

Research Articles

**Dual Insurance Regulation: Is It Desirable?**

*Joseph Zimmerman*

The insurance industry is divided on the question of whether a dual insurance charter system should be established by Congress. This article provides an overview of eight major arguments offered by proponents and 11 negative arguments advanced by opponents. It also covers the author's conclusion that Congress can promote more efficient and effective state insurance regulation by enacting one or more innovative acts containing opt-in and opt-out provisions, contingent preemption provisions, uniform state laws exemption from preemption, maximum state regulatory standards, and minimum standards preemption.

**The Relationship Between Auto Insurance Rate Regulation and Insured Loss Costs:  
An Empirical Analysis**

*Laureen Regan*

*Sharon Tennyson*

*Mary Weiss*

This article summarizes the theoretical argument that regulating rates to enhance affordability of insurance prices may ultimately lead to higher insurance costs, and provides empirical evidence of cost-increasing effects of rate regulation. The analysis uses state-level data on automobile insurance costs and claims rates for the period 1990 through 1998, and employs empirical methods that control for the possible reverse causation of high insurance costs leading to consumer demand for rate regulation.

**Medical Malpractice Insurance Market Entry and Exit: 1994-2006**

*Yu Lei*

*Mark J. Browne*

A prominent characteristic of the medical malpractice insurance market of the 1970s, 1980s and late 1990s was the withdrawal of insurers. In this study, the authors examined the movement of insurers into and out of the medical malpractice insurance market between 1994 and 2006 and tested hypotheses on market participation decisions, including both the effects of states enacting tort reform and of states implementing alternative market mechanisms to address perceived market failure.

**A Review of Legislation Related to Stranger-Oriented Life Insurance**

*Cassandra R. Cole, Ph.D.*

*Kathleen A. McCullough, Ph.D.*

Stranger-originated life insurance (STOLI) transactions have become a public policy concern for insurers, regulators and consumers. This article reviews the major issues surrounding the secondary life insurance market, examines two model acts developed related to these issues, and identifies the states that have adopted some type of legislation that regulates STOLI transactions.

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### **OFC: Is It Really Just Overkill?**

*Robert W. Cooper, Ph.D.*

Recent discussion of the need for federal intervention in the current state-based insurance regulatory system has highlighted two other areas where a federal presence appears critical—regulation involving international insurance matters, and creation of a federal insurance/reinsurance information entity. This paper proposes a system of insurance regulation that both overcomes the numerous criticisms of the current state-based system, and achieves the purported advantages of an optional federal charter (OFC) system, but without the creation of the type of dual federal-state regulation envisioned in the current OFC legislation.

### **An Overview and Comparison of Risk-Based Capital Standards**

*Martin Eling*

*Ines Holzmüller*

This article provides an overview and comparison of risk-based capital requirements as they currently exist in the United States, the European Union, Switzerland and New Zealand, with a focus on property/casualty insurance. These four systems are representative of different ways capital standards are implemented around the globe.

### **Captive Domiciles: Trends and Recent Changes**

*Cassandra R. Cole, Ph.D.*

*Kathleen A. McCullough, Ph.D.*

While firms traditionally have turned to off-shore locations to license their captive insurance companies, the U.S. is growing in attractiveness as a choice domicile. More than 25 U.S. jurisdictions have enacted some form of captive legislation with varying types of captives allowed as well as capitalization and taxation requirements. This study looks at the overall trends in the captive marketplace as well as the variations in the legislation governing captive formation and operation.

### **States' Rights: The Fourth Circuit gives a ringing endorsement of Virginia's viatical settlement regulatory regime in *Life Partners, Inc. v. Morrison***

*Philip R. "Duke" de Haas*

This article studies in detail the April 30, 2007, decision of the U.S. Court of Appeals for the Fourth Circuit in *Life Partners, Inc. v. Morrison*, which swept aside *Life Partners, Inc.*'s constitutional challenge to Virginia's legislative and regulatory scheme governing the viatical settlement industry through a sophisticated analysis of the McCarran-Ferguson Act.

## Regulator Perspective

### **Changing World of Annuity Sales**

*James Mumford*

Recent years have seen a significant and rapid change in the way annuities, especially fixed annuities, are being sold. The American Council of Life Insurers endorses the NAIC Annuity Suitability in Annuity Transactions Model Regulation and its Annuity Disclosure Model Regulation, but not all states have adopted it. The industry is now asking for guidance from insurance regulators as to what they need to do to ensure compliance with the regulations. This is an opportunity for insurance regulators to establish early in the process the standards that companies and producers need to meet to provide the consumer protection required.

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**The Assault on the McCarran-Ferguson Act and the Politics of Insurance in the Post-Katrina Era**

*Lawrence S. Powell, Ph.D.*

This article examines the effort, largely in response to 2005's catastrophic hurricane season, to repeal the McCarran-Ferguson Act, which gives insurers limited exemption from federal antitrust laws. It develops and presents evidence supporting four conclusions regarding the proposed repeal of the Act.

**Federal Crop Insurance: The Need for Reform**

*Robert W. Klein*

*Gregory Krohm*

This article critiques the structural defects of the federal crop insurance program, identifies the problems they create, and offers recommendations on how the program could be reformed to function more like a true insurance program based on sound economic principles and better coordination between state and federal governments.

**Unraveling the Health Insurance Underwriting Cycle**

Patricia Born, Ph.D.

Rexford E. Santerre, Ph.D.

This article presents empirical results of a study that explores the health insurance underwriting cycle and the tendency for health insurance premiums and insurer profitability to systematically fluctuate over time. Using national data from 1960 to 2004, the study tests if various theories pertaining to price movements in the property and casualty insurance industry can also explain premium behavior in the health insurance industry.

**The Relationship between Executives' Option-Based Compensation and Risk-Taking in the Property/Liability Insurance Industry: A Simultaneous Equation Approach**

*Min-Ming Wen*

*Carl R. Chen*

In this article, the authors use a two-equation simultaneous equation system to study whether insurance companies' option-based compensation induces risk-taking, and whether their firm risk determines the design of CEOs' compensation. Their results show that contracts with a larger options component induce risk-taking. Contrary to prior findings, however, insurer risk does not impact the design of compensation contracts.

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### **Insurance Disclosures: Implications for Insurance Regulators of Recent Research**

*Brenda Cude, Ph.D.*

This article provides an introduction to recent research funded by an insurance industry association and a consumer group. It also highlights some of the important implications of the research for regulators, consumers, and the regulated community.

### **Consumer Disclosure as Consumer Protection**

*Linda Lanam, J.D.*

This article discusses the history behind research initiated and funded by an insurance industry trade group, the American Council of Life Insurers (ACLI). The author notes that as financial services products have become more complicated, regulators and consumer advocates have been calling on companies to provide improved and enhanced disclosure. This article provides a brief background on disclosure regulation as it pertains to annuities, describes the research conducted to develop a sample disclosure form, and discusses some general recommendations for developing insurance disclosures.

