

FREQUENTLY ASKED QUESTIONS (FAQs)

What is Employment Practices Liability Insurance?

- Employment Practices Liability (EPL) insurance protects an employer from employees' claims alleging discrimination, wrongful termination, retaliation, or sexual harassment.
- EPL insurance pays for liability damages and defense costs due to these charges brought by full-time, part-time, temporary and seasonal employees, applicants for employment and volunteers. Optional coverage for claims brought by non-employee third parties such as customers, clients and vendors, is available for an additional premium.

Why do small businesses need EPL coverage?

- Many EPL charges are filed against small businesses. Employment laws that employees may use as a basis for action against their employer apply to the majority of businesses, including small firms.
- Even groundless employment charges may require legal defense and defense costs can be significant – often \$10,000 or more. Insureds need EPL coverage to have those defense costs covered and to get access to attorneys experienced in defending employers from employment-related charges.
- Small businesses often don't have human resources professionals to develop the formal personnel policies and procedures that can help prevent employment related charges. And they don't have deep pockets so just the cost to defend them from EPL claims or charges can hurt a small business.

Why would a reputable well-run business need EPL insurance?

- No matter how well a business is run, an employee can allege anything at anytime.
- Employers need to defend themselves from employment-related charges, even if the charges are found to be without merit.
- EPL coverage pays for defense costs even when the charges are determined to be groundless. Defense costs can be significant, well beyond what many small businesses can afford to pay.



What's changed that now makes EPL insurance important for small businesses?

- Discrimination claims have been growing as much as 32 percent over the past five years – and over the last year reached the highest level ever recorded by the EEOC.
- Today's business and legal climate is different than it was years ago. Employees are more aware of employment laws, their rights and how to exercise their rights by taking action against employers.
- Federal and state employment-related laws and regulations have been broadened.
- Employees see a lot of news coverage and publicity about employment cases and awards against employers.
- The workforce is more diverse, with women, older workers and minorities representing a significant percentage of employees.

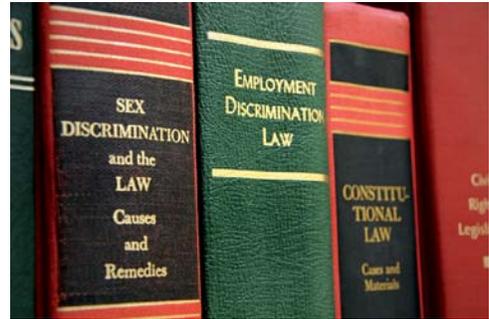
What advantages does our EPL insurance have to others in the market?

- Our EPL coverage was designed for the needs of small businesses.
- It's affordable and costs only a small fraction of EPL insurance premiums when sold as a separate policy.
- It's easy to add! In many cases, there is no separate application.
- EPL coverage is conveniently endorsed to a General Liability or Businessowners (BOP) policy; there's no additional policy to handle.
- Coverage is on par with many of the EPL coverages offered to large businesses.
- Claim service is provided by EPL claim specialists.
- Insureds needing legal defense are represented by experienced employment law firms whose services would normally be cost prohibitive for a small business owner.
- The program includes a loss prevention website where agents and insureds can access information and tools to help minimize exposure to employment claims.

What loss prevention services does our EPL program include?

- Our program includes an EPL loss prevention website that provides employers with tools and information to help them avoid situations that can lead to an employment claim.

- When facing an EPL charge, it is critical for an employer's defense to present evidence of efforts to "prevent or correct" unlawful employment practices. The tools in our EPL loss prevention website can help them document those steps.
- The website also helps educate employers about unlawful employment practices and inappropriate behaviors.
- It helps familiarize employers with proper risk management techniques and to prepare them to defend their business practices in the event of a claim.
- It provides insured employers access to important information such as:
 - EPL Risks and Loss Examples
 - Applicable employment laws
 - Model employment policies and procedures
 - Library of recent developments in employment law and
 - Library of EPL frequently asked questions (FAQ's)



How much does Employment Practices Liability insurance cost?

- The cost of our coverage varies depending on the account but for most small businesses with four to six employees the cost will be roughly \$120 to \$250.

What does an Employment Practices Liability claim typically cost an employer?

- 81% of EPL claims are resolved for between \$27,000 and \$50,200. This includes defense costs and liability damage payments.
- This isn't an exposure that a small business should self-insure; given the risk, our EPL program is a tremendous value.

What laws and statutes create the necessity for EPL?

