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2022 Insurance Regulation Report Card

By Jerry Theodorou

An open, free insurance market maximizes the effectiveness of competition and best serves consumers.

Executive Summary

We are pleased to present the 10th edition of R Street's Insurance Regulation Report Card, which analyzes and evaluates the effectiveness of U.S. insurance regulation of property and casualty insurance. The first iteration of this report was published in June 2012, and this 2022 edition largely follows the format of prior reports.[1] It begins with a brief introduction on the current landscape of U.S. insurance regulation; reviews recent, relevant federal and state-based regulatory changes; presents a detailed evaluation of the effectiveness of each state's regulation of insurance in seven key categories; and synthesizes those category evaluations by offering a "report card" grade for each state for analysis and comparison purposes.

This report draws on 2021 year-end statutory insurance financial statistics and the most recent datasets available for non-financial information. Sources include data and reports from the National Association of Insurance Commissioners (NAIC), S&P Global Market Intelligence, National Conference of State Legislatures, R Street analyses and others, all of which were accessed through Sept. 30, 2022.

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1. R.J. Lehmann, "Insurance Regulatory Report Card," *R Street Policy Study* No. 1, June 2012. https://www.rstreet.org/wp-content/uploads/2018/04/2012-Insurance-Regulation-Report-Card1-1.pdf.

In this report, we seek to shed light on the same three foundational issues we have focused on in past iterations of this report card:

- How free are consumers to choose the insurance products they want?
- How free are insurers to provide the insurance products consumers want?
- How effectively are states discharging their duties to monitor insurer solvency and foster competitive, private insurance markets?

Introduction

The insurance industry, though simple in its concept (i.e., the premiums of the many pay for the losses of the few) is remarkably complex in its execution. To succeed in the business, insurers must master a thicket of risk management, customer service, distribution, legal, accounting, reporting, compliance, regulatory and investment issues.

The insurance market is also the largest and most significant portion of the financial services sector to be regulated almost entirely at the state level. Although state banking and securities regulations are preempted by federal law, Congress reserved the duty to oversee the "business of insurance" for the states as part of the 1945 McCarran-Ferguson Act.[2] This means that insurance regulation is largely shaped by state regulators, state law and state court decisions; it is influenced to a lesser degree by federal action.

The overriding objectives of insurance regulation are to:[3]

- Help maintain solvency of insurers operating in regulators' respective states
- Support the promulgation of reasonable rates that are not excessive, inadequate or unfairly discriminatory
- Review policy language
- License insurance companies
- Support the availability of insurance coverage
- Help consumers understand coverage, oversee sales practices and protect consumers against fraud and unscrupulous actors
- Collect insurance tax

Overall, states do an effective job of encouraging competition and ensuring solvency in insurance markets.

.33%

Approximately seven insolvencies occur per year, representing less than 0.33 percent of the 2,509 U.S. property and casualty insurers.

This report demonstrates that, overall, states do an effective job of encouraging competition and ensuring solvency in insurance markets. In most U.S. states, markets for "personal lines" policies—private passenger automobile, homeowners and farmowners insurance—do satisfy common statutory definitions of competitiveness, and insolvencies of these property and casualty insurers are relatively rare. One study found that, over the long term, approximately seven such insolvencies occur per year, representing less than 0.33 percent of the 2,509 U.S. property and casualty insurers.[4] Additionally, in the aftermath of the great 2008/2009 financial crisis, there were

2. Alan M. Anderson, "Insurance and Antitrust Law: The McCarran-Ferguson Act and Beyond," *William and Mary Law Review* 25:1 (October 1983), p. 81. http://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=2189&context=wmlr.
3. George E. Rejda and Michael J. McNamara, *Principles of Risk Management and Insurance, 14th edition* (Pearson, 2020). https://www.pearson.com/en-us/subject-catalog/p/principles-of-risk-management-and-insurance/P200000006028/9780135641293.
4. "Property-Casualty Insurance Company Insolvencies," American Academy of Actuaries, September 2010. https://www.actuary.org/sites/default/files/pdf/casualty/PC_Insurance_Company_Insolvencies_9_23_10.pdf; Alex Kopestinsky, "The State of Insurance Industry – 2022 (Statistics & Facts)," PolicyAdvice, Sept. 29, 2022. https://policyadvice.net/insurance/insights/insurance-industry/#:~:text=How%20many%20insurance%20companies%20are,and%20annuity%2C%20with%20852%20insurers.

17 failures in 2010 and 15 in 2011—approximately twice the long-term average.[5] In contrast, there were 92 bank failures in 2009, 157 in 2010 and 140 in 2011—more than 10 times insurers' long-term failure average.[6] And when insurance failures do occur, policyholders in nearly every state are protected by guaranty funds and regulators' intervention in rehabilitation and orderly run-off. Thus, the property and casualty insurance industry is exceptionally stable, especially compared to other financial services industries.

An open, free insurance market maximizes the effectiveness of competition and best serves consumers.

However, there are ways in which the welter of state-by-state regulations can lead to inefficiencies, as well as ways in which state policies discourage capital formation, thereby stifling competition and concentrating risk. Among these are regulators' authority to approve insurance rate changes. While explicit price and wage controls largely have fallen by the wayside in most industries outside of semi-monopolies such as utilities, pure rate regulation remains commonplace in insurance; some degree of rating and underwriting regulation persists in nearly all states.[7]

States' role in approving rates is a remnant of an earlier time when nearly all insurance rates and forms were established collectively by industry-owned rate bureaus because individual insurers did not have enough data to make credible actuarial projections. McCarran-Ferguson charged states with reviewing rates submitted by these bureaus to counter anticompetitive collusion. With the notable exception of North Carolina, rate bureaus no longer play a central role in personal lines markets. Many larger insurers establish rates using their own proprietary formulas rather than relying on rate bureau recommendations.

Additionally, in some cases, regulations may hinder the speed with which new products are brought to market. But innovative, new products could be more widely available if more states were to free their insurance markets by embracing regulatory modernization.

An open, free insurance market maximizes the effectiveness of competition and best serves consumers. We hope this report provides useful information that can help support the liberalization of the unnecessarily restrictive regulation of rates and policy wordings that hinder freer competition.

Recent Developments In Insurance Regulation

In 2021 and 2022, the insurance industry and its regulators grappled with new challenges, from COVID-19-related workers' compensation presumption laws to coverage gaps in business interruption policies and civil riots or protests in many major cities. A longer-term, and likely more pernicious development, was the proliferation of climate-change-induced extreme weather events, including raging wildfires, catastrophic torrential downpours, and severe droughts and heat waves. The industry is responding to these challenges with the introduction of new products and the entry of new capital providers, and it is important that insurance regulators be responsive and adjust to these changes as well.

5. "Insurance Markets: Impacts of and Regulatory Response to 2007-2009 Financial Crisis," Government Accountability Office, June 2013. https://www.gao.gov/assets/gao-13-583.pdf.
6. Matthew Goldberg, "List of failed banks: 2009–2022," Bankrate, July 11, 2022. https://www.bankrate.com/banking/list-of-failed-banks; "Bank Failures in Brief: Summary 2001 through 2022," Federal Deposit Insurance Corporation, Feb. 16, 2022. https://www.fdic.gov/bank/historical/bank.
7. "Commercial Insurance: Regulation," Insurance Information Institute, last accessed Oct. 10, 2022. https://www.iii.org/publications/commercial-insurance/how-it-functions/regulation; Gene Healy, "Remembering Nixon's wage and price controls," *Washington Examiner*, Aug. 15, 2011. http://www.washingtonexaminer.com/remembering-nixons-wage-and-price-controls/article/40706.

In this section, we present notable insurance-related developments that have occurred since the publication of the previous edition of this report in December 2020, starting with federal and national developments and then focusing on state-level changes.

Federal and National Developments

- **COVID-19**

As it did in our 2020 Insurance Regulation Report Card, COVID-19 continues to dominate insurance-related developments. According to one broker, insured losses from COVID-19 amounted to $44 billion.[8] Although this is lower than the initial estimates of $100 billion, COVID-19 still ranks as the third-costliest disaster for insurers, following Hurricane Katrina and the 9/11 terrorist attacks.[9] Business interruption legislative activity played out differently across states, as shown in the State-by-State Developments section of this report. In June 2022, the Supreme Court chose not to hear arguments for *Goodwill Industries v. Philadelphia Indemnity Insurance Co.* on their arguments for business interruption after all 12 of the regional Circuit Court of Appeals ruled against direct physical loss or damage to a business's property from the COVID-19 shutdowns.[10] This decision was similar to those in other circuit courts, which found that a covered loss required a "tangible dispossession of property."[11]

During the pandemic, many states deemed health care workers, first responders and food industry workers to be essential workers. Such workers who were diagnosed with COVID-19 were presumed to have contracted the virus on the job, which gave rise to debate about presumptions (i.e., What types of work can be presumed responsible for workers contracting the virus?). This affected the workers' compensation line because workers' compensation insurance provides coverage for occupational diseases, in addition to indemnity, medical and death benefits for occupational accidents. However, the number of COVID-19 workers' compensation cases was much lower than initially expected, and the workers' compensation line delivered profitable results in 2020 and 2021.

Also related to COVID-19, auto insurers returned between $8 and $10 billion in premium discounts because of the sharp reduction in vehicle miles traveled during the pandemic, which led to fewer road accidents and fewer claims.[12] Even with these discounts, consumer groups such as the Consumer Federation of America argued that the premium rebates were not enough in view of the profitability of the private passenger automobile line during the pandemic.[13] This led to class action lawsuits in various states, including Illinois, Arizona and California, that argued for "excessive insurance premiums" to be returned to customers.[14] However, in New York, a similar class action lawsuit was dismissed in June 2022 due to the premium rates being in compliance with the filed rate doctrine that was approved by the New York Department of Financial Services.[15]

8. "COVID-19 loss of $44 bln is 3rd largest catastrophe cost to insurers – Howden," *Reuters*, Jan. 4, 2022. https://www.reuters.com/markets/commodities/covid-19-loss-44-bln-is-3rd-largest-catastrophe-cost-insurers-howden-2022-01-04.
9. "Allianz Notes Rising Business Interruption Costs in Global Claims Report," *Insurance Journal*, July 22, 2022. https://www.insurancejournal.com/news/national/2022/07/22/676958.htm.
10. "U.S. Supreme Court Refuses to Hear COVID Business Interruption Case," *Insurance Journal*, June 22, 2022. https://www.insurancejournal.com/magazines/mag-features/2022/06/20/672218.htm.
11. Ibid.
12. Andrew G. Simpson, "Auto Insurers Offering $8-$10B in Discounts in Coronavirus Relief Effort; Updated List," *Insurance Journal*, April 13, 2020. https://www.insurancejournal.com/news/national/2020/04/13/564510.htm.
13. "Auto Insurance Refunds Needed as New Data Show Crashes Remain Well Below Normal Due to Pandemic; 23% Fewer Accidents in September and October," Consumer Federation of America, Dec. 22, 2020. https://consumerfed.org/press_release/auto-insurance-refunds-needed-as-new-data-show-crashes-remain-well-below-normal-due-to-pandemic-23-fewer-accidents-in-september-and-october.
14. "Auto Insurance Excessive COVID-19 Premiums Class Action," Stephan Zouras, LLP, Jan. 5, 2021. https://www.stephanzouras.com/cases/auto-insurance-lawsuits.
15. Dave LaChance, "Dismissal of class action rate suit against GEICO upheld in New York," Repairer Driven News, June 3, 2022. https://www.repairerdrivennews.com/2022/06/03/dismissal-of-class-action-rate-suit-against-geico-upheld-in-new-york.

- **Climate**

  Climate risk reporting requirements promulgated by the international Task Force on Climate-Related Financial Disclosures were adopted by insurance regulators in 15 states in 2022.[16] These affect nearly 400 insurance companies and 80 percent of the U.S. insurance market.[17] In addition, the Securities and Exchange Commission (SEC) proposed new rules for publicly traded investment companies that would potentially require enhanced disclosures for "advisers' incorporation of environmental, social, and governance (ESG) factors."[18] The Climate Risk Disclosure Act (H.R. 2570) introduced in Congress would require every public company to issue disclosures on emissions and the amount of owned and managed fuel-related assets.[19] As of this writing, H.R. 2570 had not passed either chamber of Congress.[20]

- **National Flood Insurance Program**

  The authorization of the National Flood Insurance Program (NFIP) expired in September 2022.[21] R Street testified before the U.S. Senate Committee on Banking, Housing & Urban Affairs in June 2022 in favor of long-term reauthorization.[22] On Sept. 30, 2022, President Joe Biden signed a continuing resolution passed by Congress extending the NFIP's authorization to Dec. 16, 2022.[23]

- **Insurance Business Transfers**

  Statutes allowing insurance business transfer transactions, such as loss portfolio transfers, were enacted in Arkansas, Connecticut, Georgia, Illinois, Iowa, Michigan, Nebraska, Oklahoma, Pennsylvania, Rhode Island and Vermont.[24]

- **Medical Billing**

  The federal No Surprises Act took effect in 2022. It stipulates that medical providers cannot bill patients for more than their in-network amount for emergency services or in-network care.[25] This impacts third-party bodily injury losses in personal and commercial liability policies.

- **Cyber Insurance**

  The NAIC reported a 74 percent increase in cyber insurance premium in 2021 from 2020, following a 29.1 percent increase in 2020 from the prior year.[26] The cyber insurance market is estimated to measure approximately $4.1 billion in aggregate industry premium.[27]

16. "U.S. Insurance Commissioners Endorse Internationally Recognized Climate Risk Disclosure Standard for Insurance Companies," National Association of Insurance Commissioners, April 8, 2022. https://content.naic.org/article/us-insurance-commissioners-endorse-internationally-recognized-climate-risk-disclosure-standard.
17. Ibid.
18. "SEC Proposes to Enhance Disclosures by Certain Investment Advisers and Investment Companies About ESG Investment Practices," U.S. Securities and Exchange Commission, May 25, 2022. https://www.sec.gov/news/press-release/2022-92.
19. Eversheds Sutherland, LLP, "The Task Force on Climate-related Financial Disclosures: Emerging climate change disclosure principles for the insurance industry," JD Supra, May 11, 2022. https://www.jdsupra.com/legalnews/the-task-force-on-climate-related-2645348.
20. "H.R.2570 - Climate Risk Disclosure Act of 2021," Congress.gov, May 20, 2021. https://www.congress.gov/bill/117th-congress/house-bill/2570.
21. FEMA, "Congressional Reauthorization for the National Flood Insurance Program," U.S. Department of Homeland Security, Oct. 2, 2022. https://www.fema.gov/flood-insurance/rules-legislation/congressional-reauthorization.
22. Jerry Theodorou, "Testimony of Jerry Theodorou, Senate Committee on Banking, Housing, and Urban Affairs, Reauthorization of the National Flood Insurance Program: Protecting Communities from Flood Risk," R Street Institute, June 16, 2022. https://www.banking.senate.gov/imo/media/doc/Theodorou%20testimony%206-16-22.pdf.
23. FEMA. https://www.fema.gov/flood-insurance/rules-legislation/congressional-reauthorization.
24. "Sidley Global Insurance Review," Sidley, April 2022. https://www.sidley.com/-/media/publications/sidley-global-insurance-review-2022.pdf?la=en.
25. "What You Should Know About Surprise Billing," National Association of Insurance Commissioners, July 11, 2022. https://content.naic.org/article/what-you-should-know-about-surprise-billing.
26. "Cyber Insurance Premium and Demand Surge After Boom of Deadly Cyberattacks," JD Supra, June 28, 2022. https://www.jdsupra.com/legalnews/cyber-insurance-premiums-and-demand-7763467.
27. "NAIC Report Show 2020 Premiums Grew 29.1% as Cyberthreats Rise," National Association of Insurance Commissioners, Nov. 8, 2021. https://content.naic.org/article/naic-report-show-2020-premiums-grew-291-cyberthreats-rise.

- **Data and Privacy**

  At the fall 2021 NAIC National Meeting, the Privacy Protections Working Group finalized its Report on Consumer Data Privacy Protections.[28] The report sought to provide recommendations on minimum consumer privacy protections for insurance and review consumer privacy protections that already existed under applicable state and federal laws.

- **Diversity, Equity and Inclusion**

  The NAIC Special Committee on Race and Insurance, established in July 2020, is continuing its charge to identify issues related to race, diversity and inclusion in the insurance sector, as well as insurance-sector practices that may disadvantage people of color and/or historically underrepresented groups.[29]

- **Federal Insurance Office (FIO) Annual Report**

  The U.S. Department of the Treasury's FIO issued its annual report in September 2021. The report presented data on the financial performance of the industry's 676 life and health insurers, 2,614 property and casualty insurers and 1,260 health insurers licensed in the United States in 2020.[30] The report showed total assets of the entire insurance industry in the United States amounting to approximately $11 trillion. The breakdown of the $11 trillion was $2.5 trillion at property and casualty insurers, $8 trillion at life/annuity companies and $500 billion at health/managed care insurers. The NAIC called attention to the decreased stock performance of property and casualty and life and health insurers in 2020 and reported that there were 17 insurance-related public equity offerings, valued at $5.5 billion.[31] In addition, the report identified 95 insurance mergers and acquisitions in 2020, with a total valuation of $13.4 billion.[32] The largest of these transactions from 2021 to 2022 was Berkshire Hathaway's $11.6-billion acquisition of Alleghany, which closed on Oct. 19, 2022.[33] Both property and casualty and life and health saw approximately 1 percent growth in net premiums despite the toll of COVID-19 shutdowns.[34] Of note, all of the data presented in FIO reports is available in other sources, which raises questions about the utility of and justification for FIO reports; R Street has explored this issue in a recent study.[35]

  The FIO has no regulatory authority. Its purpose is to "monitor" the insurance industry. There has been an on-again, off-again campaign to eliminate the FIO entirely.[36] The FIO abolition argument rests on the observation that the FIO was created as part of post-financial-crisis, Dodd-Frank financial industry reform. Its framers failed to recognize that, as indicated earlier in this report, not only was the insurance industry unshaken by the crisis, but—importantly—it also did not cause the crisis. Because the FIO was created on false assumptions, serious consideration ought to be given to its closure in the interest of reducing unnecessary, duplicative government.

28. Ibid.
29. "Sidley Global Insurance Review." https://www.sidley.com/-/media/publications/sidley-global-insurance-review-2022.pdf?la=en.
30. Federal Insurance Office, "Annual Report on the Insurance Industry," U.S. Department of the Treasury, September 2021. https://home.treasury.gov/system/files/311/FIO-2021-Annual-Report-Insurance-Industry.pdf.
31. Ibid, pp. viii.
32. Ibid.
33. Matt Sheehan, "Berkshire Hathaway completes Alleghany acquisition," Reinsurance News, Oct. 19, 2022. https://www.reinsurancene.ws/berkshire-hathaway-completes-alleghany-acquisition.
34. Ibid., pp. 9-27.
35. Jerry Theodorou, "The Federal Insurance Office: Looking Back, Looking Forward," *R Street Policy Study* No. 231, May 2021. https://www.rstreet.org/wp-content/uploads/2021/05/Corrected-Final-No-231.pdf.
36. Jon Gentile, "FIO Repeal Bill Introduced in House," PIA Advocacy Blog, July 30, 2021. https://piaadvocacy.com/2021/07/30/fio-repeal-bill-introduced-in-house.

State-by-State Developments

In this section, we identify select significant regulatory and external (i.e., non-insurance) developments from 2021 to 2022 that are impacting insurers in individual states.

- **Alabama**

  Mark Fowler was appointed as Alabama's Acting Commissioner by Gov. Kay Ivey July 1, 2022.[37] Fowler's appointment came after Jim Ridling's retirement.[38] Ridling's 14 years in the position made him the longest-serving appointed insurance commissioner in the United States according to the Alabama governor's office.[39]

- **Alaska**

  Following severe winter weather in January 2022, Alaska directed insurers to provide a minimum two-week grace period for premium payments from affected areas.[40]

- **Arkansas**

  In July 2022, Arkansas passed the Insurance Business Transfer Act.[41] This legislation followed similar legislation in Arizona, Oklahoma, Rhode Island and Vermont that allowed insurers to transfer a block of business to another insurance company in the state.[42] In addition, Arkansas's No Surprises Act became effective Jan. 1, 2022. This restricts out-of-pocket costs for out-of-network health care providers and requires emergency services to be covered, regardless of network.[43]

- **California**

  In the November 2022 election, incumbent Insurance Commissioner Ricardo Lara won against Republican Robert Howell, securing 57.9 percent of the vote.[44]

  In September 2022, Insurance Commissioner Lara submitted an insurance pricing regulation to the California Office of Administrative Law that would recognize and reward wildfire safety and mitigation efforts made by homeowners and businesses.[45]

  California enacted consumer protection laws effective July 2021 limiting insurers' ability to cancel, non-renew, limit or deny coverage for wildfire risk.[46] Consumers' right to sue their insurers was extended from one year to two years.

