Florida
Office of Insurance Regulation

2010 Workers' Compensation Annual Report
December 2010

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Commissioner

‒ INDEX ‒

Executive Summary

Subsection 627.211(6), Florida Statutes, mandates the Office of Insurance Regulation (OIR) provide an annual report to the President of the Senate and the Speaker of the House of Representatives which evaluates competition in the workers' compensation market in the state. The report is to contain an analysis of the availability and affordability of workers' compensation coverage and whether the current market structure, conduct and performance are conducive to competition, based upon economic analysis and tests. The report must also document OIR has complied with the provisions of Section 627.096, Florida Statutes, which require the OIR to investigate and study the data, statistics, schedules, or other information as it finds necessary to assist in its review of workers' compensation rate filings.

As mandated, the analysis presented in this report finds the following:

1. Based on a comparative analysis across a variety of economic measures, the workers' compensation market in Florida appears to be competitive.

    a. The workers' compensation market in Florida is served by a large number of independent insurers.

    b. None of the firms have sufficient market share to exercise any meaningful control over the price of workers' compensation insurance.

    c. The Herfindahl-Hirschman Index (a measure of market concentration) indicates that the market is not overly concentrated.

    d. There are no significant barriers for the entry and exit of insurers into the Florida workers' compensation market.

    e. Based on entries and voluntary withdrawals, it would seem that the Florida workers' compensation market is an attractive market for insurers.

2. Of the six most populous states, Florida is the largest market dominated by private market insurers, rather than a state sponsored residual market. This degree of private activity indicates that coverage should be generally available in the voluntary market. The residual market is small, suggesting that the voluntary market is absorbing the vast majority of demand.

3. Reforms to Section 440.34, Florida Statutes which affected attorney's fee provisions were a significant factor in the decline of workers' compensation insurance rates and the reforms continue to impact Florida's workers' compensation rates.[1]

[1] In *Murray v. Mariner Health*, (Florida Supreme Court October 23, 2008), the Florida Supreme Court held that the statute in the first part of the workers' compensation law did not limit attorneys' fees under a separate subsection (3) of the law, and therefore a lawyer representing a workers' compensation claimant is entitled to a "reasonable fee." House Bill 903 was passed into law during the 2009 Legislative Session. It restored the cap on attorney fees and clarified related statutory language that the Florida Supreme Court had determined to be ambiguous. As a result, the workers' compensation rates have decreased even more.

4. Affordability within the Florida Workers' Compensation Joint Underwriting Association, Inc. (FWCJUA), which is the residual market, has been an on-going issue. Senate Bill 50-A enacted in 2003 and House Bill 1251 enacted in 2004, have addressed affordability in the voluntary and residual market respectively and both markets are remaining stable.

5. The OIR is in compliance with the requirements of Section 627.096, Florida Statutes.

Purpose and Scope

Subsection 627.211(6), Florida Statutes, mandates:

The office shall submit an annual report to the President of the Senate and the Speaker of the House of Representatives by January 1 of each year which evaluates competition in the workers' compensation insurance market in this state. The report must contain an analysis of the availability and affordability of workers' compensation coverage and whether the current market structure, conduct, and performance are conducive to competition, based upon economic analysis and tests. The purpose of this report is to aid the Legislature in determining whether changes to the workers' compensation rating laws are warranted. The report must also document that the office has complied with the provisions of s. 627.096 which require the office to investigate and study all workers' compensation insurers in the state and to study the data, statistics, schedules, or other information as it finds necessary to assist in its review of workers' compensation rate filings.

To accomplish these objectives, this report provides analysis of the following areas:

1. The competitive structure of the workers' compensation market in Florida by comparing financial operating ratios, the numbers of entities and their respective market positions, and the number of entities entering and exiting the market.

2. The availability and affordability of workers' compensation insurance in Florida. This includes an analysis of rate increases in Florida's admitted market, as well as the rating structure extant in the Florida Workers' Compensation Joint Underwriting Association.

3. The market structure in Florida, which includes the market concentration in Florida compared with other states, and entry and exit of carriers in Florida during 2009.

4. Documentation of the OIR's compliance with Section 627.096, Florida Statutes, by investigating all workers' compensation carriers operating in Florida.

5. A comparison of pure loss costs for the ten largest workers' compensation class codes for Florida compared to the other states using the National Council of Compensation Insurance (NCCI) as their statistical rating organization.

Summary of the 2009 Annual Report

The 2009 Workers' Compensation Annual Report was the sixth report resulting from the statutory mandate, and concluded that the workers' compensation market is reasonably competitive. Specifically, the report showed that, during 2008:

- Florida's workers' compensation insurance market contained a large number of independent firms, none of which had enough market share to individually exercise market control in an uncompetitive nature.
- The Herfindahl-Hirschman Index indicated that Florida's market was not overly concentrated, and consequently exhibited a reasonable degree of competition.
- There were no significant barriers for entry and exit of insurers into and from the Florida workers' compensation insurance market.
- The residual market is small relative to the private market indicating that the voluntary market offers reasonable availability.
- There may be some small segments of the market that may have difficulty obtaining workers' compensation insurance including small firms and new firms.

The 2010 Workers' Compensation Annual Report continues to examine the workers' compensation insurance market from the same perspective and provides the Herfindahl-Hirschman Index (HHI) to compare Florida's market concentration versus the other 49 states. As well, the report provides a comparative analysis of key market characteristics among the six most populous states. The five other states are: California, New York, Texas, Illinois, and Pennsylvania.

Overview of the Workers' Compensation Insurance Market

To provide a context for the analysis in this report, background is provided that places Florida's workers' compensation insurance market in the context of the workers' compensation markets in other highly populated states to compare availability, affordability, and competitiveness.

An initial challenge in executing this analysis is that the six largest states have different regulatory structures regarding the provision of workers' compensation insurance. To address these differences, this report relies heavily on information from two sources. One important organization that affects the nationwide pricing and rating structure is the National Council on Compensation Insurance, Inc. (NCCI). This organization is the single largest source of information on workers' compensation, and is used as a major data source for much of this study. The National Association of Insurance Commissioners (NAIC) also collects statutory financial data for admitted carriers, and the NAIC financial databases are also used throughout this report.

In 2009, the NCCI provided advisory ratemaking and statistical services in 34 states (including Florida) and the District of Columbia.[2] In 12 of the states, local ratemaking or advisory organizations supplied the information.[3] However, in the following five states and territories, the majority of workers' compensation insurance is provided through an exclusive state fund[4]:

- North Dakota
- Ohio
- Puerto Rico
- Washington
- Wyoming

None of these states above are among the six most populous states used in the current analysis.

Self-Insurance Funds

In addition to the private market, composed of admitted carriers and the residual market as represented by the Florida Workers' Compensation Joint Underwriting Association (FWCJUA), workers' compensation insurance in Florida is also provided through self-insurance funds (SIFs).

"Self-Insurance" groups are a broadly defined group of entities that include group self-insurance funds, commercial self-insurance funds and assessable mutual organizations. By the early 1990s, self-insurance funds were a dominant part of the Florida workers' compensation insurance market, capturing more than half of the voluntary market. Legislative reforms in 1993 transferred the regulation of group self-insurance to the Department of Insurance, which later became the Office of Insurance Regulation (OIR). This legislative change occurred concurrently with the formation of the FWCJUA.

[2] NCCI, Annual Statistical Bulletin, 2010 Edition, page 7.
[3] NCCI, Annual Statistical Bulletin, 2010 Edition, page 7.
[4] NCCI, Annual Statistical Bulletin, 2010 Edition, page 7.

Together, these two changes transformed the Florida workers' compensation insurance market as self-insurance funds began converting into insurance companies. In 1994 there were 35 defined self-insurance funds, but by 2000 there were only four of these entities. There were four group self-insurance funds at the start of 2010 but the largest fund Florida Retail Federation Self-Insurer's Fund converted to a stock company in November 2010:

- Florida Rural Electric Self-Insurer's Fund
- Florida Retail Federation Self-Insurer's Fund
- FRSA Self-Insurer's Fund
- Florida Citrus, Business and Industries Fund

All of these entities are domiciled in Florida, write exclusively in Florida, and together these Self-Insurance Funds (SIFs) represent 5.6 percent of the workers' compensation insurance market in Florida.[5]

[5] The SIF total premium written was $ 102 million in 2009. The total Florida market including the Florida Workers' Compensation JUA and the self-insurance funds was $ 1.8 billion in 2009. (The Florida Workers' Compensation JUA total direct written premium in 2009 was $1.2 million)

Comparisons to the Most Populous States

The first part of the analysis provides an overview of the relative size of the various state workers' compensation markets. To facilitate subsequent comparisons, the analysis focuses on the six most populous states, and excludes SIFs. In addition to Florida, the five most populous states used in this analysis are California, Texas, New York, Illinois and Pennsylvania.

As expected, there is a strong correlation between state population and workers' compensation insurance written premiums. Below are the six most populous states in rank order of most workers' compensation insurance written in 2009:

Rank	State	2009 Written Premium
# 1	California	$ 6.9 billion
# 2	New York	$3.4 billion
# 3	Illinois	$2.4 billion
# 4	Texas	$2.2 billion
# 5	Pennsylvania	$2.2 billion
# 6	**Florida**	**$1.7 billion**

The table shows that there is not a direct correlation between state population and premium in the admitted market as Florida is, by population, the fourth largest state, yet ranked sixth in the most workers' compensation insurance premium written in 2009. For a complete state list see Appendix A.

Number of Entities

Another indication of the competitiveness of the market is the number of different insurance companies writing in the state. For the six large states, the number of insurance companies writing workers' compensation insurance varied between 212 and 311. As shown below, Florida ranked fourth with 255 insurance companies writing workers' compensation insurance in 2009.

Rank	State	Entities
# 1	Illinois	311
# 2	Pennsylvania	305
# 3	Texas	268
# 4	**Florida**	**255**
# 5	New York	244
# 6	California	212

By this measure, Florida has a comparable number of entities operating within its borders relative to other populous states. For a complete state list see Appendix B.

Written Premium per Entity

Another useful comparison measure is the average amount of premium per entity. As shown below, Florida ranks sixth in the average premium per insurance entity among the six most populous states in 2009:

Rank	State	Premium per Entity
# 1	California	$32.6 million
# 2	New York	$14.1 million
# 3	Texas	$8.2 million
# 4	Illinois	$7.5 million
# 5	Pennsylvania	$7.3 million
# 6	**Florida**	**$6.7 million**

This comparison suggests there are more "small" competitors in Florida than are present, on average, in the other most populous states, although except for California, the data is comparable. The analysis above closely mirrors the first table showing the largest voluntary workers' compensation markets in the country. A more sophisticated measurement of the competitive aspects of state market structures is to use the Herfindahl-Hirschman Index (HHI).

Herfindahl-Hirschman Index Comparison by State

The Herfindahl-Hirschman Index (HHI) is a calculation constructed to determine market concentration. This ratio first appeared in A.O. Hirschman's *National Power and Structure of Foreign Trade* published in 1945.

The calculation is straightforward. The measured market share of every company operating in the market is squared. The highest index value is then defined as 10,000 (100 percent squared --- a monopoly), and the lowest outcome is close to zero. The U.S. Department of Justice (DOJ) uses this index when researching acquisitions and mergers for compliance with the anti-trust legislation most notably, the Sherman Anti-trust Act of 1890. DOJ considers a result of less than 1,000 to be a "competitive" marketplace. Results of 1,000 to 1,800 are considered "moderately concentrated." Results of greater than 1,800 are considered "highly concentrated," and consequently, not very competitive. These ranges are not necessarily relevant to lines of insurance business, but serve as a benchmark.

