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Financial Regulation Case Study

Ames' Auto Insurance Regulations — Racial Disparities in Insurance Premiums

Case Study

Memorandum

To: Senior Trial Counsel
From: Division Chief, Consumer Protection Division, Ames Attorney General's Office
Date: September 2017
Re: Ames' Auto Insurance Regulations — Racial Disparities in Insurance Premiums

The Ames Attorney General's Office works to uphold the civil rights of all Ames residents, particularly its most vulnerable members. For decades, our division has aggressively pursued actions related to racial discrimination in access to consumer financial products, such as home mortgages and auto loans.

Over the past few months, the Attorney General has become deeply concerned about racial disparities in the cost of auto insurance. By statute, all drivers in Ames are required to purchase basic liability coverage. As you will see from the accompanying materials, several recent studies have found that drivers living in minority communities are, on average, charged higher insurance premiums than similar drivers living in mostly white neighborhoods. While these studies used data from other states, their findings are consistent with our own internal analysis of auto premiums in Ames. The Attorney General has asked our division to look into this problem and assess whether regulatory changes are needed to ensure fair and reasonable rates for all consumers.

Background on Ames' Auto Insurance Regulations

Ames deregulated its automobile insurance market in 2008. Under the prior system, the Commissioner of Insurance (the "Commissioner") set a single rate ceiling for all auto insurance companies in the state. All companies were required to comply with the rate schedules that the Commissioner approved each year. The Commissioner established rates in a formal administrative proceeding, through which data submitted by insurers regarding their profits and losses were subject to public scrutiny. Both the insurance industry and

consumer groups regularly challenged the Commissioner's rate decisions through the administrative as well as judicial proceedings.

Our experience under the prior system of rate caps was mixed. On the one hand, strict rate regulation helped keep insurance premiums affordable. Before deregulation, Ames was consistently ranked among the states with the lowest percentages of uninsured drivers. On the other hand, many insurance carriers were unwilling to underwrite insurance in Ames because premiums for a large population of drivers were suppressed below competitive levels. Between 1990 and 2007, 35 insurers, including a number of national companies, left Ames; by 2007, only 19 insurers served the Ames market. In addition, opponents of the prior system objected that the regulated rates were distorted by political pressures to subsidize certain populations of higher-risk drivers. According to a study commissioned by Ames' Division of Insurance, "rural and suburban rates subsidize[d] urban rates, experienced drivers subsidize[d] inexperienced drivers, and inexperienced females subsidize[d] inexperienced males."

Since deregulation, Ames insurance rates have been governed by what is known as a "file and use" system. Under this system, the Commissioner no longer establishes a comprehensive rate schedule, and insurers set their own rates. Each insurer provides the Commissioner with a proposed rating plan, which the Commissioner may disapprove or suspend; if the Commissioner does not do either, the proposed plan goes into effect as filed. Insurers are still required to provide materials to the Commissioner to support their rating plans, including expenses and claims data. However, the public now has limited ability to comment on or request support for the numbers insurance companies report. With few exceptions, the Commissioner has accepted almost all rating plans submitted under the "file and use" regime, although insurers do adjust their plans from time to time based on private negotiations with the Commissioner.

Ames has also adopted laws and regulations governing how insurers can set rates. Significantly, insurers are prohibited from rating by sex, marital status, race, creed, national origin, religion, age (with some exceptions), income, and homeownership status. Insurers may nevertheless use factors that are correlated with a prohibited factor, such as whether the consumer has homeowner's insurance (associated with homeownership status) or zip codes (associated with race and income).

There has been considerable debate about Ames' experience under the "file and use" system. More than a dozen insurers that had previously kept their distance have entered the Ames market, including well-known names like Allstate, GEICO, and Progressive. In the first two years of deregulation, auto insurance premiums in Ames fell by an average of 12.7%. But rates soon rebounded: five years after deregulation, the inflation-adjusted average premium was essentially the same as it was before deregulation. Advocates of "file and use" believe that it has benefitted consumers on balance by bringing more companies into the market and offering consumers more options for pricing and coverage. They also claim that increased competition has successfully contained prices, noting that insurers in Ames had reported "virtually zero profit from underwriting" in the first five years after the switch. Critics, however, contend that increased competition has not only failed to produce the promised benefit of lower rates but has also harmed consumers by encouraging insurers to set premiums based on factors linked to socioeconomic status rather than driving records. As discussed in greater detail below, the use of non-driving factors has been shown to result in higher average rates for minority and low-income drivers than for white drivers with the same driving record.

Evidence of Racial Disparities in Auto Insurance Premiums

In April 2017, ProPublica and Consumer Reports published an analysis concluding that drivers living in predominantly minority zip codes are charged higher premiums than similar drivers in majority white zip codes, even after accounting for the risk of accidents.[1] Their analysis, which covered insurance data from California, Illinois, Missouri, and Texas, looked at premium quotes for liability insurance for a 30-year-old woman with a safe driving record.[2] These premiums were then compared to the average claims paid out by insurers for every zip code in the four states.[3] The study found that payouts on claims—or the risk of accidents—could not fully explain the higher average premiums charged to drivers living in minority neighborhoods; some minority zip codes paid higher premiums than predominantly white zip

1 Julia Angwin et al., *Minority Neighborhoods Pay Higher Car Insurance Premiums Than White Areas With the Same Risk*, PROPUBLICA (Apr. 5, 2017), https://www.propublica.org/article/minority-neighborhoods-higher-car-insurance-premiums-white-areas-same-risk.

2 *Id.* For more information about the methodology, *see generally* Jeff Larson et al., *How We Examined Racial Discrimination in Auto Insurance Prices*, PROPUBLICA (Apr. 5, 2017, 2 PM), https://www.propublica.org/article/minority-neighborhoods-higher-car-insurance-premiums-methodology.

3 Angwin et al., *supra* note 1.

codes with the same average claims payouts.[4] "[I]n some cases," the study reported, "insurers such as Allstate, GEICO, and Liberty Mutual were charging premiums that were on average 30 percent higher in zip codes where most residents are minorities than in whiter neighborhoods with similar accident costs."[5]

In addition, the study found that the disparities were more prevalent in the states where auto insurance is less regulated.[6] In California, with the most tightly regulated insurance market in the country, eight of the 21 insurers included in the study had pricing disparities exceeding 10%.[7] These disparities only existed, moreover, in communities with a high risk of accidents.[8] By contrast, in Illinois, with one of the least regulated markets, 33 of the 34 insurers examined charged at least 10% more to drivers in minority zip codes, and these disparities were observed in both the safest and the riskiest neighborhoods.[9] In Texas and Missouri, which have average levels of insurance regulation, at least half of the insurers studied had differences exceeding 10%.[10] As was the case in California, the disparities in Texas and Missouri were confined to high-risk areas.[11] Ames' regulatory structure is most similar to that of Texas and Missouri.

The insurance industry and two state regulators have criticized the ProPublica-Consumer Reports study, saying its methodology was flawed for two reasons. First, it looked at aggregated losses experienced by insurers.[12] In other words, the study compared liability premiums from *individual* insurers to the *average* losses experienced by all—or almost all—insurers in a given zip code. Critics contend that, because an individual insurer's losses can vary significantly from the industry average, the analysis does not accurately measure whether an insurer's premiums are justified by the risk it takes on in a given area.[13] ProPublica

4 *Id.*

5 *Id.*

6 *Id.*

7 *Id.*

8 *Id.* (observing that "prices in whiter neighborhoods stayed about the same as risk increased, while premiums in minority neighborhoods went up").

9 *Id.*

10 *Id.*

11 *Id.*

12 *See id.* (describing critiques from the California and Illinois Departments of Insurance); James Lynch, *I.I.I.: Why ProPublica Auto Insurance Report Is Inaccurate, Unfair and Irresponsible*, INS. J. (Apr. 5, 2017), http://www.insurancejournal.com/news/national/2017/04/05/447012.htm (presenting the insurance industry's critiques).

13 *See* Angwin et al., *supra* note 1; Lynch, *supra* note 12.

and Consumer Reports have acknowledged this limitation in their methodology but state that "it is unlikely that those differences would result in a *consistent* pattern of higher prices for minority neighborhoods."[14]

Second, the study looked at average payouts on claims for all drivers within a zip code.[15] However, it is possible for the distribution of risk to vary between two areas, even if they have the same average loss risk across the population. For instance, the losses experienced for safe drivers may be different between two neighborhoods even if the losses experienced for the driving population as a whole in both areas are similar. According to industry representatives, the ProPublica-Consumer Reports analysis is flawed, because it does not compare the premiums for a 30-year-old woman with a safe driving record with the amounts insurers paid out for drivers with those same characteristics.

The ProPublica-Consumer Reports analysis is only the latest in a series of national studies that observe a significant disparity in the insurance premiums charged to drivers living in minority neighborhoods and question whether the disparity is actuarially justified. For instance, a 2015 report published by the Consumer Federation of America found that drivers living in predominantly African-American zip codes were charged higher premiums on average than similar drivers living in largely white zip codes, even after controlling for median incomes and population densities.[16] Notably, the average premium in the densest predominantly African-American zip codes was 60% higher (or $671 more) than the average premium for a similarly dense but predominantly white zip code.[17] In the least dense areas, the difference was 23%, or $127.[18] The insurance industry disputed the accuracy of these findings, arguing that the study failed to consider other factors that could have created the disparity, such as the number of accidents in an area.[19]

[14] Angwin et al., *supra* note 1 (emphasis added).

[15] *See* Lynch, *supra* note 12.

[16] Tom Feltner & Douglas Heller, Consumer Fed'n of Am., High Price of Mandatory Auto Insurance in Predominantly African American Communities 8–10 (2015), *available at* http://consumerfed.org/wp-content/uploads/2015/11/151118_insuranceinpredominantlyafricanamericancommunities_CFA.pdf.

[17] *Id.*

[18] *Id.*

[19] *See* Carrie Wells, *Drivers from black communities in Baltimore area pay twice as much for car insurance as drivers from white communities, group says*, BALTIMORE SUN, Nov. 18, 2015, http://www.baltimoresun.com/business/bs-bz-auto-insurance-disparity-20151118-story.html (quoting an industry representative's critique that the Consumer Federation of America study was not "statistically sound [because a]ny disparity would be based on other factors insurers examine, such as credit score or number of accidents in an area").

So far, none of the published studies have looked specifically at Ames. However, a recent internal analysis by our division comparing liability premiums for drivers in Ames yielded similar results. We found that communities with larger minority populations pay more on average than communities with smaller minority populations. Among experienced drivers with good driving records, the difference between premiums charged to those living in the largest and smallest minority population zip codes was 70%, or $250. Drivers with good driving records living in areas with the largest percentage of minorities were also paying more than those with recent accidents living in areas with the smallest percentage of minorities. Finally, we observed that drivers in the larger minority population areas tend to purchase coverage with lower bodily injury limits, which means that they are generally paying more for less coverage. Unlike the other studies discussed in this section, we did not examine whether the disparity in charges could be explained by differences in the cost of providing insurance, including loss experience. (Insurers are not legally required to make loss experience data available to Ames.)

How Insurers Determine Rates

For the most part, consumer advocates do not claim that insurance carriers overtly discriminate by race in rate setting. Rather, they argue that the formulas and factors insurers use to underwrite risk produce an unfair disparate impact on minorities.

Auto insurers underwrite risk by classifying consumers into different risk pools based on observable criteria, or "rating factors."[20] Consumers in each pool are then charged a premium based on the pool's particular risk profile and the insurer's operational costs. Generally, there are three categories of rating factors: (1) driving-related factors, such as driving record, number of miles driven per year, and years of driving experience; (2) socioeconomic and territorial factors, such as occupation, education level, zip code, and

[20] For a brief overview of how insurance companies operate, *see* Ronen Avraham et al., *Understanding Insurance Anti-Discrimination Laws*, 87 S. CAL. L. REV. 195, 198 (2014).

credit information; and (3) market factors, such as cross-selling opportunities and the likelihood the consumer will shop around for insurance from a competitor.[21]

According to consumer groups, auto insurers are judging insureds less on driving habits and more on socioeconomic and market factors, which are often closely correlated with race.[22] Studies show, for instance, that minority drivers are more likely to have lower levels of education, lower paying jobs, and worse credit histories.[23] They are also more likely to lack the market power or financial literacy to shop around for competitive rates.[24] The result is an underwriting scheme that disproportionately charges minority drivers more for car insurance. Moreover, even when statistical correlations between non-driving factors and risk exist, consumer advocates argue that there is often no real causal link between the two, so basing rates on non-driving factors creates moral hazard problems.[25] When driving records are de-emphasized, insureds have fewer incentives to take safety precautions while driving. Put more starkly, when non-driving factors like credit data are given more weight than driving record, "[e]xcellent drivers with perfect driving records but with poor credit paid

[21] For an overview of some rating factors used by auto insurers, *see, e.g.*, Norma P. Garcia, Consumers Union, Written Testimony for the Public Hearing on the Pricing of Auto Insurance Before the Nat'l Ass'n of Ins. Comm'rs & the Ctr. for Ins. Policy & Research (Nov. 19, 2015), *available at* http://www.naic.org/documents/committees_c_d_auto_insurance_study_group_151119_public_hearing_compilation_testimony.pdf; Rachel Jensen, American Insurance Association, Written Testimony for the Public Hearing on the Pricing of Auto Insurance Before the Nat'l Ass'n of Ins. Comm'rs & the Ctr. for Ins. Policy & Research (Nov. 19, 2015), *available at* the same URL.

[22] *See* The Truth about Car Insurance, CONSUMER REP., Sept. 2015, at 30.

[23] *See, e.g.*, Angwin et al., *supra* note 1 ("Such criteria as credit score and occupation have been shown to result in higher prices for minorities."); Fed. Trade Comm'n, Credit-Based Insurance Scores: Impacts on Consumers of Automobile Insurance 52 (2007), *available at* https://www.ftc.gov/sites/default/files/documents/reports/credit-based-insurance-scores-impacts-consumers-automobile-insurance-report-congress-federal-trade/p044804facta_report_credit-based_insurance_scores.pdf (observing that "African Americans and Hispanics are strongly over-represented in the lowest deciles and underrepresented in the highest deciles" of credit-based scores); U.S. Census Bureau, Educational Attainment in the United States: 2015 2 (2016), *available at* https://www.census.gov/content/dam/Census/library/ publications/2016/demo/p20-578.pdf (reporting that while 36.2% of non-Hispanic whites held a bachelor's degree or higher in 2015, 22.5 and 15.5% of blacks and Hispanics did, respectively).

[24] *See* Sarah Breitenbach, *Some States Take Aim at "Discriminatory" Auto Insurance Pricing*, THE PEW CHARITABLE TRUSTS (Aug. 28, 2015), http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2015/08/28/some-states-take-aim-at-discriminatory-auto-insurance-pricing ("Doug Heller, a California-based consultant to the CFA, said low-income drivers often are less likely to shop around for competitive rates partly because of lower financial literacy."); *cf.* Fiona Scott Morton et al., *Consumer Information and Discrimination: Does the Internet Affect the Pricing of New Cars to Women and Minorities?*, 1 QUANTITATIVE MARKING & ECON. 65, 84–85 (2003) (finding that minorities pay higher prices for cars in large part because they cannot comparison shop as easily).

[25] *See* The Truth about Car Insurance, *supra* note 22, at 32 (arguing that rates based on credit information "artificially reduces the true sting of careless driving"); Press Release, Consumer Fed'n of Am., Insurer Criticism of Recent CFA Report on Auto Insurance Rates Is Unscientific, Arbitrary, and Unfair (Oct. 4, 2012), *available at* http://consumerfed.org/press_release/insurer-criticism-of-recent-cfa-report-on-auto-insurance-rates-is-unscientific-arbitrary-and-unfair (arguing that "[a statistical] correlation is not considered meaningful until it is shown to be based on a causal relationship" because correlations can be "spurious").

more for their auto insurance than drivers with a drunk driving conviction but an excellent credit history."[26]

With respect to zip codes or other territorial factors, consumer groups further contend that their use unfairly forces drivers in urban areas to bear the cost of risks caused by suburban drivers.[27] They argue that accidents are more common in urban areas because of increased congestion, and that congestion occurs in part because of drivers who commute from suburban neighborhoods.[28] In addition, consumer advocates observe that how insurers choose to group different neighborhoods into rating territories can result in pronounced racial consequences.[29] And when insurers allow their agents' preferences to influence this decision (for example, grouping communities that are subjectively perceived to be more "desirable" into a single territory), the decision can constitute a form of disparate treatment, or intentional, discrimination.[30]

With respect to market factors such as the likelihood the consumer will shop around for insurance from a competitor, some consumer advocates object that their use should be illegal under a disparate impact standard.[31] Professor Ian Ayres, for instance, has explained that the purpose of disparate impact liability is to root out decision-making factors that are

[26] Garcia, *supra* note 21.

[27] *See, e.g.*, MASS. DIV. OF INS., AUTOMOBILE INSURANCE RISK CLASSIFICATION: EQUITY & ACCURACY 163–64 (1978) ("When people drive in from suburban towns to a core city, they are thrusting upon the city resident an increased accident likelihood…. The result is that city premiums rise substantially, even for those who are not commonly in heavy traffic."). The insurance industry has tried to partially offset this risk transfer by charging accidents to the place the car is garaged (*i.e.*, where the driver lives) instead of where the accident took place. *See id.*

[28] *See id*.

[29] *Cf.* Stephen M. Dane, *The Potential for Racial Discrimination by Homeowners Insurers Through the Use of Geographic Rating Territories*, 24 J. INS. REGULATION 21, 24–28 (2006) (discussing the fair lending consequences of using rating territories in the homeowner's insurance context).

[30] *Cf. id.*

[31] The disparate impact standard was developed in other contexts, most notably employment discrimination and fair housing cases (which extends to the provision and pricing of homeowner's insurance). As a formal matter, state laws regulating auto insurance rates do not delineate a disparate impact standard. Instead, most states prohibit "unfair discrimination" between insureds. *See* Angwin et al., *supra* note 1. "Unfair discrimination" is generally defined as discrimination among insureds of the same class in a way "fail[s] to reflect equitably the differences in expected losses and expenses." *Id.*; *accord* Dep't of Ins. v. Ins. Servs. Office, 434 So. 2d 908, 912 (Fla. Dist. Ct. App. 1983) (providing this as the definition for "unfairly discriminatory" under Florida law).

In practice, however, regulatory scrutiny of the "fairness" of insurance rates appears to be motivated by disparate impact concerns. For example, states like Alaska have debated whether the use of credit scores is fundamentally unfair because it "results in rates that are higher, or lower, on average for a protected class of consumers or for consumers with lower incomes," even though credit scores are predictive of loss risk. Div. of Insurance, Alaska Dep't of Cmty. & Econ. Dev., Insurance Credit Scoring in Alaska 14–15 (2003), *available at* https://www.commerce.alaska.gov/web/Portals/7/pub/Consumers/Insurance-Credit-Scoring-in-Alaska.pdf.

not plausibly business justified.[32] Thus, a company's use of criteria that result in adverse racial impacts should be prohibited unless the company can establish a business justification for its practice. Furthermore, according to Professor Ayres, practices that increase profits by exploiting market power, such as policies that "prey on consumers' limited access to information and competitive alternatives," should not serve as an acceptable justification for racially disparate outcomes.[33] Applying this reasoning to auto insurers suggests that insurers should not be able to lawfully consider their relative market power (e.g., whether consumers are less able to shop around), if this practice disproportionately harms minority consumers.

Overall, consumer groups recommend that driving-related factors be the prime determinants in setting insurance rates: "When driving-related variables are considered first and foremost in pricing, good drivers pay less and bad drivers pay more, even if some non-driving related factors are allowed."[34] This regulatory scheme is currently in place in California. Auto insurers in California must emphasize (1) driving safety record, (2) miles driven, and (3) years of driving experience when establishing rates.[35] Insurers are allowed to consider other approved non-driving factors but must give those factors less weight.[36]

The insurance industry, on the other hand, argues that the broad use of non-driving rating factors has actually benefitted most consumers. This is so for at least two reasons. First, insurance companies insist that the rating factors they consider—including non-driving factors—are all actuarially valid.[37] Many studies show that factors such as credit information, education, and occupation are effective predictors of the number of claims consumers file

[32] Ian Ayres, *Three Tests for Measuring Unjustified Disparate Impacts in Organ Transplantation: The Problem of "Included Variable" Bias*, 48 PERSP. IN BIOLOGY & MED., S68, S70–S72 (2005). By contrast, disparate treatment liability focuses solely on whether a company takes into account a protected trait, like race. According to Professor Ayres, many commentators erroneously conflate the two theories of liability by searching for evidence of race-based decision making in disparate impact cases. *See id.*

[33] Ian Ayres, *Market Power and Inequality: A Competitive Conduct Standard for Assessing When Disparate Impacts are Justified*, 95 CAL. L. REV. 669, 674 (2007).

[34] Garcia, *supra* note 21.

[35] Cal. Ins. Code §1861.02(a) (West 2016).

[36] *Id.*

[37] *See, e.g.*, Breitenbach, *supra* note 24 (quoting an insurance representative as asserting, "There's no factor that any insurer uses that doesn't have to do with loss"); Herb Weisbaum, *Data mining is now used to set insurance rates; critics cry foul*, CNBC (Apr. 16, 2014, 8:42 AM), https://www.cnbc.com/2014/04/16/data-mining-is-now-used-to-set-insurance-rates-critics-cry-fowl.html (quoting an insurance representative as saying that the use of market factors "does not abandon the core principle of risk-based pricing . . . [but rather provides] more precision in the process associated with pricing and []allows insurers in an analytical way to deal with what-if scenarios").

and the cost of those claims.[38] Relatedly, some studies further conclude that credit information does not act as a mere "surrogate" for race, in the sense that its predictive power is not principally derived from the correlation with race. For example, a 2007 analysis by the Federal Trade Commission found that credit information can reliably predict the risk of auto claims even within racial groups.[39] (To our knowledge, no published study has examined whether other factors, like education or occupation, are surrogates for race.) Insurers argue that they employ a variety of rating factors because those factors help apportion risk accurately, and regulations restricting this broad use can distort the price of insurance and create troubling cross-subsidies—in effect, causing premiums for high-risk drivers to be artificially low and increasing premiums for low-risk drivers.[40]

Second, and relatedly, insurers contend that the use of rating factors "encourage[s] an insurer's confidence in its pricing," resulting in a more competitive market.[41] A competitive market benefits consumers in turn by eliminating excessive profits and keeping premiums reasonable. At the very least, the argument goes, rating factors do not harm consumers; "[i]f a company is charging unfair rates due to [certain rating factors], drivers will find another company. . . . There's no reason why a person can't shop around."[42]

[38] *See, e.g.*, Fed. Trade Comm'n, *supra* note 23, at 3 (finding that credit-based scores are "effective predictors of risk under automobile policies"); Jensen, *supra* note 21 (describing analyses by Maryland and New Jersey insurance regulators finding that education and occupation predict auto insurance loss).

[39] Fed. Trade Comm'n, *supra* note 23, at 4 (concluding that "[c]redit-based insurance scores appear to have little effect as a 'proxy' for membership in racial and ethnic groups in decisions related to insurance"); *see also* Letter from Jose Montemayor, Texas' Commissioner of Insurance, to Rick Perry, Governor of Texas, et al. (Jan. 31, 2005), *available at* http://www.tdi.texas.gov/reports/documents/credit05sup.pdf (describing a study examining the use of credit information by insurance companies in Texas and explaining that the study found no evidence that "credit scoring was a coincidental variable that served as a surrogate for [race] in rating and underwriting"). *Cf.* Darcy Steeg Morris et al., *Do Credit-Based Insurance Scores Proxy for Income in Predicting Auto Claim Risk?*, 14 J. EMPIRICAL LEGAL STUD. 397, 400 (2017) (finding that "[credit-based] insurance score does not proxy for income in predicting auto claim risk").

[40] *See* Press Release, Insurance Information Institute, Competition in the U.S. Auto Insurance Market Benefits Millions of Drivers (July 22, 2013), *available at* http://www.iii.org/press-release/competition-in-the-us-auto-insurance-market-benefits-millions-of-drivers-072213 ("Changing underwriting and rating factors that have been shown to project an insurer's future claims payouts accurately will only distort prices and result in good drivers subsidizing riskier ones.").

[41] Jensen, *supra* note 21; *accord* Property Casualty Insurers Association of America, Written Testimony for the Public Hearing on the Pricing of Auto Insurance Before the Nat'l Ass'n of Ins. Comm'rs & the Ctr. for Ins. Policy & Research (Nov. 19, 2015), *available at* http://www.naic.org/documents/committees_c_d_auto_insurance_study_group_151119_public_hearing_compilation_testimony.pdf ("Risk classification systems consisting of appropriate rating variables []promote more competition with numerous insurers – this, in turn, provides consumers with more price and coverage options at prices they can afford.").

[42] Ed Leefeldt, *Should the poor pay more for auto insurance?* CBS NEWS (May 22, 2017, 6 AM), http://www.cbsnews.com/news/car-insurance-new-york-regulations (quoting an industry representative).

The Debate over Transparency

Consumer groups have long called for greater transparency of data on claims, premiums, and operational expenses. According to a 2015 Consumer Reports article:

[O]ver the past 15 years, insurers have made pricing considerably more complicated and confusing. As a result, "there is a complete lack of transparency," says Birny Birnbaum, executive director of the Center for Economic Justice in Texas. Those new [pricing] models—though hidden from the public—are available to regulators on the condition they remain confidential. But because they're so complex, "the regulators don't have a prayer of being able to monitor them deeply," Birnbaum says.[43]

For purposes of investigating racial disparities in premiums, a crucial question is whether the disparities are actuarially justified—that is, explained by differences in the risk that is being covered. A robust analysis of this issue requires data about each insurer's premiums and losses at the zip code level. Insurers, however, have resisted sharing zip-code-level data about payouts or other variables used in their risk formulas, even with some state regulators including insurance commissioners. They regard the data as a trade secret and argue that disclosure would force them to give away "something that is valuable."[44] As of 2016, only 20 states require insurers to report some form of *premium* data at the zip code level, and only the four states included in the ProPublica-Consumer Reports study require insurers to file zip-code level *payouts* data.[45] Ames currently does not require any insurance data at the zip code level.

Moreover, to some consumer advocates, requiring insurers to disclose zip-code-level data to regulators would only be a step in the right direction. They argue that each insurer's filings must also be available to the public to ensure industry and government accountability, in much the same way that mortgage lenders are currently required to publicly disclose their

[43] The Truth about Car Insurance, *supra* note 22, at 30.

[44] *See* Angwin et al., *supra* note 1.

[45] Monitoring Availability and Affordability of Automobile Insurance, 81 Fed. Reg. 45,372, 45,381 (July 13, 2016); Larson et al., *supra* note 2.

loan-level data under the Home Mortgage Disclosure Act ("HMDA").[46] No state has done this, however. Even California, which consumer advocates praise as providing "the clearest and most comprehensive assertion of the public's right" to transparency, requires payouts data to be released to the public in an aggregate form "in order that no individual insurer's loss experience for any specific geographic area be revealed."[47]

Unaffordable Insurance

Finally, concerns about racial disparities in the cost of auto insurance frequently intersect with questions about affordability. Commentators have observed that, because liability insurance is required by all states except one, "[u]naffordable auto insurance leaves many Americans in the predicament of either not driving, which dramatically restricts their economic opportunities, or driving without insurance, which not only is illegal but puts them and other drivers at risk."[48] As part of the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act, Congress created the Federal Insurance Office ("FIO") and tasked it with, among other things, monitoring access to affordable insurance products for minorities and other traditionally underserved communities.[49] In January 2017, the FIO released its first study of the auto insurance market.[50] The study examined premiums for liability insurance in low-to-moderate income and majority-minority zip codes.[51] It found that in 9% of the zip codes analyzed, average expenditures for auto insurance exceeded 2% of the median household income—the threshold at which FIO considers the cost of insurance to be "unaffordable."[52] According to the study, approximately 18.6 million people reside in the areas where insurance was unaffordable.[53]

[46] *See* Angwin et al., *supra* note 1. *See generally* Daniel Schwarcz, *Transparently Opaque: Understanding the Lack of Transparency in Insurance Consumer Protection*, 61 UCLA L. REV. 394 (2014) (arguing that state insurance regulators should promote more transparency in insurance markets). In fact, unlike insurers, which do not collect data about applicants' race, lenders are required by HMDA to collect and publicly report race data. *See* Schwarcz, *supra*, at 428. Information about applicants' race helps federal banking regulators and consumer groups in assessing compliance with fair lending laws. *See id.* at 428–29.

[47] Cal. Ins. Code § 11628(a)(2) (West 2015).

[48] Fed. Ins. Office, U.S. Dep't of the Treasury, Study on the Affordability of Personal Automobile Insurance (2017), *available at* https://www.treasury.gov/initiatives/fio/reports-and-notices/Documents/FINAL%20Auto%20Affordability%20Study_web.pdf.

[49] *See* 31 U.S.C. § 313 (West 2010).

[50] Fed. Ins. Office, U.S. Dep't of the Treasury, *supra* note 48.

[51] *Id.* at 8–10.

[52] *Id.* at 2, 11.

