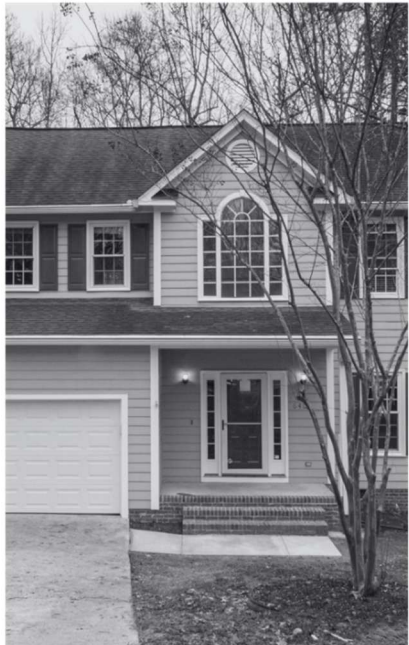


Apr. 2026

How to Lower the Insurance “Tax” By \$150 Billion

 Vanderbilt
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Acknowledgements: The author would like to thank Mary Bridges, Duaa Faquih, Karun Parek, Asad Ramzanali, and Natalie Souza for their helpful comments. All errors are my own.

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Introduction

Property and casualty (P&C) insurance—including auto insurance, homeowners insurance, and workers’ compensation and basic liability insurance for businesses—costed consumers and American businesses \$1.03 trillion in 2024.¹ That is more than total annual defense spending.² It is 10% of total consumer expenditures in the U.S.,³ and it is 20% of the total tax revenue of the United States federal government.⁴ That last comparison is apt because over a century ago, insurers, policymakers, and the Supreme Court all recognized that P&C insurance was, essentially, a “tax” used to cover the losses from unpredictable accidents and natural disasters.⁵ Amid a widespread perception that the insurance industry was failing to fairly administer this “tax,” Progressive Era policymakers applied public-utility-style laws that give, still to this day, state insurance commissioners the power and duty to reject premiums if they exceed a reasonable price.⁶

Fast forward 100 years and these “taxes” are way too high. Between 2020 and 2024, P&C insurance premiums increased almost 50%, more than double the speed of inflation.⁷ The insurance industry claims that climate change has caused an insurance

¹ NAT’L ASS’N OF INS. COMM’RS, 2024 MARKET SHARE REPORTS FOR PROPERTY/CASUALTY GROUPS AND COMPANIES BY STATE AND COUNTRYWIDE 4 (2025), <https://content.naic.org/sites/default/files/publication-msr-pb-property-casualty.pdf>. [hereinafter NAIC 2024 MARKET SHARE REPORT]

² OFF. OF THE UNDER SEC’Y OF DEF. (COMPTROLLER)/CHIEF FIN. OFFICER, US DEP’T. OF DEFENSE, DEFENSE BUDGET OVERVIEW 1-3 (March 2024, revised April 4, 2024), https://comptroller.defense.gov/Portals/45/Documents/defbudget/FY2025/FY2025_Budget_Request_Overview_Book.pdf [hereinafter DEFENSE BUDGET OVERVIEW].

³ U.S. Bur. of Lab. Stats., *Consumer Expenditures in 2023* (Dec. 20, 2024), <https://www.bls.gov/opub/reports/consumer-expenditures/2023/home.htm> (showing that total US consumer expenditures in 2023 were \$10.4 trillion).

⁴ U.S. Dept. of Treasury, *Fiscal Data*, (Sep. 30, 2025), <https://fiscaldata.treasury.gov/americas-finance-guide/government-revenue/> (showing 2025 total tax revenue of \$5.23 trillion). For a different comparison, U.S. corporations pay more in P&C insurance premiums than they do in federal corporate income taxes.

⁵ *German Alliance Ins. Co. v. Lewis*, 233 U.S. 389 (1914).

⁶ BRIAN SHEARER, REGULATING INSURANCE AS A PUBLIC UTILITY, VANDERBILT POL’Y ACCELERATOR (2026) <https://cdn.vanderbilt.edu/vu-URL/wp-content/uploads/sites/412/2026/04/28170109/Regulating-Insurance-as-a-Public-Utility.pdf>.

⁷ NAIC 2024 MARKET SHARE REPORT, *supra* note 1, at 4.

crisis⁸ that explains the price increases. It has no doubt increased claims cost *some*. But the margins between the amount of money collected from businesses and consumers, and the amount of money paid on claims have long been too high, and are actually increasing. Right now, for every \$1 collected in premiums, insurers spend only \$0.62 to cover claims.⁹

The rest of the money is spent on record profits, inflated reinsurance premiums (insurance the insurers get to cover occasional big losses), excessive advertising, high commission payments to independent agents, fighting customers on claims, high dividends to investors, and lavish overhead like private jets. In 2024, industry profits were about double their typical annual profits (15.6% return on revenue).¹⁰ Similarly, dividends to shareholders were higher than other types of stock.¹¹ Insurers spent about \$150 billion to acquire customers with advertising and agent commissions, in a market where customers are usually legally required to participate.¹² Insurers paid \$90 billion fighting claims,¹³ and as a consequence, customers are regularly complaining

⁸ Kristian Fors, *Why California's Homeowners' Insurance Market Collapsed—and How to Fix it*, INDEPENDENT INST. (May 12, 2025), <https://www.independent.org/article/2025/05/12/why-californias-homeowners-insurance-market-collapsed-and-how-to-fix-it/>; Peter Carroll, *Homeowners Insurance Market Disruption: Challenges, Effects, and Solutions*, OPEN BANKER (Apr. 1, 2025), <https://openbanker.beehiiv.com/p/insurancemarketdisruption>; Louis Jacobson & Samantha Putterman, *DeSantis said Citizens Property Insurance is 'not solvent,'* TAMPA BAY TIMES (Mar. 15, 2024), <https://www.tampabay.com/news/florida-politics/2024/03/15/desantis-said-citizens-property-insurance-is-not-solvent-fact-check/>; Tessa McLean, *Over 600,000 in California enroll in 'insurance of last resort' as crisis deepens*, SFGATE (Aug. 18, 2025), <https://www.sfgate.com/california/article/calif-use-last-resort-insurer-nearly-doubles-20819295.php>.

⁹ NAIC 2024 MARKET SHARE REPORT, *supra* note 1, at 4 (61.8% loss ratio).

¹⁰ NAT'L ASS'N OF INS. COMM'RS, U.S. PROPERTY & CASUALTY AND TITLE INSURANCE INDUSTRIES – 2024 FULL YEAR RESULTS, 1 (2025), <https://content.naic.org/sites/default/files/2024-annual-property-casualty-and-title-insurance-industries-analysis-report.pdf> [hereinafter NAIC 2024 P&C FULL YEAR REPORT].

¹¹ The Dividend Farmer, *Insurance—An Analysis of the Top 25 Insurance Sector Dividend Players 2/1/2024 to 1/31/2025*, THE DIVIDEND FARMER SUBSTACK (Feb. 16, 2025), <https://dividendfarmer.substack.com/p/insurance-an-analysis-of-the-insurance-ec> (showing the top 25 dividend payers in 2024 ranging from 3.34% to 11.06%).

¹² NAT'L ASS'N OF INS. COMM'RS, REPORT ON PROFITABILITY BY LINE BY STATE IN 2023, 9 (2025), <https://content.naic.org/sites/default/files/publication-pbl-pb-profitability-line-state.pdf> [hereinafter NAIC 2023 PROFITABILITY REPORT] (applying “selling expense” of 16.3% from 2023 to 2024 net premiums figures in NAIC 2024 P&C FULL YEAR REPORT 1).

¹³ *Id.* (applying “loss adjust expense” of 9.9% to 2024 net premiums figures in NAIC 2024 P&C FULL YEAR REPORT 1).

about the claims process.¹⁴ And they also spend lavishly on corporate perks: ten insurance CEOs pocketed over \$130 million in compensation in 2022¹⁵ and State Farm alone owns *four* private jets.¹⁶

The surge in P&C insurance prices is worsening. The insurance industry is currently engaged in an influence campaign with the goal of getting insurance commissioners, the industry's regulators in states, to let them increase prices even more. Their primary tactic is using the threat of leaving a state as leverage.¹⁷ So far, that tactic is working. Last year, the largest insurer in the country, in the largest state in the country, was allowed to increase its prices by more than it ever has before.¹⁸

It has not always been this way. An academic white paper released in tandem with this policy brief shows how the history of insurance law is filled with high-stakes showdowns between government officials and the insurance industry over prices.¹⁹ Unlike in many markets, in insurance, the price is a matter of public policy due to the market's unique resemblance to a government function. And on numerous occasions, advocates have succeeded in demanding price cuts. For example, in 1988, California passed a 20% price cut in Prop 103, arguably the highest profile direct vote in the country's history at the time.²⁰ Prop 103 has saved Californians over \$150 billion since its passage.²¹

¹⁴ NAT'L ASS'N OF INS. COMM'RS, *Closed Confirmed Consumer Complaints by Disposition*, https://content.naic.org/cis_agg_disposition.htm (showing that in 2025, consumers complained to the NAIC 63,000 times about wrongful claim denials, and that the insurance regulator only sided with the insurance company in 2,565 of those complaints) (last visited March 23, 2026).

