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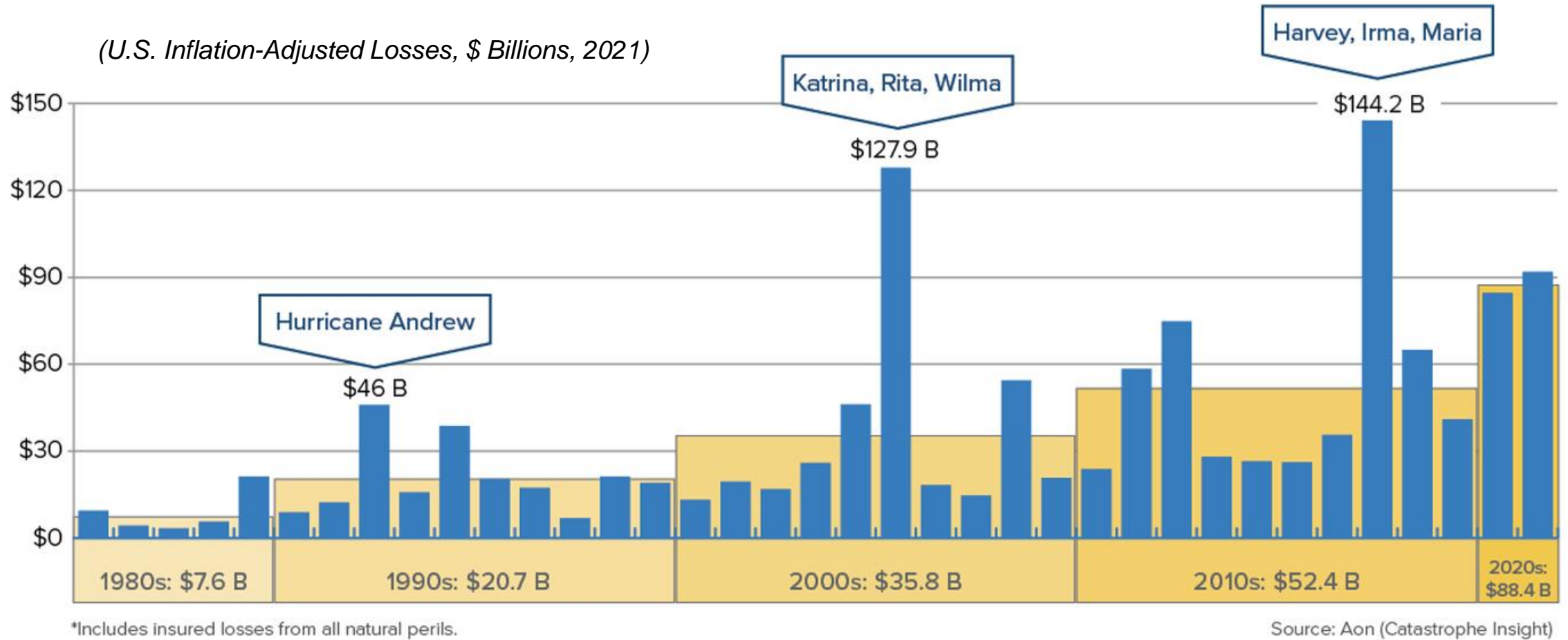
# Climate Risk & Legal System Abuse

