

Fun on the Farm

It All Started With A Bouncy House... That's Agritainment

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What Is It?

- * Agritourism
- * Agrotourism
- * Farm tourism
- * Agricultural tourism

*A rose by any other name,
it's part of insuring farms
today*

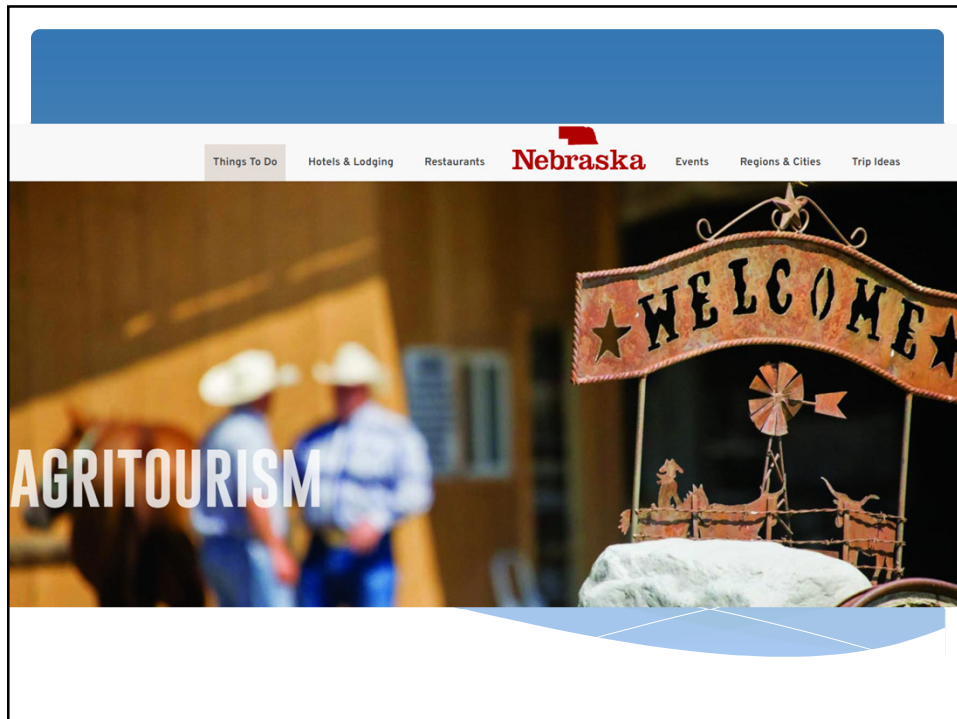


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What is it?

- * Under LB329, agritourism activities include “hunting, fishing, swimming, boating, canoeing, kayaking, tubing, water sports, camping, picnicking, hiking, backpacking, bicycling, horseback riding, nature study, birding, farm, ranch, and vineyard tours and activities, harvest-your-own [i.e. “pick your own”] activities, waterskiing, snow-shoeing, cross-country skiing, visiting and viewing historical, ecological, archaeological, scenic, or scientific sites, and similar activities.” NRS §82-603(1).

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ISO's DEFINITION

3. "Agritainment" means an agricultural or aquacultural related activity or enterprise that is primarily operated on the "insured location":
 - a. For the purposes of tourism or entertainment and
 - b. Engaged in for monetary or other compensation.

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Why Are Farmers Doing It?

- * The ultimate in "value-added"
- * They can make more \$ selling FUN than they can merely selling stuff
- * When folks are having FUN the farmer can sell them other stuff for more \$
- * Educate city folks and kids about agriculture and its contributions to their lives and our economy
- * They love creating something new each year
- * It doesn't take near as much water as farming does
- * \$\$\$\$\$

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Why Are We Talking About It Now?

