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update

China forest fire losses to reach $53.9 million

LONDON—The People's Insurance Co. of China is estimating that insured losses from a huge forest fire, which blackened 2.5 million acres of land as of last week, will reach 200 million Chinese yuan ($53.9 million), according to Enshao Wang, chairman of the PICC's U.K. subsidiary, China Insurance Co. (U.K.) Ltd.

The forest is not insured, Mr.

Continued on next page

If primary broke, umbrella to pay in Massachusetts

By STEPHEN TARNOFF

BOSTON-When a policyholder can't recover claims against an insolvent primary insurer, an umbrella insurer must drop down and pay claims within the primary layer of coverage, the Massachusetts Supreme Judicial Court says.

In two recent decisions, the Massachusetts high court ruled that two umbrella insurers—Continental Casualty Co. and Lincoln Insurance Co.—would have to pay losses of two policyholders whose primary insurers became insolvent.

The opinions involved policyholders that purchased primary coverage from Reserve Insurance Co. of Chicago, and Ambassador Insurance Co. of Berlin, Vt. Reserve was declared insolvent in 1979, and Ambassador became insolvent in 1984.

The court ruled 5-1 in each case that because the language in the policies was ambiguous about whether the umbrella insurers would have to drop down in the event of the primary insurer's insolvency, it would be construed against the insurers.

The decisions conflict with two recent decisions by a New York appellate court that held that umbrella insurers were not required to take the place of insolvent primary insurers (*BI*, May 11).

The issue is one of increasing importance, as more insurers have had financial troubles in recent years. Since 1982, 97 insurance and reinsurance companies have been liquidated, put into conservatorship or have been issued cease and desist orders (*BI*, April 13).

Attorneys disagree on the impact of the Massachusetts decisions. Some said they likely would be limited to policies using the same language. However, one attorney said the decisions reflect the court's desire to provide coverage to a policyholder when a primary insurer be-

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Asbestos firms win broadest coverage

By STEPHEN TARNOFF

SAN FRANCISCO—Four major asbestos producers will recover tens of millions of dollars for asbestos liability claims from the largest number of insurers possible under a ruling Friday by a California Superior Court judge.

However, asbestos producers will not be able to recover defense costs from primary insurers under pre-1966 policies once the policy limits are exhausted, the judge also ruled.

Asbestos producers are entitled to recover from all insurers that wrote liability insurance policies for them from the time a person was exposed to asbestos through the time the victim files a claim or the victim's death, ruled California State Superior Court Judge Ira A. Brown Jr.

Asbestos was first widely used in the 1940s and today more than 2,000 claims for damages are being filed each month by people claiming asbestos-related injuries, on top of 40,000 to 50,000 claims already filed.

Judge Brown based his ruling on the 'plain unambiguous meaning' of the policy and medical evidence.



Judge Brown's ruling is the broadest interpretation of insurance coverage for asbestos bodily injury claims ever handed down.

In addition, asbestos producers are entitled to the full limits of every policy triggered, without any obligation to share in claim costs because they were uninsured or self-insured during any period of a claimant's injury, he ruled.

The insurers in the litigation, originally numbering more than 75 but now less than two dozen due to settlements, including the Wellington agreement, had argued for a more limited trigger of coverage.

"It is about as complete a victory as we had hoped for," said David Steuber, an attorney with the Los Angeles firm of Paul, Hastings, Janofsky & Walker, which represented Nicolet Inc. of Ambler, Pa.; and GAF Corp. of Wayne, N.J., in the litigation.

"There will be more coverage available," he said.

Judge Brown, who had heard 14 months of testimony on the issues in what is considered the largest insurance coverage litigation, read his 107-page opinion for three hours before a packed courtroom of more than 100 lawyers and about 25 reporters, including television crews.

The trial attracted widespread interest because of its sheer size: more than 100 lawyers, hundreds of trial days, and a trial transcript of tens of thousands of pages. The number of parties and lawyers was so large that the trial was held in a high school theater converted into a courtroom.

The trial also was the most comprehensive airing of the issues involved: the medical evidence on asbestos-related diseases, the drafting history of the comprehensive general liability policy and the meanings of its clauses.

As a result, attorneys expect Judge Brown's ruling to influence future court decisions, including those dealing with coverage for other toxic substances.

The ruling comes in the third and longest phase of the asbestos coverage litigation, which began before Judge Brown on March 4, 1985.

The litigation is a 1981 consolidation of lawsuits filed separately by the asbestos producers.

While there have been more than a half-dozen rulings interpreting how insurance policies must respond to asbestosis bodily injury claims, Judge Brown's ruling affects the lar-

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More states join license probe of ICA

By DOUGLAS McLEOD

BOCA RATON, Fla.—Insurance Corp. of America—which claims to be exempt from state regulation under two turn-of-the-century federal court decisions—is facing mounting opposition from several state insurance departments.

Connecticut regulators last month obtained a temporary restraining order against ICA and three organizations producing business for the insurer.

In addition, the Wisconsin Insurance Department issued a cease and desist order in April against ICA and several Wisconsin agents, charging that the insurer was soliciting business without a license.

Actions by the two states followed an injunction by a Florida state judge in February against ICA and two of its officers, A.R. Johnson and Ernest Scalise (*BI*, Feb. 23).

Mr. Johnson also is president of Boca Raton-based Dyna Span Corp., which claims to operate as a purchasing group under the federal Risk Retention Act of 1981. Dyna Span has been hit with cease and desist orders or injunctions by regulators in several states who charge that Dyna Span does not meet the requirements of the federal act (*BI*, May 26, 1986; March 3, 1986).

Meanwhile, although the California Insurance Department has not taken any regulatory action against ICA, the company is suing the department over its right to issue policies in the state.

ICA, a West Virginia corporation operating out of Boca Raton, Fla., is unrelated to a licensed Houston-based insurer also called Insurance Corp. of America.

Boca Raton-based ICA was originally chartered in West Virginia in 1872 under the name Pocahontas Insurance Co. and adopted its present name in 1978. A West Virginia state court dissolved the company in 1980, but ICA was reinstated in 1983 after payment of back taxes, court files show.

While incorporated in West Virginia, ICA is not licensed as an insurer in the state.

In litigation with the Florida Insurance Department and elsewhere, ICA has claimed to be one of a group of companies exempted from state insurance regulation by two rulings allegedly issued by a federal court in Delaware in 1911 and 1914.

In the 1911 ruling, Ben Green, identified as a "substitute judge" in the "United States Circuit Court of Delaware at Dover, Del.," found that four entities—Pocahontas Insurance & Trust Co., Pocahontas Insurance Co., Insurance Corp. of America and First Corp. Insurance Group—each have 71 separate insurance company divisions, and that each company and each division is authorized and approved to write insurance in all states and the District of Columbia.

Exhibits attached to the ruling list the 71 subsidiaries of the four corporations, along with deposits allegedly made by the old ICA with each state as of May 1, 1911. The ruling states that the deposits are to be held by the states "to serve as security for all the corporations and each division which shall share and share alike."

During litigation with the Florida department, which sought to enjoin ICA from doing business in the state, Mr. Johnson, ICA's president, testified that he believed the $124,517 purportedly on deposit in Florida in 1911 now amounted to $25 million with accumulated interest.

However, the Florida Department of Insurance and Treasurer has no record of ever receiving a deposit from ICA or its predeces-

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update

Chinese forest fire losses

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Wang said. However, homes, factories and the timber already cut and processed that were in the area are insured by the state-owned PICC, he said. Already, the PICC has paid a total of 15 million Chinese yuan ($4 million) in claims, he added. The forest fire is considered the worst in communist China's history.

Insurers' combined ratio drops

NEW YORK—Both the property/casualty industry in general and the reinsurance industry in particular reported improved first-quarter results.

With 87% of the property/casualty industry reporting, Oldwick, N.J.-based A.M. Best Co. said the industry had a 103.8% combined ratio for the first quarter, compared with a 109.4% combined ratio for the comparable period a year ago.

The industry had a 78.6% loss and loss adjustment expense ratio and a 23.8% underwriting expense ratio, as well as a 1.4% ratio of dividends to policyholders.

According to Best, this is the lowest reported combined ratio since the third quarter of 1980, when it reached 103%. A spokesman said the ratio may increase slightly once all insurers report.

Net premiums written increased 12.7% to $40.8 billion from $36.2 billion, while underwriting losses declined 50.3% to $1.9 billion from $3.9 billion.

A survey of 72 reinsurers and reinsurance departments by the Reinsurance Assn. of America showed the reinsurance industry reported a 100.8% combined ratio for the first quarter, compared with a 107.7% ratio for a similar group during first-quarter 1986. At year-end 1986, the group had a 103.7% combined ratio.

Court approves drug testing

AUSTIN, Texas—A district court's ruling that a Texas employer can require its employees to undergo random drug testing could set a national precedent, said an attorney in the case.

Judge Joseph H. Hart of the 126th Judicial District Court in Austin, Texas, ruled late last month that because Austin-based Minco Technology Labs Inc. and its employees do not have an employment contract, Minco can require the random testing.

Under Minco's drug-testing policy, established in September but not yet implemented, an employee can be fired for refusing to take a urinalysis test.

Minco employee Brenda L. Jennings had asked the court to enjoin the drug-testing policy, contending that it would invade her privacy. However, Judge Hart ruled that such a test would not violate Texas common law prohibiting invasion of privacy because the plaintiff could refuse to take the test.

More importantly, Judge Hart ruled, Ms. Jennings is an "employee at will," so her employer could fire her for not consenting to the test. Under such an employment arrangement, there is no contract between the employer and the employee, and either is able to end the relationship at any time and for any reason.

According to Wendy Kendall Schaefer of the Austin law firm Blazier, Rutland & Lerner, which represented Minco, most states regard employment relationships, other than those involving union contracts or other contractual employment relationships, as "employment at will."

2 plead guilty in accident fraud

LOS ANGELES—Two people charged with taking part in a injury claims scam that bilked the Southern California Rapid Transit District out of about $5 million in 1985 have agreed to plead guilty to conspiracy charges and to testify against other participants.

In exchange, the Los Angeles County District Attorney will ask the sentencing judge not to order them into custody, according to a spokesman for District Attorney Ira Reiner.

Charges have been filed against five Los Angeles County residents so far. More are expected to be charged—and the $5 million estimate to grow—as the investigation continues.

The two people cooperating with the district attorney are Eugene Glickman, a chiropractic office manager and Linda Thompson, who worked from April 1985 to February 1986 as a claims adjuster at Leonard J. Russo Insurance Services Inc., the transit district's claims administrator.

Ms. Thompson had pleaded guilty to one count of conspiracy and Mr. Glickman is expected to do likewise, the spokesman said. The three others charged are chiropractor Dr. Julius C. Brown and attorneys J. Bruce Johnson and William Barnes. All three are accused of grand theft, forgery and conspiracy.

Award against Tonka reduced

MINNETONKA, Minn.—A state court judge reduced to $100,000 a $2.6 million jury award against Tonka Corp. in a case involving an employee who alleged the company used him to dispose of hazardous waste.

Wright County District Court Judge Carroll Larson ruled May 20 that the Minnetonka-based toy manufacturer did not have to pay $2.5 million to an employee for intentional infliction of emotional distress and punitive damages.

The employee had alleged he suffered personal injuries, emotional distress and property damage as a result of taking home from work barrels of oil that had been inadvertently mixed with the toxic chemical trichloroethylene, or TCE.

Judge Larson said there was no evidence of intentional wrongdoing by Tonka, said Tonka general counsel Joseph M. Joyce.

Judge Larson let stand the $100,000 the jury awarded for damage to the employee's property caused by the company's negligence.

Tonka, which allowed employees to use company property for

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A.C.E. offers policyholders 3-year prepaid premium

By DOUGLAS MCLEOD

HAMILTON, Bermuda—A.C.E. Insurance Co. Ltd. is offering policyholders an option to purchase excess liability coverage carrying a three-year prepaid premium.

In a meeting with Bermuda brokers last week, A.C.E. also announced several other changes in its program, along with the availability of directors and officers liability coverage for international offshore companies through a recently formed Bermuda insurer, Oasis Insurance Co. Ltd.

Separately, X.L. Insurance Co. Ltd. recently reduced the one-time deposit premium it requires of non-shareholders to 25% of the policyholder's first year premium from 100%.

X.L. is hoping that the move will attract more small corporate policyholders, said Robert Cooney, president of Trenwick Services Ltd. in Bermuda, which provides underwriting management services to X.L.

A.C.E.—which offers general liability limits of $20 million to $140 million excess of at least $100 million—announced last week the three-year prepaid premium option to both new and existing policyholders, confirmed John Cox, the insurer's chairman.

The option guarantees that a policyholder's annual premium will not change over the three-year period unless the policyholder:

- Changes the attachment point of its A.C.E. coverage.
- Changes its limits with A.C.E.
- Acquires or divests units exceeding 25% of its assets.
- Posts revenue gains or losses exceeding 25% annually.

Mr. Cox described the option as "an alternative use of our capital to make the company more attractive."

"Some people would like to have more continuity and not play the merry-go-round of the insurance market," he said.

Mr. Cox denied that the move was intended to allow A.C.E. to lock in premiums at current levels as commercial insurance markets begin to soften.

"We will not compete with anyone for business," he asserted.

A.C.E. policyholders choosing the three-year option will not have to pay the reserve premium—equal to 100% of a policyholder's first year premium—required of those paying premiums annually.

A.C.E. will earn the full three-year premium at inception, Mr. Cox noted. However, if a policyholder cancels its claims-made coverage before the three-year period has elapsed, the premium will continue to be used to pay claims covered under a discovery provision extending until the end of the third year.

Along with the three-year option, A.C.E. also announced a reduction in the minimum premium for excess liability limits of less than $100 million excess of

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Kennedy plan puts burden on employers for coverage

By JERRY GEISEL

WASHINGTON—Employers would have to pay 100% of the health insurance premiums of millions of low-wage employees under legislation requiring all employers to offer group health coverage.

However, the minimum health benefit legislation, introduced last month by Sen. Edward Kennedy, D-Mass., would allow employers to impose additional cost-sharing requirements on employees who do not properly utilize health care services provided by their plans. The bill also would give employers the flexibility to base deductibles on wages.

The legislation, S. 1265, would add an estimated $20 billion to the health care costs of those employers that would have to upgrade their health insurance plans to meet the legislation's minimum standards, as well as to those companies not currently providing such coverage. Employees would spend another $5 billion on health care plans (*BI*, May 25).

According to an actuarial estimate requested by Sen. Kennedy, a minimum health care plan would cost $642 annually for individual coverage and $1,631 for family coverage. Employers must provide family coverage to employees with non-working spouses or dependents.

Employers that either fail to provide a health care plan or do not upgrade their plans to meet the minimum standards laid down by the Kennedy legislation would be hit with tough new penalties under the legislation: Those employers could face federal penalties equal to 10% of their annual payroll, as well as being open to individual employee suits.

Under the provision of the legislation pertaining to low-wage earners, employers would have to pay the full health insurance premium of workers earning less than 125% of the federal minimum wage.

As of 1985, the latest year for which figures are available, 8.3 million workers without employer-provided health insurance earned less than 125% of the minimum wage, according to the Employee Benefit Research Institute in Washington, D.C.

In addition, employers with group health plans that do not currently pay the full health insurance premiums for their low-wage earners would have to pay more. According to EBRI, there were 5.9 million workers directly covered by employer-provided health care plans in 1985 who earned less than 125% of the minimum wage.

The current federal minimum wage is $3.35 an hour, so employers would have to pick up the health care premiums of employees earning $4.19 an hour or less—or $8,400 annually or less.

Employees earning more than 125% of the minimum wage generally could not be required to pay more than 20% of the annual premium under the legislation.

Sen. Kennedy's proposal to require employers to pay the full premium for low-wage earners would be especially costly for employers in industries such as fast-food, hotels and department store chains. A high per-

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inside

✓ Drawing record attendance, the Public Risk & Insurance Management Assn.'s annual meeting was marked by efforts to change its name and to preserve public entities' access to risk retention and purchasing groups. Coverage begins on **PAGE 80**

✓ There are plenty of reasons to take the risk of earthquakes seriously, cautions this week's editorial, and there is much risk managers can do to prepare for an earthquake to minimize loss of life and assets. **PAGE 8**

✓ In Perspectives, Bruce A. Bunner, former California insurance commissioner and a partner with Peat Marwick Main & Co. in New York, charges that the financial guarantee model bill adopted by the National Assn. of Insurance Commissioners could leave public and private institutions without ready access to capital markets and facing increased borrowing costs. **PAGE 51**

✓ In Speaking Out, Jonathan F. Bank, an attorney with Buchalter, Nemer, Fields & Younger in Los Angeles, expresses concern about the lot drawing provision contained in many arbitration clauses used to select a "neutral" umpire. He notes that it could undermine an equitable result, with the outcome, in a sense, reduced to no more than the flip of a coin. **PAGE 54**

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Specialty risks

Quakes

Preparation vital for business survival after seismic shock

By STEVE TARAVELLA

LOS ANGELES—If they've given any thought to earthquakes at all, most businesses probably have considered the potential for loss of life and destruction of property—and not always in that order.

But that's not enough, earthquake preparedness experts say.

What many businesses foolishly overlook is the threat to the viability of the business itself. Some companies will be so severely devastated by a major earthquake that they will lose market share in their industry or, worse yet, go out of business.

"There's no doubt that a catastrophic earthquake in California would represent the largest damage experienced in the U.S. since the Civil War," declares Dr. Charles Thiel, former head of the National Earthquake Hazards Reduction Program and a civil engineering professor at Stanford University in Palo Alto, Calif.

For its own good, the U.S. business community should begin to view the threat of an earthquake as a threat to its own corporate existence, Dr. Thiel says.

One common misconception held by business executives is: "If it happens to me, it will happen to my competitors," says Dr. Thiel. In reality, however, it's not unusual for an earthquake to ravage one building and only nominally damage another just across the street.

"By and large, businesses do not understand the nature of the threat that's posed to them," he says.

"If you're assuming that all businesses are going to have the same kind of damage and the same kind of problems (after an earthquake), and that you'll use your 'good management sense' to deal with them, you're kidding yourself," Dr. Thiel tells risk managers.

Given that most businesses work hard to prevent competitors from seizing their market share, Dr. Thiel questions why these same businesses don't see impending earth movement as an opportunity to gain market share. Earthquake preparedness can be used to a business' advantage, he suggests.

Dr. Thiel is by no means alone in calling for greater attention to preventing business failures after an earthquake.

"Businesses big and small are, by their nature, fragile," says Richard Eisner, director of the Bay Area Regional Earthquake Preparedness Project, part of the California Seismic Safety Commission in Oakland, Calif.

In the aftermath of a major earthquake, few companies would be able to increase their indebtedness or borrow against their assets, he points out.

Even if a business sustains no damage, it could still suffer financially—and need months to catch up—if power is out, if its suppliers have experienced serious damage, or if its customers are put out of business, even temporarily.

In the most devastating of the

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Earthquakes could strike areas outside California

LOS ANGELES—Businesses outside of California should not be fooled by their seemingly quake-proof surroundings. Thirty-nine of the 50 states are seismically active.

"No matter where you live, you should pay attention to earthquake safety. If you wait long enough, all places will experience earth movement," cautions Tom Heaton, a U.S. Geological Survey geophysicist at the California Institute of Technology in Pasadena.

Richard Eisner, director of the Bay Area Regional Earthquake Preparedness Project in Oakland, Calif., reminds skeptical risk managers outside California that in 1811 and 1812, Missouri experienced "probably the greatest earthquake ever to strike the continental U.S."—a series of three quakes, each of which was as devastating as the better-known San Francisco earthquake of 1906.

"Missouri and the Central United States have a serious earthquake potential that would rival the San Andreas fault," says a spokesman for the Missouri State Emergency Management Agency (SEMA) in Jefferson City.

At the invitation of the Risk & Insurance Management Society's St. Louis chapter, SEMA Director Richard Ross addressed about 35 area risk managers a few weeks ago on how they could better prepare for an earthquake in their area. Mr. Ross also chairs the seven-state Central United States Earthquake Consortium in Marion, Ill.

The western regions of Washington, Oregon and Northern California—as well as British Columbia—also may be susceptible to earthquake losses, in this case from the Cascadia Subduction Zone, a geological phenomenon about which there is little scientific consensus.

"From a variety of observations, we infer that it's similar to other fault zones around the world that have had large earthquakes on them," says Dr. Heaton. If the faults in the subduction zone produce a quake, he says it may be more severe than what California would experience along the San Andreas fault.

Businesses shouldn't overlook the potential for losses in Hawaii, which has a long history of moderate quakes, and Alaska, which Dr. Heaton describes as "one of the most seismic parts of this country."

A 1964 Alaskan earthquake caused a tsunami —a huge sea wave—that killed 12 people in California.

States in New England and the Southeast could have earthquakes, but "at any given point, the chances of having one are pretty darn

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Market capacity shrinking for some specialty lines

Capacity for several specialty risks is shrinking, unlike that for many other types of commercial risks.

Only one specialty risk appears to have more than enough coverage available—fine arts—although this picture may change due to the increasing incidence of art thefts and the soaring prices many famous paintings are fetching (see story, page 69).

Animal mortality insurers are pulling in the reins on the limits they offer for risks such as racehorses (see story, page 34).

Capacity for special event contingency insurance also has shrunk. As a result, there may not be enough available to meet the demand for the 1988 Summer Olympics (see story, page 38).

Because no coverage is currently available to cover a buyer that unknowingly purchases an environmental liability, consultants and attorneys advise all companies involved in mergers or acquisitions to conduct environmental audits (see story, page 40).

And, in the nuclear power industry, where coverage has always been scarce, new, higher post-accident assessment limits are being debated in Congress to provide enough compensation for victims of a nuclear accident (see story, page 28).

Meanwhile, the financial guarantee insurance market is regaining its equilibrium following the impact of the Tax Reform Act of 1986 and low interest rates (see story, page 75).



Officials survey the destruction wrought by the 1971 San Fernando earthquake, which measured 6.5 on the Richter scale and killed 65.

Quake

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California quakes that are likely to occur—a quake of 7 to 7.5 on the Richter scale along the Newport-Inglewood fault in Southern California—the state could lose 23,000 lives and suffer $70 billion in direct property damage.

Those projections, from a November 1980 study of four possible earthquake scenarios on four different California faults, do not reflect indirect losses like business interruption, lost productivity or medical costs, explains Dr. Thiel, who helped prepare the study for the National Security Council.

Two-thirds of the property damage estimate represents damage to structures and about one-third to their contents, he estimates. The $70 billion figure, which Dr. Thiel says is still a credible estimate of damage, is in 1980 dollars. In 1987 dollars, it would be about $97 billion.

Both the property loss and the loss-of-life estimates are uncertain by a factor of two or three. So, for example, as few as 7,600 or as many as 69,000 may die.

Dr. Clarence R. Allen, a geology and geophysics professor at the California Institute of Technology's seismology laboratory, concurs that a quake registering 6 or 7 on the Richter scale occurring on the Newport-Inglewood fault could create a greater tragedy in the Los Angeles area than a quake greater than 8.1 along the better-known San Andreas fault.

Businesses along the San Andreas fault in the Los Angeles area face a 30%-50% probability of experiencing a quake of a magnitude of 7.0 on the Richter scale over the next 13 years, estimates Allan Lindh, a geophysicist with the U.S. Geological Survey in Menlo Park, Calif.

Businesses along that fault in the San Francisco area can breathe a little easier, but not much. They face a 5%-15% chance of sustaining an earthquake registering 7.0 by the year 2000, Mr. Lindh estimates.

One major obstacle risk managers may encounter in preparing for these events is a lack of disaster consciousness among the top management of their organizations.

"They have so many other problems to solve that the earthquake problem is not foremost. It's just human nature not to face up to (natural disasters) every morning," says Frank E. McClure, president of the Earthquake Engineering Research Institute in El Cerrito, Calif., a national non-profit professional association formed to advance the practice of earthquake engineering.

Where no preparedness project has been initiated yet, top management likely does not understand an earthquake's implications, does not perceive it as a real threat, or delegates responsibility for it too quickly and too cavalierly, suggests Mr. Eisner.

Generally, businesses only react to the earthquake threat when a senior-level executive or a director of the corporation develops a personal interest in earthquake loss prevention.

In fact, at those companies where sophisticated earthquake preparedness plans are in effect, most likely they have been the result of management's urging and not, as some would expect, the result of risk managers convincing top management to lend them support.

When companies want to practice earthquake management, they can turn to both public-sector and private-sector organizations for help in developing a plan.

"Identifying the earthquake risk is something they can't do and don't know where to turn. It's an overwhelming task," says Elwood A. Smietana, group manager at EQE Inc. in Newport Beach, Calif.

San Francisco-based EQE is a privately held earthquake engineering, planning and management consulting firm that has performed seismic safety evaluations for numerous businesses with California locations, including The Aerospace Corp., Dresser Industries, Sperry Corp., Transamerica Corp. and U.S. Borax & Chemical Corp.

Mr. McClure observes "a growing awareness of business," spurred in large part by the many public and private projects dedicated to furthering an understanding of—and preparation for—earthquakes. Two of the better-known of these organizations are

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Earthquake sites

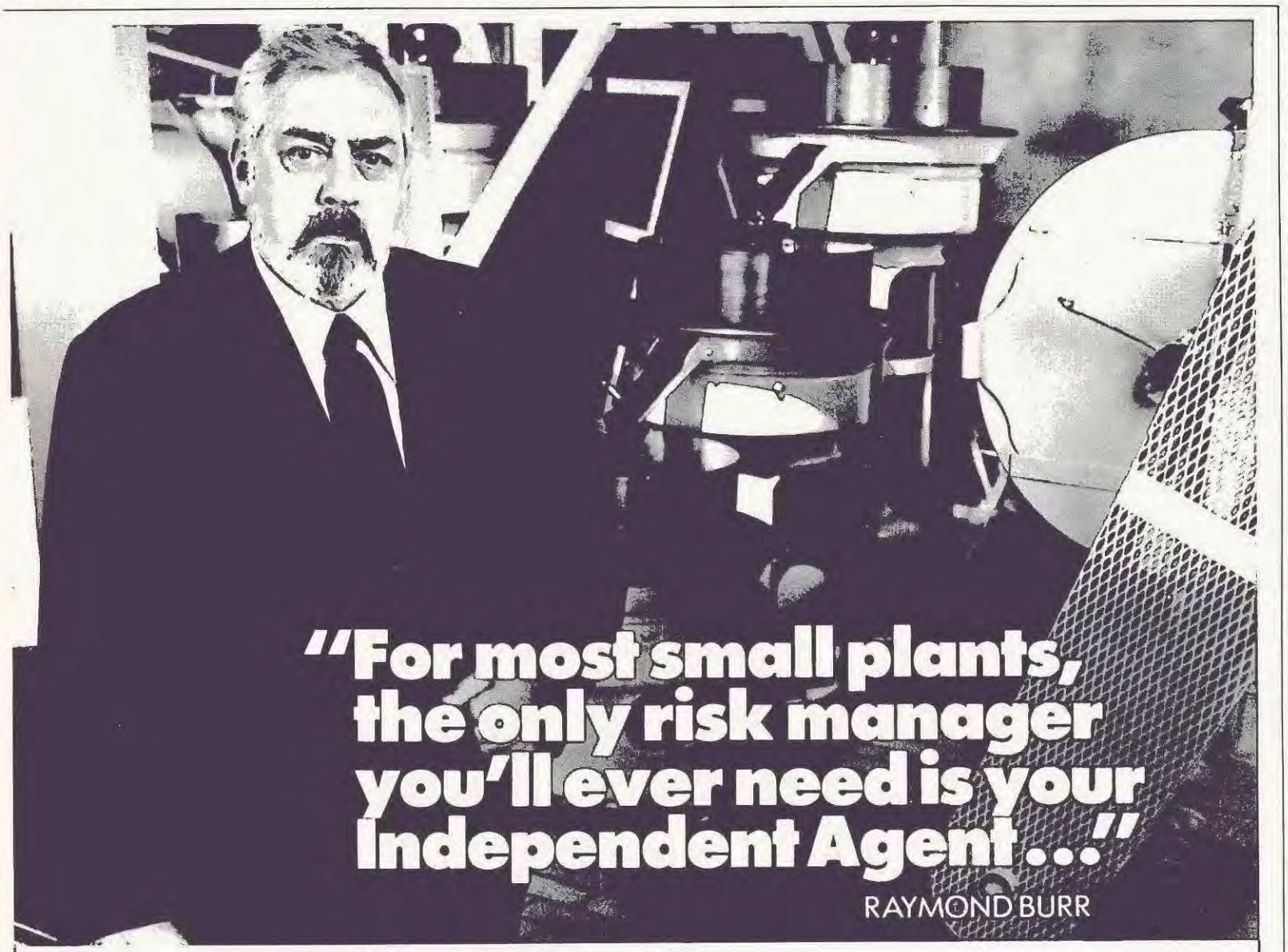
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small," says Allan Lindh, a USGS geophysicist in Menlo Park, Calif.

While the probability of a major quake striking in these two regions is not as great as it is in California, disaster management experts say the damage and destruction from a quake would be severe because the buildings are older and the private-sector has done little to prepare.

The Massachusetts Civil Defense Agency hopes loss-prevention awareness among Boston-area employers will pick up this summer, when it releases an analysis of the losses they would probably suffer in a 6.25 earthquake. A quake of that intensity occurred in Massachusetts in 1755, notes Ed Fratto, the agency's earthquake program manager.

—By Steve Taravella



Here's why... Most major manufacturers have a professional risk manager on the payroll—a person who advises on, selects and administers insurance programs. As a small plant, you have the same needs, but not the same budget. That's where your independent agent comes in. They work with you to reduce risk, to set up safety programs and, because as an Independent Agent, they represent several fine companies, you get to choose the right policies at the right price.
You'll find the Independent Insurance Agent nearest you in the Yellow Pages.

Independent Insurance Agent®

The Big "I" Network:
THE INDEPENDENT INSURANCE AGENTS OF AMERICA
...and the insurance companies they represent.

How Wausau earns its stripes at Rust-Oleum Corporation.



Rust-Oleum is famous for stopping rust in applications that range from heavy industrial to do-it-yourself projects. Naturally, a company that knows this much about protection has an appreciation for what makes business insurance work.

"We have very active loss-prevention programs," says Robert D. Tranter, Assistant Vice President at Rust-Oleum. "As a direct result, we've been able to reduce our experience modification from 1.46 as of a few years ago, to a current 0.74.

"Our plant people work with Wausau's safety engineers and field people on everything from fork-lift driving, to proper ways of lifting heavy items, to air sampling.

"We've always had the philosophy that it takes quality people to make quality products. To do that, we need quality insurance programs so we can hire — and keep — quality people.

"An important factor is Wausau's cooperation. When we have questions on our loss-prevention programs, Wausau is right there to help us find the answers."

WAUSAU WORKS.

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A Member of the Nationwide Group.



In 1971, immediately after the destructive San Fernando earthquake, the Lower Van Norman Dam, 20 miles northwest of Los Angeles, was severely damaged. The damage nearly caused flooding in parts of the densely populated San Fernando Valley.

Quake

Continued from page 4
in California.

In Northern California, risk managers can turn to the Bay Area quake project, while in Los Angeles, the Southern California Earthquake Preparedness Project is spreading the word among businesses, municipalities and the general public.

"I can't think of another state doing more than California. It's out there in front," says Mr. McClure.

Presumably, that's because it has the most to lose. But while California inevitably receives the most attention, other parts of the country also are susceptible to earthquake damage (see related story, page 3).

When risk managers do initiate earthquake preparedness projects, they increasingly are not including insurance in their programs.

Consultants and earthquake educators regularly encourage risk managers to view insurance as only one part—and not even the major part—of their overall earthquake loss prevention strategy.

Insurance can only make the policyholder whole in respect to certain assets. It can't protect market share, and it "can't prevent your competitor from leapfrogging you technologically as you spend two years putting your business back together," says Dr. Thiel.

Furthermore, the high cost of earthquake insurance has caused businesses to decrease their limits or drop the coverage entirely.

Whether it insures or not, a properly prepared company also should commission a seismic safety evaluation by skilled professionals; act appropriately on its recommendations; develop an emergency response plan addressing both employees and operations in the days immediately following the quake; and develop a host of alternative steps to take to keep business going in the aftermath if, for example, normal suppliers can't be contacted.

According to both government and private-sector consultants, some basic ways risk managers can prepare for an earthquake include:

- Learning about the danger.

This can be accomplished by attending seminars, lectures and other forums dedicated to increasing awareness of earthquakes among the public in general and the business community in particular.

- Identifying critical elements of the business's operation to determine the company's vulnerability to quake damage.

Doing so will enable the risk manager to turn to alternative plans when a quake strikes. If a manufacturer's biggest supplier of a key component is in the same fault zone, the manufacturer should know where to turn for that product later if the supplier can't produce.

By reviewing office property, manufacturing plants, the operations of suppliers, and the methods of marketing products or services, the risk manager should be able to answer the question: "What's going to be disrupted?"

"That's the greatest piece of information that will leverage the (preparedness) program," Mr. Eisner says.

- Retaining seismic engineering professionals to assess the stability of the most important buildings.

"In the engineering community, there are really only a handful that are experts in this," says Paul Flores, director of SCEPP.

- Looking beyond the company's structural aspects for loss potential.

Perhaps even more devastating to some businesses than the loss of valuable property can be the loss of computerized records, like customer files, financial transactions, business history and other key data.

"The structure may be fine, but that doesn't guarantee the contents inside will fare well," says Mr. Flores. For example, buildings that survive the earth tremors could be struck by fire.

- Working toward practical goals.

To face the probability of an earthquake realistically, risk managers must recognize that the best they can do is make their operations earthquake-resistant, earthquake preparedness experts say.

"No building is earthquake-proof. There's no guarantee—even the best buildings in L.A. may fail under the wrong circumstances," one consultant says.

- Developing strategies for maintaining operations under duress.

This could include plans for moving key executives outside the quake-stricken area, locating sup-

Continued on page 12

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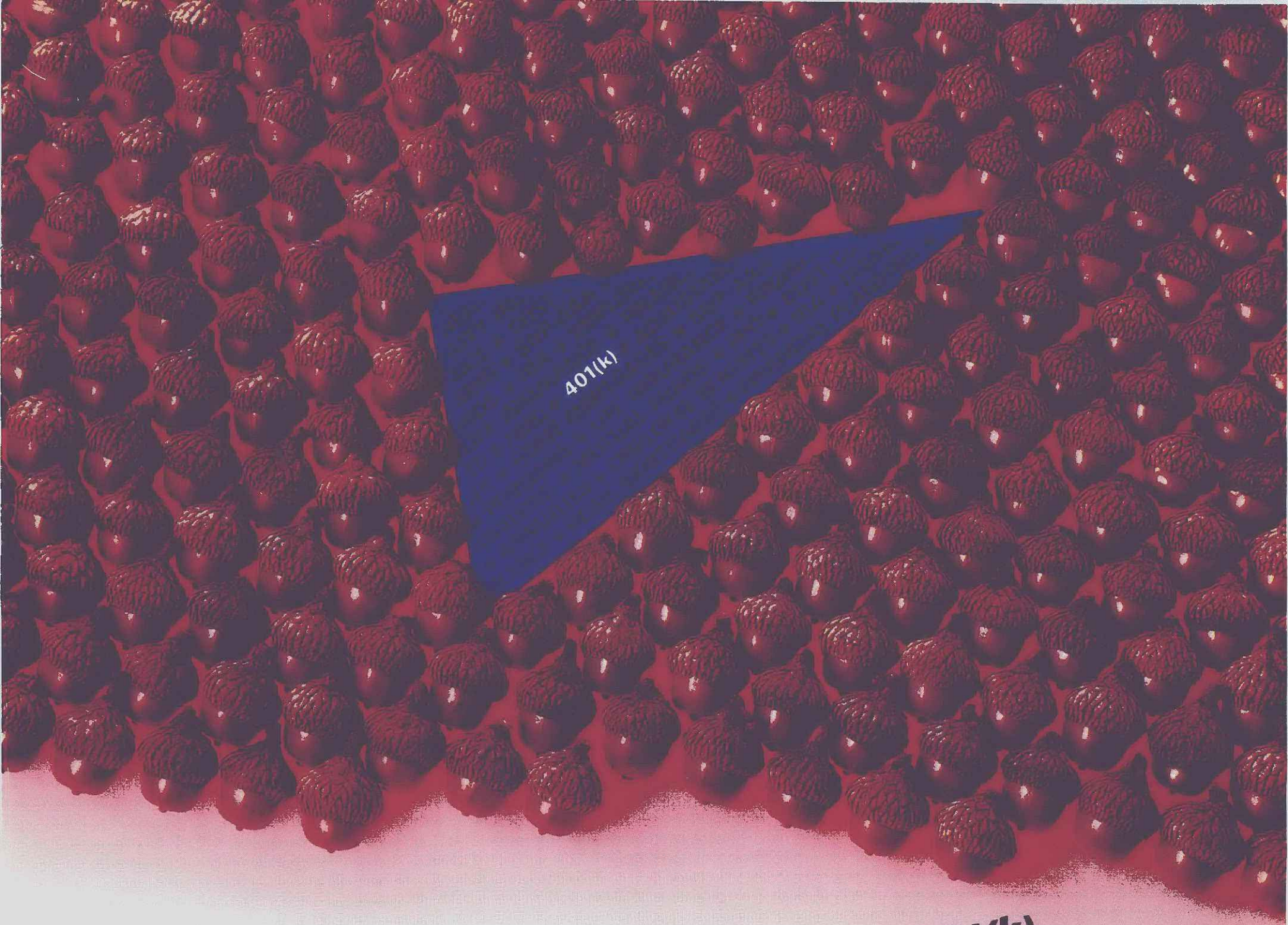
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opinions

Get ready for 'the big one'

DON'T DISMISS an earthquake as something that is not going to happen to you.

There are plenty of reasons to take the risk of earthquakes seriously, and there is much risk managers can do to prepare for an earthquake to minimize the loss of life and assets.

Our special report this week on earthquake risks and what the experts advise is packed full of inexpensive as well as more complicated ways companies can reduce potential earthquake losses (see stories, page 3).

An earthquake is going to happen in the lifetime of the people practicing risk management today. Most likely it will occur in California, and most likely in Los Angeles, where the chances are up to 50% that a major earthquake will strike by the year 2000. That is within the next 13 years, for those who have grown accustomed to thinking of year 2000 as the distant time-frame of science-fiction movies.

Risk managers with operations in many parts of the country outside of California also have to consider that earthquakes can strike in their areas as well.

With the timing of earthquakes so near, risk managers practicing today should consider that they, not their successors, will be held accountable for how well- or ill-prepared an organization is to withstand an earthquake.

There is so much at risk in a major earthquake. The devastation in Los Angeles, a major financial and insurance center, would reverberate throughout the country. How much additional disruption a Los Angeles earthquake causes will depend on how well Los Angeles prepares today for earthquakes. Its efforts to date are commendable.

Wherever an earthquake strikes, there will be lives lost, property damaged and business activities interrupted. The people lost and the business interruption could cost a company market share, or even destroy the business.

And, companies could be held liable for failing to protect their employees and the public from the damage caused by an earthquake. The danger is known and so are the ways to minimize the losses caused by an earthquake. Failing to act now is at least negligent, and perhaps even willful and wanton disregard for the health and safety of employees and the public.

Just buying earthquake insurance is not enough to prepare for an earthquake. It does nothing to reduce the destruction. And, even if the limits purchased are adequate to cover property losses, the insurer may not be able to pay the claims. Many insurers could be driven into insolvency—beyond the ability of the state guaranty funds to respond—by earthquake losses, especially since the insurance business has yet to implement any standby earthquake catastrophe program to fund losses (*BI*, Nov. 17, 1986).

The risk of a major earthquake is real. The technology to limit its destruction is available. Risk managers should begin immediately to assess the danger of earthquakes in their locations and, where the risk exists, to develop and implement earthquake preparedness programs.

letters

Tort reform study a good beginning

To the editor: I was surprised by your account of the Claim Evaluation Project sponsored by Insurance Services Office, in which it was inaccurately reported that "ISO officials declined to respond to repeated requests for an interview about the study" (*BI*, May 18). I was disappointed, since I know that a member of my staff had responded fully and forthrightly to every question your reporter asked us—and had offered to arrange for me to speak with your reporter, as well.

While we cannot always put every ISO officer at *Business Insurance's* beck and call, we have always provided *Business Insurance* with timely access to members of our staff who are qualified to answer whatever questions you have.

Your story was curious for another reason: In the nearly 3,000-word report, there was not a single mention of the Claim Evaluation Project's objectives. That's like reporting on the clinical study of a new drug and mentioning only the drug's side-effects and potential misuses without once mentioning what the drug was intended to be used for.

The Claim Evaluation Project was intended to identify:

- Types of claims where tort-law changes are likely—and not likely—to make a difference in indemnity payments.
- The direction and relative order of the magnitude of the change in indemnity value likely to result from various tort law changes for each of the claims situations studied.
- The comparative effects of various types and gradations of tort-law revision on each of the claims studied.

The Claim Evaluation Project achieved these objectives and so made a valuable contribution to the body of knowledge about tort reform.

We remain confident that no *responsible* observer will attempt to misuse the study's results or cite them without also acknowledging the study's limitations, which ISO and the study's author, the consulting firm of Hamilton, Rabinovitz & Alschuler, prominently disclosed.

Among the limitations: The study's indemnity-cost estimates for the six claims studied cannot be generalized to the full claim portfolio of the insurance industry, so the results aren't directly relevant to issues of insurance pricing or rate regulation. *Irresponsible* people may, of course, attempt to misuse the study, just as the irresponsible may misuse a drug for other than its intended purpose.

But acknowledging that the Claims Evaluation Project isn't a cure-all—or the answer to every question on tort reform's impact—is not a good argument for halting research and refusing to find answers when we can.

David E. Ostwald
Vp, Corporate Communications
Insurance Services Office Inc.
New York

■ *Business Insurance asked to speak to a policy-making official of ISO to answer such questions as "How did ISO expect the various factions in the tort reform debate to interpret the study? And, what effect did ISO expect the study to have on the tort reform debate?" No policy-making official of ISO returned our calls. Also, Business Insurance reported the objectives of the study, as well as its results, in a 4,200-word report in the May 11 issue. The May 11 article was the most comprehensive report on the results of the study published anywhere. The May 18 article was intended to report people's opinions on the impact the study might have. It referred to the May 11 article, but purposefully did not repeat its contents.*

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

Tort reform study erred on New Jersey

To the editor: To include New Jersey among the nine states not enacting tort reform legislation is misleading ("The Impact of Tort Reform") (*BI*, May 11). It may be true that New Jersey did not pass laws affecting the three areas (joint/several liability; collateral source; non-economic damages) on which the Insurance Services Office survey focused. However, New Jersey did pass major and far-reaching legislation to deal with the void left by the insurance industry with respect to pollution damage.

Certainly, both L.1985, Chapter 461, enacted Jan. 15, 1986 (concerning the liability of persons performing hazardous waste cleanups), and L.1986, Chapter 59, enacted July 28, 1986 (indemnifying and defending persons against claims arising out of hazardous substance cleanup activities), qualify as tort reform. These laws removed the very real threats of strict liability tort claims and the lack of insurance for claims for pollution damage against the engineers and cleanup contractors who are essential to the cleanup process. Because these skilled professionals can now safely practice, future torts against innocent third parties arising out of poisoned air or water will be substantially reduced in number.

That's tort reform. No thanks to the insurance industry.

Thomas J. Hickey
Counsel
Malcolm Pirnie Inc.
White Plains, N.Y.

State guaranty funds beat federal option

To the editor: Your coverage of my presentation at the annual meeting of the Alliance of American Insurers in Quebec City has been misinterpreted by some readers (*BI*, May 18).

I was asked by the Alliance to discuss possible advantages a federal guaranty

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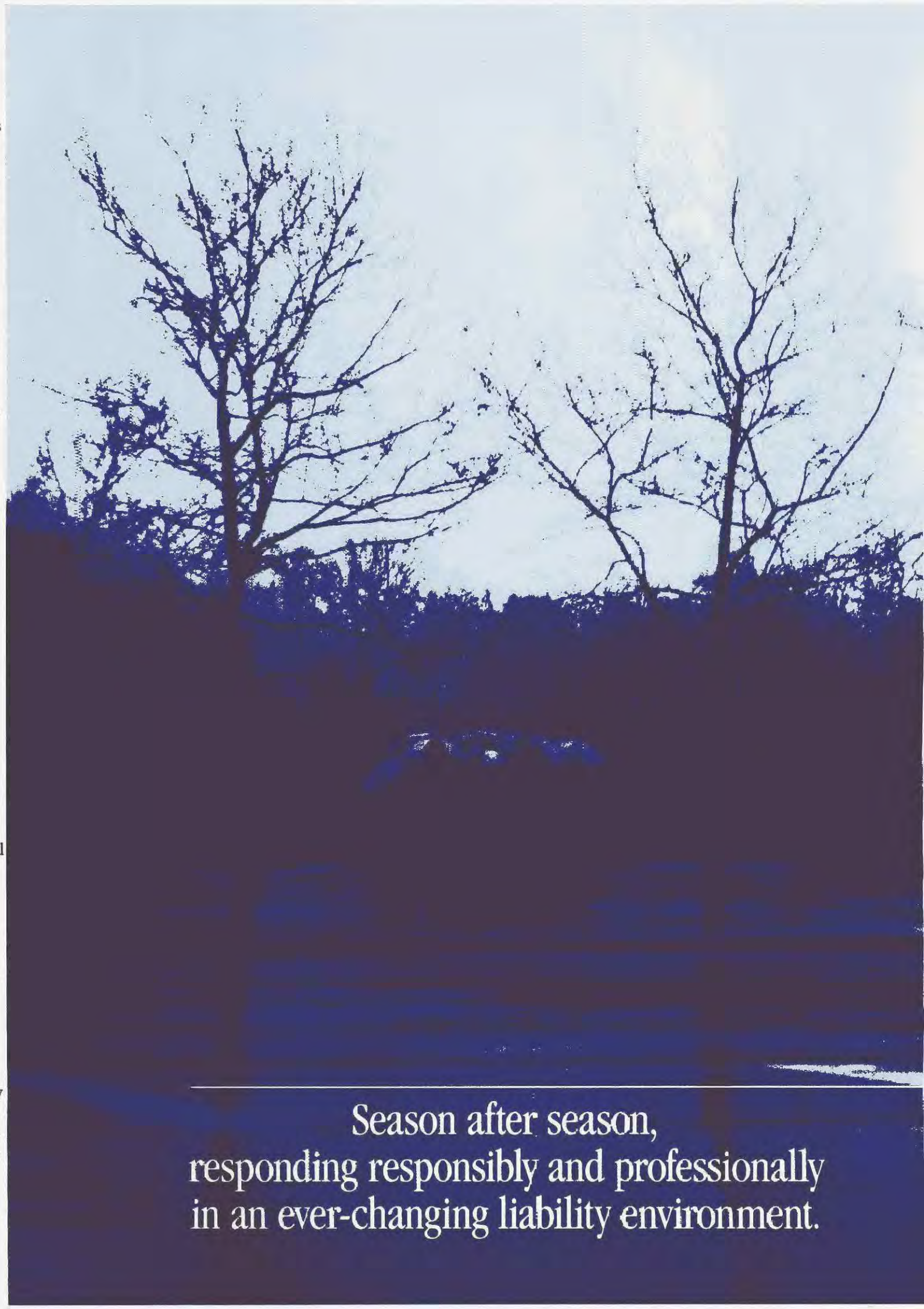
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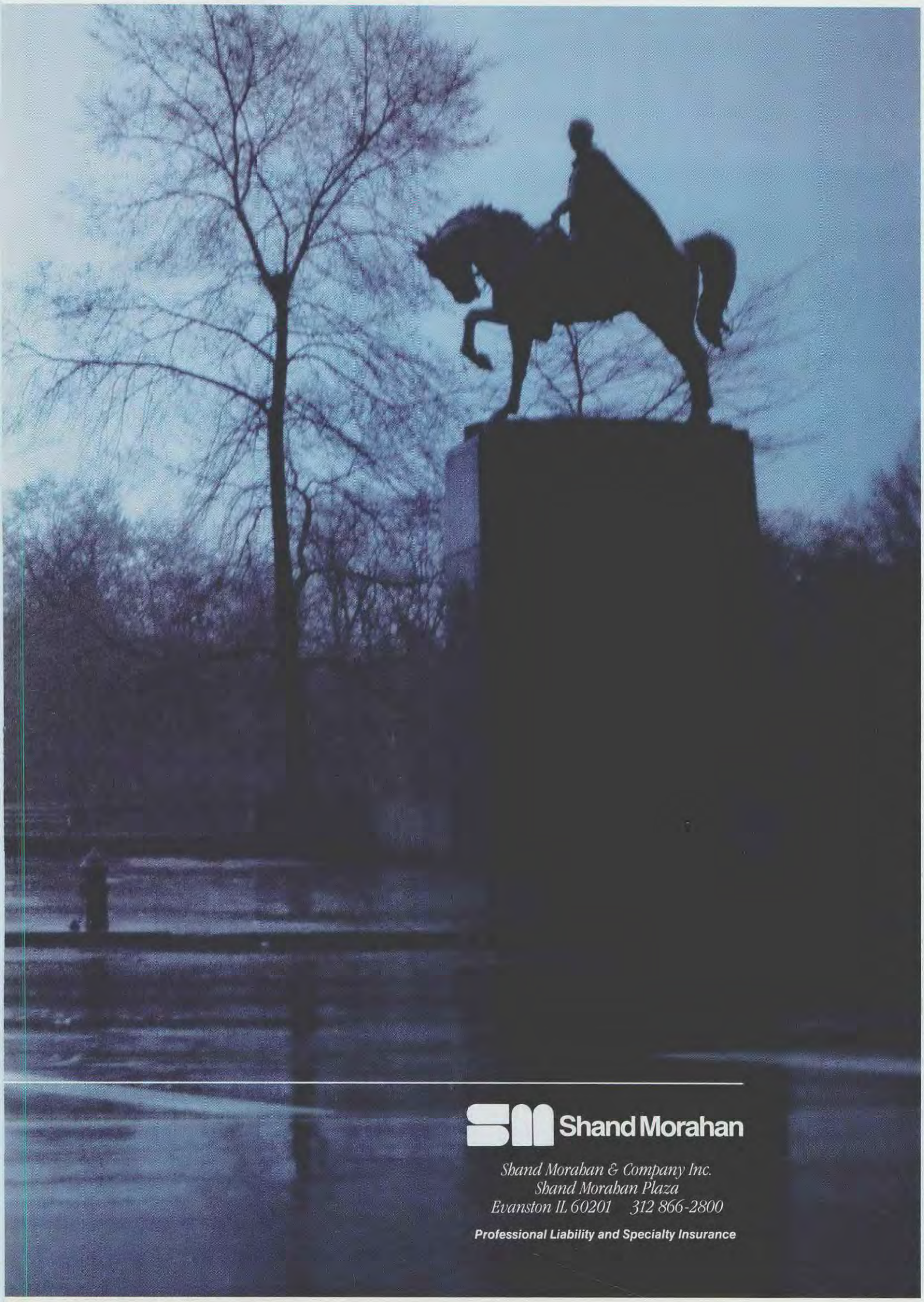
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Professional Liability and Specialty Insurance

Quake

Continued from page 6

plies from a different part of the country and preparing alternative means of communication.

Businesses that already have incorporated earthquake loss prevention into their risk management programs have done so in a variety of ways (see story, page 16).

Fro-active steps can range from major structural overhaul, like reinforcing walls with steel braces, to minor workplace improvements, like securing sensitive equipment with Velcro.

Yes, Velcro.

Intel Corp. in Santa Clara, Calif., has applied Velcro strips to its workbenches and to sensitive pieces of electronic equipment that, despite their calculatorlike size, would cost about $50,000 each to replace. The equipment now can be removed as needed, but won't easily be dislodged in an earthquake.

'You don't need much to keep some of these things from falling,' says Gary Toms, Intel Corp.'s assistant treasurer, referring to the Velcro strips Intel has applied to workbenches and sensitive pieces of electronic equipment.

"You don't need much to keep some of these things from falling," says Gary Toms, Intel's assistant treasurer, director of risk management and a self-described aficionado of earthquake preparedness.

More elaborate methods of guarding against damage to Intel property include anchoring or bolting down equipment in a variety of ways. Costly microscopes have been tethered to workbenches so they won't fall to the floor, and special shelves were designed to protect the company's cache of fragile silicon wafers.

An ancillary benefit to loss control steps like these has been a substantial and unexpected drop in Intel s incidence of property losses —what Mr. Toms calls the "knock 'em over, break 'em type of losses."

"We collected that as a reward," he quips.

Two years ago, Intel's earthquake insurer was so impressed with the company's loss prevention program that it reduced Intel's earthquake insurance rate by 25%.

In Intel's "Mr. Clean Program," senior management inspects the workplace monthly to make sure equipment is properly secured, among other things.

"If your management doesn't stand behind it and keep it going, it doesn't happen," says Mr. Toms.

Indeed, SCEPP's Mr. Flores says management support ' is just crucial, especially at the larger companies, because all this takes a commitment of resources—time and money."

Involvement of upper management is paramount, certainly. But no company's earthquake preparedness plan is complete unless it recognizes the role of employees.

After a moderate quake a few years ago, Mr. Toms recalls, several employees transferred to Intel divisions outside California for fear of another disaster.

Shortly after, some of the remaining workers raced out of their offices in panic one day when the local garbage collector accidentally dropped a large metal trash dumpster with a ground-shaking thud.

To prevent reactions like these, Intel asked EQE a few years ago to conduct an informational lecture. Such forums can be "very, very helpful," Mr. Toms says.

Some industries may be more susceptible to quake losses than others. For example, hospitals rely on high technology—like sensitive surgical instruments—that can be easily destroyed or rendered useless in an earthquake.

"But more than other kinds of businesses, hospitals must stay open—there's kind of a paradox there," says Michael E. Durkin, a health care architectural consultant in Woodland Hills, Calif., and a research associate professor at the University of Southern California's School of Architecture.

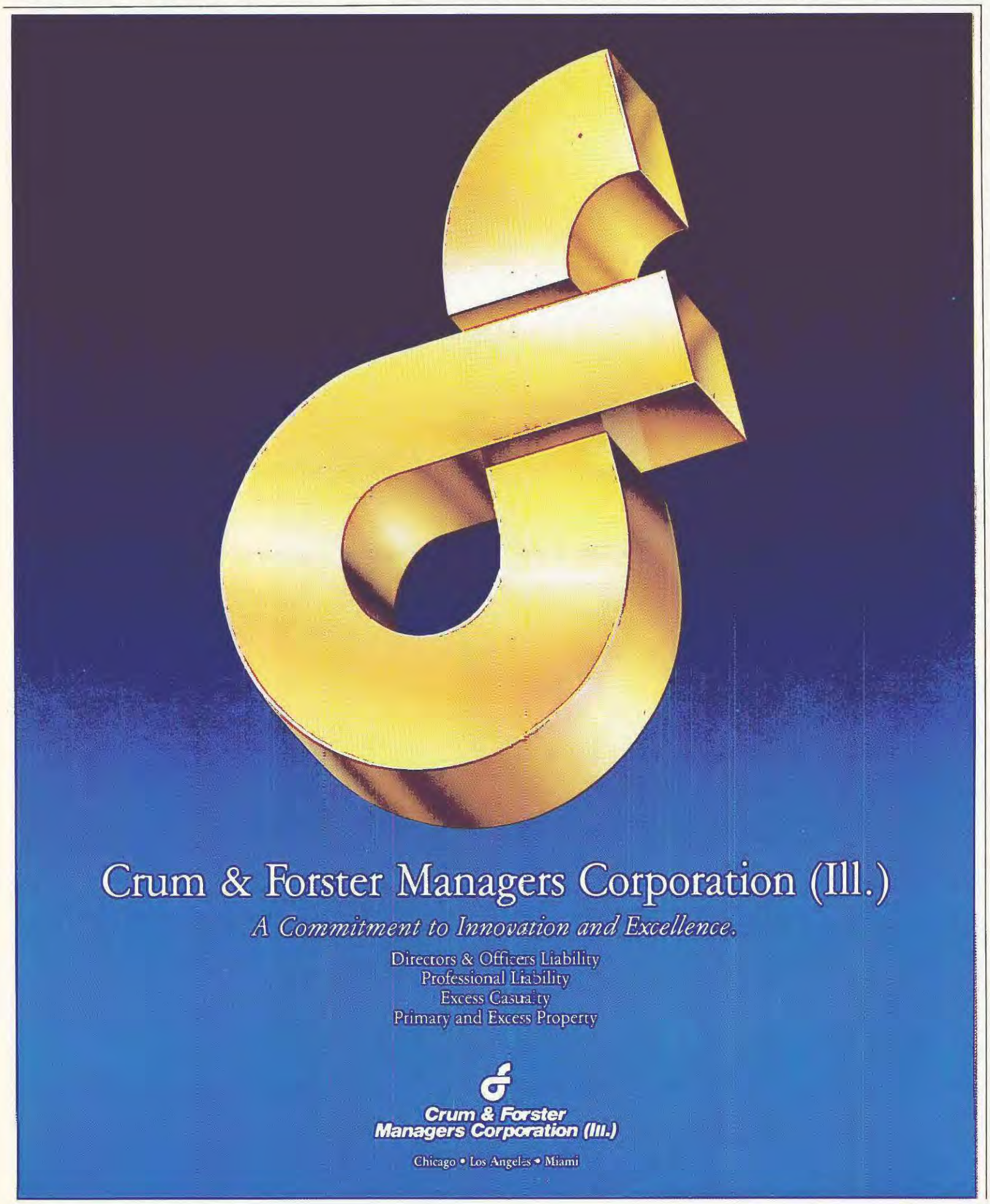
As a prerequisite for state licensing, California hospitals must have a disaster plan and two disaster drills annually, seemingly making hospitals better equipped for an earthquake than other businesses. However, few of these drills focus on earthquakes, Mr. Durkin says.

In the 1971 quake in Southern California's San Fernando Valley, four of the five badly damaged hospitals had to discontinue or reduce their services, greatly reducing the availability of health care in the area, he says.

One hospital, Olive View Medical Center in Sylmar, had opened only weeks before that quake, to accolades as "the showcase of the Los Angeles County Hospital System," Mr. Durkin remembers. It was so badly damaged that it had to be demolished, and a smaller replacement facility was built in nearby Van Nuys.

Reconstruction of the hospital was delayed due to funding problems, and a new permanent facility wasn't able to open until three weeks ago—15 years after the damage was done.

Funding problems aside, a hospital today probably would need four or five years to redesign and reconstruct a new facility after a quake, Mr. Durkin estimates. ■



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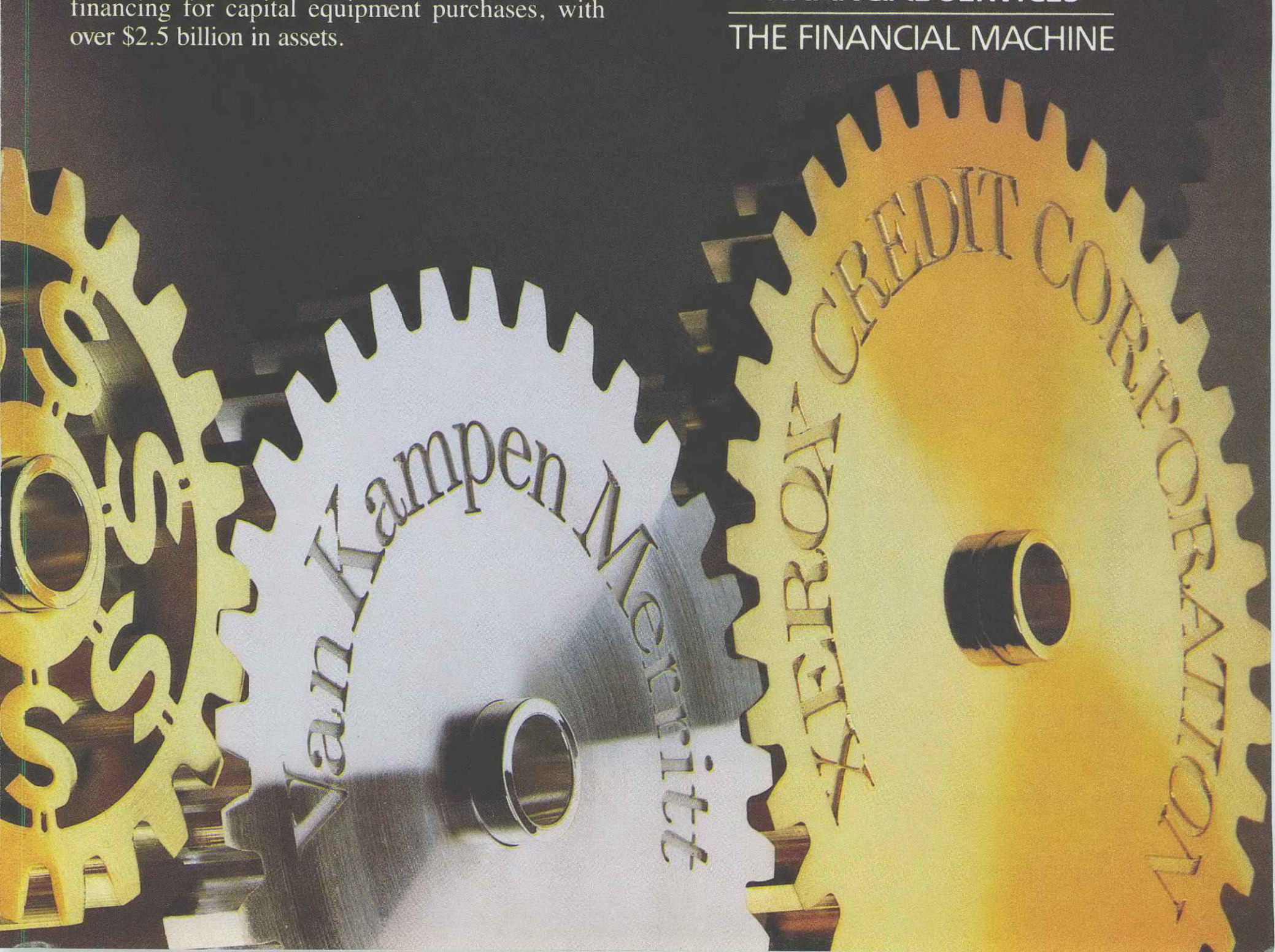
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California companies brace for 'big one'

By STEVE TARAVELLA

"When the big one comes," Californians are fond of asking their neighbors, "will you be ready?"

