



INSURANCE LAW RESEARCH GUIDE

H. DOUGLAS BARCLAY LAW LIBRARY

Check the library's "Location Guide" and Summit/Voyager the Online catalog for the current location of sources mentioned in this pathfinder.

PURPOSE:

This guide is designed to help researchers find Insurance Law resources in the Barclay Law Library. The emphasis is on locating basic primary law (codes and regulations), secondary law sources, and law finding aids for researching the various aspects of Insurance Law. This guide will be updated periodically to reflect new titles or resources brought into the Law Library's Insurance Law collection.

For a useful introduction to the subject of Insurance Law, see the Cornell Legal Information Institute's overview of Insurance Law at <http://www.law.cornell.edu/wex/index.php/Insurance>. This web page offers a brief overview of the topic together with links to core primary and secondary law sources. Links also include access to current Federal and New York insurance decisions.

In addition, a useful summary of the activities of the Insurance industry can be found in *Couch on Insurance* 3rd Ed., Chap. 1, § 1:2. *Modern Insurance Industry*:

"For most purposes, the activities of the insurance industry can be divided as follows: (1) 'consumer' insurance activity that takes place between a private insurer and the entity which is purchasing protection from some risk; (2) 'reinsurance' and similar activity which takes place 'behind the scenes,' and essentially involves two insuring entities in an attempt to spread or allocate risks that have been taken on in the consumer insurance field; and (3) regulation of either of the preceding types of insurance by some governmental authority."

OUTLINE:

Primary Federal Sources

- A. Codes
- B. Rules & Regulations (Administrative Law)

Primary State Sources

- A. New York Statutes
- B. Rules & Regulations (Administrative Law)

Secondary Sources

- A. Treatises & Practice Materials
- B. Encyclopedias
- C. Law Reviews & Journals

Finding Tools

- A. Summit/Voyager Online Catalog
- B. Periodical Indexes

Online Resources

- A. Web sites of interest

PRIMARY FEDERAL LAW

Insurance Law is regulated by both federal and state statutory law. The *McCarran-Ferguson Act* (15 U.S.C. § 1011) provides that state law regulates the “business” side of the insurance business while federal law concerns itself with such matters as tax, labor, and securities.

A. Codes

Federal Statutes: United States Code (U.S.C.) Floor 4

Federal statutes dealing with insurance are found mainly in Title 15 of the *United States Code* (15 U.S.C.): *Commerce and Trade of the United States*. Relevant chapters include the following:

- Chapter 20: Regulation of Insurance
 - §§1011 – 1015 McCarran-Ferguson Act (state regulation of insurance)
- Chapter 65: Liability Risk Retention
 - §3902 - §3906
- Chapter 93: Insurance
 - §§6711 – 6717 State Regulation of Insurance
 - §§6731 – 6735 Re-domestication of Mutual Insurers
 - §§6751 – 6766 National Association of Registered Agents and Brokers

Other related U.S.C. titles and sections dealing with insurance include but are not limited to:

- Title 12: Banks and Banking
 - Chapter 16, §§ 1811 – 1835a Federal Deposit Insurance Corporation (FDIC)

- Title 7: Agriculture
 - Chapter 36, §§1501 – 1524 Crop Insurance
- Title 42: The Public Health and Welfare
 - Chapter 25, §2414 Federal Flood Insurance
 - Chapter 50, §§4001- 4129 National Flood Insurance
- Title 5: Government Organization and Employees, Part III Employees, Subpart G Insurance and Annuities
 - Chapters 87 – 90. §§8701 – 9009

B. Rules & Regulations (Administrative Law)

Code of Federal Regulations (CFR) Floor 4 Unclassified

The *Code of Federal Regulations* contains rules and regulations that deal with federal regulations of some insurance matters. Relevant *CFR* titles include:

