F01. Our Changing World Needs Insurance to Cover Your Risks. Do you Have the Right Balance? CLE

Saturday, October 19 | 3:30 p.m. - 5 p.m.

Room 205

Session Faculty:
Leslie Ratley-Beach
Robyn Carlton
Tom Kay
Meghan Mullee

Rally 2019: The National Land Conservation Conference
Raleigh, NC

Land Trust Alliance
Together, conserving the places you love
Our Changing World Needs Insurance to Cover Your Risks. Do you have the right balance?

Saturday October 19 | Session F01 | 3:30 p.m. - 5 p.m. | Basic for all | Great for Board Members

CLE and Qualifies for the Terrafirma risk management discount if senior staff or board attends

Three Learning Objectives:
1. Address changes inherent in disasters of all types, extreme weather and migration patterns
2. Understand how a board balances risk and assesses mitigation and insurance coverage especially in connection with Land Trust Standards & Practices Standard 6
3. Understand how to help a land trust board and staff assess inclusion through risk balancing

Session Description:
Having the right insurance and smart mitigation strategies is a key part of good risk balancing for land trusts. Terrafirma helps cover threats to the lasting conservation, however, land trusts need to assess many other types of insurance to balance risk. We will present real life stories of how insurance plays into all land trust activities with a special focus on disasters of all types, extreme weather, preparation and risk assessment. We also will explore “catastrophe zones” and how your location affects your insurance.

Detailed Outline:
1. Risk assessment and mitigation strategies
   a. Alachua Conservation Trust story and strategy
   b. Lookout Mountain Conservancy story and strategy
2. How do you assess your insurance portfolio to handle disasters and extreme weather?
   a. Are migration patterns changing in your area and what does that mean for insurance?
   b. Do you own special buildings?
   c. Have you considered the financial effect on your organization if a revenue-generating property is inaccessible in the aftermath of a major weather event?
   d. Does your organization have an emergency preparedness plan in place to respond to various climate related disasters?
   e. Are you aware of the coverages and exclusions on your policy that come into play in the event of a flood, earthquake, hurricane, or wildfire?
3. What are your risks?
4. Understanding your activities and the opportunities and obstacles they pose
   a. Organizational
   b. Type of work
   c. State law where work occurs
   d. Property value
e. Landowner, funder, neighbor, regulator, public official and general public expectations
f. Balancing risk with strong principled practices
   i. Land Trust Standards and Practices 2017
   ii. Risk Management Drafting Pointers
g. Working with your board and broker to identify where insurance can finance risk

5. What questions to ask and how to assess what insurance you need
   a. Review the materials on Assessing Insurance for Land Trusts and Evaluating your Land Trust’s Insurance Needs and Obtaining Proper Coverage

6. Untangling the types of insurance, how they do and do not overlap
   a. Review the materials on Commonly Purchased Insurance Overview
   b. What are the coverages and how do they fit together
   c. Key similarities, differences and gaps
   d. Coverage matrix
   e. Disaster strikes: what to look for in your insurance policy
      i. Knowing beforehand how your broker will help you (or not)
      ii. Insurance coverage assessment from RMC AGR on Potential Effects of Climate Change on Liability Insurance
      iii. The End of Liability Insurance following the Steadfast Insurance Company Decision?

7. Legal Issues and Cases.
   a. Steadfast Insurance Co. v. AES Corp. (2012 reaffirmed 2011 opinion) Record No. 100764
   b. On appeal, the Virginia Supreme Court affirmed that the insurance company had no duty to defend or indemnify the energy company. In its decision, the Supreme Court held that the relevant policies only provided coverage against claims for damages caused by an accident or occurrence, and said that the release of greenhouse gases did not qualify as either.
   c. The Virginia Supreme Court reaffirmed its previous holding that an insurance company had no obligation to defend or indemnify an energy company against a lawsuit alleging that its greenhouse gas emissions led to the destruction of an Alaskan village. Upon rehearing, the court reaffirmed its prior holding, stating that the allegations by the village were that its damages were the result of the energy company’s intentional actions and not an accident or other occurrence covered by the policy.

