

Ask and Ye Shall Receive

by Dale M. Halon, CPCU, CIC



■ **Dale M. Halon, CPCU, CIC**, is a national account executive with ChoicePoint Precision Marketing where he is responsible for direct sales and consultation for insurance companies' marketing programs. Halon has addressed numerous industry groups on predictive models, databases, and underwriting tools and marketing programs. He has published articles for insurance trade publications and industry groups on predictive modeling, the use of consumer credit in insurance, and multi-channel marketing. Halon serves as the chairman of the CPCU Society's Personal Lines Section Committee.

You may remember a past column of mine (March 2004) when I praised our open communication by being able to help a peer interest section member with a technical issue by way of passing his question among committee members. Amazingly enough, the talent of your esteemed leadership committee stretches far beyond putting on seminars and going on boondoggle trips to exotic locations to meet with other CPCUs. Our committee membership is only a microcosm of the entire section membership by being a diverse group of skilled insurance professionals.

I have been fortunate enough to witness, in my close association with fellow CPCUs, that there is a broad range of knowledge, background, and experience within our peer group. As an educational society, the CPCU Society would be remiss in not taking advantage of those talents and resources. **COLLECTIVELY THAT MEANS YOU AND ME!**

"Ask the Expert" is a new vehicle to take advantage of that wealth of information we've all amassed individually. "Ask the Expert" seeks to harness our combined experience into a new benefit to all members of the interest section. Got a question? Ask the expert. Who is the expert? You are. I am. You and I now have a resource we can use to find out things we need for our job, are curious about, or need for the final round of *Jeopardy*. I will ask you. You will ask me. It's kind of like the idea of $1 + 1 = 3$.

All you've got to do is ask. You will see the "Ask the Expert" button on members-only portion of the CPCU Society Personal Lines web site. To ask an expert, click the link and add your question. We'll make sure it gets the attention of others and that you get a

response. The discussion feature of the web site is designed so that members can collaborate with each other and literally carry on a conversation that is recorded for others to view.

You even get an automatic e-mail response if you wish to keep track of comments others are making. Spam? Not really. Thank you for letting us fill your e-mail inbox with seemingly unsolicited e-mails about this topic. While you have not opted in to receive e-mails regarding Personal Lines Interest Section activities and ideas, the leadership committee believes this is the most effective way for us all to communicate. We're excited about this new idea and just can't contain ourselves. And people say insurance geeks are boring . . . BAH! ■

Your Fellow Expert,
Dale M. Halon, CPCU, CIC

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Hurricanes, Fires, and Other Catastrophes: Are You Underinsured? Part III

by Greg Nelson, CPCU, AIM

Editor's Notes: We conclude this series with Part III—excerpts of the Orange Empire Chapter research regarding “Are You Underinsured?” Part III gives an in-depth look at the methods of calculating replacement cost and then concludes with practical advice for homeowners.

This article was researched and written by Greg Nelson, CPCU, AIM. A past president of the CPCU Society's Orange Empire Chapter, he has been on the Board of Directors of the chapter since 1988, and has served as the Research Committee chairman for the last eight years. In that period, he has written four research papers that have been recognized by the CPCU Society for Excellence in Research. He is presently the senior vice president for Safeco Financial Institutions Solutions, a specialty division of Safeco Insurance Company, which provides insurance products and services to financial institutions.

The research in this article reflects the view of the CPCU Society's Orange Empire Chapter Research Committee and Greg Nelson, CPCU, AIM. It does not necessarily reflect the view of the CPCU Society or its affiliate chapters. The CPCU Society and its affiliate chapters hereby disclaim any liability that may arise from reliance upon any of the thoughts or ideas expressed in this publication.

Methods of Calculating Replacement Cost

Insurance companies and homeowners use several different processes to calculate the replacement costs of homes. Since the homeowner is legally responsible for buying the right amount of insurance, it is important for the homeowner to know how agents and companies determine the replacement cost of his or her home. Homeowners can then evaluate whether the amount identified by the agent or



company is sufficient to adequately protect their home. Some methods are rather simple and can be determined using a simple calculator. Others are more sophisticated and require that data be input into complex formulas to generate more detailed valuations of the property. And some use combinations of both of these methods as well as detailed analysis, inspections, and estimates based on specialized knowledge from inspectors or appraisers to determine the value of the home.