- Title 5: Administrative Personnel, Chapter 1 Officer of Personnel Management, Subchapter B, Part 870, Federal Employees' Group Life Insurance Program
 - §§870.201 – 870.1208
- Title 7: Agriculture, Subtitle B Regulations of the Department of Agriculture, Chapter IV, Federal Crop Insurance Corporation
 - Part 407, §§407.1 – 407.17 Group Risk Plan Insurance Regulations
 - Part 457, §§457.1 – 457.167 Common Crop Insurance Regulations
- Title 20: Employees' Benefits, Chapter VI, Employment Standards Administration, Department of Labor, Subchapter A Longshoreman's and Harbor Workers' Compensation Act and Related Statutes
 - Part 702, §§703.001 – 703.503 Insurance Regulations
- Title 48: Federal Acquisition Regulations System, §§1.000 – 9905.506-63
- Title 42: Public Health, Chapter IV, Center for Medicare and Medicaid Services, Department of Health and Human Services, §403.201 State regulation of insurance policies

Insurance Regulatory Agencies Include:

- Federal Deposit Insurance Corporation: <http://www.fdic.gov/>
- Federal Employees' Group Life Insurance Program: <http://www.opm.gov/insure/life/index.asp>
- National Flood Insurance Program: <http://www.fema.gov/business/nfip/>

PRIMARY STATE LAW

The statutes for the fifty (50) states are located in stacks 1 – 3. (Stack 1 contains New York State material. Stacks 2 & 3 are in alphabetical order, by jurisdiction).

The Cornell Legal Information Institute's overview of Insurance Law provides a link to state insurance statutes and can be used as an index to identify individual state insurance statutes.

Link @ <http://www.law.cornell.edu/wex/index.php/Insurance>

A. New York Statutes

***McKinney's Consolidated Laws of New York, Annotated* KFN 5030 .A43 Floor 3 (lower Reference bookshelf # 1) and Stack 1**

McKinney's is arranged by Chapter, Article, and Section number. The insurance laws will be found under Chapter 28: Insurance Law, Articles 1 - 99. See, for example:

- Article 4: Insurance Frauds Prevention
 - §402 - §406
- Article 11: Licensing of Insurers
 - §1102 - §1104 - §1119
- Article 31: Insurance Contracts, General
 - §3101 - §3111
- Article 62: New York Insurance Exchange
 - §6201 - §6203

***New York Consolidated Laws Service: Annotated Statutes With Forms (CLS), Stack 1* KFN 5030 .A45**

Text of laws identical to McKinney's.

B. New York Rules and Regulations (Administrative Law)

New York Codes, Rules and Regulations (NYCRR), Stack 1, [KFN5035 .A22](#)

See Title 11 for the regulations of the New York State Insurance Department. Relevant Chapters include (but are not limited to):

- Chapter 1: General Provisions
- Chapter 2: Agents, Brokers and Adjusters
- Chapter 3: Policy and Certificate Provisions

SECONDARY SOURCES

Secondary sources such as texts, encyclopedias and law journals provide the researcher with a general overview of a topic and identify, with citations, the relevant primary law that relates to a topic. These sources are very useful for finding citations to primary law. Secondary sources for Insurance Law research include:

A. National Encyclopedias

There are two national legal encyclopedias that broadly cover the topics of American law, including Insurance Law. The various aspects of Insurance Law are reviewed with footnote references to case law, statutes, regulations and other primary sources.

Both encyclopedias, *American Jurisprudence 2d* (*Am Jur 2d*) and *Corpus Juris Secundum* (*CJS*), offer an overview of Insurance Law topics from a multi-jurisdictional perspective.

