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REDUCING AUTO INSURANCE RATES: WHAT WILL WORK IN LOUISIANA

2015

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INTRODUCTION

Automobile insurance is a fact of life for responsible vehicle owners in Louisiana. As is true in all states except New Hampshire, the state requires auto insurance as a condition of driving a car. This monthly expenditure helps ensure that every car owner has some protection against the risk of liability in the event of a traffic wreck or other forms of damage to their vehicle. Understanding the cost of auto insurance is a challenge for most consumers. How are rates decided? Why do rates vary from state to state? And most of all, why do Louisiana policyholders pay so much?

We know, for example, that one problem driving extremely high Louisiana auto insurance rates is a lack of market competition. Another is Louisiana's system of rate regulation. While some

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factors in the rate-setting process may not be particularly controllable, there are other variables that are controllable and can be changed in order to reduce auto rates in Louisiana.

This paper focuses on what has been proven to reduce automobile insurance rates, with particular attention paid to California's model of auto insurance practices. California needs to be included in this discussion for one very important reason – California has had a long-term reduction in the average cost of auto rates since 1989. Some of the main factors used to set rates in California are not inherent to that state. They are universal and could be effective in Louisiana.

Consumers would benefit by having a better understanding of their auto rates and the policy changes needed to reduce those rates. Data-driven solutions for Louisiana are crucial to ensure much-needed relief to policyholders. Continuing to advocate for supposed solutions on mere perceptions rather than proven data will continue to produce failed results.

OVERVIEW

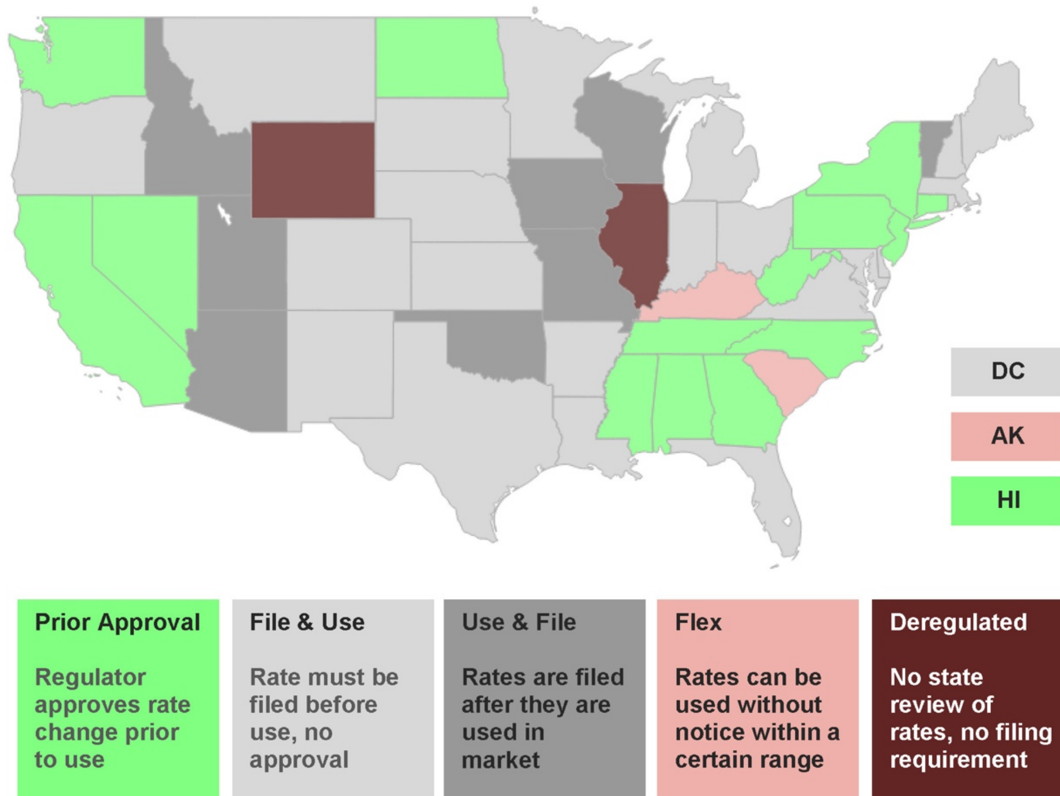
For decades, Louisiana citizens have carried the burden of sky-high automobile insurance rates. Some steps have been taken to improve driver safety and education, but so far there has not been true, effective rate reduction. In 2013, the Consumer Federation of America (CFA), under the direction of its Director of Insurance, J. Robert Hunter (who consulted on this study), issued a major report entitled “What Works: A Review of Auto Insurance Rate Regulation in America and How Best Practices Save Billions of Dollars.”

