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Texas Property, Casualty & Surety Pre-License Adjuster Course

10 Hour Self-Study Section

Part I of the 40 hour required course of instruction

This book belongs to _____



Please note that these 'topics' may be referenced on multiple pages within this material.

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A Few Things to Address

Self study requires self discipline. This 10-hour self-study isn't something you can put off until the last minute. Remember, you have a 30-hour class to finish (in class) and your comprehension of the classroom material is heavily dependent upon your success with this self study material.

No one expects you to come to the 3-day class having memorized, absorbed and fully understood everything in this book. We do expect you to make the effort and to answer the quiz questions to the best of your ability.
Thank you for choosing our program.

10 Hour Self-Study Section

In this 10-hour self-study course, you will learn quite a bit about how to read a policy. Insurance policies are one of the most confusing documents on earth. Note that we said, "quite a bit". We learn something new every day in this business. You will never know everything and when/if you feel like you do, it would be wise to keep that bit of information to yourself.

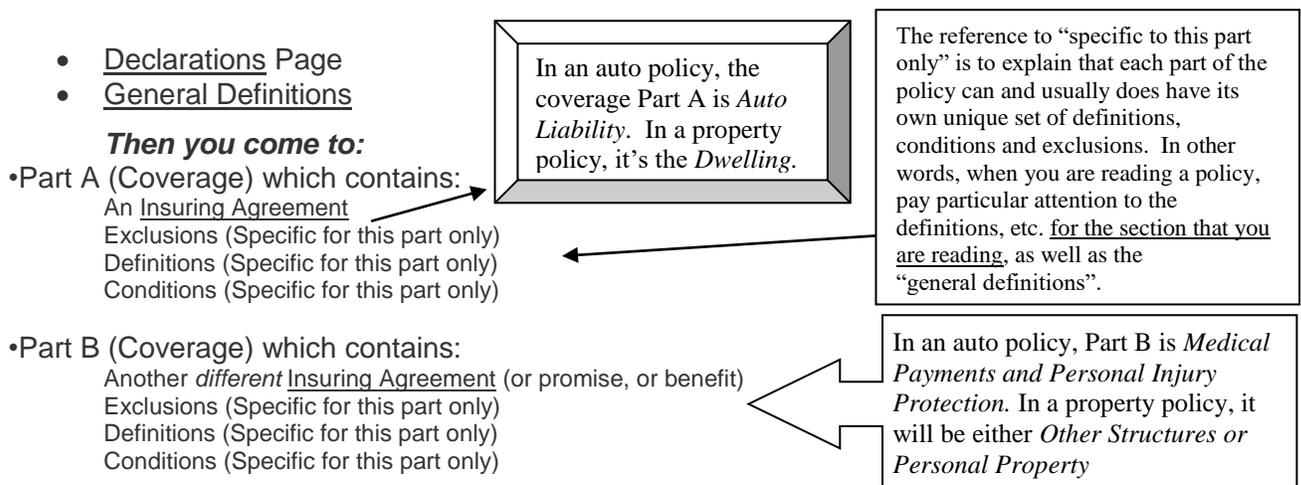
You will also learn about the policies which you will be licensed to handle in Texas. It is not our intention to go into any great detail about any individual policy in this self-study material. We want to simply show you the names and types of insurance policies you may handle, and the unimaginable expanse of this industry. You'll be licensed to handle claims arising out of policies and coverages you've never heard of.

There are two quizzes in this booklet. Please try to complete and pass the quizzes prior to attending class. Completing and comprehending this section will help you understand the material in the 3-day in-class portion of our training. The quizzes are open-book format. If you do this work like you know you should, you'll learn a lot from an open-book quiz format.

I. Policy Structure - Generally (3 Hours)

This may lead you to believe that all policies are very neatly segregated into the 6 elements listed below. What we are showing is a very simplified overview. The only two elements of any policy that are immediately recognizable are the declarations (Dec Page) and the endorsements (added changes). Everything else is insurance soup and the best you can hope for is to "know it when you see it". It's useful to know what each of these do so you can find what you are looking for in the policy. The list below is not necessarily the order in which it is found in a policy.

This is how a typical Texas Personal Auto Policy (and most policies for that matter) is organized:



- Part C (Depends on the type of policy; may not even be a Part C, D, E and so on)
- Part D (Conditions, duties of insured after a loss)
- Part E (More conditions, general in nature and likely addresses the Insurer's duties as well)
- Part F (More exclusions, more general in nature and likely apply to entire policy)
- Endorsements (attached to or often printed in the back of the policy)

Boiled down into insurance language, the 6 "elements" of any policy are:

1. Declarations (clearly recognizable; often the first page)
2. Definitions ("general" definitions appear at the beginning and apply to the entire policy)
3. Insuring Agreements (usually show-up as a policy "part")
4. Conditions (all over the place)
5. Exclusions (all over the place)
6. Endorsements (Listed on the *Dec* page, with the full text of the endorsement attached to the back of the policy or printed in the back of the policy)

Let's re-visit these elements, parts, or however one may refer to them. They're all important.

A. Declarations Page

The declarations, most often called the "Dec page", is the first printed page in a policy. The *declarations* may be one page or many pages, depending upon the type, nature and coverages in the policy. Most Dec pages are copyrighted, so although every insurance company's Dec page will look different, they will all contain the same basic information. It is this document that makes the policy unique to the named insured and to the property covered. The Dec page will show the named insured, address, location of the subject property, policy dates, amount of the coverage limits, premiums, deductibles, lien holder name and address and a list of the attached endorsements. As an adjuster, you will in most cases be given a *loss notice*, not a copy of the actual Dec page. For this course, we've created a mock Dec page for training use. Keep in mind, they don't all look alike.

Trans Texas Casualty Insurance Company

500 State St

Dallas, Texas

Homeowner Policy

Declarations Page

All numbers, names and addresses are fictitious

Named Insured: Johnathan Tatum 615 Purple Plum St. Sangria, Texas 78910	Policy Number: 06263X788TXDAL Effective Date of Policy: 06/01/18 to 06/01/19 ¹ at 12:01 AM standard time at the location of the residence premises
Residence Premises Location: ² Same as Insured address	Mortgagee: Delta Financial P.O. Box 81779 Los Robles, NM Loan No. 12345768
Construction: 1 story BV, Comp Roof, Slab ³	

Section I - Property Coverages (Limits of Liability)

Coverage A		Coverage B	
Dwelling: \$125,000 ⁴	Other Structures: \$12,500	Personal Property: \$65,000	Personal Property Off Premises: \$6,500
Base Premium: \$1,066	Premium: Included	Base Premium: \$427	Premium: Included
Loss of Use Coverage: \$25,000		Premium: Included ⁵	

Section II – Liability Coverages (Limits of Liability)

Coverage C Personal Liability	Coverage D Medical Payments to Others
\$100,000 Each Occurrence Premium: \$212	\$1,000 Each Person Premium: Included
Other Residential Premises Location:	Premium: N/A

Other Coverages and Endorsements:

Name/Type: ⁶	Limit of Liability:	Premium:
Residence Glass Coverage #124Tx	N/A	\$6
Loss Settlement Amendatory Endorsement #46 Tx	N/A	\$19

Deductibles Section 1 ⁷

Wind, Hail:	Deductible Amount: \$1,250	Premium: \$245
Other Losses Where Deductible Applies:	Deductible Amount: \$1,000	Premium: Included

George L. Jones, Universal Insurance Agency, 1370 Three Mile Rd., Alabaster, Texas, (555) 867-5309

1. Effective Date

On the first day of a policy's coverage, the coverage time-of-day often defaults back to one minute after midnight on the date the policy is signed even if it is signed at 3:00 PM. The agent may change that, but they often don't. In effect, that means theoretically that a loss that occurred at 6:00 AM on the first day of coverage could be retroactively covered assuming the insured didn't lie about the earlier loss. The insured may not have known about the loss. At the end of the policy period, on the final day of coverage, the insured has one minute of insurance coverage. This concept is true in most policies.

2. Residence Premises Location

On an auto policy Dec page, it would say "Location where garaged" because the car may be garaged at UCLA whereas the insured may live in Dallas. It's often handy to make a note of that.

3. Construction

An auto policy will show, instead of construction, the make, model, VIN of the covered auto(s).

4. Coverage A

Coverage A in a homeowner's policy covers physical damage to the dwelling and possibly it's *other structures*. "Coverage A" (which some policies are referred to as Part A) is an insuring agreement with a few other odds and ends. This part describes the *type of loss* (physical damage) and *cause of loss* (fire, explosion, windstorm, etc.). If Part A does *not* specifically name the causes of loss (covered perils), then it is an "all risk", special or open peril policy (*all the same*).

In an auto policy, Coverage A is the (state required) liability coverage. It agrees to pay for *bodily injury* (type of loss) and *property damage* (type of loss) for which the insured is legally liable as a result of the *ownership, operation and maintenance of an automobile* (cause of loss).

Return to the first paragraph under Coverage A, and let's discuss a quirk of Texas policy forms. If Coverage A covers the physical damage to the dwelling *and other structures*, doesn't that mean, by default, that *other structures coverage* is automatically covered? If it is already included in the standard premium under Part-A, then other structures like a detached garage or storage building are covered whether or not the insured actually has any other structures? In the ISO policy, you will discover that *other structures coverage* is found in Coverage Part B, not automatic in Part A.

5. Loss of Use Coverage

Most often referred to as "ALE" (additional living expense) and built in to most personal lines property policies. It is designed to cover the increased cost of living expenses that you incur while a home can't be occupied as a result of a covered loss. Apparently "LOU" didn't sound just right.

In an **auto** policy, the *loss of use coverage* for the insured is called Auto Rental Reimbursement coverage. Think about it - it serves the same purpose. However, ARR is not *free* in a Texas auto policy. The customer must request it and pay an additional premium. Note, this is "first party" coverage, meaning that it pertains only to the insured person. You will also find a reference to "Loss of use" as an included coverage in the liability section, but this is a benefit payable on behalf of an insured to a third-party claimant the insured owes a financial obligation to for damages.

In reality, the Additional Living Expense coverage, although not shown as an optional coverage, is also not “free” since it is automatically built into the rate structure of the policy.

6. Other Coverages and Endorsements

Added to the end of the policy and listed on the Dec page, like ARR above.

7. Deductibles

Those are reasonably self-explanatory. It reads “Section 1”, pertaining only to the property section. Section 2 of a homeowner type policy is the *liability* coverage and deductibles most often do *not apply* to liability coverage.

In an auto policy the Dec page reads “Other Than Collision” with a deductible amount, and “Collision” *with its own* deductible amount. “Other than Collision” coverage until very recently was called “Comprehensive Coverage”. You won’t find any Part A deductible.

► To this point we’ve been discussing the “Declarations Page” and the information found on it. ◀

B. Definitions

Another key to understanding any insurance policy is to read and apply the definitions. It is also important to note that the definitions in the Property section are not necessarily the same as they are in the Liability section, so be certain you are reading the proper definition. We begin our understanding of the definitions by knowing how they are used in the policy. *For example, policies will begin by defining the terms “you and your” as “the named insured and spouse if a resident of the household”.* An “insured” however, can be more than just the named insured or spouse, and would include “relatives who are residents.....” The tricky part here is to understand that within the language of the policy certain rights and duties are described as belonging to “you”. These duties are therefore *not imposed upon all residents* of the household but, by definition, only the named insured and spouse if a resident. (A spouse can under certain circumstances be an insured even though he or she is not a resident of the household).

To add clarity to this discussion, consider the words in the *Loss of Use* clause (paragraph) of the policy as just one example. There we find a condition stating in part, “*We cover any necessary and reasonable increases in living expenses you incur so that your household can maintain its normal standard of living.....*” So, in reading that clause we find that although persons other than the named insured can be considered an insured, only the named insured and spouse can be compensated for the additional living expenses incurred for the necessary increases in living expenses. Other persons, although they may be considered an insured, do not qualify for this as a direct benefit but may, as a consequence of being a resident of the household, actually derive benefit from a claim made by the insured.

The definitions can restrict or expand the scope of a policy. For example, the definition of “insured location” includes: *vacant land (not including farmed land) owned by or rented to an insured.* If you are reading a policy that covers both property and liability, you will find the phrase “insured location” only in the liability section. By definition the liability coverage is shared at any property which fits the definition.

Some definitions are not found on the “definition page” because the definition applies exclusively to one part. That definition will be found its respective part.

C. Insuring Agreement(s)

1. Every policy (the body of the policy itself) *begins* with an Insuring Agreement wherein the *insurance company* makes a binding promise. Insuring agreements make the policy a contract.

The wording will vary depending upon the policy form, but as you can see, the intent is to tell the insured that their only duty is to pay the premium until a loss is reported, then the duties of the insured will change depending upon the nature of the claim. The obligation of the insurance company remains the same, that is, to pay all covered claims. Other duties and obligations of the insurance company are outlined in Article 21-55.

This is a good time to begin analyzing the policy language and become accustomed to the meaning of the words used. To begin with, there is a reason the writers of the policies have chosen specific words to be used in policy language. Note in the prior example of the Insuring agreement: *“In return for your paying the premium”* refers to the insured’s obligation to pay the premium, without which there is no consideration from the insured and therefore no valid contract. *“Comply with all applicable provisions of the policy”* refers to the duties of the insured which are found in the Conditions section, and finally, *“pay all covered claims”*. Obviously, the insurance company has no duty to pay until a loss is reported but notice the term *“covered claims”* this refers to the insurance company’s duty to investigate and determine if the policy applies to the loss being reported, and then to pay all valid covered losses.

By recognizing that there is a reason for the specific words used in policy language and paying particular attention to the punctuation, you have the key to understanding how to read *any* insurance policy. This section will also provide a greater understanding of the means to interpret the coverage provided in an insurance policy.

2. The insuring agreement is a concept, element, promise, agreement, contract, and/or benefit. It could be referred to “Insuring Agreement A”, “Coverage A”, “Part A”, or “Paragraph A” but for the sake of simplicity let’s refer to it as Part A. In Part A of a policy there will be a promise, and there are probably going to be one or more *exclusions* (you’ll know them when you see them), some *conditions* and a few exclusive *definitions*, all of which only apply to Part A. Part A, depending upon *which policy* you are reading, could be *Auto Liability Coverage* in an auto policy, *Dwelling Physical Damage Coverage* in a property policy or even *General (business) Liability Coverage* in a Commercial General Liability policy.