American Jurisprudence 2d, West Pub., Location: Floor 3 (Encyclopedia Wall)

- Insurance: 43 *Am.Jur.*, §§1 – 2077
 - I. *In General*, §§8 – 22
 - II. *Regulation of Insurance Business*, §§23 – 6
 - III. *Insurance Companies, In General; Formation, Organization, and Operation*, §§66 - 121
 - V. *Insurance Policies and Contracts, In General*, §§183 - 202
 - VI. *Formation of Contract*, §§207 - 247
 - XVI. *Risks and Coverage, In General*, §§477 - 532
 - XXXII. *Rights and Obligations of Parties to Liability Insurance After Loss; Action by Person Injured*, §§1384 - 1447
 - XXXIII. *Extent of Loss of Insured and Liability of Insurer*, §§1448 - 1541
 - XXXIX. *Subrogation*, §§1768 - 1808
 - XL. *Reinsurance*, §§1809 - 1827

Corpus Juris Secundum (*CJS*), West Pub., Location: Floor 3 (Encyclopedia Wall)

- Insurance: 44 *C.J.S.* §§1 - 1730
 - IV. *Control, Regulation, And Supervision*, §§31 – 95
 - V. *Insurance Organizations*, §§96 – 126
 - IX. *Contract and Policy*, §§253- 356
 - XIV. *Abandonment, Cancellation, Surrender, and Rescission of Policy*, §§485 – 535
 - XVI. *Risks or Causes of Loss*, §§860 – 1084
 - XXIII. *Subrogation of Insurance Company: Recovery of Payments*, §§1465 – 1500
 - XXIV. *Reinsurance*, §§1501 – 1519
 - XXV. *Actions on Policies*, §§1520 – 1586

B. New York Encyclopedia

New York Jurisprudence 2nd, West Publishing KFN5065. N48 Floor 3 (Reference Wall)

This law encyclopedia covers a broad range of legal issues pertaining to New York Insurance Law. They are discussed under the topic “Insurance”, volumes 68 – 71, and are broken down into two parts.

Part One: *The Insurance Business: Its Regulation and Conduct* (§§ 1-515) discusses topics such as formation and structure of insurance companies, insurance advisors, consultants and counselors.

Part Two: *Insurance Contracts* (§§516 - 2385) offer a topical treatment of such matters as formation of contracts, policies, and practice and procedure. All topics discuss principles of law and provide citations to supporting cases, statutes, regulations, and cross references to other law sources.

FINDING AIDS AND LAW JOURNALS

A. Online Catalog:

SUMMIT is Syracuse University's online catalog. It should be searched when you want to find books and treatises, loose-leaf services, and journal titles and their locations. It can be searched in a variety of ways: by keyword, author, title, journal title, or subject.

Researchers can use Summit to find specific practice titles by using basic keyword search queries: For example: “Insurance Coverage” or “New York ” + “Insurance Law”

Sample Titles:

- *Insurance Law Practice*, New York State Bar Association, KFN 5290 . I57
- *Defending the Insured*, New York: Aspen Publishers, KF 8925 .I57 D44
- *Handbook on Insurance Coverage Disputes*, New York: Aspen Law and Business, KF 1164 .O795
- *New York Insurance Law*, New York: Bender, KFN5290 .N49

B. Legal Periodical Indexes (Print & Electronic):

Legal periodical indexes are used to find citations to articles in law related periodicals such as law reviews, bar journals, and legal newspapers. The library offers access to a number of print and online periodical indexes. Check with a reference librarian for access to these resources.

Index To Legal Periodicals & Books, (ILP) Wilson & Co., K33 .I5 Floor 3

- Allows researchers to locate relevant articles by keyword, author, title or subject searching
- Coverage in the print version is much greater than in the electronic version.

- Online version is available via Law Library's *Electronic Resources* Web Page. Check with a reference librarian for assistance in accessing this resource.

