

BIG I | MISSISSIPPI

INDEPENDENT INSURANCE AGENTS OF MISSISSIPPI

VOLUME 44 • NUMBER 3 • FALL 2024

2024 MISSISSIPPI
PROPERTY-CASUALTY
**MARKETPLACE
SUMMARY**



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BIG I | MISSISSIPPI

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FROM THE COMMISSIONER

by Mike Chaney
INSURANCE
COMMISSIONER

You may have seen in National and State news that I am calling for the office of Insurance Commissioner to be changed from elected to appointed. I believe that this is the right move for our state and the insurance consumers who rely on our office for assistance. It would also put us in line with the majority of other states where forty-four (44) appoint their commissioner versus only twelve (12) who elect. I first broached the issue in 2007 when I first ran for the office, but it wasn't the right time. Now, I believe, the legislature is more receptive to the idea. The electoral process, while being the best system of placing people into the executive and legislative offices, can be insufficient for placing people in specialized offices, such as insurance commissioner. An insurance commissioner must be able to understand the insurance market in a state to best serve the people of the state and must be able to call balls and strikes and be able to walk the line between consumers and companies. Politics should be kept out of this job and it should not be a stepping-stone for another position. I hope the legislature will consider making this change during the 2025 session.

My office often receives questions about insurance rate increases and how to save money on insurance. The Mississippi Insurance Department (MID) has created a webpage, "Understanding Premiums and Rates in Mississippi," on our site to answer frequently asked questions. It's the first tab under "Consumers" at www.mid.ms.gov.

MID is issuing news releases periodically that address how to lower home and auto premiums, how to select an agent and more. I encourage consumers to shop around, increase their deductible, bundle policies, look for discounts, and make improvements to their homes. In that vein, I hope homeowners will prepare now for changing seasons and weather. Encourage your clients to check their roofs for broken or missing shingles, look for damaged wood and sealants around windows and doors, and clean gutters.

September was National Preparedness Month and we are still in the midst of hurricane season. Preparing now makes rebuilding easier. Consumers should create a home inventory so that it's easier to file a claim in the event of a disaster. A free tool to do this is the NAIC Home Inventory App. It can be downloaded from the App Store and Google Play.

The Strengthen Mississippi Homes (SMH) Program, approved

this session by the Mississippi Legislature, will begin a testing phase in fall 2024. The testing phase aims to mitigate approximately thirty (30) homes to the Insurance Institute for Business and Home Safety (IBHS) FORTIFIED standard beginning October 1, 2024. My office hopes to identify potential issues during the testing phase to streamline the grant process and better serve applicants. If successful, MID anticipates a full rollout of the program during the first quarter of 2025.

The SMH Program is a part of the Mississippi Comprehensive Hurricane Damage Mitigation Program and currently serves homeowners in the lower six counties. It is established to issue financial grants to encourage single-family, site-built, owner-occupied, residential property owners to retrofit their properties to make them less vulnerable to hurricane damage. Once the program is fully operational in 2025, more information and applications will be available on the Strengthen Mississippi Homes webpage at www.smh.mid.ms.gov.

I'm proud to announce that MID has received more than \$600,000 in funding through the U.S. Department of Health and Human Services (HHS). HHS, through the Centers for Medicare & Medicaid Services (CMS), has launched an innovative grant program to provide almost \$9 million to 14 states to improve women's health coverage and access to critical health benefits. These funds may be used to develop activities and launch educational campaigns to address disparities in access to reproductive health care and maternal health outcomes.

Many Mississippi women face challenges when trying to access information about available benefits or coverage. Improving access to women's health care will save lives in our state. My office will work with experts to examine the availability of women's health benefits, items, and services, including for preventive care, pregnancy, and childbirth, which most health insurance plans must cover under the ACA.

With cold weather on the way, check and replace smoke alarms, carbon monoxide detectors, and fire extinguishers as needed. At last check, there have been 58 fire deaths statewide so far this year. Sadly, in at least 27 of those fires there were no working smoke alarms. Take this time to talk with your clients about fire safety as well as cooking and decorating safely as we enter the holiday season. It could save a life.

If I can help you in any way, please call my office at 601-359-3581. All the best!



CHAIRMAN'S MESSAGE

by Seldon Van Cleve

With fall and winter fast approaching, we have had a busy and successful year since I took office as your chairman at the convention in June. Speaking of the convention, kudos to

Tournament and moved it to the fabulous golf course at Old Waverly. While Dancing Rabbit has served us well, we decided to try a new venue that can accommodate our post-event function on-site. The event was a huge success with 17 teams and 68 total golfers playing that day. This event raises money for our state PAC and allows us to support candidates throughout the state.

Our next large function will be the Agency Management Conference at the Country Club of Jackson on February 19-20. This is a great opportunity to earn needed CE hours and reconnect with other agents and company representatives. In other association news, we were pleased to welcome a new E&O representative, Mike Radcliffe, to assist our growing needs in that very important program. If you are not getting your E&O coverage from this association-backed program, I strongly encourage you to look into it by contacting him at 703-706-5447 or msteameo@msagent.org.

I am honored and humbled to serve as your current chairman. I welcome any suggestions or ideas you may have that will improve our association and make it even stronger.

our staff for another wonderful event that was well attended by agents and company representatives. Also, congratulations again to Senator Dean Kirby on receiving the JH Johnson Award. He was unable to attend the convention this year to receive this honor, but it was presented to him at the board dinner in November. We were also pleased to have our past JH Johnson winners attend this event.

Our staff continues to stay busy with new and fresh ideas for all of our events. Most recently, we had another successful Young Agent Skeet Shoot at Providence Hill Farms. This event continues to grow, and I had numerous people tell me this is one of their favorite outings of the year. We decided to try something different this year for our IIAM-PAC Golf

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**KESLEY
SIMS**
Young Agent Chairman

QUESTIONS

HOW DID YOU GET INTO THE INSURANCE INDUSTRY?

Well, unlike most, I actually did dream about insurance (at least once I hit college!). I did the RMI route at Mississippi State University and dove straight into the deep end. I loved how much the industry impacts our everyday lives, and it's like solving a new puzzle every day. Now I'm here, making sure my clients are protected and trying to show the world that insurance can be... fun (well, sort of)!

WHAT LED YOU TO GET INVOLVED IN YOUNG AGENTS?

Honestly, I got involved because I wanted to connect with others who "speak insurance" and understand the unique blend of excitement and challenges we face as young agents. Plus, who doesn't love a good excuse to network, swap stories, and learn from each other? Young Agents is such a great way to build relationships, give back to the industry, and have a little fun along the way!

WHAT ADVICE WOULD YOU GIVE TO YOUNG AGENTS TO HELP THEM GET MORE INVOLVED IN THE ASSOCIATION? AND WHY?

Jump in! Don't wait for the "perfect" moment to get involved. The relationships you build and the knowledge you gain from being involved in the association are invaluable. Plus, it's way more fun when you're not just sitting on the sidelines. The sooner you dive in, the sooner you'll see the benefits for your career and personal growth. You won't regret it!





WHAT DO YOU FIND MOST REWARDING ABOUT YOUR JOB?

The most rewarding part of my job is knowing that I'm helping people protect what they've worked so hard to build. No matter the risk, it's a great feeling to be the one who helps them navigate the world of insurance so they can focus on what really matters to them.

WHO/WHAT HAS BEEN THE GREATEST RESOURCE TO YOU?

The greatest resource for me has definitely been the network of mentors and colleagues I've built along the way. I've been SUPER lucky to work with some incredibly knowledgeable people who are always willing to share their insights and advice. Whether it's tackling a tough exposure or learning something new, having that community to lean on has made all the difference. It's a constant reminder that we're all in this together, and there's always someone willing to help.

WHAT DO YOU SEE AS THE MOST COMPELLING TREND WITHIN THE INDUSTRY RIGHT NOW?

One of the most compelling trends in the industry right now is the rapid growth of technology and data analytics. From AI to predictive modeling, technology is changing the way we assess risks and serve clients. It's exciting to see how these tools are making the process more efficient and personalized. But what's really compelling is how we, as agents, can use this tech to offer even better advice and service—without losing the human touch that makes this industry so personal.



