CONFERENCE AGENDA

7:30-8:30 Registration

8:30-10:00 Morning Session I
5 New Agency Challenges & How To Tackle Them
Presented by: Kelly Donohue-Piro

10:15-11:45 Morning Session II
Mindset
Presented by: David Dillon

12:00-1:30 Networking Lunch with Exhibitors

1:45-3:15 Afternoon Session I
Eat That Frog!
Presented by: David Dillon

3:30-5:00 Afternoon Session II
Designing & Tracking Your Customer Experience
Presented by: Kelly Donohue-Piro

5:30-6:30 Chairman’s Cocktail Reception

6:30-8:00 Installation of Officers & Dinner

8:00-9:30 Casino Night!

REGISTRATION TYPES

FULL DAY REGISTRATION

MEMBER ATTENDEE: $100
NON-MEMBER ATTENDEE: $125

Full Day Registration Fee Includes:
- Continental Breakfast
- Morning/Afternoon Sessions + Session Breaks
- Lunch with Exhibitors
- Chairman’s Cocktail Reception + Dinner
- Casino Night

NETWORKING REGISTRATION

The networking pass is available to those who wish to attend only the exhibit hall on Friday, July 17, 12:00 pm-1:30pm. The price for the networking pass is $40 for both members and non-members.

Networking Registration Fee Includes:
- Lunch with Exhibitors

DINNER REGISTRATION

The price for the dinner pass is $100 for both members and non-members.

Dinner Registration Fee Includes:
- Chairman’s Cocktail Reception
- Installation of Officers + Dinner

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When this crisis first started, you probably found yourself searching for knowledge and information to help clients, employees, family, and friends.

Hopefully, you checked with your Association, Big I MD. Early on the staff was rapidly collecting and posting valuable information for all of our members as soon as it became available. I know firsthand that some of our agency's responses to the tough questions were formulated around what we had learned from our Association's Coronavirus (COVID-19) resource page. If you have not gone to our resource page lately, I encourage you to do so as soon as you can. Big I MD assembles and disseminates knowledge that makes all of us better insurance professionals. Rapid response and presentation of accurate educational information are the hallmarks of what we do. Your membership and participation in Big I MD is an important part of that mission!

Resilience

I have often mentioned that change is a fundamental part of our industry. From anyone just entering the insurance industry to veterans with years of experience in our business, we all should understand that change “is always there” or at the very least, “on the horizon”.

We may start our day with a plan, but that plan can all change with a claim, service question, or customer issue that needs immediate attention. New innovations in equipment, software, or technical advances across industries can test our ability to adapt and forge new paths to serve our clients.

Along came the Coronavirus! Silent, invisible, deadly, and fast moving. Our industry's ability to continue servicing the needs of our clients efficiently during a worldwide pandemic is a major challenge that we confronted head on with little warning. I believe history will show we did it not only rapidly, but we did it well.

In speaking with a number of member agencies in the last few weeks, I found many examples of how innovation and rapid deployment of agency resources almost completely realigned how business was being done. A number of agencies established work from home for the majority, if not all of their staff. Insurance companies joined the effort by increasing remote support for marketing, claims, and underwriting. The insurance companies continued to keep lines of communication open and responsive. Many put in place easing of premium payment guidelines and offers of refunds or credits on some personal lines policies to help our customers. When it seemed like their world was suddenly upside down, I found insurance customers surprised that service did not diminish. Their needs and inquiries were answered as normal.

As insurance professionals, we can be proud that through the worst of times we remain up to the challenge. Faced with adversity and potentially disruptive change, we answer the call. The people that make up our industry have a mindset of helping the customer no matter what it takes.

I thank each and every one of you, especially our Association staff who make sure you are equipped and informed during challenging times so we can deliver our best when customers need us most.

Stay safe.
Navigating Through Uncharted Waters: COVID-19 and Health Insurance

By Al Redmer, Jr.
Maryland Insurance Commissioner

The COVID-19 State of Emergency is a now constant reminder that we never fully know what's around the corner in life, even as we try to plan for a stable future for ourselves and our families. In times like these, insurance becomes a major concern.

The Maryland Insurance Administration's goal is to provide efficient, effective service to both the consumers of insurance products and the insurance industry. Our most important job is assuring the fair treatment of consumers, with all carriers following Maryland law. When we go through a crisis like COVID-19, our agency's role as a regulator is a critical part of the state's response.

Regulation can often sound scary, conjuring up images of an adversarial, “big stick” approach. To be sure, we sometimes need to enforce the law with serious penalties for violators. At the direction of Governor Hogan, we've also taken some strong emergency actions in response to COVID-19, including requiring carriers to waive any time restrictions on prescription medication refills and authorize payment to pharmacies for at least a 30-day supply of any prescription medication.

But, overall, I’m a strong believer in collaboration, of working together to find solutions. When it comes to a crisis, we want to help insurers help consumers. It's been my experience that the vast majority of insurance industry leaders want to do the right thing – mainly because they're good citizens, but also because it's good business in a competitive environment.

Since the COVID-19 crisis began, we've held five conference calls with health insurers active in Maryland to talk about the challenges consumers and companies are facing as we navigate these unprecedented times. I've been very impressed by the actions taken so far by insurers to help their customers. In many cases, one insurer will show leadership or innovation in a particular area and others will follow the lead.

For example:

- **Telehealth expansion:** Carriers have expanded access to telehealth across the board. All major carriers have started waiving cost-sharing for many in-network non-COVID-19 telehealth visits, and several are waiving in-network and out-of-network cost-sharing for all telehealth visits, including many specialties. Many are covering phone-only consultations in certain situations. Several are ensuring that reimbursements for telehealth are the same as in-person visits.

- **Treatment of COVID-19:** Most carriers are waiving cost-sharing for all COVID-19 treatment (this includes out-of-network services for some of the carriers).

- **Prescription drugs:** Several carriers are offering free home delivery of prescription medications to encourage social distancing.

- **Prior authorizations:** The majority of carriers have relaxed some of their prior authorization requirements. Several are waiving prior authorizations for non-elective hospital admissions and some are waiving concurrent review for hospitalizations, and some will honor previously approved authorizations for elective surgeries that need to be rescheduled.

- **Premium payment and employer coverage issues:** Most carriers have indicated they will work with consumers to accommodate difficulties with premium payments. One carrier has officially announced it will defer premium for up to two months with no interest or penalty upon customer request. Many carriers are working with employers directly on a case-by-case basis to accommodate specific requests to ensure continuity of coverage for laid off employees.

“We'll get through this, together” is a common theme throughout the country and world these days. We’re putting that into practice at the Maryland Insurance Administration by taking an inclusive, collaborative approach. We're regulating, we're listening, and we will continue to advocate for Maryland citizens and businesses.
The Big “I” Professional Liability program believes that risk management is key in not only preventing errors, but also in providing agencies with tools to more efficiently service their customers. All policyholders of the Swiss Re Corporate Solutions/IIABA professional liability program have exclusive access to the risk management information developed from our more than 30 years of experience insuring agencies. As a reminder, Westport Insurance Corporation is a member of Swiss Re Corporate Solutions. These risk management resources are exclusively available to your agency as a valued policyholder of the Swiss Re Corporate Solutions/member of IIABA.

Should you have any questions, please contact your state association or Jim Hanley at jim.hanley@iiaba.net. We appreciate your continued support of the Big “I” Professional Liability Program and Swiss Re Corporate Solutions and hope you find these risk management resources useful in helping your agency avoid E&O claims.
I have been thinking a lot about how a crisis can make or break a leader. Abraham Lincoln’s legacy was based upon how he handled the crisis of the Civil War. Stephanie Rawlings-Blake received harsh criticism due to her handling of the 2015 Baltimore riots. Dr. Anthony Fauci has, at least as the writing of this article, received great praise due to his calm and straightforward approach to providing information and leadership relating to the COVID-19 crisis. This COVID-19 crisis should cause all of us who consider ourselves to be leaders to think.

Crisis in the time of leadership is difficult. There is often less time, less people and less resources during a crisis. But every true leader learns something from a crisis—something that can be used in more ‘normal’ times. In this article, I want to let you know a few things that I have learned—or relearned—during this current health crisis.

1. **Leaders must expect that we will not be doing things the same way.** During this crisis, I have been impressed at how leaders have approached the issue of needed change. From Governor Hogan’s emergency order allowing, for example, the remote witnessing of wills to Saturday Night Live’s remotely produced show, change happens in a crisis and can produce effective results. Of course, change must be monitored. For example, the Maryland Judiciary originally used Zoom for arguments, but when issues arose with Zoom, other platforms were explored. Leadership requires comfort with change, regardless of whether there is a crisis. This crisis has reminded me to embrace change.

2. **Leaders must understand that trustworthy information is essential.** There have been so many rumors, half-truths and outright lies that have infected the ether of social media and newsfeeds during this crisis. Leaders, however, must have credible information to rely on in order to make decisions. I have been particularly aware that I need reliable information in order to make decisions, particularly to get a sense of what is going on in my industry and the financial lay of the land. I read news feed from credible accountants, attorneys, government officials and news resources. I try to add my own credible voice to issues when I feel that I need to speak. The key is knowing how to separate the wheat from the chaff, a process that needs to start before a crisis.

3. **Leaders need to have access to the right people.** In a crisis, it is important to know the right people. For example, those individuals with a solid relationship with a bank had an easier time applying for money from the stimulus package. Those of us in the legal field who had access to bar and judicial leadership could ask questions about the operation of the courts and the future of litigation. Insurance professionals who belong to a strong association can obtain and share needed information. Leaders need to develop such access so that they can ask the right people the right questions.

4. **Leaders need to seek out their peers and ask for help.** Sometimes we, as leaders, feel like we stand alone when we make a decision. We feel like we are the only ones that have faced certain challenges, when in actuality other peers have faced similar challenges. The information and insight that these peers can provide can be invaluable. Leaders have peers
they can call upon, even if their peers are competitors. During this COVID-19 crisis, I have received so much assistance from other leaders who have helped me with the struggles that I have faced. The value of sharing troubles is something that we all need. We just sometimes need to put aside our pride and ask for assistance and advice.

5. **Leaders need to be transparent and decisive when making a tough decision.** During this COVID-19 crisis, I have not envied the hard decisions that Governor Hogan and our local leaders have had to make. As our state faced an unprecedented public health crisis, decisions had to be made about medical equipment, school, unemployment assistance and real life-and-death decisions. These Maryland leaders have been both decisive and transparent with their decisions and have been willing to answer questions as to the how and why they made hard decisions. I have watched leaders in my own business explain difficult decisions. Again, the crisis has reminded me that we, as leaders, are not called upon to do the easy; we are called upon to do the hard.

6. **Leaders need to know that they need to take care of themselves and their people first.** During this pandemic, I have been recovering from surgery—good timing I know. But it has reminded me that I am not effective unless I have my strength and my health. So, I have set myself limits as to when I will work and when I will be completely offline. I have updated documents, like wills, healthcare directives and powers of attorney—something that I have been putting off for some time. I have also tried to be a better boss by reaching out more—making sure that I talk to people by phone, FaceTime or by virtual connection. Leaders, even busy leaders, must think about how often they respond by a terse email—and how that impacts people. Our people are our most valuable resource and we should treat them as such—crisis or no crisis. Pick up the phone and talk! And take a little time for yourself!

7. **Leaders think about who is important to their business.** During a crisis, it is hard to stay in touch with the all the people who are important. When we deal with our own issues, the issues of our employees, and whatever financial or operational crisis we are having, there is little time for anything else. But we must remember who is important to our business. For me, it is my clients. During this COVID-19 scare, I have had to think about how I deal with my clients and prospects. So, this has reminded me to understand who my best 15 to 20 contacts are and to keep up those relationships. I am trying to strengthen my outreach to my networks and to professional relationships. What I have found is that many people are hungry for contact—they want someone to reach out to them. And this is something that I will remember when this crisis is over.

8. **Leaders understand that things can get worse.** I think that all leaders should take a version of the Hippocratic Oath, the oath that doctors take that is “first, do no harm.” The leader’s oath, however, should be “First, try to do no harm.” Trying to do no harm, of course, requires recognition as to how harm can occur. I have seen so many businesses making decisions during this crisis that are contrary to the law and executive orders. I have seen businesses making decisions that do not respect privacy. I have seen knee jerk decisions made that simply lacked thought. This crisis, more than anything, demonstrates that decisions—whether a decision to act or a decision not to act—can lead to devastating consequences. Leaders understand this.