### **Using Research to Help Make Disclosure Statements More Effective: A Case Study in Research Design and Implementation**

*Mathew Greenwald, Ph.D.*

This article discusses the ACLI-funded focus group research on consumer disclosures. It documents the methodology, the findings, and the process of developing and testing insurance disclosures. It finds that timing of disclosures is important in addition to what and how information is provided.

### **Uniform Health Insurance Information Can Help Consumers Make Informed Purchase Decisions**

*Michael Wroblewski, J.D.*

This article discusses recent focus group research conducted by Consumers Union (CU), the nonprofit publisher of *Consumer Reports* magazine. The research showed that consumers need assistance when shopping for and purchasing individual health insurance. CU found that a uniform Plan Summary disclosure would be a first step in helping consumers compare and choose among health plans.

### **The State of Personal Auto Insurance Rate Regulation**

*Lisa A. Gardner, Ph.D.*

*David C. Marlett, Ph.D.*

This article describes the personal auto insurance market, and identifies and discusses current and emerging regulatory and legislative trends regarding coverage, rating, and the shared markets. The introduction is to help policymakers and regulators to better understand important issues and different types of regulatory approaches.

### **Limited Tort Auto Insurance Choice in Pennsylvania**

*Laureen Regan, Ph.D.*

Recent state and federal efforts to reform auto accident compensation laws have suggested that motorists be given a choice about whether to accept limitations on the rights to sue for injury costs in exchange for reduced insurance premiums. This study examines the economic and demographic factors associated with the rate of limited tort election across Pennsylvania counties between 1997 and 2002, and finds that higher insurance prices are positively related to limited tort choice, but that other factors also play a role.

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**Solvency II: A Revolution for Regulating  
European Insurance and Reinsurance Companies**

*Rym Ayadi*

The European Commission's Framework Directive for Solvency II was released in July 2007. If the Framework is adopted by the European Parliament and Council in 2008, Solvency II is expected to become effective for the supervision of EU insurance and reinsurance companies in 2012. This article discusses the factors motivating the development of Solvency II, the Framework Directive, the issues that remain to be addressed, and the process for addressing them.

**GAAP: An Accounting Revolution**

*Alan E. Close, CPA*

This article discusses the revolution under way in accounting, focusing in particular on convergence between international and U.S. accounting rules, and the challenges of applying fair value accounting to the insurance industry.

**Islamic Principle and Takaful Insurance: Re-evaluation**

*W. Jean Kwon, Ph.D.*

An increasing number of Islamic states and Muslim populous countries promote provision of financial services to their citizens and businesses. Unique Islamic principles constrain the design of the products and the operations of financial services companies. This article explains *takaful* insurance and reinsurance arrangements, which comply with Islamic principles. It describes the history of the market, current trends, and regulation and supervision of *takaful* insurance.

**Spitzer's Allegations of Anticompetitive Effects of Contingent Commissions:  
A Shot Truly Heard Around the World**

*Robert W. Cooper, Ph.D.*

Following NY Attorney General Eliott Spitzer's October 2004 action against Marsh & McLennan, insurance regulators in other countries initiated their own studies to determine whether similar issues might be found in their markets. Robert Cooper examines the work done by the European Commission and Australia's insurance regulator in this area, summarizing their key findings and identifying important factors for others to consider in assessing the effects of contingent commissions on competition and the need for regulatory responses.

Perspective

**Free Trade in Insurance and Domestic Insurance Regulation – in Harmony or in Conflict?**

*David Snyder*

In this article, the author considers the potential conflict between free trade and domestic insurance market regulation and suggests a way to resolve the conflict. The bilateral trade agreement between the U.S. and Korea is offered as an example of addressing the potential conflict through bilateral negotiation.

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**Complexity and Cost of Health Insurance Tax Credits**

*Karen Pollitz, MPP*

In 2002, the U.S. Congress enacted a new health insurance tax credit to subsidize the purchase of coverage for certain individuals (trade dislocated workers and early retirees) who might otherwise become uninsured: the Health Coverage Tax Credit (HCTC). According to the author, the HCTC has proven to be a highly complex and expensive program for the federal government to administer, for health insurers and health plans to participate in, and for consumers to understand and use.

**The Title Insurance Industry: Examining a Decade of Growth**

*Randy E. Dumm, Ph.D.; David A. Macpherson, Ph.D.; G. Stacy Sirmans, Ph.D.*

This study documents the growth in size and profitability that the title insurance industry has enjoyed during the real estate boom of the past five years, as well as the change in its financial and distributional structure. The authors of this study conclude that concerns about the degree of competition and price in the title insurance industry seem warranted and worthy of further research.

**Incentive Compensation and the Use of Contingent Commissions: The Case of Smaller Distribution Channel Members**

*James M. Carson, Ph.D., CPCU, CLU; Randy E. Dumm, Ph.D., CLU; Robert E. Hoyt, Ph.D., CLU, ChFC*

In this article, the authors examine the use of contingent commission compensation and the economic rationale for contingent commissions for a particular segment of the insurance distribution system: independent agents. The authors find that the various types of producers, distribution systems and compensation structures — including contingent commission compensation — are natural developments of the competitive insurance marketplace that helps to make insurance widely available and affordable.

**Insurance Premium Tax Credits and Economic Development in Louisiana**

*Christine T. Berry; Robert C. Eisenstadt; Paul S. Nelson*

Due to the complex premium tax structure in Louisiana, the authors of this article conclude that Louisiana-domiciled firms are favored over out-of-state firms, as well as larger firms over small. However, due to retaliatory taxes, the authors conclude that Louisiana-domiciled firms are at a disadvantage when expanding into other states. Further, because large firms are better able to take advantage of these credits, the authors assert that a barrier to the establishment of new firms is created.

**When the Insurance Regulators Sneeze, the Hybrid Market Can Catch a Cold**

*John D. Finnerty, Ph.D.; Mary Kuan, J.D.*

This article describes the features of hybrid securities and shows how rating agency and insurance regulatory activity might impact the market for hybrids. The authors find that insurance regulatory activity has significantly and adversely affected hybrid securities prices, bid-ask spreads, credit spreads and new issue volume. In addition, the authors' findings suggest that the selective disclosure of material information contributed to the volatility and negative effects in the marketplace.

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**Changes to the NAIC's Model Audit Rule: Sarbanes-Oxley Inspires Revisions**

*Deborah L. Lindberg, D.B.A.*

Inspired by the Sarbanes-Oxley Act of 2002 (SOX), the NAIC incorporated several provisions of SOX into its revisions of the Annual Financial Reporting Model Regulation (Model Audit Rule). While most of the revisions are not effective until reporting periods beginning January 1, 2010, affected insurance companies need to start preparing and planning now in order to meet the new requirements, which include management reporting on internal control over financial reporting.