¹⁵ Press Release, Cons. Fed. Am., *As Insurance Rates Skyrocket, Executives Pull in Millions* (Oct. 4, 2023), https://consumerfed.org/press_release/as-insurance-rates-skyrocket-executives-pull-in-millions/.

¹⁶ *State Farm Mutual Automobile Insurance Company*, PLANE SPOTTER.NET, <https://www.planespotters.net/airline/State-Farm> (last visited Sep 21, 2025).

¹⁷ Bill Alpert, *California's Biggest Home Insurer Threatens to Leave State Unless Its Rates Rise*, BARRON'S (Feb. 18, 2025), <https://www.barrons.com/articles/californias-biggest-home-insurer-threatens-to-leave-state-unless-its-rates-rise-a7875687>.

¹⁸ *In the Matter of the Rate Application of State Farm General Ins. Co.*, Insurance Commissioner of the State of California, Proposed Decision Approving Stipulation, File Nos. PA-2024-00011, PA-2024-00012, PA-2024-00013 (May 13, 2025).

¹⁹ Shearer, *supra* note 6.

²⁰ *E.g.*, Robert Reinhold, *Car Insurance Industry Fights Consumer Revolt in California*, N. Y. TIMES (Aug. 16, 1988), <https://www.nytimes.com/1988/08/16/us/car-insurance-industry-fights-consumer-revolt-in-california.html>.

²¹ J. ROBERT HUNTER & DOUGLAS HELLER, CONSUMER FED'N OF AM., *AUTO INSURANCE REGULATION WHAT WORKS 2019 5* (2019), <https://consumerfed.org/wp-content/uploads/2019/02/auto-insurance-regulation-what-works-2019.pdf>.

We can do it again. This policy brief offers a legislative proposal that would **lower costs for Americans and American companies by an estimated \$150 billion annually, without any taxpayer expense.** The proposal is to adopt, by federal or state statute, an 80% loss ratio floor for all P&C insurance, which would be adjustable by a regulator, and is modeled off the existing federal loss ratio floor for health insurance. The federal proposal would end the ability of insurers to threaten to leave a specific state unless a state commissioner approves inflated rates. But states can enact similar policies as well, especially if they are supplemented with heightened exit restrictions or public insurance plans. The bills would prohibit certain frivolous spending by insurance executives (like private jets) and require more transparency into insurer expenditures.

I. The Premiums Are Too High

A. Insurance Loss-Ratios over Time

The best way to tell whether premiums for insurance are too high is to look at loss-ratios. A loss ratio compares the amount spent on paying claims to the amount spent on other things (like profit, overhead, advertising) by looking at the percentage of premiums that go to claims.

$$\text{loss ratio} = \frac{\text{claims paid}}{\text{premiums collected}}$$

Helpfully, one can use loss-ratios to see how expensive insurance is in a way that controls for inflation and changes in claims cost (e.g. costs due to climate change). The lower the ratio, the more expensive and less efficient insurance is.

The National Association of Insurance Commissioners (NAIC) publishes granular data about P&C insurance loss ratios, by state, by insurance line, and even by firm. The data shows that, in 2024, the average loss ratio for the P&C industry was 61.80%.²² A 61.80% loss ratio means that for every \$1 in premiums, the insurers only paid out \$0.62 in claims. This was not an outlier year. The average for the last five years is 63.39%.²³

²² NAIC 2024 MARKET SHARE REPORT, *supra* note 1, at 4.

²³ See Figure 3.

Figure 1: Top 10 P&C Insurers²⁴

Group/Company	Premiums Earned (billions)	Loss Ratio	Market Share
State Farm	\$104.20	75.24%	10.23%
Progressive	\$72.20	60.63%	7.13%
Berkshire Hathaway	\$62.60	62.07%	5.94%
Allstate	\$53.80	64.52%	5.25%
Liberty Mutual	\$45.00	60.84%	4.14%
Travelers	\$40.50	54.06%	3.94%
United Serv Auto	\$34.90	69.23%	3.39%
Chubb	\$32.50	58.09%	3.13%
Farmers Ins.	\$27.90	55.43%	2.66%
Zurich Ins.	\$18.20	65.11%	1.74%

These are very low ratios. It means that while the P&C insurance industry collected \$1.03 trillion in premiums in 2024, after paying claims, it had \$383 billion left over. In 2024, the industry earned an additional \$164 billion by investing cash-on-hand in the markets.²⁵ So the P&C insurance industry spent about \$550 billion on overhead, advertising and agent commissions, reinsurance, stock buybacks and dividends, executive compensation, and profits. For comparison, \$550 billion is more than half the total U.S. expenditure on Medicaid,²⁶ more than half the U.S. military budget,²⁷ and 1.8% of U.S. gross domestic product.²⁸ While the U.S. spends \$550 billion on collecting and managing the P&C insurance “tax,” it only spends \$18.2 billion on the Internal

²⁴ NAIC 2024 MARKET SHARE REPORT, *supra* note 1, at 10.

²⁵ NAIC 2024 P&C FULL YEAR REPORT, *supra* note 10, at 1.

²⁶ Centers for Medicare & Medicaid Services, *NHE Fact Sheet* (last modified Jan. 14, 2026), <https://www.cms.gov/data-research/statistics-trends-and-reports/national-health-expenditure-data/nhe-fact-sheet>.

²⁷ DEFENSE BUDGET OVERVIEW, *supra* note 2, at 1-3.

²⁸ Fed. Rsr. Bank of St. Louis, *Gross Domestic Product (Q4 2024)*, FED. RSRV. ECON. DATA, <https://fred.stlouisfed.org/series/GDP/> (last visited Mar. 11, 2026).

Revenue Service to collect literal taxes.²⁹ Certainly, the industry needs some of that money for overhead and profit. But \$550 billion is an astronomical margin especially for a business using largely automated underwriting and where the customers are legally or practically required to participate.

Insurance was not always this expensive. The insurance industry often measures “net loss ratios” inclusive of reinsurance.³⁰ In 2024, the “net loss ratio” for the P&C industry was 71.2% and the average over the last 10 years was 72.7%.³¹ But in the 80s and 90s, average net loss-ratios exceeded 80%.³²

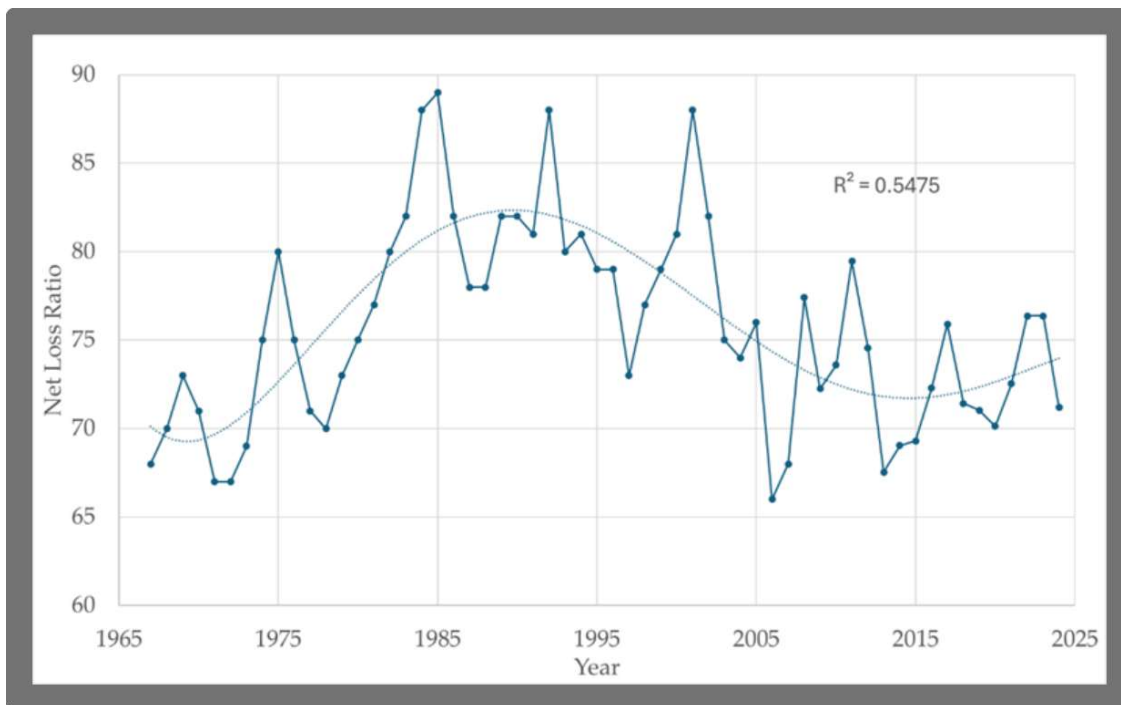
²⁹ Internal Revenue Service, *IRS Budget & Workforce FY 2024* (May 29, 2025), <https://www.irs.gov/statistics/irs-budget-and-workforce>.

