

May-June, 2008

PULSE newsletter

Pennsylvania Association of Mutual Insurance Companies

From the President



It is budget time in Harrisburg and as I write this the Pennsylvania legislature is scrambling to get all the appropriations and new taxes done by June 30. Of particular interest to PAMIC members, insurance premiums have been noticed as a potential source of additional revenue for various worth causes. This has prompted two action calls, one on a proposal to raise the tax to fund healthcare benefits for firefighters and one to raise the tax to fund flood control programs. Regardless of how these issues turn out, I want to thank all of you who have responded to these action calls. Your letters and calls to your

state legislators are the exact measure of PAMIC's grass roots lobbying strength. But grass roots efforts, vital as they are, are not the only way to impact the state legislative process. Now is a good time to review PAMIC's PAC and why you should seriously consider making a contribution.

Remember, PAMIC PAC is independent of PAMIC, although PAMIC is the sponsoring organization. By law PAMIC dues and also company contributions cannot be used for the PAC. It is totally reliant on your personal contributions. So its important to remind ourselves from time to time why our personal monetary contributions are important, even though we have all heard this before. Here goes:

First of all, pooled political contributions have more impact. Studies show that most individuals give political contributions of less than \$100. A \$25.00 contribution made individually to a single politician's campaign committee is not likely to be noticed. Several such contributions pooled together and made as a PAC contribution will be noticed.

Second, PAC contributions make it clear where you stand on an issue. That's not necessarily the case with individual contributions. Usually, a legislator cannot tell what any particular personal contribution means in terms of specific issues. But if the contribution comes from an identifiable PAC with an identifiable set of issues, such as PAMIC PAC and insurance issues, then the senator or representative has a clear picture of the interests and concerns involved. That helps build accountability.

Third, PAMIC PAC contributions spread your influence. It is a rare voter who makes a contribution to a race outside his or her own district, to a race where he or she can't even vote. But PAMIC PAC can serve as your eyes and ears, identifying people outside your own district who consistently and fairly support the industry and who are worthy of the support of insurance people. It frequently happens that key leadership and committee positions are held by legislators from districts where we have no member company. But a small town PAMIC member need not be totally at the mercy of outside forces because of that. Your PAMIC PAC is helping assure that your positions and concerns are known and are given fair consideration.

By all means, continue the grass roots lobbying efforts. But also please consider making a personal contribution to PAMIC PAC. It is a wise investment in the future of the mutual industry.

Steven C. Elliott, J.D., CPCU, CLU

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ID STATEMENT

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Chairman's Corner

State Vs. Federal Regulation of Insurance: Which Field do You Want to Play On?



On June 10, 2008 the House Financial Services Subcommittee held a hearing to consider a proposal offered by our very own Congressman from Pennsylvania, Paul Kanjorski (D). Congressman Kanjorski introduced H.R. 5840, the Insurance Information Act, which would establish the Office of Insurance Information (OII) with authority to collect and analyze data

of all lines insurance, except health, by the Office of the Treasury. The OII is charged to provide policy advice regarding all insurance, both domestic and international. Kanjorski, once a proponent for federal oversight of the life market only, determined that there is a clear lack of expertise at the federal level relative to property and casualty insurance issues. With this fact, I agree. What then can we expect then from this federal advisory office of insurance?

Federal efforts to become involved in the regulation of the P&C industry are relatively recent. We witnessed the birth of the SMART ACT (State Modernization and Regulatory Transparency Act) in 2005, followed closely thereafter by the concept of an optional federal charter (OFC) via the National Insurance Act of 2006. Both of which gained considerable attention post-Katrina, but neither of which has become law. Next, our own Senator Arlen Specter (R-PA) further perpetuated the federal insurgence by introducing the Antitrust Modernization Act. This Act proposes to repeal the anti-trust immunity applicable to certain long-standing insurance activities practiced within the insurance industry. So why this recent federal attention?

First, and most obviously, the events of September 11th and Hurricane Katrina changed the landscape of insurance regulation forever. The magnitude of loss and disaster put insurance coverage, rating and claims practices into the forefront of the public eye. The Terrorism Risk Insurance Act brought the government into the business of insurance with the establishment of the federal backstop for terrorist acts following 9/11. Constituents flooded their legislator's offices seeking relief from the perception of unfair insurance practice where coverage was denied or disclaimed or the amount of coverage was less than expected after Katrina. Senator Trent Lott (D-MS) led the charge against the insurance industry, when State Farm declined to cover the loss to his residence caused by flood during Hurricane Katrina. Instead of focusing on the thousands of claims paid and extraordinary assistance rendered, the exceptions created a politically motivated movement of trial attorneys and their clients espousing losses should be covered under a homeowners policy, and left some constituencies with the impression that more control and oversight of the industry was necessary. Enter, the federal government.