3. Part B: First, Part B (if Part B is an insuring agreement) may be optional. The customer may not have to purchase it if the customer doesn’t have a need for it. If we’re reading an auto policy, Part B is *Personal Injury Protection* and *Medical Payment Coverage*. It’s already printed in the policy at the print shop but if the customer doesn’t want the coverage the dec page will not show a premium charge or a coverage limit. If it is a property policy, Part B (in Texas) is the *Personal Property Coverage*. *If the customer has no personal property in the dwelling, the agent is gonna have a hard time selling the customer Part B, which has its own premium.*

4. Parts C, D, E, F and so on, may or may not be in a policy – they don’t have to be. Depending on the type of policy, Parts C, D and so on may be printed in the policy already (at the print shop), but the customer is not likely to be under any obligation to pay for them if there’s no need.

5. Each “Part” (insuring agreement) will contain a few of its own exclusive conditions, definitions and exclusions which apply to this part only. Some types of policies may be very exclusive in purpose and format. In such a policy Part A may be the physical loss coverage on a diamond ring – nothing more. Part B may contain exclusions and Part C may be conditions.

D. Conditions

Conditions are found throughout the policy, but the majority are found in the conditions “part”. It depends upon the way the policy is structured, and where they’re located is not as big a deal as it may sound as long as you know (1) there are going to be important conditions and (2) how they may affect a given claim.

The conditions are the rules, the duties, the obligations of the parties, and to a great extent, the reasonable expectations of each party. You will know them when you see them.

How long does an insured have to report a loss???? Where will you look to find the answer? Most likely the answer isn’t what you think it is – better look. Whatever the correct answer is and wherever the answer is, it’s a *condition*.

Some policies will require a report of loss “immediately” and some will say “promptly”.

Right here it’s probably a good idea to say that no one, except the Appellate and/or Supreme Courts, have any right to interpret a policy in a manner other than the way it’s written. If an insured has delayed reporting a loss for 6 months, your logical mind is going to tell you that the loss report was not prompt or immediate (your logic would be correct). However, when we’re working with a policy holder, we can’t apply any “conditions” which are not written in the policy no matter how much sense they make.

E. Exclusions

Exclusions will exclude (remove) something. What a shock. Any paragraph, perhaps a Part, which begins with: “We do not cover.....” is going to be an exclusion. If the sentence says: “We will pay for loss to, but we will not pay for,” then it excludes something. Now you know there are certain specific limitations. For example, (this is grossly simplified): “We *will pay* for physical loss to personal property, but we *will not pay* for loss to deeds, records, bullion, etc.”

You will find that exclusions address (1) persons, (2) types of loss, (3) causes of loss and (4) types of property. That sounds confusing till you get back to basics – what does an exclusion do?

Here comes the kicker – the exclusions actually give us the best description of what is covered. You must trust us on this – the general rule of understanding is: if it’s not excluded then it’s probably covered. Another way to say this is “if there is nothing in writing in the policy that prevents a loss from being paid, what possible reason is there for not paying the loss?” **In any policy, what’s not written is as important as what is written.**

This will look confusing, but if you will remember this you’ll have a significant insight into understanding the intent of a policy: An insuring agreement gives the insured something under certain conditions. The exclusions *take something away with exceptions*. The exceptions give the reader a good idea what the intent of the policy is supposed to be.

For example, a Texas Personal Auto Policy, Part A, Bodily Injury and Property Damage Liability (summarized):

We will pay for bodily injury or property damage for which a covered person is legally liable as a result of ownership, maintenance or use of an automobile. **Gave something**

Exclusion on the next page removes liability coverage for anyone operating the covered auto without permission. **Took away something**

The very same exclusion addressing permission *then says*, "This exclusion does not apply to you or any family member." **Gave something back** (made an exception)

Your insured's eight-year-old decided to go cruising at 2:00 AM without permission, wrecked the car and hurt 3 other eight-year old's who were in the car with the insured's kid. Covered?

Is there any **valid** reason to deny coverage for this loss? Gut reaction doesn't count.

F. Endorsements

All your adult life you have probably heard the word "rider" and you knew or suspected that it was something that was attached to a document which altered some aspect of the document. You were correct. In the property & casualty industry, riders are called *endorsements*.

Most policies in Texas are going to have some type of endorsement(s) attached for any number of reasons too numerous to fully explain here.

Endorsements are important and over the course of our class and the first dozen claims you handle you will learn which types of endorsements to expect, and what they do. (We just finished the 6 "parts" of any policy).

II. **Summary of Casualty Policies: A Preview**

This section is intended to familiarize you with the scope and nature of the various types of insurance coverage. This section will not go into any great detail about any one policy. That will happen later in the course.

In the insurance industry there are two major categories of insurance (1) Life Insurance and (2) Non-life Insurance Products. The latter is often referred to as Casualty Insurance.

Casualty Insurance can be subcategorized many ways. About 50 years ago someone decided that casualty insurance should be subcategorized as (A) Commercial or (B) Personal Lines. That was a pretty good idea. Commercial insurance offers many more types of policies than personal lines obviously there is a greater and more varied need. In this section we want to lightly touch on all the types of policies you will be licensed to handle.

However; before we get started on the different types of policies we can adjust, we need to have a short history lesson on property policies offered in Texas. It will help make sense of some of the topics discussed hereafter.

Until around the year 2000, Texas was a standard policy state in the personal lines market. One person's Homeowner-B issued by State National Insurance Company was worded *exactly* the same as the Homeowner-B issued by West Texas Indemnity Insurance Company. That status quo was convenient for a Texas adjuster or Texas insurance trainer.

It wasn't great for Kansas or Illinois adjusters who handled Texas claims because Texas policies were considered weird (most states use ISO policies).

Somewhere between 1990-1993 someone at the state level decided to remove the word "sudden" from the Texas property policy. By doing that, it left the industry open to a variety of water damage claims which may have resulted from years of leaking water and neglect by the property owner. Texas insurance companies paid billions of dollars in shifting foundation claims and mold claims due to this wording change. Between the mid-1990's and the year 2000, most property insurance companies pulled out of the state of Texas.

Around the year 2000, it was decided that Texas would become a file and use state. With that change to Texas law, it allowed insurance companies to start offering ISO insurance policy forms and upon approval, to offer modified ISO Policy forms. The most important thing to remember is that the ISO Property Insurance Policies never removed the word "sudden" from their policy/water damage coverage.

The *Insurance Service Organization (ISO)*, has been around since 1971. Originally formed as a joint effort of members of the insurance industry to research and write *generalized* policies for every state and insurance company. ISO is now a private for-profit organization and provides a variety of functions for the insurance industry.

Now that Texas has become like the rest of the nation regarding how policies are written, and water damage is handled, the problem for insurance companies doing business in our state have been resolved. Not only has Texas changed policy forms for the most part, but now a homeowner type policy issued by State National most likely isn't going to read like one issued by West Texas Indemnity.

There are, however, certain concepts and provisions inherent in all insurance policies no matter what type policy it is or who issued it. We will emphasize those concepts.

COMMERCIAL POLICIES

1. Business Owner Policy (Multiperil Package Policy)

This is similar in format to the Texas Homeowner Policy but designed for smaller businesses which need both *property* and *liability* coverage. If the insured doesn't want liability coverage, for instance, the insured will be sold a Texas Standard Fire Policy, not a package.

Chances are, if you handle a property or liability loss at a greeting card shop, pet store or convenience store, the coverage is provided by a *Business Owner Policy*.

MULTIPERIL PACKAGE POLICY: "Lines" of insurance are distinguished for underwriting reasons, rating, sales, and other reasons. "Auto insurance" is a line, liability, property, ocean marine and surety are each separate "lines" of insurance. Life insurance is a line - it's just not a property/casualty line.

When two or more lines of insurance are combined in one single policy, it is called a "multiperil" and/or "package" policy. This arrangement allows an agent to offer a policy which covers many different risks and provide better service. Although a homeowner policy is not commercial, it is a package policy because it provides *property* and *liability* coverage (2 different lines) in one policy.

NOT A TEXAS POLICY: What does that matter? It doesn't, but you must remember that policies will vary from state to state and, in many cases, one company's policy may not look exactly like another company's policy now.

Back to the Businessowner policy.....

The "BOP" can be modified, so that it covers almost all the risks inherent to a small business. It offers 3 levels of property coverage (3 different insuring agreements): Standard, Broad and Special, with *Standard* being the *least expensive policy* and covering the least number of property perils, and the *Special* form equivalent to an *All Risk* Form.

EXAMPLE: SECTION I – Property Coverage (In all three of the Businessowner forms)

Coverage A – Buildings and Other Structures

Coverage B – Business Personal Property, Stock, Etc. (or "other structures")

Right away, we see one of the challenges you must recognize and deal with. In a Texas policy (not necessarily a Texas form, but sold in Texas) Coverage A is the Building and *Other Structures*. Outside Texas, *other structures* are most likely covered as Coverage B.

Other coverages, if they are considered a property insurance line, may be added to Section I, such as Builder's Risk and/or Crime.

SECTION II – General Liability Coverage (In all the forms)

Coverage A – Bodily Injury and Property Damage Liability

Coverage B – Personal & Advertising Injury Liability (Optional)

Coverage C – Medical Payments Coverage (Optional)

We'll discuss the above later in the class.

The policy form *names*, such as *Standard*, *Broad* and *Special*, seem to be driven more by the property coverage rather than the liability coverage.

2. Commercial Package Policy (multiperil package, often “manuscript”)

The CPP format is not unlike the BOP, but it is used for a greater range of business types which can't be written on a BOP. Later, you will see policies such as *Crime, Boiler & Machinery, Glass*, all of which can be written as a stand-alone policy or as a *part of* the Commercial Package Policy. Frito Lay most likely has this type policy. This policy can be manuscript or tailored for the needs of an insured and such a policy is often easier to read than the standard print shop variety.

3. Business Auto

This policy is similar to the Texas Personal Auto Policy in coverages and in format; however, it is for vehicles used in business. It therefore contains some exclusions which are not found in the Personal Auto Policy.

If the Texas Personal Auto policy and the Business Auto policy are so much alike, why have two such policies? There are quite a few reasons, some of which matter not to an adjuster. While we are discussing the Business Auto policy, it's a good time to bring up some basic insurance issues.

We're gonna learn two things here:

1. Insurance raters (actuaries) and insurance underwriters have a lot of say-so about how policies are written. The Business Auto policy is written for *commercial risks*, even though the auto type may be the same. In commercial (business) use, there is a greater range of risks and the risks may result in more serious losses than a *personal auto risk*.

Therefore, the Business Auto policy has rates and underwriting rules which anticipate losses arising out of business use, even though the losses (bodily injury and property damage liability; physical damage) and the cause of loss (collision, theft, and vandalism) are the same. The rates and premiums must be different.

2. *Exclusions* shape the purpose and scope of the policy. If one were to take an ordinary Texas Personal Auto policy and remove the “*can't carry people or property for a fee*” exclusion, it would be, for all practical purposes, a business auto policy. The auto could be used as a taxicab. (What happens when an exclusion is removed?)

4. Garage Liability (Garage Keepers Legal Liability)

This is for any business in which automobiles are the primary focus, such as car dealers, garages, parking facilities and valet parking services. It provides auto liability and physical damage coverage, as well as premises and operations liability. It does not provide any property coverage for the car dealer's buildings. Neither the Business Auto Policy nor a General Liability Policy is appropriate for the risks inherent to a business which focuses on automobiles primarily because of the *care, custody* and *control* exclusions.

5. Trucker's Policy

Trucks could be written on a Business Auto Policy, but truckers often have an exposure which the Business Auto Policy isn't prepared to deal with, namely the issue of *care, custody & control*, or *bailment*. This policy offers bailment coverage for damage the trucker does to *other people's trailers* while pulling them. This policy does not address the *cargo* being hauled – that's another matter.

This is as good a place as any to discuss *bailment*. Bailment is the legal status created when one person (or company) has care, custody and control of someone else's property. IT IS VERY SIMPLE! We just make it sound complicated.

When you take clothing to the dry cleaner you are the bailor, the dry cleaner is the bailee and *bailment* has been created. The very same is true when you take your car to a mechanic and leave it. The dry cleaner (or a mechanic) have care, custody and control of someone else's (your) property, and is the *bailee*. Here are the issues:

1. How does state law treat bailment? Does bailment create absolute (automatic) liability for property of others in the bailee's care, custody and control? *It depends upon the state.* In Texas, bailment *does not* create automatic (absolute) liability. The liability of the bailee is based upon comparative negligence which we will discuss later in the course.
2. How do the dry cleaner's liability policy and the mechanic's liability policy treat bailment? Does the dry cleaner's general liability policy cover the dry cleaner's liability for *damage to other people's property while it is in the care, custody and control of the dry cleaner?* Most likely not. Most liability policies *exclude* (remove the insured's coverage for) claims arising out of damage to other people's property while in the insured's care, custody and control, whether the insured is legally liable or not and whether the insured is negligent or not. In the above examples, the *insured* refers to the dry cleaner and/or the mechanic, *not* the person who took property in for service.

Back to the Trucker's policy. Many truckers pull *other people's trailers* while hauling even another person's *cargo*. For example, a *Snyder Transport* driver is pulling a trailer which belongs to *Houston Forwarding* and it's loaded with furniture belonging to *Dillard's*. You are the adjuster for *Snyder Transport*. *Snyder Transport* has *Houston's trailer* and *Dillard's furniture* in its *care, custody and control*, making *Snyder* a *bailee*. A freak crosswind blows the truck over onto its side while the truck is going approximately 60 mph and the truck slides down an embankment. The tractor, trailer and furniture are all destroyed. The driver is ok. This brings up a boatload of claims, problems and questions, but let's focus on the *property damage liability* only.

The immediate issues are:

1. What does the insured's policy (liability section) say about loss to property of others in the insured's care, custody and control? A Business Auto policy, a Personal Auto policy, a General Liability Policy and a Homeowner policy are all going to say the same thing.

No coverage! However, a Truckers policy offers *Trailer Interchange Coverage* which is liability coverage for a bailee. Snyder Transport and its driver are bailees in that they have other people's property in care, custody and control.

2. Is the driver (and Snyder Transport) legally liable for the damage to the trailer? To the furniture? Well, it depends upon whether or not the state with jurisdiction imposes absolute (automatic) liability for damage one does to other people's property in one's care, custody and control. If not, *is* the insured liable anyway, because of driver negligence? Is there a signed contract wherein Snyder voluntarily agreed to be liable for damages to either the trailer or the cargo? That's called contractual liability and, in many cases, has the same effect as if the driver were negligent.

