

Trends and Developments In Legislative and Regulatory Activity

Analysis and insight into the insurance
industry's dynamic and ever-changing
regulatory environment

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Effective Monitoring is Vital to Regulatory Compliance Success

Insurance compliance and regulatory affairs professionals realize that staying on top of legislative and regulatory activity is not easy. And when we analyze insurance-relevant regulatory and legislative activity from recent years, we can clearly see that the magnitude of the challenge is increasing.

The Dynamic Nature of Insurance Regulatory Requirements

The universe of state and federal laws and regulations that pertain directly or indirectly to the United States insurance industry includes nearly 270,000 items: individual sections of law and regulation, plus other advisory documents such as bulletins, attorney general opinions, and the like.

When insurers can examine the activity in this body of requirements, they can better understand and quantify the demand on their organizations to monitor activity and manage the changes that take place each year. Such practices are vital to an effective regulatory compliance program.

First, it is useful to have a sense of the dynamic, always-changing nature of these requirements. Looking at the percentage of insurance-relevant state and federal records experiencing activity, data show that 6% of records were affected in 2007, with an upward trend expected to reach nearly 10% by the end of 2009.

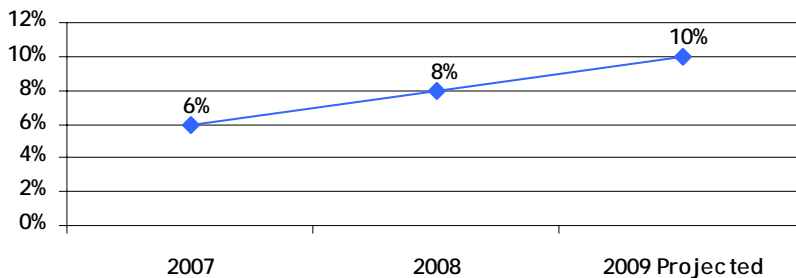


Chart 1. Annual Rate of Change in Insurance Regulations and Laws

These percentages reflect a staggering actual number of affected records. In 2009, it is estimated that more than 25,000 state and federal laws and regulations will change or be created. The chart below compares that estimate with actual data from prior years:

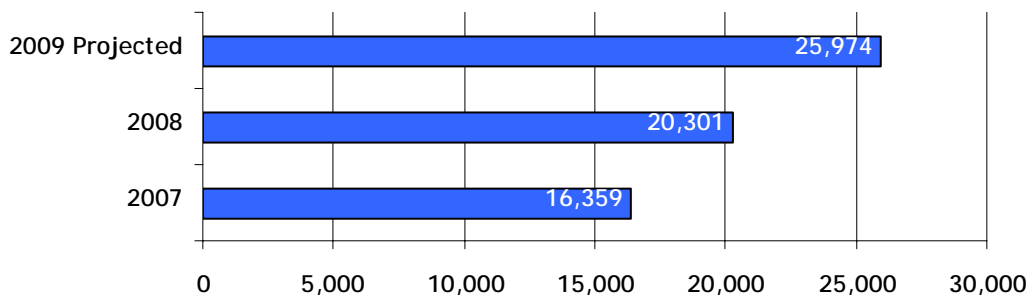


Chart 2. Records Created or Amended Annually

Noteworthy Developments for 2009

Clearly, 2009 is shaping up to be an especially active year for those who monitor and manage legislative and regulatory activity on both state and federal levels. Looking at introduced legislation on a year-to-date basis, some noteworthy data exists.

As of July 2009, more than 10,000 pieces of legislation with potential effects on the insurance industry had been introduced throughout the U.S. This level of activity is a 48% increase over the same period in 2007 and 71% more than that same period in 2008.

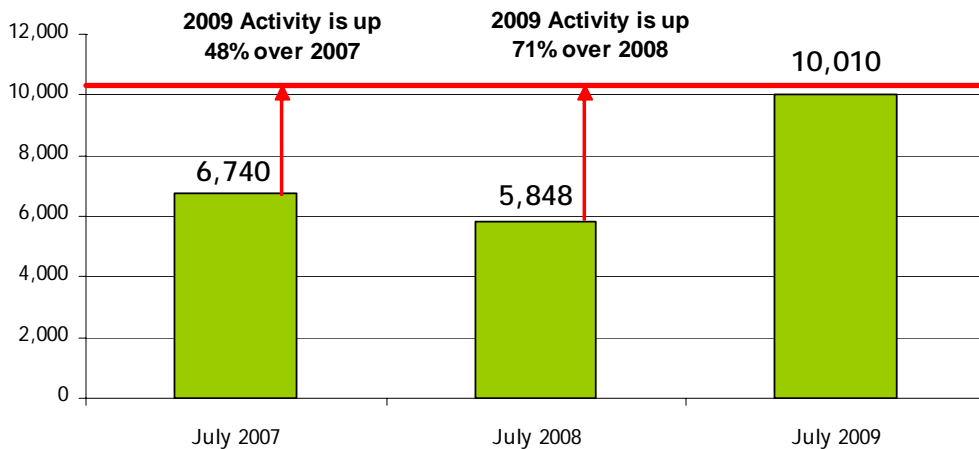


Chart 3. Introduced Bills Year to Date, as of July 1, 2009

Regulatory Activity Affects All Lines of Business

When we break down the regulatory citations that have been enacted so far in 2009 by line of business, we see that insurers of all types are facing significant activity that they must manage.

A great deal of activity (30%) affects all lines of business, while certain activity touches specific lines of business, as depicted below.

