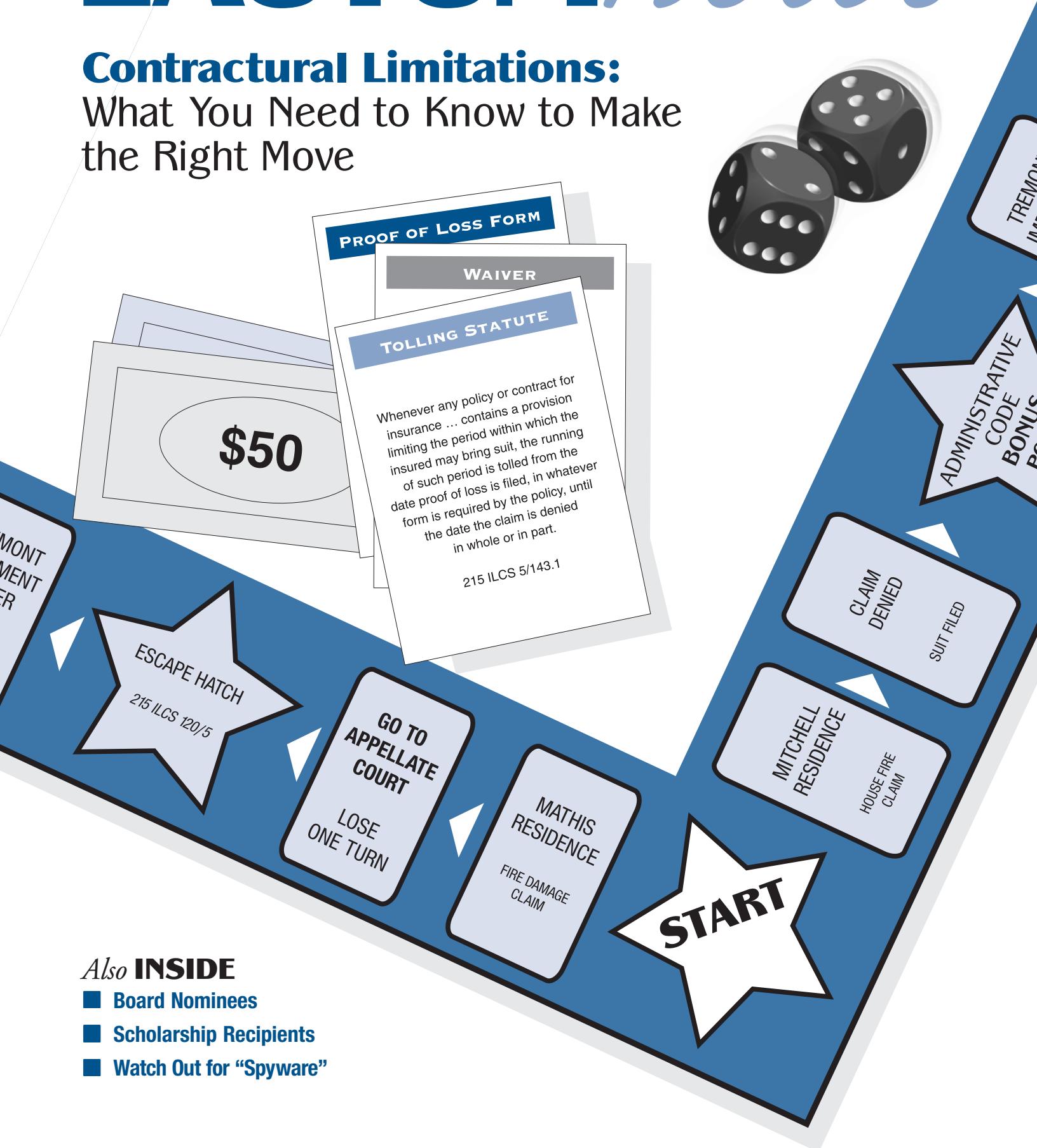


# LAUTUM news

## Contractual Limitations: What You Need to Know to Make the Right Move



### Also INSIDE

- Board Nominees
- Scholarship Recipients
- Watch Out for "Spyware"

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# *Chairman's Message*

**Mike Davis, CIC**, Forreston Mutual Insurance Company



**"Anyone can hold the helm when the sea is calm."**

*Pubilius Strus*

At this time of our IAMIC year, I can be thankful the sea has been calm for I have found it difficult to get this article written. My storage tank of "words of wisdom" is running on empty, but I would like to send along some thought provoking statements that beg for a response. Can you think of any others and send them along?

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### **Only in America ...**

- Do people order double cheeseburgers, large fries and a diet coke.
- Do banks leave both doors open and then chain the pens to the counter.
- Do we leave cars worth thousands of dollars in the driveway and put our useless junk in the garage.
- Do we buy hot dogs in packages of ten and buns in packages of eight.
- Do we use the word "politics" to describe the process so well. "Poli" in Latin meaning "many" and "tics" meaning "bloodsucking creatures".
- Do they have drive-up ATM machines with Braille lettering.

### **Ever wonder ...**

- Why the sun lightens our hair, but darkens our skin?
- Why we don't ever see the headline "Psychic Wins Lottery"?
- Why is "abbreviated" is such a long word?
- Why is it that doctors call what they do "practice"?
- Why lemon juice is made with artificial flavor and dishwashing liquid made with real lemons?
- Why is the person who invests all your money called a broker?
- Why is the time of day with the slowest traffic called rush hour?
- Why isn't there mouse-flavored cat food?
- Why didn't Noah swat those two mosquitoes?
- Why do they sterilize the needle for lethal injections?
- You know that indestructible black box that is used in airplanes? Why don't they make the whole plane out of that stuff?
- Why don't sheep shrink when it rains?
- If con is the opposite of pro, is Congress is opposite of progress?
- If flying is so safe, why do they call the airport the terminal?

For my next article I will have the tank filled, and will bring you up-to-date on the IAMIC activities that are just beginning.

