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In This Issue

4  Chairman’s Message
5  What You Do and Don’t Do When a COVID-19 E&O Arrives
7  COVID-19 Update and Checklist for Insurance Professionals
14  The Big I Maryland 2020 Legislative Session Follow Up
21  Tidbits
24  Meet the New Commissioner
26  Life Corner
27  Markets
31  Education Corner
32  Helping Customers Understand the Realities of Flood Exposure
33  Pandemic Risk Insurance Act Introduced in House
34  ABEN Webcast Schedule

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Dear Members and Associates,

Over the last 48 years of my insurance career, there have been many “special” moments. This past year serving as Chair of the Maryland Big “I” has been one of the most rewarding of those many moments.

During my time on the Board, I found being involved at the state level has given me a much greater appreciation for what our Association does on a “day to day” basis. In particular, I learned more about what the Big “I” stands for nationally and also saw first-hand what gets accomplished locally on your behalf.

Our voluntary Board comprised of members from around the state along with Rebekah and her staff oversee the delivery of many great services in education, training, and agency operations. In addition, we continually monitor numerous state and national legislative issues that affect our industry. This “joint effort” insures that members and associates always receive real value for your membership in Maryland’s Big “I”. The time I spent in various Board positions after starting as a Delegate at Large has been a great experience. One that I will never forget. I encourage all members to consider volunteering for service on our association Board – you will be glad you did!

Last words...

Since March, COVID-19 has been changing our lives and the livelihoods of the many small businesses we serve. Please do all you can in your communities to support our local businesses as they re-open. They need our help to survive.

Also, despite the challenges we face from the Pandemic, now is a great time to encourage young people to pursue an insurance career. A recent article I read in National Underwriter “Property Casualty 360” affirmed our industry will need over 400,000 new employees in the next 3 years as Baby Boomers retire.

I would ask all members with young agents or candidates that have an interest in the insurance industry to consider joining our Young Agents Committee (YAC).

It is a great group of professionals, age 40 and under, that are interested in programs for career development and doing volunteer work in the community.

As I say “Farewell” as your 2019-2020 Chairman, I wish to thank my fellow Board members for their time and commitment over the past 12 months.

Your insight and collective efforts have helped move our association forward on many projects that will benefit all members.

Thank You!
COVID-19 has changed the agent’s errors and omissions (E&O) landscape for the next several months. While we can’t predict the number of agents who may have E&O claims at this point, the odds are high that if you don’t get sued, an agent you know will.

Proper actions and reactions when threatened or served with an E&O suit arising out of this pandemic are of utmost importance. Once a threat is made or a suit filed, the allegedly improper act or omission has already occurred - don’t worsen the situation by making bad decisions. Remember these “dos” and “don’ts” if you find yourself in an E&O situation.

Let’s start with the first MAJOR don’t:

Do not overreact to the claim.

Understand that there is no shame in being accused of an error or omission, especially given the weird aspects of this COVID-19 situation. Even the best practices and procedures may not protect the agency right now. Anger, either toward yourself or others, is counterproductive and serves only to increase the weight of the situation.

Do Not Do These Things

Do not, under any circumstances, alter the client's file. What’s done is done. Making changes creates the appearance that there is something to hide. Accept what is there and prepare for what comes next.

Do not discuss the claim with anyone other than the claims representative, defense attorney or any other member of the office directly involved in the claim. The only individuals who need to be involved in any discussion related to any E&O claim are those personnel directly related to the care of the plaintiff’s account and those defending the agency.

Do not make any admission of liability or wrongdoing; and do not offer or make payment.

Do not provide any written or recorded statement to the plaintiff without your E&O carrier’s claim representative present.

Do not allow inspection, copying or removal of client files and records without consulting with your E&O claim representative.

Do not try to manage the claim on your own. The E&O carrier has more experience and is better able to manage the process. Allow those with more experience and resources to manage the suit.

What to DO

What should your immediate and ongoing "do's" be following an E&O claim?

Notify the E&O carrier of a "claim" or potential claim immediately. Provisions in the E&O policy require the insured to notify the insurance carrier as soon as practicable following the receipt of a "claim" or any indication of a potential claim.

Listen for "trigger" words or questions. Some words, phrases or questions just don't seem normal, in fact, they sound like something a lawyer would say. If your client uses terms like “duty,” “breach” or “breach of duty,” assume they have

(Con’t on page 6)
been talking with a lawyer. Also pay attention to the questions that are asked, does it seem like they are trying to trap you into admitting something? Notify the carrier of a potential claim if words or phrases seem to indicate a lawyer is already involved.

Assume every conversation is being recorded. Regardless of the legalities of recording a conversation, assume your answers are being recorded. Pick responses carefully.

Gather and organize all pertinent records related to the insured and the situation. But when doing this, remember the second "don’t" - don’t alter them. The claim representative needs all the information to conduct an investigation and prepare and provide a proper defense.

Write down all the information known about the incident surrounding the claim. Each member of the team directly related to the client and the incident giving rise to the E&O claim should record all they can remember about the incident or incidents on which the claim is based. This should be a factual narrative statement in chronological order. Leave out opinion and emotion. This is the time to act like you are talking with Joe Friday from Dragnet – just the facts. Who, what, when, where and why is all that should be contained in these accounts.

Assign one person as the claim leader. One person should be assigned the duty to report, track and manage all COVID-19 E&O claims within the agency.

Cooperate with the E&O carrier. This includes providing information and facts that look bad for the agency. Hiding or hedging certain aspects of the facts surrounding the situation on which the claim is based creates distrust between you and your insurer; it also makes the agency look guilty. The insurer is on your side.

Make sure you comply with all policy conditions and requirements. If the agency fails to comply with all E&O policy conditions, coverage may be jeopardized.

Hopefully, You Will be Spared

Hopefully, you and your agency will not need this information. If not, that’s great. But given the uncertainty of this current situation, it’s better to be prepared.

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COVID-19 Update and Checklist for Insurance Professionals

By Patricia McHugh Lambert, Esquire

Sometimes it is hard to imagine what the world was like before the COVID-19 crisis. There were crowd filled events, worker filled offices and customer filled restaurants and bars. Those former normal days are long gone, and anyone who thinks that business will revert back to the prior norm is surely mistaken.

There is no more ‘normalcy.’ This is particularly true in the world of insurance. Having read over 200 articles in the last several weeks, it is clear that the impact of COVID-19 on the legal field is both vast and developing. In navigating this new territory of COVID-19, it is important for insurance professionals to spot issues and to understand their potential impact on specific claims and cases.

With that goal in mind, this article is to set forth a checklist of the many COVID-19 issues that raise insurance related issues. The intent is not to do a deep-dive into these issues but to make insurance professionals aware of the range of issues raised by COVID-19.

Business Income and Civil Authority Coverage

Every insurance professional is well aware of the new business interruption claims that are being made across the country for business interruption insurance. Some of these claims relate to interruptions caused by alleged direct contamination of premises by the virus. Others more typically relate to executive orders issued by governmental officials that limit or restrict access to insured premises. These suits generally claim that the insurer should pay out under the “extra expense” coverage in the policy for expenses the insured has incurred, to minimize the suspension of its business and/or for loss of business income because of the governmental prohibitions.

According to various complaints filed, the Insurance Services Office drafted a new endorsement in 2006 that states that an insurer “will not pay for 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.” Many insurers adopted this new endorsement, but many, reportedly including Chubb and Westchester, chose not to put this endorsement into policies. For these insurers, the battle line will be whether the standard, unendorsed property insurance policies cover business interruption claims related to COVID-19.

With respect to Business Interruption Coverage, an insured will need to generally prove direct physical damage or, in some jurisdictions, some kind of direct physical impact to the premises. The exact parameters of what this requirement means in the context of COVID-19 will be litigated vigorously through the courts. Insurers are expected to argue that the presence of a virus on the insured’s property does not constitute direct physical loss or damage to property. Insureds will argue that the presence of a virus constitutes a damage and may rely upon past cases dealing with odors. See, for example, Gregory Packaging, Inc. v. Travelers Property and Casualty Company of America, No. 12-cv-04418, 2014 WL 6675934 (D. N. J. Nov. 25, 2014) (concluding that ammonia release physically transformed the air); see also Motorists Mutual Ins. Co. v. Hardinger, 131 Fed. Appx. 823, 825-27 (3d

(Con’t on page 8)
Cir. 2005) (finding that bacteria contamination constituted a "direct physical loss" when it rendered the home uninhabitable); see also Western Fire Insurance Co. v. First Presbyterian Church, 437 P.2d 53 (Sup. Ct. Col. 1968) (holding that a church vacated by a local fire department because of gasoline fumes had incurred “direct physical loss”). Insureds may also argue that COVID-19 is a ‘natural disaster’ and like other natural disasters there should be coverage for such losses. Insureds may also attempt to use cases where the presence of asbestos was considered property damage as support for their COVID-10 business interruption coverage claims.

