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ON SURPLUS LINES REFORM  
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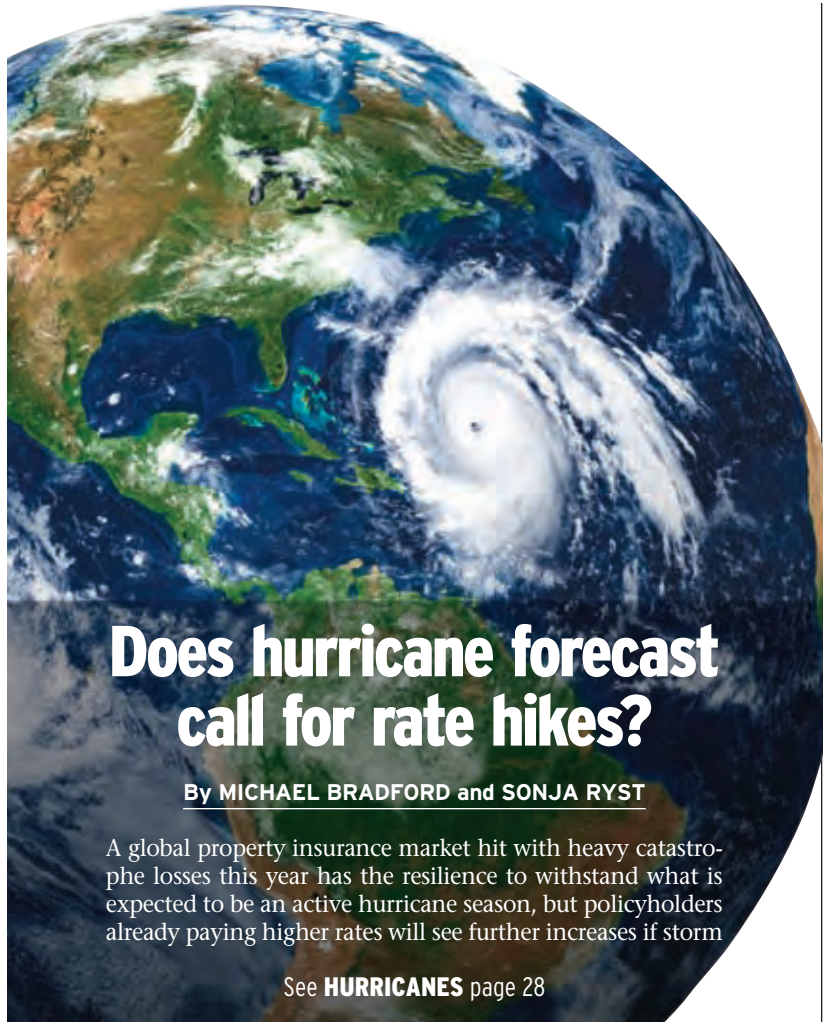
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SAYS CAMBRIDGE DEAL  
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## In Brief

### Texas governor signs tort reform measure

Texas Gov. Rick Perry has signed into law a tort reform measure that institutes a "loser-pays" provision in lawsuits that are deemed to be frivolous. The measure also allows a trial court to dismiss a lawsuit immediately if the case is not based in law or fact. In addition, it allows plaintiffs seeking less than \$100,000 to seek an expedited civil action. The new law "provides defendants and judges with a variety of tools that will cut down on frivolous claims in Texas," Gov. Perry said in a statement issued after he signed the measure into law last week.

See **IN BRIEF** page 29



## Does hurricane forecast call for rate hikes?

By **MICHAEL BRADFORD** and **SONJA RYST**

A global property insurance market hit with heavy catastrophe losses this year has the resilience to withstand what is expected to be an active hurricane season, but policyholders already paying higher rates will see further increases if storm

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**COSTLY QUARTER:** Reinsurers see combined ratios soar in first quarter because of catastrophe losses, RAA survey finds. **PAGE 3**

### HEALTH CARE REFORM

# Vermont aims for universal health care

*Lack of specifics in state's new law concerns employers*

By **JERRY GEISEL**

**MONTPELIER, Vt.**—The intent of Vermont's sweeping new health care reform law is spelled out in a single sentence in the measure.

"The state of Vermont must ensure universal access to and coverage for high-quality, medically necessary services for all Vermonthers," the law says.

While the intent of the measure that Gov. Peter Shumlin signed into law last month is clear, the details of how to achieve the stated goal of universal coverage are not.

The law lacks details on issues such as how the program will be financed, benefits to be offered, premium subsidies to be provided and the role of employers. Those decisions will be made by members of a health care board to be named in the future, and some of those decisions then must be ratified by state legislators.

"It is like creating a new business without a business plan," said Darcie Johnston, the founder and executive director of Vermonters for Health Care Freedom, a Montpelier-based nonprofit organization that opposes a government-run health care system.

What the law says is "we will implement a single-payer system in 2017 and we will tell you what it means later," said Rich Stover, a principal with

Buck Consultants L.L.C. in Secaucus, N.J.

"There are no details. Basically, they have just passed planning legislation," said Betsy Bishop, president of the Vermont Chamber of Commerce in Montpelier.

But Gov. Shumlin said those details will be coming.

"People have legitimate questions about how a single-



AP PHOTO

**Vermont Gov. Shumlin has pledged to seek input from state residents in determining how the health care law will work.**

payer (system) will be financed and operated, and we will answer those questions before the legislature takes the next step. We'll be getting input from all Vermonthers moving forward, which is essential to the success of this effort," he said in a bill-signing statement.

The lack of financing details—also to be decided later—has special implications for employers. Nothing in the law would bar employers from continuing to offer coverage. But if the state decides to impose a payroll tax on employers, which is one of the ideas under discussion, employers that continue to offer cover still could be liable for the payroll tax, assuming that is the funding mechanism

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## SPOTLIGHT

### PUBLIC ENTITY RISK MANAGEMENT

Schools battle bullying; municipal pools provide relief; Data Snapshot of public entity pools. **PAGE 11**

### CYBER LIABILITY RISK MANAGEMENT

Controlling cloud computing; data breach laws pose challenges; BI listing of cyber liability insurers. **PAGE 18**

### WORKERS COMPENSATION

## Illinois lawmakers approve workers comp reform bill

By **JEFF CASALE**

**SPRINGFIELD, Ill.**—Just how much cost savings employers can expect to see from the workers compensation reform bill Illinois lawmakers passed in the final hours of their spring session last week remains to be seen, insurance groups and observers on the issue say.

With two bills on the table—one that would reform the state's work-

ers comp system and one that would abolish it—the Illinois House passed the previously rejected H.B. 1698 late Tuesday on a 62-43 vote to reform a troubled workers comp system.

A spokesman for Gov. Pat Quinn's office said that the governor will sign the reform as it is one that he initially proposed, but some

See **ILLINOIS** page 29

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# Business Insurance

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3. Sales agents weren't snorting drugs in photos: Munich Re's ERGO
4. In pictures: Tornado damage at Joplin, Mo., hospital
5. Munich Re eyes North America expansion: Paper
6. Salesperson tripped, injured by own dog owed workers comp
7. Sedgwick buys Cambridge in latest TPA deal
8. WHO says cell phone use possibly 'carcinogenic'
9. Workers comp legislation not yet decided in Illinois
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## REINSURANCE

# Reinsurers ride out difficult first quarter

*Pricing outlook remains unclear despite large losses*

By **SONJA RYST**

Natural catastrophes hammered U.S. reinsurer profitability during the first three months of the year, but it is still unclear whether those losses will lead to significantly higher prices for most reinsurance buyers.

Reinsurers remain well-capitalized and the size of any broad rate increases may still hinge on the Atlantic hurricane season, which began last week.

Reinsurers surveyed by the Reinsurance Assn. of America reported a combined ratio of 129.3% for the first three months of 2011, compared with 102.2% written by a similar group for the same period last year. The Washington-based trade association surveyed a group of 19 reinsurers licensed to write business in the United States (see chart page 26).

Many of the reinsurers surveyed write international business and some had significant exposures to recent catastrophes such as the Japanese earthquake and tsunami, and flooding in Australia. In addition, domestic catastrophes, such as the series of tornadoes that tore through several U.S. states in the first three months of the year, hit reinsurers' results.

While the exact losses from

the catastrophes remain unclear, reinsurers have posted significant loss estimates over the past several months. And modeling firms expect the Japanese earthquake alone will cost the insurance industry more than \$30 billion. The collective loss ratio for the quarter exceeds 100%.

Although the losses are significant, they don't compare with 2005 when hurricanes Dennis, Katrina, Rita and Wilma caused nearly \$60 billion in insured losses, leading to sharp increases in insurance and reinsurance rates.

"It's different because it's not at the point where everything is falling apart," said Doug Mewhirter, an equity research associate at RBC Capital Markets in Richmond, Va. "It's a bunch of things that are adding up...it'll take a while to play out."

Policyholders' surplus reported by the reinsurers in the RAA survey was \$107.55 billion during the first quarter this year, down less than 1% from the same period last year.

Reinsurers say they can handle the hits they've taken so far.

"The losses we've had are within the realm of what we can manage and what we've anticipated," said Bob Shine, chief underwriting officer in New York of the North America property/casualty unit of XL Capital Ltd.'s XL Insurance, in discussing the reinsurance situation. He said XL has not had to

See **RAA** page 26

**\$30B**

Modeling firms expect the Japanese earthquake alone will cost the insurance industry more than \$30 billion.

## LIABILITY &amp; LITIGATION



Soccer star Ryan Giggs was identified in Parliament as having been granted a so-called superinjunction. Such individuals typically may not be named publicly under U.K. law.

REUTERS

# Twitter rewriting U.K. privacy

*Social media complicates rules around strict gag orders, liability*

By **SARAH VEYSEY**

**LONDON**—The recent scandal in the United Kingdom surrounding alleged celebrity indiscretions and a type of media gag order is raising some tricky questions about defamation and liability, particularly regarding social media.

Confusion over the scope of U.K. privacy law arose after the recent identification on microblogging platform Twitter of a famous soccer player who had secured a so-called superinjunction to prevent details of his private life being made public. His subsequent naming during a session of Parliament added to the confusion over when and how his identity could be discussed publicly under the rules for superinjunctions.

A superinjunction is an interim injunction granted by U.K. courts to prevent the publication of information about an individual that is deemed to be confidential or private. In addition, the order bars publication of—or even informing others about—the exis-

tence of the order.

While media companies likely have insurance that would be triggered if they are accused of libel or defamation in connection with the incident, companies that are not traditional publishers also could be held liable for content they or their employees post on websites or social media sites, experts say.

Additionally, if companies are found guilty of contempt of court for violating a superinjunction issued by a U.K. court, they may find themselves uninsured for legal costs.

A superinjunction is intended to ensure that the outcome of U.K. legal proceedings is not prejudiced by publication of certain information, said Danvers Baillieu, a media lawyer at Pinsent Masons L.L.P. in London.

In the case of the soccer star, the fact that he had taken out a superinjunction and tried to suppress

See **INJUNCTION** page 27

## LEGISLATION &amp; REGULATION

# Surplus lines reform deadline looms

*Patchwork likely as state legislatures differ on tax rules*

By **MICHAEL BRADFORD**

**WASHINGTON**—Eager for an arrangement that will simplify paying premium taxes, the surplus lines market is divided over whether that will happen anytime soon and what form of allocation should prevail.

As the July 21 implementation date of the Nonadmitted and Reinsurance Reform Act approaches, state legislatures are addressing requirements within the federal law that call for them

to devise a method to allocate surplus lines premium taxes.

While NRRA stipulates that only the home state of the policyholder can collect premium taxes starting July 21, it does not set a deadline for a premium allocation system to be in place.

Nationwide, gross surplus lines premiums written during 2009 totaled \$32.26 billion and generated \$1.12 billion in tax revenue for the states, according to the latest available *Business Insurance* survey data.

At the time, state tax rates ranged from 1% to 6%.

Deciding how to allocate surplus lines taxes has become a race against the clock as state legislative terms wind down and the

NRRA implementation date looms.

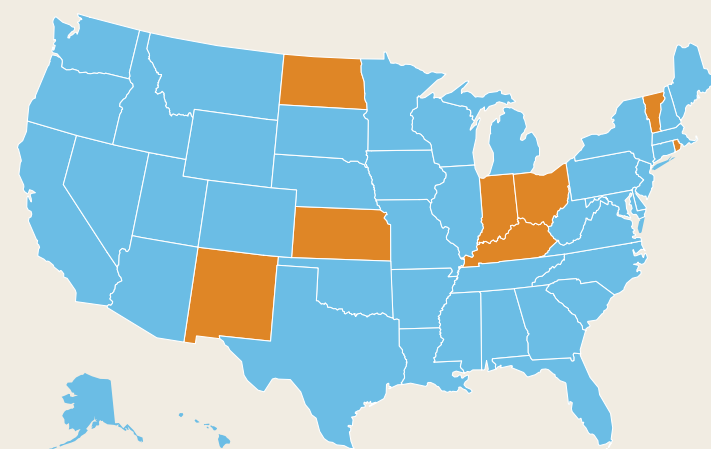
"I think it will be difficult to get a tax allocation system between now and July because of the details involved" in getting states to agree on the workings of such a system, said Steven P. Stephan, director of government relations with the Kansas City, Mo.-based National Assn. of Professional Surplus Lines Offices Ltd. There are, however, "some folks who think a tax allocation system can be put in place" by the law's effective date, he said.

Separate clearinghouse arrangements, or "compacts," have emerged as mechanisms for states

See **SURPLUS** page 10

## SLIMPACT STATES

Backers are optimistic that 10 state governors or governors of states representing at least 40% of the U.S. surplus lines market will sign laws to implement the Surplus Lines Insurance Multi-State Compliance Compact to set up a system to apportion surplus lines premium taxes, as required by the Nonadmitted and Reinsurance Reform Act. Governors of eight states (in orange) have signed SLIMPACT legislation to date.



Source: National Assn. of Professional Surplus Lines Offices Ltd.

## RETIREMENT BENEFITS

# Employers get reprieve on 401(k) fee disclosure

*Additional time will help firms cope with rules*

By JERRY GEISEL

**WASHINGTON**—The Labor Department is giving employers with 401(k) and other participant-directed individual account plans more time to disclose the fees and expenses charged by the various investment options that are offered.

Under the final rule announced last week, the effective date for calendar-year plans remains Jan. 1, 2012. However, employers now will have 120 days after the effective date to make the first disclosure of fee and expense informa-

tion to plan participants, rather than the 60 days the Labor Department initially announced last year.

As a result, calendar-year plans now have until April 30, 2012, to distribute the information.

Employers will welcome the extra time given to provide the information, experts say.

"There will be a little more time to do the first disclosure," said Sandy Wheeler, a director with PricewaterhouseCoopers L.L.P. in Washington.