³⁰ Net loss ratios tend to run higher because they use a net premium denominator that subtracts reinsurance premium payments.

³¹ NAIC 2024 P&C FULL YEAR REPORT, *supra* note 10, at 1.

³² Shaun S. Wang et al., *U.S. Property-Casualty: Underwriting Cycle Modeling and Risk Benchmarks*, 5 CAS. ACTUARIAL SOC'Y 93, <https://www.casact.org/sites/default/files/2021-07/US-Property-Casualty-Wang-Major-Pan-Leong.pdf>.

Figure 2: Net Loss Ratios Over (1967-2024)³³



There is another reason to believe 60-65% pure loss ratios or 70-75% net loss ratios are lower than they need to be; in the health insurance market, net loss ratios are already capped by federal law at 80% for small group market or individual market insurance plans, or 85% for large group plans.³⁴ Given that health insurance companies have relatively high overhead compared to other insurance segments because of the frequency in which claims are processed,³⁵ the health insurance industry should, arguably, have lower loss ratios. Yet health insurance companies

³³ Historical data up to 2009 for Figure 2 was obtained from *Id.*, at 93. Newer data was collected from the Federal Insurance Office’s annual reports. FED. INS. OFF., U.S. DEP’T OF THE TREASURY, ANNUAL REPORT ON THE INSURANCE INDUSTRY (SEPT. 2024) 52, https://home.treasury.gov/system/files/311/2024-09-30%20Clean%20FIO%20AR%20508_2.pdf; FED. INS. OFF., U.S. DEP’T OF THE TREASURY, ANNUAL REPORT ON THE INSURANCE INDUSTRY (SEPT. 2018) 87, https://home.treasury.gov/system/files/311/2018_FIO_Annual_Report.pdf; FED. INS. OFF., U.S. DEP’T OF THE TREASURY, ANNUAL REPORT ON THE INSURANCE INDUSTRY (JUNE 2013) 23, <https://home.treasury.gov/system/files/311/FIO%20Annual%20Report%202013.pdf>.

³⁴ 45 CFR 158.210.

³⁵ *Overhead Costs for Private Health Insurance Keep Rising, Even as Costs Fall for Other Types of Insurance*, CTR. FOR ECON. & POL’Y RSCH. (Feb. 6, 2017), <https://cepr.net/publications/overhead-costs-for-private-health-insurance-keep-rising-even-as-costs-fall-for-other-types-of-insurance/>.

survive, and even thrive, with higher net loss ratios of 85% simply because it is legally required to do so.

Certain P&C insurance segments have even lower ratios. Figure 3 provides nationwide pure loss-ratio data from 2020-2024 for each type of P&C insurance segment, in order of segment size. Homeowners and auto insurance, the largest consumer segments, averaged less than 70% annual pure loss ratios. The most important segments for businesses—workers' compensation, other liability, commercial peril, and commercial auto—averaged even lower. Workers' compensation's five-year nationwide average pure loss ratio is below 50%.

Theoretically, one might argue that we should tolerate lower annual loss ratios for insurance segments that are more vulnerable to mass loss events (like fire, earthquake, flood, homeowners, allied lines, and inland marine) because insurance companies are saving funds to cover high-loss years caused by infrequent natural catastrophes. Losses are less predictable in these markets. But in the modern insurance market, insurers obtain reinsurance to insure against mass-loss events and stabilize loss ratios year-over-year, so the need to earn extra in one year to save for bad years can be overstated.³⁶ Of course, some segments do not plausibly implicate large catastrophic events (like auto, workers' comp, liability, medical malpractice), so that excuse is not available for some submarkets. Regardless, to account for year-to-year loss fluctuations, the five-year average loss ratios are perhaps more informative.

The surety, mortgage guaranty, fidelity, financial guaranty, and credit insurance markets consistently have *very* low loss ratios. These segments are similar in that they do not insure against liability or physical asset loss, but rather, financial loss. Similarly, the loss ratios in the title insurance market are consistently very low due to the uniquely high agent commissions paid in that segment.³⁷

³⁶ J. David Cummins et al., *The Costs and Benefits of Reinsurance*, 46 GENEVA PAP. RISK & INS. – ISSUES & PRAC. 177 (2021).

³⁷ Progressive Era insurance reformers often complained about excessive agent commissions driving up premiums, and they would recognize the cause of these low loss ratios. The title insurance companies compete by offering commission to independent agents for business referrals. Commissions in the title insurance market range between 70-85% of premiums, far exceeding any other insurance market. This is the primary driver of title insurance costs. *Title Insurance Premiums: Who's getting paid* FED. TITLE AND ESCROW COMPANY, (Feb. 1, 2012), <https://www.federaltitle.com/title-insurance-premiums-whos-getting-paid/>.

Figure 3: Pure Loss Ratios by P&C Segment 2020-2024³⁸

Type of Property & Casualty Insurance	2024 Total Premium (Billions)	2024 Loss Ratio	2023 Loss Ratio	2022 Loss Ratio	2021 Loss Ratio	2020 Loss Ratio	Avg Loss Ratio
Total P&C (excluding Title & R/I)	\$1,029	61.80%	65.53%	67.34%	62.43%	59.83%	63.39%
Consumer Auto (Total)	\$350	66.07%	75.40%	80.11%	67.95%	56.03%	69.11%
Homeowners Multiple Peril	\$163	61.51%	70.52%	70.83%	68.97%	66.49%	67.66%
Other Liability	\$120	70.77%	62.97%	61.06%	59.29%	63.29%	63.48%
Commercial Auto (Total)	\$69	72.97%	73.97%	70.17%	64.03%	64.06%	69.04%
Commercial Peril (Total)	\$65	54.41%	61.04%	59.26%	60.11%	61.20%	59.21%
Workers' Compensation	\$61	50.39%	47.10%	48.10%	52.19%	50.81%	49.72%
Reinsurance	\$46	69.40%	61.30%	68.80%	72.70%	73.80%	69.20%
Inland Marine	\$34	43.58%	44.23%	46.58%	49.31%	63.78%	49.50%
Allied Lines	\$31	49.13%	49.81%	76.43%	75.20%	80.85%	66.28%
Fire	\$30	41.27%	45.30%	61.88%	66.24%	61.04%	55.15%
Multiple Peril Crop	\$17	85.46%	103.42%	95.22%	75.75%	91.19%	90.21%
Title	\$16	5.20%	4.70%	3.10%	2.30%	2.90%	3.64%
Medical Prof. Liability	\$11 (2021)	NA	NA	NA	54.30%	56.27%	55.29%
Surety	\$10	23.49%	22.12%	14.52%	17.53%	22.71%	20.07%
Farmowners Multiple Peril	\$6	63.36%	78.78%	76.63%	64.76%	68.97%	70.50%
Mortgage Guaranty	\$6	2.35%	-1.72%	-22.35%	5.43%	35.73%	3.89%
Ocean Marine	\$6	51.53%	47.35%	61.06%	52.46%	54.94%	53.47%
Earthquake	\$5	1.43%	0.57%	1.98%	2.83%	10.52%	3.47%
Products Liability	\$4 (2021)	NA	NA	NA	52.46%	47.45%	49.96%
Pet Insurance	\$4	71.62%	NA	NA	NA	NA	71.62%
Warranty	\$4	66.50%	65.20%	58.87%	55.31%	56.34%	60.44%
Federal Flood	\$3	237.85%	59.31%	118.44%	48.06%	26.11%	97.95%
Boiler and Machinery	\$3	26.81%	34.55%	35.66%	36.07%	54.98%	37.61%
Credit	\$3	46.83%	37.72%	31.01%	26.42%	56.98%	39.79%
Aircraft	\$3	53.43%	47.75%	58.85%	53.11%	59.90%	54.61%

³⁸ Most data comes from NAIC 2024 MARKET SHARE REPORT, *supra* note 1, at 4-7. Title insurance and reinsurance data comes from NAIC 2024 P&C FULL YEAR REPORT, *supra* note 10, at 10, 13 (2025). Loss ratios over 80% are green; between 50%-80% are yellow, and under 50% are red.