Second, state regulation has endured considerable criticism in the past several years for its lack of moderniza-

tion, uniformity and efficiency. Congress passed several initiatives in the areas of privacy and producer licensing, which threatened federal preemption of state laws if the states could not adopt or achieve some level of uniformity in those areas. While states met this challenge with mixed success, the debate continued over the various state rating and market practices. Enter again, the federal government.

Most PAMIC-member companies, being single-state writers and regional carriers, have operated under the auspices of Pennsylvania law, and been regulated by the Pennsylvania Insurance Department, since their creation - and know their ballpark well. Larger carriers, such as my own, operate under a multitude of state laws and state insurance departments. Each of which has their own distinct idiosyncrasies. Why then, when faced with this complexity, would I write to support to keep state regulation?

Perhaps the current situation can best be examined and understood with an analogy to the game of baseball. First, while Penn National Insurance's ballpark may be larger, we know the park rules from years of play. We know the players. We know their positions and what to expect in most innings. We know the different field conditions and why the rules are unique in certain circumstances. We know the unique boundaries and demands and can react accordingly. Our umpires have been trained and are familiar with our fields and our challenges in each of the parks.

Second, we expect that not all players will be on a level playing field. Minor Leaguers may not be in the game. As you know, large carriers tend to be the proponents for federal involvement (i.e., Optional Federal Charter and National Natural Catastrophe Act). The larger carriers will be the ones batting first in this game. While we are fortunate to have NAMIC as our national trade association focused on insurance impacts at the federal level, the ability to understand and interact with federal regulators is a formidable task for most companies on an individual basis. Will every small or mid-sized company then be forced to play in the Major Leagues or be sitting on the bench in the dugout?

Third, companies will inevitably be subject to both Minor League (state) and Major League (federal) rules. Two layers of regulation are inevitable - particularly for those players that do not choose to join the Majors with the federal charter option. Federal law will spill into areas traditionally left to the states. This possibility is

Ren Tundermann, Esq. of Funk & Bolton, Baltimore, MD

The Maryland General Assembly convened on Wednesday, January 9, 2008 and adjourned 90 days later, on Monday, April 7, 2008. While the General Assembly considered over 2,600 pieces of legislation, this Session was somewhat less challenging than in prior years, with fewer contentious bills affecting the property and casualty industry.

Coastal Issues

The General Assembly returned to the subject of coastal coverage under homeowner's insurance. In 2007, the General Assembly appointed a Task Force to study coastal issues. As part of its support of that Task Force, the Maryland Insurance Administration surveyed the industry in September 2007 and later issued Bulletin 08-01 with respect to coastal matters. The General Assembly considered a number of bills addressing coastal coverage, ultimately consolidating the concepts it wished to adopt in House Bill 1353 (Ch. 540), entitled "Omnibus Coastal Property Insurance Reform Act". The bill adds four new sections to Title 19 of the Insurance Article of the Annotated Code of Maryland relating to homeowner's insurance.

Section 19-208 prohibits an insurer from adopting, without the prior written approval of the Commissioner, an underwriting standard that requires a deductible on a homeowner's insurance policy that exceeds 5% of the "Coverage A – Dwelling Limit" of the policy in the case of a hurricane or other storm. This section also requires an insurer to provide a policyholder with an annual statement, which must be filed with the Commissioner prior to use, explaining the manner in which the deductible is applied.

Section 19-209 requires an insurer to offer an actuarially justified premium discount on a homeowner's insurance policy if the insured premises have been improved to mitigate loss from a hurricane or other storm. The insurer is required to provide a policyholder with an annual statement regarding the availability of the discount and the method of applying for the discount.

Section 19-210 requires an insurer to file with the Commissioner a description of any catastrophic risk-planning model used to set homeowner's insurance rates or to refuse to issue or renew homeowner's insurance because of the geographic location of the risk. The insurer must arrange for the vendor to explain to the Commissioner the data used in the model and the manner in which the output is obtained.

Section 19-211 requires an insurer to file a plan of material reduction with the Commissioner at least 60 days prior to implementing a plan that reduces in-force homeowner's insurance policies on a statewide basis during a one-year period by 3% or more as a result of cancellations or nonrenewals solely because the subject of the risk or the insured's address is located in a certain geographic area of the State. For the plan to be approved, the insurer must demonstrate that the material reduction will be accomplished in a manner that minimizes market disruption in the area of material reduction.