[53] *Id.*

A 2015 study by the Insurance Research Council, an industry-supported organization, showed similar results. The study reported that drivers in the lowest income bracket spend, on average, more than 3.5% of their income on auto insurance.[54] However, the study also found that the cost of insurance has decreased since the 1990s for every income group, dropping from around 4% to over 3.5% for consumers in the lowest income bracket, and from 2% to less than 1.5% for the average consumer.[55] Industry representatives attribute this decline to deregulatory policies that promote vigorous competition among insurers.[56] Consumer advocates respond that, while prices may have decreased, insurance is still unaffordable for many low-income and minority consumers and is unaffordable "for the wrong reasons."[57]

Thus far, few states have enacted legislation to bring down the cost of insurance for low-income and minority communities. Only one state, California, has a low-cost auto insurance program for low-income drivers.[58] California's program allows income-eligible residents to satisfy state insurance requirements with a cheaper, alternative plan that provides less than the otherwise mandated minimum level of coverage.[59] Three other states, Massachusetts, Michigan, and New Jersey, have previously placed restrictions on insurance rates charged to drivers who live in urban communities.[60] New Jersey, for example, limited premiums in urban areas to no more than 35% higher than the statewide average.[61] Because of insurers' complaints that the caps forced them to have cross-subsidized price structures, all three states ultimately eliminated the caps.[62]

54 Press Release, Insurance Research Council, Trends Indicate Auto Insurance is Becoming More Affordable for All Income Groups (Aug. 25, 2015), *available at* http://www.insurance-research.org/sites/default/files/downloads/Trends%20in%20Auto%20Insurance%20Affordability%20NR_FINAL.pdf.

55 *Id.*

56 *See* Breitenbach, *supra* note 24 ("[Industry representative] Hartwig attributes the decline in pricing to increased competition among insurance companies.").

57 Garcia, *supra* note 21.

58 *See California's Low-Cost Auto Insurance Program*, CAL. DEP'T OF INS., http://www.insurance.ca.gov/01-consumers/105-type/95-guides/01-auto/lca/ (last visited July 31, 2017).

59 Liz Pulliam Weston, *Low-Liability Auto Coverage Is a Good Deal--if You Don't Have Much to Lose*, L.A. TIMES, June 16, 2000, http://www.latimes.com/la-homeauto-story3-story.html.

60 Office of Massachusetts Attorney General Martha Coakley, Automobile Insurance: The Road Ahead 52–53 (2009), *available at* http://archives.lib.state.ma.us/bitstream/handle/2452/47813/ocn549592247.pdf?sequence=1&isAllowed=y; Jennifer Preston, *Whom to Please, Cities or Suburbs?*, N.Y. TIMES, Apr. 19, 1998, http://www.nytimes.com/1998/04/19/nyregion/whom-to-please-cities-or-suburbs.html.

61 Preston, *supra* note 60.

62 *See* Office of Massachusetts Attorney General Martha Coakley, *supra* note 60, at 52–53; Preston, *supra* note 60.

Assignment

With this background in mind, please read the attached materials and prepare recommendations for the Attorney General. In particular, the Attorney General is interested in hearing your thoughts on the following issues:

1. What should Ames' goal be when deciding whether and to what extent to limit how insurance carriers classify insureds beyond the restrictions that currently exist?

    a. Should Ames eliminate all insurance practices that result in a measurable disparity on a protected class? To what extent should anti-discrimination laws in the auto insurance context track anti-discrimination laws for other financial products, like mortgages or auto loans, or other consumer goods, like cars and groceries?

    b. To what extent should Ames force cross-subsidies to counter socially undesirable insurance market segmentation? For example, should Ames restrict how auto insurers classify insureds in order to make insurance more affordable for low-income, minority or urban consumers?

2. State lawmakers and insurance regulators have a wide range of tools at their disposal, including prohibiting the use of certain rating factors, requiring insurers to justify the fairness of their proposed rates, and requiring information disclosure by insurers. In light of your responses to the preceding questions, what specific levers should the Attorney General recommend that Ames pull if it decides to take action to address the disparities?

Appendix

2017 ProPublica-Consumer Reports Study

1. Julia Angwin et al., *Minority Neighborhoods Pay Higher Car Insurance Premiums Than White Areas With the Same Risk*, PROPUBLICA (Apr. 5, 2017), https://www.propublica.org/article/minority-neighborhoods-higher-car-insurance-premiums-white-areas-same-risk. **(Excerpt attached)**.

2. Jeff Larson et al., *How We Examined Racial Discrimination in Auto Insurance Prices*, PROPUBLICA (Apr. 5, 2017, 2 PM), https://www.propublica.org/article/minority-neighborhoods-higher-car-insurance-premiums-methodology, https://perma.cc/9JRR-88RB.

3. James Lynch, *I.I.I.: Why ProPublica Auto Insurance Report Is Inaccurate, Unfair and Irresponsible*, INS. J. (Apr. 5, 2017), http://www.insurancejournal.com/news/national/2017/04/05/447012.htm.

4. *The Car Insurance Industry Attacks Our Story. Here's Our Response*, PROPUBLICA (Apr. 7, 2017, 2 PM), https://www.propublica.org/article/the-car-insurance-industry-attacks-our-story-our-response. **(Attached)**.

5. Lauren Kirchner, *Lawmakers Seek Stronger Monitoring of Racial Disparities in Car Insurance Premiums*, PROPUBLICA (Apr. 26, 2017, 11:21 AM), https://www.propublica.org/article/lawmakers-stronger-monitoring-racial-disparities-car-insurance-premiums, https://perma.cc/WTG4-K226.

6. Julia Angwin, *California to Investigate Racial Discrimination in Auto Insurance Premiums*, PROPUBLICA (May 19, 2017, 5 AM), https://www.propublica.org/article/california-to-investigate-racial-discrimination-in-auto-insurance-premiums, https://perma.cc/G7UE-QEMX.

Written Testimonies for the 2015 Public Hearing on the Pricing of Auto Insurance before the National Association of Insurance Commissioners & the Center for Insurance Policy and Research

7. Testimony of Rachel Jensen, American Insurance Association. **(Attached)**.

8. Testimony of Norma P. Garcia, Consumers Union. **(Attached)**.

9. Testimony of J. Robert Hunter, Consumer Federation of America. **(Attached)**.

10. Testimony of the Property Casualty Insurers Association of America. **(Attached)**.

2015 Consumer Federation of America Study

11. Tom Feltner & Douglas Heller, Consumer Fed'n of Am., High Price of Mandatory Auto Insurance in Predominantly African American Communities (2015), *available at* http://consumerfed.org/wp-content/uploads/2015/11/151118_insuranceinpredominantlyafricanamericancommunities_CFA.pdf.

12. Carrie Wells, Drivers from black communities in Baltimore area pay twice as much for car insurance as drivers from white communities, group says, BALTIMORE SUN, Nov. 18, 2015, http://www.baltimoresun.com/business/bs-bz-auto-insurance-disparity-20151118-story.html.

2017 Federal Insurance Office Study

13. Fed. Ins. Office, U.S. Dep't of the Treasury, Study on the Affordability of Personal Automobile Insurance (2017), *available at* https://www.treasury.gov/initiatives/fio/reports-and-notices/Documents/FINAL%20Auto%20Affordability%20Study_web.pdf. **(Attached)**.

General News and Academic Commentary

14. Sarah Breitenbach, *Some States Take Aim at "Discriminatory" Auto Insurance Pricing*, THE PEW CHARITABLE TRUSTS (Aug. 28, 2015), http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2015/08/28/ some-states-take-aim-at-discriminatory-auto-insurance-pricing. **(Attached)**.

15. Alina Tugend, As Data About Drivers Proliferates, Auto Insurers Look to Adjust Rates, N.Y. TIMES, Apr. 18, 2014, at B4.

16. Ronen Avraham et al., *Understanding Insurance Antidiscrimination Laws*, 87 S. CAL. L. REV. 195 (2014). Focus on pages 197–220.

17. Ian Ayres, Three Tests for Measuring Unjustified Disparate Impacts in Organ Transplantation: The Problem of "Included Variable" Bias, 48 PERSP. IN BIOLOGY & MED. S68 (2005).

18. Ian Ayres, Market Power and Inequality: A Competitive Conduct Standard for Assessing When Disparate Impacts are Justified, 95 CAL. L. REV. 669 (2007).

Minority Neighborhoods Pay Higher Car Insurance Premiums Than White Areas With the Same Risk

Our analysis of premiums and payouts in California, Illinois, Texas and Missouri shows that some major insurers charge minority neighborhoods as much as 30 percent more than other areas with similar accident costs.

by Julia Angwin, Jeff Larson, Lauren Kirchner and Surya Mattu, ProPublica

April 5, 2017

This story was co-published with Consumer Reports.

OTIS NASH WORKS SIX DAYS A WEEK AT TWO JOBS, as a security guard and a pest control technician, but still struggles to make the $190.69 monthly Geico car insurance payment for his 2012 Honda Civic LX.

“I’m on the edge of homelessness,” said Nash, a 26-year-old Chicagoan who supports his wife and 7-year-old daughter. But “without a car, I can’t get to work, and then I can’t pay my rent.”

Across town, Ryan Hedges has a similar insurance policy with Geico. Both drivers receive a good driver discount from the company.

Yet Hedges, who is a 34-year-old advertising executive, pays only $54.67 a month to insure his 2015 Audi Q5 Quattro sports utility vehicle. Nash pays almost four times as much as Hedges even though his run-down neighborhood, East Garfield Park, with its vacant lots and high crime rate, is actually safer from an auto insurance perspective than Hedges’ fancier Lake View neighborhood near Wrigley Field.

On average, from 2012 through 2014, Illinois insurers paid out 20 percent less for bodily injury and property damage claims in Nash’s predominantly minority zip code than in Hedges’ largely white one, according to data collected by the state’s insurance commission. But Nash pays 51 percent more for that portion of his coverage than Hedges does.

For decades, auto insurers have been observed to charge higher average premiums to drivers living in predominantly minority urban neighborhoods than to drivers with similar safety records living in majority white neighborhoods. Insurers have long defended their pricing by saying that the risk of accidents is greater in those neighborhoods, even for motorists who have never had one.

But a first-of-its-kind analysis by ProPublica and Consumer Reports, which examined auto insurance premiums and payouts in California, Illinois, Texas and Missouri, has found that many of the disparities in auto insurance prices between minority and white neighborhoods are wider than differences in risk can explain. In some cases, insurers such as Allstate, Geico and Liberty Mutual were charging premiums that were on average 30 percent higher in zip codes where most residents are minorities than in whiter neighborhoods with similar accident costs.

Our findings document what consumer advocates have long suspected: Despite laws in almost every state banning discriminatory rate-setting, some minority neighborhoods pay higher auto insurance premiums than do white areas with similar payouts on claims. This disparity may amount to a subtler form of redlining, a term that traditionally refers to denial of services or products to minority areas. And, since minorities tend to lag behind whites in income, they may be hard-pressed to afford the higher payments.

Rachel Goodman, staff attorney in the American Civil Liberties Union's racial justice program, said ProPublica's findings were distressingly familiar. "These results fit within a pattern that we see all too often — racial disparities allegedly result from differences in risk, but that justification falls apart when we drill down into the data," she said.

"We already know that zip code matters far too much in our segregated society," Goodman said. "It is dispiriting to see that, in addition to limiting economic opportunity, living in the wrong zip code can mean that you pay more for car insurance regardless of whether you and your neighbors are safe drivers."

The Insurance Information Institute, a trade group representing many insurers, contested ProPublica's findings. "Insurance companies do not collect any information regarding the race or ethnicity of the people they sell policies to. They do not discriminate on the basis of race," said James Lynch, chief actuary of the institute.

The impact of the disparity in insurance prices can be devastating, a roadblock to upward mobility or even getting by. Auto insurance coverage is required by law in almost all states. If a driver can't pay for insurance, she can face fines for driving without insurance, have her license suspended and eventually end up in jail for driving with a suspended license. Higher prices also increase the burden on those least able to bear it, forcing low-income consumers to opt for cheaper fly-by-night providers, or forego other necessities to pay their car insurance bills.

It isn't completely clear why some major auto insurers persist in treating minority neighborhoods differently. It may in part be a vestige of longstanding practices dating back to an era when American

businesses routinely discriminated against non-white customers. It's also possible that the proprietary algorithms used by insurers may inadvertently favor white over minority neighborhoods.

We have limited our analysis to the four states that release the type of data needed to compare insurance payouts by geography. Still, these states represent the spectrum of government oversight of the insurance industry. California is the most highly regulated insurance market in the U.S.; Illinois, one of the least regulated. In addition, some insurers whose prices appear to vary by neighborhood demographics operate nationally. That raises the prospect that many minority neighborhoods across the country may be paying too much for auto insurance, or white neighborhoods, too little.

This investigation marks the first use of industry payout data to measure racial disparities in car insurance premiums across states. It's part of ProPublica's examination of the hidden power of algorithms in our lives — from the equations that determine Amazon's top sellers to the calculations used to predict an individual's likelihood of committing future crimes.

Our analysis examined more than 100,000 premiums charged for liability insurance — the combination of bodily injury and property damage that represents the minimum coverage drivers buy in each of the states. To equalize driver-related variables such as age and accident history, we limited our study to one type of customer: a 30-year-old woman with a safe driving record. We then compared those premiums, which were provided by Quadrant Information Services, to the average amounts paid out by insurers for liability claims in each zip code.

In California, Texas and Missouri, our analysis is based on state data that covers insurance claims received, and payouts by, the state's insurers over the most recent five-year period for which data was available. In Illinois, the data covers a three-year period. We defined minority zip codes as having greater than 66 percent non-white population in California and Texas. In Missouri and Illinois, we defined it as greater than 50 percent, in order to have a sufficiently large sample size.

In all four states, we found insurers with significant gaps between the premiums charged in minority and non-minority neighborhoods with the same average risk. In Illinois, of the 34 companies we analyzed, 33 of them were charging at least 10 percent more, on average, for the same safe driver in minority zip codes than in comparably risky white zip codes. (The exception was USAA's Garrison Property & Casualty subsidiary, which charged 9 percent more.) Six Illinois insurers, including Allstate, which is the second largest insurer in the state, had average disparities higher than 30 percent.

While in Illinois the disparities remained about the same from the safest to the most dangerous zip codes, in the other three states the disparities were confined to the riskiest neighborhoods. In those instances, prices in whiter neighborhoods stayed about the same as risk increased, while premiums in minority neighborhoods went up.

In Missouri and Texas, at least half of the insurers we studied charged higher premiums for a safe driver in high-risk minority communities than in comparably risky non-minority communities. And even in highly regulated California, we found eight insurers whose prices in risky minority neighborhoods were more than 10 percent above similar risky zip codes where more residents were white.

Individual insurers don't publicly release their losses on a zip-code level, and have long resisted demands for that level of transparency. As a result, our analysis is based on aggregated losses experienced by almost all insurers in a given zip code in California, Illinois and Missouri, and by 70 percent of insurers in Texas.

The California Department of Insurance criticized this approach. It disputed ProPublica's analysis and findings on the grounds that an individual insurer's losses in a given zip code may vary significantly from the industry average. "The study's flawed methodology results in a flawed conclusion" that some insurers discriminate in setting rates, it said.

To be sure, it's possible that some insurers have proprietary data that justifies the higher premiums we found in minority neighborhoods. Moreover, in any given zip code, an individual insurer's losses could differ from the average losses experienced by insurers. But it is unlikely that those differences would result in a consistent pattern of higher prices for minority neighborhoods.

Consider the internal losses that Nationwide disclosed in a 2015 rate filing in California. We compared Nationwide's premiums charged by Nationwide's Allied subsidiary to Nationwide's losses and found that minority zip codes were being charged 21 percent more than similarly risky non-minority zip codes — a greater disparity than the 14 percent we found when comparing Allied premiums to overall state risk data.

The Illinois Department of Insurance also criticized ProPublica's report. "We believe the methodology used in this report is incomplete and oversimplifies the comparison of rates in minority vs. non-minority neighborhoods," said department spokesman Michael Batkins.

The Texas Department of Insurance said that it was reviewing ProPublica's analysis. "It's important to us that rates are fair to all consumers," said department spokesman Jerry Hagins. The Missouri Department of Insurance did not respond to repeated inquiries.

Many insurers did not respond to our questions. Those that did generally disputed our results and said that they do not discriminate by race in rate setting. Eric Hardgrove, director of public relations at Nationwide, said it uses "nondiscriminatory rating factors in compliance with each state's

ratemaking laws." He did not respond to inquiries about our analysis of Nationwide's internal losses in California.

Roger Wildermuth, spokesman for USAA, said that its premiums reflect neighborhood conditions. "Some areas may have slightly higher rates due to factors such as congestion that lead to more accidents or higher crime rates that lead to higher auto thefts," he said.

INSURERS HAVE LONG CITED NEIGHBORHOOD CONGESTION as a factor in their decision-making. In 1940, a young lawyer named Thurgood Marshall wrote to a friend that he had been denied auto insurance by Travelers. When Marshall complained to the company, he was told that "the refusal was on the basis of the fact that I live in a 'congested area,' meaning Harlem, and 'not' because I am a Negro."

Marshall, who later argued and won the landmark school desegregation case Brown v. Board of Education and went on to become a Supreme Court justice, concluded, according to his letter, that, "it is practically impossible to work out a court case because the insurance is usually refused on some technical ground."

In Marshall's day, redlining was often defined by refusal to provide loans, insurance or other services in minority neighborhoods. But as those practices became public and controversial — due in part to Marshall's activism as an attorney for the NAACP — insurers stopped asking applicants to identify their race.

In the 1940s, as part of a bargain to win an exemption from federal antitrust laws, the insurance industry agreed to be regulated by state laws that included prohibitions against discriminatory rate setting. Soon after, following model legislation recommended by the National Association of Insurance Commissioners, most states passed laws stating "rates should not be inadequate, excessive or unfairly discriminatory." The legislation defines discrimination as "price differentials" that "fail to reflect equitably the differences in expected losses and expenses."

Of course, the laws didn't immediately stop discrimination. In a thorough examination of MetLife's history released in 2002, New York state insurance regulators catalogued all of the ways that the company discriminated against black applicants for life insurance — dating back to the 1880s when it refused to insure them at all, to the first half of the 20th century when it required minorities to submit to additional medical exams and sold them substandard plans.

In the 1960s, as insurers stopped asking applicants to declare their race, MetLife began dividing cities into areas. In minority areas, applicants were subject to more stringent criteria, according to the

report. In 2002, MetLife agreed to pay as much as $160 million to compensate minorities who were sold substandard policies.

In the auto insurance industry, similar practices occurred. To this day, most auto insurers base premiums in part on “territorial ratings,” derived from the risk of the area where the car is garaged.

The territorial ratings are “a way of taking into account the conditions under which you are driving,” said David Snyder, a vice president at the Property Casualty Insurers Association of America.

This geographic pricing means that the same driver may be charged different rates depending on the part of town in which he or she lives.

In 1978, Los Angeles County Supervisor Kenneth Hahn pleaded with Congress to rectify the stark inequities of territorial ratings. He said the same good driver would pay over $900 if he lived in Watts, a poor black neighborhood, and just $385 if he lived in predominantly white San Diego County.

“They are being ripped off by the biggest companies in America,” Hahn testified.

But Congress didn’t act.

Bill Corley, who is African American, started his career as a Farmers Insurance agent in West Los Angeles in 1977. He said the discrimination wasn’t obvious on the surface. “Officially, you could write insurance anywhere you wanted to write insurance,” he recalled. But, Corley said, if you had too many clients in low-income areas, Farmers executives “would tell you all the problems that could be associated with that, and you were scared off and intimidated from doing so.”

When he sold insurance in minority neighborhoods, Corley said, the Farmers managers “would nitpick it. They would ask you questions about people’s income levels and questions about neighboring properties — which I don’t really recall ever having to address when I was writing policies in other neighborhoods in the city.” Farmers did not respond to repeated inquiries.

Corley persisted, and eventually established a network of independent minority insurance brokers who worked together to persuade leading insurers to make them agents and sell policies through them. Corley, who now works as an independent insurance agent with offices in San Diego and San Jose, said the increased diversity of agents has improved the business. “Agents and brokers were complicit, and helped to perpetuate redlining, by not making an effort to write policies in those areas,” he said.

Today, some insurers consider other factors beyond the risk of accident payouts in setting rates. Such criteria as credit score and occupation have been shown to result in higher prices for minorities.

Allstate is implementing a new method for tailoring rates to “micro-segments” that appear to be as small as an individual policyholder — a method referred to in the industry as price optimization.

More than a dozen states have set limits on insurers’ use of price optimization, expressing concerns that the technique allows insurers to raise premiums on customers who don’t shop around for better rates. In 2014, for instance, the Maryland Insurance Administration banned price optimization, saying it results in rates that are “unfairly discriminatory.” (In this context, discrimination refers to any pricing that is not related to risk; the effect on minority neighborhoods has not been studied.)

Allstate has disclosed in filings that it is using price optimization in at least 24 states, including Illinois, Missouri and Texas. Allstate spokesman Justin Herndon said the company “uses the likelihood of loss to price insurance which is required by law and specific prices are approved by state regulators.”

In California, when insurers set rates for sparsely populated rural zip codes, which tend to be whiter, they are allowed to consider risk in contiguous zip codes of their own choosing. Often, the companies group these zip codes with similar areas that also have few policy-holders, according to insurers’ rate filings. They then assign lower risk to the entire region than appears to be warranted by the state’s accident data.

However rates are calculated, auto insurance remains unaffordable in many predominantly minority areas of the nation, according to an analysis by ProPublica of U.S. Census data and 30 million auto insurance quotes.

We found that households in minority-majority zip codes spent more than twice as much of their household income on auto insurance (11 percent), compared with households in majority white neighborhoods (5 percent). The U.S. Treasury Department has defined auto insurance as affordable if it costs 2 percent or less of household income.

OVER THE YEARS, EFFORTS TO INVESTIGATE REDLINING in car insurance have repeatedly been stymied by the same barrier: the industry’s refusal to make crucial data available.

After the Rodney King riots in Los Angeles in 1992, when people took to the streets to protest the acquittal of policemen who had been filmed beating a black driver, it turned out that about half of an estimated $1 billion in losses from destroyed businesses and homes were not covered by insurance.

California Insurance Commissioner John Garamendi blamed discriminatory practices by the nation’s insurance companies. Touring the battered ruins of the city a month after the riots, he told a New

York Times reporter, “I am convinced redlining exists. The bottom line is either you can’t get or can’t afford it.”

Garamendi subsequently approved rules that required insurers to report their market share by zip code. But insurers argued that the data was a trade secret that couldn’t be released to the public. It wasn’t until 2004, after years of legal battles, that insurers lost their case in California Supreme Court.

Also spurred by the Los Angeles riots, several Congressional committees held hearings and began studying the issue of redlining, but were stymied by lack of data. The U.S. General Accounting Office, now known as the U.S. Government Accountability Office, reported in 1994 that an analysis of insurance availability would require insurance companies to begin reporting data at zip code or census tract level nationwide. “Currently available data are insufficient to determine the extent of current problems,” the report stated.

The National Association of Insurance Commissioners also set up a committee to investigate redlining. It didn’t get the necessary data, either.

Robert Klein, who was researching the issue for the association, said in an interview that “the insurance industry opposed the idea of collecting loss and claims data and the NAIC committee sided with the industry and not with me on this point.”

Without data about insurers’ losses, Klein’s report could not determine why premiums were higher in minority neighborhoods — whether the difference was truly because of greater risk there. “Researchers were unable to draw definitive conclusions about the causes of these market conditions,” the report stated.

Insurers say they set prices based on risk but are reluctant to share the data underlying their risk analyses, such as losses per zip code. Publishing data publicly about losses means “you’re creating something that is valuable and you are essentially giving it away,” said Lynch of the Insurance Information Institute.

Texas consumer advocate Birny Birnbaum won a rare victory when, through a public-records request, he obtained data collected by the state insurance commission at a zip-code level.

In 1997, using the information about each insurer’s number of policies, premiums and losses by zip code, Birnbaum published a fiery report naming Nationwide, Safeco, State Farm, USAA and Farm Bureau as among the “worst redliners” in the state because they had much smaller market share in minority neighborhoods than in other neighborhoods.

The insurers sued the Texas Department of Insurance and Birnbaum, contending that the information was a trade secret and making it public had damaged their business. A Travis County district court judge ruled in the insurers' favor, saying they would "suffer irreparable harm in the absence of a temporary injunction."

"There were roughly 200 insurance companies in the state. They all sued," recalled D.J. Powers, who was Birnbaum's pro bono attorney. "It was the entire auto insurance industry versus me and Birny."

Since then, Birnbaum has continued to advocate for insurance commissions to collect and publicly release data that can be used for analysis of redlining and other issues. However, to this day, very few states do so. ProPublica filed public-records requests in all 50 states and the District of Columbia seeking zip-code level data about liability claims payouts. Only four states said they collected such data and provided it.

"Regulators are no better equipped to analyze or address these problems than they were 20 or 30 years ago," Birnbaum said. "If you can't even monitor the market to identify the problem, you're certainly not going to be in a position to address the problem."

Julia Angwin is a senior reporter at ProPublica. From 2000 to 2013, she was a reporter at The Wall Street Journal, where she led a privacy investigative team that was a finalist for a Pulitzer Prize in Explanatory Reporting in 2011 and won a Gerald Loeb Award in 2010.

Jeff Larson is a news applications developer at ProPublica. He is a winner of the Livingston Award for the 2011 series Redistricting: How Powerful Interests are Drawing You Out of a Vote.

Lauren Kirchner is a senior reporting fellow at ProPublica. She has covered digital security and press freedom issues for the Columbia Journalism Review, and crime and criminal justice for Pacific Standard magazine.

Surya Mattu was a contributing researcher at ProPublica.

Production by Hannah Birch, Jillian Kumagai and David Sleight.

Appendix Item 2

How We Examined Racial Discrimination in Auto Insurance Prices

Appendix Item 3

Why ProPublica Auto Insurance Report Is Inaccurate, Unfair and Irresponsible

Machine Bias
Algorithmic injustice and the formulas that increasingly influence our lives.

The Car Insurance Industry Attacks Our Story. Here's Our Response.

An industry representative disputed our findings that many disparities in auto insurance prices between minority and white neighborhoods are wider than differences in risk can explain. His analysis is flawed.

ProPublica, April 7, 2017, 2 p.m.

Davide Bonazzi, special to ProPublica

Earlier this week, we published an investigation with Consumer Reports in which we found that many minority neighborhoods pay higher car insurance premiums than white areas with the same risk. Our findings were based on analysis of insurance premiums and payouts in California, Illinois, Texas and Missouri. We found insurers such as Allstate, Geico and Liberty Mutual were charging premiums that were as much as 30 percent higher in zip codes where most residents are minorities than in whiter neighborhoods with similar accident costs. (Here are details on how we did the analysis.)

An industry trade group, the Insurance Information Institute, responded in the Insurance Journal. The piece, by James Lynch, vice president of research and information services, calls our article "inaccurate, unfair, and irresponsible." We disagree. As we typically do with our reporting, we contacted the industry well ahead of publication and gave it an opportunity to review our data and methodology and respond to our findings.

Here is the response we and Consumer Reports sent to the Insurance Journal.

While we appreciate that Mr. Lynch and the industry may disagree with our findings and conclusions, we want to correct for readers several errors he made in describing our work. In fact, we released a detailed methodology of our study, primarily to be as

transparent and forthright as possible about what we did and did not do, and about the limitations of our analysis.

Mr. Lynch writes that we concluded that "auto insurers charge unfairly high rates to people in minority and low-income communities." In fact, we found that the disparities were not limited to low-income communities and persist even in affluent minority neighborhoods.

Mr. Lynch writes that we made a mistake by "comparing the losses of all drivers within a ZIP code to the premium charged to a single person." This assertion does not properly characterize what we did. We compared the average premium in minority zip codes to the average premium in neighborhoods with similar accident costs and a higher proportion of white residents.

Mr. Lynch writes that insurance companies do not set rates based on race or income. Our article does not say that they do. However, as our article pointed out, companies can use such criteria as credit score and occupation, which have been shown to result in higher prices for minorities.

Mr. Lynch writes that we did not address "how auto insurers priced policies where data about the policyholders and a ZIP code's loss costs was thin." In fact, we analyzed in detail California's system of allowing insurers to set rates for sparsely populated rural areas by considering risk in contiguous zip codes.

Mr. Lynch writes that we do not consider that "an auto insurer's individual loss costs ... could vary from the statewide average." In fact, we acknowledged this point in our article as a potential limitation of our study, while noting that the internal data of one insurance company, Nationwide, showed a greater disparity than the statewide average.

Mr. Lynch also implies we only applied our analysis to a 30-year-old driver. As we acknowledged in our methodology, we could not take every variable into account. We did repeat our analysis for more than 40 driver profiles that differed by age, gender, number of drivers and number of cars. When we ran the numbers, we found consistent results.

Minority Neighborhoods Pay Higher Car Insurance Premiums Than White Areas With the Same Risk

Our analysis of premiums and payouts in California, Illinois, Texas and Missouri shows that some major insurers charge minority neighborhoods as much as 30 percent more than other areas with similar accident costs. Read the story.

