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Louisiana Agent

January
2015



highlights

Ask Mike-Subject: Dog bites the hand that feeds it, and the insurance fur flies. **24**

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TRIA & NARAB II Signed Into Law

In the biggest legislative win for the Big "I" in well over a decade, the U.S. Senate quickly followed House action and overwhelmingly passed H.R. 26, the Terrorism Risk Insurance Program Reauthorization Act of 2015, by a vote of 93-4. On January 12, 2015 President Obama signed this important legislation into law. The speed with which this legislation was passed in the new Congress is unheard of, and is testimony to just how close we were to passing the legislation in the last Congress.

This legislative package is the exact same bill passed by the House and includes BOTH a six year extension of TRIA and the Big "I" preferred, permanent version of NARAB II to streamline nonresident licensing. The TRIA program expired on December 31, 2014 because of the Senate's failure to act on this identical legislation before adjourning for the year. The passage HR 26 will reauthorize the TRIA program "retroactively" to that expiration. Because of the quick action on this measure, most experts expect little market disruption to occur because of the limited expiration.

This is a monumental win for the Big "I" as TRIA and NARAB II have been

our top two legislative priorities for the last several years. Passage of this important legislation is a direct result of the effort by Big "I" members and both national and state associations over the last several years. We want to thank all of our members for your dedication and perseverance in your grassroots support.

As detailed in the "**Big I Member Guide to NARAB II**," while implementation of NARAB II will begin almost immediately after enactment there is a lot of work to be done and we likely will not see the streamlined multistate licensing procedures of NARAB II go "live" for approximately two years.

Please click [HERE](#) to view the "**Big I Member Guide to NARAB II**" that runs through the practical impact of NARAB II and its benefits.

For additional details, please see these additional articles in this newsletter:

- **TRIA Section by Section Summary** pages 2-6
- **NARAB II Executive Summary** page 8
- **NARAB II Section by Section Summary** pages 9-13

The Terrorism Risk Insurance Program Reauthorization Act of 2015

Section by Section

Section 1. Short Title.

This bill may be cited as the "Terrorism Risk Insurance Program Reauthorization Act of 2015."

Title I – Extension of Terrorism Insurance Program

Section 101. Extension of Terrorism Insurance Program.

Extends the Terrorism Risk Insurance Program for six years through December 31, 2020.

Section 102. Federal Share.

Beginning on January 1, 2016, decreases the Federal share of losses under the program by 1 percentage point annually until it equals 80 percent.

Section 103. Program Trigger.

Beginning in calendar year 2016, increases the program trigger to \$200 million in \$20 million annual increments over five years.

Section 104. Recoupment of Federal Share of Compensation Under the Program.

Increases the amount of Federal assistance that the Treasury Secretary must recoup from the insurance industry following a certified act of terrorism. Increases the current mandatory recoupment amount of \$27.5 billion by \$2 billion each calendar year until the mandatory recoupment amount reaches \$37.5 billion. In addition, once the insurance marketplace aggregate retention amount reaches \$37.5 billion, requires the Treasury Secretary to issue a final rule to annually revise the amount so that it is equal to the annual average of the sum of insurer deductibles for all insurers participating in the program for the prior three calendar years.

Section 105. Certification of Acts of Terrorism; Consultation with Secretary of Homeland Security.

Removes the Secretary of State from the certification of acts of

terrorism process and states that the Treasury Secretary must consult with the Secretary of Homeland Security in order to certify an act of terrorism.

Section 106. Technical Amendments.

Amends the program's definition of "control" to exclude an entity that is acting as an attorney-in-fact for another entity and such other entity is a reciprocal insurer. Replaces references to "program year" and "transition period" with the term "calendar years." Requires insurers to issue disclosure notices to policyholders only at the time of offer and renewal of the policy rather than at the time of offer, purchase, and renewal, as required under current law.

Section 107. Improving the Certification Process.

Directs the Secretary of the Treasury to study the process for certifying an act of terrorism, specifically a reasonable timeline for determining accurately whether

