

INSURANCE

Mike Johanns
Governor

L. Tim Wagner
Director

Director Wagner Addresses Current Issues in Nebraska Title Insurance

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Closing Protection Letter Fees: It has been brought to the attention of the Department of Insurance that some title insurance agents may be charging more than one closing protection letter fee per transaction.

Not all companies charge for closing protection, however most companies that do charge for a closing protection coverage endorsement or a closing protection letter have a filed rate of \$25.00 per transaction. Under this filed rate, only one fee may be charged for each transaction. Each party to the transaction should not be charged additional closing protection letter fees. Filed rates must be applied to each applicable transaction.

Real Estate "Dry Closings": The Nebraska Department of Insurance has also become aware that some title insurance agents may be conducting "dry closings" while acting in the capacity of real estate closing agent.

"Dry closings" occur when a closing is conducted before the real estate closing agent receives funds from the buyer or the lender. Nebraska law states that "a person acting as a real estate closing agent shall have received good funds which are available for disbursement **at the time of closing** a real estate transaction, except that up to five hundred dollars need not be available for disbursement from good funds." This requirement is subject to three limited exceptions. See [Neb. Rev.Stat. §76-2,122](#) (Reissue 2003) for exemptions and penalties.

LEGAL DIVISION

Title Insurance Legislative Changes

LB 155 was signed by the Governor on April 9, 2004 and became effective on July 16, 2004. This legislation amends the Title Insurers and Title Insurance Agent Acts as follows:

- Imposes strict liability on title insurers for defalcation, conversion, or misappropriation by their title insurance agents.
- Requires a written disclosure by title insurance agents holding funds relating to an exchange under section 1031 of the Internal Revenue Code.
- Removes the annual title insurance agent CPA audit requirement.

For detailed information, the full text of LB 155 is available at: http://www.unicam.state.ne.us/legal/SLIP_LB155.pdf.

CHIP Laws Amended

This year, the Nebraska Unicameral, at the request of the Department of Insurance, amended the CHIP statute to allow immediate eligibility for individuals who are eligible for the Health Care Tax Credit (HCTC) under the Trade Adjustment Act. HCTC eligible individuals are those who have lost their job due to NAFTA or their pension is under the control of the Pension Benefit Guarantee Corporation.

The Federal government allows either a tax credit for health insurance or will pay 65% of the eligible person's premium directly to the qualified health plan. The HCTC eligible person is responsible for the remainder of the premium payment. Under the CHIP amendments, an HCTC eligible person's preexisting conditions are waived and they are allowed immediate entrance into CHIP. The individual remains eligible for CHIP so long as he/she is HCTC eligible.

LB 155, which was signed by the Governor on April 9, 2004 and became effective on July 16, 2004, makes amendments to the Title Insurers and Title Insurance Agent Act.

The CHIP statute was amended this year to allow immediate eligibility for individuals who are eligible for the Health Care Tax Credit (HCTC) under the Trade Adjustment Act.

The Federal government allows either a tax credit for health insurance or will pay 65% of the eligible person's premium directly to the qualified health plan.

The Federal grant received by the Nebraska Comprehensive Health Insurance Pool is intended to offset the losses within the CHIP program.

Federal Grant Received for CHIP Operational Costs

The Nebraska Comprehensive Health Insurance Pool (CHIP) recently received a grant from the Federal government for nearly \$720,000 for operational costs. As part of the Trade Adjustment Act, Congress included seed money for states who wished to start a high-risk pool and also provided additional funding for those states, like Nebraska, who already had an existing high-risk pool. Nebraska has already applied for a similar grant for next year. The grant money provided to Nebraska is intended to offset the losses within the CHIP program.

The Department has concluded that an insurance producer or insurance agency cannot offer COBRA administration services to a client free of cost without running afoul of the rebating statute.

Offering COBRA Administration Services To Clients Free of Cost May Constitute Rebating

Recently, the Department of Insurance concluded that an insurance producer or insurance agency cannot offer COBRA administration services to a client free of cost without running afoul of the rebating statute, Neb.Rev.Stat. §44-361.

