

<b>Act Number:</b>	09-217	
<b>Bill Number:</b>	6280	
<b>Senate Pages:</b>	6092, 6100-6102	<b>4</b>
<b>House Pages:</b>	8181-8185	<b>5</b>
<b>Committee:</b>	Insurance: 1471-1474, 1526-1531	<b>10</b>

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**CONNECTICUT  
GENERAL ASSEMBLY  
SENATE**

**PROCEEDINGS  
2009**

**VOL. 52  
PART 19  
5944 - 6203**

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SENATE

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page 17, Calendar 714, House bill 6280, move to place the item on the Consent Calendar.

THE CHAIR:

There's a motion on the floor to place Calendar number 714 on the Consent Calendar. Without objection, sir, so ordered.

SENATOR LOONEY:

Yes. Thank you, Mr. President. Continuing Calendar page 21, Calendar 735, House bill 6523, move to place the item on the Consent Calendar.

THE CHAIR:

There's a motion on the floor to place Calendar number 735 on the Consent Calendar. Senator Looney, I believe because it's single starred, you're going to have to suspend the rules first, sir.

SENATOR LOONEY:

Yes, Mr. President. Move for suspension, take out that item and place it on the Consent Calendar.

THE CHAIR:

There's a motion on the floor to take single starred Calendar number 735 to double star on the Calendar. Seeing no objection, please proceed, sir.

SENATOR LOONEY:

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Back on Calendar page 18, Calendar 719, House Bill 6676 is marked go and Calendar page 33, Calendar 354, Senate bill 499 is marked go.

Yes, Mr. President, thank you. At this point if the Clerk might call the items on the Consent Calendar.

THE CHAIR:

Mr. Clerk, please call the Consent Calendar.

THE CLERK:

Immediate Roll Call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber. Immediate Roll Call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber.

Mr. President, the items placed on the first Consent Calendar begin on Senate Agenda number one, Substitute for House bill 5211, Substitute for House bill 6672 and Senate bill 880.

From Senate Agenda number two, Substitute for House bill 6481 and Senate bill 1128.

Going to Senate Calendar, calendar page 229, Substitute for Senate bill 549. Calendar 229, substitute for Senate bill 547. Calendar page 7,

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Calendar 602, substitute for House bill 6584.

Calendar page 10, Calendar 639, House bill 6684.

Calendar page 12, Calendar 667, substitute for House

bill 6539. Calendar page 13, Calendar 678, substitute

for House bill 6306. Calendar 679, substitute for

House bill 6279 and Calendar 682, substitute for House

bill 6041. Calendar page 14, Calendar 692, House bill

6248. Calendar page 15, Calendar 700, substitute for

House bill 6693. Calendar 701, substitute for House

bill 6642. Calendar page 17, Calendar 714, substitute

for House bill 6280. Calendar page 21, Calendar 735,

House bill 6523. Calendar page 26, Calendar 337,

Senate bill 1047.

THE CHAIR:

Sir, I believe that was 377.

THE CLERK:

Yes, Mr. President, Calendar 377, Senate bill 1047. And Calendar page 33, Calendar 378, substitute for Senate bill 1048. Mr. President, that completes the items placed on the first Consent Calendar.

THE CHAIR:

Please call for Roll Call vote.

Please call for a Roll Call vote on Consent number

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one, the machine will be open.

THE CLERK:

The Senate is now voting by Roll Call on the Consent Calendar. Will all Senators please return to the Chamber? The Senate is now voting by Roll Call. Will all Senators please return to the Chamber.

THE CHAIR:

Have all Senators voted? If all Senators have voted, please check your vote, the machine will be locked, the Clerk will call the tally.

THE CLERK:

Motion is on adoption of Consent Calendar Number One.

Total number voting	36
Those voting Yea	36
Those voting Nay	0
Those absent and not voting	0

THE CHAIR:

Consent Calendar Number One passes.

Senator Looney.

SENATOR LOONEY:

Yes. Thank you, Mr. President, would move for immediate transmittal to the House of Representatives

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**CONNECTICUT  
GENERAL ASSEMBLY  
HOUSE**

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HOUSE OF REPRESENTATIVES

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May 29, 2009

THE CLERK:

House Bill Number 6252 as amended by House "A".

