

June 2014



# Louisiana Agent

## 2014 New Insurance Laws

The 2014 Regular Session of the Louisiana Legislature is over! 2823 bills were introduced. Oil & gas industry lawsuits dominated the debate along with tort reform, Common Core education initiatives, the budget battle, and a host of other issues.

There were fewer bills directly affecting insurance this year, but there were still a fair number of bad bills to kill and few good bills to pass. IIABL was there throughout the legislative session protecting the interests of your agency and your policyholders.

IIABL followed 262 insurance related bills including a large number of tort reform initiatives. Other than the oil & gas lawsuit reforms, general tort reform legislation did not fare well during this legislative session.

When the smoke cleared, there were four particularly important insurance bills passed during the 2014 Regular Session of the Louisiana Legislature.

See 2014 New Insurance Laws page 2

## PLANS FOR LOUISIANA INSURANCE ACADEMY IN THE WORKS

*By Parke Ellis, IIABL President*

Among the many responses that we received to our 2013-14 IIABL member needs survey, was the glaring need to attract and develop new talent to the Independent Insurance Agency ranks. Having identified this as a critical need for sustaining the Independent Agency system in Louisiana, the IIABL Board of Directors discussed the possibility of trying to create an educational program to develop support staff talent

for our member agencies in Louisiana.

After a couple of false starts, we have now entered into very meaningful and productive discussions with Delgado Community College in New Orleans. Delgado has named this program the Louisiana Insurance Academy. The concept is to create a program within the "Career Curriculum" at Delgado that will train students to be Customer

See Plans for Louisiana Insurance Academy page 11

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HB 764  
Pearson, Kevin(R)  
Morrish(R)

Provides for the licensing and regulation of health insurance navigators and similar individuals and entities.

IIABL supported HB 764 which requires licensing and regulation of navigators under the federal health insurance exchange by the Commissioner of Insurance. Navigators must be licensed by the Louisiana Department of Insurance, submit documentation and fingerprints, are subject to a criminal background check, and shall be subject to regulation by the Commissioner of Insurance. Non-navigator personnel assisting in the federal health insurance exchange must also register with the Commissioner.

Navigators must complete federal training requirements and the Commissioner may require additional training requirements. Navigators may provide information about the federal health insurance exchange, but may not sell, solicit, or negotiate a contract of health insurance unless they **have an insurance producer's license**. Navigators are also prohibited from providing specific advice about health plans, recommending or steering business to specific health plans, or sharing information obtained during the course of their navigator activities. Navigators who violate the provisions of Title 22 are subject to the regulatory oversight of the Commissioner of Insurance and appropriate fines, penalties, and suspension or revocation of their navigator license.

HB 1195  
Lorusso, Nick(R)  
Johns(R)

Provides relative to unfair trade practices in the business of insurance.

IIABL supported HB 1195 which was brought in direct response to the abusive treatment of an insurance company against independent agents. HB 1195 prohibits insurers from using agency contracts or financial restrictions / incentives in an effort to restrict the ability of independent agents to represent more than one insurance company. HB 1195 also prohibits insurance companies from using incentives, restrictions or agency contracts in an effort to limit an insurance **producer's ability to provide information** about alternative limited benefit or supplemental benefit plans. The bill prohibits insurance producers from

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deliberately using misrepresentations or false statements to convince a customer to replace a limited benefit insurance policy. An amendment late in the process also requires admitted insurers who issue a liability insurance policy with defense within the limits of liability to provide a notice to the policyholder.

HB 1060  
Thierry, Ledricka (D)  
Morrish(R)

Provides relative to homeowner's insurance.

IIABL supported HB 1060 which clarifies the homeowners nonrenewal statute which **includes the "3 year rule" that prohibits insurers from nonrenewing a homeowners policy after it has been in effect for more than three years. One exception to the "3 year rule" is that an insurer may nonrenew**

if the policyholder has two or more losses in a three year period, not including acts of God. Some insurance companies creatively noted that the statute did not specify which three years, and were nonrenewing policies if they could find any three years in the policy history which included two or more losses. HB 1060 clarifies that the nonrenewal is only allowed when a policyholder has two or more claims in a continuous three year period within five years of the renewal date. The bill also requires an insurer who withdraws from the homeowners market to stay out of the market for at least five years, in order to prevent an insurer from **"withdrawing from the market" one day** and immediately returning to the market the next day to write the business they want to keep. HB 1060 has been signed into law as Act 353.

See 2014 New Insurance Laws page 4

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HB 909  
Leopold, Chris(R)  
Smith (D)

Provides for the Property Insurance Clarity Act.

IIABL did not support, but did not actively oppose HB 909. The purpose of HB 909 is **to provide "clarity" to policyholders and consumers** as to the loss history of their homeowners insurers. Unfortunately, the legislation will cause much more confusion than clarity. HB 909 requires insurers to report homeowners premiums and losses by zip code, which the Louisiana Department of Insurance is required to publish for public information. The idea is that consumers will see the premiums and losses of homeowners insurers and have **"clarity" about their profitability and the appropriateness of their rates.** Unfortunately, this information will only

cause confusion because the rate making process is much more complicated than **"premiums in and losses out."** Consumers **will not see and don't understand that in addition to the pure homeowners losses rate making takes into account the operating expenses and profits of the insurance company, loss trends, reinsurance, catastrophe modeling, and a host of other factors.** Unfortunately, **"transparency" is one of the most important underpinnings of the legislative process, and it is extremely difficult to argue against "clarity."** The insurance industry tried to explain to legislators that the bill would cause more confusion than clarity, and that we already had a transparent rate approval process, but there was broad support for HB 909 throughout the legislative process. HB 909 has a two year sunset provision and will expire on May 1, 2017. HB 909 has been signed into law as Act 427.

