



# Florida No-Fault Auto Insurance: A Historical Primer

**Auto Insurance Fraud Strike Force  
*Board Meeting***

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- No-fault is also called Personal Injury Protection (PIP).
- Statute\* requires owners or registrants of motor vehicles to purchase \$10,000 of PIP insurance to compensate them for injuries in car crashes – no matter who is at fault.
  - Drivers also required to have a minimum \$10,000 in property damage liability insurance.
- Its primary principle is to pay economic damages, such as medical, disability (lost wages) and death benefits, while limiting the right to sue for non-economic damages, such as pain and suffering.
- The intent is to be quick, fair and efficient.

\*Florida Statute 627.730-627.7405.

- **Objectives according to a Florida Supreme Court Case\* are to:**
  - Directly compensate injured persons by their own insurer to avoid “possibility of swelling the public relief rolls,”
  - Lessen court congestion and limit the number of lawsuits,
  - End inequities of recovery under the traditional tort system, and
  - Lower auto insurance premiums.

\* *Lasky v. State Farm Insurance Co.*, 296 So2d 9, 14 (Fla 1974).

**No-Fault** describes a number of systems allowing policyholders to recover financial losses from their own insurer, regardless of fault.

- **Verbal Threshold** states provide a descriptive on the severity of an injury before one can sue for damages.
  - Florida, Michigan, New Jersey, New York and Pennsylvania.
- **Monetary Threshold** expresses severity of injuries in the dollar amounts of medial bills.
  - Hawaii, Kansas, Kentucky, Massachusetts, Minnesota, North Dakota, Utah.
- **Choice No-Fault** gives drivers the option of a verbal threshold or traditional tort liability system.
  - New Jersey, Pennsylvania, Kentucky

Policyholders can sue for non-economic damages (pain and suffering) if certain criteria are met.

■ **Threshold:** Significant or permanent loss of an important bodily function, permanent injury within a reasonable degree of medical probability, significant/permanent scarring or disfigurement or death.

- **1972** – Florida becomes second state to adopt a no-fault auto insurance plan. Passed in 1971, effective Jan. 1, 1972.
  - ◆ Provided for 100% of necessary medical expenses up to \$5,000, 85% of lost wages and funeral expenses not to exceed \$1,000.
  - ◆ Also required minimum coverage requirements under state Financial Responsibility Law (\$10,000 bodily injury coverage and \$5,000 property damage liability).
- **1974** – Objectives clarified in *Lasky v. State Farm*.
- **1976** – Legislature replaced the “dollar threshold” with “verbal threshold” and specified injured persons could sue only if they suffered a significant injury.

**AND.....**

# PIP Historical Timeline

## 1970s (continued)

- **1977** – Legislature eliminates mandatory liability coverage for bodily injury and property damage that were enacted in 1971.
  - ◆ Reduced PIP benefit to 80% of medical expenses and 60% of lost wages; increased PIP deductibles.
  
- **1978** – Legislature tightens verbal threshold language by eliminating right to sue for certain serious, but nonpermanent injuries .
  - ◆ PIP benefit raised to \$10,000, effective Jan. 1, 1979.

- **1982** – Funeral benefits increased from \$1,000 to \$1,750; PIP deductibles options reduced to \$250, \$500, \$1,000 and \$2,000.
  
- **1988** – “Motor Vehicle Insurance Act” enhanced the enforcement of PIP laws and the Financial Responsibility Law.
  - ◆ Enhanced enforcement of compulsory motor vehicle laws to address statewide problem of uninsured drivers. Also mandated that drivers obtain \$10,000 minimum for property damage liability.
  - ◆ Funeral benefits increased to \$5,000 and renamed death benefits.



- **1991** – Insurers allowed to provide an option to insured to use preferred providers for medical benefits.
- **1993** – Legislature repealed a provision that required a jury to deduct from its verdict the value of benefits received by the injured person from any other collateral source.
- **1994** – An act passed that put insurers in violation of the Insurance Code for failing to provide timely benefits to policyholders.
- **1998** – Provisions added to provide 30- and 60-day billing limits, standardized medical statements and codes, revised geographical requirements for independent medical examinations of claimants.

**AND.....**

- **1999** – Legislature allowed policyholders to elect a deductible amount to combine with wage loss benefits exclusions in exchange for lower premiums.
- **1999** – Grand Jury begins looking into organized criminal activity in Florida, including PIP fraud.

- **2001** – Legislature adopts all the Grand Jury’s recommendations, except one about adopting a medical fee schedule:
  - ◆ Summary: Required licensure of certain health care clinics, defined “medically necessary” services, limited access to crash reports, required insurers to specify why claims were reduced, omitted or denied.
  
