



Recent Developments in Workers Compensation Claim Frequency

WC-4

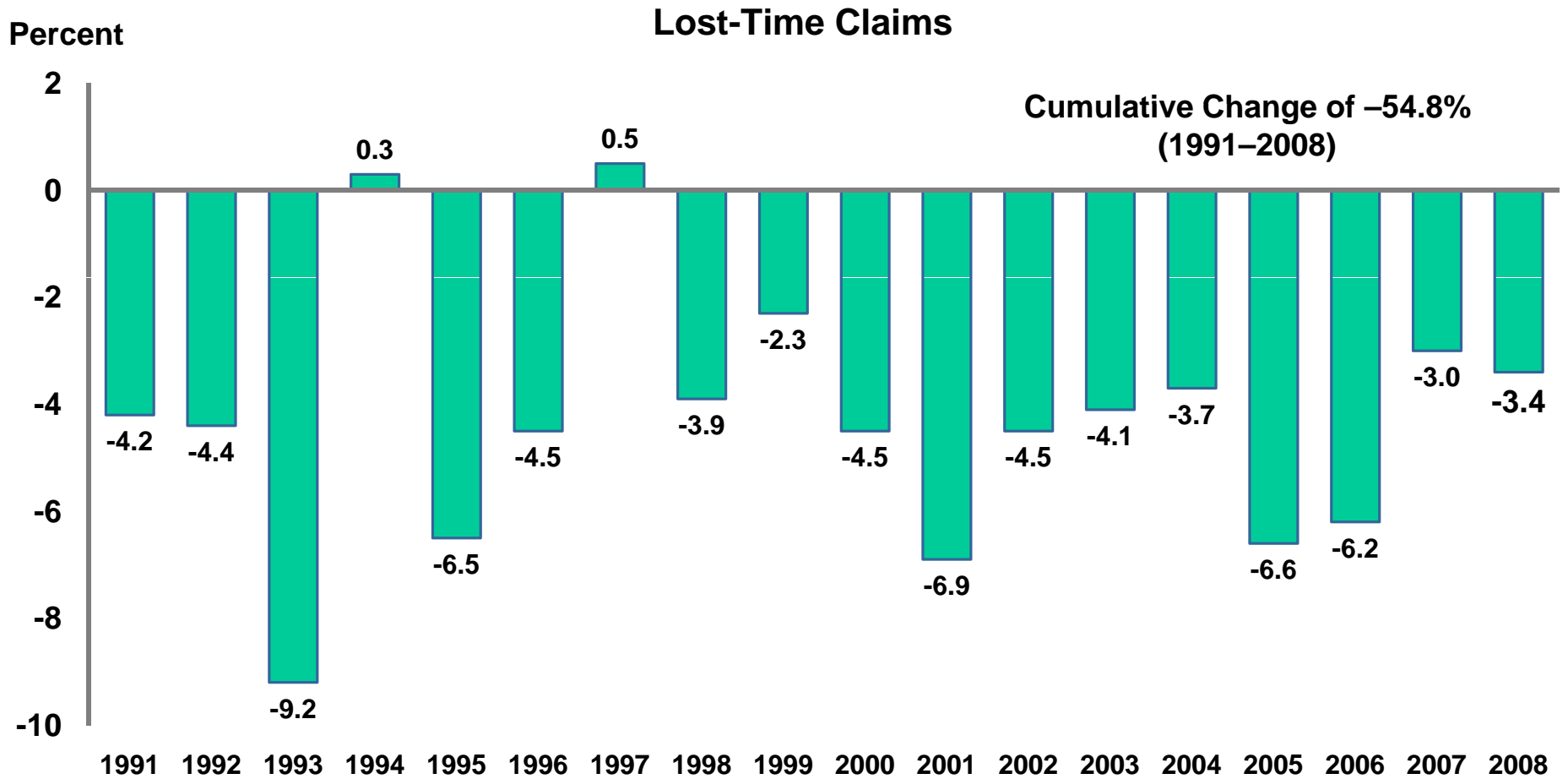
Presented by
Tony DiDonato FCAS, MAAA

2010 CAS
Ratemaking and Product Management Seminar
Chicago, IL
March 15-17, 2010

Antitrust Notice

- **The Casualty Actuarial Society is committed to adhering strictly to the letter and spirit of the antitrust laws. Seminars conducted under the auspices of the CAS are designed solely to provide a forum for the expression of various points of view on topics described in the programs or agendas for such meetings.**
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Workers Compensation Lost-Time Claim Frequency Continues to Decline



2008p: Preliminary based on data valued as of 12/31/2008

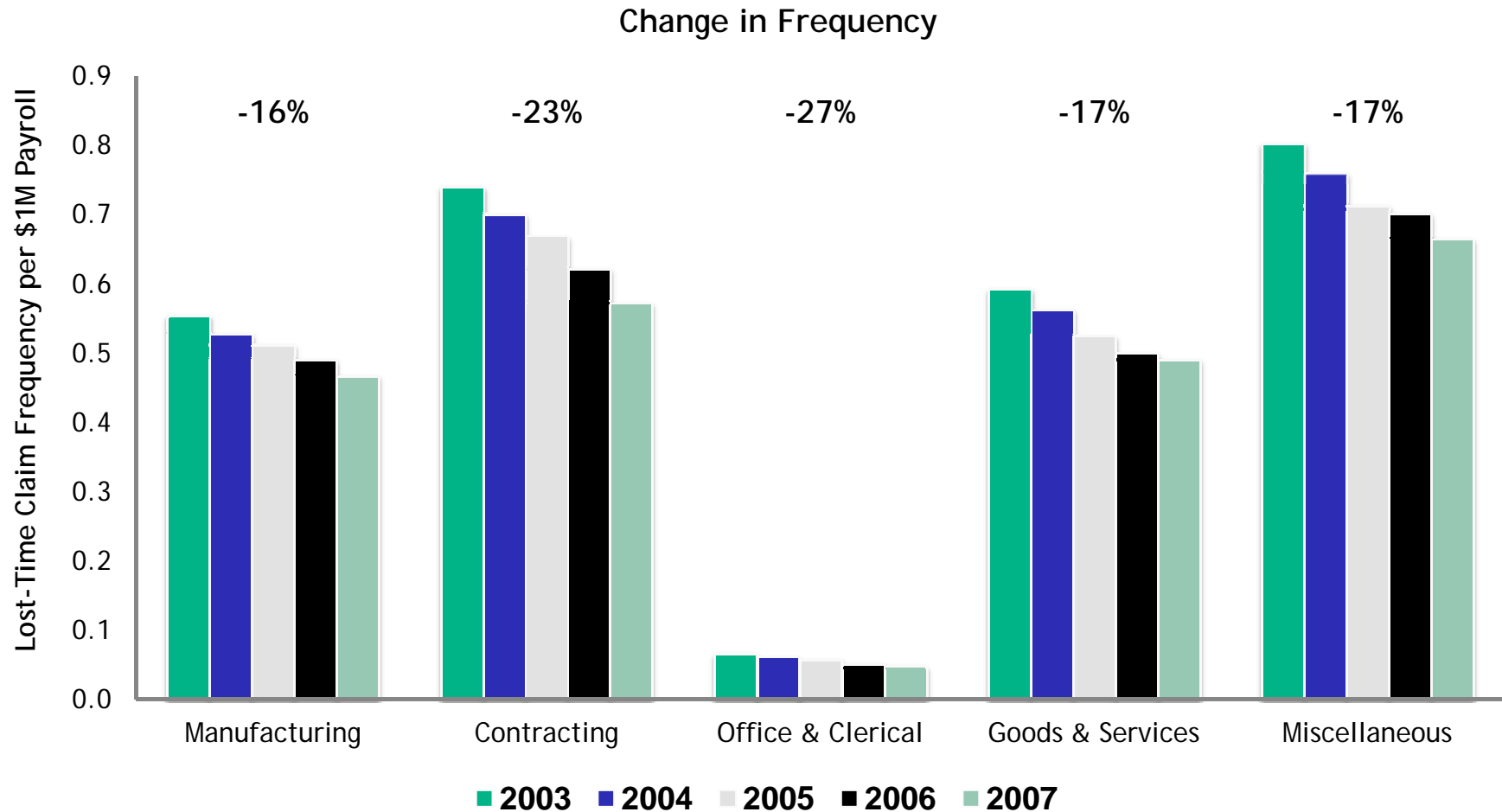
1991-2007: Based on data through 12/31/2007, developed to ultimate

Based on the states where NCCI provides ratemaking services, including state funds; excludes high deductible policies

Frequency is the number of lost-time claims per 100,000 workers as estimated from reported premium

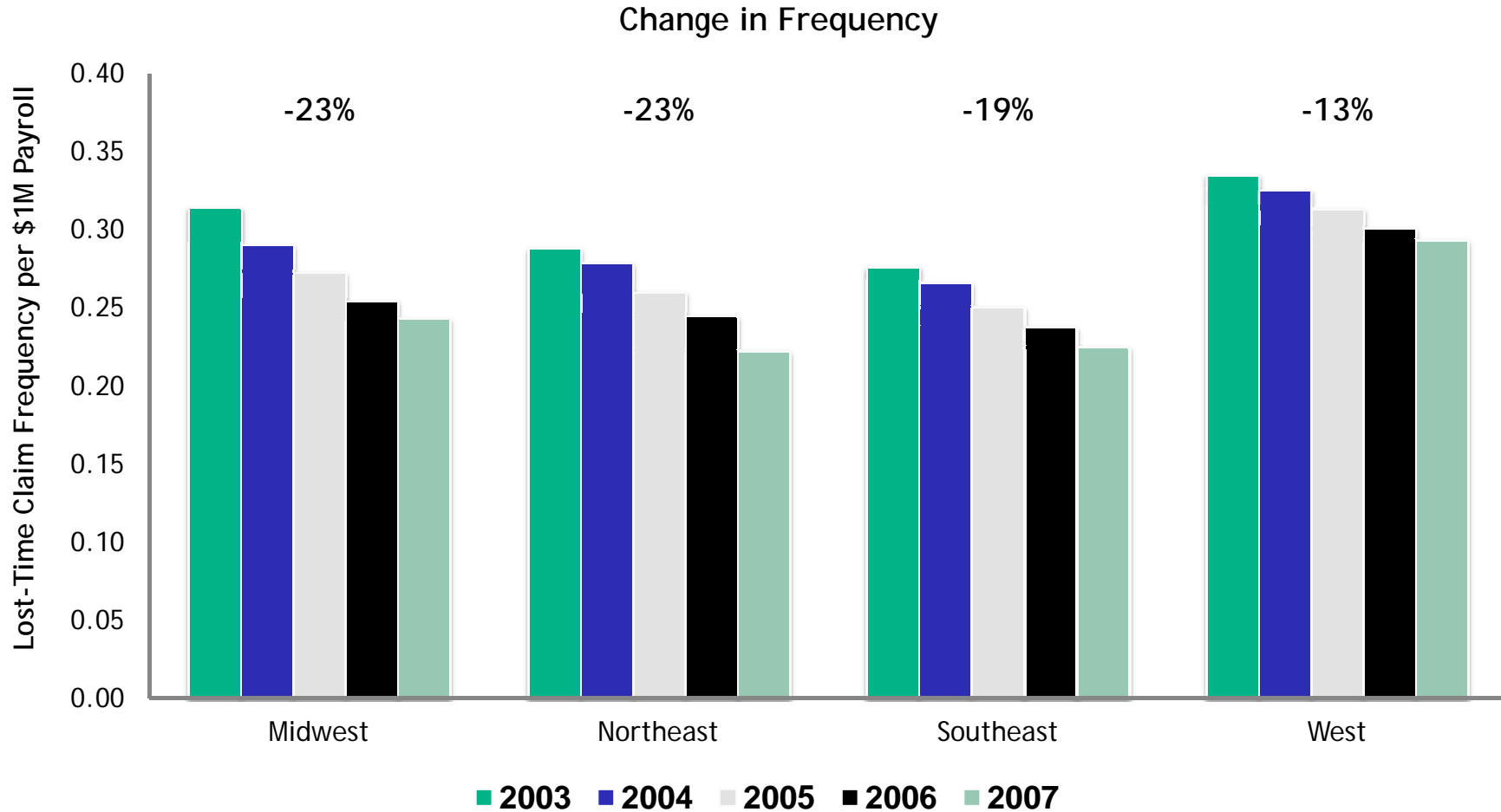
Lost-Time Frequency by Industry Group

Percentage Change Between Policies Expiring in 2003 and 2007
Claim Frequency per \$1M of Wage Adjusted Payroll



Lost-Time Frequency by Region

Percentage Change Between Policies Expiring in 2003 and 2007
Claim Frequency per \$1M of Wage Adjusted Payroll

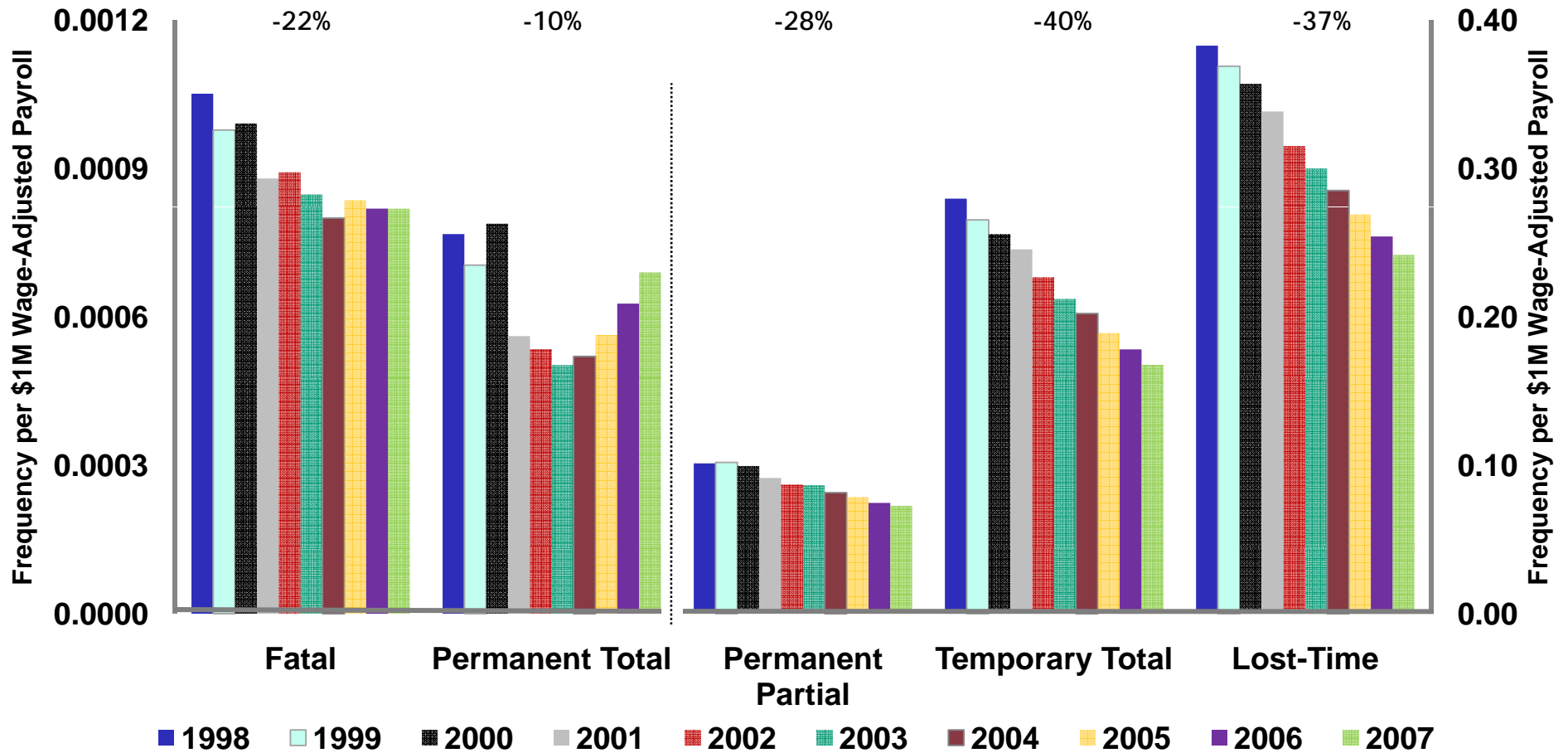


All NCCI states, First Report.