Dollars per Square Foot—Keep It Simple

Perhaps the simplest method and the most widely used is the “dollars per square foot” method. Typically, the insurance agent for the property owner works with the homeowner to determine how many square feet the structure contains. The agent then evaluates the rebuilding costs for the home based on the type of construction of the house, the features, number of rooms, and other factors. Combining all of the factors, the agent comes up with an estimate of the cost in dollars to rebuild the home for each square foot of the dwelling. Multiplying the number of square feet in the dwelling by the estimated rebuilding cost for each square foot produces an estimated replacement cost. For example, if the home has 2,000 square feet and the

estimated rebuilding cost is \$100 per square foot, the total replacement value would be \$200,000. The rebuilding cost is usually set by surveys of local builders for various types of construction. Data from the U.S. Census Bureau indicates that rebuilding costs across the country range from about \$60 per square foot to more than \$120 per square foot.²⁶ Rates vary quite a bit from different areas of the country, but construction type also plays a big part in the cost of building a structure. If the above example represented a “standard” building, a custom home with special features might require rebuilding costs of \$130 per square foot, meaning that the same size home with custom building features would have a replacement cost of \$260,000 (2,000 x \$130). The advantage of this method is that it is simple and easy to use and enables the agent and insured to select the replacement value of the home in a prompt fashion. Unfortunately, it may not accurately project the replacement values because it does not identify extra costs for unique features of the property, even if it identifies the property as a custom or superior home and worthy of extra replacement cost consideration. It also may not include the cost required to rebuild the home to specifications required by current building codes.

A very important fact to consider is that it probably costs more to rebuild a home in the same location than it would to build a new home on a vacant lot. To begin with, when a contractor is building a tract of new homes, he or she receives benefits of volume buying for materials and labor. These savings do not recur when a single home gets built or repaired. Secondly, if the home is being rebuilt because of a large loss that has occurred, there are issues with access to the site for equipment and materials that do not exist with a vacant lot. Tractors, cranes, and trucks can't access the property as easily if there are existing structures on adjoining lots. There could also be extensive costs due to demolition or debris removal. As

mentioned with the Oakland Hills fires, costs can increase due to changes in the building codes or regulations. There may even be extra fees and licenses to reconstruct a home that might not exist if the home were being built new on a vacant lot.²⁷ Hence, if a contractor states that the current building cost for a standard home is \$100 per square foot, one must determine if that represents the cost to rebuild a single home or the average cost per square foot for building a group of homes. If it represents an average cost based on building several homes and does not reflect some of these extra factors that might affect the reconstruction of a home, additional costs must be added to reflect this situation.

■ ***Some companies now use specially trained inspectors who survey insured properties and estimate the replacement value of the properties based on first-hand inspections.***

Another factor that needs to be considered is the difference of building costs for one area of the country to another. Some companies utilize the dollar per square foot method but apply a “factor” to adjust for the different areas of the country. Large metropolitan areas such as Los Angeles, New York, San Francisco, and Chicago would have a higher factor applied than rural areas of the country. For example, a structure with a standard rebuild cost of \$100 per square foot might have no factor applied in Stockton, California, located in the San Joaquin Valley. The same house located in Los Angeles might have a factor of 1.25 or 1.5 applied to building costs. This means that the same house in Los Angeles would cost 125 percent to 150 percent of the cost to build the same house in Stockton. Applying a location factor can help to adjust for regional differences in building costs.

The square footage methodology can be easy to use and provides a quick estimate of the replacement cost of a structure, but since it does not include a valuation of the unique features of any structure, building code requirements and other factors, it may not provide an accurate replacement valuation of the property.

Combination Methods—More Detail

Some companies have tried to capture some of the details that are missed by the square footage method by creating sophisticated formulas to calculate the replacement cost of dwellings. These models incorporate many of the details regarding the structure, and then provide a replacement cost estimate that is based on more data than the square footage model. Because it is based on more detailed information, the formula model provides a more precise estimate of the true replacement cost of the property. Usually, the agent and insured complete an application or survey that has many questions about the details of the property. Typical questions include the number of rooms, types of windows, type of basement, number of fireplaces, custom features, etc. The formula incorporates each of the items in the replacement cost projection, and a compiled value of the property is determined. The additional detail enables the company to project a more accurate replacement cost. This is a more comprehensive valuation of the property, but it is limited by the accuracy of the information provided by the insured and the agent. Incomplete or incorrect information on the application can severely impact the validity of this method. The old saying “garbage in-garbage out” reflects the problem of this method.

