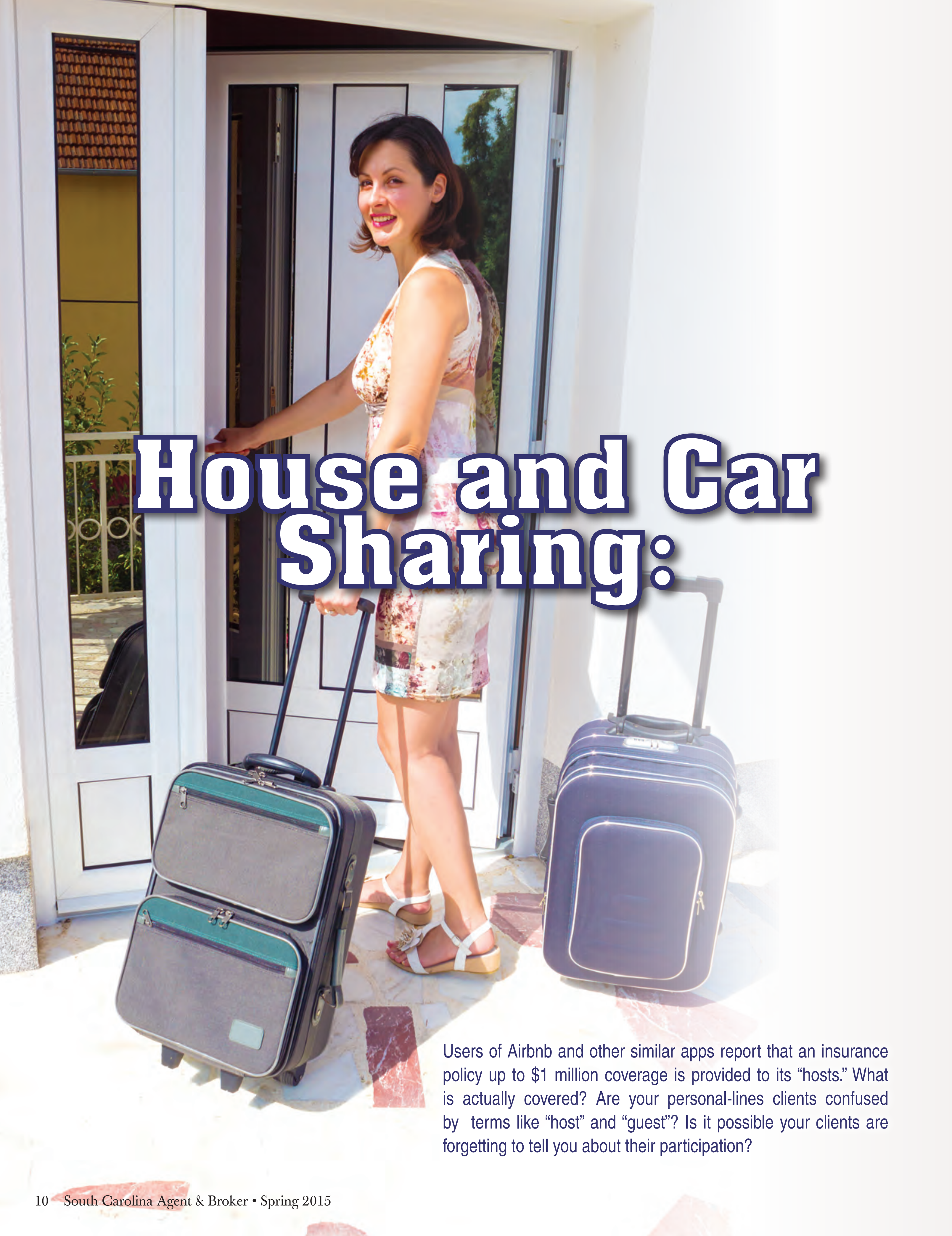
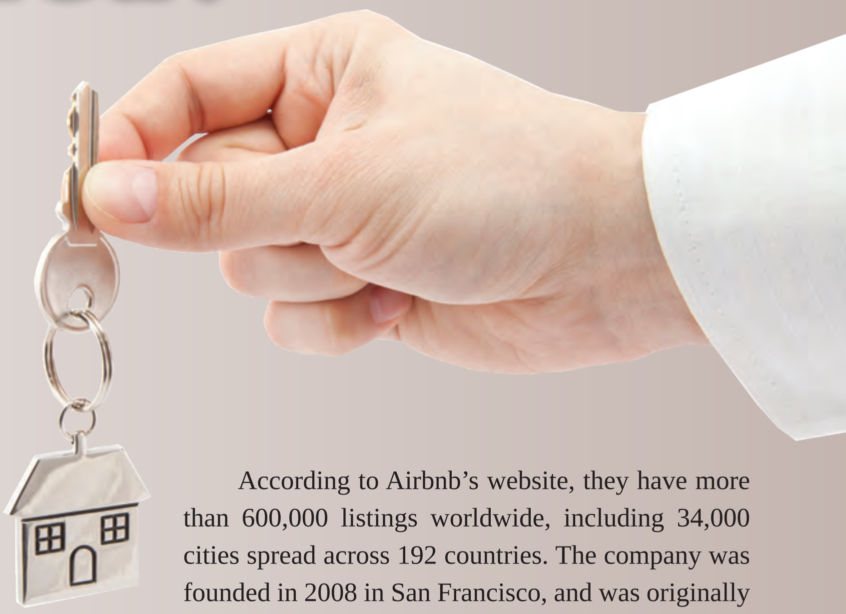


