

# business insurance

## \$28 million award reversed in landmark antitrust case

CHICAGO—A U.S. District Court judge in Chicago has reversed a landmark \$28.5 million antitrust and civil rights jury verdict awarded a developer against Lake County and the village of Grayslake, Ill., and several of their elected officials.

U.S. District Judge Nicholas J. Bua ruled March 19 that the verdict reached Jan. 12, 1984, was legally unsustainable and unsupported by evidence.

*Continued on next page*

Reporting weekly for corporate risk, employee benefit and financial executives/\$1.50 a copy; \$60 a year

Entire contents copyright 1986 by Crain Communications Inc. All rights reserved.

## Newest tax proposal better for employers

By JERRY GEISEL

WASHINGTON—Tax legislation proposed by Senate Finance Committee Chairman Robert Packwood, R-Ore., is a vast improvement over the House tax bill, benefit experts say, though it still would require employers to make dramatic benefit changes.

"The proposal is a step in the right direction, but it still needs many improvements," said Mark Ugoretz, executive director of the ERISA Industry Committee, a Washington-based benefits lobbying organization.

"The bottom line is that the Packwood proposal is a significant improvement on benefit issues compared to where the House came out," added Edward J. Davey Jr., vp-research department at Johnson & Higgins in New York.

"On balance it is a better bill than the House proposal, but it certainly isn't as good as current law," said Stuart Brahs, executive director of the Assn. of Private Pension & Welfare Plans in Washington.

Benefit experts are encouraged that the Packwood proposal, which the Finance Committee began to consider last week, would permit continued increases in the maximum benefits offered by defined benefit plans and gradual increases in maximum contributions to defined contribution plans.

By contrast, the House tax bill, H.R. 3838, calls for slashing the maximum benefits offered by defined benefit plans and maximum contributions to defined contribution plans.

Like the House bill, the Packwood proposal reduces the maximum annual individual deferral to a 401(k) salary plan to \$7,000, compared with the current \$30,000 limit.

In addition, employee contributions to Individual Retirement Accounts would be reduced dollar for dollar for 401(k) deferrals exceeding \$5,000. Under the House bill, IRA contributions would be reduced by any amount deferred to a 401(k) plan.

Under current law, 401(k) deferrals do not limit an employee's ability to contribute to an IRA.

*Continued on page 29*

## Battle lines drawn in fight over Risk Retention Act

By JERRY GEISEL

WASHINGTON—The outcome of a major battle that is developing between buyers and insurance agents could determine whether organizations will be able to tap an expanded Risk Retention Act to cover their liability needs.

Late last month, Sens. Robert Kasten, R-Wis., and John Danforth, R-Mo., introduced legislation, S. 2129, to permit businesses, trade groups and municipalities to purchase all forms of commercial casualty coverage—except workers compensation—as a group or to form a captive insurer to pool their risks (BI, March 10).

These groups would be largely exempt from state regulation under an expanded Risk Retention Act. The current Risk Retention Act, enacted by Congress in 1981, gives this freedom from state interference only to groups established to purchase or self-insure product liability and completed operations coverage.

The Senate Commerce Committee is scheduled to vote on the Kasten-Danforth bill this week. But, the bill has alarmed insurance agent trade groups, which have sprung into action and are drafting amendments to the legislation that buyers say would kill the Risk Retention Act.

Under one proposal discussed by the Independent Insurance Agents of America, the Professional Insurance Agents of America and the National Assn. of Casualty & Surety Agents, organizations wanting to set up risk retention groups first would have to prove to state insurance commissioners that commercial insurance was not available on reasonable terms from admitted or licensed insurers.

Each state insurance commissioner would have the

discretion to determine the meaning of "reasonable terms." If a commissioner decided commercial insurance was available, a risk retention group could not operate in that state, under the agents' proposal.

The agent trade groups and insurers, which are sympathetic to the agents' proposal, say restrictions need to be placed on risk retention groups.

They argue that such a proposed broad expansion violates the principle of the original Risk Retention Act: An exception to traditional state regulation of insurance would be provided in a specific line—product liability—where market problems could continue indefinitely.

"There should be a recognition that risk retention groups should remain a somewhat limited exception to the existing insurance market," said Patricia Borowski, vp—government and industry relations for the PIA in Alexandria, Va.

Lawrence Herman, Washington counsel for the IIAA in Washington, says a "needs" test is necessary to protect agents who direct clients to risk retention groups.

He says agents could have an errors and omissions exposure if a risk retention group failed and a buyer in the group showed coverage was available in the commercial market.

But buyers charge that the agents' proposal would gut the act by creating a bureaucratic nightmare for employers wanting to set up risk retention groups.

"Each state insurance commissioner could set up different definitions of what is reasonably unavailable," said Jon Harkavy, general counsel and director of governmental affairs for the Risk & Insurance Management Society in New York.

*Continued on page 26*

**'Survey after survey shows that virtually no business has been immune from drastic premium hikes,' says RIMS' Mr. Harkavy.**



## THE NEW TAX BILL

## Officials seek more money for Mentor

By KATHRYN J. MCINTYRE

HAMILTON, Bermuda—More money could be pumped into the insolvent Mentor Insurance Ltd., which is now in liquidation in Bermuda.

Court-appointed liquidators are suing Mentor's parent, Ocean Drilling & Exploration Co., and several ODECO and Mentor officers to force ODECO to cover the estimated \$500 million Mentor insolvency.

At the same time, ODECO and liquidators currently are negotiating an offer made in December to reduce Mentor's liabilities, and the suit ultimately could be dropped.

ODECO offered a proposal to the liquidators "which might see the settlement of the company's liabilities to its insurance industry creditors on terms more advantageous than might otherwise be the case if a liquidation were to proceed to a conclusion," the liquidators reported to creditors earlier this month.

Liquidator Charles W. Kempe Jr. in Bermuda told *Business Insurance* that negotiations with ODECO continue despite the filing of the lawsuit to force ODECO to cover the insolvency.

Also named in the lawsuit, filed in U.S. District Court for the Eastern District of Louisiana, is Bermuda-based Pinnacle Reinsurance Co., which underwrote three reinsurance contracts for Mentor.

The liquidators filed the suit March 3 "in order to preserve existing rights of action," Mr. Kempe stressed, citing a statement in a March 12 memo to Mentor's creditors.

"We are prepared to move to a speedy trial," he added, "but settlement is an alternative."

ODECO last year wrote off Mentor as a discontinued operation, taking a \$36.2 million charge (BI, May 6, 1985). It also told shareholders that it did not intend to put any more money into the company.

Mentor is the only captive of a Fortune 500 company to be placed in court-ordered liquidation at the request of the Bermuda government. It is also the first time that a liquidator has sought payment from a parent company to cover an insolvency.

The Bermuda government sought liquidation after ODECO wrote off its investment in Mentor and announced it intended to move the runoff of its business to New Orleans. At that time, ODECO maintained that investment income on Mentor's loss reserves would cover the company's ultimate liabilities.

However, the Bermuda government disagreed and filed for liquidation, which kept the runoff in Bermuda (BI, June 17, 1985; July 8, 1985).

Mentor was one of the largest Bermuda-based underwriters of commercial insurance and reinsurance business. Its 1984 earned premiums totaled \$78.8 million.

ODECO already has settled with five

banks that had issued letters of credit totaling \$110 million on behalf of Mentor. ODECO has agreed to pay the banks over eight years all debts plus interest and attorneys' fees on the LOCs if they are drawn down by ceding companies to cover claims payments due them.

Ceding companies had already drawn down \$66 million and if the liquidation were to proceed "the day will arrive when the \$110 million will be there," Mr. Kempe predicted.

The settling banks include Manufacturers Hanover Trust Co., Morgan Guaranty Trust Co. of New York, BankAmerica International, First City National Bank of Houston and Irving Trust Co.

With the exception of Irving Trust, these banks were members of the committee of inspection that is overseeing the liquidation. All of the banks except BankAmerica have resigned from the committee.

*Continued on page 4*

**Inside: Insurer results not as bad as they look...Page 3**

## update

## Grayslake award is reversed

Continued from previous page

The jury's award of \$9.5 million, which was tripled under antitrust law to \$28.5 million, was a main impetus behind passage of the Local Government Antitrust Act of 1984 (BI, Oct. 14, 1985). The federal law makes local governments and officials immune from monetary damages and attorneys' fees and costs in antitrust litigation. It took effect Sept. 10, 1984, although a judge can decide to apply it retroactively.

The original case involved an agreement between Lake County and Grayslake that allowed the village to help decide what connections could be made to the county's new regional sewer system.

Developer William Alter, whose proposed 576-acre development was adjacent to Grayslake, alleged the defendants conspired to block the development by denying it access to the sewer system. Other plaintiffs were LaSalle National Bank and Unity Ventures.

Although Judge Bua refused to apply the 1984 antitrust act retroactively, he found defendants' activities to be a "state action," which could not be challenged under antitrust laws. He also ruled that the agreement between the municipalities "fell within the authorized cooperation between municipalities and counties found in the Illinois statutes" and that the plaintiffs failed to prove any injury to competition.

The judge also reversed the jury's civil rights verdict, holding that the evidence was insufficient. In addition, Judge Bua found the public officials were entitled to qualified immunity from damages relating to possible violations of plaintiffs' civil rights.

Grayslake had no insurance coverage to pay the award, said Clifford L. Weaver, an attorney for the defendants with the Chicago-based firm of Burke, Bosselman & Weaver. Lake County had a small policy in effect at the time, he said, but no determination had been made about whether the policy would pay the award.

Plaintiffs' attorneys could not be reached for comment.

## Armco unit in rehabilitation

BLUE ASH, Ohio—The Ohio Insurance Department has placed American Druggists' Insurance Co., a member of the Armco Insurance Group, into rehabilitation, according to James M. Young, deputy rehabilitator with the department.

American Druggists' records showed a negative surplus of \$26.3 million and an operating loss of \$16.3 million at year-end 1985, according to Mr. Young. He added the department expects to decide in a few weeks if the insurer can be rehabilitated.

The insurer was in a runoff position in 1985. According to company figures, it wrote direct premiums of \$293,000, mostly surety business.

Mr. Young said that although "not one single item" led to the rehabilitation, a major factor was that American Druggists' fronted for two insurance companies, Columbus Insurance Co. and Guard Casualty & Surety Co., in states where they were unlicensed. The companies are now in liquidation in Ohio and Indiana respectively.

Another factor was that American Druggists' had reinsurance recoverables due from many overseas reinsurers, some of which no longer are in business, said Mr. Young.

## Pressure to extradite Dixon

LONDON—Pressure is building in Britain to bring charges against former Lloyd's of London underwriter Peter Dixon and extradite him from the United States. Mr. Dixon and his American wife live in Warrenton, Va.

British Attorney General Sir Michael Havers told the House of Commons last week that he hopes soon "to apply for an extradition order" against Mr. Dixon. But, charges first must be brought against Mr. Dixon in Britain, a spokesman for Sir Michael said.

Mr. Dixon and Peter Cameron-Webb, former chairman of PCW Underwriting Agencies Ltd., have been accused of misappropriating \$55 million of PCW syndicate funds.

Lloyd's is seeking payment of a \$1.46 million fine against Mr. Dixon, who was expelled from Lloyd's last year. And, PCW members are seeking \$10 million they say Mr. Dixon owes them.

"The investigation coordinated by the fraud investigation group set up by the Department of Public Prosecutions for that purpose continues to be vigorously pursued," Sir Michael told the House of Commons. But, he would not speculate on when charges actually might be brought.

Sir Michael also cautioned that U.S. authorities can be slow in dealing with extradition requests. But Lloyd's, which has been highly critical of the government's failure to bring charges in the PCW case, noted that, "the Americans have not yet been asked."

## Decision expected on Protective

OMAHA, Neb.—Nebraska Insurance Director Michael J. Dugan will decide this week if Protective National Insurance Co. of Omaha

Continued on page 30

## index

|                                                                  |    |
|------------------------------------------------------------------|----|
| A.R.M. exercises                                                 | 20 |
| Classifieds                                                      | 28 |
| Comings&goings: buyers                                           | 22 |
| Insurance services guide                                         | 30 |
| Letters                                                          | 8  |
| Opinions                                                         | 8  |
| Perspectives                                                     | 19 |
| Ticker                                                           | 3  |
| Vol. 20, No. 12—Business Insurance (ISSN 0007-6864) is published |    |

weekly at 740 Rush St., Chicago, Ill. 60611. Second-class postage is paid at Chicago, Ill., and at additional mailing offices. Postmaster: Send address changes to Business Insurance, Circulation Department, 965 E. Jefferson Ave., Detroit, Mich., 48207; 313-446-1611. Copyright 1986 by Crain Communications Inc.

## Judge rules insurers must pay defense costs in dioxin suits

By STEPHEN TARNOFF

WASHINGTON—Five primary insurers for a petrochemical marketer must pay defense costs in hundreds of lawsuits stemming from the spreading of dioxin in Missouri, a federal judge has ruled.

The contamination at various sites by dioxin, a highly toxic substance, allegedly caused billions of dollars in bodily injury and property damage.

In a decision last month, U.S. District Judge Thomas Flannery said each primary insurer was liable for defending Independent Petrochemical Corp. and its parent companies for all claims because the claims were potentially covered under the policies.

Only if the insurers could show the policies were negated by fraud or some other exclusion, or if no part of the alleged bodily injury or property damage process could have occurred during the policy period, could insurers avoid the duty to defend, Judge Flannery said.

He also declined to rule on which policies must indemnify IPC until he determines which state law applies and the applicable coverage theory under that state law.

Primary insurers since have filed a motion to reconsider Judge Flannery's order on the ground IPC must show it complied with notice and disclosure obligations before it can obtain a ruling on the duty to defend, an attorney said last week.

At stake are potentially billions of dollars in defense and indemnification costs arising out of litigation

against IPC and various other defendants from the spraying of dioxin at more than 40 sites in Missouri in 1971.

The litigation includes claims brought by residents of Times Beach, Mo., who were forced to evacuate their homes after the dioxin was discovered.

IPC and its parents, Charter Oil Co., and The Charter Co., have in turn sought coverage from 23 insurers that sold it 67 primary comprehensive general liability and excess policies from 1971 to 1983. IPC paid more than \$10 million for the policies, which provided coverage of approximately \$1.115 billion for each occurrence of bodily injury and property damage.

IPC primary insurers in the litigation are Aetna Casualty & Surety Co., Continental Insurance Co., Insurance Co. of North America, The Travelers Indemnity Co. and Hartford Accident & Indemnity Co.

Judge Flannery dismissed a sixth alleged primary insurer, Pacific Indemnity Co. from the litigation, ruling it did not insure IPC or its parent companies.

IPC is a wholly-owned subsidiary of Charter Oil Co., which is owned by The Charter Co., all of which have been named in the underlying dioxin litigation. In April 1984, The Charter Co. filed for Chapter 11 reorganization in Jacksonville, Fla.

The litigation against IPC, Charter and the other defendants follows a 1971 arrangement between IPC and a Missouri waste-oil hauler to remove waste material for one of IPC's customers, Northeastern Pharmaceuti-

Continued on page 26

## A&amp;A head urges action to restore faith of buyers

By STACY SHAPIRO

LONDON—Insurance buyers may abandon the commercial insurance market forever if insurers and brokers do not act quickly to restore their confidence, says the chairman of the world's second-largest broker.



Mr. Bogardus

"We are faced with an angry shell-shocked clientele," John A. Bogardus Jr., chairman and chief executive officer of New York-based Alexander & Alexander Services Inc. told a group of London brokers and underwriters during a speech earlier this month sponsored by the Insurance Institute of London.

"Having experienced the negative impact of higher costs for two years, combined with decreased coverage and capacity, clients are often hostile. Any loyalty toward broker or insurer is subordinate to their own self-interest," he said.

Mr. Bogardus believes that most

Continued on page 21

## A&amp;A's results for 1985 show \$7 million net loss

By LINDA J. COLLINS

NEW YORK—Alexander & Alexander Services Inc. has ended another year with a loss.

While its operating revenues for 1985 were up 15.9% to \$913.6 million from a restated \$788 million in 1984, the nation's second largest brokerage incurred a \$7.3 million net loss in 1985. In 1984, the brokerage reported a restated \$47.2 million operating loss.

Because of its acquisition of Canadian brokerage Reed Stenhouse Cos. Ltd., A&A has restated its 1984 figures to reflect the revenues and income of both operations.

Two factors contributed to the brokerage's 1985 loss.

A&A incurred \$20.5 million in merger-related expenses as a result of its acquisition of Reed Stenhouse in July 1985. In addition, A&A added \$52 million to the reserves of its discontinued underwriting operations to cover claim liabilities and doubtful reinsurance recoverables.

According to a company spokeswoman, a "good portion" of the costs related to the Reed Stenhouse merger "was related to getting both of our accounting systems in sync and in culling out redundant expenses" between the two operations. She added that the merger expenses should now be behind A&A.

But John E. Keefe, a securities analyst with Drexel Burnham Lambert Inc. in New York, was a little less optimistic. "The newly combined operations are just not performing like some of the competitors in the marketplace," he said.

It is difficult for A&A to determine if it will incur additional losses to its discontinued underwriting operations. These are units that were disposed of in 1982 when A&A purchased Lon-

Continued on page 25

## DES makers entitled to cover: Court

By STEPHEN TARNOFF

HARTFORD, Conn.—Four pharmaceutical companies are entitled to coverage for DES claims from their primary insurers when injuries are proved to have occurred during the policy period, a federal judge says.

The Feb. 14 ruling by U.S. District Judge Jose Cabranes followed a decision handed down by the 2nd U.S. Circuit Court of Appeals in *American Home Products vs. Liberty Mutual Insurance Co.* in 1984 (BI, Dec. 17, 1984; July 4, 1983). Connecticut is in the 2nd Circuit.

In doing so, Judge Cabranes rejected various arguments by insurers and policyholders that coverage should be based upon manifestation of a DES-related disease in the daughter of a woman who took the anti-miscarriage drug; from the time of ingestion through manifestation; or according to the date of birth of the person suffering the injuries.

Judge Cabranes also ruled that the insurers owed the pharmaceutical companies a defense in every suit by a DES plaintiff in which the companies can show that the complaint involves an injury that allegedly occurred during the policy period—an "injury in fact."

He also gave the parties until March 10 to come up with a procedure for determining whether the insurers breached their duty to defend DES cases that the phar-

maceutical companies have settled or disposed of on their own.

The parties have sought an extension of time from the court to file those procedures, and attorneys said they expected the request to be granted.

Judge Cabranes' decision came in a declaratory judgment suit brought by Aetna Casualty & Surety Co. against pharmaceutical companies Abbott Laboratories Inc. of North Chicago, Ill.; Parke-Davis & Co. of Morris Plains, N.J.; William H. Rorer Inc. of Fort Washington, Pa.; and The Upjohn Co. of Kalamazoo, Mich.

Parke-Davis then brought its additional primary insurers, Continental Insurance Co. and Hartford Accident & Indemnity Co., into the suit as third-party de-

Continued on page 22

## errors &amp; omissions

• A story in the March 17 issue incorrectly reported that the National Assn. of Insurance Brokers endorsed legislation, S. 2129, to expand the federal Risk Retention Act. The NAIB supports the general concept of expanding the Risk Retention Act, but has not endorsed a specific bill.

# 1985 results not all that bad: Analysts

| Best combined ratios         |        |        |
|------------------------------|--------|--------|
| Insurer                      | 1985   | 1984   |
| Hartford Steam Boiler        | 94.7%  | 115.9% |
| American International Group | 106.1  | 109.8  |
| Chubb Corp.                  | 106.3  | 109.4  |
| Ohio Casualty Corp.          | 109.2  | 113.2  |
| SAFECO Corp.                 | 110.5  | 110.2  |
| Worst combined ratios        |        |        |
| CIGNA Corp.                  | 149.4% | 128.8% |
| The Home Group               | 137.6  | 140.6  |
| Fremont General Corp.        | 133.8  | 130.2  |
| Commercial Union (U.S.)      | 128.4  | 128.1  |
| Wausau Insurance Cos.        | 124.3  | 132.7  |

Source: BI survey Chart: Amy Palmer

**By JUDY GREENWALD**

NEW YORK—The property/casualty insurance industry's 1985 operating results are really a lot better than they look, analysts say.

On the surface, the industry's profit picture remains bleak. *Business Insurance's* survey of major property/casualty insurers found aftertax operating income plunged 21.6% in 1985 to \$1.3 billion.

But analysts point out the industry's sudden downturn in the fourth quarter was primarily caused by reserve additions, particularly CIGNA Corp.'s \$1.2 billion reserve boost and Continental Corp.'s \$220 million addition (*BI*, Feb. 10).

Once the reserve additions and the unusually high level of catastrophe losses are taken into consideration, the results were not all that bad, analysts contend.

"Overall, the underlying tone was very positive," says Michael A. Lewis, vp and financial stock analyst at New York-based E.F. Hutton. Premium growth and investment income continued to grow as premium rates continued to rise, he notes.

Other analysts agree. Year-end results "represent the trough, and things are on the upswing," says Frederick V. Hill, principal

at New York-based Derby Securities.

"The fundamentals are still getting better for the group," says Gloria L. Vogel, vp at Legg Mason Wood Walker Inc., who is based in New York.

Those "fundamentals" are setting the stage for a profit rebound in 1986, say some analysts and company officials.

"We think it will definitely be a recovery year," says Sean Mooney, vp at the Insurance Information Institute.

"Basically, I think we're feeling that the actions that we're taking are starting to take hold," says Bernard C. Hlavac, vp and treasurer of Sentry Insurance Cos. Because of a "poor start" in 1985, notes Mr. Hlavac, Sentry reported a \$9.5 million loss for the year, despite an \$11.9 million fourth-quarter operating profit.

"We think '86 ought to be an improved year for us," says Donald R. Frahm, president and chief operating officer of the Hartford Insurance Group.

The *BI* survey—which does not include results from Mission Insurance Group Inc., USF&G Corp. and Old Republic International Corp., which have not yet reported—shows insurers' results are improving in several areas:

## ticker

Continued on page 30

## PBGC head warns pending legislation is not a panacea

**By JERRY GEISEL**

WASHINGTON—Legislation awaiting final congressional approval to shore up the financial base of the Pension Benefit Guaranty Corp. is not a panacea for the agency's problems, its executive director says.

However, Kathleen Utgoff described the PBGC provisions in pending budget legislation as "clearly a step in the right direction" when she spoke earlier this month at a National Employee Benefits Institute conference in Washington.

The Senate and House have approved separate versions of the budget legislation, H.R. 3128. The differences are expected to be resolved soon in a congressional conference committee.

The measure also would require employers to open their group health insurance programs to employees' widowed and divorced spouses and to workers who stay on the job after age 69 (*BI*, March 10).

While Ms. Utgoff welcomes provisions in the measure that boost the PBGC insurance premium and make it more expensive and difficult for employers to terminate underfunded pension plans, she says the measure will not put the agency on sound financial footing.

Even if Congress approves the proposed boost in the annual insurance premium paid by employers with defined benefit plans to \$8.50 per plan from the current \$2.60, the agency's deficit, now estimated at \$1.5 billion, will not be eliminated, Ms. Utgoff said.

The PBGC estimated the amount of premium increase needed to reduce its deficit before it was hit with two enormous terminations: the folding of pension plans sponsored by Wheeling-Pittsburgh Steel Corp., whose liabilities may exceed its assets by about \$500 million; and by Allis-Chalmers Corp. of Milwaukee, Wis., which has unfunded liabilities of \$165 million, according to Ms. Utgoff.

Aside from an inadequate premium increase, the budget legislation doesn't give the PBGC the power it wanted to stop employers from dumping their pension liabilities onto the agency, Ms. Utgoff said.

**'The debate (on the PBGC legislation) was dominated by those who didn't want reform,' the PBGC's Ms. Utgoff says.**

Continued on page 15

## Dialing for flex dollars

### Telephone company switches benefit plans

**By DONNA DiBLASE**

NEW HAVEN, Conn.—Employees at Southern New England Telephone can ring up additional retirement income under the company's new flexible benefits plan.

The plan, which will take effect April 1, includes a retirement income supplement program, under which SNET employees can purchase annuities that will provide them with additional monthly income when they retire.

SNET's flexible benefits plan is the second phase of the company's benefit revisions for its 4,000 salaried management employees.

The first phase of the utility's benefit changes went into effect Jan. 1, 1985, with a switch from a first-dollar medical plan to a comprehensive plan that includes deductibles and copayments.

"In 1984, we decided that a first-dollar coverage plan was not good for making good health care consumers of our employees," said Jeanne Kardos, division manager in charge of employee benefits for SNET.

SNET saved about 15% to 20% on medical benefit costs last year because of the switch, she added.

But, she said, "since cost containment was included in the first phase of our revisions, this was not our objective in going to flexible benefits. We decided flexible benefits was the best way to meet the needs of all employees."

Mike Jones, a partner and actuary in the Rowayton, Conn., office of Hewitt Associates who helped design the plan, agrees.

"A number of organizations over the past two years have gone into flexible compensation to save money in the immediate sense. SNET has not really cut back on benefits" by introducing the flexible



Graphic: Amy Palmer

plan, he said.

Ms. Kardos said that, because employees were skeptical about any more benefit changes, SNET's flexible benefits plan was communicated as a change that would include the current benefits—in addition to choices—without any reductions (see story, page 24).

"Typically, in a flexible benefits plan, you take away all of the benefits, give employees a pocket of dollars and offer them the opportunity to buy their benefits back," she said.

"In our plan, we say 'here are your current benefits. If you don't want this high coverage, you can change it and earn dollars to buy the coverages you need.' This was a critical design element of our plan," she added.

But, along with the usual benefit choices offered by a flexible plan, SNET's program also gives employees the opportunity to purchase a monthly retirement income supplement, in addition to benefits

Continued on page 23

# NAIC to fight loss reserve discounting

**By ROBERT A. FINLAYSON**

SAN FRANCISCO—The National Assn. of Insurance Commissioners staunchly opposes the discounting of loss reserves and will try to persuade Congress not to require loss reserve discounting for tax purposes.

"Our position has always been—and still is—that discounting of loss reserves is not in compliance with statutory accounting procedures," says Josephine M. Driscoll, president of the NAIC and Oregon insurance commissioner.

Commissioner Driscoll says state insurance regulators wanted to reaffirm their opposition to loss reserve discounting at NAIC's Western Zone meeting, held March 9-12 in San Francisco, because of proposals in Congress that would require loss reserve discounting for tax purposes.

She says regulators are also concerned about CIGNA Corp.'s plan to partially discount the \$1.2 billion addition to its prop-

erty/casualty loss reserves (*BI*, Feb. 24).

Commissioner Driscoll says regulators were surprised and disturbed by the insurance industry's recent decision to reverse itself and support discounting of loss reserves.

Traditionally, insurers have opposed discounting of loss reserves, and, in fact, last year fought a Treasury Department proposal to require loss reserve discounting for tax purposes.

However, insurer trade groups decided in early February to change their position and support a modified reserve discounting requirement for tax purposes.

That proposal is contained in a tax overhaul plan developed by Sen. Robert Packwood, R-Ore., chairman of the Senate Finance Committee (see story, page 1).

But while Congress is primarily interested in reserve discounting because of the revenue it would raise, state insurance regulators fear discounting could threaten existing protections designed to prevent insurance com-

pany insolvencies.