Typical Insurance Law journals cited in the *ILP* and available in the library include (Floor 2 Unclassified):

- *Connecticut Insurance Law Journal*
- *The Insurance Law Journal*
- *Insurance Counsel Journal*
- *Tort & Insurance Law Journal*
- *Tort Trial & Insurance Practice Law Journal*
- *Insurance, Negligence and Compensation Law Journal*

BIBLIOGRAPHY

(Selected Secondary Sources)

In addition to the various titles mentioned in this guide, the following is a short list of other titles that are found in the law library's collection:

Anderson, Eugene R., *Insurance Coverage Litigation, 2d*, Aspen Law & Business, 2000 (loose-leaf) KF1189.5 .A962

Covers major issues that arise in insurance coverage disputes and litigation. Topics include environmental liability, intellectual property disputes (including business torts), product liability, director and officer liability, and employment discrimination. Also discusses issues arising under umbrella and excess insurance policies, and alternative methods of recovery.

Cozen, Stephen A., *Insuring Real Property*, N.Y: M. Bender, 1989 (3 volume loose-leaf) KF1190 .I57. Also on LexisNexis: INSRPR Database

This treatise is designed for counsel of both the insurer and the insured. Discussion of relevant case law, statutes and regulations, with practical guidance and instruction on real property insurance law.

[Dobbyn, John F.](#), *Insurance Law in a Nutshell, 4th ed.*, St. Paul, Minn.: Thomson/West, 2003. KF1164.3 .D6 2003 and Reserves KF1164.3 .D6 2003

A concise source on the fundamentals of insurance law.

Dunham, Jr., Wolcott B., *New York Insurance Law*, Bender, 1991 KFN 2590.N47

This treatise covers New York's regulation of the insurance industry. Each aspect of regulation is discussed with applicable statutory and regulatory provisions, including Insurance Department circular letters, other administrative materials, and relevant case law.

[Harnett, Bertram.](#) *Law of Life and Health Insurance*, LexisNexis [KF1175 .H37](#)

This loose-leaf service covers the structure and regulation of the insurance industry, including insurable interests and the application and underwriting process. It provides an annotated analysis of life, health, and group life insurance policies. It also explores policy issues, including fraud and misrepresentation in the application, sex discrimination, and AIDS-related issues.

Included with discussion is statutory and case analyses and practice aids.

Holmes, Eric, *Holmes's Appleman on Insurance, 2d*, Bender, KF1164 .A67

A leading treatise that provides extensive coverage on all Insurance Law issues.

Available on Lexis in the INSURE and APLMAN databases. Topics covered include:

- *Agents and Brokers*
- *Reinsurance*
- *Commercial General Liability Insurance*
- *Contract/Policy Issues*
- *Premiums*
- *Automobile Insurance*
- *Professional Liability Insurance*
- *Insolvency, Liquidation & Rehabilitation*
- *Insurance Regulation*
- *Life Insurance*

Jerry, Robert H., *Understanding Insurance Law, 3d ed.*, Newark, NJ : LexisNexis, 2002
KF1164 .J47 2002

This treatise covers basic insurance Law concepts and discusses topical issues such as AIDS and genetic screening.

New York State Bar Association, *Insurance Law Practice*, KFN5290 .I57 2005

Examines all areas of New York insurance law practice.

Ostrager, Barry R., *Handbook on Insurance Coverage Disputes, 12th edition*, New York, NY: Aspen Law & Business, 2004 (loose-leaf) KF1164 .O795

Covers matters pertaining to insurance coverage disputes such as: Rules of Construction, Reservation of Rights, Disclaimers, and Denials of Coverage; Duty to Defend; Bad Faith and Wrongful Refusal to Settle; Liability in Excess of Policy Limits; Insurance Coverage for Punitive Damages Assessed Against an Insured; The Role of the Insurance Broker in the Insurance Coverage Dispute; and Property Insurance.

Pierce, John S., *Defending the Insured*, New York: Aspen Publishers, 2005 KF8925.I57
D44 2005

[Russ, Lee R.](#) *Couch on Insurance, 3d*, West Group, [KF1159.5 .C62](#)

This treatise addresses all types of insurance, including life, property, health and accident, liability and indemnity, automobile, fidelity guarantee, contract guarantee, group, reinsurance, annuities, governmental life and disability, ERISA, and COBRA.

