

Chapter Seven: Commercial Insurance

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Commercial Insurance: An Overview

WHY BUSINESS INSURANCE?

The success of a business, whether it's a tiny enterprise run out of a basement or a large corporation, is largely dependent on hard work and ingenuity. However, no matter how industrious you are, one disaster can wipe out all your profits and even destroy your business. The key to making sure that all the effort and money you have invested in a business doesn't disappear when a disaster strikes is to protect it with the appropriate insurance.

WHAT DOES A BUSINESS OWNERS POLICY COVER?

Insurance companies selling business insurance offer policies that combine protection from all major property and liability risks in one package. (They also sell coverages separately.) One package purchased by small and mid-sized businesses is the businessowners policy (BOP). Package policies are created for businesses that generally face the same kind and degree of risk. Larger companies might purchase a commercial package policy or customize their policies to meet the special risks they face.

BOPs include:

1. Property insurance for buildings and contents owned by the company -- there are two different forms, standard, and special which provides more comprehensive coverage.

2. Business interruption insurance, which covers the loss of income resulting from a fire or other catastrophe that disrupts the operation of the business. It can also include the extra expense of operating out of a temporary location.

3. Liability protection, which covers your company's legal responsibility for the harm it may cause to others. This harm is a result of things that you and your employees do or fail to do in your business operations that may cause bodily injury or property damage due to defective products, faulty installations and errors in service provided.

BOPs do **not** cover professional liability, auto insurance, worker's compensation or health and disability insurance. You will need separate insurance policies to cover professional services, vehicles and your employees.

DO I NEED BUSINESS INTERRUPTION INSURANCE?

Business interruption insurance can be as vital to your survival, as a business, as fire insurance. Most people would never consider opening a business without buying insurance to cover damage due to fire and windstorms. But too many small businessowners fail to think about how they would manage if a fire or other disaster damaged their business premises so that they were temporarily

unusable. Business interruption coverage is not sold separately. It is added to a property insurance policy or included in a package policy.

A business that has to close down completely while the premises are being repaired may lose out to competitors. A quick resumption of business after a disaster is essential.

1. Business interruption insurance compensates you for lost income if your company has to vacate the premises due to disaster-related damage that is covered under your property insurance policy, such as fire.
2. Make sure the policy limits are sufficient to cover your company for more than a few days. After a major disaster, it can take more time than many people anticipate to get the business back on track. There is generally a 48-hour waiting period before business interruption coverage kicks in.
3. The price of the policy is related to the risk of a fire or other disaster damaging your premises. All other things being equal, the price would probably be higher for a restaurant than a real estate agency, for example, because of the greater risk of fire. Also, a real estate agency can easily operate out of another location.



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ARE THERE ANY DISASTERS MY PROPERTY INSURANCE WON'T COVER?

Yes. Floods and earthquakes are generally not covered.

Protection against flood damage

Property insurance policies usually exclude coverage for flood damage. Find out from your local government office or your commercial bank whether your business is located in a flood zone. Also ask around to find out whether your location has been flooded in the past. Government projects to map flood zones may be slow to keep up with new developments.

If you need to buy a flood insurance policy, contact your insurance agent or the National Flood Insurance Program. For more information about this program call 888-CALL-FLOOD or look at its web site <http://www.fema.gov/nfip/>.

The federal government requires buildings in flood zones that don't conform to flood plain building codes to be torn down if damage exceeds 50 percent of the market value. Consider purchasing "ordinance or law" coverage to help pay for the extra costs of tearing down the structure and rebuilding it. If your policy contains a coinsurance clause, make sure your property is sufficiently insured to comply with the clause.

Protection against earthquake damage

Coverage for earthquake damage is excluded in most property insurance policies, including homeowners and businessowners package policies. If you live in an earthquake-prone area, you'll need a special earthquake insurance policy or commercial policy earthquake endorsement.

Earthquake policies have a different kind of deductible -- a percentage of coverage rather than a straight dollar amount. If the building is insured for \$100,000 with a 5% deductible, for example, in the event of an earthquake, your business would be responsible for the first \$5,000 in damage.



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HOW DO I FILE A BUSINESS INSURANCE CLAIM?

