



Friendly Farmers, Borrowed Equipment, Helping Hands



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1



Let's Discuss

- A Neighborly Exchange of Services
- Borrowed, Leased or Rented Equipment
- Hired Help – Friend or Foe



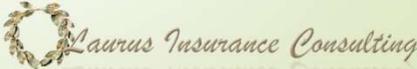
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Just What Is A Neighborly Exchange of Services

- Consider your "typical" farmer
- Independent
- Neighborly
- Willing to help others
- Strong work ethic



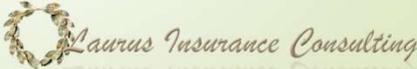
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"Typical" Farmer (cont.)

- Patient
- Self-motivated
- Problem solvers
- Constant learners
- Measured risk takers



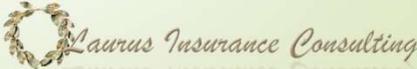
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Inherent In All That Is...

- A willingness to be involved
- Not just in a self-interested manner
- But a willingness to help others in need
- Especially other farmers



5



A Neighborly Exchange Of Services

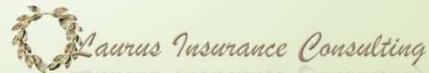
- Not defined in a farm liability policy
- Where do we find it – the only reference to such is within the definition of “custom farming” – both in the ISO and the AAIS Liability coverage forms
- Not mentioned in the CGL at all
- Does show itself, however, in the FL 04 11, Basic Farm Premises Liability endorsement



6

Custom Farming Exclusion 2.j.

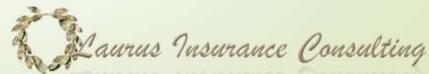
- This insurance does not apply to:
- "Bodily injury" or "property damage" arising out of an "insureds":
- **(1)** Performance of; or
- **(2)** failure to perform;
- "custom farming" operations.
- But this exclusion will apply only when your receipts from "custom farming" operations exceed \$5,000 for the 12 months immediately preceding the date of the "occurrence".



7

"Custom Farming" Defined

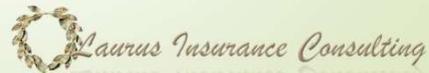
- **6.** "Custom farming" means performance of specific planting, cultivating, harvesting or similar specific "farming" operations by an insured, at a farm that is not an "insured location", when the performance is for, and under the direction or supervision of, the owner or operator of the farm or the authorized representative of the owner or operator.



8

“Custom Farming” (cont.)

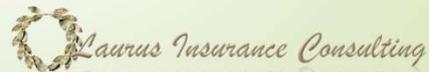
- But “custom farming” does not mean:
 - **a.** Operations conducted at a premises rented to, leased to or controlled by an “insured”;
 - **b.** Operations for which no compensation in money or goods is received;
 - **c.** A neighborly exchange of services.



9

Questions ???

- 1. Because it is only mentioned in the “custom farming” definition – does that mean it only applies in custom farming operations
- 2. Is the intent of the language to “tie” it to a farming operation and/or farming related operations
- 3. Is the interpretation of what it means and how it applies essentially left up to individual insurers



10



Can AI Assist Us ? Here Is One AI Overview

- A casual, informal help between neighbors, often skill swapping or task sharing without formal payment, fostering community;
- In Insurance (especially farm liability) it's a specific exception allowing coverage for injuries during these friendly, non-business favors, differentiating it from paid work.



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Some Considerations

- This refers to situations where farmers provide services to each other, often informally, without a direct financial transaction.
- EG: Planting and harvesting assistance provided by one farmer to another
- The practice is meant or expected to foster cooperation and support among farmers, enhancing proficiency and productivity in agricultural operations



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Cornell Law Explains It Thusly

- Occasionally a farmer may help his neighbor with the harvest of his crop (or similar considerations). Farmer B helps Farmer A harvest his wheat to beat the oncoming storm. In return, Farmer A repays the favor to Farmer B...or Not.
- Is repayment needed to complete the transaction?



