

Insurance in the Headlines

“What’s Going On?”



“Insurance in the Headlines” Series Emerging 2016 Insurance Issues

Presented by...

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“Insurance in the Headlines” Series “Where You Reside”

Presented by...

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ISO Files Most Important Homeowners Change in 40 Years

“Unclear and Inconspicuous...The Potentially Catastrophic ‘Where’s Waldo’® Homeowners ‘Exclusion’ You Didn’t Know Existed But Could Cause You To Lose Your Home!”

Insureds unexpectedly confined to nursing homes. Forced relocations. Foreclosures. Temporary rentals. Home purchases for children or parents. Allowing a homebuyer to move in before the closing. Renovations and remodeling. These are all situations where adjusters have denied claims and some courts have upheld these denials.

What’s the problem and solution?



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Background

- **March 2001**
"Rent Your Home, Void Your Insurance Policy?"
- **June 2005**
Big "I" Technical Affairs Committee
- **October – December 2009**
"Where You Reside" white paper and webinar
- **November 2014**
ISO/IIABA resolution
- **October 2015**
New mandatory and optional HO endorsements effective in most states



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ISO HO-3 Coverage A

- **1976 Insuring Agreement**
"This policy covers the described dwelling building, including additions in contact therewith, **occupied primarily as a private residence.**"
- **1984, 1991, 2000, 2011 Insuring Agreement**
"We cover...The dwelling on the 'residence premises' shown in the Declarations...."
Definitions...
"Residence premises' means...The one family dwelling **where 'you' reside....**"



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Exposure Scenarios

- **Nursing homes**
- Relocations
- Foreclosures
- **Rentals**
- **Child occupies parents' home**
- Parent occupies child's home
- Divorce
- Illness of insured
- Death of insured
- Trusts
- Unoccupancy
- Vacancy
- Military deployment
- *Seller moves out before closing, and/or...*
- *Buyer moves in before closing*
- Homes owned by LLCs
- **Renovations** and homes under construction



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Case Law

NO COVERAGE

- *Bryan v. United States Fire Ins. Co.* (Texas, 1970)
- *Fisher v. Indiana Lumbermens Mutual Ins. Co.* (Texas, 1972)
- *Doyle v. Members Mutual Ins. Co.* (Texas, 1984)
- *Epps v. Nicholson* (Georgia, 1988)
- *Shepard v. Keystone* (Maryland 1990)
- *Nancarrow v. Aetna Casualty & Surety Co.* (Arkansas, 1991)
- *Georgia Farm Bureau Mutual Ins. co. v. Kephart* (Georgia, 1993)
- *Heniser v. Frankenmuth Mutual Ins. Co.* (Michigan, 1995)
- *Ivanov v. Phenix Mutual Ins. Co.* (Maine, 2007, remanded 2008)
- *Schuchman v. State Auto Prop. & Cas. Ins. Co.* (Illinois, 2012)
- *Null v. Auto-Owners ins. Co.* (Michigan, 2013)

COVERAGE

- *O'Neil v. Buffalo Fire Ins. Co.* (New York, 1849)
- *Joyce v. Maine Ins. Co.* (Maine, 1858)
- *German Ins. Co. v. Russell* (Kansas, 1902)
- *Reid v. Hardware Mutual Ins. Co.* (South Carolina, 1969)
- *Insurance Co. of North America v. Howard* (Oregon, 1982)
- *Farmers Ins. Co. v. Trutanick* (Oregon, 1993)
- *FBS Mortgage Corporation v. State Farm* (Illinois, 1993)
- *Hill v. Nationwide Mutual Fire Ins. Co.* (Georgia, 1994)
- *Lunquist v. Allstate Ins. Co.* (Illinois, 2000)
- *Dean v. Tower* (New York, 2014)



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Claims Experience

- Total loss while insured was in a nursing home (KY)
- \$100,000+ condo rental claim (FL)
- 5-figure loss while home was being remodeled (AZ)
- \$186,000 renovation claim (GA)
- \$150,000 ten-month house rental (FL)
- \$135,000 four-year house rental (FL)
- \$123,000 two-year house rental (FL)
- \$300,000 "nonclaim" with daughter occupancy (NY)
- \$229,000 total loss with niece occupancy (MN)
- Small fire loss (NC)
- Fire loss with daughter's temporary occupancy (PA)
- Fire loss while house was undergoing renovation (RI)



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Reasons FOR Coverage

- "Where you reside" are words of description, not a warranty of occupancy or a condition of coverage
- Hidden "exclusion" (unlike HO Section II)
- Reasonable expectation principle
- Eligibility vs. coverage
- Precedents
- PLRB
- Tornadoes and meth labs
- "Onerousness"



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Proposed Solutions

- Remove “where you reside” language and rely on underwriting
- Nonresidency penalties
- Grace period
- Nonresidency endorsement
- Education
- Regulatory or legislative directive



ISO's solution....



