NAAFA News P.O. Box 431 Oscoda, MI 48750 E-Mail: naafa@charter.net
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THE CEAA and YOU!

The CEAA (Coalition of Exclusive Agent Associations of which NAAFA is a member) Board of Directors recently met in Reno, Nevada to discuss the course of action needed to accomplish their goals in the upcoming year. The meeting was held in conjunction with the UFAA (United Farmers Agents Association) annual board and chapter president's meeting.

It was noted that NAPAA (The National Association of Professional Allstate Agents) pulled out of the CEAA a year ago stating that they wanted to concentrate their legislative efforts more at the state level than on the national issues. They also cited excessive expenses and a strain on their budget as a result of a pending lawsuit with the Allstate Company. UFAA was also debating the merits of belonging to the CEAA and questioned the member organizations of CEAA as to their direction and efforts. In particular, they expressed their concerns regarding the accomplishments of CEAA lobbying in Washington DC.

Although the CEAA recognizes the need for state legislation, the primary focus for the organization is at the federal level. In the past, the CEAA has spent 2 days of their bi-annual meeting on their housekeeping issues and individual chapter reports. Only one day had been spent on capitol hill lobbying. The new focus, committed to in Reno, will consist of just one day on business issues of the CEAA member organizations and at least 2 days visiting lawmakers in an effort to promote legislative issues affecting captive insurance agents. This will better align with the needs of all the member associations in accomplishing their legislative goals and appeal to the wider cross section of agent associations.

Currently the 2 major issues being lobbied by CEAA members are the clarification of the original SECA bill, passed in 1996, and the capital gains treatment on termination benefits. The 1996 SECA bill was a partial victory. However, due to the wording of the bill, it still excluded many captive agents' termination benefits from self-employment taxation including those of American Family agents.

All captive agents are concerned with the passage of SECA relief. State Farm agents, granted relief by the original SECA bill due to the wording of their contract, continue to support, lobby and fight for the clarification of the SECA bill to include all captive agent termination benefits. Evidence that the members of CEAA work together for the better of the whole. To NASFA (National Association of State Farm Agents) we offer our thanks and support. Most captive companies, including NAAFA, have joined the effort in getting SECA relief for their members. NASFA is at the forefront of this battle and have made headway in introducing legislation.

Capital gains treatment for the termination benefits of captive agents is an even larger issue and subsequently a larger battle. We simply MUST be granted capital gains taxation for our termination benefits to preserve our investments in our businesses.

The concern for the insurance industry regarding this initiative is not the effect it will have on the way they pay out termination benefits but rather a dilemma it could create in the interpretation of the ownership of the agent's book of business. Presently the carriers contend they have the ownership rights to the all the policies produced by their captive agents. Basically this is the distinction between a captive agent and an independent agent. For capital gains consideration there must be an exchange of a tangible asset. This could mean the agent would actually own the renewals and would be selling them back to the company for payment in the form of termination benefits as a tangible asset. We believe the insurance industry will vigorously fight the capital gains issue based on this dilemma.

The CEAA is comprised of NAAFA (American Family), NASFA (State Farm), NIICA (Nationwide), UFAA (Farmers), NAFBA (Farm Bureau) and UMAA (now Country Companies). Allstate (NAPAA) continues to withhold its participation in CEAA.

More than ever we need to add to our membership roles increasing our influence on Capitol Hill in an all-out effort to achieve this important goal. Please encourage your colleagues to join us NOW! In an effort to achieve some aggressive membership growth goals we are offering a special first-year-only reduced rate for members new to NAAFA of $199. Please urge your colleagues to join on-line by visiting http://www.naafa.com/.

NAAFA strongly urges you to support H.R. 1250 currently in congress and actively being studied by committees in the House of Representatives. This bill is specifically designed to affect the taxation of your termination payments in a positive fashion. Act now by contacting your representative and indicating your support for this critically important legislation. You can review the wording of the bill and find your representative in Congress by going to http://www.house.gov/.