For the purposes of this report, comparing the HHI among states is difficult as the data for the self-insurance trust funds for other states must be calculated. Moreover, while some states have their state funds report financial information to the NAIC, other states, such as Florida with its FWCJUA, do not. The report includes a calculation of Florida's HHI without the SIFs included to be comparable to the other populous states.

The state ranked # 1 is the most concentrated, and conversely, least competitive, all else equal.

Rank	State	HHI
# 1	New York	1624
# 2	Texas	955
# 3	California	470
# 4	**Florida**	**346**
# 5	Pennsylvania	195
# 6	Illinois	131

With an HHI of 346 in 2009, the Florida workers' compensation insurance market ranks among the more competitive within the sample states. Within this state sample group, New York is not considered a competitive market as it has an entity that holds roughly 40 percent of the market share. For a complete list of HHIs by state for 2009, see Appendix C.

Dominant Firms and Competition

Another interesting comparison is to review the largest competitor in each of the six most populous states, to determine if there is a "dominant firm." Below are the leading workers' compensation carriers in 2009 for the six most populous states, and their market shares within those states:

State	Leading Carrier	Direct Premium Written	Market Share
New York	State Insurance Fund	$1,309,601,077	37.9%
Texas	Texas Mutual Insurance Co.	$634,389,226	28.7%
California	State Compensation Insurance Fund	$1,287,041,223	18.6%
Florida	**Bridgefield Employers Insurance Co.**	$223,349,010	13.1%
Pennsylvania	State Workers Insurance Fund	$211,588,280	9.5%
Illinois	Zurich American Insurance Co.	$115,710,532	4.9%

In New York, California, Texas, and Pennsylvania the entity with the largest market share is the state sponsored entity, while in Florida and Illinois, the largest market share is held by a private insurer. Put another way, Florida continues to be the largest state in the country for which the private market insurance industry is the dominant provider of workers' compensation insurance.

Bridgefield Employers Insurance Co.'s business in Florida has the largest market share of any private insurer in the six most populous states. However, it should be noted that at 13.1 percent of the market (which would be 12.4 percent if the SIFs and FWCJUA were included) it would not appear that this is enough of a market share to create an uncompetitive marketplace.

Profitability and Loss Ratios

Another goal of this report is to analyze the profitability of the Florida workers' compensation insurance marketplace. One measure that is reported on a state-by-state basis in the statutory financial statements filed with the NAIC is the loss ratio, which is calculated as the total losses paid divided by earned premium for each state for the line of business. The purpose of this ratio is two-fold: to assist in determining profitability, and, indirectly, to address premium sufficiency. Among the six most populous states, the aggregate loss ratios for 2009 are:

Rank	State	Loss Ratio
# 1	Illinois	82.98%
# 2	New York	80.16%
# 3	California	68.50%
# 4	Pennsylvania	66.20%
# 5	**Florida**	**54.29%**
# 6	Texas	43.19%

While this is a very rough measure of profitability, it does show that for the workers' compensation markets in 2009, Florida's profitability compares favorably with the other most populous states.

Adding reported defense cost and containment expense (DCC) to the loss ratio above provides a somewhat broader measure of profitability (or rate sufficiency). Companies with a ratio of 100 percent, by definition, are not considered profitable in their core business *(note that this is with respect to underwriting and does not consider investment income).* The combined aggregate ratio data are as follows:

Rank	State	DCC Ratio	DCC + Loss Ratio
#1	Illinois	8.0%	91.9%
#2	New York	5.8%	86.0%
#3	California	9.9%	78.4%
#4	Pennsylvania	6.5%	72.7%
#5	**Florida**	**9.4%**	**63.7%**
#6	Texas	7.0%	50.2%

Because loss amounts generally greatly exceed the direct cost and containment expenses, it is not surprising that this list closely mirrors the list of states with the highest loss ratio. For 2009, Florida's reported DCC ratio was fifth among the six most populous states after Pennsylvania.

Overview of Florida's Largest Carriers

In 2009, 266 entities earned workers' compensation premium in the state of Florida. Of those 260 entities reported writing workers' compensation business in the state of Florida, including 255 insurance companies, 4 group self-insurance funds and the FWCJUA. The 10 largest companies based on written premium were:

Rank	Company	Written Premium	% of Market[6]	CUM %
# 1	Bridgefield Employers Insurance Company	$223,349,010	12.39%	12.39%
# 2	FCCI Insurance Company	$102,507,193	5.69%	18.08%
# 3	Zenith Insurance Company	$93,735,647	5.20%	23.28%
# 4	Florida Retail Federation Self Insurance Fund	$75,593,127	4.19%	27.47%
# 5	FFVA Mutual Insurance Company	$62,707,654	3.48%	30.95%
# 6	Twin City Fire Insurance Company	$58,673,823	3.26%	34.21%
# 7	Amerisure Insurance Company	$48,595,082	2.70%	36.90%
# 8	Insurance Company of the State of PA	$48,300,778	2.68%	39.58%
# 9	Technology Insurance Company, Inc.	$44,988,009	2.50%	42.08%
# 10	Zurich American Insurance Company	$33,267,947	1.85%	43.93%
	TOTAL IN FLORIDA	**$ 1,802,252,777**		

As was the case in last year's report, the ten largest companies wrote under 50 percent of the workers' compensation insurance premium in Florida in 2009. All of the companies with the exception of The Florida Retail Federation SIF (organized as a self-insurance fund) are property and casualty companies, organized as stock companies. Four of the top ten writers are domestics[7], while the foreign corporations have home offices in California, Indiana, Michigan, Pennsylvania, New Hampshire, and New York.[8]

One of the ten companies (Insurance Company of the State of PA) is a member of the AIG insurance group. In light of the financial turmoil of 2008 and the impact on AIG, the OIR has been closely monitoring developments affecting all AIG companies, especially those that write in Florida, including Insurance Company of the State of PA. To date, the OIR has not found any solvency issues for that company related to the problems at the AIG parent company, but is continuing to monitor developments.

[6] The base used for the total market in Florida includes the SIFs and FWCJUA.

[7] Domestics and their locations include: Bridgefield Employers Insurance Company (Lakeland, FL), FCCI Insurance Company (Sarasota, FL), The Florida Retail Federation SIF (Lakeland, FL), and FFVA Mutual Insurance Company (Maitland, FL).

[8] Foreign companies and their locations include: Zenith Insurance Company (Woodland Hills, CA), Twin City Fire Insurance Company (Indianapolis, Indiana), Amerisure Insurance Company (Farming Hills, MI), Insurance Company of State of PA (Harrisburg, PA), Technology Insurance Company, Inc. (Nashua, NH), and Zurich American Insurance Company (New York, NY).

Diversification

Another area of analysis is the diversification of Florida's leading providers of workers' compensation insurance. Diversification, both by geography and by line of business can present a different picture of an insurance company than would by examining a particular line of business within a particular state.

Geographic Distribution

Although workers' compensation loss rates are likely more homogeneous geographically than other lines, such as homeowners' insurance, industry analysts generally believe that it is important for companies to have some geographic diversification within their book of business. Especially for workers' compensation insurance, where coverage and benefits are mandated by state legislatures, an understanding of the geographic distribution of premium can again provide a fuller profile of the companies. For the top ten companies presented above, the states where the companies wrote a majority of their workers' compensation business were calculated. The five leading states for each company are listed below:

Company	State 1	State 2	State3	State 4	State 5	All Other
Bridgefield Employers Insurance Company	**FL 100%**					0%
FCCI Insurance Company	**FL 77.38%**	GA 5.83%	IN 3.95%	IL 3.76%	NC 2.55%	22.62%
Zenith Insurance Company	CA 51.29%	**FL 23.12%**	PA 6.45%	TX 5.32%	IL 3.08%	76.88%
FFVA Mutual Insurance Co.	**FL 58.52%**	GA 17.50%	TN 8.92%	KY 6.59%	MS 4.72%	41.48%
Twin City Fire Insurance Company	CA 10.73%	NY 10.00%	**FL 8.81%**	IL 7.32%	PA 5.25%	91.19%
Amerisure Insurance Company	**FL 39.69%**	TX 10.99%	MI 10.80%	MO 7.01%	IL 5.42%	60.31%
The Florida Retail Federation SIF	**FL 100%**					
The Insurance Company Of The State Of Pennsylvania	OT 21.05%	CA 9.10%	TX 7.66%	**FL 6.68%**	NY 6.09%	78.95%
Technology Insurance Company, Inc.	**FL 17.61%**	IL 17.13%	NY 12.79%	PA 6.29%	GA 5.13%	82.39%
Zurich American Insurance Company	CA 45.94%	IL 28.54%	TX 19.76%	PA 17.06%	**FL 8.20%**	54.06%

In line with other market studies conducted by the OIR for other lines of business, there is normal geographic diversification among the top writers. In addition to the Florida Retail Federation SIF, one company (Bridgefield) writes exclusively in Florida. The leading states for the largest carriers other than Florida include California, Other

Territories, Georgia, New York, Texas, Illinois, Indiana, Pennsylvania, Tennessee, Michigan, Kentucky, Missouri, North Carolina and Mississippi. Florida represents the state with the largest book of business for six of these ten companies. For the four companies that do not write most of their workers' compensation insurance in Florida, three write the most in workers' compensation insurance in California, and one in Other Territories.

Line of Business Distribution

This report also examined the other lines of business written by the top 10 workers' compensation insurance carriers. For presentation purposes, the lines of business are segmented into five categories: 1) Workers' Compensation[9], 2) Other/Products Liability[10], 3) Commercial Multi-Peril[11], 4) Automobile (includes Private Passenger and Commercial for both damage and liability)[12], and 5) All Other.

Company	Workers' Comp	Other/Product Liability	Commercial Multi-Peril	Auto	All Other Lines of Business
Bridgefield Employers Insurance Company	**100%**				
FCCI Insurance Company	**69.25%**	5.51%	6.41%	9.17%	9.65%
Zenith Insurance Company	**100%**				
FFVA Mutual Insurance Company	**100%**				
Twin City Fire Insurance Company	**45.97%**	30.54%	3.93%	16.08%	3.48%
The Florida Retail Federation SIF	**100%**				
Amerisure Insurance Company	**51.30%**	11.29%	16.20%	20.55%	0.65%
The Insurance Company of the State of PA	**39.19%**	14.41%	0%	12.29 %	34.11%
Technology Insurance Company, Inc.	**77.40%**	15.05%	0%	1.31%	6.24%
Zurich American Insurance Company	**27.51%**	32.20%	5.08%	12.48%	22.73%

The table shows that six of the ten top writers of workers' compensation insurance focus on this specific line of business having nearly 70 percent or more of their total book of business in that line. Other lines of business commonly written include auto, commercial multi-peril and other/product liability. Zurich American Insurance Company, FCCI

9 Annual Statement Exhibit of Premiums and Losses, Line 16.
10 Annual Statement Exhibit of Premiums and Losses, Lines 17.1, 17.3 and 18.
11 Annual Statement Exhibit of Premiums and Losses, Lines 5.1 and 5.2.
12 Annual Statement Exhibit of Premiums and Losses, Lines 19.1, 19.2, 19.3, 19.4, 21.1 and 21.2.

Insurance Company, The Insurance Company of the State of PA, Twin City Fire Insurance Company, Technology Insurance Company have more diverse books of business which include lines such as fire and allied lines, ocean and inland marine, medical malpractice and earthquake insurance to name a few.

Trends in Florida's Workers' Compensation Insurance Market

Entry and Exit from the Workers' Compensation Market

Another measure of the competitiveness of a marketplace is the ease of entry and exit from the market.

