**Consumer Federation of America**

March 26, 2004

The Honorable Michael Oxley
Chairman, Committee on Financial Services
United States House of Representatives
Washington, DC 20515

*Re: Opposition to Insurance Road Map*

Dear Mr. Chairman:

**The over 80 undersigned consumer, low income, housing, minority and labor organizations from throughout the country strongly urge you to reconsider your decision to offer legislation that will override state regulation of insurance rates.** This unprecedented federal intrusion into state insurance regulation would leave millions of consumers vulnerable to price gouging, as well as abusive and possibly discriminatory insurance rating practices. It would also open the door to a return to insurance redlining, as deregulation of prices would include the lifting of state controls on territorial line drawing. States would also be helpless to stop the misuse of "risk classification" information for pricing purposes, such as credit scoring, territorial data, and the details of consumers' prior insurance history.

Our concerns with this proposal are not just with the elimination of rate regulation. For example, the "choice of law" provision – which would only allow the state of domicile of commercial policyholders to regulate the terms of these policies -- could provoke state competition to place further restrictions on the legal rights of their residents, as states rush to please large corporations with tremendous economic clout that are based in their states.

State insurance regulation is also critical to business and labor, particularly in workers' compensation. Every business must purchase workers' compensation insurance. Without rate review, businesses are overwhelmed with premium increases every time the insurance underwriting cycle turns to a hard market. California and Florida are but two examples of the crisis that occurs without effective regulation. States with effective regulation, such as Massachusetts and Virginia, have avoided these hard market crises. Effective state regulation must be expanded, not eliminated.

This proposal shows a fundamental misunderstanding of the way the insurance marketplace works. Insurance is an essential public good, not just any product that can be regulated solely through free market competition. Insurance policies are exceedingly complex legal documents. Most consumers can't look at an insurance policy and tell for sure whether they have a good one. Comparison shopping is very difficult because the amount, type and pricing of coverage can vary greatly. Once a policy is purchased, the test of its effectiveness may not arise for decades, when a claim arises. (Please see the attached fact sheet for more information on why insurance is not a normal product for the purposes of regulation.)

Relying on competition alone to control insurance prices and prevent abusive products is ineffective and dangerous for consumers. Insurers can maximize profits by denying older and sicker people health insurance or by denying inner city residents home and auto insurance. Price structures include “classifications” which need governmental review for fairness and relevancy. Most insurers use credit scoring for insurance rating, which segregates out poorer people for denial or for higher prices. Some insurers now want to use the human genome to price life insurance, and Global Positioning Satellites to track consumers in order to price auto insurance. Regulation is required to control classification abuses – the number of potential “innovative” class systems that violate consumer rights and privacy is quite large. Information is also needed to police these abuses, such as zip code data to see where insurers are writing business and how much people are paying for insurance. (Please see the attached fact sheet on why effective regulation– not regulation solely through competition is needed in the insurance marketplace.)

You have cited the Illinois insurance regulatory system as a model for your federal intervention. There are very few states in the country that have fewer protections for consumers. For instance, Illinois does not regulate rates at all. Consequently, insurance rates have been shooting up sharply in Illinois compared to California, where voter-approved Proposition 103 has led to both tight rate regulation and vigorous insurance competition. Since 1989, auto insurance expenditures are up by 35 percent in Illinois and by 30 percent nationally. In California, they have dropped by eight percent. (See CFA’s comprehensive study of the California system, “Why Not the Best?” on our website, www.consumerfed.org).

Another state that has been cited by you and by insurers as a deregulation model is South Carolina. We attach an analysis of the insurance situation in South Carolina since it deregulated insurance. Please note that the auto insurance rates in South Carolina are up, not down, since the law passed in 1999 and that South Carolina’s rates have risen faster than California’s.

The insurance industry promotes a myth that regulation and competition are incompatible. This is demonstrably untrue. Regulation and competition both seek the same goal: the lowest possible price consistent with a reasonable return for the seller. There is no reason that these systems cannot coexist and even compliment each other. The California insurance regulatory structure is a remarkable synthesis of effective regulation and competition. (See the attached fact sheet on how competition and regulation can work well together.)