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Potential Situations



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Example # 1

- Row crop farmer helps his neighbor finish cutting beans before the big rain event arrives.
- He's helping his neighbor
- Then he backs into someone or someone's personal property
- Will the FL form respond?



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Example # 2

- Farmer takes his tractor down the road to help a neighbor remove a tree or parts of a tree that fell during a windstorm.
- While helping his neighbor he injures another party with his tractor.
- Will the FL form respond?



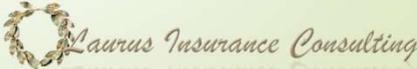
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What Do You Think

- Share some examples of what you have seen paid for – or not – under this language?



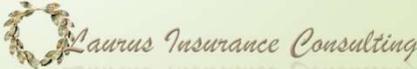
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17



Let's Revisit Some Other Ideas That Might Influence Us

- It's within the definition of "custom farming" – does that mean it only applies to activities that arise out of "custom farming"?
- OR
- It is in the definition of "custom farming", but that does not limit it to the "custom farming" definition



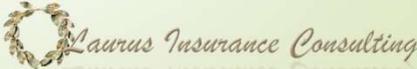
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18



Ideas (cont.)

- The “custom farming” definition ties itself to the insured’s “farming” operations.
- Thus, is the neighborly exchange of services limited to those services that emanate from the insured’s “farming” operations?



19



Consider That

- The FL coverage form is a combination of personal and business coverages – as long as the “business” that is being covered is the “business” of “farming”
- All other types of “business” are essentially excluded unless otherwise shown on the Decs
- We cannot forget the “business” exclusion in the FL

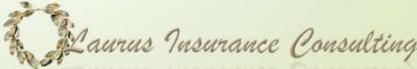


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Neighborhoodly Not Defined merriam-webster.com

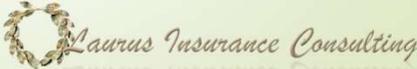
- ▀ Neighborhoodly (adjective)
 - ▀ Of, relating to, or characteristic of congenial neighbors
- ▀ Neighbor (noun)
 - ▀ One living or located near another
- ▀ Near (adverb)
 - ▀ At, within, or to a short distance or time



21



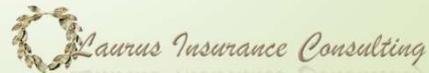
Borrowed, Leased or Rented Equipment Farm Liability and Farm Property Considerations



22

Farm Liability Coverage

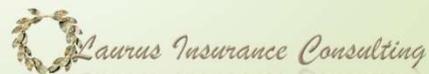
- Initially two exclusions to consider
- Exclusion **2.g.** Mobile Equipment
- Exclusion **2.r.** Damage To Property



23

Exclusion 2.g. Mobile Equipment

- Excludes BI or PD arising out of:
 - **(1)** The transportation of "mobile equipment" by a "motor vehicle" owned or operated by, or rented or loaned to, any insured; or
 - **(2)** The use of any self-propelled land vehicle, or "mobile equipment" in, or while in practice or preparation for:
 - **(a)** A prearranged racing, speed, strength or demolition contest; or
 - **(b)** Any stunting activity

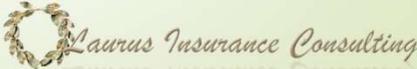


24



Exclusion 2.r. Damage To Property

- Excludes coverage for “property damage” to:
- **(2)** Property you rent or occupy;
- **(4)** Property loaned to you;
- **(5)** Personal property in the care, custody or control of the insured.
- Does not apply to “custom farming” ops

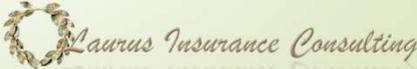


25



Farm Property Forms

- FP 00 13, Farm Property – Farm Personal Property Coverage Form
- Considerations under Coverage E – Scheduled Farm Personal Property
- Considerations under Coverage F – Unscheduled Farm Personal Property
- FP 00 30, Mobile Agricultural Machinery & Equipment Coverage Form



