

Risks, Rewards, and Requirements: Insurance Essentials for Franchisors

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iFA INTERNATIONAL
FRANCHISE
ASSOCIATION

**2025 LEGAL
SYMPOSIUM**

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What We Are Going to Cover

1. Insurance coverage tips & considerations
2. Avoiding pitfalls & gaps in coverage
3. Insuring against vicarious liability risk & best practices
4. Joint employer in insurance context
5. Alternatives to traditional insurance
6. Navigating claims



Franchise Risk Management Overview

1. **Risk Identification:** Recognizing potential risks that could affect the project or organization.
2. **Risk Assessment:** Evaluating the likelihood and impact of identified risks to prioritize them.
3. **Risk Mitigation:** Developing strategies to reduce or eliminate the risks, which may include avoiding, transferring, accepting, or reducing the risk.
4. **Monitoring and Review:** Continuously tracking risks and the effectiveness of risk management strategies, making adjustments as necessary.

REMEMBER: Not everything is insurable!

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**Mother Goose
Insurance Co.**



**“The old woman who lives in a shoe is covered for fire, theft and liability
...but not athlete’s foot.”**

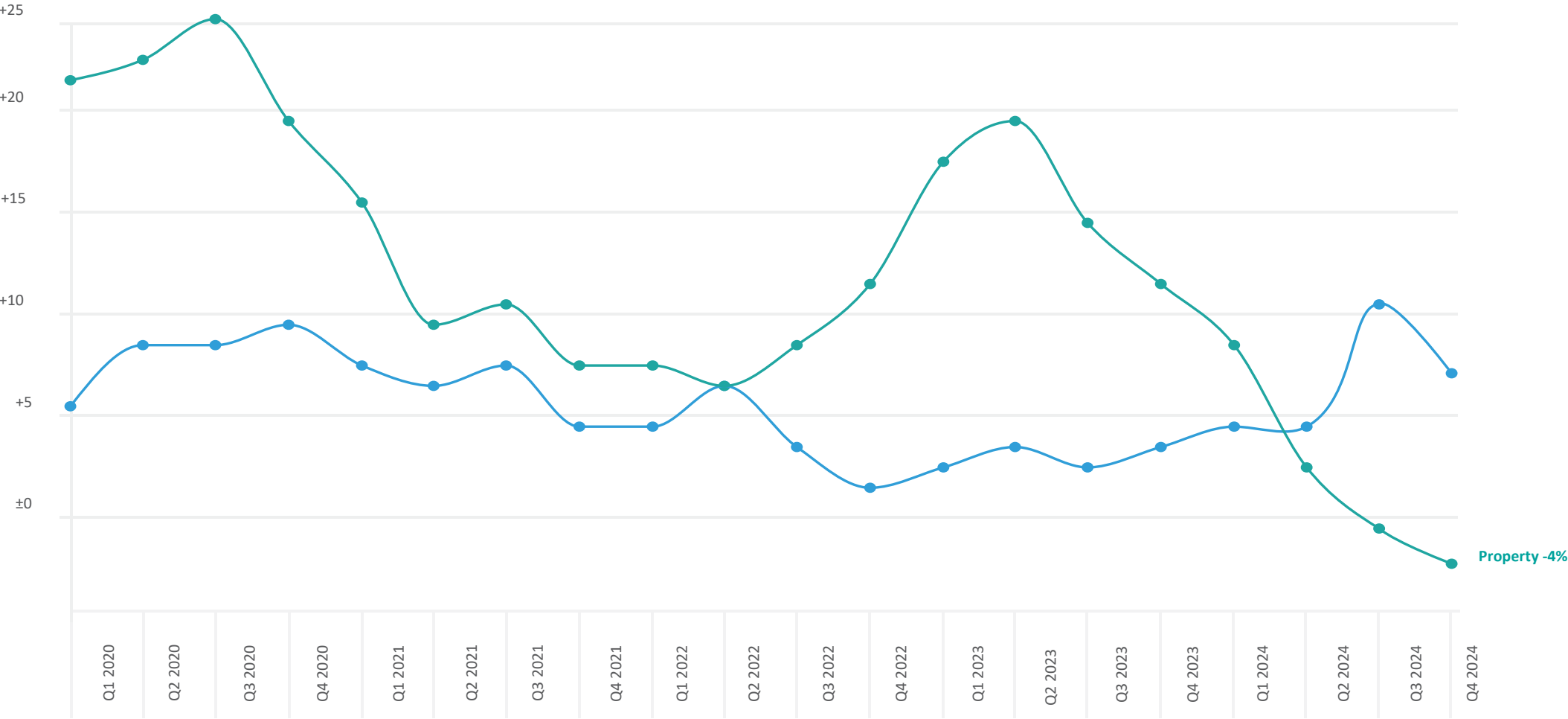
Where to Start



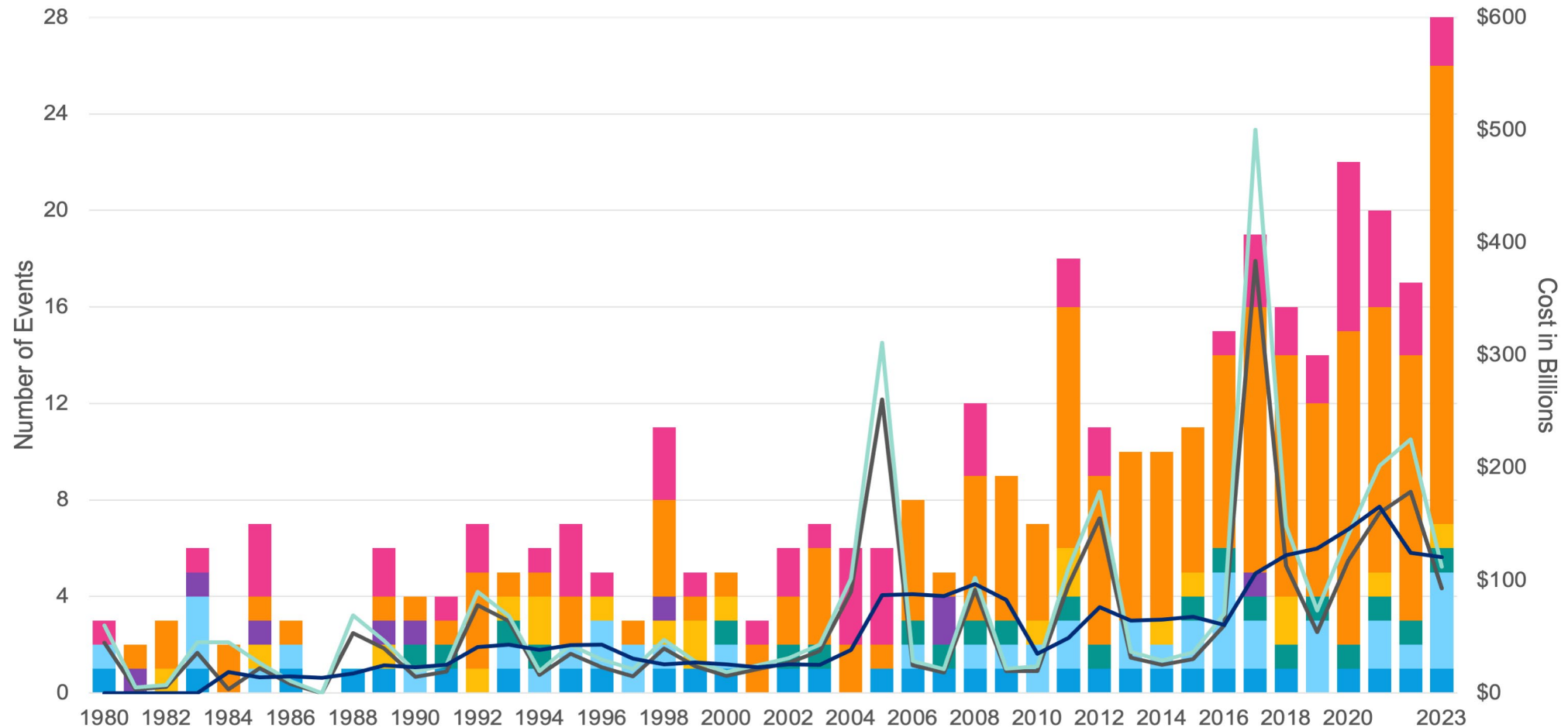
- Assess & identify your risk
- What services/products do your franchisees deliver?
- Franchise development plans
- How are you supporting your franchisees
- What issues are your FBC's hearing from franchisees
- Risk guidance to franchisees
- Where are the vicarious liability exposures?
- Maintaining & managing insurance compliance