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Declines in Claim Frequency Are Consistent for All Injury Types Except Permanent Total

Frequency at First Report
Change in Frequency

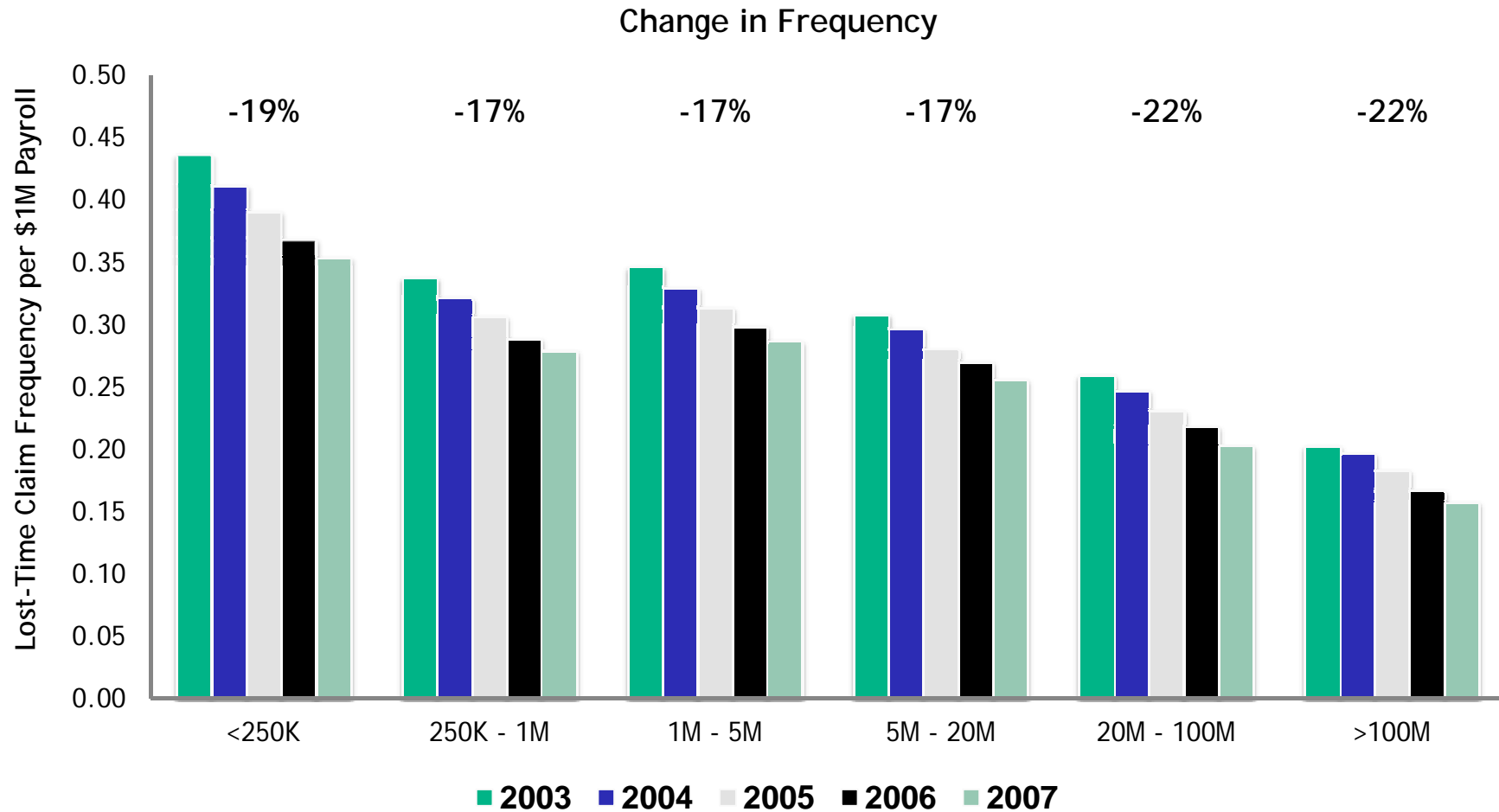


All NCCI States

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Lost-Time Frequency by Payroll Group

Percentage Change Between Policies Expiring in 2003 and 2007
Claim Frequency per \$1M of Wage Adjusted Payroll

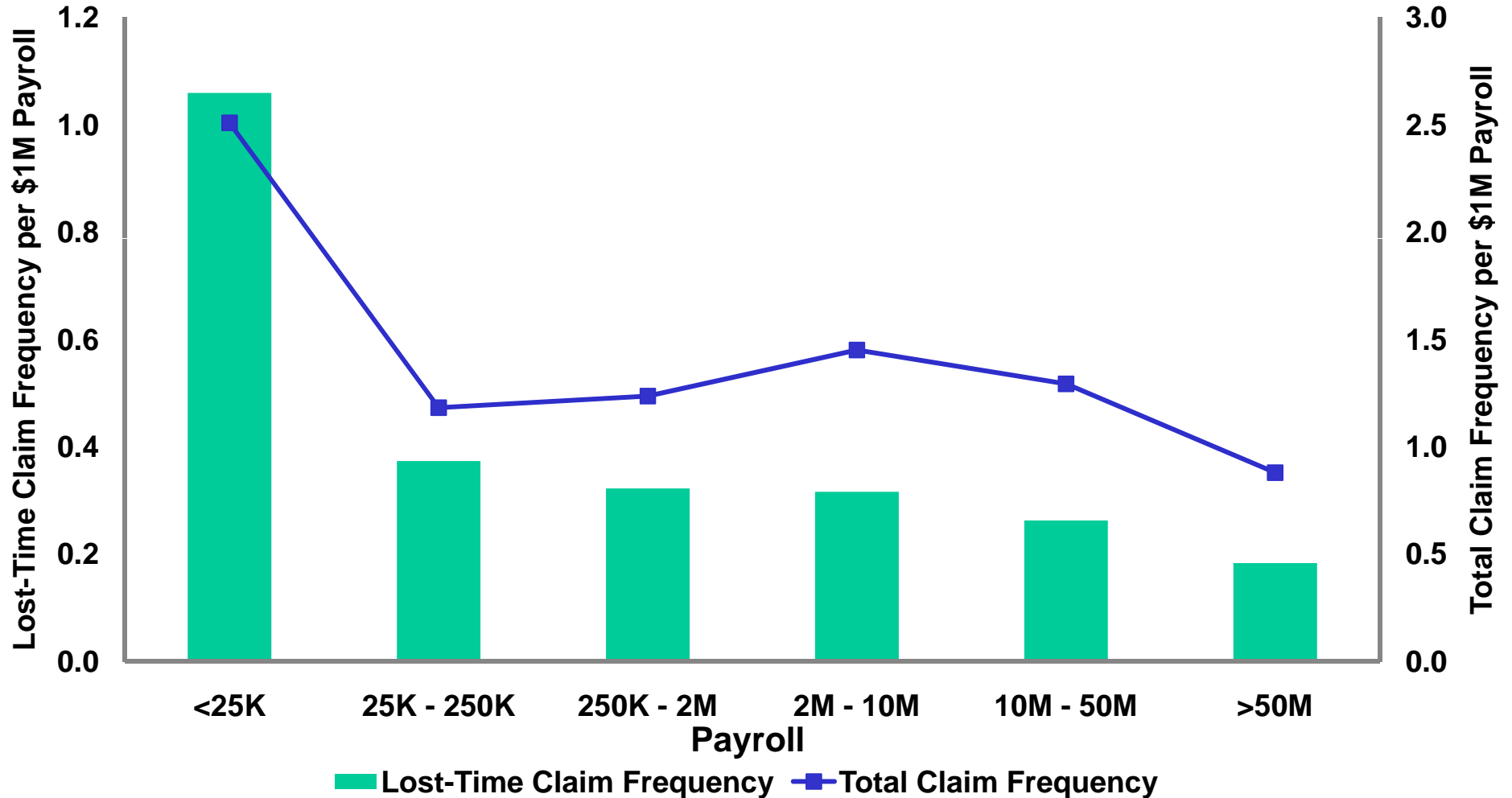


All NCCI states, First Report.

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All Industries Claim Frequency by Payroll Size

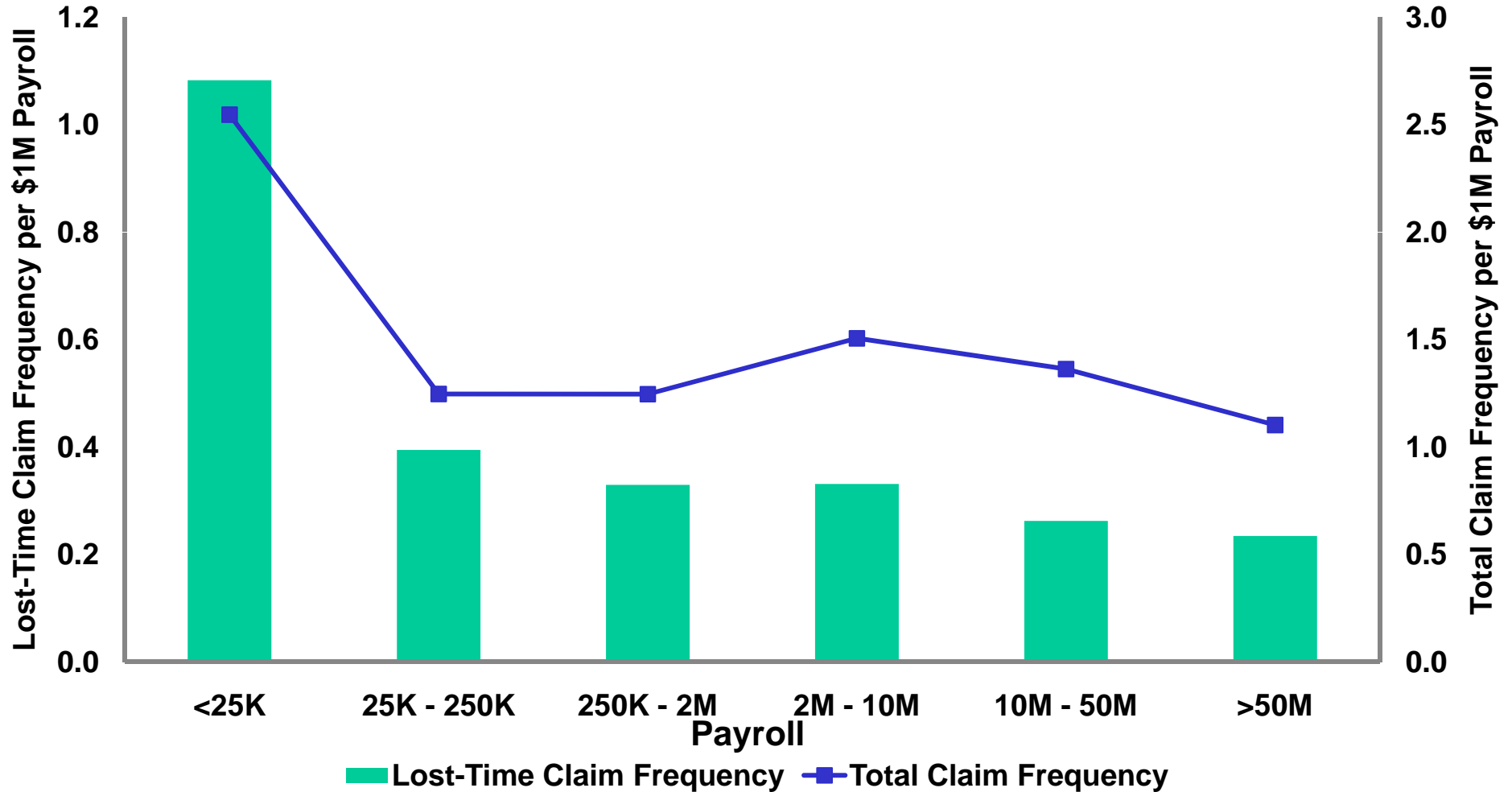
All Policies at First Report



Source: WCSP Data at first report for policies generally expiring in 2006 and 2007.
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All Industries Claim Frequency by Payroll Size

