Florida
Office of Insurance Regulation

2011 Workers' Compensation Annual Report
December 2011

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Commissioner

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Executive Summary

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

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

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

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

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

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

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

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

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

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

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

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

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

Purpose and Scope

Subsection 627.211(6), Florida Statutes, mandates:

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

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

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

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

3. The market structure in Florida, which includes the market concentration in Florida compared with other states, and entry and exit of carriers in Florida during 2010.

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

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

Summary of the 2010 Annual Report

The 2010 Workers' Compensation Annual Report was the seventh report resulting from the statutory mandate, and concluded that the workers' compensation market is reasonably competitive. Specifically, the report showed that, during 2009:

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

The 2011 Workers' Compensation Annual Report continues to examine the workers' compensation insurance market from the same perspective and provides the Herfindahl-Hirschman Index (HHI) to compare Florida's market concentration versus the other 49 states. As well, the report provides a comparative analysis of key market characteristics among the six most populous states. The five other states are: California, New York, Texas, Illinois, and Pennsylvania.

Overview of the Workers' Compensation Insurance Market

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

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

In 2010, the NCCI provided advisory ratemaking and statistical services in 34 states (including Florida) and the District of Columbia.[2] In 12 of the states, local ratemaking or advisory organizations supplied the information.[3] However, in the following five states and territories, the majority of workers' compensation insurance is provided through an exclusive state fund[4]:

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

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

Self-Insurance Funds

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

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

[2] NCCI, Annual Statistical Bulletin, 2011 Edition, page 7.
[3] NCCI, Annual Statistical Bulletin, 2011 Edition, page 7.
[4] NCCI, Annual Statistical Bulletin, 2011 Edition, page 7.

self-insurance funds began converting into insurance companies. In 1994 there were 35 defined self-insurance funds, but by 2000 there were only four of these entities.

There were four group self-insurance funds at the start of 2010 but the largest fund, Florida Retail Federation Self Insurer's Fund converted to a stock company in November 2010. As a result of legislation passed in 2009, the Florida Rural Electric SIF is governed by section 624.4626, F.S., which does not require the Fund to file an annual statement with OIR. Thus, the Florida Rural Electric SIF is no longer included in this report. See Appendix D for the Florida Statutes that govern SIFs that are not subject to OIR regulation. The remaining two funds wrote a total of 2.0% of the workers' compensation market in Florida.[5] The remaining SIFs are:

- Florida Citrus, Business, & Industries Fund
- FRSA Self Insurer's Fund

[5] The total direct written premium in 2010 was $32 million for the two SIFs and $6 million for the FWCJUA. The total Florida market including the FWCJUA and the two SIFs was $1.6 billion in 2010.

Comparisons to the Most Populous States

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

As expected, there is a strong correlation between state population and workers' compensation insurance written premiums. Below are the six most populous states in rank order of most workers' compensation direct written premium in 2010:

Rank	State	2010 Written Premium
# 1	California	$7.1 billion
# 2	New York	$3.6 billion
# 3	Illinois	$2.3 billion
# 4	Pennsylvania	$2.2 billion
# 5	Texas	$1.9 billion
# 6	**Florida**	**$1.6 billion**

The table shows that there is not a direct correlation between state population and premium in the admitted market as Florida is, by population, the fourth largest state, yet ranked sixth in the most workers' compensation insurance direct premium written in 2010. For a complete state list, see Appendix A.

Number of Entities

Another indication of the competitiveness of the market is the number of different insurance companies writing in the state. For the six most populous states, the number of entities writing workers' compensation insurance varied between 226 and 324. As shown below, Florida tied with New York and is ranked fourth with 252 entities writing workers' compensation insurance in 2010.

Rank	State	Entities
# 1	Illinois	324
# 2	Pennsylvania	312
# 3	Texas	270
# 4	**Florida**	**252**
# 5	New York	252
# 6	California	226

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

Written Premium per Entity

Another useful comparison measure is the average amount of premium per entity. As shown below, Florida ranks sixth in the average written premium per insurance entity among the six most populous states in 2010:

Rank	State	Premium per Entity
# 1	California	$31.5 million
# 2	New York	$14.4 million
# 3	Texas	$7.1 million
# 4	Pennsylvania	$7.0 million
# 5	Illinois	$7.0 million
# 6	**Florida**	**$6.2 million**

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

Herfindahl-Hirschman Index Comparison by State

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

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

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

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

Rank	State	HHI
# 1	New York	1445
# 2	Texas	1051
# 3	California	403
# 4	**Florida**	**341**
# 5	Pennsylvania	160
# 6	Illinois	130

With an HHI of 341 in 2010, the Florida workers' compensation insurance market ranks among the more competitive within the sample states. Within this state sample group, New York is not considered a competitive market as it has an entity that holds roughly 40 percent of the market share. For a complete list of HHIs by state for 2010, see Appendix C.

Dominant Firms and Competition

Another interesting comparison is to review the largest competitor in each of the six most populous states, to determine if there is a "dominant firm." Below are the leading workers' compensation carriers in 2010 for the six most populous states, and their market shares within those states:

State	Leading Carrier	Direct Premium Written	Market Share
New York	State Insurance Fund	$1,309,759,096	36.1%
Texas	Texas Mutual Insurance Co.	$596,191,245	31.0%
California	State Compensation Insurance Fund	$1,140,202,785	16.0%
Florida	**Bridgefield Employers Insurance Co.**	**$196,133,778**	**12.6%**
Pennsylvania	State Workers Insurance Fund	$162,174,053	7.4%
Illinois	Illinois National Insurance Co.	$107,443,378	4.8%

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

Bridgefield Employers Insurance Co.'s business in Florida has the largest market share of any private insurer in the six most populous states. However, it should be noted that at 12.6 percent of the market, it would not appear that this is enough of a market share to create an uncompetitive marketplace.

Profitability and Loss Ratios

Another goal of this report is to analyze the profitability of the Florida workers' compensation insurance marketplace. One measure that is reported on a state-by-state basis in the statutory financial statements filed with the NAIC is the incurred loss ratio, which is calculated as the total losses incurred divided by earned premium for each state for the line of business. The purpose of this ratio is two-fold: to assist in determining profitability, and, indirectly, to address premium sufficiency. Among the six most populous states, the aggregate loss ratios for 2010 are:

Rank	State	Incurred Loss Ratio
# 1	New York	95.81%
# 2	Illinois	89.32%
# 3	Pennsylvania	73.69%
# 4	California	72.54%
# 5	**Florida**	**66.64%**
# 6	Texas	51.48%

While this is a very rough measure of profitability, it does show that for the workers' compensation markets in 2010, Florida's profitability compares favorably with the other most populous states.