Our methodology was developed over more than a year and reviewed by a variety of independent experts in the field (including academics, statisticians and former regulators), whose feedback we incorporated. We were transparent with the Insurance Information Institute and with the firm the trade group hired, providing all our data and even our code to ensure they could fairly respond.

We would welcome the same transparency in return. While the industry criticizes ProPublica and Consumer Reports for not using company-specific data, such as individual insurers' losses in each zip code, it does not make this information available. If the industry would release it, we would welcome the opportunity to take a look and continue the conversation.

Like this story? Sign up for our daily newsletter to get more of our best work.

Appendix Item 5

Lawmakers Seek Stronger Monitoring of Racial Disparities in Car Insurance Premiums

Appendix Item 6

California to Investigate Racial Discrimination in Auto Insurance Premiums

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Re: Public Hearing on the Pricing of Auto Insurance – AIA Testimony

Good afternoon, members of the Committee:

My name is Rachel Jensen from the American Insurance Association, a leading property-casualty trade association, representing 300 members who annually insure a substantial amount of automobile coverage nationwide.

Thanks to appropriate statutory structures, robust regulatory oversight and insurer commitment to accurate pricing, the use of a variety of rating factors in the pricing of automobile insurance has benefitted insureds and promoted the overall health of the auto insurance marketplace.

Insurers are singularly focused on deriving what each believes are the most accurate rates for the risks they are insuring. Safeguarding rating accuracy and avoiding cross-subsidization encourage insurers to aggressively participate in marketplaces, providing them the confidence they need to compete on price and product, as well as encouraging safe driving practices by insureds. Insurers use many differing rating variables and often to differing degrees. This reflects the highly competitive nature of automobile insurance in which hundreds of insurers compete.

Insurers use a variety of rating variables that are predictive of risk of future loss. Their purpose is simple—to help insurers seek as accurate an assessment of future, potential losses so they have higher confidence that their rates most accurately reflect risk while avoiding potential cross-subsidization. They have been widely studied and found to have statistically relevant correlations to risk. While over time, questions have been raised about several such factors, they have proven to meet the applicable commonly accepted standards that are applied in evaluating each one of them – the threshold test for any factor utilized by insurers. Examples of variables used by insurers include: (1) where you live/location of the vehicle; (2) driving record/driving experience; (3) vehicle make, model, age and features; (4) vehicle use/activity; (5) prior insurance/gaps in insurance; (6) age; (7) gender; (8) marital status; (9) credit-based insurance scores (“CBIS”); (10) occupation; and (11) education.

Importantly, not all insurers use all variables or in the same way and often differ on their particular importance. Consequently, consumers can and should shop around for coverage that best meets their needs and risk profile.

The obvious effect of the use of such variables on consumers is that the variables can raise or lower the premiums consumers pay depending on how an individual's risk profile impacts rating. Employing a broad selection of rating variables helps insurers most accurately price the risk a particular insured represents. Insurers using rating variables that have statistically relevant correlations to potential risk means that insureds who shop around may find the best fit for their particular risk characteristics. Further, there are potential cost savings for consumers who do well with variables that might not otherwise be considered.

Because rating variables encourage an insurer's confidence in its pricing, they can encourage competition if their use is not unreasonably limited. Such competition gives consumers more choice in products that might better fit their particular risk characteristics. With more confidence in the market, there is greater competition among insurers.

The overall health of the standard market is clear; competition is at an all-time high and the generally shrinking size of the auto residual markets are evidence that the robust use of statistically correlated rating variables has had a positive effect on the marketplace. Increased competition in a healthy standard marketplace has reduced the need for reliance on assigned risk pools and the non-standard market; overall auto insurance plan application volume nationwide has continued to decrease, dropping an additional 4.1% thus far in 2015.[1]

With a wide variety of statistically relevant rating variables being employed, we have seen auto insurance become more affordable for many drivers. According to the Insurance Research Council (IRC) report referenced in the hearing notice, personal auto insurance has become more affordable over time for all income groups, including low-to-moderate income groups.[2]

The overwhelming majority of state insurance laws prohibit the use of insurance rates that are excessive, inadequate or unfairly discriminatory. Insurance rating plans group risks with similar characteristics and charge different rates for other risks. Most rating statutes have an absolute prohibition against the use of such factors as race, ethnicity, religion, or national origin. Beyond these, the determination of the words "unfairly discriminatory" is generally based on whether the premiums charged for the proposed grouping are commensurate with the expected losses or expenses. As noted in an Illinois statute regarding the making of workers' compensation rates, "A rate is not unfairly discriminatory because different premiums result for policyholders with like exposures but different expenses, or like expenses but different loss exposures, so long as the rate reflects the differences with reasonable accuracy."[3]

For auto insurance, many companies also offer discounts or special rates for certain occupation groups, affinity groups, and education levels. There is actuarial support demonstrating that these rating criteria represent fair distinctions. For example, in 2006, the Maryland Insurance Administration undertook a review of the use of occupation and education in auto insurance and

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[1] *AIPSO 2015 Annual Report, Application Volume, p. 9.*

[2] *IRC Report, "Trends Indicate Auto Insurance is Becoming More Affordable for All Income Groups," August 2015, found at: http://www.insurance-research.org/sites/default/files/downloads/Trends%20in%20Auto%20Insurance%20Affordability%20NR_FINAL.pdf, last accessed 11/10/15.*

[3] *215 ILCS 5/456*

concluded that the insurer had demonstrated that education and occupation are predictors of auto insurance loss, and that use of them as risk characteristics in auto insurance meets actuarial standards of practice and principles related to risk characteristics.[4] The New Jersey Department of Banking and Insurance concluded a report on the use of occupation and education rating variables in auto insurance that noted, referring to a Florida law, that "occupation and education factors are widely permitted. They tend to be permitted because, as the Florida statute puts it, the factors are "actuarially measurable and credible and sufficiently related to actual or expected loss and expense experience of the group so as to assure that non-members of the group are not unfairly discriminated against."[5]

Another of the non-experiential factors that has been widely studied is the use of credit-based insurance scores (CBIS). While a consumer's credit history and experience may not seem relevant to their risk of auto losses, numerous studies have shown a correlative effect. The effect on consumers has been largely positive, as well. The FTC's 2007 study on the impact of the use of CBIS in auto insurance noted that when scoring is used, "…more consumers (59%) would be predicted to have a decrease in their premiums than an increase (41%).[6]" The state of Arkansas conducted its own study on the use of CBIS and found that "….91% of consumers either received a discount for credit or it had no effect on their premium" and "for those policies in which credit played some role in determining the final premium, those receiving a decrease outnumbered those who received an increase by 3.33 to 1."[7]

Insurance Commissioners review rate filings by companies and determine whether rates are excessive, inadequate or unfairly discriminatory. Strong consumer protections are included in state statutes. A multitude of studies conducted by national and state regulators on the fairness of using such rating factors have shown that these variables are correlated to the risk of loss. Given existing regulatory oversight and indications that accurate pricing has led to a healthy and competitive marketplace, no further regulatory action is warranted.

AIA generally supports the work done to date by the Casualty Actuarial & Statistical Task Force with regard to "price optimization." While we commend the Task Force for recognizing the existence of existing state laws that prohibit discriminatory rating practices and for rightfully narrowing the scope of its "main" White Paper to accurately address concerns surrounding unfairly discriminatory ratemaking practices, we are concerned that recent amendments (primarily the addition of new appendices C and D – "Potential Requirements for Rate Filings" and "Ratemaking Disclosure Form," respectively) go beyond the original charge of the Casualty Actuarial and Statistical Task Force and reach far beyond price optimization. We welcome any opportunity to work with this or any other NAIC group on these issues going forward.

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[4] *Md. Insur. Admin. GEICO Market Conduct Examination Report, 6/8/06, found at: http://www.mdinsurance.state.md.us/sa/documents/GEICO-06-08-06.pdf, last accessed 11/10/15.*

[5] *The Use of Occupation and Education Factors in Automobile Insurance April 2008, NJ DOBI, found at: http://www.state.nj.us/dobi/division_insurance/pdfs/ed_occ_april2008.pdf, last accessed 11/10/15.*

[6] *"Credit-based Insurance Scores: Impacts on Consumers of Automobile Insurance," A Report to Congress by the Federal Trade Commission, July 2007, found at: https://www.ftc.gov/reports/credit-based-insurance-scores-impacts-consumers-automobile-insurance-report-congress-federal, last accessed 11/10/15.*

[7] *"Use and Impact of Credit in Personal Lines Insurance Premiums Pursuant to Ark. Code Ann. § 23-67-415;" A report to the Legislative Council and the Senate and House Committees on Insurance & Commerce of the Arkansas General Assembly by the Arkansas Insurance Dept, July 2007, found at: http://insurance.arkansas.gov/Reports/2012Credit.pdf, last accessed 11/10/15.*

ConsumersUnion®
POLICY & ACTION FROM CONSUMER REPORTS

Public Hearing on the Pricing of Auto Insurance
National Association of Insurance Commissioners
Auto Insurance (C/D) Study Group
NAIC Fall National Meeting
Thursday, November 19, 2015

Comments of Norma P. Garcia on behalf of Consumers Union

Introduction

My name is Norma Garcia and I am a senior attorney and manager of the financial services advocacy program for Consumers Union, the advocacy and policy division of Consumer Reports.[1] On behalf of my organization I thank you for inviting our testimony. As a non-profit whose mission is to advance consumer interests, we fight for a fair insurance marketplace for consumers and provide the public with independent and unbiased advice on how best to shop for auto insurance. Every year, Consumer Reports surveys subscribers to learn more about their experiences with insurance companies. Based upon their feedback and our other analysis, we make recommendations about which insurance companies provide the best services and value for consumers. Additionally, over the course of the last 25 years, staff from our West Coast Office in San Francisco, California, has advocated in the courts, before state agencies, and in the legislature on behalf of insurance consumers. We have addressed issues such as automobile insurance rating factors, uninsured motorists, and insurance redlining.

Most recently, Consumer Reports undertook a two-year insurance pricing project in which we studied more than 2 billion price quotes across every U.S. ZIP code to understand the factors that raise rates.[2] This investigation revealed that how one drives may have little to do with how much one pays, and may depend more heavily on socioeconomic factors, an outcome which has prompted over 15,000 citizens from all over the country to sign our petition[3] calling on the NAIC to fix car insurance.

In response to the information requested by the NAIC for today's hearing, below we highlight the impact of some frequently used auto insurance rating factors which can raise rates as revealed by our recent investigation, including credit information (insurance scores) and price optimization. We also include a discussion of some other non-driving auto insurance related factors that can have a big impact on rates even for drivers with clean records. Raised recently in investigations conducted by other organizations, these factors merit the NAIC's attention as well and include education level, and occupation, which like credit-based ratings, are closely tied to socio-economic status. We also urge the NAIC to examine the impact of marital status on rates.[4] We conclude with our recommendations for reforming auto insurance pricing to increase fairness, access and affordability for all.

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[1] Consumer Reports is the world's largest independent product-testing organization. Using its more than 50 labs, auto test center, and survey research center, the nonprofit rates thousands of products and services annually. Founded in 1936, Consumer Reports has over 8 million subscribers to its magazine, website, and other publications. Its advocacy division, Consumers Union, works for health reform, food and product safety, financial reform, and other consumer issues in Washington, D.C., the states, and in the marketplace.

[2] *The Truth About Car Insurance*, CONSUMER REPORTS, Sept. 2015, *available at* http://www.consumerreports.org/cro/car-insurance/auto-insurance-special-report/index.htm.

[3] *See id.* (scroll down to view petition).

[4] While these factors will be the focus of our testimony, this is not meant to be an exclusive list of rating factors that may be deserving of the NAIC's attention

Question 1: What rating variables are being used by auto insurers?

Insurance companies regularly consider driving related and non-driving related factors in pricing automobile insurance policies. Typical driving related factors include an insured's driving record, number of miles driven per year and years of driving experience. Common non-driving related factors considered can include credit related data, the likelihood of shopping for insurance from a competitor (price optimization), penalties for coverage lapses, education level, occupation, and marital status, to name a few. State laws may dictate which factors must or may be considered and how much weight the factors can have in overall pricing decisions. Some states do not allow insurance companies to consider certain non-driving factors such as credit information, price optimization, education level, occupation, and marital status.

Question 2: What effect do the rating variables have on consumers?

The impact of rating variables on consumers depends upon which factors are used, whether they are mandatory or discretionary, and how much weight each factor is given in the overall pricing of a consumer's auto insurance policy. When driving-related variables are considered first and foremost in pricing, good drivers pay less and bad drivers pay more, even if some non-driving related factors are allowed.

This is the regulatory pricing structure in place in California since 1988, enacted through the voter mandate known as Proposition 103.[5] Driving related factors tied directly to the individual's performance (driving safety record), frequency as a driver behind the wheel (number of miles driven per year) and skill level (years of driving experience), --in this order--are required to be the prime determinants in establishing auto insurance rates for consumers. The law requires that insurers give these factors more weight in pricing decisions, even when considering non-driving related factors that are permitted by law.

As a result, in California, how one drives matters most in how much one pays for auto insurance and this has proven to be a successful model for insurance rate regulation. In 2013, Consumer Federation of America examined the impact of Proposition 103 and concluded that California's insurance market remains robust and competitive and that the best practices inherent in Proposition 103 have saved consumers billions of dollars at the same time. Many factors contribute to its success, including requiring the prior approval of rate changes, opportunities for the public to participate in ratemaking process and a rating variable structure that ties rates most closely to how one drives, to name a few.[6] Not only is the auto insurance marketplace in California thriving with the participation of nearly every major insurer operating nationwide, but good drivers in California are rewarded with lower premiums. Nor do they have to subsidize bad drivers who in many other states may get more favorable treatment when driving related factors do not count most and some non-driving related factors, particularly credit rating, education level, and occupations are considered.

Of the non-driving related factors considered in pricing policies in many states, there are several commonly used variables that we believe ought to be banned in every state. These are factors that may more closely reflect an individual's socioeconomic standing. Whether or not they have any predictive value as some insurers assert, they closely correlate with race and income, which are rating factors prohibited in every state as unfairly discriminatory. In this category we place using credit based data, education level, occupation to determine rates. Nowhere is the unfairness of considering these factors

[5] Proposition 103 enacted Sections 1861.05-1861.14 of the *California Insurance Code*

[6] CONSUMER FED'N OF AMERICA, WHAT WORKS: A REVIEW OF AUTO INSURANCE RATE REGULATION IN AMERICAN AND HOW BEST PRACTICES SAVE MILLIONS OF DOLLARS (2013), *available* at http://www.consumerfed.org/pdfs/whatworks-report_nov2013_hunter-feltner-heller.pdf.

most evident as when excellent drivers are charged much more for their auto insurance when such factors are considered in pricing.

Credit Information in Insurance Pricing

For many years, Consumer Reports and Consumers Union have raised concerns about the use of credit information in auto insurance pricing. In 2006, Consumer Reports published *Caution! The secret score behind auto insurance* which alerted consumers those credit-based insurance scores had become as important in determining their annual premiums as their driving record and the neighborhood of residence.[7] The same year, Consumers Union published an in-depth white paper entitled *Score Wars: Consumers Caught in the Crossfire--The Case for Banning Credit Information in Insurance Pricing*.[8] Though we published these items nearly 10 years ago, our concerns over the use of credit data in insurance underwriting have not abated and the points we made then about the negative public policy ramifications remain relevant today. These include secrecy in determining insurance scores such that consumers cannot reasonably know what goes in them, problems with accuracy of information contained in credit files that underlie insurance scores derived from credit information, the existence of alternatives to using insurance scores to predict claims, the unfavorable impact on low-income and minority communities when credit scores function as proxies for race and income, and the insufficiency of current laws to protect against unfair results in states that allow the practice. We note that three states do not allow the use of credit information in auto insurance pricing decisions. These are California, Hawaii and Massachusetts.

After reading Consumer Reports' September 2015 report, many consumers wrote to us and were outraged about the use of credit data in pricing their insurance policies. They had plenty to say about how this common practice is impacting them.

Aaron and Betty from Zanoni, Missouri have a message for you:
"Dear Insurance Policymakers, We feel we are discriminated against our insurance premiums because we do not have a credit card or even a debit card. We pay with cash or check. We pay our bills ON TIME whether it is for utilities, doctor's bills, medicines or car repairs. We may drive our drive for 10 to 12 years. We own our home with no mortgage and our land is paid for. We pay our personal property taxes IN FULL every year. WHY are our insurance premiums more because we don't have a credit score? It is NOT FAIR to be paying a higher premium. Please help us and others like us who pay on time and don't own credit cards! Thank you for your help! P.S. No traffic tickets, accidents or any moving violations."

Similarly impacted, George from San Antonio, Texas shared his story about how the use of credit information has raised his insurance prices. In his case, he is penalized by insurance scoring because he does not have outstanding debts. He said,

"My auto insurance company raised my premiums based on my credit score. Although I have a very good credit score, it is not tops. The insurance company customer service rep. told me that my score was not the highest because I had no debts, no mortgage (house is paid for) and no car loan (car is paid for). They said if I took out a loan my score would go up and my insurance premiums could be lowered."

[7] *Caution! The Secret Score Behind Your Auto Insurance*, CONSUMER REPORTS, Aug. 2006, *available at* http://consumersunion.org/pdf/CR-Aug2006.pdf.
[8] NORMA P. GARCIA, CONSUMERS UNION, SCORE WARS: CONSUMERS CAUGHT IN THE CROSSFIRE – THE CASE FOR BANNING THE USE OF CREDIT INFORMATION IN INSURANCE (2006), *available at* http://consumersunion.org/pdf/ScoreWars.pdf.

Kathleen from Duluth, Minnesota shared a similar story.
"My car insurance rate went up considerably about a year ago. AAA stated it was because I don't use credit cards. They said I would have to get a credit card and use it on a regular basis in order for my insurance rate to go back to normal. I have a good driving record etc. I have no interest in using a credit card. I did a little research and apparently this is legal in the state of MN. It's just not right."

Joseph from Wilmington, Delaware put it bluntly, *"Folks who manage to not need credit cards or loans are more likely to file? What lunatic dreamed this one up?"*

Cathy from Wooster, Ohio told us about how her non-U.S. resident status has impacted her credit and hence her insurance costs.
"I am one of about 500,000 Canadians who spend their winters in the US, many of whom own residences and cars in the US. My insurance for my US car is with Progressive (although all companies do this) which refuses to gives (sic) me its best rate because I do not have a US credit rating. The fact is that as a non-resident I cannot get a social security number and thus cannot apply successfully for a US credit card, despite the fact that in Canada I have an extremely high credit rating. . . The result is that we are lumped together with all Americans who do not have a credit rating and pay a financial penalty for our insurance as a result."

Selma, a disabled senior citizen from Houston, Texas told us how getting sick impacted her auto insurance rates. She said:
"We recently had our excellent credit score drop. All our insurance rates promptly jumped to almost double from 3 separate insurance companies upon renewal. These companies (Travelers, GMAC, National, Allstate) who have carried our insurance for over 7 years without claims yet they increase our rates based on a drop in our credit score. This is just a means to increase their profits and is plain wrong. For disabled seniors living on a fixed income who struggle to make ends meet this becomes an inescapable trap. With raising medical expenses it often becomes a choice of purchasing medicines and paying doctors or credit card bills on time which drops your credit score. Once the credit score is dropped all your insurance rates increase stretching an already tight budget even more. Strapped seniors who suddenly find themselves with unaffordable insurance rates than are forced to start using their credit cards to pay the suddenly outrageous rates; They then end up with large credit card bills which decreases their credit score even more and the cycle continues in a downward spiral."

Several consumers shared their stories about how perplexed they are that good credit scores do not necessarily mean good insurance scores and that it is unfair they are getting dinged with higher rates.

For example, Thomas of Seattle, Washington said:
"I was recently informed, when receiving an auto insurance renewal offer that I was not eligible for their "preferred" rate due to my low auto insurance score from the TransUnion credit reporting agency. . .I happen to have an excellent regular credit score (according to TransUnion), of approximately 812. This is the score I received from them when I bought my last care in 2012. And currently, according to TransUnion, I now have a regular credit score of 790 (still excellent). I am a member of Kredit Karma (info supplied by TransUnion), an on-line credit reporting system supplied to me in association with my Sears credit account. It is by utilizing my Kredit Karma information that I was made aware of the fact that TransUnion is giving me a "Very Poor" auto insurance credit score, and thereby creating a situation whereby my auto insurance company is able to charge me a "non-preferable" rate for my auto insurance. In my opinion, this represents collusion between the credit-reporting industry and the auto insurance industry. Not one of the auto insurers I have spoken with has been willing/able to do anything regarding this false auto insurance credit score (even given the fact that I have had no tickets or accidents in the last 20 years, coupled with my near perfect regular credit score 790-low 800's). And why should they? It is their license to steal from me, an otherwise proven person of High credit worthiness."

April from Swanton, Vermont wrote:
"Insurance Co [sic] are now looking at credit scores to determine insurance. I have a 795 credit score yet I was sent a paper saying that my insurance was at a higher rate because of my Credit score? Not to mention this is now another credit request that could affect my score without my consent."

Kenneth from Santa Fe, New Mexico adds to this and mentions how the secrecy behind the insurance scores makes it confusing to understand why he pays so much for insurance. He wrote:
"Several insurance companies have informed me that due to problems with my insurance credit report I have not been provided their best rate. The problem report was provided them by Transunion. I have gone to Transunion and cannot see anything wrong with my credit, though they admit some info provided to insurance companies is not provided to me."

Still, others cite errors with the credit reporting bureaus and inconsistencies among bureau reports as reasons that have led to them paying higher insurance prices when credit information is used in the calculation.

For example, Randy from Canton, Illinois said:
"I have had homeowners, car insurance, motorcycle insurance, etc. for over 40 years. Now because Transunion has my credit score screwed up and I won't pay to fix it, my insurances have all gone up due to being a larger risk. My credit is still considered good. I would hate to see it if it was bad. This isn't right."

Judy from New York City wrote:
"Based upon erroneous information and assumptions made hastily, my car insurance company with which I had worked for several decades doubled my insurance rates overnight. I have not been able to get copies of my credit scores from the 3 credit companies or to get them to remove the erroneous information to date."

Larry from Fort Mohave, Arizona wrote:
"Credit reports are not always accurate - ours are not. We attempted to have them corrected several years ago, but were not successful. An incorrect address in Texas - not Oregon - is on there because the bank sent the title to our pickup to another person with the same names when we paid off the contract. The bank never straightened that out, (the man in Texas was honest enough to send us our title.) Maybe the Texas guy's credit info goes on our report too - we don't know. We bought a house in 2013, therefore had several credit score inquiries and they lowered our scores because of that. The whole credit score system needs [to be] revised and insurance companies do too. (We each have a report, and one score is higher than the other.) Thank you for working on this injustice by insurance companies."

And finally, on the problem of accuracy, Jeffrey from Nixa, Missouri wrote:
"Until credit scores are 100% correct for everyone, there (sic) use by companies should be outlawed!!"

Others wrote about how unfair it is that using credit based information in a secret manner makes life more difficult for good drivers who are trying to make ends meet.

Kyle from Tumwater, Washington sums this up:
"It is deplorable that while consumers are required to purchase auto insurance to drive on the public roads, insurers utilize credit scores and other baseless credit information to further marginalize the poor and those living on the margins. I am one of them. After 25 years with Allstate, I do not qualify for any of their advertised rates, apparently because of secret credit information they access in my credit reports. My credit in not bad, but apparently not good enough to qualify for Allstate's good rates despite my not

having accidents and that I've been with the company for more than a quarter of a century. This mean economy, this depression, has left me, along with countless others, living on the margins."

These serious concerns with the unfair impact of insurance companies considering credit data in pricing are not the only problem.

Consumer Reports' recent investigation revealed another serious problem with auto insurance pricing in many states where credit data is allowed: *Excellent drivers with perfect driving records but with poor credit paid more for their auto insurance than drivers with a drunk driving conviction but an excellent credit history.*[9]

We believe it is patently unfair and unwise to let convicted drunk drivers pay less for their auto insurance than an excellent driver with poor credit. When this is allowed, excellent credit can function as a socio-economic buffer against being charged the highest rates, even if one has engaged in and has been convicted of the worst driving behavior possible-- drunk driving. When credit is allowed and matters too much, good drivers with poor credit can end up subsidizing the rates paid by convicted drunk drivers with excellent credit. In a pricing scheme that does not allow the use of credit information and places more emphasis on driving behavior, such a result would not be possible.

Additionally, from a public safety perspective, this makes no sense. Highway traffic safety is an important public safety priority and one that we have advocated for over many years and have written about in Consumer Reports.[10] That's one reason why we are extremely troubled when we see insurance companies giving convicted drunk drivers with excellent credit better rates than a safe driver with poor credit. According to the most recently available statistics from the Insurance Institute for Highway Safety (IIHS), there were over 11,000 known blood alcohol content (BAC) related driver deaths in 2013.[11] IIHS notes, "For the nation in 2013, BAC was reported for 72 percent of fatally injured passenger vehicle drivers."[12] No doubt, the hazards of drunk driving are painfully real. By contrast, despite the negative view of drivers with poor credit held by many insurance companies, we are not aware of any traffic fatalities attributable to poor credit, yet in many cases, these drivers continue to pay more than the most hazardous drivers on the road.

Robert from Cape Coral, Florida told us he thinks it's just plain unfair to have to subsidize bad drivers with better rates. He wrote:
"No accidents 10 to 20 years. No tickets parking or speed to 20 years. Miles each year driven. Age and condition of auto mileage on auto. No DUI's. I haven't been stopped in over 20 years. I do not drive slow, nor excessively. I don't see why I must pay for others who do."

Education Level and Occupation as Rating Factors Create Unfavorable Outcomes for all Consumers and Especially Minorities and the Poor

In the current socio-economic environment in the United States, education level and occupation continue to be closely tied to race and income, factors which otherwise cannot legally be considered by insurance companies in calculating insurance premiums. For example, according the Bureau of Labor Statistics

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[9] *The Truth About Car Insurance*, CONSUMER REPORTS, Sept. 2015, *available at* http://www.consumerreports.org/cro/car-insurance/auto-insurance-special-report/index.htm.
[10] *Crash Course on Car Safety*, CONSUMERREPORTS.ORG, Aug. 2013, http://www.consumerreports.org/cro/magazine/2013/10/crash-course-on-car-safety/index.htm.
[11] Ins. Insti. for Highway Safety, General Statistics, Fatality Facts, State by State, Alcohol Involvement, 2013, http://www.iihs.org/iihs/topics/t/general-statistics/fatalityfacts/state-by-state-overview#Alcohol-involvement (estimated number and percent of fatally injured passenger vehicle drivers with BAC ≥ 0.08 percent by state).
[12] *Id.*

most recently available data, in the 3rd Quarter of 2015, blacks aged 16 years or older are nearly twice as likely to be unemployed as whites in the same age group.[13] (Unemployed Whites = 4.5 percent versus 9.5 percent for Blacks 9.5%) The Hispanic unemployment rate of 6.5% for the same period and same age group is lower than Blacks' but still higher than Whites'. Also, according to the Bureau of Labor Statistics data from 2010as compared to Whites and Asians, a significantly smaller percentage of Blacks and Hispanics are employed in the highest paying occupations noted as the "management, professional or related fields" which are occupations that translate into lower auto insurance rates when occupation is considered in pricing.[14]

According to the National Center for Education Statistics, among 25 to 29 year olds, at present and historically speaking since 1920, Blacks and Latinos are less likely than Whites or Asians to have completed a high school diploma, earn a college degree and significantly less likely to have earned an advanced degree.[15] Blacks are approximately half as likely to hold bachelors degrees as Whites, and Hispanics are approximately one-third as likely to hold bachelors degrees as Whites in 2014. As for Masters degrees or higher, the gaps grow even larger with 9.0 percent of Whites holding such degrees, followed by 3.9 percent of Blacks and only 2.9 percent of Hispanics. When education level is considered in insurance pricing decisions, those with the least education will pay more. The Bureau of Labor Statistics reports that educational attainment is closely related to one's earning. Individuals with advanced degrees earn more than those with only bachelor degrees, some college but no degree, no college, high school diploma only, or no high school diploma.[16]

Thus, unless prohibited by a state, when insurance companies regularly base premiums on education level and/or occupation, those with lower levels of education (typically not White or Asian) and less lucrative professions (typically not White or Asian) can pay more for auto insurance due to their socio-economic standing despite a clean driving record.

The Western New York Law Center (WNYLC) recently documented the impact of such insurance pricing in Buffalo, New York.[17] The Center examined the impact on insurance premiums paid by drivers with clear records according to their education level and occupation. Many, though not all, insurance companies ask about and consider education level and occupation, according to the study. The WNYLC explained its methodology and after examining over 1,200 price quotes from 5 major insurers, and manipulating only two factors, education level and occupation, concluded that low-to-moderate income drivers are unfairly harmed by higher prices when education and occupation are used. [18]

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[13] U.S. Dep't of Labor, Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey, http://www.bls.gov/web/empsit/cpsee_e16.htm.

[14] U.S. Dep't of Labor, Bureau of Labor Statistics, TED: The Economics Daily, Earnings and employment by occupation, race, ethnicity, sex, 2010 (2011), http://www.bls.gov/opub/ted/2011/ted_20110914.htm.