# Government Relations Goals

One of the goals identified by the IAMIC Board of Directors from their retreat last fall was to get better participation from more members in our government relations programs. The Government Relations Committee has discussed how this goal can be reached and has decided to create a Grass Roots Connection (GRC) Group.

We are looking to have the members of the GRC organize in-district meetings with legislators, attend our annual Legislative Day, and participate in legislative fundraisers (for which IAMIC pays the fee). The individuals in the GRC would also receive special recognition during Industry Luncheon at Convention.

The idea behind the GRC is to get you more involved, but also let our legislators know who to turn to on issues relating to mutual insurance.

If you are interested in government relations, but are not quite able to meet the obligations of the GRC, we would still like to have you volunteer. We are looking for one person from each mutual to serve as our contact for government relations alerts.

At the right you will find an outline of our government relations volunteer positions. For more information or to volunteer to serve

as a GRC or as a contact for your mutual, please contact the IAMIC office at 800-694-2642 or leadership@iamic.org. ♦

## Government Relations Committee

- Analyzes, determines position and writes position statement on legislation
- Recommends FMPAC Donation Recipients to Board of Directors
- Attends Legislative Day
- Hosts the Industry Luncheon at the Convention
- Receives weekly listings of legislation of interest
- Participate in fundraisers (for which IAMIC pays the fee)

### Current Members:

- Larry Leffelman, Bradford Victor-Adams Mutual, Chairman
- Mike Davis, Forrester Mutual
- Rick Etheridge, United Mutual
- Harry Fehrenbacher, Heartland Mutual
- Megan Heeg, Forrester Mutual
- Dorothy Henderson, Grinnell Mutual Reinsurance
- Brent Larsen, Grinnell Mutual Reinsurance
- Joe Reid, Hamlet Mutual

## Grass Roots Connection (GRC)

- Organizes in-district meetings with legislators
- Attends Legislative Day
- Participate in fundraisers (for which IAMIC pays the fee)
- Receives special recognition during Industry Luncheon at Convention

## Government Relations Contact Person

- Individuals are asked to contact legislators when legislative alerts are issued.

## J.L. Payan

Tel: 815/ 379-2570  
Fax: 815/ 379-2731  
Deer Grove, IL 61243



## J.B. Blevins

Tel: 815/ 282-2977  
Fax: 815/ 282-2997  
Rockford, IL 61132

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# Congressional Contacts

The election is over and Washington has settled down (a bit, anyway). Our representatives and senators have gotten back to work and now it is our turn.

The annual Congressional Contacts Program (CCP) will be May 17 – 18 in Washington, D.C. and we are looking for a few good men and women to take time from their schedule to participate in this important event.

Participants in the CCP will meet at the Holiday Inn on the Hill in Washington, D.C. on May 17 and have a briefing on the issues important to the mutual insurance industry. May 18 will feature our visits with the representatives and senators.

We are not necessarily looking for seasoned lobbyists to participate in this program; just individuals from mutuals just like your's who can sit down with the legislators and educate them on our business and how issues they deal with might affect your company and policyholders.

If you are interested in getting involved, please contact the IAMIC office at 800-694-2642 or leadership@iamic.org or log onto our website at [www.iamic.org](http://www.iamic.org).

## Please register me (us) for the 2005 Congressional Contacts Program

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Company Affiliation: \_\_\_\_\_

Company Address: \_\_\_\_\_ Home Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_ City, State, Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Phone: \_\_\_\_\_

Fax: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_ Email: \_\_\_\_\_

Congressional District: \_\_\_\_\_ Congressional District: \_\_\_\_\_

Arrival Date: \_\_\_\_\_ Departure Date: \_\_\_\_\_

Emergency Contact: \_\_\_\_\_ Daytime Phone: \_\_\_\_\_ Evening Phone: \_\_\_\_\_

Dates for which you will need hotel accommodations at the Holiday Inn on the Hill  
(IAMIC will make all hotel arrangements for attendees): \_\_\_\_\_

Credit Card Number (for hotel room confirmation): \_\_\_\_\_

Special Needs: \_\_\_\_\_

Register online at [www.iamic.org](http://www.iamic.org), or return this form to the IAMIC office by fax: 217-787-8389 or by mail:  
PO Box 7083, Springfield, IL 62791-7083.

# AAIS

## The IAMIC and AAIS Group Affiliation gives you

- Low cost access to standard industry programs
- IAMIC Forms Seminars on AAIS forms
- New product line options to compete with larger carriers and grow your business



### MEMBERSHIP INCLUDES

#### ■ Up-to-date policy forms

- Help you compete for better business
- Address today's exposures
- Are readily accepted by agents
- Are court-tested; and
- Can be packaged with any reinsurer's forms

#### ■ Manual rules that guide you through building your policy

#### ■ Rating information that helps you accurately price policies

#### ■ Internet access to forms and other product information reduces print and administrative expenses

#### ■ Educational materials for quick answers to your questions

AAIS works with several software vendors and reinsurers to help you make the transition.

#### FOR INFORMATION CONTACT:

Sandra Wulf, CAE, IOM  
IAMIC  
[leadership@iamic.org](mailto:leadership@iamic.org)  
800-694-2642

Mike Davis, CIC  
AAIS Forms Committee Chairman  
[mdaviscic@netscape.net](mailto:mdaviscic@netscape.net)  
815-946-2542

# The Board in Review

The IAMIC Board of Directors met February 9, 2005. The following board members were present: **Mike Davis, Harry Fehrenbacher, David Campbell, Ronette Payne, Kathie Cobb, Becky Deters, Steve Prosser, Cindy Theis, and Joe Reid.** Also present at the meeting were Roger Needham and the association's president, **Sandra Wulf.** **Dick Ogden** of Estes Bridgewater & Ogden also attended a portion of the board meeting. Absent from the meeting was Southern Region Director Jackie Rakers.