Total Number Voting 148

Necessary for Passage 75

Those voting Yea 148

Those voting Nay 0

Those absent and not voting 3

DEPUTY SPEAKER GODFREY:

The Bill as amended is passed.

The House will stand at ease.

(Chamber at ease.)

The House will come back to order. We will  
return to the Call of the Calendar.

Mr. Clerk, please call Calendar Number 213.

THE CLERK:

On Page 4, Calendar Number 213, House Bill Number  
6280 AN ACT EXTENDING THE SUNSET DATE FOR PERSONAL  
RISK INSURANCE RATE FILINGS. Favorable Report of the  
Committee on Insurance and Real Estate.

DEPUTY SPEAKER GODFREY:

The distinguished Vice-Chairman of the Insurance  
and Real Estate Committee, Representative Megna.

REP. MEGNA (97th):

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Thank you, Mr. Speaker. I move for acceptance of the Joint Committee's Favorable Report and passage of the Bill.

DEPUTY SPEAKER GODFREY:

The question is on acceptance and passage. Will you explain the Bill please, sir.

REP. MEGNA (97th):

Thank you, Mr. Speaker. Mr. Speaker, this Bill simply extends the sunset date for flex rating law for personal risk insurance from, to July 1, 2011.

Mr. Speaker, the flex rating is a Bill we passed a few years ago in this Chamber, which allows personal life insurance companies to submit rate increases or decreases up to six percent in the aggregate of their personal lines business without prior approval by the Department of Insurance.

Since the implementation, the Department has found it's been a successful tool to process business in the Department, and the studies have shown that the average increases over the years since we've instituted this program have only been a few percent, and that the personal lines insurance business here in the state is extremely competitive and given all that, we recommend passage of the Bill.

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DEPUTY SPEAKER GODFREY:

Thank you, sir. The distinguished Ranking Member of the Insurance and Real Estate Committee, Representative D'Amelio.

REP. D'AMELIO (71st):

Thank you, Mr. Speaker. I concur with my colleague on the Insurance Committee that flex rating has been working here in the State of Connecticut and it makes total sense to extend it out for the next two years.

So I urge adoption. Thank you.

DEPUTY SPEAKER GODFREY:

Thank you, sir. Completing the tricar, the distinguished Chairman of the Insurance and Real Estate Committee, Representative Fontana.

REP. FONTANA (87th):

Thank you, Mr. Speaker. I rise as well to support the Bill. The flex rating system has been working over the last several years and its extension will allow us to continue evaluating, whether it will continue to work for us into the future.

New York and Kansas have similar laws, so this is something other states are doing or moving toward. We do have a competitive auto insurance system, and this

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is a worthwhile Bill to support, and I ask for the Chamber's support. Thank you.

DEPUTY SPEAKER GODFREY:

The gentleman from Clinton, Representative O'Connor.

REP. O'CONNOR (35th):

Thank you, Mr. Speaker. I also rise in support of this Bill. I think what it's really done, as the previous speakers have noted, is provided a competitive marketplace, and has encouraged insurance carriers to keep rates low and has allowed other carriers to come into the marketplace where they might otherwise not have.

And in these economic times where every cost matters, this is an opportunity to keep our insurance rates low. I urge my colleagues to support it as well.

Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, sir. Are you ready for the question? If so, staff and guests come to the Well of the House. Members take your seats. The machine will be opened.

THE CLERK:

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The House of Representatives is voting by Roll

Call. Members to the Chamber.

The House is voting by Roll Call. Members to the Chamber.

DEPUTY SPEAKER GODFREY:

Have all the Members voted? Have all the Members voted? If so, the machine will be locked. The Clerk will take a tally.

And Mr. Clerk, if you'd please announce the tally.

THE CLERK:

House Bill Number 6280.

Total Number Voting	147
Necessary for Passage	74
Those voting Yea	147
Those voting Nay	0
Those absent and not voting	4

DEPUTY SPEAKER GODFREY:

The Bill is passed.

Mr. Clerk, Number 510.