SEAN KEVELIGHAN  
Chief Executive Officer

DALE PORFILIO  
Chief Insurance Officer

# Evolution of Climate Risk

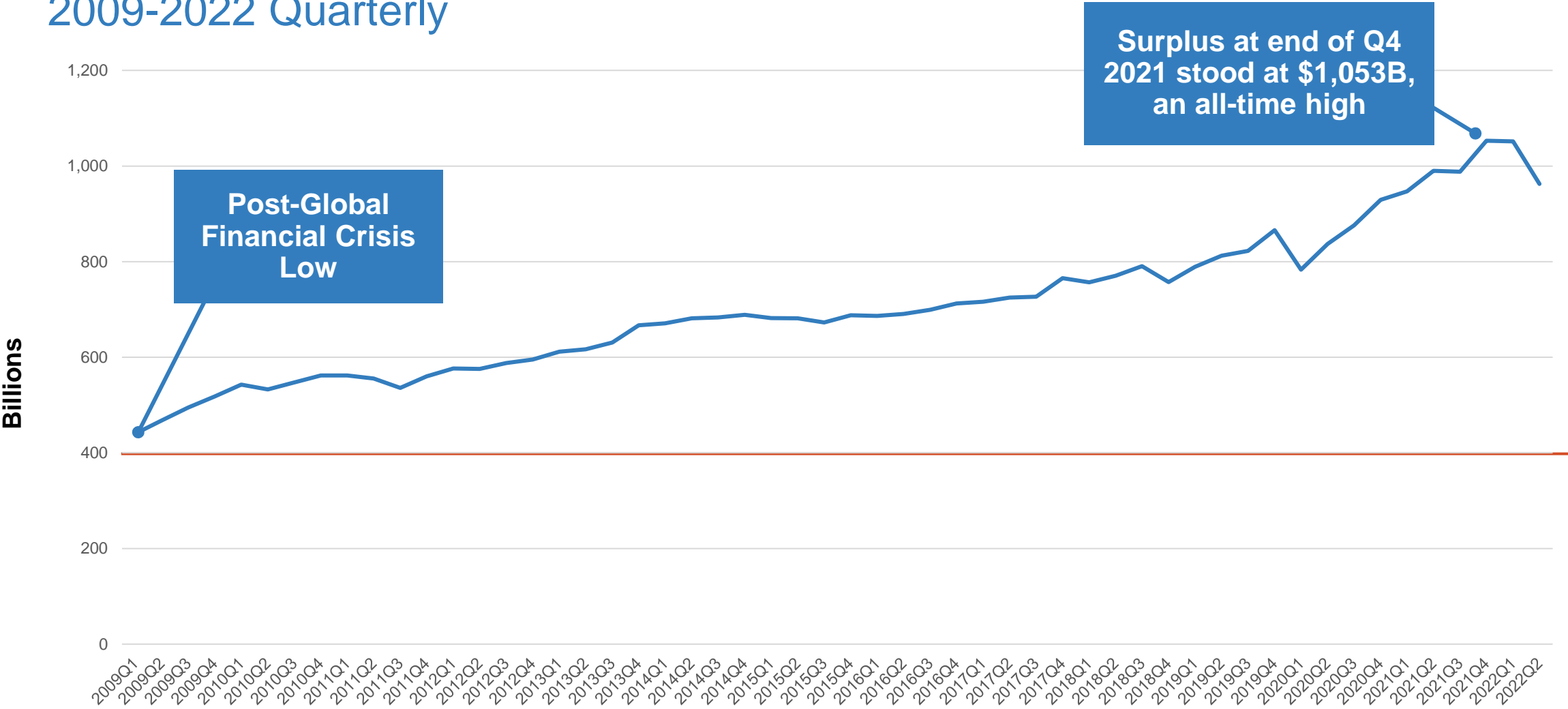
# U.S. Catastrophe Losses Steadily Climbing



**Insured Cat Losses are Increasing at an Alarming Rate – Nearly 700% Since 80's**

# Macro Solvency a.k.a. Policyholders Surplus

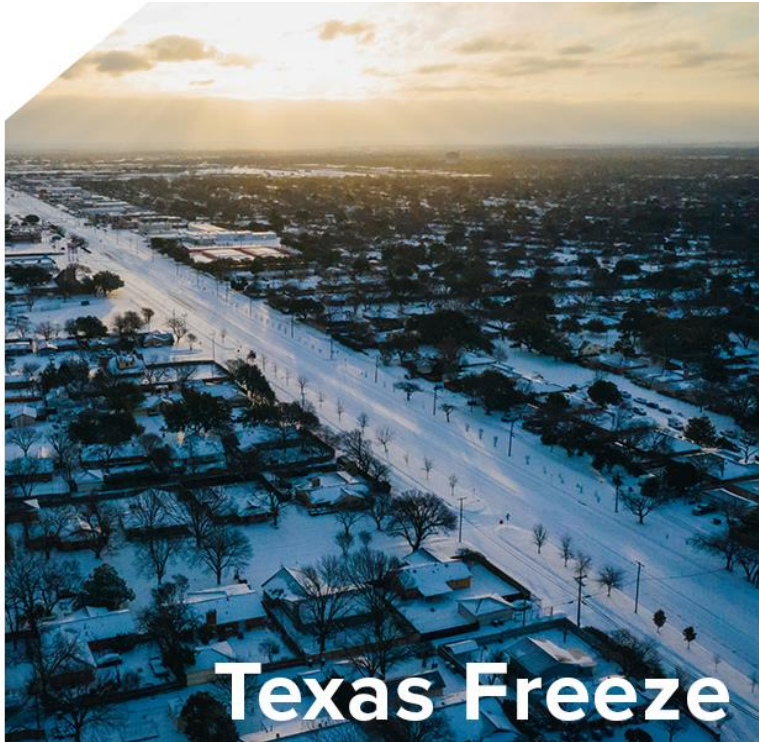
## 2009-2022 Quarterly



**Policyholder Surplus: Positive**

Sources: NAIC data sourced through S&P Global Intelligence; Insurance Information Institute.

# 2021 was Preview of Evolving Climate Risk





Select a state or year from the dropdown button or scroll over a county to see changes in historical NFIP take-up rates since 2010. Color-coding represents the size of change in take-up rates.