- **2003** – Law strengthened to regulate health care clinics, regulated how PIP providers bill for services, deleted the option for a \$2,000 PIP deductible, created and strengthened criminal penalties for PIP fraud.
  - ◆ Repealed the no-fault law effective Oct. 1, 2007, absent legislative action.

**AND....**

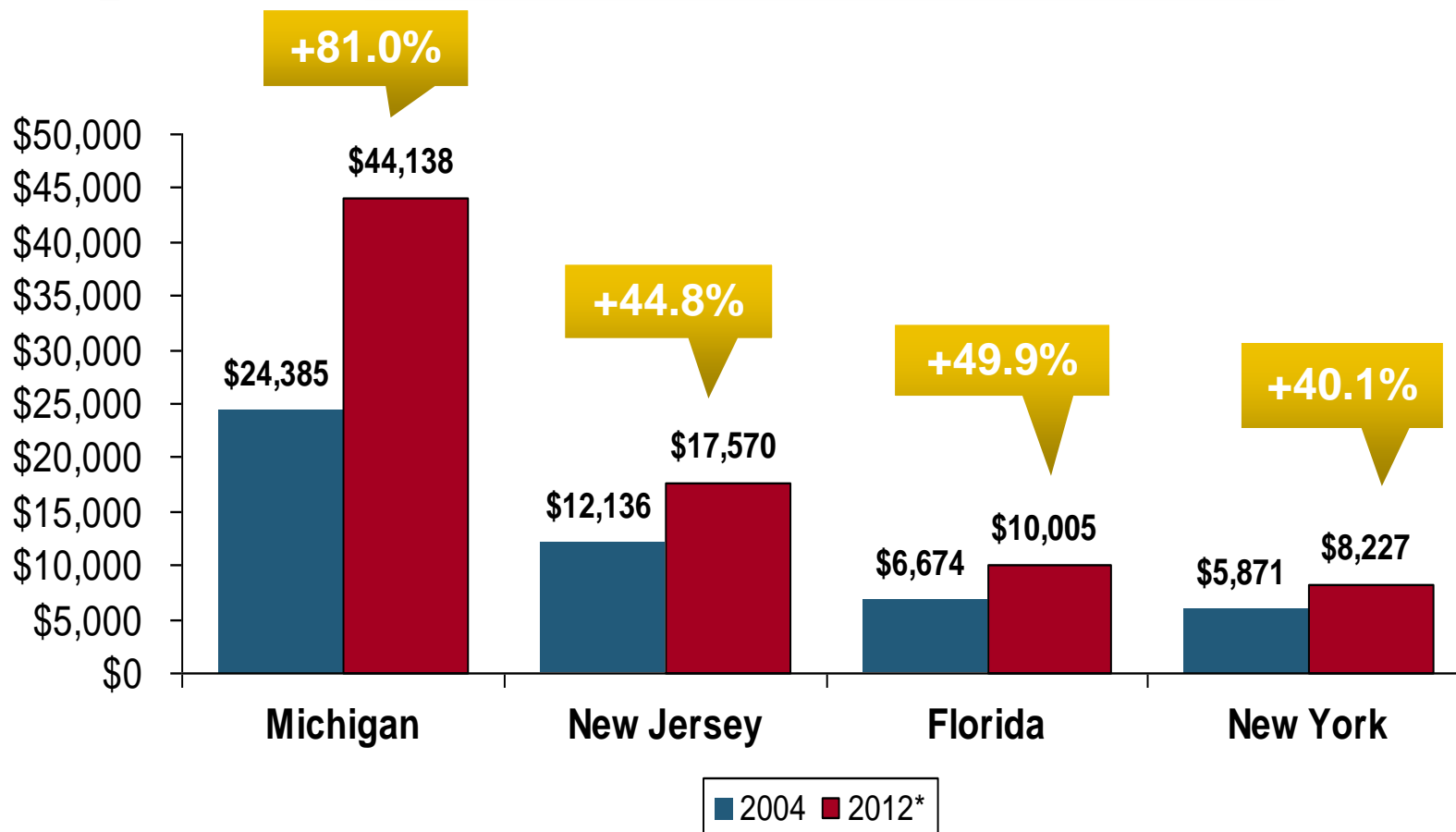
- **2007** – No-fault sunsets Oct. 1, 2007.
  - For three months (Oct.-Dec.), Florida operated under a “fault-based” system that held drivers responsible for the injuries they caused.
  
- **2008** – No-fault reenacted on Jan. 1, 2008.
  - ◆ Changes included adding a medical fee schedule for PIP benefits, limits on the health care providers who could receive reimbursement, required insurers to reserve \$5,000 of benefits for 30 days for physicians providing emergency care.

- **2011** – Office of Insurance Regulation releases report on no-fault system.
  - ◆ Summary: Shows PIP payouts increased 66% from 2006-2010, while the number of drivers and traffic crashes with injury declined; PIP litigation increased by 387%; Florida charges for medical provider services were 50% above the national average.
  