When you presented your ideas on federal intervention to the National Association of Insurance Commissioners on March 14, 2004, you stated that there was a “capacity squeeze” in the insurance industry and that insurer rates of return (ROR) were too low. This is disputable, as some economists have stated that the markets work to produce the proper RORs and that the insurance industry does not need a high level of ROR due to its ability to diversify its risk through reinsurance and other means. However, if you are right, you seem to be saying that rates have been too low and that your intent is to let rates rise. Your solution to move to an Illinois system is remarkable, given that the returns in Illinois over the last decade for all property-casualty lines have been slightly less than the national average you claim is too low.

This extreme proposal is grievously flawed. It would override state laws that guarantee fair pricing and open the door to some of the worst insurance abuses that have occurred in the last thirty years, such as redlining. It would then tie the hands of states in addressing abuses that are occurring right now and might occur in the future, like the misuse of credit scoring and human genome information for insurance purposes. The consumers who are most vulnerable to the harm that it would cause are our nation's most vulnerable: the oldest, the poorest and the sickest.

We strongly urge you to reconsider your decision to move forward with this dangerous proposal.

Yours truly,

J. Robert Hunter
Director of Insurance

AFL-CIO
Alabama Watch
Arizona Consumers Council
Asian Law Caucus
Association of Flight Attendants
California Association of Local Housing Finance Agencies
California Coalition for Rural Housing
California Community Economic Development Association
California Housing Authorities Association
California PIRG
California Reinvestment Coalition
California Rural Legal Assistance Foundation
Center for Economic Justice
Center for Insurance Research
Center for Justice & Democracy
Center for Medical Consumers
Center for Public Interest Law
Civic Center Barrio Housing Corp.
Citizens for Consumer Justice (PA)
Citizens' Health Advocacy Group
Coalition for Consumer Rights (Illinois)
Colorado PIRG
Columbia Consumer Education Council
The Committee for Justice for All
Community Housing Developers, Inc.
Community HousingWorks
Concerned Clergy Coalition of Kansas City, MO
Connecticut PIRG
Consumer Action
Consumer Federation of America

Consumers for Auto Reliability and Safety
Consumers Union
Brenda J. Cude, Funded Consumer Representative
to the National Association of Insurance
Commissioners, and Professor, University of Georgia
East Bay Community Law Center
East Bay Habitat for Humanity
Fair Housing of Marin
Florida Consumer Action Network
Foundation for Taxpayer and Consumer Rights
E. Thomas Garman, Ph.D., Professor Emeritus,
Consumer Affairs, Virginia Polytechnic Institute
Greater Rochester Community Reinvestment Coalition
Homeowners Against Deficient Dwellings (HADD)
Illinois PIRG
Justice Organizers, Leadership and Treasurers
Maryland Consumer Rights Coalition
Maryland PIRG
Massachusetts Affordable Housing Alliance
Massachusetts Consumers' Coalition
Massachusetts PIRG
Michigan Consumer Federation
Dr. Regene L. Mitchell, Consumer Educator
Multicultural Real Estate Alliance For Urban Change
National Partnership for Women and Families
Neighborhood Economic Development Advocacy Project
New England Patients' Rights Group
New Jersey Citizen Action
New Jersey Consumers for Civil Justice
New Jersey PIRG
New Mexico PIRG
North Carolina PIRG
NYPIRG (New York)
Maryland PIRG
Oregon State PIRG (OSPIRG)
Our Bodies Ourselves (Massachusetts)
Pennsylvania PIRG
People's Medical Society
PIRG in Michigan (PIRGIM)
Public Interest Law Office of Rochester
Rhode Island PIRG
Sacramento Mutual Housing Association
San Diego Advocates for Social Justice
San Diego City/County Reinvestment Task Force
San Diego Housing Federation
Texans for Public Justice
Texas Legal Services Center
Texas PIRG
Texas Watch

USAction
U.S. PIRG
Vermont PIRG
Virginia Citizens Consumer Council
West Virginia Citizen Action Group
Wisconsin PIRG

CC: Representative Barney Frank, Representative Richard Baker, Representative Paul Kanjorski, Robert Gordon

***WHY INSURANCE IS AN ESSENTIAL PUBLIC GOOD, NOT SOME NORMAL PRODUCT THAT CAN BE REGULATED SOLELY THROUGH COMPETITION***

1. ***Complex Legal Document***. Most products are able to be viewed, tested, "tires kicked" and so on. Insurance policies, however, are difficult for consumers to read and understand -- even more difficult than documents for most other financial products. For example, consumers often think they are buying insurance, only to find they bought a list of exclusions.