State:  ▼

Year:  ▼

New York

# Policies: 3,859,221

# Housing Units: 89,863,724

[Learn more about the data >](#)

[Reset Data](#)

% insured: < 1.0% < 2.0% < 10.0% ≥ 10.0%

New York  
Westchester County

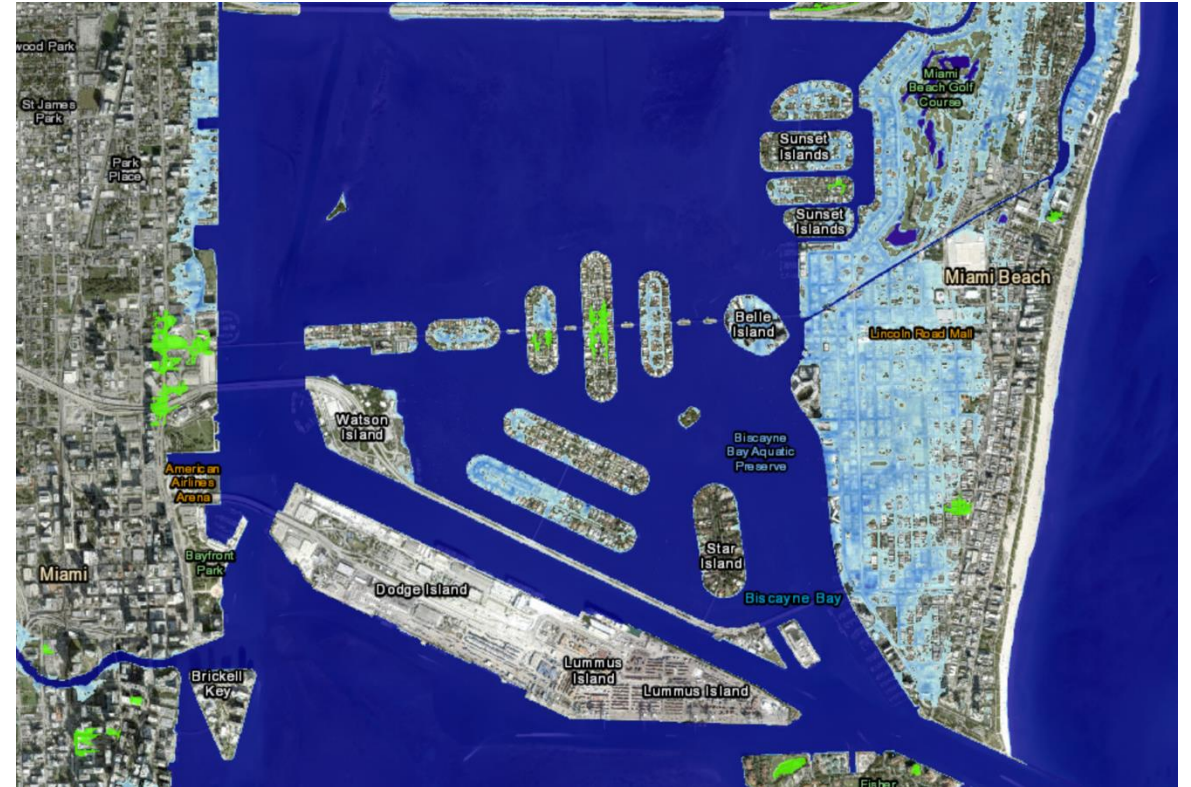
# Policies: 13,870  
# Housing Units: 370,974  
NFIP TIV: \$273B  
NFIP Premium: 268,766,000,000  
NFIP Take-Up: 3.7%

# People are Living More In Harm's Way

Miami Beach: 2022



Miami Beach: +3'







# Climate Risk and Resilience



INSURANCE  
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RESILIENCE  
ACCELERATOR  
Minimize Risk | Speed Recovery



# Objective

Drive **behavioral change** to help people and communities better manage risk and become more resilient





# Data-driven resilience insight | resilience.iii.org



## NFIP Take-Up Rates



## Resilience Ratings



## Hurricanes Forecasts



## Flood FSHA Exposure



## Hurricanes Tracker

**Learn more about the project**

**RESILIENCE ACCELERATOR**  
RECOVER FROM SPEED RECOVERY

**The Resilience Project**

Learn more about the Triple-I Resilience Accelerator's tools to transform how communities use insurance and preemptions to increase resilience and preemptive risk mitigation to increase resilience to extreme weather events and fast-track recovery post natural disasters.

**The power of resilience**

In this video Sean Kevelighan, CEO of the Triple-I, discusses the project and its goal to use data as a tool to help people visualize and understand the risk of natural catastrophes as the likelihood of severe weather increases, and more people move into high-risk areas. [Learn more](#)

**Vision and values**

Dr. Michel Léonard, senior economist at the Triple-I, discusses how the Resilience Accelerator aims to create a new paradigm for socializing resilience by making data transparent and insightful. Organizations and individuals can choose the most effective strategies for driving risk mitigation and resilience best practices. [Learn more](#)

**RESILIENCE ACCELERATOR**  
RECOVER FROM SPEED RECOVERY

PERIL MAPS RESILIENCE BLOG EVENTS VISION ABOUT CONTACT

**Resilience Blog**

SEPTEMBER 10, 2021  
California Weekly Update: 09/10/21  
Click here to read the latest news from California and the West, compiled by Janet Ruiz, Triple-I's Director of Strategic [...]

