

HOMEOWNERS' INSURANCE DISCRIMINATION

HEARING BEFORE THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE ONE HUNDRED THIRD CONGRESS

SECOND SESSION

ON

THE AVAILABILITY, AFFORDABILITY, AND ACCESSIBILITY OF HOMEOWNERS' INSURANCE, PARTICULARLY IN URBAN NEIGHBORHOODS. COMMUNITY ACTIVISTS AND INTEREST GROUPS ARGUE THAT MANY URBAN AREAS HAVE INSURANCE PROBLEMS BECAUSE OF INSURANCE DISCRIMINATION BASED ON RACIAL AND INCOME CHARACTERISTICS OF A GEOGRAPHIC AREA—I.E., REDLINING

INSURERS RESPOND THAT THEY PROVIDE COVERAGE BASED ON COLOR-BLIND UNDERWRITING GUIDELINES AND THEY SIMPLY DIFFERENTIATE BETWEEN RISKS IN PROVIDING COVERAGE TO INDIVIDUALS AT A PRICE THAT REFLECTS EXPECTED LOSSES; HIGHER PRICES, PARTICULARLY IN URBAN NEIGHBORHOODS, THAT REFLECT A GREATER RISK OF CRIME, VANDALISM, OR LOSS

MAY 11, 1994

Printed for the use of the Committee on Banking, Housing, and Urban Affairs



U.S. GOVERNMENT PRINTING OFFICE

84-051 CC

WASHINGTON : 1994

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402

ISBN 0-16-046080-8

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

DONALD W. RIEGLE, JR., Michigan, *Chairman*

PAUL S. SARBANES, Maryland

CHRISTOPHER J. DODD, Connecticut

JIM SASSER, Tennessee

RICHARD C. SHELBY, Alabama

JOHN F. KERRY, Massachusetts

RICHARD H. BRYAN, Nevada

BARBARA BOXER, California

BEN NIGHTHORSE CAMPBELL, Colorado

CAROL MOSELEY-BRAUN, Illinois

PATTY MURRAY, Washington

ALFONSE M. D'AMATO, New York

PHIL GRAMM, Texas

CHRISTOPHER S. BOND, Missouri

CONNIE MACK, Florida

LAUCH FAIRCLOTH, North Carolina

ROBERT F. BENNETT, Utah

WILLIAM V. ROTH, JR., Delaware

PETE V. DOMENICI, New Mexico

STEVEN B. HARRIS, *Staff Director and Chief Counsel*

HOWARD A. MENELL, *Republican Staff Director*

GLENN IVEY, *Counsel*

MARK KAUFMAN, *Financial Policy Analysis*

TIMOTHY P. MITCHELL, *Legislative Assistant*

DOUGLAS NAPPI, *Republican Counsel*

JONATHAN KAMARCK, *Republican Staff Director/Subcommittee on Housing*

EDWARD M. MALAN, *Editor*

CONTENTS

WEDNESDAY, MAY 11, 1984

	Page
Opening statement of Chairman Riegle	1
Opening statements, comments, or prepared statements of:	
Senator Feingold	9
Prepared statement	44
Senator D'Amato	11
Prepared statement	45
Senator Kerry	12

WITNESSES

Congresswoman Cardiss Collins, U.S. Representative in Congress from the 7th District of the State of Illinois	3
Congressman Joseph P. Kennedy, II, U.S. Representative in Congress from the 8th District of the State of Massachusetts	5
Deval L. Patrick, Assistant Attorney General for Civil Rights, U.S. Department of Justice	13
Prepared statement	46
Discrimination in insurance is prohibited by the Fair Housing Act ...	46
Enforcement efforts	47
Roberta Achtenberg, Assistant Secretary for Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development	17
Prepared statement	49
Insurance and the Fair Housing Act	49
Risk, race, and insurance	50
Current HUD initiatives	51
The need for data disclosure	53
Risk, race, and insurance, revisited	54
Response to written questions of Senator Bond	156
William R. Tisdale, president, National Fair Housing Alliance; accompanied by: Shanna L. Smith and Cathy Cloud	29
Prepared statement	54
Introduction	55
I. NFHA's homeowners' insurance testing project	55
II. NFHA's testing process	56
III. Target company and agent selection	56
IV. Testing results	57
V. Insurance companies, in general	57
VI. The Fair Housing Act prohibits insurance discrimination	59
VII. Why are so few complaints filed?	60
VIII. Recommendations	61
Conclusion	62
J. Robert Hunter, commissioner, Texas Department of Insurance	33
Prepared statement	63
Definitions	63
Data collection	64
Evidence of redlining—the Texas experience	64
Underwriting guidelines	65
Reporting by census tract vs. reporting by zip code	66
Collecting race and gender data	66
Reporting of claims information	66
Automatic sunset provision	67
Review of S. 1917	67
Conclusion	67

IV

	Page
J. Robert Hunter, commissioner, Texas Department of Insurance—Continued	
Response to written questions of Senator Riegle	158
Lynn M. Schubert, assistant general counsel, American Insurance Association	
Prepared statement	37
I. Introduction	67
II. Definition of redlining	68
III. The first step toward a solution	69
IV. Is insurance available?	69
V. Potential Federal action	72
VI. Affirmative efforts by the industry	73
VII. Other issues	76
VIII. Conclusion	77
Charles Kamasaki, National Council of La Raza	41
Prepared statement of Raúl Yzaguirre	77
I. Introduction	77
II. Impact of discrimination on the Hispanic community	78
III. Effects of housing discrimination	81
IV. Home ownership opportunities denied	82
V. Recommendations	83
Letter dated May 9, 1994, to Senator Riegle	85

ADDITIONAL MATERIAL SUPPLIED FOR THE RECORD

An analysis of zip code distribution of State Farm and Allstate agents and policies in Chicago	88
State of Missouri, Director of Insurance, Jay Angoff	116
Prepared statement	123
Homeowners' Insurance in Missouri	123
The NAACP Legal Defense and Educational Fund, Inc.	131
Nationwide Insurance Companies	133
Health News Daily, May 11, 1994, FDC Reports	135
Patton, Boggs & Blow, LLP, letter dated May 13, 1994, from John L. Oberdorfer	141
State of Minnesota, Department of Commerce	145

HOMEOWNERS' INSURANCE DISCRIMINATION

WEDNESDAY, MAY 11, 1994

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

The Committee met at 10:05 a.m., in room SD-538 of the Dirksen Senate Office Building, Senator Donald W. Riegle, Jr. (Chairman of the Committee) presiding.

OPENING STATEMENT OF CHAIRMAN DONALD W. RIEGLE, JR.

The CHAIRMAN. The Committee will come to order.

Let me welcome all those in attendance this morning and invite those standing to find seats. We're pleased to have everyone here today. We're anticipating two of our colleagues from the House of Representatives coming to make statements this morning. We'll accommodate them—I see Congresswoman Cardiss Collins arriving. I'd like to invite her to come on up to the table and be seated. I know our colleague, Joe Kennedy, is also coming over this morning and will be here shortly.

I'm going to make a brief opening statement and call on Senator Feingold, who has asked for the opportunity to make a presentation to the Committee. We're delighted that he is here and sitting in with us, and I've invited him to sit up here with the Members this morning.

After we have gotten started with the background information, I'm going to call on our colleague from the House, Congresswoman Collins, who I'm delighted is here today, and I'll say more about that just shortly.

This morning, the Committee will consider whether homeowners' insurance is as available, affordable, and accessible to all Americans as it should be, and most particularly those living in urban neighborhoods.

We're going to consider not only if insurance companies are refusing to sell in certain areas, but if they are also charging more for insurance coverage or offering restricted insurance coverage without justification.

This Committee has considered claims of what is commonly referred to as redlining, screening people out for credit or other kinds of financial services, and we've done that on several occasions.

In fact, we have included provisions in virtually every bill that the Committee has passed during my 6 years as Chairman to ensure as a matter of law and legal right that credit is available to all communities.

The Committee included provisions in the Financial Institutions Reform, Recovery, and Enforcement Act, known as FIRREA, and amended the Home Mortgage Disclosure Act to address the problems of mortgage discrimination. We amended the Equal Credit Opportunity Act to require regulators to notify the Justice Department about instances of lending discrimination.

We have also held hearings to make sure that fair lending laws are being enforced aggressively and effectively. Since lenders require their borrowers to secure property insurance, eliminating homeowners' insurance discrimination is a logical and necessary progression of the Committee's efforts to ensure that there is an adequate and fair flow of capital into distressed communities and that there, in fact, be fair access to financial services by all citizens.

In 1968, the Fair Housing Act banned redlining and housing discrimination. The Federal courts have also made it clear that the Fair Housing Act bans homeowners' insurance discrimination. Nevertheless, we still find many serious and terribly troubling examples of discrimination fully 26 years after Lyndon Johnson signed that piece of legislation, and I remember it well because I was there as a new Member of Congress at the White House at that bill-signing.

One insured drew a line around the entire city of St. Louis, Missouri, and labeled it "ineligible property."

In Milwaukee—Senator Kennedy? Congressman Kennedy, why don't you just come right on up and take a seat beside Congresswoman Collins?

In Milwaukee, a district sales manager was taped while criticizing other agents for writing too many policies for blacks and suggesting ways to avoid writing policies for black Americans.

This Committee has also heard testimony about the tremendous shortage of property insurance in Los Angeles. For example, California's Department of Insurance has reported that 61 percent of the businesses damaged in the riots after the Rodney King verdict were uninsured because coverage was too expensive or just not available. An additional 4 percent said the agent they contacted would not quote rates in their area.

In Georgia, and here in Washington, DC, insurance regulators are investigating charges of insurance discrimination.

The State of Texas recently fined Allstate \$850,000 for discriminatory practices. The Ohio insurance department fined Farmers Insurance for determining rates by zip codes instead of by municipality, which led to underpricing insurance in the suburbs.

Today, we will hear from a panel of experts in this field, including Texas insurance commissioner, Robert Hunter; Lynn Schubert, of the American Insurance Association; Wayne Tisdale, president of the National Fair Housing Alliance, which I understand has some discouraging, but nevertheless, important results to share with us from a tester program; and Raúl Yzaguirre, of the National Council of La Raza.

They'll be followed by Assistant Attorney General, Deval Patrick, of the Justice Department and Assistant Secretary, Roberta Achtenberg, of HUD, who will testify about the Administration's enforcement efforts in this area.

I want to say that this is an abbreviated opening statement with respect to the work of this Committee and the counterpart Committee in the House, upon which our colleague serves.

Putting an end to discriminatory financial practices in this country, in the banking system, in the insurance system, and in every other way, are part of fulfilling the basic doctrine of this land.

The laws that have been written and signed into effect prohibit many of the practices that are going on today and have been going on for decades. We're determined to use every power at our command to bring that to an end.

It doesn't mean anything to talk about using our normal capital markets and free enterprise system to get resources into the entire fabric of our land and into our distressed communities if there are barriers that prevent that capital from flowing there.

If people can't get mortgages or they can't get home insurance which enables them to get mortgages, the whole system starts to just malfunction and die right on the spot. We can't have that. That's not what America is about and the law says it shouldn't be that way and we're not going to tolerate those practices.

If we need stronger penalties with respect to enforcement and remedial action, then those are precisely, the steps that we'll need to take. This practice has to stop if we want to have any hope of having the kind of America that we speak about and hold out as a vision and also that can work fairly and properly on a day-to-day basis.

Senator Feingold, if I may, I think I'm going to call on our House colleagues who have come across to let them make their opening statements. After they have done so, I'm going to call on you as a witness, in effect, before the Committee, and then other Members of the Committee for opening statements.

Let me welcome my two colleagues.

I want to just say, Congresswoman Collins, you and I served together a good many years ago as seatmates on the Foreign Relations Committee in the House, the International Relations Committee. I remember that opportunity with special fondness. I'm a great admirer of you and your record. I'm just delighted that you're here to make a statement to the Committee this morning.

OPENING STATEMENT OF CONGRESSWOMAN CARDISS COLLINS, U.S. REPRESENTATIVE IN CONGRESS FROM THE 7TH DISTRICT OF THE STATE OF ILLINOIS

Representative COLLINS. Thank you very much. I remember those days as well and they're certainly very fond memories for me, equally.

Mr. Chairman, and Members of the Committee, I certainly appreciate this opportunity to testify today on the very important issue of insurance redlining.

Over the last year, the Energy and Commerce Subcommittee on Commerce, Consumer Protection, and Competitiveness has examined redlining practices of insurance companies. At the Subcommittee's two hearings, we heard very disturbing reports about a variety of practices insurance companies use to deny access to insurance to the residents of the urban areas.

Some may say that insurance redlining is a thing of the past, but the witnesses at our hearings testified that the practice continues, in fact, flourishes. Some may say that redlining doesn't exist or they're not sure it's a problem.

I know it's a problem. My constituents know it's a problem. Most people living in urban areas know it's a problem. For example, those at the hearing cannot forget Selwyn Whitehead of the Economic Empowerment Foundation, who testified about her experience in trying to get liability insurance for her telecommunications consulting firm in the late 1980's.

When she identified her firm as a woman-owned firm, of color, in Oakland, California, she was turned away or quoted premiums of \$8,000 to \$10,000 per year. When she called on behalf of her fictitious white male boss, a Mr. Selwyn Whitehead, the first quote was for a mere \$1,200.

The statistics speak for themselves. Illinois Public Action testified that there are 52 State Farm offices and 32 Allstate offices in a predominantly white congressional district in Chicago. But, in the Chicago portion of my district, according to Public Action, there are only 6 State Farm offices and 2 Allstate offices outside the downtown area.

I'd like to submit for the record the detailed study prepared by Illinois Public Action called, "An Analysis of Zip Code Distribution of State Farm and Allstate Agents and Policies in Chicago."

ACORN testified that in Chicago, only 51.1 percent of occupied, single-family units in low-income neighborhoods, and only 57.6 percent in minority neighborhoods, were covered by any type of insurance, compared to 90-percent coverage in high-income and 87.7 percent coverage in white areas.

There is plenty of other evidence of redlining behavior by insurance companies themselves. For example, the NAACP has a lawsuit pending against American Family Mutual Insurance Company. That's the case where the sales manager was recorded as telling an agent:

I think you write too many blacks. You gotta sell good, solid, premium-paying white people.

The California Insurance Department recently entered into a \$500,000 settlement with the California Insurance Group after the company was accused of redlining large areas of San Francisco. Other witnesses today will provide still more evidence of redlining.

As a practical matter, access to property insurance is a necessity for mortgage loans and is often essential for access to very small business loans. Without access to affordable insurance, small businesses in our urban areas cannot prosper, nor generate badly needed jobs.

Similarly, access to affordable automobile insurance is often essential for residents in the inner cities to keep or to hold their jobs.

My constituents still suffer daily the indignities of insurance redlining. They want to start seeing some relief.

We, here in Washington, can argue about the perfect bill, but my constituents want results. We can wait forever for State legislators to pass the perfect bill, or even any bill, for that matter. But the people in Chicago and other urban areas want results.

We can argue about the perfect bill and let the clock keep ticking away. Maybe we can even wait until next Congress, or the Congress after that, in the hope of the perfect bill. But I feel the environment for good legislation will not be any better next year and will likely be worse, if anything. While we argue over the perfect bill, the people back home don't have any results.

I would urge this Committee to begin the process of fighting red-lining by supporting appropriate legislation, and yield back the balance of my time, Mr. Chairman.

The CHAIRMAN. Thank you very much. I very much appreciate your coming over and testifying today. I think you state very powerfully what this problem is and the need for us to do something about fixing it.

Let me say that if any of you need to leave for reasons of activities on the House side, feel free to do so at any time.

Let me also say to Congressman Joe Kennedy how much I appreciate your being here and your leadership on our counterpart Committee in the House and in this area.

Your family has given great service to this country and here in the Senate, your father and now your uncle are doing so. I have the particular privilege of occupying the office, here in the Senate Dirksen Building, that was your father's office when he was here as a Senator, and that has a very special meaning to me, as you know.

We welcome you here. You come very much enveloped in that family legacy of standing up on these civil rights, human rights, and equity issues. And so, it's entirely appropriate that you come to testify today on this issue where you've been giving very important leadership.

OPENING STATEMENT OF CONGRESSMAN JOSEPH P. KENNEDY, II, U.S. REPRESENTATIVE IN CONGRESS FROM THE 8TH DISTRICT OF THE STATE OF MASSACHUSETTS

Representative KENNEDY. Senator, I very much appreciate your welcoming remarks, most particularly because they come from you.

I, having served on the House Banking Committee now for close to 8 years, have come to realize how difficult many of the issues that you have focused on, particularly in your Chairmanship over here, have been, and how divisive they can be, and how difficult it is to gain any kind of consensus.

I look around this Committee room and see that there are some similarities, though we finally did get a Republican to join us on this issue. But the fact is, Senator, your leadership in taking on a lot of special interests that surround banking and insurance issues is something to be very much commended.

I think everybody is going to miss the leadership that you have shown on this Committee, particularly those of us that struggle with many of the same issues on the House side.

I want to really thank you and tell you that we're going to miss you, but I'm sure you'll find a way to keep your oar in the water there, Senator.

The CHAIRMAN. Thank you. Thank you. I assure you, I will.

Representative KENNEDY. I want to thank the other Members of the Committee. I also want to pay particular thanks to Senator

Feingold for the tremendous work that he's doing on this issue. The bill that he has filed here on the Senate side is, I think, one that can really get to the heart of whether or not these kinds of practices can be documented in a fashion that will allow us to significantly change the policies of the insurance industries in this country.

All of us, particularly Members of this Committee, are very familiar with how the HMDA data on the banks have enabled us to get very significant amounts of dollars by the banks to begin flowing into inner-city neighborhoods and into neighborhoods of color around this country.

The light of reality and the light of what is good for this country will shed itself on this issue if, in fact, we get the data that Senator Feingold is seeking.

I would urge the Members of this Committee to look closely at his legislation and I hope that you would support it if it has an opportunity to come to the Senate Floor and in this Committee on the way to the Floor.

I want to thank, obviously, all the others for your longstanding commitment to ending inequality in this country, Senator Kerry, Senator Campbell, and Senator D'Amato.

It's fitting that you have decided to examine the serious problem of insurance redlining in the property and casualty area. If any issue deserves your principled leadership, it's this one.

People are being denied reasonable insurance for reasons having nothing to do with risk factors, but having everything to do with their race, their wealth, and their neighborhood. We have in our country a system of insurance that is separate and unequal. It is wrong. It's un-American. It must stop.

If you're an African-American, a Latino, an Asian, or a gay, then Nationwide is not on your side. You're in slippery hands with Allstate. And, unlike a good neighbor, State Farm is not there. Let's just look at some of the facts.

The California Insurance Group gave maps to agents which covered in yellow ink the African-American, Hispanic, and gay neighborhoods of San Francisco. The company deemed those areas off limits for the purposes of writing policies.

California's insurance commissioner, John Garamendi, sued the company for unlawful discrimination. Ultimately, he reached a \$500,000 settlement and won a commitment from the company to increase its business in minority and gay communities by \$3 to \$4 million over the next 4 years.

As you will hear about later this morning, the National Fair Housing Alliance is about to press charges against Allstate and Nationwide for discrimination in four major cities. The findings used in these cases established dramatic evidence of discrimination.

In Chicago, for instance, testers found evidence of discrimination as cases were examined.

In Atlanta, where the eyes of the world will be focused in 2 years from now during the Olympics, only 2 percent of Nationwide's 155 offices are located in or near a minority area.

In Wisconsin, where the Committee held a hearing earlier this year, the NAACP has recently filed suit against the American Family Insurance Company, the State's largest underwriter of home-

owners' insurance, for redlining minority areas of Milwaukee. One of the company's sales managers was caught on tape making the following statement, and I quote:

Very honestly, I think you write to too many blacks. You've got to sell to good premium-paying white people. Very honestly, black people will buy anything that looks good right now. But when it comes to pay for it next time, you're not going to get your money out of them. The only way you're going to correct your performance is to get away from the blacks.

The agent who was the focus of those comments has been subsequently fired.

Mr. Chairman, I'm sure you've heard insurers tell you, as I have, that urban homeowners are adequately served by State-sanctioned F.A.I.R. plans. In limited instances, that may be so. But F.A.I.R. plans are far too often poor substitutes for private insurance. Instead of pooling truly high-risk homeowners, they have become dumping grounds for everyone living in the city, including the people who are good risks—the people who live in solid neighborhoods who take care of their homes. F.A.I.R. plans require people to pay more in premiums for less coverage.

A recent study by the community group, ACORN, shows that urban and minority consumers are paying as much as 270 percent more for F.A.I.R. plans than they pay for the equivalent in private insurance coverage. F.A.I.R. plans aren't fair. They are simply a rip-off.

You've probably also heard insurers say that they can't insure urban residents because losses are too high. Again, the evidence suggests that this is simply a flimsy excuse. Missouri's insurance commissioner analyzed 12 years' worth of data collected on white and black areas of St. Louis and Kansas City. The numbers show that residents of low-income black areas pay more for homeowners' insurance and get less coverage than whites of the same income, even though their losses are less than those of whites.

All in all, Mr. Chairman, the record suggests a nationwide pattern of discrimination by insurers with respect to urban and minority consumers. Although HUD and the Justice Department have begun to seriously examine the practices of the insurance industry, more needs to be done.

As the GAO recently reported to you, we need more information about who is getting insurance and not and why. I believe that we need information to be as detailed as possible, including census tract, race, gender, and loss data. Such information will help us shine a light on an industry practice and expose the truth about redlining once and for all.

Those who have nothing to hide will have nothing to fear. Others who receive much needed prodding will get that to correct the indefensible practices that they pursue.

Some of us may differ about how to best address the issue of insurance redlining, but I believe that most of us agree that there is a serious problem and we must get working to resolve it.

The Home Mortgage Disclosure Act and other laws have helped us eliminate discrimination in the banking industry. Now it's time to expand the fight for fairness into the insurance industry as well.

In closing, let me thank you again, Mr. Chairman, for having me here this morning. I'd be happy to answer any questions that you might have, but I'd just urge all of the Members of the Committee

to please try to move on this issue. It's wrong. I think we can do something about helping people that are denied access to an important industry in this country.

Than you very much, Mr. Chairman.

The CHAIRMAN. Let me just say, in response to your specific suggestion, Senator Feingold has prepared a bill which he's going to discuss here momentarily. I intend to work with him to either join an effort with his bill, perhaps with some modifications, or produce a bill of our own within this Committee, which might then be combined with his bill, but we're going to move ahead on this.

Representative KENNEDY. Terrific.

The CHAIRMAN. Let me just say two other things of a personal sort, if I may. I'll be brief about it.

I remember back in 1967, when your mother, Ethel Kennedy, came to my office. I was a young freshman Member of Congress, a Republican at that time, and she was there with some other activists because she was distressed that there were not enough public swimming facilities in the District of Columbia for the children and the young people here in the District at that time.

We've had patterns of deprivation of that sort here and other places for a long, long time. She felt so strongly about it that she came to lobby on that effort.

I happened to be assigned, Congresswoman Collins, at that time to the D.C. Appropriations Subcommittee, which was not exactly seen as one of the choice assignments in the House, but it was an interesting place. As a matter of fact, it gave me the chance to get involved in that issue and we were able to do something about it, and a lot of progress was made.

That family commitment was not just on your father's side. I can assure you, from first-hand testimony, it was your mother as well.

Representative KENNEDY. Thank you.

The CHAIRMAN. I want to say something else because we're in a period of time when there's a lot of hostile sharpshooting toward people in public office and, unfortunately, as part of the media becomes an entertainment business as much as the news business, it seems like that mushrooms.

I was struck, as you were speaking, by just the family history here. Your Uncle Joe, losing his life in uniform to this country, your Uncle Jack Kennedy to an assassin's bullet, and your father to an assassin's bullet. The fact that you've picked up the flag and carried it ahead on behalf of your family commitment to public service in such a distinguished way, that your Uncle Ted Kennedy is leading the effort here in the Senate, as he has for years and years and years on health care reform—a tremendous example of a commitment of life and heart and soul to the pressing issues of our country and to other citizens within our country.

I think if we need to maybe think a bit and restore ourselves about examples of things that are right and good and decent about our system and the people who commit themselves to public service, we don't really have to look any further than your family or your appearance here today on this issue.

It's just something I wanted to say and I appreciate it. I appreciate that effort by everyone who—I met your brother Michael the

other day, who I know is involved also as a campaign manager this year, apparently, up in Massachusetts.

Representative KENNEDY. Hopefully, he won't be having to work too hard.

The CHAIRMAN. I don't know. He looked to be working pretty hard the day I saw him.

In any event, it's a very special part of the example, I think, that is being set in the country and we don't talk enough about it. We ought to talk more about it.

Representative KENNEDY. It's a little embarrassing to talk about it in that respect. All I can say is thank you very, very much for those remarks.

I think that the only thing that Teddy might have disagreed with was when you initially introduced me as "Senator" Kennedy. He probably would have taken great offense to that.

The CHAIRMAN. Well, maybe some day. I may have been a little ahead of myself on that one.

[Laughter.]

Senator Feingold, I've asked you to sit up here with the Committee today, rather than to sit as a witness, although you're now going to speak as a witness on behalf of your bill. We're delighted to have you here. With the support and permission of Senator D'Amato, I'm going to call on you now and then we'll go to the statements of other Members at that point.

OPENING STATEMENT OF SENATOR RUSSELL D. FEINGOLD

Senator FEINGOLD. Thank you very much, Mr. Chairman. I thank the Ranking Member. I thank you for the courtesy of allowing me to sit up here, for the chance to testify, and especially for holding this hearing on the problem of discrimination in the determination of who has access to affordable, high-quality homeowners' insurance in America.

I'd also like to thank you, as Representative Kennedy did, for your past leadership and continued efforts through community banking and reinvestment legislation to expand financial services to individuals and communities that have been bypassed in the past by the private market.

As Representative Kennedy said, on these and other issues, your leadership will be sorely missed. I'm only sorry that I only had the chance to work with you, here in the Senate, for 2 years, but I was well aware, as Chairman of Wisconsin's State Senate Banking Committee for 10 years, of your fine work.

I also want to thank both Representative Collins and Representative Kennedy for, of course, taking the lead on this issue. I am only following in the hard work that they have already done in the House, hoping to bring the Senate in line in helping with this tremendous effort.

Representative Kennedy, it was your willingness to help us focus on the situation in Milwaukee earlier this year that specifically got me involved. We were, of course, very troubled by the reports of Milwaukee being number one, number two, or number three in a variety of studies showing discrimination in this area.

It's painful, but the only way to respond is to act. It is because of your leadership that I got involved, and I thank you for that and

thank you for your kind words about the bill, the specifics of which, of course, you were the inspiration.

I thank you.

During this hearing, the Senate Banking Committee will gather testimony from a diverse group of individuals and organizations that will, of course, describe the extent of the lack of access to affordable, quality, homeowners' insurance. This will not come as a surprise to most people in this room. That's because we've already had three decades of research, studies, and reports which have reaffirmed the extent of the problem of insurance redlining.

It's time that we heed these studies and the three decades of research and take concrete steps toward addressing the shameful practice of insurance redlining, which strikes at the core of the ability of many Americans to participate fully in our society by being able to enjoy one very important part of the American dream, that of home ownership.

That's why, upon learning of the efforts of Representative Kennedy, Representative Collins, and others, I decided to introduce S. 1917, the Anti-Redlining and Insurance Disclosure Act of 1994.

This bill would require insurance companies to disclose information regarding where they write property insurance patterned after the reporting requirements that are already required of banks and thrifts under the Home Mortgage Disclosure Act.

Just very briefly, Mr. Chairman, there are three major components of this bill that make it, I think, meaningful.

First, it is important that any data collection and reporting requirements on insurance costs and policies be done at the most detailed level that is reasonably feasible. Therefore, I think, in this matter, it is preferable to require reporting by census tract rather than zip code, since that allows for more detailed detection and analysis.

The census tract reporting standard is that which we require of the banking industry under the Home Mortgage Disclosure Act, and I think it should be applied to the insurance industry as well.

Second, Mr. Chairman, the collection of data on insurance losses and claims should also be included in any insurance disclosure initiative. That data would be essential for any proper analysis necessary to resolve disputes that arise involving claims that there are disparities in the price of insurance between different neighborhoods or groups of people that are solely based on loss experience and the associated risk involved, rather than suggesting, as we must in some situations, that it has to do with prejudice.

Third, and finally, Mr. Chairman, since the collection and disclosure of such data will provide affected individuals and Federal and State regulators valuable information necessary to enforce our Nation's anti-discrimination laws, it is important that it be made available to the greatest number of communities and individuals as possible.

This bill, S. 1917, would require that data be collected in 150 metropolitan statistical areas.

Mr. Chairman, we have to place all people of all races and ethnic backgrounds on a level playing field when it comes to the opportunity to purchase insurance. It's difficult enough these days to be

able to afford to buy a home and keep up the payments. It's almost impossible to purchase one without homeowners' insurance.

Expanding home ownership is critical to any effort at urban revitalization and we have to remove all barriers, such as insurance redlining, in order to fulfill any such goals.

So, again, I thank you very much, Mr. Chairman, Representative Kennedy, for this opportunity.

The CHAIRMAN. Thank you, Senator Feingold, and I appreciate your leadership. We'll work with you on this.

Let me now call on Senator D'Amato for his opening statement.

OPENING STATEMENT OF SENATOR ALFONSE M. D'AMATO

Senator D'AMATO. Mr. Chairman, I'd like to join you in welcoming our distinguished panel of witnesses which includes Representative Collins and Representative Kennedy. I'd also like to welcome our colleague, Senator Feingold.

Mr. Chairman, you should be commended, because this Committee has spent quite a bit of time and has done quite meaningful work under your leadership to ensure that the plight of economically deprived individuals and communities is not exacerbated as a result of the denial of financial services.

Under your leadership, we were able to pass a bill designed to eliminate the abusive mortgage-lending practices of unscrupulous loan sharks, whose high-interest mortgage scams are diverting resources directed at the elderly and low-income homeowners.

With respect to the insurance industry and homeowners' insurance, the guiding principles must be sound and objective underwriting practices, not the color of a person's skin. The fact is that there should be one standard applied for all.

I look forward to working with you, Mr. Chairman, and with Senator Feingold in producing legislation that will give us the opportunity to monitor carefully, without bringing about undue regulations that will be burdensome and thereby self-defeating, a system that will bring about accountability so that we can be assured that there is that one standard criteria applied on eligibility and on the ability to pay, within a sound rating system, and other considerations that would give pause to concern.

This is something that cannot be tolerated. Home ownership becomes a myth if discrimination precludes affordable insurance, because the two are inextricably linked. You cannot buy a home unless you have this insurance.

The CHAIRMAN. Right.

Senator D'AMATO. If you have to purchase a home and have insurance that costs you twice as much simply because of your origin or the color of your skin, that is absolutely unacceptable.

I hope that we can work on this issue together. I know we can. We've done it heretofore on other legislative initiatives—we've worked together in a bipartisan fashion to put together legislation, and I believe that can be done again.

The CHAIRMAN. Thank you very much, Senator D'Amato. I appreciate that.

You've been a terrific colleague on these legislative issues as we've been able to work together on them. I appreciate your statement today and I'm confident that working together, as we've done

in every other case, we can find a package that will work. We'll do it on a bipartisan basis and incorporate Senator Feingold's thinking as well, and that will be a very important piece of work.

Senator Kerry, we'd like your statement next.

OPENING STATEMENT OF SENATOR JOHN F. KERRY

Senator KERRY. Thank you, Mr. Chairman. Joe's left. I would have, obviously, joined you in your appropriate commendation of his efforts over the years, and his family's efforts, which I join in.

This is an important hearing and I think our colleague, Senator Russ Feingold, is to be commended for pursuing this effort.

It's really astonishing, when you think about it, that this fight is going on. I was just reading Deval Patrick's testimony. I have to go down to the Committee in which he is currently testifying on the issue, ironically, of the international convention for the elimination of all forms of discrimination which we have in front of the Foreign Relations Committee today.

I was just thinking about that. That was put before us by President Carter. It was signed in 1965. The Bush and Reagan Administrations didn't believe in it, so it never came back to Congress. Now, we finally have it back with a few reservations. That's what we're really talking about here today. It's an attitude that has persisted about enforcement and about what we really care about.

I was just reading the regulation that applies to the Fair Housing Act, which simply says that no one can refuse to provide property or hazard insurance for dwellings or provide such insurance differently because of race, color, religion, sex, handicap, familial status, or national origin. It's their finding that that constitutes a violation of the Act.

Now that's pretty straightforward stuff. I know games played by some people about the application, but if you read the history of the struggle between the various circuits and companies contesting this notion, it is at the core of a problem that is searing at this Nation's conscience.

If you go back to 1832 and read DeToqueville, he observed, then, that the great unresolved issue in America was race. In 1994, the great unresolved and, to many people's thinking, worsening issue remains race.

When companies not only adopt the bad public policy, but the bad business policy of not doing business in whole sectors of our country, they are writing out the whole American dream. They're just rubbing it off. I think it's disgusting. I think it is contrary to the best notions of business practice.

In my hat, as Chairman of the Subcommittee on Urban and Minority-owned Business Development of the Small Business Committee, I would say that there's a huge opportunity there for good businesses. But the underwriting is critical, obviously, and that's what you're looking at today.

I want to join with you, Senator D'Amato, Senator Feingold, and others in saying, this Committee should resolve the question of this struggle between the jurisdictions of our courts and resolve it clearly that the Fair Housing Act applies, and set up a fair regimen.

If you look at other countries on this planet, they are creating banks, whole banks whose lending practices only among the poor

have a better rate of return than the Texas banks did to a lot of rich people in this country.

I hope we're going to seize this front and center and do the job that Senator Feingold, Congressman Kennedy, and Congresswoman Collins are asking us to do, and I'm glad you're pushing for this and I want to join you.

The CHAIRMAN. Thank you very much, Senator Kerry.

Let me now invite Roberta Achtenberg up to the witness table, and also, Deval Patrick, who has another appearance this morning on the Senate side. We're delighted to have you both here.

Senator KERRY. You're already here. I thought you were downstairs. I'll be back and forth.

The CHAIRMAN. Assistant Attorney General Patrick, I know you went through your confirmation process recently. Have you had occasions to make other formal presentations to the Senate?

Mr. PATRICK. This is one of my first, Mr. Chairman. I had an appearance about a half-hour ago in the Senate Foreign Relations Committee and I had to go defend someone else's budget before the Appropriations Committee about 2 weeks ago.

The CHAIRMAN. I see. So you've had a couple of warm-ups for the main event here today.

Mr. PATRICK. A couple of warm-ups, that's right.

The CHAIRMAN. All right. Very good. Why don't we hear from you now and then we'll go to Ms. Achtenberg.

Senator KERRY. He's already prepared to show you his scars.

[Laughter.]

Mr. PATRICK. I hope I don't gain any new ones today.

[Laughter.]

OPENING STATEMENT OF DEVAL L. PATRICK, ASSISTANT ATTORNEY GENERAL FOR CIVIL RIGHTS, U.S. DEPARTMENT OF JUSTICE

Mr. PATRICK. Mr. Chairman, Senator D'Amato, and other Members of the Committee, I very much appreciate the opportunity to appear before you today to talk about this very important problem of discrimination on the basis of race in the provision of homeowners' insurance.

We prepared a formal statement which has been presented, I believe, and I'd ask that that be made a part of the record.

The CHAIRMAN. Without objection, it is so ordered.

Mr. PATRICK. I will just summarize now, briefly, and then give you some opportunities for questions, if you have any.

This problem, through the efforts of this Committee and others, is gaining increasing attention, as you know. I look forward to using the full extent of my authority as Assistant Attorney General for the Civil Rights Division at the Department of Justice to eliminate this form of discrimination as all others.

One lesson we've learned, from more than 25 years of fair housing enforcement, is that the actions of many players, can have an impact on the ability to obtain and enjoy housing.

The Civil Rights Division has often challenged direct providers of housing by taking action against unlawful discrimination in the sale and rental markets. Recently, we've addressed unlawful discrimination in the mortgage lending industry and have faced up to

the devastating impact that such discrimination can have on individuals and communities.

Discrimination in the homeowners' insurance industry has an equally devastating impact and that's important to see. As the United States Court of Appeals for the 7th Circuit succinctly noted: No insurance, no loan, no house. I believe that's the point you were making, Senator D'Amato, and it is as simple as that.

In spite of this obvious practical, real-life link, our efforts to address discrimination in homeowners' insurance have been slowed by claims that such discrimination is not sufficiently related to housing to evoke coverage under the Fair Housing Act.

The Department of Justice and HUD have consistently, through both Democratic and Republican Administrations, argued that discrimination by insurers of housing violates the Fair Housing Act. Although we argued successfully in court in 1978 that insurance redlining is prohibited by the Fair Housing Act, the Court of Appeals for the 4th Circuit reached a contrary holding in 1984, which gave comfort to those resisting enforcement.

This decision, however, did not weaken the resolve of the enforcement agencies. On January 23, 1989, HUD published regulations implementing the Fair Housing Act, stating that, and I'm quoting:

Refusing to provide property or hazard insurance for dwellings or providing such insurance differently because of race, color, religion, sex, handicap, familial status, or national origin, constitutes a violation of the Act.

The road to substantive enforcement, however, has not been smooth. It rarely is in the area of civil rights. The Civil Rights Division received allegations in 1988 that American Family Insurance, a Wisconsin insurer, had directed its agents not to sell property insurance in areas where African-Americans constituted the majority of the population.

An investigation was initiated, but the company declined to cooperate, arguing that insurance discrimination did not fall within the Fair Housing Act.

Our investigation was delayed for 4 years by litigation of this issue, which was eventually resolved in our favor by the Court of Appeals for the 7th Circuit, as I referred to a moment ago.

Nationwide Insurance Company also claimed the Fair Housing Act did not reach racial discrimination in homeowners' insurance when it refused to comply with a HUD request for information necessary to investigate a complaint of discrimination in the provision of homeowners' insurance.

The company sued the Secretary of HUD over the issue and in February of this year, after more than 2 years of litigation, an order was entered upholding our position that the Fair Housing Act prohibits racial discrimination in the provision of homeowners' insurance.

We have recently been successful elsewhere in litigating this issue. In practical terms, this is really no longer an issue.

We are pleased that progress has been made in clarifying the meaning of the Act. The HUD regulations are particularly significant, and I'll defer to my colleague on that in a moment, since they are entitled to substantial deference by the courts.

The 7th Circuit concluded that the regulations were valid and controlling and we believe that sound reasoning should and will be followed by other courts that are presented with this issue.

Our initial lesson from investigating claims of insurance discrimination is that such investigations can be exceedingly complex. The investigations are sometimes compared to lending discrimination investigations, but several differences make insurance discrimination investigations even more subtle.

The Home Mortgage Disclosure Act, HMDA, as it's sometimes referred to, provides us useful information about the lending practices of depository financial institutions. We know the number of minorities who apply for mortgage financing, the number accepted, and the number rejected, and this information is very helpful in surfacing suspicious behavior and practices.

We do not have comparable information, yet, about the performance of property insurance companies. Also, while a depository institution may receive several thousand loan applications in a given year, a property insurance company may write or renew several hundred thousand policies in the same time period. Unlike lenders, property insurance companies, to the best of our knowledge, do not maintain records regarding the rejected applications, nor do they record the race of applicants or policyholders.

For these reasons, it is more difficult to assess claims that a particular company is discriminating. Discrimination can occur without an application or a record if an agent, on account of race, declines to return a phone call, fails to keep an appointment, or simply tells a prospective customer that the company will not insure the property because of its condition or location. Given the state of available records, this type of discrimination might best be detected by traditional fair housing testing.

Possible discrimination at the underwriting stage must also be addressed. Our own investigations have revealed that policyholders in minority neighborhoods might receive insurance only after being subjected to unorthodox inspections or being required to make repairs that are not required in other neighborhoods of other property owners.

We have found that dwellings in minority neighborhoods often receive inferior insurance coverage that only allows for the repair, rather than the replacement, of a dwelling in the event of a property claim or total loss, or imposes a low dollar limit that prevents its replacement.

We've also found that some companies charge a higher premium per dollar of insurance coverage for the inferior repair cost policies than they do for the more desirable replacement cost policy. Senator Kerry's point—bad business as well as race discrimination.

Finally, insurance companies can inflict substantial damage on neighborhoods by refusing, because of the racial or national origin identity of the neighborhood, to market their products. It's often revealing to examine the number of insurance offices located in minority neighborhoods, as compared to the number located in identifiably white areas.

The marketing of insurance products relies heavily on a community approach with agents located in close proximity to the areas they intend to serve. If a company desires to redline an area as off-

limits for company business, it can do so without drawing a red or, in some cases, a yellow line on a map. It can simply decline to open offices in the area or otherwise to market in that area.

The effect is as predictable as that caused by lending discrimination and by lending redlining. That is, that minority neighborhoods are abandoned by mainstream economies without the tools available to the middle class to maintain themselves.

Improved information would promote compliance with and enforcement of the Fair Housing Act. It would be helpful to have information comparable to that which we have about banks.

HMDA, which requires reporting at the census tract level, as you know, has proven very useful, indeed, to us. We rely heavily on that information which allows us to identify the racial or ethnic identity of a select area. Because of the wealth of other information available by census tract, reporting at this level also permits us to control for other legitimate, nonracial factors, so that we can fairly evaluate whether race or risk is at the heart of a company's decision.

We also would find it useful to have information on the types of policies issued by race and national origin in each census tract. This information would allow us to evaluate, more readily, whether minority neighborhoods are offered inferior insurance protection. Information on claims paid and loss data would also be useful, particularly because this will allow us to test one of the excuses insurance companies sometimes offer for choosing not to insure minority homeowners in minority neighborhoods.

Improved reporting would not only aid our law enforcement efforts, equally importantly, it should also lead to improved performance and voluntary compliance within the industry.

We have spent considerable time working with representatives of the lending industry to obtain voluntary compliance with civil rights laws and we have encouraged self-assessment and voluntary corrective action.

This effort has been very, very successful, and many lenders are now using HMDA data for their own benefit. Self-assessments are being performed, business practices are being changed, and many lenders seem to be doing a better job of serving minority neighborhoods. That doesn't mean our work is done, but it means that we are working in concert with the industry to address this problem.

To the best of our knowledge, most insurance companies do not maintain information in a form today that readily lends itself to an evaluation of their performance in minority neighborhoods.

We intend to devote considerable resources to uncovering and remedying unlawful discrimination by property insurance companies. I urge insurance companies to recognize the importance of this issue to individuals, to neighborhoods, and to the Nation, and I urge them to evaluate their own performance in compliance with the law and to take voluntary corrective action.

Companies should be on notice that if they fail to address the issue voluntarily, the Department of Justice will use its enforcement powers to compel a remedy. I therefore urge this Committee, Mr. Chairman, to give us the tools to do this efficiently and fairly.

Thank you very much.

The CHAIRMAN. Thank you very much. Very helpful testimony.

Ms. Achtenberg, we're delighted to have you back before the Committee and we appreciate all the important work you're doing at HUD. We'd like to hear from you now.

OPENING STATEMENT OF ROBERTA ACHTENBERG, ASSISTANT SECRETARY FOR FAIR HOUSING AND EQUAL OPPORTUNITY, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Ms. ACHTENBERG. Thank you, Mr. Chairman, Senator D'Amato. I'd be pleased to summarize the statement that I submitted for the record, with your permission.

I'd like to thank you and the Committee for the opportunity to discuss with all of you one of our Nation's most pressing civil rights and urban development issues.

As the Nation's chief fair housing law enforcement agency, HUD will vigorously enforce the Fair Housing Act as it applies to discriminatory insurance policies and practices, just as we do in the areas of real estate sales, mortgage lending, and other practices related to housing. But HUD's interest in this issue extends beyond its responsibility to fully enforce the Fair Housing Act.

Property insurance is essential for the revitalization of this Nation's cities. Insurance is required to purchase or improve a home or to start or expand a business. As the President's National Advisory Panel on Insurance in Riot-Affected Areas concluded some 25 years ago, "Communities without insurance are communities without hope."

As was succinctly stated by my colleague, the Attorney General, the Fair Housing Act prohibits insurance redlining and other policies and practices that deny insurance or make it unavailable on the basis of race or any other protected status under the Act. The Fair Housing Act also prohibits discrimination in the terms, conditions, costs, or other aspects of insurance coverage.

HUD and the Department of Justice have taken this position since the issue first arose in 1978. In regulations implementing the Fair Housing Amendments Act of 1988, as was referred to by the Attorney General, HUD expressly prohibited refusing to provide property or hazard insurance or providing such insurance differently because of race, color, religion, sex, handicap, familial status, or national origin.

In his recent Executive Order No. 12892 entitled, Leadership and Coordination of Fair Housing and Federal Programs, Affirmatively Furthering Fair Housing, President Clinton made explicit reference to HUD's jurisdiction when he called for the agency to promulgate regulations describing the conduct prohibited by property insurers under the Fair Housing Act.

The statement of Attorney General Patrick described in more detail the considerations the courts have given to this question. In short, those courts considering the issue have concluded that insurance is covered by the Act. While the 4th Circuit held to the contrary in the Mackey case, so referred to, in 1992, the 7th Circuit in *American Family*, as quoted earlier, after HUD's promulgation of regulations asserting the coverage of insurance under the Act in 1988, found that the reasoning of the Mackey case no longer was persuasive.

The court stated that events had bypassed Mackey noting that HUD regulations were controlling on this issue because they were based on HUD's authority to act and they were according due deference to the regulatory exercise by the executive agency.

The key sections of the Fair Housing Act are section 3604(a), which makes it unlawful to "otherwise make unavailable or deny a dwelling," and section 3604(b), prohibiting discrimination, "in the provision of services or facilities in connection therewith."

Because property insurance is required to secure a mortgage loan, which generally is required to purchase a home, denying insurance makes the home unavailable.

