

Pursuant to 24-A M.R.S.A. § 2325-A(5), the Superintendent of Insurance is pleased to submit this report to the Joint Standing Committee on Insurance and Financial Services. The report addresses the question of whether there is a lack of availability in any line of property and casualty insurance.

Summary

Property and casualty coverages are generally available in Maine in the admitted market, with a small percentage of coverage in surplus lines. During 2011, the market for most lines of property and casualty insurance was relatively stable. Although insurance is generally available, and prices have been stable, some consumers continue to experience difficulty finding affordable coverage in certain property and casualty lines. The most notable price change has occurred in the homeowners market.

Overall, the homeowners market in Maine continues to be quite competitive and among the most affordable in the nation. The greatest problem is affordability for some consumers with either specific exposure issues or claims history. Due to adverse loss experience in recent years, rates in this line are increasing. In recent years, the cost of reinsurance¹ also pushed up the cost of primary insurance, especially for coastal property exposures. Reinsurers have also required primary insurers to adhere to more restrictive underwriting criteria.

On the commercial side, professional liability rates for physicians and surgeons decreased slightly for the second year, while hospital liability rates increased slightly.

¹ Reinsurance is a practice in which the primary insurer spreads a portion of its risk assumed from policyholders to a reinsurer. This limits the total loss the primary insurer would bear in case of a disaster to protect its solvency. The cost of reinsurance affects the rates charged to policyholders.

Personal Automobile Insurance

The personal auto insurance market in Maine continues to offer consumers low rates and a wide choice of insurers. The Consumer Federation of America's 2008 *Nationwide Study of Auto Insurance Regulation* identified Maine's auto market as one of the best in the country. This in-depth national study examined auto insurance regulation over the previous two decades, analyzing how successful the different regulatory approaches were in holding down prices and encouraging competition. Its competitive scaling analysis determined Maine to be the most competitive market of all the states. Additionally, the most recent auto report from the National Association of Insurance Commissioners (NAIC) identified Maine as the only New England state within the top 10 states for the lowest premium in this line, with the sixth lowest average premium in the country for 2009. Maine had been ranked seventh in 2008.²

Another indicator of our competitive personal auto market is reflected by the continued de-population of the Plan provided by AIPSO (Automobile Insurance Plan Service Office). AIPSO provides high-risk auto insurance plans across the country. As of November 1, 2011 only 28 applications had been received for assigned risk policies through the Plan for 2011, a marked difference from plan year 1994 when 11,000 Maine applications were processed. This number includes commercial auto applications.

² This ranking is even more profound when the mandatory minimum limits are considered, as Maine's required minimum limits are the highest in the country at \$50,000 injury per person/\$100,000 injury per accident, and \$25,000 property damage per accident. (The majority of states have injury limits of \$25,000/\$50,000, with the lowest at \$12,000/\$25,000, and property damage limits ranging from \$5,000 to \$25,000.) Only Alaska matches Maine's required limits, and Alaska is ranked at the ninth *highest* average premium for 2009.

Homeowners

According to the NAIC, Maine had the 11th lowest average homeowners premiums in 2009, the most recent year for which this data is available. Maine was also ranked 11th lowest in 2008. Maine was ranked 9th lowest in 2007. In all three years, Maine had the lowest average premiums in New England. At the same time, the homeowners market has changed in recent years, both locally and nationally. Some applicants and policyholders, particularly coastal property owners, may continue to find affordable coverage elusive. In 2010 and 2011, many insurers increased base rates by 10-15% in response to an increasing frequency and severity of claims. Although the overall cost trend for this line showed a moderate increase in 2011, Maine's homeowner rates remain among the most affordable in the country.

Maine's homeowners insurance market continues to be competitive, with the number of active companies and market distribution remaining steady. In 2010, the most recent year for which complete data is available, 90 insurance companies were actively writing this coverage. The top 10 companies wrote only 51.8% of the market, and the leading carrier had an 11% market share.