Windt, Allan D., *Insurance Claims and Disputes: Representation of Insurance*

Companies and Insureds, 4th ed., St. Paul, Minn. West Group, 2001 KF 1164 .W56 2001. Discusses such matters as Claims, Duty to Defend, Interpretation of Policy Provision, etc. Includes a Table of Cases and Table of Federal and State Statutes for quick research access.

Also on Westlaw: INCD Database

ONLINE & INTERNET

Useful Online Resources:

- University of Connecticut Law Library: Insurance Law Collection & Research
<http://www.law.uconn.edu/library/ilc/>
This site provides an overview of their print and electronic collections, links to web resources, and an extensive list of links to insurance law periodical web sites.
- Internet Law and Insurance Resource Links (eDicta.org; ABA Section on Tort Trial & Insurance Section) <http://www.edicta.org/TIPSPORTAL.htm>
This portal offers a list of links to web resources on insurance law and the insurance industry. It is useful for insurance news sources and links to foreign and international insurance law resources.
- St. John's University Insurance Web Site
<http://new.stjohns.edu/academics/libraries/campus/davis/reference>
Covers the broad topic of insurance research. Offers useful insurance subject bibliographies (e.g., a list of sources on Directors' & Officers' Liability) and frequently updated lists of web links by topic (e.g., Employee Benefits, Risk).

LexisNexis & Westlaw (authorized passwords required)

Westlaw and Lexis have extensive holdings of state and federal insurance legislation and regulations. Additional sources include treatises on various insurance topics.

LexisNexis

INSURE database includes federal and state statutory, regulatory and case law materials, NAIC material, company and industry reports, insurance bulletins, insurance news, Mealey's Litigation Reports, legislative materials and secondary sources.

[Lexis](#) also offers a database of 50-state surveys on various insurance-related legal issues in STSURV. One of the leading insurance treatises, *Appleman on Insurance*, is available on Lexis in the APLMAN database.

Westlaw

Insurance materials can be found in the Domestic Insurance Compliance Materials database (MULTI-INS) or the individual state insurance law databases. The *Insurance Practice Area* includes federal and state statutory, regulatory and case law materials, company and industry reports, insurance bulletins, insurance news, Mealey's Litigation Reports, Gramm-Leach-Bliley Act legislative materials, secondary sources. One of the leading insurance treatises, *Couch on Insurance*, can also be found on Westlaw in the COUCH database.

ORGANIZATIONS

ABA Section on Tort Trial and Insurance Practice

<http://www.abanet.org/tips/home.html>

- Community of plaintiff, defense, corporate, and in-house attorneys
- Focus is on trial practice and the issues that involve tort and insurance law

American Insurance Association (AIA)

<http://www.aiadc.org/>

- The AIA is the leading property - casualty insurance trade organization
- The website addresses industry issues, provides links to government affairs committees, newsletters, research updates, and products

Insurance Associations and Organizations (U.Conn. Law Library)

<http://www.law.uconn.edu/library/ilc/organization.htm>

- Provides links to a variety of federal and national health and insurance associations, organizations, and practitioners
- Includes links to state regulations, insurance publications, and research information

International Risk Management Institute

<http://www.irmi.com/Resources/Hidden/Category.aspx?serNum=1300>

- Directory of links to the Web sites of governmental agencies and associations
- Includes links to insurance-related professional and business organizations and insurance regulators

The National Conference of Insurance Legislators (NCOIL)

<http://www.ncoil.org/>

- Purpose of this website is to help legislators make informed decisions on insurance issues
- Provides news, committee membership and activities, model laws and resolutions

Society of Insurance Research

<http://www.sirnet.org/InsuranceLinks.html>

- Selected links to insurance, marketing and research related internet information resources
- Provides a forum for the exchange ideas in all areas of insurance research