For Civil Authority Coverage, courts will have to consider whether businesses were closed because access was forbidden by a governmental order or whether the businesses closed because of a governmental suggestion, as opposed to mandatory restriction.

See, e.g., Cleland Simpson Co. v. Firemen’s Ins. Co., 11 Pa. D. & C.2d 607(Ct. of Common Pl. 1957), aff’d without opinion, 392 Pa. 67, 140 A.2d 41 (Pa. 1958) (finding no coverage because the city ordered businesses to close to prevent fire; there was no physical loss or damage); and see also Kean, Miller, Hawthorne, D’Armond McCowan & Jarman, L.L.P. v. Nat’l Fire Ins. Co., No. 06-770-C, 2007 WL 2489711 (M.D. La. 2007)(holding that coverage was not available for business losses suffered as a result of advisories and recommendations issued by the governor and other authorities “asking” and “encouraging” residents to stay off streets immediately before Hurricane Katrina coming ashore).

Courts will have to also decide whether there was physical damage to property, other than the insured property, which was caused by a Covered Cause of Loss. There has been extensive litigation in the contexts of hurricanes and riots over the degree and nature of damage to other property. Sloan v. Phoenix of Hartford Ins. Co., 207 N.W.2d 434 (Mich. App. 1973); Southlands Bowl, Inc. v. Lumberman’s Mut. Ins. Co., 208 N.W.2d 569 (Mich. App. 1973); Allen Park Theater Co., Inc. v. Michigan Millers Mut. Ins. Co., 210 N.W.2d 402 (Mich. App. 1973); Dickie Brennan & Co., Inc. v. Lexington Ins. Co., 636 F.3d 683 (5th Cir. 2011).

The main thing that insurance professionals should know is that these types of claims have many layers of coverage issues.

**General Liability Coverage**

Based upon the articles reviewed, there are likely to be third-party bodily injury claims made against businesses such as grocery stores, airlines, medical facilities and nursing homes. These claims raise a number of coverage issues.

First, commercial general liability policies provide coverage, in accordance with the policy terms, for bodily injury caused by an ‘occurrence.’ Under many policies, ‘occurrence’ is defined as “an accident, including continuous or repeated exposure to substantially the same general harmful conditions.” The issue for these types of claims, in the first instance, is whether the injury claimed was caused by an occurrence. A resolution of this issue will be based upon the allegations of the claim.

In addition, some insurers may try to force fit the Fungi/Bacteria exclusion to apply to coronavirus claims. With COVID-19 being a virus and not fungi/bacteria, it is doubtful this exclusion will be deemed to apply to exclude coverage for most claims under the traditional policy language.

Some insurers may argue the application of the pollution exclusion which excludes coverage for injuries arising directly or indirectly out of pollution. As noted by some commentators, whether viruses constitute a pollutant is “not well settled.” The law of each specific jurisdiction and the allegations of the claim are factors to determine whether this exclusion is even facially applicable.

**Homeowner’s Policies**

There are likely to be claims made against homeowners that violated executive orders. Among other claims that may be made are claims against homeowners who hosted parties in violation of such orders and then numerous guests became ill with coronavirus. While there may be coverage exclusions for such claims, insurers should expect that such claims will be made.

In addition, regulatory and civil complaints are being filed against insurers with respect to ALE issues raised by the pandemic and the stay-in-place orders. Expenses and needs of insureds may differ during the pandemic requiring an insurer to consider such issues in the evaluation of such claims.

**Regulatory Issues**

Many regulators have issued bulletins and regulations due to the pandemic. Insurance professionals need to be aware of those items, particularly those relating to claim deadlines, unfair claim settlement practices and policy interpretations.

**Force Majeure Events**

Prior to this most recent pandemic, few lawyers and fewer claims professionals had seen the actual invocation of a force majeure clause. The issue raised by such clauses is whether a party to a contract,

(Con’t from page 7)

(Con’t on page 9)
may, under certain circumstances, be excused from performing when the failure to perform is caused by a ‘fortuitous event’—an event that makes it difficult or impossible to perform contractual obligations. These clauses will impact many aspect of claims (including calculation of damages issues in business interruptions claims), as well as impacting relationships between insurers and their own vendors.

The state laws vary considerably as to what will be considered a force majeure event. New York, for example, is reported to be one of the toughest jurisdictions in which to invoke the use of force majeure, with the proponent of force majeure having to show that it was virtually impossible to perform the duties in question. Other states such as Florida, Delaware and California may not be as strict on the impossibility of performance issues and may require only impracticability of performance. For a sampling of cases, see Rembrandt Enterprises, Inc. v. Dahmes Stainless, Inc., No. C15-4248-LTS, 2017 WL 3929308 (N.D. Iowa 2017) and the other case cited below. And, many force majeure clauses specifically include “epidemic” or “pandemic” in its laundry list of qualifying events. See Aukema v. Chesapeake Appalachia, LLC, 904 F.Supp.2d 199, 206 (N.D. N.Y. 2012) (“term ‘force majeure’ as used herein shall be Acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, wars, blockades, riots, epidemics, lightning, earthquakes, explosions, accidents or repairs to machinery or pipes, delays of carriers, inability to obtain materials or rights of way on reasonable terms, acts of public authorities, or any other causes, whether or not of the same kind as enumerated herein, not within the control of the lessee and which by the exercise of due diligence lessee is unable to overcome”) (emphasis added).

The key to the applicability of force majeure will likely concern the specific restrictive language in executive orders. Where there has been a specific and unequivocal shut down of businesses by government orders, those orders are likely to allow the invocation of force majeure. However, many states will require strict compliance with the terms of the clauses and prompt notice of the clause’s invocation. See, e.g., Three RP Limited Partnership v. Dick’s Sporting Goods, Inc., Case No. CIV-18-003-RAW, 2019 WL 573413 (E.D. Okla. 2019), quoting Sabine Corp. v. ONG Western, Inc., 725 F. Supp. 1157, 1168 (W.D.Okla.1989) (“failure to give proper notice is fatal to a defense based upon a force majeure clause requiring notice”).

The key then to this issue, like so many other issues, is to gather executive orders, review local laws, and evaluate whether performance was impractical or impossible.

In considering such issues, past history needs to be reviewed. For example, Florida courts have a reported history of the applicability of force majeure clauses in the contexts of hurricanes. This past history will likely have strong precedential value to courts which will be considering how these clauses apply to the COVID-19 crisis.

As there is no ‘standard’ force majeure clause, the specific wording of a clause will need to be carefully considered. And, of course, there is the issue of whether force majeure can be invoked when there is no such provision in the contract. See Bayou Place Limited Partnership v. Allepo’s Grill, Inc., No, RDB-18-2855, 2020 WL 1235010 (Mar. 13, 2020) (discussing Texas law).

**Employment Issues**

COVID-19 has created a situation whereby many individuals, who used to travel every day to the workplace, are now working remotely.

With the new normal for employees being working from home, many employers are struggling with how to deal with the myriad of laws and regulations that apply. Among other things, work from home issues raise issues as compensability under workers compensation policies for injuries that occur while working at home.

There are serious legal and causation questions as to whether or not COVID 19-related illnesses can be the subject of workers compensation claims. The key issue for such claims is likely to be whether the illness can be proven to have arisen out of the course of employment. In the past, the insurance industry has seen claims like MERSA and hepatitis, both viral infections, to be compensable under workers compensation laws. Some state executives and regulatory authorities have issued directives relating to the provision of coverage and/or benefits afforded to certain workers, primarily first responders.

Additionally, employment practices dealing with wage hours, FMLA, Emergency Sick Leave Act and Emergency Family and Medical Leave Expansion Act, and a variety of state and federal laws are likely to be raised by employees. Increased firings, furloughs and layoffs prompted by economic concerns are likely to spur the increase of wrongful termination suits. In addition, with the lessening of restrictions, employers are likely to have some sort of biometric or other type of testing and/or self-reporting that raise significant privacy issues.
Cybersecurity and Privacy Issues
As noted above, the pandemic has created a situation where more employees are working at home. Where employees are working remotely, cybersecurity can become compromised when employees use unsecure personal laptops, notebooks and cell phones.