9. **Leaders think about the changes that need to be made.** A time of crisis demonstrates flaws in an organization. Some of the flaws are large. Some small. All need to be dealt with and changed. When this crisis is over, many are going to try to get back to an old normal. The true leaders will embrace the flaws and encourage the changes they inspired.

10. **Leaders understand that there will be the next crisis.** As we live through this crisis, we should recognize that there will always be another crisis. We will not know what that crisis is, but we will be called upon to deal with it. All of this is hard and will continue to be hard for a time to come. When this crisis nears conclusion, we will all need to take a breath and think about how we can become better leaders.
One thing for certain, the Coronavirus has cleared the congested roads throughout Maryland. Highways and byways are empty. This has led many insurers to announce a discount or rebate, if you would, to drivers. The ‘stay at home’ order declared by Governor Hogan, means less cars on the streets and highways, resulting in less accidents.

According to CNA Business, the top 10 insurers, who write 72% of the market, will be participating in refunds. The refunds vary, not only in amounts, but also the amount of time that will be covered to determine the refund. For example, State Farm announced it will be providing a 25% discount covering a 10 week period. The majority of the carriers taking similar actions are using the April-May period. The percentage of the rebate varies. Travelers (15%), Allstate (15%), the Hartford (15%), Progressive (20%), Liberty Mutual (15%), Cincinnati (15%) and Safeco (15%) are some carriers providing premium relief.

One carrier, Erie, is taking a different approach to assist their insureds. Erie has filed a rate reduction for both personal and commercial. This will assist throughout the year, not just two months. According to Erie Insurance President and CEO Tim NeCastro, while ERIE’s pricing philosophy has always centered around providing exceptional protection and service at the lowest possible cost, lowering rates during this challenging time is simply the right thing to do.

Insurers are also helping through other relief programs. After multiple Bulletins (https://insurance.maryland.gov/Insurer/Documents/bulletins/20-10-Cancellation-of-insurance-policies-during-covid-19-SOE.pdf) and 20-17 (https://insurance.maryland.gov/Insurer/Documents/bulletins/20-17-COVID-19-Contractual-Deadlines-within-Property-and-Casualty-Insurance-Policies.pdf), issued by Commissioner Alfred Redmer, Jr., and the Maryland Insurance Administration urging companies to assist through accommodations such as grace periods, suspensions of premiums due, extension of billing due dates, waiver of installment and late payment fees and taking steps to avoid cancellations due to nonpayment. They also urge that policyholders use all of the electronic means available to make payments, etc. Bulletin 20-17 also gives guidance with respect to contractual conditions such as sworn statements, time to make necessary repairs, etc. To date, the MIA has issued eight (8) Bulletins directly related to COVID-19.

FEMA has issued bulletin (https://www.floodsmart.gov/sites/default/files/w20002.pdf) extending the grace period for payment of NFIP premiums due to COVID-19. For policies with the expiration between February 13th, 2020 and June 15th, 2020, FEMA has extended the grace period for receipt

(Con’t on page 10)
of renewal premium payments from 30 to 120 days. This extension allows customers additional time to pay their flood premiums to avoid any lapse or reduction in flood coverage.

One evolving and volatile issue in commercial lines is whether the Business Interruption policy/coverage will respond. New Jersey is attempting to legislate that business income coverage respond even if the form contains the ‘virus exclusion’. Bill A3844 (https://www.njleg.state.nj.us/2020/Bills/A4000/3844_I1.HTM) would alter the specific exclusion contained in the business interruption form for viruses. It provides that businesses that experience a business interruption loss due to COVID-19 could recover those losses from the insurer. It would be retroactive for any insureds with business interruption policies in place from March 9, 2020 (the date of the declared public health emergency by NJ Governor Phil Murphy. It would apply to any business with less than 100 employees. Other states that have followed New Jersey are Massachusetts with the introduction of SD.2888 and Ohio HB589. Both Massachusetts and Ohio’s bills are almost identical with a March 9 or 10 retro date, but with Massachusetts bill applying to businesses with 150 or less employees. At the time this article was written, none had passed. The states are already seeing a jump in litigation in this area. Hopefully, the legislatures of the states will see the hazards of the passage of these bills and the impact this will have on the industry. Paying for claims where no premium has been collected could potentially bankrupt a carrier and could make it impossible to pay claims where premium has been collected. The Massachusetts Governor even stated that he felt the insurance companies should pay. It is quite apparent that most legislators do not understand the insurance mechanism.

This issue continues to make headlines. Stay tuned and stay informed.

The Big I appreciate the measures being taken by our carrier partners.

(Con’t from page 9)

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There is so much being written about the legal issues surrounding the pandemic that it is hard to know where to begin reading. Today, we are providing information related to Bulletins issued by the Maryland Insurance Administration ("MIA") concerning the COVID-19 Pandemic.

**Bulletin No. 20-17 deals with contractual deadlines within insurance policies.** The MIA has specifically requested insurers to "be lenient" in the application of the policy language requiring "notice of a claim promptly." Insurers are specifically requested to consider "whether or not late notice of a claim was preventable and if the late-notice actually prejudiced the insurer's ability to adjust the claim." Similarly, insurers are requested to consider limiting the use of "Sworn Statement in Proof of Loss" and to consider the use of electronic signatures. The MIA has further reminded insurers that policyholders should not be penalized for delays that might be caused by the COVID-19 crisis, particularly in considering the policy benefits for additional living expenses, loss of use, rental reimbursement, and business interruption claim. For EUOs, insurers are forbidden to take in person examinations without the agreement of all parties; even with the agreement of all parties, there must be strict adherence to all social distancing protocols. https://insurance.maryland.gov/Insurer/Documents/bulletins/20-17-COVID-19-Contractual-Deadlines-within-Property-and-Casualty-Insurance-Policies.pdf.

**Bulletin No. 20-16 deals with title insurance producers.** This bulletin specifically allows title insurance producers to conduct remote settlements during the COVID-19 crisis, provided that certain protocols are followed. The protocols are specified in the bulletin. https://insurance.maryland.gov/Insurer/Documents/bulletins/20-16-Conducting-Mobile-Settlements.pdf.


**Bulletin Nos. 20-10 and 20-14 deals with premiums.** In Bulletin No. 20-10, the MIA strongly encouraged insurers to make reasonable accommodations so that individuals and businesses do not lose coverage due to non-payment of premium during the COVID-19 emergency. The MIA specifically noted that reasonable accommodations may include suspensions of premiums due, extension of billing due dates and premiums grace periods, and waiver of installment and late payment fees. Bulletin No. 20-14 applies to Maryland-domiciled insurers and deals with waiver of the Statutory Accounting Principle that requires an insurer to non-admit premium receivable assets over 90 days past due. https://insurance.maryland.gov/Insurer/Documents/bulletins/20-10-Cancellation-of-insurance-policies-during-covid-19-SOE.pdf; https://insurance.maryland.gov/Insurer/Documents/bulletins/20-14-Premium-Receiveables-over-90-days-during-COVID-19-SOE.pdf

**Bulletin No. 20-13 concerns the temporary suspension of the 45-day advance mailing notice of cancellation, non-renewal or premium increase** for private passenger automobile liability insurance for the duration of the state of emergency. Specific information is provided as to what efforts insurers should make and the extended timing for protests. https://insurance.maryland.gov/Insurer/Documents/bulletins/20-13-Temporary-Suspension-of-45-day-Advance-Mailing-Notice-PPA.pdf

**Bulletin No 20-09 concerns what insurers offering travel insurance policies** offer during the

(Con't on page 12)


**Bulletin No. 20-18 deals with Motor Vehicle Registrations and Commercial Automobiles and Fleets.**

The Bulletin notes that owners of multiple vehicles, including commercial fleets, may want to put some vehicles out of service during the COVID-19 crisis, so as to discontinue coverage and thereby reduce premiums. The Maryland Insurance Administration encourages insurers to work with policy holders to make premium reductions without the return of tags. This reduction of premium issue has been the subject of a number of Bulletins and insurers should consider having a plan in place to deal with such issues. https://insurance.maryland.gov/Insurer/Documents/bulletins/20-18-COVID-19-Motor-Vehicle-Registrations.pdf

**Bulletin No. 20-19 deals with quarterly premium tax payments.**

The bottom line of this bulletin is that the Insurance Commissioner has the discretion to waive penalties and late payments of quarterly estimated premium taxes due on April 15, 2020. Importantly, an insurer should have documentation as to how the COVID-19 crisis has impacted the operation of the insurer’s premium tax administrative offices. https://insurance.maryland.gov/Insurer/Documents/bulletins/20-18-COVID-19-Motor-Vehicle-Registrations.pdf

**Bulletin No. 20-20 deals with the financial challenges of Maryland’s business community and what insurers should do to assist.**

With respect to workers compensation policies, insurers are requested to work with producers to accommodate policyholder requests for mid-term revisions to premiums based upon COVID-19 furloughs and layoffs. This Bulletin also requests that insurers waive or reduce “to the greatest extent possible” short-rate cancellation penalties during the COVID-19 crisis. Insurers that use credit in underwriting are also urged to take into consideration the impact of the crisis; insurers are specifically urged to “rely heavily” on pre-COVID-19 information and to consider an insured’s or applicant’s history over a period “of several years”. Commercial insurers are also urged “to refrain from attaching any adverse underwriting or pricing outcomes for insureds who have made inquiries or file Business Interruption claims that have not resulted in a claim payment.” https://insurance.maryland.gov/Insurer/Documents/bulletins/20-20-Commercial-Insurance-COVID-19.pdf

The MIA has also issued an advisory on business interruption insurance. As stated in this advisory, “Some commercial policies provide Business Interruption coverage when a business is shut down due to an Order by a civil authority. However, the policy still typically requires a physical loss from a covered peril as the underlying cause of the business shut down to apply. All insurance policies have exclusions of coverage for risks that are too great to be underwritten at an affordable price. For example, commercial and personal property insurance policies typically contain specific exclusions for loss or damage caused by war, nuclear action and radiation. The potential loss costs from such perils are so extreme that providing coverage would jeopardize the financial solvency of property insurers. Global pandemics like COVID-19 usually fall into this category. However, policies can be different. We recommend that businesses review their policies and reach out to their insurance professionals with any questions.” https://insurance.maryland.gov/Pages/newscenter/NewsDetails.aspx?NR=2020256

We expect additional bulletins and information to be issued during the upcoming weeks.

Other Information: There is a COVID-19 resource page that has important information, including:

- Contract information for key Maryland Insurance Administration personnel.
- Responses to frequently asked questions, including questions relating to extended filing deadlines, the waiver of the requirement of “wet” signatures for filings, and the fact that there is no change in the service procedures for litigation filings against insurance companies. https://insurance.maryland.gov/COVID-19/Documents/EandA-COVID-FAQs.pdf

Please feel free to contact us, your association, or the author of this article regarding these Bulletins or their implementation.

Ms. Lambert can be reached by phone at 410-339-6759 or email plambert@pklaw.com.
Workers’ compensation is regulated at the state level. Although there are some benefits to this, there are also problems created.

Because work comp is state based, the policy responds only when a state is specifically listed as either a 3.A. (primary) state or granted protection as a 3.C. (secondary) state, which may or may not require a specific listing depending on the insurance carrier.

Primary or 3.A. status is required when:

• Gaps exist between the extraterritorial provisions of the home state and the reciprocity allowances of the state to which the employee travels to work temporarily; or

• There are on-going (not temporary) operations in a state.

Deciding which state or states require(s) listing as a 3.A. state is easy when the employees are based in a single location – such as an office building or service location. At least it used to be - COVID-19 has complicated the issue.

Single Location Employees

When employees work at a single location such as an office building, service location or a manufacturing plant, 3.A. assignment is easy. Regardless where the employees live, only the state in which the operation(s) is/are located must be considered when extending status as a 3.A. primary state.

Does this same focused guideline apply to employers located near state lines if employees live in a neighboring state and travel across state lines to get to work? Yes, as per the Coming and Going Rule. Traditionally the coming and going rule holds that injuries suffered traveling to or home from work, or even while going to and returning from lunch, are not compensable.