"Very simply, reserve discounting decreases the assets that are set aside for future losses in anticipation that future investment income will be sufficient to fill the gap. We don't feel it is appropriate to take credit for something that may or may not develop in the future," Commissioner Driscoll says.

Maryland Insurance Commissioner Edward J. Muhl, chairman of NAIC's executive committee, says insurance commissioners are very concerned about the insurance industry's shift in position on loss reserve discounting.

"Discounting of loss reserves flies in the face of solvency regulation," Commissioner Muhl says. "This is a very dramatic change by the industry. And we're very concerned about that."

The NAIC will "do everything within our power to convince Congress and others not to go with discounting," he adds.

California Insurance Commissioner Bruce

Continued on page 10

## ODECO suit

Continued from page 1

Mr. Kemp said as of March 14 he had not yet received word that BankAmerica was resigning. A BankAmerica spokesman did not return telephone calls.

The vacant seats will be filled at the next creditors' meeting in September.

According to the memorandum sent to the creditors, the agreement between ODECO and the banks settles "any and all claims and causes of action" between ODECO and the banks involving Mentor.

Last year, two of the banks—BankAmerica International and First City—filed suit against ODECO seeking reimbursement for the amounts paid by the banks under the letters of credit. The suits also sought \$75 million in punitive damages.

The lawsuit filed by Mentor's liquidators against ODECO, several of its officers and Pinnacle seeks:

- Damages under the Racketeer Influenced & Corrupt Organization Act.

- Compensatory and punitive damages for common law fraud.

- In the alternative, damages for negligent representation.

The complaint also seeks damages from ODECO in the amount of the net deficiency of Mentor, arguing that ODECO exercised complete dominion and control over Mentor and that the corporate veil should be pierced.

And, the suit seeks to hold certain Mentor officials personally liable for the deficiency, citing a

Bermuda law.

The liquidators do not expect to know until September how big the insolvency is, but in the complaint they estimate it at \$500 million.

The alleged fraud involved two reinsurance contracts with Pinnacle for which Mentor took credit on its balance sheets without disclosing that side agreements existed that Pinnacle would not pay any reinsurance claims for 10 years from each policy inception.

Pinnacle specializes in financial reinsurance contracts, including loss portfolio transfers and runoff contracts.

Pinnacle has written both scheduled reinsurance contracts, under which the time and amounts of payments are predetermined, and timing risk contracts, under which the claims are paid as reported. The type of contract written depends upon the client's request.

As a result of the Pinnacle contracts, Mentor reported net income in 1982 of \$8.5 million, instead of a \$2.5 million loss, and a net loss of \$56,000 in 1983, instead of a \$7.7 million loss, the lawsuit says.

"If Mentor's true financial position had been revealed in its financial statements, it would not have incurred hundreds of millions of dollars in debt to the individuals, brokers, insureds, reinsureds, banks and other entities which wrote business with and extended credit to Mentor from February 1983, the date Mentor's 1982 year-end financial statements (were released), to the date of liquidation," the lawsuit alleges.

The liquidators estimate that net

debts and liabilities incurred after February 1983 totaled \$200 million.

The lawsuit alleges that the defendants "devised a common scheme and plan to defraud Mentor and its actual and potential creditors and policyholders as to the true financial condition of Mentor."

"The defendants devised a scheme whereby the reported loss reserves of Mentor on its financial statements were improperly reduced in order to create the false and misleading impression that Mentor was a well-capitalized, well-run company which would be able to meet its obligations as they came due," the suit alleges.

The motivation, according to the lawsuit, was "ODECO's desire to enter the United States insurance market by forming two new United States insurance companies."

A \$5 million dividend declared in February 1982 was used to capitalize the companies, Mentor Insurance & Reinsurance Co. and Mentor Excess & Surplus Lines Insurance Co., which were formed in March 1983, the lawsuit adds.

"In order to generate business for these new U.S. subsidiaries, it was extremely important that the public believe that Mentor... was prospering," the lawsuit says.

But, Mentor was not prospering, according to the lawsuit.

"In fact, Mentor's loss development was rapidly increasing, which would have required Mentor to put up tens of millions of dollars of additional loss reserves," the lawsuit continues.

The scheme to falsify Mentor's financial position by improperly reducing Mentor's reported loss reserves was carried out in part through three purported aggregate excess-of-loss or stop-loss reinsurance contracts with Pinnacle during 1982, 1983 and 1984, the lawsuit says.

Pinnacle was paid a total of \$18.5 million in premiums for two reinsurance contracts in 1982 and 1983, which Mentor treated as a transfer of risk, and subsequently reduced its loss reserves by \$29.9 million.

The lawsuit alleges that the defendants knew that "unlike a true reinsurance contract, payments would not be made by Pinnacle to Mentor as losses became due but rather no payments whatsoever would be made by Pinnacle to Mentor for a period of 10 years from the inception of each contract, at which time a single lump-sum payment of a predetermined amount would be made."

"Thus, the Pinnacle contracts were not true risk-bearing reinsurance agreements but rather deposit arrangements."

The lawsuit also alleges that the defendants knew that under generally accepted accounting principles, no such loss reserve balance sheet relief can properly be taken against reserves for such a financing or deposit arrangement.

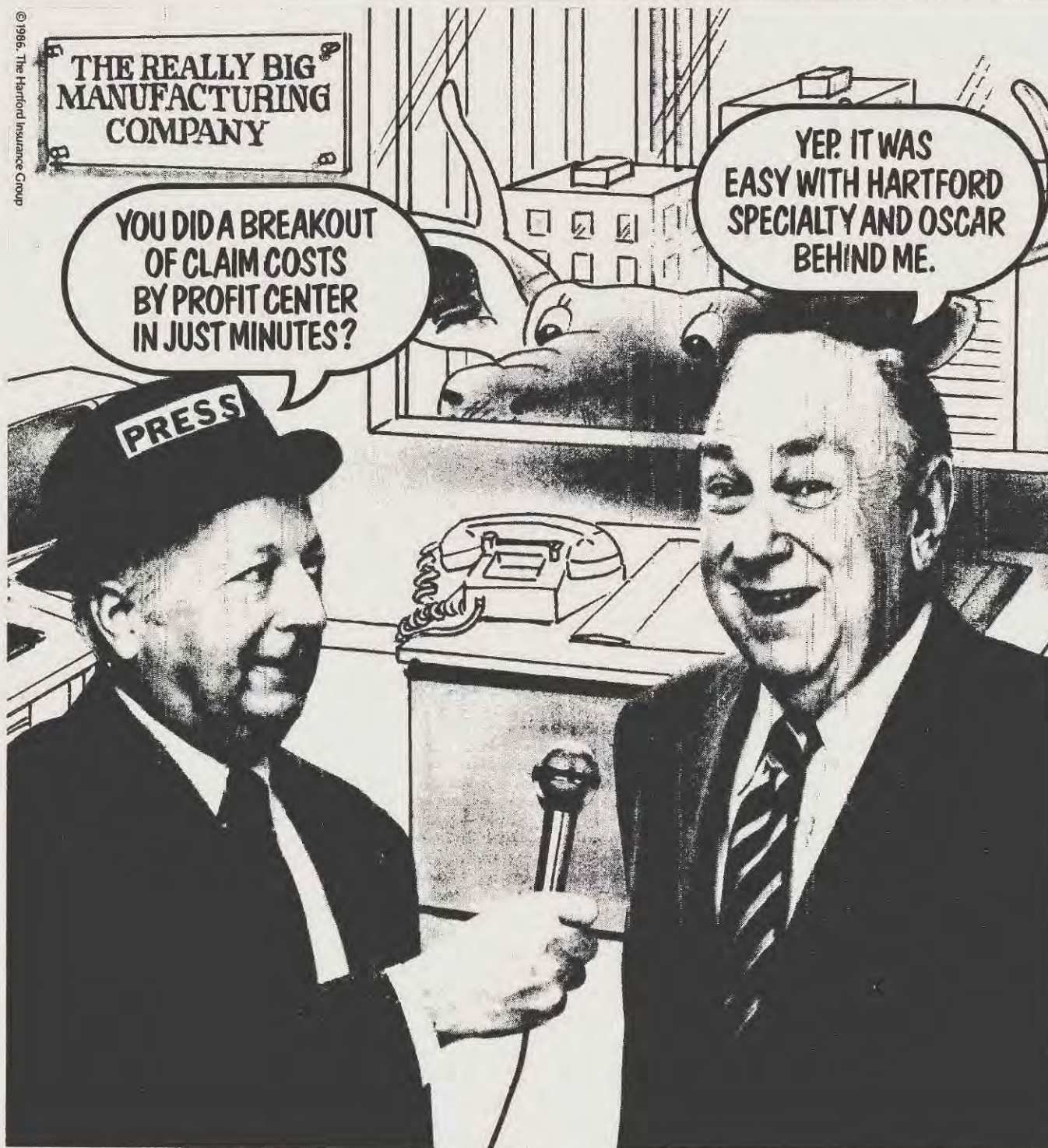
To support the allegation, the plaintiffs point out that a side letter was used to guarantee that Pinnacle did not owe any money for 10 years from policy inception.

"If the express statement as to payment date contained in the side letter were included in the contract itself, Mentor's auditors would not have sanctioned the desired balance sheet relief," according to the suit.

The growing popularity of financial reinsurance contracts of the type described in the lawsuit—often referred to as scheduled reinsurance—began to cause concern among insurance regulators and accountants in the early 1980s. As a result, the New York Insurance Department issued in November 1984 Regulation 108, which established parameters under which reinsurance contracts qualified as reinsurance for statutory accounting (BI, Nov. 19, 1984).

The regulation, however, grandfathered all contracts entered into

Continued on page 6



**Q. Is Oscar<sup>SM</sup> the name of The Hartford moose?**

**A. You mean The Hartford stag. And no, OSCAR's the name of Hartford Specialty's amazing on-line claim reporting system.**

**Q. Does OSCAR help you spot problems and prepare custom reports?**

**A. You bet. I can break out claim data on the spot—using criteria I pick on the spot.**

**Q. How often is the claim data updated?**

**A. Every 24 hours—every business day.**

**Q. Fantastic. By the way, what does The Really Big Manufacturing Company make?**

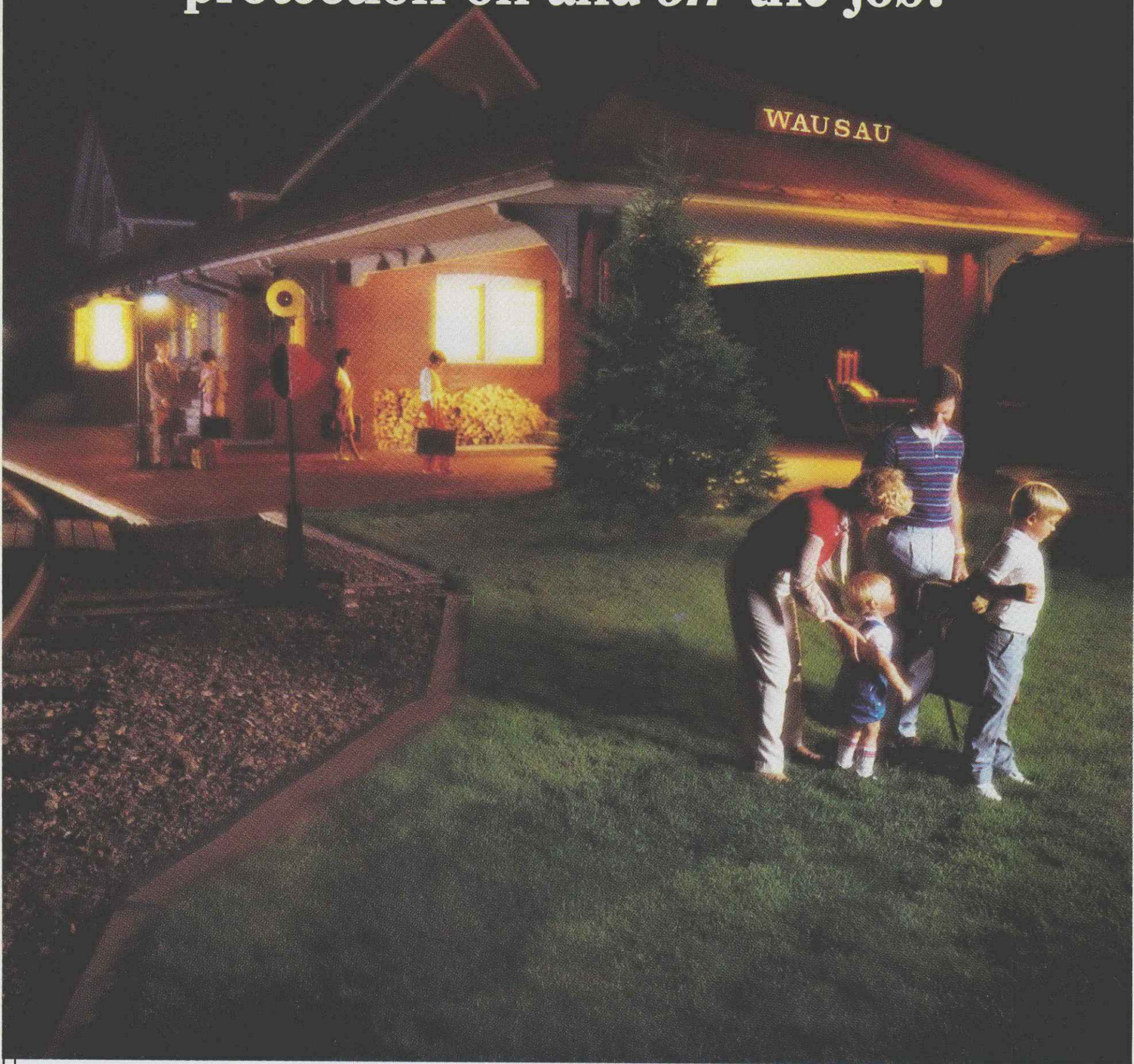
**A. A little bit of everything.**

**Year after year, you'll like doing business with Hartford Specialty, the insurance people of ITT.**

**HARTFORD  
SPECIALTY**  
The Insurance People of **ITT**



# Wausau Life. Because employees need protection on and *off* the job.



Wausau earned its reputation in workers compensation insurance — a reputation for exceptional service over a 75 year period.

Twenty years ago, we formed a life insurance company to provide employee benefits off the job as well as at the workplace. Group accident and health coverages include the same attentive service

that earned us our reputation in the first place. Group life insurance, group retirement plans, payroll deduction life insurance are all part of Wausau's responsiveness to your employee benefit needs.

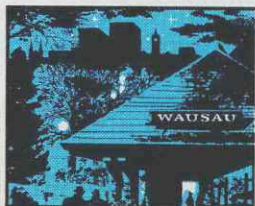
People who work for a living need help from the people who know how to make business

insurance work for a living. 24 hours a day.

When we say *life*, we mean business.

Contact any Wausau office, or write:  
Tom Mack, President, Employers Life Insurance Company of Wausau,  
2000 Westwood Drive, Wausau, Wisconsin 54401. Or phone him at (715) 842-6335.

**WAUSAU WORKS.™**



**WAUSAU  
INSURANCE  
COMPANIES**

® Wausau.Wisconsin 54401

## ODECO suit

Continued from page 4  
before Nov. 30, 1984, requiring only that the contracts be disclosed to the department.

In addition, guidelines were proposed by the American Institute of Certified Public Accountants describing what type of contract constitutes reinsurance and what constitutes a deposit arrangement (BI, Nov. 12, 1984; March 4, 1985). The Financial Accounting Standards Board is considering the proposal.

The liquidators' suit specifies how each defendant allegedly participated in and/or aided and abetted the alleged fraud.

The officers of ODECO and Mentor Holding Corp. named in the suit include:

- J. Douglas Higley, who served as a director of Mentor from Jan. 1, 1981, through April 1, 1984, and held various positions including vp-underwriting in 1981, chairman of the board from July 14, 1982, to April 1, 1985, and president for part of 1984 and 1985. He is now risk manager for the state of Louisiana.

- William L. Colson, an ODECO senior vp and Mentor director who also served as ODECO's general counsel in 1981.

- Clovis H. Steib, an ODECO employee and officer of Mentor Holding Corp.

- Ronald W. Herman, ODECO's controller and a Mentor director.

- Odie F. Vaughan, ODECO's treasurer and a Mentor director.

- James L. Kilpatrick, an ODECO senior vp and an MHC director.

- Hugh J. Kelly, ODECO's president and chief executive officer and a former director of MHC.

- Herman S. Kelley, a former Mentor president and director.

The lawsuit alleges that ODECO, MHC, Pinnacle, Mr. Higley, Mr. Colson, Mr. Steib and Mr. Herman "devised a common scheme and plan to defraud Mentor and its actual and potential creditors and policyholders as to the true financial condition of Mentor."

Specifically, the lawsuit describes the negotiation and placement of the Pinnacle contracts and their effect on Mentor's balance sheet.

Mr. Higley negotiated the first Pinnacle contract in or about June 1982 and it was reviewed and revised by Mr. Colson and Mr. Steib, the lawsuit says. All knew the premium was based on the understanding that one loss payment would be made in 10 years, the lawsuit states.

The side letter stating the payment date in 10 years was drafted by Mr. Higley, then chairman of Mentor, in July 1982, according to the suit. Mr. Colson approved the side letter and Mr. Steib and Mr. Herman also were aware the side letter existed, the lawsuit alleges.

The first contract and its side letter were executed in August 1982, signed by Mr. Higley, the lawsuit says. "The remaining defendants were aware of the execution of the two documents," it adds.

However, only the contract was forwarded to Mentor's auditors, Peat Marwick Mitchell & Co., the lawsuit says.

Pinnacle's obligation to Mentor was secured by a letter of credit whose terms provided that drafts would be honored in 1992.

Mentor's loss reserves in its year-end 1982 financial statement were as a result reduced by \$16.1 million. But, the financial statement failed to completely disclose the Pinnacle agreement, the suit says.

The second contract, side letter and LOC were similarly executed, with Mr. Colson and Mr. Steib involved in the contract review, the lawsuit says. Also, ODECO's general counsel approved the terms of the letter of credit, the suit says.

Mentor's 1983 financial statements treated both the 1982 and 1983 Pinnacle contracts as true re-

insurance rather than deposit arrangements, the suit says. Loss reserves for 1983 were reduced by \$13.8 million in addition to the 1982 loss reserve reduction of \$16.1 million.

Further, the lawsuit alleges, the 1983 financial statement "contained a materially misleading footnote which makes explicit reference to the Pinnacle contracts and not only omits any mention of the side letters but fails to disclose the fundamental fact that no payments would be forthcoming from Pinnacle for a period of 10 years."

The lawsuit also criticizes the footnote disclosure for mentioning the LOCs but failing to disclose their terms.

The footnote says "...The Corporation has entered into two aggregate excess-of-loss contracts. As a result, the Consolidated Statements of Income for 1983 and 1982 include \$5 million as premiums ceded in each year, and reductions of \$13.8 million and \$16.1 million in losses and loss expenses incurred in 1983 and 1982, respectively. Both of these contracts are fully secured by letters of credit."

Mr. Steib drafted the 1983 financial statement and footnote regarding Pinnacle, the suit says. The statement was reviewed by Mr. Higley, Mr. Colson and Mr. Herman, it adds.

"Mr. Steib, a certified public accountant, was aware that the fact

that Pinnacle was not required to make a payment for 10 years destroyed the risk-bearing nature of the contracts and was aware that the contracts had been afforded the improper accounting treatment," according to the suit.

In addition, ODECO, MHC, Pinnacle, Mr. Higley, Mr. Colson and Mr. Herman all knew that the financial statements were materially misleading and knew that Peat Marwick had not not been provided with a copy of the side letters, the lawsuit alleges.

In April 1984, a third similar contract and side letter were executed with Pinnacle, the suit says. MHC, through Mr. Higley and a company actuary, knew of the third contract

and side letter, the lawsuit alleges, adding that ODECO, Mr. Colson, Mr. Steib and Mr. Herman knew of the agreement.

The third contract was designed to reduce Mentor's reserves on its 1984 financials by an additional \$24.4 million.

However, in January 1985 Peat Marwick for the first time requested confirmation from Pinnacle that there were no side letters attendant to any of the three Pinnacle contracts, the lawsuit says.

"The defendants (ODECO, MHC, Pinnacle, Mr. Higley, Mr. Colson, Mr. Steib and Mr. Herman) realized that further concealment of the side agreements was impossible,"

Continued on next page



# The Mass Mut

## When other companies talk about their

We're Mass Mutual, and we challenge any company to beat our track record in claim management. We integrate speed, thoroughness and personal service better than anyone else in the business.

Our electronic claim processing system is as advanced and flexible as any network you'll find. Together with our staff of professionals, MAGNET allows us to make an unparalleled promise:

we will provide any level of claim turnaround our client requires. Not just good turnaround, but service that meets the most exacting demands.

But for us, speed alone is not enough. We provide true claim management, not mere processing.

We monitor all claims carefully, so that our clients enjoy some of the most impressive cost savings in the industry. We also recommend alternatives to reduce catastrophic claim costs

Continued from previous page  
the suit says. "These defendants participated in a plan to cover up the fraud. The decision was made to disavow any knowledge of the side letters by anyone except Higley, who was selected to accept the entire blame."

Mr. Colson and Mr. Herman disclosed to Peat Marwick the existence of the side letters in late January 1985 "but misrepresented to PMM that neither they nor any ODECO or MHC employee, other than Higley, had previously been aware of the existence of these agreements," the suit says.

"Higley's services for ODECO were terminated by Colson, who advised Higley that ODECO

needed a fall guy and that he, Higley, had been elected," the suit also says.

However, Mr. Kelly, ODECO's president, asked Mr. Higley who knew of the side letters and "Higley advised Kelly that everyone knew of them," the suit says.

"Nevertheless," the suit con-

tinues, "ODECO in its 1984 annual report and 10-K filed with the Securities and Exchange Commission for the first time publicly revealed the existence of the side letters by stating 'in early 1985, the company learned of the existence of unauthorized agreements entered into by MIL (Mentor Insurance Ltd.).'"

**'The president of Mentor had no authority to make the most mundane decisions,' the suit says. 'He was not empowered to hire a new employee, even a secretary, or fire, promote or give a raise to any employee.'**

The financial statements of Mentor, MHC and ODECO were restated for 1982 and 1983, making significant downward adjustments. ODECO reduced its net income for 1983 by \$7.6 million or 15 cents per common share and for 1982 by \$9.8 million or 19 cents per common share. These actions, the lawsuit alleges, constitute a pattern of racketeering under RICO.

Alleging RICO in three separate counts—once against ODECO and MHC and twice against ODECO, MHC, Pinnacle, Mr. Higley, Mr. Colson, Mr. Steib and Mr. Herman or alternatively once against ODECO, Pinnacle, Mr. Higley, Mr. Colson, Mr. Steib and Mr. Herman—the liquidators seek the treble

damages permitted, or \$600 million.

Citing the same allegations, the liquidators also charge ODECO, MHC, Pinnacle, Mr. Higley, Mr. Colson, Mr. Steib and Mr. Herman with common law fraud, seeking at least \$200 million in damages with interest and \$100 million in punitive damages.

And, citing the same allegations, the liquidators seek in the alternative \$200 million in damages plus interest from all the same defendants excluding Pinnacle for negligent misrepresentation.

In another cause of action, the plaintiffs cite all allegations and seek to pierce the corporate veil between ODECO and Mentor by alleging that ODECO at all times relevant to the complaint completely dominated and controlled Mentor as a division of ODECO.

"Corporate formalities relating to MHC and Mentor were completely disregarded," the complaint says. "It was the practice that no meetings of the board of directors were held. Minutes of purported meetings were fabricated to create the misleading impression that the Mentor board was a functioning body."

The suit also cites overlapping officers and directors between ODECO and Mentor and MHC and alleges the mind and management of Mentor was not in Bermuda but with ODECO in New Orleans.

Mr. Higley was required to obtain Mr. Colson's approval for all his actions, the suit says. "The president of Mentor had no authority to make the most mundane decisions," the suit says. "He was not empowered to hire a new employee, even a secretary, or fire, promote or give a raise to any employee."

Also, ODECO caused or permitted Mentor to be held out to the insurance industry and public in a manner that was designed to induce the industry to rely upon the resources and financial strength of ODECO in their dealings with Mentor, the suit adds.

The suit also cites ODECO's agreement with the banks to pay back amounts drawn down on letters of credit issued for Mentor as further proof that Mentor was not a truly separate entity from ODECO.

In seeking to pierce the corporate veil, the creditors are asking that ODECO be held responsible for the net deficiency of Mentor.

And, the suit alleges a breach of fiduciary duty against Mr. Higley, Mr. Colson, Mr. Steib, Mr. Herman, Mr. Vaughan, Mr. Kilpatrick, Mr. Kelly and Mr. Kelley.

"Each of the defendants named in this count knew of ODECO's complete dominion of Mentor and negligently and completely abdicated all responsibility as a member of the Mentor and/or MHC boards to Mentor's detriment," the suit says.

Finally, the suit demands damages for violation of Bermuda law that holds persons personally responsible for all debts and liabilities of a company in liquidation if the persons knowingly were parties to carrying out the business of the company in a fraudulent fashion.

This action is filed against ODECO, MHC, Pinnacle, Mr. Higley, Mr. Colson, Mr. Steib and Mr. Herman and seeks an amount equal to Mentor's estimated net deficiency of \$500 million.

ODECO's Mr. Steib refused to comment on the suit when he was reached in New Orleans. Mr. Higley also refused to comment.

Stephen Lawrence, a director of Pinnacle, said in a statement, "Pinnacle utterly refutes the accusations made in the writ and considers that there is no case to answer. The company also questions the use of U.S. courts by the joint liquidators on such an action between two Bermuda companies."

The liquidators' lawyers are Lord, Day & Lord in New York and local counsel in New Orleans is Montgomery, Barnett, Brown, Read, Hammond & Mintz.



# ual Challenge.

**claim track record, we leave them in the dust.**

through alternative treatment programs.

And every Mass Mutual client is assigned their own claim examiner—someone who knows the company and its plan of benefits, and understands exactly how to help.

When it comes right down to it, we'll challenge any other insurer to prove that their claim management stands up to ours. Speed, thoroughness and a personal touch are our hallmarks.

Let us show you why our claims service is one of the reasons more and more employers are choosing Mass Mutual.

Have your agent, broker or consultant call their Mass Mutual Group Representative. Take the challenge.

**MassMutual**  
GROUP LIFE AND HEALTH

Massachusetts Mutual Life Insurance Co., Springfield, MA 01111

## opinions

# Resist watering down bill

**T**WO WEEKS AGO, we urged Congress to pass legislation to broaden the scope of the Risk Retention Act as soon as possible, but at least by summer.

Now it appears the bill, which would allow buyers to form purchasing groups to collectively buy insurance or create risk retention groups to collectively self-fund most liability risks, could be gutted or killed.

Earlier this month, the Senate Commerce Committee put off a vote on the proposal after several senators cited concerns about the bill from regulators and the insurance agents.

The agents are offering proposals to amend the legislation that would virtually strip it of almost all value for insurance buyers (see story, page 1).

Under one proposal, buyers would have to win approval to form risk retention groups from state regulators—who already have gone on the record as opposing the legislation—by proving that commercial insurance is not available on reasonable terms. And, if a regulator does approve a risk retention group, he or she apparently could later decide that insurance is available and force the group to stop operations in the state.