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

Rank	State	DCC Ratio	DCC + Loss Ratio
#1	New York	6.61%	102.4%
#2	Illinois	7.87%	97.2%
#3	California	10.30%	82.8%
#4	Pennsylvania	7.46%	81.2%
#5	**Florida**	**9.46%**	**76.1%**
#6	Texas	6.04%	57.5%

Because loss amounts generally greatly exceed the direct cost and containment expenses, it is not surprising that this list closely mirrors the list of states with the highest loss ratio. For 2010, Florida's reported DCC ratio was fifth among the six most populous states after Pennsylvania.

Overview of Florida's Largest Carriers

In 2010, 255 entities (excluding Florida Rural Electric SIF) earned workers' compensation premium in the state of Florida. Of those 255 entities, 252 were insurance companies, 2 were group self-insurance funds and the FWCJUA. The 10 largest companies based on written premium were:

Rank	Company	Written Premium	% of Market[6]	CUM %
# 1	Bridgefield Employers Insurance Company	$196,133,778	12.25%	12.25%
# 2	FCCI Insurance Company	$101,021,707	6.31%	18.56%
# 3	Zenith Insurance Company	$78,301,776	4.89%	23.45%
# 4	Twin City Fire Insurance Company	$65,537,527	4.09%	27.55%
# 5	RetailFirst Insurance Company	$63,163,201	3.95%	31.49%
# 6	FFVA Mutual Insurance Company	$54,365,108	3.40%	34.89%
# 7	Technology Insurance Company	$47,848,556	2.99%	37.88%
# 8	Amerisure Insurance Company	$38,576,086	2.41%	40.29%
# 9	Insurance Company of the State of PA	$32,314,262	2.02%	42.30%
# 10	Bridgefield Casualty Insurance Company	$30,245,716	1.89%	44.19%
TOTAL IN FLORIDA (incl. SIFs and FWCJUA)		**$1,600,962,067**		

As was the case in last year's report, the ten largest companies wrote under 50 percent of the workers' compensation insurance premium in Florida in 2010. All of the companies are property and casualty companies, organized as stock companies. Five of the top ten writers are domestics[7], while the foreign corporations have home offices in California, Indiana, Michigan, Pennsylvania, New Hampshire, and New York.[8]

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

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

[7] Domestics and their locations include: Bridgefield Employers Insurance Company (Lakeland, FL), FCCI Insurance Company (Sarasota, FL), RetailFirst Insurance Company (Lakeland, FL), Bridgefield Casualty Insurance Company (Lakeland, FL) and FFVA Mutual Insurance Company (Maitland, FL).

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

Diversification

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

Geographic Distribution

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

Company	State 1	State 2	State 3	State 4	State 5
Bridgefield Employers Insurance Company	**98.32% FL**	0.49% LA	0.46% SC	0.27% MS	0.22% TN
FCCI Insurance Company	**77.40% FL**	6.20% GA	4.09% IL	3.84% IN	2.14% MI
Zenith Insurance Company	55.78% CA	**20.59% FL**	6.37% PA	4.05% TX	2.37% NC
Twin City Fire Insurance Company	11.84% CA	**10.03% FL**	9.11% NY	7.02% IL	5.63% PA
RetailFirst Insurance Company	**100.00% FL**				
FFVA Mutual Insurance Company	**54.50% FL**	18.24% GA	8.31% TN	6.49% KY	4.93% MS
Technology Insurance Company	**18.64% FL**	15.95% IL	12.77% NY	6.39% GA	4.98% PA
Amerisure Insurance Company	**32.46% FL**	12.35% MI	9.95% TX	5.64% IL	5.62% MO
Insurance Company of the State of PA	7.74% CA	5.61% NJ	5.17% NY	4.52% TX	3.89% PA
Bridgefield Casualty Insurance Company	18.60% LA	11.86% GA	**11.60% FL**	11.22% MS	10.54% KY

In line with other market studies conducted by the OIR for other lines of business, there is normal geographic diversification among the top writers. The leading states for the largest carriers other than Florida include California, Georgia, New York, Texas, Louisiana, South Carolina, New Jersey, Illinois, Indiana, Pennsylvania, Tennessee, Michigan, Kentucky, Missouri, North Carolina and Mississippi. Florida represents the state with the largest book of business for six of these ten companies. For the four companies that do not write most of their workers' compensation insurance in Florida, three write the most in workers' compensation insurance in California, and one in Louisiana.

Line of Business Distribution

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

Company	Workers' Comp	Other/Product Liability	Commercial Multi-Peril	Auto	All Other Lines of Business
Amerisure Insurance Co.	**51.46%**	10.34%	15.95%	21.84%	0.41%
Bridgefield Casualty Insurance Co.	**100.00%**				
Bridgefield Employers Insurance Co.	**100.00%**				
FCCI Insurance Co.	**70.65%**	5.29%	5.99%	8.09%	9.98%
FFVA Mutual Insurance Co.	**100.00%**				
Insurance Co. of the State of PA	**52.05%**	11.92%	0.00%	8.78%	27.25%
Retail First Insurance Co.	**100.00%**				
Technology Insurance Co.	**76.39%**	15.82%	0.00%	2.18%	5.61%
Twin City Fire Insurance Co.	**47.46%**	29.21%	3.29%	17.21%	2.83%
Zenith Insurance Co.	**100.00%**				

The table shows that seven of the ten top writers of workers' compensation insurance focus on this specific line of business having nearly 70 percent or more of their total book of business in that line. Other lines of business commonly written include auto, commercial multi-peril and other/product liability. Amerisure Insurance Company, The Insurance Company of the State of PA, and Twin City Fire Insurance Company have more diverse books of business, which include lines such as fire and allied lines, ocean and inland marine, medical malpractice and earthquake insurance to name a few.

[9] Annual Statement Exhibit of Premiums and Losses, Line 16.
[10] Annual Statement Exhibit of Premiums and Losses, Lines 17.1, 17.2 and 18.
[11] Annual Statement Exhibit of Premiums and Losses, Lines 5.1 and 5.2.
[12] Annual Statement Exhibit of Premiums and Losses, Lines 19.1, 19.2, 19.3, 19.4, 21.1 and 21.2.

Trends in Florida's Workers' Compensation Insurance Market

Entry and Exit from the Workers' Compensation Market

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

As of December 31, 2010, Florida had 364 entities eligible to participate in the workers' compensation marketplace including one residual market company (the Florida Workers' Compensation JUA) and 4 other entities.[13] These 364 entities also included 359 property and casualty companies, one reciprocal company and three group self-insurance funds. Of these, 252 companies in the voluntary market along with three self-insurance funds (including Florida Rural Electric SIF), and the Florida Workers' Compensation JUA were actively writing business.