The logic behind the rule is that the employee is not furthering the employer’s interest or serving the business’ need while travelling to or home from work; the employee is serving his or her own needs (the need to have a job and earn a living).

Because of the coming and going rule, even when a location-specific employee lives in another state, the state of residency is not required to be listed as a 3.A. state. The employees are assigned to the operational location.

COVID-19 Complications

COVID-19 may have complicated the issue and even negated the idea of the coming and going rule. Historically the “Coming and Going Rule” has allowed employers to “ignore” an employee’s state of residence, but COVID-19 has pushed employees out of the employer’s location and has required them to set up operations in their home. Now the state of residence may matter.

If the employee simply lives across the state line and travels to the employer’s location, there are no operations in the other state (the state of residency). Because the employees are or may soon be quarantined in their homes, there are now operations in another state – specifically the employee’s state of residency. Whether the employee’s home state needs to be listed as a 3.A. state is a function of permanency and the extraterritoriality and reciprocity provisions of the states in question (the employer’s operational state and the employee’s state of residency).

If the employee likes working from home and the employer sees no drop in quality and quantity of work (maybe even an increase in both), working from home may become permanent. If these home-based “operations” become permanent, the employee’s state of residence should or must be a 3.A. state.

But if the situation is only temporary and will never be anything but temporary, should the employee’s state of residence be listed as a 3.A. state during the temporary relocation? The answer depends on the application of the involved state’s extraterritoriality and reciprocity provisions. Basically, the answer is complicated because state variations must be considered.

(Con’t on page 14)
**Extraterritoriality and Reciprocity**

Extraterritoriality and reciprocity issues present a major problem for agents. Which state or states must be listed as primary 3.A. states, which states can be listed as secondary (3.C.) states and which states can be essentially ignored?

Remember that the extraterritoriality and reciprocity concept apply only when the insured has employees in any state other than the domicile state or branch office states on a temporary basis. If the operations are anything other than “temporary,” the concept of extraterritoriality and reciprocity does not apply, the state with ongoing operations must be extended 3.A. status.

Extraterritoriality relates to the coverage provided in the state where the employer is located, and the employee is primarily based. Extraterritoriality’s primary question is, does the employer’s workers’ compensation coverage follow the employee when he/she travels to work temporarily in another state? The good news, every state provides extraterritorial protection. The bad news, the extraterritorial extension of coverage is not consistent from state to state.

The flip side to extraterritoriality is reciprocity. Does the state to which the employee travels to work recognize the sending state’s workers’ compensation coverage? Again, the answer is not consistent and varies greatly from state to state.

Details of extraterritoriality and reciprocity are not the focus of this article. However, several resources are available from the VU detailing extraterritoriality and reciprocity. To fully understand the issues and concepts, access the following:


Let’s look at a couple examples of extraterritoriality and reciprocity to explore these concepts more fully.

**Example 1: Tennessee and Arkansas**

One or several employees work in Memphis but live just across the Mississippi River in Arkansas. Assume that a governmental mandate prevents these workers from coming into Tennessee for work and they are required to set up temporary operations in their homes in Arkansas.

The first question, does the workers' compensation policy for the Tennessee employer/insured follow any employees while they work temporarily in other states? The second question, does the state to which the employees travel to work on a temporary basis recognize the employer's workers' compensation?

Yes, Tennessee provides extraterritorial coverage on a temporary basis. However, the amount of time is relatively short. State regulations define “temporary” to mean no more than 14 consecutive days and no more than 25 days in the calendar year (aggregate). On the fifteenth consecutive day, Tennessee ends its extraterritorial protection. When the “sending” state's coverage ends, the “receiving” state has jurisdiction.

Arkansas regulations aren’t as clear. The statute requires that the workers' comp carrier be licensed in Arkansas, but there is no clear indication of reciprocity, only and intimation. Thus, there may be no reciprocity, especially if the work comp carrier is not licensed in Arkansas.

Given these circumstances, it appears Arkansas needs or must be listed as a 3.A. state. There is no doubt Arkansas must be named a 3.A. state if the employees are working there more than 14 consecutive days because Tennessee law says that more than 14 days is not considered temporary. Further, because the Arkansas reciprocal requirements are fuzzy, not naming it as a 3.A. state may prove problematic.

**Example 2: Pennsylvania, Ohio and West Virginia**

Assume the insured is located in Pittsburgh, PA. Because of its proximity to the southwest corner of the state, employees drive daily from Ohio and West Virginia for work. If these employees are forced to work from home, are Ohio and West Virginia required to be listed as 3.A. states?

First, the Pennsylvania's extraterritorial provisions must be reviewed and understood. Based on the reading of the PA statute, extraterritorial protection appears to exist without a specific time limit. The only requirement appears to be that the employees are classified as Pennsylvania employees. So, coverage extends from the Pennsylvania employer's policy to workers working from home on a temporary basis, whether in Ohio or West Virginia.

With the extraterritoriality question answered, are there reciprocity issues that create problems? Ohio statute, according to the state breakdown linked above, reciprocates for 90 days. If the Ohio resident employees return to work before the end of 90 days, the extraterritorial provisions of Pennsylvania and the reciprocity provisions of Ohio allow the employer's Pennsylvania coverage to respond.

However, Ohio’s administrative code specifically addresses Ohio-based employees while working in Ohio for out-of-state employers. According to the code, when the Ohio-resident

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employees are working in Ohio, they are subject to the Ohio workers' compensation laws. So, any amount of time an Ohio resident spends working in the state subjects the employer to Ohio law and benefits. It appears Ohio needs to be a 3.A. state from day one. But this can't be done because Ohio is a monopolistic state; thus, a policy must be purchased from Ohio.

West Virginia applies an odd provision. The West Virginia statute allows the employer and employee to contractually agree on which state's benefits the employee desires to access. In the absence of such a contract, the reciprocal allowances are 30 days in a 365-day period. If there is no contract and if the employee works in their home state of West Virginia beyond 30 days, West Virginia requires 3.A. status.

As may be plain to see from these two examples, interpreting the extraterritoriality and reciprocity provisions of a given state can be and generally is tedious. Although a law degree is not required, it helps.

What Agents Must Do

From and errors and omissions (E&O) perspective, agents must take the conservative approach and name the employee's state of a residence as a 3.A. state on an “If Any” payroll basis. If the employee is in a monopolistic state, buy the in-state coverage. A less conservative but possibly still acceptable approach is to name the employee's state of residence as a 3.C. Other State (but this doesn't work in a monopolistic state). A particularly bad approach is to try to interpret the laws of the relevant states and hope everything dovetails correctly.

If the state does not require 3.A. status, there is no premium charge for naming the state. If the underwriter is not willing to give 3.A. status, use 3.C. Remember, 3.C. is an “Oops” option only for use when it's not clear that 3.A. status is needed or the carrier will not allow a state to be granted 3.A. status.

A Bogus 3.C. Carrier Claim

In response to a request to name a state a 3.C. state, underwriters might say, “We can't list _________ as a 3.C. state because we are not licensed there.” This is a bogus claim; underwriters may not want to list the state, but they CAN.

Paragraph A.3. under Part Three – Other States Insurance says: “We will reimburse you (the named insured) for the benefits required by the workers' compensation law of that state if we are not permitted to pay the benefits directly to persons entitled to them.”

Other than not being licensed in the state, why would the carrier not be allowed to pay the injured worker? Just because they don't want to list a state doesn't mean they can't. Don't let this objection stand unchallenged.

Home-Based Worker Injury

If an employee is injured while working from home, will the injury be compensable? This is a reasonable question, but the answer is far from simple.

Workers' compensation is designed to pay for injuries arising out of and in the course and scope of employment. Regardless where the employee is injured, compensability is judged against these guidelines.

What was the employee doing when the injury occurred? Is there a reasonable connection between the employment and the injury or was the employee pursuing his or her own interest? Any injury requires a fact-intensive review.

Key Takeaways

Under every day normal conditions employers are not required to include an employee's state of residence on the workers' compensation policy - if that employee reports to and primarily works at the employer's location. The “coming and going rule” holds that travelling to and from work does not benefit the employer (subject to a few exceptions).

However, the pandemic panic has temporarily placed us in abnormal conditions. Employees are working from home rather than at the employer's place of business. If these employees live in a state other than where the employer is located, are these considered temporary operations in another state? If or because they are temporary operations in a state other than where the employer/insured is located, the question of workers' compensation must be addressed. The state in which the employee lives and is working temporarily must be specifically addressed.

Rather than attempting to interpret state laws regarding the extraterritorial provisions and reciprocal allowances of each state's workers' compensation law, simply name the employee’s state of residence as a 3.A. or 3.C. state (depending on what the underwriters will allow). There should be little or no effect on premium. This assures there are no gaps in protection.

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On March 16, a lawsuit (see https://www.insurancejournal.com/research/app/uploads/2020/03/Oceana-Petition-for-Dec-J-executed.pdf) was filed in district court in New Orleans seeking a declaratory judgment about whether the business income coverage in a Lloyds property policy would cover a government-mandated shutdown or curtailment of a restaurant due to the coronavirus.

The policyholder law firm filing the suit asserted in a press release that, “The policy issued by Lloyds of London provides coverage for a civil authority shutdown and does not contain an exclusion for a virus pandemic.” As we shall see, the absence of a specific exclusion doesn’t mean there is coverage if the insuring agreement is never triggered. In addition, a literal reading of the policy indicates that it, in fact, does not provide coverage for a civil authority shutdown of this type.

The press release goes on to say, “We filed this action because we have reason to believe that Lloyd’s took premiums without the intention of providing the indemnity paid for.” If there is no intent to cover losses caused by a viral pandemic (almost certainly the actuarial intent), then no premiums were taken to provide coverage that does not exist or was not intended to exist. The assertions in the suit for potential fraud appear to be patently absurd.

The purpose of this article is to evaluate the claims in the lawsuit in the context of the actual policy form(s) involved and the facts and circumstances of the coronavirus pandemic, including the governmental orders impacting many businesses.

Let me offer two caveats before I begin. First, I am not an attorney and nothing in this article should be construed as offering any type of legal advice. My goal is to offer a coverage analysis based on policy language and logic. Second, insurance is not a commodity. Policy forms are different and the analysis in this article largely addresses one industry-standard form which, by chance, happens to be the form used in the Lloyds policy.

There have already been numerous articles written, many by attorneys, opining whether or not most business income policies cover business interruptions caused by viral pandemics and any resulting shutdowns imposed by civil authorities. Many of these articles cite specific case law dealing with pollution exclusions and what constitutes “direct physical loss” in policy insuring agreements. At the end of this article, I’ve included links to some of these articles, particularly an excellent one entitled “Commercial Property Insurance Coverage and Coronavirus” by attorney Shannon O’Malley of Zelle LLP.

The consensus of most legal pundits and insurance experts is that most business income policies do NOT cover shutdowns due to viral pandemics. But, as this article intends to demonstrate, even if they did, the amount of coverage available would likely be minimal at best.

The Lloyds policy in question, according to the copy I received, offers coverage under the ISO CP 00 30 10 12 – Business Income (And Extra Expense) Coverage Form, an industry-standard form and probably the most common business income coverage policy found in the insurance marketplace. With that as the coverage basis for this article, let’s review the assertions in the lawsuit.

**Policy Exclusions**

The lawsuit’s “FACTUAL BACKGROUND” claims that the Lloyds policy provides “all risk coverage.” It then goes on to say that “An ‘all risk policy’ is an insurance policy which covers all risks unless clearly and specifically excluded.” That is not technically a factual statement. Presumably, it’s made to support the statement two paragraphs later that, “The policy does not provide any exclusion due to losses, business or property, from a virus or global pandemic.” That is not technically a factual statement. Presumably, it’s made to support the statement two paragraphs later that, “The policy does not provide any exclusion due to losses, business or property, from a virus or global pandemic.”

The absence of a specific exclusion doesn’t create coverage. Coverage is created initially by the policy’s insuring agreement(s). Sometimes an exclusion is included in a policy simply

(Con’t on page 17)
In recent years, ISO has filed exclusions to address specific exposures relating to contaminating or harmful substances. Examples are the mold exclusion in property and liability policies and the liability exclusion addressing silica dust. Such exclusions enable elaboration of the specific exposure and thereby can reduce the likelihood of claim disputes and litigation.