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## Concerns about Private Flood Insurance

The debate about the Biggert-Waters Act of 2012 during the past several years centered around the idea that with **“adequate rates”** the private insurance industry could write some/most/all of the flood insurance needed in the United States. Many remain very skeptical of this view, but others push forward with this idea.

Politically, the fiscal hawks in Congress want to encourage the development of a private flood insurance market. Sens. Dean Heller (R-Nev.) and Jon Tester (D-Mont.) and Reps. Dennis Ross (R-Fla.) and Patrick Murphy (D-Fla.) have introduced S. **2381** and H.R. **4558**, the **“Flood Insurance Market Parity and Modernization Act of 2014.”** The new bills aim to remove excessive restrictions placed on insurance companies by the federal government for the issuance of private flood insurance and would give the states more flexibility to

license and regulate private flood insurance

In the private insurance market, a few insurance companies have started to develop private flood insurance programs. They claim that better computer models and higher flood insurance premiums will allow them to write some amount of flood insurance in the private market.

### Coverage Differences

Agents are used to writing flood insurance in a variety of Write Your Own (WYO) flood insurance companies with the assurance that the coverages were always exactly the same and the claims were 100% insured by the NFIP.

When considering placing coverage with a private flood insurance market, agents must be careful to understand what coverages are provided and how they compare to standard NFIP policies. Some insurers providing private flood insurance are using policy forms with less coverage than NFIP. Agents need to understand these coverage differences, carefully explain them to their policyholders, and document the informed decision of the policyholder to choose a private flood insurance policy with less coverage.

### Grandfather Status

The Biggert-Waters Act of 2012 dramatically demonstrated the importance of NFIP **“grandfather provisions”** in maintaining affordable flood insurance for policyholders with Pre-FIRM properties in flood zones. Loss of grandfather status can make flood insurance unaffordable and

See Private Flood Insurance page 6



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ultimately make properties unmarketable in some instances.

There are two triggers that allow grandfathering to occur in the NFIP. The first is **“continuous coverage” of an NFIP policy** through a Flood Insurance Rate Map (FIRM). It is important to note that grandfather status only applies if the policy is written through NFIP. This grandfather status trigger would not be met in the example of a policyholder going from the NFIP to the private market and then back, since they did not have continuous NFIP coverage.

The second trigger is known as **“built in compliance”** which allows grandfathering to occur even if continuous coverage was not maintained as long as the policyholder shows documentation demonstrating that the property was built in compliance with

the FIRM as of the date of construction AND that it was not substantially damaged or improved during its absence from the NFIP policy. Failure to provide the appropriate documentation or substantial damages or improvements to the property while insured by a private insurance market would result in the permanent loss of NFIP grandfather status. This could cause serious hardship for the policyholder when required to pay full actuarial flood rates.

Below is a summary of grandfathering trigger language directly from FEMA.

**“When a map change is approaching, it is important to remember that most pre-FIRM structures have only one opportunity to lock in the current flood zone for future rating<sup>1</sup> —before the new FIRMs take effect. The policy must then be renewed each year. The benefits of the grandfathered zone can be transferred to the new owner if the building is sold. Post-FIRM buildings have two chances to lock in the BFE and/or flood zone<sup>1</sup>—before the maps become effective or after the effective date, but with the proper documentation. Continuous coverage is not required. If, however, a building is substantially damaged or improved, grandfathering of previous zones or BFEs can no longer be applied.”**

Private flood insurance markets may provide alternatives to agents and their policyholders. However, agents need to carefully analyze the long term impact of leaving the NFIP, discuss the proposed change with the policyholder, and carefully document the informed choice of the policyholder to purchase coverage from a private insurance market outside of the NFIP.

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## Ask Mike Edwards

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](mailto:medwards65@aol.com) or call (678) 513-4390.

**Subject:** Loading & Unloading a Non-Owned Auto (BOP/CGL)

**Q.** An unusual claim came up last week, and the initial indication from the adjuster is that it is going to be denied. I would like your thoughts on whether or not you think there is coverage.

The situation is this. Our insured owns a popular, upscale art and frame shop in town. One of her customers purchased a large, original painting by a local artist. An

employee was attempting to load it into **the customer's car, when he lost his balance, and the heavy frame struck the customer in the head.** He had some injury to his eye, and a mild concussion. In addition, the frame put a big dent in the trunk lid of his new Lincoln, and also cracked the rear window. The frame and canvas of the painting were damaged as well.

**The insurer's initial response to us has been that "loading and unloading of autos is excluded by the BOP, and the claim should be submitted to the insured's BAP." As it turns out, our insured's business owns no autos, thus they have no BAP. Should we have written hired/non-owned auto coverage for the claim to be covered?**

**We have not received the insurer's written**

See ASK MI KE page 8



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denial yet, but I wanted to do my homework on the coverage issues beforehand, so I can decide how to proceed.

**A.** Here are my thoughts on the claim. As always, we won't know the whole picture until the written response has been made by the insurer. The insurer's statement that "loading and unloading is excluded by the BOP" is true...in certain situations. However, that is not absolutely true in all cases.

For the discussion below, assume the following: (1) your insured is Jill's Art & Frame Emporium, owned by Jill Smith; (2) Jack is one of Jill's employees; (3) John is the customer; and (4) Jack is attempting to load the painting into John's

new Lincoln.

The commentary is based on the ISO Businessowners Policy (BOP), although it would apply equally to the ISO Commercial General Liability form (CGL). Here are pertinent excerpts from the ISO BOP.