Special Inspection

Some companies now use specially trained inspectors who survey insured properties and estimate the replacement value of the properties based on first-hand inspections. Companies that specialize in high-value dwellings tend to use inspectors and appraisers to determine the replacement values of

their insured properties. One company that has a high-value program is Chubb Insurance Company. It currently has 230 inspectors worldwide that it uses to inspect properties and determine appropriate replacement costs.²⁸ These inspectors typically have prior experience in the construction or claims industries and receive additional training to refine their skills in property replacement valuations. Other companies also use inspectors to review their high-value properties to determine the right replacement cost of the properties. These inspectors are very thorough and do an effective job, but they are very expensive and impractical to send out on every homeowner policy.

Other Methods

Homeowners could pay for a formal appraisal by a licensed real estate appraiser, but that is expensive and time-consuming. Although it may give a very good estimate of the replacement cost, it is probably not an affordable alternative for the average homeowner. In order to keep up with rising construction costs, the appraisal would have to be conducted every few years or after any major renovation in order to make sure that the property valuation kept pace with inflation.

Another method that could be used is to utilize the county tax bill as the estimate of the replacement cost of the dwelling. However, this may not reflect the current cost of replacing the structure either. The tax bill often includes the cost of the land, which is not considered in the replacement cost of the structure. The improvements are usually listed on the tax bill, but the value of the improvements is usually based on the original value at the time the structure was built. And although there may be a factor for inflation used in calculating the value of the improvements each year, the improvement value listed on the tax bill is not based on any knowledge of the details regarding the structure or any knowledge of the costs that would be required to rebuild the structure. The

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tax bill is a very rough estimate of the value of the structure and, therefore, not a practical tool to use to calculate the replacement cost of a home.

Some individuals may use the loan balance as an estimate of the replacement cost. This probably is not a good estimate of the replacement cost because of several factors. To begin with, the loan balance includes the value of the land, which would overstate the amount of value in the structure, if it were included. Secondly, the loan balance is affected by the amount of the down payment. A large down payment may reduce the loan balance so that it is much less than the replacement cost. Finally, the loan balance is the amount remaining to be paid after the down payment is subtracted from the sale price. The sale price is the market value of the property including the land. The market value of the property could be much higher than the replacement cost of the structure. This is especially true in high-value neighborhoods. The cost to rebuild properties in these areas is much less than the original cost to buy the home. For example, Newport Beach, California, has some neighborhoods with very small homes but very high market prices. If one of these homes burned to the ground, the property could be replaced for much less than it cost to buy. The replacement cost would probably be quite different than the loan balance. So using the loan balance would not be a practical or accurate way to measure replacement cost.

Summary of Methods

So there are several methods that can be used to calculate the replacement cost of homeowner structures. The simplest method is the dollars per square foot method. This method is very simple to use and can be calculated in a matter of minutes. Company formulas generate more detailed estimates and incorporate details regarding the structure in projecting replacement costs. Some companies utilize specially trained inspectors to develop more accurate

replacement cost estimates. Finally, homeowners can hire appraisers or rely on other techniques to calculate the replacement costs of their dwellings. Some of these methods are more precise than others, but the homeowner is ultimately held responsible for selecting the proper amount of insurance for his or her home.

How to Overcome Replacement Cost Problems

Even if homeowners use one of the most sophisticated methods to project the replacement cost of their home, they might still end up being insured for the wrong amount. There are so many factors to consider that it would be difficult to include them all in estimating what the replacement value of the home might be. The area of the country where the home is located, the building codes, and the type of construction of the dwelling have an impact on the replacement cost. The special features and the size of the structure play a part in the cost. The type of loss also plays a part. If the loss is the result of a large-scale catastrophe like a hurricane or a wildfire, the limited availability of resources such as building materials and contractors will tend to increase the replacement cost of the home. Finally, if the home is located in a housing tract that would require special handling due to access issues or demolition challenges, the complete replacement cost would increase significantly. Trying to include all of these factors into an estimate of the full replacement cost of the home can be overwhelming. But the homeowner must do a reasonable job in coming up with a proper replacement value, because the courts have indicated it is the responsibility of the homeowner to determine the correct amount of coverage. What can you do?

There are several things that the homeowner can do to help select the proper amount of insurance for his or her home.