"This is good news for employers and defined contribution record-keepers as everyone is working very hard to understand the rules, develop the appropriate disclosure notices, and think about all the consequences once the information is delivered. The

## 120

Employers now will have 120 days after the effective date to make the first disclosure of fee and expense information to plan participants, rather than the 60 days the Labor Department initially announced last year.

added time will also allow sponsors to review the fees associated with their plans and ensure that they are reasonable," said Robyn Credico, a senior consultant with Towers Watson & Co. in Arlington, Va.

The Labor Department rules are intended to improve disclosure of

fees and expenses for investments in participant-directed individual account plans, such as 401(k)s. The Labor Department estimates there are 483,000 such plans.

The centerpiece of the regulations is a requirement that plan sponsors develop and distribute to participants a comparative chart with investment-related information, including fees and expenses.

The first part of the chart will list by category the name of each investment option, such as equity or bond funds; the website for each investment option; the average annual total return during the past year, five years, 10 years and since inception; and rates of return for the comparable time periods for a benchmark index applicable for each investment option with a variable rate

of return.

The second part of the chart will list each investment option, its total operating expenses and fees that participants are charged. Examples include annual service charges assessed if the value of investments held fall under a certain dollar amount and the charges that some funds impose on amounts withdrawn before maturity.

Aside from the chart, employers also will have to disclose to participants on a quarterly basis the actual dollar amounts charged to their accounts during the preceding quarter for specified administrative expenses.

The Labor Department said the first report with that information will have to be provided by May 15, 2012.

## CLAIMS SERVICES

## Sedgwick CMS acquires rival Cambridge

*M&A activity continues among claims companies*

By MIKE TSIKOUKAKIS

**GREENWICH, Conn.**—Consolidation in the third-party administration sector continued last week as Sedgwick Claims Management Services Inc. acquired Cambridge Integrated Services Group Inc.

Memphis, Tenn.-based Sedgwick acquired the assets of Cambridge for \$22.7 million, Cambridge parent company Xchanging P.L.C. said in a statement.

The acquisition includes the stock of subsidiary Cambridge Gahler Settlements & Insurance Services Inc., Sedgwick said in a statement.

Cambridge, a Greenwich, Conn.-based property/casualty claims and risk management services provider, had been a unit of Cambridge Solutions Ltd.

The acquisition aims to provide an "array of services in the industry, with added value in the areas of transportation liability, consumer financial services, structured settlements and Medicare compliance," Sedgwick CMS said in the statement.

"Those additional capabilities are one of the strengths of the Cambridge addition to Sedgwick," said Sedgwick CMS President and



Mr. North

CEO David A. North. "We also find that in their core TPA operation, they had a very strong reputation in some select industry segments, such as transportation, that we were particularly interested in (expanding) an area that Sedgwick had a small presence in."

Cambridge's automotive claims business accounts for 22.3% of its 2010 gross revenues of \$30 million from claims services for self-insured clients, according to a 2011 *Business Insurance* survey. Sedgwick's automotive portion of its claims amounts to 10% of its 2010 gross revenues from claims services for self-insured clients, which were \$808 million, according to the survey.

Employment offers have been extended to all Cambridge employees and existing services teams will remain in place without interruption, the companies said.

Cambridge has 62 locations worldwide with 886 employees.

See **SEDGWICK** page 28

## WORKERS COMPENSATION

## Health reforms seen boosting costs

*Rising medical costs to hit workers comp, Chartis CRO says*

By MICHAEL BRADFORD

**DALLAS**—As millions of U.S. residents are added to the health insurance rolls under the Patient Protection and Affordable Care Act, workers compensation medical costs also will spiral and employers and other stakeholders must hold down workplace injuries and associated expenses, an insurance company risk man-

ager says.

"If the U.S. health care system is expanded and made accessible to 30 million new consumers, inevitably that type of surge in demand will drive prices up," said Tom Tucker, senior vp and chief risk officer of New York-based Chartis U.S., a unit of Chartis Inc.

Speaking in Dallas late last month at a joint meeting of the Dallas-Fort Worth chapter of the Risk & Insurance Management Society Inc. and the Dallas chapter of the Chartered Property Casualty Underwriters Society, Mr. Tucker said workers comp

medical costs will increase as the health care reform law expands accessibility to care. Those costs will become a burden on employers unless they are reined in by aggressive loss prevention.

"So goes the U.S. health care system, so will go the medical trend in workers compensation unless employers, insurers and service providers construct mechanisms to bend that trend line," Mr. Tucker said.

Workers comp medical costs as a percentage of total comp costs rose to 58% in 2008 from

See **COMP** page 26

## WEBCAST

## Stopping corporate cyber thieves

Your organization's corporate identity already may be under attack from hackers that have been quietly stealing valuable information—for years.

Data thieves increasingly are looking beyond financial data and sensitive customer information and zeroing in on the very heart of a corporation: its most vital intellectual assets. Such attacks, known as advanced persistent threats, can result in valuable corporate information, such as acquisition plans and product designs, being stolen and sold to rivals. APTs establish a long-term occupying presence with a company's network, planting malware that can lay dormant for years before

problems begin.

A free *Business Insurance* webcast on June 22 will explore how APTs work, how they can be detected and what risk managers can do to protect their company's key intellectual assets.

Presenting will be Larry Collins, head of e-solutions and vp of health, safety and environmental risk engineering at Zurich Services Corp.; and Mark Greisiger, president of NetDiligence.

*Business Insurance* Associate Editor Mike Tsikoudakis will moderate the webcast.

To register for the webcast, visit <http://www.businessinsurance.com/section/webinars>.



Mr. Collins



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# Vermont: State aims for universal health coverage

CONTINUED FROM PAGE 1

Vermont lawmakers adopt.

Effectively, employers “would end up paying twice,” said William Driscoll, vp of the Associated Industries of Vermont in Montpelier, a business lobbying group.

That potential liability concerns state business groups.

“We have talked to our members and they don’t have confidence that (reform law) savings will be achieved. If (lawmakers) take the payroll tax route, employers would have to pay and have no control” over that cost, Mr. Driscoll said.

In its lack of detail, the Vermont law is strikingly different than the health care reform measure that Massachusetts lawmakers approved in 2006, which in certain ways became a model for the federal health care reform bill approved last year.

## Key differences

The Massachusetts law, for example, made clear that employers could continue offering coverage and not be liable for any special assessments. Those that don’t offer coverage have to pay an annual assessment of \$295 for each full-time employee.

In addition, the Massachusetts law established a special program for the lower-income uninsured—those with annual incomes of up

**‘We have talked to our members and they don’t have confidence that (reform law) savings will be achieved. If (lawmakers) take the payroll tax route, employers would have to pay and have no control’ over that cost.**

William Driscoll,  
Associated Industries of Vermont

to 300% of the federal poverty level—in which the state partly or completely subsidizes premiums charged by health care plans providing coverage through a pool.

Soon after Massachusetts passed its bill, the state received a Medicaid waiver assuring that it would receive hundreds of millions of dollars in federal funding. The state used the money to expand Medicaid and subsidize premiums for low-income uninsured state residents not eligible for Medicaid.

In its quest for universal cover-

age, Vermont is taking a very different implementation path than Massachusetts. The Massachusetts law was detailed, with blanks quickly filled in by regulators. The result was much of the law went into effect within a few months after enactment.

By contrast, the Vermont law creates a five-member board that will make decisions on vital issues such as premium subsidies, benefits that must be covered, the role of employers and private insurers, and, above all, financing.

“The financing is still a big unknown,” said Beatrice Grause, president and CEO of the Vermont Assn. of Hospitals and Health Care Systems in Montpelier.

“They are going to have to figure out how to pay for it,” said J.D. Piro, a principal with Aon Hewitt Inc. in Norwalk, Conn.

However Vermont decides to achieve its goal of universal coverage, it also will need permission from the federal government before moving ahead. The federal health care reform law has a mechanism in which states can seek waivers to institute reform measures that differ from the federal law.

But such waivers are not available until 2017. Legislation, S. 248, was introduced this year by Sen. Ron Wyden, D-Ore., to move up to 2014 the availability of the waivers.

While President Barack Obama endorsed the bill, it has attracted little support in the Senate, with just eight senators—seven Democrats and one Republican—signing on as co-sponsors.

## Commentary

# Work-life balance healthy for everyone

Are employer concerns about work-life balance and healthy employees just a bunch of baloney?

Sure, employers want healthy, productive workers. But even before the economy took a tumble, it was obvious that while companies invested in employee wellness strategies, their productivity expectations also were increasing.

Then the Great Recession hit and employers sought to ensure their survival with layoffs and pushing those workers they retained even harder. Meanwhile, mobile technology has proven to be an enabler of increased workloads that can drive up stress levels.

So it raises the question, do employers really care about employee work-life balance?

The issue came up during a panel discussion at the Risk & Insurance Management Society Inc.’s Annual Conference & Exhibition last month. The session focused on the increased potential for workers compensation claims generated by the growing use of mobile devices enabling employees to work 24/7.

The topic generated some interesting audience comments.

One risk manager said his workload forced him to break his employer’s policy against talking company business on a cell phone while driving.

That’s a stunning admission from a fellow whose job it is to help implement such policies.

We can assume his company’s cell phone directive stems from a concern about its employees’ health and safety as well as the potential for third-party claims.

But the risk manager also is faced with the reality of a demanding workload, and he is not alone.

The panelists, meanwhile, said that while employers are not overtly mandating more work from employees, job pressures are unquestionably driving up workplace tensions.

“Organizations are urging employees to explore and feel comfortable having the proper work-life balance,” one of the speakers said. “On the other hand, (employers are) giving them all these devices they can take home when they are theoretically off from work.”

I’m encouraged by a recent *Business Insurance* story reporting that businesses continue to increase their spending on wellness programs. Although the reasons for implementing such programs can vary among companies, it shows employer



**ROBERTO CENICERROS**

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interest in worker well-being. On the other hand, the Society for Human Resource Management released a survey in September showing that 89% of U.S. residents feel that work-life balance is a problem and more than half of those think it’s a “significant problem.”

SHRM listed examples of companies with successful work-life balance strategies.

## Do employers really care about employee work-life balance?

Battle Creek, Mich.-based Kellogg Co., for example, holds educational seminars on managing flexible schedules and there are websites with listings of employers whose employees rank them highly for their work-life balance initiatives.

But if your employer leaves you on your own to figure it out, a simple Google search can provide sites with helpful tips for taking care of yourself.

A Mayo Clinic site on “Work-life balance: Tips to reclaim control” provided one of my favorite recommendations: Among other suggestions, the site suggests nurturing yourself. It says to “eat healthy foods, include physical activity in your daily routine and get enough sleep. Set aside time each day for an activity that you enjoy, such as practicing yoga or reading. Better yet, discover activities you can do with your partner, family or friends—such as hiking, dancing or taking cooking classes.”

In other words, the workload probably isn’t going to lighten up soon, so it’s up to you to shut off those devices connecting you to work long enough for activities that help recharge the batteries.

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# Business Insurance OPINIONS

## Ill. comp reform good, but needs more work

WORKERS COMPENSATION reform passed by the Illinois Legislature last week is a step in the right direction, but a lot of ground is left to cover before problems with the state's comp system are adequately addressed.

As we report on page 1, the reform measure, which Gov. Pat Quinn is expected to sign, would reduce medical provider rates, impose guidelines for permanent impairment evaluation, cap carpal tunnel awards and allow health care networks for workers comp.

There is little for employers not to like in those reforms, even though it is unclear how much money actually will be saved.

*The reforms fall short of what is needed.*

The reforms, however, fall short of what is needed. For meaningful cost

savings, Illinois needs to address the issue of determining injury causation and ensure that work is the major cause of an injury eligible for comp benefits. This is a big issue for employers as workers can tap workers comp benefits for injuries suffered during the course of work—a significantly lower standard of proof.

Another disappointment is that while the law allows employers to use health care networks—a proven route to lower comp costs—it also allows workers to opt out of the network and select more costly options.

Aside from the shortcomings of the reforms, the whole process of passing the legislation was disheartening for anyone interested in achieving equitable changes. The political brinkmanship that saw a bill that would abolish the state's workers comp system put forward as a possible alternative demonstrates that Illinois needs to take a more reasoned approach to a serious problem for employers in the state.

## Tenn. made right move in updating captive law

HOW DID STATES that once were growing captive insurance company domiciles wither over the years?

One reason is that some states failed to update their laws and devote the necessary resources to their captive licensing and regulatory units.

Perhaps the best example is Tennessee, which in 1978 was the second U.S. state to pass captive legislation. Gradually, Tennessee grew and had 16 captives by 1990. But it has been downhill since then.

Potential sponsors checked off Tennessee as other states passed more attractive captive measures. Sponsors also were turned off by the indifference of regulators in attracting captives. Today, Tennessee has just four captives.

Now, things are changing. Last month, Tennessee passed legislation that updates the 1978 law in various ways, including reducing capital and surplus requirements for licensing, cutting premium taxes and allowing the formation of protected cell captives, branch captives and special-purpose financial captives.

Just as important is state officials' commitment to hire staff dedicated to captive regulation and to quickly develop rules to implement the new law, allowing captive applications to be received starting next month.

Why did Tennessee wake up and modernize its law? Undoubtedly, seeing the success of other states, such as Vermont, with up-to-date laws and well-developed regulatory infrastructures, attract captives that are a source of jobs and revenue was a powerful motivator.

We hope other states heed the lesson and keep their captive statutes up to date and competitive.



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#### THIS WEEK'S RESULTS

Q Have you been asked to sign a policy on use of social media at work?



Yes  48%

No  52%

#### NEXT WEEK'S QUESTION

Q: Are you concerned about the risk of cancer from cell phones?

### READ

Perspectives and expert analysis online at  
[www.businessinsurance.com/section/perspectives](http://www.businessinsurance.com/section/perspectives)

## Get the most out of claims



With so many natural disasters happening recently around the world, companies need to be proactive about their claim strategies to fully recover their losses, say Linda Kornfeld and Matthew Jacobs of Jenner & Block L.L.P.'s

insurance recovery practice and Michael Gardner of financial and management consultant The Claro Group L.L.C. In this Perspectives, they outline ways to document and support claims and communicate them with insurers to make the most of a company's insurance assets.

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# Surplus: States divide on premium tax collection plans

CONTINUED FROM PAGE 3

to handle surplus lines taxes. Some states have passed legislation to allow use of the Surplus Lines Insurance Multi-State Compliance Compact, which NAPSLO favors. The National Assn. of Insurance Commissioners is backing another clearinghouse approach, the Nonadmitted Insurance Multi-State Agreement.

The two differ in that SLIMPACT authorizes, among other things, a governing commission to establish allocation formulas, uniform payment methods, and reporting requirements

for policyholders and surplus lines brokers. NIMA addresses the tax issues, but does not address uniformity issues covered by SLIMPACT, sources say.

States are not required to choose one or the other, and some may opt to come up with their own methods or simply pass laws authorizing creation of a system to handle the tax allocation.

