

United States of America



ATTENTION: Because of the 50 state structure regulating insurance together with the rapidly changing insurance laws, we recommend this information be used as a guide only.

Please contact us for current information

CIA link to demographic/economic data on [USA](#)

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General Information

Legislation:

The U.S.A. is a union of federal states with a democratically elected Congress. The legal system is based upon common law (except Louisiana which has a civil code based upon the Napoleonic Code). Laws may be enacted at federal, state and local levels. Unlike many countries, the U.S.A. has jury trials for civil cases

The Dodd-Frank Wall Street Reform and Consumer Protection Act 2011 has brought changes to the regulation of insurance. Each state has an Insurance Commissioner who has the power and responsibility to oversee insurance in his/her state. The forum for these people is the National Association of Insurance Commissioners (NAIC, www.naic.org)

Major forms of Compulsory Insurance:

There are several items of federal legislation which establish a statutory requirement for insurance or financial responsibility as detailed below:

1. Flood insurance within the National Flood Insurance Program is a condition of property loans from federally regulated lenders
2. Motor carriers (interstate bus companies, trucking companies) have to have minimum financial responsibility requirements for the interstate transport of passengers, cargo and hazardous materials
3. Air carriers liability - cover is required to receive a licence to act as an air carrier
4. Marine liability - vessels have to demonstrate financial responsibility to meet any liability incurred for death or injury to passengers or others on voyages to or from U.S. ports
5. Space risks - liability cover is required in respect of launch or re-entry
6. Surety bonds - in 1935 the *Miller Act* was passed requiring performance and payment bonds for all public works with a contract value in excess of US\$100,000

There are also various compulsory insurances imposed at state level, as described below:

1. Motor third party bodily injury and property damage. Many, but not all, states require drivers to have motor insurance (known as auto insurance in the U.S.). All states have financial responsibility laws which require owners and operators of motor vehicles to furnish proof of financial responsibility, namely the ability to respond to liability for damages caused in an accident up to certain minimum dollar limits which vary by state
2. Workers' compensation insurance is compulsory in most, but not all, states
3. Medical malpractice for doctors, hospitals and healthcare providers is compulsory in some states

Non-Admitted Insurance:

Foreign non-admitted insurance - where insurance of U.S. risks is placed outside the U.S. Unauthorised insurers may not carry out insurance activity in the United States but there is nothing in the law stating that only locally authorised insurers must provide insurance. However, compulsory coverages may only be placed locally. While foreign non-admitted insurance is possible under certain circumstances, it is usually easier to use locally-licensed insurance carriers which can issue the necessary evidence of the existence of property insurance or issue a certificate stating that casualty insurance is in effect. In the U.S. it is a common requirement for property insurance to be arranged as one of the terms of a bank loan or liability insurance to

be in place as a contractual obligation and in these cases local state (admitted) insurers are preferred. Banks and parties to a contract prefer to know that, in the event of a claim, the insurer is locally supervised and regulated

Domestic non-admitted insurance - where insureds access insurers outside the state's admitted insurance market but with eligible insurers. Each state has its own laws and regulations relating to this business, which is known as Independently Procured Non-admitted insurance or excess and surplus lines (E&S) if a broker is used. Domestic non-admitted placements are subject to applicable surplus lines taxes

Types of Insurance Restricted to Government Institutions:

Federal and / or state programmes for crime, crop, export credit, flood, mine subsidence, some surety bonds and windstorm

Workers' Compensation in certain states

State Involvement:

Insurance Companies:

Admitted and non-admitted markets

A feature of U.S. insurance business is its division into two segments: the admitted and non-admitted markets

Admitted insurers i.e. domestic, foreign (out of state) or alien (non-U.S.), licensed to operate in a state are regulated as to solvency, rates and forms (policy wordings), market conduct, permissible investments, leverage (premium to surplus ratio) and affiliate relationships. Licensed insurers are also required to participate in a variety of government mandated insurance programs and pay assessments levied by each state