The concept of care, custody and control permeates the entire liability insurance industry. In the above example, if Snyder Transport is carrying Trailer Interchange Coverage, found in the Truckers policy, the insured is covered for the loss to the trailer if the driver was at fault. Now, the cargo:

If the truck driver happened to rear-end another cargo truck which was also carrying furniture, the property damage liability section of the Business Auto policy or the Truckers policy would cover Snyder for the damage to both the *other trailer* and the *other cargo* that Snyder's driver negligently destroyed. After all, that trailer and that furniture were not in Snyder's care, custody and control.

Back to Snyder's cargo which is in Snyder's care, custody and control. Trailer interchange coverage only provides bailee liability coverage for trailers, *not* cargo. Therefore, Snyder also needs Motor Truckmen's Cargo coverage. That's an inland marine form which offers liability coverage to common carriers who haul *other people's* cargo.

6. Inland Marine (Monoline, or part of a package policy)

When a risk is inappropriate for all the other policies in this policy list, it most likely must be placed on an Inland Marine Form. Inland Marine coverages and policies were /are an offspring of ocean marine coverages. The ocean marine coverages and perils were "borrowed", given a new title, and now this "new product" could be applied to stuff which had been offloaded from a ship and had touched earth. At the point described in the preceding sentence, the ship's ocean marine coverage no longer provided protection for the offloaded "stuff". What's more, in most cases, the ship's legal responsibility for the cargo has ended.

The purpose and description of inland marine coverage began as a limited cargo coverage which mirrored ocean marine. Now a days, you shouldn't be surprised by anything you see as an inland marine coverage. It is considered a property insurance coverage.

Inland Marine Forms are fairly predictable in that they cover risks no other policy will cover and in multiline combinations not seen anywhere else. They are often written with liability coverage to

protect the insured from claims of *damage to property of others* which is in the *care, custody and control* of the insured. Almost every liability policy excludes such claims. Certain Inland Marine Forms may be written for only a few days, whereas some are open-ended, meaning they do not expire.

These forms are used to cover loss to cargo, bridges, diamonds, bulk milk, frozen beef, tunnels, locomotives and anything else which can't be covered on one of the other policies in this section. You will be licensed to handle IM losses. Don't let the information above intimidate you. This can be an interesting and rewarding area of expertise.

7. Ocean Marine Forms

There are four ocean marine policies. They are Hull Insurance Form, Cargo Form, Freight Form and Protection & Indemnity Form. These claims are handled by adjusters with the same license type you are getting.

Hull Coverage in an ocean marine form (and in an aviation policy) is the *physical damage* coverage. In the ocean marine forms Hull Coverage also offers limited liability coverage, usually supplemented with the Protection & Indemnity Form.

Ocean Marine Cargo Coverage provides coverage for the *ship's owner* for damage to cargo. This type coverage is also found as an Inland Marine Cargo Form, which protects the *cargo owner*.

Freight, in the transportation Industry, is the revenue generated by the transportation of other people's goods. Therefore, *Freight Coverage* may protect the owner of either the ship or the owner of the cargo, respectively, for loss of shipping revenue or for loss of prepaid freight charges in the event a covered loss prevents the ship from completing a voyage with everything intact.

Protection & Indemnity Forms cover the ship's owner from claims of bodily injury and property damages under maritime law. It even covers incidents which, in most other industries, would be considered workers compensation risk.

Put some of this into perspective. If the owner of a ship is negligent under Maritime Law and causes damage to cargo belonging to someone else (Schilling Imports of New York, for example) aboard his ship, someone will have to pay for the damage. In a perfect world, the *ship owner's Ocean Marine Cargo* policy would pay for the damage and it would be over. More realistically, the Schilling Imports' *Inland Marine Cargo* policy will pay Schilling for the damages then go after the ship owner whose Ocean Marine Cargo policy would likely reimburse Schilling's insurance company. Why wouldn't the ship owner's Protection and Indemnity Liability Coverage pay for loss to the cargo if the ship owner was indeed negligent? Same problem as the cargo truck.

8. Bonds

Fidelity and *Surety Bonds* are not insurance, although they are regulated by the Department of Insurance, and the claims are handled by licensed casualty adjusters. Surety bonds are a promise of performance. Fidelity bonds protect the bond owner from dishonesty of someone, usually an employee.

Many of you likely already know that contractors and people who require licenses and permits are the largest market for surety bonds.

9. Aviation

Aviation Policies and their derivatives provide liability and physical damage coverages for owners and operators of aircraft.

10. Crime (Monoline, or part of a package policy)

Crime Coverage Forms can be written as stand-alone (monoline) policies or as optional coverages with the Business Owner and Commercial Package Policies. For reasons this author can't readily come up with, crime coverage is usually in the property section of a policy if the coverage is part of a broader policy.

Crime coverage is expansive, interesting and material to the success of commerce. This coverage alone could take weeks of study but here, unfortunately, we don't have any opportunity to address crime coverage adequately. Crime coverage provides the insured with protection from loss due to fraud, embezzlement, burglary, forgery, armed robbery and even extortion (kidnap ransom). Some of this stuff should sound like the previously mentioned "fidelity bond". They are similar.

11. Boiler and Machinery (Monoline, or part of a package policy)

Boiler and Machinery Forms, Basic, Broad and Scheduled Form, are among the oldest forms of insurance. This line of insurance required its own adjuster license until about 1997. These forms cover the boilers, machinery, and property damage liability for damages caused by a covered loss to property in the insured's care, custody and control (bailee coverage). These forms *do not* cover bodily injury liability claims; the General Liability form will do that. There's a gap inherent in insurance which is filled by the B & M Policy. Property policies won't cover loss to certain machinery caused by the machinery itself, such as when something tears itself apart or blows up. They won't cover the insured's own property damage caused by the event, either. The general liability policy will not cover damage done to *property in the care, custody and control* of the insured, such as a leased building, in any event. The B & M policies fill this coverage gap.

Boiler and Machinery Policies may be part of a business package policy, or they may be written as a stand-alone policy.

12. Flood

Flood Coverage is considered too great a risk for the standard market; too many insured units damaged all at the same time. Flood coverage is written as a separate policy in areas where flood coverage is allowed to be written. It may be written by the NFIP (National Flood Insurance Program) or by private insurance companies, in which event the private insurance companies are reinsured by the NFIP. An adjuster will need a special certification from the NFIP to handle flood claims on property.

The NFIP has been integrated into FEMA. FEMA's current requirements for obtaining a flood certification can't realistically be discussed here because they are subject to change. FEMA/NFIP makes the rules which affect each and every aspect of flood coverage and flood claims.

13. Glass (Monoline, or part of a package policy)

Glass Policies may be written to cover an extraordinary glass exposure wherein the typical property policy doesn't do the job. It provides a broader peril list than even the so-called all risk or special policies. Don't take this to mean that the underlying property policy doesn't cover glass – it does. A glass policy or a glass endorsement generously expands the number of covered perils and often removes any previously applicable deductible.

14. Texas Standard Fire Policy

This is the granddaddy of property policies in Texas. It still exists, is a Texas form, and it has always been a commercial form. As you will see later, the Texas Dwelling Policy Form 1, which is not commercial, is similar in general concept, scope, perils and conditions to the TSFP. Recall how the Ocean Marine form was "borrowed" and given a new name (inland marine) to serve a different customer?

When you study the TDP (following the Tx Personal Auto Policy), please keep this in mind. Obviously, the commercial customer needs a commercially *rated* policy. While the covered perils in the unendorsed TSFP are the same as the Texas Dwelling Form, the hazards and the money-at-risk are greater.

B. PERSONAL LINES POLICIES

1. Texas Personal Auto Policy

This is the only policy available for the motorist in Texas and it's still named "Texas" Personal Auto Policy. There is no "Form A or Form B." It allows a moderate-to-liberal amount of business use, such as delivering pizza on a part time basis. The form is very simple:

Coverage A: Bodily Injury and Property Damage Liability with limits. The legal minimum in Texas is 30/60/25. This illustration of the liability limits may not mean anything to you right now. For now, it is sufficient for you to remember that 30/60/25 is the least amount of auto liability coverage one can buy in Texas and "be legal". From the state point of view Coverage, A is required to operate a motor vehicle. It proves *financial responsibility* "to the public" should the insured negligently injure or cause damage to someone. These limits have nothing to do with any other part of the policy.

Coverage B: Medical Payments and / or Personal Injury Protection, optional, \$2,500 *minimum* if purchased. Personal Injury Protection (PIP) *must be offered* to the insurance customer and if rejected, it must be *rejected in writing*. Med Pay and PIP have nothing to do with each other even though found in the same coverage part. B1 and B2 are *no-fault* coverages. (That means that "who is responsible" is not an issue)

Coverage C: Uninsured/Underinsured Motorist Coverage, optional, subject to TX minimums if purchased.

Coverage D: Physical Damage Coverage (D1) Other than Collision and (D2) Collision

Depending on the insurance company selling the coverage, Coverage A through D are all optional. However, whether or not a company will sell you Coverage D only, for example, is entirely up to the company.

2. Texas Dwelling Policies

From this point forward, it gets confusing because we're going through a significant transition period in the personal lines property insurance industry. As recently as 2001, it was well settled that there were 2 policy series: The Dwelling (which the Farm & Ranch is modeled after) and the Homeowner (and Farm & Ranch Owner) series.

In a nutshell however, the Texas Dwelling *and Texas Farm & Ranch policies* are as follows:

<p>LIMITED FORM 1 ACV (actual cash value)</p> <p>Dwelling & Personal Property</p> <p>Fire Lightning</p> <p><u>OPTIONAL</u> EC Perils Riot Explosion Vehicle Civil Commotion Hurricane Smoke Hail Aircraft Windstorm</p> <p>Vandalism is <u>Optional</u>. Theft is not.</p> <p>Note Acronym: Rev CH Shaw</p>	<p>BROAD FORM 2 ACV (actual cash value)</p> <p>Dwelling & Personal Property No Optional Perils</p> <p>Includes everything in Form 1 +</p> <p>Accidental Discharge of Water* Freezing of Appliances** Falling Objects*** Collapse of Building</p> <p>(No Theft Coverage)</p> <p>* The cause of problems in the first place. Has been changed to <i>sudden and accidental</i>.</p> <p>(Teaching model only)</p>	<p>ALL RISK FORM 3</p> <p>Dwelling is All Risk, Replacement Cost</p> <p>but...</p> <p>Personal Property is Broad Peril, ACV (Exactly the same as Form 2)</p> <p>(No theft coverage on personal property, but the dwelling is all risk and theft isn't excluded)</p> <p>(Teaching model only)</p>
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**Freezing of Appliances & Plumbing is not normally covered in an unheated & unoccupied dwelling.

**Falling Objects: Contents within a structure are not covered unless the falling object first penetrated the structure.

The TDP Limited Form 1 offers 2 default covered perils: *fire* and *lightning*. For an extra premium, the *Extended Coverage Perils* (EC) can be added. That's the list above beginning with Riot and ending with Windstorm. You can remember the "EC" perils with the acronym Rev. C.H. Shaw. Only one more covered peril may be added to the TDP Form 1 - vandalism. If an insured requires more perils covered, in the past the agent would have to discard the Limited Form application and pull out a Broad Form application or some equivalent.

This policy may be written to cover the house and personal property (contents) or just the house. The Limited Form 1 offers *actual cash value* coverage only, not replacement cost. None of the Dwelling Forms offers *theft* coverage as a named peril.

If the perils covered in the Limited Form were inadequate, the customer would, at a minimum, must be willing to pay the price for a Broad Form 2 (TDP 2), but all the customer gets is 4 *more* covered perils. Still *no* theft or replacement cost coverage.

The TDP Form 3 provides *all-risk, replacement-cost* coverage for the dwelling. The insured must have a policy limit that's as much as or greater than 80% of the actual replacement cost of the dwelling. If this condition isn't met, then the insured has a coverage limit based upon a formula. Even the Form 3, the most expensive of the three, does *not* provide "all-risk" coverage on the personal property. The covered perils are the Broad Named Perils, just like the Form 2. The Form 3 doesn't provide replacement cost coverage on the *personal property* either – it's ACV. However, the personal property can be covered for replacement cost by adding (and paying for) an endorsement to the policy.

Although there's no such thing as an "all risk" policy, some policies are still referred to as such. The preferred reference is "special" or "open peril". Nevertheless, any of these references mean "if the cause of loss (peril) isn't excluded, then the loss is covered".

Replacement cost coverage means that a damaged item (house, roof, sofa) will not be depreciated and we'll *eventually* pay up to current replacement cost. *Actual cash value* is current replacement cost less the dollar value of the life of an item that's already used up (depreciation).

If an insured is covered for *replacement cost* on the dwelling, anything that's considered "dwelling" (like the roof, attached garage, etc.) is also covered for replacement cost. Once the damaged item(s) is replaced or repaired, we'll pay what it costs today to repair or replace the item(s) minus the applicable deductible, if items are covered for *actual cash value*, we pay today's replacement cost, **less** the life of the item that's used up, **less** any deductible, and that's it.

How do you know the life of something that's used up? You use good sense, a measure of fairness, your employer's guidelines and reference books. For example, a sofa may have a useable average life of 8 years. Our hypothetical damaged sofa is 2 years old and will cost \$2,000 to replace. We would have difficulty finding a 2-year-old sofa of like kind and quality to replace the damaged sofa, so we must do it with dollars. The depreciation is 25% or ($\frac{2}{8}$) so we will reduce the replacement cost by 25% to come up with the ACV, or \$1,500. That's what we'll pay, less the applicable deductible.

If the insured has a replacement cost policy, he/she will be paid replacement cost but not all at once. This, of course, assumes that you know that any applicable deductible will be applied.

How does this work? Use the hypothetical sofa loss above and a replacement cost policy. The insured would first be issued a check for \$1,500 less the appropriate deductible, which represents the ACV of the sofa. Pursuant to *very clear* policy language, the insured will be sent a check for the *held back recoverable depreciation* once the insured provides proof that the sofa has been replaced with like kind and quality.

3. Texas Homeowner Policies

The Homeowner Policies are somewhat like the Dwelling Policies, but they have more bells and whistles including Homeowner *Liability* coverage as a required coverage.

The HO requires *owner-occupancy*, whereas the Dwelling Policy does not. The HO series offer several types of format:

HO-A: Least of the HO policies, ACV, Limited Peril, Personal Liability

HO-B: Middle policy, and a substantial jump from the HO-A. In the HO-B, the dwelling is all risk replacement cost; personal property is broad peril, ACV (actual cash value).

HO-C: Top of the series, all risk replacement cost on dwelling; all risk ACV on personal property. Expensive.

➤ All of the above is also true for the *Texas Farm & Ranch Owner Policy*.