Susan Nolan, executive director of the Troy, N.Y.-based National Conference of Insurance Legislators, says NCOIL backs SLIMPACT and there's a good chance it will be in place by July 21.

Once 10 state governors or gov-

ernors from states that represent at least 40% of the surplus lines market sign SLIMPACT legislation, a commission can be established that would develop a framework. As of late last week, eight governors had signed laws authorizing the compact.

"We're pretty optimistic that we will have 10 states" before the law is implemented, Ms. Nolan said. Even if the number of signatures falls short, nothing prevents a state from approving SLIMPACT after July 21, she said.

As of late last week, SLIMPACT legislation had been signed in Indiana, Kansas, Kentucky, New

Mexico, North Dakota, Ohio, Rhode Island and Vermont, according to NAPSLO. In one other state—Tennessee—SLIMPACT legislation had passed but had not yet been signed into law.

So far, only Nebraska has signed legislation authorizing NIMA as the only compact that can be used in the state, although another dozen states have legislation in the works that appears to be leaning toward the NIMA system, according to NAPSLO.

A mishmash of tax allocation approaches is inevitable, at least for the short term, as some states have so far ignored the NRRA

mandate to develop a system.

Ms. Nolan conceded that it is unclear how states would reconcile differing allocation systems, but said she is confident that most will approve a compact by the NRRA implementation deadline and are likely to favor the SLIMPACT approach.

The NRRA's provisions include several that appeal to the surplus lines market, sources say, such as one that allows brokers to place coverage in the surplus lines market for large risks without first conducting a diligent search for admitted market coverage as called for under current regulations. Such companies must employ a "qualified risk manager" to represent the policyholder in the transaction, among other requirements.

"Our view is that the ultimate implementation of the law will make the surplus lines space all the more appealing for corporate consumers as well as the industry and regulators," said Joel Wood, senior vp of the Council of Insurance Agents & Brokers in Washington.

As for the tax issue, the first several months after the law is imple-

**'Somebody will have to pay for the clearinghouse operations. I don't think the states will do that; I think it will be passed along to policyholders.'**

Jim McIntyre,  
Risk & Insurance Management  
Society Inc.

mented could be "somewhat confusing because of the inability of the states to all join in a single mechanism" to collect and allocate premium taxes, Mr. Wood said.

Risk managers are pleased with the NRRA's provisions because it means they can write one check to one state to pay taxes on surplus lines premiums, their policy terms will be governed solely by their home state and the diligent search requirement has been eliminated for large risks, said Jim McIntyre, Washington-based legal counsel for the Risk & Insurance Management Society Inc.

RIMS has provided input in developing the clearinghouse proposals, and the society's members prefer the SLIMPACT approach because of its uniformity in processes and forms, Mr. McIntyre said.

Risk managers may, however, see some added costs once the clearinghouse approach is in place, he said.

"Somebody will have to pay for the clearinghouse operations," Mr. McIntyre said. "I don't think the states will do that; I think it will be passed along to policyholders."

Risk managers are hopeful, though, that efficiencies gained by the new system will produce savings that will offset any new costs, he said.



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# BATTLING BACK AT BULLYING

*Training programs  
for students, teachers  
key to loss prevention*

By **RUSS BANHAM**

**A**s a boy, Eric Seaborg was shy, introverted and had bright red hair.

These traits, and particularly the red hair, brought taunts from other schoolchildren that sting to this day.

"I learned that the way to avoid being made fun of was to blend in," said Mr. Seaborg, now an expert on bullying as the senior risk management consultant at United Educators Insurance, a Chevy Chase, Md.-based risk retention group providing liability insurance for educational institutions.

Bullying and its electronic cousin, cyber bullying, have emerged as major areas of liability for educational institutions.

Many bullying lawsuits allege "deliberate indifference" as the factor in a school's liability. The legal standard, laid down in 1999 by the U.S. Supreme Court in *Aurelia Davis et al. vs. Monroe County Board of Education et al.*, holds that a school is liable for damages if it fails to respond to known acts of harassment by one student against another student—creating an environment in which the victim is denied equal access to an education.

See **BULLY** page 13

Public Entity  
Risk  
Management

# SPOTLIGHT

**PUBLIC ENTITY RISK  
& BENEFIT POOLS  
DATA SNAPSHOT**  
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**MUNICIPAL POOLS  
PROVIDE RELIEF  
IN TOUGH TIMES**  
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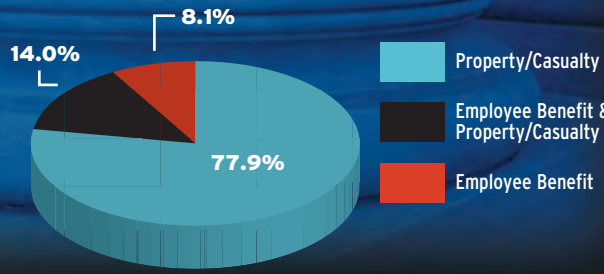
# DATA snapshot

## PUBLIC ENTITY RISK & BENEFIT POOLS

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### BREAKDOWN OF POOL TYPES

Type of pool for all companies listed in the directory



## LARGEST PUBLIC ENTITY RISK & BENEFIT POOLS

Ranked by 2010 member contributions

RANK	Pool name/address	Phone/website	2010 member contributions	2010 pool members	Type of pool	Principal officer
1	Self-Insured Schools of California P.O. Box 1847, Bakersfield, Calif. 93303-1847	661-636-4710 <a href="http://sisc.kern.org">sisc.kern.org</a>	\$1,166,017,084	409	Employee benefits & property/casualty	Russell E. Bigler, CEO
2	California State Assn. of Counties Excess Insurance Authority (CSAC EIA) 75 Iron Point Circle, Folsom, Calif. 95630	916-850-7300 <a href="http://www.csac-eia.org">www.csac-eia.org</a>	\$399,860,751	272	Employee benefits & property/casualty	Michael Fleming, CEO
3	New Hampshire Local Government Center (LGC) HealthTrust L.L.C. 25 Triangle Park Drive, P.O. Box 617, Concord, N.H. 03302-0617	603-224-7447 <a href="http://www.nhlgc.org">www.nhlgc.org</a>	\$394,105,071	385	Employee benefits	Maura Carroll, interim executive director/fund administrator
4	Vermont Education Health Initiative 79 River St., Suite 301, Montpelier, Vt. 05602	802-223-5040 <a href="http://vehi.org">vehi.org</a>	\$216,656,296	403	Employee benefits	Joseph Zimmerman, president
5	Municipal Excess Liability Joint Insurance Fund 250 Pehle Ave., Suite 701, Saddle Brook, N.J. 07663	201-587-0555 <a href="http://www.njmel.org">www.njmel.org</a>	\$198,646,625	19	Property/casualty	David N. Grubb, executive director
6	Municipal Reinsurance Health Insurance Fund 250 Pehle Ave., Suite 701, Saddle Brook, N.J. 07663	201-587-0555 <a href="http://www.mrhif.com">www.mrhif.com</a>	\$180,985,852	4	Employee benefits	Paul Laracy, executive director
7	Protected Insurance Program for Schools (PIPS) P.O. Box 4328, Torrance, Calif. 90510	310-212-0363 <a href="http://www.pipsjpa.org">www.pipsjpa.org</a>	\$180,794,460	413	Property/casualty	Steve Hovey, president
8	Alliance of Schools for Cooperative Insurance Programs (ASCIP) 16550 Bloomfield Ave., Cerritos, Calif. 90703	562-404-8029 <a href="http://www.ascip.org">www.ascip.org</a>	\$174,353,769	172	Employee benefits & property/casualty	Paula Tanguay, CEO
9	Texas Municipal League Intergovernmental Risk Pool P.O. Box 149194, Austin, Texas 78714-9194	512-491-2300 <a href="http://www.tmlirp.org">www.tmlirp.org</a>	\$144,923,188	2,680	Property/casualty	R. Marvin Townsend, executive director
10	Texas Assn. of Counties Health & Employee Benefits Pool P.O. Box 2131, Austin, Texas 78701	512-478-8753 <a href="http://www.county.org">www.county.org</a>	\$144,551,964	184	Employee benefits	Jim Jean, director-program administration

## LARGEST PUBLIC ENTITY RISK & BENEFIT POOL MEMBERS

Ranked by 2010 pool members

POOL NAME	2010 POOL MEMBERS
TEXAS MUNICIPAL LEAGUE INTERGOVERNMENTAL RISK POOL	2680
TEXAS ASSN. OF SCHOOL BOARDS RISK MANAGEMENT FUND	1110
MICHIGAN MUNICIPAL LEAGUE WORKERS COMPENSATION FUND	851
SCHOOLS EXCESS LIABILITY FUND (SELF)	778
ALABAMA MUNICIPAL INSURANCE CORP.	572

Source: BI Survey. Researched by Karen Tucker

## LARGEST PROPERTY/CASUALTY POOLS

Ranked by 2010 member contributions

<b>RANK</b>	<b>1</b>
Pool name	MUNICIPAL EXCESS LIABILITY JOINT INSURANCE FUND
2010 member contributions	\$198,646,625
<b>RANK</b>	<b>2</b>
Pool name	PROTECTED INSURANCE PROGRAM FOR SCHOOLS (PIPS)
2010 member contributions	\$180,794,460
<b>RANK</b>	<b>3</b>
Pool name	TEXAS MUNICIPAL LEAGUE INTERGOVERNMENTAL RISK POOL
2010 member contributions	\$144,923,188
<b>RANK</b>	<b>4</b>
Pool name	TEXAS ASSN. OF SCHOOL BOARDS RISK MANAGEMENT FUND
2010 member contributions	\$84,300,000
<b>RANK</b>	<b>5</b>
Pool name	BETA HEALTHCARE GROUP RISK MANAGEMENT AUTHORITY
2010 member contributions	\$78,997,567

## LARGEST EMPLOYEE BENEFIT & PROPERTY/CASUALTY POOLS

Ranked by 2010 member contributions

<b>RANK</b>	<b>1</b>
Pool name	SELF-INSURED SCHOOLS OF CALIFORNIA
2010 member contributions	\$1,166,017,084
<b>RANK</b>	<b>2</b>
Pool name	CALIFORNIA STATE ASSN. OF COUNTIES EXCESS INSURANCE AUTHORITY (CSAC EIA)
2010 member contributions	\$399,860,751
<b>RANK</b>	<b>3</b>
Pool name	ALLIANCE OF SCHOOLS FOR COOPERATIVE INSURANCE PROGRAMS (ASCIP)
2010 member contributions	\$174,353,769
<b>RANK</b>	<b>4</b>
Pool name	SOUTHERN CALIFORNIA SCHOOLS EMPLOYEE BENEFITS ASSN. JOINT POWERS AUTHORITY
2010 member contributions	\$126,000,000
<b>RANK</b>	<b>5</b>
Pool name	RHODE ISLAND INTERLOCAL RISK MANAGEMENT TRUST <sup>1</sup>
2010 member contributions	\$114,460,364

<sup>1</sup> Governmental Health Pool of Rhode Island merged into the trust in June 2010

## LARGEST EMPLOYEE BENEFIT POOLS

Ranked by 2010 member contributions

<b>RANK</b>	<b>1</b>
Pool name	NEW HAMPSHIRE LOCAL GOVERNMENT CENTER (LGC) HEALTHTRUST L.L.C.
2010 member contributions	\$394,105,071
<b>RANK</b>	<b>2</b>
Pool name	VERMONT EDUCATION HEALTH INITIATIVE
2010 member contributions	\$216,656,296
<b>RANK</b>	<b>3</b>
Pool name	MUNICIPAL REINSURANCE HEALTH INSURANCE FUND
2010 member contributions	\$180,985,852
<b>RANK</b>	<b>4</b>
Pool name	TEXAS ASSN. OF COUNTIES HEALTH & EMPLOYEE BENEFITS POOL
2010 member contributions	\$144,551,964
<b>RANK</b>	<b>5</b>
Pool name	SOUTHERN NEW JERSEY REGIONAL EMPLOYEE BENEFITS FUND
2010 member contributions	\$80,580,854

# Bully: Training key to loss prevention

CONTINUED FROM PAGE 11

In effect, a school can be held liable if it is informed about the harassment and recklessly disregards the alleged perpetrator's acts.

The problem with the legal standard for many educational institutions is separating bullying from protected free speech. Additionally, some cases have been filed in which a school responded to the harassment, but did not go far enough to curtail the bullying in the view of the plaintiff.

Mr. Seaborg cited another crack in the system: "There are instances where a student reported the abuse to a lunchroom monitor or a janitor, but not to a teacher or administrator. Does this constitute a viable report of the incident for liability purposes?"

As U.S. courts handle suits that allege cyber bullying, educational institutions are emphasizing loss prevention via student and parent training, policies and incident reporting procedures while also taking punitive responses that range from talks with parents to expulsion of student bullies.

## Student ambassadors

But Lee Gaby, executive director of Public School Risk Institute, an Athens, Ga.-based public school risk management organization, said more schools need to invest in comprehensive programs in which bystanders to a bullying incident are empowered to take action against the perpetrators.

"If someone witnesses a bully in action, the key is to not encourage the event by laughing or egging on the perpetrator, but to intervene verbally in a nonthreatening manner," Mr. Gaby said. "You train students who might otherwise be hesitant to act into goodwill ambassadors."

Despite these tactics, school liability for bullying is expected to increase in coming years, largely because of the media attention on several troubling incidents. Among them was the suicide last year of a gay Rutgers University student, whose encounter with another male was secretly videotaped by a roommate and posted on the Internet. Two students have been accused of invasion of privacy and bias intimidation, and Tyler Clementi's parents have sued Rutgers for failing to implement or enforce school policies aimed at preventing cyber bullying on campus.

Reducing in-person and electronic bullying at schools requires identifying and assessing the organization's exposure to loss, instituting measures to reduce the risks, and buying liability insurance with appropriate terms, conditions and limits to absorb related exposures.

Clients of Chicago-based broker Aon Corp. have their bullying risks plotted on a matrix to assess the breadth of their exposure.

"On the horizontal axis, we list the various types of potential torts like slander, defamation and invasion of privacy; and on the vertical, we list the various insurance

policies, such as general liability, employment practices liability and educators legal liability that the institution has to address these exposures," said Kevin Kalinich, national managing director of cyber liability in Aon's Chicago office. "Quite often, we find that the policies fail to adequately address potential cyber liability exposures brought about through the use of social media like Twitter, YouTube and Facebook."

He said some general liability policies explicitly exclude electronic communications as a covered liability, often unbeknownst to the educational institution.

Others have insufficient limits, a concern given the rise in cyber bullying and cyber stalking incidents.

## Balancing act

"Policing electronic communications is problematical," said Mr. Kalinich. "On the one hand, you don't want to permit cyber bullying, but on the other you don't want to suppress someone's free speech rights. While a company can control and monitor what employees say and do online, an educational institution seeks to

See **BULLY** page 14

**'If someone witnesses a bully in action, the key is to not encourage the event by laughing or egging on the perpetrator, but to intervene verbally in a nonthreatening manner.'**

Lee Gaby,  
Public School Risk Institute

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# Municipal risk pools help ease financial pressures

*Secure facilities provide rate relief in difficult times*

By **RODD ZOLKOS**

Many public entity risk pools are using their own financial strength to help their members deal with difficult budgetary times.