LIGHTNING ROUND

WHAT IS ONE UNIQUE THING PEOPLE WOULD BE SURPRISED TO KNOW ABOUT YOU?

People might be surprised to know that I've spent time on 5 of the 7 continents! Whether it's exploring new cultures or trying out local cuisines, I love the adventure of traveling and experiencing the world. Just two more continents to go—Antarctica, I'm looking at you!

IF YOU HAD TO CHOOSE ONE FOOD TO EAT FOR THE REST OF YOUR LIFE, WHAT WOULD YOU CHOOSE?

Ice Cream

WHAT'S THE LAST THING YOU BINGE-WATCHED ON NETFLIX?

The Perfect Couple (shoutout to Abbey for the recommendation!)

WHAT'S THE BEST VACATION YOU'VE EVER TAKEN?

The best vacation I've ever taken was a two-week adventure in South America, where we visited Peru, Ecuador, and the Galapagos Islands. We got to see some good friends tie the knot in Ecuador and couldn't resist stacking on an incredible trip! From exploring ancient ruins in Peru to hanging out with giant tortoises in the Galapagos and enjoying Ecuador with the most hospitable locals (best cooks ever!), it was the perfect mix of celebration and adventure.

DO YOU HAVE ANY HIDDEN TALENTS?

I don't know if this counts as a talent, but I definitely sang backup (from my seat) at the Taylor Swift Eras Tour—and let me tell you, I didn't miss a single word!

2024 -2025 YOUNG AGENT COMMITTEE



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YOUNG AGENTS Skeet Shoot

On the fall morning of September 25, agents and company representatives gathered at Providence Hill Farms for a day of skeet shooting. Sponsored by the young agents, the skeet shoot is an annual event that has been held each fall for five years now and everyone was thrilled to be back on the prestigious course at Providence Hills.

Thanks to Builders Mutual for providing breakfast for all participants. This year's event saw 15 enthusiastic teams take to the field, showcasing their skills and aiming for victory. Among the standout performers were Ben Boren, Casey Fernandez, and Peyton Case, who emerged as the top shooters of the day, earning well-deserved prizes courtesy of Jencap.

It was a day of great fun and relaxation, with participants and volunteers alike having a great time. The event ended with a fantastic lunch for everyone in attendance graciously provided by Imperial PFS. We would like to extend our sincere gratitude to all sponsors, volunteers, and participants who made the event a great success. The day was a perfect reminder of the importance of community, camaraderie, and the joys of outdoor activities.







YOUNG AGENTS

conference 2024



The Independent Insurance Agents of Mississippi and the Independent Insurance Agents and Brokers of Louisiana joined forces to host their highly anticipated annual Young Agents Conference from August 22 to 24 at the Royal Sonesta in New Orleans. This year's gathering was a tremendous success and a great combination of education and networking among the next generation of insurance professionals.

The conference kicked off on Thursday with the Agents Alley Bowling tournament. This event set a competitive yet enjoyable tone for the days ahead, as participants embraced the opportunity to connect in a relaxed atmosphere. The fun continued into Friday when branding expert Ernie Harker took center stage during the morning session. He delivered an engaging presentation on building a successful brand that attracts high-paying clients, providing invaluable insights that attendees could apply to their careers.

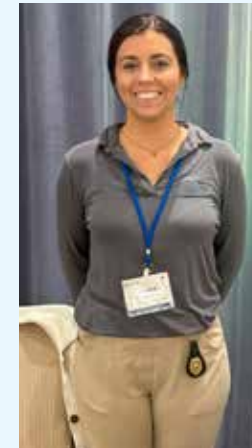


After lunch, the conference shifted gears with a general session featuring our friends at New Level Partners. This year, the event introduced an exciting twist: breakout sessions allowing attendees to choose seminars tailored to their interests and needs. The day concluded with an opening reception, where participants mingled over food and cocktails, forming professional connections that would benefit them long after the conference.

Saturday's events began with a brunch, which energized attendees for the day ahead. The day's highlight was a mock trial, creatively cast with our young agents and featuring Swiss Re's Annette Ardler. The afternoon was filled with networking opportunities by the pool, where agents shared ideas in a relaxed atmosphere. The conference concluded with a cocktail reception, a great way to end the weekend filled with learning, laughter, and lasting memories.



The Young Agents Conference offers aspiring insurance professionals insights from industry leaders, networking opportunities, and enjoyable experiences in New Orleans. IIAM and IIABL thank all attendees and supporters for this year's success and look forward to next year's conference to empower young agents in their insurance careers.



2024 Mississippi MARKETPLACE SUMMARY

The Mississippi insurance marketplace, with \$7.5 billion in property and casualty (P&C) premiums, represents nearly 1% of the \$953 billion United States P&C market in 2023. Though Mississippi ranks 36th in total premiums, insurance plays a vital role in the state, with per capita premiums ranking 24th nationally.

For Independent Insurance Agents, access to detailed, state-specific industry data is essential in navigating the competitive P&C insurance landscape. Independent Agents face competition from insurers using Exclusive-Captive agents and Direct marketing strategies. Understanding how Independent Agents stand in this "Distribution Style" comparison is important.

The Independent Insurance Agents of Mississippi is committed to supporting your success as an Independent Agent by providing valuable resources like the 2024 Mississippi Annual P&C Marketplace Summary. This report not only offers insights into your state's insurance market but also allows you to assess your competitive position.