In addition, every U.S. state has legislation on non-admitted insurers. In theory these insurers, known as excess and surplus (E&S) lines insurers when an E&S broker is involved, otherwise they are known as self/independent procurement underwriters, do not compete directly with licensed insurers for business and should write only business which admitted, licensed insurers will not write. In many cases, however, a lot of business found in the non-admitted market is of the more traditional, mainstream type and reflects the desire to avoid the onerous rate and form filing requirements of admitted insurers. E&S capacity is routinely used for large and complex property programmes

The U.S. insurance market is populated by about 2,500 companies organised into more than 900 groups. Broad classifications of risk carrier include: joint stock companies, mutual and co-operative associations, self-insurers, self-insurance pools, risk retention groups, captives and residual market mechanisms. Other categories which can be used to describe market participants include nationals, near nationals, super regionals, regionals, state specialists, coverage specialists, surplus lines carriers and reinsurers

Some companies which work on a national basis may have state specific subsidiaries in certain jurisdictions, for example they may have separate companies in New Jersey, Massachusetts and Florida, but otherwise operate across state borders in the admitted market (as "foreign" insurers)

In addition the major insurance groups also have companies which operate in the non-admitted (excess and surplus lines) market as well

Distribution Channels:

Agents, brokers and various marketing institutions all of whom must be licensed. Most agents and brokers are members of the Council of Insurance Agents & Brokers (CIAB, www.ciab.com), the Independent Insurance Agents & Brokers of America (www.iiaba.net) or various other associations

Currency Restrictions / Exchange Controls:

Outside NAFTA, yes

Policy Wordings & Rates / Tariff Controlled:

Depending on the state, this can be quite time-consuming

Policy Language:

English

Policy Currency:

U.S. dollar

Policy Period:

Normally twelve months

Cancellation Provisions:

By written notice according to policy conditions. Statutory provisions apply to certain classes of insurance in some states. No tacit renewal

Premium Taxes and Charges:

Basic taxes and charges on insurance policies are levied at state level and vary per state – approximately 2% on average

Premiums paid to E&S insurers (i.e. out of state) are not subject to premium tax in the state where the insured is located but are usually subject to surplus lines tax and could also be subject to federal tax. The same applies to premiums paid to carriers outside the United States

Brokerage Commissions:

Insurance commission levels are not regulated. With the exception of excess & surplus lines, however, brokers are not allowed to charge fees in addition to the policy premium without obtaining the policyholder's signed consent to the fee structure. In some states commissions cannot be reduced without the commissioner's approval, since this could be used as a way of bringing about a de facto withdrawal from the market. Particularly with the larger brokers, flat fees are the predominant form of remuneration. The broker negotiates the fee with the client and then negotiates with the insurance carrier on the basis of premium net of commission

Typically, commissions fall within the following ranges (%):

Commercial lines	Up to 15
Workers' compensation	5 to 6 (although up to 10 on smaller risks)
Surety	15
Personal automobile	8 to 15
Homeowners'	8 to 15

Broker of Record Letters:

Standard market practice

Reinsurance:

No restrictions although U.S. tax authorities are wary of the use of tax havens to avoid paying U.S. taxes

Pooling Facilities:

TRIA, the Terrorism Risk Insurance Act

Local Natural Hazards:

Torrential rain and windstorm, hurricanes, snowstorms, flooding, tornadoes, volcanic activity and earthquake

Other Information:

Non-life (P&C) Insurance Market

Very diversified and sophisticated market with high penetration in most states. Different classes of business experience different cycles of hard/soft market. Ratings and wordings are competitive. The largest market in the world

Life Insurance Market

A full range of sophisticated products and services. Heavy accent on savings and retirement packages

Healthcare

Currently a controversial topic. Until recently only Medicaid (a health programme for people and families with low incomes and resources) and Medicare (a [social insurance](#) programme providing [health insurance](#) coverage to people who are aged 65 and over; to those who are under 65 and are permanently physically disabled or who have a congenital physical disability; or to those who meet other special criteria) were sponsored by the United States government. Private health plans were available to those who could afford it. The recent healthcare reform has altered this drastically because many people were uninsured and the plan has been to make healthcare available to all legal residents in the country