“In addition, pollution exclusions are at times narrowly applied by certain courts. In recent years, ISO has filed exclusions to address specific exposures relating to contaminating or harmful substances. Examples are the mold exclusion in property and liability policies and the liability exclusion addressing silica dust. Such exclusions enable elaboration of the specific exposure and thereby can reduce the likelihood of claim disputes and litigation.

“While property policies have not been a source of recovery for losses involving contamination by disease-causing agents, the specter of pandemic or hitherto unorthodox transmission of infectious material raises the concern that insurers employing such policies may face claims in which there are efforts to expand coverage and to create sources of recovery for such losses, contrary to policy intent.

“In light of these concerns, we are presenting an exclusion relating to contamination by disease-causing viruses or bacteria or other disease-causing microorganisms.


Via filings with state regulatory authorities throughout the country, ISO expresses the intent of its policy language, even without the filed endorsement, to not cover “loss or damage caused by or resulting from any virus, bacterium or other microorganism that induces or is capable of inducing physical distress, illness or disease.” The CP 01 40 endorsement was created to head off any unintended claim disputes and litigation.

The Lloyds policy in question includes the unendorsed language in the ISO forms that continues to include the pollution exclusion referenced in the filing. To further support the intent of these forms not to cover viral contamination, we have to look to the insuring agreement(s) as well.

**Insuring Agreement(s)**

The policy form insuring agreement includes the following [emphasis added]:

We will pay for the actual loss of Business Income you sustain due to the necessary “suspension” of your “operations” during the “period of restoration”. The “suspension” must be caused by direct physical loss or damage to property at premises which are described in the Declarations and for which a Business Income Limit Of Insurance is shown in the Declarations. The loss or damage must be caused by or result from a Covered Cause of Loss.

The lawsuit asserts that, “It is clear that contamination of the insured premises by the Coronavirus would be a direct physical loss needing remediation to clean the surfaces of the establishment.” The key phrase here and in many other lawsuits is “direct physical loss.” So, what constitutes “direct physical loss”?

As mentioned earlier, at the end of this article is a listing of articles that specifically cite case law addressing the “direct physical loss” issue. Does the mere presence of a substance on the surface of property, especially that which can be removed with a Clorox wipe, constitute “direct physical loss”? In the case of Columbiaknit, Inc. v. Affiliated FM Ins. Co., cited in the “Commercial Property Insurance Coverage and Coronavirus” article, the court stated:

“The recognition that physical damage or alteration of property may occur at the microscopic level does not obviate the requirement that physical damage need be distinct and demonstrable....

“The mere adherence of molecules to porous surfaces, without more, does not equate to physical loss or damage.”

In other words, if the surface of...
property can be cleaned such that the property has not been altered then, in one view, it has suffered no direct physical damage. The view holds that, in order to constitute “direct physical” damage, there must be some permanency and not just a temporary impairment. As suggested by the ISO CP 01 40 filing, “the nature of the property itself would have a bearing on whether there is actual property damage.” Smoke from a fire, especially one with hazardous residue, can result in the destruction of food products but may be relatively easily cleaned on nonporous surfaces.

If someone’s vehicle is dirty, would the owner consider filing an auto insurance physical damage claim, or would he or she simply wash the vehicle? When a home’s contents become dusty or outdoor property is covered in pollen, do home owners rush to file homeowners contents claims because this “contamination” is especially hazardous to people with respiratory problems, or do they dust or, in the case of outdoor property, wait for the evening’s anticipated rainfall to remedy the “damage”? Current science indicates that the coronavirus doesn’t survive more than 12-72 hours on most surfaces. In other words, even if left untreated, the “damage” self-destructs. Most auto policy collision coverage applies only to direct physical loss. If you damage a fender in a wreck, it does not restore itself to its undamaged state. Property charred by fire does not magically heal. In the case of coronavirus contamination, the affected property becomes unaffected in a matter of time. The property is only temporarily impaired and suffers no real permanent damage.

Perhaps seemingly frivolous claims like dirty cars has never been tested because deductibles would preclude recovery anyway. Or perhaps common sense dictates that superficial “damage” should just be remediated without involving an insurance adjuster or the courts. Admittedly, a viral contamination is potentially more serious than one involving dirt and dust or even the impact of pollen on someone with respiratory problems or allergies. However, at this point, we are concerned with whether there is actually any real, direct and physical damage, not the potential amount of the damage in the form of a loss of business income. Also, keep in mind that the burden of proof is on the insured that an insuring agreement is triggered. We’ll come back to that point momentarily.

Finally, there is some case law that supports an interpretation of “direct physical loss” to include “damage” that is not structural but could make the premises unfit for occupancy or functionality. However, a notable difference between those cases and the present one is that there was actually proof of some manifestation of at least an odor. In the lawsuit in question, no specific evidence is provided of any viral contamination. In fact, neither of the governmental orders covered in the following section of this article allege any actual damage anywhere.

This situation is reminiscent of a condition in most property policies that insureds must reasonably protect their property from further damage and the insurer will pay for the cost to do so. So, for example, if a hurricane knocks out the windows in a building and the owner has someone board up the windows to protect the interior of the building, the insurer will pay for that expense. However, if the owner boards up the window because a hurricane is approaching, that expense is usually not covered. It’s only after there has been damage that coverage is triggered. Similarly, in this case, there must actually BE damage…preventive measures are not covered, and prevention of disease transmission is precisely the purpose of government-mandated closures.

As an aside, what’s interesting is the actual language in the ISO form. The full phrase in the policy language is “direct physical loss of or damage to property.” There are two ways to interpret this grammatically:

- The consensus interpretation: [direct physical loss of] or [direct physical damage] to property
- An alternative interpretation: [direct physical loss of] [or damage to] property

The first interpretation applies the “direct physical” requirement to loss and damage. The second interpretation only applies the “direct physical” requirement to loss, otherwise implying that any other kind of “damage” short of “loss” does not require the damage to be of a “direct physical” nature.

I don’t know if this has ever been litigated as a syntactical ambiguity, but it might be an approach to get around the “direct physical” requirement for “damage.”

**Order of Civil Authority**

Since there was allegedly no known viral contamination at the restaurant which is the subject of the lawsuit, the suit’s focus is on the impact of governmental orders to discontinue, curtail, or modify operations in a way that causes a loss of business income due to a cessation or slowdown of business activities. For a restaurant, this could include a mandate to close, reduce occupancy, or limit sales to carry-out, drive-thru, or delivery.

The lawsuit specifically references proclamations from the governor and the mayor. The governor’s order applies to certain businesses:

(Con’t from page 18)
“...because of the ability of the COVID-19 virus to spread via personal interactions and because of physical contamination of property due to its propensity to attach to surfaces for prolonged periods of time...some business establishments are unable to continue current operations without unacceptable risks to the health and safety of the public.”

The mayor’s order says that:

“...there is reason to believe that COVID-19 may be spread amongst the population by various means of exposure, including the propensity to spread person to person and the propensity to attach to surfaces for prolonged periods of time, thereby spreading from surface to person and causing property loss and damage in certain circumstances....”

Why is the rationale for the orders of interest? This is the Civil Authority Additional Coverage in the ISO form:

**Civil Authority**

In this Additional Coverage, Civil Authority, the described premises are premises to which this Coverage Form applies, as shown in the Declarations.

When a Covered Cause of Loss causes damage to property other than property at the described premises, we will pay for the actual loss of Business Income you sustain and necessary Extra Expense caused by action of civil authority that prohibits access to the described premises, provided that both of the following apply:

1. Access to the area immediately surrounding the damaged property is prohibited by civil authority as a result of the damage, or the action is taken in response to dangerous physical conditions resulting from the damage or continuation of the Covered Cause of Loss that caused the damage, or the action is taken to enable a civil authority to have unimpeded access to the damaged property.

2. The action of civil authority is taken in response to dangerous physical conditions resulting from the damage or continuation of the Covered Cause of Loss that caused the damage, or the action is taken to enable a civil authority to have unimpeded access to the damaged property.

Civil Authority Coverage for Business Income will begin 72 hours after the time of the first action of civil authority that prohibits access to the described premises and will apply for a period of up to four consecutive weeks from the date on which such coverage began.

Civil Authority Coverage for Extra Expense will begin immediately after the time of the first action of civil authority that prohibits access to the described premises and will end:

1. Four consecutive weeks after the date of that action; or
2. When your Civil Authority Coverage for Business Income ends; whichever is later.


Let’s examine each of the highlighted policy language excerpts:

- “When a Covered Cause of Loss causes damage to property other than property at the described premises....”

The first requirement for coverage is that there must be damage to property other than the subject property (a provision later requires this other property to be within a mile of the subject property). Note that the requirement here is simply “damage” and not necessarily “direct physical damage.” However, the requirement is that there IS damage, not that there might be or could be damage. Nothing in the lawsuit support’s the plaintiff’s burden of proof that there IS damage that triggers the insuring agreement.

- “...caused by action of civil authority that prohibits access to the described premises....”

If there IS damage, the resulting loss to the subject insured must be “caused by” an order of the civil authority that prohibits access to the described premises. If, for example, the governmental order allows restaurants to continue operations with a drive-thru or carry-out, then there is no access prohibition.

- “...Access to the area immediately surrounding the damaged property is prohibited by civil authority as a result of the damage....”

Finally, this condition (and a second one cited in the policy language) must be met for coverage to be triggered. That does not appear to be the case in the circumstances cited by the lawsuit. There has been no demonstrated damage to nearby property, nor does a civil authority order prohibit “access to the area immediately surrounding the damaged property.” As far as I know, citizens are free to walk the streets throughout this area...they simply, at worst, can’t transact business at some establishments.

Clearly, the premise of the lawsuit does not trigger civil authority coverage because of the clear and unambiguous language of the policy. This illustrates how important it is to read the precise language in the insurance contract in question and not generalize about coverage.

Despite one of the primary assertions of the lawsuit (a requirement of “direct physical damage”) not being applicable, there simply is no proof...
of damage. This situation is akin to the FAA effectively shutting down airports and the businesses therein following 9/11. For example, in United Air Lines, Inc. v. Insurance Co. of the State of Pennsylvania, the court said closures were based on the fear of future attacks, not because of the damage to the Pentagon.

Likewise, closer to home in the Louisiana case of 730 Bienville Partners, Ltd. v. Assurance Co. of America, the court found that the order of civil authority coverage did not apply to a hotel’s loss of business due to the FAA closure of airports following 9/11.

It’s interesting that the governmental proclamations specifically reference property damage as a basis for the order. Perhaps this language was suggested by an astute attorney familiar with 9/11 litigation and/or insurance policy language. However, a proclamation does not constitute proof and the reality is that the circumstances of this pandemic simply do not trigger coverage under this policy language. And, if we’re being honest, any denial of access is not really “a result of the damage”...it’s to prevent the communication of the virus from person to person using property surfaces as the means of transmission.

In February, ISO made two advisory forms available to subscribing insurers:

- Business Interruption: Limited Coverage For Certain Civil Authority Orders Relating To Coronavirus
- Business Interruption: Limited Coverage For Certain Civil Authority Orders Relating To Coronavirus (Including Orders Restricting Some Modes Of Public Transportation)

The introduction of these coverage forms supports the premise that, without them, ISO considers their business income forms to not provide coverage otherwise. Whether courts will concur with that presumption is another matter.

**Conclusions**

The following are four primary summary points made by this article:

- There is a consensus among insurance coverage experts and likely case law that “direct physical damage” of property requires more than superficial, temporary contamination that can be remediated relatively quickly and inexpensively.
- Case law that has found superficial “damage” to constitute “direct physical damage” is based on “damage” that has actually occurred, not on “damage” that might have occurred or could possibly occur.
- Even where “damage” can be proven, the language of the Civil Authority coverage in the ISO business income forms is unlikely to be triggered, especially when governmental orders, however phrased, are issued not because of any actual property damage, but rather to prevent property damage and, more likely, to prevent the spread of disease from person to person. The “property damage” angle, at best, is an attempt to trigger insurance coverage where none exists and for which no premium was ever collected.
- Finally, in the unlikely event that coverage IS triggered, the amount of coverage is likely to be limited. In the case of “damage” at the insured property, there is often a 72-hour waiting period for coverage. Most premises can be remediated within that time frame such that there is little, if any, loss of business income and any extra expense payment is likely to be relatively low. Similarly, the ability to clean the facilities quickly, even HVAC treatment, means that, if the 72-hour period is exceeded, it likely won’t be by much. And, in the case of civil authority orders, the coverage is usually limited to 2-4 weeks.