I will not reiterate the quote referred to by the Attorney General, from the American Family case. That makes it quite clear that if you are providing insurance on a discriminatory basis, then home ownership will be so affected.

HUD's authority in the area of discriminatory insurance policy and practices is identical to its authority in other areas covered by the Fair Housing Act. In addition to the investigation of complaints, the Secretary of HUD can begin investigations and file complaints on his own initiative. Also, the Fair Housing Act requires the Department of Housing and Urban Development to seek voluntary compliance, on the part of the industry, so that we can move to prevent discrimination by encouraging the industry to adopt policies and practices that bring about fairness in the provision of insurance. We intend to do so.

We are authorized to fund private groups—we, meaning HUD—to fund private group activity to educate the public and to assist private enforcement efforts, and we intend to do so.

HUD is the only Federal agency charged with the responsibility to promulgate regulations that would further define the substance of Acts, that the Secretary will consider, that constitute reasonable cause to believe that discrimination has occurred. And we intend to do so.

The business of insurance, Mr. Chairman, is the business of distinguishing among risks and grouping them in terms of the potential for compensable losses that they pose during the life of a policy. There is little doubt that the vast majority of insurers are attempting to make conscientious efforts to carefully consider the perils that potential insurance risks pose when they market their products.

However, we must recognize the possibility that unlawful discrimination can occur in the insurance industry. In some instances, evidence of racial discrimination in the insurance industry can be overt, as was referred to by Congresswoman Cardiss Collins and which references were reiterated by other members of the panel.

More common, however, are various subtle forms of disparate treatment. Paired testing has been used to uncover instances where a caller from a predominantly minority area has been given very different information than a caller from a white community with identical financial and other socioeconomic characteristics, except for the racial composition of the areas of the callers involved.

The minority area resident often must call several times before reaching an agent. The minority resident may be told that an inspection will be necessary prior to offering a policy. The minority

resident may be offered a policy at a higher price for less coverage. The minority resident may be referred to a F.A.I.R. plan. The minority resident may never receive a quote in the mail, though a quote was promised. The minority resident may just not be offered any service whatsoever.

The caller from the white neighborhood, on the other hand, may be offered a policy on the phone during the first call, may be offered a choice of policies and premiums, and may be eagerly and politely solicited as a client.

Or may not be. That is what we are here today to discuss, and it is to those issues that the legislation introduced in the House by Congresswoman Collins, the legislation introduced in the House by Congressman Kennedy, and the legislation introduced in the Senate by Senator Feingold, would begin to address.

To illustrate the outcome of such potentially discriminatory practices, the Missouri insurance commissioner recently found that residents of low-income minority areas of St. Louis paid 50 percent more for similar coverage than did residents of low-income white areas, even though the loss experience had been higher in the white communities, a fact that was referred to by the Chairman.

Some industry underwriting practices that may be applied uniformly and otherwise appear race-neutral, may have a disparate impact on minority communities. This may occur when insurers, for example, will not provide coverage or will refuse to provide full replacement coverage on lower-valued or older homes. Some insurers may refuse to insure homes valued at less than \$50,000, or homes that were built before 1950.

In the United States today, 47 percent of black households, but just 23 percent of white households, live in homes valued at less than \$50,000. Similarly, 40 percent of black households compared to 29 percent of white households live in homes built before 1950.

The racial effect is clear—although these types of statistics do not, in themselves, prove a violation of the Fair Housing Act. Where there is a business necessity for such a practice and no less discriminatory alternative is available, no violation would exist. But when practices with such racial impacts are not legally or otherwise justified, a case-by-case, Fair Housing Act analysis is warranted.

There is evidence that these types of practices are pervasive in some markets. The Texas Office of Public Insurance Counsel, for example, conducted a review of the underwriting guidelines widely used by Texas insurance companies. It found that approximately 90 percent of the market in that State is covered by insurers with restrictive age and value criteria in their underwriting guidelines.

Secretary Cisneros is acting aggressively to combat insurance discrimination. We have recently created a separate insurance unit to address these issues at HUD. Its first task will be the development of regulations clarifying HUD's current prohibition against insurance discrimination.

It has been 25 years since passage of the Fair Housing Act and HUD has yet to promulgate substantive regulations defining, in depth, insurance practices that violate the Act and what HUD will do to identify and redress those violations. It is high time that HUD took the responsibility for doing so, and we intend to.

Several complex issues must be addressed in promulgating such a regulation. I intend to do so in close collaboration with the insurance companies, their trade associations, State regulators, civil rights groups, and community organizations of all kinds. I have already begun informal discussions with representatives of these interests to learn more about their views and about issues that they would like HUD to address through its rule-making power.

We will be conducting public hearings, around the country, where we will invite industry representatives, insurance regulators, advocacy groups, and private citizens, alike, to testify on the proposed rule's content.

Based on the comments we receive, the evidence presented at public hearings, the literature, and the written guidance we receive from additional communications with the industry and others, HUD will publish a proposed rule and, after careful consideration of the comments received, a final rule.

We are considering what must be addressed in the regulation for it to be effective as guidance to HUD investigators, State and local civil rights agencies, and private fair housing groups, in order for it to serve as a guidepost for preventive acts by the industry and in order for the regulation to be a clear description of the rights afforded protected classes under the Fair Housing Act.

To do so, the regulation will address specific practices that are prohibited under the Fair Housing Act, describe the standards to be utilized in determining whether violations of the Act occur, discuss investigative techniques that will be utilized, discuss remedies that will be sought where violations are found, and discuss the nature and extent of voluntary affirmative efforts that are appropriate for the industry to undertake in order to eliminate discrimination.

As in other areas of fair housing law enforcement, standards to determine discrimination will be based on the principles of overt discrimination, disparate treatment, and disparate impact. The investigative techniques we will utilize will include those that have grown from our fair housing investigative experience across the board, but they will most definitely include statistical analysis of disclosure data (should such disclosure data become available), paired testing, and content analysis of underwriting manuals and other documents pertaining to evaluation of risk and marketing practices—all of the kinds of tactics that we currently utilize, as does the Justice Department, in lending discrimination investigations today.

A description of appropriate remedies will also be included in the rule which will help guide self-evaluation and corrective actions by the industry, even when we, HUD, are not otherwise involved in the complaint investigation.

Remedies to be considered will be similar to the kinds of relief that have already been obtained by the Department of Justice in their lending discrimination settlements.

HUD's primary enforcement tool has been the investigation and conciliation of complaints. They include those brought to HUD by individuals who believe their rights have been violated, and complaints brought by fair housing organizations. Additionally, the

Secretary, as I stated before, has the authority to initiate an investigation to determine whether a complaint should be issued.

We are dismayed by the continuing efforts of some in the insurance industry to resist HUD's investigation of insurance discrimination cases. With the decision that was referred to by the Attorney General in the Nationwide case, we believe that this issue has been settled.

Whether cases are investigated by HUD itself, by the Department of Justice, or by State and local agencies with laws substantially equivalent to the Federal Fair Housing Act, HUD is committed to conducting full and fair investigations and we would call upon the insurance industry to cooperate with our investigatory processes rather than to resist them.

Assistant Attorney General Patrick and I intend to work together, closely, to assure an effective and coordinated approach to the investigations of claims of insurance discrimination.

As in the case of mortgage lending discrimination, the Secretary of HUD and the Attorney General will join forces to conduct joint investigations, where appropriate, combining our distinct powers and authorities to more effectively address discriminatory behavior.

Through our fair housing initiatives program, we have supported in the past, and will continue to support, private enforcement efforts in this area. We are expanding, significantly, our financial commitment to these activities, for the coming year, to a level that constitutes the largest single set-aside for any such activity in the history of our program.

Now, a word on the disclosure bills that are currently before the Committee.

As the Attorney General stated, a HMDA-like Federal disclosure rule for insurance would be an invaluable tool for both enforcement agencies, HUD, and Justice, in our enforcement efforts and for the efforts of private enforcement entities, as well as State and local enforcement entities.

The Administration is pleased that legislation to provide disclosure data for the insurance industry has been reported by two House Committees. The Administration looks forward, as well, to prompt House passage of legislation and urges favorable consideration of legislation by this Committee and the full Senate.

We fully support the principles of insurance disclosure, which include information such as race, gender, and income of all applicants and policyholders, number of policies issued on a neighborhood basis, and an annual report analyzing this information by the Federal Government.

Nationwide reporting, obviously, is preferable and reporting of data that can be easily analyzed and accurately analyzed is preferable.

Let me say that HMDA has been extraordinarily helpful to the enforcement agencies, as has been previously described. Similar information for property insurers would be equally valuable information for our law enforcement efforts. Particularly when analyzed in conjunction with United States Census Bureau data, through reporting, we could identify neighborhoods and population groups that appear to be underserved, given their income, value of property, and socioeconomic status, as well as their racial status.

While such information, alone, would not confirm or deny the existence of discrimination, it would go a long way in pointing us in the right direction.

Let me say, Mr. Chairman, Senator D'Amato, in closing, that, as has been previously stated, but is worthy of reiteration, race has no place in the insurance market and all of HUD are eager to work with all of you and our colleagues at the Justice Department to make sure that fair access to insurance is a reality in our urban communities and throughout the Nation.

Thank you very much.

The CHAIRMAN. Thank you, Ms. Achtenberg.

Senator D'Amato, why don't you go first and then I'll follow.

Senator D'AMATO. First of all, I want to compliment our colleague, Senator Feingold, for his work in this area.

Mr. Patrick, I want to compliment you. It seems to me that your approach, as it relates to encouraging the industry to come forth and to work together cooperatively in developing programs, standards, et cetera, is really the way to go.

Mr. PATRICK. Thank you, Senator.

Senator D'AMATO. We can really do serious damage if we're not careful in the way we bring about the most well-intended rules and regulations. By the same token, it's absolutely unacceptable to deny people the opportunity of insurance, to put unreasonable conditions, or to drive the cost up. This can very directly affect their ability to own a home.

Mr. PATRICK. Right.

Senator D'AMATO. That has absolutely got to be stopped. There can be no ifs, ands, or buts.

To the Assistant Secretary, I remind you that during a very controversial period of time in the confirmation hearings, I supported you. I voted for you.

I want to ask you something, as it relates to what I hear taking place at HUD, and I'd like a candid answer.

Is your office attempting, or have you attempted, to develop rules and regulations as it relates to real estate advertising, in publications such as newspapers? Have we reached the point of, what I call minutia, that we would actually begin to get into the language, descriptive language, describing the proximity of a house, such as within walking distance of transportation, railroad, and that there may be certain words that a realtor would be precluded from printing because someone says that certain words or phrases do not take into consideration those people who are ambulatory?

I raise this because a number of people have brought this to my attention and to a number of my colleagues' attention as well. I have been told that rules were being circulated, or being explored, in a proposal that would bar certain words and phrases from advertising.

Let me give you another example. I think your aware of my concern on this issue. I've asked my staff to contact HUD with respect to this. And if it's not the case, then I want to hear about it.

"Master bedroom." I have heard that describing something as a "master bedroom" may be considered inappropriate. If that's the case, and if we have people looking into this kind of thing, it is ridiculous. We're trivializing a very important area.

Ms. ACHTENBERG. Senator.

Senator D'AMATO. Yes.

Ms. ACHTENBERG. I would agree with you that if HUD were acting in such a way, that would be ridiculous. I want to assure you that no document that has ever emanated from my office has ever made any kind of suggestion related to the example.

Senator D'AMATO. So that if a newspaper were to turn down an advertisement because they are afraid of being sued, as it relates to the Fair Housing Act, you would be in a position to advise them that they need not, that you would not take action as it relates to the advertisement of a master bedroom or a walk-in closet or a house or development being in close proximity to a church or a temple, et cetera.

Ms. ACHTENBERG. HUD has never taken any such position and we would not under my Administration.

Senator D'AMATO. I want you to know, I think you've gone a long way because this statement is important, so that it's on the record and so that this area of free speech, in terms of our commercial enterprises, is permitted to go forth.

About 2 weeks ago I was informed that this is something that some people have been confronted with. Apparently, some of the fair housing groups, in conjunction with local newspapers, have decided, or the papers decided, that they wouldn't take certain advertisements.

I think that this type of action trivializes the key elements that we're talking about today. This gives firepower to people who don't want to do anything.

I want to see that people have a right to buy a home, and I want to see that they have all those things that may seem to be intangible. How many people think about the fact that, unless you can get that insurance, you're denied that real opportunity.

I'm very glad, Ms. Achtenberg, that you've put that out for the record.

Ms. ACHTENBERG. Thank you, Senator.

Senator D'AMATO. I wanted to, before I left this hearing, be able to get that out.

Mr. Patrick, good seeing you.

Mr. PATRICK. Thank you, Senator.

Senator D'AMATO. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator D'Amato.

Just two questions because I want to go to our next panel. Let me ask you both this. To what extent is the Federal Government allowed to attack insurance discrimination without violating the McCarran-Ferguson Act? And do you agree with recent court rulings like the NAACP versus the American Family Insurance Company that McCarran-Ferguson does not apply to subsequently enacted civil rights statutes such as the Fair Housing Act?

Mr. Patrick, why don't you start?

Mr. PATRICK. I'll take a stab at that first.

As you probably know, Mr. Chairman, no court has found the McCarran-Ferguson Act a bar or barrier to the enforcement of the Fair Housing Act, and that has been the position of the Department of Justice consistently.

We appreciate the issue that is presented, but, again, the weight of legal authority is against the view that McCarran-Ferguson is any bar or any obstacle to what we're trying to accomplish under the Fair Housing Act.

Ms. ACHTENBERG. Mr. Chairman, I would only point out that that has consistently been our position since 1978, through four Presidential Administrations, and will continue to be the position of the Clinton Administration.

The CHAIRMAN. So that presents no barrier problems in terms of your getting at these issues.

Ms. ACHTENBERG. Not from our point.

Mr. PATRICK. Not as we see it.

The CHAIRMAN. All right. Very good. Now, let me ask you both to summarize, if you would, what types of data could the Federal Government collect that would be most useful in identifying and combating this kind of insurance discrimination?

Mr. PATRICK. I went first the last time. Would you like to take this?

Ms. ACHTENBERG. Mr. Chairman, we would prefer nationwide reporting, which would be the most useful to us. I think the validity of that stands on its own. We would prefer reporting that will assure that we can identify when insurance is denied, as well as when it is offered, as was stated by my colleague.

It is important that the reporting be done in sufficiently small geographic entities so that we can accurately assess whether or not neighborhoods are being restricted for any reason, and so that we might determine the reasons for those restrictions.

While we can aggregate data up, we can't aggregate it down. So smaller is better in this particular regard.

We also need data on acceptance, denials, renewals, and nonrenewals. This information would be exceedingly important in helping us determine whether or not people are being granted insurance, and helping us assess whether they are being granted or denied on the basis of similar terms or conditions.

This is the kind of information we are provided through the HMDA data and I would expect that similar information would be as useful to us in this area as it has been in the lending area.

Mr. PATRICK. Mr. Chairman, I concur in all of that and add what I'm sure my colleague intended to add and would agree with, which is policy types, because we have seen through some of the studies that we've looked at that there are differences in quality of insurance offered that appear to be explained, or partly explained, by issues of race. I'd also say that we'd be looking for gender reporting information.

Ms. ACHTENBERG. Race.

Mr. PATRICK. Race and gender as well.

The CHAIRMAN. This discussion, in the end, will come down, I think, to two contesting points of view. On the one hand, there will be people who will argue whether this involves too much Government interference, too much Government bureaucracy, too much recordkeeping, too much costs associated with recordkeeping, and so forth.

Is there something inherently distasteful or wrong about the Government coming into private-sector activities with some kind of a regulatory oversight and regulatory regime?

We'll hear voices stating those views.

On the other hand, what we're really talking about is the American birthright, the fact that in America, when a person is born and is an American citizen, there are certain basic rights that accrue to that person that are as fundamental as air and water. That is the right to, all the guarantees under the Constitution, the Bill of Rights.

This is really an American birthright issue, as I see it. That is, does a citizen have the right, under the law, to the kind of equal treatment that other people in the society receive that is being denied to them by the economic or the business system?

To the extent part of their birthright is being taken away, or they're being cheated out of it, then that's when the Government, in effect, has to step in to make sure that the practices are fair so that somebody isn't, in effect, turned into a second-class citizen by virtue of an imperfection in the way the private sector is working.

This seems to me to be a classic case of that and it's not something that's new on the radar screen. We passed laws in the past, in the distant past, going back decades now, to try to get at this issue of housing discrimination and to stop the practice of people being cheated out of their birthright, either based on race, color of skin, gender, or orientation, that we've said violates the basic fabric of the law of this country. These are both God-given rights, as we recognize them within our constitutional democracy, and our laws, our whole pattern of laws, designed to make sure that everybody gets the same fair shake.

But what we find is this persistent pattern of people being cheated out of their birthright. We find it in mortgage discrimination, where somebody may go in. It may be a single mother. It may be an African-American person. It may be a Hispanic person. And, in a certain number of cases, they're treated differently, and in an inferior way, and oftentimes cheated out of the opportunity to get credit to buy a house that is given directly to the next person through the door, or in line, whose status is a little bit different.

The same thing is happening in the insurance area. In some respects, it's more subtle and it's a little harder, perhaps, to see quite as readily, although, if anybody makes any real effort to see it, it certainly can be seen and identified, to deny people their birthright based on business practices that cheat them, that cheat them out of the full American franchise of citizenship.

It's just outrageous. I mean, we send people to jail for relatively inconsequential things by comparison. When you think about the scale of the crime of cheating somebody out of their birthright, where should that be on the scale of things that we apply sanctions or punishment to?

That, to me, is a serious offense. That is a major offense, if you come in and basically cheat somebody out of part of their citizenship and put them in an inferior status and, in a sense, lock them there.

That, to me, is about as un-American as you can get. I read these FBI reports that come in, that are done on nominees, as the Chair-

man of the Committee. That's one of my responsibilities, to read these confidential FBI documents. I'm always struck by the things that the FBI goes out to find out about, whether somebody has any relatives living in a Communist country, whether there's some suggestive negative inference about that, or whether they might have used marijuana in college, things of that kind.

There's a great investigative effort made to determine these things and identify them in an FBI report, but I've never seen in an FBI report, yet, where it said, so and so was engaged in a business practice that cheated a large part of the rest of America out of its birthright.

I've never seen that, and I've never seen that because they don't look at that. In other words, they have a blind eye on that issue. We don't measure that because it is not seen as something that's an important yardstick as to whether somebody does or doesn't reach the level of qualifying for Federal service.

I think what we have to do is reorient our thinking here, because we're not going to have a society that holds itself together, where there are the bonds of common respect and community and affiliation, if some of the people in this society are cheated out of their birthright right from the beginning and then the system comes along with an inequitable pattern of practices that locks in that second-class citizenship and says, no, you're not going to get a mortgage or, no, you're not going to get mortgage insurance.

The system can't hold itself together that way. It's not right. It's a violation of everything we say we believe, but it's also unworkable as a practical matter. You can't ask people to give a full affiliation to the country at the same time part of their citizenship is being taken away from them. You can't do that. No nation is going to be able to hold itself together under that kind of an operating pattern of conduct.

We have to get rid of that. Fortunately, we have an Administration that is selecting people to serve who believe in correcting these problems, as both of you do, and, certainly, as President Clinton does, and is dedicated to the practice of getting it done.

I was so refreshed when the Comptroller of the Currency, Gene Ludwig, was first named and came in here for his confirmation hearing. I asked him about racial discrimination and discrimination in lending through the banking system.

He said it was abhorrent to him and that he was going to rip it out root and branch. That was his phraseology. He said it with feeling and conviction and I knew he meant it, and the practice, since, has shown that.

I don't know why it's taken us nearly 300 years to get to the point where we finally had a Comptroller of the Currency who would say that to a part of the business system so we can make sure that the American birthright and franchise is out there for everybody and not just for some.

This is a very important hearing because this gets right to the issue of whether or not we're going to have full and equal citizenship for people and whether people can have homes.

We talk about the breakdown of the family unit. It's not easy to hold families together today with all the other pressures, problems,

crime, deprivation, lack of job opportunity, and a lot of other things.

If a family can get far enough ahead of the game to move out of an apartment, acquire a house, and work for the goal of maintaining a home and achieving home ownership and to raise a family within the greater security and well-being of a home that that family can struggle to acquire, that's a centerpiece in the whole American dream. It's the whole way we think about families developing and having the chance to achieve the things that families want.

If we somehow have a system that's working so imperfectly that we cheat a large part of the country out of the chance to get into home ownership, at the same time we're talking about family values, it just doesn't add up because, in effect, we're handicapping, hurting, and damaging the prospects of a large part of our country from achieving the very things we all know we want.

I think America is changing for the better. We're waking up to these things, we're dealing with these things, we're forcing changes, and we're writing these laws systematically, one by one, to get the information, to identify the practice, and to stop the practice, all with the mind of making sure that everybody gets their full American birthright.

I wish people got it automatically, as they should. We shouldn't have to write a lot of laws to make business do what it should do without any laws. But the reason we need the laws, the practices, and the data, is that too much of the business system is not willing to see to it that everybody gets their full American franchise of citizenship so the Government has to come in to make sure that we're getting fair treatment.

The easiest way to get this done with no bureaucracy and no recordkeeping is for every CEO in the country, that runs one of these institutions, to say, we're stopping those practices. We're going to offer things on an absolutely fair basis, and I don't want anybody turned away who comes in who's creditworthy and who has a legitimate need. I don't want them turned away based on race. I don't want them turned away based on gender. I don't want them turned away based on what block they live on, this block versus three blocks over in the other direction. I don't want them turned away based on their orientation or status.

I want people treated fairly and equitably. If every CEO in this country would say that, and send that directive down the line, and say that anybody that didn't practice that was going to get fired, and that people who did practice it were going to be rewarded and would be the people who would advance in the company, we wouldn't have to have this hearing. We wouldn't have to worry about this problem. We wouldn't have to worry about getting Government in the act to figure out how to make sure it happens, after 300 years, because the private system would be doing it as a matter of course, as a matter of decency and propriety, and because it's what America is supposed to be all about.

When I hear somebody say, well, we don't want Government in the act, when Government gets into the act for this purpose, to make sure that every citizen gets their full citizenship, that's when

the Government needs to be in the act. If the private sector will do the job, then Government can get out of the act.

That would be my preference. But until such time as we see an end to these practices, then Government has to be in the act because Government is for the people, it's of the people. It's the only real voice and power that the people have when some other force is taking away part of their citizenship.

It's the Government's job to see that everybody gets their full citizenship back, that it's intact, it's solid, and that it works.

So, if you happen to be an African-American, you can say to your children, we're on the same footing as everybody else in this country, and you're not going to have to try to run the race with a 50-pound load on your back that's put there in the form of discrimination because you happen to have a different skin color than the child that lives down the street or next door.

We're not going to have that. That's what has to end in this country. If we don't talk about it, if we don't focus it, and if we don't create a moral imperative about it, then we're not going to correct these problems.

I'd like to see more attention paid to it. I'd like to see a little more investigative journalism, to go out, find these problems, and put them on the air. Let the public see it, because the public will not tolerate this. People are inherently fair and they don't want this denial of citizenship going on for a large part of our society.

I just know enough about the people of this country, representing them here for 28 years, to know that most people don't want that, and that isn't what they believe in. They believe in fairness, decency, and equity and that's how they want the system to work.

If we can get it to work without the regulations, so much the better. But when it doesn't work, then Government has a necessary and proper role to stand in there beside the citizen to see to it that they get their full citizenship.

That's what we're here about today. That's why this is important. This is not a garden-variety hearing. This is about America, about who we are, what our future is going to be, and that's why we've got to get this done one way or the other.

Thank you very much for appearing here today.

Mr. PATRICK. Thank you, Mr. Chairman.

The CHAIRMAN. Let me excuse this panel and call the next panel to the table.

Let me introduce our next panel as they're coming forward and being seated.

We have Mr. William Tisdale, who is the president of the National Fair Housing Alliance, which is an organization representing 60 private, nonprofit fair housing agencies located in 35 different States across the country.

Mr. Robert Hunter is the commissioner of the Texas Department of Insurance, and, previously, also held the position of Federal Insurance Administrator.

Ms. Lynn Schubert is assistant general counsel with the American Insurance Association, a national organization representing more than 270 insurance companies. She is testifying on behalf of the Independent Insurance Agents of America and the Council of Insurance Agents and Brokers.

Mr. Charles Kamasaki is here today representing the National Council of La Raza. This organization represents 170 community-based organizations which together serve 37 States and reach more than 2 million Hispanic Americans annually.

We're delighted to have you all. Mr. Tisdale, we'll start with you and we'll make your full statement a part of the record. I would appreciate, if you can, if you'd summarize as much as possible and then we'll go to questions.

**OPENING STATEMENT OF WILLIAM R. TISDALE, PRESIDENT,
NATIONAL FAIR HOUSING ALLIANCE; ACCOMPANIED BY:
SHANNA L. SMITH AND CATHY CLOUD**

Mr. TISDALE. Thank you, Chairman Riegle. With me today are Shanna Smith, who is the executive director of the National Fair Housing Alliance, and Cathy Cloud, who is the program director who coordinated NFHA's homeowners' insurance testing project. They will be assisting me in presenting some of the testimony and with the questions.

I'm William Tisdale, president of the National Fair Housing Alliance, NFHA, located in Washington, DC. I'm also the executive director of the Metropolitan Milwaukee Fair Housing Council.

We applaud you, Senator Riegle, for convening this hearing to deal with the discriminatory practices and policies of the homeowners' insurance industry.

NFHA has been investigating these problems since 1991, and will take this opportunity to reveal publicly, for the first time, some of the evidence that we've accrued based on the conduct, discriminatory conduct, of two of the largest insurance companies in this country—Nationwide and Allstate. These companies have engaged, and continue to engage, in practices and policies that intentionally deny, limit, and make unavailable homeowners' insurance to people living in minority neighborhoods throughout the United States.

Therefore, today, we are filing formal complaints, these complaints, with the U.S. Department of Housing and Urban Development against both Nationwide and Allstate to force them to eliminate their discriminatory policies which have had such an adverse impact on minority and integrated neighborhoods throughout the United States.

The testing in this project was funded, for the most part, through the Fair Housing Initiatives program, a program created by Congress to improve fair housing enforcement efforts in this country. The HUD-funded portion of the project was completed in early 1993. NFHA used its own resources to undertake the analysis and to conduct additional testing in 1994, some as recently as just last week.

The insurance industry has been aware of the problem of discrimination for decades now. Major changes were announced over 15 years ago. But the studies of the insurance discrimination from that time through our own testing project, which was just completed, as I indicated, demonstrate that the problem is still pervasive and persistent. It has not gone away. We have found evidence of discrimination in the very companies that were the focus of anti-discrimination activities over 20 years ago.

Within the private fair housing enforcement movement, testing is always carefully constructed and controlled. This project was no different. These tests compared the treatment between white neighborhoods and African-American and Latino neighborhoods.

Nationwide and Allstate were selected specifically because of the egregious nature of the complaints from actual homeowners. We have been involved in the investigation of other companies as well.

One of the things we noted was that for all of the cities where we conducted testing, insurance agents tended to be located outside of minority neighborhoods. We have on display, here, maps of Milwaukee and Atlanta. In Atlanta, for example, these two companies have 180 offices, but only four are located in minority neighborhoods. All of those four border white neighborhoods. In Milwaukee, there are no Allstate offices located in minority neighborhoods and Nationwide operates in Milwaukee only through an 800 number.

The investigation, conducted by NFHA, identified the following types of discriminatory practices and policies used by agents working for Nationwide and Allstate.

First, was refusing to provide insurance because of the age of the home. For example, in Louisville, an Allstate agent said, and I quote:

I don't like to insure anything over 30 years old. It is too hard, after all the remodeling and things like that, to mess with. I'm trying to eliminate them from my portfolio.

Another practice is refusing to insure properties because of the market value of the home. A Nationwide agent in Milwaukee said: We don't insure for less than \$55,000. Well, we can't insure it. We can't do it.

A third practice is requiring homeowners to provide the name and telephone number of their mortgage lender, to gather information about the property before providing a quote, before a quote is provided.

Just last week, a Nationwide agent asked a Latino tester, who is your mortgage company? Do you have a number for them? The reason, ma'am, is because it's like the difference between an Escort and a Cadillac. The mortgage company can tell us what the house is like.

Other demands of minority applicants are requiring inspection of the home prior to providing information on the cost or type of insurance available, and requiring a credit check for applicants from minority neighborhoods.

In addition to these incredible practices just described, the most pervasive discrimination involved charging higher premiums for comparable policies, charging higher rates for inferior policies, and refusing to provide replacement cost coverage on the structure and contents of homes in minority neighborhoods.

We have brought some displays which illustrate some of the differences in treatment that I've just described.

Based upon a conservative analysis of neighborhood-based tests, NFHA can document the following for four cities in which testing was conducted. In Louisville, African-American testers experienced discrimination more than 47 percent of the time. In Atlanta and Milwaukee, African-American testers experienced discrimination more than 60 percent of the time. And, in Chicago, Latino testers experienced discrimination more than 95 percent of the time.

Insurance companies, in general, are engaging in practices and policies that have the intent and effect of denying, limiting, or restricting homeowners' insurance for people living in minority communities. What we have found is not unique to our investigation. The practices and policies identified in our testing are widespread throughout the industry. They have been identified over and over and over again in previous investigations.

Our recommendations to this Committee center around two issues. The first, is to increase funding for both education and enforcement efforts. The second, is to create legislation which increases our access to information about insurance practices.

Therefore, we request that you continue to increase the enforcement budgets of both HUD and the Department of Justice. Specifically, we want to encourage you to increase the allocations to the Fair Housing Initiatives program, the program that funded this work, and target a portion of community development block grants for local fair housing enforcement activities.

Congress should enact disclosure legislation which will provide, at a minimum, the following: Disclosure of underwriting guidelines. Disclosure of loss data. Disclosure of the type of policies and the cost of policies. Reporting of race, national origin, and gender of policyholders. Reporting for all metropolitan statistical areas. And, reporting the above information by census tract.

The insurance industry may argue that the cost of disclosure is prohibitively expensive. Senator, I submit to you that nothing is more expensive, nothing is more costly, than the disinvestment in our neighborhoods.

Senator Riegle, we would like to take just a moment, if we could, to explain some of our displays.

The CHAIRMAN. Please do.

Mr. TISDALE. Thank you. Shanna. Cathy.

Ms. SMITH. One of the constant criticisms is that houses that are used in the testing are run down, vacant, and vandalized.

Senator, these two houses were used in this test of Nationwide in Milwaukee, Wisconsin. This house was completely denied insurance coverage because they have a minimum insurance policy of \$55,000.

This house was quoted at less than \$55,000, but the Nationwide agent provided coverage for this particular house.

This house is in a white neighborhood. This house is in a neighborhood that is 80 percent African-American.

It says, "You're in good hands with Allstate," and we have a real question about that.

It says, who gets inferior coverage for double the premium?

In this instance, the testers were told—this tester was calling on this house in a predominantly white neighborhood and was provided guaranteed replacement cost coverage at an annual premium of only \$155.

This home is in an African-American community. They were provided only a market-rate policy for \$330.

But if you look, what people talk about, these are not vacant and vandalized homes. These are middle-income, moderate-income neighborhoods. Good housing.

The CHAIRMAN. And well-maintained.

Ms. SMITH. Yes.

The CHAIRMAN. If you look at this house, they planted flowers, the lawn is in good condition, and the house is in good condition. Obviously, it's a house that's well-tended and occupied by people who care about the house.

Ms. SMITH. That was critical to us in our testing, that we selected homes that people looking at them would say, why wouldn't you insure this property? Because, first, Senator, I would ask, could you guess which home, here, would be in the minority neighborhood?

The CHAIRMAN. I have an idea that it may be the reverse of what one would think. But you explain.

Ms. SMITH. That's correct.

[Laughter.]

In this situation, this white tester called an Allstate agent. Thirty minutes after leaving a message on the answering machine, the Allstate agent returned the phone call. Two days later, the agent provided the white tester with a quote that included guaranteed replacement cost coverage.

An African-American woman called over a 5-day period leaving three messages with the exact same Allstate agent with her name and phone number. She also had an answering machine. This agent never returned her call. These are lovely homes, and they can't, number one, get equal coverage. They can't even get their phone calls returned because they're located in minority neighborhoods.

The CHAIRMAN. Thank you. Those are very powerful illustrations. Does that complete your presentation, Mr. Tisdale?

Mr. TISDALE. Yes.

The CHAIRMAN. Thank you very much for all this work and this valuable analysis. This gets right at the issue and, of course, we don't have a way, in this country, of easily calculating what the economic cost is of redlining and destroying neighborhoods. In a sense, starving them to death. Not giving them the credit. Not giving them the normal access to economic opportunity that's available other places.

As communities get into a downward spiral that goes on over the years, and we end up with terrible problems, as we now have in many cities, part of that has been caused and fostered by these very discriminatory practices. So, in a sense, the cost of allowing those practices to continue is a very high cost. It's not just in the denial of a person's citizenship rights, in fundamental ways, but there's a huge societal cost. There's a huge economic cost that wrecks part of America, in effect, all in the name of good business practice.

It's a real subversion of the whole free enterprise system, if you will, because it ends up doing so much costly damage. And, now, we're trying to figure out how to fix the damage.

So we come along with programs to try to go back in and repair urban areas that are in much worse shape, partly because they've been starved to death from the normal flow of business transactional efforts in mortgages and insurance and so forth, that should have been going in over the years.

I think that's another thing that the public needs to understand. Where did today's problems come from? So that when we fix these defects in the system, over time, we ought to see these communities start to rebuild and flourish in ways that they've not been able to do.

Mr. Hunter, we're pleased to have you and we'll make your statement a part of the record. We'd like your comments now.

**OPENING STATEMENT OF J. ROBERT HUNTER,
COMMISSIONER, TEXAS DEPARTMENT OF INSURANCE**

Mr. HUNTER. Thank you, Mr. Chairman. I am Bob Hunter, the commissioner of insurance in Texas.

I've been in this room many times before because when I was Federal Insurance Administrator, this is where both my appropriations and my oversight occurred. Even so, on a few times, I enjoyed being in this room.

I was also here, several times, as president of the National Insurance Consumer Organization over the last 15 years. So, I do feel at home. On this issue, I've been here before, too.

In Texas, we have maps, similar to this agent map, if you'd like to see them, on State Farm in Houston and so on. It's not limited to these two maps. There are other maps like this.

The CHAIRMAN. I understand.

Mr. HUNTER. As Federal Insurance Administrator, I documented insurance redlining on several occasions. During the 1970's, we even put evidence before this Committee that showed that you were more likely in New York to get put into the F.A.I.R. plan, the high-cost plan, if you were black than if you had a building code violation.

We know that it was not risk-related based upon that data and the data that has been flowing for 25 years, all the way since President Johnson's commission that was mentioned earlier.

The data still flows. The studies that we've seen from California, the yellow lines replacing the red lines, the studies of ACORN, and others. And, now, they don't use lines at all. It's income-related, value of home that you've heard about, requiring supporting business, such as a homeowners' policy, before they'll sell you an auto policy, and so on.

So if you don't have money, you're not going to get it, and that has an obvious impact, not just in the cities, but in rural areas. Redlining is not limited to poor people in the cities. We just had a hearing in Big Spring, Texas, and we had witness after witness coming forth, agents saying, we can't find a company to write us.

The CHAIRMAN. I see. In rural areas.

Mr. HUNTER. Even in rural areas, where houses go below these magic numbers, like \$60,000, or whatever the limits are. In rural areas, that's also true. I encourage you not to think of it as just a problem of the inner cities, although that's been a focus.

On March 31, 1994, I held a public hearing on redlining in Houston. Among other things, and I'll make the entire transcript available if you would like that for your Committee, but I've attached to my testimony the testimony of a gentleman from Habitat.

Now Habitat, in Houston, has 50 homes. This gentleman works with the residents in trying to get them their financial needs, in-

cluding insurance. They were only able to find one standard insurance company willing to write them—Farmers Insurance. No other company would quote.

In the 3 years he's been working with them, they've had one claim on the 50 homes. A tree fell, during a storm, and damaged the roof. That's it. That's good experience and you know, if you know something about Habitat, you know that they're careful in terms of what they do.

The CHAIRMAN. Right.

Mr. HUNTER. These are sweat-equity people, working hard to make their community viable, and they can't get insurance. I think that's very telling testimony. But it's not just testimony that we have. At the hearing, only two insurers spoke up. Trade organizations came forward, but individual insurers are reluctant to come forward in these things.

To their credit, Hartford Insurance Company came forward to testify that they had undertaken a self-analysis, something that you just called for, Mr. Chairman. It was painful. What they found is what the witness testified.

As a result, they're trying to change the way they're doing business. They're looking to get minority agents, place them in these redlined places, train them, help them, and support them, to try to make a difference.

That's the testimony of Hartford. I don't believe that many companies have done what Hartford has done. That is, the painful kind of step-by-step review, what are we doing, sitting around a table saying, gee, what we've been doing is wrong. That's hard.

The CHAIRMAN. We may ask them to come as an example of somebody who is trying to change and do something constructive and positive.

Mr. HUNTER. Right. I think you should.

Additionally, I think you have to be careful how you define redlining. Some try to define it, very narrowly, as, if you don't draw a line on a map, you haven't done anything wrong.

I think you should define it as being unfair discrimination in availability, price, benefits, service, or quality of insurance, to a class of people, based upon factors that are not risk-related and are outside the control of the customer. So that things like the age of the house—if there's no good evidence—you end up with redlining.

The CHAIRMAN. We put older houses on historic registries. An older house isn't necessarily—that's a fake issue.

Mr. HUNTER. Yes. So discrimination like race, gender, income, value of house, age of house, those things need to be part of the definition of redlining, in my view, for it to be a complete definition. And how do you attack redlining? I think data is the essential first step.

So, Senator Feingold and the people that came from the House this morning are doing the right thing, in my view.

After decades of study, the insurers still say we don't do it. Let's get the data on the table. Data, in small enough geographical units to see what's happening, by race, income, and other demographics, is essential to this long overdue determination.

We need to know. In homeowners, auto insurance, which is missing from Senator Feingold's bill, but which I think should be added,

and small business lines, at least, we need to know where companies are writing, where they place their agents, what premiums they charge, and what losses they incur, in my view, in order to get the answers to these questions.

For a year, Texas has studied the problem. For the first time, we have zip code data. We have looked at it and we see redlining documented in our data. For example, and some of the data is attached to my testimony, Mr. Chairman, we have shown that there is a direct correlation between lack of availability of auto insurance and the racial and income make-up of the zip code.

In zip codes where auto insurance availability is two times worse than the Statewide average, the minority population is two times higher. And, where coverage is half as hard to get as the Statewide average, the minority population is half the Statewide average.

We've seen a direct correlation. The data is attached to the testimony. We'd be happy to share the entire State zip code data with you, if you would like.

Texas, starting only 1 year ago, is already a front runner in data collection. The States need the momentum of congressional action to get moving nationally on this important work. For instance, I'm in the process of drafting a regulation to require a simple thing—that underwriting guides be risk-related and based upon substantial evidence.

That sounds pretty easy and pretty obvious, but I anticipate a huge fight on that issue and it will be viewed as a revolutionary step. But I'm taking that step because of the study of the Texas Office of Public Insurance Counsel, which was cited earlier, that showed that 88 percent of the companies have age of home restrictions in Texas, and 90 percent of the companies restrict writings based on the value of the home. The typical value is \$55,000 to \$60,000, sometimes higher. The median-value of homes in Texas is \$43,000. So, they're writing off a lot of homes.

The CHAIRMAN. That's interesting. The median-value is \$43,000.

Mr. HUNTER. Right.

The CHAIRMAN. So half the houses in the State are at that level or below that level.

Mr. HUNTER. Right. Well more than half are below the \$60,000.

The CHAIRMAN. Yes, absolutely.

Mr. HUNTER. So low-income areas of Texas are being written off, and that's redlining, in my view.

The CHAIRMAN. It's second-class citizenship. That's basically what it boils down to.

Mr. HUNTER. It's exactly what you just said a few minutes ago, Senator.

Last week, I imposed a record fine on Allstate Insurance Company, \$850,000, the most ever levied against a company. They've agreed to it as a consent order. It's twice what my lawyers recommended.

[Laughter.]

The CHAIRMAN. It looks like you need new lawyers, too.

[Laughter.]

Mr. HUNTER. They wouldn't write people with only one car. They wouldn't write people who were not in the market for other insur-

ance, like homeowners. They wouldn't write single people, and so on. As a result, we had these kinds of practices.

At the same time, our staff, newly invigorated after this, has brought actions against 59 other companies, disciplinary actions, with similar problems. Those 59 are based upon our sample companies of 75 that we reviewed. So 59 out of 75.

In your invitation to testify, you raised four questions which I answered in my prepared statement. As an actuary, I believe you should require census tract, not just five-digit zip, to enable research in homogeneous areas, such as you do in HMDA. I think that's the right approach.

I believe you should obtain age data, as well as race and gender, because I think there's discrimination by age.

I think you should get the claims data. If you don't, when you tell the company, look, you're doing something bad here, they'll say, it's a good business practice and we can prove it, but you won't be able to test that argument.

I encourage you to consider strongly S. 1917, Senator Feingold's bill. I would strengthen it. I would look at Congressman Kennedy's bill for ideas.

Specifically, I would collect auto insurance data, which the bill does not. Many poor, in minority areas, don't own homes. People don't own homes and they're being discriminated against where they have to buy auto insurance. Also, renter's insurance should be added, in my view.

I would like to make all the data open-record data. One of the key problems I have in Texas is that, although I can now collect underwriting guidelines, I cannot disclose them by company. So the practices are not publicly available. And, I think, public exposure of some of these things will change them, just the public exposure.

The CHAIRMAN. Can you hold a public meeting and describe the practices, listing them as Company A, Company B, and Company C?

Mr. HUNTER. I can do that. In fact, that's what we have done.

The CHAIRMAN. So the company that wants to pursue it can inquire of the company that they might be talking to, where they fall.

Mr. HUNTER. Right. But, in Texas, the legislature, I think wisely, has moved in the direction of using competition to control rates.

So I get out rate guides. People love the rate guides. They go out by the tens of thousands, and we are encouraging people to shop.

But what happens is that, in areas like this, people come back and say, well, I found a cheap company, but they won't even quote for me. And I can't even tell them, don't bother with that company, based upon what I already know about their underwriting guidelines, because I'm prohibited to release that.

The CHAIRMAN. Right.

Mr. HUNTER. People get frustrated, give up, and go to the assigned risk plan, the F.A.I.R. plan, or something.

Just speaking for myself, one last personal note. I think I need your help. The momentum that these kinds of hearings and this type of legislation being debated gives to the State is very, very important.

Texas is ahead of the curve, in my view, of what's going on in the rest of the country. Only 22 States agreed to participate in the

National Association of Insurance Commissioners' study of redlining by supplying data, and that tells you something, in my view.

I do thank you for your leadership on this, and Senator Feingold and the Ranking Republican.

The CHAIRMAN. Thank you for what you're doing in Texas and for coming today. It's a very helpful example of national leadership that you're giving, and I much appreciate it.

Mr. HUNTER. Yes, sir.

The CHAIRMAN. We'll follow up at our end.

Ms. Schubert, we'd like to hear from you now.

**OPENING STATEMENT OF LYNN M. SCHUBERT, ASSISTANT
GENERAL COUNSEL, AMERICAN INSURANCE ASSOCIATION**

Ms. SCHUBERT. Thank you, Mr. Chairman, for inviting us to testify here today on the important topic of equal access to insurance for all Americans. As you stated, AIA represents more than 270 companies writing property and casualty insurance in every State and jurisdiction in the United States.

I think it's probably important for me to state, on the record, that the companies that have been discussed earlier today, on this panel, are not members of the AIA, but the Hartford Company, that Mr. Hunter did mention, is a member of AIA, and we have a number of companies like that.

We're here today, Mr. Chairman, as a group who is trying to do something positive and trying to make a difference in this area.

The organizations, that I'm testifying on behalf of today, have one overriding goal on the issue of insurance access and availability. That is, that urban residents and businesses, equally with all other Americans, must be able to purchase attractive insurance products at a price reasonably based on the risk. AIA, IIAA, and the Council members are committed to working with legislators, regulators, consumers, and brokers to ensure that this occurs.

To determine whether or not insurance is available in all areas, we could support Federal data collection of insurance information if it is designed to produce a fair, efficient, and effective study of insurance availability and cost. H.R. 1188, pending in the House, appears to be such a measure and AIA, IIAA, and the Council support this bill.

Any data collection will show that some areas, especially in our cities, have higher numbers of residents and small businesses without insurance than other areas. These discrepancies are related to a whole host of socioeconomic circumstances faced by people who work and live in the urban areas and which also increase the cost of insurance. Outright racial or ethnic discrimination also may occur. We hope that it is infrequent. We know that it's a violation of Federal and State law. AIA advocates stringent prosecution wherever it is found.

The American birthright, that you described, to equal treatment should be protected and it's something that we certainly support. Any discrepancies in availability of insurance, whether they're caused by discrimination or by economics, must be addressed.

It is cold comfort to the citizens for whom insurance is unavailable to explain to them the reasons why the problem exists. We believe that it is time to start attacking these problems head-on.

Mr. Chairman, the Committee has asked AIA to address three specific questions in its testimony. We have done so, in detail, in our written statement. This morning, I will attempt to summarize for you our responses to those questions.

First, you asked for AIA's views on whether insurers illegally discriminate. It's impossible to say that there's not one underwriter, one agent, or one company out there, that is illegally discriminating in the selling of insurance. We do not believe that it's a systemic problem, but, rather, if it occurs, it occurs in isolated instances.