The review that follows is taken from the board minutes. The board of directors has not approved these minutes.

## **Website**

The board of directors approved moving forward with an upgrade to the IAMIC website.

## **David L. King Educational Claims Scholarship**

The board approved having the scholarship funded with 100% of the profits from our annual Golf Outing.

## **Board Retreat**

The board reviewed the goals set forth at the Fall 2004 Board Retreat. Specifically, the board focused on the member visits that the board members had been doing over the winter.

## **Annual Audit**

Dick Ogden presented the association's annual audit to the directors. The audit was approved. Go to [www.iamic.org](http://www.iamic.org) for the full audit report. ♦

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# Scholarships Presented

The Illinois Association of Mutual Insurance Companies recently presented two of its members with scholarships.

**Lyle Bruning** of Town & Country Mutual Insurance Company in Pecatonica was selected to receive the David L. King Educational Claims Scholarship. The scholarship will help Mr. Bruning to expand his knowledge of claims adjusting by allowing him to attend a claims education program.

**Harold Read** of Berlin Mutual Insurance Company in Princeton also received a scholarship. This scholarship will allow Mr. Read to participate in the Congressional Contacts Program in Washington, D.C. this May. This

event is a vital part of our government relations program and will afford all who participate with the opportunity to learn about the issues at hand and lobby their congressmen and women and senators (see page 4 for more details).

Congratulations Lyle & Harold for your scholarships. If you are interested in applying for the 2006 David L. King Educational Claims Scholarship or the Congressional Contacts Scholarship, please contact the IAMIC office at 800-694-2642 or [leadership@iamic.org](mailto:leadership@iamic.org) or visit our website at [www.iamic.org](http://www.iamic.org). ♦

## Mutual News

### Anniversaries

■ **Mendota Mutual Insurance Company** of Mendota is celebrating its 130<sup>th</sup> anniversary in 2005. They are planning an open house for their policyholders this summer. They have also announced that **Deb Geuther**, the mutual's administrative assistant, is celebrating her 25<sup>th</sup> anniversary with the company.

### Annual Meetings

■ **Farmers Automobile Insurance Association** announced the election of the following directors: **Steven Anderson, Ronald Beck and Gordon Walker**. They have also elected the following officers: **William Tunis, R. Michael Weir, Paul Tornatore, Gordon Walker, Scott Martin, Orville Carroll, Peggy Collins, Daniel Connell, Curtis Eeten, David Jones, Brian Lee, Stephen Nunan, Robert Stone, Gerald Wise, Michael Zabinski, Christine McGann, and Kenneth White**.

### Personnel Changes

■ **Belvidere Mutual Insurance Company** announced that **Kristine Layman** has left the mutual. **Linda Wares** has been named Manager/Secretary.

## NAMIC Management School

April 20-22, 2005  
Radisson Hotel,  
Bloomington

For information,  
log onto  
[www.namic.org](http://www.namic.org).

### Classified

■ Small mutual insurance company seeking new manager. Insurance producer's license and some management experience required. Write to PO Box 241, Dieterich, IL 62424.

### Obituaries

■ **Jon G. Dixon** of **Town & Country Mutual Insurance Company** in Pecatonica recently passed away. Mr. Dixon served as a director and an adjuster for the mutual.

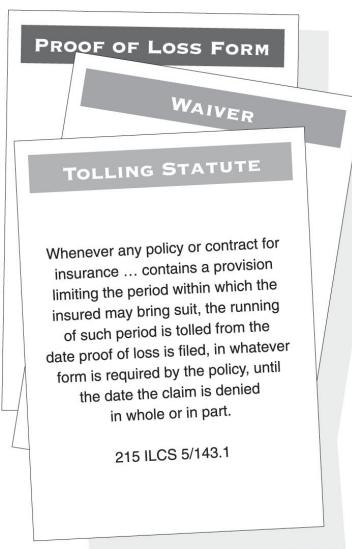
■ **Deane Morey** of **Svea Mutual Insurance Company** in Orion recently passed away. Mr. Morey was a former underwriter, inspector, manager and director of Svea Mutual Insurance Company. He served on number IAMIC committees and as our chairman from 1985-1986. He was the 1989 Lautum Award recipient and received the NAMIC Merit Award in 1987.

■ **Myron Wohltman** of **Bishop Mutual Insurance Company** in Dieterich recently passed away. Mr. Wohltman retired at the end of 2004, after 34 years as the company manager. He served 37 years on their Board of Directors. He also served on the IAMIC Board of Directors. Myron's wife of 40 years, **Norma**, is the current manager of Bishop Mutual.

## Legal Message

# The Pitfalls to Use of the Contractual Limitation Against Suit Provision

By: John Kendrick,  
Senior Counsel,  
Grinnell Mutual Reinsurance  
Company



### The Contractual Limitation Period

The property insurance industry has uniformly adopted contractual restrictions on the filing of stale claims or suits against the insurer. These terms are often included in the Conditions section of the property coverage part of a policy. The suit limitation term constitutes a powerful tool to compel closure of a claim in a relatively short period of time, usually a year in duration. In the absence of a contractual suit limitation restriction, the law of Illinois would permit a policyholder to sue a farm mutual or other insurer at any time within a period of ten years after the insurer denied the claim. Actions for breach of written contract may be commenced within ten years after the breach. 735 ILCS 5/13-206

A typical suit limitation clause states:

*No action can be brought against us unless the policy provisions have been complied with and the action is started within one year after the date of loss.*

These suit limitation prohibitions are generally enforceable in Illinois if the conduct of the insurer in the adjustment of the claim has not worked a waiver of the legal effect of the term and the insurance company has properly advised the policyholder of any necessary extension in the one-year period in which to file a suit.

