YOU & the LAW

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Gulf oil spill exposes consequences of weak rules and lax enforcement


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The massive BP/Deepwater Horizon oil spill off the Louisiana coast illustrates why some large oil companies and other industrial giants have been at the forefront of nationwide efforts to limit the ability of citizens to go to court when they suffer physical or monetary damages caused by big corporations.

The American Association for Justice recently issued a report explaining how environmental protection laws passed in the 1960s and 1970s were well-intentioned but often ignored by industries because of lax enforcement by regulators. The report points out that in some cases trial lawyers representing citizens harmed by pollution had to go to court to force compliance.

Many pollution incidents occurred in the United States in the period between the BP/Deepwater Horizon oil spill and the 1989 Exxon Valdez disaster in Alaska. Just as those spills probably would not have occurred if the responsible companies had followed all safety regulations, many other pollution disasters over the past 20-30 years likewise involved neglect.

Although BP committed billions of dollars to pay claims for its massive oil spill in the Gulf of Mexico, no one really knows how high damages will reach. Scientists and others continue to evaluate the damage the estimated 205 million gallons of spilled crude oil caused in the affected states and federal waters. Damages range from the deaths of 11 men on the drilling rig to the effects of the spilled crude oil on marine life.

Under existing law, companies found to be responsible for the BP/Deepwater Horizon incident have to pay only limited amounts of compensation to families of the 11 men killed in the explosion and fire. A 90-year-old law called Death on the High Seas Act (DOHSA) limits compensation to victims' families to the salaries they would have earned over their working life, less what they would have paid in taxes and personal expenses. DOHSA does not allow for punitive damages, which courts sometimes award to victims or their families when negligence by a wrongdoer was a factor in the deaths or injuries. Special interest lobbyists in Washington have resisted attempts to modernize DOHSA.

Other laws limit how much companies have to pay when they cause damages to the environment and to individuals. While BP has committed billions of dollars to the cleanup effort, the company's legal obligations could be less than what it actally spends.

It's no mystery why big business seems to be able to work under such favorable laws. According to published reports, business interests spent $3.5 billion on lobbying activities in 2009. One oil company alone spent $27 million. Special interest groups also contribute millions of dollars to front organizations whose main mission is to weaken the civil justice systems in individual states.

Despite such massive expenditures, citizens represented by trial lawyers in many cases have succeeded in holding negligent companies responsible for wrongdoing. Without a court system that is fair to all, average citizens would have limited options when they are harmed because of someone else.

Facing foreclosure? You have options

Facing the loss of a house during a tough economic period can be a frightening prospect, but many homeowners in financial trouble have options to avoid foreclosure. The U.S. Department of Housing and Urban Development offers several tips for homeowners who are having trouble keeping up with mortgage payments.

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Contact your lender as soon as you realize that you have a problem paying your mortgage. Lenders have options to help borrowers navigate difficult financial times.

Locate and read your loan documents so you know how your lender will react if you can't make your payments. Learn about the foreclosure laws in your state or contact an attorney for assistance.

You may qualify for a loan modification under the federal government's Making Home Affordable Modification Program, *www.makinghomeaffordable.gov,* which was part of a 2009 law. The program assists homeowners at risk of foreclosure by working with their lenders to lower monthly payments. A counselor with a government-approved housing counseling agency can tell you if you qualify for that program.

Review your finances and see where you can cut spending in order to make your mortgage payment. After health care, keeping your house should be a top priority.

Consider selling assets such as a second car, jewelry or a whole life insurance policy for cash to help reinstate your loan. Even if these efforts don't dramatically increase your available cash or your income, they show your lender that you are willing to sacrifice to keep your home.

When you fall behind on your mortgage payments, it is important not to ignore the problem. The further behind you become, the harder it will be to reinstate your loan and the more likely it is that you will lose your house. Open and respond to all mail regarding your mortgage.

A number of government-approved agencies offer free counseling to homeowners who are having trouble making mortgage payments. It is usually not necessary to pay a private company for these services.

HUD can help you locate a legitimate housing counseling agency in your area through its website, *www.hud.gov,* or its housing hotline, 800-569-4287. A counselor can assess your situation, answer your questions, go over your options, prioritize your debts and help you prepare for discussions with your loan servicer.

One such HUD-approved agency is the Homeownership Preservation Foundation, an independent, national nonprofit dedicated to reducing mortgage foreclosures. The nonprofit group offers free counseling 24 hours a day through its Homeowner's HOPE Hotline, 888-995-4073.

Given the public nature of foreclosure information, it is common for homeowners to be contacted by scam artists looking to take advantage of those in difficult situations. HUD warns consumers to avoid foreclosure rescue scams by noticing warning signs. It is important to avoid anyone who asks you to pay an advance fee in exchange for a counseling service or modification of a delinquent loan.

Do not sign over the deed to your property to any organization or individual, and never make a mortgage payment to anyone other than your mortgage company without its approval.