Private Crop	\$1	92.23%	98.83%	78.44%	88.63%	126.57%	96.94%
Excess Workers' Comp	\$1	17.68%	21.10%	57.88%	43.26%	74.82%	42.95%
Fidelity	\$1	36.88%	34.12%	34.06%	28.48%	42.82%	35.27%
Private Flood	\$1	27.62%	6.50%	47.43%	43.18%	61.98%	37.34%
Burglary and Theft	\$0.60	23.24%	31.09%	30.34%	51.03%	69.57%	41.05%
Financial Guaranty	\$0.40	49.75%	97.18%	-63.15%	-77.00%	89.81%	19.32%

The idea that P&C insurance is more expensive than necessary to cover existing risk levels is not the standard story. Take business liability insurance for example. For decades there has been a legislative push for tort reform to reduce litigation costs for businesses.³⁹ These efforts are driven by the idea that frivolous lawsuits are driving up business costs, and ultimately, consumer prices.⁴⁰ But the litigation costs actually incurred by most businesses consist of insurance premiums paid to cover those costs. The average loss ratio for medical professional liability insurance is 55.29%,⁴¹ the average for product liability insurance is 49.96%, and the average for other liability insurance was 63.48%. These low pure loss ratios represent excess charges by the insurance industry to the rest of corporate America that is increasing litigation costs

³⁹ See, e.g., Scott Devito & Andrew W. Jurs, "Doubling Down" for Defendants: The Pernicious Effects of Tort Reform, 118:3 PENN ST. L. REV. 543, 548-554 (2014) for a summary of the history of tort reform movements.

⁴⁰ Nicholas C. Lucas, *The Hidden Costs of Lawsuits Continue to Grow*, U.S. CHAMBER OF COMMERCE (Nov. 20, 2024), <https://www.uschamber.com/lawsuits/hidden-costs-lawsuits-grow>.

⁴¹ In addition, the fact that medical malpractice insurance premiums are only \$11 billion a year raises serious doubts about whether medical malpractice litigation has any meaningful effect on a \$4.1 trillion healthcare industry. *Costs*, NAT'L INST. HEALTH, NAT'L LIBRARY OF MEDICINE, <https://www.nlm.nih.gov/oet/ed/stats/01-400.html> (last visited June 18, 2025).

substantially.⁴² Eliminating that excess could reduce corporate litigation costs by about as much as the combined savings from all prior tort reform efforts.⁴³

Nearly every day there is a news story about how homeowners insurance premiums are increasing to account for increasing storm activity and wildfires caused by climate change.⁴⁴ It is no doubt true that some of the increase in premiums is caused by an increase in claims. In the five years from 2020 to 2024, annual homeowners insurance losses increased by 40%.⁴⁵ But the prices increased by 52% in that same time,⁴⁶ and the pure loss ratio was just 61.5% in 2024.⁴⁷

California, in particular, has experienced an uptick in wildfires, producing regular press articles about how the homeowners insurance industry is in “crisis” because state regulation prevents rate hikes to cover increasing claims. But in 2024, the loss ratios for homeowners insurance in California were just 47.24%.⁴⁸ In particular, in 2024 State Farm began threatening to withdraw from California if the state did not let it increase rates faster; its 2024 loss ratio for homeowners insurance in California specifically was just 50.14%.⁴⁹

⁴² For example, the Chamber of Commerce estimated that there are \$528.9 billion a year in costs attributed to the tort system, which was calculated by looking at insurance premiums. About 25% of that is more accurately attributed to premiums charged by insurance companies beyond the level they would need to maintain more reasonable 85% loss ratios. Lucas, *supra* note 40, at 16. Note also that \$215 billion of the Chamber’s \$528.9 billion figure is from auto insurance premiums, even though most auto insurance claims never implicate litigation.

⁴³ Leonard J. Nelson III et al., *Damages Caps in Medical Malpractice Cases*, 85 MILBANK Q. 259, 269 (2007) (summarizing research showing that tort reform efforts lowered premiums by somewhere between 6% and 25%, with uncertainty about whether it is closer to the high or low end of that range due to the different time-periods, reforms, and datasets used in the most rigorous empirical analyses that the authors reviewed).

⁴⁴ See, e.g., National Public Radio, *Home insurance rates are rising amid climate change. What could break the cycle?*, NAT’L PUB. RADIO (July 23, 2024), <https://www.npr.org/2024/07/18/1198912918/home-insurance-rates-are-rising-due-to-climate-change-what-could-break-that-cycl>; see also Shan Ge, Stephanie Johnson, and Nitzan Tzur-Ilan, *The Effects of Rising Insurance Premiums on Mortgage Delinquency and Household Relocation* (Mar. 10, 2026), <https://ssrn.com/abstract=4992281>.

⁴⁵ NAIC 2024 MARKET SHARE REPORTS, *supra* note 1, at 4.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ NAIC 2024 MARKET SHARE REPORT, *supra* note 1, at 155.

⁴⁹ *Id.*; Press Release, State Farm, *State Farm General Insurance Company: Update on California* (March 20, 2024), <https://newsroom.statefarm.com/update-on-california/>.

One of the major causes of inflation during the COVID-era was auto insurance premium increases.⁵⁰ In 2024, the pure loss ratio for consumer auto insurance was just 66%.

B. Where Insurance Companies are Spending Premiums

So what is the insurance industry doing with the extra \$550 billion? A lot of the excess is going to profit. By some estimates, both return on assets and return on revenue were above 15% in 2024, which is up from 8-9% in 2023.⁵¹ Both are higher than the average corporate profit margin.⁵² Amid claims that costs are rising, P&C insurance experienced a “sharp gain” in profit in 2024 driven by price increases and high investment returns.⁵³

Of the roughly 35-40% of premiums that do not go to claims, 6.4% go to general overhead. An additional 10% goes to “loss adjustment expense.”⁵⁴ Loss adjustment expenses are the basic cost of processing claims, as well as the cost associated with paying adjusters, investigators, and attorneys to try to minimize payouts to customers.

But the largest chunk, 16.3%, went to “selling expenses.”⁵⁵ Selling expenses are the cost to acquire customers, which in most industries is traditional marketing like advertising. In insurance, it also includes commissions paid to agents, financial planners, and brokers for referrals. According to the Federal Insurance Office, 11% of premiums go towards commissions payments.⁵⁶ P&C insurance is a product that is largely (legally and practically) mandatory, which means there is little societal value to spending money to educate the public about the need for the product. And yet competition is driving the P&C insurance industry to spend more to acquire customers

⁵⁰ Michael Wayland, *Why car insurance costs are skyrocketing and leading to higher inflation*, CNBC (Apr. 11, 2024), <https://www.cnbc.com/2024/04/11/why-car-insurance-costs-are-skyrocketing-leading-to-higher-inflation.html?msockid=0364eee00de163a32161fb230cf3629f>.

⁵¹ NAIC 2024 P&C FULL YEAR REPORT, *supra* note 10, at 1.

⁵² Bureau of Econ. Analysis, *Corporate Profits*, <https://www.bea.gov/data/income-saving/corporate-profits> (last visited Mar. 20, 2026).

⁵³ FED. INS. OFF., U.S. DEP'T OF THE TREASURY, ANNUAL REPORT ON THE INSURANCE INDUSTRY (SEPT. 2025) 2, <https://home.treasury.gov/system/files/311/Final%20FIO%202025%20Annual%20Report.pdf>.

⁵⁴ NAIC 2023 PROFITABILITY REPORT, *supra* note 12, at 9 (April 2025).

