

FEBRUARY 2024

How Citizen Enforcement of Proposition 103 Has Saved Californians \$5.5 Billion— And Why the Insurance Industry Hates It

A NEW REPORT FROM CONSUMER WATCHDOG



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Executive Summary

When California’s insurance regulator operated behind closed doors, the insurance companies always won. Insurance premiums soared, people were denied insurance for no legitimate reason, and insurance companies reaped windfall profits. That’s why, when California voters passed the nation’s most sweeping reform of the insurance industry in 1988, they authorized consumers to independently challenge excessive insurance premiums and unfair practices—to take on the legions of lawyers, lobbyists, and actuaries that insurance companies always hire to get their way. Proposition 103 also gave the public the power to make sure the Insurance Commissioner and the California Department of Insurance (CDI) obey the law. The initiative requires insurance companies to pay the costs when consumers do so.

Since Proposition 103’s passage thirty-five years ago, Consumer Watchdog and other non-profit citizen organizations have effectively used these rights to protect the public against illegal insurance rates and practices, including discrimination. Now the powerful insurance industry and its Sacramento allies are aiming to cripple the right of the public to participate in the regulatory process—and attacking Consumer Watchdog for successfully doing so.

The insurance industry’s disinformation apparatus is fully engaged in a campaign to escape accountability so the companies can hike rates beyond what they need and refuse to sell insurance to people who have paid their premiums for decades. Proposition 103’s rate review process and public participation rights are crucial tools to ensure the industry does not get away with blaming climate change for its unjustified price-gouging and coverage reductions.

To make sure consumers are fully informed, Consumer Watchdog has prepared a detailed analysis of its advocacy on behalf of Californians through the public participation process, from 2002 through 2023.

Consumer Watchdog has saved Californians \$5.51 billion. Between January 2002 and December 2023, Consumer Watchdog’s challenges blocked \$3.16 billion in auto insurance overcharges; \$2.25 billion in unjustified increases in homeowners insurance; and protected health care providers and small businesses against \$99.08 million in higher rates.

The insurance industry’s disinformation apparatus is fully engaged in a campaign to escape accountability.

Since 2019 alone, Consumer Watchdog’s rate challenges have saved Californians \$2.1 billion. Insurance companies have filed more than 25,000 applications for approval of rates, underwriting rules, class plans and other filings since Insurance Commissioner Ricardo Lara took office in January 2019. Between then and December 2023, Consumer Watchdog completed a total of 42 challenges to those applications. Thirty-three of those challenges concerned requests for approval of rate changes (as opposed to other illegal rating practices and conduct). In 19 of those rate challenges, the proposed rate increase was approved at a lower percentage than the company originally requested—ranging from 0.6 to 21.6 percentage points lower. In seven of the 33 cases, the insurance company chose to withdraw its application rather than proceed to address Consumer Watchdog’s objections. And in seven instances, the Commissioner approved the rate the company originally requested.

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For every \$100 that Consumer Watchdog saved policyholders, policyholders paid an average of less than 25 cents. Insurance companies paid a total of \$11.6 million in fees and expenses for Consumer Watchdog’s attorneys, advocates, and experts for their work on behalf of consumers in over 140 proceedings over the last 21 years. Just over half of those fees went to outside experts with special knowledge, such as geologists and economists, who Consumer Watchdog hired to counter the industry’s experts. For every \$100 that Consumer Watchdog saved policyholders, policyholders paid less than 25 cents.

When Consumer Watchdog did *not* intervene, insurance companies got most of the rate increase they requested. Consumer Watchdog compared the outcome of the rate requests that Consumer Watchdog challenged with the ones it did not challenge between January 2022 and October 2023. In rate applications for homeowners

insurance that Consumer Watchdog did *not* challenge, the Commissioner approved the applications at an average of 97% of the rate originally requested by the insurance company. In matters in which Consumer Watchdog participated, the approved rate averaged 62% of the rate requested. Similarly, in auto insurance rate applications the Commissioner approved rate increases at an average of 98% of the rate requested. When Consumer Watchdog participated, the Commissioner approved an average of 71% the rate requested.

Consumer Watchdog challenged an additional nine applications for violations of other Proposition 103 requirements. In nine challenges brought by Consumer Watchdog and resolved between January 2019 and October 2023, the organization targeted illegal conduct such as: an insurance company’s failure to comply

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with public disclosure requirements, including disclosure of computer models; the use of discriminatory “underwriting guidelines” to deny persons an insurance policy; and the use of illegal criteria to set auto insurance premiums, such as whether a person has a professional job or an advanced educational degree. The Commissioner required companies to change these practices in some instances. In others, the Commissioner stated he would address them by issuing a regulation—but has not done so.

Insurance companies are responsible for delays that add months or even years to the review process. Consumer Watchdog identified at least eight challenges completed during Commissioner Lara’s tenure that were significantly delayed by the insurance company applicant, by up to 19 months. Such delays routinely occur when insurance companies fail to file all of the paperwork required as part of a rate application, refuse to cooperate with requests from CDI and Consumer Watchdog for information that is needed to assess the validity of the proposed rate, “update” their requests with new data, slow walk the entire process when a rate *decrease* is required, or assign a lower priority to the review of their application.

CDI scheduling also drives the timeline for review of rate applications, taking an average of 7.2 months before requesting a conference on Consumer Watchdog’s challenge. After a consumer challenges an insurance company’s application for a rate increase, a critical step in the review process is a request by the Department of Insurance to schedule an initial conference between the Department staff, the insurance company, and Consumer Watchdog.

Of the 35 Consumer Watchdog challenges that concluded between January 2019 and October 2023, 24 reached the scheduling stage. In those matters, from the date Consumer Watchdog filed the challenge, it took the Department an average of 7.2 months to schedule the initial conference with all parties. In 18 of the 24 matters that reached the scheduling stage, the first all-parties conference occurred after three months, after six months in 8 of these matters, over a year in 5 matters, and more than 18 months in 4 of the 24 matters.

Once CDI scheduled the first conference, it took an average of one month for the conference to occur, and an average of 3.7 months to resolve the matter.

2022 saw a growing backlog of delayed applications for auto insurance at the CDI. Commissioner Lara imposed a de facto moratorium on the processing and approval of automobile rate increases during most of the pandemic. The moratorium ended shortly after his re-election in November 2022.

From his 2022 election through last year, Commissioner Lara approved 179 rate increases, some without adequate review. In 2023, the Commissioner has prioritized speed, sometimes over thorough analysis, in his consideration of rate applications. Faced with massive pressure from insurance companies, including widespread shortages in coverage caused by insurance companies, Commissioner Lara approved 61 rate increases for homeowners, averaging 13.4% between December 2022 and December 2023. He also authorized 118 auto insurance rate increases averaging 13.6% during that period.

In several of the 20 rate challenges that Consumer Watchdog resolved this year, its right to adequately review a proposed rate increase was significantly constricted; in two cases, it was eliminated entirely when Commissioner Lara approved rate applications without giving Consumer Watchdog the opportunity to submit its independent analysis.

As insurance companies demand more double-digit rate increases, Consumer Watchdog continues its advocacy on behalf of California homeowners and motorists. Home and auto insurance companies continue to request double digit rate increases. In November and December of 2023 alone, Consumer Watchdog resolved six challenges saving Californian homeowners, renters, and drivers another \$885 million by reducing the size of the rate increases. As of January 2024, Consumer Watchdog is contesting five additional home and auto applications in which the insurance companies are requesting an average rate increase of 28%.

Background: Public Scrutiny and Participation Under Proposition 103

Over the last year, California insurance companies have created a massive financial crisis for California homeowners, renters, motorists, and small businesses. They have restricted sales and renewals of home and auto insurance in California and even threatened to leave the state unless they are freed from complying with critical consumer protections of Proposition 103.

At the top of their target list is an especially effective provision of that 1988 ballot measure: the right of California consumers to *independently* review, and challenge, excessive or unjustified insurance premiums or any other violation of the voter-approved reforms by an insurance company or by the Insurance Commissioner.

History has proven this to be one of the law’s most important safeguards.

Empowering the Public to Enforce the Law They Passed. Proposition 103 regulates auto, home, business and other forms of property/casualty insurance in California.¹ Under Proposition 103, “no rate shall be approved or remain in effect which is excessive, inadequate, unfairly discriminatory or otherwise in violation of this chapter.”²

An insurance company must apply to, and get approval from, the Insurance Commissioner before it can change its rates, underwriting rules, class plans, and forms.³ This regulatory system is known as “prior approval.” To obtain approval, insurance companies must open their books and prove that their rates and premiums are reasonable.



¹ Insurance Code section 1861.13. The current text of Proposition 103 is available here: <https://law.justia.com/codes/california/2022/code-ins/division-1/part-2/chapter-9/article-10/>.

² Insurance Code section 1861.05(a).

³ Insurance Code sections 1861.01 and 1861.05. Rates refer to the overall revenue an insurance company can collect from all its customers; underwriting rules determine whether the company will insure someone, and at what price; class plans are filings an auto insurance company must submit when they want to change how they set each customer’s premium; and forms include the terms of an insurance policy, notices, applications, and other regulated matters.

The voters did not leave everything to the Insurance Commissioner, however. They understood that even the strongest reforms could be defeated through indifference or incompetence, neglect or corruption. Elected officials—including the Insurance Commissioner—might undermine the measure’s reforms or prevent the dedicated civil servants who work at the Department of Insurance from doing their jobs.

Additionally, as Insurance Commissioner John Garamendi noted in defending Proposition 103’s public participation requirements, there are practical limits on the agency’s ability to enforce the law:

The Department goes to great lengths to review the class plan applications that it receives. However, this is no small feat. Like all administrative agencies, the Department must balance its statutory responsibilities with the available resources when exercising its discretion to deploy its prosecutorial authority. In all candor, however, the Department simply lacks sufficient resources to pursue every allegation [of insurer misconduct].⁴

For these reasons, the voters gave themselves the power, independent of the Commissioner and the agency he leads, to monitor and enforce Proposition 103, to make sure insurance companies and the Insurance Commissioner obey the law. Here’s what the initiative says:

Any person may initiate or intervene in any proceeding permitted or established pursuant to this chapter, challenge any action of the commissioner under this article, and enforce any provision of this article.⁵

To enable consumers to exercise these powerful rights, Proposition 103 requires the Commissioner to notify the public when an insurance company requests the Commissioner’s approval. Consumers have 45 days in which to challenge the request, which is done by filing a petition for a hearing stating the consumers’ concerns.⁶ If the

⁴ Amicus Curiae Brief of Commissioner Garamendi in *Donabedian v. Mercury Ins. Co. (2004)* 116 Cal.App.4th 968 (brief available at 2003 WL 23280980). Proposition 103 gives the Commissioner the authority to hire the personnel needed to carry out his responsibilities under the law; all the costs of administering and enforcing Proposition 103 are paid by insurance companies through an annual fee (not by taxpayers). (Insurance Code section 12979.)