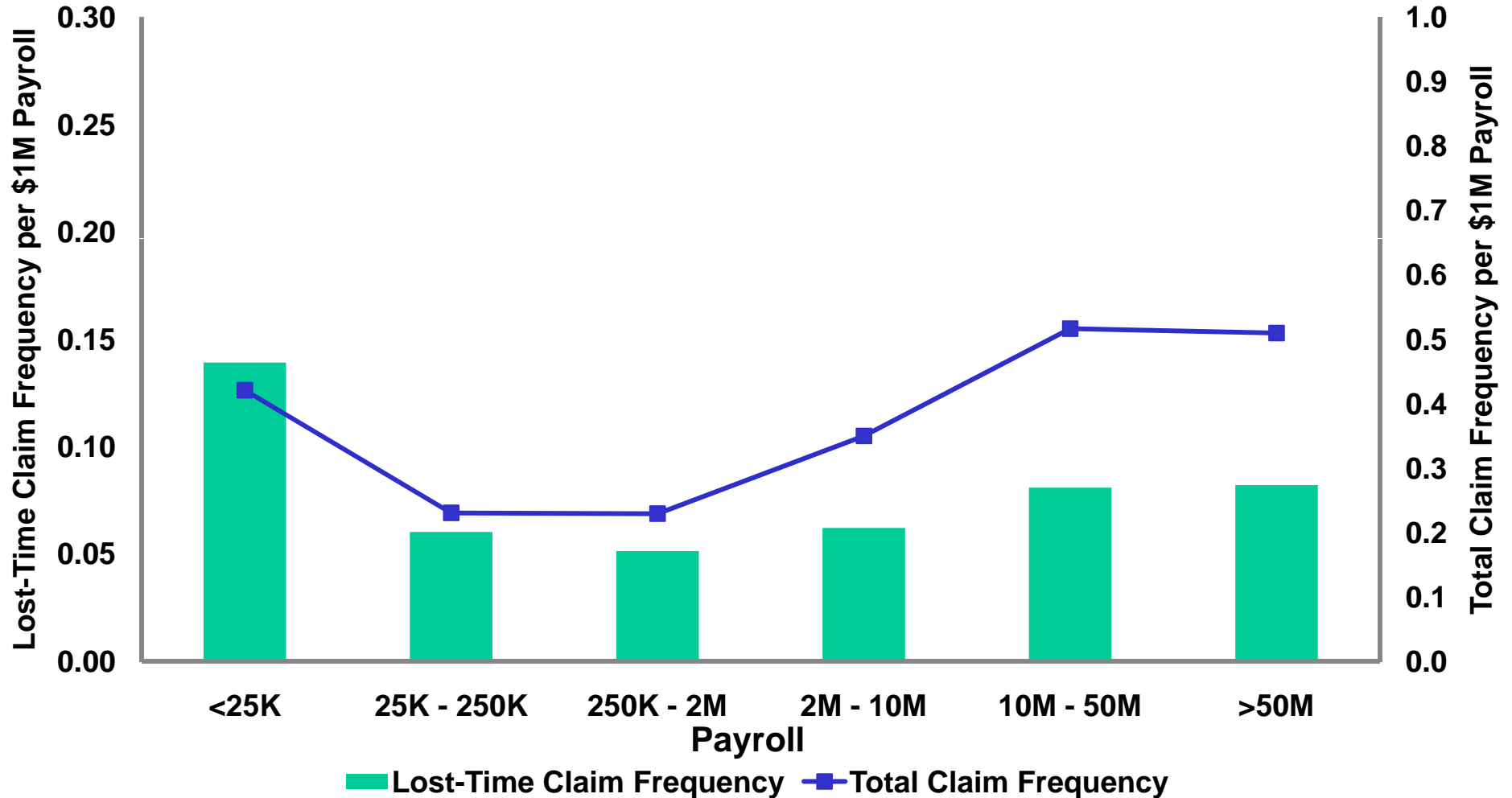
Single-State Policies at First Report



Source: WCSP Data at first report for policies generally expiring in 2006 and 2007.
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Office and Clerical Claim Frequency by Payroll Size

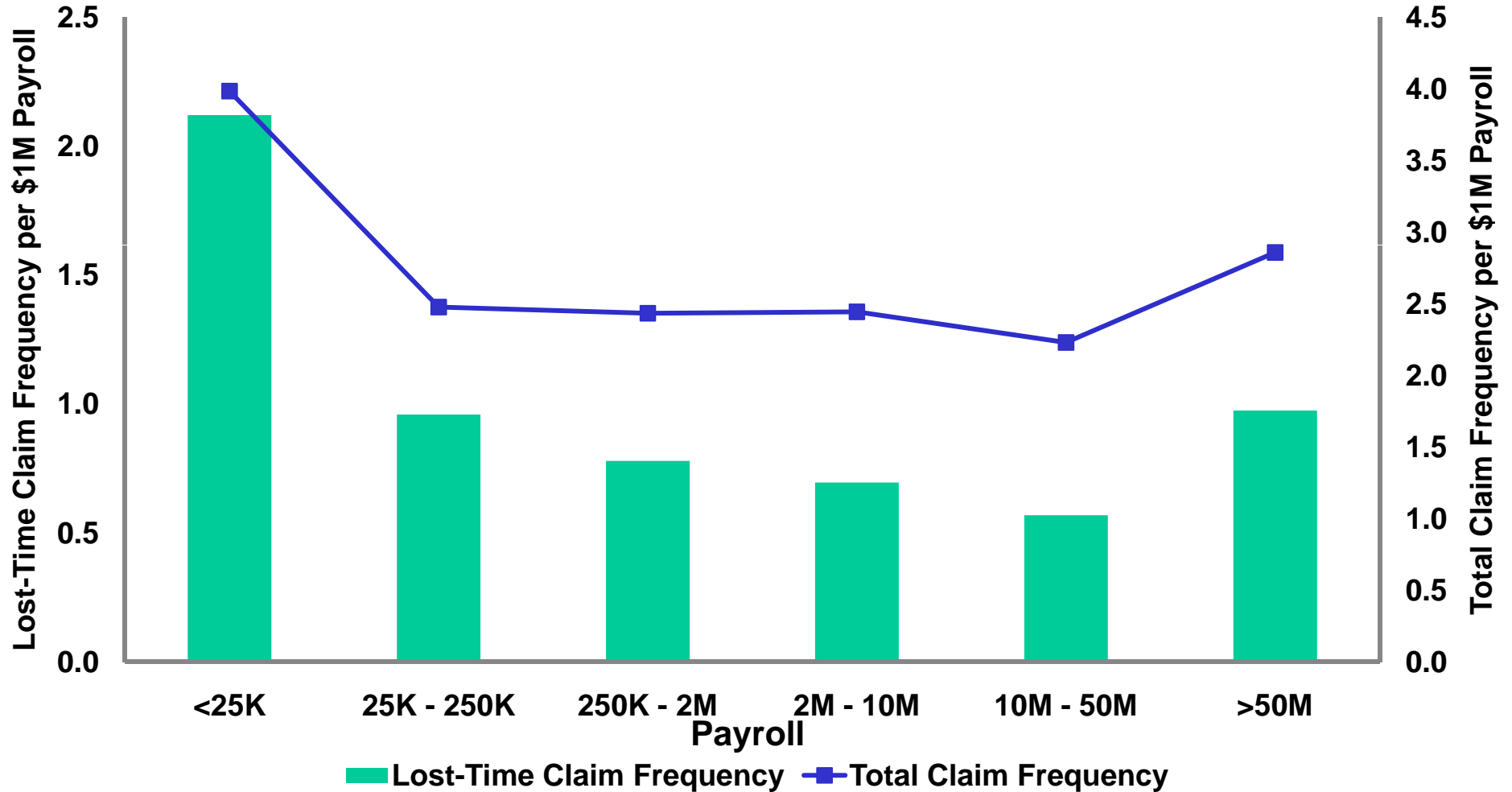
Single-State Policies at First Report



Source: WCSP Data at first report for policies generally expiring in 2006 and 2007.
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Contracting Claim Frequency by Payroll Size

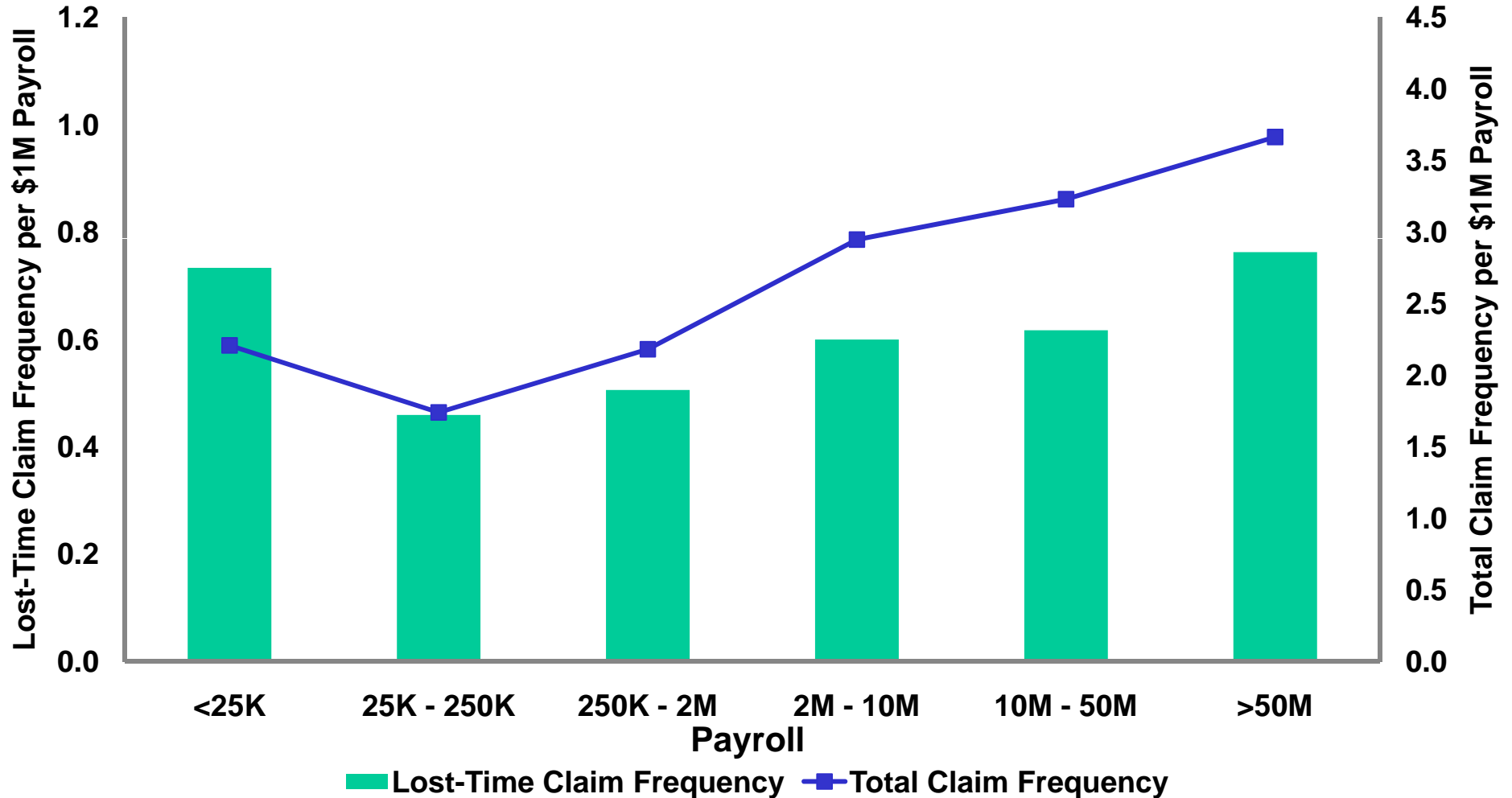
Single-State Policies at First Report



Source: WCSP Data at first report for policies generally expiring in 2006 and 2007.
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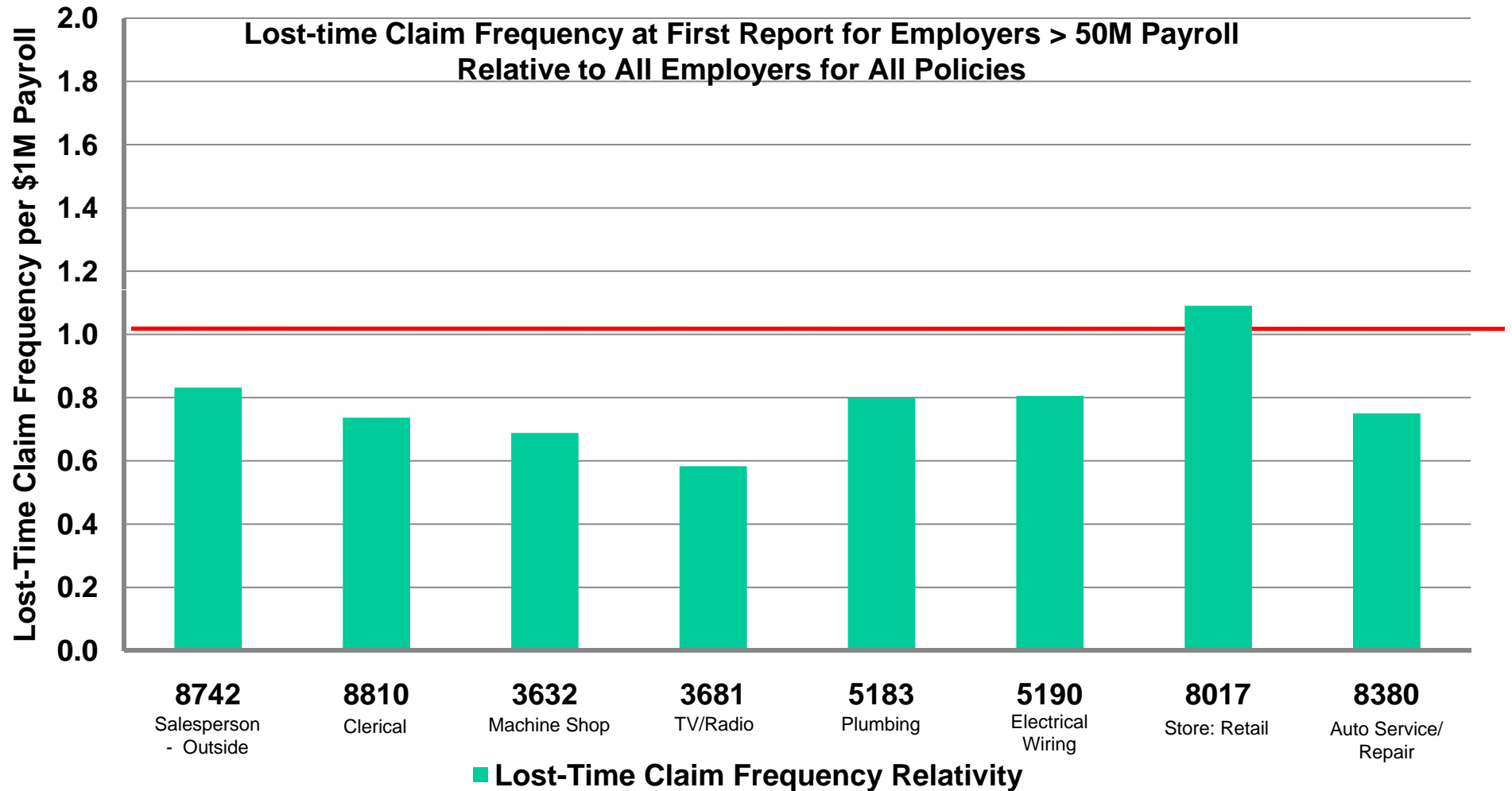
Goods and Services Claim Frequency by Payroll Size