### The Tolling Statute

The Illinois Insurance Code mandates that the policy's one-year suit restriction be lengthened by the time taken by the insurance company in adjusting the claim and advising the policyholder of the "final" claim decision. The tolling statute provides:

*Whenever any policy or contract for insurance, except life, accident and health, fidelity and surety, and ocean marine policies, contains a provision limiting the period within which the insured may bring suit, the running of such period is tolled from the date*

*proof of loss is filed, in whatever form is required by the policy, until the date the claim is denied in whole or in part.*

215 ILCS 5/143.1

A hypothetical exemplifies the manner of operation of this statute. Policyholder John Smith sustains complete destruction of his insured home on January 1, 2005. He notifies his agent on January 2, 2005 of the occurrence of the loss. Pursuant to request from the farm mutual, he submits a signed, sworn proof of loss, as required by the policy, on March 1, 2005. On June 1, 2005, the mutual issues its final check in payment to Mr. Smith and states in a letter that all further claims are denied. In this hypothetical, the one-year suit limitation period would be "tolled", i.e., stayed, from March 1, 2005 until June 1, 2005. John Smith would have until April 1, 2006 to file a suit against the mutual.

### The Pitfalls to Use of the Policy Limitation

#### Failure to Notify Insured of Effect of Tolling Statute

The Illinois Insurance Department has adopted a regulation compelling insurers subject to the Insurance Code to notify policyholders of the impact of the suit limitation period and tolling statute. The applicable regulation specifies:

*When the period within which the insured may bring suit under a residential fire and extended coverage policy is tolled in accordance with Section 143.1 of the Code [215 ILCS 5/143.1], the company, at the time it denies the claim, in whole or in part, shall advise the insured in writing of the number of days the period was tolled, and how many days are left before the expiration of the time to bring suit.*

50 Ill. Admin. Code § 919.80(d)(8)(C)

The Appellate Court of Illinois has issued a recent opinion enforcing this term of the Administrative Code. The Appellate Court held that an insurance company may be deemed to have waived the legal enforceability of the suit limitation period in the policy by not advising the policyholder of the number of days tolled by the insurer's adjustment of the claim and the number of days remaining in which to sue the company. In *Mathis v. Lumbermen's Mutual Casualty Insurance Co.*, Docket 5-03-0487 (5<sup>th</sup> Dist. 2004), Lumbermen's Mutual issued a homeowner's policy to Sandra Mathis. On July 16, 2000, Ms. Mathis' home was destroyed by fire. By letter dated December 7, 2000, Lumbermen's denied her claim, alleging misrepresentation and arson. The letter did not advise Ms. Mathis of the tolling effect of the claim investigation and the number of days in which she had to file suit. On January 31, 2002, Mathis filed a complaint against Lumbermen's, asserting both breach of contract and defamation. The circuit court ruled that Lumbermen's had waived the policy suit limitation through non-compliance with the Insurance Code regulation. In this case of first impression regarding the legal effect of the Insurance Department's regulation, the Fifth District Appellate Court affirmed.

The Appellate Court stated that "the intent of section 143.1 [the tolling statute] is to prevent an insurance company from sitting on a claim, allowing the limitation period to run, thereby depriving an insured of the opportunity to litigate his claim in court." Slip Opinion at p. 3. While recognizing that an Insurance Department regulation may not generally constitute a basis for a cause of action against an insurance company, the failure of an insurer to comply with an insurance regulation may represent adequate grounds to hold that the carrier has waived the right to rely on a policy provision barring suit against the insurance company. Rejecting Lumbermen's argument that the tolling statute did not mandate that it notify the insured of the number of days left to sue the company, the Appellate Court replied:

*When Lumbermen's denied Mathis' claim, it was required under the insurance regulation to advise Mathis of how long the limitation*

*period had been tolled and how many days remained until the time to file suit expired. Section 919.80(d)(8)(C) of the insurance regulations implies that the mere existence of the policy time limitation provision is not enough notice to an insured of the running of the limitation period and that, in fairness to the insured, actual notice, rather than constructive notice, to an insured of the time remaining to file suit is necessary.*

*Slip Opinion at p. 5.*

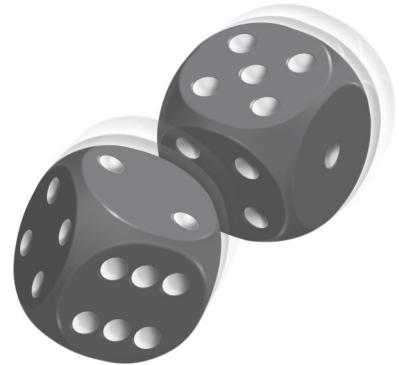
After the issuance of the *Mathis* opinion, those insurance carriers bound to comply with the Insurance Code must specifically apprise the policyholder in the denial of claim letter of the number of days for which the one year suit limitation period was stayed and the number of days in which the insured may file suit against the company. An omission to state this information in any denial of coverage or claim letter may work a waiver of the legal effect of the suit limitation clause in the policy.

#### **Failure to Clearly Deny Claim after Receipt of Proof of Loss**

A letter of denial of claim or coverage must be clear in conveying the intent of finality of the decision-making process of the insurer. Following receipt of a proof of loss form, the insurer must explicitly deny the claim in writing to the policyholder to ensure that the one-year limitation period commences to run. The carrier should not deny the claim before receipt of the proof of loss. The insurance company should not accept any further documentation from the policyholder after issuance of the denial of claim or coverage. Actions by the insurer, which may be deemed inconsistent with the decision to deny a claim, may work an estoppel or waiver of the carrier's right to assert the policy suit limitation term.

