Florida Office of Insurance Regulation

2007 Workers' Compensation Annual Report
January 1, 2008

-- INDEX --

Executive Summary

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

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

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

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

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

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

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

    e. Based on entries and voluntary withdrawals, it would seem that the Florida workers' compensation market remains a robust market for private 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. There appears to be some continuing availability issues remaining in the voluntary market for certain employer groups such as small firms, new firms, and construction firms. Professional Employer Organizations (PEOs) continue to be a factor in making workers' compensation coverage available to these groups.

4. Affordability within the Florida Workers' Compensation Joint Underwriting Association, Inc. (FWCJUA), which is the residual market, has been an on-going issue. Recently enacted legislative changes, Senate Bill 50-A in 2003 and House

Bill 1251 in 2004, have addressed affordability in the voluntary and residual markets respectively and both are having beneficial results.

5. Currently, the Tier 1 and Tier 2 rates for most employers are more affordable than the previous sub-plans A, B and C. However, Tier 3 rates at 2.34 times the voluntary rates, plus the ARAP surcharge are higher than the residual market rates in most other states.

6. The OIR is in compliance with the requirements of Sec. 627.096, F.S.

Purpose and Scope

Subsection 627.211(6), Florida Statues 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 Workers' Compensation JUA.

3.) The market structure in Florida, which includes the market concentration in Florida compared with other states, the growth of leading companies, and entry and exit of carriers in Florida during 2006.

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

Summary of the 2006 Annual Report

The 2006 Workers' Compensation Annual Report was the second report resulting from the statutory mandate, and concluded that the workers' compensation market is reasonably competitive. Specifically, the report showed that, during 2005:

- Florida's workers' compensation insurance market contained a large number of independent firms, none of which had enough market share to individually exercise market control in an uncompetitive nature.

- The Herfindahl-Hirschman Index indicated that Florida's market was not overly concentrated, and consequently exhibited a reasonable degree of competition.

- There were no significant barriers for entry and exit of insurers into and from the Florida workers' compensation insurance market.

- The residual market is small relative to the private market indicating that the voluntary market offers reasonable availability.

- There may be some small segments of the market that may have difficulty obtaining workers' compensation insurance including small firms and new firms.

The 2007 Workers' Compensation Annual Report continues to examine the workers' compensation insurance market from the same perspective. This year's study continues last year's focused use of the Herfindahl-Hirschman Index (HHI) to compare Florida's market concentration within the context of the six most populous states: the other five being California, New York, Texas, Illinois, and Pennsylvania. In addition, a similar comparison is made across all states.

Overview of the Workers' Compensation Insurance Market
National Perspective

To provide context for the analysis presented in this report, an overview of the workers' compensation insurance market from a national perspective provides an important baseline for reference. By and large, 2006 was a "good" year for the workers' compensation market. A good year in this context means that insurer loss ratios were down, residual markets were shrinking and overall solvency was improving. The National Council on Compensation Insurance (NCCI) is a rating advisory organization central to the workers' compensation market. In their *2006 State of the Market* report, they find:

- Overall worker's compensation premiums grew by 2.2% from 2005 to 2006; about half the rate of growth of the combined property/casualty industry.
- The overall combined ratio (one measure of profitability) for the workers' compensation line in 2006 was 96.5%, down from 107% in 2004 and 103% in 2005; these are the best underwriting results in more than 30 years.
- The aggregate Loss and Loss Adjustment Expense reserve deficiency, which peaked at around $21 billion in 2001, is now estimated at approximately $4 billion.
- Residual markets and state run funds in most areas are losing market share to private carriers.

Nationally, two key drivers explain a substantial portion of market improvement. First, overall workers' compensation claim frequency has been declining in recent years and continues to do so. That is, fewer workers' compensation claims are being filed. This reduction in frequency continues to offset increases in claim severity costs. The second related driver is underwriting performance. With claims frequency declining, rates have stabilized and declined in most markets, while still allowing private insurers to successfully underwrite the business. This has allowed for the reduction in the aggregate reserve deficiency noted above and has helped offset recent low investment returns common to the industry.

Taken together, this has helped increase the level of private competition in most state markets, and has allowed for a reduction in rates in many markets. According to NCCI, among the states with active private workers' compensation insurance markets, 26 states reported loss cost based rate reduction in 2006.

There are some areas of concern for the future. Medical costs associated with workers' compensation claims and the medical care inflation rate have both outpaced the annual rate of general inflation in 2006.[1] Consequently, medical losses have become an increasingly larger share of the total workers' compensation claims losses. In 1986, medical losses were 45% of the workers' compensation loss, rising to 52% in 1996 and estimated to be 59% in 2006.[2] Additionally, there is continued concern that the unprecedented decline in claim frequency will eventually change, as it has always done, thereby increasing loss costs once again.

When comparing Florida to the rest of the country in terms of alternative performance measures the NCCI found:

- Florida ranks 19th out of 46 states for average indemnity benefits per employee per year at $202.[3]
- Florida ranks 29th out of 45 states examined for comparative costs of office and clerical operations with a ranking of 1.039 compared to a low of 0.453 in Indiana and a high of 2.260 in Alaska.[4]
- Florida ranks 34th out of 45 states examined for costs among manufacturing classes with a ranking of 0.963 compared to a low of 0.489 in Arizona and a high of 1.818 in Vermont.[5]

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[1] The General Rate of Inflation in 2006 was 3.24% (Source: 2007 Financial Trend Forecaster); Medical Care Inflation Rate in 2006 was 4.02% (Source: U.S. Bureau of Labor Statistics); and the Workers' Compensation Medical Claim Cost Trend was 7.5% (Source: NCCI's *State of the Line* presentation, May 10, 2007.)

[2] NCCI's *State of the Line* presentation, May 10, 2007.

[3] WCSP Data at first report for policies effective in 2003 and 2004.

[4] Workers Compensation State Rankings, Manufacturing Industry Costs, and Statutory Benefit Provisions, 2007 Edition. Indices based on rates in effect on January 1, 2007.

[5] Workers Compensation State Rankings, Manufacturing Industry Costs, and Statutory Benefit Provisions, 2007 Edition. Indices based on rates in effect on January 1, 2007.