When a fire, accident or theft occurs at your business:

- Contact your insurance agent and company right away. Any burglaries or theft should also be reported to the police immediately.
- Read your insurance policy so that you know what your responsibilities are to your insurance company after a loss.
- After a disaster, take steps to protect your property from further damage by making temporary repairs. If immediate repairs to equipment are necessary, save the damaged parts in case the claims adjuster is interested in examining them.
- Get at least two bids on the cost to repair or replace damaged property.
- When filing a business interruption claim, be able to show the income the business was generating both before and after the loss. Keep detailed records of the business activity and the extra expenses of keeping your business operating in a temporary location during the interruption period. If you are forced to close down, include expenses that continue during the time that the business is closed, such as advertising and the cost of utilities.
- If you are unhappy with how your claim was handled:
 - Talk to your insurance agent or claims manager to explain your point of view.
 - Call the consumer affairs or complaint department of your insurance company and tell them your story and why you think you deserve a larger settlement.
 - Contact the Indiana Department of Insurance at 317-232-2385.
- If you've tried all other options, consult an attorney who specializes in insurance matters to see if he thinks you have a valid claim that is worth a lawsuit. Provide the lawyer with all relevant documents and a copy of your insurance policy. Tell your attorney about any settlements offered by your insurance company and the attorney will judge whether you have a legitimate case that might result in a larger settlement if brought to trial. Attorneys work on an hourly basis or on a contingency basis in which case they receive a portion of whatever settlement you ultimately receive. Get your lawyer's fee structure in writing before you pursue your case, and make sure you are kept current on the status of the case as it progresses. You must agree to any settlement reached between your attorney and the insurance company before it is made final.



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WHAT'S THE DIFFERENCE BETWEEN CANCELLATION AND NON-RENEWAL?

There is a big difference between cancellation and non-renewal. Insurance companies cannot cancel a policy that has been in force for more than 90 days except:

- if you fail to pay the premium
- if you have committed fraud or made serious misrepresentations on your application
- if you have failed to comply with reasonable safety recommendations.

Non-renewal is a different matter. Either you or your insurance company can decide not to renew the policy when it expires. Depending on the state you live in, your insurance company must give you a certain number of days notice and explain the reason for non-renewal before it drops your policy. If you think the reason is unfair or want a further explanation, call the insurance company's consumer affairs division or the Department of Insurance.

The company may have decided to

drop that particular line of insurance or to write fewer policies where you live, so you shouldn't necessarily think the non-renewal is because of something you did. On the other hand, if you did do something that raised the insurance company's risk considerably, like committing fraud, your policy may not be renewed.

If your insurance company did not renew your policy, you will not necessarily be charged a higher premium at another insurance company.

DO I NEED WORKER'S COMPENSATION INSURANCE?

Employers have a legal responsibility to their employees to make the workplace safe. However, accidents happen even when every reasonable safety measure has been taken.

To protect employers from lawsuits resulting from workplace accidents and to provide medical care and compensation for lost income to employees hurt in workplace accidents, in almost every state, businesses are required to

buy worker's compensation insurance. Worker's compensation insurance covers workers injured on the job, whether they're hurt on the premises or elsewhere, or in auto accidents while on business. It also covers work-related illnesses.

Worker's compensation provides payments to injured workers, without regard to who was at fault in the accident, for time lost from work and medical and rehabilitation services. It also provides death benefits to surviving spouses and dependents.

Worker's compensation insurance must be bought as a separate policy. Although in-home business and businessowners policies (BOPs) are sold as package policies, they don't include coverage for workers' injuries.

Worker's compensation remains the most highly regulated of all commercial coverages, and is offered on a no-fault basis. Losses due to terrorism and acts of war are not excluded from worker's compensation policies.

Worker's Compensation

WORKER'S COMPENSATION IN INDIANA

Like most states, Indiana has a private

insurance worker's compensation system, which means that employers must carry an insurance policy in order to

cover liability under the worker's compensation law. A small number of employers are "self-insured" meaning they have received special approval from the Worker's Compensation Board to pay claims out of their own funds.

The Worker's Compensation Board has exclusive jurisdiction to hear claims for personal injury or death by accident arising out of and in the course of employment. Worker's compensation provided limited benefits to injured workers in the form of medical treatment, compensation for lost wages, and compensation for the loss or loss of use of parts of the body. In the case an employee dies in a workplace accident, the employee's dependents may become eligible to collect death benefits.