*Businessowners Coverage Form*

*BP 00 03 01 06*

*Section II – Liability*

*B. Exclusions*

*1. Applicable To Business Liability Coverage*


*This insurance does not apply to:*

*g. Aircraft, Auto Or Watercraft*

*"Bodily injury" or "property damage" arising out of the*

See ASK MIKE page 16

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## Important Advisory for Agents of Centauri Insurance Company Agency Agreement - Indemnification Provision

A few months ago, several IIABL members who represent Centauri Specialty Insurance Company were discussing the indemnification agreement of the Centauri agency agreement. They were concerned that the agreement favored Centauri to the detriment of the agent. These agents asked IIABL to contact Centauri on behalf of members who represent Centauri, and ask Centauri to change the contract to provide for an equal indemnification of each party to the other for their negligence.

The Big I, on both a state and national level, routinely works with insurance companies to improve company-agency relations, deal with issues and concerns of agents, and resolve disputes. This work includes reviewing agency contracts and

providing insights to both insurance companies and our members on various provisions of such agency agreements.

IIABL contacted Felicia Cox, CIC, Vice President of Sales & Agency Relations at Centauri Specialty Insurance Company. We respectfully requested that Centauri change their agency agreement to make the indemnification provision equal and reciprocal between Centauri and their agents, so as to make each party responsible for their own negligence.

We recently heard back from Felicia Cox at Centauri Specialty Insurance Company. She informed us that to date, they have not had any Centauri appointed agencies request that their agency agreement be

See Important Advisory page 11



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## Important Advisory for Agents of Centauri Insurance Co. —————from page 10

modified in any way. Any future request to modify the producer agreement, coming directly from one of their appointed agents, will be addressed on an individual basis.

IIABL is providing this advisory to IIABL member agencies so that those agencies who represent Centauri Insurance Company are aware of the unequal indemnification provision. Any Centauri agents who are concerned about the

indemnification provision of the agency agreement may contact:

Felicia Cox, CIC

Vice President, Sales & Agency Relations  
Centauri Specialty Insurance Holdings Inc.  
5391 Lakewood Ranch Boulevard, Suite 303

Sarasota, FL 34240

Direct [+1 941-870-0204 x203](tel:+19418700204)

Mobile [+1 941-600-7135](tel:+19416007135)

[fcox@centaurispecialty.com](mailto:fcox@centaurispecialty.com)

## PLANS FOR LOUISIANA INSURANCE ACADEMY IN THE WORKS—from page 1

Service Representatives.

The classes will be taught by independent agents in cooperation with the Independent Insurance Agents & Brokers of Louisiana. The plan is to teach the five modules of the Accredited Customer Service Representative (ACSR) curriculum and have each of the students take the test for the Personal Lines ACSR Accreditation. We would then teach the additional four modules of the Commercial Lines ACSR designation. The hope is that we can graduate a full class of both Personal Lines and Commercial Lines Accredited ACSR candidates for placement into independent agencies.

We are currently looking for internship opportunities for these students as well as permanent placement opportunities. We hope to engage the services of an employment placement service to help in this endeavor.

This program has generated a great deal of interest and a great deal of support.

Already, we have insurance carriers who are willing to help sponsor the cost of this first year, thereby reducing the total cost to the student. Delgado has proven to be a very enthusiastic and engaged partner in this concept. They are undertaking an aggressive marketing approach with their students and are creating a separate admissions committee for this program. We have sent representatives to Delgado to speak to student groups about this possible career curriculum and the interest has been very high.

We are hopeful that if this model works in the New Orleans metropolitan area through Delgado Community College, that we will be in a position to launch this at other community colleges around the state. Obviously, we need to crawl before we walk, but we wanted to keep our members informed of this exciting new program that we think will develop a fresh new pool of talent for our industry.

We will keep you apprised of further developments.





## The Commissioner's Corner

### Highlights of the 2014 Legislative Session

As we head into another hurricane season (hopefully a quiet one) I am pleased to report that the latest legislative session had minimal impact on the insurance market in Louisiana with much of the action focused on social and educational issues. The Louisiana Department of Insurance (LDI) was successful in having several bills we proposed pass in the 2014 Regular Session. In this column I will address some of these measures as well as other legislation that may be of interest to you.

[Act 70](#) addresses the denial, nonrenewal, or revocation of an insurance producer license. It extends my authority to producers who receive any suspension,

deferral of sentence or probation in addition to those who have been convicted of any criminal activity or public corruption.

[Act 83](#) addresses continuing education requirements for licensed producers. It authorizes me to grant continuing education credits to licensed producers who participate in qualified graduate-level national designation programs or who are active participants in a state or national insurance association. It also requires me to provide 24 continuing education credits per renewal cycle to licensed producers who are serving a term in the Legislature.

[Act 118](#) reduces the time in which a producer license may be reinstated after lapsing from five years to two years provided that continuing education requirements are met and reinstatement fees are paid. It also gives licensees additional time to provide the LDI with notification of an address change, lengthening the window of time from 10 days to 30 days.

[Act 353](#) changes current homeowners insurance policy cancellation law that requires the occurrence of two or more non-Act of God claims in a three-year period in order for a homeowner's policy to be able to be cancelled or non-renewed if the policyholder has been with his insurer for more than three years. Under this Act the required timeframe for claims is three continuous years within a five-year period preceding the current policy renewal date. Those three years can be at any three-year block of time within that five-year

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See **COMMISSIONER'S CORNER** page 13

period, not necessarily the three years immediately preceding the policy's renewal date.

As you are aware, once a policyholder has been with a company for three years, they are protected from having their policy canceled or non-renewed (except for certain cases such as if they have failed to make their premium payments). Another exemption to this three-year rule is if the policyholder has made more than two non-Act of God claims within a 36-month period. Recently a company interpreted the existing law to mean that it could non-renew a policy if two or more non-Act of God claims were made in any 36-month period that the policyholder had coverage with that company. This legislation was proposed as a compromise to that new interpretation of the three-year rule.