- Measures by premium rates per $100 of payroll, Florida ranks 45th out of 50 states and the District of Columbia with a ranking of $2.34. North Dakota ranks lowest at $1.10 and Alaska ranks highest at $5.[6]

The Florida Market

To provide context for the more focused analysis of the Florida market contained in this Annual Report, the Florida market is compared to the workers' compensation markets in other highly populated states to compare availability, affordability, and competitiveness.

An initial challenge in utilizing 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.

NCCI is a critical source of information for analyses of this type. 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 financial data for admitted carriers, and the NAIC financial databases are also used throughout this report.

In 2006, the NCCI provided advisory ratemaking and statistical services for 33 states (including Florida) and the District of Columbia.[7] In 12 of the states, local ratemaking or advisory organizations supplied the information.[8] However, in the following six states and territories, the majority of workers' compensation insurance is provided through an exclusive state fund[9]:

- North Dakota
- Ohio
- Puerto Rico
- Washington
- West Virginia *(Had an exclusive state fund until July 1, 2006. NCCI now provides advisory ratemaking and statistical services.)*
- Wyoming

[6] 2006 Oregon Workers' Compensation Premium Rate Ranking Summary.
[7] NCCI, Annual Statistical Bulletin, 2006 Edition. Page 4.
[8] NCCI, Annual Statistical Bulletin, 2006 Edition. Page 4. These states include California, Delaware, Indiana, Massachusetts, Michigan, Minnesota, New Jersey, New York, North Carolina, Pennsylvania, Texas and Wisconsin.
[9] NCCI, Annual Statistical Bulletin, 2006 Edition. Page 4.

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 evidenced by the FWCJUA, workers' compensation insurance in Florida is also provided through self-insurance funds.

"Self-Insurance" groups are a broadly defined group of entities that include group self-insurance funds, commercial self-insurance funds and assessable mutual organizations. By the early 1990s, self-insurance funds were a dominant part of the Florida workers' compensation insurance market, capturing more than half of the voluntary market. Legislative reforms in 1993 transferred the regulation of group self-insurance to the Department of Insurance, which later became the Office of Insurance Regulation (OIR). This legislative change occurred concurrently with the formation of the Florida Workers' Compensation Joint Underwriting Association, Inc. (FWCJUA). Together, these two changes transformed the Florida workers' compensation insurance market as self-insurance funds began converting into insurance companies. In 1994 there were 35 defined self-insurance funds, but by 2000 there were only four of these entities. As in the 2006 report, there continues to be four group self-insurance funds in 2007:

- Florida Rural Electric Self-Insurers Fund
- Florida Retail Federation Self-Insurers Fund
- FRSA Self-Insurers Fund
- Florida Citrus, Business & Industries Fund

All four of these entities are domiciled in Florida, write exclusively in Florida, and together these Self-Insurance Funds (SIFs) represent only 5.9% of the workers' compensation insurance market in Florida.[10]

[10] The SIF total earned premium was $240.0 million in 2006. The total Florida market including the Florida Workers' Compensation JUA was $4.06 billion in 2006.

Comparisons to Other Populous States

The first part of the analysis is to provide 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 state used in this analysis are California, New York, Texas, Illinois and Pennsylvania.

As expected, there is a strong correlation between state population and workers' compensation insurance written premiums. Below are the six most populous states in rank order of most workers' compensation insurance written in 2006:

Rank	State	2006 Written Premium
# 1	California	$11.1 billion
# 2	New York	$4.1 billion
# 3	**Florida**	**$3.7 billion**
# 4	Texas	$2.8 billion
# 5	Illinois	$2.6 billion
# 6	Pennsylvania	$2.3 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 third with the most workers' compensation insurance premium written in 2006. When compared to 2005 results, some differences are evident. While Florida's total written premium remained relatively constant at $3.7 billion, and other states remained almost unchanged, California continued its decline to $11.1 billion in 2006, following $14.6 billion in 2005, and $16.1 billion in 2004. 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 largest states, the number of insurance companies writing workers' compensation insurance varied between 207 and 290. As shown below, Florida ranked fifth with 239 insurance companies.

Rank	State	Entities
# 1	Pennsylvania	290
# 2	Illinois	288
# 3	Texas	242
# 4	New York	240
# 5	**Florida**	**239**
# 6	California	207

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 third with $15.4 million per entity, which is comparable to the six most populous states for average premium per insurance entity:

Rank	State	Premium per Entity
# 1	California	$52.6 million
# 2	New York	$17.1 million
# 3	**Florida**	**$15.4 million**
# 4	Texas	$11.7 million
# 5	Illinois	$8.9 million
# 6	Pennsylvania	$7.8 million

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

Herfindahl-Hirschman Index Comparison by State

The Herfindahl-Hirschman Index (HHI) is a calculation constructed to determine market concentration. This ratio first appeared in A.O. Hirschman's *National Power and Structure of Foreign Trade* published in 1945. Hirschman limited its usage to export/import trade. O.C. Herfindahl applied the concentration index to industries in his Ph.D. dissertation in 1950.

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% 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, some states have their state funds reporting to the NAIC. Some states, such as Florida with its Florida Workers' Compensation Fund, 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	1,803
# 2	California	1,089
# 3	Texas	891
# 4	**Florida**	**440**
# 5	Illinois	188
# 6	Pennsylvania	163

With an HHI of 440 in 2006, the Florida workers' compensation insurance market ranks among the more competitive within the sample states. Within this state sample group, New York and California are not considered competitive markets as each has an entity that holds roughly 40% of the market share. For a complete state list, 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 2006 for the six most populous states, and their market shares within those states:

State	Leading Carrier	*Market Share*
New York	State Insurance Fund	*41.0%*
California	State Comp Insurance Fund	*31.1%*
Texas	Texas Mutual Insurance Co.	*26.8%*
Florida	**Bridgefield Employers Inc.**	***15.5%***
Illinois	Zurich American Ins. Co.	*5.4%*
Pennsylvania	Erie Insurance Exchange	*4.7%*

The most obvious difference between the states is the relative market size of the state sponsored workers' compensation insurance entity. In New York, California and Texas, the entity with the largest market share is the state sponsored entity, while in Florida, Illinois and Pennsylvania, the largest market share is not only considerably less but is also held by a private insurer. Put another way, Florida is the largest state in the country for which the private market insurance industry is the dominant provider of workers' compensation insurance.

Bridgefield Employers Inc.'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 15.5% of the market (which would be 14.5% if the SIFs and Workers Comp JUA were included) it would not appear that this is enough of a market share to create an uncompetitive marketplace.