Constitutional Issues
The COVID-19 pandemic has caused the issuance of numerous executive and judicial orders. These orders have, among other things, restricted civil liberties and extended statutes of limitations. The reach of such orders have raised serious constitutional issues, from rights of privacy to separation of powers. It can also be anticipated that some extension of deadlines orders, which have allowed insurers to have additional time to respond to demands and claims, may also be contested as beyond the scope of the authority of the issuing authority.
In addition, to the extent that legislation attempts to change contractual terms retroactively, there are issues raised as to whether such changes violate the Contract Clause of the United States Constitution which states: “No State shall . . . [pass any] Law impairing the Obligation of Contracts.” This type of analysis may be of particular importance to insurers who, as discussed below, face significant legislative challenges. This type of analysis may also impact others that face legislative changes such as landlords, employers and health care providers.
While the law in this area is complex, the two key issues as to whether a legislative change that is retroactive violates the Contract Clause are: (1) Is there a substantial impairment of a contractual right caused by the legislation?; and (2) If so, does the impairment serve a significant public interest/purpose? To the extent that any issue is raised that concerns retroactivity, the constitutionality under the Contract Clause should be considered.

Some recent suits have also (Con’t on page 11)
targeted state officials who have enacted and/or enforced stay-in-place legislation. Such suits may raise issues under the Eleventh Amendment of the United States Constitution, state constitutions and principles of sovereign and/or legislative immunity.

**State Legislation**

During this pandemic crisis, numerous commentators have cited United States Supreme Court Justice Louis Brandeis who described the 50 states as laboratories of democracy. Presently, some of these ‘laboratories’ are attempting to require retroactive coverage, particularly for business interruption losses caused by COVID-19. Among the states that are reported to have introduced or are considering such legislation are: Massachusetts, New Jersey, New York, Ohio, Pennsylvania, and South Carolina. If such legislation is successful, it will have serious long range consequences for insurers and potentially state guarantee funds if insurers, unable to absorb such losses, become insolvent.

**Federal Legislation**

There is expected to be a Congressional battle as to whether to shield businesses from civil lawsuits related to COVID-19. This legislation, if passed, could provide a shield to employers and business owners. Whether the legislation will pass and provide some safe harbor provisions is debatable at this time.

**Construction and Building Services**

It is anticipated that cleaning services and cleaning product companies will face claims, particularly if such companies have made representations regarding their practices and/or the safe and health of the work environment. In addition, there are likely to be delayed claims caused by the pandemic.

**Professional Malpractice Claims**

It is, of course, anticipated that there will be an increase in the number of malpractice claims related to this pandemic. Misdiagnosis and improper practices claims are likely to be made. Some health care segments, such as the nursing home industry, are likely to be particularly hard hit by claims. In addition, with the rise of telehealth during the pandemic, there will be issues raised as to the applicable standard of care, particularly since there is a patchwork of federal and state rules governing telehealth. Failure to provide appropriate care to those incarcerated may also be an area where additional claims can be expected.

Furthermore, it can be anticipated that there will be other industries targeted for malpractice claims. Attorneys that failed to include force majeure clauses in their contracts could face malpractice claims. Insurance brokers that did not advise insureds about exclusions for viruses might also face such claims (particularly if it can be shown that such coverage could be found with other carriers).

**Third-Party Claims**

Because of the anticipated number of COVID-19 deaths, there is likely to be an increase of third-party claims. When there is a viral illness such as coronavirus, there can be multiple sources of contamination and assumed responsibility. Claims professionals will have to give careful thought as to whether such alternative sources should be investigated and possibly the subject of a third-party claim.

With respect to third-party liability, claims professionals should be aware of the fact that there are new technologies that must be explored, including contact tracing and genetic testing.

**Premises Liability**

Businesses owe a duty of care to those who come onto their premises, particularly to protect them from foreseeable harm. If business owners do not implement sufficient protections when they reopen their businesses after a stay-at-home restriction is lifted, they could be sued, perhaps successfully, for anyone that becomes ill with COVID-19 post-opening. Among other things, there will be a tug and pull between the economic need to open a business and the need to follow the changing recommendations of the Center for Disease Control and other federal and state advice.

Causation will be a key issue for such lawsuits and may require specialized testing and the search for alternative sources of contamination.

**Damages**

In a traditional liability case, economic damages are a significant issue. With COVID-19, traditional analysis of such damages might need to be reconsidered. For example, the economic downturn and furloughs may require the reconsideration of prior economic reports in individual cases, because once tried and true assumptions may no longer be accurate.

**Reinsurance Issues**

As noted above there are many states that are considering legislative changes to retroactively mandate coverage for business interruption claims related to COVID-19. To the extent that such legislation passes, there are significant reinsurance issues.
because many, if not most, reinsurance contracts/treaties parallel with the underlying coverage. The language of the legislation will be critical to the issue of reinsurance coverage.

Property Owners, Developers and Managers
Property owners, developers and managers are likely to face claims relating to COVID-19. These claims may relate to how a landlord deals with tenants during the COVID-19 crisis. Commentators have mentioned prospective claims relating to evictions, defaults, and contamination in multi-tenant facilities. Additionally, there are risks relating to reopening and the possibility of renewed contamination.

Not only do these types of claims raise issues with respect to coverage and liability, they should raise concerns respecting underwriting. In light of the fact that pandemics can no longer be viewed as non-anticipated, underwriters may need to review whether potential insureds have anti-contamination plans to deal with viral risks.

Disability Insurance
Those who have contracted coronavirus and are unable to work should be able to make a claim for disability benefits under most typical disability policies. But there is a question as to whether those who become infected but are able to work because they are quarantined can recover under a disability policy.

Recovery under a disability policy may depend on the particular language of the policy. For example, if the policy does not distinguish between inability to perform because of ‘physical factors’ (e.g., the missing of a limb or digit) and ‘social factors’ such as a required duty to refrain from working due to a medical condition.

D & O Claims
It is likely that there will be claims against officers and directors relating to an alleged breach of their fiduciary duties related to coronavirus. Under such circumstances, a D&O policy could potentially respond to such claims.

There will, of course, likely be coverage issues relating to such claims. Generally, a bodily injury claim is covered by a CGL policy, not a D&O policy. However, where the D&O claim relates to issues regarding decisions made during the pandemic, there could potentially be coverage for such claims.

Marine Cargo Insurance
Like with so many of the other coverages discussed in this article, whether a claim for coverage can be made will relate to the specific nature of the claim and the specific provisions of the policy. For example, a claim that relates to perishable goods being damaged because of a delay in delivery caused by the pandemic might be covered. A claim relating to a loss of market would likely not be covered.

New Policy Forms
As reported, ISO responded to the coronavirus outbreak by offering two forms for optional use, both relating to limited business interruption coverage for civil authority orders related to coronavirus.

Further form changes are likely to occur based upon the outcome of the myriad of coronavirus issues that will make their way through the courts.

Changes in the Courts
From the lowest level of state courts to the highest level of the United States Supreme Court, this pandemic has changed the way that litigants and attorneys participate in hearing, trial and oral arguments. Where courts used to require attorneys to appear in person, attorneys are now allowed to appear by telephone or via video conference. These changes are likely to remain with us to some extent after the pandemic ends.

In addition, some courts have changed procedural rules, including rules relating to the expiration of statute of limitations. It is likely that these rules will be tested in future cases, particularly as some have suggested that emergency rules enacted by the court go far beyond their granted enumerated powers. Such litigation will likely focus on state constitutions and statutes.

Depositions and examinations under oath have also changed during the pandemic, through the use of video conferencing. One wonders whether video conferencing will become more of the norm after people return to the office. Claims professionals and attorneys will need to consider the efficacy and costs of video depositions in particular cases. No longer will in person depositions be the standard.

Experts
All of the above issues should cause insurance professionals to realize that there will be a need for experts who can provide solid scientific advice. Among other issues, it is likely that there will be a need for experts to testify in cases regarding the standard of care for applicable industries during a pandemic and causation experts. After all, many of the COVID-19 issues will hinge upon science.

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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.
First and foremost, I hope everyone reading this and their families are doing well. This has been a rollercoaster ride that we would all like to get off as soon as possible.

In my April article, I gave an overview of legislation that had been presented to the Governor for his action. This article is a quick update on the fate of those bills. As a recap, the legislature adjourned on March 18th, three and a half weeks prior to the April 6th scheduled date, due to the COVID-19 pandemic.

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.

The 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.

