

## **State vs. Federal Insurance Regulation**

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The debate over who should be the primary overseer of insurance regulation has long been a controversial issue. With the introduction of the McCarran-Ferguson Act in 1945, the state was given the lead responsibility of regulating the insurance industry. Essentially, the McCarran Ferguson act allows insurers to share related information (lowering costs), provides them with limited exemptions from federal anti-trust as long as their activity is state regulated, and gives the state the overall power to regulate and tax insurance. The Property-Casualty industry and the life industry are two insurance sectors that remain almost exclusively regulated by the state. There are some benefits with this type of state regulation. It allows for there to be a focused expertise on a local level, which allows for states with different issues to set-up the appropriate accommodations. Also, with a limited focus the state is able to be more responsive to their local consumers' demands.

With that being said, there has been growing concern with the current system, which clearly has some downfalls. There has been a rising trend for the insurance industry to market its products on a national level, and states are having a difficult time coordinating uniform interstate regulation. Therefore, insurance companies are having a difficult time providing new products on a national stage quickly and efficiently while working through the states' regulations. Also, companies are having a difficult time acquiring licenses for conducting business outside of their domicile state. The result is that insurance companies are struggling to provide the consumers with new, in-demand products at a reasonable price. With these obstacles in place, it becomes difficult for new

insurance companies to enter the industry, and at the same time, some existing Property Casualty insurance companies are stressed trying to avoid insolvency.

Given the current inefficiencies with the system, there have been several recent proposals for reform to correct the problems. One proposed solution involves the addition of federal oversight to the state regulation already in place, which would mean the repeal of the exemptions from the anti-trust laws of the McCarran-Ferguson act. However, with the addition of more regulation on top of existing laws, this would likely end in higher costs for consumers and would not do anything to correct the problem. Another proposed solution, known as the State Modernization and Regulatory Transparency (SMART) act of 2004, involves the reform of the current system without federal involvement. The act would mean essentially easing the stringent state regulations in place allowing products to be offered quickly and efficiently while also creating competitive interstate pricing nationwide. Although many regulators agree this type of reform sounds reasonable and some effort has been made, there has been little constructive progress in the deregulation of the industry. A third solution involves a combination of the two previous solutions. The proposed National Insurance Act of 2006 would involve a choice being given to the insurers to either use the current state regulations, or if they are too burdensome, to opt out for a federal regulation system. Since the insurers would be given the discretion of choosing the best regulation system for them, the Property-Casualty industry feels this is the most reasonable choice.

Unfortunately, there is not a clear fix-all solution, and the direction the P/C industry takes will likely involve a synthesis of the previously mentioned solutions to satisfy both insurers and consumers alike.