That question about earthquake preparedness could just as well be posed to the business community as to hilltop homeowners.

More and more risk managers are facing up to the probability of an earthquake by educating themselves, adopting loss control programs and spreading the word to their loss-conscious colleagues.

Still, too few companies take the risk seriously and will be caught woefully unprepared when an earthquake strikes, warn structural engineers, geophysicists and disaster management consultants.

"There is a growing awareness, but it's an incremental and slow process," says Richard Eisner, director of the Bay Area Regional Earthquake Preparedness Project, part of the California Seismic Safety Commission in Oakland.

"I think most people prefer to hide from the facts rather than face the real risk," suggests Keith Drissell, controller at costume jewelry manufacturer Laurel Burch Inc. in San Francisco.

Laurel Burch consulted BAREPP, among others, when it began developing earthquake contingency plans to protect its employees, its property and its business operations.

Still in development, Laurel Burch's plans range from storing water for employee personal use if they are stranded at work in the days following an earthquake to diverting incoming shipments of jewelry to airports outside of San Francisco.

Some businesses are offering in-house education programs. Some have turned to simple loss-prevention practices to minimize workplace property damage. Others have purposely chosen areas with little or no seismic activity for new office locations.

And still others—the most aware—are using consultants and structural engineers to help them stay in business immediately after an earthquake occurs.

"Companies used to manage their earthquake risk simply by buying millions and millions of dollars of insurance. That's just not cost-effective any more," explains Elwood A. Smietana, group manager at EQE Inc., consultants in earthquake engineering, planning and management based in San Francisco.

If a company relied solely on insurance to make it whole after an earthquake, it may find itself dealing with an insurer suddenly forced into insolvency, or one that pays slowly because its own operations have been affected by the disaster, consultants say.

Companies that are taking steps to control their losses after an earthquake "serve as a model for others; there's nothing like examples to get people's attention," says Paul Flores, director of the Southern California Earthquake Preparedness Project, an educational and awareness-raising agency in Los Angeles. "If a company sees its competition taking these actions, that leadership is more forceful than the government."

Among businesses that have heeded earthquake warnings is California & Hawaiian Sugar Co., which was concerned about losses it might sustain to its $500 million sugar refinery—the world's largest—when an earthquake strikes.

The refinery is comprised of an array of buildings, including liquid sugar tanks, silos, office structures and sugar and machinery warehouses, some of which date to C&H's 1906 beginning. An extensive conveyor system runs through much of the refinery, which is located in Crockett, Calif., about 20 miles east of the dreaded San Andreas Fault.

Frustrated by high earthquake insurance premiums about two years ago, C&H set out to determine exactly what its real losses from an earthquake would be. The San Francisco-based company turned to EQE for help.

EQE's evaluations concluded that C&H's probable maximum loss to the refinery from a severe quake would be approximately 20% of the facility's total value.

That's about what Risk Manager Marge Layne guessed it would be, but now the company had expert confirmation. Based on EQE's work and recommendations, the sugar company took two actions.

First, it began going bare. "The cost of quake insurance was so extreme that we elected to go without quake cover until it became more reasonable," she says.

Secondly, it proceeded to make structural improvements in two of the refinery structures whose individual PMLs were about 30%. Work on these buildings—offices and an equipment warehouse—began in January, and should be completed early this summer, she estimates.

The changes, primarily steel reinforcement, are costing C&H between $100,000 and $200,000, which Ms. Layne says is "much more reasonable than the cost of quake cover."

She stresses that C&H probably would have commissioned the reinforcement work even if the company had been able to secure affordable earthquake insurance.

EQE put C&H's concern about losses from business interruption in perspective with its conclusion that, while the PML to the exterior of working facilities would be about 20%, the refinery would still be able to operate.

"That was absolutely amazing to me," Ms. Layne says.

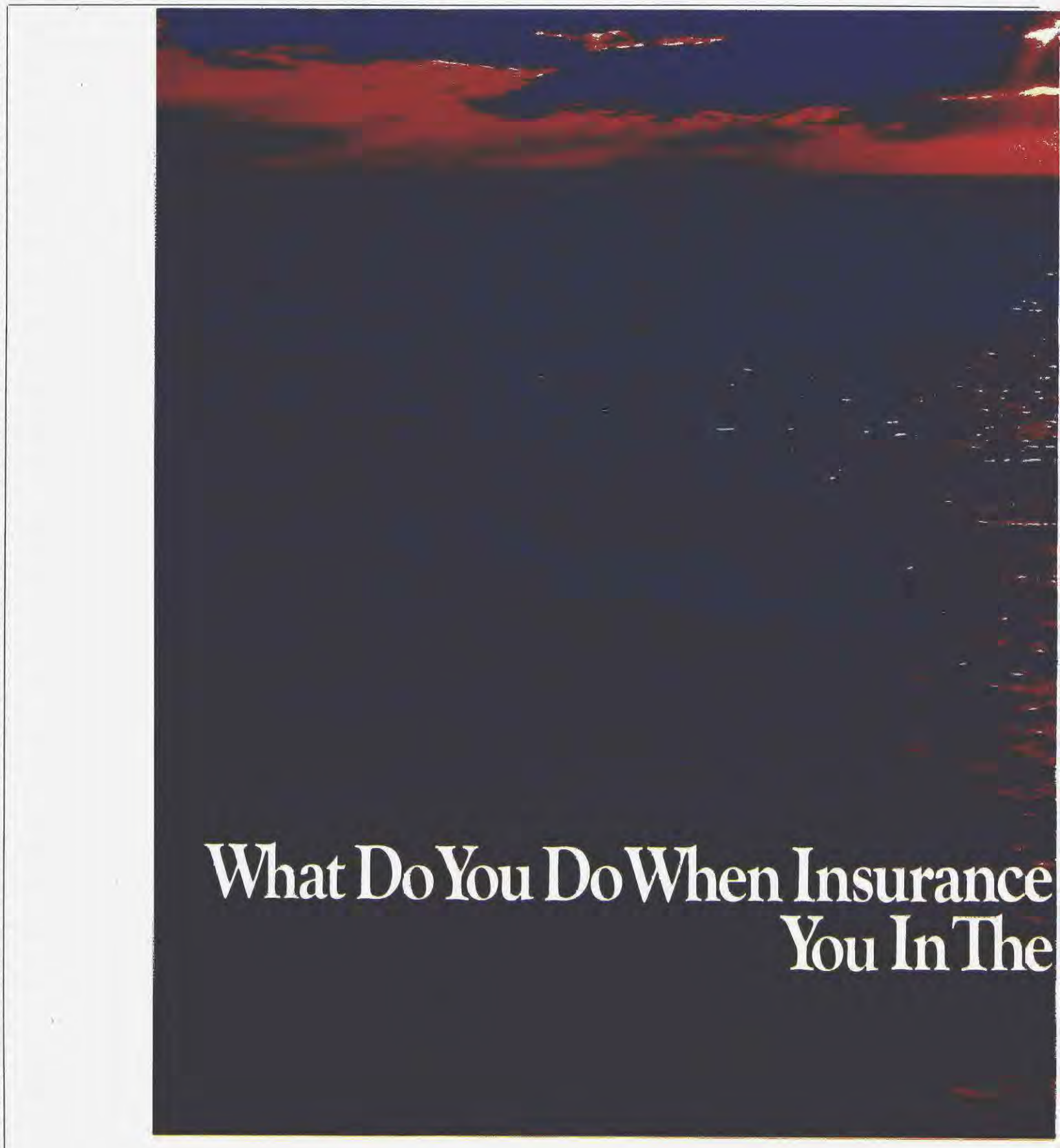
She advises others considering earthquake loss evaluation: "It will help you find out exactly what your exposures are and will help you market your cover."

If all goes well, C&H will be able to find affordable coverage next February by using its earthquake foresight as a carrot for insurers, Ms. Layne says.

Loss prevention at Intel Corp., a 20-year-old semiconductor manufacturer in Santa Clara, was prompted by concern that a major earthquake could put the company out of business just long enough for it to lose its spot in the fast-paced computer chip industry.

"Our competitors do not all have the same risks we do. We need to be better prepared to maintain our marketplace in the event something comes," says Gary Toms, assistant treasurer of risk and insurance.

Continued on next page



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Continued from previous page

When Intel turned to EQE in the late 1970s, "all our eggs were in one Silicon Valley basket," recalls Mr. Toms. Wanting to better distribute its exposure to earthquake loss, Intel has since established circuit manufacturing operations in Phoenix, Ariz.; Albuquerque, N.M.; and Portland, Ore.

The company also has devoted attention to its home-office property. Concerned about the stability of a particular two-story, circuit-testing facility in Santa Clara, Intel asked EQE to evaluate the structure in 1978. When the consultant recommended major structural improvements, Intel commissioned a $750,000 project.

Walls were reinforced with extra braces, roofs were more securely fastened to building walls, and roof surfaces were strengthened.

Since that project, Intel has hired a full-time structural engineer and incorporates earthquake management concepts into many projects, including examining new building design plans for resistance to earthquake damage.

Mr. Toms says Intel's building standards are more strict than those promulgated under the Uniform Building Code—so much so, in fact, that Phoenix builders were somewhat perplexed by the design specifications for Intel's plant.

Mr. Toms is confident Intel's buildings will withstand what some other area businesses will not, but concedes that "the only real proof will be in the pudding."

The San Francisco-based California Bankers Clearinghouse, which facilitates check exchanges between eight of the state's largest banks, has a sophisticated emergency plan to keep the state's financial community on course in the wake of an earthquake measuring 7.0 on the Richter scale.

The plan, initiated about six years ago and fine-tuned in the past two years, is designed to help the banks resume their operations as quickly as possible after an earthquake, explains Jerry Milano, executive director.

Concern over the chaos that could befall banking services after a California earthquake extends into the entire U.S. economy: Each day, the banks transfer some $3.5 billion in commercial and personal checks through the clearinghouse, about 13% of all the checks processed daily in the nation.

Clearinghouse members, each of which has its own earthquake response plan, are: Bank of America, Security Pacific National Bank, First Interstate Bank of California, Wells Fargo Bank, Union Bank, Sanwa Bank California, Bank of California and City National Bank of Beverly Hills.

Key to the plan is that all eight banks have major offices in both Los Angeles and San Francisco. If a quake strikes the Los Angeles area, operations would be moved to Northern California; if disaster struck the San Francisco area, operations would be transferred to Southern California.

"We do not believe we'd experience a catastrophic earthquake in both Los Angeles and San Francisco at the same time," Mr. Milano explains.

The clearinghouse has arranged for a local air charter service to transport checks, computer records and key personnel to the lesser-damaged of the two cities in the event of an earthquake, he says.

Facilitating the move would be an elaborate, 8-month-old radio network set up expressly for post-disaster communication between the banks, the clearinghouse, the Federal Reserve and state and local emergency management agencies.

Numerous battery-powered radio receivers have been installed at the financial institutions as well as at the homes of bank executives and key employees. Transmitters have been set up on various remote mountaintops across Southern California so that if any one is disrupted in an earthquake, power automatically shifts to another.

So far the system is operational only in Southern California and will be installed in Northern California, said Mr. Milano.

"We feel reasonably confident that we have a good plan, and we continue to work on it. We've tried to anticipate as many things that might happen as rational people can," he says. "It's something we're very serious about. We think of the quake as 'when?' not 'if.' "

When discussing the major California businesses that have taken steps to prevent earthquake-related losses, International Business Machines Corp.'s name comes up more than any other.

"That's just an incredible program; their facilities are probably some of the safest around," observes Mr. Flores of the Southern California Earthquake Preparedness Project, among others.

Trying "to provide maximum protection for our people and our property," IBM has adopted a variety of loss prevention approaches, including the seismic bracing of buildings and development of formal disaster recovery procedures, it said in a prepared statement in response to questions about its earthquake program.

Extensive work such as what these businesses have done may appear expensive—the clearinghouse spent between $80,000 and $120,000 on its core equipment alone—but risk managers who've taken the loss prevention plunge say it's money well spent.

And, businesses needn't turn immediately to elaborate, costly methods to reduce their loss potential. After a seismic evaluation of its 17 California locations late last year, a major West Coast retailer cut its exposure to property loss by taking some simple, inexpensive steps.

"We wanted a better way of minimizing our loss than just financing it through insurance premiums," says a representative of the upscale but low-profile retail outlet, which asked that it not be identified.

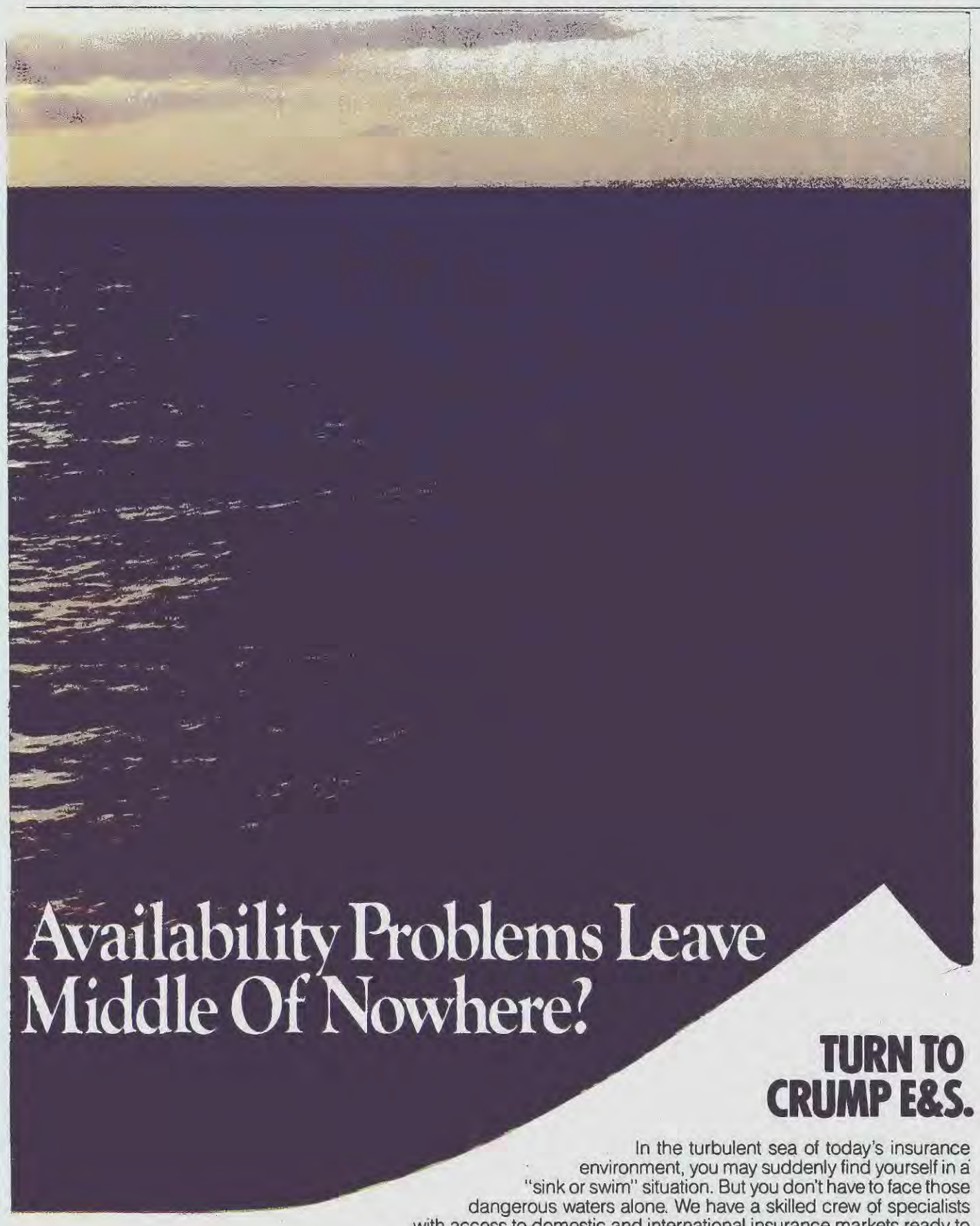
"Some things were so simple to take care of that we did them right away," she says. "The recommendations weren't costly, but would sure make a big difference in the event something happened."

One simple loss-prevention step was altering the way the stores anchored their free-standing glass display cases. If an earthquake struck today, the panels in these cases would be "much safer pieces of glass" than they would have been a year ago, she says.

The evaluation also helped the chain determine that its insurance was adequate. Several months before the assessment, it had dropped some excess layers because of the high premiums in the tightening market; the report confirmed its decision as proper.

Businesses and institutions in other states with seismic activity have been even slower to act than those in California, but they have not totally ignored the problem.

For example, when refurbishing an unreinforced masonry building on Boston's waterfront two years ago, the U.S. Coast Guard, concerned about the structure's ability to withstand earth movement, took steps far beyond those then required by state building codes, says Ed Fratto, earthquake program manager at the Massachusetts Civil Defense Agency in Framingham. These steps included tying the walls to the floors with steel braces and reducing the size of certain windows, he recalls. ■



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Fires will cause most losses after California quake: Study

By KAREN HUELSMAN

More of the losses from a major California earthquake would be from fires following the tremors than from building collapses, according to a recent research study.

And, the market crunch that would follow such a disaster would affect insurers worldwide.

"The industry would survive, but it (fire) would severely deplete reinsurance capacity," said Don Segraves, executive director of the All-Industry Research Advisory Council in Oak Brook, Ill.

In the study commissioned by AIRAC, researchers estimated there would be about $7 billion in insured fire losses in the San Francisco Bay area after a quake.

Meanwhile, the California Insurance Department estimates there would be $4.3 billion in losses for insured shake damage—structural damage resulting from movement of the earth. In the Los Angeles area, the figures are $9 billion in insured fire damage and $5.4 billion in insured shake damage.

"The main reason why fire is a greater threat to insurers is that nearly all properties are insured for fire, but only about 15% to 20% of homes and business properties are currently insured for direct earthquake damage," according to Mr. Segraves.

"San Francisco is not a lot different from the way it was at the time of the 1906 earthquake," Mr. Segraves said. "There are a lot of wooden homes. As the fire chief said, 'the city is built to burn.' "

AIRAC, a public policy research organization funded by property/casualty insurers, commissioned the San Francisco office of consulting firm Dames & Moore to study fire losses after earthquakes because most research has focused solely on direct shake damage.

But even if a building were not damaged by the quake, it could still be a candidate for fire losses. There would be so many simultaneous ignitions that fire officials would be unable to respond to all the emergencies, the study showed.

Through a simulation of events, researchers found that wind conditions would greatly influence the number and severity of fires. Charles Scawthorn, consulting engineer with Dames & Moore, reported that a quake of similar magnitude as the 1906 San Francisco quake would touch off 160 to 320 large fires if winds were 10 mph or less. But if winds were 20 mph, that figure would rise to about 400.

At the lower wind conditions, insured fire losses would be at least $4 billion, with 20-mph wind conditions yielding losses up to $15 billion. A fire loss of $9 billion to $15 billion represents 3.4% to 5.7% of the $264 billion worth of property at risk in the San Francisco Bay area.

The city of San Francisco's fire risk also was found to be three to four times higher than for the Bay area as a whole.

For the Los Angeles Basin, the study estimated more of the fires would be large, with 310 to 440 starting after an earthquake if winds were less than 10 mph. But with 20-mph winds, the estimate rises to 500.

Orange, Los Angeles and Ventura counties would suffer $5 billion to $9 billion in fire losses after an earthquake in low wind conditions, and $13 billion to $17 billion in winds greater than 20 mph, researchers found.

Those losses translate into 1% to 2% of the $466 billion of property values at risk under mild winds, and 2.7% to 3.6% under windier conditions in the Los Angeles Basin.

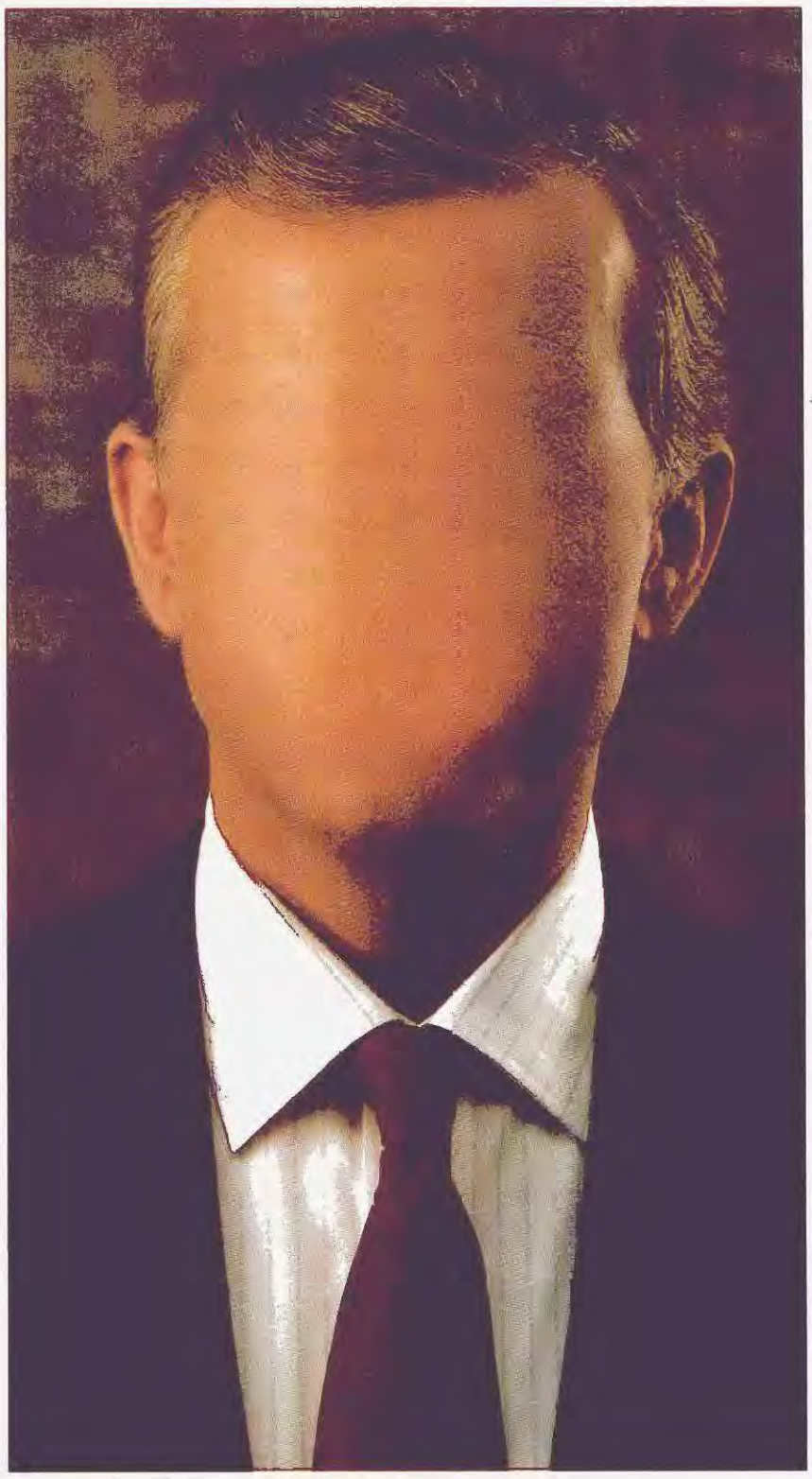
Based on a 1986 AIRIC study on hurricane disasters, Mr. Segraves said a $14 billion insurance loss could cause a "significant number of insurance companies—11%—to lose one-half of their surplus."

Mr. Segraves said the insurance industry should use the fire research as a catalyst for the examination of the adequacy of state insurance guaranty funds and the amount of capacity in the market.

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Free copies of "Fire Following Earthquake" are available from the All-Industry Research Advisory Council, 1200 Harger Road, Suite 222, Oak Brook, Ill. 60521.

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Earthquake liability could shock businesses

By STEVE TARAVELLA

LOS ANGELES—One unexpected aftershock of an earthquake could be corporate liability for damages or injuries sustained during the quake.

The "act of God" defense may not protect companies from this liability, experts advise.

Businesses—especially in California—that have been warned that an earthquake will occur might be held responsible later for not acting upon that knowledge, according to experts.

'Earthquakes are not "an act of God." For (businesses and local governments) to put their heads in the sand and claim they don't have the knowledge and therefore not do anything is not going to fly,' says Jeanne B. Perkins

Specifically, parties may claim that injury or damage was preventable, and may try to hold businesses to a legal standard of care or a standard of "reasonable" actions, say earthquake emergency planners.

"There's no one in California who can argue they haven't been clearly informed of this hazard," says Dr. Charles Thiel, past head of the National Earthquake Hazards Reduction Program and a professor of civil engineering at Stanford University in Palo Alto, Calif.

So convinced is Dr. Thiel that people who are "looking for someone to blame for what happened" will seek satisfaction in lawsuits that he and some of his colleagues refer to the next major earthquake as "The Great Lawyers' Earthquake of whatever it happens."

The liability implications to businesses may even extend beyond third-party legal actions into the workers compensation arena.

When a major quake occurs in the United States, some injured employees will undoubtedly take action against their employer, speculates Robin McGuire, president of Risk Engineering Inc., a consulting firm in Golden, Colo., that specializes in earthquake-related matters.

For instance, he explains, a worker hospitalized with injuries sustained when struck in the head by an unsecured, cascading bookshelf might sue his employer over the incident, claiming: "It was caused by a natural disaster, but there were normal, state-of-the-art steps you could have taken that you didn't."

Employers—in both the public and private sectors—that may have planned to rely on the "natural disaster" or "act of God" defense could be in for a surprise.

"Earthquakes are not 'an act of God.' For (businesses and local governments) to put their head in the sand and claim they don't have the knowledge and therefore not do anything is not going to fly," says Jeanne B. Perkins, senior regional planner and earthquake program manager at the Assn. of Bay Area Governments in Oakland, Calif.

Ms. Perkins was project manager of a 1984 study by that group on "The Liability of Businesses and Industries for Earthquake Hazards & Losses" and, more recently, conducted a survey of earthquake preparations undertaken by local governments in Northern California. The business liability study concluded that the "act of God" defense may only work only in two limited situations.

First, the business may be able to claim that the quake was of such a type or size as to be unforeseeable and that the business did not act negligently with respect to dealing with a foreseeable earthquake.

Second, the business may defend itself by saying that the earthquake was foreseeable, that the business took all reasonable actions to prevent harm, but that damage occurred nonetheless.

The study warned, among other things, that developers may be liable for earthquake-related damages and injuries under theories of warranty and strict liability, and that designing a building to meet code standards does not act as a shield to liability for architects and design professionals.

Consultants say risk managers in other parts of the country should not mislead themselves into believing these liability issues are unique to quake-prone California.

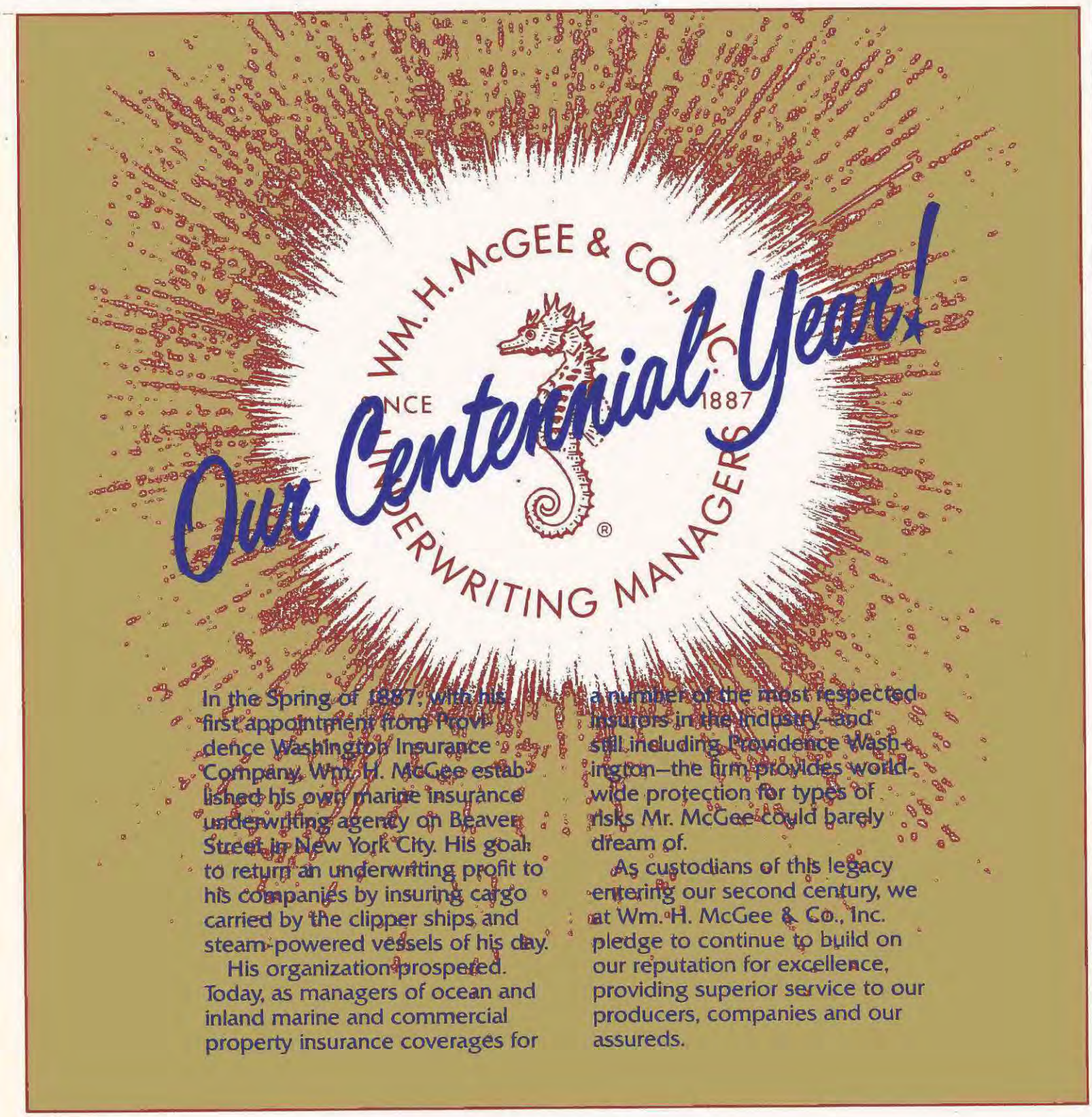
"If there's a known hazard, then responsible officials have to take action to minimize that hazard," says a spokesman for the Missouri State Emergency Management Agency in Jefferson City.

To illustrate what can befall unsuspecting businesses after an earthquake, the spokesman cited Weyerhaeuser Co.'s experience after the May 1980 volcanic eruption of Mount St. Helens, in which 57 people died.

Weyerhaeuser was sued by families of people who died on Weyerhaeuser property. They claimed the Tacoma, Wash.-based lumber company knew or should have known the eruption was imminent and didn't take proper precautions.

After spending "well into the six figures" on defense costs, the trial resulted in a hung jury and the plaintiffs received no award, says Don Cooper, Weyerhaeuser's liability program manager.

Recognizing that the parties could have initiated another costly trial, Weyerhaeuser settled the claims for $225,000. ■



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Photo: AP/Wide World

Structural damage to Mexico City buildings after the September 1985 earthquake was severe. Property damage estimates, which are still being revised 20 months later, stand at $3.5 billion.

Mexico City earthquake offers tragic examples

By STEVE TARAVELLA and STACY SHAPIRO

There are lessons to be learned from the tragic 1985 Mexico City earthquake.

Richard J. Roth, assistant California insurance commissioner, says he found firsthand on a trip to Mexico City last year what he knew: Structural characteristics, not location alone, determine the amount of damage a building suffers in an earthquake.

Mr. Roth is the author of the California Insurance Department's annual study of potential insured earthquake losses.

In Mexico City, Mr. Roth had to travel by bus between some of the most damaged buildings because they were not in the same location.

"The structural condition of the building makes a *big* difference. If you take the time to build it properly initially—or, if you buy it later, to have it reinforced—it can be well worth the money," Mr. Roth advises.

Another lesson U.S. businesses can learn from the Mexico earthquake is: "Keep your insured values to to appropriate levels," advises Fletcher Phelan, president of Phelan International Consulting, an international reinsurance advisory firm in Larkspur, Calif.

Although some Mexican policyholders' contracts included clauses permitting property values to be adjusted for inflation, most did not, leaving many businesses underinsured, says Mr. Phelan, who was called in after the earthquake by several Mexican insurers.

Even today, some 20 months after the September 1985 earthquake, damage estimates vary. A report issued by a United Nations commission in late 1985 estimated the property damage losses at $3.5 billion, about one-fifth of which was covered by insurance. The damage estimate rose to $4 billion when considering economic losses, like tourism (*BI*, Nov. 4, 1985).

Non-Mexican reinsurers paid about $200 million for damage stemming from the earthquake, according to figures gathered by Dames & Moore, international consultants in applied earth sciences.

Insured losses have been paid largely by Mexican insurers.

"The Mexican companies have indemnified (their policyholders) quite well," Mr. Phelan says. They were all well-reinsured, he said.

The reinsurers hit hardest by the disaster were non-U.S. companies.

The Mexico City earthquake drew in "very, very little involvement of the U.S. reinsurance market—almost none," says Andre Maisonpierre, president of the Reinsurance Assn. of America in Washington, D.C.

For instance, American Reinsurance Co., which is the third-largest U.S. reinsurer based on 1986 net premiums written, estimates its losses from the Mexico City quake will be $1 million to $2 million. Similarly, Employers Reinsurance Corp., the second-largest U.S. reinsurer, says its earthquake claims totaled only $3.5 million, about $2.75 million of which already has been paid.

Other U.S. companies apparently were slow to pay their Mexican ceding companies; as a representative of the Mexican companies, Mr. Phelan says at times his function was "to brow-beat the debtors."

"It's become a scandal internationally that among the worst (payers) are some of the Americans," says Mr. Phelan.

Several syndicates on the financially troubled Insurance Exchange of the Americas still have not paid, he says, despite unbending concessions from the Mexicans.

"The Mexicans bent over backward—going beyond the contracts—to try to supply information to the reinsurers," he says. The information submitted by Mexican insurers has been so voluminous at times that at least one reinsurer has admitted privately to filing away the reports without examining them, Mr. Phelan says.

One U.S. reinsurer, which Mr. Phelan declined to identify on the record, may still face a bad-faith suit for its business practices filed by a Mexican insurance company it reinsured.

Continued on page 24



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BI photo

A 1981 Los Angeles ordinance requires certain masonry buildings be reinforced or demolished.

Los Angeles enforces strict code

By STEVE TARAVELLA

LOS ANGELES—It's loss prevention at its finest: Convinced it will suffer a major earthquake in the future, Los Angeles is taking action now to reduce the deaths that are certain to result from building collapses later.

To minimize the loss of life, the city is giving owners of all unreinforced masonry buildings constructed prior to October 1933 two choices: Strengthen the structures so they will withstand a major earthquake or tear them down.

The policy, introduced by a 1981 ordinance and carried out by the city's earthquake safety division, affects more than 8,000 buildings. By the end of this month, the city will have notified all property owners affected by the law, giving them each three years in which to bring their structures up to current building code.

Owners of 3% to 10% of the buildings already have demolished their property, determining that the required structural improvements were too expensive, says City Building Inspector Lee Mevoli.

The cost of complying with the ordinance ranges from $7.50 to $15 per square foot, depending on what types of changes must be made. That amount includes the cost of seismic evaluations that property owners must conduct shortly after they are notified by the city, Mr. Mevoli explains.

After a major earthquake strikes the Los Angeles area, this law will be hailed as "one of the major preventers of deaths and catastrophe; it's going to save a lot of lives," says Robin K. McGuire, president of Risk Engineering Inc., a Golden, Colo., consulting firm specializing in earthquake-related projects.

Because of the law, reconstruction like that on this Mid-Wilshire District apartment building (see photo) is becoming a common sight in the Los Angeles area. This is a four-story, unreinforced masonry building erected in 1928.

Arthur Morgenstern & Associates, a Los Angeles firm that specializes in making pre-1933 buildings earthquake resistant, is installing an interior steel frame to shift the building's load off the structure itself and into the ground. Anchor bolts tying the exterior walls to the floor system are also being installed.

Mr. Morgenstern says his firm's business is "growing tremendously." One of about 75 contractors doing this kind of work in the Los Angeles area, Mr. Morgenstern has about 17 such jobs going at any one time.

The contractors are in such demand, Mr. Mevoli says, that the city often must give building owners additional time in which to comply with the law because contractors are unavailable. ■

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Mexico quake

Continued from page 22

That reinsurer, which was recently threatened with litigation, has asked the frustrated Mexican insurer for claim invoices for the fourth time: It says it misplaced them previously, he says.

The hold-up has not been due entirely to an unwillingness to pay, but to "administrative chaos," Mr. Phelan says.

Aggravating matters was the earthquake's timing: Coinciding with upheaval in the commercial insurance market which resulted in financial executives having more authority than claims-payers.

The reinsurer believed to have paid the most in Mexican earthquake claims is Munich Reinsurance Co., which disclosed in its 1985-86 annual report that it will pay a total of 100 million Deutschemarks ($55.6 million) in losses from the Mexico City earthquake.

Munich Re dispatched several people from Munich to assist in claims payments by its 50 people in its Mexico City office, which was untouched by the disaster.

"It is the policy of Munich Re to pay quickly when our cedents need money for situations like this," said a Munich-based company spokesman.

That appears to be more than just corporate back-patting: Mr. Phelan says Munich Re "paid so rapidly it angered the rest of the reinsurance community."

Claims paid by Munich Re mostly involved buildings that collapsed in the government and business districts, the spokesman says, adding that no one loss was particularly large.

The Mexican disaster is not the largest accumulated loss for Munich Re, the spokesman noted.

A windstorm that hit Great Britain and Europe in 1976 cost Munich Re .175 million deutschemarks ($73.5 million at year-end 1976), he said. In 1984—a year before the Mexican earthquake—a hailstorm in Munich cost the reinsurer 160 million deutschemarks ($51.2 million at year-end 1984), he said.

Today, Munich Re offers the same amount of reinsurance capacity for earthquake risks in Mexico as it did in 1985, the spokesman says, partly because regulated earthquake insurance rates increased 175% after the disaster.

The Mexican earthquake has made Munich Re more aware of how it writes earthquake reinsurance elsewhere, he says. Natural hazards are now subject "to more realistic assessment."

Munich Re is trying to improve control over the geographic spread of risk, directing ceding companies to keep track of, and inform Munich Re on, the number of risks accumulating in their portfolios in any area that might experience a natural disaster. ■

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New Price-Anderson Act may boost nuclear liability

By DEBORAH SHALOWITZ

WASHINGTON—Congress is considering new far-reaching legislation that would increase the nuclear power industry's liability for an accident to $7 billion—10 times the existing liability limit.

The legislation is needed to renew the 1957 Price-Anderson Act, which, among other things, caps the nuclear industry's liability for accidents. The current cap is $700 million.

If the legislation is not passed and Price-Anderson expires Aug. 1, a grandfather clause would limit the industry's liability to only $700 million for accidents involving active plants and those under construction—a low limit of liability. But, the industry virtually would be foreclosed from building new reactors because it would face unlimited liability for accidents involving those reactors.

Renewal of the Price-Anderson Act has been held up not by the increased liability limits, which the nuclear industry accepts as inevitable, but by a proposal to exclude defense costs and claims administration costs from these increased liability limits.

Also at issue is indexing the liability limits to inflation and proposals by some to impose essentially unlimited liability on the nuclear industry.

The Price-Anderson Act now allows for payment of attorneys' fees and the costs of administering claims out of the resources of the nuclear insurance pools created to cover this liability.

The nuclear insurance pools—groups of insurance companies that combine resources to insure the industry—vehemently object to the exclusion of defense and claims processing costs from liability limits.

This issue "could be a bill-buster," says Kevin Billings, director of legislative programs for the American Nuclear Energy Council, a Washington, D.C.-based association representing utilities, insurers and contractors involved with nuclear power.

Richard Schmalz, counsel to American Nuclear Insurance, a Hartford, Conn.-based group of approximately 100 stock insurance companies and one of the main nuclear insurance pools, told Congress if this provision was not changed, the nuclear insurance pools would not support the legislation.

Price-Anderson was first enacted to remove the threat of unlimited liability for a nuclear accident.

This proposal would "make it virtually impossible for the pools to continue to provide liability insurance and claims service for the nuclear risk," he said in testimony before two House subcommittees earlier this spring.

Joseph Marrone, general counsel and senior vp at ANI, also objected to provisions excluding legal expenses and the costs of administering claims from the liability limits.

"As an integral part of the system, such costs need also be included in a limit on liability, or there effectively is no limit—not on annual payments or overall," he stated.

As a result, the leading legislation to renew Price-Anderson, H.R. 1414, has been amended to place 70% of legal expenses and the costs of administering claims within the liability limits and places 30% outside the liability limits.

The nuclear insurance pools consider this compromise "marginally acceptable," according to Tim Peckinpaugh, an attorney who represents the nuclear insurance pools with the Washington, D.C., firm of Preston, Thorgrimson, Ellis & Holman.

Price-Anderson was first enacted to remove the threat of unlimited liability for a nuclear accident, which was deterring private industry from participating in nuclear activities.

The act also was designed to:

- Ensure that adequate funds will be available to compensate the public for injuries resulting from nuclear activities.
- Channel all liability from a nuclear accident to plant operators, even if others, such as architects or engineers, would be held liable under ordinary tort law.
- Authorize the Nuclear Regulatory Commission to require its licensees to maintain financial protection to cover public liability claims.

If Price-Anderson is not renewed

Continued on page 30

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Nuclear risks

Continued from page 28

and expires Aug. 1, a "grandfather" clause in the act would allow the existing liability limits to remain in effect for the active life plus 10 years of all active commercial nuclear reactors and those already under construction.

There are approximately 14 nuclear reactors in various stages of construction in the United States.

Among four major pieces of legislation under consideration on Capitol Hill to amend Price-Anderson and increase liability limits for commercial nuclear reactors, the most promising is considered to be H.R. 1414, introduced by Rep. Morris K. Udall, D-Ariz., chairman of the House Committee on Interior and Insular Affairs and of its Energy and Environment Subcommittee.

Rep. Udall's bill was reported out of the Interior and Insular Affairs Committee in May and will be referred to the House Energy and Commerce Committee. If it passes that committee, it will be referred to the House Rules Committee and then to the House floor.

Rep. Udall has been working on developing a compromise bill to amend Price-Anderson since 1981 and is regarded by most sources as the leader in Congress on nuclear issues.

The legislation is the culmination of many months of negotiation between the three House committees with jurisdiction over nuclear issues and consultations with senators from key Senate committees.

The bill is co-sponsored by Rep. Phil R. Sharp, D-Ind., chairman of the Energy and Power Subcommittee of the House Energy and Commerce Committee.

The Price-Anderson Act, which was set to expire twice but was renewed each time, sets up a two-tier formula to cap utilities' liability for nuclear accidents.

First, each utility is liable for an amount equal to the maximum nuclear liability insurance limits available. That liability limit is $160 million. To fulfill this requirement, utilities could self-insure, but almost all buy nuclear liability insurance.

The two pools that provide this primary tier of liability insurance are ANI and Mutual Atomic Energy Liability Underwriters, a Chicago-based group of approximately 100 mutual insurance companies. MAELU is reinsured by MAERP Reinsurance Assn. and then both MAERP and ANI reinsure a little more than half of their liability with foreign reinsurance pools.

Of the total $160 million available in the first tier, ANI writes $124 million—or 77.5% and MAELU writes $36 million—or 22.5%.

The nuclear pools would like to raise this first tier of coverage to $200 million, according to ANI sources, but won't attempt to do anything until Price-Anderson is renewed.

The second tier of liability coverage provided for by Price-Anderson is organized through a retrospective assessment of each licensed nuclear reactor.

The entire nuclear power industry can be assessed up to $5 million per reactor to pay claims exceeding $160 million stemming from an accident. This is called a retrospective assessment because it is collected after a nuclear accident has occurred.

As of May 15, there were 108 nuclear reactors licensed to operate in the United States, so the amount available in the second tier of liability compensation is $540 million. Therefore, the total amount currently available to pay liability claims in the event of a nuclear accident—including the $160 million available in the first tier—is $700 million.

If damages from a nuclear accident exceed $700 million, Price-Anderson states that Congress should review the incident and "take whatever action is deemed appropriate to protect the public from the consequences of a disaster of such magnitude."

The Udall-Sharp bill would hike this retrospective payment made by utilities to $63 million for each nuclear reactor from the current $5 million. Payments would not exceed $10 million per plant in any one year for each accident. In addition, the retrospective assessment would be adjusted at least once every five years to reflect the change in the Consumer Price Index.

With 108 nuclear reactors currently licensed, under the Udall-Sharp bill, the liability limit of the second tier would be $6.8 billion, up from the current limit of $540 million. The total coverage available in the event of a nuclear accident would be roughly $7 billion—10 times the current limit of $700 million.

Rep. Udall's retrospective payment proposal has received resigned support from both insurers and utilities, who acknowledge that $63 million is a compromise number resulting from arduous negotiations last year.

Mr. Peckinpaugh pointed out that $63 million is a "purely arbitrary number based on political considerations." He explained that no one knows or can even project the liability following a major nuclear accident.

"The key thing is not what the number is but that it's certain," he said. Lacking an actuarially based loss projection, without the certainty of a loss limit, the pools would not be able to operate, he said.

In testimony before two House

Continued on next page



If Price-Anderson is not renewed, liability for accidents at existing nuclear power plants, like one in Byron, Ill., would be $700 million.



EXPERIENC

Continued from previous page
subcommittees, Mr. Schmalz said, "The insurance industry would not object to the more than twelve-fold expansion in the maximum retrospective premium called for in H.R. 1414, provided that it is acceptable to the utilities, and provided that it includes payment of defense costs.

"We think, quite frankly, however, that such a large expansion in a compulsory self-insurance program is too great, and certainly a matter of concern, particularly when it is coupled with" an automatic escalator provision.

The $63 million retrospective assessment is "excessive," Mr. Billings agreed, "but we're not going to beat dead horses and fight battles we fought last year."

Addressing the bill's provision for indexing the retrospective payment to inflation, Mr. Billings commented: "We're not happy, but nobody's going to fall on their sword about it."

Although the $63 million retrospective assessment is considered 'excessive' by the American Nuclear Energy Council, the group is 'not going to beat dead horses and fight battles we fought last year,' says Kevin Billings.

If claims from a nuclear accident exceed the liability limit, the Udall-Sharp bill says that the President must establish a commission on catastrophic nuclear accidents to determine appropriate means for victim compensation and Congress must provide "full and prompt compensation" to the public.

There is no language specifying how Congress would raise the money for this compensation.

H.R. 1414 also:

- Authorizes the NRC to borrow money to pay claims if claims emerge at a rate exceeding payments from retrospective assessments.
- Extends Price-Anderson for 10 years.
- Mandates that all claims arising out of any nuclear incident be handled in federal courts.

On the Senate side of the Capitol, legislation similar to the original version of H.R. 1414 is under consideration by the Senate Subcommittee on Nuclear Regulation of the Committee on Environment and Public Works.

However, that bill, introduced by Environment and Public Works ranking minority member Sen. Robert T. Stafford, R-Vt., provides for federal indemnification for damages above the $7 billion liability limit.

Sen. Stafford stated when he introduced the bill that "setting any limit on liability—no matter how generous it might appear to be in advance—cannot guarantee that victims of a catastrophic nuclear accident will be fully compensated for their injuries."

The Stafford bill, S. 843, "seeks to provide a legal right to full compensation by obligating the federal government to provide funding, from whatever source or sources Congress chooses, for payment of damages that exceed $7 billion," he said.

This is a much stronger "third tier" of compensation than is proposed by the Udall-Sharp bill.

Sen. Stafford explained when he introduced the bill: "The difference between the Congressional review provision under this bill and other Price-Anderson bills. . .is that Congress would not have the discretion to determine how much to compensate each valid claim; rather it would determine only how to pay such compensation."

During a hearing at the end of April before Sen. Stafford's subcommittee, Mr. Marrone said that S. 843 "violates the fundamental basis of the balance of equities that is a keystone of the Price-Anderson law—that there be a limit on liability of persons liable at some reasonable figure."

Other provisions of the Stafford bill follow those of the Udall-Sharp bill, including a 10-year extension of the act and indexing the limit on retrospective assessments to inflation.

Two other bills currently under consideration on Capitol Hill also would provide for unlimited compensation for disasters involving nuclear reactors, but clearly specify that the nuclear industry would bear the cost instead of leaving the payment question open.

While environmental groups support this concept, most sources believe that neither of these bills will become the basis for a compromise legislative vehicle.

Mr. Peckinpaugh, the attorney for the nuclear insurance pools, points out, however, that provisions from either of these bills could be incorporated into any piece of legislation.

One bill, introduced by Rep. Dennis E. Eckart, D-Ohio, would require nuclear utilities to pay post-accident premiums of $10 million per plant each year until all public damages are compensated.

That bill, H.R. 2141, was cosponsored by Rep. Al Swift, D-Wash., Rep. Edward Markey, D-Mass., and 39 other members of the House.

Also, the Eckart bill would remove the no-fault provisions of Price-Anderson and assign liability directly to those involved in the building of a nuclear facility in the event of recklessness, gross negligence or intentional disregard for public health and safety.

However, in the event of a nuclear accident, the reactor site would have to be completely contained to prevent the spread of radiation, making examination of the site to determine the cause of the accident almost impossible. Futhermore, one source noted that if a nuclear accident occurred, most of the evidence about fault would be buried below tons of concrete.

The second bill, S. 44, introduced by Sen. Daniel P. Moynihan, D-N.Y., also would require utilities to pay an annual $10 million retrospective assessment for as many years as necessary to compensate victims of a nuclear accident.

The $10 million post-accident premiums, however, would be adjusted on a sliding scale based on the safety record of the plant.

For example, if a nuclear power plant is among the 10% of those managed in "an exemplary fashion," according to Sen. Moynihan, then the plant's retrospective assessment could be priced some 20% lower than the regular payment. Conversely, if a nuclear power plant is judged to be among the 10% of the most poorly managed plants in the country, then its retrospective payment could be 20% higher than that of other plants.

Sen. Moynihan's bill also proposes a 15-year extension of the Price-Anderson.

Price-Anderson also provides for separate liability limits and compensation arrangements for parties under contract to the Department of Energy and for non-profit educational institutions operating nuclear reactors. Bills also are pending governing these provisions. ■



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Nuclear site protection costly

By DEBORAH SHALOWITZ

Because the nuclear industry is subject to post-loss assessments to pay large liability claims, it pays far more for property insurance than for its limited liability insurance.

For example, a two-unit plant in the South pays $3.5 million annually for primary property insurance of $500 million, including a $2.5 million deductible. But, its premium for liability insurance is $1 million annually.

And, a nuclear power company in the Northeast with two units, one of which just went on-line, will pay $4.5 million to $5 million for primary property insurance of $500 million when the second unit is fully operational. The deductible is $250,000 per unit. But, its premium for liability insurance will be about $700,000 when the second unit is operating at capacity.

Both property policies are written on a replacement cost basis, as is typical in the utility industry.

Property insurance limits available total $1.23 billion, written in three layers: $500 million in primary insurance; $500 million in excess insurance and another $230 million excess of $1 billion.

Half the primary market is written by an offshore captive owned by utilities, Nuclear Mutual Ltd. in Bermuda. The other half is written by the two nuclear insurance pools: American Nuclear Insurance, a Hartford, Conn.-based group of approximately 100 stock insurance companies; and Mutual Atomic Energy Liability Underwriters, a Chicago-based group of approximately 100 mutual insurance companies.

Of the nuclear pools market, ANI writes $363.5 million, or 72.7% of the coverage, and MAELU writes $136.3 million, or 27.3% of it, said Charles Bardes, senior vp of underwriting and marketing for ANI.

NML has 22 members that operate 60 nuclear power units on 33 sites.

A related captive, Nuclear Electric Insurance Ltd., also in Bermuda, provides excess property insurance beyond the $500 million primary layer. This program, called NEIL II, has 63 members that operate 98 units at 64 sites, according to David Scott, insurance administrator for NML and NEIL. The two Bermuda captives share one management team and reinsure with two subsidiaries domiciled in the Caymans: Nuclear Electric Ltd. (Cayman) and Nuclear Mutual Ltd. (Cayman).

ANI and MAELU participate with NEIL on a quota-share basis in a $500 million layer excess of $500 million. ANI and MAELU take $120 million and NEIL takes $380 million.

NEIL also offers property coverage of $230 million excess of $1 billion.

And, NEIL provides replacement power insurance for the loss or interruption of business by a power facility. That coverage requires a 26-week deductible and is limited to two years after the deductible.

During the first 52 weeks following the 26-week deductible, NEIL would pay 90% of a utility's weekly power replacement cost, to a maximum of $3.5 million. During the next 52 weeks, NEIL would pay 45%.

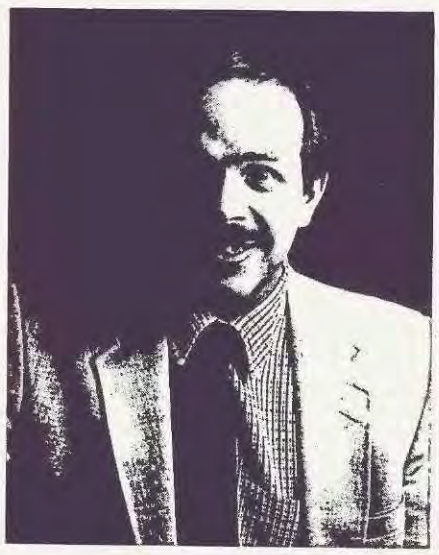
This program has 52 members with 80 units.

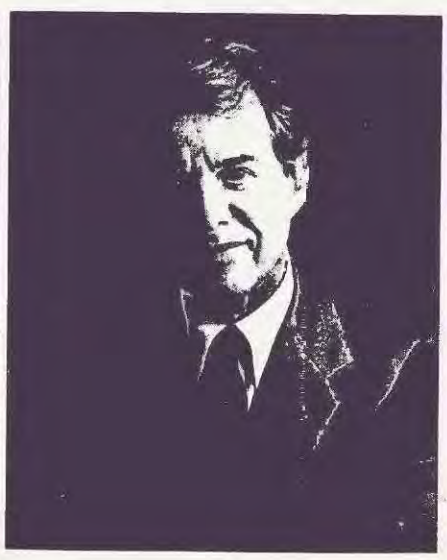
Meanwhile, not only are liability insurance premiums for nuclear reactors lower than property insurance premiums, but there also is a provision for returning premiums to the nuclear industry.

Of the annual liability insurance premium paid to one of the two nuclear insurance pools, about 70%-75% goes into a reserve fund to cover potential losses. The other 25%-30% covers operating expenses.

ANI, which manages the underwriting for its policyholders and those of MAELU, bases the credit plan on a 10-year loss experience of the whole industry, not an individual utility's loss experience. Each year ANI returns to the utilities a portion of the premium paid 10 years earlier. That amount varies from year to year but has been averaging 40%-50%, said Charles Bardes, senior vp of underwriting and marketing for ANI. ■

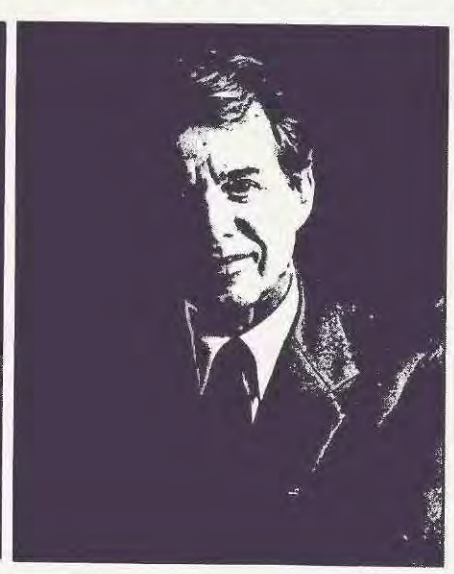
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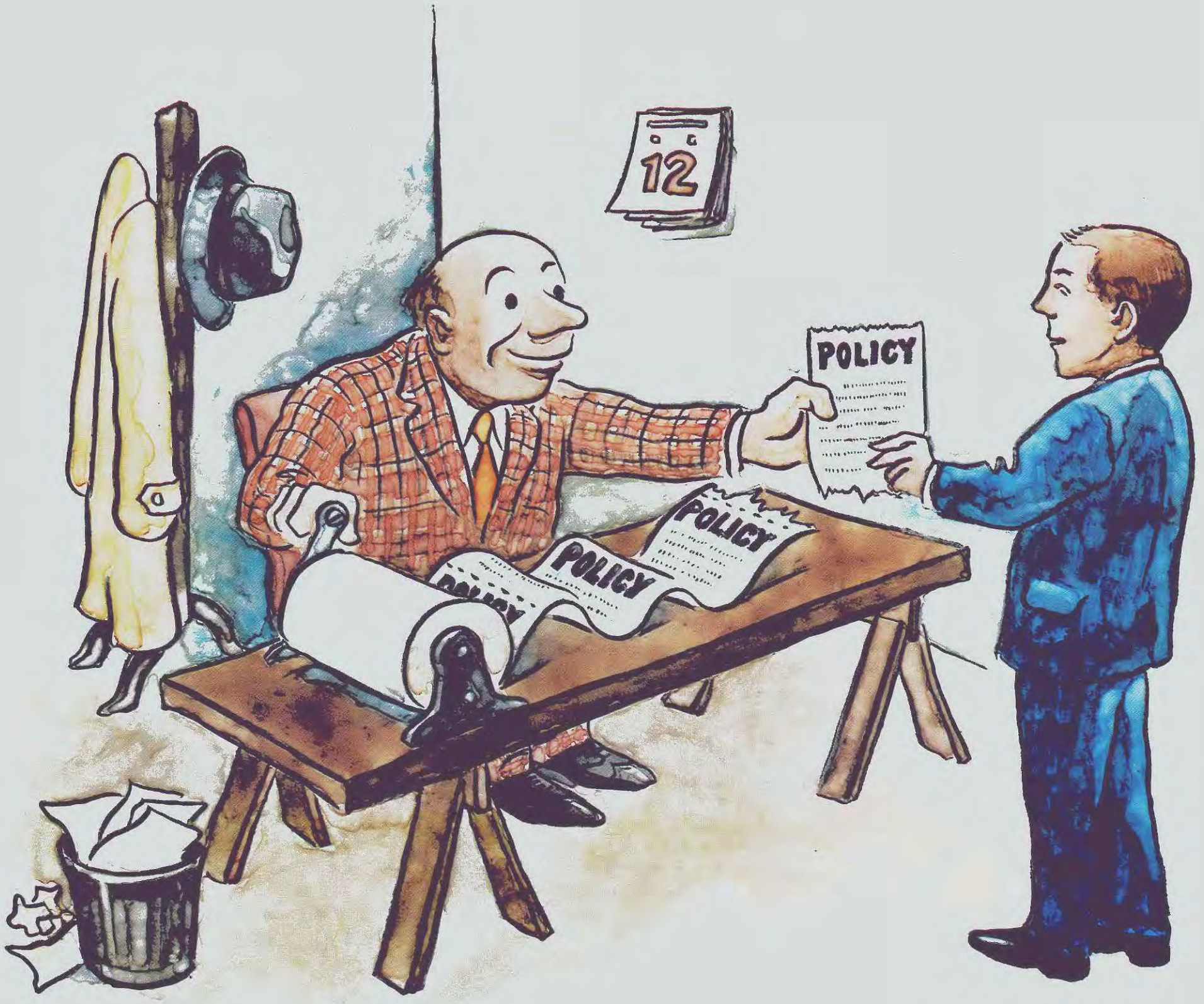
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Limits lower for animal mortality cover

By MICHAEL BRADFORD

Animal mortality insurers that survived the competitive soft market are changing their underwriting practices and pulling in the reins on the limits they offer to high-priced risks.