It will be interesting to see how the courts respond to this and other lawsuits seeking coverage. My conclusion, based on the policy language addressed in this article, is that there will be little, if any, coverage for business income loss. If there is coverage to be found, it will likely be for remediation under direct property forms and/or extra expense coverage under business income forms. Regardless, I would not anticipate long-term coverage for business income losses.

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**Related Reading**

- “First Coronavirus Coverage Suit Filed For Business Interruption”
Maryland Insurance Administration Advisory on Business Interruption Insurance

Advisory issued March 18, 2020

BALTIMORE—The Maryland Insurance Administration is receiving a high volume of inquiries about Business Interruption insurance. Business Interruption coverage is typically triggered under a commercial insurance policy when a covered risk peril causes physical damage to the insured premises resulting in the need to shut down business operations. For example, if a fire damages a business and the business cannot operate during repairs, business interruption coverage would be available subject to the terms and limits in the policy.

Most policies require a waiting period of 24 to 72 hours before coverage begins and coverage continues for the reasonable period of time to restore the property and reopen, subject to the coverage limit of liability. Some commercial policies provide Business Interruption coverage when a business is shut down due to an Order by a civil authority. However, the policy still typically requires a physical loss from a covered peril as the underlying cause of the business shut down to apply.

All insurance policies have exclusions of coverage for risks that are too great to be underwritten at an affordable price. For example, commercial and personal property insurance policies typically contain specific exclusions for loss or damage caused by war, nuclear action and radiation. The potential loss costs from such perils are so extreme that providing coverage would jeopardize the financial solvency of property insurers. Global pandemics like COVID-19 usually fall into this category. However, policies can be different. We recommend that businesses review their policies and reach out to their insurance professionals with any questions.

The Maryland Insurance Administration would like to reassure Maryland businesses that we are closely monitoring insurance issues related to COVID-19. Our core mission is making sure insurance companies treat customers fairly and follow the provisions in their policy and applicable state laws. We are monitoring relief activity efforts aimed at assisting individuals and businesses at the local, state and federal levels. As information regarding relief programs becomes available, it will be posted on our website: www.insurance.maryland.gov.
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The Big I Maryland, 2020 Legislative Session Summary

By Brett Lininger, Esq., IIAMD Legislative Advisor

Every legislative session has its own personality, but the 2020 session was one for the history books. For the first time since the Civil War, the Maryland General Assembly adjourned Sine Die prior to the 90th day. Due to the pandemic, the legislature adjourned on March 18th, three and a half weeks prior to the April 6th scheduled date. The week before adjournment, public access to State buildings was prohibited, making the lawmaking process even more challenging than normal.

Prior to the pandemic hitting in full swing, the theme of the session was how to pay for the recommendations for education reform stemming from the Kirwan Commission. House Bill 1628, Sales and Use Tax – Rate Reduction and Services, was a proposal to completely revamp which services would be subject to a sales tax going forward. Insurance services, which includes those provided by insurance producers, was included among many services to be taxed.

Big I Maryland strongly opposed the bill in public testimony by describing the amount of money that is generated through the tax on insurance premium and that the commissions earned by insurance producers are already subject to income tax. These points were well received by the Committee members at the hearing. Ultimately, the legislation died in subcommittee in favor of House Bill 1354, which contained a more specific list of services subject to a sales tax that did not include a sales tax on insurance services. That bill did not pass either.

Given this dynamic, the legislative leaders advised they intended to come back for a special session in late May. Given the uncertainty surrounding the COVID-19 pandemic, it is anyone’s guess if/when the legislature will convene for a special session and what the scope would be.

In the meantime, the legislature presented the bills that were passed to the Governor on April 7th. Governor Hogan has 30 days within which to decide whether to sign, veto, or let go into law without his signature. During a press conference on Friday, April 10th, where Governor Hogan announced a freeze on all State spending not pertaining to the pandemic and employee salaries, he stated that he will not sign any legislation with a fiscal impact to the State. When asked about that, he made clear that he didn’t say he would veto anything with a fiscal impact.

With that as a backdrop, I have provided below a summary of the bills presented to the Governor as well as one bill that was sent to an interim study.

House Bill 117 (Senate Bill 165) 
Insurance – Industry Automobile Insurance Association – Board of Directors

This legislation changes the entity which nominates certain members of the board of directors of the Industry Automobile Insurance Association due to a merger between the American Insurance Association (AIA) and the Property and Casualty Insurance Association (PCI). The merged entity, the American Property Casualty Insurance Association (APCIA) is now required to nominate four board members, replacing the two members each separate association did prior to the merger.

The effective date would be October 1, 2020.

House Bill 108 (Senate Bill 175) 
Condominiums - Responsibility for Property Insurance Deductibles

This bill was a reintroduction of last year’s HB249. It was introduced and passed in the same posture as it was passed out of the House during the 2019 legislative session. The legislation expressly states that if the cause of any damage to or destruction of any portion of the condominium originates from an event outside of the condominium units and common elements, the council of unit owners’ property insurance deductible is a common expense. Additionally, it raises the maximum deductible to $10,000 from the current $5,000 for which the owner of the unit, where the cause of the damage or destruction originated, is responsible.

The effective date would be October 1, 2020.

House Bill 118 (Senate Bill 125) 
Private Passenger Motor Vehicle

(Con’t on page 25)
Insurance - Prohibition on Cancellation Due to Towing or Emergency Roadside Coverage Claims

This bill prohibits a private passenger motor vehicle insurer from canceling, refusing to renew, or otherwise terminating coverage for a policy due to a claim under the towing or emergency roadside service coverage in the policy. The legislation does allow an insurer to remove the towing or emergency roadside service coverage from a policy when it is renewed based on the number of such claims. It also allows an insurer to increase the premium as a result of such claims.

The effective date would be October 1, 2020.

House Bill 123 Labor and Employment - Wage History and Wage Range

This legislation requires an employer to provide to an applicant for an employment, on request, the wage range for the position for which the applicant applied. It prohibits an employer from retaliating against or refusing to interview, hire, or employ an applicant because the applicant (1) did not provide wage history; or (2) requested the wage range in accordance with the law.

This legislation also prohibits an employer from (1) relying on the wage history of an applicant for employment in screening or considering the applicant for employment or in determining the wages for the applicant; or (2) seeking the wage history for an applicant for employment orally, in writing, or through an employee or an agent or from a current or former employer.

After an employer makes an initial offer of employment with an offer of compensation to an applicant for employment, an employer may (1) rely on the wage history voluntarily provided by the applicant for employment to support a wage offer higher than the initial wage offered by the employer, only if the higher wage does not create an unlawful pay differential based on protected characteristics under § 3-304 of the Labor and Employment Article pertaining to gender and sex. The legislation goes on to provide that this section may not be construed to prohibit an applicant for employment from sharing wage history with an employer voluntarily.

The bill also provides that an employer may not discharge or otherwise discriminate against an applicant for employment because he/she: (1) makes a complaint to the employer, the Commissioner of Labor, or another person; (2) brings an action or a proceeding that relates to this subtitle or causes of action or proceeding to be brought; or (3) has testified or will testify in an action under this subtitle or a proceeding that relates to the subject of this subtitle.

Additionally, the legislation provides that an applicant for employment may not: (1) make a groundless or malicious complaint to the Commissioner of Labor; (2) in bad faith, bring an action under this subtitle; (3) in bad faith, bring a proceeding that relates to the subject of this subtitle; or (4) in bad faith, testify in an action under this subtitle or a proceeding that relates to the subject of this subtitle.

Finally, the bill penalizes an employer who violates these provisions, the Commissioner shall issue an order compelling compliance; and may, in his/her discretion: (1) for a first violation issue a letter to the employer compelling compliance; (2) for a second violation, assess a civil penalty of up to $300 for each applicant for employment for whom the employer is not in compliance; or (3) for each subsequent violation, assess a civil penalty of up to $600 for each applicant for employment for whom the employer is not in compliance if the violation occurred within three years after a previous determination that a violation had occurred.

In determining the amount of the penalty, if assessed, the Commissioner must consider (1) the gravity of the violation; (2) the size of the employer’s business; (3) the employer’s good faith; and (4) the employer’s history of violations under this subtitle. If the Commissioner assesses a penalty, it would be subject to the notice and hearing requirements under Maryland law.

The effective date would be October 1, 2020.

House Bill 144 Insurance - Uninsured or Enhanced Underinsured Motorist Coverage - Property Damage

This is a departmental bill that clarified that the insured is entitled to recover from the owner or operator of an uninsured motor vehicle because of property damage, including loss of use of the insured vehicle. Additionally, the legislation provides that the uninsured motorist coverage contained in a motor vehicle liability insurance policy shall at least equal the minimum amount required in law for bodily injury and property damage, including loss of use of the insured vehicle. The legislation makes adds the same language to the provisions governing enhanced uninsured motorist coverage.

The effective date would be October 1, 2020.

House Bill 270 (Senate Bill 195) Automobile Insurance – Usage-Based Insurance

This legislation allows for the application of a program that measures the operation of an insured vehicle during the current policy period. It provides that such a program is not a violation of the subsection prohibiting an insurer under an automobile liability insurance

(Con't from page 24)
policy from classifying or maintaining an insured for a period longer than three years in a classification that entails a higher premium. With respect to private passenger motor vehicle insurance, an insurer may not require an applicant or a policyholder to participate in such a program unless the insurer: (1) only offers products requiring insurers to participate; (2) discloses the information about the product to the applicant at the time of application and to the policy holder at renewal; and (3) includes the information about the product in any advertising materials.

The legislation makes clear that §27-609 of the Insurance Article, pertaining to the exclusion of named drivers, does not apply to a premium increase for a driver or vehicle due to a program that measures the operation of an insured vehicle during the current policy period. Additionally, the legislation requires that the notices under §27-614 of the Insurance Article, pertaining to premium increases for private passenger motor vehicle liability insurance, include a specific description of the factor or factors in the program resulting in the premium increase and the amount of the premium increase that is attributable to the program.

The effective date would be October 1, 2020.

**House Bill 660 Baltimore City and Prince George's County – Lifeline Low-Cost Automobile Insurance Program (Referred to Interim Study by the House Economic Matters Committee)**

Although this bill did not pass, the subject matter will be taken up in an interim study.

As drafted, the bill would establish the Lifeline Low-Cost Automobile Insurance Program (Program). The Program's purpose is to offer low-cost automobile insurance policies to residents of Baltimore City and Prince George's County. The bill contemplates that the Program is part of MAIF and must be administered in the same way as MAIF. Additionally, it would require MAIF's board of trustees, in consultation with the Maryland Insurance Administration ("MIA"), to adopt regulations to establish and administer the Program.

**Program Eligibility**

To be eligible for a policy, an individual must meet the following requirements: (1) must own, lease, or rent a primary place of residence in Baltimore City or Prince George's County, or otherwise demonstrate that the individual's primary place of residence is in either jurisdiction; (2) must have filed as a State resident for income tax purposes, if required by law; (3) must be in a household with a gross annual household income that does not exceed 300% of the Federal Poverty Level; (4) must be at least 19 years old and have been continuously licensed to drive an automobile for the immediately preceding 3 years; (5) may not have more than one of either, but not both, of the following within the immediately preceding 3 years: (i) a property-damage-only accident in which the driver was principally at fault; or (ii) a point for a moving violation; (6) may not have on record within the immediately preceding 3 years an at-fault accident involving bodily injury or death; and (7) may not have a felony or misdemeanor conviction for a violation of the motor vehicle laws other than for a violation of 17-107 of the Transportation Article (pertaining to the requirement to have insurance on a motor vehicle).

Each policy issued by the Program may provide coverage only for an automobile valued of $25,000 or less at the time of application, as evidenced by the value given to the automobile by the Motor Vehicle Administration (MVA) in assessing vehicle license fees.