[15] Nat'l Ctr. For Educ. Statistics, Digest of Education Statistics, https://nces.ed.gov/programs/digest/d14/tables/dt14_104.20.asp.

[16] U.S. Dep't of Labor, Bureau of Labor Statistics, TED: The Economics Daily, Median weekly earnings by educational attainment in 2014 (2015), http://www.bls.gov/opub/ted/2015/median-weekly-earnings-by-education-gender-race-and-ethnicity-in-2014.htm.

[17] THE WESTERN N.Y. LAW CTR., MAJOR AUTO INSURERS CHARGE HIGHER RATES TO HIGH SCHOOL GRADUATES AND LOW INCOME WORKERS 1-2 (2015), *available at* http://wnylc.com/wp-content/uploads/2015/09/July-2015-Western-New-York-Law-Center-Auto-Insurance-Report.pdf.

[18] According to the Western New York Law Center, "In the study, over 1,200 quotes were generated using the online quote systems for Progressive, Liberty Mutual, GEICO, Farmers Insurance, and State Farm. The quotes were generated for profiles of 30 year old females, males, and married couples. Each driver has a perfect driving record and drives a 2002 Honda Civic DX sedan. The individual or family rents their home and drives 10,000 miles per year. The only factors that were manipulated were the consumer's level of education and occupation. Education was moved from high school graduate/GED to Master's degree/greater than bachelors degree; and occupation was moved from bank teller to Vice President. The results indicate that those with lower socioeconomic class, lower level of education, and lower professional title paid more for auto insurance than those who have higher wages and higher education." *Id.* at 1-2 (pdf).

Marital Status

Consumer Federation of America (CFA) in July 2015 released a study concluding that one's marital status can have a dramatic impact on the price insurance companies charge consumers for auto insurance.[19] CFA rightly questions the fairness and relation to risk of using marital status to price insurance, particularly raising rates for widows whose husbands have died. CFA documented that some insurers were worse than others regarding how marital status is considered in pricing, to wit:

> *"In the ten cities studied, four of six major insurers – GEICO, Farmers, Progressive, and Liberty — increased rates on state-mandated liability coverage for widows by an average of 20 percent. The fifth insurer, Nationwide, sometimes increased rates for widows. The sixth insurer, State Farm, did not vary the rates it charged because of marital status. All State Farm price quotes for a driver in a city were the same, regardless of whether the driver was single, separated, divorced, widowed, a domestic partner, or married."*

We join CFA in the call to state insurance commissioners to ban the use of marital status as a pricing factor in states where it is still permitted. Pat from Cumming, Georgia wrote us to say: *"Became widow Nov 14 - Insurance went up!!"* We know the impact for real people like Pat can be distressing. This is an unconscionable result that someone who loses their spouse should not have to endure.

Price Optimization: How Shopping Habits Can Impact Pricing:

In the last several months, several state insurance commissioners have acted to ban the practice of price optimization from the auto insurance marketplace. The practice uses data about the customer and statistical models to gauge how likely a consumer is to shop around for a better price, then charges those who are least likely to shop around more for their insurance. We think it is anti-consumer to charge customers more simply because they may not shop around. So far the practice is not allowed in several states as noted above. We urge the insurance commissioners in remaining states to follow the lead of the other states which do not allow such a practice. Price optimization is already prohibited in California, Florida, Indiana, Washington, Maryland, Ohio, Pennsylvania, Maine, the District of Columbia, Delaware, Montana, Rhode Island and Vermont.

Question 3: What are the benefits of using a broad selection of rating variables?

Using a broad selection of rating variables allows for the evaluation of an insured to be based on multiple factors. However, the first consideration should always be fairness in auto insurance pricing, even if this means that fewer factors are allowed in pricing decisions and they are given different weights. In our view and as discussed, more rating factors are not necessarily better; the use of only fair and non-discriminatory factors, properly weighed, is what's required.

Question 4: How has the expanded use of rating variables affected the affordability of auto insurance?

To the extent that an expanded use of rating variables includes factors that tie closely to one's socioeconomic status, affordability of auto insurance is impacted. When insurance is priced to high, it becomes inaccessible for those who have the least. But affordability is an issue which impacts all drivers, whether they know it or not. It's easy to demonize some consumers who cannot afford to buy auto insurance assuming they choose not to buy a product they can easily afford. But raising insurance prices

[19] Press Release, Consumer Fed'n of America, New Research Shows that Most Major Auto Insurers Vary Prices Considerably Based on Marital Status (July 27, 2015), *available at* http://consumerfed.org/press_release/new-research-shows-that-most-major-auto-insurers-vary-prices-considerably-depending-on-marital-status/.

for those with less education who do not work in high paying occupations, who may not have the highest credit ratings may put affordable insurance out of the hands of many good drivers. Such practices swell the ranks of the estimated 30 million uninsured motorists in the United States.[20] More uninsured motorists on the road translates into higher premiums for uninsured motorist coverage for those who do buy insurance. As a result, all drivers, uninsured and those with coverage, are impacted when insurance becomes unaffordable for the wrong reasons.

Question 5: Does the use of certain rating variables lead to more or less favorable consumer outcomes?

As discussed earlier, basing auto insurance premiums first and foremost on driving related factors yields the most fair pricing results. Consumers experience less favorable outcomes when rating factors tied to socioeconomic factors are allowed, especially where those factors are given more weight than driving related factors. Decreased access to fairly priced insurance hurts everyone.

As to whether shopping can really yield better outcomes for consumers, according to a 2014 survey[21] by the Consumer Reports National Research Center, only 10 percent of 19,000 ConsumerReports.org subscribers who compared premiums found that they would save money by switching insurers. That doesn't mean shopping is a waste of time, but it does mean that there are limits to what shopping can yield. That's why fair pricing and a square deal on the front end should always be the marketplace rule and not the exception.

Question 6: Do outcomes vary by a consumer's socio-economic status?

Yes, absolutely. Please see above.

Question 7: Are there rating variables that should not be allowed to be used?

As noted above, we believe the following rating factors should be prohibited by law where they are still allowed: Credit-based data and scores; education level, occupation, marital status, and the practice of price optimization. The NAIC should examine all other non-driving related factors in use to determine if they should be prohibited or have a limited impact in pricing calculations, where this is not already required by state laws.

Question 8: Should other regulatory actions be taken?

NAIC members should undertake market conduct surveys to learn more from insurers about their rating practices involving the factors we have identified which are unfairly driving up auto insurance.

In doing so, NAIC members should determine the impact of those practices not only on individual drivers but on entire communities.

The Federal Insurance Office should collect data sufficient to conduct a comprehensive review of auto insurance access and affordability of auto insurance.

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[20] Jeff Blyskal, *How to protect yourself against uninsured drivers*, CONSUMERREPORTS.ORG, Mar. 2, 2015, http://www.consumerreports.org/cro/news/2015/03/how-to-protect-yourself-against-uninsured-drivers/index.htm (citing data from the Insurance Research Center).

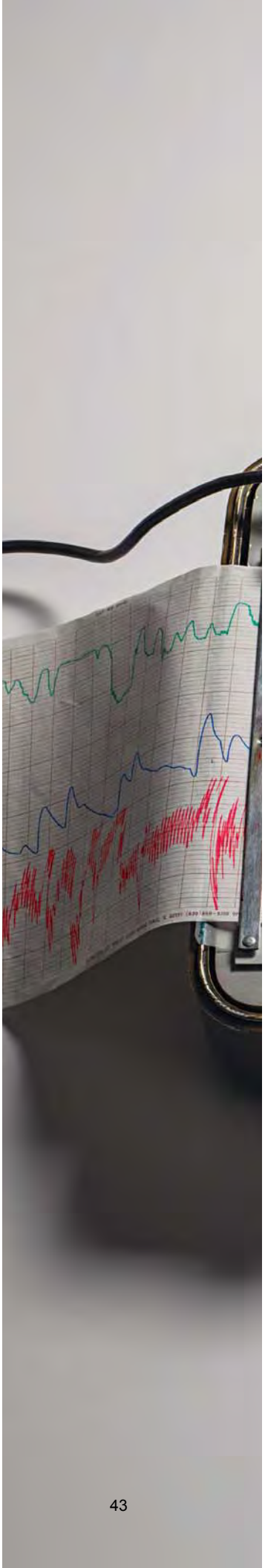
[21] *Car Insurance Buying Guide*, CONSUMERREPORTS.ORG, Aug. 2015, http://www.consumerreports.org/cro/car-insurance/buying-guide.htm.

States without low-cost auto insurance options for drivers who must meet mandatory minimum insurance requirements should look to California's Low Cost Auto Insurance Program as a model to be replicated in their states.

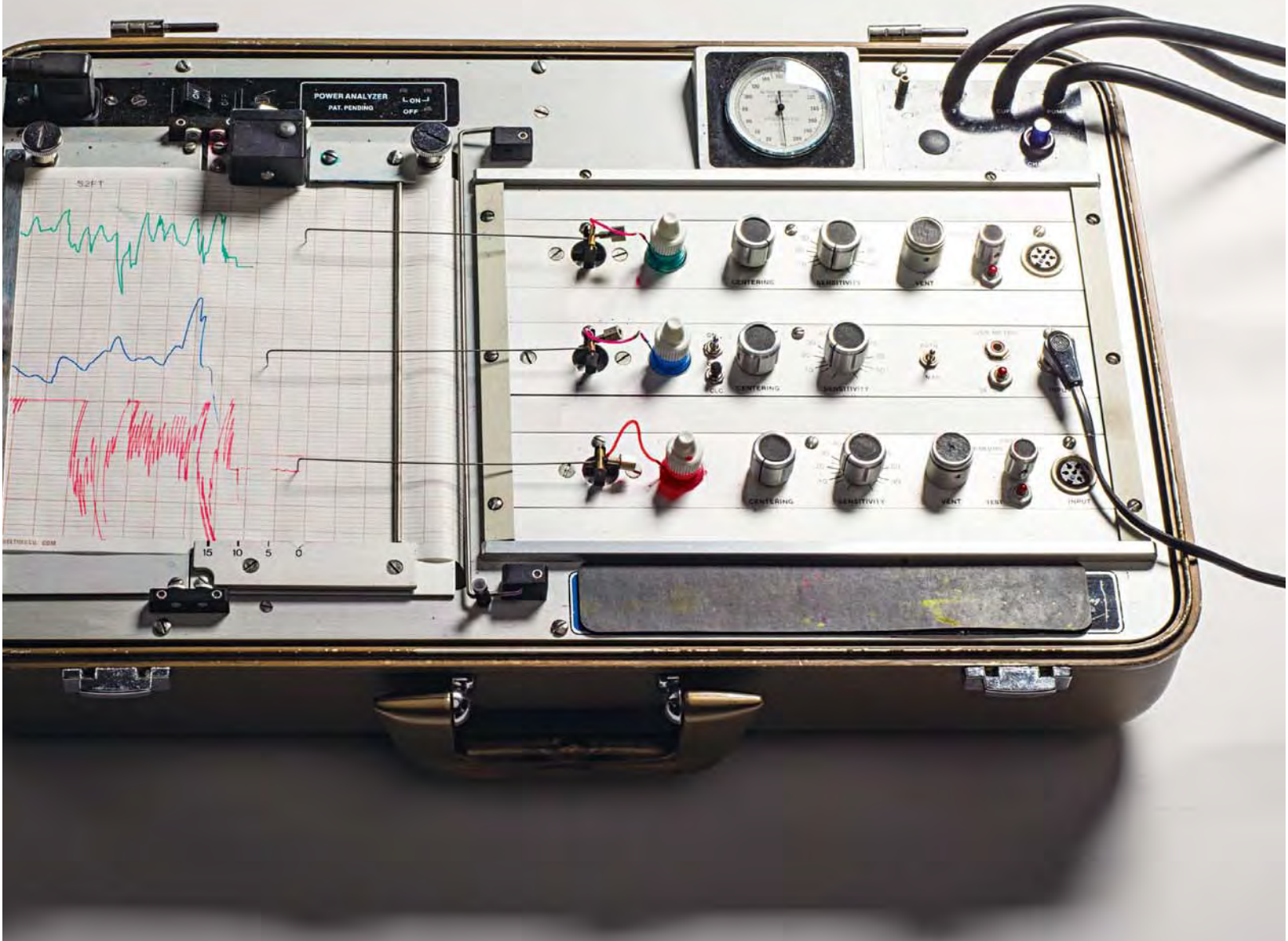
In conclusion, Consumers Union sincerely appreciates this opportunity to present our views and those of the public before the NAIC. We look forward to working together to make the auto insurance marketplace work for all consumers. Consumer Reports will be analyzing new data for 2015 very shortly. We will be pleased to share our findings with you as you move forward in examining these very critical topics that impact auto insurance availability and affordability for all drivers in the United States.

THE TRUTH ABOUT CAR INSURANCE

The way insurers set prices is shrouded in secrecy and rife with inequities. We studied more than 2 billion price quotes to understand the factors that raise rates. Here's what you can do to keep yours low.



PHOTOGRAPHS BY CHRIS BUCK


POWER ANALYZER
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You know Flo. She's the white-aproned pitchwoman with the goofy charm who says that you can save more than $500 by switching to Progressive car insurance. Or you might get other discounts by bundling your insurance together or by naming your own price to fit your budget.

You might reasonably conclude from the ads that you're in for some pretty sweet savings. But Consumer Reports compared what five national insurers would charge sample adult drivers in states where they are all market leaders. And we found that Progressive was actually the second most expensive, on average, with an annual premium that was $597 higher than the lowest, from USAA.

Say it ain't so, Flo!

Progressive is hardly alone in making savings claims that might not be as compelling as they sound. In fact, the rakish reptile in the Geico ads is so familiar that people can easily recite his "15 minutes could save you 15 percent" slogan.

"The advertising creates the impression of price competition when there actually isn't any," says Doug Heller, a consumer advocate and an insurance consultant in California.

Indeed, the prevalence of slick car insurance commercials masks broader, more troublesome industry practices that result in little transparency and not enough fairness in how insurers price policies. As a result, it's difficult for consumers to tell a good deal from a bad one. And in the absence of reliable, independent information, all that consumers have to go on is marketing hype.

Consumer Reports believes that knowledge about the going rate for any product or service is a fundamental consumer right. That's why we embarked on a comprehensive project spanning two years, in which we analyzed more than 2 billion car insurance price quotes from more than 700 companies with the greatest share of customers in all 33,419 general U.S. ZIP codes. (See "How Our Analysis Was Done" on the facing page.)

What we found is that behind the rate quotes is a pricing process that judges you less on driving habits and increasingly on socioeconomic factors. These include your credit history, whether you use department-store or bank credit cards, and even your TV provider. Those measures are then used in confidential and often confounding scoring algorithms. And thanks to the availability of Big Data, companies have a lot more information to dig into.

You're legally obligated to buy car insurance if you want to drive (except in New Hampshire), yet the business thrives on withholding critical information from customers. "Pricing transparency is one of the most powerful money-saving tools consumers can have when it comes to car insurance," says Norma Garcia, senior attorney and manager of the financial services program at Consumers Union, the advocacy arm of Consumer Reports, which has fought for car insurance protections since the 1980s.

The industry is regulated at the state level, which is why pricing is literally all over the map. "That means bringing the fight to the state insurance regulators and lawmakers," Garcia says. Some states tried to keep the marketplace fair by requiring insurers to file their pricing formulas with regulators, who would then ensure that prices weren't excessive or discriminatory.

But over the past 15 years, insurers have made pricing considerably more complicated and confusing. As a result, "there is a complete lack of transparency," says Birny Birnbaum, executive director of the Center for Economic Justice in Texas. Those new scoring models—though hidden from the public—are available to regulators on the condition they remain confidential. But because they're so complex, "the regulators don't have a prayer of being able to monitor them deeply," Birnbaum says.

It's about time we got a better deal from the car insurance industry. Our investigation illuminates some of the worst practices by demonstrating the real cost to consumers in dollars and cents. We also highlight the companies that are offering fair deals, and we help you steer clear of insurers whose numbers just don't add up. But most important, we want you to join forces with us to demand that insurers—and the regulators charged with watching them on our behalf—adopt price-setting practices that are more meaningfully tethered to how you drive, not to who they think you are. Look for information about how to work with us on page 37.

THE HIDDEN TRUTH

Your credit score—more than your driving habits—can determine your premium.

Your score is used to measure your creditworthiness—the likelihood that you'll pay back a loan or credit-card debt. But you might not know that car insurers are also rifling through your credit files to do something completely different: to predict the odds that you'll file a claim. And if they think that your credit isn't up to their highest standard, they will charge you more, even if you have never had an accident, our price data show.

PROP STYLING: LINDA KEIL FOR HALLEY RESOURCES

Cherry-picking about 30 of almost 130 elements in a credit report, each insurer creates a proprietary score that's very different from the FICO score you might be familiar with, so that one can't be used to guess the other reliably.

The increase in your premium can be significant. Our single drivers who had merely good scores paid $68 to $526 more per year, on average, than similar drivers with the best scores, depending on the state they called home.

Car insurance is regulated at the state level, which is one reason pricing is literally all over the map.

And your credit score could have more of an impact on your premium price than any other factor. For our single drivers in Kansas, for instance, one moving violation would increase their premium by $122 per year, on average. But a score that was considered just good would boost it by $233, even if they had a flawless driving record. A poor credit score could add $1,301 to their premium, on average.

Because insurance companies are under no obligation to tell you what score they have cooked up for you, you have no idea whether you have a halo over your head or a bull's-eye on your back for a price increase.

Car insurers didn't use credit scores until the mid 1990s. That's when several of them, working with the company that created the FICO score, started testing the theory that the scores might help to predict claim losses. They kept what they were doing hush-hush. By 2006, almost every insurer was using credit scores to set prices. But two-thirds of consumers surveyed by the Government Accountability Office at about the same time said they had no idea that their credit could affect what they paid for insurance. Even today, insurers don't advertise that fact. They usually won't tell you what your score is; they don't have to. If a sudden drop in your score causes them to raise your rates or cancel your policy, you'll receive a so-called adverse action notice. But those notices "provide only cryptic information that's of limited use," Garcia says.

California, Hawaii, and Massachusetts are the only states that prohibit insurers from using credit scores to set prices. In those states, insurers base premiums largely on a consumer's driving record, the number of miles driven per year, and other factors. According to a 50-state study of insurance regulations by the Consumer Federation of America in 2013, California's pricing practices, enacted as part of Proposition 103 in 1988, saved $8,625 per family during those 25 years.

THE HIDDEN TRUTH

Insurers profit from accidents you might never have.

You buy car insurance so that you're protected financially in the event of a car crash. But an unfair side effect of allowing credit scores to be used to set premium prices is that it effectively forces customers to dig deeper into their pockets to pay for accidents that haven't happened and may never happen.

How Our Analysis Was Done

AT THE START of our car insurance pricing project, we engaged Quadrant Information Services, a private company that collects the mathematical pricing formulas that insurers must file in almost every state. We then created a cross-section of hypothetical policyholders. There were 20 in all, ranging in age from 16 through 75, men, women, some married, some with a teenage driver.

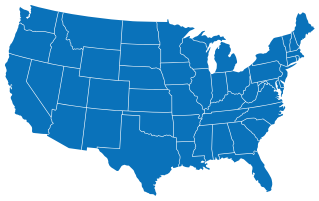
The policyholders were assigned the same "base" profile, including a perfect driving record and excellent credit. They bought standard liability coverage: a limit of $100,000 for bodily injury (BI) per person, $300,000 for BI per accident, and $100,000 for property damage. They also bought uninsured/underinsured motorist protection for the same amounts, and collision, comprehensive, and Med Pay or personal injury protection.

We put our drivers in popular vehicles, in most cases the Toyota Camry LE (when the policy covered only one vehicle) and a Honda Accord LX for the second car for two-vehicle policies.

Using Quadrant's data, we got quotes for our sample drivers in August and November 2014 from up to 19 car insurers in each state, for all 33,419 general ZIP codes. That included quotes from Amica and USAA, two companies that since the 1990s have consistently rated high for claim satisfaction with our subscribers, plus the largest insurers operating in each state, which usually included Allstate, Geico, Progressive, and State Farm. For companies that had subsidiaries (for example, Allstate Indemnity and Allstate F&C), we used whichever company had the largest in-state market share for most analyses.

Then we changed each of the ratings factors of our "base" sample drivers to see how the annual premium would change. For example, we calculated what would happen if the driver had one at-fault accident, or a good credit score instead of an excellent score.

Under the state laws that regulate automobile insurance, carriers are required to adhere to the prices generated by their public rate filings. So the premiums we obtained from Quadrant are what each company legally obligates itself to charge consumers. In other words, our prices are the insurers' actual prices for the driver profiles we created and the companies we list.



DOING THE MATH
We collected data from all ZIP codes in the nation.

PHOTOS: GETTY IMAGES

The High Cost of Poor Credit

Rates shown are the average premium for adult single drivers with a clean driving record with poor, good, or excellent credit. We compare these to the average premium for a driver with excellent credit and a drunk-driving conviction (bottom bubble). Here's how the numbers play out in Florida, for example.

For an analysis of all 50 states and Washington, D.C., go to ConsumerReports.org/FixCarInsurance.

Which Insurers Charge More or Less?*

Brand	Average Annual Premium
Allstate	$1,570
Progressive	$1,414
Geico	$1,177
State Farm	$1,147
USAA	$817

*New-customer rate for male and female single drivers ages 25, 35, 65, and 75 with excellent credit and a clean driving record in AK, AL, AR, AZ, CO, CT, DE, FL, GA, HI, KY, LA, ME, NH, NM, NV, NY, SC, TN, TX, UT, VA, WA, the states where all five companies are market leaders.

For example, our single New Yorkers with good credit scores and clean driving records would pay an average of $255 more in annual premiums than if they had excellent credit scores. In California, those same drivers wouldn't have to pay a penalty for having only "good" credit.

In the states where insurance companies don't use credit information, the price of car insurance is based mainly on how people actually drive and other factors, not some future risk that a credit score "predicts."

That pricing dynamic also artificially reduces the true sting of careless driving in states like New York. If you have an accident, your premium takes less of a hit because you have already paid for the losses that your merely "good" score predicted you would have. In California, the $1,188 higher average premium our single drivers had to pay because of an accident they caused is a memorable warning to drive more carefully. And the more carefully people drive, the safer the roads are for everyone. In New York, our singles received less of a slap, only $429, on average.

THE HIDDEN TRUTH

You'll be charged more if Big Data says you won't notice.

In yet another bid to maximize profits, some insurance companies have begun in the past few years to use a new technique to determine your sensitivity to prices. That way, they can base your premiums not just on your risk profile or credit score but also on the amount you're willing to tolerate. Called price optimization, the practice—which isn't allowed in California, Florida, Maryland, Ohio, Vermont, and Washington for car insurance—uses data about you and statistical models to gauge how likely you are to shop around for a better price. Will you put up with a $100 increase? Yes? How about $200?

What kind of data is in that crystal ball? Two factors are whether you have complained about your policy, and how much of an increase you accepted when you renewed your policy in the past. So don't be shy about complaining a little more.

But according to Bob Hunter, director of insurance for the Consumer Federation of America, who has studied price optimization and was the first to bring it to the attention of regulators, those models can also take into account measures that seem to be unrelated to car insurance. They include the number of iPhones and beers you have purchased, or whether you're sticking with Verizon FiOS when DirectTV might be cheaper. "Price optimization is used to produce unfairly discriminatory rates, which are illegal in every state," says Hunter, who was also a consultant on this project.

But price optimization is legal, counters Robert Hartwig, president of the Insurance Information Institute, an industry group. "The six states that have prohibited it have done so without evidence of detriment to the market," he says.

Regulators, however, seem to see things more Hunter's way. "Insurers can't use a rate factor that charges one guy $20 more because he's less likely to leave after a price increase than another guy who has the same risk," says Eric Nordman, director of the National Association of Insurance Commissioners Regulatory Services Division and its Center for Insurance Policy and Research.

Pete Drogan, vice president and chief actuary for Amica, the insurance company, says, "We base price purely on risk," adding that the company doesn't use price optimization. "That is not the way we conduct the pricing business here at all."

State Farm also says it doesn't use price optimization. "Our goal is to be as accurate as we can to meet the cost of the promise we make," says Dick Luedke, a spokesman for the company. "We do not make any effort to measure how likely it is that someone will pay more than they're paying now."

Representatives from Allstate, Geico, Progressive, and USAA declined to discuss price optimization.

Here's What's Really Funny About Those Advertised Savings

Perhaps insurers think you won't notice their fuzzy math if you're too busy laughing

Are you getting the deal you think you are?

You know the Geico gecko's "15 minutes could save you 15 percent or more on car insurance" tagline so well that you can say it in your sleep. But did you know that the word "could" could also mean "could not" just as easily? When we checked, Geico's state-average premiums could actually save our sample single drivers 30 percent vs. Allstate, and 18 percent compared with Progressive. But Geico's coverage cost 17 percent more than State Farm and 57 percent more than USAA.

Count the balls and see the savings?

Pitchwoman Flo likens the number of bouncy balls—500—to the number of dollars you can save by switching to Progressive. In fact, she says, "you could save even more." Jeff Sibel, a Progressive spokesman, says the calculation was based on a 2014 survey of people who shopped at Progressive online "after cleaning the data for invalid responses ... [and] those who didn't save with Progressive and extreme outliers." So whether a typical shopper would save with Progressive is still an open question.

Are you really better protected?

A windstorm, personified by Allstate's menacing character Mayhem, knocks a huge tree limb onto a car. "Get Allstate," he intones. "You could save some cash and be better protected from Mayhem like me." But the disclaimer that flashes by says: "Potential savings refer to out-of-pocket expenses avoided by selecting insurance that covers the damages shown." In other words, buying Allstate's comprehensive coverage (which protects against vehicle damage caused by acts of nature) saves you more than being uninsured.

THE HIDDEN TRUTH

Adding a teen driver can cost a fortune—but it doesn't have to.

For many parents, adding a teenage driver to the family insurance policy and handing over the car keys is a proud but scary moment. They know too well that teens have the highest crash rate of any age group, and they're concerned about safety. The risk might strike fear in a parent's heart, but so too might the expectation of what's going to happen to their insurance bill. Our analysis found some good news. Adding a teen doesn't have to be exorbitant, although it might mean that you'll need to quit your current insurer and switch to a new one if you want a better price.

Some insurers charged our sample married couple as much as 250 percent more for adding a 16-year-old driver to the family policy; others charged a lot less. On average nationwide, the impact was a 90 percent premium increase. Hawaii had the lowest average increase (16 percent), and North Carolina had the highest (159 percent). That's an additional $309 to $1,698 per year.

But when we drilled down by state and insurance company, individual savings opportunities emerged. In California, a 55-year-old couple without a child might choose Allstate Indemnity for its $1,762 annual premium, the lowest of the 16 companies we compared in the Golden State. But when they added a 16-year-old son to the policy, the premium jumped 194 percent, to a mammoth $5,182.

Consumers tend to renew their car insurance automatically, so if our couple erroneously assumed that such a price hike was standard, they might simply pay up. But shopping around would save them a bundle. Auto Club would charge the couple with the teen only $2,667 per year, 51 percent more than they had been paying.

How to Fight Unfair Pricing

DURING THE Great Recession of 2007-9, legislators in states across the country became alarmed that the ailing economy's impact on credit scores would jack up their constituents' insurance costs. They scrambled to strengthen "extraordinary life circumstances exceptions" in state laws that allow insurers to set prices based on credit-score information. Partly as a response, 29 states adopted so-called NCOIL (National Conference of Insurance Legislators) provisions. Many of them allow consumers to request that their insurer not use credit scoring against them if they were affected by circumstances beyond their control, such as unemployment, divorce, serious illness, the death of a spouse, and identity theft.

But the provisions are weak. For one thing, "notification of extraordinary life circumstances exceptions is not required under most state laws," says Neil Alldredge, senior vice president of state and policy affairs for the National Associate of Mutual Insurance Companies (NAMIC). And it's not clear whether insurers adequately make consumers aware that those exceptions even exist.

Amica, which has more than 670,000 policies in force, said it receives only one such request per month. State Farm, the nation's largest insurer, told us it can't say how many requests it gets or how many are granted. "But I can tell you those numbers are small," said Dick Luedke, a spokesman. "We are talking, after all, about 'extraordinary' life events." Representatives from NCOIL and NAMIC said their organizations don't keep track.

WHAT YOU CAN DO

- Request an "extraordinary life circumstances exception" if you receive an adverse action. You should get one of those notices if credit scoring causes a higher premium, a reduction in coverage limits, a cancellation or nonrenewal of your policy, or a denial of coverage to begin with.
- Shop at the companies that charged our model drivers with good and/or poor credit scores the lowest premiums, listed on ConsumerReports.org.
- Monitor your credit reports to make sure they're accurate, and ask to be rescored if you've found and corrected errors in your file. That's important, because the information that determines your insurance credit score is plucked from them. Get your free yearly report from all three credit bureaus at annualcreditreport.com.
- Avoid certain types of credit that insurance company credit-scoring models penalize you for: department-store credit cards, instant credit offered by stores to move big-ticket items; credit accounts from your local tire dealer, auto-parts store, or service station; and finance-company credit, including retailer credit cards.
- Use credit that insurer scoring models favor: national bank-issued credit cards (AmEx, Discover, MasterCard, and Visa).
- Keep credit-card balances in check; the higher the balance, the more points you lose on your score.
- Try not to add new credit. Scoring systems look askance at those who open new credit accounts frequently, and they can penalize you for just shopping around for credit because credit inquiries appear on your credit report.

