Chapter 8: Government Regulation of Insurance

- reasons for insurance regulation
  - maintain insurer solvency
  - compensate for inadequate consumer knowledge
  - ensure reasonable rates
  - make insurance available
- historical development of insurance regulation
  - insurers were initially subject to few regulatory controls
  - state legislatures first granted charters to new insurers; insurance commissions were first created in 1851
  - in *Paul v. Virginia* (1868), the Supreme Court ruled that insurance was not interstate commerce, and that the state's rather than the federal government had the right to regulate the insurance industry
  - in *U.S. v. South-Eastern Underwriters Association* (1944) the Court ruled that insurance was interstate commerce when conducted across state lines and was subject to federal antitrust laws
  - the McCarran-Ferguson Act (1945) states that continued regulation and taxation of the insurance industry by the state's are in the public interest
    - federal antitrust laws apply to insurance only to the extent that the insurance industry is not regulated by state law
  - the Financial Modernization Act (1999) changed federal law that earlier prevented banks, insurers and investment firms from competing outside their core area
    - state insurance departments regulate insurers
    - state and federal bank agencies regulate banks
    - the SEC regulates the sale of securities
    - the Fed has umbrella authority of bank affiliates that engage in underwriting insurance
- methods for regulating insurers
  - the three principal methods used to regulate insurers are:
    - legislation, through both state and federal laws
    - court decisions, e.g., interpreting policy provisions
    - state insurance departments
- What areas are regulated?
  - all states have requirements for the formation and licensing of insurers
    - licensing includes minimum capital and surplus requirements
    - a domestic insurer is domiciled in the state
    - a foreign insurer is an out of state insurer that is chartered by another state, but licensed to operate in the state