8. What questions and comments do you have?

Panel:
Meghan Mullee, mmullee@alliant.com, Assistant Vice President, Conserve-A-Nation Program, Alliant Insurance Services, Inc. Meghan has spent the better part of a decade helping conservation nonprofits with their unique insurance needs, providing risk evaluation and insurance solutions for land trusts, conservancies and habitat preservation organizations nationwide. Her expertise lies in understanding the multi-dimensional aspects of challenging conservation exposures – conservation easements, prescribed burns, recreational hunting – and working with her team to design comprehensive insurance solutions especially for those difficult risks. Meghan oversees the Conserve-A-Nation Insurance Program, and has written and presented on a variety of insurance topics for the Land Trust Alliance. In 2017, she was nationally recognized by Business Insurance magazine largely due to her specialized efforts in the conservation space.
**Robyn Carlton, Chief Executive Officer, Lookout Mountain Conservancy.** Robyn received a Bachelor of Arts in Psychology and Education from LaGrange College in LaGrange, Georgia. Later she completed her MEd with an emphasis in psychological counseling at Auburn University. Before coming to Lookout Mountain Conservancy, Robyn started and owned her own bookstore; taught K-12 grade and coached junior and varsity basketball, softball and tennis at LaGrange Academy; and was an adjunct professor at Chattahoochee State Community College and Cleveland State Community College. She held positions in the southeast that allowed her to provide direct counseling, as well as designed, developed and administered mental health programs. The greatest gift she received from her mother was when her mother would say, “Go play outside.” The outdoors became her safe place; her foundation. Robyn loves the performing arts and specifically ballet. She danced with the Southern Ballet Company, the Atlanta Ballet Company and traveled with the group, Up With People, performing at the 1972 Olympics in Munich, Germany. After dance, running became a passion and she completed 18 marathons. She has since traded in the ballet and running shoes for hiking shoes and fly fishing. Robyn has 2 daughters and considers the 18 young men and women from the Intern and Leadership Program her family. Being a good parent is the most rewarding and important responsibility she believes she will ever have. Because of this, her life has forever changed.

**Tom Kay** is the Executive Director of Alachua Conservation Trust. He holds a bachelor’s degree in environmental policy and behavior from the University of Michigan’s School of Natural Resources and Environment and a law degree from Florida State University’s College of Law. He has volunteered on local and national political campaigns and served as the campaign chair for Alachua County’s successful Wild Spaces & Public Places conservation sales tax ballot initiative in November 2016.

**Facilitator:**

**Leslie Ratley-Beach, Vice President, Alliance Risk Management Services LLC, Manager for Terrafirma Risk Retention Group LLC, and Conservation Defense Director, Land Trust Alliance,** Leslie Ratley-Beach joined the Land Trust Alliance as its first Conservation Defense Director in 2007. Leslie leads the national conservation defense liability insurance program (Terrafirma) and the Alliance's conservation defense center. Previously, she worked with the Vermont Land Trust as stewardship director and project counsel. Leslie has practiced real estate law for over thirty years, and with an emphasis on conservation and tax law for over 25 years and is licensed in Vermont.

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Climate Change is Changing the Insurance Industry

Climate change is increasingly a source of concern on a global level in a variety of industries including the insurance industry.

In its 2019 Global Risks Report, the World Economic Forum (WEF) asked survey respondents to rank specific global risks in five categories: economic risk, environmental risk, geopolitical risk, societal risk, and technological risk. The environmental category included five separate possible risks and all of them scored above average both in terms of likelihood and severity of impact. This was not true for any other category.

Failure to mitigate climate change, extreme weather events, and biodiversity loss and ecosystem collapse outranked interstate conflict, large-scale terrorist attacks, weapons of mass destruction, large-scale cyber attacks, failure of critical infrastructure and financial crises amongst other frightening possibilities.

As catastrophe claims increase in frequency (sheer numbers) and severity (total dollars), insurance companies are losing confidence in their catastrophe models. Catastrophe models are essentially formulas that use past data to predict future losses. The problem is that a changing climate means past events may no longer be a reliable indicator of future probabilities. Old models are not forecasting well, leaving a lot of uncertainty in the market and carriers are trying to get a handle on how to underwrite and price properly given the volatility.
How the anticipated onslaught of natural disasters may affect your insurance

Changes in the insurance industry will not affect everyone equally. Insureds with prior natural disaster losses will be affected most immediately and most drastically. However, insureds in or near disaster prone areas are also being affected regardless of past claims history.