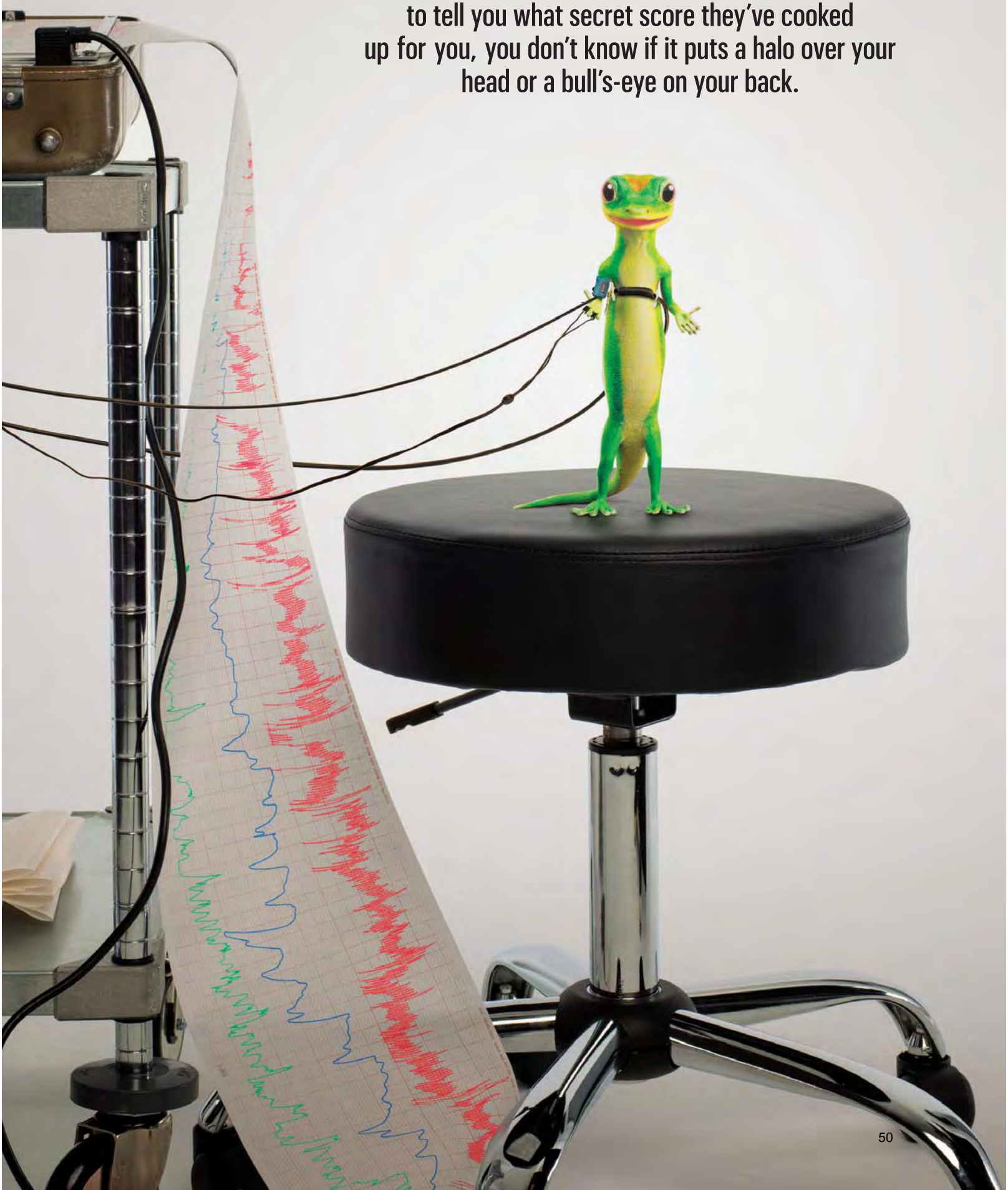
THE HIDDEN TRUTH

Promised discounts might not materialize.

Insuring a vehicle is a pricey proposition, and car insurance companies aggressively boast about ways you can save money with them. But our study revealed that some of the discounts that are advertised the most, such as the ones for bundling home and car insurance, or installing anti-theft equipment, saved very little: just $97 per year and $2 per year respectively, on average, nationally. We were also surprised to find that significant savings for student-driver training turned out to be more of a mirage. In fact, the discount was worth very little—a piddling $63 in annual savings for our sample family nationally. The discounts were worth more, however, in Louisiana ($155), California ($334), and Massachusetts ($386).

PROP STYLING: LINDA KEIL FOR HALLEY RESOURCES

Because insurance companies are under no obligation to tell you what secret score they've cooked up for you, you don't know if it puts a halo over your head or a bull's-eye on your back.



More lucrative is the discount of up to 14 percent that insurers make available to families with students under age 25 who can show proof of good academic performance. It won our sample family an average national savings of $263, and was especially high in Minnesota ($471), California ($474), and Louisiana ($688).

It's nice that Johnny does his homework, but like credit scoring, the good-student discount doesn't emphasize factors related to actual driving behavior. And it might reward families with high incomes at the expense of lower-income ones. "According to our research, young drivers are inexperienced no matter how good a student they are, and that is their primary risk," says Ruth Shults, senior epidemiologist at the National Center for Injury Prevention and Control at the Centers for Disease Control and Prevention.

THE HIDDEN TRUTH

Longtime loyalty to a company might work against you.

Many companies, including car insurers, reward their most loyal customers with discounts or other incentives. It's a smart business model. But our study found that while some insurers give a sizable discount, others give a small one, and still others offer nothing at all. Some insurers even salute your allegiance with a price hike.

It's common for consumers to stay with the same insurance company for a long time. Fifty-three percent of Consumer Reports subscribers have stayed put for 15 years or more, according to our most recent survey. Bu that kind of complacency can cost you. In Washington State, for example, seven of 15 insurers didn't give a discount to our married couples who had been steadfast customers for at least 15 years, including Amica Mutual and Farmers. Trusted name brands were no guarantee of anything: In Washington, State Farm Fire & Casualty offered no discount; State Farm Mutual provided $182, or 15 percent in savings. Geico General and Geico Government Employees didn't offer a discount.

Discounts also varied by state. USAA offered a nice savings of $197 in Kentucky but a meager $14 loyalty discount in Washington, nothing in Colorado and Michigan, and a $28 loyalty penalty in New York.

While Geico Casualty did offer an $888 loyalty discount in New York, just across the state line in New Jersey there was no discount for longtime customers, but there was no penalty either. State Farm Mutual consistently provided discounts of a couple of dollars up to a few hundred dollars.

Unfair at Any Speed

YOU SHARE THE ROAD with an estimated 30 million uninsured drivers, according to the Insurance Research Council. Although every state except New Hampshire mandates that drivers have insurance coverage, some slip through the net of state enforcement by buying coverage to register a car, then letting it lapse.

It's easy to demonize those consumers by assuming that they choose not to buy a product they can easily afford. "There are individuals out there who like to live on the edge" and drive without insurance, says an Allstate Web video.

But insurance credit scoring, which links customers' premium prices to their creditworthiness, raises the cost of insurance for some low-income drivers and might make it unaffordable to them. In fact, research by the Consumer Federation of America found a strong correlation between state poverty rates and the percentage of uninsured drivers in a given state, which ranges from 4 percent in Massachusetts to 26 percent in Oklahoma.

What's worse, our own data show that when the uninsured try to get back on track and buy coverage, insurers tack on an additional price penalty. Our single policyholders who had a 60-day lapse in their coverage got socked with a $207 higher premium on average nationally. The penalty varied by state and ranged from zero in California to $834 per year in Michigan.

Insurers, however, dismiss the problem and say that insurance is plenty affordable for the poor. "Low-income consumers already spend more on alcohol and tobacco products or audio and visual equipment and service than they pay for auto insurance," says the National Association of Mutual Insurance Companies.

Taxing the poor through credit scoring and by other means not related to driving causes problems for all insured drivers, because painfully high insurance prices tempt financially strapped consumers to drive without insurance. That, in turn, is why we recommend uninsured/underinsured motorist protection, which covers your losses caused by another driver who has insufficient or no car insurance. UI/UIM insurance added $10 to $230 per year to our single drivers' bill, on average, depending on the state.

LEARN

For more information about car insurance pricing, including a state-by-state look at how credit scoring affects premiums and a guide to help you start shopping for the best deal where you live, go to:

ConsumerReports.org/FixCarInsurance

PHOTOS: GETTY IMAGES

Shop Smart for Insurance

CAR INSURANCE is a major expense that you'll pay as long as you own a car, so you should invest time to get the best deal. Premiums vary widely by state and carrier. But generally speaking, you'll spend $9,000 to $14,000 in the next 10 years if you're single to insure one car; $13,000 to $20,800 for two cars if you're married. (Those prices aren't adjusted for inflation.)

Our data provide one of the first independent benchmarks against which you can judge a high price from a fair one, and we show how various factors can raise or lower your premium. But you still need to get customized quotes. Here's how to do that:

1. Dig out a copy of your current policy plus records of any at-fault accident claims and moving violations.
2. Start with the three insurers our study found to be generally lowest in price: Amica, State Farm, and USAA. (USAA is available to about 60 million people, those who are members of the U.S. military, honorably discharged veterans, and the families of members.) Call or get online quotes directly from the companies.
3. Get a more complete view of the market. We recommend that you check prices from at least a dozen companies in your state, big-name brands and less familiar carriers. You can find the information by going to thezebra.com, a website that uses independent data from Quadrant, the company we engaged for our study, and provides customized premium estimates from 18 to 35 insurers per state. Other websites show quotes from only a handful of companies that do business with the site, so they don't give you a comprehensive way to compare prices. A site like The Zebra will help you assess whether you have a good deal or it might come up with an even better one.
4. You can find claim satisfaction Ratings on ConsumerReports.org as an online subscriber. Price is a key component of a good insurance deal. But if you do have a loss, how well an insurer handles the claim is critical. More than 18,000 of our subscribers have rated the major brands on their claims satisfaction, customer service, and price.
5. Repeat the process every two or three years because your coverage needs and credit scores change, and insurers generally update their prices every six to 12 months.
6. Also shop the market whenever your situation changes, say, if you marry or you need to add a teen to your policy. Ask your insurer what the change will mean for your policy, then shop for a better deal. Forget about getting a separate one for a teen; we priced that, too, and it almost always was more than an increase in a family policy.

Check our claim satisfaction Ratings at ConsumerReports.org.

In the coming months we will continue to report on our investigation into car insurance pricing. As we do, we'll work to find the companies with the best and worst deals as much as possible. For now, bear in mind that because insurance companies use such customized pricing, the broad benchmarks reported here might not always apply to your circumstances. For example, we found that Amica (after its typical 20 percent annual dividend rebate), State Farm, and USAA generally have the lowest prices for single people with top credit scores and no accidents in the 23 states where they're market leaders, and Allstate has the highest. But it could still be true that Geico, Progressive, or another brand might have the best deal in certain ZIP codes for drivers with certain profiles or a different combination of ratings factors.

Price me by how I drive, not by who you think I am!

You don't have to wait for states to pass new laws. You can take action right now:

■ Sign and mail this petition. We'll deliver the ones we collect directly to your state's insurance commissioner.

■ Tweet the National Association of Insurance Commissioners @NAIC_News to tell them you believe your insurance rate should be based mainly on your driving record, not on other factors. Be sure to use the hashtag #FixCarInsurance.

■ Pick up the phone; dialing 855-384-6331 will connect you directly to your state insurance commissioner. Pressure the policymakers!

To: The 50 State Insurance Commissioners

From: _____

Address: _____

E-mail (optional): _____

Mail to: Consumers Union, 1535 Mission Street, San Francisco, CA 94103

THIS STORY HAS BEEN AMENDED TO REFLECT CORRECTED INFORMATION REGARDING LOYALTY PENALTIES AND TEEN DRIVER DISCOUNTS.

Consumer Federation of America

PUBLIC HEARING ON THE PRICING OF AUTO INSURANCE
AUTO INSURANCE (C/D) STUDY GROUP OF THE
NATIONAL ASSOCAIATION OF INSURANCE COMMISSIONERS
November 19, 2015
Comments of J. Robert Hunter, FCAS, MAAA

Good afternoon. I'm Bob Hunter, Director of Insurance at CFA. I formerly served as Texas Insurance Commissioner and as Federal Insurance Administrator under Presidents Ford and Carter.

Thank you for allowing us to testify today. I request that my written testimony be made a part of the record of this hearing.

This is an important hearing, marking the beginning of a much-needed NAIC review of auto insurance ratemaking. The focus of your questions, on the rating factors currently being used, is an important one, one that we at CFA have carefully studied over the last three years. We attach (at Attachment A) links to all of these studies, with thumbnail descriptions of our findings. We have shown conclusively that the use of socio-economic rating factors adversely impacts low- and moderate-income (the "LMI") Americans and people of color, while broadly diminishing the loss mitigation role that insurance pricing ought to serve.

LMI individuals and families need a car to prosper in modern America. Researchers agree that, for most of these families, having access to a vehicle greatly increases economic opportunities related to work and shopping. As one academic study concluded, "the importance of the automobile in providing employment access to lower-skilled, low-waged labor can hardly be overstated."[1] But to own a car, these

[1] B.D. Taylor and P.M. Ong, "Spatial Mismatch or Automobile Mismatch? An Examination of Race, Residence and Commuting in U.S. Metropolitan Areas," Urban Studies, v. 32 (1995), p. 1471. See also Donald S. Houston, "Methods to Test the Spatial Hypothesis," Economic Geography, v. 81, n. 4 (Oct. 2005), pp. 422-423.

individuals must purchase the liability coverage required by all states except New Hampshire and, if the car is financed, must also purchase physical damage coverage required by lenders.

If mandated insurance is unaffordable, the LMI are faced with an awful choice: either give up the car and suffer the economic consequences that entails or drive uninsured and face the legal consequences.

LMI drivers spend a huge amount on auto insurance -- $46 billion in 2013[2] using numbers from the insurance industry and the Labor Department.

Since January of 2012, CFA has published eleven studies demonstrating the serious problems the LMI face in affording state required auto insurance. As I indicated, you have a handout with summaries of each report as well as links to all of the reports. I encourage you to have your staff review these important studies when you get back to your offices. Let me touch on only a few of the most disturbing findings.

Using leading insurance company web sites to get quotes, we documented the frightening extent of the high prices paid by accident- and ticket-free, good driving LMI for the minimum liability insurance required by the states. In 15 major cities we found that over half of these drivers had to pay more than $1,000 for such coverage. One-third had to pay more than $1,500. If the car is financed and the LMI good driver also has to buy physical damage coverage (on the 10-year old Honda Civic we used for testing purposes), over half of the quotes exceed $1,500, about a third exceed $2,000 and 11% exceed $3,000.

In order to expand our research, we purchased national data from Quadrant, an insurance price quote source. This gave us insurance prices for any hypothetical driver we wanted to study for all of the ZIP Codes in the nation. Focusing on the state-required minimum limits only and looking at all of the lower-income ZIP Codes in 50 urban regions for the top five insurers, we saw that 9 cities had no lower-income ZIP Code with even one rate below $500 and almost half of the cities had at least one ZIP code where the premium charged always

[2] $175 billion spending on private passenger auto insurance according to Insurance Information Institute and 26.3% of this by LMI households according to Consumer Expenditure Survey.

exceeded $500. In public opinion surveys we undertook, 76% of the public believes that minimum liability insurance required by the state should cost no more than $500 and if physical damage insurance is also required, the same percentage of the public believes that coverage should not cost more than $750.

In another study we found that LMI drivers with no accidents and tickets pay more for auto insurance than wealthier drivers with an accident. In fact, in 60% of our tests, the LMI good driver paid at least 25% more than the higher-income driver who caused an accident.

Why do lower-income Americans pay more? Primarily because insurers do not want their business and find ways to raise their prices to discourage the poor from insuring with them. You see, insurers want richer clients because they can sell them higher limits of auto insurance, insure more of their cars, insure their homes, insure their lives, sell them banking products, insure their businesses and even insure some of their yachts and planes. Companies love to, as they call it, "multiline" the client. To capture this segment of business, insurers shift rate onto customers they deem less attractive. The poor, offering no multi-lining opportunities are priced up in order that the target market, the more affluent, can pay less without the insurer losing the total income they want to generate. In other words, the auto insurance pricing systems in place in most states today is built on subsidies for high wealth drivers paid for by low wealth drivers with clean records.

One of the key ways the insurers raise the price on the poor is through the use of non-driving-related factors. Our research, in which we've tested thousands of online price quotes, proves that these are some of the characteristics insurers have developed to implement this practice:

- Less education means higher price
- Lower paying jobs means higher price.
- Renting rather than owning a home means higher price.
- Being single, divorced, separated, or widowed means higher price.
- A short lapse in coverage means higher price.
- Having less than perfect credit score means higher price.
- Not paying in full means higher price.

And there are other such factors used to raise the price of auto insurance for the LMI such as purchasing lower limits from the previous insurer. I will demonstrate how these factors work to raise the premium for the LMI in a few minutes.

Consider just credit score as one example. Research shows that the average policy in Maryland costs $1,000 more if drivers have two at-fault accidents. Most people understand and support higher prices for accidents. But the average auto insurance policy in Maryland costs $3,000 more if your credit score is poor as opposed to excellent!

The public does not like factors such as credit score. Our surveys show that, by two to one, the public rejects the use of credit score, lapse of coverage, education and occupation. On the other hand, large majorities of the public support the use of accidents and tickets for pricing auto coverage. The public gets the unfairness of non-driving related factors, something that, unfortunately, is ignored by most of the nation's policymakers and regulators.

In recent years insurers have started a new pricing scheme that raises the rates even more on the LMI, although all drivers are at risk of this factor. This new "innovation" is called price optimization. You are well aware of this "innovation" and have asked CASTF to finalize a White Paper on the subject, which should be before you very shortly.

On September 30, 2015, I emailed a letter to this Study Group pointing out that the White Paper only deals with pricing aspects of price optimization. It has become more and more clear to us that price optimization is often applied at the underwriting level and not directly in pricing. In this letter I stated:

> It does not diminish the amount of work done by the CASTF team to note that there is critical work still to be done in order to be sure that NAIC can offer a comprehensive assessment of price optimization and useable guidance to regulators. To stop with the rating side of this investigation would be to end the effort before it is complete. And to provide regulators with guidance on the use of price optimization in rating alone, even if the recommendation is a strict ban, as we believe it ought to be, is insufficient. In fact, we believe that at least partly in response to the NAIC's work on price optimization in rating, insurers

> are refocusing their use of unfairly discriminatory practices toward the underwriting and tiering aspects of pricing to elude the thrust of CASTF's findings and individual regulators' efforts.
>
> Therefore, we urge you to take up the draft suggestion from CASTF and initiate new research into the use of price optimization by insurers in manners outside of the rate filing setting. This should begin immediately.

But most disturbing of all, our research shows that African-American drivers from all income groups are being charged the highest prices.

The startling impact of questionable rating factors (and, particularly, the cumulative effect of several socio-economic rating factors) on lower-income people can be demonstrated by the PowerPoint presentation attached to this testimony (Attachment B). With the hotel we are in right now, the Gaylord National Resort and Convention Center, as a backdrop for the presentation, we review the impact of these factors on a woman in her 30s, living in Baltimore, driving a financed 2003 Ford Focus, commuting 16 miles with a perfect driving record who needs to purchase a basic limits, liability only policy to comply with state law.

Throughout this presentation, these facts do not change. The slides take you through changes in price, step by step, from a married executive with an MBA, living in the upper-income, predominantly white Homeland neighborhood, who is currently insured and pays in full (annual premium: $586) to an unmarried janitor with a high school degree living in the lower-income, predominantly African American Lower Park Heights neighborhood who did not have a car or insurance for a few months and must pay in installments (premium: $2,513 or more than quadruple the starting premium).

Here are the additional costs making up this huge jump in price:

High School grad rather than MBA	+$ 79
Janitor rather than executive	+$ 59
Widowed rather than married	+$ 215
Moves 3 miles from 21212 to 21215	+$ 650
Pays in installments rather than in full	+$ 60
Stopped driving and had no insurance for	

three months +$ 864

Recall that, in every case, this driver had a perfect driving record and was only seeking a quote for basic, liability-only coverage. Disturbingly, when we went back and sought a quote for the original, preferred driver with the MBA, executive job and living husband but apprised the insurer that she received a speeding ticket and caused an accident within the last 12 months, she was quoted a premium that was 58% less - a $1,457 price cut from our good driver who was not so attractive to the company.

I must point out that we did not use credit scoring in this example. Had we done so, and changed the credit score from excellent to poor, the difference in rate would have been significantly more.

The ultra-high prices being charged to the LMI is one of the important reasons that between one-third and one-half of LMI motorists drive without insurance in violation of the laws of all states but New Hampshire. Driving illegally without insurance is understandable for many of these drivers since the families in the lowest earning income quintiles in America earn less than $40,000 and, in the lowest quintile that's an average of about $12,000. Imagine the impact of a $1,500 bill on a family earning $12,000! In 14 of the states, a decision to drive uninsured could result in jail time for the first offense. 32 states could lift the license of the convicted driver. 33 states could fine the driver $500 or more for a first offense. Nine states could do all three. States should work on affordability of the auto insurance they require before imposing draconian penalties on those good drivers who cannot afford to meet the purchase mandate.

Affordability of state- and lender-required auto insurance is an important issue. The data you will review today make this a powerful issue. And the lack of study until CFA got into this in 2012 makes this a long-neglected issue.

There are real opportunities for reform. The atmosphere for change in this space is better that any I have experienced in my over 50 years working on such matters. Auto insurers are on the defensive because of adverse press coverage and our communications with federal and state

policymakers, including this important Study Group. The Dodd-Frank Wall Street Reform and Consumer Protection Act provided the Federal Insurance Office with a number of authorities including "monitoring the extent to which traditionally underserved communities and consumers, minorities, and low- and moderate-income persons have access to affordable insurance products regarding all lines of insurance, except health insurance." In July 2015, FIO issued a request for comments on its proposal to create an affordability index that deemed auto insurance affordable if it cost less than two percent of the household income of low- and moderate-income drivers and other underserved Americans. In August, 50 organizations from 23 states and DC jointly submitted comments to FIO calling on FIO to establish a strong affordability standard for low- and moderate-income Americans and move forward with its proposal to collect data directly from insurance companies and review the cost of basic liability auto insurance for tens of millions of financially strained drivers.

Summary of Recommendations

In conjunction with our research, CFA has developed a series of recommendations for policymakers and regulators to address the issue of access and affordability for LMI drivers. The various recommendations can be grouped into three main categories: Data Collection, Reforms to End Discrimination, and Efforts to Increase Access.

<u>Data Collection</u>

- The National Association of Insurance Commissioners should develop a model data call that will assist state regulators in tracking insurance costs of LMI drivers.
- The Federal Insurance Office should collect data sufficient to conduct a comprehensive review of auto insurance access and affordability of auto insurance.

<u>Reforms to End Discrimination</u>

- Prohibit the use of rating factors – such as occupation, education, and credit score – that are surrogates for income and do not have a causal relationship to insurance risk.

Efforts to Increase Access

- States should create programs in which good low- and moderate-income drivers can purchase basic liability coverage for affordable rates. California has such a program with rates that are lower than $350 a year and that cover the program's costs with no subsidy from other drivers or taxpayers.
- States should lower required minimum liability coverage in order to bring down the costs of mandatory auto insurance for LMI drivers
- States should require insurers to offer drivers with clean driving records the lowest premium for which they qualify from among the company's affiliates doing business in the state.

The opportunities are great and movement toward reform is gaining momentum. We now can prove that auto insurance required by the states is unaffordable for many. We can prove that the pricing is unfair and results in disparate treatment and even discrimination against the LMI and minorities. But there will be no significant reform without broad-based efforts at the state level, starting with this important committee. We hope that what you learn today will help persuade you to take steps now to make state-mandated auto insurance affordable for all Americans.

I'd be happy to answer any questions.

CFA STUDIES ON THE PLIGHT OF LOW- AND MODERATE-INCOME GOOD DRIVERS IN AFFORDING STATE-REQUIRED AUTO INSURANCE

Over the past three years, Consumer Federation of America (CFA) has undertaken an effort to research the state of the auto insurance market in America with a particular focus on issues of access and affordability for lower- and middle-income Americans. This research project has included studies using a variety of data sources, including NAIC and ISO reports, company-specific rates by ZIP-code from a third party vendor, and systematic rate testing of individual insurance company websites.

As discussed below, the research addresses several different aspects of auto insurance rates, premiums and the market, but all point to a few key findings:

- The cost of state-mandated basic liability insurance is higher than many lower-income Americans can afford and the number of uninsured citizens in this category is higher than the national average as a result;
- Insurers use a variety of socio-economic rating factors that push premiums up for lower-income Americans despite good driving records; and
- Stronger state consumer protections related to auto insurance rate setting leads to greater access to and more stability in auto insurance markets.

Below is a short description of each of the reports that CFA has issued since 2012. This is followed by a summary of the key recommendations from the reports.

New Research Shows That Most Major Auto Insurers Vary Prices Considerably Depending on Marital Status
Consumer Federation of America (2015)

(CFA) released research on how insurers utilize marital status in their pricing of auto insurance policies. CFA questions the fairness and relation to risk of this pricing by most major insurers, particularly their practice of hiking rates on women whose husbands die by 20% on average, the "widow penalty."

Auto Insurers Fail to Reward Low Mileage Drivers
Consumer Federation of America (2015)

(CFA) released research showing that large auto insurers frequently fail to reward drivers with low mileage despite a strong relationship between this mileage and insurance claims. The study found that three of the five largest insurers often give low-mileage drivers no break at all. In a 2012 nationwide survey conducted by ORC International for CFA, 61 percent of respondents said that it was fair for auto insurers to use mileage in pricing auto insurance.

Large Auto Insurers Charge High Prices, to a Typical Lower-Income Safe Driver with Car Financing, for Minimal Coverage
Consumer Federation of America (2014)

(CFA) found that annual auto insurance premiums are especially high for the estimated eight million low- and moderate-income drivers who finance their car purchases. These drivers must purchase the comprehensive and collision coverage required by auto lenders in addition to the liability coverage required by states. In the 15 cities CFA surveyed, annual premium quotes were almost always more than $900 and were usually more than $1,500.

In a related national opinion survey undertaken by ORC International for CFA, nearly four-fifths of respondents (79%) said that a fair annual cost for this auto insurance coverage was less than $750. One-half (50%) said that a fair annual cost was less than $500. Respondents were asked what they thought was a reasonable annual cost for a "30-year old woman with a modest income and ten years driving experience with no accidents or moving violations" for required liability, collision, and comprehensive insurance coverage.

High Price of Mandatory Auto Insurance for Lower Income Households
Consumer Federation of America (2014)

The country's five largest auto insurance companies do not make a basic auto insurance policy available to typical safe drivers for less than $500 per year in over 2,300 urban and suburban ZIP codes including 484, or more than a third, of the nation's lowest-income ZIP codes. In the report, CFA analyzed 81,000 premium quotes for State Farm, Allstate, Farmers, Progressive, GEICO and each of their affiliates in all ZIP codes in 50 large urban regions, which include urban, suburban and adjacent rural communities. CFA also reviewed the premium quotes from an additional 58 insurance companies – comprising a total of 207 insurance affiliates including those of the five largest insurers - which produced similar results.

In 24 of the 50 urban regions, there was *at least one* lower-income ZIP code where annual premiums for a minimum limits policy exceeded $500 from every major insurer. In nine of these 50 areas – Miami/Ft. Lauderdale, Detroit, Minneapolis/St. Paul, Tampa/St. Petersburg, Baltimore, Orlando, Jacksonville, Hartford, and New Orleans – prices exceeded $500 in *all* lower-income ZIP codes.

This report included the finding from a recent national survey that more than three-quarters of Americans (76 percent) believe that a "fair annual cost" for state-mandated insurance for a typical good driver with no accidents and no tickets should be less than $500.

Uninsured Drivers: A Societal Dilemma in Need of a Solution
Consumer Federation of America (2014)

This report found that most uninsured drivers in America have low incomes and cannot afford to purchase the mandatory minimum liability coverage required by their state. The report also revealed that these low-income drivers are increasingly adversely impacted by state and local government actions, including raising liability requirements (driving up premiums), more rigorous enforcement, and stiffer penalties. However, there is little difference in uninsured rates between those states that penalize uninsured drivers harshly and those that do not. The report reviewed penalties for driving without auto insurance in every state and found some of these very harsh penalties for lower-income Americans who truly cannot afford the required insurance:

- Fourteen states allow jail sentences for a first offense,.
- Thirty-two states allow for the possibility of license suspension for a first offense.
- Thirty-three states have possible fines of $500 or more for a first offense.