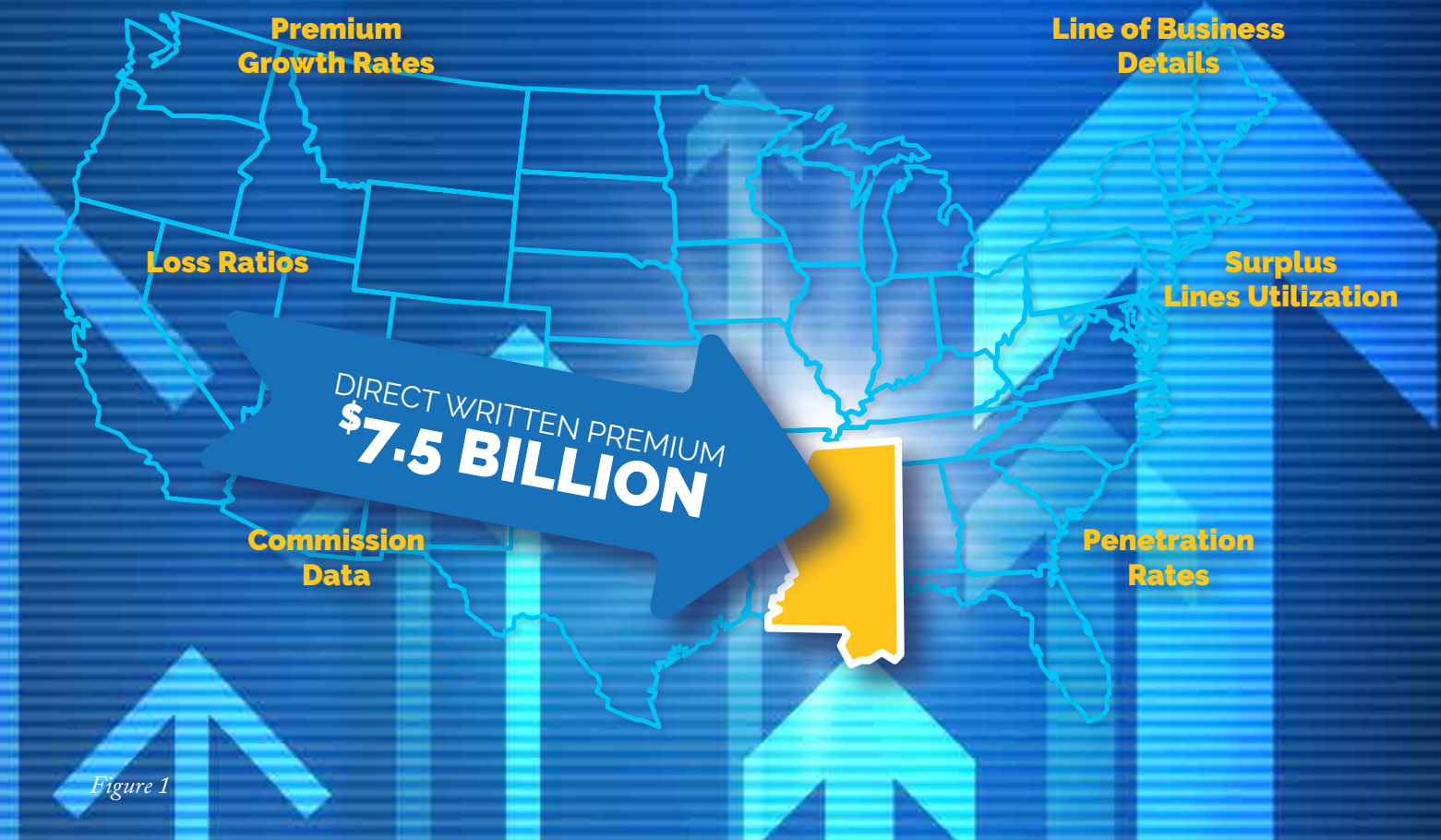


Figure 1

Stay tuned to member communications for details on how to access the full report, which covers various "Lines of Business" from Aircraft to Workers' Compensation. Below are some key highlights from the 2024 Mississippi Annual P&C Marketplace Summary, with select comparisons to the United States market:

- **PREMIUMS:** Mississippi P&C premiums have grown slightly slower than the United States average for the past five years, and slightly slower than the national averages from 2022 to 2023. Fast-growing Lines in Mississippi—such as Allied Perils, Farm Owners, Private Crop, Private Flood and Products Liability—have outpaced their national counterparts.

- **LOSSES:** While Mississippi loss ratios have closely mirrored national averages on average for past 5 years, Mississippi has experienced more variability with 2 of the last 5 years resulting in underwriting losses (Combined Ratios exceeding 100%). Particularly high loss rates in 2023 were seen with Allied Perils Only, Farm Owners, Homeowners, and Private Crop.
- **DISTRIBUTION:** It is good to be an Independent Agent. Premiums placed through Independent Agents have grown, with insurers using Independent Agents seeing premium penetration going from 52% to 57% in the past 5 years.

- **SURPLUS LINES:** Both Mississippi and the United States have seen growth in non-admitted or "Surplus Lines" insurance, which is less regulated. While this growth presents opportunities for Independent Agents, it also increases the risk of errors and omissions.
- **COMMISSIONS:** Overall commissions in Mississippi have remained relatively stable over the last five years. Commissions, however, when looked at in specific circumstances can reveal threats, trends, and nuances that agents should be aware of and which can be investigated.

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MISSISSIPPI P-C PREMIUMS

P&C Premiums: Mississippi vs. United States

Figure 2, Mississippi: Direct Written P&C Premiums, illustrates the total direct written premiums for all P&C Lines of Business across the state. For comparison, Figure 3, United States: Direct Written P&C Premiums, presents the national data. While Mississippi's overall P&C premium growth has followed a trajectory similar to the United States, Mississippi did experience a slightly slower growth rate than the national average.

MISSISSIPPI DIRECT WRITTEN P-C PREMIUM

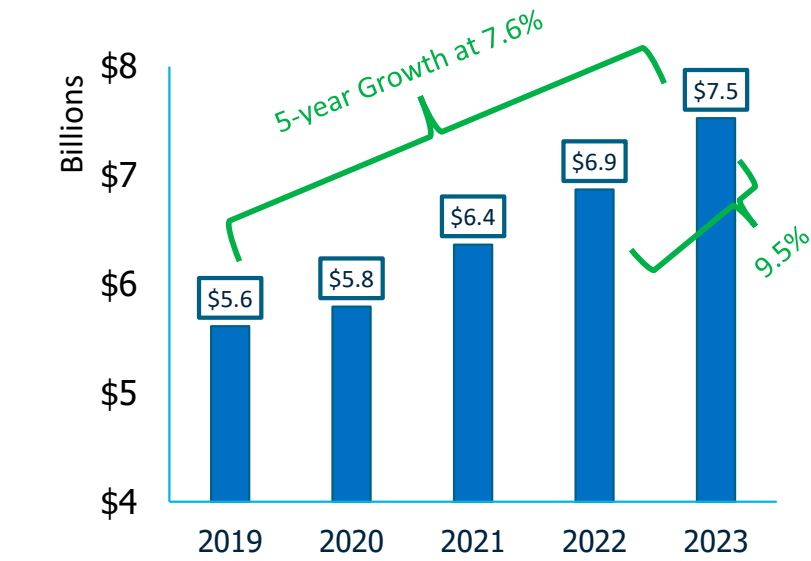


Figure 2

U.S. DIRECT WRITTEN P-C PREMIUM

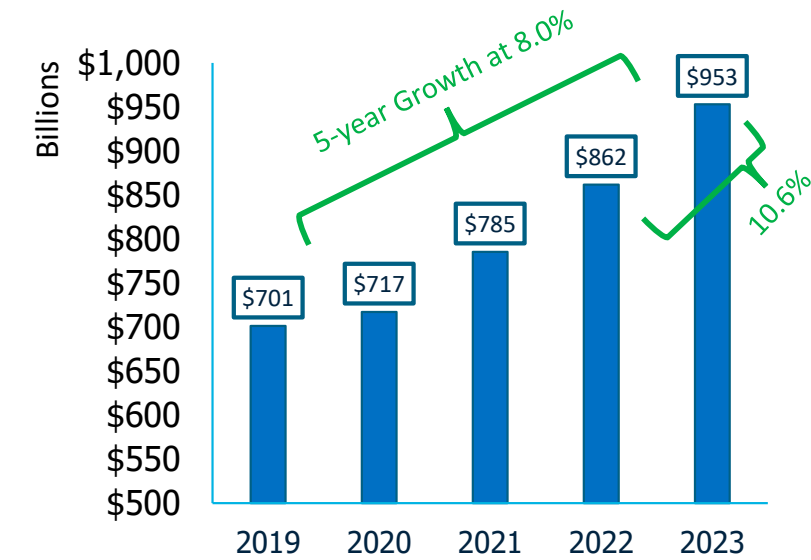


Figure 3

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P&C PREMIUMS: LINES OF BUSINESS GROWTH

Figure 4, 2023 – Mississippi: Total Premium For All Lines of Business, shows premiums for all 32 Lines of Business reported on by insurers, with the 26 Lines of Business that Independent Agents work with the most highlighted by an asterisk (*). By far the largest Line of Business in Mississippi is Private Passenger Auto (\$2.5 billion), followed by Homeowners Multi-Peril (\$1.5 billion).