  In October 2022, Consumer Watchdog filed final briefs in its lawsuit against Insurance Commissioner Ricardo Lara and the Department of Insurance. The suit alleges that Lara and the Department failed to search for and produce

37. "Insurance Department Directory," National Association of Insurance Commissioners, last accessed Aug. 10, 2022. https://content.naic.org/sites/default/files/publication-ins-ou-insurance-directory.pdf.
38. Steve Hallo, "Alabama Gov. Ivey appoints Fowler acting insurance commissioner," PropertyCasualty360, July 6, 2022. https://www.propertycasualty360.com/2022/07/06/alabama-gov-ivey-appoints-fowler-acting-insurance-commissioner.
39. Ibid.
40. Department of Commerce, Community, and Economic Development, "Bulletin B22-02," The State of Alaska, Jan. 5, 2022. https://www.commerce.alaska.gov/web/Portals/11/Pub/B22-02.pdf.
41. "Arkansas Insurance Department Lauds New Insurance Business Transfer Law," Arkansas Insurance Department, July 8, 2022. https://www.insurance.arkansas.gov/news/2021/jul/08/arkansas-insurance-department-lauds-new-insurance-.
42. Allison Bell, "State Insurance Lawmakers Approve a Business Transfer Model," Think Advisor, April 6, 2022. https://www.thinkadvisor.com/2020/04/06/state-insurance-lawmakers-approve-a-business-transfer-model.
43. "New Law Protects Consumers from Surprise Medical Bills," Arkansas Insurance Department, Jan. 11, 2022. https://insurance.arkansas.gov/news/2022/jan/11/new-law-protects-consumers-surprise-medical-bills.
44. Jen Frost, "Insurance commissioner election results revealed," Insurance Business America, Nov. 9, 2022. https://www.insurancebusinessmag.com/us/news/breaking-news/insurance-commissioner-election-results-revealed-426978.aspx.
45. "Commissioner Lara submits first-in-nation wildfire safety regulation to drive down cost of insurance," California Department of Insurance, Sept. 7, 2022. http://www.insurance.ca.gov/0400-news/0100-press-releases/2022/release064-2022.cfm.
46. "Willkie Insurance Industry Review: Corporate and Risk Transactions, Regulation and Tax Developments," Willkie Farr & Gallagher LLP, February 2022. https://www.willkie.com/-/media/files/publications/2022/insurance_yir_2022.pdf.

records related to a pay-to-play scandal involving insurance companies with business pending before the agency.[47] In 2019, Commissioner Lara apologized that his campaign violated a promise to "refuse contributions from the insurance industry."[48]

A state of emergency was declared by Gov. Gavin Newsom on July 30, 2022, due to wildfires in and around Siskiyou County.[49] On Aug. 15, Commissioner Lara ordered that 8,500 homes would receive a one-year moratorium from insurance policy non-renewal or cancellation.[50] Lara placed a similar moratorium on coverage for 8,000 policyholders in Mariposa County.[51] He also established a moratorium for 85,000 policyholders in Santa Barbara and Monterey counties following the July 1 emergency declarations for the Alisal and Colorado wildfires.[52] The moratoriums stemmed from a 2018 law authored by Lara to provide coverage regardless of loss and Gavin Newsom's "Safer from Wildfires" framework.[53]

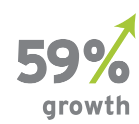
California was one of 14 states to propose COVID-19-driven legislation to require insurers to provide business interruption coverage even if the policy had a specific virus exclusion.[54] The coverage would be effective retroactively beginning March 4, 2020, and would create a "rebuttable presumption" in all commercial business interruption policies that COVID-19 was present and caused damage.[55] While not yet codified as of this writing, the California 2nd District Court of Appeal unanimously allowed a COVID-19 business interruption case to proceed.[56]

- **Colorado**

A January 2022 wildfire in Colorado was the most severe in the state's history. Insured losses from the wildfire were estimated to range between $500 million and $1 billion. It destroyed more than 1,100 homes and structures.[57]

- **Connecticut**

The passage of Connecticut H.B. 5506 in June 2022 brought changes to the state's growing captive insurance industry.[58] The bill expands the definition of a "foreign captive insurance company," changes financial exam requirements from every three to every five years, and lowers the capital and surplus requirements for most



47. "Final Briefs Filed in Lawsuit Against Insurance Commissioner Lara & Department of Insurance Over Pay-to-Play Records," Consumer Watchdog, Aug. 18, 2022. https://www.consumerwatchdog.org/insurance/final-briefs-filed-lawsuit-against-insurance-commissioner-lara-department-insurance-over; Jeff McDonald, Lobbyists Told State Insurance Chief They Represented Company At Center Of Campaign Scandal, New Filing Says," Consumer Watchdog, Jan. 17, 2022. https://consumerwatchdog.org/news-story/lobbyists-told-state-insurance-chief-they-represented-company-center-campaign-scandal.
48. John Huetter, "Calif. Commissioner Lara apologizes for campaign contributions, meetings," Repairer Driven News, Sept. 6, 2019. https://www.repairerdrivennews.com/2019/09/06/calif-commissioner-lara-apologizes-for-insurer-campaign-contributions-meetings.
49. "Governor Newsom Proclaims State of Emergency in Siskiyou County Due to McKinney and Other Fires," Office of Governor Gavin Newsom, July 30, 2022. https://www.gov.ca.gov/2022/07/30/governor-newsom-proclaims-state-of-emergency-in-siskiyou-county-due-to-mckinney-and-other-fires.
50. "California Insurance Commissioner Lara Protects Insurance Coverage for Siskiyou County Residents Following McKinney and China 2 Wildfires," *Sierra Sun Times*, Aug. 15, 2022. https://goldrushcam.com/sierrasuntimes/index.php/news/local-news/40228-california-insurance-commissioner-lara-protects-insurance-coverage-for-siskiyou-county-residents-following-mckinney-and-china-2-wildfires.
51. "Commissioner Lara protects insurance coverage for Mariposa County residents as Oak Fire continues" California Department of Insurance, Aug. 1, 2022. https://www.insurance.ca.gov/0400-news/0100-press-releases/2022.
52. "Commissioner Lara protects insurance coverage for over 85,000 Central Coast residents," California Department of Insurance, July 12, 2022. https://www.insurance.ca.gov/0400-news/0100-press-releases/2022/release051-2022.cfm.
53. "Commissioner Lara and state emergency agencies issue 'Safer from Wildfires' framework to protect existing homes and communities," California Department of Insurance, Feb. 14, 2022. https://www.insurance.ca.gov/0400-news/0100-press-releases/2022/release015-2022.cfm.
54. Jessie F. Beeber et al., "States Begin to Introduce Legislation: Business Interruption Policies Would Be Required to Cover COVID-19-Related Claims," Venable LLP, Aug. 4, 2020. https://www.venable.com/insights/publications/2020/04/states-begin-to-introduce-legislation-business; "Business Interruption Legislation," Wholesale & Specialty Insurance Association, Aug. 18, 2022. https://www.wsia.org/wcm/Legislative_Advocacy_Compliance___PAC/COVID-19/Business_Interruption_Legislation/wcm/Legislative_Advocacy___PAC/Business_Interruption_Legislation.aspx?hkey=ac65ce8a-5295-409d-ba17-f97d14f954a0#MI.
55. Beeber et al. https://www.venable.com/insights/publications/2020/04/states-begin-to-introduce-legislation-business.
56. "Watershed California Decision Finds for Policyholder in COVID-19 Business Interruption Appeal," *The National Law Review* XII:271 (July 15, 2022). https://www.natlawreview.com/article/watershed-california-decision-finds-policyholder-covid-19-business-interruption.
57. "Officials: Colorado Wildfire Caused $513 Million in Damage," *U.S. News,* Jan. 6, 2022. https://www.usnews.com/news/us/articles/2022-01-06/officials-colorado-wildfire-caused-513-million-in-damage.
58. "Connecticut Modifies Its Captive Insurance Laws," Locke Lord, June 22, 2022. https://www.lockelord.com/newsandevents/publications/2022/06/connecticut-modifies-its-captive-insurance-laws.

captives.[59] Connecticut had 59 percent growth in captive insurance companies in 2021, with 13 new captive insurers approved.[60]

- **Delaware**

Senate Bill 203, passed in February 2022, allows corporations to purchase directors and officers liability insurance through captive insurers.[61]

- **District of Columbia**

A proposed business interruption bill in the District allows COVID-19 losses to be covered claims for businesses with fewer than 100 full-time-equivalent employees. For a claim to be valid, the insurer must have written business interruption policies.[62] Businesses affected by 2020 civil-justice protests were similarly required to make claims based on coverage.[63]

- **Florida**

The Florida property (mainly homeowners) insurance market is in a state of severe crisis. The crisis is human-made and better characterized as a litigation crisis than an insurance crisis. Before Hurricane Ian in September 2022, the Sunshine State had not been hit by a hurricane since Michael in 2018, but in the two years before Ian, nine property insurance companies had ceased writing new business in Florida.[64] Additionally, as of Nov. 15, 2022, six more companies had declared insolvency.[65] Gulfstream, Avatar, Lighthouse, FedNat and Southern Fidelity were all declared insolvent, impacting over 230,000 policyholders.[66] Most recently, the publicly traded United Property & Casualty Insurance Company, Inc (UPC) announced that it was unable to secure reinsurance; that it filed plans to withdraw from Florida, Louisiana and Texas; and that it would soon file a withdrawal plan in New York.[67] UPC had approximately 180,000 policies in Florida.

The failures followed downgrades of the companies by rating agency Demotech.[68] Until recently, virtually all Florida insurers were given a Demotech "A" rating, where "A" curiously designates "exceptional." Numerous sources reported that, in a letter to the Federal Housing Finance Agency, Florida Chief Financial Officer Jimmy Patronis referred to Demotech as a "rogue agency" that has been empowered to "play havoc with the financial lives of millions of Floridians."[69]

American Traditions, Universal Property and Casualty, Progressive Home, Monarch, Heritage, Florida Farm Bureau, Centauri and Bankers have all limited the writing of new business in Florida.[70] In an attempt to reverse this trend, Florida passed SB-2D

59. Rebecca Delaney, "Connecticut announces captive legislative changes," *Captive Insurance Times*, June 20, 2022. https://www.captiveinsurancetimes.com/captiveinsurancenews/regulationarticle.php?article_id=7996&navigationaction=regulationnews&newssection=regulation.
60. "Connecticut Insurance Department Records 59% Growth in Captive Insurance Companies in 2021," State of Connecticut Insurance Department, Feb. 7, 2022. https://portal.ct.gov/CID/News-Releases/Press-Releases/Press-Releases-20220207.
61. "Delaware Corporations Can Now Purchase D&O Coverage Through Captives," Locke Lord, Feb. 22, 2022. https://www.lockelord.com/newsandevents/publications/2022/02/delaware-corporations-can-now-purchase-do-coverage.
62. Beeber et al. https://www.venable.com/insights/publications/2020/04/states-begin-to-introduce-legislation-business.
63. Patrick Rehkamp, "What businesses damaged in riots need to know about insurance claims — especially this year," *Washington Business Journal*, June 1, 2020. https://www.bizjournals.com/washington/news/2020/06/01/dc-area-business-should-act-fast-insurance-protest.html.
64. Mark H. Bickel, "From Michael to Charley: Nine notable hurricanes to hit Florida this century," *Fort Myers News-Press*, Sept. 24, 2022. https://www.news-press.com/story/weather/hurricane/2022/09/24/hurricanes-florida-nine-noteworthy-storms-since-2000-michael-irma-charley-ivan-jeanne-dennis-wilma/8104386001.
65. Heather Monahan and Mahsa Saeidi, "8th property insurance company pauses new business in Florida," News Channel 8, July 29, 2022. https://www.wfla.com/8-on-your-side/8th-property-insurance-company-pauses-new-business-in-florida.
66. Ibid.
67. William Rabb, "UPC Gives up the Ghost: Now in Orderly Run-off, but Trouble May Be Brewing," *Insurance Journal*, Aug. 25, 2022. https://www.insurancejournal.com/news/southeast/2022/08/25/682046.htm.
68. Stassy Olmos, "Demotech notifies 17 property insurance companies of rating downgrades," ABC Action News, July 21, 2022. https://www.abcactionnews.com/news/in-depth/demotech-notifies-17-property-insurance-companies-of-rating-downgrades.
69. Ibid.
70. Ibid.

on May 25, 2022, in a special session, which created a $2-billion reinsurance fund, forbade insurers from automatically denying coverage for a roof's age if the roof was less than 15 years old, and provided up to $10,000 in grants for homeowners to retrofit homes against hurricane damage.[71] The bill also states that attorney's fees are no longer recoverable under assignment of benefits except in restricted cases.[72] R Street provided oral testimony urging reform at the special Florida legislative hearing on property insurance in May 2022.[73]

- **Georgia**

Following a 25 percent increase in auto insurance rates by Allstate in August 2022, Steve Manders, Georgia's state deputy commissioner for insurance, sought to end the file-and-use system in the state and make all rate changes filed with a state regulator on a prior-approval basis.[74] The insurance commissioner characterized the state's file-and-use rule system as a "loophole."[75]

In October 2021, former Georgia Insurance Commissioner Jim Beck was sentenced to federal prison following conviction for theft of more than $2.5 million from the Georgia Underwriting Association.[76]

In May 2022, a federal grand jury indicted former Insurance Commissioner John Oxendine on charges of conspiracy to commit health care fraud and conspiracy to commit money laundering.[77]

- **Illinois**

Illinois offered $580 million in business interruption grants for closures of small business impacted by COVID-19.[78] Of the $580 million, $290 million was designated for childcare providers, and $290 million was designated for other small businesses.[79] However, an Illinois appellate court denied claims for coverage of "direct physical loss" as related to economic losses from COVID-19-related shutdowns in *Lee v. State Farm Fire & Casualty Co.*[80]

In August 2021, Illinois became the third state, along with California and Oregon, to require insurance coverage for mental health conditions, beginning in January 2023.[81] Gov. J.B. Pritzker signed HB4703, SB3910 and HB0836 in May 2022 to promote transparency in medical billing and to increase access to information for health-enrollment options.[82]

71. "Florida Senate passes property insurance package," ABC 7, May 25, 2022. https://www.mysuncoast.com/2022/05/25/florida-senate-passes-property-insurance-package.
72. Christopher Cooper, "Florida Insurance Reform Law SB-2D Approved," JD Supra, June 09, 2022. https://www.jdsupra.com/legalnews/florida-insurance-reform-law-sb-2d-3204492.
73. "Testimony of Jerry Theodorou, Florida Senate Committee on Appropriations," YouTube.com, May 24, 2022. https://www.youtube.com/watch?v=Q22tpDyEKCY.
74. Tom Jacobs, "Ga. regulator wants to close 'loophole' after Allstate sharply raises auto rates," S&P Global, Aug. 17, 2022. https://www.capitaliq.spglobal.com/web/client?auth=inherit#news/article?id=71764281&KeyProductLinkType=58&utm_source=MIAlerts&utm_medium=realtime-minewsresearch-newsfeature-insurance-the%20daily%20dose&utm_campaign=Alert_Email.
75. "Allstate's rate increase exploits loophole in state law, Georgia's insurance commissioner says," 95.5 WSB, Aug. 18, 2022. https://www.wsbradio.com/news/allstate-is-taking-advantage-insurance-loophole-georgia-insurance-commissioner-says/UGTOFCV3PNHI5O65KX6NDG5VAA.
76. U.S. Attorney's Office Northern District of Georgia, "Former Georgia Insurance Commissioner sentenced to federal prison," United States Department of Justice, Oct. 13, 2021. https://www.justice.gov/usao-ndga/pr/former-georgia-insurance-commissioner-sentenced-federal-prison.
77. "Former Georgia insurance commissioner Oxendine indicted," accessWDUN, May 20, 2022. https://accesswdun.com/article/2022/5/1103943.
78. "Business Interruption Grants Program (application period closed)," Illinois Department of Commerce & Economic Opportunity, Aug. 18, 2022. https://www2.illinois.gov/dceo/SmallBizAssistance/Pages/C19DisadvantagedBusGrants.aspx.
79. Ibid.
80. Hannah R. Batsche, "United States: Illinois Appellate Court Denies Business Interruption Insurance Claim Related To COVID-19," Mondaq, June 8, 2022. https://www.mondaq.com/unitedstates/insurance-laws-and-products/1200268/illinois-appellate-court-denies-business-interruption-insurance-claim-related-to-covid-19.
81. "Gov. Pritzker Signs Nation-Leading Legislation Expanding Access to Mental Healthcare," Illinois Department of Insurance, Aug. 25, 2021. https://www2.illinois.gov/sites/Insurance/News/Pages/20210825.aspx.
82. "Governor Pritzker Signs Consumer Protection Bills for Health Insurance Coverage," Illinois Department of Insurance, May 26, 2022. https://www2.illinois.gov/sites/Insurance/News/Pages/05262022.aspx.

- **Indiana**

Amy L. Beard became Indiana Insurance Commissioner in June 2021, appointed by Gov. Eric Holcomb.[83] Beard has eight years of experience with the Indiana Department of Insurance, including five years as general counsel.[84]

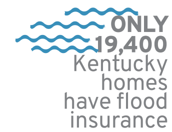
- **Iowa**

Crypto service provider BlockFi was ordered to pay nearly $1 million for failing to register securities in Iowa as part of a settlement to pay $50 million across 53 jurisdictions and an additional $50 million to the SEC.[85]

Iowa was ranked as having the most affordable personal auto insurance in the United States in 2021 by the Insurance Research Council (IRC).[86] Affordability is defined as the average cost of auto insurance divided by median income.

- **Kentucky**

In August 2022, catastrophic flooding caused 39 fatalities in eastern Kentucky.[87] Above and beyond the tragic loss of life, the flooding was deeply troubling for two other reasons. First, Kentucky is among the most underpenetrated states for flood insurance. Federal Emergency Management Agency (FEMA) data shows that only 19,400 Kentucky homes have flood coverage; 1.7 million do not.[88] Second, the afflicted counties of eastern Kentucky are among the poorest in the nation. For example, Magoffin County has a poverty rate of 30.9 percent, median per capita income of $17,939 and median household income of $27,807.[89]



- **Louisiana**

Louisiana's property industry was buffeted by the category 4 hurricane Ida in 2021 and by hurricanes Laura, Delta and Zeta in 2020. In September 2022, state lawmakers and the insurance department established a fund to retain and attract insurers to the state.[90] The insurance department proposed funding it with $20 million of the department's excess from its license and fee revenue.

Seven Louisiana insurers have failed since Hurricane Ida in 2021, and approximately 100,000 policies were dropped in June and July 2022 by Lighthouse Excalibur, Southern Fidelity and Maison.[91] New legislation signed into law in May requires a capital surplus of $10 million for any new homeowners or fire and allied lines insurers in the state beginning in September 2022; preexisting insurers must boost capital from $3 million to $5 million by 2026.[92]

83. "Insurance Department Directory." https://content.naic.org/sites/default/files/publication-ins-ou-insurance-directory.pdf.
84. "Amy Beard '09 named new commissioner of IDOI," University of Southern Indiana, May 5, 2021. https://www.usi.edu/news/releases/2021/05/amy-beard-09-named-new-commissioner-of-idoi.
85. "BlockFi Ordered to Pay More Than $943,000 in Iowa for Failing to Register Securities," Iowa Insurance Division, June 29, 2022. https://iid.iowa.gov/press-releases/blockfi-ordered-to-pay-more-than-943000-in-iowa-for-failing-to-register-securities.
86. "Auto Insurance Affordability: Countrywide Trends and State Comparisons," Insurance Research Council, Sept. 28, 2021. https://www.insurance-research.org/sites/default/files/news_releases/IRC%20Auto%20Affordability%20Research%20Brief_0.pdf?utm_medium=email&utm_source=govdelivery.
87. Ethan Sirles et al., "Kentucky flooding death toll rises; FEMA faces criticism for aid response," WSAZ News Channel 3, Aug. 12, 2022. https://www.wsaz.com/2022/08/12/kentucky-flooding-death-toll-rises-fema-faces-criticism-aid-response.
88. "Kentucky: Risk Rating 2.0. FEMA," Federal Emergency Management Agency, March 2021. https://www.fema.gov/sites/default/files/documents/fema_kentucky-state-profile_03-2021.pdf.
89. "QuickFacts: Magoffin County, Kentucky," U.S. Census, last accessed Sept. 28, 2022. https://www.census.gov/quickfacts/magoffincountykentucky.
90. Lyle Adriano, "Louisiana regulator proposes $20 million plan to fund insurer incentive program," Insurance Business America, Sept. 19, 2022. https://www.insurancebusinessmag.com/us/news/breaking-news/louisiana-regulator-proposes-20-million-plan-to-fund-insurer-incentive-program-420893.aspx.
91. Jake Bittle, "Louisiana's insurance market is collapsing, just in time for hurricane season," Grist, June 24, 2022. https://grist.org/housing/louisiana-homeowner-insurance-hurricane-season; "Louisiana insurance company drops 40,000 homeowners," Fox News, July 19, 2022. https://www.foxnews.com/us/louisiana-insurance-company-drops-42000-homeowners.
92. Jen Frost, "Louisiana legislators battle to tackle in-crisis homeowners' market," Insurance Business America, July 7, 2022. https://www.insurancebusinessmag.com/us/news/catastrophe/louisiana-legislators-battle-to-tackle-incrisis-homeowners-market-412361.aspx.