Particular attention is being paid to flood zones, high brush fire zones, and wind zones. It is expected that rising sea levels and development of floodplain will increase flood losses. Wildfires are on the rise in certain locales in terms of both frequency and severity as evidenced by the 2017 season. Coastal areas (particularly east and south) have been dealing with insurance ramifications due to wind/hail/named storms for years. Earthquakes, droughts, mudslides, tornados, snowstorms, and even severe thunderstorms are also on the list of weather events and natural disasters that can cause major devastation.

In response to record losses and anticipated future events, insureds should expect to continue to see the following reactions from the insurance industry:

- Increased rates.
- Peril-specific exclusion endorsements.
- Peril-specific deductibles.
- Addition of policy loss limits.
- Lack of available coverage by geography.

What you can do about it

Educate yourself and your organization. Know what types of disasters are (a) most likely and (b) have the potential to cause the most damage. Note that these are not necessarily the same answer. Your state’s Department of Health and Department of Emergency Management websites may have helpful statistical information on these subjects.

In conversations with your decision making team, consider obvious risks first (ex: building/property damage due to hurricane). Then, consider secondary risks (ex: workers comp risk putting up shutters attempting to prevent building/property damage due to hurricane). After identifying hypothetical primary and secondary risks related to natural disasters or extreme weather events, review the list with your broker. Learn whether or not you are carrying the proper coverage to respond to potential losses, and, if not, is that coverage available to you?

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August 2019
"The mission of Alachua Conservation Trust (ACT) is to protect the natural, historic, scenic and recreational resources in and around north central Florida. ACT protects land through purchase, donation, and conservation easements in 16 counties."

Alachua Conservation Trust recipient of the 2013 National Land Trust Excellence Award.

OVERVIEW OF HURRICANE IRMA RESPONSE

1. discuss the process and procedures followed leading up to Irma
2. discuss the actions we took to avoid risk
3. review the assessment process after Irma
4. analyze the steps taken since to minimize potential loss exposure
5. assess the lessons learned from this experience

There's a shirt seen around Florida with the line, "The Price of Living in Paradise." Below those words are a map of Florida and the names and years of all the major hurricanes to hit Florida. For a decade it was quiet in Florida. Then 2016 a new round of hurricanes came around and truly wet weather returned to Paradise.

In 2017, in our region of north central Florida, we had the wettest June and July in recent recorded history. Before Hurricane Irma even arrived, the local prairies, rivers, lakes, and creeks were at or near flood stage. Irma would run the spine of Florida starting at Cudjoe Key and cause more that $50B dollars in damage and claim 92 lives in the U.S. alone before exhausting itself four days after hitting Florida. 6.5 million households would be without power, some in the hardest hit counties for more than 2 months.
Locally, Alachua Conservation Trust's offices were without power nearly a week due to our remote location in southeastern portion of the County. With more than a dozen properties & preserves with varying levels of infrastructure and 9 structures including 2 historic structures, preparation for a hurricane is an exercise more in risk management than prevention.

Damage to buildings, loss of walking bridges washed out in raging creek waters, destroyed picnic benches and preserve kiosks, and endless trail, fence, road and parking area clearing of storm debris and downed trees were ultimately manageable tasks to take care of thanks to the organization's focus on taking care of its number one priority: our human capital. ACT staff all came out of the event no worse for the wear albeit a pungent group smelling of sawdust, chainsaw oil, and sweat.

We came through the worst hurricane to hit north central Florida in a dozen years with all of our electronic equipment, vehicles, tools, and paper records without an issue thanks to good planning and preparation prior to Irma's arrival. While, ACT suffered financial losses due to structural and infrastructure damage, we ultimately decided not to file an insurance claim and did most of the needed clean up and repair work with staff, resident caretakers, interns, and volunteers. And maybe most amazingly, people were eager to give back in a meaningful way, even those directly impacted by Irma because that's what you do when you live in this paradise called Florida.

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YOU JUST NEVER KNOW WHAT MIGHT HAPPEN AND HOW IT ERASES ALL PROGRESS

On January 30 at 6:30 a.m., I walked into our office building immediately noticing that things didn’t look quite right. As I walked up the steps to our office, I notice our office door was wide open and everything around it was busted up and on the floor. As I went into the office, I immediately noticed that all our computers were stolen.