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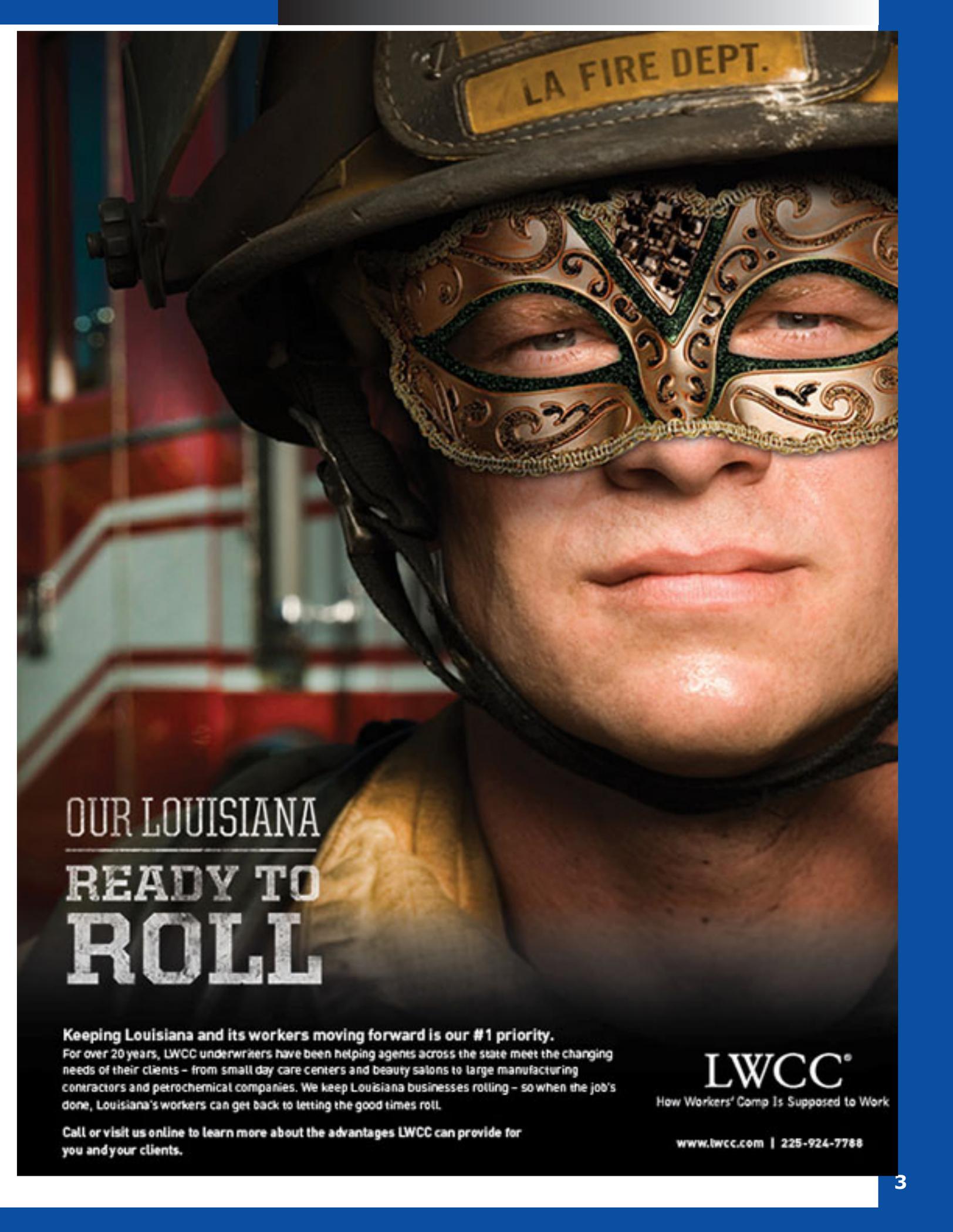
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The Terrorism Risk Insurance Program Reauthorization Act of 2015

Section by Section (continued)

to certify an act as an act of terrorism, and the impact of the length of any timeline on the insurance industry, policyholders, consumers, and taxpayers as a whole. Upon completion of the study, requires the Secretary to issue final rules governing the certification process and timeline, within nine months after reporting study results to the appropriate congressional committees.

Section 108. GAO Study.

Requires the Government Accountability Office (GAO) to study the viability of the Federal government assessing and collecting upfront premiums from insurers for terrorism reinsurance coverage or requiring insurers to create capital reserve funds for terrorism-related risks. This study would also provide a comparative analysis of the types of systems implemented in other countries that collect or assess premiums or create capital reserve funds.

Section 109. Membership of Board of Governors of the Federal Reserve System.

Amends the Federal Reserve Act to require the President, in selecting members of the Board of Governors of the Federal Reserve System, to appoint at least one member with demonstrated primary experience working in or supervising community banks having less than \$10 billion in total assets.

Section 110. Advisory Committee on Risk-Sharing Mechanisms.

Requires the Treasury Secretary to establish an advisory committee to provide advice and recommendations to encourage the growth of nongovernmental, private market reinsurance capacity for protection against losses arising from acts of terrorism.

Section 111. Reporting of Terrorism Insurance Data.

Beginning on January 1, 2016, requires the Treasury Secretary to collect the following information: (1) lines of insurance with exposure to terrorism; (2) premiums earned on terrorism risk coverage; (3) the geographical location of risk exposure; (4) the pricing of terrorism risk insurance; (5) the take-up rate of terrorism risk insurance; (6) the amount of private reinsurance for acts of terrorism purchased; and

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The Terrorism Risk Insurance Program Reauthorization Act of 2015 Section by Section (continued)

(7) such other data as the Secretary deems appropriate. Requires the Secretary to collect the data in a manner that does not reveal proprietary information of the participating insurers, and to provide the House and Senate Committees of jurisdiction a report not later than June 30, 2016 and every other year thereafter.

Section 112. Annual Study of Small Insurer Market Competitiveness.

Beginning on June 30, 2017, requires the Treasury Secretary to conduct a biennial study of small insurers participating in the TRIA program to identify any competitive challenges they may face in the terrorism risk insurance marketplace.

Title II – National Association of Registered Agents and Brokers Reform.

Section 201. Short Title.

Provides that this title may be referred to as the “National Association of Registered Agents and Brokers Reform Act of 2014.”

Section 202. Reestablishment of the National Association of Registered Agents and Brokers.

Amends the Gramm-Leach-Bliley Act to repeal the contingent conditions preventing the establishment of the National Association of Registered Agents and Brokers (NARAB) and establishes the NARAB.

Title III – Business Risk Mitigation and Price Stabilization.

