

# STRUCTURAL BUILDING COMPONENTS MAGAZINE

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## Our Legal Reality



### The Lockton Insurance Survey—Why Not Participate? by Kent J. Pagel

At the BCMC show in Louisville, I was privileged to present an educational session on why liability insurance premiums are going up (and will continue to go up) and why the number of insurance companies selling into the residential construction industry, which obviously includes component manufacturers, is declining. [VISIT THE 'SHOW RECAP' SECTION ON THE [BCMC WEB SITE](#) FOR INFORMATION ON ORDERING AN AUDIO TAPE OF THIS,

AND OTHER, BCMC 2001 SEMINARS.] Many component manufacturers are concerned about these developments and are anxious to implement measures to minimize any adverse impact on their businesses. I appreciate the many people who attended the session and shared with me some of their recent experiences with regard to insurance.

Some component manufacturers have been fortunate thus far—proudly pointing out that their insurance premiums have only increased in the range of ten percent for the year (albeit without any kind of price protection for future years)—even though their claim history for the year was spotless. Others have not been as fortunate.

One component manufacturer advised that following one relatively modest claim, his insurance company refused to renew for the upcoming year. He reported that when his insurance broker went to market for a new insurance carrier, of those who responded (many refused to even quote a premium) a doubling of the previous year's premium was the best offer available. One quoted, but refused to offer excess coverage. One quoted at more than three times the previous year's premium and another quoted at more than five times the previous year's premium.

Without a doubt, liability insurance premiums are increasing for most small- to medium-sized companies. For some, getting insurance at all has become more difficult. This is especially true for those selling into the residential construction market. Many carriers that have historically insured our industry are backing out of the market. The factors cited include the construction defect litigation phenomenon and continuing insurance industry losses.

This trend is demonstrated by WTCA's past experience with an industry-endorsed insurance company. The premise of WTCA's program (in addition to the benefits to the association itself through expense reimbursements and the gathering of loss and claims data) was that from a member company's standpoint, an endorsed industry program represented an opportunity to obtain a quote for insurance from a company that was most likely competitive, and quite probably below market. Unfortunately, because of economic losses on a premium collected vs. claims paid and losses reserved basis, WTCA and its member companies, were essentially fired

by its endorsed insurance company.

It quickly became obvious that the component manufacturing industry needed to be proactive on many fronts. A new approach was needed. Achieving some kind of financial clout became the objective. The close to \$10 billion in revenues annually produced by the component manufacturing industry represents significant financial clout, especially if it can be coupled with an industry that takes risk management and liability avoidance seriously.

At BCMC, WTCA was pleased to roll out its plan to partner with a nationwide insurance broker, instead of directly with an insurance carrier, as in the past. WTCA's Management Committee Chair, Kendall Hoyd, aptly stated that through a national broker, "[WTCA believes] that this will give us the best chance to develop a sustainable program, since it will not be subject to the internal whims and strategy changes of a single carrier." The broker engaged, based on preliminary discussions, and recommendations of WTCA members who are current clients, is Lockton Companies, one of the largest and most experienced brokerage firms in the country.

A broker such as Lockton, with adequate participation by the industry, should be in a good position to utilize the financial clout that exists to market the component manufacturing industry and strike the best deal on behalf of an individual component manufacturer with an interested insurance carrier. Lockton will be armed with a great deal of industry information and will have the background that many agents and brokers otherwise do not have to prevent participants from being generally lumped into broader, potentially less favorable, insurance categories for underwriting purposes. Lockton will, furthermore, not be limited to any one insurance carrier and should be able to capitalize on the fact that some insurance companies may choose particular niches or geographic regions.

This program will only be available to WTCA members. There will be qualification requirements related to risk management practices and loss history that members must meet to participate. This requirement is necessary as an effective risk management plan and a company's loss history bears significantly on the ability to obtain favorable insurance terms.

The program starts with a component manufacturer completing the insurance survey, which has been prepared jointly by Lockton and members of the WTCA Management Committee. All of the information reported on the surveys will be kept strictly confidential, and will not be distributed to any party except Lockton. Kendall Hoyd and others have advised that filling out the survey should take no more than a couple of hours.

Based on the information provided in the survey, those participating will qualify at one of the following levels:

**Level A+:** Members at this level will be offered a personalized program. This level is for WTCA member companies that have a very strong risk management history. It probably goes without saying that more favorable insurance terms are easier to come by for companies that work diligently on risk management and liability avoidance.

**Level A:** This group will consist of the bulk of WTCA member companies, with adequate risk

management practices and loss history.

**Level B:** Members at this level will not qualify for Lockton to serve as their broker at this time due to risk management or loss history issues. Feedback will be provided on what these companies need to do in terms of industry safety and risk management program improvements. WTCA plans to assist in this regard by creating resources that can then be used by members to strengthen their risk management and liability avoidance programs and policies.

Remember that the only way to get a response, a quote or the involvement of Lockton will be to participate in completing this survey up front. There is no down side to a component manufacturer participating. If nothing else, the component manufacturer will have an alternative proposal that can be used for negotiating with their current broker. Why not participate?

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