CFA Analysis Shows Auto Insurers Charge Higher Rates to Drivers with Less Education and Lower-Status Jobs
Consumer Federation of America (2013)

Several major auto insurers place a heavy emphasis on their customers' occupation and education when setting prices, forcing lesser educated, blue collar workers with good driving records to pay substantially higher premiums than drivers with more education and higher paying jobs. For example:

- GEICO charges a good driver in Seattle 45% more if she is a factory worker with a high school degree than if she is a plant superintendent with a bachelor degree;
- Progressive charges the factory worker 33% more in Baltimore; and
- Liberty Mutual charges the worker 13% more in Houston.

The reported also highlighted a national survey that found that about two-thirds of Americans believe that it is unfair to use education and occupation when pricing insurance policies.

What Works: A Review of Auto Insurance Rate Regulation in America and How Best Practices Save Billions of Dollars

Consumer Federation of America (2013)

Over the past quarter century, auto insurance expenditures in America have increased by 43 percent on average and by as much as 108 percent. These increases occurred despite substantial gains in automobile safety and the arrival of several new players in the insurance markets. Only in California, where a 1988 ballot initiative transformed oversight of the industry and curtailed some of its most anti-consumer practices, did insurance prices fall during the period, resulting in more than $4 billion in annual savings for California drivers.

This report used NAIC data to assess the impact of different types of insurance market oversight (prior approval, file and use, use and file, flex rating, and deregulation) on rates, industry profitability, and competition. It also provided a detailed analysis of California's experience with the nation's most consumer protective rules governing the auto insurance market.

Largest Auto Insurers Frequently Charge Higher Premiums To Safe Drivers Than To Those Responsible For Accidents
Consumer Federation of America (2013)

CFA analyzed premium quotes from the five largest auto insurers in twelve major cities and found that two-thirds of the time, insurers would charge a working class driver with a 45 day lapse in coverage and a perfect driving record more than companies charged an executive with no lapse in coverage but a recent at-fault accident on their record. In 60% of the tests, the lower-income good driver was charged at least 25% more than the higher-income driver who had caused an accident.

Use of Credit Scores by Auto Insurers Adversely Impacts Low- and Moderate-Income Drivers
Consumer Federation of America (2013)

Holding all other factors constant, the two largest auto insurers, State Farm and Allstate, charge moderate-income drivers with poor credit scores much higher prices than drivers with excellent scores. Using data purchased from a third party vendor of insurance rate information, this report showed that State Farm increased rates for the low credit score driver an average of 127 percent over the high credit score customer and Allstate raised rates by 39 percent, costing State Farm and Allstate customers an average of more than $700 and $350, respectively, based solely on credit scores.

The report also pointed to a recent national survey conducted for CFA that found that, by a greater than two to one ratio, Americans reject insurer use of credit scores in their pricing of auto insurance policies.

Auto Insurers Charge High and Variable Rate for Minimum Coverage to Good Drivers from Moderate-Income Areas
Consumer Federation of America (2012)

This report used extensive website testing to show that good drivers -- those with no accidents or moving violations -- who live in moderate-income areas in 15 cities were being quoted high auto insurance rates by major insurers for the minimum liability coverage required by those states. Over half (56%) of the rate quotes to two typical moderate-income drivers were over $1000, and nearly one-third of the quotes (32%) exceeded $1500.

The report also presents findings from a national survey that shows that lower-income families report knowing people who drive without insurance at a much higher rate than higher-income drivers. Further, nearly 80 percent of drivers agreed that "they [the uninsured drivers] do so because they need a car but can't afford the insurance."

Lower-income Households and the Auto Insurance Marketplace: Challenges and Opportunities
Consumer Federation of America (2012)

Access to an automobile plays a critical role in creating economic opportunities for lower-income Americans and the affordability of auto insurance plays a key role in this access. This report provides an overview of the auto insurance market with a detailed discussion of low- and moderate-income (LMI) households' participation in the auto insurance market. The report summarizes pricing information collected by CFA as well as data related to availability, residual markets and uninsured motorists.

At the heart of this report, which was the first in the series of reports outlined above, is the finding that for millions of lower-income Americans auto insurance is unaffordable and inaccessible despite their unblemished driving records. High priced auto insurance, which often leads LMI drivers to choose between giving up their cars or driving uninsured, creates serious economic hardships, and the issue must be addressed by policymakers and regulators. The report concludes with a summary of the issues, obstacles and needs facing LMI customers and policy suggestions for addressing them.

Meet Our Driver:

- Woman in her 30s
- Licensed since she was 16
- 2003 Ford Focus, which is owned
- 16 mile daily round trip commute
- Buys a basic limits, liability only policy
- **Perfect driving record – no tickets or accidents**

REMEMBER: THESE FACTORS ARE THE SAME FOR EVERY QUOTE


Married Executive with MBA who lives in Homeland Neighborhood, is Currently Insured and Pays In Full
$586


Married Executive with ~~MBA~~ HS Degree who lives in Homeland Neighborhood, is Currently Insured and Pays In Full
$665


Married ~~Executive~~ *Janitor* with ~~MBA~~ *HS Degree* who lives in Homeland Neighborhood, is Currently Insured and Pays In Full
$724


Widowed ~~Married~~ ~~Executive~~ *Janitor* with ~~MBA~~ *HS Degree* who lives in Homeland Neighborhood, is Currently Insured and Pays In Full
$939

Widowed ~~Married~~ ~~Executive~~ *Janitor* with ~~MBA~~ *HS Degree* who lives in Homeland Neighborhood, is Currently Insured and Pays In ~~Full~~ *Installments*

$999

Widowed ~~Married~~ ~~Executive~~ *Janitor* with ~~MBA~~ *HS Degree* who moves 3 miles to *Lower Park Heights* ~~Homeland~~ Neighborhood, is Currently Insured and Pays In ~~Full~~ *Installments*

$1649


Widowed ~~Married~~ ~~Executive~~ *Janitor* with ~~MBA~~
HS Degree who moves 3 miles to *Lower Park Heights* ~~Homeland~~ Neighborhood, *Stopped Driving & Discontinued Coverage for 6 Months* ~~is~~ ~~Currently Insured~~ and Pays In ~~Full~~ *Installments*
$2513


Widowed **Married** **Executive** *Janitor* with **MBA**
HS Degree who lives in *Lower Park Heights* Homeland **Neighborhood**, *Stopped Driving & Discontinued Coverage for 6 Months* **is Currently Insured** and Pays In **Full** *Installments*
$586


$3,000
$2,500
$2,000
$1,500
$1,000
$500
$0
ANNUAL PREMIUM
329% More Despite Same Good Driving Record
"The Disfavored"
"The Original"


$3,000
$2,500
$2,000
$1,500
$1,000
$500
$0
ANNUAL PREMIUM
58% Less Despite Bad Driving Record
"The Disfavored"
"The Original" plus an at-fault accident and a speeding ticket in last 12 Months

Property Casualty Insurers
Association of America
Advocacy. Leadership. Results

TESTIMONY OF THE PROPERTY CASUALTY INSURERS ASSOCIATION OF AMERICA BEFORE THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS AUTO INSURANCE (C/D) STUDY GROUP ON THE PRICING OF AUTO INSURANCE

November 19, 2015

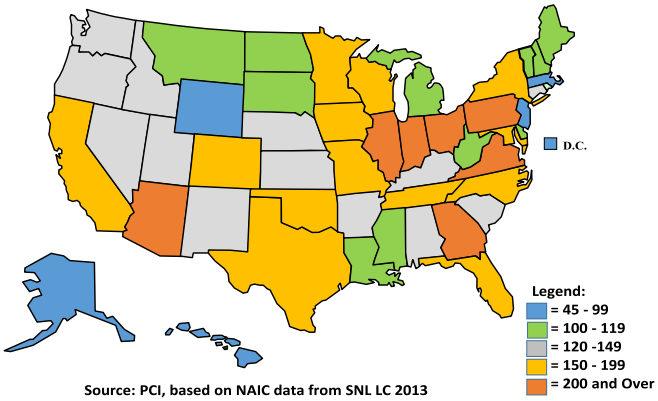
Introduction

The Property Casualty Insurers Association of America (PCI) represents nearly 1000 insurers, many of which are actively engaged in providing personal and commercial automobile insurance coverage. PCI members represent approximately 42 percent of the total auto insurance market in the nation. These insurers, along with regulators and other interested parties, have succeeded in creating one of the most financially strong, highly competitive and consumer protective markets for any insurance product or service, worldwide.

General Comments

The personal auto insurance market is highly competitive, according to relevant measures.[1] Households throughout the nation benefit from a healthy competitive marketplace by having a wide array of insurers, prices and products from which to select. There are nearly 900 personal auto insurance companies conducting business throughout the U.S. today.[2] Almost 9 out of 10 states have at least 100 insurance carriers offering auto coverage and competing in every single community.

Households Have Access to Affordable Coverage From Many Different Personal Auto Insurers in Each State (Number of Personal Auto Insurance Companies)



Source: PCI, based on NAIC data from SNL LC 2013

[1] The level of competition is based on the Herfindahl-Hirschman Index (HHI) that considers all the sellers in the market and their relative sizes. U.S. Department of Justice and Federal Trade Commission, *Horizontal Merger Guidelines* § 5.2, 2010.

[2] National Association of Insurance Commissioners Annual Statement data via SNL Financial.

The personal auto market is also financially strong, with an estimated policyholder surplus of $196.8 billion as of year-end 2014, allocated to this line.[3] And the network of state insurance laws provide significant consumer protections ranging from rating laws to claims settlement laws enforced by a full panoply of enforcement tools. Ensuring an environment of robust competition is the best means of addressing availability and affordability issues as it results in lower costs and provides all consumers with a broader array of products and services. A sound marketplace allows insurers to eliminate inefficiencies and stimulates their efforts to attract and retain customers and offer innovative products that provide greater value to consumers. Our principal objective is to avoid breaking what isn't broken and at the same time encourage improvement and innovation.

Specific Comments on Potential Questions

What rating variables are being used by auto insurers?

Insurance rating is governed by state law. Subject always to these laws, insurers constantly monitor their policyholders in an attempt to strengthen their risk classification plans. Insurers now use a wide range of rating variables reflecting various driver characteristics. Rating variables considered to be the most reliable predictors of loss include geographical location (i.e., territory), age, gender, and credit history. Other criteria examined by insurers when pricing auto liability or physical damage coverages include, but are not limited to, driving record, violation history, years of driving experience, mileage, the number of drivers or cars insured, vehicle use, and vehicle make and model. All of these factors are not only a practical method of allocating costs among policyholders, but they are also objective, clear and unequivocal, and are based upon statistically supported data.

Some rating factors have been found to be more powerful in terms of loss predictability and therefore receive more weight than others in the insurance rating process. Their level of importance varies by coverage, too. According to a 2003 analysis, the top three factors are shown below:

Auto Coverage	Factor 1	Factor 2	Factor 3
Liability	Age/Gender	Insurance Score	Geography
Personal Injury Protection	Insurance Score	Geography	Years Insured
Medical Payments	Insurance Score	Limit	Age/Gender
Collision & Comprehensive	Model Year	Age/Gender	Insurance Score
Source: EPIC Actuaries, LLC, "The Relationship of Credit-Based Insurance Scores to Private Passenger Automobile Insurance Loss Propensity," June 2003			

[3] PCI, based on 2014 premium and premium-to-net worth ratio information from NAIC.

Over the years, much research on the risk classification system has been done to determine the rating variables that identify groups of individuals with relatively high or relatively low risk of insurance claims. The ultimate value of these rating variables is to produce rates which are the most accurate predictors of future loss and at the same time provide rates which are, to the extent possible, not excessive, inadequate or unfairly discriminatory.

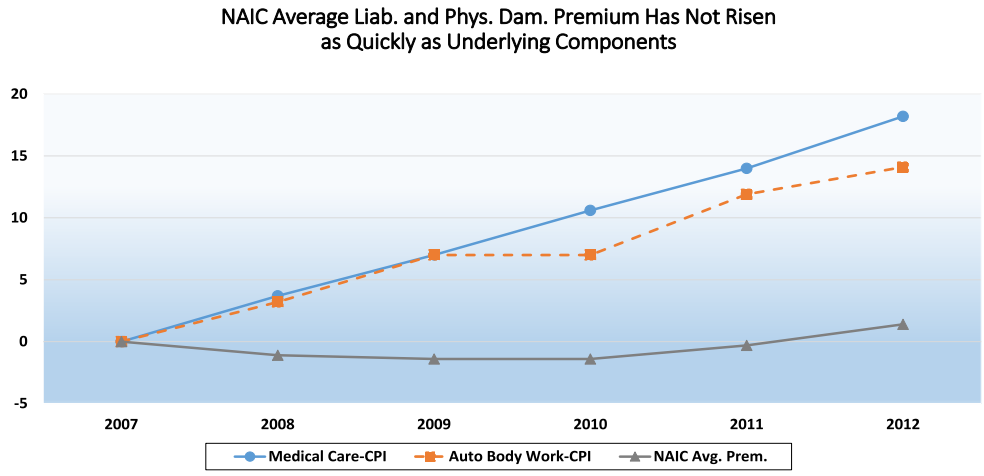
What effect do the rating variables have on consumers?

Different rating variables are used to assign individuals to different groups based on their risk level. By doing so, the expected loss of each individual is relatively close to the average expected loss of the group, hence prices are more equitable among policyholders. The rating variables used by insurers are strong indicators of accident and loss propensity so that all policyholders pay their fair share of losses and expenses. In a competitive system, these variables help to enhance the accuracy of the expected cost of providing specific coverages and of fluctuations in the expected cost. Insurers are able to make better informed choices about the prices charged for certain coverages and whether to offer those coverages. Risk classification systems consisting of appropriate rating variables, therefore, promote more competition with numerous insurers – this in turn provides consumers with more price and coverage options at prices they can afford.

What are the benefits of using a broad selection of rating variables?

Using a broad selection of rating variables entails a refinement of the risk classification system (e.g., dividing one or more classes to introduce new factors or tiers). The increased sophistication of rating benefits consumers in several ways. According to the American Academy of Actuaries (AAA),[4] the process of refinement can result in a reduction in the average amount by which the price exceeds the expected cost of coverage. The broader the selection of variables, the more homogeneous risk classes become, so insurers can price with greater certainty. Increased certainty in predicting and pricing of risk results in a greater willingness to commit resources to the market. There is also greater competition exercising a restraining influence on prices. The relative stability of auto insurance rates in the recent past is a good example of this latter effect; as shown below, the average liability and physical damage premium, calculated by the NAIC, has been extremely stable over the recent years, compared to the cost of two of its underlying components (medical care and motor vehicle body work).

[4] American Academy of Actuaries, *A Public Policy Monograph on Risk Classification,* Nov. 2011.



Source: PCI, based on data from NAIC and Bureau of Labor Statistics

Not only does the use of more valid rating variables – subject to regulation – reduce the adverse selection[5] experienced by insurers, but it also promotes individual price equity. In turn, due to new cost-effective business practices, consumers benefit because they pay more accurate and objective-based rates, and they have more choices in prices and products. Potential customers are able to find suitable insurance coverage more readily as well.

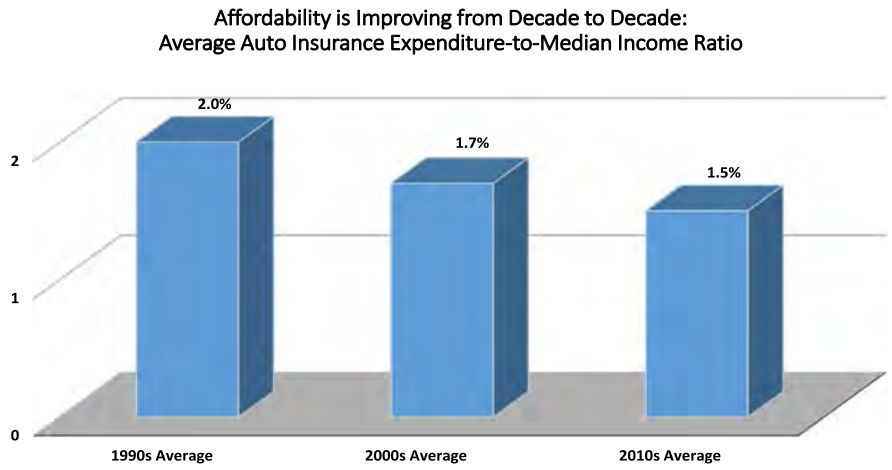
How has the expanded use of rating variables affected the affordability of auto insurance?

As mentioned above, the expanded use of rating variables helps to decrease the likelihood of adverse selection. Premiums are more equitable and not unfairly discriminatory because price differences among classes more accurately reflect differences in expected costs. Equitable prices in turn assure the availability of needed coverage for the public. In competitive insurance markets, refining the risk classification system through the introduction of new variables has been observed to reduce the average price of coverage – this is due to the prices charged to members of each new risk class becoming closer to the estimated cost of coverage for that risk. As such, insurance becomes more affordable for everyone.

Further, the affordability of auto insurance has been improved for all income levels. Using Consumer Expenditure Survey data from the Bureau of Labor Statistics, the Insurance Research Council (IRC) found that "about 2 percent of the average consumer's income was spent on auto insurance in the 1990s. In the 2000s, this number improved to 1.7 percent… in the 2010s, the average expenditure-to-income ratio has been 1.5 percent…"[6]

[5] Adverse selection often results from an underrepresentation within each class of risks having relatively favorable risk probabilities, in which case premium levels are too high for most insurance customers.

[6] Insurance Research Council, "Trends in Auto Insurance Affordability," Aug. 2015.



Source: Bureau of Labor Statistics Consumer Expenditure Survey data

And for lower-income people, the IRC also found that these consumers on average spent less of their income from decade to decade for auto insurance, while more of their income is being spent on other necessities, such as food, housing, utilities, and gasoline and motor oil.

Does the use of certain rating variables lead to more or less favorable consumer outcomes?

Rating variables do, of course, result in higher costs for greater risks and lower costs for lesser risks. This is true of all rating variables. According to the AAA, individuals facing risks that are more likely to have less favorable outcomes may not be able to afford desirable coverage, or indeed any coverage, without some form of subsidy. It is difficult to find a method that will allocate the cost of the subsidy among policyholders so that none is disproportionately disadvantaged. The result, often, is that some insurers are required to provide services below cost or that some policyholders are asked or required to pay a higher price than otherwise would be the case for their coverage. Either of these results will be difficult to maintain in a fully competitive system.

Do outcomes vary by a consumer's socio-economic status?

First of all, it is important to note that auto insurers do not use in rating a consumer's socio-economic status reflecting income, race, ethnicity, color, religion, national origin or creed. Unless required by law, insurers do not collect such data, nor do they use it when screening applicants or developing rates.

Second, as part of their sound risk management strategy, insurers must take precaution in setting risk tolerances compatible with their overall corporate goals. Insurers strive to make the most prudent underwriting and ratemaking decisions possible. Outcomes are based on objective risk factors and are blind to one's socio-economic status. For example, a low-

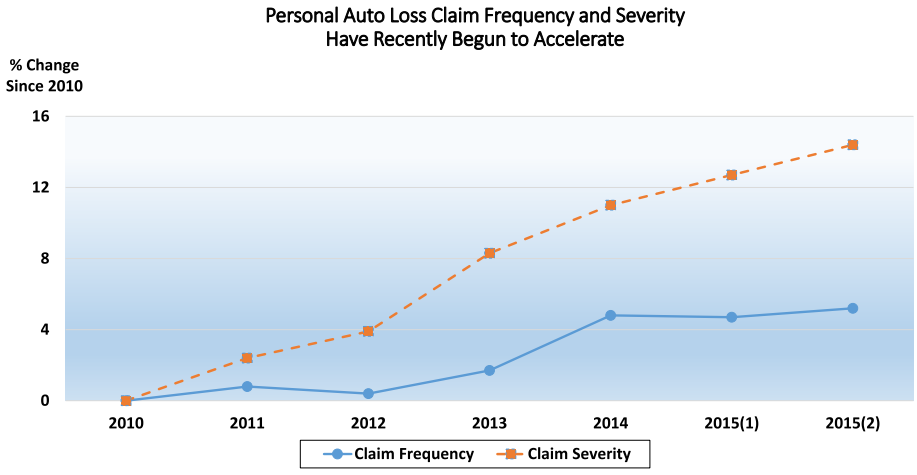
income person with similar risk characteristics with a high-income person will pay the same risk-based rate. That is because under our laws, insurance pricing is to be risk based, not an exercise in socio-economic policy. This perspective, we believe, has proven to be the best approach. Compare the stability of insurance markets to the pre-financial crisis pressure to lend regardless of the ability to pay and the ultimate global chaos and individual tragedies that such policy created.

Are there rating variables that insurers should not be allowed to be used?

As mentioned earlier, rating variables that are prohibited by regulation or statute should not be used. In addition, factors should not be used if they are: (1) not predictive of future insurance loss; (2) homogeneous (i.e., nearly constant) across the population and do not provide segmentation; (3) highly correlated with other factors that are used (and thus provide no additional value); or (4) too complicated to explain to consumers. Rating variables that do not comply with the "excessive, inadequate and unfairly discriminatory" standard should, of course, be banned. An example would be charging different rates to similar risks based on elasticity of demand.

Should other regulatory actions be taken?

Auto insurance is largely a pass through mechanism for costs that arise from motor vehicle crashes and the legal environment in which they are adjudicated. Regulators should work more with the industry and interested parties, such as safety advocates, to help reduce those costs. Over the last year-and-a-half, we have observed an unexpected acceleration in the increase in frequency and severity of personal auto claims.[7] This is especially alarming with respect to the claim frequency trend that had been declining in previous decades.



Source: PCI, based on Fast Track Monitoring System Report

[7] Fast Track Monitoring System @2nd Qtr. 2015, a publicly available report of quarterly auto loss trends prepared jointly by Independent Statistical Service, Insurance Services Office, Inc. and National Independent Statistical Service.

Much of this increase, we believe, is preventable, for example through stronger highway safety laws and enforcement, better car designs, changes in compensation law and a much stronger and greater long term commitment and support to improve and maintain relevant infrastructure.

We also would like a collaborative focus on how best to achieve excellent results in the context of unprecedented technological challenges. These challenges include the need for new and different products resulting from new technologies and behaviors and the need for new and different interactions to meet changing consumer demands.

Conclusion

Consumers benefit from risk classification factors that distinguish lower-risk policyholders from higher-risk policyholders. The rating variables used improve the relationship between insurance pricing and insurance risk so that individuals and society as a whole can make good tradeoffs between risk acceptance, risk avoidance, and risk mitigation. The more risk assessment tools available to insurers, the more accurately risks can be priced. In this way, premiums paid by insured drivers are more equitable, minimizing the chances of one group of risks having to subsidize another group of risks. Eliminating these valuable sources of information would harm the competitive efficiency of our economy.

While we appreciate the hearing's focus on rating, we think greater returns for all consumers are possible through cooperative work to reduce the drivers of costs that have the greatest impact on auto insurance prices. And, we collectively need to respond to new technology driven demands or risk becoming irrelevant. This is an approach that will unite rather than divide us and ultimately provide the maximum benefit to the public that we all serve.

Appendix Item 11

High Price of Mandatory Auto Insurance in Predominantly African American Communities

Appendix Item 12

Drivers from black communities in Baltimore area pay twice as much for car insurance as drivers from white communities, group says

Study on the Affordability of Personal Automobile Insurance

FEDERAL INSURANCE OFFICE, U.S. DEPARTMENT OF THE TREASURY

JANUARY 2017

Table of Contents

Glossary

Affected Persons	.....	Traditionally underserved communities and consumers, minorities, and low- and moderate-income persons
Affordability Index	.....	Personal automobile insurance affordability index as described in this Study
AP ZIP Codes	.....	ZIP Codes in which Affected Persons are the majority
BI	.....	Bodily injury liability insurance coverage
FIO	.....	Federal Insurance Office
FR Limits	.....	Financial Responsibility Limits, i.e., state mandatory minimum requirements for personal auto insurance
LMI	.....	Low- and moderate- income
MFI	.....	Median family income
MSA	.....	Metropolitan Statistical Area
NAIC	.....	National Association of Insurance Commissioners
PD	.....	Property damage liability insurance coverage
PIP	.....	Medical payments and personal injury protection insurance coverage
Study	.....	This Study on the Affordability of Personal Automobile Insurance
UM	.....	Uninsured Motorist insurance coverage
UIM	.....	Underinsured Motorist insurance coverage
ZIP Code	.....	U.S. Postal Service ZIP Code

I. Introduction and Summary of Findings

When establishing the Federal Insurance Office (FIO) within the U.S. Department of the Treasury, Congress tasked FIO with, among other things, monitoring the extent to which traditionally underserved communities and consumers, minorities, and low- and moderate-income (LMI) persons have access to affordable insurance products for all lines of insurance (except health insurance).[1] Congress recognized that minorities and LMI persons and communities could be at a higher risk from financial downturns than other groups within the United States, and designed the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 to ensure federal monitoring of consumers' access to affordable insurance products.[2] With this awareness, and in recognition of the importance of affordable, accessible insurance products to individuals and families in the United States, FIO previously has written about access to insurance and other consumer protection concerns.[3]

This Report constitutes FIO's first insurance affordability study, focusing on automobile insurance for individual consumers. This first annual Study on the Affordability of Personal Automobile Insurance (Study) provides an objective, quantifiable, national perspective on auto insurance affordability for traditionally underserved communities and consumers, minorities, and LMI persons (collectively, Affected Persons).

Section II explains why affordable auto insurance is critically important to consumers, and describes the public notice and comment process used to help determine the Study's definitions and metrics. After outlining some basic insurance terms and concepts, Section III summarizes state personal auto insurance requirements since, of course, the business of insurance in the United States – including auto insurance – is regulated primarily at the state level.[4] Section IV discusses auto insurance availability, as well as how the numbers of uninsured drivers can affect auto insurance affordability. Section V discusses other factors that can affect affordability. Section VI explains how the Affordability Index is calculated; discusses Affected Persons and affordability; outlines how to calculate the Affordability Index; and describes the underlying data and its limitations. Section VII provides the Study's findings, including a state-by-state summary of results and illustrative state examples. Section VIII concludes with additional observations and next steps.

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[1] *See* 31 U.S.C. § 313(c)(1)(B).

[2] *See Press Release: Waters Wins Big for Consumers, Homeowners, Minorities and Shareholders in Wall Street Reform and Consumer Protection Legislation* (June 30, 2010), *available at* https://waters.house.gov/media-center/press-releases/waters-wins-big-consumers-homeowners-minorities-and-shareholders-wall. *See also* 156 CONG. REC. H5242 (June 30, 2010) ("The Federal Insurance Office, we will be asking them to gather information about the ability of minorities and low income persons to access affordable insurance products.") (statement of Maxine Waters).

[3] These FIO reports are available at https://www.treasury.gov/initiatives/fio/reports-and-notices and include: *How to Modernize and Improve the System of Insurance Regulation in the United States* (December 2013); *Annual Report on the Insurance Industry* (September 2014); *Report Providing an Assessment of the Current State of the Market for Natural Catastrophe Insurance in the United States* (September 2015); *Annual Report on the Insurance Industry* (September 2015), and *Report on Protection of Insurance Consumers and Access to Insurance* (November 2016) (*Consumer Report*).

[4] *See, e.g.*, the McCarran-Ferguson Act, 15 U.S.C. § 1011; the Gramm-Leach-Bliley Act, 15 U.S.C. § 6711.

In brief, this Study calculates and reports the results of an Affordability Index which, following extensive consultation and analysis, FIO has defined as the ratio of the average annual written personal automobile liability premium in the voluntary market to the median household income (based on U.S. Census Bureau data) for U.S. Postal Service ZIP Codes in which Affected Persons are 50 percent or more of the population (AP ZIP Codes). For the purposes of this analysis, personal auto insurance is presumed unaffordable within an AP ZIP Code if its Affordability Index is above two percent.[5] As described in more detail in Section VII, the United States has 9,172 AP ZIP Codes in which Affected Persons are the majority population, or approximately 28 percent of all of the ZIP Codes nationwide. Auto insurance has Affordability Index values above two percent in 845 AP ZIP Codes nationwide; those 845 AP ZIP Codes have an aggregate population of over 18.6 million. Affordability Index results for each AP ZIP Code are available at www.treasury.gov/initiatives/fio/reports-and-notices.

Using the information provided in this Study, consumers and policymakers will be able to assess the affordability of personal auto insurance for Affected Persons within each state and the District of Columbia, at the ZIP Code level. Given the wide variations among states, any interstate comparisons should be made with great caution: the Affordability Index allows for comparison of ZIP Codes within the same state, but should not be considered for interstate analysis. Also, the Study is limited to auto insurance affordability for Affected Persons. Importantly, however, even for Affected Persons the Affordability Index is not intended to provide guidance for individual insurance budgeting or affordability for specific individuals. Due to the range of unique personal characteristic and variance among state laws and regulations, the Affordability Index is not appropriate for measuring the affordability of an auto insurance premium paid by any one person. Rather, the Affordability Index is designed for the purpose of gaining a better understanding of auto insurance affordability for Affected Persons, collectively, at the ZIP Code level.

This Study is based on premium and related data that is publicly available and/or that was voluntarily provided by states and statistical agents.[6] The underlying data, therefore, does not include all U.S. auto insurance policies. More data will be available for the next study, when all large auto insurers will be asked to voluntarily produce premium data through the appropriate statistical agent.[7] As more data is analyzed and year-to-year trends become visible, annual study results are likely to provide more insights into industry trends and developments.