Most insurers that write significant amounts of animal mortality insurance write primarily equine risks. And, because horses are now fetching lower prices due to a general "depression" in the equine market, insurers are responding by cutting back on the limits of coverage they offer for those animals.

Today, underwriters and brokers estimate there is probably no more than around $30 million in worldwide capacity available for a single equine risk, compared with about $40 million two years ago.

And, while rates have pretty much held steady over the last couple of years, with most animal mortality insurers basing premiums on a percentage of an animal's value, at least one insurer says a 10% to 15% rate increase is necessary to allow underwriters a reasonable profit.

Animal mortality insurance is essentially life insurance for animals. Horse owners purchase the coverage partly to protect their investments and to replace lost earnings of an animal that dies.

Commercial farms buy the insurance to cover expensive livestock, and zoos sometimes purchase mortality insurance on animals that are being transported.

While thoroughbred horse owners are finding lower limits available, buyers of animal mortality insurance for risks like farm and zoo animals are not having trouble getting the coverage they want, which usually is less than that purchased for thoroughbreds.

Robert Pringle, vp of American Bankers Insurance Co. in Miami, said there is "plenty of capacity" available for animals other than the high-priced equine risks.

He added that buyers might perceive that there is less capacity for the lower-valued animal risks because underwriters have changed their pricing since the commercial insurance market hardened.

"Underwriters are scrutinizing values up-front before a risk is written," he said. Therefore, he explained, insurers are arriving at more accurate values for animals and are analyzing risks more thoroughly.

Animal mortality insurers say they are writing lower limits for equine mortality risks in response to a long overdue "correction" that has caused horse values to fall.

"The amount of coverage is declining because horse values are declining," confirmed Ron Kirk, president of Kirk Horse Insurance Inc. in Lexington, Ky. "Values have been declining for the last two or three years."

Mr. Kirk, who writes animal mortality insurance on behalf of the Chubb Group, said the value of higher-priced thoroughbreds has dropped 20% to 25% since last year, following "15 years of straight-up movement," he noted.

"The market had been incredibly strong," Mr. Kirk remarked. And, like a runaway stock market that eventually must weaken, the equine industry "needed a correction," he added.

"The market (for horses) is now coming back down to earth," said Joan Barkley, assistant vp of Wright Adjusting & Appraisal Inc., a division of the Rhulen Agency Inc. in Monticello, N.Y.

"Now the horses carry a more sensible price tag," Ms. Barkley added. "It's more realistic."

Shack Parrish, vp and general manager of the Clay Ward Agency in Paris, Ky., agreed that "the horse business has been on a downswing."

Mr. Parrish pointed out that racehorse values were inflated until recent years when owners began realizing their investments had become so great that track winnings could not produce acceptable profits.

Rising stud fees were another factor that eventually helped topple equine values, Mr. Parrish noted. He explained that high breeding fees were chipping away at profits from the sale of foals.

Stud fees are generally considered when the value of a horse is determined, and when those charges began dropping, it affected a horse's worth and the amount of insurance it required, Mr. Parrish explained.

Although underwriters report that available limits for animal mortality insurance have shrunk, they also note that some higher-valued racehorses already were carrying coverage amounts far below their values.

"A few years ago Seattle Slew at his peak was worth in excess of $[illegible] million," Mr. Kirk pointed out. "There's no way the market could handle that.'

The racehorse Swale, which was sired by Triple Crown winner Seattle Slew, was covered for only around $14 million of its $40 million to $50 million projected value when it died after a workout at Belmont Park three years ago (*BI*, June 25, 1984).

Mr. Kirk said horse owners that cannot find adequate coverage in the commercial marketplace "take a healthy dose of self-insurance."

Animal mortality insurers, like others that weathered the conditions of the most recent soft market, have re-examined their underwriting habits and tightened up their methods of assessing risk.

Ms. Barkley pointed out that underwriters are more careful about what type of owner or trainer is associated with the insured animal, partly because fraud has become a problem in some parts of the equine industry (see related story, page 36).

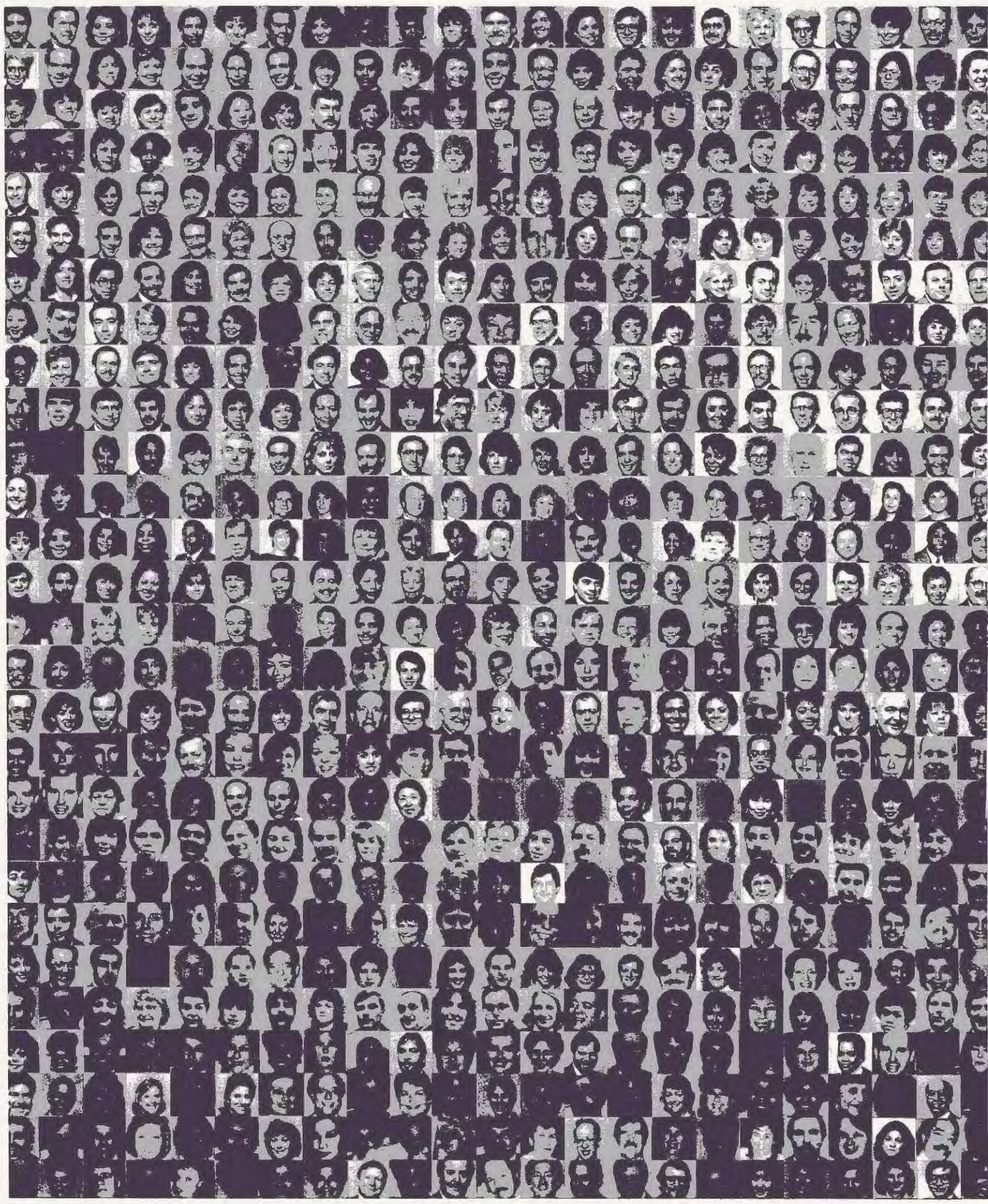
Underwriters generally require animal owners to complete a lengthy application containing questions regarding not only the animal's history, but also the background of anyone responsible for the animal.

And, underwriters require thorough veterinary examinations before an animal is insured. Most stipulate that the exams be performed before each renewal.

At least one underwriter, however, does not ask for a new veterinary certificate after the initial checkup.

When Mr. Kirk writes a policy for Chubb, "we guarantee not to cancel on a sick horse and not to raise the premium based on health," he said. A veterinary certificate is not required after the initial examination, and coverage remains in place until a horse is 14 years old, he explained.

Continued on next page



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Mr. Kirk said the insurer has the right to non-renew or cancel coverage if there is a change in ownership or management of the animal.

In their heightened effort to control animal mortality losses, underwriters have brought modern medicine into the equine examining room.

The Rhulen Agency, like its competitors, requires thorough health examinations before underwriting an equine risk. But Rhulen also is using a technique usually reserved for humans to help determine the health of an equine applicant.

The agency requires that any horse valued at more than $100,000 undergo an electrocardiograph examination to determine if the animal has heart problems.

Roger Barklam, managing director of Lloyd's of London broker Hughes-Gibb Co., said, "there is a much more professional approach to assessing risk" in the animal mortality market.

Mr. Barklam, whose brokerage placed $80 million to $100 million in premiums for bloodstock risks last year with Lloyd's syndicates, said "underwriters learned with their hard-earned money that more things need to be defined" in mortality policies.

In a "litigation-conscious" U.S. society, said Mr. Barklam, animal mortality underwriters have developed policies that more specifically spell out coverage.

In years past, horses may have been "bought and sold on a handshake," said Mr. Barklam, but "now there is a 24-page agreement. . . and insurance certificates are more detailed as well."

While the value of horses has fallen, rates for the mortality coverage have remained fairly stable since 1985.

Underwriters and agents say prices for the coverage began leveling in 1984, when some insurers in the animal mortality business dropped out of the race as a competitive insurance market cooled.

The withdrawal of insurers that wrote the coverage primarily to generate cash that could be invested at high interest rates left a more experienced and selective group of underwriters in the marketplace.

"A lot of people have taken a shot in the animal mortality business" with little or no expertise in underwriting the specialty coverage, said Peter L. Rhulen, executive vp and head of the animal division of the Rhulen Agency. Most newcomers write the coverage for about two or three years before abandoning it, he added.

"There is a tremendous amount of expertise needed to write it," said Mr. Rhulen.

Mr. Pringle of American Bankers said, "people that didn't know anything about animal mortality got into it" during the soft market. When some of those insurers realized they did not have the expertise to write the coverage and losses began to mount, "they withdrew and cleaned up the other areas of their business," he said.

"So now there's a lot of business for everybody," said Mr. Pringle. "Insurers can be very selective."

Mr. Rhulen said that although rates are higher than those written during the soft market, insurers still aren't getting adequate premiums. Animal mortality premiums need to go up another 10% to 15% across the board to produce a reasonable profit, he observed.

About 90% of Rhulen's animal mortality premiums cover thoroughbred horse risks, while 10% is insurance for livestock, including cattle, sheep, pigs and other animals.

Rhulen generally charges premiums of around 6.5% of the value of a thoroughbred racehorse for mortality coverage, Mr. Rhulen noted. A premium for a "pleasure horse that a kid rides in the back yard" can be 4.5% of its value, he said.

Livestock such as cattle are usually written for premiums of about 6% of value, said Mr. Rhulen. Discounts are available for herds.

Rates charged by Rhulen's competitors for animal mortality business do not vary significantly. Most insurers, for example, write coverage on thoroughbred racehorses at rates that range from 5.5% to 8.5% of value. Coverage for stallions costs around 3.5% to 4.5% of value, and brood mares can be insured for those same amounts.

Golden Eagle Insurance Co. in San Diego reported rates that are among the lowest available.

John Mabee, president of the 3-year-old company, said the insurer usually provides mortality coverage at a rate of 5.5% of value for thoroughbred racehorses and 3.5% for stallions and brood mares.

Mr. Mabee, who also is president of the Del Mar Thoroughbred Club and owns 400 thoroughbreds, said his company wrote about $18 million in premiums last year. The coverage is reinsured with Mesa Reinsurance Co., a Bermuda-based insurer owned by Mr. Mabee.

Insurers and intermediaries that handle coverage for risks other than high-priced horses say that rates for their business also have remained stable in the past two years.

Andrew Weatherall of Lloyd's broker Harrison Horncastle Insurance Brokers Ltd. said premiums charged for the risks it places with various Lloyd's syndicates are based on an animal's vital signs and personality.

Mr. Weatherall said the brokerage does not specialize in coverage for a particular type of animal, instead placing transportation and mortality coverage for "all types of fauna." Part of the business handled by the brokerage is coverage written for zoos that are shipping or receiving animals.

Rates for the transportation and mortality coverage "are formulated according to an animal's blood pressure and susceptibility to being transported," explained Mr. Weatherall.

For example, he noted, a low-keyed bear valued at $10,000 can be insured for $210, while a nervous giraffe worth the same amount will cost $750 to insure.

Mr. Weatherall places coverage with Lloyd's syndicates that insure an animal from the time it is placed into a crate until 30 days after it is delivered.

As far as capacity is concerned, Mr. Weatherall says "there is plenty of it" for the transportation and mortality risks he places.

Last year, the brokerage placed around $740,000 in premiums for mortality coverage. Its latest loss was a payment of around $600 to settle a claim on a departed flamingo.

Zoo officials confirmed that they have little trouble finding the occasional coverage needed for an animal that is being transported.

Ed Alonzo, animal collection curator at the Los Angeles Zoo, said the zoo only covers "particularly rare or fragile animals" that are being shipped. "Occasionally when we get an animal shipped or in transit from another zoo, we will have it insured for that period and 30 days beyond," he noted.

In 1984, the zoo purchased $250,000 in transportation and mortality coverage for two rare giant pandas that were shipped from Peking for display at the Olympic Games (*BI*, July 23, 1984). The coverage, which cost more than $25,000, was written by the Chubb Group.

A spokeswoman for the San Diego Zoo said that facility also buys coverage only occasionally

Continued on next page

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Animal mortality

Continued from previous page

for animals in transit, at a premium is 10% to 15% of the animal's value.

And values established for the animals are often only guesses, she said. "Sometimes market value is hard to determine" because rare animals often don't carry price tags.

For example, the zoo "picked an arbitrary figure of $20,000" as the value of a koala bear it insured for a trip to New York and an appearance on a morning news show several years ago.

Because the animal world is also made up of some rather ordinary residents, not all insurers market coverage just for the exotic or costly species.

Since 1920, The Hartford Insurance Group has been writing coverage for commercial farms, says Tom Timothy, the Chicago-based manager of the insurer's livestock department.

While Hartford writes some insurance for high-valued equine risks, most of its mortality coverage is for cattle, dairy and show animals and other inhabitants of commercial farms. Last year, the insurer wrote $6 million in animal mortality premiums, and Mr. Timothy expects that figure to climb to $10 million by the end of this year.

Hartford is writing more of the coverage this year because the insurer has found more reinsurance capacity. While he wouldn't name specific reinsurers, Mr. Timothy said the animal mortality coverage is reinsured with an almost equal number of domestic and foreign companies.

"We went to different reinsurance companies this year," he said, adding that "there were people willing to talk this year that wouldn't last year." ■

Animal claim investigator sits hard on horse killers

By MICHAEL BRADFORD

A horse owner contemplating killing his animal to collect an insurance payment may not understand the seriousness of such a crime.

The punishment for insurance fraud can be prison time and heavy fines, and that is serious enough. But drawing the ire of the Fat Man could be just as unpleasant as the possibility of spending time in jail.

"I'm not there to negotiate," proclaims the Fat Man. "I'm out for blood."

The self-proclaimed Fat Man is William M. Graham, a man of considerable girth, little hair and less patience, who is also the director of International Insurance Investigations in Seneca, S.C.



Mr. Graham

He is often called upon by underwriters of mortality insurance for horses to investigate claims that appear suspicious. He holds in very low regard people who actually do kill their animals to collect an insurance claim.

Most of Mr. Graham's comments about his work, which he insisted appear unedited, were too strong for publication. But the Fat Man's hatred for horse killers comes through loud and clear.

"If somebody kills a horse, he's three steps below a child molester and on the same level as a lawyer and a politician," Mr. Graham bellowed. "Now you quote me on that."

The Fat Man is hired by insurers of bloodstock mortality coverage to investigate claims. An assignment that reaches Mr. Graham involves a claim that already has been screened by an adjuster who suspects foul play, he said.

And he has been busy lately, he explained, thanks largely to the bust in oil prices.

A lot of businessmen who through the years have made their livings in the oil business are also horse owners, Mr. Graham pointed out. Some of those stung by the current downturn in oil prices have turned to their stables as a quick way to get out of debt.

"You take a Texas oil man that's $4 million in the hole," Mr. Graham remarked, "and old Nellie Belle out there is worth $4.5 million. What's he gonna do? Old Nellie Belle gets smothered."

Joan Barkley, assistant vp with Wright Adjusting & Appraisal Inc. in Monticello, N.Y., also mentioned problems with fraud among oil barons gone bust.

Ms. Barkley, who hires Mr. Graham to investigate claims for her company, said there are "a tremendous number of people in the quarter horse industry that are in the oil business."

She said that underwriters of mortality coverage for quarter horses have had to raise rates because "too many of (the horses) are dying under unusual circumstances. There are too many unexplained, illogical deaths."

"It has been a problem in the Southwest," agreed Pat Mullins, an account executive with Monticello, N.Y.-based Rhulen Agency Inc. He said investors in oil and quarter horses have been hurt by depressed petroleum prices and some horse owners figured they had to "look for something liquid real quick," to cover oil-related losses.

Experts in the animal mortality marketplace point out that fraud among horse owners is not as widespread as other kinds, such as arson fraud, but it nonetheless affects coverage availability and price (see related story, page 34).

"In the past year, quarter horses have become an unacceptable risk," said Mr. Mullins. An owner of a quarter horse seeking mortality coverage will "really have to shop around," he added.

And if coverage is located, the quarter horse as well as its owner will undergo a thorough background check before the insurance is written, said Mr. Mullins.

Even though Mr. Graham is on the road investigating suspicious horse deaths so much that he claims his children have forgotten what he looks like, he acknowledges that fraud is not rampant among horse owners.

"There's not a lot," he said. "But there's always that 5% that's going to try and defraud the insurance company."

And when they do, the Fat Man takes delight in exposing them.

A recent investigation ended in the conviction of a Mississippi horse owner that killed his animal to collect an insurance claim, he said. Although the horse owner was sentenced to a five-year prison term, Mr. Graham figures "he'll serve about half of it."

Usually, though, an investigation does not lead to charges of fraud, said Mr. Graham. It's just that the Mississippi horseman "didn't want to play with the Fat Man. He wanted to play hard ball," he explained.

"I always give them the chance to walk away," Mr. Graham noted. "If they don't take my offer, I have no qualms about cutting their throats."

The Fat Man's offer is what he called a "dollar release. I give them a dollar and they agree not to pursue the claim." If the suspect does not agree, Mr. Graham takes his evidence to law enforcement authorities.

It usually does not get to that point, says Mr. Graham, because most suspects do not want to go to court.

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Sporting events devour contingency cover

By CAROLYN ALDRED

LONDON—Potential losses from the cancellation of a major sporting event are so large it is now impossible to place cancellation and abandonment insurance for one major event in a single market, brokers say.

And capacity for the coverage has shrunk since the early 1980s as insurers stopped writing the insurance after suffering losses.

But the demand is exploding for all types of contingency insurance —for events from local arts and craft fairs and weddings to major city celebrations, international sporting and theatrical events and Royal Weddings.

For example, contingency coverage limits required for the Summer Olympics are now so large the demand could exceed the world market's contingency insurance capacity, some underwriters believe.

The organizing committee of the 1972 Summer Olympic Games in Munich purchased total insurance contingency coverage of 250,000 pounds ($650,775 at the applicable exchange rate). Next year, the insurance taken out for the Summer Olympics likely will total between 400 million and 500 million pounds ($672 million and $840 million), said Geoffrey Fox, a director of Lloyd's of London broker Adam Brothers Contingency Ltd.

"The total demand for coverage for the Olympic Games is now so vast, it's likely to fill the entire world insurance market," he noted. Mr. Fox believes there is about 100 million pounds ($168 million) worth of contingency capacity in the London market for the next Olympic Games, although no business has yet been placed for the 1988 Games, he said.



Underwriters will be asked to insure the Summer Olympics in Seoul, which will sport this logo.

"We haven't got any quotes yet for the Seoul Games, but I wouldn't expect to place risks much more than 18 months in advance," he said.

He added that "substantial sums" already have been placed for the 1988 Winter Games in Calgary, Alberta. Adams Brothers is acting as broker for the organizing committee of the winter games.

However, many market sources believe that the 1988 Summer Games in South Korea will be very difficult to insure because the event has grown so large and because the country is an unpopular location.

"Capacity for the Winter Games in Calgary is already a problem," said a Lloyd's underwriter. And contingency brokers in the London market are even more pessimistic about placing business connected with the Seoul Games.

"There is considerable reluctance in the market because of the venue of the Games. Even with boycott risks now generally excluded, there is still not a lot of interest from insurers. And the lack of boycott cover has put off clients as well," said Will Gandy, who handles non-appearance and abandonment insurance for British broker Rubin Sedgwick Insurance Services Ltd., a subsidiary of Sedgwick Group P.L.C.

Indeed, many sponsors of the Summer Games in Seoul have decided not to obtain insurance because of the reluctance of the market to take the risks, sources say.

"The Olympics is an exceptionally big event and always takes a lot of placing anyway," said Douglas Mills, senior research and development underwriter with the Sun Alliance and London Assurance P.L.C.

The problem of boycotts is now so common for most major international sporting events it is usually excluded from contingency policies, brokers noted.

For example, the British Commonwealth Games that were held in Edinburgh, Scotland, last year were plagued by many boycotting nations. But cover for such boycotts has not been available in the London market for the last two years, brokers agreed.

"I regard boycotts now as a risk of the trade which cannot be insured against. Anyone who wants to write boycott contingency insurance cover on any sporting event needs their brain tested," Mr. Fox asserted.

Among the events currently being brokered in the London market are the World Athletics Championship scheduled in Rome this summer. The championship's organizer, the International Amateur Athletic Federation, is looking for between 15 million and 20 million pounds of coverage ($25.2 million-$33.6 million), said one London broker. Insurance for the European Soccer Championship, scheduled for 1988 in West Germany, also is being placed in London, sources confirmed.

The bigger the event, the more people require insurance, and although the events' promoters usually handle contingency cover for the main parties, including the sponsors, many other policies often are secured.

Contingency insurance is usually taken out by an event's organizer to protect itself and the event's sponsors against loss of revenue caused by, for example, abandonment, curtailment postponement and loss of television revenue due to most possible contingencies, including weather.

In addition, contingency insurance can be taken out by manufacturers of equipment, clothing and souvenirs and any other party who may suffer serious financial losses if the event is canceled.

For example, several contingency risks for the America's Cup in Australia earlier this year were placed in the London market. The risks were as diverse as contingency cover for Australian TV network Channel 9, and $8 million Australian ($5.28 million) of cover for a New Zealand investment bank that was organizing a courtesy trip to the world's foremost yachting event.

Brokers and underwriters agree that London remains the most important market for unique contingency risks but concede that the U.S. market and fringe European markets, such as Belgium, also have entered the arena.

Continued on next page



Continued from previous page

However, brokers note that the London market is much more experienced at dealing with speciality risks, such as non-appearance and abandonment insurance.

"I believe that the only way to write contingency business is on a risk-by-risk basis. It is a specialized area which cannot be covered by a standard, catch-all wording, policy," Mr. Fox said.

"A lot of brokers and insurers are now getting into this field, especially in the U.S., using policies adapted from those used in the Lloyd's market. But you have got to be able to tailor this sort of policy for each individual risk, which is what the London market specializes in," he observed.

Indeed, many U.S. brokers do tap the London market specifically for this sort of insurance. For example, Dallas-based broker Maclean, Oddy & Associates Inc. began offering a Lloyd's event insurance facility through a London broker last fall, confirmed Vp Ed Skidmore.

The facility offers cancellation, abandonment, curtailment and postponement insurance, including cover for failure of TV transmission, and non-appearance. Loss of sponsorship fees for individuals following an accident or sickness can also be provided, according to Mr. Skidmore.

However, the non-appearance of one player in a team event or a multi-player tournament is not usually covered by such insurance, brokers note. Other exclusions usually applied include financial failure of the event, lack of sales or shortage of receipts, variations in the rate of exchange or stability of any currency and claims arising out of player strikes and boycotts.

However, despite increased participation of other markets, capacity in contingency insurance has fallen since the early 1980s, brokers and underwriters note.

"The market has contracted in the last five years after a lot of reinsurers burnt their fingers," said Mr. Fox.

Not only has the market contracted but demand has grown, squeezing capacity further, brokers add.

"The need for getting contingency cover has multiplied tenfold, particularly because of the television and promotional aspects, and there is also a greater awareness of contingency cover among promoters," said Mr. Gandy of Rubin Sedgwick.

Events began to get larger and require more coverage as capacity in the market began to fall, said Mr. Mills of Sun Alliance.

"By the end of 1984, it had become apparent that the market was shrinking. Underwriters writing at too cheap rates had suffered losses and had decided to pull out of the market," he noted.

At the end of 1984, Sun Alliance put together an arrangement with Fireman's Fund Insurance Cos. and was able to offer 4 million to 5 million pounds ($4.64 million to $5.8 million) contingency cover for any one event, he said.

Under the arrangement, Fireman's Fund reinsures U.S. risks with Sun Alliance and Sun Alliance reinsures U.K. and other non-U.S. risks with Fireman's Fund, he explained. For example, Sun Alliance has reinsured Fireman's Fund's coverage of the Rose Bowl for the last two years.

In addition, London, and more particularly Lloyd's, is still an important insurance market for the entertainment industry in the United States and worldwide, sources agreed. Pop singer Tina Turner's European tour, which begins this month, and David Bowie's current world tour are both insured at Lloyd's.

Non-appearance insurance also is growing in demand.

One Lloyd's underwriter quipped that "the Pope is now a major figure in the non-appearance insurance market and let's face it, the Pope does more tours than the Rolling Stones."

One of the major changes in the market is the growing significance of sponsorship, observers note.

"Contingency insurance is now a growth area mainly because of the dramatic increase in sponsorship," said Bob Taylor, joint managing director of broker Robertson Taylor Insurance Brokers Ltd.

"Sponsorship is now the lifeblood of sport and contingency insurance, for the event's sponsors have become a very important part of the organizing committee's armor," said Sun Alliance's Mr. Mills.

The growth in sponsorship has not just been confined to the sports arena.

"Sponsorship and merchandising have become much more significant factors than just the promotional costs involved in staging any major event, including pop concerts," said Lloyd's underwriter Dominic Adams of V.W. Broad Underwriting Agencies Ltd.

In addition to sponsorship advertising, many major corporations now use famous sports and entertainment personalities to promote their products in TV commercials, posters and printed ads.

"Many advertising agencies insure against commercials having to be remade, because, for example, the star of the ad dies or disgraces himself and is no longer deemed suitable for the product," said Mr. Mills. ■

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Experts say investigate environmental liabilities in mergers, acquisitions

By ROBERT A. FINLAYSON

In an era when mergers and acquisitions among U.S. companies are an almost daily occurrence, companies should take precautions to avoid acquiring environmental liabilities, consultants and attorneys warn.

"A great commercial purchase can wind up being a big loser because of an otherwise invisible problem," says Edward A. Kurent, former counsel for Cleveland-based TRW Inc. and now a partner with Pepper, Hamilton & Scheetz in Washington, D.C.

Mr. Kurent says TRW turned down several acquisitions while he was there on the basis of environmental concerns.

To avoid financial disaster, environmental consultants and attorneys advise all companies—not only those involved in businesses in which environmental scrutiny is obviously necessary—to consider environmental factors in every acquisition or merger (see related story, page 42).

These experts also note that some companies are facing environmental liabilities associated with assets or subsidiaries they sold years ago. Companies that acquired polluted sites are coming back to the seller, seeking money for government-ordered hazardous waste cleanup programs.

There currently is no insurance available to cover a buyer that unknowingly has purchased an environmental liability. If the buyer wanted to cover the acquisition under an existing pollution liability policy it may have, its insurer probably would require it to first secure a risk assessment.

It was common practice until a few years ago for a company that sold land and assets to guarantee the buyer blanket indemnification for those purchases, explains David L. Maurer, an attorney specializing in environmental law and a partner in the Detroit office of Pepper, Hamilton and Scheetz.

Now, Maurer says, those purchasers are coming back to the corporations from which they bought the land to seek money for environmental cleanup operations under the original indemnification agreement.

Mr. Maurer says the in-house counsel for one major U.S. corporation with which he works is spending two-thirds of his time dealing with environmental claims under indemnification agreements the company gave for operations it spun off years ago.

Environmental attorneys now are warning companies to carefully evaluate and consider potential environmental liabilities when drafting indemnification agreements and warranties for assets and land they buy and sell.

Leases are another area where environmental problems can crop up, particularly when large corporations lease land to smaller entities. If there is a contamination incident on the land, attorneys and consultants say, it is the lessor that will likely be forced to pay the cleanup cost.

"One way or another, the landlord in the final analysis is going to be held accountable, because they're usually the ones with the deepest pockets," says Michael H. Tiller of Tiller Consulting Group in St. Louis.

To a large degree, the concern over inadvertently acquired environmental liabilities stems from the fact that the federal Superfund hazardous waste cleanup law imposes strict liability on just about every entity associated either directly or indirectly with a chemical or hazardous-waste contamination incident or dump site.

"The problem under Superfund is that you've got strict liability and it runs with the land to the owner," Mr. Maurer says.

Not only does Superfund impose liability on the owners and operators of a dump site, but also on the companies that disposed of their waste at the site.

"Environmental laws are so strict that simply proceeding with the purchase of corporate assets or land can expose the purchasers to liability, regardless of whether the purchaser had any idea that there might be an environmental problem," says Marty Wasser, a partner with Phillips, Nizer, Benjamin, Krim & Ballon in New York.

Even banks and financial institutions that are involved with mergers and acquisitions or that acquire contaminated land through foreclosure can be required to pay the cost of cleaning up environmental contamination under the Superfund law.

Stuart Scott Jr., an account executive with Marsh & McLennan Inc. in New York, says that financial institutions that finance mergers and acquisitions also should be wary of environmental liabilities.

Mr. Scott notes that M&M recently advised one of its financial institution clients to back out of a deal it was financing because the buyer did not have the financial resources or insurance to cover a major pollution incident. M&M feared that if the site was later found to be contaminated and the buyer could not pay the cleanup costs, the financial institution might be held liable because of its involvement in the deal.

Continued on next page

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A great commercial purchase can become a big loser because of an invisible environmental problem—hidden drums of toxic waste.

Continued from previous page

"There's no way the corporate veil wouldn't have been pierced, and their assets would have been up for grabs," Mr. Scott said.

Mr. Maurer equates the problem of acquiring environmental liability with the current AIDS crisis. He says that while most people are aware that AIDS is a deadly disease, "unless you know someone who has it, you don't focus on it."

The same thing is true in environmental liability, he points out. "As companies get burned, the awareness is increasing."

Environmental experts say that while some of the nation's largest companies have become much more sophisticated about environmental concerns in the past two years, many companies—both large and small—are still not properly evaluating environmental risks when they buy land or acquire the assets of other companies.

"Companies are finally beginning to appreciate the difficulties that environmental problems can cause," Mr. Kurent says, pointing out that even a small environmental problem can be very expensive.

However, he observes that "a lot of companies will look at environmental liability, but only from the regulatory angle, and it will never get sufficient consideration. It's almost an afterthought."

"It's still surprising how many companies will think about environmental concerns, but only at the last minute," agrees Lynne M. Miller, president of Environmental Strategies Corp. in Vienna, Va.

"It's not unusual for us to get a call on Friday afternoon and the word environment has just come up and the contract is to be signed on Monday," she says.

During its 1986 reauthorization of the Superfund law, Congress attempted to address criticism from the business community that the law unfairly imposed liability on companies that bought land without knowing that it was contaminated with chemical wastes.

The Superfund law was amended to include a provision designed to give relief to so-called innocent landowners—those who acquire contaminated land but do not know of the pollution.

However, environmental attorneys say the provision is both a blessing and a curse.

While the amendment does offer the innocent landowner a defense against Superfund liability, attorneys say, it also requires owners to make "an appropriate inquiry" into the prior ownership and use of the land to qualify for this defense.

This means that companies must document efforts to examine property they buy to determine whether it is environmentally contaminated. Without such documentation, attorneys say, the buyer cannot use the protection of the Superfund.

Continued on next page

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Pollution liability

Continued from previous page

Mr. Tiller says the innocent landowner provision requires those involved in mergers and acquisitions to "always think about environmental problems when they are acquiring land, regardless of what kind of business they're in."

The growing concern about environmental liabilities among those companies that are frequently involved in asset acquisitions, leasing arrangements and mergers has prompted many major law firms to open environmental law departments, attorneys say.

Pepper, Hamilton & Scheetz, like many of the largest U.S. law firms, did not have an environmental law department two years ago. Now the firm has about a dozen staffers in that department, including three partners, Mr. Maurer says.

Not long ago, the firm's management required all of its corporate attorneys to attend an in-house seminar on the potential environmental concerns that can arise during a merger or acquisition, he notes.

Now, Mr. Maurer says, those attorneys working on mergers and acquisitions routinely call in the environmental law department to review the deal.

No business should consider itself exempt from environmental concerns in an acquisition or merger situation, he warns.

For example, a purchaser of a plant that manufacturers candy might not think there are any environmental concerns to be considered, he notes. However, he says, if the plant was built before 1976, there is a good chance it is insulated with asbestos. And, he notes, many companies are spending millions of dollars to remove asbestos insulation because of the potential health liabilities associated with it.

Further, Mr. Maurer explains, if the plant predates the Toxic Substances Control Act, it may have electrical equipment that contains polychlorinated biphenyls, or PCBs, a substance used since the 1930s as a coolant in such equipment until 1976, when they were found to be a carcinogen. A fire in electrical equipment could cause a major contamination incident requiring a costly cleanup.

The plant also likely has one or more underground storage tanks used to store solvents for cleaning the equipment or even gasoline to fuel the company's trucks and automobiles, he points out. If a tank is leaking, it may require a costly cleanup, Mr. Maurer adds.

Consultants and attorneys say that many of the people involved in corporate mergers and acquisitions—attorneys, financial officers, chief executives—do not realize how easy it is for common business practices to result in environmental contamination.

Mr. Maurer says he knows of one company that is spending millions of dollars to clean up groundwater contamination that was caused by waste chemicals that spilled onto a loading dock and were washed into the soil by rainwater.

The contamination occurred over a number of years unbeknown to the company. Each week the company would ship drums of waste to an EPA-approved disposal site, Mr. Maurer explains. During the transfer, some of the waste would spill onto the loading dock. Over a period of years, the wastes gradually were washed into the soil and contaminated the groundwater.

Mr. Maurer says that during an acquisition, an environmental consultant would likely have spotted the stains on the loading dock and tested the nearby soil for potential contamination.

Attorneys and consultants explain that even the smallest of contamination incidents can cost a company millions of dollars.

Mr. Kurent says he is working with one company that bought a piece of land that had an underground storage tank used to store solvents. The tank leaked, and before the company discovered it, the state environmental regulatory agency detected it.

"The regulatory agency accused the company of trying to cover up the leak and sought the maximum penalty against them under the law. By the time it was over—settling the litigation and removing the tank and cleaning up the soil—it had cost the company about $1 million."

Mr. Kurent says that while $1 million may not be a lot to a large company, the figure takes on new significance considering how many 500-gallon underground storage tanks there are in the United States. "There's one on just about every piece of industrial property," he says. ■

Environmental audits reveal hidden liabilities before sale

By ROBERT A. FINLAYSON

Environmental audits can help companies involved in acquisitions uncover hidden pollution liabilities before they sign on the dotted line, consultants and attorneys say.

Such audits not only may reveal potential environmental problems, but also can quantify such liabilities so they can be considered when the terms and conditions of an acquisition or merger are decided.

"These days, it's almost inexcusable from a management point of view not to do some type of environmental audit," says Edward A. Kurent, former counsel for TRW Inc. and now a partner with Pepper, Hamilton & Scheetz in Washington, D.C.

Mr. Kurent says that these audits very often turn up "real problems that materially affect the deal, resulting in its cancellation or in a price adjustment."

Companies that do get stuck with environmental liabilities not only face hassles with the U.S. Environmental Protection Agency or a state environmental authority, but also third-party lawsuits and a battle with insurers for coverage, Mr. Kurent says.

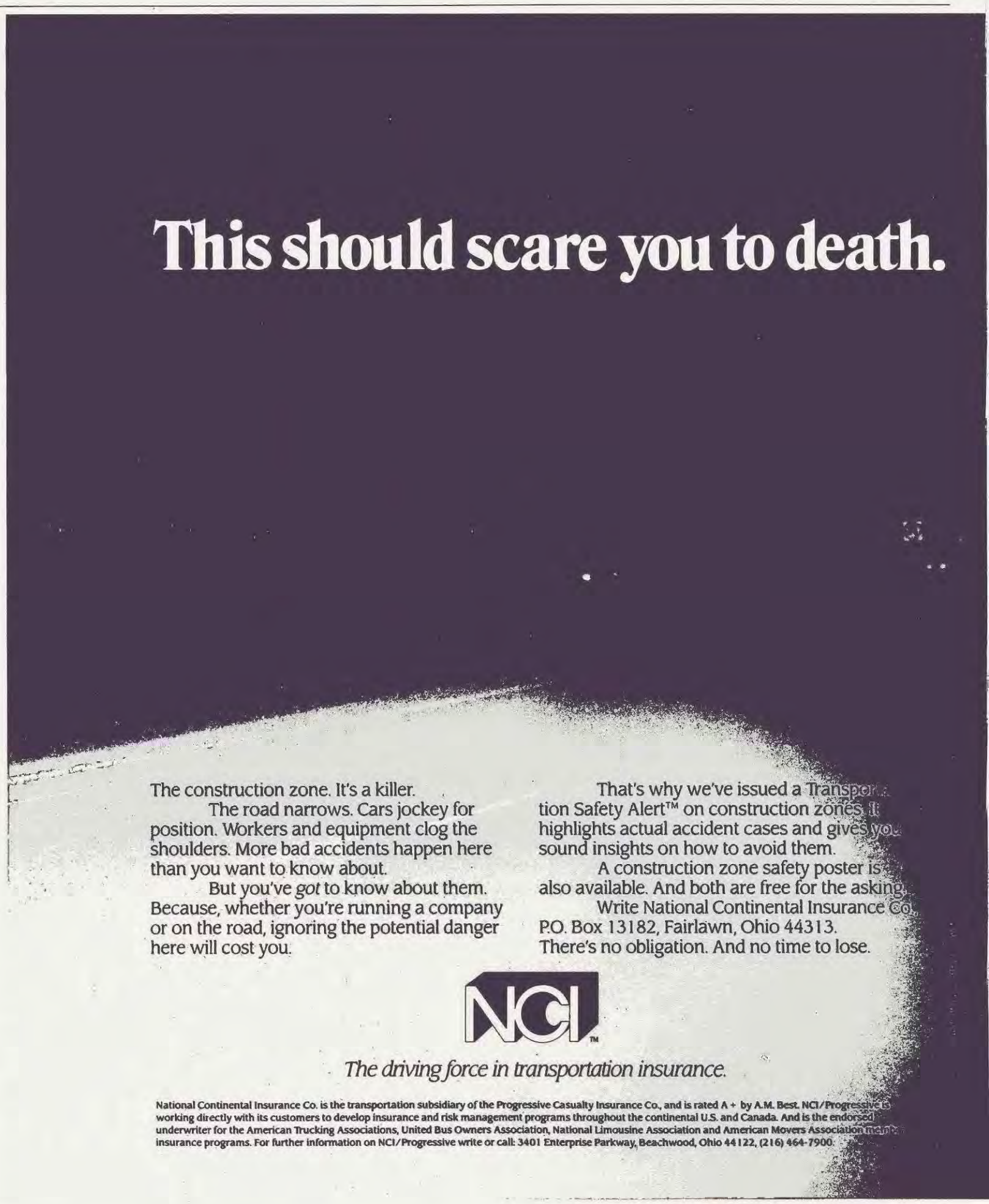
"It takes its toll, not only in dollars but in management time and attention," he says, adding, "all this for failing to do a proper pre-acquisition audit."

Mr. Kurent says these types of environmental audits typically cost about $10,000. "That's really a small percentage to pay for the kind of insurance it buys you," Mr. Kurent says.

Consultants and attorneys say that an environmental audit will protect not only the buyer but the seller.

The audit can be used to establish the condition of the acquired property at the time of the sale, thus making it possible to determine what contamination is attributable to the seller and what can be attributed to the buyer.

Continued on next page



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Mr. Kurent says this is important because if the government orders a cleanup of the property, the seller no longer has control of the property, but under Superfund "you still have liability for it."

As a result, he says, "the government may work out a deal with the current owner for a gold-plated cleanup, and the company will turn around and seek a recovery from the seller."

Without an environmental audit, there is no way for the seller to prove whether or not it was responsible for the contamination, Mr. Kurent says.

Typically, an environmental audit done for a merger or acquisition focuses on the property targeted for acquisition and on the seller's current operations and past waste disposal practices, environmental consultants say.

Examining a company's past waste disposal practices is important because under the federal Superfund hazardous-waste cleanup law the liability associated with those wastes passes through to the current owners of the company.

"Where a company is acquiring land, it is very important for them to be aware of what happened on that land; where it's located; if it's near a residential area or a drinking water supply or an industrial area," says David L. Maurer, an attorney specializing in environmental law and a partner in the Detroit office of Pepper, Hamilton and Scheetz.

The first step in an environmental audit is determining the scope of the audit and the time frame to be studied, explains Michael H. Tiller, president of Tiller Consulting Group Inc. of St. Louis.

Mr. Tiller says that depending on the type of companies involved, the audit may be limited to the property boundaries of the company being acquired or it may have to go beyond those boundaries.

For example, he says, in the case of a smelter, it may be important to include the entire air basin in the region where the smelter is located because pollutants are carried by air currents many miles away.

It is important to focus the inquiry up-front, Mr. Tiller says, because companies involved in mergers usually are under both budgetary and time constraints.

To determine whether a piece of property is contaminated, most environmental consultants conduct soil studies. Such studies sometimes involve the drilling of soil core samples and groundwater monitoring wells to determine what environmental contamination may exist on the property.

Mr. Tiller says the only way to really know whether a piece of property is contaminated is to "dig up and analyze the whole site. But that's not possible because of the expense," he adds.

Thus consultants usually rely on statistical models to determine the number and location of sampling wells needed to adequately evaluate a piece of property.

Before these techniques were developed, consultants could only guess how many wells would be needed to evaluate a site and where those wells should be located, Mr. Tiller says.

Aerial photos also can help consultants determine the past uses of a piece of property and whether contamination is present.

Mr. Tiller says such aerial photos and satellite imagery can uncover waste disposal sites that have long since been covered over. They also can point up areas of contamination that cannot easily be seen from the ground, he adds.

Lynne M. Miller, president of Environmental Strategies Corp. in Vienna, Va., says when her firm does this type of audit it does a search of publicly available information on the site under consideration. Acquiring such information includes checking local land records, doing a title search and checking to see if the site is named on the federal government's Superfund list of the nation's worst hazardous-waste dump sites.

Ms. Miller says in at least one audit in which her firm was involved, a site included in the acquisition turned up on the Superfund list.

Ms. Miller says that if the acquisition or merger is "friendly," she seeks permission to go to the sites being considered as part of the deal and conduct environmental contamination tests.

In deals that involve an unfriendly takeover or acquisition, or those that are highly confidential, Ms. Miller says obtaining information about the property involved is more difficult.

In such cases, she says they are forced to rely on land records and information provided by local environmental regulatory officials who record what, if any, environmental violations have taken place on the property.

Ms. Miller says she always recommends testing all underground storage tanks. A leak in such tanks can cause a costly contamination problem that can go undetected for years, she explains.

An audit must look for the presence of PCBs in any equipment, Ms. Miller says, whether any waste disposal took place on the property or where the wastes were taken if they were disposed off site.

Ms. Miller says one of the newest hazards to consider in an audit is radon gas emissions. Such emissions can pose a significant health risk to employees working in a radon-contaminated building.

"It's just another area to think about, along with asbestos, PCBs and off-site disposal," she says.

If an environmental audit does turn up a significant environmental pollution problem, consultants and attorneys say it does not necessarily mean a merger or acquisition should be called off.

Mr. Maurer says the purpose of including an environmental attorney in merger or acquisition negotiations is to make sure the environmental considerations are figured into the deal.

"That could be everything from influencing the ultimate price paid to a requirement that the seller offer an indemnification for the existing environmental problems," he says.

But Ms. Miller warns that such indemnifications are "only as good as the financial strength of the selling company."

Mr. Maurer explains that the federal government does not honor such indemnifications. Thus, if a government cleanup is ordered, and the indemnifier runs out of money, the government will come after the current owner.

In some cases, Ms. Miller says, the buyer will stipulate in the terms of the merger or acquisition that the seller must clean up the contamination prior to the final sale. Or, she says, the buyer can do the cleanup itself and deduct the cost from the final purchase price for the property.

Attorneys and consultants warn that an environmental audit can be a two-edged sword. It will help to identify environmental problems, but, if handled incorrectly, can result in increased liability, they say.

"You shouldn't do an audit unless you are willing to deal with the results—good or bad," Mr. Kurent warns.

"But if you have an audit and you don't do anything to address the problems, you may be at risk of criminal prosecution by having knowledge of something that requires a report to the government," Mr. Kurent says. ■



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Insurers apply the brakes to trucking cover rate hikes

By DOUGLAS McLEOD

NEW YORK—The long-haul trucking insurance market is improving slightly for buyers even though there has been little improvement in the conditions that have made trucking one of the most volatile and difficult classes of business to underwrite.

The pace of rate increases has slowed for long-haul truck liability coverage, according to some insurers, while others report actual rate decreases for liability and physical damage coverages.

And capacity is increasing—most noticeably for physical damage insurance—as more insurers return to the market.

However, alternatives to commercial long-haul truck insurance are not widespread, sources added.

Although the Interstate Commerce Commission recently finalized rules that motor carriers must follow to self-insure, relatively few trucking companies have used that risk financing alternative.

And while other trucking firms are considering forming risk retention groups, no such groups have yet begun operating.

Several long-haul truck underwriters report that rather than self-insurance or risk retention groups, their stiffest competition often comes from "involuntary market" mechanisms, such as state assigned risk pools. Pools in several states are providing higher limits at lower rates than commercial insurers, underwriters say.

Long-haul truck liability, long known as a tough risk to underwrite, produced huge losses for many insurers during the soft market of the early 1980s and contributed to the insolvency of several insurers, including Carriers Insurance Co., Excalibur Insurance Co. and Early American Insurance Co.

In addition, some Lloyd's of London syndicates have reported loss ratios exceeding 400% on trucking business produced by Will Darrah & Associates, a Myrtle Beach, S.C., managing general agency now operating as a unit of Quantex Corp. (*BI*, Dec. 29, 1986).

Even when losses have not reached this magnitude, insurers have not had an easy time with trucking risks.

"It has not been profitable," confirmed John Elliott, underwriting manager for the Motor Transport Department of Liberty Mutual Insurance Co. in Boston, a major writer of trucking risks.

Liberty Mutual—which writes trucking liability, physical damage, cargo and workers compensation—chalked up its worst year in 1983 when the insurer's combined ratio on trucking business hit about 140%, Mr. Elliott said.

Since then, Liberty Mutual's experience has improved—partly because of rate increases for trucking liability coverage averaging 40% for each of the last two years, Mr. Elliott noted.

Several elements have combined to make long-haul trucking a volatile line of business.

One is the nature of the risk itself, said Med James, president of Med James Inc., a Shawnee Mission, Kan., managing general agency specializing in trucking risks.

"Think about what the hell you're insuring," he said. He pointed out that the typical risk is a heavy, expensive piece of equipment rolling down a highway at a minimum of 55 mph, carrying a wide variety of commodities and driven by someone who is behind the wheel 10 to 12 hours a day.

Contributing to the inherent riskiness of the class have been problems created by the Motor Carrier Act of 1980, which deregulated the trucking industry.

Deregulation has lured new players to the trucking business who may lack the necessary financing or experience, said Alan Schreibman, a principal with Integrated Risk Management, consultants based in Culver City, Calif.

The influx of new competitors also has forced established trucking companies to cut costs, in some cases affecting safety, he added.

"Deregulation just had a terrible impact," Mr. Schreibman observed.

"They are going through right now what we as the insurance in-

Continued on page 46

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Trucking risks

Continued from page 44

dustry went through in 1983," Mr. Elliott said, referring to rate-cutting wars among motor carriers.

As rate-cutting continues, trucking companies forced to save money may cut back on fleet maintenance and loss prevention programs and may seek to hold down drivers' wages, making it harder to keep experienced drivers, Mr. Elliott explained.

The result could be even more losses for insurers.

Rate-cutting by trucking companies also has directly affected premium rates charged by some insurers, Mr. Elliott noted. Premiums charged by some insurers are based on the trucking company's gross receipts, and as trucking industry competition drives down gross receipts, insurance rates must rise for insurers to collect the same dollar amount of premium for a risk, he explained.

An increase in trucking company bankruptcies also can hurt insurers, which must honor claims regardless of a bankrupt company's deductible, Mr. Elliott added. "Bankruptcies of trucking companies can cost insurance companies anywhere from a few dollars to as much as $30 million."

Also contributing to the instability of the trucking insurance market are inexperienced insurers, observers noted.

Long-haul trucking is a highly specialized business that is difficult to underwrite even for those familiar with trucking operations, says Jeff R. Truluck, vp with Canal Insurance Co. in Greenville, S.C.

During a soft market, larger insurers writing mainly private passenger automobile business, for example, may be attracted by the high premiums charged for trucking insurance. After being hit with a few severe claims, however, these markets "throw up their hands" and pull out, Mr. Truluck said.

"It is such a high premium-per-risk market that it creates chaotic conditions, because you have a large number of companies entering the market without the underwriting expertise," Mr. Elliott agreed.

"It's not always the juicy deal it looks like," added Roland D. Miller, president of National Indemnity Co. of Omaha, Neb., a unit of Berkshire Hathaway Inc. Group.

"A lot of companies got themselves into a lot of trouble in soft market times," Mr. Miller said. "A lot of companies went belly-up because of inadequate pricing and inadequate reserves."

Insurers "were taking these things at premiums where they knew they were going to get their brains beat out, and they did," said John Fristoe, chief of programs with the ICC's office of compliance and consumer systems.

Observers say the lure of high premiums also has attracted "fast buck artists," including MGAs whose primary motivation is to write as much business as possible —generating high commissions and fees—without regard to the ultimate effect of their practices.

"They would just get all the money they could and collapse the insurance company," Mr. Fristoe noted. He added that since deregulation, the ICC has stopped its practice of qualifying truckers' insurers.

However, some insurers say that such practices are not limited to long-haul trucking insurance.

"It does not have to do necessarily with the trucking industry per se," Mr. Elliott said. "It has to do with any industry where insurance costs are a very high percentage of revenues or net profits."

Underwriting results in the long-haul trucking class produced a shake-out in the industry—with the withdrawal or insolvency of several insurers—and led to significant tightening among the remaining markets for the coverage, industry officials report.

Recently, however, buyers have begun to see slight signs of improvement.

While Liberty Mutual's rates rose an average of 40% a year over the last two years, increases have leveled off at between 10% and 20%, Mr. Elliott reported.

However, "I do not see any major or significant rate reductions on the horizon for the next year or so," he added.

Liberty Mutual typically insures trucking firms with 50 or more power units and with an average of $5 million or more in annual revenues, Mr. Elliott said.

American International Group Inc. is also a large market for trucking risks: through the AIG Transportation Division of AIG Specialty Agencies Inc., using the

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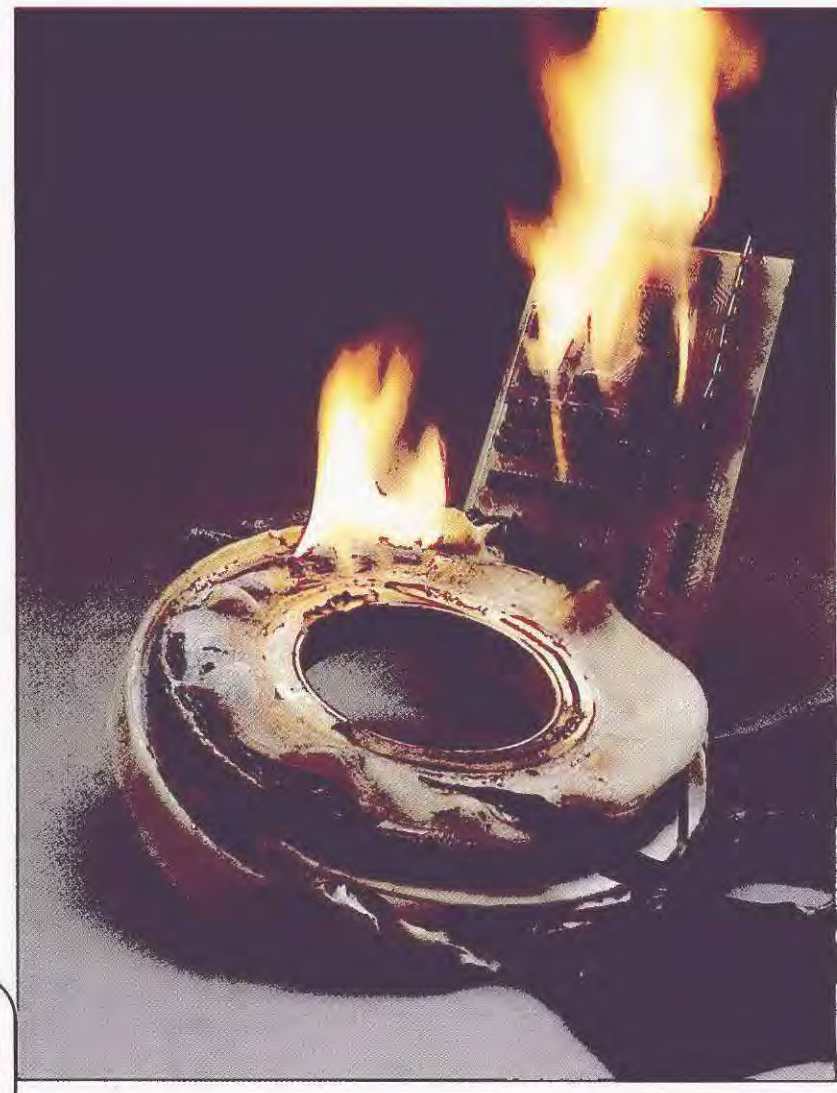


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Long-haul truck insurance is a volatile class, but market conditions for buyers are improving.

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Continued from previous page
Insurance Co. of the State of Pennsylvania; and through the transportation division of New Hampshire Insurance Co.

AIG expanded the combined single limit it can write on liability risks last year to $10 million from $5 million when it obtained additional capacity from the program's lead reinsurer, American Re-Insurance Co., according to Wesley Carroll, vp-underwriting with the AIG Transportation Division.

AIG also increased its limit on physical damage coverage to $2.5 million per catastrophe from $500,000 per catastrophe with more reinsurance support.

AIG is offering some discounts on liability coverage depending on the risk, Mr. Carroll said. While a "standard" risk without a safety management program may pay $5,500 to $6,000 per power unit for a $1 million liability limit—unchanged from last year—risks with extensive safety programs may pay only $4,800 per power unit, a 20% to 25% discount, he said.

Other insurers say that competition is beginning to creep back into the market, especially for physical damage coverage.

"We are running into competition considerably more than this time a year ago," said Canal's Mr. Truluck.

Mr. Truluck said that he recently heard about an agent quoting a rate of 4.5% of vehicle value on physical damage coverage for a particular risk. The rates for physical damage coverage a year ago ranged as high as 10% or 11%.

Mr. James concurred that while physical damage rates a year ago averaged 6% or more, the average has now dropped to about 4.5%.

"We see some softening that, from my point of view, makes no sense," he said, because insurers will have a tough time making a profit at rates less than 6%.

Though the more significant softening appears to be in the physical damage area—for which more markets available, including Lloyd's syndicates—some insurers also report growing competition for liability business.

Liability rates for the better risks are gradually being reduced by 10% to 15%, according to Mr. Truluck.

"We do not find situations where we are the only company quoting," agreed Gary Y. Kusumi, president of National Continental Insurance Co., a unit of Progressive Insurance Group.

"We don't see crazy pricing yet, but for sure it is not a situation where there are only a couple of companies quoting," he said.

Insurers report—and the ICC confirms—that relatively few trucking firms have opted to self-insure in response to the tightened commercial insurance market.

Since July 1984, the ICC has required motor carriers handling non-hazardous material in vehicles weighing more than 10,000 pounds to maintain liability insurance limits of $750,000.

Truckers carrying oil or certain types of hazardous material are required to maintain liability limits of $1 million, while carriers of other types of hazardous material —including explosives, poison gas, liquefied compressed gas or radioactive materials—are required to maintain limits of $5 million.

While some trucking companies have carried large self-insured retentions for many years, the ICC in February adopted final rules governing qualified self-insurance by motor carriers. Under the rules, a trucking company must demonstrate:

- Adequate net worth to ensure that it will be able to meet its obligation to indemnify claimants.
- A sound self-insurance program that may be supported by letters of credit, irrevocable trust funds, reserves, sinking funds, third-party financial guarantees, parent company or affiliate sureties or excess insurance coverage.
- The existence of an adequate safety program.

However, only 40 motor carriers —not all of them long-haul trucking firms—had filed applications to become qualified self-insurers as of last January, according to ICC filings.

The ICC says that reasons for the relatively small number of filings may include uncertainty among motor carriers over the Department of Transportation's intentions regarding self-insurance; abatement in the severity of the insurance crisis; and the stringent requirements the ICC has placed on self-insurance programs.

"Over the last three years, I have had more truckers coming out of self-insurance programs than going the other way," said Liberty Mutual's Mr. Elliott, explaining that this has been caused partly by an increasing reluctance by excess insurers to write over self-insured retentions.

Though insurers also report no competition yet from risk retention groups, some in the industry are studying the possibility of forming such groups.

In an April 8 policy statement, the ICC said that risk retention groups qualify as insurance or surety companies under federal regulations.

Towers, Perrin, Forster & Crosby is currently working with the Frank A. Cramsie Agency of Oak Brook, Ill., on a survey of 900 long-haul trucking firms to determine their interest in forming a risk retention group to write liability and physical damage coverages, according to Andy Ahern, Cramsie's president.

Insurance company officials, however, note that risk retention groups face several hurdles, including a tendency of extremely competitive truckers to opt out of the groups for cheaper commercial coverage during a soft market; and the possibility of groups being left with significant liabilities of bankrupt trucking company members.

Insurers generally report that their stiffest competition is coming from state assigned risk plans, which were designed to provide coverage where there is no commercial insurance alternative.

"Many of the trucking companies that are in the involuntary market are there because it's the cheapest game in town," said Mr. Elliott, noting that commercial insurers would "welcome" much of the business now being written by the assigned risk plans.

"Quite a bit of it is substantially underpriced," National Indemnity's Mr. Miller said of the plans' business.

Many trucking firms intentionally incorporate in—or move to—states with the lowest assigned risk plan rates, insurers say.

The premiums and losses for commercial automobile insurance policies generally are equitably distributed to insurers participating in the assigned risk plan.

Assessments by the various state assigned risk plans can amount to 5%, 10%, 15% or even 20% of long-haul truck premiums written by Liberty Mutual on a voluntary basis, Mr. Elliott said.