- * Farmers are entrepreneurs
- * “Call My Insurance Agent” isn’t always at the top of their to-do list
- * Stuff happens and when it does, it rolls downhill

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#1 Reason We Are Discussing Agritainment

Help you to work with your customers to better:

- * Identify risk exposures
 - * Develop alternatives to manage those risks
 - Avoid
 - Control
 - Transfer
 - Retain
- Active Retention Is Always Better Than Passive Retention**
Passive retention is spelled: E&O
- * Select the most appropriate risk management technique(s)
 - * Implement the selected technique(s)

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Identify The Risks

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It All Started With A Bouncy House

- * 82,748 children ages 2 to 17 were injured between 2015 and 2019
- * 15-fold increase in bouncy house injuries from 1990 to 2010 - doubling again from 2011 to 2022

- Journal of Pediatric Surgery



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Fractures	25.8%
Strains & Sprains	25.7%
Contusion	14.5%

Trampolines users still have an injury rate per 100,000 users at 31.9 versus bouncy house users at 5.28.

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Halloween Is A Pretty Cool Holiday

- Pumpkin Patch
- Corn Maze
- Pumpkin/Corn Cannon
- Haunted House
- ?????

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People Like To Go “Vroom Vroom”

Go Karts	Zip Lines
Hot Air Balloon	Horseback Riding
Aircraft	5k Run
Trains	Hayrides

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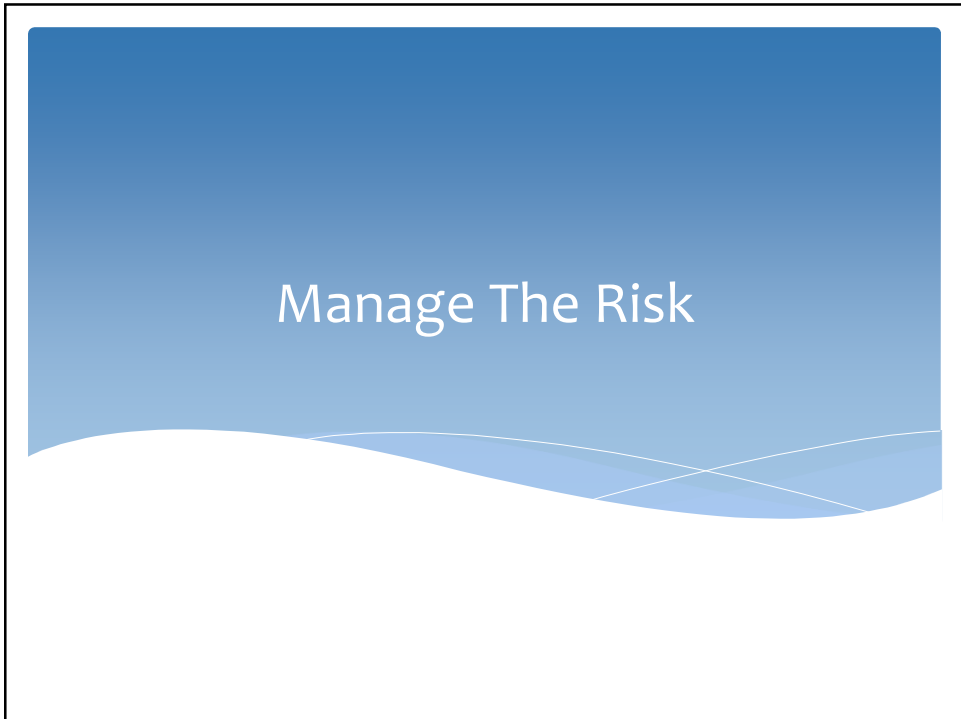
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Avoidance

- * Not usually the customer's first choice
- * May be the only choice for some exposures

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Control

- * Warnings – Disclaimers – Releases - Waivers
- * Hire Quality Employees
- * Good Communication – walkie-talkies for all employees
- * Have Different Play Areas For Different Sizes Of Kids
- * Fence Off Any Water
- * Clean Up Any Trash Or Debris
- * Regular Maintenance Schedule For All Equipment
- * Adequate Hand Washing Stations
- * TIPS Training

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WARNING

Under Nebraska law, an owner of property, including lands and waters, is not liable for the injury to or death of the participant in agritourism activities or damage to the participant's property resulting from the inherent risks of such activities. Inherent risks include, without limitation, the risk of animals and land and water conditions, the ordinary dangers of structures or equipment ordinarily used in farming or ranching operations, and the potential for you or another participant to act in a negligent manner that may contribute to your own injury or death. You are assuming the risk of participating in the agritourism activities for which you are entering the owner's premises.