When a compensable injury occurs, the employee should receive immediate medical treatment if necessary. If the employee is unable to work because of the injury, he or she is considered disabled and may receive limited wage-replacement compensation. The employee may be placed on light duty or a reduced schedule, in which case partial disability payments may be provided. When the injury heals to the point that it will likely get no better and no worse, the employee may be examined to determine if there is any permanent impairment, meaning a permanent loss of a body part or function. If the injury is found to result in a permanent impairment, the employee will be compensated according to a statutory schedule.

Claims for work injuries are handled initially by the employer or its worker's compensation insurance carrier. If disputes arise, both the employer and employee have the right to a hearing before a worker's compensation judge.

<u>2006 Rank</u>	<u>2004 Rank</u>	<u>State</u>	<u>Index Rate</u>	<u>Effective Date</u>
1	2	Alaska	5.00	January 1, 2006
2	1	California	4.13	January 1, 2006
3	7	Delaware	3.91	December 1, 2005
4	6	Kentucky	3.78	October 1, 2005
5	8	Montana	3.69	July 1, 2005
6	3	Florida	3.32	January 1, 2006
7	17	Vermont	3.24	April 1, 2005
8	13	Maine	3.21	January 1, 2006
9	19	Alabama	3.17	March 1, 2005
10	18	New York	3.15	October 1, 2005
11	9	Louisiana	3.10	September 1, 2005
12	5	Ohio	3.00	July 1, 2005
13	15	Oklahoma	2.96	2/1/06 State Fund, 7/1/05 Private
14	11	Connecticut	2.90	January 1, 2006
15	4	Hawaii	2.89	January 1, 2006
16	10	D.C.	2.86	November 1, 2005
17	14	Texas	2.84	January 1, 2006
18	20	Pennsylvania	2.80	April 1, 2005
19	12	New Hampshire	2.75	January 1, 2006
20	23	Illinois	2.69	January 1, 2006
21	21	Minnesota	2.69	January 1, 2006
22	16	Rhode Island	2.68	January 1, 2006
23	29	New Jersey	2.52	January 1, 2006
24	22	Missouri	2.50	January 1, 2006
25	39	South Carolina	2.50	July 1, 2004
26	25	Tennessee	2.48	July 1, 2005
27	27	New Mexico	2.41	January 1, 2006
28	28	Wyoming	2.40	January 1, 2006
29	31	Colorado	2.40	January 1, 2006
30	26	Nevada	2.36	January 1, 2005
31	36	Mississippi	2.29	March 1, 2005
32	34	Idaho	2.29	January 1, 2006
33	38	Nebraska	2.25	February 1, 2005
34	24	West Virginia	2.20	January 1, 2006
35	33	Wisconsin	2.18	October 1, 2005
36	35	Washington	2.17	January 1, 2006
37	32	North Carolina	2.17	April 1, 2005
38	46	Utah	2.06	December 1, 2005
39	30	Michigan	2.05	January 1, 2006
40	40	Maryland	2.03	January 1, 2006
41	37	Georgia	2.02	July 1, 2005
42	42	Oregon	1.97	January 1, 2006
43	44	Kansas	1.84	January 1, 2006
44	41	South Dakota	1.83	July 1, 2005
45	43	Iowa	1.75	January 1, 2006
46	49	Arizona	1.73	October 1, 2005
47	45	Massachusetts	1.70	September 1, 2005
48	48	Arkansas	1.59	July 1, 2005
49	47	Virginia	1.52	November 1, 2005
50	50	Indiana	1.24	January 1, 2006
51	51	North Dakota	1.10	July 1, 2005

Source: Oregon Department of Business and Consumer Services



Worker's Compensation Board of Indiana

WHAT IS THE ROLE OF THE WORKER'S COMPENSATION BOARD?

The Worker's Compensation Board is composed of seven administrative law judges who have the duty to administer Indiana's Worker's Compensation and Occupational Diseases Act. Board members are appointed by the Governor to staggered four year terms. Not more than four members of the Board may belong to the same political party. In addition to administering the Worker's Compensation and Occupational Diseases Acts, the Board has the authority to pass administrative rules in order to carry into effect the provisions of the law. The Board's current administrative rules are found at Title 631 of the Indiana Administrative Code.