THE CLERK:

On Page 13, Calendar Number 510, Substitute for  
House Bill Number 6025 AN ACT INCREASING THE PENALTY

**JOINT  
STANDING  
COMMITTEE  
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Questions for Tony? Seeing none, thank you, Tony.

TONY LAMBARDOZZI: Thank you.

REP. FONTANA: That concludes testimony on Senate Bill 896. We'll now move to House Bill 6280 and Bob Kehmna.

BOB KEHMNA: My apologies to the committee. My name is Bob Kehmna from the Insurance Association of Connecticut here to speak in support of House Bill 6280, an act extending the sunset date for personal risk filings.

In 2006, the General Assembly passed a bill that created what's known as flex rating and put a sunset on it that would terminate July of this year. This bill would extend the existence of that provision for another two years. We think that's a positive for consumers, a positive for the competitive auto marketplace.

This is an attempt to find a suitable middle ground between prior approval and simple file and use. It enables insurers to react effectively and quickly to changing market conditions and experiences further increasing competition in the marketplace while continuing the prior approval process for any proposed rate which exceeds the 6th percent cumulative rating ban. The NCOIL model is at 12 percent rather than 6. Kansas just passed a 12 percent figure. Louisiana has allotted their commissioner -- has found to be very effective. New York just readopted its flex rating system.

This experience in Connecticut has shown that the law does work; new insurers are coming in

to compete. Rates, as I mentioned earlier, have been flat. We would encourage the Committee to act favorably on House Bill 6280.

REP. FONTANA: Great, Bob, thank you.

Any questions for Bob? See none. Thank you, Bob.

Paul Magaril? Paul Tetrault.

PAUL TETRAULT: Good afternoon, Senator Crisco, Representative Fontana. My name is Paul Tetrault of Northeast State Affairs Manager of NAMIC, the National Association of Mutual Insurance Companies.

NAMIC strongly supports the enactment of rate modernization statutes and regulatory changes that allows insurers operating in a competitive market to adjust rates in response to changing market conditions. NAMIC supported the adoption of Connecticut's personal alliance fluctuating statute, in 2006, and believes in sunset provision should be extended or eliminated.

Flex rating laws promote competition among insurers because they provide confidence that an insurer can lower rates to attract more business but increase rates if necessary due to changing results in market conditions. They also allow for concentration of limited regulatory resources on important matters other than review of rate changes within the flex band range.

NAMIC supports rate modernization laws as a necessary element in creating a reformed system of state insurance regulation. Since passage of Connecticut's fluctuating statutes in 2006,

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COMMITTEE

rate modernization laws have been in enacted in Kansas, Georgia, and New York, marking significant progress on this critical issue.

While strongly supporting House Bill 6280, NAMIC would urge this committee to consider extending the sunset much further or eliminating it all together. Fluctuating statutes promote competition by providing insures with confidence regarding their ability to adjust rates in the future.

REP. FONTANA: Thank you, Paul.

Questions for Paul from members of the committee? Seeing none, thank you, Paul.

Paul Magaril, please.

PAUL MAGARIL: Thank you, again. Representative Fontana, Senator Crisco, members of the Committee. I'm Paul Magaril, regional manager from PCI, and we're here to support House Bill 6280 regarding flex rating.

We know from -- there hasn't been a tremendous amount of time to generate statistics, obvious, the law is relatively new but the statics that we do have shows the benefits of flex rating in the State of Connecticut. For example, although the loss costs increased 4.2 percent from 2007 through the first quarter in 2008, the rate has not increased commensurately. The data instead suggests that the price went down 2.4 percent during this time. On the other hand, we did not see that experience during the years before flex rating went into effect. The lower rate adjustment relative to the loss pattern, during that period, is due in part to the elimination of the additional underwriting risk inherent with a prior approval system.

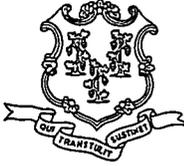
Since prior approval often creates a delay in the review process, companies are hesitant to lower rates for fear that they will not be able to increase them when needed later. We're also seeing that there is good participation in the market by the number of insurance companies competing with each other, which is very important. And we've seen, as a function of flex rating, the market concentration is at a very, very good level. The market is split amongst a large number of companies without any dominating. And, as was just mentioned, New York just passed a flex rating law. Thirty-eight states have either flex rating or a less restrictive system like file and use. And the clear trend is in that direction. And we urge the approval.