"It's never the game plan of any assigned risk plan manager to have rates below the voluntary market," said John H. Corbley, president of the Automobile Insurance Plans Service Office in Johnstown, R.I.

The plans aim to have rates 15% above commercial market rates, he said. But, in some states there is a lag between the time commercial insurers increase their rates and the time the plans can obtain state regulatory approval to impose similar increases. ■

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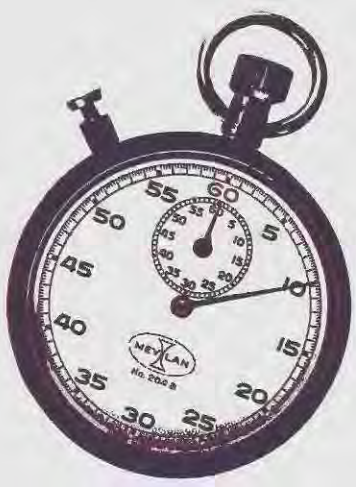
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OVERKILL

Model financial guarantee law would hurt market

By Bruce A. Bunner

PUBLIC AND PRIVATE institutions could find themselves without ready access to capital markets and faced with increased borrowing costs if state legislatures adopt model legislation recommended by the National Assn. of Insurance Commissioners.

The intensely debated financial guarantee model bill deeply divided the insurance industry and regulators. Both recognized the need for explicit restraints as to financial guarantees. They managed to compromise on such issues as aggregate limits (leverage) and single limits (concentration) of risk that can be underwritten.

However, they could not find compromise alternatives as to several major provisions of the model.

The model, as finally adopted, would unintentionally reduce the availability of financial guarantee insurance, a widely used but not fully understood coverage that enhances credit, and, as a result, significantly lowers the policyholder's (borrower's) interest costs. States that adopt the NAIC model will, in effect, force major multiline insurers from the financial guarantee market because the model law requires multiline insurers to segregate surplus for writing financial guarantees. The proposed legislation would result in only monoline insurers writing financial guarantees.

Misconceptions regarding financial guarantee insurance were widespread when I served as Insurance Commissioner of California. Those misconceptions remain prevalent today. Insurance professionals—risk managers, insurance industry executives, and brokers, as well as legislators and other government people—don't fully understand financial guarantee insurance.

I suspect this exists because financial guarantee products are not traditional indemnification insurance products, but are akin to surety, originally a banking concept. As such, the broader base of insurance professionals are not exercised about the regulatory fate of this product for the industry. Thus, another layer of restrictive regulation is emerging that will straitjacket product and market development.

The financial guarantee industry also exacerbated the general misunderstanding. It had open disagreement within its own ranks as to several regulatory issues and, overall, it failed to communicate the basic concepts regarding financial guarantee insurance. More important, the industry has not convinced legislators and regulators of the public interest need for the product.

When the California Department of Insurance proposed its municipal bond guarantee legislation in 1984, the Governor's administrative staff initially rejected the need for the legislation. Only after personal appeal to, and debate with administrative staff, did I finally obtain approval to proceed with the introduction of the legislation, which was enacted in 1985.

More shocking than the difficulties with the Governor's staff was the absence of perceived need for this product by the trade groups of municipalities and public agencies that are active in debt offerings. I would have expected the state treasurer's office, public housing agencies and municipal finance officers to have vigorously supported the public interest need for the proposed legislation.

The financial guarantee insurance industry—together with municipalities, health care and educational institutions, and businesses that will financially benefit the most—should collaborate in support of market-efficient legislation for financial guarantee insurance.

The first step in any combined effort should get right to basics. It should end any mystery about what financial guarantee insurance is, how it works and what it does.

speaking out

The *raison d'etre* for financial guarantee insurance is the claims paying ability of the insurer as rated by Standard & Poor's Corp. or Moody's Investor's Service Inc. The insurance replaces a borrower's credit rating with the insurer's. Thus debt issues insured by AAA insurers are themselves rated AAA. The "enhanced" rating lowers the interest costs of borrowers.

Financial guarantee insurance provides small municipalities and private borrowers access to the capital market that they might not otherwise enjoy. As such, financial guarantee insurance contributes to public and private sector growth.

The public benefit arising from the industry participation is becoming increasingly evident. The first municipal bond was sold in 1971. Since that time, state and municipal governments have saved hundreds of millions in borrowing costs. For example, New York's Urban Development Corporation saved $32.1 million on one single bond issue.

Industrial and commercial developers, particularly the important middle market enterprises so critical to the nation's total economy, have also lowered their interest costs significantly. On Long Island, a small middle market paper company saved more than $300,000 on a $1.3 million borrowing because the interest rate was not the 13% that prevailed at the time but only 9.8%.

Colleges and universities, which now experience more difficulty than ever in obtaining loans for their students because of federal cutbacks, have been able to offer low-interest loans to students thanks to financial guarantees provided by the industry. A consortium of 12 universities in the Washington, D.C., metropolitan area, (including The American University, The Catholic University of America, Georgetown University, Howard University, and the University of Maryland at College Park) have developed a student loan program that depends on financial guarantee insurance. With credit enhancement provided by the guarantee underwriters' AAA rating, students have paid less than 10% interest on loans that would otherwise be available at rates as high as 18%. Without the credit enhancement, the program would not work.

As a practical matter, only insurers with AAA ratings can compete in the financial guarantee businesses. The rating agencies insist that both multiline and monoline insurers have at least $150 million of capital to be rated AAA.

The dilemma is that many multiline insurers now writing financial guarantees cannot (and should not) legally separate and commit that amount of capital to financial guarantee coverages without any regard to their actual or expected aggregate risk exposure. Companies that have committed, say, $50 million to certain kinds of financial guarantees are not willing to commit more capital because it would stand virtually idle. That would be neither prudent nor economically efficient.

If forced to create separate capital capacity, managers of multiline insurers will have to withdraw from the financial guarantee business and many have said they would withdraw from the market rather than legally separate the capital. Some multiline insurers already have abandoned the marketplace in anticipation of this restrictive legislation. The effort to legislate the separate dedication of capital could well succeed if the industry fails to clear up prevailing misconceptions.

The paramount misconception involves the amount of liability actually covered by financial guarantee insurance contracts. It has been estimated that insurers' current exposure to loss under municipal bond guarantees alone exceeds $220 billion. Expressing this product in terms of total exposure, while theoretically correct, is misleading. It is like comparing the billions of dollars of aggregate property and liability coverages to total surplus of insurers and then expecting a total loss.

Another misunderstanding: financial guarantee policies provide the payment of principal and interest on public and private debt. What they provide for is the *timely* payment of debt service. Financial guarantee insurance contracts preclude accelerated debt service payment.

Regulators are naturally concerned about potential economic downturns affecting public and private institutions. However, historical records show that since its beginnings, financial guarantee insurance has kept insuring payment of public and private debt obligations through the severe economic downturns of the mid-'70s and early '80s, during a time of historically high interest rates.

Considering a worst case scenario, as in the Great Depression, 97% of municipal defaults experience total recovery within four years. During depression years, the default rate for investment grade corporate obligations was less than is sometimes asserted, in fact, for the period 1928-1931, it was only 1.4%; for 1932-1935, it was 6.2% and for 1936-1939 is was 3.3%. Prudent insurance management can handle a 6.2% default rate when leverage and risk diversification principles are respected.

Regulators and legislators might still ask if multiline insurers are particularly vulnerable to financial guarantee risks in spite of their contribution to economic growth.

A possible comparative study is mortgage guarantee insurance. Since the 1930s, this line has been monoline in concept. I frankly believe the current regulatory scheme for this line of insurance is flawed as evidenced by the recovery problems experienced by a couple of mortgage insurers in the last two years. Further, the monoline insurers in the 1930s experienced the greatest financial difficulties because they didn't have alternative sources of income.

Also monoline concepts are more dependent on public confidence. When monoline entities become financially distressed, it is more difficult for them to recover, without outside support from their parent company or affiliates. For example, when the thrift industry in Ohio, Maryland and California became distressed, their respective guarantee corporations were literally taken down. The inherent strength of multiline insurers is due to their risk and product diversity, which enables multiple sources of income and, as such, justifies added leverage.

There is also the misconception that financial guarantee insurance represents a potential threat to underwriting capacity in other lines because the perceived "big risk" aspect of financial guarantees. This threat is always present and no amount of capital can overcome unsound writing. Nevertheless, financial guarantees have contributed to surplus in many multiline companies; and where difficulties have transpired in multiline insurers,

Continued on next page



Bruce A. Bunner is a partner in the New York office of Peat Marwick Main & Co. Mr. Bunner is a former California Insurance Commissioner.

ASK A BENEFITS ACTUARY

Discrimination tests require actuarial help

Q **Will a benefits actuary perform the tests for welfare benefit plan discrimination?**

A The Tax Reform Act of 1986 added Internal Revenue Code Section 89, which provides new non-discrimination rules for welfare benefit plans. These new rules will generally be effective for years beginning after Dec. 31, 1988. In the unlikely event that the Internal Revenue Service issues regulations on Section 89 before Oct. 31, 1988, the new rules will be effective three months after the issuance of regulations. Given the complexity of legislation, it seems doubtful that the IRS will issue regulations by that date.

Generally speaking, Section 89 prohibits discrimination in favor of highly compensated employees under statutory employee benefit plans. These plans include accident and health insurance plans (whether or not they are insured) and group term life insurance plans. The traditional long-term disability plans are not generally subject to the new non-discrimination rules.

"Highly compensated employee" is defined under IRC Section 414(q) and includes an employee who, during the current or previous year:

- Was at any time a 5% owner (either a 5% shareholder or a 5% owner of a capital or profits interest).
- Received compensation from the employer in excess of $75,000.
- Received compensation from the employer in excess of $50,000 and was in the top-paid 20% of an employer's work force for the year.
- Was, at any time, an officer and received compensation in excess of 150% of the defined contribution dollar limitation (currently, 150% of the limit is $45,000).

Other special rules apply to determine definitely which employees are highly compensated.

Some of the non-discrimination tests required under Section 89 would seem to require calculations by an actuary. For example, one component of an eligibility test requires that at least 90% of the employees who are not highly compensated must be eligible to participate in a plan providing a benefit that is valued at 50% or more of the value of the benefit provided to any highly compensated employee. This test would seem to require someone—presumably an actuary—to assign value to accident and health plans.

Another test under Section 89 requires that the average benefit received by non-highly compensated employees be at least 75% of the average benefit received by highly compensated employees. This non-discrimination test also would seem to require the assignment of value to an accident and health plan by an actuary.

In the event that a plan was found to be discriminatory, highly compensated employees are required to include in their income the value of the excess benefit that they received relative to a non-highly compensated employee. The determination of the discriminatory excess also would seem to require actuarial expertise.

Section 89 does not specify the precise basis that an actuary—or anyone else for that matter—will use for determining the value of accident and health benefits. The Conference Report calls for the IRS to issue regulations setting forth values for various health insurance coverages.

Several approaches to this valuation problem are possible. The Internal Revenue Service could issue a "rate manual" for accident and health plans that would be used to assign value for the purposes of Section 89. Alternatively, the IRS could permit a sponsor to estimate the cost of his plan based on historical claim experience.

In either case, it seems likely that the expertise of an actuary will be necessary to value accident and health plans for the purposes of Section 89.

Using pension plans to cut severance tab

Q **How can severance benefits for retirees be reduced?**

A This question comes from an employer providing severance benefits in the event of an employer-initiated termination, and sponsoring a defined benefit pension plan. The sponsor's pension plan permits retirement as early as age 55.

The employer would like to reduce or eliminate a severance benefit when the employee is eligible to retire and receive an immediate benefit from the defined pension plan; however, the sponsor is concerned that this practice might violate the Age Discrimination in Employment Act.

The sponsor might be able to reduce the severance benefits paid to older employees by including these benefits in the defined benefit pension plan. The existing level of the severance benefits might be provided by the pension plan only to the extent that it exceeded the pension benefit that an employee could receive immediately.

A recent ruling by the U.S. District Court for the Western District of Tennessee seems to support this type of reduction in severance pay benefits. In *Equal Employment Opportunity Commission vs. Firestone Rubber and Tire Co. et al*, the court reviewed a case in which certain employees under age 55 received "severance awards" from a qualified pension plan when a plant closed, but employees over age 55 received no similar award. The EEOC sued, alleging that the failure to provide severance awards to employees over age 55 violated ADEA.

The court ruled that these severance awards did not violate ADEA. The court noted that the severance awards paid from the pension plan were designed to replace lost *pension benefits*, rather than lost *income*. The court also said that the sponsor had a long history of paying severance awards from the qualified retirement plan. If this case is taken as a precedent, it suggests that plan sponsors might be able to reduce severance benefits costs for older employees by integrating them into qualified pension plans.

Before a plan sponsor adds severance benefits through a qualified plan, the other implications of providing severance benefits through a qualified plan should be examined. The sponsor should be aware that severance benefits would be subject to minimum funding requirements of the Employee Retirement Income Security Act, where previously they had not been. For some sponsors, this might result in a contribution to the pension trust that exceeds the **usual** current year severance payments; for sponsors with overfunded pension plans, this change might eliminate any short-term cash outlay from the employer's funds for severance benefits.

Depending on how the sponsor incorporates these benefits into its pension plan, severance benefits may be subject to other ERISA requirements, such as a qualified joint and survivor annuity election. The requirement to offer **that option** to the participant's spouse might be avoided if the severance benefit were considered "a temporary pension supplement," as opposed to being part of the plan's "accrued benefit."

In any case, sponsors should be aware of the possibilities for reducing severance benefit costs.

Would you like advice from an experienced colleague on a risk management, benefits management or actuarial problem? Four features in the Perspective section of Business Insurance can give you some answers.

Ask A Casualty Actuary, Ask A Benefit Actuary, Ask A Benefit Manager and Ask A Risk Manager answer written questions from readers on risk and benefits management issues and actuarial problems.



Mr. Miner

This month's column, on actuarial issues in the benefits field, is written by William J. Miner, an actuary with The Wyatt Co. in Chicago. Richard E. Sherman, a principal with Coopers & Lybrand in San Francisco, answers actuarial questions in the casualty field. Ralph F. Perry Jr., vp and director of risk management at Amfac Inc. in San Francisco answers risk management questions. And, Joseph W. Duva, director of employee benefits at Allied-Signal Inc. in Morristown, N.J, answers benefits management questions.

Mr. Miner's and Mr. Sherman's columns appear alternately on the first Monday of each month. Mr. Duva's and Mr. Perry's columns appear alternately on the second Monday of each month. Mr. Miner's next column will appear in August.

Address your questions to ASK, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611. Please give us your name, title and employer; however, Business Insurance will consider unsigned letters.

Financial guarantees

Continued from previous page
they have absorbed them very well, demonstrating the efficacy of multiline environments.

The easy way out for regulators is the walling off of capital. Regulatory goals, however, do not have to conflict with broad public interest objectives. They can facilitate or encourage insurer participation in legitimate economic investment needs.

Nevertheless, a regulatory concern is not letting a surety style product take down the indemnification class of policyholders. Does this mean we have a classic regulatory dilemma? I don't think so. If insolvency is truly the issue, multiline insurers writing guarantee type products have already demonstrated they have had better success in avoiding insolvency because of their product and income source diversity.

A legislative compromise could be revising the priority of claim payments in a liquidation proceeding of an insolvent insurer. For example, financial guarantee products of a multiline insurer could be specifically funded by related contingency reserves but any net deficiency would follow indemnification insurance claim payments in claim payment priority in liquidation. We attempted to introduce this kind of legislative approach in California, but industry lobbying defeated the concept. The concept is worth revisiting as a meaningful compromise to the multiline/monoline argument.

Otherwise, the proposed NAIC legislation—restricting multiline insurers—would, if enacted, probably prove regressive. It would create excessive disincentives to capital mobility. It would put capital in a legislative straitjacket, one that could prove all too costly for all borrowers.

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perspective

Drawing lots undermines arbitration

Jonathan F. Bank

speaking out

ALTHOUGH I AM generally a strong advocate of arbitration in the resolution of reinsurance disputes, I must confess to some misgivings in recent years. This is largely due to an attempt by a few to use arbitration in a manner never contemplated.

Historically, relationships between the parties to a reinsurance agreement were of long duration and disputes were infrequent. When they did occur, the parties genuinely sought a forum in which the dispute could be equitably and quickly resolved. Arbitration served that purpose.

However, due to changes within the industry in the last decade or so, some parties to reinsurance agreements no longer seek equitable resolutions of disputes. They seek to win. Good faith, as a guiding principle, has been supplanted by delay, obfuscation and lack of trust. Arbitration more frequently resembles litigation, extensive discovery is often sought and even lawyers in the private sector serve as arbitrators. This approach hardly seems to comport with the spirit and intent of the parties who originally formulated these arbitration clauses.

These trends trouble me, but nowhere is the potential for abuse more serious than in the "lot drawing" process contained in many arbitration clauses. These clauses generally provide:

"If the two arbitrators shall fail to agree in the selection of a third administrator within 30 days of their appointment. . . the designation shall be made by drawing lots."

Because reinsurance arbitrators are frequently advocates for the parties who appointed them, the selection of the neutral, unbiased third arbitrator (umpire) is crucial to the arbitration process. If one party tries to gain an advantage by nominating candidates that are not impartial, the lot drawing process may, in and of itself, undermine an equitable result, with the outcome, in a sense, reduced to no more than the flip of a coin.

This attempt at "stacking the panel" is the single most egregious problem with the "lot drawing" process and, until April 10 the issue had never been addressed by the courts.

The saga of Mission Insurance Co. need not be repeated here, having received extensive press and industry attention. Suffice it to say that one of Mission's subsidiaries, Pacific Reinsurance Management Corp., operated as a reinsurance pool manager from 1970 through mid-1984. PRMC, for the most part, issued Mission policies on behalf of the pool, with each pool participant, as well as Mission, retaining a percentage of the risk.

Over the many years that the pool was in operation, numerous reinsurers participated and generally signed only a management agreement with PRMC. One standard form management agreement was used from 1970 through 1979, with a revised version in force from 1979 through 1984. Both forms contained arbitration clauses, but the earlier form did not establish any particular procedure for the selection of the umpire in the event of an impasse. However, the more recent form specifically provided for the drawing of lots in the event the parties could not agree to the selection of an umpire.

In February 1986, Ohio Reinsurance Corp. and five other insurers filed suit against PRMC in the U.S. District Court for the Southern District of New York, seeking, among other things, rescission of their agreement with PRMC. In view of the arbitration clauses contained in *all* of the agreements, in June 1985, the U.S. District Court for the Central District of California issued an order compelling arbitration of the dispute.

PRMC named its arbitrator, as did the reinsurers, and the two arbitrators then began the process of selecting a neutral third party to serve as umpire. The two candidates nominated by Ohio Re, although both highly respected and qualified, were objected to by PRMC. The first was deemed objectionable because the company with which he was affiliated was one of Mission's largest creditors. Ohio Re's second selection was an attorney in private practice who was, at the time of his nomination as umpire, personally representing Ohio Re's attorneys in an unrelated matter.

To break the impasse, PRMC suggested that the parties begin the selection process anew and each submit additional names for consideration. Ohio Re refused and insisted upon a drawing of lots. It did so despite the fact that five of the 12 agreements at issue were on the 1970 form, which did *not* provide a method for the selection of the umpire. The remaining seven agreements were on the 1979 form, which *did* provide for a drawing of lots. Nevertheless, PRMC felt that it would be, at a minimum, unfair to force it to draw lots and thus run the risk of selecting an umpire who might already have formed views that could be prejudicial to PRMC's interest.

This disagreement regarding the selection procedure persisted for five months, after which PRMC requested a status conference with the District Court Judge to break the stalemate.

At that conference, Judge Terry Hatter ordered both sides to submit five names, together with disclosure statements for each, having decided that the court itself would appoint the neutral arbitrator. Ohio Re attempted to block this action through a series of procedural tactics, all of which failed, and, finally, in March 1986, the court entered its order appointing an umpire. The court selected one of the five names submitted by PRMC, prompting Ohio Re to file an appeal with the U.S. Court of Appeals.

The Court of Appeals, in *Pacific Reinsurance Management Corp. and Mission Insurance Co. vs. Ohio Reinsurance Corp. et al*, No. 86-5740 (9th Cir. Jan. 8, 1987), noted that the issue before it was one of first impression in this and all other circuits. The court found that the lower court relied on a provision of the Federal Arbitration Act (9 U.S.C., Sec. 5), which contemplates that although the parties must follow the contractual procedure for the selection of arbitrators, the court itself may appoint an umpire if:

- There is no such provision.
- The specified method is not utilized.
- There is simply a lapse of time in naming the arbitrator.

The court of Appeals concluded that the lower court was right in applying this section of the Federal Arbitration Act with respect to those five contracts that did not provide for the selection of an umpire. Moreover, the court further noted that even with respect to the seven remaining contracts, the statute *allows* the court to appoint umpires under certain specified conditions, as set forth above. Because of the deadlock that had arisen between the parties, the district judge was entirely within the powers granted him by the statute when he intervened and named the umpire.

Ohio Re argued that the lower court had not allowed it an opportunity to comply with the terms of the contract, but the court of appeals concluded that the District Court had given the parties "ample time and opportunity to comply with their own agreement. . ."

Had the judge stepped in at the beginning of the arbitration process and appointed the umpire, the results would now be different and controlled by prior case law (*ATSA of California vs. Continental Insurance Co.* 754 F.2d 1394, 1396 (9th Cir. 1985)).

The court concluded by noting that there is "nothing inherently wrong with the lot-drawing procedure used in seven of those agreements. In the enactment of Section 5 (of the Federal Arbitration Act), however, Congress has evinced its intention of facilitating arbitration when impasse in selection of an umpire has been reached. This selection still respects the agreements of the parties by requiring compliance with those agreements where possible. In cases such as this one, however, the intent of Congress was to spur the arbitral process forward, rather than to let it stagnate into endless bickering over the selection process."

This decision has to be considered a "plus," for as the volume of arbitrations increases, so too does the potential for judicial review. It is consoling to know that as a last resort, the courts are prepared to step in to resolve these types of disputes and thus ensure at least a modicum of fairness in the arbitral process.

In short, by insisting on the strict interpretation of the lot drawing procedure contained in some of the agreements, Ohio Re refused to cooperate in an effort to reach a compromise. It was, it appears, simply "too quick on the draw," which the court of appeals obviously found "disarming."

Jonathan F. Bank is an attorney with the Los Angeles firm of Buchalter, Nemer, Fields & Younger.



Location didn't exclude cover: Court

legal briefs

A fire insurance policy that describes the property insured as all personal property owned by the insured covers all inventory regardless of where it is located, a federal district court in New York ruled.

Nipkow & Kobelt Inc., Parliament Textile Division, purchased unfinished fabrics, had them dyed or finished and then sold the fabrics to clothing manufacturers.

The North River Insurance Co., a Basking Ridge, N.J.-based subsidiary of Crum & Forster Commercial Insurance Inc., wrote a policy for Parliament covering "all personal property" owned, listed at three locations, not including Jamel Textiles Inc. in Pennsylvania.

In March 1984, a fire at Jamel damaged approximately one-half of Parliament's inventory with a value of $600,000. The insurer denied coverage. Parliament sued claiming the policy covered its entire inventory regardless of where it was located.

The court noted that the policy was amended for the locations listed and that could only mean that the insurer's liability for property at all other locations continued without amendment or change. Thus, the court said that the amendment only limited the monetary coverage for property damaged at specified locations and did not revoke coverage for all other personal property owned by Parliament.

Nipkow & Kobelt Inc. vs. North River Insurance Co., U.S. District Court for the Southern District of New York, April 13, 1986 (*BI*/04/F.-$10).

These abstracts were prepared by Cases Unlimited Inc. Copies of these decisions are available by sending a $10 check payable to Cases Unlimited to Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590. List the number for each opinion.

Continued from previous page

"Safety engineers should be thought of as consultants advising management on the weak and strong points in the program," Mr. Odom said.

"For example, instead of spending time inspecting and pointing out problems, what we are trying to do now is train plant supervisors to recognize risks," he added.

Top management needs to be educated on the importance of loss control, Mr. Odom said. "Managers are not aware of the substantial payback that can be obtained through a good loss control program," he explained. "They don't see how it can impact on their bottom line."

But property loss control does save companies hard dollars in terms of reduced repair costs and less down time, and, when people are hurt by a property loss, reduced medical costs and the cost of training substitute workers.

'Managers are not aware of the substantial payback that can be obtained through a good loss control program,' Dick Odom, vp of NATLSCO, explains. 'They don't see how it can impact on their bottom line.'

"We can quantify the money we have saved clients by preventing accidents," said Mr. Carlson of Hartford Steam Boiler.

NATLSCO's Mr. Odom said many corporate executives "hold people accountable for how many widgets they get out the door, but they don't hold anyone responsible for safety."

He urged senior management to do more than "pay lip service to safety" by making one or more people directly responsible for loss control.

"The big word in loss control is education and training and a need for management support and accountability," Mr. Odom said.

According to several loss control consultants, the purchase of loss control services is directly tied to commercial insurance market conditions. As Arnold Goldberg, president of AIG Consultants in New York, said, "safety doesn't sell" in a competitive insurance market in which premiums are cheap.

"As the market gets softer, people are willing to spend less on safety," Mr. Goldberg said.

Ray Weigand, vp of Schirmer Engineering Corp. in Deerfield, Ill., agreed. "In the soft market, unless the underwriter requests an engineering report, owners won't give them."

But "in the hard market there's more money for engineering. Underwriters are more concerned with analyzing risk," he added.

Mr. Odom concurred, saying, "During the tight market we notice companies have an increased concern that they have a good loss control program."

"During the hard market people are concerned with getting their premium down by controlling losses," he added.

"Quality risk managers will take the long-term view and try to develop a long-lasting relationship with their underwriter," Hartford Steam Boiler's Mr. Carlson said.

And part of establishing that long-term relationship entails becoming a preferred risk by controlling losses, consultants say.

"Preferred risks have a better chance of being placed in the hard market," Mr. Carlson noted.

In fact, one loss control engineer said he thought that many of the insurance pricing and availability problems that plagued the insurance marketplace in the early 1980s could have been prevented through the better use of loss control services.

"One reason the insurance industry got into the crisis (in the early 1980s) was a reliance on statistics. But, the fact is, technology is changing—chemicals are different—we can't rely on the same statistical base we used going into the '80s," said George E. Parris, manager chemical technology and engineering for Dynamac Corp. in Rockville, Md.

He believes that better use of site-specific loss control data rather than aggregate statistics, in the late 1970s and early 1980s would have helped insurers understand and price their products more realistically, and perhaps even avoided the hard market that ensued.

Mr. Parris said he is not advocating abandoning the statistical approach to assessing risk, but rather, is asserting that the two modes complement one another.

"You get insights from the two (types of risk assessment) that you don't get from either one," he explained.

Mr. Parris predicted that in the future risk managers might use loss control analysis to negotiate lower premiums with insurers.

Regardless of insurance market conditions, risk managers should be concerned that they have a good loss control program in place to control their company's liability for accidents, Mr. Odom of NATLSCO pointed out.

He said more and more companies are protecting themselves from lawsuits by implementing solid loss control programs.

The basic services offered by most property loss control consultants include:

- On-site plant inspections.
- Building plan reviews.
- Educational materials.
- Loss control training.
- Loss control research.

Mr. Goldberg of AIG Consultants described loss control succinctly: "It is just a systematic analysis of problems relating to business."

A *Business Insurance* survey of property loss control consultants attracted 53 responses. A listing of these consultants and their services follows in a directory (see page 58).

Of the 53 loss control consultants that answered the survey, 49 gave quantifiable responses.

According to the respondents, hazard identification and fire prevention inspections are the two most commonly offered services. Some 88% of the consultants offer hazard identification and about 75% offer fire prevention inspections.

Training and education programs were conducted frequently by approximately 53% of the respondents.

Some 45% frequently conducted building plan reviews.

And, loss prevention manuals, newsletters or other publications were frequently produced by about 43% of the consultants.

Loss prevention research is frequently preformed by approximately 35% of the consultants, while plant security inspections were frequently offered by about 16% of the respondents.

Almost half of the loss control consultants responding to the *Business Insurance* survey are units of insurance companies. These consultants primarily service policyholders of their insurance affiliates, but also provide their services on a fee-for-service basis to non-policyholders. ■



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Directory of property loss control firms

a

AIG Consultants

72 Wall St., New York, N.Y. 10005; 212-770-7636

Year founded: 1979.
Parent company: American International Group Inc.
Services provided: Frequent fire prevention inspections, hazard identification, building plan reviews; occasional plant security inspections, client training.
Staff: 177 total staff members; 42 professionals, including two ARMs, 17 CSPs, nine PEs, three CIHs, two CPCUs.
Clients: 300 total clients; 18% with gross revenues less than $200 million, 40% with $200 million-$500 million, 40% with $500 million-$1 billion, 1% with $1 billion-$3.5 billion, 1% exceeding $3.5 billion.
Branch offices: Atlanta; Charlotte, N.C.; Boston; Chicago; Detroit; Dallas; Houston; Los Angeles; San Francisco; Denver; Philadelphia; Cleveland; Washington, D.C.; Toronto; Montreal; Vancouver, British Columbia.
1986 gross revenues: $10 million total; 8% from unbundled property loss control consulting and engineering; 92% from other services, including environmental impairment assessment, evaluation and planning.
Principal officers: A. Goldberg, president; R. Blaunstein, vp-risk assessment; D. Scott, vp-international engineering; J. Leonard, vp-regional operations.

ATE Management & Service Co. Inc.

617 Vine St., Suite 800, Cincinnati, Ohio 45202; 513-381-7424

Year founded: 1969.
Parent company: Ryder System Inc.
Services provided: Frequent cash handling security and drive safety programs; occasional plant security inspections, hazard identification, vehicle mechanic safety programs, loss prevention publications, loss prevention research, client training.
Staff: 22 total staff members, including one ARM, two PEs.
Clients: 59 total clients; 98% with gross revenues less than $200 million, 2% with $200 million-$500 million.
Specialties: Public transit authorities, bus operators, general transportation industry.
Branch offices: Long Beach and San Francisco, Calif.; Arlington, Va.
1986 gross revenues: Not reported.
Principal officers: Philip J. Ringo, president/chief executive officer; Louis B. Olsen, senior executive vp; Will Scott, senior vp-management consulting; Richard Stern, vp/senior manager-risk management.

Alexander & Alexander Services Inc.- Loss Prevention & Claims Services

1185 Ave. of the Americas, New York, N.Y. 10036; 212-575-8000

Parent company: Alexander & Alexander Services Inc.
Services provided: Frequent fire prevention inspections, hazard identification, analysis of sprinkler and other fire protection systems, water supply testing and analysis, estimation of loss potential, business interruption studies, building plan reviews, loss prevention publications, loss prevention research, client training, development of pre-emergency plans, boiler and machinery surveys and loss control consulting, loss control program evaluation; occasional plant security inspections.
Staff: 215 total staff members; 140 professionals, including 18 ARMs, two ALCMs, 57 ASSEs, 31 CSPs, 28 PEs, 40 SFPEs, five CHCMs, three CPSMs, 55 NFPAs, 11 NSMSs.
Branch offices: Locations in the United States, Canada and other countries.
1986 gross revenues: Not reported.
Principal officers: John A. Bogardus, chairman; Tinsley H. Irvin, president; Michael K. White, senior vp.

American Risk Management Inc.

4807 Rockside Road, Suite 500, Cleveland, Ohio 44131; 216-447-1600

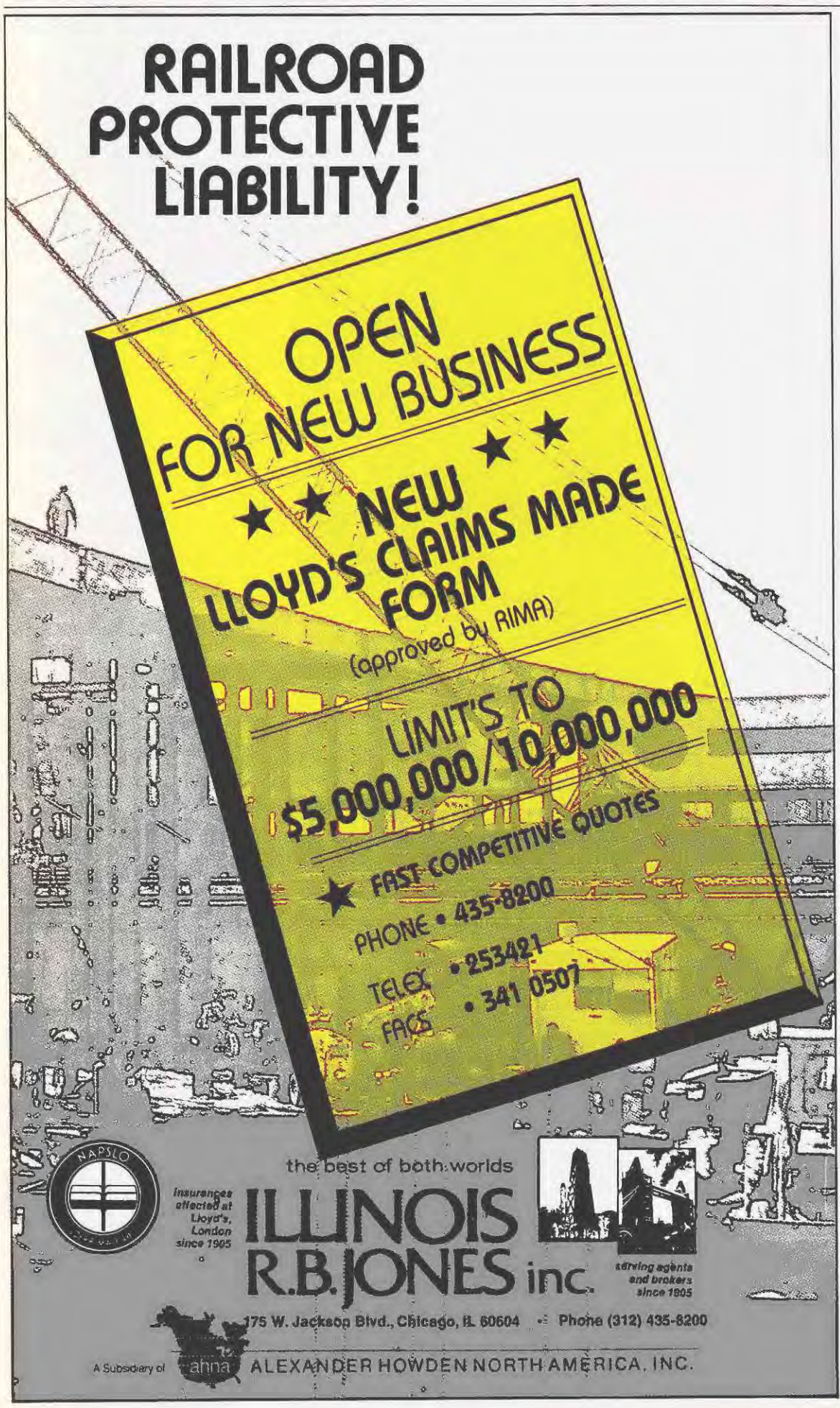
Year founded: 1958.
Services provided: Frequent fire prevention inspections, hazard identification, boiler and machinery risk evaluations, infrared thermographic inspections, building plan reviews; occasional loss prevention publications, loss prevention research, client training.
Staff: 350 total staff members; 70 professionals, including three ARMs, two ASSEs, one PE, 35 SFPEs, 15 CPCUs, 14 NFPAs, two AIChEs, four RPEs, one ACS.
Clients: 115 total clients; 30% with gross revenues less than $200 million, 40% with $200 million-$500 million, 30% with $500 million-$1 billion.
Branch offices: Atlanta; Bridgewater, N.J.; Bellevue, Wash.; Brentwood, Tenn.; Dallas; Itasca, Ill.; Louisville, Ky.; Prairie Village, Kan.; Minneapolis; Plymouth, Mich.; San Francisco; Toronto; London; Luxembourg.
1986 gross revenues: Not reported; 25% from unbundled property loss control consulting and engineering; 75% from other services, including consulting for captive insurance companies.
Principal officers: F.M. Reiss, chief executive officer; A.H. Deters, executive vp; J.J. Ryan, senior vp; Nada Crago, financial vp/secretary; T.G. Grilli, group vp/treasurer.

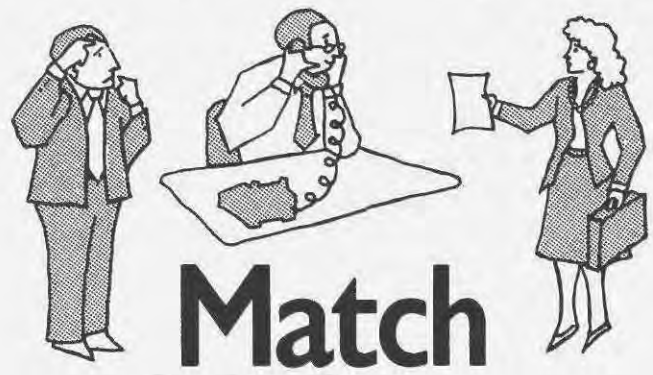
Aviation Insurance Consultants

210 Saint Paul St., Suite 200, Denver, Colo. 80206; 303-321-0077

Year founded: 1983.
Parent company: Dodd Insurance Services Inc.
Services provided: Fire prevention inspections, hazard identification, building plan reviews.
Staff: Seven total staff members, including three professionals assigned to property loss control.
Clients: Not reported.
1986 gross revenues: Not reported.
Principal officers: Diane E. Dodd, president; Sandra Burrill, secretary/treasurer.

Continued on facing page





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Continued from facing page

b

Bayly, Martin & Fay Inc.

300 W. Washington St., Chicago, Ill. 60606; 312-641-2131

Year founded: 1923.
Parent company: Bayly, Martin & Fay International Inc.
Services provided: Fire prevention inspections, plant security inspections, hazard identification, fleet safety inspections, development of safety programs, loss prevention publications, client training.
Staff: 28 total staff members; including one ARM, one ASSE, one CSD.
Clients: 100 total clients, 100% with gross revenues less than $200 million.
Specialties: Trucking industry.
Branch offices: Los Angeles, Atlanta, Boston.
Principal officers: Greg B. Kent, president/chief executive officer; William A. Mizell, executive vp/chief operating officer; Gary W. Rogers, vp-finance/treasurer; Samuel Alcorn, senior vp; Anthony G. Harris, vp/general counsel.

Ken Buhler Associates Inc.

11 Erita Lane, Smithtown, N.Y. 11787; 516-360-3770

Year founded: 1976.
Services provided: Frequent fire prevention inspections, plant security inspections, hazard identification, analysis of sprinkler systems and water supply, sprinkler system design and hydraulic calculations, development of highly protected risk programs, analysis of insurance company recommendations, building plan reviews, building appraisals; occasional loss prevention publications, client training.
Staff: Five total staff members; four professionals, including one ASSE, one PE, one SFPE.
Clients: Total clients not reported; 40% with gross revenues less than $200 million, 30% with $200 million-$500 million, 20% with $500 million-$1 billion, 5% with $1 billion-$3.5 billion, 5% exceeding $3.5 billion.
1986 gross revenues: Not reported.
Principal officers: Kenneth Buhler, president/chief consultant; R. Brenner, consultant; R. Buhler, engineer; S. Buhler, vp.

c

Constitution State Service Co.

100 Constitution Plaza, Suite 1632, Hartford, Conn. 06103; 203-277-2723

Year founded: 1978.
Parent company: The Travelers Corp.
Services provided: Frequent fire prevention inspections, hazard identification, industrial hygiene studies, ergonomic studies, loss prevention training, fleet safety surveys, boiler and machinery inspection and audit services; occasional plant security inspections, building plan reviews, loss prevention publications, loss prevention research.
Staff: 500 total staff members; 400 professionals, including 25 ARMs, 20 ALCMs, 215 ASSEs, 250 CSPs, 55 PEs, 205 BPVIs, six CIHs, five CPCUs.
Clients: 185 total clients; 10% with gross revenues less than $200 million, 15% with $200 million-$500 million, 40% with $500 million-$1 billion, 20% with $1 billion-$3.5 billion, 15% exceeding $3.5 billion.
Branch offices: 82 offices in the United States and Canada.
1986 gross revenues: $3.7 million total; 25% from unbundled property loss control consulting and engineering; 75% from other services, including claims administration and risk management information system services.
Principal officers: Sheldon Rothbart, president/chief operating officer; Robert Greenberg, executive vp; Stephen H. Reynolds, vp; Dennis Petrussi, treasurer; Andrew Apicella, national director.

Construction Technology Laboratories Inc.

5420 Old Orchard Road, Skokie, Ill. 60077-4321; 312-965-7500

Year founded: 1910.
Parent company: Portland Cement Assn.
Services provided: Frequent hazard identification, engineering evaluation of fire, explosion, collapses, deterioration and defective construction, cost estimates of structural damage, preparation of design drawings and specification of repair, loss prevention research; occasional building plan reviews, testing for loss control during shipping, testing of construction materials for fire ratings.
Staff: 130 total staff members; including 23 ASCEs, 18 PEs, one SFPE, 21 ASTMs, 13 RSEs, 26 ACIs.
Clients: Not reported.
Specialties: Designers, owners and contractors in the construction industry.
Branch offices: Seattle; Los An-

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Guide to the directory

The first directory of property loss control consultants and engineers lists companies that provide loss control services such as on-site plant loss prevention inspections (including fire prevention inspections, plant security inspections and hazard identification) building plan reviews; publication of loss prevention manuals, newsletters or other materials; loss prevention research; and training classes, seminars or videos for clients.

Companies listed in the directory must provide these services on an unbundled basis directly to employers; companies that provide loss control only in conjunction with other services, such as insurance, are not included.

Following the name and address of the company, the year the company was founded and parent company (if any) are given.

Next, details on loss control services the company provides are listed. Information on total staff members as well as the number of professional staff members assigned to property loss control consulting and engineering and the professional designations they hold are provided. Information on number and size of clients follows.

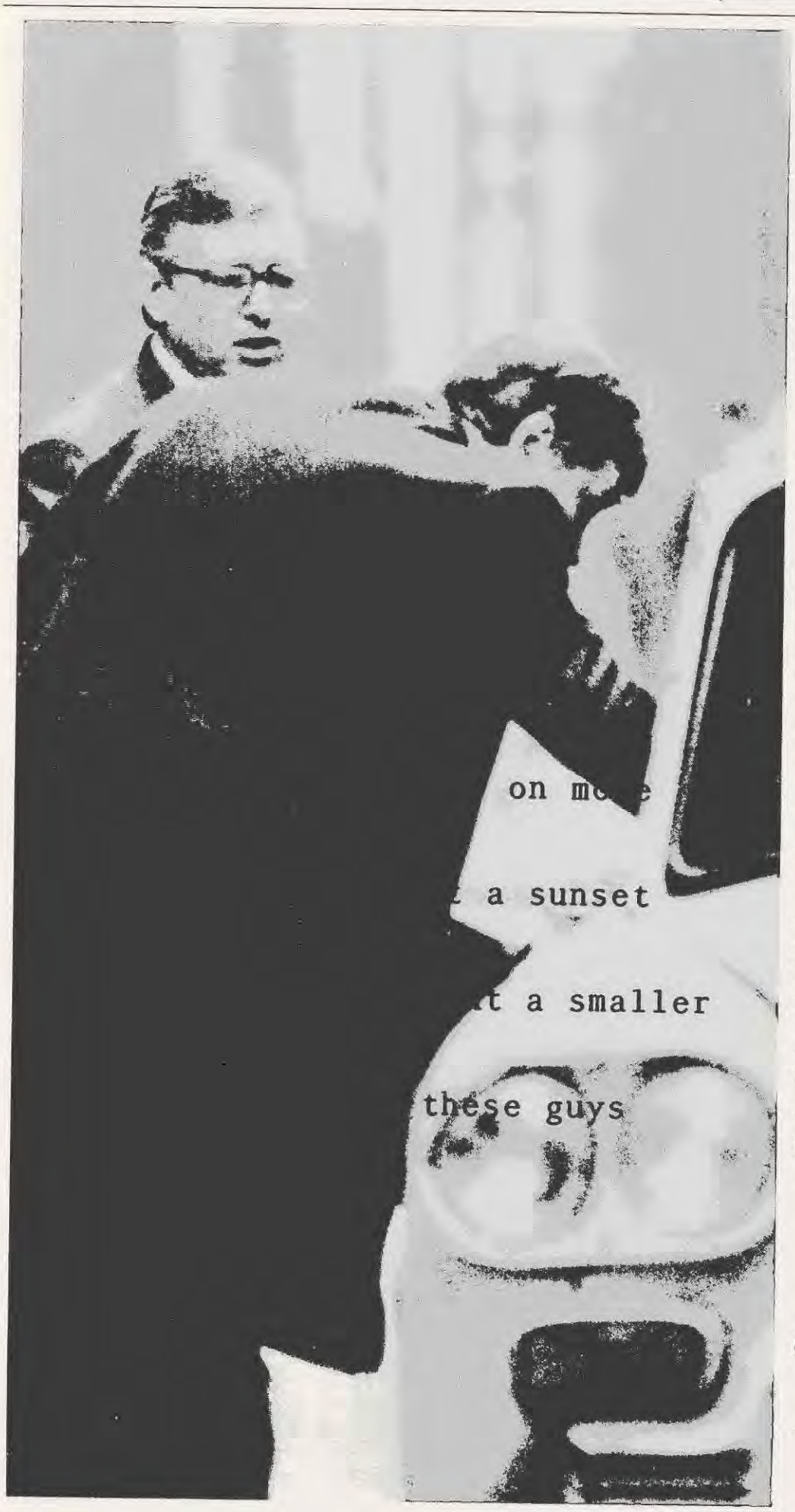
If a company specializes in consulting to any particular type of business or industry, it is noted; then, cities and states of branch offices providing property loss control services are listed.

When reported by the company, 1986 gross revenues are provided. Names and titles of principal officers complete the listings.

Business Insurance publishes the directory as an editorial service; there is no charge for companies to be included. If you would like to be put on the mailing list to be included in next year's directory of property loss control consultants and engineers, please write Marilou Jones, Directory Editor, *Business Insurance*, 740 N. Rush St., Chicago, Ill. 60611-2590.

Following are the full professional designations for those abbreviated under the staff heading:

AAI is Accredited Advisor in Insurance; **ACI** is member, American Concrete Institute; **ACII** is Associate, Chartered Insurance Institute; **ACS** is member, American Chemical Society; **AIChE** is member, American Institute of Chemical Engineers; **AIHA** is member, American Industrial Hygiene Assn.; **ALCM** is Associate in Loss Control Management; **ARIA** is member, American Risk & Insurance Assn.; **ARM** is Associate in Risk Management; **ASA** is Associate, Society of Actuaries; **ASCE** is member, American Society of Civil Engineers; **ASEE** is member, American Society of Electrical Engineers; **ASGE** is member, Assn. of Groundwater Scientists & Engineers; **ASM** is member, American Society for Metals; **ASME** is member, American Society of Mechanical Engineers; **ASP** is Associate Safety Professional; **ASSE** is member, American Society of Safety Engineers; **ASTM** is member, American Society for Testing & Materials; **BPVI** is member, National Board of Boiler & Pressure Vessel Inspectors; **CFPS** is Certified Fire Protection Specialist; **CHCM** is Certified Hazard Control Manager; **CIC** is Certified Insurance Counselor; **CIH** is Certified Industrial Hygienist; **COC** is Certified Occupational Conservationist; **COHN** is Certified Occupational Health Nurse; **CPA** is Certified Public Accountant; **CPCU** is Chartered Property/Casualty Underwriter; **CPSM** is Certified Product Safety Manager; **CSD** is Certified Safety Director; **CSE** is Certified Safety Executive; **CSM** is Certified Safety Manager; **CSP** is Certified Safety Professional; **CSS** is Certified Safety Specialist; **EIT** is Engineer in Training; **FCAS** is Fellow, Casualty Actuarial Society; **IAH** is member, Industrial Health Assn.; **MBA** is Master of Business Administration; **NFPA** is member, National Fire Protection Assn.; **NSMS** is member, National Safety Management Society; **OHST** is Occupational Health & Safety Technician; **PE** is Professional Engineer; **PhD** is Doctor of Philosophy; **RPE** is Registered Professional Engineer; **RSE** is Registered Structural Engineer; **SFPE** is member, Society of Fire Protection Engineers; **SRA** is member, Society of Risk Analysts.



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Continued from previous page
geles; Dallas; Pensacola, Fla.

1986 gross revenues: $10 million total; 40% from unbundled property loss control consulting and engineering; 60% from other services, including engineering and scientific research and development of construction materials and components.

Principal officers: W.E. Kunze, president; W.G. Corley, A.E. Fiorato and J.W. Slade, vps.

Corroon & Black of Wisconsin

330 E. Kilbourn Ave., Suite 1400, Milwaukee, Wis. 53202; 414-271-9800

Year founded: 1972.
Parent company: Corroon & Black Corp.
Services provided: Frequent fire prevention inspections, hazard identification, loss control program audits, service provider reviews, loss prevention research, client training, ergonomic evaluations; occasional plant security inspections, product liability audits, fleet loss control audits, building plan reviews, loss prevention publications.
Staff: 86 total staff members; three staff members assigned to loss control services, including two ASSEs, one CSP, one PE, two SFPEs.
Clients: 50 total clients; 20% with gross revenues less than $200 million, 20% with $200 million-$500 million, 35% with $500 million-$1 billion, 25% with $1 billion-$3.5 billion.
1986 gross revenues: $8 million total; 10% from unbundled property loss control consulting and engineering; 90% from other services, including insurance brokerage.
Principal officers: Norman Peterson, president; Jack McGregor, senior vp; Richard Peterson, vice president; Steven Rutter, secretary/assistant treasurer; W.J. Banaszak, general manager-loss control service.

Crawford & Co.-Risk Control Services Division

5620 Glenridge Drive N.E., Atlanta, Ga. 30342; 404-265-0830

Year founded: 1941.
Parent company: Crawford & Co.
Services provided: Frequent fire prevention inspections, hazard identification, fleet exposure evaluation, underwriting risk analysis, risk control consulting, loss prevention research, risk surveys; occasional building plan reviews, loss prevention publications, client training.
Staff: 48 total staff members; 33 professionals, including 12 ARMs, eight ALCMs, 30 ASSEs, 22 CSPs, five PEs, four SFPEs.
Clients: 22 total clients; 55% with gross revenues less than $200 million, 20% with $200 million-$500 million, 15% with $500 million-$1 billion, 10% with $1 billion-$3.5 billion.
Branch offices: Baltimore; Boston; Chicago; Clifton and Montvale, N.J.; Columbus, Ohio; Dallas; Denver; Honolulu; Houston; Los Angeles; Memphis, Tenn.; Minneapolis; New

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York and Syracuse, N.Y.; Orlando, Fla.; Philadelphia; San Francisco; Seattle; Washington, D.C.; 550 risk survey offices throughout the United States.

1986 gross revenues: $5 million total, 100% from unbundled property loss control consulting and engineering.

Principal officers: T.G. Germany, chief executive officer; F.L. Minix, president; P.A. Bollinger, executive vp-services; D.R. Chapman, executive vp-finance; C.C. Lefler, executive vp-marketing.

Contact: Jim Sybert, vp-risk control services.

d

Dynamac Corp.

11140 Rockville Pike, Rockville, Md. 20852; 301-468-2500

Year founded: 1970.

Services provided: Frequent hazard identification, building plan reviews, loss prevention publications, loss prevention research, client training, evaluation and control of property, environmental and personal injury from chemical exposure.

Staff: 500 total staff members, including 61 PhDs, four CIHs, 10 PEs.

Branch offices: Fort Lee, N.J.; Panama City, Fla.; Research Triangle Park, N.C.

1986 gross revenues: $35 million total.

Principal officers: Donald MacArthur, Diana MacArthur, Charles Summers, John Lyons and Richard Tucker.

e

ESIS Inc.

1600 Arch St., Philadelphia, Pa. 19103; 215-241-2100

Year founded: 1955.

Parent company: CIGNA Corp.

Services provided: Frequent fire prevention inspections, hazard identification; occasional plant security inspections, building plan reviews, loss prevention research, client training.

Staff: 580 total staff members; 150 professionals, including 25 ARMs, five ALCMs, eight ASCEs, 125 ASSEs, 75 CSPs, 25 PEs, 45 SFPEs.

Clients: Not reported.

Specialties: Petrochemical, utility and heavy construction industries.

Branch offices: Atlanta, Boston, Chicago, Dallas, Detroit, Los Angeles, New York, San Francisco.

1986 gross revenues: Not reported.

Principal officers: Edward P. Holleran, president; George W. Putnam, vp.

Elmslie Consultancy Services Inc.

15910 Ventura Blvd., Suite 1802, Encino, Calif. 91436; 818-906-2646

Year founded: 1982.

Parent company: William Elmslie & Son.

Services provided: Frequent fire prevention inspections, hazard identification, risk management inspections, loss investigations, building plan reviews; occasional plant security inspections, loss prevention research, client training.

Staff: 10 total staff members; six professionals, including one ASCE, two ASSEs, two PEs, five SFPEs, two NFPAs, one IHA.

Clients: Six total clients; 50% with gross revenues $200 million-$500 million, 16% with $500 million-$1 billion, 17% with $1 billion-$3.5 billion, 17% exceeding $3.5 billion.

Specialties: Petroleum and petrochemical industries.

Branch offices: Los Angeles; Providence, R.I.; Houston.

1986 gross revenues: $1.5 million total; 80% from unbundled property loss control consulting and engineering; 20% from other services, including property and marine claims consulting.

Principal officers: W.P.F. Bennett, chairman; J.M.L. Roper, president; C.J. Hendricks, secretary.

Employers Risk Control Inc.

140 N. Westmonte Drive, Altamonte Springs, Fla. 32715; 305-788-1717

Year founded: 1987.

Services provided: Frequent fire prevention inspections, plant security inspections, hazard identification, safety programming audits, building plan reviews, loss prevention publications, client training, safety management training; occasional loss prevention research.

Staff: Eight total staff members; six professionals, including four ASSEs, two CSPs, one PE, two CSEs, two CSMs, three CSSs, one OHST.

Clients: Total clients not reported, 100% with gross revenues less than $200 million.

Specialties: Construction and

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hospitality industries.

Environmental Risk Ltd.

120 Mountain Ave., Bloomfield, Conn. 06002; 203-242-9933

Year founded: 1985.
Services provided: Frequent hazard identification, environmental risk assessments, environmental acquisition and divestiture audits, hydrogeological studies; occasional loss prevention publications, loss prevention research, client training.
Staff: 18 total staff members; 13 professionals, including two PEs, one CCM.
Clients: Total clients not reported; 50% with gross revenues less than $200 million, 20% with $200 million-$500 million, 20% with $500 million-$1 billion, 5% with $1 billion-$3.5 billion, 5% exceeding $3.5 billion.
1986 gross revenues: Not reported.
Principal officers: Richard S. Atkins, David I. Brandwein, Gordon T. Brookman and Mitchell M. Wurmbrand, principals.

f

The FPE Group

3687 Mount Diablo Blvd., Lafayette, Calif. 94556; 415-283-8860

Year founded: 1972.
Parent company: Fred S. James & Co. Inc.
Services provided: Frequent fire prevention inspections, hazard identification, risk quantification studies, data processing, fire protection system specification and design, environmental impairment analysis, building plan reviews, loss prevention publications, loss prevention research, client training, industrial hygiene studies, boiler and machinery loss control; occasional plant security inspections.
Staff: 65 total staff members; 37 professionals, including one ARM, five ASSEs, three CSPs, 12 PEs, 18 SFPEs, five CIHs, two ASMEs, one ASEE.
Clients: 250 total clients; 61% with gross revenues less than $200 million, 10% with $200 million-$500 million, 15% with $500 million-$1 billion, 10% with $1 billion-$3.5 billion, 4% exceeding $3.5 billion.
Branch offices: Saint Charles, Ill.; Princeton, N.J.; Burtonville, Md.; Wichita, Kan.; Youngstown, Ohio.
1986 gross revenues: $3.7 million total; 70% from unbundled property loss control consulting and engineering; 30% from other services, including safety management, litigation support, design services for architects and engineers.
Principal officers: Kenneth E. Berg, president; Jerry Perstein, Edward K. Vining, Bill Walker and Joe Talbert, vps.

Farinacci & Associates

5415 Roanoke Ave., Yorba Linda, Calif. 92686; 714-779-0071

Year founded: 1981.
Services provided: Frequent fire prevention inspections, hazard identification, client training; occasional plant security inspections, loss prevention publications, loss prevention research, building replacement cost evaluations.
Staff: Three total staff members; two professionals, including two ASSEs, one CSP.
Clients: Total clients not reported, 100% with gross revenues less than $200 million.
Specialties: Public entities, school districts.
1986 gross revenues: Not reported, 100% from unbundled property loss control consulting and engineering.
Principal officers: John J. Farinacci, owner.

Fireman's Fund Risk Management Services

3700 Lakeville Highway, Petaluma, Calif. 94952; 707-778-4160

Year founded: 1974.
Parent company: Fireman's Fund Insurance Cos.
Services provided: Frequent fire prevention inspections, plant security inspections, hazard identification; occasional loss prevention publications, loss prevention research, client training.
Staff: 280 total staff members; 250 professionals, including nine ALCMs, 127 CSPs, 20 PEs, 38 ASPs, 10 CIHs, 11 CPCUs, two COHNs.
Clients: Not reported.
Branch offices: 78 locations in the United States.
1986 gross revenues: $2.5 billion total for parent company; 2% from unbundled property loss control consulting and engineering; 98% from other services, including loss control for policyholders.
Principal officers: Ed Ebersole, vp-loss control; Dennis Cockerham and Bill Swearingen, assistant vps-loss control; Ron Manford, technical services executive-loss control.

Frenkel & Co. Inc.

123 William St., New York, N.Y. 10038; 212-267-2200

Year founded: 1878.
Services provided: Frequent fire prevention inspections, plant security inspections, hazard identification, building plan reviews; occasional client training.
Staff: Four total staff members, three professionals.
Clients: Not reported.
1986 gross revenues: $17 million total; 1% from unbundled property loss control consulting and engineering; 99% from other services, including insurance brokerage.
Principal officers: Charles Pachner, chairman; James Costa, vice-chairman; Alan Samuels, president; Robert Shunk, senior executive vp; Harold Goldsmith, executive vp/treasurer.

Friedman, Fuller & Hudson Inc.

6120 Executive Blvd., Eighth Floor, Rockville, Md. 20852; 301-468-6946

Year founded: 1982.
Services provided: Frequent fire prevention inspections, plant security inspections, hazard identification, insurance replacement cost appraisals, building plan reviews, loss prevention research and recommendations, client training; occasional local, county and national code compliance, loss prevention publications, claims assistance, video inventory.
Staff: 12 total staff members; professional designations held by staff include two ARMs, one CPCU, one MBA, two attorneys, three CPAs.
Clients: 185 total clients; 80% with gross revenues less than $200 million, 16% with $200 million-$500 million, 4% with $500 million-$1 billion.
Specialties: Real estate and health care facilities.
1986 gross revenues: $600,000 total; 30% from unbundled property loss control consulting and engineering; 70% from other services, including risk management consulting.
Principal officers: Peter M. Hudson, president; Jeffrey L. Duncan, vp; Lee Backus and Arthur Methvin, senior analysts.

g

GAB Business Services Inc.

Linden Plaza, 9 Campus Drive, Parsippany, N.J. 07054; 201-993-3400

Year founded: 1885.
Parent company: SGS North America.
Services provided: Frequent fire prevention inspections, hazard identification, value appraisals, fire prevention program audits, client training, development of hazard control, fire prevention and safety consultation and training; occasional plant security inspections, business interruption surveys, building plan reviews, loss prevention publications.
Staff: 4,372 total staff members; 15 professionals assigned to loss control services, including one ARM, two CSPs, one PE, one SFPE.
Clients: Not reported.

Continued on facing page

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For companies located in Asia call Mitsuru Takeuchi, Assistant VP, in our Tokyo office. Telephone: 81-3 595-1131; Telex: (781) 2226231.

Irving Trust

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Continued from facing page

Specialties: Commercial, industrial, municipal and multi-residential properties.

Branch offices: Los Angeles, Chicago.

1986 gross revenues: Not reported.

Principal officers: Gordon Cantley, chairman/chief executive officer; John P. Holloway, president/chief operating officer; Joseph Rizzo, John Kossen and Raymond Auckerman, senior vps.

Gallagher Bassett Services Inc.

60 Gould Center, Rolling Meadows, Ill. 60008; 312-640-8555

Year founded: 1962.

Parent company: Arthur J. Gallagher & Co.