Board members have the authority to review all claims for worker's compensation and occupational diseases. Board members may order medical treatment for injured employees, approve claims for medical and attorney's fees incurred under the Acts, approve agreements between employers and employees, and modify or change awards.

The Worker's Compensation Board appoints and Executive Secretary who directs the staff of the Agency. The Executive Secretary and the staff are

responsible for the day to day administrative functions of the Board, and are available to the public to answer questions.

The employees of the Board can answer general questions and offer assistance with the administrative steps necessary to proceed through the worker's compensation system. However, members of the staff cannot give legal advice to employers or employees. Agency staff cannot act as the representatives or advocates of the parties to a worker's compensation dispute.

The Board's Ombudsman Division was established to assist employers and employees who have problems or disputes in worker's compensation matters. Upon receipt of a signed Request for Assistance Form the Ombudsman Division may attempt to informally resolve disputes arising between employers and employees. The Ombudsman staff can be helpful when an employee feels that he or she is entitled to worker's compensation but is receiving no benefits. In a limited number of cases, the Ombudsman Division may recommend that the Board appoint an independent medical examination if the employer and employee disagree as to the employee's readiness to return to work after a compensable injury. If the Ombudsman Division is unable to resolve a dispute, the parties may file for

a hearing before a worker's compensation judge.

If you require assistance of an Ombudsman, you may file a Request for Assistance. Upon receipt of the form, an Ombudsman will contact all parties involved in order to attempt to resolve the dispute.

The board's Data Services Division is responsible for processing and checking the accuracy of reports of injury and compensation agreements. If you have a question about the calculation of disability payments or permanent partial impairment (PPI) agreements, contact the Date Services Division.

The Insurance Division of the Board collects proof of insurance information from employers, administers the Independent Contractor Affidavit process and administers the self-insurance program. Applications for self-insurance are available upon request.

To determine whether an employer has current worker's compensation coverage, contact the Insurance Division. The Insurance Division provides certificates of compliance pursuant to 631 IAC 1-1-30. Written requests must be accompanied by a pre-addressed, stamped envelope for each party who is to receive a copy of the certificate.



Injuries in the Workplace

What if you are injured on the job?

If you are injured at work or believe that an injury or illness is work-related, the following steps may be helpful. The steps in this list are not required by statute. If you are unable to do these things for yourself, ask someone to do them for you.

- Note the hour, date, cause of the accident or illness, and the names of any witnesses to the accident. If possible, obtain a written statement from these witnesses. This information may be important in pursuing your claim.
- Immediately report the accident and injury to your supervisor, first aid person, company nurse or physician, or directly to your employer. Do not wait to report injuries or illnesses and do not conceal injuries or illnesses if you wish to pursue a worker's compensation claim.
- If you work for a unionized employer, report the injury to your union representative.
- Request medical treatment under worker's compensation.
- Do not sign any papers unless you understand what you are signing. However, remember that your signature may be required at various steps in the handling of your claim. Your delay in signing may lead to a delay in receiving compensation.
- You do not have to allow claims investigators to take a tape recorded statement from you as a condition for receiving worker's compensation.
- If your claim is denied, you have the right to a hearing before the Worker's Compensation Board.

What can employers do to prevent injuries and control costs?

Employers can control worker's compensation costs and prevent worker injuries by establishing and maintaining a strong safety ethic in the workplace.

- Create and maintain health and safety initiatives.
- Make sure that injuries and illnesses receive immediate treatment.
- Take Remedial steps to reduce known safety problems.
- Establish safety procedures that are responsible and the employees can easily follow.
- Require employees to report all accidents immediately.
- Establish and make known procedures to be followed by workers and management in the event of an accident.
- Inform the treating physician of the physical demand of an injured employee's job so that the doctor can make a realistic determination of the employee's ability to return to work.
- If possible, offer reasonable light duty assignment so that the employee can return to work.
- Post the required notice in a conspicuous location informing all employees of the name, address and telephone number of your insurance carrier and person responsible for administering worker's compensation claims.