HO-BT: Form B for renters (tenants) who need personal property and personal liability coverage. No Coverage A or derivatives (not needed)

HO-B Con: For owners of condominiums. No coverage A (not needed)

HO-C Con: HO-C type coverage for condo owner

Note: In any TDP-3 and any HO-B or HO-C and their Farm and Ranch cousins, the default ACV coverage for personal property can be, and usually is, raised to *replacement cost coverage* with an appropriate endorsement.

Let's take a moment or two to find out what you have learned. Please answer the following questions before you come to class. Choose your answers from the "Answer Selection List – Quiz A" on page 25. Each answer will only be used once.

Quiz A

1. Any one policy which provides both property and liability coverage is referred to as what *type* of policy? (The *Homeowner* is one of these, but not the answer) _____
2. A policy that's sold in Texas, but is not a Texas policy form, is most likely a/an _____ form.
3. Which policy discussed in the preceding text would be written to cover:
 - a) the owner of a taxi for collision damage to his own taxi? _____
 - b) three thousand gallons of milk in a tanker truck? _____
 - c) fire damage to a small greeting card shop? _____ or _____ or _____
 - d) the owner of a family car, for potential injury to other people? _____
 - e) a trucking company, for potential damage to other people's trailers which the trucking company may be pulling? _____
4. What is replacement cost less depreciation? _____
5. An insured has a TDP-1 with all the available covered perils. A straight-line wind blows the roofing shingles off one slope of his roof. It is a *20-year roof that's 5 years old, and that slope of the roof will cost \$10,000 to re-roof. One fourth of the life of the roof is used up. How much should we pay the insured? _____
6. For a valet parking service to have the appropriate liability coverage, it would need to purchase what kind of policy? _____
7. What type policy would have to be written for an insured to cover potential collision damage to the insured's ship? _____
8. In a property policy, and any other policy for that matter, if the cause of a loss is not excluded then it is appropriate to assume that the loss is _____
9. A policy which does not name or list the covered perils is referred to as a _____ or _____ or _____
10. In a TDP-3 the dwelling is covered for all risk and replacement cost, but the personal property is covered for ACV (Actual Cash Value) and _____.
11. Someone who purchased and is importing furniture from Thailand would want what kind of policy to cover potential damage to that furniture? _____
12. What policy would a landlord purchase to provide the *best* possible coverage on a rent house?

13. When a business owner has care, custody and control of other people's property it is given unusual treatment in any liability policy. What is that unusual treatment? _____
14. If an owner-occupant of a home wants *liability* and *property* coverage, the owner must purchase what kind of policy? _____ For which type of loss will you be licensed to handle claims?

15. In an all risk Texas Dwelling policy what percentage of actual replacement cost must the insured carry on the dwelling to actually have replacement cost coverage? _____

Quiz A (cont'd)

16. Where in a policy will you look to find out where the damaged property is located?

17. When must a first party loss be reported to the insurance company? _____
18. In any of the least expensive policy forms (limited, standard, basic) which (of the available answers) would not be covered as a direct loss in an unamended policy? Falling objects & _____
19. An insured under a TDP-3 equivalent has suffered a total fire loss to his wood shake roof from stray fireworks. The replacement cost of the roof is \$28,000; the estimated life of the roof is *20 years; the roof is 10 years old and shows its age; the policy limit on the dwelling is adequately \$175,000 and the deductible is the standard 1% of coverage A (dwelling). How much (total) does the company owe for the loss to the roof? _____
20. Where besides ocean marine policies will you find "hull coverage"? _____
21. Most exclusions in any policy take away something then give it back by saying "but this exclusion does not apply to you or any family member.....". Who is "you"? _____ and _____
22. Name the type of policy wherein one party guarantees with money the performance of another party to even another (3rd) party. _____
23. A policy that is written and signed at 10:00 AM has *been in effect* or will *commence coverage* when unless otherwise specified by the agent? _____
24. Prior to any loss an insured must do what to have coverage for future losses? _____
25. An auto insured has lost control of his covered auto and caused substantial damage to a parked car. Which coverage in the insured's policy will respond to the demands of the parked car's owner?

26. Other than on the declaration page, where in a broad form property policy will you find the phrase "collapse of building"? _____
27. What is the name of the coverage offered in an auto policy that would pay medical bills incurred by a named insured as a result of an at-fault auto accident? _____
28. Your insured has full coverage on his home, auto, and boat. If he falls down his stairs at home and seriously injures his knee, which of these policies might pay a portion of his medical bills?

* Roof material is often sold by the roofing manufacturer with a representation of how long the roof should last under normal circumstances. A *20-year roof* will not be as expensive or as heavy as one sold as a *30-year roof*.

Answer Selection List - Quiz A

1. Both liability & property
2. Texas Standard Fire Policy
3. \$7,500 less any deductible
4. Named Insured
5. Property
6. Open peril
7. Named peril, same as Broad form
8. Spouse if living in same household
9. Covered
10. ISO
11. Standard Fire policy
12. Businessowner
13. Business Auto
14. Inland Marine (Bulk Milk policy)
15. At least 80% of replacement
16. All risk
17. Multi-peril or package
18. Ocean Marine Hull coverage
19. Garage Liability
20. Has been in effect 9 hours, 59 min.
21. None will pay. No such thing as “full coverage”. None of these policies has any benefit which pays for the injury
22. Inland Marine Cargo
23. Pay premiums
24. Trucker’s Policy
25. TX Personal Auto policy
26. Dwelling Form 3 or equivalent
27. Any Homeowner Policy
28. Actual Cash Value (ACV)
29. Declarations Page
30. Personal Injury Protection
31. Promptly or immediately
32. \$28,000
33. Special
34. Insuring agreement
35. Aviation policies
36. Surety bond
37. Water loss
38. The insured has no liability coverage for damage to the property

III. Insurance Terminology

A. Risk

1. Pure Risk offers a chance of loss but *no chance* of gain. Like kissing the nose of a Diamondback Rattlesnake or, more realistically, the risk of your car being stolen.

2. Speculative Risk offers the chance of loss and/or gain, like buying a lottery ticket, or investing in the stock market. Insurance must never cover or create a speculative risk. It should cover only pure risk and take care that the coverage does not *create* a chance of gain. For someone to purchase an insurance policy on something or someone, there must first exist an *insurable interest*. That means that the potential policy-holder must have *something to lose* if a person dies or a property is damaged.

One will have a much greater understanding of INSURANCE if one will remember the **purpose** of insurance. It's simple – *protection of assets*. Whose assets? Only one answer will work: the covered person's assets. That statement is true for liability insurance, collision, comprehensive, fire, wind, medical malpractice, and every other kind of insurance.

3. Handling Risk: We all handle risk whether we realize it or not. It's part of our everyday life. When we stop at a dangerous uncontrolled intersection, we've dealt with the risk of being seriously killed. When we put winter coats on our kids even against their wish, we've handled a risk. There are 4 generally recognized ways to deal with risk.

a. Transfer Risk:

1) insure against the risk. Pay a fee (premium) to an insurance company to accept the risk we want to transfer to the insurance company. For example, if we carry comprehensive auto coverage, we have transferred the risk (cost) of a stolen car to the insurance company. We transfer the risk (cost) of illness to our health carrier for a fee.

2) incorporation transfers risk from the individual to the corporation. This is one of the only ways to transfer civil liability from one to another. Most of the other ways (insure, contract) transfers the cost of the risk, but not actual civil liability.

3) contract This is called *contractual liability*, wherein one party voluntarily accepts the *cost* of someone else's potential risk-of-loss as a condition of doing business. It's been done for many years and it's called a *hold harmless agreement, save harmless agreement or indemnification agreement*. Like we wrote earlier, one cannot contract away legal liability, but one can transfer the cost of potential legal liability to someone else in a well written contract.

b. **Avoid:** Don't do it. Often that's not a feasible solution, so other methods of risk management have to be explored. However, we sometimes have choices. We have a choice whether or not to bungee jump, sky dive, or purchase a dubious trucking company, for example.

c. **Assume or Retain:** If it's cheaper to absorb a loss than to insure it, then that might be the way to deal with a particular risk.

You've inherited a less-than-exquisite two-bedroom, one bath frame home from a recently deceased uncle. It is about 60 years old and unrentable and would cost you \$22,000 to bring it up to code and make it inhabitable. To insure the house would cost a small fortune. In as much as you inherited it, it would cost you little or nothing if it were destroyed so you may just choose to assume or retain the risk of potential loss of the house.

1) Self-Insurance: Self-insurance is not "just going bare" or just "not having insurance". Self insurance means a risk has been identified, evaluated, and a plan is in place for pre-financing a potential loss. If someone has a small lake house that's not insured, but the owner has set aside a CD of \$10,000, for example, to grow and it's earmarked for contingent loss to the lake house exclusively, that's self-insurance. If the owner of the lake house has no insurance and has no loss contingency fund, that's just *uninsured*.

2) Deductibles: Our property, auto and health insurance all have deductibles. It's not as though we want to be in the business of self insurance or loss assumption. The deductibles we have represent an amount of loss we're willing to self-pay before the insurance company becomes involved. We self insure for the first \$500 or \$1,000 of a loss, for example, to make our insurance more affordable for us.

d. Reduce: Something which will reduce probability, frequency and/or severity of loss.

1) Seat Belts will not prevent a collision or perhaps even an injury, but hopefully the injury will be less severe because a seatbelt was used.

2) Fire Doors, Fire Sprinklers won't prevent fire, but will hopefully reduce the damage caused by the fire by hampering the spread of the fire.

B. Primary and Excess Insurance:

A way to create high limits for an insured at a low cost. The structure of the insurance plan and the decision to *layer* the insurance is determined by the agent, usually to fit the needs of the insured in a cost-effective manner. Every insurance company has a *retention limit*. That's usually "the greatest number of eggs that an insurance company is willing to put into one basket". Said another way, it's the most money that an insurance company will risk as *primary carrier*, on any one event (loss).

1. Primary Layer (Carrier) Pays First

2. Excess Layer(s) Pay After Primary is Exhausted

An agent has a customer who owns a mall and who needs \$45 million property coverage. The agent knows that no single insurance company is going to write a \$45M policy on a single risk. Even if a carrier would write such a large policy, no one could afford it. So, depending upon who is offering what at the moment, the agent will layer the coverage.

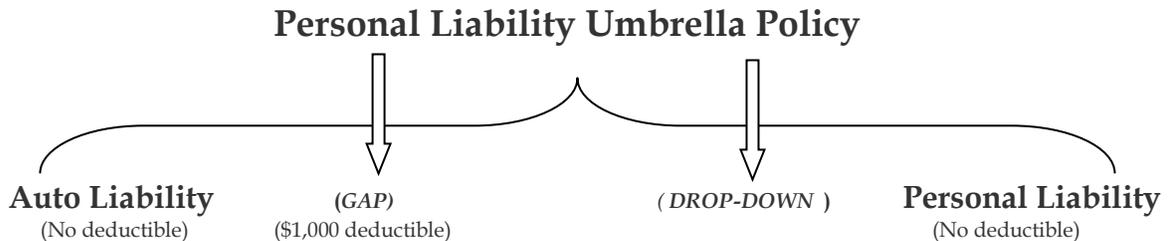
Money Mutual	\$20,000,000 cheaper	"XS" of \$25 Million (\$45 Million total limit)
Dollar Indemnity	\$24,000,000 cheap	"XS" of \$1 Million (creates \$25 Million coverage)
Texas Casualty	\$1,000,000 not cheap	Primary Layer (pays first Million on any covered loss)
	\$45,000,000 Total Coverage Amount	

So, if the mall had a \$30,000,000 fire or wind loss, TC pays its entire limit, DI pays its limit and MM pays the last \$5,000,000. Excess insurance carriers have adjusters just as any other carrier.

C. Umbrella Insurance

Umbrella insurance is a way for an agent to provide higher limits for an insured, just like the excess policies. However, umbrella policies are used to increase limits over 2 or more policies, instead of just one like excess policies. Excess policies can boost coverage over one underlying primary policy and the excess policy follows all the terms and conditions of the primary policy. But an umbrella policy is more "liberal" than an excess policy, offering terms, coverages and conditions which may be negotiated.

Two of the predominate "liberal" features are Gap coverage and Dropdown coverage. Gap coverage is exactly what it sounds like. Even if an insured has Auto liability and Personal Liability (in a homeowner type policy) the insured may have liability exposure that "falls through the gap", meaning that the exposure might *not be covered* either by the auto or homeowner liability.



For example, your insured has purchased a high-powered Wave Runner about 5 months after the 3 policies above went into effect. The insured accidentally strikes another watercraft while operating the wave runner, causing \$3000 damage to the other craft.

There's a coverage *gap* because neither the auto liability nor the personal liability will cover the described incident. Auto policies do not cover losses arising out of the use of a watercraft. Homeowner liability specifically excludes coverage for any loss arising out of the use of an inboard watercraft that exceeds 50 horsepower. Here's what will happen:

Your insured will have to pay the first \$1,000 of the property damage liability claim (see "deductible"), then the *umbrella carrier* will likely pay the rest of the damages, or \$2,000.

That's how gap coverage works. The \$1,000 that the insured has to pay up front is called the "SIR" or self-insured-retention. **Isn't that just another way of describing a deductible?** At this point, we're not going to worry about the "drop-down" feature.

D. Fire: *Combustion or rapid oxidation accompanied by heat AND flame or visible glow.*
Not everything that's hot fits this definition.

To qualify as "fire", there must be this. ----->

Heat is not fire, scorching is not fire, warping is not fire.

For any of those conditions to be covered they must have been caused by fire.



Recall the *Limited Peril Group*: Fire & Lightning + "Rev. C. H. Shaw". If a home is covered by a Dwelling Policy Form 1, would there be any coverage if the insured placed a hot iron skillet on the kitchen counter top and scorched it? It doesn't say here that the skillet set the counter top on fire.

1. Friendly Fire: *Intentionally set and stays where it is supposed to. It is not covered.*

If an insured drops a cell phone into the fire in the fireplace or charcoal grill, it's **not** a covered loss. By definition the fire in the fireplace or grill is a *friendly fire*.

2. Hostile or Unfriendly Fires: are covered in a policy that covers fire. This describes a fire that is *not intentionally* set by the insured, or it may be a fire which began as a friendly fire but accidentally escaped its intended boundary. A burning log which rolls *out of the fireplace* is no longer in its intended location. If the log burns something it may be a covered loss. The insured may have intentionally set fire to a pile of debris in the yard. If the fire got out of control and burned his lawn furniture, that would be a hostile or unfriendly fire and would be covered.

E. Care, Custody and Control/Bailment: Bailment is the temporary and lawful transfer of possession of property from a bailor to a bailee (often for service).

Effect on Coverage: When the insured has property of someone else in care, custody and control (under bailment) any liability coverage for damage to property of others is usually excluded with respect to that property.