26

FP 00 13 - Scheduled Farm Personal Property

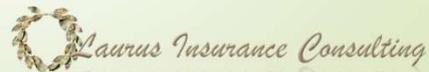
- All of the following are covered property under Coverage **E** of this coverage form, provided a limit of insurance is shown in the Declarations for the specific type of property
- **i.** Farm machinery, vehicles and equipment that you borrow or rent, whether or not under a written contract, except while in the premises of its owner. The borrowed or rented equipment must be:



27

Item **i.** (continued)

- **(1)** Usual or incidental to farming operations;
- **(2)** In your care, custody or control; and
- **(3)** Property in which you have no interest as owner or lienholder.
- But covered property do not include borrowed or rented property of the following types:

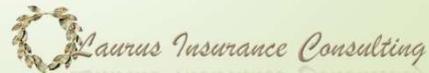


28



Item i. (continued)

- ▶ **(a)** Autos, trucks, motorcycles, motorized bikes or trikes, mopeds, dirt bikes, snowmobiles, ATVs, mobile homes, house trailers, vehicles primarily designed and licensed for road use (other than farm wagons and farm trailers); watercraft or aircraft; or the equipment, tires or parts of any of these; or
- ▶ **(b)** Dealer's demonstration machinery, vehicles or equipment.

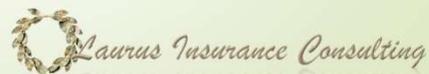


29



Question

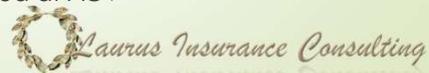
- ▶ WHAT limit of insurance did you have shown in the insured's Decs for this coverage to apply
- ▶ Did you ask the insured what limit they needed
- ▶ HOW did you ask the insured



30

Insured Leased The Property

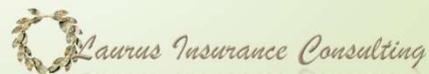
- If the insured took a lease or long term rental of the property
- You could schedule the items under item j. Farm Machinery & Equipment
- **j.** Farm machinery, vehicles and equipment which are individually described and specifically covered in the Declarations, while on or away from the "insured location", except while in the custody of a common or contract carrier.
- Property losses settled at ACV



31

Beware Extension **F.**

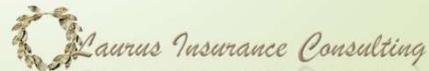
- If there is a limit of insurance for Farm Machinery, Vehicles, Equipment Borrowed or Rented With Or Without A Written Contract
- An additional \$10,000 per occurrence is available for items that are either rented or borrowed after the beginning of the policy year.
- This additional limit applies for up to 30 days. If the insured keeps the property for more than 30 days, an additional premium is due starting with the 31st day of possession.



32

Beware Extension F.

- Coverage ends at the end of 30 days or the expiration of the policy – whichever first occurs.
- If there is no limit on the Declarations for this coverage, no coverage is provided under this Coverage Extension.
- However, refer to Section III-Additional Coverage for a limited automatic amount of coverage.



33

Additional Coverages – Item C.

- Borrowed or Rented Farm Machinery, Vehicles, Equipment – Thirty-day Limit
- If no limit shown in the Decs - Then \$10,000 of coverage applies
- The borrowed or rented property MUST BE:
 - Usual or incidental to farming operations
 - In the insured's CCC at time of loss or damage
 - Initially borrowed or rented after the start of the policy period
- Property in which the insured has no financial interest



34



Also Consider

- What Causes of Loss did you select
- Does an agreement require better than ACV as a loss settlement
- Some carriers will provide for a replacement Cost endorsement for farm Personal Property for items such as tractors
- Read it carefully to see if it will apply to non-owned tractors



35



Coverage **F** – Unscheduled Farm Personal Property

- We could conceivably insure borrowed or rented equipment here on an unscheduled (blanket) basis
- Will your underwriter agree to do so
- After all, we cover all items of “farm personal property” on the “insured location” except for certain named items



36



Coverage F (cont.)