SEPTEMBER 10, 2021  
Florida Weekly Update 9/10/21

AUGUST 19, 2021  
Weather Update: Tropical Storm Henri

AUGUST 17, 2021  
Bermuda and Insurance: Small Country, Mighty Contribution

AUGUST 16, 2021  
California Weekly Update: 08/13/21

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# ESG Is In Insurers' DNA

## Environmental

- Invest for maximum impact, minimal harm
- Understand and manage climate risk
- Innovate through technology and partnerships

## Social

- Risk-based pricing rooted in fairness
- Highly competitive market fosters consumer choice
- Invest in what makes us better as a society

## Governance

- Board composition
- Director performance and independence
- Compliance and transparency
- Hiring and compensation equity
- Investment and solvency standards
- Responsibilities to stakeholders  
(Customers, Employees, Regulators, Communities, Shareholders)

### Bottom Line:

- Regulated by 50+ jurisdictions
- NAIC Risk Management & Own Risk and Solvency Assessment (ORSA) model
- Climate risk/resilience research/information sharing (e.g., Triple-I Resilience Accelerator)
- Investment in diverse, inclusive work force; community aid; financial literacy; and other social goods

# Climate Risk Considerations

- Recognize insurance and its role
- Remove the politics – focus on the solutions
- Be responsible about the low carbon transformation
- Balance out the long (carbon) and short (physical infrastructure) risks
- Integrate new product options





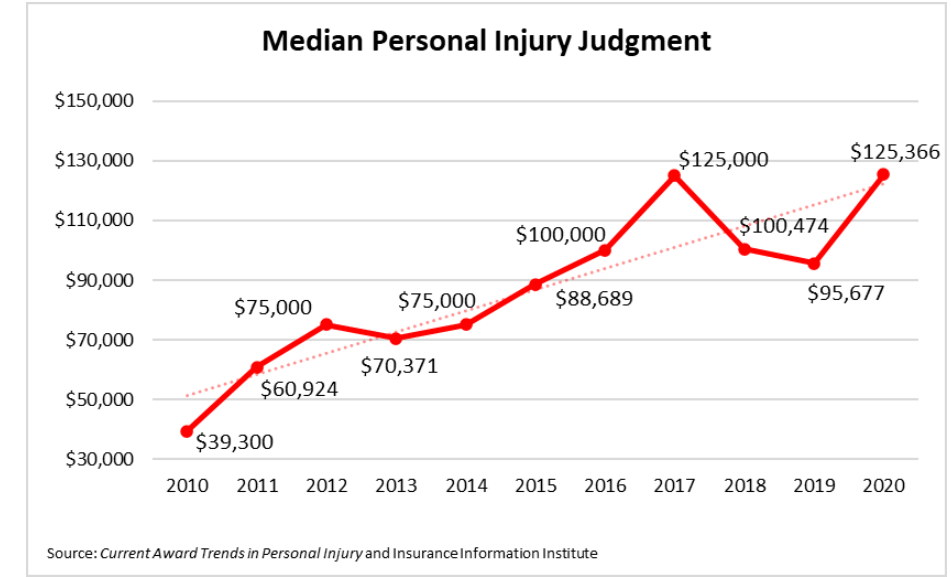
# Evolution of Legal System Abuse

# Legal System Abuse & Social Inflation

Social Inflation encapsulates how insurers' claims costs are rising above economic inflation

## Social Inflation can arise from myriad sources

- Increase in number of outsized jury awards
- Legal proceedings taking longer than reasonably expected
- Erosion of statutory limits on non-economic damages



## Power in the Name – What do we call it?

- Insurance professionals commonly use "Social Inflation" - but consumers cannot define it
- Claims professional commonly use "Nuclear Verdicts" - but now trademarked and emotionally charged
- No name is perfect – we are transitioning to "Legal System Abuse" outside the industry