The need for Employment Practices Liability insurance arises from a number of federal and state laws under which employees may bring actions against their employers for such matters as sexual harassment, discrimination and wrongful termination.

- **Title VII** — A federal law enacted in 1964 and amended by the Civil Rights Act of 1991. Title VII prohibits discrimination or harassment on the basis of race, color, religion, gender, or national origin. Title VII also created the Equal Employment Opportunity Commission (EEOC) as a venue for employment-related grievances.

In January 2009, the **Ledbetter Fair Pay Act** amended Title VII by broadening the timeframe in which pay discrimination claims may be brought, essentially resetting the deadline every time a paycheck is issued.

- **The Equal Pay Act of 1963** — Prohibits unequal pay for men and women serving in substantially the same position.
- **The Age Discrimination in Employment Act of 1967** — Prohibits discrimination against persons who are 40 years of age or older.
- **The Americans with Disabilities Act (ADA) of 1990** — Prohibits discrimination against people with physical or mental disabilities. Employers also must make any “reasonable accommodations” for their disabled employees to conduct their duties as long as such an accommodation does not pose an undue hardship on the employer.

In late 2008, the Americans with Disabilities Act Amendment Act (ADAAA) expanded the protections under the ADA.

- **The Family and Medical Leave Act of 1993** — provides that an employee can take up to 12 weeks of unpaid leave to care for a new child or a seriously ill family member, including themselves.
- **Fair Employment Practices statutes** — Individual state statutes that expand many of the protections provided under federal laws. These laws increase the protected classes to include such classifications as sexual orientation, transgender, medical conditions, obesity and others. These laws also extend their reach so that they apply to even the smallest employers and also lengthen the statutes of limitations. Additionally, the states have created Fair Employment Practices Agencies (or FEPAs) as the state equivalents to the EEOC.
- **Common Law** — Employees can also allege such tortious acts as violation of their civil rights, infliction of emotional distress, invasion of privacy and others under common law.

For whom does EPL provide coverage, the employer or the employee?

- EPL insurance is protection for the employer. It provides coverage for claims brought against an employer by full-time, part-time, seasonal or temporary employees who allege acts such as discrimination, wrongful termination and harassment including sexual harassment.

Does the EPL endorsement provide coverage for claims brought by customers and other non-employees?

- Optional coverage for claims brought by non-employee customers, clients and vendors may be available for an additional premium.

What limits and deductibles are available?

- We provide \$100,000 in EPL limits subject to a \$2,500 deductible for all eligible insureds. Additional EPL limits and deductibles are available.

Does the EPL limit include defense costs?

- Yes. Defense costs are included within the limit of liability. That means that the limit is reached by a total of both defense costs and indemnity payments.

How do you define “small business” - is there a maximum employee count?

- Yes. The maximum is up to 50 employees per policy regardless of the number of locations. Policies with more than 50 employees are not eligible.

How is employee count calculated?

- Employee count equals all full-time, equivalent employees. Employees other than full time should be counted as half an employee. As an example, five full-time and four part-time employees would equal seven full-time employees.

What if an insured starts below the 50 employee maximum and grows above 50 employees during the policy period?

- Insureds that are eligible for coverage at the inception of the policy will remain eligible until such time we discover the employee count has exceeded 50 employees. Upon discovery, individual policies exceeding 50 employees will be reviewed on a case by case basis.

Are there any classes that are ineligible for the program?

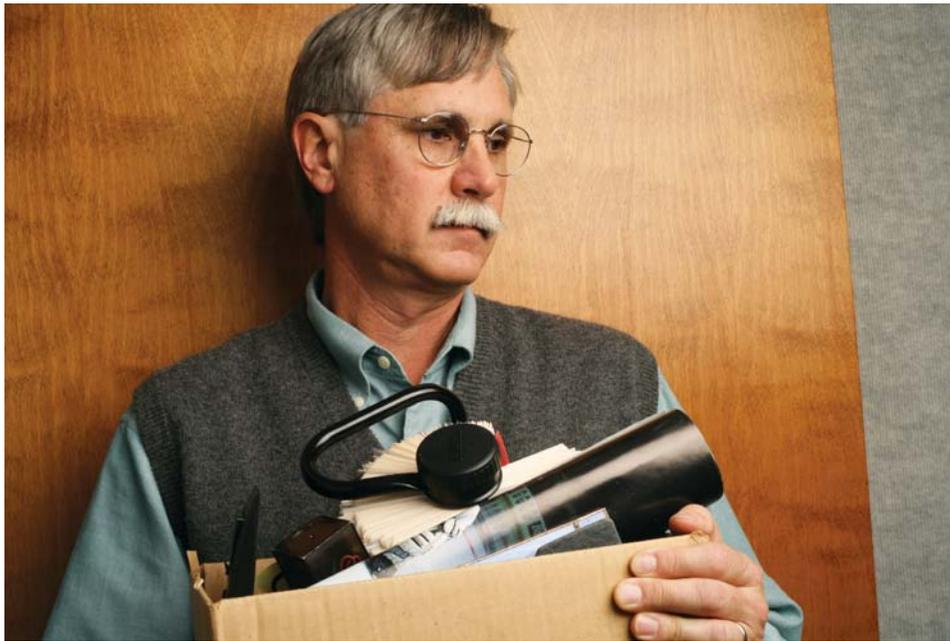
- Yes. While most classes will be eligible for our EPL program, the following classes are ineligible: law firms, employee leasing firms, temporary help firms, private membership golf clubs, municipalities and schools.