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ISO Solution

- Forms Filing HO-2015-ORPFR
 - HO 06 48 10 15 – Residence Premises Definition Endorsement
 - HO 06 49 10 15 – Broadened Residence Premises Definition Endorsement
 - HO 17 48 10 15 – Residence Premises Definition Endorsement – Unit Owners
 - HO 17 47 10 15 – Broadened Premises Definition Endorsement – Unit Owners
 - MH 04 26 10 15 – Residence Premises Definition Endorsement – Mobilehome
 - MH 04 27 10 15 – Broadened Residence Premises Definition Endorsement – Mobilehome
- Rules Filing HO-2015-RRPRU
 - Primarily address use of “Broadened” endorsements during “temporary” nonresidency periods
 - Endorsements are premium bearing



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HO 06 48 Mandatory Endorsement

HOMEOWNERS
HO 06 48 10 15

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

RESIDENCE PREMISES DEFINITION ENDORSEMENT

DEFINITIONS

Definition B.11, is replaced by the following:

11. “Residence premises” means:

- a. The one-family dwelling where you reside;
- b. The two-, three- or four-family dwelling where you reside in at least one of the family units; or
- c. That part of any other building where you reside;

on the inception date of the policy period shown in the Declarations and which is shown as the “residence premises” in the Declarations.

“Residence premises” also includes other structures and grounds at that location. All other provisions of this Policy apply.



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For more information...

Original White Paper and Webinar:
<http://tinyurl.com/WhereYouResideOriginal>

2015 Article:
<http://tinyurl.com/WhereYouReside2015>

Questions?
Email bill.wilson@iiaba.net

Subscribe to the VU newsletter:
<http://tinyurl.com/VUnewsletter>



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"Insurance in the Headlines" Series
Car & Home Sharing

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From A(partments) to Z(ip cars) Insuring the Sharing Economy

- The "sharing" economy
- Car sharing
- Home sharing
- Other sharing



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The Sharing/"Gig" Economy

"Sharing" and peer-to-peer "gig" networking...

Uber, Lyft, RelayRides, Sidecar, Getaround, ZipCar, Zimride, JollyWheels, RentMyCar, CityCarShare, Zilok, BlaBlaCar, DriveNow, MOOV, Buddytruck, Airbnb, HomeAway, Roomorama, VRBO, OneFineStay, FlipKey, CoAbode, TaskRabbit, SnapGoods, Washio, Sprig, SpoonRocket, Shyp, Zeel, Heal, Saucey, InstaCart, HomeJoy, Jeeves, Duffl, Eaze, Luxe, Munchery, UrbanSitter, Rover, PushForPizza, Postmates, BloomThat, Zen99, AirEnvy, Guesty, Breeze, Sherpa, Fiver, Flytenow, Airpooler, EatWith, Holidog...



aka "Collaborative Consumption"



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Car/Ride Sharing

- Question from Wisconsin agent...
- Car/ride sharing...Uber, Lyft, RelayRides, ZipCar, BlaBlaCar (aka car pooling/hitchhiking), and others, including this kid...
- The bandwagon...
 - General Motors partnering with RelayRides, invests \$500M in Lyft
 - Ford working with ZipCar and GetAround
 - BMW launches DriveNow in Europe for short-term rentals
 - Hertz, et al. testing micro-rentals in several cities and colleges
 - Daimler offering cars under the name Car2Go
 - Upscale hotels offering chauffeured or loaner cars



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Car/Ride Sharing

- Business models
 - Micro-rentals...the business owns the autos (e.g., ZipCar)
 - Micro-loaners...individuals own the autos (e.g., RelayRides)
 - Public/livery service...individuals own the autos (e.g., Uber)
 - Ride sharing...individuals own the autos (e.g., BlaBlaCar)
 - Others?
- Our focus is on Transportation Network Companies (TNCs) such as Uber and Lyft...NAIC TNC model guidelines:
 - Period 1: App on, no request
 - Period 2: Request accepted to passenger pickup
 - Period 3: Passenger pickup to delivery



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Car/Ride Sharing

- Risks
 - Taxi drivers have the highest homicide rate of any occupation
 - TNCs may be less risky due to lack of cash and passenger IDs?
 - War stories...
- Issues
 - Regulatory...prohibitions, consumer warnings, NAIC model law, ADA compliance, local regs (e.g., taxis), airport policies
 - Employees vs. independent contractors
 - Real vs. alleged compensation
 - Insurance
- Evolution
 - Sidecar moving more towards deliveries
 - Uber launches UberEats for food delivery
 - Airport parking...rent your car while gone



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Car/Ride Sharing – Insurance