In the “What Works” executive summary, CFA states:

> The research conducted for this paper, building on prior research, clearly indicates that consumers across the country would be better served with a more robust, prior approval system of auto insurance regulation than the system currently in place in most states. Policymakers and regulators should consider these findings as they look for ways to better protect consumers from marketplace abuses and from unnecessary increases in insurance premiums.

Auto insurance is regulated at the state level; therefore, laws vary from state to state and no two insurance regulatory systems are exactly the same. However, generally speaking, in the prior approval system of regulation, insurers must apply for rate changes before the rates can be put into effect. Louisiana, on the other hand, is a file-and-use state. Under this type of regulatory system, insurers must file their rates with the state but they can start charging the rates without prior approval. The insurance commissioner can disapprove a rate later but usually cannot require refunds if a rate is found to be excessive.

Of all the different types of regulatory systems, the prior approval system is the most effective at keeping rates lower. Markets that are less regulated tend to have the highest increases in costs. Mildly or strongly regulated states tend to have very or somewhat competitive markets for auto insurance. And deregulated and flexible rating states, like Louisiana, have the least competitive markets.



Regulatory System by State (2013)
Consumer Federation of America

Compare the types of insurance regulatory systems according to the percentage of average increase in auto insurance expenditures for the years 1989-2010:

Prior approval states (strongest)	Average expenditures increased 48%
File-and-use states	Average expenditures increased 60.4%
Use-and-file states	Average expenditures increased 61.7%
Flex band states	Average expenditures increased 66.8%
Deregulated states (weakest)	Average expenditures increased 70.1%

During 1989 to 2010, Louisiana citizens had the burden of the second-highest percent change for insurance premiums in the nation, +96.1%, which was twice the national average of 43.3%. During that same time period in California, where in 1988 voters approved Proposition 103 (a prior approval regulatory system), rates fell by 0.3%.

Yet other commonly-known factors that affect auto insurance rates suggest the opposite should be true. For example:

MILES DRIVEN
According to the National Association of Insurance Commissioners (NAIC), in 2011 California drivers drove 1.86 million miles per mile of road compared to only 0.75 million miles per mile of road in Louisiana.

TRAFFIC DENSITY
Traffic density is a contributing factor to auto wrecks, so it seems likely that Californians would pay significantly more for auto insurance than Louisiana drivers would. However, the average auto insurance rate in Louisiana is much higher than the traffic density would predict. California's rate is far below what the traffic density would predict.

RURAL/URBAN
Rural areas typically have lower auto insurance rates than highly populated metropolitan areas. Demographics show that 75% of Louisiana's citizens live in metro areas, while 99% of Californians live in metro areas.

PERSONAL INCOME
Still another reason one would expect Louisiana would have lower auto insurance rates than California is that disposable income is less in Louisiana ($33,000) than in California ($37,000).

VEHICLE THEFT
California has more car thefts (4.4 per 1,000 vehicles) than Louisiana (2.5 per 1,000 vehicles).

SPEED LIMIT
The maximum speed limit in both states is the same -- 70 mph -- except for about 200 miles of Interstate 49 in Louisiana where the speed limit is 75 mph (Opelousas to Shreveport).