Louisiana was found to have the least affordable personal auto insurance in the United States according to the 2022 IRC report on auto insurance affordability.[93] Louisiana was also found to be the least affordable in the IRC's 2021 report.[94]

Louisiana proposed legislation requiring COVID-19-related business interruption claims from businesses with 100 full-time-equivalent employees to be covered retroactively from March 11, 2020, but would only count employees in the state for the purpose of the provision.[95] The motion has not passed as of this writing.[96]

- **Maine**

Timothy N. Schott became Maine's Acting Superintendent of Insurance on April 1, 2022.[97]

- **Michigan**

Michigan proposed legislation to require insurers to provide business interruption insurance for COVID-19-related claims.[98] This business interruption bill affects businesses with 100 or fewer full-time-equivalent employees in the state.[99] However, as of this writing, the bill had not been codified, and a Michigan circuit judge was the first to rule against a restaurant in the state in July 2020.[100]

- **Minnesota**

Total losses in Minnesota from summer 2020 civil-justice protests were estimated to exceed $500 million; $240 million was the maximum amount covered by insurance companies. Uninsured losses from local- and small-business owners were estimated to be at least $200 million.[101]

In March 2022, the Workers' Compensation Reinsurance Association announced that it would distribute $600 million to Minnesotans: $383 million to insurers, $182 million to self-insurers, and $35 million to policyholders as a one-time surplus distribution.[102]

Gov. Tim Walz appointed Grace Arnold as Commissioner of the Minnesota Department of Commerce, effective April 15, 2021.[103]

- **Mississippi**

Commissioner Mike Chaney will seek a fifth term as insurance commissioner in the 2023 election cycle.[104]

93. "Affordability of Personal Auto Insurance 3x Worse in Louisiana Compared to Most Affordable State, IRC Study Finds," *Cision PR Newswire*, Aug 25, 2022. https://www.prnewswire.com/news-releases/affordability-of-personal-auto-insurance-3x-worse-in-louisiana-compared-to-most-affordable-state-irc-study-finds-301612570.html.
94. Ezra Amacher, "Study: Louisiana Auto Insurance Least Affordable in Nation," *Insurance Journal*, Oct. 4, 2021. https://www.insurancejournal.com/news/southcentral/2021/10/04/634968.htm.
95. Beeber et al. https://www.venable.com/insights/publications/2020/04/states-begin-to-introduce-legislation-business.
96. "Business Interruption Legislation." https://www.wsia.org/wcm/Legislative_Advocacy_Compliance___PAC/COVID-19/Business_Interruption_Legislation/wcm/Legislative_Advocacy___PAC/Business_Interruption_Legislation.aspx?hkey=ac65ce8a-5295-409d-ba17-f97d14f954a0#MI.
97. "Insurance Department Directory." https://content.naic.org/sites/default/files/publication-ins-ou-insurance-directory.pdf.
98. Ibid.
99. Ibid.
100. "Business Interruption Legislation." https://www.wsia.org/wcm/Legislative_Advocacy_Compliance___PAC/COVID-19/Business_Interruption_Legislation/wcm/Legislative_Advocacy___PAC/Business_Interruption_Legislation.aspx?hkey=ac65ce8a-5295-409d-ba17-f97d14f954a0#MI; Jim Sams, "State Judge Rejects Michigan Restaurants' COVID-19 Business Interruption Claim," *Insurance Journal*, July 7, 2020. https://www.insurancejournal.com/news/national/2020/07/07/574497.htm.
101. Maya Rao and Jeffrey Meitrodt, "Insurance payouts fall far short of what's needed to rebuild Twin Cities," *The Star Tribune*, Aug. 8, 2020. https://www.startribune.com/insurance-payouts-fall-far-short-of-what-s-needed-to-rebuild-twin-cities/572054742.
102. "WCRA to Distribute $600 Million to Minnesota Workers' Comp Insurers, Self-Insurers, Policyholders," *Insurance Journal*, March 10, 2022. https://www.insurancejournal.com/news/midwest/2022/03/10/657599.htm.
103. "Insurance Department Directory." https://content.naic.org/sites/default/files/publication-ins-ou-insurance-directory.pdf.
104. Frank Corder, "Chaney to seek 5th term as Mississippi Insurance Commissioner," *Y'all Politics*, July 27, 2022. https://yallpolitics.com/2022/07/27/chaney-to-seek-5th-term-as-mississippi-insurance-commissioner.

- **Missouri**

  Legislation effective August 2021 revises provisions for insurance producer license renewals and continuing education credits for insurance professionals.[105]

- **Montana**

  Troy Downing was elected as Montana State Auditor and Commissioner of Securities and Insurance in November 2020.[106]

  In June 2022, 115 homes were destroyed or severely damaged by Yellowstone National Park flooding. Gov. Greg Gianforte requested FEMA assistance for those impacted.[107]

- **Nebraska**

  Effective April 19, 2021, Eric Dunning was appointed Director of Insurance by Gov. Pete Ricketts. Dunning has more than 15 years of experience as an attorney for the Department of Insurance.[108]

- **New Jersey**

  As of this writing, New Jersey is the only state other than Illinois to have enacted legislation specifically related to business interruption insurance during the pandemic, with AB 4805.[109] The law requires insurers that issue policies of business interruption in New Jersey to disclose to any potential purchaser or policyholder seeking renewal whether the policy provides coverage for global virus transmission or pandemic-related events.

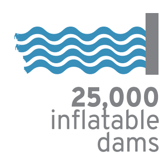
  New Jersey proposed legislation for business interruption coverage for insureds with fewer than 100 full-time-equivalent employees and required those employees to be in the state.[110] This is similar to legislation in D.C., Louisiana, Michigan and some other states.

- **New Mexico**

  Fires in New Mexico in May 2022 led to more than $65 million of damage. Gov. Michelle Lujan Grisham sought significant aid from the federal government. The fire started as a prescribed burn during the windy season, under a severe drought warning.[111]

- **New York**

  Adrienne A. Harris was confirmed by the New York State Senate to lead the Department of Financial Services on Jan. 25, 2022.[112] Although no legislation has been enacted yet, New York has proposed more laws related to COVID-19 business interruption insurance than any other state.[113] Proposed legislation includes the largest business-cap-size proposal at 250 employees, retroactive to March 7, 2020.[114]



105. "New Law Impacts Missouri Insurance Producers, Insurers," *Insurance Journal*, Aug. 30, 2021. https://www.insurancejournal.com/news/midwest/2021/08/30/629370.htm.
106. "Insurance Department Directory." https://content.naic.org/sites/default/files/publication-ins-ou-insurance-directory.pdf.
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108. "Insurance Department Directory." https://content.naic.org/sites/default/files/publication-ins-ou-insurance-directory.pdf.
109. Heather Morton, "Business Interruption Insurance 2021 Legislation," National Conference of State Legislatures, June 6, 2021. https://www.ncsl.org/research/financial-services-and-commerce/business-interruption-insurance-2021-legislation.aspx.
110. Beeber et al. https://www.venable.com/insights/publications/2020/04/states-begin-to-introduce-legislation-business.
111. Susan Montoya Bryan, "Massive New Mexico Wildfire Costs Top $65M," *Insurance Journal*, May 11, 2022. https://www.insurancejournal.com/news/west/2022/05/11/667190.htm.
112. "Insurance Department Directory." https://content.naic.org/sites/default/files/publication-ins-ou-insurance-directory.pdf.
113. Heather Morton, "Business Interruption Insurance 2020 Legislation," National Conference of State Legislatures, Dec. 11, 2020. https://www.ncsl.org/research/financial-services-and-commerce/business-interruption-insurance-2020-legislation.aspx; Morton, "Business Interruption Insurance 2021 Legislation." https://www.ncsl.org/research/financial-services-and-commerce/business-interruption-insurance-2021-legislation.aspx.
114. Beeber et al. https://www.venable.com/insights/publications/2020/04/states-begin-to-introduce-legislation-business.

The Adult Survivors Act was passed in August 2022. This law, Senate bill S66A, permits any individual who was the victim of a sexual offense that occurred when they were 18 or older—but that is currently time-barred—to file a timely claim between Nov. 24, 2022, and Nov. 24, 2023.[115] This bill expands on the New York's Child Victims Act, passed in 2009, and termed a "reviver" statute.[116]

On Nov. 15, 2021, the New York Department of Financial Services released final guidance regarding New York domestic insurers' management of climate-change-related financial risks.[117]

In July 2022, New York City began providing 25,000 inflatable dams to approximately 8,000 one- to four-unit homes deemed most at risk of flooding.[118]

In 2022, a request from the victims of the Sept. 11, 2001, attack requested the seizure of an Iranian state-owned oil tanker in partial fulfillment of the $3.61 billion judgment against Iran.[119]

- **North Dakota**

  In July 2022, it was announced that the North Dakota Insurance Department would be partnering with the North Dakota Department of Transportation to conduct proof-of-concept testing to leverage blockchain technology to help identify uninsured motorists in the state. It has been estimated that approximately 13 percent of vehicles in North Dakota are being driven by uninsured drivers.[120]

  Uninsured Driver

- **Ohio**

  Gov. Mike DeWine appointed Director Judith L. French to head the Ohio Department of Insurance on Feb. 8, 2021. French was a justice of the Ohio Supreme Court.[121] In 2020, the Ohio Legislature proposed HB 589 for business interruption insurance to cover losses attributable to viruses and pandemics and to declare an emergency as of March 11, 2020, but the legislation did not leave the insurance committee.[122]

- **Oklahoma**

  Oklahoma issued a special notice in February 2022 for property and casualty insurers related to the reduction or restriction of coverage.[123] The special notice requires any renewal of existing policy to notify customers of "triggering event" changes in bolded or red font and in all capital letters.[124]

  SPECIAL NOTICE

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119. "Sept. 11 Victims Seek Seizure of Iran Oil From U.S.-Owned Tanker," *U.S. News*, March 4, 2022. https://www.usnews.com/news/top-news/articles/2022-03-04/sept-11-victims-seek-seizure-of-iran-oil-from-u-s-owned-tanker.
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122. "H.B. No. 589," 133rd General Assembly Regular Season 2019-2020, last accessed Sept. 28, 2022. https://search-prod.lis.state.oh.us/solarapi/v1/general_assembly_133/bills/hb589/IN/00?format=pdf.
123. "Oklahoma Insurance Department (DOI) Issues Special Notice on Reduction in Coverage During Renewal," AAIS, Feb. 28, 2022. https://aaisonline.com/oklahoma-insurance-department-doi-issues-special-notice.
124. Glen Mulready, "Special Notice," Oklahoma Insurance Department, Feb. 28, 2022. https://www.oid.ok.gov/special-notice-to-property-and-casualty-insurers-regarding-reduction-in-coverage-during-renewal.

- **Oregon**

After the Oregon Department of Forestry released a searchable wildfire risk explorer map that categorized risk into five levels, the Department of Consumer and Business Services noted that insurers told the division that they did not intend to use the map for coverage or risk assessments.[125]

- **Pennsylvania**

Michael Humphreys became Acting Insurance Commissioner effective Feb. 26, 2022.[126]

In August 2022, the Pennsylvania Supreme Court changed its existing rule that required medical malpractice lawsuits to be filed in the county in which the patient was allegedly harmed.[127] This decision means that lawsuits from all over the state could be filed in Pittsburgh and Philadelphia—venues where juries are considered more likely to favor patients.

Pennsylvania introduced legislation regarding business interruption insurance, including the use of federal stimulus funds for reimbursement of costs of claims (HR 842, 2020).[128]

Flash flooding in late August/early September 2021 from Hurricane Ida's heavy rains was declared a major disaster. Bucks, Chester, Delaware, Montgomery, Philadelphia and York counties had an estimated $117 million in damages.[129]

In February 2022, Pennsylvania became eligible for $245 million in federal funding—the most offered to any state—to clean up abandoned coal mines.[130] This funding comes from a $725-million allotment created by the Biden administration for coal mine cleanup.

- **South Carolina**

Michael Wise was appointed acting director of the South Carolina Department of Insurance (SCDOI) on April 16, 2022. The South Carolina Coastal Insurance Marketplace shifted further from the SC Wind and Hail Underwriting Association toward the private sector. The SCDOI has licensed 19 new companies to write coastal property coverage over the last decade.[131]

- **Tennessee**

Carter Lawrence began serving as the commissioner of the Tennessee Department of Commerce and Insurance, effective Nov. 12, 2020.[132]

Tennessee received a disaster declaration in August 2021 following severe flooding in Humphreys County in the central region of the state, which resulted in 22 deaths.[133]

125. Alex Baumhardt, "Insurance rates will not rise due to new Oregon wildfire risk map, state regulators say," *Oregon Capital Chronicle*, Aug. 15, 2022. https://oregoncapitalchronicle.com/2022/08/15/insurance-rates-will-not-rise-due-to-new-oregon-wildfire-risk-map-state-regulators-say.
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130. "States Eligible for $725M a Year to Clean Up Abandoned Coal Mines," *Insurance Journal*, Feb. 8, 2022. https://www.insurancejournal.com/news/national/2022/02/08/653068.htm.
131. J. Smith "Smitty" Harrison, Jr., "Positive Changes in the SC Coastal Insurance Marketplace," Independent Insurance Agents & Brokers of South Carolina, last accessed Sept. 28, 2022. https://www.iiabsc.com/News/Pages/Newsletters-Publications/SCAgent/articles/Coastal.aspx.
132. "Insurance Department Directory." https://content.naic.org/sites/default/files/publication-ins-ou-insurance-directory.pdf.
133. Travis Loller, "Biden Orders Disaster Declaration After Tennessee Flooding," *Insurance Journal*, Aug. 25, 2021. https://www.insurancejournal.com/news/southeast/2021/08/25/628748.htm.

In 2022, the state government launched its own captive insurance company, the Tennessee Captive Insurance Co., with a valuation of $31.4 billion as of July 2022. It covers all state-owned buildings and contents.[134]

In May 2022, the 6th Circuit Court of Appeal allowed a jury trial to decide damages for workers suffering from cancer, lung disease and other illnesses after sludge removal from a coal-fired power plant. In all, 60 former employees of the Jacobs Engineering Group are suing for $3 billion.[135]

- **Texas**

Cassie Brown was appointed by Gov. Greg Abbott to replace Insurance Commissioner Kent Sullivan in September 2021.[136]

February 2021 Texas winter storm Uri caused more than $10 billion in insured losses. Approximately 85 percent of all claims were for residential properties.[137]

Texas SB 965, effective Sept. 1, 2021, requires auto insurers to file rates with actuarial support or justification with the Texas Department of Insurance.[138]

- **Utah**

Jon Pike began serving as the commissioner of the Utah Insurance Department on Feb. 4, 2021.[139]

- **Vermont**

Kevin Gaffney became commissioner of the Vermont Department of Financial Regulation on July 8, 2022.[140]

There were 45 new captive insurance companies licensed in Vermont in 2021. This was the fourth-highest year of growth.[141]

- **Washington**

An order by Insurance commissioner Mike Kreidler banned the use of credit scores for setting auto, homeowners and renters insurance rates effective June 20, 2021, for three years.[142] However, in July 2022, a Thurston County Superior Judge found that the emergency order exceeded the commissioner's statutory authority.[143]

The Seattle Times and the Northwest News Network published articles in 2022 reporting boorish behavior from Commissioner Kreidler against fellow insurance department staff; he has been elected as insurance commissioner six times since 2000.[144] Calls have been made for Kreidler's resignation, including from Gov. Jay Inslee.

134. "Tennessee Launches its Own Captive Insurance Company for Cyber, Property," *Insurance Journal*, Aug. 10, 2022. https://www.insurancejournal.com/news/southeast/2022/08/10/679221.htm.
135. Jim Sams, "Sovereign Immunity No Defense in $3B Tenn. Coal-Ash Lawsuit, 6th Circuit Rules," *Insurance Journal*, May 23, 2022. https://www.insurancejournal.com/news/southeast/2022/05/23/668918.htm.
136. "Insurance Department Directory." https://content.naic.org/sites/default/files/publication-ins-ou-insurance-directory.pdf.
137. "Insured Losses Resulting from the February 2021 Texas Winter Weather Event," Texas Department of Insurance, May 11, 2022. https://www.tdi.texas.gov/reports/documents/feb2021-tx-winter-weather-summary-dec2021.pdf.
138. "Effective Sept. 1 All Auto Insurers in Texas Must File Rates with Actuarial Support," *Insurance Journal*, Aug. 20, 2021. https://www.insurancejournal.com/news/southcentral/2021/08/20/628142.htm.
139. "Insurance Department Directory." https://content.naic.org/sites/default/files/publication-ins-ou-insurance-directory.pdf.
140. Ibid.
141. "Vermont's Captive Insurance Industry Releases 2021 Licensing Figures," State of Vermont Agency of Commerce and Community Development, Jan. 20, 2022. https://accd.vermont.gov/press-releases/vermont%E2%80%99s-captive-insurance-industry-releases-2021-licensing-figures.
142. "Credit Scoring Ban," Office of the Insurance Commissioner Washington State, last accessed Nov. 15, 2022. https://www.insurance.wa.gov/credit-scoring-ban.
143. "Kreidler acted in good faith, followed steps, but exceeds authority on credit score ban, court rules," Office of the Insurance Commissioner Washington State, July 29, 2022. https://www.insurance.wa.gov/news/kreidler-acted-good-faith-followed-steps-exceeds-authority-credit-score-ban-court-rules.
144. Joseph O'Sullivan and Austin Jenkins, "WA insurance chief Mike Kreidler accused of using racist slurs; staff allege mistreatment," *The Seattle Times*, April 17, 2022. https://www.seattletimes.com/seattle-news/times-watchdog/wa-insurance-chief-mike-kreidler-accused-of-using-racist-slurs-staff-allege-mistreatment; Austin Jenkins, "Washington's longtime insurance commissioner accused of mistreating staff," Northwest NW News Network, March 3, 2022. https://www.nwnewsnetwork.org/2022-03-03/washingtons-longtime-insurance-commissioner-accused-of-mistreating-staff.

The Washington State Legislature proposed SB 5351 for business interruption insurance, extending allowable action against an insurer from one to two years and interpreting physical loss or damage to property as deprivation and loss of the ability to use the property.[145]

Washington SB 5315 set up an Office of the Insurance Commissioner registration process and a 2 percent premium tax for captive insurers.[146]

- **Wisconsin**

  On Jan. 2, 2022, Nathan Houdek was appointed Wisconsin Insurance Commissioner by Gov. Tony Evers.[147]

- **Wyoming**

  HB 10 provides business relief grants to large businesses in Wyoming that were impacted by civil authorities enacting closures related to COVID-19 from April to June 2020.[148] The bill had no impact on insurance policies but was meant to provide business relief due to closures.[149]

Methodology

Shifting to the "report card" section of this paper, we examined and evaluated the regulatory environments in each of the 50 states using objective metrics to develop a grade for each state. Seven broad categories were considered and given different weights in the calculation based on their value in promoting a healthy, competitive market (Table 1).

Table 1: Report Card Categories and Percentage of Overall Score

Category	Percentage of Score
1. Solvency regulation	20
2. Underwriting freedom	20
3. Residual markets	15
4. Fiscal efficiency	15
5. Politicization	10
6. Auto insurance market competitiveness	10
7. Homeowners insurance market competitiveness	10

Our analysis focuses on property and casualty insurance, particularly personal lines—private passenger automobile and homeowners insurance—because these lines of business most directly affect people's personal finances. These also tend to be the lines of business subject to legislative and regulatory interventions, such as price controls and provision of insurance products by state-sponsored, -supported or -mandated institutions.

For each of the seven categories, we used the most recent data available (year-end 2021 in most cases) wherever relevant and available. The two factors given the greatest emphasis in our weighted grade calculation—solvency regulation and underwriting freedom—are the conditions that we believe most strongly influence states' abilities to promote healthy, competitive markets.

145. Morton, "Business Interruption Insurance 2021 Legislation." https://www.ncsl.org/research/financial-services-and-commerce/business-interruption-insurance-2021-legislation.aspx.
146. Chris Corry, "Key insurance changes from the Washington state 2021 legislative session," *Puget Sound Business Journal*, June 21, 2021. https://www.bizjournals.com/seattle/news/2021/06/21/key-insurance-changes-from-the-washington-state-20.html.
147. "Insurance Department Directory." https://content.naic.org/sites/default/files/publication-ins-ou-insurance-directory.pdf.
148. "HB0010 - COVID-19 large business relief program," State of Wyoming 66th Legislature, March 15, 2022. https://wyoleg.gov/Legislation/2021/HB0010.
149. "Business Interruption Legislation." https://www.wsia.org/wcm/Legislative_Advocacy_Compliance___PAC/COVID-19/Business_Interruption_Legislation/wcm/Legislative_Advocacy___PAC/Business_Interruption_Legislation.aspx?hkey=ac65ce8a-5295-409d-ba17-f97d14f954a0#MI.

This report is not a referendum on specific regulators. An "F" does not mean that a state's insurance commissioner performs poorly, and an "A+" is not an endorsement of those who run the insurance department. Significant changes in states' scores most often would be possible only through action by state legislatures. Variables were weighted to provide balance between considering the rules a state adopts and the results it demonstrates, between the effectiveness regulators demonstrate in their core duties and the efficiency a state shows in making use of its resources.