⁵⁵ *Id.*

⁵⁶ FED. INS. OFF., U.S. DEP'T OF THE TREASURY, ANNUAL REPORT ON THE INSURANCE INDUSTRY (SEPT. 2025), *supra* note 53, at 2.

than nearly any other industry.⁵⁷ P&C insurance ads fill the airwaves. Ads with the Geico gecko, celebrity filled Super Bowl State Farm ads, ads documenting the many adventures of the fictional Progressive insurance agent “Flo,” and ads explaining that “nationwide is on your side” all increase the property insurance “tax” significantly.⁵⁸

Insurance companies have also paid back their shareholders. For example, take Progressive, the largest publicly traded P&C insurance company in the U.S. In 2024, Progressive earned \$72 billion in premiums and had a 60.63% loss ratio.⁵⁹ In January 2025, Progressive paid out \$4.60 per share in dividends,⁶⁰ costing \$2.7 billion.⁶¹ In March 2025, Progressive announced it would repurchase 25 million shares,⁶² which cost about \$7 billion. Then, at the end of 2025, Progressive again announced a large annual dividend of \$13.60 per share, costing another \$8 billion.⁶³ Progressive is not an outlier; it fits a pattern of publicly traded P&C insurers regularly paying high dividends to shareholders.⁶⁴

Lastly, rising reinsurance premiums are a major contribution to higher insurance prices. Most domestic P&C insurers themselves pay for insurance from global private reinsurers who cover catastrophic losses from massive loss events (e.g. 2015 California wildfires). Insurers do this to stabilize loss ratios year-over-year and reduce the risks to the firm of these major events. In essence, insurers are increasing overhead costs in

⁵⁷ Linh Khanh, *Average Customer Acquisition Cost: Benchmarks by Industry*, USER PILOT (Aug. 15, 2025), <https://userpilot.com/blog/average-customer-acquisition-cost/> (showing that insurance pays an average \$1,280 to acquire a customer, which is higher than all listed industries except “fintech”).

⁵⁸ CLIOS, *Ads of the World, Insurance Industry*, <https://www.adsoftheworld.com/industries/insurance> (last visited Feb. 9, 2026).

⁵⁹ NAIC 2024 MARKET SHARE REPORTS, *supra* note 1, at 10.

⁶⁰ Progressive, *Dividend History*, <https://investors.progressive.com/stock-info/dividend-history/default.aspx>.

⁶¹ There were 586.22 million shares outstanding at the beginning of 2025. *The Progressive Corp. (PGR)*, STOCK ANALYSIS, <https://stockanalysis.com/stocks/pgr/statistics/> (last visited Mar. 20, 2026).

⁶² *Progressive (NYSE:PGR) Announces Share Repurchase Program for 25 Million Shares*, YAHOO FINANCE (May 13, 2025), <https://finance.yahoo.com/news/progressive-nyse-pgr-announces-share-233707195.html>.

⁶³ Progressive, *Progressive Announces Dividend Information and 2026 Annual Meeting Record Date* (Dec. 8, 2025), <https://investors.progressive.com/financials/financial-news-releases/news-details/2025/Progressive-Announces-Dividend-Information-And-2026-Annual-Meeting-Record-Date/default.aspx>.

⁶⁴ *The Dividend Farmer*, *supra* note 11 (showing the top 25 dividend payers in 2024 ranging from 3.34% to 11.06%).

exchange for stabilizing loss ratios and lowering insolvency risk.⁶⁵ Reinsurers, in turn, are taking on much of the risk associated with rare natural disasters.

In the six years between 2018 and 2024, the premiums that reinsurers charged American insurance companies doubled.⁶⁶ The price increases were a result of a self-described “climate epiphany,” experienced simultaneously across the reinsurance industry.⁶⁷ And yet, at that same time, reinsurer return-on-equity jumped from typically under 10%, to 20% for the first time.⁶⁸ Profits were positive before the epiphany, and according to one reinsurer, after the epiphany, the industry achieved “exceptionally strong profitability in 2023.”⁶⁹ To be clear, we have seen a doubling of natural catastrophe insured losses in the past 30 years.⁷⁰ But that should justify a corresponding doubling of reinsurance premiums over 30 years, not a doubling of reinsurance premiums over 5 years.

Figure 4 breaks down how P&C insurance companies spent the \$930.3 billion it collected in 2023 premiums, which is the most recent year for which we have a more granular cost break-down.

⁶⁵ Cummins at. al, *supra* note 36.

⁶⁶ Benjamin J. Keys & Philip Mulder, *Property Insurance and Disaster Risk: New Evidence from Mortgage Escrow Data*, 3 (Nat'l Bureau of Econ. Rsch., Working Paper No. 32579, 2024).

⁶⁷ *Id.*; Claire Brown, Mira Rojanasakul, *A Climate 'Shock' Is Eroding Some Home Values. New Data Shows How Much*, N. Y. TIMES (Nov. 19, 2025), <https://www.nytimes.com/interactive/2025/11/19/climate/home-insurance-costs-real-estate-market.html>.

⁶⁸ GALLAGHER RE, REINSURANCE MARKET REPORT 6 (2023), <https://www.ajg.com/gallagherre/-/media/files/gallagher/gallagherre/news-and-insights/2024/april/gallagher-reinsurance-market-report-2023.pdf>. In fact, even the reinsurers' underlying ROE, a figure that is supposed to account for projections of longer-term financial condition like increasing climate risk, has slowly *risen* over the last few years to 14.3%.

⁶⁹ *Id.* at 20.

⁷⁰ *sigma 1/2024 in short*, SWISS RE INST. (Mar. 26, 2024), <https://www.swissre.com/institute/research/sigma-research/sigma-2024-01/in-short.html>.

Figure 4: 2023 P&C Insurer Cost Breakdown

Category	Dollars (billion)	% of \$930.3 billion premiums
Losses (claims paid to customers)	\$609.60	65.50%
Selling Expense (ads and agent commission)	\$135.40	14.50%
Reinsurance Premiums	\$99.70	10.70%
Reinsurance Reimbursements	-\$60.80	-6.30%
Cost containment (fighting claims)	\$82.20	8.80%
General Expenses	\$53.20	5.70%
Taxes/licenses	\$18.30	2.00%
Total	\$937.60	100.80%

The cost adds up to more than 100%, meaning the industry made a -0.8% “underwriting profit.” But insurers do not have to make “underwriting profit” to thrive. Their primary source of returns is investing the trust fund that is capitalized with the premiums and used to pay out claims. In fact, instead of looking at an insurance company’s insurance activities in isolation, it is better to conceive of insurers as investment funds that use an insurance business to access premiums as investment capital. In other words, in 2023, insurers paid just \$7.3 billion for access to approximately \$1 trillion of investing capital, off of which it earned \$87 billion in net returns.⁷¹

In 2024, the invested capital grew to \$1.13 trillion, the returns on those investments increased, and premiums increased such that “underwriting profit” was \$25 billion.⁷²

⁷¹ NAIC 2024 P&C FULL YEAR REPORT, *supra* note 10, at 1. Note that “underwriting profit” is often a misleading statistic because insurers often do not account for the reimbursement from reinsurance in calculating these “losses.”

⁷² *Id.*

That means insurers had access to \$1.13 trillion in capital, and the source of capital *paid them* \$25 billion. As a result, the industry's returns doubled to \$166 billion.

We have more limited data for 2025, but the early data shows the trend continuing (even despite high profile disasters like the Los Angeles fires). In the first half of 2025, P&C insurance premiums grew another 6%, the invested capital grew to \$1.2 trillion, and positive “underwriting profit” grew to 3.6%.⁷³

II. The Federal Proposal

This paper proposes a federal 80% loss ratio floor, supplemented with insurer expense transparency requirements and prohibitions on frivolous spending. As stated above, the basic problem with prices in the P&C insurance industry is that the industry charges \$1.03 trillion in premiums to pay for just \$636 billion in claims (as of 2024).⁷⁴ The proposal's goal is to reduce the amount of money the industry spends on everything other than claims to prevent prices from spiking as costs rise due to climate change.

More specifically, the proposal in this brief seeks to reverse this trend and substantially lower premiums for consumers and businesses by (1) requiring more efficient corporate spending, (2) expecting that insurance companies take a negative underwriting profit as a cost to gain access to substantial investment capital, and (3) lowering the amount of money wasted on selling costs like advertising and agent commissions. It uses an 80% loss ratio to do this because that was the historical norm in the P&C insurance in the 80s and 90s,⁷⁵ and that is comparable to the Affordable Care Act's Medical Loss Ratio rule, which caps loss-ratios at 80% for small group and individual plans and 85% for large group plans.⁷⁶ A reduction of the selling expense by about half, more efficient spending on operating costs, and tolerance for a reasonably negative underwriting profit would make an 80% “loss ratio” possible.

⁷³ NAT'L ASS'N OF INS. COMM'RS, U.S. PROPERTY & CASUALTY AND TITLE INSURANCE INDUSTRIES – 2025 FIRST HALF RESULTS 1 (2025), <https://content.naic.org/sites/default/files/2025-mid-year-property-casualty-and-title-insurance-industries-analysis-report.pdf>.

⁷⁴ NAIC 2024 MARKET SHARE REPORT, *supra* note 1, at 4.

⁷⁵ See Figure 2.

