

# A General Guide to Business Liability Insurance

## Introduction

*Do I need errors and omissions insurance?*

*If I have a home office, will homeowners' insurance cover me?*

*My client says I have to have liability insurance. How much does it cost?*

*A prospect says I have to have more auto insurance. Why on earth would they require that?*

Those are just some of the insurance questions small business owners and consultants often struggle with. This guide is designed to answer many of those questions by covering the basics of business liability insurance. The content is generally applicable for small and medium-size businesses in all forms; whether sole proprietor, incorporated, LLC, or partnership.

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## The writer...

Shawn Greene combined her expertise in sales and instructional design—and access to many insurance professionals—to produce this guide. Please contact Shawn to discuss potential projects in these areas:

- Improving sales or service performance, including for commercial insurance brokers
- Instructional design and technical writing

See [savageandgreene.com](http://savageandgreene.com)

## Disclaimers

This guide is intended to provide only very general information. The word “may” is used frequently for good reason.

The writer and recommended agents and brokers are not liable for any use or miss-use of the guide's contents. Always confer with an appropriate insurance professional.

## **Overview - The difference between general liability insurance, professional liability insurance, and errors and omissions insurance:**

- “General” liability deals with bodily injury or death, or damage to physical property.

This injury, death, or damage applies to others, not the insured. However, for small businesses general liability is often packaged with insurance covering the insured’s business property.

“General liability” may show up in homeowner’s or renter’s policies for similar reasons: These may provide a very small amount of coverage for home-based businesses.

- “Professional” liability deals with an economic or monetary loss (another party’s loss, not ours). “Errors and omissions” is a type of professional liability, not a separate type of insurance.

There are three things to know about this type of insurance. The first is that professional liability itself would not exist without contract law.

The second: “Errors and omissions” does not necessarily relate to making mistakes in advice, or forgetting to cover something. Though court judgments are hard to predict, the law generally leans more toward promised—as in contractual—*actions*, not words.

The third thing to know loops back to the first: Many professional liability insurance issues boil down to the content of your contracts. That includes the contracts you have clients sign, and the ones your clients and contract-agents have you sign.

## **Overview - How do you know if you need either type of insurance?**

**General liability** insures you for what’s commonly known as “slip and fall” claims and lawsuits. Working in a litigious society like ours means this insurance is a basic for many businesses. It also becomes a basic when your clients require you to have it.

On the other hand, there are many businesses for which slip and fall situations rarely come up. And just because one hot prospect says you must have liability insurance, that doesn’t mean you should run out and get it. (See page 9.)

This guide may help you decide whether or not general liability insurance belongs on your to-do list. (Talking with a good agent or broker will definitely help.) If you decide to buy this insurance, here’s some good news: It’s relatively inexpensive and comes in fairly standard forms, which makes it easier to shop for.

**Professional liability** insurance is not only more expensive, it’s a more complex issue. There’s no such thing as a standard form of this insurance, which makes it harder to shop for. In fact, you should probably not shop for it at all; shop instead for an insurance professional with expertise in your field.

The good news is that if you can be sued for it—which is what liability is all about—insurance to cover you in that event probably exists. And a good agent or broker will probably be able to pull the right coverage together for you.

As for prospects or clients who say they require you to have professional liability insurance... Once again, that doesn’t mean you should run out and buy it. After all, they probably know even less about insurance issues than you do.

**General liability:** Deals with bodily injury or death, or damage to physical property.

Overview examples of situations in which this insurance often applies:

- Someone gets hurt in a fall in your office; a product you sell causes an injury; or you damage a client's property.

**General liability insurance:**

Provides and funds the right attorney if someone sues you for injury or death that took place on your business property or where you worked (e.g. on a client's site, or in a rented room).

Provides and funds the right attorney if you're sued for damaging someone else's property while working.

Pays what you owe if you lose a lawsuit.

Pays the cost of replacing someone else's business property if you damaged it.

May cover income you lost as you dealt with lawsuits (e.g., appearing in court).

☛ Not all property, claims, or lawsuits will be covered! Shop and buy carefully.