Injuries in the Workplace

WEEKLY COMPENSATION FOR DISABILITY IN INDIANA

(IC 22-3-3-10)

Date of Injury	Minimum AWW	2/3 Minimum AWW	Maximum AWW	2/3 Maximum AWW	Max Compensation (TTD, TPD, PTD, PPI)
On or after 7/1/99	\$75	\$50	\$732	\$488	\$244,000
On or after 7/1/00	\$75	\$50	\$762	\$508	\$254,000
On or after 7/1/01	\$75	\$50	\$822	\$548	\$274,000
On or after 7/1/02	\$75	\$50	\$882	\$588	\$294,000
On or after 7/1/06	\$75	\$50	\$900	\$600	\$300,000
On or after 7/1/07	\$75	\$50	\$930	\$620	\$310,000
On or after 7/1/08	\$75	\$50	\$954	\$636	\$318,000
On or after 7/1/09	\$75	\$50	\$975	\$650	\$325,000

AWW - Average Weekly Wage

TTD - Temporary Total Disability

TPD - Temporary Partial Disability

PTD - Permanent Total Disability

PPI - Permanent Partial Impairment

About Indiana's Second Injury Fund

The Second Injury Fund created by Ind. Code 22-3-3-13 is designed to prevent discrimination in hiring workers who have lost the use of an arm, hand, leg or foot. When an employee loses the use of any two of these parts of the body, the employee is considered totally impaired, because a loss of any two of these parts is compensated by an award of 100 degrees of impairment pursuant to Ind. Code 22-3-3-10(c)(2). Such injuries must be compensated by an award of 100 degrees of impairment or Permanent Total Disability (PTD), whichever is greater. Obviously, employers would hesitate to hire any employee who had already lost or lost the use of an arm, hand, foot or leg, for fear that a second injury would expose them to liability for an award of PTD. Under 22-3-3-13(a), the employer is held liable only to the extent of compensation due for the second injury. The

Second Injury Fund is liable for the remainder of the compensation award.

The Second Injury Fund serves a second purpose unrelated to second injuries. In cases where the employee is permanently and totally disabled and exhausts the maximum compensation payable under the Act, application may be made the Fund for benefits. The Fund may award benefits at the rate of sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wages at the time of the injury, payable at six week intervals for a total of 150 weeks. If the employee remains permanently and totally disabled after 150 weeks, he or she may reapply to the fund. The Board may award additional benefits for successive periods not to exceed on hundred fifty (150) weeks each. Hearings are held to determine eligibility for benefit extensions.

A third purpose of the Second Injury Fund was created by legislation passed in 1997. This legislation allows an employee to apply to the Second Injury Fund for the cost of repairs to or replacement of an artificial member, braces or prosthodontics resulting from a compensable injury pursuant to a prior award. The repairs or replacement may be due to medical necessity or normal wear and tear, but not in cases of abuse by the employee. The compensable injury resulting in the prosthetic must have caused the amputation of a body part, the enucleation of an eye, or the loss of natural teeth. This provision is available regardless of when the injury occurred, so long as the employee can prove that it was a compensable injury and that the prosthetic was received pursuant to a prior award.



Additional Coverages

INSURING A KEY EMPLOYEE

The loss of a key person can be a major blow to a small business if that person is the key contact for customers and suppliers and the management of the business. Loss of the key person may also make the running of the business less efficient and result in a loss of capital.

Losses caused by the death of a key employee are insurable. Such policies will compensate the business against significant losses that result from that person's death or disability. The amount and cost of the insurance needed for a particular business depends on the situation and the age, health and role of the key employee.

Key employee life insurance pays a death benefit to the company when the key employee dies. The policy is normally owned by the company, which pays the premiums and is the beneficiary. Contact an insurance agent or broker who specializes in key employee insurance for more on how much it may cost for your company.

To locate an insurance company that specializes in key employee life insurance, go to <http://www.roughnotes.com/>. Available to the public to answer questions.

PROFESSIONAL LIABILITY INSURANCE

Professionals who operate their own business need professional liability insurance in addition to an in-home business or businessowners policy. This protects them against financial losses from lawsuits filed against them by their clients.