2. ***Comparison Shopping is Difficult***. Consumers must first understand what is in the policy to compare prices.

3. ***Policy Lag Time***. Consumers pay a significant amount for a piece of paper that contains specific promises regarding actions that might be taken far into the future. The test of an insurance policy's usefulness may not arise for decades, when a claim arises.

4. ***Determining Service Quality is Very Difficult***. Consumers must determine service quality at the time of purchase, but the level of service offered by insurers is usually unknown at the time a policy is bought. Some states have complaint ratio data that help consumers make purchase decisions, and the NAIC has made a national database available that should help, but service is not an easy factor to assess.

5. ***Financial Soundness is Hard to Assess***. Consumers must determine the financial solidity of the insurance company. One can get information from A.M. Best and other rating agencies, but this is also complex information to obtain and decipher.

6. ***Pricing is Dismayingly Complex***. Some insurers have many tiers of prices for similar consumers—as many as 25 tiers in some cases. Consumers also face an array of classifications that can number in the thousands of slots. Online assistance may help consumers understand some of these distinctions, but the final price is determined only when the consumer actually applies and full underwriting is conducted. At that point, the consumer might be quoted a much different rate than he or she expected. Frequently, consumers receive a higher rate, even after accepting a quote from an agent.

7. ***Underwriting Denial***. After all that, underwriting may result in the consumer being turned away.

8. ***Mandated Purchase***. Government or lending institutions often require insurance. Consumers who must buy insurance do not constitute a "free-market", but a captive market ripe for arbitrary insurance pricing. The demand is inelastic.

9. ***Incentives for Rampant Adverse Selection***. Insurer profit can be maximized by refusing to insure classes of business (e.g., redlining) or by charging regressive prices.

10. ***Antitrust Exemption***. Insurance is largely exempt from antitrust law under the provisions of the McCarran-Ferguson Act.

Compare shopping for insurance with shopping for a can of peas. When you shop for peas, you see the product and the unit price.  All the choices are before you on the same shelf.  At the checkout counter, no one asks where you live and then denies you the right to make a purchase. You can taste the quality as soon as you get home and it doesn’t matter if the pea company goes broke or provides poor service.  If you don’t like peas at all, you need not buy any.  By contrast, the complexity of insurance products and pricing structures makes it difficult for consumers to comparison shop.  Unlike peas, which are a discretionary product, consumers absolutely require insurance products, whether as a condition of a mortgage, as a result of mandatory insurance laws, or simply to protect their home or health.

There are good reasons why insurance has, historically, been subject to regulation. The most obvious one is that a consumer pays money today for a promise that may not be deliverable for years. That promise must be secured from many threats, including insolvency and dishonesty.

No one seems to dispute the need for oversight of insurer solvency and bad management behavior. Insolvency regulation has been upgraded, thanks in large part to the interest in the issue of Warren Magnusson and John Dingell (which is how insurers first became aware of the value of Congressional pressure on state regulators.)

The big question is: can price and product regulation be eliminated? The insurance companies say "sure," but they never discuss the potential adverse impact on consumers.

**Product Regulation**

Product regulation is very important for consumers. Consumers cannot be asked to pick out good or avoid bad deals by reading a policy. If insurers are free to write any contract that they want, some sharp dealers will come in with deceptive policies that look good but take away the apparent coverage in the fine print. Competition will develop between insurers to offer poor products that unwary consumers will buy.

Consumers are in no rush to have bad products appear in the market, even though insurers insist that "speed-to-market" is somehow a critical issue. It makes no sense to remove front-end control of these products and wait for market conduct exams or, as is more common, lawsuits, to clean up the mess.[1]

However, consumer groups do want efficient regulation. Consumer organizations worked very hard with the NAIC to eliminate inefficient regulatory practices and delays, even helping put together a 30-day total product approval package. The groups' concern was not with fat cutting, but with removing regulatory muscle when consumers are vulnerable.