Section 301. Short Title.

States that this title may be cited as the “Business Risk Mitigation and Price Stabilization Act of 2014.”

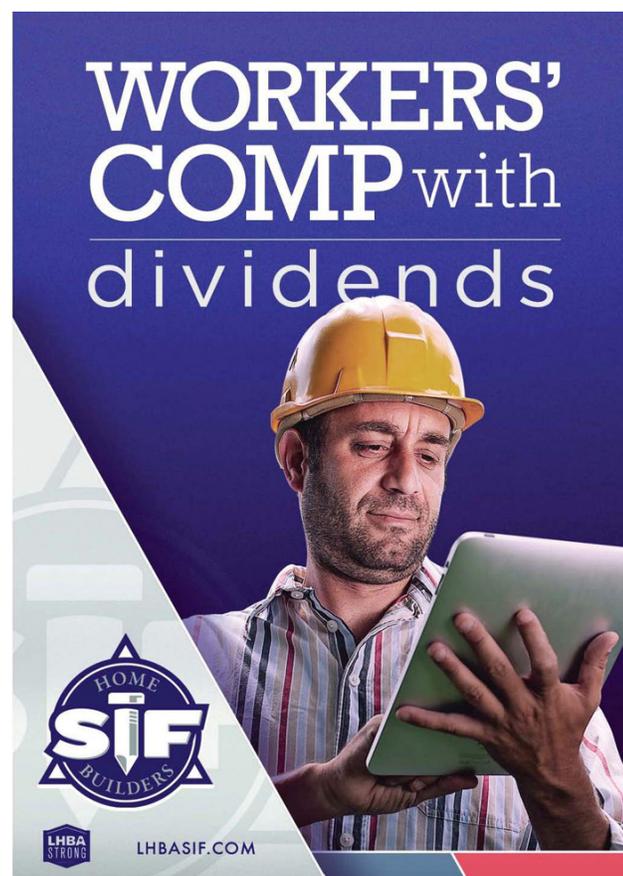
Section 302. Margin Requirements.

Amends section 4s(e) (registration and regulation of swap dealers and major swap participants) of the Commodity Exchange Act by adding a new paragraph clarifying that the margin and capital requirements imposed by that Act do not apply to transactions in which

one of the parties qualifies for the end user exemption to the clearing requirement in section 2(h)(7)(A) or treatment of affiliates in section 2(h)(7)(D). Amends section 15F(e) of the Securities Exchange Act of 1934 as added by section 764(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act governing margin and capital requirements and exempts counterparties to security-based swap contracts from those requirements other than for financial entities as defined under the Dodd-Frank Act.

Section 303. Implementation.

This section excludes the amendments made by this title to the Commodity Exchange Act from the requirements of the Paperwork Reduction Act and from notice and comment requirements of the Administrative Procedure Act.



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The National Association of Registered Agents and Brokers Reform Act Executive Summary

The recently enacted "NARAB II" legislation will establish the National Association of Registered Agents and Brokers (NARAB) and provide a one-stop licensing compliance mechanism for insurance agents and brokers operating in multiple jurisdictions, while ensuring that the states remain fully responsible for the oversight and day-to-day regulation of the marketplace. This state-friendly law will simplify and streamline the licensing process for multistate producers, and its passage has been a top priority of the Big "I" for nearly a decade.

"NARAB II" Basics:

- The new law authorizes the creation of a non-governmental, membership-based, nonprofit corporation known as the National Association of Registered Agents and Brokers (NARAB). NARAB will establish a portal, mechanism, or central clearinghouse that enables individuals and business entities to satisfy the licensing requirements that exist in nonresident states.
- Membership and participation in NARAB is optional and voluntary, but an agent/broker or entity must first become a member of the organization in order to take advantage of its benefits. Once approved for membership, a producer may utilize NARAB to obtain the regulatory authority needed to operate in any jurisdiction and do so in an efficient manner.
- In order to become a member of NARAB, an insurance producer must be licensed in his/her home state, not have an active license suspension or revocation in place at the time of application, and successfully complete a criminal background check.
- Once a NARAB member designates a state and pays the requisite state licensing fee, then that individual or entity is authorized to engage in producer activities (e.g. the sale,

solicitation, and negotiation of insurance) in that jurisdiction.

- Nonresident jurisdictions may not impose any licensing, application, or market entry-related requirements on NARAB members. States are also prohibited from requiring any NARAB member to register as a foreign corporation.
- NARAB will be governed by a board of directors composed of eight state insurance regulators and five private sector representatives and must operate openly and transparently. It will **not** be part of any federal agency.
- Importantly, the "NARAB II" law leaves insurance regulation in the hands of the state officials. State regulators will continue to regulate market place conduct, oversee the actions of agents and brokers, investigate cocomplaints, protect consumers, and take action against those who violate the law.

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The National Association of Registered Agents and Brokers Reform Act Section by Section

Section 321. National Association of Registered Agents and Brokers. This legislation would establish the National Association of Registered Agents and Brokers (NARAB). NARAB would be an independent nonprofit corporation established under District of Columbia law and would not be an agent or instrumentality of the federal government.

Section 322. Purpose. NARAB would provide a mechanism for establishing true nonresident licensing reciprocity for the tens of thousands of insurance

producers who operate on a multi- state basis, while ensuring that States retain the authority to regulate marketplace activity and enforce important consumer protection laws.