Such a provision runs against the basic concept of the legislation: to allow buyers to quickly form groups to write liability coverage without having to meet numerous state requirements.

If the agents' proposal is approved, few businesses would be interested in forming risk retention groups.

Regulators hostile to the concept of risk retention groups could either deny approval—or at least delay taking action—while businesses are forced to buy liability coverage at an exorbitant cost or possibly go without any coverage.

Multistate trade associations that want to form a risk retention group would be forced to seek approval from regulators in each state, a time-consuming proposition.

And what business would want to invest the time and expense in forming a risk retention group if there was a possibility that regulators could later revoke the group's operating authority?

Agents say their proposal is necessary to protect agents who direct clients to risk retention groups, since such agents could be held liable if a risk retention group goes bankrupt.

Yet, while it may protect agents, it does little to protect businesses and municipalities that increasingly cannot find liability insurance or are forced to pay outrageous premiums.

The agents concede the proposal may give too much power to regulators, and they are working on alternatives that could be more acceptable to buyers.

For now, we urge buyers to resist any amendments. The liability insurance crisis requires quick action. Congress should expedite approval of the original legislation so buyers can quickly respond to the growing problems of insurance affordability and availability.

## letters

# Calling utilization reviews advisory won't limit liability

To the editor: As an attorney involved daily in advising with respect to utilization review activities, it was with interest that I read the article in your March 10 issue titled, "Liability From Utilization Review Can Be Limited, Experts Say."

The thrust of the article was that utilization review organizations can limit their liability by making it clear that their determinations with respect to medical necessity are advisory only, and are not intended as recommendations with respect to the course of treatment.

Don't count on it. The reality is that in many instances, a determination with respect to payment is a determination with respect to care.

A determination that for payment purposes a particular procedure is not medically necessary will inevitably affect the patient's final judgment with respect to whether he will pay for the procedure out of his own pocket and if the patient can't afford it, the treatment has effectively been denied.

It is certainly worthwhile to notify the patient when pre-certification or an extension of stay is denied that this is not a recommendation with respect to treatment and that the patient and his physician must make the ultimate decisions.

Having said that, the reviewer should assume that his determination will decide the course of treatment and should act accordingly. Adopting such an attitude will invest the reviewer with the appropriate degree of caution.

Finally, those engaged in utilization review should bear in mind that the ultimate purpose of the utilization review process is to educate physicians with respect to more conservative modes of treatment and less expensive alternatives such as outpatient as opposed to inpatient surgery. The process should be an educational, not a confrontational, one in which

the attending physician and the reviewer ultimately achieve a consensus.

The best protections against liability are a carefully structured program based on accepted criteria backed by physician specialists consultants directed toward achieving agreement with the attending physicians.

Reductions in utilization will come

## Industry lacks leadership to solve problems

To the editor: It is unfortunate that at this critical time the insurance industry lacks intelligent, articulate leadership. The biographies of far too many executives reflect no insurance background. The issues demand expertise and leadership way beyond "bean counting."

Granted, style was always rare, al-

when physicians become aware that they will be required to justify their treatment plans, and when they become accustomed through education to practicing more cost-conscious medicine.

**Martin J. Schnitzer**  
Memel, Jacobs, Pierno, Gersh  
& Ellsworth  
Los Angeles

## Let's practice what we preach on litigation

To the editor: The paradoxes that show up in the March 10 issue of *Business Insurance* are quite amusing in this day of no amusement in the insurance business. As we (the insurance industry) clamor to the skies about judicial reform, we read about insurers suing satellite contractors for more than \$11 million.

## Changes in punitive damages, jury trials urged

To the editor: Perhaps two suggestions could be considered in the current tort reform effort:

- Since "punitive" means "punish" or, at the very least, has to do with punishment, let us cease defining punitive damages in terms of dollars.

If, in addition to the dollar settlement for bodily injury and/or property damage, punishment is appropriate, then criminal court proceedings should decide the punishment.

Take punitive damages out of civil court.

- Let us totally change the present civil court system that has only one jury trial, in which one jury is asked not only to determine whether negligence occurred, but also the damages for just compensation if negligence is found to be present.

Elimination of this heavy burden of forcing one jury to make two decisions would be a step toward eliminating the mere presence of injury alone from being

though the real leaders exhibited style and class. If the required reforms are to succeed in the public forum, such leaders must again emerge—and soon. Where are they? As Gen. Douglas MacArthur said, "We listen with thirsty ear."

**Richard Sokup**  
Freeport, Ill.

I wonder if the insurers bringing the Weststar VI suit would like to have the judicial reform go through before their suit is heard? Perhaps, as Pogo says, "I've met the enemy and the enemy is us."

**John F. Zimmer III**  
Zimmer-Blanc Insurance Agency  
Lincoln, Neb.

the major test of whether the defendant was wrong. Right now, the jury sees an injury, the plaintiff needs money, so emotional dollars are given to the plaintiff, not always in proportion to the degree of negligence of the defendant.

Suggestion: Have two trials by separate juries. The first trial would determine negligence, if any. The second trial, if necessary, would, in effect, determine any jury award.

Adoption of a "two-tier civil court system" would eliminate two very undesirable characteristics, (emotional and deep pocket payments), of our present civil court system, and get us back to courtroom responsibility where only those responsible would be required to pay only their share. An added dividend might even be a reduction in the practice of frivolous law.

**John D. Chapman**  
Holcomb & Chapman Agency  
Akron, Ohio

## business insurance

Reporting weekly for corporate risk, employee benefit and financial executives

Publisher: Alfred Malecki (New York)

Editor: Kathryn J. McIntyre, A.R.M. (Chicago)

Deputy Editor: Mark S. Rosati (Chicago)

Managing Editor: James M. Burcke (Chicago)

Assistant Managing Editor: Dave Lanckus (Chicago)

CHICAGO: Alison Kittrell (Copy Editor)

Joanne Wojcik O'Hare (Assistant Copy Editor)

Carol Cain (Associate Editor)

Meg Fletcher, A.R.M. (Associate Editor)

Stephen Tarnoff (Associate Editor)

Linda J. Collins (Agent/Broker Topics Associate Editor)

Donna DiBlase (Staff Reporter)

Marilou Jones (Directory Editor)

Holly E. Seguire (Graphics Editor)

Amy Palmer (Graphic Artist)

Paul Winston (Proofreader)

Cali Sangalis (Assistant to the Editor)

DALLAS: Michael Bradford (Associate Editor)

LONDON: Stacy Shapiro (London Editor)

LOS ANGELES: Robert A. Finlayson (Bureau Chief)

Steve Taravella (Associate Editor)

NEW YORK: Douglas McLeod (Bureau Chief)

Judy Greenwald (Associate Editor)

WASHINGTON: Jerry Geisel (Washington Editor)

Corporate: H.L. Stevenson (Corporate Editor)

Advertising Director: Donald A. Walsh (New York)

Midwest Sales Manager: Robert L. Niesse (Chicago)

CHICAGO: Deborah D. Neale (District Manager)

Beverly J. Kluxdal (District Manager/ Classified Sales)

Fran Prybylo (Production Manager)

LOS ANGELES: Michael J. Sharpe (District Manager)

NEW YORK: Charles A. Horvath (District Manager)

Jack Forrest (District Manager)

Martin J. Ross (District Manager)

Courtney Bauer (District Manager)

Director of Communications: Ronnie I. Drachman

(New York)

EDITORIAL: Chicago: 312-649-5398

Dallas: 214-363-1066

London: 01-404-4228

Los Angeles: 213-651-3710

New York: 212-210-0100

Washington: 202-682-7200

ADVERTISING: New York: 212-210-0133

Chicago: 312-649-5276

Los Angeles: 213-651-3710

COMMUNICATIONS: New York: 212-210-0132

CIRCULATION: Detroit: 313-446-1611

Published by Crain Communications Inc., Chicago

G.D. CRAIN JR.

Founder (1885-1973)

MRS. G.D. CRAIN

Chairman

KEITH E. CRAIN

Vice chairman

S.R. BERNSTEIN

Chairman-executive committee

RANCE CRAIN

President

MARY KAY CRAIN

Treasurer

MERRILEE P. CRAIN

Secretary

WILLIAM A. MORROW

Senior Vp-operations

Published weekly at 740 Rush St., Chicago, Ill. 60611, Telex 25-4248, Cable CRAINCOM. Offices: 220 E. 42nd St., New York, N.Y. 10017, Telex 604207 CRAIN COM NYK; 1 Northpark, East Suite 114, 8950 N. Central Expressway, Dallas, Texas, 75231; Suite 814, National Press Building, Washington, D.C. 20045; 6404 Wilshire Blvd., Los Angeles, Calif. 90048; 20-22 Bedford Row, London WC1R 4EB, England. \$1.50 a copy. \$60 a year in U.S. Canada and all other foreign add \$16 for surface mail. Europe and Middle East only add \$45 for air delivery. First-class mail to U.S. and Canada only, add \$48. Bermuda only, \$105 per year expedited delivery. WILLIAM STRONG, vp-circulation. NICK CAVNAR, circulation manager. JOHN HUFFMAN, fulfillment director. Four weeks' notice required for change of address. Send subscription correspondence to Circulation Department, Business Insurance, 965 E. Jefferson Ave., Detroit, Mich., 48207, or phone 313-448-1611. Microfilm copies are available from University Microfilms, 300 Zeeb Road, Ann Arbor, Mich. 48103. Microfiche copies available: Bell & Howell, Micro Photo Division, Old Mansfield Road, Wooster, Ohio 44691. Portions of the editorial content of this issue are available for reprint or reproduction in other media. For information and rates to reproduce in general circulation media, contact: ART MERTZ, The Crain Syndicate, 740 Rush St., Chicago, Ill. 60611, 312-649-5303. For reprints or reprint permission contact: Reprint Department, Business Insurance, 220 E. 42nd St., New York, N.Y. 10017, 212-210-0229.

BPA

Member of Business Publications Audit of Circulation

ABP

*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.*

**"HECK OF A  
CHANGE IN THE  
INSURANCE INDUSTRY"**



**"GOING  
TO BE SOME  
NEW LEADERS?  
WHO  
DO YOU LIKE?"**

**"FOR MY MONEY,  
FIREMAN'S FUND"**

**LEADERSHIP  
WATCH FIREMAN'S  
FUND.**

## Failed Bank & Thrift Litigation Reporter

## Corporate Officers & Directors Liability Litigation Reporter

These two new, and successful, litigation reporters cover national litigation highly important to the insurance industry. These twice-monthly journals are professionally and objectively edited to keep subscribers informed on the latest state of the complex legal issues and following rulings from the nation's courts.

Call or write to receive a sample issue. We are the nation's foremost litigation reporter...since 1970.

ANDREWS PUBLICATIONS, INC.  
P.O. Box 200, Edgemont, PA 19028  
800 345-1101 (PA 215 353-2565)

## Loss reserves

Continued from page 3  
counting.

He says that if Congress does amend the nation's tax laws to allow for discounting of loss reserves for tax purposes, "it will have to be done off the (statutory) financial statement. We're not going to accept it."

CIGNA's plan to discount \$1.2 billion in loss reserves will likely be the first major test cases of regulators resolve on the discounting issue.

Already, Commissioners Bunner, Muhl and Driscoll have said they will likely disapprove CIGNA's annual statement based on the insurer's discounting of loss reserves.

The insurance regulators say they want to discourage other insurers from following CIGNA's example.

"If we allow CIGNA to do it, then the rest of the world will do it, and we will have absolutely no

handle on the adequacy of reserves," Commissioner Muhl says.

"I'm of the opinion right now that I'm not going to allow it in Maryland. I may well reject (CIGNA's) annual statement and have them file a revision," he says, adding that "if they don't, I will consider that to be a violation of Maryland law."

Commissioner Bunner says that he has already told CIGNA that they will have to revise their annual report by eliminating any discounting of loss reserves. He says that his staff is currently drafting a letter that will be sent to all insurers that file annual reports containing discounted loss reserves.

That letter, he explains, will give the insurers 15 days to refile their annual statements.

"We want them to know we're serious about this," Commissioner Bunner said.

Peter W. Gillies, the Connecticut insurance commissioner, said he shares the concerns raised by the NAIC on the discounting issue, but he has not yet taken a position with regard to CIGNA.

"They have been apprised of my general disapproval of the concept, but we are still discussing it with them," he said.

Commissioner Gillies says he is willing to listen to any proposals CIGNA may come up with before making a final decision.

## NCCI to ask court for comp rate hike

SANTA FE, N.M.—The National Council on Compensation Insurance will petition the New Mexico Supreme Court to secure an average 37.1% increase in workers compensation rates.

The state Board of Insurance denied the rate increases on Dec. 23, saying it found the NCCI's filing excessive. In some states, insurance regulators have the authority to amend a rate filing, but in New Mexico, the board only can approve or deny a filing in total.

The NCCI, a New York-based workers compensation ratemaking organization, had asked that the new, higher rates be applied on new or renewal policies effective Jan. 9. However, the governor signed a workers compensation measure in late February that calls for rates to be frozen at the July 1, 1985, level until July 1, 1987 (BI, Feb. 24).

Since the Dec. 23 Insurance Board ruling, the NCCI has been in court several times attempting to have that decision overturned (BI, Feb. 3).

In one of those court appearances, state District Court Judge Art Encinias issued a preliminary ruling that allowed the rate filing to take effect. However, in that Jan. 9 ruling, Judge Encinias also ordered any money collected from the increased rates be held in an interest-bearing account until the trial.

But, on Jan. 31 Judge Encinias reversed his ruling, and then in his final decision issued Feb. 27, he upheld the Insurance Board's denial of the proposed rate hike.

An NCCI insurer committee then met earlier this month to plan its New Mexico strategy.

"The decision was to appeal the District Court ruling to the Supreme Court," said John Lacy, a director of government, consumer and industry affairs for the NCCI. That action is expected to be taken by the end of this month.

The NCCI committee also decided to further investigate the rate freeze contained in the recently approved legislation. At the time the legislation was adopted, several capital observers speculated that insurers would take the new law to the Supreme Court on constitutional grounds.

Mr. Lacy said the NCCI is still studying that possibility.

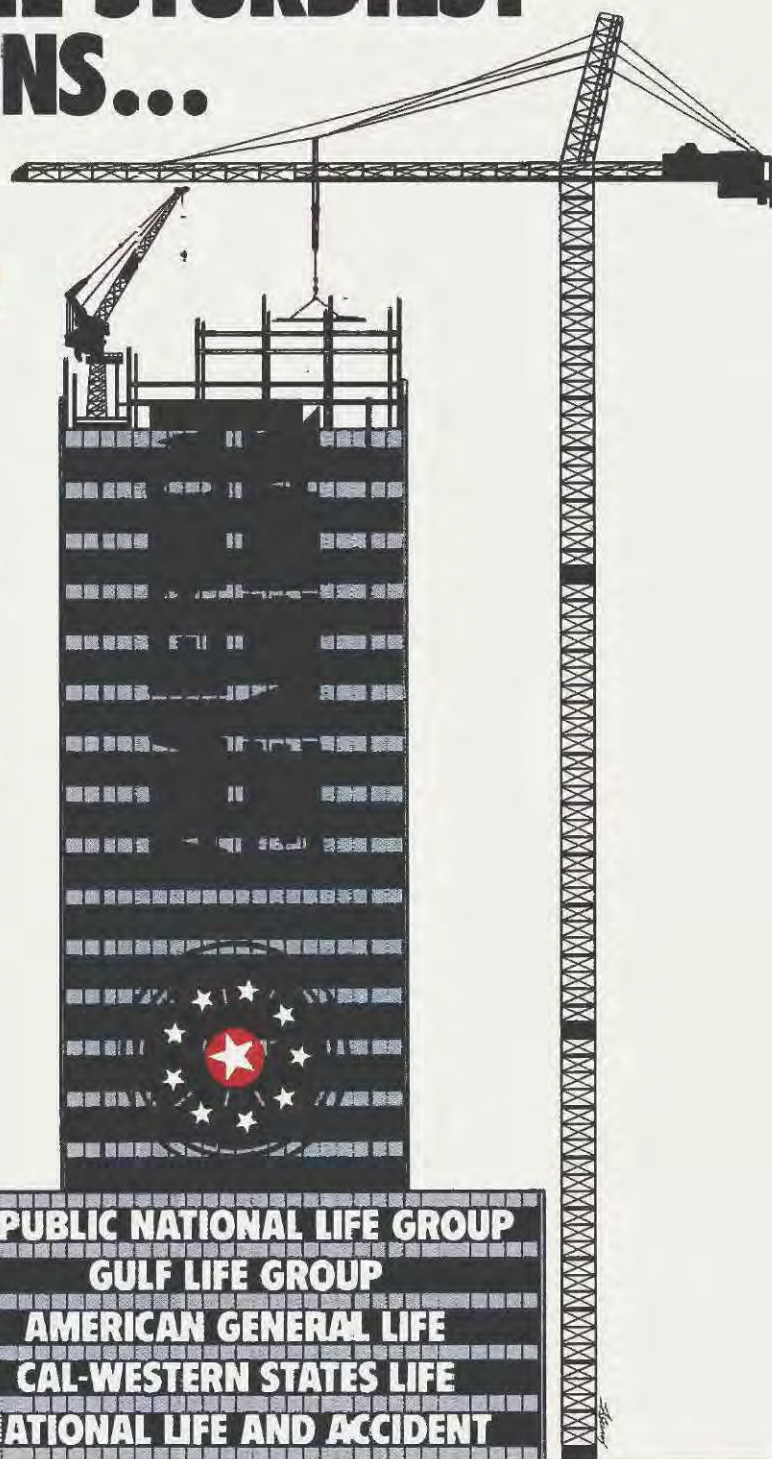
# THE STRONGEST STRUCTURES DEMAND THE STURDIEST FOUNDATIONS...

## Meet American General Group Insurance Company!

### Building only the best

American General Group Insurance Company, AGGIC. The group insurance company of American General Corporation. Our new name is founded on some of the most reputable companies in the group insurance industry. Companies like Republic National Life Group, Gulf Life Group, American General Life, Cal-Western States Life and National Life and Accident.

Together, we're building AGGIC: a part of the past and a force for the future... the force to be reckoned with in group insurance.



## American General Group Insurance Company

A Subsidiary of American General Corporation

3988 North Central Expressway • Dallas, Texas 75204 • (214) 824-0331



**AMERICAN  
GENERAL**



# Change a hurricane-size risk into a manageable zephyr.

**Ring National Re!** We have decades of experience in sharing risks, large and small. We have the surplus to back you up in the most hazardous situation.

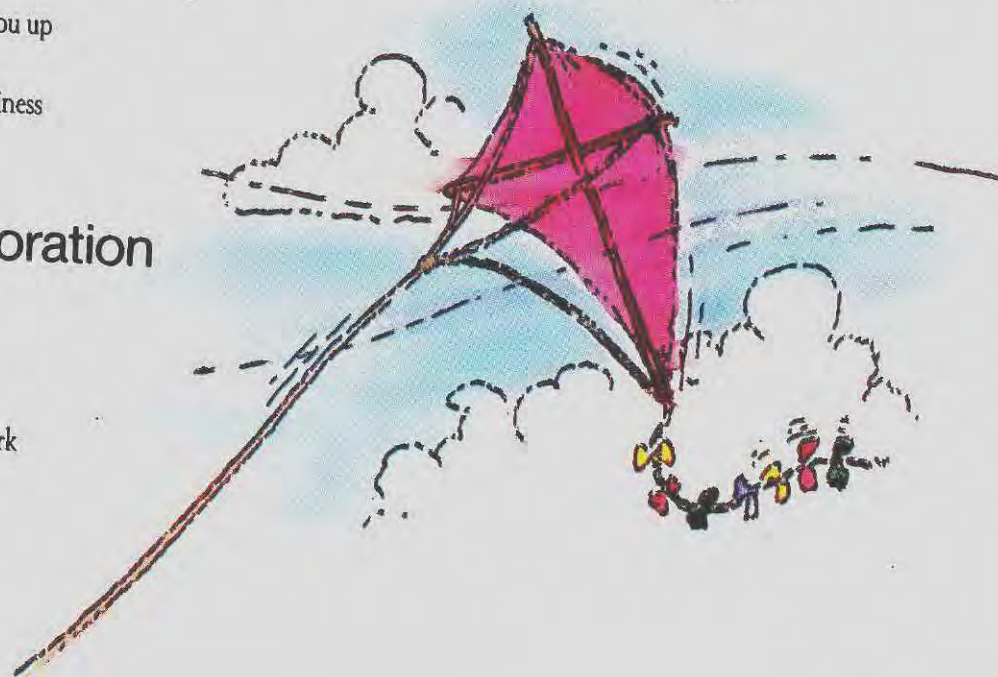
We're convinced that long-term relationships lead to better business for both parties. If you agree, ring National Re today!

**NR National Reinsurance Corporation**  
**Responsive Reinsurance**

777 Long Ridge Road, P.O. Box 10167, Stamford CT 06904

203/329-7700 • Telex: 965938

Chicago • Dallas • Hartford • Los Angeles • New York



## OCEAN MARINE and AVIATION

### HULLS-OCEAN

Hull and Machinery, Increased Value etc., Builders Risk, War Risk, and Miscellaneous Commercial Craft.

### CARGO

Import/Export, River, Coastal, By Vessel or Airplane, Cargo Liabilities. War Risk Including Block War, Bunkers, Collect Freight.

### MARINE LIABILITIES

Charterers, Shiprepairers, Stevedores, Terminal Operators, Wharfingers; Cargo Legal Liability, Excess Marine Liabilities, Marine Bunkers, Water Pollution Liability, Offshore Liabilities.

### ENERGY

Drilling Vessels, Rigs, Platforms, Pipelines, Supply Vessels, War & Political Risks, and Other Related Exposures.

### AVIATION

Hull, Liability and Related Risks.



Producer inquiries invited.

## New York Marine Managers, Inc.

Underwriters and Managers representing American Companies

123 William Street, New York, NY 10038

Phone: 212-349-1600 Telex: 129200NYMM NYK Fax: 212-233-3507



## Who's getting the lion's share of your health care dollars?

Which providers? And for what services?

If your present health claims system can't tell you—quickly and accurately—you may not be spending your health benefit dollars as wisely as you should. That's just one reason you need to know about Genelco's revolutionary new Health Benefit Management System, a totally automated software system that gives you more contemporary cost management features **built in** than any other system on the market.

Can your system monitor utilization to spot overusage of benefits? Or underusage of cost-saving alternatives?

Can it identify large or unusual claims requiring special handling?

If not, then you don't have today's most sophisticated and forward-looking health claims system. Which means you may be getting less than maximum benefits from your health plan and paying more for it than you should. Designed to provide on-line, real-time adjudication and administration of a full range of health claims, our Health Benefit Management System is ready now to help you reduce payment errors . . . lower administrative costs . . . and improve productivity, while giving you an unparalleled level of data to make informed decisions about your plan.

For details, call  
Larry Amundsen, vice-president

**314-962-2040**

1600 South Brentwood Boulevard  
Suite 500  
St. Louis, Missouri 63144



## Regulation not necessary to ensure availability: Report

By ROBERT A. FINLAYSON

SAN FRANCISCO—Regulatory intervention is not needed to shore up the day-care, liquor and governmental liability insurance markets, a report by a committee of insurers and brokers says.

The insurance industry is moving to alleviate availability problems in the liquor and governmental liability markets, an interim report by the newly formed National Advisory Committee on Availability says.

The report, presented to the commercial lines committee of the National Assn. of Insurance Commissioners on March 11, also says that liability coverage for day-care facilities is generally available, although prices have increased sharply.

"With the continued advice and assistance of the NAIC and efforts to address the impact of the legal liability system on the business of insurance, the advisory committee is convinced that the market will correct itself without further governmental intervention," the report states.

The advisory committee, established in December 1985 by the NAIC, is charged with identifying market needs not being met by the property and casualty industry; monitoring state market assistance plans; promoting proposals that encourage necessary insurance markets; and facilitating a better understanding of the causes of insurance availability problems.

Members of the advisory committee represent the American Insurance Assn., Alliance of American Insurers, National Assn. of Independent Insurers, Independent Insurance Agents of America, National Assn. of Insurance Brokers, National Assn. of Casualty & Surety Agents, National Assn. of Professional Insurance Agents, Institute of London Underwriters, Lloyd's of London and ; various surplus lines insurers and brokers.

Earlier this year, NAIC staff members surveyed state insurance commissioners to identify perceived availability problems by state. Based on the results of that survey, the advisory committee focused its attention on three areas of coverage: day-care, liquor and governmental liability.

The interim report on these three areas will be finalized after a survey of market assistance programs is completed.

The committee will use information collected for the survey to assess the effectiveness of MAPs in dealing with insurance availability problems. According to the report, 34 states currently have MAPs.

The committee also is scheduled to study problems with the availability of directors and officers liability insurance and recreational liability insurance.

The interim report includes detailed information on the three lines of businesses the committee studied:

- Governmental liability. Government entities, the report explains, are having difficulty obtaining liability insurance.

Preliminary research indicates that recent developments in governmental and tort laws have had a negative effect on governmental liability insurance markets, according to the report.

"Historical protections for government entities, such as the doctrine of sovereign immunity, have been either totally or partially abolished by state legislatures and judicial decisions," the report says.

This, coupled with the courts' liberal interpretation of government insurance policies, has caused traditional municipal insurers to incur record losses over the past few years, the report states.

The advisory committee currently is conducting a survey of the market for governmental liability insurance, but the results of a preliminary survey revealed extremely limited capacity in nine states.

In the short term, the report suggests state insurance departments coordinate hot lines to disseminate market information and municipal liability MAPs be formed to solve the availability crisis for governments.

The long-term solution to this crisis is tort reform, particularly legislatively imposed caps on non-economic damages, the report concludes.

Other solutions include more effective risk management guidelines for governments and the development of employee safety programs.

- Liquor liability. The advisory committee is now conducting a state-by-state analysis of data collected by the NAIC and the American Insurance Assn. to determine which states are experiencing liquor liability coverage availability problems.

Preliminary research indicates the availability problem is a direct result of an erosion of common law principles that have expanded dramshop liability (BI, Dec. 24, 1985).

"Enactment of dramshop laws along with inconsistent court decisions have also been cited as major reasons for causing an insurance availability problem," the report notes.

Indirectly, the availability problem arises from society's "new awareness" of drinking problems, the report adds. "These factors, as well as others, have caused more liquor vendors to seek liability insurance and fewer insurers to issue such policies."

The advisory committee is compiling information on insurers that are writing liquor liability coverage, according to the report. In the past, the report notes, specialty companies and surplus lines insurers met most liquor liability insurance demands.

A pending National Assn. of Professional Surplus Lines Organizations survey will help the committee determine what active surplus lines insurers are still in the liquor liability market, the report explains.

- Day-care. The interim report concludes that coverage for day-care providers is generally available.

"It appears that some market restrictions did occur in 1985, particularly with respect to certain family day-care providers," it stated.

"However, the primary market problem appears to have been the affordability of certain day-care liability insurance coverages, not their availability," the report says.

The report explains that home day-care operations face a unique insurance problem because they are not large enough to require commercial insurance, yet these same providers have had a difficult time obtaining "business pursuit" liability coverage under their homeowners' policies.

Such insurance allows in-home businesses to obtain a small amount of liability coverage under their homeowners' policies.

But, the report states preliminary analysis of market assistance programs for home day-care operations is encouraging: "MAPs in states like California and South Carolina have been successful in placing many applicants."