Single-State Policies at First Report



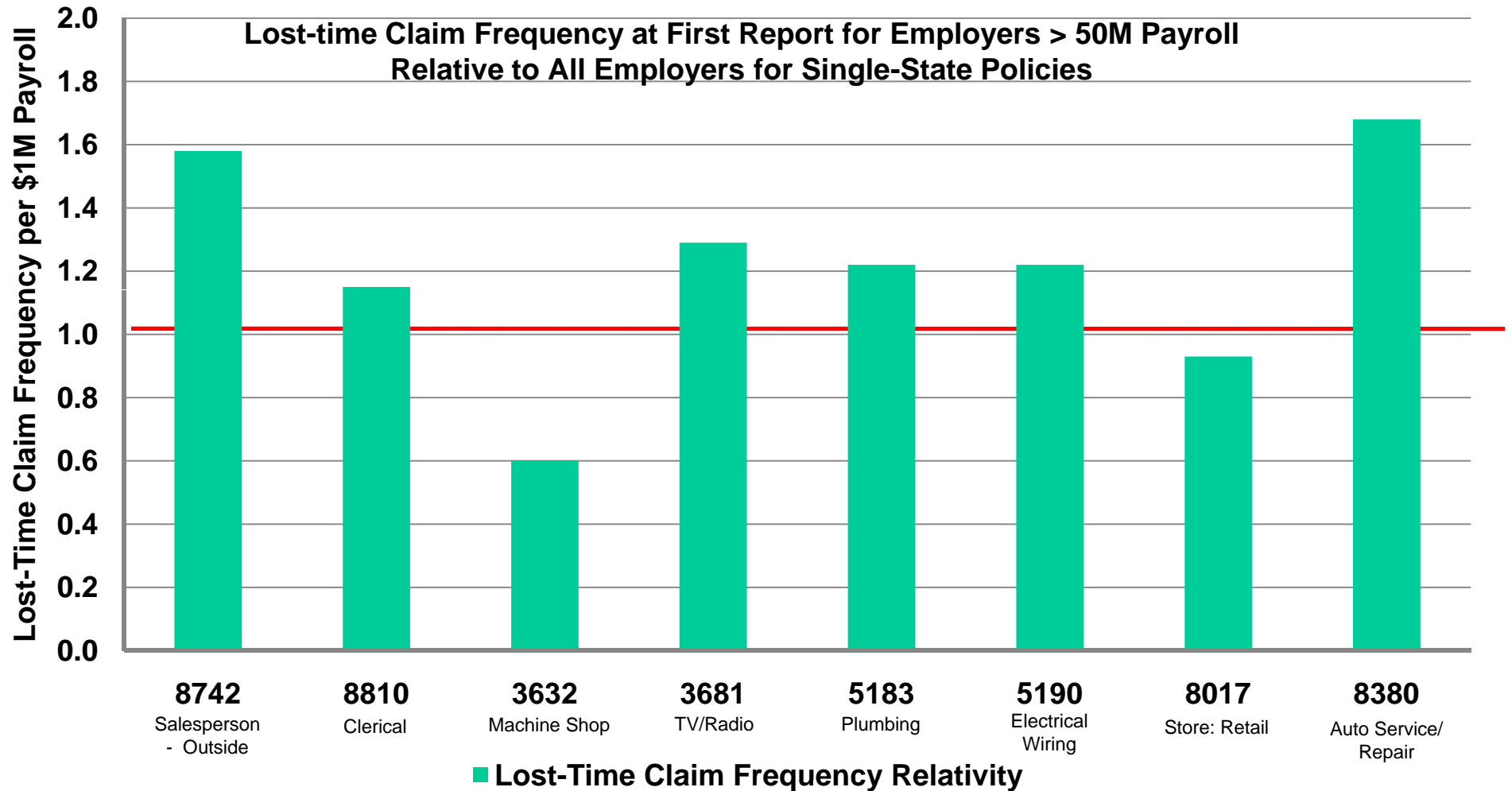
Source: WCSP Data at first report for policies generally expiring in 2006 and 2007.
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Large Employer Lost-Time Claim Frequency Relativity by Class




Source: WCSP Data at first report for policies generally expiring in 2006 and 2007.
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Large Employer Lost-Time Claim Frequency Relativity by Class



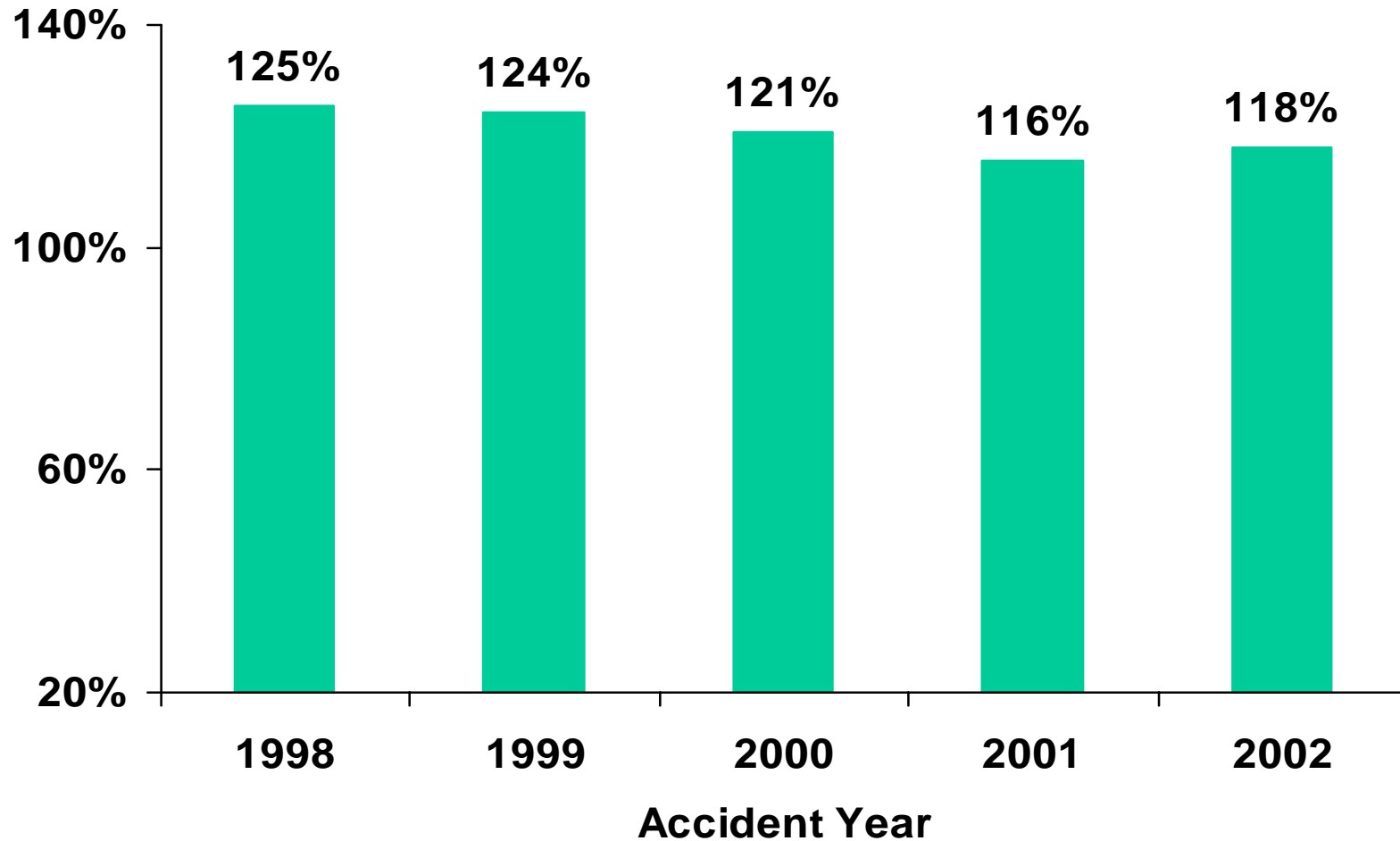
Source: WCSP Data at first report for policies generally expiring in 2006 and 2007.
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Florida

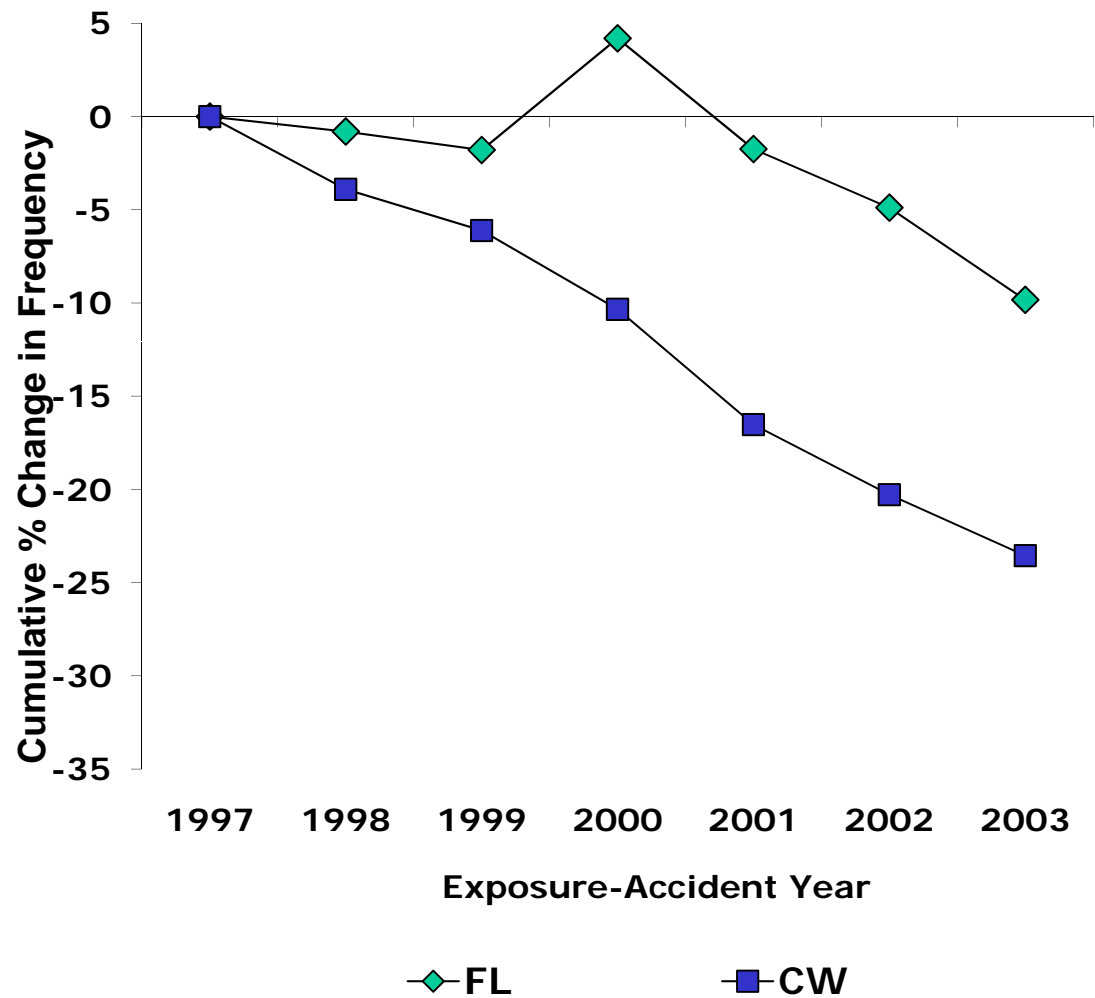
Pre-SB 50A Background

Florida Accident Year Combined Ratios As Estimated at 12/31/02



Source: NCCI financial data, NAIC Annual Statement data.