When packaged with coverage for your business property, this insurance may also:

Pay the cost of replacing your covered business property if it's stolen or damaged.

Coverage often includes loss of a laptop, but may or may not cover its software.

Homeowner's and renter's insurance often include a small amount of general business liability coverage for a home office or home-based business. This usually only covers "on-premises"; things that happen in your home office.

**Why clients and others may require that you have general liability insurance:**

The requirement is not usually based on the possibility they may want to sue you. They don't want to be the only ones holding the bag if someone sues *them* over something connected to you. Here's the scoop:

When lawyers file suit, they tend to file against whom or what has a reasonable chance of paying. Bigger companies have deeper pockets so they're a bigger target. By requiring contractors to carry this type of insurance, clients reduce the risk of being the only lawsuit target and therefore reduce their expenses, too.

The same thinking applies when you rent a room for an event; such as for a focus group or workshop. The owners of the building may require that you have business general liability insurance to handle any claims related to your event.

**Note:**

- Like any other insurance, there are limits on the amount paid for claims. That includes limits on attorney fees and other costs for defending you in a lawsuit. (See "expenses versus expenses on top of claims" on page 6.)
- Clients can be named as an additional insured on your general liability insurance. (See page 6.) You may find clients ask or require you do this; however, do not offer it proactively.
- You can, and sometimes should, be named as an additional insured on your subcontractors' general liability insurance.

**Professional liability insurance:** Deals with an economic or monetary loss.

**Errors and omissions insurance:** Is the same as professional liability insurance.

There's apparently ongoing debate among insurance professionals about the terms "professional liability" and "errors and omissions." Are they the same or not? The topic may generate fascinating conversation at the Insurance Underwriters and Actuarial Professionals<sup>1</sup> dinner meeting, but for our purposes we can rest easy counting them as the same.

Professional liability insurance generally applies if something we contracted to do (or were supposed to do) cost our client money or the opportunity to make money.

"Liability"  
The law can be  
used against you.

There are many forms of professional work, and contract law is quite complex. Accordingly, professional liability insurance does not come in standard forms with a standard menu of options for coverage.

- Be prepared to discuss the kinds of work you do in detail with the agent or broker.

Professional liability is intimately tied with contract law. That, in turn, links appropriate insurance with your contract boilerplate.

- Provide the broker or agent with a copy of typical contract(s). Provide both the contracts you have clients sign, and any your clients require you to sign. If you work through contract-agents (a firm that lands contracts for you), provide a copy of those contracts too.

The agent or broker may offer recommendations for your contract boilerplate. For example: Adding a "hold harmless" clause, if you don't have one already.

If you're like many consultants who handle different projects, you may find you cannot insure yourself for all situations. Of course, this sort of trade-off is common for all types of insurance.

- As a safety-net step, be sure you know what is NOT covered well before signing on the dotted line.

Examples of situations in which this insurance may apply:

- Imagine that you designed a mail campaign, projected certain rates of response, and managed the printing and mailing for the campaign. You *or your sub-contractor* sent the mailer to the wrong list (an error) or did not mail to half of the list (an omission).

If the client can calculate the cost of these errors, and if your contract does not preclude it, they may decide to sue you. Professional liability insurance may be very useful in this situation.

- Now imagine that all you did was design a mail campaign, including projecting certain rates of response. The client followed your advice and used in-house resources to follow-through. Unfortunately, the campaign had zero responses.

The client won't be happy but this bad result is probably not something they can easily sue you for, nor something you'd be covered for if they try.

*Continued on next page...*

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<sup>1</sup> This is not a real professional association or group.

Professional Liability Insurance examples, continued...

- Imagine that you sell logo'd merchandise. Somehow the wrong logo is printed on all items for a client's charity golf tournament and there's not enough time to fix it. If the client decides to sue, and if your contract does not preclude it, your professional liability insurance may come in handy.

The above client is sitting at her desk, mulling over whether to sue or not. As she mulls, she fiddles with a bad-logo'd divot-repair-tool. It finally breaks and a piece flies into her eye, causing her to miss the tournament and two weeks of work. If she decides to sue you over that injury, professional liability probably won't apply, but general liability may.