AIA Calls for Wider Use of 'Black Box' Auto Data

WASHINGTON 02/03/2004 (BestWire)-Saying that they could increase safety and reduce fraud, the American Insurance Association has called for greater and more standardized use of so-called "black boxes" in automobiles to record information about the way cars are driven.

Such devices, called electronic data recorders or EDRs, have been in autos since the 1970s and now are in an estimated 25 million to 40 million cars. But their usage is far from standard, and even the electronic engineers who design them haven't yet agreed on a standard interface for reading the devices, according to the Institute for Electrical and Electronics Engineers.

The AIA is calling for that to change, and for wider use of the EDRs in cars and trucks.

In a meeting with the American Automobile Association, David Snyder, AIA's vice president and assistant general counsel, called for the National Highway Traffic Safety Administration to standardize the use of EDRs for cars and for the Federal Motor Carrier Safety Administration to make their use in trucks mandatory.

"Every day, motor vehicle crashes exact an enormous toll by causing deaths, injuries, and property damage," Snyder said in a statement explaining the AIA's position. "Auto insurance provides compensation for losses resulting from crashes, as well as financial protection against vehicle theft and other damages. Therefore, auto insurers' interests--increasing safety and preventing losses with tools such as EDRs--are directly in line with individual drivers, pedestrians, and other roadway users."

Data pulled from EDRs can be used to help accident investigations and to determine fraudulent claims, the AIA said. "With objective EDR data, insurers could determine fault more rapidly and resolve claims that should be settled, while contesting those for which their policyholders were not to blame," Snyder said.

The AIA also said that EDRs would speed the development of crash-avoidance systems, vehicle diagnostic systems and advanced medical-response capabilities. An EDR-like device, for example, could send paramedics information on how fast a car was going when it crashed.

The "black boxes" in cars differ from those in airplanes, in that they record data in a short loop, and a limited amount of data at that. When a car or truck crashes, the EDR stops looping the data and saves the data gathered during the five seconds prior to the crash and for seven seconds afterward. That information is stored in a microprocessor inside the airbag unit, usually in the steering column.

NHTSA installed the first EDRs in 1974 in 1,000 cars as part of a project to analyze low-speed crashes. Two years later, General Motors Corp. began installing the first of its "Sensing and Diagnostic Modules"--GM's proprietary name for its EDRs--to handle the deployment of a car's airbags and save data about the crash that caused them to inflate. The technology leapt forward during the 1990s, when GM put much more sophisticated recorders in its vehicles. EDRs now track whether seat belts are used, whether the brakes were depressed at the time of the crash, the position of the throttle, the speed of the car, the speed of the engine and what engineers call "delta-v" information, which are the changes in the car's velocity after impact. As of 2002, all GM cars contained EDRs, and Ford has them in many of its vehicle as well.

Consumer advocates have raised concerns about insurers getting their hands on EDR data, but the matter largely has been settled by the courts in favor of insurers and law-enforcement officials. (BestWire, Aug. 14, 2003).

Data from an EDR first was used to obtain a criminal conviction in May 2003, when a

47-year-old Florida man was convicted of manslaughter. Edwin Matos told police he was going no more than 60 mph when his car killed two teenage girls, but prosecutors used the EDR in his car to prove he was going about 114 mph in the seconds before the crash.

The use of EDR data also has been upheld in civil trials. The most widely known example in legal circles is Bachman vs. General Motors Corp., a 2002 case in which a woman sued GM, claiming a defective airbag caused her to crash. GM, using EDR data, showed that the airbag didn't cause her accident. An appellate court later ruled the data from the EDR device admissible.

(By Chris Grier, Washington bureau manager, BestWeek: Chris.Grier@ambest.com)

Expert: Class-Action Reform Would Boost P&C Stocks

By Chris Grier, Washington bureau manager, BestWeek

WASHINGTON February 04, 2004(BestWire) - Though a class-action reform bill has 62 of the U.S. Senate's 100 members behind it, a leading legal expert on the matter gives the bill only a 60% chance of passing this year.