- Agent saw one of his customers listed on RelayRides' web site
- The RideShare Guy June 2015 poll:
 - 92% did not have auto insurance that covered ridesharing
 - 70% said they wanted the coverage, but 20% said they don't
 - 84% do not tell their insurer/agent about their ridesharing work
 - Agent comment: "I hardly delve into the details of ridesharing unless prompted by the client or potential client."
- Insurer concerns...increased mileage, traffic density, unfamiliar roads, app-induced driver distraction, increased passenger injuries, speeding and risk-taking for expediency



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Car/Ride Sharing – Insurance

PP 23 16 10 13 – Personal Vehicle Sharing Program Exclusion Endorsement

- Applies to all PAP coverages...liability, medical payments, UM/UIM, and physical damage
- Excludes use of an otherwise covered auto enrolled in a car sharing program under a written agreement while being used by someone other than the named insured or resident spouse ("you") or a "family member"
- The term "car sharing program" is not defined but, according to ISO, it refers programs such as RelayRides which essentially involve renting your car to others



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Car/Ride Sharing – Insurance

- ISO forms filing PP-2015-OTNFR and rules filing PP-2015-RTNRU effective in most states on 10/01/15
- Introduces 3 new endorsements and a prior advisory notice:
 - PP 23 40 10 15 – Public Or Livery Conveyance Exclusion Endorsement
 - PP 23 41 10 15 – Transportation Network Driver Coverage (No Passenger) ... *TNC Business Model Periods 1 and 2*
 - PP 23 45 10 15 – Limited Transportation Network Driver Coverage (No Passenger ... *TNC Business Model Period 1 only*
 - PP P 011 09 14 – Advisory Notice to Policyholders Regarding Ride-Sharing ... *introduced a year earlier*
- For a detailed article, search the VU for "ISO Files New PAP 'Car Sharing' Endorsements"



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Car/Ride Sharing – Insurance

PP 23 40 10 15 – Public Or Livery Conveyance Exclusion Endorsement

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

For that "insured's" liability arising out of the ownership or operation of a vehicle while it is being used as a public or livery conveyance. **This includes but is not limited to any period of time that "insured" is logged into a "transportation network platform" as a driver, whether or not a passenger is "occupying" the vehicle.**

This exclusion (A.5.) does not apply to a share-the-expense car pool.

"Transportation network platform" means an online-enabled application or digital network used to connect passengers with drivers using vehicles for the purpose of providing prearranged transportation services for compensation.



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Car/Ride Sharing – Insurance

PP 23 41 10 15 – Transportation Network Driver Coverage (No Passenger)

- Replaces the PP 23 40
- Extends PAP coverage for the period of time (Periods 1 and 2) when the driver logs into a “transportation network platform” up until a passenger has entered the vehicle
- Endorsement schedule provides:
 - Identity of the TNC(s) for which the insured drives
 - Description of the vehicle being driven for the TNC(s)
 - List of coverages being provided, triggered by premium entries for each coverage



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Car/Ride Sharing – Insurance

PP 23 45 10 15 – Limited Transportation Network Driver Coverage (No Passenger)

- Replaces the PP 23 40
- Extends PAP coverage for the period of time (Period 1) when the driver logs into a “transportation network platform” up until the driver accepts a request through the TNC to transport a passenger
- Differs from the PP 23 41 in that it does not cover the time period between accepting a TNC request and the entry into the vehicle by a passenger
- Translation: Don’t sell this endorsement!



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Car/Ride Sharing – Insurance

Another existing ISO PAP “business” exclusion...

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

6. While employed or otherwise engaged in the “business” of:

- a. Selling;
- b. Repairing;
- c. Servicing;
- d. Storing; or
- e. Parking;

Vehicles designed for use mainly on public highways. This includes road testing and delivery.

This exclusion (A.6.) does not apply to the ownership, maintenance or use of “your covered auto” by

- a. You;
- b. Any “family member”; or
- c. Any partner, agent or employee of you or an “family member”.



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Car/Ride Sharing – Insurance

One more existing ISO PAP “business” exclusion...

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

7. Maintaining or using any vehicle while that “insured” is employed or otherwise engaged in any “business” (other than farming or ranching) not described in Exclusion A.6.

This exclusion (A.7.) does not apply to the maintenance or use of a:

- a. Private passenger auto;
- b. Pickup or van; or
- c. “Trailer” used with a vehicle described in a. or b. above.