In the last article, I reported that at the end of session, the legislative leaders advised they intended to come back for a special session in late May. At this point in time, it appears they will not convene again until next January for the 2021 session.

I also reported that on April 7th, the legislature presented to the Governor legislation that was passed in the truncated session, which began the 30 day clock for Governor Hogan 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 did not say he would veto anything with a fiscal impact.

(Con’t on page 15)
The Governor vetoed all legislation carrying a fiscal impact, citing the gloomy economic outlook due to the pandemic related business closures. As for the bills near and dear to the BIG i Maryland membership, the Governor let them go into law without his signature preferring to tend to the matters associated with the State of Emergency over a bill signing ceremony. This maneuver has the same effect as if he signed the legislation.

As a recap, I have provided below a summary of the bills that went into law without his signature.

**House Bill 108 (Senate Bill 175) (Chapter Laws 56 & 57 Respectively) 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 is October 1, 2020.

**House Bill 117 (Senate Bill 165) (Chapter Laws 60 & 61 Respectively) 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 is October 1, 2020.

**House Bill 118 (Senate Bill 125) (Chapter Laws 62 & 63 Respectively) Private Passenger Motor Vehicle 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 because of such claims.

The bills will go into effect on October 1, 2020.

**House Bill 123 (Chapter Law 67) 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
(Con't from page 15)

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 is October 1, 2020.

House Bill 270 (Senate Bill 195) (Chapter Laws 144 & 145 Respectively) 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 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 is 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 the individual's primary place of residence; (2) be 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 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 applies 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.

**Cancelation 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**

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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 (Chapter Law 433) Commercial Law – Rental Motor Vehicles – Collision Damage Waivers

This bill authorizes the lessor of a Class E (truck) rental motor vehicle (e.g., pick-up 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).

This bill will go into effect on October 1, 2020.

Senate Bill 93 (Chapter Law 520) Insurance – Nonresident Insurance Producers – Cancellation

This MIA departmental bill provides that 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 is October 1, 2020.

Senate Bill 83 (Chapter Law 518) 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 is October 1, 2020.

Senate Bill 470 (Chapter Law 521) Public Adjusters – Disbursement of Insurance Settlement Payments

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 is October 1, 2020.


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 is October 1, 2020.

Senate Bill 470 (Chapter Law 558) 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 is effective on July 1, 2021.
Big 'I' Receives $500,000 for Trusted Choice® COVID-19 Relief Fund from Foremost® and Bristol West®

Insurance groups' donation to provide relief to Big 'I' members facing pandemic challenges.

ALEXANDRIA, VA,— The Independent Insurance Agents & Brokers of America (the Big "I") is pleased to announce that Foremost® Insurance and Bristol West® Insurance have donated $500,000 to 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 IIABA’s website.

“Foremost Insurance and Bristol West Insurance stepped up to the plate at a crucial time for independent insurance agents with a $500,000 contribution to the Trusted Choice COVID-19 Relief Fund,” says Bob Rusbuldt, Big “I” president & CEO. “Last week, we had to halt acceptance of new applications to the fund due to an overwhelming need for assistance, but Foremost and Bristol West provided essential funding for independent agents during their time of need. We applaud Foremost and Bristol West for their great collaboration with the Big "I" and their independent agents.”

The fund was established earlier this month after a single generous donation from a carrier partner. Within days, the Big “I” was inundated with more than 2,000 applications from independent agencies in need. The donation by Foremost and Bristol West, members of Farmers Insurance Group®, is crucial to continuing efforts to provide support to Big “I” member agencies.

“Other insurance carriers and industry partners are welcome to provide additional resources to support this new 501(c)(3) charitable fund,” Rusbuldt says. “As businesses across the country suffer the impacts of the pandemic and government mandated closures, independent agencies—many of which are small businesses themselves—are also experiencing the same challenges their clients are facing.”

“We're a long standing supporter of Trusted Choice and the Big 'I,' and we're privileged to help them provide resources to agents so they can take care of their customers and restore their agencies,” said Bob Sadler, senior vice president and head of independent agent operations at Foremost.

Big I Markets 'New Look'

When you visit Big “I” Markets today, things will look a little different. We’re proud of our freshly redesigned appearance and hope you’ll like it, too! You will now log in using the login button (it’s in the upper right hand corner) and be able to reach our chat support from anywhere on the site (look for the speech bubble in the lower right hand corner). We will also soon be adding updated training video content to our library.

Over the past several months we have taken incremental steps towards improving the Big “I” Markets user experience and overall functionality. In January we made email enhancements to

(Con’t on page 22)
user-underwriter communications and February brought additional workflow improvements that deliver BIM messages to your inbox, eliminating the need to login. We also redesigned ‘Two for Tuesday’ to make our weekly updates more succinct and save you time.

Our next mission is two-fold and focuses on the look and feel of both the Big "I" Markets homepage as well as the restyling of the user experience within the Big "I" Markets platform. You will find a more consistent design throughout our platform, as well as upgraded navigation and user dashboard.

We also look forward to sharing the release of our new and improved quoting system with you soon. Stay tuned!

As always, we welcome your suggestions and feedback at bigmarkets@iiaba.net.

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**Huff Insurance Welcomes Commercial Account Manager!**

Huff Insurance is proud to announce and welcome Alexandra (Allie) Nicklow as the commercial account manager to the team. Nicklow is the granddaughter, of the founder W. Ray Huff and the third generation of Huff Insurance. Nicklow will be responsible for developing new commercial accounts as well renewing and managing an existing book of business.

Allie is a recent college graduate from the Perdue School of Business at Salisbury State University. She graduated Cum Laude, with a bachelor’s in business administration and a concentration in management. In addition, Ms. Nicklow has a minor in information systems.

She had been working in the agency since she was 14 during winter and summer breaks from school. She completed her summer internship at Agency Insurance Company in Linthicum, Maryland. Allie obtained her property and casualty insurance license in 2019.

She is currently working on her Commercial Lines Coverage Specialist designation.

Allie grew up in Pasadena and graduated from Chesapeake High School in 2016. She was beater captain of the Salisbury University Quidditch team, and played on the team all 4 years.

“We are thrilled to have Allie aboard, it is great to expand the family business onto another generation, but she also brings new energy to the agency. Her forward thinking and get it done attitude are a welcome addition.” said Nancy Nicklow, President of Huff Insurance.

Nicklow is the 3rd generation of the locally owned family agency
Big "I" Advocates for Liability Protections
By Watt Stewart

As Congress and the Trump administration continue to look for ways to provide relief to businesses, the Big "I" is continuing to advocate for legislation that will help independent agencies across the country. This week, the Big "I" joined a number of business organizations in signing a letter on liability protections that was sent to all members of Congress. As states lift lockdown orders and businesses across the country start to open back up, this important letter focused on the need to enact temporary and targeted liability protections. The letter specifically asks Congress to quickly enact those temporary liability protections for businesses, non-profit organizations and educational institutions that follow applicable public health guidelines against COVID-19 exposure claims. The letter also notes that in addition to being temporary, these liability protections should be limited in scope and preserve recourse for those harmed by truly bad actors who engage in egregious misconduct.

As Congress and the Trump administration continue to consider COVID-19 relief measures, the Big "I" will make the most up-to-date government affairs information available on the Big I Maryland Resource page at https://bigimd.com/Coronavirus/ and in the weekly News & Views e-newsletter.

Wyatt Stewart is Big "I" senior director of federal government affairs.

Glass Named Vice President of Underwriting and Marketing

HAGERSTOWN, MD—Brethren Mutual Insurance Company congratulates Robert “Bob” Glass on recently being named the Company’s Vice President of Underwriting and Marketing. He was elected as a Company Officer at Brethren Mutual’s April 2020 Board of Directors Meeting.

Glass brings over 30 years of insurance experience to his position. He joined Brethren Mutual in 2017 as Director of Underwriting and one year later was promoted to Managing Director – Underwriting and Marketing. Over the last three years, Glass has led the implementation of various underwriting initiatives designed to help the Company grow profitably.

Glass is a 1983 graduate of Mount St. Mary’s University (Emmitsburg, MD) where he earned a degree in Business and Finance. In addition to earning a Master of Business Administration from Colorado State University (Fort Collins, Colorado) in 2004, Glass also holds his CPCU (Chartered Property Casualty Underwriter) and ARM (Associate in Risk Management) professional designations.