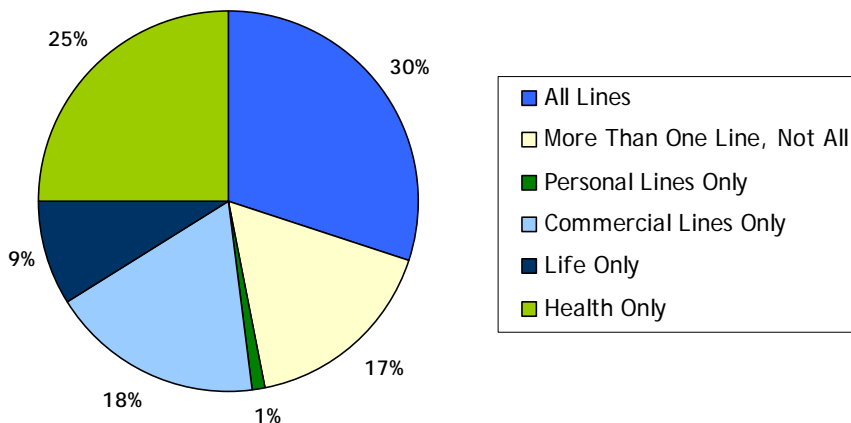


Chart 4. Applicability of Line of Business Regulatory Activity in 2009

A Closer Look at Specific Drivers of Activity in 2009

Certain jurisdictions and issues are contributing to this year's higher level of insurance-relevant regulatory and legislative activity.

Washington

Washington has seen a number of bills enacted this year addressing consumer protection insurance compliance issues. These bills represent an increase of 169 citations affecting the insurance industry. To cite two examples:

- Senate Bill 5195, The Life Settlements Model Act, adopts the provisions of the model and provides guidelines for the execution of life settlement contracts.
- Regarding annuities, Senate Bill 5671 provides additional regulatory requirements for insurers and producers when recommending and executing a purchase or exchange of an annuity in the state of Washington.

Additionally, recent healthcare-related legislation in Washington includes mandated benefits bills concerning telemedicine benefits and wellness programs.

Minnesota

While Minnesota had an increase in legislative activity slightly half that of Washington (83 insurance-relevant citations), similar consumer protection issues were at the forefront of its legislative activity. For example, Minnesota enacted Senate Bill 166, a "STOLI" bill, and House Bill 1719, which provided additional regulatory requirements for viatical settlements.

New Mexico

New Mexico has experienced a substantial increase in legislative activity so far this year. Insurance-related bills total 21 to date, up from only six in all of 2008. Affected citations have skyrocketed to 167 this year to date, an increase from just six in 2008. This significant increase in affected citations stems largely from the adoption of the new Uniform Securities Act statutory sections. Health-related legislation that provides mandated benefits for autism spectrum disorder and coverage of clinical cancer trials was also approved. Additionally, the product filing legislation of Senate Bill 15 enacted the Interstate Insurance Product Regulation Compact.

Mandated Benefits

A number of states have enacted bills that mandate specific medical benefits in various types of health plans. Autism spectrum disorder benefits, which other states have adopted in prior years, have been addressed and enacted in five states thus far this year: Colorado, Connecticut, Montana, New Mexico, and Texas.

Another benefit with significant action this year is prosthetic coverage. Thus far in 2009, Alabama, Arkansas, Iowa, Maryland, Missouri, Oregon, Texas, and Virginia have enacted bills requiring certain health benefit plans to provide coverage for prosthetics.

Cancellation and Nonrenewal Requirements

This year's significant amount of legislation has given personal and commercial lines insurers new cancellation and nonrenewal process changes to implement and account for. Maryland is especially noteworthy in this respect. For example:

- House Bill 165 prohibits an insurer from canceling a policy of personal, homeowner, commercial, or motor vehicle liability insurance mid-term except for the specific reasons provided in the revised statute.
- House Bill 648 stipulates that if commercial and workers' compensation insurance policyholders are transferred between admitted insurers within the same insurance holding company system, the insurer providing the new policy must provide notice of the transfer to the policyholders.
- Senate Bill 85 requires certain notices of insurance cancellation or nonrenewal to now be sent to the named insured at the last known address within specified timeframes.

Connecticut's Senate Bill 212 is another example of a bill affecting the cancellation processes for automobile insurers. It prohibits any insurance company that renews, amends, or endorses a private passenger motor vehicle liability insurance policy from levying any fee or other charge exceeding one hundred dollars in the aggregate to an insured who cancels a policy prior to the expiration of that policy.

Claims Issues

Claims issues are significantly affecting automobile insurers:

- Maine's Senate Bill 362 requires an insurer to disclose the liability coverage limits of its insured to a claimant or the claimant's attorney. Among the bill's enforcement provisions is the stipulation that an insurer who fails to comply be subject to a penalty plus reasonable attorney's fees and expenses incurred in obtaining the liability coverage limits.
- In its House Bill 1307, Mississippi added requirements that account for lien holders in automobile total loss claims.
- Oregon took significant steps in clarifying its process for total loss claims through the enactment of House Bill 2190. This bill requires insurers to provide additional information to consumers filing an automobile total loss claim.

Challenges of 2009 and Beyond

The regulatory environment in 2009 is dynamic and ever-changing with an increasing base of requirements and changes that insurance professionals must constantly monitor. Compliance in this environment demands current and accurate information. While the actual number of insurance-related bills and regulations that impact a company vary by the lines of business it writes and the states in which it operates, significant resources are typically required to stay on top of this activity and effectively manage the data and ultimate implementation of required changes.

Observers can see that while the specific reasons for change vary from year to year, the overall activity levels carry a common meaning for insurance researchers and government affairs professionals - the demands of the dynamic regulatory environment are not subsiding.