INSURANCE MARKET
Also, both states have small residual market populations. In Louisiana, the state's residual property insurance market is the Louisiana Citizens Insurance Corp. The Insurance Information Institute explained residual markets on their website in 2015:

> Applicants who are considered “high risk” may have difficulty obtaining insurance through the regular “voluntary” market channels. (The term “high risk” applies to individuals or individual businesses with a poor loss record due to inadequate safety measures; certain kinds of businesses or professions where the nature of the work is hazardous or where the risk of lawsuits is high; and specific locations where the risk of theft, vandalism or severe storm damage is substantial.) To make basic coverage more readily available to everyone who wants or needs insurance, special insurance plans, known as residual, shared or involuntary markets, have been set up by state regulators working with the insurance industry.
>
> Residual market programs are rarely self-sufficient. Where the rates charged to high-risk policyholders are too low to support the program's operation, insurers are generally assessed to make up the difference. These additional costs are typically passed on to all insurance consumers.

UNINSURED MOTORISTS
Louisiana has only a fewer uninsured motorists (12.9%) as compared to the national estimated percentage (13.8%), and California is worse on that score (15.0%).

LOUISIANA HAS WEAK COMPETITION; CALIFORNIA HAS STRONG COMPETITION

The more concentrated an insurance market is, the less competitive it is. The U.S. Department of Justice uses the Herfindahl-Hirshman Index (HHI) to measure market concentration:

> The term "HHI" means the Herfindahl–Hirschman Index, a commonly accepted measure of market concentration. The HHI is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of 30, 30, 20, and 20 percent, the HHI is 2,600 ($30^2 + 30^2 + 20^2 + 20^2 = 2,600$).
>
> The HHI takes into account the relative size distribution of the firms in a market. It approaches zero when a market is occupied by a large number of firms of relatively equal size and reaches its maximum of 10,000 points when a market is controlled by a single firm. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.
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> The agencies generally consider markets in which the HHI is between 1,500 and 2,500 points to be moderately concentrated, and consider markets in which the HHI is in excess of 2,500 points to be highly concentrated.

In 2011, Louisiana had the third highest HHI of any state at 1,528; thus, Louisiana was one of the nation's least competitive states. Only Alaska and DC were less competitive. By contrast, California was the fifth most competitive state, with an HHI at 753. It was surpassed only by Maine, Vermont, Connecticut and New Hampshire.

WHAT CALIFORNIA HAS THAT LOUISIANA DOES NOT

The California law – Proposition 103 – approved by the people of California in 1988, promotes more insurance market competition than any other state and is backed up by the toughest prior approval rate regulatory system in the nation. California's results show that the often-stated idea that competition and regulation do not work together is not true. Excellent competition and excellent regulation seek the same goal: the lowest possible price for consumers consistent with fair returns for insurers. In these respects, Louisiana's system achieves neither of these important goals.

If every state in the nation were to implement and enforce a regulatory agenda as demonstrably pro-consumer as that in California, research indicates that Americans could save more than $350 billion over the next decade, even as insurance companies realize reasonable profits. In order to achieve the most effective form of a prior approval system, states should develop an intervener system that provides resources for citizens and organizational watchdogs who will help hold

insurance rates down to an affordable level. Also, states should forbid the egregious non-driving related premium factors that lead to higher rates for low- to moderate-income drivers.

California has a more competitive system of auto insurance than exists in Louisiana

There are a series of pro-competitive steps that have worked to make California one of the most competitive in the nation. Only four New England states have a more competitive HHI than California (Maine, Vermont, Connecticut and New Hampshire. Unlike the historic reasons for competition in the New England states (mainly having to do with the development of several local and regional insurers early in the history of insurance in America) California's excellent competition figures derive from these key components of Proposition 103:

1. **Antitrust Rules Apply to Insurance.**
   California is the only state that fully applies its antitrust laws to insurance companies.