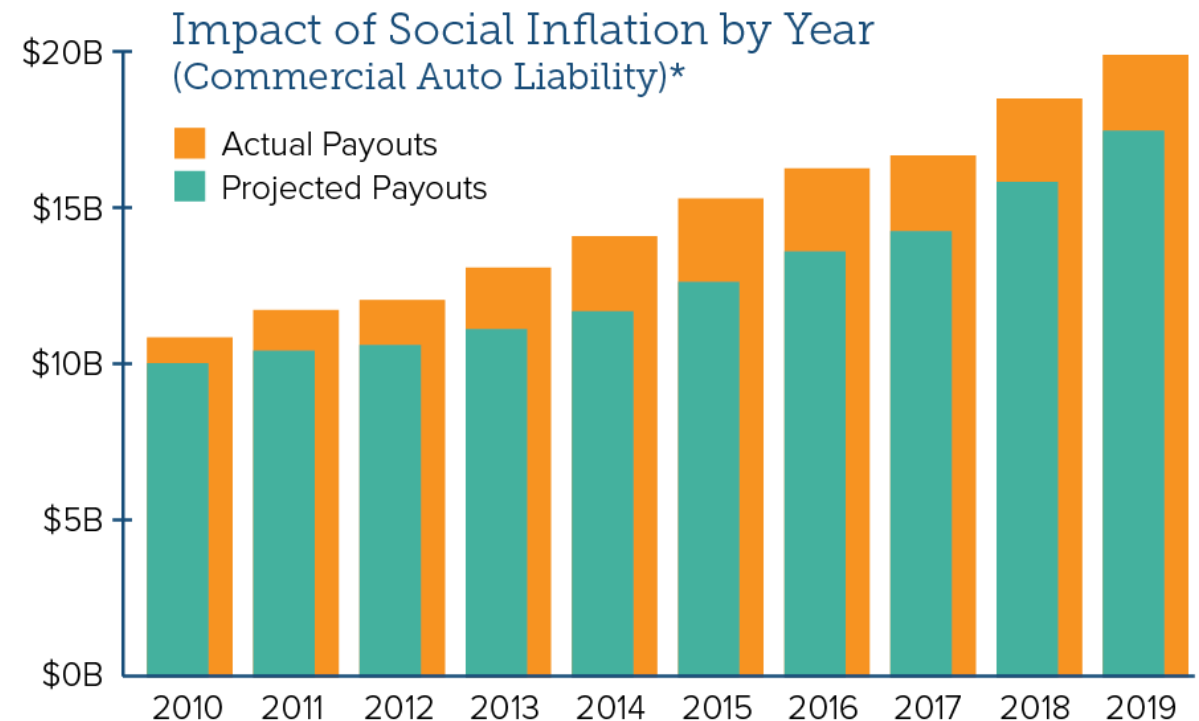
# Financial Impact of Social Inflation

Triple-I published research in February 2022 to quantify the impact of social inflation. Research was funded by CAS Research Grant, and update to be released later in 2022.

## Key Findings

- Social Inflation **increased claims** by an estimated **\$20B (14%)** from 2010 to 2019 in Commercial Auto Liability
- Evidence of similar trends found in Other Liability Occurrence and Medical Malpractice Claims-made

**Issues Brief** [State of the Risk: Social Inflation](#)



\*Triple-I and Casualty Actuarial Society analysis of National Association of Insurance Commissioner (NAIC) data. [Social Inflation and Loss Development](#), Lynch, J. and Moore, D., February 2022

# And then there's...Third-Party Litigation Funding

Hedge funds and others invest in lawsuits in exchange for a cut of any settlement

- Taking hold in U.S. as courts erode bans on "Champerty" and "Maintenance"
- TPLF is a speculative financial industry and comparatively unregulated

*"Original purpose of champerty prohibitions was to **prevent financial speculation in lawsuits**, and it was rooted in a **general mistrust of litigation** and money lending."*

— [Analysis by Steptoe](#), an international law firm

## Swiss Re study:

- More than half the **\$17 billion invested in litigation funding globally** in 2020 was deployed in the U.S.
- Despite the widespread court closures during the pandemic, third-party **investment jumped 16%** year-over-year in 2021.
- **\$30+ billion industry** by 2028, with U.S. market driving growth

# Third-Party Litigation Funding

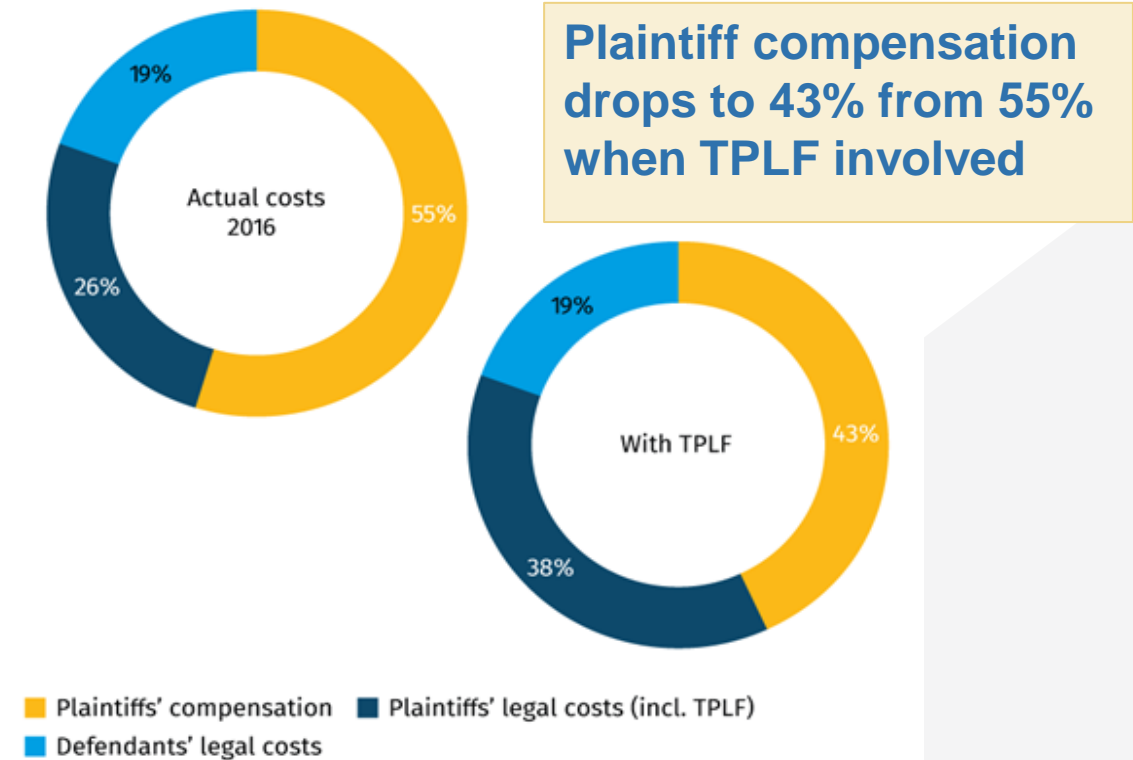
## Who typically provides this money?