Profitability and Loss Ratios

Another goal of this report is to analyze the profitability of the Florida workers' compensation insurance marketplace. One measure that is reported on a state-by-state basis in the statutory financial statements filed with the NAIC is the loss ratio, which is calculated as the total losses 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 2006 are:

Rank	State	*Loss Ratio*
# 1	Illinois	*77.5%*
# 2	New York	*73.6%*
# 3	Pennsylvania	*69.7%*
# 4	Texas	*50.9%*
# 5	California	*47.3%*
# 6	**Florida**	***44.2%***

While this is a very rough measure of profitability, it does show that for the workers' compensations markets in 2006, Florida's profitability compares favorably with the other most populous states.

Adding reported defense cost and containment expense (DCC) to the loss ratio above provides a somewhat broader measure of profitability (or rate sufficiency). Companies with a ratio of 100%, 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:

State	*DCC Ratio*	*DCC+Loss Ratio*
Illinois	*8.8%*	*86.3%*
New York	*5.6%*	*79.1%*
Pennsylvania	*8.0%*	*77.6%*
Texas	*7.0%*	*57.9%*
California	*5.8%*	*53.2%*
Florida	***7.4%***	***51.6%***

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. In fact, the ranking is identical to the list that had the DCC ratios excluded. It should also be noted that Florida has a DCC ratio roughly equivalent to the other five most populous states.

Overview of Florida's Largest Carriers

In 2006, 244 companies reported writing workers' compensation business in the state of Florida, which includes SIFs and the JUA. The 10 largest companies based on written premium were:

Rank	Company	Written Premium	% of Market	CUM %
# 1	Bridgefield Employers	$584,097,071	14.51%	14.51%
# 2	Zenith	$199,530,376	4.96%	19.47%
# 3	FCCI	$199,013,088	4.94%	24.41%
# 4	Commerce & Industry	$196,174,380	4.87%	29.29%
# 5	The Florida Retail Fed. SIF	$165,744,103	4.12%	33.41%
# 6	American Home Assurance	$133,298,518	3.31%	36.72%
# 7	Insurance Co. State of PA	$128,481,933	3.19%	39.91%
# 8	Liberty	$107,349,850	2.67%	42.58%
# 9	Zurich American	$103,130,033	2.56%	45.14%
# 10	Amcomp Preferred	$95,312,847	2.37%	47.51%
	TOTAL IN FLORIDA	**$4,024,773,781**		

As was the case in last year's report, the 10 largest companies wrote almost 48% of the workers' compensation insurance premium in Florida in 2006. All of the companies with the exception of The Florida Retail Federation SIF (organized as a self-insurance fund) are property & casualty companies, organized as stock companies. Bridgefield Employers and Liberty are in a related insurance group; Commerce & Industry, American Home Assurance and Insurance Co. of PA are also in a related insurance group. Four of the top ten writers are domestics[11], while the foreign corporations have home offices in New York (three), Pennsylvania, Illinois, and California.[12]

[11] Domestics and their locations include: Bridgefield Employers (Lakeland, FL), FCCI Ins. (Sarasota, FL), The Florida Retail Sales Federation (Lakeland, FL), and Amcomp Preferred (North Palm Beach, FL).
[12] Foreign companies and their locations include: Commerce & Industry (New York NY), Zenith Ins. (Woodland Hills, CA), Zurich American (New York, NY), and American Home Assurance (New York, NY), Insurance Co. of State of PA (Harrisburg, PA) and Liberty Insurance Corp. (Schaumberg, IL).

Diversification

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

Geographic Distribution

Although workers' compensation loss rates are likely more homogeneous geographically than other lines, such as homeowners' insurance, industry analysts generally believe that it is important for companies to have some geographic diversification within their book of business. Especially for workers' compensation insurance, where coverage and benefits are mandated by state legislatures, an understanding of the geographic distribution of premium can again provide a fuller understanding of the companies. For the top 10 companies presented above, the states where the companies had a majority of their business were calculated. The five leading states for each company are listed below:

Company	State 1	State 2	State 3	State 4	State 5	All Other
Bridgefield Employers	**FL 100%**					0%
Zenith	CA 53%	**FL 27%**	TX 5%	PA 3%	NC 2%	9%
FCCI	**FL 84%**	GA 6%	IL 3%	IN 3%	SC 2%	5%
Commerce & Industry	**FL 12%**	CA 8%	IL 7%	NY 6%	GA 5%	61%
The Florida Retail SIF	**FL 100%**					0%
American Home Assurance*	CA 22%	TX 8%	NY 8%	MA 5%	IL 5%	52%
Insurance Co. of PA	NY 18%	**FL 18%**	MA 9%	TX 9%	CA 8%	39%
Liberty	NJ 15%	NY 12%	IL 8%	**FL 7%**	TX 6%	53%
Zurich American	CA 19%	IL 8%	TX 8%	**FL 6%**	PA 5%	53%
Amcomp Preferred	**FL 82%**	IN 11%	VA 4%	KY 1%	TN 1%	1%

*American Home Assurance – Florida's State Written Premium ranking is 6th for this company.

In contrast to other market studies conducted by the OIR for other lines of business, there is less geographic diversification among the top writers. Instead, four companies write almost exclusively in Florida. The leading states for these carriers other than Florida include: California, Texas, Illinois, and New York. Florida represents the state with the largest book of business for five of these ten companies. For the five companies that do not write most of their workers' compensation insurance in Florida, three write the most in workers' compensation insurance in California, one in New York, and one in New Jersey.