The most important thing to note in this discussion is that even in the question itself, the description states that discrimination is illegal, and that is a fact. It is illegal in every State. It's illegal through Federal law.

All States have laws against unfair discrimination in the insurance industry. The National Association of Insurance Commissioners Model Unfair Trade Practices Act prohibits arbitrary underwriting decisions, based upon geographic location alone, as unfair discrimination. AIA strongly supports this provision. We supported its adoption at the NAIC and we have urged its adoption by State legislatures across the country.

If insurers are illegally discriminating, they should be prosecuted. States currently have the authority to do this and are doing so in appropriate situations. As was stated earlier, insurance must be based on the risk. It cannot be based on race.

The second request of the Committee was for AIA to discuss the findings of recent property insurance studies. This is the bottom-line question that really must be addressed, whether consumers wishing to purchase insurance currently are able to do so.

A number of studies, from 1979 through 1993, show that a large percentage, 98 to 99 percent, of homeowners have homeowners' insurance. More recently, in 1993, AIA commissioned a study, by an independent agency, of the core of six American cities, and I'd just like to point out some of the key highlights of this survey because it did look at predominantly minority zip codes. It looked at areas where we were concerned there may be a problem.

From those six cities, less than 2 percent of the homeowners surveyed did not carry any homeowners' insurance. Ninety-three percent had comprehensive coverage and about 5 percent carried more basic homeowner insurance policies covering fire damage only, or fire and windstorm damage.

There were no significant differences among African-Americans and whites in terms of the insurance coverage. Ninety-nine percent of African-American homeowners had insurance with 92 percent of those African-Americans having comprehensive homeowners' insurance.

Ninety-eight percent of those homeowners identifying themselves as white had some homeowners' insurance, including 94 percent with comprehensive policies. Nearly 9 in 10 urban homeowners said it was very, or somewhat, easy to find homeowners' insurance. An even higher share, 93 percent, said it was convenient to contact an insurance agent or insurance company. Very few respondents, only 3 percent, said they were aware of anyone in their neighbor-

hood who had experienced difficulty in obtaining homeowners' insurance.

There are other surveys and studies that show similar results. Those results are discussed in detail in our written statement. However, there are other studies that show other results and we've heard discussions, today, of testing, that apparently may or may not show different results when we finally get the details and we can investigate that situation.

While we have a detailed analysis of the cause of the differences between the studies and critiques of the different methodologies of the studies, we are not here today to argue the numbers with you. We agree that it is time to take a close look at this issue. And, instead, these differences are the very reason we're willing to support Federal data collection. We want to know what the information is on the availability and cost of certain lines of insurance.

As Representative Kennedy has stated, those who have nothing to hide, have nothing to fear. We welcome thoughtful investigation and analysis of this issue.

This leads directly to the third question posed by the Committee—What steps should the Federal Government take to identify and combat illegal property insurance discrimination if such discrimination exists?

As mentioned earlier, a fair, economical, efficient data collection scheme, on a Federal level, to determine if insurance is equally available, based on the risk for all Americans, is something that AIA, IIAA, and the Council support. The parameters of such a data collection effort, however, are very critical.

Inordinate costs of collecting data with limited value would not assist the insurance consumer, but, rather, harm that consumer with either higher prices or possibly less financially sound insurers.

Collection of data which reveals what insurance is being sold, where it is being sold, who is selling it, and how much it costs the consumer would answer the question of whether or not insurance is equally available. This collection should be undertaken in a format to provide the most information in the most useful form in the most cost-efficient fashion.

H.R. 1188 appears to establish such a data collection scheme and I urge this Committee to review that bill, as well as the bill pending in the Senate. The information which will be provided by H.R. 1188 would allow regulators to focus efforts on zip codes. It is a collection by five-digit zip code. It would allow regulators to focus their efforts on zip codes with significant disparities between the number of homeowners and the number of homeowners' insurance policies, rather than being required to review detailed information for huge numbers of census tracts where no problems exist whatsoever.

We urge you to look at a data collection scheme that would allow you to look broadly at all the zip codes where you have a concern and then focus your efforts on where there are these disparities. Spend the time of the regulators, then, getting into the more detailed information requiring insurers to produce more detailed information, at a smaller level, at that point. Regulators, currently, can do that and I urge that that is the way to move forward in trying to address this issue.

Mr. Patrick did state, very accurately, that several hundred thousand insurance applications are collected every year by insurers in comparison to only thousands of mortgage applications.

HMDA is not necessarily appropriate for the insurance industry.

AIA recognizes there are a number of issues that may have an impact on urban consumers and their ability to obtain insurance. AIA members and others are taking steps to address these issues and I would like to take just a minute, if I could this morning, to address some of our efforts.

The CEO's of many AIA member companies are doing just what you, Mr. Chairman, suggested. They are making a commitment to equal treatment. Additionally, it is our belief that partnerships between the insurance industry and consumer organizations, civil rights organizations, and housing organizations are the most productive way to move forward.

AIA would also like to work with legislators and regulators to develop products and marketing ideas which adequately serve all residents and businesses. We want to discuss the establishment of programs to facilitate greater access to insurers.

For example, we already are working with regulators, in a number of States, on programs to bring urban-based independent agents together with our standard companies. One State, which is moving forward quickly on this issue, is Georgia. In Atlanta, AIA, the Urban League, the IIAA, the insurance department, and State legislators have established a task force to address the issue of insurance in urban markets.

One of the first projects of the task force is the agent-insurer partnership. This partnership has resulted in a number of appointments already being made by standard companies to urban-based and minority agents.

Now that this program has proven successful, we are working to expand these efforts nationwide. We have specifically spoken with Commissioner Hunter, and he has requested some detailed information on the Atlanta project. We're looking forward to moving forward in Texas as well as a number of other States.

In addition, we also support the inclusion of homeowners' insurance in existing F.A.I.R. plans to address the needs of homeowners who are unable to find insurance in the voluntary market.

In California, we've joined forces with a broad coalition of consumer and civil rights groups, led by Consumers Union and the Latino Issues Forum, to create an innovative, no-frills, no-fault automobile insurance policy. This policy is a perfect example of a creative, practical, and sound solution to a real problem of people in need.

Independent actuaries have concluded that this policy could save California consumers \$1.8 billion in the first year alone. We are working to inform legislators and regulators about the potential benefits of this and similar new products.

Education—

The CHAIRMAN. I'm going to ask you, if you can, to wrap up in the next 30 seconds because I'm afraid we're not going to have enough time for Mr. Kamasaki and, then, I've got to go tend to another assignment, here, shortly.

Ms. SCHUBERT. Yes, sir. I have just two points to make very, very briefly.

The CHAIRMAN. Thank you.

Ms. SCHUBERT. Education and reduction of the risk.

ALA is working with State regulators and legislators on the issue of education, both for the insurance industry about opportunities in urban markets, as well as consumers, to educate consumers on how to shop for the best product.

And, second, most importantly, perhaps, we're working with consumer and community organizations like ACORN, to work with their Neighborhood Home and Safety Program, to reduce the risk in neighborhoods so that we can make insurance more cost-efficient and more available.

In conclusion, we just want to state that we're committed to working on this issue. We want to work with the Senate. We support data collection and we look forward to working with you on making it effective and efficient.

Thank you.

The CHAIRMAN. Thank you. I appreciate the constructive tone that you present from your organization and some of the positive steps that have been taken by the Hartford and others.

Also, we may have some differences at the end of the day in terms of what we collect and how we collect it, but I would suggest that we try to work together to see if we can work that out.

Mr. Kamasaki, we're pleased to have you.

**OPENING STATEMENT OF CHARLES KAMASAKI,
NATIONAL COUNCIL OF LA RAZA**

Mr. KAMASAKI. Mr. Chairman, I'm happy to be here. Let me first apologize on behalf of my president, Raúl Yzaguirre, who is not able to be here. I apologize to you that you're getting the second string, and I will try to be brief in deference to your time constraints. Let me try to make three points.

The first is, I believe, the evidence is sufficient to warrant immediate congressional action. Mr. Chairman, in my written statement we go through, in quite exhaustive detail, the history of social science research on discrimination, as it applies to Latinos, in virtually every field—employment, housing, the housing rental market, mortgage lending, and the emerging data that is now coming out with respect to insurance.

The point I would like to make is that, at virtually every stage of this process, there have been naysayers. They have argued—the industry in each of these cases has argued—that the problem is not serious, that these are isolated examples, and that they're caused by market factors not related to discrimination.

I would note that after disclosure or after there has been sufficient social science research on these issues, invariably, the evidence has demonstrated that, in fact, the problem is serious, that it is widespread, that it goes beyond isolated examples, and that alternative causes, like market factors, do not explain disparities between minorities and nonminorities.

We believe such is the case with insurance redlining.

It is clear, and we agree, that there is not sufficient data to make conclusive judgments about the scope and degree of insurance red-

lining with respect to either African-Americans or Latinos. We acknowledge the fact that the industry, at least, makes the argument that some of these disparities may be attributable to factors other than discrimination.

But, Mr. Chairman, given the history that we document in our statement, and given the history on these issues, it seems to me this is one of those cases where we think it's a duck. It looks like a duck. It walks like a duck. It quacks like a duck. And that, if we needed no evidence other than the fact that the recent National Fair Housing Alliance testing that we were pleased to join in and which demonstrates a virtual statistical certainty of discrimination for each Latino seeking insurance, we would argue the problem is clearly sufficiently documented to warrant an immediate congressional response.

The second point I would make is to note how modest this response is. We are not asking for new regulations. We are not asking for a new standard for judging discrimination. We're not asking for affirmative action or quotas in the number of insurance policies sold. What we are asking for is data disclosure, to permit enforcement agencies to review data, to permit social scientists, researchers, and others to review the data, and, finally, to permit the kind of self-analysis that you mentioned earlier today.

In fact, Mr. Chairman, if every CEO of every insurance company were to issue the kind of order that you talked about earlier today, that CEO would, in fact, need the very kind of data that is required in this bill in order to assess the performance of his/her own company and assess the performance of each and every employee in that company.

It seems to me, given the scope of the problem, that the kind of response that we and others are seeking embodied in Mr. Kennedy's bill and Mr. Feingold's bill, is really quite modest.

Finally, I would just note for the record that there have been some press reports that have alleged that there is somehow some disunity within the civil rights community on this issue. I just wanted to introduce, and ask that it be made part of the record, a letter sent to you yesterday, on behalf of a coalition of 24 civil rights and consumer organizations, which demonstrates that those press reports are not accurate.

Let me stop at this time and entertain questions.

The CHAIRMAN. Thank you. Thank you for very good remarks. Without objection, we'll make that letter a part of the record.

I want to thank all of you for your testimony today and for your leadership in your respective capacities in this area. I think we've really laid the problem out today, along with some very constructive ideas, legislative and other, as to how we go about dealing with it.

But I want to thank each of you and I want you to know that when we state intentions in this Committee, we have a very high batting average of following through and doing what we say we're going to do. We're going to push ahead on this because it's very important. I urge all of you to do so as well, and let's collaborate as we go and see if we can't make a lot of progress here.

Thank you very much.

Ms. SCHUBERT. Thank you, Mr. Chairman.

Mr. TISDALE. Thank you.

The CHAIRMAN. The Committee stands in recess.

[Whereupon, at 12:22 p.m., the Committee was recessed.]

[Prepared statements, response to written questions, and additional material supplied for the record follow:]

PREPARED STATEMENT OF SENATOR RUSSELL D. FEINGOLD

Thank you, Mr. Chairman, for holding this hearing on the problem of discrimination in the determination of who has access to affordable high quality homeowners' insurance in America. I would also like to thank you for requesting the recent GAO study on data needed to examine issues pertaining to the availability, affordability, and accessibility of property insurance, and for your past leadership and continued efforts through community banking and reinvestment legislation to expand financial services to individuals and communities that have been bypassed in the past by the private market. Your leadership on these and other issues will be sorely missed here in the Senate and by the entire Nation, and I feel fortunate to have had the opportunity and privilege of serving with you in this body—even for the short period of time it has been.

During this hearing the Senate Banking Committee will gather testimony from a diverse group of individuals and organizations on a subject that strikes at the core of the ability of many Americans to participate fully in our society by being able to enjoy that which has come to be known as the "American dream"—home ownership.

Three decades of research, studies, and reports have reaffirmed the extent of the problem of insurance redlining that prompted the 1968 National Advisory Panel on Insurance's description that "Communities without insurance are communities without hope" as well as the inadequacy of State and Federal responses to address it. These studies, as well as testimony and evidence gathered before both the House Banking and Energy and Commerce Committees, thanks to the efforts of both Representatives Joseph Kennedy and Cardiss Collins, have indicated that hundreds of thousands, if not millions, of individuals and entire neighborhoods continue to be denied or provided inferior insurance coverage and that insurance redlining practices are currently widespread throughout the United States.

It is not only disturbing that discrimination continues to exist today, but it troubles me even more so that the fine city of Milwaukee, Wisconsin, has received national attention regarding this problem. In fact, a CNN television report even stated that Milwaukee is becoming not only famous for beer, but for insurance discrimination as well.

Today's disturbing results concerning the occurrence of insurance discrimination, to be released by the National Fair Housing Alliance and later discussed here by its President, William Tisdale, a fellow Wisconsinite who shares my concerns over the problem at a national level as well as in Milwaukee, will add to this perception and come on the heels of an Urban Institute report which showed that Milwaukee was the most economically segregated city among the 100 largest U.S. metropolitan areas.

Some will argue that the disparities in the access to and availability of insurance are solely based on principles of economics and statistically based risk assessments—and not on principles of prejudice. Sadly enough, it appears that this is not always the case. Take the words of an insurance company district sales manager from Milwaukee, who was recorded as telling his agents:

" I think you write too many blacks. . . You gotta sell good, solid premium paying white people. . . They own their homes, the white works. Very honestly, black people will buy anything that looks good right now. But when it comes to pay for it next time. You're not going to get your money out of them.

This "quit writing all those blacks . . ." prejudicial policy was not only communicated to agents verbally, but was placed in writing as well. And it has been reported that the manager even showed one agent how to accomplish this goal by stating that:

"If a black wants insurance, you don't have to say, just tell them, because based on this kind of policy, the company will only allow me to accept an annual premium. Do it that way."

Activity of this type that has prompted such allegations of discrimination in the insurance industry cannot and must not be tolerated anywhere in our society.

To address this problem, I introduced S. 1917, "The Anti-Redlining in Insurance Disclosure Act of 1994," which would require insurance companies to disclose information regarding where they write property insurance, patterned after the reporting requirements already required of banks and thrifts under the Home Mortgage Disclosure Act. This information would allow members of the public, regulators, the insurance industry, and Congress the means to identify the extent of the problem and would assist affected individuals and Federal and State agencies efforts at enforcing our Nation's anti-discrimination laws.

There are several components which S. 1917 includes which are critical for any meaningful measure designed to address the problem of insurance redlining.

First, it is important that any data collection and reporting requirements on insurance costs and policies be done at the most detailed level which is reasonably feasible. For example, it is preferable to require reporting by census tract rather than zip code since it allows for more detailed detection and analysis, as census tract populations are much smaller and homogeneous than many urban zip codes which often contain neighborhoods that have a diverse range of economic, racial, and housing stock characteristics, thereby resulting in a "masking" effect for purposes of statistical analysis. The census tract reporting standard that is required of the banking industry under the Home Mortgage Disclosure Act should be applied to the insurance industry as well. S. 1917 takes this approach.

Second, the collection of data on insurance losses and claims should also be included in any insurance disclosure initiative. Such data would be essential for any proper analysis necessary to resolve disputes that arise involving claims that disparities in the price of insurance between different neighborhoods or groups of people are solely based on loss experience and the associated risk involved rather than prejudice.

Finally, since the collection and disclosure of such data will provide affected individuals and Federal and State regulators valuable information necessary to enforce our Nation's anti-discrimination laws, it should be made available to the greatest number of communities and individuals as possible. S. 1917 would require that data be collected in 150 Metropolitan Statistical Areas.

I am also interested in exploring whether or not the insurance industry should be required to meet the same requirements that are imposed upon the banking industry under the Community Reinvestment Act. To that end, S. 1917 calls for a study which would review the feasibility of creating reinvestment requirements for insurers similar to those already applied to depository institutions.

In conclusion, I would like to again thank Senator Riegle for holding this hearing and look forward to working with the distinguished Chairman and other Members of this Committee toward addressing the problem of insurance redlining.

PREPARED STATEMENT OF SENATOR ALFONSE M. D'AMATO

Mr. Chairman, I would like to join you in welcoming our distinguished panel of witnesses, particularly our colleagues from the House, Representatives Collins and Representative Kennedy. The presence of so many distinguished witnesses says a great deal about the importance of the subject matter of today's hearing.

Today the Committee is focusing its attention on insurance redlining—whether, and to what extent, it occurs. In this context, we are concerned with discrimination against residents of economically distressed areas in the writing of homeowners' insurance based on factors unrelated to sound actuarial practices.

Mr. Chairman, this Committee, under your leadership, has invested a great deal of energy in addressing the plight of economically deprived individuals and communities. The Committee has worked hard to ensure that every American is treated fairly in seeking financial services.

Mr. Chairman, just last session, you and I sponsored a bill designed to eliminate the abusive mortgage lending practices of unscrupulous "loan sharks" whose high-interest mortgage scams are directed at the elderly and low-income homeowners.

With respect to the insurance industry and homeowners' insurance, the guiding principle must be sound and objective underwriting practices. My father is an insurance professional. He always took great pride in helping his customers' plan for their future financial security. Now, the risk of insuring any two homes is never the same—that is why rates should vary from case to case. But my father has always believed that every potential customer must be judged by one standard—by the risk. Any other standard just won't do.

This conviction is shared by the Committee. Discrimination of any kind is wrong and it is unacceptable. For this reason, the Committee has invested time and energy to ensure fair access to financial services for one simple reason.

At the same time, we must remember that insurance companies are in business, and an integral part of that business is assessing and managing risk. Insurers must be able to assess risk in a businesslike fashion. That means that they must be able to charge rates in accordance with the risks involved.

Mr. Chairman, the Committee must review the available evidence and ascertain whether, and to what extent, the insurance industry engages in discriminatory practices in the writing of homeowners' insurance.

PREPARED STATEMENT OF DEVAL L. PATRICK
ASSISTANT ATTORNEY GENERAL FOR CIVIL RIGHTS
U.S. DEPARTMENT OF JUSTICE

Mr. Chairman and Members of the Committee, I appreciate the opportunity to appear before this Committee to discuss what the Attorney General and I believe to be an increasingly significant issue in civil rights enforcement—discrimination on the basis of race or national origin in the provision of homeowners' insurance. I assure you that I will use the full extent of my authority as Assistant Attorney General for the Civil Rights Division to eliminate all forms of race and national origin discrimination that hinder the ability to obtain and enjoy housing, including discrimination in the property insurance industry.

One lesson we have learned from more than 25 years of fair housing enforcement is that the actions of many players can have an impact on the ability to obtain and enjoy housing. The Civil Rights Division has often challenged direct providers of housing by taking action against unlawful discrimination in the sale and rental markets. In recent years, we have targeted unlawful discrimination in the mortgage lending industry and have learned the devastating impact that such discrimination can have on individuals and communities. Although we know less about the extent of discrimination in the homeowners' insurance industry, we do know that ending such discrimination is critical to fair housing enforcement. As the United States Court of Appeals for the Seventh Circuit succinctly noted, "no insurance, no loan; no loan, no house . . ." *NAACP v. American Family Mutual Insurance*, 978 F.2d 287, 297 (7th Cir. 1992), cert. denied, 61 U.S.L.W. 3771 (U.S. May 17, 1993).

Our Department recently completed an investigation involving discrimination in the provision of homeowners' insurance, and we have also investigated claims of insurance discrimination originally presented to the Department of Housing and Urban Development (HUD). Although the results of the investigations are not yet public, the long and detailed investigations have helped educate us regarding how such discrimination occurs. Our work has also clarified for us the type of factual information that is necessary to detect unlawful discrimination in this industry. We do not purport to have all the answers to the difficult questions but I am pleased to share our experiences with you.

Discrimination in Insurance is Prohibited by the Fair Housing Act

Historically, the efforts of our Department to address the issue of homeowners' insurance discrimination have been slowed by claims that such discrimination is not sufficiently related to housing to evoke coverage under the Fair Housing Act. The coverage issue has been the focus of several lawsuits and initially resulted in inconsistent Federal court decisions. The confusion caused several insurance companies that were subjects of Federal investigations to refuse to cooperate, even in the face of HUD subpoenas. We believe that this issue can now be laid to rest such that we can proceed to resolve the merits of discrimination claims.

Our Department and HUD have consistently argued that discrimination by insurers of housing violates the Fair Housing Act. The Department of Justice presented that argument in 1978 as *amicus* in the first case to address the issue, *Dunn v. Midwestern Indemnity Co.*, 472 F. Supp. 1106 (S.D. Ohio 1979). In that case, the court held that "the concerns of insurance redlining are within the especial province of the Fair Housing Act." *Id.* at 1112. The Court of Appeals for the Fourth Circuit, however, reached a contrary holding in *Mackey v. Nationwide Insurance Companies*, 724 F.2d 419 (4th Cir. 1984), and this is the decision upon which investigative targets relied in resisting our enforcement efforts. This decision, however, did not change the position of the enforcement agencies. On January 23, 1989, HUD published regulations implementing the Fair Housing Act stating that "[r]efusing to provide . . . property or hazard insurance for dwellings or providing such insurance differently because of race, color, religion, sex, handicap, familial status, or national origin" constitutes a violation of the Act. 24 C.F.R. § 100.70(d)(4).

But the road to substantive enforcement has been difficult. The Civil Rights Division received allegations in 1988 that American Family Insurance, a Wisconsin insurer, had directed its agents not to sell property insurance in areas where African-Americans constituted a majority of the population. An investigation was initiated and the company initially said it would cooperate. When a formal request for information was presented to the company, however, it declined to provide any information, citing its position that the Department of Justice lacked authority under the Fair Housing Act to investigate claims of racial discrimination in homeowners' insurance. The local NAACP chapter subsequently filed a lawsuit raising claims under the Fair Housing Act, 42 U.S.C. §§ 1981 and 1982, and the company raised the same

defense to the Fair Housing Act claim. We supported the private plaintiffs' Fair Housing Act claim as *amicus curiae*, but the district court dismissed that claim. The private lawsuit was permitted to proceed since other causes of action remained; but since the remaining statutes do not provide enforcement authority to our Department our investigation was thwarted. We participated as *amicus curiae* in the Court of Appeals for the Seventh Circuit and that Court, on October 20, 1992, reversed the district court decision and held that the allegations did state a claim under the Fair Housing Act. *NAACP v. American Family Mutual Insurance*, 978 F.2d 287 (7th Cir. 1992), *cert. denied*, 61 U.S.L.W. 3771 (U.S. May 17, 1993). That decision allowed our investigation to resume after a delay of almost 4 years. The private case has yet to be resolved.

Nationwide Insurance Company also claimed the Fair Housing Act did not reach racial discrimination in homeowners' insurance when it refused to comply with a HUD request for information necessary to investigate a complaint of discrimination in the provision of homeowners' insurance. The company sued the Secretary of HUD over the issue and in February 1994, after more than 2 years of litigation, an order was entered upholding our position that the Fair Housing Act prohibits racial discrimination in the provision of homeowners' insurance. *Nationwide Insurance Co. v. Cisneros*, Civil Action No. C-3-92-52, (S.D. Ohio, Feb. 24, 1994). The company has appealed the district court's decision. The Department of Justice urged this same position as *amicus curiae* in private litigation before the District Court for the Northern District of Indiana in *United Farm Bureau Insurance Co. v. Metropolitan Human Relations Comm'n.*, C.A. No. F89-252 (N.D. Ind.) and that Court agreed with us, following the Seventh Circuit precedent in *American Family*. We also urged the District Court for the Northern District of Ohio to allow a Fair Housing Act claim that a private mortgage insurance company was discriminating on the basis of national origin. *Briceno v. United Guaranty Residential Insurance Co.*, Case No. 3:89CV7325.

In view of this litigation, the HUD regulations are particularly significant, since they are entitled to substantial deference by the courts. And we do not believe that there is an existing conflict between the circuits, since the Fourth Circuit's decision in *Mackey* was rendered prior to the issuance of the regulations. The Seventh Circuit concluded that the regulations were valid and controlling, and we believe that reasoning should be followed by other courts that are presented with the issue.

Enforcement Efforts

As a result of our work on discrimination by property insurance companies, our initial lesson is that such investigations can be exceedingly complex. The investigations are sometimes compared to lending discrimination investigations, but several differences make insurance discrimination investigations even more complex.

The Home Mortgage Disclosure Act (HMDA) provides us useful information about the lending practices of depository financial institutions. We know the number of minorities who apply for mortgage financing, the number accepted, and the number rejected. This information is very helpful in selecting targets for investigation. We do not have comparable information about the performance of property insurance companies. Also, while a depository institution may receive several thousand loan applications in a given year, a property insurance company may write or renew several hundred thousand policies in the same time period. Unlike lenders, property insurance companies, to the best of our knowledge, do not maintain records regarding the rejected applications nor do they record the race of applicants or policyholders.

For these reasons, it is difficult to assess claims that a particular company is discriminating, for example, by refusing to insure properties in African-American or Latino neighborhoods. Discrimination can occur without an application or a record if an agent declines to return a phone call, fails to keep an appointment, or simply tells a prospective customer that the company will not insure the property because of its condition or location. Given the state of available records, this type of discrimination might best be detected by traditional fair housing testing. We are anxious to review the results of testing of property insurance companies which we understand are soon to be released by the National Fair Housing Alliance so that we can obtain a better understanding of discrimination that might be occurring at this pre-application stage.

We also believe that possible discrimination at the underwriting stage must be addressed. Our own investigations have revealed that policyholders in minority neighborhoods might receive insurance only after being subjected to inspections or being required to make repairs that are not required in other neighborhoods. In addition, properties in some minority neighborhoods are appraised for a lower amount than the replacement cost, but we do not believe that such facts should preclude

a property owner, who is willing to purchase the necessary insurance, from protecting his or her property and guaranteeing that it can be replaced in the event of a catastrophe. However, we have found that dwellings in minority neighborhoods often receive inferior insurance coverage that only allows for the repair, rather than the replacement, of a dwelling in the event of a property claim, or imposes low dollar limits that prevent its replacement. We also believe that some companies may charge a higher premium per dollar of insurance coverage for the inferior repair cost policies than they do for the more desirable replacement cost policies.

Finally, insurance companies can inflict substantial damage on neighborhoods by refusing because of the racial or national origin identity of the neighborhood to market their products. It is often revealing to examine the number of insurance offices located in minority neighborhoods as compared to the number located in identifiably white areas. The marketing of insurance products relies heavily on a community approach with agents located in close proximity to the areas they intend to serve. If a company desires to redline an area as off-limits for company business, it can do so without drawing a red line on a map—it can simply decline to open offices in the area.

We are attempting to address these issues in our investigations. We have expended considerable resources to correlate the addresses from company records with the census tract in which the property is located, a process known as "geocoding." This enables us to evaluate the racial impact of questionable policies. We are examining differences in pricing and policies offered. We are looking closely at marketing efforts and comparing market shares in white and minority neighborhoods. Of course, insurance companies remain free to make decisions based on risk, but there is a substantial difference between risk discrimination and race discrimination.

As should be obvious from my description of the work of our Department, improved information sources would promote better compliance with, and enforcement of, civil rights laws. It would be helpful to have information comparable to that which we have about banks, such as the number of applications received by race and national origin and the corresponding number of acceptances and rejections. HMDA, which requires reporting at the census tract level, has proved very useful. We rely heavily on that information, which allows us to identify the racial or ethnic identity of a select area. If the information is reported in such a way that it includes diverse neighborhoods, it still may be necessary to perform the arduous and expensive task of geocoding policy activity to determine the impact of company practices on minorities. We also would find it useful to have information on the types of policies issued, by race and national origin, in each neighborhood. This information would allow us to evaluate readily whether minority neighborhoods are offered inferior insurance protection. Information on claims paid and loss data would also help us. The Administration is pleased that legislation to combat redlining in insurance has been reported by two House Committees. The Administration looks forward to prompt House passage of the anti-redlining legislation and urges favorable consideration of similar legislation by this Committee and the full Senate this year.

Improved reporting would certainly aid our law enforcement efforts, but equally importantly it should also lead to improved performance and voluntary compliance within the insurance industry. We have spent considerable time working with representatives of the lending industry to obtain voluntary compliance with civil rights laws, and have encouraged self-assessment and voluntary corrective action. We continue to sue those who fail to heed our message, but we credit voluntary corrective action, as indicated by the limited relief that we requested from the Shawmut Mortgage Company when it took corrective action before we began an investigation. Many lenders are now using HMDA data for their own benefit. Self-assessments are being performed, business practices are being changed, and many lenders seem to be doing a better job in serving minority neighborhoods. To the best of our knowledge, most insurance companies do not maintain information in a form that readily permits an evaluation of their performance in minority neighborhoods.

In closing, I emphasize that we intend to devote considerable resources to the issue of unlawful discrimination by property insurance companies, and we expect to be able to better articulate the problems and potential solutions through our litigation program. We agree that a significant problem exists in the industry that is comparable to the problems discovered in the lending industry. We hope that insurance companies, which to this point have fought their inclusion under the Fair Housing Act, will recognize the importance of the issue. We urge them to evaluate their own performance and compliance with the law and to take voluntary corrective action. Such voluntary corrective action will be a very positive factor as we exercise litigation judgment. Companies should also be on notice that, if they fail to address the issue voluntarily, the Department of Justice will use its enforcement powers to

compel a remedy and the costs likely will greatly exceed the costs of voluntarily compliance.

I appreciate the opportunity to present our views on this important subject and look forward to working with the Committee.

PREPARED STATEMENT OF ROBERTA ACHTENBERG
 ASSISTANT SECRETARY FOR FAIR HOUSING AND EQUAL OPPORTUNITY
 U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Mr. Chairman, Members of the Committee: Thank you for the opportunity to discuss with you one of our Nation's most pressing civil rights and housing and urban redevelopment issues. It is a top priority for HUD to assure the American people the full protection of the Fair Housing Act (the Act). To do so, we are charged with providing the same protection from discrimination in the provision of property insurance that we provide in all other residential real estate related transactions including real estate practices and mortgage lending.

HUD's interest in this issue extends beyond its legal responsibility to fully enforce the Fair Housing Act. Property insurance is essential for the revitalization of this Nation's cities. Insurance is required to purchase or improve a home or to start or expand a business. As the President's National Advisory Panel on Insurance in Riot-Affected Areas concluded 25 years ago, "Communities without insurance are communities without hope." (The President's National Advisory Panel on Insurance in Riot-Affected Areas (1968) *Meeting the Insurance Crisis of Our Cities*, Washington, DC: The President's National Advisory Panel on Insurance in Riot Affected Areas.)

Let me take a few minutes to discuss with you our authority under the Fair Housing Act and why discriminatory insurance practices, when they exist, can be such a serious problem for urban communities and for the people within them who are protected by the Act. Then I would like to describe how Secretary Cisneros plans to move to identify insurance redlining and discrimination and use the full weight of our enforcement authority to remedy and prevent it. Finally, I will suggest what can be done to more effectively support the efforts of our agency, community groups, and the insurance industry to eliminate discrimination and assure fair access to property insurance.

Insurance and the Fair Housing Act

Discrimination on the basis of race and national origin in the provision of property insurance is prohibited by the Fair Housing Act of 1968. HUD and the Department of Justice have consistently taken this position since the issue first arose in 1978.

Several Administrations, beginning with a HUD General Counsel opinion in 1978, have concluded that the Fair Housing Act prohibits: (1) insurance redlining and other policies and practices that deny insurance or make it unavailable on the basis of race or any other protected status, and (2) discrimination in the terms, conditions, costs, or other aspects of insurance coverage. Again, in regulations implementing the Fair Housing Amendments Act of 1988, HUD determined that the Act prohibits "refusing to provide . . . property or hazard insurance . . . or providing such insurance differently because of race, color, religion, sex, handicap, familial status, or national origin" (24 C.F.R. Section 100.70(a)(4)). And in his recent Executive Order 12892—Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing—President Clinton made explicit reference to the coverage of property insurance discrimination under the Fair Housing Act when he called for HUD to promulgate regulations describing the nature and scope of coverage and the conduct prohibited by property insurers under the Fair Housing Act.

The statement offered today by Assistant Attorney General for Civil Rights Patrick describes in more detail the consideration the courts have given this question in the face of opposition to our attempts to investigate complaints we have received. The Department of Justice, HUD, and those courts considering the issue have concluded that insurance is covered by the Act. *Dunn v. Midwestern Indemnity Mid-American Fire & Casualty Co.*, 472 F. Supp. 1106 (S.D. Ohio 1979), *McDiarmid v. Economy Fire & Casualty Co.*, 604 F. Supp. 105 (S.D. Ohio 1984), *NAACP v. American Family Mutual Insurance Co.*, 978 F.2d 287 (7th Cir. 1992), *cert. denied*, 113 S. Ct. 2335 (1993), *Nationwide Mutual Insurance Co. v. Cisneros*, No. C3-92-52 (S.D. Ohio Feb. 24, 1994). But see *Mackey v. Nationwide Insurance Co.*, 724 F.2d 419 (4th Cir. 1984). In addition, we do not believe there is a conflict between the circuits. While the Fourth Circuit held to the contrary, that decision was rendered prior to HUD's regulation stating that insurance is covered by the Act. The Seventh

Circuit in the 1992 *American Family* case, in finding that insurance is covered, found the reasoning of that 1984 decision unpersuasive. The court stated "events have bypassed *Mackey*," and found the regulations to be controlling, based upon HUD's statutory authority to issue them and the weight such regulations are accorded.

The key sections of the Fair Housing Act are 3604(a) which makes it unlawful to "otherwise make unavailable or deny, a dwelling" and 3604(b) prohibiting discrimination "in the provision of services or facilities in connection therewith." Because property insurance is required to secure a mortgage loan, which generally is required to purchase a home, denying insurance makes that home unavailable. As the Court explained in the *American Family* case, "no insurance, no loan; no loan, no house." I should point out that the Supreme Court had the opportunity to modify this ruling and declined to do so.

HUD's authority with respect to discriminatory insurance policy and practices is identical to other areas subject to the Fair Housing Act. In addition to the investigation of complaints, the Secretary is authorized to initiate investigations and the Secretary can issue complaints on his own initiative where warranted. Furthermore, the Fair Housing Act requires the Department to go beyond enforcement to seek voluntary compliance on the part of the industry so we can move to prevent discrimination by adopting policies and practices that bring about fairness in the provision of insurance. We are authorized to fund private group activity to educate the public and to assist private enforcement efforts. And, HUD is the only Federal agency charged with the responsibility to promulgate regulations that define the substantive acts that the Secretary will consider to constitute reasonable cause.

Before I describe to you how we are moving to carry out those responsibilities, it is important to consider the kinds of policies and practices that are the targets of our charge.

Risk, Race, and Insurance

The business of insurance is the business of distinguishing among risks and grouping them in terms of the potential for compensable losses they pose during the life of a policy. "Fair discrimination"—the concept of treating similar risks similarly—is the bedrock principle of insurance underwriting. There is little doubt that the vast majority of insurers are making conscientious efforts to carefully consider the perils that potential insurance risks pose when they market their products.

However, we must recognize the possibility that unlawful discrimination can occur in the insurance market.

Sometimes such discrimination takes an overt and explicit form. More often it is more subtle and more widespread. Sometimes even policies and practices that are neutral on their face have a disproportionate racial impact. Some of these may violate the law where they cannot meet the established test of business necessity and the showing that there is no less discriminatory alternative. Below are some examples of analyses by State Insurance Commissioners, consumer advocates, and academic researchers depicting situations which may operate to discriminate and deny fair access to property insurance to those protected by the Act. In considering the documented examples that follow, it is important to stress that the finding of a violation occurs on a case by case basis—after full investigation and opportunity for an administrative hearing or a trial in Federal court.

In some instances, evidence of racial discrimination in the insurance industry can be overt. A district manager for a Wisconsin insurance company wrote, "*Quit writing all those blacks!!*" on an agent's list of life insurance clients. The same district manager was tape-recorded advising an agent under his supervision, "You write too many blacks. You gotta start writing good, solid premium-paying white people." The insurance company, *American Family*, is the defendant in a lawsuit filed in Federal court under the Fair Housing Act by the NAACP, the ACLU, and other plaintiffs including a member of the City of Milwaukee's Common Council.

Another documented example of redlining occurred when several agents with the California Insurance Group provided sworn affidavits to the California Insurance Commissioner that their company provided them with maps of San Francisco with the low-income and minority communities outlined in yellow. These maps were accompanied by instructions not to produce any commercial insurance in these areas. The California Insurance Commissioner charged the company with 252 violations of the State's insurance code. The company subsequently reached a settlement with the Commissioner in which it agreed to pay a fine of \$400,000 and undertake several reforms to increase its market share in underserved areas.

Discrimination also can occur in marketing or advertising by insurance providers. It can occur in the pre-application process or in the processing of an application through the use of discriminatory underwriting guidelines. And not all cases involve

denial of insurance. Where insurance is provided discrimination still can occur in the disparate treatment of applicants based upon their race or the racial characteristics of their neighborhood.

Paired testing has been used to uncover instances where a caller from a predominantly minority area will be given very different information than a caller from a white community with identical financial and other socioeconomic characteristics, except for the race of the residents. The minority area resident often must call several times before reaching an agent, may be told an inspection will be necessary prior to offering a policy, is offered a policy at a higher price for less coverage, gets referred to a FAIR Plan, never receives a quote in the mail, or is just not offered any service. The caller from the white neighborhood, on the other hand, will be offered a policy on the phone during the first call, is offered a choice of policies and premiums, and is eagerly and politely solicited as a client.

To illustrate the outcome of such practices, the Missouri Insurance Commissioner recently found that insurers charged policyholders in low-income minority areas higher premiums than they did policyholders in low-income white areas for comparable policies even though the losses were higher in the white communities. Residents in the minority areas were paying one and one half times the premium in the white areas (\$7.30 per thousand dollars of coverage compared to \$4.65) for inferior "limited policies," while the loss ratios were 72 percent in the white areas, but just 57 percent in the minority areas.

In addition to discriminatory treatment, seemingly neutral policies can have an adverse racial impact and may violate the Act. For example, sometimes insurers have minimum value or maximum age requirements for property that they will insure. Homes valued at less than \$50,000 or built before 1950 often do not qualify for insurance, or only qualify for limited policies like basic fire or market value policies rather than full replacement cost policies. These practices have a clear adverse impact on racial minorities because among owner-occupants in single family dwellings, Black households are more than twice as likely as white households (47 percent of black households but just 23 percent of white households) to reside in homes that are valued at less than \$50,000. Similarly, 40 percent of black households but only 29 percent of white households live in homes that were built prior to 1950.

And these may not be isolated policies. According to a 1994 review of underwriting guidelines of major insurers in Texas carried out by the Texas Office of Public Insurance Counsel, approximately 90 percent of the market in that State is covered by insurers that have underwriting restrictions associated with the age and value of homes. (Office of Public Insurance Counsel (1994) "A Review of Homeowners Insurance Underwriting Guidelines Used in Texas," Austin: Office of Public Insurance Counsel.)

I want to stress that, as is the case with mortgage lending and all other areas covered by the Act, a disproportionate adverse impact alone does not constitute a violation of the Fair Housing Act. Where there is a business necessity and no less discriminatory alternative, no violation exists.

Current HUD Initiatives

HUD has much to learn about the nature of the insurance industry's policies and practices. We intend to move deliberately, but speedily to apply our expert knowledge of the Fair Housing Act and the forms discrimination takes to this high priority area. We will utilize all of the measures we have open to us to assure that there is fair, non-discriminatory access to property insurance.

I would like to briefly describe some of these measures to you.

INSURANCE UNIT

Meeting the commitment both Secretary Cisneros and I made to The President in the Secretary's Performance Agreement, last month the Department created and began staffing a separate unit charged with examining fair housing related insurance matters.

One of the first tasks of that unit is to develop regulations implementing the Fair Housing Act's prohibition against discriminatory insurance practices. It has been 25 years since the passage of the Fair Housing Act and HUD has yet to promulgate regulations that define the lending and insurance policies and practices that violate the Act. It is high time that we do so.

INSURANCE REGULATION

Several complex issues must be addressed in promulgating the regulation. We intend to work in close collaboration with insurance companies, trade associations, State regulators, civil rights groups, and community organizations. We have already begun informal discussions with representatives of these interests to learn more about their views and about issues they would like HUD to address through its rule-

making. These will continue in the form of group meetings, individual detailed discussions, structured focus groups and consultations on specific issues with insurance companies, advocacy groups and trade associations.

In addition, I will hold a series of public meetings around the country for industry, advocacy groups, and private citizens alike to testify on the rule's content.

Based on the comments we receive, the evidence presented at the public hearings, and the written guidance we receive from additional communications with the industry and others, we will publish a proposed rule. Following careful consideration of the response we receive to that proposal, we will issue a final regulation.

We are considering what must be addressed in the regulation for it to: (1) be effective as guidance to HUD investigators, State and local civil rights agencies, and private fair housing groups; (2) serve as a guidepost for preventive acts by the industry; and (3) be a clear description of the rights afforded protected classes. To do so, the regulation will address specific practices that are prohibited under the Fair Housing Act, describe the standards to be utilized in determining whether violations of the Act occur, discuss investigative techniques that will be utilized, remedies that will be sought where violations are found, and voluntary affirmative efforts that are appropriate to eliminate discrimination.

The standards to determine discrimination in this area as in all other covered areas—will be based on the principles of overt discrimination, disparate treatment, and disparate impact.

The investigative techniques we consider will grow from our experience, but they might include statistical analysis of disclosure data, paired-testing, content analysis of underwriting manuals and other documents pertaining to evaluation of risk and marketing practices—all employed in lending discrimination investigations today.

A description of appropriate remedies will help guide self-evaluation and corrective action by the industry—even where we are not involved through a complaint investigation. Remedies we will consider would be those appropriate to the insurance industry and may include many similar to those in lending discrimination settlements secured by the Department of Justice.

Let me emphasize that no conclusions have been drawn, except the fact that many complex issues must be addressed. We have many questions that we will explore in as open and comprehensive a manner as possible. All relevant parties—insurance companies and agents, trade associations, regulators, civil rights groups, community organizations, consumer advocates, and others—will be involved in this process.

FHIP GRANTS, TESTING, AND PRIVATE ENFORCEMENT

For many years HUD has worked in partnership with local public and private fair housing enforcement organizations. Primarily through our Fair Housing Initiatives Program (FHIP), we have provided financial support for private enforcement initiatives that carry out the promise of the Fair Housing Act and will continue doing so in the future. In fact, the complaints filed with HUD today by the National Fair Housing Alliance are the product of a FHIP grant.

This fiscal year I have set aside a portion of the FHIP appropriation to fund private enforcement initiatives that will address discrimination in property insurance. This set-aside is the single largest amount devoted solely to this enforcement area in the history of the program.

COMPLAINT INVESTIGATIONS

HUD's primary enforcement tool has been the investigation and conciliation of complaints brought to the agency by individuals who believe their rights have been violated, fair housing organizations, and others. The Secretary also has the authority to initiate a complaint when there is reason to believe that violation has occurred or is about to occur and can begin an investigation to determine whether such a complaint should be issued.

We are dismayed by the continuing efforts of some in the insurance industry to resist our efforts to investigate insurance discrimination cases. With the decision in the *Nationwide Insurance Co. v. Cisneros*, we believe this issue has been settled. Whether cases are investigated by the Department itself or by State or local agencies with laws which are substantially equivalent to the Fair Housing Act, we are committed to conducting full, fair investigations. We call on the insurance industry to cooperate with our investigatory processes.

There has not been a significant number of complaints filed involving insurance-discrimination. A total of six insurance discrimination cases are now pending, five with the Department and one with a State or local agency which has a law that is substantially equivalent to the Fair Housing Act. Several of these are expected to result in enforcement action.

We do not believe that the number of cases reflects a lack of discrimination; rather they are a result of a lack of knowledge regarding the Act's coverage of such discrimination and the difficulty applicants and homeowners have in knowing when discrimination has occurred. That is why we commend you, Mr. Chairman, and the Members of your Committee for these hearings today regarding this important matter. We expect to see a significant increase in complaints filed with the issuance of further regulations to clarify the application of the Act; the adoption of disclosure of data requirements through legislation of the kind Congress is considering; increased attention to this serious problem and the Department's enforcement program by the media; and enhanced financial support for education, outreach and private enforcement through HUD's FHIP program. This has been our experience in the lending area where, over the past 4 years as similar measures were taken, the number of lending complaints per year has increased 4 times and the proportion of lending complaints filed each year has doubled.

A HUD/DOJ JOINT INVESTIGATION TASK FORCE

Assistant Attorney General Patrick and I are working together closely to assure an effective and coordinated approach on our investigations and our mutual interests in addressing insurance discrimination. As in the case of mortgage lending, the Secretary of HUD and the Attorney General will join forces to conduct joint investigations where appropriate, combining their distinct powers and authorities to more effectively address discriminatory behavior.

The Need for Data Disclosure

Our activities have been assisted significantly by the valuable informational hearings that Congress has held during the past 2 years on this issue. Your hearing today no doubt will reveal additional important information.

One issue that Congress has been discussing is a national disclosure bill for insurance. A HMDA-like disclosure law for insurance companies, containing race and gender information on a neighborhood basis, would be an immensely constructive tool for our agency in its enforcement efforts and for the organizing and local enforcement efforts of private and public fair housing organizations.

The Administration is pleased that legislation to prevent redlining in insurance has been reported by two House Committees. The Administration looks forward to prompt House passage of anti-redlining legislation and urges favorable consideration of anti-redlining legislation by this Committee and the full Senate this year.