Homeowners coverage is generally provided on either a replacement cost or an actual cash value basis. Many insurers continue to focus on efforts to assure that a property's coverage amount is 100% of its replacement cost. This coverage encourages policyholders to match their property coverage with the cost to rebuild their homes, and usually comes with an annual inflation adjustment. Replacement cost coverage allows for full indemnity for covered losses within the limit of insurance as long as the insurance-to-value requirements are met, without deduction for depreciation. Actual cash

value (ACV) coverage, defined in statute as ‘replacement cost less depreciation,’ is another option available to policyholders. It can be a more affordable option for those whose homes³ would be costly to insure to full replacement value. As the limits provided for personal property, detached garages, and outbuildings are commonly written as a percentage of the limit on the dwelling itself, selecting a lower ACV limit also decreases the coverage amount available for those other coverages.

Insurers continue to take steps to reduce policy exposure to loss, which can also reduce premiums. For example, some insurers offer separate deductible options for windstorm, water and hail damages. Other insurers have amended deductibles from a flat amount such as \$500 or \$1000 for each loss to a percentage⁴ of the amount of insurance on the home for all losses, or for losses resulting from certain named perils, such as windstorm or water damage. While this type of deductible increases the policyholder’s financial contribution if a loss occurs, it also lowers the premium.

Because of issues associated with the increased frequency and severity of storms, the availability and affordability of property insurance for coastal and island property remains problematic. Insurers continue to restrict new coastal property exposures or have increased rates in coastal areas. Windstorm damage is a major concern for such properties, and new coastal property applicants have some difficulty finding coverage in the admitted market.

³ Standard homeowners policies provide personal property (contents) coverage (for furniture, appliances, clothing and other belongings) on an ACV basis, with replacement cost coverage available for an additional charge.

⁴ For example, a 1% deductible on a \$175,000 limit policy would result in a deductible of \$1,750 for each loss.

In addition to new coastal and island coverages, new applicants continue to experience difficulty in obtaining coverage for the following types of risks:

- Homes with prior claims;
- Older mobile homes or manufactures homes;
- Properties that are not well-maintained;
- Homes with businesses on premises;
- Applicants with certain breeds or dog, or dogs with a bite history;
- Homes that are vacant or unoccupied;
- Homes that have been uninsured for a period of time.

The surplus lines market has provided coverage for many of these types of exposures, but still only accounts for less than 1% of the homeowners written premiums for 2010, just .32%, which is an increase from .24% of the market in 2009.

Medical Liability (Medical Malpractice)

The medical malpractice market in Maine is highly concentrated, with 71.5% of the coverage provided by Medical Mutual of Maine. Medical Mutual's most recent rate filing was effective on October 1, 2011. Hospital rates increased by 5%, following last year's 9% increase on June 1, 2010. The rates for physicians and surgeons decreased 1.3%, after decreasing 5% the prior year. There were no rate changes in 2009. Some physicians and many facilities, especially nursing homes, continue to depend upon the surplus lines market, paying higher premiums for less coverage.

Surplus Lines Market

Insurance in Maine may be written by admitted insurers or non-admitted insurers, also known as the surplus lines market. The Bureau of Insurance authorizes admitted insurers to write specific lines of business, such as life, health, homeowners, liability or worker's compensation. The Bureau determines the eligibility of non-admitted insurers to write in the surplus market, subject to solvency requirements and satisfactory claims-handling practices. Surplus lines insurers write business that admitted insurers are unwilling to write because of an unacceptable risk of loss. Maine law provides that property and casualty insurance coverage can be written in the surplus lines market only if an admitted market does not exist for the risk, unless the risk is an exempt commercial purchaser as defined in 24-A M.R.S.A. § 2003(6).

Admitted insurers are subject to form and, in most cases, rate regulation by the Bureau of Insurance, and their claims payment obligations are backed by the Maine Insurance Guaranty Fund, which protects policyholders in the event of insolvency. Policies written through surplus lines do not have these protections. In 2010, the most recent year for which data is available, surplus lines premiums represented only 2.18% of the entire Maine insurance market.⁵ As of December 30, 2011, 142 companies were eligible as surplus lines insurers.

Coverage in surplus lines is often more expensive, does not provide the same level of consumer protections, and covers fewer perils than insurance obtained in the

⁵ This does not include alien insurers, as the NAIC does not track that information. An alien insurer is one formed under the laws of a foreign country.

admitted market. However, the surplus lines market does serve an important function in Maine's insurance market by providing coverage that would otherwise not be available. In 2011, some commercial risks, including excess worker's compensation, property, liability, wet marine, and surety bonds found coverage in the surplus market.