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[1] There are several reasons why it is dangerous for consumers if regulators focus too much on "speed to market." They risk overlooking the kind of regulation that has been needed to stop past abuses, such as: life insurance policies with rates of return that insurers did not deliver; consumer credit insurance policies that pay pennies in claims per dollar in premium, and race-based pricing of insurance policies. Second, in some trials of product deregulation in health insurance, policies with low prices often were found to have fine print that eliminated most coverage. Third, standards to ensure fair pricing, adequate disclosure and a more honest marketplace are urgently needed and should be a part of any process for faster product approval, particularly in the era of globalization and Internet sales. Fourth, CARFRA, a voluntary organization set up by the NAIC to offer "one-stop" approval over several states, is dangerous for consumers. CARFRA lacks direct accountability to the relevant public: consumers in affected states. There is no assurance that their standards for product approval will benefit consumers. For example, if a panel made up of Montana members approves a rate or policy for use in California, then it will be difficult for California consumers to object. CARFRA must be an independent, legally authorized entity with democratic processes, such as on-the-record voting, notice and comment rulemaking, conflict-of-interest standards, prohibitions on ex-parte communications, etc. CARFRA cannot rely on the industry it regulates to provide its funding. These same concerns with CARFRA also exist in the interstate compact concept.

**Price Regulation**

Price regulation is a complex issue. Price regulation considerations vary by line of insurance. Large commercial policyholders have insurance experts, called “risk managers,” on staff. They need less help from government. However, individuals and small businesses may need help. They are not well-informed consumers and often go into the insurance purchase decision with an odd combination of fear and boredom. They frequently go to an insurer or agent and say something akin to “take me, I’m yours,” a shopping strategy that does nothing to discipline the market price[2].

The degree of insurance regulation that is needed varies by line-of-business, something insurers often don’t admit. As an example, consider three life insurance products: term life, cash value life and credit life. As the products are quite different, the regulatory response to these three products must be different.

Term life insurance is easy for consumers to understand. If one dies during the term, whatever that time frame is, one’s beneficiaries receive the face amount of the policy. Consumers understand this very well so coverage is not an issue. Dead is dead, so service is not much of an issue compared to, say, auto claims. Solvency may also be somewhat less of an issue, depending upon the length of the term. The main decision consumers face centers on price. Excellent online price services exist.

Because of the simplicity of the decision-making process, term insurance prices are very competitive and have fallen year-by-year for decades. Price regulation is not needed in this line of life insurance.

Cash value insurance is a complex product. It is essentially a term policy with a bank account hidden inside the product. The problem is that the industry has resisted calls for tools to help consumers more easily understand what is going on inside the policy or to create suitability requirements for its agents. It is very difficult to know exactly what part of the first year premium (if any– often, it is none) goes into the bank account. Even actuaries who analyze insurance policies professionally say that they frequently can’t tell a good product from a bad one without running the policy details through a computer. Consumers are confused. Competition is weak. Prices have not declined in the way term prices have.

For this product, prices should be subject to more control than exists today unless the industry truly agrees to stop the obfuscation and promote rules that let the consumer see what each policy is truly like.

Credit life insurance is a product sold along with a loan, such as a car loan. The car dealer may offer the coverage that would pay off a loan if an insured consumer dies, so that this person’s family would own the car outright. The problem is that consumers do not go to car dealers to buy insurance. They have not even thought about it until the dealer starts the sales pitch. If the consumer decides to buy the coverage, the consumer does not then go out and shop for an insurance company. The dealer has already done that for the consumer.

[2] Another problem with insurance is the inertia of consumers. That is, the reluctance to change carriers for even fairly large price breaks. Consumers fear that new insurers would be more apt to drop them after a claim than their old insurer. This inertia is a drag on the competitive force of consumer decisions.

Guess what criteria the dealer uses in making the choice of credit life insurer? The amount of the commission is, of course, the decisive factor. (Some car dealers make more money selling insurance than cars.) Prudential Insurance Company once said in a hearing in Virginia that they did not sell much credit life insurance because “we are not competitive, our price is too low.”

