# Be Careful What You Ask For... The NEW 2013 ISO CGL Changes



Presented by

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William C. Wilson, Jr., CPCU, ARM is director of the Virtual University of the Independent Insurance Agents & Brokers of America (IIABA). He was the Director of Education & Technical Affairs for the Insurors of Tennessee from 1988-1999. Prior to 1988, he was employed by Insurance Services Office, Inc. as the manager of their field operations in Tennessee and Kentucky. Before that time, he was a bag boy at H.G. Hill food store #25.

Bill is a graduate of the Illinois Institute of Technology with a B.S. degree in Fire Protection & Safety Engineering. He was a licensed insurance and surplus lines agent, and his professional affiliations have included past president of the Middle Tennessee Chapter of CPCU, board member of the national CPCU Society, PMLG of the Honorable Order of Blue Goose, International, member of the Independent Insurance Agents of America (IIABA) National Education Committee, member of the Certified Insurance Service Representative (CISR) National Advisory Committee, member of the Society of Insurance Trainers and Educators (SITE) and its SITE Journal editorial committee, member of the National Writers Association, chairman of the Tennessee Insurance Commissioner's Education Advisory Committee, member of the Middle Tennessee State University Insurance Liaison Committee, member of the National Underwriter's FC&S Editorial Advisory Board, and an instructor for insurance and risk management programs for Tennessee State University and Nashville State Technical Institute. He is listed in the International Who's Who of Professionals<sup>TM</sup>.

He has served as a trainer and speaker for various organizations, including the Independent Insurance Agents of America (IIABA national conventions and state convention programs and seminars), the CPCU Society national convention, National Leadership Conference and chapter programs, the National Association of Insurance Women (NAIW), the Southern Agents Conference, and the Risk & Insurance Managers Society (RIMS).

Bill has conducted hundreds of technical seminars, workshops and convention presentations from Hawaii to Rhode Island—as well as programs on time management, presentation and public speaking skills, seminar development, and many others. He was the recipient of the 1996 L.P. McCord National Education Award for having the #1 ranked IIABA insurance education program in America. Bill was the 2010 recipient of the George M. Gottheimer Memorial Award which is presented annually to a CPCU Society member who has made an outstanding contribution to the field of insurance education, risk management or insurance consulting.

He has researched, developed, written, and published dozens of technical articles and manuals, and has authored articles in business and industry trade periodicals such as Presentations magazine, American Agent & Broker magazine, Independent Agent magazine, Tennessee Insuror magazine, Tennessee Business magazine, the CPCU Journal, and the SITE Journal.

He has been cited as an expert resource/interviewee for local television and radio media, and has served as an expert witness in litigation. According to Nashville NBC television affiliate WSMV, *"Bill Wilson is an expert when it comes to insurance."* Dr. William T. Hold, president of the Society of Certified Insurance Counselors in Austin, Texas has said that, *"Bill Wilson is recognized by his peers as one of the premier insurance educators in America."* 

Finally, not that it has anything whatsoever to do with this program, Bill is also an avid (notice we didn't say 'good') electric blues guitar player. He can be emailed at <u>bill.wilson@iiaba.net</u>. You can visit IIABA's Virtual University by going to <u>http://www.bigivu.com</u>.

# The Big "I" Virtual University

The Big "I" Virtual University (VU) is an online education, reference, and research facility that is available for free to members of the Independent Insurance Agents & Brokers of America and on a subscription basis to others.

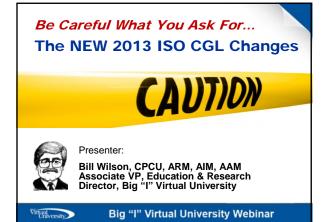
This 4,000+ page resource includes a research library with articles, white papers, charts, checklists, policy form analysis, and other documents on insurance coverages, agency management, sales, customer service, and technology.

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The Virtual University (VU) also includes a selection of online courses, approved for CE in many states, as well as periodically offering national webinars by top industry educators. For information on online courses, go to <a href="http://www.bigivu.com">www.bigivu.com</a> and for information on webinars, visit the "Education" section at <a href="http://www.independentagent.com">www.independentagent.com</a>.

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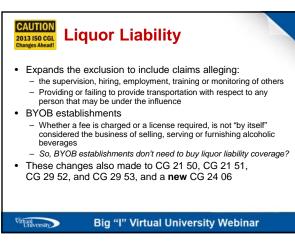


- Events and emerging issues
- · Case law
- Insurer panels
- · ISO staff
- · Liaison committee
- Big "I" National Technical Affairs Committee
- Mid-America Insurance Conference
  (www.matcinsurance.com)



### CAUTION 2013 ISO CGL 2013 Filing Changes

- Forms: GL-2012-OFR12
- Rules:
- GL-2012-ORU12 Loss Costs: GL-2012-RCTLC
- About a dozen coverage form changes
- 80+ new and revised endorsements
- Effective April 1, 2013 in most states



### CAUTION 2013 ISO COL Aircraft/Auto/Watercraft

- The prior exclusion contains an exception for BI or PD arising out of the operation of machinery or equipment attached to a land vehicle that would qualify as mobile equipment if not subject to a MV law <u>in the state</u> where it is licensed or garaged
- The phrase "in the state" is removed to recognize jurisdictions such as DC, Puerto Rico, Guam, and the U.S. Virgin Islands

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### CAUTION 2013 ISO CGL Changes Alwardi This exclusion applies to the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data