The provisions of Section 19-209 apply to all homeowner's insurance policies issued, delivered, or renewed on or after June 1, 2009. The remaining provisions of the Act apply to all homeowner's insurance policies issued, delivered, or renewed on or after October 1, 2008.

Other Homeowner's Bills

In addition to House Bill 1353, the General Assembly adopted two other bills affecting homeowner's insurance. House Bill 405 (Ch. 72) amends Section 19-202 to require all insurers that issue, sell or deliver a homeowner's insurance policy (including an owner's, condo, renter's, and mobile homeowner's policy) to offer, at application and each renewal, coverage for loss caused by or resulting from water that backs up through sewers or drains and is not caused by the negligence of the insured.

House Bill 859 (Ch. 95) amends Section 19-208 to require an insurer who writes homeowner's, fire, farmowner's or dwelling insurance and who provides coverage for additional living expenses to provide that coverage up to the limit for additional living expenses, without any limitation of time stated in days, months, or years.

Auto Bill

Turning to the private passenger motor vehicle line, the General Assembly adopted House Bill 1581 (Ch. 117) which added Section 27-601.1, permitting insurers who are members of the same insurer group to transfer a policy to another member of the group without issuing a nonrenewal notice from the original insurer. Such a transfer is permitted as long as the policyholder's premium does not increase and the policyholder does not experience a reduction in coverage.

Insurer Bills Generally

Finally, the General Assembly adopted four bills affecting the insurance industry generally.

House Bill 277 (Ch. 63) amended Section 2-115 to require the Commissioner to adopt regulations that will be applied when a state of emergency is declared for any portion of the State by the Governor or the President. The regulations may address submission of claims; grace periods for the payment of premium; and temporary postponement of cancellations, nonrenewals, premium increases or policy modifications. The regulations are activated by the Commissioner sending a Bulletin to the emergency contact person designated by each insurer.

House Bill 404 (Ch. 271) inserts a new Section 27-805 to provide that all applications for insurance and claims forms must contain a newly worded fraud warning. Insurers must comply with the requirement on or before April 1, 2009.

(Article continued on page 7)

Education Update

2008 Arson Seminar

Three Great Sessions - One Great Seminar!

June 19

Lancaster Host Resort

Register Online at www.pamic.org
or call PAMIC at 717-303-0197 for registration information

Arson Profiling

Dr. Dian Williams, *President, Center for Arson Research, Inc*

Special guest, Dr. Dian Williams is recognized by the Federal Government as one of only seven arson research fellows in the United States. In this very informative session, she will identify the major fire-setting subtypes and help attendees understand the motivation for fire-setting behavior. In addition, Dr. Williams will explain the behavioral differences between male and female fire-setters, identify treatment challenges and risks, and review issues of safety.

The State of the State

Paul E. Reichenbach, CFI, *Public Education Information Specialist, Office, State Fire Commissioner*

Mr. Reichenbach, an instructor at the National Fire Academy, and numerous local, state, and federal fire and emergency service schools, will provide an overview of the organization of fire service in Pennsylvania.

Changes in Fire Case Management

Alan L. Clark, *Assistant VP Special Investigations Department, Grinnell Mutual Insurance Company*

Mr. Clark is qualified as an expert witness in five states for both civil and criminal trials as a fire origin and cause expert. He has over thirty years of fire investigation experience. In his session he will review changes in fire case management and give attendees techniques in managing the expenses of an arson investigation.

Register today for the Combined PAMIC/VAMIC/WVAIC Convention!

August 3-5

Nemacolin Woodlands Resort

The Combined Convention promises to provide excellent opportunities for both networking and education. This year there are more sessions than ever for both the Insurance executives and their board members.

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Roundtable Discussions

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Climate Change: Risk and Opportunity

NAIC Financial Examiners Handbook Panel

Strategic Planning & Execution: The Importance of Playing on the Run

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www.pamic.org;

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About Penn National Insurance

In 1919, a Pennsylvania farmer's association founded our company to provide farm-related workers' compensation insurance to its members. At the time, the state's rate for operators of steam-driven threshing machines was far higher than farmers thought it should be. They understood the risks of operating steam-driven farm equipment and how to minimize it, and they believed that if they formed their own insurance company, they could offer insurance at a rate far less than what the state was charging. Their plan succeeded, and within a few years, the association's insurance company expanded into many other lines of business, and many other states. Our company's original name was the Pennsylvania Threshermen's and Farmers' Mutual Casualty Insurance Company.

As the US economy transitioned from agricultural to manufacturing and diversified services, the nature of the company changed. Eventually the insurance company became independent from the farmers' association, to the extent that the company stopped writing agricultural accounts. The name change to Pennsylvania National Mutual Casualty Insurance Company reflected that trend. Today, we operate under the trade name of Penn National Insurance.

