

GI302 Flash Cards

Study notes

Those flash cards might be more informative and longer than those you have seen. This is partly because of the lengthy required reading. Besides, from my personal experience, I did not find flash cards that only contain keywords particularly useful, since you may need to refer back to the texts for more details all the time.

To make the most use of those flash cards, my suggestion is to go through them like another set of study manual in your second or third round of studies, and to highlight any words that you feel important and can help memorize the materials. Then, in your last study round(s), try to focus on those highlighted parts to recall the whole picture. In this way, your memory of those materials would be strengthened more effectively. Remember, do not try to skip any parts since this exam is very much detail-focused.

Again, best luck for your study!

Yanlin Shi, PhD FSA CERA

Part II

General Insurance Regulation

Development of Insurance Regulation

Timeline of insurance regulation

| | |
|-------------|---|
| 1752 | First insurer chartered – Philadelphia |
| Early 1800s | Sporadic state insurance regulation |
| 1869 | Paul vs. Virginia |
| 1871 | National Insurance Convention |
| 1890 | Sherman Antitrust Act |
| 1914 | Clayton Antitrust Act |
| 1936 | Robinson-Patman Act |
| 1944 | South-Eastern Underwriters Association decision |
| 1945 | McCarran-Ferguson Act |
| 1972 | NAIC: Unfair Claims Settlement Practices and Unfair Trade Practices Act |
| 1999 | Gramm-Leach-Bliley Act |

Development of Insurance Regulation

Early Years of Insurance Regulation

- 1752: First insurer chartered – Philadelphia
- Early 1800s: states felt pressure to protect domestic insurers
- New York is a leader in regulating insurance: it established process for managing insurer liquidation, imposed 10% retaliatory premium tax, and created first department of insurance (DOI) in 1859

Development of Insurance Regulation

Paul v. Virginia

- In 1869 U.S. Supreme Court review constitutionality of Virginia license law
- Paul applied to become licensed insurer in VA for NY insurers, but VA denied this because insurers had not deposited required foreign insurer bond
- Paul sold policies anyway and was arrested
- Paul appealed conviction to U.S. Supreme court
- Consequences:
 - Insurance is a contract delivered locally thus insurance contract not interstate commerce
 - States could continue to regulate own insurance market without violating Constitution
 - Use of bureau rates are allowed

Development of Insurance Regulation

National Insurance Convention

- In mid-1800s, more insurers operating in several states
- National Insurance Convention (NIC) formed in 1871 and took following actions:
 - Developed a constitution setting forth the regulators' goals
 - Designed a uniform accounting statement
 - Adopted guidelines for insurer taxation
 - Adopted first model law which covered items such as Commissioner's duties, regulation of fire, life, and marine insurers
- Early 1900s, insurers began writing auto insurance in addition to property
 - New York amended laws and allowed package policies
 - NIC Fire Insurance Committee defined and determined underwriting profits, earned premium, investment income and reasonable underwriting profits.
 - In 1930s regulators began to see the need for multiline insurers, which were not allowed until after 1945

Development of Insurance Regulation

Pre-SEUA Decision

- Early to mid-1800s, the industry was facing fierce competition and many insolvencies
- Compacts and associations were formed to control rates
- 2 thoughts were prevalent: compacts deter open and free competition; compacts were in the best interests of the public, if it prevented insolvencies
- Late 1800s, antitrust sentiments raised, leading to Sherman Antitrust Act in 1890
 - However, it did not directly apply to insurers because insurance not interstate commerce
 - Nevertheless, it gave states motivation to pass own antitrust laws against controlling rates
- In 1923, NCIC passed resolution to bring about repeal of state anticom-pact laws

Development of Insurance Regulation

SEUA Decision (part 1)

- Federal government conducted investigation and criminal indictments for the following activities of SEUA
 - Continuing agreement and concert of action to take control of 90% fire market
 - Fixing premium rates and agents' commissions
 - Using boycott and other forms of coercion and intimidation to force non-SEUA member to comply
 - Withdrawing rights of agents to represent SEUA members if they also represented non-SEUA companies
 - Threatening insurance consumers with boycott and loss of patronage if they didn't purchase insurance from SEUA members

Development of Insurance Regulation

SEUA Decision (part 2)

- On court, 2 key questions were considered when making the decision:
 - Did Congress intend the Sherman Act to prohibit insurer's conduct of restraining/ monopolizing business?
 - Do insurance transactions across state lines constitute "commerce among several states", which will subject them to Congressional regulation?
- Regarding the 2nd question, the following arguments were made to support it
 - Insurance is not a business that is distinct in each of the states; it is interconnected and interdependent among the states
 - Only 18 out of more than 200 SEUA members were domiciled in only 1 of the 6 SEUA states
 - Intangible products, such as electric impulses of telegraph transmissions, were subject to Congressional regulation
 - Other businesses make sales contracts in states where they do not have headquarters, and these are subject to the Commerce Clause
 - Not a single business conducting business across state lines is beyond the regulatory powers of congress, and insurers should not be an exception

Development of Insurance Regulation

Reaction to the SEUA Decision

- The immediate effect: Federal legislation now applied to insurance
 - The **Sherman Act** (1890): it prohibited collusion in attempts to gain monopoly power (e.g. Use of bureau rates are not allowed)
 - The **Clayton Act** (1914): it identified and made illegal practices that lessened competition or created monopoly power, including:
 - * Price discrimination: **Robinson-Patman Act** required price differences to be justified by reduced operating costs
 - * Tying: this required purchase of 1 product to purchase another
 - Consequently, subcommittee on Federal Legislation recommended the following items:
 - * Congress must be pressured to enact legislation under Commerce Clause which allows states to continue to regulate insurance
 - * Sherman Act and Clayton Act must be amended to allow cooperative arrangements to establish adequate rates and coverages
 - * FTC Act and Robinson-Patman Act must be amended to exclude insurance