1. Take interest yourself in identifying the proper amount of coverage for your home. Don't rely on your agent or your lender to pick the right amount of coverage. Remember that courts hold the homeowner responsible for selecting the proper amount of insurance. It's better to do a good job of selecting the proper amount of insurance before a loss than to find out after the loss that you have not purchased enough insurance to rebuild the home.
2. Check your replacement cost amount at least once a year. Your company may automatically adjust for inflation every year but that may not accurately reflect the increased costs in rebuilding your home, especially if building codes or ordinances have changed. Check with your agent and local contractors to see what they are using for rebuilding costs for your style of home. Search the Internet. There are many valuable web sites that have building information, including the Census Bureau that can give you some general ideas of the replacement cost values in your area. Marshall & Swift/Boeckh, and many other Internet sites can provide replacement cost guides.
3. Update your policy. Make sure you have building code and ordinance coverage on your policy. Most companies offer this endorsement. It will add an additional 10 to 25 percent of coverage for the cost of rebuilding to meet current building codes. Some companies will even provide full replacement cost including the code upgrades as long as the total cost falls within the limit of liability. But if the endorsement is not added to the policy, many policies specifically exclude the extra costs of rebuilding due to code changes. If you don't have extended or guaranteed replacement cost and your company offers it, make sure you add it to your policy. It is a fairly reasonable coverage for the protection

it provides. If you have upgraded your home with a renovation or addition, make sure you factor that into the replacement cost. If the value of the changes were more than a few thousand dollars, notify your agent so he or she can assist you in increasing the coverage and update your policy with your company.

4. Be overly conservative in your estimate of the replacement value. Better to have more coverage than you need than to end up short. Keep in mind that after major catastrophes it is not unusual for building costs to increase significantly. You want to make sure you have enough coverage to rebuild should that happen.
5. Get an appraisal or inspection if you can afford it. This isn't practical every year due to the cost, but every few years it may be worth the cost.
6. Don't let your voluntary policy expire. If you fail to renew your voluntary policy, your mortgage company will probably buy a policy for your property. These policies, which are called lender-placed or force-placed insurance, are very expensive and do not provide the same broad coverage as most voluntary coverage. Some mortgage companies only purchase fire coverage and only in the amount of the loan balance. If a loss occurs under this type of policy, the mortgage company will be protected (the loan balance), but the borrower will not. There is no protection for the contents, additional living expense, or liability of the borrower, nor is there any coverage for the equity the borrower might have in the home. The mortgage lender will get the loan paid under the force-placed policy, but there will not be any additional funds to compensate the borrower. One additional note: many homeowner companies will not reinstate a policy if it cancels or the company will reinstate it but with less coverage and higher premiums. Once you purchase a homeowner policy with broad peril

coverage and the proper amount of insurance, it is critical that you keep the policy active and current in order to protect your most valuable asset—your home.

Identifying the proper replacement cost is not a simple task. In fact, even if you make a diligent effort to identify the proper amount to insure your home, you may still find that unique circumstances may have you underinsured at the time of the loss. However, there are steps you can take that will reduce some of the risk of being underinsured should you suffer a total loss.

The homeowners policy evolved from the standard fire policy, although it was the 1950s before the first multi-line policies appeared. The homeowners policy meets the needs of the owner of the home, the mortgage company, and the government-sponsored enterprises. It provides coverage for the perils required by mortgage contracts as well as protection from the typical perils that threaten every home. But the homeowner must be very diligent in his or her decision about the amount of coverage to purchase. The amount of coverage must be enough to meet the requirements of the mortgage lender while at the same time provide enough coverage to rebuild the home should the home suffer a total loss. Changes in building codes, inflation, hurricanes, fires, and other catastrophes all have an impact on the costs to rebuild. The homeowner has many resources to use in calculating the proper replacement cost of the home. Resources can be found online, or the owners can work with their agent and company to determine the proper amount of coverage for their home. However, ultimately, it is the homeowner's responsibility to identify and purchase the right amount of coverage. In order to avoid a major shock after a total loss, homeowners must conduct a thorough review of the insurance coverage they purchase to make sure they have selected the proper type of policy with the right endorsements. They must also purchase the proper amount insurance so that they will have enough insurance to rebuild

their home, regardless of the situation that causes the loss. ■

Endnotes

26. Homeplanfinder.com, "National Average Construction Costs," homeplanfinder.com/docs, p. 2.
27. Marshall & Swift/Boeckh, "Replacement Cost New vs. Reconstruction Cost," MSB.com, p. 1.
28. Ibid, "Insuring to Value," p. 62.

Give These Two Coverage Questions a Try!

by Diane G. Baker, CPCU, ARP

Editor's Note: Two readers have sent in coverage questions. The first involves coverage during a "Richard Petty Driving Experience" and the other involves loss of personal contents items stored at a policyholder's place of business. Send in your thoughts and comments posed by the problems below. Next issue, we will publish your solutions.