Also under Act 353, if an authorized property and casualty insurer provides the LDI with notice that it will withdraw from the homeowners market in Louisiana, it must remain out of the market for a minimum of five years before returning. Previously, there was no waiting period. The law does give me the discretion to allow an insurer to reenter the homeowners market prior to the expiration of the five-year period in I deem their return in the best interest of the state.

[Act 374](#) amends the statute pertaining to the Louisiana Life and Health Guaranty Association (LLHIGA) based on the NAIC model law and was part of an effort by the National Organization of Life and Health Guaranty Associations to make states more consistent in the guaranty fund area.

It clarifies what LLHIGA will pay, how much it will pay and under what circumstances it will pay it. The Act adds coverage for structured settlement annuities used to fund payments over time of personal injury claims instead of lump sum payments. It also raises the amount of coverage from \$100,000 to \$250,000 for the net cash surrender and withdrawal values of annuities benefits. Additionally, the Act amends the definition of "resident" to address certain U.S. citizens living abroad and adds provisions on the coordination of coverage when a health, life or annuity policy is eligible for coverage under more than one state's guaranty fund.

[Act 635](#) requires the licensing of health insurance navigators who serve as in-person resources for those shopping for a health insurance plan under the Affordable Care Act. The bill broadens educational

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See COMMISSIONER'S CORNER page 15

# INTRODUCING LCTA'S NEW ADMINISTRATOR *of* CHANGE.



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and training requirements and requires navigator applicants to undergo fingerprinting and criminal history checks. It requires the registration of non-navigator personnel, known as Certified Application Counselors or CACs, but does not require background checks on them. The bill allows for fines of up to \$500 per violation among other things. Previously the law gave the LDI only the authority to require registration of navigators.

[Act 718](#) provides a means for the LDI to review health insurance premium rates for unreasonableness. Federal law requires that health insurance rate increases of 10 percent or above be reviewed by independent actuaries to determine if the rate increases are actuarially justified. As determined by the Centers for Medicare and Medicaid Services' Center for Consumer Information and Insurance

Oversight, Louisiana was among the states that did not have an effective rate review program for health insurance rates. Our actuarial staff will now conduct a review of proposed rate changes of 10 percent or greater and post the results to the LDI website. Public comments will be accepted via this online tool as well. However, the Act does not grant approval authority to me over health insurance rates and we were again unsuccessful in our effort to get that authority.

The passage of Act 718 will strengthen consumer protection primarily by providing more transparency and applying scrutiny to the processes and assumptions that private insurers use to make significant health insurance rate increases. The bill also substantially revised rating rules in the Insurance Code which had been preempted by federal law.

See **COMMISSIONER'S CORNER** page 28

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*ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".*

*This exclusion does not apply to:*

*(3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;*

#### Comments:

(1) The auto exclusion has two parts, both of which must be met in order for the

exclusion to apply. The first part excludes the **"ownership, maintenance, use [which includes loading or unloading], or entrustment to others"** of certain autos. Since **Jack is loading the painting into John's Lincoln, this is a form of "use" of an auto,** and thus meets the first condition of the exclusion.

(2) The second part of the auto exclusion **applies to autos which are "owned or operated by or rented or loaned to any insured."** Employees are "insureds" in the BOP (and CGL), so when Jack is loading the painting into John's Lincoln, Jack is an "insured." However, John's Lincoln is not "owned or operated by or rented or loaned" to Jack. Therefore, the auto exclusion does not apply in this case.

See ASK MIKE page 17



**One of these is not like the others.**

Access Home Insurance Company (Access Home) separates itself from other insurance companies with innovative residential insurance options such as coverage for:

- Homeowners with any dog breed (including Pit Bull), saddle animals or other exotic pets\*,
- Homes with trampolines, unfenced pools, diving boards or pool slides\*,
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\* - Liability coverage associated with these features excluded.





(3) This is just one example that illustrates the inaccuracy of the overly-broad statement that "loading or unloading of an auto is excluded in the BOP." More accurately, loading or unloading of an auto is excluded *under certain circumstances*.

Coverage summary under the BOP:

1. Bodily injury to John: Covered.
2. **Damage to John's Lincoln: Covered.**
3. Damage to the painting: Not covered, due to the PD exclusion for damage to "personal property in the care, custody or control of the insured."

Variations: The loading and unloading exposure for a small retail business can occur in various ways. Loading a

**customer's property into the customer's auto by an employee, as in your insured's situation, is common.** Here are two variations on that exposure which can also happen.

Variation #1: **As Jill's employees wrap the painting in Kraft paper prior to loading it into John's Lincoln, they notice that it has started to rain a little.** Jill decides it would be better to load the painting from the loading dock in the rear of the building. John gives his car keys to Jack, so Jack can drive the Lincoln from the parking lot out front to the loading dock around back of the art shop. Hurrying because of the rain, **Jack quickly starts to back John's Lincoln out of the parking lot.** However, he accidentally hits Heather, a customer who is

See ASK MIKE page 18





running across the parking lot towards the building, to get out of the rain. Heather suffers serious injuries, and the Lincoln is also damaged.

This is essentially a valet parking exposure, which is common in certain businesses, such as restaurants. Although **Jack isn't providing valet parking service in the traditional sense, once he gets behind the wheel of John's Lincoln, the auto exclusion needs to be reviewed.** Recall that in the original situation, Jack did not have **possession of John's Lincoln, but was merely attempting to load the painting into it.** As such, the auto exclusion did not apply to any otherwise covered BI/PD.