In *Mitchell v. State Farm Fire & Casualty Co.*, 343 Ill. App. 3d 281, 796 N.E.2d 617 (4<sup>th</sup> Dist. 2003), the home of the Mitchells burned on November 11, 1999. On May 8, 2000, State Farm conveyed a letter to the insureds denying the claim, premised on a failure to furnish supporting documentation and a

*The Appellate Court held that an insurance company may be deemed to have waived the legal enforceability of the suit limitation period in the policy by not advising the policyholder of the number of days tolled by the insurer's adjustment of the claim and the number of days remaining in which to sue the company.*



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A POLICY OF WORKING TOGETHER

**(CONTRACTURAL LIMITATION – continued from page 9)**

refusal to supply an exam under oath. In early November, 2000, the policyholders submitted a formal proof of loss and documentation substantiating the amount of the loss. On November 16, 2000, State Farm responded with a confirmation of its denial of claim, but later, through its agent, permitted the policyholders to supply additional information and implied that a further review might occur. A suit was filed against State Farm on October 24, 2001.

The Appellate Court of Illinois held that the circuit court had improperly dismissed the suit against State Farm predicated on the one-year suit limitation period. The decision, in part, rests on the omission of State Farm to deny the claim in unequivocal terms after receipt of the proof of loss in November, 2000. The Appellate Court stated:

*Defendant [State Farm] had to respond to the proof of loss after it was filed; defendant could not issue an absolute denial of the claim before the proof of loss was filed. Any contrary rule*

*would allow an insurer to ignore a meritorious proof of loss and to pretend to consider the proof of loss while it was only waiting for the one-year period to expire.*

*343 Ill. App. 3d at 285, 796 N.E.2d at 620*

The Appellate Court also concluded that State Farm's subsequent acceptance of additional materials from the policyholder could constitute a basis for a finding of equitable estoppel against the carrier's use of the policy limitation term. The actions of State Farm may have " lulled plaintiffs into believing that defendant was still interested in negotiating a settlement beyond the one-year limitations period." 343 Ill. App. 3d at 286, 796 N.E.2d at 621 The *Mitchell* decision teaches insurance carriers to issue clear denials of claim or coverage after receipt of a proof of loss and to engage in no conduct thereafter from which the policyholder might infer a withdrawal of that denial.

## **The Suit Limitation Commences to Run Again Only When the Final Claim is Denied or Paid**

The practicalities of claim administration of fire and windstorm losses require farm mutuals to pay policyholder claims in a piecemeal manner. The insureds may submit periodic requests for reimbursement of expenses for debris removal, living costs, and reconstruction of the home. These payments may extend over many months or, even, years. The suit limitation period, once tolled, will not recommence until the final claim and denial has been sent to the policyholder. In *Hines v. Allstate Insurance Co.*, 298 Ill. App. 3d 585, 698 N.E.2d 1120 (4<sup>th</sup> Dist. 1998), the homeowner sustained a fire loss to his residence on May 23, 1992. From the date of loss until August 18, 1993, Allstate and the homeowner engaged in numerous negotiations and Allstate made many living expense and structural repair payments. On August 18, 1993, Allstate made its final payment to the Hines. On August 11, 1994, the insureds sued Allstate, seeking additional living expenses.

In response to Allstate's assertion of the suit limitation period as a bar to filing suit, the Appellate Court reasonably concluded that the one-year suit requirement would not be enforced against a living expenses claim that extended for more than a year during the period of reconstruction. The Appellate Court, in rendering its decision for the homeowner, was compelled to determine when the stay imposed by the tolling statute ceased effect in a circumstance in which the carrier made numerous small payments to the policyholder over a period of time. The Appellate Court held that the tolling of the

suit limitation in the insurance contract continued until the final payment for living expenses had been made and further claim denied by the insurer. The Appellate Court stated:

*The better view is that section 143.1 refers to the point at which the insurer has made a final disposition of the claim, whether the claim is thereby denied in its entirety or paid in part and denied in part.*

298 Ill. App. 3d at 590, 698 N.E.2d at 1124

Premised on this precedent, a claim adjuster should calculate the number of days during which the suit limitation is stayed based on the date on which the proof of loss was first submitted and the date on which the final payment on the policy was tendered to the insured and all further claims denied. The tolling period can be quite extended if living expenses should be made available to the homeowner for numerous months after the loss.

*A claim adjuster should calculate the number of days during which the suit limitation is stayed based on the date on which the proof of loss was first submitted and the date on which the final payment on the policy was tendered to the insured and all further claims denied.*

## **The Escape Hatch for the Farm Mutual**

Most farm mutuals operating in Illinois are subject to the requirements and privileges afforded by the Farm Mutual Insurance Company Act of 1986 (215 ILCS 120/1 *et seq.*) This Act provides that Illinois farm mutuals are not subject to the impositions of the Illinois Insurance Code, unless the pertinent term of the Code explicitly enumerates that the law applies to a farm mutual. The Act states:

*Companies subject to this [Farm Mutual Insurance Company] Act shall be subject to the provisions of Article X (Merger) and Article XXV [Fees and Charges] of the*

—continued on next page

## **BROWN, HAY & STEPHENS, LLP**

Legal Counsel



Corporate and Merger Counsel to  
Illinois Farm Mutual Insurance Companies for over 25 years

Eric (Rick) Grenzebach  
205 S. Fifth Street, Suite 700 • Springfield, IL 62701  
Ph: 217-544-8491 • Fax: 217-544-9609 • Email: [elg@bhslaw.com](mailto:elg@bhslaw.com)

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**(CONTRACTURAL LIMITATION** – continued from page 11)

*Illinois Insurance Code, but shall not be subject to any other provisions of the Illinois Insurance Code unless specifically enumerated therein.*

215 ILCS 120/15

The tolling statute constitutes a part of the Illinois Insurance Code and does not explicitly state that the law applies to farm mutuals. By operation of the literal language of Section 15 of the Act, farm mutuals may possess a tenable legal argument that the tolling statute and the Insurance Department's regulatory requirement that all insurers notify policyholders of the effect of the tolling statute are unenforceable against the farm mutual companies in Illinois.