<b>Professional liability insurance:</b>	
Provides and funds the cost of the right attorney and defense if someone sues you for a covered liability.	Does not usually fund your legal expenses if you choose to file suit. But may in the case of a covered counter-suit.
Pays what you owe, if you lose a covered lawsuit.	
<b>Finer points:</b>	
Clients cannot be named as insured on your professional liability insurance.	You can require subcontractors to carry their own professional liability insurance.
You cannot be named as insured on other's professional liability insurance.	

**Why clients may require that you have professional liability insurance:**

In many cases, the requirement is actually for general liability insurance, not professional liability. Your direct client-contact may not really know what's required, so double-check with their legal or other appropriate department. (See page 9.)

If they truly do require professional liability insurance, it's probably because they want some assurance they'll be compensated if you mess up. Likewise, clients may want assurance they'll be compensated if someone involved in your work messes-up, such as a sub-contractor under your management.

**Note:**

- The value of a well-worded contract in conjunction with this insurance cannot be minimized. If you need help with contract wording, see Nolo.com for resources.
- Like any other insurance, there are limits on the amount paid for claims. That includes limits on attorney fees and other costs for defending you in a lawsuit. This applies to professional liability insurance and general liability insurance. (See "expenses versus expenses on top of claims" on page 6.)

## Misc. Questions and Answers

### Q: Why do clients require that I have more car insurance coverage?

Car accidents are costly. *Very* costly. If you have an accident and have lots of insurance, the other parties' attorneys will focus on you and your insurance company. If you do not have lots of insurance, those attorneys will look for other pockets. If you were driving around in connection to a project, those pockets will include your clients' and they may therefore get sued. In their eyes, requiring that you have tons of car insurance helps prevent this.

Your auto insurance carrier may be able to add the coverage you need. If not, try to find one that does, or buy an umbrella policy. (Increased auto coverage from one carrier is often less expensive than adding an umbrella policy.)

### Q: What is an "umbrella" policy?

These increase the amount of general liability coverage on top of what you already have. For example, increased liability on your auto insurance. You can buy a separate umbrella policy that brings the total general liability coverage to the amount you need.

Umbrella policies are available for business general liability, for auto, and for a combination of the two. Umbrella policies are not available for professional liability insurance.

### Q: Why do clients require I add them (name them) as insured on my coverage?

"Naming" clients or others on your insurance prevents claims against *their* insurance, so this requirement is about saving themselves money and hassle. Clients may also require it to meet a requirement from their insurance company. As a guideline: Only name clients as insured when contractually-required.

Only general liability and auto insurance allow you to "name" third parties. Doing this does not usually cost you extra money but ask your broker or carrier so you know in advance.

### Q: What's the deal with expenses, versus expenses on top of the claim?

"Expenses" or "defense expenses" refer to the cost of your attorneys and defense. That may include cost of research, interns, notaries, recorders for depositions, etc.. "Claim" is the rest of it.

Some insurance policies include the expenses in the total limit they will cover. Other policies break it out. Whether one is better than the other depends on too many factors to cover here.

### Q: Doesn't incorporation or LLC, and a good contract provide enough protection?

Each of those help a bit, especially appropriate contracts. In addition...believe or not...attorneys and insurance companies help keep a lid on litigious craziness. However, we can still be sued for reasons that would probably amaze you and the hassle of dealing with such a situation before it even gets to court can be quite costly. Insurance often helps spare you that hassle.

### Q: What insurance should I require from my subcontractors?

Ask your agent or broker about this. Consulting with an attorney is probably useful, too.

**Q:** How much does general liability insurance cost?

Reminder: Persons or property got hurt, etc.

- For home-based businesses with extremely low risk:

A very limited amount of coverage for a home-based business may be available through your homeowners' or renters' insurance carrier. Talk to your current carrier.

*Talk to your CPA: Premium may or may not be tax-deductible.*

- For home-based businesses with low risk:

Reasonable business coverage available to home-office-based consultants with low risk can be as low as \$250 per year. This insurance is often packaged with coverage for your business property.