They're doing so, however, in their traditionally conservative fashion, with an eye toward their own financial future, say some in the municipal risk pool business.

"A number of the pools are using their favorable loss development or the net assets that they've been able to accrue over the years to either hold rates the same or reduce rates because of budget pressures faced by their members," said Harold Pumford, CEO of the Prague, Okla.-based Assn. of Governmental Risk Pools.

Shawn Bubb, director of insurance services at the Montana Schools Group Insurance Authority in Helena, Mont., said many municipalities are freezing pay or reducing staff, resulting in "a lit-

tle bit of a heightened state of anxiety with a lot of the pool members."

On top of budget problems caused by the economic downturn, recent weather-related events have further strapped many municipal budgets and, in some cases, hit pools as well.

"It's kind of a weird dynamic with the natural disasters around the country," said Mr. Bubb, who also is AGRIP's president. Heavy snow during the winter took its toll on many municipal budgets, he said. Now, flooding and windstorms are hitting many pools.

"Specific pools are getting hit more than others," he said.

"Those flood losses for pools that are getting hit by them are pretty serious," Mr. Bubb said. "So it's kind of creating a compounding effect."

Still, most pools are in good financial shape due to their historically conservative approach to business, and Mr. Bubb said he's seeing several ways pools are using that financial strength to help their cash-strapped members.

He said he's seen some pools

See **POOLS** page 16

## Bully: Key is training

CONTINUED FROM PAGE 13

facilitate open, free exchange of ideas. Managing risk in this environment is intricate."

Jean Demchak, global education leader at New York-based Marsh Inc., also noted the dotted line between free speech and abusive behavior, saying it is the difference between being the class clown and being the cruel class clown.

"While you don't want to curb someone's imagination, I see no gray areas when it comes to a normal student code of conduct," Ms. Demchak said. "If a school has established policies that identify bullying, these policies are violated, appropriate administrators are informed, and the school takes the prescribed actions to stop the bullying, the school should be protected."

With regard to cyber bullying, Ms. Demchak said legal precedents are beginning to be established that will indicate if schools should have separate policies addressing cyber bullying vs. traditional physical bullying risks.

Nonetheless, Aon's Mr. Kalinich said he advises schools to create a social media policy that articulates the types of behaviors that are not permitted online and the actions that the institution will take if these rules are violated.

Similar policies are recommended for high schools and even grade schools.

"You want to establish a curriculum for bullying prevention," Mr. Gaby said. "It starts with written rules and policies for a non-violent school setting, but should further include training of students regarding what bullying is, how to know when it is occurring and what to do if it is witnessed."

With respect to the latter, he reaffirmed that encouraging bystanders to a bullying incident to come forward and talk to perpetrators can temper the situation. "Bystanders often do nothing but observe, yet teachers can educate students about the statements they can make in these instances to influence the perpetrator to curtail the abusive behavior," Mr. Gaby said.

Mr. Seaborg said many schools insured by United Educators confront bullying risks by inviting parents, community members and law enforcement to join teachers and administrators in bullying prevention seminars. He further advocates that schools adopt a zero-tolerance policy for offenses with clear-cut, strict punishment for violators.

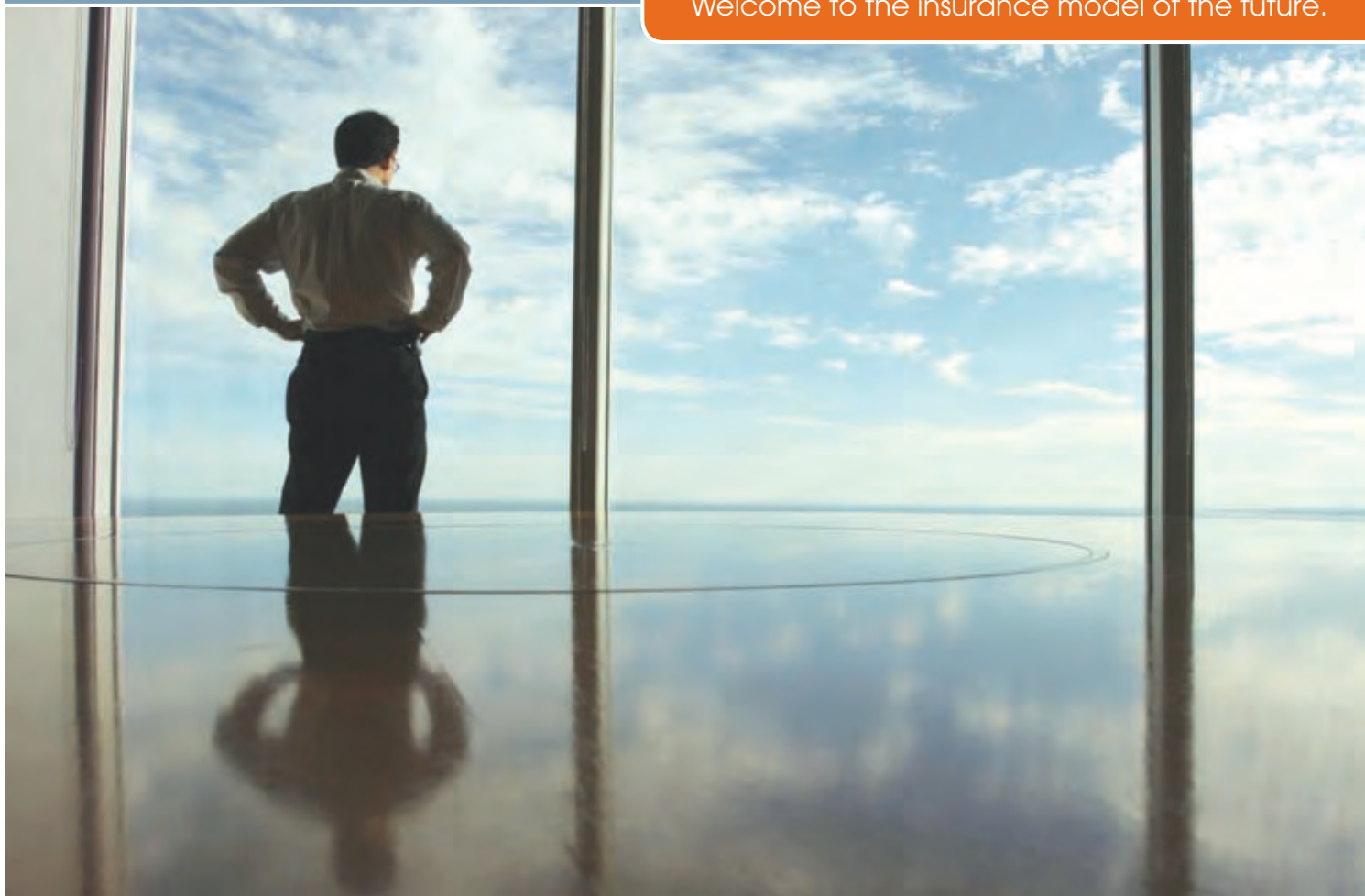
"It's advisable to point out cases in which bullied students that cannot take the abuse anymore react violently to the perpetrators," he said. "The behavior can cut both ways."

"Above all, you want to make clear to students that everyone is different, and these differences are not to be maligned," Mr. Seaborg said.

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# Pools: Facilities provide financial relief

CONTINUED FROM PAGE 14

set up rate stabilization funds, directing money they might otherwise return to members as dividends into funds to offset future premium increases. He's also seen some pools provide premium credits, and others using their financial strength to allow them to reduce rates for their members.

"But at the same time, I'm not seeing pools go overboard," he said. "I'm seeing a little bit of conservatism by the pool, but at the same time they're saying this is the year we have to reach out and help members through this crisis they're going through."

Mr. Bubb noted that pools typically have provided insurance buyers more stability than the traditional market, but financially challenged members might feel in some cases that it is necessary to trade that stability for price. "Even with that (stability), we're seeing a little bit more of pool members feeling the need to bid you out," he said of testing pricing in the traditional market.

Paul Miola, area executive vp at Arthur J. Gallagher & Co. in Marlton, N.J., said he also sees many pools facing competition for members' business, though the competitors are "not so much traditional carriers, but other pools

are looking to take members, maybe cherry-picking."

In some cases, pools are looking to address poaching of their best risks "through more innovative assessment allocation strategies," Mr. Miola said.

As an example, he mentioned a case in which he was involved

**In some cases, pools are looking to address poaching of their best risks 'through more innovative assessment allocation strategies.'**

Paul Miola,  
Arthur J. Gallagher & Co.

where the pool implemented a retrospective program providing participants a guarantee that future price increases will be limited based on their experience.

Such an approach allows a pool to reward its best-performing members while passing costs on to those with poorer loss histories, Mr. Miola said.

Mr. Pumford said he's seeing

favorable loss development from many municipal risk pools, a fact he attributes to the experience the pools have gathered during their years in operation that allows them to set loss reserves more accurately and settle claims more efficiently than in the past.

Mr. Pumford said he's not hearing of pools experiencing "significant shifts" in membership. He acknowledged that there are always some pools losing members, "but I'm hearing others talk about 20 consecutive years of 100% renewals."

Mr. Bubb said most of the pools he's talking to are looking at flat reinsurance renewals at midyear. Given the number of natural disasters recently, he expects the market to harden. "It's coming," said Mr. Bubb. "It's definitely going to happen over the next 12 to 18 months."

When the market turns, however, Mr. Bubb said he thinks pools are well-positioned to deal with the transition.

"They've been managing their finances pretty conservatively," he said. As they've looked for ways to help members financially, "the first checkoff that every pool director I've talked to said they looked at was, 'Where are we in terms of our capital requirements?'"



AP PHOTO

**Recent weather-related events, such as heavy winter snow and spring flooding and windstorms, have further strapped municipal budgets and are hitting many risk pools.**

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# SPOTLIGHT

BI LISTING  
OF CYBER LIABILITY  
INSURERS  
PAGE 20

DATA BREACH LAWS  
POSE COMPLIANCE  
CHALLENGES  
PAGE 22



# CLOUD CONTROL

**From backup to breakup,  
protections rest mainly  
in provider contract**

By **JUDY GREENWALD**

**C**loud computing may result in significant savings in companies' hardware and software costs, but experts say the remote storage of sensitive data also raises a series of liability risks. There are dozens of cloud computing firms, including the biggest players in the computing industry. However, it is possible cloud computing firms operating today may not be around a year from now, creating concerns about companies' data.

Continued on next page

CONTINUED FROM PREVIOUS PAGE

In addition, some of the more stable providers in the business may have contracts that work primarily to their advantage and not necessarily the clients', experts say.

Cloud computing uses an Internet browser to access software and hardware on a "cloud," or network of computers, that can be located anywhere in the world.

"Every company has to carefully weigh the benefits and risks of cloud computing," with the latter increasing in proportion to the importance of the data that is handled, said Philip C. Gordon, a shareholder with law firm Littler Mendelson P.C. in Denver.

Because of such concerns, "very few of the business clients we looked at" are "putting their important business information in the cloud, at least not yet," said Mark Greisiger, president of Gladwyne, Pa.-based NetDiligence, which provides cyber risk management and information security services as the marketing arm of Network Standard Corp.

However, Robert J. Scott, managing partner with law firm Scott & Scott L.L.P. in Dallas, said cloud computing is "very hot. Many clients are finding that more and more of their vendors' offerings are cloud-based."

Caution is warranted, observers agree.

"Sometimes, the cloud provider is a relatively cheap service, and some are free. You get what you pay for," Mr. Greisiger said.

A crucial factor in any cloud computing arrangement is the contract with the provider, observers say.

"It's like anything else: Buyer beware," said Mr. Scott. Carefully examine the cloud provider's contract "regardless of your perception of the reputability of the vendor," he said.

#### *Involve the risk manager*

The risk manager and legal counsel should be involved in negotiating the contract, said Alan E. Brill, Secaucus, N.J.-based senior managing director for technology services at Kroll Ontrack Inc. "I find just too many cases" in which "by the time anybody knew there was a problem, the contract was in place, the data was gone and it was too late," he said.

"A lot of companies that provide cloud computing services will not negotiate the terms of their agreement," said Mr. Gordon. "If that's the case, then the organization needs to analyze very carefully whether or not they can live with those terms, in particular where will the data be stored; what kind of security safeguards will the cloud computer provider apply to the data; what limitations of liability is the cloud computing company imposing on the transaction; and whether or not the cloud computing company will indemnify the organization, and if so, in what circumstances."

Mr. Greisiger said the client and the cloud computing provider should have cyber liability insurance "because if you do get any indemnification from (the cloud

provider), it's going to be after the fact, and you may need to have someone step in immediately when that happens; and that's more likely to happen if it's your insurance policy and your insurance carrier."

However, if data is lost, "your clients are still going to come after you and ultimately they're going to hold you responsible," Mr. Greisiger said.

Peter S. Vogel, a partner with Gardere Wynne Sewell L.L.P. in Dallas, said the contract should include a provision in the event there is a disaster, such as a tornado that destroys the cloud computing provider's facility.

"If there's no contractual obligation for the cloud company to

## 'What if you come to work one morning and learned your cloud provider has filed' for bankruptcy 'and shut down all your servers?'

Gene Spafford,  
Center for Education and Research in Information Assurance and Security.

provide backup and reproduce data, then...it can be devastating to the business," Mr. Vogel said.

A cloud computing provider also could go out of business.

"What if you come to work one morning and learned your cloud provider has filed" for bankruptcy "and shut down all your servers?" asked Gene Spafford, director of

the Center for Education and Research in Information Assurance and Security in West Lafayette, Ind.

#### *Case law limitations*

If a firm is co-located on a cloud server with a child pornography ring, that business' data could be turned over to authorities armed

with a search warrant, Mr. Spafford said. experts said. "Those kinds of things are still not decided" in case law, he said.

Keeping personally identifiable information private and safe from data breaches is another concern.

"If you're a health care provider subject to (the Health Insurance Portability and Accountability Act), you want to make sure your vendor's HIPAA-compliant." Otherwise, "you're going to have a problem," Mr. Scott said.

The cloud computing provider "may not have the strong security protocols that your own company has," said Mr. Greisiger.