To date, no reported Illinois appellate decision has addressed the scope of application of the Section 15 "escape hatch" for farm mutuals. The author of this article cannot predict with confidence the likely ruling of an Illinois court of law in the construction of the meaning of this term of the Act. Most farm mutuals issue unified homeowner's and farm policies, containing both property and liability coverage parts. Grinnell Mutual Reinsurance Company, Rockford Mutual

Insurance Company, and other reinsurers constitute the direct underwriters of much of the liability coverage extended by these policies. A single policy number is assigned to the integrated policy jacket and contents. A court of law could interpret Section 15 in an exceedingly narrow manner, constraining its effect to those limited, discrete situations in which the farm mutual issues a property-only policy to a policyholder. With respect to mixed property and liability policies, the court could hold that the fortunes of the farm mutual must be tied to the statutory requirements imposed on the reinsurers furnishing the liability coverages.

Section 15 of the Act furnishes to farm mutuals a legal basis for non-compliance. Certainly, some policyholders, if informed of the number of days in which to file suit, may be affirmatively encouraged to retain legal counsel and file suit after receipt of a perceived wrongful denial of claim. Each farm mutual, its management, and its claim staff must balance the relative risks and rewards in determining whether or not to comply with the tolling statute and the Insurance Department's requirement of notification. ♦

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# Nominations for IAMIC Officers and Board of Directors Announced

The Nominating Committee consisting of **Bev Fick**, Chairman, Bradford Victor-Adams Mutual, **Becky Deters**, Home Farmers Mutual, **Dean McHugh**, Carthage Mutual, **Steve Prosser**, Central IL Mutual, **Joe Reid**, Hamlet Mutual, **Doug Sullivan**, Svea Mutual, and **Judy York**, Enfield Farmers Mutual and IAMIC Chairman **Mike Davis**, Forreston Mutual met in late 2004 and submits to the membership the following slate of candidates for election to the IAMIC Board of Directors.

## Vice Chairman

Roger Needham, AIC, AIS

## Field Operations

Forreston Mutual Insurance Company,  
Forreston

## Northern Region Director

Tricia Mickley, CPA

## Manager

Mt. Carroll Mutual Insurance Company,  
Mt. Carroll

## Secretary/Treasurer

Ronette Payne

Senior Underwriting & Accountant  
and Office Manager

Frontier Mutual Insurance Company, Lincoln

## Central Region Director

Jim Wright

## Board President

Industry Mutual Insurance Company,  
Macomb

## Southern Region Director

Bill Peck

## Claims Adjuster

Horse Prairie Mutual Insurance Company, Red Bud

Article VII, paragraph C of the IAMIC bylaws provides that nominations from member companies are open and may be submitted by June 23, 2005 (60 days prior to the Annual Meeting) to the IAMIC office. On June 24, 2005, all nominations will be closed and the IAMIC office will publish the final slate of candidates and submit it to the membership by July 23, 2005 (30 days prior to the Annual Meeting). ♦

# Hammerlinck Named Associate of the Year by ISAE

The Illinois Society of Association Executives (ISAE), the association whose membership is comprised of staff members from 150 statewide associations located in Springfield, announced the winners of the 2004 Awards for Excellence at their Annual Convention. The Excellence Awards recognize the outstanding accomplishments and contributions made to the association industry and our local community.

Todd Hamerlinck, president of National Investment Advisors, Inc. and associate

member of IAMIC, was recognized with the Associate Member of the Year Award by ISAE. The award is presented to an exemplary individual who typifies the service attitude. The award is given to recognize outstanding professionalism and excellent service to the association community and is given to an associate member who has made a significant contribution to ISAE and its members through exceptional service to associations.

Congratulations Todd for being recognized with this great honor! ♦

## IAMIC Anti-Trust Statement

*The purpose of IAMIC is to promote the best interests of the mutual insurance community, and particularly the best interests of policyholders of mutual insurance companies. To this end, IAMIC programs and activities are planned and implemented with the objective that policy holders will benefit from the best products and services.*

*It is not the intention of IAMIC to provide a forum for standardizing products or rates, dividing markets, fixing profit levels, or categorizing customers to whom insurance products may be sold.*

*If you have any concerns about the prohibited activities in connection with any IAMIC activities, please contact the president or any IAMIC Board member immediately.*

By: Bill Peck,  
Horse Prairie Mutual  
Insurance Company  
Claims Sub-Committee Chairman

## Claims Corner

What does a hurricane in Florida, an earthquake in California or a hailstorm in Texas have to do with the mutual insurance business in Illinois? It may dramatically change our approach to writing business in the near future.

Hurricane Andrew was partially responsible for beginning the trend to require homeowners to accept deductibles based on a percentage of their home's value instead of a flat deductible. The Northridge earthquake in California accelerated the trend. Quadruple hurricanes hitting Florida last year brought the trend to greater public awareness. State Farm now offers deductibles from 2 to 5 % and some companies' deductibles are as high as 10 to 15%.

So far, most companies limit these deductibles to specific risks such as hurricanes, earthquakes or, as in Texas, wind and hail. Most companies say they have no plans to expand these deductibles to other perils and intend instead to limit them to catastrophic events.

After these multiple events in Florida in 2004 there has been a public outcry because

of the cost to some individuals. One couple in Florida was struck by two hurricanes. The first hurricane damaged the roof, and they found out that they had an \$8,315 deductible. A short time later when another hurricane hit and water damaged their home, they were told they now had a second \$8,315 deductible to face. They would have to come up with \$16,630 to start the repairs to their home.

Some large national companies have started this trend in Illinois. St. Paul Insurance (before it sold its personal lines business) began three years ago sending their renewals out with a 1% deductible for wind and hail damage. State Farm started using the percentage deductibles about three years ago in Florida. They have since expanded it to some areas for wind and hail damage and has said that they are in the midst of expanding it into a larger geographical area. USAA, The Hartford and a number of other companies have jumped on the bandwagon.