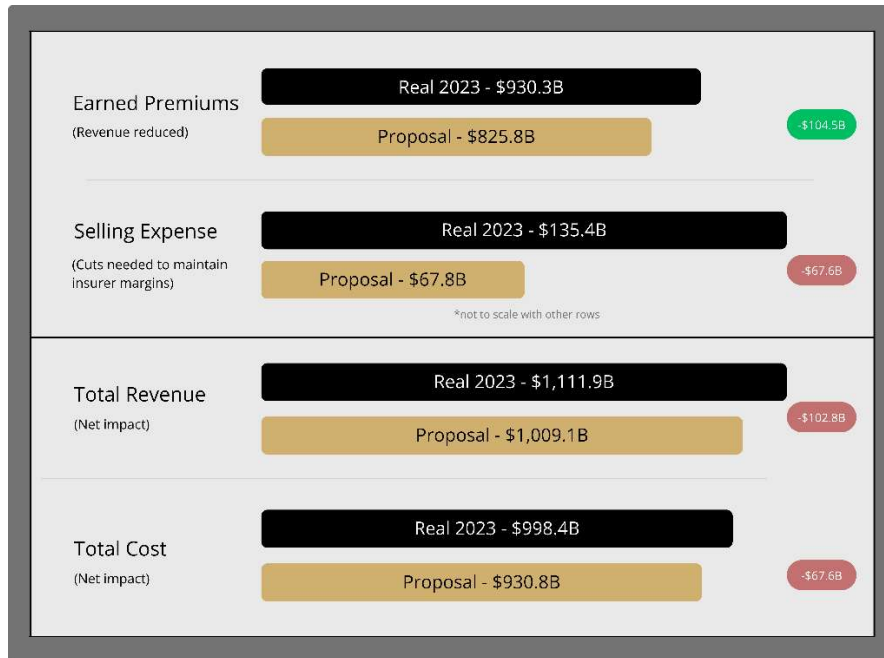
⁷⁶ 40 U.S.C. 300gg-18(b).

The proposal would use total losses plus reinsurance premiums as the numerator, and earned premiums plus reinsurance reimbursements as the denominator. This would avoid penalizing insurers that use customer premiums to cover risk through reinsurance, but would ensure that both the premiums as a cost to the insurer, and the reimbursements as a revenue item to the insurer, are counted, so that reinsurance could not be used as an avoidance tactic.⁷⁷

Figure 5 shows what 2023 would have looked like under an 80% loss-ratio requirement as proposed in this paper.

⁷⁷ Note that many industry data sources calculate loss ratios against net premiums, but do not always account for reinsurance reimbursements by using net losses.

Figure 5: 2023 Under an 80% Loss Ratio⁷⁸



Categories unchanged under the proposal	
Losses	-\$609.6B
Reinsurance Premiums	-\$99.7B
Cost containment	-\$82.2B
General expenses	-\$53.2B
Taxes/licenses	-\$18.3B
Reinsurance reimbursements	+\$60.8B
Net investment gain	+\$120.8B

⁷⁸ See Figure 4 for data inputs, except the net investment income found in NAIC 2024 P&C Full Year Report, Supra note 10, at 1.

Under the proposal, in 2023 American families and businesses would have saved over \$100 billion.

In 2024, the savings would have been even higher. In 2024, P&C insurers earned \$1.029 trillion in premiums, with only \$636 billion in losses and \$124 billion spent on reinsurance.⁷⁹ Assuming a similar loss-ratio for reinsurance of 61%, reinsurance reimbursements should have been around \$75 billion. Thus, to comply with an 80% loss ratio, the industry would have been able to charge only \$875 billion in premiums to customers. **Under the proposal, in 2024 American consumers and businesses would have saved over \$150 billion.**

The cost most within insurers' discretion (i.e. that isn't operationally necessary to provide insurance) is selling expenses. Insurers would lower the selling expense in order to meet the loss-ratio requirement. Having said that, since insurers compete based on selling expenses, we would expect insurers to find efficiencies in other places, like general expenses and cost containment. We do not have data to project, for example, how much general expense is necessary. Therefore, the chart above conservatively assumes all cost reduction would come from selling expenses.

We expect competition would force insurers to cut selling expense (and other expenses) only as much as is necessary to make negative "underwriting profit" roughly equivalent to the cost of debt that other investors obtain when engaging in leveraged investing. From 2002 to 2023, the average cost of debt for private equity was 5.9%.⁸⁰ The Federal Funds Rate, the cost of debt for banks, was around 5% in 2023 and is under 3% today.⁸¹ Assuming that insurers would accept 4%, that means insurers should be able to operate an insurance business at a loss of about 4% of the investment trust fund. In 2023, that was about \$42.5 billion.⁸² That means the selling expense (or other expenses) would have to contract by \$67.8 billion.

⁷⁹ NAIC 2024 MARKET SHARE REPORT, *supra* note 1, at 4. Reinsurance premiums calculated by subtracting "net premiums earned" in NAIC 2024 P&C FULL YEAR REPORT, *supra* note 10, at 1 from "earned premium" in NAIC 2024 MARKET SHARE REPORT, *supra* note 1, at 4.

⁸⁰ Mark Hoeing, Miram Schmitter, Madeline McGrath, *The Impact of the Rising Cost of Debt on Private Equity*, COMMON FUND (Nov. 27, 2023), <https://www.commonfund.org/cf-private-equity/the-rising-cost-of-debt-impact-on-private-equity#:~:text=The%20U.S.%20Federal%20Open%20Market,to%20~8%20percent%20today7>.

⁸¹ Fed. Rsr. Bank of St. Louis, *Federal Funds Effective Rate*, FED. RSRV. ECON. DATA, <https://fred.stlouisfed.org/series/fedfunds> (last visited Mar. 19, 2026).

⁸² NAIC 2024 P&C FULL YEAR REPORT, *supra* note 10, at 1 (0.04 * \$1062.988 billion).

Economically speaking, customer acquisition costs like advertising and referrals have value to the extent that it entails educating the public about the existence and uses of the service.⁸³ But that is unnecessary here because P&C insurance is legally or practically mandatory, and the products provided by each insurer are essentially uniform. That means insurers pay for selling cost only to compete with each other for volume, and it provides no economic value. A federal cap would reduce the selling expense of all insurers equally, effectively ending the arms race without unfairly giving any one insurer a competitive advantage. In fact, by reducing the amount insurers can spend on selling expenses, the loss-ratio floor would eliminate larger insurers' ability to use their larger budgets to gain an unfair advantage with advertising or other tactics.

Having said that, agents can provide value to customers in the form of helping customers file claims or find the right policy for them. If the proposed loss-ratio floor results in underpayment for those services, customers could pay agents directly for those services.

III. The State Proposal

The state proposal in this brief parrots the federal proposal, with a few adjustments to fit better into a state law scheme. In addition, given the fact that state commissioners have more direct authority over rate-setting, the proposal includes more granular provisions on different insurer expenses, including limits to selling expenses like advertising and agent compensation. But most importantly, the proposal includes additional provisions intended to mitigate insurers' ability to use the threat of leaving a state as leverage. In particular, the bill includes exit restrictions modeled after a New Jersey and Massachusetts laws.⁸⁴

⁸³ See, e.g., Phillip Nelson, *The Economic Consequences of Advertising*, 48 J. Bus. 213 (1975); George Burton Hotchkins, *An Economic Defence of Advertising*, 15 AM. ECON. REV. 14, 14 (1925).

⁸⁴ N.J. ADMIN. CODE § 11:2-29 (requiring long advanced notice for withdrawals); MASS. GEN. L. ch. 175, § 22H (1991) (giving the insurance commissioner authority to suspend insurance licenses for all of an insurers' business lines if an insurer refuses to issue auto insurance policies and cannot prove the refusal is justified based on solvency concerns).-9

Appendix A – Federal Legislative Text

SEC 1. SHORT TITLE.

This act amending the Federal Insurance Office Act of 2010 may be cited as the “Property Insurance Affordability Act”.

SEC 2. PURPOSE.

Congress finds and declares that—

(1) Property and casualty insurance premiums are too high for both American consumers and for American businesses and contribute substantially to the affordability crisis in the United States. In particular, inflated homeowners and title insurance premiums raise the cost of homeownership. Inflated medical malpractice insurance premiums raise the cost of healthcare. Inflated liability insurance premiums raise the cost of litigation to American businesses. Inflated auto insurance premiums raise the cost of owning a car. Inflated workers’ compensation insurance premiums raise the cost of labor and diverts labor costs away from wages and benefits.

(2) The increase in property and casualty insurance premiums cannot be fully explained by increasing claims costs, given that profits are at record highs and loss ratios are lower now than they were in the past.