I called the police and filed a report and then I called the board president to report the incident.

As staff arrived, I was beginning to realize the gravity of the situation. The work and the intellectual property of 10 years had been stolen... erased! As though it never existed.

Throughout the morning the staff shared what was used as back up information. It came to light that the financial records were protected and retrievable because all the records had been downloaded for the CPA in preparation for the audit.

Grants, land management documents, program curriculum, donor base information and everything else other than financials were questionable.

The computers were replaced that same day and we went right to work attempting the retrieve our files. The only thought I had was that I might possibly have to retrieve files from emails.

For the next 10 days we worked on restoring our files. Late on February 14th I receive a call from the Bradley County (neighboring county) Sherriff’s department. He asked if we had a break in to our office. When I confirmed that we had and told him of the missing computers he said he had good news. He stated he had the computers!

In short, the young man who stole the computers had also stolen a truck in Bradley County and came to Hamilton County to pick up friends to take a joy ride. The next day when he returned to Bradley County the Sherriff’s department was waiting for him. They took him to jail where he started bragging to his cell mate about what he had done. The cell mate passed on the information to the deputy. After searching the belongings the sheriff confiscated when the young man was arrested, they found the laptops. The Bradley County deputy called Hamilton County Police and asked if a report for three stolen laptops had been made. When confirmed, the Bradley County deputy was given my cell number to contact me.

The laptops were returned the next day with all information intact!
Lessons learned:

Back up, back up, back up!

Either remove laptops from the premises nightly or lock up.

Revised the Record Retention Policy to cover ALL our bases. Policy attached.

Consider purchasing business interruption insurance and make sure your insurance coverage includes replacement of data and hardware.

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DISASTER PREPAREDNESS AND INSURANCE COVERAGE IMPLICATIONS
from the national association of insurance commissioners

What you Need to Know
April, May and June are peak storm and tornado months in the U.S. High winds, hail and flooding from storms and runoff can bring devastating losses each spring. That is just the beginning. Hurricane season begins in June, and wildfires threaten much of the U.S. throughout the year. It's important to be sure you and your family have a plan to stay safe and that you understand how your insurance policies work to help you recover, if disaster strikes.

Preparing for Extreme Weather: Don't Wait Until it's too Late (link)
Unpredictable weather patterns are becoming more frequent as some regions see different types of catastrophic events or more intense weather activity. Leading to several consecutive record-breaking years in the number of severe weather events.

Navigating the Claims Process: Recover & Rebuild (link)
After a loss, you want to get back to normal as quickly as possible. Navigating the insurance claims process is critical to getting the money you're owed.

Disaster Preparedness
Wildfires, flooding, tornadoes, hurricanes-disaster strike everywhere in the U.S. That's why spring is a good time to make sure your insurance needs are in order, especially your homeowners or renter's policies.

My Insurance Doesn't Cover What? (link)
An insurance policy for your home or apartment is supposed to provide a sense of security. Before you get too comfortable, take time to speak to your agent or insurer to understand what's covered and what's not in your homeowners or renters policy.

Flooding - Know Your Coverage, Understand Your Risk (link)
The best time to review your flood insurance options is before a flood occurs. Without understanding your risk and insurance options, you might find yourself inadequately covered when you need coverage the most.

Disaster Preparedness: Act Now to Make Filing A Claim Easier After the Storm (link)
Spring and summer can bring all kinds of potentially damaging weather. The spring can be a destructive season for natural disasters and June 1 marks the beginning of hurricane season.

Western Examples
Insurers are quietly reducing their exposure to fire-prone regions across the Western United States, putting new pressure on homeowners and raising concerns that climate change could eventually make insurance unaffordable in some areas. Officials in California, Washington, Montana and Colorado are getting more complaints from people whose insurance companies have refused to renew their coverage. The complaints follow years of record-setting wildfires in both size and cost, a trend that scientists expect to continue as global warming accelerates.