The report also identified two new day-care insurance programs: a new homeowner's policy endorsement for family day-care providers developed by the Insurance Services Office, and a new commercial day-care insurance facility developed by Continental Insurance Co.

# Berkshire Hathaway wants to see directors and officers liability risks where the premium is \$1,000,000 or more.

In a tight market when many companies have had to ration capital and even withdraw from writing directors and officers liability insurance, we're still wide open to D & O risks where premiums exceed \$1,000,000.

We currently have more than \$1.5 billion in surplus — yes, that's right, \$1.5 *billion* — against annual premium income of \$500 million. A.M. Best's most recent comparison ranks the Berkshire Hathaway Insurance Group *first* among all major property/casualty groups in their key measurement of financial strength — Best's Test of Gross Leverage.\* This strength assures you of unequaled loss-paying capacity.

Our method of business on large-premium risks, including directors and officers liability insurance, is probably unique in the industry. We ask you to submit the coverage and to name the premium you are willing to pay. We will then accept your proposal, or we may counter if the price and terms are close to those we believe appropriate. If our ideas and yours with regard to price are far apart, we will turn the offering down with the understanding that we will not entertain any additional offers on the same risk. This simple procedure disciplines both of us and saves time.

For more information, telephone or write Donald Wurster, Vice President, National Indemnity Company, 3024 Harney Street, Omaha, Nebraska 68131, (402) 346-7400.

## BERKSHIRE HATHAWAY INSURANCE GROUP

NATIONAL INDEMNITY COMPANY • COLUMBIA INSURANCE COMPANY  
CONTINENTAL DIVIDE INSURANCE COMPANY • CORNHUSKER CASUALTY COMPANY  
CYPRESS INSURANCE COMPANY • HOME AND AUTOMOBILE INSURANCE COMPANY  
KANSAS FIRE AND CASUALTY COMPANY • NATIONAL FIRE AND MARINE INSURANCE COMPANY  
NATIONAL INDEMNITY COMPANY OF FLORIDA • NATIONAL INDEMNITY COMPANY OF MINNESOTA  
REDWOOD FIRE AND CASUALTY COMPANY

# Tort reform debate overdue, insurer says

By ROBERT A. FINLAYSON

SAN FRANCISCO—A national debate over the need for tort reform is long overdue, a top insurance company official says.

William M. McCormick, chairman and chief executive officer of Fireman's Fund Insurance Cos., told several hundred insurance regulators, insurers and attorneys attending the National Assn. of Insurance Commissioners' Western zone meeting March 9 that the nation's tort liability system has undergone a radical change in the last two decades.

Judges' decisions in liability lawsuits have altered the practice of common law, he said, even though statutory law remains unchanged. Mr. McCormick said it is time for the public to recognize this fact and decide whether the current system is the one it wants.

However, Peter J. Hinton, president of the California Trial Lawyers Assn., said the insurers' interest in tort reform is an attempt to

draw the public's attention away from the fact that insurers themselves are largely responsible for current problems in the commercial insurance market.

Consumers will soon be seeking reforms in insurance industry regulation, he predicted.

In his remarks, Mr. McCormick maintained that the last insurance cycle was the worst one in 50 years. "The damage it's left in the insurance company community has been enormous," he said.

Fireman's Fund lost \$44 million in 1985 and laid off 1,600 employees, or about 12% of its workforce, he said. The insurer also had to add \$600 million to its reserves because it underestimated liability claims, he added.

"So the claims of Ralph Nader and others that there is collusion in the industry and we've all gotten together to effect this plot to change our tort law are obviously nonsense," Mr. McCormick stated.

He said coverage affordability and availability problems can be at-

tributed both to the fact that insurers did not charge enough premium to cover their costs in the early 1980s and to changes in the U.S. tort system.

Mr. McCormick said that judges, in making their day-to-day decisions, "completely rewrote our liability laws" during the past two decades.

"So when people say we've had a good legal system for 200 years—that's not true," he argued. "We've rewritten our legal system in the last 25 years."

This change was a court-affected revolution, according to Mr. McCormick. "There was no public mandate. There was no legislative action. It simply changed enormously," he maintained.

Mr. McCormick said that the change is not the fault of the insurance industry or the legal profession. "It just kind of happened."

The insurance industry executive also maintained that operating within the U.S. court system is expensive for the insurance industry, noting that it's easier for plaintiffs to win awards in the U.S. courts than in the stricter British courts.

Mr. Hinton, however, told the association that the insurers themselves are largely responsible for the current insurance crisis, and they are using the tort reform issue to shift attention away from themselves.

He warned the insurance industry and its regulators that they will

soon be hearing from consumers.

"You're going to be hearing about insurance reforms," he said. Consumers, according to Mr. Hinton, are going to push for laws that require insurers to report not only profits and losses, but statistics on reserves and investments as well.

He said consumers also will likely push for new premium regulations. "If you're going to increase rates 500%—make a case for it," he said, adding, "You may find that very difficult to do."

Mr. Hinton noted that antitrust exemptions for insurers under the McCarran-Ferguson Act are "very much in question," and that consumers will question what he called "red-lining" of public entities and child-care centers. Both groups currently have difficulty securing liability coverage.

Consumers also will get involved in policy-writing issues, such as how much of the defense costs should be covered within policy limits, Mr. Hinton said.

"There may be some legislation to prevent Lloyd's, with all due respect, from telling you how to run your insurance company," he predicted.

Mr. Hinton also said that insurers can expect attorneys to support efforts to limit frivolous lawsuits.

Another speaker, George Nordhaus, president of Insurance Marketing Services Inc., an insurance agency consulting firm, noted the only real loser in the current mar-

ket is the consumer.

Mr. Nordhaus said that insurers and insurance agents are currently undergoing a "bonanza," and he said the next few years will be even better.

"We had 6,000 more people joining us at Lloyd's as underwriting members (in 1985)," Mr. Nordhaus said. "Anytime that much greed comes to the floor, you know there are going to be some great years ahead of you," he maintained.

Mr. Nordhaus also said that insurance regulators, legislators and trade journalists benefit from the current tort liability system.

Legislators, he said, "can make waves and headlines like no tomorrow, and you may even do a little bit of good in the process." Insurance regulators, he continued, "can justify their existence." And trade journalists have an issue that sells newspapers, he added.

"Only one group of people is hurting," he explained. "That's the consumer."

But Mr. Nordhaus said, if tort reform does take place, consumers will eventually get affordable insurance coverage.

Also speaking on the panel were Abby Cohen with the California Day Care Center Assn.; California State Sen. John Foran; T. Darrington Semple Jr., resident counsel and secretary to the American Re-Insurance Co.; and Stephen Swendiman of Taxpayers for Fair Responsibility.

## Mind your P's and E's --

Includes NEW 1986 forms!

with the NEW book

# BUSINESS INTERRUPTION INSURANCE

by Robert M. Morrison, J.D., CPCU;  
Alan G. Miller, J.D., CPCU;  
Stephen J. Paris, J.D., CPCU, CLU

What are the P's and E's? Twelve words — Parties, Property, Perils, Productivity, Period, Profit and Extent, Experience, Exclusions, Efforts, Extras, Enough — offering you an easy way to understand the complex business interruption contract. You'll find this unique approach only in BUSINESS INTERRUPTION INSURANCE: ITS THEORY AND PRACTICE.

This new book from The National Underwriter Company includes an analysis of the Insurance Services Office's new Business Income Coverage forms which are slated for introduction in 1986, and mandatory for use in January 1987.

New forms are just one reason why BUSINESS INTERRUPTION INSURANCE should be part of your professional library. You'll also appreciate the fact that it's...

- written by three authors who are well-respected throughout the insurance community for their extensive experience with this form of insurance;
- thorough... with approximately 400 pages;
- easy to understand... for it assumes no prior knowledge. And the glossary clearly defines important words;
- well-documented... with endnotes for each chapter... and a special section of cases and citations.

What's more, it's well organized. Part I...

- introduces you to the 1986 Business Income Coverage forms... and explains the unique 6 P's and 6 E's method for analyzing business interruption contracts;
- explores the theory and history behind these forms.

Part II shows you business interruption insurance in practice. You'll meet the various people who have a stake in this coverage... and their involvement at each step:

- Process of Insuring the Risk  
The owner... the intermediary (agent)... the underwriter
- First Steps When Loss Occurs  
The loss manager... the adjuster... the accountant
- Process of Settling the Claim... Determination of Insured's Liability
- Process of Litigation  
The attorney

To order your copies of the first new book on this subject in over a decade — BUSINESS INTERRUPTION INSURANCE — use the order coupon below... or call TOLL-FREE 1-800-543-0874. Single copy: \$35.00

THE NATIONAL UNDERWRITER CO.  
420 E. FOURTH ST.  
CINCINNATI, OH 45202

2-2J

Please send me \_\_\_\_\_ copies of BUSINESS INTERRUPTION INSURANCE and bill me (Shipping & handling charges are additional)

Name \_\_\_\_\_

Company \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_

State \_\_\_\_\_

Zip \_\_\_\_\_

## Safety developments win awards

Automobile safety promotions, appliances designed for the elderly and leak-resistant underground storage tanks are among the developments in industrial and consumer safety honored this year by the National Assn. of Professional Insurance Agents and the National Safety Council.

The "Awards for Achievements in Product Safety" honor organizations that promote safety through public education efforts or developments in consumer or industrial products.

U.S. Rep. Henry Waxman, D-Calif., chairman of the House subcommittee on health and the environment, and T.C. Gilchrest, NSC president, presented the awards at the third annual ceremony recently in Washington.

In the public education category, General Motors Corp. in Detroit was honored for its 15-year advertising effort promoting automobile safety. During the advertising campaign, GM emphasized safety measures such as using seatbelts and avoiding drinking and driving.

The Power Tool Institute of Arlington Heights, Ill., also was honored for promoting the safe use of consumer power tools.

The educational program, which targets full-time tradesmen as well as the general public and students in high schools, colleges and vocational schools, provides specific directions and procedures for each type of tool rather than the general safety tips provided in other tool safety programs, according to the PIA and NSC.

In the consumer product development category, Whirlpool Corp. and Toyotomi America Inc. were honored.

Whirlpool, in Benton Harbor, Mich., has modified its clothes washers and dryers to aid the elderly—particularly those with visual impairments and arthritis.

To aid the visually impaired, the company enlarged graphics on machine controls and provides large-print instructions on lids, labels and literature. It also offers operational and safety information on audio cassettes and in Braille free to customers.

To help those with arthritis, the firm offers oversized non-slip knobs and has simplified the control design.

Whirlpool also offers safety and operating directions in Spanish in the U.S. market.

Brookfield, Conn.-based Toyotomi has developed a portable kerosene space heater that greatly decreases harmful gas emissions. A secondary burn chamber in the heater burns the combustion byproducts produced by the primary chamber.

This new design reduces carbon monoxide emissions tenfold and nitrogen dioxide emissions fivefold compared with units without a secondary chamber, according to the manufacturer.

In the industrial products category, Owens-Corning Fiberglas Corp. in Toledo, Ohio, was recognized for developing a leak-resistant underground storage tank that helps prevent stored pollutants from leaching into nearby groundwater supplies.

# less ance

NEW YORK: 220 EAST 42ND STREET/NY 10017/(212) 210-0133  
CHICAGO: 740 RUSH STREET/IL 60611/(312) 649-5276

LOS ANGELES: 6404 WILSHIRE BOULEVARD/CA 90048/(213) 651-3710

### update

#### CAPTIVES/RIMS PREVIEW Distribution at RIMS

Issue Date: April 14

Ad Closing: April 1

Profiles of the Risk Manager of the Year and the winners named to the Risk Management Honor Roll, plus BI's annual directory of captive managers.

And we're distributing at the RIMS Conference so if you're in Toronto, come to BI's booth #610 to get your copy.

**business  
insurance**

## PBGC proposal

Continued from page 2

For example, the legislation gives the Internal Revenue Service the right to demand securities, such as a surety bond, from an employer before the IRS will allow a company to defer temporarily its required contributions to its pension plans.

That funding waiver provision is no more than a codification of current practice, Ms. Utgoff explained, noting that the PBGC had sought more control in the funding waiver approval process.

In addition, other provisions in the budget legislation, such as making it more difficult for large companies to walk away from their pension debts by selling off subsidiaries with large underfunded pension plans to small employers, were watered down during the legislative process, Ms. Utgoff said.

In all, if the PBGC provisions in the budget legislation are enacted, the agency probably will collect from employers terminating underfunded plans an average of 15 cents for every dollar of liability the agency picks up, Ms. Utgoff said.

While that is an improvement over the current recovery rate of about 7 cents for every dollar of liability, the price isn't high enough to discourage companies from terminating underfunded plans, Ms. Utgoff said.

Ms. Utgoff placed much of the blame for the watered-down PBGC legislation on the business community.

Most employers stayed out of the lobbying effort, she noted. As a result, Congress heard from employers that stood the most to gain from weak reforms.

"The debate was dominated by those who didn't want reform," Ms. Utgoff said.

But the entire business community will pay for Congress's failure to enact tougher reforms, Ms. Utgoff explained.

By not closing all loopholes that make it relatively easy and inexpensive for companies to dump their underfunded plans onto the PBGC, the agency's deficit will continue to climb and it will have to seek new premium increases to guarantee benefits in terminated plans.

Employers that kept on the sidelines during the debate on the PBGC legislation must realize that "you can't keep the premium low unless you lobby for reform," Ms. Utgoff said.

Meanwhile, another speaker told the NEBI legislative meeting that a better alternative to the current PBGC program would be to allow employers to purchase pension benefit guarantee coverage from insurers.

Privatization, in which insurers would charge a "risk-related" premium based on the funding level of an employer's pension plan, would allow companies with well-funded plans to get the lowest rates, according to Roger Martin, who is chairman of the PBGC's Advisory Committee.

"This would be a lot fairer than what we have now, that is, the good guys paying for the bad guys," Mr. Martin said.

"We question that is what the law (Title IV of the Employee Retirement Income Security Act) had in mind," he said.

As Mr. Martin envisions it, employers would have to purchase pension benefit guarantee insurance from private insurance companies.

The PBGC would remain as an

**'Let us not overlook that there is nothing in the law that says every company is entitled to have a defined benefit plan, even if they can't afford it,' comments Roger Martin, the chairman of the PBGC's Advisory Committee.**

insurer of last resort for those employers that were unable to purchase coverage from commercial insurers.

Since the PBGC probably would end up with the poorest-funded plans, it would have to charge the highest termination insurance premiums.

Some companies with pension plans might not be able to afford those premiums and may have to terminate their plans, Mr. Martin acknowledges.

But, he adds, there is no requirement for employers to offer pension plans.

"Let us not overlook that there is

nothing in the law that says every company is entitled to have a defined benefit plan, even if they can't afford it," Mr. Martin commented.

To move to a system of privatization, the PBGC first would have to pay off its current deficit, Mr. Martin said.

One way would be to charge employers with pension plans a one-time special assessment of \$50 per employee, he said.

That \$50 assessment would be equal to about 4% of the \$1,250 median corporate pension expense per employee and thus might not be objectionable to employers, Mr. Martin said.

Alternatively, Congress might

pass legislation to shift the PBGC deficit to the taxpayers, Mr. Martin explained.

To protect participants' pension benefits in the event of the collapse of a private insurer that guarantees benefits, a special reinsurance program would be established by the PBGC.

This reinsurance program would be funded by a special charge—perhaps about 50 cents per plan participant—that insurers would build into their rates, Mr. Martin said.

The PBGC then would use those funds to guarantee benefits when a private insurer collapses and stops paying benefits in pension plans that it covered.



Ms. Utgoff

## Dyer, Wells & Associates



## FASTRAK™ Will Take On Your Claims Administration Challenges... Big or Small.

### Automated Health Claims Systems for Self-Administered's.

Whether you are a multi-national conglomerate or an aggressive young company...

Whether you own the largest IBM mainframe or have no computer facilities at all...

The FASTRAK™ family of insurance software systems from Dyer, Wells & Associates will solve your health claims administration needs.

### The Champion of Claims Systems.

FASTRAK completely automates the adjudication and processing of health claims. It lets your company process all types of claims and handle every aspect of claims processing: from enrollment eligibility verification to benefit determination to payment processing.

It also accommodates a wide range of plans including medical, dental, short term and long term disability...in any combination. Plus, system flexibility means you can easily adapt FASTRAK to meet your changing needs.

A technologically sophisticated

system, FASTRAK gives you the same capabilities it's been giving major insurance carriers since 1977.

### Four Sizes Fit All.

Available in four versions, the FASTRAK family can knock out any insurance claims challenge, large or small.

- dw&a™/FASTRAK...the solution to automated claims administration for IBM mainframe computers.

- dw&a/FASTRAK VS™...for companies having specialized or limited claims processing needs, it operates on the WANG VS line of minicomputers. **WANG**\*

- dw&a/FASTRAK PC™...for organizations whose needs are best met with a microcomputer-based claims system.

- FASTRAK Processing Services...available for companies with small volumes or those who do not wish to process in their own data centers.

### Send for Your Free Brochure.

Since the beginning, Dyer, Wells & Associates has been a leader in insurance claims and other cost saving

insurance software packages. We stand by a record of achievement and innovation that ensures our systems will never become outdated.

### Mail this coupon, today.

- ☐ **Yes, I want to learn how FASTRAK can solve my health claims administration needs. I have checked the system(s) I am interested in.**
- ☐ IBM Mainframe (CICS/VSAM) ☐ IBM Mainframe (IMS DB/DC)
- ☐ Personal Computer ☐ Processing Services
- ☐ WANG VS

Name \_\_\_\_\_

Title \_\_\_\_\_

Company \_\_\_\_\_

# of Employees \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_

Zip \_\_\_\_\_ Phone ( ) \_\_\_\_\_

### Dyer, Wells & Associates

Mail to:  
Marketing Administrator **Want to talk?**  
Dyer, Wells & Associates Call us at:  
2251 Lake Park Drive **(404) 432-5888**  
Smyrna, GA 30080

BI-324

\*Wang is a registered trademark of Wang Laboratories, Inc., Lowell, MA.

**THE GOOD NEWS IS  
PROFITS WERE UP 22%.**



# CLAIMS-MADE CATASTROPHE?

## ISO's 'cure' may actually be worse than the disease

By Joseph M. Ravich

umbrella layers. In addition, many umbrella insurers

distinguishing the current policy from any policies the

The bad news?

The entire plant burned to the ground.

Why? Because of inadequate fire protection.

So much for profits, now.

The dangerously narrow view of profitability that led to this disaster may not be common everywhere. But it does take its toll on companies—all over the world.

• Because some managers may take risks that their counterparts in other countries never would.

And let an entire multinational corporation suffer the potential consequences.

Common sense suggests that since most risks are much the same everywhere, standards of protection should be, too.

That's the idea behind CIGNA Worldwide's Highly Protected Risk (HPR) concept.

Now more than ever, risk managers are able to coordinate and control truly global risks from a centralized location.

Our network of local offices in over 160 countries and our corps of HPR engineers around the world mean that levels of expertise can be as high in Bangkok as they are in Bordeaux.

Or almost anyplace else, for that matter.

And because CIGNA Worldwide offers an array of non-HPR coverages on the same global scale, we can structure a total insurance program to best protect your company's assets.

No matter how complex and varied your international risks may be.

What does all this mean?

Simply that with CIGNA Worldwide, the right protection can be very profitable.

**CIGNA Worldwide Incorporated**  
a CIGNA company

**CIGNA**

# How 1984 tax law affects risk funding

By The Insurance Institute of America

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

This month's question and answer focus on how income tax regulations—by defining the timing and conditions under which an organization can deduct risk-financing costs—may affect an organization's choice of risk-financing techniques.

**Q:** The Tax Reform Act of 1984 specifies the "economic performance" test for determining when an organization can deduct from its federally taxable income certain kinds of expenses related to the financing of accidental losses. This "economic performance" test differs from the tests established by Financial Accounting Standards Board Statement 5 for defining expenses for accounting purposes.

First, explain how the "economic performance" test specified by the Tax Reform Act of 1984 differs from the FASB 5 standards.

Then, explain in detail whether the "economic performance" test can be expected to encourage or discourage, as alternatives to guaranteed-cost insurance, the financing of products liability losses through:

- Retention backed by catastrophic-loss insurance.
- "Paid-loss retros" with promissory notes.

**A:** The Financial Accounting Standards Board Statement 5 provides that a loss arising from contingent events be recognized on an organization's accounting statements when the events resulting in that loss are known to have occurred and the amount of the loss can be determined with reasonable certainty.

The "economic performance" test established in the Tax Reform Act of 1984 is more stringent: For tax purposes,

expenses retained or insured losses are deductible only when these expenses actually have been paid.

In effect, the 1984 law puts all taxpayers on a cash basis, not on an accrual basis, with respect to the costs of risk-financing.

As to whether the "economic performance" test will encourage or discourage alternatives to guaranteed-cost insurance:

- Under most circumstances, the 1984 tax law should increase the attractiveness of guaranteed-cost insurance, when compared with retention, because the premium for such insurance is fully tax-deductible as soon as paid, while the amounts of retained losses are deductible only at the later time, when these losses actually are paid.

Therefore, on the average, the deduction for the guaranteed-cost insurance should come sooner than the deduction for a retained loss.

The greater the time value of money to the organization, the more valuable is this more prompt deduction.

- Under a "paid-loss retro" with a promissory note, the policyholder pays a portion of the premium with promissory notes, the notes becoming payable as the policyholder's loss experience develops.

The IRS has challenged attempted deductions of the face amount of these notes when issued, maintaining that the insured has not actually incurred an expense until the insurer calls for payment of the note.

In contrast, guaranteed-cost insurance provides a clear tax deduction of the entire premium when paid, typically at the beginning of the period that is covered.

Therefore, the 1984 tax law again increases the relative attractiveness of such insurance relative to "paid-loss retros" financed through promissory notes.

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

## ISO's 'cure' may be worse than the disease

Continued from previous page results but also for cost-effectiveness.

Counsel may and should be managed as aggressively as any other supplier of services. The best practice is to minimize the number of firms retained and maximize your leverage with each.

To this end, regular litigation audits should be conducted of counsel's files and evaluation reports should be prepared and regularly reviewed.

By evaluating and tracking the impact of counsel's work on indemnity payments, it is possible to determine cost-effectiveness.

And, there are several other steps risk managers should take to manage their litigation, including:

- Set specific rules for fee billing that must be adhered to by counsel. Bills must identify the person performing the work, the actual work performed and the duration of time.

Detailed counsel bills have a direct relation to proper and cost-effective litigation and claims management since they allow you to respond to a host of cost-containment issues, including whether the bills are supported by your files, whether you are getting a 60-minute hour, whether fees are fair, whether you should enter into contracts with counsel and whether you should manage more effectively or monitor counsel more closely.

- Companies that have broad classes of cases ongoing on a nationwide basis should consider retaining one legal firm to handle these cases rather than relying on individual firms in each jurisdiction. This coordinates discovery, settlement and defense.

There are many areas of the law that are being expanded by modern technology and scientific discoveries, and a careful and coordinated response to these movements must be initiated.

- A litigation policy statement should be prepared and distributed to all counsel identifying clear performance standards.

It is time for companies to require counsel to avoid defense litigation strategies based upon attrition, more discovery, punitive discovery and costly discovery. It is time to stop the enormous waste, duplication of effort and over-preparation of files by lawyers that are so much a part of a company's litigation expenses.

- Risk managers should have a thorough understanding of the issues of bad faith in all correspondence and actions; be on the lookout for bad faith on the part of the insurer.

**A modification of the current occurrence CGL form can work, but the ISO claims-made form moves the pendulum too far in the opposite direction.**

ISO actuarial estimates indicate that when the 1983-84 reported claims finally are settled or disposed of through verdict, defense costs will be approximately 50% of the payments made on these claims. Including defense costs as part of the aggregate limit could inflate legal fees by the insurer to reach the aggregate.

This is why it is essential that policyholders review their files to be certain positions taken in the past by the company and by the insurer regarding defense are acceptable in light of the claims-made policy.

Furthermore, companies should demand to have counsel of their choice present at any settlement discussion to provide advice on the responsibilities insurers have to the company.

- Enhance settlement and negotiating techniques. This is especially important under the claims-made policy, when corporate assets are more at risk.

- Consider establishing loss review panels for those claims and suits that present novel, legal issues of first impression or have the potential for large jury awards that could affect the corporation or its products.

In such a review, for example, the company might ask independent counsel to present the plaintiff's anticipated case. Then panel could meet and make recommendations about the case.

In addition, excess insurers can be invited to these reviews, with the goal of mitigating any anticipated difficulties with the excess insurer.

In addition, companies should hold a "post-mortem" on every suit disposed of by trial to examine why the case ended as it did.

Such a review after the case can help gain input about the handling of future, similar cases. And, it provides a chance to evaluate the work of the attorneys.

It also is an excellent tool for training and education; holding this type of review gives everyone an opportunity to question and observe and is an ideal environment for learning.

And, finally, such reviews can help in developing a plan for meeting the principal objective of the

claims-handling process: closing cases as quickly as possible for a correct payment.

- Insist on special instructions for handling claims related to all of the company's products and services.

- Consider contracting legal services with counsel. Or, establish flat rate fee schedules for attorneys not willing to enter into service contracts. These should be implemented for non-serious claims and expanded to include errors and omissions coverage, product liability matters and malpractice litigation.

Generally, the fee should be based on the anticipation that the cases will require no more than three days of trial. And, the fee schedule should be divided into two parts: work done prior to trial and trial work.

- Implement a computer program that can make quantitative and qualitative analyses of all pending cases.

This should be done in two phases. Phase I should include a system for tracking and analyzing litigation costs to measure the cost efficiency of your litigation management controls. Phase II should include a system to assist in the defense of major or complex litigation by providing access to a legal database and allowing network members to share data and communicate electronically with each other, avoiding duplication of time, effort and expense.

In conclusion, clearly, the transition from occurrence to claims-made policies will be a confusing mess. I do think that a modification of the current occurrence CGL form can work, but the ISO claims-made form moves the pendulum too far in the opposite direction. In fact, it may well be that the cure is worse than the disease.

What this policy really could do is change the current system in which a claimant has an unreasonable expectation of a reward to a system in which there is no reasonable expectation of a reward.

And, this could prompt the federal government to step into our industry on the grounds that the claims-made form violates public policy because it is too restrictive. If so, it will use as its wedge the legal theory that states have not properly or effectively regulated the industry.

But, at the very least, the change to the claims-made form is going to result in a diminution of coverage for corporate policyholders.

And that, in turn, will force risk managers to get more involved in the handling of claims and the management of litigation.

# business insurance

a publication of Crain Communications Inc.

The game plan that works.

# Buyer confidence

*Continued from page 2*  
buyers will listen to any supplier who promotes a new risk financing alternative since they cannot find the coverage they need in the commercial insurance market.

As a result, there are "fundamental shifts" taking place away from the commercial insurance market that may become permanent, he said.

Mr. Bogardus painted a grim picture of what is happening in the United States as a result of the lack of liability coverage.

The tightening market has put the insurance industry into the limelight, he noted. Every day, television or newspapers report another horror story about a company or municipality that cannot find coverage or is cutting back operations because it can't afford the premiums, Mr. Bogardus said.

And, complaints about the unavailability of insurance are now routinely presented at congressional hearings, he added.