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Transfer

- * Waiver Of Liability/Assumption Of Risk
Signed vs. Unsigned
- * AI's / Indemnification wording from outside vendors
- * Insurance
Farm vs. Commercial

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Insurance Companies

- * Underwriters Hate Surprises
- * Don't Assume Anything
- * Different Companies Have Different Appetites
- * Some Companies Will Handle Agritainment Exposures In Their Commercial Department
- * Some Exposures Will Be Best Handled Via The Excess/Surplus Lines Market (especially now)

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Advantages Of Special Programs

- * Experienced Underwriters
- * Tailor-Made Coverage Forms
- * Risk Control Assistance and Information
- * Focused Claims Service
- * Keeps Any Losses Off The Loss History Of The Customer's Prime Business

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Disadvantages Of Special Programs

- * Exposure Truly Stands On Its Own
- * Underwriter Doesn't Have Support Of The Rest Of The Customer's Business
- * Nonstandard Forms That Must Be Reviewed To Avoid Potential Unwelcome Surprises
- * Separate Bill
- * Claims May Be Handled By a TPA

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Coverage Concerns

- * Property
- * Liability
- * Crime
- * Cyber
- * Automobile
- * Inland Marine/Mobile Ag
- * Umbrella/Excess

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Everybody's Favorite Part Of The Show

Form Review

We will review ISO forms not because you will find companies that use ISO forms verbatim. We will use ISO forms as a means to facilitate discussion and demonstrate the larger concept.

There are a myriad of advisory forms, proprietary forms and hybrid forms used by companies to deliver their products and you must know and review each form for the companies with which you do business.

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ISO Farm Property Forms

FP 00 12 04 16 Farm Dwelling Form

Coverage C – Property Not Covered

- e. "Business property" except to the extent provided for in Special Limits Paragraphs e. and f. under Paragraph A.3. Special Limits of Insurance Under Coverage C;

Special Limits Of Insurance Under Coverage C

- e. \$2,500 on "business property" on the "insured location";
- f. \$1,500 on "business property" off the "insured location".

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ISO Farm Property Forms

FP 00 90 04 16 Other Farm Provisions

- * "Agritainment" means an agricultural- or aquacultural-related activity or enterprise that is primarily operated on the "insured location" (a) for the purposes of tourism or entertainment and (b) engaged in for monetary or other compensation.
- * "Agritainment property" means property owned by an "insured" used primarily in connection with the operation of any "agrifainment." "Agritainment property" does not include buildings, structures, land, water, and growing crops (other than growing crops held for nursery stock and ready for sale).
- * "Business property" means property pertaining to any trade, profession, or occupation other than farming. "Business property" does not include "agrifainment property."
- * "Farm personal property" means equipment, supplies, and products of farming or ranching operations, including but not limited to feed, seed, fertilizer, "livestock," other animals, "poultry," grain, bees, fish, worms, produce, and agricultural machinery, vehicles, and equipment. This term further delineates the distinction between "household personal property" and "farm personal property."

Caution – The Farm Property Forms Never Define The Terms “Business” or “Farming”

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ISO Farm Property Forms

- * **FP 00 13 04 16 Farm Personal Property Form**
- * While both Coverages E & F specifically list Household Personal Property under the Property Not Covered sections, neither E nor F list Business Property as Property Not Covered.
- * However, Coverage E (Scheduled Farm Personal Property) lists the types of FPP covered and uses terms such as “Farm Products, materials & supplies”... and “usual or incidental to the operation of a farm”...