Penn National Insurance offers a diverse array of property-casualty insurance products and services, in both commercial and personal lines. We were founded in Harrisburg, Pennsylvania, in 1919, and we operate in nine states: PA, MD, DE, NJ, VA, NC, SC, TN, and AL. We sell through more than 750 independent insurance agencies, and offer a broad variety of business insurance and personal auto and homeowners insurance. True to our roots, we're still a mutual insurance company, operating solely for the benefit of our policyholders. The company wrote \$568 million in premium in 2007, achieved the net income of \$39 million, and total assets of \$1.4 billion.

Our strategy for navigating today's highly competitive market is to become even more closely bonded with the independent agents who represent us, gathering more feedback about how we can respond to their needs. We have recently launched significant enhancements in personal lines that make it much easier for agents to transact business with us, by allowing seamless upload of policy data from agents' management systems to our underwriting system, eliminating agents' need to re-key information. We are launching predictive analytics in personal lines, which will give us a myriad of pricing tiers, allowing us to quote more types of accounts than before, with pricing that matches all levels of risk exposure. We will also introduce predictive analytics and other enhanced automation for commercial lines, with projects currently underway.

In addition to offering property-casualty insurance products and services, we also offer surety services, and have achieved very profitable growth in that line of business during the past three years. We also operate a subsidiary company, Inservco Insurance Services, Inc., to offer third-party administration services to customers who self-insure some of their risk exposures.

Our objective is to be the regional carrier of choice for our independent agents and the performance benchmark for other regional carriers, by serving select markets that provide the greatest opportunities for profitable growth. Our corporate guiding beliefs include the following:

- ◇ Integrity and openness
- ◇ Customer focus
- ◇ Excellence in performance
- ◇ Learning and professional growth
- ◇ Teamwork and empowerment
- ◇ Citizenship

We are committed to demonstrating the utmost integrity in our corporate governance, and to being a generous community citizen. We are a Pillar Society member of the United Way of the Capital Region, and a leading contributor to Harrisburg School District. We also offer scholarships to graduates of Harrisburg School District to attend Harrisburg University. Within our industry, we have provided funding to special programs of AICPCU and to other industry organizations.

We are proud that our employees' responses to external, independent surveys about the quality of work life at our organization have earned us multiple recognitions in Computerworld's Best 100 Places to Work in IT (a national award), and in the Best Places to Work in Pennsylvania.

(A special thank you to Christopher D. Markley, Vice President of Corporate Communications of Penn National for his submission of this article.)



Member News

Mutual Benefit Group

Huntingdon, PA -

Janis L. Herschkowitz of Hummelstown, PA, president and CEO of PRL, Inc., has been appointed to Mutual Benefit Group's Board of Directors. For the past 18 years, she has been responsible for all operations of PRL, Inc., and its 4 subsidiaries, which manufacture high-specification castings for the nuclear submarine program as well as the energy industry. She oversees production operations, financial functions, and sales functions; develops and implements strategic business and marketing plans; and ensures adherence to strict quality standards.

Herschkowitz is a 1981 graduate of The Pennsylvania State University, where she received a bachelor's degree in foreign service and international politics. She earned a master's degree in business administration with a concentration in finance from the University of Texas in 1983. A native of Jamestown, N.Y., she grew up in Bolivia and is fluent in Spanish.

She has been appointed to the National Consumer Cooperative Bank Board of Directors by the President of the United States; serves on the Pennsylvania Leadership Council of the National Federation of Business; sits on the Pennsylvania Chamber of Business and Industry Board of Directors; served as chairman of the Business Advisory Council for the Federal Reserve Board of Philadelphia; was recognized as one of the Top 50 Business Women in Pennsylvania; and was appointed to the White House Small Business Conference as a Congressional Delegate.

MBG has named **Susan Leitzel** Claims Manager, whereby she will oversee management of the Claims Dept., providing technical, and managerial support to supervisors and adjusters. Leitzel has earned her AIC, AIS, AIM, and CPCU designations.

Likewise, **Sally Bilger** was promoted to auto no-fault claims adjuster. In this position she investigates, evaluates, and negotiates settlement of first party personal injury protection claims.

Joseph Sloan was named chief financial officer of Mutual Benefit Group in April 2008. In addition to holding the position of CFO, Joe is also the vice president and treasurer of Mutual Benefit, positions he has held since 1994 and 1983 respectively. **John Hanna** was named vice president – commercial lines in April 2008. He brings to the position 38 years of insurance industry management experience in multiple states, multiple companies, and multiple lines of business.