As of December 31, 2009, Florida had 407 entities eligible to participate in the workers' compensation marketplace including one residual market company (the Florida Workers' Compensation JUA) and 25 other entities.[13] These 407 entities also included 382 companies with a certificate of authority including: 377 property and casualty companies, one reciprocal company and four group self-insurance funds. Of these, 255 companies in the voluntary market along with four self-insurance funds, and the Florida Workers' Compensation JUA were actively writing business.

During 2009, eight new entities entered the market. Two[14] were new to the state, while six companies were already operating in Florida, and expanded by adding the line of workers' compensation. All eight of the new entities were property and casualty companies. Of the eight, only three (Ascendant Commercial Insurance, Inc, Castlepoint Florida Insurance Company, and Sunz Insurance Company) are domiciled in Florida. The other five companies were domiciled in Michigan, Delaware, Missouri, Maryland, and New Hampshire. New entities authorized to operate in the Florida workers' compensation insurance market in 2009 together with their state and city of domicile were:

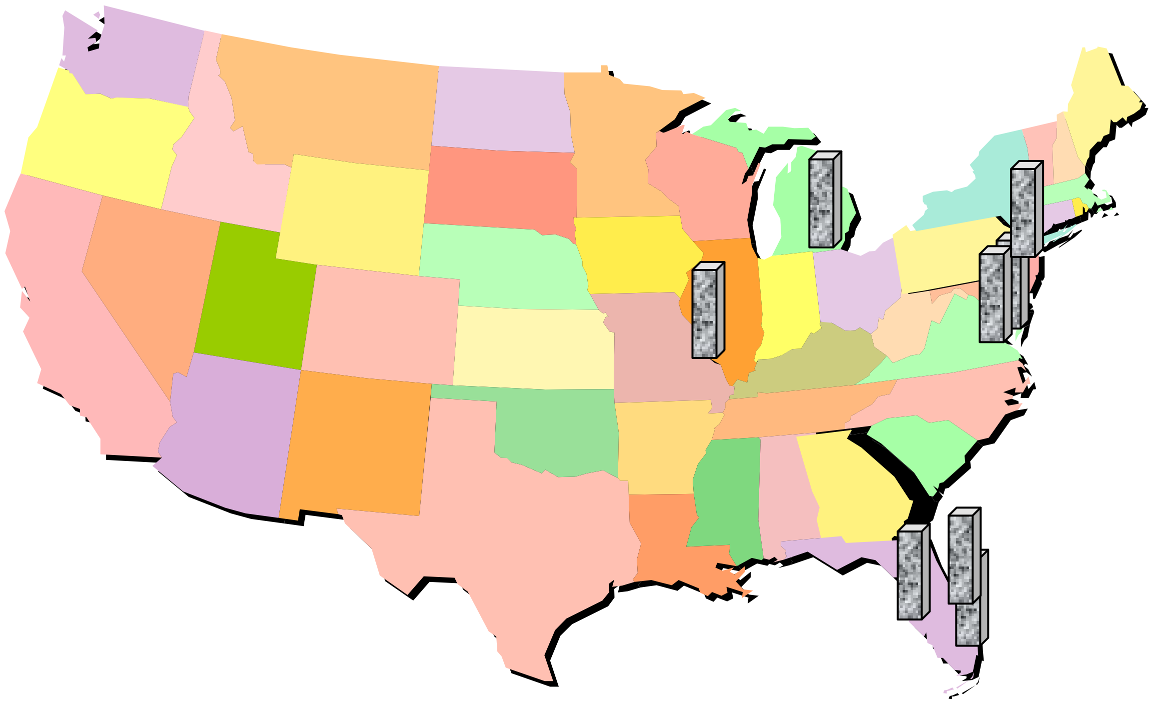
Amerisure Partners Insurance Company – Farmington Hills, Michigan
Ascendant Commercial Insurance, Inc. – Hialeah, Florida
Berkley Insurance Company – Wilmington, Delaware
Castlepoint Florida Insurance Company – Fort Lauderdale, Florida
Maiden Reinsurance Company – Maryland Heights, Missouri
Montgomery Mutual Insurance Company – Columbia, Maryland
North American Elite Insurance Company – Manchester, New Hampshire
Sunz Insurance Company – St. Petersburg, Florida

Five[15] of the new entrants reported writing direct workers' compensation premiums in 2009. Of the remaining, 3 held an active Certificate of Authority.

As the map below shows, the eight new workers' compensation insurers are domiciled in eight different cities in six different states. This is potentially beneficial to Florida's economy, as well

[13] The 25 miscellaneous organizations do not directly write workers' compensation insurance. These include Advisory Organizations (8), Rating Organizations (7), Accredited Reinsurers (9), Trusteed Reinsurers (1).
[14] Ascendant Commercial Insurance, Inc, Castlepoint Florida Insurance Company
[15] Amerisure Partners Insurance Company, Ascendant Commercial Insurance, Inc., Castlepoint Florida Insurance Company, Montgomery Mutual Insurance, Sunz Insurance Company. The Sunz Insurance Company is the result of the merger plan of Sunz Insurance Company into Brentwood National Insurance Company on December 29, 2009, with Brentwood National Insurance Company being the surviving entity and changing its name back to Sunz Insurance Company and redomesticating from Tennessee to Florida.

as the market itself, as five companies represent investment capital coming from outside the region:



During 2009, eight entities that were previously operating in Florida left the workers' compensation market. Of those three companies continue to have an active Certificate of Authority, and withdrew their authority to write workers' compensation line of business in Florida. Two companies had their property and casualty insurer certificate of authority revoked in 2009 due to the companies being insolvent – First Commercial Insurance Company and Park Avenue Property and Casualty Insurance Company. Three companies surrendered their certificates of authority.[16] One company had their certificate of authority suspended[17]. These data suggest that there is freedom to both enter and exit the market, again supporting the competitive aspects of the Florida workers' compensation insurance market.

As of October 2010, the Florida Workers' Compensation Insurance Guarantee Association (FWCIGA) has paid 18.1 million in losses for First Commercial Insurance Company and 6.2 million for Park Avenue Property and Casualty

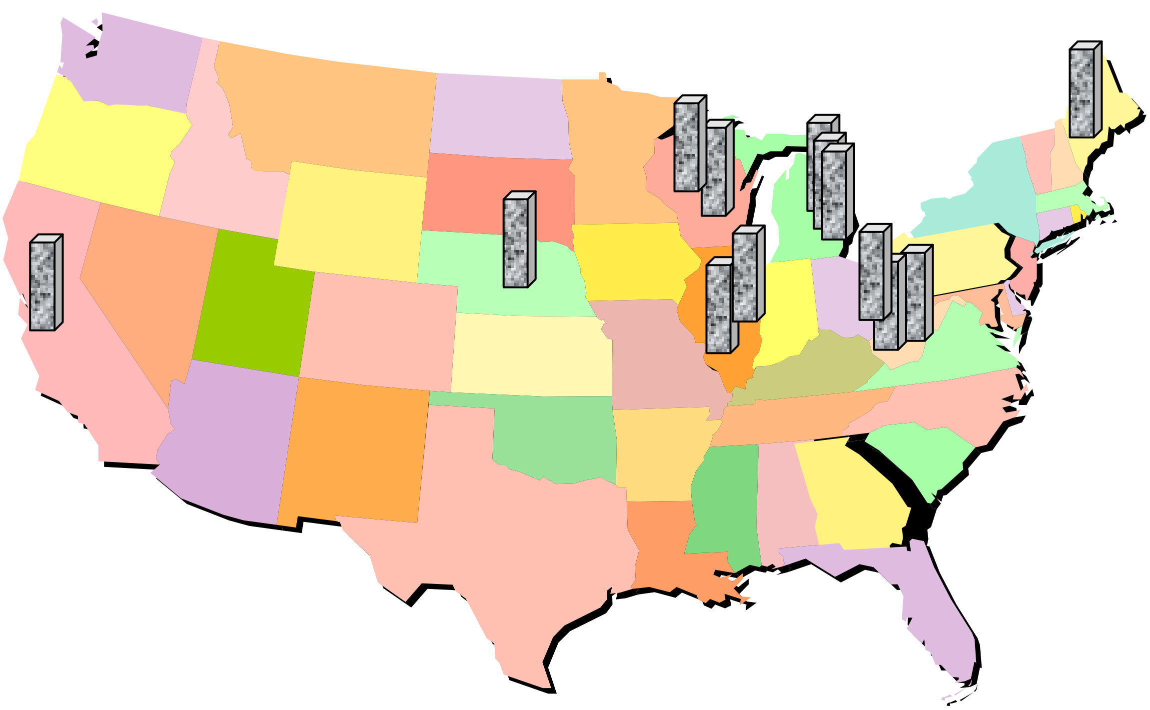
Through September 2010, thirteen new entities have entered the market. Four[18] were new to the state, one became an admitted carrier[19], while eight companies were already operating in Florida, and expanded by adding the line of workers' compensation. In addition, one company converted

[16] Aequicap Property and Casualty Insurance Company, Atlantic Mutual Insurance Company, Centennial Insurance Company
[17] Financial Guaranty Insurance Company
[18] Compwest Insurance Company, Cornhusker Casualty Company, Maine Employers Mutual Insurance Company, Triumphe Casualty Company
[19] Argonaut Great Central Insurance Company

from a self-insurance fund to a property and casualty insurer (Retailfirst Insurance Company). All thirteen of the new entities were property and casualty companies. All the new entrants are domiciled outside of Florida. The eight companies are domiciled in Illinois, Wisconsin, California, Nebraska, Michigan, Maine, Wisconsin, and Pennsylvania. New entities authorized to operate in the Florida workers' compensation insurance market in 2010 together with their state and city of domicile were:

Argonaut Great Central Insurance Company – Chicago, Illinois
Capitol Indemnity Corporation – Middleton, Wisconsin
Compwest Insurance Company – San Francisco, California
Cornhusker Casualty Company – Omaha, Nebraska
Foremost Insurance Company – Caledonia, Michigan
Foremost Property and Casualty Insurance Company – Caledonia, Michigan
Maine Employers' Mutual Insurance Company – Portland, Maine
National Casualty Company – Madison, Wisconsin
Praetorian Insurance Company – Harrisburg, Pennsylvania
QBE Insurance Corporation – Harrisburg, Pennsylvania
RLI Insurance Company – Peoria, Illinois
Triumphe Casualty Company – Mechanisburg, Pennsylvania

As the map below shows, the nine new workers' compensation insurers are domiciled in ten different cities in eight different states. This is beneficial to Florida's economy, as well as the market itself, as eight companies represent investment capital coming from outside the region:



During 2010, six entities that were previously operating in Florida left the market. Of those, five companies continue to have an active Certificate of Authority, and withdrew their authority to write workers' compensation line of business in Florida. One company had their property and casualty insurer certificate of authority suspended in 2010 due to insolvency – Pegasus Insurance Company, Inc. Four companies withdrew their authority to write workers' compensation line of business in Florida[20] and one company surrendered their property and casualty insurer certificate of authority[21], however continue to hold active certificates of authority. These data suggest that there is freedom to both enter and exit the market in 2010, again supporting the competitive aspects of the Florida workers' compensation insurance market.

As of October 2010, the Florida Workers' Compensation Insurance Guarantee Association has paid $30,491 in losses for Pegasus Insurance Company.

Statistical Trends

The analysis to this point compares the workers' compensation market in Florida to the markets of the other most populous states in terms of total amount of premium, number of entities operating in the state, premium per entity, and various financial ratios. Generally, Florida compares favorably to other states, having a significant number of entities in the state, lower loss ratios, and a lower loss + defense containment cost (DCC) ratio. Further, Florida is a "competitive" market as measured by the Herfindahl-Hirschman Index (HHI).