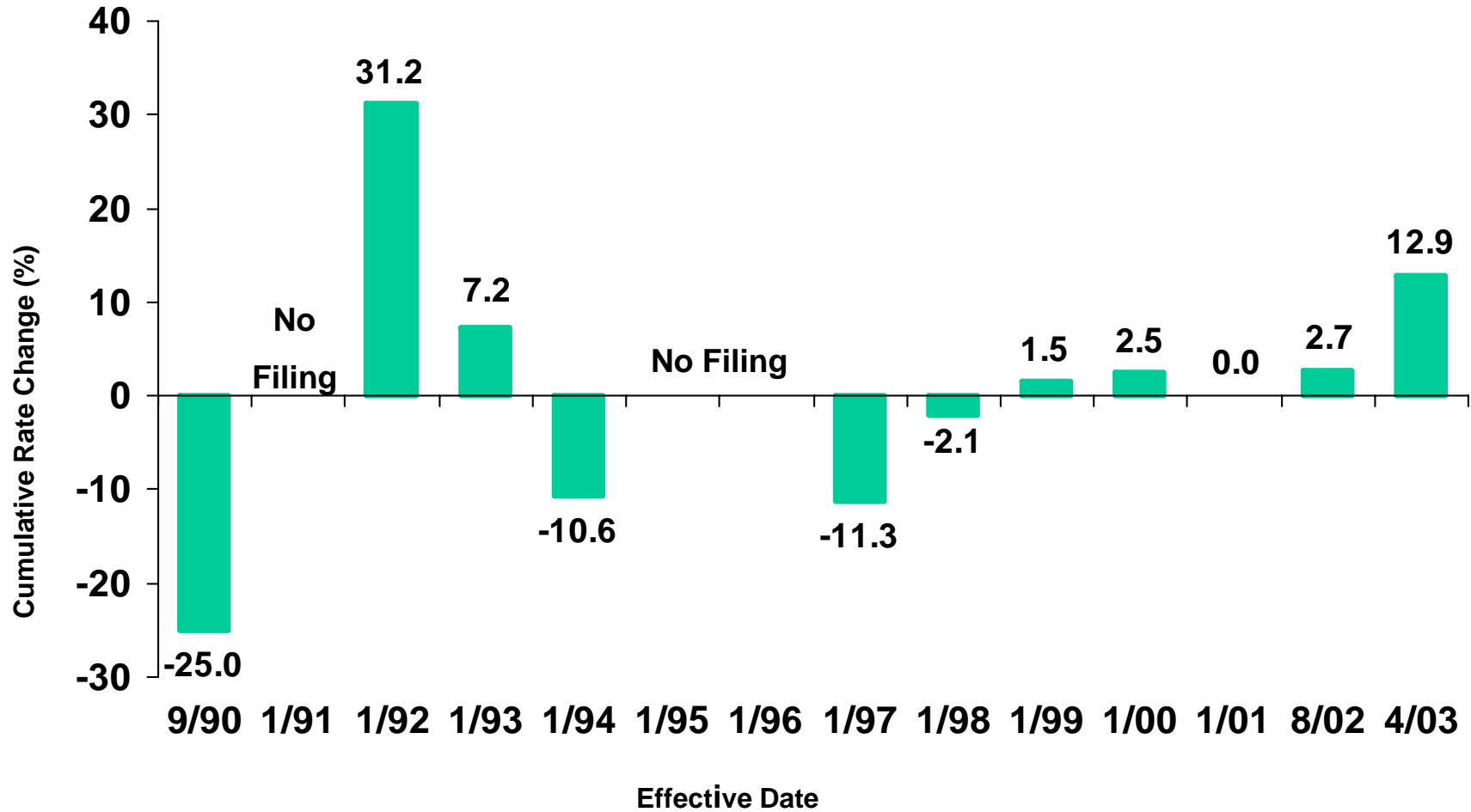
Cumulative Changes in Frequency



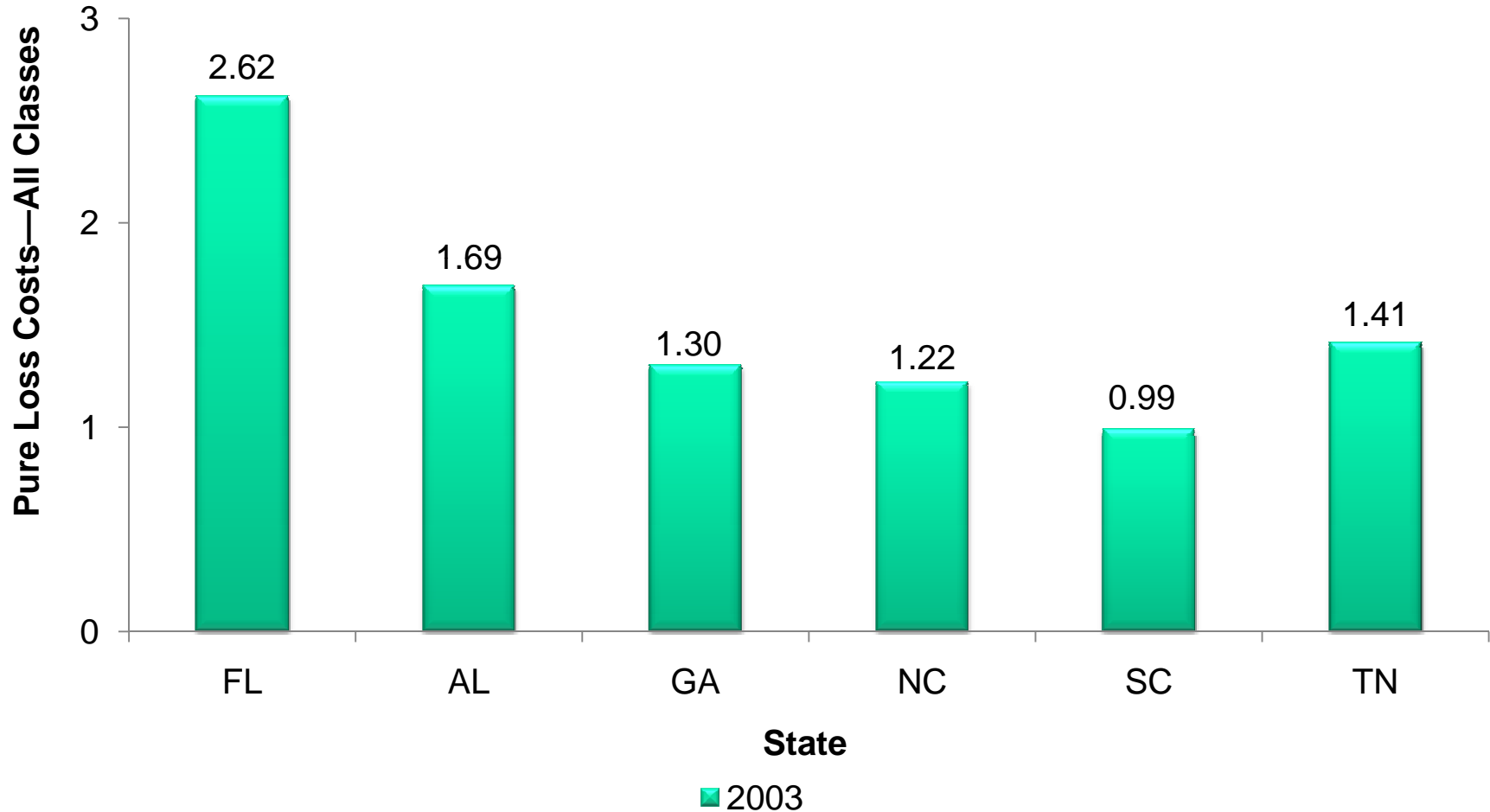
Based on NCCI's financial data.

Frequency of lost-time claims.

Florida's Historical Rate Changes



Current Average Voluntary Pure Loss Costs Using Florida's Payroll Distribution



Based on the 2003 approved rates and loss costs in the various states.



Florida's SB 50A Reform

Effective 10/1/03

Summary of the Key Provisions of Florida SB 50A, Effective 10/1/03

Impact: -14%

Permanent Total

- Tightened definition—removed Social Security standard
- Limited duration of benefits—COLA stops at age 62, basic stops at age 75

Permanent Partial

- Increased impairment benefit from 1/3 of wage to 1/2 (if RTW < pre-injury wages . . . otherwise reduced)
- Duration reduced for impairments < 22%
- Eliminated supplemental benefits
- Limited psychiatric impairment

continued ...

Summary of the Key Provisions of Florida SB 50A, Effective 10/1/03 Impact: -14%

continued ...

Attorney Fees

- Maintained schedule of fees, but eliminated nearly all hourly fee exceptions

Hospital and Physician Fees

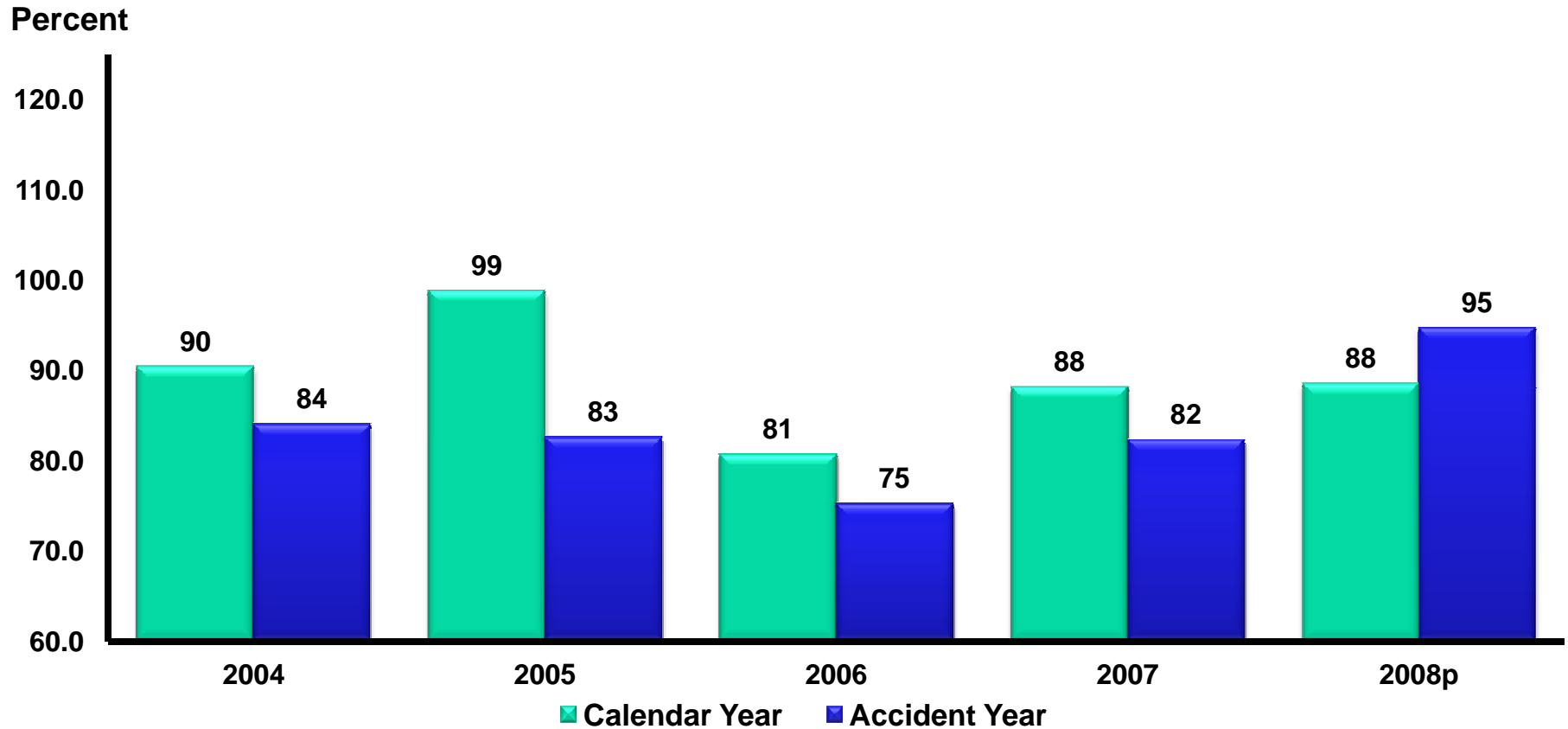
- Effective 1/1/04 hospital fees reduced and physician fees increased

Additional components

- Increased maximums on fatal benefits, increased caps on chiropractors, reduced pharmaceutical fees, tightened compensability standards, apportionment of second injury and restricted construction exemptions

Florida Combined Ratios

Workers Compensation—Private Carriers Calendar Year vs. Ultimate Accident Year



p Preliminary

Accident Year data is evaluated as of 12/31/2008 and developed to ultimate

Source: Calendar Years 1999–2007, *Best's Aggregates & Averages*;

Calendar Year 2008p and Accident Years 1999–2008p, NCCI analysis based on Annual Statement data

Includes dividends to policyholders



Attorney Involvement

Pre-SB 50A Standard

- 440.34 provided a schedule for payment of claimant attorney fees:
 - 20% of first \$5,000 of benefits secured
 - 15% of next \$5,000 of benefits secured
 - 10% of any remaining over first decade
 - 5% of benefits due after first 10 years post-award
- Fee calculated according to schedule and modified by *Lee Engineering* factors, including time and labor required
- In practice, fee was not modified below the schedule (*Alderman*)

Post-SB 50A Standard

- Same schedule was maintained in 440.34
- *Lee Engineering* factors eliminated
- Subsequent case law, including *Wood* and *Lundy*, limited claimant attorney fees to the schedule until *Emma Murray* decision by Florida Supreme Court on 10/23/08

Attorney Involvement Prior to SB 50A

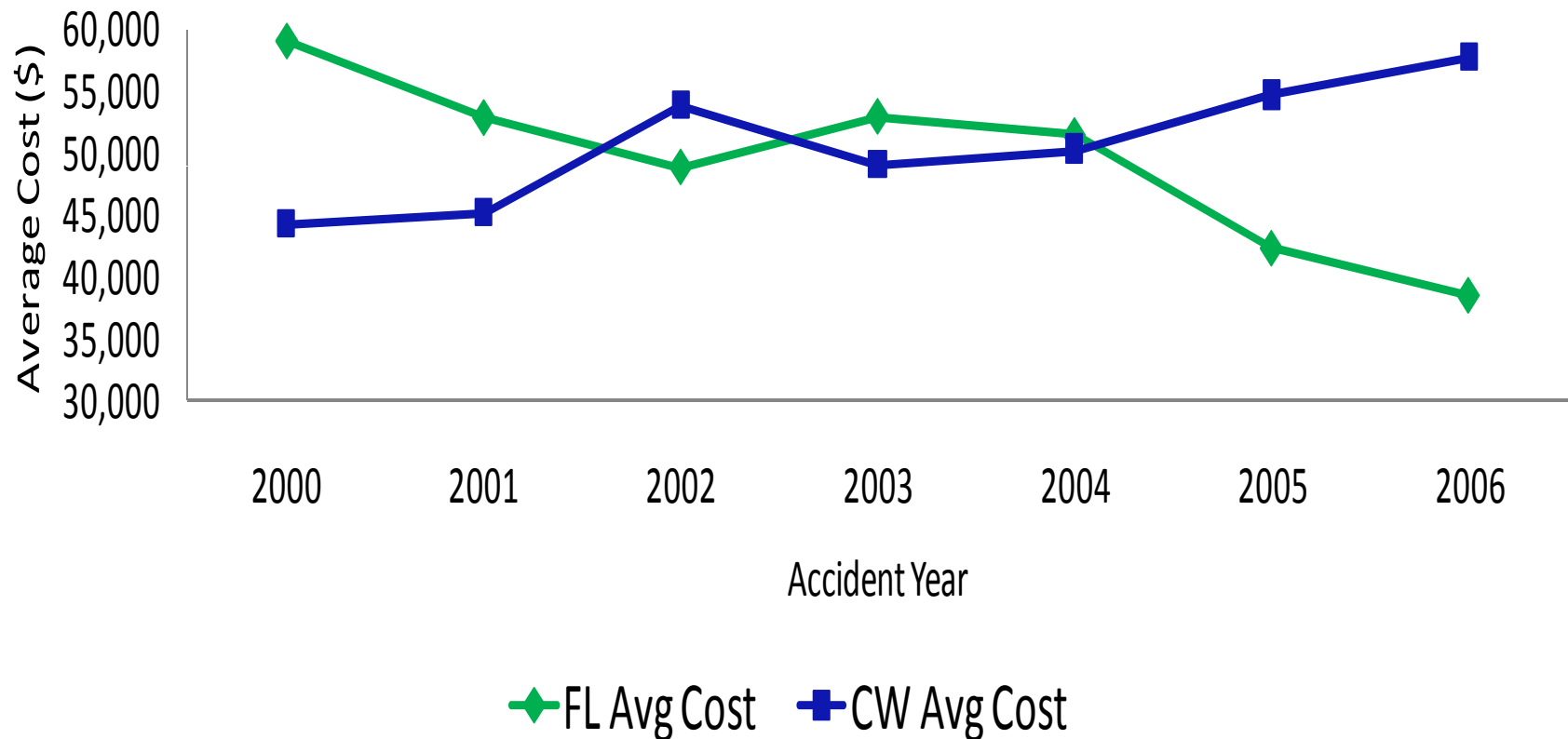
- NCCI Cost Driver Study showed attorney involvement was significant in Florida and higher than countrywide
- When attorneys were not involved, the difference in claim costs between Florida and countrywide was minimal
- When attorneys were involved, Florida claim costs were 40% higher than countrywide