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Car/Ride Sharing – Insurance

- **Non-ISO insurer examples**
 - Farmers, Allstate and USAA
 - GEICO and Erie
 - Others
- **Pricing**
 - \$100 Periods 1 and 2
 - \$??? Periods 1, 2 and 3
- **Best solution?**



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Car/Ride Sharing – Insurance

- **Non-auto exposures**
 - “Lyft drivers are happy to go above and beyond for their passengers – providing mints and gum, carrying groceries up three flights of stairs, or transforming the inside of the car to a fun photo booth on weekend nights...it’s the little touches (and personalities) drivers bring to the experience that make it unique.”
 - Video ads...RiderAds and Viewswagen via “Triplintent” technology
 - Mothers using Uber and Lyft to transport 5-, 7-, 10-year old children



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Car/Ride Sharing Additional Info

- **VU articles**...search for:
 - “Insurance Implications of Car Sharing”
 - “House Sharing and Car Sharing: Is It Sharing or Is It Renting – And Is It Covered?”
 - “A New Twist in the Evolution of Carpooling...BlaBlaCar”
 - “ISO Files New PAP ‘Car Sharing’ Endorsements”
 - “Zip Car”
 - “Share the Expense Car Pools”
 - “The Public or Livery Conveyance Exclusion”
- **Other sources**
 - <http://www.TheRideShareGuy.com>
 - <http://www.roadie.com>



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Home Sharing

- Question from Philadelphia agent....
 - Airbnb vs. Marriott
 - Realtor.com partnering with Airbnb for TIBYBI
 - Airbnb in the headlines...from dog bites to “drug-induced orgies”
 - Implications for agents
 - Do you want this customer?
 - How do you insure the exposure for hosts and renters?
 - What risk management alternatives exist?
- NY Times:** “Insurance companies could solve this by asking all policyholders about their hosting habits, but none of the 10 I contacted said that they had made any changes to their policies as home-renting has grown.”



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Home Sharing

6 Things to Know Before Signing Up with a Home-Sharing Rental Site...

- What are home sharing websites?
- What’s the risk?
- How can you protect yourself as a host?
- How can you protect yourself as a guest?
- What else do I need to know?
- Where can I get more information?

Source: PropertyCasualty360.com



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Home Sharing

Host's HO-3 Personal Property Coverage

We cover personal property owned or used by an "insured" while it is anywhere in the world. After a loss and at your request, we will cover personal property owned by:

- a. **Others** while the property is on the part of the "residence premises" **occupied by an "insured"**; or
- b. A **guest** or a "residence employee", while the property is in any residence occupied by an "insured".



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Home Sharing

Host's HO-3 Personal Property NOT Covered

We do not cover:

- f. Property of **roomers, boarders and other tenants**, except property of roomers and boarders **related** to an "insured";
- g. Property in an **apartment** regularly rented **or held for rental** to others by an "insured", except as provided in E.10. Landlord's Furnishings under Section I – Property Coverages;



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Home Sharing

Host's HO-3 Landlord's Furnishings

We will pay up to **\$2,500** for **your** appliances, carpeting and other household furnishings, in each **apartment** on the "residence premises" regularly rented **or held for rental** to others by an "insured", for loss caused by a Peril Insured Against in Coverage C, **other than theft**.

This limit is the most we will pay in any one loss regardless of the number of appliances, carpeting or other household furnishings involved in the loss.

HO 05 41 – Extended Theft Coverage for Residence Premises **Occasionally** Rented To Others



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Home Sharing

Host's HO-3 Liability "Business" Exclusion Rental Exceptions

This Exclusion E.2. does not apply to:

- (1) The rental or holding for rental of an "insured location";
 - (a) On an occasional basis if used only as a residence;
 - (b) In part for use only as a residence, unless a single-family unit is intended for use by the occupying family to lodge more than two roomers or boarders; or
 - (c) In part, as an office, school, studio or private garage;



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Home Sharing

Renter's HO-3 Liability Exclusion for Rented Premises

F. Coverage E – Personal Liability

Coverage E does not apply to:

3. "Property damage" to property rented to, occupied or used by or in the care of an "insured". This exclusion does not apply to "property damage" caused by fire, smoke or explosion;



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Home Sharing

Renter's HO-3 Liability Additional Coverage

C. Damage To Property Of Others

1. We will pay, at replacement cost, up to \$1,000 per "occurrence" for "property damage" to property of others caused by an "insured".
2. We will not pay for "property damage":
 - a. To the extent of any amount recoverable under Section I....

Section I covers damage to personal property "owned or used" by an "insured" IF caused by a covered peril.



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Home Sharing Additional Info

Mike Edwards, CPCU articles on the VU...search for:

- "House Sharing and Car Sharing: Is It Sharing or Is It Renting – And Is It Covered?"
- "Roomers and Boarders"

Other information

- <http://nationalshredhousing.org>
- <http://www.airbnb.com>



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Other Sharing

- www.parkatmyhouse.com
- Peer-to-peer boating...Boatbound.com, Boatsetter.com, Cruzin.com (GetMyBoat rental insurance)
- Dock rental
- Plane sharing (Flytenow, Airpooler, etc.)
- NextDoor.com
- Kid with a pickup truck
- Camping spaces in Sweden
- Fields in Australia
- Washing machines in France
- "Fractional employment"



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Issues

- Discrimination
- Workers' rights
- Liability
- Zoning laws and local ordinances
- Loss of privacy / data sharing
- Unregulated pricing
- Higher insurance rates
- The end of capitalism?