"The average chief executive officer of an American corporation beset with soaring premiums and a shortage of capacity is developing an antagonistic attitude toward insurance companies."

In addition, the shortage of directors and officers liability insurance is affecting the quality of business leadership in "unprecedented ways," he said, because of the recent resignations of outside directors (BI, Jan. 27).

"It is obvious that the number and caliber of those willing to serve under current circumstances will deteriorate," he predicted.

During the past few years, insurers have had to take some strong actions to reverse a tide of red ink, Mr. Bogardus admitted. But, the industry's need for relief should have been communicated more effectively to the public before the crunch occurred, he said.

And, insurers should back up with hard facts their complaints that the U.S. civil justice system is responsible for insurers' mounting losses, he said.

"We are right on track by identifying recent changes in the U.S. civil justice system as the primary culprit," he said. But, he added that it is risky for insurers to alienate the public by demanding tort reform without providing complete statistics of the losses it blames on the courts.

Mr. Bogardus cited as an example consumer advocate Ralph Nader's public accusation that the property/casualty insurance industry is claiming fictitious losses as part of a massive conspiracy to raise rates and reduce coverage.

Mr. Nader believes that the industry is practicing deception in an attempt to stifle the rights of injured parties, Mr. Bogardus asserted.

"The industry needs unimpeachable statistics to back up its claim that litigation and settlements are soaring," he said. "Only when armed with such verification will an aggressive stance be warranted, and only then will it be effective."

"Rather than broadly condemning the civil justice system, we should approach the problem with a balanced and constructive tone," he added.

"We are not trying to reduce the rights of injured parties. On the contrary, we have a vital stake in a system which assures effective justice and fair treatment for everyone—whether a client, a plaintiff or an insurance company."

Mr. Bogardus noted that many underwriters are too narrowly focused on current circumstances to see the long-term picture. If the liability insurance crisis continues, regulators and legislators will intercede, and clients will leave the commercial insurance market, he predicts.

Already, major companies in the

banking, chemical, pharmaceutical and railroad industries are looking for alternative risk funding.

Mr. Bogardus said he hopes the industry develops "appropriate underwriting responses" to the liability insurance crisis, because "it is essential that the industry pave the way for corrective actions with sensitivity and awareness of long-term business considerations."

"Our role is to solve problems for our clients, not create or exacerbate the ones they already have."

Mr. Bogardus also hopes the insurance industry reacts positively when tort reform legislation is passed.

"As reform comes, all eyes will be directed toward our response. I urge that underwriters prepare to offer some early signal to acknowledge substantive progress when the states enact constructive measures," he said.

"I would hope that conditions will merit such action before the end of 1986."

**Business Insurance puts more into it so you'll get more out of it.**



Use this form, or the card in this issue, to enter your subscription to Business Insurance. Or call 313/446-0492.

**Business Insurance**  
Circulation Dept. 965 E. Jefferson Ave., Detroit, MI 48207

Business Insurance gives you total news coverage of loss prevention, risk financing and benefit management. Every week. Annual subscription (52 issues) in U.S. dollars.

|                               |                               |                                |
|-------------------------------|-------------------------------|--------------------------------|
| (Check here.)                 | Surface Mail.                 | By Air.                        |
| USA                           | <input type="checkbox"/> \$60 | <input type="checkbox"/> \$108 |
| Canada                        | <input type="checkbox"/> \$76 | <input type="checkbox"/> \$105 |
| Bermuda (Air only)            |                               | <input type="checkbox"/> \$105 |
| Europe/Middle East (Air only) |                               | <input type="checkbox"/> \$105 |
| All other foreign             | <input type="checkbox"/> \$76 | Rates on request.              |

☐ new subscription. ☐ renewal. ☐ payment enclosed.  
☐ bill me. ☐ bill company.

name (please print)

title telephone

company

nature of business

☐ business or ☐ home address

city state/country zip/postal code

☐ Please send information on your special 20%-off group rate for five or more subscriptions.

☐ I prefer not to receive information or advertising by mail from companies not affiliated with Crain Communications.

Mail to: Business Insurance  
Circulation Dept. 965 E. Jefferson Ave., Detroit, MI 48207

HB6

**Met Life has some great ways to help bring health care costs down to earth.**



In this era of skyrocketing hospital costs, Met-Review is a heaven-sent program. And it's just one of many ways Met Life can help keep your customers' health care costs from going sky high.

That's because Met-Review is directed by medical doctors and nurses. And it's designed to help eliminate unnecessary hospitalization and avoid hospital stays that are longer than they need to be.

We have a track record to prove how successful it is, too. And if you send us this coupon, we'll send you the information you and your clients need. We think you'll find that when it comes to helping control health care costs, we're on solid ground.

**GET MET. IT PAYS.**



© 1986 Metropolitan Life Insurance Company, New York, N.Y.

## Just ask us.

3 B186

Simply complete this coupon, attach your business card and mail to:

**Metropolitan Life Insurance Co.**  
**Group Marketing—Met-Review**  
**One Madison Avenue—Area 24VW**  
**New York, NY 10010**

My title is:

☐ Group Insurance broker  
☐ Group Insurance consultant  
☐ Other: \_\_\_\_\_

Please specify

Group Insurance products you are most interested in:

☐ Term Life ☐ Group Universal Life ☐ Medical  
☐ Health Care Cost Management ☐ Dental  
☐ Income Replacement ☐ Flexible Benefits  
Size of group case you are most likely to handle:  
☐ 50-200 lives ☐ More than 200 lives

## DES ruling

Continued from page 2  
defendants.

Aetna wrote primary insurance for Abbott from Jan. 1, 1961, until Jan. 1, 1970; for Parke-Davis from Jan. 1, 1954, to Jan. 1, 1971; for Rorer from Jan. 1, 1965, to Jan. 1, 1977; and for Upjohn from Jan. 1, 1956, to Sept. 30, 1977.

Hartford insured Parke-Davis from Jan. 1, 1971, to Dec. 31, 1974, and Continental insured Parke-Davis from 1974 through the present.

The pharmaceutical companies have been hit with numerous lawsuits by daughters of women who ingested diethylstilbestrol or DES, a synthetic hormone prescribed from the 1940s until 1971 for the prevention of miscarriages.

It has been associated with vaginal cancer among women exposed in the womb and an increased incidence of breast and gynecological cancer among women who ingested the drug during pregnancy.

Some suggest there also may be an increased incidence of infertility and genital abnormalities among sons and daughters of these women.

At issue in the case was the interpretation of the pharmaceutical companies' comprehensive general liability policies, which provided liability coverage for occurrences resulting in bodily injury or property damage during the policy period.

Aetna argued that under the policy language there was coverage only if the DES-related injury became manifest during the policy period. This is known as the manifestation theory.

The pharmaceutical companies argued that there was coverage from the time of initial exposure to DES and the ultimate cessation of

the DES-related injury, often many years later.

This is the triple-trigger or "continuous injury" theory first handed down in 1981 in an asbestos case—*Keene Corp. vs. Insurance Co. of North America*—by the U.S. Court of Appeals for the District of Columbia.

And Hartford argued that date of birth would determine coverage.

Judge Cabranes said that while these views were consistent with the "particular pecuniary interests" of their proponents, they are not consistent with the clear meaning of the commercial general liability policies.

In the American Home Products ruling, the appeals court analyzed provisions of the CGL virtually identical to provisions in this action, Judge Cabranes said, and rejected the exposure, manifestation and continuous injury theories.

Instead, the court of appeals held as a matter of law that the language of the insurance policies provides for coverage based upon the occurrence during the policy period of an "injury in fact," he said.

Judge Cabranes said the 2nd Circuit decision controlled this case. He rejected the views of the parties that this case was different because the insurance contracts in American Home were governed by New York law while those in this case were governed by the laws of other states.

"The evidence adduced by the parties as a result of extensive discovery is not inconsistent with an 'injury in fact' trigger of coverage," the court said.

"The parties have offered no clear evidence of any agreement or understanding between the defendant pharmaceutical companies and their insurers that liability coverage was to be triggered by anything other than the occurrence of

an 'injury in fact' during the policy period.

"Accordingly, the court holds that the plaintiff and third-party defendants are required under their insurance policies with the defendants to pay all sums that the defendants have become or will become liable to pay as damages on account of injuries that occurred during the coverage periods of such policies as a result of exposure to DES.

"However, no such indemnification is required with respect to any injury that occurred before or after the coverage period of such policies," he said.

On the duty to defend, Judge Cabranes again relied on the American Home Products decision.

The general principle is that the insurer has a duty to defend a suit against the policyholder in which the complaint states facts that appear to bring the injury within the policy coverage, he said.

Therefore, the pharmaceutical companies must bear the initial burden of showing that the complaint brought by the DES plaintiff involves an injury that allegedly occurred during the coverage period of the policy, the judge said.

The burden then shifts to the insurers to prove that the injury could not have occurred within the policy period.

"The insurers cannot be relieved

of their duty of defense unless and until they confine a particular claim so as to exclude the possibility of a recovery for which they have provided insurance," Judge Cabranes said.

Whether a claim falls within a coverage period would be decided on a case-by-case basis, the judge said.

In addition, Judge Cabranes said it was appropriate to determine whether and to what extent insurers may have breached their duty to defend certain cases that the pharmaceutical companies settled or terminated on their own.

These "closed cases" have been estimated to be in the hundreds, attorneys say. They would not comment on the amount of money at stake in the cases.

As a result, he ordered the parties to meet and formulate a procedure for resolving the liability and damages issues in all closed cases.

The judge said the proposal should address:

- The information available with respect to the closed cases.
- The types of DES-related injuries that were alleged in these cases.
- How much discovery may be required prior to an evidentiary hearing for closed cases.
- The nature and extent of the evidence that the parties will seek to present at such a hearing.

• The experience of any other courts that have conducted similar proceedings.

An attorney for Parke-Davis said the decision is favorable to pharmaceutical companies on the defense coverage issue.

"While the pharmaceutical companies would have preferred a Keene decision, Judge Cabranes' decision is more of what those companies expected and bargained for when they purchased the policies than what the insurers had sought in this litigation," said Dennis Cavanaugh, with the Hartford firm of Cohen & Channin.

He added that because of the unclear medical etiology of DES-related diseases, it is likely that coverage for indemnification in open DES cases should be resolved similar to the Keene approach.

However, an Aetna attorney interprets the decision to mean that there is a "single date for injury" which clearly is not as expansive as the Keene decision.

"It's more restrictive than Keene," the attorney said.

The attorney also emphasized that Aetna has gone ahead and provided a defense in a number of DES cases pending a decision on whether its interpretation is upheld.

Other attorneys in the case either declined comment or could not be reached.

## Searle names Durler insurance manager

### comings & goings: buyers

Fred Durler has been appointed manager of insurance at G.D. Searle & Co. in Skokie, Ill. In this newly created position, he will be responsible for the diversified pharmaceutical producer's domestic property/casualty insurance programs as well as related loss control and claims administration activities. Mr. Durler will report to Paul E. Morrison, director-risk management. Prior to joining Searle, Mr. Durler was insurance manager at Masonite Corp. in Chicago. He has a B.S. in management and finance from the University of Illinois and holds the Associate in Risk Management designation. He is a deputy member of the Risk & Insurance Management Society.

Alice Bryan, 45, has been named risk manager of Adventist Health System/West in Roseville, Calif. In this newly created position, she will handle all corporate

insurance matters for the 16-hospital unit of the Seventh Day Adventist Church and its subsidiaries. She will report to Ronald D. Herr, treasurer. Prior to joining AHS/West, Ms. Bryan was the insurance officer for the World Bank in Washington. She holds the Chartered Property Casualty Underwriter and Associate in Risk Management designations and is past president of the Potomac Chapter of the Risk & Insurance Management Society.

Dean A. Reynolds, 35, has been named director of risk management for the St. Joseph Health System in Orange, Calif. In this newly created position, he will direct all aspects of the company's risk management and insurance programs. He reports to Eleanor Brewer, vp.

St. Joseph's nine acute care hospitals are currently self-insured for medical malpractice insurance through its Bermuda captive. Prior to joining St. Joseph Health System, he was manager of corporate risk management at Wickes Cos. Inc. in Santa Monica, Calif. He has a B.A. in English from Washington State University in Pullman. He is member of the society of Chartered Property Casualty Underwriters and also holds the Associate in Risk Management designation.

We'd like to report on staff changes in your company's risk management, safety or employee benefits department. Just drop a note to Paul Winston, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611, or call 312-649-5442. Please send a photograph, too.

## I'M IN CHARGE™ An Employee Benefit That Pays for Itself

With I'M IN CHARGE™, you can help your employees become better health care consumers in just one hour.

And better employee health care consumers can save your company money by avoiding unneeded — and often expensive — treatment.

Why not join the more than 400 organizations that are using I'M IN CHARGE™ to help control medical plan costs?

I'M IN CHARGE™ includes an award-winning film, starring Gregory Harrison of "Trapper John, M.D.," that teaches viewers how to get more involved in their own medical treatment, guided group discussions and take-home materials that reinforce the I'M IN CHARGE™ message. The self-contained I'M IN CHARGE™ program is easy to administer — your own staff can do it.

Priced at \$985 for a start-up kit, I'M IN CHARGE™ can pay for itself when just one unnecessary surgical procedure is prevented. Better still, it can help you realize significant savings from shorter hospital stays, greater use of pre-certification programs and reduced claims against your medical plan.

Developed by Towers, Perrin, Forster & Crosby, an international consulting firm serving 90% of the Fortune 100 companies, I'M IN CHARGE™ is available on a 30-day trial basis.

Call today to order or for more information:

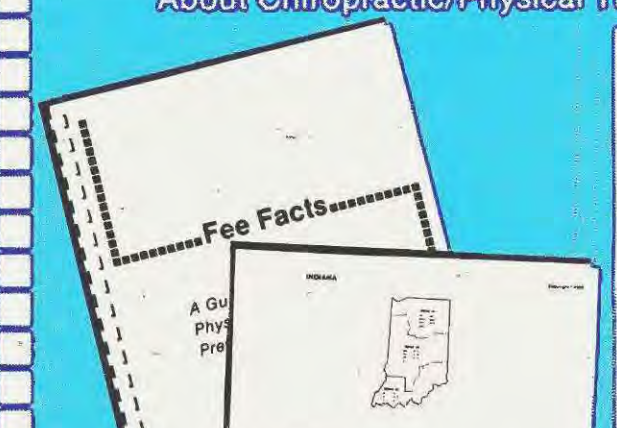
**1-212-304-3400**

**TPE&C**

Or write: I'M IN CHARGE™  
Towers, Perrin, Forster & Crosby  
245 Park Avenue  
New York, N.Y. 10167

## DO YOU HAVE THE FACTS?

### About Chiropractic/Physical Therapy Fees



A Gu  
Phys  
Pre

If you're a claim administrator attempting to control chiropractic/physical therapy claim expenses, probably not. That's why Data Management Ventures, Inc. developed **FEE FACTS** - A Guide to Chiropractic/Physical Therapy Fees.

**FEE FACTS** is a unique cost containment tool designed specifically for claim administrators. The result of nationally conducted fee surveys, **FEE FACTS** features statistically accurate reports of the average, 80th, and 90th percentile fees of 40 types of service for all 50 states.

With **FEE FACTS**, the guesswork in handling chiropractic/physical therapy claims is eliminated, allowing claim administrators to contain costs while avoiding costly and counterproductive fee disputes and litigation. **FEE FACTS** - because when it comes to cost control, you need the facts.

To order or for more information, contact:  
**Stuart Perry, Vice President**

| NEW PATIENT SERVICES/EXAMINATIONS         |  | AVG. | 80% | 90% |
|-------------------------------------------|--|------|-----|-----|
| Brief Service                             |  | 20   | 20  | 25  |
| ESTABLISHED PATIENT SERVICES/EXAMINATIONS |  | AVG. | 80% | 90% |
| Brief Service                             |  | 18   | 18  | 20  |
| DIAGNOSTIC PROCEDURES                     |  | AVG. | 80% | 90% |
| EKG                                       |  | 48   | ↑   | ↑   |
| TREATMENT PROCEDURES                      |  | AVG. | 80% | 90% |
| Spinal Manipulation                       |  | 19   | 20  | 20  |

DATA MANAGEMENT VENTURES INC.  
P.O. Box 724258, Atlanta, Georgia 30339  
(404) 438-9193

# CLAIMS-MADE CATASTROPHE?

## ISO's 'cure' may actually be worse than the disease

By Joseph M. Ravich

**I**N OFFERING ITS NEW claims-made commercial general liability policy, the Insurance Services Office has promised the new policy will do away with unnecessary litigation.

But, I do not believe that will occur. Rather, I suggest that the litigation environment will continue to be explosive and, in many cases, the flames will be fueled by the claims-made policy.

It is important to note that insurance is a reactive business and, therefore, reasonable changes must be accepted.

And, clearly the new CGL claims-made policy initially guarantees that markets will remain open. In fact, insurance representatives have stated publicly that the new policy will help to forestall a threat to the financial solvency of some insurers and is absolutely essential to the re-establishment and maintenance of a healthy market for general liability insurance.

Most people will agree that a claims-made policy is not a panacea, but rather a first step. Although the claims-made policy may have changed the rules, we still play the game the same way, and the key to controlling losses is the proper evaluation, analysis and settlement of claims.

Still, the belief that the claims-made policy will alter the U.S. civil justice system is unfounded. The courts will not now begin to interpret coverage narrowly, because that is not what the public wants.

Instead, as a result of the new claims-made CGL policy, I predict a dramatic shift in the claims and litigation management function from the insurer to the corporate risk manager. This is because the claims-made form transfers significant risk from the underwriting company, which should know how to manage the risk, to the insurance buyer, which may not know how to estimate it.

There is going to be an explosion of litigation among insurers, policyholders, brokers, agents and municipalities. The areas of this increased litigation are limited only by the creativity of lawyers, policyholders and insurers.

But, it is possible to identify the most obvious areas of increased litigation. And, in all of these areas, corporate assets are exposed to a greater degree than ever before.

These areas include:

- The apparent elimination of virtually all pollution coverage. The problem is so broad in nature that it affects all segments of society.
- The confusion over the application of retroactive dates, resulting in potentially huge gaps in coverage.
- The imposition of a cap on the aggregate limits and the apparent requirement that policyholders buy high limits in a market of limited capacity.
- The unclear use of the word "occurrence" in the policy. Despite the change in the wording of the "occurrence" definition, the effect is intended to be the same as in the 1973 policy. However, the courts have wrestled with this issue since 1973 and I am not optimistic that they will have any better luck now.
- Potential antitrust ramifications if policyholders are locked into one insurer to avoid gaps in coverage.
- Potential liability on the part of a risk manager who fails to buy a tail or purchases an insufficient amount.
- The increased potential for notification disputes and suits.
- The uncertainty in the overall relationships and duties among policyholder, insurer and agent/broker.
- The developing conflicts between umbrella/excess insurers and primary insurers as a result of the caps on coverage, which will force a large number of losses into

umbrella layers. In addition, many umbrella insurers are developing their own claims-made forms, which do not mesh with the ISO form.

- The unclear effect of increasingly sophisticated and intellectual demands placed on claims personnel and the agency system—demands that currently cannot be met.

- The increase in reservation-of-right letters, which will produce larger non-budgeted attorney expenses for the policyholders that must respond and monitor those letters.

The defense cost-containment provision proposed by ISO, which would apply some defense costs against aggregate limits under most CGL policies, is an example of how a provision that appears to be designed to cut litigation actually may increase it.

On its face, the defense cost containment provision appears to be an attractive solution to the problem of skyrocketing legal expenses. However, it causes uncertainty regarding the nature of the duty to defend.

It is likely that if policyholders are potentially liable for defense costs, they will begin to demand settlement of claims. If the insurer refuses to settle and resulting defense costs exceed the limit, the policyholder will have a bad-faith claim against the insurer, at least for the amount of the defense costs.

In addition, there appears to be a potential problem regarding control of litigation. Assuming that the claims-made policies retain for the insurer the right to control litigation, it is likely that the courts will

abrogate this exclusive right, thereby giving policyholders the right to control litigation.

The degree of policyholder participation that the courts will extend is, obviously, as yet unknown. But, it is sure to be an issue.

And, the defense cost containment provision could

strain relations between policyholders and their insurers' defense firms. After the insurer has exceeded its defense limit, the policyholder will be responsible for defense costs. But, if the policyholder can't pay, it is unlikely the courts will permit defense attorneys to withdraw. So, defense counsel will have to continue to represent the policyholder without compensation.

The industry can't ignore this problem by simply saying that after the defense limits are exceeded, it is no longer its problem; somehow, defense firms will figure out ways to get paid.

Finally, the defense cost provision poses a dilemma for defense counsel: In some cases, the more he or she does on a case, the less protection might be available to the client.

Many of these issues appear on the surface to be the same ones that have always concerned us, but there is one big difference: There is a much more direct threat to the policyholder's assets than ever existed under the occurrence CGL form. Under the claims-made form, policyholders are going to pay more for less coverage.

And, since corporate assets are at risk and those risks are escalating, I suggest risk managers immediately become more involved in the claim and litigation management process as well as in settlement negotiations.

There are three things that risk managers can do immediately, all of which will pave the way for more active involvement.

First, risk managers should draft a letter to the company's insurer requesting that it issue a statement identifying the terms and conditions of its policy and

distinguishing the current policy from any policies the company had in the past. This forces the insurer to take positions and make promises and begins to shift the burden back to the insurer.

I also recommend that risk managers get a copy of the July 22, 1985, issue of *Business Insurance*. In that issue, spokespersons for a number of insurers provide guidelines for new underwriting practices. The claims-made policy may allow the insurer to cancel certain implied promises, and the key is to force the insurer to make promises. Printed commentary is useful for this.

Obviously, you are building your file in anticipation of litigation.

And, third, risk managers should incorporate a new element into the billing of outside counsel: the 20-hour alert. Counsel should be required to notify the company when billable time reaches 20

hours.

The file then should be reviewed promptly. If the time involved appears to be excessive or unnecessary, further clarification should be requested immediately.

In addition, there are a number of options risk managers should consider to guarantee value for their diminished litigation dollar. For example, they can expand the risk management operation by adding a litigation coordinator.

Or, the company's legal department can hire a litigation and claims management coordinator who reports to the risk manager.

The risk manager can contract to retain a litigation management and claims consulting firm.

Or, the risk manager can solicit an independent law firm to assume the role of litigation coordinator.

Whatever approach is taken, however, the imposition of the new claims-made policy gives the sophisticated risk manager the opportunity—and the responsibility—to control and manage the company's own claims and litigation.

And, the development of a legal cost containment plan will work far better than any defense expense cap or cap on aggregate limits to control costs. Solid litigation management procedures are the only logical solution to the corporate executive's obligation to provide thoroughness of preparation without disproportionate expenditure of time and money.

Since more than 90% of all lawsuits are settled before trial and an additional 4% to 7% are settled before verdict, actual trial time and expenses are the tip of the legal defense budget iceberg.

Companies can enhance their success at litigation by preparing themselves before a suit, as part of an overall policy to successfully defend and ultimately reduce the claims brought against them.

There are many litigation management concepts, but the core elements in any plan are the proper selection, retention, and evaluation of counsel.

And, of these elements, selection is the linchpin. Criteria for selection must be applied regularly and consistently.

Selection of counsel should be based upon expertise, and counsel must be evaluated regularly, not only for

*Continued on next page*

**On its face, the defense cost containment provision appears to be an attractive solution to the problem of skyrocketing legal expenses.**

**Most people will agree that a claims-made policy is not a panacea. Although it may have changed the rules, we still play the game the same way.**

Joseph M. Ravich is a senior vp for Ad-justco Inc. in Tarrytown, N.Y.



# How 1984 tax law affects risk funding

By The Insurance Institute of America

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

This month's question and answer focus on how income tax regulations—by defining the timing and conditions under which an organization can deduct risk-financing costs—may affect an organization's choice of risk-financing techniques.

**Q:** The Tax Reform Act of 1984 specifies the "economic performance" test for determining when an organization can deduct from its federally taxable income certain kinds of expenses related to the financing of accidental losses. This "economic performance" test differs from the tests established by Financial Accounting Standards Board Statement 5 for defining expenses for accounting purposes.

First, explain how the "economic performance" test specified by the Tax Reform Act of 1984 differs from the FASB 5 standards.

Then, explain in detail whether the "economic performance" test can be expected to encourage or discourage, as alternatives to guaranteed-cost insurance, the financing of products liability losses through:

- Retention backed by catastrophic-loss insurance.
- "Paid-loss retros" with promissory notes.

**A:** The Financial Accounting Standards Board Statement 5 provides that a loss arising from contingent events be recognized on an organization's accounting statements when the events resulting in that loss are known to have occurred and the amount of the loss can be determined with reasonable certainty.

The "economic performance" test established in the Tax Reform Act of 1984 is more stringent: For tax purposes,

expenses retained or insured losses are deductible only when these expenses actually have been paid.

In effect, the 1984 law puts all taxpayers on a cash basis, not on an accrual basis, with respect to the costs of risk-financing.

As to whether the "economic performance" test will encourage or discourage alternatives to guaranteed-cost insurance:

- Under most circumstances, the 1984 tax law should increase the attractiveness of guaranteed-cost insurance, when compared with retention, because the premium for such insurance is fully tax-deductible as soon as paid, while the amounts of retained losses are deductible only at the later time, when these losses actually are paid.

Therefore, on the average, the deduction for the guaranteed-cost insurance should come sooner than the deduction for a retained loss.

The greater the time value of money to the organization, the more valuable is this more prompt deduction.

- Under a "paid-loss retro" with a promissory note, the policyholder pays a portion of the premium with promissory notes, the notes becoming payable as the policyholder's loss experience develops.

The IRS has challenged attempted deductions of the face amount of these notes when issued, maintaining that the insured has not actually incurred an expense until the insurer calls for payment of the note.

In contrast, guaranteed-cost insurance provides a clear tax deduction of the entire premium when paid, typically at the beginning of the period that is covered.

Therefore, the 1984 tax law again increases the relative attractiveness of such insurance relative to "paid-loss retros" financed through promissory notes.

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

## ISO's 'cure' may be worse than the disease

Continued from previous page results but also for cost-effectiveness.

Counsel may and should be managed as aggressively as any other supplier of services. The best practice is to minimize the number of firms retained and maximize your leverage with each.

To this end, regular litigation audits should be conducted of counsel's files and evaluation reports should be prepared and regularly reviewed.

By evaluating and tracking the impact of counsel's work on indemnity payments, it is possible to determine cost-effectiveness.

And, there are several other steps risk managers should take to manage their litigation, including:

- Set specific rules for fee billing that must be adhered to by counsel. Bills must identify the person performing the work, the actual work performed and the duration of time.

Detailed counsel bills have a direct relation to proper and cost-effective litigation and claims management since they allow you to respond to a host of cost-containment issues, including whether the bills are supported by your files, whether you are getting a 60-minute hour, whether fees are fair, whether you should enter into contracts with counsel and whether you should manage more effectively or monitor counsel more closely.

- Companies that have broad classes of cases ongoing on a nationwide basis should consider retaining one legal firm to handle these cases rather than relying on individual firms in each jurisdiction. This coordinates discovery, settlement and defense.

There are many areas of the law that are being expanded by modern technology and scientific discoveries, and a careful and coordinated response to these movements must be initiated.

- A litigation policy statement should be prepared and distributed to all counsel identifying clear performance standards.