Attorney Involvement After SB 50A

- Attorney involvement showed some slight decline
- When attorneys are not involved, the difference in claim costs between Florida and countrywide is minimal
- When attorneys are involved, Florida claim costs have improved to better than countrywide

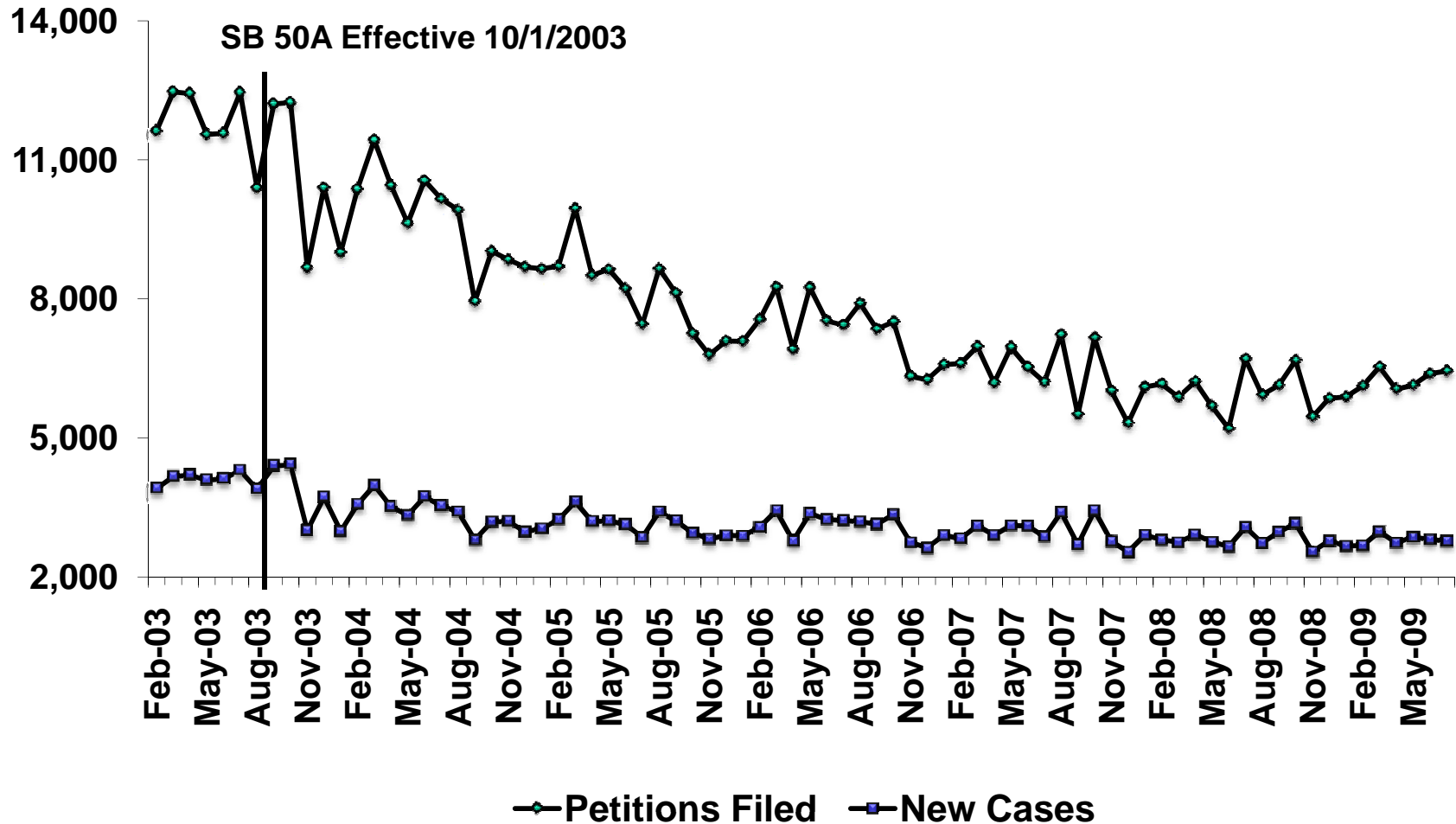
Average Total Benefit Cost for Claims with Attorney Involvement

Adjusted for Wage Changes



Source: NCCI Detailed Claim Information at a Second Report.

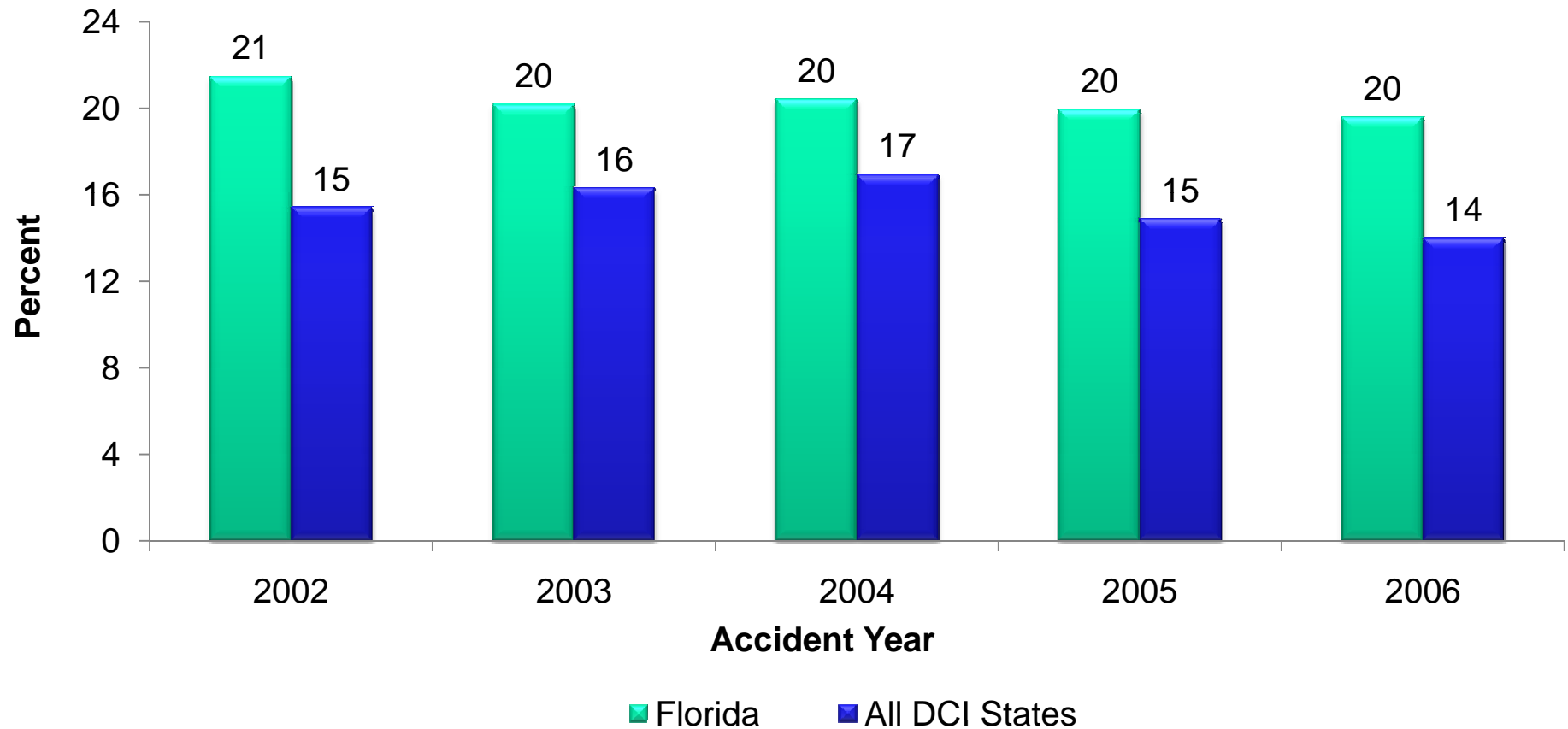
Recent Florida Division of Administrative Hearings (DOAH) WC Activity



Data from Florida Division of Administrative Hearings

Percentage of Claims With Attorney Involvement

Lost-Time Claims



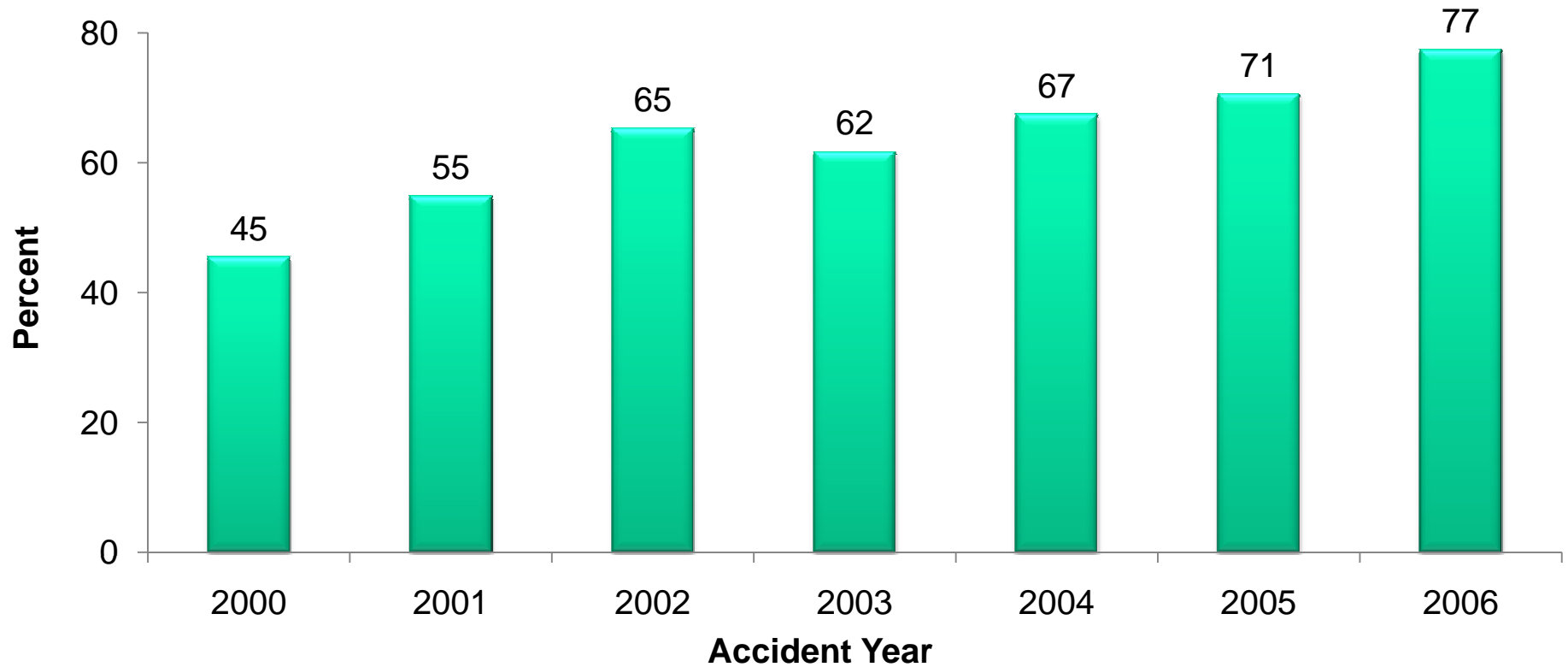
Accident Years 2002 to 2006 at 2nd report.

Based on NCCI's DCI data.

