



Q1 2023

# The State of the US Commercial Insurance Market

WHITE PAPER

**B.F. SAUL**  
**INSURANCE**

Expert Advisory. Claims Advocacy.

## Table of Contents


Introduction .....	1
Inflation, Supply Chain, and Climate Issues Make Property Coverage Challenging .....	2
Builder’s Risk Coverage Poses Unique Requirements .....	3
More Driving and More Technology Are Fueling Auto Rates .....	4
General Liability Coverage Constraints Are Easing.....	6
Obtaining Adequate Umbrella Insurance Remains a Challenge .....	7
Workers’ Compensation Insurance Gets More Complicated.....	8
Be Prepared for Stringent Cyber Insurance Requirements .....	8
Management Liability Coverages Are a Mixed Bag .....	11
How an Independent Insurance Advisor Can Help .....	12

# The State of the US COMMERCIAL INSURANCE MARKET

## A Look at the Trends Impacting Coverage Availability and Cost

Securing the right commercial insurance has always been a complex undertaking, with many factors influencing market capacity, underwriting requirements, and rates. The situation has become more complicated over the last several years, as global trends and regional risks have converged to create a highly challenging market.

This white paper assesses the state of the commercial insurance market in the US, the most impactful drivers of change when it comes to capacity and rates, and the obstacles that businesses and commercial property owners can expect as they work to secure coverage for their buildings and other assets.



**As inflation rose sharply and supply chain constraints made materials scarcer and more expensive, claims costs rose dramatically.**

### **Inflation, Supply Chain, and Climate Issues Make Property Coverage Challenging**

The commercial property insurance market has always been influenced by a web of interrelated factors, and in recent years that complexity has increased. As inflation rose sharply and supply chain constraints made materials scarcer and more expensive, claims costs rose dramatically. And as climate change fueled more frequent and severe hurricanes, tornadoes, wildfires, and other natural disasters, insurers watched their commercial losses skyrocket.

Complicating this picture is the fact that there isn't a single, homogeneous property insurance market across all states or industries; instead, local and industry-specific factors influence capacity, rates, and terms. For example, in regions more prone to natural disasters, some insurers are reducing their policy limits or exiting the market—an exodus that accelerated at the outset of the pandemic, at the height of supply chain constraints, then continued through the runaway inflation of 2022.

No matter where a property is located, the increasing frequency and severity of climate-related claims makes it tougher to secure coverage. Given that many reinsurers operate globally, a climate-related loss anywhere in the world will have a trickle-down effect elsewhere. And as computer models demonstrate that weather events once considered rare are now more commonplace, some insurers are retreating from markets or demonstrating a lower risk appetite.

These trends have resulted in capacity constraints, reduced policy limits, rising premiums, and higher deductibles. Businesses most likely to see these impacts include those operating in high-risk states, such as Florida and California; those with very high insured values, such as construction companies and developers; and those with a history of claims.

While capacity constraints make it more difficult to insure a commercial property, coverage should be available for most buildings in most areas of the country. However, it might require layering coverage from multiple insurers to reach the necessary policy limits, which typically comes at a higher total cost.

Whatever the approach to obtaining commercial property insurance, it's essential to insure the building to value. Unfortunately, building owners often fail to keep current on the value of the property over time; in fact, many mistakenly believe the real estate purchase price and the property value are the same. But after years of double-digit real estate pricing increases and skyrocketing construction material costs, a property's replacement value is likely to far exceed the purchase price, even for buildings purchased in the last few years. Insuring the property for its full, current replacement value is the only way to assure sufficient coverage in the event of a loss.



### **Builder's Risk Coverage Poses Unique Requirements**

While the same capacity and premium obstacles that plague the property insurance market also affect the builder's risk market, project owners that need a builder's risk policy are facing additional challenges in the current environment.





Frame construction has become exceptionally difficult to obtain builder's risk coverage for, simply because so much more can go wrong as compared to steel construction. The high risk of fire, widespread water damage, and even collapse all make insurers less comfortable writing builder's risk coverage for frame construction projects. Yet in these inflationary times, when the price of materials can double seemingly overnight, some project owners are considering a move from steel to frame as a way to rein in their costs. Often, they're far down the rails with the idea before realizing they might not be able to obtain builder's risk coverage for the project now or could face higher deductibles and rates. In most cases, early planning can help avoid unpleasant surprises.