As the GAO noted in its recent report, "Property Insurance: Data Needed to Examine Availability, Affordability, and Accessibility Issues," (February 1994) important informational gaps persist. The report stated that information on the number of properties insured, types and costs of policies, loss data, marketing activity, and agent location is needed to address availability, affordability, and accessibility issues.

We fully support the Administration's principles for insurance disclosure which the Office of Management and Budget provided in September. These principles call for the disclosure of the following:

- race, gender, and income of all applicants and policyholders—this is data similar to that required by HMDA and is likely to yield the same benefits;
- number of policies on a neighborhood basis; and
- an annual report analyzing this information by the Federal Government as is done for HMDA data.

In addition, differentiation by policy type and disclosure of loss experience; the requirement that insurers provide rejected applicants with the reason for the adverse decision (HMDA provides for optional reporting of this information); and the reporting of investment activity aimed at low- and moderate-income communities will add information to assist our enforcement efforts, better utilize limited resources, enable industry self-evaluation, and better assure that justice is done when a complaint is investigated.

The lessons of HMDA are instructive. In the area of lending today we can identify variations in mortgage loan activity by neighborhood, race, and gender as well as by income and other demographic factors. Individual application approval and rejection rates can be examined. While HMDA data alone cannot conclusively determine whether or not a lender has violated the law, it is most useful for targeting investigations and, in conjunction with other information, helping us determine whether or not a given institution has violated the law.

Similar information for property insurers would be equally valuable information for law enforcement in this area. Particularly when analyzed in conjunction with Census Bureau data, we could identify neighborhoods and population groups that appear to be underserved given their income, value of their property, and other so-

cioeconomic information. Again, such information alone would not confirm or deny the existence of discrimination. But it would be useful for targeting investigations, determining where to file Secretary initiated complaints, and supplying critical information as part of those investigations.

Such disclosure would also provide vital information for local enforcement efforts. Community organizations which have negotiated \$30 billion in CRA agreements in over 100 communities with lenders, according to the National Community Reinvestment Coalition, often rely on HMDA data as the basis for their challenges and their agreements. Access to HMDA-like information for property insurers may well yield similar benefits. Given the value of this information to local community organizations and fair housing groups, we recommend that, like HMDA, the data be made available for every metropolitan area in the United States. The mere fact of disclosure will lead at least some property insurers to more carefully consider their underwriting and marketing practices. Sunshine is often the best antidote.

HMDA has been an invaluable tool in the area of mortgage lending. It is imperative we develop a similar tool for insurance.

Risk, Race, and Insurance, Revisited

Race has long been a central factor in the operation of the Nation's housing markets. The Fair Housing Act was passed and has been amended for the purpose of changing this reality. Just as we intend to vigorously enforce the law in the areas of real estate sales and rental practices and mortgage lending, we intend to do so in the area of property insurance.

Race has no place in the insurance market. We are eager to work with you to make this a reality in our urban communities and throughout the Nation.

This concludes my statement Mr. Chairman. I would be pleased at this time to answer any questions you or the Members of the Committee may have.

PREPARED STATEMENT OF WILLIAM R. TISDALE

PRESIDENT, NATIONAL FAIR HOUSING ALLIANCE

ACCOMPANIED BY: SHANNA L. SMITH AND CATHY CLOUD

Members of the Committee, my name is William R. Tisdale and I am President of the National Fair Housing Alliance located in Washington, DC. I am also the Executive Director of the Metropolitan Milwaukee Fair Housing Council. With me this morning are Shanna Smith, the Executive Director of the Alliance, and Cathy Cloud, who is the Program Director and who coordinated the homeowners' insurance testing project. NFHA is a private, nonprofit corporation representing some 60 private, nonprofit fair housing agencies located in 35 States, the entire organized private fair housing movement. In addition there are approximately 40 supporting members representing State and local civil rights agencies and other organizations and individuals who support the principles of fair housing.

The National Fair Housing Alliance was founded in 1988. The mission of the Alliance is to promote the achievement of "the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States." The Alliance believes that by vigorous, positive, and focused action we can work together to achieve fair housing through outreach, education, litigation, conciliation and research into the nature, extent, and effects of housing discrimination.

The members of the Alliance are dedicated to working to develop and implement strategies to reduce, and eventually eliminate, racially and ethnically segregated housing patterns and to make all housing accessible regardless of race, color, religion, sex, familial status, disability, or national origin.

This hearing examines "*Discrimination in the Homeowners' Insurance Industry.*" But before we present the evidence NFHA has developed about this issue, the National Fair Housing Alliance wants to recognize the leadership of the Senate Banking, Housing, and Urban Affairs Committee for its long history of examining discriminatory practices in housing and especially its work on the issues involving mortgage lending. This Committee did not simply examine the lending institutions, but has scrutinized as well the practices and policies of the Federal regulatory agencies, the private mortgage insurance industry, and the secondary mortgage market. Because of your diligence and dedication to ensuring fair and equal treatment and access to credit, more and more people living in minority, integrated and low- and moderate-income neighborhoods throughout America have a real opportunity to purchase housing. Your work will result in the preservation of housing and improved quality of life for the millions of families living in these communities.

We applaud you, Senator Riegle, for convening this hearing to deal with the discriminatory practices and policies of the homeowners' insurance industry. NFHA has been investigating these problems since 1991, and we will take this opportunity to reveal publicly for the first time some of the evidence of discriminatory conduct on the part of two of the country's largest insurance companies—Nationwide and Allstate. These companies, we believe, have engaged and continue to engage in practices and policies that intentionally deny, limit, and make unavailable homeowners' insurance to people living in minority neighborhoods throughout the United States.

The U.S. Department of Housing and Urban Development provided much of the financial support for this investigation. Former HUD Secretary Jack Kemp made fair housing one of the Department's priorities, and supported fair housing financially through the Fair Housing Initiatives Program (FHIP). NFHA was awarded a \$500,000 FHIP grant, in part, to conduct testing of the homeowners' insurance industry. In addition, hundreds of hours were donated by NFHA staff and affiliates as well as staff and affiliates of the National Council of La Raza. Their efforts to conduct a responsible investigation of the insurance industry have produced compelling documentation of discrimination in American cities.

While test reports provided evidence of discriminatory practices from the beginning, NFHA did not file complaints during the Kemp administration because of the serious backlog of complaints at HUD's Office of General Counsel. At that time, we also lacked confidence in HUD's ability to conduct an investigation of this magnitude against such a large industry.

NFHA has now decided to file administrative complaints with HUD because there has been a substantial improvement in HUD's ability to handle systemic complaints. Under the direction of Secretary Henry Cisneros, HUD's Office of Fair Housing and Equal Opportunity is implementing comprehensive procedures and putting in place competent, trained staff. NFHA has great expectations that HUD will effectively investigate claims of the magnitude presented in this testing project.

Equally important is Secretary Cisneros' support of the Federal appellate courts' interpretation that the Fair Housing Act covers not only disparate treatment, but disparate impact—not only intentional acts of discrimination, but policies and practices that have the effect of denying, limiting, or otherwise making unavailable housing, financing, and insurance.

In addition, Attorney General Janet Reno has pledged to use the full extent of the Fair Housing Act to pursue claims of discrimination. With HUD and Justice both finally speaking with one strong voice about the law, NFHA will utilize the system Congress implemented with the Fair Housing Amendments Act of 1988 to address our charges of discrimination.

Introduction

I. NFHA's Homeowners' Insurance Testing Project

In 1990, the National Fair Housing Alliance concluded that, if left unchallenged, homeowners' insurance discrimination, like racial steering practices and mortgage lending discrimination, would have the same effect: the disinvestment, deterioration, demolition, and demise of neighborhoods. In July, 1990, NFHA submitted a proposal to HUD, in response to a Fair Housing Initiatives Program (FHIP) application, to conduct testing of homeowners' insurance companies in selected cities across the United States. The application was funded, and in October, 1991, NFHA began work on this project. The HUD funded-portion of the project was completed in early 1993. NFHA used its own resources to undertake the analysis and to conduct additional testing in 1994, some as recently as last week.

Congress passed the Federal Fair Housing Act to combat the individual and systemic practices and policies that discriminate against America's minority and integrated neighborhoods. Let's be perfectly clear: We are going to discuss violations of Federal law—laws that you enacted to protect residents of our communities from unlawful discriminatory practices. Congress also passed and authorized funds for the Fair Housing Initiatives Program (FHIP) to provide direct funding to private, nonprofit fair housing agencies to conduct testing, investigation, conciliation, and litigation against entities violating the Fair Housing Act. These congressionally authorized and appropriated funds have made it possible for NFHA to conduct this investigation, the results of which we will describe today.

We should be clear that discriminatory practices and policies that deny, limit or otherwise make unavailable homeowners' insurance because of the race, national origin, sex, color, religion, familial status, or disability of the individual or the racial or ethnic make-up of the neighborhood where the property is located VIOLATE the Federal Fair Housing Act. The issue of insurance discrimination is not new. Com-

munity organizations, fair housing agencies, and HUD have been looking at this problem since the 1970's. In fact, HUD published a handbook in 1979 that stated:

While mortgage redlining has most severely affected lower income and minority families, the impact of insurance redlining extends to more than just the poor. Homeowners and investor owners of multi-family dwellings in urban neighborhoods are painfully familiar with the practices of non-renewal of policies on properties which they have owned for years. Because of the growing impact insurance is having on those areas of cities targeted for revitalization efforts, the urgency of examining the problem more closely is obvious.

"Insurance Redlining: A Guide For Action," U.S. Department of Housing and Urban Development, 1979.

Today there has been a renewed focus on lending discrimination, and many people point out that the movement to combat lending discrimination dates back to the late 1960's. What is not so well remembered is that the anti-redlining movement began as a response to insurance redlining before it moved on to lending discrimination.

Public focus on the problems that we are reviewing here today, the types of studies done recently by ACORN, the use of testing, and the move for Federal legislation in this area, began in the late 1960's and early 1970's as people in minority neighborhoods and people in integrated neighborhoods found insurance companies canceling their policies. After years of organizing around this issue, the National People's Action, the largest community-based coalition working on the anti-redlining campaign, declared 1979 the year of insurance.

In March of 1979, there was a national conference in Chicago. At this conference, the President of Allstate announced a new commitment by that company to inner-city neighborhoods and a new type of policy and a special program to build the capacity to rebuild urban communities. Within a year, Aetna, Travelers, State Farm, and several other companies had signed pledges not to discriminate. Aetna even published an advertisement in many national magazines depicting themselves as a man eating a dinner of crow to symbolize their admission of past practices.

Community groups engaged in various forms of testing. Indeed, the testing section of the 1981 guide to fighting lending discrimination developed by the National People's Action quotes extensively from test reports from Nationwide where people in minority communities were discouraged from obtaining insurance.

The insurance industry has been aware of the problem of discrimination for decades now. Major changes were announced over 15 years ago. But the studies of insurance discrimination from that time through our own testing project that was completed just last week demonstrate that the problem is pervasive and persistent. It has not gone away. We have found what we believe to be evidence of discrimination in the very companies that were the focus of anti-discrimination activities over 20 years ago.

II. NFHA's Testing Process

NFHA designed and implemented a nationwide program of testing for insurance discrimination. This nationwide approach ensured consistency in the cities in which testing was conducted. Each site conducted between 30 and 40 matched pair telephone tests.

The testing conducted in this program consisted of matched pairs of testers calling the same insurance office and routinely speaking with the same agent. Neighborhood tests were based on the racial/ethnic composition of the neighborhood (minority tester with property in predominantly minority neighborhood; white tester with property in white neighborhood). NFHA matched the characteristics of the houses for which insurance was being sought. In Chicago, all minority testers were Hispanic; in the other cities, minority testers were African-American.

The tester houses were well-maintained homes located in moderate/middle income neighborhoods. Every effort was made to match neighborhoods based on value of housing (this was difficult to achieve because the historically dual housing market has devaluated properties in minority neighborhoods). Most houses were built before 1950. Houses were always matched on type of construction (brick/frame/stucco) and generally were matched on age and square footage.

III. Target Company and Agent Selection

The selection of Nationwide and Allstate was based on bona fide insurance discrimination complaints. Sites were requested to provide information about the number and geographical distribution of captive agents for each company. These companies were selected for two reasons:

- (1) the egregious nature of existing complaints; and
- (2) the preponderance of captive agents in the participant cities.

The use of captive agents was important to ensure consistency, because captive agents generally write policies for only one insurance company. A random selection process was utilized for identification of specific agents/offices for testing. In smaller cities, all captive agents were put into a pool and selected at random. In larger cities, a smaller geographic subset of agents was put into the pool, and agents were selected at random from that subset.

IV. Testing Results

A. The investigation conducted by NFHA identified the following types of discriminatory practices and policies used by agents working for Nationwide and Allstate:

1. In minority neighborhoods, refusing to provide insurance because of the age of the home.

"I don't like to insure anything over 30 years old. . . It is too hard after all the remodeling and things like that to mess with. I am trying to eliminate them from my portfolio."—ALLSTATE agent for a home in Louisville, Kentucky.

2. In minority neighborhoods, refusing to insure properties because of the market value of the homes.

"We don't insure for less than \$55,000. Well, we can't insure it. Can't do it."—NATIONWIDE agent for a home in Milwaukee, Wisconsin. This company provided a replacement cost coverage policy for a similar property located in a white neighborhood.

3. In minority neighborhoods, requiring homeowners to provide the name and telephone number of their mortgage lender to gather information about the property before providing a quote.

"Who's your mortgage company? Do you have a number for them? . . . The reason ma'am is because it's like the difference between an Escort and a Cadillac. [The mortgage company] can tell us what the house is like."—NATIONWIDE agent for a property in Chicago, Illinois.

4. In minority neighborhoods, requiring inspection of the home prior to providing information on the cost or type of insurance available.

5. Requiring a credit check for applicants from minority neighborhoods;

6. Charging higher premiums for less coverage for properties in minority neighborhoods as compared to similar homes (square footage, age, construction type) in white neighborhoods;

7. Refusing to provide replacement cost coverage on the structure and contents on homes in minority neighborhoods;

8. Refusing to return telephone calls of minorities seeking insurance.

B. Based upon a conservative analysis of neighborhood-based test reports, NFHA can document the following for four cities in which testing was conducted:

1. Louisville: African-American testers experienced discrimination more than 47 percent of the time.

2. Atlanta: African-American testers experienced discrimination more than 60 percent of the time.

3. Milwaukee: African-American testers experienced discrimination more than 60 percent of the time.

4. Chicago: Latino testers experienced discrimination more than 95 percent of the time.

V. Insurance Companies, In General, are Engaging in Practices and Policies that have the Intent and Effect of Denying, Limiting, or Restricting Homeowners' Insurance for People Living in Minority Communities

While Nationwide and Allstate were revealed to engage in specific discriminatory practices in our investigation, other companies are known to engage in discriminatory practices as well. I will now discuss the wide range of discriminatory practices common throughout the country.

A. MINIMUM INSURANCE AMOUNTS

What is the difference between a mortgage lender and insurance company instituting a minimum policy? Nothing. Both practices can have a disparate impact on people living in minority and integrated neighborhoods. In Ohio, an insurance company failed to renew a homeowners' policy on a property that was built through the Habitat for Humanity program because the company would not insure properties valued at less than \$65,000. HUD and the Federal regulatory agencies recently issued a policy statement indicating that there are circumstances in which minimum

loan policies would constitute discrimination. Minimum insurance policies have the same discriminatory effect.

B. MAXIMUM AGE REQUIREMENTS

Lenders cannot use the age of housing alone to deny a mortgage loan; yet, insurance companies are refusing to write policies for homes built as late as 1960 regardless of the condition of the homes. Maximum age standards strike hardest at our Nation's cities, where the housing stock is generally older than in the suburbs. If the lender's underwriter and appraiser and the secondary mortgage market believe that the property is a good investment, why should an insurance company be able to deny coverage based solely upon the age of the property?

C. CREDIT CHECK REQUIREMENTS FOR SOME APPLICANTS

Instances have been reported in which minority applicants applying for insurance in minority neighborhoods were told they would have to have a credit report run before the agent could provide a quote. This requirement was posed by the agent without any indication that the tester's credit was a problem. All the agent knew was the address and value of the property, yet the same agent did not tell the white tester calling about property located in a white neighborhood that a credit check must be run prior to receiving a quote.

Sound familiar? Mortgage lenders used the credit issue to discourage minority loan applicants when evidence now clearly demonstrates that 80 percent of *all* loan applicants have items on their credit reports that require explanation.

However, when the *insurance* application is for a minority homebuyer, we know the mortgage lender and mortgage insurer have already reviewed the credit report and found the applicant to be a good credit risk. Should the insurance company be able to use the same credit report to reject an applicant? If I pay my bills on time and meet my credit obligations, why should the amount of credit I have determine whether I receive a homeowners' policy? Why am I a "moral hazard" to the insurance company, but a "good credit risk" to the lender?

These differences in treatment are similar to the practices used by mortgage lenders to discourage minorities from applying for credit, practices now determined to be discriminatory.

D. INSPECTION REQUIREMENTS PRIOR TO PROVIDING A QUOTE FOR INSURANCE

It sounds like good business to inspect a property before you insure it. Lenders conduct appraisals to evaluate a property, but lenders appraise *every* property. Insurance agents have told applicants from minority neighborhoods that inspections are required, but the same agents rarely if ever tell applicants from white neighborhoods that an inspection is required and virtually never tell them an inspection must be done before a quote can even be given!

E. IS YOUR CURRENT POLICY BEING CANCELED OR NON-RENEWED?

Many agents immediately assume that applicants from integrated and minority neighborhoods are calling because their policies have been canceled. It is frequently one of the first questions asked of these callers. If your insurance policy has been canceled, of course, it is highly unlikely that you will be able to get other coverage, so it is a way of immediately disqualifying the applicant. Callers from white neighborhoods, however, are rarely asked about cancellations during their initial contact with an agent.

Are policies in minority and integrated neighborhoods canceled more often? No recent studies are available, but old studies and much anecdotal evidence indicate that policies in those neighborhoods are canceled more readily for reasons which do not apply to white neighborhoods. NFHA members, for example, report homeowners being canceled after 20 years of coverage when they made their first claim.

F. REPLACEMENT COST COVERAGE VERSUS MARKET VALUE COVERAGE

Insurance companies will state that they are writing policies in minority neighborhoods. This may be true, but Congress must ask the same questions it asked the lenders: are these inferior policies, do they provide adequate insurance coverage, are they priced based upon real or perceived risks, are homeowners offered the opportunity to purchase replacement cost coverage or are they relegated to the Fair Plan or market value policies?

Insurance companies will claim that homeowners living in lower priced homes in urban areas, where the houses are older and cost more to rebuild than to sell, create a "moral hazard" if the company provides replacement cost coverage for their homes. These companies allege that, if they provide replacement cost coverage, the homeowners have an incentive to burn down their homes to collect the insurance because the replacement cost substantially exceeds the market value. Can you honestly

imagine thousands of homeowners in the neighborhoods pictured in these photos burning down their homes? Is there proof that minorities and whites living in homes built before 1960 are more likely to burn down their property? Is there evidence linking the availability of replacement cost coverage for moderately priced housing with an increased likelihood that the homeowner will burn down his/her home? NO!

The Federal Insurance Administration (FIA) challenged this presumption in a 1978 report. An FIA investigation of Detroit found that "[t]here was no evidence that any policy-by-policy analysis was made to determine whether the low-market value of a property, in relation to replacement value, had increased the probability that the owner might resort to arson." (See Federal Insurance Administration, U.S. Department of Housing and Urban Development, *Insurance Crisis in Urban American* (1978), at 5.)

Yet, the "moral hazard" reason is raised repeatedly in defense of denying homeowners replacement cost coverage for homes located in minority and integrated neighborhoods throughout the United States.

VI. The Fair Housing Act Prohibits Insurance Discrimination

There should be no doubt that the Fair Housing Act covers homeowners' insurance under both sections 3604 and 3605. Five out of six Federal court decisions have held that homeowners' insurance discrimination is within the purview of the Fair Housing Act. The most recent decision involves one of the companies NFHA tested: Nationwide Mutual Insurance Company. Nationwide sued HUD to prevent HUD from conducting an investigation of allegations of discrimination in Ohio. In September, 1993, the court in Dayton, Ohio ruled for HUD. The Toledo Fair Housing Center, a NFHA member, has also sued Nationwide in State court alleging discrimination against African-Americans living in Toledo's minority neighborhoods. In addition, the Seventh Circuit Court of Appeals ruled that insurance discrimination is prohibited under the Fair Housing Act in *NAACP v. American Family Mutual Insurance Company Co.*, 978 F. 2d 287 (1993). The only dissenting decision comes the fourth circuit in 1984.

FEDERAL FAIR HOUSING ACT: SECTIONS 3604 AND 3605

Section 3604 makes it unlawful:

(a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or *otherwise make unavailable or deny*, a dwelling to any person because of race, color, religion, sex, familial status, (handicap) or national origin.

(b) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling or *in the provision of services* or facilities *in connection therewith*, because of the race, color, religion, sex, familial status, (handicap) or national origin.

Section 3605 states:

(a) In General—It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

(b) Definition—As used in this section, the term "residential real-estate related transaction" means any of the following:

(A) for purchasing, constructing, improving, repairing, or maintaining a dwelling; or

(B) secured by residential real estate.

The phrase "otherwise make unavailable" has been broadly construed to various practices including practices that result in segregated housing patterns. While the Act does not explicitly mention mortgage lending or insurance discrimination, Federal courts have held that this section prohibits these types of discrimination. (See *e.g.*, *Laufman v. Oakley Building & Loan*, (Ohio 1976); *Dunn v. Midwestern Indemnity* (Ohio 1979), *McDiarmid v. Economy Fire and Casualty Co.*, (Ohio 1984).

In the American Family decision, the Seventh Circuit Court of Appeals stated: "The phrase 'in provision of services,' 'in connection' with the sale or rental of a dwelling has been broadly construed to encompass discriminatory practices of insurers. Insurance is thus viewed as a 'service' that is supplied 'in connection with' the sale or rental of a house."

NFHA also contends that section 3605 prohibits insurance discrimination, because the purpose of insurance is to provide financial assistance to the homebuyer/homeowner "for purchasing, constructing, improving, repairing, or maintaining a dwell-

ing." For example, most homeowners rely on insurance to *repair a dwelling* that has been damaged by wind, storm, fire, vandalism, or other insurable events; homebuilders must have insurance in order to *construct a dwelling*; homebuyers are required to have insurance in order to *finance the purchase of their dwelling*; and in order to *improve a dwelling* through a home improvement loan, the homeowner must have adequate insurance. [See attached Amicus Curiae Brief *United Farm Bureau Mutual Insurance Company v. Metropolitan Human Relations Commission*, Case No. 93-1739, U.S. Court of Appeals, Seventh Circuit, August 1993.]

VII. Why Are So Few Complaints Filed?

A. WHO RECOGNIZES DISCRIMINATION TODAY?

HUD conducted studies of housing discrimination in the rental and sales markets in 1989 and found that when African-American and Latino testers inquired about housing, they experienced discrimination more than 50 percent of the time. HUD estimated that more than 2 million instances of housing discrimination occur annually. How many complaints are filed annually with HUD, State, local, and private fair housing organizations? Fewer than 20,000. Why? Because discrimination is subtle and sophisticated and, without testing, it is difficult to detect. Sometimes it is simply easier to find other housing than to have to face discrimination.

The Federal regulators have had access to mortgage loan applications for decades, but only recently have they begun to report evidence of discrimination to the Department of Justice. Why? There are numerous reasons including a previous lack of presidential leadership on the issues of fair housing; failure of Federal regulators to even acknowledge that discrimination existed; bank examiners without training about what constitutes a violation of the Fair Housing Act; little credibility in Federal and State civil rights agencies to investigate complaints.

So even though a handful of neighborhood groups and fair housing agencies have known and challenged discriminatory insurance practices, there has been little or no support for Federal or State government to fully investigate fair housing act violations.

Who reads an insurance policy? In informal surveys conducted by NFHA with audiences that have included real estate agents, mortgage loans officers, neighborhood residents, and civil rights advocates, it is rare indeed to find more than two people who have read their homeowners' insurance policy. If an agent states that "it's the company policy or practice and this is the best coverage I can provide," who really challenges it? You may question the agent, but who complains? Most people simply call another company to try to get better coverage or simply take the agent at his/her word. We are reminded of loan officers who told people that the only loan they could make in minority and integrated neighborhoods required a 20 percent downpayment, Government financing or only a shorter loan term. Most people have no way of determining if they are victims of insurance discrimination.

B. WHAT HAS THE GOVERNMENT DONE TO ENFORCE THE LAWS?

The level of enforcement activity by State and Federal agencies against discrimination in insurance has actually declined over the years. In the late 1970's and early 1980's, several State agencies investigated complaints, did studies, and fined companies found to be engaging in discriminatory practices. HUD took an active role, and even issued a handbook on fighting discrimination: "Insurance Redlining: A Guide for Action."

But today, the major efforts to combat insurance discrimination remain even more in the hands of private fair housing groups and community organizations than was the case over a decade ago. The Government has generally failed to take an active role in enforcement. Now, with Congress paying more attention to this form of discrimination and with new leadership at HUD and the Department of Justice, we see a heightened interest in the enforcement of the fair lending laws against insurance discrimination.

C. THE ROLE OF INFORMATION

As with lending discrimination, one key to increased enforcement lies in providing the public with information about where companies do and do not issue policies. Neither enforcement agencies nor members of the industry can effectively review insurance availability problems until there is a good source of data defining where policies of different types are and are not made. Just as the Home Mortgage Disclosure Act data has led to both an increased level of enforcement by many parties and to self-review and reform by some industry leaders, so insurance disclosure holds the potential to be a catalyst for enforcement and reform in insurance discrimination. At its best, such data define cases of potential discrimination for testing

or direct litigation. At a minimum, such data provide a focus for discussion about what constitutes a legitimate business practice.

D. EDUCATION AND OUTREACH

While HUD and private fair housing groups have engaged in extensive media campaigns to teach individuals how to recognize and report discrimination in rental and sales practices, these same efforts have not been duplicated in the areas of lending and insurance. Because discrimination is so subtle and sophisticated, people need to be taught how to identify suspicious actions.

VIII. Recommendations

The National Fair Housing Alliance makes the following recommendations to address discrimination in the homeowners' insurance industry:

A. DIRECTIVE FROM CONGRESS THAT FUNDS IN FEDERAL PROGRAMS BE APPROPRIATED FOR EDUCATION, ENFORCEMENT, AND RESEARCH CONCERNING HOMEOWNERS' INSURANCE

1. Fair Housing Initiatives Program (FHIP) Funds: Congress can begin by increasing the 1995-96 FHIP allocation in enforcement from \$9 million to \$15 million or, at the least, reallocating \$3 million from education to enforcement. It makes little sense to increase the knowledge of the public about housing, lending, and insurance discrimination without providing adequate funds for enforcement efforts. There must be adequate funds in enforcement to cover the costs of systemic investigations, analysis, and expert witness costs.

2. CDBG Funds: While more than 800 cities in the United States receive CDBG funds, fewer than 30 cities provide funding for enforcement of the Federal Fair Housing Act. The CDBG program requires each city to "affirmatively further fair housing." Those cities that do not provide funding for fair housing may not, in fact, be fulfilling this mandate. Congress should support HUD's recommendations to establish a separate funding line item for fair housing education *and* enforcement activities. In addition, HUD must establish standards that define affirmatively furthering fair housing' which should include comprehensive education, enforcement, and research components. At a minimum, these should address the application of the Fair Housing Act in rental, sales, lending, and insurance issues for all protected classes, regardless of income.

3. Congress should allocate additional funds for HUD's Fair Housing and Equal Opportunity Division to hire and train staff specializing in systemic type investigations.

B. LEGISLATION: CONGRESS SHOULD ENACT A DISCLOSURE BILL

1. Insurance discrimination is a civil rights issue. HUD has *primary* authority for enforcing the Fair Housing Act; therefore, HUD should receive the disclosure data, have resources to analyze and investigate patterns of disinvestment and make the data available to the public. The Senate House, Banking, and Urban Affairs Committee should monitor the fair housing elements of the insurance industry in the same affirmative manner that it has monitored the mortgage lending industry.

2. Congress should enact disclosure legislation which will provides, at a minimum, the following:

- a. Disclosure of Underwriting Guidelines
- b. Disclosure of Loss Data
- c. Disclosure of type of policy, cost of policy
- d. Reporting of the race, national origin and gender of policyholders
- e. Reporting for all Metropolitan Statistical Areas
- f. Reporting the above information by Census Tract

C. WHY ARE THESE ELEMENTS NECESSARY?

1. Access to Underwriting Guidelines

We must have access to underwriting guidelines. Several years ago, mortgage lenders claimed their underwriting guidelines were "trade secrets" and they claimed they would lose their competitive edge if forced to reveal the guidelines. The insurance industry is making the same claims now. What has happened since the lenders made their underwriting standards public? Better underwriting policies and practices are being put into place. Antiquated and discriminatory guidelines were identified and removed. Sound lending in urban areas is underway in many cities. Legitimate underwriting guidelines can be defended. No one is insisting that insurance companies write policies for people who burn houses, inflate claims, file false claims, or commit other illegal acts. No one is asking an insurance company to insure a property that is a fire or safety hazard. What the Fair Housing Act requires is poli-

cies that do not have a discriminatory effect or impact on a person based upon race, color, religion, sex, familial status, disability, or national origin—or against a neighborhood because of the race or national origin of the residents.

2. Loss Data

The industry must present information about the number, type, and amount of claims filed. Without this information, Congress and the public will not know if higher premiums charged in minority, integrated, older, or lower income neighborhoods are based upon higher risks or whether these high premiums are being used to subsidize other neighborhoods, as some studies reveal.

3. Disclosure of Type and Cost of Policies

Just as it is important for us to know if conventional loans are available in all neighborhoods, we need to know what types of policies are being written in minority neighborhoods. Certainly insurers will come forward with numbers showing they are writing policies in some of the same neighborhoods where we have documented discrimination, but do these policies include their top of the line packages or are they minimum insurance at maximum price? Remember when lenders made loans in minority neighborhoods, but the terms and conditions were more restrictive, not based on risk, but based on race. The insurance industry must provide documentation that their business decisions are based on risk and not race. This provision will give governmental agencies, fair housing advocates, and neighborhood groups that information necessary to determine if fair treatment is reality.

4. Reporting Race, National Origin, and Gender

This information is critical and easy to obtain. Just as mortgage lenders record the information or have the loan applicant complete the section on race, insurance companies can include this information on their application. If they are uncomfortable asking the applicant over the telephone, they can send a form for the applicant to complete and return in one of the companies regular mailings to the policyholder. People are not offended by the question when they understand that the information is being used to guarantee equal treatment. The Fair Housing Act was not passed to tell minorities, women, disabled persons that they have rights, it was passed to tell the individuals and companies who own and manage housing, lending and insurance that these people and the neighborhoods where they live have rights under the law.

5. Reporting Information By Census Tract

Currently, insurance companies keep information by zip code. Zip codes are large geographic areas that encompass many minority and non-minority neighborhoods. Many zip codes are so large that they actually take in very high-income white neighborhoods, moderate-income integrated and minority neighborhoods as well as very low-income communities. An insurance company could report that it is writing 20 percent of the policies in the zip code, but that 20 percent could be confined to the high-income white neighborhood. Census tracts usually have 5,000 people within their boundaries and provide demographic data that is essential to determining the characteristics of neighborhoods such as race, income, and age of housing. Census tract reporting is required of mortgage lenders, and Congress gave them 1 year to convert from zip code to census tract after passing the Home Mortgage Disclosure Act. It is certainly much easier and less expensive now to convert. However, I have no doubt that insurance companies will argue that the expense is enormous and will be passed on to the consumer in higher premiums. Congress listened to this same argument from the lenders, and the lenders who went out of business did so because of their failure to provide safe and sound loans, not because of a burdensome expense of reporting loan information by census tract.

6. Reporting for ALL Metropolitan Statistical Areas

Insurance discrimination is a violation of Federal law. This is a civil rights issue and Congress has the responsibility to assist HUD, Justice, and the public in insuring fair enforcement of the law. The Federal Fair Housing Act provides protection based upon race, color, religion, sex, familial status, disability, or national origin. It also protects people who live in minority and integrated neighborhoods. Clearly the MSA in the United States include people and neighborhoods represented in the protected classes. How can we justify protecting some, but not all, of the residents in the country? Reporting must be inclusive.

Conclusion

It is important that Congress take swift and comprehensive action to address discrimination in the homeowners' insurance industry. For more than 20 years, the

mortgage lending industry claimed that denial of loans in minority neighborhoods was based upon sound lending practices. We are confident that insurance companies will claim they are insuring risk, not race. But we believe the evidence disclosed to you today is simply the tip of the insurance discrimination iceberg. Congress must stand firm with this powerful and wealthy industry. America's neighborhoods are counting on you to provide HUD and the public with the tools necessary to identify and eliminate discrimination in all forms.

PREPARED STATEMENT OF J. ROBERT HUNTER
COMMISSIONER, TEXAS DEPARTMENT OF INSURANCE

Insurance Redlining

Mr. Chairman and Members of the Committee, I am pleased to appear before the Banking Committee once again. When I was Federal Insurance Commissioner, I spent many long and occasionally enjoyable hours here before Chairman Proxmire.

More than 25 years have passed since President Lyndon B. Johnson's Commission on Insurance Availability in Urban America, formed in the aftermath of Los Angeles rioting, told us that "communities without insurance are communities without hope." As Federal Insurance Commissioner, I ran the riot reinsurance and FAIR Plan programs which sprang from that commission's studies. During the 1970's, we at the Federal Insurance Administration performed several studies documenting the fact that some insurers were avoiding certain neighborhoods. One of our reports showed that in New York City, residents were more likely to be denied homeowners' insurance if they were black than if they had building code violations.

Today, we still find insurance companies making underwriting decisions based on all kinds of factors that have nothing to do with a statistically measured or measurable probability of risk. One of these factors, unfortunately, is your location on a city map that probably does not have any red boundary lines drawn on it but it might as well because the results are the same. I commend this Committee and the Members of Congress who have introduced redlining legislation for their recognition—and rejection—of this antiquated form of underwriting and their determination to do something about it.

Definitions

In your deliberations on these bills, you will hear and see the word "redlining" over and over again. I think it behooves each of us to be clear about the meaning of this emotionally laden word when we use it.

My definition of redlining is simple. By redlining I mean unfair discrimination in the availability, price, benefits, or quality of insurance for a class of consumers based on factors outside the control of the consumer.

Redlining is not only geographic; it includes unfair discrimination based on race, gender, age, income level, value of home, age of home, or other characteristics that the consumer cannot change.

By this definition, redlining occurs when a class of individuals is denied insurance, charged a higher price, provided fewer benefits or given inferior service for a reason unrelated to their risk or for a reason that is contrary to public policy.

Data indicate that unfair discrimination against several classes of individuals, particularly minorities and low-income citizens, is practiced all too commonly in the insurance industry, denying many consumers the ability to purchase cars or homes or maintain small businesses. The Federal Fair Housing Act, as interpreted by the Supreme Court, is an example of the Federal interest in ensuring that redlining does not prevent classes of consumers from purchasing a home. Denying insurance to citizens and small businesses in economically underdeveloped areas contributes to the web of inadequate economic opportunity and social decay. There was a television investigative report a number of years ago called "The Poor Pay More." We see the same result in insurance. The channeling of low-income people into high-risk, high-rate insurance companies is redlining.

I want to make it clear that I am coming at this problem not only as a State official with a consumer protection mandate and a personal history as an insurance consumer advocate. I also approach redlining as an actuary with experience in risk analysis and insurance loss projection. Underwriting standards that take a monolithic approach to neighborhoods, home value and age of home just don't make sense. They treat well maintained, structurally sound, and burglar-resistant homes the same as fire traps.

When I conducted a public hearing on redlining in Houston on March 31, I received a clear-cut example of this approach to underwriting. Habitat for Humanity, an organization associated with former President Jimmy Carter, has built 50 homes for—and, of particular importance, *with*—low-income families in Houston. This is sweat equity, and the new owners have not only worked on the construction but learned a great deal about home maintenance. These homes and their owners are quality risks. This group of homeowners in Houston have made only one claim—for a tree that fell during a storm. Nonetheless, only one major insurance company, Texas Farmers, was willing to insure these homes. A transcript of the Habitat for Humanity representative's testimony is shown as ATTACHMENT A.

The approach taken by other companies to the question of insuring these Habitat for Humanity homes was not genuine underwriting. Rather, it was the application of certain preconceptions about how people across the tracks live their lives and tend their homes. So when I urge action, including voluntary action by insurance companies, to end redlining, I'm not talking social engineering but I am talking the use of sound business practices that separate profitable from unprofitable insurance business one risk at a time.

Data Collection

How do we begin to attack redlining? The essential first step is to identify all areas that are being unfairly discriminated against in the availability, price, benefits, or quality of insurance. To solve the problem of redlining, *all* areas where consumers are being unfairly discriminated against must be identified.

This requires reliable data broken into small enough pieces to see what is happening to specific neighborhoods and other specific groups of consumers. I would like to see data that tells what is happening in rural areas as well as in cities, and I would like to have urban data all the way down to the census tract level.

Certain lines of insurance—homeowners, automobile, and small business commercial policies—are most susceptible to redlining, and those are the lines where the need for good, reliable statistical data are most crucial.

The kinds of statistics we need include data about service (including locations of insurance agents), coverages sold in an area, premium volume, prices charged, and losses (including loss ratios).

Texas has been trying for more than a year to assess the degree to which redlining occurs in our State. We have used data calls, a consulting actuary's study and the more anecdotal route of public hearings. This is an ongoing effort to come up with the sometimes elusive truth about whether the industry does things its spokespersons deny it does. It is a pity that Texas has taken so long to identify the problem. It is doubly tragic that I must report that Texas is at the cutting edge of data analysis on this issue.

The paragraphs that follow will summarize some of our preliminary findings in Texas.

Evidence of Redlining—the Texas Experience

One place we looked for evidence of redlining was the placement of drivers in the Texas Automobile Insurance Plan (TAIP), which operates as our State's assigned risk plan for drivers who have been rejected for coverage by insurance companies in the voluntary market. It is noteworthy that the TAIP offers only liability coverages, not comprehensive coverage that pays when cars are stolen or vandalized. Even if one assumes—as I do not—that low-income or high-minority neighborhoods are by definition high-crime neighborhoods, this should not be a reason for sending drivers to the TAIP.

Studies of TAIP assignments in 1993 show that consumers who live in zip codes with predominantly low-income and minority populations are disproportionately insured through the TAIP compared with those from zip codes with higher-than-average income and higher-than-average Anglo populations. Rural consumers also are disproportionately represented in the TAIP.

TAIP assignments are one indicator of auto insurance availability in particular neighborhoods. *Statistics gathered through this year's NAIC call to insurers writing auto insurance in Texas also showed a direct correlation between lack of availability and the ethnic and racial minority percentages of the population in the zip code.* The data presented in ATTACHMENT B graphically portray the existence of auto insurance redlining. The data show that the higher the minority population in a zip code, the worse the auto insurance availability. In addition, lower availability of auto insurance correlates with lower median household income in a zip code.

- In zip codes where auto insurance availability is two times worse than the State average, the minority population percentage in the zip code also is twice the State average; and
- In zip codes where auto insurance is written in non-standard companies half as much as the Statewide average, the minority population percentage is also half the Statewide average.

The data also show a strong correlation between low median household income and low availability of insurance. I can supply a copy of these data in full zip code detail to this Committee if you desire it.

The Texas Department of Insurance is doing a similar analysis of homeowners' insurance by zip code, but we do not have any preliminary results at this time.

I cannot overemphasize the importance of gathering thorough and reliable statistics on the insurance marketplace. Like the NAIC, Texas' efforts in this direction are just beginning. Texas is a pioneer in gathering insurance data independently of industry-controlled statistical organizations, and we intend to have a continuing flow of zip coded data on automobile, homeowners, and commercial insurance. We have just scratched the surface in our ability to detect redlining and other unfairly discriminatory insurance practices, and this data flow will put us in a much better position to protect the insurance-buying public in the future. To have any hope of a national picture in the foreseeable future, we must have congressional action. Insurance is, I fear, just too powerful a special interest in most States.

Underwriting Guidelines

We are looking not only at evidence of redlining. We are reviewing companies' underwriting guidelines to determine the causes. Several common underwriting guidelines adversely affect the availability of homeowners' insurance in minority and low-income neighborhoods as well as in some rural and inter-urban communities. Texas' Office of Public Insurance Counsel (OPIC) reviewed the homeowners underwriting guidelines filed with our Department by insurance companies this year and issued a report (ATTACHMENT C) showing that:

- 88 percent of the companies have age-of-home restrictions.
- More than 90 percent of the companies have minimum coverage amounts, often above Texas' median housing value of \$42,500. Many won't write homes valued under \$60,000 or higher!
- 60 percent of the companies have location restrictions. While not as overt as a red line map, these restrictions prohibit coverage for certain consumers in very vague terms without objective standards (e.g. "unprotected areas").

All of these underwriting guidelines have an adverse impact on the availability of homeowners' insurance for consumers in older or lower income inner-city and rural neighborhoods.

Regulatory action against unfair underwriting practices is a new phenomenon but I predict you will see much more of it as the trend toward election or appointment of consumer-oriented insurance commissioners continues throughout the Nation. In Texas, the Commissioner received clear-cut legislative authority only last year to request and receive companies' underwriting guidelines and to use them in enforcement actions (but we are not free to disclose them to the public, which inhibits our ability to make competition in price fully effective—we need an informed consumer for that). Our Department just initiated disciplinary actions against 59 companies, including some of the largest auto writers, for alleged unfairly discriminatory underwriting guidelines, which either exclude people or force them into high-rate companies merely because they are single, have only one car, have a driver's license from the "wrong" country, won't buy another kind of insurance policy from the same company or had been rejected or canceled by a different company.

On May 2, 1994, I imposed a Texas record fine of \$850,000 on Allstate for applying similar guidelines. In this case, we actually received videotapes showing agent after agent turning down an applicant because he was single, had only one car and was not in the market for any insurance but an auto policy.

Although the practices involved in these disciplinary cases do not involve excluding specific neighborhoods, they do have disproportionate impact on racial and ethnic minority populations and low-income consumers. That is why the focus on redlining should not be limited to discrimination based on geographic location alone.

Besides the disciplinary actions mentioned above, I am considering further rule-making, enforcement actions and proposed legislation to further combat unfair underwriting practices and redlining. One of the ideas I'm considering is requiring that an underwriting guide be demonstrated as risk related by statistics in order to use it in Texas.

In your letter of invitation to testify at this hearing, your staff asked me to address several specific issues related to various data collection bills now pending in Congress. These are (1) reporting by census tract versus reporting by zip code, (2) the collection of race and gender data, (3) reporting on claims information, and (4) including an automatic sunset provision with the reporting requirements. I will discuss each of these in order.

Reporting by Census Tract Versus Reporting by Zip Code

Although current reporting of neighborhood-related insurance data is by zip code in the vast majority of States, it is not sufficient for your purposes. Congress would come closer to getting the information it needs on redlining if it requires reporting by census tract. Demographic information from the Bureau of the Census is far more complete and accurate for census tracts than it is for zip codes. In addition, census tracts tend to be smaller and more demographically homogeneous than zip codes, thereby giving a clearer, better focused picture of the treatment of minority and low-income neighborhoods than we get from looking at zip code data. Furthermore, zip codes exist to expedite mail handling and are subject to change whenever necessary to further that objective. Census tract boundaries are less likely to shift. I believe the larger insurance companies that would object to reporting could easily adapt to census-tract reporting because the necessary software is readily available. In fact, section 14(b) of S. 1917, the legislation now under review by this Committee, requires the Secretary to provide insurance companies with this software. If insurers claim that census tract is too difficult, you might consider requiring reporting by 9-digit zip code, which can, as I understand it, be used to construct census tracts. All insurers must have this information in order to obtain mail cost savings.

Collecting Race and Gender Data

I support the collection of race and gender data because it will further the objective of discouraging unfair discrimination, including those forms of discrimination that have the intent and/or effect of redlining. This kind of data collection is essential if Congress is to determine whether insurance companies are, in fact, discriminating based on race or gender. It will also provide stronger factual support for legislative, judicial, and regulatory actions to protect the rights of racial and ethnic minority populations to buy insurance at fair and affordable rates. Finally, and possibly of greatest importance, such data might increase the availability of insurance to minorities by opening the eyes of many insurance companies to the effect of their underwriting guidelines on these populations. Such companies could be expected to act to increase their minority business to avoid discrimination suits, regulatory action, and further legislation.

At my March 31 redlining hearing in Houston, an ITT Hartford representative testified the company had gone through a painful process in which it came to realize its underwriting practices were causing unintended problems for some minorities. The company is taking initial steps to turn this around, including a program to develop more minority agents to work in underserved areas. Thus, by forcing companies to examine the effects of their underwriting guidelines on minorities and low-income consumers, we hopefully will begin the process of their own self-examination and reform.

Reporting of Claims Information

Claims information is vital if Congress, regulators, and others are to accurately assess the extent of redlining and other forms of unfair discrimination in the sale and pricing of insurance and take appropriate corrective action. What if you collect data from an insurer and see what appears to be unfair discrimination based on where it wrote its policies? What if it then says it is making a sound business judgment based on the claims? Where are we then?

Claims data are highly relevant information, and we seek it in our own data calls because assuring fair rates is only half the regulatory battle. If a homeowner in a predominantly minority area pays the same rate as one in an upscale corner of the same city but receives scaled-down benefits if he or she has a fire or other loss, that is redlining as surely as rejection for coverage or assignment to a high-risk company. This, in fact, might very well be happening in some of our cities. Public adjusters have told our Department that some insurance companies have different payment standards in minority areas than in other areas. Trial lawyers and some adjusters also have alleged that insurers pay smaller damages for minority claimants. But, as an insurance regulator, I need solid statistical support for rulemaking and enforcement actions against such behavior, and I believe Congress also needs more than hunches and anecdotal evidence. You need these data!