State of the Insurance Market

In Q4 2024, casualty rates continued to exceed property rates, a reversal in the trend since Q1 2024. While this reversal isn't broad, the fragility of the casualty market remains a concern. **Quarterly % change in U.S. property and U.S. casualty insurance rates since Q1 2020**



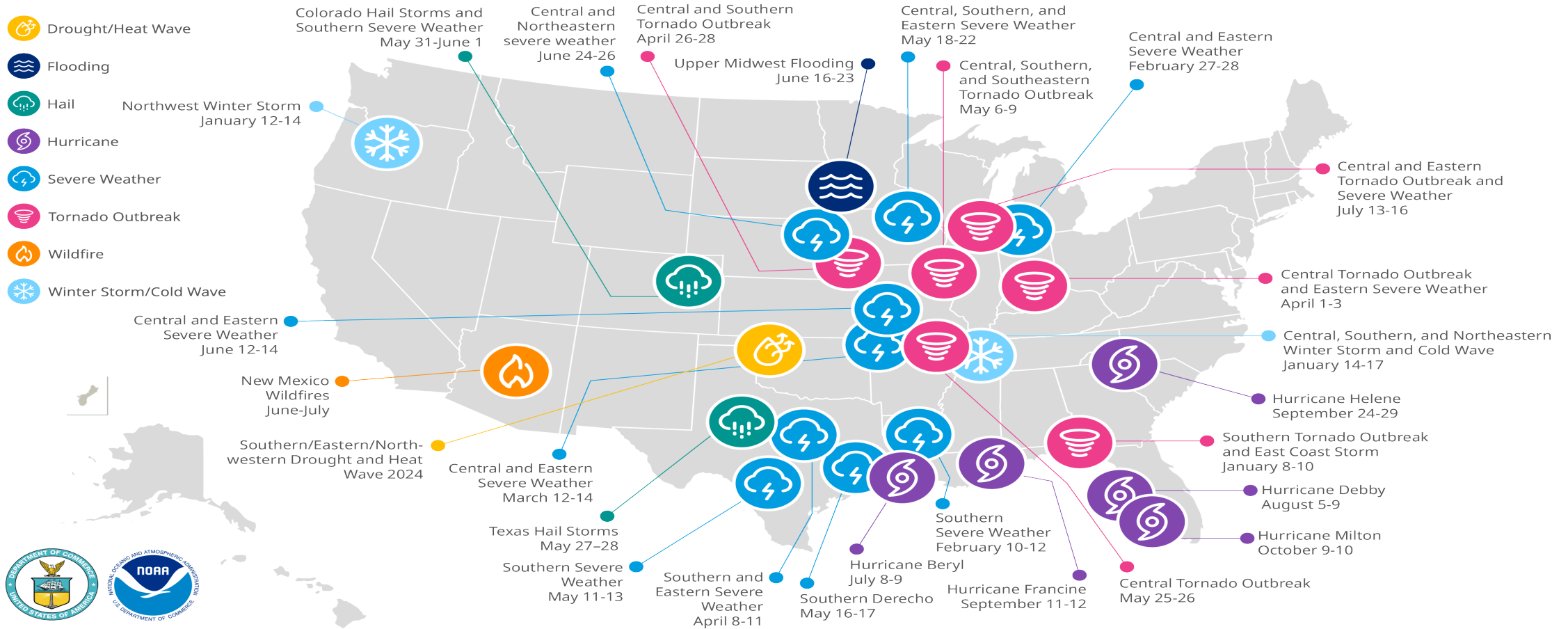
State of the Property Coverage Market



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Property Coverages



This map denotes the approximate location for each of the **27 separate billion-dollar weather and climate disasters** that impacted the United States in 2024.