The policy itself must contain a provision that would allow for the producer to pay the COBRA administration fees on behalf of the client.

The *administration* of COBRA benefits is separate and apart from the normal course of the business of insurance since an employer could administer the program on their own or seek another to do it at their cost. Thus, the promise to outsource the administration of COBRA by an insurance producer for his/her client (with the fees to the outsourcing company paid for by the producer) would be considered an "inducement" under the rebating statute and illegal. Additionally, the policy itself must contain a provision that would allow for the producer to pay the COBRA administration fees on behalf of the client. If the policy does not contain such a provision, this too would be a violation of Neb.Rev.Stat. §44-361.

A hearing will be held regarding the addition of two new deductibles to the CHIP plans which would result in lower premium costs for those who opt for either of them.

CHIP Regulation Amendment Hearing to be Held

The Department of Insurance will hold a hearing on August 6 regarding the addition of two new deductibles to the CHIP plans. Once approved, a \$7,500 deductible and a \$10,000 deductible will be added as options for CHIP participants. The two new deductibles would lower the premium costs for those who opt for either of these deductibles. Additionally, the CHIP rate adjustment hearing will be held on August 6.

Actions Taken Against Agents

CAUSE NO.	ALLEGATION	DISPOSITION
A-1533 <i>Matthew Sleister</i> Omaha, NE	Violated <u>Neb.Rev.Stat.</u> §§44-4059(1)(b). Violated any insurance law. Multiple violations of Title 210, Chapter 19, and Chapter 46.	Consent Order \$750 admin. fine 5/10/04
A-1534 <i>Allison Klanecky</i> Grand Island, NE	Violated <u>Neb.Rev.Stat.</u> §§44-1525(10), 44-4059(1)(b),(e),(g) & (h). False or fraudulent misrepresentations; violated any insurance law; intentional misrepresentation; committed unfair trade practice; demonstrated untrustworthiness.	Consent Order \$2,000 admin. fine 5/20/04
A-1535 <i>Joseph Standeven</i> Grand Island, NE	Violated <u>Neb.Rev.Stat.</u> §§44-1525(11) & 44-4059(1)(b). Failed to respond to the department within 15 working days; violated any insurance law.	Consent Order \$200 admin. fine 6/22/04
A-1538 <i>James Buchanan</i> Frisco, TX	Violated <u>Neb.Rev.Stat.</u> §44-19,116(2) and Title 210, Chapter 34, Sec. 007. Failed to have a CPA audit conducted for the previous calendar year; failed to submit audit to the department by March 31, 2004.	Order Agent's license revoked 6/16/04
A-1539 <i>Steve Dryzer</i> Frisco, TX	Violated <u>Neb.Rev.Stat.</u> §44-19,116(2) and Title 210, Chapter 34, Sec. 007. Failed to have a CPA audit conducted for the previous calendar year; failed to submit audit to the department by March 31, 2004.	Order Agent's license revoked 6/16/04
A-1540 <i>Mark Walker</i> Frisco, TX	Violated <u>Neb.Rev.Stat.</u> §44-19,116(2) and Title 210, Chapter 34, Sec. 007. Failed to have a CPA audit conducted for the previous calendar year; failed to submit audit to the department by March 31, 2004.	Order Agent's license revoked 6/16/04
A-1549 <i>Jeffrey K. Eisenshatadt</i> Troy, MI	Violated <u>Neb.Rev.Stat.</u> §44-19,116(2) and Title 210, Chapter 34, Sec. 007. Failed to have a CPA audit conducted for the previous calendar year; failed to submit audit to the department by March 31, 2004.	Consent Order \$500 admin. fine; audit conducted within 30 days 6/24/04
A-1551 <i>Frank Thomas Griebenow</i> Vadnais Heights, MN	Violated <u>Neb.Rev.Stat.</u> §44-19,116(2) and Title 210, Chapter 34, Sec. 007. Failed to have a CPA audit conducted for the previous calendar year; failed to submit audit to the department by March 31, 2004.	Consent Order \$500 admin. fine; audit conducted within 30 days 6/16/04

Actions Taken Against Agents (cont.)