Because we were limited to factors that could be quantified for all 50 states, many important influences were not factored into this report card. For example, we lack good measures of how well states regulate insurance policy forms and the level of competition in local markets for insurance agents and brokers. Although the NAIC has data that could demonstrate how quickly states act on rate and product filings, both the sheer volume of filings and the lack of apples-to-apples comparisons of states' speed-to-market environments render attempts at a comprehensive analysis of such factors—across 50 states in multiple lines of business—beyond the scope of this report.[150]

Below, we delve into each of the seven broad categories identified above to offer more detail on the factors that were considered in that category's calculations as well as to provide summary tables for each category. We then offer a comprehensive report card score for each state that combines the seven separate category rankings into a single grade.

1 Solvency Regulation

The most important function of insurance regulators is monitoring the solvency of insurers operating in their state. Insurers must maintain sufficient solvency levels to be able to satisfy their claims-paying obligations. In this section of the report, we examine three key metrics to ascertain, both quantitatively and qualitatively, how well states discharge their duties to regulate insurer solvency. These metrics are financial exams, run-off liabilities and financial ratios to measure capitalization (using data from insurers' income statements and balance sheets).

20% of the total score

Solvency Regulation Metrics

- **Financial Exams**
- Run-offs
- Capitalization

Financial Exams. The first metric we used to assess solvency regulation was how frequently the state insurance department examined the financial strength of companies operating in its state. Under the state-based system of insurance regulation, each domiciliary state has primary responsibility for monitoring their respective domestic insurers' solvency.

States vary greatly in size and number of domestic insurers (i.e., insurers admitted by and formed under the laws in which insurance is written). Because state insurance departments are funded primarily by fees paid by regulated insurers and insurance producers, states with an unusually large number of domestic companies benefit from having ample resources. In fact, as discussed in the Fiscal Efficiency section of this report below, for most states, insurance regulation is treated as a profit center.

States conduct two major types of examinations of the companies they regulate: financial exams, which evaluate insurers' assets, liabilities and policyholder surplus; and market conduct exams, which examine insurers' business practices and how well they treat consumers. Sometimes, states conduct joint financial and market conduct exams to look at both sets of factors together.

150. See, e.g., Ian Adams, "The Troublesome Legacy of Prop 103," R Street Policy Study, October 2015. http://www.rstreet.org/wp-content/uploads/2015/10/RSTREET43.pdf.

States are generally free to subject any company operating within their markets to either type of exam. In the case of financial exams, states overwhelmingly concentrate their attention on domestic insurers. State insurance codes generally reflect NAIC model law language requiring the insurance commissioner to examine every domestic company at least once every three to five years.[151]

In the analysis conducted for this report, we attempted to gauge how well states kept up with their duties to examine the companies they regulate. We did this by drawing on NAIC data on the number of financial exams and combined financial/market conduct exams reported as having been completed for domestic companies in each year from 2016 through 2020.[152] We then compared those figures to the number of domestic companies operating in the state for each of those five years to calculate the proportion of domestic companies that were examined.

Because every company should be examined at least once every five years, our baseline expectation for the sum of those five years of exams is 100 percent. We found that 40 of the 50 states met that minimum standard; 10 states did not. The mean percentage of domestic insurers examined was 163.3 percent with a standard deviation of 96.1 percentage points. This means that, on average, companies were examined 1.63 times over the course of five years, exceeding the baseline expectation of a single examination every five years.

For our initial weighted score, we set the mean as zero and added and subtracted points based on how far each state deviated from that mean. The states ranged from Utah, which was slightly more than 1.5 standard deviations below the mean, to Massachusetts, which was more than 3 standard deviations above it. We then converted those weighted scores into a scale of 0.0 to 10.0 points.

Run-offs. Measuring the number of financial exams completed offers a quantitative assessment of how robust a state's solvency regulation regime is, but qualitative assessments are needed as well. A state could examine every company every year, but if it does not actually identify problems that may lead to insolvency, this would offer little benefit to policyholders. Thus, the best measure to consider for assessing the quality of solvency regulation is regulatory run-offs. A run-off takes place when an insurer ceases to write new business and winds down its remaining obligations over time.

Although run-offs are often voluntary, an insurance department may intervene with a financially troubled company by placing it into receivership. If the company may be saved, a court can order it into a conservatory rehabilitation or a supervisory rehabilitation. These are reorganization processes that may allow the company to resume writing new business. If rehabilitation is deemed impossible, a liquidation order is signed, and the company's assets are sold off to make good on remaining obligations. Guaranty fund coverage may be triggered to pay claims.

For this report card, we summed all claims liabilities reported by the NAIC as "in-progress" as of Dec. 31, 2020, for each state's insurers that have been placed into run-off, supervision, conservation, receivership or liquidation.[153] The totals ranged from Pennsylvania's $11.5 billion to 11 states that had no in-progress run-off claims

Domestics, Foreigners and Aliens

Domestic insurers: Incorporated in the state where they write insurance

Foreign insurers: Incorporated in a state other than where they write insurance

Alien insurers: Formed under the laws of a nation other than the United States

Solvency Regulation Metrics

- Financial Exams
- Run-offs
- Capitalization

151. "Model Law on Examinations," National Association of Insurance Commissioners, October 1999. https://content.naic.org/sites/default/files/MO390.pdf.
152. "2020 Insurance Department Resources Report: Volume One," National Association of Insurance Commissioners, September 2021, pp. 46-50. https://content.naic.org/sites/default/files/publication-sta-hb-volume-one.pdf.
153. Ibid.

liabilities. We scored states on the basis of the proportion of their total 2020 net written premiums represented by outstanding run-off liabilities. States with a higher proportion of run-off liabilities were given lower grades.

Taken together, supervisions, receiverships and companies in run-off represented 1.9 percent of the average state's 2020 annual net written premium, with a standard deviation of 5.5 percentage points. For our initial weighted score, we set the mean as zero and added and subtracted points based on how far each state deviated from that mean. The results ranged from the 11 states with no liabilities to New Hampshire, with $4 billion of runoff liabilities representing 37.5 percent of 2020 net written premiums (more than 6 standard deviations greater than the mean), and Pennsylvania, with $11.5 billion of run-off liabilities representing 9.4 percent of 2020 net written premiums in the state. Those weighted scores were then converted into a scale of 0.0 to 5.0 points.

Solvency Regulation Metrics

- Financial Exams
- Run-offs
- Capitalization

Capitalization. The third measure in our analysis of how well states monitor insurer solvency was insurer capital—the amount of capital and surplus that firms doing business in a given state have to back up the promises they make to policyholders. An important element of a state insurance department's review of the data insurers report to the NAIC is the calculation of statutory surplus (the extent to which assets exceed liabilities). The (net) premium-to-surplus ratio is a valuable way to assess solvency. A healthy insurer has policyholder surplus greater than its net premiums, rendering the premium-to-surplus ratio less than 1.0. Premium-to-surplus ratios above 1.5 or 2.0, by contrast, are signs of high leverage and elevated susceptibility to impairment in the event of large losses, which could wipe out an insurer's surplus. The 2021 premium-to-surplus ratio of the overall property and casualty insurance industry was 0.76.

Most insurer groups are either national or regional writers and operate in multiple states. As such, they do not formally allocate surplus to individual states, unless they have individual subsidiary companies writing exclusively in one state. For example, Castle Key Insurance Company, a member company of the Allstate group, is a Florida-only insurer and reports its capital and surplus separately.

One way to assess the adequacy of insurers' solvency in a particular state is to examine the financials of insurers whose business is concentrated in that state and who have significant market share there. Perhaps the best state on which to perform such a state solvency review is Florida, where several insurers focus exclusively or primarily on the Florida homeowners insurance market and command a significant market share in that state. The analysis below of a group of Florida-focused homeowner insurers demonstrates that most Florida insurers are highly leveraged and thinly capitalized (Table 2).

Table 2: Analysis of Florida-Focused Homeowner Insurers Premium-to-Surplus Ratios

Florida-Focused Homeowner Insurers	2021 Homeowners DPW (In $M)	Percent Of Business In Florida	Percent Of Business Homeowners	2021 Surplus (in $M)	2021 P-S Ratio (Percent)
American Integrity	345	100	78	79	437
FedNat	362	65	85	130	279
First Protective	482	76	93	114	423
Florida Peninsula	466	100	100	82	568

Florida-Focused Homeowner Insurers	2021 Homeowners DPW (In $M)	Percent Of Business In Florida	Percent Of Business Homeowners	2021 Surplus (in $M)	2021 P-S Ratio (Percent)
HCI Group	482	96	92	214	225
Heritage	405	86	83	120	338
Security First	392	100	79	63	622
Universal	1300	83	95	395	329
UPC	401	64	60	341	118
Average					**371**

DPW: direct premiums written; P-S: premium to surplus

Although regulators should encourage new company formations—a factor that contributes to a higher score in the homeowners and auto insurance sections of this report card—one early warning sign of potential solvency issues is when an unusually large market share is held by thinly capitalized insurers. In such cases, an unexpected claims shock—such as a large hurricane or a spate of lawsuits—could create mass insolvencies. This kind of stress event could pose challenges for the guaranty fund system and, in the extreme, could lead to cascading insolvencies.

One early warning sign of potential solvency issues is when an unusually large market share is held by thinly capitalized insurers.

For this study, we calculated the premium-to-surplus ratio of each property and casualty insurance operating unit doing business in each state using 2021 statutory data.[154] Multiplying that ratio by the company's market share across all lines of business and then summing those totals yields a proxy for capitalization ratio in the state. (These results exclude statutory entities such as wind pools, joint underwriting authorities and some state workers' compensation funds where such entities do not report policyholder surplus.)

This methodology for calculating premium-to-surplus ratios is only an approximation for two reasons. First, multiline national insurers write many different lines of insurance, some of which, such as long-tailed liability insurance and specialty lines insurance, require more surplus because of those lines' higher risk and longer claims process, which can span many years. Thus, if an insurer writes mainly automobile insurance nationally, it will have higher leverage than one that writes commercial liability insurance. The auto insurer will look less leveraged than a single-state insurer that has less surplus, but this does not mean that a higher premium-to-surplus ratio for the single-state auto writer makes it less solvent. Second, insurers do not explicitly allocate capital according to line of business.

For our initial weighted score, we set the mean as zero and added and subtracted points based on how far each state deviated from that mean. Those weighted scores were then converted into a scale of 0.0 to 5.0 points.

Solvency Regulation Overall Score Calculation. Combining all three of this category's factors together, states' scores in solvency regulation range from a high of 19.5 points, scored by Washington, to a low of 6.7 points, scored by New Hampshire (Table 3).

Solvency Regulation Calculation

f(x)

154. *P&C Market Share Application,* S&P Capital IQ, 2022.

Table 3: Solvency Regulation

State	Financial Exams			Run-Offs			Capitalization			Total
	Raw (%)	Weighted	Points	Raw (%)	Weighted	Points	Raw (%)	Weighted	Points	
AK	283.8	1.4	6.1	0.00	0.33	5.00	109.11	0.3	4.7	15.8
AL	176.3	-0.3	2.6	0.06	0.32	4.99	137.35	0.3	4.7	12.3
AR	124.3	-0.1	3.1	0.15	0.31	4.99	134.04	0.4	4.8	12.9
AZ	116.4	0.1	3.4	5.29	-0.04	4.74	144.38	-0.5	4.2	12.3
CA	369.1	0.3	3.8	1.29	-0.30	4.55	149.16	0.4	4.7	13.1
CO	193.2	-0.2	2.9	0.00	0.33	5.00	137.03	-0.2	4.4	12.3
CT	350.9	-0.6	2.1	0.04	0.32	5.00	135.10	-0.2	4.4	11.4
DE	208.9	0.6	4.6	4.52	-0.70	4.25	129.45	-0.2	4.4	13.2
FL	95.7	0.0	3.3	0.50	0.33	5.00	210.45	0.0	4.5	12.8
GA	117.0	-0.8	1.7	0.00	0.33	5.00	139.51	-0.2	4.3	11.0
HI	99.4	1.3	6.0	0.12	0.31	4.99	124.27	0.8	5.0	16.0
IA	94.1	-1.1	0.9	0.00	0.33	5.00	138.01	0.4	4.8	10.7
ID	157.3	0.3	3.9	0.00	0.33	5.00	135.44	0.1	4.6	13.5
IL	158.1	0.1	3.6	3.07	-0.21	4.61	143.72	0.3	4.7	12.8
IN	100.1	-0.6	2.0	2.63	-0.92	4.09	128.86	0.3	4.7	10.8
KS	133.6	-0.2	2.8	0.03	0.32	5.00	137.53	0.3	4.7	12.4
KY	336.2	2.8	9.0	0.73	0.31	4.99	115.73	0.1	4.5	18.6
LA	111.6	-0.2	2.8	0.06	0.31	4.99	179.82	0.4	4.8	12.6
MA	594.1	0.0	3.3	0.59	0.23	4.93	137.02	-0.1	4.4	12.7
MD	233.4	-0.2	2.8	0.31	0.24	4.93	116.59	0.0	4.5	12.3
ME	130.3	-0.1	3.0	0.02	0.33	5.00	131.75	-0.1	4.4	12.4
MI	205.1	1.2	5.7	1.40	0.10	4.84	133.45	0.2	4.6	15.2
MN	69.4	-1.3	0.5	0.00	0.33	5.00	138.53	0.3	4.7	10.2
MO	185.7	-0.9	1.3	1.18	0.14	4.86	129.30	0.2	4.6	10.8
MS	96.2	-0.8	1.6	0.55	0.20	4.91	144.45	0.1	4.6	11.1
MT	123.0	-1.0	1.2	0.17	0.31	4.98	142.46	0.3	4.7	10.9
NC	176.5	-0.3	2.5	5.33	-0.52	4.39	129.82	0.4	4.8	11.7
ND	148.7	-0.5	2.3	0.00	0.33	5.00	172.68	0.5	4.8	12.2
NE	115.8	-0.4	2.4	3.70	0.33	5.00	140.28	0.3	4.7	12.1
NH	154.4	-0.4	2.5	3.75	-6.55	0.00	130.08	-0.4	4.2	6.7
NJ	120.2	-0.3	2.5	0.19	0.33	5.00	134.22	0.6	4.9	12.4
NM	267.5	1.3	6.0	0.00	0.33	5.00	147.53	-0.3	4.3	15.2
NV	165.3	0.8	4.9	2.75	0.03	4.78	154.24	0.1	4.5	14.2
NY	76.7	-1.0	1.1	2.46	-0.09	4.69	126.53	-0.1	4.4	10.2
OH	118.8	-0.5	2.3	1.77	0.02	4.78	128.69	0.1	4.6	11.6
OK	142.3	0.0	3.3	1.54	0.17	4.89	159.68	0.3	4.7	12.9
OR	125.2	0.1	3.6	0.04	0.31	4.98	144.88	-0.1	4.4	13.0
PA	166.8	0.3	3.9	9.38	-1.04	4.01	125.95	-0.1	4.4	12.3
RI	67.6	-1.2	0.8	0.16	0.29	4.97	148.90	-0.2	4.3	10.1
SC	101.5	-0.4	2.4	0.38	0.25	4.94	143.24	0.0	4.5	11.8
SD	92.7	-0.8	1.5	1.06	0.13	4.85	150.92	0.5	4.8	11.2
TN	206.9	2.0	7.4	0.00	0.33	5.00	118.26	0.2	4.7	17.0
TX	135.3	-0.3	2.7	1.31	0.13	4.86	386.23	-6.7	0.0	7.6
UT	42.6	-1.6	0.0	0.98	0.17	4.88	146.34	-0.1	4.4	9.3
VA	236.4	0.8	4.9	0.03	0.32	5.00	124.00	0.4	4.8	14.6
VT	113.0	1.3	6.0	2.01	0.24	4.94	128.03	0.0	4.5	15.4
WA	228.3	3.3	10.0	0.00	0.33	5.00	148.82	0.1	4.5	19.5
WI	66.0	-1.2	0.9	3.71	-0.28	4.55	128.61	0.4	4.8	10.2
WV	223.4	-0.3	2.6	0.00	0.33	5.00	108.18	0.0	4.5	12.2
WY	60.0	-0.5	2.3	0.79	0.21	4.91	150.64	0.3	4.7	12.0

SOURCES: NAIC, S&P Capital IQ

2 Underwriting Freedom

The high degree of competition in the property and casualty insurance market, with over 1,000 insurer groups and over 2,000 operating companies, means that there is a wide range of products and prices for insurance coverage. Studies have found that insurance buyers in states with more rate competition generally pay less for their insurance coverage than buyers in states with rigid rate-regulation rules.[155]

20% of the total score

Underwriting Freedom Metrics

- **Statute-Based Rate Regulation**
- Desk Drawer Rules
- Rating Restrictions

Statute-Based Rate Regulation. States employ a variety of methods to approve how quickly or how sharply premium rates can increase or decrease and have rules on the use (or prohibition) of certain factors in rating and underwriting calculations. It is, however, ultimately not possible to force an insurer to sell coverage at levels that do not generate adequate risk-adjusted returns. If insurers in a state are mandated or coerced to write business below risk-adjusted rates, they may cease writing business in that state.

We examined the processes states employed to review rates in five key property and casualty insurance markets: private auto, homeowners, workers' compensation, medical professional liability (also referred to as medical malpractice or "med mal" insurance) and general commercial lines. For each state and each market, we assigned points based on specific criteria (Table 4).

Table 4: Point Assignments for State-Based Rate Regulation Calculations

Points	Criteria
Zero Points	For states that employ a prior-approval filing system, in which all rates must be filed by an insurer or its rating bureau and approved by the commissioner before they can be employed. Zero points were also given for states in which rates are set by a rating bureau and insurers were prohibited from deviating from those rates.
+1 Point	For states that employ "flex band" systems, in which rate changes that exceed a modest percentage range must be submitted for approval before use.
+2 Points	For states that employ "file and use" systems, in which an insurer that has filed a rate may begin to use it within a given timeframe if the regulator has not objected.
+3 Points	For states that employ "use and file" systems, in which an insurer is permitted to begin using a rate even before it has been filed.
+5 Points	For states that employ "open competition" or "no file" systems, in which the state either does not require rates to be filed or in which such filings are a formality.

Wyoming was found to have the most liberal rate regulation rules (Table 5). At the other end of the spectrum are six states—California, Hawaii, Mississippi, New York, North Dakota and South Carolina—that employ prior-approval systems across the board.

155. "Analysis of Property/Casualty Rate Regulatory Laws," Property Casualty Insurer Association of America, Nov. 29, 2010. https://www.leg.state.nv.us/Session/76th2011/Exhibits/Assembly/CMC/ACMC279L.pdf.

Table 5: Rate Regulation*

State	Private Auto	Homeowners	Workers' Compensation	Medical Malpractice	General Commercial Lines	Combined
AK	1	1	0	0	1	3
AL	0	0	0	0	2	2
AR	1	1	2	3	5	12
AZ	3	3	2	3	3	14
CA	0	0	0	0	0	0
CO	2	2	0	2	5	11
CT	2	2	2	0	2	8
DE	2	2	2	2	2	10
FL	2	3	0	3	3	11
GA	2	2	2	2	5	13
HI	0	0	0	0	0	0
IA	3	3	0	0	0	6
ID	3	3	0	3	3	12
IL	5	5	3	2	5	20
IN	2	2	2	2	3	11
KS	2	2	0	2	5	11
KY	3	3	3	3	3	15
LA	0	0	0	0	5	5
MA	2	2	0	2	2	8
MD	0	0	2	0	0	2
ME	2	2	2	2	2	10
MI	2	2	2	2	0	8
MN	2	2	0	2	2	8
MO	3	3	3	3	3	15
MS	0	0	0	0	0	0
MT	2	2	2	2	2	10
NC	0	0	0	0	3	3
ND	0	0	0	0	0	0
NE	2	2	2	0	5	10
NH	2	2	0	3	3	10
NJ	0	0	0	0	3	3
NM	5	5	0	2	5	17
NV	2	2	0	2	2	8
NY	0	0	0	0	0	0
OH	2	2	2	2	2	10
OK	3	3	3	3	3	15
OR	2	2	0	2	2	8
PA	0	0	2	0	5	7
RI	2	2	0	2	5	11
SC	0	0	0	0	0	0
SD	2	2	2	2	5	13
TN	0	0	0	3	3	6
TX	2	2	2	2	2	10
UT	3	3	2	3	3	14
VA	2	2	0	2	5	11
VT	3	3	0	3	3	12
WA	0	0	0	0	3	3
WI	3	3	0	3	3	12
WV	0	0	0	0	2	2
WY	5	5	5	5	5	25

** Inputs on state rate and form filing requirements were presented in the NAIC Model Laws and Compendium of State Laws on Insurance Topics publication, which has not been published since 2018. https://content.naic.org/publications.*

SOURCE: NAIC Model Laws and Compendium of State Laws on Insurance Topics did you know?

History of Insurance Rating

Up until the 1950s, all U.S. states had passed some form of rating laws. In some states, insurers were allowed to file deviations from bureau rates. In other states, bureau membership and prior approval of rates were strictly enforced. Through the late 1950s, the industry attempted to protect the bureau rating system through regulation.