Section 323. Membership. Any insurance producer licensed in his/her home State would be eligible to join NARAB, unless that person is subject to an active insurance license suspension or revocation. NARAB would also have the authority to deny membership to any insurance producer who fails to satisfy the membership criteria.

Every applicant for NARAB membership must undergo a national criminal background check within the two years prior to application, and the Act describes the procedures for performing such reviews and establishes limitations and protections regarding the use of criminal history information.

NARAB would have the authority to establish membership criteria for producers and create various classes and categories of membership, including a class of membership and eligibility criteria for business

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The National Association of Registered Agents and Brokers Reform Act Summary by Summary (continued)

entities. The membership criteria would include standards for personal qualifications, education, training, and experience. The Act prohibits the adoption of any qualification less protective than the National Association of Insurance Commissioner's (NAIC) Producer Licensing Model Act and requires NARAB to consider the highest levels of insurance producer qualifications under State licensing laws in establishing membership criteria.

Membership would be renewed on a biennial basis.

A NARAB member would be authorized to sell, solicit, or negotiate insurance and perform related activities in any State where the producer seeks to operate, if the member pays the requisite State-established licensing fees. Membership in NARAB would be the functional equivalent of obtaining a nonresident insurance producer license in the jurisdictions designated by the producer. States, other than a member's home State, would be prohibited from denying a license to or improperly impeding the activities of any member that has paid the requisite licensing fees, which would be collected by NARAB and remitted to the appropriate States.

States would retain all other authority to regulate market conduct, enforce consumer protection laws, etc.

NARAB would notify the States (including insurance departments) and the NAIC when a producer has met the membership criteria, and the States then have ten business days after such notification to provide NARAB with any evidence that indicates that the producer actually does not satisfy membership criteria. NARAB is also directed to immediately notify the States and the NAIC whenever a member is newly authorized to operate in one or more States, loses the authority to do so, or when

disciplinary action has been taken by NARAB.

NARAB would also establish continuing education requirements for members that are comparable to the requirements of a majority of the States. Members would be exempt from the continuing education requirements of States other than their home State, and NARAB would be prohibited from requiring a member to satisfy duplicative continuing education requirements that have already been satisfied through the member's home State. NARAB would be prohibited from offering continuing education courses.

NARAB would be authorized to place a member on probation, suspend or revoke membership, or assess

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The National Association of Registered Agents and Brokers Reform Act Summary by Summary (continued)

monetary fines or penalties if the member fails to meet membership criteria or other standards, is convicted of certain crimes, or has been subject to final State disciplinary action. NARAB would have the authority to investigate alleged violations of association standards, and it would be required to refer consumer complaints concerning alleged misconduct or violations of State law to the appropriate insurance regulator(s).

NARAB would also have authority to establish a central clearinghouse or

utilize the NAIC or another appropriate entity as a central clearinghouse through which NARAB members could disclose their intent to operate in one or more States and pay the licensing fees to the appropriate States. Similarly, NARAB would also be authorized to establish a national database for the collection of regulatory information concerning the activities of insurance producers or contract with the NAIC or another appropriate entity to utilize such a database.

Section 324. Board of Directors. NARAB's

Board of Directors would consist of eight State insurance commissioners and five private sector representatives. The President would make appointments with the advice and consent of the Senate (pursuant to a series of expedited procedures adopted by the Senate during the 112th Congress). After initial appointment, Board members would serve two-year terms, with one-half of the directors appointed annually. The Act also addresses the manner in which Board meetings will be conducted, requires the Board to issue and enforce

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The National Association of Registered Agents and Brokers Reform Act Summary by Summary (continued)

a code of ethics, and prohibits the payment of compensation for work related to Board membership to any Board member.

Section 325. Bylaws, Standards, and Disciplinary Actions. The Act requires the adoption of any bylaws or standards to be completed pursuant to procedures similar to those contained in the federal Administrative Procedure Act. NARAB would also be required to submit copies of any proposed bylaws or standards (or any proposed amendments) to the President and the States and to post proposals on NARAB's website. In addition, any proposed bylaw or standard would only take effect after notice and opportunity for public comment.

In any disciplinary action (including any proceeding to determine whether to deny, suspend, revoke, or not renew membership or to assess fines), the Association would be required to notify the member of specific charges, provide the member with an opportunity to defend against such charges, and keep a record. Private sector board members would be prohibited from participating in any disciplinary proceeding and would not access to confidential information concerning an action of this nature.

Section 326. Powers. NARAB's powers would include, among other powers, the authority to collect membership fees; adopt, amend, and repeal bylaws; and borrow money and secure funding.

Section 327. Report by the Association. NARAB would be required to provide a written report to the President and the States at the close of each fiscal year regarding the conduct of its business, and the report is required to include audited financial statements. The annual report will also be posted on NARAB's website.

Section 328. Liability of the Association and the Board Members, Officers, and Employees of the Association. NARAB would not be deemed to be an insurer or insurance producer, and its directors, officers, or employees would not be personally liable for any actions taken in good faith in the performance of their responsibilities.

Section 329. Presidential Oversight. The President also would have the authority to remove a Board member for neglect of duty or malfeasance in office and the power to remove the entire Board for acting in a manner contrary to the interests of the public or the purposes of the Act or for failing to perform its duties. The President,



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The National Association of Registered Agents and Brokers Reform Act Summary by Summary (continued)

or his designee, also would be able to suspend the effectiveness of any bylaw or standard or prohibit any action by NARAB determined to be contrary to the purposes of the Act.

