

# The LGIT News



## Addressing the Needs of LGIT Members

Fall 2014

### Tim's Corner

### Did You Know?

LGIT is now offering several new services to its members. The Board of Trustees authorized \$25,000 to be used in a matching grant program for police body cameras. The Board authorized the same amount for "deer alerts". In January 2013, LGIT began offering Cyber Liability coverage to members at no cost. The Board also authorized using members' equity to expand the training grant program from \$75,000 to \$100,000. Finally, the Board approved spending \$40,000 to enable LGIT to become the primary sponsor of the Academy of Excellence in Local Governance. This certainly will benefit LGIT and local government officials.

In addition, we continue to offer "Harassment in the Workplace" throughout the State, and our

"Employment Hotline" remains a valued service.

The purpose of these authorizations and programs is to make our member local governments better risks. LGIT was created by local governments for local governments at a time when it was urgently needed. We have not forgotten our mission. Fulfilling that mission makes these authorizations so important and so meaningful.

We value our members and hope each of you will take full advantage of our programs and services. My door is always open and I am available by phone or email. If you have an idea for a new product or service, please let me know. My email address is [tailsworth@lgit.org](mailto:tailsworth@lgit.org). Again, thank you for your loyalty to the Trust.

Tim Ailsworth  
Executive Director, LGIT

### LGIT's Booth at the MACo Summer Conference, Ocean City

**Below:** LGIT staff, Jeff Perkins and Clyde Bessicks present a crab basket prize to Matthew Creamer, Council Administrator of Wicomico County.



**Above:** Larry Bohlen, Field Services Sr. Manager, presents drawing prize, 2 pewter crab knives, to Charles Fisher, Vice President/Commissioner of District 3 Somerset County.

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## Welcome New LGIT Members

The Local Government Insurance Trust is pleased to welcome the following new Members: Town of Oxford, Town of Galena, and the Industrial Development Authority of Carroll County (a sponsored entity of Carroll County).

LGIT Underwriting and Loss Control staff have been visiting and working with our new members to make sure their properties are properly scheduled and valued. We express our appreciation to all those who have assisted us in this effort.

These welcome additions increase our membership to 182 local governments and sponsored entities across the State.



## LGIT's 27th Annual Meeting

Date: October 30, 2014

Time: 7:30 AM - 3:30 PM

Address: Navy-Marine Corps Memorial Stadium  
550 Taylor Avenue  
Annapolis, MD 21401

Contact: 800.673.8231

Links: [Click Here to Register Online and Download the Agenda](#)



## LGIT Board of Trustees

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## ***The Tenant Users Insurance Program (TULIP)***

The TULIP is a low-cost insurance policy that protects both the “Tenant User” and the local government. A “Tenant User” is any outside party using the local government’s facilities. The policy applies to bodily injury or property damage arising out of the use of the local government’s premises by “Tenant Users.” Premium costs are traditionally paid by the “Tenant User.”

Requests to use local government (including cities, towns, counties, schools, and special districts) property and facilities by the public have become a common occurrence. Individuals and organizations that use your local government facilities are not covered under your local government’s insurance program. This opens the possibility of the local government becoming drawn into unnecessary claims.

The solution to this dilemma is the Tenant Users Liability Insurance Program (TULIP). Premium costs are based on the nature of the event, the number of event days, the number of participants, the level of risk and any special requirements.

### **COVERAGE & LIMITS**

Coverage limits of \$1 million are available for products/operations, including liability for body injury and property damage. The policy will pay those sums that the insured (the Tenant User) becomes legally obligated to pay as damages, because of bodily injury or property damage to which this insurance applies.