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[5] Monitoring Availability and Affordability of Auto Insurance, 81 Fed. Reg. 45,372 (July 13, 2016) (July 2016 Notice). *See also* Monitoring Availability and Affordability of Auto Insurance, 79 Fed. Reg. 19,969 (Apr. 10, 2014) (April 2014 Notice), and Monitoring Availability and Affordability of Auto Insurance, 80 Fed. Reg. 38,277 (Jul. 2, 2015) (July 2015 Notice).

[6] With some state-specific exceptions, property and casualty insurers generally are required by state law to send premium and claims/loss data to statistical agents, who then compile the data for state insurance departments; the states, in turn, use the reported information to ensure that insurance rates meet statutory standards and to monitor the insurance market. *See, e.g.*, Independent Statistical Service, *Statistical reporting made simple*, *available at* http://www.iss-statistical.net/subscriber-home/home; National Independent Statistical Service, *About Statistical Reporting*, *available at* https://www.niss-stat.org/HTML/AboutStatisticalReporting.aspx; Verisk Analytics, *Statistical Service*, *available at* http://www.verisk.com/capabilities/data-and-statistical-services/statistical-service-reporting-insurance-data-to-iso.html.

[7] *See* Proposed Collection; Comment Request, 81 Fed. Reg. 45,381 (July 13, 2016) (Collection Request).

II. Why Personal Auto Insurance?

This Study focuses on personal auto insurance because affordable auto insurance can promote financial security for individuals and families. Auto ownership is associated with greater opportunity for economic well-being, such as better access to employment opportunities.[8] For example, one researcher found that "transit only enables [low-income] commuters to reach less than one-third of metro-wide jobs within 90 minutes while the automobile enables them to reach all jobs in the 51 largest metropolitan areas within 60 minutes."[9]

Furthermore, nearly all states require a driver or owner of a motor vehicle to have automobile liability insurance or financial security that may be satisfied by auto liability insurance while operating a motor vehicle, or at the time of registering a motor vehicle.[10] (Section III provides additional information about states' auto insurance requirements). Commentators have observed that "[u]naffordable auto insurance leaves many Americans in the predicament of either not driving, which dramatically restricts their economic opportunities, or driving without insurance, which not only is illegal but puts them and other drivers at risk."[11]

Finally, insurance stakeholders often disagree about whether auto insurance has become more or less affordable for Affected Persons over time.[12]

In light of the above factors, FIO published a request for information regarding: (1) a reasonable and meaningful definition of affordability for personal auto insurance; (2) appropriate metrics and data for monitoring the extent to which Affected Persons have access to affordable auto insurance; and (3) sources to use for data monitoring auto insurance affordability for Affected Persons.[13] After reviewing the responses to the initial information request, FIO published for comment a proposed framework for measuring the affordability of personal auto insurance for Affected Persons.[14] After carefully considering all of the comments received, and in conjunction with additional research and consultation, FIO published a notice advising of the adoption of a

[8] *See* Clifford Winston, "On the Performance of the U.S. Transportation System: Caution Ahead," *Journal of Economic Literature*, Vol. 51, No. 3, at 805 (2013), *available at* https://www.aeaweb.org/articles?id=10.1257/jel.51.3.773.

[9] *Id.*

[10] *See, e.g.*, Insurance Information Institute, *Compulsory Auto/ Uninsured Motorists* (July 2016), *available at* http://www.iii.org/issue-update/compulsory-auto-uninsured-motorists.

[11] Consumer Federation of America et al. Comment, at 1 (August 31, 2015), *available at* http://www.regulations.gov/#!documentDetail;D=TREAS-DO-2015-0005-0014.

[12] *See, e.g.*, Insurance Research Council, *Trends Indicate Auto Insurance is Becoming More Affordable for All Income Groups* (Aug. 25, 2015), *available at* http://www.insurance-research.org/sites/default/files/downloads/Trends%20in%20Auto%20Insurance%20Affordability%20NR_FINAL.pdf, *and compare with* Stephen Brobeck and J. Robert Hunter, "No Increase in Affordability of Auto Insurance for Low- and Moderate-Income Households," *Consumer Federation of America* (Sept. 2, 2015), *available at* http://www.consumerfed.org/pdfs/150921_CES_affordability_brobeckhunter.pdf. *See also* July 2016 Notice, *supra* note 5, 81 Fed. Reg. at 45,373.

[13] April 2014 Notice, *supra* note 5, 79 Fed. Reg. at 19,969-19,970.

[14] July 2015 Notice, *supra* note 5, 80 Fed. Reg. at 38,277 et seq.

methodology to monitor the affordability of personal auto insurance for Affected Persons,[15] which is summarized in Section VI.

III. Auto Insurance and State Requirements – the Basics

Auto insurance provides protection against loss arising from the operation, maintenance, or use of automobiles covered by the insurance, for the potential benefit of insured car owners, passengers, drivers, and others.[16]

Personal automobile insurance covers private passenger vehicles (as distinct from commercial vehicles). Private passenger autos generally are four-wheel motor vehicles (other than trucks) that are either owned or leased under contract for six months or more, including cars and SUVs.[17] Personal auto insurance can consist of one or more types of coverage to pay specified types of loss, subject to the insurance policy's terms, conditions and exclusions, including the following:

- Personal Liability insurance covers bodily injury (BI) costs associated with injuries and death, and property damage (PD) such as damage to structures or another car caused by the insured owner or other driver of the insured car.

- Uninsured Motorist (UM) coverage reimburses the insured car owner when an auto accident is caused by an uninsured motorist, or for hit-and-run accidents.

- Underinsured Motorist (UIM) coverage pays an insured car owner's costs when another driver has insufficient insurance to pay all accident costs.

- Collision insurance coverage reimburses the insured car owner for damages to the car that results from a collision with another vehicle or other object (such as a tree or guardrail) when the owner is at fault for the accident.

- Comprehensive coverage insures against theft as well as damage caused to an insured car by an incident other than a collision such as flood, vandalism, hail, falling trees, or other hazards.

[15] July 2016 Notice, *supra* note 5, 81 Fed. Reg. at 45,372 et seq.

[16] *See, e.g.*, Florida Division of Consumer Services, *Personal Automobile Insurance Overview*, *available at* http://www.myfloridacfo.com/Division/Consumers/UnderstandingCoverage/PersonalAutoInsuranceOverview.htm.

[17] *See, e.g.*, Rosalie L. Donlon & Christine G. Barlow, "Personal auto policies: 5 questions agents should ask buyers," *PropertyCasualty360* (Nov. 30, 2016), *available at* http://www.propertycasualty360.com/2016/11/30/personal-auto-policies-5-questions-agents-should-a?eNL=583f2aab160ba0a472aeecc5&utm_source=PC360_Daily&utm_medium=EMC-Email_editorial&utm_campaign=11302016&page_all=1.

- Medical Payments or Personal Injury Protection (PIP) provides reimbursement for the insured driver's and passengers' medical expenses from injuries caused by an accident, regardless of who is at fault.[18]

Except for New Hampshire, all states require consumers to maintain personal liability automobile insurance as a condition for registering and driving a car. Currently 17 states also have mandatory PIP requirements, and 20 states require UM and/or UIM coverage. Comprehensive and collision insurance usually are optional. States' minimum requirements for personal liability coverage are generally known as financial responsibility limits (FR Limits). FR Limits requirements vary considerably by state.[19]

The personal auto insurance marketplace, broadly speaking, has three segments based on risk profile categories: (1) the standard market, which consists of all drivers except those in the non-standard market and the residual market; (2) the non-standard market, which usually includes high risk drivers such as new drivers, drivers with moving violations, drivers with rare or unusual cars, or drivers with more frequent incidences of insurance policy cancellation or non-renewal; and (3) the residual market, which generally includes drivers with the highest risk of submitting a claim. Generally, premiums are highest in the residual market, followed by the non-standard market, and of course the lowest premiums are in the standard market.[20] Standard and non-standard markets together comprise the "voluntary" market, as distinct from the residual market.[21]

The Affordability Index assesses personal liability auto insurance and personal injury protection coverage, at FR Limits, in the voluntary market, for Affected Persons, as described in greater detail in Section VI.

[18] *See, e.g.*, Insurance Information Institute, *Auto Insurance Basics—Understanding Your Coverage*, *available at* http://www.iii.org/article/auto-insurance-basics-understanding-your-coverage.

[19] *See, e.g.*, Insurance Information Institute, *Compulsory Auto/ Uninsured Motorists*, *supra* note 10.

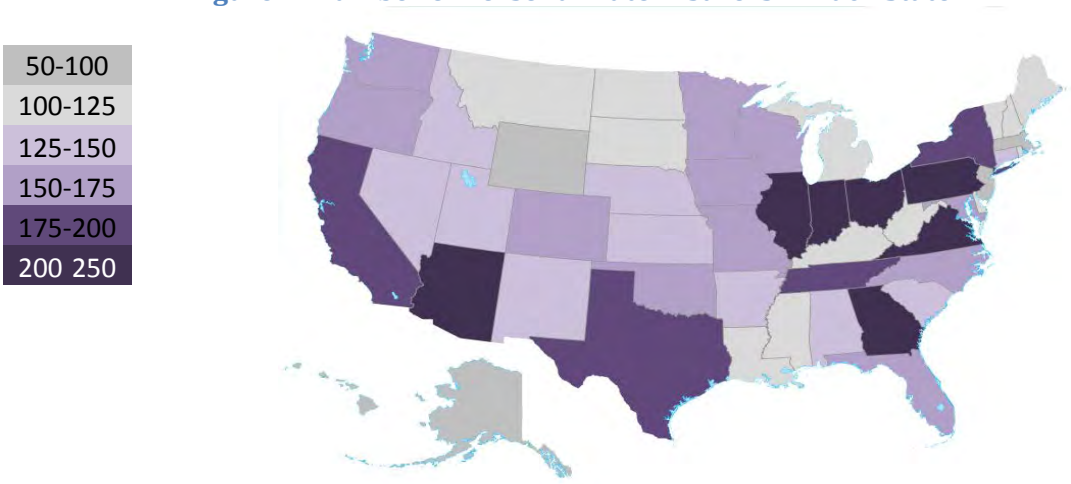
[20] *See, e.g.*, July 2015 Notice, *supra* note 5, 80 Fed. Reg. at 38,820 & fn. 38. Insurers do not have a universal method for determining market placement: different insurers may offer the same driver standard and non-standard market rates. *See, e.g.*, July 2016 Notice, *supra* note 5, 81 Fed. Reg. at 45,373.

[21] *See* July 2016 Notice, *supra* note 5, 81 Fed. Reg. at 45,377.

IV. Auto Insurance Availability and Uninsured Drivers

The personal auto insurance market generated $199.9 billion in total direct premiums in 2015, representing about 38.4 percent of all property and casualty insurance net premiums.[22] Nearly 900 personal auto insurers conduct business in part or all of the United States.[23] No state has fewer than 50 auto insurers, and 45 states have at least 100 insurers offering coverage for private vehicles (see Figure 1).[24]

Figure 1: Number of Personal Auto Insurers in Each State



Source: SNL Financial

Despite the existence of a competitive marketplace, nearly 30 million uninsured drivers drove on U.S. roads in 2012.[25] The percentage of uninsured drivers in the total U.S. population generally has declined over the last five years for which data is available.[26] Notably, lower-income drivers are more likely to be uninsured, which could indicate a correlation with affordability.[27] Figure 2 shows the percentage of uninsured drivers by state as of 2012.[28]

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[22] *See* SNL, *P&C Industry: U.S. P&C Business Overview*, *available at* https://www.snl.com/web/client?auth=inherit#statIndustry/pcIndustry?KeyStatEntity=E61858CD-F1F9-42BD-8848-8CB6B42ED2FE.

[23] *See* SNL Financial. *See also* Property Casualty Insurers Association of America Comment, at 10 (August 13, 2015) (PCI Comment) (citations omitted), *available at* http://www.regulations.gov/#!documentDetail;D=TREAS-DO-2015-0005-0006.

[24] *See* SNL Financial. *See also* PCI Comment, *supra* note 23, at 10.

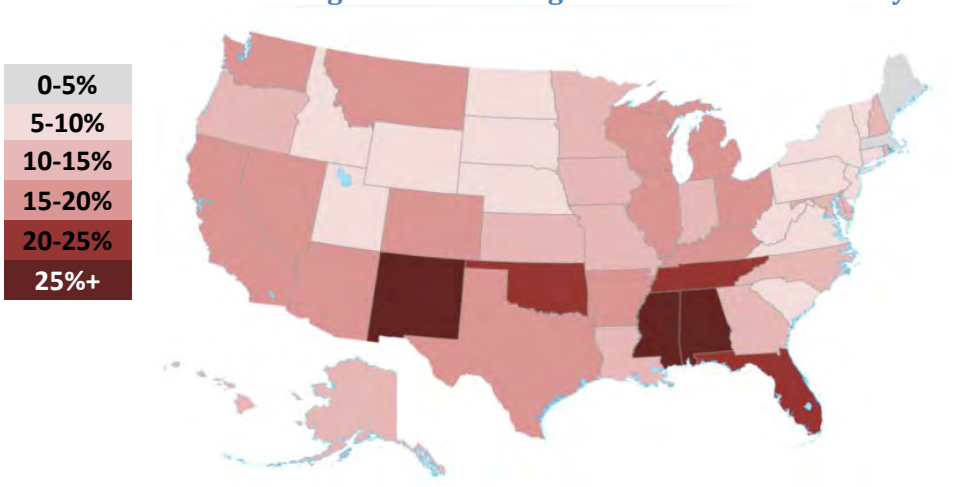
[25] *See* Insurance Research Council, *New Study Reveals a Declining Trend in the Percentage of Uninsured Motorists* (August 5, 2014), *available at* http://www.insurance-research.org/sites/default/files/downloads/IRC%20UM_NewsRelease_1.pdf.

[26] *See id.*

[27] *See* Consumer Federation of America, *Uninsured Drivers: A Societal Dilemma in Need of a Solution*, at 5 (March 2013) (citing own analysis and collecting sources), *available at* http://www.consumerfed.org/pdfs/140310_uninsureddriversasocialdilemma_cfa.pdf.

[28] Insurance Information Institute, *Uninsured Motorists*, *available at* http://www.iii.org/fact-statistic/uninsured-motorists (citing Insurance Research Council). *See also* Cecile Holton, "How the States Rank on Uninsured

Figure 2: Percentage of Uninsured Drivers by State



Source: Insurance Information Institute

The reasons for the numbers of uninsured drivers – and the widely varying percentages by state – are beyond the scope of this Study. However, Uninsured Motorist (UM) claims – i.e., claims paid by an insurer even though the insured was not at fault – are one of the many factors that can affect premium pricing and, thereby, affect the affordability of personal auto insurance. Additional factors affecting affordability are discussed in Section V.

V. Factors Affecting Affordability

Numerous activities, trends, and pricing factors at both the macro (state/national) and micro (individual consumer) levels may affect personal auto insurance affordability.

At the state and national levels, factors affecting the price of an auto insurance premium include: state law and regulation such as required FR Limits and whether the state mandates PIP coverage;[29] state programs which offer low-cost auto liability insurance or help low-income and other drivers obtain more affordable auto insurance;[30] accidents involving uninsured drivers which can contribute to higher premium costs for insured drivers;[31] health and safety measures

Drivers," *carinsurance.org*, *available at* http://www.carinsurance.org/2011/04/how-the-50-states-rank-on-uninsured-drivers_408.

[29] *See, e.g.*, Insurance Information Institute, *No-Fault Auto Insurance in Florida: Trends, Challenges and Costs* (January 2011), *available at* http://www.insuringflorida.org/wp-content/uploads/2015/05/No-Fault-Paper_0125111.pdf.

[30] *See e.g.*, California Dep't of Insurance, *California's Low Cost Auto Insurance*, *available at* https://mylowcostauto.com/; State of New Jersey Dep't of Banking & Insurance, *Special Automobile Insurance Policy (SAIP)*, *available at* http://www.state.nj.us/dobi/division_consumers/insurance/saip.htm; Haw. Rev. Stat. § 431:10C-407, *available at* http://law.justia.com/codes/hawaii/2010/division2/ title24/chapter431/431-10c-407/; Michigan Dep't of Insurance and Financial Services, *Your Guide to Automobile Insurance*, *available at* https://www.michigan.gov/documents/difs/Auto_Insurance_ Guide_448003_7.pdf.

[31] *See, e.g.*, "Why Auto Insurance in Detroit is So Damn High, Explained," *Daily Detroit* (Oct. 19, 2015), *available at* http://www.dailydetroit.com/2015/10/19/why-car-insurance-detroit-so-high-explained/.

such as highway safety initiatives, the increasing use of collision avoidance technology in motor vehicles, and health care reform which can promote cost-savings and reduce insurance premiums; medical utilization rates;[32] and the prevalence of crime such as auto theft and insurance fraud.[33]

For individual consumers, numerous additional pricing factors can affect affordability. Pricing factors may include the amount of coverage purchased and premium bundling discounts, such as discounts offered when purchasing auto and home insurance from the same insurer. In addition, depending on the state, insurers typically consider numerous additional factors in determining personal auto insurance premiums, including: driving record; age; gender; marital status; education; occupation; type of car insured; and location of residence which may affect the probability of accidents (often higher in more densely populated areas with more cars on the road), as well as the likelihood of damage from natural hazards (such as when a region is prone to hail or flooding).[34] Academics have highlighted how state insurance anti-discrimination laws vary significantly, and that many states' insurance laws do not explicitly restrict insurers' ability to discriminate on the basis of race, national origin or religion.[35]

VI. Calculating the Affordability Index

A. Who Are Affected Persons?

Affected Persons are defined by LMI and majority-minority ZIP Codes which serve as proxies for capturing both rural and urban traditionally underserved communities.[36] For the purpose of calculating the Affordability Index, a ZIP Code is deemed "majority-minority" if the minority population within that ZIP Code – including "Black American, Native American, Hispanic American, or Asian American"[37] – exceeds 50 percent of the total population of that ZIP Code. Similarly, a low-income ZIP Code has a median family income (MFI) less than 50 percent of the

[32] *See* Insurance Research Council, *Auto Insurance Affordability Problems Linked to Underlying Cost Drivers* (June 21, 2016), *available at* http://www.insurance-research.org/sites/default/files/downloads/NRcostdrivers2016.pdf (finding medical utilization rates above national norms in 8 of the 12 least affordable auto insurance systems).

[33] *See, e.g.*, Insurance Information Institute, *Insurance Fraud* (January 2016), *available at* http://www.iii.org/issue-update/insurance-fraud; Insurance Research Council, *Insurance Research Council Finds that Fraud and Buildup Add Up to $7.7 Billion in Excess Payments for Auto Injury Claims* (Feb. 3, 2015), *available at* http://www.insurancefraud.org/downloads/ InsuranceResearchCouncil02-15.pdf. By some measures, auto insurance fraud costs the average family $400-$700 in additional premiums every year. *See, e.g.*, EMC Corp., *Making Sense of Today's Insurance Market: Bringing Business and IT Together to Drive Growth, Boost Revenue, and Reduce Costs*, at 9 (March 2013), *available at* https://www.emc.com/collateral/white-papers/making-sense-of-todays-insurance-market-wp.pdf.

[34] For more on insurance pricing and risk classification, see, e.g., FIO, *Consumer Report*, *supra* note 3.

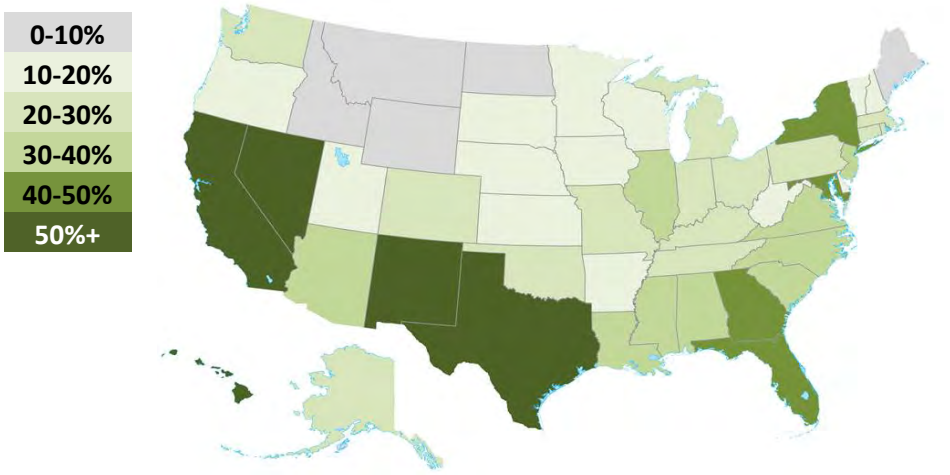
[35] *See, e.g.*, Ronen Avraham, Kyle D. Logue, and Daniel Schwarcz, "Understanding Insurance Antidiscrimination Laws," 87 S. CAL. L. REV. 195 (2013-2014); Ronen Avraham, Kyle D. Logue and Daniel Schwarcz, "Towards a Universal Framework for Insurance Anti-Discrimination Laws," 21 CONN. L.J. 1 (2014-2015).

[36] For more on defining Affected Persons, see the July 2016 Notice, *supra* note 5, 81 Fed. Reg. at 45,377 et seq.

[37] 31 U.S.C. § 313(c)(1)(B) (incorporating by reference the definition established in 12 U.S.C. § 1811, note).

median income for the Metropolitan Statistical Area (MSA) for that ZIP Code, while a moderate-income ZIP Code has an MFI of at least 50 percent of the MSA median income but less than 80 percent of the MSA median income.[38] Figure 3 shows the concentration of Affected Persons within each state.

Figure 3: Concentration of Affected Persons as Percentage of U.S. Population



Source: U.S. Census Bureau, American Community Survey

B. Defining Affordability

The average U.S. household spends approximately two percent of its annual income on personal automobile insurance,[39] a ratio critical to the definition of affordability as used in FIO's Affordability Index.

The Affordability Index was developed to provide a single number representing affordability within a geographic area based on ZIP Codes, thereby simplifying the effort to compare affordability. Specifically, the Affordability Index is a ratio defined as the average annual written personal automobile liability premium in the voluntary market divided by the median household income for ZIP Codes identified as being majority-minority or majority-LMI.[40] Personal auto liability insurance is presumed to be affordable within a particular ZIP Code if the Affordability Index is equal to or less than the (approximate) national average of two percent.[41]

[38] *See* July 2015 Notice, *supra* note 5, 80 Fed. Reg. at 38,280; Federal Deposit Insurance Corp., *Community Reinvestment Act (CRA) Performance Ratings*, *available at* https://www5.fdic.gov/crapes/peterms.asp; July 2016 Notice, *supra* note 5, 81 Fed. Reg. at 45,378 et seq.

[39] Specifically, the Bureau of Labor Statistics' Consumer Expenditure Survey found that, in 2013 and 2015, consumers spent about 1.8 percent of average income (after taxes) on vehicle insurance. *See Bureau of Labor Statistics, Consumer Expenditure Survey*, *available at* http://www.bls.gov/cex/.

[40] July 2016 Notice, *supra* note 5, 81 Fed. Reg. at 45,375.

[41] *Id.*

Of course, national averages can mask wide variations. A recent report showed that the average state premium for a full-coverage auto insurance policy varied from a low of $808 per year in Maine to a high of $2,738 in Michigan.[42] Insurance premiums unsurprisingly span a wide range of price points given the state-by-state variability in affordability factors (discussed in Section V). For this reason, among others, the Affordability Index and its results are best used only for intrastate comparisons, rather than to compare one state with another, and are not intended to provide insight on the affordability (or not) for any individual consumer.

C. How to Calculate the Affordability Index

In essence, the Affordability Index measures personal auto insurance expenditures relative to income. Specifically, the Affordability Index assesses personal liability auto insurance and personal injury protection coverage, at FR Limits, in the voluntary market, for Affected Persons, as compared to median household income.

Calculating the Affordability Index requires multiple steps and data sets. Data from the Census Bureau, the Federal Financial Institutions Examination Council, and the U.S. Department of Housing and Urban Development was used to identify the 9,172 ZIP Codes in which Affected Persons are the majority population (AP ZIP Codes) (i.e., the majority-minority and the majority-LMI ZIP Codes) and for which the Affordability Index would be calculated. Then, using the available data, the average premium for policies at the FR Limits in the voluntary market in each AP ZIP Code was calculated. Next, using Census Bureau data, the median household income in each AP ZIP Code was identified. Finally, for each AP ZIP Code, the average annual written personal automobile liability insurance premium in the voluntary market was divided by the median household income.[43]

D. Data Sources and Limitations

This is the first use of the FIO Affordability Index, and conclusions drawn from this study should be limited because FIO was unable to analyze comprehensive premium data for all auto insurance policies issued in the fifty states and the District of Columbia. Subject to confidentiality protections and the use of aggregated data, the Study relied upon data with ZIP Code level vehicle counts and premium data for most states for many (but not all) policies in the voluntary market written at the applicable state FR Limits, with policy inception dates between July 1, 2014 and June 30, 2015. Available premium data included BI and PD coverage, and PIP coverage for states where it is mandatory, but excluded UM and UIM coverage. The California Department of Insurance provided data (BI and PD basic limit premium and exposure data for calendar year 2012 for the entire state), as did the Texas Department of Insurance (ZIP Code level premium data for its top reporting groups for the policy year ending December 31, 2015). However, because the California and Texas regulator data covered a different time period than

[42] Mark Vallett, "Car insurance rates by state, 2016 edition," *insure.com* (last updated Mar. 2, 2016), *available at* http://www.insure.com/car-insurance/car-insurance-rates.html.

[43] The Affordability Index components are discussed in more detail in the July 2016 Notice, *supra* note 5, 81 Fed. Reg. 45,372.

the rest of the data, the tabulated results are premised only upon the premium data from 2014-2015.

Developing a single number index to represent a topic as complicated as personal auto insurance affordability is a challenging endeavor. Some of the challenges include: (1) ZIP Code level premium data for every ZIP Code in the United States are unavailable; (2) using ZIP Codes rather than census tracts[44] which generally better identify specific communities, but for which the premium data is unavailable; (3) ZIP Codes with low populations have a greater possibility of skewing results (which the Study addressed by omitting ZIP Codes with fewer than 100 residents); (4) ZIP Codes with low vehicle counts, which also have a greater possibility of skewing results (which the Study addressed by excluding ZIP Codes with fewer than 20 reported vehicles with insurance policies at the FR Limit); (5) atypical ZIP Codes, such as military bases, transportation facilities, and others (which the Study addressed through vehicle-to-population analysis); and (6) newly-created ZIP Codes, which could not be evaluated due to lack of detailed demographic data.[45]

VII. The Affordability of Personal Auto Insurance for Affected Persons: Findings and Observations

A. Findings and Summary of Analysis

Subject to the definitions and data limitations described above, 9,172 ZIP Codes were identified as AP ZIP Codes (i.e., majority LMI and/or majority-minority ZIP Codes), representing approximately 28 percent of the 32,452 ZIP Codes analyzed nationwide.

All states have AP ZIP Codes, and most states have one or more AP ZIP Codes with an Affordability Index above two percent. The cost of auto insurance exceeds the Affordability Index in 845 AP ZIP Codes, with over 18.6 million residents (over 9 percent of all AP ZIP Codes nationwide). Given varying state laws, insurance requirements, and insurance markets, these results are best interpreted only on an intrastate basis. A detailed summary of the Study's findings and non-confidential data, listing each AP ZIP Code and whether the Affordability Index is above or below two percent (or data was insufficient), is available at www.treasury.gov/initiatives/fio/reports-and-notices.

Figure 4 provides an overview of the Affordability Index results for each state. The table first shows the total number of ZIP Codes within each state. Then, for each state's AP ZIP Codes, it

[44] A "census tract" is an area, roughly equivalent to a neighborhood, which the Census Bureau uses for analyzing population data. *See* U.S. Census Bureau, *Geographic Terms and Concepts – Census Tract, available at* http://www.census.gov/geo/reference/gtc/gtc_ct.html.

[45] The Auto Insurance C/D Working Group of the National Association of Insurance Commissioners (NAIC) is considering asking state insurance regulators to collect and examine more "granular" data on auto insurance affordability and availability. *See, e.g.*, NAIC, *2016 Fall National Meeting: Auto Insurance (C/D) Working Group* (for December 10, 2016), *available at* http://naic.org/meetings1612/cmte_c_d_auto_insurance_wg_2016_fall_nm_materials.pdf?1480986907413.

lists the number of AP ZIP Codes within that state, the percentage of the state's ZIP Codes that are AP ZIP Codes, the total population of AP ZIP Codes within the state, and the percentage of the state's population within the AP ZIP Codes. Finally, the table shows the total number and percentage of the state's AP ZIP Codes with an Affordability Index above two percent, the state's population within those AP ZIP Codes, and that population's percentage of the total number of Affected Persons within the state.