2. **Unfair Competition Laws Apply to Insurance.**
   Californians can sue insurance companies that use tactics of unfair competition in the marketplace.

3. **Prop. 103 Encourages Competition Among Agents.**
   Proposition 103 eliminated prior prohibitions against agents rebating part of their commission to consumers. Under California's old "anti-rebate law," which is similar to laws still in effect in several states, agents and brokers were prohibited from reducing their own commissions in order to offer consumers a discounted premium. Agents who violated the law were subject to penalties and the loss of their license. Consumers paid higher prices because of the anti-rebate laws. Such laws reward inefficient agents, because they are shielded from competition by agents who are efficient and willing to cut prices in an attempt to gain market share.

4. **Increased Consumer Information and Price Comparisons.**
   Proposition 103 mandates public access to pricing information, which has vastly improved consumer information in the marketplace.

California has a stronger insurance regulatory system than Louisiana's file-and-use system

Prior to Proposition 103, California had no meaningful regulation of insurance rates. Rates were not required to be filed with the commissioner, much less be reviewed or justified. Through the antitrust exemption, insurers could collude to set rates jointly, but the commissioner could not regulate (or even know about) insurers' prices. This was a prescription for the pricing abuse and inefficiency that occurred, causing consumer outrage and setting the stage for a vote by the people to achieve reform.

As a result of no regulation, insurers could (and did) pass through all costs to consumers, no matter how unjustified. They explained that their rates were "mirrors of society" and they passed through nearly every penny, plus a percentage profit factor. This cost-plus-percentage-of-cost approach gave insurers a perverse incentive. The larger the costs, the bigger the profit that the percentage add-on would produce.

Under California's prior approval system instituted by Proposition 103, all auto insurance rates must now conform to a systematic set of guidelines and methodologies for justifying the rates. The rules do not create a one-size-fits-all result, but rather, the regulatory structure is transparent and applies to all companies. These rules set specific numerical or methodological constraints on the ratemaking process to ensure that rates are not excessive or inadequate.

Perhaps most importantly, Proposition 103 authorizes the insurance commissioner to say "no" to unjustifiable rate increases. It is important to note that the rules of Proposition 103 require insurance companies to maintain fair rates at all times. The insurance commissioner, under these rules, can and should take immediate action to order rate decreases when justified.

These “prior approval” regulations include the following important provisions:

1. **Limit on Rate of Return**
   Under Proposition 103, insurance rates must be based on data that project a rate of return that is based upon an average of returns on various government bonds plus an additional 6%. As of November 2013, the maximum rate of return that an insurer could build into its rate is 7.08%.

2. **Efficiency Standard**
   Expense efficiency standards are determined by line and distribution method based on an average of the last three years of industry-wide expense data expressed as a ratio of allowable underwriting expenses to earned premiums.

   The standard "represents the fixed and variable cost for a reasonably efficient insurer to provide insurance and to render good service to its customers." For example, the current efficiency standard for auto liability insurance sold by captive agents (such as State Farm and Allstate) is approximately 35%, which means that for every $100 of premium charged to policyholders, an amount of about $35 goes to insurance companies to cover the cost of commissions to agents, other acquisition costs like advertising, general expenses including rent and salaries, premium taxes and fees paid to the State of California and for the expenses of adjusting and settling claims other than defense and cost containment expenses.

   For so-called "direct writers" (such as GEICO or 21st Century) the efficiency standard is approximately 25%. This allowance, however, is further limited to ensure that companies do not pass through excessive executive salaries, lobbying costs, fines and bad faith lawsuit damages and institutional advertising expenses.

3. **Company Specific Trend**
   Loss and premium trends are to be based on an insurer's company-specific data.

Although the formulae derived for the ratemaking process are complicated, the California structure meets the A.M. Best practices standard because they are systematic, consistent and transparent. Further, the regulations have been developed in a public manner in which, as is further discussed below, the Department of Insurance makes funds available to encourage and

facilitate the involvement of consumer groups and other members of the public in the rulemaking process.