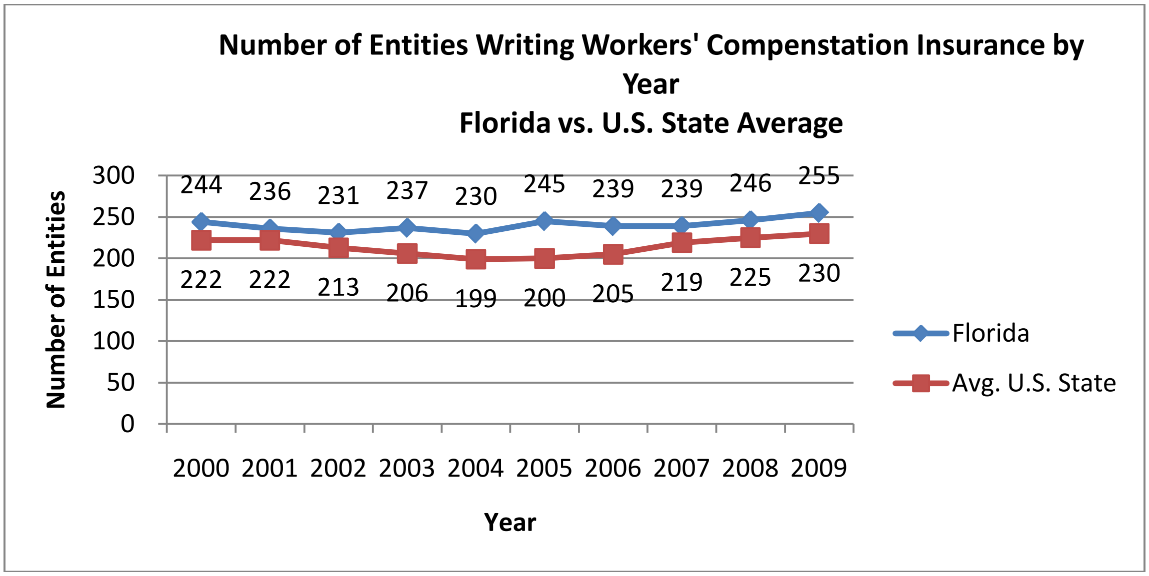
However, another aspect of the market that is important to examine are trends over the last five years to determine if Florida's market is consistently moving in the right direction as a vibrant market and to compare these trends to the other comparison states. For the comparative purposes here, the four self-insurance trust funds were again excluded.

The Nature of the Market

One of the first indicators of the robustness of the market is to simply look at the number of companies actively engaged in the market. The chart below shows the number of entities writing in Florida from 2000 through 2009 and compares that to the average number of entities writing in the voluntary market excluding other states.

[20] Foremost Insurance Company, Foremost Property and Casualty Insurance Company, Foremost Signature Insurance Company, Freedom Specialty Insurance Company.
[21] C.P.A. Insurance Company

Entities Writing Workers' Compensation Insurance Premium by Year
Florida vs. U.S. State Average



Note: The US average excludes North Dakota, Ohio, Washington, West Virginia, and Wyoming for years 2000 through 2006 and North Dakota, Ohio, Washington, and Wyoming for 2007, because these states have exclusive state funds. West Virginia had an exclusive state fund until July 1, 2006. NCCI now provides advisory ratemaking and statistical services.

Over the last nine years the number of writers in Florida has remained relatively stable. Meanwhile, on the national level, the number steadily decreased from 2000 to 2005, although showed a marginal increase in 2006 and after that increased with the opening of the West Virginia market. From a state perspective, in 2000 there were roughly 22 more insurance companies writing in Florida than the average U.S. state and 25 more insurance companies in 2009.

Another area to consider is the overall growth of the workers' compensation insurance market. Like other sectors of the economy during the current economic downturn, the data show a decline in the amount of written premium, both nationally and in Florida. Certainly, in Florida's case the decline in premium from 2006 can be explained by not only the economic downturn, but the effect of broad, significant rate reductions over the years. These trends are shown below:

Workers' Compensation Insurance Written Premium
(Expressed in $ Billions)

	2004	2005	2006	2007	2008	2009
Florida	$3.35	$3.72	$3.74	$3.11	$2.31	$1.71
Avg. U.S. State	$1.02	$1.10	$1.07	$1.03	$0.97	$0.86

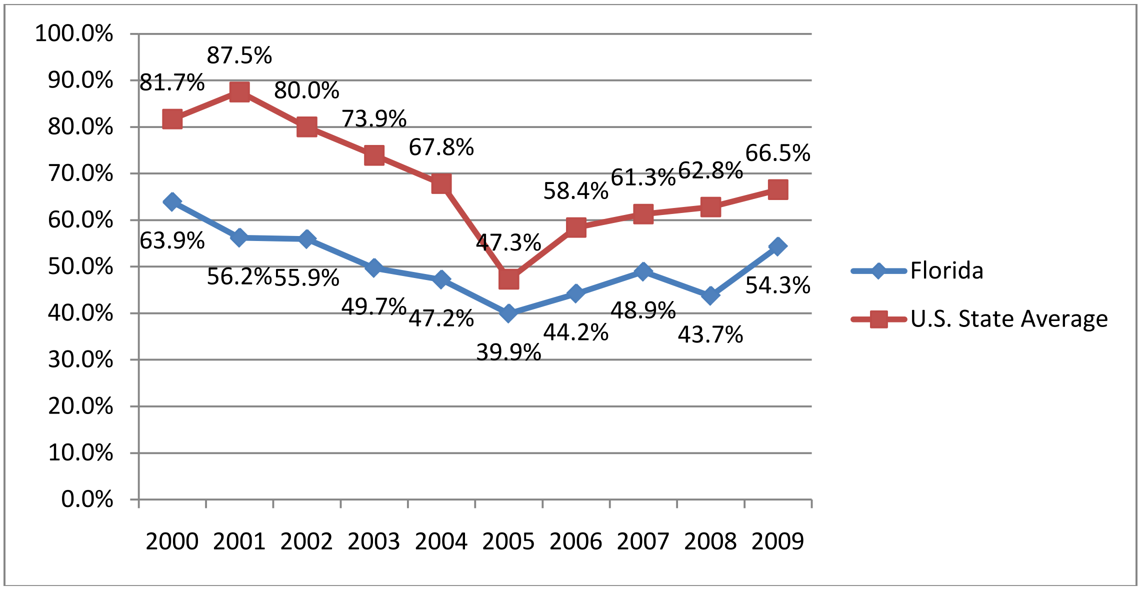
Note: The US average excludes North Dakota, Ohio, Washington, West Virginia, and Wyoming for years 2000 through 2006 and North Dakota, Ohio, Washington, and Wyoming for 2007, because these states have exclusive state funds. West Virginia had an exclusive state fund until July 1, 2006. NCCI now provides advisory ratemaking and statistical services.

From 2004 to 2009, the total workers' compensation insurance premium paid for the average U.S. state has decreased 16 percent, which is less that the 49 percent decrease in Florida. Interestingly, the amount of workers' compensation insurance dipped nationally in 2006, while simultaneously rising marginally in Florida. In 2007, the amount of workers' compensation insurance decreased both nationally by four percent and in Florida by 17 percent, in 2008 the amount of premium written decreased nationally by six percent and in Florida by 26 percent, and in 2009 the amount of premium written decreased nationally by 11 percent and in Florida by 26 percent. Once again, this may not include a complete picture of the entire market as it only includes activity in the voluntary market, but it is a broad indication of what is transpiring in the workers' compensation market.

Financial Aspects of the Market:

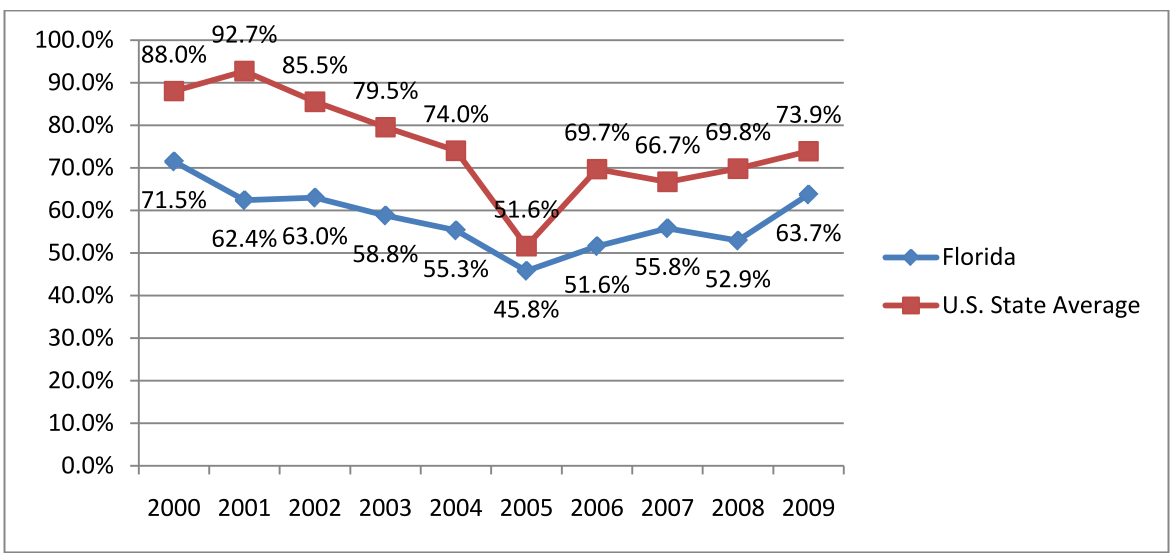
This report also reviews the financial statistics to determine trends in loss ratios and loss + DCC ratios. This indirectly measures the profitability, competitiveness, and premium adequacy of the market. In 2009, Florida had a higher loss ratio and higher loss + DCC ratios than in 2009. At the same time nationally, the loss ratios and the loss + DCC ratios increased in the past year. Note that Florida is well below the national average. The trends in the loss ratios are shown on the next page:

Workers' Compensation Insurance Loss Ratios
Florida vs. U.S. State Average[22]



As a broader measure, the loss + defense and containment cost ratio shows a similar pattern

Workers' Compensation Insurance Loss + DCC Ratios[23]



[22] The 66.5% percent pure loss ratio used here is an unweighted average. A weighted average, which includes the data for states with exclusive state fund, would produce a national loss ratio of 66.9 percent.

[23] The 73.9 percent DCC + loss ratio used here is an unweighted average. A weighted average would produce a national DCC + loss ratio of 74.1 percent.

Workers' Compensation Rates

A comprehensive slate of reforms was passed into law during the 2003 Legislative Session. The package known as Senate Bill 50-A (Chapter 2003-412 Laws of Florida), continues to dramatically impact Florida's workers' compensation insurance rates. Some of these reforms included a reduction (cap) in attorneys' fees, tightening construction industry requirements, doubling impairment benefits for injured workers, increasing the medical fee schedule, and eliminating the Social Security disability test.[24]

Subsequently, workers' compensation rates have declined by 61.9% in Florida. In 2000, Florida had the highest workers' compensation insurance rates in the country. In 2003, the OIR approved a 14 percent rate reduction, with an additional reduction of 5.2 percent in 2004. These annual rate reductions continued unabated through the rate reduction of 6.8 percent that took effect on January 1, 2010. The rate changes during this seven year period include the three largest decreases ever in Florida, namely - 18.6 percent for 2009, -18.4 percent for 2008, and -15.7 percent for 2007. These seven filings represent the largest consecutive cumulative decrease on record in Florida for workers' compensation rates – dating back to 1965. Even with the most recent rate increase effective January 1, 2011, the cumulative overall statewide average rate decrease since 2003 will be 61.9 percent.