This type of business insurance is available through a few carriers' agents; such as State Farm. This type of insurance is also available through brokers, albeit for a slightly higher premium.

*Talk to your CPA to confirm: Premium is usually tax-deductible.*

- For other businesses with other levels of risk:

Robust coverage for consultants and businesses begins at about \$500 per year. (One broker consulted for this guide suggested the figure be \$750.) Consultants who deal with large projects, are often on client-site, or use subcontractors should probably get serious with this level of insurance.

This business insurance is available through several carriers. Both agents and brokers can help you with this type of insurance. However, only brokers can resource more than one carrier.

*Talk to your CPA to confirm: Premium is usually tax-deductible.*

**Q:** How much does professional liability insurance cost?

Reminder: You or yours messed up and cost a client money.

Cost varies depending on type of work and exposure; such as whether you use subcontractors or not. Most agents and brokers consulted for this guide said this business insurance begins at about \$1,200 per year.

This insurance is offered by many carriers. Because it's a complex insurance with complex issues, be sure to work with a good agent or broker. (Brokers resource more than one carrier.)

Some insurance brokers may charge fees for handling this type of insurance. See page 8.

Remember that professional liability insurance and sound contracts work hand-in-hand. Cover both bases.


"Risk"  
The likelihood  
of being sued.


"Exposure"  
The likelihood  
of being sued.  
Or how much  
you have to lose.

## Q: Agent or broker?


Both agents and brokers tend to specialize, both offer extensive expertise and terrific service, both may have a high interest in working with small businesses.

**Brokers** work with many carriers and so the range of products is often broader. In addition to providing expertise and guidance, brokers will shop for the best package and value for you. The brokers recommended here have departments focused on small business. They also generously provided a good deal of the information and insight for this guide.

 <p><b>HEFFERNAN</b> INSURANCE BROKERS <i>Because You're Different</i></p>	<p>Heffernan Insurance Group Earl VanBuskirk 925-942-4621 EarIV@Heffins.com</p>	<p>For comparison purposes only: Premium for general liability insurance through this broker starts at about \$500 per year.</p>
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 <p><b>Golden Benchmark</b> financial &amp; insurance services innovative solutions risk management employee benefits workers compensation general business insurance</p>	<p>Golden Benchmark Emmi Ensign – 510-818-9877 Emmi@goldenbenchmark.com</p>	<p>For comparison purposes only: Premium for general liability insurance through this broker starts at about \$500 per year.</p>
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**Agents** offer insurance from just one carrier. For example, the agent shown below only offers State Farm policies. Though working with one carrier, agents provide expertise and products suitable for a wide range of businesses. The agent recommended here also generously provided significant assistance with this guide.

	<p>Ranata Scholl State Farm Insurance Agent 916-482-2543 Ranata.Scholl.GJCI@statefarm.com</p>	<p>For comparison purposes only: Premium for general liability insurance for small home-based businesses starts at \$250 per year. Insurance for other businesses also available.</p>
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## The Fees Issue

Agents do not charge fees.

Some brokers may charge fees, especially for professional liability insurance quotes. The reason is that certain types of work (“exposure,” in insurance-talk) take more effort to find coverage for. Charging a fee passes this expense on to those clients only. Any potential fee will be disclosed in advance along with the quote information.

## Special Programs

There are many liability insurance programs tailored to meet needs of particular businesses. This is yet another reason to talk to a good broker or agent.

However, do not let good branding lead you to short-cut your own careful evaluation. Just because an insurance program is positioned for “consultants,” that doesn’t mean it’s the right coverage for your business. Read the proposed coverage and exclusions carefully before you buy.



**Q:** How do I handle due diligence to check on the safety or soundness of a potential insurance carrier?

1. Ask for the “Best Rating” or “A. M. Best” rating.

The A.M. Best organization rates insurance carriers based on their management, financial stability, and financial soundness. The rating system is a letter grade. The ratings you should probably stick with are shown with the border around them:

A + + and A +	Superior	A and A -	Excellent
B + + to B -	Very Good	C+ + and C+	Fair
		C and C -	Marginal

D: Below Minimum Standards  
E: Under State Supervision  
F: In Liquidation

A. M. Best also categorizes insurance companies by financial size. In general, look for Class IX or higher (9 to 15). Class IX companies are \$250 million to \$500 million in financial size.