MISSISSIPPI: TOTAL PREMIUM FOR ALL LINES OF BUSINESS

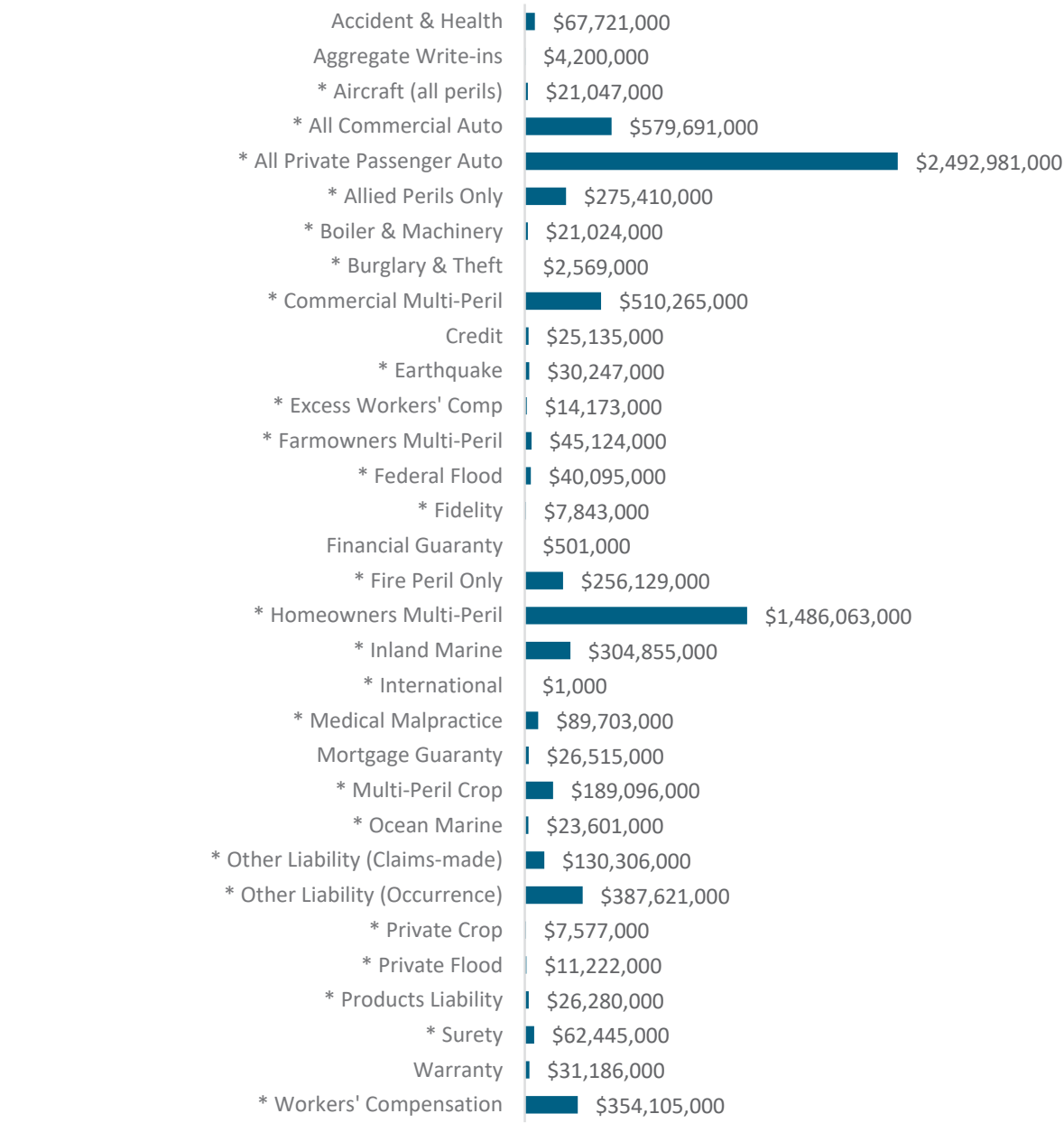


Figure 4

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MISSISSIPPI P-C PREMIUMS (CONTINUED)

P&C PREMIUMS: LINES OF BUSINESS GROWTH

Figure 5, 2023 – Mississippi vs. United States: Premium Change, illustrates the growth rates of the Lines of Business most commonly handled by Independent Agents, listed in alphabetical order. Between 2022 and 2023, several Mississippi Lines of Business outpaced their national counterparts in premium growth. However, as noted in Figure 4, 2023 – Mississippi: Total Premium for All Lines of Business, some of these fast-growing lines, like Private Crop and Private Flood, represent relatively modest premium totals. Of particular note, the two largest premium categories—Private Passenger Auto and Homeowners—experienced slower growth in Mississippi compared to the national average.

2023 MISSISSIPPI VS. UNITED STATES: PREMIUM CHANGE

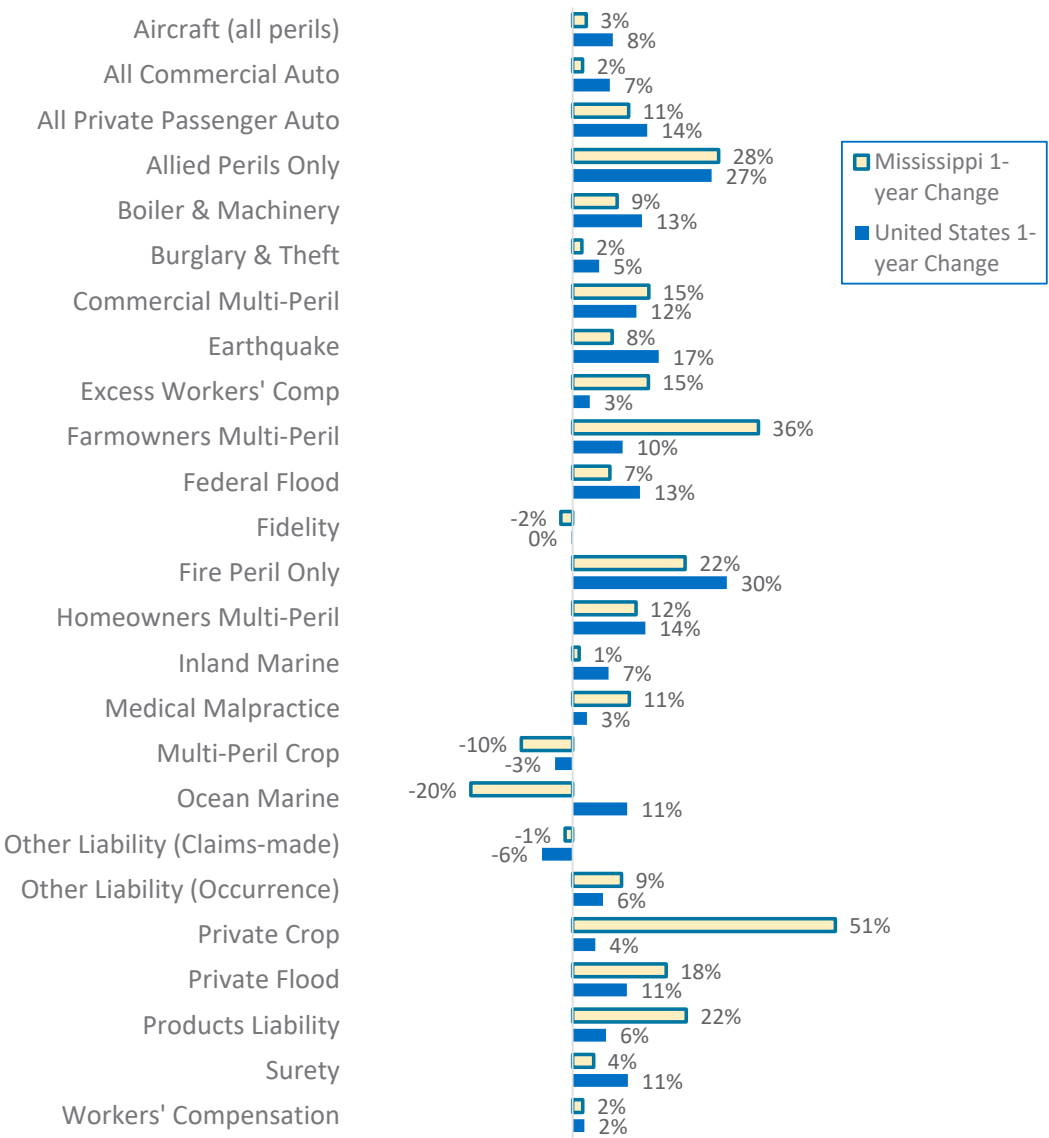


Figure 5
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P&C PREMIUMS: INDEPENDENT AGENTS PENETRATION RATES

Figure 6, 2023 – Mississippi Independent Agent Distribution, and Figure 7, 2023 – United States: Independent Agent Distribution shows the proportional importance of the top 10 Lines of Business to Independent Agents. Independent Agents in both Mississippi and the United States have Private Passenger Auto and Homeowners Multi-Peril as their top two premium Lines of Business. And notably, these two Lines of Business are nearly identical in importance in Mississippi and the United States (that is, Mississippi Independent Agent Private Passenger Auto and Homeowners premiums are 32% of all premiums, just like the United States overall).