During 2010, 12 new entities entered the market. Six[14] were new to the state, while six companies were already operating in Florida, and expanded by adding the line of workers' compensation. All twelve of the new entities were property and casualty companies. Of the twelve, only one (RetailFirst Insurance Company) is domiciled in Florida. The other eleven companies were domiciled in Nebraska, California, Wisconsin, Pennsylvania, Illinois, Maine, and Delaware. New entities authorized to operate in the Florida workers' compensation insurance market in 2010 together with their state and city of domicile were:

Berkshire Hathaway Homestate Insurance Company – Omaha, NE
Compwest Insurance Company – San Francisco, CA
National Casualty Company – Madison, WI
Praetorian Insurance Company – Harrisburg, PA
QBE Insurance Corporation – Harrisburg, PA
Argonaut-Southwest Insurance – Chicago, IL
Argonaut Great Central Insurance Company – Chicago, IL
RLI Insurance Company – Peoria, IL
Triumphe Casualty Company – Mechanicsburg, PA
Maine Employers' Mutual Insurance Company – Portland, ME
RetailFirst Insurance Company – Lakeland, FL[15]
Berkley Regional Insurance Company – Wilmington, DE

Three[16] of the new entrants reported writing direct workers' compensation premiums in 2010. All twelve held an active Certificate of Authority.

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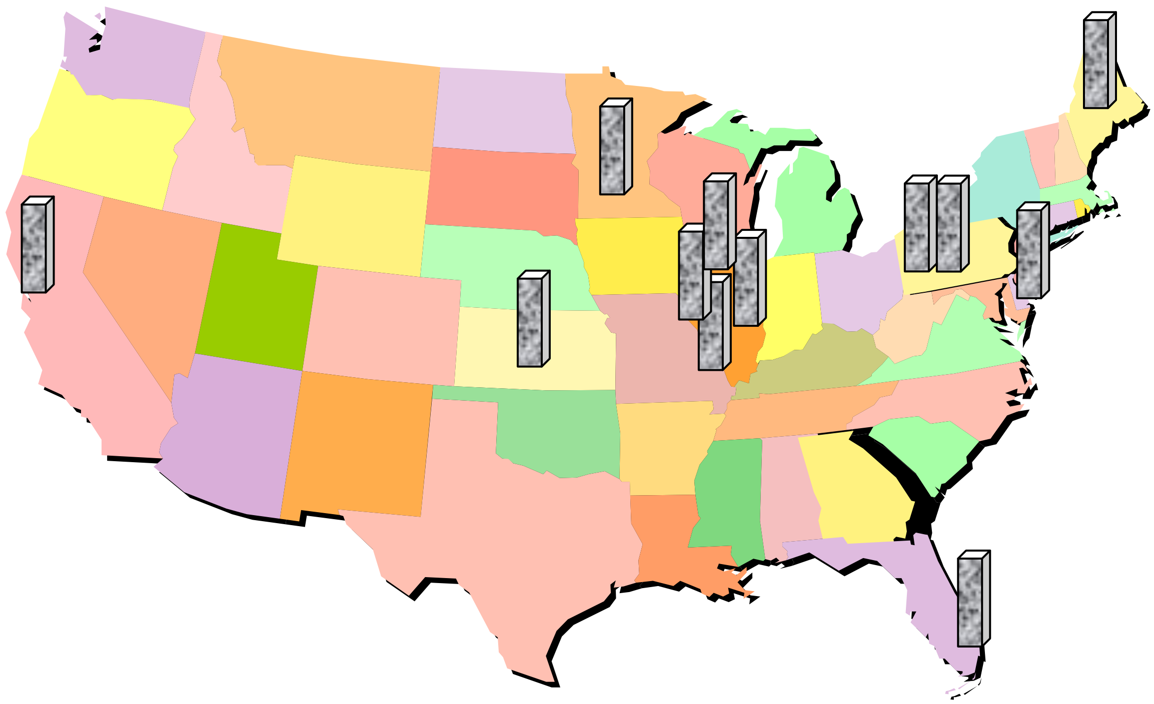
[13] The 4 other entities included one Reciprocal company and 3 SIFs. One SIF was Florida Rural Electric SIF, which is not required to submit reports to the OIR.

[14] Berkshire Hathaway Homestate Insurance Company, Compwest Insurance Company, Argonaut-Southwest Insurance Company, Argonaut Great Central Insurance Company, Maine Employers' Mutual Insurance Company, RetailFirst Insurance Company

[15] RetailFirst was formerly Retail Federation Self Insurance Fund and converted to a stock company in 2010

[16] Berkshire Hathaway Homestate Insurance Company, Praetorian Insurance Company, RetailFirst Insurance Company

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



During 2010, four entities that were previously operating in Florida left the workers' compensation market. Three companies continue to have an active Certificate of Authority and withdrew their authority to write workers' compensation line of business in Florida while only Pegasus Insurance Company had their Certificate of Authority revoked due to insolvency. These data suggest that there is freedom to both enter and exit the market, again supporting the competitive aspects of the Florida workers' compensation insurance market.

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

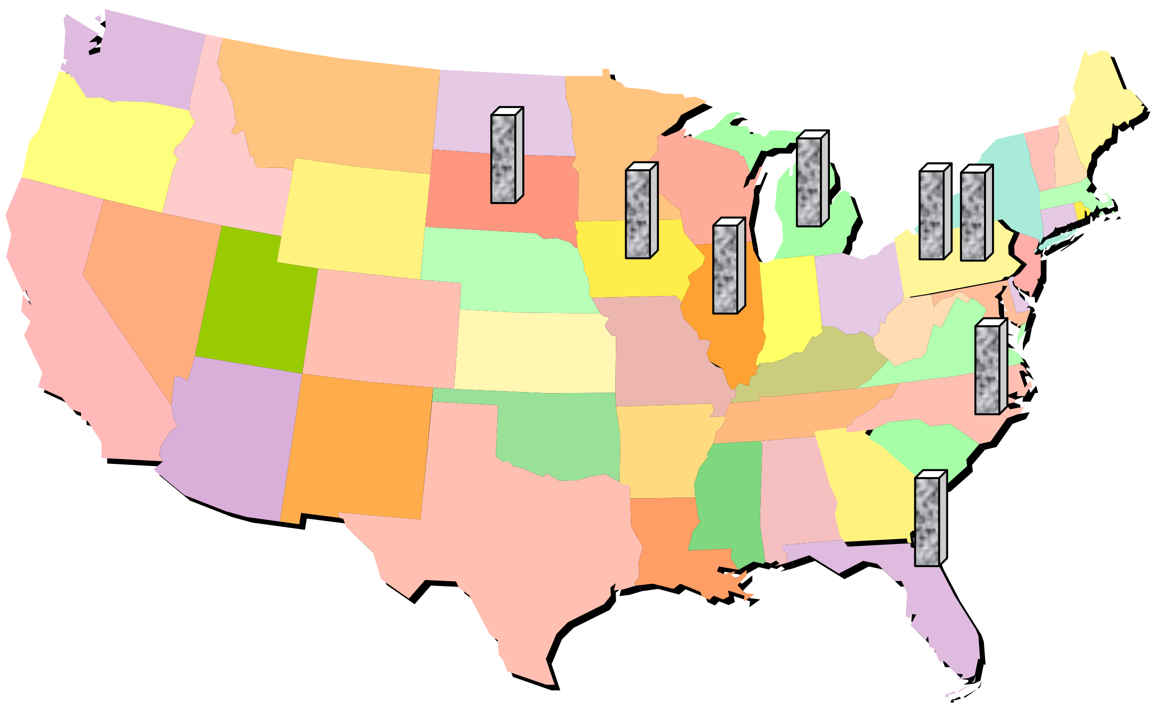
Through November 2011, eight new entities have entered the market. Two[17] were new to the state, both became admitted carriers, while the other six companies were already operating in Florida and expanded by adding the line of workers' compensation. All eight of the new entities were property and casualty companies. Seven of the new entrants are domiciled outside of Florida. The eight companies are domiciled in Pennsylvania, Iowa, Florida, North Carolina, Michigan, Illinois, and South Dakota.