It will be interesting to see if the trend continues and eventually finds its way into our companies. ♦

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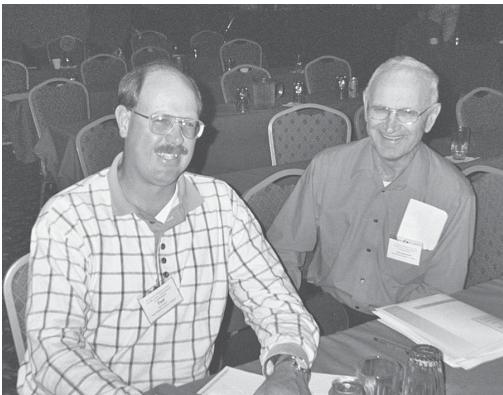


**John D. Ross**  
Financial Advisor

**(217)787-1500 or (800)626-5100**

**2609 Montega Drive - Springfield, Illinois 62704**

# Directors Round Table Meeting



*The 2004 Director's Round Table Meetings in Effingham and Rock Falls provided an excellent opportunity for mutual directors to gather with other leaders in the industry to exchange ideas.*



## NAMIC Surplus Lines Program

Included in the Third Quarter 2004 issue of the Lautum News was an article titled *Association Surplus Lines Income*. This article was a notice to our membership that the agreement between IAMIC and NAMIC Insurance Agency, whereby IAMIC serves as a surplus lines producer for them, would be phased out by the end of 2006.

Mentioned in the article was that the phase out of the commissions we receive was

not guaranteed by NIA. We have received correspondence from NAMIC, again stating their commitment to phase out the commission through 2006.

We have appreciated the relationship with NAMIC and NIA in providing coverage to our member companies and will continue to work with both organizations on programs of mutual benefit. ♦

# How We Reaped \$7 for Every Dollar We Spent

By: Jared Carlson,  
Heartland Mutual Insurance  
Association,  
Fort Dodge, IA

Many mutuals are using surveying or inspections as a tool to lower risks and increase surplus in today's insurance market. However, there may be other mutuals who struggle with justifying the added expense. By sharing some positive results experienced by Heartland Mutual Insurance Association (Fort Dodge, Iowa), it will help make your decision easier.

Heartland Mutual Insurance has made it a long-standing practice to survey new business. In 2001, our President along with our Board of Directors decided it would be beneficial to our company to not only look at new business coming through the door, but also to see how our current business, already on the books, had changed. This decision resulted in a substantial increase to our surveying program, affecting both time and money, but we were confident the payoff would be worth it.

Some suggested that this payoff will take 5-10 years to realize, but we know we have already seen the savings. In 2002, Heartland merged with a neighboring county mutual that had approximately 1,200 policies. This merger involved our surveying the entire book of business being rolled over at a cost of approximately \$15,000. As soon as the surveying began, we began to see the savings as well as an increase in surplus. Dwellings and other structures were brought up to value. Outbuildings on the farm, such as barns and corncribs, insured with a \$5,000 - \$10,000 value just waiting for the next stiff breeze to blow them over, were removed from the policy. One of the most interesting surveys was a house that had been burned by city officials two years prior to our survey. The insured,

living in California, was still paying an insurance premium for coverage that did not exist. What a great risk for an insurance company, but we felt it would be best to inform the insured of the situation and not re-issue a policy for this particular location!

On August 26, 2004, our survey program definitely made its value known. On this dark and stormy afternoon, a small town was hit with 3" diameter hail. This hailstorm affected nearly every one of the 100 policies within the city limits insured with Heartland Mutual Insurance Association. Through the inspection process these policies were put into an appropriate risk category. There were policies that continued with replacement cost coverage, some that were written at replacement cost with an ACV roof endorsement or an entire policy changed from replacement to ACV. Not counting buildings that were excluded through the inspection process, preliminary figures show that Heartland Mutual Insurance Association saved approximately \$100,000 just on claims involving the residence roof. On these 100 policies we saved seven times as much as it cost to do the surveys, and we are certain we will save on the other 1,100 policies as well.

As you can see, we are very pleased with the results from the decision made by management just three years ago. When considering the loss ratios, it is safe to say that our survey program has made a difference in our surplus. Savings continue to this day. I was told once that "you can't stop the cut, but you can control the bleeding". A survey program is the Band-Aid companies need to control the bleeding. ♦

*When considering the loss ratios, it is safe to say that our survey program has made a difference in our surplus. Savings continue to this day.*

*This article written by and printed here with permission from the Mutual Loss Prevention Association (MLPA). The MLPA strives to promote education and networking of loss prevention professionals within the farm mutual insurance industry. For more information on the MLPA, please contact Keith Schmelling at 866-842-8535 or [kschmelling@thewrcgroup.com](mailto:kschmelling@thewrcgroup.com).*

# Notes Quotes and Antidotes

*"Those proud of keeping an orderly desk never know the thrill of finding something that they thought irretrievably lost." — Helen Exley*

*"One of the mysteries of human conduct is why adult men and women are ready to sign documents they do not read, at the behest of salesmen they do not know, binding them to pay for articles they do not want, with money they do not have." — Gerald Hurst*

*"What lies behind us and what lies before us are small matters compared to what lies within us."*  
— Ralph Waldo Emerson

*"One can never consent to creep when one feels an impulse to soar." — Helen Keller*

*"There is only one small letter between the words Can and Can't... and that one letter will TOTALLY change your destiny." — Doug Firebaugh*

*"Human beings have the remarkable ability to turn nothing into something. They can turn weeds into gardens and pennies into fortunes." — Jim Rohn*

*"What distinguishes winners is the will to prepare to win." — Tony Jeary*

*"Nothing is more powerful for your future than being a gatherer of good ideas and information. That's called doing your homework." — Jim Rohn*

*"The secret of success in life is for a man to be ready for his opportunity when it comes."*  
— Benjamin Disraeli

*"Some people procrastinate so much that all they can do is run around like firefighters all day—putting out fires that should not have gotten started in the first place." — Nido Qubein*

