

State Insurance Regulation

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Why is insurance regulated?

Government regulation of insurance companies and agents began in the states more than 100 years ago for one overriding reason—to protect consumers. State regulators' most important consumer protection is to assure that insurers remain solvent so they can meet their obligations to pay claims. States also supervise insurance sales and marketing practices and policy terms and conditions to ensure that consumers are treated fairly when they purchase insurance products and file claims.

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What is the first priority of insurance regulators?

The fundamental purpose for government regulation of insurers and agents is to protect American consumers. Effective consumer protection that focuses on local needs is the hallmark of state insurance regulation. State regulators understand local and regional markets and the needs of consumers in these markets. State policymakers recognize that consumer protection as their highest job priority. Meaningful evaluation of the existing state regulatory system or any federal alternative must begin with a hard look at its impact on current protections that the public expects.

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How is insurance different from banking?

Insurance is a commercial product based upon subjective business decisions: Will an insurance policy be offered to a consumer? At what price? What are the policy terms and conditions? Is a claim filed by a policyholder valid? If so, how much should the customer be paid under the policy's terms?

Unlike most products, the purchaser of an insurance policy will not be able to fully determine the value of the product purchased until after a claim is presented—when it is too late to decide that a different insurer or a different product might make a better choice. All of these subjective aspects add up to one big certainty—insurance products can generate consumer backlash and dissatisfaction that require a high level of regulatory resources and responsiveness.

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What is the cost of state insurance regulation?

In 2000, state insurance departments employed 12,500 regulatory personnel nationwide and spent \$880 million to be the watchful eyes and helping hands on consumer insurance problems. States also maintain a system of financial guarantee funds that cover personal losses of consumers in the event of insurer insolvency. The entire state insurance system is authorized, funded and operated at no cost to the federal government.

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What is Gramm-Leach-Bliley?

The Financial Modernization Act of 1999—also called Gramm-Leach-Bliley—established a comprehensive framework to permit affiliations among banks, securities firms and insurance companies. Gramm-Leach-Bliley once again acknowledged that states should regulate the business of insurance. However, Congress also called for state reforms to allow insurance companies to compete more effectively in the newly integrated financial service marketplace and to respond with innovation and flexibility to evermore demanding consumer needs.

States already have taken action to meet the specific requirements of Gramm-Leach-Bliley. Forty-six states have enacted a model law to establish a system of reciprocity to license out-of-state insurance agents and brokers. This already exceeds the 29 states required by federal law to prevent establishment of the National Association of Registered Agents and Brokers—a quasi-governmental entity that would preempt state laws. In response to another provision that requires states to set minimum standards to keep insurance information private, the NAIC drafted model privacy regulations, and 49 states and the District of Columbia now meet or exceed the federal privacy requirement.

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What are states doing to modernize insurance regulation?

States are committed to streamline and simplify state insurance regulation while continuing to protect consumers. The nation's insurance commissioners announced their commitment to modernize the state system in specific areas by endorsing an action plan, the *Statement of Intent—The Future of Insurance Regulation*, which was adopted in March 2000. Working in their individual states and collectively through the NAIC, the commissioners have made tremendous progress on their goal of creating an efficient, market-oriented regulatory system for the business of insurance. The *Statement of Intent* set forth goals for improvement in producer licensing, product speed to market, privacy of consumer information and company licensing.

State legislatures working through the National Conference of State Legislatures (NCSL) and the National Conference of Insurance Legislators (NCOIL) also are committed to reform state insurance regulation. In September 2001, the NCSL Executive Committee established the *Task*

Force to Streamline and Simplify Insurance Regulation—co-chaired by Senator Kemp Hannon of New York and Representative David Counts of Texas—to lead state legislative efforts to modernize state insurance regulation. The Task Force is charged by the NCSL Executive Committee to explore the issues that confront state insurance regulation in the integrated financial marketplace and, if necessary, to recommend specific measures to the states for legislative consideration. Moreover, for many years, NCOIL has served as a forum for legislators to discuss the many issues confronting state insurance regulation and has recommended to states model laws to promote market-based regulatory structures.

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How do regulators promote competitive markets?

The purpose of government supervision is to make sure the critical personal interests of consumers are not lost in the arena of commercial competition. Once the consumer protection responsibilities of government insurance regulators are satisfied, it is fair to ask how the system of regulation can be made most compatible with the demands of commercial competition without sacrificing the needs of consumers. Regulators continue to give this matter our highest attention, as evidenced by our speed to market initiatives.

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What are states doing to keep insurance markets competitive with other financial services products, especially with regards to life insurance and annuities?

Insurers, especially in the life insurance and annuities market, increasingly face direct competition from products offered by other financial services entities. State insurance regulators have worked diligently over the past two years to identify the issues in this area and come up with possible solutions to reflect the new market realities. Regulators now believe that a more efficient review process for these products is possible and could help insurers better compete in the marketplace while maintaining a high level of protection for insurance consumers. To accomplish this goal, regulators have endorsed the idea of an interstate insurance compact. The NAIC has drafted an interstate compact proposal and currently is discussing it with state legislators and interested parties for possible legislative consideration during the 2003 legislative sessions.

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Why are the states' modernization efforts taking so long?

Insurance regulation is a complex matter and any change to the process should not be undertaken without thorough review and analysis of the impact of change to the business, companies and agents, and also to the consumers and policyholders the industry serves.

However, the states have established aggressive timelines in order to meet their modernization objectives. They have come to a point where a number of the goals set out in the *Statement of Intent* have worked their way through the state legislative process. From the Producer Licensing Model Act to privacy regulations, the states have proven a commitment to modernizing insurance regulation and protecting consumers—as states have done for the past 130 years.

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Isn't this really just about states protecting their turf?

Modernization efforts are not just about the survival of the state system. It is about responding to change and, in turn, making the best insurance regulatory system in the world even better. State policymakers believe consumers are—and will continue to be—best served by the states. Regulators and legislators have accepted the challenge to make the state system of insurance regulation better, and they will continue to make progress in implementing this vision.

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When state regulators say there is a need for more uniformity, aren't they making a case to get rid of the 50-regulator system?

Having similar processes with local control and application is really the best of both worlds. Consumers need to have the confidence that the people regulating their policies understand the area market. For example, Iowa consumers do not buy much hurricane insurance, and there is little need for crop insurance in New York City. However these types of insurance are very important in the regions in which they are sold.

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Wouldn't it be better to create a federal agency like the SEC to oversee regulation?

Clearly—since the Gramm-Leach-Bliley Act passed—conglomerates are being formed and banks and insurance and securities firms that are converging. But there are still fundamental differences between banking, securities and insurance. Insurance is a product with which consumers have many issues and questions. State insurance regulators need to be there on a local basis to deal with them. The state system has the expertise and has demonstrated that it can be responsive to these situations.

When consumers have a problem with their insurance, it is often at a time of tragedy—when a child needs an operation and the insurance company won't pay for it, or a house just burned down and the insurance company is not coming through. So, insurance is very different from banking and securities products. Insurance also involves extremely complex contracts—so there is greater potential for consumer abuse.

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