However, given that Jack is now driving **John's Lincoln, one provision of the auto**

exclusion now applies. Referring to Exclusion B.1.g. above, the Lincoln is now being **"operated by... any insured."** But given that parking non-owned autos is an exposure limited to only a few types of businesses, the BOP contains the following exception to the auto exclusion (See B.1.g. (3) above):

*This exclusion does not apply to:*

*(3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;*

Comments:

(1) The BOP provides an exception to the

See ASK MIKE page 19



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auto exclusion for the parking of customer's autos on or next to the art shop, for BI/PD claims not otherwise excluded. Therefore, the BOP would respond for **Heather's injuries.**

(2) On the other hand, the exception for parking does not eliminate any other exclusion which might be applicable. In this case, damage to John's Lincoln would be excluded, due to the PD exclusion for damage to "personal property in the care, custody or control of the insured." This exposure can be covered by use of a bailee coverage, such as Garagekeepers.

Coverage summary under the BOP:

1. Bodily injury to Heather: Covered.

2. Damage to John's Lincoln: Not covered.

Variation #2: Before Jack begins to take the painting outside to the parking lot to load into John's Lincoln, he realizes that the painting won't fit in the Lincoln. Jack offers to deliver the painting to John's house, which is not far from the art shop. Jill has a couple of employees overwrap the painting in Kraft paper and heavy plastic wrap. They carefully load the painting into Jack's Ford F-150, and he takes it to John's house. With his truck parked in John's driveway, Jack begins to unload the painting. However, due to the wet truck bed, his feet slip, and the painting hits John in the head, causing injury to his eye, and a mild concussion.

See ASK MIKE page 20



Referring to Exclusion B.1.g. above, the auto exclusion applies, since it arises from "the use of any auto...owned by any insured." **In the BOP, employees are automatically included as "insureds."**

For this type of exposure, the hired/non-owned auto endorsement is needed. Here are pertinent excerpts from the ISO BOP endorsement:

*BP 04 04 01 10*

*Hired and Non-Owned Auto Liability*

*A. Insurance is provided only for those coverages for which a specific premium charge is shown in the Declarations or in the Schedule.*

*2. Non-owned Auto Liability*

*The insurance provided under Paragraph A.1. Business Liability in Section II – Liability applies to "bodily injury" or "property damage" arising out of the use of any "non-owned auto" in your business by any person.*

*B. For insurance provided by this endorsement only:*

*Paragraph C. Who Is An Insured in Section II – Liability is replaced by the following:*

*2. None of the following is an insured:*

*d. The owner or lessee (of whom you are a sublessee) of a "hired*

See ASK MIKE page 26



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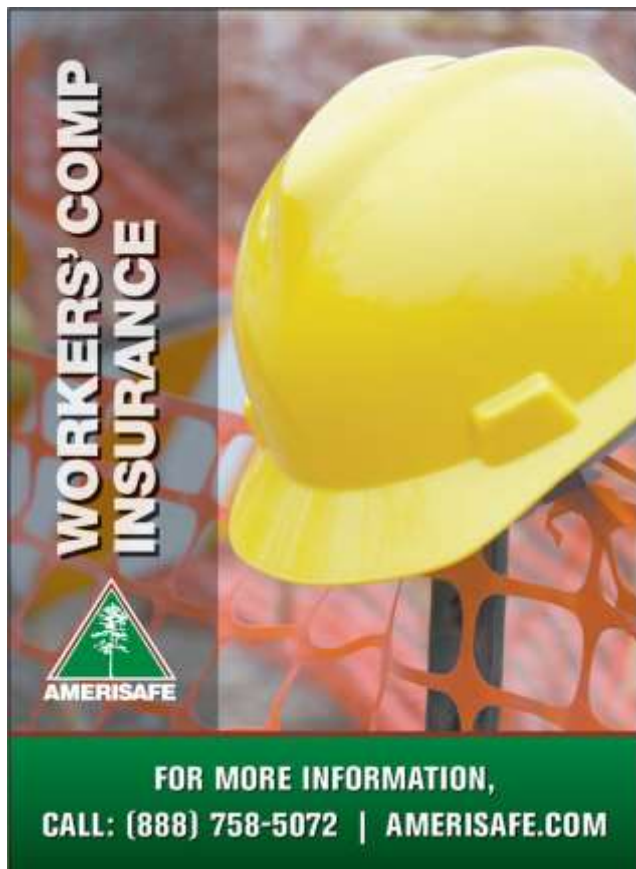
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## Insurance Shopping: Millennials Care More About Web Access than Price

When selecting insurance, younger generations are less likely to choose the cheapest option than are baby boomers, according to the J.D. Power 2014 Insurance Website Evaluation Study. That might be a victory in the price war, but fair warning: your website—whether agency or carrier—better impress.

While 47% of boomers and 51% of pre-boomers selected the lowest-priced insurance brand, only 35% of both Gen X and millennials did the same. So what matters most to younger insurance shoppers? According to the study, 40% of both Gen X and millennials are more likely to select insurance from websites that offer easy navigation, compared to only 36% of boomers and 33% of pre-boomers.



**“It was only a couple years ago that we would have told you the No. 1 thing that drives customer impression of a company is the agent,”** says Jeremy Bowler, senior director of the global insurance practice at J.D. Power and Associates. **“That’s been diluted in the last handful of years. These folks live on the Web. They’re much more apt to say, ‘I don’t get it—why doesn’t it work like Amazon?’ So they’re much more critical of something that’s clunky or awkward or tough to figure out. They’re interpreting that if your website sucks, you probably can’t be that good of a company.”** Project CAP can help your agency with website design and optimization, click on [DMS Agency Websites](#) to learn more.

Millennials are also more concerned with the ability to research while shopping—29% are more likely to select a brand that provides the appropriate amount of information on its website, and 36% are more likely to opt for one that does so in a **clear and intelligible way. It’s part of an ongoing trend of consumer self-empowerment in which clients think, “I want to direct the service more on my terms,”** Bowler says. Project CAP can help your agency with content marketing; click on [DMS Content Marketing](#) to learn more.