- **2012** – Insurance Consumer Advocate convenes PIP Working Group.
  - ◆ Report concludes there is no denying “continued and escalating problem with PIP fraud.”
  
- **2012** – HB 119 passes to address fraud issues.
  - ◆ **2013** – HB 119 reforms launch Jan. 1.

- PIP coverage still provides \$10,000 in medical benefits.
  - ◆ For medical emergencies defined as experiencing severe enough symptoms that the absence of immediate medical treatment could result in impairment to health.
  - ◆ Treatment providers defined as ambulance, hospital, physician, dentist, supervised physician's assistant or advanced registered nurse practitioner.
  
- Non-emergency treatment is limited to \$2,500.
  - ◆ Treatment can be received from any medical provider, except a massage therapist or acupuncturist.

- Insurers will maintain a benefit log for each PIP claim and notify claimants within 15 days if policy limits have been reached.
- Insurers can ask policyholders to take an examination under oath and have an independent medical examination.
- If lawsuit filed, attorney fees must comply with prevailing professional standards.

# Increase in No-Fault Claim Severity: Selected States, 2004-2012\*



**Michigan's average no-fault claim cost is up by more than 80% since 2004**

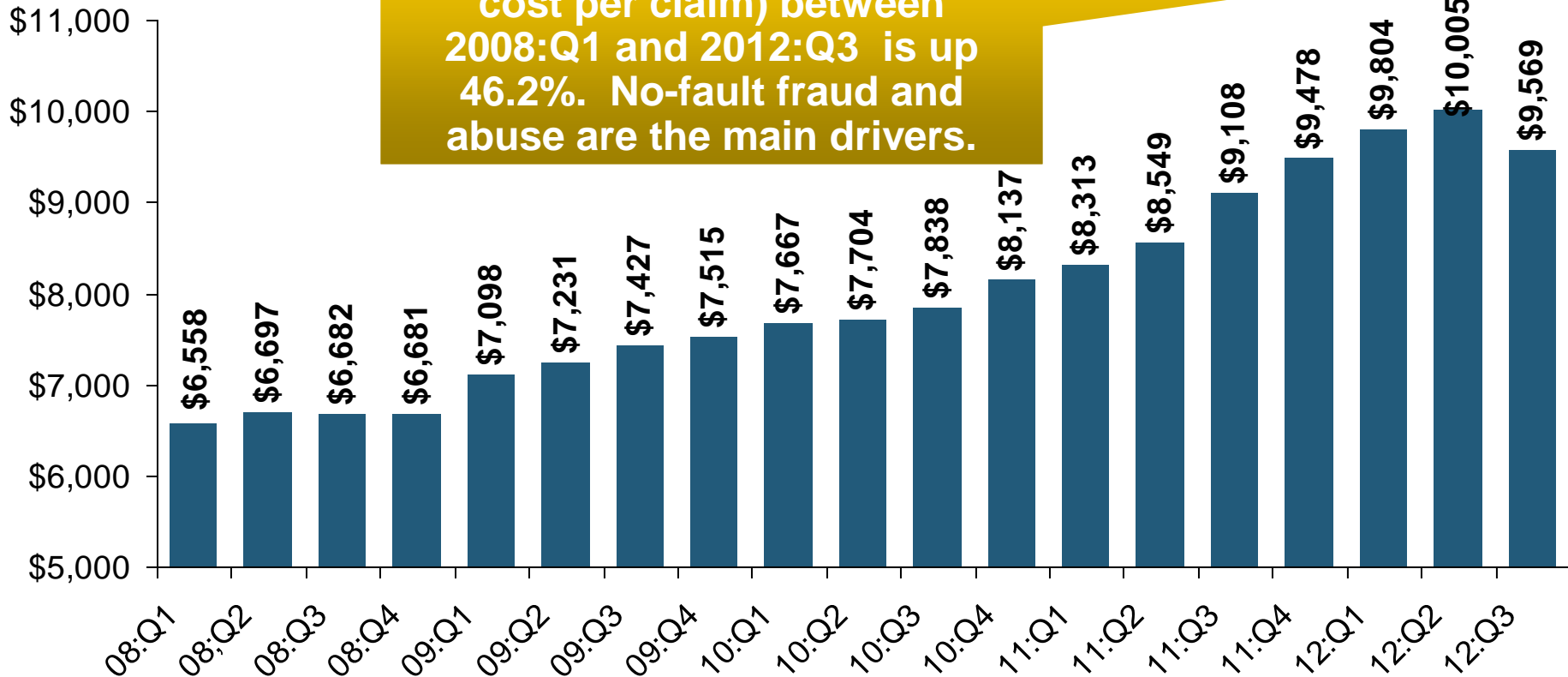
\*2012 figure is for the 4 quarters ending 2012:Q2.

