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## Forecast 2000 forum generates substantial media coverage

by Robert L. Brown

The recent Forecast 2000 forum on the environment held in Toronto dealt with such issues as increased taxes and higher insurance premiums to cover costs of natural disasters. The forum generated a lot of positive worldwide media coverage and brought more focus on the actuarial profession, despite the somewhat negative tone the survey projected.

In discussing the results, based on a survey of casualty actuaries, a positive pro-active stance was emphasized with the media.

In particular, it was our contention that through insurance premiums, the business sector will see real economic incentives and rewards for being responsible corporate citizens with respect to pollution control (e.g. reduced premiums for safe, inspected storage facilities). Furthermore, we stressed that actuaries have an essential role to play in assessing the economic value of the pollution liability risk, both in setting equitable premiums and also in assisting the courts in adjudicating penalties in cases of damage or injury.

Before the July 11 Forecast 2000 seminar, actuaries with a particular interest in the topic were polled on a series of relevant questions. In this case, the response was from 332 property/casualty actuaries (out of 1200 polled). Questions varied from the effects of a catastrophic natural disaster to concerns about environmental pollution. The results of the survey, which acted as the focal point

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## Continuing education: The debate goes on and on

by Burton Jay

Should actuaries have a formal program for continuing education? This question has been asked, studied and debated at least since the early part of the decade. For many years, accountants, physicians and lawyers of many states have had continuing education requirements to retain their license to practice. Many other professions, including some groups of life insurance agents, require their members to participate in continuing education activities or in some way recognize those who do. Where are the actuaries?

The topic was on the agenda of the Society's Services to Members Policy Committee as early as 1983.

In 1984, a joint task force representing the actuarial bodies in North America was formed to consider the question. In a September 1985 report to the Council of Presidents (COP) the task force recommended that each founding organization of the Academy

adopt a similar continuing education recognition program. The Conference of Actuaries in Public Practice (CAPP) was already in the process of adopting a program similar to the one envisioned by the joint task force. That program would have recognized – with an asterisk or other designations in the organization's yearbook – those individuals who fulfill the required hours of continuing education and submit documentation to the organization's administrative offices. The American Society of Pension Actuaries has also had such a program for a number of years.

Another type of program involves specified continuing education requirements to retain one's professional designation. The Joint Board for Enrolled Actuaries recently implemented a program that members must fulfill to retain their Enrolled Actuary designations. The COP deferred action

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# Effects on agent compensation of New York State insurance law

by Armand de Palo

The New York State Insurance Department has appointed a committee to redraft and modernize its agent compensation law to account for new forms of insurance. The New York law, which has had a major effect on agent compensation since the early 1900s, protects consumers from excessive expenses and generally has worked well.

Unlike most state laws, the New York law has an extraterritorial effect on the expenses of all companies licensed in New York State, which can occur only if all business written is regulated. The law also has indirectly affected companies not licensed in New York State. With the recent introduction of new forms of insurance, some companies are having problems with certain limits. I have been appointed by the New York State Insurance Department to draft a modernized law that would better handle current problems and have increased flexibility to better address future needs.

**History of agent compensation law**  
Most actuaries know the New York State Law as Section 213 (includes 212, 213a). It was recently recodified and is now called Section 4228 (includes 4227, 4229). In addition to the law itself, a series of Regulations have the force of law: Regulations 49 (Expense Allowances), 50 (Agent Training Allowances), and 93 (Conventions, Bonuses and Prizes). Also, a series of Circular Letters, Guidelines and Letters of Opinion interpret this law.

Clearly an insurer cannot understand or conform to this law by reading just the law. Any company doing business in New York State must have access to actuaries knowledgeable in the application of this law. Companies are monitored through the submission of plans of compliance and annual statement Schedule Q.

The law, which was last rewritten in the early 1950s, historically has needed revision every three decades. The current law was created when most policies were fixed level-premium whole life sold by a captive career field force

managed by either branch office or general agency field management.

Today, not only have products changed, but so have distribution systems. Additional changes will occur as competitors outside the insurance industry enter this business and insurance companies move into new markets.

The work of the committee to modernize Section 4228 began a year ago. A draft law may take two or three years to develop and would still need wide industry support. Because the key purpose of this law is to protect the consumer, any revision will not result in an overall increase in agent compensation.

The industry attempted to rewrite this law in the early 1980s by eliminating most of the law's limitations but the insurance department did not support the effort. This attempt is different because it is a joint effort of the insurance department and the industry to modernize the law.

It will be difficult to get industry agreement, since an advantage to one company is a disadvantage to another. If the industry is not willing to work together to produce a workable, long-term solution, the result would be an inflexible law benefiting only its competitors.

## Organization of subcommittees

To determine what issues need to be addressed, about 60 company representatives attended a two-day meeting where they defined over 70 questions. In February 1989 the core group was formed to address these questions. In addition to myself it consists of representatives from both the ACLI and LICONY and eight industry members, split among stock/mutual, general agency/branch office and domestic/foreign companies. To get wider industry input, this core group formed four subcommittees, each chaired by one domestic and one foreign company representative. We divided the questions into four major categories: How much can you pay; To whom can you pay it; How can it be paid; and How can it be monitored. In July 1989 a meeting was held to summarize the project's current status for subcommittee volunteers.

## Major issues of subcommittees

Some major issues that need to be addressed follow:

- Current law was designed to handle high-level fixed-premium insurance plans. How should it be changed to better handle flexible premium plans? Current law requires that compensation be paid only when an actual premium payment occurs. This makes it impossible to pay asset-based compensation or service fees if no premium payment occurs.
- Compensation plans need preapproval of the insurance department, causing major delays for many companies. Part of the problem is that many companies do not understand what the law requires, and the insurance department lacks adequate staff to address all submissions promptly.
- Who is the company's agent? Many companies are only manufacturing products. Can a small insurance company force a national stock brokerage distribution system to comply with this law? Where does the company's responsibility end?
- Many corporate products sold on an individual policy form pay low compensation, making current limitations that assume whole life type of compensation less effective.
- Some companies have tried to use group policy forms to avoid this law, but the insurance department interprets the law to apply if the policy is sold to an individual.
- The law is company by company, so the use of non-New York subsidiaries to avoid the law is allowed. If all companies' production is later combined for any compensation purpose, all the companies may become affected, and margins from one company may not be used to support excesses in the other.
- Most of the law applies to all individually sold life and annuity products, but some sections also extend to all products of the company when the law has to do with bonuses and any retroactive features for the compensation, bonus, or expense reimbursement plans.

Armand de Palo is Vice President and Life Actuary at The Guardian. He also is the chairperson, appointed by the New York State Insurance Department, of the Committee for the Modernization of Section 4228.