REP. FONTANA: Great. Thank you, Paul. Questions, for Paul? Seeing none, thank you.

That concludes House Bill 6280. We will now proceed to House Bill 6444, and, Bob Kehmna.

BOB KEHMNA: Thank you, Mr. Chairman, Senator Crisco, and Members of the Committee. Bob Kehmna, from the Insurance Association.

We're here today to oppose House Bill 6444. It would put restrictions on territory rating. This is an issue that's been before this committee numerous times and has failed, and we think with good reason. We price our products based on cost-based pricing. This bill would prevent that, in effect, by taking what is currently the 75/25 rule. In Connecticut, there's already a subsidization of high risk -- high-cost drivers by lower-cost drivers through that and make a 50/50 rule that would move Connecticut further away from cost-base pricing



STATE OF CONNECTICUT  
INSURANCE DEPARTMENT

6280

Testimony of the Connecticut Insurance Department

Before the  
Insurance and Real Estate Committee

February 17th, 2009

House Bill 6280—An Act Extending the Sunset Date for Personal Lines Risk Insurance  
Rate Filings to 2011.

The Connecticut Insurance Department supports the passage of House Bill 6280—An Act Extending the Sunset Date for Personal Lines Risk Insurance Rate Filings to 2011.

Since the establishment of the flex rating law the department has received 62 homeowner rate filings, 15 of which were filed using flex filing rules. 147 automobile rate filings were received during this same time period, 60 of which were filed under the flex rating provisions. The majority of the filings for both home and auto were for rate increases.

Since implementing the flex rating law in 2006, average statewide changes for homeowner and auto rates have been less than 2.5% and 1.0% respectively.

Connecticut's personal lines markets are very competitive. This is evidenced by the number of companies writing business in this state which today stands at well over 100 companies. ...

In addition, the automobile assigned risk market continues to decline. In 1988, there were 194,000 cars written in the plan (out of 1.3 million registered vehicle population) and today there are now less than 1,500 cars out of approximately 2 million registered vehicles.

The Connecticut Insurance Department supports House Bill 6280 and would be happy to provide additional information to the Committee as it considers extending the sunset date to 2011.

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**Statement**  
**Insurance Association of Connecticut**

Insurance and Real Estate Committee

February 17, 2009

HB 6280, An Act Extending The Sunset Date For  
Personal Risk Insurance Rate Filings

The Insurance Association of Connecticut supports HB 6280, An Act Extending The Sunset Date For Personal Risk Filings.

In 2006 the General Assembly approved legislation that established "flex rating" for personal lines insurance in Connecticut. As long as an insurer's filed overall state-wide rate increase of decrease does not exceed six percent in the aggregate in a year, the insurer does not need prior approval from the Insurance Commissioner to use the rate.

P.A. 06-104 sunsets the "flex-rating" provisions on July 1, 2009. HB 6280 would extend the sunset date for two years, to July 1, 2011, which would be a positive development for insurance consumers and the personal lines marketplace in Connecticut.

Competitive rating (filing and using rates without prior approval) allows insurers to adjust the price for their products quickly, up or down, as changing conditions and experiences warrant. This allows insurers to compete vigorously and to price their products aggressively. Illinois is a clear example of how competitive rating can foster a healthy insurance marketplace to the public benefit.

"Flex-rating" is an attempt to find a suitable middle ground between prior approval and simple file and use. It enables insurers to react effectively and quickly to

changing market conditions and experiences, further increasing competition in the marketplace, while continuing the prior approval process for any proposed rates changes which exceeds the cumulative rating band. Experience in other states, and in Connecticut since 2006, has shown that the typical filing under a flex-rating system is well within the rating band limit.