It is time for companies to require counsel to avoid defense litigation strategies based upon attrition, more discovery, punitive discovery and costly discovery. It is time to stop the enormous waste, duplication of effort and over-preparation of files by lawyers that are so much a part of a company's litigation expenses.

- Risk managers should have a thorough understanding of the issues of bad faith in all correspondence and actions; be on the lookout for bad faith on the part of the insurer.

### A modification of the current occurrence CGL form can work, but the ISO claims-made form moves the pendulum too far in the opposite direction.

ISO actuarial estimates indicate that when the 1983-84 reported claims finally are settled or disposed of through verdict, defense costs will be approximately 50% of the payments made on these claims. Including defense costs as part of the aggregate limit could inflate legal fees by the insurer to reach the aggregate.

This is why it is essential that policyholders review their files to be certain positions taken in the past by the company and by the insurer regarding defense are acceptable in light of the claims-made policy.

Furthermore, companies should demand to have counsel of their choice present at any settlement discussion to provide advice on the responsibilities insurers have to the company.

- Enhance settlement and negotiating techniques. This is especially important under the claims-made policy, when corporate assets are more at risk.

- Consider establishing loss review panels for those claims and suits that present novel, legal issues of first impression or have the potential for large jury awards that could affect the corporation or its products.

In such a review, for example, the company might ask independent counsel to present the plaintiff's anticipated case. Then panel could meet and make recommendations about the case.

In addition, excess insurers can be invited to these reviews, with the goal of mitigating any anticipated difficulties with the excess insurer.

In addition, companies should hold a "post-mortem" on every suit disposed of by trial to examine why the case ended as it did.

Such a review after the case can help gain input about the handling of future, similar cases. And, it provides a chance to evaluate the work of the attorneys.

It also is an excellent tool for training and education; holding this type of review gives everyone an opportunity to question and observe and is an ideal environment for learning.

And, finally, such reviews can help in developing a plan for meeting the principal objective of the

claims-handling process: closing cases as quickly as possible for a correct payment.

- Insist on special instructions for handling claims related to all of the company's products and services.

- Consider contracting legal services with counsel. Or, establish flat rate fee schedules for attorneys not willing to enter into service contracts. These should be implemented for non-serious claims and expanded to include errors and omissions coverage, product liability matters and malpractice litigation.

Generally, the fee should be based on the anticipation that the cases will require no more than three days of trial. And, the fee schedule should be divided into two parts: work done prior to trial and trial work.

- Implement a computer program that can make quantitative and qualitative analyses of all pending cases.

This should be done in two phases. Phase I should include a system for tracking and analyzing litigation costs to measure the cost efficiency of your litigation management controls. Phase II should include a system to assist in the defense of major or complex litigation by providing access to a legal database and allowing network members to share data and communicate electronically with each other, avoiding duplication of time, effort and expense.

In conclusion, clearly, the transition from occurrence to claims-made policies will be a confusing mess. I do think that a modification of the current occurrence CGL form can work, but the ISO claims-made form moves the pendulum too far in the opposite direction. In fact, it may well be that the cure is worse than the disease.

What this policy really could do is change the current system in which a claimant has an unreasonable expectation of a reward to a system in which there is no reasonable expectation of a reward.

And, this could prompt the federal government to step into our industry on the grounds that the claims-made form violates public policy because it is too restrictive. If so, it will use as its wedge the legal theory that states have not properly or effectively regulated the industry.

But, at the very least, the change to the claims-made form is going to result in a diminution of coverage for corporate policyholders.

And that, in turn, will force risk managers to get more involved in the handling of claims and the management of litigation.

# Prudential enters commercial lines business

Prudential Property & Casualty Insurance Co., a subsidiary of Prudential Insurance Co. of America, will enter the commercial property/casualty insurance business by purchasing The Lumbermens Mutual Insurance Co. of Mansfield, Ohio, for a price to be determined.

Lumbermens specializes in commercial insurance for small and medium-sized business and is licensed in 28 states, said a Prudential spokeswoman. Until now, Prudential Property & Casualty has written only personal lines, she said.

"We're interested in that small-to medium-sized business market, and that is exactly the kind of client we're already dealing with in our personal business. It's really a good match for us," she said, adding that Prudential is not interested in jumbo commercial accounts.

Lumbermens, which had net written premiums of \$71.3 million in 1985, reported a \$14.7 million loss last year and had stopped writing new business in May. Policyholder surplus declined to \$5.3 million at the end of 1985 from \$25.8 million in 1981. In addition, A.M. Best Co. lowered Lumbermens' rating late last year to an omitted from a C (BI, Nov. 18, 1985).

Lumbermens is now in the process of converting from a mutual to a stock insurance company, says the Prudential spokeswoman. Once the conversion is completed in August, Prudential will acquire its stock for whatever its value, said the spokeswoman, who added it is prepared to invest up to \$100 million.

In the meantime, Prudential has agreed to contribute \$15 million to Lumbermens' surplus.

Lumbermens Mutual Insurance Co. is not associated with Lumbermens Mutual Casualty Co., a Kemper Group affiliate based in Long Grove, Ill.

## Capital increase

FGIC Corp., a Delaware-based holding company, has added \$20 million to its capital to support increased writings of its subsidiary Financial Guaranty Insurance Co. in New York.

The capital infusion increases FGIC's total shareholders' capital to around \$253 million. It is the fourth capital installment in the last 12 months for FGIC, bringing the total additions for that period to \$121 million.

Financial Guaranty issues coverage to guarantee the timely payment of principal and interest on municipal bonds.

Gerald L. Friedman, chairman and chief executive officer of FGIC, said the additional funds will support continued growth in new insurance written by Financial Guaranty, while maintaining a conservative capital-to-risk ratio.

FGIC is owned by six companies: General Electric Credit Corp., General Re Corp., Kemper Group, Merrill Lynch & Co. Inc., J.P. Morgan & Co. Inc. and Shearson Lehman Bros. Inc.

## Armco divests

Armco Inc. of Morristown, N.J., is selling Continental Western Insurance Co., a Des Moines, Iowa-based personal and commercial insurer, to W.R. Berkley Corp., a Greenwich, Conn.-based insurance holding company, for \$52 million.

Continental Western, a subsidiary of Milwaukee-based Northwestern National Insurance Co., has assets of more than \$127 million. It had net premiums written of more than \$63 million in 1985, of which 48%, or about \$30 million, was for commercial risks, says an Armco spokesman.

## markets

Continental Western writes most of its business through independent agents in Iowa, Nebraska, Illinois, Missouri and Kansas, the spokesman says. The commercial risks written by the insurer include automobile, commercial multiperil, liability and workers compensation.

Continental Western will purchase its headquarters building from Armco for \$4.8 million after completion of the transaction, which must be approved by Iowa and Wisconsin regulators.

Armco has been trying to sell its property/casualty insurance units for about two years, says the spokesman. He adds that while it is still trying to find buyers for the

three remaining Northwestern subsidiaries, it has decided to delay selling Northwestern National itself for "at least a while." The spokesman would offer no explanation for this decision.

W.R. Berkley's insurance properties include Admiral Insurance Co., an excess/surplus lines insurer based in Cherry Hill, N.J. Admiral had \$142 million in assets and a \$37 million surplus as of Dec. 31. It wrote \$56.5 million in premiums last year, says Brian Kelly, Berkley's vp and counsel.

Berkley has also recently created another excess and surplus lines insurer, Nautilus Insurance Co., based in Scottsdale, Ariz., notes Mr.

Kelly. Nautilus, which has \$7.5 million in assets and the same amount of policyholder surplus, was authorized to do business in 29 states as a non-admitted carrier as of March 1, Mr. Kelly says.

Nautilus, which was licensed in Arizona in November, will write business that has a "lower degree of expected severity" than business now written by Admiral, he says.

## New consultant

A new risk management consulting firm, Parentis Risk Management Inc., is operating in Middletown, N.J., with a strong emphasis on analyzing the cost-effectiveness of its clients' insurance and self-insurance programs, according to its founder.

Clyde W. Hall, who founded the

firm after leaving a position as general manager of the risk management services department of Continental Group Inc., said a secondary goal of the new company will be to improve the risk management processes and procedures of client companies.

He said Parentis will focus on companies with \$75 million to \$300 million in sales that need specialized risk management services.

"I feel there is a strong need for the services we provide in companies which cannot afford to employ a risk manager, or for the company with an entry-level risk manager who needs assistance in certain areas of their risk management program," said Mr. Hall.

The address of the new firm is P.O. Box 768, Middletown, N.J. 07748; 201-671-1777.

# August is just around our Conference.

## The Business Insurance Conference on Communicating Employee Benefits.

On August 4 and 5, at New York City's all new and spectacular Marriott Marquis Hotel, an influential group of employee benefit executives will be meeting to explore issues critical to their professional responsibilities.

This year's agenda includes panel discussions on health care alternatives, computer communications and pre-retirement counseling; and concurrent case studies will be presented on audio-visual, print, and total communication packages. Also, task force "think tanks" invite you to partake in problem/solving sessions on employee benefit communication issues.

Additional highlights include the 14th Annual EBC Competition Awards Presentation plus "You Be The Judge" — a look at how other companies communicate benefit programs to employees.

Come listen, learn and contribute at the *BI Conference on Communicating Employee Benefits* at the Marriott Marquis in New York City on August 3, 4, and 5.

## business insurance

**"An opportunity to gain valuable insight into communicating benefits to employees."**

BI/324

**Business Insurance, Communication Services Department**  
220 East 42nd Street, New York, NY 10017  
Ann Vazquez, Registrar — (212)210-0137

Yes, I am interested in your conference! Please send me the agenda, registration, and hotel details as soon as possible.

Name \_\_\_\_\_  
Title \_\_\_\_\_  
Organization \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Business Phone ( ) \_\_\_\_\_

## datebook

**APRIL 13-18. "Reach for the Top"—Risk & Insurance Management Society 24th annual conference** in Toronto. \$595 for members; \$695 for non-members; reduced fees available for those attending only part of the conference. RIMS Conference Department, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

**APRIL 13-18. The College of Insurance Management Program** in Tarrytown, N.Y., sponsored by The College of Insurance; \$895 for College sponsors; \$1,050 for others. Ronnie Kranis, Professional Development Programs, The College of Insurance, One Insurance Plaza, 101 Murray St.,

New York, N.Y. 10007; 212-962-4111.

**APRIL 14-15. Health Policy Conference** in Washington, sponsored by the American Medical Care & Review Assn.; before March 28: \$375 members; \$425 non-members. After March 28: \$425 members; \$550 non-members. AMCR, 5410 Grosvenor Lane, Suite 210, Bethesda, Md. 20814.

**APRIL 14-15. Cost Containment and the Restructuring of the U.S. Health Insurance Industry** conference in New York, sponsored by Bear Stearns & Co. and Commutech Market Intelli-

gence; \$595; \$495 for additional registrants from the same organization. Sharon Barrett Curry, Commutech Market Intelligence, P.O. Box 67, Yorktown Heights, N.Y. 10598; 914-245-7764.

**APRIL 14-18. Practising Law Institute Insurance Week** series in San Francisco, including: Introduction to Commercial Insurance; Hazardous Waste, Toxic Tort, and Products Liability Insurance Problems; Directors and Officers Liability Insurance and Self-insurance; Bad Faith Litigation and Insurer vs. Insured Disputes; and Insurance Litigation and Coverage Issues. Cost per seminar is \$215; five-day rate is \$900. Practising Law Institute, Dept. 105-F9, 810 Seventh Ave. New York, N.Y. 10019; 212-765-5700.

**APRIL 15. The Claims-Made and New Occurrence Revolution** seminar in New York, sponsored by the College of Insurance; \$295 for first registrant from an organization; \$265 each additional attendee. Also April 22. Risk Research Center of the College of Insurance, One Insurance Plaza, 101 Murray St., New York, N.Y. 10007; 212-962-4111, ext. 358.

**APRIL 15. 1986 Claims Conference Series** in Chicago, sponsored by CMA Consulting Group; \$195. Also April 17 in San Francisco; April 22 in Atlanta; April 29 in Dallas. Beverly Loughlin, CMA Consulting Group, 170 E. Hanover Ave., Morristown, N.J. 07960; 201-267-7171.

**APRIL 16. Mental Health Benefits Conference** in Washington, co-sponsored by the American Medical Care & Review Assn. and the National Assn. of Private Psychiatric Hospitals; before March 28: \$350 members; \$400 non-members.

After March 28: \$450 members; \$500 non-members. AMCR, 5410 Grosvenor Lane, Suite 210, Bethesda, Md. 20814.

**APRIL 16-19. Arbitration and Dispute Resolution** institute in Scottsdale, Ariz., sponsored by the International Foundation of Employee Benefit Plans; \$450 for members; \$525 for non-members. IFEBP, Registration Department, 18700 W. Blue-mound Road, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

The Datebook is compiled from notices sent to Business Insurance. Notices should be sent at least eight weeks in advance to Datebook, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611. Business Insurance reserves the right to select meetings of most interest to its readers and cannot guarantee that notices will be printed.

# the professional marketplace

## RATES AND CLOSING TIME:

Rates: Display classified is \$79.50 per column inch, minimum of one inch. Straight classified is \$6.50 per line, minimum of 5 lines. Count 34 characters per line (include each space and punctuation as a character). Additional \$13.00 charge for blind box ads. Only those responses which fit into a business size envelope will be forwarded. Responses are forwarded daily.

Closing: Published every Monday. Copy must be in written form by noon Tuesday, 6 days preceding publishing date. No verbal phone copy accepted. Prepayment required. Mail ads to Business Insurance, Classified Advertising, 740 N. Rush St., Chicago, IL 60611. For more information call 312-649-5340.

### Business Insurance

## Circulation Breakdown\*

### Commercial Consumers

#### Administrative:

CEO's presidents and owners...2,983  
Vice-presidents, general managers and other administrative personnel...2,758

#### Financial:

Chief financial officers and vice-presidents of finance...2,018  
Secretaries, treasurers, controllers and other financial personnel...6,484

#### Risk/employee benefits:

Vice-presidents, directors, managers, and other related department personnel of: insurance, risk, employee benefits, personnel, compensation, pension, safety, security, industrial relations, human resources and employee/labor relations...8,111

Sub-total...22,354

Associations...483  
Government, unions and educational systems...1,252

### Commercial Consumers

Sub-total...24,089

Insurance agents and brokers 10,285  
Insurance companies...6,739  
Financial institutions...748  
Actuaries, attorneys, adjusters, appraisers and consultants...3,808  
Others allied to the field...1,308

TOTAL...46,977

\* Source: Business/Occupational breakdown of qualified circulation, Nov. 25, 1985 issue, as submitted to BPA for December 1985 BPA Publisher's Statement.

### INSURANCE EXECUTIVE

Rapidly Growing National Insurance Brokerage/Consulting Firm Which Specializes in Providing Services to the Health Care Industry Seeks a Branch/Regional Manager to Oversee its New Jersey and Mid-Atlantic Operations.

#### Candidate must have:

- Previous Management Experience
- Masters in Business Administration or Equivalent Experience/Education
- Solid Casualty Insurance Background
- Familiarity with Professional Liability

#### Desirable Additional Qualifications May Include:

- Knowledge of Insurance Company Operations
- Insurance Brokerage Experience
- Familiarity with or Experience in Association Insurance Program
- Accident and Health Expertise
- Health Care Risk Management Knowledge

Firm offers superior salary and benefits package plus attractive incentives including bonuses and stock option plans.

#### Reply to:

Box 1966, Business Insurance  
740 Rush St., Chicago, IL 60611

### INSURANCE OFFICE MANAGER Odessa, Texas

Excellent opportunity for an experienced Property & Casualty Office Manager exists with Commerce & Energy Insurance.

The successful candidate will have excellent written and interpersonal communications skills, insurance underwriting experience, and the ability to manage the personnel, work flow and administration of a small insurance office.

We offer an excellent salary and benefits package through our affiliation with El Paso Products Company. Please forward your resume in confidence to:

EL PASO PRODUCTS COMPANY

Attn: Corporate Personnel Dept.

P. O. Box 3986

Odessa, TX 79760

An Equal Opportunity Employer, M/F

### ILLINOIS EXCHANGE SYNDICATE

Funding in place. Looking for large profitable books of homogeneous business. Prefer reinsurance in place but we can place. Please reply with info. to:

Box 1974, Business Insurance  
740 Rush St., Chicago, IL 60611

### CLAIMS MANAGER

Expanding Health Services Corp. seeking individual with BA and 8-10 yrs. medical malpractice claims and supervisory experience. Competitive compensation package. Send resume to:

VP-Human Resources  
Coastal Group, Inc.  
P.O. Box 3079  
Durham, NC 27705

### HAVE MARKET

Have new territories opening nationally for financial institutions, L.S.I., C.P.I., Blanket Fire and Residual. Looking for knowledgeable and professional agencies wanting to add these products to existing lines.

#### SEND REQUEST TO:

P.O. Box 3618  
Tustin, California 92681

### RISK MANAGER

The City of Spokane, Washington is currently recruiting for the above position. The individual we are seeking will have successfully demonstrated skills in the following areas:

- Provide technical advice on insurance and liability provision to be included in construction contracts, leases and other agreements.
- Accumulate and analyze loss data obtained from records and claims filed.
- Prepare recommendations regarding the methods of coping with various risk, i.e., changes in procedures, funding, etc.
- Identify facilities, conditions and/or situations conducive to potential loss.
- Establish and maintain an aggressive and effective program to prevent and minimize losses.

Minimum education and experience include graduation from an accredited college or university with major course work in business administration, insurance, public administration, risk or safety management or a closely related field. Considerable experience in the field of Risk Management, loss prevention, insurance administration or directly related field, preferably in public sector with at least one year of supervisory experience.

In addition to an excellent employee benefit package, the 1986 salary range is: \$32,900—\$36,600

Apply to: Personnel Director  
City of Spokane  
W. 808 Spokane Falls Blvd.  
Spokane, WA 99201-3327

Resumes should be sent as soon as possible and must be postmarked no later than April 11, 1986.

## BI Classifieds assure top quality results!

### EMPLOYEE BENEFIT SENIOR SALES REPRESENTATIVE

We are looking for a person in the Cincinnati, Ohio or Houston, Texas area well versed in all facets of employee group benefits, especially medical coverage. Previous experience with a Commercial Group Insurance Carrier or Third Party Claim Administrator preferred. Salary commensurate with experience and ability. Please send resume with salary requirements to: Box 1971, Business Insurance, 740 Rush Street, Chicago, Illinois 60611

### CLAIMS DIRECTOR/TRADE ASSOCIATION

National property-casualty association located in Northwest Chicago suburb seeks Claims Director. Responsible for committee administration, analysis of trade regulations, implementation of public policy goals. Written and oral communication skills important. Claims experience and law degree helpful. Please indicate salary history.

Box 1970, Business Insurance  
740 Rush St., Chicago, IL 60611

### MANAGER, RISK MANAGEMENT AND SAFETY

Ohio based mass merchandising division of Federated Department Stores with annual sales of \$1.1 billion with 75 stores in 8 states is seeking a self-starter with 3-5 years experience in Public Liability, Workers' Compensation, Product Liability, Property Insurance and Safety programs. Prior retail experience desirable with strong oral and written communications skills, negotiation aptitude and ability to interact with all levels of management. Some travel required. Submit resume to:

Executive Recruitment  
Gold Circle Stores  
P.O. Box 63, 6121 Huntley Road  
Worthington, OH 43085-0063

### Group Sales

An excellent career opportunity for Group/General agents in N.H., Vermont, Maine, Mass., Western Penn. and/or experienced group sales individuals; employed direct. Designed to market agents and brokers; includes two extremely competitive Group Trusts and partially self-funded plans. Excellent overrides, excellent new trusts with high respect & long established TPA in Conn.

Call 203-659-4494.

### SELLING YOUR AGENCY?

Wanted P&C Agency in Pa. or N.J. Cash Terms. Contact Thru:

Box 1965, Business Insurance  
740 Rush St., Chicago, IL 60611

### PREMIUM FINANCE OPPORTUNITIES

Premium Finance Company which is a subsidiary of a Fortune 500 has openings in major cities and looks to expand. Needs trainees, Collection Managers, Assistant Branch Managers, and Branch Managers with finance experience and desire, capable of handling personnel and 25M in receivables. Excellent benefits, company car, expense account. Lazy people need not apply. Send resume to:

IPF  
P. O. Box 693  
Roswell, Georgia 30075

### RISK MANAGEMENT MARKETING ANALYST

Crump Risk Management Services, a division of The Crump Companies, Inc., is seeking an outgoing, creative person with an MBA in Risk Management to develop marketing/feasibility presentations, market them to insurance companies and prepare client proposals. Experience with alternate funding techniques including retros (incurred and paid), self-insurance (pure and fronted), spread loss, deductible/limit, captive, rent-a-captive programs a plus. Career opportunity with country's ninth largest broker. Ground floor opportunity. Compensation open, depending on experience. Excellent benefits program and relocation package. Qualified applicants should send detailed resume, salary requirements and references in confidence to:

Bob Hug, Vice President  
The Crump Companies, Inc.,  
P.O. Box 171377  
Memphis, Tennessee 38187-1377

An Equal Opportunity Employer M/F

## Executive Director Group Field Claims

We have an outstanding career opportunity available for an Executive Director to provide quality service and leadership as we expand our current field claim operation to 10 regional claims centers. Projected market share is expected to increase from 0.6% to 2.0% by 1990.

To qualify, we require you to have knowledge and experience in group claims administration, group insurance marketing, and internal operating functions — funding arrangements, design, cost containment features, etc. You also must have strong personnel, management development and communications skills. Fifty percent initial travel should be expected.

Compensation includes a highly competitive salary and comprehensive benefits. Relocation to Midwest location can be provided. Our employees know of this ad. Submit your resume and salary history, in confidence, to:

Box 1973, Business Insurance  
740 Rush St., Chicago, IL 60611

An Equal Opportunity Employer M/F

## WASHINGTON STATE BROKER/MGA NOW INSURING 3500 PROFESSIONALS DIRECTLY AND VIA A BROKER NETWORK SEEKS "A" RATED MARKETS FOR: PROFESSIONAL LIABILITY LAWYERS HEALTH PROFESSIONALS ARCHITECTS & ENGINEERS REAL ESTATE

PLEASE CALL OR WRITE JACK QUINAN

Quinan-Pickering, Inc.

Since 1938

P.O. BOX 3875 or 2727-4th AVE. SO.  
SEATTLE, WA 98124  
TEL: 206/622-4260

## Claims Manager Group Health Insurance

A major life and health insurer, with a strong reputation in the group insurance market, is seeking a results-oriented Claims Manager to work out of one of its regional offices.

You must have group health claims management experience, knowledge of on-line claims processing systems, and the ability to direct a large regional claims office. In addition, you must have excellent planning skills and the ability to work on a timely and effective basis with office personnel, sales representatives, brokers/consultants, and existing and potential clients.

We offer a very competitive salary and benefits package, including profit sharing, deferred compensation alternatives and flexible work hours. Relocation and third party buyout provisions can be provided. For consideration, please send your resume today to:

Box 1972, Business Insurance  
740 Rush St., Chicago, IL 60611

An Equal Opportunity Employer M/F

## Packwood tax proposal

Continued from page 1

To the delight of benefit experts, the Packwood plan retains the current non-discrimination test that compares 401(k) salary deferrals of a company's highest-paid one-third employees to the lower-paid two-thirds.

The House bill establishes a much more complicated definition of what is a highly compensated employee.

However, the Packwood plan picks up from the House bill the so-called average deferral percentage tests that limit the amount that highly paid employees can defer to a 401(k) plan. These tests are much more restrictive than the current Internal Revenue Service tests.

In addition, the Packwood proposal offers much more liberal non-discrimination rules for welfare-type plans than the House bill (BI, Dec. 16, 1985).

These tests are designed to prevent highly compensated employees from receiving a disproportionate share of the welfare benefits provided by a company. If a company's benefit plans fail the non-discrimination test, it would be disqualified and highly compensated employees would be taxed on employer contribution to the plans.

The Packwood proposal would also retain the tax-exempt status of the nation's Blue Cross & Blue Shield plans. The House bill would revoke the Blues' tax-exempt status.

BC/BS officials have warned that if their plans are taxed, the cost of coverage for small employers could increase and new underwriting restrictions might be added (BI, Nov. 25, 1985).

In a major shift from the House bill, which has no comparable provision, the Packwood calls for scrapping the popular 10-year vesting schedules that most employers offer in their pension plans.

Instead, employers would have their choice of offering two rapid-vesting schedules:

- A five-year cliff vesting schedule, in which plan participants would be first and fully vested after five years.

- A schedule in which participants would have to be 20% vested after three years and then vest at the rate of 20% annually until they were 100% vested after seven years.

However, the Packwood proposal would allow multiemployer pension plans to continue to offer 10-year vesting schedules.

There are a number of other benefit areas in which the Packwood proposal and the House tax bill differ. They include:

- Educational assistance benefits. The Packwood plan calls for permanently excluding employer-paid educational assistance benefits from employees' taxable income. The maximum annual tax-free benefit would be 1/4 of the Social Security wage base. If such a formula were now in place, the maximum educational assistance benefit that could be provided to an employee this year would be \$5,250.

By contrast, under the House tax bill, the maximum annual tax-free educational assistance benefit per employee would be \$5,000. In addition, the section of the tax code that allows such benefits to be offered tax-free to employees would be allowed to expire in 1987.

- Group legal benefits. The Packwood plan would permanently extend the tax-free status of group legal benefits. The House bill extends this tax-free status through 1987.

- Dependent care benefits. The Packwood proposal would continue current law that allows employers to provide unlimited tax-free dependent care benefits, such as paying for day-care tuition for an employee's child. The House bill calls for a \$5,000 annual cap on the benefits.

- Integration. The Packwood proposal proposes new rules for employers that integrate or offset pension benefits by the Social Security benefits an employee receives. The House bill lacks similar provisions.

Both the Packwood proposal and the House tax bill include a number of benefit provisions that are similar or identical. Both would:

- Impose a 10% excise tax on reversions employers recover when they terminate over-funded pension plans. The provision would affect terminations that occur after Dec. 31, 1985.

- Impose a 15% excise tax on employees who receive pre-retirement distributions (generally before age 59½) from pension and savings plans. There would be several ways to avoid this tax, such as rolling over the distribution into an Individual Retirement Account and letting it remain in the IRA until an employee reaches age 59½.

- Eliminating the favorable taxation—known as 10-year forward averaging—of lump-sum distributions received from pension and savings plans.

- Not renewing the section of the Internal Revenue Code that allows employers to provide tax-free van pooling benefits to employees. The van pooling section expired on Dec. 31, 1985.

On the property/casualty side, the Packwood plan eschews most of the new taxes on insurers included in the House bill.

Absent in the Packwood plan are House provisions to tax insurers on a portion of tax-exempt income, such as interest from municipal bonds, through a new "minimum tax" (BI, Nov. 25, 1985).

However, like the House bill, the Packwood plan proposes to tax insurers on 20% of their unearned premium income. This tax would be phased in over 10 years, compared with five years in the House bill.

Currently premiums are not taxed until they are earned.

The Packwood plan, though, would initially require both property/casualty and health/life insurers to discount their reserves by 5% annually for tax purposes. The discount rate would be adjusted over three years to conform to "an appropriate rate," though the bill does not explain what factors would be used to determine that rate.

Under the bill, each insurer would be allowed to determine the length of time over which reserves for each line of business would be discounted based on their own experience.