Project owners planning a major renovation will also find builder's risk coverage more difficult to obtain over the next year. In densely populated regions, where there is little land available for new builds, renovation activity is booming. While the carrier that currently writes the building's property coverage might be willing to stay on for a minor renovation, like a basic tenant buildout, a builder's risk policy will be required for anything more involved.

Yet, a renovation project carries greater risk than new construction, in part because the original construction may be faulty or outdated relative to current building codes and standards. Facing higher risks, and coming off a period of high losses, some insurers are unwilling to write builder's risk policies at all. Others are reducing their exposure by increasing deductibles, raising rates, and reducing policy limits, even on steel construction projects.

Regardless of the project type, in the current inflationary environment it's best to expect that an insurance quote won't be available any earlier than 30 days prior to the coverage start date. With project costs vulnerable to significant fluctuations in material expenses, insurers are reducing their pricing risk by avoiding locking in a rate too soon.



### **More Driving and More Technology Are Fueling Auto Rates**

For nearly two years, with many employees working from home due to pandemic restrictions, we saw fewer vehicles on the road. Now, as many companies institute return to work policies, we're seeing a sharp increase in the number of miles driven and a rise in aggressive driving—leading to more claims and more fatalities. While this trend is evident nationally, it's especially problematic in densely populated areas with heavy commuter traffic.

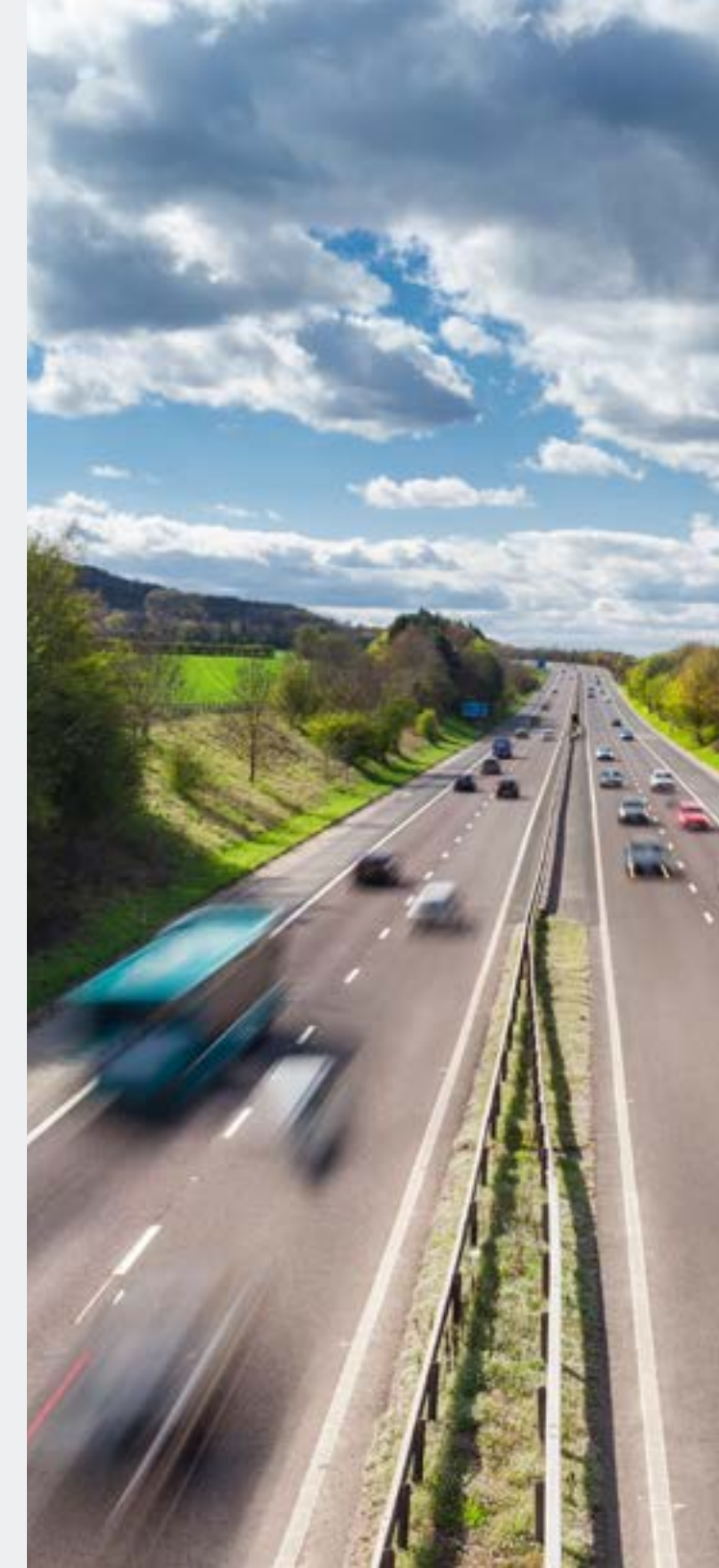
Making matters worse, vehicles are becoming increasingly high-tech, with computer chips controlling many components.