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Insurance Guidance 101

Separating yourself in the market

- Don't treat it as a commodity
- Underwriters have a heart & brain (usually)
- Limited capacity
- Carriers are more selective
- "Shopping" can be detrimental
- Separate yourself from competition
- **Control the narrative**



APPROVED

DENIED

ACCEPTED

REJECTED

Franchisor Vicarious Liability



- In the context of insurance, franchisors are at risk of vicarious liability & may need additional insurance protection to cover a result of the consequences of the franchisee's negligent behavior.
- Case outcomes are very difficult to predict

Franchisor Vicarious Liability Best Practices



- Franchisor Commercial General Liability Policy
- CGL Policy covers BI, Property Damage and Personal/Advertising
- Not all GL policies are created equal
 - No premises only designation
 - Thoroughly check the language on any EXCLUSION – DESIGNATED ACTIVITY, SERVICE OR WORK endorsement, the carrier could very well use this form to list “Operations of the franchisor” to exclude Vicarious Liability.

Really Bad Policy Examples....

- Franchise that hosts events and allows customers to bring alcohol
 - More than 30% of franchisees did not carry host liquor liability coverage
- Franchise brand that repairs/replaces windshields
 - “mobile operations” exclusion
- In-home shade/blind sales and install franchise
 - Many direct insurance carriers exclude completed operations coverage



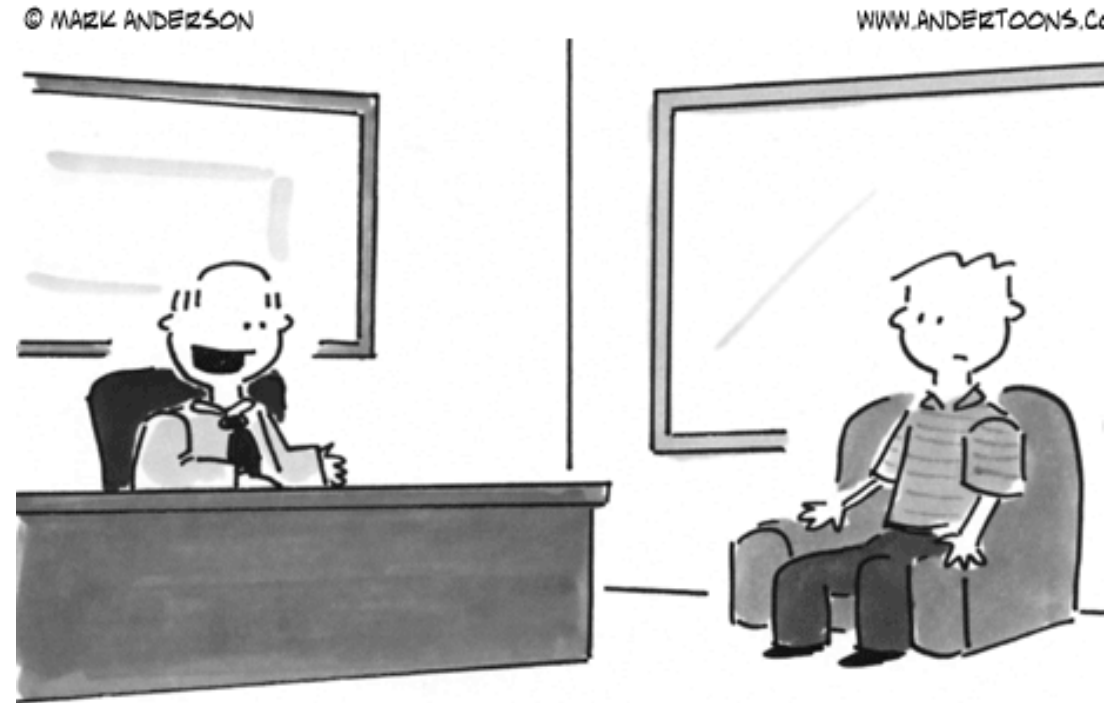
Franchisor Insurance Best Practice- Franchisees' Insurance