Victor Schwartz, a partner with the international law firm of Shook, Hardy & Bacon LLP--known for its handling of high-dollar class-action lawsuits--told the Prudential Equity Group that the American Trial Lawyers Association is working hard to get at least three of those senators to defect and vote against class-action reform. That would leave a majority, but not enough senators to stop a threatened filibuster.

"Passage of the bill is far from a foregone conclusion" because of the efforts of those lawyers, who have a financial stake in keeping the bill from passing, Schwartz told the group during a conference call the week of Feb. 2.

Schwartz predicted that several liability-driven property and casualty companies would see an uptick in their stock prices if the bill passes, including: Ace Ltd. (NYSE:ACE); American International Group Inc. (NYSE:AIG), Chubb Corp. (NYSE:CB); XL Capital Ltd. (NYSE:XL) and St. Paul Cos. (NYSE:SPC). Schwartz also said personal-lines companies that are subject to multiple class-action suits would benefit, as would the drug, chemical, oil and tobacco industries.

The Class Action Fairness Act, S.1751, would put class-action lawsuits involving multistate issues into federal courts, rather than the small state courts where they now are heard most often, and where abuses are said to be most prevalent. Cozy relationships between local judges and lawyers, insurance groups have said, allow lawyers to "judge shop" or "forum shop," finding courts that are friendly to the aims of their lawsuits (BestWeek, Aug. 20, 2003). The bill is scheduled for a vote on the Senate floor in mid-March. Democrats last year successfully derailed the bill's passage, mustering enough votes to sustain a filibuster. The three votes Schwartz mentioned would be key, as that would bring the number of senators supporting the bill to 59--enough to pass the bill, but not enough to break a filibuster and get it to a vote.

Unlike the House of Representatives, the Senate has unlimited debate. Under the Senate's rules, three-fifths of the full chamber--60 senators--are needed to limit debate and bring a bill to a vote, a procedure called a cloture vote. Though in the minority, Democrats have had enough votes to sustain a filibuster on the class-action bill.

Schwartz didn't name the three members in the conference call, but Sens. Christopher J. Dodd, D-Conn., Charles E. Schumer, D-N.Y., Jeff Bingaman, D-N.M. and Mary L. Landrieu, D-La., all publicly opposed the bill last year (BestWire, Nov. 19, 2003). Dodd, Landrieu and Schumer since have indicated they could support the bill, after extracting some concessions from Republicans on certain parts of the legislation.

Proponents of the class-action bill, chiefly Republicans, businesses and insurers, have said the legislation would prevent forum shopping and other abuses and deter the sorts of frivolous lawsuits they say drain revenue from big businesses and sap the economy. Democrats and trial lawyers who opposed the bill have characterized it as little more than a liability shield for corporations. Critics of the bill also argue that the already overcrowded federal district courts would decline to put many of the cases on their dockets.

The Senate vote is the last obstacle to the bill's passage. The House already has approved its version, and President Bush repeatedly has said he is eager to sign it into law. The class-action vote is part of a three-pronged agenda by the GOP to reform the U.S. liability system; the other two measures would curtail businesses' liability in asbestos suits and limit jury awards in medical-malpractice trials. The insurance industry supports the limits on jury awards but is divided on the issue of settlements to asbestos victims.

The House passed a medical-liability reform bill last year, but a threatened Democratic filibuster stalled that bill in the Senate as well. The House bill, the Help Efficient, Accessible, Low Cost, Timely Healthcare (HEALTH) Act of 2003, passed last March.

Senate Majority Leader Bill Frist, R-Tenn., took the Senate's bill, the Patients First Act, directly to the floor without first going through a committee, a maneuver intended to gauge support in the Senate chamber. A cloture vote failed by 49-48, 11 votes shy of the 60 the Republicans needed (BestWire, Aug. 15, 2003).

The Senate bill would have capped pain-and-suffering awards at $250,000, while punitive damages would have been capped at either $250,000 or twice the amount of a plaintiff's actual losses. The bill also sought to limit the amount lawyers could collect from malpractice suits.