⁵ Insurance Code section 1861.10(a).

⁶ Insurance Code section 1861.05(c); 10 Code of California Regulations (CCR) 2662.1 et seq. (The regulations are available at <https://www.law.cornell.edu/regulations/california/title-10/chapter-5/subchapter-4.9/article-14>.)

insurance company seeks a rate change of 7% or more, a hearing is mandatory unless the insurer, CDI, and consumer participant come to an agreement on the rate.⁷

Historically, the vast majority of applications have not been subject to a consumer challenge. Of the tiny fraction that were, virtually all of them were resolved prior to a public hearing before an Administrative Law Judge. The last hearing held by the CDI on a rate application concluded in 2016.

Insurance companies bear the responsibility for thoroughly justifying their requests.⁸ Everything that an insurance company submits in support of a rate change must be open to public scrutiny.⁹ Although insurance companies are required to provide a “complete” rate application,¹⁰ with detailed information required by the CDI,¹¹ companies often fail to do so. Moreover, the application is only the starting point for the thorough analysis of a request. Both the Department and the consumer representative typically ask the insurance company to provide more detailed information to justify their proposed rate. The timeline for review of a challenged application is frequently dictated by these responses.

With billions of dollars at stake every year, insurance companies employ thousands of skilled lawyers, actuaries, scientists, engineers, lobbying and consulting firms, and even academic institutions to make sure that their interests are protected before the Insurance Commissioner (and the courts).

It takes significant expertise and resources to counter the industry’s army. To enable consumers to go head-to-head with insurance companies, and, if necessary, the Commissioner and his staff, Proposition 103 requires the insurance companies to pay the fees and expenses of attorneys, advocates, actuaries, and other experts who represent consumers in such challenges. No consumer or non-profit consumer advocacy organization could afford to undertake such a mission otherwise. Proposition 103 states:

The commissioner or a court shall award reasonable advocacy and witness fees and expenses to any person who demonstrates that (1) the person represents the interests of consumers, and, (2) that he or she has made a substantial contribution

⁷ Insurance Code section 1861.05(c).

⁸ Insurance Code section 1861.05(b).

⁹ Insurance Code section 1861.07.

¹⁰ Insurance Code section 1861.05(b).

¹¹ 10 CCR 2641.1– 2644.28.

to the adoption of any order, regulation, or decision by the commissioner or a court.¹²

Because there is no single “correct” insurance rate—a rate must be within the range bounded by “inadequate” and “excessive”—there is considerable room for judgment. The purpose of Proposition 103’s public participation process is to empower consumers to participate and provide a different analysis than the insurance company, even if the Insurance Commissioner ultimately does not agree with the consumer representative’s position.

Once a proceeding has been resolved, the consumer representative who initiated the challenge (sometimes referred to as an “intervenor”) is entitled to compensation for their expenses so long as they can show they “represented the interests of consumers” and made a “substantial contribution” during the proceeding.¹³ In recent years, Administrative Law Judges within the CDI’s Administrative Hearing Bureau have been assigned to review and decide compensation requests.

As the California Supreme Court summarized: “Proposition 103 was enacted to ‘ensure that insurance is fair, available, and affordable for all Californians.’ To achieve this goal, the drafters established a public hearing process for reviewing insurance rate changes. In doing so, the drafters sought to ‘enable consumers to permanently unite to fight against insurance abuse’”¹⁴ The compensation standard is specifically intended to achieve what another court noted was Proposition 103’s “wholly distinct purpose”: encouraging “broad consumer participation.”¹⁵

Sixteen states allow consumers to intervene in utility rate matters.¹⁶ Indeed, California law permits consumer advocates to intervene in proceedings at the Public Utilities Commission and be compensated by the regulated public utilities if they make a

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¹² Insurance Code section 1861.10(b).

¹³ 10 CCR 2662.3.

¹⁴ *State Farm Mut. Auto. Ins. Co. v. Garamendi* (2004) 32 Cal.4th 1029, 1045 (citations omitted).

¹⁵ *State Farm General Ins. Co. v. Lara* (2021) 71 Cal.App.5th 197, 217.

¹⁶ National Association of Regulatory Utility Commissioners, *State Approaches to Intervenor Compensation*, December 2021, p. 5.

“substantial contribution.”¹⁷ But unlike those statutes, Proposition 103 contains none of the restrictions that enable a state agency to deny compensation when the intervenor has made such a contribution.

Proposition 103 helps level the playing field between insurance companies and the public. In a nationwide survey of state insurance laws, the Consumer Federation of America termed Proposition 103 a “unique success,” and expressly recommended its public participation procedures: “In order to achieve the most effective form of a prior approval system, states should construct an intervenor system that provides resources for citizen and organizational watchdogs who can serve as both a resource for and check on state Departments of Insurance and who will help hold insurance rates down to appropriate levels.”¹⁸

Findings and Analysis

The data presented here detail the results of Consumer Watchdog’s advocacy on behalf of Californians and illustrate why public participation is crucial to the success of Proposition 103’s reforms.

The report analyzes the financial benefits to Californians of Consumer Watchdog’s challenges to proposed changes in insurance company rates, rules, class plans, forms, and practices since 2002. And it examines in greater detail 42 instances during Commissioner Lara’s administration (January 7, 2019 to December 2023) in which Consumer Watchdog contested an insurance company’s application for such changes in a proceeding that has concluded.

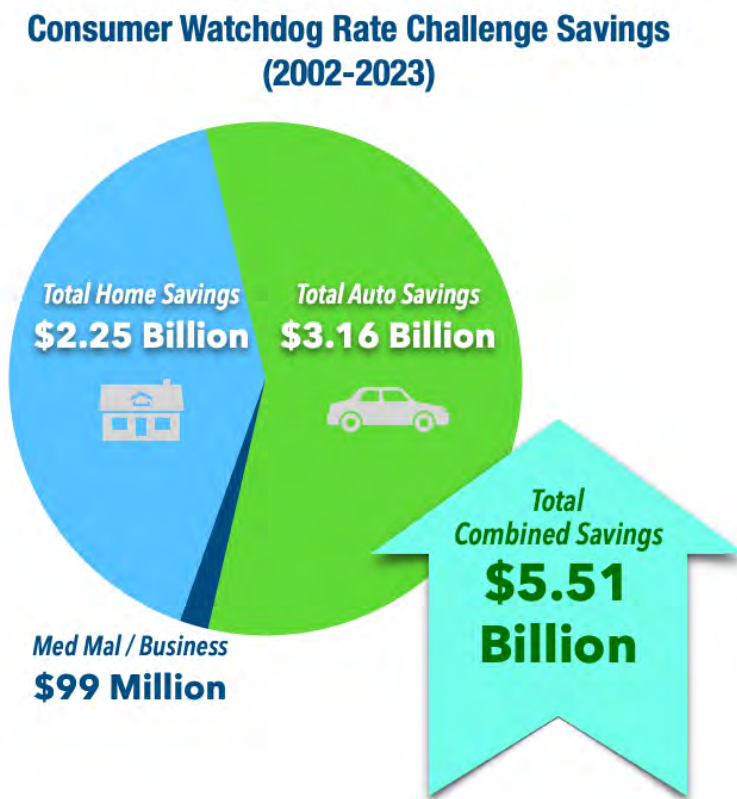
¹⁷ Public Utilities Code section 1802(j).

¹⁸ Consumer Federation of America, “What Works: A Review of Auto Insurance Rate Regulation in America and How Best Practices Save Billions of Dollars,” November 2013, p. 3 (https://consumerfed.org/pdfs/whatworks-report_nov2013_hunter-feltner-heller.pdf).

I. Rate Challenges Saved Consumers Billions

Between January 2002 and December 2023, Consumer Watchdog reviewed and challenged more than 140 rate applications submitted by insurance companies seeking to unjustifiably increase—or sometimes insufficiently lower—their rates.

Comparing the amount of the rate change that the insurance company originally requested with the final amount approved, the organization’s challenges during that period saved Californians \$5.51 billion—\$3.16 billion in auto insurance overcharges; \$2.25 billion in unjustified increases in homeowners insurance; and \$99.08 million in excessive medical malpractice and business insurance premiums.



A spreadsheet providing details on each of Consumer Watchdog’s challenges to insurance company filings since 2002 is downloadable at this footnote.¹⁹ Proceedings discussed in this report are cited by their CDI case number, for which the spreadsheet can be searched. They can also be accessed by searching SERFF, a database available on CDI’s website, by the case number listed in the footnote for that proceeding in this report.²⁰

The following charts show the twenty home and auto challenges in which Consumer Watchdog saved Californians the most money since 2002.

¹⁹ Consumer Watchdog rate challenge savings and fees January 2002-December 2023 can be viewed at: <https://consumerwatchdog.org/wp-content/uploads/2024/01/Prop103Savings.xlsx>

²⁰ Under Proposition 103, the public is entitled to scrutinize all information submitted to the Commissioner in connection with the rate review and approval process. To access the information, go to this page—<https://www.insurance.ca.gov/0250-insurers/0800-rate-filings/0050-viewing-room/>—and follow the instructions for “SERFF Filing Access.”