2023 - MISSISSIPPI: INDEPENDENT AGENT DISTRIBUTION (\$4,301,415,000)

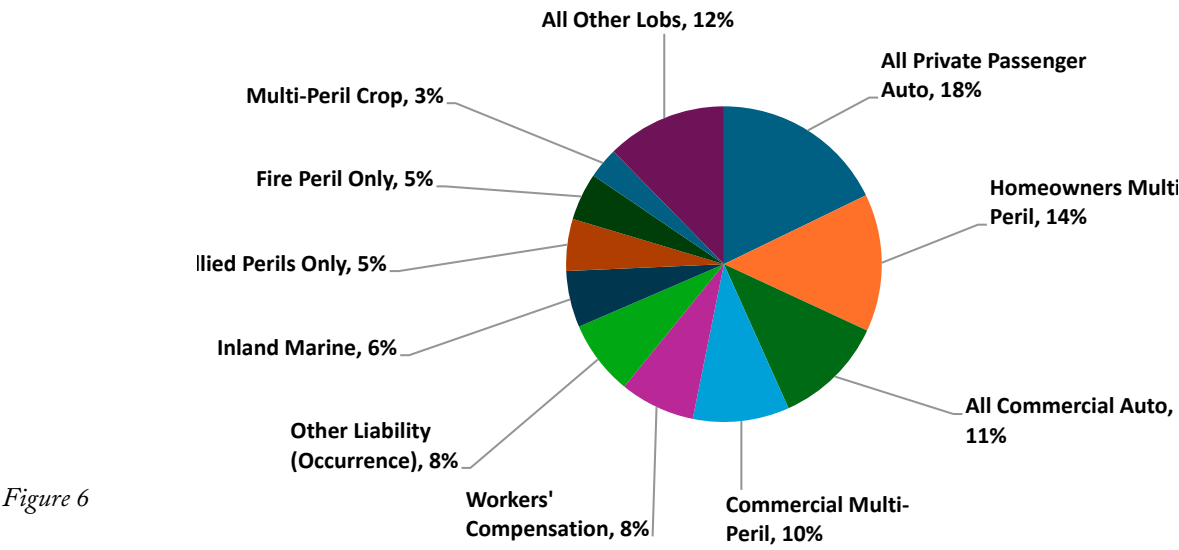


Figure 6

2023 - UNITED STATES: INDEPENDENT AGENT DISTRIBUTION (\$590,837,109,000)

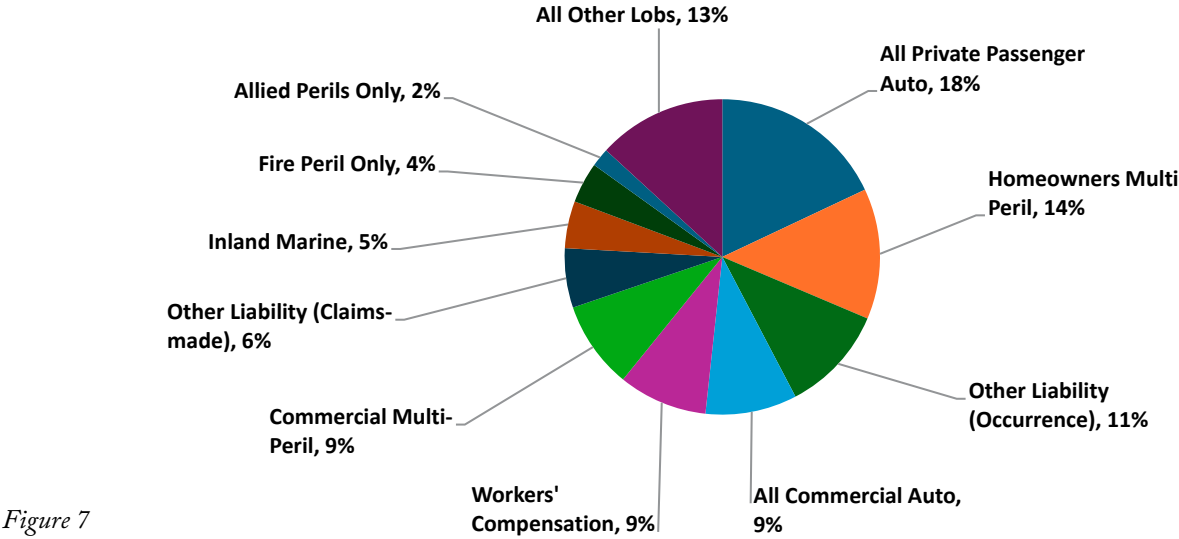


Figure 7

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MISSISSIPPI LOSS RATIOS

LOSS RATIOS: MISSISSIPPI VS. UNITED STATES

Figure 8, Mississippi All P&C Lines Loss and Combined Ratio, shows an increase in losses in 2023 from 2022 to 71%. That is a full 10 percentage points higher than last year and 5 percentage points higher than the United States as illustrated in Figure 9, United States: All P&C Lines Loss and Combined Ratio. While Mississippi's loss ratio exceeds the United States in 2 of the last 5 years, other favorable loss years made up for that and the Mississippi 5-year average loss ratio is very close to the United States average.

MISSISSIPPI: ALL P&C LINES LOSS AND COMBINED RATIO

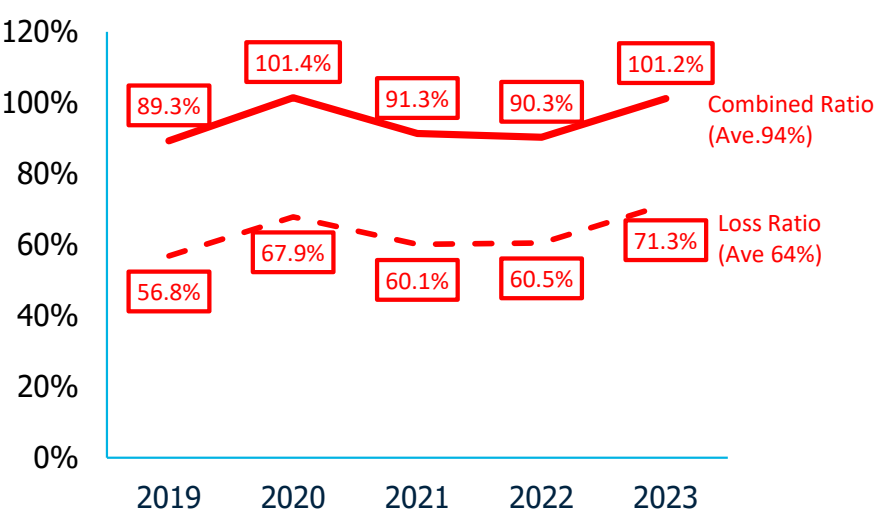


Figure 8

UNITED STATES: ALL P&C LINES LOSS AND COMBINED RATIO

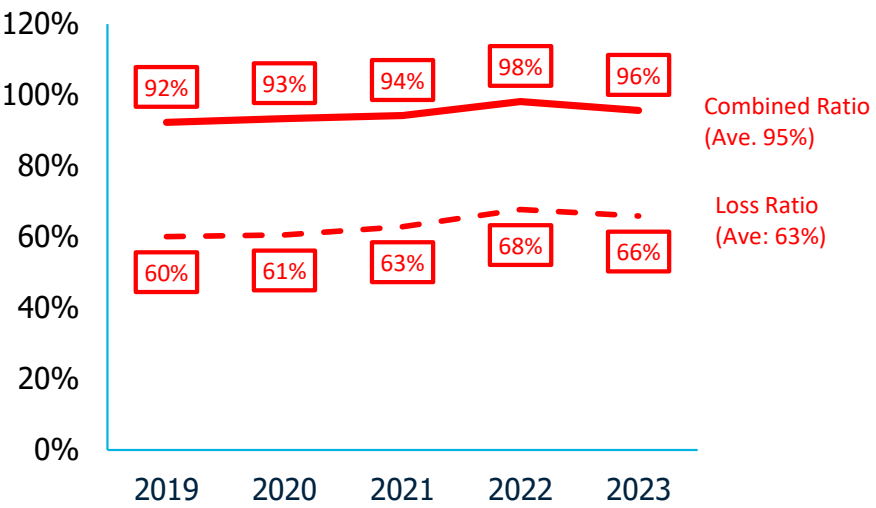


Figure 9

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LOSS RATIOS: LINES OF BUSINESS AND MISSISSIPPI VS. UNITED STATES

Figure 10, 2022 Mississippi vs. United States: Loss Ratios, compares the loss ratios across key Lines of Business between Mississippi and the national average. The figure highlights 26 Lines of Business where Independent Agents are most active. In 2023, several property-focused lines, such as Fire Peril Only, Allied Perils Only, Homeowners, Farmowners, and Commercial Multi-Peril, saw loss ratios above the national averages. On a brighter note, Mississippi outperformed the United States average in its largest premium volume category: Private Passenger Auto, with lower-than-average loss ratios.