Source: Jim Holm, www.enhancedinsurance.com



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Questions?
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"Insurance in the Headlines" Series
Drones & Driverless Vehicles

Presented by...
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The Game of Drones

Nothing new....



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Drones

In fact....



Drones...Uses and Issues

Uses

- Underwriting and claims
- Mapping and surveying
- Catastrophes
- Real estate
- Construction
- Agriculture
- Inspections
- Delivery
- Entertainment



Issues

- BI/PD
- Privacy
- Intentional torts
- Hacking and hijacking



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Drones...Laws and Regulations

- NTSB rules that FAA regulations apply to UAVs in the NAS
- Feb. 15, 2015 – FAA releases proposed Section 333 regulations for the commercial operation of small drones
 - Operator certification and licensing
 - UAS must weigh less than 55 lbs. w/ max. speed of 100 mph
 - Triannual aircraft registration
 - Less strict guidelines for microUAS's (4.4 lbs., 34.5 mph)
- Oct. 19, 2015 – FAA releases proposed Section 333 regulations eff. 12/21/15 for the commercial operation of small drones:
 - Weighing between 0.55 and 55.0 lbs
 - Used for non-commercial purposes
 - Used only for hobby and recreation
 - Intended for use only in the U.S.



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Drones...Laws and Regulations

- State laws and local ordinances
- Google:
 - “Drones: Proposed new FAA regs and property insurance implications”
 - “Drone Wars: Airspace and Legal Rights in the Age of Drones”



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Drones...FAA Insurance Approvals

- Examples of Requested Exemption Restrictions
 - UAS weighs 5 lbs. or less and flies at 35 mph or less
 - Altitude no more than 400 ft.
 - 3-person crew (pilot, visual observer, and sensor operator)
 - Pilot and observer will have Class III Medical Certificate
 - Flight plan and numerous permits required
 - UAS will have capability to return to pre-determined location if communication lost
- Google:
 - “While FAA Works on Drone Rules, Exemptions Increase for Insurance Industry”
 - “Drones to Hit the Skies Over Pennsylvania”



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Drones...Homeowners Insurance

1. **Damage to the drone** (HO 00 03 05 11)
Property Not Covered
4. We do not cover:
 - d. Aircraft, meaning any contrivance used or designed for flight, including any parts whether or not attached to the aircraft.
We do cover model or hobby aircraft not used or designed to carry people or cargo;



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Drones...Homeowners Insurance

2. BI/PD liability (HO 00 03 05 11)

"Aircraft Liability"
This policy does not cover "aircraft liability".

"Aircraft Liability"...mean[s] the following:

- a. Liability for "bodily injury" or "property damage" arising out of the:
 - (1) Ownership of such vehicle or craft by an "insured";
 - (2) Maintenance, occupancy, operation, use, loading or unloading of such vehicle or craft by any person;
 - (3) Entrustment of such vehicle or craft by an "insured" to any person;
 - (4) Failure to supervise or negligent supervision of any person involving such vehicle or craft by an "insured"; or
 - (5) Vicarious liability, whether or not imposed by law, for the actions of a child or minor involving such vehicle or craft.
- b. For the purpose of this definition:
 - (1) Aircraft means any contrivance used or designed for flight **except model or hobby aircraft** not used or designed to carry people or cargo;



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Drones...Homeowners Insurance

3. Personal injury liability (HO 24 82 05 11)

"Personal injury" means injury arising out of one or more of the following offenses, but only if the offense was committed during the policy period:

1. False arrest, detention or imprisonment;
2. Malicious prosecution;
3. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
4. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services; or
5. Oral or written publication, in any manner, of material that violates a person's right of privacy.



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Drones...Homeowners Insurance

3. Personal injury liability (HO 24 82 05 11)

This insurance does not apply to:

1. "Personal injury":
 - a. Caused by or at the direction of an "insured" with the knowledge that the act would violate the rights of another and would inflict "personal injury";
 - d. Arising out of a criminal act committed by or at the direction of an "insured";
 - g. Arising out of or in connection with a "business"...engaged in by an "insured"....