- Review & update current insurance requirements
 - Things have changed
 - Be specific
 - Scale based upon number of locations, revenue, etc
- Manage & verify franchisees' insurance compliance
 - Your first line of coverage
 - A bad claim affects all
 - Collecting COI's is not enough
- Additional insured-grantor of franchise where you can
 - General Liability, Auto, Umbrella
- Educate franchisees



Insurance Guidance: Additional Insured

- Additional Insured: is a person or entity that is added to an insurance policy, typically a liability insurance policy, to provide them with coverage under that policy. This means that the additional insured is protected against certain claims or liabilities that may arise from the actions of the primary insured.
- The primary insured is the individual or organization that holds the insurance policy, while the additional insured is usually a third party that has a vested interest in the coverage, such as a contractor, subcontractor, or client.



"That's the great thing about our insurance, no annoying bills! Just a small monthly premium."

Franchisee Errors and Omissions

- Typically not covered by standard CGL policy
- Critical for franchisees providing professional services
- Often underinsured or imprecise minimum requirements
- Consider: *accountants, insurance brokers, teachers, consultants, engineers, physicians/doctors, masseuse, trainers, waxers. .*
•



Pitfalls When Handling the Basics

- Who is the named insured or covered parties?
- What is the “business description” on the declarations page?
- Non-owned auto – why you may need it



What's In It for the Franchisee

- Streamlined insurance process
- Coverage enhancements and brand compliance
- Consistent narrative
- Carrier leverage
- Loss trend analysis
- Consistent & stable pricing
- Path to an alternative risk option



Risk Guidance Vicarious Liability & Joint Employer



- Not providing risk guidance to franchisees = greater risk
 - You are not immune from franchisees' exposures
 - Lack of guidance and standards creates bigger exposure
- Use 3rd Parties
- Establish & maintain safety/risk management standards
 - Engage the franchisees

Areas of Up and Coming Coverage Disputes

- Sex Trafficking Hotel Cases
- Coverage Disputes in Franchisee Misappropriation of Trade Secrets/Restrictive Covenant Violations
- Exclusions Pertaining to Bio Metric Protection State Laws



Franchisor's Errors & Omission



- Professional Liability definition: **“Performance of franchisor services”**
- Provides coverage to the franchisor for alleged errors, omissions, or negligence in their professional services to the franchisees
- Common Examples:
 - Franchise Development
 - Territory Issues
 - Lack of Support per Franchise Agreement
 - Renewal/termination issues
- Key Factors to Consider:
 - Development plans
 - Franchisee start up costs
 - Culture

Franchisor's Errors & Omission



- DOES NOT cover business decisions
- Claims Made Policies - Be careful to have sufficient limits to not erode coverage
- Defense Costs included – Can you choose counsel?
- Insured vs. Insured Exclusion
- Best Practices with outside networks, sales agents and brokers