Savings: Top 20 Consumer Watchdog Home Insurance Rate Challenges, Jan. 2002 - Dec. 2023

Rank	Company	Amount of Savings	Date Approved	File No.
1	Farmers	\$276,000,000	2023	PA-2023-00009
2	State Farm	\$266,000,000	2006	PA-06092759
3	Allstate	\$250,000,000	2008	PA-2006-00006
4	State Farm	\$199,737,857	2023	PA-2023-00007
5	Farmers	\$171,000,000	2006	PA-06093078
6	State Farm	\$157,000,000	2013	PA-2011-00010
7	State Farm	\$156,000,000	2016	PA-2015-00004
8	Farmers	\$121,000,000	2023	PA-2022-00007
9	State Farm	\$86,000,000	2014	PA-2013-00012
10	CSAA	\$52,046,800	2012	PA-2010-00014
11	Safeco	\$40,500,000	2006	PA-06093080
12	USAA	\$40,500,000	2014	PA-2013-00008, PA-2013-00009, PA-2013-00010
13	USAA	\$40,000,000	2005	PA-2010-00008
14	State Farm	\$35,100,000	2016	PA-2016-00010
15	Fireman's Fund	\$35,000,000	2008	PA-2007-00017
16	Allstate	\$34,200,000	2016	PA 2015-00009
17	Farmers	\$27,000,000	2017	PA-2016-0008
18	Farmers	\$24,244,585	2008	PA-2008-00007
19	State Farm (Rental)	\$21,509,293	2023	PA-2023-00006
20	Safeco (Earthquake)	\$19,300,000	2006	PA-04041210

Savings: Top 20 Consumer Watchdog Auto Insurance Rate Challenges, Jan. 2002 - Dec. 2023

Rank	Company	Amount of Savings	Date Approved	File No.
1	Farmers	\$535,000,000	2023	PA-2023-00008
2	GEICO	\$356,008,006	2023	PA-2023-00013
3	Allstate	\$250,000,000	2007	PA-2007-00004
4	CSAA	\$192,400,000	2023	PA-2023-00004
5	State Farm	\$151,709,663	2023	PA-2023-00012
6	Allstate	\$149,524,857	2023	PA-2023-00014
7	Interinsurance Exchange of the Automobile Club	\$140,716,762	2008	PA-2008-00026
8	State Farm	\$131,400,000	2009	PA-2008-00021
9	GEICO	\$117,946,624	2011	PA-2010-00013
10	Mercury	\$115,001,845	2010	PA-2008-00037
11	State Farm	\$100,000,000	2004	File No. 04-4539
12	21st Century Casualty Company	\$95,926,605	2009	PA-2008-00034
13	Allstate	\$95,197,281	2012	PA-2011-00011 and PA-2011-00013
14	Farmers	\$93,900,000	2004	PA-04039720
15	Allstate	\$92,991,856	2013	PA-2013-00003
16	Farmers	\$73,427,908	2010	PA-2008-00032
17	Interinsurance Exchange of the Automobile Club	\$70,200,000	2013	PA-2012-00009
18	State Farm	\$69,000,000	2013	PA-2012-00006
19	Farmers	\$46,000,000	2013	PA-2012-00011
20	Allstate	\$34,680,358	2010	PA-2008-00038

Rate challenges during Insurance Commissioner Lara’s administration.

Commissioner Lara took office in January 2019. Since then, insurance companies have filed more than 24,000 applications seeking the Insurance Commissioner’s approval as required by Proposition 103. Between January 2019 and December 2023, Consumer Watchdog initiated a total of 42 challenges that were resolved during that period.

Of those challenges, 33 were to proposed rates. In 19 of those, the proposed rate increase was approved at a lower percentage than the company requested—ranging from 0.6 percentage points to 21.6 percentage points lower. In two of those 19 matters, Consumer Watchdog not only blocked an increase but secured a decrease in the company’s existing rates. In seven of the 33 rate challenges, the insurance company chose to withdraw its application rather than justify its request.²¹

Consumer Watchdog’s advocacy has saved consumers a total of \$2.1 billion since 2019, including \$2.03 billion in 2023 alone.

In seven instances where Consumer Watchdog challenged rates, Commissioner Lara approved the rate as requested.²² In two of those rate applications, the insurance company established to Consumer Watchdog’s satisfaction that its request was justified after initial investigations. However, this year the Commissioner approved several increases in full without allowing Consumer Watchdog to complete its independent analysis, as discussed below. One additional proceeding concerned an insurance company’s rating rules, not a rate change, and also resulted in savings.

Here are a few noteworthy examples of how Consumer Watchdog’s participation obtained significant savings for Californians since 2019.

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²¹ Consumer Watchdog Rate Challenges, 2019-2023. <https://consumerwatchdog.org/wp-content/uploads/2024/01/RateChallengesLaraAdmin.xlsx>

²² *Ibid.*



CSAA Homeowners Insurance: Approved Sept. 2021 Savings: **\$14.75 million saved + three-year non-renewal moratorium**

In November 2020, CSAA—the Northern California affiliate of the Auto Club—filed an application requesting the Commissioner’s approval of an increase to its home insurance coverage averaging 20%.²³ Consumer Watchdog reviewed the application and identified multiple concerns, including the following issues: (1) CSAA proposed to use two separate computer models to calculate potential losses from fires that follow earthquakes, but failed to establish that the models’ projections met actuarial and legal standards, particularly because there was a difference of 140% between the results of the two models; and (2) CSAA’s application did not provide adequate support for certain data and actuarial techniques and assumptions, resulting in overstated losses and expenses.



Concluding that the proposed rate was potentially excessive, Consumer Watchdog challenged the application in January 2021. CSAA and Consumer Watchdog discussed the issues raised by Consumer Watchdog and agreed to work collaboratively to expedite the review process. The company’s lawyers promised to provide written responses and documentation requested by Consumer Watchdog.

Between February and August 2021, Consumer Watchdog requested information including the underlying data and calculations concerning the models’ loss projections; the process by which a policyholder can apply and qualify for the 10% individual property and 5% community mitigation discounts then offered by CSAA; and documents, analyses, or studies which evaluated the impact on expected claims payments of the criteria the company used to set those mitigation discounts. CSAA provided most of the information Consumer Watchdog requested. However, it refused to provide the data concerning the models, claiming the information was confidential.

Though CDI staff was kept apprised of the communications between Consumer Watchdog and the company, CDI convened the first formal call with all three parties—Consumer Watchdog, CSAA, and CDI—in May 2021.

In July 2021, Consumer Watchdog provided its actuary’s written analysis of CSAA’s application, and further exchange of information and discussions followed. In early August, CDI proposed that the parties agree to an overall rate increase of 17.3%—

²³ CDI case number PA-2021-00002.

midway between the rate proposed by Consumer Watchdog and the rate proposed by the Department.

CSAA did not agree to the CDI compromise proposal. However, CSAA informed the Parties that it would agree to a three-year moratorium on non-renewals due to wildfire risk and would also expand access to its wildfire mitigation discounts, if it obtained what it considered a sufficient rate increase.

Subsequently, Consumer Watchdog proposed that the parties agree to the following: an overall rate increase of 18.2%; a three-year moratorium on non-renewals due to wildfire risk; an additional 5% property mitigation discount on top of the company's existing discounts; a phase-in of any large individual premium increases, which would be capped at 65% for the first renewal term; and CSAA would agree to report to the Department and Consumer Watchdog quarterly for the first two years following the effective date of the filing concerning the implementation of the wildfire mitigation discounts. To this, CDI additionally proposed, among other things, that CSAA provide a longer moratorium on non-renewal for those policyholders who qualified for and maintained the mitigation discounts, and agree to identify and adopt additional mitigation efforts that are most achievable to consumers in order to expand participation in the mitigation programs.

Ultimately, Consumer Watchdog, CDI, and CSAA agreed to an overall rate increase of 18.55%, with the following additional savings and protections: the phase-in of large individual premium increases for policy renewals, capping the maximum individual premium change at 65% for the first renewal term; the additional 5% individual property mitigation discount; and quarterly reports to the Commissioner for two years concerning policyholders who qualified, applied for, and obtained the mitigation discounts, which reports would be made available to Consumer Watchdog.

Critically, CSAA also agreed to a three-year moratorium on non-renewals due to wildfire risk for policies with effective dates in years 2021, 2022, or 2023, as well as a five-year moratorium on non-renewals for policyholders who qualify for CSAA's two original mitigation discounts.

The direct benefits to policyholders of the collaborative review process that characterized this proceeding are significant. The agreed-upon rate increase resulted in a savings of \$9.95 million in the first year after implementation over the rates originally proposed by CSAA. Capping the impact of the rate increase on certain policyholders resulted in additional savings of about \$4.8 million, for a total savings of \$14.75 million. Expansion of CSAA's property mitigation discounts—well before new mitigation discount regulations took effect—incentivizes policyholders to harden their homes and puts the company at the forefront of this important policy. Protections against non-renewals are also a benefit, since many insurance companies have since withdrawn from selling policies to new customers or are non-renewing existing customers.

On March 31, 2023, CDI informed the public that California-based Farmers Insurance Group had requested a \$793 million, average 29.9% increase in auto insurance premiums.²⁴ Consumer Watchdog reviewed the request and petitioned for a hearing on the proposed increase on May 15.



Car Insurance

Consumer Watchdog’s challenge contended that the increase was unjustified because it ignored \$215 million in underwriting profits from 2021, that Farmers’ projections of future losses were overstated, and that the company was improperly using motorists’ occupation to set premiums.

Consumer Watchdog also objected to requiring motorists to shoulder the excessive annual “management fees” that Farmers pays to its affiliate Farmers Group Inc., ostensibly to provide administrative services. In 2021, Farmers paid about \$2.8 billion in “management fees” to Farmers Group Inc., the affiliated management company owned by Swiss-based Zurich Insurance Group.²⁵ In 2021, Zurich reported a profit of \$1.53 billion from the management fees it collected from Farmers.²⁶ Consumer Watchdog concluded that the management fee payments were in violation of a CDI regulation which excludes payments to affiliates from being included in policyholders’ rates to the extent such payments exceed the fair market rate or value of services in the open market.²⁷

Aware of the Commissioner’s pressure to speed up the agency’s review of rate increases, Consumer Watchdog asked Farmers to provide additional information about the applications within days of filing the challenge—even before the agency granted Consumer Watchdog’s petition to participate. On June 23, CDI scheduled a three-way call for July 7.

In response to Consumer Watchdog’s 28 requests for information, Farmers provided over 4,000 pages of data and information to Consumer Watchdog and the Department to

²⁴ PA-2023-00008.

²⁵ Farmers Insurance Exchange Annual Statement 2021, Schedule Y.

²⁶ Zurich Insurance Group, 2022 Annual Report, p. 240.

²⁷ 10 CCR 2644.10(g).

evaluate the need for the company's massive rate increase request. It contested Consumer Watchdog's objections to the company's projections of future losses, however. And it denied that the management fees were excessive but did not provide any documentation to support its claim that the fees did not exceed fair market value. CDI did not contest Farmers' unsupported argument about the management fees. CDI also insisted that swift approval of the Farmers applications was a number one priority, though Farmers' financial and actuarial data did not reflect any urgent financial hazard requiring immediate action.

After additional discussions and exchange of information, Consumer Watchdog negotiated a 67% reduction in the rates sought by Farmers, saving Farmers' customers \$535 million. Consumer Watchdog's analysis and negotiations throughout this proceeding were key to reaching an agreement to rates that were 67% lower than Farmers' proposed overall rate increases. Commissioner Lara approved that agreement on August 10, 2023, and the new rates took effect on September 26, 2023.



Proposition 103's protections also apply to insurance companies that sell malpractice liability coverage to physicians and other health care providers. In November 2020, Medical Insurance Exchange of California asked the Commissioner for an overall rate increase of 1.4% for over 1100 doctors. After reviewing the application, Consumer Watchdog requested a hearing on the grounds that the proposed rate was excessive.