[17] Berkley National Insurance Company, HDI-Gerling America Insurance Company

The new entities authorized to operate in the Florida workers' compensation insurance market in 2011 together with their state and city of domicile were:

Eastern Advantage Assurance – Lancaster, PA
North Pointe Insurance Company – Harrisburg, PA
Berkley National Insurance Company – Urbandale, IA
American Family Home Insurance Company – Jacksonville, FL
Builders Mutual Insurance Company – Raleigh, NC
Allmerica Financial Benefit Insurance Company – Howell, MI
HDI-Gerling America Insurance Company – Chicago, IL
First Dakota Indemnity Company – Sioux Falls, SD

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



During 2011, three entities that were previously operating in Florida left the market. All of these companies continue to have an active Certificate of Authority, and withdrew their authority to write workers' compensation line of business in Florida. Two companies had their property and casualty insurer Certificates of Authority revoked in 2011 due to insolvency, and were later liquidated – Aequicap Insurance Company, Inc. and Southern Eagle Insurance Company. Three additional companies withdrew their authority to write workers' compensation line of business in Florida[18] due to mergers. This data suggest that there is freedom to both enter and exit the market in 2010, again supporting the competitive aspects of the Florida workers' compensation insurance market.

[18]Torus National Insurance Company, Liberty Insurance Underwriters Inc., Capitola Indemnity Corporation

As of October 2011, the Florida Workers' Compensation Insurance Guarantee Association has paid $5.3 million in losses for Aequicap Insurance Company.

Statistical Trends

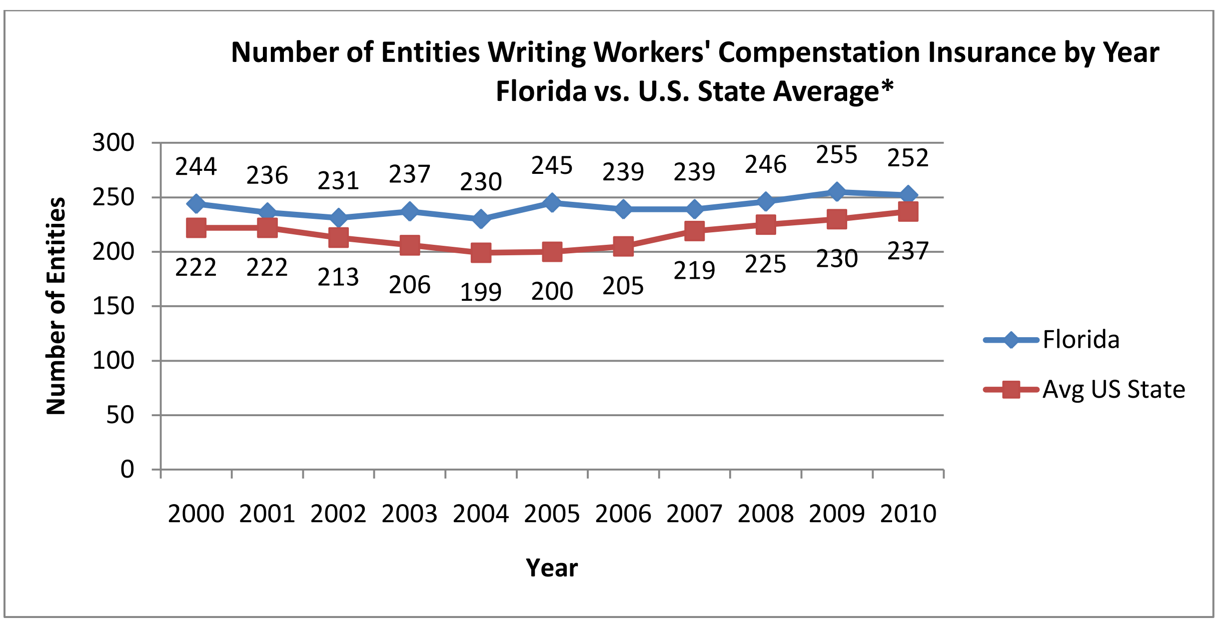
The analysis to this point compares the workers' compensation market in Florida to the markets of the other most populous states in terms of total amount of premium, number of entities operating in the state, premium per entity, and various financial ratios. Generally, Florida compares favorably to other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

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

The Nature of the Market

One of the first indicators of the robustness of the market is to simply look at the number of companies actively engaged in the market. The chart below shows the number of entities writing in Florida from 2000 through 2010 and compares that to the average number of entities writing in the voluntary market in the U.S. (excluding states with exclusive state funds).

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



*Note: The US average excludes North Dakota, Ohio, Washington, West Virginia, and Wyoming for years 2000 through 2006 and North Dakota, Ohio, Washington, and Wyoming for 2007 through 2010, because these states have exclusive state funds. West Virginia had an exclusive state fund until July 1, 2006. NCCI now provides advisory ratemaking and statistical services.

Over the last ten years the number of writers in Florida has remained relatively stable. Meanwhile, on the national level, the number steadily decreased from 2000 to 2005 and began to increase in 2006 when West Virginia's market opened up. From a state perspective, in 2000 there were roughly 22 more insurance companies writing in Florida than the average U.S. state and 15 more insurance companies in 2010.

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

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

	2004	2005	2006	2007	2008	2009	2010
Florida	$3.35	$3.72	$3.74	$3.11	$2.31	$1.71	$1.60
Avg. U.S. State	$1.02	$1.10	$1.07	$1.03	$0.97	$0.86	$0.83

Note: The US average excludes North Dakota, Ohio, Washington, West Virginia, and Wyoming for years 2000 through 2006 and North Dakota, Ohio, Washington, and Wyoming for 2007 through 2010, because these states have exclusive state funds. West Virginia had an exclusive state fund until July 1, 2006. NCCI now provides advisory ratemaking and statistical services.

