January 30, 2006

Senator Nancy B. Sullivan, Senate Chair
Representative Anne Perry, House Chair
Members of the Joint Standing Committee on Insurance and Financial Services
100 State House Station
Augusta ME 04333-0100

RE: Annual Report of the Superintendent on the Availability of Property & Casualty Insurance

Dear Senator Sullivan, Representative Perry and Members of the Committee:

I am reporting, pursuant to 24-A M.R.S.A. § 2325-A(5), to the Committee whether there is, or may be within the year, a lack of availability in any line of insurance.

During 2005, the insurance market for most lines of Property & Casualty insurance continued to be restrictive for some types of risks. Rate increases moderated from the prior year and some rate decreases were filed.

The cost of reinsurance[1], a driving factor in recent years, has stabilized, but reinsurers have maintained more restrictive underwriting criteria. Primary insurers continue to assume a greater portion of the risk than in the past, which leads to increased premium levels commensurate with that risk. In November 2002, the Terrorism Risk Insurance Act of 2002 was signed into law, requiring insurers to offer terrorism coverage for property and casualty coverages. The Act established a temporary federal program under which the federal government will share in certain losses resulting from acts of terrorism. The Act has now been extended for an additional two years through December 31, 2007 with the enactment of the Terrorism Risk Insurance Extension Act of 2005. Many commercial insureds have rejected the coverage, but it continues to be a major issue nationally for insurers.

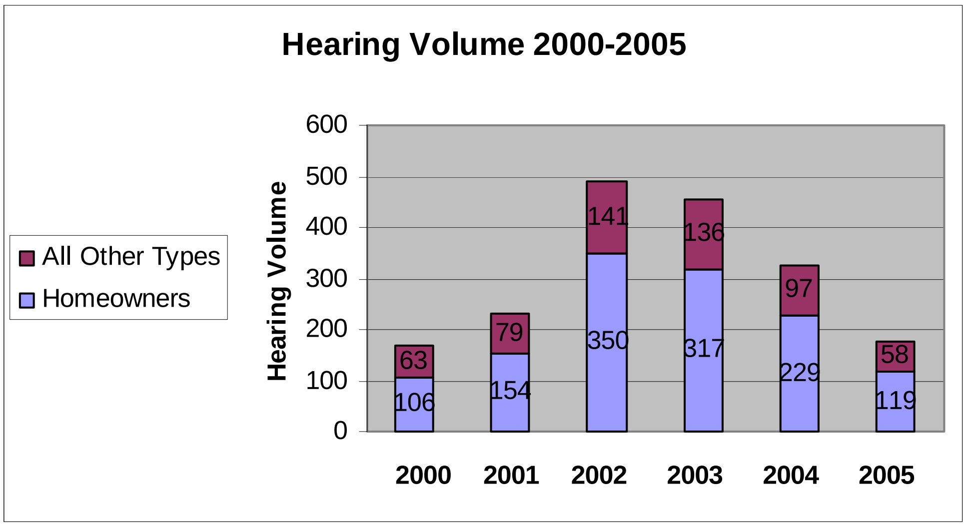
Although insurance is generally available, some applicants have experienced difficulty in finding coverage in certain property and liability lines. This report focuses on those lines that are presenting more significant availability problems in Maine.

Homeowners

The homeowners insurance market has changed in recent years, both locally and nationally, and is expected to remain difficult for some homeowners in the coming year. Rate increases were less in 2005 than in 2004. In 2002, 2003 and 2004, many insurers pursued improved profitability

[1] Reinsurance is used by an insurer to insure a portion of the risk it has assumed from policyholders. The use of reinsurance allows an insurer to improve its risk profiles and contributes to the insurer’s solvency by dispersing risk concentration.

by increasing rates, canceling and nonrenewing policies and becoming more selective in acceptance of new business. With respect to the cancellation or nonrenewal of such policies, Maine law provides the right to a hearing before the Superintendent of Insurance to appeal the insurer's action. Hearing requests in 2002 were more than double the amount in 2001. The number for 2003 decreased slightly, by 8%, from 2002. In 2004, the reduction was more pronounced, with 27% fewer hearings were scheduled than in 2003. The level for 2005 is commensurate with that in 2000, with the number of hearings decreasing by 46% from the prior year. The majority of the hearings each year (approximately 70%) involved the homeowners line. In 2003, 20% of the homeowners hearings were for cancellation actions as opposed to nonrenewals. In 2004, cancellations only increased to 22% and in 2005 to 29%.



Insurers have also addressed claim costs by removing or narrowing coverage and by increasing the policyholder deductibles. Some insurers have increased the base deductible of the policy from a flat amount such as $500 or $1,000 per loss to a percentage of the amount of insurance[2] on the home for all losses, or a percentage deductible for certain named perils, such as windstorm or water damage. More insurers have adopted rating plans for personal lines using credit scoring, which increased costs for insureds with poor credit history and decreased costs for those with a good history.