2. Find out if the insurance company is “admitted” or non-admitted in your state.

“Admitted” insurance companies are approved by the state’s department of insurance. They’ve filed all their policies, rates and other information with the state; and the state has reviewed and approved.

Non-admitted does not equal bad or risky; however, admitted is preferable. One reason it’s preferable is because admitted carriers pay a percentage of premium to the state’s version of a FDIC-like insurance fund.

## **A sales pro speaks - Insurance as a sales issue:**

It’s important to note that none of what follows is meant to imply you should try to skirt requirements or ignore general or professional liability insurance. Insurance is often a basic for success, and there’s tremendous value in the peace of mind the right kind of insurance provides.

On the other hand, many people new to selling—or uncomfortable with selling—expend tremendous energy, money and spirit on projects that don’t materialize. This includes creating highly-detailed proposals their prospects ignore, cutting fees when they don’t have to, and buying insurance when the need is not there.

These comments are intended to try to spare you from buying insurance you don’t need or want. (For help with other sales issues, check out the blog on [savageandgreene.com](http://savageandgreene.com).)

One of the reasons consultants get insurance when we don’t need it is because the issue can come with emotional baggage. Prospects sometimes say it’s easier to get a new vendor in if we have it, and other consultants may tell us we “should” have it. These comments lead many consultants to believe certain insurance bolsters our credibility. It doesn’t.

One of the other reasons we buy unnecessary insurance is because we tend to be goal-oriented problem-solvers. A prospect says, “I need you to have insurance” and our first instinct is to hop to it. See the next page for tips on putting those problem-solving tendencies to work in a more productive way.

### Insurance as a sales issue, continued...

If a *prospect* says they require that you have general liability insurance, professional liability insurance, business insurance, liability insurance, errors and omissions insurance, higher liability on your auto, or something like that...

Be aware your prospect may not actually know if insurance is truly required, much less what specific type and/or amount fits the bill. This applies even when wording in a contract indicates insurance is required. (Contract wording is often why your prospect thinks you need it.)

Your prospects probably know even less about business insurance than you do. And many contracts include boilerplate that's inserted with no thought toward specific projects. A little discussion with people in the know can clear things up for you and your prospect:

☞ The best source for information is often the accounts payable department, legal department, or vendor management department. (Get permission from your prospect to contact them, first.)

Many consultants find that no additional insurance is required. But if insurance is indeed required, talk to an agent or broker to find the right coverage:

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> Get estimates for premiums and any possible fees.           | This info also helps you decide whether to apply in advance or wait to see if you land the deal. |
| <input checked="" type="checkbox"/> What is the application process and how long does it take?  |  |
| <input checked="" type="checkbox"/> What potential problems might there be in getting approved? |  |

☞ However, before you proceed in applying for this insurance, take a big mental step back. You don't want a contract to cost you more than it's worth, especially a *prospective* contract. There are two ways to handle this issue:

1. Accommodate the added expense in your proposal. Fold the cost into hourly or other fees.
2. Reconsider whether you want this project or not. Remember the business fit goes both ways:

Are you sure you want a client that requires you to carry this insurance? Is this project truly worth it? These are especially important questions when the requirement makes little sense.

☛ Be very careful about including potential future projects in your decision to buy insurance, especially if the prospect has not actually told you such potential exists.

So much for prospects and handling insurance issues as part of the sale. If a *client* says you must have general liability insurance, professional liability insurance, errors and omissions insurance, and/or higher auto liability coverage... most of the above still applies!

☞ Don't let insurance uncertainty affect your confidence! Appropriate insurance is a business issue, not an image-booster.

☞ Remember your prospects and clients probably know even less about business insurance than you do. It's okay to contact other departments *before* you have a contract to get the scoop.

☞ Beware an abundance of hoops—remember the fit between client and consultant goes both ways.

⌘ End of guide ⌘