

Shale: Drilling uncovers insurance issues

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ing to have to be a response from an insurance standpoint as far as trying to find the coverage if the current carrier is not willing to provide it," according to the insurance education organization Sparks Club.

Risk for insurers

Consumers who allow drilling on their property are subject to first-party exposures such as contamination, crop damage and bodily injury, and third party exposures including damage to neighboring properties, nuisance suits by neighbor and injuries to invitees or licensees, according to Joel Hopkins, lawyer for Harrisburg, Pa.-based Saul Ewing, who presented at a Sparks Club conference in March.

First-party coverage for homeowners, business owners and farms have exclusions such as water damage, collapse, pollution, earth movement and property of others. Third-party coverages exclude motor vehicle and mobile equipment, water, contractual liability, and pollution, among other things.

More consumer protection

Non-insurance protections for property owners include lease agreements that are not regulated by the Department of Environmental Protection (DEP); are beyond statutory, regulatory and common law protections; and have hold harmless, indemnification and insurance provisions, according to Hopkins.

A number of things may not be covered, so insurance agents and brokers should tell their clients to "take a close look" at the indemnification agreement with a lawyer, according to Claire Pantaloni, industry affairs director for Insurance Agents & Brokers (IA&B).

Defense maneuvers for insurers

Besides performing "careful" underwriting, Hopkins said insurers can identify insured or applicant properties that may be targets for drilling; determine if leases are signed, and how long on-site operations are expected; encourage owner to assure that the lease includes protection provisions; and consider specific exclusionary and coverage endorsements.

Despite Act 205 (UIPA), which limits an insurer's ability to rescind certain property

policies, an insurer may cancel or discontinue a policy if the consumer concealed information needed to determine risk, or if there was an increase in risk after the policy was issued.

"Some carriers have started canceling policies for increasing hazard," Pantaloni told IFA. "Not all carriers have taken that approach, but some have, and when we discussed that with the insurance department, it wasn't even on their radar. I don't think at this point in time, until there is a significant in-

crease in this kind of activity, I can't imagine much legislative action that would be targeted at insurance." IFA

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Marcellus Shale's value

If 10% of the estimated 500 million cubic feet of natural gas is recovered in Pennsylvania, Maryland, Virginia and West Virginia, then the \$1 trillion worth of fuel could supply the entire U.S. for about two years.

Response from an insurance standpoint vital to property owners with natural gas reserves

By Jaime L. Brockway

INSURANCE COMPANIES, ALONG with agents and brokers, must protect themselves and consumers against increased risk as energy companies, environmental organizations and state governments determine gas drilling proceedings in the Marcellus Shale region.

Although natural gas has existed in Western Maryland, West Virginia, New York and Pennsylvania for decades, production



Claire Pantaloni

increased significantly in 2008 when Marcellus Shale's vast potential for natural gas was realized, and new technology and higher commodity prices made gas extraction more economically feasible.

"Agents are trying to make themselves as aware as possible of the situation, because obviously if someone's signing a contract with one of the energy companies to permit a drill site on their property, then there's go- See "Shale" on p. 9

// P-C market regulation creates 'confusing maze' for consumers

State-based insurance regulation thwarts free-market advances, according to free-market advocates.

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Insurers, agents must dig into Marcellus Shale drilling issues

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