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 six categories: 1) Workers' Compensation[13], 2) Other/Products Liability[14], 3) Commercial Multi-Peril[15], 4) Automobile (includes Private Passenger & Commercial for both damage and liability)[16], and 5) All Other:

Company	Workers' Comp	Other/Product Liability	Commercial Multi-Peril	Auto	All Other
Bridgefield Employers	**100%**				
Zenith	**100%**				
FCCI	**73%**	6%	8%	11%	2%
Commerce & Industry	**90%**	3%	0%	7%	0%
The Florida Retail SIF	**100%**	0%	0%	0%	0%
American Home Assurance*	**34%**	22%	1%	10%	33%
Insurance Co. of PA	**47%**	21%	0%	22%	10%
Liberty	**83%**	5%	1%	12%	0%
Zurich American	**31%**	34%	4%	11%	20%
Amcomp Preferred	**100%**				

The table shows that seven of the ten top writers of workers' compensation insurance focus on this specific line of business having nearly 75% or more of their total book of business in that line. Other lines of business commonly written include auto, commercial multi-peril, and other/product liability. Zurich American is unique in having a more

[13] Annual Statement Exhibit of Premiums and Losses, Line 16.
[14] Annual Statement Exhibit of Premiums and Losses, Lines 17 & 18.
[15] Annual Statement Exhibit of Premiums and Losses, Lines 5.1 & 5.2.
[16] Annual Statement Exhibit of Premiums and Losses, Lines 19.1, 19.2, 19.3, 19.4, 21.1 & 21.2.

diverse book of business which includes lines such as fire & allied lines, ocean and inland marine, medical malpractice and earthquake insurance to name a few.

Trends in Florida's Workers' Compensation Insurance Market

Entry and Exit from the Workers' Compensation Market

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

The data suggest the market has remained relatively stable. As of December 31, 2006, Florida had 397 entities with a certificate of authority, with 24 miscellaneous entities.[17] These 397 entities included 391 property & casualty companies, 1 reciprocal, 1 residual market company (the Florida Workers' Compensation JUA), and 4 group self-insurance funds for a total of 421 entities in the workers' compensation marketplace. Of these, 239 companies in the voluntary market along with 4 self-insurance funds, and the Florida Workers' Compensation JUA were actively writing business.

These data do not reflect one major merger that affected the workers compensation market. Ten (10) companies merged into Continental Insurance Company (A CNA company) on December 31, 2006.[18] While this transaction was recognized in the domiciliary state on December 31, 2006, the effective acceptance of the documentation occurred in Florida on January 16, 2007.

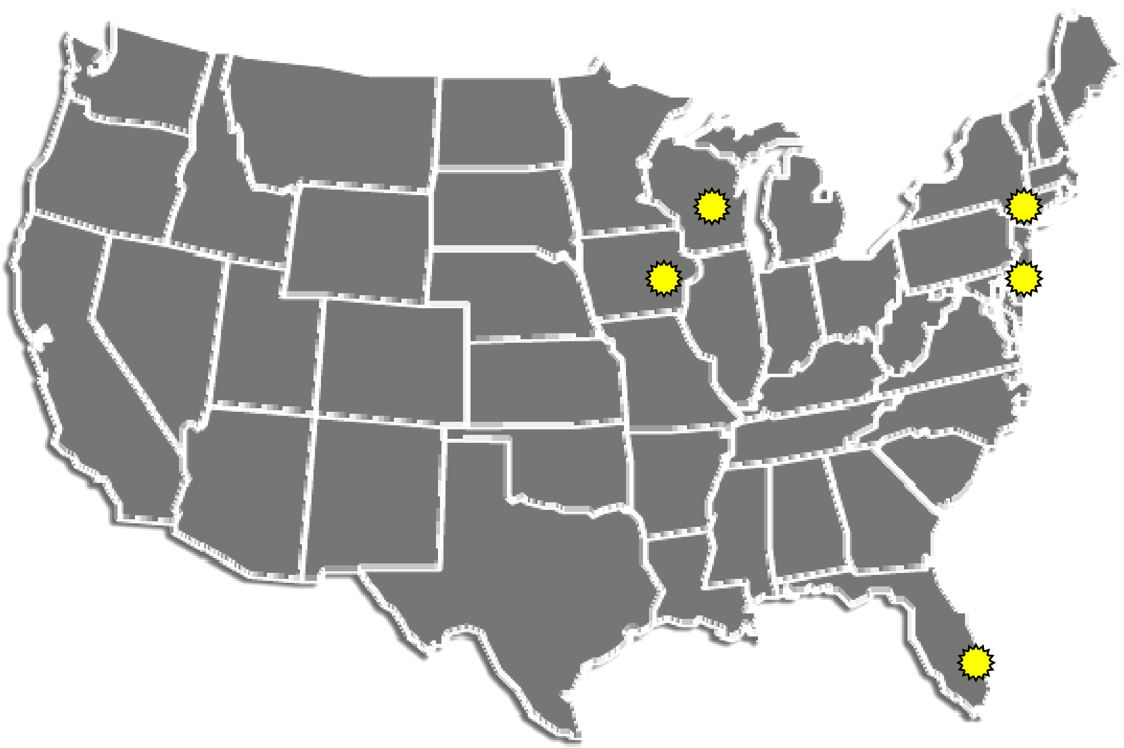
During 2006, five new entities entered the market. Two were new to the state, while three companies were already operating in Florida, and expanded by adding the line of workers' compensation. All five of the new entities were property & casualty companies. Of the five, only one (Aequicap Property & Casualty) is domiciled in Florida. The other four companies were domiciled in Delaware, Iowa, New York, and Wisconsin. The new entities that were accepted to operate in the Florida workers' compensation insurance market in 2006 were:

[17] The 24 miscellaneous organizations do not directly write workers' compensation insurance. These include Advisory Organizations (8), Rating Organizations (7), and Accredited Reinsurers (9).

[18] The ten companies include: Boston Old Colony, National Ben Franklin, Continental Reinsurance, Commercial Ins. Co. of Newark, Kansas City Fire & Marine, Niagara Fire, Firemen's Ins. Co. of Newark, Buckeye Union, Glens Falls, and Fidelity & Casualty of New York.

- Aequicap Property & Casualty Ins. Co.
- Continental Indemnity Co.
- Nipponkoa Insurance Co., Limited (US Branch)
- Sentry Casualty Co.
- Starnet Insurance Co.

As the map below shows, the five new workers' compensation insurers are domiciled in five (5) different cities in five (5) different states. This is potentially beneficial to Florida's economy, as well as the market itself, as four (4) companies represent investment capital coming from outside the region:



During the same period, four entities left the market. In 2006, one (1) company that had a license to write workers' compensation insurance had its certificate of authority suspended, in a deal that would allow it to merge with First Commercial Insurance Company.[19] Three (3) companies continue to have an active certificate of authority, but specifically withdrew its authority to write workers' compensation insurance in Florida.[20] These data suggest that there is freedom to both enter and exit the market, again

[19] In accordance with Consent Order 88146-06, Newport Star Reinsurance Company, Inc. (Newport) was licensed to do business in Florida. On November 20, 2006 The Office of Insurance Regulation (OIR) approved a COA for Newport as a foreign property and casualty insurer. Newport was licensed as a foreign insurer (South Carolina) and simultaneously redomesticated to Florida for the sole purpose of immediately merging with and into First Commercial Insurance Company (FCIC).