From 2004 to 2010, the total workers' compensation insurance premium paid for the average U.S. state has decreased 19 percent, which is less than the 52 percent decrease in Florida. Interestingly, the amount of workers' compensation insurance dipped nationally in 2006, while simultaneously rising marginally in Florida. Since 2007, the percentage decrease in workers' compensation written premium in Florida has exceeded the amount of the decrease in the average U.S. state, as shown below:

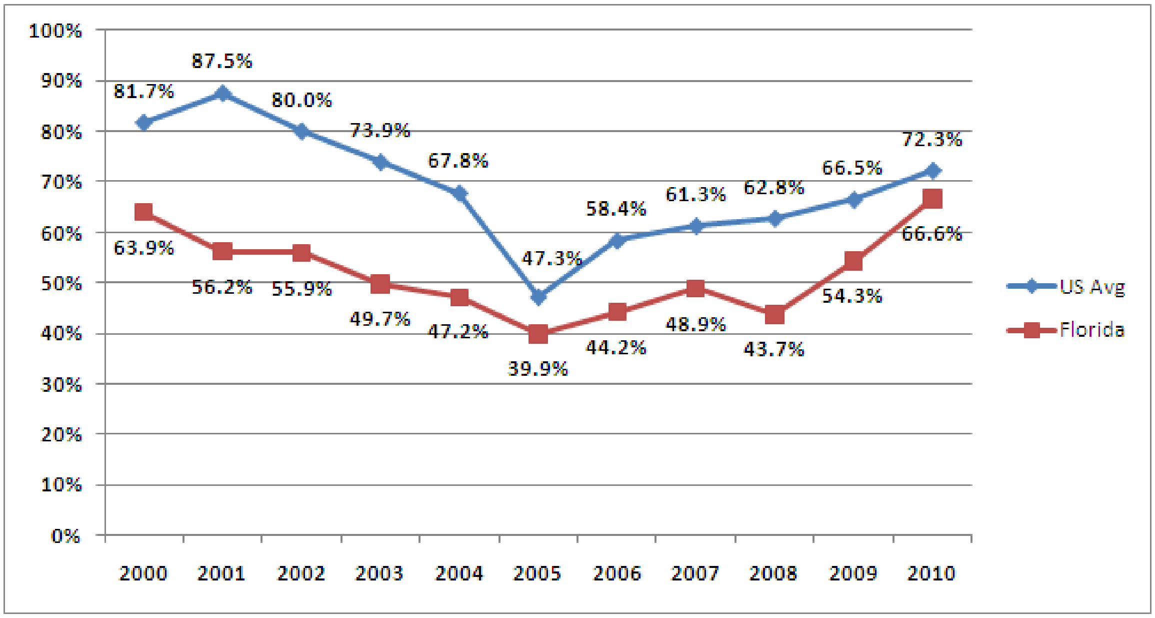
- 2007 – National decrease was 4 percent, Florida decrease was 17 percent
- 2008 – National decrease was 6 percent, Florida decrease was 26 percent
- 2009 – National decrease was 11 percent, Florida decrease was 26 percent
- 2010 – National decrease was 3 percent, Florida decrease was 6 percent

Once again, this may not include a complete picture of the entire market as it only includes activity in the voluntary market, but it is a broad indication of what is transpiring in the workers' compensation market.

Financial Aspects of the Market

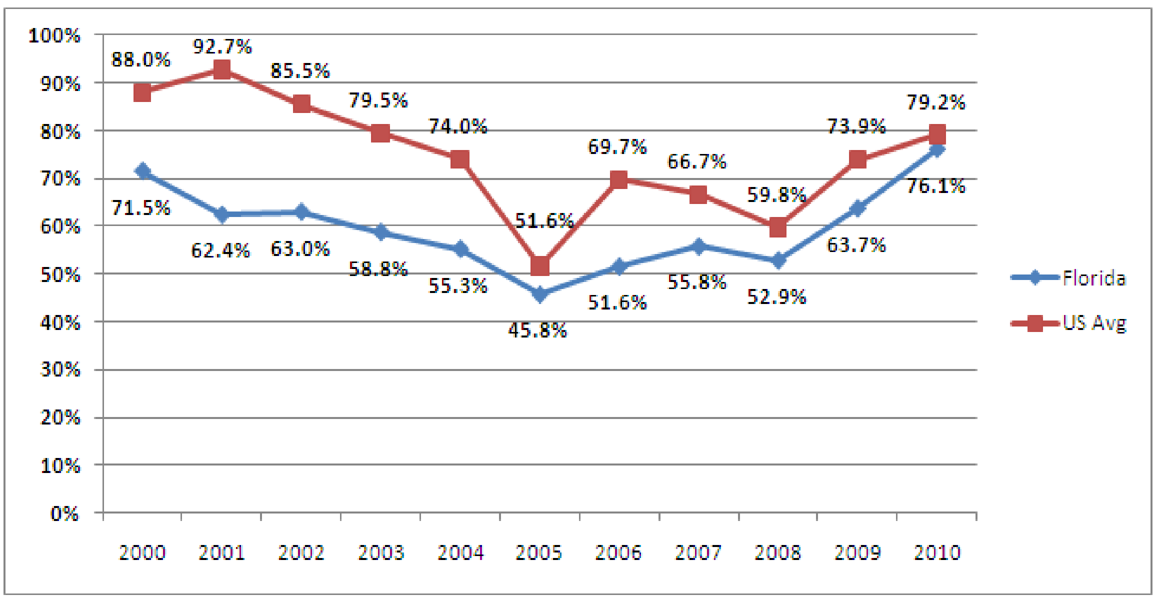
This report also reviews the financial statistics to determine trends in loss ratios and loss + DCC ratios. This indirectly measures the profitability, competitiveness, and premium adequacy of the market. In 2010, Florida had a higher loss ratio and higher loss + DCC ratios than in 2009. At the same time nationally, the loss ratios and the loss + DCC ratios increased in the past year. Note that Florida is generally well below the national average. The trends in the loss ratios are shown on the next page:

Workers' Compensation Insurance Loss Ratios Florida vs. U.S. State Average[19]



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

Workers' Compensation Insurance Loss + DCC Ratios[20]



[19] The 72.3 percent pure loss ratio used here is an unweighted average, and excludes states with exclusive state funds (North Dakota, Ohio, Washington, West Virginia, and Wyoming for years 2000 through 2006 and North Dakota, Ohio, Washington, and Wyoming for 2007 through 2010)

[20] The 79.2 percent DCC + loss ratio used here is an unweighted average, and excludes states with exclusive state funds (North Dakota, Ohio, Washington, West Virginia, and Wyoming for years 2000 through 2006 and North Dakota, Ohio, Washington, and Wyoming for 2007 through 2010)