- The following exception is introduced: "However, this exclusion does not apply to liability for damages because of 'bodily injury'."
- This change is also made to the CG 04 37
  endorsement

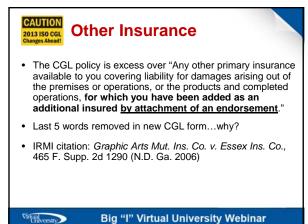
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### CAUTION 2013 ISO CGL Unlawful Material

- The mandatory CG 00 68 Recording And Distribution Of Material Or Information In Violation Of Law Exclusion endorsement was introduced in 2008 to exclude BI, PD, PI, and AI arising out violations of consumer protection laws such as the TCPA, CAN-SPAM, and FCRA
- The endorsement is withdrawn and the language incorporated into the CGL policy

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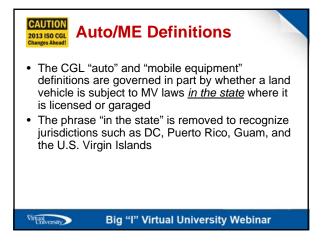




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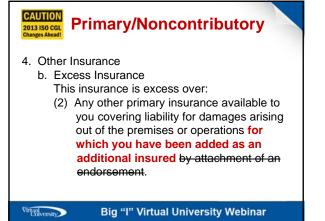
- Liquor Liability CG 00 33 and CG 00 34 Adds named trusts and their trustees as insureds.
- Railroad Protective Liability CG 00 35 Covers loss from fuels/lubricants for on-site equipment.
- Pollution Liability CG 00 39 and CG 00 40 See next slide...
- Electronic Data Liability CG 00 65 Removes a phrase from Exclusion g. that was apparently mistakenly added in 2006.

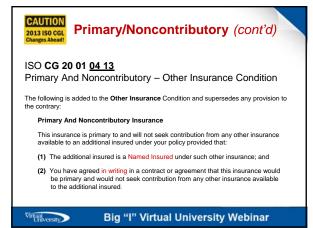
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### CAUTION 2013 ISO CGL Changes Ahead

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- Pollution Liability Coverage Forms CG 00 39 and CG 00 40 Aircraft, Auto, Rolling Stock or Watercraft exclusion
  - Expands the exclusion to apply to claims alleging negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by the insured
  - CG 00 39 now excludes the over-the-road exposures of a land vehicle subject to MV laws (this is already the case with the CG 00 40)







- Beware of AI endorsements that provide only excess coverage
- Some say they provide excess coverage unless primary coverage is required by written contract
- Jeffrey M. Brown Assoc., Inc. v. Zurich Am. Ins. Co., 2010 N.J. Super. LEXIS 108 (N.J. Super. Ct. App. Div. June 23, 2010)...court upheld excess coverage language under AI endorsement

# New Blanket Al Form Section II – Who Is An Insured is amended to include as an additional insured any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy."

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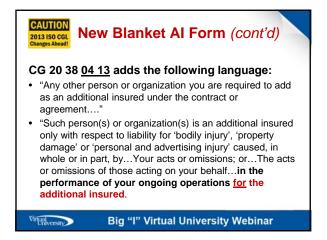
### **CAUTION** 2013 ISO CGL New Blanket Al Form (cont'd)

"XYZ Catering, Inc. (d/b/a XYZ Creations), ABC Sports & Entertainment LLC, ABC Holdings LP, the DEF Center, their respective principals, members, officials, officers, directors, shareholders, employees, and agents, their respective parent and affiliate companies and their respective Successors or Assigns as now or hereafter may be constituted and the Centennial Authority, the City of Raleigh, North Carolina, the State of North Carolina and their departments, divisions, commissions, and boards and their respective principals, members, officials, officers, directors, shareholders, employees, and agents have been named as additionally insured's under said policy with respect to any legal liability arising out of the Licensee's performance hereunder."

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# EXAMPLE A Contract of the second secon



### CAUITION 2013 ISO CGL Changes Abead

- "The insurance afforded to such additional insured only applies to the extent permitted by law...."
- "If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured."

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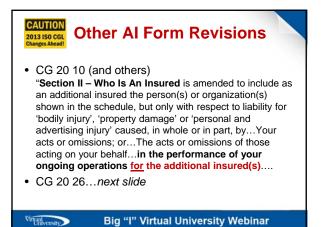
### CAUTION 2013 ISO COLL Changes Almost

"If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or

2. Available under the applicable Limits of Insurance shown in the Declarations; whichever is less."

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### • CG 20 26

"Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the schedule, but only with respect to liability for 'bodily injury', 'property damage' or 'personal and advertising injury' caused, in whole or in part, by...Your acts or omissions or the acts or omissions of those acting on your behalf...in the performance of your ongoing operations; or...In connection with your premises owned by or rented to you. <u>for the additional insured(s)</u>....

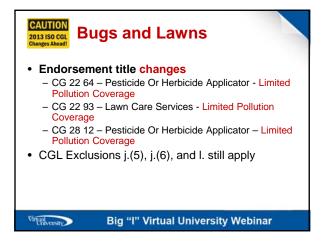
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- CG 24 26 Amendment Of Insured Contract Definition Endorsement
- CG 24 27 Limited Contractual Liability -Railroads Endorsement
- Remove coverage for the indemnitee's sole negligence from the "insured contract" definition
- New language limits any coverage to whatever is permitted by a jurisdiction's anti-indemnity law

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