Services provided: Frequent fire prevention inspections, hazard identification, toxic substance control and industrial hygiene programs, hazard communication, loss prevention publications, loss prevention research, client training; occasional plant security inspections.

Staff: 49 total staff members who are professionals, including one ARM, 30 ASSEs, nine CSPs, two PEs, one SFPE, one COC, one ASP.

Clients: 275 total clients.

Branch offices: 69 locations throughout the United States.

1986 gross revenues: $3.3 million total; 32% from unbundled property loss control consulting and engineering; 68% from other services, including hazard inspection, toxic substance inspections, disclosure act training, risk improvement surveys, general safety training.

Principal officers: John G. Campbell, president; David A. North, executive vp; William C. Galvin, vp; Hugh E. Herbert, director-engineering; Fred Potenza, executive manager-sales.

h

The HDH Group Inc.

1 Oxford Centre, Suite 4400, Pittsburgh, Pa. 15219; 412-391-7300

Year founded: 1983.

Services provided: Frequent fire prevention inspections, loss prevention research, client training; occasional plant security inspections, hazard identification, building plan reviews, loss prevention publications.

Staff: 30 total staff members, one staff member assigned exclusively to loss control services who has an SFPE designation.

Clients: Total clients not reported, 100% with gross revenues less than $200 million.

Specialties: Municipal governments, school districts.

1986 gross revenues: Not reported.

Principal officers: Bryan Hondru, president; Mark Horan and Joseph Deutsch, senior vps; Katheryn Turnbull, vp/secretary; Wallace Merrell, vp-engineering/loss control.

Harrington Group

1298 Oakcrest Court, Lilburn, Ga. 30247; 404-985-1272

Year founded: 1986.

Services provided: Frequent fire prevention inspections, hazard identification, water supply testing and analysis, evaluation of existing fire protection systems, building plan reviews, loss prevention research, evaluation of insurer recommendations; occasional loss prevention publications, client training.

Staff: Two total staff members; one professional who holds PE and SFPE designations.

Clients: 11 total clients; 55% with gross revenues less than $200 million, 18% with $200 million-$500 million, 18% with $500 million-$1 billion, 9% with $1 billion-$3.5 billion.

1986 gross revenues: $47,000 for six months of 1986, 100% from unbundled property loss control consulting and engineering.

Principal officers: Jeff L. Harrington, president/treasurer; Kathleen Harrington, vp/secretary.

The Hartford Steam Boiler Inspection & Insurance Co.

1 State St., Hartford, Conn. 06102; 203-722-1866

Year founded: 1866.

Services provided: Frequent hazard identification, environmental risk surveys, boiler condition and useful life studies, boiler and pressure vessel code inspection, client training; occasional loss prevention publications.

Staff: 3,000 total staff members; 1,360 professionals, including three ARMs, 19 ASCEs, two ASSEs, six CSPs, 53 PEs, 25 SFPEs, seven CIHs.

Clients: 1,200 total clients; 60% with gross revenues less than $200 million, 20% with $200 million-$500 million, 10% with $500 million-$1 billion, 5% with $1 billion-$3.5 billion, 5% exceeding $3.5 billion.

Branch offices: Atlanta, Baltimore, Boston, Chicago, Cincinnati, Cleveland, Dallas, Denver, Detroit, Houston, Los Angeles, Minneapolis, New Orleans, New York, Philadelphia, Pittsburgh, St. Louis, San Francisco, Seattle

Subsidiary: Radian Corp., Austin, Texas.

1986 gross revenues: $388.8 million total; 23% from unbundled property loss control consulting and engineering; 77% from other services, including underwriting insurance.

Principal officers: Wilson Wilde, president/chief executive officer;

Continued on next page

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Continued from previous page
Donald K. Wilson Jr., T. Skipwith Lewis and William Zindel, senior vps; Kenneth J. Kelly, senior vp/general counsel; Robert W. Trainer, vp/treasurer/chief financial officer; Donald M. Carlton, president—Radian Corp.

J.J. Hischar & Associates

P.O. Box 741, Woodbridge, N.J. 07095; 201-442-7221

Services provided: Frequent fire prevention inspections, hazard identification; occasional plant security inspections, loss prevention publications, loss prevention research, client training; computer security and disaster recovery services.

Staff: Eight total staff members who are professionals and hold one ARM and two CPCU designations.

Clients: Total clients not reported, 100% with gross revenues less than $200 million.

Branch offices: New York, Philadelphia.

1986 gross revenues: $150,000 total, 100% from unbundled property loss control consulting and engineering.

Principal officers: J.J. Hischar, president; P. McAndrew, vp-marketing; J. Coleman, vp.

i

Industrial Health & Safety

50 Sea Island, Newport Beach, Calif. 92660; 714-759-1707

Year founded: 1975.

Parent company: Xordium Inc.

Services provided: Frequent fire prevention inspections, hazard identification, loss prevention manuals, client training. development of safety management programs, including fleet safety and property conservation; occasional plant security inspections, fire suppression system inspections, building plan reviews, loss prevention research.

Staff: Two total staff members, including one ALCM, one ASSE.

Clients: Total clients not reported, 100% with gross revenues less than $200 million.

1986 gross revenues: $90,000 total, 100% from unbundled property loss control consulting and engineering.

Principal officers: Karen Gillett, president; Fred C. Gillett, vp.

Industrial Safety Services Inc.

722 W. Anaheim St., Wilmington, Calif. 90744; 213-328-0950

Year founded: 1986.

Services provided: Frequent fire prevention inspections, plant security inspections, hazard identification, safety assessments, industrial hygiene services, loss prevention publications, loss prevention research, client training; occasional building plan reviews.

Staff: Six total staff members; three professionals, including four ASSEs, one CSP, one PE, one CIH.

Clients: 100% with gross revenues less than $200 million.

Branch offices: Los Angeles.

Principal officers: David Esparza, founder; Joseph F. Kukla, industrial hygienist specialist; William I. Camarillo, senior safety and risk management/systems safety consultant.

j

Fred S. James & Co. Inc. (Risk Control Services)

1285 Ave. of the Americas, New York, N.Y. 10019; 212-333-8900

Year founded: 1858.

Parent company: Sedgwick Group P.L.C.

Services provided: Frequent fire prevention inspections, hazard identification, loss estimates, property valuations, rate analysis, building plan reviews, building code review and analysis; occasional plant security inspections, emergency planning, loss prevention publications, loss prevention research, client training.

Staff: 95 total staff members; 40 professionals, including four ARMs, six ASSEs, four CSPs, six PEs, 21 SFPEs, one CPCU, 26 NFPAs, one EIT.

Clients: 250 total clients.

Branch offices: Atlanta; Boston; Chicago; Dallas; Detroit; Greenwich, Conn.; Harrisburg, Philadelphia and Pittsburgh, Pa.; Irvine, Los Angeles and San Francisco, Calif.; Memphis, Tenn.; Phoenix, Ariz.; Portland, Ore.; St. Louis; Seattle; Short Hills, N.J.

1986 gross revenues: Not reported; 35% from unbundled property loss control consulting and engineering; 65% from other services.

Principal officers: William G. Lauffer Jr., vp; Steven Galeotti, director-property; Lawrence G. Wylie, director-casualty.

l

Las Vegas Audit & Inspection Service

1050 E. Flamingo Road, Suite 130, Las Vegas, Nev. 89119; 702-737-7166

Year founded: 1985.

Services provided: Frequent fire prevention inspections, loss control surveys and consulting, premium audits; occasional plant security inspections, hazard identification, building plan reviews, loss prevention research, client training.

Staff: Four total staff members.

Clients: Total clients not reported; 30% with gross revenues less than $200 million, 10% with $200 million-$500 million, 20% with $500 million-$1 billion, 30% with $1 billion-$3.5 billion, 10% exceeding $3.5 billion.

1986 gross revenues: Not reported; 70% from unbundled property loss control consulting and engineering; 30% from other services, including premium audits.

Principal officers: Brenda A. Atwood, president; K. Steven Kawa, vp.

m

M&M Protection Consultants

222 S. Riverside Plaza, Chicago, Ill. 60606; 312-648-6821

Year founded: 1971.

Parent company: Marsh & McLennan Inc.

Services provided: Frequent fire prevention inspections, plant security inspections, hazard identification, evaluation of property protection management systems, business interruption financial assessments, risk assessments, computerized hydraulic analysis, building plan reviews, loss prevention publications, loss prevention research, client training, natural hazards exposure studies.

Staff: 250 total staff members; 125 professionals, including one ARM, 29 CSPs, 33 PEs, 53 SFPEs.

Clients: 2,000 total clients; 25% with gross revenues less than $200 million, 60% with $200 million-$500 million, 5% with $500 million-$1 billion, 5% with $1 billion-$3.5 billion, 5% exceeding $3.5 billion.

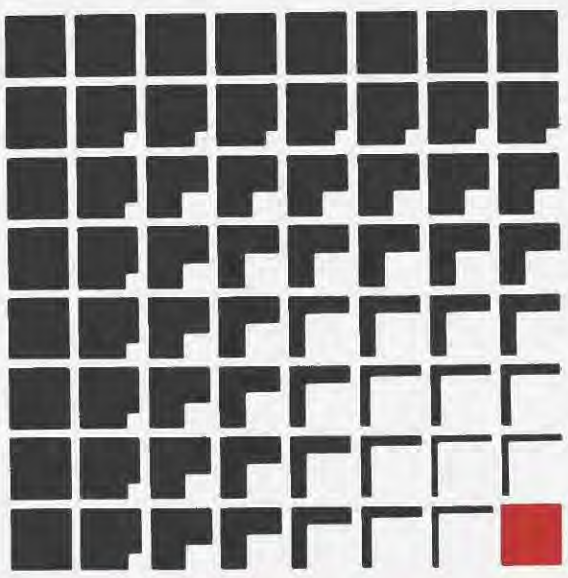
Specialties: Gas and electric utilities, hydrocarbon and chemical industries, healthcare institutions.

Branch offices: Seattle; Portland, Ore.; San Francisco, Los Angeles and Newport Beach, Calif.; Phoenix, Ariz.; Tulsa, Okla.; Dallas; Houston; New Orleans; Atlanta; Coral Gables and Jacksonville, Fla.; Charlotte, N.C.; Kansas City, Mo.; Minneapolis; Milwaukee; Chicago; Indianapolis; St. Louis; Detroit; Pittsburgh; Cleveland; Cincinnati; Buffalo and Rochester, N.Y.; Boston; Stamford, Conn.; Cedar Knolls, N.J.; Philadelphia; Washington, D.C.; Richmond, Va.; Omaha, Neb.

1986 gross revenues: $26 million total; 33% from unbundled property loss control consulting and engineering; 67% from other services, including bundled property loss control, employee safety program ergonomics and environmental loss prevention services.

Continued on facing page

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Principal officers: Fred A. Manuele, Harry Taback and Joseph J. Dernorsek, managing directors; Roman F. Diekemper, Donald E. Reilly and Robert M. Schwiring, senior vps.

McDonough Caperton/Charleston

P.O. Box 1551, Charleston, W. Va. 25326; 800-922-9244; 800-344-5139 within West Virginia

Year founded: 1935.
Parent company: McDonough Caperton Insurance Group.
Services provided: Frequent fire prevention inspections, hazard identification, building plan reviews, fleet safety; occasional plant security inspections, loss prevention publications, loss prevention research, client training.
Staff: Two total staff members, including one ASSE, one CSP, two CPCUs.
Clients: 200 total clients; 95% with gross revenues less than $200 million, 5% with $200 million-$500 million.
1986 gross revenues: $1.5 million total; 50% from unbundled property loss control consulting and engineering; 50% from other services, including employee, fleet and life safety programs.
Principal officers: Robert Ludwig, president; Robert Ayers and Dave Shirlaw, vps.

Mead Loss Control Consultants Inc.

Courthouse Plaza N.E., Dayton, Ohio 45463; 513-223-1300

Year founded: 1972.
Parent company: The Mead Corp.
Services provided: Frequent fire prevention inspections, plant security inspections, hazard identification, regional seminars and on-site fire brigade training, building plan previews, client training, infrared inspections of electrical equipment; occasional loss prevention publications, loss prevention research.
Staff: 18 total staff members; 11 professionals, including one ARM.
Clients: 21 total clients; 10% with gross revenues $200 million-$500 million, 30% with $500 million-$1 billion, 50% with $1 billion-$3.5 billion, 10% exceeding $3.5 billion.
Branch offices: Buford and Rome, Ga.
1986 gross revenues: $1.6 million total, 100% from unbundled property loss control consulting and engineering.
Principal officers: Walter P. Luker, senior vp/general manager; Larry D. Jones, vp-engineering; Curtis A. Doyle, vp-extended services.

Richard L. Meehan, Consulting Engineer

701 Welch Road, Suite 1120, Palo Alto, Calif. 94304; 415-323-0525

Year founded: 1969.
Services provided: Hazard identification, building plan reviews; loss prevention, claims consulting and investigation for hazardous waste, toxic and pollution liability.
Staff: Two total staff members, including one ASCE, one AGSE.
Clients: Total clients not reported; 75% with gross revenues less than $200 million, 25% with $200 million-$500 million.
Specialties: Utilities, electronics and small manufacturing companies.
1986 gross revenues: $300,000 total; 50% from unbundled property loss control consulting and engineering; 50% from other services, including claims consulting and expert witness testimony.
Principal officers: Richard L. Meehan, president.

Michigan Hospital Assn. Service Corp.

6215 W. Saint Joseph Highway, Lansing, Mich. 48917; 517-323-3443

Year founded: 1976.
Parent company: Michigan Hospital Assn.
Services provided: Frequent fire prevention inspections, hazard identification, incident trending, industrial hygiene surveys, building plan reviews, loss prevention publications, client training; occasional loss prevention research, consulting on asbestos-related issues.
Staff: 60 total staff members; eight professionals, including two PEs, two OHSTs.
Clients: 150 total clients; 98% with gross revenues less than $200 million, 2% with $200 million-$500 million.
Specialties: Health care industry.
Branch offices: Southfield, Mich.
1986 gross revenues: $4.1 million total; 15% from unbundled property loss control consulting and engineering; 85% from other services.
Principal officers: Spencer Johnson, president; Arthur Kneuppel, chairman elect; Kenneth Myers, treasurer; Fritz Kellerman, vp.

N

NATLSCO

Long Grove, Ill. 60049; 312-540-2400

Year founded: 1968.
Parent company: Kemper Corp.
Services provided: Frequent fire prevention inspections, hazard identification, laboratory analysis, industrial hygiene, audit and review of loss control programs, development of property conservation and safety programs, ergonomic research, building plan reviews, loss prevention publications, loss prevention research, client training.
Staff: 75 total staff members; 28 professionals, including three ARMs, 21 ASSEs, 21 CSPs, five PEs, three SFPEs, 16 CIHs, three OHSTs, two CIHTs, two CHCMs, three COHNs.
Clients: Not reported.
Specialties: Nuclear power plants.
Branch offices: San Francisco; Summit, N.J.
1986 gross revenues: $43 million total.
Principal officers: Robert W. Satterfield, president; Arthur D. Odom, vp-safety services; George J. Krafcisin, vp-environmental services; Daniel F. Benevich, vp-management services; Fred G. Minchk, vp-claim services.

NTS Engineering

6695 E. Pacific Coast Highway, Long Beach, Calif. 90803; 213-493-6651

Year founded: 1961.
Services provided: Frequent hazard identification, natural hazards loss control including earthquake and wind loads, loss prevention publications, loss prevention research, earthquake risk analysis and studies; occasional building plan reviews, client training.
Staff: 350 total staff members; 20 professionals, including four ASCEs, five PEs, six PhDs.
Clients: 20 total clients; 5% with gross revenues less than $200 million, 5% with $200 million-$500 million, 5% with $500 million-$1 billion, 5% with $1 billion-$3.5 billion, 80% exceeding $3.5 billion.
1986 gross revenues: $5.2 million total; 20% from unbundled property loss control consulting and engineering; 80% from other services, including risk analysis for government agencies, research, military assistance analysis.
Principal officers: Jack Lin, president; Lloyd Blonder, chief financial officer; Paul Lieberman, general manager; John Brown, vp; James Slaby, secretary.

O

Omni Tech International Ltd.

2715 Ashman St., Suite 100, Midland, Mich. 48640; 517-631-3377

Year founded: 1986.
Services provided: Frequent fire prevention inspections, plant security inspections, hazard identification, client training, safety, electrical, mechanical engineering, industrial hygiene and toxicology services, expert witness testimony, consulting on regulatory and environmental issues; occasional build-

Continued on next page



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Continued from previous page
ing plan reviews, loss prevention publications.

Staff: 18 total staff members, 10 professionals.

Branch offices: Lake Jackson, Texas.

Principal officers: R.W. Belfit Jr., president; R.L. Heiny, vice chairman; J.H. Hanes, executive vp/general counsel; R.K. Aritabile, executive vp-marketing; R.L. Hotchkiss, executive vp-technology; W.C. Zacharias, executive vp-finance.

p

Parker Services Inc.

1800 North Point Drive, Stevens Point, Wis. 54481; 715-346-7357

Year founded: 1982.

Parent company: Sentry Insurance Group.

Services provided: Frequent fire prevention inspections, hazard identification, loss prevention publications, client training; occasional plant security inspections.

Staff: 40 total staff members; 10 professionals, including one ARM, five CSPs, one CPSM.

Clients: Six total clients, 100% with gross revenues less than $200 million.

Specialties: Theatres, shopping centers, schools, small commercial businesses.

Branch offices: Through branch offices of parent company.

1986 gross revenues: Not reported.

Principal officers: William R. Schwantes, president; David A. Entwistle and W. Kent Foster, vps.

Professional Loss Control Inc.

108 Flint Road, P.O. Box 446, Oak Ridge, Tenn. 37831; 615-482-3541

Year founded: 1976.

Parent company: The Hartford Steam Boiler Inspection & Insurance Co.

Services provided: Frequent fire prevention inspections, hazard identification, building plan reviews, client training, fire detection and suppression systems design and evaluation; occasional fire loss investigations, emergency preparedness plans, loss prevention publications, loss prevention research.

Staff: 35 total staff members; 20 professionals, including 14 PEs, 19 SFPEs.

Clients: Not reported.

Specialties: Utilities, chemical, petrochemical and heavy industry.

Branch offices: Philadelphia; Chicago; Houston; Fredericton, New Brunswick.

1986 gross revenues: $2 million total, 100% from unbundled property loss control consulting and engineering.

Principal officers: Kenneth W. Dungan, president; Michael E. Mowrer and James M. Dewey, vps.

Professional Safety & Management Consultants Inc.

1103 Harvard Ave., Bradenton, Fla. 33507; 813-756-6660

Year founded: 1987.

Services provided: Frequent hazard identification, surveys for self-insurance funds and employee leasing companies, loss prevention publications, loss prevention research, client training; occasional fire prevention inspections, plant security inspections, building plan reviews.

Staff: Two total staff members who are professionals; designations held by staff members include one ALCM, one ASSE, one PE, one CHCM.

Clients: 100% of clients have gross revenues less than $200 million.

Specialties: Self-insurance funds and municipalities.

1986 gross revenues: 60% from unbundled property loss control consulting and engineering; 40% from other services.

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Risk Consultants/Flagship Management Foundation

1299 Black Oaks Court, Plymouth, Minn. 55447; 612-475-0111

Year founded: 1986.

Services provided: Frequent fire prevention inspections, hazard identification, loss prevention publications; occasional plant security inspections, rate review analysis, building plan reviews, loss prevention research, client training, consulting on various aspects of safety and loss control.

Staff: One total staff member.

Clients: 20 total clients, 100% with gross revenues less than $200 million.

1986 gross revenues: 20% from unbundled property loss control consulting and engineering; 80% from other services, including inspection company inspections, publications, safety committee presentations.

Principal officers: Peter W. Bergerson, president/owner.

Rodriguez Consulting Group Inc.

4241 Baymeadows Road, Suite 1, Jacksonville, Fla. 32217; 904-731-4846 or 904-731-1295

Year founded: 1984.

Services provided: Frequent fire prevention inspections, hazard identification, loss reduction, loss prevention publications, client training; occasional plant security inspections, building plan reviews, loss prevention research.

Staff: Four total staff members, one professional who holds ARM and PE designations.

Clients: Not reported.

1986 gross revenues: Not reported.

Principal officers: Al Rodriguez, president; Boyd Fink, vp.

Rollins Burdick Hunter of Missouri Inc.

500 Washington Ave., St. Louis, Mo. 63102; 314-241-8010

Year founded: 1898.

Parent company: Aon Corp.

Services provided: Fire prevention inspections, plant security inspections, hazard identification, municipal fire suppression rating surveys, disaster planning surveys, fire brigade training, water supply analysis, building plan reviews, loss prevention publications, loss prevention research, client training.

Staff: Two staff members assigned to loss control consulting, including one ASSE, one PE, two SFPEs, one ASP.

Clients: Seven total clients; 60% with gross revenues less than $200 million, 40% with $200 million-$500 million.

1986 gross revenues: $6 million total; 5% from unbundled property loss control consulting and engineering; 95% from other services, including claims management and insurance brokerage.

Principal officers: James L. Hamilton, president; Carroll J. Keane Sr., and Louis O. Gys, executive vps.

s

SMC O'Donnell & Associates Inc.

241 Curry Hollow Road, Pittsburgh, Pa. 15236; 412-655-1200

Year founded: 1970.

Parent company: Science Management Corp.

Services provided: Occasional hazard identification, building plan reviews, accident investigations.

Staff: 34 total staff members; professionals designations held by staff include one ASCE, two ASSEs, five PEs, 10 ASMEs, one ASTM, one ASM.

1986 gross revenues: $5 million

Continued on facing page

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total; 1% from unbundled property loss control consulting and engineering; 99% from other services, including design, risk analysis and testing.

Principal officers: William J. O'Donnell, president; Allen Selz, vp; Jan S. Porowski, executive vp; Edward J. Hampton, vp-operations.

Schirmer Engineering Corp.

707 Lake Cook Road, Deerfield, Ill. 60015; 312-272-8340

Year founded: 1939.

Services provided: Frequent fire prevention inspections, building plan reviews, loss prevention publications, client training, site investigations, fire and security alarm system design, litigation support services; occasional plant security inspections, hazard identification, loss cause analysis, loss prevention research.

Staff: 100 total staff members; 70 professionals, including six ASSEs, eight CSPs, 31 PEs, 28 SFPEs, one AIChE.

Clients: 150 total clients; 10% with gross revenues less than $200 million, 10% with $200 million-$500 million, 10% with $500 million-$1 billion, 20% with $1 billion-$3.5 billion, 50% exceeding $3.5 billion.

Specialties: Commercial, industrial, public entities.

Branch offices: Dallas; San Francisco; Washington, D.C.

1986 gross revenues: $6.1 million total; 51% from unbundled property loss control consulting and engineering; 49% from other services, including workers compensation and public liability loss control, suppression and alarm system design services, building and life safety code consultation.

Principal officers: Chester W. Schirmer, president; Raymond G. Weigand and Richard R. Osman; vps; Gary L. Jordan, secretary/treasurer; Frank J. Klauke, manager-inspection department.

Contact: Raymond C. Weigand and Sheryl L. Anderson.

Senior Consultants' Network Co. Inc.

3 Commerce Park Square, Suite 305, 23200 Chagrin Blvd., Beachwood, Ohio 44122; 216-831-5055

Year founded: 1987.

Services provided: Frequent hazard identification, loss prevention publications, client training; occasional fire prevention inspections, plant security inspections, loss prevention research.

Staff: Consultants provided on a project basis.

Clients: Total clients not reported, 100% with gross revenues less than $200 million.

1986 gross revenues: Not reported.

Principal officers: Robert C. Fisher, president; A.E. Williams, executive vp; Patrick F. O'Neal, vp/general manager.

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Technical Insurance Services Inc.

P.O. Box 8876, 3611-B, Brainerd Road, Chattanooga, Tenn. 37411; 615-622-6581

Year founded: 1985.

Services provided: Frequent fire prevention inspections, hazard identification; occasional plant security inspections, loss prevention research, replacement cost appraisals.

Staff: One total staff member who holds ASSE, CIC and AAI designations.

Clients: Not reported.

1986 gross revenues: Not reported.

Principal officers: John Hilbrandt, president.

Tiller Consulting Group Inc.

2833 N. Geyer Road, St. Louis, Mo. 63131; 314-567-7480

Year founded: 1985.

Services provided: Frequent hazard identification, risk assessments, loss prevention research; occasional fire prevention inspections, plant security inspections, environmental financial loss projections, waste disposal consulting, building plan reviews, loss prevention publications, client training, estimation of remedial action costs.

Staff: Two total staff members who are professionals; including two ARMs, one ASCE, one AIHA, one

Continued on next page

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Continued from previous page
SRA, one ACS, one ASTM, two ARIA, one FCAS, one ASA, one CPCU.

Clients: Not reported.

1986 gross revenues: Not reported.

Principal officers: Margaret W. Tiller, president; Michael H. Tiller, president-environmental risk division.

V

Veda Inc.

1225 Jefferson Davis Hwy., Suite 300, Arlington, Va. 22202; 703-486-0505

Year founded: 1962.

Parent company: Veda International.

Services provided: Frequent product safety programs; occasional hazard identification, loss prevention research, client training.

Staff: 980 total staff members; 15 professionals assigned to loss control, including one ASSE, one CSP, eight PEs, one CHCM.

Clients: Not reported.

Specialties: Manufacturers.

Branch offices: Boston; Indian Head and Lexington Park, Md.

1986 gross revenues: $60 million total.

Principal officers: Gary Collinson, chief executive officer; Marc Ross, president; Carl Varblow, chief financial officer; Dale Roberts and Gary Palonen, senior vps.

W

Waite Hill Services Inc.

Box C-32016, Richmond, Va. 23261; 804-261-7000

Year founded: 1978.

Parent company: Figgie International Inc.

Services provided: Frequent fire prevention inspections, hazard identification, loss prevention publications, client training; occasional plant security inspections, industrial hygiene and environmental services, building plan reviews, loss prevention research.

Staff: Eight total staff members, including one ARM, one ALCM, three ASSEs, three CSPs, one PE, one CIH.

Clients: 67 total clients; 90% with gross revenues between $500 million-$1 billion, 5% with $1 billion-$3.5 billion, 5% exceeding $3.5 billion.

Branch offices: Houston; Cleveland; San Clemente, Calif.

1986 gross revenues: $680,000 total; 55% from unbundled property loss control consulting and engineering; 45% from other services, including industrial safety services.

Principal officers: Bruce Fowler, president; Keith Barenklau, vp; George Pearson, national safety director; Robin Starr, secretary; Joseph Skadra, treasurer.

John Williams & Associates

15221 N.E. Schuyler Court, Portland, Ore. 97230; 503-255-5285

Year founded: 1985.

Services provided: Frequent fire prevention inspections, hazard identification, fire pump, dry pipe valve trip and flow tests; occasional building plan reviews, loss prevention publications, loss prevention research, client training, plant and crew fire fighting training.

Staff: One total staff member who holds PE and SFPE designations.

Clients: Five total clients; 40% with gross revenues less than $200 million, 40% with $200 million-$500 million, 20% with $500 million-$1 billion.

Specialties: Wood products and paper plants.

1986 gross revenues: $30,000 total, 100% from unbundled property loss control consulting and engineering.

Principal officers: John W. Williams, proprietor.

Worksafe Services Group

25251 Paseo de Alicia, Suite 100, Laguna Hills, Calif. 92653; 714-583-1760

Year founded: 1985.

Services provided: Frequent hazard identification, employee hazard inspections, hazardous materials training, loss prevention research, client training, development of auto fleet programs; occasional fire prevention inspections, plant security inspections, building plan reviews, loss prevention publications.

Staff: Two full-time staff members, one professional who has an ACII designation; additional staff members used on a contract basis.

Clients: Seven total clients; 80% with gross revenues less than $200 million, 20% with $200 million-$500 million.

1986 gross revenues: $120,000 total; 30% from unbundled property loss control consulting and engineering; 70% from other services.

Principal officers: Robert S. Anderson, principal. ■

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datebook

JUNE 10. How Tort Reform Affects Workers Compensation speech and dinner, sponsored by the Oak Brook Assn. of Insurance Women; $15. Oak Brook Assn. of Insurance Women, 312-346-3000.

JUNE 10-12. Claims Management course in San Francisco, sponsored by the Risk & Insurance Management Society; $540 for RIMS members, $640 for others. Fran Jordan, Risk & Insurance Management Society, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

JUNE 10-12. Techniques of Risk Management course in Boston, sponsored by the Risk & Insurance Management Society; $540 for RIMS members, $640 for others. Fran Jordan, Risk & Insurance Management Society, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

JUNE 11. Claim Abuse/Fraud Seminar in Los Angeles, sponsored by the Self-Insurance Institute of America Inc.; $95 for SIIA members; $125 for non-members. Self-Insurance Institute of America Inc., P.O. Box 15466, Santa Ana, Calif. 92705; 714-261-2553.

JUNE 16-17. Basics of Captives and Captive Insurance Companies: A Canadian Viewpoint seminars in Toronto, sponsored by the Tillinghast division of Towers, Perrin, Forster & Crosby; $50 Canadian (approx. $37) for Basics of Captives briefing (June 16); $350 Canadian (approx. $261) for Captive Insurance Companies seminar (June 17); $400 Canadian (approx. $298) for both. Eileen Callahan, Conference Director, Tillinghast/TPF&C, 722 Post Road, Darien, Conn. 06820; 203-655-9791.

JUNE 17. Pension Planning Workshop in Philadelphia, sponsored by the Insurance Society of Philadelphia and Delaware Tech; $65 for members; $75 for non-members. Insurance Society of Philadelphia, 737 Public Ledger Building, Philadelphia, Pa. 19106; 215-627-5306.

JUNE 17-19. Western Assn. of Workers Compensation Boards' 15th Annual Convention in San Francisco; $125 for WAWCB members; $165 for non-members; $60 for spouses. WAWCB 15th Annual Convention, P.O. Box 11356, San Francisco, Calif. 94101; 415-557-2250.

JUNE 18-19. Computer Fraud Detection and Investigation workshop in New York, sponsored by the Computer Security Institute; $545 for members of CSI; $575 for non-members. Computer Security Institute, Department ERC, 360 Church St., Northborough, Mass. 01532; 617-393-2600.

JUNE 22-23. Solving Insurance Problems for Associations and Overview of Risk Financing Alternatives seminars in Chicago, sponsored by the Tillinghast Division of Towers, Perrin, Forster & Crosby; $50 for Overview of Risk Financing Alternatives; $400 for Solving Insurance Problems; $450 for both sessions. **Also June 24-25** in Los Angeles, **June 29-30** in Washington, D.C., and **July 1-2** in Dallas. Conference Director, Tillinghast/TPF&C, 722 Post Road, Darien, Conn. 06280; 203-655-9791.

JUNE 22-25. Corporate Benefits Management Conference in Lake Tahoe, Nev., sponsored by the International Foundation of Employee Benefit Plans; $605 for IFEBP members, $680 for non-members. International Foundation of Employee Benefit Plans, Registration Department, 18700 Bluemound Road, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

JUNE 23. The Illinois Insurance Exchange—An Alternative Market seminar in Chicago, sponsored by the Illinois Insurance Exchange; no charge. Theresa L. Ryan, Illinois Insurance Exchange, 175 W. Jackson Blvd., Suite 1234, Chicago, Ill. 60604; 800-525-8471; 312-939-2400 within Illinois.

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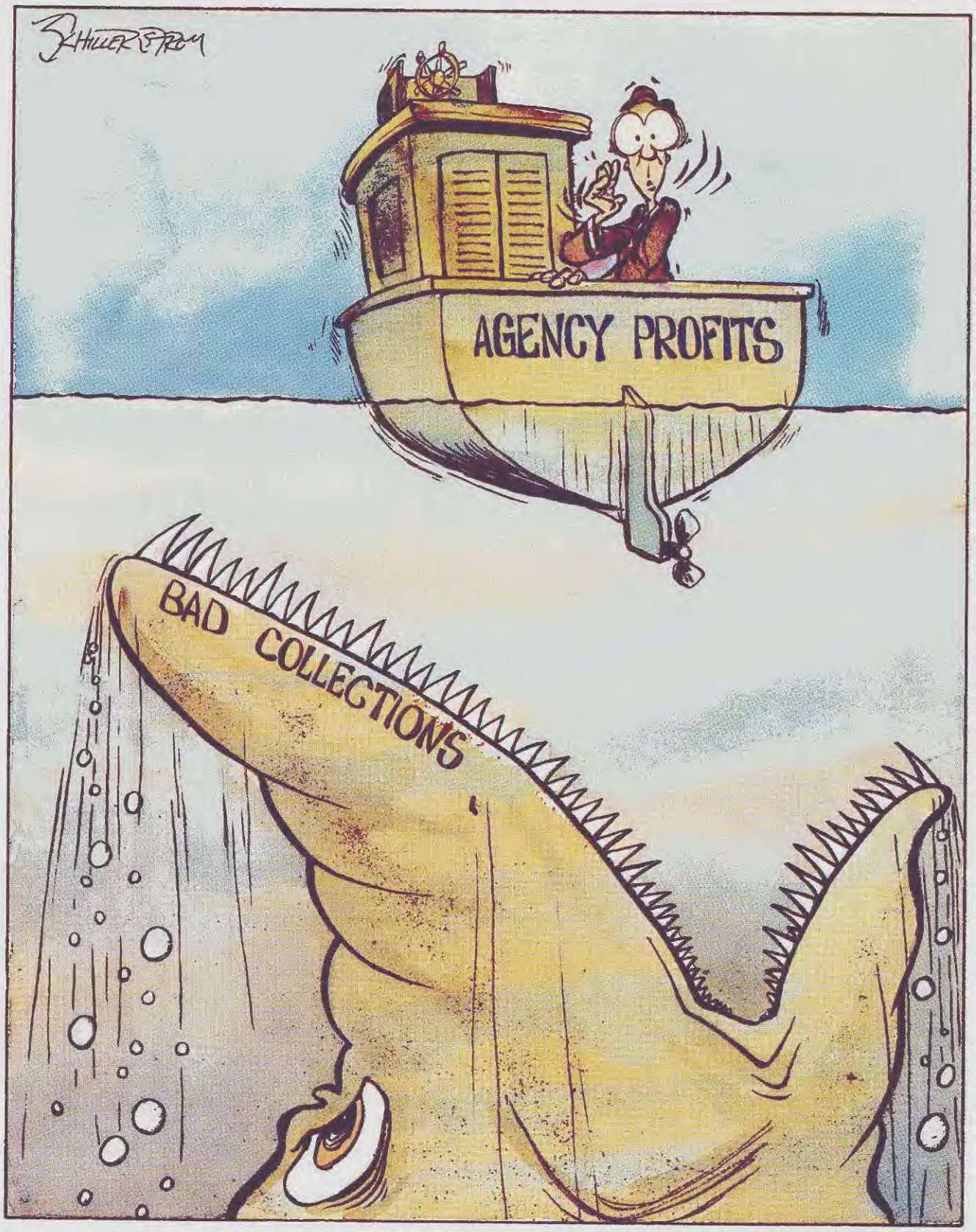
agent/broker topics

A monthly editorial section sent exclusively to agents and brokers

Risky policy

Letting your clients pay premiums late can hurt agency

By LINDA J. COLLINS



Keeping an agency afloat is not an easy task. Though the waters may appear smooth on the surface, hidden dangers can lurk beneath.

One serious danger: accounts receivable problems.

Agencies need to establish and stick to firm premium collections procedures to protect their profits, agents and consultants warn.

At best, agents who allow clients to pay premiums after a policy's effective date lose interest income on those premiums.

Interest income represents "pure profits for an agency. For every $15,000 of lost interest income, an agency has lost $15,000 of profits," said consultant Roger H. Sitkins, president of Sitkins Group Inc. in Fort Myers, Fla. "To create that much profit without interest income, an agency has to sell about $1 million in premiums," Mr. Sitkins said.

But lost interest income on late premium payments is only one problem. Paying premiums on behalf of delinquent clients is another.

If agents wait until the earned premium is due to cancel a client's policy for non-payment of premium, they may have to pay that earned premium to the insurer out of their own pockets. And if collection problems get seriously out of hand, the resulting bad debts could force an agency out of business.

"Accounts receivable is the number one reason why agencies fail," said Owen D. Pipal, president of the Pipal Anderson Inc. agency in Boise, Idaho, and a vp of the National Assn. of Professional Insurance Agents. "An agency's accounts receivable is the one thing that will grow if the agency doesn't do something about it," Mr. Pipal warned.

While most collections problems occur with smaller commercial accounts, "that doesn't exclude the larger accounts from changing overnight, because they can get into financial problems in a hurry," he added. "Because of the high premiums on the larger accounts, even one collections problem among those clients can hurt an agency."

And collections problems are fairly widespread among the property/casualty agency ranks.

"I hear about agency collections problems all the time. A lot of agents have had to merge with other agencies because they weren't collecting their premiums," said Richard Q. Perry, president of the Richard Q. Perry Inc. agency in Salt Lake City, Utah, and chairman of the company relations committee of the PIA.

"About 75% of our clients address the issue of accounts receivable when we ask them to identify the areas in which they need help," said Mr. Sitkins.

Two consultants pointed out that, over the past few years, outside forces have helped reduce the number of agencies with serious collection problems.

First, during the soft market of the early 1980s, "when agencies had to scrape to get by, they had to collect premiums promptly to stay alive," said Carol A. Hammes, a partner with Marsh Berry & Co. Inc. in Naperville, Ill.

Then, when the market tightened in the mid-'80s, soaring premium prices forced many other agencies "to get wise about bad debts," said consultant John H. Jaques, founder of John H. Jaques Inc. in Novato, Calif. Those higher premiums quickly translated into more sizable debts, he explained.

Today "about one out of three agencies now have serious collections problems, where more than 15% of their receivables are overdue past 60 days and where bad debts exceed one-third of 1% of their total revenues" Mr. Jaques stated.

"The number of agencies we visit that are experiencing collections problems has gone from 80% to 20% in the eight years I have been in consulting," said Ms. Hammes.

However, Ms. Hammes pointed out that not all agents can afford to hire outside consultants, and if 20% of the agencies she is seeing have collection problems, the total number of agencies with collections problems could be as high as 50%.

And while some of those agents might think they are doing their clients a favor by being lenient about collections procedures, clients who do not pay their premiums on time "are taking advantage of agents," stressed Ms. Hammes.

"Good collections procedures go hand-in-hand with good agency management" said Timothy J. Cunningham, senior consultant with Hales & Associates Inc. in Oak Brook, Ill. "If an agency doesn't have good receivable controls," it is generally a sign of poor overall agency management, he stressed.

"It's tough enough for agencies to find financially sound insurers, without having to worry about the financial strength of their own agency," emphasized Mr. Pipal.

Agencies need to recognize the fact that their insur-

Continued on next page

Collections

Continued from previous page

ers require them to forward their clients' premium payments to them on time "because they are in the cash flow business," said Herbert D. Glanz, president of Suburban Insurance Agency Inc. in Holbrook, Mass., and a member of the PIA national board of directors. He added that agents are in the same business and should implement the same policies.

Collection problems "primarily stem from a lack of discipline and lack of a formal system for handling accounts receivable," Mr. Sitkins said. If no formal system for handling accounts receivable exists in an agency, or if existing procedures are ignored, "every account that comes up becomes an exception," he said.

And if agencies "already have a horrible collections mess behind them, it will take them a while to clean it up," Ms. Hammes warned.

A number of agencies have begun to hold their producers responsible for collections in an attempt to reduce accounts receivable problems, Mr. Cunningham pointed out.

Many are doing so by requiring producers to reach an agreement on premium payment terms with their clients at the time they renew their coverage, he said.

Through this procedure, if it is determined that the client cannot pay the entire premium up front, "they can use premium finance vehicles or company payment plans" to spread out the cost of the premiums without jeopardizing the financial stability of the agency, Mr. Cunningham explained.

Mr. Cunningham added that some agencies have carried this procedure a step further by holding the commissions their producers are paid on business until the premium is paid, or by charging the producer directly for bad debts incurred by his or her clients, Mr. Cunningham added.

If an agency implements "a procedure in the presentation where the producer asks the client, 'How would you like to pay?' up front," then the terms of the agency/client relationship "are understood going in," agreed Mr. Pipal.

He added, "I would highly recommend that the producer get the money before the insurer issues the policy."

Mr. Glanz said he calls on all of his commercial accounts personally at the time coverage is bound or on each renewal. "I have a set pattern: They finance the premium with a finance company or pay our agency in full within the first two months on an annual policy—half the first month and half the second month," he explained.

"On all small commercial policies, we suggest that agencies collect the money for the premium before giving the client the policy. Then, if the client hasn't paid by the due date, the agency can send a notice telling them they have no coverage, but that the agency will renew the policy after they send in the money," Ms. Hammes said.

Mr. Perry said his agency discusses payment terms with all clients at the time coverage is bound or renewed. "I may or may not collect a down-payment or arrange a finance agreement right then, depending on the client," Mr. Glanz said. He explained that some clients have proven their ability to pay on time and don't need to be monitored as carefully as others.

Mr. Pipal suggested that if an agency principal finds that the agency's producers are having difficulty enforcing strict collection procedures because of their close relationships with their clients, "the agency had better find an office manager to handle the situation. Someone has to be responsible for collections," he stressed.

And agents who attempt to set up new collections procedures within their agency should realize that old habits die hard, agents and consultants agreed.

"Establishing a new collections procedure can be a major problem for an agency that has accounts receivable problems," Mr. Sitkins said. "It involves an education process for the principal, producers and clients alike."

Mr. Sitkins said that the first step is to "make the agency personnel understand how much money the agency is losing through poor collections procedures. Any money that an agency has in its 'over 60 days due' column, it has already paid to the insurer," he pointed out.

One way to increase employee awareness about collections is to "let producers know where their clients stand on collections," added Mr. Cunningham.

"We view it as a sound practice that some payment status reports be circulated around the agency on a regularly scheduled basis. This can be very helpful," Mr. Cunningham said.

"We send statements around the office weekly so that employees are aware of the status of receivables," said Mr. Glanz.

But while employee awareness may reduce overdue accounts receivable, most collections problems stem from the agency principals themselves, Ms. Hammes and Mr. Jaques agreed.

An agency can set up controls to curb a producer's collections problems, but if the principal is allowing or perpetuating poor collections procedures, the controls placed on producers will have little effect on the problems, they explain.

"The single most common reason for collections problems is the agency principals themselves. These problems usually don't lie with the producers," said Mr. Jaques.

In an average agency, the principal has more accounts than anyone else and thus greater exposure to accounts receivable problems. And the principals do not have someone to monitor their behavior if they do not enforce collections procedures, he said.

Because of this, principals have to realize that they "need to live with the same procedures used by their producers," Mr. Jaques cautioned.

But many agency principals have a habit of carrying a number of their accounts, Ms. Hammes said. This procedure can cost an agency a lot of money.

"I tell principals to look at their past five years of financial information and examine their investment income. I explain that the average agency gets 5% of its revenues from investment income," Ms. Hammes said.

"Then I tell them to look at how much money they've lost on investment income because of their collections problems. This gets their attention quickly," she added.

Upon examination, some principals even find that they "have been using their own money to pay the clients' premiums," said Ms. Hammes. This really focuses their attention on improving collections, she explained.

While agents and consultants emphasized that when exceptions are made to the rules additional exceptions become

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CFO arrested for jamming computer

By LINDA J. COLLINS

LAKELAND, Fla.—A former top executive of Golden Eagle Group—an insurance agency cluster group based in Lakeland, Fla.—is facing criminal charges of extortion and computer theft as well as a civil suit brought by his former employer.

The charges were filed May 11 by the state attorney's office, alleging that George Coker Jr. encoded the cluster's accounting system with a password that prohibited anyone but himself from gaining access to GEG's accounting records. Those records included more than $400,000 of current customer accounts receivable billings that were due May 15.

According to the charges, after he encoded both the cluster's primary and two back-up systems with the password, Mr. Coker presented the cluster's executive vp, Dick Johnson, with a written list of demands.

The demands included:

- A written acknowledgment of Mr. Coker's ownership of one of the cluster's IBM personal computers that Mr. Coker was using in his home.

Mr. Coker contends that the computer should be considered as compensation for overtime work he performed in programming accounting software for the cluster.

- His remaining salary and unused vacation pay and a redemption of his non-voting stock certificates.
- A letter of reference detailing his length of employment with GEG and his job responsibilities.
- A $100 licensing fee from GEG for use of the program files designed by Mr. Coker during his employment with the cluster.

The letter explained that once GEG met Mr. Coker's demands, he would restore the cluster's access to the files.

Mr. Coker served as chief financial officer for Golden Eagle Group, a "cluster" group of about 175 primarily rural property/casualty insurance agencies across Florida and Georgia.

Agency clusters can be formed by a number of agency owners or by a service facility to reduce expenses and increase efficiency among member agencies by pooling such functions as accounting and billing.

Clusters also give members more leverage with insurers because of the combined premium volume they provide.

However, the various agencies in the cluster retain ownership of their individual books of insurance business (*A/BT*, May 5, 1986).

The Golden Eagle Group's corporate office provides accounting, billing and other support services to its member agencies and deals directly with the three insurers represented by the cluster—CIGNA Corp., Transamerica Corp. and Agway Insurance Co.

During the nearly three years that he was employed with the cluster, "Mr. Coker created program files for the cluster's total in-house accounting system," explained Bob W. Huber, automation manager for GEG.

The system contains all of the GEG member agencies' accounts current with insurers represented by the cluster. It also stores accounting records on member agencies' clients.

Mr. Coker added his own program commands to the cluster software to simplify the processing of accounting data that is stored in the system.

"There are 236 programs in the system," Mr. Huber said.

The commands coded by Mr. Coker "make the accounting job easier" and allow the cluster to "manipulate and store files."

This programming was accomplished within the context of Mr. Coker's duties first as manager of accounting and then as chief financial officer of GEG, Mr. Huber and Mr. Johnson stressed.

On April 10, Mr. Coker presented the personnel supervisor of GEG with a written request for a raise.

Because the president of the cluster was out of the office due to an extended illness, the request was forwarded to the acting president, Mr. Johnson.

Mr. Johnson said he explained to Mr. Coker that he was only authorized to approve annual merit raises, and that any request for a significant salary increase would have to be presented to the president, Godfrey M. Homes, upon his return to GEG.

Instead of waiting for Mr. Homes' return, Mr. Coker resigned from his position on May 6. At that time, he presented Mr. Johnson with a letter.

In the letter, Mr. Coker said: "During the course of my duties. . .I had occasion to store. . .commands in certain computer files. . .for the purpose of facilitating the processing of the accounting data.

"I have and do consider my efforts in doing so as beyond the scope of my employment with GEG. Accordingly, it is my opinion and position that such program files are in fact my personal property and are subject to protection under the copyright laws," Mr. Coker's letter said.

"Consequently, those files and all backup copies have been protected with an encryption device to prevent their unauthorized use. Please understand that no damage has been done either to these files or other files in the accounting system," the letter continued.

'It is my opinion and position that such program files are in fact my personal property and are subject to protection under the copyright laws,' Mr. Coker's letter said.

The primary and one backup system were located in GEG's main office, and the second backup system was stored in another nearby facility to which Mr. Coker had a key.

Mr. Coker gained access to all the files prior to presenting the letter to Mr. Johnson and encoded them with the password.

Mr. Johnson said that when he first read the letter, he asked if Mr. Coker fully understood what he was doing and intended to follow through with his threat. He said Mr. Coker assured him that he felt justified in pursuing the matter.

At this point, Mr. Johnson ordered Mr. Coker to leave the premises.

"No one wants to be held hostage—to be forced to negotiate" on someone else's terms, Mr. Johnson said.

On May 7, Golden Eagle Group filed a civil suit against Mr. Coker in the Polk County Circuit Court "requesting an emergency hearing to get Mr. Coker to release the password," said Mr. Johnson.

In addition to requesting a court order "requiring George Coker to immediately disclose the codeword to the computers and to return all equipment in his possession which is the property of the Golden Eagle Group Inc." to GEG or its representatives, the civil suit sought treble damages, costs and attorney fees.

An "emergency hearing" was subsequently scheduled for May 12.

On May 11, the state attorney's office talked to Mr. Coker and representatives of GEG. In that meeting, a letter to Mr. Johnson and subsequent interviews, Mr. Coker maintained that his actions against his former employer were justified.

The state attorney then filed criminal charges of extortion and computer-related crimes against Mr. Coker.

Meanwhile, GEG was attempting to break Mr. Coker's password.

Because Mr. Coker used software designed by Soft Logic Solutions in Manchester, N.H., to encrypt the password in the system, the software manufacturer "worked with us to find a solution" to the password, Mr. Johnson explained.

After working nearly around the clock to break the code, Mr. Huber came up with the password late in the evening on the 11th, Mr. Johnson said.

According to Mr. Johnson, "We still don't know exactly what he did to the system when he entered it, but as far as we can tell, no records have been destroyed."

Having broken the code, GEG's attorneys met with the judge prior to the scheduled emergency hearing, which subsequently did not take place. At that time, "the judge then put Mr. Coker under orders not to sell or abuse our IBM computer," Mr. Johnson explained.

Later that day, the state attorney's office issued a warrant for Mr. Coker's arrest. He was taken into custody, then later released on his own recognizance. Further actions are pending.

Mr. Johnson expressed his relief that the code was broken. He added that GEG was able to issue all of the billings on time.

To "protect ourselves from experiencing something like this, we needed. . .more backup systems," Mr. Johnson commented. "We let our guard down and assumed we were safe."

The cluster has since changed locks on all doors and only the two top executives have keys to both of the offices.

Mr. Johnson speculated that such a situation could occur in other agencies, brokerages or clusters, and urged others to take steps to safeguard themselves against such an exposure.

The password that Mr. Coker used to encrypt the system was WGACA, which he later said was an acronym for "What goes around comes around."

Mr. Johnson said he wonders if Mr. Coker fully appreciates his choice of passwords, since he now faces the possibility of an extended prison term for his actions.

Agent-owned company breaking new ground with start-up proposal

By LINDA J. COLLINS

MINNEAPOLIS, Minn.—A former insurance executive is creating an agent-owned life insurance company that, unlike several other agent-owned insurance or reinsurance companies, will not require agent/owners to make a substantial initial stock investment.

Instead, agents will accrue stock ownership in Life USA Holding Inc., the holding company for the insurer, based upon their production volume with the insurer, explained Robert W. MacDonald, Life USA president and chief executive officer, positions he formerly held with Minneapolis-based ITT Life Insurance Corp.

Recently, agent insurer and reinsurer ownership plans have become "very hot, topical items, but most of the programs we have seen in the past and are seeing now are at best illusory bonus plans and at worst contrived deceptions," Mr. MacDonald charged.

While the concept of an agent-owned insurer "is great," most of the existing arrangements "are upside down or backward," he said.

Most agent ownership plans involve a "primary company that sets up a downstream reinsurance company, then asks agents to either invest in the reinsurance company, or take commission cuts in exchange for participation in the profits," Mr. MacDonald explained.

What many of the parties who form agent ownership plans do not tell agents who participate in them is that generally "it will take at least 10 years for the agent to benefit" from profit participation, he said. And, if the agent-owned reinsurer loses its fronting company, the facility may not be around that long.

"We want to give agents a voice in their own future," Mr. MacDonald stressed. "They will be involved in the marketing decisions, and if it makes a profit, they will benefit directly," he added.

While agents will be able to purchase stock in the insurer if they so desire, they are not required to make a cash investment in the company to write business through it, he said.

Mr. MacDonald said that initial founders' stock will be made available in a private offering to 35 qualified investors, most of whom he hopes will be agents. He is also hopeful that some agent-run marketing organizations will participate in the initial stock offering, through which Life USA plans to raise about $2 million in capital.

According to Mr. MacDonald, if Life USA can interest agent marketing organizations in investing in the insurance company, their member agents might be encouraged to write business through the facility.

The insurance company, which will be wholly-owned by Life USA, will be open to both life insurance agencies and property/casualty agencies with life departments. "Any agent who writes business through the facility will become a stockholder," he said. In addition to the commission that agents earn on business written through the insurer—which Mr. MacDonald said are competitive—agents also will receive stock in the holding company of a value equal to about 10% of their commission earnings, he explained.

Any agent will be eligible to write business through the insurer. And, at least initially, agents will not be required to meet a minimum annual premium volume requirement, although such requirements may be added in the future, he said.

The holding company plans to purchase one or more existing life insurance companies with borrowed money.

In fact, Life USA signed an agreement in late May to purchase Financial Assurance Inc., a life insurance company domiciled in Golden, Colo., from United Fidelity Life Insurance Co., domiciled in Fort Worth, Texas. United Fidelity

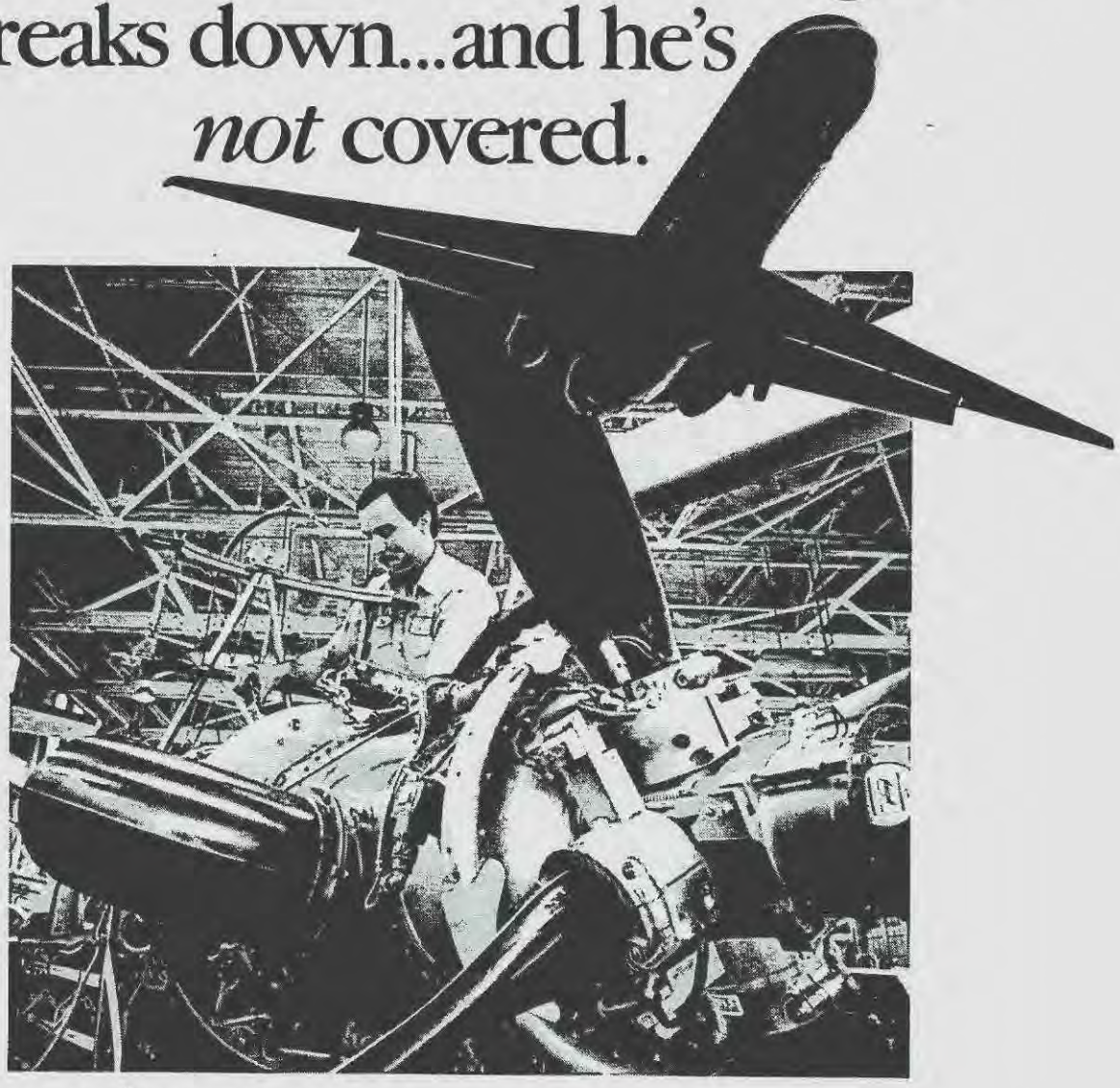
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Agent-owned insurer

Continued from previous page

is owned by Financial Holding Corp. in Kansas City, Mo.

Dan Rourke, former ITT senior vp and director of marketing, will be president of Universal Security Assurance, Mr. MacDonald said.

According to Mr. MacDonald, Life USA plans to rename the insurance company it purchases Universal Security Assurance Inc. The target date for the facility to begin operations is July 4, he said.

Financial Assurance Inc.'s existing book of business will be assumed by United Fidelity Life Insurance Co. through a bulk reinsurance agreement. This arrangement will protect Universal Security Assurance from being held responsible for lawsuits, claims or other obligations on the business it did not write.

Financial Assurance Inc. is licensed in 45 states, and Life USA is currently working out arrangements through which the insurer will be able to write business in all states except New York, Mr. MacDonald explained. He added that because of the difficult litigation and insurance regulation climate in New York, he and the other founders have decided that the insurance company will not write business in that state.

Until some of the acquisition costs are paid off, a large portion of each risk written by Universal Security Assurance will be ceded to reinsurers, which in turn will pay Life USA a fee for the business that is ceded to them, he explained.

The fees Life USA receives through this reinsurance arrangement will be used "to pay off our acquisition financing costs," Mr. MacDonald explained. Once Life USA has paid off its financing and has developed a stronger capital base, the insurer "will be able to retain most of the business itself."

Life USA has secured a loan from Bank of America, which it will use to purchase the insurance company.

Transamerica Reinsurance Corp. in Los Angeles has signed an agreement with Life USA to act as the lead reinsurer for the facility. As the insurer's book of business increases, it anticipates "working with Transamerica to find other reinsurers" for the business, said Mr. MacDonald.

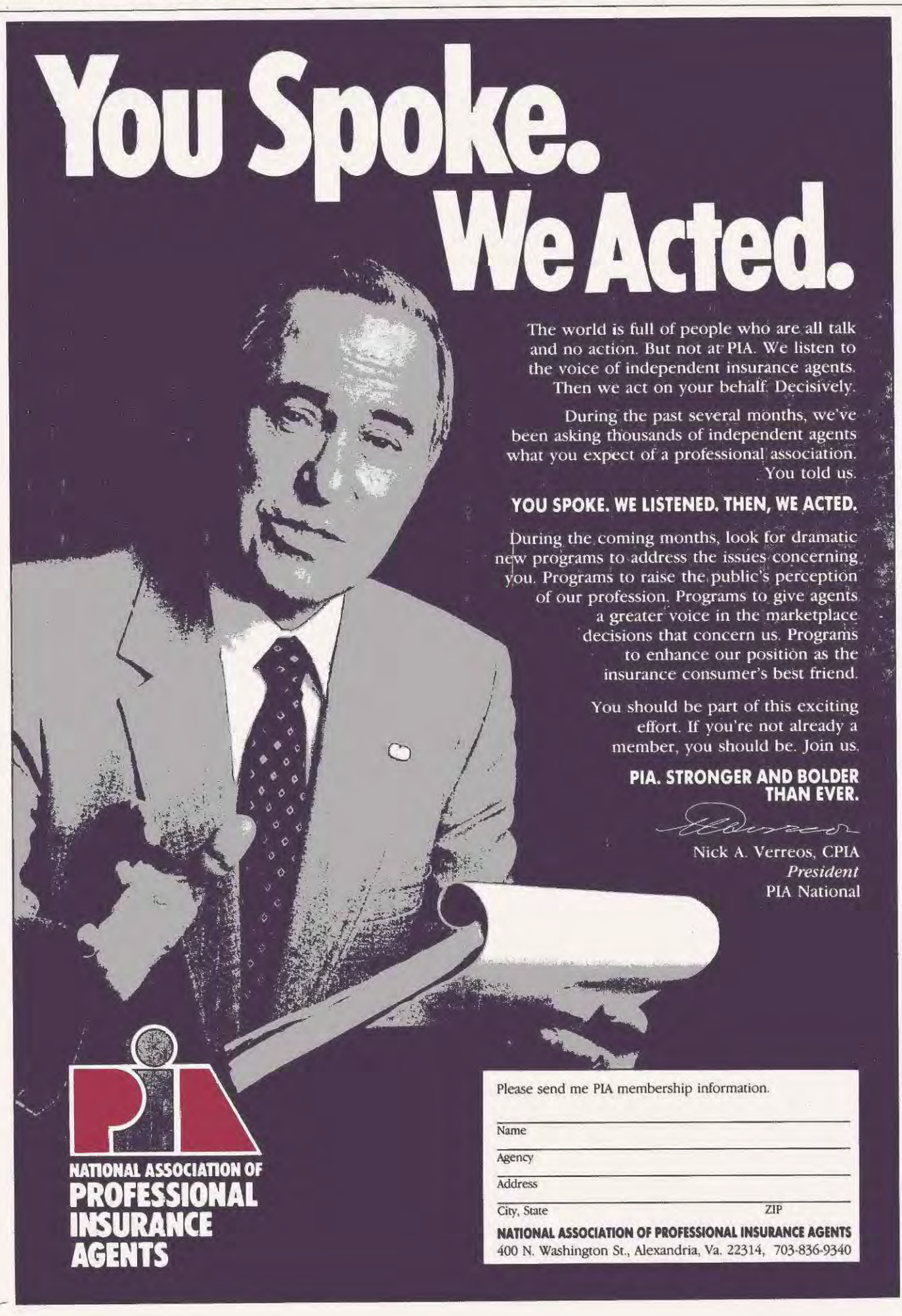
"Transamerica will provide the insurer with actuarial and pricing support. When we write a policy, we will then reinsure a large portion of the policy with Transamerica, for which they will pay us a fee," Mr. MacDonald explained.