Section 330. Relationship to State Law. The proposed legislation would prohibit States from imposing discriminatory laws, regulations, and licensing fees on NARAB members. States also would be prohibited from imposing any licensing and related requirements on a nonresident NARAB member in connection with multi-state commercial property and casualty transactions, if the member is licensed or authorized to operate in the State where the insured maintains its

principal place of business and the contract of insurance insures risks located in that State. States, other than a member's home State, would also be prohibited from imposing licensing, continuing education, and foreign company registration requirements, among other requirements, on NARAB members.

Section 331. Coordination with Financial Industry Regulatory Authority. NARAB would be required to coordinate with the Financial Industry Regulatory Authority in order to ease any administrative burdens that fall on members of both organizations.

Section 332. Right of Action. Any person aggrieved by a decision or action of NARAB may, after exhausting available avenues for relief within NARAB, commence a civil action and obtain appropriate relief in federal district court. In such proceedings, courts shall give appropriate weight to

NARAB's interpretations of its bylaws and standards and the Act.

Section 333. Definitions. Among other definitions, the proposed legislation would define "insurance producer" to include any insurance agent or broker, excess or surplus lines broker or agent, insurance consultant, limited insurance representative, and other individual or entity that sells, solicits, or negotiates insurance policies or offers advice related to insurance.



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Shocking is clearly the best word to describe the industry's producer hiring data over the past five years. Based on detailed information gathered from over 100 firms, covering over 1,500 producers hired over the past five years, the number of producers hired from outside the insurance industry is a mere 35%.

Experienced producers – “free agents” moving from one firm to another – were by far the largest category of producer hires, representing 55% of the hires over the past five years. Is there another professional services industry that hires so few from outside the industry or from college? In light of the fact that our industry is aging, and that nearly half of a typical agency's business is handled by producers age 50 or over, this is alarming. Is the industry facing a perpetuation crisis?

The difference in the bottom line impact for the top 25% and bottom 25% of firms is enormous in terms of the expense of recruiting and developing, time and energy, impact on agency morale and growth goal

achievement. Firms that have the ability to more successfully recruit, hire, train and develop producers have perhaps the ultimate competitive advantage.

What separates the top performers in producer recruiting and developing from the rest of the industry? In this study, we will present our findings and will share the Critical Success Factors we uncovered.

Click on the link below to view the entire study:

[Reagan Consulting Producer Recruiting & Development Study](#)

The Reagan Consulting Producer Recruiting & Development Study was conceived, conducted, written and produced by Reagan Consulting in an effort to help agents and brokers understand their producer hiring needs and more effectively recruit and develop producers. Adding production talent is the chief challenge in our industry – an agent and broker's ability to meet this challenge will

determine its ability to grow, prosper and even to remain privately-owned. It would not have been possible for us to conduct and produce this study without the backing and support of the following key strategic partners to the agent and broker community. These companies, through their financial commitment and support of this study, have tangibly demonstrated their support for the agents and brokers they serve and for the industry as a whole.

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Monroe
February 6, 2015 * 7pm–9pm
Bayou Bowling
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Lafayette
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Lafayette Lanes
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They join these 49 agents who have already earned Signature Agent status.

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P resident's Column

Mickey Bennett, Bennett Seymour Insurance

Looking Forward, Looking Back

As we start the new year with this January issue of Louisiana Agent, I wanted to share with you some IIABL highlights from last year and some exciting new plans for 2015.

2014 In Review

2014 was an exciting and productive year for IIABL. Your association continued to explore opportunities that would best serve its members. The IIABL Board of Directors completed its comprehensive membership survey and analyzed the needs of our members. Overwhelmingly, the results of the survey indicated that our smaller members, who make up 80% of our membership, want IIABL to help them with access to insurance markets in Louisiana. Coastal property capacity continued to be a considerable concern for our agents in south Louisiana. While in some northern portions of the state, reduced underwriting appetite, increased pricing and higher deductibles were cited as issues.

With the results of the member survey, the IIABL Board of Directors developed a strategic plan to focus association resources on: a)

providing markets to our members; b) assistance with agency management and perpetuation / development of agency employees; and c) continue as the leading industry advocate working with the Louisiana Department of Insurance, Louisiana Legislature and Congress.

In 2014 there were many IIABL initiatives to benefit our members. Our website, www.IIABL.com, was completely re-designed to provide members with easy access to the many association resources, products, services and benefits available to IIABL members. The year ended with the first student graduates of the Louisiana Insurance Academy. The successful Academy was a collaboration with Delgado Community College in New Orleans. The students were taught by IIABL member agents. I would like to congratulate Parke Ellis, IIABL Immediate Past President, on pursuing this initiative and on a successful pilot class. Also, I would like to thank our member instructors for their time and efforts educating new talent for member agencies.

Looking Forward to 2015

In 2015 we will further implement our strategic

plan to respond to the needs of our members. Your association has been aggressively pursuing opportunities that answer our member concerns over insurance market issues. A considerable amount of research has been done along with on-going efforts to develop an exciting new Market Access Program. This program will help provide markets to IIABL member agents that need them. Since this is still a work in progress, there will be more to share with you in the coming months.