Specifically, Consumer Watchdog challenged MIEC's claim that it had an underwriting loss of \$3.7 million in 2019; in fact, the company's own data showed that it had earned \$24.4 million in premiums that year, while its losses totaled just \$8.1 million. When combined with expenses during 2019 of \$12.1 million, the underwriting profit during 2019 was \$4.2 million, or about 17% of premium. The rate increase that MIEC proposed was inconsistent with such huge profits, according to Consumer Watchdog's analysis. Additionally, Consumer Watchdog argued that MIEC's projections of future claims and losses were inflated.

CDI requested MIEC provide updated data and responses to questions about the filing, including issues raised in Consumer Watchdog's petition. More than a year after Consumer Watchdog presented its concerns, MIEC revised its application based on updated data to request a rate *decrease* of 4.4%. Then, in June 2022, MIEC asked to withdraw its application entirely, because Governor Newsom had recently signed legislation—backed by Consumer Watchdog—to increase compensation to victims of medical negligence.²⁸ MIEC claimed that the new law's reforms would result in significant losses to the company. Consumer Watchdog objected and asked that MIEC provide additional data to support that argument. MIEC provided no specific data or analysis, however, leading both Consumer Watchdog and CDI to maintain that MIEC's existing rates were excessive and that a rate decrease greater than 4.4% was justified, and for those reasons the application should not be withdrawn.



²⁸ A 1975 law, backed by the insurance industry, imposed limits on compensation to patients killed or injured by negligent doctors and hospitals. To read about the 2022 amendments to that law, visit <https://consumerwatchdog.org/healthcare/consumer-watchdog-patients-celebrate-historic-passage-bill-update-malpractice-cap-after/>.

In January of 2023, MIEC agreed to reduce its rates going forward by an average of 7.2%. It further agreed to refund 4.4% of the premiums its policyholder members had paid in 2021 and 2022. As a result, over 1,100 doctors and other healthcare provider policyholders saved \$1.41 million in annual premiums under the newly reduced rates compared to the rates originally requested by MIEC. About 4,000 MIEC policyholders received an additional \$1.44 million in refunds for the overcharges.

When Consumer Watchdog did not intervene, insurance companies got most of the rate increase they requested.

Consumer Watchdog conducted a separate analysis of rate applications that were before Commissioner Lara between January 2022 and October 2023, comparing the outcome of the rate requests which Consumer Watchdog challenged with the ones it did not challenge.

In rate applications for homeowners insurance that Consumer Watchdog did *not* challenge, the Commissioner approved the applications at an average of 97% of the rate originally requested by the insurance company. In matters in which CWD participated, the approved rate averaged 62% of the rate requested.

A similar gap is evident in approvals of auto insurance rate applications between 2022 and October 2023. In the requests which Consumer Watchdog did not challenge, the Commissioner approved rate increases at an average of 98% of the rate requested. When CWD did intervene, CDI approved at an average of 71% the rate requested.²⁹

Consumer savings from public participation far exceed the costs.

Insurance companies employ an army of lawyers, actuaries, lobbyists, scientists, engineers, and other experts to help them secure the Commissioner’s approval for their rates and practices. CDI regulations allow a portion of those expenses to be passed through to policyholders in the premiums the companies charge. When ordered to compensate a consumer representative that has made a “substantial contribution” in an administrative proceeding concerning Proposition 103, insurance companies are also permitted to pass those costs on to their policyholders.

Insurance companies paid Consumer Watchdog’s lawyers, advocates, and experts a total of \$11.6 million for their work in over 140 proceedings that resulted in the \$5.51 billion in savings over the last 21 years. Thus, for every \$100 that Consumer Watchdog saved policyholders, policyholders paid an average of less than 25 cents. Slightly more than half

²⁹ Rate Filings Approved by California Dept. of Insurance With & Without Public Participation, Jan. 2022 - Oct. 2023. <https://consumerwatchdog.org/wp-content/uploads/2024/01/RateApprovalsWithPublicParticipation.xlsx>.

of that compensation went to the outside actuaries and other experts with special knowledge, such as geologists and economists, who Consumer Watchdog hired to counter the insurance industry's experts.

Rate Filings Approved by California Dept. of Insurance With & Without Public Participation, Jan. 2022 - Oct. 2023

AUTO INSURANCE RATES APPROVED

Without Public Participation

AVERAGE RATE INCREASE REQUESTED	AVERAGE RATE INCREASE APPROVED
13.8%	13.5%
<i>Percent of total rate increase requested that was approved:</i>	97.7%

With Consumer Watchdog Participation

AVERAGE RATE INCREASE REQUESTED	AVERAGE RATE INCREASE APPROVED
16.4%	11.7%
<i>Percent of total rate increase requested that was approved:</i>	71.0%

HOME INSURANCE RATES APPROVED

Without Public Participation

AVERAGE RATE INCREASE REQUESTED	AVERAGE RATE INCREASE APPROVED
14.4%	14.0%
<i>Percent of total rate increase requested that was approved:</i>	97.3%

With Consumer Watchdog Participation

AVERAGE RATE INCREASE REQUESTED	AVERAGE RATE INCREASE APPROVED
16.8%	10.4%
<i>Percent of total rate increase requested that was approved:</i>	62.0%

II. Protecting Consumers from Unfair Insurance Practices

Under Proposition 103, insurance companies must be in compliance with *all* provisions of Proposition 103 before the Commissioner may approve a rate application.³⁰ Nine of the 42 challenges brought by Consumer Watchdog between January 2019 and December 2023 sought to stop illegal conduct by an insurance company. Here are some examples:

Forcing Insurance Companies to Disclose Underwriting Guidelines.

“Underwriting guidelines” are the rules insurance companies use to determine *whether* they will sell a policy to a particular person, and the premium they will *charge* that policyholder for an insurance policy. Changes to these rules matter because they can dramatically impact what a consumer pays. Insurance companies are required to submit underwriting guidelines whenever they seek to change their rates—or when a change in underwriting guidelines would have an impact on the company’s rates.³¹ Proposition 103 requires such information be disclosed to the public and approved by the Insurance Commissioner.³² These rules must also comply with California’s anti-discrimination laws.

State Farm, California’s largest insurance company, has long contested its obligation to publicly disclose information under Proposition 103. California courts have twice rejected State Farm’s challenges to the disclosure mandate.³³ In 2018, State Farm filed an application for an increase in its homeowner insurance premiums.³⁴ However, the company failed to disclose its underwriting guidelines in its request for an increase. Because State Farm refused to comply with the transparency law, Consumer Watchdog filed a petition challenging not the rate requested, but State Farm’s failure to disclose its underwriting guidelines.

³⁰ Insurance Code section 1861.05(c).

³¹ In response to repeated complaints by Consumer Watchdog, the General Counsel of CDI confirmed the disclosure requirements in a detailed analysis on August 10, 2018: California Dep’t of Ins., “Confidentiality of Underwriting Rules Filed with Rate Applications Pursuant to California Ins. Code section 1861.05(b),” Gen. Counsel Op., Aug. 10, 2018 (<https://tinyurl.com/3nsry58k>).

³² Insurance Code section 1861.07.

³³ In *State Farm Mutual Auto. Ins. Co. v. Garamendi* (2004) 32 Cal.4th 1029, the California Supreme Court unanimously ruled that the company’s data had to be disclosed to the public under Proposition 103. In January 2019, the Superior Court of San Diego rejected another lawsuit filed by State Farm seeking to withhold information the company was required to provide in a hearing on a Consumer Watchdog challenge to the company’s request for an increase in its homeowners insurance rates (see footnote 80). *State Farm General Insurance Company v. Lara*, Case No. 37-2016-00041750-CU-MC-CTL.

³⁴ PA-2018-00005.

State Farm resisted Consumer Watchdog’s demand that it publicly file its underwriting guidelines for many months. The company even attempted to strike a deal with CDI to avoid disclosure in a separate State Farm rate proceeding in which Consumer Watchdog had not intervened. Four additional months of delay ensued as State Farm provided multiple sets of supposedly complete underwriting guidelines, while refusing to confirm that any one of them was the operative policy. CDI later told Consumer Watchdog that State Farm had put negotiations regarding its homeowners application on hold because the company preferred to prioritize an auto insurance rate application.

Further delays by State Farm, followed by extensive negotiations between Consumer Watchdog, State Farm, and CDI, consumed 20 months. In August 2020, the company finally agreed to publicly file its underwriting guidelines in any rate application the company submitted.

Challenging Discriminatory Practices.

Consumer Watchdog also objects to unlawful practices it uncovers in rate applications.

Consumer Watchdog discovered that Pacific Specialty Insurance Company’s current underwriting rules permit the company to deny home insurance coverage for “properties located in a neighborhood not showing pride of ownership or condemned dwellings,” a manifestly subjective, unverifiable, and potentially discriminatory basis for denying coverage. The company’s 2020 application for a 6.9% increase³⁵—which was updated with additional data multiple times and was resolved in December 2023 at 3%—did not address why “neighborhood pride of ownership” is relevant, how it is determined, or who at the company would have the power to make that determination. Consumer Watchdog

Pacific Specialty Underwriting Guidelines

14. UNACCEPTABLE RISKS

Pacific Specialty will not accept the following:

A. Unacceptable Locations:

1. Dwellings located in a protection class 9 or 10 unless endorsement PO39, Difference in Conditions for California Preferred HO-3 Policies is attached.
2. Properties that are isolated or inaccessible to firefighting or other emergency equipment or services.
3. ~~Properties located in landslide or mudslide areas.~~
4. ~~Properties located in a neighborhood not showing pride of ownership or condemned dwellings.~~
5. Any risk in a forested area, unless endorsement PO39, Difference in Conditions for California Preferred HO-3 Policies is attached and has a California FAIR Plan or equivalent policy concurrently in-force for the same premises.

³⁵ PA-2020-00009.

successfully advocated to have this and a related eligibility requirement removed from Pacific Specialty’s underwriting guidelines.

Proposition 103 also bars insurance companies from using discriminatory or unauthorized criteria—called “rating factors”—to set auto insurance premiums. Consumer Watchdog has challenged numerous rate applications by insurance companies that use “occupation” and “education” to overcharge motorists who do not have college degrees or white-collar jobs. Doctors, lawyers and accountants pay less than grocery cashiers, janitors, gig-workers, retirees, students, homemakers, and the unemployed.