[20] AXA Insurance Company, R.V.I. National Insurance Company and Virginia Surety Co.

supporting the competitive aspects of the Florida workers' compensation insurance market.

Statistical Trends

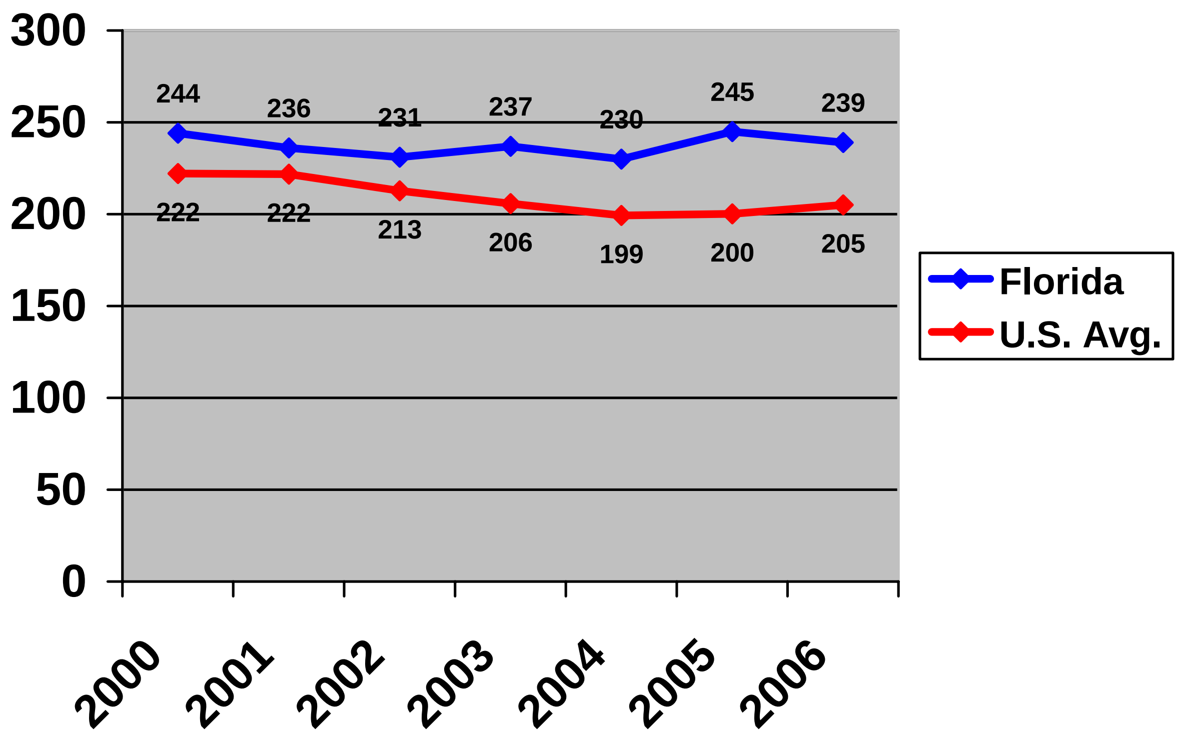
The analysis to this point compares the workers' compensation market in Florida to the markets of the other most populous states in terms of total amount of premium, number of entities operating in the state, premium per entity, and various financial ratios. Generally, Florida compares favorably to other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

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

The Nature of the Market

One of the first indicators of the robustness of the market is to simply look at the number of companies actively engaged in the market. The chart below shows the number of entities writing in Florida from 2000 through 2006 and compares that to the average number of entities writing in the voluntary market in other states.

Entities Writing Work Comp Insurance Premium by Year
Florida vs. U.S. state average



Over the last six years the number of writers in Florida has remained relatively stable. Meanwhile, on the national level, the number has steadily decreased from 2000 to 2005, although showed a marginal increase in 2006. From a state perspective, the split has become even wider --- in 2000 there were roughly 22 more insurance companies writing in Florida than the average U.S. state. In 2006, the difference was 38 companies.

Another area to consider is the overall growth of the workers' compensation insurance market. Like other sectors of the insurance industry, with a growing population, and a growing economy, it is not surprising to have an increase in the overall amount of insurance written:

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

	2000	2001	2002	2003	2004	2005	2006
Florida	$2.66	$2.78	$2.97	$3.19	$3.35	$3.72	$3.74
Avg. U.S. State	$0.65	$0.74	$0.84	$0.95	$1.02	$1.10	$1.07

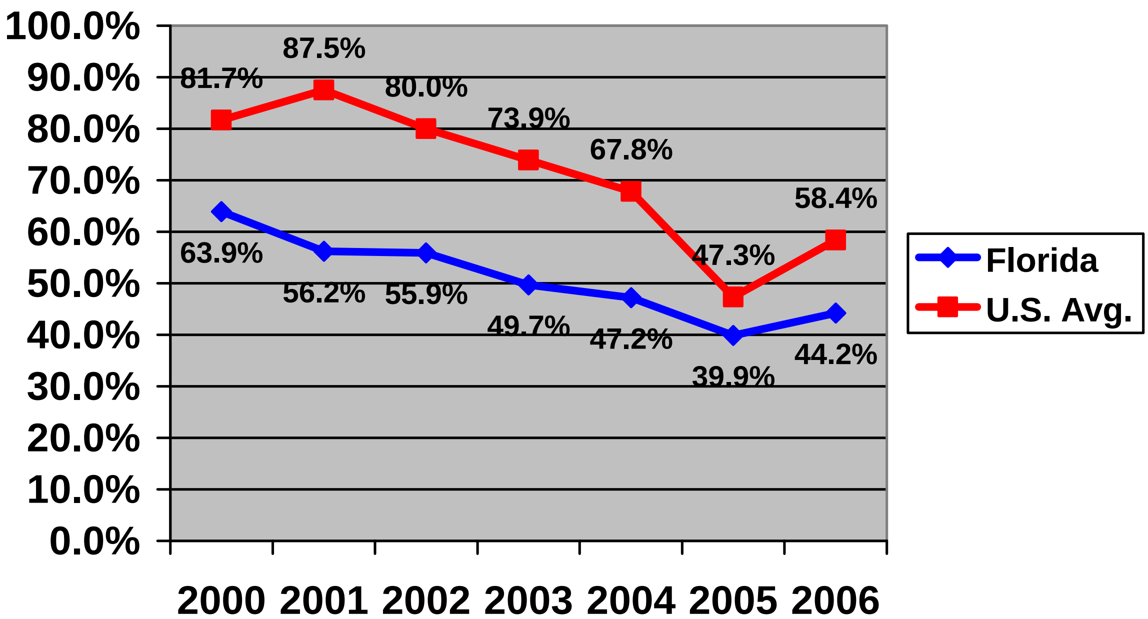
From 2000 to 2006 the increase in the total workers' compensation insurance premium paid for the average U.S. state has increased 65%, which outdistances the 41% increase in Florida, even though Florida's working population grew at a rate much faster than the national average. Interestingly, the amount of workers' compensation insurance dipped nationally in 2006, while simultaneously rising marginally in Florida. 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 + defense containment cost ratios. This indirectly measures the profitability, competitiveness, and premium adequacy of the market. In 2006, Florida had a higher loss ratio and a higher loss+DCC ratio, although these mirror a national trend of higher loss ratios and higher loss+DCC ratios.