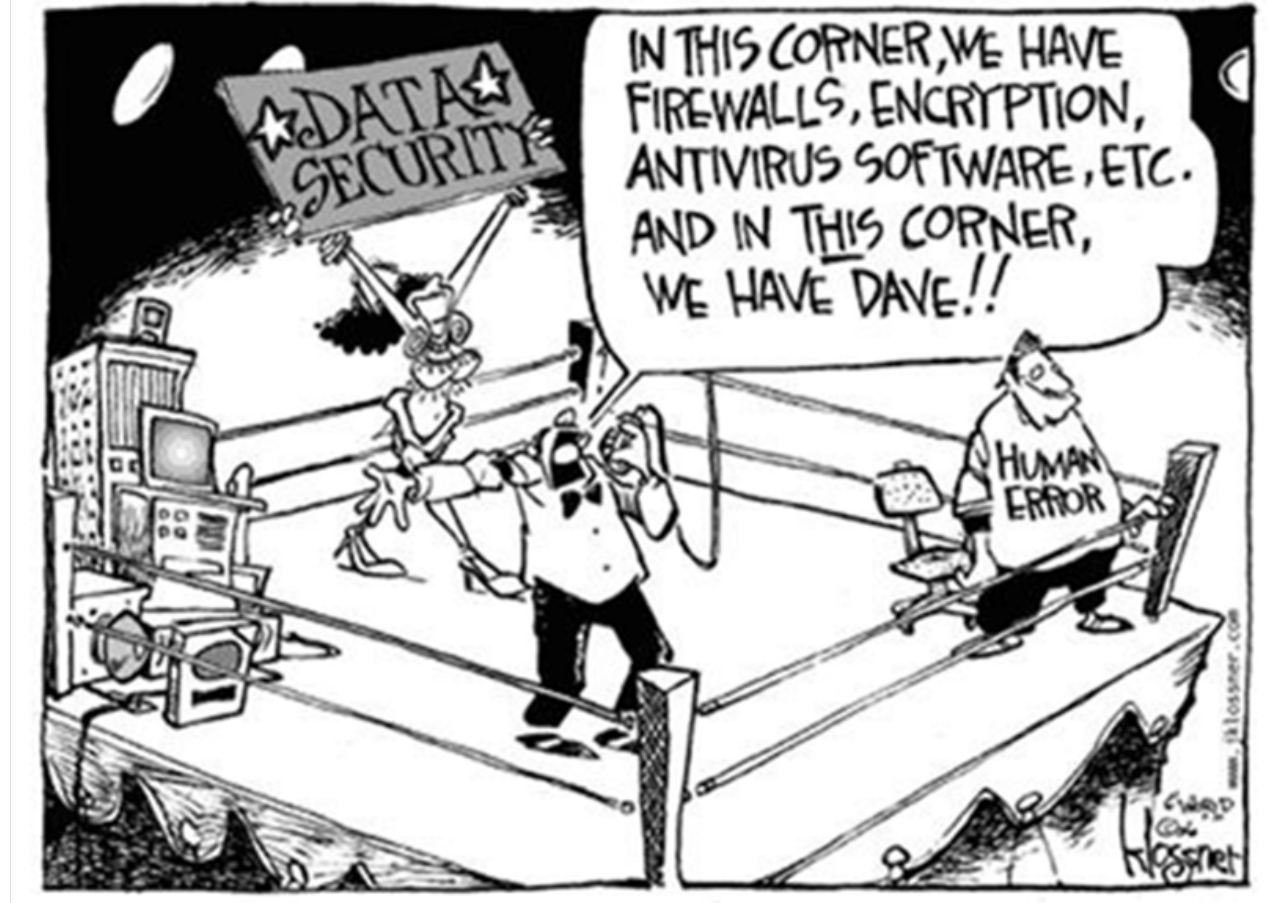
Employment Practices Liability Insurance (EPLI)

- No additional insured language on EPL policy
- Joint employer co-defense language in franchisee's policy
- Wage & Hour claims are excluded
- Defense sublimit included (usually 100K)
- Franchisor should carry their own EPL policy
- Best workplace practices is risk prevention



Cyber Liability

1. **Data Breach Costs:** Expenses related to notifying affected individuals, credit monitoring services, and legal fees.
2. **Business Interruption:** Loss of income due to downtime caused by a cyber incident.
3. **Cyber Extortion:** Costs associated with ransomware attacks, including payments to hackers and recovery expenses.
4. **Legal Liability:** Coverage for lawsuits arising from data breaches or failure to protect sensitive information.
5. **Regulatory Fines and Penalties:** Costs associated with regulatory investigations and fines due to non-compliance with data protection laws.



Cyber Liability Considerations for Franchisors

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"I'm sure there are better ways to disguise sensitive information, but we don't have a big budget."

- View and manage as a brand Issue
- Review IT security & privacy controls throughout your franchise system
 - Standard vs non-standard
 - Identify gaps
 - Inconsistencies = complicated incident response
- Breaches from outside that impact the whole franchise system
 - Review vendor contracts and insurance
- Business Continuity/Disaster Recovery Plan
 - Pre-arrange resources

Top cybersecurity controls

The key to insurability, mitigation, and resilience

Preparation for the underwriting process:

1. Start early! Evaluate your cybersecurity maturity by completing Marsh's Cyber Self-Assessment. Lack of key controls may put availability of coverage at risk.
2. Use Marsh Cybersecurity Marketplace Services for access to a curated portfolio of cybersecurity vendor solutions and holistic vendor procurement support.
3. Expect detailed cybersecurity questions from underwriters.