Richard L. Santalessa, Fairfield,

See **CLOUD** page 21

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# DATA snapshot

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Allied World Assurance Co.	Tech//404v2, Privacy//403v2, Privacy//101	2005
AXIS Insurance Co.	AXIS Pro PrivaSure	2009
Beazley P.L.C	Beazley Breach Response, Beazley Information Security and Privacy Insurance	2006
Chartis Inc.	Specialty Risk Protector	1999
Chubb Group of Insurance Cos.	CyberSecurity by Chubb, Integrity+	2001
Digital Risk Managers	WebNet Protection Policy	2000
Hartford Financial Services Group Inc.	CyberChoice 1.0, CyberChoice 2.09	2008
Navigators Group Inc.	Convergence	2010
RLI Insurance Co.	CyberSecure	2008
Safeonline L.L.P.	SafeCommerce & SafeEnterprise	2002
Travelers Cos. Inc.	CyberFirst, Wrap+ CyberRisk, SelectOne CyberRisk, Executive Choice CyberRisk	N/A
XL Insurance Co.	Eclipse Pro, Eclipse	2008
Zurich North America	Zurich Security & Privacy Protection	2009

Source: BI Survey. Researched by Kevin Edison

## Learn strategies for managing cyber risk

With identity theft causing tens of billions of dollars in extra business expenses annually, organizations face an array of direct and indirect costs from data breaches, according to a white paper from *Business Insurance*.

Risk managers at all organizations should work to minimize their exposure to cyber risks by “expecting the unexpected” and adopting various strategies, both organizational and technological, according to the white paper by cyber risk and insurance expert



Mark Greisiger, president of Philadelphia-based Network Standard Corp., which does business as NetDiligence.

Identity theft affects about 10 million U.S. residents a year and causes an estimated \$50 billion in unnecessary business expenses.

The theft of personal information costs organizations an average of about \$710,000 per incident. And the sources of those extra expenses are numerous, according to the white paper, “Cyber Risks: How to Protect Your Business in the Digital Age.”

Extra expenses can result from:

- Managing a lengthy forensic computer system investigation. Depending on the type of data (personal health information, images, audio files, etc.), the volume of information and other factors, such as centralization of systems, such costs can range from tens of thousands to millions of dollars.

- Hiring a security consultant to assist with remediation and hardening—or increasing security—of vulnerable systems and processes.
- Notifying and assisting victims. A mailer alone can cost \$1 to \$3 per person.

- Expert legal support to interpret federal privacy law, ascertain which state laws may have been triggered and help craft notice letters. Expanding call-center support and website FAQs in response to a breach.

- Credit monitoring. If identity theft or fraud is possible due to a breach, many organizations offer free credit monitoring for as long as three years.

- Dealing with U.S. agencies and state attorneys general with authority to mount investigations and seek enforcement of privacy laws.

- Defending class action lawsuits.
- Recovering from damage done to the organization’s reputation and trust by customers or business partners, which is difficult to quantify.

The white paper argues that organizations should develop a layered approach to cyber risk management and includes practical advice on how risk managers can achieve that goal. Strategies discussed include technological defenses and system management changes, such as effective password-protection policies.

To purchase the white paper, visit [www.businessinsurance.com/whitepapers](http://www.businessinsurance.com/whitepapers).

# Cloud: From backup to breakup, protections rest in provider contract

CONTINUED FROM PAGE 19

Conn.-based senior counsel at Information Law Group, said the contract should specify “how you get your data out and move it to a new vendor and, importantly, how much that will cost. That’s an issue going into relationships—considering how that relationship might end.”

Another factor is that the data “can be anywhere,” said Mr. Gordon.

Mr. Greisiger said the United States “is fairly vigorous about data security, but some countries may not feel as strongly as we do.”

Companies could consider stipulating in their contracts that their data be kept in the United States, said Theodore J. Kobus III, shareholder with law firm Marshall, Dennehey, Warner, Coleman & Goggin in Philadelphia. This also helps with jurisdictional issues if there is a dispute with the cloud provider, he said.

Investigate cloud providers before going “into the cloud,” said Nolan M. Goldberg, senior counsel at Proskauer Rose L.L.P. in New York. Using a cloud provider for personal email, for instance, is very different from trusting it with the “corporate crown jewels,” he said.

One step companies can take is to ask the cloud provider for an executive summary of a recent third-party audit of its security and privacy practices, Mr. Greisiger said.

Dave Chatfield, Coral Springs, Fla.-based vp at NetDiligence, suggested that businesses walk through the cloud computing provider’s data center and “do extensive interviews, if needed, with senior tech management, with IT and IT security within the vendor companies.”

“Who’s going to control the incident response” if there were a data breach, said Mr. Gordon.

**‘Who’s going to control the incident response’ if there were a data breach. ‘Typically, companies are storing data for a lot of different organizations, and they are going to control the response because it’s easier for them to have a single response for all of their customers.’**

Philip C. Gordon, Littler Mendelson P.C.

“Typically, companies are storing data for a lot of different organizations, and they are going to control the response because it’s easier for them to have a single response

for all of their customers.”

Another question to ask is the priority a cloud computing provider would give to a small company “if there’s a much larger

customer whose data is breached,” said Mr. Santalesa.

In addition, Mr. Kobus said, companies should ensure the safety of data as it is transferred to the

cloud computing provider. He said there have been several situations where the information was sent to the wrong site or wrong person. “You need to make sure they have the protocols in place” so the data is protected, he said.

Clients could become involved with cloud computing on an incremental basis, Mr. Kobus said.

“Take a test drive” by providing a cloud computer provider with nonsensitive data “so you can learn more about their operations” and whether they are trustworthy before turning over credit card information or other sensitive data, Mr. Kobus said.

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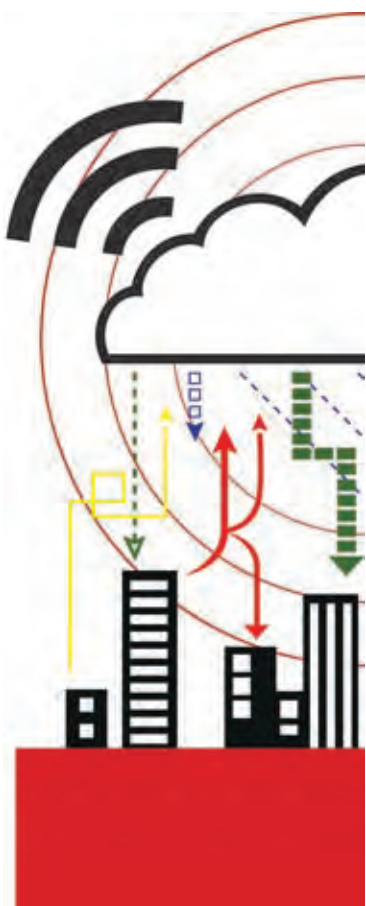
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# Web of data laws creates compliance challenge

Notification rules following breaches vary by state

By MIKE TSIKOUKAKIS

Risk managers overseeing cyber liability risks face dozens of varying laws, an exposure that could prove costly should personally identifiable information be exposed as a result of a data breach.

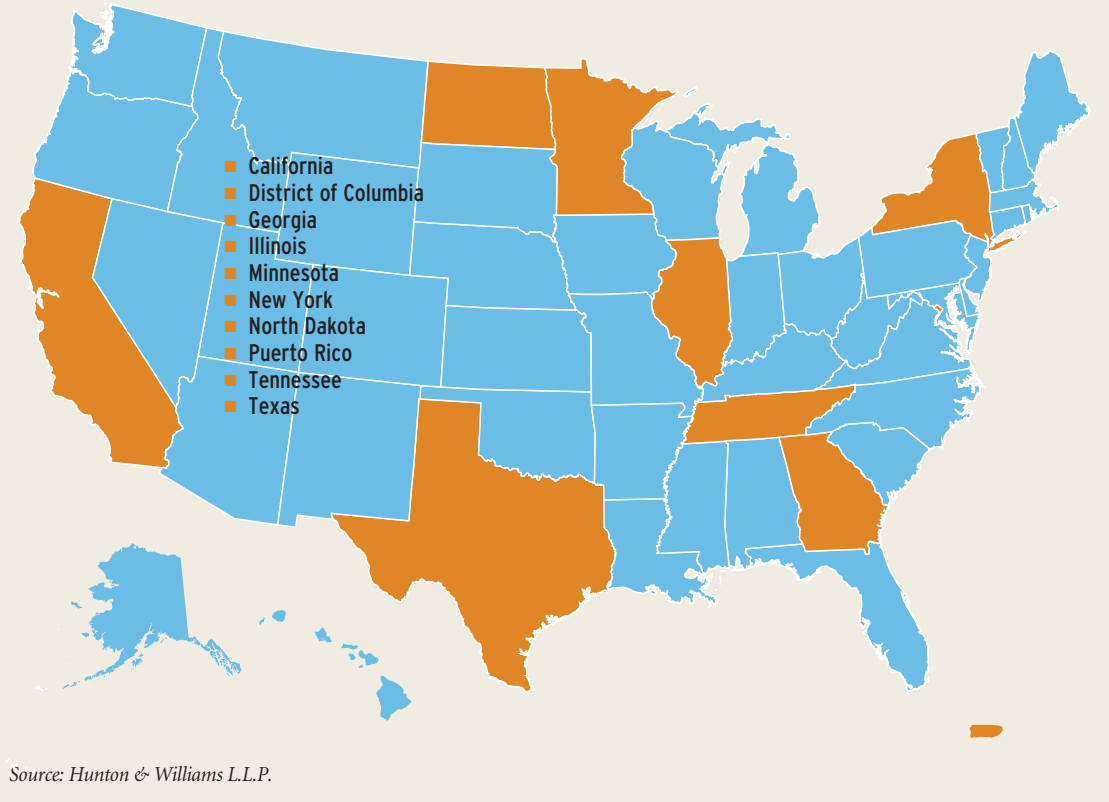
Forty-six U.S. states, the District of Columbia, Puerto Rico and the Virgin Islands have enacted laws that require notification of individuals when security breaches involve personally identifiable information, according to the National Conference of State Legislatures.

There also is a federal law that applies to certain data breaches as a result of an amendment to the Health Insurance Portability and Accountability Act.

Further complicating the issue is that while only a handful of countries, such as Germany, have laws governing data breaches, more nations in Europe are expected to adopt such laws, experts say. Also, a European Union directive went into effect in May that contains specific data breach notification requirements for the telecommunications industry with fines and penalties associated for noncompliance.

## NO-HARM-THRESHOLD LAWS

States and other U.S. jurisdictions that do not require individual harm be demonstrated before they are notified of a data breach involving their personally identifiable information



While the laws address the same issue, their requirements vary greatly and organizations must comply with the notification law that applies in the state where the affected individual is

located, observers say.

When it comes to data breach notification, "compliance is big," said Carla Johnson, Oak Brook, Ill.-based vp and assistant risk manager at Inland Risk & Insur-

ance Management Services Inc., a unit of Inland Real Estate Group of Cos. Inc.

Inland's risk management team did not focus on cyber liability and data breaches initially, but the real estate services company quickly realized that it had significant exposures because it maintains data on 500,000 individuals, Ms. Johnson said.

Data breach notification is "the biggest exposure costwise that we see," she said. "It's a huge exposure now and we're trying to protect ourselves and be able to comply with the laws."

Data breach notification costs are broad and can compound into the millions of dollars, depending on the size of the breach and any fines for noncompliance with state laws, experts say.

In a recent development, the Obama administration proposed cyber security legislation that would replace the patchwork of state laws. Observers say having a federal law could simplify the data breach notification process, but they also say more details are needed on the administration's plan before they could endorse such an idea.

### Common thread

Excluding the four states that do not have data breach laws—Alabama, Kentucky, New Mexico and South Dakota—laws in the other U.S. jurisdictions generally cover electronic data breaches.

Lisa J. Sotito, managing partner of the New York office and head of the privacy and information management practice for law firm Hunton & Williams L.L.P., said there is a common thread in U.S. data breach laws. "To the extent

there is unauthorized acquisition of computerized personal information, you need to notify the relevant individual of such unauthorized access," she said.

"These laws are ubiquitous throughout the states and the jurisdiction is such that, to the extent a company is based in a particular state that has affected consumers in various other states, it is the laws of those states that apply with respect to the breach," Ms. Sotito said.

Some state laws even address breaches involving physical copies of records in addition to electronic records, Ms. Sotito said.

Another commonality in the U.S. jurisdictions' laws is the definition of "personal information," which can include a person's name; Social Security number; driver's license number; and credit, debit and other financial account numbers. But some states have expanded the definition to include health information and biometric data, such as date of birth and mother's maiden name, Ms. Sotito said.

There also are variations in the timing of data breach notifications. In some states, organizations need to notify the state agency and essentially self-report that there was a data breach, experts say.

"One of the tricky parts of this area of law is because these are new statutes, there is very little case law governing the interpretation," said John Mullen, chair of the complex litigation practice group for law firm Nelson Levine de Luca & Horst L.L.C. in Philadelphia.

This raises the question of whether a breach actually occurred if, for example, a laptop were lost that contained only individuals' names and addresses.

"What constitutes a breach will differ depending on the law that you might be subject to," Mr. Mullen said.

Many state laws do not consider names and addresses as private, protected information that constitutes a data breach, said Christopher Dilenno, an attorney in the complex litigation group at Nelson Levine in Philadelphia.

Under pressure to report a breach to comply with the applicable states' notification laws, organizations need to know "what was the data and what were the circumstances of the loss or access or use or disclosure of that information," Mr. Dilenno said.

Another significant distinction among U.S. jurisdictions' laws is that some contain a "harm threshold" and some do not require there to be any individual harm before notification is made, Ms. Sotito said.

The U.S. Department of Health and Human Services' interim final rule for the Health Information Technology for Economic and Clinical Health Act, which was

Continued on next page

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CONTINUED FROM PREVIOUS PAGE

passed as part of the American Recovery and Reinvestment Act of 2009, requires harm before notifying individuals of a data breach. The HITECH Act added privacy and security measures for individuals under HIPAA.

Under the harm threshold, "you are not required to notify if you don't believe there is a reasonable risk of identity theft or if there's not a significant risk of harm," Ms. Sotto said.

States such as California, which was the first to enact a no-harm threshold law concerning data breaches, "are the most onerous because there's no consideration given to whether there is a risk of harm to the individual," Ms. Sotto said. There are 10 U.S. jurisdictions that have a no-harm provision, she said (see chart, page 22).

"Risk managers have increasingly been paying attention to data breach laws that have considerably different requirements from a state-to-state basis, and federally, with the HITECH amendment to HIPAA," said David Garrigus, vp and client adviser at Marsh Inc. in Chicago.

To partially meet those varying obligations, risk managers should

**'It's a challenge for risk management to even get their arms around what they have. It's critical that a broker look at the policy and see what they're purchasing.'**

Kurtis E. Suhs, Ironshore Inc.

put in place data breach response plans so key parties—such as companies that handle data breach information, credit monitoring services and forensic information technology providers—already are vetted and hired so they can respond quickly when there is a breach, Mr. Garrigus said.

More risk managers have been considering cyber liability, network security and privacy coverage to provide a financial backstop for expenses associated with responding to a data breach, he said.

To offset the costs of data breach notification and to comply with applicable state laws, Inland's Ms. Johnson said she purchased cyber liability coverage.