Proposition 103 introduced rules aimed at ensuring marketplace equity and encouraging safe driving:

1. **Emphasize Driving Safety Record**
   Proposition 103 diminishes (though does not prohibit) the use of territorial rating, marital status and other classifications, requiring instead that auto insurance premiums be based primarily upon a motorist's driving safety record, the number of miles he or she drives each year, and the consumer's years of driving experience, weighting those factors in that order. These three factors are mandatory factors that all insurers must use. These mandatory factors also must have the greatest weight and impact on the prices individual consumers pay. The regulations specify how the weight is to be calculated.

   By substituting the driver's own record as the primary determinant of his or her auto premiums, Proposition 103 gives drivers a strong incentive to keep their rates low by driving safely, thus restoring logic and fairness to the system, particularly in today's auto insurance market where factors that have nothing to do with driving – like credit score and price optimization models – often have the greatest weight and lessen the important insurance incentives for safer driving.

2. **20% Good Driver Discount**
   Proposition 103 further emphasized driving safety over other factors by requiring that insurers provide an automatic 20% discount for good driving to all qualifying consumers – individuals with a virtually clean driving record (one moving violation is permitted) for the preceding three years.

3. **Prohibit the Consideration of a Driver's Prior Purchase of Auto Insurance**
   In most states, insurance companies charge significant surcharges to policyholders who did not buy insurance in the past (or for some period in the past), whether they were driving uninsured or not driving at all during the period in which they did not purchase insurance. This creates a substantial barrier to market entry for low-income drivers who are the customers most likely to face surcharges. The practice is prohibited in California, which makes the market more accessible to low-income drivers and others who had been out of the marketplace.

4. **Prohibit the Use of Credit History**
   While credit scores have become a major source of pricing differentials in most states, insurance companies are not allowed to use drivers' credit history when determining eligibility or pricing auto insurance in California.

5. **Prohibit Use of Educational or Occupational Status in Underwriting or Pricing Decisions**
   While a common practice by insurers in many states, California does not allow prices for drivers to vary between, for example, an executive with a master's degree and a blue-collar worker with a high school diploma, all other factors being equal.

6. **Eliminate Harmful Competition, such as Selection Competition (Redlining)**
   Proposition 103 specifies that any good driver has the right to purchase a Good Driver auto insurance policy from the insurer of his or her choice. By providing all good drivers with this statutory right to a policy, the measure effectively eliminates redlining and allows for classifications that are fairer in that insurers cannot choose to deny coverage to good drivers, based on a non-driving related classification. This is a very important right that people in California want to keep, thus leading to safer driving.

7. **Arbitrary Cancellations**
   A common experience of California policyholders before Proposition 103 was enacted was the abrupt cancellation or non-renewal of an automobile insurance policy immediately after the first claim was filed. Proposition 103 prohibits cancellation or non-renewal except under one of the following conditions: (1) non-payment of premium; (2) fraud or material misrepresentation affecting the policy or the insured party; (3) a substantial increase in the hazard insured against.

8. **Best Price Offer**
   Prior to Proposition 103 in California and to this day in many states, insurers surreptitiously shift certain customers to higher priced subsidiaries regardless of their driving safety record. Under Proposition 103 any insurer selling private passenger automobile insurance policies must provide consumers with a cost estimate of its lowest priced personal auto policy at the insured limits the consumer requests, for which the consumer is eligible, including the best price available from among all of the company's affiliated insurers.

Prop. 103 requires disclosure of information

A chief tenet of regulatory excellence is full disclosure of information. Proposition 103 meets this standard in several important ways.

1. **Public Notice of all Rate and Related Filings**
   Under Proposition 103, every time an auto insurance company wants to alter its rates, change the forms it uses or change its system of classifying drivers, the Department of Insurance is required to inform the public of the proposed change 60 days prior to any change can be cleared to take effect.