Insurance trade officials were baffled by a possible last-minute change on reinsurance taxes.

An earlier staff summary of the Packwood tax plan said the federal excise tax on casualty reinsurance premiums paid to foreign insurers would be raised to 4% from the current 1% (BI, March 17). The House bill also calls for a similar 4% excise tax.

But the detailed "spread sheet" distributed last week that explains the Packwood proposal says that there would be no change in the excise tax. There was no immediate explanation available on this discrepancy.

On the benefit side, experts were jubilant that Sen. Packwood rejected the House proposal regarding maximum pension benefits and contributions under Section 415 of the Internal Revenue Code.

"There seems to be a realization that if companies are barred from adequately funding pensions, there will be inadequate pensions," said Mr. Ugoretz of the ERISA Industry Committee.

That House proposal, assailed by the benefit community, calls for slashing the maximum annual benefit funded through a defined benefit plan to \$77,000 from \$90,000. The maximum annual contribution to a defined contribution plan would be reduced to \$25,000 from \$30,000 under the House proposal.

The new defined benefit limit would be increased, starting in 1988, to match increases in the Consumer Price Index, the House bill proposes. However, the defined contribution limit would not be raised until the maximum defined benefit limit reaches \$100,000.

By contrast, under the Packwood proposal, the maximum defined benefit and defined contribution limits would remain at the current \$90,000 and \$30,000 respectively.

However, the \$30,000 defined contribution limit would be frozen until the defined benefit limit hits \$120,000. After that, maximum defined contributions would be limited to 25% of the maximum defined benefit.

Also, the Packwood proposal contains a new method of calculating increases in maximum benefits and contributions. These limits would be indexed to annual increases in the Social Security wage base. Currently, increases in the limits

are indexed to the CPI.

Benefit experts are also pleased that the Sen. Packwood proposal on 401(k) plans scrapped the complex House definition of what is a highly compensated employee and retained a current test that compares salary deferrals by the top one-third of employees to the lower-paid two-thirds.

"Thank goodness the one-third, two-thirds test was saved," said Theresa Stuchiner, a partner at benefit consultant Kwasha Lipton in Fort Lee, N.J.

However, the Packwood proposal retains the House's more restrictive rules on how much the higher-paid employees can defer to 401(k) plans compared with the lower-paid.

Under the 401(k) tests in both the House tax bill and the Packwood proposal, the average salary deferral of the highest-paid one-third could not exceed the greater of two amounts:

- 125% of the average deferral percentage (ADP) of the lower-paid two-thirds.

- The lesser of 200% of the ADP of the lower-paid workers or the ADP of the lower-paid employees plus 2%.

Under the latter test, if the ADP among lower-paid employees was 3%, the maximum ADP of the higher-paid group would be 5%.

Under current non-discrimination tests, the average deferral by the higher-paid one-third cannot exceed the greater of:

- 150% of the ADP of the lower-paid two-thirds.

- 250% of the average deferral among the lower-paid two-thirds as long as the difference between the average deferral between the two groups does not exceed 3%.

But the Packwood proposal offers much more liberal non-discrimination rules for welfare-type plans than the House bill (BI, Dec. 16, 1985).

For example, the Packwood proposal provides a more flexible definition of highly compensated employees compared with the House bill.

Under the Packwood proposal, highly compensated employees would include:

- Those earning more than \$100,000 annually. This amount would be indexed to increases in the Social Security wage base.

- The 20% of employees based on salary. However, employees must earn more than \$50,000 annually to be included in this group. The \$50,000 benchmark also would be indexed to increases in the Social Security wage base.

- Those who own 5% or more of a company.

Under the House bill, highly compensated employees would include:

- Those earning more than \$50,000 a year. This limit would not be indexed.

- The top 10% of employees based on salary, excluding employees earning less than \$20,000 and employees earning less than \$35,000 who are not among the top 5% in compensation.

To the dismay of some observers, the Packwood proposal sets up two new rapid pension vesting schedules:

- Full vesting after five years of service.

- 20% vesting after three years of service and then 20% vesting annually until 100% vesting is reached after seven years.

Most employers would have to offer either of these new vesting schedules by Jan. 1, 1989. In the case of pension plans offered through collective bargaining agreements, the vesting provision would go into effect after the expiration of the agreement or Jan. 1, 1991, whichever is earlier.

The new, more rapid vesting schedules will be costly to employers, in terms of an increased administrative burden, while the benefits provided will be small, experts say.

"It sounds better than it is," said Mr. Ugoretz, noting that the cash value of a five-year vested benefit is often very low. "We don't think it is very cost effective."

Regardless of the cost, many experts believe that a five-year vesting schedule will be part of a final tax overhaul bill that may emerge from Congress this summer.

"Congress wants to broaden pension coverage" even if the benefits employees become eligible for are minimal, said Sylvester Schieber, director of The Wyatt Co.'s research and information center in Washington.

## Equal Opportunities

Each weekly issue of *Business Insurance* gives you an equal opportunity to reach and motivate BI's more than 125,000 purchasing influentials... top administrative and financial executives, risk managers, employee benefits managers and the agents and brokers who serve their needs.

When you want to reach your prime audience, the *Business Insurance* audience is unequalled!

| PUBLISHING DATES | CLOSING DATES |
|------------------|---------------|
| Jan 6            | Dec 20        |
| Jan 13           | Dec 27        |
| Jan 20           | Jan 8         |
| Jan 27           | Jan 14        |
| Feb 3            | Jan 22        |
| Feb 10           | Jan 29        |
| Feb 17           | Feb 4         |
| Feb 24           | Feb 11        |
| Mar 3            | Feb 19        |
| Mar 10           | Feb 26        |
| Mar 17           | Mar 4         |
| Mar 24           | Mar 12        |
| Mar 31           | Mar 19        |
| Apr 7            | Mar 26        |
| Apr 14           | Apr 1         |
| Apr 21           | Apr 8         |
| Apr 28           | Apr 15        |
| May 5            | Apr 23        |
| May 12           | Apr 30        |
| May 19           | May 7         |
| May 26           | May 13        |
| Jun 2            | May 20        |
| Jun 9            | May 28        |
| Jun 16           | Jun 4         |
| Jun 23           | Jun 10        |
| Jun 30           | Jun 18        |
| Jul 7            | Jun 24        |
| Jul 14           | Jul 1         |
| Jul 21           | Jul 8         |
| Jul 28           | Jul 16        |
| Aug 4            | Jul 23        |
| Aug 11           | Jul 29        |
| Aug 18           | Aug 6         |
| Aug 25           | Aug 13        |
| Sep 1            | Aug 19        |
| Sep 8            | Aug 26        |
| Sep 15           | Sep 3         |
| Sep 22           | Sep 9         |
| Sep 29           | Sep 16        |

## business insurance

New York: (212)210-0133  
Chicago: (312)649-5275  
Los Angeles: (213)651-3710

## U.S. says Robins in 'contempt,' asks for trustee

RICHMOND, Va.—The federal government charges that A.H. Robins Co. has spent \$6.8 million without court approval since filing for reorganization last summer, and it says the court should appoint a trustee to operate the company.

A recent filing in U.S. District Court in Richmond charges that Robins, former manufacturer of the Dalkon Shield intrauterine device, committed "civil contempt" by making without court approval payments of \$1.2 million in deferred compensation to executives, \$600,000 for other expenses and \$5 million to settle contract debts for computer services and royalties on drug patents and trademarks. S. David Schiller, an attorney representing the Internal Revenue Service, confirmed last week.

After Robins filed for reorganization under federal bankruptcy laws, a court order required the company to obtain court approval before using

any company assets to pay any creditors for debts incurred before filing for bankruptcy.

Bankruptcy laws provide for appointment of an independent trustee to run the company if there is fraud, dishonesty, incompetency or gross mismanagement, or if the court decides it is in the interest of creditors.

A spokesman for Robins said the payments were proper in the ordinary course of the company's business and that the actions were not intended to violate the court order.

He also called "unwarranted" suggestions that the company is in contempt or that it needs a trustee to oversee operations.

A hearing on appointing a trustee is set for April 28. Robins filed for reorganization because of the mounting costs of claims brought by women who used the Dalkon Shield (BI, Aug. 26).

## Insurer results

Continued from page 3

• Net premiums written increased 23.6% to \$55.8 billion. This compares with a 20.6% rate increase reported for the first nine months of 1985 and the 8% increase posted for all of 1984.

• The insurers reported a 119.4% aggregate combined ratio, a deterioration from the 117.4% ratio reported after the first nine months of 1985, but an improvement from the 121.7% combined ratio in 1984.

• Investment income increased 10.6% to \$7.3 billion, almost identical to the 10.7% increase reported for the first nine months of 1985 and ahead of the 7.6% increase for 1984.

• Policyholder surplus zoomed

27.3%, to \$18.4 billion as insurers continued to go to market to raise new capital. Surplus increased 17.6% for the nine-month period, while it declined 8.3% in 1984.

The surveyed insurers net written premium-to-surplus ratio ballooned to almost 3-to-1 at year-end, compared with a 1.4-to-1 ratio as recently as the first half of 1985.

"The premium-to-surplus ratio is somewhat extended," says Hutton's Mr. Lewis. "Certainly at this point" the industry remains very leveraged, he says, noting it will be some time "before they can make real inroads into that."

But Gus Demeo, senior insurance analyst at Alex. Brown & Sons in Baltimore, says, "I see it trending down, in the sense that you are going to have a recovery in capital

and surplus as companies start to earn more money."

In an effort to maintain an adequate premium-to-surplus ratio, companies are continuing to raise money in the stock market. Insurers that recently went to market include:

• Chubb Corp., which raised \$250 million in a common stock offering during this year's first quarter. The company had a \$710 million policyholder surplus at year-end 1985.

• American International Group Inc., which netted \$304.4 million in a common stock offering earlier this year. This was in addition to raising net proceeds of \$147.8 million in an exchangeable money market cumulative preferred stock issue during the fourth quarter (BI, Jan. 13). AIG did not release its year-end policyholder surplus.

• CNA Financial Corp., which netted \$135.7 million from the sale of 2 million shares of common stock earlier this year. CNA reported a \$1.3 billion policyholder surplus at year-end.

• General Re Corp., which netted \$322.6 million from a common stock sale in February. It had a policyholder surplus of \$1.1 billion at year-end.

• Aetna Life & Casualty Co., which raised \$75 million through a fourth-quarter preferred stock offering. It reported an 11.3% increase in its policyholder surplus in 1985 to \$1.4 billion.

In addition, American Express Co. said last month it plans a public offering of up to 10 million Fireman's Fund Corp. common shares it now holds. Amex will also sell warrants allowing investors to acquire up to 10 million more shares (BI, March 3).

Kemper Corp. has also filed a registration statement with the Securities and Exchange Commission seeking permission to sell 1.2 million shares, says a company spokesman, while The St. Paul Cos. Inc. has filed a registration statement for the sale of up to 3 million shares, says a spokesman for that company.

Most analysts predict the move to raise additional capital in the stock market will continue. "It's a good, cheap way, certainly, to raise capital, which is in dire need throughout the industry," says Virgil Cilli, director of research at New York-based Keane Securities Co.

There's a "capital insufficiency" in the industry, and as long as there's an opportunity to raise money, "they'd be silly not to," says Hutton's Mr. Lewis.

But Alan Zimmermann, vp at New York-based Kidder Peabody & Co., predicts that "by midyear 1986, a lot of it should be over with." By that point, he predicts, the industry's capital situation will have improved sufficiently because of the equity it has already raised and because capital should begin to be generated internally as profits improve.

It will also become more difficult to raise capital once investors fully recognize the cyclical upswing in the price of insurance stocks and there is less upward price movement, comments Barbara Stewart of New York-based Stewart Economics.

A spokesman for Chubb says he does not expect the company to raise more equity capital. Referring to the \$250 million just raised, he says, "We anticipate that will be completely sufficient, and we have no thoughts of going to the market again."

In the meantime, the adequacy of the insurers' reserves remains an ongoing issue among analysts, who point in particular to the CIGNA and Continental reserve boosts.

The question of whether the industry is adequately reserved is a "major concern," says the III's Mr. Mooney.

"I suspect there's got to be a lot

more reserving done before this is all over," says Thomas K. Meakin, an analyst who heads his own New York-based company.

"They're going to play catch up for a while," says Kidder Peabody's Mr. Zimmermann. "The ravages of the last cycle are going to be felt for a while."

Mr. Zimmermann says one advantage of the industry's awareness of its reserve deficiency is that realization drives insurers to charge higher rates. "The bad news almost becomes the good news," he says.

Some analysts believe the reserve situation is beginning to improve. "I think the industry is starting to measure up, but it's still got a way to go," says Legg Mason's Ms. Vogel.

"I think we're moving in the right direction," says Alex. Brown's Mr. Demeo.

"A lot of companies did a lot of reserving last year," says David O'Leary, director of research at Fox-Pitt, Kelton Inc. in Hartford, Conn. He predicts if the industry is not adequately reserved by the end of 1986, it will be by year-end 1987.

Insurers have an option as to when they will increase their reserves, explains Derby's Mr. Hill. They could "take a good, hard look and face facts," making their reserves adequate all at once, as CIGNA says it did, or they could "let it flow into the figures," boosting reserves gradually as profitability improves.

The fourth quarter is typically the time when companies choose to undertake a major reserve strengthening, observes June I. Hoffer, an analyst with Prudential/Bache Securities Inc. in New York.

But Mr. Lewis, who estimates the industry is still 10% to 15% under-reserved, believes insurers will not wait until the fourth quarter, but will probably boost reserves throughout 1986.

A longer time frame is predicted by Mr. Demeo, who believes insurers will "want to stretch it out" over the next year or two.

Analysts also disagree whether other insurers will follow CIGNA's lead and discount reserves for casualty lines other than workers compensation.

CIGNA has said it is discounting \$600 million of its \$1.2 billion reserve boost for workers compensation losses, a standard industry practice, as well as for long-tail liability lines, where it is uncommon. The move is being questioned by insurance regulators (see story, page 3).

"I don't see that as a widespread thing over the short run," says Ms. Hoffer, explaining that CIGNA decided to discount additions to other liability lines to avoid a big hit to its capital.

"I don't think the regulators look at it that kindly," she said.

Ms. Vogel agrees that most insurers are not likely to follow CIGNA, because they already have problems estimating reserves. Discounting "would really put them in worse shape as far as I'm concerned."

"Over the short-term, the CIGNA action may lead other companies to discount certain types of loss reserves, but over the long term it won't," says Mr. Demeo, noting that insurers' need for capital will diminish once equity is raised in the market.

But Derby's Mr. Hill believes other insurers will begin discounting if CIGNA successfully meets regulators' scrutiny. "It's a way, in effect, to raise statutory capital," he says.

Ultimately, the whole issue will end up being a tax question, says Ms. Stewart. Property/casualty trade groups—including the Alliance of American Insurers, the American Insurance Assn. and the National Assn. of Independent Insurers—recently changed their position and now support a modified

Treasury Department proposal that would require loss reserve discounting for tax purposes (BI, Feb. 24).

Ms. Stewart adds many companies now already discount non-workers compensation reserves "implicitly, if not explicitly." They do this by estimating a range of reserves needed and then opting for the lower part of that range, she says.

Some analysts see the issue of reinsurance collectibles, especially in light of the reinsurance industry's financial difficulties, as a big problem for insurers.

"That's still an issue that hasn't been solved," says Prudential/Bache's Ms. Hoffer. A few companies have written off some reinsurance collectibles, "but nowhere near what's going to be done over the next couple of years."

"I think it's a real nightmare," says Derby's Mr. Hill. "It's difficult for companies to get a handle on it."

Reinsurance collectibles is "one of the major problems in the industry" because, depending on the uncollected amount, it could further erode capital and put pressure on reserves, says E.F. Hutton's Mr. Lewis. Only a small amount of uncollectible reinsurance, he adds, can threaten the industry's recovery.

But Fox-Pitt's Mr. O'Leary disagrees. "I think it's manageable," he says. "I don't expect the reinsurance market to come apart, and I think most of the reinsurance companies will meet their obligations."

Hartford's Mr. Frahm anticipates reinsurance collectibles will be a problem 10 years from now, not in 1986. Of more immediate concern, he says, is the amount of money insurers must pay to state guaranty funds to pay for insolvent insurers' claims.

Hartford contributed \$7 million to guaranty funds last year, up from \$1.5 million in 1984, he says, adding that Hartford expects to contribute even more this year.

On the bright side, analysts predict rate increases will continue, although not necessarily at the same pace as in recent months.

"The rates are kind of running their course," says Hutton's Mr. Lewis. The amount of increases will be down "significantly" from last year, particularly during the second half, because there has already been a "decent catch-up," he says.

"You can't keep raising it like that forever," says Kidder Peabody's Mr. Zimmermann.

While year-to-year comparisons will start to taper off, "the direction is still upward," says Legg Mason's Ms. Vogel.

Alex. Brown's Mr. Demeo predicts the industry will continue to see rate increases averaging 20% over the next two years "on top of the massive rate increases in '85."

But observers disagree over precisely how long the hard market will last.

Rudi Landolt, president and chief insurance officer of Kemper Group, believes 1986 and 1987 will be recovery years, 1988 will be "great," and 1989 will be "good," while "somewhere around there the cycle will begin turning again."

Derby's Mr. Hill also says he looks "for better results through '88, and hopefully beyond that."

But Fox-Pitt's Mr. O'Leary has a faster timetable. Competition will reappear in property lines by the end of this year and in casualty lines by the second half of 1987, he predicts. By 1988, he says, rate competition will again reign, except for high-risk liability lines.

Although analysts say some individual companies will return to an underwriting profit, most doubt the industry's combined ratio will dip below 100%.

"Not in my lifetime," says the III's Mr. Mooney.

Continued on next page

## update

### Decision expected on Protective

Continued from page 2

can resume operations after voluntarily placing itself under the supervision of the Insurance Department in January (BI, Jan. 27).

Mr. Dugan held a hearing last week on the status of Protective, a member of the St. Regis Group, which is owned by Champion International Corp. in New York. Protective placed itself under supervision after failing to recover an undetermined amount from about 100 reinsurers. The disputed funds are connected to losses on a book of business written by managing general agent Global Surplus Services Inc., a former unit of Frank B. Hall & Co.

Mr. Dugan has said Protective claims Global did not notify reinsurers of some of the losses. He said last week he was awaiting an actuarial report that would indicate how much money is involved in the business handled by Global.

In its 1984 annual report, Hall stated that Global borrowed about \$11.5 million from Protective and about \$3 million from Hall to pay claims. Hall said the loans were expected to be repaid with funds recovered from reinsurers. In the report, Hall said it guaranteed "substantially all" of the money lent to Global by Protective.

Hall and Protective currently are holding negotiations, and Mr. Dugan is "still optimistic that we might be able to put something together. All the parties are working hard."

He said there was some discussion at the hearing of a possible sale of Protective and other members of the St. Regis Group. "That is viable," said Mr. Dugan.

### New London exchange urged

LONDON—A former Lloyd's of London broker wants to set up an insurance exchange in London similar to Lloyd's to help the "acute capacity shortage."

John Pincham, a director of Venture Consultants, a venture capital consulting firm, has spoken to insurers and sent a letter promoting the idea to Norman Bennet, chairman of the Assn. of Insurance & Risk Managers in Industry & Commerce. "We are discussing the idea at the moment and some people are interested," he said.

Mr. Pincham says the new exchange would differ somewhat from Lloyd's. For example, Lloyd's capital is provided by syndicate members, who have unlimited liability for losses; capital for the new exchange would be provided by corporations and institutions and liability would be limited.

The new exchange would compete with Lloyd's, Mr. Pincham said, but it also would contribute to the growth of Lloyd's by adding capital to the London market. Specifically, he said it could help meet the demand for capacity for North American liability risks.

Mr. Pincham is a member of Lloyd's. He worked for broker C.E. Heath P.L.C. for 19 years until 1971, and then for various smaller brokers.

## insurance services guide

### ATWOOD & CO.

Consulting Actuaries  
Reinsurance and Reserve Analysis  
for Captives, Self Insurers & Insurers.  
13113 Polvere Ave.  
Rancho Bernardo, CA 92128  
(619) 451-8049

Use the Insurance  
Services Guide to  
reach your best  
prospects.

### Risk Analysis & Management Corporation

- Risk Exposure Audits
- Security Management
- Claims Audits
- Benefits Plans Design
- Feasibility Studies
- Actuarial Analysis
- Insurance Specifications
- Litigation Audits
- Risk Control/Safety Management

Brochure Sent on Request  
1001 Craig Road • Suite 260 • St. Louis, MO 63146 • (314) 569-1740  
St. Louis • Atlanta • Los Angeles • Minneapolis • Philadelphia

### LOSS CONTROL ENGINEERING

by independent professionals  
FIRE PROTECTION and SECURITY  
Now 7 offices in U.S. and Canada  
GAGE-BABCOCK & ASSOCIATES  
Ask for free brochure: 312/530-1494  
135 Addison, Elmhurst, IL 60126

For advertising information in the INSURANCE SERVICES GUIDE  
Contact: Margaret Hikido, 740 Rush Street, Chicago, Illinois 60611.  
Telephone (312) 649-5340

# Summary of major property/casualty insurers' 1985 results

(All amounts in thousands of dollars)  
(Ranked by change in aftertax operating income)

| Corporate                     |                                      |                                                      |                                               | Property/casualty operations           |                                        |                                    |                                                |                                                 |                                               |                                        |                                                |                                  |                                                |       |            |      |
|-------------------------------|--------------------------------------|------------------------------------------------------|-----------------------------------------------|----------------------------------------|----------------------------------------|------------------------------------|------------------------------------------------|-------------------------------------------------|-----------------------------------------------|----------------------------------------|------------------------------------------------|----------------------------------|------------------------------------------------|-------|------------|------|
| Rank<br>1985                  | Consolidated<br>revenues<br>1985     | Aftertax <sup>1</sup><br>operating<br>income<br>1985 | Percent<br>increase<br>(decline)<br>1984-1985 | Combined <sup>1</sup><br>ratio<br>1985 | Combined <sup>1</sup><br>ratio<br>1984 | Net<br>premiums<br>written<br>1985 | Percent<br>increase<br>(decrease)<br>1984-1985 | Pretax<br>underwriting<br>income (loss)<br>1985 | Percent<br>increase<br>(decline)<br>1984-1985 | Pretax<br>investment<br>income<br>1985 | Percent<br>increase<br>(decrease)<br>1984-1985 | Policyholders<br>surplus<br>1985 | Percent<br>increase<br>(decrease)<br>1984-1985 |       |            |      |
| 1                             | Hartford Steam Boiler                | 316,810                                              | 27,694                                        | 337.4                                  | 94.7                                   | 115.9                              | 242,129                                        | 39.4                                            | 10,939                                        | 143.4                                  | 25,082                                         | 20.0                             | 159,520                                        | 42.4  |            |      |
| 2                             | Kemper Corp.                         | 2,882,137                                            | 76,184                                        | 208.2                                  | 114.0                                  | 120.4                              | 715,472                                        | 10.0                                            | (98,792)                                      | 28.7                                   | 74,214                                         | (3.4)                            | 332,836                                        | 12.7  |            |      |
| 3                             | Aetna Life & Casualty Co.            | 18,612,100                                           | 430,200                                       | 135.7                                  | 114.8                                  | 118.5                              | 4,915,500                                      | 22.2                                            | (617,200)                                     | 5.6                                    | 607,000                                        | 16.2                             | 1,413,549                                      | 11.3  |            |      |
| 4                             | Royal Group (U.S. subs) <sup>2</sup> | N/A                                                  | 31,600                                        | 131.0                                  | 112.5                                  | 120.0                              | 1,700,000                                      | 29.4                                            | (234,000)                                     | 9.3                                    | 205,000                                        | 7.6                              | 578,900                                        | 43.2  |            |      |
| 5                             | The St. Paul Cos. Inc.               | 2,671,633                                            | 42,061                                        | 121.4                                  | 120.8                                  | 131.0                              | 2,234,910                                      | 18.0                                            | (408,755)                                     | 28.6                                   | 374,126                                        | 17.1                             | 825,005                                        | 29.3  |            |      |
| 6                             | Reliance Ins. Co. & subs.            | 1,646,555                                            | 77,168                                        | 38.8                                   | 114.9 <sup>2</sup>                     | 113.4 <sup>2</sup>                 | 1,475,201                                      | 14.2                                            | (172,469)                                     | 24.6                                   | 175,018                                        | 1.8                              | 589,638                                        | 50.8  |            |      |
| 7                             | CNA Financial Corp.                  | 4,605,200                                            | 180,100                                       | 30.2                                   | 122.3                                  | 126.2                              | 2,872,200 <sup>2</sup>                         | 51.2                                            | (693,900) <sup>2</sup>                        | (30.0)                                 | 554,100 <sup>2</sup>                           | 18.3                             | 1,314,900                                      | 23.3  |            |      |
| 8                             | Ohio Casualty Corp.                  | 1,149,200                                            | 38,476                                        | 28.1                                   | 109.2 <sup>2</sup>                     | 113.2 <sup>2</sup>                 | 1,087,832 <sup>2</sup>                         | 22.7                                            | (92,961)                                      | 20.1                                   | 120,318                                        | 15.4                             | 380,608                                        | 11.4  |            |      |
| 9                             | American International Group         | 5,782,254                                            | 373,654                                       | 17.7                                   | 106.1                                  | 109.8                              | 4,288,510                                      | 70.6                                            | (239,086)                                     | 96.2                                   | 382,866                                        | 16.8                             | N/A                                            | N/A   |            |      |
| 10                            | Hartford Insurance Group             | 6,833,709                                            | 119,268                                       | 13.4                                   | 113.2                                  | 122.0                              | 4,234,953                                      | 36.7                                            | (538,660)                                     | 16.8                                   | 464,308                                        | 1.8                              | 2,110,253                                      | 77.0  |            |      |
| 11                            | American General Corp.               | 5,677,000                                            | 466,000                                       | 9.9                                    | 110.9 <sup>2</sup>                     | 131.0 <sup>2</sup>                 | 1,218,000                                      | 19.1                                            | (108,000)                                     | 64.7                                   | 136,000                                        | 4.6                              | 726,000                                        | 43.5  |            |      |
| 12                            | General Re Corp.                     | 2,123,017                                            | 158,474                                       | 8.5                                    | 110.8 <sup>2</sup>                     | 127.0 <sup>2</sup>                 | 1,590,845                                      | 49.3                                            | (153,349)                                     | 43.8                                   | 282,101                                        | 29.0                             | 1,087,727                                      | 53.0  |            |      |
| 13                            | SAFECO Corp.                         | 2,319,702                                            | 118,280                                       | 4.4                                    | 110.5                                  | 110.2                              | 1,173,578                                      | 19.6                                            | (115,975)                                     | (20.3)                                 | 127,668                                        | 13.6                             | 485,007                                        | 17.3  |            |      |
| 14                            | Travelers Corp.                      | 14,594,400                                           | 359,800                                       | 4.0                                    | 117.7                                  | 121.0                              | 4,023,300                                      | 22.8                                            | (663,900)                                     | (0.3)                                  | 271,100                                        | (1.3)                            | 1,412,400                                      | 52.7  |            |      |
| 15                            | The Home Group Inc.                  | 1,995,000                                            | (140,000)                                     | (21.7)                                 | 137.6 <sup>2</sup>                     | 140.6 <sup>2</sup>                 | 1,715,000                                      | 10.3                                            | (628,000)                                     | (11.3)                                 | 329,000                                        | 3.8                              | 755,000                                        | 36.5  |            |      |
| 16                            | Chubb Corp.                          | 2,394,000                                            | 10,900                                        | (84.1)                                 | 106.3 <sup>2</sup>                     | 109.4 <sup>2</sup>                 | 1,923,700 <sup>2</sup>                         | 35.2                                            | (345,800) <sup>2</sup>                        | (62.1)                                 | 194,000                                        | 20.0                             | 710,000                                        | 35.2  |            |      |
| 17                            | Fremont General Corp.                | 597,402                                              | (28,465)                                      | (104.1)                                | 133.8                                  | 130.2                              | 458,344                                        | 47.0                                            | (146,391)                                     | (63.9)                                 | 79,037                                         | 41.3                             | 122,942                                        | 11.5  |            |      |
| 18                            | Crum & Forster Inc.                  | 2,590,800                                            | (112,100)                                     | (150.8)                                | 124.2                                  | 124.6                              | 2,288,400                                      | 12.9                                            | (666,500)                                     | (29.1)                                 | 372,000                                        | 11.5                             | 833,500                                        | 24.9  |            |      |
| 19                            | Continental Corp.                    | 5,091,700                                            | (55,300)                                      | (157.5)                                | 119.3 <sup>2</sup>                     | 116.5 <sup>2</sup>                 | 3,004,200 <sup>2</sup>                         | 14.9                                            | (547,200)                                     | 34.3                                   | 335,100                                        | (5.9)                            | 961,579                                        | (4.6) |            |      |
| 20                            | Fireman's Fund Ins. Cos.             | 3,349,651                                            | (45,444)                                      | (476.9)                                | 123.5                                  | 121.1                              | 2,912,471                                      | 2.8                                             | (671,587)                                     | (12.3)                                 | 471,122                                        | 17.5                             | 1,171,910                                      | 26.2  |            |      |
| 21                            | Sentry Insurance Cos. <sup>2</sup>   | 551,980                                              | (9,533)                                       | (1,422.8)                              | 117.6                                  | 115.4                              | 839,837                                        | 0.3                                             | (141,847)                                     | 6.2                                    | 109,457                                        | 11.3                             | 215,335                                        | 14.9  |            |      |
| 22                            | CIGNA Corp.                          | 16,196,900                                           | (854,600)                                     | (2,319.7)                              | 149.4                                  | 128.8                              | 4,781,500                                      | 17.4                                            | (2,190,100)                                   | (86.6)                                 | 658,700                                        | 11.8                             | 1,418,100                                      | (3.6) |            |      |
| —                             | Liberty Mutual Ins. Co.              | N/A                                                  | N/A                                           | N/A                                    | 115.6                                  | 117.5                              | 4,100,126                                      | 36.3                                            | (465,492)                                     | (22.0)                                 | 600,749                                        | 12.3                             | N/A                                            | N/A   |            |      |
| —                             | Wausau Insurance Cos. <sup>2</sup>   | N/A                                                  | N/A                                           | N/A                                    | 124.3                                  | 132.7                              | 1,043,996                                      | (9.8)                                           | (254,822)                                     | 32.3                                   | 160,437                                        | 4.3                              | N/A                                            | N/A   |            |      |
| —                             | Commercial Union (U.S.) <sup>2</sup> | N/A                                                  | N/A                                           | N/A                                    | 128.4                                  | 128.1                              | 950,100                                        | (21.8)                                          | (267,000)                                     | 19.7                                   | 155,700                                        | (9.7)                            | 426,300                                        | 4.8   |            |      |
| —                             | Mission Ins. Group Inc.              | Results                                              | not yet released                              |                                        | N/A                                    | N/A                                | N/A                                            | N/A                                             | N/A                                           | N/A                                    | N/A                                            | N/A                              | N/A                                            | N/A   |            |      |
| —                             | Old Republic Int'l (incl. life)      | Results                                              | not yet released                              |                                        | N/A                                    | N/A                                | N/A                                            | N/A                                             | N/A                                           | N/A                                    | N/A                                            | N/A                              | N/A                                            | N/A   |            |      |
| —                             | USF&G Corp.                          | Results                                              | not yet released                              |                                        | N/A                                    | N/A                                | N/A                                            | N/A                                             | N/A                                           | N/A                                    | N/A                                            | N/A                              | N/A                                            | N/A   |            |      |
| Cumulative                    |                                      |                                                      |                                               | 101,981,150                            | 1,264,417                              | (21.6)                             | 119.4                                          | 121.7                                           | 55,790,104                                    | 23.6                                   | (10,450,847)                                   | (10.9)                           | 7,264,703                                      | 10.6  | 18,408,175 | 27.3 |
| <sup>1</sup> After dividends. |                                      |                                                      |                                               | <sup>2</sup> Statutory.                |                                        | N/A—Company did not provide data   |                                                |                                                 |                                               |                                        |                                                |                                  |                                                |       |            |      |