Senate Amendments May Put Class-Action Reform In Jeopardy

By Steven Brostoff, February 16, 2004, National Underwriter

Class-action reform legislation, one of the insurance industry’s highest legislative priorities this year, might be facing tough procedural sledding in the U.S. Senate.

Although a bipartisan agreement was achieved last year on S. 2062, which produced 62 votes in favor of the bill, possible attempts to attach non-germane amendments to it could create problems.

Melissa Shelk, vice president of federal affairs for the Washington-based American Insurance Association, said that the 62 votes are on the substance of S. 2062. However, she said that under the procedural rules in the Senate, there could be attempts to attach amendments relating to minimum wages and unemployment insurance.

There may also be some germane amendments, she said. Nonetheless, Ms. Shelk noted, AIA's understanding is that the Senate will take up S. 2062 right after it finishes work on a transportation bill that is currently on the floor.

David Winston, vice president of federal affairs for the Indianapolis-based National Association of Mutual Insurance Companies, said that NAMIC remains cautiously optimistic on the chances for S. 2062, but added that if it is loaded up with non-germane, extraneous amendments, the chances for enactment will diminish significantly.

Charles Taylor, assistant vice president of federal government relations with the Property Casualty Insurers Association of America in Des Plaines, Ill., added that there are rumors about the possibility of non-germane amendments, but PCI hopes this will not sidetrack meaningful reform.

It is necessary, he said, to stop forum shopping and frivolous lawsuits.

Jack Dolan, a representative of the Washington-based American Council of Life Insurers, said that the current situation is fluid, and it is not clear how it will play out.

There are efforts under way to either prevent non-germane amendments from being attached to the bill or to reach a compromise that will allow S. 2062 to go forward.

ACLI, he said, is also cautiously optimistic that any problems can be resolved and that the final outcome will be positive.

S. 2062 would establish federal court jurisdiction over most major interstate class-action lawsuits in which damages exceed $5 million. However, federal court judges would be able to decline jurisdiction depending on the residency characteristics of the plaintiffs' class and a consideration of several specified factors.

Emerging Trends in 2003 Will Affect Business in 2004

January 2004, By Bruce R. Stefany, Life Insurance Selling (Excerpt)

As 2003 ended, the financial services business remained in a state of instability. There were, however, several important trends beginning to develop that will affect how

producers do business in 2004.

The top trends to watch in 2004 are emerging at the individual, business, and general industry levels. There are valuable lessons to be learned from these developments, and a look back on the recent past will offer some important guidelines for producers as they plan for the near future.

The Business Market
The improving economy, combined with the aging of baby boomer business owners, will support two growing opportunities: the establishment of retirement and deferred compensation programs and the purchase of long-term care coverage in the closely held business market. Business owners usually have a higher risk tolerance than the general public, so they prefer to use such equity-based products as mutual funds and variable contracts.

Business owners frequently have some familiarity with a Section 401(k) plan, either through its availability to their employees or because the owners themselves were employees of another company.

The single Section 401(k) plan is available to any business, including corporations, partnerships, sole proprietors, and nonprofit entities, that employs only the owner and his or her spouse. It also is designed for owners with part-time employees who are not eligible to participate in the plan. Many mutual fund companies offer single Section 401(k) plans with a diverse selection of mutual funds.

A Section 401(k) overlay plan provides a non-qualified deferred compensation benefit for a select group of highly compensated employees or officers.

These individuals already are making the maximum allowable contributions to a company-sponsored Section 401(k) plan and want to defer additional pre-tax dollars for supplemental retirement income. Variable universal life insurance provides the benefit of tax-deferred growth and an extensive array of money management organizations.

Business-provided long-term care is not subject to IRS discrimination rules. This enables a small business to purchase coverage solely for the owner or for a select group of employees. These premium payments, though for a selective group, are a tax-deductible business expense. Like most health insurance coverage, the benefit payments are tax-free to the insured.

For the complete story, visit:
http://www.lifeinsuranceselling.com/FSG/LifeInsurance/Main+Nav/Articles/Archive/Emerging+Trends+in+2003+Will+Affect+Business+in+2004.htm

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