Multifactor authentication for remote access and admin/privileged controls



Endpoint Detection and Response (EDR)



Secured, encrypted, and tested backups



Privileged Access Management (PAM)



Email filtering and web security



Patch management and vulnerability management



- Cyber incident response planning and testing



- Cybersecurity awareness training and phishing testing



- Hardening techniques, including Remote Desktop Protocol (RDP) mitigation



- Logging and monitoring/network protections



- End-of-life systems replaced or protected

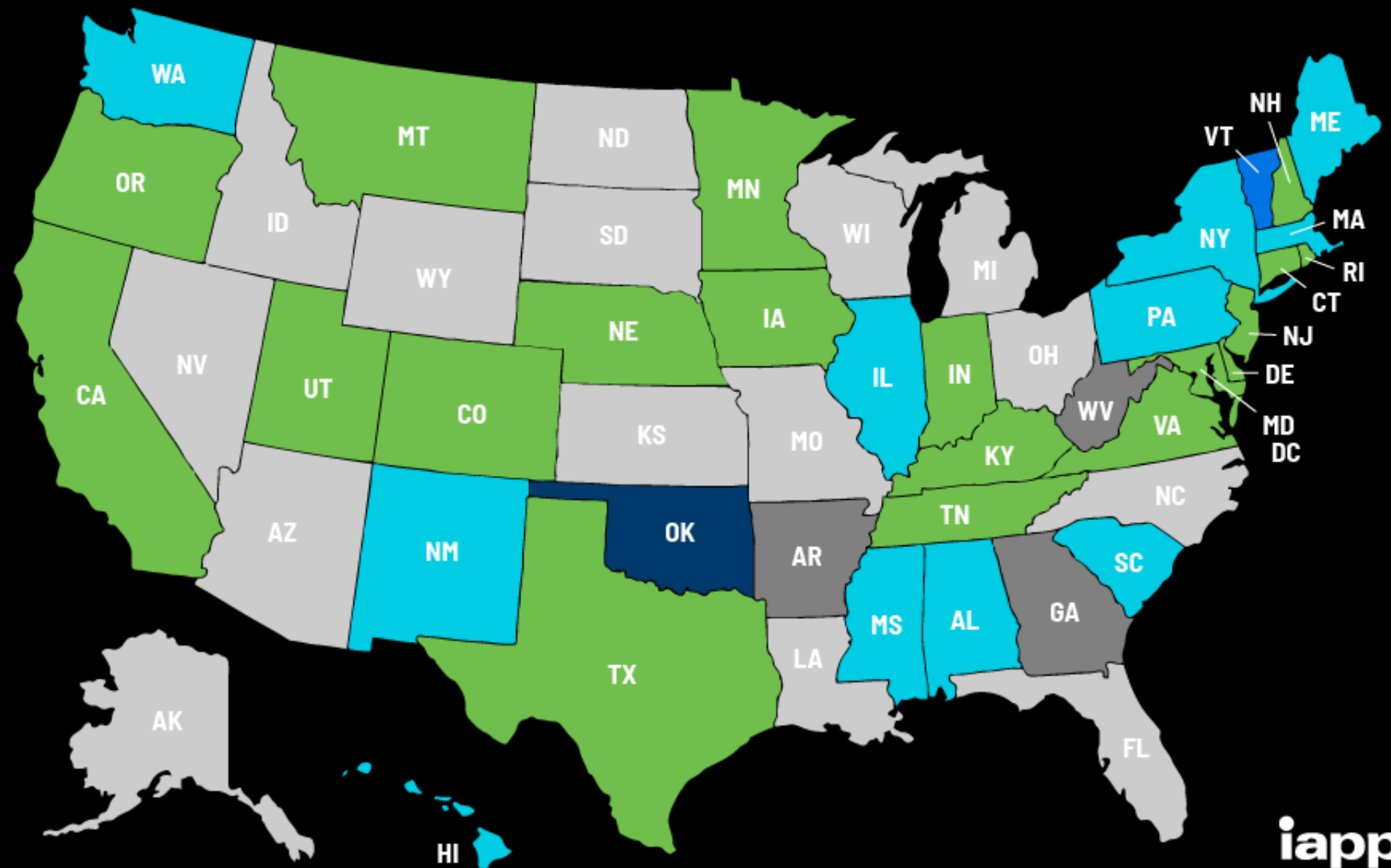


- Vendor/digital supply chain risk management

US State Privacy Legislation Tracker 2025

Statute/bill in legislative process

- Introduced
- In committee
- In cross chamber
- In cross committee
- Passed
- Signed
- Inactive bills
- No comprehensive bills introduced



🔄 Last updated 21 Apr. 2025

Alternative Risk & Captive Options

Alternative Risk Transfer (ART) solutions are essentially substitute risk management and finance strategies to the traditional direct insurance marketplace