**Corporate Governance: A Self-Evaluation Tool for Insurance Company Directors**

*Donna Imhoff, J.D.*

This article discusses the evolving standards governing the activities of insurance company boards of directors. These standards are essential to the NAIC Financial Regulation Standards and Accreditation Program and are derived from the annual statement, the Financial Condition Examiners Handbook, changes to the Model Audit Rule and the Risk-Focused Surveillance Framework. Directors who wish to assess their compliance in advance of a scheduled financial examination might use this article as the basis for a self-evaluation tool.

**Disability Insurance under the ERISA Law: Economic Security or Litigation Nightmare?**

*Mark D. DeBofsky, J.D.*

Ultimately, the goal for both insurers and claimants is that meritorious disability insurance claims receive compensation. According to this article, the impact of the ERISA law on disability benefits has made that goal much harder for claimants to reach. The author suggests that there needs to be a reassessment by the U.S. Congress, the courts and the U.S. Department of Labor as to whether the law is meeting its purpose and what can be done to remedy the situation.

**Lessons from the Texas Homeowners Insurance Crisis**

*Robert Puelz, Ph.D.*

In this paper, the recent crisis in the Texas homeowners insurance market is examined by focusing on three questions. First, how did the dual regulatory system influence insurer behavior? Second, which perils were important in driving the increase in prices observed during the time period of this study? Third, were other non-expected loss factors related to premiums leaving consumers in the potential position of misunderstanding why overall price increases were arising?

Commentary

**The Attorney General, the SEC and the Commissioners of Insurance**

*Richard E. Stewart*

This commentary discusses the recent investigations and prosecutions of insurance malpractice by former New York State Attorney General Eliot Spitzer and the U.S. Securities and Exchange Commission (SEC). According to the author, these investigations created an opportunity for state insurance regulators to broaden the inquiry and go after the unattended issues.

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### **Workers' Compensation for Undocumented Workers: A Discussion of the Regulatory Complexities**

*J. Tim Query, Ph.D.*

Interest in the issue of undocumented workers in the United States has increased dramatically over the past year. Most political responses to the issue have focused on border security, guest worker passes or amnesty for current illegal workers and employer sanctions. However, little has been mentioned in the national media about the matter of what rights, if any, undocumented workers have when injured on the job. A majority of state courts and state legislatures have recognized the net public policy advantage of providing workers' compensation benefits to undocumented workers. This article discusses the factors involved in devising regulatory solutions to this issue.

### **Eligibility of Illegal Aliens for Workers' Compensation Benefits**

This chart was developed solely as a resource that might serve as a starting point for legal research regarding this subject matter and should not be relied upon for any business decisions. © 2006 by American Insurance Association. Reprinted with permission.

### **Imposition of Durational Residency Requirements by State High-Risk Pools: Constitutional Considerations**

*Kevin Lucia, M.H.P., J.D.; Susanne Addy, J.D.*

Currently, 32 states maintain high-risk pools offering individual health insurance to residents that are otherwise medically uninsurable in the private health insurance market. In many of these states, applicants are required to have resided in the state for a specific period of time, called a "durational residency requirement," before they can apply for coverage. After reviewing how many states impose a durational residency requirement on new applicants and why, this article discusses the constitutionality of these requirements in light of the 14th Amendment right to travel as interpreted by relevant U.S. Supreme Court rulings.

### **Insurance Coverage Disclosure Laws and Their Impact on Automobile Insurance Costs**

*Robert E. Hoyt, Ph.D.; Charles A. Lankau, III, J.D.*

Arguments exist pro and con for the early disclosure of insurance coverage information (including limits) to third-party claimants in automobile accidents. States vary widely in how they address early disclosure: Some states have specific laws that require insurers to make such disclosures, while others place limits on how much an insurer can disclose. In this study, the authors evaluate the impact of pre-litigation insurance coverage disclosure laws on insurance premium costs. The authors' findings not only have important implications for the ongoing debate concerning the value of insurance coverage disclosure laws, but also highlight the importance of considering the cost implications of various laws and regulations associated with insurance.

### **The Implications of Climate Change on Insurers and Insurance Consumers**

This is the agenda and transcript from an NAIC public hearing on climate change held during the 2005 Winter National Meeting in Chicago. The following presentations are also included:

- **Availability and Affordability of Insurance under Climate Change: A Growing Challenge for the United States**  
*Evan Mills, Ph.D.; Richard J. Roth, Jr.; Eugene Lecomte*
- **Climate Risk: Growing Investor Concerns**  
*Jack Ehnes*
- **Climate Change, Natural Catastrophes and the Insurance Industry**  
*Markus Aichinger*

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**Assessing Financial Performance in Medical Professional Liability Insurance**

*Robert E. Hoyt, Ph.D.; Lawrence S. Powell, Ph.D.*

In the past few years, significant concerns have arisen over the cost and availability of medical malpractice insurance. This article first describes the analysis of medical liability insurer financial performance using two appropriate measures. Then, it presents an analysis of the capitalization or surplus position of medical liability insurers, including review of medical liability insurer financial strength ratings information. It concludes with a summary of findings.

**Discretionary Clauses and Insurance**

*Mark D. DeBofsky, J.D.*

In *Firestone Tire & Rubber Co. v. Bruch*, the Supreme Court gave carte blanche to ERISA plan administrators to include clauses in their insurance policies giving themselves discretion to interpret policy terms and to decide questions of benefit eligibility. The inclusion of such clauses in policies governed by the ERISA statute creates a dramatic change in the relationship between insurer and insured, unique in the field of insurance law. This article discusses the historic basis for such clauses and their impact on insureds.

**A Review of the Issues Surrounding Fair Share Health Care Bills**

*Cassandra R. Cole, Ph.D.; Kathleen A. McCullough, Ph.D.*

U.S. health care costs have been on the rise for some time. In addition, it is estimated that approximately 15.7% of the U.S. population is without health insurance coverage. Thus, the accessibility and affordability of health care have become critical issues. As a result, "fair share health care" bills have surfaced in many state legislatures. This study analyzes the factors leading to the development of fair share health care bills, the key aspects of the bills and litigation involving existing fair share health care laws.

**Modernizing Insurance Solvency Regulation: Evidence from the UK**

*Christopher O'Brien*

This paper sets out the changes in the solvency regime for insurers in the United Kingdom, recently introduced by the UK's insurance regulator, the Financial Services Authority (FSA). The European Commission is also reviewing its insurance solvency regime, aiming to make it more risk-sensitive. The FSA's approach has been well received in the UK, and this paper sets out a number of implications that the European Commission can take into account as it refines its plans.