2023 - MISSISSIPPI VS. UNITED STATES: LOSS RATIOS

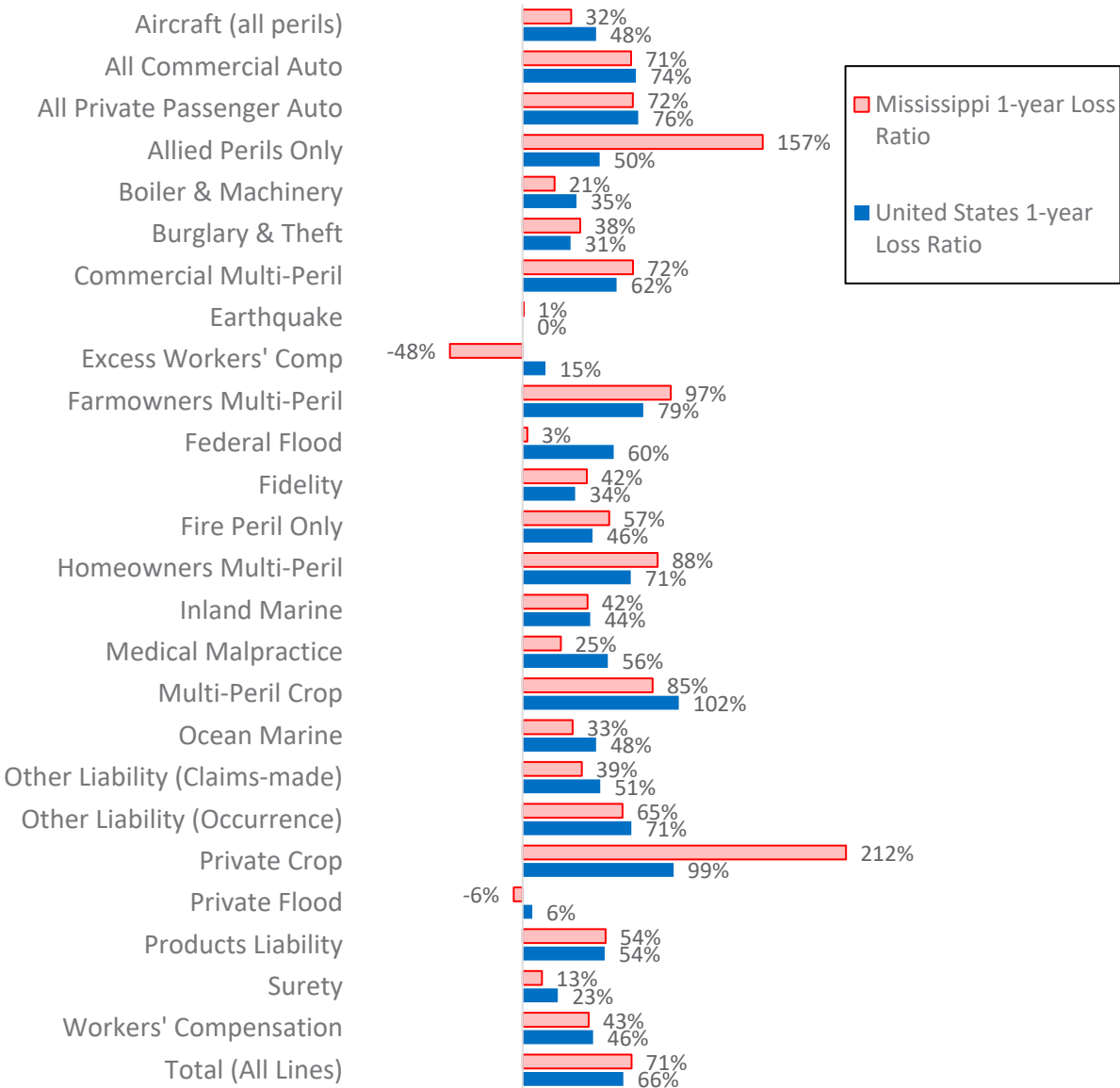


Figure 10

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MISSISSIPPI PENETRATION RATES

PENETRATION BY TOP LINES OF BUSINESS

Figure 11, Mississippi Penetration: Top Independent Agent Lines of Business, shows Mississippi’s Independent Agent penetration rates for the largest premium Lines of Business as well as the average for all the 26 Independent Agent Focused Lines (“IA-Focused Lines”). It is a good time to be an Independent Agent in the United States and Mississippi is no exception. This is evidenced by the increase in the portion of premiums through Independent Agents growing from 52% to 57% from 2019 to 2023 and that is emphasized by the growth in the second largest premium Line of Business: Homeowners Multi-Peril. Your 2024 Mississippi P&C Marketplace Summary contains more data on Distribution Style penetrations, including Independent Agents, Exclusive-Captive and Direct.