Finally, enlightened insurance regulators and companies are coming to understand that they have an obligation to attack the root cause of rising insurance rates

by encouraging better construction, stronger defenses against crime and other loss-prevention measures. The Texas Department of Insurance recently created its first Safety Unit to lead the way in this effort. Claims data, by neighborhood, can help regulators and the industry target areas where loss prevention efforts can do the most good.

Automatic Sunset Provision

There should be no automatic sunset provision. The purposes of the bill set out in section 2 will continue to exist in the future. If the bill makes sense now, it will make sense 10 years from now, and Congress would be remiss to pretend that redlining is a disease that can be cured in a short period of time with no danger of remission.

Review of S. 1917

Finally, the Committee staff asked for my review of Senator Feingold's bill, S. 1917. Following are some problem areas and my recommendations for change:

1. The bill does not include the collection of data on personal auto insurance. Auto insurance is as important, if not more important, than homeowners' insurance in minority and low-income neighborhoods where home ownership is more of a dream than a reality. Our data show significant redlining in auto insurance. The bill should include collection of data on auto insurance.

2. In addition to region, race, gender, age of home, and location of home, data on the age of the insured should be collected for homeowners and auto.

3. Section 12(a)(2) should be changed to make data available to the public as soon as possible. I suggest that the agency be allowed time to review the data but that a preliminary report should be issued 30 days after the data is due from insurers and a final report issued 60 days after the data is due from insurers.

4. Section 12(c) makes losses by individual insurers by zip code or census tract a closed record. To combat unfair discrimination in claims payments, it is crucial that this information be open to the public.

5. Renters' insurance is excluded from the definition of residential property insurance in section 13(c)—designated lines of insurance. Because many low-income and minority consumers are unable to purchase homes but need insurance for their personal property, data should be collected on renters insurance.

I should point out that S. 1917 is stronger than the House Commerce Committee version of the bill in that body, but far weaker than the Banking Committee version. It represents a good compromise, in my view, if the items I listed above are amended onto S. 1917.

Conclusion

Based on available data, it is obvious that redlining is a problem in many urban communities and rural areas. Other forms of discrimination, such as underwriting guidelines that deny coverage or assign consumers to high-risk, high-rate companies because they are single or own only one car or don't buy other kinds of insurance from a company often have the same effect on minority and low-income people as geographic redlining. More data is necessary if policymakers and insurance regulators are to fully understand the scope of this problem and take the actions necessary to protect the insurance-buying public. Congress is to be commended for taking on this difficult but extremely important issue. I urge you to strengthen and approve S. 1917.

PREPARED STATEMENT OF LYNN M. SCHUBERT

ASSISTANT GENERAL COUNSEL, AMERICAN INSURANCE ASSOCIATION

I. Introduction

The American Insurance Association is a national trade organization representing more than 270 companies writing property and casualty insurance in every State and jurisdiction of the United States. AIA members write 36 percent of all commercial property and casualty insurance in the United States. They also write a significant amount of personal, homeowners, and automobile insurance. AIA member companies employ more than 145,000 people and pay \$2.2 billion in State taxes and fees (including payroll taxes) to State governments each year.

We appreciate the opportunity to be here today to discuss the important topic of access to insurance for urban residents and businesses. I have been authorized to present this testimony not only on behalf of the AIA, but also on behalf of the Independent Insurance Agents of America (IIAA) and the Council of Insurance Agents

and Brokers (The Council). IIAA is a trade association representing nearly 300,000 independent insurance agents. The Council (formerly the National Association of Casualty and Surety Agents, NACSA) represents the Nation's 300 largest commercial insurance agencies and brokerages who write over \$70 billion in premiums annually.

These organizations have one over-riding goal on the issue of insurance access and availability Chairman Riegle: Urban residents and businesses, as all other Americans, must be able to purchase attractive insurance products at a price reasonably based on the risk. AIA, IIAA, and The Council members are committed to working with legislators, regulators, consumers, and brokers to ensure that this occurs.

It is a fact that certain areas—especially in our cities—have higher numbers of residents and small businesses without insurance than other areas. These discrepancies are related to a whole host of socio-economic circumstances faced by people who work and live in the urban areas, and which also increase the cost of insurance. Outright racial or ethnic discrimination may also occur. We hope that it is infrequent. We know that it is a violation of Federal and State law. We advocate stringent prosecution wherever it is found.

To determine whether or not insurance is available in all areas, we could support Federal data collection of insurance information—if it is designed to produce a fair, efficient, and effective study of insurance availability and cost. H.R. 1188, pending in the House, is such a measure, and AIA, IIAA, and The Council support this bill. The details of the bill and the reasons for our support are addressed later in this testimony.

If there are availability problems, however, whether they are caused by economics or by discrimination, they must be addressed. It is cold comfort to the citizens for whom insurance is unavailable to explain to them the reasons why the problem exists. We believe it is time to start attacking these problems head-on.

We encourage and will participate in thorough and thoughtful dialogue on the subject of urban insurance coverage with the goal of developing workable solutions to the problems. Specifically, we would like to work with legislators and regulators to develop products and marketing ideas which adequately serve urban residents and businesses. We want to discuss the establishment of market assistance plans and other programs to facilitate greater access to insurers. For example, we already are working with regulators in a number of States on programs to bring urban-based independent agents together with companies.

One State which is moving forward on this issue is Georgia. In Atlanta, AIA, in conjunction with the Urban League, the Independent Insurance Agents of America, the Insurance Department and State regulators, has established a task force to address the issue of insurance in urban markets. One of the first projects of the task force is the Agent/Insurer Partnership. The task force has put together a directory of profile forms completed by minority agents and has distributed it to standard insurance companies. These companies have reviewed the profiles, and are in the process of making agency appointments from the directory. While the process is not complete, a number of appointments already have been made. Now that this program has proven successful, we are working to expand these efforts nationwide.

In addition, we also support the inclusion of homeowners' insurance in existing Fair Access to Insurance Requirement Plans (FAIR) to address the needs of homeowners who are unable to find insurance in the voluntary market.

In California we publicly have supported a proposal which would provide for Statewide rating of basic first party insurance in the context of a cost effective no-fault system. We believe this system should be considered in other States where auto insurance costs are too high, especially for low-income urban citizens. We will continue to explore other options along these lines for other lines of insurance.

Allegations have been made that insurance is unavailable in urban areas due to insurance redlining. Further, this Committee has asked us to address the question of whether insurers illegally discriminate in providing property insurance. Before any further discussion of the positive efforts of the industry in the areas of insurance availability and cost let me address the specific question posed by the Committee. To answer this question we need to start with a discussion of the concept of redlining.

II. Definition of Redlining

Redlining is an illegal offensive practice that cannot be tolerated. AIA opposes redlining. The term has long referred to an attempt to discriminate on the basis of race or ethnic origin by not doing business within certain "redlined" neighborhoods. The practice is illegal, reprehensible, inexcusable, and must not be tolerated. Violators should be punished.

Defining the term, however, in order to identify the specific activities that constitute the practice of redlining, has proven a difficult task. Redlining is an emotionally charged term that connotes different things to different people and, as such, has defied definition in a universally accepted manner. In recent years insurance regulators and industry representatives have spent many hours debating the issue and hammering out language describing and prohibiting certain practices that constitute redlining. This language, embodied in the National Association of Insurance Commissioners (NAIC) Model Unfair Trade Practices Act, defines and prohibits the following as unfair discrimination:

Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazard by refusing to insure, refusing to renew, canceling, or limiting the amount of insurance coverage on a property or casualty risk solely because of the geographic location of the risk, unless such action is the result of the application of sound underwriting and actuarial principles related to actual or reasonably anticipated loss experience.

We strongly endorse this provision. We have supported its adoption by the NAIC and its passage in State legislatures across the country. The language clearly proscribes arbitrary underwriting decisions based upon geographic location alone. It recognizes, however, that sound underwriting and actuarial principles cannot be ignored by the industry—insurers must make rational underwriting decisions that will preserve their solvency and protect consumers.

ALA has a clear record of opposition to the arbitrary reliance by insurers upon physical location alone when rendering underwriting decisions. Throughout our history we have consistently stated our belief that insurance should be readily available, subject to fair and sound underwriting principles. The first step to making insurance available is the development of products that are attractive and affordable for urban residents and businesses.

III. The First Step Toward a Solution

We must focus our attention immediately on a fundamental issue, i.e., the rapid development and approval of attractive and affordable insurance products tailored to meet the needs of urban consumers.

In California, we have joined forces with a broad coalition of consumer and civil rights groups led by Consumers Union and the Latino Issues Forum to create an innovative, no-frills no-fault automobile insurance policy. This policy is a perfect example of a creative, practical, and sound solution to a real problem of people in need.

The policy is designed to be offered Statewide at one low price. It guarantees all injured accident victims at least \$15,000 in medical and wage loss benefits for a uniform Statewide price, and removes nuisance and minor injury litigation for non-economic losses. Independent actuaries have concluded that the basic coverage could be sold, on an actuarially sound Statewide basis, for \$220, saving California consumers \$1.8 billion in the first year alone.

Unfortunately, this product is not yet available to California consumers. During recent sessions of the California legislature, the bill that would pave the way for provision of this product in the marketplace has been bottled up.

The National Conference of Insurance Legislators recently has approved a model automobile insurance law providing \$15,000 of basic personal compensation coverage and property damage liability coverage, along with limits on lawsuits and health care costs. AIA estimates the standard price for the minimum mandated coverage would be \$117 in Vermont, \$146 in Missouri, and \$199 in Texas.

We are working to inform legislators and regulators about the potential benefits of this and similar new products. AIA encourages all State legislators and insurance regulators to maintain a receptive attitude toward innovative and experimental insurance products. These kinds of products will serve as the key that will guarantee an open door to insurance for all consumers.

IV. Is Insurance Available?

In addition to the question of illegal discrimination, the Committee also has requested us to address the findings of recent property insurance studies. This is the bottom line question that must be addressed: Whether those urban consumers wishing to purchase insurance currently are able to do so.

A number of studies from 1979 through 1993 show that a large percentage of homeowners have homeowners' insurance. In 1979, the AIA sponsored a nationwide study on availability of homeowners' insurance. That study showed that 98 percent of homeowners had homeowners' insurance. Eighty-eight percent of those surveyed had comprehensive coverage covering fire, theft, vandalism, and liability. Fifteen percent had more limited coverage.

In 1980, R.L. Associates, a private research firm in Princeton, NJ, conducted a similar survey for the All-Industry-Research Advisory Council (now Insurance Research Council). This survey focused on the urban core of America, surveying urban core neighborhoods in six of the largest American cities: Atlanta, Chicago, Cleveland, Los Angeles, Philadelphia, and New York (borough of Brooklyn). The results of the 1980 survey were consistent with those of 1979. In fact, the total percentage of homeowners with homeowners' insurance increased from 98 percent to 99 percent. The percentage with comprehensive versus more limited coverages also increased, from 88 percent to 90 percent.

In 1993, a similar study was commissioned by AIA and performed by R.L. Associates. The survey covered the experiences of homeowners with regard to obtaining various forms of property insurance and their attitude toward that coverage. The results of this study conclusively demonstrate that property insurance is widely available in each of the cities surveyed, and that such coverage is "very easy" or "somewhat easy" to obtain for the vast majority of policyholders. During the past 5 years few respondents have been turned down for any type of homeowners' coverage, and an even smaller percentage have had their coverage canceled or non-renewed for any reason.

When combined with previous empirical research, this survey indicates that the percentage of urban homeowners with property insurance is comparable to that in suburban and rural jurisdictions. Moreover, to the extent that some homeowners are without coverage, this decision is likely to be based on personal choice or economic constraints, rather than difficulty in obtaining insurance.

Following are key highlights from the survey of 1,502 urban homeowners in Chicago, Los Angeles, Atlanta, Brooklyn, Cleveland, and Philadelphia:

- Less than 2 percent of the homeowners surveyed in the six cities did not carry any homeowners' insurance. Ninety-three percent had comprehensive coverage covering fire, theft, storm damage, vandalism, and liability. About 5 percent carried more basic home insurance policies covering fire damage only or fire and windstorm damage.
- The percentage of homeowners without any coverage ranged from less than 1 percent in Chicago and Atlanta to 3 percent in Los Angeles.
- There were no significant differences among African-Americans and whites in terms of insurance coverage. Ninety-nine percent of African-American homeowners carried either comprehensive (92 percent) homeowners' coverage or more basic policies (7 percent). Ninety-eight percent of those identifying themselves as white had some homeowners' coverage, including 94 percent with comprehensive policies and 4 percent with basic coverage.
- Nearly nine in ten (87 percent) of urban homeowners said it was very or somewhat easy to find homeowners' insurance. An even higher share (93 percent) said it was convenient to contact an insurance agent or insurance company.
- Urban homeowners use a variety of methods to shop for and purchase homeowners' insurance including telephoning an agent, having an agent come to their homes, traveling to an agent's office, purchasing through a mortgage or real estate office, and purchasing home insurance by mail. A significant number of homeowners in each of the six cities have used one of these methods to purchase home insurance.
- Only 3 percent of urban homeowners had experienced cancellation or non-renewal of home insurance coverage during the past 5 years. Reasons for cancellation or non-renewal cited by this small group of homeowners included non-payment or late payment of premiums, loss experience (multiple theft or fire claims), insurance companies that ceased writing home insurance, and physical problems with the property.
- Very few respondents (3 percent) said that they were aware of anyone in their neighborhood who had experienced difficulty in obtaining homeowners' insurance.

Other surveys and studies show similar results. The Roper Organization, Inc., a nationally known public opinion survey firm, included a question on homeowners' insurance as part of a representative sample of 1,976 Americans for the 1992 *Public Attitude Monitor* published by the Insurance Research Council. Conducted during June 1992, the survey found that 94 percent of those surveyed owning homes had homeowners' insurance. Not surprisingly, the Roper survey showed some variations in the share of homeowners with insurance by region, income, and community type. For example, the survey indicated that homeowners living in central cities of metropolitan areas with populations of greater than 250,000 actually were more likely to have homeowners' insurance (96 percent) than the population as a whole. Central city residents owning homes, including those living in very large cities with more than a million people, were more likely to have homeowners' insurance than persons

living in suburbs (95 percent) and those living in rural areas and small towns (91 percent).

The 1992 Roper findings are nearly identical to those from another independent national survey conducted by Cambridge Reports, Inc. in 1989 on home ownership and home insurance rates. The Cambridge survey found that 95 percent of homeowners nationally carried homeowners' insurance.

Other surveys also document that small business insurance consumers are largely able to obtain desired insurance coverages and that voluntary market availability improved steadily during the 1980's. The purchase of various insurance coverages by small businesses increased during the 1980's. Urban small businesses were in some cases more likely to have some coverages than their suburban, small town or rural counterparts. Nationally representative surveys of small businesses (*Small Business Attitude Monitor 1991, Business Attitude Monitor, 1988*) conducted by the Insurance Research Council showed that the share of small businesses purchasing key coverages such as property and liability rose from 1988 to very high levels by 1991. This evidence of general availability and affordability tracks well with the independent data on the use of FAIR plans in commercial lines.

This evidence of general availability and affordability tracks well with the independent data on the use of FAIR plans in commercial lines.

Participation of the FAIR plan in the marketplace is decreasing. Commercial lines premium volume written through the FAIR Plans declined steadily in most States from 1986 through 1991 as a percentage of total commercial premium volume. For example, commercial written premiums in the Illinois FAIR Plan declined from about 1 quarter of 1 percent (0.24 percent) to less than 1/10th of 1 percent (.088 percent) of total commercial premium in the voluntary market. In addition to Illinois, AIA analyzed the District of Columbia and eight large urban States: California, Georgia, Massachusetts, Michigan, New Jersey, New York, Ohio, and Pennsylvania, and found that each experienced significant drops in FAIR Plan commercial lines premium volume in relation to the State commercial voluntary market. The decline in FAIR Plan premium volume in relation to the commercial voluntary market generally indicates that businesses were having an easier time finding insurance through the voluntary market.

Personal lines FAIR Plan premium volume also decreased in Illinois and other States relative to the voluntary market from 1986 through 1991. For example, FAIR Plan premium volume in Illinois dropped from just over 1/2 of 1 percent (0.52 percent) to about 1/3 of 1 percent (.036 percent) of total personal lines (homeowners) premiums from 1986 to 1991. In New York, FAIR Plan premium dropped from 2/10ths of 1 percent of the voluntary market to under 1/10ths of 1 percent. Overall, in eight out of the nine States that we analyzed, premium volume in the FAIR plan declined in relationship to the voluntary market between 1986 and 1991, and in the remaining State where FAIR plan market penetration did not decline, the increase was less than 1/10ths of 1 percent.

The number of applications received by the FAIR Plans for commercial and personal lines combined also generally decreased from 1986 to 1991. Our analysis of applications and policies issued in the ten jurisdictions examined indicates that over that period, the number of applications received annually declined by an average of 25.5 percent and the number of policies and binders issued by each of the plans annually decreased by an average of 23.3 percent. These are all signs of improving property insurance availability in the voluntary markets of these States and the District of Columbia. The bottom line conclusion is that the percentage of risks written by the FAIR Plan versus the voluntary market is decreasing steadily.

Small businesses located in major cities were just as likely as their counterparts in suburbs, non-metropolitan cities and towns, and rural areas to have liability insurance, more likely to have business interruption insurance, and somewhat less likely to have property insurance. In this context, urban applies to small businesses located within the city limits of a large city. As for specifically inner-city businesses, the only representative study of which we are aware on these businesses was published in 1982 by All Industry Research Advisory Council (now the Insurance Research Council). This study, *Availability and Use of Business Insurance by Small Urban Businesses*, covers inner-city small businesses in Chicago, Atlanta, Boston, Brooklyn, Cleveland, Detroit, Los Angeles, and Philadelphia. The survey indicated that at that time 92 percent of the inner-city firms had some type of property-liability coverage and 86 percent had the property coverages of fire, wind, and vandalism.

Small businesses in inner-city Los Angeles were as likely as businesses in the overall sample to have at least one or more of the property-liability coverages.

Although it appears from the data that insurance is available and affordable to the vast majority of residents and businesses in inner-city areas, we recognize that this still might leave some insurable risks without coverage for one reason or an-

other. We must continue our efforts to make insurance available for all insurable risks.

V. Potential Federal Action

The third question asked by the Committee is what steps the Federal Government should take to identify and combat illegal property insurance discrimination, if such discrimination exists. As mentioned earlier, a fair, economical, efficient data collection scheme on the Federal level to determine if insurance is equally available, based on the risk, for all Americans, is something AIA, IIAA, and The Council could support. The parameters of such a data collection effort, however, are critical. Inordinate costs of collecting data with limited value would not assist the insurance consumer, but rather, harm that consumer with either higher prices or possibly less financially sound insurers.

Collection of data which reveals what insurance is being sold, where it is being sold, who is selling it and how much it costs the consumer, would answer the question of whether or not insurance is available. This collection should be undertaken in a format to provide the most information, in the most useful form, in the most cost-efficient fashion.

The most that is needed today is a data collection and study effort, designed to collect a limited amount of data from insurers on limited lines, in a limited number of cities, for a limited period of time. The data should answer the four issues addressed above, who, what, where and how much. It should require reporting in a format that readily is obtainable and is cost effective—five-digit zip code. Various studies could be undertaken for more complex issues such as commercial insurance, agent appointments and terminations, insurance applicants, and the effectiveness of the data collection.

Data collection should be limited in time and scope to answer the question is insurance available equally in all neighborhoods at a cost commensurate with the risk. The question of whether or not insurers are illegally discriminating is a question of regulation for insurance regulators. Federal data collection can assist regulators in making this determination, but data collection alone cannot answer that question or enforce discrimination laws.

The lines of insurance raising concern are homeowners, dwelling fire and allied lines and private passenger automobile. Data collection should be limited to those lines. To determine the current situation, the duration of the study should be limited. Anywhere from 1 to 5 years of data collection would show the status of insurance availability. The unit of measurement also needs to be reasonable. Data on the existence and details of policies is kept by most insurers on a computer system which includes at most only the five-digit zip code of the property insured. Insurers have gone to great expense in recent years to install these systems so that they can report five-digit zip code information to State regulators.

The full address of the property insured often only is in a manually kept record, and sometimes, if the property is part of an umbrella policy, not even there. Virtually no insurer has a statistical reporting computer system which collects or could store nine-digit zip code information. The capital which would be required to convert existing computer systems to report on any basis other than five-digit zip code is extraordinary, and the value of data on any other basis is limited.

Last year, Mr. Chairman, you requested the U.S. General Accounting Office to investigate the necessity of Federal reporting to determine availability, affordability, and accessibility of property insurance. The GAO undertook an extensive investigation of this issue, starting with a review of existing literature, proposed bills, and State requirements. GAO staff discussed the issue with trade associations—including a number of meetings with AIA staff—consumer groups, statistical agents, research organizations and the NAIC, and ultimately developed their own analyses and conclusions.

The result of this study, the GAO Report to the Chairman, Committee on Banking, Housing, and Urban Affairs, "Property Insurance, Data Needed to Examine Availability, Affordability, and Accessibility Issues" was released on February 9, 1994. In analyzing what data should be reported, the report begins with the statement that collection of zip code data is important. While the report does state that census tract reporting could be more useful, it goes on to say that this would require restrictions due to the volume of data which would be generated. "The value of this reporting must be weighed carefully against the additional burden it places on companies to comply."

According to the report, the data that can be reported readily by companies (zip code data for policy information) would be useful to examine availability and affordability issues, "but will not be sufficient to determine conclusively whether unfair discrimination exists or why." However, the data would be a marked improvement

over what is available today and "could serve to point regulators more effectively in directions for further probing."

At this time insurance is regulated by the States. It is up to State insurance regulators, among other things, to investigate insurer practices and punish those insurers who illegally discriminate. Analysis of data reported by zip code clearly would allow regulators and others to determine if there is a disparity between the number of owner-occupied homes within a zip code and the number of homeowners' policies. Any large disparity then would indicate that the appropriate regulator needs to ask insurers for more detailed information within that particular zip code. This would limit the volume of information collected by the Federal Government to a manageable load, but would provide the information needed to investigate areas of concern.

Additionally, the number of areas to be studied under any Federal data collection should be related to the question raised. The allegations giving rise to this issue at the Federal level address insurance availability in urban areas. To determine the solution, data needs to be collected for those areas where there is alleged to be a problem. Twenty-five of the largest urban areas include approximately 43 percent of the United States population. This number clearly is sufficient to address the question.

Any Federal data collection should be drafted in a fashion to provide quick, efficient, and cost effective data collection. H.R. 1188, introduced by Congresswoman Cardiss Collins of Illinois, is a bill which would gather the information necessary to determine if insurance is available in all neighborhoods equally, where the insurance is being provided, who is providing the insurance, what kind of insurance is provided, and what it costs, on a five-digit zip code basis. This information could be reported within 1 year, rather than the up to 3 years it could take for insurers to begin providing census tract data, and at a reasonable cost to the consumer, rather than the exorbitant cost to consumers of insurers implementing an entirely new reporting system for the Federal Government, while keeping in place their reporting systems for State regulators.

The information which would be provided by H.R. 1188 would allow regulators to focus efforts on zip codes with significant disparities between number of homeowners and number of homeowners' policies, rather than being required to review detailed information for huge numbers of census tracts with no problems whatsoever.

Time and effort could be spent on addressing real problems of our urban cores rather than over-reporting and reviewing of unnecessary data.

AIA, IIAA, and The Council urge the Committee to consider a Federal data collection effort which will address the issue of insurance availability and cost in a rational, effective fashion.

VI. Affirmative Efforts by the Industry

AIA recognizes that there are a number of issues that may have an impact on urban consumers and their ability to obtain insurance. The term redlining often is used loosely as a catch-all, short-hand term to identify a wide variety of issues affecting the urban areas of our Nation. AIA members and others are taking steps to address these issues. It is our belief that partnerships between the insurance industry and consumer organizations, civil rights organizations and housing organizations are the most productive way to move ahead.

A. LOCATION OF AGENTS WITH COMPANY APPOINTMENTS

One of the most controversial issues is whether agents with standard company appointments can be found in urban areas. Some urban consumers contend that insurance companies selectively place agents in locations that discourage applications for policies from certain geographic areas. The majority of AIA member companies market their products through the independent agency system. These agents are truly independent entrepreneurs, usually representing more than one insurer. These agents are not company employees placed in a particular office by the insurance company. The companies they represent cannot and do not control the location of the agent's place of business.

However, AIA, IIAA, and The Council are committed to the idea of increasing the number of minority and urban based agents with standard company appointments. The Atlanta Agent/Insurer Partnership discussed earlier is one example of what the industry is doing to move forward on this issue. Another example is insurers' participation in agent association programs such as INVEST, a program which assists students with financial difficulties to start a career in the insurance industry.

AIA and the IIAA also are working closely together on other efforts to increase the number of minority agents with standard company appointment in programs such as grouping of agents and special brokers programs.

A number of these types of programs are in the development stages around the country.

B. OTHER MARKETING SYSTEMS

It is important to note, however, that about 60 percent of personal lines insurance is not sold through the independent agency system. It is sold by captive agents, employees, or by direct marketing such as mail and telephone. Increasing the number of independent agents serving urban areas alone will not be enough to resolve access problems. Other new marketing techniques will be required to better serve urban areas. AIA members currently are participating in discussions at the NAIC meetings on this subject, and would be delighted to assist regulators in developing such techniques within the limits of State and Federal antitrust laws.

C. THE PRODUCT

Residents in urban areas must have ready access to insurance products that are attractive to them as well as affordable. As discussed above, the first requirement is the product. Products can be offered which provide coverages and limits which are desirable, at a price that is affordable. AIA consistently has supported the authorization by law and the approval by regulators of such products. However, each policy must be underwritten carefully, looking at underlying risk factors. To make such products available to greater numbers of consumers, risk factors must be decreased. Specifically, I am referring to the high risk of fire, high crime rates, excessive increases in automobile repair costs, and health costs.

Some view refusals to issue replacement cost coverage in homeowners' policies for risks that evidence a substantial disparity between replacement cost and market value as redlining. Again, we disagree. AIA acknowledges that many insurers will not provide this coverage when there is a wide disparity between the replacement cost and the market value of a structure. In most instances, in order to qualify for replacement cost coverage, an insured must buy enough coverage to represent at least 80 percent of the cost of replacing the structure. This requirement may present a dilemma for insureds who own homes built before the 1950's. For many of these older homes the cost to replace the building with the exact type of materials used in the original construction far exceeds what the owner might spend to replace the dwelling using modern materials and simpler construction techniques. Replacement cost coverage is not well-suited for these kinds of properties, because insureds may be unwilling or unable to buy—and insurers may be unwilling to sell—insurance in an amount well beyond the price for which the dwelling could be sold. Insurers, however, have responded to the needs of property owners faced with this disparity. For example, a lower cost variable percentage replacement loss settlement endorsement has been developed.

This endorsement permits an insured to choose to insure at a lower percentage of insurance to replacement value (i.e., usually 50 percent, 60 percent, or 70 percent), rather than the 80 percent usually required for replacement cost coverage. Thus, if the policyholder decides to insure for 50 percent of the replacement cost of the property, the premium would be lower than coverage for 70 percent of the replacement cost. However, if the property is totally destroyed, the proceeds to the policyholder would be 50 percent of the replacement cost of the property.

Additionally, the industry has developed repair cost policies that delete the replacement cost provision and provide that a damaged dwelling will be repaired or replaced with commonly used building materials instead of materials of like kind and quality. It is important to recognize that when faced with a dilemma such as this, the insurance industry has responded with products suited for a particular purpose. Without the regulatory approval of these products, the industry cannot address the problems of the consumer. These are further examples of the industry responding to consumer needs with specialized products.

It has been asserted that these types of products are inferior and do not provide the same coverage as is available to properties without this large difference between market value and replacement costs. However, the cost of insurance is based in part on the expected cost to pay a claim under the policy. The price of providing replacement cost policies for these types of properties is so high that prior to the development of alternative products, consumers asserted that property insurance was unavailable because it was unaffordable. To address this concern, insurers developed new products that would provide a measure of coverage and protection, but would not cost so much as to be unavailable. The price of insurance must reflect the risk. Companies will continue to attempt to address the needs of consumers by creating legitimate products that can be purchased for a reasonable price.

D. MARKETING AND SERVICE

Marketing and servicing products in communities where English often is a second language presents special difficulties. AIA companies have added Spanish speaking customer service representatives to personal lines service centers and toll free hot lines, print posters and brochures in both English and Spanish, and have programs to target small and disadvantaged contractors. These efforts make marketing and servicing products in the urban areas more effective.

E. EDUCATION

Education is critical to the availability and accessibility of insurance. Education must be conducted both for consumers and for insurers. Currently AIA members are working with individual State regulators as well as the NAIC Insurance Availability and Affordability Task Force Subcommittee on Education to develop programs to increase the knowledge of average and low-income consumers about insurance, and to increase the knowledge of underwriters and agents about urban neighborhoods and opportunities. We believe this concerted effort will assist in increasing the availability and accessibility of insurance products which are truly priced based on the risk.

F. PRODUCT PRICING

Some consumers allege that insurers intentionally overprice a product to prevent sales in urban areas. In many States, pricing of insurance is determined through a regulatory approval process. Rates are not intentionally set higher for urban risks to prevent people from purchasing the insurance. Individual company rates should be and are based on loss experience and are subject to the review of the State insurance regulator. In many cases, urban insurance rates are the same as or lower than those applicable to risks in suburban areas. In other instances policies for risks in urban areas will be more expensive than similar risks in suburban areas. This rate disparity is due to the increased costs of certain policies, such as increased incidents and severity of claims in certain areas, or increased distance from a fire station.

Automobile insurance is a good example of this cause and effect. The cost of automobile insurance reflects the costs of goods and services that are paid by automobile insurance premiums, including litigation, health care, and auto repair. The frequency of bodily injury liability claims countrywide has increased 19.0 percent from 1987 through the third quarter of 1992, according to NAI/ISO Fast Track data. The increase in the loss cost for bodily injury liability during that same period was 67.1 percent. Meanwhile, the frequency of property damage liability claims and collision claims in countrywide has decreased 11.0 percent and 16.0 percent, respectively, with the loss costs increasing 13.0 percent and 1.4 percent. This helps demonstrate that liability claims and the resulting medical costs are a major source of high and rising auto insurance costs.

Of course, these costs are not uniform between States, or within areas of certain States. For example, in Illinois, the average loss cost for bodily injury liability is \$109, compared to the countrywide average loss cost of \$119. In the District of Columbia, the average loss cost for bodily injury liability is \$191, compared to the countrywide average loss cost of \$119. Virginia has an average loss cost for bodily injury liability of \$101, and Maryland \$144. Some other average loss costs as of the third quarter of 1992 for these areas are: property damage liability: Illinois \$65, D.C. \$79, Virginia \$47, Maryland \$62, countrywide \$56; collision: Illinois \$117, D.C. \$150, Virginia \$76, Maryland \$104, countrywide \$103. These costs are reflected in rates charged in these States.

There also are significant differences in how costs are distributed within States. For example, according to a 1990 report, the bodily injury liability claim frequency per 100 insured cars in Chicago was 3.07 versus the Illinois Statewide average of 1.81. This means that bodily injury liability claims were filed 69.6 percent more often in Chicago than for the State, as a whole. Also, there were 52 bodily injury liability claims for every 100 property damage liability claims in Chicago compared to 34 for the State, as a whole. Thus, in Chicago, an injury claim was 55 percent more likely to be filed for each property damage claim, than the average for the State of Illinois.

We understand the role that insurance costs play in limiting access to insurance. We know that rates based on loss experience may be more than some consumers are able to pay. In fact, if insurance is not affordable, it essentially is not available. However, we believe there are rational solutions to problems relating to the cost and the value of auto insurance. One such solution is the development of innovative, low-cost products such as our no-frills, no-fault automobile insurance policy proposed in California. With cooperation and creativity we can meet the needs of all consumers, including those who are low income, by offering them useful and afford-

able insurance products. If these products are available, and consumers are interested in purchasing them, insurers are sure to increase their marketing efforts to be the company making those sales.

G. RISK REDUCTION

To lower cost and increase insurance availability, the risk in some neighborhoods must be decreased. AIA and member companies are working with community organizations such as the Association of Communities for Reform Now (ACORN) on programs such as the ACORN Neighborhood Home and Safety Program to assist communities in lowering their risks, and then providing insurance for those participating residents.

VII. Other Issues

In recent discussions of redlining, many of the above issues have been raised. Additionally, issues of insurance investment in urban areas, affirmative action within insurance companies and contributions to minority or urban-oriented organizations have been added to the discussion. I would like to address what we are doing in connection with these broader social and economic issues. We are proud of our successes, and would like to mention them. However, we recognize that more has to be done by everyone, including insurers, to help revitalize our urban areas.

A. AFFIRMATIVE ACTION WITHIN INSURANCE COMPANIES

AIA member companies fund and participate in the recruitment and advancement of minorities through a variety of programs, both external and internal. The external organizations supported by our members include: The Urban League, Black Executive Exchange Program, and SER (Jobs for Progress, Inc.), minority summer internship and scholarship programs like INROADS, inner-city youth job training initiatives like INVEST and the STAG Program. Internal initiatives include targeted college recruitment, company-wide managerial diversity training, the creation of specific, regular opportunities for minority employees to meet and network with top management, minority career development programs, coaching and mentoring programs. Several companies have made an explicit commitment to promote minorities to the highest professional and managerial positions. Some advance the process by auditing the employee mix to ensure representation of the labor pool at large.

In addition to employee opportunities for minorities, many companies also target minority companies as vendors. For example, one AIA member's targeted minority vendors program played a part in 12 percent of the company's 1991 purchases being made through minority or women vendors.

B. JOBS IN URBAN AREAS

Probably the most important need of urban centers today is jobs for urban residents. Many AIA member companies maintain significant facilities in urban areas across America. Thousands of workers are employed by the insurance industry in cities such as Chicago, Atlanta, Baltimore, Boston, Cleveland, Dallas, Detroit, Los Angeles, Miami, New York City, Philadelphia, and Pittsburgh.

C. INSURANCE COMPANY INVESTMENT IN URBAN AREAS

Related to the issue of jobs is the issue of investment. Insurance industry investment in urban areas is significant. Excluding all other types of insurance investments in urban areas and only considering the purchase of municipal bonds, the insurance industry has invested billions of dollars a year into urban areas. For example, for the most recent year for which we have data, 1989, insurers held or sold a total of \$1.8 billion in various Chicago municipal bonds. For Los Angeles city alone, insurers held or sold \$573.4 million in these bonds. For Los Angeles county, insurers sold or held \$501.2 million in bonds. The total of all bonds sold or held by insurers as of the end of 1989 for both Los Angeles city and county was approximately \$1.1 billion. In addition to these investment dollars, companies also contribute financially to many regional and national organizations dedicated to the advancement of minority interests and the revitalization of American cities. A list of some of these organizations is attached as Appendix A.

These contributions assist not only residents in urban areas, but all of America, by giving urban residents a chance for housing, education, cultural activities, career training, and a host of other opportunities which would not be available without the efforts of corporate America. The insurance industry is proud of its participation in these programs, and intends to look for additional ways to assist in the revitalization of our urban areas.

VIII. Conclusion

This sensitivity to the benefits of working with minorities and women as employees and managers, as a sales force, as vendors, as customers, and as citizens, is well documented in the insurance industry. We are committed to work with the Congress, State legislators, insurance regulators and consumers to address both broad social and economic and insurance specific problems.

In summary, we oppose redlining. We support the NAIC Unfair Trade Practices Model Act. We support H.R. 1188. Further, we look forward to working with the Senate as you address these important issues.

PREPARED STATEMENT OF RAÚL YZAGUIRRE

PRESIDENT OF THE NATIONAL COUNCIL OF LA RAZA

I. Introduction

Chairman Riegle and distinguished Members of the Senate Banking, Housing, and Urban Affairs Committee, my name is Raúl Yzaguirre, and I am President of the National Council of La Raza (NCLR). NCLR is the Nation's largest constituency-based Hispanic organization, representing 170 affiliated community-based organizations which together serve 37 States, Puerto Rico, and the District of Columbia, and reach more than two million Hispanics annually. We are pleased that the Committee is conducting this hearing on insurance discrimination, and we appreciate the opportunity to present our views on this important economic development and civil rights issue.

Since its inception, NCLR has maintained a major institutional focus on civil rights and the principle of equal access to opportunity for all Americans. In addition, we have long recognized the critical importance of access to the tools of economic development and to housing affordability.

In the area of civil rights, in recent years NCLR has done research and policy analysis on such subjects as employment discrimination and Government enforcement of civil rights protections for Hispanics. In December of 1993, NCLR issued a report, *The Empty Promise: Civil Rights Enforcement and Hispanics*, which documented the Equal Employment Opportunity Commission's ineffectiveness in protecting the Hispanic community against employment discrimination. NCLR has recently launched a "Know Your Rights" public information and education campaign, a privately funded nationwide effort designed to educate Hispanics about their civil rights and to develop improved, community-based models to increase the effectiveness of civil rights enforcement. NCLR completed a complementary Fair Housing Education and Outreach project, designed to help raise awareness within the Hispanic community about housing discrimination and the fair housing enforcement process. In cooperation with five of our affiliates, the project was undertaken in Chicago, San Diego, Kansas City, El Paso, and the State of Nebraska.

In the field of housing and community development, NCLR has since 1972 provided direct on-site technical assistance to scores of communities and community-based organizations in the planning, financing, development, and management of housing construction and rehabilitation programs. These projects include a series of self-help rehabilitation programs in Texas financed by the Farmers Home Administration (FmHA); one of a very few FmHA-financed limited-equity cooperatives in the United States (in Arizona); Community Development Block Grant-financed tenement rehabilitation programs in urban areas of Texas; a self-financed and self-sufficient farmworker mobile home cooperative in Florida; litigation-supported anti-displacement programs in Virginia; and a series of Department and Housing and Urban Development-funded housing developments for low-income, elderly, and handicapped persons in Texas, Arizona, and California. In 1991, NCLR helped local groups to leverage over \$5 million for the construction and rehabilitation of more than 190 housing units, including 45 units for farmworker families. NCLR is also helping six low-income communities in Arizona with the financing and design of safe drinking water and sewer system. Currently, NCLR is in the initial phases of a major new effort, the *Southwest Community Development Initiative*. The Initiative is a multi-year program designed to improve the socio-economic conditions of Hispanics in the Southwest through comprehensive support and assistance to its traditional constituency, Hispanic-controlled community development corporations (CDC's) and other nonprofit community-based organizations. Targeting urbanized areas in Texas, New Mexico, Arizona, California, and Colorado, the Initiative will help about 20 selected Hispanic community development entities to increase their staff and organizational capacity, resources, and linkages, and to achieve multiple

community impacts ranging from housing and community facility development to local political empowerment and improved human services. The Initiative establishes NCLR as a national and regional intermediary, working with other national, regional, and local entities to achieve broad community development objectives.

NCLR's experience has led it to an increased focus on the nexus between the civil rights and housing development fields—the issue of fair lending and disinvestment and the issue of discrimination in insurance and other crucial business and consumer services. In 1987, we joined the Center for Community Change, ACORN, and others in supporting the permanent authorization of the Home Mortgage Disclosure Act (HMDA). During the debate over the Financial Institutions Reform, Recovery, and Enforcement Act in 1989, NCLR strongly supported the provisions that expanded HMDA reporting requirements. Since 1990, we have conducted a series of training sessions for our affiliates on the Community Reinvestment Act (CRA) and HMDA. NCLR not only recognizes the crucial link between civil rights and housing development, but has through its varied activities attempted to make the link concrete. We, therefore, have a profound interest in the subject of insurance discrimination, particularly homeowners' insurance discrimination.

II. Impact of Discrimination on the Hispanic Community

A. OVERVIEW

The history of Hispanic Americans is, in large part, a history of discrimination. The beginnings of the Mexican American experience are rooted in conquest, conflict, and hostility. After the end of the Mexican War in 1848 thousands of Mexicans were murdered. During this time, executions without trial and lynching were a common thread of life in the Southwest. It is not surprising that, then and since, Mexican Americans have been subject to enormous discrimination in education, employment, housing, and the administration of justice.

When Puerto Ricans became U.S. citizens in 1917 as a result of the Jones Act, they too suffered the consequences and stigma of being a conquered minority group. Arriving to the mainland as agricultural laborers and later as industrial workers, Puerto Ricans have faced high levels of social and economic discrimination in education, housing, and employment.

Other Hispanics, including Cuban and Central Americans, have also been subjected to severe levels of discrimination. The stereotypes associated with "Hispanic" are applied indiscriminately to Mexicans, Puerto Ricans, Cubans, and other Spanish speakers. The literature of the U.S. is replete with derogatory references to Hispanics, as "mongrels," "lazy," "ignorant, illiterate and non-moral," etc. The public war against drugs in the 1980's added to hostility against Hispanics as the media focus almost exclusively on South American druglords and traffickers. These references have formed the basis for a stereotype of Hispanics as being inferior, primitive, and dishonest; such stereotypes lead, directly or indirectly, consciously or unconsciously, to discrimination.

While many would prefer to believe that prejudice and bigotry have been all but eradicated—and indeed, there has been much progress—the impact of continued discrimination should not be underestimated. The effects of such discrimination translate directly into social and economic behaviors and conditions which are destructive to all of society. We cite below some historical and recent studies documenting the scope and degree of the more "traditional" forms of employment and housing discrimination against Hispanic Americans.

B. EMPLOYMENT DISCRIMINATION

Employment discrimination serves as a useful, if imprecise, indicator of discrimination against Hispanics in other areas. And in a more obvious way, employment discrimination against Hispanics often delineates the social and economic boundaries within which Hispanics operate, including where they live.

Mounting evidence indicates that negative attitudes about Hispanics affect their employment opportunities. A 1989 study conducted by the Urban Poverty and Family Structure Project at the University of Chicago analyzed the manner in which employer's perceptions of ethnicity and race affect hiring decisions. The study, based on interviews with 185 Chicago-area employers, found that 70 percent of those surveyed made distinctions among employees or potential employees based on ethnicity and race. According to the employers, being Hispanic and/or Black was perceived as being "lower class" and being White meant "middle class." The study confirmed the tendency of employers to generalize about the meaning of ethnicity and race with regard to the quality of the work force and to rely on these generalizations in their hiring practices.

A 1989 study by the Urban Institute indicates that unequal treatment of Hispanic and Black jobseekers is entrenched and widespread. This "hiring audit" enlisted re-

cent college graduates who were over-qualified for positions advertised through newspapers; auditors were articulate and poised, spoke and dressed conventionally, and posed as having prior job experience. Auditors were carefully matched on all characteristics that could affect a hiring decision, and were trained to behave as similarly as possible in an interview setting.

The 360-audit study conducted in Chicago and San Diego indicates that Hispanics, like Blacks, are systematically denied equal opportunity in the hiring process. The study found:

- White applicants received 33 percent more interviews and 52 percent more job offers than the Hispanic applicants; and
- 31 percent of the Hispanic applicants encountered unfavorable treatment in the hiring process, compared to only 11 percent of the Anglo applicants.

Similar results were found in a 1992 hiring audit conducted in the Washington, DC—metropolitan area by the Fair Employment Council of Greater Washington (FEC). In its study, the FEC also used closely matched pairs of Hispanic and Anglo testers to inquire about and apply for advertised job openings by both telephone and mail. The study found that Hispanic testers encountered discrimination due to their national origin in more than one job application in five, or about 22 percent of the time.

Survey research conducted by the General Accounting Office (GAO) documented additional evidence of national origin discrimination against Hispanics. In a March 1990 report on the Immigration Reform and Control Act of 1986 (IRCA), the GAO reported the results of a survey of 4,362 employers concerning the effects of IRCA's employer sanctions provisions on their hiring practices. The GAO found that:

- An estimated 10 percent of the employers surveyed reported discriminating against employees or job applicants solely on the basis of national origin characteristics;
- An estimated 5 percent began a practice of refusing to hire persons based on "foreign" appearance or speech accent; and
- An estimated 8 percent required only "foreign-looking" and "foreign-sounding" persons to comply with IRCA's employment verification requirements, rather than requiring all job applicants to comply as mandated by IRCA.

The effects of employment discrimination may also be measured in terms of lost wages. Labor market research provides substantial evidence that, throughout the 1980's, Hispanics continued to experience high-levels of employment discrimination. At least five independent studies have found that, even after controlling for factors known to affect employment and earnings, such as age, occupation, and educational attainment, a significant proportion of the "earnings gap" between Hispanics and Anglos appears to be attributable to employment discrimination.

- A 1982 National Council of La Raza study, *The Effects of Discrimination on the Earnings of Hispanic Workers: Findings and Policy Implications*, using data from the U.S. Bureau of the Census, March 1981 Current Population Survey, found that 14 percent of the earnings gap between White males and Hispanic males and 29 percent of the gap between White males and Hispanic females were due to ethnicity alone, suggesting serious levels of employment discrimination;
- A 1982 U.S. Commission on Civil Rights report, *Unemployment and Underemployment Among Blacks, Hispanics and Women*, using data from the March 1980 Current Population Survey, found that, while disparities in unemployment and underemployment between Hispanic and Anglos could be explained to some extent as reflections of differences in education, training, and age, substantial disparities remained even after controlling for these factors. The Commission concluded that sufficient evidence exists to suggest that discrimination continues to be a significant, if not precisely quantifiable, factor in employment disparities between Whites and Hispanics.
- A 1985 University of Colorado study, using Census data to analyze the causes of the disparity in earnings among Hispanic, Anglo, and Black males, found that in 1980 discrimination and labor market segmentation accounted for 18 percent of the difference between Hispanic and Anglo male earnings.
- A 1990 study sponsored by the Inter-University Program (IUP) for Latino Research, using data from the 1940, 1950, 1960, 1970, and 1980 Censuses, and the 1983, 1986, and 1988 Current Population Surveys, analyzed and compared Latino and White incomes from 1939 to 1987. After controlling for demographic, occupational, and human capital differences between Hispanics and Whites, the researchers estimated that employment discrimination accounted for:

☆ Approximately 10–16 percent of the gap between Latino male and White male incomes from 1973 through 1987; and

☆ Approximately 30–40 percent of the Latino female-White male income gap over the same period.