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*Kara D. Binderup, J.D.*

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### **Reigniting the Insurance Redlining Debate?**

*Gregory D. Squires, Ph.D.*

Insurance redlining is not the heated public policy issue it was just 10 short years ago. At that time, Congress was considering a disclosure rule that would have brought the kind of “sunshine” to the property insurance industry that the Home Mortgage Disclosure Act brought to mortgage lending. The absence of such debate today reflects, in part, changes that occurred because of the advocacy of non-profit fair housing organizations. But, according to the author, evidence suggests that redlining may be making a “comeback.” Two related articles in this issue of the *JIR* constitute a small but important step in what the author hopes will become a broader public discussion of this re-emerging phenomenon.

### **Do Home Insurance Base Premium-Setting Policies Create Disparate Racial Impacts? The Case of Large Insurance Companies in Ohio**

*George Galster, Ph.D.*

Analyzing an unusual dataset acquired by the Ohio Civil Rights Commission from six large home insurers operating in Ohio, this study investigates the degree to which black, Hispanic and non-Hispanic white homeowners face different base premium rates, on average, based on where they reside in the state. The evidence shows that, from a statewide perspective, there is no consistent pattern of minority homeowners disproportionately living in areas with substantially higher base premiums, though results vary by company.

### **The Potential for Racial Discrimination by Homeowners Insurers Through the Use of Geographic Rating Territories**

*Stephen M. Dane, J.D.*

This paper discusses the potential racial implications of using geographic rating territories in the homeowners insurance rating process. Specifically, the paper addresses a homeowners insurer’s potential exposure to legal liability under the federal Fair Housing Act by the use of geographic rating territories to determine rates. The paper also discusses a recent study on homeowners insurance in Ohio, highlighting the study’s limitations as a tool to determine whether insurers’ practices are the result of prohibited discrimination.

### **Racial Profiling, Insurance Style**

*Gregory D. Squires, Ph.D.; Charis E. Kubrin, Ph.D.*

This article is a reprint of Chapter 4 from *Privileged Places: Residence, and the Structure of Opportunity*, by Gregory D. Squires and Charis E. Kubrin. Copyright © 2006 by Lynne Rienner Publishers, Inc. Reprinted with permission of the publisher.

### **Changes in Medigap Supplemental Insurance Premiums, 1998–2000**

*John Robst, Ph.D.*

A 2001 Weiss Ratings study reported that premiums for plans that cover prescription drugs increased 37.2%, while premiums for plans without prescription benefits increased 15.5%. However, the computation of average premiums did not take into account the market share of the insurers. This paper weights premium growth by Medigap plan enrollment to account for market share, then re-examines premium growth between 1998 and 2000 for Medigap supplemental insurance coverage.

### **Health Insurance Regulation by the States and the Federal Government: A Review of Current Regulation and Proposals for Change**

*Mila Kofman, J.D., Karen Pollitz, M.P.P.*

This paper provides an overview of the current regulation of health insurance, including a discussion of state and federal standards, regulation and oversight. It then reviews three Congressional proposals to change health insurance regulation, largely by altering the current balance of federal and state regulatory roles.

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### **Significant Insurance Litigation Post-Hurricane Katrina**

*Kara D. Binderup, J.D.*

## Research Articles

### **Principles-Based Reserving: A Regulator's Perspective**

*Larry Bruning, FSA, MAAA, CLU*

The development of a principles-based approach to establishing life insurance reserves has occupied considerable regulatory attention, particularly in recent months. While many regulators and those in the industry support moving to a principles-based valuation system, they also recognize that it creates certain challenges and requires appropriate regulatory oversight. This article provides a regulator's perspective on the challenges involved in moving to a principles-based valuation system.

### **Principles-Based Approach for Life Insurance Products**

*David E. Neve, FSA, MAAA*

The American Academy of Actuaries has launched a major initiative to support the development of a principles-based approach to determine reserve and risk-based capital requirements for all life and annuity products, and some health products. This article defines the principles-based approach, explains why the approach is needed and describes the basic elements of the approach.

### **Tax Aspects of Principles-Based Reserves**

*Gregory F. Jenner; Mark A. Canter*

At the NAIC's 2005 Winter National Meeting, the Principles-Based Reserves for Life Insurance Products Model Regulation was exposed for public comment, in addition to three proposed actuarial guidelines intended to implement the model regulation. This paper focuses on the federal tax implications that could surface should a proposal along these lines become state law.

### **Data Needs when Calculating Reserves Using Principles-Based Reserve Methodology**

*Larry M. Gorski, FSA, MAAA*

After providing background on principles-based reserves as compared to rule-based reserves, this paper discusses the key assumptions that are needed in a principles-based regulatory reserve environment and the challenges associated with finding data to make and/or support the assumptions. Some of the innovative ideas being suggested to meet the challenges caused by a lack of data are also discussed.

### **Life Reinsurance Regulatory Modernization**

*Diane B. Wallace, FSA, MAAA, CLU; Donna R. Jarvis, FSA, MAAA*

This article includes a review of how reinsurance accounting is currently regulated and an explanation of why a new approach consistent with principles-based statutory valuation provides an opportunity to improve the risk management function of reinsurance for life insurance companies.

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*Kay G. Noonan, J.D.*

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**Increased Hurricane Risk and Insurance Market Responses**

*Martin F. Grace, Ph.D.; Robert W. Klein, Ph.D.; Zhiyong Liu, Ph.D.*

The severe hurricane seasons of 2004 and 2005 and the resulting losses are prompting insurers to reassess their risk and business strategies in Southeastern states. This article examines recent trends in the affected homeowners insurance markets and discusses how these markets are likely to change in response to the reassessment of hurricane risk.

**Responding to Alleged Fraud in Certain Broker Compensation Arrangements: The Need for a More Transparent Crisis Management Process for Regulators — Part 2**

*Robert W. Cooper, Ph.D.*

Building on an article that appeared in the Winter 2004 issue of the *Journal*, this paper discusses and analyzes responses of insurance regulators and state legislators to the unethical and illegal brokerage practices uncovered by New York State Attorney General Eliot Spitzer's investigation of the insurance industry.

**Insurance Disclosures: An Effective Mechanism to Increase Consumers' Insurance Market Power?**

*Brenda J. Cude, Ph.D.*

Do consumers read insurance disclosures and, if so, do they understand them? To answer these questions and others, the Survey Research Center at the University of Georgia conducted three focus groups. Results from the focus groups are used to provide recommendations for regulatory responses that involve information disclosure requirements.

**Pooling and Reinsurance in Washington State Health Insurance Markets**

*Deborah Chollet, Ph.D.; Carolyn Watts, Ph.D.*

The Washington State Office of the Insurance Commissioner developed a proposal for a reinsurance program to reduce health insurance costs, stabilize premiums and expand coverage to some of the uninsured. The authors of this article were asked to review and critique the proposal to help state policymakers understand its potential impact on these goals.

**An Empirical Analysis of Life Insurer State Licensing Choices**

*L. Lee Colquitt, Ph.D.; David W. Sommer, Ph.D.; Norman H. Godwin, Ph.D.*

This study examines the state licensing choices of life insurers, given the ongoing debate regarding an optional federal charter for insurers. The results suggest that while the proposed optional federal charter would assist insurers in the licensing process, it would only have a modest impact on the competitiveness of the insurance markets in most states.