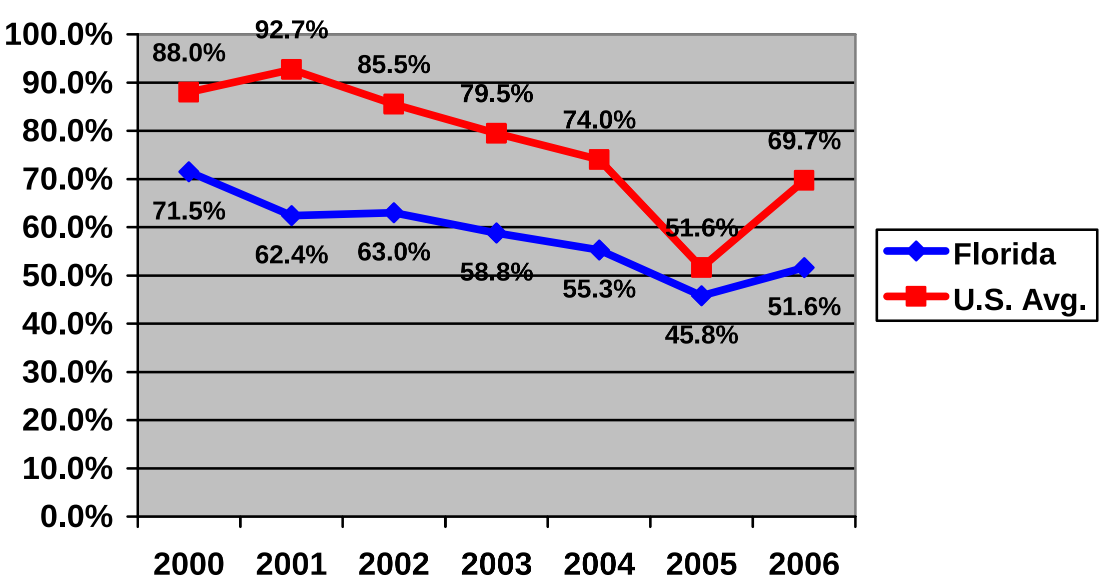
The trends in the loss ratios are shown below:

Work Comp Insurance Loss Ratios
Florida vs. U.S. state average[21]



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

Work Comp Insurance Loss + DCC Ratios[22]



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[21] The 58.4% pure loss ratio used here is an unweighted average. A weighted average would produce a national loss ratio of 60.7%.

[22] The 69.7% DCC+loss ratio used here is an unweighted average. A weighted average would produce a national DCC+loss ratio of 67.4%.

Workers' Compensation Rates

A new law passed during the 2003 Legislative Session (known as SB 50-A) continues to dramatically impact Florida's workers' compensation insurance rates. Some of these reforms included a reduction 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.[23]

Consequently, workers' compensation rates have declined in Florida, which is atypical for the rest of the country. In 2000, Florida had the highest workers' compensation insurance rates in the country. In 2003, the Office approved a 14% rate reduction, with an additional reduction of 5.2% in 2004. These rate reductions have continued unabated through to the recent rate reduction approved by Commissioner McCarty on October 31, 2007 to take effect January 1, 2008.

In 2007, the Office approved an overall average rate reduction of 18.4% to become effective January 1, 2008. When implemented, the reductions for the five major industry groups will be as follows:

Industry Sector	Rate Adjustment 01/08	Cumulative since 2003
Contracting	**- 17.9%**	**- 52.0%**
Goods & Services	**- 19.0%**	**- 51.5%**
Manufacturing	**- 17.5%**	**- 47.6%**
Miscellaneous	**- 15.2%**	**- 53.0%**
Office & Clerical	**- 21.3%**	**- 50.8%**

This rate reduction is the fifth rate reduction since the 2003 workers' compensation reforms, giving Florida businesses a cumulative decrease of 51.4%. In a press release dated October 31, 2007, Commissioner McCarty remarked that "the cost of doing business in Florida has become less expensive," due to these cuts.

There have been two primary reasons for the continued rate reductions. The national data continue to show the claims frequency for workers' compensation claims have been decreasing faster than medical costs have increased. Another reason is the continued crackdown on companies fraudulently avoiding payment for workers' compensation insurance.

[23] "Florida Cracks Down on Construction Sites Without Workers' Compensation Insurance," Best Wire, 8/2/2005, which utilizes information from an earlier article in BestWire, July 15, 2003.

Florida's Workers' Compensation JUA

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 522 policies, with written premium varying from $77.5 million to $5 million. At the end of November 2007, the FWCJUA had 2,212 policies on its book and with corresponding premiums of $19.2 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.

In 2007 the Florida Legislature passed two bills that have had a significant impact on the FWCJUA. These bills are Senate Bill 1894 (Chapter 2007-146 Laws of Florida) and House Bill 7169 (Chapter 2007-202 Laws of Florida). Detailed summaries of Senate Bill 1894 and House Bill 7169 are available from the FWCJUA and Legislative websites.