Glass resides in Hagerstown, MD.
Baltimore – The Maryland Insurance Administration (MIA) welcomes new Commissioner Kathleen A. Birrane, who joined the Administration on May 18. Commissioner Birrane comes to MIA from global law firm DLA Piper LLC, where she was a partner in the Insurance Sector and Litigation and Regulatory Practice Group. From 2002 to 2007, she served in the Office of the Attorney General as Principal Counsel for the MIA.

“Kathleen has the unique advantage of being able to step into this role with virtually no learning curve, and will be vital in helping the Maryland Insurance Administration navigate legal matters amidst this challenging economic climate,” said Governor Larry Hogan, in his May 1 announcement of Commissioner Birrane’s appointment. Commissioner Birrane replaces Al Redmer Jr., who served as Insurance Commissioner from 2003 to 2005 and again from 2015 to 2020. Redmer is now executive director of the Maryland Automobile Insurance Fund.

“The Maryland Insurance Administration has a well-deserved reputation for fair, rational and transparent regulation,” Commissioner Birrane said. “On a daily basis, the staff of the Administration does a remarkable job of protecting Maryland insurance consumers both with respect to individual concerns and with respect to the health and solvency of companies and the industry as a whole within our state. I am thrilled at the opportunity to work beside them.”

Redmer said Commissioner Birrane was an excellent appointment for moving the agency forward in a challenging time for the state and the country.

“I have known Kathleen for years, and she is a true professional,” Redmer said. “I congratulate her, and I know the Maryland Insurance Administration is in great hands.”
Are you taking advantage of your membership?

**Big “I” Professional Liability**
www.independentagent.com/EO
As a member of your state association, you have access to the Big “I” Professional Liability program, the most respected and comprehensive program in the business, offering a variety of insurance agent’s E&O products that are hand-selected for their superior reputation and exceptional performance. With comprehensive rates and a long-term market, the Big “I” Professional Liability program is properly positioned to meet your professional needs, protecting the future of your agency.

**Big “I” Markets**
www.bigmarkets.com
Exclusively available to Big “I” members, IIABA’s online market access program features specialty/niche coverages, program business and hard-to-find markets. Unlike similar programs, there are no registration fees, no minimums, and you own your expirations. In many states, additional markets are available through Big “I” Eagle Agency.

**Big “I” Flood**
www.independentagent.com/Flood
Big “I” endorsed Selective Insurance has been a Write Your Own carrier (WYO) for the National Flood Insurance Program (NFIP) since 1984 and is one of the top 10 writers of NFIP policies. Selective makes writing flood insurance easy through quality customer service and superior technology. Together, Big “I” Flood and Selective’s relationship helps deliver members an unparalleled flood program by offering state-of-the-art processing, dedicated underwriters (not a TPA call center) and localized flood Territory Managers providing you with the knowledge and expertise needed to effectively speak flood.

**Big “I” Retirement**
www.independentagent.com/Retirement
Big “I” Retirement Services, LLC has partnered with national firms to provide a unique member-only plan that simplifies the plan sponsor’s administrative responsibilities while limiting your fiduciary exposure. The Big “I” MEP 401(k) Plan is sponsored by Big “I” Retirement Services, LLC. It is a multiple employer plan also known as the MEP, which is a great way to lower your overall retirement plan costs while receiving consulting, helpful educational tools and low cost investment options. By partnering with Mesirow Financial, a 3(38) fiduciary and MVP Plan Administrators, a customer service oriented record-keeper, the Big “I” MEP 401(k) Plan is designed to maximize cost savings and our unique association design.

**Big “I” Employee Benefits**
www.independentagent.com/EmployeeBenefits
The Big “I” Employee Benefits program provides full service group benefits for our member agents. Our program is underwritten by The Guardian Life Insurance Company of America, a multi-line insurance group with many years of experience in the business and administered by a dedicated service team just for Big “I” Members. Offering Group Life, Group Short- and Long-Term Disability, Group Dental and Group Vision, the program offers varying lines of coverage options to meet the diverse needs of our members and also provides guaranteed issue with certain requirements being met. Whether you are a new member or an existing one, we quote and add coverage on a continuous basis.

**Big “I” Personal Umbrella**
www.independentagent.com/RLI
RLI’s PUP stands atop the existing homeowner and auto insurance to provide an extra layer of personal liability protection for the insured and their family. With RLI’s PUP program, the insured can maintain their auto or home coverage with any company they choose, provided they agree to maintain the mandatory minimum underlying coverage limits. Limits up to $5 million ($1M in NM) and UM/UIM coverage available.

**Big “I” Home Business**
www.independentagent.com/HomeBusiness
RLI’s Home Business Policy provides affordable coverage for those people who operate small home-based businesses. Insureds often believe their existing homeowners or apartment-dwellers policy will cover any loss or damage to their business equipment, furniture and supplies in the event of fire, theft or other catastrophe, when in fact, those policies usually explicitly exclude coverage for any business exposures on their premises. Partner with us to offer this important coverage to your clients.

**Big “I” Business Resources**
www.independentagent.com/Advantage
Enjoy member discounts for a variety of services to assist in managing your agency. Caliper (personality testing and human resource consulting); DocuSign (eSignature); UPS (express delivery); Mines Press (printing); Virtual Risk Consultant (agency checklists and marketing tools); Hertz (rental car service); Big “I” Career Center (insurance jobs board) and more. Members are also encouraged to connect with Insurbanc, the FDIC insured bank founded by agents for agents. Visit www.insurbanc.com.
As of this writing, we are still seeing changes in how the Life Insurance industry is responding to Covid-19. Pricing on permanent insurance is increasing as we continue in a lower interest rate environment. Some carriers have made policy rate adjustments with very short time frames.

More carriers are now requiring health statements on delivery of contracts. We have also witnessed some carriers bringing a larger group back into traditional exam underwriting because the proposed insured had not seen a doctor in too many years.

Yes, these are challenges but they also create major opportunities. So much of the life insurance process is now available without paper. Certain markets now allow voice signature and others are allowing the clients to complete medical links to facilitate underwriting so there is no human contact needed throughout the entire process! Recently, I have seen some carriers issue million dollar policies in less than one week with no exam and no medical records but merely a phone application and medical link. It is amazing to see our industry respond with technology when it is needed the most.

Carriers are using Human API to quickly secure medical records from portals in record time giving them more comfort to accept the risk without traditional exams. They are using these records in conjunction with MIB, MVR and Rx checks to create an underwriting composite and then make an offer. Offers can be extended both on term and permanent policies with most of the carriers that are handling fluid-less processing. They can even offer coverage at the most competitive underwriting classifications.

Covid-19 underwriting is still new. Recently, while on an investment analysis call, it was mentioned that the estimated mortality of Covid-19 infected individual is less than 1%. As we approach summer, we are all hopeful the medical advice to slow the disease works and that 2020 summer fever doesn’t turn into Covid fever. We will all need to find a balance in life between Covid avoidance, daily living and work. I often hear people equating the pandemic to the normal flu yet the death rates have been four times greater. Math refutes that comparison and science observations easily illustrate that we are in the midst of a very large health crisis.
Please review my 6 points of life insurance planning below and give me a call if I can assist you in guiding your clients.

**Life insurance planning**

1) **Policy Reviews** – Leverage the opportunity to reduce or eliminate future premiums, “Do you have the new kind or old kind of life insurance?”

2) **Reposition Low-Yielding Assets** – is an effective way to boost productivity from assets not needed for current expenses. Maybe deal with long term care exposure?

3) **Reinforce Retirement Assets** – IUL is a great planning tool to help mitigate risks, and keep retirement plans on track. What if you could participate in the market and know that you can never perform with less than Zero!

4) **Mitigate Health Care Challenges** – Reduce the impact of major health challenges, think “CCT” (Chronic, Critical & Terminal) accelerated death benefits.

5) **Take another look at the Buy-Sell** – Existing Buy-Sell agreements might be outdated, and policy reviews are a must here too.

6) **Secure Act planning** – now there is only 10 years to stretch an IRA - maybe find some life insurance alternatives to leverage dollars, reduce taxes and provide protection.

For more information contact Mark Gage, CLU of VP of Northeast Brokerage at mgage@nb-bga.com or call 410-552-9300.

**What is Eagle Agency**

_by Nancy Doherty_

In recent weeks, Eagle Agency is “taking flight” as many members have expressed interest and applied to become Eagle agents. Here are a few frequently asked questions we are hearing and their answers.

**Q. Do I (agency) own the business including the expirations?**
A. Yes, the agency maintains ownership of the business and expirations.

**Q. Is there any cost to join Eagle?**
A. No, the only cost is a current membership with your state association.

**Q. What if I do not produce the required two (2) new lines each month?**
A. The agency production is reviewed for new business activity every 12-16 months.