**Consumers Face Inadequate Protections Concerning Medicare Part D Enrollment and/or Disenrollment**

*Bonnie Burns; Kim Glaun; David Lipschutz*

This issue brief explores key decisions concerning the Medicare Modernization Act of 2003 (MMA) drug benefit for consumers. It describes how the drug benefit's complexity and administration through private plans will cause enrollment and disenrollment problems that could leave persons without drug coverage or with inadequate drug coverage and high out-of-pocket expenses.

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*Kay G. Noonan, J.D.*

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### **An Examination of Issues Pertinent to Establishing a Single Peril Facility**

*Patrick F. Maroney, J.D.; Cassandra R. Cole, Ph.D.; Kevin M. Gatzlaff; Kathleen A. McCullough, Ph.D.; James W. Newman, Jr.*

Insurance markets often experience problems with affordability and availability of coverage due to claims stemming from a single peril. One option to stabilize the private insurance market is to establish a government or quasi-government facility. This study examines the key issues surrounding the establishment of a single peril facility, drawing on the experience of existing facilities created to finance losses caused by perils such as mine subsidence, flood, hurricane and earthquake.

### **Association Health Insurance: Is It Time to Regulate This Product?**

*Mila Kofman, J.D.; Kevin Lucia, J.D., M.H.P.; Eliza Bangit, M.A.; Karen Pollitz, M.P.P.*

Association health insurance is a way millions of Americans buy health insurance. Consumers, however, have experienced significant problems with such coverage. This article examines different types of associations and problems reported by consumers. Based on an analysis of state insurance laws and interviews with insurance regulators from all states and the District of Columbia, it examines how association coverage is regulated.

### **Auto Insurance in California: Differentials in Industrywide Loss Costs and Company Premiums Between Adjacent ZIP Codes**

*Max C. Tang, Ph.D.*

This study examined California adjacent ZIP code differentials in auto insurance loss costs and the adjacent ZIP code differentials in company premiums due to territory rating factors alone. The study shows that there are significant variations across adjacent ZIP codes, in average loss cost per insured vehicle and in premiums charged to consumers due to territory rating factors.

## Commentaries

### **Ending Judicial Usurpation of Insurance Regulatory Authority: The Problem of Class Action Litigation Involving Jurisdiction of State Insurance Departments**

*Robert Detlefsen, Ph.D.*

In a growing number of class action lawsuits against insurers, plaintiff attorneys seek not only to win large monetary awards, but also to regulate insurers' behavior in the marketplace and manage their relations with consumers. Such "regulatory class actions" threaten basic principles of republican democracy.

### **The Critical Role of Insurance Class Actions**

*D.J. Powers, J.D.*

Regulation is one method of making insurers follow the law, but it cannot do the job alone. The structure of the regulatory system creates a strong regulatory bias in favor of insurers. To realize the public policy goal of making insurers follow the law, consumers need alternative protections. The insurance class action serves that role.

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*Carolyn Johnson Speck*

Feature Articles

**Terrorism Losses and All Perils Insurance**

*Howard Kunreuther*

*Mark Pauly*

This article discusses the public policy implications of “all perils” insurance in the wake of the 9/11 attacks and provides suggestions on regulatory approaches that may help the insurance market to respond more effectively and efficiently to the new paradigm.

**A Discussion of the Legal and Legislative Issues Surrounding Silica-Related Injuries**

*Cassandra R. Cole*

*Kathleen A. McCullough*

Will silica-related injury claims be the asbestos of the new millennium? This article reviews the state of silica-related claims and the reactions of affected parties to date. The authors also discuss the current legal and legislative trends related to silica liability.

**Towards a Single Regulatory/Supervisory System for Financial Conglomerates: Evidence from Ten Countries**

*Mohamed Nurullah*

*Chizu Nakajima*

Governments around the world are establishing single regulatory and supervisory systems to address the changing nature of the financial services industries. This article gives a comparative analysis of the approaches used by 10 countries, and compares those countries’ approaches to the U.S. model.

**The Pension Reform Act of 2004 and Public Sector Schemes in Nigeria**

*R. O. Ayorinde*

This article provides an interesting glimpse into the regulatory issues that arise in Africa. The article focuses on legislative reforms on pension practices in Nigeria and highlights many of the challenges faced by regulators in lesser-developed countries.

Legal Reviews

**Abstracts of Significant Cases Bearing on the Regulation of Insurance**

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Feature Articles

**The Mold Crisis**

*Cassandra R. Cole*

*Kathleen A. McCullough*

This article summarizes the mold issue, focusing on insurer and regulator responses to the unfolding problem. The article also discusses the potential future impact of these responses for consumers, for the insurance industry, and for other affected parties such as realtors and the mortgage industry.

**Turbulent Past, Uncertain Future: Is It Time to Re-evaluate Regulation of Self-Insured Multiple Employer Arrangements**

*Mila Kofman*

*Jennifer Libster*

This article examines the troubled history of self-insured multiple employer arrangements and their regulation, both federal and state. Comparisons are drawn to the regulatory regime applied to traditional insurance companies, and recommendations on repairs to the consumer safety net are advanced.

**Pay-As-You-Drive Pricing and Insurance Regulatory Objectives**

*Todd Litman*

This article describes the Pay-As-You-Drive concept and argues for its adoption as a means of achieving the regulatory goal of equity. The author contends that the public interest would be better served using this concept as the base pricing variable for car insurance.

**UK Policy on Enforcement of Compulsory Motor Insurance: A Choice Between Ever Greater Complexity or A Radically Simpler Model**

*John Hood*

*William Stein*

In the UK and internationally, non-compliance with compulsory third party liability motor insurance regulations has long been a significant problem for society, government and the insurance industry. The UK government has commissioned an independent review (the Greenaway Review) of compulsory motor insurance arrangements, and this article analyzes these issues and the Greenaway Review's recommendations as they apply to the UK motor insurance regulatory system.

Legal Reviews

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Feature Articles

**Responding to Alleged Fraud in Certain Broker Compensation Arrangements: The Need for a More Transparent Crisis Management Process for Regulators – Part 1**

*Robert W. Cooper, Ph.D.*

The author examines the NAIC response to New York State Attorney General Eliot Spitzer's probe of the insurance brokerage business. Although the probe is still under way, and state regulators' responses are still very much a work in process, there are still lessons to be learned at this early stage of the game.

**Determinants of Capital Holdings: Evidence from the Canadian Property/Casualty Insurance Industry**

*Peter Carayannopoulos*

*Mary Kelly*

This article takes a look at the Canadian insurance industry and its capital structure. The authors use empirical methods to measure the capital holdings of Canadian insurers relative to the regulatory requirements imposed on them, and also measure whether the typical predictors of capital holdings in the U.S. apply to the Canadian industry.