The provisions of Senate Bill 1894 were designed to address the following major areas:

1. Provisions to assist the FWCJUA in achieving exemption from federal income tax.
2. Provisions to address funding issues with subplan D and other subplans or tiers by allowing the use of the surplus attributed to subplan C and extending the life of the below the line assessments.

3. Provisions related to the Code of Ethics, financial disclosures, and procurement of goods and services were modeled after legislation enacted last year to provide greater accountability and oversight of Citizens Property Insurance Corporation.

Senate Bill 1894 included a provision that clearly made the FWCJUA records subject to the Public Records law in Chapter 119, Florida Statutes. As a result, there was a need to exempt certain records that contained confidential and personal information. House Bill 7169 created an exemption for certain records and portions of meetings of the FWCJUA including portions of underwriting files, claims files, medical records, audit records, proprietary information, attorney-client information, and reports of fraud, among other records.

House Bill 1251, which passed in 2004, created a tier system for rating employers. 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.

The FWCJUA was originally created to be self-sufficient with no ability to obtain funding from the voluntary market. Currently, there is a mechanism for funding deficits in Tier 1 and 2 by issuing a below the line assessment against all workers' compensation policies. However, it is unlikely that this assessment will be needed due to the amount of surplus in the FWCJUA. The primary funding mechanism for any deficits in Tier 3 is through the assessment of FWCJUA Tier 3 policyholders. Assessing policyholders after their policy has expired can create a financial hardship for the policyholders and should be avoided if possible. Thus, the FWCJUA Board has a goal of avoiding assessments and this has contributed to the high level of rates and surcharges.

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 2003 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 HB 1251 has resulted in a restructuring of the rates and surcharges used by the FWCJUA.

As of January 1, 2008, the premium for Tier 1 is 25% above the voluntary rates, Tier 2 is 83% above voluntary and Tier 3 is 134% above (2.34 times the voluntary rates), plus the ARAP surcharge applies for Tier 3. Additionally, all three tiers have a flat surcharge of $475. Tier 3 policyholders have a burden that Tiers 1 and 2 do not have. Tier 3 policies are assessable if premiums are not sufficient to cover losses and expenses.

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

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

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

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

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

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

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

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

Composition of the Buyer

Much of the analysis of the worker's compensation market, owing to a lack of more detailed data, is done at a high level. 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 Florida 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.

"A Study of the Availability and Affordability of Workers' Compensation Coverage for the Construction Industry in Florida" dated January 31, 2003 and provided to the Florida Legislature concluded that construction employers, especially small construction employers, are having difficulty finding affordable workers' compensation coverage. While the restructuring of the FWCJUA has helped this situation, the problem still exists as documented by the number of employers found by the Department of Financial Services (DFS) to have no coverage, and the disproportionately high number of construction related entities insured through the FWCJUA.

The Department's workers' compensation division conducts random sweeps at construction sites to ensure compliance with workers' compensation laws. In FY 2005-2006 the Bureau of Compliance within the Department of Financial Service's Division of Workers' Compensation issued almost 2,700 stop-work orders to companies that were not carrying insurance for all of their workers. As a further result of their efforts, an additional 12,366 new employees received coverage under Florida's workers' compensation law adding over $30 million to the premium base.

Professional Employers Organizations

According to the National Association of Professional Employer Organizations (NAPEO), "Professional employer organizations (PEOs) enable clients to cost-effectively outsource the management of human resources, employee benefits, payroll and workers' compensation. A PEO provides integrated services to effectively manage critical human resource responsibilities and employer risks for clients. A PEO delivers these services by establishing and maintaining an employer relationship with the employees at the client's worksite and by contractually assuming certain employer rights, responsibilities, and risk." Also according to NAPEO, the average client customer of a PEO is a small business with 16 worksite employees, though larger businesses also find value in a PEO arrangement.

PEO's have been a significant part of the Florida workers' compensation market since the early 1990s. PEO's have had an erratic history of being able to obtain coverage in the workers' compensation insurance market. In the early 1990s coverage was difficult to obtain. By the mid-1990s coverage was broadly available and relatively easy to obtain. In the early 2000s coverage became scarce and in 2003 after CNA stopped writing PEOs, coverage was nearly impossible to find.

Insurers have historically been reluctant to write workers' compensation coverage due to the risks inherent with PEO coverage (see *Workers' Compensation Large Deductible Study*, NAIC/IAIABC Joint Working Group, March 2006). Some PEOs have adapted to this changing market by forming 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.

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% premium credit provided to employers that certify the establishment of a drug-free workplace program.
- Employer Safety Premium Credit – A 2% 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), F.S. 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% of each claim up to $21,000. This option is required by Section

440.38(5), F.S. An insurer may refuse to issue a policy with a coinsurance amount based on the financial stability of the employer.

- Coinsurance and Deductible - For a reduced premium, the employer agrees to reimburse the insurer a deductible amount in the range of $500-$2,500 per claim and 20% of each claim up to a maximum of $21,000. This option is required by Section 440.38(5), F.S. An insurer may refuse to issue a policy with a coinsurance and deductible amount based on the financial stability of 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, F.S. 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% 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.

In the mid 1980's, the use of deviations as a means of competing was commonplace. From 1983 to 1985 over 40% of the market was written at deviated rates. However, by 1989 only 9% 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, F.S. made by chapter law 2004-82(SB 1926) to allow for easier approval of deviations, only one insurer has filed for a new deviation since the law became effective on July 1, 2004 and that was approved during 2006. Two insurers have renewed their prior deviation, which means there are currently only three insurance companies with a deviation in Florida.

Workers' Compensation Rate Deviations (all downward) from 1981 to 2006							
Year	**Number of Insurers**	**Market Share**	**Average Deviation**	**Year**	**Number of Insurers**	**Market Share**	**Average Deviation**
1981	1	1.20%	10.00%	**1994**	0	0%	0%
1982	41	23.60%	12.80%	**1995**	3	unavailable	11.60%
1983	89	46.60%	14.20%	**1996**	4	unavailable	11.20%
1984	122	54.00%	16.50%	**1997**	3	unavailable	11.60%
1985	121	40.80%	15.90%	**1998**	3	unavailable	11.60%
1986	79	18.30%	12.70%	**1999**	3	unavailable	11.60%
1987	57	11.50%	10.40%	**2000**	5	unavailable	12.00%
1988	55	11.30%	10.00%	**2001**	4	unavailable	10.80%
1989	43	8.80%	10.30%	**2002**	3	unavailable	10.80%
1990	0 (moratorium)	0%	0%	**2003**	3	unavailable	8.30%
1991	0 (moratorium)	0%	0%	**2004**	2	unavailable	10.00%
1992	0	0%	0%	**2005**	3	unavailable	10.00%
1993	0	0%	0%	**2006**	3	unavailable	10.00%

Note: For the period 1995 to 2006, the market share is not available because the deviations only apply to a portion of the company's total written premium.