If a neighbor accidentally dropped his watch in the insured's front yard without realizing that he did, and later in the week the insured runs over the watch with a lawnmower, not knowing that the watch was there, that could be a covered liability loss. Although the watch was in the insured's yard, the insured didn't have care, custody and control of the watch. In this instance the insured is not a *bailee*.

F. Mortgagee Clause/Lien Holder Clause: There's virtually nothing the insured can do which will jeopardize the lien holder's protection. If a building or automobile has a lien against it, filed by a lender, the lender will require appropriate physical damage coverage and will want to be protected under the insurance as an *additional insured*.

The “additional insured’s” protection is very strong, but even so, the additional insured (mortgage company or bank) must meet certain conditions or their coverage may be jeopardized:

1. Must notify the carrier of any increased risk which mortgagee has become aware of;
For example, if the mortgage company *knows* that the insured has turned the mortgaged home into an apartment house, the mortgage company must report that increased risk to the insurance company, or risk losing any protection under the policy.
2. Must notify insurance company of any change of ownership (of the property);
3. Submit proof of loss within 91 days if requested; and
4. Pay any premium in arrears if requested.

G. Scoping a Loss is the property claims equivalent of *investigating* a loss. Many insurance losses are handled by phone. When gasoline became outrageously expensive, it became prohibitively expensive to handle every insurance claim in-person-face-to-face.

However, *property* claims are typically going to be handled in person and a file will be created based upon what the adjuster observed.

In the property claim arena, “scope” is both a noun and a verb. Your scope is your file. When you scope a property loss (verb) you’re investigating and evaluating it.

The format of your *scope* file will be determined by the company you work for. Typically, your *scope* will contain photographs, diagrams, a description of damages and what it will take to put the property back like it was (repair, replace, clean, etc.). Lastly, your scope will contain your estimate of the cost of doing the above.

When scoping a loss, don’t make promises you may not be able to keep. When you are visiting with an insured and scoping his/her loss, the insured is going to want to know how much money he/she will get. Unless you have final decision-making and check-writing authority, you **cannot** answer that question. You can respond only by telling the insured the amount of the estimate and that the managing adjuster makes the final decision.

H. Proof of Loss: A **document** which you may *or* may not have the insured complete. Whether or not you have an insured fill out and sign a *proof-of-loss* form is up to you and your employer. Some companies' forms are very short and simple whereas some are lengthy and complicated. It may not be cost effective or customer friendly to have an insured complete the proof of loss form on every claim.

The burden of proving loss is on the insured. If an insured is making a claim that is suspect, have the insured complete a notarized proof-of-loss. If the insured is pushing the limits of reason and honesty, the insured will have to do it in writing.

If the insured has sustained a large loss wherefore he/she must itemize numerous items, you should have the insured complete a proof of loss form as he will have to give you an itemized list and values anyway. Typically, the insured has 91 days to submit the completed proof of loss.

I. "Personal Injury": Not what you think it is. In the world of *insurance*, and nowhere else, personal injury is injury to the *ego*, not injury to the body or someone's property. Personal injury may occur in conjunction with bodily injury and/or property damage, but personal injury, if covered, is covered by an entirely different coverage and may be optional. This is a liability coverage.

For example, a retail store manager may suspect someone of shoplifting. When the suspect exits the store, the manager physically detains the individual, calls security, presses charges and the suspect is subsequently found not guilty.

The store will likely be sued for libel, slander, wrongful detention and wrongful prosecution. None of these are *bodily injury* or *property damage* and will *not* be covered unless the insured has purchased the optional *personal injury* coverage.

"Personal injury" also includes wrongful eviction, invasion of privacy, copyright infringement and advertising injury.

The suspect may also sue for bodily injury which occurred when "physically detained" and property damage which occurred when the suspect tried to pull away from the store manager and several buttons were torn off the suspect's shirt. Those aren't "personal injuries"

J. Medical Payments Coverage and PIP (Personal Injury Protection):

First Issue: It's unfortunate that Personal Injury Protection was so named - it has absolutely nothing to do with the topic above in Paragraph I.

Second Issue: Both PIP and Medical Payments coverage are no-fault. Payment is not based upon negligence.

Third Issue: PIP is always associated with some form of auto policy and covers both the insured and any other "covered persons." Medical Payment coverage, if associated with an auto policy, will cover any insured and "covered person" whereas if part of a property or general liability policy it will never cover (pay claims for) an insured.

Medical Payment coverage is an optional coverage with its own premium and limit. The limit is always a per-person limit and usually conservative. If it is associated with a property or general

liability policy, it is for the purpose of *public good will*. *Medical payment coverage* enables a store manager, for example, to tell a fallen customer: “If you want to go to your doctor and get checked out, we’ll pay for it” up to a specified limit, regardless of whose fault. For a business owner this coverage is a customer saver and perhaps a lawsuit preventer. We’ll discuss PIP coverage more when we go through the Texas Auto policy.

K. Reinsurance: Insurance for insurance companies

1. **Treaty Reinsurance:** Automatic because the insurance company purchased a reinsurance policy from a reinsurance company for specific types of losses during a specific reinsurance policy period and probably in a specific geographical area. If the primary company (the company which purchased reinsurance) suffers a massive hail loss in 10 counties in North Texas, the primary company will pay its insured’s covered losses, then make a claim for reimbursement (on a percentage basis) from its reinsurance company.
2. **Facultative Reinsurance:** Negotiated exclusively on each new risk. There’s no treaty. Each individual risk, like a large mall, is negotiated and reinsured on an individual risk basis.

L. Vacancy and Unoccupancy: The word *vacant* usually means and implies that the last resident has left the premises and has no intent to return. This applies to a business or a private residence. Proving and disproving *intent* is difficult; therefore, we use a bland definition.

1. Vacancy: No occupants and no personal property/contents. This may become a critical issue because most property policies *suspend* fire, glass and vandalism coverage following 60 consecutive days of vacancy. Please bear in mind that it *does not* say the coverage is cancelled or voided.
2. Unoccupied: No occupants. The occupants may be on vacation. Presumably, this status has no effect on coverage.

The issue is reasonably understandable. Vacancy of a property is a serious hazard. There’s no one present to see and deal with a water leak, fire, vandals, etc. The good news/bad news reality is that a vacancy endorsement can be purchased for a significantly increased premium and it’s good only for a specified period of time. Some insurance companies have altered the *60-consecutive-days-of-vacancy* to shorter periods.

M. “Hold-back”: Only applies in a replacement cost policy. Some companies discourage the use of the term “hold-back” preferring instead that adjusters just call it what it is – *depreciation*. Whether or not you “hold back” depreciation is dictated by your employer and by the circumstances. In a catastrophe loss, holding back the depreciation may result in someone having to handle the claim twice when no one has the time to do that, so nothing is held back, and the full replacement cost may be paid up front less the applicable deductible.

If a hold-back is going to be applied, here’s how it works: A roof has sustained \$12,000 damage due to a severe hail storm. The hypothetical roof is supposed to last 30 years and it’s 10 years old. One third of its life is used up and we’ll depreciate it $\frac{1}{3}$ assuming it has no other damage. We’ll “hold back” the depreciation (\$4,000) but pay the ACV (actual cash value of \$8,000) less any applicable deductible.

When the roof is repaired, we’ll pay either the *balance* of the amount actually spent to repair the roof, or up to the amount held back, whichever is less. If the roof is not repaired, the insured never gets the \$4,000 that was held back. If the insured got the entire repair completed for \$9,000, we’ve

already paid \$8,000. The insured is only entitled to get **\$1,000** of the \$4,000 that was held back. The insured is not entitled to pocket a \$3,000 “profit”.

Trouble may arise when an *outside* adjuster scopes (or investigates) a loss and tells the insured: “You’re gonna get paid \$12,000 less your deductible”. Someone in the claims office may not agree with the adjuster and problems will arise.

Remember, *hold back* will only apply in a replacement-cost policy. In an actual cash value policy, ACV is all the insured is going to get; there’s nothing to hold back. Now you’re thinking you have already read this discussion once. You are correct, and it was worth a second look.

N. Coverage and Liability – Not necessarily the same thing!

The word *liability* means: A legal duty owed and enforceable by the courts. Liability may be created in several different ways under our laws, but this course will focus on liability created by negligence and liability created by contract. *Coverage* means that a particular loss or potential loss falls within all the terms of the insurance contract (policy). Please remember that. there may be coverage, but no liability. There may be liability, but no coverage.

O. Insured, Claimant, Third Party

1. Insured: Many policies don’t use the word *insured*. Instead, they refer to a *covered person*. Same thing. An insured is anyone covered by the policy. Naturally, the person(s) specifically named on the declaration (information) page are covered persons. However, the definitions, insuring agreements and endorsements can create additional covered person(s) and some of these covered persons *may not be named on the declaration page*.

You borrow your next-door neighbor’s car because yours has a flat. You become a covered person under your neighbor’s liability, medical payments, personal injury protection and uninsured/underinsured coverages assuming your neighbor has those coverages. In Texas, that’s what the neighbor’s policy says and that’s what yours says and found within the insuring agreement’s exclusive definitions.

If you borrow money to purchase a house or car the lien holder will insist upon being named as a *covered person* and will be named on the declaration page. That covered person is added by endorsement.

2. Insured Claimant: Or *claimant-insured*. You will never see this phrase outside this class. This refers to an insured who is making a claim for loss under his/her own policy. We’re explaining it to you here because if you don’t understand this use of this phrase, the *Unfair Claims Practices* will not make a bit of sense to you. The UCP uses the word *claimant* instead of *insured* or *covered person* and that issue confuses anyone who doesn’t know better. Once you finish reading the Unfair Claims Practices later, forget #2.

3. Third Party Claimant (or, simply “claimant”): A third party is anyone who is not a party to the insurance contract, *and has no rights under the insurance contract*, but has an interest in the coverage. A third party has no protection or cause of action under the Unfair Claims Practices, either. A third party is the person who an insured has rear ended at a red light. When the third party makes

a claim against the insured for damages (property damage and/or bodily injury) that person is a *third-party claimant*.

A third-party claimant is at the mercy of the adjuster, with or without an attorney. The only obligation the adjuster has with regards to a third-party claimant it to do whatever is in the best interest of *the insured*. The third party's only course for redress in civil court. It is not in the *best interest of the insured* to habitually hard-nose every third-party liability claim. **All claims** must be handled objectively and professionally, and paid when owed, or we're not doing the insured any good.

P. Subrogation: An insurance word that wasn't in the dictionary until about 10 years ago. From our standpoint it means *standing in the shoes of the insured and exercising the insured's common law rights to recover paid damages from a legally responsible third party*. A third party (not third-party claimant) can be a motorist who rear ended the insured or a neighbor who accidentally set the insured's house on fire while burning leaves next door.

It is not possible here to properly emphasize how important *subrogation* is to your boss and therefore to your career. Someone in the chain of claim investigation, evaluation and resolution **MUST** identify subrogation potential and take proper steps to ensure that data is gathered, and evidence is preserved.

For example, you're assigned a serious fire loss on a \$350,000 home – probably \$100,000 or more at first glance. During your scope and while talking with the insured, the insured offhandedly says, "You know, I was never comfortable with the installation of our new water heater about 3 months ago". You ask, "Why is that?" The insured gives you about 4 reasons why he believes the water heater caused the fire, not the least of which was that he always smelled natural gas when the water heater was heating. You take all the information and even a statement from the insured. You write up a report that is a literary masterpiece and submit it to your boss or your customer. The boss (or customer) thanks you for such a detailed report and meticulous photographs, then says "Who has the water heater?" *Do you have it, or is it at the city dump? Did you call an expert to come get the water heater?*

Evidence cannot be used if the Chain-of-Custody is broken. Lying in the city dump usually breaks the chain-of-custody.

Someone must be in a position to testify about the handling, protection, integrity and possession of the *evidence* from the time of the loss until the time of trial. That *chain* should not include an insurance adjuster because adjusters can't be used as witnesses.

Q. Reserve(s)

Your estimate of the total amount of money that any given claim will ultimately cost. Reserves are extremely important for more reasons than we need to explore here.

Some claims are “formula” reserved based upon some formula calculated by an actuary. You shouldn’t have to worry about reserving (estimating) such a claim. Larger claims, however, will be evaluated and a reserve set up by you. This sounds intimidating because it is. We’ll teach you more about reserving and evaluating later in the course.

R. Plaintiff/Tort Feasor: “Tort Feasor” is the person accused of wrong doing; the person who has been sued, the defendant and all too often, the insured. All the same. “Plaintiff” is anyone who has filed a lawsuit against someone else. Technically, a claimant is *not* a plaintiff unless the claimant has sued the tortfeasor.

IV. Insurance Regulation (1 Hour)

A. Adjuster Licensing Requirements

1. The Process

a. Application: A Texas State Form that must be downloaded and printed from the TDI website: www.tdi.state.tx.us/agent/ or from our website. You must treat the application as a government document, because that’s what it is.

b. Fingerprints are required of virtually all applicants. None of these requirements is necessary for our class, but they are necessary for the TDI to issue a license. This text is part of the required lesson plan and it is a heads-up about what you must do prior to being licensed. We will explain the finger print process when you come to class.

c. Out-of-State: Letter of good standing from your state’s department of insurance *only if you hold an insurance license in your state*. Each state is different with regard to how it does this. There is no longer any Texas requirement for an out-of-state adjuster to be fingerprinted or to submit a criminal background check if that adjuster holds a license in good standing at home.

d. License Fee: The fee to have the license issued is \$50. You will remit the fee *only after you finish our class*. You will send to the TDI: completed application, fee, certificate from this class and the result if either (b.) or (c.) above. There is a \$25 fee to replace a class completion certificate.

2. Qualifications for Licensure:

You must be at least 18 years of age, trustworthy, and must have passed a test of your competency to perform the duties of an adjuster.

3. Exemptions from Initial Adjuster License Test:

Anyone who holds the designation of Chartered Property Casualty Underwriter (CPCU), Associate in Claims (AIC) or anyone who holds a valid adjuster license in another state reciprocal with Texas. Bear in mind this does not mean that the requirement for a license is waived – it means that there is no test requirement to apply for the license. *This should not be interpreted as a waiver of the requirement for CE.*

4. Emergency and Catastrophe Adjusters:

In the event of a declared insurance catastrophe or emergency, licensed adjusters may sponsor, register and be responsible for unlicensed adjusters for 90 days, renewable for one additional 90-day period in Texas.