### **Coverage Includes:**

- Premises Operations
- Products/Completed Operations
- Contractual Liability
- Broad Form Property Damage
- Personal Injury Liability
- Third Party Personal Liability
- Limits are outside cost of defense (cost of defense is in addition to the limit of liability for any coverage)
- Local government is an Additional Insured for each Covered Event
- Optional Coverage: Liquor Liability
- Full listing of covered events is available at:  
[onebeaconentertainment.com](http://onebeaconentertainment.com)



### **HOW IT WORKS**

- When a “Tenant User” decides to use a local government’s property for an event, the facility management directs the “Tenant User” to [onebeaconentertainment.com](http://onebeaconentertainment.com). The facility manager provides the “Tenant User” with a Member ID code that identifies the local government (or use drop down menu by selecting “National League of Cities,” then State of Maryland and city.

- Follow our online process to enter this ID code and answers a few basic questions about your event to receive an online quote.
- If “Tenant User” decides to purchase coverage through the program, they can simply enter their credit card information and secure the coverage online. A Certificate of Insurance is sent to “Tenant User.” Another copy of the Certificate of Insurance is sent to the local government contact.

### **WHY SHOULD LOCAL GOVERNMENTS OFFER THIS COVERAGE?**

- Addresses liability issues in a fast, affordable and convenient manner.
- No cost to the local governments – “Tenant User” pays the premium.
- Local government is named as an additional insured.
- Certificates of Insurance are automatically e-mailed to all parties.
- Safeguards local government’s loss experience.
- Ensures proper coverage. Prudent risk management.

For further information contact Ellen Nudd, Underwriter at 443-561-1700 or [ellenn@lgit.org](mailto:ellenn@lgit.org). You may also contact Susan Kludjian at 978-661-6662 at [onebeaconentertainment.com](http://onebeaconentertainment.com).

## **COPE** **Property Profile Data Report**

This article explains what we mean by COPE. **The acronym COPE stands for Construction, Occupancy, Protection, and Exposure.** Basically, it is the process LGIT uses to determine and document many of the features for the structures and facilities LGIT insures under the Property Program. The Property Profile Data Report is the form the Loss Control Department uses to supply Underwriting with information on each structure we cover under the Property Program.

The purpose of providing Underwriting with a COPE Property Profile Report is to assist Underwriting in having the most accurate information available on each facility that is covered in the Property Program. This also assists Underwriting in valuing the locations and invoicing members properly when a change in value dictates a change in premium.

Information on the COPE Property Profile Form is collected often during a specific COPE visit or in conjunction with a hazard evaluation and/or continuing service visit to a LGIT member. Information that has changed or needs to be updated is reported on a case-by-case basis and entered into the Risk 360 database by Support Services.

### **Construction**

There are five classes of construction: Fire Resistive, Non-Combustible, Masonry, Frame and Pre-Engineered. In addition, we obtain information on many other aspects (i.e., age, square footage, # of stories, roof systems, HVAC, replacement cost values, etc.).

Another important aspect is determining the condition of the structure (e.g., fair to excellent, etc.) and then the quality. By quality, we mean how difficult it was to construct (e.g., low to excellent). For example, a rectangular one story structure would be less costly than an L shaped or one with multi-stories and different construction classes.

### **Occupancy**

Asks: what type of structure? We can select from a group of 27 different choices (e.g., airports, public buildings, library, piers, public safety, etc.).

### **Protection**

Covers what types of systems are in place both private and public. Public: These include fire hydrants and fire departments. Private: These include fire extinguishers, smoke detectors, cooking equipment suppression systems, sprinklers systems (wet and or dry).

### **Exposures**

Include the possible threats to the structure and are listed as light, moderate and severe. These are separated by type of exposure primarily due to the response time it will take a fire department to respond to the location. Light (nothing in close proximity); Moderate (used 90% of the time) or; Severe ... Are there more volatile exposures (i.e., restaurants, dynamite plants, furniture stores, etc.) nearby? These have a higher fire rated potential.

### **Property Valuation Methods Include:**

Replacement Cost is what it will cost to replace the structure and is our preferred method. A second option is Actual Cash Value which is Replacement Cost less Depreciation. Another option is Stated Value which is when a member insures the structure for a specific stated value only.