House and Car Sharing:

Users of Airbnb and other similar apps report that an insurance policy up to $1 million coverage is provided to its "hosts." What is actually covered? Are your personal-lines clients confused by terms like "host" and "guest"? Is it possible your clients are forgetting to tell you about their participation?

Is it Sharing? Is it Renting? Is it Covered?



By Mike Edwards, CPCU, AAI,
IIABA Virtual University Faculty

QUESTION:
"I have an insured that is planning to sign up as a host with a service called 'Airbnb,' which he says arranges 'house sharing' between owners and people who are traveling and need a place to stay. He stayed as a guest in several homes through Airbnb during a trip to London last Christmas, was very pleased, and found staying in a home much preferable to a hotel room.

"Several of his friends are already signed up as hosts with Airbnb, and they highly recommend the arrangement. They told him that Airbnb provides $1,000,000 insurance for the host. Also, they have told him how much they like having the extra income. Well, 'income' sent up a red flag to my insurance antenna! Do you know how this arrangement works, and is it 'sharing' or 'renting,' and what are the coverage implications?"

ANSWER:
Here's the short answer: Sometimes "sharing" is sharing, and sometimes "sharing" is renting. And your insurance antenna was correct to pick up on the fact that your insured's friends, who "share" their homes with travelers, receive money. In our insurance world, that's called "renting."

"House sharing," "car sharing," and numerous other forms of "sharing" are examples of an arrangement (some would say "movement") called the "sharing economy," or "collaborative consumption." My Internet search of those terms produced over 69,000,000 hits. One source often cited as a seminal work on the subject is the book: What's Mine Is Yours: The Rise of Collaborative Consumption. [*Editors Note: Referenced book is by Rachel Botsman and Roo Rogers.*]

According to Airbnb's website, they have more than 600,000 listings worldwide, including 34,000 cities spread across 192 countries. The company was founded in 2008 in San Francisco, and was originally called Air Bed and Breakfast. The name came about because at a time when they were unemployed and desperate for money, two roommates bought some air mattresses and rented out space in their apartment. They created a website with the full name, but later shortened it to simply "Airbnb."

"HOUSE SHARING"

Assume the following: (1) Jack owns a home, which is insured with an ISO HO 00 03 05 11. (2) He signs up as a "host" through one of the "home sharing" websites that facilitate the arrangement between a "host" and a "guest" – such as Airbnb, etc. (3) Jack posts his available dates, and his rental rate. (4) Jill signs up as a "guest" at the website. (5) Jill searches the available rentals, and then contacts Jack through the website to make a reservation to stay in his home as a "guest."

Jack's Insurance – Property Coverages
HO 00 03 05 11
Section I – Property
C. Coverage C – Personal Property
1. Covered Property
We cover personal property owned or used by an

"insured" while it is anywhere in the world. After a loss and at your request, we will cover personal property owned by:

a. Others while the property is on the part of the "residence premises" occupied by an "insured"; or

b. A guest or a "residence employee", while the property is in any residence occupied by an "insured".

Comments:

(1) Jack's Coverage C applies to property of "guests" while the property is located at his house [**C.1.b.**].