5. Renewal of License every 2 years.

a. No Test for Renewal

b. Fee is \$50

- c. **CE Requirement:** Prior to your first renewal and each renewal thereafter, you must have taken **24** hours of approved continuing education. The 24 hours must include at least two hours of *ethics* or *consumer protection*. Please don't make the mistake of spending dollars and hours taking a course which just sounds good. It must have been approved and assigned a number by the Texas Department of Insurance.

When your license is issued, you will no doubt receive many mail solicitations from CE providers if a licensee does not complete the 24 hours of CE before the expiration date of the license. The licensee will have 90 days to complete the deficient number of hours and pay a fine of \$50 per deficient hour. If these two conditions are not met within 90 days of the license expiring, the license will be inactivated, and the licensee will have to apply for a new license. A new license will not be granted until the deficient CE hours are completed, and the fine is paid. In order to ensure that there is no delay in renewing a license, license holders are encouraged to complete CE hours at least 30 days before the license expires to allow time for the CE provider to report the successful completion of the course(s) to TDI.

1) **Exemptions:** Twenty consecutive years as a licensed adjuster will end the CE requirement. Every other licensed adjuster must have the Texas required continuing education.

2) **12 Hours Classroom:** At least 12 of the 24 hours must be in a classroom or approved classroom equivalent format.

3) **12 Hours any other approved method:** The key is *approved*. There are many CE courses available on the internet and via U.S. Mail, but they must be approved by the TDI.

- d. **Affidavit:** The *renewal application* that you will receive every 2 years has the same weight and effect as an affidavit – that's the way the state will treat it.

It is advisable for anyone who is in doubt about eligibility to receive an adjuster license or about renewal to go the TDI website and look up §1.502 in the administrative code.

B. Disciplinary Actions:

1. **Cease and Desist Order:** If the Commissioner of Insurance determines that someone is engaging in an activity which is in violation of Texas law, the Commissioner may order the person to cease and desist that activity.

2. **Suspension** is not revocation. It is a temporary withdrawal of one's authority to handle insurance claims pending the outcome of some matter. The *suspension* may come with an order for an individual to successfully take xx hours of continuing education as a condition for having the suspension lifted.

3. Revocation means having the existing license taken away. A license can be revoked for a violation that occurred during a licensure period, a false statement on the application or for something that may have occurred years ago which has recently come to the attention of the TDI. The TDI is not on a witch hunt and it certainly does not look for licensees to punish. However, the TDI will respond to complaints and from time to time will conduct random audits and investigations just to make sure everyone is following the rules.

4. Penalties

- a. **Civil:** Civil penalties are covered previously in this material.
- b. **Criminal:** If a violation of law, in the opinion of the Commissioner, is also a crime, the commissioner may turn the matter over the Attorney General for additional action.

V. Claim Settlement Laws and Regulations (1 Hour)

- INSURANCE CODE, CHAPTER 542. SUBCHAPTER A. UNFAIR CLAIM SETTLEMENT PRACTICES
SEC. 542.003.

A. Knowingly misrepresenting to claimants' pertinent facts or policy provisions relating to coverages at issue; Knowingly misrepresenting policy provisions to an insured is just a nice way of saying "lying".

B. Failing to acknowledge with reasonable promptness pertinent communications with respect to claims arising under its policies; (We must abide by Article 21.55 of the insurance code, which follows.)

C. Failing to adopt and implement reasonable standards for prompt investigation of claims arising under its policies. Claims cannot be allowed to sit around the claim office for an indeterminate length of time.

D. Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims submitted in which liability has become reasonably clear. This is so important that it's difficult to cover all of the issues that an adjuster must understand. This addresses multiple issues which a new adjuster may not have considered.

The first issue is our duty to our insured. Re read D. until you are certain about its meaning; it's just common sense. The first moment that you're satisfied that a claim is owed, PAY IT. Don't wait another minute; don't wait until you return from your vacation; don't wait because the insured hasn't been pushing you; don't delay, period.

When the *liability* (benefit owed to the insured) is clear, why wait? Why not pay the insured what the insured is owed? What possible advantage is gained by making the insured wait, if the claim is clearly owed? An unnecessary delay in payment could, worst case, bankrupt the insured or ruin the insured's credit. Think about it.

Another reason to pay a valid claim as soon as you can is your own *claim count*. An adjuster has, at any one time, an open pending count. The case load may range from 75 severe open files to 300-400 non-severe files, and the adjuster is being assigned new files daily. If the adjuster is averaging 5 new claim assignments daily, how many files must the adjuster close daily?

Once an adjuster allows the open claim count to become unmanageable, it may be too late. It's difficult to dig out of a runaway claim count. This is another reason to pay claims as soon as you can.

E. Compelling policyholders to institute suits to recover amounts due under its policies by offering substantially less than the amounts ultimately recovered in suits brought by them. (lowballing as a matter of practice)

Claims made by an insured (1st party claims) and claims made by a claimant *against* our insured (3rd party claims) are as different as night and day. If we are satisfied that we owe an insured \$13,359.62 for wind damage, that's what we pay. Unless the claim is questionable, we do not offer the insured \$10,019.71 (75%) to *save money*. That's not what the insured paid for. Are insured claims sometimes suspect? Of course, and we negotiate a fair and reasonable settlement.

We often negotiate the settlement amount of a 3rd party claim because they are subjective and not bound by the terms of a contract (policy). Negotiating is expected.

F. Failure of any insurer to maintain a complete record of all complaints which it has received during the preceding three years or since the date of its last examination by the Commissioner of Insurance, whichever time is shorter. (This record should show the total number of complaints, their type by line of insurance, the nature of the complaints, and the resolution of each complaint)

G. Failing to provide promptly, when required by the policy, claim forms which the insurer requires as a prerequisite for a claim settlement.

If the insurance company requires a "proof of loss" form completed by the insured prior to payment (which is normal), the proof of loss form must be provided to the insured in a timely manner.

H. Not attempting in good faith to settle promptly claims where liability has become reasonably clear under one portion of the policy in order to influence settlement under other portions of the policy coverage. (This does not apply to those situations where payment under one portion of coverage constitutes evidence of liability under another portion of coverage.) If we owe the insured under the collision coverage, for example, we can't use the collision settlement as leverage to "force" or influence a settlement under Uninsured Motorist coverage.

I. Failing to provide promptly a policyholder a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

Denying a claim to an insured is an eventual inevitability – a fact of life. However, we owe the insured a complete and rational explanation for the denial.

J. Failing to affirm or deny coverage of a claim to a policyholder within a reasonable time after proof of loss statements have been completed. This is further addressed in Article 21.55, later.

K. Except as may be specifically provided in the policy, to refuse, fail, or unreasonably delay offer of settlement under applicable first-party coverage on the basis that other coverage may be available, or third parties are responsible in law for damages suffered.

As a representative of the insured's insurance company, we are the insured's first line of protection from economic loss. Even if someone else is responsible for the loss, we owe the loss. If the other party or the other party's insurance company pays the insured right away for the loss, fine. But we cannot expect or force the insured to seek damages from the responsible party in lieu of the insured's own coverage.

L. Attempting to settle a claim for less than the amount to which a reasonable person would have believed they were entitled by reference to written or printed advertising material accompanying or made part of an application.

M. Undertaking to enforce a full and final release from a policyholder when, in fact, only a partial payment has been made. (This rule does not prevent the compromise settlement of doubtful or disputed claims.)

The above is a good example of extreme incompetence or blatant fraud. We don't do things like that.

N. Refusing to pay claims without conducting a reasonable investigation based upon all available information.

We must have enough information before we undertake to deny a claim. We can't refuse to pay a claim "on a hunch", or "because we feel like it".

O. Failing to respond promptly to a request by a claimant for personal contact about or review of the claim.

P. With respect to the Texas personal auto policy, to delay or refuse settlement of a claim solely because there is other insurance of a different type available.

Like refusing to pay a claim under Personal Injury Protection because the insured has a good group insurance policy which will, or may, pay the insured's medical bills.

- B. Sec. 542.010. CEASE AND DESIST ORDER; ENFORCEMENT. If the department determines that an insurer has violated this subchapter, the department shall issue a cease and desist order to the insurer directing the insurer to stop the unlawful practice.
- C. Deceptive Trade Practice Act: Although the DTPA cannot be lightly dismissed, it seems to be more directed at the marketing of insurance rather than adjusting of claims. However, it is possible to deceive someone (a third party) in an attempt to settle a claim in which case the DTPA may be applied. This law has sharp teeth in that it has punitive provisions. This is a good law which protects consumers from shabby sales practices. This is not in the Texas Insurance Code - it is in the Business and Commerce Code and applies to all business.

➤ D. SUBCHAPTERS B & D, NOTICE & PROMPT PAYMENT OF CLAIMS, SECTION 542.003

Now in Texas Policies in the Conditions. However, some companies have not yet printed this language in the policy body (at the print shop). In that case, the language must be added to the policy with the appropriate endorsement. Failure to adhere to these laws may constitute Unfair Claim Settlement Practice:

1. Notice of Liability Claim Settlement: We have 30 days to notify the insured in writing, of the settlement of any claim against the insured under the liability coverage of a policy. In reality, the insured needs to have this information. The insured may have been turned down for a job or refused credit because of a pending lawsuit.

2. Notice of *Offer* to Settle Liability Claim: In the Policy Conditions or added to the Conditions with an endorsement. (If specified language is required in a policy sold in Texas, and the language isn't inserted into the policy at the print shop, the specified language must appear in an attached endorsement with the policy.)

10 Days - Why? Stowers Doctrine: In Texas, case law (Stowers Doctrine) gives the right to the insured to demand under certain circumstances, that his insurance company settle a liability claim if the claim can be settled within the limits of the liability coverage. The law provides a remedy to an insured who is forced to go to trial unnecessarily, and wherein a verdict is rendered against the insured which exceeds the insured's policy limits. This puts the insured at unlimited financial risk. If it is done negligently (by the adjuster) the insured may use the Stowers Doctrine to force the insurance company to pay the entire verdict.

3. 15 Days is the length of time the insurance company has to acknowledge receipt of a claim and to begin any investigation. This is state law, of course, and doesn't necessarily allow an adjuster to take 15 days. Your employer will normally require a 24 to 48 hour insured first contact.

4. 15 Business Days is the length of time we have to accept or deny a claim to an insured once the insured has provided to us all the information that we've requested.

5. Five Business Days is how long we have to pay a claim once we've told the insured that the claim, or any part of the claim will be paid. If we tell an insured "Your check is in the mail", it had better be in the mail within 5 business days.

▶▶▶ All of this is subject to appear on the final exam. If you do not understand any aspect of the information in this book, please mark any such topic and be sure to interrogate your instructor.

Please complete the following questions and make *some* attempt to answer all the questions, even if you believe your answer is wrong. Choose your answers from the “**Quiz B: Selectable Answer List**” on page 43. There’s only one selectable answer.

Quiz B

1. Before a person buys an insurance policy *on property* or on a *life* of another person, he must be able to show that he has an: _____.
2. Fire is defined as _____ or _____ accompanied by heat and flame or visible glow.
3. Who may be exempt from the Texas continuing education requirement? _____
4. According to policy provisions, how long does a person have to file a Proof of Loss form if it is requested? _____.
5. Libel, Slander and Wrongful Detention (among others) are examples of what kind of injury? _____.
6. Medical Payments Coverage, on an Auto Policy, provide medical benefits for injury to _____ and _____.
7. Vacancy of a commercial building or residential property is described as a property with no ____ and _____.
8. Actual Cash Value (ACV) can be defined as the current _____.
9. “Standing in the shoes of the insured and exercising the insured’s common law rights to recover paid damages from a legally responsible third party”, defines what? _____.
10. Four methods of handling a pure risk are to Transfer, Reduce, _____ or _____.
11. A fire that is intentionally set and remains within its intended boundaries is classified as a _____.
12. Fire insurance policies always give preferential treatment to the peril of fire, but in one instance, the Friendly Fire, there is no coverage. Why? _____
13. List all the ways Insurance deals with a Speculative risk: _____
14. The “Proof of Loss” requirements are written into all property insurance policies. Does this mean that all losses will require a Proof of Loss to be filed? _____
15. In very simple terms, what is Reinsurance? _____
16. What is the policy condition that causes us to be concerned about a building being vacant beyond a period of (usually) 60 consecutive days? _____
17. We know that although “holdback” is not a term used in the property policies, it is commonly used by adjusters. What does holdback refer to in terms of a claim payment? _____
18. A person who is not a party to the contract but has an interest in the coverage is referred to as a _____ or _____.

Quiz B (cont'd)

19. As an adjuster you are required to establish an approximate value of a claim and establish a figure known as a _____ to make the funds available for payment.
20. Upon receipt of your Texas Adjuster License, you are required to have _____ hours of Continuing Education prior to the next renewal.
21. An insured has “full coverage” under an auto policy. He accidentally backs over his own motorcycle. Which part of his policy will respond to his claim for motorcycle damage? _____
22. After all investigation is completed and you are aware that liability for your insured’s claim is clear, when _____ should _____ the _____ claim _____ be _____ paid? _____
23. Referring to Article 542.003, we have _____ days in which to acknowledge receipt of a new claim and begin investigation.
24. Article 542.003 specifies that once we have told the insured that the claim or a part of the claim will be paid, we have _____ days in which to make payment.
25. Once the insured has complied with all the claim department’s requests, we have _____ in which to affirm or deny payment.
26. In the investigation and handling of a liability claim against our insured, we will ultimately receive an offer of settlement. What must we do within the next ten days? _____
27. In very simple terms, what is the purpose of Insurance? _____
28. When a building is empty of all persons and property it is considered _____.
29. An agreement in which one party voluntarily accepts the cost of someone else’s potential risk of loss is called _____.
30. A friendly fire that escapes its intended boundaries and does damage is referred to as a _____.
31. The property-claims equivalent of investigating a loss is called _____.
32. When an insured file a claim that is suspected of being potentially fraudulent, you should always have him file a notarized _____.
33. In addition to the application for license, certificate of completion and payment of the license fee, what else is required of a Texas resident to obtain an adjuster’s license? _____.
34. Within the 24 hours of required continuing education, at least _____ must be on the subject of ethics or consumer protection.
35. _____ misrepresenting to claimant’s pertinent facts or policy provisions relating to coverages at issue is one of the provisions of Article 21.21 of the Texas Insurance Code.
36. With respect to the Texas Personal Auto Policy, it is a violation of Article 21.21 to _____ or _____ settlement of a claim solely because there is other insurance of a different type available.