Consumer Watchdog and other citizen groups formally petitioned Commissioner Lara to bar the use of occupation and education rating factors in early 2019,³⁶ but he denied the petition.³⁷ Consumer Watchdog then began challenging their use by individual companies through the prior approval process.³⁸

Commissioner Lara has acknowledged that basing rates on occupation and education causes “wide socioeconomic disparities,” with the most adverse impact falling on low-

³⁶ Consumer Watchdog News Release, “Community Groups Petition California Insurance Commissioner Ricardo Lara to Ban Use of Occupation and Education to Price Auto Insurance,” Feb. 21, 2019 (<https://consumerwatchdog.org/insurance/community-groups-petition-california-insurance-commissioner-ricardo-lara-ban-use/>).

³⁷ Consumer Watchdog News Release, “Insurance Commissioner Promises Hearings—But Sets No Timeline to Stop Auto Insurance Discrimination,” March 26, 2019 (<https://consumerwatchdog.org/insurance/insurance-commissioner-promises-hearings-sets-no-timeline-stop-auto-insurance/>).

³⁸ For example: Consumer Watchdog News Release, “Commissioner Lara Should Reject Job & Education-Based Insurance Discrimination, Says Consumer Watchdog,” Jan. 27, 2020 (Mercury Insurance) (<https://consumerwatchdog.org/insurance/commissioner-lara-should-reject-job-education-based-insurance-discrimination-says/>); Consumer Watchdog News Release, “Commissioner Lara Should Reject Farmers’ Auto Insurance Rate Hikes and Stop Surcharges Aimed At COVID-19 First Responders and Emergency Workers, Says Consumer Watchdog,” March 31, 2020 (Farmers) (<https://consumerwatchdog.org/insurance/commissioner-lara-should-reject-farmers-auto-insurance-rate-hikes-and-stop-surcharges/>); Consumer Watchdog News Release, “Consumer Watchdog Challenges \$202 Million Auto Club Insurance Rate Increase & Job-Based Insurance Rate Discrimination,” July 28, 2022 (Auto Club of So. Cal.) (<https://consumerwatchdog.org/insurance/consumer-watchdog-challenges-202-million-auto-club-insurance-rate-increase-job-based/>); Consumer Watchdog News Release, “Consumer Watchdog Challenges \$268 Million GEICO Auto Insurance Rate Hike & Job- and Education-Based Insurance Rate Discrimination,” Aug. 9, 2022 (GEICO) (<https://consumerwatchdog.org/insurance/consumer-watchdog-challenges-268-million-geico-auto-insurance-rate-hike-job-and-education/>); Consumer Watchdog News Release, “Consumer Watchdog Calls on Insurance Commissioner Lara to Reject Allstate’s Job-Based Insurance Rate Discrimination, Adopt Regulations to Stop the Practice Industrywide,” Sept. 22, 2022 (Allstate) (<https://consumerwatchdog.org/insurance/consumer-watchdog-calls-insurance-commissioner-lara-reject-allstates-job-based-insurance/>).

income drivers and communities of color.³⁹ In response to Consumer Watchdog petitions in several individual rate filings, he made a commitment to issue a regulation to address the issue.⁴⁰ To date, however, Commissioner Lara has yet to issue the promised regulation, and continues to approve the rates of companies that use these discriminatory and illegal rating factors.

Failure to Refund Auto Insurance Overcharges During COVID.

Auto accidents plummeted during the unexpected COVID lockdown that began in March 2020, as Californians' cars quarantined in driveways across the state. Yet virtually all insurance companies continued to charge the same rates that had been approved well prior to the pandemic.

Proposition 103 requires insurance companies to maintain reasonable rates at all times.⁴¹ Commissioner Lara issued multiple notices advising insurance companies to provide their customers refunds, but compliance fell far short of the amount drivers were overcharged. Consumer Watchdog estimated that the fifteen largest California auto insurance companies overcharged motorists by \$5.5 billion during 2020 alone, of which they refunded \$1.9 billion, leaving the industry with a windfall of at least \$3.6 billion.⁴² The organization repeatedly urged the Commissioner to take formal public regulatory actions to enforce Proposition 103: require all auto insurers to submit new rate applications reflecting the dramatic drop in claims;⁴³ issue a binding regulation that would have required companies' compliance;⁴⁴ call recalcitrant insurance companies to an

³⁹ News Release, California Department of Insurance, "Commissioner Lara Sees 'Disturbing' Disparities in Auto Insurance Discounts for Millions of Drivers," Sept. 24, 2019 (<https://www.insurance.ca.gov/0400-news/0100-press-releases/2019/release071-19.cfm>).

⁴⁰ PA-2019-00004.

⁴¹ Insurance Code section 1861.05(a).

⁴² Consumer Watchdog News Release, "Auto Insurance Companies Overcharged California Motorists \$5.5 Billion During the First Year of Pandemic, Study Shows," June 29, 2021 (<https://consumerwatchdog.org/insurance/auto-insurance-companies-overcharged-california-motorists-55-billion-during-first-year/>).

⁴³ Consumer Watchdog News Release, "Insurance Companies Overcharged Californians by \$Billions During the Pandemic—Here's How to Get it Back," July 30, 2021 (<https://consumerwatchdog.org/insurance/insurance-companies-overcharged-californians-billions-during-pandemic-heres-how-get-it/>).

⁴⁴ Consumer Watchdog News Release, "Consumer Watchdog Calls on Insurance Commissioner Lara To Issue Refund Rules In Response to CA Supreme Court," Feb. 16, 2022 (<https://consumerwatchdog.org/insurance/consumer-watchdog-calls-insurance-commissioner-lara-issue-refund-rules-response-ca/>).



Empty freeways in Downtown Los Angeles, March 2020. Auto accidents plummeted during the unexpected COVID lockdown, as Californians quarantined and cars stayed in driveways across the state.

enforcement hearing as required by Proposition 103;⁴⁵ and in the meantime, suspend approval of new auto insurance rate increases.⁴⁶ Consumer Watchdog also raised the COVID refund issue in the context of applications for rate increases filed by auto insurance companies,⁴⁷ but Commissioner Lara announced that the refund issue would be considered through a separate process.⁴⁸ The Commissioner never commenced a public proceeding regarding any company's failure to provide refunds, however. Rather, Commissioner Lara has negotiated with insurance companies and relieved them of their outstanding refund obligations behind closed doors, as agency communications obtained by Consumer Watchdog confirm.⁴⁹

⁴⁵ Consumer Watchdog News Release, "Insurance Companies Overcharged Californians by \$Billions During the Pandemic—Here's How to Get it Back," July 30, 2021 (<https://consumerwatchdog.org/insurance/insurance-companies-overcharged-californians-billions-during-pandemic-heres-how-get-it/>).

⁴⁶ Consumer Watchdog News Release, "State Insurance Commissioner Ricardo Lara Should Stop All Auto Insurance Rate Increases During Pandemic, Says Consumer Watchdog," Apr. 23, 2020 (<https://consumerwatchdog.org/insurance/state-insurance-commissioner-ricardo-lara-should-stop-all-auto-insurance-rate-increases/>).

⁴⁷ For example, Consumer Watchdog raised the issue in State Farm's 2022 application for an auto insurance rate increase (PA-2022-00010); Mercury and its CAIC affiliate's 2022 applications (PA-2022-00004 and PA-2022-00008); and the Auto Club's application (PA-2022-00005).

⁴⁸ CDI News Release, "Statement of Commissioner Lara on COVID Pandemic Auto Premium Refunds," Nov. 5, 2021 (<https://www.insurance.ca.gov/0400-news/0100-press-releases/2021/statement106-2021.cfm>).

⁴⁹ Email from Ken Allen, Deputy Commissioner, CDI Rate Regulation Branch, dated January 26, 2023, to GEICO lawyer stating that GEICO owed no more COVID refunds (<https://consumerwatchdog.org/wp-content/uploads/2023/12/GEICOCOVID.pdf>).

III. Insurance Company Delays and Department of Insurance Scheduling Drive Rate Challenge Timelines

After a consumer representative challenges an insurance company's application, the Department and Consumer Watchdog frequently make several rounds of requests for additional financial or underwriting information from the company. There also may be preliminary two-way communications between the insurance company and CDI, between the company and Consumer Watchdog, or between the CDI and Consumer Watchdog.

A key milestone in the review process is a conference, scheduled by the CDI, at which Consumer Watchdog, the CDI and the insurance company exchange and discuss their actuarial analyses based on review of the application and additional information obtained from the company. At that meeting, the parties discuss the application, issues raised by Consumer Watchdog's petition, and outstanding requests for information necessary to evaluate and refine each party's respective rate calculation.

The time between Consumer Watchdog's challenge and this initial three-way call is often determined by how much additional financial or underwriting information that was not included in the filing is needed by the Department and Consumer Watchdog to correctly evaluate a company's request, and how long it takes the company to provide that information.

Consumer Watchdog assessed both metrics in considering the cause of delays.

Insurance companies are responsible for delays that add months or even years to the process.

Of the 35 challenges Consumer Watchdog completed between January 2019 and October 2023 during Commissioner Lara's tenure, at least eight were significantly delayed by the insurance company applicant, by up to 19 months.

There are five common ways that insurance companies cause lengthy delays in the review process. First, they routinely fail to file all the initial data required by CDI regulations as part of a rate application. Second, they frequently refuse to cooperate with requests for additional information that Consumer Watchdog's or CDI's actuaries need in order to comprehensively assess the rate application. Third, insurance companies frequently "update" their filings to provide new information, which typically resets the process. Fourth, they often slow walk the entire process when a rate *decrease* is required, since decreases reduce their revenue. Fifth, insurance companies frequently assign a lower priority to their application. For this analysis, Consumer Watchdog considered any period of more than two months of inaction by the insurance company to be a "significant"

delay. Other delays, such as instances in which the insurance company’s responses to CDI or Consumer Watchdog were timely, but incomplete, also occurred but are not quantified here.

Insurance Commissioner Lara testified recently that, in response to his inquiries about the reason for rate review delays, CDI analysts told him that 80% of the time “we’re waiting on them [insurance companies] to respond to the information that we need.”⁵⁰

Here are examples of matters initiated by Consumer Watchdog during which the insurance company caused lengthy delays. Download a spreadsheet with more examples at the link in this footnote.⁵¹

State Farm Underwriting Guidelines: State Farm’s failure to agree to publicly disclose its underwriting guidelines in an application for a homeowners rate increase— noted above at page 23—delayed approval of a second homeowners insurance rate increase, and an auto class plan filing as well.

Mercury Automobile Class Plans: Under Proposition 103, the rating factors that insurance companies may use to set a motorist’s premium are regulated separately from rates.⁵² Companies selling auto insurance must submit filings for the Commissioner’s approval known as “class plans” that prove the insurance companies have used lawful rating factors and that they are applied to prioritize rating factors within a motorist’s control, such as driving safety record.