The first reader writes:

I have a question concerning personal lines coverage. The Richard Petty Driving Experience was a lot of fun, and I look forward to the next time. My question is: I would like to know if an individual has any coverage in case he or she wrecks the car during such an event. It is not a race. There is a car ahead of you that you have to follow around the track. And, there is a flagman that will wave you off the track if you are doing anything wrong. But, having said all that, you *are* on a racetrack. Prior to the drive, you watch a film that gives you very clear instructions and you have to sign a paper that says you are responsible for any damage that you cause. I understand that racing is excluded but this is not racing, it is just driving the car. You get only 11 laps and you don't even change gears.



Do you have any coverage from your auto liability policy? If not, where can you find coverage? With the growing number of these driving experiences, driving schools, and tracks that will teach you how to race on the smaller tracks, there is a need for some type of insurance coverage. I appreciate any help you are able to give me.

Our second question comes from a Claims Section member:

A policyholder stored some personal contents items at his place of business. A break in and theft occurred. The items stolen were two bikes, some tire rims, etc.—all odd, bulky items. The items had been clearly stored by the insured to ease space issues elsewhere. Replacement cost value of the items totaled \$3,000. There is no suspicion of fraud.

Coverage problem. The commercial property policy provides personal property coverage for \$2,500, but excludes theft for personal property (as differentiated from commercial personal property). Personal lines coverage under the homeowners policy does not provide coverage because the policy excludes personal items at a location that the insured owns or rents, unless the insured is "temporarily residing" there. One might argue that he "resides" there, but he runs a business so it is certainly not temporary.

It would seem that the clause was likely put there to discourage situations where the insured owns multiple residences and stores personal contents in all of them, but secures only one insurance policy on one residence, thus being able to make a claim for personal contents at all these locations. The problem seems to be that there is no way the insured could purchase coverage for this situation. It seems likely not the intent of the industry to create language where the insured could never find coverage. If the items had been located at a storage facility or even off the commercial premises at a friend's business or residence, coverage would apply under the HO policy. The insured in this case has adequate separate coverage with one carrier at multiple businesses and residences. One would not take out a personal floater for these kinds of items in the normal course of business.

How should coverage be secured for this kind of scenario? Have there been any interpretations or case law that would call for a different and "covered" outcome?

Please Let Us Hear From You

What solutions could we offer for these two issues? Send your comments to:

Diane G. Baker, CPCU, ARP
Personally Speaking Editor
E-mail: dbak8@allstate.com
Phone: (847) 402-7998
Fax: (847) 326-7843

A Brief History of Contingent Commission Agreements

by Roger Wade

Editor's Note: A hot topic in our industry is the subject of contingent commission agreements and the controversy surrounding it. This informative article written by Roger Wade is a good "background" piece on this subject.

■ **Roger Wade** is a senior manager with KPMG Casualty/Actuarial practice.

The controversy over the payment of contingent commissions—which led New York Attorney General Eliot Spitzer to file suit against Marsh & McLennan Cos. Inc. last October—was in many ways the inevitable result of blurred boundaries between brokers and agents.

While agents are typically independent businesspeople working for major carriers, they essentially act as part of an insurance company's salesforce. Brokers work for the companies buying coverage.

Whether or not contingent commissions are a good thing won't be argued here. A contingent commission arrangement isn't inherently positive or negative. However, the existence of such agreements has allowed for unethical, if not illegal, transactions to flourish in certain instances.

Contingent commissions first appeared in the 1960s when claims were rising much faster than the rate of inflation, and insurance companies cut agent commissions on premiums. To make up for this loss of revenue, carriers offered agents contingent commissions of about 5 to 10 percent of premiums if the agents could meet certain volume and

profitability goals. These first contingent commissions were paid on personal lines.

Over time, paying contingent commissions bled from personal lines into independent agents' business with small commercial customers. By the late 1970s and early 1980s, brokers—who were servicing some of the same clientele as the independent agents—asked large insurers to pay them contingent commissions as well.

Arguably, this is where problems first arose. It is one thing for an agent to get a sales incentive fee (in this case, a contingent commission) from a carrier. It's quite another for an insurance company to pay brokers such a fee because brokers were also paid by their clients.

In the late 1970s and early 1980s, insurance brokers were receiving money from both sides of the transaction. As the fees were paid for a book of business encompassing numerous clients, it was difficult to determine the impact of individual clients. Therefore, there was little regulatory investigation

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A Brief History of Contingent Commission Agreements

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into practice, although customers began questioning brokers about the arrangements.