**Health Savings Accounts: Beneficial Reform or Tax Break for the Wealthy?**

*Alan D. Eastman*

Health Savings Accounts have been developed as key reforms in the drive to create a universal health care system in the United States, but the ability of these accounts to effect real change has been questioned. This article looks at the pros and cons of these accounts and provides market examples, and then goes on to make specific recommendations to strengthen this system.

**The Debate over Claims Reporting Databases in Insurance Issuance and Pricing**

*Cassandra R. Cole*

*Kathleen A. McCullough*

This article reviews the issues surrounding the use of claims reporting databases in the underwriting of personal lines insurance. In addition to summarizing the current status of legislative actions taken by states, the article also discusses the pros and cons of these databases as they are used today.

Commentary

**Comments on Actuarial Guideline 38**

*Tim Wagner*

Nebraska Insurance Director Tim Wagner provides some insights on the lively — and sometimes acrimonious — debate over Actuarial Guideline 38 as it applies to life insurers and provides suggestions for a new approach to the issue.

Legal Reviews

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Feature Articles

**A Review of the Current and Historical No-Fault Environment**

*Cassandra R. Cole*

*Kevin L. Eastman*

*Patrick F. Marony*

*Kathleen A. McCullough*

This article describes the evolution of no-fault auto insurance, as well as the current no-fault environment in the various states. In addition to examining the theoretical underpinnings of the no-fault auto insurance system, the authors also look at some of the environmental changes that may make no-fault a more viable option.

**Choice Automobile Insurance: The Experience of Kentucky, New Jersey and Pennsylvania**

*Stephanie Owings-Edwards*

This article examines the experience of Kentucky, New Jersey and Pennsylvania with the use of the “choice” type of no-fault auto insurance laws. The article discusses both the theoretical basis and the empirical evidence of the effectiveness of no-fault in those states.

**New Jersey Automobile No-Fault Study: Analysis of the Cost Effects of AB 3531 and SB 2533**

*LeRoy A. Boison and Steven G. Lehman*

*Pinnacle Actuarial Resources, Inc.*

This article is excerpted from a larger study of proposed revisions to the New Jersey automobile insurance market. The authors examine the effects of proposed changes to the legal requirements of New Jersey’s no-fault system and calculated the economic impact on claims costs and on premiums. The methodology, as well as the results of this study should interest policymakers in other states.

**Multiple Employer Arrangements: Another Piece of a Puzzle, Analysis of M-1 Filings**

*Mila Kofman, J.D.*

*Eliza Bangit, M.A.*

*Kevin Lucia, M.H.P.*

Recent problems with multiple employer welfare arrangements led the federal government to increase reporting requirements for these entities. This study of these new reporting requirements not only provides information on reporting problems, it also suggests improvements in the reporting system that will enable state regulators to better protect employers and employees that have to deal with these entities.

Legal Reviews

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Feature Articles

**Modernizing U.S. Insurance Regulation: What Can Be Learned From The *European Union*?**

*Robert W. Cooper, Ph.D.*

*Mark S. Dorfman, Ph.D.*

Professors Cooper and Dorfman provide some insights into the European method of financial services regulation and make suggestions to include some aspects of the European Union model into the emerging U.S. regulatory paradigm.

**Does Regulation Benefit Incumbent Firms? An Investigation of Japanese Insurance Market Deregulation**

*Nobuyoshi Yamori*

*Takeshi Kobayashi*

These authors use the event study methodology to conduct an empirical investigation of the impact of insurance deregulation on firms in the Japanese non-life market.

**A Reply to Criticism of the Missouri Department of Insurance Study “Insurance-Based Credit Scores: Impact on Minority and Low-income Populations in Missouri”**

*Brent Kabler*

The Missouri Department of Insurance released a study in early 2004 concerning their evaluation of the impact of credit scoring on the insurance market in that state. A condensed version of that material appeared in the Spring 2004 *JIR*, and there have been a number of critiques of the Missouri study published in print and on the Internet. The principal author of that study replies to some of the technical issues that have been raised regarding the study’s methodology and results.

**A Beginner’s Guide to Event Studies**

*William H. Wells*

William Wells provides readers with a non-technical beginner’s guide to the event study methodology, which is often used to study the impact of regulation on the insurance industry. Event studies have been the focus of several recent articles in the *JIR*, including an article that appears in this edition. This article is specifically written to a non-technical audience so that readers may find themselves better able to evaluate the findings in those articles.

**Risk Management: A Focus on a More Holistic Approach Three Years after September 11**

*Etti G. Baranoff*

Former Texas regulator and current university professor Etti Baranoff provides some interesting insights into the post-9/11 world and the evolving risk management landscape in this brave new world.

Legal Reviews

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Feature Articles

**The NAIC's 2004 Agenda: A Changing of the Guard; Working to Implement Regulatory Modernization**

*Ernst Csiszar*

The newly elected NAIC president outlines his thoughts on the direction of insurance regulation and lays out his agenda for the upcoming year.

**Deregulation in the Japanese Insurance Marketplace: Sizzle or Fizzle?**

*Nat Pope*

This article looks at the effect of regulation on Japanese insurance markets. In 1998, the Japanese market evolved from a tariff system to a prior approval system, and this article looks at the impact of that regulatory change on non-life insurers. There is also background on the old and the new Japanese insurance markets as well as analysis of the long-term effects that might be expected.

**Insurance Rate Filings and Hurricane Loss Estimation Models**

*Charles C. Watson, Jr.*

*Mark E. Johnson*

*Martin Simons*

Insurance rate filings involving hurricane perils are generally based on complex, numerical models that regulators often find difficult to adequately evaluate. This article outlines a process for developing a spectrum of plausible rates that can be used to evaluate hurricane rate filings in disaster prone states. Actual results from this process as used in Florida and North Carolina are included.

**A Beginner's Guide to Interstate Compacts**

*Joseph F. Zimmerman*

During the 2004 Spring National Meeting, it was announced that Colorado has become the first state to adopt the updated Interstate Insurance Product Regulation Compact developed by the NAIC. This article provides a simple explanation of the interstate compact process, describes some of the current interstate compacts in place, and provides readers with a general background of the interstate compact concept.

**Insurance-Based Credit Scores: Impact on Minority and Low-Income Populations**

*Brent Kabler*

In January 2004, the Missouri Department of Insurance released a report on the impact of credit scores on minority and low-income populations. This article is condensed from that study which examines whether, and to what extent, those credit scores are correlated with specific demographic characteristics by ZIP Code.

**Commentary on Insurance-Based Credit Scores: Impact on Minority and Low-Income Populations in Missouri**

*American Insurance Association*

*National Association of Mutual Insurance Companies*

*Property Casualty Insurers Association of America*

The trade associations commissioned an outside study of the Missouri credit score study by EPIC Consulting LLC, an actuarial consulting firm. This commentary is a synopsis of EPIC's full report.