Before the reforms, Florida consistently ranked as the first or second state with the highest workers' compensation rates in the country. Post-reform, Florida dropped out of the top 10 rankings. By 2008, Florida has dropped to 28th place and the latest ranking based on January 1, 2010 rates shows that Florida has the twelfth lowest average rates for all the states in the country.

On August 18, 2010, the National Council on Compensation Insurance (NCCI) proposed an overall workers' compensation rate level increase of 8.3 percent for the voluntary market to be effective January 1, 2011. OIR conducted a hearing on October 5, 2010, and heard testimony from NCCI, industry experts and the public about NCCI's initial rate filing. On October 15, 2010, Commissioner Kevin McCarty issued an order finding the 8.3 percent rate increase in NCCI's filing was not justified and he took exception to some of NCCI's methodologies used in determining that rate; including its calculation of policyholder dividends, cost of capital, investment yields, the trend factor for medical losses and the swing limits for individual classification rates. That order requested NCCI to modify its original filing and resubmit it. On October 28, 2010, NCCI resubmitted an amended filing in accordance with the OIR request. The Commissioner approved the amended filing for an average rate increase of 7.8 percent on November 2, 2010. With the implementation of the increase of 7.8 percent, the rate impact for the main industry groups will be as follows:

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[24] "Florida Cracks Down on Construction Sites without Workers' Compensation Insurance," Best Wire, August 2, 2005, which utilizes information from an earlier article in BestWire, July 15, 2003.

Industry Sector	Rate Adjustment 01/11	Cumulative since 2003
Manufacturing	**+9.4%**	**- 58.0%**
Contracting	**+7.0%**	**- 64.5%**
Office and Clerical	**+6.8%**	**- 62.5%**
Goods and Services	**+7.4%**	**- 61.1%**
Miscellaneous	**+10.4%**	**- 59.9%**
TOTAL	**+7.8%**	**-61.9%**

The rate increase has been justified and would still give Florida the lowest rates in the southeast, and likely keep Florida near the top 10 states nationally for most affordable workers' compensation insurance.

Comparative Rates and Premiums

Comparative rates and premiums between states for the workers' compensation line of business is complicated by several factors. State law varies as to coverage and payment for claims, tort restrictions vary by state, and the basis for rate determination varies as well. Nonetheless, such a comparison, noting the above difficulties, can be useful.

During 2010, the OIR requested that NCCI prepare a comparison of loss cost estimates for the ten largest class codes of workers' compensation insurance evident in the Florida market with the loss costs for the same class codes in the other 34 jurisdictions for which NCCI is the statistical rating agent. The pure loss cost was chosen as the metric as it is the variable that is calculated in a consistent manner. Final allowed rates begin with the loss costs, and are then modified for risk loads and profit factors in different manners across jurisdictions.

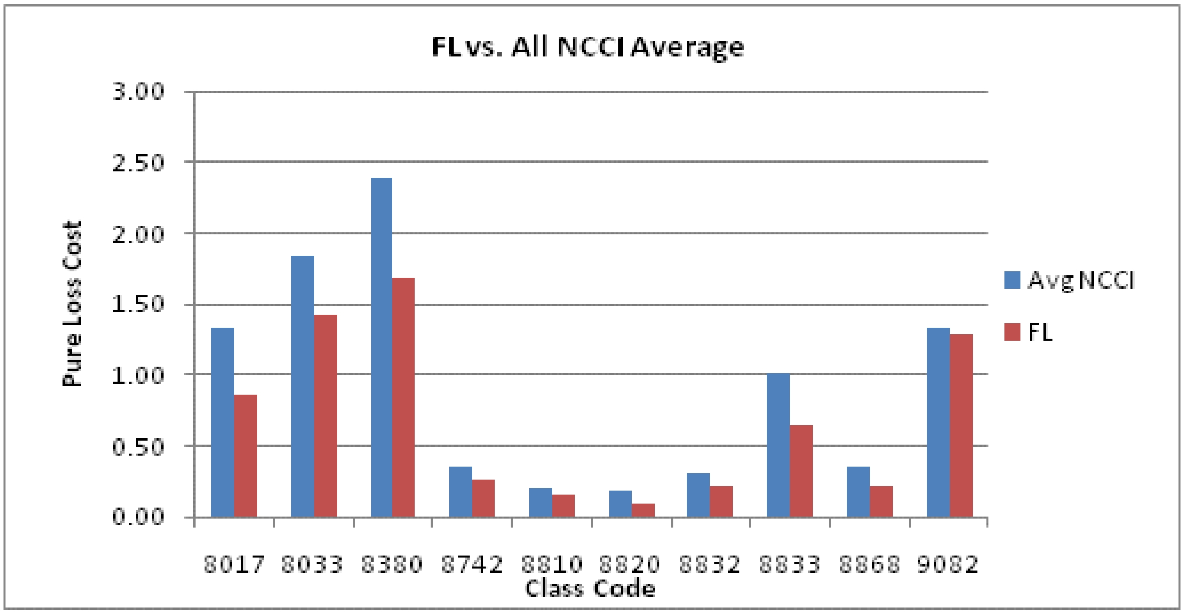
Initially, there are two commonly used definitions of calculating the "largest" class codes; by exposure amounts (e.g. the amount of insured exposure in dollars) and by policy count. The analysis below is repeated for each definition.

When measured by exposure, the ten largest class codes, the average loss cost across NCCI jurisdictions based on the most recent available data as of July 2010, Florida's loss cost and Florida's rank among jurisdictions (one being lowest, 36 being highest) are reported below:

Comparative Pure Loss Cost: Largest Class Codes by Exposure

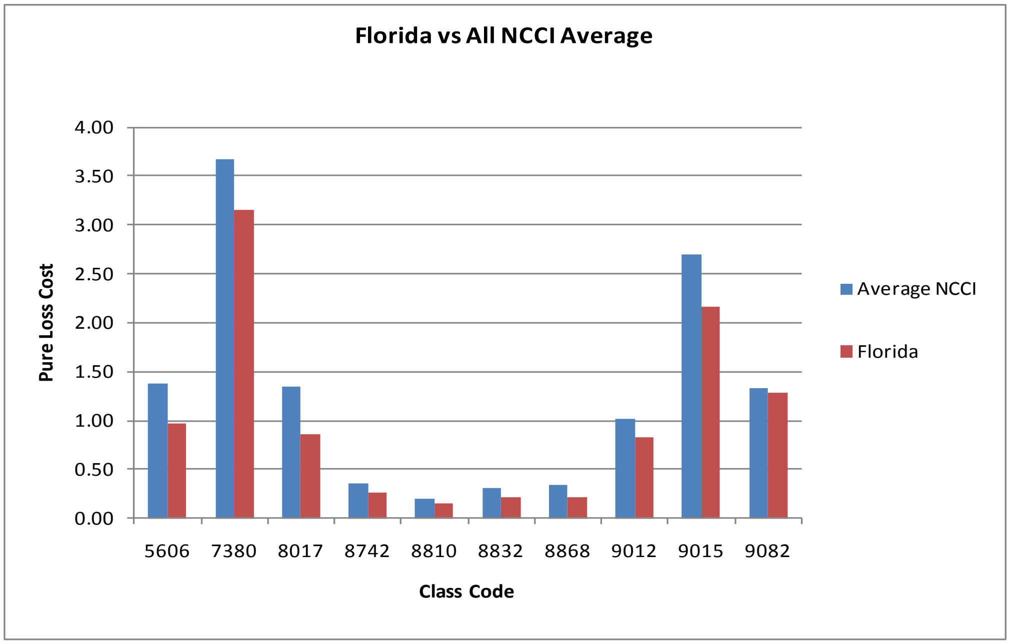
Class Code	Description	Avg. NCCI	FL	2009 FL Rank
8017	STORE: RETAIL NOC	1.34	0.86	4
8033	STORE: MEAT, GROCERY AND PROVISION STORES COMBINED-RETAIL NOC	1.83	1.42	12
8380	AUTOMOBILE SERVICE OR REPAIR CENTER & DRIVERS	2.39	1.68	12
8742	SALESPERSONS OR COLLECTORS-OUTSIDE	0.36	0.26	11
8810	CLERICAL OFFICE EMPLOYEES NOC	0.21	0.15	7
8820	ATTORNEY-ALL EMPLOYEES & CLERICAL, MESSENGERS, DRIVERS	0.18	0.1	5
8832	PHYSICIAN & CLERICAL	0.31	0.22	8
8833	HOSPITAL: PROFESSIONAL EMPLOYEES	1.01	0.64	5
8868	COLLEGE: PROFESSIONAL EMPLOYEES & CLERICAL	0.35	0.22	7
9082	RESTAURANT NOC	1.34	1.28	18

Graphically, these data show that in all cases, Florida's loss cost is below the class average:



When the largest class codes are defined by policy count, the results are largely the same (although the actual classes are somewhat different):

Comparative Pure Loss Cost: Largest Class Codes by Policy Count				
Class Code	**Description**	**Avg. NCCI**	**FL**	**2009 FL Rank**
5606	CONTRACTOR--PROJECT MANAGER, CONSTRUCTION EXECUTIVE, CONSTRUCTION MANAGER OR CONSTRUCTION SUPERINTENDENT	1.37	0.97	9
7380	DRIVERS, CHAUFFEURS, MESSENGERS AND THEIR HELPERS NOC-COMMERCIAL	3.67	3.15	14
8017	STORE: RETAIL NOC	1.34	0.86	4
8742	SALESPERSONS OR COLLECTORS-OUTSIDE	0.36	0.26	11
8810	CLERICAL OFFICE EMPLOYEES NOC	0.21	0.15	7
8832	PHYSICIAN & CLERICAL	0.31	0.22	8
8868	COLLEGE: PROFESSIONAL EMPLOYEES & CLERICAL	0.35	0.22	7
9012	BUILDINGS-OPERATION BY OWNER, LESSEE, OR REAL ESTATE MANAGEMENT FIRM: PROF. EMPLOYEES, PROPERTY MANAGERS AND LEASING AGENTS & CLERICAL, SALESPERSONS	1.01	0.83	14
9015	BUILDINGS - OPERATION BY OWNER OR LESSEE OR REAL ESTATE MANAGEMENT FIRM: ALL OTHER EMPLOYEES	2.70	2.16	9
9082	RESTAURANT NOC	1.34	1.28	18



Using this definition of size, the loss cost is below the class average in Florida.
A more detailed presentation of the class codes and pure loss costs by state can be found in Appendix D.

Florida Workers' Compensation Joint Underwriting Association

One of the most significant indicators of an availability problem in an insurance market is the size of the residual market mechanism. In Florida, the Florida Workers' Compensation Joint Underwriting Association, Inc. (FWCJUA) is the market of last resort. Only employers that cannot find coverage in the voluntary market are eligible for coverage in the FWCJUA. Thus, the size of the FWCJUA is a measure of availability of coverage in the voluntary market.

The Florida Workers' Compensation Insurance Plan (FWCIP) was the residual market for Florida until the FWCJUA was created on January 1, 1994. All insurance companies writing workers' compensation in Florida funded the FWCIP. If there was a deficit in the FWCIP, then those workers' compensation carriers were assessed to cover the deficit. In 1993, the FWCIP issued 48,430 policies with written premiums of $328 million. The FWCJUA in contrast has varied from 5,434 policies to 1,721 policies, with written premium varying from $77.5 million to $6.4 million. At the end of October 2010, the FWCJUA had 746 policies on its book and with corresponding premiums of $5.5million. The FWCJUA's written premium as a percent of total market has not exceeded 2% since 1995 and has been below 1% for most years.