In April 2017, Consumer Watchdog objected to a class plan filing by Mercury Insurance and its affiliate, California Auto Insurance Company.⁵³ The organization noted that Mercury’s rules wrongly treated motorists as if they were at fault in a car accident; the companies used conflicting data; the proposed calculation of the driving safety record rating factor was not in compliance with CDI regulations; Mercury tried to coerce policyholders who were lawyers to submit to arbitration and forfeit their right to sue Mercury in court in exchange for a discount, which is unlawful; and the company improperly set premiums based on a motorist’s education and occupation.

⁵⁰ Insurance Commissioner Ricardo Lara, Testimony to California Assembly Insurance Committee, Dec. 13, 2023.

⁵¹ Eight examples of insurance company delays: <https://consumerwatchdog.org/wp-content/uploads/2024/01/InsurersDelay.xlsx>.

⁵² Insurance Code section 1861.02(a).

⁵³ PA-2017-00009.

During the summer of 2017, Consumer Watchdog sent Mercury requests for additional information. Mercury agreed to revise its at-fault accident rules so they complied with the law, and agreed to eliminate the arbitration requirement. Then over the course of the rest of 2017 and 2018, Mercury responded to requests by the Department to revise the methodology the company used to determine the discounts/surcharges relating to several of its rating factors. Upon completion of that lengthy revision to its filing, the CDI reached out at the end of February 2019 to schedule a three-way call for the end of March. Only after that lengthy delay, and just prior to that March 2019 call, did Mercury complete its response to several of Consumer Watchdog's outstanding initial requests. The Commissioner refused to compel Mercury to cease the use of occupation and education, however. After Mercury documented its calculations in connection with the driving safety rating factor and updated its rule manual to conform its at-fault accident rules to the regulations, the matter was resolved in May 2019.

Allstate 2021 Homeowners Increase: In April 2021, Allstate asked the Commissioner for an overall +4.6% rate increase to its homeowners rates.⁵⁴ Consumer Watchdog challenged the application in June, contending that Allstate had not shown that its computer risk model was properly implemented; had not supported the loss projections it used; had failed to justify its requests for variances from the standard regulatory ratemaking formula; had not properly excluded all expenses for institutional advertising; and had failed to provide data in a spreadsheet format in its rate application, as required by CDI regulations.

Over the course of the next nine months, the CDI and Consumer Watchdog requested additional data and documents to justify Allstate's proposed rates and underwriting rules. The CDI scheduled a three-way call in May 2022. Eventually, Allstate provided some of the information requested by Consumer Watchdog, but claimed the rest was either proprietary or irrelevant. The parties eventually reached a tentative agreement for an overall rate increase of 2.75%. However, in August 2022, CDI and Consumer Watchdog learned for the first time that Allstate had stopped selling policies in neighborhoods where the company insisted it was still doing business.

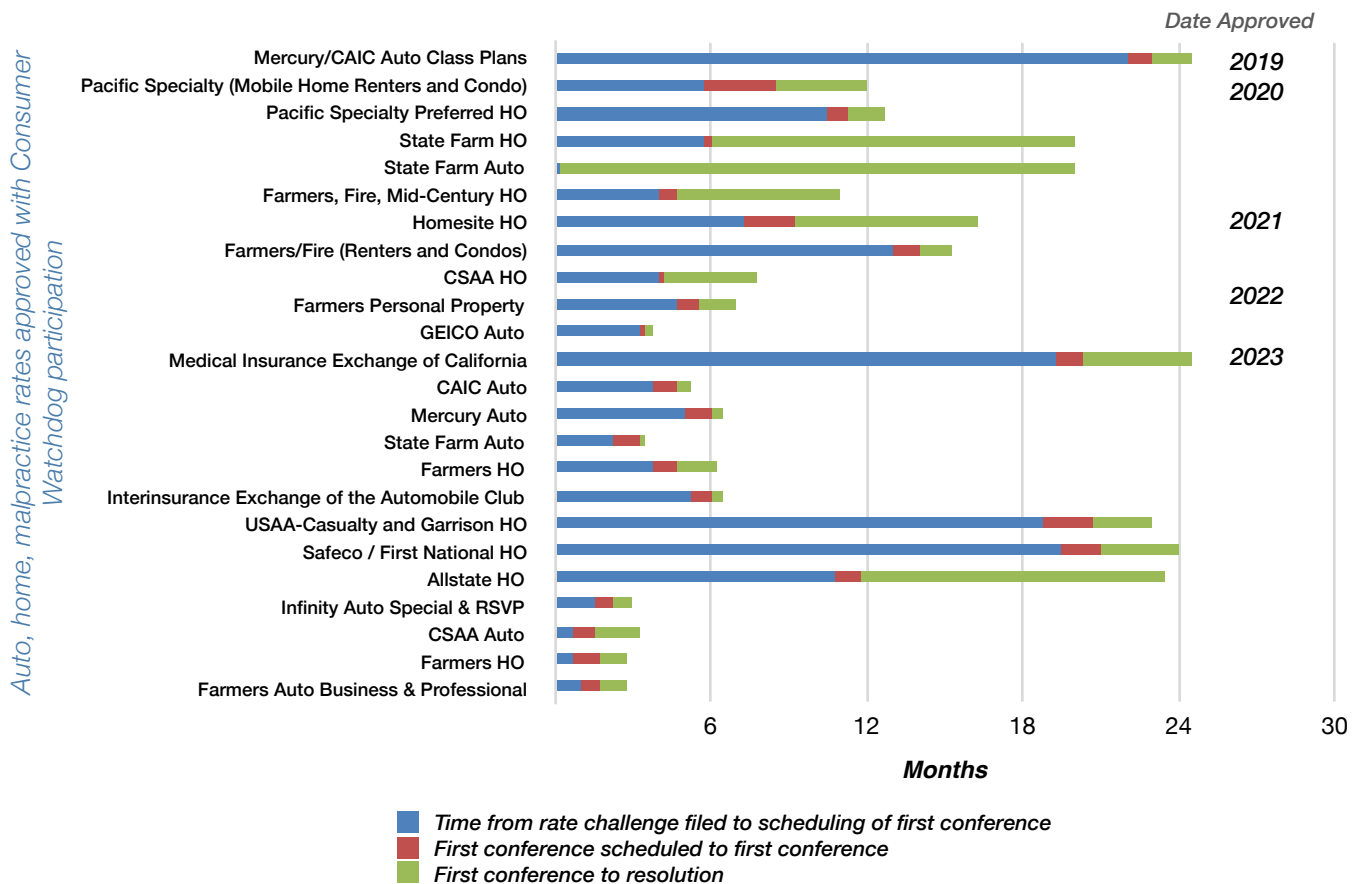
After Consumer Watchdog sought detailed information on the change, the company ceased communicating with Consumer Watchdog and CDI—for six months. Negotiations resumed, but in May 2023, Consumer Watchdog discovered that, contrary to Allstate's assurances that it was still selling new homeowners policies as it had previously agreed, the company had in fact stopped all such sales the previous November. Allstate admitted that it had disengaged in negotiations and confirmed that it had withdrawn from all new business, but contended it was not obligated to publicly notify the Commissioner.

⁵⁴ PA-2021-00005.

Insurance Commissioner Lara ultimately agreed to approve a 4.0% rate increase over Consumer Watchdog’s objection.⁵⁵

CDI scheduling also drives the timeline for review of rate applications. Of the 35 Consumer Watchdog challenges that were resolved between January 2019 and October 2023, 24 proceeded to the point of at least one conference between all parties. Of those 24, it took CDI an average of 7.2 months to schedule the initial conference. In 18 of the 24 matters that reached the scheduling stage, the first conference was held after three months, in eight of these matters after six months, after a year in five matters, and after 18 months in four of the 24 matters. Once CDI scheduled the first conference, it took an average one month for that conference to occur, and an average 3.7 months from that conference to resolve the matter.

Insurance Company Delays and Department of Insurance Scheduling Drive Rate Challenge Timelines



⁵⁵ Consumer Watchdog News Release, “Allstate’s \$16M Homeowners Rate Hike Approved Despite Company Secretly Ending Sales of New Home Insurance in California,” Jun. 13, 2023 (<https://consumerwatchdog.org/insurance/allstates-16m-homeowners-rate-hike-approved-despite-company-secretly-ending-sales-of-new-home-insurance-in-california/>).

The timeline above shows the period from the date Consumer Watchdog filed a challenge to an application, to outreach for the first conference, to the conference, and finally to the resolution of each of the 24 Consumer Watchdog challenges that proceeded to the conference scheduling stage.

Auto Insurance “Moratorium”: According to news reports, Commissioner Lara imposed a de facto moratorium on the review and approval of auto rate increases prior to his re-election in November 2022.⁵⁶ Just one auto insurance rate increase was approved between January 2021 and November 6, 2022. Several rate decreases were approved in 2021. Although the industry complained it was unable to get the rate increases it needed during that period, and under Proposition 103, insurance companies have a legal right to any rate increase it can prove is necessary, no insurance companies filed suit against the Commissioner challenging the moratorium.

⁵⁶ *Insurance Business*, “Agents Fear Market Impact If California’s Insurers ‘Held To Ransom,’” Oct. 24, 2022 (<https://consumerwatchdog.org/in-the-news/agents-fear-market-impact-if-californias-insurers-held-ransom/>)

IV. Not All Rate Increases Are Fully Vetted by Commissioner Lara

Faced with massive pressure from insurance companies to raise home and auto rates and a backlog of unprocessed pre-election applications for auto insurance rate increases, the Commissioner adopted a markedly accelerated approach to his review of rate applications immediately after his re-election in November 2022.

Commissioner Lara approved 61 rate increases for homeowners, condo and renters insurance, averaging 13.4%, between December 2022 and December 2023. He also authorized 118 auto and other vehicle insurance rate increases averaging 13.6% during that period.⁵⁷

In 2023, Consumer Watchdog brought and resolved eleven auto insurance, eight homeowners insurance, and one medical malpractice insurance rate increase challenge. In some of those proceedings, the Commissioner prioritized speedy approval of rate increases over the requirement that an insurance company thoroughly justify its requests, at a significant cost to policyholders. In two of the cases, Consumer Watchdog's right as a consumer representative to thoroughly review an insurance company's request for a rate increase was abruptly terminated—and rate increases were approved that the insurance company had failed to fully justify.⁵⁸

GEICO Auto Insurance. One of those cases was GEICO's June 2022 request for an auto insurance rate increase averaging 6.9%.⁵⁹ Consumer Watchdog reviewed the application and determined that GEICO had improperly inflated its projections of future losses by assuming that the sudden increase in driving and claims as the COVID pandemic ended would continue during the year after the requested increase took effect. CDI did not reach out to schedule an initial conference among the three parties until November 18, 2022. Consumer Watchdog requested that GEICO provide further information to justify its application for a rate increase, including data on the impact of COVID-19 on claims and rates, on refunds GEICO provided for overcharges during COVID, as well as on its decision to shut down its sales force in California. GEICO partially responded to the requests, but withheld documents critical to the completion of Consumer Watchdog's review and analysis of the rate application. For example, GEICO refused to provide data, documents, and/or analysis related to (1) changes in its marketing system, including its decision to close local offices in California and stop selling insurance

⁵⁷ <https://consumerwatchdog.org/wp-content/uploads/2023/12/Post-ElectionApprovals.xlsx>.

