms of a consent agreement by selling 25% of Union Leader stock owned by the firm's employe profit sharing plan to an outside purchaser.

Augsburg Organization Inc., an Ogdensburg, N.Y., shipping and fuel distribution company, purchased for $1.5 million a quarter of Union Leader stock owned by the plan but controlled by Mr. Loeb.

As part of a federal district court agreement researched last summer (*BI*, July 23, 1979), Mr. Loeb agreed to sell the Union Leader stock to outside interests for a price of more than $750,000. If a buyer couldn't be found at that price, the Union Leader Corp. was to have purchased the shares at that price.

Proceeds from the sale of the stock will be used to increase the value of the accounts of profit sharing participants to reflect the actual value of the shares.

The pension fund's Union Leader stock has been valued at $375,000 on its books since Mr. Loeb, 73, sold it to the fund for $300 a share in 1956. Even though the value of the stock had increased four-fold, this change in value had not been reflected in the employes' pension benefits.

It is not known yet how much the pension benefits of the 550 present and former Union Leader employes or their heirs who belong to the plan will increase as a result of the sale of the stock.

A Labor Department suit filed in federal court in September 1978 charged Mr. Loeb and three other defendants, who were members of the pension plan's administrative committee, undervalued Union Leader stock held by the plan in computing retirement benefits for plan participants.

When the suit was filed, Mr. Loeb said the federal action was part of a "smear campaign" by New Hampshire politicians and the Democratic machine in Washington. The suit was an attempt "to get even with us," Mr. Loeb added. The newspaper publisher is known for his extreme right-wing views.

But less than a year after the suit was filed, Mr. Loeb agreed to the consent decree that required him to sell one-quarter of the Union Leader stock. Mr. Loeb said he would have preferred the stock be kept in the hands of the profit sharing plan and revalued rather than sold. But he was happy, he said, that the stock was not purchased by a competitor.

A Labor Department spokesman said the agency was satisfied with the terms of the stock sale. "It sounds like a good price to us," he said. The stock was sold through E.F. Hutton, a New York stock brokerage company. ■

Hull & Co. office

Hull & Co., a special risk insurance intermediary, has opened its fifth U.S. office. The new office, at 208 S. LaSalle St., Chicago, Ill. 60604, will be managed by John J. Matelski.

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letters

Business Insurance welcomes letters from its readers. Please keep your comments as brief as possible and we reserve the right to edit or shorten letters for clarity or space. Please send your comments to Letters to the Editor, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611.

Cheers for college

To the editor: The article entitled "Formal, informal education lead risk exec to head of class" in the Nov. 26 issue caught my attention, as I have a master's degree in risk management.

I found most items to be true. However, I feel that the article slighted one of the finest risk management schools in the country. The business school at the University of Georgia was the first in the nation to establish a curriculum and department giving a degree in risk management. The colleges mentioned in the article were known for their "insurance departments."

While every risk manager would agree that a thorough knowledge of insurance and its coverages is essential to the profession, they would also agree that the subtleties of risk management are just as important and separate from a knowledge of insurance. The students who have risk management degrees from the University of Georgia are exposed to as many or more insurance as the people in other schools, but they are also given the advantage of being exposed to the risk management philosophy and expertise of Dr. E.J. Leverett and the risk management staff.

Dr. Leverett is known for his expertise in the field of risk management and also for his practical applications of risk management technique. The department also encourages summer internship programs for its students. As a result, students leaving the program at the University of Georgia often step into high level risk management positions with major corporations. The following is a partial list of companies that have University of Georgia graduates in their risk management departments: National Semi-Conductor, Commercial Shearing, Harris Corp., Goodpasture, Goldkist, Esmark and Baxter Labs.

Georgia also has risk management graduates in major consulting firms throughout the country such as Warren, McVeigh & Griffin, RIMCO, International Risk Management Institute and Risk Planning Group.

I think the track record speaks for itself. That is why I am somewhat offended that Mr. Hoffman ignored the University of Georgia in his article. After all, I too am a University of Georgia graduate.

David G. Oliver
Corporate risk manager
Super Valu Stores Inc.
Hopkins, Minn.

Survey request

To the editor: We would like to obtain a copy of two surveys mentioned in the Oct. 15 issue of *Business Insurance*. One is mentioned on page 49 by Life Office Management Assn. and the other is mentioned on page 73 by "California-based Health Research Institute."

Could you tell me these associations' addresses so that I may contact them for a copy of the surveys? Thank you for any help you can give me.

Sarah B. Carey
Research and technical services
Alexander & Alexander Inc.
Newburyport, Mass.

Editor's note: "Matched Savings and Profit Sharing Study" by Life Office Management Assn. can be purchased for $30 from LOMA, 100 Colony Square, Atlanta, Ga. 30361 Attn.: Profit/Thrift Survey. The Health Research Institute can be contacted at 44 Montgomery St., 5th Floor, San Francisco, Calif. 94104.