The study concluded that, although significant progress was made in the 1960's, inequality due to discrimination in the labor market has not declined, and for many Hispanics has actually increased over the past 20 years. According to the IUP study, discrimination has actually increased for Latino women compared to White women, for Mexican native-born males compared to White males and for Mexican immigrants given similar patterns of industrial employment compared to White men. This persistence and/or renewal of discrimination coincides with the end of major initiatives and some reversals in the area of affirmative action.

- Finally, a study reported in 1991 by Edwin Melendez of the Massachusetts Institute of Technology compared the hourly wages of Hispanics and non-Hispanics in New York City. The study, which used 1980 Census Public Use Microdata Sample for New York City, found that while labor market location was responsible for a substantial proportion of the Hispanic/non-Hispanic wage differential, discrimination was still a very significant factor. The study concludes that discrimination in employment accounted for:

☆ One-third of the wage gap for Mexican, Puerto Rican, and Cuban men and one-half of the wage gap for Other Hispanic men in the New York City labor market; and

☆ Between one-fifth and one-half of the wage gap for all Hispanic women in New York City.

Taken together, the results of these studies provide compelling evidence of persistent, severe employment discrimination against Hispanics. Despite the fact that the studies relied on a number of different data bases and used somewhat different methodologies, the research findings are remarkably consistent:

- The percentage of the Hispanic male-Anglo income gap attributable to employment discrimination falls within a 10–18 percent range;
- The percentage of the Hispanic female-Anglo male income gap attributable to employment discrimination falls within 30–40 percent range.

Considered as a whole, the combination of the cited studies offer persuasive evidence that Hispanics suffer from high levels of discrimination in the labor market. At a minimum, the evidence indicates that true equal employment opportunity for Latinos remains an unfulfilled goal.

C. HOUSING DISCRIMINATION

In addition to employment discrimination, a growing body of evidence documents the scope and degree of housing discrimination against Hispanics:

- *Dallas*: A 1979 HUD audit in Dallas was the first HUD research to focus on the extent of housing discrimination against Hispanics. It had previously been assumed that Hispanics would suffer less than Blacks from housing discrimination for two reasons: Hispanics were a smaller subpopulation, and the income of Hispanic renters was somewhat greater than that of Black renters. The results of the audit showed otherwise.

The Dallas study found that 42 percent of dark-skinned Mexican Americans and 16 percent of light-skinned Mexican Americans were given false information on the availability of rental units. The chance of dark-skinned Mexican Americans experiencing at least one instance of discrimination in a typical housing search was 96 percent, and the probability of light-skinned Mexican Americans experiencing similar discrimination was about 65 percent.

The incidence of discriminatory treatment against dark-skinned Mexican Americans was found to be far greater than that against either Blacks or light-skinned Mexican Americans. Discriminatory treatment against dark-skinned Mexican Americans regarding availability of a unit was two and one-half times as great than against either Blacks or light-skinned Mexican Americans. Furthermore, discriminatory treatment against dark-skinned Mexican Americans on terms and conditions of the contract was far greater.

- *Denver*: A 1982 HUD-funded study in Denver also found evidence of housing discrimination against Hispanics. When teams of White and Hispanic auditors were sent out to homes that were advertised for sale, the White auditors received considerably more information when they asked about homes similar to the advertised house in the same general area or in other locations. One in three Hispanic auditors was told that there were no homes available which were similar to the advertised home and in the same general area, compared to one in five White auditors. Furthermore, 60 percent of Hispanic auditors were told of no similar homes in other areas, compared to 31 percent of White auditors. These differences

in the degree to which Hispanic and White auditors were informed of housing alternatives were sizable and statistically significant.

Discrimination against Hispanics regarding housing availability was not found to be as widespread in the rental housing market in Denver, but some differences in the treatment of Hispanic and White auditors strongly suggest discrimination. For example, Hispanic auditors were twice as likely as Whites to be told that the advertised units were unavailable, and also twice as likely not to be told of other rental housing possibilities which might meet their needs. In neither case, however, were the differences statistically significant.

- *Boston*: A Boston telephone survey found major differences in treatment of Whites and minorities. In a HUD-funded study in 1981, a telephone survey was done of selected realtors who were advertising units for rent. The test teams consisted of three persons: one that would normally be identified by voice as White, one as Black, and one as Hispanic. In the 42 tests conducted, all White testers were invited to come to the office to be shown a unit, while Black and Hispanic renters were informed that no units were available 31 times.

Site visits were carried out on 47 rental firms, including those that were already covered by the telephone survey and continued to advertise units for rent. In 23 of 47 tests, only the White testers were shown units while Black and Hispanic testers were told nothing was available.

- *Housing Discrimination Study*: In 1989, HUD sponsored a national fair housing audit study which was conducted by The Urban Institute. Results were based on 3,800 fair housing audits (paired tests) conducted in 25 metropolitan areas. Pairs of auditors—one White and the other minority—posed as otherwise identical home-seekers. They responded separately to advertisements randomly selected from the major newspapers of 40 metropolitan areas, and recorded their treatment by real estate and rental agents. According to THE study, Hispanics seeking homes experienced discrimination in at least half of their encounters with both sales and rental agents. The HUD study found that the incidence of discrimination is 56 percent for Hispanic homebuyers and 50 percent for Hispanic renters.

Given this large and growing body of evidence, the National Council of La Raza believes that housing discrimination experienced by the Nation's 25 million Americans of Hispanic descent is massive in scale. The effects of such discrimination are examined below.

III. Effects of Housing Discrimination

A. OVERVIEW

While the effects of employment discrimination can be quantified in terms of lost wages, similar calculations with respect to housing discrimination are necessarily more complex and imprecise. One obvious effect is that Latinos almost certainly pay more for comparable housing than non-Hispanics. Given that one effect of housing discrimination is to artificially limit the portion of the housing market accessible to the Latino community, the laws of supply and demand would dictate that the relative price of housing available to Hispanics would increase. And indeed, survey data suggest that Hispanic families pay an excessive portion of their incomes for housing. Between 1978 and 1991, the proportion of poor Hispanic households spending at least 30 percent of their income on housing grew from 69 percent to 80 percent. In 1991, 48 percent of all Hispanic households spent at least 30 percent of their income on housing, and 24 percent of all such households paid at least 50 percent of their income on housing. By comparison, 31 percent of non-Hispanic households spent at least 30 percent of their income on housing, and 14 percent paid at least 50 percent of their income on housing during the same period.

Given the complex relationship between housing location, the quality of Government services, and the nature of the economic development process, housing discrimination has more deleterious—if somewhat more subtle—impacts on Hispanics. These impacts include inferior schooling and stunted opportunities for economic development.

B. SCHOOL SEGREGATION

The significance of discrimination against Latinos seeking housing cannot be over-emphasized. One effect of housing discrimination is school segregation. Analyses of Census data reveal that Hispanic students are more likely than other minority students to attend predominately minority schools; for example, in the 1991-1992 school year, almost three-quarters (73.4 percent) of all Latino students attended schools that were predominately minority, compared to two-thirds (66.0 percent) of Black students. This study, which was commissioned by the National School Board Association, documents the extent and severity of school segregation, noting the "educational damage associated with racial segregation." Segregation by race is

strongly related to segregation by poverty. Students in segregated schools not only face discrimination and stereotypes about minority schools but also attend—schools struggling with the much greater concentration of health, social, and neighborhood problems that are associated with high levels of poverty.

Problems of race and poverty segregation are the direct result of housing policies and housing discrimination. Unless we address the issue of discrimination in the housing market, we are unlikely to successfully resolve the problems associated with school segregation.

C. ECONOMIC DEVELOPMENT STUNTED

A related and equally devastating effect of housing discrimination is its impact on the economic development of a neighborhood. Economic isolation is in large part the direct result of discriminatory housing practices which lead to the concentration of minorities in certain neighborhoods, which in turn are associated with the disinvestment of banking institutions as well as the exodus of the myriad consumer and business services that are crucial to the economic well being of individuals and communities. Individuals and entire neighborhoods suffer the brunt of disinvestment. Disinvestment by economic entities fosters an atmosphere rife with opportunities for exploitation. In many Latino neighborhoods, while there is limited or no access to banking institutions, there is no shortage of usurious check cashing establishments, "currency exchanges," loan sharks, and other shady sources of financing and credit, and no shortage of customers in need of their services. Sociologist William Julius Wilson argues that as communities are isolated from mainstream economic and social institutions, so too are they isolated from mainstream patterns and norms of behavior. Economic isolation is thus inextricably intertwined with persistent poverty, neighborhood decline, and all the social problems attributable thereto.

IV. Home Ownership Opportunities Denied

A. OVERVIEW

In 1991, the *American Housing Survey* (AHS) indicated that only 39 percent of the Hispanic population in the U.S. owned a home; in contrast, 66 percent of the non-Hispanic population owned a home. From a different perspective, approximately 85 percent of all homeowners were non-Hispanic Whites, 8 percent were Black, and only 4 percent were Hispanic.

The social and economic consequences of this disparity are enormous. High rates of home ownership among Americans—frequently encouraged and facilitated by various public policies and subsidies—have been cited by historians and economists alike as being responsible for the "fluidity" or "upward mobility" characteristic of American society. In addition to the clear economic advantages accrued to homeowners in terms of savings, accumulation of wealth, and tax benefits, the very idea of home ownership has had powerful symbolic significance for generations of Americans. If you worked hard and "played by the rules," every American family could expect to own their own home. This ideal, and the fact—that it was true for most Americans, played a major role in assuring that every American "bought into" our social, economic, and political system.

The denial of home ownership opportunities to Hispanics and others based on race or national origin is thus twice damaging—it directly harms the victims of discrimination and also undermines the very ideals upon which our society functions.

B. DISCRIMINATION IN THE MORTGAGE MARKET

The significantly lower levels of home ownership among Latinos are attributable in part to their relatively high rates of poverty. Yet, poverty alone does not account for the consistently low rates of Hispanic home ownership across income, geography, and over time. Discrimination against Hispanics in the private housing finance market appears to play a significant role; for example:

- The 1990 Home Mortgage Disclosure Act (HMDA) data show that within each income category and for every type of loan documented—Government-backed, conventional, refinancing, home improvement—Hispanics were significantly less likely to receive loan approvals than Whites with similar incomes; specifically:
 - ☆ A greater percentage of *low-income* Whites (69 percent) obtained conventional mortgage loans than *moderate-income* Hispanics (68 percent).
 - ☆ *Low-income* Whites had significantly greater approval rates than *upper-income* Hispanics for refinancing and home improvement loans.
- A Department of Justice investigation of a well-known mortgage company in Boston found that in 1992, the denial rate was 11 percent for white mortgage applicants, 21 percent for blacks, and 24 percent for Hispanics.

- According to a 1993 study by Avery, Sniderman, and Beeson who analyzed 1991 HMDA data, the denial rate for mortgage loan applications from Hispanics is 50 percent higher than for White applicants with the same income characteristics.

A common industry response to higher denial rates of mortgage applications from Hispanics is the assertion that Hispanics have higher loan-to-value ratios and are therefore presumed to be more likely to default on a loan. Yet a 1993 study by Berkovec, Canner, Gabriel, and Hannan found that the default rate for Hispanic households does not differ significantly from the rate for White households.

In short, discrimination in the mortgage lending process is a serious problem for Hispanics, and cannot easily be accounted for by market factors.

C. INSURANCE DISCRIMINATION

NCLR believes that discrimination against Hispanics in the insurance market is similarly pervasive, although there are far fewer studies focusing exclusively on insurance discrimination in general or homeowners' insurance discrimination in particular. However, anecdotal evidence suggests that insurance companies "redline" minority neighborhoods in much the same way that banks "redline" minority neighborhoods; for example:

- In 1993, the Texas Department of Insurance (TDI) analyzed participation trends in the State-sponsored insurance plan to which rejected insurance applicants are typically referred. The TDI study found that those areas of high Hispanic concentration (including Dallas, Houston, and the Rio Grande Valley) had significantly higher rates of participation in the State-sponsored insurance pools implying disparities in rejection rates of Hispanic applicants. The study also revealed that those areas without insurance agent operations had high concentrations of Hispanics.
- An ACORN study of five cities indicates that minority and low-income neighborhoods were underinsured by as much as 48 percent in some low-income neighborhoods compared to non-minority areas.
- Just this year, the National Fair Housing Alliance (NFHA) made public the results of a 3 year, in-depth investigation of insurance company practices. Using testers from White and minority neighborhoods, NFHA found widespread discrimination against minority testers in their attempts to obtain homeowners' insurance. In the city of Chicago, the incidence of discriminatory treatment of Latinos more than 95 percent. That is, in over 95 percent of the attempts by a Latino tester to obtain insurance, the insurance company:

- (1) did not return phone calls to offer either a quote on policies or to provide needed information;
- (2) would sell only lower-quality insurance coverage and fail to inform the Latino tester that the coverage was substandard while testers in White neighborhoods were told about top-of-the-line policies; or
- (3) applied stricter standards, such as minimum value requirements.

The implications of insurance discrimination against Latinos are far-reaching. Without homeowners' insurance, Latinos cannot qualify for mortgage loans and therefore cannot become homeowners. Many lenders require replacement value coverage—which, as the NFHA study revealed, is infrequently offered to testers from minority neighborhoods. In addition, the higher costs for insurance coverage in Latino neighborhoods directly affects the level of income disposable toward the purchase of a home. Home ownership is crucial to maintaining or furthering the economic and social viability of neighborhoods. Hence, discrimination by insurance companies can have the effect of stunting economic development and contributing to the decline of neighborhoods in much the same way as housing and mortgage discrimination.

Given the historical evidence regarding discrimination against Hispanics in the employment, housing, and mortgage markets, the strong indications that similar discrimination may be taking place in the insurance market, and the severe consequences such discrimination would have on Latinos' housing choices and rates of home ownership, NCLR believes the time has come for the Congress to enact insurance disclosure legislation. Described below are what we believe to be the essential elements of such legislation.

V. Recommendations

The National Council of La Raza supports the enactment of strong, landmark insurance disclosure legislation. To be effective, such legislation must include four basic provisions:

- *Zip + 4*: It is essential to report information about the availability, cost, and quality of insurance policies on a zip + 4 basis. Reporting on a zip + 4 basis would

allow use of demographic data from the Census Bureau because such data are easily translated into census tract units. Moreover where Hispanics are concerned, the spatial and geographic patterns of Hispanic households, with few exceptions, are not accurately captured by zip codes. By using zip + 4 as the reporting unit, experts and practitioners would be able to analyze whether insurance coverage amount, price, and quality vary according to the demographics of neighborhoods, in particular whether it varies according to the race and income of a neighborhood.

- *Loss Data:* In order to determine whether differences in the cost of insurance reflect real loss experience or racial prejudice and stereotypes, information regarding losses must be made available for analysis.
- *Coverage:* The scope of insurance disclosure legislation should be broad. There is no substantive basis for limiting disclosure of insurance practices to a few urban areas. Excluding small cities and rural areas from the scope of the legislation would amount to a Congressional finding that discrimination only occurs in large, urban areas.
- *Race and Ethnic Data:* This information is essential for civil rights enforcement purposes.

The Los Angeles riots were a painful reminder of the disaffection of minority communities who feel shut out, who have no access, and who feel that American institutions do not offer them the protections other Americans receive. It is the duty of Congress to take immediate, substantive, pro-active steps to address illegal insurance discrimination and the consequences associated with denial of insurance coverage.

On behalf of the National Council of La Raza, we thank the Committee for its consideration of our views, and we are ready to answer any questions you may have.

-10-94 TUE 18:33 ACORN

May 9, 1994

The Honorable Donald W. Riegle
 Chairman
 Committee on Banking, Housing, and Urban Affairs
 U.S. Senate
 Washington, D.C. 20510

Dear Chairman Riegle:

We write to urge you to support and move legislation this year that would require insurance companies to disclose information regarding where they write property insurance, comparable to the information reported by banks and thrifts under the Home Mortgage Disclosure Act (HMDA)

In 1968, the National Advisory Panel on Insurance in Riot Affected Areas found that "communities without insurance are communities without hope." After the riots in Los Angeles in 1992, surveys found that the insurance crisis in minority and low-income areas had not materially abated. Numerous studies by academics, state insurance departments, the federal government and advocacy organizations and recent litigation have demonstrated that discrimination and redlining are pervasive in the insurance industry.

Redlining on the basis of geographic location by the insurance industry has a devastating impact on individuals and communities. It crushes opportunities for homeownership and economic mobility, and is a major impediment to the creation of affordable housing and community development in minority and low- and moderate-income neighborhoods.

We commend you for requesting a study by the General Accounting Office on what data should be collected to examine disparities in the availability, affordability, and accessibility of property insurance. We believe that that recently released report --together with mounting evidence of insurance discrimination-- justify a forceful and immediate response by Congress.

We believe that data collection including race, national origin, and gender data would serve several purposes. First, it would allow the industry, the Congress, and the public to assess the scope and extent of disparities in the provision of property insurance by neighborhood.

Second, it would contribute to an objective assessment of the underlying causes of any such disparities. For over two decades, the insurance industry has dismissed charges of redlining by insisting that any disparities in availability or price of insurance reflect differences in risk. Civil rights, community, and consumer organizations, citing evidence based on statistical data on losses, litigation, and testing, have argued that

discrimination based on the racial characteristics of neighborhoods exists, and is pervasive. Data collection will allow this debate to be settled conclusively, and allow for considered responses by policy makers at the state and federal levels.

Third, data collection can materially assist efforts to enforce state and federal laws prohibiting discrimination in the provision of insurance. As a leading Congressional supporter of the Home Mortgage Disclosure Act (HMDA), we need not tell you how useful this data can be to the banking agencies, HUD, and the Justice Department in their efforts to eradicate lending discrimination. Like HMDA data, data on insurance company activities won't by itself prove discrimination by individual companies. It will, however, assist regulators and civil rights organizations in targeting companies for investigation and enforcement.

Finally, in the same way that the sunshine created by HMDA has produced a revolution in mortgage lending, we are convinced that simply requiring public disclosure of policy information will result in significant changes in insurance industry practices.

We commend you for your staunch commitment over the years to civil rights, community economic development, and consumer protection. We hope that, under your leadership, strong and comprehensive legislation in this area can be enacted this year.

MAY-18-94 TUE 18:34 ACORN

P. 84

Sincerely,

Alliance to End Childhood Lead Poisoning

American Civil Liberties Union

Association of Community Organizations for Reform Now
(ACORN)

Center for Community Change

Consumer Federation of America

Consumers Union

Lawyers Committee for Civil Rights Under Law

Leadership Conference on Civil Rights

The McAuley Institute

National Association for the Advancement of Colored People
(NAACP)

NAACP Legal Defense and Educational Fund, Inc.

National Council of La Raza

National Fair Housing Alliance

National Insurance Consumer Organization

National League of Cities

National Low-Income Housing Coalition

National Neighborhood Coalition

National Puerto Rican Coalition

National Urban League

NETWORK: A National Catholic Social Justice Lobby

Organization for a New Equality (O.N.E.)

Public Citizen's Congress Watch

United Methodist Church, General Board of Church and
Society

U.S. Public Interest Research Group



An Analysis of Zip Code Distribution of
State Farm and Allstate Agents and Policies
in Chicago

ILLINOIS PUBLIC ACTION
April, 1993

AN ANALYSIS OF ZIP CODE DISTRIBUTION OF
STATE FARM AND ALLSTATE AGENTS AND POLICIES IN CHICAGO

Summary of Findings

STATE FARM AND ALLSTATE AGENTS DISPROPORTIONATELY CONCENTRATED
IN NORTHWEST AND SOUTHWEST SIDE ZIP CODES

State Farm and Allstate, the nation's two largest providers of automobile and homeowners insurance, claim not to discriminate in marketing or to redline Chicago neighborhoods. However their agents are disproportionately located on the city's northwest and southwest sides:

- * Nine northwest and three southwest side zip codes had five or more State Farm agents while seven west side and seven south side zips had one or no agents.
- * Nine northwest, four southwest, and two far-south side zip codes had five or more Allstate agents while seven west side and seven south side zips had one or no agents.

STATE FARM AND ALLSTATE POLICIES ARE DISPROPORTIONATELY CON-
CENTRATED IN NORTHWEST AND SOUTHWEST SIDE ZIP CODES

Both State Farm and Allstate contend that the lack of agents does not mean a community is underserved. However the data on auto and home policies provided by the two companies documents a similar pattern of disproportionate distribution:

- * Ten northwest and five southwest side zip codes had the heaviest concentrations of State Farm policies while seven west side and eight south side zips had the least.
- * Six northwest, four southwest side, and four far-south side zip codes had the heaviest concentrations of Allstate policies while four west side and three near-south side zips had the least.

POLICY DISTRIBUTIONS LARGELY REFLECT RACE AND INCOME PATTERNS OF
CHICAGO COMMUNITIES

The disproportionate distribution of both agents and policies generally corresponds to the race and income make-up of Chicago community areas:

- * All of the seventeen zip codes with the greatest concentrations of State Farm policies are in majority white communities, while all but one of the sixteen zip codes with the least concentration, outside the downtown area, are in majority black or hispanic communities.

Continued

- * Allstate had a similar concentration in the majority white communities on the northwest and southwest side although a significant proportion of its policies are in the higher income majority black communities. However most zip codes with the least concentration of policies, outside the downtown area, are in low income communities that are majority black or hispanic.

STATE FARM AND ALLSTATE AGENTS AND POLICIES ARE DISPROPORTIONATELY DISTRIBUTED BY CONGRESSIONAL DISTRICT

Congressional districts, which in Chicago largely adhere to racial boundaries, show the same pattern of disproportionate distribution of auto and home policies:

- * The seven zip codes, excluding the Loop, in the predominantly black Seventh District had 6 State Farm agents and an average of 3,568 policies while the six zip codes in the neighboring but predominantly white Fifth District had 56 agents and average of 18,250 policies.

Allstate had 8 agents and an average of 3,124 policies in the Seventh District zips but 42 agents and an average of 7,583 policies in the Fifth District zip codes.

- * The four zip codes in the predominantly black Second District had 4 State Farm agents and an average of 6,233 policies while the four zip codes in the neighboring but predominantly white Third District had 25 agents and average of 17,777 policies.

Allstate had 10 agents and an average of 8,574 policies in the Second District zips but 36 agents and an average of 9,154 policies in the Third District zip codes.

* * *

**AN ANALYSIS OF ZIP CODE DISTRIBUTION OF
STATE FARM AND ALLSTATE AGENTS AND POLICIES IN CHICAGO**

Introduction: AGENT DISTRIBUTION AND REDLINING

In testimony presented to the U.S. House Subcommittee on Commerce, Consumer Protection and Competitiveness last month, and in previous studies, Illinois Public Action has documented the unequal distribution of State Farm and Allstate offices in Chicago neighborhoods.

These analyses have consistently found a disproportionate concentration of such offices in northwest and southwest side communities that are predominantly white and middle income, and a corresponding lack of those offices in communities on the west and south side that are predominantly black and hispanic.

We have contended that this pattern of office location is a result of discriminatory marketing, often referred as "redlining", that makes it difficult for inter-city consumers to shop for and purchase insurance coverage from State Farm and Allstate. These two firms, who dominate market share both in Illinois and nationwide for automobile and homeowners insurance, generally charge the lowest rates.

As a consequence, many low-income minority Chicagoans are forced into the hands of the "non-standard" carriers which typically have the highest rates and the poorest records of consumer service. With auto liability coverage mandated by law and lenders requiring coverage for home mortgages, the poorest consumers are forced to pay the most for their insurance.

Both State Farm and Allstate have challenged these analyses and they insist that they do not engage in discriminatory marketing or other redlining practices. As they have recently stated to the Subcommittee:

"State Farm strives to offer our insurance products to the general public in a manner that does not discriminate on the basis of race, color, religion or national origin." (1)

"Allstate feels that it is accessible in every neighborhood in the city of Chicago." (2)

Further, both firms claim that because agents are not restricted to selling policies in their immediate vicinity and are willing to provide pricing information over the phone, office locations are not meaningful:

"Just because there is not an agent's office in a particular area does not mean the service provided to consumers living in that area is inferior...Regardless of whether or not a State Farm agent's office is located in a particular zip code, State Farm insures cars and homes on a non-discriminatory basis throughout the city." (3)

"Simply because an agent is not located on a given block or in a particular neighborhood, it should not be construed that we (Allstate) do not write or are seeking to avoid business in that particular location." (4)

However the following analysis substantially contradicts the claims of both companies. Based on the zip code data on policies and agent locations provided by State Farm and Allstate, it is clear that:

- * the marketing of policies is closely correlated with the geographic distribution of agents and offices;
- * that policies are correspondingly concentrated in the communities with the most agents and lacking in those communities with few or no agents; and
- * this uneven distribution of agents and policies largely reflects the racial and income make-up of those communities.

AGENT DISTRIBUTION BY ZIP CODE

As indicated by previous analyses of advertised office locations, both State Farm and Allstate have widely uneven distributions of agents in Chicago communities.

State Farm lists 186 agents ("independent contractors" and trainee agents) as having had offices in 58 Chicago zip codes during the last five years. Although this was an average of slightly more than three per zip, the distribution ranges from no agents in a dozen west side and south side zip codes to as many as twenty in one northwest side zip code. Overall most State Farm agents are concentrated in ten north and northwest, three southwest and one far southeast side zip codes. (Map I)

Allstate lists 215 agents as of February 28, 1993 located in 57 Chicago zip codes (or an average of slightly less than four per zip code.) However a similar pattern of uneven distribution is evident -- ranging from several zip codes on the northwest and southwest sides with more than a dozen agents to ten zip codes on the south and west sides with no agents.

As with State Farm, most Allstate agents are located on the northwest side followed by the southwest side zip codes; although Allstate has a substantially larger number of agents on the far south side side. (Map II)

Agent distribution is closely correlated with policy distribution for both companies. Although zip codes are not a precise designation of the immediate service area (not infrequently an office located on the border of one zip code markets to policyholders across the street in the neighboring zip) the zip codes with the most agents generally have the most policies, and those with the fewest agents have fewer policies.

TABLE I -- AGENTS AND POLICIES PER ZIP CODE

State Farm (auto/1991)

	<u>(#)</u>	<u>Total Policies</u>	<u>Average per Zip Code</u>
Zip Codes with 0 to 1 agents	19	60,200	3,168
Zip Codes with 2 to 4 agents	19	107,139	5,639
Zip Codes with 5 or more agents	14	147,503	10,536

Allstate (auto liability/1992)

	<u>(#)</u>	<u>Total Policies</u>	<u>Average per Zip Code</u>
Zip Codes with 0 to 1 agents	18	28,048	1,558
Zip Codes with 2 to 4 agents	18	57,159	3,172
Zip Codes with 5 or more agents	16	63,958	3,997

NOTE -- data for both firms excludes the downtown zip codes 60601-60606 and O'Hare (60666)

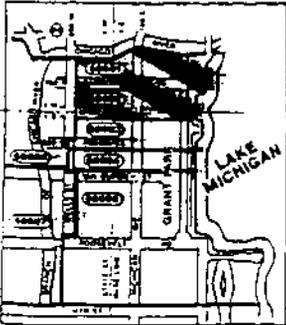
SOURCES: State Farm, Allstate -- see Appendix A

MAP I

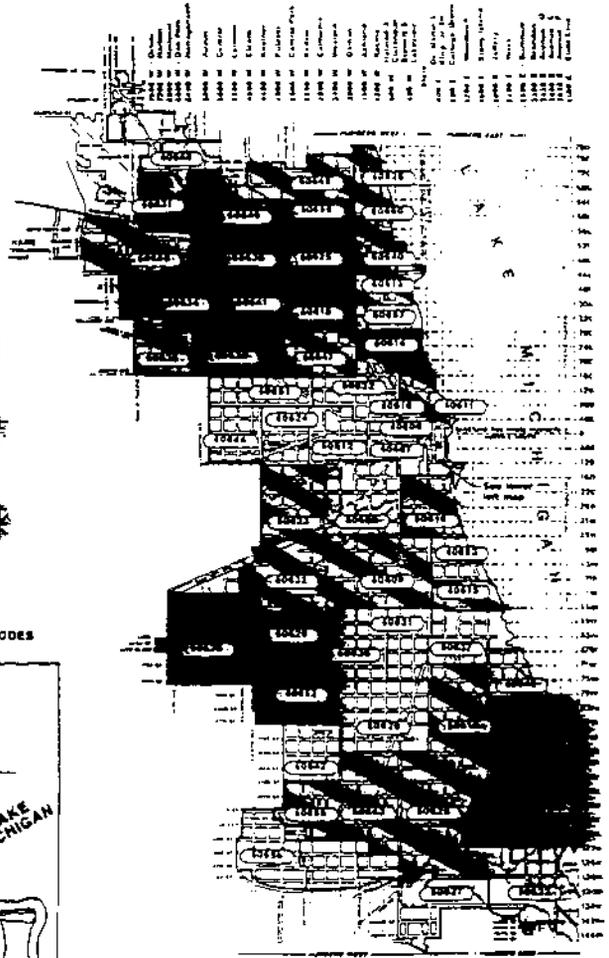
STATE FARM AGENTS
BY ZIP CODE

- 0-1 Agents
- 2-4 Agents
- 5+ Agents

DOWNTOWN DELIVERY ZIP CODES
- Not to Scale -



NOTE:
LOOK FOR HOLDERS-BASE FIRST OFFICE ZIP CODE AREA.
LOOK FOR HOLDERS-GENERAL STATION ZIP CODE AREA.
SEE HOLDERS-BASE ZIP CODE AREA.



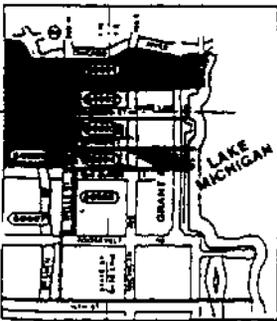
ZIP CODE	AGENTS
63101	0-1
63102	5+
63103	5+
63104	5+
63105	5+
63106	5+
63107	5+
63108	5+
63109	5+
63110	5+
63111	5+
63112	5+
63113	5+
63114	5+
63115	5+
63116	5+
63117	5+
63118	5+
63119	5+
63120	5+
63121	5+
63122	5+
63123	5+
63124	5+
63125	5+
63126	5+
63127	5+
63128	5+
63129	5+
63130	5+
63131	5+
63132	5+
63133	5+
63134	5+
63135	5+
63136	5+
63137	5+
63138	5+
63139	5+
63140	5+
63141	5+
63142	5+
63143	5+
63144	5+
63145	5+
63146	5+
63147	5+
63148	5+
63149	5+
63150	5+
63151	5+
63152	5+
63153	5+
63154	5+
63155	5+
63156	5+
63157	5+
63158	5+
63159	5+
63160	5+
63161	5+
63162	5+
63163	5+
63164	5+
63165	5+
63166	5+
63167	5+
63168	5+
63169	5+
63170	5+
63171	5+
63172	5+
63173	5+
63174	5+
63175	5+
63176	5+
63177	5+
63178	5+
63179	5+
63180	5+
63181	5+
63182	5+
63183	5+
63184	5+
63185	5+
63186	5+
63187	5+
63188	5+
63189	5+
63190	5+
63191	5+
63192	5+
63193	5+
63194	5+
63195	5+
63196	5+
63197	5+
63198	5+
63199	5+
63200	5+

MAP II

ALLSTATE AGENTS
BY ZIP CODE

- 0-1 Agents
- 2-4 Agents
- 5+ Agents

DOWNTOWN DELIVERY ZIP CODES
- Not to Scale -



NOTE
1. ONE SIDE OF DELIVERY AREA FROM EITHER ZIP CODE 63101
2. ONE SIDE OF DELIVERY AREA FROM EITHER ZIP CODE 63102
3. ONE SIDE OF DELIVERY AREA FROM EITHER ZIP CODE 63103
4. ONE SIDE OF DELIVERY AREA FROM EITHER ZIP CODE 63104



While it should come as no surprise that agents and offices are located in neighborhoods with the most policyholders, both State Farm and Allstate have maintained that agent location does not indicate discriminatory marketing. However the zip code data provided by these companies clearly demonstrate that the number of policies is closely correlated with the geographic distribution of agents and offices.

POLICY DISTRIBUTION BY ZIP CODE

State Farm Policies by Zip Code

Based on the exposure data provided to the Subcommittee, State Farm Mutual had 316,710 policies in the City of Chicago during 1991. Map III illustrates the distribution of those policies by zip code.

As is immediately apparent, State Farm policyholders are concentrated in the same communities as their agents. Fourteen north side, five southwest side, one far-south side and one southeast side zip codes had 125% or more of the average number of policies. At the same time, ten south side and eight west side zip codes had less than 75% of the average.

State Farm Fire & Casualty lists 176,843 homeowners policy exposures in 1991 for Chicago. These were distributed similarly as seen on Map IV. Twelve north side, four southwest side and one southeast side zip codes had more than 125% of the average number of policies. At the same time, nine south side and six west side zip codes had less than 75% of the average.

Racial and income breakdowns by zip code are not readily available, but there are data for corresponding community areas. (See Appendix B) Zip codes do not precisely correspond with the community areas, and several include diverse communities, eg. 60608 includes both the white and average income community of Bridgeport and the hispanic and lower-income Lower West Side community (Pilsen). However the community area data allow for some comparisons of policy distribution by race and income.

The zip codes with the highest concentration of State Farm policyholders are all majority white community areas, while almost all of zip codes with the fewest average policies (outside the downtown Loop and Near North areas) are either majority black or hispanic.

Most of the zip codes with the fewest State Farm policies are low-income. However there is no necessary correspondence

MAP III

STATE FARM AUTO
POLICIES

BY ZIP CODE
(1991)

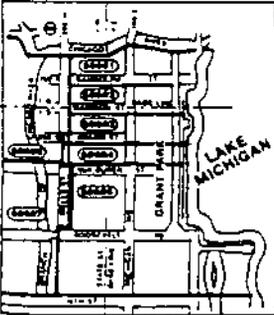
Average per zip
code was 5.460

75% or less
of average 

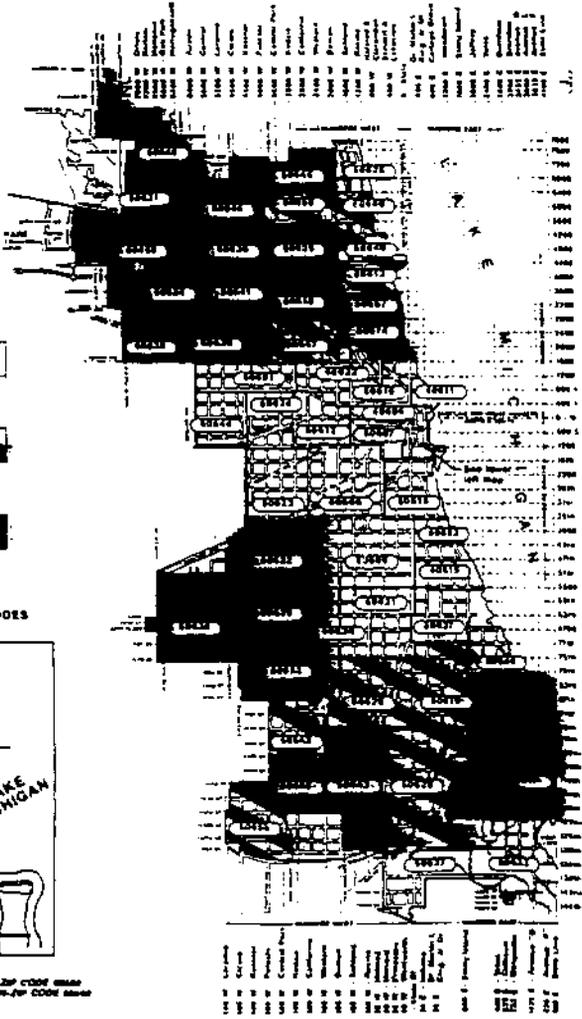
75%-125% of
average 

125% or more
of average 

DOWNTOWN DELIVERY ZIP CODES
- Not to Scale -



NOTE
LOCK BOX HOLDERS-MAIN POST OFFICE-ZIP CODE 63101
LOCK BOX HOLDERS-SEVENTH ST. POST OFFICE-ZIP CODE 63102
W/PO BOXES-MAIN POST OFFICE-ZIP CODE 63101



MAP IV

STATE FARM HOME-OWNERS POLICIES

BY ZIP CODE
(1991)

Average per zip code was 3,049

- 75% or less of average
- 75%-125% of average
- 125% or more of average

DOWNTOWN DELIVERY ZIP CODES
Not to Scale



NOTE
LOCK BOX HOLDING OFFICE ZIP CODE 63101
LOCK BOX HOLDING OFFICE ZIP CODE 63102
MERCHANDISE WAREHOUSE ZIP CODE 63103



ZIP CODE	PERCENTAGE OF AVERAGE
64000	100%
64001	100%
64002	100%
64003	100%
64004	100%
64005	100%
64006	100%
64007	100%
64008	100%
64009	100%
64010	100%
64011	100%
64012	100%
64013	100%
64014	100%
64015	100%
64016	100%
64017	100%
64018	100%
64019	100%
64020	100%
64021	100%
64022	100%
64023	100%
64024	100%
64025	100%
64026	100%
64027	100%
64028	100%
64029	100%
64030	100%
64031	100%
64032	100%
64033	100%
64034	100%
64035	100%
64036	100%
64037	100%
64038	100%
64039	100%
64040	100%
64041	100%
64042	100%
64043	100%
64044	100%
64045	100%
64046	100%
64047	100%
64048	100%
64049	100%
64050	100%
64051	100%
64052	100%
64053	100%
64054	100%
64055	100%
64056	100%
64057	100%
64058	100%
64059	100%
64060	100%
64061	100%
64062	100%
64063	100%
64064	100%
64065	100%
64066	100%
64067	100%
64068	100%
64069	100%
64070	100%
64071	100%
64072	100%
64073	100%
64074	100%
64075	100%
64076	100%
64077	100%
64078	100%
64079	100%
64080	100%
64081	100%
64082	100%
64083	100%
64084	100%
64085	100%
64086	100%
64087	100%
64088	100%
64089	100%
64090	100%
64091	100%
64092	100%
64093	100%
64094	100%
64095	100%
64096	100%
64097	100%
64098	100%
64099	100%
64100	100%
64101	100%
64102	100%
64103	100%
64104	100%
64105	100%
64106	100%
64107	100%
64108	100%
64109	100%
64110	100%
64111	100%
64112	100%
64113	100%
64114	100%
64115	100%
64116	100%
64117	100%
64118	100%
64119	100%
64120	100%
64121	100%
64122	100%
64123	100%
64124	100%
64125	100%
64126	100%
64127	100%
64128	100%
64129	100%
64130	100%
64131	100%
64132	100%
64133	100%
64134	100%
64135	100%
64136	100%
64137	100%
64138	100%
64139	100%
64140	100%
64141	100%
64142	100%
64143	100%
64144	100%
64145	100%
64146	100%
64147	100%
64148	100%
64149	100%
64150	100%
64151	100%
64152	100%
64153	100%
64154	100%
64155	100%
64156	100%
64157	100%
64158	100%
64159	100%
64160	100%
64161	100%
64162	100%
64163	100%
64164	100%

with income: eight of the northwest side zip codes with the highest concentrations of policies are average income, while only one of the five far-south side zip codes representing average income areas had a high concentration of policies.

Although there is a larger number of State Farm policies in average income majority black communities than low-income areas, the numbers are not at all comparable to those in similar income majority white communities.

Allstate Policies by Zip Code

Allstate auto and home policies also closely track agent locations. Allstate had 149,930 automobile liability policies, as measured in written car years, in Chicago during 1992, distributed over 57 zip codes as illustrated by Map V.

Again there was a heavy concentration in the same northwest side, the southwest side and southeast side zip codes as with State Farm. However Allstate also had a larger proportion on its policies in the five far-south side zip codes and a smaller percentage on the far north side.

The distribution of residential property insurance, including both homeowners and renters insurance, was virtually the same based on the data provided to the Subcommittee. Allstate had some 151,493 such new or renewed policies in Chicago in 1992 -- see Map VI.

In general, Allstate's policy distribution corresponds more closely with income distribution than race. While almost all of the zip codes (outside of downtown) with the lowest percentage of Allstate policyholders were either majority black or hispanic, these were also communities with the lowest incomes.

There was a higher concentration of both auto and home policies in the majority black zip codes representing average income communities. (As indicated above, Allstate has a higher number of agents in those areas while having only a handful in the lower-income zip codes.)

POLICY DISTRIBUTION BY CONGRESSIONAL DISTRICT

Another revealing approach to analyzing the zip code policy data provided by State Farm and Allstate is by congressional district. Following last year's redistricting, congressional districts closely follow racial boundaries, particularly in Chicago.

MAP V

ALLSTATE AUTO LIABILITY POLICIES

BY ZIP CODE
(1992)

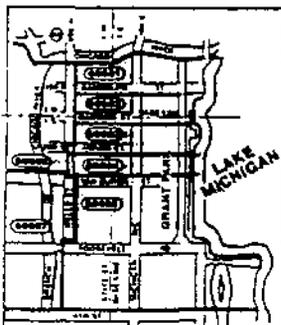
Average per zip code was 2,630

75% or less of average 

75%-125% of average 

125% or more of average 

DOWNTOWN DELIVERY ZIP CODES
- Not to Scale -



NOTE:
1. ZIP CODE HOLDING-NUMBER PREFIXES ZIP CODE BEARS.
2. ZIP CODE HOLDING-NUMBER PREFIXES ZIP CODE BEARS.
3. PREFIXES ZIP CODE BEARS.



MAP VI

ALLSTATE HOME & RENTERS POLICIES

BY ZIP CODE
(1992)

Average per zip code was 2,690

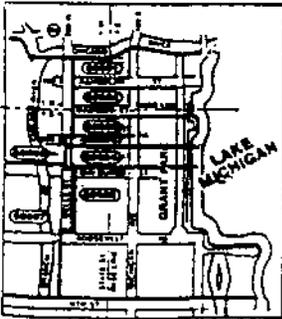
75% or less of average 

75%-125% of average 

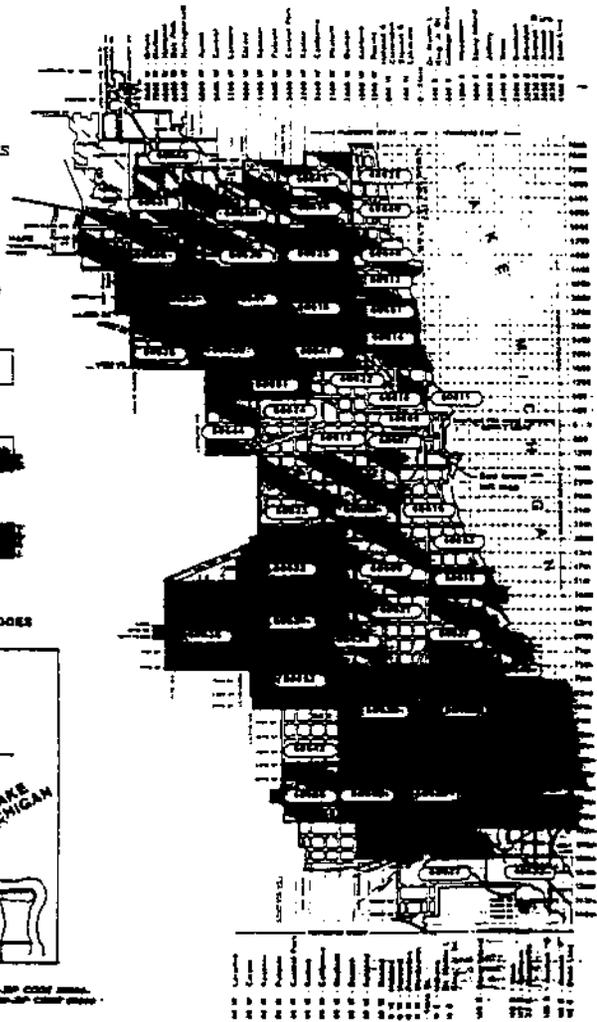
125% or more of average 

DOWNTOWN DELIVERY ZIP CODES

— Not to Scale —



NOTE:
LOOK FOR DELIVERY ZIP CODES WITH OFFICE ZIP CODE AREA.
LOOK FOR POLICIES COVERED BY OFFICE ZIP CODE AREA.
AND INCLUDE MAP ZIP CODE AREA.



Zip code alignments, of course, do not necessarily correspond to the boundaries of the new congressional districts, and often a zip code may be part of two or more such districts. As a consequence, we examined the number of policies in only the 47 zip codes which are wholly or predominantly in a congressional district; the information was not available to accurately apportion the multi-district zip codes.

Tables II and III summarize the policy information by congressional district (see Appendix C for full data.) While the seven Chicago congressional districts represent varying proportions of the cities (and thus differing number of zip codes) several interesting comparisons are possible.

In the four south side zip codes of the predominantly black Second District, there were just four State Farm agents, and an average of 3.767 auto policies and 2.466 home policies. By contrast, the four southwest side zip codes in the overwhelmingly white Third District had 25 agents and averaged 11.766 auto and 6.011 home policies -- nearly three times that of the Second District.