Pensions

Generally wide range of services available. There are many agents and financial advisers and a plethora of products

Property Insurance

Named Perils:

Basic named perils policy covers Fire and Lightening. Extended Coverage perils universally applied although All Risks policies dominate. Package policies exist for smaller commercial clients
Windstorm, Flood, Earthquake cover available on a limited basis

All Risks:

Pretty well the standard form of cover

Coinsurance:

Property rates normally include a credit that assumes 80% coinsurance (i.e. values insured represent at least 80% of actual values). An additional rate credit applies if the insured agrees to subject itself to 90% or 100% coinsurance. On the other hand, the rate is surcharged if an insured decides not to agree to submit to the coinsurance condition. In the event

of a loss, the coinsurance penalty is calculating by comparing the values insured with the actual values at the time of the loss

Basis of Indemnity:

Buildings, Contents Machinery & Equipment at replacement value; Stocks at production costs

Business Interruption:

Gross Earnings with Extra Expense. Cover frequently combined with Property Damage with Loss Limits, the premium being based upon full values

Discount for fire protection equipment / systems:

Negotiable

Terrorism

Part of the TRIA program

Boiler & Machinery / Machinery Breakdown / Engineering

Wide range of coverages

Boiler and pressure vessels subject to statutory inspections in most states and insurers normally provide the inspections

Construction

Construction All Risks, Builders Risk, OCPs, OCIP/Wrap-ups, etc widely available on comprehensive forms

Bonds / Surety

Widely available

General / Public Liability

Wide availability of comprehensive forms

Occurrence wording is normal

Sudden and accidental pollution cover not available as part of CGL cover

Cover for gradual pollution on a Claims Made basis is available on a limited basis

Personal injury, advertising injury cover universally available

Defence costs are either included in the limits or in excess, depending upon the state and the filing

Products Liability

Wide availability of comprehensive forms

Occurrence wording is normal except for certain "Long-tail" exposures and pollution liability which are on a Claims Made basis

Asbestos-related claims are excluded

Defence costs are either included in the limits or in excess, depending upon the state and the filing

Workers' Compensation / Employers' Liability

Depending upon the state, Workers' Compensation may be insured in the local market or by the state institution. Where applicable and infrequently, there is a "Stop Gap" extension

Professional Indemnity (Errors & Omissions)

Wide availability of coverages
Claims Made wording prevalent
Defence costs are either included in the limits or in excess, depending upon the state and the filing

Directors & Officers Liability

Wide availability of coverages
Claims Made wording prevalent
Defence costs are either included in the limits or in excess, depending upon the state and the filing

Automobile / Motor

All states have "Financial Responsibility" laws requiring owners or operators of vehicles to be able to demonstrate they could pay for potential or actual damage or loss to third parties. In practice, automobile third party liability insurance provides adequate evidence of this financial capability: in most states this is also the law

Compulsory Limits: vary per state

\$10 – 50,000 per person bodily injury
\$20 - 100,000 per event bodily injury
\$5 – 25,000 per event property damage
Unlimited per event bodily injury, Hawaii only
In practice \$100,000 – 1,000,000 per event combined bodily injury and property damage taken out

Comments:

Passengers are generally considered to be third parties

Personal Accident

Available for individuals and groups in all states as Accident & Health insurance

Medical Expenses

Many plans are available, mostly provided by employers

Disability

Many plans are available, mostly provided by employers

Crime / Fidelity

Wide range of forms and coverages available

Marine / Inland Transit

Available on U.S. market forms. Rating for War & Strikes often follows London

Other Classes of Insurance readily available

Aviation & Space, Excess/Umbrella, Credit, Political Risks, Kidnap & Ransom, Energy, Fine Art & Specie

June 24, 2011