***If a commercial auto accident results in a major injury, two additional factors are likely to drive up the claim cost: higher medical bills (fueled by inflation) and the likelihood of a large liability settlement.***

The more technology involved, the more costly the repair; in fact, sometimes what appears to be relatively minor damage requires a total loss because the repair is too expensive to justify. Even when a repair is feasible, the equipment costs will be higher than ever and the repair timeline will likely drag out due to supply chain constraints and chip shortages, requiring a rental vehicle for a longer period and further increasing the total claim cost.

If a commercial auto accident results in a major injury, two additional factors are likely to drive up the claim cost: higher medical bills (fueled by inflation) and the likelihood of a large liability settlement. And if an uninsured or underinsured motorist is involved—which is common, given the very low minimum policy limits in some states—the insurer for the commercial driver's employer will be left paying a larger portion of the cost, which can lead to higher rates at renewal time.

Together, these trends make for a difficult market for obtaining commercial auto insurance at a reasonable price. Planning early and taking steps to improve fleet safety can help compensate for capacity limitations and escalating rates.



## General Liability Coverage Constraints Are Easing

To protect a business against the risk of third-party bodily injury or property damage, it's critical to have sufficient general liability coverage. The incidence of general liability claims is especially high in businesses with frequent visitors and high foot traffic, such as hotels, restaurants, shopping centers, and large office buildings.

While businesses have grappled with a hard market for general liability coverage over the last two years, the tide is starting to turn as greater capacity is now available. However, the risk of a nuclear verdict remains a concern, especially as social media fuels juries to punish at-fault parties perceived as having deep pockets.

To compensate for large awards and settlements, insurers were increasing their general liability rates fairly consistently over the last two years. The good news is that for most businesses, the rates have begun to normalize as insurers recognize they're already covering their risks sufficiently. In industries not considered especially high risk, rate increases aren't likely to exceed 5-10 percent and may even be flat. However, there are still some sectors where

policy limits will be constrained and rates will continue to rise due to higher risks and poor claims experience, such as lessor-only real estate (which has been seeing increases of 15-20 percent), hospitality, and construction.

At the same time, insurance brokers will be keeping their eye on inflation since the cost of general liability claims is directly impacted by the cost of healthcare and property repairs—both of which have been hit hard by rising inflation, coupled with post-pandemic labor constraints. When quoting new policies or renewals, insurers are likely to factor in an expectation that inflation will continue to negatively impact general liability claim costs.

Proper risk management has always been an essential tool for keeping general liability insurance rates from escalating, especially in traditionally high-risk industries. Though businesses with a poor claims history generally will find fewer insurers willing to write the policy and higher rates from those still participating in the market, a concerted effort to reduce claim frequency and severity will result in more options at renewal time.