**Q. Can I add the carrier(s) to my comparative rater?**
A. Yes, you can.

**Q. Is my agency assigned to a dedicated underwriter?**
A. No, for underwriting questions and concerns you will dial into the carrier underwriting division and speak with the first available staff underwriter.

**Q. Do I get the option to download policy detail and or commissions into my agency management system?**
A. No, you do not. Eagle Agency receives the download into our agency management system to pay the agency commission.

**Q. Does Eagle accept agency billed business or outside premium financed business?**
A. No

You can learn more about Big “I” Eagle Agency at www.iIaba.net/Eagle, or simply schedule a meeting (https://calendly.com/nancy-doherty/eagle-next-steps?month=2020-05) with Big “I” Markets and Eagle Agency Personal Lines Director 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@iIaba.net or (703) 706-5389 to learn more.
Many people in the P&C industry, particularly agency CSR’s and a number of producers have not yet had the ‘pleasure’ of experiencing a hard market. Some pundits claim we are entering a hard market. That remains to be seen but, if true, a hard market presents a number of selling problems. On the other hand, it also presents opportunities. Below are 12 tips that might improve your sales results in a hard (or any) market.

What is a Hard Market?
The very first article I ever published was in the December 1981 CPCU Journal called “The Underwriting Cycle and Investment Income.” Historically, a hard market is part of the cyclical nature of the insurance industry. Believe it or not, at one time, the P&C industry experienced fairly regular seven-year cycles of soft and hard markets, tempered or exacerbated, by investment results. However, the last really significant hard market was probably in the mid-80’s.

A hard market is characterized by increasing rates and/or reduced industry capacity which leads to affordability and/or availability problems. In addition, both underwriting and claims adjusting usually become more stringent. In the current marketplace, these conditions are exacerbated by increased uncertainty about loss exposures from cyber to terrorism, etc.

A hard market presents problems and opportunities. The bad news is that competition could lead to lost accounts. The good news is that competition could lead to lost accounts! That is, it is probably not desirable to retain all existing accounts...more on this later.

And there is more potentially good news...since many carriers are in the same boat, the hard market could lead to new business. In addition, increased premiums means increased commissions (until or unless carriers start reducing them again)...you can use this increased revenue to improve and expand services in a way that differentiates you from the competition.

So, let’s take a look at 12 tips you can use to improve your sales performance during the hard market.

Sales Tip #1: Know your buyer
Whether you’re selling BOP’s or Tupperware, you can really only sell four things: (1) price, (2) product, (3) service, and (4) relationship. When it comes to insurance, about 50% of customers are relationship buyers, 25% are price buyers, and 25% buy on the basis of product (10%) or value (15%). Everyone expects competent, if not outstanding, service. If you know where your prospect/insured falls, you can tailor your proposal to them.

Sales Tip #2: Really know your buyer
• Develop a client profile/rating sheet...include everything you know about that buyer down to their favorite TV show. I met with an accountant once and, during our meeting, he apologized that he had
to take a call, but I could stay where I was. It was a customer of his and, just before picking up the phone, he brought the customer file up on his PC. Included in the customer's profile was all kinds of personal information, from family member names and birthdays to hobbies and comments he noted from past meetings. By mentioning things like Little Bobby's birthday coming up on a couple of weeks, he took the opportunity to strengthen the customer relationship on a personal “Wow, this guy remembered my kid's birthday!” level.

• **Identify the real decision makers**...you cannot sell insurance if you’re going through a gatekeeper.

• **Learn all you can about the buyer**...talk to employees, business associates and others to learn what makes that person “tick.”

• **Stay in frequent contact**...communicate with VIP, at-risk, and high potential customers frequently and rarely should the contact concern their insurance account. Avoiding the perception that the only reason you’re making contact is to sell something is important to building the relationship. Devote 20% of your time to relationship building.

• **Pay attention to the little things**...Joe Girard, listed by the Guinness Book of World Records as the best car salesman in the world, said his secret was greeting cards...sending birthday, holiday and other greetings. So, keep in contact and do little things throughout the year for clients (e.g., email a magazine article on a subject you know they're interested in) and do something really memorable shortly before renewal time that's unrelated to their insurance account. Don't use only your cell phone or email to communicate...getting personal snail mail and hand-written notes increasingly has impact.

**Sales Tip #3: Don't give up on promising prospects**

According to Guerilla Prospecting, many contacts with fewer customers is better than fewer contacts with many customers:

- 1 sales contact = 2% of sales closed
- 2 sales contacts = 3% of sales closed
- 3 sales contacts = 4% of sales closed
- 4 sales contacts = 10% of sales closed
- 5 sales contacts = 81% of sales closed

**Sales Tip #4: Never, never give up on promising prospects**

Industry consultant Chris Burand once told me that perhaps the #1 time waster for producers is the failure to qualify prospects. But, once you’ve identified quality prospects, don't let initial pushbacks stop you. According to the Darnell Corporation, 80% of sales are made by 20% of sales people. Over 50% of all of Avon's sales come from 17% of their sales reps...those reps produce 10x the revenue of others. The reason for this is that most sales people quit after one or two initial contacts:

- 48% quit after the first contact
- 25% quit after the second contact
- 12% quit after the third contact
- 5% quit after the fourth contact
- 10% quit after the fifth contact

As you can see from the Guerilla Prospecting figures above, 80% of sales require at least five contacts.

**Sales Tip #5: Recognize “No”**

The following statements all mean “No.” However, as pointed out above, don't take “No” for answer...it may take 4-5 “No’s” until you get a “Yes.”

- “I’ll think it over.”
- “We’ll discuss it and let you know.”
- “I’m just looking at all my options.”
- “The price is just too high.”
- “I’ll have to get back to you.”
- “Let me see how this fits our budget.”

**Source:** “Six Rules of Salesmanship to Clinch the Deal,” Home Office Computing, August 1995

**Sales Tip #6: Solution-Oriented Selling**

If I said I could come into your agency or company and show you how to close over 90% of your sales leads, increase your retention rate to 99.9%, and more than double your book of business in less than a year, would you hire me as a sales consultant? You would?! That's odd because notice that I've made no mention of what I'd charge you for this service. ! When you offer solutions – to create opportunities, solve problems, reduce risk, etc. – price is the last thing that will come up during the negotiations.

Let’s face it, most insurance is sold the same way...similar approaches, similar coverages (in the minds of the prospects), similar proposals, claims, promises, etc. All these things being (perceived as) equal, the ONLY differentiation is price. You must determine what is your “unique selling proposition,” what differentiates you from the masses.

Tim Wahl is an independent commercial lines agent in...
Missouri. He tells me how often a prospect such as a contractor comes into his office wanting him to “save me money.” Invariably, desirable prospects leave as customers paying MORE than they were paying before. One of the reasons for this is that Tim, as a coverage expert, is able to show the prospect all of the holes in his insurance program and how Tim can fill those holes for little additional premium. He’s selling value, not price. Consider offering a package of solutions unlike anything offered by your competition. Consider free, discounted or in-house seminars, loss control services, or other perks…with increased commissions, you may be able to offer these perks essentially for free.

Sales Tip #7: Painless Selling

With regard to acquiring accounts during the hard market, the best prospects are those experiencing problems with their current insurance program…and you can relieve their pain. If the person is a “product buyer,” you can also create pain by (like Tim Wahl above) showing coverage gaps compared to your products…be sure to use vivid examples. Demonstrate how your proposal positively affects their bottom line by reducing risk and providing that proverbial “quiet night’s sleep.”

Sales Tip #8: Relationship Selling

My personal lines account has been with the same agency for 45 years. They don’t always offer the best “product” and I can likely get a better price elsewhere. If you read Tip #1, you know, then, that they probably retain my account based on our relationship.

My mother worked for this agency for a number of years until she became terminally ill and passed away 40 years ago. During her final year, she was only able to work a few weeks out of that year. At best, one could expect, given a decent insurance package, that she’d get 60% pay under a salary continuance or LTD program. However, the agency owner continued to issue her full paycheck every two weeks whether she was able to work or not.

When the call came from the hospital that she had only hours to live, I raced there at 2:00 a.m., just before she passed away. At 3:00 a.m., the agency owner and his wife showed up at the hospital to offer any help they could. I’ve never forgotten what they did for my family and, for that reason, I’ve never considered moving my account to save a few bucks. If you want to read more about this story, check out my blog post entitled “How Do You Create Customer Loyalty? Why Do Consumers Stay with a Particular Agent or Carrier for Years?”