Meanwhile, some brokers used the London market to buy excess coverage for their clients. The commissions they received on these products were usually not fully disclosed to regulators or customers. The practice increased regulatory and client scrutiny on broker compensation.

Today, contingent commissions among the 100 biggest insurance brokers operating in the United States comprise as much as 12 percent of their annual gross revenues, according to *Business Insurance* magazine, and average about 7 percent of the their top line.

Contingent commissions were never seriously questioned because they provided a mutually agreeable arrangement: the brokers brought carriers greater volumes of business and at the same time, brokers worked to keep down loss ratios for the policies they sold. In return, the brokers got bonus payments from the insurers.

The only problem—and it was by no means a small one—came from the fact that the insurance buyer was also paying the broker. Although this didn't exactly amount to double-dealing, it did confuse the question of just who brokers were ultimately serving.

As contingent commissions grew into an important revenue source, some national brokerages pushed their people to write more policies for insurers who paid them. By the late 1980s, the practice had become widespread. At this point, many brokers were more focused on earning those contingent commissions than getting customers the best deal. But the arrangements were generally unknown outside the insurance industry.

By the mid-1990s, the situation was complicated even further as insurance transactions began to be placed nationally, rather than locally.

Contingent commissions represented a significant portion of a brokerage's profits, so it was incumbent on brokers to ensure that business went to the right insurer—the insurer who paid the highest fees, that is.

To make that happen, it was necessary to generate “friendly bids” that would never be as cheap or had terms as favorable as the preferred carriers.’ While end buyers thought they were getting several honest bids, they were actually being presented with offers designed to steer them toward the carrier that paid the best contingent commission. But this was never disclosed to the customer. And it is unclear how much regulators knew about the details of the practice.

As recently as April 2004, the Risk and Insurance Management Society, the trade association representing the interests of commercial customers, looked into these arrangements and concluded that they “are endemic to the manufacturer/distributor relationship, and there is nothing inherently wrong with them.”

Smaller, regional brokerages have steered clear of the issue simply because they can't generate the volume of business that national and international brokers can for the carriers. Therefore, the smaller brokerages have managed to stay clean by default. Some large national brokerages also avoided the controversy through a decentralized organization that did not make the shift from local to national transaction placement.

Despite the controversy surrounding the practice, it is still possible to use contingent commissions ethically. Three simple rules need to apply in each case: buyers must be informed if such an arrangement is in place; the agreement doesn't create bias in brokers as to which carrier customers should use, and, obviously, all false or friendly bids should be eliminated from any list of possibilities offered to a client.

The Council of Insurance Agents & Brokers, the Independent Insurance

Agents and Brokers of America, The New York Department of Insurance, and The National Association of Insurance Commissioners have all already endorsed such disclosure requirements or are in the process of designing similar rules.

Every salesperson needs incentives. And it is appropriate for the insurance industry to use contingent commissions to motivate brokers and agents. But the practice needs to be transparent to all who participate in the market, including clients and regulators.

Caveat emptor works well in an unsophisticated world, but in today's complicated insurance market, everyone involved needs to understand and enforce best practices. ■

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From the Editor

Callout for Articles and Topics

by Diane G. Baker, CPCU, ARP



■ **Diane G. Baker, CPCU, ARP**, works in the field and product operations area of Allstate Insurance Company. Baker serves as the editor of the CPCU Society's Personal Lines Section Newsletter, *Personally Speaking*.

I would like to invite you and your industry peers to submit previously unpublished articles related to personal lines to be considered for publication in *Personally Speaking*.

At the same time, I would invite you to send in any personal lines topics that you feel would be interesting to our readers. If your topic is selected, an expert writer will develop the article.

Finally, if you would like to co-author an article, please let me know. I can then introduce you to others, who can work with you to create an article suitable for publication.

Please e-mail your ideas to me at dbak8@allstate.com. Thank you for your support! ■

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Personally Speaking Editor

Diane G. Baker, CPCU, ARP
Allstate Insurance Group
e-Mail: dbak8@allstate.com

Personal Lines Section Chairman

Dale M. Halon, CPCU, CIC
ChoicePoint Inc.
e-Mail: dale.halon@choicepoint.com

Sections Manager

John Kelly, CPCU, API
CPCU Society

Managing Editor

Michele A. Ianetti, AIT
CPCU Society

Production Editor/Design

Joan Satchell
CPCU Society

CPCU Society
720 Providence Road
Malvern, PA 19355
(800) 932-CPCU
www.cpcusociety.org

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