CAUSE NO.	ALLEGATION	DISPOSITION
A-1552 <i>Cynthia June Jackson</i> Cheyenne, WY	Violated <u>Neb.Rev.Stat.</u> §44-19,116(2) and Title 210, Chapter 34, Sec. 007. Failed to have a CPA audit conducted for the previous calendar year; failed to submit audit to the department by March 31, 2004.	Order Agent's license revoked 6/16/04
A-1553 <i>Rebecca A. Jones</i> Papillion, NE	Violated <u>Neb.Rev.Stat.</u> §44-19,116(2) and Title 210, Chapter 34, Sec. 007. Failed to have a CPA audit conducted for the previous calendar year; failed to submit audit to the department by March 31, 2004.	Order Agent's license revoked 6/16/04
A-1560 <i>Patrick J. Nolan</i> Bloomington, MN	Violated <u>Neb.Rev.Stat.</u> §44-19,116(2) and Title 210, Chapter 34, Sec. 007. Failed to have a CPA audit conducted for the previous calendar year; failed to submit audit to the department by March 31, 2004.	Consent Order \$500 admin. fine; audit conducted within 30 days 6/24/04
A-1561 <i>Shannon L. Rutan</i> Waynesburg, PA	Violated <u>Neb.Rev.Stat.</u> §44-19,116(2) and Title 210, Chapter 34, Sec. 007. Failed to have a CPA audit conducted for the previous calendar year; failed to submit audit to the department by March 31, 2004.	Order Agent's license revoked 7/15/04
A-1565 <i>Jeffrey J. Whitaker</i> Omaha, NE	Violated <u>Neb.Rev.Stat.</u> §44-19,116(2) and Title 210, Chapter 34, Sec. 007. Failed to have a CPA audit conducted for the previous calendar year; failed to submit audit to the department by March 31, 2004.	Order Agent's license revoked 7/15/04
A-1570 <i>Scott Patrick Lawson</i> Omaha, NE	Violated <u>Neb.Rev.Stat.</u> §§44-1525(10), 44-4059(1)(h) & Title 210, Chapter 19, Sec. 006. False or fraudulent representations; demonstrated untrustworthiness; failed to comply with duties of agent in replacing life insurance policies.	Consent Order Agent's license revoked 7/12/04
A-1571 <i>Bradley W. Foust</i> Omaha, NE	Violated <u>Neb.Rev.Stat.</u> §§44-1525(10), 44-4059(1)(h) & (j) & Title 210, Chapter 19, Sec. 006. False or fraudulent representations; demonstrated untrustworthiness; forged a name to an insurance document; failed to comply with duties of agent in replacing life insurance policies.	Consent Order \$2,000 admin. fine; agent's license revoked 7/13/04

Actions Taken Against Agents (cont.)

CAUSE NO.	ALLEGATION	DISPOSITION
A-1574 <i>David C. Kuritar</i> Grand Rapids, MI	Violated <u>Neb.Rev.Stat.</u> §44-19,116(2) and Title 210, Chapter 34, Sec. 007. Failed to have a CPA audit conducted for the previous calendar year; failed to submit audit to the department by March 31, 2004.	Consent Order \$500 admin. fine; audit conducted within 30 days 7/15/04
A-1575 <i>Carol H. Neal</i> Grand Rapids, MI	Violated <u>Neb.Rev.Stat.</u> §44-19,116(2) and Title 210, Chapter 34, Sec. 007. Failed to have a CPA audit conducted for the previous calendar year; failed to submit audit to the department by March 31, 2004.	Consent Order \$500 admin. fine; audit conducted within 30 days 7/15/04
A-1576 <i>Michael J. Wightman</i> Grand Rapids, MI	Violated <u>Neb.Rev.Stat.</u> §44-19,116(2) and Title 210, Chapter 34, Sec. 007. Failed to have a CPA audit conducted for the previous calendar year; failed to submit audit to the department by March 31, 2004.	Consent Order \$500 admin. fine; audit conducted within 30 days 7/15/04