Florida Claim Closure Rate Improving

Percentage of Closed Claims with Attorney Involvement

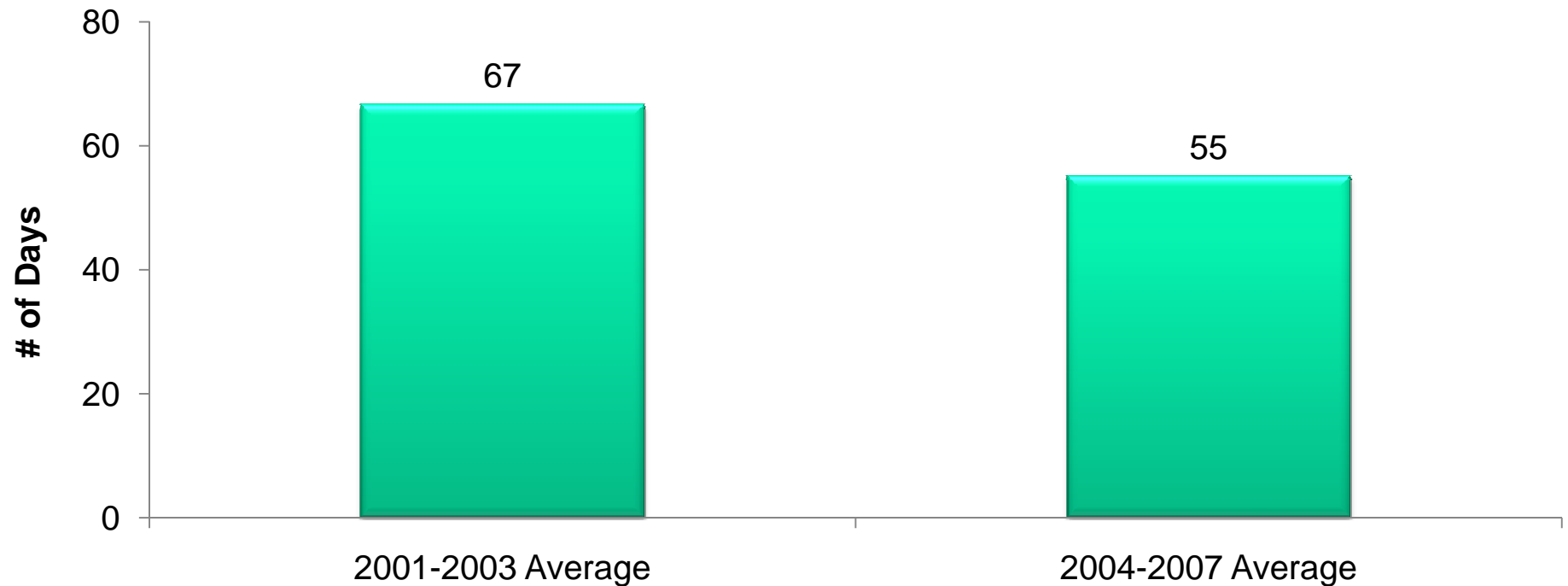
Closed at a 2nd Report



Accident Years 2002 to 2006 at 2nd report.

Based on NCCI's DCI data.

Florida's Average Number of Days to Return to Work



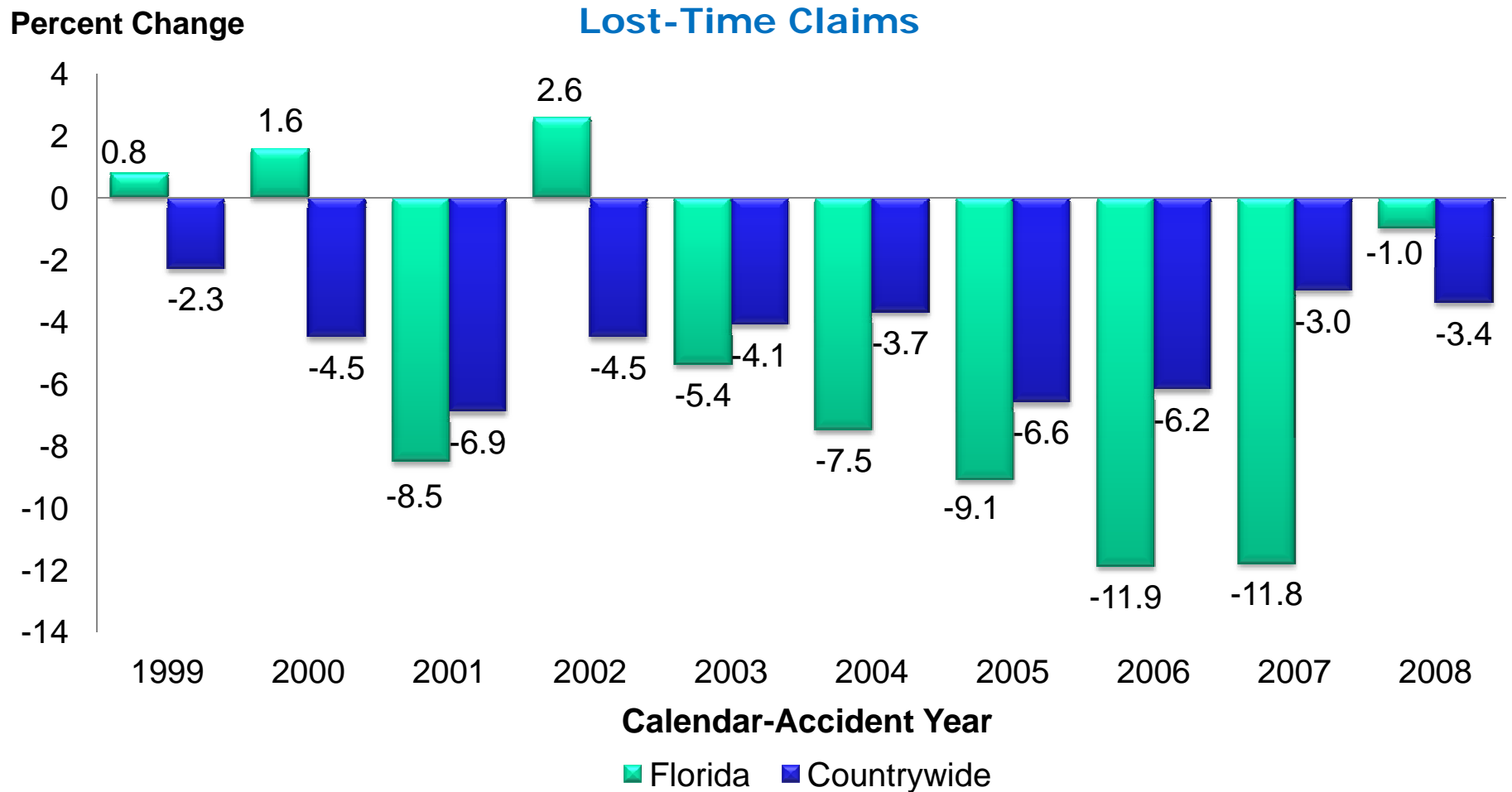
Accident Years 2001 to 2007 at 1st report.

Based on NCCI's DCI data.



Frequency Impacts

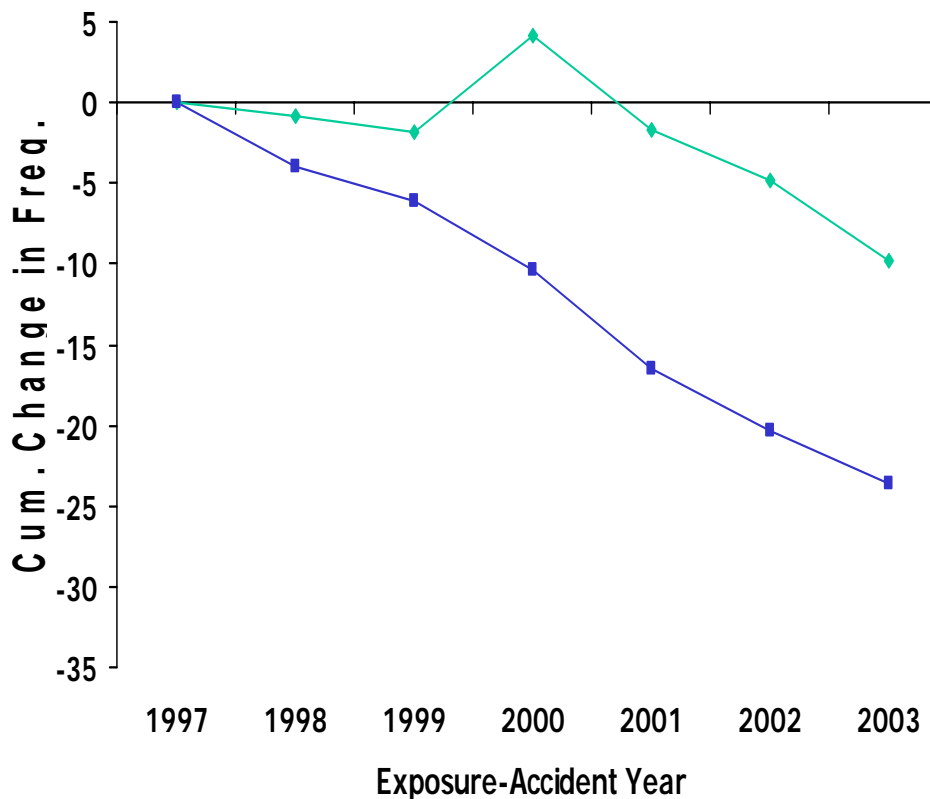
Changes in Frequency Florida vs. Countrywide



Based on data through 12/31/08, developed to ultimate.

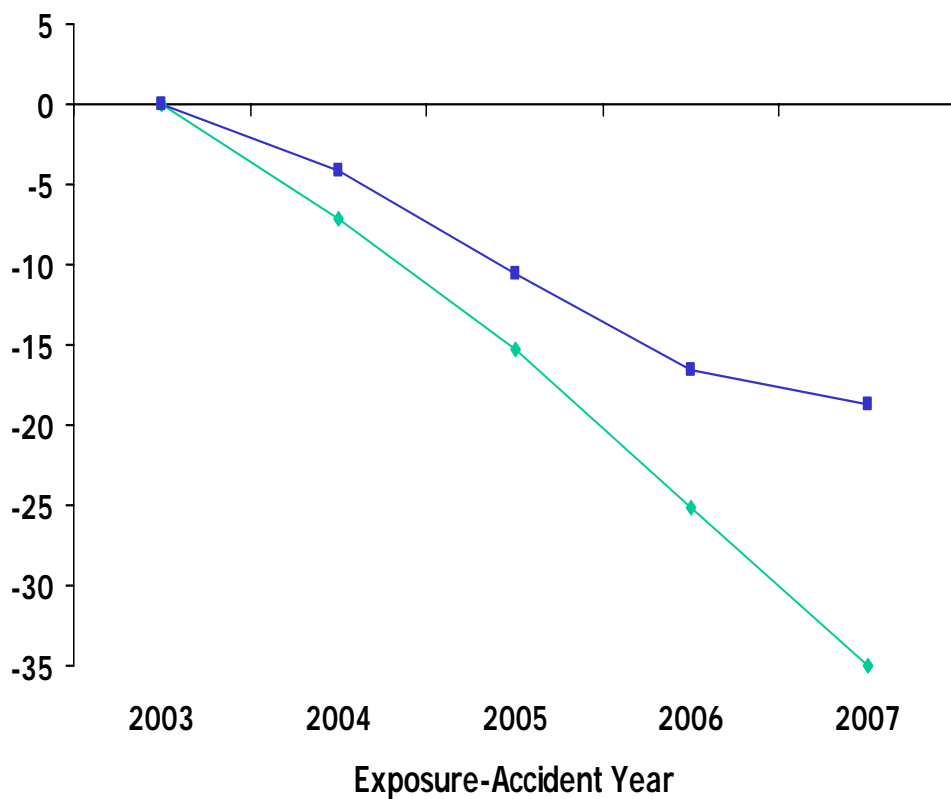
Cumulative Changes in Frequency

Pre-Reform



◆ FL ■ CW

Post-Reform

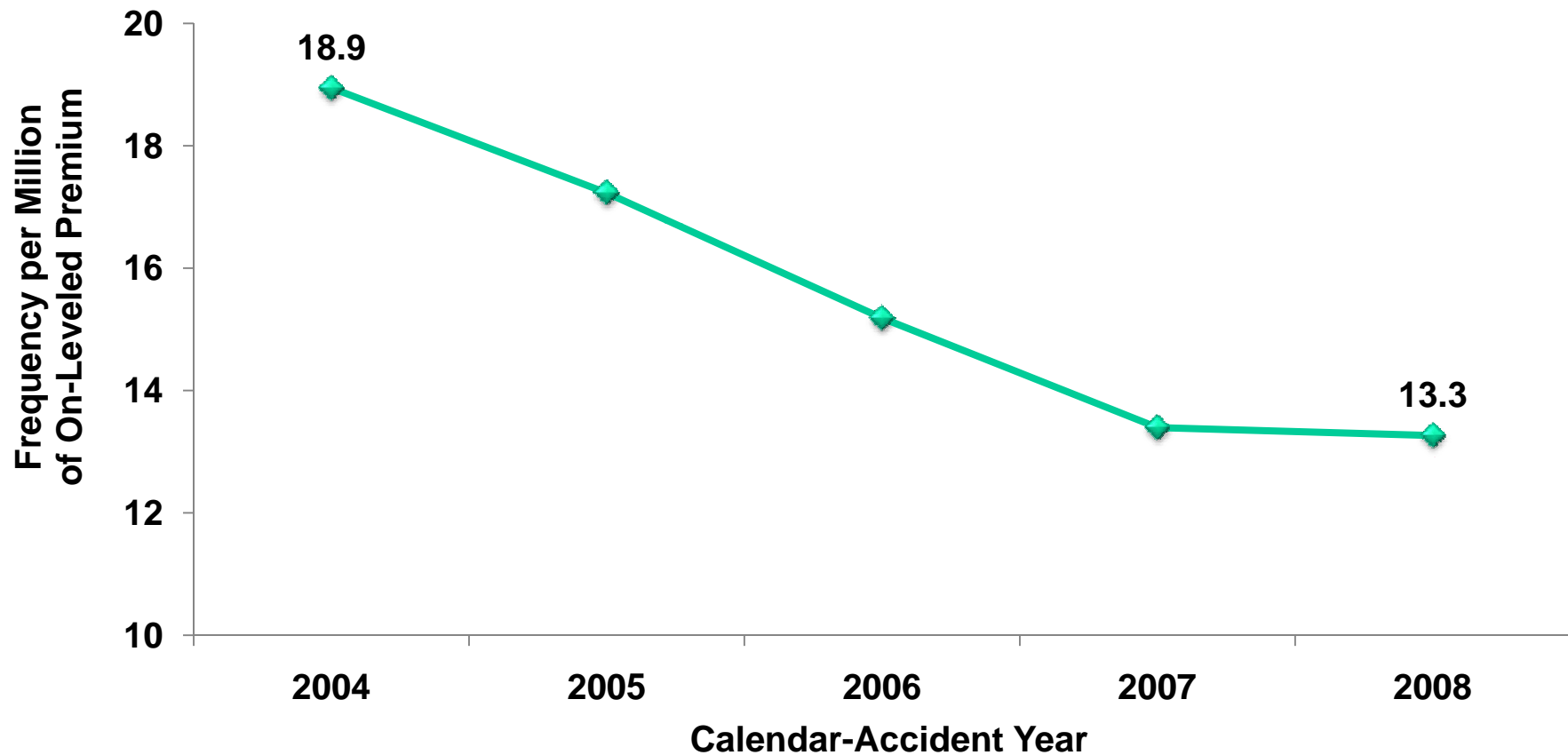


◆ FL ■ CW

Based on NCCI's financial data.