Historical Reproduction Cost is sometimes several times more than the cost of a conventional type building. This is due to the fact that the building will have to be constructed just as it was when built. These historical structures are on the Department of Interior Federal Historical list. If you should wish to insure other locations not on that list, we suggest talking to one of our Underwriters.

**Resources** - You can refer to LGIT's website [www.lgit.org](http://www.lgit.org) under Publications - Risk Management Manual, Module 9 Property – Appendix D - COPE Property Profile Report. There is also an On-Demand training available on the LGIT Website: <http://ondemand.lgit.org/COPE%20Property%20Profile%20Report%20%20OnDemand/player.html>

### **Conclusion**

We have only scratched the surface here, but hope this article is helpful in explaining what COPE is and why it is important in valuing LGIT members' structures and facilities. If you have questions or need further assistance please contact your Loss Control representative. Thank you.

## Counties & Sheriffs: Employment Decisions and the Potential for Liability

The relationship between each county and its sheriff is fraught with political, budgetary, territorial, and performance issues. Always lurking just below the surface is the issue of county liability for the acts or omissions of sheriffs and/or deputy sheriffs. The liability landscape for counties seemingly brightened in 1989 with the decision of the Court of Appeals of Maryland in *Rucker v. Harford County*, 316 Md. 275 (1989). However, slowly developing events since Rucker make clear many complicated liability issues remain, especially under federal law, both constitutional and statutory. The contours of potential liability faced by each county are dependent on its formal and informal relationship with the Office of the Sheriff and those that it employs.

Beyond the potential for federal constitutional liability, counties may be exposed to federal statutory liability resulting from a sheriff's violation of federal anti-discrimination laws, such as Title VII of the Civil Rights Act of 1964, the Americans With Disabilities Act, and the Age Discrimination in Employment Act. These anti-discrimination laws directly seek out "employers" of those engaging in acts of discrimination, and liability essentially rests on the employment relationship alone. The path leading to local government liability under these laws is based on the agency law concept of "joint employers," which recognizes that an "agent" (an employee) may answer to one or more "principals" (employers). So, it is feasible that an employee may have more than one employer. If that is the case, who employs a deputy sheriff for the purposes of these anti-discrimination laws? Is it the sheriff? The State? The county? A combination of these? The answer is

unknown but, again, is dependent on each county's unique relationship with its Office of the Sheriff.

There is little authority applying the common law concept of "joint employer" in the employment discrimination context. Being a pessimist, however, I think there is little chance of the doctrine not being applied in an appropriate case, including one against governmental entities. To be a "joint employer," an entity must share or co-determine the essential terms and conditions of a worker's employment. To determine whether an entity is the plaintiff's joint employer, courts will look to an entity's ability to hire, fire or discipline employees, affect their compensation and benefits, and direct and supervise their performance. Courts may also look to see if the human resources function is shared between units of government. For example, does the Office of the Sheriff have its own Human Resources Department or does it utilize the County's department for personnel administration? Also, it must be kept in mind that even if a county were deemed to be a deputy's "joint employer," under a federal anti-discrimination law, the inquiry would be far from over. That is because, even where two entities are deemed a joint employer, it is not necessarily the case that both are liable for discriminatory conduct. In

this regard, the issue would turn on the extent of the county's control over the sheriff and its legal responsibility for his conduct in office.

What we do know can only hurt us so much. And we do know this: Regardless of whether a county is a defendant in one of these cases, it is still in peril. That is because under many of these statutes, including Title VII, both back pay (from termination to judgment) and front pay (from judgment to reinstatement, if feasible) are recoverable as damages. Under the IRS code, awards of back pay and front pay are treated as income. Under State law (§ 2-309 of the Courts and Judicial Proceedings Article), it is the counties, not the State, who are saddled with the obligation of paying the salaries of sheriffs and sheriffs' deputies. So, even in instances where the State has assumed the defense of the sheriff and other defendants, a judgment for back and/or front pay must still be satisfied by the county. It is a no win proposition.