(2) However, the ISO Homeowners Policy does not define "guest," which can be confusing, since many of the house-sharing websites use the terms "host" and "guest."

(3) But since these "guests" pay rent, the outside world – including insurance – would consider them "roomers, boarders or tenants" – see following.

C. Coverage C – Personal Property

4. Property Not Covered

We do not cover:

f. Property of roomers, boarders and other tenants, except property of roomers and boarders related to an "insured";

g. Property in an apartment regularly rented or held for rental to others by an "insured", except as provided in E.10. Landlord's Furnishings under Section I – Property Coverages;

Comments:

(1) Under **C.4.f.**, none of Jill's property could be covered by Jack's policy. Note the discussion above about Jack's Coverage C broadly applying to the property of a "guest." Item **C.4.f.** addresses the property of a person who is not a "guest," but is a "roomer, boarder or tenant." The ISO Homeowners Policy provides no definition of any of these terms, but in general usage, most experts hold that the distinction which separates a guest from roomers, boarders and tenants is that a guest pays no rent, and the others do. Recall also that much of the "house-sharing" literature and websites apply the terms "host" and "guest," which is not really applicable to the pertinent insurance issues at hand. Specifically, the intent **of C.4.f.** seems clearly to exclude the personal property of anyone who is paying to stay at Jack's house, whether in a room, or where they rent the entire house.

(2) Under **C.4.g.**, Jack's property which is located in the area where Jill is staying is also excluded, IF that area is "*regularly rented or held for rental*." If the rental is other than on a "regular" basis (which essentially means "occasional), Jack's policy still covers his property in the rental area. "Regular" is not defined in the policy, but if Jack is signed up as a "host" on a house-sharing service such as Airbnb, it's quite possible Jack's insurer will argue that this implies regularity of rental.

(3) However, if rental does occur on a "regular" basis, there is some limited coverage for certain "landlord furnishings" of Jack, as provided by the Additional Coverage E.10., which is referenced in **C.4.g.**

Section I – Property

E. Additional Coverages

10. Landlord's Furnishings

*We will pay up to $2,500 for your appliances, carpeting and other household furnishings, in each apartment on the "residence premises" regularly rented or held for rental to others by an "insured", for loss caused by a Peril Insured Against in Coverage **C,** other than Theft.*

This limit is the most we will pay in any one loss regardless of the number of appliances, carpeting or other household furnishings involved in the loss.

This coverage does not increase the limit of liability applying to the damaged property.

(4) This Additional Coverage provides:

(a) limited coverage ($2,500) for Jack's appliances, carpeting and other household furnishings in an area that is regularly rented or held for rental; and

(b) for damage caused by Coverage C perils, excluding theft to such property.

(5) Theft coverage for *occasional* rentals can be provided by endorsement HO 05 41 – see discussion under Theft in the next section below.

Section I – Perils Insured Against

B. Coverage C – Personal Property

*We insure for direct physical loss to the property described in Coverage **C** caused by any of the following perils unless the loss is excluded in Section **I** – Exclusions.*

9. Theft

a. This peril includes attempted theft and loss of property from a known place when it is likely that the property has been stolen.

b. This peril does not include loss caused by theft:

(3) From that part of a "residence premises" rented by an "insured" to someone other than another "insured";

Comments:

(1) Jack's policy does not cover theft by Jill from the part of his house which is rented - whether on an occasional *or* regular basis. This theft exclusion applies to the rental of a room, or the entire house.

(2) A partial buyback for theft coverage is available by attachment of endorsement HO 05 41 10 00 Extended Theft Coverage for Residence Premises Occasionally Rented To Others. Theft coverage is provided "*while the residence premises is rented in whole or in part on an occasional basis,*" and applies to the part occupied by the occasional tenant, roomer, or boarder. However, three broad classes of property are not included in the coverage, including: (a) money, goldware, silverware, etc.; (b) securities, accounts, personal records, etc., and (c) jewelry, watches, furs, etc. The endorsement amends part **9.b.(3)** of the theft peril (see above) as follows:

> ***HO 05 41 10 00***
>
> *Under Peril Insured Against **9. Theft,** Paragraph **b. (3)** is deleted and replaced by the following:*
>
> *b. (3) From that part of a "residence premises" regularly rented by an "insured" to someone other than another "insured", roomer or boarder.*