Imprecise language

To the editor: A sentence in the item "Coming up," page 2 of the Dec. 10 issue, is most disturbing to me. I refer to the sentence which begins, "A special report on self-assumption of risk, etc." Such terminology indicates that a risk has been assumed whereas, in fact, it has been retained. The expression "self-assumption of risk" developed in a period when it was presumed that risks would be insured and that a positive decision "to self-assume" had to be made to treat risk other than through the insurance mechanism. Implicitly, then, "self-assumption" is philosophically oriented toward insurance buying rather than risk management. It is to be hoped that the staff of *Business Insurance* will be more precise in the use of language in the future.

H. Wayne Snider
Professor of insurance and risk
Temple University
Philadelphia, Pa.

Theatrical risks

To the editor: Your report on entertainment risks Oct. 29 by Stuart Emmrich was read here with interest, because much of it seemed to be about our own customers.

This office placed the non-appearance insurance covering Liza Minelli in "The Act." We settled the claim, which exceeded $200,000, for 23 canceled performances.

Having placed non-appearance coverage on theatrical star artists since 1948, we are not unfamiliar with the difficulties that underlie this class. Lloyd's of London, where a worrisome risk can be spread among many underwriters, may offer the best solution to the problems of availability.

The next time you seek information on special risks in the performing arts, you might do worse than to get in touch with our office. We placed the insurance covering about 50% of the Broadway, off-Broadway, off-off Broadway and touring productions that are produced in New York. We also represent over 50 ballet and dance companies of all sizes, as well as many film producers. The development and maintenance of markets just for their basic needs can present many difficulties even before reaching the special risks exposures.

As acknowledged specialists, after 30 years we have gained a working knowledge of the insurance for performing arts organizations, so that we should be able to offer your man more reliable help than he would appear to have received thus far.

Robert A. Boyar
President
R.A. Boyar Inc.
New York, N.Y.

Delicate subject

To the editor: It is with some dismay that I am writing this letter.

In your issue of Nov. 26, the descriptive coverage of kidnap and ransom insurance left me quite troubled. By the article's own admission, companies that admit to carrying this type of coverage have their policies automatically canceled. This would be a clear indication that this type of risk requires the utmost amount of delicate handling.

By publishing any such article as this, have you not clearly indicated to not only international terrorist organizations, but to those parties who might be considering kidnapping of company officials here in the United States, that they can clearly expect to receive huge sums of money from our large corporations as ransom for the safe return of their key executives?

Given just the basic knowledge supplied in your article, have you not indicated to the potential terrorist or criminal the profitability of kidnapping an executive of a major U.S. or U.S.-based multinational corporation? You have even revealed to this potential group some methods that companies may be employing in order to render themselves secure from this type of risk. If, in fact, the existence of this type of coverage is a sensitive area to begin with, why have you published this type of information in such a public forum?

Craig Gass
Assistance to vp-finance
Meenan Oil Co. Inc.
Syosset, N.Y.

Editor's note: All information in the story was drawn from a public study that raised important issues for our readers.

Continuing ed

To the editor: In your recent editorial "Resting on their laurels," (Oct. 29).

You neglected to report the questions raised by mandatory continuing education, which are:

- We have been told that the CPCU designation is similar to a college degree. When have you seen a college degree taken away for non-continuation of studies?
- The CPCU designation is not a license, but a designation.
- The society encourages continuing education with seminars, workshops, etc. We have over 70 such projects going on this year alone, without counting individual articles, individual speeches by the members at courses taught, etc.

Mandatory continuing education must be equal and fair. If we have a president/chief executive officer of a large insurance company as a member, will he have the same requirements as one of his underwriters? Obviously not. He will be deemed to fulfill his continuing education requirements by his activities. I, as an individual member of the board, will be able to qualify by just my activities as a member of the board, without doing anything further. So where is the equality? Where is the fairness?

I do not believe there is a member of that board that would not automatically by his/her current activities meet the requirements of continuing education. So where are we "resting on our laurels"? What we at the board are doing is trying to do the fair and best thing for our 10,000 members.

You have missed the concept of CPCU. It is a continuing education, it is a professional designation and we are trying to update it further. However, we must upgrade it where it will be fair and equitable to all members, not just a few.

Jules I. Epstein
President
Joseph G. Gray & Co. Inc.
New York, N.Y.

Arena building firms deny OSHA charges

CHICAGO—Five firms fined for willful safety violations in the collapse of a suburban sports stadium roof deny all charges of wrongdoing. The Aug. 13 accident killed five and injured 15.

Each company flatly denied the charges levied against it by the Occupational Safety and Health Administration. The five firms called the charges of violations "exorbitant and unfair."