**Coverage Requirements**

The bill generally establishes that a low-cost policy issued by the Program must contain the minimum coverages required for all other automobile insurance, except that each policy may provide only for: (i) the payment of claims for bodily injury or death arising from an accident of up to $15,000 for any one person and up to $30,000 for any two or more persons, in addition to interest and costs; and (ii) the payment of claims for property of others damaged or destroyed in an accident of up to $7,500, in addition to interest and costs. Notwithstanding these lowered requirements, the legislation makes clear that a policy issued by the Program satisfies the minimum security required under Maryland law.

The bill also requires the Program to offer an applicant who purchases a policy issued by the Program the option to purchase the following additional coverages: (i) uninsured/underinsured motorist coverage, (ii) personal injury protection coverage, or (iii) any other coverage approved by the Insurance Commissioner.

**Program Premiums**

The legislation requires MAIF's Executive Director to determine premiums for the Program's policies, subject to the approval of the Insurance Commissioner. It provides that rates charged for policies issued by the Program to be adequate to cover (i) losses incurred for claims filed under the policy and (ii) expenses incurred by the Program to provide the policy, including all reasonable and necessary expenses for the costs of administration, underwriting, taxes, commission, and claims adjusting.

In assessing the loss reserves, the Commissioner allows only loss reserves that are estimated from actual claim losses under policies issued by the Program or comparable data by a licensed statistical agent, as adjusted to reflect coverage.

(Con't from page 25)

(Con't on page 28)
MY CUSTOMER WANTED TO GROW HIS BUSINESS AND WAS COMPETING FOR A LARGE CONTRACT. I ISSUED A COI FOR HIS BUILDERS MUTUAL POLICY THAT VERY DAY.

THANKS TO BUILDERS MUTUAL I CAN GIVE MY CUSTOMERS WHAT THEY NEED WHEN THEY NEED IT.
provided under policies issued by the Program and eligibility factors required to purchase policies issued by the Program. The Program is authorized to charge a different premium to policyholders for drivers who are younger than age 25; except that it may be no more than 25% higher than the premium charged for drivers who are age 25 or older. The bill provides that this is the only rating factor that may be used by the Program to determine the premiums for its policies.

The Program must annually file its proposed rates with MIA and may not use them until they are approved by the Commissioner. Before acting on the Program’s proposed rates, the MIA must hold a public hearing to review the rates.

The Program may only issue 12-month policies and may accept premiums as paid in full or on an installment basis if the following conditions are met: (i) an initial premium payment to be not less than 16% of the total annual premium; and (ii) of the remaining premium due, equal amounts of installment payments due each month beginning in the third month of the policy period and ending in the 10th month of the policy period.

Producer Provisions
A Fund producer may bind coverage in the Fund for an applicant to the Program if he/she submits an application to the Fund producer and pays the required premium. A Fund producer is required to provide notice to an applicant for a policy about the limitations under the policy.

Cancellation and Nonrenewal of Policies
The Program may (1) reject an application if the applicant owes the program an unpaid premium on an expired or canceled policy; (2) cancel a policy at any time for nonpayment of a premium – after at least 10 days’ notice of nonpayment; (3) reject an application or cancel a policy if the applicant or insured’s driver’s license is found to be suspended or revoked; or (4) not renew a policy if the insured fails to meet the eligibility requirements. If the Program rejects a policy due to unpaid premiums, it must notify the applicant. If the applicant pays the unpaid premiums, the Program may not reject the applicant if he or she is otherwise eligible.

Other Provisions
Insurers licensed to write motor vehicle liability insurance or motor vehicle physical damage insurance in the State must pay an annual fee of $0.10 per insured vehicle to support the Program’s marketing, outreach, and other public education efforts required to raise public awareness of the program. The House Economic Matters Committee and Senate Finance Committee must annually review the Program’s public awareness expenditures.

As stated above, this legislation did not pass, but the House Economic Matters Committee sent it to an interim study.

House Bill 1142 Commercial Law – Rental Motor Vehicles – Collision Damage Waivers
This bill authorizes the lessor of a Class E (truck) rental motor vehicle (e.g., pickup trucks, dump trucks, tow trucks) to offer the lessee (the person renting a vehicle) a collision damage waiver if the truck being rented is used primarily for personal, household, family, or agricultural purposes and does not exceed a three-quarter ton capacity or 7,000 pounds gross vehicle weight. The waiver must meet all requirements for collision damage waivers for rental vehicles under current law, including being in the form developed by the Consumer Protection Division of the Office of the Attorney General (OAG).

The effective date would be October 1, 2020.

Senate Bill 83 State Government – Delivery of Notices and Communications by Electronic Means – Authorized
This bill, requested by the Department of Information Technology, authorizes a unit of State government to deliver a notice or communication to an individual by electronic means instead of by first-class mail if the unit has obtained the individual’s consent. The bill specifies requirements, procedures, and conditions for the delivery of a notice or communication by electronic means instead of by first-class mail. A notice or communication delivered electronically in accordance with the bill is considered equivalent to delivery by first-class mail. The bill applies only to a notice or communication that is required to be delivered by first-class mail and does not apply to any notice or communication (1) from a unit in the Judicial Branch; (2) regarding eligibility, benefits, or services for specified medical assistance programs; or (3) that is required to be delivered by certified or registered mail.

The effective date would be October 1, 2020.

Senate Bill 93 Insurance – Nonresident Insurance Producers – Cancellation
This MIA departmental bill provides that in order to maintain a nonresident license in the State, a person must be currently licensed as a resident insurance producer in the person’s home state, and in good standing there. The legislation allows the Commissioner to cancel the license of a nonresident insurance producer after receiving notice that the person is no longer licensed in the person’s home state.

The effective date would be October 1, 2020.

Senate Bill 95 Public Adjusters – Disbursement of Insurance Settlement Payments

(Con’t on page 29)
(Con’t from page 28)

This MIA departmental bill provides that a public adjuster is obligated to disburse insurance settlement payments received on behalf of the insured within 15 days after the date of the payment from an insurer. The Big I Maryland supported this legislation as a good consumer protection measure. The effective date would be October 1, 2020.

**Senate Bill 97 Private Passenger Motor Vehicle Liability Insurance – Protests – Consumer Complaint Portal**

This MIA departmental bill allows a consumer of private passenger motor vehicle liability insurance to file electronic protests of cancellation, nonrenewal, or reduction in coverage as well as premium increases with the MIA through department’s website. Additionally, the legislation reduces from two to one the number of copies of a notice of proposed cancellation or nonrenewal of a policy or a reduction in coverage under a policy that a consumer must send to MIA if a consumer elects to file a protest by mail.

The Big I Maryland supported this legislation as a good consumer friendly bill that facilitates the process by which an insured can exercise his/her right to protest an insurer’s action. The effective date would be October 1, 2020.

**Senate Bill 470 Motor Vehicle and Homeowner’s Insurance – Use of Claim History in Rating Policies**

This bill provides that at the time a policy of private passenger motor vehicle insurance is initially issued, an insurer may consider the applicant’s homeowner’s insurance claim history when rating the policy. At renewal, however, an insurer may not increase the premium for a policy of private passenger motor vehicle insurance based on a homeowner’s insurance claim. The legislation also applies in the same way when a policy of homeowner’s insurance is initially issued and at renewal. The legislation would take effect on July 1, 2021.

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**INSURE YOUR BUSINESS AGAINST CYBER ATTACK WITH WINGMAN CYBER**

**THE PROBLEM**

Small- and medium-sized businesses (SMB) across the globe are under cyber attack.

- **43%** of cyber-attacks target small businesses¹
- **50%** reported they had data breaches involving customer and employee information in the past 12 months²

- **$879,582** Average cost to businesses after a data breach due to damage or theft³
- **$955,429** Additional average cost after a data breach due to lost business³

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**THE SOLUTION**

Wingman Cyber Insurance protects you from first and third-party threats including:

- Unauthorized Access
- Cyber Extortion
- Theft
- Business Interruption
- Destruction of Data
- Transmission of Virus or Malicious Code

**WHY WINGMAN?**

Wingman partners with an A+ rated insurance carrier and brokers who are experts in the technology industry, so you’ll feel as secure choosing Wingman as you will when your business is covered. In the event of a breach, Wingman steps in with forensic assistance and post-breach counseling. Securing your business with Wingman is simple.
Ecker’s Agency, Inc. Earns Inner Circle Honor

HUNTINGDON, PA—Ecker’s Agency, Inc., Westminster, Maryland, is one of just 10 independent insurance agencies that has made Mutual Benefit Group’s Inner Circle, based on 2019 business results. This is the fourth time Ecker’s Agency, Inc., has qualified for the honor.

Mutual Benefit Group is a multiline property/casualty insurance company based in Huntingdon. It is represented by 300 independent agents in Pennsylvania and Maryland. Each year, the company presents its Inner Circle award to those agents who provide superior customer satisfaction while establishing a consistent record of profitable growth.

Ecker’s Agency has served the Central Maryland community as well as York and Adams counties in Pennsylvania during its 84 years in business. Led by third generation owner Bradley R. Ecker -President, the agency currently offers personal and commercial property/casualty coverage. Over the years, the agency has developed particular expertise in providing antique classic and modified auto coverage.

Mutual Benefit Group is a regional property/casualty insurance carrier headquartered in Huntingdon, Pennsylvania, that has been providing coverage for autos, homes and businesses since 1908. The company’s insurance products are underwritten through its member companies, Mutual Benefit Insurance Company and Select Risk Insurance Company. Rated A- (Excellent) by A.M. Best, Mutual Benefit serves 70,000 policyholders in Pennsylvania and Maryland through 300 independent insurance agents. The Company has been named one of the Top 100 Businesses in Pennsylvania for the past ten years by Pennsylvania Business Central and has made the list of Best Places to Work in Pennsylvania eight times since 2009. Learn more at mutualbenefitgroup.com.

Learn more about Ecker’s Agency, Inc. at https://eckers-agency-inc.business.site/
Big ‘I’ Receives $2 Million for Trusted Choice® COVID-19 Relief Fund from Progressive

By AnneMarie McPherson

The Big “I” is pleased to announce that Progressive Insurance has donated $2 million to establish the Trusted Choice® COVID-19 Relief Fund in response to the economic and operational challenges the coronavirus crisis has presented to independent agencies.

The grant will be dispersed directly to independent agencies via a Big “I” application process to meet those agencies’ critical needs in the midst of the pandemic. Independent agencies can apply for assistance online at https://www.independentagent.com/trusted-choice/pages/disaster-relief/trusted-choice-covid-19-relief-fund.aspx.

“The Big ‘I’ is so grateful for Progressive’s generosity in leading the charge to support the independent agency community during these unprecedented times,” says Bob Rusbuldt, Big “I” president & CEO, who created a video message (https://www.youtube.com/watch?v=zuLEfVobVvs&feature=youtu.b) to address the donation and new fund. “Big ‘I’ agents and agencies are facing unforeseen obstacles even as they seek to help their clients and communities in their time of need. To see Progressive step up and provide tangible, innovative support is a powerful reminder that we’re all in this together. I know this will make an enormous difference to our agencies as they provide essential services across the country.”

“Other insurance carriers and industry partners are welcome to provide resources to support this new 501(c)(3) charitable fund,” Rusbuldt says. “With the impending loss of premium from retail and service businesses, independent agencies are now beginning to experience what many of their business clients are experiencing. Some agencies are also facing equipment shortages, staffing challenges and other barriers during the coronavirus pandemic.”

The donation is part of Progressive’s broader Apron Relief Program, which will also return approximately $1 billion in premiums to customers; provide an expedited claims experience for insured first responders and health care workers in a car accident; cover health insurance co-pays for Progressive employees’ telemedicine visits and cover costs of coronavirus medical treatments; donate to charities focused on hunger, health and homelessness; and more, according to their press release at https://progressive.mediaroom.com/2020-04-08-Progressive-provides-1-billion-to-customers.

“Our Apron Relief Program is designed to help Progressive assist our four key stakeholders—employees, customers, communities and agents—and doing so ultimately will serve our shareholders as well,” says Tricia Griffith, Progressive president & CEO. “Partnering with the Big ‘I’ in its dedication to serve independent agents gives us the ability to provide grant assistance quickly and broadly to agents across the country who are affected by this pandemic. By sticking together, we’ll come through this stronger.”