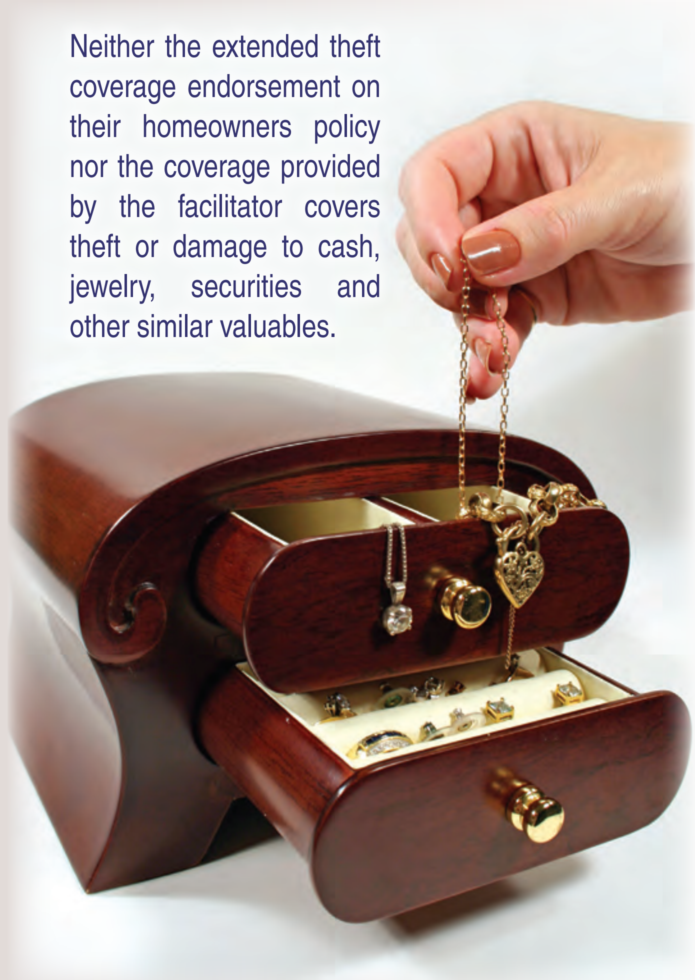
(3) Note that under ISO Rule 517, endorsement HO 05 41 can only be used with coverage forms which provide named perils coverage for Coverage C. The endorsement cannot be used with those Homeowners forms which provide special coverage (all-risk) coverage for Coverage C, including HO 00 05, or HO 00 04 with HO 05 24, or HO 00 06 with HO 17 31. The reason for this is that the forms which provide all-risk coverage for Coverage C property do not exclude theft from a part of the residence premises which is occasionally rented. In other words, with those forms, the coverage provided under HO 05 41 is already included in all-risk forms.

Jack's Insurance – Liability Coverages

The primary issue to address is whether or not "house sharing" is a "business."

Excerpts from Jack's policy:

> ***HO 00 03 05 11***
>
> ***Definitions***
>
> ***3. "Business" means:***
>
> ***a.** A trade, profession or occupation engaged in on a full-time, part-time or occasional basis; or*
>
> ***b.** Any other activity engaged in for money or other compensation, except the following:*
>
> ***(1)** One or more activities, not described in (2) through (4) below, for which no "insured" receives more than $2,000 in total compensation for the 12 months before the beginning of the policy period*



> ***Section II – Exclusions***
>
> ***E. Coverage E – Personal Liability And Coverage F – Medical Payments To Others***
>
> *Coverages **E** and **F** do not apply to the following:*
>
> ***2. "Business"***
>
> ***a.** "Bodily injury" or "property damage" arising out of or in connection with a "business" conducted from an "insured location" or engaged in by an "insured", whether or not the "business" is owned or operated by an "insured" or employs an "insured".*
>
> ***b.** This Exclusion E.2. does not apply to:*
>
> *(1) The rental or holding for rental of an "insured location";*
>
> *(a) On an occasional basis if used only as a residence;*
>
> *(b) In part for use only as a residence, unless a single-family unit is intended for use by the*

occupying family to lodge more than two roomers or boarders; or

(c) In part, as an office, school, studio or private garage;

<u>Comments</u>:

(1) In general, the business exclusion would only come into play if Jack receives more than $2,000 in the year prior to the inception of his current policy (see **3.b.(1)** in the definition of "business"). Many experts have questioned the rationale for this timeframe guideline. The deciding factor in whether or not renting ("sharing") his house (in whole or in part) is a "business" is based on how much money he made in the 12 months <u>prior</u> to his current policy term. Nonetheless, the amount of revenue Jack receives is one of the key factors which play a role in determining whether or not the business exclusion applies.