(3) Property and casualty insurers are overcharging customers by using premiums to pay for corporate perks, corporate jets, stock-buy backs, excessive executive compensation, excessive dividends, excessive advertising, and excessive agent commissions.

(4) A negative underwriting profit should be viewed as the reasonable cost of investment capital that insurers pay to earn market returns on policyholders’ capital.

(5) A Federal loss-ratio floor would give state regulators better leverage to engage in appropriate state level regulation without fear of insurers using threats to leave a given state as leverage to influence state-level policy and reaffirms the policy to leave insurance regulation primarily to states.

(6) An 80% loss ratio is sufficient for insurers to cover reasonable operating costs and allow for sufficient returns.

SEC 3. MINIMIZING THE COST OF PROPERTY AND CASUALTY INSURANCE.

Section 313 of subtitle I of title 31, United States Code, is amended by inserting the following after paragraph (s):

“(t) CLEAR ACCOUNTING FOR COSTS.—

“(1) COVERAGE.—This paragraph shall apply to all P&C Insurers, meaning any United States insurer that is licensed to issue one of the following types of property and casualty insurance: Private passenger auto liability, Private passenger auto physical, Commercial auto liability, Commercial auto physical, Aircraft, Homeowners Multiple Peril, Farmowners Multiple Peril, Commercial Multiple Peril, Federal Flood, Fire, Allied Lines, Earthquake, Inland Marine, Ocean Marine, Medical Professional Liability, Products Liability, Other Liability, Workers’ Compensation, Excess Workers’ Compensation, Mortgage Guaranty, Financial Guaranty, Fidelity, Surety, Warranty, Burglary and Theft, Boiler and Machinery, Accident and Health, Title, or any equivalent or substitute insurance line.

“(2) A P&C Insurer shall, with respect to each property and casualty insurance line, each plan year, and for each state, submit to the Office a report including the total written premiums, total earned premiums, total investment returns, and total dollar expenditure on each of the following:

“(A) Losses.

“(B) Losses, less reinsurance reimbursements.

“(C) Loss adjustment expense.

“(D) Advertisements and marketing.

“(E) Agent commissions.

“(F) Taxes and license fees.

“(G) Reinsurance premiums paid by the P&C insurer.

“(H) Lobbying expenses and trade association fees.

“(I) Attorneys fees and other expenses associated with filing, defending, and challenging state rate cases.

“(J) Executive compensation.

“(K) Employee salaries.

“(L) Private jets.

“(M) Corporate parties and other entertainment expenses.

“(N) Investor relations expenses.

“(O) Investor dividends.

“(P) Stock buybacks.

“(Q) Other overhead expenses.

“(3) The Office shall make reports received under this subsection available to the public on the Internet website of the Department Treasury.

“(u) ENSURING THAT POLICYHOLDERS RECEIVE VALUE FOR PREMIUMS PAID.—

“(1) REQUIREMENT TO PROVIDE VALUE FOR PREMIUM PAYMENTS.—

“(A) 80-PERCENT LOSS-RATIO REQUIREMENT.—Beginning no later than [one year after the date of enactment of the Property Insurance Affordability Act], a United States insurer under paragraph (1) of subsection (t) shall, with respect to each property and casualty insurance line and with respect to each plan year and each state, provide an annual rebate to each policyholder under such coverage, on a pro rata basis, if the ratio of losses plus reinsurance premiums to total earned premium plus reinsurance reimbursements is less than 80 percent, or such higher percentage as a State may determine, except that the Director may adjust such percentage with respect to a State, type of P&C insurance, or public insurance plan if the Director determines by order that the application of such 80 percent loss-ratio requirement would create imminent risk of insolvency.

“(B) REBATE AMOUNT.—

“(i) CALCULATION OF AMOUNT.—The total amount of an annual rebate required under this paragraph shall be in an amount equal to the product of—

“(I) the amount by which the percentage described in subparagraph (A) is lower than the ratio described in such subparagraph; and

“(II) the total amount of premium revenue (including reimbursements by reinsurance) for such plan year.

“(ii) CALCULATION BASED ON AVERAGE RATIO.— Beginning on the date that is [four years after the date of enactment of the Property Insurance Affordability Act], the rebate determination shall be based on 3-year averages.

“(2) CONSIDERATION IN SETTING PERCENTAGES.—In determining the percentages under paragraph (1), a State or the Director shall seek to ensure value for consumers so that premiums are used to pay for claims to the greatest extent possible; cost efficiency so that as little premium revenue is spent on selling expenses, overhead, and other costs as possible; reasonable negative underwriting profit in recognition that insurers generate investment returns off policyholders’ capital; and solvency.

“(3) RESTRICTIONS ON UNNECESSARY COSTS.—P&C insurers are prohibited from using corporate funds to pay for any of the following:

“(A) Private airplanes or premium tickets on commercial flights.

“(B) Annual dividends to investors or parent company owners that put the P&C insurer’s long-term solvency at risk as determined by the appropriate State Insurance Regulator, but not to exceed 25 percent of the P&C insurer’s return on revenue for any given year.

“(C) Unreasonably high executive compensation as determined by the State Insurance Regulator in accordance with guidance from the Director.

“(D) Stock buybacks.

“(4) ENFORCEMENT.—

“(A) IN GENERAL.—Any P&C insurer that does not issue a sufficient and timely annual rebate pursuant to paragraph (1) is liable to its policyholders in an amount equal to the sum of—

“(i) the amount of the unpaid rebate;

“(ii) interest on the unpaid rebate amount, calculated using the rate of return that the P&C insurer earned on its investments in the applicable year;

“(iii) such punitive damages as the court may allow; and

“(iv) the costs of the action together with reasonable attorney’s fees as determined by the court.

“(B) CIVIL ACTIONS.—Policyholders may bring a civil action to enforce the liability in subparagraph (A), and seek injunctive relief, in any appropriate United States district court no later than 5 years after the date on which the violation that is the basis for such liability occurs. Such civil actions may not be compelled into arbitration pursuant to a pre-dispute arbitration clause, and may be brought as a class action in compliance with the Federal Rules of Civil Procedure and the appropriate rules of the applicable district court.

“(C) ADMINISTRATIVE ENFORCEMENT.—The Attorney General of the United States or the applicable State Insurance Regulator or state attorney general may bring a civil action to enforce subpart (t) and (u), including to recover remedies on behalf of their residents, in any appropriate United States district court no later than 10 years after the date on which the violation that is the basis for such liability occurs. The State Insurance Regulator may also order compliance and remediation using supervisory or licensing authority without judicial process.”

Appendix B – State Legislative Text

SEC 1. SHORT TITLE.

This act may be cited as the “Property Insurance Affordability Act.”

SEC 2. PURPOSE.

The legislature finds and declares that:

(1) Property and casualty insurance premiums are too high for both consumers and businesses in the state and contribute substantially to a broader affordability crisis. In particular, inflated homeowners and title insurance premiums raise the cost of homeownership. Inflated medical malpractice insurance premiums raise the cost of healthcare. Inflated liability insurance premiums raise the cost of litigation to businesses. Inflated auto insurance premiums raise the cost of owning a car. Inflated workers’ compensation insurance premiums raise the cost of labor and divert labor costs away from wages and benefits.

(2) The increase in property and casualty insurance premiums cannot be fully explained by increasing claims costs, given that profits are at record highs and loss ratios are lower now than they were in the past.

(3) Property and casualty insurers are overcharging customers by using premiums to pay for corporate perks, corporate jets, stock-buy backs, excessive executive compensation, excessive dividends, excessive advertising, and excessive agent commissions.

(4) A negative underwriting profit should be viewed as the reasonable cost of investment capital that insurers pay to earn market returns on policyholders’ capital.

(6) An 80% loss ratio is sufficient for insurers to cover reasonable operating costs and allow for sufficient returns.

SEC 3. COVERAGE.

The Property Insurance Affordability Act shall apply to all P&C Insurers licensed to issue one of the following types of property and casualty insurance: Private Passenger Auto Liability, Private Passenger Auto Physical, Commercial Auto Liability, Commercial Auto Physical, Aircraft, Homeowners Multiple Peril, Farmowners Multiple

Peril, Commercial Multiple Peril, Federal Flood, Fire, Allied Lines, Earthquake, Inland Marine, Ocean Marine, Medical Professional Liability, Products Liability, Other Liability, Workers' Compensation, Excess Workers' Compensation, Mortgage Guaranty, Financial Guaranty, Fidelity, Surety, Warranty, Burglary and Theft, Boiler and Machinery, Accident and Health, Title, or any equivalent or substitute insurance line.

SEC. 4 MINIMIZING THE COST OF PROPERTY AND CASUALTY INSURANCE.