4. Non ISO drone insurance policies



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Drones...CGL Insurance

ISO 2015 Filing

- Existing exclusion
- Exclusion endorsements
 - CG 21 09 (Coverages A and B – BI, PD and privacy invasions)
 - CG 21 10 (Coverage A only – BI and PD)
 - CG 21 11 (Coverage B only – privacy invasions)
- Designated aircraft coverage endorsements
 - CG 24 50 (Coverages A and B – BI, PD and privacy invasions)
 - CG 24 51 (Coverage A only – BI and PD)
 - CG 24 52 (Coverage B only – privacy invasions)

Search the VU for “drones”



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Drones...Other Information

- Google
 - “Hey, that’s my air! Trespass by Delivery Drone”
 - “Could Civilian Drones Become Lethal Projectiles?”
 - “Do we need to put drones on a tighter leash?”
 - “Recreational Drones: Do Homeowners’ Insurance Policies Provide Coverage?”
 - “Unmanned Aviation Risk Management, Accident Prevention and Insurance”
- More
 - www.propertydrone.org
 - www.auvsi.org
 - www.droneswatch.org
 - www.dronejournalism.org
 - https://en.wikipedia.org/wiki/Unmanned_aerial_vehicle



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Driverless Vehicles

- **The Changing Auto Insurance Landscape: Influencers Driving Disruption and Change**
<https://strategyfirst.com/news-and-events/sma-blog/the-changing-auto-insurance-landscape-influencers/>
 - **Shared transportation** (reduce premiums by 10%)
 - **Connected vehicles**...OnStar, GPS, telematics
 - **Google- and Apple-connected car apps** (reduce premiums by 25%)
 - **Autonomous/driverless vehicles** (reduce accidents by 25%)
- **Self-Driving Cars: Flawless Ride? Carmageddon?**
<http://www.baselinemag.com/innovation/self-driving-cars-flawless-ride-or-carmageddon.html>
- **Self-Driving Cars and Insurance**
<http://www.iii.org/issue-update/self-driving-cars-and-insurance>



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"Insurance in the Headlines" Series
Fracking

Presented by...
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Homeowners Insurance and
Hydraulic Fracking

- The exposure
- Case law
- Insurance issues

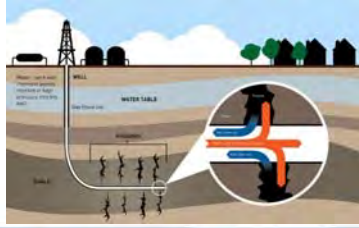


"The Fuss Over Fracking: An Examination of the Insurance Issues Associated with Hydro-Fracking"
<http://www.bfenvironmental.com/pdfs/The-Fuss-Over-Fracking.pdf>

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The Exposure

- What is “fracking”?
- What are the allegations?
- USGS “Man-Made Earthquakes Update”
- State responses
 - New York
 - Ohio
 - Oklahoma
 - Pennsylvania
 - Texas



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Case Law

- Google “analysis of litigation involving shale and hydraulic fracturing” for a 136-page PDF on litigation
- Google “hydraulic fracturing litigation summary (December 7, 2014) for a 47-page PDF with state by state claims/legal activity
- Google “hydraulic fracturing Arnold and porter” for a 304-page PDF on case law and related issues



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Insurance Issues

- **AAE Question:**

“I am an agent in Missouri with a homeowner insured who is buying a secondary residence in Oklahoma where they have had many small earthquakes. He said that he was told they were caused by fracking and the earthquake coverage on his HO policy might not cover damage because it was man-made. Is this true?”
- **Potential HO claims**
 - Earth movement (earthquake, subsidence, sinkhole collapse, settling, etc.)
 - Well/ground water contamination (pollution)
 - Consequential diminished value of property
 - Business use exclusions?



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Insurance Issues – HO Policies

- **Causes of Loss Issues**
 - Number of occurrences
 - Efficient proximate cause vs. concurrent causation exclusions
 - Pollution/contamination
 - Subsidence
 - Sinkhole
 - Earthquake (man-made?)
 - Settling, cracking, etc.
 - Collapse additional coverage
- **Damage Issues**
 - Direct physical loss to covered property, excluding “land”
 - Indirect/consequential losses, including ALE and diminished value?
 - Property Not Covered...water



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Insurance Issues – Pollution

Discharge, dispersal, seepage, migration, release or escape of pollutants unless the discharge, dispersal, seepage, migration, release or escape is itself caused by a Peril Insured Against named under Coverage C.

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed;



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Insurance Issues – Earth Movement

HO 00 03 05 11 Earth Movement exclusion:

Earth Movement means:

- Earthquake, including land shock waves or tremors before, during or after a volcanic eruption;
- Landslide, mudslide or mudflow;
- Subsidence or sinkhole; or
- Any other earth movement including earth sinking, rising or shifting.

This Exclusion **A.2.** applies regardless of whether any of the above, in **A.2.a.** through **A.2.d.**, is caused by an act of nature or is otherwise caused.