(2) Assuming Jack has exceeded the income threshold, the next issue in the business exclusion is the extent and frequency of rental. There are three exceptions to the business exclusion on this point. First, if a rental is "occasional," the exclusion does not apply (see Exclusion **E.2.b.(1)(a)**). Note that "occasional" is not defined, and this has resulted in confusion, uncertainty, and litigation. Second, under **E.2.b.(1)(b)**, if Jack rents only a *part* of his residence, the exclusion does not apply, even if the rental is on a regular basis, which is probably common for many who participate as hosts in "house sharing" arrangements such as Airbnb. However, if Jill brings more than two people with her (as "roomers or boarders"), this would probably trigger the exclusion. Third, under **E.2.b.(1)(c)**, Jack could rent a *part* of his house as an *office, school, studio or private garage* on an occasional or regular basis without triggering the exclusion.

Interestingly, on May 21, 2014, the *Wall Street Journal* reported that Airbnb had reached a settlement with New York Attorney General Eric Schneiderman, to turn over information about its approximately 15,000 hosts in New York City. The dispute between the two parties has been ongoing for months, with AG Schneiderman alleging that the city and state have lost millions of dollars in uncollected hotel-related taxes. Schneiderman has said that "We are going to pursue anyone who's running illegal hotels."

<u>Insurance provided to hosts by the facilitator.</u>

Using Airbnb as just one example of a "house sharing" facilitator, their website indicates that they provide a "$1,000,000 Host Guaranty." This coverage applies to "damages to covered property in the rare event of guest damages." However, among the exposures not covered are "personal liability, cash and securities, collectibles, rare artwork, jewelry, and pets."

<u>Other types of "house sharing."</u>

As noted earlier, the participants in the "sharing economy" use the word "sharing" in much broader terms than much of the business world would, including insurance. An Internet search will produce many other types of living arrangements that are consider as "house sharing." Here are just a few examples.

Example #1. National Shared Housing Resource Center. *http://nationalsharedhousing.org/*

Description from their website:

> *Home Sharing is a simple idea: a homeowner offers accommodation to a homesharer in exchange for an agreed level of support in the form of financial exchange, assistance with household tasks, or both.*
>
> *The community is also a beneficiary of Home Sharing. Shared living makes efficient use of existing housing stock, helps preserve the fabric of the neighborhood and, in certain cases, helps to lessen the need for costly chore/care services and long term institutional care.*
>
> *A home sharer might be a senior citizen, a person with disabilities, a working professional, someone at-risk of homelessness, a single parent, or simply a person wishing to share his or her life and home with others. For these people, shared housing offers companionship, affordable housing, security, mutual support and much more.*
>
> *Home Sharing programs can offer a more secure alternative to other roommate options. Many programs have staff who are trained to carefully screen each program applicant through interviewing, background checking, and personal references.*

<u>Comments</u>:

(1) Assume that Jack was a senior citizen homeowner, for example, and Jill agreed to live in his house as a "homesharer," in exchange for "*an agreed level of support in the form of financial exchange, assistance with household tasks, or both,*" as outlined in the NSHRC description. Note that the definition of "business" in Jack's Homeowners Policy includes "*Any other activity engaged in for money or other compensation*." Therefore, if Jack's total compensation exceeds $2,000 annually, the threshold might be met. However, since Jill most likely has a designated room to live in, this would be within the exception to the business exclusion, since Jack rents his house "in part." And, of course, Jill needs an HO-4 Tenant's Policy, since she is not an "insured" in Jack's HO.

Example #2. CoAbode – Single Mothers House Sharing.

http://www.co-abode.com/

Description from their website:

> *CoAbode's mission is to provide support and services that connect women raising children alone. Thru this connection, single parent women families pool their finances and resources to improve their living conditions for themselves and their children by sharing a home. CoAbode was founded on the principle that two single moms raising children together can achieve more than one struggling alone. Through a variety of community based programs CoAbode provides single mothers with affordable housing opportunities, specialized support groups, educational scholarships, community outreach and involvement as well as referrals to vital resources designed to make parenting a child alone easier, healthier and more secure.*

<u>Comments</u>:

(1) CoAbode's website describes their service as "mom-matching," which facilitates connecting single moms who own a home with single moms who are looking for a place to rent. In cases where neither owns a home, CoAbode seeks to connect single moms who wish to pool their financial resources in order to afford a home or apartment to rent.