While she has not yet had to make a data breach claim, Ms. Johnson works with ACE Group of Cos. Ltd., which provides primary coverage, and Beazley Group P.L.C., which provides an excess layer of coverage. She also is in the process of renewing the company's cyber coverage.

Nick Economidis, a specialty lines underwriter at Beazley in Philadelphia, said the insurer's security and privacy liability insurance generally covers legal liability arising out of a loss, theft

or unauthorized disclosure of corporate information or personally identifiable consumer information. It covers legal defense and may cover penalties resulting from government regulatory action due to a data breach. The policy also covers privacy notification costs mandated by law, he said.

Some key areas Beazley investigates when underwriting a particular policy is how an organization handles portable media and portable computers. "We like to see encryption of data stored on those (devices)," Mr. Economidis said. Also considered is how an organization tests or audits its security controls to make sure they're effective.

## WEBCAST: CYBER RISK

Join Zurich Services Corp.'s Larry Collins and NetDiligence's Mark Greisiger for the *Business Insurance* webcast "Dormant Dangers" June 22 at 2 p.m. EDT. Go to [www.businessinsurance.com](http://www.businessinsurance.com) and click on Webcasts/Webinars.



Another critical consideration when purchasing a cyber liability policy is to understand the specifics of the policy, said Kurtis E. Suhs, vp of technology and errors and omissions and the privacy national practice leader for

Ironshore Inc. in Atlanta.

Insurers provide two types of data breach notification coverage: voluntary notification and statutory notification, Mr. Suhs said, and Ironshore offers both.

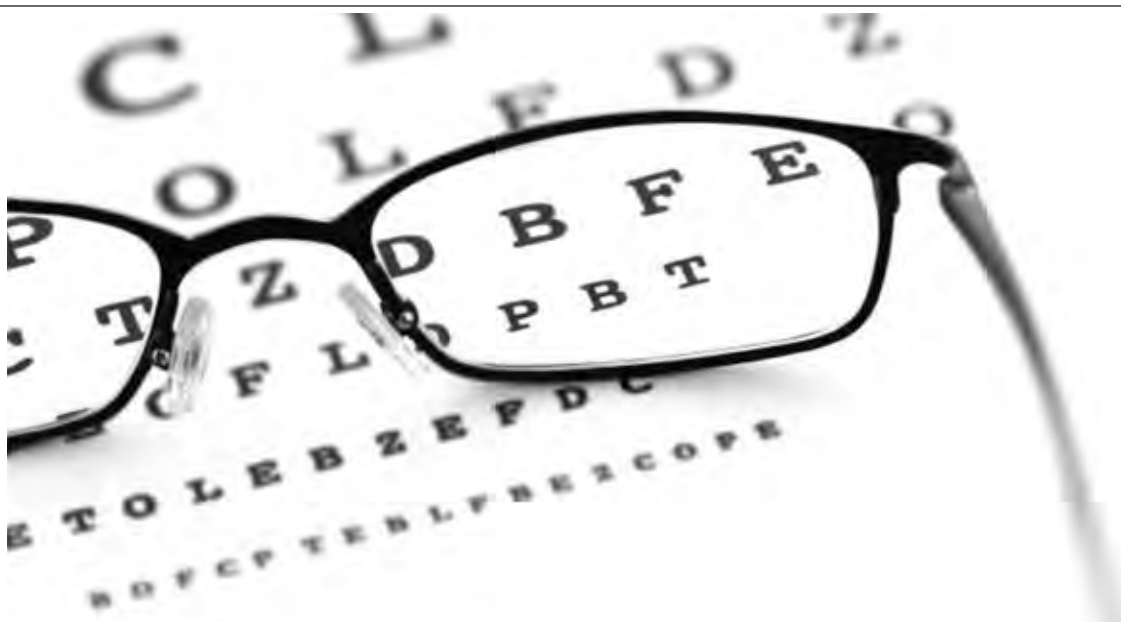
The statutory notification insur-

ance covers state-regulated data breach notifications. Voluntary notification insurance covers costs associated with data breach notifications made that are not required by law, Mr. Suhs said.

"It's a challenge for risk management to even get their arms around what they have," Mr. Suhs said. "It's critical that a broker look at the policy and see what they're purchasing."

Ms. Johnson said Inland has voluntary notification coverage.

"We think it's better to notify people so that they can maybe even partake in monitoring and being aware that there's a possibility of contacting their creditors and seeing if there's an issue," she said.



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## Market Moves

### Insurer PMA opens office in Illinois

**SCHAUMBURG, Ill.**—Pennsylvania Manufacturers' Assn. Insurance Co. has opened an office in Schaumburg, Ill.

The Illinois expansion is part of the Blue Bell, Pa.-based insurer's strategy to expand its broker and agency distribution networks, PMA said in a statement.

Jeff Swaney, senior vp of PMA's central region, is leading the insurer's operations in Illinois.

"Now we can bring many valuable assets to Illinois employers...where we have experienced, local staff and an infrastructure in place," Mr. Swaney said in the statement.

PMA offers property/casualty coverage and third-party administration services to midsize and large employers.

The office is located at 10 N. Martingale Rd., Suite 400, Schaumburg, Ill., 60173.

The telephone number is 888-669-3850.

### Heffernan joins German brokerage network

**HAMBURG, Germany**—Heffernan Insurance Brokers has joined a Germany-based insurance brokerage network to grow its international business.

Heffernan joined Hamburg-based UnisonBrokers A.G. "to facilitate its placement and servicing of insurance business in foreign countries," the Walnut Creek, Calif.-based broker-age said in a statement.

UnisonBrokers, founded in 2005, is a network of midsize brokerages specializing in international insurance for industrial companies.

Heffernan provides insurance and financial services to businesses through additional offices in the United States and was founded in 2008.

### Tokio Marine forms U.S. holding company

**BALA CYNWYD, Pa.**—Tokio Marine Group has formed a U.S. holding company.

The company, Tokio Marine North America, was approved by Tokio Marine Holding Inc.'s board of directors and is intended to strengthen the insurer's presence in North America, the Tokyo-based company said in a statement.

The unit will be the parent company for all Tokio Marine subsidiaries in North America, including Bala Cynwyd, Pa.-based Philadelphia Insurance Cos., which the insurer acquired in 2008.

James J. Maguire will be

CEO of TMNA in addition to his post as chairman and CEO of Philadelphia Insurance.

"The formation of Tokio Marine North America will allow for organic growth and acquisition opportunities, while creating a unified company to facilitate (the) expansion of Tokio's international business," Mr. Maguire said in the statement.

It also has established TMNA Services L.L.C., a shared services company that will consolidate the operations of Philadelphia Insurance and the U.S. insurance business of Tokio Marine & Nichido Fire Insurance Co. Ltd.

Craig Heller, who will remain CFO of Philadelphia Insurance, will lead the unit.

The establishment of the holding company and the shared services company is scheduled for August, pending regulatory approvals in Japan and the United States.

While the company is to be incorporated in Delaware, TMNA staff will operate from existing offices in Philadelphia and New York, according to a spokeswoman for Philadelphia Insurance.

### Ironshore Europe expands to London

**LONDON**—Ironshore Europe Ltd. has received approval to establish a branch office in London.

Ironshore Europe's London operations bolster its presence in the European insurance market, the Dublin-based unit of Ironshore Inc. said in a statement.

The insurer has received the necessary regulatory approvals to operate the London office, a spokeswoman for Ironshore said.

"Ironshore Europe's presence in the London market, which is central to the international insurance industry, offers yet another distribution channel and access point that will be critical for growth going forward," Ironshore International CEO Mark Wheeler said in the statement.

"While we will focus on selected business lines at the outset, Ironshore Europe will eventually broaden its underwriting expertise," Mr. Wheeler said.

The office is located at 3 Minster Court, second floor South, London, England, EC3R 7DD.

The telephone number is +44-020-7337-4400.

### TO SUBMIT ITEMS

*BI's Market Moves* column reports on activities by insurance industry companies and related entities. Please send news of Market Moves to Mike Tsikoudakis, 360 N. Michigan Ave., Chicago, Ill. 60601 or email [mtsikoudakis@businessinsurance.com](mailto:mtsikoudakis@businessinsurance.com).

## UP Comings & Goings CLOSE



### ROBERT A. BIENVENU III

**NEW JOB TITLE:** Baton Rouge, La.-based senior vp of sales of LUBA Workers' Comp.

**PREVIOUS POSITION:** Austin, Texas-based sales director of Reno, Nev.-based Employers Inc.

**LOOKING FORWARD TO:** Working directly with the independent agents for the states LUBA is currently in. LUBA is in Mississippi, Louisiana, Arkansas and we are looking into going into Texas.

**GOALS FOR NEW POSITION:** To build upon the success that LUBA has established. This company has built its reputation on great service and doing what it says it's going to do. In talking to agents, LUBA has earned respect for being there in tough times and good times. The agents need the market to be stable for them. They have a genuine service mentality here.

**FIRST MARKET EXPERIENCE:** My first experience was going out and meeting with injured employees, either at the hospital or at their homes. It made an impression on me...The families

were counting on that to pay hospital bills. It was a rewarding experience to know you (eliminated) the red tape for those families. It had a lasting impression on me, just how important this job is. It's not just pushing forms around, it's helping people.

**COLLEGE MAJOR:** Business administration with a minor in finance.

**ADVICE:** Have a plan, know your plan, execute your plan and work as though it's your last day in the industry. This is a very fast-paced industry. The one constant in insurance is change.

**OUTSIDE THE INDUSTRY, A DREAM JOB:** Own and run my own antique shop. I have an appreciation for furniture that is well-built.

**HOBBIES:** I spend a lot of time with the children...getting them ...from soccer to chess club to choir. I also play golf.

**FAVORITE MEAL:** Gumbo. People say the food in Louisiana is hot. I say it's just seasoned. The food here is seasoned unlike anywhere else.

## Comings & Goings

# ONLINE

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*Business Insurance* would like to report on senior-level changes at commercial insurance companies and service providers. Please send news and photos of recently promoted, hired or appointed senior-level executives to:

Mallory Gillikin  
*Business Insurance*  
360 N. Michigan Ave.  
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[mgillikin@businessinsurance.com](mailto:mgillikin@businessinsurance.com)

### POSTING THIS WEEK

#### BROKERS

- Parker Smith & Feek Inc.
- GFI Insurance Services

#### INSURERS

- Patriot National Insurance Group
- Liberty Mutual Reinsurance

#### OTHER PROVIDERS

- Grotefeld Hoffman Schleiter
- Gordon & Ochoa L.L.P.

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- How to avoid employment practices suits from workers looking after elderly relatives.
- Alternative risk options to take on med mal risks arising from health care reform.
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# RAA: Prices uncertain amid losses

CONTINUED FROM PAGE 3

do much to change its overall business plan for 2011, although it might be less likely to give rate decreases or more likely to look for increases in certain lines of business to improve profit margins.

XL Reinsurance America posted a profit of nearly \$9.4 million during the first three months of this year, compared with \$12.4 million during the same period of 2010. It was among 12 insurers reporting a quarterly profit of the 19 U.S. reinsurers tracked by RAA.

Everest Re Co., another reinsurer surveyed by the RAA, lost \$124.8 million in the first three months of 2011, compared with a \$11.3 million loss in the comparable period last year.

Its Bermuda holding company, Everest Re Group Ltd., had warned investors in recent months about its losses relating to the earthquake that occurred near Christchurch, New Zealand, last year, storms and flooding across Australia, and the devastating earthquake in Japan. "Nonetheless, given the strength of our balance sheet and our core earnings, we have ample capacity to withstand the events that occurred during the first quarter," Joseph V. Taranto, CEO of Everest Re Group, Ltd., said in a statement.

"We've had a large level of natural disasters this year," said Brett Horn, associate director at the investment research firm Morningstar Inc. in Chicago. "It's still a little early to be completely confident that the pricing cycle has turned, but the disasters (that have hit reinsurers) so far have certainly been an impetus in that direction."

Early this year, U.S. reinsurers didn't ask for significantly higher premiums from their clients, many of which have annual contract agreements due for renewal in the coming months. The RAA found that reinsurers collectively wrote \$7.1 billion in net premiums in January, February and March, compared with \$6.4 billion in net premiums during the

## Comp: Health care reform seen boosting workers comp costs

CONTINUED FROM PAGE 4

46% in 1988, Mr. Tucker said, with projections showing it will reach 70% in 2018.

An aging population creates further strain, he said. "Older workers are injured less frequently," but they take longer to recover, he said.

If rising workers comp medical costs are to be slowed, steps will have to be taken to "dampen the trend" that has seen them climb, Mr. Tucker said.

In an interview after his presen-

Reinsurer	NET WRITTEN REINSURANCE PREMIUMS		NET INCOME (LOSS)	COMBINED RATIO	
	Q1 2011	Q1 2010	Q1 2011	Q1 2011	Q1 2010
National Indemnity Co. <sup>1</sup>	\$1,993	\$1,349	\$236	164.8%	88.0%
TRC/Putnam Reinsurance Co.	961	899	(169)	152.6	107.8
Munich Re America Corp. <sup>2</sup>	718	708	83	105.2	96.9
Odyssey Reinsurance Group <sup>3</sup>	469	450	(327)	153.5	112.1
Everest Reinsurance Co.	434	388	(125)	148.1	127.3
Berkley Insurance Co.	400	371	29	99.2	97.9
Swiss Reinsurance America Corp. <sup>4</sup>	316	533	(50)	128.0	'97.4
Partner Reinsurance Co. <sup>5</sup>	295	186	(18)	'102.4	107.2
General Re Group <sup>6</sup>	276	335	151	86.6	110.7
QBE Reinsurance Group <sup>7</sup>	240	220	0.4	107.6	118.7
Totals for top 10 reinsurers	\$6,103	\$5,438	\$(180)	138.8%*	102.1%*
Totals for all reinsurers	\$7,102	\$6,397	\$(101)	129.3%	102.2%

\*Combined ratio is a weighted average  
<sup>1</sup> Underwriting results exclude assumptions from affiliated General Re Group. <sup>2</sup> Includes the combined results of Munich Reinsurance America Inc., American Alternative Insurance Corp. and the Princeton Excess & Surplus Lines Insurance Co. <sup>3</sup> Includes combined results of Odyssey Reinsurance Co (formerly Odyssey America Reinsurance Corp.), Clearwater Select Insurance Co., Hudson Insurance Co. and Hudson Specialty Insurance Co. <sup>4</sup> Includes the results of Swiss Reinsurance America Corp., which is impacted by significant affiliated transactions with other members of the Swiss Re Group. <sup>5</sup> Reflects consolidated amounts for both Partner Reinsurance Co. of the U.S. and PartnerRe Insurance Co. of New York. Effective Jan. 1, 2011, Partner Reinsurance Co. of the U.S. assumed the operations of the Canadian branch of PartnerRe Europe. <sup>6</sup> All data presented for the North American property/casualty segment of General Re Group. Underwriting results exclude certain intercompany transactions and other adjustments. <sup>7</sup> Includes the combined results of QBE Reinsurance Corp., QBE Insurance Corp. and QBE Specialty Insurance Co.