2015 will find IIABL looking for additional opportunities to develop new employee talent for member agencies. These expanded efforts will also provide tools for member agencies to hire and to develop these new employees.

To continue meeting the needs of our members, the association leadership will be reaching out to members through local associations, lunch and learn programs, along with Town Hall Meetings. The IIABL staff, Board of Directors and I are committed to the needs of our members. When there is an IIABL function near you in 2015, come out and participate. We look forward to visiting with you.

Big "I" Praises Houses Passage of Employer Mandate Relief Bill

The Big "I" praised the U.S. House of Representatives for passing H.R. 30, the "Save American Workers Act of 2015," by Rep. Todd Young (R-Indiana) which would change the definition of a full-time employee (FTE) under the Affordable Care Act (ACA) to an individual who works 40 hours per week.

"Independent agencies serve many clients who have struggled with the implementation of the employer mandate, particularly the 30-hour per week definition of a full-time employee," says Charles Symington, Big "I" senior vice president of

external and government affairs. "Implementation of the employer mandate has caused many businesses to face the prospect of great financial strain or contemplate dropping their health care plan altogether. The Big 'I' believes H.R. 30 is a common-sense fix that would provide some relief for job creators and is grateful to Rep. Young for leading the charge on this important matter and appreciative of the House action today."

Originally slated to take effect in 2014 in tandem with the individual mandate, the employer mandate is now being phased in starting on Jan. 1, 2015. In 2015,

the mandate will require businesses with 100 or more FTEs to provide affordable (premiums no greater than 9.5% of income) coverage of at least a Bronze-level plan equivalent (60% actuarial value) to its employees. Starting in 2016 the mandate will affect all businesses with 50 or more employees. While the provision has many problems, the most glaring concern is that the definition of an FTE is an individual who works an average of 30 hours per week as opposed to the traditional 40 hours per week.

The bill now heads to the Senate for consideration.



Google Poised to Enter U.S. Auto Insurance Market: Report

Giant search engine Google, which already offers auto insurance online in the United Kingdom, could soon be selling auto insurance online in the U.S.

Google Compare Auto Insurance Services Inc., its online auto insurance shopper, has been licensed to sell insurance in at least 26 states and is working with several insurers including Dairyland, MetLife and Mercury Insurance, [Forester Research's Ellen Carney reported in her blog](#) this week.

Carney reports that Google has been working on the

project for more than two years and could finally launch later this quarter in California, followed by Illinois, Pennsylvania and Texas. According to the Forester Research technology expert, Google could be working with CoverHound, which currently offers online quotes for multiple insurers including Hartford, esurance, 2st Century, Travelers, Safeco, National General, Progressive, Foremost, Plymouth Rock and others.

Also, Conor Dougherty of the [New York Times technology blog Bits reported](#) that Google recently formed a

partnership with the Virginia-based insurance comparison shopping site CompareNow.com. Comparenow, which was launched in 2013, allows users who complete a single, simplified form to obtain comparison quotes from multiple carriers, and buy a policy online, by phone or through a local agent.

Google could present formidable competition for other insurance sellers. As many as two-thirds (67 percent) of insurance customers said they would consider purchasing insurance products from organizations other than insurers, including 23



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Google Poised to Enter U.S. Auto Insurance Market: Report (continued)

percent who would consider buying from online service providers such as Google and Amazon, according to [research by Accenture](#).

"Competition in the insurance industry could quickly intensify as consumers become open to buying insurance not only from traditional competitors such as banks but also from Internet giants," Michael Lyman, managing director for management consulting within Accenture's Insurance industry practice, said in February upon release of his study.

However, another report, this one by TransUnion, indicated that shopping for auto insurance online [may have peaked](#) already.

It found that shopping rates for auto insurance were down about 3 percent in the 12 months ending Feb 2014 relative to a year earlier.

Related: Has Online Shopping for Auto Insurance Peaked?

"We are finding that despite billions of dollars being spent on advertising each year, the percentage of consumers shopping for auto insurance has been dropping for approximately the last two years," said Mark McElroy, executive vice president of TransUnion's insurance business unit at the release of the study. "This places additional pressure on insurance carriers as their pool of potential customers

declines."

Google Compare (google.co.uk) launched in the UK in 2012. In addition to insurance, the service allows consumers to comparison shop for credit card offers, travel insurance and mortgages.

Google has also been in the forefront of the development of [driverless vehicles](#).

Google Inc. does own the site, GoogleCompare.com, however the site is not operational.

Google has not responded to *Insurance Journal* requests for more information. The tech giant told Reuters and the Wall Street Journal it does not comment on speculation.

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Douglas Reynolds Named President of Gulfstream

Gulfstream Property and Casualty Insurance Company, a regional property carrier providing homeowners, renters, condominium and fire coverage with operations in five states, has announced the appointment of industry veteran Douglas W. Reynolds as President and Chief Executive Officer. He takes the helm from Kerry Ford, Gulfstream's Vice President of Underwriting, who was serving as interim President.

"Doug has built a reputation as a strategic leader galvanizing growth in startups, national and global companies," said Bryan Rivers, Chairman of Gulfstream's Board of Directors. "With an exceptional track record

in the insurance industry, both domestically and internationally, Doug is well-positioned to lead Gulfstream's continued success in our home state of Florida and additional expansion along the hurricane-exposed Gulf and Atlantic coast states."