The National Conference of Insurance Legislators' Flex-Rating Model Act allows rate increases of up to twelve percent without prior approval. Last year Kansas adopted legislation using that twelve percent limit. One year after the adoption of a flex-rating law in Louisiana, the state's insurance commissioner stated that consumers have benefited from the flex rating system because "... insurers aren't as reluctant to reduce rates when business is good . . .," knowing they can file and use new rates if experience worsens. New York just recently readopted a flex-rating system.

From 2006 through 2008, overall rate changes in Connecticut for auto insurance were basically flat (2006: 0.5%; 2007: 0.6%; 2008: 1.5%). According to press reports, the number of auto insurance companies doing business in this state has grown substantially. The assigned risk pool has continued to shrink. In one recent month, the pool received a statewide total of 23 applications.

The competitive marketplace is working in Connecticut to the benefit of consumers, as more insurers are competing for business based on price, product and service. HB 6280, by continuing "flex-rating", will further encourage that competition while retaining the Insurance Department's prior approval authority over rate changes exceeding six percent.

IAC urges passage of HB 6280.



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6280

**Statement of Paul Tetrault, Northeast State Affairs Manager  
To the Insurance and Real Estate Committee  
February 17, 2009**

HB-6280, "An Act Extending the Sunset Date for Personal Risk Insurance Rate Filings"

I am pleased to offer the views of the National Association of Mutual Insurance Companies in support of HB-6280, "An Act Extending the Sunset Date for Personal Risk Insurance Rate Filings." Founded in 1895, NAMIC is the nation's largest property and casualty insurance trade association with over 1,400 member companies that underwrite more than 40 percent (\$178 billion) of the property/casualty insurance premium written in the United States.

NAMIC strongly supports the enactment of rate modernization statutes and regulatory changes that allow insurers operating in a competitive market to adjust rates in response to changing market. NAMIC supported the adoption of Connecticut's personal lines flex-rating statute in 2006 and believes its sunset provision should be extended or eliminated.

Flex-rating laws promote competition among insurers because they provide confidence that an insurer can lower rates to attract more business but increase rates if necessary due to changing results and market conditions. They also allow for concentration of limited regulatory resources on important matters other than review of rate changes within the flex band range.

NAMIC supports rate modernization laws as a necessary element in creating a reformed system of state insurance regulation. Since passage of Connecticut's flex-rating statute in 2006, rate modernization laws have been enacted in Kansas, Georgia and New York, marking significant progress on this critical issue.

While strongly supporting HB-6280, NAMIC would urge this Committee to consider extending the sunset much further or eliminating it altogether. Flex-rating statutes promote competition by providing insurers with confidence regarding their ability to adjust rates in the future. Consequently, a flex-rating statute will be more effective in providing the benefits of competition if its provisions provide insurers with a sense of stability regarding its continuation.

Thank you for the opportunity to present NAMIC's views on this important subject. I would be happy to answer any questions.

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Property Casualty Insurers  
Association of America  
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## STATEMENT

### PROPERTY CASUALTY INSURERS ASSOCIATION OF AMERICA (PCI)

#### H.B. 6280 – AN ACT EXTENDING THE SUNSET DATE FOR PERSONAL RISK INSURANCE RATE FILINGS

#### INSURANCE AND REAL ESTATE COMMITTEE

February 19, 2009

The Property Casualty Insurers Association of America (PCI) appreciates the opportunity to comment on H.B. 6280. Our comments are provided on behalf of the member companies of PCI, a national property casualty trade association with over 1,000 member companies. PCI member companies provide almost 50 percent of Connecticut's personal auto coverage.

PCI strongly supports H.B. 6280, which would extend the state's flex rating law affecting personal lines until July 1, 2011. The law went into effect on July 1, 2006 and is scheduled to sunset on July 1, 2009. Under the law, insurance companies in Connecticut are allowed to implement personal auto and homeowners' insurance rate changes within a  $\pm 6$  percent band without waiting for regulatory approval.

Because the flex-rating program is still relatively new in Connecticut, insufficient time has elapsed for recent comprehensive data to be compiled to examine its true effectiveness. However, the information that is available does suggest that the law is operating as intended, moderating premium costs and contributing to a vibrant, competitive market.