(2) Where one of the moms owns the home and the other will live there as a tenant, the insurance exposures are the same as the arrangement discussed for the National Shared Housing Resource Center.

Example #3. "*House Sharing for Boomer Women Who Would Rather Not Live Alone*." This is the title of an article on the AARP website, and includes examples of various forms of "house sharing." In some of the examples, the "home sharers" actually jointly purchase a home. Bottom line for the insurance professional: Be aware that the term "house sharing" can mean many different things.

"CAR SHARING"

"Car sharing" operates in several forms. And much like "house sharing," few of the "car sharing" arrangements are actually "sharing," in the everyday use of the term. Other terms associated with "car sharing" are "personal vehicle sharing" and "ride sharing."

"Car sharing" and "personal vehicle sharing" often indicates forms of micro-rentals, and the terms are frequently used interchangeably. However, one important difference is that a "personal vehicle sharing program" involves renting one's own auto to others for a short period of time, under a specific program. The insurance industry, as well as some state legislatures and regulators, have begun to focus on "Personal Vehicle Sharing Programs." See further discussion in the "Actions by Regulators, Legislatures, & Insurers" section below.

The other common form of "car sharing" (not involving a Personal Vehicle Sharing Program) typically means renting an auto from a micro-rental company for a short time. "Ride sharing" is using one's own auto to transport people or property for a fee.

In the discussion below, assume the following: (1) Jill owns an auto; (2) her auto is insured under an ISO PAP PP 00 01 01 05; (3) she is the named insured. Here are three of the most common types of "car sharing."

- Example #1: Jill uses her auto to transport people (or run errands for people), for a fee.
- Example #2: Jill rents her car to Jack for a few hours.
- Example #3: Jill rents a car for 3 hours for her own personal use, from a car sharing company.

Following is a comparison of these three forms of car sharing.

Example #1: Jill uses her auto to transport people (or run errands for people), for a fee.

This is an example of "ride sharing." Two of the best-known programs are Uber (*uber.com*) and Lyft (*lyft.com*). These and similar businesses provide what is essentially a taxi service. They serve as the facilitator between vehicle owners and passengers who need a ride. Both have sophisticated websites and mobile apps. However, their growing popularity has caught the attention (and ire) of the taxi industry and regulators.

Another form of this type of arrangement is for vehicle owners to connect with people who need errands run, such as picking up groceries, dry cleaning, and so forth. One of the most successful of this type of business is probably TaskRabbit (*taskrabbit.com*). According to their website, the firm was started in 2008 when a woman realized late one night that she was out of dog food. She had the idea that if there was a way to connect with friends who might already be at, or near, the store, it would save her a trip, and also provide a little extra income for people who were willing to run errands for others.

Assuming Jill decides to use her car by signing up with Uber, Lyft, or TaskRabbit, here are some coverage issues she should consider.

Jill's PAP

PP 00 01 01 05

Part A – Liability Coverage

Exclusions

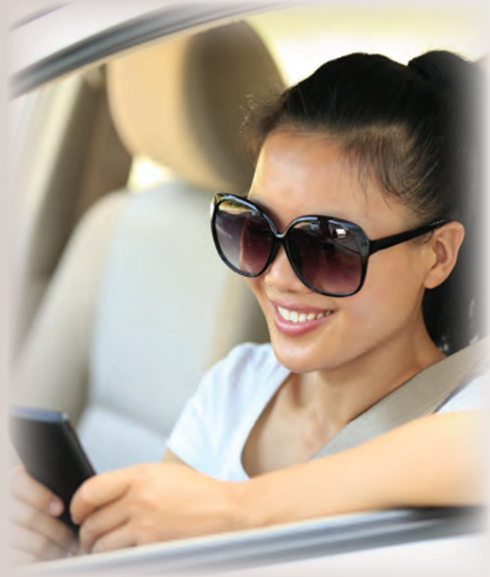
A. We do not provide Liability Coverage for any "insured":

5. For that "insured's" liability arising out of the ownership or operation of a vehicle while it is being used as a public or livery conveyance. This Exclusion (A.5.) does not apply to a share-the-expense car pool.