Actions Taken Against Companies

CAUSE NO.	ALLEGATION	DISPOSITION
C-1440 <i>Clarion Benefits Administration, LLC</i> (MO)	Violated <u>Neb.Rev.Stat.</u> §44-5814(1) & (3). Failed to file annual report and pay \$200 filing fee on or before March 1, 2004.	Order TPA license revoked 2/28/04
C-1442 <i>RewardPlus of America Insurance Agency, Inc., and its Officers, Directors, Agents and Employees</i> (MD)	Violated <u>Neb.Rev.Stat.</u> §§44-1525(11), 44-4059(1)(b) & (g) & 44-5812(2)(a). Failed to respond to the Department within 15 business days; violated any insurance law; unfair trade practices; failed to file a completed annual report.	Consent Order \$500 admin. fine 7/20/04

CONSUMER AFFAIRS DIVISION

Observations Relating to May Storm Losses

Most people were extremely pleased with the responsiveness of their insurance companies, and expressed great satisfaction for the adjusters who provided detailed but clear explanations of the settlement amount.

This spring, the Department had the opportunity to participate in several disaster-recovery center operations following the May tornadoes and storms in Hallam, rural Nebraska and Omaha. Working with the Nebraska Emergency Management Agency and the Federal Emergency Management Agency, the Department of Insurance staffed a table to assist with insurance-related questions and issues.

Most people were extremely pleased with the responsiveness of their insurance companies. An additional source of satisfaction arose when the adjuster provided detailed but clear explanations of the settlement amount. However, judging from the questions that arose and issues that were discussed, we concluded that many homeowners and renters have need for a better understanding and perhaps updating of their insurance programs.

Many homeowners and renters have need for a better understanding and perhaps updating of their insurance programs.

Some of the issues generating discussion with storm victims included:

- Having no insurance on property.
- Dwellings or property being insured for less than the cost to replace.
- Misunderstanding as to whether or not replacement cost had been purchased on agricultural equipment.
- Being unaware of the availability or desirability to obtain renters insurance.
- Failure to purchase a sewer back-up endorsement.
- Exclusions for business-related property.
- Community ordinance coverage.
- Valued policy law questions.
- Maintaining liability insurance on property after the buildings were destroyed.
- Loss caused by ground water and the availability of Federal flood insurance.

Many insureds were uncertain of the process they should go through to file a claim.

Additionally, many people were uncertain of the process they should go through to file a claim. Keeping an updated inventory

The Department is hopeful that insurance companies, insurance producers and other interested parties can help reach out to the public so they can be better informed of the importance of having a sound and up-to-date personal insurance program.

of personal items might have been beneficial for some of the individuals. In the case of Hallam, storing important personal records in a secure offsite location such as a bank safety deposit box may have proved beneficial.

The Nebraska Department of Insurance is hopeful that insurance companies, insurance producers and other interested parties can help reach out to the public so they can be better informed of the importance of having a sound and up-to-date personal insurance program.

PROPERTY AND CASUALTY DIVISION

Personnel Changes

Gina Younger has been hired as a staff assistant for the Property/Casualty and Actuarial divisions.

Gina Younger has been hired as a staff assistant for the Property/Casualty and Actuarial divisions. Gina had previously worked at the Department in the Administrative Services area. We are so pleased that she agreed to come back and be a part of our division.

You may be hearing from Gina as she is reviewing the filing fees that are submitted with each filing. Nebraska is a retaliatory state regarding filing fees. Our fee will be that which would be charged by the state of domicile of the filing company. We cannot begin our review process until the appropriate fee has been submitted, so we appreciate your cooperation in getting back to us as quickly as possible.

Gina will be reviewing the filing fees that are submitted with each filing and may be communicating with you, as we cannot begin our review process until the appropriate fee has been submitted.

Because of other personnel changes in the P/C area in the past few months, we have reassigned some of the filings. Following is a mail distribution list that shows the name, the e-mail address, and the phone number for the analyst who does the review of each line of insurance. Please remember to include your e-mail address when making a filing, as that will be used for any correspondence that we may have with you.