Universal Security Assurance will initially offer three interest-sensitive universal life products, according to Mr. MacDonald: a salary savings program offered through employers; an individual universal life policy; and a single premium universal life policy.

But Mr. MacDonald pointed out that the insurer, as a true agent-owned company, will depend on its agent owners to develop additional customized coverages designed with clients' needs in mind.

"Agents will be the product development department for the insurer, and the insurer will act as the manufacturing arm," he said. Because of this, Universal Security Assurance will not develop marketing support services or agent training programs similar to the ones available through other life insurers, he explained.

Three other former ITT Life executives are assisting Mr. MacDonald and Mr. Rourke in launching the agent-owned insurer: Joe Carlson, former ITT vp and controller; Peyton Huffman, former ITT vp and chief actuary; and Donald Urban, a former ITT field marketing director. ■



CIGNA offers electronic link to its agents

By LAURA MAZZUCA

PHILADELPHIA—A new software package that allows agents to electronically complete and issue personal and commercial insurance policies is being given to independent agents by CIGNA Group's property and casualty agency division.

Dubbed the Total Electronic Distribution system, or T.E.D., the system, on line this month, permits independent agents to interact directly with CIGNA computers to rate, quote, issue and service policies.

And, next spring T.E.D. will offer a single-data-entry program to speed processing time.

"The system is a leap forward toward paperless transactions," said Curtis B. Downer, senior vp of marketing for CIGNA's agency division, during a press conference last week at the insurer's Philadelphia headquarters.

CIGNA has entered into national marketing agreements for implementation and future development of the system with vendors Delphi Systems Inc. of West Lake Village,

'The system is a leap forward toward paperless transactions,' says Curtis B. Downer.

Calif., McCracken Computer Corp. of Lexington, Mass., and Agena Corp. of Seattle.

"These firms are among the premier providers of agency management systems," said Mr. Downer, "and we're happy to be working with them in what I believe is a real breakthrough in the industry: The development of single-data-entry interface for all of the major lines of property and casualty insurance."

CIGNA first introduced on-line access in 1983. Thirty-five percent of the agency division's business—at $750 million in premium volume—currently is written electronically, and the company is aiming to raise that figure to 50% by the end of the year and to 75% by year-end 1988.

T.E.D. already is on-line to 250 agents nationwide, or 10% of CIGNA's producers. CIGNA hopes to attract 150 more subscribers this year, another 250 in 1988, and 300 more in 1989.

Although it currently is geared toward the personal and commercial property/casualty market, T.E.D. eventually will encompass CIGNA's life, health and group lines.

The system is of particular value to CIGNA agents currently without underwriting authority. Through T.E.D.'s Risk Information System, an agent can key in specific information regarding the approval or denial of a policy, and underwriters at CIGNA will analyze and answer immediately via the computer. Quoting, processing, issuing, servicing and pricing all can be done by direct interface.

Mr. Downer explained that in a batch system, an agent requesting underwriting information must wait overnight for a reply. But T.E.D.'s interface system, he said, will eliminate the "electronic pingpong" that is frequently a problem with many batch systems.

"The work can be done in a fraction of the time it now takes," said

Continued on next page

Continued from previous page

Mr. Downer. The new system also "catches errors immediately and cuts down on a lot of wasted motion," he said. It also can be used to teach agents underwriting skills.

CIGNA and its vendor partners also are in the developmental stages of "back-end downloading," a process that would eliminate double-data entry, another problem inherent in electronic communications (*A/BT*, April 6).

This new single-entry, or "true," interface will permit an agent to enter data interactively and forward the policy information electronically into the agency's own system after issuance. This new development should be available to T.E.D. subscribers by next spring, Mr. Downer said.

"We, together with our agents, chose back-end download because it best complements our company policy processing system, and because it provides agents with immediate response to inquiries, automatically catches errors as the transaction is carried out, and offers prompts that lead the user through the process," he said.

The process is superior to "batch, store and forward," a technology proposed by industry experts as a solution to the double-entry problem, he said.

"If the batch data the company receives is incorrect—which can happen when the process does not offer prompts or automatically catch errors—it is sent back to the agent for correction," he added. "This electronic exchange—which can prove lengthy at times—could easily negate the efficiencies the system was designed to provide."

A 12-member agency advisory panel is working closely with CIGNA in suggesting further applications for the system. On-line agents will receive training, connection lines, pre-planning site visits and ongoing support after installation, along with a toll-free number for technical advice.

Participating agents also will be eligible for 15% to 30% discounts on equipment and additional software through the vendors.

The system 'catches errors immediately and cuts down on a lot of wasted motion,' Mr. Downer says.

"It's a package we believe is unmatched in the industry," said Mr. Downer, who added that participating agents will not be charged for the service because "it's a benefit of CIGNA representation.

"Our industry must continue to provide more value and better service to our customers," said Dave Prentiss, agency division president. "Society and our customers are demanding faster, more accurate response to their needs. We believe this new electronic distribution system does just that." ■

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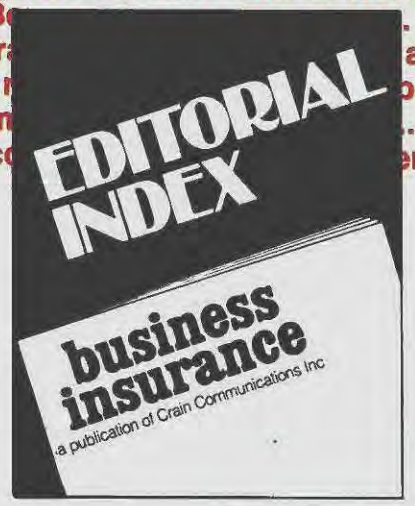
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OPPORTUNITY

Tax reform enhances ESOPs as finance vehicles

By Thomas K. MacDonald

ESOPs HAVE COME OF AGE. Employee stock ownership plans are not just one-dimensional perpetuation plans. They are a form of corporate ownership that allows an agency to combine the best features of being privately held with features similar to being publicly traded. They provide increased marketability of shares, acquisition financing, liquidity to an owner, liquidity and tax relief to an estate and financing features not even available to publicly traded companies.

Yet, an ESOP company preserves the dynamism typically found in closely held agencies.

An ESOP is an Internal Revenue Service-qualified employee benefit plan designed to invest in the employer's stock. The company makes contributions in cash stock to an employee stock ownership trust as a deductible expense. The contributions are allocated, vested and distributed to employees in a manner very similar to profit-sharing plans.

Funds from leveraged ESOPs can be used to finance acquisitions or to increase working capital.

The traditional use of an unleveraged ESOP usually makes only a small dent in the perpetuation problem. Recently, ESOPs have become considerably more attractive with changes in the 1984 and 1986 Tax Reform Acts. Their usefulness has widened to include financing of acquisitions, capital expenditures and increased working capital.

As a result of provisions in the 1984 and 1986 tax acts, the following opportunities are available with ESOPs:

- Tax-free rollover.

A stockholder may defer paying capital gains tax on the sale of stock to an ESOP by reinvesting proceeds in qualified securities. This is the same as a stock-for-stock exchange, except you may choose the stock or bond of any domestic corporation you wish.

And you do not have to sell the entire company to realize this benefit.

- Principal and interest deductible.

If an ESOP borrows money to purchase shares as part of a perpetuation plan, the agency can take as an expense the entire annual loan repayment, principal and interest. The ESOP makes the loan repayments, but it receives the cash as deductible contributions from the agency.

- Low-interest loans.

Banks, insurance companies and mutual funds receive a 50% exclusion of interest income on loans they make to ESOPs. As a result, many loans have been made to ESOPs at 80% to 90% of the prime rate.

- Contributions of 25% or more.

With leveraged ESOPs, tax deductions are allowed on contributions up to 25% of payroll and can exceed that limit by the amount of principal payments. Under profit-sharing plans and unleveraged ESOPs, deductions are limited to 15% of qualified payroll.

- Financing acquisitions.

Funds from leveraged ESOPs can be used to finance acquisitions, buy capital assets or to just increase working capital.

- Fifty percent estate tax exclusion.

When an estate sells its stock back to the employee stock option trust—ESOT—50% of the value received can be excluded from the taxable value of the estate.

- Estate tax assumption.

An ESOP may purchase stock from an estate in exchange for assuming the liability for the installment payment of estate taxes. This amounts to a leveraged buyout of an estate's stock using low-cost government financing over 14 years.

From the estate's viewpoint, this provides liquidity and enables the estate tax to be paid with tax-deductible dollars.

- Tax-deductible dividends.

Cash dividends paid to an ESOT are deductible if passed through to participants or used to repay an ESOP loan.

Should you wait until retirement to form an ESOP? If you do, you would lose the opportunity to use the leveraged ESOP as a vehicle for growth.

Assume you have the opportunity to purchase another agency. With an ESOP you can structure the transaction to make payments with pretax dollars *plus* shelter future profits of your existing agency.

An agency must consider the impact of the obligations to repurchase ESOP shares.

To do this, the ESOP borrows the cash from the bank at below-market interest rates, and transfers the cash to your agency in exchange for stock. Your agency uses the cash to buy the assets of the selling agency.

As the bank loan comes due, the agency makes deductible contributions to the ESOT and the ESOT pays the banker. Additionally, each year the agency amortizes the value of the expirations since it was an asset purchase.

This transaction has four distinctly advantageous features:

- ✔ The agency will receive more favorable financing from the bank because of the 50% interest exclusion.
- ✔ The agency will enjoy the power of being a cash buyer.
- ✔ The principal payments will be deductible since the loan repayments will be in the form of a deductible contribution to the ESOP.
- ✔ The ESOP will not interfere with the ability of the agency to amortize the expirations.

This structure amounts to a double write-off of the acquisition.

First, you are deducting the majority of the purchase price by amortizing the expirations. Then, you are deducting another majority by "deducting" the principal on the loan.

The typical perpetuation situation is a $750,000 commission agency with the capability of sustaining a 15% pretax profit margin.

Its realistic value is approximately $1 million.

ESOP companies outperform their competitors and have improved their own performance.

Assume that the owner agrees to redeem his stock and accept a 7-year note at 10% interest. Payments will be $205,400 per year and pretax profits will average only $112,500 per year.

Even if all taxes are eliminated (by depreciating the expirations or structuring the transaction as a consulting agreement), aftertax profits of $112,500 will fall short of the $205,400 loan payments.

In fact, profits will have to average 27.4% of revenues for all seven years, in both hard and soft markets. Any agency that can sustain a 27.4% margin is worth more than 1.3 times commissions, which just adds to the financing dilemma.

To this cash-flow crunch, add the unwillingness of the stockholder to take a 7-year unsecured note, the owner's reluctance to suddenly become a non-owner and the inflexibility to perform the ownership transition gradually.

This is the often-repeated dilemma where the future owners cannot afford to pay the full value of the agency. The standard alternatives are to sell to outsiders for full value, or to sell to insiders at substantially below market value.

A number of improvements can be made to the above situation by using a leveraged ESOP.

The first step is that the ESOP trust buys the stock for $1 million and finances it with a loan. Even if the loan is for seven years at 10%, now the entire $205,400 annual repayment is deductible to the corporation.

And the uncertainty of withstanding a challenge to the amortization write-off is eliminated.

This first step already has realized other advantages. The former owner is relieved that he is not extending credit. Also, he can defer tax payments by reinvesting the cash in corporate securities of the company of his choice.

But, this plan can be improved further. Annual payments of $205,400 are still too much of a burden. What sane banker is going to loan 100% of the value of a company?

This is where the creative use of an ESOP pays off. In cases like this the stockholder typically sells only 30% of his stock to the ESOP. The $300,000 purchase price is financed by a bank over four years at an 8% interest rate. The lower interest rate reflects the bank's 50% revenue exemption. Payments are $90,600, which is within the agency's profit level.

When this first loan is paid off, the ESOP can acquire another portion of stock and continue to repeat this procedure under a flexible schedule. The cash flows become feasible, the plan is flexible and even the banker is comfortable.

If the owner dies before all the stock is sold back to the ESOP, then the previously mentioned estate provisions can be brought into use.

ESOPs used to be considered an alternative only for a company that was convinced that employee involvement in ownership would have a clearly positive impact on productivity.

Agency owners were not born yesterday and have a short supply of naive beliefs about increased productivity.

Oddly enough, recent studies of ESOP companies show that ESOP companies outperform their competitors and have improved their own performance after adopting the ESOP.

So much for street-wise skepticism.

Obviously, ESOPs are not for everyone. An agency must consider the impact of the obligations to repurchase ESOP shares, the ongoing administrative burden and the responsibilities of the trustees to the employee participants. Without going into great detail, it can be said that the burdens and responsibilities are less than those faced by publicly traded companies. And the degree of control by the executive management will certainly be greater than a public company.

The real challenge is tailoring the features and implementation of the ESOP to meet the individual goals of your agency.

A carefully done feasibility study is a must. ■

Thomas K. MacDonald is president of MacDonald & Associates, a San Francisco firm that provides financial advice to insurance firms. Services include agency valuation, perpetuation and ESOP feasibility studies, merger and acquisition advice and expiration valuations.



Mr. MacDonald

Insurers, art dealers join to stop art theft

By CAROLYN ALDRED

LONDON—The increasing incidence of art thefts is causing concern both in the insurance industry and the art world.

As a result, insurers and art dealers have joined together to stamp out the thriving black market in stolen works of art.

Soaring prices in the art world are contributing to the increase in thefts, but despite the increased values, there is plenty of insurance capacity available, and at stable rates.

As the value of fine art, particularly paintings, has escalated in the past few years so has the market for stolen art, observers say. Thieves are stealing more paintings by breaking into houses and corporations with art collections, a police source said.

Underwriters also have witnessed an increase in claims for stolen works of art over the past few years, an underwriter at Lloyd's of London said.

To fight increased thefts, an international computerized registry of stolen works of art is being proposed. The project is being spearheaded by, and expected to be funded by, Lloyd's, Lloyd's broker Hogg Robinson Group P.L.C. and leading art auctioneer Sotheby's.

The feasibility study is expected to begin soon and take about three months to complete.

Among others expected to finance the study are Christie's International P.L.C. and several other insurance companies.

The registry will be based on the data base of stolen works compiled by the New York-based International Foundation of Art Research —or IFAR—said Serena Kelly, a manager with Hogg Robinson.

The data base probably will be available worldwide on a subscription basis, and it is hoped a visual computer record of all stolen works of art, valued at more than 5,000 pounds ($8,400 at current exchange rates), will be compiled and continually updated.

The plan's pioneers have contacted Interpol, an international police organization in France, and police in West Germany, Canada and the United States, sources say.

"Input for the registry will be based on information provided by IFAR, the police, auction houses and the insurance industry worldwide," said Ms. Kelly. This information should make it harder for thieves to dispose of stolen art.

However, the publicity generated when a highly valued work of art is stolen and the specialized knowledge of the art world currently makes it very hard for thieves to dispose of certain pieces, sources note.

"Many paintings never re-emerge, suggesting that they are stolen on request and kept in someone's cellar for their own pleasure," noted one Lloyd's underwriter.

In addition to private efforts to fight art thefts, authorities in the United Kingdom are considering beefing up their activities.

New Scotland Yard, the headquarters of London's Metropolitan Police, is considering re-establishing its Art & Antique Fraud Squad that was disbanded in 1984.

Currently, all U.K. art thefts are dealt with by local police forces and centrally collated at New Scotland Yard by one police officer. However, because London is one of the world's premier art centers, observers say it should have its own art theft division.

"We are considering reforming the division," confirmed a New Scotland Yard spokeswoman.

Much of the increase in theft is due to the increased price of art. The price of fine art, particularly paintings, has soared in recent months.

For example, in March this year, Yasuda Fire & Marine, Japan's second-largest property/casualty insurer, stunned the art world when it paid a record 24.75 million pounds ($40.4 million) for Vincent Van Gogh's "Sunflowers" at Christie's in London (*BI*, April 20).

In addition, an increasing number of Japanese collectors are purchasing art, according to Christie's 1986 annual report.

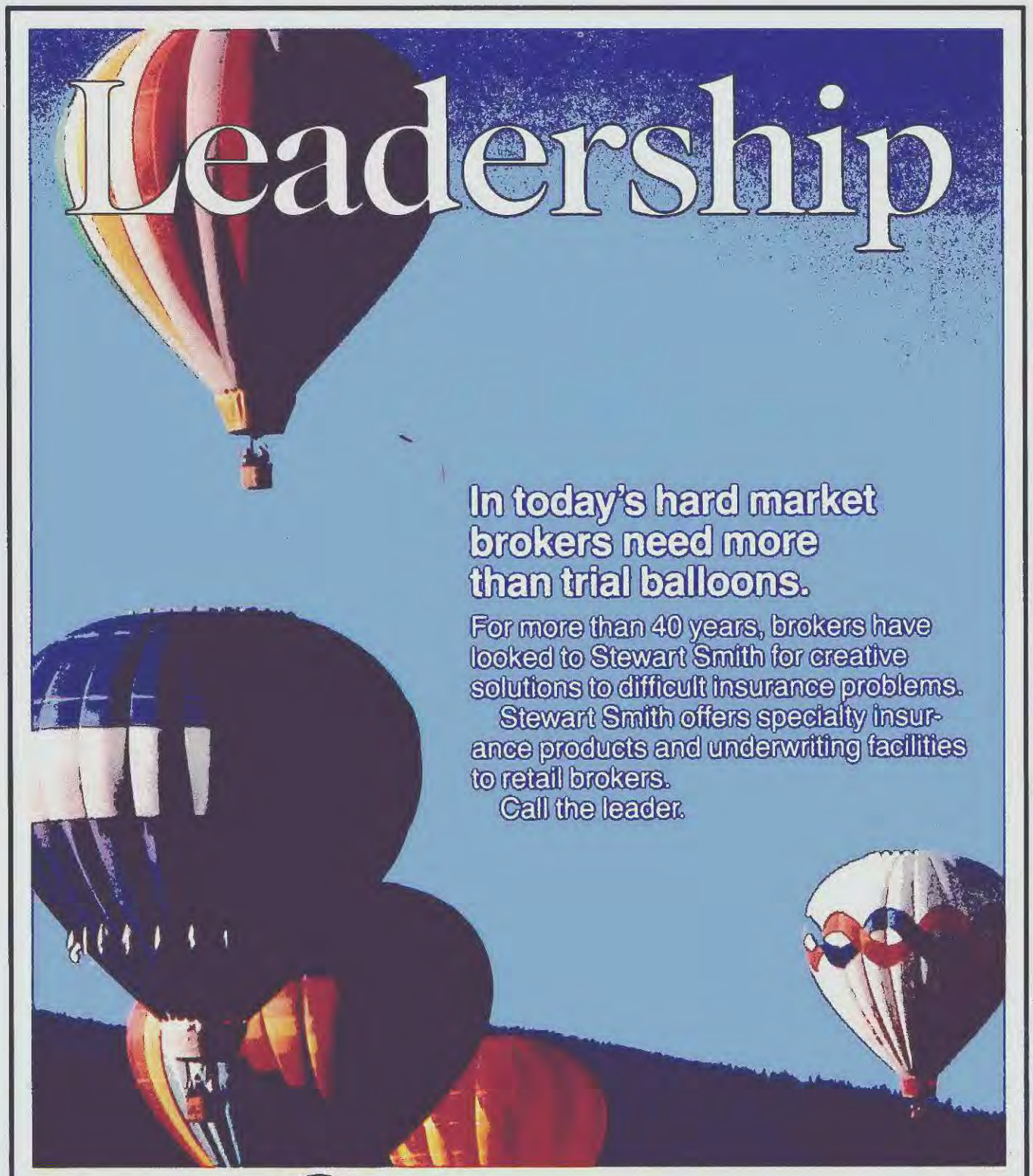
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In March of this year, Yasuda Fire & Marine, Japan's second-largest property/casualty insurer, stunned the art world when it paid a record 24.75 million pounds ($40.4 million) for Vincent Van Gogh's "Sunflowers" at Christie's in London. (Photo: AP/Wide World)

Art theft

Continued from previous page

influx on the market nor the soaring price of art have affected premiums or capacity in the fine art insurance market, brokers and underwriters say. Most of the Japanese purchases are insured in the Japanese market with reinsurance placed in the London market, one broker noted.

Also, the increased number of corporations that have purchased art for investment and internal display has not affected rates, they add.

"Unless a company has an exceptionally high-value work of art or a large collection, its art would probably be covered under a commercial all-risk policy so it would not affect the fine-arts market specifically," said Trevor Warner, a technician with Lloyd's broker Lowndes Lambert Group Ltd.

Mr. Warner added that fine arts insurance rates in the London market had remained "fairly static for the last three to four years."

Lloyd's underwriter Michael White of C.I. de Rougement Agencies Ltd. agreed, adding that capacity in the market also has not fallen.

"There is a lot of capacity in the market at the moment, and I don't think brokers have had any problem placing risks," he said.

Indeed, one leading international insurer that specializes in art insurance has almost doubled its capacity in the last year. West German insurer Nordstern Allgemeine Versicherungs A.G. has increased its policy limit to 30 million deutschemarks ($16.8 million at current exchange rates), said Sue Gwynne, manager of Star Assurance Society Ltd.

London-based Star Assurance is 50% owned by Nordstern and 50% owned by Eagle Star Holdings P.L.C. and specializes in fine art insurance.

Minimum rates are about 0.3% of the value of the artwork, brokers agreed. However, the amount of capacity available in each market or even worldwide is very hard to estimate, they added.

The London market remains the leading, single market for fine arts insurance, brokers and underwriters note.

'London is the center of the art market and wholesale insurance,' says Alexi Fyshe, a director of Artscope.

"London will continue to be the single, most important market for fine arts insurance because of its underwriters' innovativeness and ability to tailor-make certain coverages which domestic U.S. companies wouldn't take," noted one New-York based underwriter who did not wish to be named. "Also, the London market, and in particular Lloyd's, has a vast capacity compared to individual U.S. companies."

"London is the center of the art market and wholesale insurance," said Alexi Fyshe, a director of Artscope International Insurance Services Ltd., the art insurance brokerage subsidiary of Lloyd's broker Seascope Insurance Holdings Ltd.

"Although New York is also a major center in the art world, a lot of U.S.-owned art is insured in the London market," he added.

Clients of Artscope include large private collectors, auction houses, international jewelers and fine art dealers and museums, said Mr. Fyshe. Forty percent of the broker's business comes from outside the United Kingdom, he added.

Art galleries are often criticized for taking inadequate precautions, as they are vulnerable to "smash and grab" thefts when displaying paintings in their windows, said one Lloyd's underwriter.

"However, the art world seems to have woken up to the risk of theft much more and security in art galleries has improved generally," added Lloyd's underwriter Mr. White.

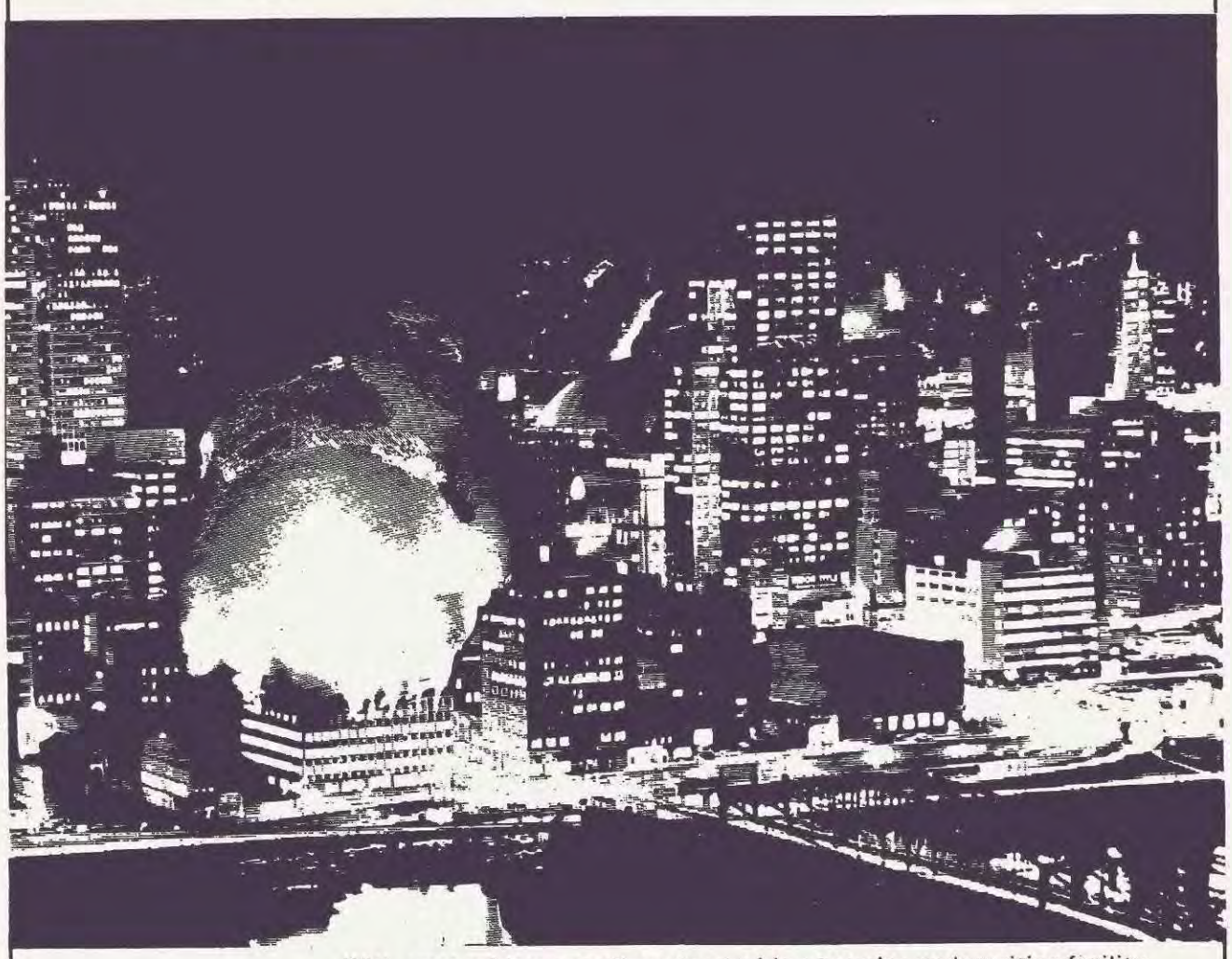
Graham Slater, insurance manager for Christie's International, acknowledges the importance art galleries should attach to risk management.

"We have offices in New York, Hong Kong, Australia, Japan, Amsterdam and London, among others, and it is very important for a risk manager to keep an eye on each individual site.

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Financial guarantee industry is recovering from flurry of changes

By JUDY GREENWALD

The monoline financial guarantee insurance business is regaining its equilibrium.

In the past several months, the credit enhancement business has been hit by a double whammy: the Tax Reform Act of 1986 and low interest rates.

But there are additional, sometimes dizzying, forces operating as well on financial guarantee insurers, including increasing competition, the need for additional reinsurance capacity and the cyclical nature of the property/casualty insurance market.

Michael Djordjevich, president and chief executive officer of Capital Guaranty Insurance Co., a San Francisco-based monoline insurer, said that a couple of years ago people were saying "the sky's the limit" for financial guarantee insurance.

Now, all of sudden, there are assessments that it is very competitive and its premium volume is shrinking, he noted.

"The truth is somewhere in between," Mr. Djordjevich said.

There is little doubt, though, the overall industry—including multiline insurers writing various financial guarantee insurance products—is undergoing significant changes. These include:

- The ongoing acceleration toward a monoline industry, partly as a result of regulatory pressures (see story, page 77).
- The dramatic cutback in limited partnership or investor note bonds, once an important financial guarantee insurance product, and the resulting more limited involvement of multiline property/casualty companies (see story, page 75).
- The increasing focus on new or previously little-used types of financial guarantee insurance.

The financial guarantee industry can be divided into two segments: One is essentially credit enhancement coverage, where the insurer assigns his own Triple-A rating to an investment-grade municipal or corporate issue.

The other segment is the "regular" financial guarantee industry, which includes products generally written by multiline property/casualty insurers. Among these products are insurance for limited partnership bonds, municipal lease insurance and residual value insurance—products that have not been selling as quickly recently.

Six monoline financial guarantee insurers dominate the credit enhancement financial guarantee segment of the industry:

- Municipal Bond Investors Assurance Corp. in White Plains, N.Y.
- AMBAC Indemnity Corp. in New York.
- Financial Guaranty Insurance Co. in New York.
- Bond Investors Guaranty in New York.
- Capital Guaranty Insurance Co. in San Francisco.
- Financial Security Assurance in New York.

All but FSA, which specializes in insuring corporate issues, now focus on municipal bond insurance.

In addition, Dryden Guarantee Insurance Co., based in Newark, N.J., was organized as a monoline insurer last year and was backed with $100 million in capital from its parent company, Prudential Insurance Co.

At the time, the company said it planned to insure asset-based securities issued by financial institutions, but it has not yet started writing business.

Also, New York-based Enhance Reinsurance Co., a subsidiary of Enhance Financial Services Inc., specializes in reinsuring financial guarantee insurance.

And Old Republic International Corp. is raising capital for a monoline financial guarantee reinsurer.

While several factors are influencing the overall growth of the financial guarantee insurance market, many of those more specifically affect the monoline insurers,

Continued on next page

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particularly the municipal bond insurers. They include:

- Low interest rates, which generally are thought to lead to a reduction in the purchase of municipal bond insurance.
- The cutback or elimination of certain issues in the marketplace because of the new tax law.
- The negative impact of new tax rates on tax-exempt issues' appeal to investors.
- Increased competition among the municipal bond insurers.
- The influence of the rating agencies, guiding insurers' operations.
- The need for additional monoline financial guarantee reinsurers.
- The ongoing need for additional capital among primary financial guarantee insurers.

Observers, who generally estimate municipal bond insurers will continue to insure 18% to 25% of all municipal issues, believe that despite the jumble of issues insurers face, the business has a promising future.

Municipal bond insurers confer their own Triple-A ratings on the lower-graded issues they insure. This gives investors the security of knowing their money is safe in the event of a default, although they receive a lower interest rate on the issue than had they purchased "riskier" uninsured issues with lower ratings.

At the same time the issuer pays a lower interest rate, insurance simultaneously improves the issue's marketability.

The savings in interest costs can more than offset the cost of the insurance.

When interest rates fall, though, there is smaller spread between Triple-A and lower-rated bonds, and the appeal of insurance to issuers diminishes.

As a result, insurers normally must either cut their prices or stop writing the coverage when interest rates fall, said Doug Morris, president of reinsurance intermediary D.G. Morris Inc. and vp of U.S. Capital Services Corp., which is now in the process of forming a monoline reinsurer.

Although interest rates have increased since the first quarter, they were lower then than they have been in several years. Despite this, insurers "had a very strong" first quarter, insuring about 23%, or about $7 billion, of the estimated $31 billion in all municipal bond issues, said Steven D. Schrager, senior vp and head of municipal research at L.F. Rothschild, Unterberg, Towbin in New York.

In contrast, only 19%, or $27 billion, of 1986's total of $140.2 billion in all municipal bond issues were insured. In 1985, when issuers rushed to market to avoid the impact of the then-pending tax legislation, municipal bond insurers insured 23%, or $47 billion, of a record $203.9 billion in new issues.

The major reason for the boost during the first quarter was several large advance refunding issues, which were prompted by lower interest rates, said Mr. Schrager. Advance refunding is a procedure in which outstanding securities are refinanced before they are due or callable by the proceeds of a new issue of securities that are sold at a lower, cheaper rate.

"There was enough in the way of liquidity" for insurers to be able to insure parts of these issues, several of which exceeded $1 billion, said Mr. Schrager.

In addition to interest rates, the new tax act was another factor affecting first-quarter new issues.

Among other provisions, the act set a per-state cap on the tax-exempt volume of private activity bonds. Ten percent or more of the proceeds from these types of bonds benefit a private concern.

Bonds subject to the volume cap include those for single-family or multifamily housing, mass transit and hazardous-waste facilities, as well as industrial development bonds of less than $10 million.

The law also ended tax exemptions for industrial-development bond issues for sports and convention facilities and industrial parks, among other facilities.

Dennis Holt, manager of special projects for the Public Securities Assn., said that although private activity bonds are still permissible as long as they fall under the caps, there nevertheless has been "very little activity in this area."

He noted that slightly more than $3 billion in private activity bonds that were subject to the state cap were issued in the first quarter, adding that if that pace continues, this year will mark the lowest level of the issues since 1976.

"The vagaries of the tax bill, the unknowns of the tax bill" kept a lot of issuers on the sidelines, observed Mr. Holt.

The tax act also reduced how many people would buy tax-exempt municipal bonds. The maximum tax rate for married individuals filing jointly and earning more than $29,750 annually was lowered from 50% to 34% for the 1987 tax year and to 28% for the 1988 tax year. The maximum tax rate for those earning below that level would be 15%.

The lower tax rates reduce demand for tax shelter investments. As a result, municipalities will have to pay higher interest rates to attract investors, Mr. Morris said.

But this is only a temporary condition, Capital Guaranty's Mr. Djordjevich believes. Eventually, the tax rate will begin to creep up again, he predicted. As a result, the demand for tax shelter investments will increase, and municipal bonds will still be appealing.

The impact of the tax act on municipal bond insurers has been "somewhat negative," said Jeffrey B. Noss, vp and head of municipal research at Roosevelt Cross Inc., a securities firm in New York.

Those issues not affected by the tax act, such as general obligation bonds, were relatively less likely to be insured anyway, he said.

"It has implications for the industry, obviously, and we are adjusting to it," Mr. Djordjevich said.

Considering that about 60% of the new issues for the first three months of this year were accounted for by refunding, clearly the tax act had an impact, said Wallace O. Sellers, chairman and chief executive officer of Enhance Re.

While the market had a "pretty good quarter" because of advance refundings, bonds usually can be refunded only once, he noted. "Once that burst of refunding is over with, then we suspect the volume will be somewhat light, and then, I suspect, the volume done by insurers will decline too, temporarily."

The volume for new issues is likely to stay fairly light "until the bankers really understand the ramifications of the tax bill," Mr. Sellers added.

Eventually, Wall Street will come up with ways to get around the restrictions imposed by the tax act, and the market's volume, as well as the demand for insurance, will increase once again, Mr. Sellers predicted.

However, FGIC Chairman and President Gerald L. Friedman said the tax act did not have a dramatic impact on FGIC's business. Industrial development bonds, for instance, accounted for less than one-third of 1% of FGIC's business, so less demand to insure a falling volume of these instruments is not important.

Other insurers also minimize the

Continued on next page

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tax act's impact on their business. "I don't think it's had a great negative impact," said David H. Elliot, MBIA's president and chief operating officer.

Despite the tax law, state and local governments have to "ante up" to fund improvements to their infrastructure, such as in education, said Neal Atterman, head of municipal research at Kidder, Peabody & Co. in New York. And the only way they can do that is to borrow money, he noted.

One possible approach to offset any reduction in permissible tax-exempt issues is to issue taxable issues. So far, however, this part of the business "really hasn't taken off," Mr. Schrager of L.F. Rothschild noted.

The future of taxable issues "depends on interest rates," he said. As long as interest rates stay within a "reasonable range" and do not increase substantially, and restrictions remain on advance refundings, the amount of taxable issues should increase, he said.

Mr. Atterman estimates that $5 billion, or 4% of the total $120 billion municipal market this year, will be accounted for by taxable issues, up from $3.5 billion, or 2.5%, of the $140.2 billion market in 1986. That is "not that large a sum," said Mr. Atterman.

"There have been surprisingly few of them," said Robert J. Genader, senior executive vp at AMBAC, which has insured taxable issues.

"The market itself is just experimenting with this," said MBIA's Mr. Elliot.

BIG so far has insured a "sprinkling" of taxable issues, said Mark H.S. Cohen, first vp-finance and administration. "We're confident that's going to increase."

"I think they have a bright future," said Mr. Friedman, adding that it makes little difference whether an issue is taxable, because the underwriting process remains the same.

If the number of taxable issues does increase, it could lead to a higher percentage of insured issues because investors may perceive an increased level of risk, said Theresa Quarante, assistant vp at Alexander & Alexander Inc. in New York.

Meanwhile, observers say the municipal bond insurance area has become very competitive.

"Right now, the market is pretty crowded for insurance writers," said Bill Lang, manager-corporate financing with Ford Credit Diversified Financing Operations, which was once an FSA investor.

"Some of the insurers are becoming more aggressive in their pricing practices," said Mr. Friedman, although he said that FGIC was not among these.

"I think it's fair to say the companies trading on the top of the market are not the ones cutting prices," he added, refusing to elaborate.

"I think there's a lot of pressure building for some of the players in the municipal bond area to expand into other areas, simply because rates are very competitive in the municipal area, and there's essentially more capacity in that area than there's demand right now," observed John Foley, vp and national director of A&A's financial products group in New York.

"We're all deluging them with ideas and alternatives," he said. "They feel a need to do something," but the insurers also are hesitating because their area of expertise remains municipal bonds. Other possible areas they could go into, he said, are the corporate bond area, lease guarantees and residual value insurance.

"It's a very competitive industry," agreed BIG's Mr. Cohen, noting there were only two municipal bond insurers as recently as 1982.

However, Mr. Cohen said BIG is not under pressure to expand into other areas and plans to continue to specialize in municipal bond insurance.

"It is certainly a competitive market, but I don't know what too much competition is," said Mr. Sellers. Premiums have been lower this year than last year, he said, but he added he was uncertain to what extent this was a reflection of increased competition or of the tighter interest rate spreads.

Mr. Elliot also said he does not believe there is too much competition in the marketplace. "I think the future financing needs are fairly great," he said. The level of competition is "probably appropriate."

MBIA would prefer to stop writing rather than lower the cost of insurance, Mr. Elliot noted. In general, the premium cost for insurance underwritten by MBIA ranges from 0.5% to 1% of the total debt service due over the life of the bonds.

These premium rates are considered to be in line with those charged by other municipal bond insurers.

As to expanding into other areas, Mr. Elliot said, "we don't feel any pressure to do that, and we're not actively pursuing it."

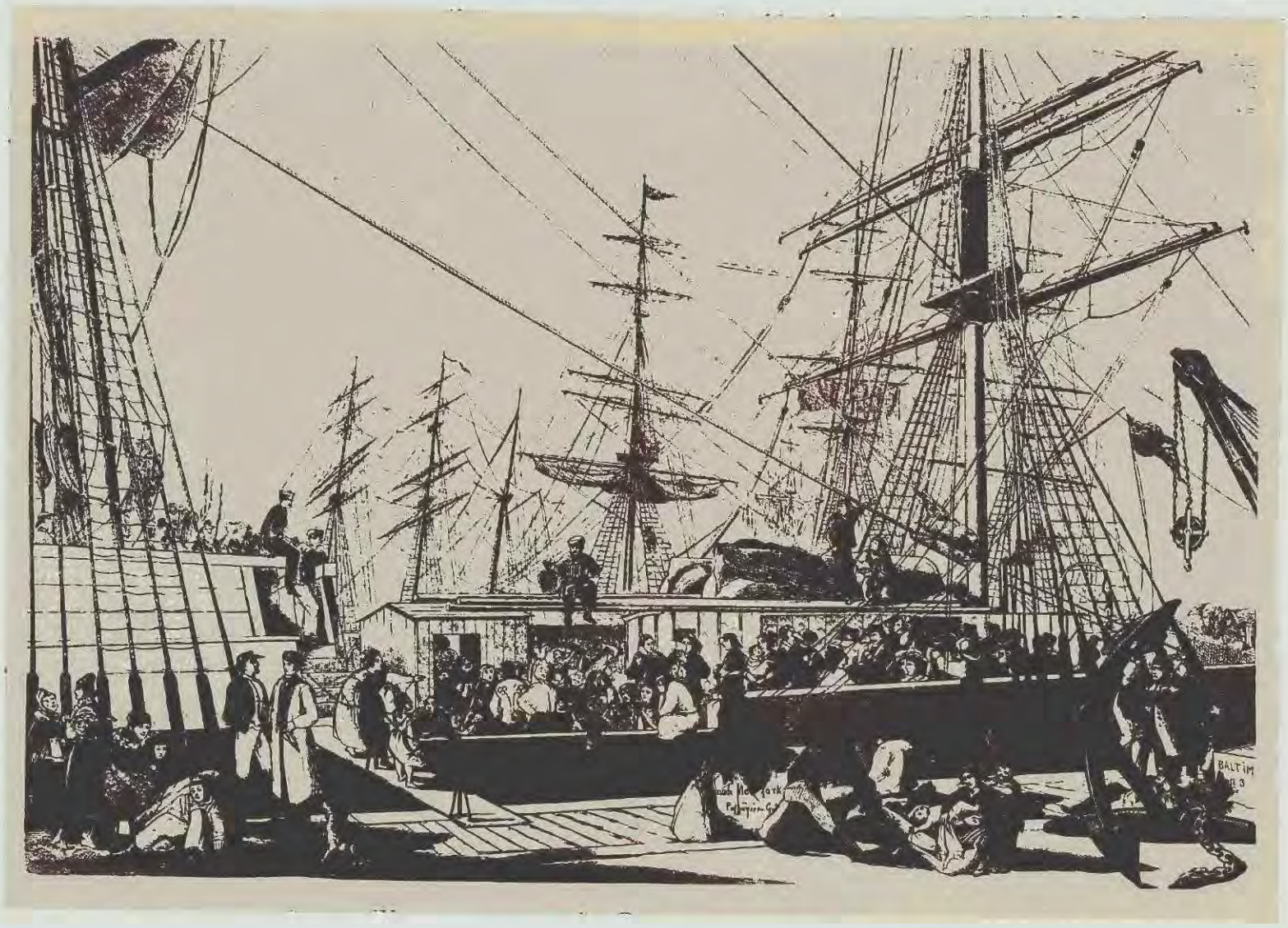
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Guarantees

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Some observers believe that rating agencies, which play a critical role in financial guarantee insurance, will hold municipal bond insurers back from getting involved in other areas in any case.

The monoline municipal bond insurers' Triple-A rating is based on an evaluation of the insurer's claims-paying ability by these agencies, the most prominent of which are Standard & Poor's Corp. and Moody's Investor Service Inc., both in New York.

Factors taken into consideration in determining the insurers' rating include the risks they underwrite and their success in passing various hypothetical "stress" tests, in which economic and financial disturbances, such as the 1930's Great Depression, are simulated.

The rating agencies' decision to evaluate insurers' claims-paying ability was a major impetus behind development of the financial guarantee insurance business, said Ford Credit's Mr. Lang.

Observers note the rating agencies exert strong influence over the monoline insurer's business. "They're somewhat restricted by the rating agencies from getting into bizarre things," noted Roosevelt & Cross' Mr. Noss.

However, Karen Bellus, an A&A vp in New York, said there are times when the rating agencies could prevent insurers from getting into some good business ventures as well.

For instance, Ms. Bellus said, she suspects there is "a fair number" of "very solid" credit risks in the private sector that are not big enough to be considered investment grade, yet to whom the insurers could confidently provide a financial guarantee. But, in a sort of "Catch-22" situation, because they are not investment graded, they cannot be insured.

Institutional buyers can look at monoline companies on their own and do not need a third party to put the insurers through a Depression-era scenario, Ms. Bellus said.

Similarly, she observed, there is no reason that municipal bond insurers should not be able to underwrite other types of issues.

But Roy Taub, S&P managing director, noted that municipal bond insurers have not asked to expand into other areas. He added that the reason S&P feels comfortable with the current ratings systems is precisely because it assesses the business insurers do according to its criteria.

Perhaps it could be argued that S&P is too restrictive, he said, "but these other people are not assigning a rating to it and don't have that at stake, and we do."

The rating agencies play "an appropriate role," agreed MBIA's Mr. Elliot.

And Mr. Cohen noted that if the rating agencies are tying BIG's hands, then it is in line with the insurer's philosophy of "moderate, steady, growth."

Some observers believe there is room for additional monoline reinsurers besides Enhance Re.

Chicago-based Old Republic is attempting to raise $100 million to finance a monoline reinsurance company, called Guaranty Holdings Corp., that will principally reinsure municipal bonds, according to A.C. Zucaro, president of Old Republic. The insurer so far has raised $20 million and expects to raise the remainder by the end of the year, Mr. Zucaro said.

In addition, Mr. Morris of D.G. Morris is trying to raise funds to establish a monoline reinsurer.

Mr. Sellers of Enhance Re said he suspects there is room for an additional monoline reinsurer.

There is room for another three to four monoline reinsurers, assuming, among other things, that municipal bonds grow at a moderate pace and corporate bonds do not "explode," said Robert Mebus, S&P managing director.

This also assumes monoline insurers would be "more comfortable" reinsuring with a monoline reinsurer, he said, explaining that that multiline reinsurers could be seen as not committed to a business that they may not understand.

Mr. Mebus noted that a monoline reinsurer also would not be subject to the market cycle, as a multiline reinsurer would be. Monoline insurers, therefore, would have less worry that their reinsurer would lose its Triple-A rating because of a turn in the cycle.

"I've heard that there's a shortage of reinsurers," said William DeSante, vp and associate managing director at Moody's. "We expect that there'll be more."

On a short-term basis, reinsurance capacity is adequate, according to BIG's Mr. Cohen. But on a long-term basis, additional capacity will be needed, he predicted.

Already, capital is being raised.

For example, FGIC raised $103 million in equity capital last year in a 4.6 million share initial public offering.

And AMBAC expects a capital infusion from CitiBank, which holds an 85% share of its holding company, AMBAC Inc. But Mr. Genader would not reveal how much the infusion will be.

Municipal Bond Investors Assurance Corp., formerly Municipal Bond Insurance Assn., said a week ago its insurer shareholders plan to raise up to $137.5 million in a July public offering selling a 15% interest in the company (*BI*, May 25).

The underwriting company will receive no proceeds from the offering, which will go to the shareholders. But William O. Bailey, MBIA chairman and chief executive officer, said in a statement that the offering "provides us access to capital markets to help fund the capital needs of the business over the longer term."

The need for capital is particularly intensive during a monoline insurer's first five years, noted Mr. Friedman of FGIC. From that point on, the need becomes less critical because funds are generated through earned premium and investment income, he said.

Mr. Friedman said he anticipates municipal bond insurers will insure about 20%, or $21 billion, of a $105 billion market this year.

Mr. Friedman said he expects the range of insured bonds overall to be between 18% and 25%. When interest rates are low, the percentage will hover around 18%. When interest rates rise, the percentage of insured bonds will be between 23% and 25%, he said.

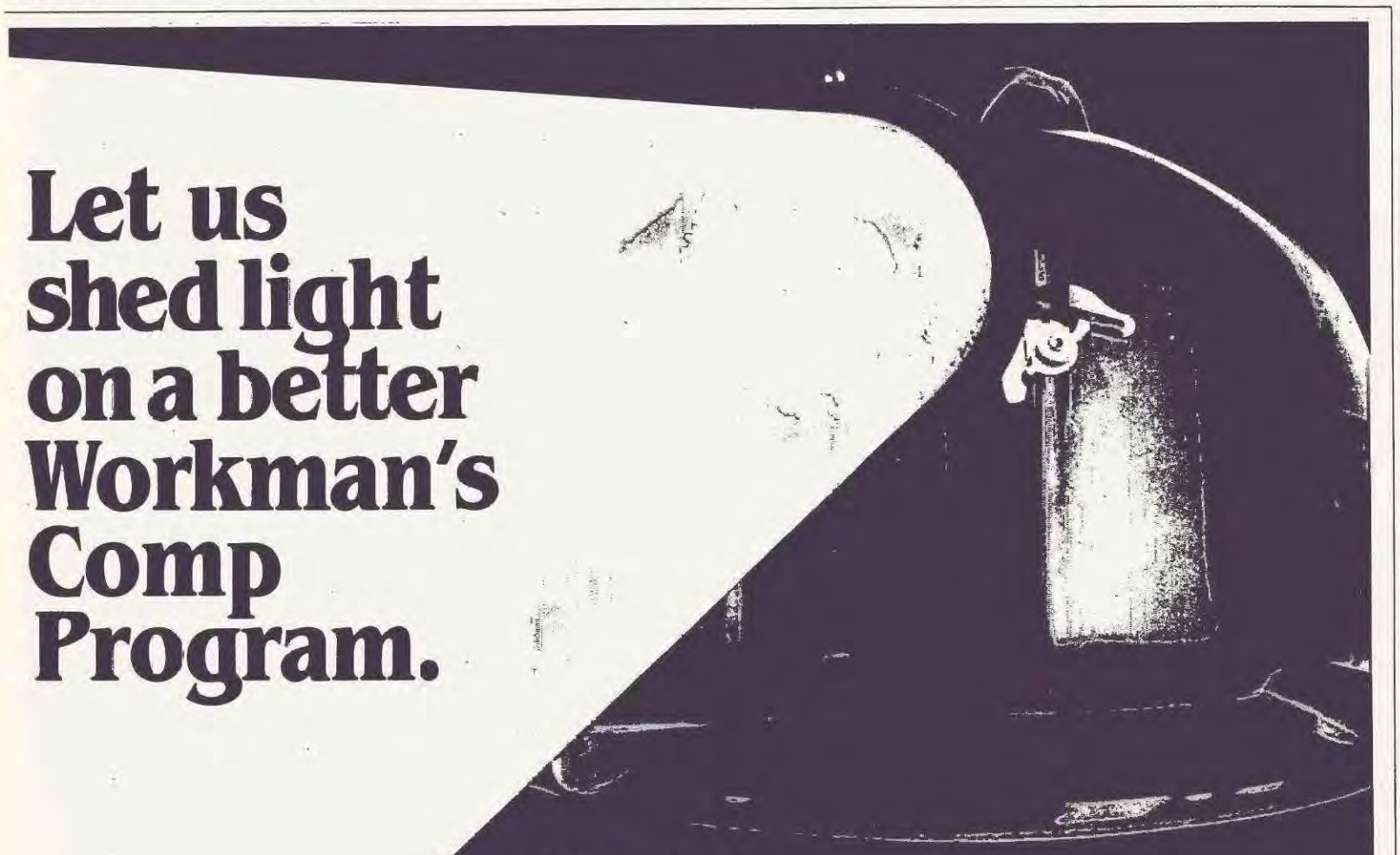
Mr. Schrager of L.F. Rothschild said he is uncertain what percentage of municipal bonds will be insured in the future. Several months ago, he thought that the percentage had reached a zenith when it hovered near 25%. However, now he says he not so sure.

MBIA's Mr. Elliot estimates the percentage will hover between 20% and 21%.

Other observers believe the future for credit enhancement insurance is bright as well. "The industry is developing as a mature industry," said Mr. Djordjevich of Capital Guaranty.

As proof, he pointed to the recent announcement by the six major monoline financial guarantee insurers that they are forming an association that expects to insure securities backed by loans the federal government plans to sell (*BI*, May 4).

The insurance would unconditionally guarantee payment and interest on the securities. "These are the signals the companies are acting as an industry," he said. ■



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Multiline insurers' guarantee business slows

By JUDY GREENWALD

Things are relatively quiescent in the financial guarantee area outside the business conducted by monoline municipal bond insurers.

"The frenetic pace we were all involved in a year or two ago has quieted down," said Phil Lian, senior vp and manager of financial guarantee activity at Corroon & Black Corp.'s New York office.

"Things seem to have fallen off substantially," agreed Robert Ungerleider, president of the Financial Risk Underwriting Agency in New York, an underwriting manager.

The business has been muffled, if not stifled, by several factors—some of which have affected municipal bond insurers as well—including the Tax Reform Act of 1986, lower interest rates, the cyclical property/casualty market and tight reinsurance capacity.

Regulatory pressures also have discouraged a number of participants in the market, according to observers (see story, page 77).

But a number of new products are being developed, and observers predict there is still a good future for the business.

Financial guarantee insurance other than municipal bond insurance is generally written by multiline property/casualty companies, although one monoline insurer, Financial Security Assurance, specializes in insuring corporate debt.

Another monoline insurer, Dryden Guarantee Insurance Co., created by Prudential Insurance Co. last year, plans to insure asset-based securities issued by financial institutions, but it has not yet started writing business.

Hardest hit by tax reform were limited partnership bonds, or investor notes. In limited partnership deals, investor's funds are pooled to buy assets.

The partners make a modest cash down payment for their unit and issue a promissory note payable in annual installments to finance the balance of their investment. The insurance guarantees that payments will continue to be made.

These deals were often used by investors through syndicates as tax shelters. But the tax act killed those shelters by establishing distinctions between earned income and passive income, or income from investments.

Ultimately, under the new tax law, if an investor has passive losses on an investment, he can deduct them only against passive income, not against earned income.

Mr. Lian estimates that at the height of its popularity, limited partnerships, together with industrial development bonds, may have generated more than $100 million in premiums annually for financial guarantee insurers. That total, however, fell by about two-thirds to about $33 million last year because of concern about the impending tax bill, Mr. Lian said.

Now that level has diminished even further, said Joseph C. Eanes Jr., president and chief executive officer of Fidelity & Deposit Insurance Co. of Maryland in Baltimore, which had generated several million dollars a year in premiums from insurance written to cover investor notes.

"The market didn't disappear entirely, but I would say it probably is one-tenth of what it was, if that much," Mr. Eanes said. The tax act "has constricted the market tremendously from what it used to be."

However, some deals that are economically driven, as opposed to tax-driven, are still being done, he added.

"A lot of the market has dried up," agreed Cliff Brown, senior vp at Continental Guaranty & Credit Corp., an underwriting management company created by Continental Insurance Co.

While Continental is still seeing proposals for economically driven syndicates, he said, "I'm told the market demand is down and will stay down probably throughout this year."

In these economically-driven deals, investors participate with the expectation of receiving cash dividends, rather than a tax write-off, Mr. Lian explained. Those deals appeal more to smaller investors than the tax shelter deals had, he noted.

But not many of those transactions have closed to date, Mr. Lian noted. "There's still some unsettling in that marketplace."

Mr. Lian believes the market eventually will pick up and that the last six months of this year will be busier than the first six. "People by that time will figure how to do things differently," he observed.

"The buyers have to begin to get comfortable with the syndicate product, without the tax aspect of it, and it's taking some time for that to happen," he said.

Meanwhile, there is still a market for industrial development bonds, which also were affected by the tax act (see story, page 71).

"That market is still here—limited, but still there," Mr. Lian said. A C&B subsidiary, Industrial Development Bond Insurance Managers in New York, specializes in small to medium-sized industrial development issues, he noted.

Another factor affecting the market is low interest rates. This has hurt the municipal lease nonappropriation insurance market, which guarantees the lease obligations of municipalities so they can be placed in the public markets, said Continental's Mr. Brown.

With the current interest rate structure, the range between investment grades is so narrow that premiums are just too great to make insurance on them easily worthwhile, said Mr. Brown.

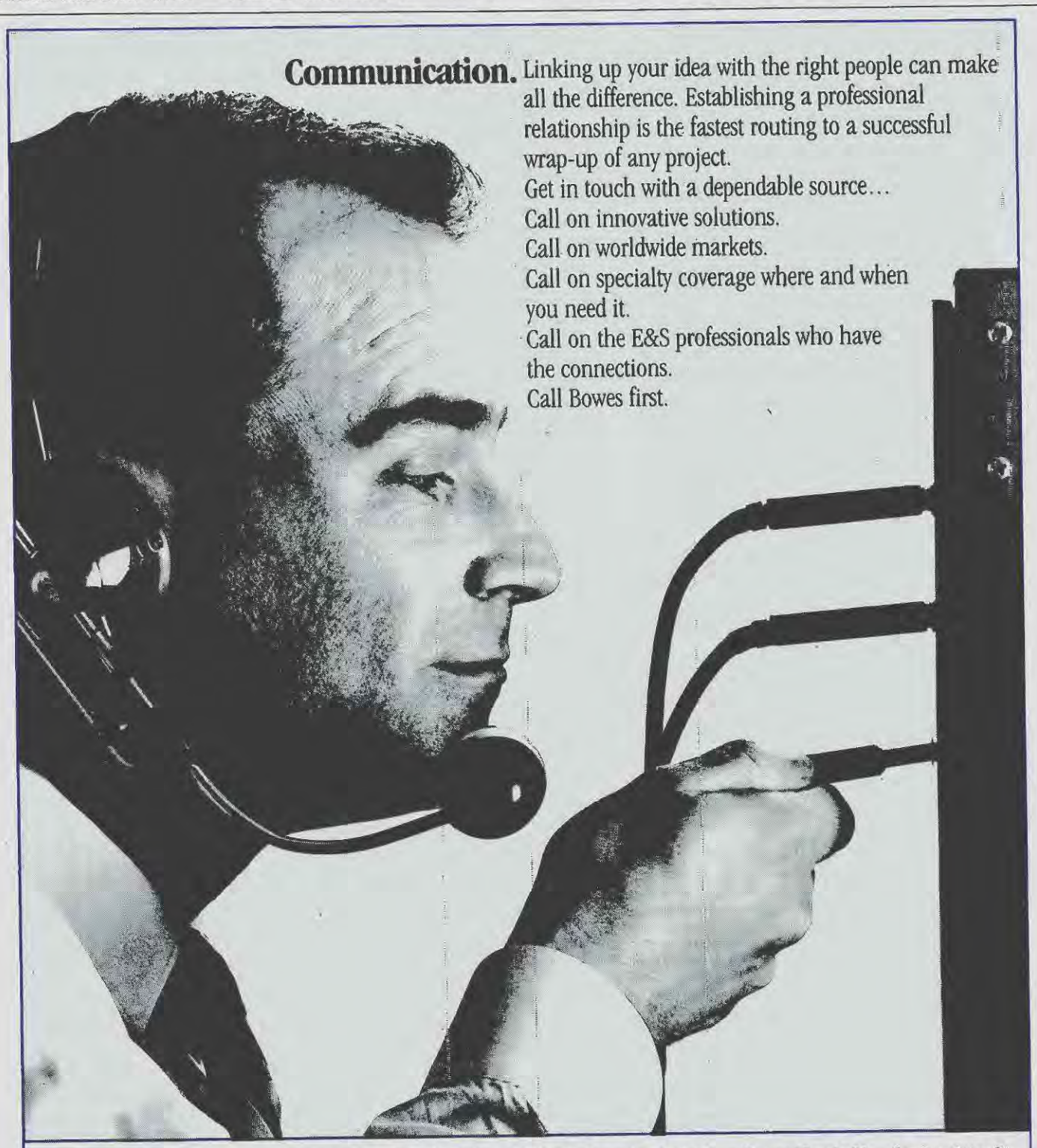
Interest rates are also a major reason why Financial Insurance Risk Management, which had underwritten financial guarantee insurance on behalf of parent company Government Employees Insurance Co. of Washington, D.C., is now dormant, said Dennis Layne its former president. Milwaukee-based FIRM underwrote insurance for pools of credits, primarily for commercial equipment leases.

"It's really simple," said Mr. Layne, who recently purchased FIRM from GEICO, which had bought it from him in 1985. "Interest rate spreads narrowed, and thus there really wasn't enough margin to provide the kind of premium that we required." Rather than drop prices, "we decided to just cease doing business eventually," he said.

FIRM had generated about $3 million in premiums annually.

"There just wasn't enough of that business around to make it worthwhile," said a GEICO

Continued on next page



Multiline insurers

Continued from previous page

spokesman, who noted the insurer is still an investor in Bond Investors Guaranty, a monoline municipal bond insurer. "We felt we would be better off focusing our interest on BIG and the core operation," he said.

Observers note that other multiline property/casualty insurers, which had participated in financial guarantee transactions to one degree or another, have apparently lost interest as well.