This purchase-of-insurance-by-the-commissioned-agent-not-the-consumer/buyer has a name: “Reverse Competition.” In this line of insurance, competition drives the price up, not down.

Credit life insurance must have price regulation. States have recognized this by limiting the price that can be charged, with widely varying criteria. New York and Maine consumers pay one-fifth of the rate of Louisiana consumers, although Louisianans obviously do not die five times faster than Mainers. Even though the credit life insurers, car dealers and other powerful lobbyists have succeeded in keeping the price outrageously high in most states, at least there are price caps in every state, as there must continue to be.

In other words, a one-size-fits-all deregulation approach to insurance oversight would not deal with the complexity of many insurance products in the marketplace and would be very hazardous to America’s consumers.

## *IS REGULATION INCOMPATIBLE WITH COMPETITION?*

The proof that competition and regulation can work together in a market to benefit consumers and the industry is the manner in which California regulates auto insurance under Proposition 103. Before Prop. 103, Californians had experienced significant price increases under a system of "open competition" of the sort Illinois now uses. (No regulation of price is permitted but rate collusion by rating bureaus is allowed, while consumers receive very little help in getting information on the quality of the insurance product, service, solvency and pricing.) Proposition 103 sought to maximize competition by eliminating the state antitrust exemption, laws that forbade agents to compete, laws that prohibited buying groups from forming, and so on. It also imposed the best system of prior approval (of insurance rates and forms) in the nation, with very clear rules on how rates would be judged.

As the Consumer Federation of America's in-depth study of regulation by the states revealed,[3] California's regulatory transformation--to rely on both maximum regulation and competition--has produced remarkable results for auto insurance consumers and for the insurance companies doing business there. The study reported that insurers have realized very nice profits, above the national average, while consumers saw the average price for auto insurance drop from $747.97 in 1989, the year Proposition 103 was implemented, to $717.98 in 1998. Meanwhile, the average premium rose nationally from $551.95 in 1989 to $704.32 in 1998. California's rank dropped from the third costliest state to the 20th.

As of 2001, the situation was even better. The average annual premium in California was $688.89 (Rank 23) vs. $717.70 for the nation. So, from the time California went from reliance simply on competition as insurers envisioned it to full competition and regulation, the average auto rate fell by 7.9 percent while the national average rose by 30.0 percent. A powerhouse result for consumers![4]

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[3] "Why Not the Best? The Most Effective Auto Insurance Regulation in the Nation," June 6, 2000; www.consumerfed.org.).

[4] State Average Expenditures & Premiums for Personal Automobile Insurance in 2001, NAIC, July 2003.

***SOUTH CAROLINA AUTO INSURANCE DEREGULATION: HAVE CONSUMERS REALLY BENEFITED SIGNIFICANTLY?***

The insurance industry points to the South Carolina Auto Insurance law change that took place in 1999 and claims that it is working well. This report will test this claim.

> "[NAIC] Director Csiszar's home state of South Carolina is a prime example of the benefits of free market reforms. By 1996, South Carolina's price control system had resulted in only 78 companies offering policies in the state and over 40 percent of insured drivers being placed in the assigned risk pool. Since the state adopted a flex-rating system backed by Director Csiszar in 1999, 105 new insurers have entered the market, average auto insurance rates have decreased, and the state's residual market plan insures less than 600 drivers, compared to more than 750,000 less than a decade ago. The end result of this modest reform is that the system is more fair and flexible, less political, and meets the needs of consumers."
>
> Press Release dated 2/4/04
> Property Casualty Insurers Association of America

**<u>CLAIM: AUTO INSURANCE RATES HAVE DECREASED</u>**

<u>A. The "new" South Carolina system has caused higher rates for many consumers.</u>