CST Construction Co., Lentin Lumber Co., Anthony M. Rossi & Associates, The Degan & Rosato Construction Corp. and Weiss, Janney, Elstner & Associates Inc. were named in the Nov. 13 citations outlining violations in safety procedures in the construction of the Horizon sports arena in Rosemont, Ill. (*BI*, Sept. 3, Nov. 26, 1979).

The contractors' denials, released Dec. 21, are extremely short and do not dissect or counter point by point the allegations made by the federal agency, said an OSHA official.

"What that means is that a court case is inevitable here," explained Richard Fiore, the attorney handling the case for OSHA. "These contractors obviously want to speed up the review process and debate the allegations in a court of appeals rather than before the OSHA review panel," he added.

Before the contractors can drag their case into a court of appeals, the OSHA judicial panel must review both sides of the case and make a decision. But it is not expected to take up the case for another three to four weeks, Mr. Fiore said.

Citations against the contractors were issued following a comprehensive accident investigation by OSHA after the roof of the stadium collapsed at the center and broke off from the supports of the concrete wall. ■

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Law firm tries to count DES daughters in Mass.

CAMBRIDGE, Mass.—A law firm here says it will try to determine how many women in the state may be afflicted with disorders stemming from DES, a drug taken by hundreds of thousands of pregnant women in the 1950s to prevent miscarriages.

An exact number is difficult to determine now, but there could be as many as 54,000 "DES daughters" in Massachusetts alone whose mothers took the drug, said David Fine, partner with the law firm of Baker & Fine. The firm is handling a class-action suit against Abbott Laboratories, a manufacturer of the substance.

Meanwhile, a Michigan court of appeals reinstated an original group of lawsuits filed on behalf of 165 women in 1974, overturning a circuit court decision that the plaintiffs had to identify the specific manufacturer of DES taken by their mothers. The appeals court ruled that each of the basic manufacturers marketing the drug in the state must share equally in the liability.

Hundreds of adult daughters of women who took DES (diethylstilbestrol) have been known to contract vaginal cancer, precancerous conditions and related disorders. Consequently, there have been floods of lawsuits against more than a dozen firms that manufacture the drug. Two judgments have resulted in $1.3 million in court awards.

Mr. Fine said Massachusetts probably has one of the heaviest concentrations of DES daughters in the nation because most of the research on the prescription was done at colleges and universities in the state.

A federal court judge last July paved the way for the suit filed in 1976 by Mr. Fine to be tried as a class action. For all those judged to be victims of the drug's use, the suit seeks compensation for medical expenses, damages for pain and anguish and a requirement that manufacturers subsidize an insurance fund to pay for treatment of future victims. The suit also asks that manufacturers be made to check their records to determine the identity of DES daughters, Mr. Fine said.

In addition to Abbott Laboratories, Mr. Fine said five other firms are named as defendants in the suit, including: Eli Lilly & Co., Merck & Co., Rexall Drug Co., E.R. Squibb & Sons Inc. and Upjohn.

A federal jury in Chicago last August awarded $800,000 to a 26-year-old woman who had contracted vaginal cancer from the use of the drug by her mother. A jury held White Laboratories of Kenilworth, N.J., liable for damages. In July, a New York jury awarded $500,000 to a 25-year-old woman who sued Lilly after undergoing a hysterectomy and vaginectomy seven years ago.

Thomas Bleakley, an attorney for the Detroit law firm of Charfoos & Charfoos, said the firm is handling about 350 lawsuits in 15 states filed by women contending to have suffered DES damages. Mr. Bleakley estimated there are some 400 DES suits pending before U.S. courts. ■

Kathryn McIntyre keeps those captives on a pretty tight leash.

Kathryn McIntyre is Managing Editor of Business Insurance.

She's a pro at tracking down the newest developments in captive insurance companies: who started them, how they're formed, funded and organized, what the newest tax implications are and the unfolding legal consequences.

More and more major corporations find they may have bitten off more than they can chew—an insurance concept of great potential, but with an unpredictable future.

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Jack Bogardus, president, tells how A&A works from a client's point of view:

"If we're going to help clients protect current assets and safeguard future growth, we must be a full-fledged member of their financial teams."

"The business of managing corporate risks is in a state of constant change. Our response to this volatile environment is an ever-deepening commitment to act as extensions of our clients' financial departments. The challenge we face together is how best to ensure the client's business growth as emerging economic, technological, legislative and social forces come into play. To do this, we developed several highly sophisticated, computer-based techniques. Their applications are complex, but the result is simple: they help enhance the client's bottom line—now and in the future. And that's what we think our value as a team member is all about."

Working from a client's point of view is our way. From our top management to the men and women in over 110 cities here and overseas. That means working as allies, solving business problems together.

We think our dedication to acting as an ally of the clients we represent is a big reason why A&A has become a worldwide leader in the insurance and financial services business. We have the facilities, expertise and strength to act as effective allies. We work from a client's point of view, whether the corporation is large or small.

Alexander & Alexander
The Allies