Frequency of lost-time claims.

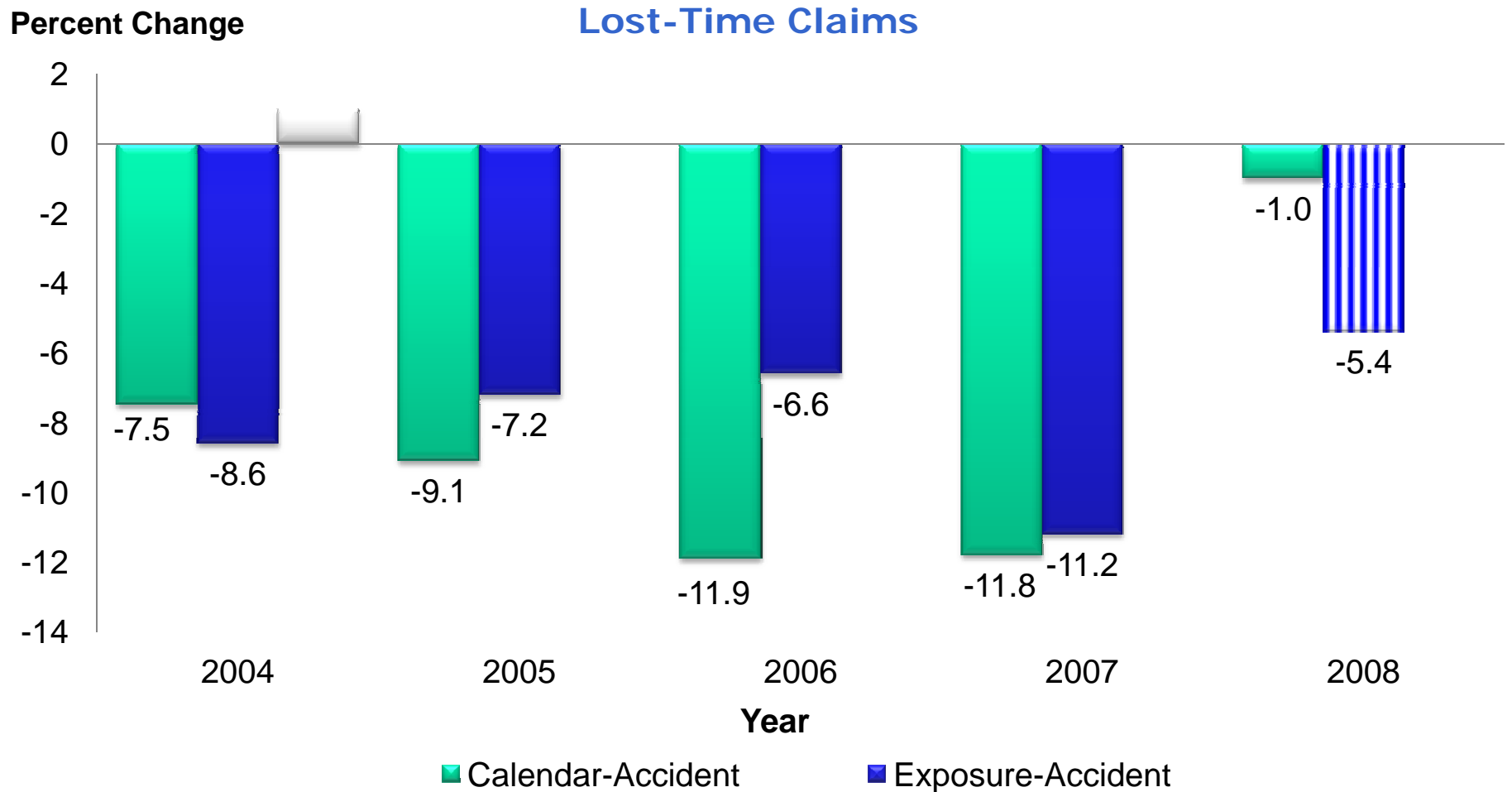
Claim Frequency Flattened in Florida on a Calendar-Accident Year Basis



Based on NCCI's financial data.

Frequency of lost-time claims.

Changes in Frequency: Calendar-Accident vs. Exposure-Accident



Based on data through 12/31/08, developed to ultimate.

Impacts on Claim Frequency

- Carrier Feedback
- Media accounts
- Economy – more apt to impact smaller claims
- Other benefit changes in SB 50A - more apt to impact smaller claims
- May be an impact on unrepresented claims



Post-SB 50A Rates

2003 Reform Started Run of 7 Decreases *

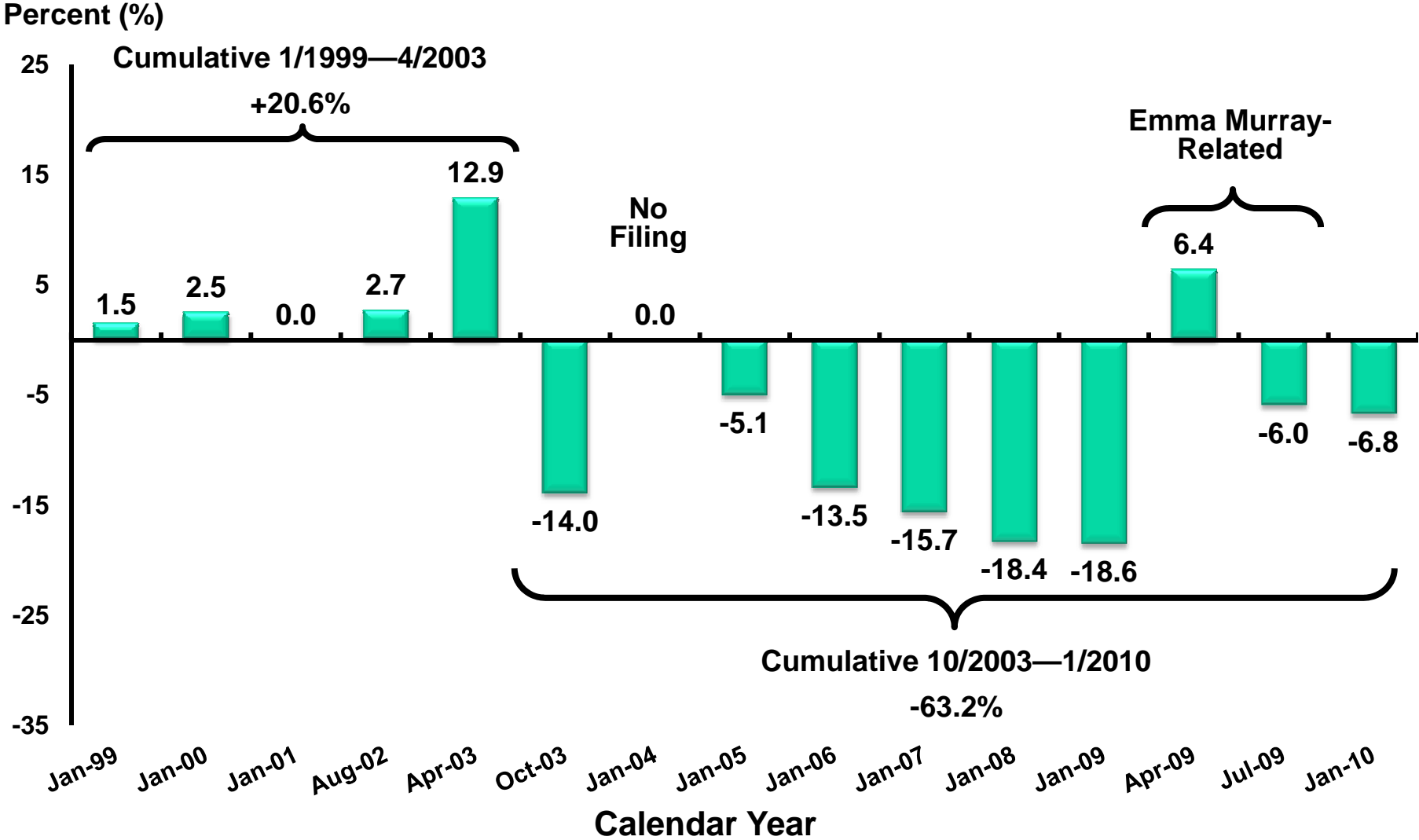
10/1/03	-14%
1/1/05	-5.1%
1/1/06	-13.5%
1/1/07	-15.7%
1/1/08	-18.4%
1/1/09	-18.6%
1/1/10	<u>-6.8%</u>
Total	-63.2%

* Not counting:

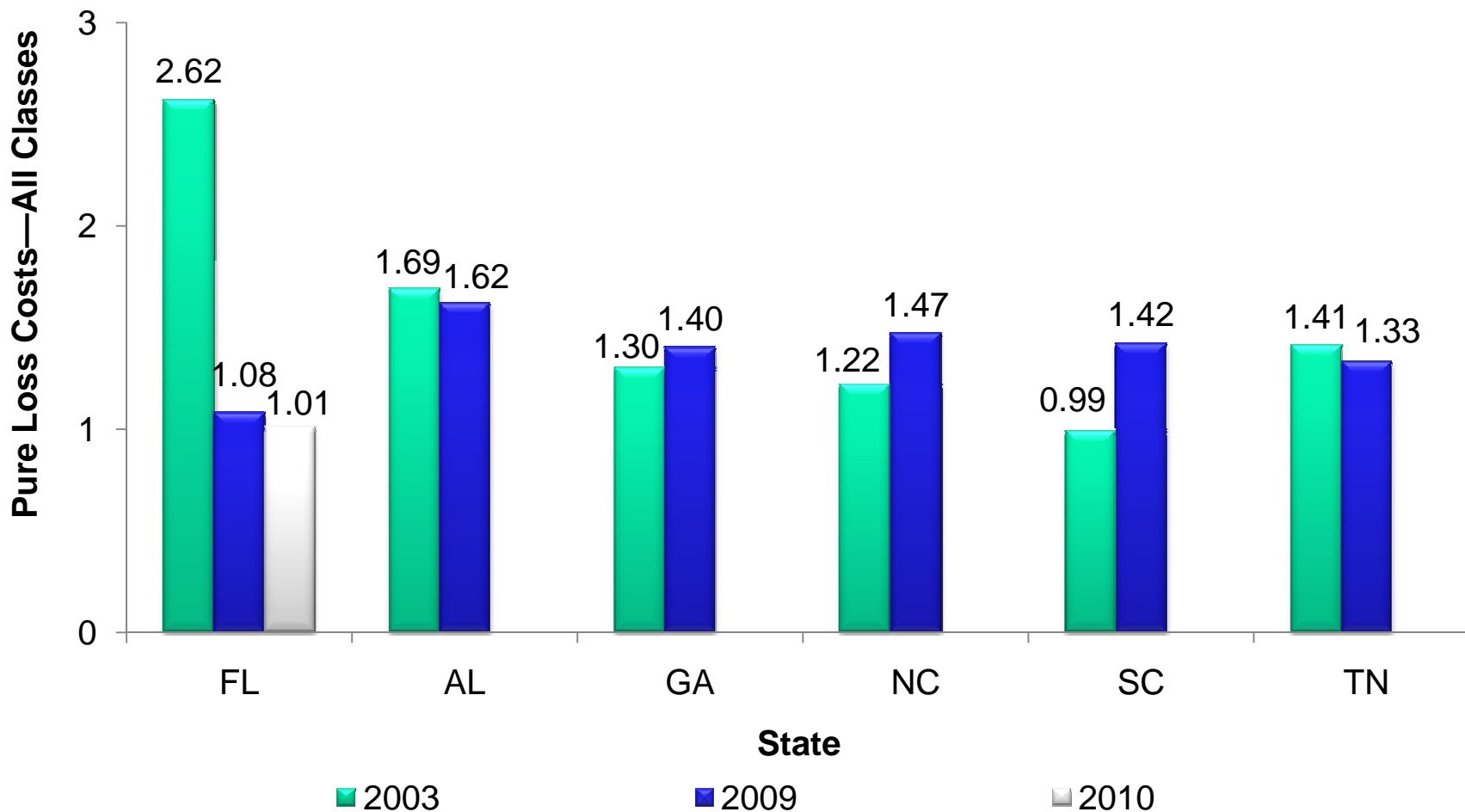
4/1/09 +6.4% (Emma Murray 1st year impact)

7/1/09 -6.0% (HB 903 – Emma Murray fix)

Florida Historical Rate Changes



Current Average Voluntary Pure Loss Costs Using Florida's Payroll Distribution



Based on the latest NCCI approved rates and loss costs in the various states.



Emma Murray and HB 903

Emma Murray Facts

- Claimant suffered post-SB 50A injury
- \$3,244 in benefits were awarded to claimant
- Claimant attorney fee limited to \$684.84 under schedule established by SB 50A
- Hourly fee would have been \$16,000 (\$200/hr for 80 hrs work)
- Hourly fee is more than 23 times schedule fee

Emma Murray Decision

- Florida Supreme Court concluded there's an ambiguity in 440.34
- Resolves the question by concluding that *Lee Engineering* factors apply
- Effect is to return to pre-SB 50A standard, except Florida Supreme Court does not make it clear whether the schedule should even be considered
- Claimant attorney was awarded \$16,000 instead of \$684.84

Recent Challenge to 2003 Reform (SB 50A)

10/1/03—As part of SB 50A, claimant attorney fee schedule replaced hourly fees

10/23/08—As a result of Emma Murray decision by Florida Supreme Court, hourly fees returned (open cases with dates of accident 10/1/03 forward)

4/1/09—Effective date of NCCI filing for first-year rate increase of 6.4% in response to Emma Murray decision (total impact estimated at +18.6%)

7/1/09—Effective date of HB 903, which was passed by the Florida Legislature in response to Emma Murray and once again required claimant attorney fee schedule

7/1/09—Effective date of NCCI filing to decrease rates by 6.0% in response to HB 903