Quiz B: Selectable Answer List

1. Replacement Cost (less) Depreciation
2. Contractual liability
3. Personal Injury
4. Insurable Interest
5. Combustion (or) Rapid Oxidation
6. No
7. Reserve
8. Fire, and often vandalism and malicious mischief, are suspended
9. Insurance does not recognize this form of risk
10. Insurance for insurance companies
11. An adjuster who has been licensed for 20 consecutive years.
12. Subrogation
13. Insured and covered persons
14. Friendly fire
15. 91 days
16. 5 business days
17. To protect assets
18. Fifteen calendar days
19. Notify the insured
20. Proof of Loss
21. People (and no) property
22. Retain or avoid
23. Withheld (recoverable) depreciation
24. Scoping
25. Friendly fire often does no damage
26. Third party or claimant
27. Twenty-four
28. Immediately
29. Vacant
30. None of them
31. 15 business days
32. Delay or refuse
33. Fingerprinting
34. Two
35. Knowingly
36. Hostile fire

VI. Adjusting Losses

A. Role of the adjuster following a loss

1. Duties and responsibilities

An adjuster's responsibilities are outlined below in a, b, and c. This is, of course, an oversimplification but it's all we can do at this stage. Your employer will clarify your obligations and train you. If you happen to be a property adjuster, your investigation and evaluation, together, are called your "scope". If you handle any other types of claims, you investigate, evaluate and resolve.

a. Investigate – Gather and preserve facts

b. Evaluate – Decide what to do with the claim

c. Resolve (*most important*) - We haven't met the terms and conditions of the insurance contract until the claim is resolved. However, the resolution may include a denial of the claim which, in some cases, is inevitable.

2. Good faith – The claim must be handled in the same spirit in which the policy was sold to the insured in the first place. An insured shouldn't have to fight with any adjuster for the benefits promised.

3. Immediate contact rule – Although the state gives an adjuster 15 day, your employer will most likely require contact within 24 to 48 hours of receiving a claim assignment. This requirement is one of the first opportunities for an adjuster to get into trouble because it's often not taken seriously. Put yourself in the place of the insured – it's easy to understand why early communication is important.

4. Types of Adjusters Based Upon How Employed

a. Staff – On the payroll of only one insurance company and handles claims only for that company. Likely has a retirement plan and medical insurance program, works 52 weeks a year.

b. Independent – Works for a company which is organized only to handle claims for insurance companies and manage claim and insurance programs for business and industry as a *Third-Party Administrator*. Both the company and the adjuster are referred to as "independent". Otherwise the job of an independent is like a staff adjuster.

c. Contractor – This term is somewhat new in the big scheme of things. Hurricane Hugo may have been the event that created the necessity for "storm troopers", although they've been around for years. Hurricane Andrew solidified the profession and popularized catastrophe claim contractors as a way of handling *mega-losses*. Contractors only work when there's work and normally pay their own expenses.

d. Public Adjuster - *A person licensed under Insurance Code Article 21.07-5 §§5, 5A, 15 or 15A or §19.704 of this subchapter (relating to Public Insurance Adjuster Licensing).*

This is a relatively new license in Texas. Public adjusters represent the insured for a fee and have a completely different license requirement and different test. A public adjuster will attempt to “represent” their customer (an insured) in the best manner possible. Their fee is paid out of whatever amount the adjuster pays the insured for covered losses.

5. Relationship to the legal profession

We can’t recommend or teach you the “correct” relationship to the legal profession. We can, however, strongly suggest that you keep an open mind and that you NEVER allow your feelings and opinions impair your judgment or your ability to handle a claim for your insured in the most professional manner.

- B. Claim Reporting:** Claim reporting is important, and the methods will be taught to you by your employer/client. It is usually in these reports that you will display the reserve that you’ve set (estimated). A *reserve* is the adjuster’s best educated guess how much money will be spent by the insurance carrier to resolve one claim.
- C. First Party Losses:** This means the insured is making a claim for benefits promised in his/her own policy, such as reimbursement for collision damage to a covered auto, payment for hail damage to a covered roof, or reimbursement for auto accident related medical expenses under Personal Injury Protection (PIP).

In any claim, it is to *our insured* that *we* owe the greatest duty.

1. **Duties of insured after a loss:** in the policy conditions (just a few examples)
 - (a) **Notice to insurer** – *promptly or immediately*. Did you think the insured had, like, 24 hours or 30 days to report an insurance loss? Not so. “Promptly” and “immediately” are not defined in the policy. These terms have been defined by the courts and we’ll discuss that in class.
 - (b) **Minimize the loss:** the policy pays for related expenses. For example, something or someone has shattered the front windshield of a covered auto. The insured has a duty (within reason) to attempt to prevent further loss. The insured should:
 - I. put the car in a shop for repair
 - II. cover the car appropriately and protect it from theft and vandals
 - III. store the auto in the garage until it can be repaired

The insured’s failure to do any of the above may result in a denial of coverage for any additional loss which occurs because of the missing windshield. The above is true for almost any type of insurance.
 - (c) **Cooperate with the insurance company:** The insured, because it’s in the policy contract and to collect any settlement, must cooperate with the insurance company in any reasonable manner.

► Did you happen to notice that in Paragraph (a) it said, “Duties of Insured After Loss”? What about “before” any loss? What does a policy say about the insured’s duties after the policy goes into effect but before any losses have occurred?

If a member of the household becomes of driving age, must the insured notify the agent? If the insured acquires a pit bull, does the insured have a duty to notify the agent so that the insured will have liability coverage?

Hard to believe, but in an unamended policy the insured’s only duty before a loss is to pay the premiums. If that’s true (it is) and your insured has taken up the hobby of drag racing during which he/she causes a fatal accident, is your insured covered?

2. Determining value and physical loss

- (a) Burden of proof of value and loss: The burden of proof of value and loss belongs to the insured. We will certainly send someone to look at a loss and prepare an estimate. However, we normally do not inventory damaged property – we don’t have the time and the insured can do a much better job. However, if an insured is making an unreasonable claim, we’ll let the insured prove the loss using a proof-of-loss form.
- (b) Estimates: Adjusters will often prepare estimates based upon what he/she has actually seen and the adjuster’s evaluation of what was seen. Adjusters may also allow an insured to get their own estimates if the company allows it.
- (c) Loss Valuation: This is normally a paragraph in a policy. It may also be called “loss payment”. This condition is what determines whether a policy is *actual cash value* or *replacement cost*, or a *combination of the two*. A premium homeowner type policy, for example, covers the dwelling at *replacement cost* but covers the personal property at *actual cash value*.
 - I. actual cash value forms: pay current replacement cost less depreciation
 - II. replacement cost forms: pay current replacement cost
 - III. combination of the two above
 - IV. agreed, declared, stated value forms:

These, although common, are a little more expensive than ACV or RC policies. The loss payment is usually established at the time the policy is purchased and is not influenced by depreciation or appreciation. An expensive watch or piece of art would be well protected if covered on a declared value form. This type form is often an endorsement *attached* to a regular policy and often referred to as a *floater* or *schedule*. This type coverage usually does away with any otherwise applicable deductible and covers many more perils (causes of loss) than the original underlying policy.

► Go back to ii. When we’re dealing with personal property (not real property), this is one of few circumstances which calls for us to consider “market” value of something. Even an actual cash value calculation begins with *current replacement cost* which is market value.

- (d) Salvage: Anything for which the insurer has paid a total loss and of which the insurance company is entitled to take possession. This does not apply to “real property”, something which has an address. We simply cannot adequately address this topic here. If you had to pick a half dozen career saving tips from this book, this paragraph is one of those tips.

Do not touch salvage if you can avoid it. If you have totaled a car, shotgun, sofa, diamond ring or anything else of value, call a supervisor to find out the best way to handle it. Don't do anything else. Period. You likely have an obligation to take steps to “salvage” the item(s). Make certain you do it right so that it won't be your last official act as an employed person.

What does it mean to *total* something? If you're a parent with a young driver at home, it is a word that evokes strong emotional responses. To an adjuster, “total” means that it's less expensive to replace something (roof, car, sofa) than to pay the expense of fixing it. When considering whether or not something is a “total”, we must also consider the labor involved in the “fixing.”

3. Claim settlement Options

Subject to your employer's rules and training, you have several settlement options. This is one of many reasons why computers are not used to perform the job of an adjuster. Bear in mind that this is inclusive of first party claims (an insured makes a claim for loss) and third party claims wherein someone makes a claim *against* your insured.

- a) Pay the claim: This means that your evaluation of the damages (dollars) is the same as the person making the claim. Why not pay it and get 'er done? When you pay a claim what exactly are you doing? What have you accomplished in the big scheme of things?
- i. If you are paying an insured for a loss, you are fulfilling the promises made in the policy contract. You are making the insured whole (indemnifying the insured).
 - ii. If you are paying a third party *on behalf of an insured*, you are relieving the insured of some civil liability which the insured has incurred, normally as a result of the insured's negligence. You are paying the complaining party's damages on behalf of the insured and securing a legal *release* for the insured.
 - iii. If you make an offer (to anyone) and the offer is accepted right away, you are going to have a tendency to believe that you offered too much. You will beat yourself up and vow to offer less next time. Don't do that – that's not a professional or logical reaction. Congratulate yourself for having evaluated it accurately, handling the claim in a professional manner, and for eliminating a claim from your pending claim count.
- b) Deny the claim in its entirety: This normally means there exists some kind of fraud (a word you never use), or there's no coverage for some reason. Denying claims is not one of your objectives nor is it a goal. Denial of claims is, however, an inevitable and unpleasant part of the job. It is not the goal of a police officer to shoot someone each day but there may be an occasion when it's unavoidable. If you find that you're going to have to deny coverage or deny a claim to an insured, make sure that something in the policy or in law substantiates your position. A feeling, hunch, or the fact that the insured is just not nice, isn't good enough.

- c) Negotiate a compromise: This is another reason computers can't do the work of an adjuster. You may *come to an understanding* with an insured or a 3rd party claimant through the process of negotiation wherein each party gives up something until an acceptable resolution (middle ground) is agreed upon. In a true negotiation both parties come away feeling as though they were not beaten or taken advantage of.

This is the end of your self-study segment and you're probably thinking that it's about time. You may be questioning your own sanity about now. If you have studied the material herein, taken the quizzes and satisfied yourself that you know the answers or at least know what questions to ask your instructor, then you're good to go.

Obviously, the sooner you can come to class the better your chances of retaining this material. We understand that scheduling is often a problem. If it is going to be an extended period before you can come attend the class for some reason, review this material often.

On the following pages there is good information courtesy of the internet and the efforts of the people who put this booklet together. Please take advantage of this material not only for your success in this class but also for your own understanding of insurance coverages you've likely paid a substantial amount of money for.

Quiz A - Answer Key

1. Any one policy which provides both property and liability coverage is referred to as what *type* of policy? (The *Homeowner* is one of these, but not the answer) **17. Multi-peril or package**
2. A policy that's sold in Texas, but is not a Texas policy form, is most likely a/an **10. ISO** form.
3. Which policy discussed in the preceding text would be written to cover:
 - a) the owner of a taxi for collision damage to his own taxi? **13. Business Auto**
 - b) three thousand gallons of milk in a tanker truck? **14. Inland Marine (Bulk Milk policy)**
 - c) fire damage to a small greeting card shop? **11. Standard Fire policy** or **2. Texas Standard Fire Policy** or **12. Businessowner**
 - d) the owner of a family car, for potential injury to other people? **25. TX Personal Auto policy**
 - e) a trucking company, for potential damage to other people's trailers which the trucking company may be pulling? **24. Trucker's Policy**
4. What is replacement cost less depreciation? **28. Actual Cash Value (ACV)**
5. An insured has a TDP-1 with all the available covered perils. A straight-line wind blows the roofing shingles off one slope of his roof. It is a *20-year roof that's 5 years old, and that slope of the roof will cost \$10,000 to re-roof. One fourth of the life of the roof is used up. How much should we pay the insured? **3. \$7,500 less any deductible**
6. For a valet parking service to have the appropriate liability coverage, it would need to purchase what kind of policy? **19. Garage Liability**
7. What type policy would have to be written for an insured to cover potential collision damage to the insured's ship? **18. Ocean Marine Hull Coverage**
8. In a property policy, and any other policy for that matter, if the cause of a loss is not excluded then it is appropriate to assume that the loss is **9. Covered**
9. A policy which does not name or list the covered perils is referred to as a **33. Special** or **6. Open peril** or **16. All risk**
10. In a TDP-3 the dwelling is covered for all risk and replacement cost, but the personal property is covered for Actual Cash Value (ACV) and **7. Named peril, same as Broad form**
11. Someone who purchased and is importing furniture from Thailand would want what kind of policy to cover potential damage to that furniture? **22. Inland Marine Cargo**

Quiz A - Answer Key (cont'd)

12. What policy would a landlord purchase to provide the *best* possible coverage on a rent house?
26. Dwelling Form 3 or equivalent
13. When a business owner has care, custody and control of other people's property it is given unusual treatment in any liability policy. What is that unusual treatment?
38. The insured has no liability coverage for damage to the property
14. If an owner-occupant of a home wants *liability* and *property* coverage, the owner must purchase what kind of policy? **27. Any Homeowner Policy** For which type of loss will you be licensed to handle claims? **1. Both liability and property**
15. In an all risk Texas Dwelling policy what percentage of actual replacement cost must the insured carry on the dwelling to have replacement cost coverage?
15. At least 80% of replacement
16. Where in a policy will you look to find out where the damaged property is located?
29. Declarations Page
17. When must a first party loss be reported to the insurance company?
31. Promptly or immediately
18. In any of the least expensive policy forms (limited, standard, basic) which (of the available answers) would not be covered as a direct loss in an unamended policy? Falling objects &
37. Water loss
19. An insured under a TDP-3 equivalent has suffered a total fire loss to his wood shake roof from stray fireworks. The replacement cost of the roof is \$28,000; the estimated life of the roof is *20 years; the roof is 10 years old and shows its age; the policy limit on the dwelling is adequately \$175,000 and the deductible is the standard 1% of coverage A (dwelling). How much (total) does the company owe for the loss to the roof? **32. \$28,000**
20. Where besides ocean marine policies will you find "hull coverage"? **35. Aviation policies**
21. Most exclusions in any policy take away something then give it back by saying "but this exclusion does not apply to you or any family member.....". Who is "you"?
4. Named Insured and 8. Spouse if living in same household
22. Name the type of policy wherein one party guarantees with money the performance of another party to even another (3rd) party. **36. Surety bond**

Quiz A - Answer Key (cont'd)