Sources: Insurance Information Institute research from ISO/PCI *Fast Track* data.



# Florida Average No-Fault Claim Severity, 2012:Q3\*

No-fault claim severity (average cost per claim) between 2008:Q1 and 2012:Q3 is up 46.2%. No-fault fraud and abuse are the main drivers.



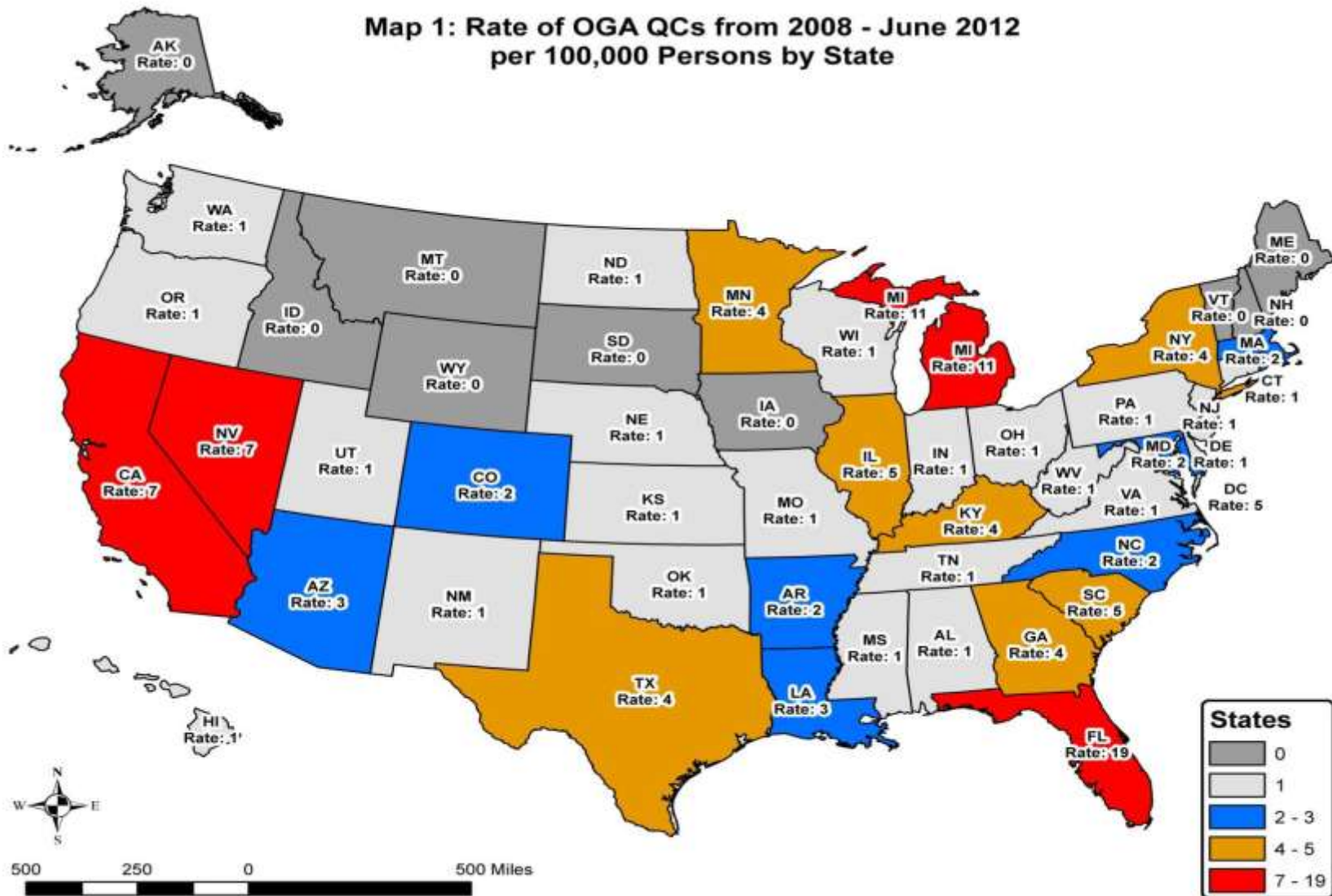
The Average Cost of No-Fault Claims in Florida Has Risen Rapidly in Recent Years

\*Average of the four quarters ending 2012:Q3.

Source: ISO/PCI *Fast Track* data; Insurance Information Institute.

# Insurance Fraud, Florida #1

Map 1: Rate of OGA QCs from 2008 - June 2012  
per 100,000 Persons by State



Source: National Insurance Crime Bureau, Dec. 27, 2012. OGA is Organized Group Activity; QC is Questionable Claim.

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