(Con’t from page 29)

Relationships create loyalty. Strong relationships based on genuine interest, empathy and compassion create fierce, almost fanatical, loyalty. If you treat your customers like family and, when the need arises, you go beyond the call of duty, no coverage perks or pricing discounts can approach the effectiveness of such relationships.

Sales Tip #9: Use testimonials

Include testimonials of long-term clients in your marketing materials. Every time you’re involved in a claim “victory” for an insured, ask for a testimonial. Every time you exceed the service expectations of a customer, ask for a testimonial. Target these testimonials so that recipients of your materials know the persons if possible. Flaunt the fact that so-and-so chose your agency or company over that of other competitors. If needed, ask a respected client to make a personal call to a customer on the fence…prospects will appreciate your personal interest and value the opinions of a peer.

Sales Tip #10: Multiple closes

There are dozens of closing techniques that you can use and you can learn all about them if you attend a formal sales training program. You can incorporate more than one technique in an attempt to close the account. For example:

- **Direct close**…simply ask for the account.
- **Time-driven close**…rates are going up next week, so buy now.
- **Relationship close**…as indicated above, this is a foolproof method.
- **Deal/concession close**…but wait, there’s more! At each balk, up the ante by adding freebies like discounted seminars, loss control services, etc.

Sales Tip #11: World class service

Provide consistent, personalized, responsive, reliable, accurate and professional customer service. Do the unexpected to dazzle them with your commitment to service excellence. For a good article on this, check out my blog post “Puttin’ on the Ritz...Building a Customer Service Culture”.

Sales Tip #12: Overcoming objections

Entire books and seminars have been devoted to this
subject. Some objections are real and must be addressed while others may mask hidden agendas. Objections, in and of themselves, are not bad. According to Learning International, you are 20% more likely to close a sale that includes objections than if the prospect or insured raised none at all.

To minimize objections, sell the benefits, not the product…focus on emotional (e.g., security/risk concerns) or financial (e.g., cost reductions) benefits. Focus on why they should buy, not their objections. Anticipate and be prepared for objections.

Avoid bringing up objections that the prospect would not have raised…e.g., don’t start out the proposal with, “I know the price is a lot higher than last year, but…[add excuses here].” Avoid the discussion of price until after you’ve demonstrated the superiority of your proposal and never make excuses.

The Prayer of Alcoholics Anonymous says, “Lord, give me the courage to change the things which can and ought to be changed, the serenity to accept the things which cannot be changed, and the wisdom to know the difference.” This prayer could apply to three major types of objections:

- **Sincere objections**…you can negotiate around these.
- **Hopeless objections**…you got to know when to hold ‘em, and fold ‘em.
- **“Smoke screen” objections**…as pointed out above, these have nothing to do with the product, but rather mask a hidden agenda…fix that problem and you’ve got the account.

One other thing to keep in mind, particularly if you further your learning by attending a sales training program, is to remember that you’re often selling to a sales person. In many cases, they’ve seen all the canned sales tactics.

In closing (no pun intended), view a hard market not as an impediment to sales success, but as an opportunity to acquire accounts from people who have not read this article. And here’s a hard market video from Amber Wuollet: https://insnerds.com/surviving-the-hard-market


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How to Insure Virus Driven Loss Exposure

By Michael Welch at 1:00 PM in ARMR

With unprecedented economic disruption on the horizon, insurance buyers are asking their insurance advisors, “Am I covered by insurance?”

Big “I” Markets' partner for environmental insurance, ARMR Network, has shared a guide written to assist insurance agents and brokers deal with the questions coming in from their clients on insuring virus losses.


Learn more about how to access environmental insurance for your clients by logging into Big “I” Markets.
Helping Customers Understand the Realities of Flood Exposure

This spring’s flood season is forecast to be worse than average, affecting some 128 million Americans. But according to a recent survey National Flood Services (NFS) conducted with The Harris Poll, much of that damage is likely to be uninsured. Why? Because most Americans vastly underestimate their exposure to flood damage. Here’s a closer look at the disconnect, plus tips on how agents can tap into NFS resources to help Americans be ready when floods hit.

Although 62% of respondents consider themselves “prepared” for flood damage, 49% said they have “no idea” what they’d do if they experienced a flood. The takeaway: people may consider themselves “prepared” because they don’t actually think they’ll ever experience flood damage. Respondents’ insurance rates back this theory up—just 12% have flood insurance, and 74% believe that they don’t need it.

That’s a dangerous misconception since flooding is the most common natural disaster, it’s getting worse and it impacts everyone. It’s particularly dangerous this year, when spring forecasts predict floods will affect 40% of the population, followed by an above-average hurricane season.

Helping Customers Understand the Realities of Flood Exposure

Agents play a critical role in educating homeowners about floods. Moreover, homeowners appreciate it. As many as 75% want the benefit of talking with an agent before buying flood insurance. Those conversations should include a few key talking points:

- 41 million people live in higher-risk flood zones—far more than the 13 million estimated by older FEMA models.
- Flooding is possible anywhere it can rain.
- The average cost to repair flood damage is $40,000.
- Flood risk is not fixed. Climate change, urban development and failing infrastructure are making floods more common around the country.
- Flood insurance policies for those in moderate- and low-risk areas are generally affordable and can prevent serious economic damage in the event of a flood.

Given the economic shocks caused by COVID-19, these conversations are more important than ever. Before the pandemic, as many as 78% of Americans were living paycheck to paycheck*. With unemployment at historic highs, that number is likely even higher now, meaning even fewer people are financially able to recover from flood damage without insurance.

Helping Americans Avoid Flood Disaster in 2020

Outdated perceptions about flood risks paired with low awareness about the cost of flood damage make for a potentially devastating combination—especially when unemployment is high.

Luckily, agents can still prevent the worst fallout by taking these steps:

1) Learn the basics of flood insurance. This process is quick and simple with NFS’s educational flood materials at https://nationalfloodservices.com/agent-portal/videos/.


3) Get instant quotes. Most customers can be quoted in seven questions or less (https://nationalfloodservices.com/agent-portal/agents/).

It’s not too late for agents to help customers prevent the worst effects of flood damage. With support from NFS’s digital educational library and sales toolkit, agents can make life better for every customer they serve.

Pandemic Risk Insurance Act Introduced in House

By Joseph Cortina

Rep. Carolyn Maloney (D-New York) introduced legislation (H.R. 7011) in the U.S. House of Representatives that would create a federal backstop to prevent economic losses from future pandemics. The bill, known as the Pandemic Risk Insurance Act (PRIA), is modeled on the Terrorism Risk Insurance Act (TRIA), which was created in the aftermath of the 9/11 terrorist attacks.

Like TRIA, PRIA would be a public-private partnership where the federal government would serve as a reinsurance backstop in an attempt to maintain marketplace stability and share the burden alongside the insurance industry for future pandemic-related losses.

The bill would not be retroactive, and participation would be voluntary for insurance carriers. Participating insurers would be required to provide business interruption insurance policies that would include coverage for pandemics and the deductible for these participating insurers would be equal to 5% of their direct earned premium for all lines of property-casualty insurance in the previous year. The federal share of compensation above a company’s individual deductible would be 95% while the insurer would be responsible for the remaining 5% up to the program cap of $750 billion. The program would be “triggered” after $250 million in aggregate industry losses and following the declaration of a covered public health emergency.

The Big “I” believes there is merit in including the PRIA model in public policy discussions on how to cover future pandemics and considering its pros and cons, but there are serious questions regarding the effectiveness of the TRIA approach in this new context. Insurers in particular are raising concerns and noting that the TRIA model does not recognize that pandemics are uninsurable risks and that the exposures are fundamentally different in nature and scope.

As efforts on PRIA and other proposals progress, the Big “I” will make the most up-to-date government affairs information available on the coronavirus resource page and in the weekly News & Views e-newsletter.

Joseph Cortina is Big “I” director, federal government affairs.

Our Sympathy

Mrs. Janelle Buck | June 16, 2020

It is with our deepest sympathy that we announce the death of Janelle Buck, the wife of Big ‘I’ Maryland’s Vice Chairman, Ivory Buck, III, passed away on June 16th. Family and friends are welcomed to send flowers or leave condolences on her memory page at https://www.henryfh.com/obituary/Janelle-Buck.

Janelle was laid to rest on Saturday June 27th at Woodlawn Memorial Park (11365 Ocean Gateway, Easton, MD 21601).