However, direct loss by fire, explosion or theft resulting from any of the above, in **A.2.a.** through **A.2.d.**, is covered



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Insurance Issues – Earth Movement

HO 04 54 05 11 Earth Movement coverage:

Section I – Property Coverages

The following is added:

1. We insure for direct physical loss to property covered under Section I caused by earthquake, including land shock waves or tremors before, during or after a volcanic eruption.

One or more earthquake shocks that occur within a 72-hour period constitute a single earthquake.

What is an “earthquake”?



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Insurance Issues – Earth Movement

• Merriam-Webster

- a shaking of a part of the earth’s surface that often causes great damage
- a shaking or trembling of the earth *that is volcanic or tectonic in origin*

• Wikipedia

An earthquake...is the perceptible shaking of the surface of the Earth, which can be violent enough to destroy major buildings and kill thousands of people...They result from the sudden release of energy in the Earth’s crust that creates seismic waves.



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Questions?

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“Insurance in the Headlines” Series

Marijuana

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Insurance in the Headlines

Marijuana

VU “Ask an Expert” question:

“Tommy Cheech is an insurance agent in Colorado who believes that he has a niche opportunity following passage of the legalized marijuana law and would like to insure retail stores, production facilities, shipping, etc. His carriers use ISO policy forms like the CP 00 10 Building and Personal Property Coverage Form and CP 10 30 Special Causes of Loss form. The first question is whether these forms would cover the theft or destruction of marijuana. What do you think?”



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Insurance in the Headlines

Marijuana

- **CP 00 10 – Property Not Covered**
“Contraband, or property in the course of illegal transportation or trade.”
- What is “contraband”?
- State vs. federal law



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Insurance in the Headlines

Marijuana

- “**Marijuana Legalization: Implications for Property/Casualty insurance**” by Brenda Wells
<http://www.insuranceissues.org/PDFs/371W.pdf>
- “**Coverage for Marijuana Plants is a Little Hazy**” by Don Malecki
http://www.roughnotes.com/rnmagazine/2013/june/2013_06p064.htm
- “**Insuring the Marijuana Industry**” by Doug Banfelder
<http://coverageopinions.info/Vol3Issue14/DougBanfelder.html>



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Insurance in the Headlines

Marijuana

- Workers compensation
- Health insurance
- CGL
- Employment practices liability
- Disability
- Auto
- Commercial property
- Inland marine
- Crime
- Homeowners



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“Insurance in the Headlines” Series

Guns & Concealed Carry Laws

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Insurance in the Headlines

Guns and Concealed Carry Laws

One of your insureds has bought a hand gun, taken a gun safety course and obtained a concealed weapon permit. She wants to know how her homeowners and umbrella policies would respond if she used the weapon in self-defense to protect herself, her family or their possessions from an assailant.

Several other insureds, having seen the discussions on TV news programs about proposed state and national legislation to require “gun insurance,” have contacted the agency to ask about what they might need to do. How do you advise them?



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Insurance in the Headlines

Guns and Concealed Carry Laws

ISO HO policies:

1. Expected Or Intended Injury

“Bodily injury” or “property damage” which is expected or intended by an “insured” even if the resulting “bodily injury” or “property damage”:

- a. Is of a different kind, quality or degree than initially expected or intended; or
- b. Is sustained by a different person, entity, real or personal property, than initially expected or intended.

However, this Exclusion E.1. does not apply to “bodily injury” resulting from the use of reasonable force by an “insured” to protect persons or property;



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Insurance in the Headlines
Guns and Concealed Carry Laws

- ISO CGL policy...similar to HO policy
- Umbrellas...depends
- How high are the policy limits?
- Workers Compensation

Caveat:
"Insurance is NOT a commodity!"



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Insurance in the Headlines
Guns and Concealed Carry Laws

- VU article: "**Gun Liability Coverage**"
<http://www.independentagent.com/Education/VU/Insurance/Personal-Lines/Homeowners/Liability-Exclusions/WilsonGunLiability.aspx>



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“Insurance in the Headlines” Series

Terrorism

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Terrorism

Resources

- **Terrorism Insurance – Big “I” Government Affairs Information**
<http://www.independentagent.com/GovernmentAffairs/Issues/terrorism-insurance.aspx>
- **TRIA Resource Page – Big “I” Virtual University**
<http://www.independentagent.com/Education/VU/Pages/featured-resources/TerrorismResourcePage.aspx>



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“Insurance in the Headlines” Series

Infectious Diseases

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Infectious Diseases

Types

- Immunization “phobia”
- Pandemics
- Ebola
- The Flu
- Legionnaires’ Disease
- Norovirus
- Other nameless communicable diseases



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Infectious Diseases

Personal Lines...Homeowners

- **Liability exclusion**
Communicable Disease
“Bodily injury” or “property damage” which arises out of the transmission of a communicable disease by an “insured”;
- **Property exclusion**
Governmental Action
Governmental Action means the destruction, confiscation or seizure of property described in Coverage A, B or C by order of any governmental or public authority.