At the agency level, Bowler likens the website to a professional resume presented to the marketplace—it should feature key information a shopper needs to know about

that agency and the services they offer. Since personal lines customers can secure adequate coverage even while bypassing the agency channel altogether, that means **it's crucial to use the agency website as a platform to highlight what makes your business special.**

**"One of the foundational things I would establish on your website is You're going to get a level of service at my agency in your community that's above and beyond what you can get from a direct model. "Maybe it's that my staff is highly trained or that we're available with extended hours. Whatever it is you're presenting as the virtues or benefits of your agency, you're going to want to make sure that billboard**

**is very clear and easy to access for the shopper."**

Equally important is maintaining a Web presence that's up to date with current Internet trends. The worst possible offense **is the website that's very dated in appearance and in terms of its functionality. If you've got a very dated-website consumers just shriek when they see that. 'Ease of navigation' doesn't mean putting it all on the landing page so everything is one click away."**

As a remedy, Bowler encourages agencies to consider use of images, color and font to speak to who makes up the target audience. **"If I've got a good contingent of**

See Insurance Shopping page 24

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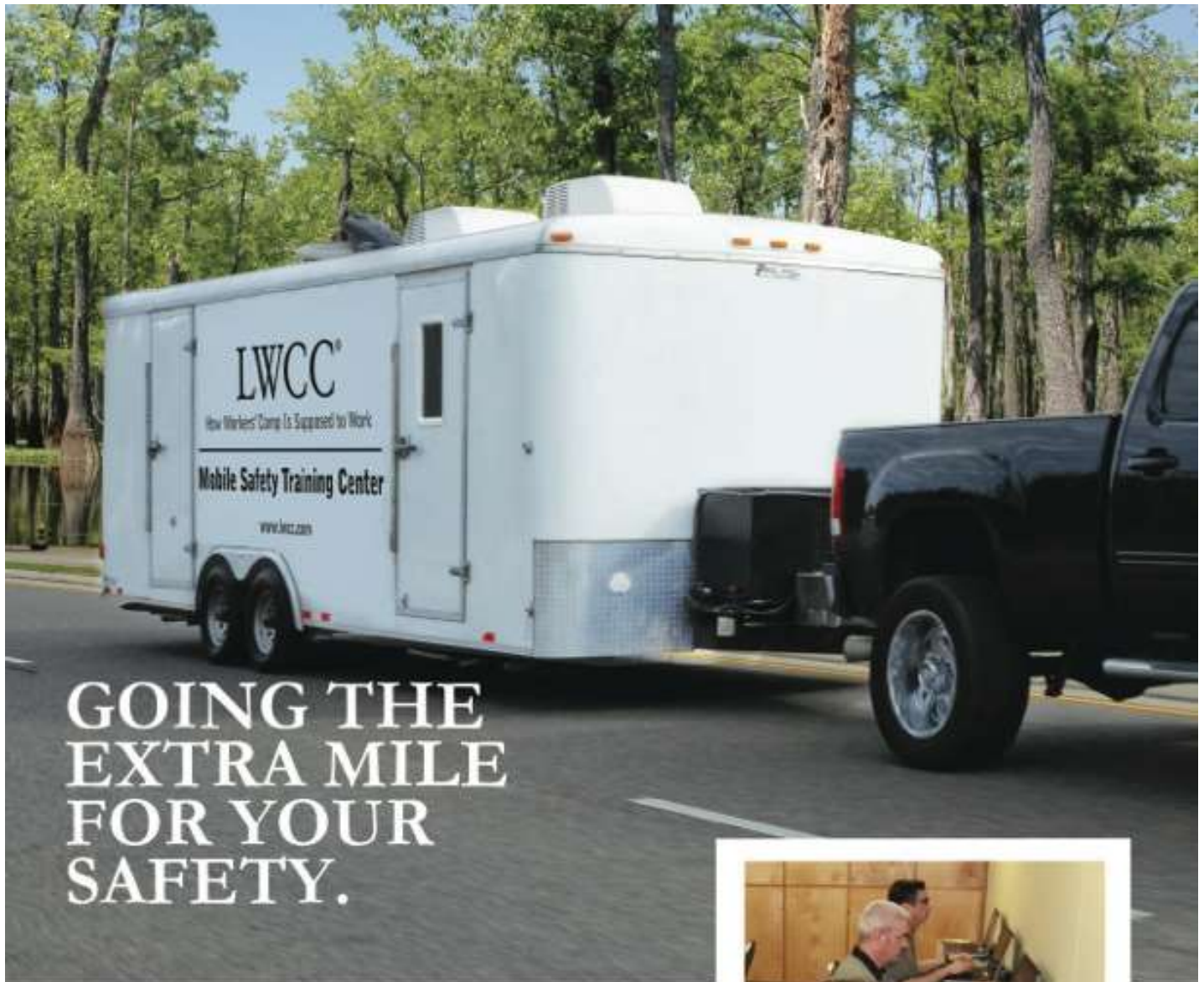
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retired persons in Florida who are in my territory, I've got to think about that font size," he says. "I've got to make sure it's legible and I've got to make sure it's not industry jargon so much as describing the need for which I can provide solutions. Click on the need—I'll take you to the solution."

And using best practices for SEO and social media is key. "More customers today start the shopping process by going to the Web to do their research," Bowler says. "Website design that promotes search engine optimization is one of the first things I'd recommend. And if you're going to be strategically competing in this new channel, you have to have a balanced approach that includes social." Project CAP can help

your agency with SEO and social media, click on [DMS Local Search](#) and [DMS Social](#) to learn more!