2023 - MISSISSIPPI: PENETRATION TOP INDEPENDENT AGENT LINES OF BUSINESS

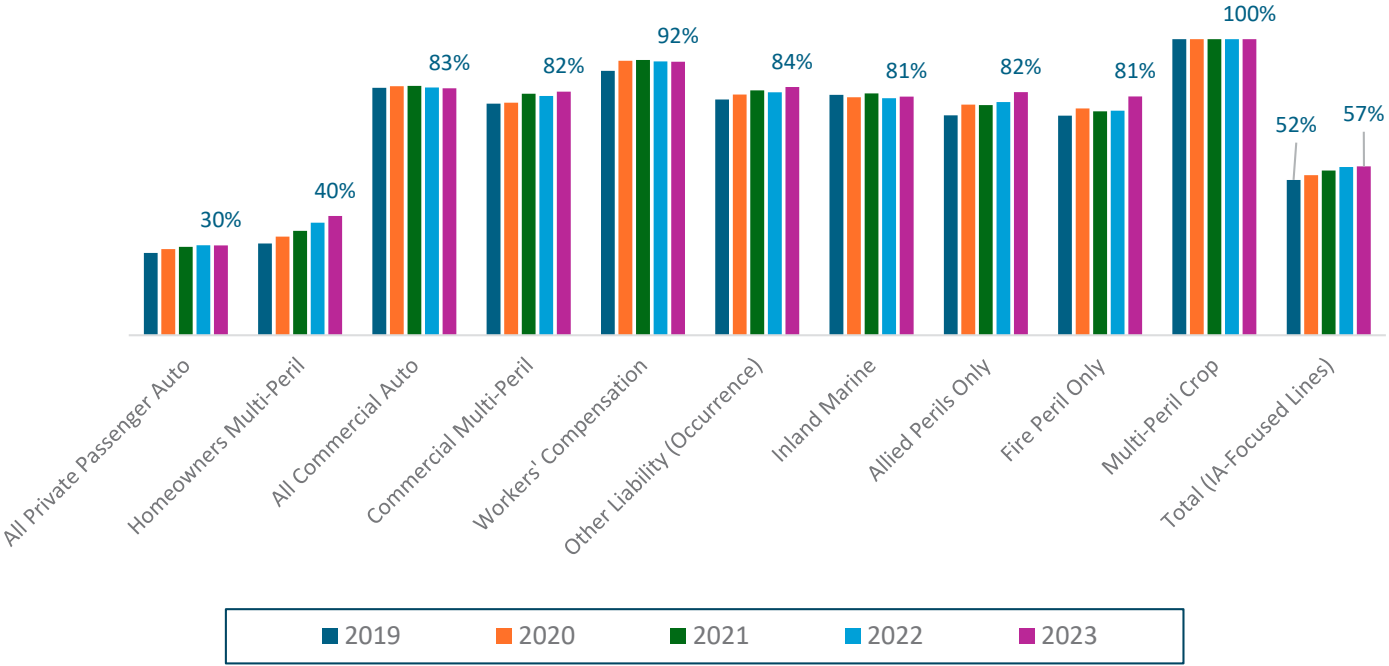


Figure 11

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MISSISSIPPI SURPLUS LINES

MISSISSIPPI: SURPLUS LINES LINES OF BUSINESS

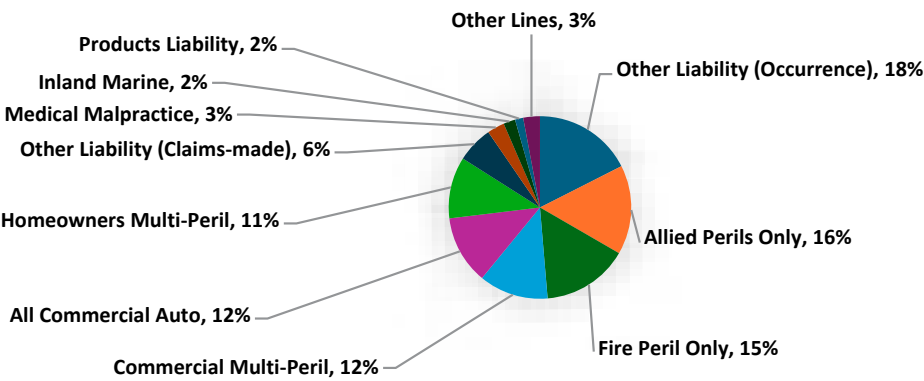


Figure 12

MISSISSIPPI AND UNITED STATES SURPLUS LINES PENETRATION

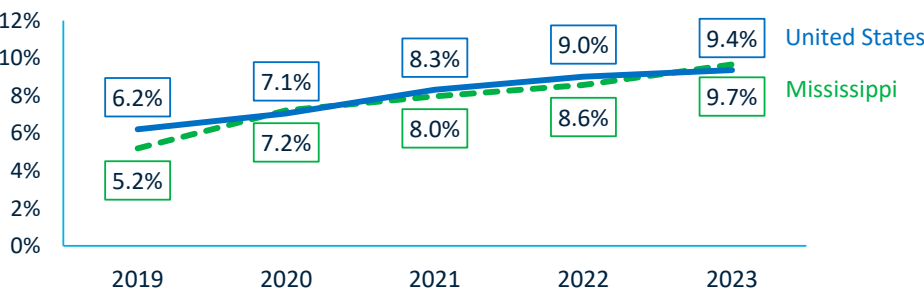


Figure 13

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Figure 12, 2023 – Mississippi: Surplus Lines–Lines of Business, highlights the Lines of Business with the highest premiums placed in Surplus Lines, including Other Liability (Occurrence), Allied Perils Only, and the closely related Fire Perils Only. Figure 13, Mississippi: Surplus Lines–Premium Trend, shows that Surplus Lines premiums have grown to represent 9.7% of all P&C premiums in the state. While the use of Surplus Lines is on the rise in Mississippi, it is worth noting that the proportion of Surplus Lines premiums in Mississippi is roughly in line with national figures.

Independent Agents should pay close attention to any growth in Surplus Lines for two reasons. First, an increase in Surplus Lines tends to benefit Independent Agents, as these complex placements typically require expert guidance in selecting insurers—a role where Independent Agents excel. Second, because Surplus Lines are less regulated and more complex, they also bring a higher risk of errors and omissions (E&O). Agents should be mindful of this risk and ensure agency staff use thorough documentation of client decisions due to the variability in coverage forms used by Surplus Lines insurers.

MISSISSIPPI COMMISSION RATES

CONCLUSION

Figure 14, Mississippi Commission Rates, presents the average commissions reported in the 2024 Mississippi Annual P&C Marketplace Summary. These figures are derived from the Lines of Business Detail Pages within the Mississippi Summary. The data reveals that commission rates have remained relatively stable. Often average commissions can show variability as contingent commissions are reported with straight commissions in these figures. Perhaps the most important takeaway from the data is that such detailed information is available and can be utilized by independent agents in assessing their commissions and/or an offer from a new insurer entering a marketplace.

MISSISSIPPI P&C COMMISSION RATES

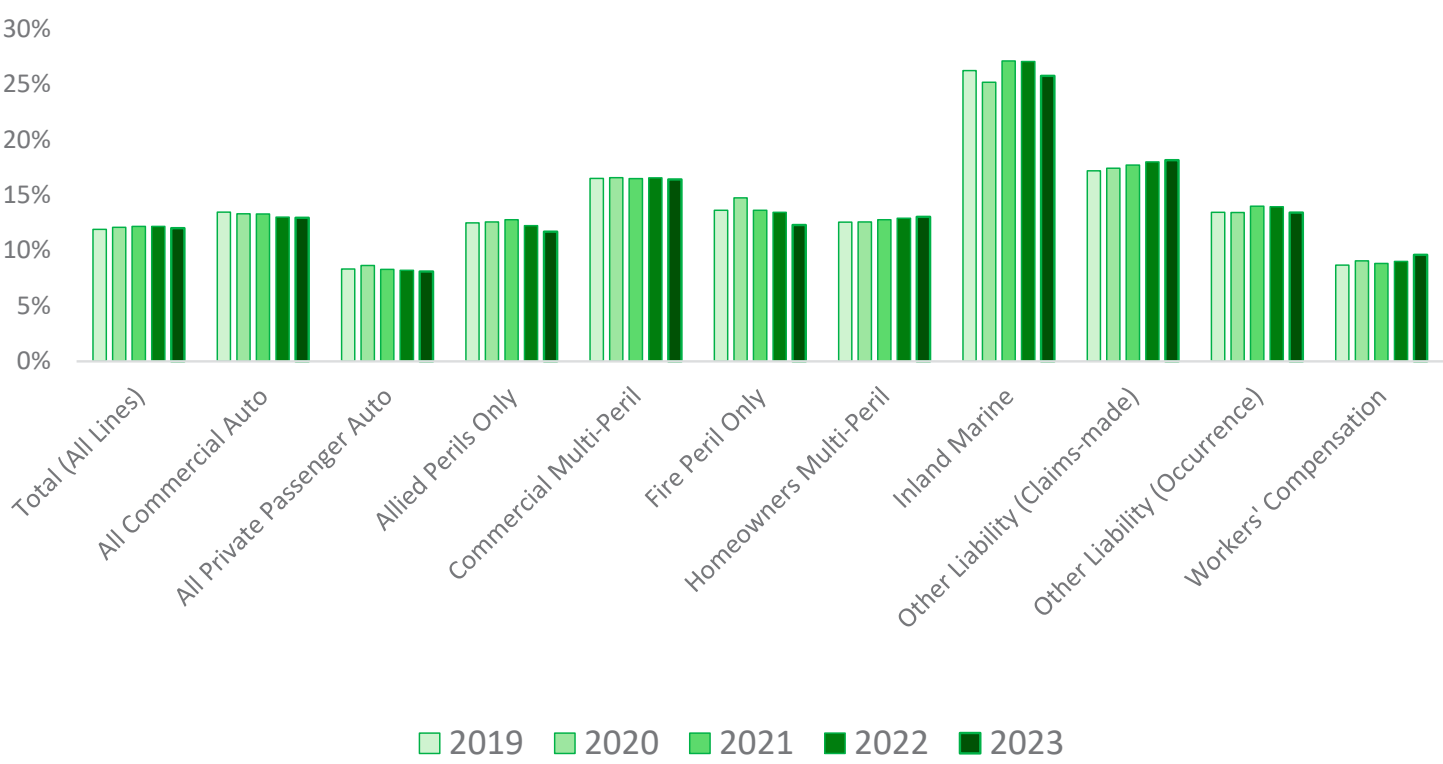


Figure 14

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Independent Agents are known to be the fuelers of innovation and adaptation in the marketplace. The growth of insurers using Independent Agents is evidence of this and Mississippi agents are well positioned to capture opportunities in the P&C Marketplace. The data in the 2024 Mississippi Annual P&C Marketplace Summary with the companion 2024 United States Annual P&C Marketplace Summary can be very useful tools in assessing opportunities, evaluating the competition, or inspiring further research into an opportunity or challenge. Both the Mississippi and United States Summaries are available to you as members of the Independent Insurance Agents of Mississippi.