## Obtaining Adequate Umbrella Insurance Remains a Challenge

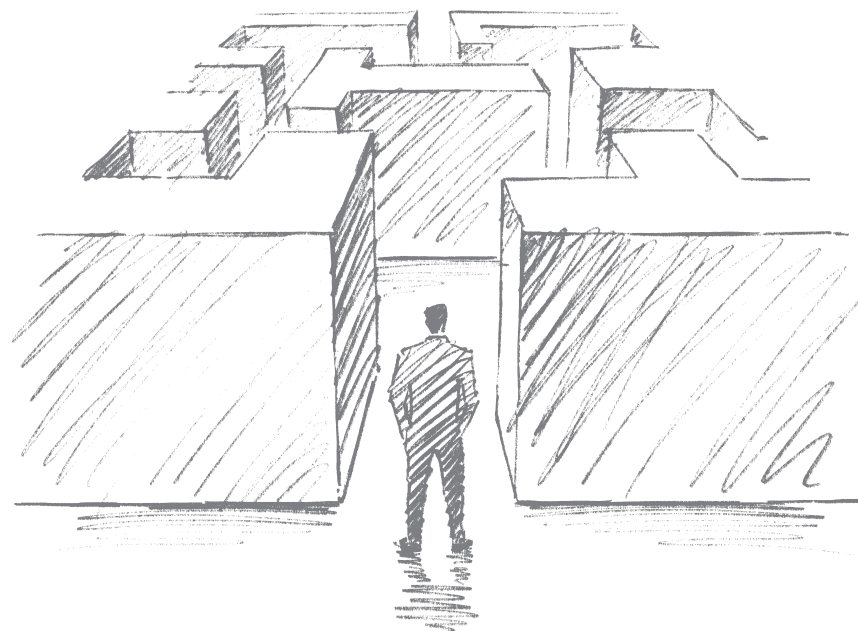
Business and property owners recognize that adequate umbrella liability insurance is essential for protecting their assets in today's litigious society. Yet, capacity constraints continue to plague the umbrella insurance market, making it difficult for some businesses to obtain the policy limits they want or need from a single carrier.

As excessive awards and settlements become the norm, especially on commercial auto and general liability incidents, the reinsurers that take on most of the umbrella risk are pushing back and accepting only a smaller portion of the total risk. Gone are the days of securing \$25 million in umbrella coverage from a single carrier. Now, it's more likely the business will need to layer umbrella coverage from multiple insurers; and the more layers involved, the more expensive the total premium.

These effects are especially pronounced for businesses considered higher risk for umbrella liability claims, including middle market professional services companies and construction businesses. Insureds in these sectors should be prepared to purchase multiple policies to match the limits they need. And with astronomical settlements and awards more likely than ever, many insureds may find they need higher policy limits than they have in the past, further increasing the odds that a layered approach across multiple insurers will be required.







## Workers' Compensation Insurance Gets More Complicated

The post-pandemic work environment looks very different from what we experienced just a few short years ago, with most HR experts forecasting that the landscape will be forever changed. That shift has direct implications for the workers' compensation insurance market.

When employees first began working remotely at the outset of the pandemic, companies became concerned about whether those team members were covered by their workers' compensation policies. The short answer is "yes, they are," but it's critical to confirm that every state an employee is working in is explicitly listed in the company's workers' compensation policy.

One of the positive repercussions of the remote work trend has been a decline in the number of workers' compensation claims, particularly in select industries and states. On the other hand, with inflation fueling higher medical bills, physician and nursing staff shortages creating long wait times for appointments and procedures, and more companies instituting return to work policies, we could begin to see a rise in the number of claims and the average cost per claim.

Despite these factors, workers' compensation rates are expected to remain relatively stable for most organizations. As always, the key variable will be the company's experience modification—the rate adjustment based on the business's prior three-year claims history. Even if state rates remain stable, a poor claims experience will result in a larger modification and a higher premium.

## Be Prepared for Stringent Cyber Insurance Requirements

Cyber attacks continue to plague businesses of all types, with hackers getting increasingly creative in their attempts to circumvent cybersecurity measures. The pandemic exacerbated the problem, as companies struggled to reopen quickly with a remote workforce but without a playbook for balancing data access and security. As a result, many found their virtual footprint more vulnerable to attack; in particular, ransomware incidents spiked in the immediate aftermath of COVID as cybercriminals took advantage of the rise in remote desktop use.



**Rate increases have become the norm.**

Insurers responded with higher rates and more stringent underwriting requirements, expecting insureds to put more rigorous measures in place before obtaining a policy. Even as organizations shifted to more secure data access approaches like VPN, reducing ransomware attacks, insurers have remained on high alert to cybercriminals finding new and innovative ways to breach a company's systems.

Those fears have manifested in two ways:

- **Rate increases have become the norm.** Insurers are unwilling to take their foot off the pedal on rate increases, even after a drop in ransomware attacks, so higher premiums will likely be in store for new insureds and at renewal time.

- **Obtaining a cyber policy requires jumping through more hoops.** Not only will insurers request detailed information about a company's cybersecurity risk management measures during the underwriting process; in many cases they'll mandate preventive measures before writing the policy. For example, many insurers require multi-factor authentication for IT administrators and remote users, and most expect a well-documented data backup and recovery strategy. Meeting these requirements often involves considerable time and expense, which can be daunting for smaller companies and nonprofits.