⁵⁸ GEICO (PA-2022-00006) and Consumer Watchdog's consolidated challenge to requests by Mercury (PA-2022-00004) and its affiliate, California Automobile Insurance Company (CAIC) (PA-2022-00008).

⁵⁹ PA-2022-00006.

through telephone agents in the state; (2) the impact of the COVID pandemic on its private passenger auto insurance costs; and (3) comprehensive trend data for both the frequency and severity of accidents.

CDI set a December 8, 2022, call with GEICO and Consumer Watchdog to further discuss the application. But on December 6, Commissioner Lara abruptly approved the rate increase, ignoring Consumer Watchdog's request for information and objections—unlawfully negating its rights under Proposition 103.⁶⁰ GEICO customers' rates were increased by \$256 million because of that improper approval.

Communications obtained by Consumer Watchdog through public records disclosure requests show that lawyers for GEICO then pressured the agency for hurried approval of a subsequent rate increase. In response, the head of CDI's Rate Regulation Branch acknowledged that "GEICO's prior [auto] rate filings were approved in December, filing reviews that were limited in scope in order to achieve approvals more quickly" As he explained, "[T]he review of that filing was moderately curtailed in recognition of the time that had passed since GEICO's last [auto] rate filing approval." But, he warned, "Here, we will be taking a more standard review approach for the pending rate filing, which will take a bit more time than performing a more curtailed review again."⁶¹

"GEICO's prior [auto] rate filings were approved in December, filing reviews that were limited in scope in order to achieve approvals more quickly...."

"[T]he review of that filing was moderately curtailed in recognition of the time that had passed since GEICO's last [auto] rate filing approval."

"Here, we will be taking a more standard review approach for the pending rate filing, which will take a bit more time than performing a more curtailed review again."

THE HEAD OF CDI'S RATE REGULATION BRANCH TO
GEICO LAWYER AND LOBBYIST

⁶⁰ Consumer Watchdog News Release, "Insurance Department Must Protect Public's Right to Scrutinize Insurance Rate Increases Consumer Watchdog Says in Letter to Commissioner Lara After Abrupt Approval of GEICO Rate Hike, Dec. 7, 2022 (<https://consumerwatchdog.org/in-the-courtroom/insurance-department-must-protect-publics-right-to-scrutinize-insurance-rate-increases-consumer-watchdog-says-in-letter-to-commissioner-lara-after-abrupt-approval-of-geico-rate-hike/>).

⁶¹ Email from GEICO lawyer Angela Rinella to Chief Deputy Insurance Commissioner Michael Martinez, enclosing email from Ken Allen, Deputy Commissioner, Rate Regulation Branch, dated April 11, 2023, to GEICO lawyer Angela Rinella (<https://consumerwatchdog.org/wp-content/uploads/2023/12/GEICOCDICorrespondenceApril2023.pdf>).

Three other challenges initiated by Consumer Watchdog, objecting to proposed increases by Mercury Insurance,⁶² Auto Club of Southern California,⁶³ and Allstate, were arbitrarily curtailed, resulting in rates that the company had not fully justified.⁶⁴

Information obtained by Consumer Watchdog through official records requests and other public sources show that Commissioner Lara has met repeatedly with insurance companies that have rate applications and other matters pending before him—including matters initiated by Consumer Watchdog and discussed in this report.⁶⁵ For example, Commissioner Lara met with both Farmers Insurance⁶⁶ and GEICO⁶⁷ while the companies' auto insurance rate proceedings, detailed above, were ongoing.

Records also reveal that the Chief Deputy Commissioner Michael Martinez—second in command to the Commissioner—has personally intervened in pending rate matters at the urging of insurance companies. Martinez testified before the legislature in March 2023: “We have been working very closely I believe with industry on homeowners and commercial filings - and that is something that hopefully others can attest to in this room - that I personally have been working very closely with trade associations to flag those particular filings that can help be able to move the ball forward”⁶⁸

It is improper for the Insurance Commissioner—who is the decider, or judge, in a rate case—or his Chief Deputy to discuss an insurance company's pending rate case with the insurer and then intervene on that rate case with agency civil servants. Such intervention

⁶² Requests by Mercury (PA-2022-00004) and Mercury affiliate CAIC (PA-2022-00008).

⁶³ PA-2022-00005.

⁶⁴ PA-2021-00005.

⁶⁵ The Commissioner's office posts lists of such meetings but provides no other details concerning the subject of the meetings or persons in attendance (<https://www.insurance.ca.gov/0500-about-us/001-meeting-request/Commissioner-s-External-Meeting-Calendar.cfm>).

⁶⁶ Commissioner Lara reported meeting with Farmers Insurance six times between August 2022 and August 2023. (See generally <https://www.insurance.ca.gov/0500-about-us/001-meeting-request/Commissioner-s-External-Meeting-Calendar.cfm>.) Farmers had three meetings with Commissioner Lara during Consumer Watchdog's challenges to two recent filings, one for homeowners insurance and one for auto. Farmers met with the Commissioner on May 24, 2023 and then again just 13 days later on June 8. Farmers had a third meeting with the Commissioner on August 7, and both matters were settled on August 10.

⁶⁷ Commissioner Lara reported that he held an October 27, 2022 meeting with Geico in his public calendar. See <https://www.insurance.ca.gov/0500-about-us/001-meeting-request/upload/October-2022-External-Meetings.pdf>.

⁶⁸ Chief Deputy Commissioner Michael Martinez, testimony before California Senate Insurance Committee, March 1, 2023.

with agency staff at a minimum places enormous pressure on them to act quickly. At worst, it is a tacit instruction that the Commissioner wants a rate approved immediately, or at a higher level than is justified, regardless of whether it has been carefully vetted or staff finds the company's requested increase is too high.



Obtained by Consumer Watchdog through official records requests

From: [Zimmerman, Gerald](#)
To: [Martinez, Michael](#)
Cc: [Allen, Ken](#); [Colman, Caitlin](#)
Subject: Re: Allstate PPA - proposed language
Date: Saturday, October 29, 2022 5:38:31 PM

Thank you, Ken and Michael. Very pleased to close this one, as I am sure you are too.

As we agreed, I will now convert our agreed upon language, below, into a chart and submit in SERFF, whereupon CDI will complete review and approve. Ideally, this could occur yet this evening.

Please contact me with any questions or concerns. All the best,

Jerry Zimmerman
Allstate - Sr. Vice President
Government & Industry Relations
630-248-8851

From: Martinez, Michael <Michael.Martinez@insurance.ca.gov>
Sent: Saturday, October 29, 2022 7:18:25 PM
To: Zimmerman, Gerald <Gerald.Zimmerman@allstate.com>
Cc: Allen, Ken <Ken.Allen@insurance.ca.gov>; Colman, Caitlin <Caitlin.Colman@allstate.com>
Subject: [External] Re: Allstate PPA - proposed language

Thank you very much, Jerry. Yes, we will review this last SERFF submission and work to close this filing out as soon as possible this weekend. Let's keep in touch and thank you again for your continued communication and diligence on this. —Michael

Records reveal that the Chief Deputy Commissioner—second in command to the Commissioner—has personally intervened in pending rate matters at the urging of insurance companies.

V. Ongoing Rate Challenges and Latest Savings

During the months of November and December 2023, six homeowners and auto rate challenges brought by Consumer Watchdog were resolved. The total savings for policyholders from those six proceedings alone is nearly \$885 million.

Savings from Consumer Watchdog Rate Challenges, Nov. – Dec. 2023

Company	File No.	Rate Requested	Rate Approved	Total Savings
State Farm Rental	PA-2023-00006	20%	11.43%	\$21,509,293
Allstate Northbrook Auto	PA-2023-00014	35%	30%	\$149,524,857
Pacific Specialty HO	PA-2020-00009	6.9%	3%	\$6,334,736
State Farm Auto	PA-2023-00012	24.6%	21%	\$151,709,663
State Farm HO	PA-2023-00007	28.1%	20%	\$199,737,857
GEICO Auto	PA-2023-00013	20.8%	12.8%	\$356,008,006
			Total Savings:	\$884,824,411

Consumer Watchdog is presently contesting five additional applications for auto and home insurance increases, in which the companies are seeking permission from Insurance Commissioner Lara to increase rates by an average of 28%.

Consumer Watchdog Rate Challenges Pending, Jan. 2024

Company	File No.	Rate Requested
Allstate HO	PA-2023-00011	39.60%
Liberty Insurance HO	PA-2023-00016	29.10%
Standard Fire HO	PA-2023-00017	21.70%
CSAA Auto	PA-2023-00021	28%
United Services HO	PA-2023-00023	20%

Advocating for Wildfire Mitigation Discounts. In addition to challenging requests for enormous increases in rates, Consumer Watchdog is closely scrutinizing whether insurance companies are complying with their obligation to offer “mitigation discounts” to homeowners and communities that take proven steps to protect their properties from wildfires. A new regulation adopted in October 2022 by Insurance Commissioner Lara, after years of complaints by consumers, mandates these discounts.

The discounts are meant to incentivize homeowners and communities to invest in fire mitigation that protects homes and property from fire damage, reducing the risk of damage from wildfire up to 75%, and to give consumers a way to lower the cost of home insurance coverage.⁶⁹ With insurance companies lobbying strenuously to bend the proposal in their favor, Consumer Watchdog extensively participated in the two-year regulatory process of drafting those regulations at CDI.⁷⁰

All insurance companies were required to file new rate applications in April of 2023 that disclose the amount of the mitigation discounts they intend to give, along with other critical information, such as disclosures to consumers of their wildfire risk scores, and the computer models that the companies use to assign those scores.

Most of the filings Consumer Watchdog has reviewed do not comply fully with the new regulations. A common problem is the insurance company's failure to offer a specific discount for each of the ten property-level mitigation steps that homeowners can take to harden their homes, which is required by the regulation. In many filings, insurers have tried to skirt the regulations by lumping several of these property-level factors together and offering an aggregated discount, relying on a private black-box model that they refuse to open to public scrutiny.