The rate differential for FWCJUA versus the voluntary market rates has varied from 1.25 to 3.278 and was 1.429 prior to the reforms. There are surcharges in addition to the rate differential that affect the total premium paid by FWCJUA policyholders. There was a 99% surcharge applied to Sub-plan "C" premiums in excess of $2,500, an Assigned Risk Adjustment Program (commonly known as, "ARAP") surcharge for experience rated policies and a $475 flat surcharge added to every policy. The creation of Tiers 1, 2 and 3 by House Bill 1251 has resulted in a restructuring of the rates and surcharges used by the FWCJUA. Tier 1 is for employers with good loss experience; Tier 2 is for employers with moderate loss experience and non-rated new employers and Tier 3 is for employers not eligible for Tiers 1 or 2. Specific eligibility requirements can be obtained from the FWCJUA.

As of January 1, 2011, the premium for Tier 1 is 10% above the voluntary rates, Tier 2 is 109% above voluntary and Tier 3 is 109% above (2.09 times the voluntary rates), plus the ARAP surcharge applies for Tier 3. Additionally, all three tiers have a flat surcharge of $475. Tier 3 policyholders have a burden that Tiers 1 and 2 do not have. Tier 3 policies are assessable if premiums are not sufficient to cover losses and expenses.

It is unrealistic to expect that an actuary's best estimate, which is a prediction of future contingent events, will always coincide with future results. It is understood and usually explicitly acknowledged that the results for a particular year can be higher or lower than the actuary's estimate. The consequences of the results being higher or lower than the estimate affect the actuary's judgment and ultimate selections.

In a situation with substantial financial resources, it may be acceptable for the actuary's estimate to be high half of the time and low half of the time, as long as over time the predictions coincide with the average result. In other words, if there is a billion dollars in surplus, the company may not be concerned if the actuary's estimate is $50 million high or low in a particular year as long as it balances over a number of years.

If, however, there is only $10 million in surplus, the company cannot afford for the estimate to be $10 million lower than the estimate because they will be bankrupt. In this latter situation the consequences of being low are more important than the consequences of being high and this will impact the degree of conservatism that is appropriate in the actuary's selection.

The FWCJUA has been in a situation where the consequences of reserving too low or having rates that are too low (i.e. retroactive assessments to policyholders) have been greater than the consequences of reserves being too high or rates too high. If the rates are too high, there may be some complaints from policyholders and others (and there could be federal income taxes that have to be paid) but, if there are assessments due to the rates being too low, every policyholder is affected, even those whose policy expired. At the extreme, some of the policyholders could face severe financial distress or even be put out of business as a result of the assessment.

As a result of these circumstances, the degree of conservatism used in determining FWCJUA rates and surcharges has contributed to the level of rates needed. The main contributor to the FWCJUA rates, however, has been the level of expenses and losses incurred. Both of these were adversely impacted when the volume of FWCJUA business decreased in the late 1990s. As a result of all these factors and others, the FWCJUA rates have been very high in comparison to the residual markets in other states.

Currently, the Tier 1 rates for most employers are more affordable than the previous sub-plans A, B and C. However, Tier 2 and Tier 3 rates remain very high compared to the residual market in other states.

Having the goal of a small residual market is desirable, but it needs to be balanced with having an affordable residual market. The FWCJUA was very small in comparison to the total voluntary market from 1997 through 2006. This occurred during a period when the FWCJUA rates were not very affordable to many employers and the voluntary market was very competitive. The high premiums in the FWCJUA discouraged many employers from even applying to the FWCJUA. These employers decided to close their business, go without coverage (which may be unlawful), or sought the services of a Professional Employer Organization (PEO). Coupled with a very competitive market by insurers who aggressively sought new policyholders, this created an extremely small residual market. Ultimately, availability should not be an issue as coverage can be found in either the voluntary market or the FWCJUA, although affordability may well remain an issue for employers utilizing the FWCJUA.

Composition of the Buyer

Much of the analysis of the workers' compensation market, owing to a lack of more detailed data, is done at a high level by the insurer or in aggregate. The reality is that the workers' compensation market is segmented based on a number of characteristics, such as size of employer, type of industry, past experience of the employer or the lack of experience. The market for large employers versus small employers can be markedly different. The market for construction risks is different from employers with office workers. New businesses typically have trouble obtaining coverage due to the lack of historical experience that can be a measure of not only the insurance exposure but also the credit worthiness of the insured.

The majority of complaints about not being able to get coverage in the voluntary market come from small employers, new businesses and construction employers. Employers with a combination of these characteristics are especially difficult to place in the voluntary market. In some cases, coverage is related to the availability of agents in the local area and the number of insurers the local agents represent.

The DFS Division of Workers' Compensation conducts random sweeps at construction sites to ensure compliance with workers' compensation laws. In Fiscal Year 2009-2010 the Bureau of Compliance within the DFS' Division of Workers' Compensation issued almost 2,214 stop-work orders to companies that were not carrying insurance for all of their workers. As a further result of their efforts, an additional 8,352 new employees received coverage under Florida's workers' compensation law adding over $5.0 million to the premium base.

Professional Employee Organizations (PEOs) have been a part of the Florida workers' compensation market since the early 1990s. PEOs have had an erratic history of being able to obtain coverage in the workers' compensation insurance market.

Insurers have historically been reluctant to write workers' compensation coverage due to the risks inherent with PEO coverage (*Workers' Compensation Large Deductible Study*, National Association of Insurance Commissioners/ International Association of Industrial Accident Boards and Commissions Joint Working Group, March 2006). Some PEOs have adapted to this changing market and some have formed their own insurance company. PEOs have been a source of workers' compensation coverage for many employers in Florida that could not obtain coverage in the voluntary market, particularly small employers. When the premiums for the FWCJUA have been deemed too high by employers, the PEO market has been the only available option for many employers who want to remain in business and comply with the law. A survey, conducted by the Florida Association of Professional Employment Organizations in 2010 found that they provided more than 69,000 companies with nearly 900,000 work-site employees, representing a payroll in excess of $25 billion.[25]

[25] The Florida Association of Professional Employer Organizations (FAPEO) 2010 Census Brochure

Market Structure, Conduct and Performance to Promote Competition

The previous sections of this report do not suggest any obvious impediments to a workers' compensation market that has been found to be reasonably competitive. This section concentrates on the ability of the market to promote competition.

Mandatory Rating Plans

Before discussing the methods that workers' compensation insurers compete in the marketplace, it is useful to summarize the rating and premium pricing variations that result from the mandatory rating plans currently in effect. The following rating plans are required of all insurers in the state of Florida:

- Experience Rating Plan – This plan recognizes differences between individual employers by comparing the actual experience of an individual employer with the average expected experience of employers in the same classification. The plan produces an experience modification factor that may increase or decrease premiums. An employer is eligible for this program if the average annual premium is at least $5,000.
- Premium Discounts by Size of Policy – The premium discount plan adjusts the employer's premium to reflect the relative expense of servicing large premium policies as a percent of premium is less than that for small premium policies. For example, the policy issuance costs for a $200,000 policy may be higher than those for a $20,000 policy, but the cost are not ten times as high.
- Drug-Free Workplace Premium Credit – A 5 percent premium credit provided to employers that certify the establishment of a drug-free workplace program.
- Employer Safety Premium Credit – A 2 percent premium credit provided to employers that certify the establishment of a safety program.
- Florida Contracting Classification Premium Adjustment Program - A premium credit is provided for policies with one or more contracting classifications that pay above average hourly wages. The credit amount increases as the average wage paid increases. The credit is calculated based on payroll and hours worked information submitted by the employer to NCCI.
- Small Deductibles - For a reduced premium, the employer agrees to reimburse the insurer for each claim up to the deductible amount and the carrier covers benefits for each claim above the deductible amount. Small deductibles range from $500 to $2,500 and are required by Section 440.38(5), Florida Statutes. An insurer may refuse to issue a policy with a deductible based on financial stability of employer.
- Coinsurance - For a reduced premium, the employer agrees to reimburse the insurer 20 percent of each claim up to $21,000. This option is required by Section 440.38(5), Florida Statutes. An insurer may refuse to issue a policy with a coinsurance amount based on the financial stability of the employer.

Optional Plans Used by Insurers to Compete Based on Price

Insurers use the following plans to compete on price:

- Policyholder Dividends - Insurers reward their policyholders by returning some of their profit at the expiration of the policy by issuing policyholder dividends, which may be based on the policyholder's experience, the carrier's experience, and other factors.
- Deviations –Section 627.211, Florida Statutes, allows insurers to file a uniform percentage increase or decrease that is to be applied to all rates an insurer charges or to rates for a particular class or group of classes of insurance.
- Intermediate Deductibles - For a reduced premium, the employer agrees to reimburse the insurer for each claim up to the deductible amount and the carrier covers the amount of the claim above the deductible amount. Intermediate deductibles range from $5,000 to $75,000.
- Large Deductibles – Large deductible policies operate similarly to the small and intermediate deductible, but have a deductible amount of $100,000 and above. In order to qualify for the large deductible program, an employer must have standard premium of at least $500,000.
- Consent to Rate – The insurer and employer agree to a rate in excess of the approved rate. The insurer must limit this option to no more than 10 percent of policies written or renewed in each calendar year.
- Retrospective Rating Plans – The final premium paid by the employer is based on the actual loss experience of the employer during the policy, plus insurer expenses and an insurance charge. If the employer controls the amount of claims, they pay lower premiums. Before there were large deductible programs, retrospective rating plans were the dominant rating plan for large employers.\
- Waiver of Subrogation - For an additional premium, the insurer may waive its right of recovery against specifically named parties liable for injury covered by the policy.

Non-Price Competition

In addition, insurers compete in ways unrelated to the determination of premium such as:

- Offering premium payment plans that vary the amount of money paid initially and through installments;
- Demonstrating the availability and effectiveness of specialized loss control;
- Demonstrating the effectiveness of their claims handling including fraud detection;
- Paying higher agent commissions or providing other incentive programs, and/or;
- Emphasizing policyholder service in auditing, policy issuance or certificates of insurance.

Deviations

In the mid 1980's, the use of deviations as a means of competing was commonplace. From 1983 to 1985 over 40 percent of the market was written at deviated rates. However, by 1989 only 9 percent of the market was written at deviated rates. After the two year legislatively required moratorium (1990 and 1991) on deviations, the use of deviations has ceased to be a meaningful factor in the workers' compensation marketplace in Florida.

Despite the changes in Section 627.211, Florida Statutes, made by chapter law 2004-82 (Senate Bill 1926) to allow for easier approval of deviations, only two insurers have been approved for a new deviation since the law became effective on July 1, 2004 and one of these was the transfer of an existing deviation. OIR has disapproved five deviations since 2004 for lack of justification. One insurer has renewed its prior deviation, which means there are currently only three insurance companies with a deviation in Florida (the average deviation is downward 10 percent).

Large Deductibles

In the early 1990's, insurers approached the Department of Insurance about filing a rating plan for large employers (defined as having $500,000 in standard premium) that would be more flexible in how the premium would be determined. The justification for the flexibility would be based on the following general concepts:

- The rating plan would be used only for very large employers. These employers would generally be eligible to be individually self-insured.
- Rating is similar to rating for excess insurance that is purchased by individual self-insureds.
- The minimum deductible is $100,000 and could be in the millions. Thus, the employer will be responsible for the vast majority of claims.

The Department ultimately agreed to these type plans with restrictions that were incorporated in Administrative Rule 69O-189.006 (formerly 4-189.006).