Multiline property/casualty insurers originally became involved in the market to generate revenue, explained John Foley, vp and national director of Alexander & Alexander Inc.'s financial products group. "When revenues no longer became a problem, they retrenched," he said.

Mr. Ungerleider believes impending state legislation that would restrict the writing of financial guarantee insurance to monoline companies is a major factor in this withdrawal.

CNA Financial Corp., American International Group Inc. and Continental "seem to be the only players that I see around."

Once-active financial guarantee insurers that have since turned away from this business include Crum & Forster Inc. and Fireman's Fund Insurance Cos., which still remains an investor in MBIA.

Financial guarantee reinsurers have followed a similar path, observers say. Michael G. Fitt, chairman and chief executive officer of Employers Reinsurance Corp., said the reinsurer "dabbled" in the financial guarantee market three or four years ago and "really got badly burned." It had been involved in commercial paper products, leases and real estate partnerships, he said.

With the exception of one municipal bond account that he would not identify, Employers Re is "out of all of it right now," Mr. Fitt said. "Everything else is being dropped, and we have no intention of going back to it."

He explained there was no way for Employers Re to measure its exposure when reinsuring this type of business. This does not mean there are not bright people out there who can, but "we don't happen to be among them," he added.

Frank Conley, senior vp at North American Reinsurance Co./Swiss Reinsurance Co. in New York, said that aside from municipal bond insurance, the reinsurer's involvement with the business has been confined to limited partnerships, and that business has recently dropped off significantly.

While financial guarantee business is something "we're always keeping an eye on," the reinsurer is not actively pursuing it, said Mr. Conley.

American Re-Insurance Co. said recently it is running off its financial guarantee operation to concentrate on its mainstream business (*BI*, Jan. 5). President Edward Jobe said at the time there were so many other opportunities for the reinsurer it was more prudent to concentrate limited resources on those areas.

Despite the tight market, there are still promising products. For instance, Continental believes there is "an ever-increasing demand" for its educational loan product, which guarantees the payment of student loans. "We think there's tremendous market demand for the product," said Mr. Brown, who would not disclose how much Continental writes in premiums for this product.

Other promising areas include securing assets. Lending institutions raise cash by selling securities backed by specific assets, such as auto loans, credit card receivables, trade receivables or lease receivables, which are in turn backed by insurance policies.

Two recent developments will encourage companies to secure their assets, predicted Peter E. Hoey, senior vp at Financial Security Assurance, which insures these issues.

A proposal by the Financial Accounting Standards Board would require corporations to include the assets and liabilities of their captive finance subsidiaries in their consolidated financial statements. These subsidiaries, however, generally have a large amount of debt, and as a result balance sheets would be hurt.

But the companies could secure their assets and use the proceeds to pay off debts so the subsidiaries' liabilities will have "less of an impact on the consolidated balance sheet," Mr. Hoey said.

Mr. Hoey also noted that the new tax law forces retailers to recognize the income from installment sales during the current tax year rather than deferring part of the income, as they have done in the past. As a result, the retailers might just as well sell their receivables through securities.

In addition, the Securities and Exchange Commission may suggest legislation that would exempt firms with financial guarantee insurance from the time-consuming practice of registering their debt.

This also would boost financial guarantee insurers because it would create an equal playing field with banks' letters of credit, which are now a major competitive threat (see story, page 78).

Over the past six months, SAFECO Corp. has been in the "research and development state" of creating new products to guarantee the principal and interest of debt securities issued in connection with real estate developments, noted Jay Helfrich, assistant vp and director of financial products. He said the insurer has been active in this area for three to four years.

The product would be available both for specific large properties and on a pool basis for several smaller properties, he said.

However, SAFECO has not closed as many deals as it would like, partially because of competition for the high quality deals from others, including institutional lenders, that may be willing to provide a straight loan instead. "There are many, many players out there who have big money available," Mr. Helfrich observed.

"I don't see too much penetration into the corporate area" by insurers, said Mr. Ungerleider. More banks are providing the credit enhancement in corporate or structured financing deals, at this point, he said.

But observers believe there is still a large, untapped market for financial guarantee insurance of non-municipal debt. Accountants and lawyers are now calculating how to cope with the tax act, said David Rudolph, who works in the credit enhancement area for A&A in Chicago and New York. "I think it's going to be an exciting time this year."

"I think there are all sorts of wonderful possibilities" in the corporate area, agreed Bill Lang, manager, corporate financing at Ford Credit Diversified Financing Operations, which was once an investor in FSA.

Doug Morris, president of reinsurance intermediary D.G. Morris Inc. and vp of U.S. Capital Services, who is in the process of organizing a financial guarantee monoline reinsurer, noted mortgaged-backed securities went from being virtually non-existent to a multibillion-dollar market in a short period of time.

"The market for financial guarantee insurance and reinsurance is almost unlimited," he said. ■

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New York could start push for financial guarantee laws

By JUDY GREENWALD

Although no state has passed comprehensive financial guarantee insurance legislation, such action may not be far away.

Several states either already have introduced, or plan to introduce, bills based on a model law proposed by the National Assn. of Insurance Commissioners (*BI*, June 30, 1986).

But all eyes are on New York, where passage of financial guarantee insurance legislation could start the momentum for action in other states.

The New York Legislature is considering two bills, both based on the NAIC model. Legislators are trying to reconcile the two bills, neither of which has been voted upon by either the state Senate or Assembly.

And, a hearing on the issue of regulation of financial guarantee insurance in the state was held late last week.

The motivation to regulate financial guarantee insurance is the large amount frequently insured, which causes regulators and others concern about protecting state guaranty funds in the event of a major loss. Both New York bills would prohibit financial guarantee insurers from drawing on the state's guaranty fund in the event of insolvency.

And, both bills would prohibit multiline insurers from writing any financial guarantee insurance, after a phasing-out period, leaving the market to monoline financial guarantee insurers.

The bills differ, however, in the amounts of required capital, the ratios of capital to liabilities that would have to be maintained, and on the question of how much financial guarantee reinsurance multiline reinsurers may write.

Another issue touched on in the legislation is whether "soft" capital, such as letters of credit, should be discounted in measuring the capital of financial guarantee insurers.

The bill drafted by the Insurance Department and introduced by Assemblyman Howard Lasher, D-Brooklyn, calls for a minimum paid-in capital and surplus of $50 million and requires insurers to maintain policyholder surplus at $35 million.

Under S. 5416, the bill proposed by Sen. John R. Dunne, R-Garden City, and Sen. Joseph L. Bruno, R-Brunswick, financial guarantee insurers would be required to have $75 million in start-up capital and to maintain capital of $65 million.

The Lasher bill, A.B. 5688, requires financial guarantee insurers to maintain capital, surplus and contingency reserves in the aggregate of at least 0.29% of all outstanding liabilities for municipal bonds; 0.57% for special revenue bonds; 1% for industrial development bonds; 4% for consumer debt and investment-grade obligations; and 10% for all other obligations not of investment grade other than consumer debt.

Except for special revenue bonds, Sen. Dunne's bill sets generally more liberal capital requirements.

The Dunne bill would require financial guarantee insurers to maintain capital, surplus and contingency reserves in the aggregate of at least 0.33% of outstanding liabilities for special revenue bonds but 0.33% for municipal bonds; 1% for investment-grade industrial bonds; 4% for non-investment-grade industrial development bonds; 1.5% for consumer debt and investment-grade obligations; and 4% for all other non-investment-grade obligations other than consumer debt.

Phillip J. Harrington Jr., Sen. Dunne's special assistant, noted that the Lasher bill stipulates the maximum aggregate assumed total liability for multiline reinsurers cannot exceed half of that permitted for monoline reinsurers, which effectively restricts the amount of business multiline reinsurers can write.

Both bills also essentially require that unpaid principal with respect to any one entity not exceed 10% of the aggregate of the insurer's policyholder surplus and special reserve, noted Mr. Harrington.

The Dunne bill, however, differs from the Lasher bill in permitting letters of credit, with certain restrictions, to be used as an offset against the single risk limits imposed by the bill.

Joanne Morrissey, a principal with Firemark, a Morristown, N.J.-based insurance search and investment banking firm, said she believes soft capital—such as letters of credit—should be discounted. Otherwise, she said, "it can cause major problems."

Ms. Morrissey said, for instance,

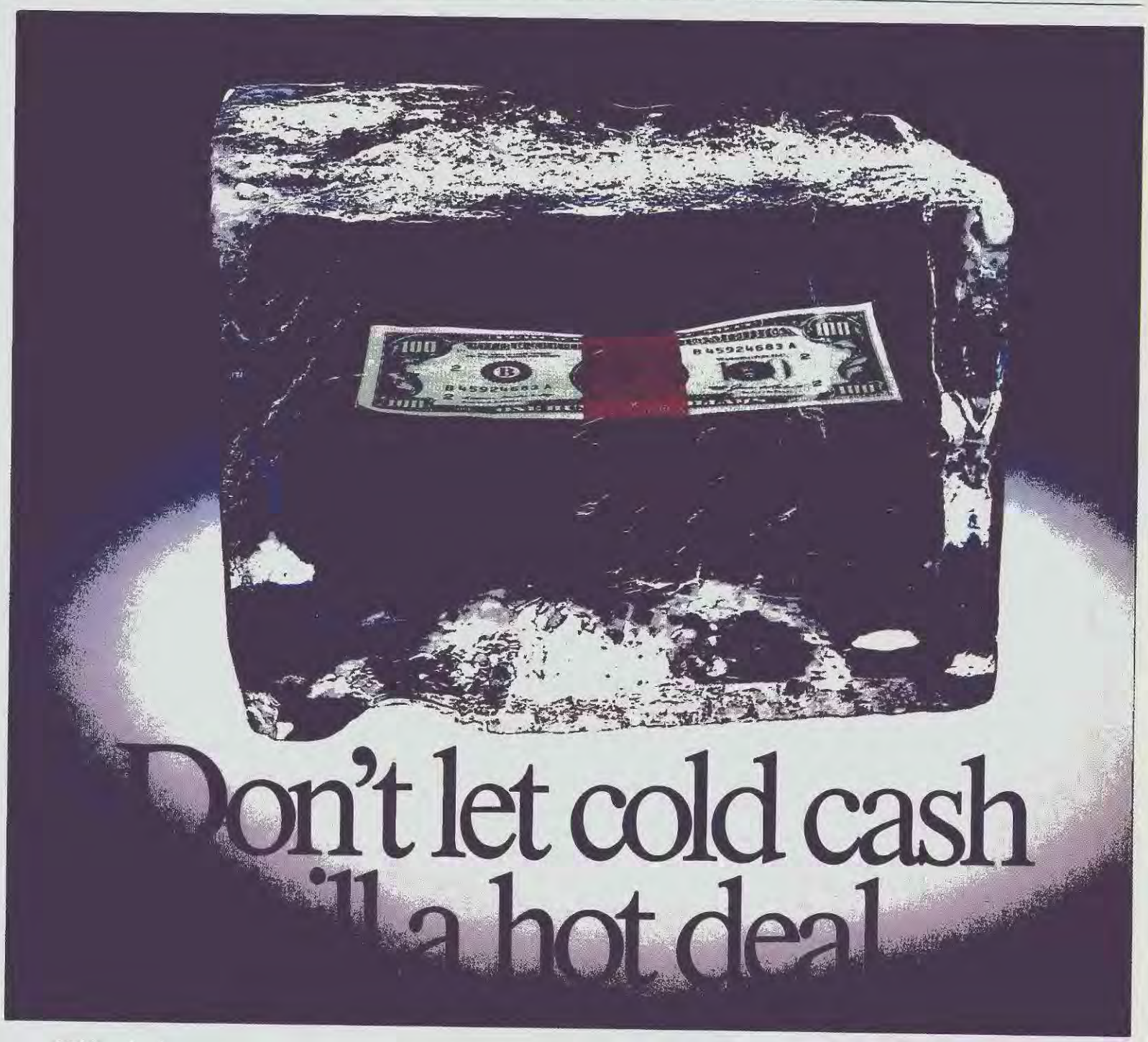
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Financial guarantee bills

Continued from previous page

she was concerned how difficult it might be to draw down on letters of credit.

But Mr. Harrington said without letters of credit it would be "difficult, if not impossible," particularly for companies writing corporate guarantees, to meet the single risk limit.

"We have added safeguards in the bill," he said, noting that letters of credit cannot be applied against aggregate risk limits. And, letters of credit do not apply to the special reserves required by the bill to protect against adverse economies, such as a depression.

The bills have created some controversy among financial guarantee insurers, particularly over whether multiline insurers should be permitted to write financial guarantee insurance.

Robert Mackin, executive director of the Assn. of Financial Guaranty Insurers, said the industry group supported a bill last year that would have permitted multiline insurers to continue to write financial guarantee insurance. The bill was not reintroduced this year.

"The monoline provisions would put people out of business who want to be in it," he said. Continental Insurance Co., for example,twrites educational loan insurance, which also fills a public need (see story, page 75).

Cliff Brown, senior vp at Continental Guaranty & Credit Corp., an underwriting management unit of Continental, said Continental opposes the monoline provisions in the proposed legislation. "We think that it's a step backward," he said.

It makes more sense, he said, for insurers to have diversified lines of business.

However, others in the industry disagree.

"We are certainly in favor of the monoline approach to financial guarantees," said William I. Jacobs, executive vp and chief operating officer of Financial Security Assurance in New York, a monoline company insuring corporate debt.

Mr. Jacobs cited last year's downgrading to a Double-A from a Triple-A by Standard & Poors Corp. of United States Fidelity & Guaranty Co. and of the Crum & Forster inter-company pool, which included Industrial Indemnity Co. Both downgradings, which were carried through to the insured issues, were related to the property/casualty business, not financial guarantees.

Industrial Indemnity stopped writing financial guarantee insurance, although a C&F spokesman said the move was unrelated to the downgrading; USF&G spun off Capital Guaranty Corp. as a monoline company.

Two weeks ago, Capital Guaranty announced that $1.1 billion in tax-exempt debt, which USF&G had insured and it had reinsured, was once again rated Triple-A on the basis of Capital Guaranty's own Triple-A rating.

The separation between monoline and multiline companies "is all but complete," said Michael Djordjevich, Capital Guaranty's president and chief executive officer.

Financial guarantee business will be written by monoline companies, he said. The multiline firms are "fighting a rear guard action."

However, the supply for financial guarantee insurance could fall short if monoline insurers do not offer enough capacity.

But, investment brokers may encourage customer groups to form captives to write financial guarantee products, said John Foley, vp and national director of Alexander & Alexander Inc.'s financial products group.

Meanwhile, other states are considering financial guarantee legislation based on the NAIC model. These include Wisconsin, Florida, Oregon and North Carolina. ■

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SEC to report on exempting insured bonds

By JUDY GREENWALD

WASHINGTON—The Securities and Exchange Commission report on exempting insurance-backed bonds from registration is expected any day now.

The report, for which the SEC has sought comments from bankers and insurers, will analyze the need for registration of guaranteed bonds and competition between banks and financial guarantee insurers.

A recommendation that legislation exempt insurance-backed bonds from registration would be a big boost to insurers of corporate debt.

Currently, companies that issue corporate bonds, whether backed by insurance or not, must go through the time-consuming process of registering their debt with the SEC; however, they do not have to register the issue if they obtain bank letters of credit to guarantee their bonds (*BI*, Oct. 20).

This puts companies that issue insurance-backed bonds at a disadvantage in a fast-moving market. The market can move up or down by as much as 50 basis points, or one-half a percentage point, in one week, and issuers must sometimes move quickly to take advantage of these changes, said Peter E. Hoey, senior vp at Financial Security Assurance in New York, a monoline insurer that specializes in corporate debt.

"A delay of three, or four, or five weeks because the issuer has to be registered with the SEC is a severe disadvantage to the insurance industry," he said.

Whether to remove this requirement is one of a broad range of issues the SEC is considering involving financial guarantee insurance, banks and competition between the two industries.

Another issue, which could increase demand for financial guarantee insurance in the corporate bond area, is a joint proposal by three federal agencies and the Bank of England that would set capitalization requirements for banks issuing letters of credit (*BI*, Nov. 10, 1986). If enacted, the requirements could lead to increases in the cost of letters of credit, which would allow insurers to compete more effectively with banks.

The SEC also is considering another proposal exempting the secondary market for private placements between institution investors from registration, which also could increase demand for financial guarantee insurance, said Mr. Hoey.

At the heart of the impending SEC report is the Securities Act of 1933. Under the Act, not only are banks exempt from registering their own securities, but securities guaranteed by a bank are exempt from registration as well. In practice, the SEC has agreed to consider letters of credit as bank guarantees.

Last year, Sen. Alfonse M. D'Amato, R-N.Y., chairman of the securities subcommittee of the Senate Committee on Banking, Housing and Urban Affairs, tried to even the playing field between banks and financial guarantee insurers. He offered as part of a bill that tightened federal regulation of government securities dealers a section that would exempt corporate bonds from registration if they were guaranteed by an insurance company with a Triple-A rating.

The provision was not included in a parallel House version. But,

Continued on next page

Continued from previous page
the compromise bill that eventually was approved by Congress included a provision that the SEC study the issue and present a report to Congress—originally due in April—within six months.

An SEC "concept release," in which the agency sought opinions on the issue, outlines its analysis and provides some hints as to the content of the final report.

The release noted domestic banks participate in the financial guarantee market primarily through the use of standby letters of credit, and issued LOCs guaranteeing total debt of $146 billion in 1984, up 212% from $46.8 billion in 1980. Bank fees for issuing these LOCs totaled an estimated $730 million.

Foreign banks, it noted, also have entered the financial guarantee market, capturing more than half of the domestic market, according to one estimate. U.S. banks and agencies of foreign banks had an estimated $20.7 billion in standby letters of credit outstanding in mid-1985, the release said.

In its concept release, the SEC asked the financial guaranty insurance and banking businesses to address three issues that could be the subject of legislation:

- The exemption for registering bonds guaranteed by letters of credit by banks and its impact on investor protection and the public interest.
- The impact of this exemption on competition between banks and insurance companies, and domestic and foreign guarantors.
- Whether, and under what circumstances, debt securities guaranteed by insurance policies should be exempt from registration.

Concerning the first point, the SEC asked: are banking laws an adequate substitute for the full disclosure requirements of the Securities Act; are there any differences between regulation of domestic banks and agencies of foreign banks in this market; what has been the experience of securities backed by bank guarantees, including how often banks have been called upon to honor guarantees after issuers defaulted, and whether any banks either have been unable to fulfill, or have tried to avoid, their commitments.

On the second issue, the SEC noted insurance companies have argued the current difference in regulation "creates an unfair and unjustified competitive disparity, which makes it almost impossible for insurers to provide cost-effective coverage to issuers."

The commission also asked for information on how these markets compete, including each segments' market shares and current trends.

The concept release said, "According to some reports, far more insurance companies have received AAA ratings in connection with their financial guarantee business than have banks, which would seem to give those insurance companies a significant competitive advantage." The SEC asked whether the exemption provision for banks significantly affects competition.

The SEC also asked industry experts to re-examine whether banks should be required to register letters of credit, which it called the "logical consequence" of a recommendation of a task force headed by Vice President George Bush.

On the third point, the SEC states it is "unclear" whether states will adopt the NAIC model bill on financial guarantee insurance (see story, page 77). The SEC asked for information about how—and how adequately—financial guarantee insurance currently is regulated, asking: "Does it provide sufficient safeguards to investors to dispense with the protections of the Securities Act?"

The SEC also asked for information on the different kinds of financial guarantee insurance being offered, how the products are underwritten, the terms of the policies, and the size of the market.

It also asked: "What percentage of those companies that offer such insurance are experiencing financial difficulties by virtue of their participation in this business or otherwise?"

The SEC also asked for opinions regarding what basis, if any, insurance companies should receive exemptions. For instance, should only insurers with Triple-A ratings from nationally recognized rating organizations be exempted?

Mr. Hoey said he would favor such a regulation. This would be a more stringent regulation than is now required for banks, he said, adding a Triple-B bank can now issue a letter of credit to guarantee corporate bonds.

Mr. Hoey said another potential SEC rule, specifically exempting the registration of secondary market sales of privately placed securities between institution buyers, holds promise for financial guarantee insurers as well.

It is unclear whether these sales must be registered with the SEC, said Michael Hyatt, SEC special counsel. The "statutory basis for that is something of a puzzle."

Mr. Hoey noted rules permitting inter-institutional purchases in the secondary market without registration would improve the ability to sell these securities, while still prohibiting their sale to the "less sophisticated" investor.

Financial guarantee insurance would be welcome in this secondary market, Mr. Hoey said, because institutional buyers would not have to go through the laborious process of analyzing the issue themselves.

He added that as long as issuers of corporate debt backed with financial guarantee insurance must register with the SEC, exempting secondary private placements between institutional buyers would "help ease the pain."

Meanwhile, comments also are being sought by the banking regulatory agencies—the Federal Deposit Insurance Corp., the Federal Reserve Board and the Comptroller of the Currency—as well as the Bank of England regarding their proposal that capitalization requirements be adopted for letters of credit.

The proposal, which was released in February, would require banks to adhere to an as-yet-undetermined capital adequacy ratio for off-balance sheet items, including letters of credit.

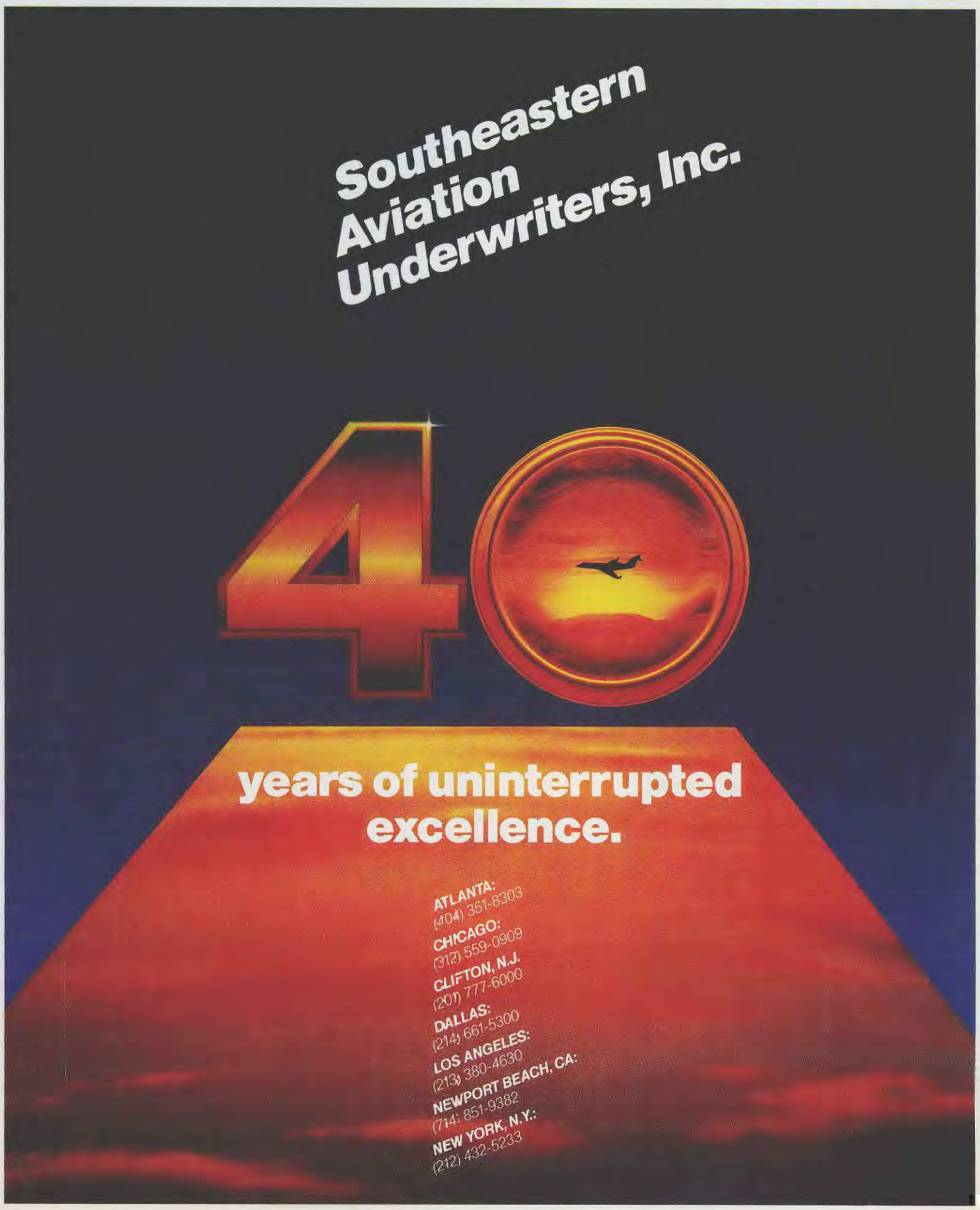
Steve Pfeiffer, an FDIC examination specialist, said bank examiners now decide how much capital banks should have to support their letters of credit, but there are no firm guidelines.

"Generally speaking," he said, the regulation would result in higher rates for LOCs, particularly if a bank's prices have been low.

"Banks heavily involved in the LOC business may have to raise more capital as a result of the new capital standards," and they may do this by passing on the higher cost to LOC customers, agreed a spokesman for the Comptroller of the Currency.

Because insurers do not operate with such strict capital requirements, this regulation would improve their competitive position against the banks, said Kenneth J.H. Pinkes, a vp and director of Moody's Investor Service Inc., which recently gave FSA a Triple-A rating.

If the U.S.-Bank of England proposal is approved, European banks, and eventually Japanese banks, are expected to "fall into line" and adopt similar regulations, Mr. Pinkes said. ■



PRIMA conference

NAIC's model risk retention act draws fire

By MEG FLETCHER

SEATTLE—The Public Risk & Insurance Management Assn. is launching a counterattack to preserve its members' access to risk retention and purchasing groups.

PRIMA members last week approved a resolution urging the National Assn. of Insurance Commissioners "to strike any language from their model risk retention act that might prohibit political subdivisions of a state from using risk retention (and purchasing) groups."

A final version of the NAIC's model risk retention law is expected to be approved at the NAIC's June meeting. It will serve as a guide for states that choose to implement their authority under the 1986 amendments to the federal Risk Retention Act.

Proposed amendments to the NAIC's model act incorporate "some of the same language and ideas that were purposefully omitted by the congressional conference committee" that hammered out the wording of the amendments to the Risk Retention Act, according to PRIMA.

The wording that NAIC members and advisers now are considering is contained in various proposals, said David Thornberry, member of the State Board of Insurance in Texas, in a separate interview.

One proposal would require including a drafting note in the model act emphasizing that an individual state may decide whether its public entities can participate in risk retention or purchasing groups, he said. A more restrictive proposal would prohibit public entities from participating in a risk retention group that is not chartered in their home state or any purchasing group, he added.

Mr. Thornberry said states generally do not have to adopt legislation regarding the federally authorized risk retention and purchasing groups, unless they want to exercise their authority under the broadened act. In addition, existing state laws that regulate the ability of public entities to finance risk control generally supersede provisions of the expanded federal act, he said.

PRIMA's resolution opposing efforts to impede the development of risk retention groups was adopted during a special meeting that outgoing President Mark Ferraro convened during PRIMA's eighth annual conference in Seattle late last month.

In addition, Mr. Ferraro urged members to personalize sample letters and send them to their state governors, legislators and insurance commissioners.

The letters said, "It is imperative that an open environment exist for these risk retention groups. . .if we are to avail ourselves of the cost effective and stable coverage that these programs have to offer."

PRIMA Executive Director Natalie Wasserman is a member of the NAIC advisory group that was formed recently after advocates of risk retention groups complained about portions of a draft of the model law (*BI*, April 27).

In an interview, Ms. Wasserman said that "public entities, which have been whipsawed by the industry more than any other agency, should not be singled out" for exclusion from the options under the Risk Retention Act.

Local governmental agencies should have access to risk retention and purchasing groups as alternate means of obtaining most kinds of liability insurance, said Mr. Ferraro, risk manager for the city of Dallas.

The NAIC's proposed exclusion of public entities could be due to a "misconception or misunderstanding" Mr. Ferraro said.

However, it also could stem from "a paternalistic and condescending attitude" on the part of insurance commissioners, he added.

Such an attitude is unwarranted because public entities have demonstrated their ability to deal with difficult problems, including police protection and zoning laws, he said.

In addition, the Risk Retention Act already provides for safeguards and controls, including requirements that a risk retention group be licensed in one state, write only liability coverages (excluding workers compensation) and offer coverage only to members who share similar liabilities.

Thus far, only a few groups of public entities have organized risk retention groups, including public housing authorities and colleges (*BI*, April 20; March 9; Dec. 8, 1986).



Photo: Seattle-King County Convention & Visitors Bureau

Seattle was the site of the eighth annual Public Risk & Insurance Management Society conference.

However, consultants say that other groups are exploring the feasibility of the risk retention or purchasing group approach. The proposed Southwest Municipal Liability Insurance Assn. is exploring the feasibility of offering a package of excess liability coverages to public entities in Texas, New Mexico, Arkansas and Arizona, according to Francis Fey, vp with The Joseph Ivy Co., a risk management and employee benefit consulting firm in Austin, Texas.

Risk retention or purchasing groups are particularly attractive to public entities with unusual risks like public housing operations that need to reach out to other states to find comparable operations, consultants say.

Or, they are attractive to public entities in states that do not allow—or severely limit—the ability of public entities to pool risks, said Murt Munson, senior vp with Keenan & Associates, a pool manager in Torrance, Calif.

Otherwise, "the legislation which permits pools is usually more favorable," said Greg Berg, vp in the Simsbury, Conn., office of the Tillinghast Division of Towers, Perrin, Forster and Crosby. States that allow pools to operate generally have more flexible guidelines than exist under the federal Risk Retention Act, he said. ■



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PRIMA meeting sets attendance record

SEATTLE—A record-setting 720 registrants gathered at the Public Risk & Insurance Management Assn.'s eighth annual conference.

PRIMA, whose membership has swelled to more than 1,400 public entities, held the conference, "Risk Management Reaches New Heights," May 17-20 in Seattle.

The central theme of its more than 40 concurrent sessions emphasized how public risk managers have introduced innovative risk financing methods and made their risk management programs stronger and more self-sufficient.

Better risk management programs also can mean a better quality of life for employees, which was highlighted by the presentation of the "Innovations in Risk Management Award" to the Yolo Public Agency Risk Management Insurance Authority in Woodland, Calif.

The Yolo authority reduced the costs of job-related stress claims from police officers and implemented a program resulting in greater well-being among the officers in the four law enforcement departments the authority represents, according to a PRIMA statement.

The authority's program includes physical and psychological exams, crisis intervention and an officer assistance program.

Within the program's first two years, the number of claims dropped 5% and costs plummeted 71%.

In addition, three police officers who had applied for retirement on psychological disability—at an estimated cost of $300,000 each—returned to work.

Celia Scott, the Yolo authority's former risk manager, accepted the PRIMA award. She is now risk manager for the city of San Jose, Calif.

In addition, the Clark County (Nevada) Sanitation District won an honorable mention for its wellness program, which was implemented at no cost to the district through the use of community-based health organizations.

PRIMA to launch center for study

By MEG FLETCHER

PRIMA also plans to award scholarships to public risk management practitioners.

The Public Risk & Insurance Management Assn. is establishing a Center for Public Agency Risk Management Study, the group has announced.

The center, which initially will use PRIMA's existing staff and facilities, will collect statistics and promote discussion of important issues, according to outgoing PRIMA President Mark Ferraro, who also serves as risk manager for the city of Dallas.


Ms. Bone

PRIMA also plans to award academic scholarships to public risk management practitioners.

Last month, PRIMA also installed new officers, including Terry Bone, risk manager for the Puget Sound School Risk Management Pool in Seattle. She will serve a one-year term as president of the organization.

Three new vice presidents named to two-year terms were: Frank Gardner, risk manager of Natrona County, Wyo.; Vickie Kehl-Gans, risk management director for Joliet, Ill.; Larry Muench, safety director for Dothan, Ala.; David Randall, risk manager for Wilmington, Del.

Action on a proposed bylaw change, which would drop the word "insurance" from PRIMA's name, was postponed at the annual conference.

Some PRIMA members said they wanted more notice and more time to discuss the proposal, which was promoted with T-shirts inscribed with "insurance is outta sight."

The group decided that members will receive a written explanation and ballot by mail on the name change and a simple majority of those responding will decide the issue.

The proposal would change PRIMA's acronym to PRiMA, which stands for the Public Risk Management Assn. The name change is proposed because having "insurance" in the organization's title causes confusion and negative connotations, Mr. Ferraro said.

Following the disagreement over the name change, the PRIMA board requested that staff members study and then make a recommendation about the notice members should receive of a proposed bylaws change.

Current bylaws do not contain a notice requirement.


Mr. Pumford

The Pooling Section, a subgroup of PRIMA, also elected new officers to one-year terms.

Serving as president is Harold Pumford, chief executive officer of the OML Municipal Assurance Group in Oklahoma City, Okla.

Also elected were Janis Scott, director of risk management services for the Kentucky School Boards Assn. in Frankfort, Ky., vp; and Bryce McEuen, executive director of the Utah Risk Management Assn. in Orem, Utah, secretary-treasurer.

Elected to two-year terms on the Pooling Section's board were Vince Pisani, general manager of County Supervisors Assn. of California; Mr. Pumford; Ms. Scott; and Mr. McEuen.

Elected to the one year remaining in unexpired terms were Allen F. Hyman, director of risk management services for the Texas Municipal League in Austin, Texas; and James Robey, director-insurance programs for the Municipal Association of South Carolina in Columbia, S.C. ■

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Police liability problem 'crisis in management'

By MEG FLETCHER

SEATTLE—Public entity risk managers can help shield their police departments from lawsuits by enlisting the help of police supervisors, an expert suggests.

"I see the liability problem as one of a crisis in management and supervision," said G. Patrick Gallagher, director of the Institute for Liability Management, a consulting firm in Vienna, Va. He spoke at the Public Risk & Insurance Management Assn. conference last month in Seattle.

Police departments often operate without up-to-date, formal policies for handling specific situations, or sometimes informal department practices supersede those policies, he explained.

The liability crisis occurs in the station houses as well as the streets, as police officers sue their own departments, for example, for failing to adequately train them in the use of weapons or for high-speed chases, he said.

During his presentation, Mr. Gallagher used film clips to illustrate the potential liabilities inherent in real-life police operations.

In one situation, policemen swarmed around the entrance to a bar where a gunman was holding hostages. The officers were deployed in the open, with no protective cover and in each others' crossfire. As the gunman emerged and released his last hostage, police fired 17 bullets, striking the gunman three times. The gunman received a $100,000 payment, Mr. Gallagher said.

In another clip, a policeman in an unmarked car leading a caravan of about two dozen police cars up a curving mountain road was shown driving on the wrong side of the two-lane highway as he fired at a stolen truck in which an escaped mental patient was fleeing.

"Law enforcement agencies generally are not geared up for civil defense," said Mr. Gallagher, referring to preventing and minimizing liability claims. They play criminal offense, but they don't know how to play civil defense as well," Mr. Gallagher said.

To defend their departments from potential suits, police supervisors must examine policies related to critical tasks, such as transporting prisoners or the use of force, as well as department rules and regulations, to make sure they are current and reflect the best risk management approaches.

Other areas that police supervisors must consider are current police department practices; the number of complaints filed against the department; types of lawsuits; police training programs and record keeping of such training; the expertise of corporate counsel that handle police-related claims; the quality of supervisors; and the testing required to qualify officers for the use of different weapons.

Mr. Gallagher said signs that show a police department is adequately protecting itself from civil liability include an updated policy and procedures manual; quality leadership, supervision and training; the openness of the department; and citizens' response to the department.

However, a department may be exposing itself to potential liabilities if it uses canine units for intimidation or crowd control and improper arrest or search procedures, Mr. Gallagher said.

Off-duty police officers who moonlight as security guards for commercial businesses also may create liability problems for police departments, because courts have found that such officers often are considered "on-duty" if they take law enforcement action against a perpetrator.

Police officials should try to ensure that the department, through the supervisor, is not found responsible if a police action results in a lawsuit.

For example, a plaintiffs' attorney may establish departmental responsibility by showing that the supervisor failed to act when a reasonable person would have, or by showing that the supervisor did not follow a law or policy that required specific action.

Even though a police chief may

Continued on page 84

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GASB rules to change public entity accounting

By MEG FLETCHER

SEATTLE—New accounting standards expected in May of 1988 will revolutionize the way many governmental entities report the financial condition of their self-insured programs, observers say.

The Governmental Accounting Standards Board next year is expected to adopt the final version of regulations it is now developing for the preparation of external financial reports (*BI*, May 11).

Those regulations will likely require individual public entities—and most risk funding pools—to use more businesslike accounting methods and disclose more about incurred claims and the reserves needed to pay them, according to experts who discussed the accounting issues during the annual Public Risk & Insurance Management Assn.'s conference last month in Seattle.

The new accounting standards will cause an unprecedented restatement of governmental entities' financial conditions, including "a very critical review" of items that are currently included in long-term debt accounts, said Thomas W. Snow, a partner in the Los Angeles office of accounting firm Peat Marwick Main & Co.

Some current government accounting standards allow public entities to report in a separate balance sheet column long-term debt and all liabilities relating to the general fund that will be repaid from future revenue sources, said Paul A. Pacter, commissioner of finance for the city of Stamford, Conn.

This column—called the General Long-Term Debt Account Group—is sarcastically referred to as "guilt bag," or "the place to bury problems," Mr. Pacter said in his written presentation.

Public entities interested in influencing development of the regulations should be prepared to comment on the exposure draft of GASB's regulations, which is expected to be released by Nov. 30, said Gregory Berg, a risk management consultant in the Simsbury, Conn., office of the Tillinghast Division of Towers, Perrin, Forster & Crosby.

PRIMA has representatives on the GASB task force and has established its own group to review accounting standards and reporting guidelines.

The GASB task force is wrestling with major issues that affect both individual public entities and pools, and its pronouncements are generally considered authoritative for both, Mr. Berg said.

However, some pool representatives contend they should follow Financial Accounting Standards Board requirements, which primarily apply to businesses, he added.

Mr. Berg said major accounting issues concerning both pools and individual public entities include whether claims should be discounted and how investments should be valued—on a cost or market-value basis, for example.

Other issues related to pools that the GASB task force is reviewing include:

- Whether pools should be subject to the guidelines applied to insurance companies.

Pool spokesmen typically oppose that, Mr. Berg said.

- Accounting for structured settlements.
- Accounting for deficits and surpluses.
- Accounting for pools that only purchase insurance.

Major issues facing individual public entities under review by the task force include:

- Accounting for the use of long-term debt, such as bonds, to fund risk management activities.
- Accounting for claims expenditures by public entities that have no insurance and no formal plan to fund them.
- Accounting for payments to a risk management pool.
- Advisability of a public entity using an internal service fund—rather than governmental fund

Continued on next page

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Police liability

Continued from page 82

have developed good formal policies, they must be properly disseminated and implemented before they are considered in effect.

The idea is to have the formal policy become the operational policy for the police officer on the street, Mr. Gallagher said. However, too often the operational policy stems from an informal policy established by the police officer's immediate supervisor.

For example, the official policy may state that officers can carry only one sidearm. But that policy can be superseded by a "custom, usage or practice," that allows an officer to carry an extra gun to throw down after a questionable shooting to make it appear as though an unarmed suspect had carried a gun.

Getting a handle on a department's loss control situation requires reviewing policies for critical tasks, such as transporting prisoners and high speed chases.

Mr. Gallagher urged departments to exchange policies and procedures with about 20 other progressive departments and ask those departments to keep them posted on any new policies or updates. Keeping track of other departments' changes is "a triggering mechanism," Mr. Gallagher said.

The department's policies or procedures also should be included in officers' basic training. For example, recruits trained at regional academies may have to be taught local policies and procedures.

He also emphasized that recruits on patrol be supervised not only during their initial few weeks, but also throughout their probationary period.

Mr. Gallagher added that officers generally hate to see lawsuits settled out of court, because they view that as an admission of guilt.

Departments that settle a lot of claims tend to have more lawsuits, according to Mr. Gallagher, who did not provide statistics to support his conclusion.

Public entity risk managers who want to help guard their police departments from civil liability also can become more knowledgeable about police science, but he warned them against trying to become "experts."

In addition, he suggested risk managers improve relations with top law enforcement officials by using budgeted risk management funds to purchase magazines about police liability problems. ■

Public entity accounting

Continued from previous page

approach—to account for risk management activities, and how claims liabilities and related expenses should be accounted for under such a fund.

A commercial accounting approach reflects all financial resources in a consolidated financial statement, Mr. Pacter said.

Under commercial accounting principles, incurred losses are accrued only if they are probable and the amount is measurable. "Actuarial-based accrual without regard to actual past loss events is prohibited," Mr. Pacter said.

Governments that favor a commercial accounting approach generally use an internal service fund approach, which is a modified version of commercial accounting, speakers said.

An internal service fund approach is suitable for recurring types of losses or large governmental units, Mr. Snow said. It forces public entities to take a more businesslike approach to accounting, Mr. Snow said.

In addition, it provides for the current funding of known claims and reimbursement of departmental costs.

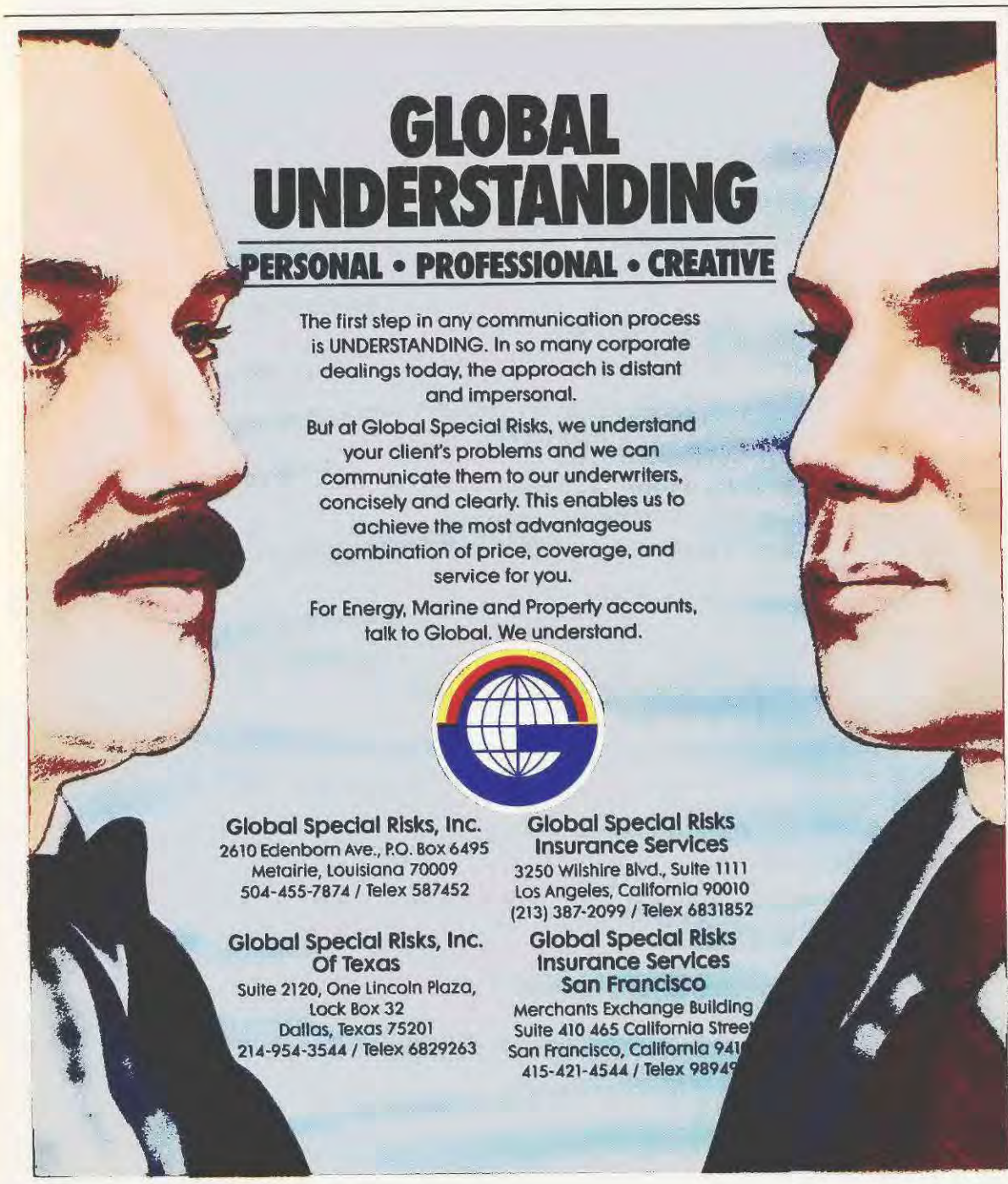
In contrast, a governmental fund-type accounting approach uses a modified accrual basis that focuses more on the flow of current financial resources, rather than on all resources, Mr. Pacter said. It includes a multicolumn reporting format for different types of funds —including one for long-term debt —rather than a consolidated statement.

Mr. Snow said a government fund-type approach more closely approximates the actual payment stream, so it is easy to explain to the public. It doesn't tie up needed reserves or create the impression of the public entity "hoarding" funds.

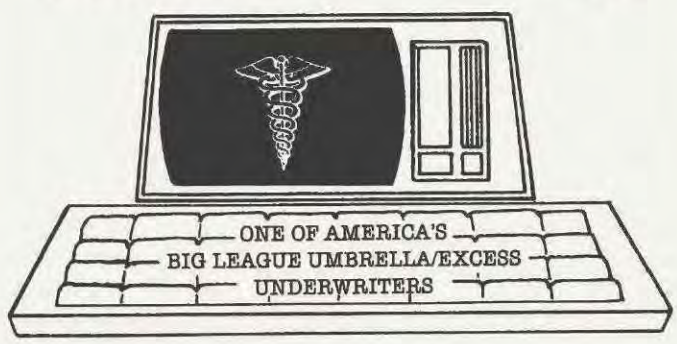
In addition, it makes it easier to manage casualty losses and judgments, because it helps disguise loss reserves, thus protecting them from discovery by plaintiffs' counsel who would be likely to target the amount in the reserve for recovery, Mr. Snow said.

In choosing an accounting approach, it is important to consider factors such as whether the self-insured risk is likely to be a one-time large loss or a recurring loss, the size of the governmental unit, its commitment to self-insurance, its level of sophistication and the nature of its general risk management program, Mr. Snow said.

However, both Mr. Snow and Mr. Pacter emphasized the need for extensive disclosure. ■



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Financial alternatives

Continued from page 86

that public officials understand what they are doing.

Mr. Snow—as well as PRIMA spokesmen—emphasized the need for full disclosure of financial information about all types of risk funding alternatives.

Meanwhile, a few commercial insurers are beginning to resume writing public entities' liability risks in California after a two-year hiatus. During that time, typically one insurer was writing renewals on very restricted terms, said D. Michael Enfield, a managing partner Marsh & McLennan Inc. in San Francisco

"It presages a real return of insurance capital within the next 90 days," he said.

However, other brokers have less optimistic timetables.

Among them was David E. McGurn, division vp for Arthur J. Gallagher & Co. in Rolling Meadows, Ill. He said that while capacity is increasing, there has been no relief in rates. However, he predicted that the market will turn sometime within the next 18 months and that when rates come down, they will come down quickly. ■

Bonds and letters of credit

Continued from previous page

which is annually renewable, or an irrevocable line of credit, she explained. Both credit arrangements require that fees—which usually range between one-half and one percent of the principal—be paid to the bank and sometimes to intermediaries as well.

A line of credit may be better than a letter of credit, which is less available and generally more costly, Ms. Quarante said.

In addition, it may be possible to add more features to a line of credit, and thus tailor it to meet a public entity's needs.

Kenneth R. Swisher, risk manager of Battle Creek, Mich., said he dealt directly with local banks to obtain one letter of credit and is currently negotiating to obtain another letter of credit, both for insurance-related purposes.

The city's transit liability insurer asked it to buy a $50,000 letter of credit, because the insurer was not comfortable with the city's level of self-insured retention, he said.

It was "a real slap in the face" that the city had to come up with a letter of credit, which cost $500, Mr. Swisher said. At that time, the city had a $26 million general fund and had $1 million in its self-insurance reserves.

When Mr. Swisher renewed the policy, he was able to convince the insurer to eliminate the letter of credit, he noted.

Currently, Mr. Swisher is negotiating another letter of credit needed because the city leases its city hall and a public safety building, which includes jail facilities.

The landlord asked the city to show proof of $3 million in liability insurance, which the lease stipulated. Since signing the lease, the city has begun self-insuring that exposure because of high commercial insurance costs.

But the landlord did not find the city's self-insurance program acceptable and had the option of buying the required commercial insurance and charging its premium to the city as part of its rent, Mr. Swisher said. At that time, the premium would have been more than $100,000.

Mr. Swisher convinced the landlord to acknowledge the city's $1 million in reserves and accept a $2 million letter of credit. The fee for the letter of credit was three-quarters of one percent or $15,000.

Mr. Swisher noted that the bank required that the letter of credit be backed up by a line of credit. The line of credit was arranged at no additional fee.

The bank also requested that the city invest its $1 million reserve fund with it, which the city agreed to as long as interest rates remain competitive, Mr. Swisher said in a follow-up interview.

"Understand that we are not transferring the risk, but had to come up with an alternative and insurance was not an alternative available to us at that time," he explained.

Both letters of credit and lines of credit, as well as bonds, can be used to stabilize budgets, allowing public entities to enhance the quality of their risk financing protection independent from the commercial insurance market.

But, there are different costs involved when using these financial tools.

The costs of issuing a bond include attorneys' fees and investment bankers' fees. The investment bankers should not charge more than 2% for a general obligation bond and between 3% to 4% for bond-like "certificates of participation," which require more time and effort to arrange, said investment banker Mark Northcross in a session on pool financing. He is a partner with the investment banking firm of Kelling, Northcross & Nobriga in San Francisco.

Some bonds offer the possibility of earning money on arbitrage, Mr. Northcross said. Arbitrage results when the interest rate on investment earnings exceed the interest rate at which the bonds were sold.

Bonds should be used for risk financing primarily when there is a high ratio of potential maximum loss to expected loss, said actuary Lee Van Slyke. In addition, bonds should be issued in a favorable political environment, added Mr. Van Slyke, who is Coopers & Lybrand's director of casualty actuarial services in the Southwestern United States in the Los Angeles office.

Bonds generally take longer to arrange and generally require a more long-term commitment than do letters of credit or lines of credit, Ms. Quarante noted. ■

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comings & goings: industry

Bolinder rises to CEO at Zurich-American

William H. Bolinder, president and chief operating officer of Zurich-American Insurance Group in Schaumburg, Ill., has been named chief executive officer of the property/casualty insurer, effective July 1.

He also will be recommended for appointment as U.S. manager of Zurich Insurance Co.



Mr. Bolinder

Mr. Bolinder joined Zurich-American in 1986 as president and chief operating officer. Previously, he was executive vp-international and special markets with Continental Insurance Cos. in New York.

Mr. Bolinder succeeds **Rolf F. Hueppi**, currently chairman and CEO of Zurich-American, who was appointed chief operating officer of Zurich's worldwide operations in Switzerland (*BI*, Dec. 22, 1986). Mr. Hueppi will continue as chairman of the board of the five companies in the Zurich-American Insurance Group.

Mr. Hueppi joined the Zurich's Swiss office in 1963. Before becoming CEO of Zurich-American in 1984, he directed corporate international and special risk division operations worldwide.

In other insurer changes:

At Utica Mutual Insurance Co. in New Hartford, N.Y., **John G. Di Liberto** and **Vincent J. Looney** promoted to senior vps. Mr. Di Liberto previously was vp and senior claims officer. Mr. Looney previously was vp of regional office operations.

Don D. Hutson elected vice chairman of operations at American General Corp. Previously, Mr. Hutson was president and CEO of Maryland Casualty Co. in Baltimore —American General's lead property/liability company.

Succeeding Mr. Hutson as president of Maryland Casualty is **Marvin Ham**, executive vp in charge of regional operations. Mr.

Thomas B. Bosley and **William E. Hubbard Jr.** elected vps of The Fidelity & Deposit Co. in Baltimore. Prior to his promotion, Mr. Bosley was assistant vp and executive assistant to Joseph C. Eanes Jr., president and chief executive officer. Previously, Mr. Hubbard was an assistant vp.

Agents/brokers

David I. Svendsen promoted to president of Rollins Burdick Hunter of Northern California Inc. from executive vp in the Palo Alto office.

At RBH of Southern California Inc., **Gary R. Rimler** joined as senior vp. Prior to joining RBH's Los Angeles office, Mr. Rimler was president of RBH of Arizona Inc.

Gary Otto joined Financial Guardian of Illinois in Lombard as vp. Previously, Mr. Otto was president of Otto & Scarzone in Bensenville, Ill.

Also at Financial Guardian in Illinois, **Edward L. Grosse** and **John A. Fromknecht** promoted to senior vps from vps.

At Financial Guardian Kansas, **Virda M. Mathias** promoted senior vp.

At Financial Guardian Arizona in Phoenix, **Jeffrey William Gennaro** and **John E. Peterson** have joined as vps. Previously, both were vps in the Phoenix office of the Crump Cos.

Gregory F. Gdowski joined Corroon & Black of Illinois in Chicago as vp-risk management marketing services. Previously, Mr. Gdowski was account manager for CIGNA Special Risk facilities.

Robert Atwell promoted to vp at The Crump Co. of Connecticut in Fairfield. Mr. Atwell will be responsible for new business development for commercial insurance clients. Previously, Mr. Atwell was chief operating officer of Marsh & McLennan-Triad Underwriters, a Fairfield-based unit of Marsh & McLennan Cos. Inc.



Mr. Atwell

Reinsurance

Michael J. Stella elected vp of Kemper Reinsurance Co. in Long Grove, Ill. In addition, Mr. Stella was appointed associate reinsurance secretary of Kemper's national property/casualty insurance companies.

Previously, Mr. Stella was commercial property underwriting officer.

Robert J. Rosser appointed vp of Hudson Reinsurance Co. Ltd. in New York and Hudson Underwriting Ltd. in Bermuda. Previously, Mr. Rosser was an assistant vp.

Russell T. John joined Buffalo Reinsurance Co. in Woodland Hills, Calif., as senior vp and chief actuary. He will provide pricing and underwriting support for the company's treaty and facultative operations.

Most recently, Mr. John was vp and actuary with Prudential Re in Newark, N.J.

Also at Buffalo Re, **William F. Weimer** joined the treaty department as a senior vp. Most recently, Mr. Weimer was vp with F&G Re Inc. in Morristown, N.J.

HMOs/PPOs

Jack D. Massimino joined Texas Health Plans Inc. in Austin as chief executive officer. Most recently, Mr. Massimino was one of the founders and the executive vp of The Oakmark Corp., a health benefits management company in Austin.

Texas Health Plans Inc. operates health maintenance organizations throughout Texas.

Jack G. Davis and **Leroy G. Meyering** were appointed chief executive officer and chief financial officer, respectively, of Select Care in Minneapolis. Previously, Mr. Davis was president and chief operating officer of HMO Iowa. Previously, Mr. Meyering was director of financial planning and analysis at Methodist Hospital in Minneapolis. Select Care operates preferred provider organizations in the metropolitan Minneapolis area.

Other suppliers

Candace Kessel joined William M. Mercer-Meidinger-Hansen Inc. in Detroit as a consultant to head the communications practice. Previously, Ms. Kessel was manager of employee communications for Unisys Corp.

John E. Scarbrough joined Structured Financial Associates Inc. as an economist and settlement specialist in Baltimore. ■

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Home Group offers new disability plan

benefit beat

The Home Group Inc. is providing its salaried employees with a short-term disability plan for absences due to serious illnesses.

Under the plan effective May 1, seriously ill employees will receive either two-thirds of salary or 100% of salary depending on their length of service, said Nancy Carbone, manager of staff services for the benefits and services department of the New York-based insurance group.

The self-insured plan provides income replacement for up to 26 weeks of disability.

An employee with less than three months of service receives two-thirds of salary for a maximum of 26 weeks of disability.

Employees with three months to two years of service are eligible to receive 100% of salary for up to two weeks of disability. After that, the employee is eligible for two-thirds of salary for up to 24 weeks.

Employees must have 10 years or more of service to receive 100% of salary for a maximum of 26 weeks.

Short-term disability payments will be offset by any workers compensation or state disability plan payments.

To receive the benefits, an employee must have a physician submit a form to the company describing the disability.

The new plan covers about 5,000 full-time salaried employees.

Smoke-free Blues

To demonstrate the importance of a healthy lifestyle to both its customers and its employees, Blue Cross & Blue Shield of Missouri is working to have a smoke-free workplace by Aug. 3.

The campaign began with the removal of the company's cigarette machines on May 11. In addition, smoking cessation programs, coordinated by the company's nurse, will be available over the next three months, said a spokesman for BC/BS in St. Louis.

During the next three months, smoking will be prohibited in conference rooms, training classes, employee lounges, rest rooms and elevators. However, smoking will be allowed in private offices.

But, beginning Aug. 3, smoking will be prohibited on all BC/BS of Missouri grounds.

Healthy discount

"Healthy" employers in Washington and Idaho soon may be able to save on health maintenance organization premiums for themselves and their employees.

On May 1, Seattle-based Group Health Cooperative of Puget Sound began offering premium discounts to enrollees with healthy lifestyles.

While the "HealthPays" program currently applies only to individual subscribers, "we are certainly looking forward to working with employers interested in doing this with their contracts with Group Health," a plan spokesman said.

Under the new program, adults between the ages of 18 and 64 can be refunded up to two months' premiums after the first year of leading a healthy lifestyle and one month's premium for the second and third years.

Seven factors will determine whether a person has a healthy lifestyle: tobacco use; alcohol use; drug use; exercise; seat belt use; the ratio of the enrollee's height and weight; and drinking and driving practices.

Group Health currently has an enrollment of 355,000 members, about 44,000 of whom are not part of an employer group.

About 3,000 of these individual and family plan members are expected to be eligible for the discounts, the spokesman said.

•

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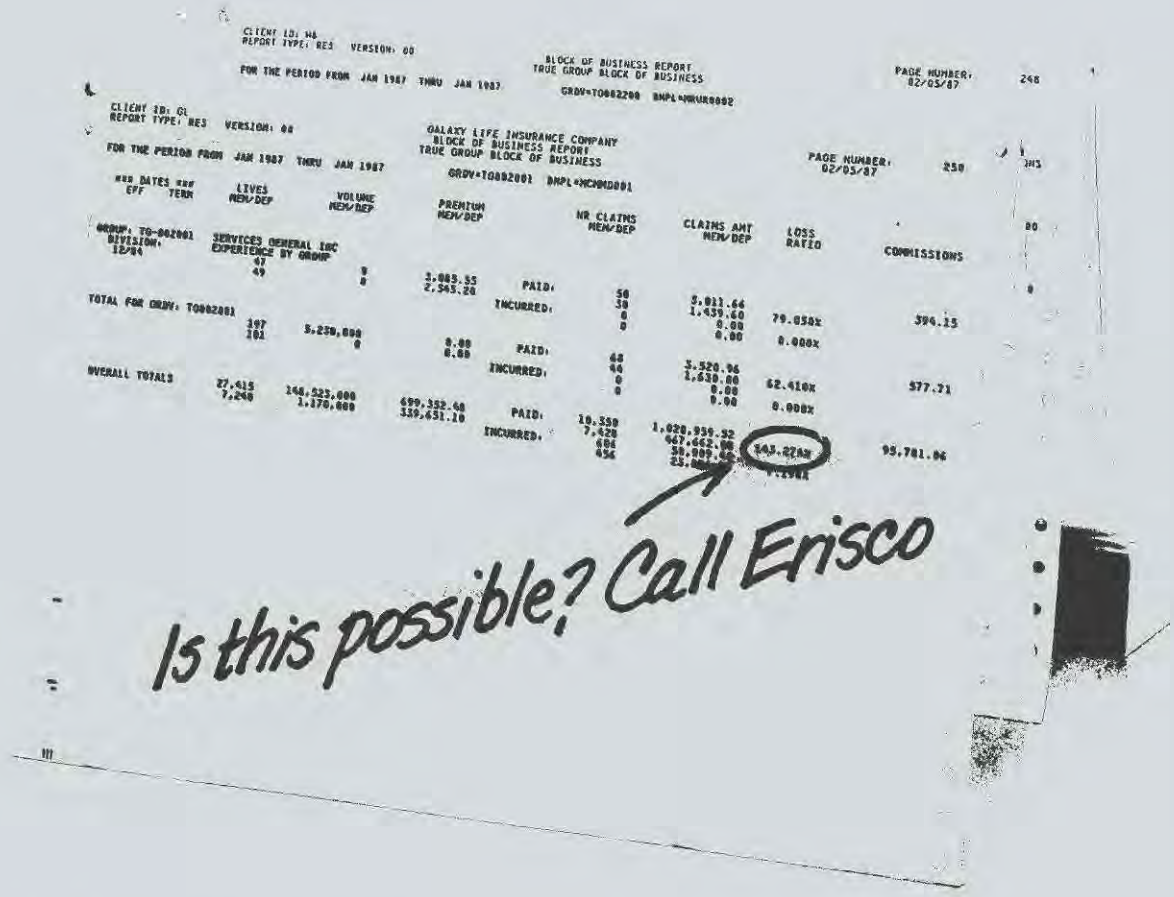
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Kennedy legislation

Continued from page 2

centage of employees in those industries typically work at or near the minimum wage, benefit experts say.