Source: Reinsurance Assn. of America. For further information, contact the RAA at [www.reinsurance.org](http://www.reinsurance.org).

same period last year.

"These premiums don't reflect the impact of the (reinsurers' recent catastrophe) losses and the subsequent change in pricing," said Amit Kumar, vp of Macquarie Securities Group in New York. He said reinsurer results in the second quarter will provide more information.

"While recent catastrophes can affect reinsurers' profits for the short term, the better companies are focusing on improving their long-term profitability and results," said Dean Evans, senior vp of equity research at Keefe Bruyette & Woods Inc. in New York.

"Obviously all this (speculation

about a possible turn in the market) is determined on whether there's an Atlantic hurricane that hits land," Mr. Evans said.

"With pricing increases, you'll see a modest profitability improvement, but for the most part that's largely going to be offset by the underlying trends you've seen for a while now," he said.

### 'As I like to say to underwriting trainees, nothing is going to help dampen the trend more than prevention.'

Tom Tucker, Chartis Inc.

tation, Mr. Tucker said some common-sense steps need to be emphasized in the effort to hold down workplace injuries and, therefore, associated medical costs.

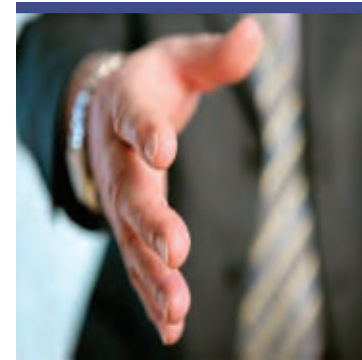
Employers have to pay close

attention to loss-prevention programs while making sure "effective light-duty and return-to-work programs" are in place, he said. "Directing injured workers to preferred providers that have demonstrated better outcomes" is impor-

tant as well.

"As I like to say to underwriting trainees, nothing is going to help dampen the trend more than prevention," Mr. Tucker said. "And if the loss occurs, focus on the outcome, the return to productivity, as being the imperative."

Despite the potential for rising comp costs as a result of the health care reform law, there are some hard-to-quantify benefits that likely will result from the legislation, he said. If expanded accessibility leads to a healthier population, for example, that



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# Injunction: Twitter rewriting U.K. privacy

CONTINUED FROM PAGE 3

allegations about his private life were made public in May by a Twitter user, whose message was forwarded—or “retweeted”—numerous times.

Also in recent weeks, details of several other superinjunctions protecting celebrities have been made public on social networking sites.

Late last month, Scottish newspaper the Sunday Herald printed a thinly disguised photograph of the soccer star and said that, while it did not accuse him of any misdeeds, it decided to reveal his identity because it believed it is “unsustainable that the law can be used to prevent newspapers from publishing information that readers can access on the Internet at the click of a mouse.” The Sunday Herald’s ultimate parent is McLean, Va.-based media conglomerate Gannett Co. Inc.

Separately, London-based publisher News Group Newspapers Ltd., which is a unit of New York-based media giant News Corp., sought to have the soccer star’s superinjunction lifted, but Justice Sir David Eady rejected the request on May 23.

Later the same day, a member of Parliament, John Hemming, named Ryan Giggs as the soccer star in the House of Commons. Mr. Hemming is protected by parliamentary privilege, which allows MPs to speak freely during proceedings of Parliament without fear of legal action alleging slander or contempt of court.

Media outlets then revealed the soccer star’s name, using what is known as “qualified privilege.” That principle protects against libel or slander claims as long as the information revealed under parliamentary privilege is reported accurately, said Andrew Horrocks, a partner at London-based law firm Barlow Lyde & Gilbert L.L.P.

Meanwhile, English courts have granted the soccer star’s request to ask San Francisco-based Twitter Inc. for information about users who sent tweets using his name.

The situation, said Christopher Wolf, a partner at Hogan Lovells L.L.P. in Washington, raises interesting questions about what legal jurisdictions apply in Internet publishing cases. So far, he said,

there is no real guidance about the reach of a country’s courts and which jurisdictions would apply in cases of this kind.

Companies must, therefore, ensure they have risk processes in place to ensure that their employees are not falling foul of international privacy and libel laws when using social networking sites on company computers.

Twitter, Mr. Baillieu pointed out, is not being sued, but merely is being asked to provide information. Other platforms previously have provided such information when asked to do so by the courts, he said.

The question of the extent to which Twitter and other social networking platforms are deemed to be publishers is “still being worked at from a legal point of view,” said BLG’s Mr. Horrocks.

But the case involving the soccer star involves potential liabilities of which traditional media outlets and other companies should be aware, he said.

In naming the subjects of U.K. superinjunctions, companies risk libel and defamation actions as well as a contempt of court citation, he said.

Media companies can purchase liability insurance that will cover

them for all content, including user-generated content, that they publish or broadcast, said Sarah Neild, a vp at Marsh Ltd. in London.

They likely are aware how the U.K. qualified privilege law can protect them and made sure that they did not break the law by publishing the soccer star’s name, she said.

However, any media company that breaches a superinjunction is almost certain to have done so deliberately, she said. In such cases, coverage would not respond.

Legal gray areas exist, however, when it comes to Internet service providers or social networking platforms that are not traditional publishers but that might be

deemed to be publishing information, said Lisa Hansford-Smith, a vp in Marsh’s FINPRO division in London.

In a previous U.K. case where users of ISPs made public details about two notorious juvenile criminals whose identity was protected, ISPs were warned by the courts to remove certain content, said Leah Alpren-Waterman, a professional support lawyer at BLG.

While ISPs or telecommunications companies can argue that they are simply platforms and not publishers per se, much will hinge on what action is taken in the light of the recent superinjunction breaches by social networking site users, Ms. Hansford-Smith said.

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# Hurricanes: Does forecast call for large rate hikes?

CONTINUED FROM PAGE 1

damage mounts, market sources say.

Forecasters predict an above-average number of storms during the hurricane season, which began June 1.

Among the predictions, the National Oceanic and Atmospheric Administration forecast there will be six to 10 hurricanes, about half of which could be major storms, while London-based catastrophe mapper Tropical Storm Risk predicts that U.S. landfall hurricane activity likely will be 25% above the long-term norm. Colorado State University's Tropical Meteorology Project has projected there will be 16 named storms, with nine reaching hurricane status.

Despite the predictions of more storms this year than last, sources say the property insurance and reinsurance market will weather the season well unless extremely destructive hurricanes make landfall in heavily populated areas, or insured losses from several storms reach \$20 billion to \$30 billion. Even so, they note, the market has a thinner-than-normal cushion to protect against hurricane losses after the string of natural catastrophes that have sapped industry capital this year.

It would take a single storm on the order of Hurricane Ike, which caused \$20 billion in insured losses in 2008, to push property rates beyond increases already expected, said David Finnis, executive vp and national property practice leader at Willis North America in Atlanta.

Property rates already are firming, Mr. Finnis said, with accounts that have catastrophe exposures or unfavorable loss experiences seeing increases of 5% to 10%. A \$20 billion insured loss from a hurricane likely would mean that catastrophe-exposed accounts renewing later this year would see rates jump more than 10%, he said.

Bob Shine, chief underwriting officer in New York of the North America property/casualty unit of

XL Capital Ltd.'s XL Insurance, agreed that significant hurricane losses likely would mean price hikes in an already firming market, and could influence pricing beyond the property coverage.

With catastrophes that already have struck this year, losses from "a large hurricane or a number of small hurricanes would cause pricing to be significantly impacted," Mr. Shine said.

"My guess is that pricing would come under pressure in other lines as well because of the overall profitability needs of the property/casualty carriers, but I'm not promising that. It all depends on the discipline of underwriters at that point," he said. "But I'd say given where we are in the market, and with the significant hurricane season, it'd be a prudent thing for pricing to go up in all lines."

Bryon Ehrhart, chairman of Aon Benfield Inc.'s analytics and investment banking divisions in Chicago, said if hurricane losses rise much beyond \$30 billion, U.S. property reinsurance business will see "upward pressure in pricing."

Reinsurers began the year with record amounts of capital, which has left them in a good position to absorb hurricane losses even



though the string of catastrophes this year has severely dented capital, Mr. Ehrhart said.

With the revised catastrophe model issued by Risk Management Solutions Inc. and a destructive U.S. tornado season, hurricane losses of \$25 billion to \$30 billion would be enough to change reinsurance rating behavior, said John DeMartini, Stamford, Conn.-based leader of Towers Watson & Co.'s catastrophe risk management and its U.S. property reinsurance specialty practices.

"As we head into hurricane season, the market is sort of on edge already," Mr. DeMartini said. "If we have a \$15 billion insured loss,

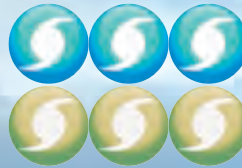
## STORM FORECAST

The National Oceanic and Atmospheric Administration's 2011 Atlantic Basin hurricane forecast calls for an above-normal season with:

**6 TO 10**  
HURRICANES



**3 TO 6**  
OF WHICH WILL BE  
MAJOR HURRICANES  
[CATEGORY 3, 4 OR 5]



Source: NOAA

it will be one more contributing factor" in reinsurers' rates, he said. But if hurricane losses top \$25 billion, reinsurers will have a large enough share of losses to influence their pricing.

Willis' Mr. Finnis said the revised RMS model has a "major, major impact on the market this year" as insurers realize their exposures are much higher than previously thought. "It's slowly being implemented in the second quarter" and most companies will use the revised model by the end of the third quarter, he said.

"Earlier this year there was a fairly broad consensus that property cat rates would continue falling throughout 2011, perhaps by another 5% to 10%," Jed Rhoads, chief underwriting officer of reinsurance at Alterra Bermuda Ltd., said via email.

Instead, renewals in Florida are up as much as 15%, Mr. Rhoads said, with any hurricane losses yet to come.

"As we enter the U.S. hurricane season, we believe that a major storm this summer would be a capital event for many companies, providing the potential for a more sustained market imbalance that, together with building market fear, could lead to a generally

improved rate environment" for insurers and reinsurers, Mr. Rhoads said.

Despite natural catastrophe losses that are more than double the amounts they had budgeted for those losses, reinsurers nonetheless are in good shape to handle hurricane claims, according to a report last week by Guy Carpenter & Co. L.L.C.

Reinsurers have \$165 billion to \$175 billion in capital and are "fully solvent, fully liquid and easily able to pay claims," according to the report.

Lara Mowery, head of Guy Carpenter's global property specialty practice, said it's not so easy to determine how a major hurricane loss might affect the reinsurance market or what sort of loss it would take. Reinsurers were struggling with properly pricing their business even before the storm season began, she said.

"Over the past 16 months, there have been around \$100 billion in global catastrophe losses," Ms. Mowery said. "That is certainly impacting each individual reinsurer, each in different ways."

The losses have made for a "volatile marketplace" in terms of property catastrophe pricing, she said. That can be seen in recent

renewals of property reinsurance in Florida, where Guy Carpenter's report says variations on quotes ranged from 15% below the average to 16% above the average.

While the volatility does not specifically indicate that prices are rising or falling, it highlights the divergent views among reinsurers on how to calculate an adequate price, the report noted.

"If there is a major hurricane, that will continue to add to reinsurers' assessments of how to deploy capacity and their view of adequate pricing," Ms. Mowery said.

Sources noted that the forecast for an above-average hurricane season is not the biggest worry for the property insurance and reinsurance market. Significant numbers of storms forecast in recent years were accurate, sources say, but few of the hurricanes reached land.

"The market is not focused on the forecasts as much as" pricing challenges resulting from prior catastrophes, the revised model from RMS and spring storm losses in the U.S., Mr. DeMartini said.

"We don't know what will happen," said Aon Benfield's Mr. Ehrhart. "The good news is, we're prepared for it."

# Sedgwick: TPA acquires rival firm Cambridge

CONTINUED FROM PAGE 4

Sedgwick has more than 150 locations in the United States and Canada with 8,214 employees, according to the BI survey.

Mr. North said the TPA industry has not had a lot of consolidation over the years, yet claims issues—ranging from varying laws to available resources—have become more complex.

"We just felt like scale is important to being able to deliver those services and we're very excited about the addition of Cambridge because the 800-plus colleagues that are joining us and the cus-

**'The TPA industry is a fragmented industry. From a competition standpoint, at least from our end, it certainly seems like it's fierce.'**

David A. North, Sedgwick Claims Management Services Inc.

tomers they've been serving brings a lot of additional, smart people to our arsenal," Mr. North said in an interview. "As we figure out our strategies going forward, having more depth of smart resources puts us in a better position to respond to the ever-

increasing challenges of our customers."

There are concerns that the recent wave of TPA consolidations may constrict industrywide options for employers, observers say.

Recent months have seen sever-

al TPA deals, including last month's announcement by Avizent that it bought F.A. Richard & Associates Inc. Sedgwick CMS acquired Specialty Risk Services L.L.C. in December, and Gallagher Bassett Services Inc. purchased GAB Robins North America Inc.'s TPA business in October.

"The TPA industry is a fragmented industry. From a competition standpoint, at least from our end, it certainly seems like it's fierce," Mr. North said. He also noted that as more consolidations occur, employers still will have choices among TPAs that will have better resources to

meet their needs.

"The competitive dynamics of the marketplace mean that those services should be available at an ever-increasingly, more competitive price point," Mr. North said.

Cambridge was formed in 1997 by Chicago-based Aon Corp. In 2004, Aon sold its majority stake in the claims administrator to Singapore-based technology company Scandent Group. Inc. In 2008, Xchanging acquired Cambridge for \$147 million in a cash-and-stock deal.

Sedgwick CMS is the nation's largest TPA, according to BI's most recent TPA rankings, and is privately held by Stone Point Capital L.L.C., Hellman & Friedman L.L.C. and its management.

## News In Brief

CONTINUED FROM PAGE 1

### OneBeacon wins asbestos dispute

Timely notice must be given to obligate an insurer to pay defense costs, the New York Supreme Court's appellate division has ruled. The case, *Continental Casualty Co. et al. vs. Employers Insurance Co. of Wausau and Robert A. Keasbey Co.*, stems from a long-running asbestos liability dispute. At issue is how to allocate defense costs among insurers that were involved in the litigation against now-defunct contractor Keasbey. According to the decision, Keasbey never bought a policy directly from OneBeacon, but it was covered by two wrap-up policies issued by OneBeacon that provided liability coverage to contractors working on a specified project at a nuclear power plant. Neither policy had an asbestos exclusion.

### ACE names Keogh COO of P/C operations

ACE Ltd. said John Keogh has been named to the new post of chief operating officer of all its property/casualty operations. Mr. Keogh retains his previous responsibilities as chairman of ACE Overseas General, ACE's property/casualty and accident and health operations outside North America. He remains vice chairman of ACE Ltd. Also, ACE said Brian Dowd will retire from full-time service as vice chairman of ACE Ltd. and chairman of insurance in North America effective July 1. He will continue part-time as a member of the chairman's office and focus on underwriting-related matters, ACE said in a statement. John Lupica will succeed Mr. Dowd as chairman of insurance in North America while remaining president of ACE USA, overseeing property/casualty insurance operations in the United States, Canada and Bermuda.