Deep-pocketed investors – accredited investors, hedge funds, financial institutions, asset managers, other large funds – seeking above-average returns on their investments

## What kinds of cases are funded?

- Torts and contract breaches
- Personal injury
- Class Action
- Intellectual Property
- Whistleblower
- Arbitration

## Distribution of tort system costs without TPLF (left) and with TPLF (right)



**Source:** Swiss Re, Institute for Legal Reform, Research Nester



# Third-Party Litigation Funding: Key Takeaways

How it works to prolong litigation, boost legal costs, and contribute to social inflation

## "David vs Goliath" is no longer primary dynamic

- Less about supporting the right to seek justice
- More about speculative profit-seeking for affluent investors: what gets funded are the cases likely to reap big settlements

## Moral hazard

- Sharing the settlement pie in exchange for funding can lead to wanting a bigger pie to resolve the claim

## Siphoning of value

- Plaintiffs: reap less at judgment/settlement
- Consumers: absorb higher costs for goods and services due to higher commercial insurance premiums

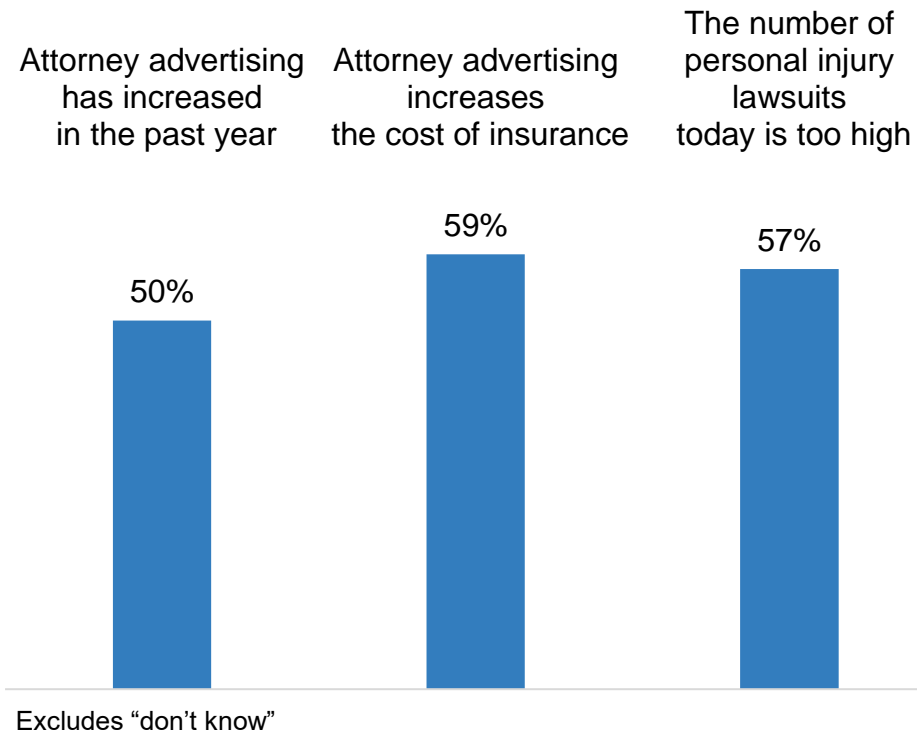
## Lack of transparency

- It's about fair play—if attorneys can communicate across the table about insurance coverage, why not disclose presence of TPLF?