Workers' Compensation Rates

A comprehensive slate of reforms was passed into law during the 2003 Legislative Session. The package known as Senate Bill 50-A (Chapter 2003-412 Laws of Florida), continues to dramatically impact Florida's workers' compensation insurance rates. Some of these reforms included a reduction (cap) in attorneys' fees, tightening construction industry requirements, doubling impairment benefits for injured workers, increasing the medical fee schedule, and eliminating the Social Security disability test.[21]

Subsequently, workers' compensation rates declined by 64.7% in Florida as of July 1, 2010. In 2000, Florida had the highest workers' compensation insurance rates in the country. In 2003, the OIR approved a 14 percent rate reduction, with an additional reduction of 5.2 percent in 2004. These annual rate reductions continued unabated through the rate reduction of 6.8 percent that took effect on January 1, 2010. The rate changes during this seven-year period include the three largest decreases ever in Florida, namely -18.6 percent for 2009, -18.4 percent for 2008, and -15.7 percent for 2007. These seven filings represent the largest consecutive cumulative decrease on record in Florida for workers' compensation rates – dating back to 1965. Even with the most recent rate increase effective January 1, 2012, the cumulative overall statewide average rate decrease since 2003 will be 58.6 percent.

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

On August 18, 2011, the National Council on Compensation Insurance (NCCI) proposed an overall workers' compensation rate level increase of 8.9 percent for the voluntary market to be effective January 1, 2012. OIR conducted a hearing on October 11, 2011, and heard testimony from NCCI, industry experts and the public about NCCI's initial rate filing. On October 24, 2011, Commissioner Kevin McCarty issued an order finding the 8.9 percent rate increase in NCCI's filing was justified although he took exception to some of NCCI's methodologies used in determining that rate; including its calculation of policyholder dividends, cost of capital, investment yields, and the specific rate changes for certain individual classifications. That order requested NCCI to modify its original filing and resubmit it. On October 26, 2011, NCCI resubmitted an amended filing in accordance with the OIR request. The Commissioner approved the amended filing for an average rate increase of 8.9 percent on October 31, 2011.

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

With the implementation of the increase of 8.9 percent, the rate impact for the main industry groups will be as follows:

Industry Sector	Rate Adjustment 01/11	Cumulative since 2003
Manufacturing	**+9.6%**	**- 54.0%**
Contracting	**+8.7%**	**- 61.5%**
Office and Clerical	**+7.0%**	**- 59.9%**
Goods and Services	**+9.9%**	**- 57.2%**
Miscellaneous	**+8.5%**	**- 56.5%**
TOTAL	**+8.9%**	**-58.6%**

The rate increase has been justified and would still give Florida the lowest rates in the southeast, and likely keep Florida in the top 20 states nationally for most affordable workers' compensation insurance and the cheapest of the top ten most populated states.

Comparative Rates and Premiums

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

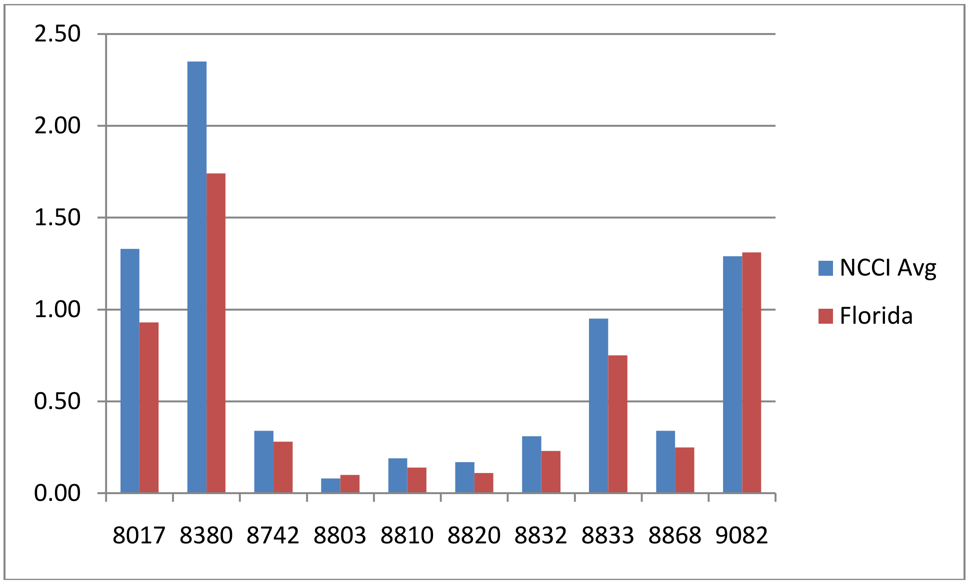
During 2011, the OIR requested that NCCI prepare a comparison of loss cost estimates for the ten largest class codes of workers' compensation insurance evident in the Florida market with the loss costs for the same class codes in the other 34 jurisdictions for which NCCI is the statistical rating agent. The pure loss cost was chosen as the metric as it is the variable that is calculated in a consistent manner. Final allowed rates begin with the loss costs, and are then modified for risk loads and profit factors in different manners across jurisdictions.

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

When measured by exposure, the ten largest class codes, the average loss cost across NCCI jurisdictions based on the most recent available data as of October 2011, Florida's loss cost and Florida's rank among jurisdictions (one being lowest, 36 being highest) are reported below:

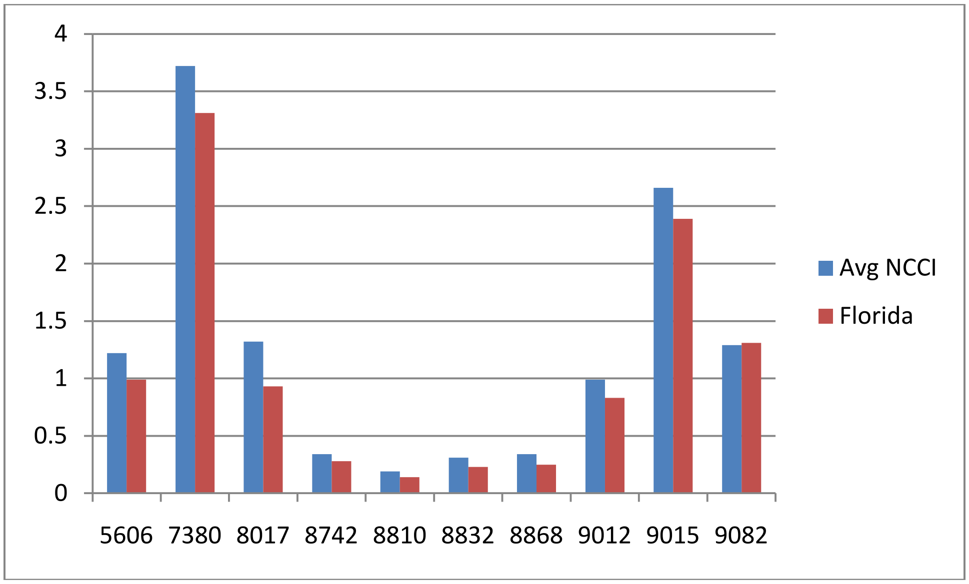
Comparative Pure Loss Cost: Largest Class Codes by Exposure