In 1959, the U.S. Senate antitrust subcommittee, known as the O'Mahoney Committee, began to investigate bureau practices and concluded that competition should be the principal driver of industry regulation. Shortly thereafter, certain states began to make it easier for insurers to set new rates, thereby loosening the bureau's tight hold on rates.

Source: Dalit Baranoff, "Fire Insurance in the United States," Economic History Association, last accessed Oct. 3, 2022. https://eh.net/encyclopedia/fire-insurance-in-the-united-states.

Underwriting Freedom Metrics

- Statute-Based Rate Regulation
- Desk Drawer Rules
- Rating Restrictions

Desk Drawer Rules. Although (Table 5) evaluates states' official rules for insurance rate regulation as specified in state statutes, there are instances in which state insurance departments deviate from formally promulgated rate rules. An example of such deviation is when regulators use "desk drawer" rules, which are rules that are not specified in statute or issued in a formal bulletin. This term is used because the practice deviates from formal rulemaking and is thus said to reside in the regulator's desk drawer. Such rules are challenging to follow because insurers cannot effectively and consistently anticipate or respond to them.

This type of practice persists in many states. In fact, a recent academic study on insurance commissioner behavior found that individual commissioners have considerable leeway in how they conduct their regulatory activities.[156] The study noted that some commissioners may use their position as a "revolving door" to achieve a better post-term position in the insurance industry, which gives them an incentive to be more lax with financial exams, the consequences of those exams and insurer risk-taking.[157] An example of this practice has been reported with regard to group property insurance, which may be prohibited by insurance departments' desk drawer rules, even though statutes are silent on the issue.[158]

In prior iterations of this report card study, informal discussions with experts who work in regulatory compliance provided information to support our evaluation of the breadth and depth of these desk drawer rules on a scale of 0 to 3 points, which we have again included in our calculations in Table 6 below. Although we received no reports of significant desk drawer rules in 25 of the 50 states, five states—Arkansas, Georgia, New Jersey, New York and Washington—were penalized 3 points for having the most

156. Ana-Maria Tenekedjieva, "Revolving Door and Insurance Solvency Regulation," University of Chicago Booth School of Business, Jan. 12, 2020, p. 2. https://www.hhs.se/contentassets/bee955be56624b83854b8367ca889fbf/200116-jmp_-a_m-tenekedjieva_revolvingdoor.pdf.

157. Ibid.

158. "Group P&C Insurance: Admitted and Surplus Lines Issues," Locke Lord, December 2017. https://www.lockelord.com/newsandevents/publications/2017/12/group-pc.

voluminous or onerous desk drawer rules. An example of this activity in Washington is described in the earlier State-by-State Developments section of this report.

Underwriting Freedom Metrics

- Statute-Based Rate Regulation
- Desk Drawer Rules
- Rating Restrictions

Rating Restrictions. Some state rules bar or severely restrict insurers' use of underwriting variables that have been shown to be actuarially credible because they are correlated with risk magnitude. The discovery of actuarially credible variables tied to credit characteristics and other factors has allowed individual insurers to construct their own innovative proprietary rating models that can assign risk-adjusted rates to virtually any potential insured. However, the use of credit in insurance has periodically proven to be politically contentious. Despite studies by the Federal Trade Commission (FTC) and the Texas Department of Insurance, among others, demonstrating conclusively that credit-based insurance scores are predictive of future claims, some states prohibit or severely proscribe its usage as an underwriting and rate-setting variable.[159]

Although most states restrict insurers from using credit-based insurance scores as the sole underwriting variable, seven states go beyond that approach by banning the practice altogether. California, Massachusetts and (formerly) Washington explicitly ban the use of credit in both auto and homeowners insurance underwriting and ratemaking; Hawaii and Michigan have banned its use in auto insurance rate setting; and Maryland has banned its use in homeowners insurance.[160] Minnesota permits the use of credit-based insurance scores in rate-setting but does not permit its consideration in underwriting.[161] Washington no longer bans the use of credit-based insurance scores, despite efforts by the insurance commissioner to proscribe such use.[162] We deducted 2 points for each of the six states with restrictive rules on credit-based insurance score use.

We also deducted 2 points for each of the 12 states—California, Colorado, Connecticut, Delaware, Maryland, Michigan, Missouri, New Hampshire, New Jersey, New York, Oklahoma and South Dakota—that impose especially stringent restrictions on the use of territory in underwriting and rate-setting.[163] The location of insured property or the location where a car is garaged and driven can have significant impact on the likelihood that the property or car will experience claims-generating losses.

Underwriting Freedom Calculation

f(x)

Underwriting Freedom Overall Score Calculation. Taken together with the rate regulation scores, we summed these additional adjustments for rating restrictions to produce weighted scores that were then translated into a scale of 0.0 to 20.0 points (Table 6). California, which scored the lowest in this metric, was the most restrictive state with regard to underwriting freedom; Wyoming offered the most underwriting freedom and captured the highest score in this metric.

159. "Credit-Based Insurance Scores: Impacts on Consumers of Automobile Insurance," Federal Trade Commission, July 2007. http://www.ftc.gov/sites/default/files/documents/reports/credit-based-insurance-scores-impacts-consumers-automobile-insurance-report-congress-federal-trade/p044804facta_report_credit-based_insurance_scores.pdf.

160. Louis DeNicola, "Which States Restrict the Use of Credit Scores in Determining Insurance Rates?," Experian, Sept. 3, 2020. https://www.experian.com/blogs/ask-experian/which-states-prohibit-or-restrict-the-use-of-credit-based-insurance-scores.

161. "Compendium of State Laws on Insurance Topics: Use of Credit Reports/Scoring in Underwriting," National Association of Insurance Commissioners, June 2020 update, pp. III-MC-20-1 to III-MC-45-12. https://content.naic.org/sites/default/files/inline-files/prod_serv_CSL_TOC_0.pdf.

162. Ibid.

163. "Compendium of State Laws on Insurance Topics: Prohibitions Against Redlining and Other Geographic Discrimination," National Association of Insurance Commissioners, June 2020 update, pp. III-MC-45-1 to III-MC-20-20. https://content.naic.org/sites/default/files/inline-files/prod_serv_CSL_TOC_0.pdf.

Table 6: Underwriting Freedom

State	Rate Regulation	Desk Drawer	Credit Scoring	Territory	Combined	Points
AK	3	-2	0	0	1	4.5
AL	2	-2	0	0	0	3.9
AR	12	-3	0	0	9	9.7
AZ	14	0	0	0	14	12.9
CA	0	-2	-2	-2	-6	0.0
CO	11	-1	0	-2	8	9.0
CT	8	-2	0	-2	4	6.5
DE	10	-2	0	-2	6	7.7
FL	11	-2	0	0	9	9.7
GA	13	-3	0	0	10	10.3
HI	0	-2	-2	0	-4	1.3
IA	6	0	0	0	6	7.7
ID	12	0	0	0	12	11.6
IL	20	0	0	0	20	16.8
IN	11	0	0	0	11	11.0
KS	11	-2	0	0	9	9.7
KY	15	0	0	0	15	13.5
LA	5	-2	0	0	3	5.8
MA	8	-1	-2	0	5	7.1
MD	2	-2	-2	-2	-4	1.3
ME	10	-2	0	0	8	9.0
MI	8	0	-2	-2	4	6.5
MN	8	0	-2	0	6	7.7
MO	15	0	0	-2	13	12.3
MS	0	-1	0	0	-1	3.2
MT	10	-1	0	0	9	9.7
NC	3	-1	0	0	2	5.2
ND	0	0	0	0	0	3.9
NE	10	0	0	0	10	10.3
NH	10	0	0	-2	8	9.0
NJ	3	-3	0	-2	-2	2.6
NM	17	0	0	0	17	14.8
NV	8	-1	0	0	7	8.4
NY	0	-3	0	-2	-5	0.6
OH	10	0	0	0	10	10.3
OK	15	0	0	-2	13	12.3
OR	8	0	0	0	8	9.0
PA	7	-2	0	0	5	7.1
RI	11	-1	0	0	10	10.3
SC	0	-1	0	0	-1	3.2
SD	13	0	0	-2	11	11.0
TN	6	0	0	0	6	7.7
TX	10	0	0	0	10	10.3
UT	14	0	0	0	14	12.9
VA	11	0	0	0	11	11.0
VT	12	0	0	0	12	11.6
WA	3	-3	0	0	-2	3.9
WI	12	0	0	0	12	11.6
WV	2	0	0	0	2	5.2
WY	25	0	0	0	25	20.0

SOURCES: NAIC Model Laws, R Street analysis

Underwriting Freedom Overall Scores

Lowest Score

California, which scored the lowest in this metric, was the most restrictive state with regard to underwriting freedom.

Highest Score

Wyoming offered the most underwriting freedom and captured the highest score in this metric.

Residual Markets

Residual insurance markets serve consumers who cannot secure coverage in the private market for a reasonable price. Except in a handful of cases, residual market mechanisms generally do not have the explicit backing of state government treasuries. However, because no state has ever allowed its residual market to fail, there is typically an implicit assumption that states will stand behind a residual market pool or chartered entity if it encounters catastrophic losses. Moreover, some pools and joint underwriting associations have statutory authority to assess private market carriers to cover shortfalls in operations.

15% of the total score

Most residual insurance markets are exceedingly small. It is unlikely, for example, that a few involuntarily written auto insurance policies representing less than 0.5 percent of the market would have serious consequences for automobile insurance prices in any state or affect consumers more broadly. But when states have large residual markets, it is an indicator that regulatory restrictions may be preventing insurers from meeting consumers' needs. In such states, large residual markets represent a state subsidy for policyholders who take risks that the market is unwilling to absorb without higher premiums or some other form of compensation.

We measured the size of residual markets for home and auto insurance markets using data from the most recent Property Insurance Plans Service Office (PIPSO) and Automobile Insurance Plans Service Office (AIPSO) reports, respectively. We also used statutorily reported data on workers' compensation state funds.

Residual Markets Metrics

- **Residual Auto Market**
- Residual Homeowners Market
- Workers' Compensation Funds

Residual Auto Market. Where state residual auto insurance entities once insured as much as one-half or, in some states, more than one-half of all private-passenger auto risk, they represented just 0.58 percent of the nation's $295 billion aggregate premium in 2020. According to AIPSO data, residual markets account for less than 0.1 percent of the market in 36 states.[164]

Only four states—North Carolina, Massachusetts, Rhode Island and Maryland—have residual markets accounting for more than 1 percent of auto insurance policies. New Jersey was a near miss, with its residual market representing 0.999 percent of the state's auto insurance market. North Carolina is an outlier; the residual markets in Maryland, Massachusetts, New Jersey and Rhode Island all account for less than 5 percent of the market, and the North Carolina Reinsurance Facility accounts for 13.8 percent of that state's market.

In general, since the last report, residual markets continued to shrink, with the total amount of automobile insurance residual market premiums dropping by 10.7 percent and the residual market comprising only 0.6 percent of the industry total.[165] Looking at longer-term trends, the largest growth of state share in auto residual market from 2016 through 2020 was 58.3 percent in 2016 to 63.2 percent in 2020 in North Carolina and 0.9 percent to 2.5 percent in Illinois. The largest declines seen in state market share were 17 percent to 13.2 percent in Massachusetts, 0 percent to -1.1 percent in Arizona and 2.3 percent to 1.1 percent in Michigan.[166]

164. "Ranking of States by Residual and Total Market Premium," Automobile Insurance Plans Service Office, 2022. https://www.aipso.com/Portals/0/IndustryData/Ranking%20Of%20States%20By%20Residual%20And%20Total%20Market%20Premium_BD047_2020.xlsx?ver=2021-08-24-140455-120.

165. "Residual Market Size Relative to Total Market," Automobile Insurance Plans Service Office, 2022. https://www.aipso.com/Portals/0/IndustryData/Residual%20Market%20Size%20Relative%20To%20Total%20Market_BD040_2020.xlsx?ver=2021-08-24-140456-037.

166. "Residual Market Liability and Physical Damage Written Premium by State" Automobile Insurance Plans Service Office, 2022.

For each state, we assigned a penalty of between 0.0 and -10.0 points, weighted by market share. The states with residual markets accounting for more than 1.0 percent of market share received higher penalties to their weighted score (Massachusetts, Maryland, North Carolina and Rhode Island for automobile insurance markets and California, Florida, Louisiana, Massachusetts, Mississippi, North Carolina, Rhode Island, and Texas for homeowners insurance markets).

Residual Homeowners Market. The residual homeowners insurance mechanism, like the auto residual market, exists to serve consumers who cannot find coverage in the private voluntary market. Thirty states and the District of Columbia operate what are termed Fair Access to Insurance Requirements (FAIR) plans, originally created primarily to serve urban consumers, particularly in areas where "redlining" practices made it difficult for homeowners to obtain coverage.[167]

Residual Markets Metrics

- Residual Auto Market
- **Residual Homeowners Market**
- Workers' Compensation Funds

Five states sponsor specialized pools for coastal windstorm risks, also referred to as "beach plans." Mississippi, North Carolina and Texas operate both FAIR plans and wind pools; Alabama and South Carolina operate only wind pools. Florida's and Louisiana's Citizen Property Insurance Corporation are state-run insurance companies that serve both the coastal and FAIR plan markets.

Although most FAIR plans are small, excessive price controls in some states have prompted significant growth of state-sponsored insurance mechanisms, particularly in the wake of the heavy loss activity in the 2004 and 2005 hurricane seasons. That trend has since reversed. From 2017 through 2021, the vast majority of states saw declines in the market share of the FAIR and beach plans, with the exception of California, which grew from 0.77 percent in 2017 to 1.67 percent in 2021; Florida, which grew from 4.35 percent in 2017 to 5.33 percent in 2021; and North Carolina, which grew from 2.64 percent in 2017 to 2.94 percent in 2021. The largest declines in homeowners residual market share were in Texas, which decreased from 0.66 percent in 2017 to 0.32 percent in 2017, and Louisiana, which decreased from 1.84 percent to 1.04 percent.

We tallied the total market share of the FAIR plans and beach plans for each state and weighted them on a scale of 0.0 points for North Carolina to 10.0 points for the states that had no residual property insurance plan.

Workers' Compensation Funds. Four states—Ohio, North Dakota, Washington and Wyoming—provide workers' compensation insurance solely through a state-run insurer. In an additional 23 states, the residual market for workers' compensation is satisfied by a "competitive" state fund, which in some cases writes more than half of the coverage in the state. Our analysis on residual markets for states with competitive state funds used statutory financial data for those funds as reported to the NAIC. Analysis of residual funds in states without state funds used data reported to the National Council on Compensation Insurance's (NCCI).[168]

Residual Markets Metrics

- Residual Auto Market
- Residual Homeowners Market
- **Workers' Compensation Funds**

The strongest growth in the market share of workers' compensation state funds from 2017 through 2021 was seen in Oklahoma, which grew from 30.5 percent to 34.2 percent; Louisiana, which grew from 25.3 percent to 28.5 percent; and Oregon, which grew from 70.4 percent to 73.6 percent. The largest declines were seen in Arizona, which dropped from 23.8 to 16.6 percent; Rhode Island, which dropped from 56.1 percent to 49.2 percent; and Idaho, which dropped from 59.6 percent to 54.5 percent.

167. See, e.g., "Glossary: Redlining," IRMI, last accessed Sept. 28, 2022. https://www.irmi.com/online/insurance-glossary/terms/r/redlining.aspx.
168. "Residual Market Management Summary," National Council on Compensation Insurance, 2021. https://www.ncci.com/Articles/Documents/RM_ManagementSummary_2021.pdf.

In the four monopolistic states (where the state-run fund is the sole provider of workers' compensation in the state), the market share is 100 percent. We used S&P Capital IQ market share data and NCCI residual market data to show the respective share of the market written by competitive state funds or by the residual market.[169] For Arizona, Michigan, Idaho, New Mexico, Oregon and South Carolina—the six states with both a state fund and NCCI-serviced residual pools—the data was combined. We deducted between 0.0 and 10.0 points based on each state fund's market share.

Residual Markets Calculation

f(x)

Residual Markets Overall Score Calculation. We summed the weighted home, auto and workers' compensation scores to reach a single weighted score for this residual markets category, which was then translated into a scale ranging from 0.0 points for North Carolina to 15.0 points, or close to 15.0 points, for states with no significant residual markets (Table 7).

Table 7: Residual Markets

State	Auto		Home		Workers' Comp		Combined	Points
	Share (%)	Weighted	Share (%)	Weighted	Share (%)	Weighted		
AK	0.012	0.0	0.00	0.0	13.7	0.0	0.0	**15.0**
AL	0.001	0.0	0.48	-0.9	2.6	0.0	-0.9	**14.4**
AR	0.003	0.0	0.00	0.0	8.6	0.0	0.0	**15.0**
AZ	-0.301	-0.3	0.00	0.0	21.1	-2.1	-2.4	**13.2**
CA	0.083	-0.1	1.67	-1.0	11.9	-1.1	-2.2	**13.4**
CO	0.020	0.0	0.00	0.0	53.7	-5.6	-5.6	**10.8**
CT	0.034	0.0	0.10	-0.2	4.7	0.0	-0.2	**14.9**
DE	0.099	-0.1	0.08	-0.1	5.8	0.0	-0.2	**14.9**
FL	0.006	0.0	5.33	-4.5	1.7	-0.1	-4.7	**11.5**
GA	0.002	0.0	0.31	-0.5	8.8	0.0	-0.5	**14.6**
HI	0.370	-0.4	0.00	0.0	27.7	-2.4	-2.8	**12.9**
IA	0.311	0.0	0.05	-0.1	3.8	0.0	-0.1	**14.9**
ID	0.003	0.0	0.00	0.0	56.1	-5.6	-5.6	**10.8**
IL	0.442	-0.4	0.05	-0.1	3.5	0.0	-0.4	**14.7**
IN	0.005	0.0	0.04	-0.1	0.0	0.0	-0.1	**14.9**
KS	0.196	-0.2	0.38	-0.5	5.5	0.0	-0.7	**14.5**
KY	0.013	0.0	0.16	-0.3	26.5	-2.8	-3.1	**12.7**
LA	0.006	0.0	1.04	-1.5	28.5*	-2.6	-4.1	**11.9**
MA	3.547	-3.1	5.47	-7.2	17.5	0.0	-10.3	**7.3**
MD	1.082	-1.0	0.02	0.0	19.3	-2.1	-3.2	**12.6**
ME	0.049	-0.1	0.00	0.0	66.1	-6.8	-6.8	**9.9**
MI	0.172	-0.2	0.24	-0.3	28.6	-2.3	-2.8	**12.9**
MN	0.042	0.0	0.08	-0.1	13.6	-1.3	-1.5	**13.9**
MO	0.080	0.0	0.06	-0.1	22.8	-2.6	-2.7	**13.0**
MS	0.000	0.0	1.22	-2.0	0.0	0.0	-2.0	**13.5**
MT	0.002	0.0	0.00	0.0	60.1	-5.9	-5.9	**10.6**
NC	13.802	-10.0	8.81	-10.0	5.7	0.0	-20.0	**0.0**
ND	0.006	0.0	0.00	0.0	100.0	-10.0	-10.0	**7.5**
NE	0.029	0.0	0.00	0.0	0.0	0.0	0.0	**15.0**
NH	0.102	-0.1	0.00	0.0	6.6	0.0	-0.1	**14.9**
NJ	0.999	-0.7	0.16	-0.3	5.7	0.0	-1.0	**14.3**
NM	0.041	-0.1	0.55	-0.8	37.7	-3.4	-4.3	**11.8**

169. *P&C Market Share Application,* S&P Capital IQ, 2022.

State	Auto		Home		Workers' Comp		Combined	Points
	Share (%)	Weighted	Share (%)	Weighted	Share (%)	Weighted		
NV	0.012	0.0	0.00	0.0	5.2	0.0	0.0	**15.0**
NY	0.573	-0.6	0.29	-0.4	35.6	-3.6	-4.6	**11.6**
OH	0.195	0.0	0.23	-0.4	100.0	-10.0	-10.4	**7.2**
OK	0.009	0.0	0.00	0.0	34.2	-3.0	-3.0	**12.8**
OR	0.003	0.0	0.08	-0.1	77.4	-7.1	-7.2	**9.6**
PA	0.043	0.0	0.11	-0.2	4.0	-0.4	-0.6	**14.5**
RI	1.543	-1.7	2.68	-3.7	49.2	-5.3	-10.6	**7.0**
SC	0.005	0.0	0.4	-0.7	16.4	-1.2	-1.9	**13.6**
SD	0.002	0.0	0.00	0.0	3.3	0.0	0.0	**15.0**
TN	0.002	0.0	0.00	0.0	7.1	0.0	0.0	**15.0**
TX	0.010	0.0	2.51	-3.8	41.5	-4.2	-8.0	**9.0**
UT	0.011	0.0	0.00	0.0	47.7	-5.0	-5.0	**11.2**
VA	0.015	-0.1	0.39	-0.6	5.4	0.0	-0.7	**14.5**
VT	0.119	-0.1	0.00	0.0	8.5	0.0	-0.1	**14.9**
WA	0.009	0.0	0.01	0.0	100.0	-10.0	-10.0	**7.5**
WI	0.006	0.0	0.09	-0.1	0.0	0.0	-0.1	**14.9**
WV	0.044	0.0	0.04	0.0	5.9	0.0	-0.1	**14.9**
WY	0.041	0.0	0.00	0.0	100.0	-10.0	-10.0	**7.5**

SOURCES: AIPSO, PIPSO, NCCI and S&P Capital IQ

4 Fiscal Efficiency

15%
of the total score

Ideally, state insurance regulators perform their duties competently and transparently and with minimal cost to consumers, companies and taxpayers. Taxes and fees paid to support insurance regulation are passed on as part of the cost of insurance coverage.