Think optimizing your agency's Web presence isn't worth the investment? That won't be true in the near future. "These are the customers of tomorrow—that segment is growing," Bowler says. "You want to put yourself in the conversation wherever the customer is. If the consumer is dissatisfied or struggling to get effective service and they go and post on your Facebook page and you're not seeing that, you're going to be at a competitive disadvantage."

Project CAP can help you with all of your agency's digital marketing needs. Learn more at [www.ProjectCAPMarketing.com](http://www.ProjectCAPMarketing.com).



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*auto" or the owner of a "non-owned auto" or any agent or "employee" of any such owner or lessee;*

*D. The following additional definitions apply:*

*3. "Non-owned auto" means any "auto" you do not own, lease, hire, rent or borrow which is used in connection with your business. This includes "autos" owned by your "employees", your partners or your "executive officers", or members of their households, but only while used in your business or your personal affairs.*

Comments:

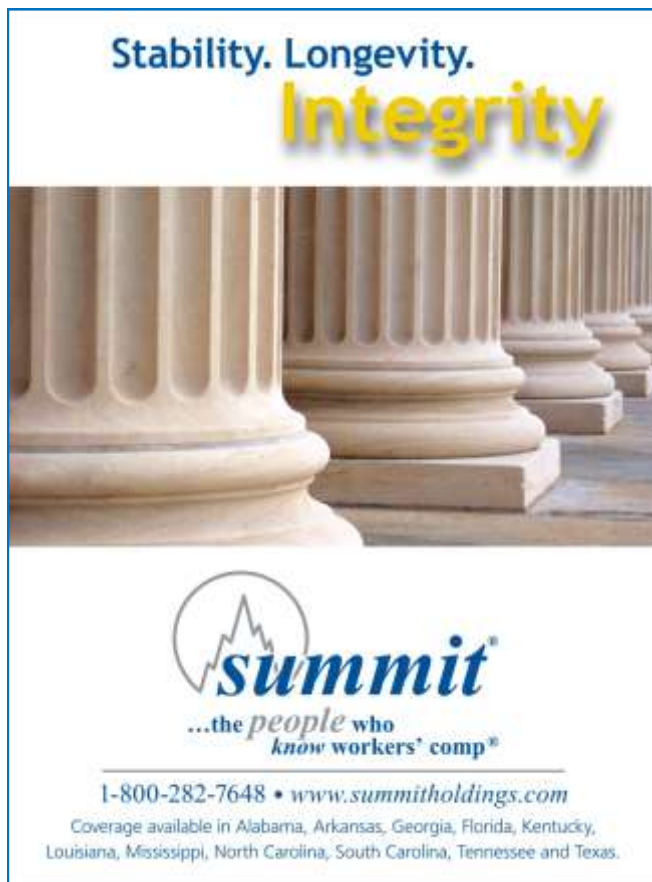
(1) The endorsement provides coverage for

**Jill's Art & Frame Emporium, arising from** the hired and non-owned auto exposure, which would be excluded in the BOP, without endorsement BP 04 04 being attached.

(2) However, there is no coverage for Jack, who owns the auto. See B.2.d. above.

(3) The ISO BOP provides no additional endorsement which would cover Jack for his use of his Ford F-150 on behalf of Jill's Art & Frame Emporium.

(4) If hired and non-owned coverage was provided by an ISO Business Auto Policy (BAP) instead of under the BOP, coverage for Jack could be added with endorsement CA 99 33 10 13 Employees As Insureds.



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Coverage summary under the BOP:

1. Bodily injury to John: Not covered under the unendorsed BOP. If the hired/non-owned endorsement is added, Jill's Art & Frame Emporium is covered, but Jack is not.

2. The ISO BOP does not offer an endorsement to add coverage for Jack while he is using his personally-owned auto on behalf of the art shop.

*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.*



## Louisiana Handbook to Prepare for Natural Hazards

The Louisiana Sea Grant has developed a publication “Louisiana Handbook to Prepare for Natural Hazards” which provides detailed catastrophe plans based on eight actions homeowners can take to prepare for hurricanes, tornados and other catastrophes.

- Gather your emergency supplies.
- Assemble your evacuation kit.
- Create an evacuation plan for both a flood and a hurricane.
- Know your potential hazards and take appropriate action.
- Strengthen your house.
- Seek the assistance of a qualified and licensed architect, structural engineer or contractor.
- Finance creatively and take advantage of potential discounts for your insurance premiums.

- Insurance. Don't gamble with your house.

Details of how to do the eight hazard preparation actions are covered in the Louisiana Sea Grant publication “Louisiana Handbook to Prepare for Natural Hazards.”

**“There are tips and information specific to Louisiana residents for preparing evacuation plans and kits, construction practices, retrofitting, shutter styles, insurance information and emergency contact numbers,” said Melissa Daigle, resiliency specialist with Louisiana Sea Grant. “Basically, everything a homeowner needs to know in coastal Louisiana to be best prepared for coastal hazards.”**

The handbook is available free at locations throughout coastal parishes and for download at [www.lsu.edu/slegal/pubs/handbook.htm](http://www.lsu.edu/slegal/pubs/handbook.htm) . You can order it for \$5 by emailing Jessica Schexnayder at [jsche15@lsu.edu](mailto:jsche15@lsu.edu).

General topics covered in the guide include natural hazards, an overview for homeowners; protecting yourself and your family; protecting your property; and protecting your property with insurance.

Custom tailored for Louisiana homeowners, this handbook helps you get ready for natural hazards and should be part of your “Grab-And-Go Box”.

For information, visit the National Hurricane Center's website at [www.nhc.noaa.gov](http://www.nhc.noaa.gov) .