In response to the coronavirus pandemic, Progressive has created a resource page on their agent portal, ForAgentsOnly.com, to provide up-to-date information to agencies.
Big "I" Legislative Conference

2020 Legislative Conference Update:
The face-to-face 2020 Big "I" Legislative Conference, originally scheduled for May 13-15 in Washington DC, has been cancelled, and instead, we will be holding a Big "I" Virtual Legislative Conference online the same week. All registration fees for the Legislative Conference will be refunded. The Big "I" Virtual Legislative Conference will feature a variety of informative and important content for Big I members, including addresses by members of Congress; a staff briefing on legislative, regulatory and legal developments on COVID-19; business coverage, agency assistance and other important COVID-19 issues for independent agents and agencies; video messages from select insurance company executives; and virtual announcements on the recipients of the Big "I" advocacy awards and more. Details will be forthcoming. Stay in touch at https://www.independentagent.com/events/legislativeconference/home.aspx.

The Big "I" board meeting will also be conducted via video, and the Executive Committee is contemplating other options for providing information to the board. For other committee, board or task force meetings, each committee/board chair, working with the staff administrator, will determine if they want to hold conference calls or video meetings.

The health and well-being of our members, state association and national staff, and company partners are of utmost importance during these unprecedented times. Please be well and stay safe!

Proud of our Independent Agents

In times of crisis, it’s reassuring to know that our company has a network of industry experts representing us on the front lines.

Thank you for your help in relaying COVID-19 relief measures we have implemented to ease some of the financial burden on our policyholders.
Announcing Vacant Commercial Buildings

By Michael Welch

The Small Commercial program on Big "I" Markets is expanding into the non-admitted market to bring you access to vacant commercial buildings. Coverage is available as a package or monoline, and multiple locations can be considered.

- Commercial forms Basic & Special - ACV / RCV options
- Property Building Limit up to $2,000,000, $2.5m on referral
- Premises Liability Limit up to $1,000,000/$2,000,000
- Coverage B or Other structures coverage available for up to 20% of building value
- Policy term options of 3, 6, 9 and 12 months
- Property qualifies up to 36 months vacancy
- Standard ISO policy forms; Deductibles as low as $1,000
- Cosmetic Renovations approved up to 50% of building value (max $400,000)
- Theft and Vandalism & Malicious Mischief coverage available on Special form
- Additional Insureds added at no cost
- Low minimum premiums to compete with all major markets
- $150 policy fee in all states where allowed
- Inspection fee may apply

While each risk will be considered on its individual characteristics, ineligible risks include schools, golf clubs, warehouses or other large buildings with unsupported roof structures, buildings with pre-existing damage, historical buildings. Partially occupied risks will be referred to the carrier for consideration and a supplemental application will be required.

Photos or physical inspections are required, for new business and renewals, based on the value of the building. If a physical inspection is required, the cost will be included in the quote. Due to current COVID-19 conditions, your insured may be asked to provide exterior and/or interior photos.

To request quotes, log in to https://www.independentagent.com/big-i-markets and select Small Commercial. When in the Request a Quote process you will be prompted to download the required applications. The Small Commercial program is currently accepting applications for vacant commercial buildings from members in AR, AZ, CO, CT, DE, GA, IA, IL, IN, KS, MA, MD, MI, MN, MO, MT, NC, ND, NE, NH, NJ, NM, OH, PA, SC, SD, TN, TX, VA, VT, WA, WI, WY. More states will be available in the near future.

BIM is a licensed surplus lines broker in all 50 states and D.C., and will complete all filings on behalf of your agency. There is no requirement that your agency be licensed in surplus lines.

Eagle Makes It Easy

Need another market option? Look no further... Big "I" Eagle Agency makes it easy. Eagle provides Big "I" members with direct access to preferred personal lines and/or commercial lines with minimal volume commitment. Eagle company partners include MetLife Auto and Home, Safeco and Travelers.

Is Eagle right for your agency? Take our two-minute quiz (https://form.jotform.com/200124015493038) now to see if your agency is ideal Eagle material. (Don't worry, if Eagle's not the correct fit we have other market access solutions for Big "I" members.)

You can learn more about Big “I” Eagle Agency at www.iiba.net/Eagle, or simply schedule a meeting with Big "I" Markets and Eagle Agency Personal Lines Manager Nancy Doherty for a personal introduction to the program.

The Eagle program is available nationwide with the exception of Hawaii.

Contact Nancy Doherty at nancy.doherty@iiba.net to learn more.
The Big ‘I’ Maryland sends a huge ‘Thank You’ to the truckers that continue to bring us our food, goods, medicines and all that we need through this medical crisis.

Honk If You Have Trucking Risks

Trucking risks are the fastest growing segment of the Commercial Auto product on Big “I” Markets. Coverages available include primary liability up to $2M, Motor Truck Cargo & GL, Rental with Downtime, Non-Trucking Liability and hired auto. We can also cover permanently attached equipment, comprehensive only, trailer interchange and physical damage only.

Our A+ rated, admitted carrier can issue state and federal Department of Transportation filings if it insures all the customer’s vehicles used in the business.

Discounts are available in most states for insureds with nine or fewer units who have primary liability coverage and agree to share driving data via their ELD vendor. The amount varies based on their driving history.

Big “I” Markets can provide same-day quotes upon receipt of complete underwriting information. To receive a quote, please provide completed ACORD 125, 127 and 137 applications. Please note, due to specific workflow with the carrier, fleet quotes of 10 or more vehicles may take up 30 days to quote and a separate application is required.

Tips for a smooth application and quoting experience:
- Provide the DOT #
- Advise which state or federal filings are needed
- A copy of the customer’s current GL dec page is required for a discount
- Documentation of the year the business started will be needed for discounts on businesses at least 3 years old
- The radius of operation must be provided
- Current vehicle values needed to quote comprehensive or collision coverage
- Detailed information on what is being hauled will be needed for Motor Cargo coverage
- Note if an ELD device is in use

The commercial auto program for trucking exposures is available to members in all states except AK, HI, MI and MA. Review the detailed checklist on the next page for information typically needed to prepare a complete quote for you.

For more information, contact Claire McCormack at Claire.McCormack@iiaba.net or Gwen Lombardi at Gwen.Lombardi@iiaba.net.

To start a quote request today, log in to www.bigimarkets.com and select “Commercial Auto – Monoline.”

Commercial Trucking Check List

- Effective Date
- Named Insured
- FEIN
- Owner Name (first and last)
- Owner Email

(Con’t on page 35)
(Con’t from page 34)

- Owner DOB
- Phone Number
- Insured Address
- Garaging Address (if different from insured address)
- How many Employees
- Year Business Started
- Detailed Business Description
- List of Drivers (male/female, married/single, DOB, DL #, DL State)
- Vehicle Information (year, make, model, type, use, radius of operation, vehicle value)
- Coverages requested and deductibles requested
- Does the insured have a DOT #? If so, please provide
- Does the insured have current Business Auto coverage? If so, please provide carrier, effective date and how many years with carrier, and loss runs
- Does the insured have current General Liability Insurance? If so, dec page will be required
- Does the insured use or is required to use an ELD?
- Does this insured need any additional insureds or waivers of subrogation listed? If so, will need the information.
- Are there any state or federal filings needed? If so, which ones?
- If you are requesting Cargo Coverage, please give detailed description of what type of cargo is being hauled, and the coverage and deductible amounts requested.

Questions? Contact Claire McCormack at Clairemccormack@iiaba.net or Gwen Lombardi at Gwenlombardi@iiaba.net.
Upgrade your flood experience with three little moves.

Point. Click. Roll.
Point to www.iiaba.net/Flood. Click the “sign-up” tab. Roll your current WYO flood book.

“Our agency was approached by our Selective territory manager, Gregg Porter, to roll a portion of our flood business from another carrier to Selective. We were pleasantly surprised at how easy and seamless the whole process was. Gregg came into our office and basically did all the work for us. We had a high success rate and couldn’t be happier with Selective. Their customer service representatives and underwriters are very knowledgeable, friendly and always helpful. We are very satisfied with the whole experience and with Selective!” – IIABL Member

Selective makes the transfer process easy and profitable for IIABA members. Selective does not use any third party administrators for our processing, which allows us to tailor a transfer plan that works for both you and your customers. Our team will work directly with your agency to collect the required underwriting documents. Then our rollover underwriting team will handle the processing, including sending out a letter to your customers letting them know of the change. We also provide you with a real-time rollover tracking report to help monitor the status of the transfer.

Selective offers competitive commissions and transfer incentives for rollover business.

Selective began writing flood insurance in 1984 and has been the IIABA endorsed flood carrier since 2001. Point, click, roll and join us today!

To discuss transfer opportunities, or to place new flood business with Selective, contact:

Don Burke
National Flood Marketing Manager
Selective Insurance
don.burke@selective.com
(765) 577-0330

Response is everything.
As COVID-19 affects your clients in their everyday life, we see an insurance industry moving quickly in so many areas. As of Tax Day, we have seen changes almost hourly by carriers in the brokerage world and most with an immediate effective date. We have two choices, wait for the storm to end or proactively move to take advantage of some of the aggressive movements in our industry.

**Life Insurance without Exams!**

Knowing the pandemic will cause massive adjustments with P & C accounts as employer’s lay off people and revenues diminish, it is imperative to look to other lines of business to generate revenue. Some carriers are now offering fast on-line process with exams only being required after $2,000,000 in life coverage. A few carriers are going as high as $5,000,000 but with a lot of strings. The client that is working from home may finally have some time to address the gap in coverage and may actually be acknowledging their own invincibility. The process can happen without any face to face interaction, all on-line and now potentially without a face time exam!

**Life sales up 3x’s!**

Last week, one of the carriers that we work with indicated their application count was up 3X their norm!!

Clients that have been moving slowly are now reacting with more urgency to get some protection. The virus has people thinking about their mortality and protection is more on their minds.

Carriers are taking preventative action to minimize their exposure while liberalizing their process. We have seen a few carriers stop taking rated cases and postponing them. We have seen other carriers require a health statement at delivery so that if they became sick during the process they can postpone coverage. If international travel is in the mix...forget it!

Life insurance provides critical protection for businesses and their families. The simple conversation of a policy review to check beneficiaries and to make sure their current protection is aligned with their current exposures has been well received.

Disability Insurance more readily considered!

The virus has also brought the concept of being disabled to the forefront. Some carriers are also able to process all online with no exam up to $10,000 per month in benefits! I have seen clients that talked about the protection six months ago, never moved forward and now are jumping to get their income protection done.

There is an opportunity to better protect our clients with market changes and all can be done without face to face meetings and potentially without in person exams. ZOOM meetings are now conducted multiple times a day! They are a great means to work with clients to show options and strategies all while moving the process forward in a safe manner.

Clients have never been easier to reach, schedule meetings with and have meaningful conversations about protection, business succession issues, keyperson issues and employee retention. Based upon reports from the carriers, we know that clients are buying but, is it from us or an internet site? Let’s make a professional difference in the lives of our clients.

For more information contact Mark Gage, CLU of VP of Northeast Brokerage at mgage@nb-bga.com or call 410-552-9300.
Does the PAP Cover Food Delivery?

By Chris Boggs, CPCU, ARM, ALCM, LPCS, AAI, APA, CWCA, CRIS, AINS

Pizza delivery is not new. Its history goes further back than you think. In fact, the first recorded request for pizza delivery occurred in 1889 – and it was by royalty. While in Naples, King Umberto I of Italy and Queen Margherita of Savoy made the first call. History doesn’t record if it was delivered in 30 minutes or less. Obviously, this first delivery wasn’t by car, so the personal auto policy exposure wasn’t a consideration. But in the modern world, approximately 2 million pizzas are delivered every day on average. If every delivery driver makes 30 deliveries per night, that equates to approximately 91,000 pizza delivery drivers on the road on any given evening.

This doesn’t include any other food delivery drivers such as Chinese food delivery. Nor do these numbers consider the newish food delivery app drivers such as those driving for GrubHub, DoorDash, UberEats and others. If all forms and sources of food delivery are included, there may be well over 100,000 food delivery drivers on the road every night.

For the personal auto insurance industry, food delivery is a big

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exposure. And because so many teenagers and even young adults deliver food as a primary or secondary source of income, agents are regularly asked if the PAP covers food delivery.