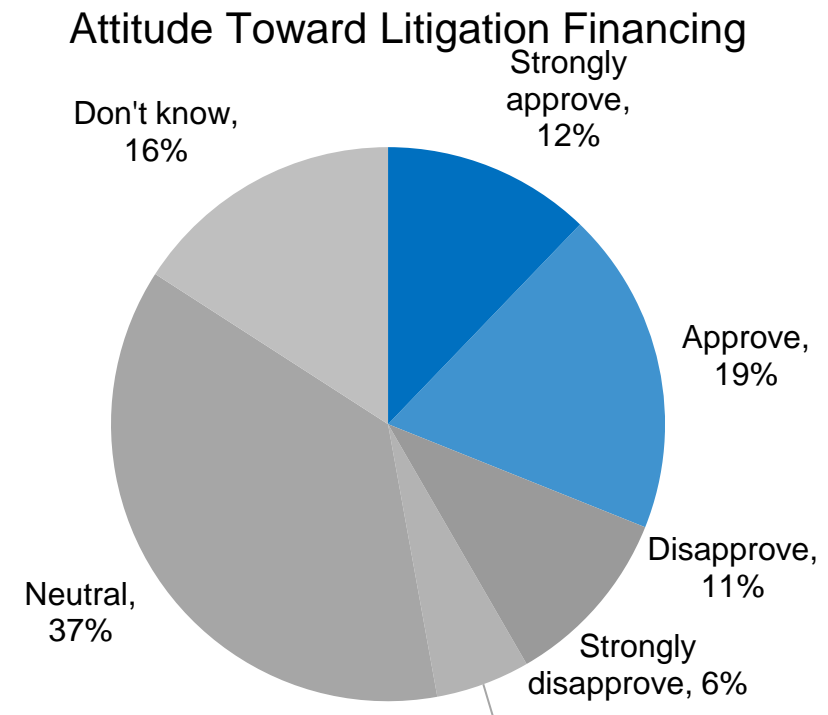
# Attorney Involvement and Litigation

Insurance Research Council published research from 2021 Consumer Survey

Key takeaway: Consumers understand connection between attorney advertising and insurance costs



Key takeaway: Opportunities for education About Third-Party Litigation Funding

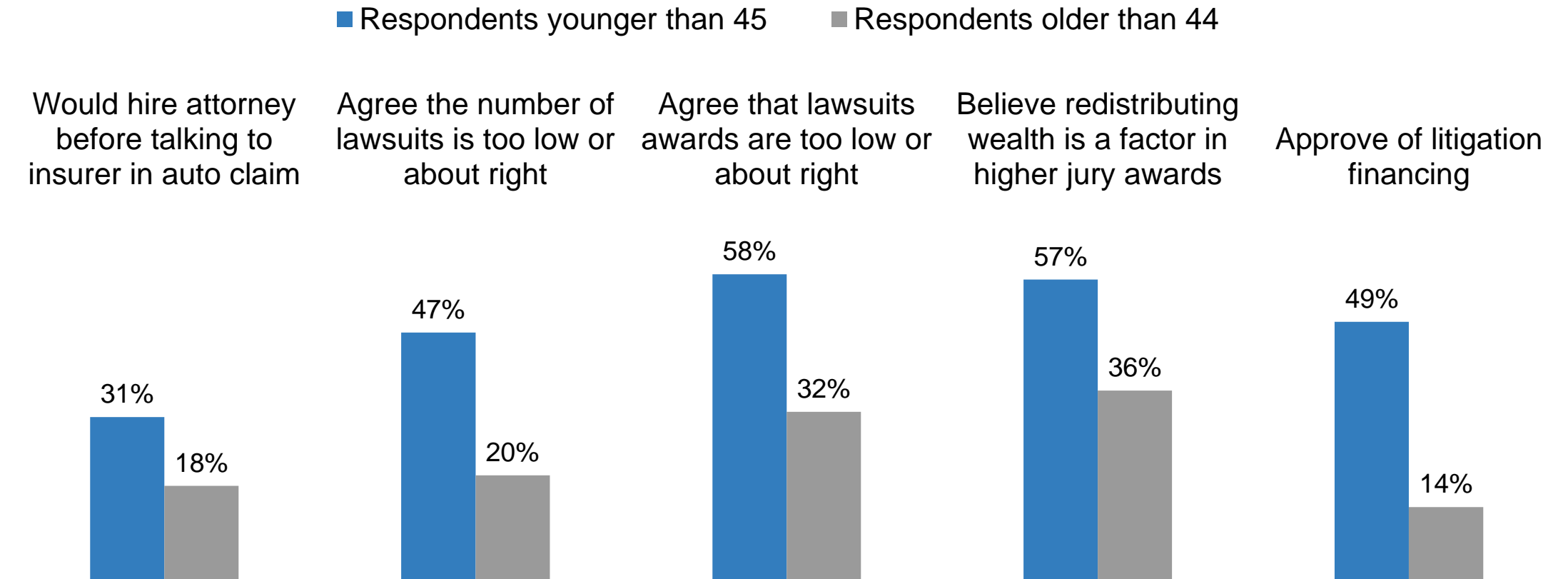


Source: [Public Attitudes on Litigation Trends and the Role of Attorneys in Auto Insurance Claims](#)  
[Insurance Research Council \(insurance-research.org\)](#)

# Attorney Involvement and Litigation

Insurance Research Council published research from 2021 Consumer Survey

Key takeaway: Younger consumers have very different attitudes towards attorneys and litigation



Source: [Public Attitudes on Litigation Trends and the Role of Attorneys in Auto Insurance Claims](#)  
| [Insurance Research Council \(insurance-research.org\)](#)



# What can be done...Thought Leadership Campaign



## Triple-I contracted with a public affairs firm to conduct 2022 thought leadership campaign

- Approach starts by driving a substantive conversation with Triple-I members, opinion leaders, regulators, and policymakers
- Expands the audience to consumers via social media
- Leverages Triple-I content on social inflation, expanding to include industry allies, legal reform groups, and third parties
- Target states: New York, Louisiana, Illinois, California