Other property and casualty insurance Acts that were not part of the LDI proposals but were passed into law include the following:

Act 427, referred to by some as the Property Insurance Clarity Act, was widely supported by the Legislature but sparked some concerns from property and casualty groups. The measure requires homeowner's insurers to provide data annually on direct incurred losses, number of policies in force, and direct earned premiums by zip code and parish. The LDI will aggregate and publish the data on the **agency's website by June 1 of each year**. An amendment was added to sunset the bill in May 2017.

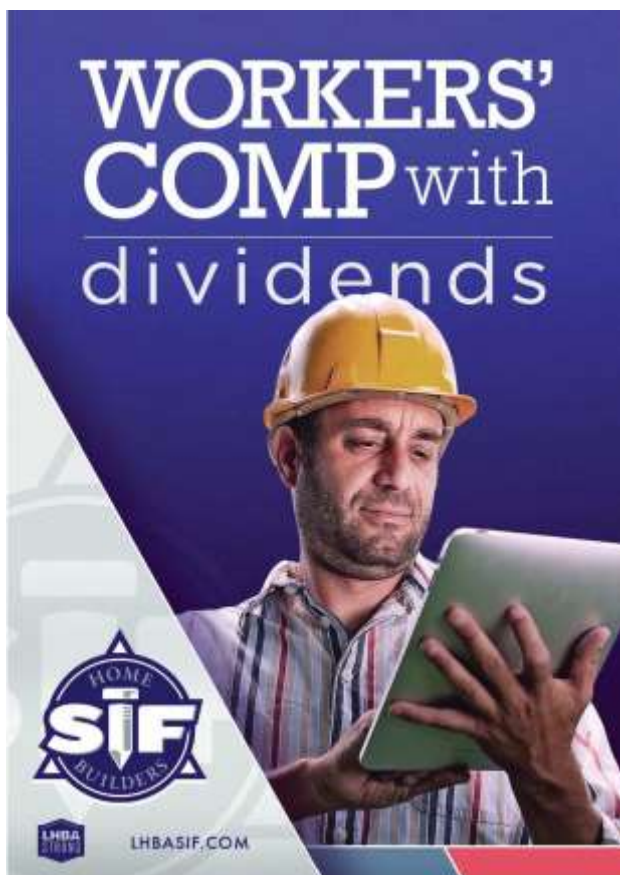
Act 641 provides for increased fines to create the new Insurance Verification System Fund to finance a real time

database between the Office of Motor Vehicles and insurance carriers. The database will allow law enforcement to verify the existence of minimum liability auto insurance in compliance with our **state's Motor Vehicle Safety Responsibility Law**.

The fund is financed through a variety of graduated increases in criminal sanctions, including fines of \$250 to \$1,000 for such things as being involved in an accident without insurance and falsely claiming to have insurance. Additional financing is also provided to the fund through increased penalties for lack of actual proof of insurance or for letting your insurance lapse.

If a driver is caught without insurance, their license may now be revoked for 180 days instead of the previous 60 days. The penalties become stiffer if a driver is caught falsely claiming to have insurance and their license can be revoked for a minimum of 12 months to a maximum of 18 months. Previously, the minimum penalty for falsely claiming to have insurance was six months.

You can find legislative digests on bills in their entirety by logging into the **Legislature's website at [www.legis.la.gov](http://www.legis.la.gov)** and clicking on bill search in the 2014 Regular Session section. In the Search Bill **Text section type "insurance" to see a list** of all insurance bills. Although this was not a session that will go down in history as having produced landmark insurance legislation, with each session we continue to enhance the current solid and workable platform from which we may all serve the people of Louisiana with their insurance needs.



## Next Week, Expect Stricter Compliance Requirements from FATCA

by Joseph Doherty & John Prible

Starting July 1, brokers placing U.S. risk with a foreign insurer will need to comply with additional burdens imposed by the federal Foreign Account Tax Compliance Act (FATCA).

FATCA, which became law in 2010, was primarily intended to stop schemes used by some U.S. taxpayers to evade taxes on investment accounts held with foreign financial institutions. In the insurance context, this would occur primarily with annuities or whole life insurance policies, both of which have a cash value and could be used to avoid U.S. taxation.

But when the IRS released its regulations implementing FATCA, it included premiums paid on non-cash value insurance policies, such as property and casualty policies, within FATCA's ambit.

Effective July 1, FATCA will now require brokers placing U.S. risk with a for-

foreign insurer to obtain IRS Form W-8-BEN-E from the foreign insurer and IRS Form W-8-IMY from the foreign broker (if applicable) before making a premium payment to the foreign insurer. These forms are not required when doing business with a U.S. subsidiary of a foreign insurer. They are used to verify, among other things, whether the foreign insurer is FATCA-compliant or FATCA-exempt.

U.S. brokers do not necessarily need to receive a new W-8 BEN-E for every transaction with the same foreign insurer; the form is valid for three years, assuming the information has not changed during that time. On the other hand, the W-8 IMY is transaction-specific. If the U.S. broker does not receive the required forms, FATCA requires the broker to withhold 30% from the premium payment.

U.S. brokers are not responsible for completing the W-8-BEN-E and W-8-IMY. Instead, they must receive and retain the forms and verify the accuracy of the forms to the best of their knowledge. Based on the existing regulations and guidance, the IRS does not require the U.S. broker to perform any due diligence when verifying the accuracy of the forms; however, the U.S. broker cannot accept a form that the broker knows or has reason to know is inaccurate.

It is unclear at this time whether U.S. brokers will have to perform year-end reporting on an IRS Form 1042-S for each transaction with a foreign insurer. The IRS has not provided updated instructions for that form.

Transactions that are in place prior to July 1, 2014 do not need to comply with FATCA, as long as the transaction does not materially change after that date—for example, if the premium increases.



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