

Introduction To Insurance in Indian Country

Tribal insurance is regulated by the tribes that have discovered that being a tribal domicile for insurance and reinsurance companies is an important source of economic security and self-determination. Tribes are sovereign governments entitled to make their own laws and to live by their own laws. Tribes regulate their own insurance laws and companies under their own tribal laws. The tribal and federal governments do not have authority over the business of insurance conducted by Indian tribes.

Each Indian tribe or nation has its own constitution, by-laws, insurance act, business organizations act, corporations code, and/or other legislation that governs the business of insurance by their individual governments. Tribal insurance departments and their insurance commissioners or registrars oversee insurer solvency, market conduct, and, among other things, review and rule upon requests for rate increases for coverage

Licensing And Capital Requirements in Indian Country

A tribal insurance company must be licensed by a tribal insurance department before it can transact the business of insurance. Tribal insurance companies that are licensed and authorized to do business in a particular Indian tribe or nation are known as “admitted” insurers and are said to be “domiciled” in the Indian tribe or nation that issued the primary license. Once admitted by the Indian tribe or nation, such insurers are referred to as “domestic” under the law of that tribe or nation. Once licensed under one tribe’s laws, they may seek licenses under other tribal law as a “foreign” tribal insurer. Tribal insurers incorporated under the laws of a different tribe are called “foreign tribal insurers”. A tribal insurance company licensed under the laws of a tribe outside the United States are referred to as “alien” tribal insurers under the laws of the Indian tribe or nation that provides their non-domestic license as tribal insurers.

All tribal insurance companies are subject to capital and surplus requirements, which vary widely by Indian tribe or nation.

The Tribal Association of Insurance Commissioners International (TAIC) develops model rules and regulations for the tribal industry, many of which must be approved by tribal legislatures before they can be implemented. The TAIC strengthens solvency regulation requiring tribal insurance departments to meet certain prescribed standards. It also establishes minimum capital requirements for insurers, based on the riskiness of their business.

Solvency and Guaranty Funds in Indian Country

The regulation of tribal insurance company solvency is a function of the Indian tribe or nation. Tribal regulators monitor the financial health of companies licensed to provide insurance under their tribal law through analysis of the detailed annual financial statements that insurers are required to file, plus periodic onsite examinations. When a

tribal insurance company is found to be in poor financial condition, tribal insurance regulators can take various actions to try to protect policyholders.

All tribes that are voluntary members of the TAIC will show their commitment to policyholder protection by maintaining guaranty funds through which the tribal property/casualty insurance industry covers claims against insolvent tribal insurers. Tribal insurers will be required to fund tribal insurance department guaranty pools as a condition of licensing. When there is an insolvency, the insolvent tribal insurer is assessed based on business they do under that tribe's laws to pay unpaid claims, up to the guarantee funds available at the time of such settlement with policyholders from such guarantee funds.

Rate Regulation in Indian Country

Tribes differ greatly on the extent of regulation of commercial lines.

While the regulatory processes for each Indian tribe or nation varies, certain principles guide every tribe's rate regulation system. Rates must be adequate to maintain insurance company solvency, but not excessive, i.e., not so high as to lead to exorbitant profits. Rates must not be unfairly discriminatory, meaning price differences must reflect expected claim and expense differences.

In line with these principles, tribes require rates to be filed and approved before a Certificate of Authority may be granted by the tribe's or nation's insurance commissioner or registrar. A sample application with rate filing application is attached as a sample form on this website.