Commercial Lines Candidates

INDIANA WORKERS COMPENSATION

The Indiana Workers Compensation program is designed to provide compensation to workers who suffer illness or injury on the job. Generally fault or negligence on anyone’s part is not considered.

Who must be insured (IC 22-3-2-2)

Indiana is a compulsory Workers Compensation state. All employers, except those excluded by law, must provide Workers Compensation protection to all employees.

Those employees who are not required to be covered are:

- Certain railroad employees
  - Engineers
  - Fireman
  - Conductors
  - Brakemen
  - Flagmen
  - Baggage men
  - Yard foremen
- Farm or agricultural employees
- Casual laborers
- Household employees
- Police and firemen

A sole proprietor, a member of an LLC or a partner in a partnership may elect to be included as an employee if actively engaged in the business. If they choose to do so, they must notify their insurance carrier and the Workers Compensation Board.

An executive officer of a corporation is considered to be an employee of the corporation.
Minors (IC 22-3-6-1)

A minor is defined by statute as an individual who has not yet reached 17 years of age. A minor must be covered by Workers Compensation.

If a minor under age 16 is allowed to work in violation of the child labor statutes, the benefits payable will be doubled. Half of the compensation will be paid by the insurer, and half of the compensation will be paid by the employer as a penalty.

Benefits (IC 22-3-3-3, 8)

A claim for Workers Compensation must be filed within 2 years of the accident. If the accident occurs from radiation poisoning, a claim must be filed within 2 years of learning of the injury.

An injured employee whose injury causes temporary or permanent total disability will receive 66 2/3% of the average weekly wages for the period of disability not to exceed 500 weeks.

An injured employee suffering a temporary partial disability will receive weekly compensation of 66 2/3% of the difference between the average weekly wages and the weekly wages actually earned during the period of partial disability for a period of no more than 300 weeks. If the partial disability begins after a period of total temporary disability, the total for both may not exceed 300 weeks.

If a partially disabled injured employee refuses suitable employment, he will receive no compensation. Before compensation can be denied, the employee must be notified of the consequences of the refusal. If the employee feels his refusal is justified, the opinion of the Workers Compensation Board may be sought.

Compensation for specific disabilities, for example, loss of a thumb or second finger, is addressed by schedule.

If an employee is killed on the job, survivor benefits will be paid.

Second Injury Fund (IC 22-3-3-13)

If an employee who from any cause, has lost the use of a hand, arm, foot, leg or eye, becomes permanently disabled in an industrial accident by losing another limb or eye, the employer will only be liable for the compensation payable for the second injury. After the compensation through the employers Workers Compensation is completed, the employee will receive the remainder of the compensation for the total permanent disability out of a special fund known as the Second Injury Fund.
All Workers Comp carriers in the state will be assessed a percentage (no more than 2.5%) of the total amount of Workers Compensation paid to injured employees the previous year to bear the costs of the Second Injury Fund. If the carrier does not pay the amount assessed within 30 days of the due date, the board will assess a 10% penalty to the carrier.

**Assigned Risk Plan (IC 27-7-2-28.10)**

Those employers who, because of an unfavorable loss history, are unable to procure Workers Compensation insurance through ordinary markets can look to the Assigned Risk plan. The Assigned Risk plan is made up of all insurance companies authorized to write Workers Compensation in Indiana. The assigned risk business will be spread among the member companies based on the percentage of Workers Comp business each company wrote in the state the previous year.

To be eligible for assigned risk, **three companies must reject the employer in writing**.

Rates are based on the employer’s loss experience for the previous **5 years**.

**SURPLUS LINES TRANSACTIONS**

**Purpose (IC 27-1-15.6-2)**

There are times when an individual needs insurance that simply isn’t available from an Indiana authorized insurer. If as an Indiana resident you inherited a Florida citrus grove from your Grandpa, you would find it impossible to insure your new property through an admitted Indiana company…not much demand for crop insurance on Indiana grapefruit orchards. However, you could buy coverage on your crop from Citrus Growers Mutual…a nonadmitted Indiana company, through a Surplus Lines Producer. A surplus lines transaction occurs when insurance is purchased from a nonadmitted (or unauthorized) company through a Surplus Lines Producer because the desired coverage is not available from any admitted Indiana company.

**Licensing (IC 27-1-15.8-3)**

A Surplus Lines Producer may write insurance through insurers that are authorized to do business in one or more states in the United States but are not authorized to do business in Indiana when after **due diligence** (satisfactory to the Department), the licensee is unable to procure the amount of insurance desired from authorized insurers.
An applicant for a Surplus Lines Producers license must be licensed in Indiana as an insurance Producer qualified in the lines of insurance to be written and then pass a written exam demonstrating competency as a Surplus Lines Producer…he or she will then hold two licenses…a Producers license and a Surplus Lines Producers license.

**Duties of the Producer (IC 27-1-15.8-4)**

**Twice a year** a Surplus Lines Producer must remit a premium tax of 2.5% on all gross premiums sold during the prior six month period. The premium tax will be collected from the insured and **must be itemized on the declarations page.** Essentially, the Surplus Lines Producer is working as an unpaid tax collector.

A licensed Surplus Lines Producer must file **monthly** an affidavit that specifies all transactions completed during the preceding calendar month including:

- Description of the risk
- Gross premiums charged
- Name and home office of the insurer for the risk
- A statement that due diligence was performed in attempting to place the risk with an authorized insurer, and that the surplus lines transaction was not placed for the purpose of procuring a lower premium

The Surplus Lines Producer must file an annual financial statement listing each insurer with whom the Producer has placed business for the previous year.

The Producer must maintain a separate account of all surplus lines business that may be inspected at any time by the Commissioner.

The Commissioner may revoke or refuse to renew a surplus lines producer’s license for failure to comply.

**NONRENEWAL AND CANCELLATION OF COMMERCIAL LINES INSURANCE (IC 27-1-31)**

Businesses insured under a Commercial Package policy, any of its modules acting as monoline policies or under a Businessowners policy need to be aware of the conditions that could trigger mid-term cancellation of those contracts. Furthermore, they must be given adequate time following a cancellation or a nonrenewal to find the coverage necessary to continue their businesses without interruption. This is critical in providing a stable business environment for businesses operating within the state of Indiana. Obviously, the banks and other lenders who hold mortgages and notes on the properties owned by these businesses need the same assurances to stabilize their endeavors.
This section does not apply to Credit insurance, Medical Malpractice insurance or Commercial Auto insurance as those contracts are regulated separately.

Commercial Policies which have been in effect for less than 90 days can be cancelled for any reason, but the law requires at least the following notice:

- 10 days notice if cancellation is due to nonpayment of premium
- 20 days notice if cancellation is due to fraud or material misrepresentation
- 30 days notice if cancellation is due to any other reason

Commercial Policies which have been in effect for more than 90 days can only be cancelled for the following reasons and notice:

- Failure to pay premium…10 days notice.
- Fraud or material misrepresentation…20 days notice.
- Substantial changes in the risk, cancellation of the reinsurance or failure to comply with reasonable safety standards…45 days notice.

The law does not in any way restrict the reasons that a company might choose to nonrenew a Commercial Policy, but it does require that the insurance company provide the insured with 45 days notice in the event of nonrenewal.

Please return to your course player to take the Chapter 18 Study Questions.