Under flex-rating, policyholders benefit from a market environment characterized by healthier competitive forces and flexibility, and which does not jeopardize consumer protections. This type of system allows insurers greater flexibility in responding to competitive market conditions and adjusting certain rates more quickly in accordance with the changing loss experience. Thus, flexible rate revisions under this mechanism are not as volatile as rates that require prior approval. Regulators can also free up some of their time for other important duties such as overseeing market conduct, monitoring potential insolvencies and providing consumer education.

#### **Premium Adjustments Benefit Consumers.**

Based on companies' experience, the trend in Connecticut's personal auto liability premiums relative to the trend in liability losses suggests that recent rate changes have been lower than changes in losses since flex-rating went into effect. For example, although the loss cost increased 4.2 percent from 2007 through the third quarter of 2008, the rate has not increased commensurately; the data instead suggest that the price went down 2.4 percent during this time. On the other hand, prior to flex-rating, rate adjustments were higher than loss cost trends. For example, the average liability premium rose 1.9 percent while losses fell 2.0 percent from 2003 to 2004. Premiums and losses decreased at about the same pace from 2004 to 2005 (2.6 percent and 2.9 percent, respectively).

The lower rate adjustment relative to the loss pattern from 2007 through September 2008 is due in part to the elimination of the additional underwriting risk inherent within a prior approval system. Since prior approval often creates a delay in the review process, companies are hesitant to lower rates for fear that they will not be able to increase them when needed later. The fact that the rate appears to have fallen during the latest period while the loss cost rose suggests that Connecticut drivers are benefiting from the flex-rating program.

### **The Connecticut Personal Auto Market Remains Competitively Strong**

The structure of an insurance market can be described in terms of (1) the number of insurers; and (2) the relative market power of leading insurers. If there are many sellers of insurance and if the market shares of the largest insurers are relatively small, a market is considered competitive since sellers are forced to set prices at the lowest possible level in order to attract and hold customers.

*Number of Insurers:* Insurers are constantly entering and leaving particular insurance markets so that the number of companies active at any given time is in flux. The greater the number of active competitors in a market, the stronger the presumption of sufficient competition. According to data compiled by the National Association of Insurance Commissioners (NAIC), there are 152 personal auto carriers operating in Connecticut. This figure is equivalent to the average number writing in other states in the nation, indicating that there is a wide variety of companies offering auto insurance in Connecticut.

*Market Power:* Theoretically, if one or a few firms control unreasonably large shares of the market, then prices and availability might be unduly influenced by the actions of the leading firms. In its guidelines for analyzing the economic impact of proposed mergers, the United States Department of Justice recommends that market power be measured using the Herfindahl-Hirschman (i.e., Herfindahl) index. This index is superior to evaluating market shares of only the top writers because it considers both the total number of sellers in the market and their relative sizes.

Markets with index values less than 1,000 are considered "unconcentrated;" markets with values between 1,000 and 1,800 are considered "moderately concentrated;" and markets exhibiting values greater than 1,800 are considered "highly concentrated." The closer a market is to being non-competitive, the higher the market's concentration. The computed Herfindahl index for the Connecticut personal auto line is 270, which is significantly lower than the 1,000 threshold. In other words, a very unconcentrated (i.e., competitive) auto insurance market is found to exist in this state.

### **Conclusion**

Congressional leaders calling for more modernized insurance regulation have cited "speed-to-market" and competition-based pricing as crucial elements in regulatory modernization. Thirty-seven states, including Connecticut, have enacted less restrictive regulatory systems with flex rating laws in 8 states and "file and use", "use and file" or "no-file" laws found in 29 states. Only 13 states operate under a prior approval law or use rates developed by the state. The national trend is clearly in the direction of more competitive systems. Within the last few years, Alaska, Connecticut, Louisiana, Nebraska, New Mexico, North Dakota, Oklahoma, Rhode Island, Texas, and Georgia have moved to less restrictive rating laws. And just last year, New York moved from a prior approval to a flex rating system. Flex-based rates make it possible for insurance companies to compete more vigorously and swiftly on price. Modernization of insurance rates is a key element to preserving state regulation of insurance, and Connecticut lawmakers can play a key role in ensuring that modernization continues to be in-place to benefit the insured drivers of the state.