As of December 1, 2023, just one of the 100 mitigation applications filed by insurance companies so far has been approved—the FAIR Plan's. Many of the discounts proposed by insurance companies are insignificant, with at least one, proposed by Farmers, as low

⁶⁹ National Association of Insurance Commissioners, et. al, "Application of Wildfire Mitigation to Insured Property Exposure," Nov. 15, 2020 (https://content.naic.org/sites/default/files/cipr_report_wildfire_mitigation.pdf)

⁷⁰ Consumer Watchdog News Release, "Proposed Regulation to Require Discounts for Wildfire Mitigation Measures Must Also Regulate Scores Secretly Used to Deny Home Insurance, Consumer Groups Urge Insurance Commissioner," Nov. 10, 2021 (<https://consumerwatchdog.org/insurance/proposed-regulation-require-discounts-wildfire-mitigation-measures-must-also-regulate/>); Consumer Watchdog News Release, "Rules To Mandate Insurance Discounts Are Necessary to Give New CA 'Safer From Wildfire' Prevention Guidelines Teeth," Feb. 18, 2022 (<https://consumerwatchdog.org/insurance/rules-mandate-insurance-discounts-are-necessary-give-new-ca-safer-wildfire-prevention/>); Rule to Require Discounts for Wildfire Mitigation Measures Must Also Regulate Scores Secretly Used to Deny Home Insurance, Consumer Watchdog Urges Insurance Commissioner," Feb. 25, 2022 (<https://consumerwatchdog.org/insurance/rule-require-discounts-wildfire-mitigation-measures-must-also-regulate-scores-secretly/>); Consumer Groups Back Wildfire Mitigation Insurance Discounts, Call for Protection From Non-Renewals," Apr. 13, 2022 (<https://consumerwatchdog.org/insurance/consumer-groups-back-wildfire-mitigation-insurance-discounts-call-protection-non-renewals/>); "Insurance Commissioner Lara's Regulation Preserves Loophole Letting Insurers Ignore Wildfire Mitigation for Denial or Non-Renewal of Homeowners Policies," Sep. 7, 2022 (<https://consumerwatchdog.org/insurance/insurance-commissioner-laras-regulation-preserves-loophole-letting-insurers-ignore/>).

as \$42 per year, or just 1% of premium.⁷¹ Some companies have requested permission to offer more meaningful mitigation discounts. For example, Allstate’s recent mitigation filing proposes discounts of more than \$600 for homes in the highest-risk areas for wildfire.⁷² Insurance companies also want to require homeowners to pay for certifications of the mitigation work, which can dwarf the amount of the discount.⁷³ And insurance companies are unlawfully refusing to disclose the underlying data and algorithms that their computer models use to determine whether a homeowner is eligible for a mitigation discount. The Commissioner is now asking insurance companies to *remove the proposed mitigation discounts* from their homeowners rate applications, and re-file them separately, in order to expedite the approval of rate increases for those homeowners, while the wildfire discounts are delayed.

⁷¹ The average discount for a Farmers SmartPlan Home policyholder, living in the riskiest fire areas the company insures and who also completed all of the available mitigation steps, is \$125 over three years. That is 1% of the average premium for a SmartPlan Home policyholder with that level of fire risk.

⁷² CDI file No.23-1267, ALSE-133637643.

⁷³ Farmers has stated that the cost of its required home inspection is \$125, which a policyholder must pay every three years. So in the case of the \$125 “mitigation discount” noted above, the net benefit to the customer ends up \$0.

VI. The Insurance Industry's Campaign Against Public Participation

Insurance companies spent \$63 million on their unsuccessful campaign to defeat the grassroots-backed Proposition 103 at the ballot box in 1988. The industry's campaign then proceeded to the courts, the legislature, and the Department of Insurance; insurance companies filed over one hundred lawsuits to block provisions of the law immediately after it passed, and have spent untold amounts seeking legislation and regulations to override its reforms. Using Proposition 103's authority to defend and enforce Proposition 103, Consumer Watchdog has defeated virtually all of the attacks, in most cases working closely with lawyers for the Insurance Commissioner.

Thirty-five years later, insurance companies across the United States are targeting Proposition 103's public participation protections as part of their campaign to overturn its reforms—a political crusade that is driven not only by the industry's desire to reap windfall profits in California, but to eliminate a law that has served as a model for consumer empowerment in other states. What's different now is that insurance lobby is holding California hostage with shortages, and using the undisputed impact of climate change to serve its financial and political agenda.

In the past, California Insurance Commissioners have strongly defended the public participation rights established by Proposition 103. The exception was Chuck Quackenbush, who pursued a deregulatory agenda at the behest of insurers and was forced to resign his office in 2000 after he was caught in a financial scandal involving insurance companies. He attacked the public participation process generally and Consumer Watchdog in particular, invoking insurance industry talking points that the industry and its allies employ to this day. As one report put it at the time, "Insurance Commissioner Charles Quackenbush declared bureaucratic war this week on two consumer groups that have sharply criticized his record."⁷⁴ Quackenbush said: "While some consumer groups have legitimately and effectively represented consumers in insurance-related issues, others have gotten fat off the public trough."⁷⁵ A



A 2000 edition of Insurance Journal about Insurance Commissioner Quackenbush.

⁷⁴ I. DeBare, McClatchy News Service, "Quackenbush Declares War," Feb. 17, 1995.

⁷⁵ T. Mulligan, *Los Angeles Times*, "Quackenbush, Consumer Group Trade Jobs: Insurance: Gloves Are Off as New Commissioner Engages in Battle Over Prop. 103 Issues," Feb. 9, 1995.

newspaper editorial noted that “astonishingly, the new commissioner says that the real problem is greed by consumer advocates”⁷⁶

Unfortunately, Quackenbush’s hostility profoundly impacted public participation just as Proposition 103’s prior approval regulations took full effect. The process requires an initial investment of resources and expertise that are costly to acquire. Consumer organizations such as the Utility Consumer Action Network, San Diego University’s Center for Public Interest Law, Consumers Union, Public Advocates, the Economic Empowerment Foundation, and others that had previously been active in Proposition 103 matters reduced or eliminated their participation. More recently, the Consumer Federation of California has brought public challenges.

The insurance industry has now seized on the climate crisis to claim that insurers can no longer afford to do business in California if they have to comply with the protections of Proposition 103, including the public participation process. The insurance crisis of the 1980s—widespread insurance shortages and skyrocketing rates, coupled with demands from the insurance industry that California limit consumers’ legal rights—was precisely what led voters to pass Proposition 103 in 1988. Its safeguards and public participation provisions are essential to protecting Californians today.

Which explains why the insurance companies want to cripple the public’s ability to hold them accountable. Echoing Quackenbush’s 1995 attack, an insurance industry’s PR organization, the American Property Casualty Insurance Association, recently established a website dedicated entirely to Consumer Watchdog. It says: “Consumer Watchdog cares about [its] bank accounts, not California consumers.”⁷⁷

Insurance Commissioner Lara also channeled Quackenbush and the insurance industry when he recently accused Consumer Watchdog of “materially benefitting” from the process⁷⁸ and his press spokesperson claimed: “Watchdog is turning a blind eye to consumers’ needs while defending its own insurance piggy bank.”⁷⁹

⁷⁶ Editorial, *San Francisco Chronicle*, “Quackenbush’s Generous Backers,” Feb. 13, 1995.

⁷⁷ www.consumerwatchdogexposed.com

⁷⁸ M. Kupfer, *San Francisco Standard*, “California’s New Home, Auto Insurance Strategy Is Controversial. Here’s Why,” Sept. 25, 2023 (<https://sfstandard.com/2023/09/25/california-just-announced-a-new-insurance-strategy-heres-why-its-controversial/>).

⁷⁹ J. Woolfolk, *Mercury News*, “Consumer Group Says Records Show California Insurance Commissioner Drafted Proposed Market Fix with Industry Lobbyists,” Oct. 27, 2023 (<https://www.mercurynews.com/2023/10/27/consumer-group-says-records-show-insurance-commissioner-drafted-proposed-market-fix-with-industry-lobbyists/>).

At the same time, attorneys for CDI and Consumer Watchdog have been working together to vigorously defend the public participation process against a series of court challenges brought by State Farm in 2016 and that continue to this day.⁸⁰

Proposition 103's public participation protections have leveled the regulatory playing field, enabling consumers to defend their interests with the same quality legal representation that insurance companies deploy. As this report has shown, these protections have been remarkably effective. But as part of a backroom deal with the insurance industry, Commissioner Lara recently announced he will “streamline” and “diversify” the rate review process.⁸¹ To the extent that this means more efficiency—by hiring new rate staff, requiring insurers to submit all documentation for a rate increase up front, and encouraging more consumer representation—it is fully compatible with the robust public participation system created by California voters. But to the extent that the Commissioner accedes to insurance companies' demands that consumer participation be limited, or does not require insurers to transparently and thoroughly justify the rate increases they seek, California consumers will pay hundreds or thousands of dollars more for insurance every year.

⁸⁰ In November 2016, State Farm filed four separate lawsuits challenging various portions of a ruling by Insurance Commissioner Dave Jones in a challenge brought by Consumer Watchdog to State Farm's request to increase its homeowner rates. (<https://consumerwatchdog.org/uncategorized/consumer-watchdog-challenges-210-million-excessive-state-farm-rate-hike-17-million-calif/>). The Commissioner's ruling ordered State Farm to reduce its home condo and renters insurance rates by 7%—which would save customers \$156 million per year as compared to the rates requested by State Farm—and to repay its policyholders more than \$100 million for overcharges dating back to July 2015. (<https://consumerwatchdog.org/insurance/consumer-watchdog-challenges-210-million-excessive-state-farm-rate-hike-17-million-calif/>.) State Farm continues to contest the Commissioner's award of compensation to Consumer Watchdog for its work in the agency proceeding. It is also appealing compensation ordered by the San Diego Superior Court for Consumer Watchdog's defense of Proposition 103 in response to State Farm's litigation. (<https://consumerwatchdog.org/uncategorized/state-farm-sues-avoid-256-million-refunds-and-rate-savings-consumers/>.)

⁸¹ Consumer Watchdog News Release, “Consumer Watchdog Warns Governor, Legislative Leaders that Insurance Commissioner Lara's Deregulation Deal with Insurers Has No Consumer Benefits,” Nov. 2, 2023 (<https://consumerwatchdog.org/insurance/consumer-watchdog-warns-governor-legislative-leaders-that-insurance-commissioner-laras-deregulation-deal-with-insurers-has-no-consumer-benefits/>).