2. **Public Inspection of all Documents**
   Proposition 103 provides the clearest and most comprehensive assertion of the public's right to review all insurance documents filed with the state. The unequivocal law, which resists insurers' often-sought trade secret protection of its material, speaks for itself: “All information provided to the commissioner pursuant to this article shall be available for public inspection …”

3. **Full Disclosure of Rates in Effect**
   Proposition 103 requires the California insurance commissioner to provide consumers with a current rate comparison survey for all personal lines of insurance. Later enhancements to California's insurance law added rules requiring all insurers to maintain either a toll-free telephone or an Internet website where consumers can obtain a cost

estimate or be referred to an insurance agent or broker who will provide the estimate. Insurer information regarding the toll-free telephone number or website must be provided to the California Department of Insurance, which subsequently makes this information available on the department's own website and through its consumer toll-free telephone line (800) 927-4357.

Prop. 103 requires public participation and accountability

It is essential that consumers' interests be represented in the complex realm of insurance regulation and that government regulators be accountable to the public. "Capture" of regulators by regulated entities – the fox guarding the henhouse – is common, and, whether only a perception or a reality, it undermines the public trust. The opportunity for individual citizens to enforce reforms and challenge insurer actions, and the democratic accountability of those administering insurance reform, are threshold standards for regulatory excellence.

Proposition 103 established a series of measures designed to foster participation and accountability; by specifying such measures, the voters could be assured that the specific purposes and goals of Proposition 103 would be implemented in the most pro-consumer fashion.

1. **Funded Intervention by Non-Profit Consumer Advocacy Groups**
   Proposition 103 provides Californians with the most effective and inclusive public participation program in the nation. Recognizing the cost and complexity of regulatory participation, Proposition 103 encouraged non-profit consumer advocacy groups to intervene in the expanded regulatory process to protect the interests of the public. Citizen groups that make a "substantial contribution" to a rate hearing or other matter before the Department of Insurance or to an insurance matter which goes before a court are entitled to receive reasonable advocacy fees and reimbursement of expenses for such costs as expert witnesses and travel to hearings.

   Assessments collected from insurers are used to fund this program, except that when the matter involves a single company or insurer group, as in a rate hearing, the statute requires the company itself to reimburse the intervening consumer or citizen group. The cost of this paid by the insurer becomes an allowable expense built into future prices consumers pay. The savings generated by interventions have been much more than the cost, so consumers have reaped lower prices due to consumer intervention. The reimbursement system enables citizen groups to monitor the Department of Insurance on a stable and professional basis. Numerous citizen groups have used this system to monitor the implementation of Proposition 103.

   According to its website, the consumer advocacy group Consumer Watchdog has conducted more than 60 rate challenges over the past decade, which saved Californians approximately $2.3 billion on auto, home, earthquake and medical malpractice insurance rates. The group reports having collected approximately $5.7 million in intervener reimbursements for the lawyers, actuaries, economists, geologists and other experts that represented the group in these challenges over the years. The estimated cost of these efforts is twenty-five cents in intervener reimbursements for every $100 saved by consumers. Other consumer groups such as Consumers Union, Consumer Federation of

California and Public Advocates also have intervened in various proceedings under this provision of California law.

2. **Private Right of Action**
   It is a basic tenet of due process that each party to a proceeding has the right to be fully represented. Such participation is critical in the context of insurance regulation, since insurance premiums represent more than 10% of the average American family's annual disposable income, is a necessity for consumers and businesses, and, in the case of auto insurance, is required by law.

   Proposition 103 provides individual consumers with the right to seek legal redress either from the Department of Insurance or the courts if insurance companies fail to comply with their responsibilities to the policyholder. If the Department of Insurance fails to respond effectively to a consumer's complaint, consumers will not be "locked out" of the courts with no remedy. Consumers may also challenge the actions (or inactions) of the commissioner in the courts. This broad legal right of citizens to enforce the law in courts and through administrative procedures is a crucial element of strong consumer protection regulation.