23. A policy that is written and signed at 10:00 AM has *been in effect* or will *commence coverage* when unless otherwise specified by the agent? **20. Has been in effect 9 hours, 59 min**
24. Prior to any loss an insured must do what to have coverage for future losses?
23. Pay premiums
25. An auto insured has lost control of his covered auto and caused substantial damage to a parked car. Which coverage in the insured's policy will respond to the demands of the parked car's owner? **5. Property**
26. Other than on the declaration page, where in a broad form property policy will you find the phrase "collapse of building"? **34. Insuring agreement**
27. What is the name of the coverage offered in an auto policy that would pay medical bills incurred by a named insured as a result of an at-fault auto accident?
30. Personal Injury Protection
28. Your insured has full coverage on his home, auto, and boat. If he falls down his stairs at home and seriously injures his knee, which of these policies might pay a portion of his medical bills?
21. None will pay. No such thing as "full coverage". None of these policies has any benefit which will pay for the described injury

Quiz B - Answer Key

1. Before a person buys an insurance policy *on property* or on a *life* of another person, he must be able to show that he has an: **4. Insurable Interest**
2. Fire is defined as **5. Combustion** or **Rapid Oxidation** accompanied by heat and flame or visible glow.
3. Who may be exempt from the Texas continuing education requirement?
11. An adjuster who has been licensed for 20 consecutive years
4. According to policy provisions, how long does a person have to file a Proof of Loss form if it is requested? **15. 91 days**
5. Libel, Slander and Wrongful Detention (among others) are examples of what kind of injury?
3. Personal Injury
6. Medical Payments Coverage, on an Auto Policy, provide medical benefits for injury to
13. the insured and covered person
7. Vacancy of a commercial building or residential property is described as a property with
21. no people and no property
8. Actual Cash Value (ACV) can be defined as the current **1. replacement cost less depreciation**
9. “Standing in the shoes of the insured and exercising the insured’s common law rights to recover paid damages from a legally responsible third party”, defines what? **12. subrogation**
10. Four methods of handling a pure risk are to Transfer, Reduce, **22. Retain or Avoid**
11. A fire that is intentionally set and remains within its intended boundaries is classified as a
14. friendly fire
12. Fire insurance policies always give preferential treatment to the peril of fire, but in one instance, the Friendly Fire, there is no coverage. Why? **25. Friendly fire often does no damage**
13. List all the ways Insurance deals with a Speculative risk: **9. Insurance does not recognize this risk**
14. The “Proof of Loss” requirements are written into all property insurance policies. Does this mean that all losses will require a Proof of Loss to be filed? **6. No**
15. In very simple terms, what is Reinsurance? **10. Insurance for insurance companies**
16. What is the policy condition that causes us to be concerned about a building being vacant beyond a period of (usually) 60 consecutive days? **8. Fire and often vandalism and malicious mischief are suspended**

Quiz B - Answer Key (cont'd)

17. We know that although “holdback” is not a term used in the property policies, it is commonly used by adjusters. What does holdback refer to in terms of a claim payment? **23. Withheld (recoverable) depreciation**
18. A person who is not a party to the contract but has an interest in the coverage is referred to as a **26. third party or claimant**
19. As an adjuster you are required to establish an approximate value of a claim and establish a figure known as a **7. reserve** to make the funds available for payment.
20. Upon receipt of your Texas Adjuster License, you are required to have **27. Twenty-Four** hours of Continuing Education prior to the next renewal.
21. An insured has “full coverage” under an auto policy. He accidentally backs over his own motorcycle. Which part of his policy will respond to his claim for motorcycle damage? **30. None of them**
22. After all investigation is completed and you are aware that liability for your insured’s claim is clear, when should the claim be paid? **28. Immediately**
23. Referring to Article 542.003, we have **18. 15 calendar** days in which to acknowledge receipt of a new claim and begin investigation.
24. Article 542.003 specifies that once we have told the insured that the claim or a part of the claim will be paid, we have **16. 5 business** days in which to make payment.
25. Once the insured has complied with all the claim department’s requests, we have **31. 15 business days** in which to affirm or deny payment.
26. In the investigation and handling of a liability claim against our insured, we will ultimately receive an offer of settlement. What must we do within the next ten days? **19. Notify the insured**
27. In very simple terms, what is the purpose of Insurance? **17. To protect assets**
28. When a building is empty of all persons and property it is considered **29. vacant**
29. An agreement in which one party voluntarily accepts the cost of someone else’s potential risk of loss is called **2. contractual liability**
30. A friendly fire that escapes its intended boundaries and does damage is referred to as a **36. hostile fire**
31. The property-claims equivalent of investigating a loss is called **24. scoping**

Quiz B - Answer Key (cont'd)

32. When an insured file a claim that is suspected of being potentially fraudulent, you should always have him file a notarized **20. proof of loss**
33. In addition to the application for license, certificate of completion and payment of the license fee, what else is required of a Texas resident to obtain an adjuster's license?
33. fingerprinting
34. Within the 24 hours of required continuing education, at least **34. Two** must be on the subject of ethics or consumer protection.
35. **35. Knowingly** misrepresenting to claimant's pertinent facts or policy provisions relating to coverages at issue is one of the provisions of Article 21.21 of the Texas Insurance Code.
36. With respect to the Texas Personal Auto Policy, it is a violation of Article 21.21 to **32. delay or refuse** settlement of a claim solely because there is other insurance of a different type available.

Texas Automobile Insurance Helpful Summary

Liability Coverage

Texas requires minimum liability insurance coverage of \$30,000 per injured person, up to a maximum of \$60,000 for all persons injured, and \$25,000 for property damage. This basic legal minimum coverage is called 30/60/25 coverage by insurance professionals. There is no applicable deductible. On behalf of an insured, liability coverage pays other people's expenses for accidents **caused by** drivers covered under the insured's policy, up to policy limits. Liability insurance also pays attorney fees for defense of a lawsuit and this benefit is a supplement – it does not come out of the 30/60/25.

Who is a Covered Person (auto user) Under the Insured's Liability Coverage?

- ✓ Insured and spouse if living in same household;
- ✓ Family members (you must read the definition of "family member");
- ✓ Anyone driving insured's car with reasonable belief of permission;
- ✓ Insured and family members are covered when driving any motor vehicle.

Who is a Family Member?

Insured's auto policy covers insured's spouse, relatives, in-laws, adopted children, and foster children living in insured's household. Remember, "covered" does not mean the policy will pay for injuries to the people described above. It means the liability coverage will pay on their behalf if they injure someone else while operating a motor vehicle.

Personal Injury Protection (PIP) If the insured purchased it:

1. Pays up to the PIP limit for medical and funeral services **and/or**;
2. Pays the covered person 80% of lost wages

or

3. reimbursement for having someone perform household duties that the covered person can't perform because of injuries sustained in a covered auto accident.

Uninsured/Underinsured Motorist Coverage If an insured purchased it:

This is an optional coverage an insured can purchase to protect the insured in the event the insured is struck by a motorist with too little or no liability insurance.

Collision Coverage If an insured purchased it...

Pays the cost of repairing or replacing your car after an accident. From the insured's perspective, it is no-fault coverage. The insured's own negligence or stupidity if any is not an issue. Of course, we will not pay for intentional damage to the covered auto. This has its own deductible.

Comprehensive (Called *Other-Than-Collision* in Texas) If an insured purchased it...

Pays the cost of replacing or repairing the covered auto if it is stolen or damaged by any peril, other than collision, which is not excluded. This has its own deductible.

Cancellation

We may not cancel an auto policy if it is a renewal or has been in effect for more than 60 days unless:

- ✓ Insured fails to pay the premium
- ✓ Insured files a fraudulent claim
- ✓ Insured's driver's license or motor vehicle registration is suspended or revoked. This also applies to other drivers who live in the insured's household.

However, during the first 60 days, the company may cancel a policy for any reason. The company must give at least **10 days written notice before canceling an auto policy**.

After an Accident the Insured Must:

- ✓ Protect the car from further damage.
- ✓ Notify the insurance company as soon as possible. Most policies say *immediately* or *promptly*
- ✓ Cooperate with the insurance company.

Once a claim is filed:

- ✓ The company must acknowledge and begin investigating a claim within 15 days after receiving written notice of a claim. (Most insurance companies require 24-hour contact)
- ✓ After receiving all requested documentation, the company has 15 *business* days to accept or deny a claim.
- ✓ Once the company agrees to pay a claim, it must pay the claim within five *business* days.

Homeowners Insurance Helpful Summary

Homeowners Policies

Dwelling - pays for damage to a house and any outbuildings, such as detached garages and other permanent structures. In Texas, “other structures” is a default coverage with low limits. The limits can be raised by the agent.

Personal property - pays when personal property is damaged, stolen, or destroyed. There’s a theft limit for guns, furs, jewelry and a general low limit on “business personal property”.

Liability - protects an insured against financial loss (lawsuit) if an insured is legally responsible for someone else’s injury or property damage.

Medical payments - pays medical bills for people hurt while on a property. It also pays for some injuries that happen away from a home, such as an insured’s dog biting someone. This coverage is not subject to “legal liability”.

Loss of use - pays living expenses if a home is too damaged to live in during repairs. The most common policy pays up to 20 percent of the amount for which a house is insured. Most adjusters call this ALE, an abbreviated way to refer to additional living expense coverage.

Types of Homeowners Insurance Coverages

Insurance companies may sell several types of policies in Texas, each with a different level of coverage. Three of the policy forms available for sale in Texas - the HO-A, HO-B, and HO-C - are standardized. This means the policy language and coverages provided by these policies are the same, regardless of which insurance company has written the policy.

Companies may offer alternative policy forms, if approved in advance by the Commissioner of Insurance. These policies are not *standardized* and usually provide varying coverages.

Following is a list of the types of policies sold in Texas:

HO-A Standard Texas Form (still offered)

HO-A Amended Non-standard (bottom-of-the-line policy all dressed up with endorsements)

HO-B policies provide replacement cost coverage on the dwelling and is a standard Texas policy.

HO-C provides the most extensive coverage and is a standard Texas policy.

Approved alternative Homeowner policies (usually ISO policies) offer varying levels of coverage. Companies can sell alternative policies only if the policy form is approved in advance by the Commissioner of Insurance. These policies are not standardized. Coverage may differ considerably from one company to another and from the coverage provided in the standard Texas homeowners policies.

Most policies will not cover mold remediation beyond what's necessary to repair or replace property damaged by a water leak that is covered by the policy. Insurance companies are required to offer an insured mold remediation coverage. Depending on the company, this coverage will be offered in increments.

Other Residential Type Policies

- ✓ **Renters:** Renters insurance covers personal property, liability, and pays additional living expenses if a covered loss forces an insured to move temporarily from a rented domicile.
- ✓ **Condominiums:** Condominium insurance matches the benefits of renter's insurance, and also covers damage to improvements, additions, and alterations to the condominium unit. You must read the condo charter to figure out who is responsible for what.
- ✓ **Mobile homes:** Mobile homes without wheels and resting on blocks or a permanent foundation qualify for a homeowner's policy. However, most mobile homes are insured by a mobile owner's policy. A mobile owners policy is actually an auto policy that covers mobile homes used as residences. Mobile owner's policies offer extremely limited coverage.
- ✓ **Farm and ranch owners:** Farm and ranch owners policies insure homes outside city limits on land used for farming and raising livestock. An insured can pay extra and get coverage for certain farm equipment and outbuildings.

Replacement Cost Coverage: The standardized HO-B and HO-C policies provide replacement cost coverage for a dwelling, up to a policy's dollar limits. Replacement cost is what an insured would pay to rebuild or repair a home, based on current construction costs. Replacement cost is not market value. It does not include the value of a land. Replacement cost coverage does not depreciate items.

To receive full payment (minus a deductible) for a partial loss, such as a hail-damaged roof, an insured must insure a house for at least 80 percent of its replacement cost. If a house is insured for less than 80 percent of the full replacement cost, the insurance company will pay only proportionate part of the partial loss.

Policy Limits: If a house is insured for \$100,000, that's the most an insured will get if it is destroyed, even if it would cost more to replace it. The Declarations Page on the front of a policy shows how much coverage an insured has. **If a fire destroys a home (totals it), Texas law requires the insurance company to pay the full amount of the policy - even if this amount is more than the replacement cost.** Trust us on that one. The explanation is long, philosophical, and still makes little sense.

Coverage for Personal Property: HO-B policies automatically cover household contents - furniture, clothes, appliances, etc. - up to 40 percent of the amount a house is insured for. This means if an insured insures a house for \$100,000, its contents are insured for up to \$40,000. An insured can get more coverage by paying a higher premium.

Other Types of Insurance

Flood Insurance: Homeowners policies do not cover flood damage. However, the National Flood Insurance Program (NFIP) offers flood coverage in many areas. Local insurance agents sell NFIP flood policies.

Hurricane and Windstorm Insurance: The Texas Windstorm Insurance Association (TWIA) is the state's insurer of last resort for wind and hail coverage in the 14 coastal counties and parts of Harris County on Galveston Bay. TWIA provides wind and hail coverage when insurance companies exclude it from homeowners and other property policies sold to coastal residents.

Policy Termination: (Four terms and they're all different - not interchangeable)

1. Cancellation means either an insured or the insurance company stops coverage before a policy's normal expiration date.

2. Nonrenewal means a company refuses to renew a policy when it expires.

An adjuster must remember that cancellation, non-renewal, voiding and suspending of a policy are not the same and are not interchangeable.

Notice: 10 days (30 days' notice is required if the policy is canceled within the first 60 days). A company may cancel a policy within the first 60 days only if it identifies an undisclosed additional risk of loss that is not the subject of a prior claim

A company may not cancel a policy after 60 days, except for fraud, increased risk, or nonpayment of premium

3. Suspension means that some coverage is temporarily unavailable because of an exclusion or policy condition has been triggered.

If a dwelling is vacant for 60 days or longer, most policies automatically suspend coverage for fire loss and in some cases, all physical damages.

4. Voiding an insurance policy, or any contract for that matter, means that a material misrepresentation has been made by the insured either at the time the policy was purchased or at the time of a claim. The company will take steps to void the policy contract, which means essentially that the contract never existed. The company will refund all of the paid premiums.

The company must start investigating a claim within 15 days after receiving written notice. However, the company may ask an insured for more information. Once an insured sends the information, the company has 15 **business** days to accept or reject a claim. If the company agrees to pay, it must do so within five **business** days. If the company rejects a claim, it must explain the rejection in writing.

Proof of loss: Within 15 days after an insured report a loss, the company may request a signed, notarized proof-of-loss form.

Payment: Once the company agrees to pay all or part of a claim, it must do so within five business days.

► Most companies pay homeowners claims with two checks. The first, issued after the adjuster scopes the loss, is for the estimated cost of repairs, minus depreciation and deductible. The company issues the second check (called recoverable depreciation) for the balance of the claim after receiving proof of repair or replacement with like kind and quality, within 365 days of the date of loss.