States vary in how they collect and allocate funding for their insurance departments. According to the most recent edition of the NAIC's Insurance Department Resources Report (IDRR), 16 states derive 100 percent of their insurance department revenue from regulatory fees and assessments.[170] Fees and assessments account for more than 90 percent of the budget in 17 other states and for more than 70 percent of the budget in an additional seven states.[171]

Other states draw on a combination of fees and assessments; fines and penalties; general funds; and other sources. Mississippi and South Dakota are the only states with insurance departments that do not directly draw any revenues from the fees and assessments they levy, although fees and assessments also account for less than 15 percent of the budget in North Carolina, Pennsylvania and Rhode Island.[172] In all five of those states, the bulk of the insurance department's operating funds comes from the state's general fund.

The NAIC's IDRR also shows that the 50 states, Puerto Rico and the District of Columbia spent $1.68 billion on insurance regulation in 2020, up from $1.62 billion in the prior year.[173] However, it is important to note that state insurance departments collected

170. "2020 Insurance Department Resources Report: Volume One," p. 31. https://content.naic.org/sites/default/files/publication-sta-hb-volume-one.pdf.
171. Ibid.
172. Ibid.
173. Ibid., p. 29.

more than twice that amount, $3.76 billion, in regulatory fees and assessments from the insurance industry.[174] State insurance departments also collected $190.6 million in fines and penalties and another $1.07 billion of other revenue raised outside of taxes, fees, assessments, fines and penalties.[175] States separately collected $24.0 billion in insurance premium taxes.[176] Thus, of the total $29 billion in revenue that states collected from the insurance industry in 2020, only 5.8 percent was spent on insurance regulation. Using this data, we constructed two variables to measure departments' budgetary efficiency and the financial burden states place on insurance products: regulatory surplus (or shortfall) and tax and fee burden.

Fiscal Efficiency Metrics

Regulatory Surplus (or Shortfall)

Tax and Fee Burden

Regulatory Surplus (or Shortfall). Total fees and assessments collected by state insurance departments were more than twice the amount spent on insurance regulation in 2020. This figure does not include premium taxes, which are a form of sales tax and thus go into the states' general fund. It also does not include fines and penalties, which are meant to discourage bad behavior and compensate victims of that behavior. Limiting the consideration to those regulatory fees and assessments that are paid by insurers and insurance producers, states collected over $2 billion more in regulatory fees than they spent on regulation. That excess amount, which we call "regulatory surplus," is typically diverted to cover other shortfalls in state budgets. Sometimes, these programs have a tangential relationship to insurance, such as fire safety or public health. By collecting this regulatory surplus through insurance fees, states are laying a stealth tax on insurance consumers to fund what should be general taxpayer obligations.

Our calculations show that, in 2020, 11 states collected less in fees and assessments than they spent on insurance regulation, giving them a regulatory surplus of $0. Among the 50 states, the mean regulatory surplus was equal to 152.3 percent of a state's budget, albeit with a large standard deviation of nearly 350 percentage points.

For our weighted score, we set the mean as zero and added and subtracted points based on how far each state deviated from that mean. The states ranged from those 11 with no regulatory surplus to Oregon, with a surplus more than 20 times the size of its insurance department budget. We converted those weighted scores into a scale from 0.0 points for Oregon to 10.0 points for states with little or no regulatory surplus.

Fiscal Efficiency Metrics

Regulatory Surplus (or Shortfall)

Tax and Fee Burden

Tax and Fee Burden. We also looked at total revenues from premium taxes, fees and assessments, as well as from fines and penalties collected by each state, expressed as a percentage of the premiums written in that state. This measure represents the overall fiscal burden state governments place on insurance products. This analysis drew on Volume 2 of the NAIC's annual IDRR and Volume 1 of the NAIC's data on state revenues.

The mean of the 50 states was a tax and fee burden of 1.29 percent, with a standard deviation of 0.58 percentage points. The results ranged from a low of 0.18 percent for Delaware and 0.24 percent for Florida—more than 1.5 standard deviations below the mean—to a high of 2.69 percent for Louisiana, which was more than 2 standard deviations above the mean.

174. Ibid., p. 32.
175. Ibid.
176. Ibid.

For weighted score, we set the mean as zero and added and subtracted points based on how far each state deviated from that mean. We then converted the weighted scores into a point system, from 0.0 points for Louisiana and New Mexico up to 5.0 points for Florida and Delaware.

Fiscal Efficiency Overall Score Calculation. States' scores for fiscal efficiency incorporating the combination of regulatory surplus and tax and fee burden points ranged from a low of 3.2 points for Oregon to a high of 15.0 points for Florida (Table 8).

Fiscal Efficiency Calculation

f(x)

Table 8: Fiscal Efficiency

State	Regulatory Surplus			Tax and Fee Burden			Total
	Raw (%)	Weighted	Points	Raw (%)	Weighted	Points	
AK	99.5	0.5	10.0	2.09	-1.5	1.1	11.1
AL	82.5	0.5	10.0	1.82	-0.8	2.0	12.0
AR	348.9	-0.4	8.4	2.06	-0.1	2.8	11.3
AZ	54.5	0.5	10.0	1.52	0.8	4.0	14.0
CA	123.5	0.4	9.8	0.93	0.4	3.5	13.4
CO	84.7	0.5	10.0	0.83	0.6	3.8	13.8
CT	514.3	-1.0	7.4	0.55	1.1	4.3	11.7
DE	131.8	0.1	9.2	0.18	1.6	5.0	14.2
FL	84.2	0.5	10.0	0.24	1.6	5.0	15.0
GA	233.3	-0.1	8.9	1.80	0.6	3.7	12.7
HI	64.2	0.5	10.0	1.36	-0.2	2.8	12.8
IA	200.5	0.1	9.3	0.41	1.2	4.5	13.7
ID	268.3	0.0	9.1	1.55	-0.4	2.5	11.6
IL	164.3	0.3	9.6	0.56	1.1	4.3	13.9
IN	141.6	0.2	9.5	0.89	1.0	4.2	13.7
KS	145.3	0.5	9.9	1.88	-1.8	0.7	10.6
KY	234.0	0.3	9.6	1.31	-0.2	2.8	12.3
LA	363.5	-0.3	8.5	2.69	-2.3	0.0	8.5
MA	1473.6	-3.5	2.9	1.05	0.3	3.4	6.2
MD	56.7	0.5	10.0	1.50	-0.5	2.4	12.4
ME	174.3	0.5	10.0	1.23	0.3	3.4	13.4
MI	95.7	0.5	10.0	1.14	0.3	3.3	13.3
MN	135.7	0.4	9.8	1.10	0.1	3.1	12.9
MO	132.6	0.4	9.8	0.87	0.5	3.6	13.4
MS	0.0	0.4	9.8	2.22	-1.7	0.8	10.7
MT	112.2	0.4	9.8	2.15	-1.1	1.6	11.3
NC	104.5	0.5	10.0	1.23	0.3	3.3	13.3
ND	184.4	0.2	9.4	1.11	-0.1	2.9	12.3
NE	137.1	0.4	9.8	0.86	0.7	3.8	13.6
NH	144.4	0.3	9.6	1.25	-0.4	2.4	12.1
NJ	159.6	0.3	9.6	0.86	0.8	4.0	13.6
NM	553.8	-1.4	6.6	1.39	-2.3	0.0	6.6
NV	245.1	0.4	9.7	0.31	1.5	4.9	14.6
NY	565.3	-0.5	8.2	1.28	0.1	3.1	11.3
OH	125.8	0.4	9.8	0.65	0.9	4.1	13.9
OK	303.3	0.1	9.3	1.77	-0.8	2.0	11.3
OR	2157.1	-5.2	0.0	1.53	0.2	3.2	3.2
PA	234.1	0.0	9.1	0.75	0.6	3.7	12.9
RI	33.6	0.5	10.0	1.75	0.8	4.0	14.0
SC	161.3	-0.2	8.7	0.98	0.4	3.4	12.1
SD	388.7	-0.4	8.4	1.51	-0.4	2.4	10.8
TN	91.3	0.5	10.0	2.20	-1.6	0.9	10.9

Fiscal Efficiency Overall Scores

Highest Score
Florida

Lowest Score
Oregon

State	Regulatory Surplus			Tax and Fee Burden			Total
	Raw (%)	Weighted	Points	Raw (%)	Weighted	Points	
TX	268.8	0.1	9.3	1.54	-0.4	2.4	**11.7**
UT	104.9	0.5	10.0	1.00	0.3	3.4	**13.4**
VA	295.2	-0.1	8.9	1.07	0.1	3.1	**12.0**
VT	300.6	-0.3	8.5	2.32	-1.9	0.5	**9.0**
WA	144.9	0.4	9.8	1.54	-0.6	2.2	**12.0**
WI	220.2	0.1	9.2	0.65	1.0	4.2	**13.4**
WV	107.4	-0.3	8.6	1.94	-1.1	1.5	**10.1**
WY	101.5	0.5	10.0	1.38	0.7	3.8	**13.8**

SOURCE: R Street analysis of NAIC IDRRs

5 Politicization

10% of the total score

States with commissioners focused on sound, nonpartisan regulation develop reputations for excellence, independence and reliability in the support and guidance they provide to policyholders and insurers operating in those states. Academic studies have found that the absence of partisanship is associated with higher levels of effectiveness in government functions; bureaucracies characterized by this kind of impartiality, professionalism and competence are positively correlated with economic growth and negatively correlated with corruption.[177]

These qualities are relevant to the insurance industry and its commissioners, as insurance is a technical undertaking that should be insulated from politics. Political economy scholarship has demonstrated that elected regulatory officials are more consumer-friendly by virtue of voters being responsible for putting them into office.[178] When regulators are elected, it can "lead to a regulatory policy that favors industry stakeholders to whom they are politically beholden, as political parties see this as a way of enhancing their political agenda on non-regulatory issues."[179]

Effective government bureaucracies require competence and political neutrality. Neutral competence has been described as "the ability to do the work of government expertly, and to do it according to explicit, objective standards rather than to personal or party or other obligations and loyalties."[180] Such competence, combined with the existence of legislatures responsive to public will in creating laws, including those governing the business of insurance, lead to effective administration. The introduction of political pressure to the process of insurance regulation contributes to negative consequences and to extra-legislative remedies to what should be legislative concerns. Insurance regulators are public servants, and thus it is necessary and valuable for the public to have oversight of their activities. Trained, professional regulators can enforce the law more effectively when unaffected by political considerations.

We examined insurance commissioner political independence in three ways: first, how they come into office; second, what the process is for removal; and third, whether or not they hold a level of expertise relevant to the field. We downgraded states in which

177. Peter B. Evans and James E. Rauch, "Bureaucracy and Growth: A Cross-National Analysis of the Effects of 'Weberian' State Structures on Economic Growth," *American Sociological Review* 64:5 (October 1999), pp. 748-765. https://www.jstor.org/stable/2657374?seq=1#page_scan_tab_contents.

178. Timothy Besley and Stephen Coate, "Elected versus Appointed Regulators: Theory and Evidence," *Journal of the European Economic Association* 1:5 (September 2003), pp. 1-33. https://econ.lse.ac.uk/staff/tbesley/papers/jeea.pdf.

179. Ibid.

180. Herbert Kaufman, "Emerging Conflicts in the Doctrines of Public Administration," The American Political Science Review 50:4 (December 1956), pp. 1057-1073. https://www.jstor.org/stable/1951335.

insurance regulation was explicitly politically driven and acknowledged the wisdom of structures that properly insulated insurance regulators from politics.

Selection and Appointment. Based on descriptions provided by the National Conference of State Legislators, we identified five different systems for selecting and appointing insurance commissioners.[181] Each of these systems was assigned a value on a point scale of -5 to +5 (Table 9).

Table 9: Point-Scale Assignments for Systems for Selecting and Appointing Insurance Commissioners

Points	Appointments
-5 points for elected commissioner.	The 11 states in which the insurance commissioner is elected received -5 points in the politicization measure. Those states are California, Delaware, Georgia, Kansas, Louisiana, Mississippi, Montana, North Carolina, North Dakota, Oklahoma and Washington State.[182] When insurance commissioners are elected, there are two concerns: (1) that they might be influenced by their corporate supporters or campaign donors or (2) that they might be influenced by populist sentiment or "consumer advocates" who argue for insurers to provide coverage at unprofitably low rates.
0 points for gubernatorial appointment with legislative consent.	The ideal case is a commissioner appointed by, and serving at the pleasure of, the state's governor. There are 26 states where such appointments are subject to the advice and consent of the state Senate (or unicameral legislature, in the case of Nebraska). This is the most common insurance commissioner selection process.
+1 point for gubernatorial appointment without legislative consent.	In addition to the 26 states where gubernatorial appointments are subject to legislative advice and consent, there are five states—Alabama, Connecticut, Indiana, Massachusetts and Tennessee—where such appointments are not reviewed by the legislature, thus providing slightly more insulation from political considerations. In Connecticut, for example, the commissioner is appointed by the governor and the advice and consent of either the house or the General Assembly.[183] We also included in this category New Hampshire, where the governor's appointment is subject to review by the New Hampshire Executive Council. While New Hampshire's process is arguably a form of advice and consent, it is more accurate to say that the governor and Executive Council form a single executive office that co-governs the state.[184]
+2 points for administrative appointment.	In six states, the commissioner is not appointed by the governor directly but is selected by a different appointed executive officer. In practice, such a structure is nearly equivalent to gubernatorial appointment, but we grant a small bonus to acknowledge the extent to which this buffer might help to depoliticize regulatory decisions in some cases. The six states with this structure are Alaska, Hawaii, Nevada, Oregon, Rhode Island and South Dakota.

Politicization Metrics

- Selection and Appointment
- Removal
- Expertise

181. "Insurance State Regulators: Selection and Term Statutes," National Conference of State Legislatures, Oct. 13, 2021. https://www.ncsl.org/research/financial-services-and-commerce/insurance-state-regulators-selection-and-term-stat.aspx.

182. "Insurance Department Directory." https://content.naic.org/sites/default/files/publication-ins-ou-insurance-directory.pdf.

183. "Connecticut General Statutes 4-6 – appointment and term of department heads," Law Server, Aug. 10, 2022. https://www.lawserver.com/law/state/connecticut/ct-laws/connecticut_statutes_4-6.

184. "An Overview of the Executive Council," State of New Hampshire Executive Council, Aug. 10, 2022. https://www.nh.gov/council/about-us/index.htm.

Points	Appointments
+5 points for independent commission.	+5 points for independent commission. In three states, the insurance commissioner is selected by an independent public board. These structures provide the greatest independence for the regulator. In Virginia, the insurance commissioner is selected by the State Corporation Commission, whose three members are appointed by the General Assembly to staggered six-year terms. In New Mexico, the insurance superintendent is selected by the appointed nine-member Insurance Nominating Committee: Four of the members are selected by the New Mexico legislative council, four are selected by the governor (with two each representing insurance industry and consumer interests and with additional partisan balance requirements) and the eight appointed members select the ninth member. Florida's insurance commissioner is appointed by the Financial Services Commission, whose members are the state's elected governor, chief financial officer, attorney general and agriculture commissioner; both the governor and chief financial officer must vote with the majority for a motion to appoint to prevail.

Politicization Metrics

- Selection and Appointment
- **Removal**
- Expertise

Removal. In addition to looking at how insurance regulators are appointed, we examined circumstances under which they might be removed. Where a commissioner serves at the pleasure of the governor—or, in states with administrative appointments, at the pleasure of another executive officer—there is little check on the potential for regulatory decisions to be politicized. Among the 39 states with appointed commissioners, 24 serve at the pleasure of a single executive officer.[185]

We awarded a bonus of +1 points to Virginia, whose insurance commissioner serves at the pleasure of the State Corporation Commission. While still at-pleasure, the structure of the commission provides some insulation from politicized removals.

There are 13 states that protect the insurance regulator from a politicized removal by establishing set terms of office. Under this structure, a commissioner may still be removed, but only with cause. We provided +1 bonus points for each year of the commissioner's term. Thus, +2 points for Texas and Vermont; +4 points for Alabama, Iowa, Kentucky, Maryland, Michigan, Minnesota, New Mexico and New York; +5 points for Maine and New Hampshire; and +6 points for West Virginia.

We also awarded +5 points to Florida, which has the most complex removal process. Just as an insurance commissioner can only be appointed by a majority of the Financial Services Commission, likewise only a majority of the commission can act to remove the commissioner. Both the governor and the chief financial officer must vote with the majority for a motion to remove to prevail.

Politicization Metrics

- Selection and Appointment
- Removal
- **Expertise**

Expertise. A good understanding of the insurance industry, its providers and policyholders is key to a regulator's ability to oversee the business of insurance with professionalism and competence. It is important that insurance commissioners focus their energies on the requirements of the role, rather than view the position as a stepping-stone to future, highly compensated positions at insurance industry associations or insurers.

185. Heather Morton, "Insurance State Regulators: Selection and Term Statutes." https://www.ncsl.org/research/financial-services-and-commerce/insurance-state-regulators-selection-and-term-stat.aspx.

One study analyzed the professional careers of insurance commissioners from 2000 to 2018, both before and after their terms as commissioners.[186] It found that:

> 51.5% of commissioners had at least one job before/after their term in the insurance industry. More specifically, 38% had at least one job after the end of their term (post-term revolvers) in the insurance industry. Additionally, 29% exited immediately, or within a year into the insurance industry after their term ended (immediate post-term revolvers). Furthermore, 35% of commissioners had at least one job in insurance before their commissioner term started (pre-term revolvers), and 16% came from and exited into insurance.[187]

In four-fifths of the states we examined, there was no requirement that an insurance commissioner have insurance industry expertise. We gave a bonus of +5 points to the 10 states whose statutory codes required expertise or experience in the business of insurance as a prerequisite for appointment as insurance commissioner. For example, Indiana statutes stipulate that "[t]he insurance commissioner shall…be familiar with and known to possess a knowledge of the subject of insurance and be skilled in matters pertaining thereto and shall be chosen solely for fitness, irrespective of political beliefs or affiliations."[188] The states with such a requirement are Alabama, Arizona, Colorado, Florida, Idaho, Indiana, Nevada, Oregon, South Dakota and Texas.

Politicization Overall Score Calculation. The results of these three factors were summed and weighted to grant states between 0.0 and 10.0 points the politicization category. Florida led with 10.0 points, whereas the 11 states with elected commissioners tied as the most politicized markets in the country and were given 0 points in this category (Table 10).

Politicization Calculation

f(x)

Table 10: Politicization

State	Selection	Removal	Expertise	Totals	Points
AK	2	0	0	2	3.5
AL	1	4	5	10	7.5
AR	0	0	0	0	2.5
AZ	0	0	5	5	5.0
CA	-5	0	0	-5	0.0
CO	0	0	5	5	7.0
CT	0	0	0	0	3.0
DE	-5	0	0	-5	0.0
FL	5	5	5	15	10.0
GA	-5	0	0	-5	0.0
HI	2	0	0	2	3.5
IA	0	4	0	4	2.5
ID	0	0	5	5	5.0
IL	0	0	0	0	2.5
IN	1	0	5	6	5.5
KS	-5	0	0	-5	0.0
KY	0	4	0	4	4.5
LA	-5	0	0	-5	0.0
MA	1	0	0	1	3.0
MD	0	4	0	4	4.5
ME	0	5	0	5	5.0

Politicization Overall Scores

Least Politicized

Florida

Most Politicized

California
Delaware
Georgia
Kansas
Louisiana
Mississippi
Montana
North Carolina
North Dakota
Oklahoma
Washington

186. Tenekedjieva. https://www.hhs.se/contentassets/bee955be56624b83854b8367ca889fbf/200116-jmp_-a_m-tenekedjieva_revolvingdoor.pdf.
187. Ibid.
188. Indiana Code Title 27. Insurance § 27-1-1-2. https://codes.findlaw.com/in/title-27-insurance/in-code-sect-27-1-1-2/#:~:text=The%20insurance%20commissioner%20shall%20be,of%20political%20beliefs%20or%20affiliations.