3. **Consumer Representation**
   Insurance consumers were to be given the opportunity to establish and join a democratically created and controlled advocacy organization. A staff of advocates, funded by voluntary contributions and grants, would represent consumers on insurance matters before the insurance commissioner, the courts, and the state legislature. In order to enable the advocacy organization to obtain the support of consumers, Proposition 103 required insurers to enclose special notices with their premium bills, informing their customers of the opportunity to participate in the program. Insurers would be reimbursed for any additional expenses caused by insertion of the notice. However, the California Supreme Court excised this provision of Proposition 103 on a technical matter.

Prop. 103 promotes safe products and fair practices

Good regulation encourages more than just fair pricing. It promotes high quality products and practices and provides for restitution when a consumer is harmed.

1. **Rate Rollbacks**
   Proposition 103 required insurance companies to refund past overcharges, up to 20% of the then current rate, which, after hearings, led to a rebate of $1.43 billion to California insurance customers.

2. **Prior Approval of Forms and Classification Plans**
   In addition to being required to justify rates, auto insurers in California must submit for approval the pricing system they use for individual consumers and the official forms they use that explain the terms of policies. This adds a layer of protection against attempts by insurers to sell insufficient products, deploy illegal pricing schemes or change the terms of a policy during the period of coverage.

3. **Refunds for Overcharges**
   California's regulatory standard that no excessive rate *shall remain in effect* establishes a basis on which to require insurance companies to refund consumers if they illegally overcharged policyholders.

Prop. 103 encourages loss prevention

Good insurance pricing systems like California's encourage loss prevention and claims cost reductions by incentivizing risk-reducing behaviors. Systems that punish people for who they are rather than how they drive do not meet this standard. Such systems have no incentive for customers to decrease risky behaviors, and thereby reduce system-wide loss costs.

1. **Best Prices for Good Drivers**
   California's system encourages people to drive safely by basing premiums primarily on driving safety records and giving consumers a 20% discount for maintaining safe driving habits.

2. **Prohibits Use of Certain Non-Driving Related Factors**
   Using credit scoring to price auto insurance tells drivers that they should focus more on maintaining the right balance on their revolving credit lines but not on complying with speed limit laws. By prohibiting factors such as credit score and prior insurance purchases, California's rules signal to consumers that safe driving is the best path to lower rates.

3. **Incentivizing Mileage Reduction**
   California's unique Pay-as-You-Drive regulations encourage insurance companies to provide drivers with the ability to lower their premium by reducing the number of miles they drive each year. By incentivizing mileage reduction, the California rules provide customers another reason to reduce risk and lower overall claims costs.

4. **Rewards Good Driving by Giving Such Drivers Market Power**
   Not only does a good driver get a 20% discount, a good driver has the right to purchase insurance from the insurer of the driver's choice, a powerful benefit that the people of California recognize can be lost by losing good driving status. Thus, the insurer must sell the insurance the consumer must, by state law, purchase, balancing the market power of the supply and demand parts of the market.

The laws and rules governing California's auto insurance market can be seen as a model for reform in any market. These elements could be incorporated into any state's laws and lead to the kind of marketplace transformation that has provided benefits to California motorists and communities for 25 years.

What is it about Proposition 103 that has led to vigorous competition, low rates and a very healthy return for insurers? First, unlike the anti-competitive version of deregulation put into place in many states and frequently advocated for national implementation by insurers, Proposition 103 contains provisions that spur full competition and penalize collusive behavior by insurers. For instance, it imposes antitrust law on the industry, allows banks to sell insurance, allows group sales, and allows agent competition through rebating.

However, Proposition 103 did not rely only on competition to right the insurance marketplace in California. It incorporated full regulatory oversight to assure that competition is effective and sufficient to do the job. California regulations are the best in the nation for consumers. They are fully transparent to insurers and the public. They disallow excessive costs such as undue expenses, fines, punitive damages in bad-faith lawsuits, excessive executive salary costs, lobbying expenditures and brand-enhancing advertising such as corporate sponsorships.