As large deductible programs have been implemented, there has been a dramatic shift in premiums. The typical large deductible policy will have a deductible credit that can range from 30 percent to 90 percent. Thus, the premiums paid by employers and reported by insurers will be a fraction of premiums paid for other rating plans. This means that premiums in the annual statement and premiums reported for assessments and taxes are much lower than they were previously.

As the volume of large deductible policies written in Florida has increased, the effect has been to lower the base for assessment and taxes such that Section 440.51(1) (b), Florida Statutes, have been revised to require premiums to be reported without the deductible credit.

An ancillary effect of large deductibles has been the movement for very large employers to cease being individually self-insured and to buy an insurance policy from an insurance company with a large deductible program.

Conclusion

Based on the number of entities and market shares of actively writing companies in the market, the number of entities entering and exiting the market and the financial performance of the entities in the market, Florida's workers' compensation market can readily be characterized as a competitive market.

Availability does not appear to be a significant concern in the aggregate, although it does appear that small firms, new firms, and construction firms may face some market shortfalls in the voluntary market. The residual market is small, suggesting that the voluntary market is absorbing the vast majority of demand. While not without risk, the growth of the use of PEOs among smaller employers has, as well, helped availability by making coverage affordable.

For an employer, availability is not particularly important if the coverage is not affordable. In the voluntary market, rates have declined by nearly over 61.9 percent since reform legislation was passed.

OIR Certification of Compliance with Section 627.096, Florida Statutes

Section 627.096, Florida Statutes, was created in 1979 as part of the “wage loss” reform of the workers’ compensation law. This statute has three basic requirements as it pertains to this report:

1. An investigation and study of all insurers authorized to write workers’ compensation in Florida. The OIR has accomplished this objective by its thorough review of the quality and integrity of the data submitted in the most recent National Council on Compensation Insurance (NCCI) filing.

2. A study of the data, statistics or other information to assist and advise the OIR in its review of filings made by or on behalf of workers’ compensation insurers. Also there are public hearings regarding the NCCI filing which further allow an opportunity for third parties to register their opinions and input.

3. The statute gives the Financial Services Commission the authority to require all insurers to submit data to OIR. The NCCI has been collecting workers’ compensation data in Florida for more than 50 years; therefore, the OIR has contracted with NCCI to perform these statistical services for the state of Florida.

-- APPENDIX A –

2009 Workers' Compensation Premium Written by State

2009 Rank	2008 Rank	State	Written Premium (in millions)
1	1	California	$6,903.35
2	2	New York	$3,452.57
3	3	Illinois	$2,351.06
4	4	Pennsylvania	$2,219.49
5	6	Texas	$2,206.90
6	7	New Jersey	$1,780.54
7	5	**Florida**	$1,706.53
8	8	Wisconsin	$1,569.11
9	9	North Carolina	$1,162.99
10	10	Georgia	$1,044.00
11	11	Michigan	$870.49
12	15	Massachusetts	$814.96
13	17	Virginia	$788.47
14	16	Louisiana	$752.21
15	12	Missouri	$744.10
16	19	Minnesota	$733.44
17	13	Tennessee	$710.54
18	14	Maryland	$705.50
19	18	Colorado	$666.62
20	26	Arizona	$628.00
21	20	Indiana	$622.37
22	24	Connecticut	$597.90
23	21	South Carolina	$597.78
24	22	Oregon	$554.65
25	25	Kentucky	$540.36
26	35	Iowa	$536.36
27	27	Oklahoma	$487.84
28	29	Kansas	$413.16
29	28	West Virginia	$406.35
30	30	Utah	$349.17
31	32	Alabama	$319.87
32	31	Nebraska	$316.23

2009 Rank	2008 Rank	State	Written Premium (in millions)
33	33	Nevada	$310.73
34	34	Mississippi	$294.34
35	35	Idaho	$275.80
36	36	Alaska	$256.19
37	37	New Mexico	$232.12
38	38	Arkansas	$225.26
39	39	New Hampshire	$223.23
40	41	Maine	$201.82
41	40	Hawaii	$189.94
42	43	Rhode Island	$158.03
43	44	Vermont	$150.78
44	46	South Dakota	$136.70
45	42	Delaware	$136.21
46	45	District of Columbia	$133.24
47	47	Montana	$118.61
***Source: 2009 NAIC Annual Statements**			
(Companies with Exclusive state funds were not included.)			

-- APPENDIX B –

2009 Number of Entities Writing Workers' Compensation by State

2009 Rank	2008 Rank	State	# of Entities
1	1	Illinois	311
2	4	Pennsylvania	305
3	2	Tennessee	305
4	3	Georgia	303
5	5	Indiana	295
6	7	Virginia	292
7	8	North Carolina	276
8	6	Texas	268
9	10	Iowa	266
10	13	Maryland	263
11	12	Missouri	263
12	14	South Carolina	263
13	11	Wisconsin	263
14	9	Michigan	259
15	19	**Florida**	**255**
16	15	Minnesota	255
17	22	Kentucky	252
18	20	Alabama	248
19	18	New Jersey	245
20	16	Kansas	244
21	17	New York	244
22	21	Arkansas	243
23	27	Arizona	241
24	24	Nebraska	234
25	23	Mississippi	233
26	26	Colorado	226
27	25	Oklahoma	226
28	30	Connecticut	219
29	29	Massachusetts	217
30	35	Utah	214
31	28	California	212
32	34	South Dakota	212
33	32	Delaware	211
34	33	New Mexico	208
35	38	District of Columbia	206

2009 Rank	2008 Rank	State	# of Entities
36	37	Nevada	206
37	31	Louisiana	205
38	36	New Hampshire	197
39	39	Oregon	186
40	43	Montana	174
41	41	Idaho	170
42	40	Vermont	169
43	42	Rhode Island	165
44	45	West Virginia	162
45	44	Maine	148
46	47	Hawaii	146
47	46	Alaska	134

-- APPENDIX C –

2009 HHI Index Ranking Market Competitiveness

"Competitive Markets"

2009 Rank	2008 Rank	State	HHI	2009 Rank	2008 Rank	State	HHI
1	1	Tennessee	121	19	26	Massachusetts	226
2	4	Indiana	124	20	16	Wisconsin	240
3	6	Illinois	131	21	20	DC	264
4	5	Georgia	134	22	23	South Dakota	279
5	2	Virginia	138	23	21	Vermont	281
6	10	North Carolina	159	24	22	Mississippi	285
7	7	Nebraska	166	25	28	Nevada	288
8	11	Connecticut	171	26	27	Michigan	303
9	9	Delaware	181	27	24	Missouri	313
10	14	Kansas	181	28	25	Florida	346
11	8	South Carolina	181	29	29	New Mexico	436
12	12	Arkansas	187	30	31	California	470
13	13	Iowa	193	31	30	New Jersey	492
14	3	Pennsylvania	195	32	32	Hawaii	603
15	19	New Hampshire	201	33	34	Maryland	608
16	17	Oklahoma	202	34	33	Kentucky	658
17	15	Minnesota	205	35	35	Louisiana	848
18	18	Alabama	223	36	36	Texas	955

"Moderately Concentrated Markets"

2009 Rank	2008 Rank	State	HHI	2009 Rank	2008 Rank	State	HHI
37	38	Montana	1020	39	41	Arizona	1123
38	37	Alaska	1119	40	40	New York	1624

"Highly Concentrated Markets"

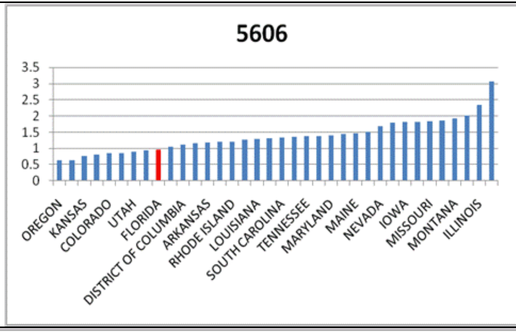
2009 Rank	2008 Rank	State	HHI	2009 Rank	2008 Rank	State	HHI
41	39	Guam	2145	46	47	Rhode Island	3492
42	42	Utah	2562	47	46	Maine	3907
43	43	Colorado	2903	48	48	U.S. Virgin Islands	4853
44	45	Idaho	3416	49	50	West Virginia	5809
45	44	Oregon	3442	50	49	Northern Mariana Islands	6440

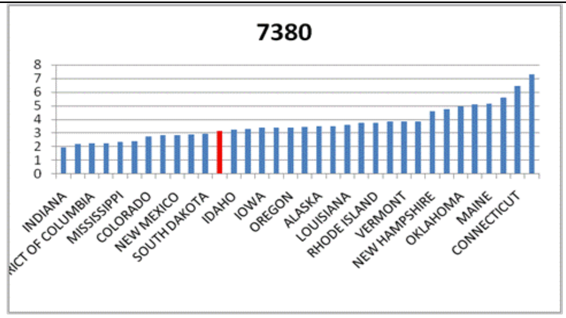
***Source: 2009 NAIC Annual Statements; HHI Calculations Made by the Florida Office of Insurance Regulation. Companies with exclusive state funds were removed from this analysis.**

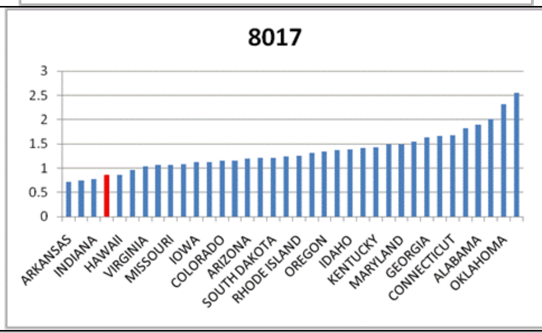
-- APPENDIX D –

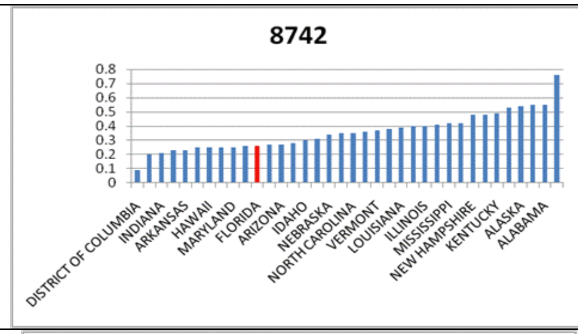
2009 Comparative Loss Cost by Class Code

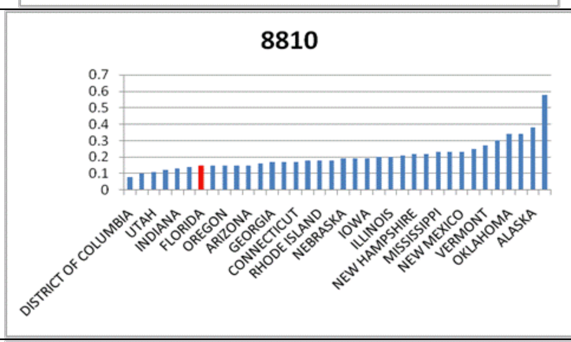
2009 Comparative Loss Cost by Class Code
By Policy Count (FL is in red)