P&C Industry Data Analysis

This article and the full 2024 Mississippi Annual P&C Marketplace Summary provides the reader with both visual and numeric presentations of the Mississippi P&C marketplace data, as a benefit of your membership with the Independent Insurance Agents of Mississippi. The full Summary is a member resource and tool that agents can refer to year-round and it includes a new All Active Insurer List as an Appendix. Any questions, comments, or need for further analysis, are welcomed at the contact information below.

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IIAM-PAC Golf Tournament

Held at Old Waverly

On October 28th, agents and associate members from across the state gathered for the highly anticipated IIAM-PAC Golf Tournament. This year, the event took a fresh turn as we chose the Old Waverly Golf Club in West Point, Mississippi, as our new venue. A big thank you to FCCI Insurance Group, whose generous sponsorship helped make this event possible.

While checking in and preparing for the day, golfers enjoyed refreshments provided by Mathison Insurance. At noon, golfers teed off right after enjoying their boxed lunches courtesy of Liberty Mutual, Safeco and StateAuto as well as drinks out on the course by Beasley General Agency. The competition was fierce, with 68 golfers competing for the win. After a long day on the course, a four-man scramble team made up of John Keeler,

Reed Jinright, Jake Ray, and Patrick Mallory claimed victory, earning gift cards for their accomplishment. Additionally, prizes for closest to the pin were awarded to Sam Cockcroft on hole 7, Jackson Turner on hole 12, David Krouse on hole 17, and Benjamin Nelson on hole 3.

The day wrapped up at the 19th Hole, sponsored by EMC Insurance, located just steps from the golf course at Murphy's in Old Waverly's Clubhouse where all attendees enjoyed great cocktails provided by Berkley Southeast Insurance Group. IIAM extends heartfelt gratitude to the hole sponsors who contributed to the event's success! We also appreciate the enthusiastic participation of all attendees. IIAM looks forward to hosting this event again next year and continuing to raise funds for the state PAC.



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LESSONS LEARNED

TO CLAIM OR NOT TO CLAIM

DOCUMENT THE INSURED'S DECISION AND KNOW YOUR OBLIGATIONS

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“Lesson’s Learned” is a recurring article by David A. Barfield based on real errors and omissions cases in Mississippi. David has represented insurance agents for over 30 years. The names of all parties and all case citations have been omitted to preserve anonymity of the parties.

ALLEGATIONS OF THE INSURED

In October of 2020, after a storm, the insured suffered a partial roof collapse in one section of his commercial/industrial type building. The building was purchased by the insured in 2000. Sections A, B, and C were renovated and had been leased. Section D had no renovations and had never been leased. Section D was also in a state of disrepair. The insured decided just to demolish Section D. After the demolition, and 18 months after the storm, in June of 2022, Plaintiff hired a public adjuster and made a claim for the damage to Section D, caused by the storm. Shortly thereafter, the insured sued his agent and insurer. The claims against the agent were for breach of contract, negligence and gross negligence and sought to recover extra-contractual and punitive damages.

FACTS GIVING RISE TO THE LITIGATION

The building was purchased by Plaintiff in 2000 or 2001. It was one building with three separate sections. The three sections had been constructed at different times. The front part of the building was designated as sections A, B and C. The back part of the building, the part of the building at issue in this

case, was identified as section D. Section D was approximately 68,000 square feet. Upon acquiring the building, the insured did extensive renovations to sections A, B and C. There were no renovations to D. Plaintiff secured tenants for A, B and C but never secured a tenant for D, despite marketing it heavily.

In late 2019, the current insurer for the building advised that it was not going to renew the insurance coverage on the building. This was problematic as there was a mortgage on the building and insurance was required. The insured’s then insurance agent was unsuccessful in obtaining coverage for the building. According to the insured, the inability to secure coverage was due solely to the activities of the tenants. One tenant refurbished pallets, and the other blended fertilizer. It was believed that the deplorable condition of section D was also a contributing factor in the non-renewal.

The insured had a friend who also happened to be an insurance agent and asked if there was anything he could do to help with the situation. The agent advised that he would see if he could help him. The agent successfully placed insurance coverage for the insured. The policy went into effect on January 30, 2020. The Covid pandemic hit shortly thereafter, and the insurer was not able to undertake a physical inspection of the premises. In

July of 2020 the inspection did take place. The inspection revealed that section D was in bad condition and the insurer issued a notice of cancellation (NOC). The sprinkler system in section D was inoperable and in need of extensive repairs, there were holes in the roof, and it was generally in poor condition.

Since the insured was required to have insurance, he considered having the sprinkler system and roof repaired. This was going to cost over \$100,000. The agent secured an extension of the NOC. During this time, facing a large expense to repair a portion of the building that it had not been able to lease since acquiring it in 2000 or 2001, the insured mentioned to the agent that he might just demolish section D. However, he decided to go ahead and have the repairs made. The agent got the insurer to agree to an additional extension if the insured would provide a signed contract with a sprinkler contractor and make repairs to the roof. The insured did so and the extension was granted.

In October 2020, allegedly due to a bad storm and heavy rain, part of the roof of section D collapsed. The insured advised the agent of the collapse via a phone call. He did not ask the agent to file a claim. The agent advised the insured that he had some options. He could file a claim, or the agent could try to get him some more time so he could get the roof repaired to comply with the insurer's requirements. On November 4, 2020, the insured advised the agent that he had met with a contractor and engineer, and they had decided to demolish section D.

During all this time, Plaintiff was communicating with the agent about its January 2021 renewal and other recommendations and concerns of the insurance company. There were many communications between the insured and the agent during 2021 up to and including a renewal in 2022. At no time did the insured ever inquire about the status of a claim. Then, in June of 2022, Plaintiff hired a public adjuster (PA) to pursue a claim. Interestingly, when presenting the claim, the PA's office referred to it as a "new claim."

There were 82 email communications between the insured and the agent from the date of the loss until the PA was hired. Not one of them ever mentioned a claim or inquired about the status of a claim. Also, the insured had socialized with his agent friend on several occasions, even visiting, in his home and never mentioned or inquired about a claim.

The insured argued that he had made a claim back in 2020 because he told the agent about the roof collapse and the agent told the insurer about it. According to the insured, this was all he had to do to make a claim. The insured admitted that other than telling the agent about the roof collapse, he never made any other inquiries about a claim. The insured admitted in his deposition that the agent and his team had done an excellent job in keeping him insured and had been very responsive. When asked if he thought he had made a claim back in 2020 and why he didn't call

the agent and inquire about the status of the claim, he just said he had a lot going on personally.

WHAT HAPPENED?

The case was settled before trial. Despite clearly being prejudiced by the demolition of Section D, the carrier, with the assistance of various blueprints, photographs, and drawings, was able to get a calculation of the damages caused by the storm.

LESSONS LEARNED

- It is not uncommon for an insured to notify an agent of a loss but not want to make a claim. However, it is important to get documentation in writing, from the insured that they do not want to file a claim.
- The agent/agency must also review its obligations to the insurer or broker under any applicable agency agreement. Some of those agreements place a contractual duty on the agent/agency to report any known losses to the carrier. In such circumstances you may have a contractual obligation to report the loss even if the insured does not wish to make a claim per se. You will need to explain to the insured that you have a duty to disclose the loss to the carrier but that does not require the insured to pursue a claim under the policy if he clearly indicates he does not want to do so.
- Document the insured's instructions and know and comply with the obligations of any applicable agency agreement.



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