What insurers claim was a "dysfunctional" system was in fact a system that prevented insurers from redlining -- charging low income and minority consumers more because of where they lived. Under the Csiszar regime, insurers have had carte blanche to redline. In addition to the deregulation of rates, Csiszar adopted a regulation allowing insurers to use consumer credit information with no meaningful consumer protections. Csiszar allows insurers to charge higher rates to consumers simply because they buy the minimum limits of liability required by law. Why should a consumer be charged more just because he or she complied with the law? The numbers cited for average rates and rate changes mask the impacts on particular groups of consumers. While some consumers have fared okay under the let-insurers-do-whatever-they-want approach, many consumers have been hit with big rate increases. And the claims about lots of new insurers are equally hollow -- the "new" companies are simply the high-cost ("nonstandard") affiliates of insurers already operating in South Carolina. The numbers put forth by Csiszar's department are designed to hide the reality of the South Carolina market -- 21st century redlining as a "competitive market." What we don't see is market data to test the claims of success, data such as which companies are actually providing coverage in what zip codes and how rates have changed by zip code. We don't see the credit scoring models used by insurers that penalize consumers for being poor. We don't see the underwriting guidelines -- like prior liability limits -- that further penalize consumers for not being affluent.

<u>B. Even the overall rate level has risen since the law was passed.</u>

According to data published by the National Association of Insurance Commissioners, the average per car expenditure on insurance in South Carolina, the nation and California was:

| Year | S.C. | USA | CA |
|---|---|---|---|
| 1998 | 766 | 801 | 821 |
| 2001 | 744 | 817 | 795 |
| Change | | | |
| ‘98 to ‘01 | -2.9% | +2.0% | -3.2% |

There is some question about whether the South Carolina data are accurate, having to do with a technical issue.[5] But even if these data are accurate, it is clear that the average expenditure in South Carolina is up in every year except from 1998 to 1999. From 1998 to 1999, South Carolina’s average expenditure did drop by 8.2%. Interestingly, the national average also dropped that year, by 2.4%.

Rates in South Carolina did not drop by as much from 1998 to 2001 as those in California. California average expenditures have dropped by 3.2% from 1998 to 2001, while South Carolina’s expenditures dropped 2.9% in that time.

Consumer groups point to California’s regulatory system as the best in the nation. It relies on a very rigorous prior approval system of rates. As the Consumer Federation of America’s in-depth study of regulation by the states revealed,[6] California’s regulatory transformation has produced remarkable results. California’s auto insurance rates dropped from the third costliest state in 1989 to the 23rd costliest in 2001.[7] From the time California went from reliance simply on competition as insurers envisioned it to full competition and regulation, the average auto rate fell by 7.9%, while the national average rose by 30.0%.

So, even taking the most optimal period for South Carolina (and ignoring the possible data problem), the result is not as good as California’s result.

Automobile insurance reform in Hawaii provides another example of insurance reform that helps the state’s consumers, resulting in dramatic decreases in the cost of insurance. During the same 1998 to 2001 time period, Hawaii’s relative insurance cost went from the 11th highest in the nation to the 21st highest with premium reductions of 11.6%. Substantial parts of these decreases were the result of a strengthening of the state’s prior approval law[8].

From 1997 (the year reform was passed in Hawaii) to 2001, the premiums dropped by an even more substantial 22.7%, moving the state from the 4th highest to the 21st highest rates in the nation. Again, substantial portions of these reductions were a direct result of the strengthening of the Commissioner’s authority in approving rates.

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[5] There is question if the full recoupment charges, monies collected to fund the reinsurance facility, are in the data reported to the NAIC.

[6] “Why Not the Best? The Most Effective Auto Insurance Regulation in the Nation,” June 6, 2000; www.consumerfed.org.).

[7] State Average Expenditures & Premiums for Personal Automobile Insurance in 2001, NAIC, July 2003.

[8] Ibid.

In addition to these dramatic reductions in the cost of insurance, competition among insurance carriers in Hawaii increased (evidenced by a dramatic increase in automobile insurer advertising, reductions in consumer complaints regarding insurance availability, and other factors) and the number of uninsured motorists declined dramatically. The number of insured cars increased between year-end 1997 to year-end 2001 by more than 18% (far greater than any change in the state's population) providing convincing evidence that more and more previously uninsured drivers were buying insurance following passage of these reforms.

Experts in the South Carolina market advise CFA that auto earned premiums and associated rates have risen sharply in the state since 2001, the latest year in NAIC's analysis, and that South Carolina legislation provides virtually insurmountable obstacles for consumers to challenge the filings that bring about these automobile insurance premium increases.[9]

In South Carolina, the premiums grew by 30.2% from 1998 to 2002[10]. The population of South Carolina grew by 6.9% over that time.[11] The population adjusted premium increase in South Carolina was 21.8%. Similar calculations for the nation and California show a growth of 14.0% and 11.3% respectively.