**Most insurers now expect tech businesses to purchase both E&O and cyber coverage to avoid gaps in protection.**

When purchasing cyber insurance, it's important to know the current trends and ensure the business is sufficiently protected against the most likely risks. For instance, the rise in social engineering fraud has made it more complicated to secure adequate protection. These email phishing schemes look like a legitimate request from an executive at the recipient's company, requesting that they immediately wire funds to a third party. Since both a standard crime policy and a cybercrime policy are increasingly likely to include social engineering as a covered risk, it's best to write one of those policies as the primary coverage and the other as excess, which maximizes the available coverage in the event of a loss.

It's also essential to assess the organization's cyber risks before going to market to avoid unpleasant surprises. Many businesses aren't aware there are providers willing to run a free vulnerability scan on their systems to identify cyber risks proactively. Since a carrier will run such a scan itself before writing a policy, it's best to get ahead of them by taking this step a few months in advance, allowing enough time to implement corrective actions before coming under the scrutiny of an insurance underwriter.

#### **Management Liability Coverages Are a Mixed Bag**

For businesses that need professional lines of coverage, such as directors & officers (D&O), errors and omissions (E&O), employment practices liability (EPL), and fiduciary

insurance, there is good news: The previous hard market is beginning to soften and rates are starting to stabilize in all but the most employee-friendly states. On the other hand, organizations with high employee counts, located in high-risk jurisdictions, or with revenue over \$100 million are likely to see insurers requiring higher policy retentions, transferring more risk to the insured.

In the fiduciary insurance market specifically, a rise in class actions is driving up rates for larger companies (generally those with more than 1,500 employees). Attorneys continue to scrutinize 401k plans in these organizations, looking for fees that exceed the industry average and enticing businesses to join a class action for reparations. Additionally, employee stock ownership plans (ESOPs) continue to be tough to obtain fiduciary coverage for, with fewer insurers willing to participate and rates trending upward in response to rare but excessive awards and settlements.

Although professional lines of coverage like E&O are stabilizing, technology companies and medical practices that seek these policies are experiencing greater underwriting scrutiny and rising rates. The rise in cybercrime is one factor fueling this trend, especially in the tech sector. Most insurers now expect tech businesses to purchase both E&O and cyber coverage to avoid gaps in protection, resulting in a great deal of overlap between the policies. As tech and medical businesses go to market for professional insurance, it would be prudent to anticipate more rigorous underwriting requirements and higher rates.



## How an Independent Insurance Advisor Can Help

Given the complexity and changing conditions of the commercial insurance market, it's wise to partner with an independent insurance advisor that can help navigate and prepare for rigorous underwriting requirements, proactively reduce risk, and use creative approaches to secure the necessary coverage. While any business is up against greater commercial insurance challenges today, larger organizations and those in high-risk states or industries need expert guidance now more than ever.

That's why many businesses team up with the commercial market advisors at B. F. Saul Insurance to help protect their valued assets. We're well-versed in the state of the commercial insurance market and we're licensed in every state in the US, enabling us to work with organizations no matter where they own or operate commercial properties or employ staff.

B. F. Saul offers an experienced, third-party perspective on the optimal strategies and approaches for reducing commercial risk, with account managers who are ready to advise each insured on the best ways to protect assets and coordinate the full scope of our resources as needed. And if a claim occurs, we lay out all the options and recommend the best course of action, always taking a long-term perspective on looking out for your best interests.

If you own, operate, or advise businesses, **contact the experts at B.F. Saul Insurance** to learn how we can help reduce commercial risks and secure the right coverage to protect business assets. ■



# B.F. SAUL INSURANCE

Expert Advisory. Claims Advocacy.

7501 Wisconsin Avenue, Suite 1500E | Bethesda, MD 20814  
301.986.6000 | [www.bfsaulinsurance.com](http://www.bfsaulinsurance.com)



**Erik Bohn**, *Vice President*  
301.986.6267  
[Erik.Bohn@bfsaul.com](mailto:Erik.Bohn@bfsaul.com)



**Michael Cronin**, *Vice President*  
301.986.6151  
[Michael.Cronin@bfsaul.com](mailto:Michael.Cronin@bfsaul.com)