Legal Reviews

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Research Articles

**Towards the Integrated Prudential Supervision of UK Insurance: Further Implications for the Role of Actuaries and Auditors**

*Ian P. Dewing*

*Peter O. Russell*

This article describes some of the ongoing regulatory initiatives in the United Kingdom and the changing role that actuaries are being asked to play in that regulatory model. Regulators in the US will see some similarities and some differences in the way in which auditors and actuaries are being asked to provide certifications.

**Changing Financial Rating Standards in the U.S. Life Insurance Industry**

*Steven W. Pottier*

*David W. Sommer*

This article analyzes changes in financial ratings by the private rating agencies to decline in the average life insurer financial strength ratings are attributable to an overall decline in the financial health of the industry or alternatively to an increase in the stringency of the ratings standards applied by A.M. Best and Standard & Poor's.

**Terrorism Insurance Coverage: The Market Impact on Insurers and other Exposed Industries**

*David C. Marlett*

*John Griffith*

*Carl Pacini*

*Robert E. Hoyt*

This article focuses on the evolution of the Terrorism Insurance Risk Act of 2002 and uses event study methodology to measure the effect of this legislation on the market price of the common stocks of insurers. This research goes a step further in that it concurrently measures the effect of legislative progress on the market prices of banks, utilities and airlines that are major insurance purchasers and that would be most affected by the federal backstop.

Legal Reviews

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Perspectives

**The Optional Federal Charter is the Future of Insurance Regulation in the United States**

*Gary Hughes*

*Victoria E. Fimea*

This article presents an in-depth review of the American Council of Life Insurers' (ACLI) proposal for a national insurance charter. The article addresses many of the concerns that have been expressed over this concept and argues for a new regulatory paradigm to meet today's evolving financial services marketplace.

Research Articles

**Insurance Distribution Channels: Markets in Transition**

*Randy E. Dumm*

*Robert E. Hoyt*

The advent of the Internet led many to predict that sweeping changes would take place in the distribution of insurance products in the new millennium. This article discusses both perceptions and realities of the impact of the Web on insurance channels of distribution.

**The Relationship between the Administration of Workers' Compensation and Program Outcomes**

*Karen Roberts*

This paper delves into the relationship between the activities of state workers' compensation agencies and program outcomes. Specific activities measured include research, claims control, education and informal dispute resolution. The author examines the effect of these activities on employers, employees and insurance companies.

**Life Insurer Demutualizations in the Current Era**

*Barbara Remmers*

There has been an unprecedented wave of insurer demutualizations in the past decade. This article looks at the demographics of the demutualizing insurers and offers some explanations for the motivations that insurers have for pursuing this course of action.

Legal Reviews

**Abstracts of Significant Cases Bearing on the Regulation of Insurance**

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Feature Articles

**How the Recent Corporate Governance and Financial Scandals May Affect the Debate on the Future of State Regulation of Insurance**

*William J. Larkin, Jr.*

*J. Stephen Casscles*

New York State Senator William J. Larkin, past president of the National Conference of Insurance Legislators (NCOIL), and J. Stephen Casscles weigh in with their views on the question of federal vs. state regulation of insurance, with a special eye toward recent scandals involving corporate governance.

**Producer Licensing: The Trend toward Reciprocity in the United States and the European Union**

*Robert W. Cooper*

*Mark S. Dorfman*

This article describes the parallel evolution of producer licensing guidelines in the United States and in the European Union, and suggests some best practices in both markets that can help regulators on either side of the Atlantic to improve the efficiency of regulation.

**The 2001 CSO Valuation Mortality Table: A New Era for Escheat of Life Insurance Proceeds?**

*Kenneth Faig*

“Escheat” is the reversion of a decedent’s property to the state when there are no heirs to claim the property. The revised 2001 CSO table, which features a longer life span than previous mortality tables, raises new questions about the ultimate disposition of unclaimed life insurance proceeds. Workable solutions for dealing with the emerging situation are presented, along with some interesting statistics on the extent of this problem in the various states.

**Regulating the Secondary Market for Life Insurance Policies**

*Neil A. Doherty*

*Hal J. Singer*

This article provides an in-depth examination of the secondary market for life insurance markets that has evolved over the last two decades: viatical and life settlement firms. In addition to explaining the economic rationale underlying the market, the authors address a number of regulatory issues, including the potential for fraudulent practices and the creation of more efficient markets for insurance products.

Legal Reviews

**Abstracts of Significant Cases Bearing on the Regulation of Insurance**

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Feature Articles

**The Murder of the Insured by the Beneficiary: Attempting to Quantify One Moral Hazard Relating to Life Insurance Contracts**

*Kenneth Faig*

Moral hazard exists in the making of a contract when there is asymmetry of knowledge between the parties. Murdering the insured with the intention of collecting death benefit proceeds is one of the most dramatic moral hazards relating to the life insurance contract. Yet, nearly all of the published literature concerning this hazard consists of case histories rather than statistical analysis. This paper addresses how this hazard could be quantified and managed by life insurers.

**Current State Regulatory Support for Pay-as-You-Drive Automobile Insurance Options**

*Randall Guensler*

*Adjo Amekudzi*

*Jennifer Williams*

*Shannon Mergelsberg*

*Jennifer Ogle*

This paper examines the potential barriers to implementing pay-as-you-drive (PAYD) automobile insurance programs through a survey of state insurance regulators. The survey was designed to determine whether state regulations currently prohibit PAYD automobile insurance and identify specific requirements that companies would have to meet to obtain approval for such premium structures. The results of the survey indicate that PAYD programs can be implemented in a majority of states under their current regulations. Most states will, however, require a demonstration that the price structure is equitable and transparent before adopting such programs.

**Reinsurance Accounting: Schedule F**

*Sholom Feldblum*

Schedule F discloses an insurer's reinsurance transactions for both ceded and assumed business. It is one of the most complex schedules in the annual statement, having grown from its original focus on unauthorized reinsurance to cover overdue loss recoverables, amounts in dispute and a restatement of the statutory balance sheet. This paper is a comprehensive reference guide to the purpose, content and uses of this important regulatory tool.

**The NAIC's 2003 Agenda: Modernizing State Insurance Regulation; A Legacy of Consistency, Efficiency and Trust**

*Mike Pickens*

It is customary for the newly elected president of the NAIC to lay out their vision and agenda for his or her term in the spring issue of the *JIR*. Pickens outlines the administrative and process tasks ahead. He also describes the philosophical and policy issues confronting the NAIC and its members. Finally, gives a sense of the heartfelt convictions of the NAIC president and his strong regard for particular regulatory issues.