- Property Not covered:
 - Cotton Pickers
 - Harvester-Thresher Combines
- Any property shown in the Decs under the heading Other Property Not Covered under Coverage F.



37



An Endorsement To Consider FP 04 23

- Farm Equipment Borrowed or Rented without a Written Contract – FP 04 23
- Applies to E or F
- Provides up to \$50,000 for farm machinery, vehicles and equipment that has been borrows or rents without a written contract.
- Ends 30 days after item has been borrowed/rented or the expiration of the policy – whichever comes first

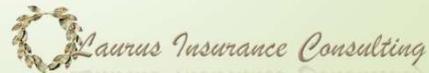


38



FP 00 30 – Mobile Ag Machinery & Equipment

- It's an inland marine approach to coverage
- Can be written as part of a package or monoline
- Property not covered includes cotton pickers, harvester-thresher combines, and four-wheelers not specifically declared and described with a limit of insurance for each item
- 80% coinsurance applies and cannot be waived



39



Borrowed Or Rented

- Item g. under Additional Coverages provides for Borrowed or Rented Mobile Ag Machinery & Equipment
- Pays up to \$10,000 in any one occurrence, with certain restrictions
- Coverage does not apply to equipment while on the owner's premises.
- Such coverage ends 30 days after such equipment is rented or when the policy expires (whichever comes first)

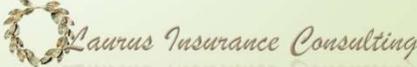


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FP 00 30 - Note

- Mobile agricultural machinery & equipment has a different definition from what we might expect.
- Means mobile devices used in the everyday operation of the farm including:
 - A. Accessories, whether or not attached; and
 - B. Tools and spare parts that are specifically designed and intended for use in the maintenance and operation of the mobile devices.

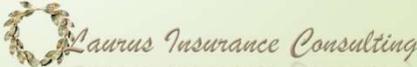


41



FP 04 20 – Foreign Objects In Machinery

- Can be used with the FP 0013 and the FP 00 30
- Pays for loss or damage caused by or resulting from foreign objects being taken into farm machinery, vehicles and equipment.
- Deletes the similar exclusion that is found in the Special Form Cause of Loss language

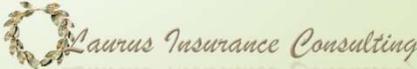


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Other Considerations

- ▶ What about the contract that your customer signed
- ▶ What does it require of them when it comes to the value of the equipment et al after the loss occurs
- ▶ Will ACV suffice



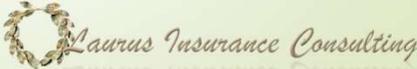
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43



The Hired Help

Employees, Independent Contractors, Custom Farmers, Volunteers, Others?



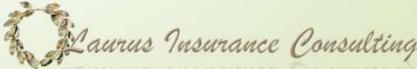
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44



Four Types of Folks in Nebraska

- Independent contractors
- Common Law Employees
- Statutory Employees
- Statutory Non-Employees



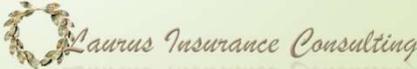
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Independent contractors

- The payor (the one who contracts for the services of the IC) has **ONLY** the right to control or direct the result of the work done by the IC, **NOT** the means and methods of accomplishing the results of the work



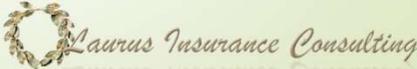
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Common Law Employees

- ANYONE who performs services for you is your employee if you can control what will be done and how it will be done – even if you provide them with freedom of action

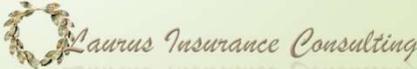


47



Statutory Employees

- By law (statute) certain types of employment are considered to be employees:
- **a.** Certain drivers of distribution operations
- **b.** Full-time life sales agents for one company
- **c.** Individuals working from home on materials or goods that you supply and that must be returned to you
- **d.** Full-time traveling or city salesperson who works on your behalf and turns in orders to you from wholesalers, retailers, contractors or operators of hotels, restaurants or similar establishments