Similarly, in the predominantly black Seventh District, excluding the Loop six zip codes but even including the Near North communities, there were just 6 State Farm agents in seven zip codes. These zips averaged 2.041 auto policies and 1,527 home policies.

The five zip codes in the adjacent and predominantly hispanic Fourth District had just eight agents; they averaged 3,965 auto and 2,560 home policies. However the neighboring six zip codes in the overwhelmingly white Fifth District had 56 agents; and an average of 11.835 auto and 6,415 home policies -- more than five times the average per zip code in the Seventh District and two-and-a-half times the average in the Fourth.

The pattern is similar, if not as extreme, for Allstate. While the number of agents was greater in the Third District zip codes than the Second, and the average number of policies, both home and auto, was much closer.

However the non-Loop zip codes in the Seventh District had only Allstate eight agents, averaging just 1.325 auto and 1,799 home policies. In the Fourth District, there were six agents and an average of 2.417 auto and 2,677 home policies.

By contrast, in the Fifth District there were 42 agents and an average of 3.924 auto policies and 3,659 home policies -- more than twice the average in the Seventh and more than 50% greater than in the Fourth.

TABLE 11 -- STATE FARM POLICIES BY CONGRESSIONAL DISTRICT IN CHICAGO

AUTO/1991

<u>Cong. District</u>	<u>Zip Codes in District*</u>	<u>Total Policies</u>	<u>Average Pol./Zip</u>	<u>Listed Agents</u>
1	7	25,629	3,661	10
2	4	15,067	3,767	4
3	4	47,065	11,766	25
4	5	19,825	3,965	8
5	6	71,008	11,835	56
7	6 downtown 7 other	1,868 14,290	311 2,041	9 6
9	8	51,730	6,466	28

HOME/1991

<u>Cong. District</u>	<u>Zip Codes in District*</u>	<u>Total Policies</u>	<u>Average Pol./Zip</u>	<u>Listed Agents</u>
1	7	12,487	1,784	10
2	4	9,863	2,466	4
3	4	24,044	6,011	25
4	5	12,801	2,560	8
5	6	38,491	6,415	56
7	6 downtown 7 other	1,470 10,688	245 1,527	9 6
9	8	27,212	3,402	28

Includes zip codes only wholly or predominantly in a congressional district; does not include partial zip codes.

TABLE III -- ALLSTATE POLICIES BY CONGRESSIONAL DISTRICT IN CHICAGO

AUTO (Liability)/1992

<u>Cong. District</u>	<u>Zip Codes in District*</u>	<u>Total Policies</u>	<u>Average Pol./Zip</u>	<u>Listed Agents</u>
1	7	20,221	2,889	14
2	4	17,130	4,282	10
3	4	20,028	5,007	36
4	5	12,085	2,417	6
5	6	23,546	3,924	42
7	6 downtown	770	128	20
	7 other	9,278	1,325	8
9	8	15,240	1,905	35

HOME (Homeowners & Renters)/1992

<u>Cong. District</u>	<u>Zip Codes in District*</u>	<u>Total Policies</u>	<u>Average Pol./Zip</u>	<u>Listed Agents</u>
1	7	21,405	3,058	14
2	4	17,170	4,292	10
3	4	16,588	4,147	36
4	5	13,387	2,677	6
5	6	21,952	3,659	42
7	6 downtown	853	142	20
	7 other	12,595	1,799	8
9	8	16,482	2,060	35

* Includes zip codes only wholly or predominantly in a congressional district; does not include partial zip codes.

As with the community area data, the congressional district analyses demonstrate the same pattern of uneven distribution of agents and policies, which largely reflect the racial and income make-up of those districts.

A Concluding Note

Only with policy information by census tract could a more precise correlation between agents, policies, race and income be possible. However the zip code data presented to the Subcommittee does provide a clear picture of the disproportionate concentration of policies in predominantly white and middle-income northwest and southwest side communities and a corresponding lack of those policies in communities on the west and south side that are predominantly black or hispanic. And that disproportionate distribution closely reflects the office locations of State Farm and Allstate agents.

NOTES

- (1) Quoted from correspondence to Representative Cardiss Collins, Chair of the Subcommittee on Commerce, Consumer Protection and Competitiveness, U.S. House of Representatives from Cranford A. Ingham, Vice-President and General Counsel, State Farm Mutual Automobile Insurance Company, dated March 30, 1993
- (2) Quoted from correspondence to Representative Cardiss Collins, Chair of the Subcommittee on Commerce, Consumer Protection and Competitiveness, U.S. House of Representatives from Allstate Insurance Company, March, 1993
- (3) State Farm, op cit.
- (4) Allstate, op cit.

All data subsequently cited on agent locations, automobile and home insurance policies by zip codes from information provided to the Subcommittee in these correspondences. Data in Appendix B on community areas from the Census Bureau, U.S. Department of Commerce.

* * *

APPENDIX A -- Agents and Policies by Zip Code

STATE FARM (auto/1991)

<u>Zip Codes with 0 to 1 Agents</u>		<u>Zip Codes with 2 to 4 Agents</u>		<u>Zip Codes with 5 or More Agents</u>	
<u>Zip</u>	<u>Policies</u>	<u>Zip</u>	<u>Policies</u>	<u>Zip</u>	<u>Policies</u>
60607	1105	60609	3942	60614	9013
60608	4076	60610	3506	60617	10303
60612	1016	60611	2587	60618	11001
60620	5899	60613	5565	60625	9203
60621	1026	60615	3303	60629	13739
60622	3818	60616	3861	60630	11809
60624	1017	60619	4614	60631	7175
60627	2148	60623	3240	60634	18925
60633	2669	60626	4000	60638	14171
60636	1829	60628	5191	60639	7258
60637	2516	60632	9386	60641	10398
60642	5184	60635	9021	60646	9417
60644	1961	60640	5563	60652	9769
60648	8410	60643	7808	60659	5322
60649	2033	60645	7322		
60651	3098	60647	4749	(14)	<u>147,503</u>
60653	436	60655	7543		
60657	7430	60656	11660		Average: 10,536
60658	4529	60660	4278		
(19)	<u>60,200</u>	(19)	<u>107,139</u>		
Average:	3,168	Average:	5,639		

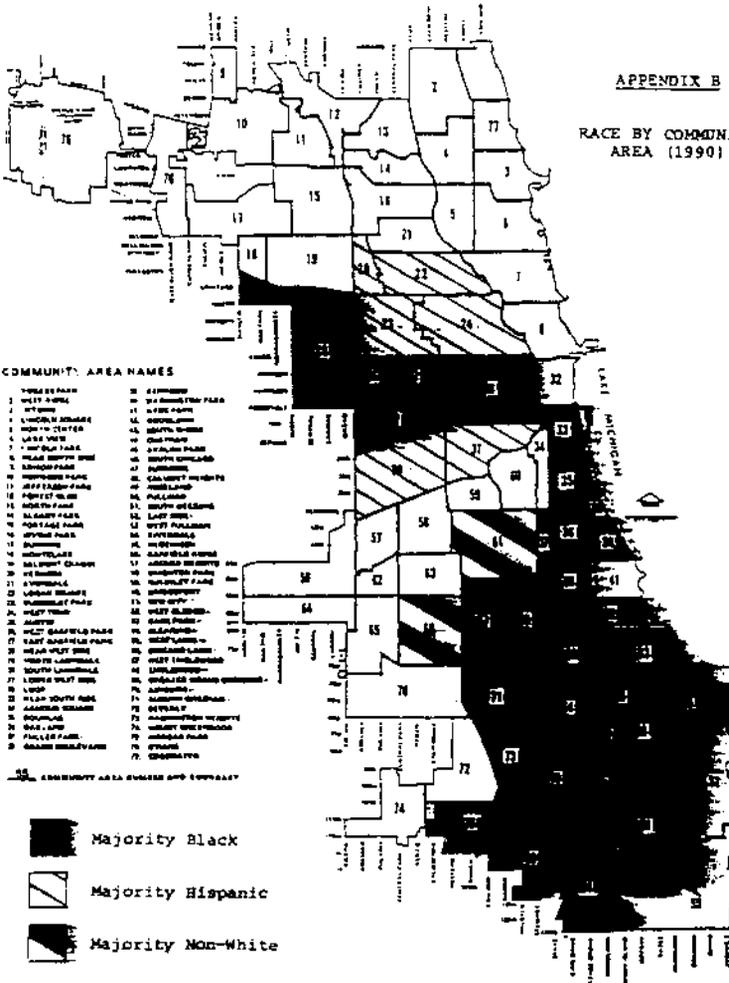
APPENDIX A/2

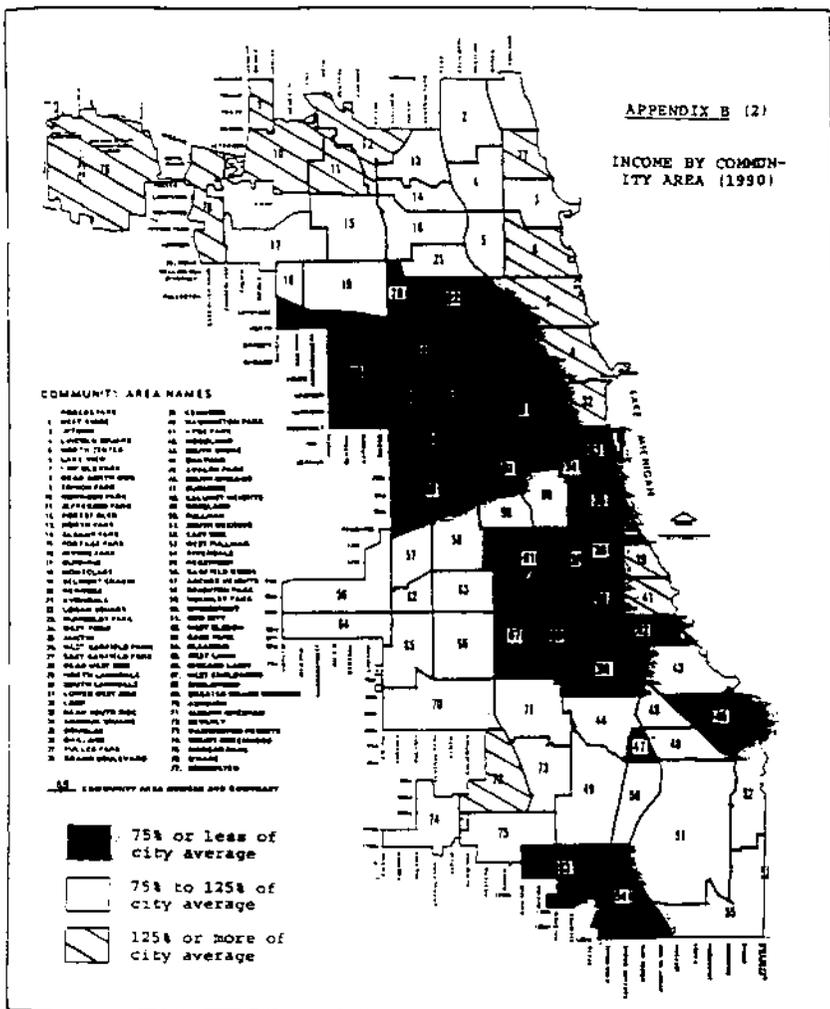
ALLSTATE (auto liability/1992)

Zip Codes with 0 to 1 Agents		Zip Codes with 2 to 4 Agents		Zip Codes with 5 or More Agents	
Zip	Policies	Zip	Policies	Zip	Policies
60608	2196	60607	417	60610	1246
60609	2150	60613	2576	60614	3049
60611	890	60616	2074	60618	5642
60612	824	60617	6607	60620	7456
60615	2297	60619	8701	60629	6702
60621	1988	60625	3576	60631	2285
60622	1569	60628	7082	60632	4773
60623	2414	60630	4542	60634	5421
60624	1538	60633	626	60635	1430
60626	1513	60638	4828	60639	3699
60627	181	60640	2154	60641	4622
60636	2411	60645	2341	60643	4469
60637	2321	60647	3756	60646	2406
60642	211	60649	3038	60652	3729
60644	2060	60657	3081	60655	2670
60648	206	60660	1706	60656	2306
60651	2305			60659	2053
60653	976	(16)	<u>57,159</u>	(17)	<u>63,958</u>
(18)	<u>28,048</u>	Average:	3,572	Average:	3,762
Average:	1,558				

APPENDIX B

RACE BY COMMUNITY AREA (1990)





APPENDIX C -- Chicago Agents and Policies by Congressional District

State Farm (1991)

FIRST DISTRICT

<u>Zip Code</u>	<u>Agents</u>	<u>Auto Policies</u>	<u>Home Policies</u>
60615	2	3303	1608
60619	4	4614	2382
60637	0	2516	1102
60642	0	5184	2554
60649	1	2033	1094
60653	0	436	153
60655	3	7543	3594
TOTAL	1.1	25629	12487
Av./Zip		3661	1784

SECOND DISTRICT

<u>Zip Code</u>	<u>Agents</u>	<u>Auto Policies</u>	<u>Home Policies</u>
60620	1	5899	3662
60627	0	2148	1134
60628	2	5191	3757
60636	1	1829	1310
TOTAL	4	15067	9863
Av./Zip	1	3767	2466

THIRD DISTRICT

<u>Zip Code</u>	<u>Agents</u>	<u>Auto Policies</u>	<u>Home Policies</u>
60629	7	13739	7639
60632	4	9386	5230
60638	5	14171	6399
60652	9	9769	4776
TOTAL	25	47065	24044
Av./Zip	6.2	11766	6011

APPENDIX C/2

FOURTH DISTRICT

<u>Zip Code</u>	<u>Agents</u>	<u>Auto Policies</u>	<u>Home Policies</u>
60608	1	4076	2192
60609	3	3942	2356
60622	0	3818	2026
60623	2	3240	2640
60647	2	4749	3587
TOTAL	8	19825	12801
Av./Zip	1.6	3965	2560

FIFTH DISTRICT

<u>Zip Code</u>	<u>Agents</u>	<u>Auto Policies</u>	<u>Home Policies</u>
60614	5	9013	7432
60625	6	9203	4247
60630	12	11809	6144
60634	20	18925	9577
60641	10	10398	5459
60656	3	11660	5632
TOTAL	56	71008	38491
Av./Zip	9.3	11835	6415

SEVENTH DISTRICT

<u>Zip Code</u>	<u>Agents</u>	<u>Auto Policies</u>	<u>Home Policies</u>
60601-06	9	1868	1470
60607	0	1105	707
60610	2	3506	2991
60611	3	2587	2268
60612	0	1016	563
60624	0	1017	475
60644	1	1961	1160
60651	0	3098	2524
TOTAL (non-Loop)	6	14290	10688
Av./Zip (non-Loop)	0.9	2041	1527

APPENDIX C/3

NINTH DISTRICT

<u>Zip Code</u>	<u>Agents</u>	<u>Auto Policies</u>	<u>Home Policies</u>
60613	2	5565	3596
60626	3	4000	2407
60631	6	7175	3603
60640	2	5563	2589
60645	3	7322	3945
60646	10	9417	4558
60648	0	8410	4033
60660	2	4278	2481
TOTAL	28	51730	27212
Av./Zip	3.5	6466	3402

APPENDIX C/4

All state (1992)

FIRST DISTRICT

<u>Zip Code</u>	<u>Agents</u>	<u>Auto Policies</u>	<u>Home Policies</u>
60615	1	2297	3929
60619	3	8701	8064
60637	0	2391	2297
60642	0	211	1432
60649	3	3038	2933
60653	0	976	655
60655	7	2607	2095
TOTAL	14	20221	21405
Av./Zip	2	2889	3058

SECOND DISTRICT

<u>Zip Code</u>	<u>Agents</u>	<u>Auto Policies</u>	<u>Home Policies</u>
60620	7	7456	6219
60627	0	181	1080
60628	2	7082	6743
60636	1	2411	3128
TOTAL	10	17130	17170
Av./Zip	2.5	4282	4292

THIRD DISTRICT

<u>Zip Code</u>	<u>Agents</u>	<u>Auto Policies</u>	<u>Home Policies</u>
60629	8	6702	6272
60632	8	4773	3893
60638	4	4824	3633
60652	16	3729	2790
TOTAL	36	20028	16588
Av./Zip	9	5007	4147

APPENDIX C/5

FOURTH DISTRICT

<u>Zip Code</u>	<u>Agents</u>	<u>Auto Policies</u>	<u>Home Policies</u>
60608	2	2196	2773
60609	0	2150	2441
60622	1	1569	1916
60623	0	2414	2733
60647	3	3756	3524
TOTAL	6	12085	13387
Av./Zip	1.2	2417	2677

FIFTH DISTRICT

<u>Zip Code</u>	<u>Agents</u>	<u>Auto Policies</u>	<u>Home Policies</u>
60614	9	3049	4264
60625	2	3576	3448
60630	3	4542	3188
60634	13	5451	4742
60641	10	4622	3442
60656	5	2306	2868
TOTAL	42	23546	21952
Av./Zip	7	3924	3659

SEVENTH DISTRICT

<u>Zip Code</u>	<u>Agents</u>	<u>Auto Policies</u>	<u>Home Policies</u>
60601-06	20	770	853
-----	-----	-----	-----
60607	2	417	395
60610	5	1246	2047
60611	1	890	1476
60612	0	824	480
60624	0	1536	1604
60644	0	2060	2454
60651	0	2305	4141
TOTAL (non-Loop)	8	9278	12595
Av./Zip (non-Loop)	1.1	1325	1799

APPENDIX C/6

NINTH DISTRICT

<u>Zip Code</u>	<u>Agents</u>	<u>Auto Policies</u>	<u>Home Policies</u>
60613	4	2576	2877
60626	1	1511	1427
60631	14	2285	2432
60640	5	2153	2131
60645	2	2341	2499
60646	7	2406	2402
60648	0	206	1056
60660	2	1760	1658
TOTAL	35	15240	16482
Av./Zip	4.4	1905	2060



State of Missouri

Mel Carnahan, Governor

Department of Insurance
 P.O. Box 690
 Jefferson City, Missouri 65102-0690

Jay Angoff
 Director

May 10, 1994

The Honorable Donald W. Riegler
 Chairman Committee on Banking, Housing and Urban Affairs
 The United States Senate
 Washington, D.C. 20610-8076

Dear Senator Riegler:

It is with deep personal regret that I am unable to attend the hearing on Insurance Redlining scheduled for tomorrow, due to my commitments concerning health care reform measures in this state. I am enclosing our March 1993 study as you have requested. In addition, my staff has prepared new tables which will be of interest to your committee.

Since the Missouri Department of Insurance has completed several market conduct exams on the issue of affordability and availability of insurance. Below are some observations drawn from those exams.

First, there is an essential need for data. Missouri began to collect homeowners insurance and private passenger automobile insurance data by zip code since 1979 under our statute, Section 374.400, Revised Statutes of Missouri. Without an adequate data base, it is difficult to monitor the degree of competition in the individual neighborhoods (zip codes) of this state and to know which companies write what type of coverage in what geographic location. The department needs to be able to direct its efforts intelligently to the problem areas or target the companies that appear to reduce coverage for protected classes of business.

Second, there is a need to monitor competition for personal lines. In accordance with the McCarran Ferguson Act of 1945 we believe that if open competition is employed by a state for rate regulation, then "active supervision" must be implemented. It is by monitoring competition and its effects that we are able to ensure that all markets are being served in this state effectively.

Our mode of monitoring competition and policing the protections provided in the Unfair Trade Practices Act has been by zip code analysis. There is pending legislation before the U.S. Congress that supports this position. (Kennedy H.R.1257 and Collins HR 1188) From our analysis and market conduct examinations of insurers we have seen that there is a problem in the accessibility

Harry S Truman State Office Building, Room 630 • 301 West High • Jefferson City, Missouri 65101
 Telephone 314/751-4126 or TDD 314/526-4536 (Hearing Impaired)

The Honorable Donald W. Riegle
May 10, 1994
Page 2

of insurer placed agents, in the availability of coverage due to underwriting rules and in the affordability of coverage fairly priced.

Using our data on agent appointments by zip code and consequent number of policies written, we found that a strong significant positive correlation existed in that the more agents in a locale, the more policies written.

After targeting several exams of major writers of homeowners coverages in our state we have learned that several underwriting variables are being used as surrogates for valid criteria.

Variables such as the age of the home is used as a substitute for the condition of residence. The condition of the property has an intuitive fairness in that it is tied to the probability of loss; however, a false assumption exists in that older homes must be in poor condition. Such a standard overlooks the effects of rehabilitation of older properties such that their heavier construction is more resistant to high winds than a new home.

Another variable used is the minimum amount of insurance coverage which presumes that a smaller home is more likely to suffer a loss than a larger, more expensive property. Tornadoes, of course, are insensitive to the value or size of a home. Larger homes present greater exposure to risk, as any insurer's rate table will reflect.

Another variable is the relationship of replacement cost to market value of a property. This is unnecessary since market value policies have been developed to address this issue.

Most insurers have undertaken to use variables to accept or reject a risk; variables that are convenient though are in no way accurate in assessing the risk of the loss. Use of such variables create dislocation in the competitive market by leaving various populations without coverage with little or no concern as to the impact upon neighborhoods since these variables are thought of as "objective". No test of disparate impact has ever been applied in any states' Unfair Trade Practice laws for insurance.

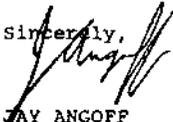
As to the matter of affordability of coverage, we have done some initial evaluations of territorial rating structures in light of five years of loss cost data from over 95% of the Missouri market. We have employed analysis of variance techniques and multiple regressions in order to defend territorial assignments. To date, our conclusion is that the primary force in territorial assignments

Honorable Donald W. Riegle
May 10, 1994
Page 3

is a market driven desire to seek and avoid segments of the population through pricing mechanisms. This type of analysis can only be accomplished through the collection of loss data by zip code as well as exposure data.

Since states are unwilling or unprepared to monitor competition in their markets, including the collection of loss data to evaluate the fairness of rate structures as they exist, we strongly support the concept of a federal mandate as in H.R. 1257 and H.R. 1188.

Sincerely,



JAY ANGOFF
Director of Insurance
State of Missouri

JA:dh

Enclosure

Missouri Department of Insurance Market Excluded by Minimum Value Policy Underwriting Rule

ZIP CODE Category	% Houses Less Than \$40,000
100% Urban	20.69
100% Rural	55.19
> 80% Non-white	67.06
Statewide	26.87

Source: Bureau of the Census 1990 Census

Missouri Department of Insurance Market Excluded by Minimum Value Policy Underwriting Rule

ZIP CODE Category	% Houses Less Than \$50,000
100% Urban	34.14
100% Rural	67.88
> 80% Non-white	83.03
Statewide	38.83

Source: Bureau of the Census 1990 Census

Missouri Department of Insurance Market Excluded by Age of Home Using 35 Year Underwriting Rule

ZIP CODE Category	% Houses Built Before 1960
100% Urban	68.67
100% Rural	38.17
> 80% Non-white	90.02
Statewide	43.48

Source: Bureau of the Census 1990 Census

Missouri Department of Insurance Market Excluded by Age of Home Using 25 Year Underwriting Rule

ZIP CODE Category	% Houses Built Before 1970
100% Urban	85.99
100% Rural	53.37
> 80% Non-white	95.79
Statewide	61.37

122

In our preliminary analysis of territory base rates, we have found a surprisingly low correlation between territorial base rates and territory loss experience

PREPARED STATEMENT OF JAY ANGOFF
DIRECTOR, MISSOURI INSURANCE DEPARTMENT

I am very pleased to announce that almost all of the leading homeowners' insurers in Missouri have voluntarily agreed to allow us to disclose the ratio between their statewide market share and their high-minority zip code market shares. I applaud them for their positive and helpful responses and for the spirit of cooperation they have shown.

They have also raised some important issues that should be given serious consideration by anyone interested in how the homeowners' insurance market functions. These issues include:

1. *Whether an insurer who is located in a certain region of the State should be required to insure people throughout the State.* Some insurers specialize in insuring people in the region in which they're located. They employ people in that region and they know that region well. Is there anything wrong with such insurers limiting themselves to insuring people in their own region?

2. *Whether cost per \$1,000 of premium is the best way to measure the cost of insurance.* Several insurers accurately point out that lower amounts of insurance cost more per \$1,000 of insurance than do higher amounts of insurance; and that low-income people, who presumably buy lesser amounts of insurance, would therefore pay more per \$1,000 of coverage. On the other hand, this argument does not justify lower loss ratios (i.e., amount paid out per premium dollar) for lower amounts of coverage than for higher amounts of coverage.

3. *Whether Missouri law authorizes insurers to refuse to write in certain zip codes.* Subsection (c) of section 375.936(11) of the Missouri code prohibits refusing to insure based on geographic location. Subsection (g) prohibits refusing to insure based on race. Subsection (i)a, however, provides that the prohibitions contained in subsections (c) and (g) do not apply if the refusal to insure "is for a business purpose which is not a mere pretext for unfair discrimination." If some insurers do refuse to write in certain zip codes, therefore, are they merely doing what the law permits them to do?

4. *Whether insurers who do have a substantial presence in urban areas should be penalized for "cherry-picking" the market.* If a limited number of insurers are willing to write substantial business in urban areas, is it fair to them to require them to insure all urban business?

5. *Whether, as a practical matter, insurers can be forced to write business in areas in which they don't wish to write.* Regardless of what the law provides, and regardless of the context to which the State disseminates comparative price information or information about how to contact insurers, if an insurance company has no agents in certain areas will residents of those areas buy insurance from that company?

The Department believes that all the above are important questions which do not have easy answers. We look forward to a continued discussion on homeowners' insurance issues in hopes that these issues can be resolved in a manner that will benefit both the public and the insurance industry.

HOMEOWNERS' INSURANCE IN MISSOURI

Introduction

Statistical data on the availability and affordability of homeowners' insurance in Missouri has been available for years, but has never been extensively studied.

This report is a synopsis of an initial study undertaken by the Missouri Department of Insurance to analyze the information reported by the insurance industry to the department regarding rates charged, claims paid, and types of policies sold in low-income areas.

The report compares the experience in low-income zip codes in St. Louis and Kansas City to statewide market experience. It also compares what is happening in the insurance market in predominantly black low-income neighborhoods and predominantly white low-income neighborhoods.

Background

Missouri is one of the few States in the Nation with extensive and detailed data on homeowners' insurance.

In 1978, the Missouri legislature enacted a law directing the Missouri Department of Insurance to collect data on homeowners' insurance on an annual basis. The following year a similar law was enacted requiring collection of auto insurance data.

These laws provide that each insurer writing business in the State is required to report all premium and loss data to the director of the department. The laws also state that the director shall establish the statistical base for the reporting of the information.

Pursuant to those laws, Missouri has required that insurance companies report statistical information by zip code. The data to be reported includes the number of policies a company writes, the amount of premium it receives, the amount of claims it pays, and the amount it pays out in claims.

Neither of the statutes regarding the collection of the data state that it will remain confidential. In fact, the automobile insurance disclosure law expressly states that the director shall make reports of the data available to the public. Nevertheless, due to the claims of insurers that this information was proprietary, prior Administrations verbally agreed that information that identified companies would remain confidential.

That agreement was put in writing in 1987 in a departmental bulletin issued by Director Lewis Crist. This bulletin, which does not have the force of law, stated that homeowners' and auto insurance data submitted to the department "will not be distributed to anyone other than the submitting insurer or a member of its group except on an aggregate (total of all insurers reporting) basis."

In view of the understanding that has existed between the department and the insurance industry, the department believes that at this time it would be unporting to identify individual company data, or to release the data in a manner that would enable the reader, by using other publicly available data, to identify individual company data. Therefore, this report contains no data that would enable a reader to identify any individual insurer data.

Findings

This study is based upon the last 5 years of information filed by insurance companies writing homeowners' insurance in Missouri.

Table 1 sets out the average rates charged, the types of policies sold, and the losses paid in minority and white low-income zip codes in St. Louis. That data is compared to statewide data for all incomes and all zip codes.

As this table demonstrates, St. Louis policyholders in the eight minority low-income urban zip codes paid an average of \$6.15 for every thousand dollars of insurance coverage. Policyholders in the three white low-income zip codes paid \$4.70 per thousand. On a statewide basis, policyholders paid \$4.27.

In addition, differences exist in coverage costs within the minority zip codes. For example, the cost per thousand ranged from a low of \$5.64 in zip code 63133, which is 82 percent minority, to a high of \$7.77 per thousand in zip code 63106, which is 94 percent minority.

Substantial differences also exist in the types of insurance policies sold in the minority and white low-income zip codes. For example, 74 percent of all policies sold in minority zip codes were limited policies, whereas, 41 percent of policies sold in white zip codes were limited policies. Only 23 percent of policyholders bought limited policies on a statewide basis.

So-called limited policies limit coverage in some way. Typically, a limited policy insures the actual cash value of the home rather than its replacement cost. It may also limit liability, theft, or contents coverage. In contrast, a standard policy typically covers the costs of replacing the dwelling and its contents, and provides comprehensive liability coverage.

Finally, the amount of money insurers paid out to policyholders in claims differed by zip code. For example, for every dollar insurers received in premium from policyholders in minority low-income zip codes, they paid out 64 cents in claims—in insurance jargon—their loss ratio was 64 percent. In contrast, insurers paid out 66 cents on the dollar in white low-income zip codes, and 58 cents on the dollar statewide.

Table 2 breaks out St. Louis cost and pay out information further by type of policy purchased. For example, the average cost for a limited policy in minority zip codes was \$7.30 compared to \$4.65 in white zip codes and \$5.45 statewide. Yet the 57 percent loss ratio in minority zip codes was substantially lower than the 72 percent loss ratio in white zip codes.

Tables 3 and 4 set out the same type of data for Kansas City as do tables 1 and 2 for St. Louis. In Kansas City, as in St. Louis, residents of minority low-income zip codes paid more for coverage than both residents of white low-income zip codes and Missouri residents in general. Also, insurers sold more limited policies in minority low-income zip codes than they did in white low-income zip codes or statewide. And their loss ratio on those policies—45 percent—was lower than it was in either white low-income zip codes or statewide.

Table 5 ranks the top 20 homeowners' insurers by ratio of statewide market share to market share in minority low-income zip codes.

As the table indicates, Company A's market share statewide was 62 times greater than its market share in minority zip codes. Eleven insurers had statewide market shares that were more than three times their minority market shares.

On the other hand, eight carriers had higher market shares in the minority zip codes than they did in the State as a whole.

TABLE 1

**ST. LOUIS MSA
LOW INCOME URBAN ZIPS**

ZIP	AVERAGE HOUSEHOLD INCOME	% NON-WHITE POPULATION	AVERAGE COST PER THOUSAND	STANDARD POLICIES	LIMITED POLICIES	LOSS FREQUENCY	LOSS SEVERITY	CASH FLOW LOSS RATIO
Minority (Greater than 80% Non-White)								
63106	\$12,324	94%	\$7.77	12%	88%	3.89%	\$3,035	72%
63107	\$19,113	87%	\$6.61	13%	87%	4.73%	\$2,585	63%
63112	\$24,251	86%	\$6.32	31%	69%	5.82%	\$2,402	61%
63113	\$19,086	99%	\$6.44	16%	84%	7.42%	\$1,643	64%
63115	\$21,957	99%	\$5.72	31%	69%	7.19%	\$1,755	58%
63120	\$22,143	96%	\$6.05	29%	71%	12.97%	\$1,343	85%
63133	\$23,601	82%	\$5.64	50%	50%	6.60%	\$1,703	52%
63140	\$16,507	99%	\$7.15	26%	74%	5.23%	\$3,571	89%
Area Totals	\$19,873	93%	\$6.35	26%	74%	7.10%	\$1,863	64%
White (Less than 20% Non-White)								
63111	\$22,527	5%	\$4.73	62%	38%	7.71%	\$1,765	65%
63118	\$22,130	19%	\$4.84	46%	54%	7.23%	\$2,021	72%
63143	\$25,509	16%	\$4.36	80%	20%	5.87%	\$2,050	55%
Area Totals	\$23,389	13%	\$4.70	59%	41%	7.15%	\$1,922	66%

126

**STATEWIDE
ALL INCOME - ALL ZIPS**

Statewide	\$33,484	12%	\$4.27	77%	23%	7.83%	\$1,838	58%
------------------	-----------------	------------	---------------	------------	------------	--------------	----------------	------------

TABLE 2

ST. LOUIS MSA - LOW INCOME URBAN ZIPS

	AVERAGE LOSS PER THOUSAND	LOSS FREQUENCY	LOSS SHARE	LOSS RATIO
Minority (Greater than 80% Non-White)				
All Policies	\$6.15	7.10%	\$1,863	64%
Standard Policies	\$4.77	9.70%	\$2,172	76%
Limited Policies	\$7.30	6.17%	\$1,689	57%
White (Less than 20% Non-White)				
All Policies	\$4.70	7.15%	\$1,922	66%
Standard Policies	\$4.73	8.71%	\$1,677	63%
Limited Policies	\$4.65	4.95%	\$2,533	72%
Statewide - All Zips				
All Policies	\$4.27	7.83%	\$1,838	58%
Standard Policies	\$4.10	8.93%	\$1,827	61%
Limited Policies	\$5.45	4.20%	\$1,913	47%

TABLE 3

KANSAS CITY MSA
LOW INCOME URBAN ZIPS

ZIP	AVERAGE HOUSEHOLD INCOME*	% NON-WHITE POPULATION*	AVERAGE COST PER THOUSAND	% STANDARD POLICIES	% LIMITED POLICIES	LOSS FREQUENCY	LOSS SEVERITY	CASH FLOW LOSS RATIO
Minority (Greater than 80% Non-White)								
64130	\$23,355	95%	\$6.22	45%	55%	8.58%	\$1,823	63%
64128	\$20,512	91%	\$6.52	35%	65%	8.95%	\$1,452	55%
Area Totals	\$21,934	93%	\$6.32	41%	59%	8.71%	\$1,685	60%
White (Less than 20% Non-White)								
64124	\$22,682	16%	\$5.65	54%	46%	7.34%	\$3,309	100%
64120	\$21,508	15%	\$6.06	35%	65%	1.95%	\$4,426	41%
64125	\$23,547	8%	\$5.99	46%	54%	7.78%	\$2,043	72%
64123	\$25,346	8%	\$5.40	63%	37%	8.08%	\$2,846	89%
64053	\$23,682	4%	\$4.97	65%	35%	5.73%	\$1,950	53%
Area Totals	\$23,353	10%	\$5.46	58%	42%	7.14%	\$2,807	84%

128

STATEWIDE
ALL INCOME - ALL ZIPS

Statewide	\$33,486	12%	\$4.27	77%	23%	8.63%	\$1,838	58%
------------------	-----------------	------------	---------------	------------	------------	--------------	----------------	------------

*Derived from 1990 Census Data

TABLE 4

KANSAS CITY MSA - LOW INCOME URBAN ZIPS

	AVERAGE COST PER THOUSAND	LOSS FREQUENCY	LOSS SEVERITY	SHIFLOW LOSS RATIO
Minority (Greater than 80% Non-White)				
All Policies	\$6.32	8.71%	\$1,685	60%
Standard Policies	\$5.45	11.44%	\$2,011	75%
Limited Policies	\$7.65	6.79%	\$1,298	45%
White (Less than 20% Non-White)				
All Policies	\$5.46	7.14%	\$2,807	84%
Standard Policies	\$5.32	9.81%	\$2,515	90%
Limited Policies	\$5.75	3.45%	\$3,957	72%
Statewide - All Zips				
All Policies	\$4.27	7.83%	\$1,838	58%
Standard Policies	\$4.10	8.93%	\$1,827	61%
Limited Policies	\$5.45	4.20%	\$1,913	47%

TABLE 5

Top 20 Writers	Statewide to Minority Index
Company A	62.00
Company B	41.25
Company C	36.33
Company D	22.24
Company E	15.13
Company F	11.67
Company G	6.32
Company H	3.64
Company I	3.49
Company J	3.33
Company K	3.08
Company L	2.77
Company M	0.91
Company N	0.70
Company O	0.63
Company P	0.58
Company Q	0.55
Company R	0.37
Company S	0.11
Company T	0.06

Statewide to Minority Index = Statewide Market Share divided by Minority Market Share

Company A's market share is 62 times larger than its minority market share.

Table does not rank insurers by size.

**STATEMENT OF THE
NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC.**

MAY 18, 1994

This statement is submitted by the NAACP Legal Defense & Educational Fund, Inc. (LDF) for the Senate Banking Committee's Hearing on Homeowners' Insurance Discrimination.

LDF has been widely recognized for its contribution to civil rights enforcement through litigation efforts to eradicate the causes and effects of racial discrimination and segregation in all aspects of American life. Through litigation and legislative activities, LDF has demonstrated a steadfast commitment to ensuring equal opportunities in housing. LDF played an integral role in the passage of the 1988 Amendments to the Fair Housing Act and continues to enforce the Act through private litigation throughout the United States.

In accord with its commitment to guarantee equal opportunities in housing, LDF is concerned that all Americans have access to homeowners' insurance without regard to the race of individuals or the race or socio-economic status of the residents within a particular neighborhood. LDF has gained a keen awareness of the existence of widespread claims of discrimination in the provision of homeowners' insurance through its work with fair housing groups, attorneys, insurance company employees, and State Insurance Commissioners.

As the Southern District of Ohio succinctly noted in *McDiarmid v. Economy Fire & Casualty*, 604 F. Supp. 105, 107 (S.D. Ohio 1979), "It is elementary that without insurance, mortgage financing will be unavailable, because a mortgage lender simply will not lend money on the property. Without mortgage financing, homes cannot be purchased. Thus, the availability of insurance and the ability to purchase a home go hand in hand and vary, in direct proportion, to one another." Accordingly, the ideal of equal opportunities in housing cannot be achieved without ensuring that Americans are not subjected to discrimination in the provision of homeowners' insurance.

Insurance discrimination not only impacts individuals who seek to obtain insurance, it also has a devastating effect on entire neighborhoods. Where insurance is denied because of the racial composition of the neighborhoods, these neighborhoods are more prone to become areas of desolation. Residents of these areas are less likely to attain the dream of home ownership, which ultimately has an adverse impact on the economic viability of these communities. The few residents of these areas who become homeowners without insurance are then left without any means for restoring their property if damage or loss occurs, thus, possibly leaving abandoned or ill-kept homes within these neighborhoods.

In addition to claims of individual discriminatory treatment by insurance companies and agents, LDF has received information about several alleged practices by insurance companies that may have the effect of discriminating on the basis of race.

1. *Minimum Value*—We have been informed that many insurance companies have underwriting guidelines which prohibit agents from writing policies for properties valued under a certain dollar amount, such as \$40,000. In a large number of localities such minimum value requirements may adversely affect a disproportionate number of minorities. We are aware of no evidence that would justify use of such requirements with a disproportionate adverse impact.

2. *Maximum Age*—Throughout the United States, minorities are concentrated in urban areas; many of these minority areas encompass the oldest areas within these cities. Thus, underwriting guidelines under which companies refuse to provide insurance to individuals who live in older homes may also have a disparate impact on minorities.

3. *Inferior Policies*—We have received allegations that individuals who reside in minority communities are often given inferior homeowners' policies, as compared with those who live in predominantly white areas. These inferior policies limit a policyholder's recovery for loss or damage to the amount at which the property is valued on the market, whereas, residents of predominately white areas allegedly receive replacement cost coverage. The insurance industry has not, to our knowledge, provided any data or evidence to support such discriminatory availability of policy types.

4. *Cost Disparities*—LDF also is aware of studies that suggest minorities and residents of minority communities are likely to be charged significantly more for policies than are residents of predominately white areas.

5. *Marketing Practices*—We have seen evidence that appears to indicate that insurance marketing practices do not treat white and minority consumers equally. Alleged discriminatory practices include failure to locate agents in minority neighbor-

hoods and failure to advertise in minority areas. In addition, LDF has received complaints from insurance agents who were discouraged from writing policies in minority neighborhoods or blatantly directed to discontinue selling in these areas.

LDF's experience and our consultation with other fair housing advocates has identified the practices set out above as serious areas of concern for minority homeowners and homeseekers. The amount of evidence and the number of complaints of homeowners' insurance discrimination seem to be increasing. Yet, the insurance industry adamantly denies that any discriminatory practices occur with regard to the provision of homeowners' insurance. This is precisely the factual dispute that existed between advocates and the mortgage industry prior to the enactment of The Home Mortgage Disclosure Act (HMDA). Our Nation's experience under HMDA leaves no doubt that legislation requiring data collection is needed to provide the public and Federal agencies with information that would demonstrate the depth of this problem and provide the basis from which fair housing enforcement efforts may be made. In addition, data collection will provide the insurance companies with information that will enable them to monitor themselves and will provide incentive for these companies to change policies which may have a discriminatory impact.

The following types of information are essential to enable meaningful analysis of the facts concerning claims of homeowners' insurance discrimination:

- Reporting of the race of applicants and policyholders;
- Extensive geographic reporting throughout the country, inclusive of cities with significant minority populations;
- Reporting within small enough areas to observe neighborhood activity, such as by census tract;
- Loss data, i.e., amount and number of claims by neighborhood and data that would justify rating territories (without this information, it would be impossible to conclude whether or not legitimate risk factors account for any dearth of policies or higher premium rates in minority areas); and
- Type of policies sold in each neighborhood and prices charged for these policies.

Too often, African-Americans are denied the opportunity to purchase homes because of discrimination by realtors, sellers, and mortgage providers. Legislation has given victims of housing discrimination the tools with which to challenge the discriminatory actions of these individuals and entities. However, discrimination in the provision of homeowners' insurance has not been as comprehensively studied and addressed. Congressional intervention is needed now, in the form of strong legislation which would provide the means for monitoring the actions of the insurance industry. Without legislation, it will continue to be very difficult to assess the magnitude of the unequal treatment of minority communities by insurance companies and, in all likelihood, Americans will continue to suffer from this form of discrimination.



NATIONWIDE INSURANCE COMPANIES

ONE NATIONWIDE PLAZA, COLUMBUS, OH 43218

W. CRAIG ZIMPHER
ASSOCIATE VICE PRESIDENT
GOVERNMENT RELATIONS

May 12, 1994

The Honorable Donald W. Riegle
Chairman
Banking, Housing and Urban Affairs Committee
United States Senate
Washington, D.C. 20510

Re: Urban Insurance Availability

Dear Mr. Chairman:

As a corporate policy, the Nationwide Insurance Enterprise staunchly opposes "redlining." Nationwide is the country's fourth largest auto insurer and fifth largest homeowners insurer. We achieved those high rankings by actively soliciting customers, not by arbitrarily rejecting them.

We have established underwriting guidelines which assure fair and equal treatment for all insurance applicants, regardless of where they live, their race, their age or their gender. Our corporate policy is to treat all applicants for insurance alike -- as prospective policyholders. We write homeowners policies according to fair and sound underwriting guidelines, not according to any arbitrary bias or unfair or unlawful discrimination, as some would have you believe.

This hearing has been advertised as a hearing on "redlining." The more appropriate term should be "urban insurance problems." Both "redlining" and "discrimination" are tossed about loosely these days, as insurance industry critics charge the industry with unfair practices involving the cost and availability of insurance.

NATIONWIDE LIFE INSURANCE CO
NATIONWIDE MUTUAL INSURANCE CO
NATIONWIDE MUTUAL FIRE INSURANCE CO

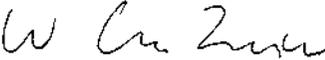
The Honorable Donald W. Riegle
Page 2
May 12, 1994

Some people confuse insurers' responsibility for addressing financial security needs with an unintended role of correcting social deficiencies. As a result, insurers are commonly asked to insure the uninsurable. Using the insurance mechanism to correct perceived social inequities will stretch the system beyond its purpose and capabilities. Possibly the worst deception being perpetrated today is the one that leads people to believe that social problems can be solved within the insurance process at a price everyone can or will want to pay.

Nationwide has a clear-cut and firm corporate policy prohibiting redlining. The company underwrites all applicants individually to assure equal treatment to make certain that all policies are properly priced. The company applies its criteria evenly, no matter where a person lives - in a fancy suburb, a rural area, a small town, big city, or wherever.

In conclusion, many inner-city areas suffer from certain urban insurance problems which adversely affect the availability and affordability of insurance products. These problems are not the result of "redlining", but are caused by a combination of historical, social, and economic factors the insurance industry has not created. Nationwide pledges its support and commitment to work with you and the others on the Committee to address the problems that affect our nation's insurance market. We would look forward to a cooperative and mutually respectful process toward that end.

Sincerely,



W. Craig Zimpher

cc: Banking Committee Members



REPORTS
TRADEMARKS REG. U.S. PATENT OFFICE

Published by F-D-C Reports, Inc.
55 YEARS
Devoted to Specialized Health Care Information

Health News Daily®

SPECIALIZED DAILY INFORMATION SERVICE FOR EXECUTIVES AND DECISION-MAKERS IN THE HEALTH INDUSTRIES. PUBLISHED BY F-D-C REPORTS, INC., 5550 FRIENDSHIP BLVD., SUITE ONE, CHEVY CHASE, MD 20815-7278, FAX 24-HOUR No. (301)658-3094; PHONE (301)657-9630

Vol. 6, No. 91

CONTENTS COPYRIGHTED © F-D-C REPORTS, INC., 1994

Wednesday, May 11, 1994

TODAY'S NEWS

- Health care infrastructure, complexity of reform proposals must be considered** in addition to issue of costs, CBO Director Reischauer urges Story below
- Senate Labor & Human Resources Committee will report out health reform bill** by Memorial Day, Sen. Kennedy says May 10 Page 2
- SmithKline Beecham will manufacture and market generic Tagamet** through Penn Labs subsidiary and Lederle generics division Page 3
- Quad generic trial: Shah guilty, Bansal acquitted May 9** after jury trial in Baltimore federal court; government loses conspiracy case against former executives Page 4

HEALTH CARE ADMINISTRATIVE COMPLEXITIES AS CRITICAL TO REFORM SUCCESS as cost containment, Congressional Budget Office Director Robert Reischauer told reporters May 10 in Washington, D.C. Saying that he is "still waiting" to see comprehensive health reform legislation that can achieve the goals of covering most uninsured Americans with reasonable cost containment and in a workable framework, Reischauer warned: "The architects of these health care reform proposals have to be careful that they are not creating systems that require more institutional capacity and more administrative experience than we are capable of conjuring up."