**Goal: Lay the groundwork for legal reform in states that could pass third-party litigation funding legislation in coming years**

# Triple-I's Three Pillar Mitigation Strategy

## Involve everyone in the conversation

- Approach starts by driving a substantive conversation with members, opinion leaders, regulators, and policymakers

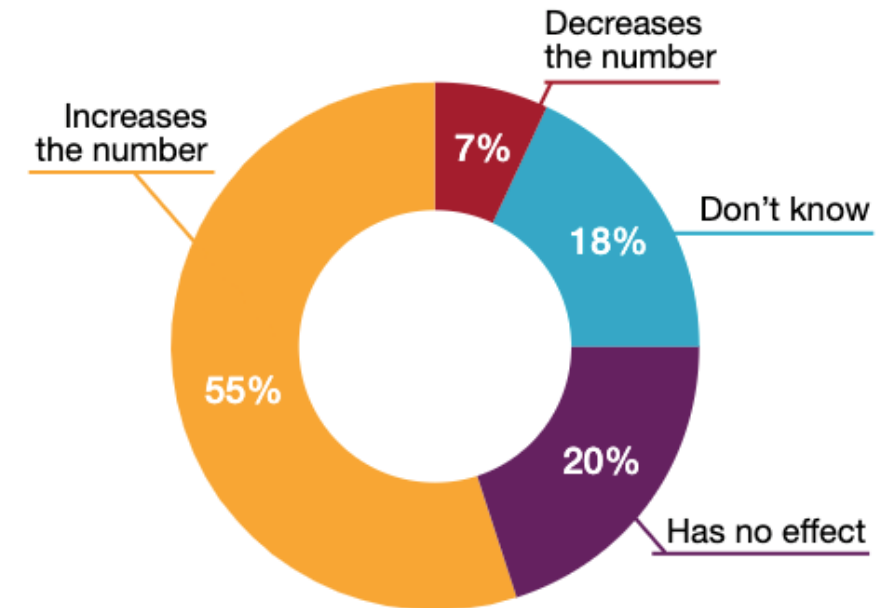
## Highlight shared obligations and opportunities

- Claims inflations ultimately results in increased consumer costs
- IRC research indicates attorney involvement can increase claim costs and time needed to resolve them, while reducing ultimate payout to claimants

## Address actionable elements impacting claim costs

- Curb exploitative attorney advertising
- Advocate for greater transparency and accountability around third-party litigation funding

## Impact of Attorney Advertising on the Number of Claims and Lawsuits



Source: Insurance Research Council, *Public Attitudes on Litigation Trends and the Role of Attorneys in Auto Insurance Claims* (2022)

# Climate Risk x Legal System Abuse = Property Crisis

Compounding of cats, fraud, and legal system abuse has led to a property crisis in key states

## Florida

- \$51B was paid out by insurers over 10-year period, with 71% going to attorneys' fees and public adjustors\*
- Six companies have been declared insolvent in 2022 (so far)
- Citizens Property Insurance Corp. now insures over 1M policies

## Louisiana

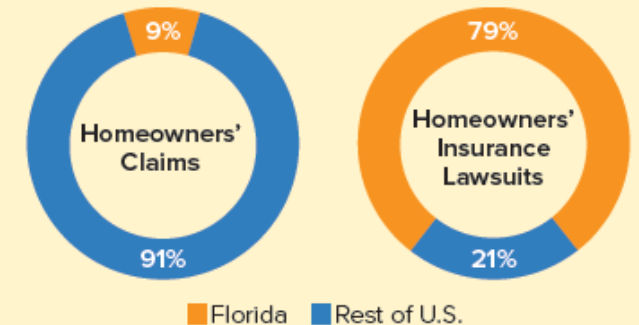
- 2021 Industry Combined Ratio of 462 pts and Underwriting Loss of \$7.2B due primarily to Hurricane Ida
- Nine companies have been declared insolvent in 2022 (so far)
- Lawsuit environment costs the state \$3.9B in lost economic activity, imposing a "tort tax" of \$451 per resident annually\*\*

\*Florida Office of Insurance Regulation

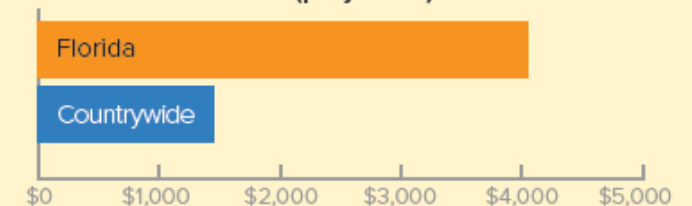
\*\*American Tort Reform Association

### By the Numbers

Florida leads the nation in homeowners' insurance-related litigation, despite accounting for less than 10 percent of claims, with a corresponding impact on policyholder premiums.



Average 2022 Homeowners' Insurance Premium (projected)



Source: Triple-I analysis of Florida Office of Insurance Regulation and National Association of Insurance Commissioners data



# THANK YOU!



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