State	Selection	Removal	Expertise	Totals	Points
MI	0	4	0	4	4.5
MN	0	4	0	4	2.5
MO	0	0	0	0	2.5
MS	-5	0	0	-5	0.0
MT	-5	0	0	-5	0.0
NC	-5	0	0	-5	0.0
ND	-5	0	0	-5	0.0
NE	0	0	0	0	2.5
NH	1	5	0	6	5.5
NJ	0	0	0	0	2.5
NM	5	4	0	9	7.0
NV	2	0	5	7	6.0
NY	0	4	0	4	2.5
OH	0	0	0	0	2.5
OK	-5	0	0	-5	0.0
OR	2	0	5	7	6.0
PA	0	4	0	4	2.5
RI	2	0	0	2	3.5
SC	0	0	0	0	2.5
SD	2	0	5	7	6.0
TN	1	0	0	1	3.0
TX	0	2	5	7	6.0
UT	0	0	0	0	2.5
VA	5	1	0	6	5.5
VT	0	2	0	2	3.5
WA	-5	0	0	-5	0.0
WI	0	0	0	0	2.5
WV	0	6	0	6	2.5
WY	0	0	0	0	2.5

SOURCES: NCSL, NAIC, R Street analysis

6 Auto Insurance Market Competitiveness

We examined empirical data on the competitiveness of states' auto and homeowners insurance markets by analyzing the concentration and market share of insurance groups in each state's market. We also looked at loss ratios experienced by companies operating in those markets.

Market Concentration. For markets to serve consumers well, there must be a variety of competitors with products designed to address different exposures and policyholder budgets. A high degree of market concentration is not necessarily a sign that consumers are poorly served, but it can be an indication of unnecessarily high barriers to entry or other market dysfunction.

We calculated the concentration of each state's personal auto insurance market, as measured by the Herfindahl-Hirschman Index (HHI), using data supplied by S&P Capital IQ and the NAIC Competition Database.[189] The HHI is used by the U.S. Department of Justice (DOJ) and the FTC to assess the degree to which markets are subject to monopolistic concentration. It is calculated by summing the squares of the market-

10%
of the total score

Auto Insurance Market Competitiveness Metrics

- Market Concentration
- New Entries and Exits
- Loss Ratios

189. *P&C Market Share Application,* S&P Capital IQ, 2022. https://www.spglobal.com/marketintelligence/en/solutions/sp-capital-iq-pro.

share totals of every firm in the market. In a market with 100 firms, each with a 1 percent share, the HHI would be 100. In a market with just one monopolistic firm, the HHI would be 10,000. For example, for a market consisting of four firms with shares of 30, 30, 20, and 20 percent, the HHI is 2,600 ($30^2 + 30^2 + 20^2 + 20^2 = 2,600$).[190]

For this metric, we measured concentration at the group level using 2020 NAIC data.[191] In most states, however, a single insurance group may do business through several separate operating units.

The DOJ and the FTC consider markets in which the HHI is between 1,500 and 2,500 to be moderately concentrated, whereas those with an HHI over 2,500 are considered to be highly concentrated. In the aggregate, the nationwide auto insurance market had an HHI of 810 in 2021, up from 790 in 2020, while the mean HHI of the 50 states was 1,088, with a standard deviation of 243. Under the metrics used by the DOJ and the FTC, Alaska and New York were the only states with auto insurance markets considered moderately concentrated, with Hawaii narrowly avoiding the mark with an HHI of 1,499. No state would be considered highly concentrated.

We assigned the mean HHI a value of 0.0 and weighted states by how many standard deviations they were above or below the mean. Utah and California had the least-concentrated auto insurance markets, with an HHI more than 1 standard deviation below the mean. Alaska had the most-concentrated market, with an HHI more than 3 standard deviations above the mean.

New Entries and Exits. In addition to market concentration measured through the HHI, another measurement of competition is volume of new entries and exits in the market. By looking at the change over the last five years, it is possible to explore the overall trend of competitiveness, both nationally and on a state-by-state level. The private passenger auto market saw an overall loss of insurers on a countrywide level, with 51 new auto insurers entering the market, 69 exiting and a total of 279 private passenger auto insurance groups operating in the United States, according to the NAIC Competition Database.

Auto Insurance Market Competitiveness Metrics

- Market Concentration
- **New Entries and Exits**
- Loss Ratios

Loss Ratios. In addition to looking at market concentrations in the 50 states, we analyzed combined direct simple loss and loss adjustment expense (LAE) ratios—key profitability measures.[192] The direct simple loss ratio is losses divided by premium. The LAE ratio is expenses associated with losses (such as expenses incurred by claims adjusters and legal fees paid to defense attorneys) divided by premium. Insurers that are more profitable have low loss and LAE ratios. Low loss ratios can point to insufficiently competitive markets. High loss and LAE ratios mean insurers are less profitable and can be an indicator that they are not charging enough to earn their cost of capital or, in extremis, to pay policyholder claims.

Auto Insurance Market Competitiveness Metrics

- Market Concentration
- New Entries and Exits
- **Loss Ratios**

In our analysis of loss ratios of auto insurance groups in each of the 50 states, loss ratio included claims payments and LAE, but excluded agent commissions and other marketing and administrative expenses the industry incurs. To smooth losses over the underwriting cycle, we present five-year averages from 2017 through 2021.

Loss ratios at the state level provide more than measures of states' profitability.

190. "Herfindahl-Hirschman Index," United States Department of Justice, July 31, 2018. https://www.justice.gov/atr/herfindahl-hirschman-index.
191. "2020 Competition Database," National Association of Insurance Commissioners, 2021. https://content.naic.org/sites/default/files/publication-cdr-im-competition-database-report.pdf.
192. *P&C Market Share Application*. https://www.spglobal.com/marketintelligence/en/solutions/sp-capital-iq-pro.

Insurance regulators are charged with ensuring that rates are not excessive, inadequate or unfairly discriminatory. If insurers charge appropriate premiums for the coverage they provide, rates should be higher in states with more risk and lower in states with less risk, but loss ratios would be comparable over the long term.

We looked for those states where average loss ratios stood out as either high above the average or low below the average. The nationwide five-year average loss ratio from 2017 through 2021 for private passenger automobile insurance, which includes both automobile liability and automobile physical damage, was 67.8 percent, down marginally from the 2015 to 2019 five-year average of 67.9 percent. The (unweighted) mean of the loss ratios of the 50 states was 64.9 percent, with a standard deviation of 4.8 percentage points.

After setting the mean loss ratio at zero, we made no adjustment to the scores of states whose average loss ratios fell within 0.5 standard deviation of the mean. For those more than 0.5 standard deviation greater than or less than the mean, we subtracted an equivalent number of points from the state's overall auto insurance market competitiveness score.

There were 15 states that had five-year average loss ratios more than 0.5 standard deviation below the mean; this group was led by Vermont. At the other end of the spectrum, 12 states had average loss ratios more than 0.5 standard deviation greater than the mean; this group was led by Florida, which had an average loss ratio more than 2 standard deviations greater than the mean, followed closely by Michigan, New York and Louisiana.

Auto Insurance Market Competitiveness Calculation

f(x)

Auto Insurance Market Overall Score Calculation. Taking the concentration and loss ratio scores together gave us a raw total that was weighted on a scale of 0.0 to 10.0 points. The scores for this auto insurance competitiveness metric ranged from Louisiana, the least competitive market, to Utah, the most competitive market (Table 11). Of note, we also present an additional table below showing the number of insurers that have entered a particular state in the past five years and the number of insurers that have exited that state in the past five years (Table 12). This data has not been presented in previous iterations of the report card study and has been added in this edition, but it has not been figured into the overall score of this section. It is useful information to show, however, as it demonstrates that there have been more exits than entrants in many states.

Table 11: Auto Insurance Market

State	Concentration		Loss Ratio		Totals	Points
	HHI	Weighted	5-Year Average (%)	Weighted		
AK	1,803	-3.3	62.8	0.0	-3.3	0.3
AL	1,151	-0.4	65.8	0.0	-0.4	6.3
AR	1,045	0.0	62.3	0.0	0.0	7.1
AZ	905	0.6	65.9	0.0	0.6	8.4
CA	764	1.3	68.0	-0.6	0.7	8.5
CO	926	0.7	71.1	-3.0	-2.3	2.2
CT	812	1.1	67.0	0.0	1.1	9.3
DE	1,309	-1.1	69.6	-0.7	-1.7	3.5
FL	1,401	-1.7	75.6	-1.0	-2.7	1.5
GA	1,068	0.1	71.1	-1.2	-1.1	4.8
HI	1,499	-2.0	56.9	-1.1	-3.1	0.7

State	Concentration		Loss Ratio		Totals	Points
	HHI	Weighted	5-Year Average (%)	Weighted		
IA	1,055	0.2	64.8	-0.9	-0.7	5.7
ID	874	0.9	61.4	-0.5	0.4	7.9
IL	1,224	-0.8	65.1	0.0	-0.8	5.4
IN	882	0.8	62.7	-0.7	0.2	7.4
KS	880	0.8	61.6	-0.6	0.1	7.3
KY	1,127	-0.2	65.4	0.0	-0.2	6.6
LA	1,493	-2.0	73.3	-1.4	-3.4	0.0
MA	1,017	0.1	59.7	-0.7	-0.6	5.8
MD	1,318	-1.1	65.0	-0.8	-2.0	3.0
ME	818	1.2	59.2	-1.2	0.0	7.0
MI	1,150	-0.2	73.9	-3.0	-3.1	0.6
MN	1,169	-0.4	62.5	-0.8	-1.2	4.5
MO	975	0.4	66.4	0.0	0.4	7.9
MS	1,100	-0.1	66.4	0.0	-0.1	6.8
MT	1,062	0.0	61.6	0.0	0.0	7.1
NC	889	0.8	66.4	0.0	0.8	8.7
ND	885	1.0	58.5	-1.0	-0.1	6.9
NE	985	0.4	62.9	0.0	0.4	7.8
NH	854	1.0	56.9	-1.3	-0.3	6.5
NJ	1,171	-0.5	70.2	0.0	-0.5	6.1
NM	1,118	-0.1	62.8	0.0	-0.1	6.9
NV	984	0.5	72.2	-1.1	-0.6	5.7
NY	1,507	-2.4	73.9	-0.6	-3.0	0.9
OH	901	0.7	59.8	-1.2	-0.5	6.1
OK	1,060	0.1	59.9	-1.5	-1.4	4.1
OR	1,021	0.2	62.4	0.0	0.2	7.5
PA	981	0.4	64.7	0.0	0.4	7.8
RI	1,202	-0.5	63.3	-0.6	-1.1	4.8
SC	1,232	-0.3	68.0	-1.0	-1.2	4.5
SD	851	1.0	65.8	0.0	1.0	9.2
TN	1,025	0.2	64.4	0.0	0.2	7.4
TX	935	0.8	70.6	-1.0	-0.2	6.5
UT	755	1.4	66.6	0.0	1.4	10.0
VA	1,101	-0.1	63.9	0.0	-0.1	6.8
VT	892	0.9	53.7	-2.0	-1.1	4.7
WA	905	0.8	64.7	0.0	0.8	8.6
WI	1,036	0.1	61.5	-0.7	-0.6	5.7
WV	1,280	-1.0	58.1	-1.6	-2.5	1.8
WY	1,168	-0.4	66.1	-0.5	-1.0	5.1

HHI = Herfindahl-Hirschman Index

SOURCES: S&P Capital IQ and NAIC Competition Report

Auto Insurance Market Competitiveness Overall Scores

Least Competitive
Louisiana

Most Competitive
Utah

Table 12: Auto Insurance Market 5-Year Entries and Exits

State	Total Sellers	5-Year Entrants	5-Year Exits
AK	22	4	7
AL	50	15	28
AR	53	18	26
AZ	84	38	44
CA	79	23	38
CO	56	15	28

NEW DATA

State	Total Sellers	5-Year Entrants	5-Year Exits
CT	51	18	20
DE	36	10	17
FL	52	22	33
GA	65	25	42
HI	27	4	7
IA	64	15	25
ID	51	8	16
IL	88	22	33
IN	89	22	33
KS	54	13	22
KY	50	15	22
LA	44	18	21
MA	36	13	14
MD	48	14	22
ME	45	11	16
MI	47	14	21
MN	59	15	25
MO	64	16	26
MS	44	14	20
MT	40	14	22
NC	45	10	22
ND	46	12	20
NE	48	14	23
NH	44	8	16
NJ	41	11	18
NM	43	16	24
NV	53	18	28
NY	45	10	20
OH	78	19	24
OK	60	18	28
OR	50	17	25
PA	75	23	29
RI	41	11	15
SC	51	17	32
SD	50	8	22
TN	67	18	29
TX	74	27	36
UT	57	18	23
VA	67	19	28
VT	42	7	15
WA	47	11	22
WI	70	18	24
WV	38	8	16
WY	37	10	17

SOURCES: S&P Capital IQ and NAIC Competition Report

NEW DATA

This data has not been presented in previous iterations of the report card study and has been added in this edition, but it has not been figured into the overall score of this section. It is useful information to show, however, as it demonstrates that there have been more exits than entrants in many states.

7 Homeowners Insurance Market Competitiveness

We examined data on the competitiveness of states' homeowners insurance markets using similar metrics to those above in the automobile insurance analysis.[193]

10% **of the total score**

Market Concentration. The homeowners insurance market had an HHI of 553.3 in 2020, down from 566.3 a year earlier. The mean HHI of the 50 states was 933.3, with a standard deviation of 272.0. Alaska was the only state with a moderately concentrated homeowners insurance market, as defined by the DOJ and the FTC, and no state had a highly concentrated market.

Homeowners Insurance Market Competitiveness Metrics
- Market Concentration
- New Entries and Exits
- Loss Ratios

We assigned the mean HHI a value of 0.0 and weighted states by how many standard deviations they were above or below the mean. Florida was the least-concentrated homeowners market, with an HHI 2.1 standard deviations below the mean. This is not surprising, given the spate of insurers exiting the Florida market recently. As in the auto insurance market, Alaska was the most-concentrated homeowners insurance market, with an HHI 3.5 standard deviations above the mean.

New Entries and Exits. From 2016 to 2020 (the most recent year for which the NAIC provided data), there were 70 new entries to the homeowners insurance market and 78 exits, and there were 14 new entries to the farmowners insurance market and 11 exits. It is noted that farmowners insurance is a relatively small line of business, accounting for only $5.3 billion in net premium in 2011, compared to $119.5 billion for homeowners multiperil insurance. The reason farmowners insurance data has been included with homeowners is twofold: First, farmowners insurance differs from homeowners only in that it also covers farm equipment (the main coverage is still for the farm dwelling); second, because it is aggregated in our data together with homeowners multiperil insurance.

Homeowners Insurance Market Competitiveness Metrics
- Market Concentration
- New Entries and Exits
- Loss Ratios

Loss Ratios. Homeowners and farmowners insurance typically have higher volatility in underwriting results than other lines of business, such as automobile insurance, because natural catastrophes such as hurricanes, floods and wildfires can make the loss ratio spike. The absence of significant natural catastrophe activity drives a lower loss ratio. Therefore, to smooth out the impact of outlier years, our analysis shows five-year average loss ratios. The nationwide five-year homeowners average loss ratio (which includes LAE) from 2017 through 2021 was 68.8 percent, and the mean of the 50 states and the District of Columbia was 64.1 percent, with a standard deviation of 19.6 percentage points.[194] These loss ratios were higher and varied more widely than in previous years in part because of the impact of insurance rules set by various states during the COVID-19 pandemic.

Homeowners Insurance Market Competitiveness Metrics
- Market Concentration
- New Entries and Exits
- Loss Ratios

In 2021, nine states had five-year average homeowners insurance loss ratios that were more than 0.5 standard deviation greater than the mean; this group was led by Louisiana, where the homeowners insurance loss ratio was 4.9 standard deviations above the mean. The elevated loss ratio for Louisiana was driven by catastrophic damage from the Category 4 Hurricane Ida, which made landfall on Port Fourchon on Aug. 29, 2021, and had maximum sustained wind speeds of 150 mph.[195] At the

193. "2020 Competition Database," National Association of Insurance Commissioners, 2021. https://content.naic.org/sites/default/files/publication-cdr-im-competition-database-report.pdf.
194. *P&C Market Share Application*. https://www.spglobal.com/marketintelligence/en/solutions/sp-capital-iq-pro.
195. "Catastrophic Hurricane Ida Strikes Southeast Louisiana August 29, 2021," National Weather Service, last accessed Sept. 28, 2022. https://www.weather.gov/lix/hurricaneida2021.

other end of the scale, 11 states had loss ratios more than 0.5 standard deviation below the mean, with Maine and Vermont reporting the absolute lowest loss ratios, approximately 1 standard deviation below the mean.

Homeowners Insurance Market Competitiveness Calculation

f(x)

Homeowners Insurance Market Overall Score Calculation. Taking the concentration and loss ratio scores together gave us a raw total that was then weighted on a scale of 0.0 to 10.0 points for this category. They ranged from Alaska, which was the least competitive market, to Massachusetts, which was the most competitive (Table 13). We have also provided an additional table showing the number of homeowner and farmowner insurers that have entered and exited a particular state in the past five years (Table 14). This data has not been presented in prior iterations of the report card study and has been added in this edition but has not figured into the overall score of this section.

Table 13: Homeowners Insurance Market

State	Concentration		Loss Ratio		Totals	Points
	HHI	Weighted	5-Year Avg. (%)	Weighted		
AK	1,933	-3.5	49.5	-0.8	-4.3	0.0
AL	1,233	-1.0	64.1	-0.5	-1.5	4.9
AR	1,158	-0.6	65.6	0.0	-0.6	6.3
AZ	803	0.5	59.9	0.0	0.5	8.3
CA	795	0.6	85.3	-3.7	-3.1	2.0
CO	1,007	0.0	89.6	-2.3	-2.3	3.5
CT	470	1.6	55.7	-0.7	0.9	9.1
DE	1,068	-0.4	44.5	-0.8	-1.2	5.4
FL	393	2.1	83.8	-0.9	1.2	9.6
GA	1,084	-0.4	68.4	-0.7	-1.1	5.6
HI	1,421	-1.7	41.9	-1.6	-3.3	1.7
IA	1,032	-0.5	117.2	0.0	-0.5	6.6
ID	863	0.3	72.3	-0.9	-0.6	6.4
IL	1,434	-1.5	73.5	-0.9	-2.5	3.2
IN	935	0.2	58.9	0.0	0.2	7.9
KS	961	0.2	53.2	0.0	0.2	7.8
KY	1,244	-1.5	60.7	0.0	-1.5	4.9
LA	932	0.0	159.6	-1.6	-1.7	4.6
MA	529	1.5	40.7	0.0	1.5	10.0
MD	960	0.0	65.3	0.0	0.0	7.5
ME	565	1.4	40.3	-1.3	0.2	7.7
MI	916	0.2	59.9	0.0	0.2	7.8
MN	1,084	-0.3	76.6	-0.6	-0.8	6.0
MO	1,125	-0.5	59.7	0.0	-0.5	6.6
MS	1,120	-0.7	58.4	-1.0	-1.8	4.4
MT	1,161	-0.2	71.2	-1.8	-2.0	4.0
NC	721	0.8	61.2	0.0	0.8	8.8
ND	741	0.5	53.6	0.0	0.5	8.3
NE	1,017	-0.5	70.9	-1.4	-1.9	4.2
NH	573	1.4	43.9	-0.7	0.6	8.5
NJ	554	1.4	58.4	-0.7	0.7	8.6
NM	1,049	-0.2	65.0	-0.9	-1.1	5.6
NV	872	0.3	55.2	0.0	0.3	7.9
NY	680	0.9	57.5	-0.7	0.2	7.8
OH	809	0.6	56.2	-0.6	0.0	7.5
OK	1,340	-0.8	58.1	-0.7	-1.5	4.8

Homeowners Insurance Market Competitiveness Overall Scores

Least Competitive
Alaska

Most Competitive
Massachusetts

State	Concentration		Loss Ratio		Totals	Points
	HHI	Weighted	5-Year Avg. (%)	Weighted		
OR	1,063	-0.2	81.0	0.0	-0.2	7.1
PA	917	0.2	60.8	0.0	0.2	7.9
RI	706	0.8	49.5	0.0	0.8	8.9
SC	712	0.8	48.7	-1.0	-0.2	7.1
SD	784	0.9	73.5	-0.8	0.1	7.7
TN	1,137	-1.0	62.2	0.0	-1.0	5.6
TX	796	0.6	75.9	-0.8	-0.2	7.1
UT	760	0.7	64.5	0.0	0.7	8.7
VA	993	0.1	55.6	0.0	0.1	7.6
VT	680	0.9	41.0	-0.9	-0.1	7.4
WA	905	0.3	61.1	0.0	0.3	7.9
WI	907	0.5	58.3	0.0	0.5	8.3
WV	1,265	-0.9	53.6	0.0	-0.9	5.8
WY	1,165	-0.7	76.8	-1.7	-2.4	3.3

HHI = Herfindahl-Hirschman Index

SOURCES: S&P Capital IQ and NAIC Competition Report

Table 14: Homeowners/Farmowners 5-Year Entries and Exits

State	Homeowners			Farmowners		
	Total Sellers	5-Year Entrants	5-Year Exits	Total Sellers	5-Year Entrants	5-Year Exits
AK	23	7	6	2	0	0
AL	66	30	25	15	6	2
AR	56	17	14	21	7	3
AZ	79	29	19	18	6	4
CA	73	28	15	16	4	3
CO	60	19	20	22	6	4
CT	66	24	18	7	1	1
DE	49	14	14	12	4	2
FL	78	25	33	10	3	0
GA	73	32	25	23	6	3
HI	33	8	5	2	1	1
IA	67	11	11	26	2	2
ID	45	7	12	22	6	3
IL	92	26	17	29	3	4
IN	84	15	13	35	5	2
KS	59	12	11	26	2	3
KY	57	17	14	23	6	2
LA	64	30	26	11	2	3
MA	75	25	23	8	3	2
MD	58	16	19	15	4	4
ME	53	16	15	9	1	1
MI	61	13	9	22	2	0
MN	66	14	16	23	4	1
MO	63	21	19	25	6	6
MS	55	28	23	16	3	1
MT	43	15	14	17	4	2
NC	72	26	21	24	5	2
ND	48	11	10	23	5	2

NEW DATA

This data has not been presented in prior iterations of the report card study and has been added in this edition but has not figured into the overall score of this section.