Does the PAP extend coverage for food delivery? Well, maybe! Like so many other insurance coverage questions, the answer depends on the coverage language of the individual policy and the specifics of the activity.

Before answering this question, one key fact must be understood – we are not addressing coverage for individuals delivering for any of the app-based food delivery operations (GrubHub, DoorDash, Uber Eats, etc.). This article focuses solely on whether personal auto coverage extends to individuals employed by and delivering for a single establishment (i.e. the 18-year-old working for the local Dominos).

**PAP Exclusions of Interest**

Whether Insurance Services Office's (ISO's) PAP provides liability coverage for food delivery is a function of two exclusions: the business use exclusion and/or the public or livery conveyance exclusion.

**Business Use Exclusion:** The business use exclusion is a non-factor in this discussion. The PAP excludes the use of an auto when being used in an auto-related business (sales, service, repair, etc.), unless the car is owned by the named insured, a family member or others provided the car is listed on the PAP. So, this exclusion can be ignored when discussing food delivery.

**Public or Livery Conveyance Exclusions:** This exclusion may have more teeth. The applicable part of this exclusion reads:

**EXCLUSIONS**

A. We do not provide Liability Coverage for any "insured":

5. For that "insured's" liability arising out of the ownership or operation of a vehicle while it is being used as a public or livery conveyance.

Does an employee delivering food qualify as either public or livery conveyance? If it does, the PAP provides no coverage.

Although generally phrased as one concept, public conveyance and livery conveyance are actually two different threshold requirements (notice the "or" between the terms). Let's define both terms to clarify coverage (or the lack thereof).

- **Public conveyance:** Making the vehicle available for public use (like a common carrier);
- **Livery conveyance:** Carrying persons or property for a fee.

Is food delivery "public conveyance"? No, the vehicle is not available for public use; it is being used by the employee on behalf of his/her employer only, and only for a single purpose – food delivery. Making the vehicle available for public use is what the ride sharing apps and food delivery apps do (thus, there is NO coverage for drivers delivering for GrubHub, etc.). When delivering for a single restaurant, the vehicle is not available to others – thus this wording does not exclude coverage.

However, does food delivery trigger the "livery conveyance" exclusion? The employee is carrying property (namely food), but is the cost of the food considered a fee? And considering fees, does charging a separate delivery "fee" make a difference?

Courts seem to agree that an employee delivering food for his/her employer is not livery conveyance even if a separate delivery fee is charged. In a livery conveyance, the fee is charged by the carrier as their remuneration for providing the service. In pizza delivery or food delivery, the fee is charged by the employer for its own purposes (probably a charge for convenience) and is not necessarily for the benefit of the driver.

Remember, the public or livery conveyance is intended to exclude coverage for those who are in a common-carrier-like business, not the person using their personal auto to delivering property for their employer.

This discussion is a long way around to answering the question of coverage in ISO's PAP. Yes, the ISO personal auto policy provides coverage for food delivery. But this doesn't mean carriers won't try to utilize the public or livery conveyance exclusion if the injury is bad enough.

**Not All Policies are Created Equal**

ISO's personal auto policy has been the focus to this point; but not every insured is extended coverage from policies utilizing ISO language. Some carriers apply proprietary PAP language; this is why agents must read and compare the policies they are selling – not only to each other but to ISO.

One policy reviewed contained this food delivery liability exclusion:

*Any insured using any vehicle while employed in the pickup or delivery of newspapers or magazines, food or any products for the purpose of compensation. This exclusion does not apply to delivery that is incidental to an insured's business.*

Another addressed food delivery this way:

*Coverage under this Part I, including our duty to defend, will not apply to any insured person for:*

1. bodily injury or property damage arising out of the ownership, maintenance or use of any vehicle or
trailer while being used:

b. for retail or wholesale delivery, including, but not limited to, the pickup, transport or delivery of magazines, newspapers, mail or food;

Unless the agent reviews and compares policy wording, the fact that food delivery is excluded in one policy but not another could create an unanticipated coverage gap that may be costly for the insured – and ultimately the agent.

Does the PAP Extend Coverage for Delivery?

Back to the original question, does the PAP extend coverage for food delivery? It depends. It depends on the employment relationship. Does the driver work for an employer (the 18-year-old working for the local pizza place); or are they delivering for an “app-based” delivery service (GrubHub, DoorDash, Uber Eats, etc.).

Coverage depends on the policy language.

• If the driver is an “app-based” driver, the answer is easy, there is no coverage extended from the unendorsed PAP. (Although not the subject of this article, ISO does not currently offer endorsements specific to app-based food delivery – so this exclusion cannot be altered. ISO promulgated two “ride sharing” endorsements, but there are no food delivery endorsements.)

• If the driver works for a single employer delivering that restaurant’s food, whether or not coverage exists is a function of the PAP. If ISO or similar wording applies, coverage is extended for food delivery. However, non-ISO wording found in proprietary forms may specifically exclude coverage.

Form language is key.

Final Word

Assumptions are always dangerous, but they are especially dangerous when insurance contracts are involved. Assuming that any policy is the same as any other policy is not only dangerous, it’s reckless. Such an assumption puts the insured in jeopardy and opens the agent to an errors and omissions claim.

Read and compare policy forms! Explain the differences to the insured and allow them to make the decision. But never, under any circumstances, assume that there are no coverage differences between or among policies.

Remember, although premium is a factor, insureds buy insurance to have coverage at the time of a claim. Ultimately, insurance is about coverage, not premium.

Christopher J. Boggs, CPCU, ARM, ALCM, LPCS, AAI, APA, CWCA, CRIS, AINS, is the Executive Director of the Independent Insurance Agents and Brokers of America (Big "I") Virtual University. His current duties involve researching, writing, and teaching property and casualty insurance coverages and concepts to Big "I" members and others in the insurance industry.

Boggs is a regular speaker at industry events, speaking for groups such as the National Association of Mutual Insurance Companies (NAMIC), the National Society of Insurance Premium Auditors (NSIPA), the American Association of Managing General Agents (AAMGA), the Institute of Work Comp Professionals (IWCP), and the CPCU Society.
You're Suddenly Managing Remote Teams, Now What?

By Aggie Alvarez, Caliper Corporation

Before the pandemic 69% of businesses already allowed employees to work from home, at least occasionally. Now, most organizations have no choice but to ask everyone to work on remote teams until further notice. While many businesses were already headed towards more remote employees, no one knows how things will ultimately play out in this uncertain time, and it could mark a decidedly different future for the workplace.

The unexpected onset of Coronavirus left many employers unprepared for a company-wide move to the home office, and many are finding it challenging to stand on solid ground while we all get used to the new normal — at least for the time being — so, what should businesses focus on today for their remote teams, and what should they be thinking about for the coming weeks?

What Needs to Happen Today

1. Get Them Set Up At Home
First and foremost, do everything you can to make sure your employees can work comfortably at home, safely practicing social distancing with as little need as possible to leave home to complete their work. Make sure they have the equipment, technology, and set up at home to accomplish all their normal work. Make sure they have a way to join video calls and instant message their team as needed to keep the normal lines of communication flowing.

2. Understand Your IT Needs
Is it critical that they have their calls forwarded? Do they need a special network connection? Figure out what your technological limitations are for setting up a remote team, what you can solve, and where you need to get creative. If you can’t get a landline hooked up, can you forward their calls? If they need a VPN to access their workstation remotely, how can you make it faster and easier for that to happen on a large scale?

3. Set Expectations
Make sure managers, teams, and individuals have a clear understanding of the new telework expectations: Will you have daily video check-ins? Will they send their daily agenda each morning? What’s going to be the standard method of communication? Set rules and expectations up front so that nothing falls through the cracks and no one has to play catch up later.

4. Communicate, Communicate, Communicate
Remain visible, even when no one’s at the office. Employees will be looking to their leaders to signal how things should operate, set the tone, and pick up queues for how nervous, excited, or frustrated they think they need to feel. So keep communication lines open — because there will be lots of questions! — and remain optimistic that this will be a productive time and an opportunity for some unique remote team-building.

What Needs to Happen Tomorrow

1. Keep Your Employees Engaged
Loneliness is a big problem for remote workers, and those who aren’t used to staying home every day might find...
the transition difficult after a few days, and after weeks, they're at risk for burnout. Isolation is difficult, so check in with employees regularly to make sure their needs are being met, even at a distance. Continue your regular conversations, have employees join meetings via video so they can see their coworkers, and discuss the obstacles and roadblocks they run into as they spend more and more time outside the office.

2. Encourage Virtual Socialization
We’re all in this together, so use this as an opportunity to strengthen remote team bonds. Schedule virtual coffee breaks, virtual happy hours, and get some creative Slack channels going. Encourage employees to share tips and photos of how they’re staying occupied during isolation: What new recipes are they trying out? What books are they reading? How far have they gotten on that puzzle? We’re all going through a shared experience, so encourage teams to relate to connect.

3. Anticipate Sick Leave
No one might be sick today, but it’s important to remember that we’re in the midst of a pandemic, and sickness is inevitable. Have a plan in place should there be sudden sick leave with team members out 1-2 weeks time recovering. How will you prepare teams to be ready on short notice? What tools and resources do they need in order to seamlessly pick up work

4. Be Prepared for the Long Haul
At this moment, no one is sure how long things will last, but some scientists believe we might be confined to our homes for a few months rather than weeks. And it’s likely to have lasting change on the way we work. Make decisions now for your remote teams that are sustainable and scalable instead of looking for a quick fix. By treating this like it’s long-term, you’ll make more sound business decisions today, and see better results tomorrow.

In the meantime, take this opportunity to check in with your employees. Motivation, consistency, and clear communication are key to success during this time, and individuals will be leaning on their managers, coaches, and leaders more than ever.

To help facilitate conversations, gauge motivations, and help each employee find their productivity through their natural abilities and inclinations, the Caliper Essentials for Coaching helps managers and leaders but the right tools into the right hands, and can help make your transition to remote teams smoother and more successful.

Reach out to our experts today to learn more about the ways Caliper can help your business stay strong and productive through uncharted waters. Contact Caliper at https://calipercorp.com/work-with-caliper/?referringurl=.

JUNE 1-5, 2020
Property & Casualty Pre-Licensing
Joseph Conroy, ACSR
9:00 AM - 4:30 PM

JUNE 9, 2020
E&O Risk Management: Meeting the Challenges of Change (Part 1)
Stanley Lipshultz, CPCU
9:00 AM - 12:00 PM

JUNE 9, 2020
E&O Risk Management: Meeting the Challenges of Change (Part 2)
Stanley Lipshultz, CPCU
1:00 PM - 4:00 PM

JUNE 10, 2020
Commercial Automobile Insurance
Don Dudey, CPCU
9:00 AM - 3:30 PM

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ADDITIONAL RESOURCES

COVID-19

The Small Business Owners Guide to the Cares Act

InsurBanc Paycheck Protection Program (PPP) Webinar:
https://register.gotowebinar.com/recording/5429056771442866689

How the Care Act Impacts Big I Members and their Clients

Maryland Specific Coronavirus Updates-Department of Health
https://coronavirus.maryland.gov/

Maryland Insurance Administration COVID19 Resource Center
https://insurance.maryland.gov/COVID-19/Pages/default.aspx

Care Act Analysis

NCCI Workers Compensation Coronavirus FAQs
https://www.ncci.com/Articles/Pages/Insights-Coronavirus-FAQs.aspx

NAIC Coronavirus Resource Page
https://content.naic.org/naic_coronavirus_info.htm

Work from Home Best Practices Guide

Johns Hopkins University & Medicine Coronavirus Resource Center
https://coronavirus.jhu.edu/

Coronavirus (COVID-19): Does Business Income Respond?
- Watch immediately See: https://register.gotowebinar.com/register/2458768989890218510

Coronavirus, Auto Exposures, and Food Delivery
Chesapeake Employers helps you protect your employees and your bottom line. For 2020-2021, we declared a $20 million corporate dividend for qualifying policyholders. We’re also reducing our rates—nearly 7%—which means Maryland businesses of all sizes can benefit from the services of a workers’ comp specialist, for less.

More good reasons to work with the state’s largest writer of workers’ compensation insurance.

Connect with your local agent for a coverage quote today or visit CEIWC.com