In any event, forewarned is forearmed. It is important to know that this additional avenue of federal liability exists and that it may be coming soon to a county near you – even your own.

John F. Breads, Jr.  
LGIT Director, Legal Services

### From the Employment Law Hotline (800.845.8055)

*The Hotline is a component of the HR Compliance Portal and is a service available to Liability Program members. It provides up to 30 minutes of free legal advice per employment issue. This member service is provided by LGIT, with the professional assistance of Karpinski, Colaresi and Karp, P. A. We have selected for publication one recent inquiry of interest.*

**Q**uestion: A local government employee was recently terminated. The former employee has requested a copy of his personnel file, which includes memoranda from supervisors and other employees documenting his poor performance. The Human Resources Director is concerned that disclosing this information could lead to some kind of retaliation against the supervisors and fellow employees. Does Human Resources have to give access to the file to the former employee?

**A**nswer: Yes. There is no basis to deny the employee access to his personnel file. The file should be copied and provided as requested.

## LGIT Calendar

### September

#### **Regional Defensive Driving Course — City of Havre de Grace**

September 24, 8:30 AM - 3:30 PM @ Community Center, 100 Lagaret Lane

#### **Regional Defensive Driving Course — City of Takoma Park**

September 25, 9:00 AM - 3:30 PM @ City Hall, Azalea Rm.7500 Maple Avenue

### October

#### **Maryland PRIMA Chapter Meeting — Ellicott City**

October 10, 9:00 AM - 3:00 PM @ Kelsey's Irish Pub 8480 Baltimore National Pike

#### **PESA Fall Conference — Hanover**

October 17, 8:30 AM - 3:30 PM @ MD State Highway Administration, Hanover Complex, 7491 Donnelley Drive

#### **2014 Greater Chesapeake Damage Prevention Training Conference — Ocean City**

October 28 - October 31 @ Clarion Resort Fontainebleau Hotel

#### **LGIT's 27th Annual Meeting — Annapolis**

October 30, 7:30 AM - 3:30 PM @ Navy-Marine Corps Memorial Stadium, 550 Taylor Avenue

### November

#### **Save the Date! Benecon's Annual Health Benefit Seminar — Lancaster, PA**

November 20 - November 21 @ Eden Resort & Suites, 222 Eden Rd.

**General Information — 800.673.8231 or 443.561.1700**

**Online Registration — <http://www.lgit.org>**

**FAX Registration — Attn: Michelle Yannone, 443.561.1701**

**For up-to-date calendar information, go to [www.lgit.org](http://www.lgit.org) and click on Upcoming Events**

## Maryland Local Government Health Cooperative

Learn about a new alternative for health insurance coverage available only to Maryland local governments. Go to [www.lgit.org](http://www.lgit.org) and click Health Coop on the home page.



Join the growing number of Maryland local governments that have discovered the best option for their health insurance needs.

### Current Cooperative Members

- City of Aberdeen
- City of Brunswick
- Town of Chesapeake Beach
- Town of Chesapeake City
- Town of Chestertown
- City of College Park
- City of Cumberland (12/1/14)
- City of Gaithersburg
- Town of Hampstead
- Kent County
- Kent County Library
- LGIT
- Maryland Municipal League
- Town of Middletown
- City of New Carrollton
- Town of Oakland
- Town of Port Deposit
- Town of Sykesville
- Town of Upper Marlboro
- City of Westminster

### Key Program Advantages

- Choose your own plan design
- Costs will be the same every month
- Modified self-funding without the risk
- Opportunity to receive money back

### More Information

For more information or to get a quote, contact Michele Keplinger, Member Services Specialist, at 800.673.8231.

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