*"You may delay, but time will not." — Benjamin Franklin*

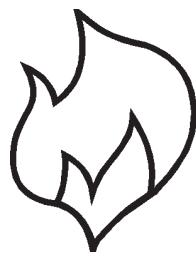
*"It seems to me that it's actually harder to invent excuses than it is to get the sale." — Jeffrey Gitomer*

## IAMIC Polo Shirts For Sale

*To generate funds for our Farm Mutual Political Action Committee, we have begun selling polo shirts. The high quality shirts come in blue or red and run for \$25 for sizes medium to extra large and \$27 for double XL.*



*The shirts will be available for sale at our seminars. If you would like to order a shirt(s), please contact the IAMIC office at 800-694-2642 or leadership@iamic.org.*



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## *Technology Corner*

# Spyware just about got me!

By: Kevin Sheehan,  
Rural Computer Consultants

*Spyware is software that some "free" services download surreptitiously onto your machine to pass information to the company that is providing the "free" service about what kind of sites you visit and other personal information, so they can sell this information to others.*

I have a computer in my home that used to be used a lot by my high school age daughter. Among many other things, she did a bit of music downloading from Napster, and after that shut down, a bit from Grokster. She has since graduated from high school and moved on to college and has her own computer, but uses the computer at home on occasion. My other daughter is in the sixth grade and is expanding her use of the home computer. My wife also does a fair amount of on-line shopping. I have my own computer that I connect with a wireless connection when at home, so I don't use the home computer, hardly at all.

About a month ago, my family told me they could not get on the Internet. It was coming up "Page not found". I fiddled around for a couple of hours trying everything I could think of. I had re-built the machine once before, and it struck fear in my heart to think I may have to do that again!

My son, who works with me, thought it should be scanned for spyware. We had about a fifteen-minute conversation on why I didn't think it would help; it just didn't appear to be that kind of issue. Why would it do what it's doing? Spyware is useless unless it passes information somewhere. After discussing it for a while, I told him to go ahead and try it, I had nothing to lose. (It won't work anyway...)

### **What is Spyware?**

Spyware is software that some "free" services download surreptitiously onto your machine to pass information to the company that is providing the "free" service about what kind of sites you visit and other personal information, so they can sell this information to others. That's how they can afford to offer the "free" services. Spyware by definition is put on your machine without your knowledge and is installed in such a way that it is difficult to detect and difficult to remove. Most current "free" music download companies are notorious for this.

Another similar perpetrator is Adware. It differs from spyware in that it just pops up ads from companies when you start or use the Internet Explorer. Annoying to say the least. Sometimes this can make Internet use virtually

impossible. This type of software actually "broke" the Internet on my home machine.

Because of the nature of the type of activity that can cause this kind of a problem, spyware or adware issues are much more likely to occur in the home environment than the office. We don't know and don't question what companies do with their computers, but it does happen in offices. (As a side issue, this is another reason to have an Internet Use Policy in place for your office.)

RCC (Rural Computer Consultants) has used "Lavasoft" spyware detection and removal product successfully but your experience may differ. I am not aware of any side effects caused by the use of these types of programs, but caution should always be exercised.

The version of the Lavasoft program we used is available for free on [www.downloads.com](http://www.downloads.com). Once there, search for "Ad-aware 6". Currently the item you should download is "Ad-aware 6.0 build 181". I ran it just as it was downloaded. (It may even be more effective by loading the current version of the Ad-aware 6 Reference File. To do that, download the reference file and open and then extract the reflist.ref file into the "C:\PROGRAM FILES\LAVASOFT\AD-AWARE 6" directory. You may need some assistance on this, remember these are "free" downloads.)

I have had very good luck at eliminating Internet Explorer pop-ups by using a popup blocking feature of the Google toolbar. The Google toolbar lets you type in a Google search from any open window, and has an option to stop pop-ups. To get a copy of the toolbar, simply go to [www.google.com](http://www.google.com) and click on the hyperlink for "Services & Tools". Near the bottom of the page you will notice a hyperlink for "Google Toolbar". Follow the instruction on the screen to load the toolbar.

One last warning: the installation will ask if it's ok to "Enable advanced features". This is a similar concept to spyware, but they use it for other reasons. By them asking for permission, by definition it is not spyware. Read the details carefully before deciding if you want to enable advanced features.

Good luck, and may all your computer problems be little (solvable) ones. ♦

# IAMIC 2005 Calendar of Events

<b>March</b>	22	Southern Regional Meeting, Holiday Inn, Mt. Vernon
	23	Central Regional Meeting, Radisson Hotel, Bloomington
	24	Northern Regional Meeting, Ramada Suites & Conference Center, Rockford
	25	Good Friday Holiday – IAMIC Office Closed
<b>April</b>	6	Underwriting Seminar, Par-A-Dice Hotel, East Peoria
	7	Forms Seminar, Par-A-Dice Hotel, East Peoria
	26	Executive Committee Meeting, Radisson Hotel, Bloomington
<b>May</b>	17-18	Congressional Contacts, Holiday Inn on the Hill, Washington, D.C.
	24	Board Meeting, IAMIC Office, Springfield
	30	Memorial Day Holiday – IAMIC Office Closed
<b>June</b>	28 (New Date)	New Manager's Meeting, IAMIC Office, Springfield
<b>July</b>	4	Independence Day Holiday – IAMIC Office Closed
	13	Executive Committee Meeting, IAMIC Office, Springfield
	13-14	Midwest Officer's Get Together, Hampton Inn & Suites, Springfield
	27	Board Meeting, IAMIC Office, Springfield
<b>August</b>	21-24	Annual Convention, Hilton Hotel, Springfield
<b>September</b>	20	Budget & Executive Committee Meetings, Location TBA
	21	Planning Conference, Location TBA
<b>October</b>	18	Board Meeting, IAMIC Office, Springfield
	25-26	Manager's Retreat, Eagle Creek Resort, Findlay
<b>November</b>	15	Director's School, Radisson Hotel, Bloomington

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