Large Deductibles

In the early 1990's, insurers approached the Department of Insurance (Now the Office of Insurance Regulation) 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% to 90%. 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 worker’s compensation market can readily be characterized as a competitive market.

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

For an employer, availability is not particularly important if the coverage is not affordable. In the voluntary market, rates have declined by over 50% since reform legislation was passed in 2003. Within the residual market, it appears that necessarily conservative actuarial estimates have contributed to uncompetitively high rates in the recent past for the FWCJUA, although statutory changes appear to continue to help moderate rates recently.

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. In addition to the NCCI filing mentioned above, the Consumer Advocate’s offices provided an independent actuarial review of the filing and made recommendations. 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 –

2006 Workers' Compensation Premium by State

Rank	State	Written Premium (in Millions)
# 1	California	11,153.5
# 2	New York	4,113.8
# 3	**Florida**	**3,736.9**
# 4	Texas	2,813.3
# 5	Illinois	2,596.7
# 6	Pennsylvania	2,272.9
# 7	New Jersey	2,004.3
# 8	Wisconsin	1,664.4
# 9	North Carolina	1,385.7
# 10	Georgia	1,345.0
# 11	Michigan	1,130.1
# 12	Massachusetts	1,124.6
# 13	Missouri	1,002.7
# 14	Maryland	995.1
# 15	Virginia	977.0
# 16	Colorado	966.5
# 17	Tennessee	947.8
# 18	Minnesota	872.7
# 19	Louisiana	860.8
# 20	Indiana	817.9
# 21	Arizona	773.1
# 22	Oregon	766.7
# 23	South Carolina	749.0
# 24	Connecticut	731.7
# 25	Kentucky	681.7
# 26	Iowa	531.2
# 27	Nevada	497.7
# 28	Utah	488.1
# 29	Oklahoma	423.9
# 30	Kansas	415.3
# 31	Alabama	382.2
# 32	Idaho	364.9
# 33	Hawaii	356.2
# 34	Nebraska	351.1
# 35	Alaska	345.2
# 36	Mississippi	338.1
# 37	New Hampshire	304.7
# 38	Arkansas	303.9
# 39	New Mexico	278.5
# 40	Delaware	246.7
# 41	Maine	242.1
# 42	Vermont	205.4
# 43	Rhode Island	201.0
# 44	South Dakota	131.0
# 45	Montana	107.4

***Source: 2006 NAIC Annual Statements**
(Companies with exclusive state funds were not included)

-- APPENDIX B –

2006 Number of Entities Writing Workers' Compensation by State

	State	Entities
# 1	Tennessee	291
# 2	Pennsylvania	290
# 3	Illinois	288
# 4	Georgia	286
# 5	Indiana	286
# 6	Virginia	268
# 7	Wisconsin	256
# 8	North Carolina	256
# 9	Missouri	252
# 10	Michigan	250
# 11	Iowa	249
# 12	Maryland	249
# 13	South Carolina	243
# 14	Texas	242
# 15	New York	240
# 16	**Florida**	**239**
# 17	New Jersey	237
# 18	Minnesota	237
# 19	Kansas	234
# 20	Kentucky	231
# 21	Alabama	228
# 22	Mississippi	227
# 23	Arkansas	227
# 24	Nebraska	226
# 25	Arizona	217
# 26	Colorado	215
# 27	Oklahoma	215
# 28	California	207
# 29	Connecticut	203
# 30	Louisiana	198
# 31	New Mexico	197
# 32	Delaware	196
# 33	Massachusetts	194
# 34	South Dakota	194
# 35	Utah	189
# 36	New Hampshire	188
# 37	Oregon	184
# 38	Nevada	177
# 39	Vermont	167
# 40	Idaho	166
# 41	Montana	158
# 42	Rhode Island	153
# 43	Maine	141
# 44	Hawaii	136
# 45	Alaska	130

***Source: 2006 NAIC Annual Statements**
(Companies with exclusive state funds were not included)

-- APPENDIX C –

2006 HHI Index Ranking Market Competitiveness

"Competitive Markets"

Rank	State	HHI	Rank	State	HHI
# 1	Pennsylvania	163	# 17	Arkansas	327
# 2	Indiana	174	# 18	Kansas	338
# 3	Illinois	188	# 19	New Hampshire	369
# 4	Tennessee	188	# 20	Missouri	382
# 5	Connecticut	203	# 21	Mississippi	387
# 6	Iowa	213	# 22	Vermont	434
# 7	Virginia	214	**# 23**	**Florida**	**440**
# 8	Georgia	216	# 24	South Dakota	446
# 9	Nebraska	219	# 25	Massachusetts	459
# 10	North Carolina	231	# 26	Nevada	557
# 11	Wisconsin	246	# 27	New Jersey	654
# 12	South Carolina	252	# 28	New Mexico	655
# 13	Minnesota	270	# 29	Michigan	734
# 14	Alabama	312	# 30	Hawaii	855
# 15	Delaware	313	# 31	Kentucky	880
# 16	Oklahoma	323	# 32	Texas	891

"Moderately Concentrated Markets"

Rank	State	HHI	Rank	State	HHI
# 33	California	1,089	# 36	Montana	1,436
# 34	Maryland	1,114	# 37	Alaska	1,513
# 35	Louisiana	1,220			

"Highly Concentrated Markets"

Rank	State	HHI	Rank	State	HHI
# 38	New York	1,803	# 42	Colorado	3,826
# 39	Arizona	3,294	# 43	Maine	4,240
# 40	Utah	3,588	# 44	Idaho	4,592
# 41	Oregon	3,704	# 45	Rhode Island	5,576

***Source: 2006 NAIC Annual Statements; HHI Calculations Made by the Florida Office of Insurance Regulation. Companies with exclusive state funds were removed from this analysis.**