Legal Reviews

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Feature Articles

**New Perspectives on Age-Old Controversies about Buying Whole Life or Term and Investing the Difference**

*R. Brian Fecht*

One of the longest running controversies in insurance is the financial advantages of term insurance relative to cash value life policies. To date there has been no good demonstration of the relative financial superiority and product advantages of these two alternatives. This analysis demonstrates that the critical difference between these two types of policies arises from tax advantages.

**Insurance Experience and Consumers' Attitudes toward Insurance Fraud**

*Sharon Tennyson*

For many years, the insurance industry has invested heavily in trying to build up awareness and intolerance for claims fraud. This article studies the connection between attitudes toward fraud with the consumers' level of experience with insurance. The author finds that as experience and contacts with the insurance claims process goes up expressed tolerance for insurance fraud drops.

**Did Regulation Change Competitiveness in Property- Liability Insurance? Evidence from Underwriting and Investment Income**

*Chao-chun Leng*

*Michael R. Powers*

*Emilio C. Venezian*

This is a study of the relationship between underwriting profits and investment income in the U.S. property-liability insurance industry from 1958 to 1999. Something changed in 1981 in the relationship between interest rates and combined ratio. In the period from 1958 to 1981, the relationship is not consistent with competitive equilibrium in the financial market. In the second sub-period, from 1983 to 1999, the observed relationship is consistent with equilibrium. Moreover, the average underwriting profit margin in the first period is significantly higher than that in the second period, and is suggestive of monopolistic profits.

**The Effects of Mandatory Continuing Education on Insurance Producers**

*Dean Zingg*

Mandatory continuing education is necessary for many professions and trades for continued licensure. Insurance producers throughout the United States have such requirements. This study explores the effects of these mandates on insurance producers in Iowa. Generally, those attending a respected program at Drake University were highly satisfied, most saying they would have attended even without a mandate. This study, drawn from a limited sample, suggest needs for further research in this area.

Shorter Papers

**Summary: Report on Employee Leasing and Professional Employer Organizations**

*NAIC/IAIABC Joint Working Group*

Legal Reviews

**Abstracts of Significant Cases Bearing on the Regulation of Insurance**

*Carolyn Johnson Speck*

## Feature Articles

### **The Developing Role of Actuaries and Auditors in UK Insurance Supervision**

*Ian P. Dewing; Peter O. Russell*

This paper reviews the development of insurance regulation in the United Kingdom (UK) with particular reference to the role and responsibilities of actuaries and auditors. After a review of the development of the regulatory framework for UK insurance, the paper focuses on the role played by actuaries and auditors in the regulatory process at a UK and, where relevant, a European Union (EU) level. The paper then examines how the role of actuaries and auditors is likely to change in the light of recent UK developments, notably the difficulties experienced by the Equitable Life Assurance Society and the failure of the Independent Insurance Company Limited.

### **The Wealth Effect of Risk-Based Capital Regulation on the Life Insurance Industry**

*Roger M. Shelor; John Wagster; Robert C. Wolf*

In 1993, the NAIC launched risk-based capital regulations for life and health insurers, a capital regulation that incorporates insurers' balance sheet risk. The implementation of this regulation may have altered the stock market's evaluation of the profitability of insurers. This paper uses a conventional empirical technique called "event analysis" to see if public announcements of the phasing of this regulation affected stock prices.

### **Insurers in the Greenhouse**

*Evan Mills; Eugene Lecomte; Andrew Peara*

This paper reports on the attitudes discovered by the authors in their interviews with insurance executives. This, coupled with a review of the literature, shows that insurers have assumed highly diverse positions on the issues. The authors contend there is very little analysis of this issue by the industry or regulators. Few have analyzed the problem in depth. Insurance regulators could play a constructive role in evaluating the magnitude of the problem, anticipating future losses, and promoting strategies to mitigate the causes of climate change.

## Shorter Papers

### **A Review of the Growing Saliency of Privacy as an Insurance Regulatory Issue**

*Eric Nordman; Gregory Krohm*

This paper outlines how the NAIC and state insurance regulators have responded to privacy issues, outlining the history of NAIC involvement in privacy issues through 2002. It then describes the NAIC's response to the GLBA and HIPAA privacy mandates. Next, it describes the large volume of NAIC consumer information on privacy, available on a special privacy section of the NAIC Web site. Finally, the paper concludes with some perspectives on how privacy regulations have affected the operations of insurers.

## International Regulatory Briefs

### **NAIC and IAIS: Bringing Global Insurance Regulation Closer to Home**

*Terri M. Vaughan*

This paper discusses the importance of regulators around the world working cooperatively to keep pace with the insurance industry and other financial services as they expand their operations globally.

### **East Meets West: Helping China Develop Its Insurance Regulatory Program**

*Lawrence H. Mirel*

This paper summarizes the NAIC's participation in a seminar on Financial Risk Management in Beijing, People's Republic of China, and encourages the development of an official program of cooperation involving, among other things, exchanges of information and personnel.

## Legal Reviews

### **Abstracts of Significant Cases Bearing on the Regulation of Insurance**

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Feature Articles

**State Review of Major Medical Health Insurance Rates**

*Adele M. Kirk*

*Deborah J. Chollet*

This research documents states' rate review practices in the small-group and non-group major medical insurance markets. It is based on an extensive survey of the states' statutory rate review authority and how rates are reviewed in practice. The authors found that conventional categories of rate review (such as file and use) are ambiguous in practice, and therefore characterized states as actively reviewing rates or not. In many states, there was a disconnect between statutory constraints on insurer rating and the Department's rate review authority or processes.

**Complaints Ratios: What (or Where) is the Beef?**

*Emilio Venezian*

This paper suggests alternative measures of complaint frequency that may be more useful, both for consumer protection and for academic use in investigating the determinants of quality. The study also analyzes the stability of the rankings provided by the various measures, both within states across time and within time across states. The results raise questions about the relation of low complaint frequency and high quality.

**Size Bias in the Insurance Regulatory Information System Ratios**

*Michael Barth*

The NAIC's Insurance Regulatory Information System (IRIS) ratios have long been a primary tool for company monitoring and solvency regulation. Size biases, as well as other systemic anomalies, reduce the efficiency of IRIS and, therefore, reduce the effectiveness of state insurance regulation. Past validation studies of the NAIC's principal solvency monitoring systems have, according to the author, focused on the prediction of insolvency rather than on the prediction of financial instability, which has reinforced inherent design flaws in each of the NAIC's solvency surveillance tools. This paper suggests alternative methodologies for IRIS, as well as in the NAIC's other solvency monitoring systems, to increase the overall effectiveness of solvency monitoring.

Shorter Papers

**Privacy Laws and Global Insurance Markets**

*Robert Gibbons*

This paper compares issues regarding the privacy of consumer information in the United States vs. the European Union and Canada. According to the author, the inconsistent approaches to privacy across nations suggest that change will continue to occur until more consensus emerges on the rights and protections of individuals.

Legal Reviews

**Abstracts of Significant Cases Bearing on the Regulation of Insurance**

*Carolyn J. Johnson*