With respect to availability of coverage to new applicants, coverage remained difficult to obtain for the following types of risks in 2005:

- Coastal and island property;
- Homes in areas with less efficient fire protection services;
- Insureds with prior claims;
- Older homes or properties that are not well-maintained;
- Insureds with trampolines, unfenced swimming pools, home daycare facilities or other businesses on premises, dogs with a history of prior bites or aggressive tendencies, or certain breeds of dogs;

[2] For example, a 1% deductible on a $175,000 policy would result in a deductible of $1,750 for any loss.

- Homes that are vacant or unoccupied; and
- Homes that have been uninsured for a period of time.

The surplus lines market has provided coverage for most of these exposures.

Amendments were made to the Maine Property Insurance Cancellation Control Act in the last session, adding several additional grounds permitting mid-term cancellation of a policy, but also adding sections limiting an insurer's ability to deny coverage to an applicant. Although insurers have been slow to incorporate the new cancellation reasons into their policy contracts to allow them to utilize the additional grounds for cancellation of policies, they have been using those grounds since their enactment on July 30, 2004, to establish grounds for nonrenewal. The increase in cancellations due to the additional reasons has been slower than anticipated.

Enacted in the 2003 session, 24-A M.R.S.A. § 2325-B allows the superintendent to establish a mandatory market assistance program (MAP) for property and casualty lines if the voluntary market assistance program is insufficient. In order to determine the need for a voluntary or mandatory MAP, the superintendent established on the Bureau's website a Homeowners Insurance Company Contact List. The list identifies those insurers writing residential property insurance in Maine that indicated their willingness to consider writing one or more of the risks identified. When the program was established in May 2004, participating insurers were asked to track all applications received via the contact list and submit monthly reports to the Bureau.

In August 2004, the superintendent revised the program after meeting with insurers and noting only a few such applications received. Subsequently, the monthly reporting requirement was discontinued and a survey form was added to the website. The website now asks consumers utilizing the list to complete the survey form and submit it electronically to the Bureau.

<u>Medical Liability (Medical Malpractice)</u>

Medical malpractice insurance remains problematic, especially for nursing homes and retirement/assisted living facilities. In 2001, the market for this line contracted due to the withdrawal of a major insurer, and another medical liability insurer was placed in rehabilitation. Other admitted insurers reduced their writings, and the restrictions have continued. There have been no new entries into this market, and many facilities must use the surplus lines market for this coverage, at higher premiums and on less favorable terms.

<u>Surplus Lines Market</u>

Insurance in Maine may be written by admitted or non-admitted insurers. Admitted insurers are licensed by the Bureau of Insurance to write specific lines of business such as life, health, homeowners, liability, or worker's compensation. These insurers are fully regulated by the Bureau, and are backed by the Maine Insurance Guaranty Fund to protect policyholders in the event of insolvency. Non-admitted insurers, which make up the surplus lines market, carry no such protection. Such insurers are approved by the Bureau, if solvency requirements are met, to write any insurance not specifically prohibited by law from being written by a surplus lines insurer, such as life or health insurance. Non-admitted insurers write business that is generally not available through authorized (admitted) insurers. In addition, policy forms and rates for non-admitted insurers are not subject to filing or approval requirements by the Bureau of Insurance and policyholders do not have the benefit of guaranty fund protection if a surplus lines insurer becomes insolvent.

Worker's Compensation

Worker's Compensation insurance has generated legislative interest for years, but it no longer has an availability problem. The market remains somewhat competitive. Although Maine Employers Mutual Insurance Company (MEMIC) increased its market share to over 65% in 2004, there are still many other insurers offering the coverage. Self-insurance also remains a viable alternative for many Maine employers.

The most recent NCCI Advisory Loss Cost filing requested a 1.8% increase. After careful review, the superintendent approved a 1.2% increase effective January 1, 2006, but the advisory loss costs are more than 35% lower than in 1993, when the last major reform occurred. Insurers are being more conservative in their selection of new business and renewals, and are less willing to offer underwriting discounts. Some employers have been moved to higher rating tiers.

Other Lines

For other lines of insurance, there are no general areas lacking availability. However, the more restrictive underwriting practices of insurers may cause individual risks to seek alternative insurers for better price or coverage. Pricing issues have been noted for such specialty exposures as kayak rentals and tanning salons; coverage is available but is costly.

In summary, the market conditions have improved somewhat for purchasers of insurance and the standard products are readily available. Where coverage is not readily available in the admitted market, many insureds have been able to obtain coverage in the surplus lines market, although at a higher cost and with generally less favorable terms. In other lines, while premiums have increased, the coverage is available in general.

Sincerely,

Alessandro A. Iuppa
Superintendent
Maine Bureau of Insurance