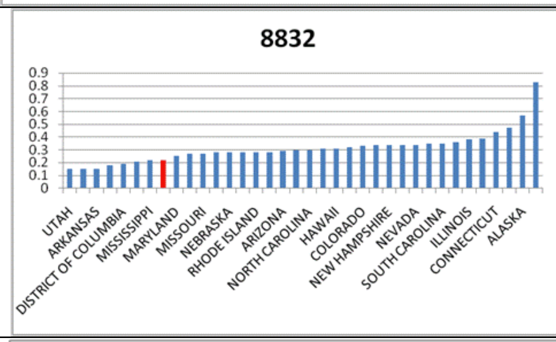


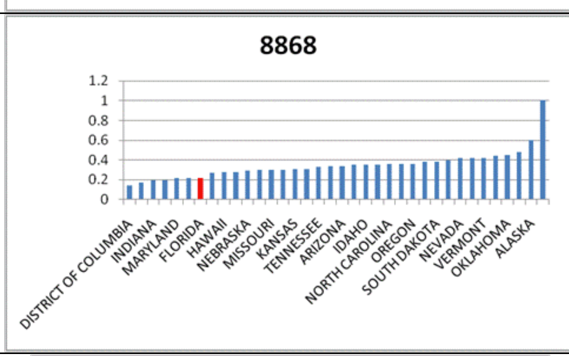


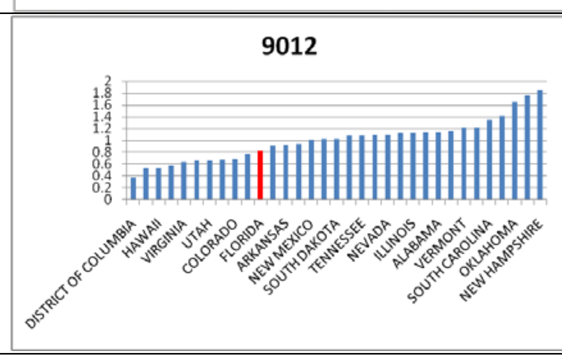


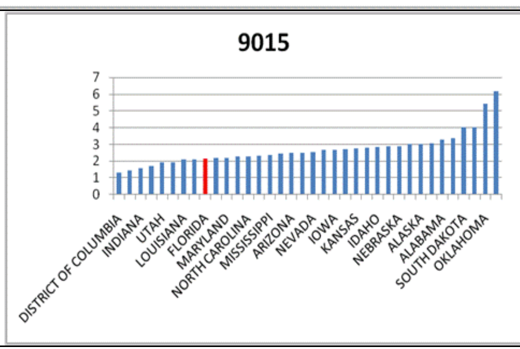


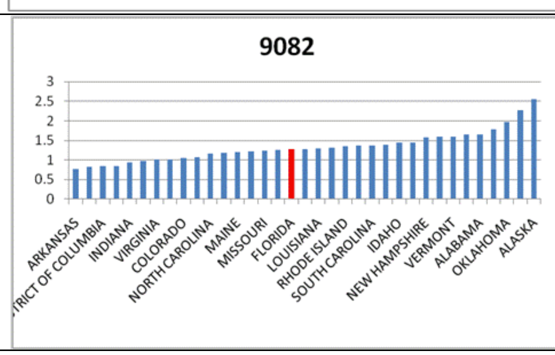




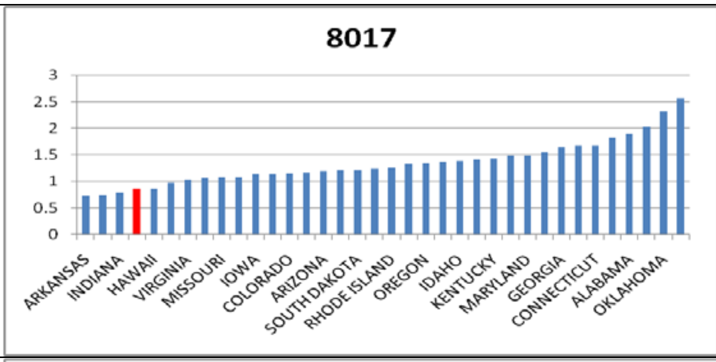


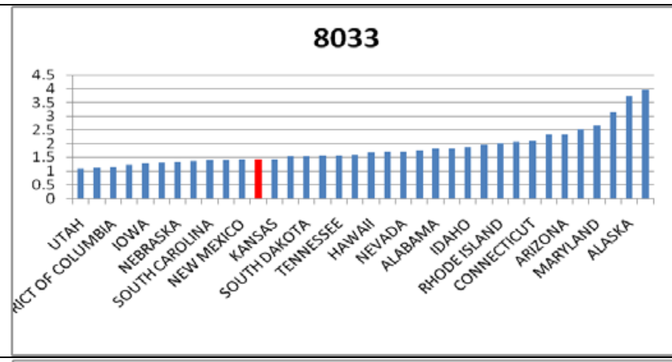


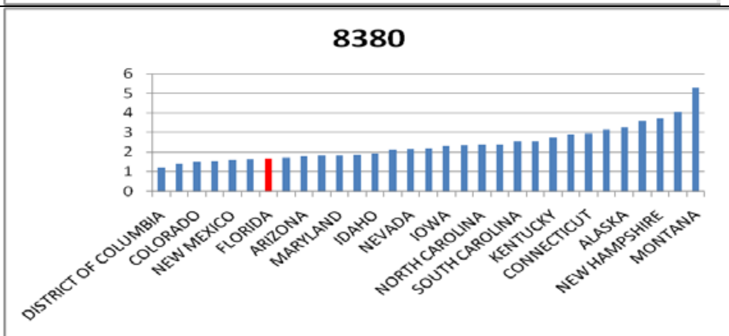


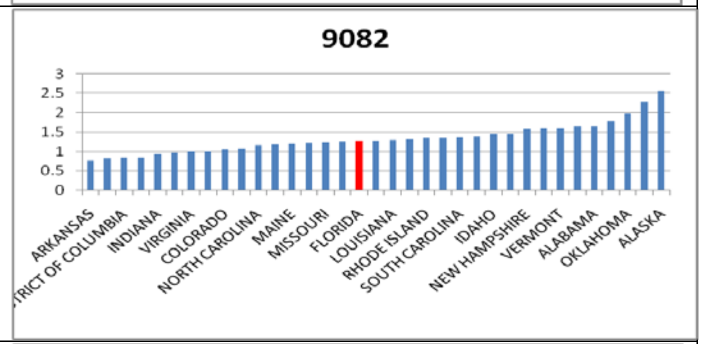


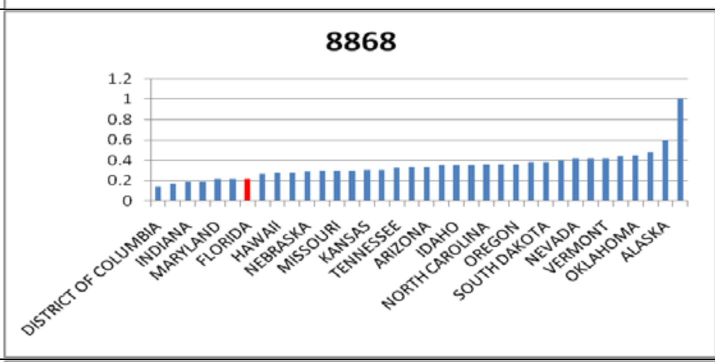
2009 Comparative Loss Cost by Class Code
By Exposure (FL is in red)

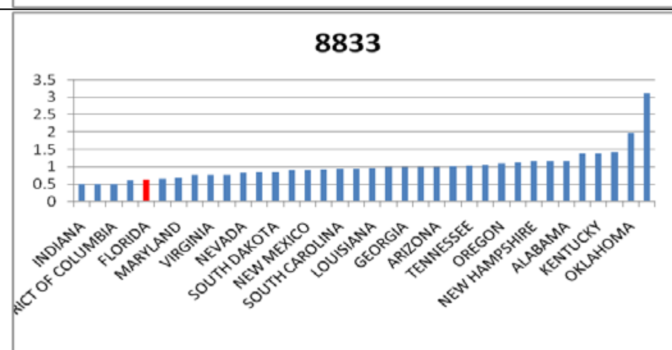


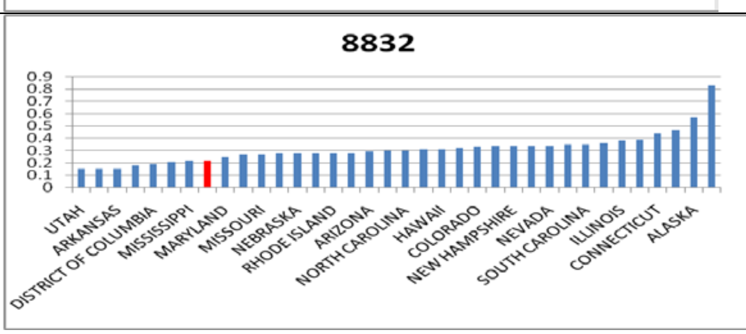


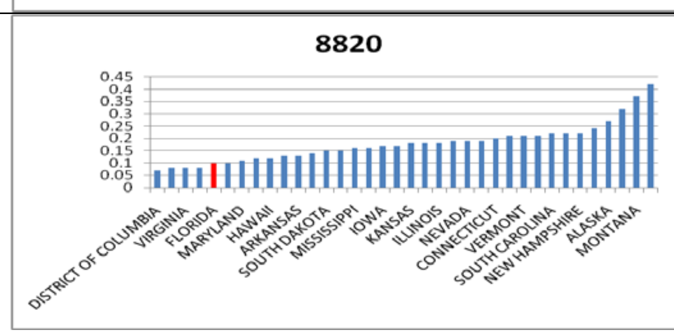


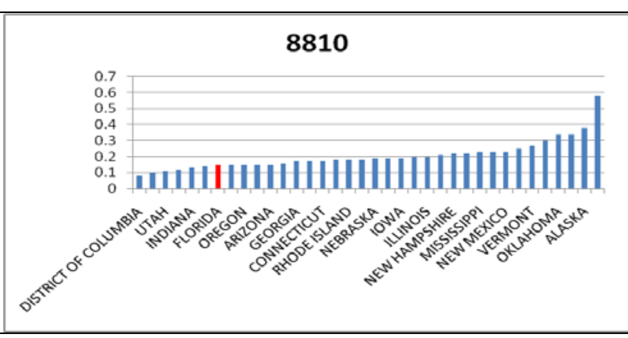


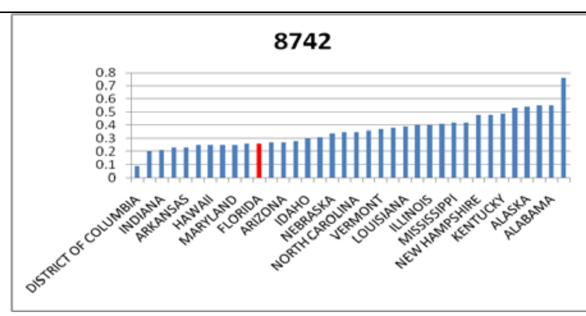












Class Code	Class Code Description
5606	Contractor -Project Manager, Construction Executive, Construction Manager or Construction Superintendent
7380	Drivers, Chauffeurs, Messengers And Their Helpers National Occupational Classification (NOC)-Commercial
8017	Store: Retail NOC
8033	Store: Meat, Grocery And Provision Stores Combined-Retail NOC
8380	Automobile Service or Repair Center and Drivers
8742	Salespersons or Collectors-Outside
8810	Clerical Office Employees NOC
8820	Attorney-All Employees and Clerical, Messengers, Drivers
8832	Physician and Clerical
8833	Hospital: Professional Employees
8868	College: Professional Employees and Clerical
9012	Buildings-Operation By Owner, Lessee, Or Real Estate Management Firm: Prof. Employees, Property Managers And Leasing Agents & Clerical, Salespersons
9015	Buildings - Operation By Owner Or Lessee Or Real Estate Management Firm: All Other Employees
9082	Restaurant NOC