“I think that we are not far away from a lot of weather-related events being too expensive for most people to purchase comprehensive coverage,” said Carolyn Kousky, executive director of the Wharton Risk Center at the University of Pennsylvania. “What happens then is the big question.”
California’s Department of Insurance issued a report quantifying that pullback. For the ZIP codes most affected by the wildfires in 2015 and 2017, the number of homeowners dropped by their insurance companies jumped 10 percent between 2017 and 2018. In the 10 California counties with the most homes in high-risk areas, the number of homeowners’ policies written by major insurers fell by 5 percent between 2015 and 2018, the department said. State regulators must approve any rate increases.

Another way of measuring the growing reluctance of insurers is the increase in demand for the state’s FAIR plan, which is effectively prohibited from turning away customers but typically charges higher premiums as a result. In those same 10 highest-risk counties, the number of homeowners getting coverage through that plan increased 177 percent while staying flat statewide.

“By not being able to find insurance, you then in turn can’t sell your home. If you can’t sell your home, then it affects the local property taxes,” said Ricardo Lara, California’s insurance commissioner. “This is really creating chaos.”

The trade group representing insurers said the fires of the past two years had compelled companies to reduce their exposure. Whether that pullback is temporary or permanent depends on what the state does next, according to Rex Frazier, president of the Personal Insurance Federation of California.

Mr. Frazier said the state should allow insurers to raise rates to better reflect the full cost of wildfire risk. He also called for more aggressive forest management, such as controlled burns to remove trees, brush and other fuel for wildfires, as well as requiring homeowners to keep more space between their houses and the vegetation around them.

The alternative — continuing to build homes in dangerous areas, combined with worsening fire conditions and premiums that don’t reflect the true risk of wildfires — is “not the recipe for a healthy market,” Mr. Frazier said.

Versions of that trend are playing out across the West. In Washington State, officials have been receiving more complaints from people in wildfire-prone areas about insurance companies, according to Mike Kreidler, the state’s insurance commissioner.

“Some companies are starting to re-evaluate their position in certain geographic areas, largely driven by eastern Washington right now, or at least we think so,” Mr. Kreidler said. In response to that concern, his office sent a request to insurers in July, asking for information about whether and how those companies have reduced their coverage in fire-prone areas. He gave companies until early September to report back.

In Montana, insurers have changed the way they evaluate wildfire risk, according to Bob Biskupiak, the state’s deputy insurance commissioner. Decisions that were once made based largely on how quickly a fire department could reach the property now involve third-party analytics companies, Mr. Biskupiak said.
Those companies examine everything from the surrounding timber and grass conditions, the slope of the ground, where the prevailing winds come from and the conditions on nearby land. “It’s not necessarily the property that’s being evaluated,” Mr. Biskupiak said. “It’s about where the fire could potentially start.”

Insurers have used that information to be more discriminating about what they choose to cover. “Company A, B or C has insured me for 10 years — I’ve never had a loss,” Mr. Biskupiak said, recounting the type of complaint he’s heard. “And then all of a sudden this year they’re non-renewing me.”

This month his office issued a public notice warning companies against refusing coverage just because of a wildfire elsewhere in the same ZIP code or county. “The state auditor’s office has recently received several phone calls and heard from local officials in Lewis and Clark County that some insurance companies are denying coverage for homes, cars, and boats due to the North Hills wildfire, even though the properties weren’t located anywhere near that fire,” the department wrote.

Colorado has also seen an uptick in complaints, according to Peg Brown, the state’s deputy insurance commissioner. She said her office was considering instructing insurers to provide more data on how many people are being dropped, so it can measure the change. “It’s a significant issue,” Ms. Brown said. “We’re trying to get a little bit ahead of it.”

The question is whether insurers will move back into those areas if their financial reserves recover and the memory of damage fades, as has sometimes happened following previous large-scale disasters, according to Dr. Kousky of the Wharton Risk Center. She said there’s reason to believe this time is different.

“These perils are changing,” Dr. Kousky said. And if the pullback by insurers proves lasting, it would require a greater role for governments in financing reconstruction after disasters, while compelling a shift in where and how we build homes. “There’s not one solution that would nicely solve this,” she said.

Christopher Flavelle covers climate adaptation, focusing on how people, governments and businesses respond to the effects of global warming. @cflav A version of this article appears in print on Aug. 21, 2019, Section B, Page 8 of the New York edition with the headline: As Wildfires Intensify, Insurers Curtail Coverage in Risky Areas. Order Reprints | Today’s Paper | Subscribe

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