Proposition 103 also built strong incentives for safety into the initiative. Drivers with clean records gain a 20% rate discount. They also receive the right to buy insurance from the company of their choice through Proposition 103's Good Driver Protections. These requirements that emphasize safety are very similar to the Bonus-Malus Plan in the European Union, which has been shown to improve driving behavior.

Further, Proposition 103 was a warning to insurers that they could no longer pass on unreasonable expenses to ratepayers to increase profits. Before Proposition 103, insurers had every incentive to allow costs to rise according to an industry-wide "trend," particularly when the trend was agreed to by rating bureaus. This cost-plus-percentage-of-cost ratemaking approach was achievable because full competition was not present. Many insurers used the same trends and tried to achieve them. Insurers did not fight fraud seriously; neither vehicle safety nor driver safety were of paramount concern.

A SYSTEM LIKE CALIFORNIA'S PROPOSITION 103 WOULD WORK IN LOUISIANA

The data are clear that a focus on insurance regulatory changes creates the path to lower rates, more options and a fairer marketplace. The arguments against strong, consumer-oriented regulation do not reflect what actually happens when insurance companies are required to justify their rates, compete for customers and sell insurance on a non-discriminatory basis.

Rather than defer to industry partisans, Louisiana policymakers should use California's 27 years of experience to their advantage by implementing comprehensive regulatory changes modeled after Proposition 103. In particular, Louisiana should adopt proposals that would:

1. Set key ratemaking standards, such as reasonable rates of return, restrictions on the amount of overhead costs that can be passed on to consumers and guidelines to project future rate increases;

2. Establish a standardized and transparent rate-making model that the regulator will use to evaluate the rate requests of insurers;

3. Prevent excessive or unjustified insurer expenses from being passed on to consumers, such as fines, penalties for bad faith behavior and excessive executive salaries;

4. Require that a driving record is the most important factor in setting rates for drivers, followed by miles driven and years of experience;

5. Eliminate unfair and discriminatory rating factors such as credit score, occupation, education, price optimization and prior purchase of insurance coverage in order to increase market access for low- and moderate-income drivers;

6. Balance supply and demand by requiring all insurers who write in Louisiana to offer coverage to good drivers who are compelled by the state to purchase it;

7. Repeal the state antitrust exemption;

8. Involve consumers actively in the rate-setting process by funding consumer participation.

CONCLUSION

Using California's regulatory system as a model, we have reviewed several suggestions for insurance reform in Louisiana that would offer an immediate, meaningful result for consumers. The California system is not based on cultural or other factors unique to that state, but on objective methods that could be applied in other areas.

California's experience with a strong regulatory system makes this case:

- Over $100 billion in savings for motorists as a result of lower auto insurance rates driven by the strong regulatory oversight and more competitive market fostered by the 1988 insurance reform measure known as Proposition 103;
- Between 1989 and 2002, insurance companies operating in California issued more than $1.43 billion in premium refunds to more than seven million policyholders under Proposition 103's rollback mandate;
- State rules prohibit many of the discriminatory elements that plague low-income and minority consumers in other states, especially prohibitions on use of credit scoring and prior insurance coverage as rating factors;
- State rules temper the impact on consumers of other non-driving related classifications, such as territory and occupation by requiring that the most weight in the pricing for a consumer be given to driving record;
- The intervener system, allowing systematically-funded public challenges to rate hikes, improves both industry and government accountability; and
- The state has innovated in the marketplace with the implementation of an unsubsidized alternative policy for low-income consumers.

Louisiana has the opportunity to provide similar benefits for its own citizens. If reducing auto insurance rates for Louisiana consumers truly is a goal, then there are ways to achieve that goal, starting with a stronger insurance regulatory system that would bring meaningful, valuable, automobile rate reductions.