Reynolds received a bachelor's degree with a double major in marketing and management from Valparaiso University. He also completed the Executive Management Program at Northwestern University's Kellogg School of Management.

Gulfstream Property and Casualty Insurance Company, headquartered in Sarasota, Florida, is a leading regional

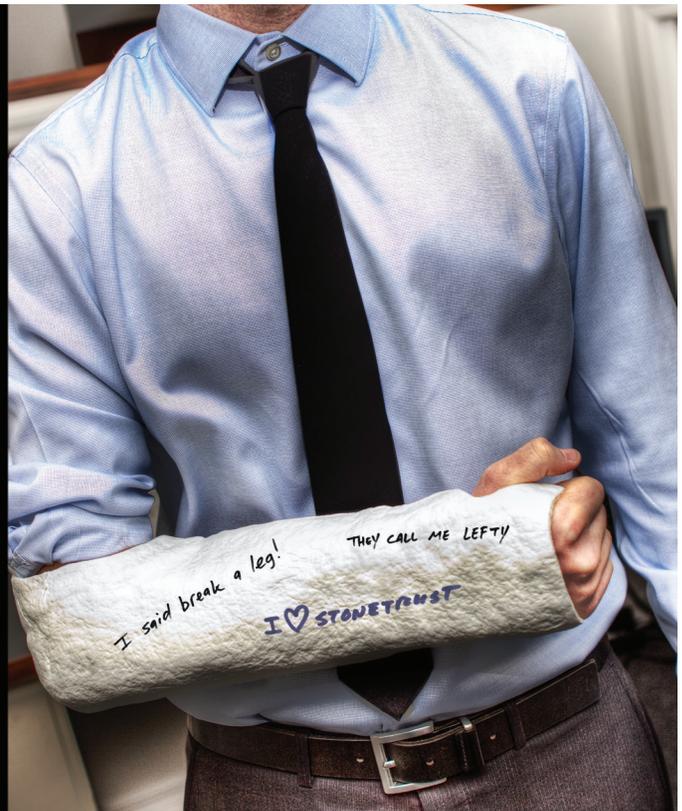
provider of residential property insurance along the Gulf and Atlantic coasts. Formed in 2004, Gulfstream is now licensed in seven states and currently operates in Florida, Alabama, Louisiana, Mississippi and Texas.

Gulfstream brings an established, comprehensive record of success working in hurricane-prone states to serve policyholders and agents. The company provides a range of quality insurance products that meet the specific needs of residents in these states, including homeowners, condominium, renters, dwelling fire and flood insurance.

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Q. We're in the early stages of a dog bite claim, and I'm looking for a second opinion regarding coverage under a Homeowners Policy. During the week between Christmas and New Year's, my insured spent the week at her condo in Panama City Beach, Florida. She has a Doberman, but did not want to take him on such a long trip. She asked a friend who lives down the street to come by on her way to and from work each day to check on the dog.

For some unknown reason, the dog suddenly bit the friend one afternoon. Unfortunately, it was a deep bite, and injured some nerves in her arm. We notified our insured's carrier as soon as we found out about the incident. Late yesterday afternoon, we got an initial email response from the adjuster indicating that they would probably offer medical payments coverage, but deny the liability claim that is surely coming, given the seriousness of the injury. The basis seems to be that since the friend was taking care of the dog, she is considered an insured in the Homeowners Policy of the dog's owner (our insured), and there is an exclusion for BI to an insured.

The adjuster also mentioned that she had



Ask Mike

IIABL Director of Education, Mike Edwards is available to answer technical questions from IIABL members. To submit a technical question, contact Mike Edwards, CPCU, AAI, at medwards65@aol.com or call (678) 513-4390.

Subject: Subject: Dog bites the hand that feeds it, and the insurance fur flies.

just read an article about a Supreme Court case handed down last month in Nebraska, which upheld the exclusion in a similar situation. I am not completely convinced that this should be excluded, and would appreciate your views.

A. Based on my understanding of the claim situation as you described it, I agree with you. I believe this claim would be covered under the ISO (Insurance Services Office) Homeowners Policy, barring any other facts we don't know about at present. More on that in a minute.

I also read an article in the trade press on the Nebraska case, and being

the insurance nerd that I am, I pulled the case and read it. (*Van Kleek v. Farmers Insurance*, 289 Neb. 730.) As it turns out, the Homeowners Policy that was the focus of the case is similar to ISO, but not in every detail. Importantly, one of the differences is that the ISO form would have covered the claim, whereas the actual Homeowners Policy under which coverage was sought, did not.

First, here are pertinent excerpts from the current ISO Homeowners Policy:

HO 00 03 05 11 Definitions

5. "Insured" means:

- a.** You and residents of your household who are:
 - (1) *Your relatives; or*
 - (2) *Other persons under the age of 21 and in your care or the care of a resident of your household who is your relative;*
- b.** A student enrolled in school full-time, as defined by the school, who was a resident of your household before moving out to attend school, provided the student is under the age of:

(1) *24 and your relative; or*

(2) *21 and in your*

care or the care of a resident of your household who is your relative; or

c. Under Section II:

(1) With respect to animals or watercraft to which this policy applies, any person or organization legally responsible for these animals or watercraft which are owned by you or any person described in **5.a.** or **b.** "Insured" does not mean a person or organization using or having custody of these animals or watercraft in the course of any "business" or without consent of the owner;

Ask Mike

continued

The non-ISO form from the court case includes essentially the same definition of "insured." The key difference between the two forms is the exclusion for bodily injury TO an "insured." Here is the ISO form :

HO 00 03 05 11

Section II – Liability Coverages

Section II – Exclusions

F. Coverage E – Personal Liability
Coverage E does not apply to:

6. «Bodily injury» to you or an «insured» as defined under Definition **5.a.** or **b.**

The comparable exclusion in the court case reads as follows:

Section II – Liability Exclusions Coverage E (Personal Liability) and Coverage F (Medical Payments to Others), do not apply to:
1. Any "insured."