Can the agent or insured opt-out of EPL coverage?

- Yes, while we would advise our clients to retain the coverage so they are not at risk, an agent or insured may request that EPL coverage be removed from their policy.

Does the coverage include an extended reporting period (ERP)?

- A one-year extended reporting period may be purchased by insureds after the end of their policy period to allow insureds to report claims they became aware of after the policy period. Policies written in certain states allow insureds to purchase extended reporting periods of greater duration as required by that state's department of insurance.



Does the endorsement provide coverage for prior acts?

- Yes, the endorsement provides coverage for full prior acts as long as the insured did not have knowledge of the circumstances which gave rise to the claim prior to the Original Inception Date.

Can coverage be added mid term?

- Yes. Coverage may be added mid term on a pro-rata basis.

Can coverage be cancelled mid term?

- Yes. Coverage can be cancelled mid term on a pro-rata basis.

How will the coverage attach to a BOP or CPP?

- The EPL coverage is designed to be an endorsement to our Businessowners (BOP) or General Liability policies.

Is the EPL coverage written on a claims-made or occurrence basis?

- EPL coverage is written on claims-made and reported basis, meaning that a **claim must be made against the insured and reported** to the primary carrier within the policy period (or within a subsequent renewal period assuming there has been continuous coverage).

When is the insured obligated to pay the deductible?

- Assuming a \$5,000 deductible, the insured is responsible for the first \$5,000 of covered loss. Above the deductible amount, the carrier will be responsible for additional covered loss within the limit of liability.

What are the most reported types of EPL claims?

- In 2010, continuing a long-term trend, the most frequently filed discrimination charges reported by the EEOC involved race, retaliation, gender and disability.

Why do insureds need special EPL claim services and employment law firms?

- EPL claims are different than other liability claims. Without proper claim assistance and legal representation an employment charge or lawsuit can linger for a year or two and cost a fortune to defend and resolve.
- Small businesses need skilled claim specialists and experienced employment attorneys familiar with the intricacies of employment law who will vigorously defend them from employee charges. We provide EPL claim services and counsel that is capable and experienced in employment cases.

What type of legal representation is provided with the coverage?

- Our EPL coverage includes legal representation by law firms specializing in employment law. In the event that a claim warrants defense, we will choose and retain one of these law firms to represent the insured.

Can an insured choose their own legal counsel for employment charges and claims?

- Not if they want coverage, including defense costs, to be paid by our EPL coverage. Our EPL coverage requires that insureds be defended by law firms that are provided for under the policy. Some case-by-case exceptions may be considered.
- Employment charges require special handling. Our employment law firms are skilled and experienced in defending employers against EPL claims.

Does coverage provide defense and defense costs upfront or is the insured reimbursed for the defense costs?

- Coverage provides legal representation by a law firm chosen by us. Above the insured's deductible, defense costs are paid by the carrier on the insured's behalf as they are incurred.

Are insureds with previous EPL claims experience eligible for our EPL program?

- Our EPL program does not require a specific EPL application. As a result we may not be aware of every insured with previous EPL claims experience. However, if an underwriter is made aware of an insured's previous EPL claims experience, then that insured will be reviewed for program eligibility.

How will this protect agents and agencies from an E&O claim?

- Our EPL program allows agents to provide their insureds with meaningful coverage at an affordable premium in a very easy to administer manner. Coverage not only protects insureds, it also protects the agency. If an insured suffers a loss and this coverage was not offered, an agency may have an increased exposure to an E&O claim.

This is a summary of the coverage. Please refer to the Coverage Terms and Conditions for actual coverage and claims filing details.