48



Statutory Non-Employees

- ▶ Only two type qualify here:
- ▶ Direct sellers
- ▶ Licensed real estate agents



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49



Nebraska Work Comp Law Applies To Employees

- ▶ This would apply to these groups:
- ▶ Common Law Employees
- ▶ Statutory employees



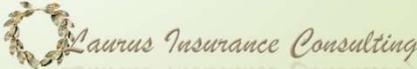
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50



Excluded Employees By Statute Include

- Railroad companies
- Agricultural operations
 - Essentially defined as the cultivation of land for the production of agricultural crops, fruit or other horticultural products;
 - or the ownership, keeping, feeding of animals for the production of livestock products
- Employment can take place un the contract for hire, expressed or implied, written or oral (Morin v. Industrial Manpower)



51



Key Court Decisions In Nebraska Law

- Chris Fiegen vs. Joe van Newkirk
- Harold L. King vs. Rolin K. Farms & Trucking et al
- Jerry Brown vs. Bowen Arrow Ranch, Inc.
- Estate of Elox vs. Paul Johnson & Sons Cattle Co.

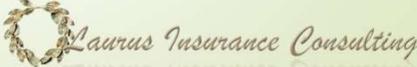


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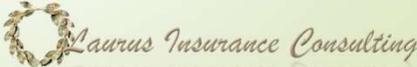


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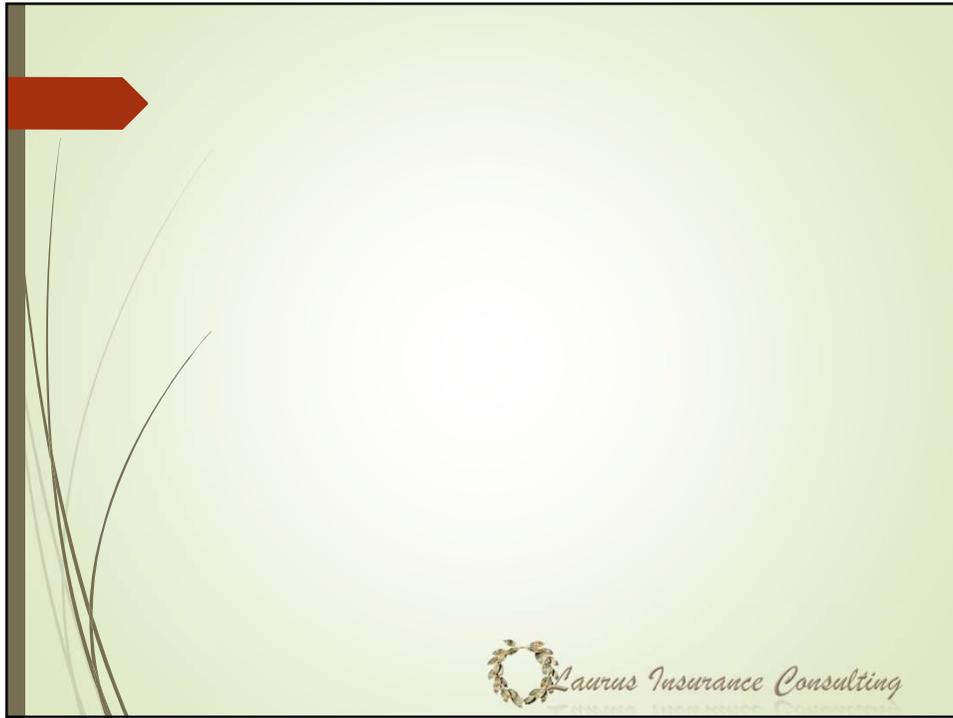
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53



54



55