Code	Class Code Description	NCCI Avg.	FL	2010 Rank
8017	STORE: RETAIL NOC	1.33	0.93	6
8380	AUTOMOBILE SERVICE OR REPAIR CENTER & DRIVERS	2.35	1.74	8
8742	SALESPERSONS OR COLLECTORS-OUTSIDE	0.34	0.28	13
8803	AUDITOR, ACCOUNTANT, OR COMPUTER SYSTEM DESIGNER OR PROGRAMMER - TRAVELING	0.08	0.10	29
8810	CLERICAL OFFICE EMPLOYEES NOC	0.19	0.14	8
8820	ATTORNEY-ALL EMPLOYEES & CLERICAL, MESSENGERS, DRIVERS	0.17	0.11	7
8832	PHYSICIAN & CLERICAL	0.31	0.23	6
8833	HOSPITAL: PROFESSIONAL EMPLOYEES	0.95	0.75	7
8868	COLLEGE: PROFESSIONAL EMPLOYEES & CLERICAL	0.34	0.25	9
9082	RESTAURANT NOC	1.29	1.31	21



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

Comparative Pure Loss Cost: Largest Class Codes by Policy Count				
Code	**Class Code Description**	**NCCI Avg.**	**FL**	**2010 Rank**
8017	STORE: RETAIL NOC	1.22	0.99	10
8380	AUTOMOBILE SERVICE OR REPAIR CENTER & DRIVERS	3.72	3.31	14
8742	SALESPERSONS OR COLLECTORS-OUTSIDE	1.32	0.93	6
8803	AUDITOR, ACCOUNTANT, OR COMPUTER SYSTEM DESIGNER OR PROGRAMMER - TRAVELING	0.34	0.28	13
8810	CLERICAL OFFICE EMPLOYEES NOC	0.19	0.14	8
8820	ATTORNEY-ALL EMPLOYEES & CLERICAL, MESSENGERS, DRIVERS	0.31	0.23	6
8832	PHYSICIAN & CLERICAL	0.34	0.25	9
8833	HOSPITAL: PROFESSIONAL EMPLOYEES	0.99	0.83	14
8868	COLLEGE: PROFESSIONAL EMPLOYEES & CLERICAL	2.66	2.39	15
9082	RESTAURANT NOC	1.29	1.31	21



Using this definition of size, the loss cost is below the class average in Florida.

Florida Workers' Compensation Joint Underwriting Association

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

The Florida Workers' Compensation Insurance Plan (FWCIP) was the residual market for Florida until the FWCJUA was created on January 1, 1994. All insurance companies writing workers' compensation in Florida funded the FWCIP. If there was a deficit in the FWCIP, then those workers' compensation carriers were assessed to cover the deficit. In 1993, the FWCIP issued 48,430 policies with written premiums of $328 million. The FWCJUA in contrast has varied from 13,933 policies to 773 policies, with written premium varying from $77.5 million to $1.2 million. At the end of October 2011, the FWCJUA had 817 policies on its book and with corresponding premiums of $8.8 million. The FWCJUA's written premium as a percent of total market has not exceeded 2% since 1995 and has been below 1% for most years.

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

As of January 1, 2012, the premium for Tier 1 is 10% above the voluntary rates, Tier 2 is 70% above voluntary and Tier 3 is 70% above (1.70 times the voluntary rates), plus the ARAP surcharge applies for Tier 3. Additionally, all three tiers have a flat surcharge of $475. Tier 3 policyholders have a burden that Tiers 1 and 2 do not have. Tier 3 policies are assessable if premiums are not sufficient to cover losses and expenses.

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

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

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

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

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

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

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

Ultimately, availability should not be an issue as coverage can be found in either the voluntary market or the FWCJUA, although affordability may well remain an issue for employers utilizing the FWCJUA.

Composition of the Buyer

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

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

The Division of Workers' Compensation, within the Department of Financial Services, conducts random sweeps at construction sites to ensure compliance with workers' compensation laws. In Fiscal Year 2010-2011 the Bureau of Compliance within the Division of Workers' Compensation issued almost 2,174 stop-work orders to companies that were not carrying insurance for all of their workers. As a further result of their efforts, an additional 6,878 new employees received coverage under Florida's workers' compensation law, adding over $3.9 million to the premium base.[22]

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

Insurers have historically been reluctant to write workers' compensation coverage due to the risks inherent with PEO coverage (*Workers' Compensation Large Deductible Study*, National Association of Insurance Commissioners/ International Association of Industrial Accident Boards and Commissions Joint Working Group, March 2006). Some PEOs have adapted to this changing market and some have formed their own insurance company. PEOs have been a source of workers' compensation coverage for many employers in Florida that could not obtain coverage in the voluntary market, particularly small employers. When the premiums for the FWCJUA have been deemed too high by employers, the PEO market has been the only available option for many employers who want to remain in business and comply with the law. A survey, conducted by the Florida Association of Professional Employment Organizations in 2010 found that they provided more than 69,000 companies with nearly 900,000 work-site employees, representing a payroll in excess of $25 billion.[23]

[22] The Florida Division of Workers' Compensation report for fiscal year 2010-2011
[26] The Florida Association of Professional Employer Organizations (FAPEO) 2010 Census Brochure

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

Mandatory Rating Plans

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

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

Optional Plans Used by Insurers to Compete Based on Price

Insurers use the following plans to compete on price:

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

Non-Price Competition

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

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

Deviations

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

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

Large Deductibles

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

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

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

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

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

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

Conclusion

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

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

For an employer, availability is not particularly important if the coverage is not affordable. As of January 1, 2012, the voluntary market rates have declined by 58.6 percent since reform legislation was passed.