Penn Millers Insurance Company *Wilkes-Barre, PA-*

Penn Millers Insurance Company has promoted **Christine Boyle** to Assistant Vice President, of Claims.

Ms. Boyle joined Penn Millers in 2004 as a Complex Claims Specialist and was promoted to Claims Supervisor and then Assistant Claims Manager in 2005. A graduate of Kenyon College, she earned a J.D. from the University of Buffalo.

Penn Millers Insurance Company also named **William A. Dine**, Senior Vice President of Penn Millers.

Mr. Dine joined the company in 2000 as Assistant Manager, Marketing and was promoted to Marketing Manager in 2002 and Assistant Vice President of Commercial Business in 2004. He is a graduate of Georgia Southern University.

Marshall, Dennehey, Warner, Coleman & Goggin

Scranton, PA-

Attorney **James E. Pocius**, served as a speaker at the PESI conference entitled *Pennsylvania Workers' Compensation Law*.

The topics covered by Pocius were *Case Law Developments and Emerging Trends in the Law and Update on Medicare Set-Asides*.

New York, NY-

MDWC&G announced the opening of a New York City office. Like the firm's 17 other offices located in Pennsylvania, New Jersey, Delaware, Ohio and Florida, the New York City office will focus exclusively on defense litigation and will broaden the firm's ability to fully serve its clients' regional needs.

In discussing this development, **Thomas A. Brophy**, President and CEO of the firm, recently stated, "We already do work for a significant number of New York clients, so this move is quite logical, given the locations of our current offices and the corresponding locations of our clients. It is being made specifically in response to client requests. We are very excited about this new opportunity for us."

Jeffrey J. Imeri has joined the firm as a shareholder and the managing attorney for the New York City office.

Steven M. Christman and **Christian D. Lofaro** have also joined the firm as associates.

further exacerbated by the fact (as mentioned above) that there is a lack of expertise at the federal level. Should Baseball Commissioner Bud Selig be umpiring each minor league game? In addition, where there is not clear preemption, companies may be left to operate in an uncertain environment with a different set of rules for different companies.

Finally, PAMIC's position is to continue our solid support of the state regulation of insurance, and to oppose the federal regulation of insurance (or even a dual system of insurance regulatory oversight). We take that position because it's the umpire and rules of the game that we know versus an umpire and new rules of the game we don't know.

So, what to expect from the OII? Is the OII the first step to federal regulation of insurance? As Rep. Brian Kennedy (D-Rhode Island) said during the OII recent hearings, "Creating [an Office of Insurance Information, and not expecting an [optional federal charter] is like building a baseball diamond and asking people not to play." The future of federal insurance regulation is at hand. "Batter Up!"

Sincerely,

Kenneth R. Shutts
President and COO
Penn National Insurance

More Member News

King of Prussia, PA-

On April 14th, 2008, former Assistant U.S. Attorney **Susan L. Fields** joined the firm's King of Prussia, PA office as Special Counsel in the Health Law Group.

Fields has over 17 years of trial experience, in both federal and state courts. Part of the health law group led by **Katherine M. Keefe**, who joined MDWC&G in 2007, Fields will focus her practice on health care fraud and abuse, compliance, investigations, and associated litigation.

Prior to joining the firm, Susan was an Assistant United States Attorney in the Eastern District of Pennsylvania. During her tenure as an AUSA, she investigated and prosecuted major health care and pharmaceutical companies for criminal violations in conjunction with parallel civil proceedings, including under the False Claims Act. She also investigated doctors and treatment centers for possible health care fraud. Susan conducted many protracted grand jury investigations as an AUSA and an ADA.

House Bill 577 (Ch.) adds Section 3-206.1 to the Courts & Judicial Proceedings Article, providing that any provision in an insurance contract with a consumer that requires arbitration is void and unenforceable. This provision does not apply to a provision that establishes an appraisal process to determine the value of property. The effective date of this bill is January 1, 2009.

House Bill 750 (Ch. 88) amends Section 12-106 to require an insurer who intends to cancel a binder or policy during the 45-day underwriting period to mail the cancellation notice to the policyholder by certificate of mail, rather than first class mail.

All of the bills summarized in this article take effect October 1, 2008, except as otherwise noted. These bills are available for review on the Maryland General Assembly's website <http://mlis.state.md.us>. Assistance with compliance, filing, and other regulatory matters is available by contacting Funk & Bolton at (410) 659-7766 or e-mail:

rtundermann@fblaw.com.

A Very Special Thank You to PAMIC PAC Contributors for 2007-2008:

- | | |
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