Professionals are expected to have extensive technical knowledge or training in the particular area of expertise. They are also expected to perform the services for which they were hired, according to the standards of conduct in their profession. If they fail to use the degree of skill expected of them, they can be held responsible in a court of law for any harm they cause to another person or business. When liability is limited to acts of negligence, professional liability insurance may be called "errors and omissions" liability.

Professional liability insurance is a specialty coverage. Professional liability coverage is not provided under homeowners endorsements, in-home business policies or businessowners policies (BOPs).

COMMERCIAL AUTO INSURANCE

As a businessowner, you need the same kinds of insurance coverages for the car you use in your business as you do for a car you use for personal travel -- liability, collision and comprehensive, medical payments and coverage for uninsured motorists. In fact, many business people use the same vehicle for both business and pleasure. If the vehicle is owned by the business, make sure the name of the business appears on the policy as the "principal insured" rather than your name. This will avoid possible confusion in the event that you need to file a claim or a claim is filed against you.

Whether you need to buy a business auto insurance policy will depend on the kind of driving you do. A good insurance agent will ask you many details about how you use vehicles in your business, who will be driving them and whether employees are likely to be driving their own cars for your business.

While the major coverages are the same, a business auto policy differs from a personal auto policy in many technical respects. Ask your insurance agent to explain all the differences and options.



Additional Coverages

EMPLOYMENT PRACTICES LIABILITY INSURANCE (EPLI)

EPLI covers businesses against claims by workers that their legal rights as employees of the company have been violated.

The number of lawsuits filed by employees against their employers has been rising. While most suits are filed against large corporations, no company is immune to such lawsuits. Recognizing that smaller companies now need this kind of protection, some insurers provide this coverage as an endorsement to the Businessowners Policy (BOP). An endorsement changes the terms and conditions of the policy. Other companies offer EPLI as a stand-alone coverage.

EPLI provides protection against many kinds of employee lawsuits, including claims of:

- Sexual harassment
- Discrimination
- Wrongful termination

- Breach of employment contract
- Negligent evaluation
- Failure to employ or promote
- Wrongful discipline
- Deprivation of career opportunity
- Wrongful infliction of emotional distress
- Mismanagement of employee benefit plans

The cost of EPLI coverage depends on your type of business, the number of employees you have and various risk factors such as whether your company has been sued over employment practices in the past. The policies will reimburse your company against the costs of defending a lawsuit in court and for judgements and settlements. The policy covers legal costs, whether your company wins or loses the suit. Policies typically do not pay for punitive damage or civil and criminal penalties. Liabilities covered by other insurance policies such as worker's compensation are excluded from EPLI policies.

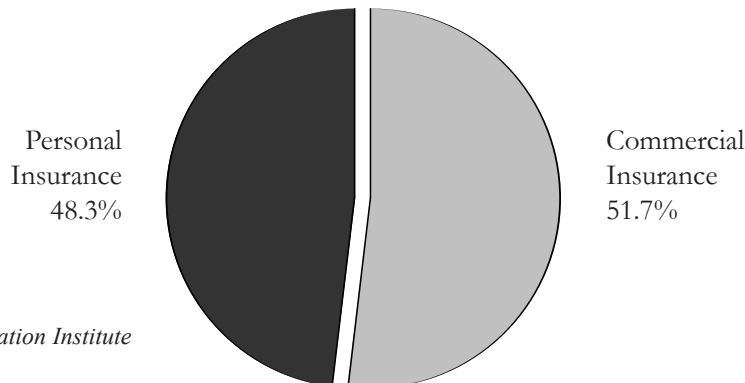
To prevent employee lawsuits, educate your managers and employees so that you minimize problems in the first place.

KIDNAP AND RANSOM INSURANCE COVERAGE

Depending on the type of policy, kidnap and ransom policies cover some of the expense of dealing with kidnappers and their demands.

Kidnapping for ransom money is on the upswing. Kidnap and ransom insurance is now available as part of a comprehensive business insurance package, as a stand-alone policy for individuals and from a few insurance companies as part of their homeowners insurance policy. Corporate policies generally cover most kidnapping-related expenses including hostage negotiation fees, lost wages and the ransom amount. Policies for individuals help pay for the cost of dealing with a kidnapping but do not reimburse for ransom payments.

NET INSURANCE PREMIUMS WRITTEN, 2006



Source: Insurance Information Institute

