

Introduction to Insurance Law

Introduction to Insurance Law – Study Notes

1. What Is Insurance Law?

Aspect	Description
Definition	The body of statutes, regulations, and case law that governs the formation, interpretation, and enforcement of insurance contracts.
Purpose	Protect policyholders, ensure market stability, promote fairness, and regulate the financial strength of insurers.
Key Players	• Insurers (companies, mutuals) • Policyholders (individuals, businesses) • Regulators (state insurance departments, NAIC, Federal agencies) • Courts (state and federal)

2. Fundamental Principles

Principle	Meaning	Typical Application
Utmost Good Faith (Uberrimae Fidei)	Both parties must disclose all material facts honestly.	<i>Applicant must reveal pre-existing conditions; insurer must disclose policy exclusions.</i>
Indemnity	Insurance aims to restore the insured to the financial position they were in before a loss, not to provide profit.	<i>Property insurance pays the cost of repair, not more.</i>
Proximate Cause	The direct, efficient cause of loss determines coverage.	<i>Fire caused by an electrical fault triggers fire coverage; a subsequent flood does not.</i>
Subrogation	After paying a claim, the insurer may step into the insured's shoes to recover from a third party.	<i>Insurer sues a negligent driver who caused the insured's car accident.</i>
Contribution	When multiple policies cover the same risk, each insurer pays its share.	<i>Two policies covering the same property split the loss proportionally.</i>

Introduction to Insurance Law

Principle	Meaning	Typical Application
Insurable Interest	The insured must have a legally recognized stake in the subject matter of the insurance.	<i>A homeowner insures their own house; a stranger cannot insure it.</i>

3. Sources of Insurance Law

Source	Scope	Example
Statutes	Primary rules, often state-specific (e.g., Insurance Code, Unfair Claims Practices Act).	California Insurance Code §§ 10100-10145 (consumer protections).
Regulations	Detailed implementation of statutes, issued by state insurance departments or the NAIC.	NAIC Model Regulations on Market Conduct .
Case Law	Judicial interpretation of statutes, contracts, and common-law doctrines.	<i>Fleming v. American Family Mutual Insurance Co.</i> , 1995 (duty of disclosure).
Model Laws & Guidelines	Uniform standards adopted by many states (e.g., Uniform Commercial Code § 9-102 for security interests).	NAIC's Model Law on Captive Insurance Companies .
Federal Law	Applies to specific lines (e.g., ERISA for employee benefit plans, HIPAA for health insurance privacy).	ERISA pre-empts state law on group health plans.

4. The Insurance Contract

4.1 Formation

1. **Offer** – Typically the insurer's policy form (quote, application).
2. **Acceptance** – Policyholder's signed application or payment of premium.
3. **Consideration** – Premium (policyholder) ? Promise to indemnify (insurer).
4. **Legal Capacity** – Parties must be competent; minors need a guardian's consent.
5. **Legality** – Contract must not be for an illegal purpose.

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4.2 Key Clauses

Clause

Function

Declarations Page Summarizes parties