- Self-insurance
- Master group policy
- Captive insurance

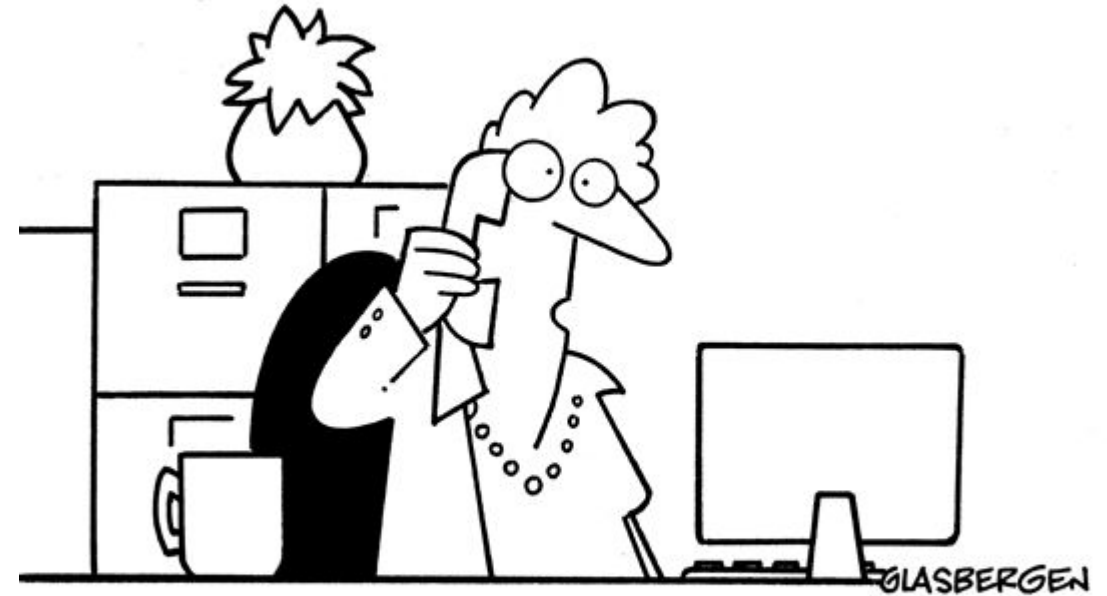
It takes time, centralized management & strong risk mitigation processes to secure these options



Navigating Claims

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- Provide notice ASAP
- Consider ALL applicable coverages
- Strictly follow notice provisions in policy
- Coordinate with broker
- Follow KISS method
- Provide any ROR letters to counsel
- DJ actions by carriers



“No, sir, I’m afraid you can’t collect on your fire insurance just because you got fired...”

Best Practices-The Path Forward

- Make it a strategic
- Involve & educate franchisees
- Assess & identify exposures and what coverage you should have
- Manage your risks don't let them manage you
- Write the proper insurance requirements
- Additional insured where you can
- Collect Certificates of Insurance
- Maintain Insurance Compliance
- Build it into your process



THANK YOU!



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