Note the important difference. The ISO exclusion for bodily injury to "insureds" only applies to "insureds" described in **5.a.** and **5.b.** of the definition of "Insured." The exclusion does not apply to "insureds" described in **5.c.**, which is "any person legally responsible for these animals." The non-ISO form excludes bodily

continued on page 26



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* - Liability coverage associated with these features excluded.

injury to "any insured."
So I think you can quickly determine whether or not there is coverage in your insured's Homeowners Policy by reviewing these provisions.

This case is a textbook example of how coverage forms differ. With the deluge of insurance ads on TV these days, consumers could easily conclude that the only difference between insurance is the price. In fact, there are occasionally articles in the trade press discussing the issue of insurance being portrayed as a "commodity," meaning all coverage is the same except for price and service. On the contrary, I get questions every day from insurance agents,

Ask Mike

continued

and in so many cases where coverage is involved, differences such as the ones discussed here come to light.

That's not to say that every coverage form that provides less coverage than ISO is bad. In the free market, insurers are allowed to offer variations on coverages in any way they like, so long as the respective state department of insurance approves. But like most things in a free market, price is usually an indicator of value. On the other hand, consumers are free to purchase a lower-priced product if they wish

to. That's capitalism. At the same time, some insurers offer policies which provide *broader* coverages than ISO, and that gives consumers even more choice. One additional note is that coverage can differ from one edition date to another, whether ISO or non-ISO. In fact, an earlier edition of the Homeowners Policy in the court case would have covered the claim, based on my reading of that form.

Insurance practitioners need to be observant of details such as this. For example, ISO forms have the following footer note on each page: "©Insurance Services Offices, Inc." or "© ISO Properties, Inc." But some proprietary forms



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are based on ISO language, but contain differences. Often, the footer on these forms says, "Includes copyrighted material of Insurance Services Office, Inc."

One important issue for agents is to know what they're selling, and be able to discuss coverage differences with insureds as the need or situation arises.

As I mentioned in the beginning, there could be other facts present in a similar dog bite case which would cause the claim to be excluded, even under an ISO Homeowners Policy. One that comes to mind is where people "dog sit" as a business. The

Ask Mike

continued

growing popularity of Uber, Airbnb, and other well-known names in the so-called "sharing economy" has opened up a universe of similar services. Pet-sitting is among one of the fastest growing segments, and there is a proliferation of services such as [Holidog](#), [Rover](#), [Dogvacay](#), and others. In addition, one variation are websites which offer an assortment of services, such as [Taskrabbit](#), which is an online platform where people can find all sorts of help, from home cleaning, handyman, running errands, and so forth.

While these many platforms

and website services describe themselves as part of the new "sharing economy," from an insurance standpoint, nearly all would be considered a "business," in which case the business exclusion in the standard Homeowners Policy would apply. So in the court case, or in your insured's case, had the dog-sitting been done as a business, the definition of an "insured" in **5.c.** does not extend to include anyone "using or having custody of these animals ...in the course of any 'business'."

Additional information.

Here are several articles from the IIABA's Virtual University which relate to

continued on page 28



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Ask Mike

continued

the issues discussed here:

["Who Let the Dogs Out?"](#) (Excellent discussion of various dog-bite claims.)

["Gun Liability Coverage"](#) (Illustrates how self-defense coverage under ISO Homeowners Policies differs by edition date.)

["Is It ISO or Is It Memorex Insurance Company?"](#) (Comprehensive discussion of how to distinguish "straight-ISO" forms from proprietary forms.)

["Is Insurance A Commodity?"](#) (Resource page with links.)

["The Commoditization of P&C Insurance"](#) (A veteran insurance expert's views.)

These articles deal with some of the "sharing economy" issues in insurance:

["House Sharing and Car Sharing"](#)

["Insurance Implications of Car Sharing"](#)

["Zipcars"](#)

These materials are intended for educational purposes only and should not be relied upon as legal advice. Please consult a qualified attorney for legal advice.



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IIABL January 2015 CALENDAR OF EVENTS

Jan 16, 2015	Commercial Property Endorsements (Online) 2 hrs	1pm – 3pm
Jan 19, 2015	Certificates of Insurance (online) 3 hrs	9am – 12pm
Jan 21, 2015	NFIP: Basic Course 2014 Update (online) 3 hrs	9am – 12pm
Jan 22, 2015	E&O Risk Management (online) 6 hrs	9am – 3:30pm
Jan 22, 2015	E&O Risk Management Part I (online) 3 hrs	9am – 12pm
Jan 22, 2015	E&O Risk Management Part II (online) 3 hrs	1pm – 4pm

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