### Cell phones present cancer risk: WHO

The World Health Organization's International Agency for

Research on Cancer last week said that cell phone users may face an increased risk for glioma, a rare, malignant brain cancer. A working group said one study showed a 40% increased risk for gliomas among users who used cell phones an average of 30 minutes per day for a 10-year period. The organization called for additional research on the subject.

### Validus sets up \$180M sidecar

Validus Holdings Ltd. said it and investors have put up \$180 million in funding for a sidecar to write collateralized reinsurance and retrocessional reinsurance. AlphaCat Re 2011 Ltd., which was funded in May, began underwriting with June 1 renewals, Validus said last week in a statement. The Bermuda-based company said it invested \$50 million in the sidecar, with the remaining \$130 million coming from private investment funds.

### Aerospace premiums fall fifth year in a row: Aon

Aerospace insurance premiums have fallen for a fifth consecutive year, according to analysis by Aon Corp. Preliminary information indicates that aerospace rates declined for 2011 and 2012 renewals, according to Aon's "Aerospace Insurance Market Outlook 2011." Airline operators saw lead premium rates fall an average of 7% at their most recent renewals, according to the report. Service providers experienced an average 5% rate reduction, while average lead premium rating levels for manufacturers held steady, according to the analysis.

### Maryland insurance commissioner named

Maryland Gov. Martin O'Malley has named Therese Goldsmith as the state's insurance commissioner effective June 13. Ms. O'Malley will succeed interim commissioner Beth Sammis, who has overseen the regulation of Maryland's insurance industry since January 2010. Ms. Goldsmith has been commissioner of the Public Service Commission of Maryland since 2009. Previously, she was a partner at Hogan & Hartson L.L.P. in the law firm's white collar litigation practice group.

## BREAKING DOWN ILLINOIS' REFORM

Illinois lawmakers passed a workers compensation reform bill that would make some marked improvements for employers, insurance groups say, by providing some expected cost savings. Highlights of the bill include:

- Projected to save employers \$500 million to \$700 million in workers comp costs
- Establishes medical networks for workers comp claims
- Provides a 30% reduction in the medical fee schedule
- Caps carpal tunnel syndrome benefits at 28 weeks, down from 40 weeks
- Caps wage differential awards
- Switches the burden of proof from employers to employees to show whether drugs or alcohol was a factor in a workplace accident
- Replaces all arbitrators with new arbitrators who must be attorneys, receive continuing education and be held to higher standards

## Illinois: Workers comp plan's impact debated

CONTINUED FROM PAGE 1

insurance groups said that while the reform is a step in the right direction for Illinois, it falls short in some areas and cost savings are difficult to determine.

"Proponents claim adoption of (the bill) will produce cost savings of nearly \$700 million in reduced expenses, but these figures have yet to be independently verified through credible actuarial analysis," said Steven Schneider, Midwest region vp of the Washington-based American Insurance Assn. in a statement. "That analysis and the manner in which these changes are implemented will govern whether the expectations of its proponents will be fulfilled or whether the 2011 'reforms' like the 2005 'reforms' will end up disappointing stakeholders."

The bill, which was sponsored by state Rep. John E. Bradley, D-Marion, said it would save businesses \$500 million to \$700 million per year by reducing medical provider rates by 30%.

The bill also imposes the use of the American Medical Assn. Guide to the Evaluation of Permanent Impairment, something for which the AIA advocated. It caps carpal tunnel awards, reducing the benefit period for carpal tunnel syndrome injuries from 40 weeks to 28 weeks. Also, it allows health care networks for workers comp that will help employers direct worker care.

Democrats touted the measure as a significant reform. Republi-



AP PHOTO

Illinois Gov. Pat Quinn is expected to sign the workers comp reform bill lawmakers passed last week.

cans, however, said the bill fails to address the causation standard for injuries, which business groups argued needs to change to help control system costs.

"I think the reform is a step in the right direction for Illinois," said Rita Nowak, vp of commercial lines and research for the Des Plaines, Ill.-based Property Casualty Insurers Assn. of America. "How it will place Illinois in comparison to other states is hard to tell at this point, but we do acknowledge there are going to be some cost savings for employers."

Illinois' workers comp system is the third-most expensive in the United States, Ms. Nowak said. She added that she could not yet determine if rates would drop as a result of the measure, but reiterated that employers should see some cost savings.

Several Illinois employers, including Hyatt Hotels Corp., Ford Motor Co., Navistar Inc., the City of Chicago and Wal-Mart Stores Inc., backed H.B. 1698, said Mark Denzler, vp of government affairs and chief operating officer of the Illinois Manufacturers' Assn. in Springfield.

"I think the bill is a great starting point for some real reform in Illinois and I think businesses will see that," he said. "I think it's a major step forward."

For risk managers such as Donald Sullivan, vp of risk management for Baxter International Inc. in Deerfield, Ill., the impact of the bill on workers comp insurance rates and costs has yet to be discovered. Mr. Sullivan said he and members of his department are trying to determine how much cost savings they actually will have, but overall said the reform looks "beneficial."

He said the opposing bill, S.B. 1933, which would have abolished the workers compensation system and forced claims to be handled by the courts, would have been much more harmful to Illinois businesses.

"I think the (House) bill is a good concept and will make Illinois more competitive for businesses," Mr. Sullivan said. "There are a lot of choices out there for companies looking to build warehouses and plants, and I think this will help keep the state competitive for those businesses."

The Illinois Chamber of Commerce, which held a neutral position on the House bill, said in a statement that the bill offers employers a better situation than they have in Illinois with no negative impact on them, but it is "not worthy of being characterized as bringing significant reform to Illinois workers compensation law."

The chamber went on to say that substantive reforms that could change the culture and administration of the state's workers comp system were "inadequately addressed" and that, relative to other states, Illinois' system will "remain high-cost and out of line."

"The leadership of the Illinois chamber recognizes this measure as a positive step, but challenges the state's political leadership to recognize the competitive business climate is an evolving process that requires continued attention for the need to change," the chamber said in a statement. "We interpret this bill as a down payment towards achieving more reforms."



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## Bikinis eyed as major cause of accidents

Distracted driving has a variety of sources: cell phones, radios, iPods, hamburgers, make-up. According to a recent survey, it also includes bikinis.

The study by Sheilas' Wheels, the marketing name of British auto insurer esure Services Ltd. that is geared to women, recently found that 29% of male drivers are distracted by women in swimsuits or revealing clothing during the summer months. In contrast, only 3% of female drivers' attention is diverted by bare-chested men.

On a similar front, CarInsurance.com, which is owned by QuinStreet Inc., said it found that the San Diego Police Department saw a 25% increase in fender benders and nonfatal collisions during beach season.

"It's often young guys who, after we talk to them and prod a little, will admit they were eyeing an attractive brunette or good-looking blonde in a little bikini," a department spokesman told the online insurance site.

The gawking could affect rates, as Consumer Reports found that a fender bender can result in 10% to 40% rate increase for someone with a poor driving record.

The National Highway Traffic Safety Administration has reported that the most frequent distractions for drivers, in no particular order, are texting, eating, adjusting the radio, talking with passengers as well as something outside the car that catches their attention.

# Business Insurance END PAGE

Contributing: Jeff Casale, Judy Greenwald, Mike Tsikoudakis, Sarah Veysey

## Tarantino squawks about noisy birds

Two Academy Award-winning film writers fought like reservoir dogs but ended up burying their argument six feet under.

Film writer and director Quentin Tarantino reportedly has dropped a lawsuit against neighbor and fellow writer Alan Ball over loud, discordant macaws.

Mr. Tarantino claimed that Mr. Ball's exotic birds emitted "blood-curdling" and "obnoxious pterodactyl-like screams" that "robbed Mr. Tarantino of the ability to find peace in his home," according to the suit filed in March.

The writer of "American Beauty" and the HBO series "Six Feet Under" and Mr. Tarantino tried to settle the sound issue amicably. Mr. Ball allegedly agreed to build and constructed an outdoor aviary to curb the noise. But the cacophony of squawks and screams still "seriously disrupted Mr. Tarantino's ability to work as a writer in his home," according to the suit.

Celebrity attorney Martin D. Singer, who represented Mr. Tarantino in the matter, recently said in a newspaper profile that the case has been dropped.

The writer and director of "Reservoir Dogs" and numerous other movies recently finished a new screenplay, according to the New York Times.

"Some people said it's the best script he's ever written, because he had the peace and quiet," Mr. Singer told the newspaper.

Quentin Tarantino recently dropped a lawsuit against fellow filmmaker Alan Ball over Mr. Ball's noisy birds.



REUTERS

## Worker learns FMLA leave is no day at beach

Jetting off for vacation to Cancun, Mexico, while off work under the Family and Medical Leave Act is not the best way to keep a job.

According to a federal judge's ruling, Denise Pellegrino asked her employer, the Communications Workers of America, for FMLA leave because she needed to undergo a hysterectomy.

The CWA approved the leave beginning Oct. 2, 2008, when she had the surgery. On Oct. 16, she traveled to Cancun and stayed until Oct. 23.

"There is no evidence that Pellegrino informed CWA that she would be out of the country for a week, or that Pellegrino requested vacation time for the trip or permission to travel," the Philadelphia federal judge ruled.

The union said Ms. Pellegrino violated its sickness and absenteeism policy, which requires workers on leave to stay in the immediate vicinity of their homes, except for needed medical treatment.

The CWA terminated her in November 2008. Nearly two years later and after she filed suit, Ms. Pellegrino's physician submitted a letter stating the Cancun trip "was not inconsistent with her recovery or with any medical restrictions placed on her during that time," according to the opinion.

The woman argued the CWA interfered with her FMLA rights, but the judge disagreed. "Ultimately, CWA's choice to enforce its sickness and absenteeism policy was a legitimate exercise of employer prerogative separate from Pellegrino's use of FMLA leave," the judge ruled in granting the CWA's motion for summary judgment to dismiss the suit.



## Aussie moms benefit from workplace perks

Mothers of preschool-age children receive more workplace perks than any other social group, according to a study conducted in Australia.

The survey by the Australian Institute of Family Studies found that mothers of young children benefited from various forms of flexible schedules, such as shorter working days, breastfeeding breaks and the ability to work from home.

The research, which studied 2,960 employees, found that about 20% of Australian workers request and receive flexible working arrangements. But about one-third of the workers studied also said

they would like more flexibility.

Australian law gives parents of preschool or disabled children the right to request flexible work arrangements.

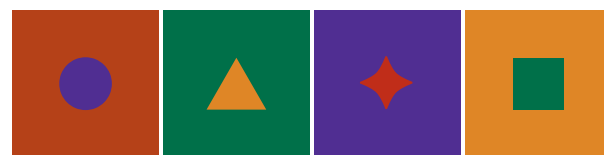
Under the Fair Work Act of 2009, employers are required to grant reasonable staff requests.

The researchers and authors of the report, Barbara Pocock and Natalie Skinner, said many employees who were not parents of small children also would like to have a more flexible work arrangement.

Men are less likely than their female counterparts to make flexible working requests, the study found.

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## ● Corporate C- Suite

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Health Care Reform: Compliance		
Industry Financials: First-Half Results	Aug 22/29	Aug 17
Health Care Reform: Impact on Firms		
<b>Special Report: Alternative Risks</b>	Sept 5	Aug 24
Case Study: EPL Best Practices	Sept 19	Sept 7
Pharmacy Benefit Management		
Case Study: D&O Best Practices	Oct 17	Oct 5
Professional Liability	Oct 31	Oct 19
Case Study: Product Liability Best Practices	Nov 7	Oct 26
<b>Special Report: Construction Risks</b>	Nov 14	Nov 2
Industry Financials: Nine Month Results	Nov 21	Nov 9

## ▲ Brokers

Feature	Issue	Close Date
Mid-Year Market Report & Legislative Roundup	July 4/11	June 23
Broker Trends & Profiles	July 18	July 6
London & Lloyd's Market Report	Aug 1	July 20
Industry Financials: First-Half Results	Aug 22/29	Aug 17
Health Care Reform: Impact on Employers		
<b>Special Report: Alternative Risks</b>	Sept 5	Aug 24
Middle-Market Risks	Oct 3	Sept 21
Excess & Surplus Lines Report	Oct 10	Sept 28

## ▲ Brokers (continued)

Feature	Issue	Close Date
<b>Special Report: Construction Risks</b>	Nov 14	Nov 2
Industry Financials: Nine Month Results	Nov 21	Nov 9
Readers Choice Awards	Nov 28	Nov 16
Women To Watch	Dec 5	Nov 22
Year-in-Review: Best & Worst of 2011	Dec 12	Nov 30
Case Study: E&O Best Practices		
Market SourceBook 2012	Dec 19/26	Dec 7

## ◆ Insurers/Reinsurers

Feature	Issue	Close Date
Mid-Year Market Report & Legislative Roundup	July 4/11	June 23
Broker Trends & Profiles	July 18	July 6
Case Study: E&O Best Practices	July 25	July 13
London & Lloyd's Market Report	Aug 1	July 20
Catastrophe Management & Disaster Planning	Aug 15	Aug 3
Health Care Reform: Compliance		
Industry Financials: First-Half Results	Aug 22/29	Aug 17
Health Care Reform: Impact on Employers		
<b>Special Report: Alternative Risks</b>	Sept 5	Aug 24
Global Programs Reinsurance: Rendez-Vous Report	Sept 26	Sept 14
Excess & Surplus Lines Report	Oct 10	Sept 28
Reinsurance: Trends & Issues	Oct 24	Oct 12
<b>Special Report: Construction Risks</b>	Nov 14	Nov 2
Industry Financials: Nine Month Results	Nov 21	Nov 9
Readers Choice Awards	Nov 28	Nov 16

## ◆ Insurers/Reinsurers (continued)

Feature	Issue	Close Date
Women To Watch	Dec 5	Nov 22
Year-in-Review: Best & Worst of 2011	Dec 12	Nov 30
Case Study: E&O Best Practices		
Market SourceBook 2012	Dec 19/26	Dec 7

## ■ Middle Market

Feature	Issue	Close Date
Case Study: E&O Best Practices	July 25	July 13
London & Lloyd's Market Report	Aug 1	July 20
Catastrophe Management & Disaster Planning	Aug 15	Aug 3
Health Care Reform: Compliance		
Industry Financials: First-Half Results	Aug 22/29	Aug 17
Health Care Reform: Impact on Employers		
<b>Special Report: Alternative Risks</b>	Sept 5	Aug 17
Workers Comp and Safety Management	Sept 12	Aug 31
Global Programs Reinsurance: Rendez-Vous Report	Sept 26	Sept 14
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