OIR Certification of Compliance with Section 627.096, Florida Statutes

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

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

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

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

Appendix A*

2010 Workers' Compensation Premium Written by State

2010 Rank	2009 Rank	State	Written Premiums (in millions)	
1	1	California	$	7,109.91
2	2	New York	$	3,623.28
3	3	Illinois	$	2,253.74
4	4	Pennsylvania	$	2,187.61
5	5	Texas	$	1,924.75
6	6	New Jersey	$	1,632.96
7	**7**	**Florida**	**$**	**1,600.96**
8	8	Wisconsin	$	1,475.21
9	9	North Carolina	$	1,069.28
10	10	Georgia	$	953.08
11	12	Massachusetts	$	835.26
12	11	Michigan	$	815.56
13	13	Virginia	$	775.75
14	18	Maryland	$	709.06
15	14	Louisiana	$	700.60
16	16	Minnesota	$	685.23
17	15	Missouri	$	680.03
18	17	Tennessee	$	678.12
19	21	Indiana	$	616.77
20	22	Connecticut	$	605.85
21	19	Colorado	$	585.18
22	26	Iowa	$	534.13
23	24	Oregon	$	533.69
24	23	South Carolina	$	533.17
25	20	Arizona	$	521.57
26	27	Oklahoma	$	505.36
27	25	Kentucky	$	475.12
28	28	Kansas	$	387.79
29	29	West Virginia	$	375.26
30	31	Alabama	$	302.22
31	32	Nebraska	$	294.51
32	30	Utah	$	283.22
33	35	Idaho	$	262.23
34	34	Mississippi	$	250.95
35	33	Nevada	$	250.24
36	36	Alaska	$	234.50
37	39	New Hampshire	$	219.48
38	37	New Mexico	$	217.55

Appendix A*

2010 Workers' Compensation Premium Written by State

2010 Rank	2009 Rank	State	Written Premiums (in millions)
39	38	Arkansas	$ 214.72
40	40	Maine	$ 189.23
41	41	Hawaii	$ 177.65
42	42	Rhode Island	$ 147.79
43	43	Vermont	$ 143.08
44	44	South Dakota	$ 136.74
45	46	District of Columbia	$ 132.85
46	45	Delaware	$ 124.62
47	47	Montana	$ 114.27
***Source: 2010 NAIC Annual Statements**			
(Companies with Exclusive state funds were not included)			

Appendix B*

2010 Number of Entities Writing Workers' Compensation by State

2010 Rank	2009 Rank	State	# of Entities
1	1	Illinois	324
2	5	Indiana	313
3	2	Pennsylvania	312
4	3	Tennessee	308
5	4	Georgia	303
6	6	Virginia	287
7	7	North Carolina	284
8	11	Missouri	278
9	12	South Carolina	275
10	14	Michigan	271
11	8	Texas	270
12	13	Wisconsin	269
13	10	Maryland	268
14	9	Iowa	264
15	20	Kansas	259
16	16	Minnesota	258
17	19	New Jersey	256
18	22	Arkansas	255
19	**15**	**Florida**	**252**
20	21	New York	252
21	17	Kentucky	251
22	23	Arizona	244
23	25	Mississippi	244
24	24	Nebraska	243
25	18	Alabama	242
26	31	California	226
27	26	Colorado	226
28	27	Oklahoma	225
29	28	Connecticut	223
30	29	Massachusetts	222
31	30	Utah	221
32	34	New Mexico	219
33	35	District of Columbia	217
34	38	New Hampshire	217
35	37	Louisiana	210
36	33	Delaware	208
37	36	Nevada	208

Appendix B*

2010 Number of Entities Writing Workers' Compensation by State

2010 Rank	2009 Rank	State	# of Entities
38	32	South Dakota	207
39	39	Oregon	195
40	41	Idaho	185
41	42	Vermont	182
42	44	West Virginia	181
43	43	Rhode Island	179
44	40	Montana	172
45	45	Maine	166
46	46	Hawaii	144
47	47	Alaska	140

***Source 2010 NAIC Annual Statements**
(Companies with Exclusive State Funds were not included)

Appendix C*

2010 HHI Ranking Market Competitiveness

"Competitive Markets"

2010 Rank	2009 Rank	State	HHI
1	5	Virginia	121
2	2	Indiana	122
3	4	Georgia	126
4	1	Tennessee	126
5	3	Illinois	130
6	6	North Carolina	140
7	10	Kansas	144
8	11	South Carolina	154
9	14	Pennsylvania	160
10	9	Delaware	163
11	7	Nebraska	163
12	8	Connecticut	172
13	13	Iowa	178
14	12	Arkansas	180
15	15	New Hampshire	181
16	16	Oklahoma	203
17	17	Minnesota	205
18	19	Massachusetts	216
19	20	Wisconsin	229
20	18	Alabama	234
21	25	Nevada	242
22	22	South Dakota	242
23	21	District of Columbia	259
24	23	Vermont	260
25	24	Mississippi	285
26	26	Michigan	289
27	29	New Mexico	330
28	**28**	**Florida**	**341**
29	27	Missouri	355
30	30	California	403
31	39	Arizona	460
32	31	New Jersey	495

Appendix C*

2010 HHI Ranking Market Competitiveness

"Competitive Markets" continued

2010 Rank	2009 Rank	State	HHI
33	32	Hawaii	532
34	33	Maryland	598
35	34	Kentucky	647
36	35	Louisiana	730
37	37	Montana	942

"Moderately Concentrated Markets"

2010 Rank	2009 Rank	State	HHI
38	36	Texas	1051
39	38	Alaska	1294
40	40	New York	1445

"Highly Concentrated Markets"

2010 Rank	2009 Rank	State	HHI
41	42	Utah	2667
42	44	Idaho	3209
43	43	Colorado	3230
44	46	Rhode Island	3354
45	49	West Virginia	3697
46	47	Maine	3830
47	45	Oregon	3933

***Source: 2010 NAIC Annual Statements; HHI Calculations Made by the Florida Office of Insurance Regulation. Companies with exclusive state funds were removed from this analysis. We also excluded Guam, Northern Mariana Islands, and the US Virgin Islands from this year's report.**

Appendix D*

Florida Statutes Governing Workers' Compensation Self-Insurance Funds Not Subject to OIR Regulation

Section 624.4622 – Local government self-insurance funds

- Must be comprised entirely of local elected officials
- Limited financial reporting only

Section 624.46226 – Public housing authorities self-insurance funds

- Must be a public housing authority as defined in Chapter 421
- Has a governing body which is comprised entirely of commissioners of public housing authorities who are members of the fund
- Limited financial reporting only

Section 624.4623 – Independent Educational Institution self-insurance funds

- Must be an independent nonprofit college or university accredited by the Commission on Colleges of the Southern Association of Colleges and Schools or independent nonprofit accredited secondary educational institution
- Has a governing body which is comprised entirely of independent educational institution officials
- Limited financial reporting only

Section 624.4625 – Corporation not for profit self-insurance funds

- Must be a not for profit corporation located in and organized under Florida law
- Must receive at least 75% of revenue from local, state or federal governmental sources
- Has a governing body which is comprised entirely of officials from not for profit corporations that are members of the fund
- Limited financial reporting only

Section 624.4626 – Electric cooperative self-insurance fund

- Must be an electric cooperative organized pursuant to Chapter 425 and operates in Florida
- Must subscribe to or be a member of a rating organization prescribed in section 627.231
- Has a governing body comprised of a representative from each member of the fund
- No reporting requirements