Requiring employers to pay the full premium for low-wage employees "could have quite an impact on those industries," said Linda Havlin, a consultant with Hewitt Associates in Lincolnshire, Ill.

Requiring employers to pay the full cost of low-wage workers' health insurance premiums without any employee cost-sharing is just one several details that have emerged following the publication of Sen. Kennedy's legislation in the May 21 issue of the Congressional Record.

Other newly available details include:

- Employers would be able to impose higher deductibles and coinsurance requirements than the maximum limits laid out in the Kennedy legislation to ensure that health care services are being utilized properly.

For example, while the legislation generally limits employee copayments to 20% of covered services, employers could boost copayments for employees who do not comply with health care management techniques specified under their plans, such as mandatory second opinions for certain surgical procedures.

"A health benefit plan may provide for copayment or coinsurance in excess of the amount permitted. . .for any item or service which an individual obtains without complying with any reasonable procedures established by the plan to ensure the efficient and appropriate utilization of covered services," the legislation says.

Benefit experts had been concerned the legislation could curtail the use of health care management techniques.

For example, the outline of the legislation released earlier last month by Sen. Kennedy did not make it clear whether employers could charge higher deductibles for employees who do not use preferred providers.

But the legislation introduced several days after the outline was released does say that an employer could impose higher deductibles than the general $250 and $500 maximums if employees receive services outside of a preferred provider network

Sen. Kennedy 'clearly recognizes the importance' of preferred providers 'and to have incentives in plan design to encourage employees to use health care services wisely,' Ms. Havlin says.

"If a health benefit plan establishes reasonable classifications of participating and non-participating providers of items and services, the plan may require payments in excess of the amount permitted. . .in the case of items and services furnished by non-participating providers," the legislation says.

"Sen. Kennedy clearly recognizes the importance of incentives to use preferred providers and to have incentives in plan design to encourage employees to use health care services wisely," Ms. Havlin said.

- Employers would be given flexibility in the deductibles they can offer.

While annual deductibles for physician and hospital services generally could not exceed $250 per person or $500 for family coverage, the legislation also allows employers to base deductibles on wages.

For employers that link deductibles to wages, the maximum annual deductible for individual coverage could not exceed 1% of wages, while the maximum deductible for family coverage could not exceed 2% of wages.

While linking deductibles to wages is unusual, those employers that do so would not have to create a new deductible structure, benefit experts note, because of the flexibility Sen. Kennedy is offering.

Similarly, while the Kennedy legislation sets the maximum annual out-of-pocket expense for covered services at $3,000 for individuals, employers could use an alternative maximum out-of-pocket limit of 10% of wages paid to the employee.

- While employers would be required to pick up the full premium for low-paid workers, they would be permitted to charge higher paid workers a higher premium contribution.

Currently, few employers base the percent of the health care premium paid by employees on salary. Such multiple-tier health insurance premium structures are unusual because, among other reasons, they add yet another layer of administrative complexity for the employer, according Hewitt Associates' Ms. Havlin.

"You see premium copayments (based on salary) about 1% of the time," said John Hickey, a partner with Kwasha Lipton in Fort Lee, N.J.

Mr. Hickey also noted that the value of an employer-provided health insurance benefit is a much higher percentage of salary for a low-wage worker compared with higher-paid executives.

"The cost of health care (in relation to salary) is already tilted in favor of the lower-paid, he said. "The Kennedy proposal would make this tilt even more lop-sided," he added.

Business lobbyists argue that employers should not be expected to pay the full cost of the premium.

"Why should the employer subsidize the full cost of the premium?" asked Stuart Brahs, executive director of the Assn. of Private Pension and Welfare Plans based in Washington, D.C.

If it is deemed good social policy to exclude low-wage workers from picking up part of the employer's health insurance program premium, then perhaps the federal government —and not employers—should subsidize the cost, Mr. Brahs added.

In addition, Sen. Kennedy also emphasized that employers will not have to offer the identical benefits of the federally mandated minimum plan.

Under Kennedy's proposal, an employer's plan only has to be at least actuarially equal to the minimum health coverage plan.

"For example, a plan that provided drug coverage (which is not required) could charge higher copayments or deductibles," Sen. Kennedy said. ■

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Sub-total	**21,277**
Associations	506
Government, Unions and Educational Institutions	1,400
Commercial Consumers	
Sub-total	**23,183**
Insurance Agents and Brokers	11,009
Insurance Companies	7,111
Financial Institutions	989
Actuaries, Attorneys, Adjusters, Appraisers and Consultants	5,560
Others Allied to the Field	1,442
TOTAL	**49,294**

* Source Business/Occupational breakdown of qualified circulation, November 24, 1986 issue, as submitted to BPA for December 1986 BPA Publisher's Statement.

Excess coverage

Continued from page 1

comes insolvent—even when differing policy language is used.

One of the Massachusetts cases stemmed from a 1977 lawsuit brought by Irene Reilly against Roy Farr for injuries she suffered from a fall on his premises. Mr. Farr had a $300,000 primary policy with Reserve and a $5 million umbrella liability policy with Chicago-based Continental Casualty, which is a unit of CNA Financial Corp. in Chicago.

After Reserve was declared insolvent in May 1979, the Massachusetts Insurers Insolvency Fund took over defense of the claims.

In 1982, the insolvency fund sued Continental Casualty, seeking a ruling that Continental Casualty would be liable for any judgment in the case and that the insurer take over the defense of the action.

The trial court judge ruled in favor of the insolvency fund, and said Continental Casualty was liable for any judgment against Mr. Farr up to the limit of its coverage.

The court held that because the language in the policy was ambiguous, it should be construed to favor the policyholder and, thus, the insolvency fund, requiring first-dollar coverage by Continental Casualty.

The Supreme Court, which granted Continental Casualty direct review, agreed.

The language in the Continental Casualty policy provided that the insurer "will indemnify the insured for loss in excess of the total applicable limits of liability of underlying insurance stated in the schedule."

The policy also provided that if the underlying limit of liability insurance were "reduced," the Continental Casualty policy would pay excess of that reduced limit.

"Was there at least an ambiguity as to whether the insolvency of the underlying insurer would cause the aggregate limit of the underlying insurance to be 'reduced'?" the Supreme Court asked.

"The motion judge thought so and we agree," the court said. "The policy is ambiguous as to whether the excess insurer will step in when the underlying coverage becomes unavailable due to the primary insurer's insolvency.

The court noted that a reasonable policyholder probably would assume that if the primary insurer could not pay, the excess insurer would step in.

"The result because of the ambiguity or, if one prefers, because of the reasonable expectations of a policyholder looking at the policy, is that a reduction in the limit of the underlying coverage includes a reduction due to the financial failure of the primary insurer," the court said.

The court rejected Continental Casualty's argument that the reduction of the underlying coverage must refer only to a reduction due to payment of a loss or losses.

It is true, the court noted, that elsewhere the policy required the policyholder to maintain underlying policies "except for any reduction of the aggregate limits of liability in the underlying insurance because of injury or destruction."

But while in this language the cause of the reduction is stated, the earlier language does not restrict or define the causes of the reduction, the court noted.

"The difference in the language concerning reduction of coverage is fatal to Continental's argument," according to the court.

In the second decision, the court focused on different language in an umbrella liability policy issued by Princeton, N.J.-based Lincoln Insurance Co. to the owner of an apartment building.

A March 1980 fire in the building injured and killed occupants, resulting in suits against the owner, Haig P. Gulezian.

Mr. Gulezian had a primary insurance policy written by Ambassador for $500,000, and a $1 million umbrella liability policy written by Lincoln.

The Lincoln policy stated that the insurer is liable only for the "Ultimate Net Loss" in excess of the greater of: the retained limit if no underlying insurance is applicable to the occurrence, or the total of the "applicable limits" of liability insurance of the underlying policy.

After Ambassador was declared insolvent in September 1984, Lincoln declined to provide coverage or to defend Mr. Gulezian.

Mr. Gulezian did not have access to the state insolvency fund after Ambassador's insolvency because Ambassador was a non-admitted insurer in Massachusetts, and thus not covered by the fund.

He then sued Lincoln in February 1985, seeking a declaration that its umbrella policy provided both defense and indemnity coverage "over and above sums collectible by the plaintiff pursuant to underlying coverage."

The trial court ruled in favor of Lincoln, saying that it did not have to defend the plaintiff in the underlying lawsuits, and that it only had to indemnify the plaintiff for a loss excess of the $500,000 limits of the Ambassador policy.

In his appeal, the plaintiff argued that the words "applicable limits" mean recoverable limits, and because the limits of the underlying Ambassador policy were not recoverable, the Lincoln coverage must drop down.

The Supreme Court noted that standing alone, the word "applicable" refers to the underlying coverage that provides indemnity for damage claims arising out of an occurrence.

However, combined with other uses of the word "applicable" in the policy, its meaning was ambiguous, the court said.

For example, one section of the policy uses the word "applicable" to mean "collectible," the court said.

This language provides that if the underlying insurance is unavailable because of the policyholder's failure to comply with a post-occurrence policy condition (such as cooperation with the insurer), the underlying insurance "shall be deemed applicable" and the excess insurer will not drop down.

"If the word 'applicable' had only the precise, restricted meaning we attributed to it earlier in this opinion, this sentence would be unnecessary," according to the court.

"This sentence opens up the thought that applicability can be determined by post-occurrence events, including the uncollectibility of the primary insurance."

"The insured is told that, if the primary insurance is not collectible because of his fault, the excess insurance will not drop down. The insured is not told, however, that the policy will not drop down if the primary insurance is not collectible through no fault of the insured, such as the post-occurrence insolvency of the primary insurer," the court said.

The policy contains additional ambiguous language about whether the umbrella policy drops down because of the primary insurer's insolvency, the court added.

"It seems likely that Lincoln did not contemplate the insolvency of a scheduled underlying insurer in drafting its policy," the court summed up. "The phenomenon of the insolvency of an insurer is not, however, so rare as to excuse that omission of attention to detail."

"The result is that Lincoln issued a policy in which it generated uncertainty as to what should happen on the insolvency of a primary insurer. On traditional analysis, the ambiguity must be construed against Lincoln."

The court added that Lincoln is not required by the policy to assume the defense of the underlying tort actions, but because of its indemnity obligations, it may prefer to assume control of the defense of the claims.

The plaintiff's legal expenses are part of the "Ultimate Net Loss," and Lincoln will have to reimburse the plaintiff for them, the court added.

However, in a strong dissent in each case, Justice Francis O'Connor said the excess insurer should not be required to drop down.

"There is no ambiguity," he says, referring to disputed language in the case involving the Massachusetts Insurers Insolvency Fund. "An underlying insurer's aggregate limit of liability cannot be reduced except by a prior payment."

"Even if it could be reduced in some other way, the one fact that is critical to the resolution of this case is that the aggregate limit of liability of an insurer cannot be reduced by insolvency," he added.

Last week, attorneys differed on the impact of the decisions on future cases.

An attorney for the insolvency fund said the decisions appeared not to be limited to those policies with identical language. "It has some breadth to it," said David D. Dowd with the Boston firm of Curly & Curly.

Mr. Dowd said the decisions appear to say that unless an umbrella insurer specifically states it will not drop down in the event of the primary insurer's insolvency, courts will rule that they must drop down.

However, other attorneys disagreed.

"I think the case is limited," said Erik Lund, the attorney for Mr. Gulezian with the Boston firm of Posternak, Blankstein & Lund. "I don't think it establishes any new rule of law or standard."

However, Mr. Lund said the decision "reflects a pro-consumer point of view" and holds the insurers to very strict standards.

"In some ways, it is a limited decision in terms of the construction of the policy language," said Carol A. Kelly, who represented Continental Casualty.

But she noted that it has clarified how policyholders and insurers in Massachusetts will have to interpret similar language in similar cases.

Ms. Kelly, with the Boston firm of Martin, Magnuson, McCarthy & Kenney, also noted that many policies are being drafted to eliminate the ambiguity that some courts have found to make sure that umbrella insurers will not have to drop down when primary insurers become insolvent.

The attorney for Lincoln said the decision establishes the law in Massachusetts when this language is used and it could have an impact on other states.

However, Stephen J. Paris, with the Boston firm of Morrison, Mahoney & Miller, called the decision "result-oriented," pointing out that it was a departure from other decisions by most of the courts that also have interpreted identical language to be unambiguous.

Mr. Dowd also said that policyholders will benefit from the decision in part because the insolvency fund, financed by primary insurers, will not have to pick up the tab of insolvent primary insurers.

State insolvency, or guaranty, funds are financed by assessments on insurers, which, in turn, pass on the cost in the form of higher premiums, he noted. ■

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Continued from page 8

fund might offer to help solve some of the problems the current system is facing. Although the federal guaranty fund, at least in theory, may offer some advantages, I believe they are far outweighed by the disadvantages and do not recommend it as a solution for current problems.

Most of the people operating state guaranty funds today are dedicated professionals who are putting in long hours to keep the system functioning. By implementing some of the changes I discussed, the current system can continue to provide adequate protection to consumers and remain responsive and cost effective.

Thomas W. Jenkins
Lord, Bissell & Brook
Chicago

letters

Consider moral grounds in meeting site selection

To the editor: I do not wish to prolong a discussion of holding business or professional meetings in Las Vegas, but I feel I must answer Craig N. Gass, who took "great exception" to my letter (*BI*, May 18; April 27).

After mentioning the "Las Vegas stigma" and the "negative connotations associated with Las Vegas," he indicates that he and RIMS had the best time ever. To this I say "Great!" I hope the "Strip" has mended its ways.

As to Mr. Gass "not remembering being branded as a social outcast (for not gambling)," I made no implication I was so branded. Mine was a feeling, wholly subjective, of one who has chosen not to gamble on moral grounds. Quite a few of us feel this way, and we hope this is considered in choosing meeting locations.

S.J. Davidian
Hallmark Insurance Associates Inc.
Fresno, Calif.

Wrap-up program article cogent and forthright

To the editor: I am writing in response to comments made by Sam W. Stone Jr. of Dallas, in "There Are Two Sides to Wrap-up Insurance Programs" (*BI*, May 4).

L.T. Braucht's article, "Consolidating Construction Coverages Provides Big Savings" (*BI*, April 13), approached the issue of wrap-ups in a cogent and forthright manner. Mr. Braucht has had more experience with wrap-ups than any other domestic casualty underwriter.

Having been a proponent of and involved with wrap-ups since 1951, I have yet to experience a primary underwriter who would cut and run. I have been fortunate to have been involved in the design and implementation of some of the most complex wrap-up projects in the United States. In every case, these wrap-ups have been success stories for the owner/sponsor who paid for it and the contractors who were insured by it.

Wrap-ups are no different from preparing a good meal. Buy quality products, put them in the hands of experienced and dedicated persons who can stand the heat, sprinkle in plenty of imagination and creativity, and you end up with a success every time.

The secret, Sam, is finding a good chef like Ted Braucht.

James M. Murphy
President
Fred S. James & Co. Inc. of Virginia
Arlington, Va.

Probe blames crew, company for lost ferry

By CAROLYN ALDRED and STACY SHAPIRO

london

LONDON—Four crew members and the management of the company operating the British ferry that sank off the Belgian coast in March killing 182 people were at fault for the accident, according to an official investigation.

David Steel, counsel for the Secretary of State for Transport in London, charged that four members of the Herald of Free Enterprise were at fault in the capsize of the roll-on/roll-off ferry.

Mr. Steel also criticized the overall management of the ferry's operating company, Townsend Thoresen, saying the fault is "of a corporate nature. It involves many people over many years."

The company failed to ensure that there was any system for supervising navigational safety or operation, Mr. Steel charged.

It was "a fault which can be found all the way down from the junior superintendent in the marine department through to the board of directors," he added.

The ship capsized and sank on March 6 after water entered through the bow doors, which were left open when the ferry left Zeebrugge harbor (*BI*, March 16).

The assistant bosun failed to close the bow doors, the chief officer failed to take steps to ensure the doors were closed and the ferry's master failed to obtain verification that the doors were closed either by visual check or report, said Mr. Steel.

Also, the captain was at fault because he failed to require compliance with a written order that the loading officer should ensure the doors were closed, added Mr. Steel.

Meanwhile, Townsend Thoresen Ltd. has appointed two senior managers to help strengthen the company's safety procedures.

Leslie Stephenson has been named deputy managing director with responsibility for fleet procedures and safety measures, said a Townsend Thoresen spokesman.

Also, Captain Tony Barrett, a senior executive with Townsend's parent company, Peninsular & Oriental Steam Navigation Co., has been made a director of Townsend Thoresen.

"Captain Barrett will be continuing with the comprehensive review of safety and nautical procedures started by the company after the accident," said the spokesman.

Safety procedures already being implemented include:

- A reporting procedure on all vessels, with particular reference to the closure of bow doors.
- The installation of indicator lights on vessels' bridges to show whether the bow doors are closed.
- The installation of video monitors on all vessels.

C.E. Heath's results

Lloyd's of London broker C.E. Heath P.L.C. suffered a massive drop in profits after a year of major upheaval, which included a merger with fellow Lloyd's broker Fielding Insurance Ltd. and the departure of several senior executives.

Pre-tax profits tumbled by more than 20 million pounds to 14.5 million pounds ($23.2 million) for the year ending March 31, 1987. This is a 58.2% decrease from 34.67 million pounds ($50.8 million) of pretax profit for 1986, re-stated to include both Heath's and Fielding 1985-'86 results following the companies' merger in November (*BI*, Dec. 1, 1986; Nov. 10, 1986).

An exceptional provision of 11.24 million pounds ($18 million) for bad debts and litigation was the main reason for the dramatic fall.

This amount includes 1.5 million pounds ($2.4 million) for legal costs associated with Heath's Bermuda subsidiary Pinnacle Reinsurance Co. Ltd., although no additional reserves were set aside.

However, loss of brokerage income following the defection of several executives from the group in the second half of last year also contributed to the profit fall, admitted Chairman Richard Fielding.

The departure of three of Heath's North American division's directors last fall caused a "substantial loss of brokerage," he said.

Revenue for the group, excluding investment and other income, rose 26.3% to 88.4 million pounds ($141.7 million), based on a full year for Heath and 15 months for Fielding. This compares with restated revenues of 70 million pounds ($102.5 million) in 1985-'86.

Investment and other income fell 20.3% to 23.2 million pounds ($37.2 million) from 29.1 million pounds ($42.6 million).

Insurance brokering accounted for 48.9 million pounds ($78.4 million) of the group's revenue compared with 45.2 million pounds ($66.2 million) in 1986; underwriting revenue rose to 23.7 million pounds ($38 million) from 20.5 million pounds ($30 million).

The major increase in revenue, however, came from the company's computer services operation, which increased revenues nearly four-fold to 15.8 million pounds ($25.3 million) from 4.3 million pounds ($6.3 million).

Although Fielding's brokerage income was less than half that of Heath's—at 15.3 million pounds ($24.5 million) compared with 33.5 million pounds ($53.7 million)—its brokering profits of 7.3 million pounds ($11.7 million) exceeded Heath's 5.4 million pounds ($8.7 million). This compares with a restated brokering profit for Heath in 1985-'86 of 14.7 million pounds ($21.5 million) and for Fielding of 4.3 million pounds ($6.3 million).

Comings & Goings

C.E. Heath P.L.C. has appointed **Brian Wood** and **Leonard Hanning** joint managing directors of C.E. Heath Insurance Broking (Australia) Pty. Ltd. in Sydney. They previously were joint managing directors of Fielding & Partners (Australia) Pty. Ltd.

Bain Clarkson Ltd. has appointed **David Berliand** chairman, **Roy Trumper** deputy chairman, and **Peter Askew** managing director of the international division (contractors and professional indemnity). Mr. Berliand also was named chairman of the non-marine overseas division with **Nigel Howard Jones** as managing director. **Bobby Llewellyn** is chairman and managing director of the aviation division, with **Peter Welch** as deputy chairman. ■

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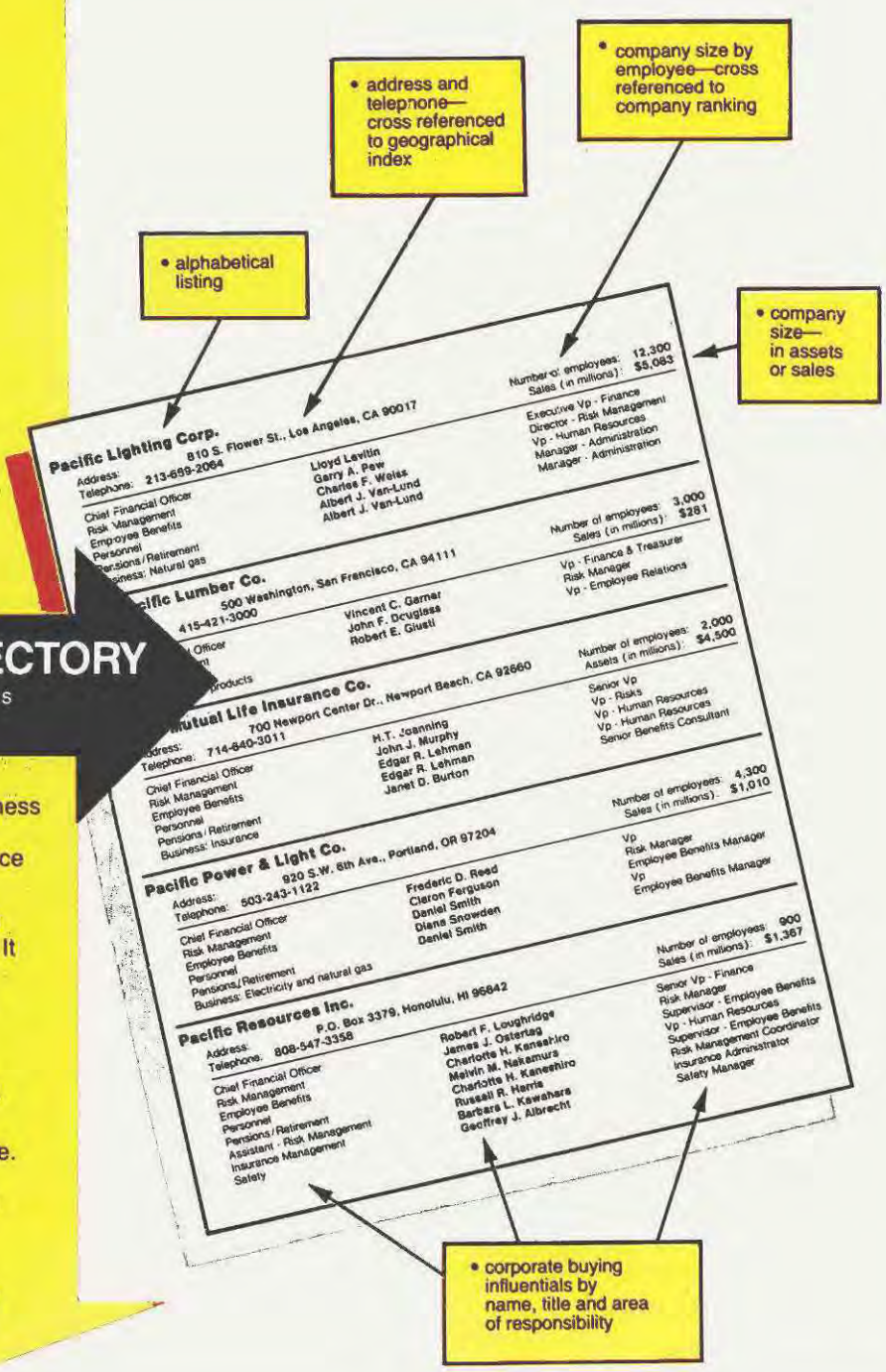
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BID61

ICA probe

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sor, Pocahontas.

The 1914 decision, issued by the same "substitute judge," ruled that the four corporations and the 71 divisions of each are ' "Grandfathered Insurance Corporations' and are not in any way subject to regulation by any insurance department, commissioner or any other official of any state, territory or by the District of Columbia."

The ruling also says that the companies and divisions are exempt from federal regulation, and ICA has maintained that the decisions supersede state law and the 1945 McCarran-Ferguson Act, which affirmed state control of the insurance business.

Copies of the rulings provided by ICA's sellers when Mr. Johnson purchased the company in 1986 were stamped as "true copies" of court records by the clerk of the U.S. District Court for the District of Columbia and were later certified by the clerk and a judge in the Circuit Court for Lee County, Va., a lawyer representing Mr. Johnson said in an interview in February.

However, the District of Columbia court clerk has since been unable to locate the rulings in the court's files and has declined Mr. Johnson's request for additional certified copies of the decisions.

In an interview last week, Mr. Johnson said he bought ICA last year from four corporations, at least two of which—Preferred Research Inc. and American Agency—were controlled by Robert Eugene Bailes.

Mr. Bailes—whose name is also spelled Bales in court documents—pleaded guilty in 1979 to wire fraud, perjury and other charges contained in three federal indictments returned by the U.S. District Court for the Southern District of West Virginia in Charleston.

Mr. Bailes was sentenced in May 1979 to 12 years in prison and fined $10,000. He has since been released from a federal correctional facility in Springfield, Mo., and was last reported to be living in Alexandria, Va., court records show.

Mr. Bailes could not be reached for comment on this story.

"We were floored when we found out where he was," Mr. Johnson said, referring to Mr. Bailes' imprisonment.

Mr. Johnson added, however, that he and a battery of lawyers thoroughly checked the materials provided on ICA before the purchase and were satisfied with its legitimacy.

"We wanted to be sure that the insurance companies were not part of some fraudulent deal," Mr. Johnson said.

"We almost walked away from the deal, but we had enough documentation to separate (Mr. Bailes) from the validity of Insurance Corp. of America," Mr. Johnson noted.

"If we had smelled anything wrong, we know that nobody wins when something goes wrong like this, and we would have walked away from it," he said.

"We certainly would not have spent that kind of money, time and effort unless we felt there was a substantial chance for success."

Mr. Johnson said that his purchase of ICA included 60 of ICA's insurance company divisions and will include the remaining 11 divisions before all aspects of the deal are concluded.

He would not reveal the purchase price for ICA, saying only that it exceeded $600,000. He added that he has not paid Mr. Bailes "an awful lot" of the money because Mr. Bailes has not yet provided tax and other documents needed to complete the transaction.

Mr. Johnson defended ICA's right to operate free from state regulation under the two Delaware court decisions and assailed insurance department attempts to enjoin ICA's activities.

"These court documents we have are as valid as the Constitution of the United States," he declared.

The court decisions were "in proper custody" of the District of Columbia court and were stamped by the clerk's office as such, he noted.

"If they have somehow misplaced them and lost them, we can't be responsible for that," Mr. Johnson said.

He also challenged state regulators' rights to take ICA to court.

"We don't see how cases that were adjudicated in 1911 and 1914 should be adjudicated again," he said. "There's no double jeopardy in this country."

"I cannot believe it would happen in this country," he added. "It might have happened in Nazi Germany in 1939, but I can't believe it would happen here now."

A Connecticut Superior Court judge in Hartford issued a temporary restraining order May 5 against ICA and three of its producers: Ideas, Packages and Programs Inc. and Creative Marketing Systems Inc. of Pascagoula, Miss., and North American Restaurant and Tavern Alliance.

After a hearing last Thursday, the judge continued the restraining order until July 9.

Continued on next page

update

Award against Tonka reduced

Continued from page 2

personal use, believed that the oil the employee took home was non-toxic, Mr. Joyce said.

The company is considering whether to appeal the remaining $100,000 portion of the award, he said. That amount is covered by a policy with Bituminous Casualty Corp. of Rock Island, Ill.

Foremost settles surety dispute

GRAND RAPIDS, Mich.—Foremost Corp. of America has settled, for an undisclosed sum, a suit involving a 1982 policy written by subsidiary Foremost Insurance Co. that insured mobile home installment obligations.

A Foremost spokesman said the insurer had written the policy on behalf of Denver-based Shelter America Corp., and its parent company, Bank Western Federal Savings Bank. They, in turn, had pooled the obligations and sold them in the secondary market to Talman Federal Savings Bank in Chicago and Empire of America, a Denver-based savings and loan institution, among others.

According to the Foremost spokesman, despite the insurance coverage, Shelter America agreed it was was obligated to pay any losses. The policy was, in effect, a surety bond obtained to facilitate the sale of the receivables, the spokesman said.

But when Shelter America later became unwilling to meet its obligations due to financial difficulties, a dispute arose over Western's responsibility, and suits were filed.

The settlement involved the litigation between Talman and Foremost. Litigation involving Empire continues. The Foremost spokesman said the company reported last year that its potential liability in the cases totaled $15 million.

A Talman spokesman confirmed the settlement; Bank Western could not be contacted.

Briefly noted

The Illinois Insurance Department has advised brokers that **Fielding Reinsurance Ltd.** of Turks & Caicos is not authorized or eligible as a surplus lines insurer in Illinois. Fielding Re is a unit of Kensu Holdings Inc. of Kansas City, Mo., which also owns Royal American Managers Inc. . . . Miami-based **International Medical Centers Inc.'s** 1986 tax records show that the troubled Medicare health maintenance organization paid more than $350,000 in legal and lobbying fees to former Reagan administration aides and more than $800,000 in legal and lobbying fees to former Health Care Financing Administration regulators, the St. Petersburg Times reported. . . . The **Canadian Insurance Exchange** Board of Governors approved the applications of the first four candidates to act as underwriting managers. The four named are: Syndicate & Corporate Managers Inc. of New York; Hunter Winn Underwriting Management Ltd. of Toronto; The Great Canadian Shield Underwriters Inc. of Toronto; and K.V.M. Resources Inc. of Toronto. . . . The **California's Workers Compensation Rating Bureau** is seeking a 12.2% rate increase, effective July 1. . . . An **omnibus insurance bill** that will increase regulation of insurers and mandate certain employee benefit coverages was passed by the Minnesota Legislature late last month and is expected to be signed by the governor this week (*BI*, April 20). . . . **John J. Lorhan** left as president of Rollins Burdick Hunter (Bermuda) Ltd., a captive management unit of Aon Corp., and is applying for a license to act as principal representative for international companies. Peter Last is acting president of RBH (Bermuda). . . . Congress should consider requiring all employers to offer **401(k) salary reduction plans** to their employees, the Congressional Budget Office says. . . . **Lloyd's of London's global profits** for 1984 will grow to 350 million pounds ($518 million at year-end 1986 exchange rates) from 179.1 million pounds ($259.7 million at year-end 1985), predicts a group of Lloyd's members that controls publishing company Chatset Ltd. . . . The Securities Industry Assn. plans to form an industry-owned insurance company to underwrite **broker/dealer blanket bonds** and related coverages for its members.

Asbestos firms win

Continued from page 1

gest number of insurers and producers with a single ruling.

In addition to GAF and Nicolet, the asbestos producers are: Fibreboard Corp., a unit of Louisiana-Pacific Corp., based in Portland, Ore.; and Armstrong World Industries Inc. of Lancaster, Pa.

Manville Corp. of Denver dropped out of the litigation after settling with all its insurers in late 1986 in the course of its bankruptcy proceedings.

Among the major insurers affected by the ruling are: Commercial Union Insurance Co., which insured GAF and Armstrong; American International Group Inc., which insured GAF and Armstrong; CNA Financial Corp., which insured GAF, Armstrong and Fibreboard; Prudential Reinsurance Co., which insured GAF; Employers Reinsurance Corp., which insured GAF; Travelers Corp., which insured Armstrong; Great American Insurance Co., which insured Armstrong; and Pacific Indemnity Co., which insured Fibreboard.

Just before Judge Brown's ruling, Fibreboard settled with AIG and The Home Insurance Co.

Judge Brown's ruling provides the asbestos producers with a broader trigger of coverage than the Wellington Agreement settlement.

Judge Brown said he based his ruling on the trigger of coverage on the "plain unambiguous meaning" of the policy and medical evidence.

He said he looked up the dictionary definitions of the words "bodily injury, sickness or disease," which are the terms used in the policy to define when an occurrence takes place. The dictionary definition indicated to him that there is bodily injury, sickness or disease from the time a person is first exposed to asbestos all the way through to the victim's death.

Based on medical evidence, "the injury continues to occur from exposure, after cessation of exposure, and throughout their lives," Judge Brown ruled.

Judge Brown said the coverage trigger in his ruling could be called "continuous," from date of exposure to date of claim or death, whichever occurs first.

He differentiated his ruling from all other rulings, noting that the result of his ruling was consistent with *Keene Corp. vs. Insurance Co. of North America* in 1981. However, that ruling, known as the triple-trigger theory of coverage, was based on a finding that the policy language was ambiguous.

In the San Francisco litigation, some insurers espoused the exposure coverage trigger theory, contending that only those insurers on a risk during the time a victim was exposed to or inhaled asbestos should respond to a claim.

Other insurers argued the manifestation theory, saying only those insurers on the risk when a disease is manifested, such as when an asbestos-related disease is diagnosed or is diagnoseable, are liable.

But policyholders argued that all insurers on the risk from the time a victim is exposed to asbestos through manifestation of a related disease are liable.

Agreeing with the policyholders, Judge Brown explicitly rejected the manifestation theory because the policy language does not discuss manifestation and because there is medical evidence that injury occurs at times other than manifestation.

He rejected the exposure theory because the inhalation of asbestos is not the sole injury, he said.

Regarding the insurers' duty to defend policyholders even after limits are exhausted by indemnity payments, Judge Brown ruled: "The policy language at issue clearly and unambiguously limits the insurers' defense obligations to claims brought prior to the exhaustion of applicable policy limits."

The asbestos producers had contended that the language of the pre-1966 policies provided unlimited defense. In 1966, policies were reworded to clearly state that the duty to defend is subject to the policy limits.

UNR loses jury trial over asbestos coverage

CHICAGO—UNR Industries Inc. has no liability coverage prior to June 1958 to respond to asbestos claims, according to a federal court jury ruling late last month.

The U.S. District Court jury found May 22 that two former liability insurers of asbestos defendant UNR did not provide coverage for asbestos-related claims against the company.

The jury also found that several former UNR primary insurers and a former broker did not commit fraud against the company.

In the first phase of litigation between UNR and several insurers, a jury found that National Surety Corp. of Chicago, a subsidiary of Novato, Calif.-based Fireman's Fund Insurance Cos., did not provide product liability coverage to UNR between 1945 and 1949.

The jury also found that endorsements limiting coverage in UNR primary liability policies written between 1949 and 1958 by Zurich Insurance Co., now of Schaumburg, Ill., were not inconsistent with certain Zurich practices.

And, the jury found that UNR's former broker —Corroon & Black of Illinois, a subsidiary of New York-based Corroon & Black Corp.—along with former primary insurers Zurich, Bituminous Casualty Corp. of Rock Island, Ill., and Continental Insurance Co. of New York, did not intentionally mislead UNR. The alleged misrepresentations involved liability insurance purchased in the mid-1970s and UNR's agreement with insurers on how defense and indemnification of asbestos claims would be handled.

An attorney for UNR expressed disappointment with the decision, but noted that the court still must rule on the company's allegations of bad faith against the insurers and negligence against Corroon & Black. Various claims against excess insurers also must be resolved, he said.

UNR filed for reorganization under federal bankruptcy laws in 1982.

Rejecting insurers' arguments that asbestos producers should share in the cost of claims and defense for periods that they were uninsured or self-insured, Judge Brown said that was not the intent of the parties at the time the policies were written. He also said the policy wording, case law and "considerations of fairness and practicality " supported his decision.

Judge Brown's ruling, which he said is subject to objections before it becomes a final judgment, comes in the third phase of the massive litigation.

The first phase of the trial dealt with "lost policies" and determined which insurers issued policies to producers and what the policies said.

A second phase determined that the exclusion for "asbestosis" in policies referred to all asbestos-related diseases and not just asbestosis.

A fourth phase is expected to deal with:

- Whether the pollution exclusion in policies applies to asbestos claims.
- Whether there is coverage for punitive damages.
- How much coverage is available if the policy was written for only a portion of the year.
- Whether claims stemming from one plant can be defined as one occurrence.
- Whether policyholders knew of asbestos dangers.

And, another phase of the trial is expected to resolve Armstrong's dispute with its insurers over coverage for claims brought against it by school districts and public entities seeking payment for the cost of removing asbestos from their buildings. ■

ICA probe

Continued from previous page

Two Connecticut agents received NARTA bulletins soliciting business for ICA, and the agents received quotes for three restaurant clients through Ideas, Packages and Programs, which NARTA identified as its broker, said Toby Doyle, legal counsel to the Connecticut Insurance Department.

The department is seeking a permanent injunction barring ICA from doing business in the state and blocking the three other defendants from soliciting business in Connecticut, Mr. Doyle said

He added that the Insurance Department has received copies of ICA certificates insuring the liability risks of three hazardous-waste hauling companies, one of which is based in Connecticut.

However, these certificates are not part of the Connecticut department's current action against ICA, Mr. Doyle said.

The Wisconsin department, meanwhile, issued a cease and desist order April 30 against ICA and several agents in the state.

Before the department reconsiders the cease and desist order, it will require ICA to provide a financial statement audited by a Big Eight accounting firm, according to Fred Nepple, the department's general counsel.

However, ICA has since said it would use Grau & Co., a West Palm Beach, Fla., accounting firm, Mr. Nepple said.

Mr. Johnson said in an interview that it would take too long to arrange for an audit by a Big Eight firm.

In a meeting last month with Mr. Johnson and other ICA representatives, the Wisconsin department was given an unaudited statement showing "certain assets" of ICA as of April 30, Mr. Nepple said.

The statement showed assets totaling $9.2 million. The largest assets were $5 million in reinsurance funds payable to ICA on demand, $2.2 million in cash held in a money market checking account and $1 million in reinsurance funds on deposit for payments of claims, Mr. Nepple said.

ICA officials provided reinsurance cover notes from Citicorp Insurance Brokers Ltd. of London showing two reinsurance contracts with Independence Insurance Co. of Bermuda, Mr. Nepple said.

One contract reinsures ICA for $150,000 excess of $50,000 for each loss or event, with total losses limited to 105% of premium paid on the contract, he said.

A second agreement provided reinsurance limits of $800,000 excess of $200,000 per loss with an annual aggregate of $5 million, he said.

ICA also provided a copy of a reinsurance contract with New England International Surety Inc., a Panamanian insurer that also provides coverage to Dyna Span policyholders.

New England International—unrelated to New England Reinsurance Corp.—reinsured ICA for 98% of ICA's retention up to a maximum limit of $10 million per risk for a 180-day period beginning Nov. 1, 1986, according to the contract, which says the agreement is subject to review at the end of 180 days.

A separate balance sheet given to ICA agents in Wisconsin and passed on to the Insurance Department showed total assets of $1.069 billion as of Jan. 31, Mr. Nepple said. The largest asset, he noted, was $1.066 billion in ICA deposits purportedly held by the states with accumulated interest since the early 1900s.

The schedule of deposits included with the 1911 court ruling shows $151,866 on deposit in Wisconsin, though Mr. Nepple said the state treasurer's office has no record of ever receiving the deposit.

The Jan. 31 balance sheet also shows $3 million in liabilities, including $1.7 million payable to an unnamed corporation owned by Mr. Johnson and $862,614 in unearned premiums, Mr. Nepple said.

The actions by the Connecticut and Wisconsin departments follow a Palm Beach County Circuit judge's ruling Feb. 10 enjoining ICA from operating in the state and enjoining Mr. Johnson and Mr. Scalise from conducting business on ICA's behalf.

ICA is appealing the decision to Florida's 4th District Court of Appeals.

ICA also sued the Florida department in U.S. District Court for the Southern District of Florida, seeking a temporary restraining order halting the Insurance Department's state court action and an injunction barring the department from interfering with ICA's activities.

A federal judge dismissed the complaint March 25.

ICA also is pursuing a complaint against the California department and the state public utilities commission in U.S. District Court for the Southern District of California in Los Angeles. The utilities commission suspended the licenses of a group of limousine operators after being informed by the Insurance Department that ICA is not an admitted insurer in the state.

The suit seeks to enjoin the California department from regulating ICA and seeks a declaratory judgment of ICA's rights under the two turn-of-the-century Delaware court decisions, according to Arthur de Goede, state assistant attorney general.

ICA also had requested a temporary restraining order against the Insurance Department, but a federal judge denied the request, Mr. de Goede said.

A hearing on the case is scheduled for June 15.

Separately, attempts to sell other insurance companies included in the 1911 court ruling are apparently continuing: A non-profit religious organization in Contra Costa, Calif., was recently approached for a second time about buying one of the insurance units.

Full Gospel Business Men's Fellowship International, a Christian business group, received a letter last month from an officer of a investment company offering to sell an unnamed insurer for $3.5 million, according to Peter Taylor, the organization's controller.

The letter—from Fred H. Quarles, a vp with Commonwealth Capital Corp. of Charlottesville, Va.—also offered additional information on the insurer for a refundable deposit of $1,000.

Mr. Quarles had written to the group last year offering to sell the charter of American Mining Insurance Co.—one of the 71 divisions of ICA, according to the 1911 court ruling—for $2 million, with $25,000 payable in advance, Mr. Taylor said.

Mr. Taylor said he forwarded the letters to the California Insurance Department. ■

A.C.E. 3-year prepaid premium

Continued from page 2

$100 million. A.C.E. recently began offering limits of as little as $20 million excess of $100 million, with additional limits available in $20 million increments (*BI*, March 30).

The minimum premium for limits of $20 million or $40 million excess of $100 million is now $60,000, while the minimum premium for limits of $60 million or $80 million excess of $100 million is $80,000.

The previous minimum premium for A.C.E. coverage—which assumed purchase of the then-maximum limit of $100 million excess of $100 million—was $100,000.

In addition, the reserve premium required of all non-shareholder policyholders—except those choosing the three-year prepaid option—has been reduced for those buying limits of less than $100 million.

Reserve premiums will now equal 100% of the first year's premium for the limits purchased up to a $100 million maximum. This means, for example, that a policyholder paying the minimum premium for a $20 million limit would have to pay a $60,000 reserve premium.

Previously, the minimum reserve premium of $100,000 was based on the assumed purchase of a full $100 million limit excess of $100 million.

The minimum premium and reserve premium modifications are intended to make A.C.E. more attractive to smaller policyholders, one A.C.E. official noted.

Meanwhile, A.C.E. also announced that Oasis—a unit of Cayman-based A.C.E. Ltd., A.C.E.'s parent company—has begun offering primary D&O coverage to international offshore companies. Oasis offers claims-made D&O coverage excluding corporate reimbursement up to $25 million and a minimum of $500,000.

The insurer also may offer excess D&O coverage to a policyholder that has its primary D&O coverage with another market, according to Basil M. Pimm, executive vp-administration for A.C.E. But Mr. Pimm added that Oasis will probably not write much excess coverage.

The Oasis policy does not cover prior acts and includes defense and other costs within policy limits. The insurer also offers a 90-day extended discovery period after cancellation or expiration of the policy for an additional premium equal to 50% of the annual premium, Mr. Pimm said.

Separately, X.L.—which offers excess general liability limits of $75 million excess of at least $25 million—has reduced its deposit premium requirement to attract smaller policyholders for whom the 100% deposit premium would have been a burden, Mr. Cooney said.

As X.L. attracts larger numbers of non-shareholder policyholders, it will also move closer to the point at which 80% of its income is derived from non-shareholders, making X.L. a non-controlled foreign corporation for U.S. tax purposes, Mr. Cooney added.

If X.L. becomes a non-controlled foreign corporation, its shareholders would not be currently taxed on their share of the insurer's income. The shareholders would pay taxes only when the income is repatriated to them.

However, X.L.—like A.C.E.—is far from deriving only 20% of its income from shareholders.

X.L.—which introduced the 100% deposit premium requirement for non-shareholders last November—will offer all current policyholders who paid the 100% deposit a cash refund of 75% of the deposit or will credit the refund against renewal premiums, Mr. Cooney said. He added that he does not know how much money will be refunded. ■

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Texas tornado damage mostly uninsured

By MICHAEL BRADFORD

SARAGOSA, Texas—There may not be much insurance in place to help the residents of a west Texas town that was swept away by a tornado, but assistance is pouring in from other sources.

The tiny community of Saragosa, designated a disaster area last week by President Reagan and Texas Gov. Bill Clements, is receiving more than just the state and federal aid that results from such a declaration: In the wake of the tornado that touched down May 22, killing 29 and injuring at least 150, contributions have swept in to help the residents rebuild the town and pay for victims' medical bills.

There are no official figures available on the amount of property damage wrought by the tornado. But an early, unconfirmed report attributed to the sheriff's department put the total at around $1.4 million.

"It was totaled," observed Gary Ingram, a deputy with the Reeves County Sheriff's Department.

A spokesman for the Property Claims Services division of American Insurance Services Group Inc. said the division would not issue a catastrophe number for the storm because it had determined that insured property damage would not exceed $5 million.

Spokesmen for state agencies that will supply financial assistance said representatives were at the site last week to survey the damage and determine how much relief aid could be allocated to the victims.

Saragosa is unincorporated and has no city government, noted Roy Prewitt, a partner with Pecos Insurance Agency in Dallas. The 300 low-income residents of the largely Hispanic community either farmed or worked in Pecos, 30 miles away.

The American Red Cross alone has committed $100,000 to the relief effort, and a spokeswoman in Dallas said donors from across the country have pledged $470,000.

In addition to those pledges and funds, truckloads of donated goods are being shipped from various Salvation Army locations, and other community organizations are collecting money and food for the relief effort.

Red Cross volunteers trained to assess damages were on the scene last week, and once amounts are finalized, funds will be released to the victims based on their needs, the spokeswoman said.

The Red Cross said that as many as 90 families were being placed in homes and hotels in nearby cities as federal and state agencies continued to assess damages.

Damage from the storm affected nearly everyone in Saragosa. Approximately 70% of the structures in the town, including 83 housing units and some commercial buildings, were destroyed, while many other buildings sustained at least some damage, according to the Red Cross.

One of the buildings destroyed by the tornado was Guadalupe Hall, which was filled with townspeople attending graduation exercises for pre-kindergarten schoolchildren when the tornado struck.

Guadalupe Hall, which was owned by a school district in Pecos and leased to the Head Start program for disadvantaged children in Saragosa, was insured for $140,000 under a policy written by Trinity Universal Insurance Co. in Dallas. The policy was placed by Pecos Insurance Agency Inc.

Apart from that building, there were only a handful of other commercial structures in Saragosa. A grocery store, bar and post office were all destroyed.

Q.A. Crenshaw, the owner of Crenshaw Insurance Agency in nearby Balmorhea, said he did not think there was any insurance coverage for any of the commercial buildings except Guadalupe Hall. He also speculated that very little homeowners insurance was written in the town.

"I had four claims," which amounted to around $60,000 for two small houses and two mobile homes that were destroyed, Mr. Crenshaw said.

Officials at the disaster scene were unable to say how many of the victims might have insurance to cover their property losses, but indications are that insurance was not an expenditure made by most of the low-income families.

"Very little was insured," said Mr. Prewitt. He estimated that fewer than than 10% of the residences in Saragosa were covered by insurance.

"I only had one (residential) claim, and I'm the largest agency in town," he noted.

Doug Mires, owner of Crawford Hughes Agency Inc. in Pecos, said he placed coverage on three houses, a mobile home and three or four automobiles that together will amount to no more than $150,000.



Photo: AP/Wide World

People pick through the rubble of what used to be an adobe home in Saragosa, Texas, in the aftermath of a May 22 tornado that virtually destroyed the tiny town.

On the Sunday following the tragedy, several hundred mourners gathered for a Mass where Our Lady of Guadalupe Mission had stood two days before.

The service was conducted by priests from the back of a flatbed truck parked near the rubble of the building. From the debris, a grim testament to the power that had ripped apart the church, a crucifix and statues of Jesus and St. Joseph had been salvaged for the service.

"We really haven't paid much attention to the physical structure of the church. We are paying more attention to the victims and survivors," said a spokesman for the Roman Catholic Diocese of El Paso said.

The question of whether the building could be rebuilt and whether it was insured "hasn't crossed any conversation," the spokesman said. "It's a little premature to consider if it could be reconstructed or if it will be altogether forgotten."

That decision "will be based on what the Saragosa residents plan to do," he added.

Once the final dollar amounts from the destruction are tallied, state and federal agencies will begin to provide funds for the victims.

George Darby, area director of the Small Business Administration's disaster assistance division in Grand Prairie, Texas, said last week that low-interest loans would be available for some of Saragosa's survivors.

The loans are available to individuals and businesses in the area that need the funds to help repair or replace properties to their "pre-disaster condition," Mr. Darby said.

The SBA loans are available only for amounts that are not covered by insurance. For example, said Mr. Darby, "if someone has a $40,000 loss and insurance covers $30,000, we will loan $10,000."

The loans carry a 4% or 8% interest rate, depending on the borrower's financial status and credit history, he explained.

Mr. Darby said that if reports about the income level of Saragosa's residents are accurate, he expects few loan applications. "I don't think there will be very many if the reports are correct," because it appears the victims would not have the ability to repay the loans, he said.

If applicants are rejected by the SBA, they can turn to a program financed jointly by state and federal agencies that provides grants of up to $5,000 to pay for damage to homes, household contents, autos and other needs, such as medical and dental care.

The grant is available from the Individual & Family Grant Program and is administered by the Texas Department of Human Services. To qualify, a disaster victim would have to fail to qualify for an SBA loan and be without other means of paying for serious needs, a spokeswoman for the department said.

Victims also may be eligible for help from the Federal Emergency Management Administration's Temporary Housing Program, which provides temporary housing for disaster victims while they are rebuilding their homes.

A spokeswoman for the Texas Employment Commission in Austin said the agency will provide temporary income for tornado victims left without work because of the disaster.

Payments under the program are basically the same as those provided by the state's unemployment insurance fund, she added. ■

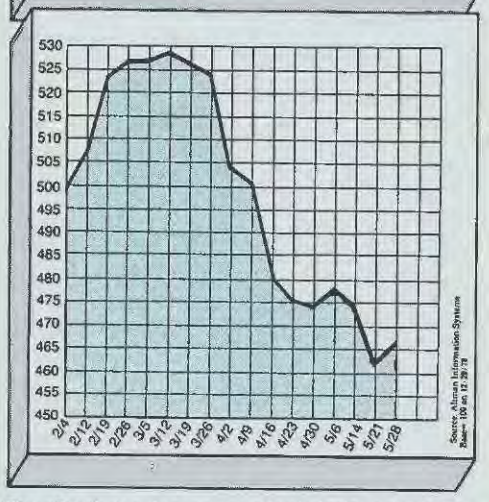
BI Industry Stock Report

May 28, 1987 5/22/87 thru 5/28/87

		Price	% Chg.	P/E	$ Div.	% Yld.	High	Low	Vol.(000)
Brokers									
Alexander & Alexander Svcs	NYSE	24.38	-3.9	29.0	1.00	4.1	24.88	24.00	914.5
Baldwin & Lyons Inc	OTC	18.50	-8.6	7.7	0.20	1.1	20.75	18.50	0.1
Corroon & Black Corp	NYSE	27.75	0.9	12.9	0.84	3.0	27.75	27.50	114.7
Gallagher Arthur J & Co	OTC	20.25	1.2	15.6	0.40	2.0	20.25	19.50	151.5
Hall Frank B & Co Inc	NYSE	12.88	-1.9	0.0	0.00	0.0	13.25	12.75	58.7
Marsh & Mclennan Cos Inc	NYSE	60.63	1.5	16.6	2.40	4.0	61.25	59.25	866.8
Poe & Assoc Inc	OTC	12.25	-2.0	15.5	0.40	3.3	12.50	12.25	2.2
AGENTS/BROKERS	AVERAGE			14.7		3.2			
Conglomerates & Holding Cos.									
Anderson Clayton(Ranger/PanAm)	NYSE	65.63	0.0	18.8	0.00	0.0	0.00	0.00	0.0
Armco Inc	NYSE	11.38	-4.2	0.0	0.00	0.0	12.25	11.38	919.5
Berkley W R Corp	OTC	26.75	4.9	9.1	0.28	1.0	27.00	25.75	277.8
Berkshire Hathaway Inc Del	OTC	3370.00	-0.3	111.9	0.00	0.0	3420.00	3370.00	0.3
CIGNA Corp	NYSE	59.50	3.7	8.5	2.80	4.7	59.88	58.00	662.4
CNA Finl Corp (CNA)	NYSE	51.00	3.3	11.6	0.00	0.0	52.13	49.88	112.6
General Re Corp	NYSE	50.88	2.5	15.6	1.00	2.0	51.75	50.00	1,517.3
ITT (Hartford Group)	NYSE	55.50	7.0	14.2	1.00	1.8	55.50	52.88	2,053.4
Sears Roebuck & Co. (Allstate)	NYSE	52.50	1.9	13.6	2.00	3.8	52.50	50.88	2,634.0
Transamerica Corp (Occidental)	NYSE	34.00	5.0	7.6	1.76	5.2	34.00	32.38	766.4
CONGLOMERATES/HOLDING COS.	AVERAGE			59.4		0.2			
Insurers									
Aetna Life & Cas Co	NYSE	57.50	1.3	8.8	2.76	4.8	58.13	57.00	1,963.3
American General Corp	NYSE	36.25	2.8	9.7	1.25	3.4	36.75	35.88	1,264.0
Amern Heritage Life Invt Co	NYSE	31.75	-31.0	16.0	0.96	3.0	45.75	30.88*	4.1
American Indty Finl Corp	OTC	13.75	-2.7	0.0	1.12	8.1	13.75	13.50*	10.9
American Intl Group Inc	NYSE	64.13	3.2	14.1	0.25	0.4	66.00	62.38	981.2
Aneco Reins Ltd	OTC	3.00	0.0	12.0	0.00	0.0	3.00	3.00	4.1
Avemco Corp	NYSE	42.38	-2.3	30.7	0.28	0.7	42.75	42.38	21.3
Business Mens Assurn Co Amer	OTC	26.38	-1.4	0.0	1.10	4.2	26.75	26.38	107.8
Chubb Corp	NYSE	58.63	2.6	9.3	1.68	2.9	58.75	57.13	410.0
Combined Intl Corp	NYSE	24.75	0.0	8.8	1.20	4.8	24.75	24.75*	37.9
Continental Corp	NYSE	44.13	7.3	10.0	2.60	5.9	44.13	41.75	667.1
Crown Life Ins Co	OTC	310.00	0.0	10.7	6.40	2.1	310.00	310.00	0.4
Durham Corp.	OTC	32.50	3.2	19.1	0.92	2.8	32.50	31.50	6.2
Farmers Group Inc	OTC	42.00	4.0	13.2	1.20	2.9	42.00	41.25	661.3
Fairmont Finl Inc	AMEX	17.63	0.0	9.9	0.00	0.0	0.00	0.00	0.0
Fireman Fd Corp	NYSE	36.00	2.9	12.4	0.40	1.1	36.00	35.00	576.7
Fremont Gen Corp	OTC	15.75	2.4	0.0	0.60	3.8	15.75	15.25	143.4
Great West Life Assurn Co	OTC	700.00	0.0	14.4	18.00	2.6	0.00	0.00	0.0
Home Group Inc	AMEX	19.63	1.9	5.0	0.20	1.0	20.00	19.25	255.6
Hanover Ins Co	OTC	30.00	0.0	7.2	0.36	1.2	30.25	29.50*	54.3
Harleysville Group Inc	OTC	15.13	0.0	4.7	0.40	2.6	15.13	15.00	28.6
Hartford Steam Boiler Insptn	OTC	31.50	10.5	13.7	1.00	3.2	31.50	28.75	100.2
Kans City Life Ins	OTC	27.50	0.0	10.6	0.96	3.5	27.50	27.50	6.0
Kemper Corp	OTC	30.13	5.7	10.4	0.60	2.0	30.13	28.25	382.8
Liberty Corp S C	NYSE	38.13	-0.3	13.7	0.72	1.9	38.38	38.13	9.2
Lincoln Natl Corp Ind	NYSE	49.25	2.3	10.4	2.16	4.4	49.25	48.63	357.1
Mission Ins Group Inc	PAC	1.63	0.0	0.0	0.00	0.0	4.38	0.69	6.2
Monumental Corp	OTC	55.63	0.0	18.8	0.00	0.0	55.63	55.63	1.1
Nac Re Corp	OTC	23.75	3.3	31.3	0.00	0.0	24.25	23.00	276.2
Nobel Ins Ltd	OTC	11.75	-2.1	8.8	0.37	3.1	12.25	11.75	181.2
Northwestern Natl Life Ins	OTC	25.13	2.6	7.2	0.96	3.8	25.38	24.75	100.9
Ohio Cas Corp	OTC	43.25	4.2	12.3	1.68	3.9	43.25	41.50	71.5
Old Rep Intl Corp	OTC	26.88	0.9	9.6	0.80	3.0	27.00	26.63	204.1
Orion Cap Corp	NYSE	21.00	0.0	0.0	0.76	3.6	21.00	20.00*	83.8
Protective Corp	OTC	14.38	5.5	11.7	0.70	4.9	14.38	13.63	80.4
Provident Life & Acc Ins Co	OTC	20.13	0.0	11.1	0.84	4.2	20.13	19.63*	175.7
St Paul Cos Inc	OTC	44.25	3.5	10.2	1.76	4.0	44.25	42.75	866.5
SAFECO Corp	OTC	56.25	2.7	10.4	1.92	3.4	56.50	55.00	357.8
Scor U S Corp	OTC	11.25	0.0	13.4	0.00	0.0	11.25	11.25	42.3
Selbels Bruce Group Inc	OTC	15.25	1.7	95.3	0.80	5.2	15.50	14.63	41.1
Selective Ins Group Inc	OTC	24.50	0.5	9.5	0.92	3.8	24.75	24.25	58.2
Statesman Group Inc	OTC	4.50	-1.0	0.0	0.05	1.1	4.63	4.50	101.8
Tokio Marine & Fire Ins Co	OTC	81.50	0.0	91.6	0.17	0.2	81.50	81.50	6.6
Torchmark Corp	NYSE	25.25	1.5	9.0	1.20	4.8	25.25	24.88	680.6
Travelers Corp	NYSE	43.88	2.3	9.4	2.28	5.2	44.00	43.00	727.2
Trenwick Group Inc	OTC	15.75	3.3	26.7	0.00	0.0	15.75	15.00	197.6
United Fire & Cas Co	OTC	28.25	0.0	9.0	0.96	3.4	29.00	28.25	2.3
United States Fid & Gty Co	NYSE	39.13	1.6	9.4	2.48	6.3	39.88	38.88	1,293.1
Unum Corp	NYSE	23.38	5.6	0.0	0.40	1.7	23.38	22.13	403.5
Uslife Corp	NYSE	37.13	6.1	9.5	1.20	3.2	38.00	36.75	141.4
Washington Natl Corp	NYSE	24.25	2.6	12.5	1.08	4.5	24.63	23.50*	38.3
Zenith Natl Ins Corp	OTC	20.75	-1.2	12.0	0.80	3.9	21.00	20.00	103.6
INSURANCE COMPANIES	AVERAGE			12.2		2.7			

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BI Insurance Index



The *Business Insurance* stock index closed at 466.9 on May 28, up slightly more than three points from 463.6 on May 21. Out of 63 insurance industry stocks monitored, 34 posted gains, 14 declined and 15 remained unchanged at the end of the period. Leading advances were posted by: Hartford Steam Boiler Inspection & Insurance Co., up 10.5%; Continental Corp., up 7.3%; USLIFE Corp., up 6.1%; and Kemper Corp., up 5.7%. Declining stocks for the period were led by: Baldwin & Lyons Inc., down 8.6%; Tokio Marine & Fire Insurance Co. Ltd., down 6.6%; Alexander & Alexander Services Inc., down 3.9%; and American Indemnity Financial Corp., down 2.7%. The *Business Insurance* index climbed only 0.7% for the period, trailing the leading stock market indicators.

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