(a) CLEAR ACCOUNTING FOR COSTS.—(1) A P&C Insurer shall, with respect to each property and casualty insurance line, and each plan year, submit to the Commissioner a report including the total written premiums, total earned premiums, total investment returns, and total dollar expenditure on each of the following:

- (A) Losses.
- (B) Losses, less reinsurance reimbursements.
- (C) Loss adjustment expense.
- (D) Advertisements and marketing.
- (E) Agent commissions.
- (F) Taxes and license fees.
- (G) Reinsurance premiums paid by the P&C Insurer.
- (H) Lobbying expenses and trade association fees.
- (I) Attorney's fees and other expenses associated with filing, defending, and challenging state rate cases.
- (J) Executive compensation.
- (K) Employee salaries.
- (L) Private jets.
- (M) Corporate parties and other entertainment expenses.
- (N) Investor relations expenses.
- (O) Investor dividends.
- (P) Stock buybacks.
- (Q) Other overhead expenses.

(2) The Commissioner shall make reports received under this subsection available to the public on the Internet website of the [Department of Insurance].

(b) ENSURING THAT POLICYHOLDERS RECEIVE VALUE FOR PREMIUMS PAID.—

(1) REQUIREMENT TO PROVIDE VALUE FOR PREMIUM PAYMENTS.—

(A) 80-PERCENT LOSS-RATIO REQUIREMENT.—Beginning no later than [one year after the date of enactment of the Property Insurance Affordability Act], a P&C Insurer shall, with respect to each property and casualty insurance line and with respect to each plan year, provide an

annual rebate to each policyholder under such coverage, on a pro rata basis, if the ratio of losses plus reinsurance premiums, to total earned premium plus reinsurance reimbursements, is less than 80 percent, or such lower percentage as the Commissioner may determine is necessary for a particular insurance line to avoid imminent risk of insolvency.

(B) REBATE AMOUNT.—

(i) CALCULATION OF AMOUNT.—The total amount of an annual rebate required under this paragraph shall be in an amount equal to the product of—

(I) the amount by which the percentage described in subparagraph (A) is lower than the ratio described in such subparagraph; and

(II) the total amount of premium revenue (including reimbursements by reinsurance) for such plan year.

(ii) CALCULATION BASED ON AVERAGE RATIO.— Beginning on the date that is [four years after the date of enactment of the Property Insurance Affordability Act], the rebate determination shall be based on 3-year averages.

(C) CONSIDERATION IN SETTING PERCENTAGES.—In determining the percentages under this paragraph, the Commissioner shall seek to ensure value for consumers so that premiums are used to pay for claims to the greatest extent possible; cost efficiency so that as little premium revenue is spent on selling expenses, overhead, and other costs as possible; reasonable negative underwriting profit in recognition that insurers generate investment returns off policyholders' capital; and solvency.

(2) UNDERWRITING PROFIT.—Beginning no later than [one year after the date of enactment of the Property Insurance Affordability Act], a P&C Insurer, with respect to each property and casualty insurance line and with respect to each plan year, shall provide an annual rebate of any underwriting profits, as applicable. The underwriting profit shall be allocated pro-rata among the P&C insurer's customers based on premiums paid.

(3) RESTRICTIONS ON UNNECESSARY COSTS.—P&C Insurers are prohibited from using corporate funds to pay for any of the following:

(A) Private airplanes or premium tickets on commercial flights.

(B) Annual dividends to investors or parent company owners that are not pre-approved by the Commissioner. The Commissioner shall not approve dividends that put the P&C Insurer's long-term insolvency at risk,

and shall not approve dividends exceeding 25 percent of the P&C Insurer's return on revenue for any given year.

(C) Unreasonably high executive compensation as determined by the Commissioner.

(D) Stock buybacks.

(E) Unreasonably high selling expenses as determined by the Commissioner, but not to exceed 10 percent of total earned premiums.

SEC 5. EXIT RESTRICTIONS ON PROPERTY AND CASUALTY INSURANCE.

(a) IN GENERAL.—P&C Insurers are prohibited from refusing to renew insurance coverage for particular policyholders unless through the appropriate procedure in this section, except in the case of non-payment of premiums or fraud. Nothing in this section prohibits increasing premiums to the extent permitted elsewhere in the Insurance Code and approved by the Commissioner.

(b) INFORMATIONAL FILING OF NONRENEWAL OR WITHDRAWAL.—A P&C Insurer may discontinue the writing or renewal of one or more individual lines of insurance specified in the certificate of authority in the state, only after the submission and approval of an informational filing submitted to the Commissioner, which filing shall be subject to the following provisions:

(1) the P&C Insurer shall send a notice to policyholders of the proposed withdrawal no later than 30 days following the submission of the informational filing to the Commissioner, which shall state that the P&C Insurer intends to withdraw and has filed its intention to withdraw with the Commissioner, the terms of the withdrawal, the date of the applicable public hearing, and the proposed date of nonrenewal of policies;

(2) nonrenewals shall not commence prior to 1 calendar year and 100 days following the submission of the informational filing;

(3) the company shall send a notice of nonrenewal to every policyholder

(A) no later than one calendar year preceding the date of nonrenewal; and

(B) a subsequent notice of nonrenewal ninety days preceding the date of nonrenewal.

(c) PUBLIC HEARING.—Upon receiving the informational filing provided for in subsection (b) of this section, the Commissioner shall,

(1) within 7 days publish the informational filing on the Department's website; and

(2) within 60 days hold a public hearing, at which the P&C Insurer and any members of the public may present testimony, to determine if the withdrawal is justifiably required to protect the solvency of the P&C Insurer and would not be contrary to the public interest by disrupting the market or markets for insurance.

(d) COMMISSIONER DETERMINATION.—Within 90 days of receiving the informational filing provided for in subsection (b) of this section, the Commissioner shall notify the P&C Insurer in writing whether the withdrawal plan has been approved, any conditions of approval, and any requested modifications. If the Commissioner concludes that the withdrawal is not justified to protect the solvency of the P&C Insurer or would be contrary to the public interest by disrupting the market or markets for insurance, the Commissioner shall prohibit the withdrawal unless the P&C insurer surrenders all certificates of authority for all types of insurance held by the P&C Insurer and other companies within the same holding company system as the P&C Insurer. In determining whether the withdrawal is necessary to protect the solvency of the P&C Insurer, the Commissioner must count assets held by both the P&C Insurer and the P&C Insurer's affiliates and parent companies.

(e) REPLACEMENT CARRIERS.—Notwithstanding the provisions of this section, if the P&C Insurer finds a replacement carrier for a policy the P&C Insurer wishes not to renew, the P&C Insurer may apply to the Commissioner for approval to transfer the business to a replacement carrier or carriers. The Commissioner shall not withhold approval of a replacement carrier or carriers if the P&C Insurer to which the contract is being transferred is licensed to engage in that line of insurance and has the financial and business capability to write and service the business being transferred to it. The Commissioner shall approve or disapprove the replacement carrier or carriers within sixty days of request.

(f) Notwithstanding the provisions of this section, the Commissioner may waive any requirements if the Commissioner deems the P&C insurer to be insolvent.

SEC 6. ENFORCEMENT.

(a) IN GENERAL.—Any P&C Insurer that violates the Property Insurance Affordability Act is liable to its policyholders in an amount equal to the sum of—

- (1) the amount of any unpaid or delayed rebate, plus interest in the amount of the rate of return that the P&C Insurer earned on its investments in the applicable year;
- (2) damages, remediation, restitution, or proceeds from unjust enrichment;

- (3) such punitive damages as the court may allow; and
- (4) the costs of the action together with reasonable attorney's fees as determined by the court.

(b) CIVIL ACTIONS.—Policyholders may bring a civil action to enforce the liability in subparagraph (A), and seek injunctive relief, in any appropriate court no later than 5 years after the date on which the violation that is the basis for such liability occurs. Such civil actions may not be compelled into arbitration pursuant to a pre-dispute arbitration clause and may be brought as a class action. Assets of the P&C Insurer's parent company or affiliates shall be available to satisfy any judgment.

(c) ADMINISTRATIVE ENFORCEMENT.—The Attorney General or the Commissioner may bring a civil action to enforce the Property Insurance Affordability Act, including to obtain an injunction, recover remedies available under subparagraph (a) on behalf of the state's residents, and impose civil penalties of \$1,000 to \$10,000 per policyholder. Administrative enforcement actions shall be brought no later than 10 years after the date on which the violation that is the basis for such liability occurs. Assets of the P&C Insurer's parent company or affiliates shall be available to satisfy any judgment. The Commissioner may also order compliance and remediation using supervisory or licensing authority without bringing a civil matter.