NEW DATA

State	Homeowners			Farmowners		
	Total Sellers	5-Year Entrants	5-Year Exits	Total Sellers	5-Year Entrants	5-Year Exits
NE	45	11	15	26	4	1
NH	57	14	15	9	2	1
NJ	74	25	19	10	4	1
NM	46	15	15	15	3	1
NV	57	23	19	12	2	4
NY	103	22	24	37	3	1
OH	82	24	16	30	1	1
OK	62	18	18	26	7	5
OR	57	21	15	19	6	4
PA	99	18	21	35	3	2
RI	56	23	18	4	0	1
SC	78	27	26	15	5	2
SD	53	11	17	30	5	3
TN	71	24	21	28	7	1
TX	92	40	28	17	5	3
UT	57	21	16	16	6	3
VA	79	24	18	23	5	3
VT	50	16	14	10	2	0
WA	53	16	17	18	5	4
WI	79	19	17	34	5	2
WV	47	9	7	12	1	0
WY	40	9	7	14	4	2

SOURCE: NAIC Competition Report

Report Card Grades

Grading and Results

Grading and Results Calculation

f(x)

We calculated overall scores for every state by adding the weighted results from all seven variables and calculating a standard deviation from the mean. The mean was 60.0, down incrementally from 60.7 in our 2020 report, and the standard deviation was 8.9, up from 7.8. States were graded as follows (Table 15).

Table 15: State Grades and Standard Deviation

A	Above the mean by more than 1 standard deviation
B	Above the mean by less than 1 standard deviation
C	Below the mean by less than 1 standard deviation
D	Below the mean by more than 1 standard deviation
F	Below the mean by more than 2 standard deviations

We also designated pluses and minuses to recognize states that were at the margins of the nearest grade range.

We did not observe dramatic changes in the grades of the states from the previous (2020) edition of this report. Those at the top of class, with grades in the A range—Arizona, Florida, Illinois, Indiana, Kentucky, Nevada, South Dakota and Virginia—stayed in the A range. The middle grouping of states was remarkably stable, with few changes; there were no increases of more than one full grade and only one state with a full-grade decrease—Alabama—which dropped from a B- to a D+. Those with low grades—Alaska, California, North Carolina, New York and Oregon—stayed in the D-to-F range.

Arizona had the highest score (73.8), as it did in our 2020 report. The next highest scores were for Kentucky (73.1), Virginia (72.0), Nevada (71.8), Indiana (71.2), South Dakota (70.9) and Florida (70.1).

Thumbnail summaries of results for the 50 states are presented below, and we have also provided this information in an easy-to-skim tabular format (Table 16).

State Capsule Reports

ALABAMA

Strengths

Low politicization

Weaknesses

Concentrated homeowners market (the top five homeowners insurers, State Farm, Alfa, Allstate, USAA and Liberty Mutual had 66 percent market share in 2021), little underwriting freedom

2020 Grade	2022 Grade
B-	D+
Score	**Rank**
50.8	42

ALASKA

Strengths

Ahead on financial exams, no runoff obligations, small residual markets

Weaknesses

High tax and fee burden, concentrated auto market, concentrated homeowners market, little underwriting freedom

2020 Grade	2022 Grade
D	F
Score	**Rank**
39.7	49

ARIZONA

Strengths
No regulatory surplus, significant underwriting freedom

Weaknesses
Thinly capitalized markets

2020 Grade	2022 Grade	Score	Rank
A+	A+	73.8	1

ARKANSAS

Strengths
Well-capitalized markets, small residual markets

Weaknesses
Desk drawer rules

2020 Grade	2022 Grade	Score	Rank
B	C+	59.5	27

CALIFORNIA

Strengths
Competitive auto market

Weaknesses
Tight restrictions on rate increase approvals, elected commissioner, extremely high homeowners loss ratio, little underwriting freedom, credit scoring restrictions, territorial restrictions

2020 Grade	2022 Grade	Score	Rank
D	F	37.0	50

COLORADO

Strengths
Low politicization, no regulatory surplus, no runoff obligations

Weaknesses
Extremely high auto loss ratio, extremely high homeowners loss ratio, large workers' compensation state fund, territorial restrictions

2020 Grade	2022 Grade
C	C
Score	**Rank**
56.8	35

CONNECTICUT

Strengths
Low tax and fee burden, competitive auto market, competitive homeowners market, small residual markets

Weaknesses
Large regulatory surplus, territorial restrictions

2020 Grade	2022 Grade
B	C
Score	**Rank**
57.5	34

DELAWARE

Strengths
Low tax and fee burden, small residual markets

Weaknesses
Elected commissioner, large runoff obligations, concentrated auto market, territorial restrictions

2020 Grade	2022 Grade
C+	C+
Score	**Rank**
58.9	29

FLORIDA

Strengths

Low politicization, no regulatory surplus, low tax and fee burden, competitive homeowners market

Weaknesses

Concentrated auto market, large homeowners residual market

2020 Grade	2022 Grade
A-	A
Score	**Rank**
70.1	7

GEORGIA

Strengths

No runoff obligations

Weaknesses

Georgia's state deputy commissioner for insurance sought to end the file-and-use system in the state and make all rate changes filed with a state regulator on a prior approval basis, elected commissioner, extremely high auto loss ratio, desk drawer rules

2020 Grade	2022 Grade
C+	C+
Score	**Rank**
59.0	28

HAWAII

Strengths

No regulatory surplus, ahead on financial exams, well-capitalized markets

Weaknesses

Concentrated auto market, excess auto profits, concentrated homeowners market, excess homeowners profits, little underwriting freedom, credit scoring restrictions

2020 Grade	2022 Grade
D	D
Score	**Rank**
48.9	45

IDAHO

Strengths
No runoff obligations

Weaknesses
Large workers' compensation state fund

2020 Grade	2022 Grade
B+	B+

Score	Rank
66.8	13

ILLINOIS

Strengths
Low tax and fee burden, significant underwriting freedom

Weaknesses
Restrictions on use of credit-based insurance score in underwriting, concentrated homeowners market (the top five homeowners insurers were State Farm, Allstate, Country, Farmers and American Family, which had 67 percent of the market share)

2020 Grade	2022 Grade
A	A

Score	Rank
69.3	8

INDIANA

Strengths
Low tax and fee burden, small residual markets

Weaknesses
Large runoff obligations

2020 Grade	2022 Grade
A	A

Score	Rank
71.2	5

IOWA

Strengths
Low tax and fee burden, no runoff obligations, well-capitalized markets, small residual markets

Weaknesses
Behind on financial exams

2020 Grade	2022 Grade
B-	B
Score	**Rank**
61.8	24

KANSAS

Strengths
No special strengths

Weaknesses
Elected commissioner, high tax and fee burden

2020 Grade	2022 Grade
B-	B
Score	**Rank**
62.3	23

KENTUCKY

Strengths
Ahead on financial exams, significant underwriting freedom

Weaknesses
Concentrated homeowners market

2020 Grade	2022 Grade
A	A+
Score	**Rank**
73.1	2

LOUISIANA

Strengths

Well-capitalized markets

Weaknesses

Elected commissioner, concentrated auto market, extremely high auto loss ratio, excess homeowners profits, restrictions on use of credit-based insurance score in underwriting

2020 Grade	2022 Grade
F	D-
Score	**Rank**
43.4	48

MAINE

Strengths

No regulatory surplus, competitive auto market, competitive homeowners market

Weaknesses

Excess auto profits, excess homeowners profits, large workers' compensation state fund

2020 Grade	2022 Grade
B	B
Score	**Rank**
64.4	19

MARYLAND

Strengths

No regulatory surplus

Weaknesses

Restrictions on use of credit-based insurance score in underwriting, concentrated auto market, little underwriting freedom, territorial restrictions

2020 Grade	2022 Grade
C-	C
Score	**Rank**
53.6	37

MASSACHUSETTS

Strengths

Competitive homeowners market

Weaknesses

Large regulatory surplus, large auto residual market, large homeowners residual market, credit scoring restrictions

2020 Grade	2022 Grade
D+	C
Score	**Rank**
52.1	40

MICHIGAN

Strengths

No regulatory surplus

Weaknesses

Restrictions on use of credit-based insurance score in underwriting, extremely high auto loss ratio

2020 Grade	2022 Grade
B-	B-
Score	**Rank**
60.9	25

MINNESOTA

Strengths

No runoff obligations

Weaknesses

Behind on financial exams, credit scoring restrictions

2020 Grade	2022 Grade
C	C+
Score	**Rank**
57.7	33

MISSISSIPPI

Strengths
No special strengths

Weaknesses
Elected commissioner, high tax and fee burden, excess homeowners profits, little underwriting freedom

2020 Grade	2022 Grade
D	D+

Score	Rank
49.7	43

MISSOURI

Strengths
Significant underwriting freedom

Weaknesses
Territorial restrictions

2020 Grade	2022 Grade
B	B

Score	Rank
66.5	16

MONTANA

Strengths
No special strengths

Weaknesses
Elected commissioner, high tax and fee burden, behind on financial exams, extremely high homeowners loss ratio, large workers' compensation state fund

2020 Grade	2022 Grade
C-	C

Score	Rank
53.6	38

NEBRASKA

Strengths
No runoff obligations, small residual markets

Weaknesses
Extremely high homeowners loss ratio

2020 Grade	2022 Grade	Score	Rank
B	B	65.5	18

NEVADA

Strengths
Low politicization, low tax and fee burden, small residual markets

Weaknesses
Extremely high auto loss ratio

2020 Grade	2022 Grade	Score	Rank
A	A	71.8	4

NEW HAMPSHIRE

Strengths
Competitive auto market, competitive homeowners market, small residual markets

Weaknesses
Large runoff obligations, thinly capitalized markets, excess auto profits, territorial restrictions

2020 Grade	2022 Grade	Score	Rank
B	B	63.2	21

NEW JERSEY

Strengths

No runoff obligations, well-capitalized markets, competitive homeowners market

Weaknesses

Restrictions on use of credit-based insurance score in underwriting, little underwriting freedom, desk drawer rules, territorial restrictions

2020 Grade	2022 Grade
C+	B-
Score	**Rank**
60.1	26

NEW MEXICO

Strengths

Low politicization, ahead on financial exams, no runoff obligations, significant underwriting freedom

Weaknesses

Large regulatory surplus, high tax and fee burden

2020 Grade	2022 Grade
B+	B+
Score	**Rank**
67.9	12

NEW YORK

Strengths

No special strengths

Weaknesses

Restrictions on use of credit-based insurance score in underwriting, behind on financial exams, concentrated auto market, little underwriting freedom, desk drawer rules, territorial restrictions

2020 Grade	2022 Grade
F	D
Score	**Rank**
44.9	47

NORTH CAROLINA

Strengths

Well-capitalized markets

Weaknesses

Elected commissioner, large runoff obligations, large auto residual market with complex rules for auto insurance recoupments, large homeowners residual market, little underwriting freedom

2020 Grade	2022 Grade	Score	Rank
D	D	47.7	46

NORTH DAKOTA

Strengths

No runoff obligations, well-capitalized markets

Weaknesses

Elected commissioner, excess auto profits, monopolistic workers' compensation fund, little underwriting freedom

2020 Grade	2022 Grade	Score	Rank
D+	C-	51.1	41

OHIO

Strengths

No special strengths

Weaknesses

Excess auto profits, monopolistic workers' compensation fund

2020 Grade	2022 Grade	Score	Rank
C+	C+	58.6	30

OKLAHOMA

Strengths

Significant underwriting freedom

Weaknesses

Restrictions on use of credit-based insurance score in underwriting, elected commissioner, excess auto profits, territorial restrictions

2020 Grade	2022 Grade	Score	Rank
C	B	63.2	22

OREGON

Strengths

Low politicization

Weaknesses

Restrictions on use of credit-based insurance score in underwriting, large regulatory surplus, large workers' compensation state fund

2020 Grade	2022 Grade	Score	Rank
C	D	49.4	44

PENNSYLVANIA

Strengths

No regulatory surplus

Weaknesses

Large runoff obligations

2020 Grade	2022 Grade	Score	Rank
B	B+	68.5	9

RHODE ISLAND

Strengths

No regulatory surplus

Weaknesses

Restrictions on use of credit-based insurance score in underwriting, behind on financial exams, large homeowners residual market

2020 Grade	2022 Grade
C	C+

Score	Rank
58.6	31

SOUTH CAROLINA

Strengths

No special strengths

Weaknesses

Excess homeowners profits, little underwriting freedom

2020 Grade	2022 Grade
C-	C

Score	Rank
54.8	36

SOUTH DAKOTA

Strengths

Low politicization, well-capitalized markets, competitive auto market, small residual markets

Weaknesses

Territorial restrictions

2020 Grade	2022 Grade
A	A

Score	Rank
70.9	6

TENNESSEE

Strengths
No regulatory surplus, ahead on financial exams, no runoff obligations, small residual markets

Weaknesses
High tax and fee burden, concentrated homeowners market

2020 Grade	2022 Grade
B+	B+

Score	Rank
66.6	14

TEXAS

Strengths
Low politicization

Weaknesses
Thinly capitalized markets, extremely high auto loss ratio, large homeowners residual market

2020 Grade	2022 Grade
C	C+

Score	Rank
58.2	32

UTAH

Strengths
Competitive auto market, significant underwriting freedom

Weaknesses
Behind on financial exams

2020 Grade	2022 Grade
B+	B+

Score	Rank
68.0	11

VERMONT

Strengths

Ahead on financial exams, small residual markets

Weaknesses

High tax and fee burden, excess auto profits

2020 Grade	2022 Grade	Score	Rank
B	B	66.5	17

VIRGINIA

Strengths

Well-capitalized markets

Weaknesses

Restrictions on use of credit-based insurance score in underwriting

2020 Grade	2022 Grade	Score	Rank
A	A	72.0	3

WASHINGTON

Strengths

Ahead on financial exams, no runoff obligations

Weaknesses

Elected ("activist") commissioner, monopolistic workers' compensation fund, little underwriting freedom, desk drawer rules

2020 Grade	2022 Grade	Score	Rank
C+	B+	68.4	10

WEST VIRGINIA

Strengths

No runoff obligations, small residual markets

Weaknesses

Restrictions on use of credit-based insurance score in underwriting, high tax and fee burden, excess auto profits, concentrated homeowners market, little underwriting freedom

2020 Grade	2022 Grade	Score	Rank
D+	C	52.5	39

WISCONSIN

Strengths

Low tax and fee burden, well-capitalized markets, small residual markets

Weaknesses

Behind on financial exams

2020 Grade	2022 Grade	Score	Rank
B+	B	66.6	15

WYOMING

Strengths

Significant underwriting freedom

Weaknesses

Extremely high homeowners loss ratio, monopolistic workers' compensation fund

2020 Grade	2022 Grade	Score	Rank
B	B	64.2	20

Table 16: 50 States Ranked by Total Score

State	Solvency regulation	Underwriting freedom	Residual markets	Fiscal efficiency	Politicization	Auto insurance market	Homeowners insurance market	Total	Grade
AK	15.8	4.5	4.5	11.1	3.5	0.3	0.0	39.7	F
AL	12.3	3.9	3.9	12.0	7.5	6.3	4.9	50.8	C-
AR	12.9	9.7	9.7	11.3	2.5	7.1	6.3	59.5	C+
AZ	12.3	12.9	12.9	14.0	5.0	8.4	8.3	73.8	A+
CA	13.1	0.0	0.0	13.4	0.0	8.5	2.0	37.0	F
CO	12.3	9.0	9.0	13.8	7.0	2.2	3.5	56.8	C
CT	11.4	6.5	6.5	11.7	3.0	9.3	9.1	57.5	C
DE	13.2	7.7	14.9	14.2	0.0	3.5	5.4	58.9	C+
FL	12.8	9.7	11.5	15.0	10.0	1.5	9.6	70.1	A
GA	11.0	10.3	14.6	12.7	0.0	4.8	5.6	59.0	C+
HI	16.0	1.3	12.9	12.8	3.5	0.7	1.7	48.9	D
IA	10.7	7.7	14.9	13.7	2.5	5.7	6.6	61.8	B
ID	13.5	11.6	10.8	11.6	5.0	7.9	6.4	66.8	B+
IL	12.8	16.8	14.7	13.9	2.5	5.4	3.2	69.3	A
IN	10.8	11.0	14.9	13.7	5.5	7.4	7.9	71.2	A
KS	12.4	9.7	14.5	10.6	0.0	7.3	7.8	62.3	B
KY	18.6	13.5	12.7	12.3	4.5	6.6	4.9	73.1	A+
LA	12.6	5.8	11.9	8.5	0.0	0.0	4.6	43.4	D
MA	12.7	7.1	7.3	6.2	3.0	5.8	10.0	52.1	C
MD	12.3	1.3	12.6	12.4	4.5	3.0	7.5	53.6	C
ME	12.4	9.0	9.9	13.4	5.0	7.0	7.7	64.4	B
MI	15.2	6.5	12.9	13.3	4.5	0.6	7.8	60.8	B-
MN	10.2	7.7	13.9	12.9	2.5	4.5	6.0	57.7	C+
MO	10.8	12.3	13.0	13.4	2.5	7.9	6.6	66.5	B
MS	11.1	3.2	13.5	10.7	0.0	6.8	4.4	49.7	D
MT	10.9	9.7	10.6	11.3	0.0	7.1	4.0	53.6	C
NC	11.7	5.2	0.0	13.3	0.0	8.7	8.8	47.7	D
ND	12.2	3.9	7.5	12.3	0.0	6.9	8.3	51.1	D
NE	12.1	10.3	15.0	13.6	2.5	7.8	4.2	65.5	B
NH	6.7	9.0	14.9	12.1	5.5	6.5	8.5	63.2	B
NJ	12.4	2.6	14.3	13.6	2.5	6.1	8.6	60.1	B-
NM	15.2	14.8	11.8	6.6	7.0	6.9	5.6	67.9	B+
NV	14.2	8.4	15.0	14.6	6.0	5.7	7.9	71.8	A
NY	10.2	0.6	11.6	11.3	2.5	0.9	7.8	44.9	D
OH	11.6	10.3	7.2	13.9	2.0	6.1	7.5	58.6	C+
OK	12.9	12.3	12.8	11.3	5.0	4.1	4.8	63.2	B
OR	13.0	9.0	9.6	3.2	0.0	7.5	7.1	49.4	D
PA	12.3	7.1	14.5	12.9	6.0	7.8	7.9	68.5	B+
RI	10.1	10.3	7.0	14.0	3.5	4.8	8.9	58.6	C+
SC	11.8	3.2	13.6	12.1	2.5	4.5	7.1	54.8	C
SD	11.2	11.0	15.0	10.8	6.0	9.2	7.7	70.9	A
TN	17.0	7.7	15.0	10.9	3.0	7.4	5.6	66.6	B+
TX	7.6	10.3	9.0	11.7	6.0	6.5	7.1	58.2	C+
UT	9.3	12.9	11.2	13.4	2.5	10.0	8.7	68.0	B+
VA	14.6	11.0	14.5	12.0	5.5	6.8	7.6	72.0	A
VT	15.4	11.6	14.9	9.0	3.5	4.7	7.4	66.5	B
WA	19.5	3.9	7.5	12.0	9.0	8.6	7.9	68.4	B+
WI	10.2	11.6	14.9	13.4	2.5	5.7	8.3	66.6	B
WV	12.2	5.2	14.9	10.1	2.5	1.8	5.8	52.5	C
WY	12.0	20.0	7.5	13.8	2.5	5.1	3.3	64.2	B

2022 Insurance Regulation Report Card

Conclusion

Thank you for your support of R Street's Insurance Regulation Report Card. We hope it provides helpful information for consumers, lawmakers, regulators, the insurance industry and the general public. We welcome your comments and look forward to continuing the conversation.

Thank you!

About The Author

Jerry Theodorou is director of the R Street Institute's Finance, Insurance and Trade Policy Program. Jerry contributes to the public policy debates by developing and advancing effective, free market public policy solutions to complex issues where federal and state governments have intervened.

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About the 2022 Insurance Regulation Report Card

The R Street Insurance Regulation Report Card was the brainchild of R Street co-founder and president Eli Lehrer and has been shepherded through nine ever-expanding, ever-improving editions by R.J. Lehmann and co-founder, former R Street resident fellow, editor-in-chief, and Finance, Insurance & Trade director. If any merit be found in this report, it is because of the trailblazing work of Eli and Ray, who we acknowledge and thank, and on whose shoulders this project continues to stand.