<sup>1</sup> After dividends. <sup>2</sup> Statutory. N/A—Company did not provide data

Continued from previous page

The industry can turn in satisfactory results without an underwriting profit, says Hutton's Mr. Lewis.

If hopes for an industrywide underwriting profit are dim, companies can still expect to generate a healthy return on their investment income this year, observers say. Despite the negative impact of lower interest rates, investment income will increase as a result of the insurers' enlarged capital base, as well as premium increases, says Mr. Mooney.

Observers say anticipated profits as well as the increased value of insurers' bond portfolios will also contribute to the increased investment income. As a result of being "deluged" with cash flow, investment income will increase by more than 20% in 1986 and by more than 30% in 1987, predicts Mr. O'Leary.

Most insurers are still keeping their investments in higher-yielding taxable instruments because underwriting and operating losses are offsetting taxable investment income, say

analysts.

"I don't think many companies yet would find it advantageous" to switch, says Derby's Mr. Hill.

The new tax law will be a determining factor in where insurers put their investments, says E.F. Hutton's Mr. Lewis. The Tax Reform Act of 1985, passed by the House, calls for taxing a portion of insurers' tax-exempt income, such as interest from municipal bonds (BI, Dec. 23, 1985).

Mr. Lewis says he does not foresee a "dra-

matic swing" in insurers' portfolios in the immediate future. The switch will be gradual as companies get closer to an underwriting profit, he says.

Mr. O'Leary believes the shift will begin as early as the second half of this year, although its momentum will not build until 1987.

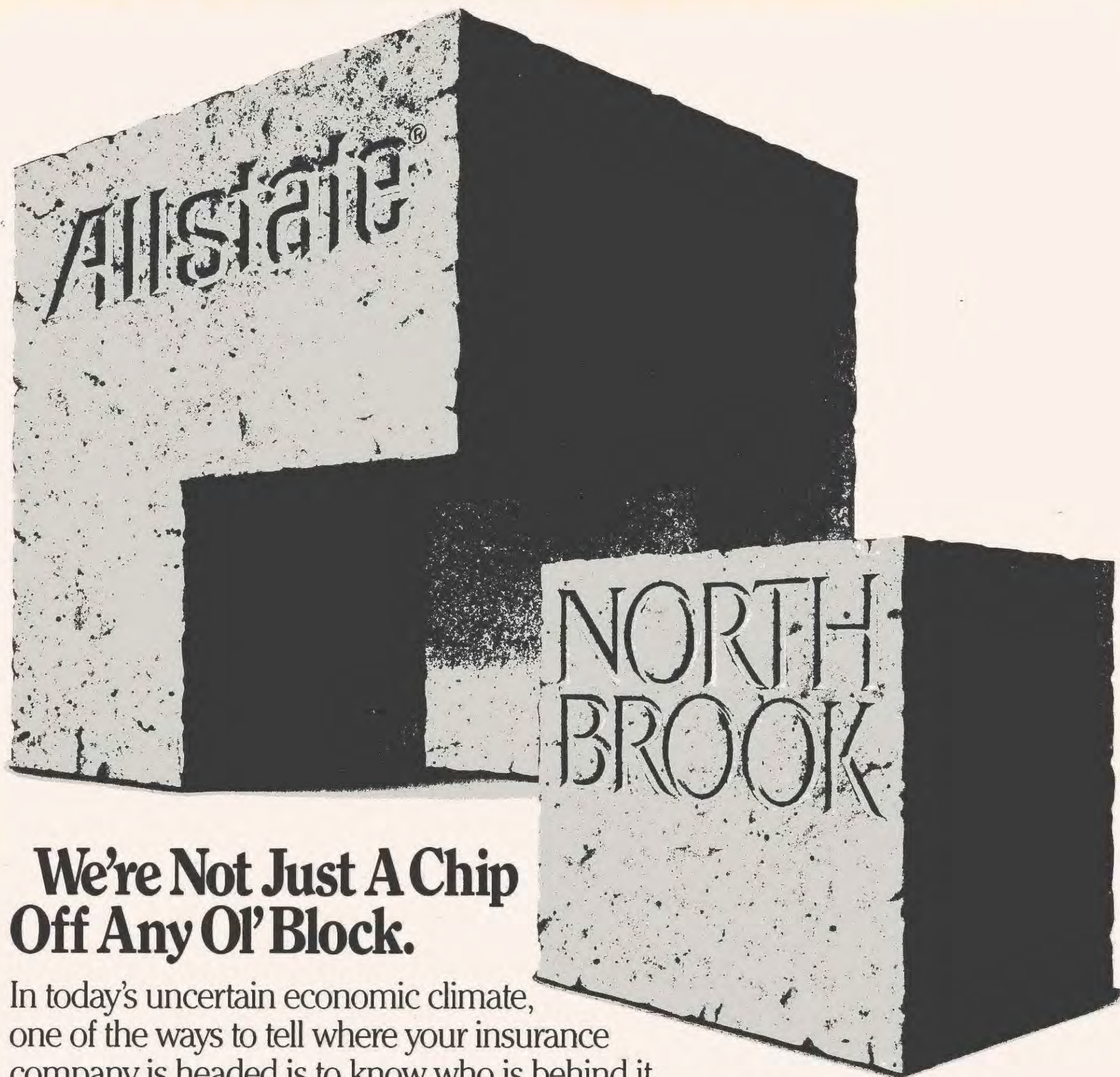
C. David Mencer, controller for Ohio Casualty Corp., whose investments are still in taxables, says when the company shifts into non-taxables, in whole or in part, "will depend on how 1986 develops."

## BI Industry Stock Report

March 19, 1986

3/13/86 thru 3/19/86

| Brokers                            |      |        |        |       |         |        |         |        |           |                             |      |                 |        |      |         |        |         |        |           |                              |       |      |      |      |     |        |       |         |       |     |      |      |     |        |       |       |
|------------------------------------|------|--------|--------|-------|---------|--------|---------|--------|-----------|-----------------------------|------|-----------------|--------|------|---------|--------|---------|--------|-----------|------------------------------|-------|------|------|------|-----|--------|-------|---------|-------|-----|------|------|-----|--------|-------|-------|
|                                    |      | Price  | % Chg. | P/E   | \$ Div. | % Yld. | High    | Low    | Vol.(000) |                             |      | Price           | % Chg. | P/E  | \$ Div. | % Yld. | High    | Low    | Vol.(000) |                              |       |      |      |      |     |        |       |         |       |     |      |      |     |        |       |       |
| Alexander & Alexander Svcs         | NYSE | 37.50  | 6.0    | 0.0   | 1.00    | 2.7    | 37.50*  | 35.00  | 768.2     | Continental Corp            | NYSE | 53.88           | 3.4    | 0.0  | 2.60    | 4.8    | 55.00*  | 52.88  | 510.0     |                              |       |      |      |      |     |        |       |         |       |     |      |      |     |        |       |       |
| Baldwin & Lyons Inc                | OTC  | 87.00  | -2.2   | 334.6 | 0.80    | 0.9    | 91.00*  | 84.00  | 2.6       | Crown Life Ins Co           | OTC  | 255.00          | 4.1    | 15.4 | 0.00    | 0.0    | 270.00  | 255.00 | 0.8       |                              |       |      |      |      |     |        |       |         |       |     |      |      |     |        |       |       |
| Corroon & Black Corp               | NYSE | 65.75  | -4.0   | 20.9  | 1.30    | 2.0    | 67.75   | 65.75  | 24.2      | Durham Co                   | OTC  | 43.25           | -1.1   | 11.9 | 1.36    | 3.1    | 44.50   | 43.25  | 10.0      |                              |       |      |      |      |     |        |       |         |       |     |      |      |     |        |       |       |
| Crump & H Cos Inc                  | OTC  | 25.00  | 2.0    | 23.8  | 0.25    | 1.0    | 25.00   | 24.50  | 479.0     | Farmers Group Inc           | OTC  | 90.00           | 5.0    | 16.6 | 2.00    | 2.2    | 90.00*  | 86.75  | 458.1     |                              |       |      |      |      |     |        |       |         |       |     |      |      |     |        |       |       |
| Eaett & Chandler Cos Inc           | OTC  | 18.13  | -0.7   | 27.1  | 0.00    | 0.0    | 18.13   | 18.13  | 424.9     | Farmington Finl Inc         | AREX | 24.25           | -2.0   | 20.2 | 0.00    | 0.0    | 25.00   | 24.25  | 61.3      |                              |       |      |      |      |     |        |       |         |       |     |      |      |     |        |       |       |
| Gallagher Arthur J & Co            | OTC  | 56.00  | 2.8    | 25.5  | 0.40    | 0.7    | 56.00   | 54.00  | 9.1       | Fireman Fd Corp             | NYSE | 42.88           | 11.7   | 0.0  | 0.30    | 0.7    | 42.88*  | 38.50  | 862.4     |                              |       |      |      |      |     |        |       |         |       |     |      |      |     |        |       |       |
| Hall Frank B & Co Inc              | NYSE | 22.88  | 9.6    | 0.0   | 0.00    | 0.0    | 22.88   | 21.25  | 784.7     | Fremont Gen Corp            | OTC  | 33.38           | 11.3   | 0.0  | 0.48    | 1.4    | 33.88*  | 30.50  | 510.2     |                              |       |      |      |      |     |        |       |         |       |     |      |      |     |        |       |       |
| Marsh & McLennan Cos Inc           | NYSE | 102.50 | -4.4   | 23.0  | 2.70    | 2.6    | 107.63* | 102.50 | 197.7     | Great West Life Assurn Co   | OTC  | 500.00          | 0.0    | 5.0  | 18.00   | 3.6    | 500.00  | 500.00 | 0.0       |                              |       |      |      |      |     |        |       |         |       |     |      |      |     |        |       |       |
| Poe & Assoc Inc                    | OTC  | 18.50  | 0.0    | 0.0   | 0.80    | 4.3    | 18.50   | 18.50  | 4.8       | Home Group Inc              | AREX | 29.50           | -2.9   | 0.0  | 0.00    | 0.0    | 29.75   | 29.00  | 1,620.9   |                              |       |      |      |      |     |        |       |         |       |     |      |      |     |        |       |       |
| AGENTS/BROKERS AVERAGE             |      |        |        |       |         |        |         |        |           | 155.3                       | 1.7  | Hennover Ins Co |        |      |         |        |         |        |           | OTC                          | 65.00 | 3.6  | 63.7 | 0.56 | 0.9 | 65.00* | 63.00 | 132.0   |       |     |      |      |     |        |       |       |
| Conglomerates & Holding Cos.       |      |        |        |       |         |        |         |        |           |                             |      |                 |        |      |         |        |         |        |           | Hartford Steam Boiler Insptn |       |      |      |      |     |        |       | OTC     | 72.00 | 0.7 | 13.3 | 2.00 | 2.8 | 72.50* | 71.75 | 39.0  |
| American Express(Fireman's Fd)     | NYSE | 68.38  | 0.6    | 19.3  | 1.36    | 2.0    | 70.00*  | 67.63  | 3,275.2   | Kans City Life Ins          | OTC  | 32.50           | 0.0    | 12.8 | 0.87    | 2.7    | 32.75   | 32.50  | 9.8       |                              |       |      |      |      |     |        |       |         |       |     |      |      |     |        |       |       |
| Anderson Clayton(Ranger/PanAm)     | NYSE | 54.00  | -0.7   | 30.9  | 0.00    | 0.0    | 54.38   | 53.75  | 237.7     | Kemper Corp                 | OTC  | 99.50           | 3.4    | 21.5 | 1.80    | 1.8    | 99.50   | 96.63  | 233.7     |                              |       |      |      |      |     |        |       |         |       |     |      |      |     |        |       |       |
| Armco Inc                          | NYSE | 11.13  | -2.2   | 0.0   | 0.00    | 0.0    | 12.00   | 11.13  | 1,695.1   | Liberty Corp S C            | NYSE | 42.00           | 4.3    | 17.6 | 0.72    | 1.7    | 43.00*  | 41.25  | 34.4      |                              |       |      |      |      |     |        |       |         |       |     |      |      |     |        |       |       |
| Berkley W R Corp                   | OTC  | 51.00  | 5.2    | 35.9  | 0.32    | 0.6    | 51.00*  | 49.75  | 1,102.5   | Lincoln Natl Corp Ind       | NYSE | 61.00           | 0.2    | 14.1 | 2.00    | 3.3    | 62.75*  | 60.38  | 394.4     |                              |       |      |      |      |     |        |       |         |       |     |      |      |     |        |       |       |
| CIGNA Corp                         | NYSE | 76.25  | 6.5    | 0.0   | 2.60    | 3.4    | 76.25*  | 74.25  | 1,341.3   | Mission Ins Group Inc       | OTC  | 2.75            | 0.0    | 0.0  | 0.00    | 0.0    | 2.75    | 2.75   | 630.5     |                              |       |      |      |      |     |        |       |         |       |     |      |      |     |        |       |       |
| CNA Finl Corp (CNA)                | NYSE | 72.00  | 3.6    | 23.9  | 0.00    | 0.0    | 72.00*  | 68.88  | 761.8     | Monumental Corp             | OTC  | 36.13           | 0.0    | 12.2 | 1.40    | 3.9    | 36.13*  | 35.75  | 53.2      |                              |       |      |      |      |     |        |       |         |       |     |      |      |     |        |       |       |
| General Re Corp                    | NYSE | 125.00 | 0.8    | 90.3  | 1.76    | 1.4    | 129.00* | 125.00 | 423.9     | Nac Re Corp                 | OTC  | 38.00           | -1.9   | 0.0  | 0.00    | 0.0    | 38.50   | 38.00  | 71.7      |                              |       |      |      |      |     |        |       |         |       |     |      |      |     |        |       |       |
| ITT (Hartford Group)               | NYSE | 46.00  | 5.4    | 24.3  | 1.00    | 2.2    | 46.00*  | 43.50  | 3,850.8   | Nobel Ins Ltd               | OTC  | 17.50           | -2.8   | 23.0 | 0.25    | 1.4    | 18.25*  | 17.50  | 66.2      |                              |       |      |      |      |     |        |       |         |       |     |      |      |     |        |       |       |
| Sears Roebuck & Co. (Allstate)     | NYSE | 47.13  | 0.3    | 13.3  | 1.76    | 3.7    | 48.00*  | 47.00  | 4,251.8   | Northwestern Natl Life Ins  | OTC  | 28.13           | 1.8    | 13.9 | 0.80    | 2.8    | 28.25   | 27.63  | 335.0     |                              |       |      |      |      |     |        |       |         |       |     |      |      |     |        |       |       |
| Teledyne Inc (Argonaut)            | NYSE | 362.00 | 1.3    | 7.8   | 0.00    | 0.0    | 362.00* | 356.00 | 140.5     | Ohio Cas Corp               | OTC  | 90.00           | 1.7    | 26.4 | 3.00    | 3.3    | 90.00*  | 88.25  | 157.6     |                              |       |      |      |      |     |        |       |         |       |     |      |      |     |        |       |       |
| Transamerica Corp (Occidental)     | NYSE | 37.50  | -5.1   | 17.4  | 1.68    | 4.5    | 39.38   | 37.50  | 813.3     | Old Rep Intl Corp           | OTC  | 41.88           | 0.6    | 11.3 | 0.74    | 1.8    | 41.88   | 40.50  | 340.1     |                              |       |      |      |      |     |        |       |         |       |     |      |      |     |        |       |       |
| CONGLOMERATES/HOLDING COS. AVERAGE |      |        |        |       |         |        |         |        |           | 18.4                        | 1.1  | Orion Cap Corp  |        |      |         |        |         |        |           | NYSE                         | 39.13 | 5.7  | 0.0  | 0.76 | 1.9 | 39.13* | 37.50 | 201.6   |       |     |      |      |     |        |       |       |
| Insurers                           |      |        |        |       |         |        |         |        |           |                             |      |                 |        |      |         |        |         |        |           | Protective Corp              |       |      |      |      |     |        |       | OTC     | 22.25 | 2.3 | 12.9 | 0.66 | 3.0 | 22.25  | 21.50 | 175.7 |
| Aetna Life & Cas Co                | NYSE | 64.88  | 3.0    | 16.9  | 2.64    | 4.1    | 66.00*  | 64.50  | 1,943.2   | Provident Life & Acc Ins Co | OTC  | 32.00           | 0.0    | 11.1 | 0.76    | 2.4    | 32.88*  | 32.00  | 284.2     |                              |       |      |      |      |     |        |       |         |       |     |      |      |     |        |       |       |
| American General Corp              | NYSE | 41.50  | 1.8    | 12.8  | 1.12    | 2.7    | 41.88*  | 41.25  | 1,646.3   | St Paul Cos Inc             | OTC  | 107.25          | 12.0   | 47.5 | 3.00    | 2.8    | 107.25* | 99.00  | 1,637.3   |                              |       |      |      |      |     |        |       |         |       |     |      |      |     |        |       |       |
| Ameri Heritage Life Invt Co        | NYSE | 42.63  | 5.6    | 16.0  | 1.20    | 2.8    | 42.63   | 41.50  | 2.7       | SAFECO Corp                 | OTC  | 59.00           | 3.3    | 17.9 | 1.60    | 2.7    | 59.00*  | 57.00  | 513.1     |                              |       |      |      |      |     |        |       |         |       |     |      |      |     |        |       |       |
| American Indty Finl Corp           | OTC  | 22.75  | 1.1    | 0.0   | 1.12    | 4.9    | 23.00   | 22.50  | 25.3      | Sri Corp                    | OTC  | 21.50           | 6.2    | 0.0  | 0.80    | 3.7    | 21.75   | 20.50  | 124.9     |                              |       |      |      |      |     |        |       |         |       |     |      |      |     |        |       |       |
| American Intl Group Inc            | NYSE | 138.38 | 4.7    | 28.2  | 0.44    | 0.3    | 139.00* | 135.75 | 602.9     | Seibels Bruce Group Inc     | OTC  | 22.25           | -1.1   | 12.4 | 0.80    | 3.6    | 22.75   | 22.25  | 198.8     |                              |       |      |      |      |     |        |       |         |       |     |      |      |     |        |       |       |
| Aneco Reins Ltd                    | OTC  | 1.38   | 0.0    | 0.0   | 0.00    | 0.0    | 1.38    | 1.38   | 20.7      | Statesman Group Inc         | OTC  | 7.50            | 1.7    | 0.0  | 0.05    | 0.7    | 8.13*   | 7.50   | 445.3     |                              |       |      |      |      |     |        |       |         |       |     |      |      |     |        |       |       |
| Avenco Corp                        | NYSE | 35.75  | 3.2    | 14.1  | 0.60    | 1.7    | 35.75   | 34.25  | 31.3      | Tokio Marine & Fire Ins Co  | OTC  | 308.25          | 10.2   | 58.1 | 1.05    | 0.3    | 322.00* | 290.75 | 31.2      |                              |       |      |      |      |     |        |       |         |       |     |      |      |     |        |       |       |
| Business Mens Assurn Co Amer       | OTC  | 31.75  | 0.8    | 14.7  | 1.10    | 3.5    | 31.75   | 31.00  | 70.0      | Torchmark Corp              | NYSE | 32.75           | 4.0    | 15.1 | 0.60    | 1.8    | 34.00*  | 32.00  | 642.8     |                              |       |      |      |      |     |        |       |         |       |     |      |      |     |        |       |       |
| Chubb Corp                         | NYSE | 76.88  | 7.7    | 0.0   | 1.56    | 2.1    | 76.25*  | 74.25  | 813.1     | Travelers Corp              | NYSE | 58.88           | 3.7    | 14.7 | 2.16    | 3.7    | 59.38   | 58.00  | 1,490.1   |                              |       |      |      |      |     |        |       |         |       |     |      |      |     |        |       |       |
| Combined Intl Corp                 | NYSE | 64.00  | 3.6    | 13.2  | 2.16    | 3.4    | 64.00*  | 62.00  | 151.4     | United Fire & Cas Co        | OTC  | 23.00           | -3.2   | 76.7 | 0.80    | 3.5    | 23.35*  | 23.00  | 31.3      |                              |       |      |      |      |     |        |       |         |       |     |      |      |     |        |       |       |
|                                    |      |        |        |       |         |        |         |        |           | United States Fid & Gty Co  |      |                 |        |      |         |        |         |        |           | NYSE                         | 45.88 | 2.5  | 0.0  | 2.32 | 5.1 | 46.00* | 45.13 | 3,743.4 |       |     |      |      |     |        |       |       |
|                                    |      |        |        |       |         |        |         |        |           | UsLife Corp                 |      |                 |        |      |         |        |         |        |           | NYSE                         | 45.25 | 4.9  | 12.2 | 1.12 | 2.5 | 45.38* | 44.00 | 541.4   |       |     |      |      |     |        |       |       |
|                                    |      |        |        |       |         |        |         |        |           | Washington Natl Corp        |      |                 |        |      |         |        |         |        |           | NYSE                         | 34.00 | 5.8  | 15.5 | 1.08 | 3.2 | 34.50* | 33.13 | 151.9   |       |     |      |      |     |        |       |       |
|                                    |      |        |        |       |         |        |         |        |           | Zenith Natl Ins Corp        |      |                 |        |      |         |        |         |        |           | OTC                          | 31.25 | -1.6 | 0.0  | 0.68 | 2.2 | 31.50  | 31.00 | 533.0   |       |     |      |      |     |        |       |       |
|                                    |      |        |        |       |         |        |         |        |           | INSURANCE COMPANIES AVERAGE |      |                 |        |      |         |        |         |        |           | 16.8                         | 2.2   |      |      |      |     |        |       |         |       |     |      |      |     |        |       |       |



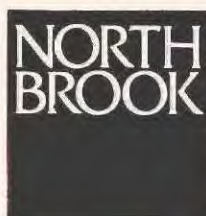
## We're Not Just A Chip Off Any Ol' Block.

In today's uncertain economic climate, one of the ways to tell where your insurance company is headed is to know who is behind it.

At Northbrook, we enjoy the solid, substantial backing of the Allstate Insurance Company, a member of the Sears Financial Network.

We'll be here today, and tomorrow, and next year, too. So we can commit to a package of distinctive services—customized coverage, loss control, claims handling—that you can depend on. And we can work out a fair pricing plan with flexibility for the long run.

So if you're looking for a company you can count on down the line, call your nearest Northbrook agent or broker today.\* You'll find we come from some very solid stock.



**Northbrook  
National Accounts**

A Division of Northbrook Property  
and Casualty Insurance Company  
South Barrington, Illinois 60010

\*Or call: J. Don Johnson, Assistant Vice President Marketing, 312-551-2990.