Figure 4: AP ZIP Codes and Affordability Index Values Above Two Percent by State

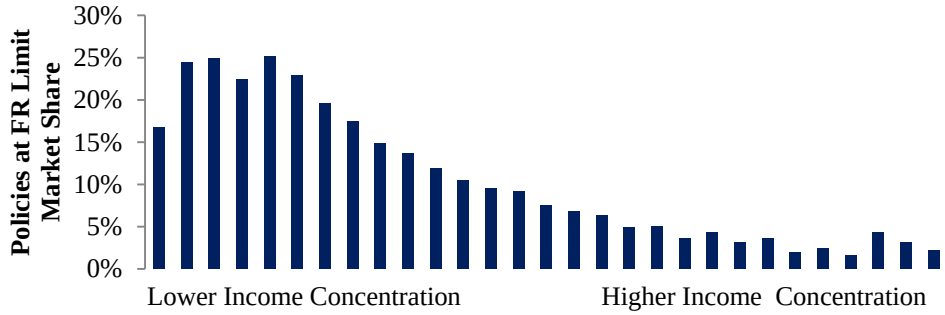
		AP ZIP Codes Generally				AP ZIP Codes – Affordability Index > 2%			
State	# All ZIP Codes	Total #	% State ZIP Codes	Total Population	% State Pop.	Total #	% State AP ZIP Codes	Total Population	% State Pop.
AK	238	160	67.2%	157,014	21.6%	0	0.0%	0	0.0%
AL	642	229	35.7%	1,478,597	30.7%	11	4.8%	52,273	3.5%
AR	591	170	28.8%	569,706	19.3%	7	4.1%	17,125	3.0%
AZ	405	166	41.0%	2,456,770	37.4%	13	7.8%	198,707	8.1%
CA	1,763	893	50.7%	24,915,144	65.5%	6	0.7%	98,417	0.4%
CO	525	123	23.4%	1,292,051	24.9%	0	0.0%	0	0.0%
CT	282	51	18.1%	1,049,902	29.2%	19	37.3%	434,518	41.4%
DC	53	12	22.6%	408,414	64.4%	3	25.0%	143,984	35.3%
DE	67	7	10.4%	146,590	16.0%	3	42.9%	82,333	56.2%
FL	983	323	32.9%	7,921,414	40.9%	95	29.4%	2,856,314	36.1%
GA	735	294	40.0%	4,518,269	45.6%	10	3.4%	188,235	4.2%
HI	94	81	86.2%	1,340,036	96.2%	0	0.0%	0	0.0%
IA	934	118	12.6%	393,351	12.8%	0	0.0%	0	0.0%
ID	278	54	19.4%	113,121	7.1%	1	1.9%	913	0.8%
IL	1,383	286	20.7%	4,226,070	32.8%	10	3.5%	78,455	1.9%
IN	775	142	18.3%	1,412,167	21.6%	4	2.8%	38,460	2.7%
KS	698	111	15.9%	536,093	18.6%	4	3.6%	32,417	6.0%
KY	768	231	30.1%	890,428	20.4%	99	42.9%	429,806	48.3%
LA	515	183	35.5%	1,539,121	33.5%	44	24.0%	604,509	39.3%
MA	537	94	17.5%	1,862,527	28.0%	0	0.0%	0	0.0%
MD	468	146	31.2%	2,701,458	45.9%	10	6.8%	334,269	12.4%
ME	432	55	12.7%	120,135	9.0%	0	0.0%	0	0.0%
MI	987	195	19.8%	2,369,870	24.0%	77	39.5%	1,706,039	72.0%
MN	885	137	15.5%	829,108	15.4%	5	3.6%	95,275	11.5%
MO	1,024	268	26.2%	1,512,925	25.1%	24	9.0%	349,448	23.1%
MS	423	203	48.0%	1,108,069	37.1%	4	2.0%	9,546	0.9%
MT	361	103	28.5%	93,051	9.2%	0	0.0%	0	0.0%
NC	808	277	34.3%	3,233,072	33.2%	0	0.0%	0	0.0%
ND	383	47	12.3%	60,908	8.7%	0	0.0%	0	0.0%
NE	581	90	15.5%	295,529	15.9%	3	3.3%	46,694	15.8%
NH	248	47	19.0%	261,362	19.8%	0	0.0%	0	0.0%
NJ	595	143	24.0%	3,438,632	38.7%	82	57.3%	2,309,120	67.2%
NM	368	228	62.0%	1,354,026	65.2%	5	2.2%	2,845	0.2%
NV	175	64	36.6%	1,395,364	50.5%	6	9.4%	223,268	16.0%
NY	1,794	403	22.5%	8,657,611	44.2%	115	28.5%	5,233,053	60.4%
OH	1,197	277	23.1%	2,650,639	22.9%	41	14.8%	503,008	19.0%
OK	648	166	25.6%	850,198	22.3%	4	2.4%	34,350	4.0%

State	# All ZIP Codes	AP ZIP Codes Generally: Total #	AP ZIP Codes Generally: % State ZIP Codes	AP ZIP Codes Generally: Total Population	AP ZIP Codes Generally: % State Pop.	AP ZIP Codes – Affordability Index > 2%: Total #	AP ZIP Codes – Affordability Index > 2%: % State AP ZIP Codes	AP ZIP Codes – Affordability Index > 2%: Total Population	AP ZIP Codes – Affordability Index > 2%: % State Pop.
OR	417	68	16.3%	537,993	13.8%	4	5.9%	76,739	14.3%
PA	1,798	354	19.7%	2,585,456	20.3%	35	9.9%	1,067,469	41.3%
RI	77	11	14.3%	274,741	26.1%	6	54.5%	171,402	62.4%
SC	424	192	45.3%	1,594,317	33.7%	7	3.6%	9,720	0.6%
SD	371	89	24.0%	105,274	12.6%	1	1.1%	1,349	1.3%
TN	629	172	27.3%	1,735,983	26.9%	12	7.0%	167,167	9.6%
TX	1,935	801	41.4%	14,512,014	55.6%	32	4.0%	873,405	6.0%
UT	288	58	20.1%	356,561	12.5%	3	5.2%	14,943	4.2%
VA	896	298	33.3%	2,728,933	33.3%	7	2.3%	7,908	0.3%
VT	255	45	17.6%	102,499	16.4%	0	0.0%	0	0.0%
WA	598	164	27.4%	1,488,096	21.6%	5	3.0%	29,378	2.0%
WI	774	117	15.1%	921,005	16.1%	4	3.4%	93,626	10.2%
WV	706	191	27.1%	247,597	13.4%	24	12.6%	18,725	7.6%
WY	178	35	19.7%	46,074	8.0%	0	0.0%	0	0.0%
Total	**32,989**	**9,172**	**27.8%**	**115,395,285**	**36.7%**	**845**	**9.2%**	**18,635,212**	**16.1%**

Sources: U.S. Census Bureau, American Community Survey, and premium data

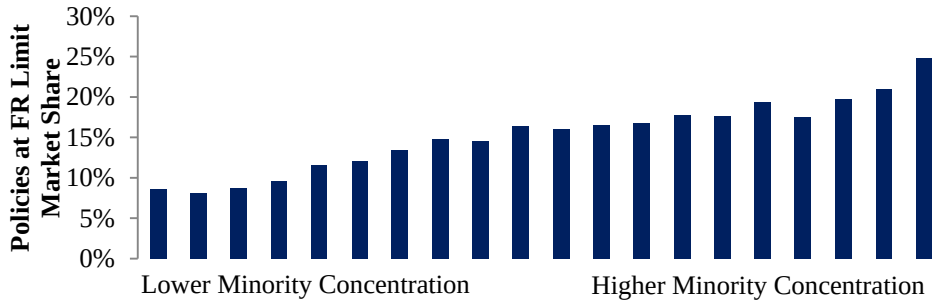
While the Affordability Index considers premium price for FR Limits, it appears that many, if not most, consumers purchased auto insurance policies with coverage limits above the mandated minimum requirements. The data reveals generally that the lower a family's median income, the more likely the family purchases auto insurance at FR Limits (Figure 5). A similar relationship appears between the purchase at FR Limits and majority-minority ZIP Codes (Figure 6).

Figure 5: Financial Responsibility Limits, Based on Median Family Income



Sources: U.S. Census Bureau, American Community Survey, and premium data

Figure 6: Financial Responsibility Limits, Based on Minority Concentration



Source: U.S. Census Bureau, American Community Survey, and premium data

States with a higher number of AP ZIP Codes with an Affordability Index above two percent also appeared to correlate with states having mandatory PIP coverage requirements and states having higher percentages of uninsured drivers. Although other factors are also relevant, the characteristics of the state-required insurance coverage (such as the presence or absence of PIP) and the number of uninsured drivers may both contribute to AP ZIP Codes having a higher ratio of insurance costs to income.

B. Illustrations

For illustration purposes, the following paragraphs describe results from the four states with the largest populations in each census region: California (West), Florida (South), Illinois (Midwest), and New York (Northeast).[46]

1. California

California has over 38 million residents, of whom approximately 66 percent (about 24.9 million residents) live in 893 AP ZIP Codes. Less than one percent of all AP ZIP Codes in the state (6 AP ZIP Codes) have an Affordability Index value above two percent. Fewer than one hundred thousand Californians reside in AP ZIP Codes with Affordability Index values greater than two percent.

California insurance requirements apply to all vehicles operated or parked on California roadways. The minimum liability insurance requirements are $15,000 for BI per person and $30,000 per occurrence, as well as $5,000 for PD coverage.[47]

The percentage of uninsured drivers in California was approximately 14.7 percent as of 2012.[48] California ranked 13 out of the 50 states plus the District of Columbia with respect to the percentage of uninsured drivers.[49]

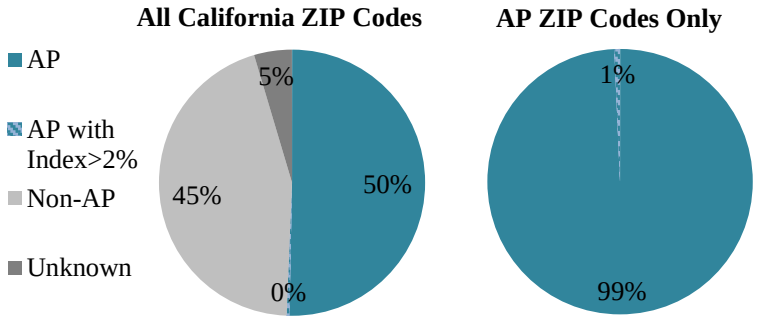
[46] In these examples, Florida replaced Texas, the largest population state in the South, because of data limitations.

[47] *See* California Insurance Code § 115801.1b. *See also* State of California Department of Motor Vehicles, *Financial Responsibility (Insurance) Requirements for Vehicle Registration (FFVR 18), available at* https://www.dmv.ca.gov/portal/dmv/detail/pubs/brochures/fast_facts/ffvr18.

On average, according to one survey, a 40-year old man with a clean driving record and good credit would pay $1,752 per year for car insurance in California, 32 percent above the national average.[50] Notably, as discussed above (in Section V), California has a low-cost auto insurance program designed to provide liability car insurance at affordable rates to income-eligible drivers.[51] In addition, among other related laws and regulations, California prohibits consideration of ZIP Codes in setting auto insurance rates.[52]

Figure 7 summarizes the analysis of California ZIP Codes: the first chart shows all California ZIP Codes (including the approximately 50 percent that are AP ZIP Codes); the second chart focuses on AP ZIP Codes alone to show that less than one percent have an Affordability Index greater than two percent. For the AP ZIP Codes for which sufficient premium data was available, the Affordability Index results in California range from a low of 0.12 percent to a high of 3.00 percent; the median result is 0.66 percent and the average is 0.58 percent.

Figure 7: California ZIP Code Analysis



Sources: U.S. Census Bureau, American Community Survey, and premium data

2. Florida

Florida has over 19 million residents, of whom nearly 41 percent (7.9 million residents) live in 323 AP ZIP Codes. Nearly 30 percent of all AP ZIP Codes in Florida (95 AP ZIP Codes) have an Affordability Index value above two percent. Over 2.8 million Floridians reside in AP ZIP Codes with Affordability Index values above two percent.

The state of Florida requires every vehicle with four or more wheels to maintain Florida auto insurance coverage. Florida requires at least $10,000 PIP and $10,000 PD coverage. Drivers

[48] Insurance Information Institute, *Uninsured Motorists*, *supra* note 28.

[49] *Id.*

[50] Vallett, *supra* note 42 (emphasizing that actual premiums would vary depending on individual driving factors).

[51] California Dep't of Insurance, *California's Low Cost Auto Insurance*, *supra* note 30.

[52] *See* 10 Cal. Code Regs. tit. 10, § 2632.5 (enumerating mandatory and optional rating factors which do not include ZIP codes except with respect to relative claims frequency which may be measured based on grouping zip codes or census tracts in the state).

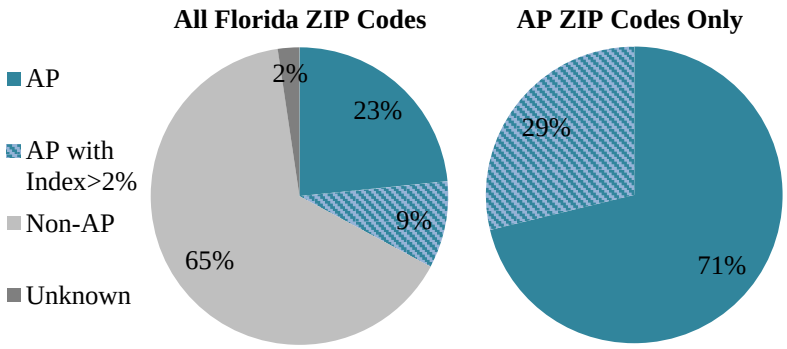
with previous accidents or violations may be required to also carry at least $10,000 BI per person and $20,000 BI per occurrence.[53]

The percentage of uninsured drivers in Florida was approximately 23.8 percent in 2012, the second highest uninsured driver rate in the nation (ranked 2 out of 50 states plus the District of Columbia with respect to the percentage of uninsured drivers).[54]

On average, according to one survey, a 40-year old man with a clean driving record and good credit would pay $1,654 per year for car insurance in Florida, 25 percent above the national average.[55]

Figure 8 summarizes the analysis of Florida ZIP Codes: the first chart shows all Florida ZIP Codes (including the approximately 32 percent that are AP ZIP Codes); the second chart focuses on AP ZIP Codes alone to show that approximately 29 percent have an Affordability Index greater than two percent. For the AP ZIP Codes for which sufficient premium data was available, the Affordability Index results in Florida range from a low of 0.42 percent to a high of 5.15 percent; the median result is 1.69 percent and the average is 1.81 percent.

Figure 8: Florida ZIP Code Analysis



Sources: U.S. Census Bureau, American Community Survey, and premium data

3. Illinois

Illinois has nearly 13 million residents, of whom approximately one-third (over 4.2 million residents) live in 286 AP ZIP Codes. Based on an analysis of approximately 25 percent of Illinois premium data, fewer than four percent of the state's total AP ZIP Codes (10 AP ZIP Codes) have an Affordability Index value above two percent. Based on the available data, fewer

[53] DMV Florida, *Florida Car Insurance Information*, *available at* http://www.dmvflorida.org/auto-insurance.shtml. *See also* Fla. Stat. §§ 324.022, 627.736.

[54] Insurance Information Institute, *Uninsured Motorists*, *supra* note 28 (citing Insurance Research Council). *See also* Steve Bousquet, "Car insurance rates skyrocket as Floridians drive more and crash more," *Miami Herald* (May 20, 2016), *available at* http://www.miamiherald.com/news/politics-government/state-politics/article78819742.html.

[55] Vallett, *supra* note 42 (emphasizing that actual premiums would vary depending on individual driving factors).

than 80,000 Illinois residents live in AP ZIP Codes with an Affordability Index value above two percent.

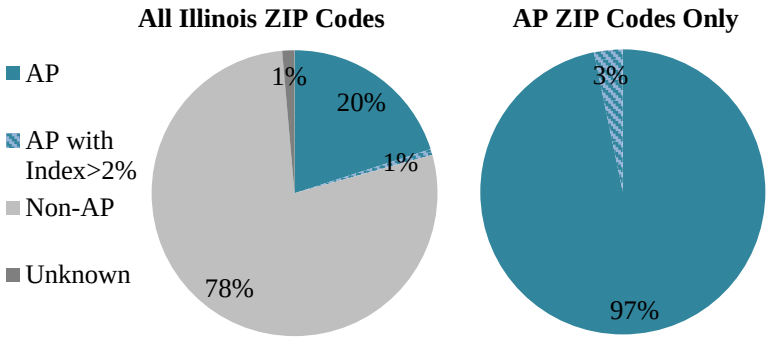
Illinois requires all motor vehicle owners to have insurance limits of at least $25,000 BI per person and $50,000 per occurrence, as well as $20,000 in PD coverage. UM coverage is also mandatory. [56]

The percentage of uninsured drivers in Illinois is approximately 13.3 percent as of 2012. Illinois ranked 20 out of 50 states and the District of Columbia with respect to the percentage of uninsured drivers.[57]

On average, according to one survey, a 40-year old man with a clean driving record and good credit would pay $1,035 per year for car insurance in Illinois, 22 percent below the national average.[58]

Figure 9 summarizes the analysis of Illinois ZIP Codes: the first chart shows all Illinois ZIP Codes (including the approximately 21 percent that are AP ZIP Codes); the second chart focuses on AP ZIP Codes alone to show that approximately 3 percent have an Affordability Index greater than two percent. For the AP ZIP Codes for which sufficient premium data was available, the Affordability Index results in Illinois range from a low of 0.38 percent to a high of 3.50 percent; the median result is 1.00 percent and the average is 1.11 percent.

Figure 9: Illinois ZIP Code Analysis



Sources: U.S. Census Bureau, American Community Survey, and premium data

4. New York

New York has nearly 20 million residents, of whom approximately 44 percent (over 8.6 million) live in 403 AP ZIP Codes. About 28 percent of the state's total AP ZIP Codes (115 AP ZIP

[56] *See* Illinois Dep't of Insurance, *Shopping for Automobile Insurance* (Jan. 2015) (citing 625 ILCS 5/7601; 625 ILCS 5/7-203), *available at* http://insurance.illinois.gov/autoinsurance/shopping_auto_ins.asp.

[57] Insurance Information Institute, *Uninsured Motorists*, *supra* note 28.

[58] Vallett, *supra* note 42 (emphasizing that actual premiums would vary depending on individual driving factors).

Codes), have an Affordability Index value above two percent. Approximately 5.2 million New York state residents live in AP ZIP Codes with an Affordability Index value above two percent.

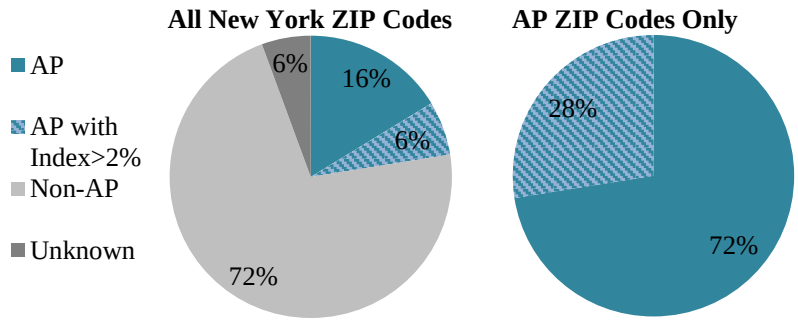
In order to satisfy state financial responsibility requirements and register a car, consumers must purchase PIP coverage, as well as limits of at least $25,000 BI per person, $50,000 for BI to two or more persons, and $100,000 for injuries resulting in the death of two or more persons. The minimum limit of coverage for PD liability protection in New York is $10,000 per accident. All auto insurance policies must provide UM coverage for bodily injury.[59]

The percentage of uninsured drivers in New York was approximately 5.3 percent as of 2012, the third-lowest uninsured driver rate in the country (ranked 49 out of the 50 states plus the District of Columbia with respect to the percentage of uninsured drivers).[60]

On average, according to one survey, a 40-year old man with a clean driving record and good credit would pay $1,050 per year for car insurance in New York, 21 percent below the national average.[61]

Figure 10 summarizes the analysis of New York ZIP Codes: the first chart shows all New York ZIP Codes (including the approximately 22 percent that are AP ZIP Codes); the second chart focuses on AP ZIP Codes alone to show that approximately 28 percent have an Affordability Index greater than two percent. For the AP ZIP Codes for which sufficient premium data was available, the Affordability Index results in New York range from a low of 0.46 percent to a high of 8.83 percent; the median result is 1.49 percent and the average is 1.95 percent.

Figure 10: New York ZIP Code Analysis



Sources: U.S. Census Bureau, American Community Survey, and premium data

[59] New York State Dep't of Financial Services, *Shopping for Auto Insurance: Minimum Auto Insurance Requirements*, *available at* http://www.dfs.ny.gov/consumer/auto/auto1202.htm.

[60] Insurance Information Institute, *Uninsured Motorists*, *supra* note 28.

[61] Vallett, *supra* note 42 (emphasizing that actual premiums would vary depending on individual driving factors).

VIII. Next Steps

Numerous related and complex factors can affect personal auto premium pricing and affordability. By providing a numeric index that will be readily comparable over time, this Study intends to provide an objective basis for measuring the affordability of personal auto insurance for Affected Persons. This first analysis provides an initial indication that approximately 18.6 million Americans live where auto insurance costs more than the Affordability Index ratio of two percent of median household income.

This Study analyzed thousands of population and premium data points nationwide to provide a national ZIP Code-level analysis of personal auto insurance affordability for Affected Persons using the Affordability Index. The Study thereby provides baseline measurements that policymakers, regulators, and consumers can use for future national, objective, quantifiable comparisons of changes in auto insurance affordability over time.

IX. Conclusion

FIO previously published notice of a proposed collection of data documents from the largest auto insurers nationwide.[62] FIO currently is reviewing comments in response to that notice, and anticipates that, in 2017, it will collect more data from larger auto insurers. FIO will not collect this data directly, but looks forward to working with insurers through statistical agents to perform the aggregation exercise. Data from these large insurers would permit a more comprehensive affordability analysis that would be more meaningful to stakeholders. Specifically, the additional data will be used to supplement and update this Study; refine the calculation of the Affordability Index; and allow for evaluation of trends and changes in personal auto insurance affordability for Affected Persons.

FIO will continue to monitor auto insurance affordability and report its findings. The Study is necessarily qualified in its analysis because this is a first-ever exercise. As more data is gathered, and more feedback is provided, results will be refined in future studies with the objective of providing improved insight.

[62] Collection Request, 81 Fed. Reg. 45,381, *supra* note 7.

Some States Take Aim at 'Discriminatory' Auto Insurance Pricing

August 28, 2015 | By Sarah Breitenbach

Motorists travel on the eastbound Hollywood Freeway in Los Angeles. California requires auto insurers to charge motorists mostly based on driving record, rather than on occupation, address or education level. (AP)

Be a safe driver. Don't buy a flashy sports car. Pay the insurance premium on time.

These are maxims many drivers follow to keep their auto insurance costs in check. But they may not be enough for many low-income drivers, who consumer advocates say are routinely priced out of insurance coverage because they are judged not just by their driving records, but by their credit scores, occupation, education level or other factors.

It's a discriminatory practice by insurance companies that disproportionately increases premium payments for low-income drivers, said J. Robert Hunter, a former Texas insurance commissioner and director of insurance for the Consumer Federation of America (CFA). And some states are trying to stop it.

Three states — California, Hawaii and Massachusetts — prohibit insurers from using credit scores to determine how much drivers should pay. And legislation was introduced this year in almost a dozen others to prevent insurance companies from using credit scores, occupation,

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education level or other standards in factoring how much they should charge for car insurance, according to the National Conference of State Legislatures.

In addition, California, Florida, Indiana, Maryland, Ohio and, most recently, Pennsylvania, have ruled that insurance companies cannot use "price optimization" — evaluating consumer data or competitors' prices to determine whether a customer is likely to shop around — to set prices for policies.

Doug Heller, a California-based consultant to the CFA, said low-income drivers often are less likely to shop around for competitive rates partly because of lower financial literacy. Insurance companies spot that, he said, and will raise premiums on those drivers because they think they'll stick with them rather than go to a competitor.

"The insurance companies charge the most to the people who can afford it the least. That's because auto insurance companies place such a large emphasis on their customers' occupation, level of education, credit history and other factors related to wealth, rather than driving safety," Heller said.

But advocates for insurers say they use legitimate tools to set prices based on their financial risk. Price optimization has actually lowered insurance rates and is likely to create long-term price stabilization, said Robert Hartwig, president and economist at the Insurance Information Institute, a nonprofit communications group supported by the insurance industry. And, he said, auto insurance rates are declining for all drivers, including moderate- and low-income motorists.

By studying market factors, including competitor prices, rate-setting judgments become less subjective, Hartwig said, which could ultimately lead insurance companies to offer more discounts for longevity with a company.

His organization also opposes attempts by states to eliminate credit scores and other factors from rate setting, saying those evaluation techniques have proven to be legitimate measures of the financial risks associated with a driver.

Determining Insurance Rates

All states, except New Hampshire, require drivers to buy at least a minimum amount of auto insurance in the event they cause property damage or injuries. For some low-income drivers facing high insurance rates, that presents a choice between driving illegally or not driving at all.

Insurance companies say they use a multitude of factors to determine how much each customer should pay. The factors can range from driving record and type of car to marital status, credit score, occupation, education and where the driver lives.

Consumer advocates say these rating tools hurt low-income drivers because they are more likely to receive negative marks for being single, having poor credit, having limited education, or living in a neighborhood where there is significant risk of vehicle vandalism or theft.

"It's like a utility in that everybody needs it," Heller said. "But it's not like a utility in that pricing is wildly different from one consumer to the next."

But Hartwig said the factors insurers use to set prices can be mathematically correlated to the risks associated with insuring a driver.

"Some insurers use education, not all." Hartwig said. "They do that because they have found that the level of education is associated with losses. There's no factor that any insurer uses that doesn't have to do with loss."

A recent *Consumer Reports* study of 2 billion insurance quotes at 700 companies found that insurers are less likely to assess motorists based on their driving habits, and more likely to do so based on their socioeconomic status.

The study found that in most states in which credit scores can be used to determine premiums, drivers who had been convicted of driving under the influence, but had excellent credit scores, still paid lower premiums than drivers who had good driving records, but poor credit scores.

"Not only are there pricing issues, but there are some fundamental fairness issues in the way that pricing results for good drivers," said Norma Garcia, a senior attorney with Consumers Union, the policy and action division of *Consumer Reports*. "If you've had a drunk-driving conviction, chances are you're a worse driver than someone out there who has a [low] credit score."

Heller said that to improve fairness in rate setting, states should eliminate the socioeconomic factors and emphasize driver safety, strengthen oversight of prices charged by insurance companies and create low-cost insurance programs for qualifying drivers.

But setting prices solely based on a driver's record can pose problems because records of crashes or moving violations are often missing from state databases, Hartwig said.

Declining Prices?

While consumer advocates contend that the cost of auto insurance is out of reach for many poor people, insurance industry studies show that the cost of insurance is actually coming down, even for consumers in the lowest income brackets.

Hartwig attributes the decline in pricing to increased competition among insurance companies. He said policy options are available to most drivers regardless of risk associated with a vehicle or driving history, and coverage options are "generally affordable."

"A big part of the reason is it's a very competitive market and never before have there been more insurers competing for your business," Hartwig said. "And never before have you been able to generate so many quotes so quickly from so many insurers."

A new study from the Insurance Research Council points to data indicating auto insurance is becoming more affordable for drivers at all income levels, decreasing from 2 percent to less than 1.5 percent of an average consumer's earnings since the 1990s. However, people with the lowest incomes are still spending more than 3.5 percent of their income on auto insurance. That number is down from more than 4 percent in the 1990s.

For the country's highest earners, the share of income spent on insurance decreased from 2 percent to less than 1 percent in that time.

"You can say on average premiums have come down," Heller said of studies that point to lower prices. "But that doesn't mean affordability has increased. They've come down on average, but industry practices have come down hard on poor people."

The California Model

While states have not issued many strict rate-setting reforms, California has the oldest and most comprehensive rating structure, advocates say.

Adopted in 1988 as a voter referendum, California's Proposition 103 requires that insurance providers in the state prioritize three main factors — years of experience, driving record and number of miles driven each year — before they consider 16 other optional factors such as marital status, age, frequency of insurance claims or address. The optional factors cannot have more influence than the three mandatory elements in determining a driver's rate quote.

"[In California] you need to provide the documentation and convince state experts that you're not ripping your customers off," Heller said. "Where, in most states, we're not going to take a second look."

California has also established a low-cost insurance program for low-income drivers.

A 2013 report by the CFA found that the California reforms had saved state drivers more than $100 billion over 25 years and that they were spending .3 percent less on insurance in 2010 than they had in 1989, while the country was spending 43.3 percent more.

"It's interesting because a lot of things the auto insurance industry are claiming are impossible or unrealistic are already happening," Garcia said. "They're doing just fine in California."

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Appendix Item 15

As Data About Drivers Proliferates, Auto Insurers Look to Adjust Rates

Appendix Item 16

Understanding Insurance Antidiscrimination Laws

Appendix Item 17

Three Tests for Measuring Unjustified Disparate Impacts in Organ Transplantation: The Problem of "Included Variable" Bias

Appendix Item 18

Market Power and Inequality: A Competitive Conduct Standard for Assessing When Disparate Impacts Are Unjustified