Property/Casualty Division – Nebraska
(All Filings including SERFF)
as of July 19, 2004

Gina Younger

Staff Assistant
402-471-4805
gyounger@doi.state.ne.us

Filing Fees
Status Requests
Mail Distribution/Matching/Filing

Connie Van Slyke

402-471-4647
cvanslyke@doi.state.ne.us

Professional Liability
Directors and Officers
Commercial Umbrella & Excess
Commercial Package
General Liability
Work Comp
Commercial Auto

Chris Williamson

402-471-4653
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Commercial Property
General Liability
Commercial Package
Crime
Mortgage Guaranty
Personal Umbrella/Excess
Boat Owners
Boiler and Machinery
Fidelity & Surety
Inland Marine(Personal/Commercial)

Bev Anderson

Administrator
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Lawyers Professional
Professional Liability
Directors & Officers
Aircraft
Title
Credit, Credit Property & IUI
Farm Monoline/Package
Crop Hail
Auto Warranty/Service Contracts
Medical Malpractice

Stephanie Hobelman

402-471-4651
shobelman@doi.state.ne.us

Homeowners
Personal Auto
Combination – HO/Auto
Home With Business
Mobile Home
Recreational Vehicle
Other Dwelling Package
Personal Lines Property
Personal Liability
Med Mal Excess Liability Fund

Lines of Insurance for Nebraska Filings

When completing Nebraska Filing Form R 1 (found in CB 50), you will note that question 5 asks for the generic line or type of insurance. We use "lines of insurance" for various purposes, one of which is dividing the workload. We also use "lines" of insurance for filing purposes in our Administrative Services Division. As an example, if you are looking for the personal auto filing for a specific company, all you need to do is request to see the 1-450 file for that company.

We no longer include the schedule of lines of insurance in our filing manual, CB-50. Since some of you may not be familiar with our interpretation of lines, the following schedule is being provided for you to include with your Nebraska filing material.

Lines of Insurance Nebraska

<u>Code Number</u>	<u>Line of Insurance</u>	<u>Code Number</u>	<u>Line of Insurance</u>
1	Correspondence	1-600	Crop Hail
1-100	Commercial Lines Property	1-610	Workers Compensation
1-150	Personal Lines Property	1-620	Crime
1-200	Commercial Inland Marine	1-630	Fidelity & Surety
1-250	Personal Inland Marine	1-650	Glass
1-300	Commercial General Liability	1-660	Boiler and Machinery
1-330	Personal Liability	1-700	Commercial Package
1-340	Professional Liability	1-800	Aircraft
1-341	Medical Malpractice	1-830	Mortgage Guaranty
1-342	Directors and Officers	1-840	Title
1-343	Lawyers Professional	1-850	Credit Property
1-380	Commercial Umbrella/Excess	1-860	Credit Unemployment
1-390	Personal Umbrella/Excess	1-880	Credit
1-400	Commercial Auto	1-900	Auto Warranty
1-450	PrsnlAuto/Mtrcycl/Rec.Veh	1-930	Prepaid Legal
1-460	Boatowners	1-940	Financial Guaranty
1-500	Homeowners	1-950	Misc./Flood
1-505	Combination/Auto/HO	1-970	Accord Forms
1-510	Homeowners/W Business	1-975	All Programs
1-520	Farm Monoline/Package	1-980	All Personal Lines
1-530	Dwelling Package Policies	1-990	All Commercial Lines
1-540	Mobile Homes	1-1000	Risk Retention

Nebraska Workers' Compensation Insurance Plan

For information concerning eligibility and instructions for obtaining coverage through the Nebraska Workers' Compensation Insurance Plan, use the links found at www.nol.org/home/ndoi.

The Department of Insurance web site contains information along with the ACORD Forms Instructions Guide for completing ACORD 130 and ACORD 133 Workers' Compensation application. All questions regarding the state specific Plan should be referred to the Travelers.

Note: To be eligible for coverage you must not owe any undisputed premiums for workers' compensation insurance to any other insurance company.