Comments:

(1) In the opinion of most experts, using one's auto as a public taxi or delivery service is clearly within exclusion A.5. At the same time, picking up and delivering someone's groceries, dry cleaning, etc. for a fee is generally considered different from

delivering items for one's employer, such as pizza, or taking the money bag to the bank for deposit, etc. Here is a detailed article on the scope of exclusion A.5 in Virtual University *"The Public or Livery Conveyance Exclusion."*



"Car sharing" is a term that can mean several different things. The area of meaning causing the most concern with South Carolina legislators this session is mobile apps that facilitate people to find and pay for transportation from local people using their personal vehicles.

Example #2: Jill rents her car to Jack for a few hours.

A very different form of "car sharing" is when individuals rent their autos to others for a short time, and has become known as a "personal vehicle sharing program." There are numerous platforms for this activity, and two of the most widely known are RelayRides (*relayrides.com*) and GetAround (*getaround.com*). This type of arrangement is also referred to as "Peer-to-Peer sharing" or "P2P sharing." Despite the moniker, this is clearly an auto rental endeavor, and the websites and blogs emphasize both the lucrative income opportunities for vehicle owners, and the convenience for renters.

As to coverage in Jill's PAP, many experts hold the view that the exclusion for a vehicle "*while being used as a public or livery conveyance*" (see A.5. above), would apply to Jill's auto while Jack is driving it. Since she advertises the auto for rent on a public forum, this seems a reasonable view of the exclusion. However, while there is not unanimity on the issue, and sparse case law, the safe assumption for Jill is that her PAP in all likelihood would not apply during the time Jack was driving her car. At the same time, most facilitators such as RelayRides and Get Around do provide insurance during the rental period, although the coverage details have not been reviewed for this article.

Within the last few years, a number of states have enacted laws regarding these "Personal Vehicle Sharing Programs." In addition, the Insurance Services Office (ISO) introduced an endorsement in 2013 relating to these programs. See further discussion below.

Many experienced insurance practitioners have considerable reservations about the wisdom of renting one's auto to virtual strangers. And as one example validating this reluctance to embrace such new ideas, "Exhibit One" would be the "car sharing" firm HiGear. They were a facilitator between owners and short-term renters of luxury, high-end cars such as Lamborghini, Aston Martin, Mercedes, BMW and others. HiGear began in 2011, but after only a few months, they ceased operation. A criminal ring stole 4 autos totaling over $400,000 by using fake identifications and stolen credit cards. In a letter to HiGear members, the company acknowledged the difficulty of eliminating fraud in this type of endeavor, and felt it best not to risk any future losses to members' high-value autos.

Example #3: Jill rents a car for 3 hours for her own personal use.

Micro-rentals have proven to be enormously popular, primarily in urban areas, and near college campuses. Easily the best-known among the many micro-rental firms is Zipcar (*http://www.zipcar.com*). And owing to the success of firms like Zipcar, the big national car-rental firms have also added micro-rental operations to their brand. Two of the biggest players are Enterprise Car Share (http://www.enterprisecarshare.com) and Hertz24/7 (*http://www.hertz247.com/Lowes/en-US/Home*). In addition, local brands proliferate in many regions across the country, one example being CityCarShare (*https://www.citycarshare.org*), a non-profit organization in the San Francisco Bay area.

In all these micro-rental firms, the autos are owned by the business, and differ from traditional car rentals mostly in that the term of rental can be hourly, vs. the standard daily basis. So their inclusion in the "car sharing" spectrum is perhaps in no small part an effort to capture some of the cache' of the "sharing economy" movement. It is also important to note that while these businesses are associated with "car sharing," they are different from "personal vehicle sharing programs," in which the autos are owned by individuals.

As to the insurance issues, the exposure for renting a car from a micro-rental company such as Zipcar should not be any different than the traditional car rental. While the micro-rental firms include insurance for the renter, there is one potential gap that renters need to be aware of. Due to the concentration of micro-rental firms in areas where some people do not own autos, there is a need for these drivers to have some form of auto insurance in situations where they are involved in auto accidents as pedestrians, or while driving a friend's car, etc. One common source of coverage, especially for college students, is to be covered as family members under the parents' PAP. Otherwise, a Named Non-Owner PAP would be needed.