[Louisiana regulators continue allowing weak insurers to take on risky policies](https://uphelp.org/louisiana-regulators-continue-allowing-weak-insurers-to-take-on-risky-policies/)

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Shaky companies welcomed in the state's distressed market

After four insurers failed in late 2021, Insurance Commissioner Jim Donelon put the fate of thousands of Louisiana homeowners in the hands of little-known Safepoint Insurance Co.

The Florida-based firm took on 30,000 risky policies after three companies abruptly collapsed. Three months later, Safepoint assumed 24,000 more.

"Policyholders can start the new year knowing that their homes are protected by a viable insurance company," Donelon said at the time, congratulating himself for finding a "proper landing spot" for the abandoned customers of State National Fire, Access Home and Americas Insurance.

But Safepoint's eagerness concealed another fact not mentioned in the press releases: Its finances were shaky, and they had been getting worse for years.

Five months before Safepoint extended the first lifeline to Louisiana, in June 2021, its rating from A.M. Best — the leading rating agency for insurers — dropped so low that it could no longer insure homes with federally backed mortgages.

But Safepoint was easily able to sidestep the bad review. Instead, Safepoint simply withdrew the negative grade, meaning A.M. Best no longer rates the company. The firm continued its expansion into Louisiana bearing an "A" rating from Demotech, another rating company.

This month, Safepoint asked the state for permission to underwrite another 19,800 of Louisiana Citizens' policies.

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Even as other insurers fold or flee the state, Safepoint is doubling down. The company's strategy is a familiar one in Louisiana, where insurers have often used Citizens' policies to prop up their business before they eventually flopped.

The state is expected to spend at least $874 million to cover claims from the insolvencies of 11 insurance companies — six of which have direct ties to the depopulation program.

Over the 13-year life of the effort, aimed at keeping the public insurer as small as possible, half of the participating insurers have either failed, departed or merged under financial pressure, a review by The Times-Picayune | The Advocate found. The four companies that took on the largest number of Citizens policies all went broke.

Donelon says encouraging small private companies like Safepoint to underwrite homes and businesses is better than relying on Citizens, the public insurer.

But consumer advocates worry that Donelon's preference for a market solution may allow desperate consumers to be exploited.

"When the private market leaves, I don't think the solution is to let risky players in, just because you believe private is better than public," said Amy Bach, executive director of United Policyholders.

"I understand what he was thinking: Competition is good for consumers. That is true when it's working, but when it doesn't work, you need a strong government program."

Louisiana's bad bet
It's not uncommon for the insurance industry to flee from certain perils, or from entire geographic markets viewed as too risky. But when the private market says "no," the government usually steps in.

"That's why we have the terrorism risk insurance pool, because the private market said, 'We don't like that bet,'" Bach said. "And that's why we have the California Earthquake Authority — because insurers didn't like that bet."

For years, Louisiana residents could rely on a high-risk pool, if they were denied property insurance coverage, through state-run insurance plans. The high-risk insurance pools were moved in 2004 under

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the purview of the newly-formed Louisiana Citizens, whose operation today is more like an insurance company.

There's one key difference: State lawmakers didn't want Citizens to compete with private insurers, so they created a number of constraints. Citizens must charge 10% more than its peers, and it must offer its entire book of policies every year to any private insurer willing to take any of them.

These insurers are also known as "takeout companies," a term that's also become synonymous with an upstart insurer with little money. But the defining feature is their reliance on depopulation programs to gain customers.

"I wouldn't call it the private market," said Martin Grace, an insurance professor at Temple University. "It's basically a state-created market that's a placeholder for all the high-risk policies, and for people to pretend that the private market has it."

Donelon lionized the takeout companies in the years after Hurricane Katrina for their willingness to do business in the state. After traditional large insurance companies retreated, the investor-backed newcomers were the only ones willing to gamble on Louisiana's bad bet.

No constraints

The only requirement written into law was that any insurer taking on policies from Citizens must carry a B+ rating from A.M. Best — or its equivalent. The ratings are supposed to determine if a company is likely to fail.

But fewer than half of the participating insurers met the strict letter of the law; the rest were allowed in with lesser grades deemed equivalent. The loose interpretation of the rule allowed shaky firms to take on the most risk.

State lawmakers so far have been unwilling to change the rating requirement for the depopulation program. Although some legislators have complained about the practice, attempts to tighten the rules have been brushed aside.

"The commissioner of insurance is so adamant about being able to depopulate these (policies) that they

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resisted at every turn," said state Sen. Bret Allain, R-Franklin, who introduced a bill earlier this year that would have raised the rating requirement for the program to an "A" from A.M. Best.

Allain said he was motivated to change the law after his own policy was taken out of Citizens and placed with Maison Insurance Co. He could not recall ever signing anything or giving his agent permission to change carriers.

Allain said he came to regret not sticking with Citizens after Maison folded.

"I didn't think it was right," he said. "I think they should require the signature of the insured before they take you out of Citizens."

Allain's bill was never even discussed in the Senate Insurance Committee. Chairman Sen. Kirk Talbot, R-River Ridge, has said he did not support it, largely because it would have made it more difficult to remove policies from Citizens.

Like Allain, state Rep. Ryan Bourriaque, R-Abbeville, has been publicly critical of how changes are communicated. Citizens does not send letters to notify consumers directly; instead, it relies on individual insurance agents to call thousands of consumers in the span of 90 days to get consent.

Bourriaque has said Louisiana's approach is misguided.

"The state can no longer be excited about the quantity of companies writing, but rather should focus on the financial capacity of that company," Bourriaque said in an interview earlier this year.

Policy unchanged
Even after a raft of company failures, the state's game plan is unchanged.

Home and business owners were forced back to Citizens after multiple insurers went under, more than tripling the number of policyholders, from about 41,000 at the end of 2021 to 129,000 today.

Donelon, a non-voting member of the Citizens board, is anxious to offload policies again.

Safepoint is one of two insurers that have lined up.

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Just one year ago, A.M. Best had downgraded Safepoint’s financial rating to C++.

The rating firm summarized its rationale concisely: The balance sheet was “weak.” The firm’s operating performance was “marginal.” And its surplus, the money used to pay claims, was eroding. What’s more, the insurer was having trouble mitigating the risks of operating in hurricane-prone Florida.

The downgrade would have made the insurer ineligible, under state law, to assume policies from Citizens. But Safepoint withdrew the rating, and the firm is now relying on another from Demotech to stay in business.

Safepoint’s president, David Flitman, did not respond to emails and voice messages seeking comment. But the insurer has said in financial records that it has no immediate plans to leave Louisiana.

In its annual statement for 2021, Safepoint said it was looking to grow outside of Florida, where a flood of litigation has stung many insurers. Safepoint said it would continue its growth plans in Louisiana by adding more commercial coverage and, perhaps, by leaning further on the depopulation program.

So it came as little surprise when the insurer requested nearly 20,000 more policies through depopulation this year.

Insurance agents have moved nearly one-fifth of those to Safepoint already, according to Citizens. But the other consumers have until late February to decide whether they’ll be better off in the hands of yet another unfamiliar insurer.

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