The Board of Directors, staff and membership wish to express our sincere condolences to Ivory and their entire family.
1- Directors and Officers Liability Insurance
1- Personal Lines Claims That Cause Problems
1- Umbrella/Excess: A Blanket of Protection?
1- Data Privacy Insurance
1- Annuity Basics and Where They Fit
2- COPE- Property Underwriting and Effective Loss Control
2- Hot Topics in Personal Lines
2 - Building Codes are BAD for Your Insureds; Why Ordinance or Law Coverage is Necessary
2- Business Income - Beyond the Basics
6 - Long Term Care Insurance
8- E&O Roadmap to Identity Theft, Red Flags, and Money Laundering - Part 1
8- E&O Roadmap to Identity Theft, Red Flags, and Money Laundering - Part 2
9- COPE- Property Underwriting and Effective Loss Control
9- BAP Symbols and Endorsements
9- Building Codes are BAD for Your Insureds; Why Ordinance or Law Coverage is Necessary
9- A Little of This, A Little of That: New Threats & Possibilities in Comm'l and Personal Lines Insurance
9- Business Income - Beyond the Basics
13- E&O Risk Management – Meeting the Challenge of Change (6hrs)
14- Home Based Business Exposures
14- E&O Roadmap To Homeowners Endorsements and Personal Inland Marine - Part 1
14- Flood Program Overview - NFIP Then and Now (3hrs)
14- E&O Roadmap to Cyber and Privacy Insurance - Part 1
14- Cyber Insurance Deconstructed
14- E&O Roadmap To Homeowners Endorsements and Personal Inland Marine - Part 2
14- E&O Roadmap to Cyber and Privacy Insurance - Part 2
14- Ethics In Today's Changing Times
15- Ethical Issues - Personal & Organizational
15- E&O Roadmap to Policy Analysis - Part 1
15- Business Auto Claims That Cause Problems
15- Workers Compensation Beyond the Basics
15- Top 5 Life Insurance Uses
15- E&O Roadmap to Policy Analysis - Part 2
16- Insurance and the Property Lease
16- E&O Roadmap to Identity Theft, Red Flags, and Money Laundering - Part 1
16- E&O Roadmap to Policy Analysis- Part 1
16- Certificates of Insurance - Emerging Issues and Other Stuff that May Scare You!
16- Flood Program Overview - NFIP Then and Now (3 hrs)
16- A Little of This, A Little of That: New Threats & Possibilities in Comm'l and Personal Lines Insurance
16- E&O Roadmap to Identity Theft, Red Flags, and Money Laundering - Part 2
16- E&O Roadmap to Policy Analysis- Part 2
16- NFIP Program Changes and Refresher
21- Rental Cars: More Than Meets the Eye
22- Workers Compensation Beyond the Basics
24- NFIP Program Changes and Refresher
24- E&O Roadmap To Homeowners Endorsements and Personal Inland Marine - Part 1
24- E&O Roadmap to Cyber and Privacy Insurance - Part 1
24- E&O Roadmap To Homeowners Endorsements and Personal Inland Marine - Part 2
24- E&O Roadmap to Cyber and Privacy Insurance - Part 2
27- E&O Risk Management - Meeting the Challenge of Change (6hrs)
27- Those Kids and Their Cars!
28- E&O Risk Management - Meeting the Challenge of Change - Part 1 (3hrs)
28- E&O Risk Management - Meeting the Challenge of Change - Part 2 (3hrs)
29- E&O Risk Management - Meeting the Challenge of Change - Part 1 (3hrs)
29- E&O Risk Management - Meeting the Challenge of Change - Part 2 (3hrs)
<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Long Term Care Insurance</td>
<td>3</td>
</tr>
<tr>
<td>Directors and Officers Liability Insurance</td>
<td>5</td>
</tr>
<tr>
<td>Ethics and Business</td>
<td>5</td>
</tr>
<tr>
<td>Personal Lines Claims That Cause Problems</td>
<td>5</td>
</tr>
<tr>
<td>Umbrella/Excess: A Blanket of Protection?</td>
<td>5</td>
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<tr>
<td>Annuity Basics and Where They Fit</td>
<td>5</td>
</tr>
<tr>
<td>COPE - Property Underwriting and Effective Loss Control</td>
<td>6</td>
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<tr>
<td>Hot Topics in Personal Lines</td>
<td>6</td>
</tr>
<tr>
<td>Building Codes are BAD for Your Insureds; Why Ordinance or Law Coverage is Necessary</td>
<td>6</td>
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<tr>
<td>Business Income - Beyond the Basics</td>
<td>6</td>
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<tr>
<td>Data Privacy Insurance</td>
<td>7</td>
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<td>E&amp;O Risk Management – Meeting the Challenge of Change (6hrs)</td>
<td>10</td>
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<tr>
<td>E&amp;O Roadmap To Homeowners Endorsements and Personal Inland Marine - Part 1</td>
<td>11</td>
</tr>
<tr>
<td>Flood Program Overview - NFIP Then and Now (3hrs)</td>
<td>11</td>
</tr>
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<td>E&amp;O Roadmap to Cyber and Privacy Insurance - Part 1</td>
<td>11</td>
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<td>E&amp;O Roadmap To Homeowners Endorsements and Personal Inland Marine - Part 2</td>
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<td>E&amp;O Roadmap to Cyber and Privacy Insurance - Part 2</td>
<td>11</td>
</tr>
<tr>
<td>Ethics in Today’s Changing Times</td>
<td>11</td>
</tr>
<tr>
<td>E&amp;O Roadmap to Identity Theft, Red Flags, and Money Laundering - Part 1</td>
<td>12</td>
</tr>
<tr>
<td>Cyber Insurance Deconstructed</td>
<td>12</td>
</tr>
<tr>
<td>E&amp;O Roadmap to Identity Theft, Red Flags, and Money Laundering - Part 2</td>
<td>12</td>
</tr>
<tr>
<td>COPE - Property Underwriting and Effective Loss Control</td>
<td>13</td>
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<td>BAP Symbols and Endorsements</td>
<td>13</td>
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<td>13</td>
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<td>13</td>
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<tr>
<td>Business Income - Beyond the Basics</td>
<td>13</td>
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<tr>
<td>Home Based Business Exposures</td>
<td>13</td>
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<tr>
<td>Rental Cars: More Than Meets the Eye</td>
<td>18</td>
</tr>
<tr>
<td>Ethical Issues - Personal &amp; Organizational</td>
<td>19</td>
</tr>
<tr>
<td>E&amp;O Roadmap to Policy Analysis - Part 1</td>
<td>19</td>
</tr>
<tr>
<td>Business Auto Claims That Cause Problems</td>
<td>19</td>
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<tr>
<td>Workers Compensation Beyond the Basics</td>
<td>19</td>
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<tr>
<td>Top 5 Life Insurance Uses</td>
<td>19</td>
</tr>
<tr>
<td>E&amp;O Roadmap to Policy Analysis - Part 2</td>
<td>19</td>
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<tr>
<td>Insurance and the Property Lease</td>
<td>20</td>
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<tr>
<td>E&amp;O Roadmap to Identity Theft, Red Flags, and Money Laundering - Part 1</td>
<td>20</td>
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<td>Flood Program Overview - NFIP Then and Now (3hrs)</td>
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<td>A Little of This, A Little of That: New Threats &amp; Possibilities in Comm’l and Personal Lines Insurance</td>
<td>20</td>
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<td>20</td>
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<td>NFIP Program Changes and Refresher</td>
<td>20</td>
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<tr>
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<td>21</td>
</tr>
<tr>
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<td>24</td>
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<tr>
<td>Those Kids and Their Cars!</td>
<td>24</td>
</tr>
<tr>
<td>E&amp;O Risk Management - Meeting the Challenge of Change - Part 1 (3hrs)</td>
<td>25</td>
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<td>25</td>
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<td>25</td>
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<tr>
<td>Workers Compensation Beyond the Basics</td>
<td>26</td>
</tr>
<tr>
<td>E&amp;O Risk Management - Meeting the Challenge of Change - Part 2 (3hrs)</td>
<td>26</td>
</tr>
<tr>
<td>NFIP Program Changes and Refresher</td>
<td>28</td>
</tr>
<tr>
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<td>28</td>
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<td>28</td>
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<td>E&amp;O Roadmap to Cyber and Privacy Insurance - Part 2</td>
<td>28</td>
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DISTRIBUTING $20 MILLION IN CORPORATE DIVIDENDS....

...AND REDUCING RATES NEARLY 7%

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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

heartfelt thanks to Maryland’s healthcare workers for your courage and care during the COVID-19 health crisis.