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ISO Farm Property Forms

- * Coverage F (Unscheduled Farm Personal Property) grants coverage for all items of “farm personal property”, except for items specified under Property Not Covered.
- * Under Property Not Covered, note item 2.t. “Agritainment property” as previously defined

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ISO Farm Property Forms

- * **FP 00 14 04 16 Farm Property – Barns, Outbuildings and Other Farm Structures**
- * The FP 00 14 does not specifically exclude “agritainment property”
- * References are made to “Farm Buildings and Structures” throughout the form, however.

Don't Assume But If You Do - Assume That The Only Coverage For Business Property On The Farm Forms Is Extremely Limited As Shown Above.

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ISO Farm Liability Forms

FL 00 20 04 16 Farm Liability Bodily Injury/Property Damage Exclusions

i. Business Pursuits

"Bodily injury" or "property damage" arising out of or in connection with a "business" engaged in by an "insured". This exclusion applies but is not limited to an act or omission, regardless of its nature or circumstance, involving a service or duty rendered, promised, owed, or implied to be provided because of the nature of the "business".

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ISO Farm Liability Forms

* Section IV – Definitions

4. "Business" means a trade, profession, occupation, enterprise or activity, other than "farming" or "custom farming", which is engaged in for the purpose of monetary or other compensation.

NOTE: 2016 FLCF adds "agritainment" to the definition of "business"

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ISO Farm Liability Forms

“Agritainment” means an agricultural or aquacultural related activity or enterprise that is primarily operated on the “insured location”:

- a. For the purposes of tourism or entertainment; and
- b. Engaged in for monetary or other compensation.

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ISO Farm Liability Forms

7. "Farming" means the operation of an agricultural or aquacultural enterprise, and includes the operation of roadside stands, on your farm premises, maintained solely for the sale of farm products produced principally by you. **Unless specifically indicated in the Declarations, "farming" does not include:**
 - a. Retail activity other than that described above; or
 - b. Mechanized processing operations

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Liability ISO Farm Liability Forms

2016 ISO Change:

However, “farming” does not include the operation of:

- (1) Any “agritainment” on your farm premises; or
- (2) Any retail activity or any mechanized processing operations performed, in whole or in part, for “agritainment”.

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Liability ISO Farm Liability Forms

2016 ISO Change:

Exclusion bb. Agritainment

“Bodily Injury” or “property damage” arising directly or indirectly out of any “agritainment”.

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Liability ISO Farm Liability Forms

Personal and Advertising Injury Liability Exclusions

“Personal injury”

(1) Business Pursuits

Arising out of or in connection with a "business" engaged in by an "insured".

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Agritainment - Liability (FL 05 01 04 16)

- * Schedule of
 - * “Insured location”
 - * Description of “Agritainment”
 - * Liquor Liability Exclusion does not apply ✓
 - * Mobile Equipment Exclusion does not apply ✓
 - * Use of Livestock or Other Animals
Exclusion does not apply ✓
 - * Rental of a Part of the “Insured Location” to Others ✓
 - * Designated Event Exclusion Applies ✓
- (Description/Name of Designated Event)

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I Just Need A CGL, Right?

Not All CGL's Are Created Equally

- * Advisory Forms
- * Advisory Forms w/Changes
- * Advisory Forms (or w/Changes)+ Advisory Endts
- * Advisory Forms (or w/Changes)+ Proprietary Endts
- * Proprietary Policies

Form Review Is Essential

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Liability Proprietary Policies & Forms

- * They might look and feel like "CGL's", but.....
- * Need to Check:
 - * Coverage Grant
 - * Exclusions
 - * Endorsements
 - * Limitations – including receipts/location limitations
 - * Definitions

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Farm Liability Solutions

- * **FL 04 33 Business Activities**
- * **With respect to the business described in the Schedule** the Business Pursuits Exclusion is deleted for Bodily Injury/Property Damage and Medical Payments Coverages
- * Does **not** delete the Business Pursuits Exclusion under Personal and Advertising Injury Liability

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REMINDERS

- * Short Term (“Special Event”) policies – usually fully earned premiums
- * If you end up with a CGL and an FL policy, make sure the endorsements are consistent between each coverage
- * Not investigating all market possibilities
- * Assuming
- * Not knowing your customer’s operations

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It All Started With A Bouncy House



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