

4. (3 points)

a. (0.5 point)

Describe the prohibitions established by the Sherman Antitrust Act.

b. (0.5 point)

Two auto insurance companies have decided to pool their data to develop rates and coverages. Discuss how this decision would be addressed solely under the Sherman Antitrust Act.

c. (0.5 point)

Briefly describe two potentially negative impacts for insurance consumers if the Sherman Antitrust Act were to be repealed.

d. (0.5 point)

Briefly describe the impact of each of the following cases on bureau ratemaking:

- *Paul v. Virginia*
- *U.S. v. South-Eastern Underwriters Association*

e. (0.5 point)

Briefly describe two benefits of the Dodd-Frank Act for surplus lines insurers.

f. (0.5 point)

Describe how a ceding insurer benefits from the Dodd-Frank Act.

SAMPLE ANSWERS AND EXAMINER'S REPORT

QUESTION 4	
TOTAL POINT VALUE: 3	LEARNING OBJECTIVE: A.4
SAMPLE/ACCEPTED ANSWERS	
Part a: 0.5 point	
<ul style="list-style-type: none"> • Sherman Antitrust Act <u>prohibits collusion in attempts to gain monopoly power</u>. Any activity that restrains trade or commerce and any attempts to monopolize are illegal. 	
Part b: 0.5 point	
<ul style="list-style-type: none"> • The Sherman Antitrust act ruled that insurers <u>could no longer form groups</u>, as in the SEUA and similar groups, <u>to control rates and coverages</u> • This would be <u>prohibited</u> since it would be considered <u>collusion (or rating in concert)</u> 	
Part c: 0.5 point	
<ul style="list-style-type: none"> • Companies could collude and attempt to gain monopoly power. • Companies could fix premium rate and agent commissions. • Companies could use boycott, coercion and intimidation. • Additional Acceptable Answers: • Reduce competition which could lead to fewer options for customers and/or excessive profits/high prices • Standardized forms may limit coverage or stifle innovation • No bureaus for small companies to access data, which could lead to inaccurate rates or insolvency • Insurance companies could force the tying/bundling of insurance products (e.g. have to buy auto with home) or more coverage than they need 	
Part d: 0.5 point	
<ul style="list-style-type: none"> • Paul v. Virginia – <u>Bureau ratemaking allowed</u> • US v. South-Eastern Underwriters Association – <u>Bureau ratemaking not allowed (federal anti-trust laws apply)</u> 	
Part e: 0.5 point	
<ul style="list-style-type: none"> • The new legislation <u>prohibits any state other than the home state of an insured to require licensing</u> of a surplus lines insurer; • Taxing of multistate surplus lines risk is to be standardized and <u>premium taxes need only be paid in the home state</u> • <u>Removed “Diligent Search” requirement</u>, requiring a thorough search of the admitted/voluntary market before placing business in non-admitted/surplus lines. This lead to greater access to market for non-admitted insurers 	
Part f: 0.5 point	
<ul style="list-style-type: none"> • If the ceding insurer’s state of domicile is accredited by NAIC or has solvency standards similar to those mandated by the NAIC, then <u>other states cannot deny credit for the reinsurance</u>. Thus, a ceding insurer <u>only has to satisfy the rules of one state (home state)</u>. 	

SAMPLE ANSWERS AND EXAMINER'S REPORT

EXAMINER'S REPORT
Part a
<ul style="list-style-type: none">• Candidate was expected to know that Sherman Anti-Trust prevents collusion in an attempt to gain monopoly power• Candidate was expected to mention both collusion and monopoly power in the answer to obtain full credit• Common error: Candidate's answer did not include the original definition of Sherman Antitrust, but rather Sherman Anti-Trust after the impact of subsequent laws, specifically the McCarran Ferguson Act
Part b
<ul style="list-style-type: none">• Candidate was expected to know that the act of colluding to set rates was illegal• Candidate was expected to respond noting that both the act was illegal and why (e.g. collusion, ratemaking in concert) to obtain full credit• Common error: Candidate said that the act would be allowed and/or candidate did not assess situation <u>solely</u> based on Sherman Antitrust, but rather Sherman Anti-Trust after the impact of subsequent laws, specifically the McCarran Ferguson Act, which limited the application of Sherman Antitrust to insurance in only specific situations (e.g. boycott, intimidation, and coercion)
Part c
<ul style="list-style-type: none">• Candidate was expected to know that if the Sherman Antitrust act was repealed, several negative impacts could happen to insurers.• Candidate was expected to respond by identifying what the Sherman Antitrust act prohibited and what the impact would be if it were repealed to get full credit. Answer needed to include mention of monopoly power, boycott, intimidations, fixing rates/commissions, reduced competition, standardized forms, lack of data to develop rates, tying/bundling of insurance products) to receive full credit• Common error(s): Candidate did not tie the negative impacts directly to Sherman antitrust act (e.g. "Rates will increase" opposed to "<u>Companies could collude</u> to set rates/coverage which could cause rates to increase")
Part d
<ul style="list-style-type: none">• Candidate was expected to know that bureau ratemaking was allowed under Paul v. Virginia and banned under US vs. SEUA.• Candidate was expected to respond by noting whether bureau ratemaking was illegal or allowed to receive full credit• Common error(s): Candidate did not specifically mention bureau ratemaking in the answer (e.g. "Federal antitrust laws apply" opposed to "Bureau Ratemaking not allowed under US vs. SEUA since federal antitrust laws apply")
Part e
<ul style="list-style-type: none">• Candidate was expected to know that the Dodd-Frank Act had several benefits for surplus lines insurers• Candidate was expected to respond by noting two of the benefits (only required to have licensing in home state, only need to pay premium taxes in home state, diligent search

SAMPLE ANSWERS AND EXAMINER'S REPORT

requirement lifted) to receive full credit

- Common error(s): Candidate gave vague answers that did not specifically mention the key benefits listed above (e.g. "Simplified taxes" opposed to "Taking of multistate surplus lines risks was standardized and premium taxes only need to be paid in the home state")

Part f

- Candidate was expected to know that the Dodd-Frank Act had specific benefits for ceding insurers that were different than the benefits for surplus lines insurers
- Candidate was expected to respond by noting the key benefit (only has to satisfy home state's rules to receive credit for reinsurance) to receive full credit
- Common error(s): Candidate gave vague answers that did not specifically mention the key benefit listed above OR candidate gave answers for part e which were not specific to a ceding insurer.