For information concerning eligibility and instructions for obtaining coverage through the Nebraska Workers' Compensation Insurance Plan, use the links found at www.nol.org/home/ndoi.

EXAMINATION DIVISION

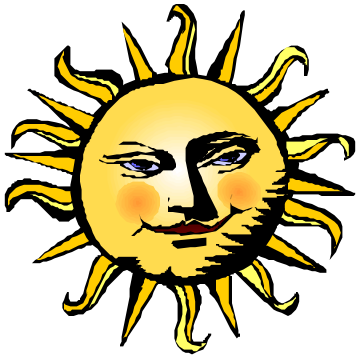
Pre-Need Exams Completed During Second Quarter, 2004

Apfel-Butler-Geddes Funeral Home
Herrmann Funeral Home
Knott Funeral Home
Pulverente Monument Co.

Financial Examinations Completed During Second Quarter, 2004

Acceptance Insurance Company
Blue Cross Blue Shield of Nebraska
Jefferson Pilot Financial Insurance Company
MidAmerica Life Insurance Company
Mid-South Insurance Company
Motor Club Insurance Association
United Dental Care of Nebraska, Inc.

Financial examination reports become public documents once they have been placed on official file by the Department. Copies may be obtained from the Department at the cost of \$.50 per page.



Calendar of Events

August 28-
September 6 Consumer Information Booth,
Devaney Center, Nebr. State Fair

September 6: Department Closed – Labor Day

October 11: Department Closed – Columbus
Day



State of Nebraska
Department of Insurance
941 "O" Street, Suite 400
Lincoln, Nebraska 68508

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Statutes To Consider When Making A Filing

General

44-358	Fraud and Misrepresentation	44-201	Lines Defined
44-354	Prohibited Fees or Charges	44-358	Conformance to Statute
44-7513	Prior Approval of Forms	84-712.01	Public Records
44-7501	Rate and Form Act	44-7512	Subjective Rating Not Allowed
Chapter 60	Unfair Claim Settlement	44-1521	Unfair Trade Practices
CB-50	Filing Manual	Chapter 16	Effective Date of Filing

Automobile

60-501	Financial Responsibility	60-534	Personal Auto Cancellation
44-6405	UM/UIM	Chapter 18	Mass Marketing
44-514	Terms defined	CB-42	Writing Personal Auto
44-523	Comm. Auto Cancellation	CB-45	After Market Parts
CB-49	Payment of Special Costs	CB-61	Proof of Insurance
44-516	Personal Auto Cancellation		

Fire/Homeowners

44-501	Standard Fire Insurance Policy	81-521	Fire Insurance Reports
44-501.02	Valued Policy Law	44-601	Overinsurance/5 Year Policy
44-522	Cancellation/Non Renewal	44-601	File & Use-Rates – Comm.
44-7502	Coverage Expected	44-7511	Mutually Exclusive

General Liability

44-522	Cancellation/Non Renewal	44-7513	Prior Approval – Forms
44-7508	File and Use Rates-Comm.		

Workers' Compensation

48-144.03	Cancellation	48-146.01	Assigned Risk Plan
48-121	Minimum/Maximum Benefit	CB-50	Must Adopt NCCI-no delay

Medical Malpractice

44-2801	NE Hospital-Medical Liability Act	44-7513	Forms Filed Prior to Use
44-522	Cancel. - Allied Health Care Prof.	44-2836	No Exclusions Recognized
44-2827	Cancel. - Physicians/Surgeons/CRNA	44-2824	Limits Required
44-2837	Residual Market	44-2839	Fund – Surcharge
44-2803	Health Care Provider Defined	44-2828	Statute of Limitation

Miscellaneous

44-7505	Aviation Rates need not be filed	44-5501	Surplus Lines Act
44-1978	Title Insurance Act	44-5510	Surplus Lines Use
Chapter 73	Exempt Commercial Policyholder	Chapter 75	Multi-State Policyholder
44-103	Terms defined	44-304	Authority To Do Business
44-6008	Insurer Defined		