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Infectious Diseases

Commercial Lines

A shop owner in Ohio volunteered to shut down until it was determined the premises were Ebola-free...

- **Business income coverage?**
No direct damage to property on the described premises by a covered peril.
- **Workers compensation coverage?**
If within the scope and course of employment, MAYBE.
- **CGL coverage?**
ISO **CG 21 32 05 09** – Communicable Disease Exclusion endorsement (BOP equivalent is BP 14 86 07 13)



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Infectious Diseases

Commercial Lines

- **October 23, 2014 ISO Circular LI-AL-2014-013**
"Information Available Concerning Ebola and Provisions Addressing Communicable Disease and Virus and Bacteria in ISO Programs"
- **December 2, 2014 ISO Circular LI-CF-2014-161**
"Advisory Endorsements Furnished But Not Filed: Business Interruption Options – Limited Civil Authority Coverage Related to Ebola"



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Infectious Diseases

Additional Information

- Search the VU and subscribe to the *Vupoint*
- "Ebola Threat Looms Heavy Over Commercial Insureds"
<http://www.iimagazine.com/strategies/read/2014/10/21/ebola-threat-looms-heavy-over-commercial-insureds>
- "Insurance Coverage for Losses Arising from the Ebola Virus"
<https://www.irmi.com/articles/expert-commentary/insurance-coverage-for-losses-arising-from-the-ebola-virus>
- "Insurance Coverage for Possible Ebola Claims"
<http://www.andersonkill.com/PublicationDetails?PublicationID=817>



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"Insurance in the Headlines" Series
Climate Change

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Climate Change
Issues

- The debate
- Wildfires
- Flooding
- Weather volatility and extremes
- III White Paper "Climate Change: Insurance Issues"
<http://www.iii.org/issue-update/climate-change-insurance-issues>



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"Insurance in the Headlines" Series
Over- or Under-Insurance?

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Over- or Under-Insurance
Perception or Reality?

- CoreLogic (M&S/Boeckh) statistics
- Informal survey of agents and consultants
- Unscientific online survey
- LinkedIn discussions
- Anecdotal stories
- Preliminary conclusions



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Over- or Under-Insurance

VU articles

- “The HO Undervaluation Problem”
- “Valuation Methods Don’t Measure Up”
- “Agency Liability for Property Undervaluation”
- “Hard Market Shenanigans”



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“Insurance in the Headlines” Series

NARAB

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Insurance in the Headlines

National Association of Registered Agents & Brokers (NARAB)

- Will permit easier multi-state licensing
- Optional to join
- All validly licensed producers are eligible
- Members will be able to sell in any state where they've paid licensing fees
- Same lines of authority they have in home states
- Still subject to individual state market conduct laws and disciplinary actions
- Agency not required to register as foreign corporation
- NARAB collects licensing fees and sets CE requirements
- Eff. 12/12/17 or date NARAB incorporates, whichever is later



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"Insurance in the Headlines" Series
Diversity Issues

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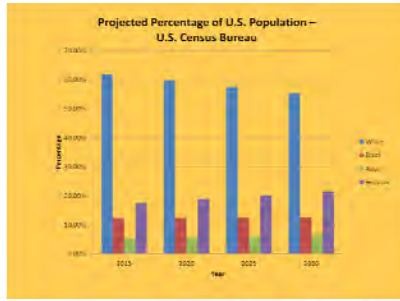


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Insurance in the Headlines

Diversity Issues

- Population diversity
- Generational changes
- E&O issues



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Insurance in the Headlines

Generational changes...individuals born after 1980

- 23% of the U.S. population today, rising to 33% by 2020
- 34% of the U.S. labor force (Pew Research Center)
- Will be 75% of the U.S. workforce by 2025 (The Brookings Institution)
- In hock from student loans
- Delaying major life transitions and purchases (marriage, homes, cars)
- Effect on insurance markets



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“Insurance in the Headlines” Series

The Internet of Things

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Insurance in the Headlines

The Internet of Things

- Wearables and personal devices
- Home and business lights, appliances, HVAC, alarm/detection systems, etc.
- Commercial building systems and “industrial control systems”
- United Airlines in-flight entertainment system alleged hack
- “Alexa”
- Autos (today)...intrusion vulnerabilities and telematics
- Autos (tomorrow)...driverless cars (revisited)
- Manipulating auto software (licensing and copyright law)



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Insurance in the Headlines

The Internet of Things

- Auto
- Homeowners
- CGL
- Professional liability
- Cyber liability

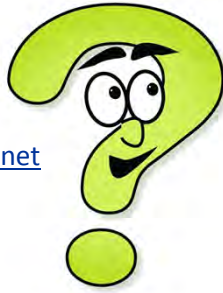


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THANK YOU!

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