Never sign a legal document without reading and understanding all the terms and getting professional advice from an attorney, a real estate professional or a HUD-approved housing counselor.

The dreaded IRS audit: What you should know

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The Internal Revenue Service audits about 4 million tax returns annually. Some are randomly selected while others are chosen through a computerized scoring system based on factors such as occupation, reported income, itemized expenses and other deductions. Higher scores indicate a deviation from established "norms." The greater the deviations, the greater the potential for an audit.

IRS personnel review computer selections to determine whether to pursue an audit. These reviews often focus on reported income, travel and entertainment expense, contributions, business use of home and losses due to theft or disaster.

If an audit is deemed appropriate, the score and other inconsistencies or errors discovered by the reviewer will determine the type of audit.

If you receive an audit notification from the IRS, read the accompanying booklet entitled "Your Rights as a Taxpayer." It explains the "Taxpayer Bill of Rights" enacted by Congress to protect citizens against abusive IRS practices.

Regardless of the type of audit, you should consider contacting a tax professional such as an attorney or accountant to seek guidance regarding your response. Such a professional can help you prepare for the audit, and he or she can represent you before the auditor.

Your chances of success depend heavily on the quality of your records. The more detailed documentation you can provide regarding those issues stipulated in the notification, the better. You are only required to provide information relating to the specific tax year and to the issues identified on the audit notification. It's best to provide copies of documents instead of originals that can be misplaced by the IRS.

If responding by mail, certified mail with a return receipt can prove your compliance with any deadlines. It's also good to remember that providing too much information can lead to an expanded examination. Tax professionals know how to limit the auditor's inquiry to just those areas specified in the notice.

The best defense is a good offense. When you prepare your next tax return, do so as if you know you'll be audited. Maintain records that will support everything included on each year's return. And, for good measure, keep those records for at least six years. They're a good reference when preparing future returns and a must should there be any further inquiries from the IRS.

Types of IRS audits

Correspondence audit — This is the most common type of audit and usually requests that you mail documentation supporting certain items listed on your return.

Office audit — Notifications for these audits ask you to meet with an auditor at the IRS office. The notification lists the specific items on a tax return for a specified year that will be examined, and it sets a date and time.

Field audit — Typically the most serious type of audit, the field audit is conducted by the IRS in your home if it involves a personal return and at your business if it concerns business taxes. Field audits often rigorously examine an entire return.

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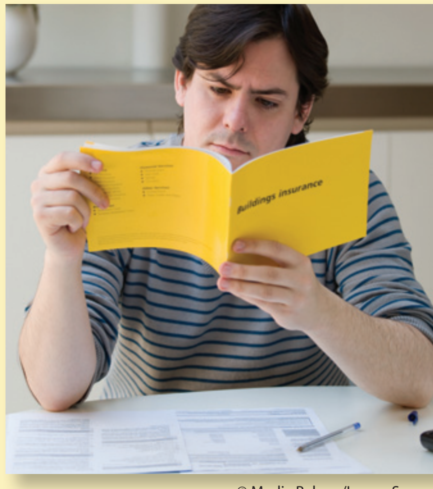
Understand the choices before you buy insurance

Although it's one of the more common big-ticket items purchased by consumers, insurance remains a confusing issue for many Americans. When shopping for insurance it is important to consider the reliability and reputation of the issuing company.

The Federal Citizen Information Center recommends making sure the company is licensed and covered by the state's guaranty fund. Contact your state insurance department for information concerning different companies and rates.

Although there are many types of insurance, here is a brief explanation of some of the policies frequently purchased by consumers:

Health insurance — Many consumers have health insurance provided through their employer while others are covered under programs such as Medicare, Medicaid or the Veterans Administration. Policies are also available for the self-employed or those whose employer does not provide insurance. If you lose your group coverage because of unemployment, death or divorce, you may be able to continue coverage temporarily under the Consolidated Omnibus Budget Reconciliation Act (COBRA).



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Automobile insurance — Vehicle owners in most states are required to carry basic liability insurance. Liability insurance covers only the costs to repair damage to another's property and medical expenses associated with injuries caused to others, up to the limits of your policy. For a higher cost, you can purchase coverage for damage to your vehicle caused by a collision or natural event or for loss through theft. If claims against you exceed your coverage limits, you could be required to pay the excess amount.

Homeowner's insurance — A standard homeowner's insurance policy includes four basic components: coverage of the physical structure, personal belongings, liability protection and living expenses if your home becomes uninhabitable. It's a good idea to review coverage levels every year, and it is also wise to keep a photographic record of valuables in a safe location away from your home or have them appraised and itemized on the policy.

Life insurance and disability insurance — Life insurance pays a sum of money to beneficiaries upon the death of the insured individual. Life insurance can also pay for funeral costs, estate administration costs, debts and medical expenses that are not covered by health insurance. Disability insurance pays to replace all or a portion of the insured's lost income in the event of an injury or illness that requires an extended or permanent absence from the workplace.

For free information about common types of insurance, visit *www.consumeraction.gov*.

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