It appears as though South Carolina Insurance Commissioner Csiszar agrees that increases are occurring. He has stated that "Since the law's adoption, the number of insurance companies writing auto insurance in the state has roughly doubled to about 160, while total premiums have gone from $1.65 billion to roughly $2 billion."[4] He is cited as referring to these increases as a "clear sign of success."[12]

## CLAIM: CONSUMERS BENEFIT FROM THE JUMP IN NUMBER OF COMPANIES IN SOUTH CAROLINA

There has been a big jump in the number of insurance companies writing auto insurance in South Carolina, but that is largely due to the return to the market of high-priced so-called substandard insurance companies that are affiliates of insurers who were already in the market in South Carolina.

Under the previous law, good drivers were entitled to get insurance from the insurance company of their choice, an excellent protection for consumers. The 1999 law eliminated that protection. So, all of the high-priced running mates of established insurers came back into the state, since they now could force clients to buy policies from such insurers.

Here are some of the running mates that came back to South Carolina when this important consumer protection was eliminated:

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[9] "Kruger, the insurance department actuary, acknowledges that he adjusts down very few of the industry's roughly 3,000 rate requests each year. Rather than make frequent adjustments, he said, the department has established a policy that generally signs off on rate requests that are less than 25 percent. Requests above 25 percent undergo scrutiny and stand a good chance of being altered." Charleston Post and Courier, February 22, 2004.

[10] Report on Profitability by Line by State, 1998 and 2002 editions, NAIC

[11] U.S. Bureau of the Census.

[12] *Charleston Post and Courier*, 2/22/04.

1. Allstate

   Allstate Indemnity
   Deerbrook Ins. Co.

2. Nationwide

   Nationwide Mutual Fire Ins. Co.
   Nationwide Property & Casualty Ins. Co.

3. Horace Mann

   Allegiance Insurance Company
   Teachers Insurance Company

4. State Auto

   State Auto Fire Insurance Company
   State Auto P&C Insurance Company

5. GEICO

   GEICO Casualty Company
   GEICO General Insurance Company
   GEICO Indemnity Company

6. ORION Group

   Carolina American Insurance Company
   Guaranty National Insurance Company
   Peak P&C Casualty Insurance Corporation

7. Travelers Group

   Charter Oak Fire Insurance Company
   Phoenix Insurance Company
   Standard Fire Insurance Company
   Travelers Indemnity Company of America
   Travelers Indemnity Company of Illinois

8. State Farm

   State Farm Fire and Casualty Insurance Company

9. Seibels Group

   Catawba Insurance Company (now under administrative supervision in SC)
   South Carolina Insurance Company (now under administrative supervision in SC)

10. Liberty Group

Liberty Insurance Corporation
Liberty Mutual Fire Insurance Company

Consumers have been harmed by the influx of these high-priced insurers into South Carolina. What appears to be happening is that the established insurance companies that formerly offered policies at low prices are shifting people into their higher priced running mates. That is part of the reason that the initial drop in rates has given way to recent price spikes.

## CONCLUSION

Commissioner Csiszar is now pushing to expand his auto insurance "successes" to homeowners and other property and casualty lines of insurance. According to Csiszar, the point of this new legislation is to completely remove the South Carolina Insurance Consumer Advocate's ability to challenge any rate increases at all[13]. The new legislation follows less than a year after the state's Consumer Advocate successfully challenged (among other things) a deal that had been cut between the Insurance Department and State Farm. The deal would have allowed for increases up to 524% for some coastal homeowners, and increases in excess of 300% in other areas of South Carolina[14].

Unlike South Carolina, California has not approved the use of credit scores or prior liability limits for rate setting purposes, thereby protecting the less affluent residents of the state.

At best, there has been modest improvement for a select few consumers in South Carolina, while others have been hurt. California's Proposition 103 system beats South Carolina's hands down and remains the system legislators should emulate.

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[13] *Charleston Post and Courier*, 2/22/04.
[14] Consumer Advocate expert's (Simons') testimony in State Farm case