The CBO director characterized the low-income and small-business subsidies central to President Clinton's Health Security Act (HR 3600, S 1757), Rep. Jim Cooper's (D-Tenn.) Managed Competition Act (HR 3222, S 1579) and Sen. John Chafee's (R-R.I.) HEART bill (HR 3704, S 1770) as "immensely complicated things to administer." Senate Labor and Human Resources Committee Chairman Edward Kennedy's (D-Mass.) proposal, which will be marked up beginning May 18, could well be "equally if not more complex," Reischauer suggested based on news accounts of the measure.

Discounts for low-income Americans and small, low-wage businesses "in effect are a welfare program," Reischauer asserted. Noting that "premiums have to be paid to insurers on a monthly or quarterly basis," he asked: "Are we determining income eligibility on a quarterly or monthly or annual basis? Is it prospective or retrospective income that we're worried about?"

Even once such issues have been resolved, "it's going to be no easy task to make the system work," Reischauer declared, given the scope of the subsidies outlined in the major reform proposals. For example, CBO has estimated that roughly half of the U.S. population could be eligible for discounts under the Administration's

Subscription to F-D-C Reports 'Health News Daily' (ISSN 1042-2781) is \$1,195 per year.
Additional copies of 'Health News Daily' \$495 each year when mailed in same envelope with \$1,195 subscription copy.
This newsletter is available electronically via Newsnet (800-345-1301), DataStar (800-221-7754), Dialog (800-334-2564) and BRS (800-289-4277).

Contents of "Health News Daily"® are protected by the U.S. Copyright Law. Reproduction, photocopying, storage or transmission by magnetic or electronic means is strictly prohibited by law. Authorization to photocopy items for internal or personal use is granted by F-D-C Reports, Inc., when the fee of \$2.00 per copy of each page is paid directly to Copyright Clearance Center, 222 Rosewood Dr., Danvers, MA 01923 (508) 750-8400. The Transactional Reporting Service fee code is: 1042-2781/94 \$0.00 + \$2.00. Violation of copyright will result in legal action, including civil and/or criminal penalties, and suspension of service.

bill by the time it is fully implemented. Regarding the Managed Competition Act, about 60% of people enrolled in purchasing cooperatives and 22% of those receiving insurance outside the cooperatives would likely qualify for subsidies, he said. Reischauer added that the bill's Health Care Standards Commission would conservatively be processing 43 mil. applications for assistance every year.

CBO projects that the volume of information generated by subsidy programs would far outstrip the capacity of current data-collection systems. "New systems are going to have to be developed to ascertain" information that is not currently gathered, Reischauer said, such as the number of full-time employees working in a given firm for a specified period of time, in order to determine insurance costs accurately, as well as whom to bill for what portion of coverage. Such institutions "take a long time to build," Reischauer declared. "This is not something we can plow into place in six months, or nine months, or a one-year period."

In a worst-case scenario, a poorly constructed reform bill hastily passed by Congress would not resolve the problems of the current insurance market while effectively unraveling that system, Reischauer cautioned. Noting that repeal of the law could follow, he suggested that lawmakers should take heed from their experience with the Medicare Catastrophic Care Act and build in "clear benefits" that "materialize quickly for the American people." Such a "support group," the CBO director concluded, could help defray some of the inevitable protests from insurers and providers that would surface following the enactment of comprehensive reform.

"Health reform is different" from almost all other legislation considered by Congress, Reischauer said, explaining that "it has to be a single, integrated whole." When provisions such as mandatory alliances or an employer mandate are dropped for political reasons, the result can be a transformation of "the entire workings of the system you're trying to put together." With this caveat in mind, Reischauer urged policymakers not to add or subtract major provisions during floor debate. "We're going to really need some time in this whole process...to at least do some lab testing to see whether the thing works," he stated.

On the subject of upcoming CBO analyses, Reischauer reported that his agency would release shortly a report on the Affordable Health Care Now Act (HR 3080) authored by House Minority Leader Robert Michel (R-ILL.) and supported by GOP leadership. The analysis of Chafee's HEART bill may be finished by the end of June, he said, cautioning that "we are having our problems" modeling the economic impact of the legislation, given that it would permit the insurance market to reorganize along several different lines. CBO will complete its work on the House Ways and Means mark the week of May 9, Reischauer forecast, noting that the agency has not done a "behavioral analysis" of that legislation.

Commenting on the Cooper bill, Reischauer said that although CBO's recently released report concluded that the bill's revenues would not pay for its proposed subsidies, "it's reparable in lots of different ways." The issue of why the tax-cap revenues in HR 3222 are substantially lower in this year's analysis compared to those calculated for last year's bill has not yet been resolved, he noted. In general, using tax-cap revenues to finance health reform raises problems of equity, Reischauer asserted, since high-cost plans do not necessarily imply high-quality coverage. Rather, some plans are expensive because they cover high-risk individuals, or because they are located in areas of the country with higher living costs.

The task of designing a tax cap is "not a simple kind of thing, and a lot of people seem to be approaching it in that way," the CBO director said. "There's a whole bunch of other factors [besides plan costs] at play, and until you are able to either make adjustments for that -- or even the playing field -- it doesn't make any sense" to apply a tax cap to health insurance, he insisted. Overall, "I think there's more work to be done" on all the plans that have been introduced, Reischauer concluded.

SENATE LABOR COMMITTEE WILL REPORT OUT REFORM BILL BY MEMORIAL DAY, Chairman Edward Kennedy (D-Mass.) said May 10 following a speech before the American Federation of Teachers in Washington, D.C. Refusing to comment on the voluntary alliance structure in his bill, a key difference with President Clinton's Health Security Act (S 1757), Kennedy nevertheless emphasized that his proposal would achieve universal coverage, the White House's bottom line.

© F-D-C Reports, Inc., 1994. Photocopying without permission is strictly prohibited. See Page One.
Multiple copy rate: \$495 when mailed in the same envelope with \$1,195 subscription.

Although Kennedy would have a maximum of only eight legislative days to mark up his bill — consideration is scheduled to begin May 18 — committee staffers say the Massachusetts Democrat likely will hold to his timetable. The fast-track approach indicates that Kennedy already may have the votes to pass his bill.

The 16-member labor panel, whose composition is substantially more liberal than the Finance Committee, includes Democrats Tom Harkin (Iowa), Paul Wellstone (Minn.), Paul Simon (Ill.), Howard Metzenbaum (Ohio) and Barbara Mikulski (Md.). Republican Sen. Jim Jeffords (Vt.), the lone GOP co-sponsor of S 1757 in either chamber, also is a member of the committee, in addition to moderates Nancy Kassebaum (R-Kan.) and Dave Durenberger (D-Minn.).

Administration officials note that the level of support Jeffords gives to the President on the Senate floor will be critical. The Vermont Republican, who supports the state single-payer option in the White House plan, could be affected by his state legislature's recent rejection of a Canadian-style delivery system. While Senate moderates are critical to breaking filibusters, Kennedy said that he does not expect Republican members to employ the chamber's parliamentary delay tactics.

In the area of federal subsidies, the Kennedy bill would offer support to workers based on individual wages rather than firm size, the model contained in the President's proposal. Administration officials say they are not opposed to the Labor approach, noting that it achieves the goal of targeting needy low-income individuals and giving employers the incentive to hire them.

A surprise speaker at the AFT meeting was President Clinton, who continued his attack on opponents of the employer mandate and mandatory alliances. Noting that there are few choices for financing universal coverage other than requiring firms to contribute to worker premiums, he asked rhetorically: "Should I raise your taxes as an alternative?"

On the issue of consumer choice within alliances, Clinton maintained that his plan would offer Americans a "minimum of three choices [of plan] a year, every year." That number could increase over time, he predicted, stating that "if the evidence of the California [public employees] cooperative buying plan is any indication, we'll get a lot more...They have 15 choices this year of plans, and everybody's insurance rates went down. This is about protecting an increasing choice, not about reducing choice."

SMITHKLINE BEECHAM WILL SUPPLY GENERIC TAGAMET TO LEDERLE through SB's Penn Labs subsidiary, the company announced May 10. The generic cimetidine product will be manufactured by SB under the Penn Labs label; SB will market the anti-ulcer medication to hospitals and managed-care organizations, while American Cyanamid's Lederle Standard Products generic drug division will distribute SB's generic cimetidine to wholesalers and chain and independent pharmacies.

Managing Editor: John Zakotnik Assistant Managing Editor: Geyer Langeracker
 Senior Editors: Nellie Bristol, Anne Montgomery, Denise Peterson CHS: Scott Ong
 Executive Editors: Cole Palmer Werble, David Blue Publisher: Wallace Werble
 Prescription Pharmaceuticals News: Janet Aker, Michael McCaughan, Carol Nicholson, Danielle Fallon, Lisa Gulip
 Bill Paulson, Eli Embler, Tom Kelly, Joey Waxman, Allan Kame, Rachel Fishman
 Health Policy & Biomedical Research News: John Parker, Lisa White, Anne Petruska, Katherine Pushkar, Karl Jhendorf
 Nonprescription Pharmaceuticals & Nutritionals News: Timothy Harrington, Tula Michaelides, Catherine Henze
 Kelly Mason, Holly Mead, Cindy Newberry
 Medical Devices, Diagnostics & Instrumentation News: Janet Coleman, Randy Burkholder
 Christine Harrington, Jon Dabson, Faith Bushnac, Judd Stiziel, Mark Brager
 Toiletries, Fragrance & Skin Care News: Susan Easton, Heather Swain, Chris Glass, Audrey Writeman
 Circulation Manager: Edward Picken, 5550 Friendship Blvd., Suite One, Chevy Chase, MD 20815-7278, Phone: (301) 657-9830

F-D-C Reports Research Service © Information Research & Document Service now available
 from F-D-C Reports. Contact Meghanne Malone, Research Services Manager, at (301) 657-9830.

SB will market generic cimetidine under the Tagamet NDA. The generic version will be yellow in order to distinguish it from the pale green color of the branded product, the company said.

Lederle will begin to distribute the generic version of the H₂ antagonist on May 17, when the U.S. patent on Tagamet expires. SB said that although its corporate strategy "continues to emphasize maintaining the steady flow of new SB pharmaceutical products," the company also intends to "minimize the anticipated reduction in our share of the H₂-blocker market." U.S. sales of Tagamet in the first quarter were \$155 mil.

The announcement follows April 29 tentative ANDA approvals for DuPont Merck and Novopharm to produce 200 mg, 300 mg, 400 mg and 800 mg strengths of cimetidine; Mylan was granted the first tentative ANDA approval for the four strengths of cimetidine on Oct. 22, 1993. DuPont Merck will distribute cimetidine through its recently established Endo Labs subsidiary; Endo plans to make the product available to other companies, which presumably include Merck-Medco's West Point Pharma generic drugs subsidiary. Mylan announced a co-promotion agreement with Lilly in mid-April under which Mylan's generic cimetidine will be included in a disease-management program marketed to managed care buyers.

As part of SB's strategy to protect cimetidine market share, the company filed a second trade patent, trademark and trade dress lawsuit in Philadelphia federal court May 9. The latest suit charges Novopharm and Schein Pharmaceuticals with "promoting and soliciting orders for pharmaceutical (cimetidine) tablets copying SmithKline's distinctive trade dress and infringing upon SmithKline's distinctive and unique light green color trademark" for Tagamet. A similar suit was filed against Mylan May 6.

The similar color "is calculated to and will mislead the consuming public and trade into believing" that Novopharm's products are produced or authorized by SmithKline, the suit maintains. Schein is named as a defendant based on SB's belief that they have an agreement to distribute Novopharm's cimetidine tablets in the U.S. "SmithKline learned this past week that defendant Schein will be shipping Novopharm cimetidine on May 18, 1994," the suit notes.

Tagamet's light green color is the subject of SB's new print ad campaign in trade magazines with the headline: "A 17-year record of quality that will have the competition green with envy." The ads display enlarged versions of the four different Tagamet tablets and encourage pharmacists to "look for the distinctive light green color and Tagamet name on every Tagamet tablet you dispense."

QUAD GENERIC DRUG TRIAL: SHAH GUILTY, BANSAL ACQUITTED May 9 after a four-week trial and five days of jury deliberation before Baltimore federal court Judge Peter Messitte. Dilip Shah was found guilty of making a false statement to FDA concerning Quad's vancomycin hydrochloride under 18 USC 1001 and 18 USC 2. Bansal was acquitted of conspiracy to defraud the U.S. government under 18 USC 371. He is the only defendant brought to trial by the Justice Department in its generic drug investigations to be acquitted.

The jury hung on three additional counts against Shah: conspiracy to defraud the government; making a false statement concerning ritodrine HCl; and making a false statement concerning complaint files. The judge declared a mistrial on the three counts. It is understood to be unlikely that Shah will be retried, as acts for which he was not convicted can nonetheless be considered when his penalty is decided at the sentencing, which is scheduled for early August.

Former Quad Executive VP-Scientific Affairs Dulal Chatterji, a co-conspirator of Shah who testified against him at the trial, will be sentenced on May 12 by Judge John Hargrove, who presided over all of the generic scandal trials previous to that of Bansal and Shah.

Beginning with the legal definition of conspiracy -- "an unlawful agreement between two or more persons" resulting in at least one overt illegal act -- the prosecution presented in its opening argument a selection of the 32 overt acts which Shah allegedly committed, including "normalization" of data; stating that an unsterile batch of ketamine was sterile; writing three batch records for one batch of vancomycin, an injectable antibiotic;

© F-D-C Reports, Inc., 1994. Photocopying without permission is strictly prohibited. See Page One.
Multiple copy rate: \$495 when mailed in the same envelope with \$1,195 subscription.

Wednesday, May 11, 1994

Health News Daily

. 5 .

and inventing company records. Bansal, charged only with conspiracy, was described as "loyalty and corruptly" carrying out Shah's illegal instructions.

Prosecution and defense agreed that Bansal played a smaller role than did Shah in the illegal conduct of Quad pharmaceuticals. Bansal's attorney noted that Bansal was mentioned in only four of the 32 overt acts named in connection with the conspiracy, and that he was a recently hired Quad employee who did not have the same long-standing relationships as did many other convicted conspirators.

PEOPLE

Norian Corp.: Former Collagen International and Corporate Controller Marc Faerber joins Norian as chief financial officer and VP-finance..

PUBLIC HEALTH

AZT use during pregnancy: Public Health Service establishes a task force to "explore the medical and policy implications" of a recently announced National Institute of Allergy and Infectious Diseases-sponsored study that found a 67.5% effectiveness rate with AZT in preventing HIV transmission from pregnant women to their infants. The task force will "address critical questions regarding treatment, testing, monitoring and resource needs, which are raised as a result of this study," HHS Assistant Secretary for Health Philip Lee explains May 10. Members are: Chair Lynn Mofenson, MD, National Institute of Child Health and Human Development; James Balsley, MD/PhD, National Institute of Allergy and Infectious Diseases; Martha Rogers, MD, Centers for Disease Control and Prevention; and Helene Gayle, MD, Centers for Disease Control and Prevention..

REGULATORY NEWS

Medicare-Medicaid Coverage Databank: Employers may file information on the health care coverage of workers using scannable paper forms or preformatted diskettes available from the Health Care Financing Administration, or in an electronic format submitted on magnetic cartridges, according to a preliminary guidance published by HCFA in the May 10 *Federal Register*. Established by the 1993 budget law, the databank will be used to determine whether Medicare and Medicaid enrollees have additional insurance that must first pay for health care services. According to the preliminary guidance, the information that employers must furnish includes the name and tax identification number of each worker, the type of group health plan for each individual, and the coverage period. On May 6, HCFA Administrator Bruce Viadeck said that the Clinton Administration is seeking an 18-month delay in implementation of the reporting requirement, which now is scheduled to begin in January 1995. A same-say General Accounting Office report noted that HCFA will have to collect information on 160 mil. Americans, and concluded that the data bank will cost more than \$100 mil. over five years and produce few benefits..

Greenwich Pharmaceuticals: Company has "received notification from FDA that both an independent evaluation of the efficacy of *Therafectin* (amiprilose HCl) and the supervisory review of the Pilot Drug Division's review of the Therafectin NDA concluded that the application lacks substantial evidence of Therafectin's effectiveness in the treatment of rheumatoid arthritis," Greenwich reports May 10. The company plans to meet with FDA before the end of May and expects that it will receive "a notice of an opportunity for a hearing"..

PRODUCT NEWS

Bio-Vascular: Firm receives FDA marketing clearance for its *Peri-Strips* device for reinforcing staple lines during lung surgery, Bio-Vascular announces May 10. The strips are an adaptation of the *Supple Peri-Guard* pericardium product and are intended for use with surgical staplers. *Supple Peri-Guard*, previously cleared for use as a "pericardial closure" and a "soft tissue patch," is made of bovine pericardium cross-linked with glutaraldehyde, the St. Paul, Minnesota-based firm explains. The new *Peri-Strips* make the staple site "air tight" and shorten hospital stays, the company claims. Additional uses for the material are under development; further 510(k) applications are expected by the end of the year..

© F-D-C Reports, Inc., 1994. Photocopying without permission is strictly prohibited. See Page One.
Multiple copy rate: \$495 when mailed in the same envelope with \$1,195 subscription.

INDUSTRY NEWS

Cardiotronics: Company proposes the acquisition of all outstanding R2 Medical stock for \$4 a share in cash or Cardiotronics stock, the firm reports May 10. The Carlsbad, California-based rapid cardiac resuscitation and support device firm's proposal is being reviewed by R2's board. "We believe that a combination of Cardiotronics' direct-sales organization and R2 Medical's market position would create a strong competitor in the stimulation-electrode market, and would be in the best interests of the shareholders of each company," states Ronald Bromfield, president and CEO of Cardiotronics. A Securities and Exchange Commission filing related to the proposal discloses Cardiotronics owns 175,500 R2 shares, or about 6.6% of outstanding common stock...

U.S. Bioscience: NIH is contemplating granting to the West Conshohocken, Pennsylvania-based company an exclusive worldwide license to a U.S. patent for "Acid Stable Purine Dideoxynucleosides Active Against the Cytopathic Effects of Human Immunodeficiency Virus" and a U.S. patent for "2'-Fluorofuranosyl Derivatives and Novel Method of Preparing 2'-Fluoropyrimidine and 2'-Fluoropurines" and corresponding foreign patents. The license may be limited to the treatment for HIV infection using 2-fluoropurine dideoxynucleosides (F-ddA and F-ddI), which have been shown to inhibit HIV reverse transcriptase and cytopathic effects of HIV *in vitro*, a May 10 *Federal Register* notice explains..

Diagnostek: Contract with State of New Jersey will "generate revenues of approximately \$75 mil. over the three-year term," the pharmacy benefit management firm says. The contract calls for Diagnostek's HPI Health Care Services subsidiary to service 19 public hospitals representing about 8,000 patients. "Although the incumbent provider indicated an intention to protest this award, Diagnostek contemplates it will begin service under this contract this summer or in the early fall".

Progenics/American Cyanamid: Research agreement will focus on the development of anti-HIV compounds employing Tarrytown, New York-based Progenics' Universal Neutralizing Antibody technology and Cyanamid's conjugation technology, the firms announce May 10..

RESEARCH

Collagraft: Firm receives FDA approval of an Investigational Device Exemption to begin human studies with its *Collagraft* bone graft strip for the treatment of scoliosis, President and CEO Howard Palefsky announces at a May 10 session of the Alex. Brown 19th Annual Health Care Seminar in Baltimore, Maryland. The study, which will be conducted by Collagraft marketing/clinical partner Zimmer, will include 224 subjects at 10 sites. The paste form of Collagraft was approved in May 1993 for use in long-bone fractures and traumatic osseous defects; the second-generation solid strip form received approval in January..

Genelabs: Company announces May 10 that it has begun *Phase II/III* study of GL701-DHEA (dehydroepiandrosterone) for the treatment of mild-to-moderate systemic lupus erythematosus in women who require steroids for treatment. GL-701 "may improve the quality of life for lupus patients through reduction of prednisone usage," Redwood City, California-based Genelabs maintains...

Chiron: Firm is discontinuing the development of the t-88 monoclonal antibody for the treatment of gram negative sepsis after the agent "did not demonstrate a reduction in mortality" in an 826-patient *Phase III* trial. "This was a well conducted clinical trial by a group of experts in critical care," Chiron explains. "The data are high quality, of which we are proud. Unfortunately, the results were not positive." Chiron "remains committed to the development of products that have potential application in critical care therapeutics, which includes the development of products that have potential application in treating sepsis or septic shock," the company adds. Chiron and Miles are collaborating on the development of an anti-TNF monoclonal antibody for the indication, which showed a "trend" in favor of drug in a first *Phase III* trial..

PATTON, BOGGS & BLOW, L.L.P.
2550 M STREET N.W.
WASHINGTON, D.C. 20037-1350
(202) 457-6000
FACSIMILE (202) 457-6315

WRITER'S DIRECT DIAL
(202) 457-6424

May 13, 1994

The Honorable Donald Riegler
Chairman, Committee on Banking,
Housing and Urban Affairs
United States Senate
Room SD-105
Dirksen Senate Office Building
Washington, D.C

Re: May 11, 1994 Hearings on Homeowners Insurance
Discrimination

Dear Mr. Chairman :

On behalf of American Family Mutual Insurance Company, I would like to address one aspect of the testimony presented on May 11, 1994, by Assistant Attorney General Patrick. That testimony stated that American Family had not cooperated in an investigation initiated by the Civil Rights Division in 1986. American Family respectfully disagrees and would like to correct the record.

First, when the Civil Rights Division requested materials from the company in 1986, the controlling law was the Fourth Circuit's decision in Mackey v. Nationwide Insurance Companies, 724 F.2d 419 (1984), that the Fair Housing Act did not cover home insurance. Rather than undergo an extensive intrusion into its business operations, American Family respectfully advised the Division that it did not have jurisdiction. The company wants to urge the Committee not to confuse the legal position it took, based on that opinion, with rejection or resistance to the principles underlying the Fair Housing Act.

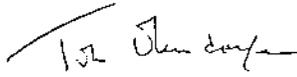
This issue arose again in NAACP v. American Family Mutual Insurance Company. The United States District Court for the Eastern District of Wisconsin agreed with the company's view that the Act did not reach insurance companies. As a consequence, the Division did not pursue its negotiations with the company to obtain the information it had requested. Instead, it presented the Government's views before the Court of Appeals for the Seventh Circuit. On October 20, 1992, the Court of Appeals reversed the decision by the Eastern District and held that, as a result of HUD's promulgation of regulations in 1989, the Act does apply to home insurance. Within a month of that decision, the company offered to voluntarily provide the

The Honorable Donald Riegle
May 13, 1994
Page 2

information the Department substantial volumes of data and records and made its employees available for interviews by Division investigators. It did so even though it sought further judicial review of the matter. Mr. Shriner's letter of November 12, 1992 to the Assistant Attorney General (attached) documents the company's offer.

I would appreciate your making this letter a part of the hearing record.

Sincerely,

A handwritten signature in cursive script, appearing to read "John L. Oberdorfer".

John L. Oberdorfer

JLO/mm

cc: Paul Hancock, Esq.

FOLEY & LARDNER

FIRST WISCONSIN CENTER
177 EAST WISCONSIN AVENUE
MILWAUKEE, WISCONSIN 53202-8367

TELEPHONE (414) 371-2400

TELEX 28 816

FOLEY LARD MILU

FACSIMILE (414) 288-7731

WINTER'S DIRECT LINE

414-289-1549

A MEMBER OF GLOBALCA
WITH MEMBER OFFICES IN

LONDON, ENGLAND

PARIS, FRANCE

BERLIN, GERMANY

STUTTGART, GERMANY

DRESDEN, GERMANY

SINGAPORE

TAIPEI, TAIWAN

MADISON, WISCONSIN
CHICAGO, ILLINOIS
WASHINGTON, D.C.
ALEXANDRIA, VIRGINIA
ANNAPOLIS, MARYLAND
NORFOLK, VIRGINIA
ORLANDO, FLORIDA
TALLAHASSEE, FLORIDA
TAMPA, FLORIDA
WEST PALM BEACH, FLORIDA

November 12, 1992

BY FEDERAL EXPRESS

John R. Dunne, Esq.
Assistant Attorney General
Civil Rights Division
United States Department of Justice
Washington, D.C. 20530

Re: American Family Mutual Insurance Company

Dear Mr. Dunne:

We are counsel to American Family in the NAACP case now pending in the United States District Court for the Eastern District of Wisconsin and the United States Court of Appeals for the Seventh Circuit, to which you adverted in your letter of November 3, 1992 to Mr. Dale Mathwich, Chairman and CEO of American Family. Accordingly, Mr. Mathwich has asked that I respond to that letter on American Family's behalf and represent the company with respect to the Department's investigation.

The short answer to the question asked in your letter is that American Family is willing voluntarily to provide the information which the Department needs to complete its investigation. Because the Court of Appeals has determined that the Fair Housing Act applies to the business of homeowners' insurance (although American Family may seek further review of the question), the company considers that the previous ground for its declining to provide information (which, of course, went to the Department's jurisdiction to investigate at all) is no longer extant.

Since the last contact between American Family and the Department, nearly four years ago, the NAACP action has been filed and there has been considerable discovery and other trial preparation. Thus, we are in a position to discuss specifically which information is available, in what form, and with what



NOV 13 '92 08:52

4142893791

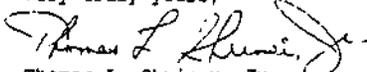
PAGE 002

John R. Dunne, Esq.
November 12, 1992
Page 2

degree of expense and difficulty in retrieval. I had hoped to discuss these matters with Mr. Conrad before writing to you, but I understand that he will be out of his office until next Tuesday. I will call him then to discuss these details of production.

American Family notes with pleasure and relies upon your statement that the Department has not made a final decision on the merits of this matter and that your purpose is to avoid litigation if it is not meritorious. We believe that we can persuade the Department, based upon what we have developed in defending the NAACP case, that there is in fact no basis for Justice Department involvement. I look forward to discussing these matters further with Mr. Conrad next week.

Very truly yours,


Thomas L. Shrinat, Jr.

**HOMEOWNERS' INSURANCE:
AN INVESTIGATION INTO POSSIBLE ILLEGAL DISCRIMINATION
CONDUCTED BY THE MINNESOTA DEPARTMENT OF COMMERCE**

MARCH 8, 1994

Executive Summary

The Department of Commerce is the State agency responsible for regulating insurance industry practices within Minnesota. The Department initiated an investigation into potential "redlining" problems in the Twin Cities Metropolitan Area following a nationally released report produced by the Association of Community Organizations for Reform Now (ACORN). The report identified Minneapolis/St. Paul as one of fourteen (14) metro areas nationwide where "redlining" was occurring.

The term "redlining" is frequently used to describe a practice whereby insurance companies refuse to offer or cancel homeowners' insurance solely because of the location of a home within a city. Minnesota Statutes do not use nor define redlining. However, Minnesota Statute §72A.20 subdivision 13 (1992) does provide protection for homeowners from such discriminatory practices. Specifically, the statute prohibits an insurer from refusing to offer or cancel coverage based on: (1) The location of a home within a city, (2) the age of the home, (3) a prior declination by another insurer, or (4) because the home was previously insured under the FAIR Plan.

Minnesota Statutes require insurers who offer to provide coverage on homes within any area within a city to offer the same policies/programs to homes in all areas within the same city. However, insurers are entitled to charge rates which reflect the age of mechanical systems within the dwellings and other factors such as proximity to fire protection etc.

In February 1993, the Department began accumulating information from a variety of sources in an attempt to determine if redlining was occurring within the Twin Cities Metropolitan Area. During the course of the investigation, the Department reviewed the records and data provided by the (23) companies having at least a 1 percent market share of the Minnesota homeowners' insurance market. To determine whether any patterns of abuse or violations had occurred, Department investigators reviewed thousands of pages of underwriting guidelines and over 4,000 cancellation, declination, and non-renewal notices to homeowners.

Our investigation found that 97 percent (3,917) of the cancellations, declinations, and non-renewals reviewed were in compliance with the applicable statutes and rules. In addition, of the 3 percent (125) cancellation, declinations, and non-renewals identified as not complying with the statute only twelve involved activities that might fall within the commonly used definition of redlining. *Based on our findings, we have concluded that although isolated violations of statute may have occurred, the available evidence does not substantiate the allegation that insurers are engaging in any pattern or general practice of redlining within the Twin City Metropolitan Area.*

Statutory/Regulatory History

Minnesota Statute §72A.20 subd. 13 (1992) prohibits insurers who write homeowners' coverage within a city from refusing to offer, write, or renew a policy or charge differential rates for homeowners' insurance solely because of the location of a home in that city; the age of the home; declination by another insurer; or because of prior coverage issued under the FAIR (Minnesota Property Placement Facility) plan.

The law allows companies to underwrite and set premium rates to reflect extraordinary hazards, availability of fire protection, and concentration of the insurer's risks. The law also allows for rating, but not declining a homeowner policy based upon the age of the electrical, plumbing, heating/cooling system, wiring, or other structural items affected by age.

The Commerce Department enforces the statutory protections of the law and places special attention on homeowner policy cancellation, nonrenewal, and declination actions of insurance companies. Department records show that there were 124 cancellation/nonrenewal investigations conducted in 1991. As a result of these investigations, seven (7) company actions were rescinded by the insurer or reversed by the Department, and five (5) administrative actions (i.e. Consent Orders) were taken. In 1992, 166 cancellation/nonrenewal investigations were conducted, fourteen (14) voluntary reinstatements or Department reversals occurred, and four (4) administrative actions taken. 1993 statistics available for this study indicate that the Department has conducted 100 such investigations, leading to five (5) voluntary reinstatements or Department reversals, and one (1) administrative action.

Most, if not all, of these corrective actions were based on deficiencies in form, content, or notice requirements. Neither Department complaint records nor investigation results indicate a pattern of illegal discrimination by insurance companies in the area.

Investigation Chronology

In February, 1993, the Association of Community Organizations for Reform Now (ACORN) provided the Department with a copy of its report stating that "redlining" was occurring in 14 cities throughout the Nation including the Minneapolis/St. Paul Metropolitan Area.

The report said that companies were refusing to write homeowners' coverage in certain areas of the Twin Cities. The ACORN report specifically cited: (1) more frequently required home inspections in the inner-cities than in the suburbs; (2) a higher percentage of uninsured homes in the inner-cities; (3) higher costs of coverage per \$1,000 of value; and (4) fewer agents in the inner-cities as evidence that "redlining" was occurring.

The ACORN report was based primarily on the review of zip code reports which list insurance company cancellation, declination, and nonrenewal actions and, test calling conducted by members of ACORN. ACORN's findings were based upon 48 calls made in each city to different insurance agents. Because of the limited scope of ACORN's survey, one call could effect a difference in survey findings of between 4-9 percent.

In February 1993, then-Commissioner Bert McKay wrote to ACORN to inform them that our Department would conduct an investigation, per their request, into the sale of homeowners' coverage by a number of the major insurance carriers. Our investigation attempted to verify the accuracy of ACORN's assertions and to determine whether such factors, in and of themselves, evidence the existence of redlining in the Twin Cities.

The Department obtained a computer printout from the National Association of Insurance Commissioners (NAIC) which identified the market share of business for homeowner insurers in Minnesota. In order to determine insurance company compliance with Minnesota statute, an extraordinarily large group of companies was included in our investigation. The Department of Commerce investigated companies with a market share of 1 percent or greater (*23 companies, with a total market share of 77.08 percent per the 1991 annual statements; see attached listing*). Of this group, (6) companies were affiliated with at least one other company in the sample group (standard/preferred), and share joint underwriting, claims, and policy issuance departments.

In addition to the zip codes used by ACORN, we added the communities of West St. Paul and South St. Paul. These communities were added because of the potential for having a higher than average minority population. It was also determined that the investigation would thoroughly review each company's: 1) underwriting standards, directives, manuals, and instructions; 2) agent locations; and 3) declinations, cancellations, and nonrenewals of homeowners' insurance for 1991 and 1992. During the week of April 15, orders requiring the production of extensive amounts of documentation were sent to each of the 23 companies. Most insurers needed up to 60 days to assemble the information and documentation required.

A review of the thousands of pages of underwriting material was completed by the week of August 9. Upon completion of the review, companies were sent a letter advising them of the provisions of their underwriting standards which were of concern to the Department. After these notifications were sent, a total sampling of 4,042 declinations, cancellations, and nonrenewals was drawn from the policyholder/applicant lists provided by each insurer. During the week of August 20, each insurer was sent a letter requiring the production of the corresponding notices that were sent to the insureds indicated in our sample. The responses were received, in their entirety, by early November, 1993. A thorough review of each notice was conducted to assure compliance with regulations and statutes concerning the form, method, and basis for the company's action.

This review was completed and companies were notified of the results the week of November 18. Each company was given the opportunity to review actions which appeared to be in violation of Minnesota statute. The companies were also asked to provide the Department with any additional information, documentation, or rebuttal. This information was received, in its entirety, by December 15, 1993.

In December, the Department determined that a cost analysis should be done by comparing each company's rates between the inner-cities and suburbs, and between different geographic locations within both Minneapolis and St. Paul.

On December 29, 1993, rate surveys were sent to each of the 23 companies and the Minnesota Property Placement Facility (FAIR Plan). The rate surveys required

companies to provide premium quotes for all available company programs/policies for a HO-3 (homeowner) policy (or their closest equivalent) on a 1940 frame construction home with a replacement value of \$75,000. The age of the roof was established at 10 years old, and the home had a one car detached garage. The value of the personal property was established at \$35,000. Companies were also required to provide rate quotes for an HO-4 (tenants) policy, with personal property valued at \$35,000. Each company was provided with a list of zip codes for the cities of St. Paul, Minneapolis and surrounding suburbs.

This expanded investigation required Enforcement Division employees, who live in the inner-city, to call agents and obtain quotes from two different agents of each of the six (6) companies with the largest market share. In total, the employees made contact with thirty-four agents. Two of the employees represented minority cultures, and all used actual homes for purposes of obtaining quotes and inspections (if required).

Investigative Findings

UNDERWRITING (CHART #1)

Based upon the review of the underwriting material, there appeared to be no basis to conclude that any of the twenty-three (23) insurance companies were intentionally targeting inner-city homeowner applicants or policyholders in an attempt to illegally discriminate in the issuance of homeowner coverage.

Actuarial examinations conducted by this Department in conjunction with the investigation strongly suggest that insurance carriers' loss experience closely correlates with premium rates. We examined two carriers with a combined market share of 33.6 percent. One carrier was found to actually be charging less in the inner-cities than their loss experience would dictate. The other carrier was found to closely align its premium rates with loss experience.

While the actuarial data did show there to be higher costs for inner-city coverage than for suburban coverage, the costs were reflected in the loss experience of the insurance companies. On average, the difference was \$42.43 per year. The investigation concluded that homeowners' insurance is available to inner-city homeowners and that loss experience on inner-city policies is a reason for the different premium prices. Of particular note is that some rural areas actually have higher premium expenses than either the inner-cities or the suburbs. The primary reason for the higher premium rates is lack of fire protection, water sources, etc.

The review of the underwriting standards and guidelines of each company found that eighteen (18) insurers had some portion of their underwriting guidelines which needed to be changed to conform with all current statutory requirements. The Department did identify a few instances where company guidelines provided for declinations based solely on the age of the applicant's dwelling. Fourteen (14) of the companies provide rating discounts based upon the age of the home (mostly in the form of a "New Home" discount). The Department of Commerce only allows such discounts if the company also offers comparable coverage and discounts for older homes which have updated electrical, plumbing, heating/cooling systems, and wiring. Our investigation revealed that the vast majority of the companies do offer comparable premium discounts and/or coverage options for older homes. Those that did not were notified of the need to amend their underwriting policies.

It should be pointed out that prior to June 1992, one company did have underwriting standards which specifically mentioned the geographic location of the home (e.g. "St. Paul-Minneapolis Area"). However, this criteria was eliminated by the company prior to our investigation.

CANCELLATION/NONRENEWAL/DECLINATION (CHART #2)

A review of each of the 4,042 declination cancellation, and nonrenewal actions shows that 125 actions were found to be in violation of the statutes/rules. Most of the violations were a result of deficiencies in the notice form and length of prior notification (107 actions). These violations occurred because of the failure by some of the insurers to include specific information in the notice (e.g. right to appeal, right to have a new agent assigned, specific loss information) or in the time notification requirements (e.g. exceeding the 59 day underwriting standard, less than 60 days notice, etc.)

Twelve of the 125 violations identified appear to relate to potential redlining. In these cases, the declination appeared to be based solely on the age of the home. The remaining six actions were based on reasons other than those allowed by statute or rule (e.g. requested by agent without documentation as to basis, requested by mortgage company, etc.). *Based upon this information and documentation the investigation concluded that 99.7 percent of the 4,042 met the requirements of Minnesota's "redlining" statute.*

SUMMARY OF AGENT LOCATIONS (CHART #3)

Although there are no regulatory or statutory requirements that establish a minimum agent-to-policyholder ratio, the office locations for each company's agents were requested and charted. The Department does not believe the charting should be interpreted as an accurate depiction of a company's agent representation in any specific geographic location because these agencies could have more than one agent at each location/agency.

In a society that is effectively linked by telecommunications, companies can conduct most of their business through direct mail solicitation and provide application processing, underwriting, claims, and customer service by phone. Also, independent agents can legally broker business for other non-appointed agents. This would allow a company to market in a geographic location without officially establishing an agent/agency presence.

While quantifiable results were not reached, the Department does not believe that agency location significantly inhibited access to insurance. The Department does recognize, however, that agency location is an important convenience issue.

SUMMARY OF RATE SURVEY (CHART #4)

For purposes of the rating survey, South St. Paul and West St. Paul were considered suburban quotes. This did not adversely affect the comparison, since these communities were usually quoted at a lower rate than St. Paul and Minneapolis. The rate surveys were compiled in a chart which allows the comparison of each company's rate within the city limits of St. Paul and Minneapolis as well as urban to suburban comparisons. The chart does not provide company-to-company rate comparisons. Each column represents the dollar amount difference between the highest and the lowest rate quoted in that category for urban vs. suburban locations.

The maximum annual difference of any company rates between equivalent suburban and urban risk was \$95.38 for the HO-3 (homeowners) policies and \$26.50 for the HO-4 (renters) policies. The average difference between the suburban and urban rates for the 23 companies and the FAIR Plan was \$42.43 for the HO-3 risks, and \$7.49 for the HO-4 risks. There were three (3) companies that had no difference between suburban and urban rates for their HO-3 policies, and seven (7) companies that had no rate difference for their HO-4 policies. One company quoted some urban rates lower than some of their suburban rates for their HO-4 policies.

Seven (7) companies appear to have charged different rates within the city limits of Minneapolis/St. Paul for policies on identical homes, a practice in violation of the current statute. The differences ranged from \$7-\$73 and the Department is requiring these companies to take corrective action. These were isolated instances and did not appear to show a pattern of intentional wrongdoing.

QUOTES OBTAINED FROM AGENTS

There were 34 actual calls completed by Department personnel. The callers found only one instance where the agent seemed reluctant to provide a quote (but it was provided) and one instance where the agent did not return the phone call (contact was not made with the agent personally, only a name and phone number was left with his office). In all other instances the agents were described by the callers as polite, willing, and sometimes eager to provide quotes. Very few agents advised that an inspection would be necessary prior to writing the coverage, and all provided written confirmation of their quotes to the callers when requested. The callers have also received several follow-up phone calls from the quoting agents anxious to write the insurance coverage.

Conclusions and Corrective Actions Taken

Although patterns of illegal discrimination were not substantiated, the Department of Commerce would like to thank ACORN for requesting this investigation. Several corrective actions resulted from the investigation.

The Department strongly supports inner-city home ownership as one way to stabilize neighborhoods and available homeowners' insurance is critical to this goal. Continuing oversight and the monitoring of insurance industry practices by the Department of Commerce combined with an on-going and constructive dialog between insurers, agents, community organizations, and inner-city homeowners is the best method of insuring compliance with Minnesota's statutes.

Conclusions**UNDERWRITING**

Underwriting policies regarding new home construction discounts were the primary area in need of updating to conform with the Minnesota statute prohibiting premium discounts based exclusively on the age of a dwelling. However, because in-

insurance companies can adjust rates based on the level of risk (age of mechanical systems within a dwelling) the Department does not believe that the updating will significantly change the affordability of homeowners' insurance.

CANCELLATION/NONRENEWAL/DECLINATION

Ninety-seven percent of the 4,042 actions reviewed by the Department were found to be in compliance with Minn. Stat. 72A.20 subd. 13. Most of the violations in the 3 percent were technical in nature. The Department considers this low frequency of violations a sign that illegal cancellation, nonrenewal, or declination is not prevalent in the Twin Cities.

AGENT LOCATIONS

There is no regulatory or statutory requirement for locations of insurance agent offices. Although there are fewer agents located in the city than in the suburbs, this does not constitute illegal discrimination. With insurance available by both mail and phone, agent location does not seem to limit access to coverage.

ORAL AND WRITTEN INSTRUCTIONS TO AGENTS TO AVOID INNER CITY AREAS:

Three agents recommended by ACORN were interviewed in the belief that they knew of illegal discrimination practices on the part of insurance companies. No evidence of illegal discrimination was uncovered as a result of these interviews.

RATE SURVEY

The Department found that some companies have higher insurance premium rates in the inner-cities than in the suburbs. The average difference was \$42/year for homeowners and \$7 for renters. The urban-suburban differences were relatively small and related to the loss experience of the insurance company as confirmed by an actuarial study performed in correlation with the investigation.

The investigation identified companies which charged different rates within different areas of the city. This is not allowed and corrective action is being taken.

QUOTES FROM AGENTS

The Department conducted tests to see if agents were willing to sell in the inner-city and concluded that agents were reasonably eager to sell and quote insurance to inner-city homeowners.

Corrective Action

Departmental action which has been taken as a resolution to the several findings of this investigation:

- The Department is issuing a bulletin to all insurers authorized to write homeowners' insurance, which details the requirements and prohibitions of Minn. Stat. 72A.20 subd. 13. This bulletin specifically addresses the prohibition of discounts based on the age of the home; underwriting eligibility restrictions based on the age of the home; and the proper form and filing requirements of cancellation/nonrenewal notices.
- The Department required each of the companies found to have underwriting and rating standards in violation of State statute, to immediately correct these standards, materials, guidelines, and instructions, and provide confirmation and evidence of these corrections.
- The Department required each company, where applicable, to file corrected copies of their cancellation, nonrenewal, and declination forms.

CHART #1 - UNDERWRITING

Company	Market Share (91)	Restricted Binding or Decline Due to Age of Structure *	Rating based on Age of Structure +	Declined Based on Location
Allstate	5.9%	X		
AMCO	1.47%	X		
American Family	13.22%	X		
Austin Mutual	1.57%	X	X	
Owners Insurance Company	1.12%	X	X	
Auto Owners	1.64%	X	X	
Citizens Insurance Company	1.20%	X		
Farmers Home Mutual	1.05%	N/A	N/A	N/A
Gopher State Mutual	1.09%	N/A	N/A	N/A
Horace Mann	1.07%	N/A	N/A	N/A
Illinois Farmers	9.24%	X	X	
Milbank Insurance Company	1.63%	X	X	
Minnesota Mutual	1.27%	X		
Mutual Service Insurance Company	1.74%	X	X	
Northstar Mutual	2.68%	X	X	
Pacific Indemnity	1.54%		X	
Prudential Property & Casualty	1.35%	X	X	

- * Declination may only pertain to preferred programs or policies.
- + Most companies have filed a "new home" discount.
- ! Underwriting rule change 6/92.

CHART #1 - UNDERWRITING (CONTINUED)

Company	Market Share (91)	Restricted Binding or Decline Due to Age of Structure *	Rating based on Age of Structure +	Declined Based on Location
St. Paul Guardian	2.97%		X	
State Farm Fire & Casualty	20.16%	X	X	X ¹
State Farm General Insurance	1.22%	X	X	
USAA	1.28%	X	X	
Waseca Mutual	1.21%	X	X	
Western National	1.46	X		

- * Declination may only pertain to preferred programs or policies.
- + Most companies have filed a "new home" discount.
- 1 Underwriting rule change 6/92.

CHART #2 - CANCELLATIONS/NONRENEWALS

Company	Number of Improper Cancels/Non-Renewals (#/sample size/percentage)	Notice/Form/Notification	Age of Dwelling (Declined/Canceled)	Improper Basis for Cancellation/Nonrenewal	Property Location (Declined/Canceled)	Other
Allstate	10/217/4.6%	8	2			
AMCO	4/113/3.5%	4				
American Family	4/434/9%		4			
Austin Mutual	6/279/2.1%	4		2		
Auto Owners/Owners	0/54/0%	N/A	N/A	N/A	N/A	N/A
Citizens Insurance	4/46/8.6%	3		1		
Farmers Home Mutual	29/714/4.06%	29				
Gopher State Mutual	25/330/7.57%	25				
Horace Mann	1/15/6.6%	1				
Illinois Farmers	7/201/3.48%	7				
Milbank Insurance Company	6/172/3.48%	6				
Minnesota Mutual	1/86/1.1%		1			
Mutual Service Insurance	2/253/0.7%	2				
Northstar Mutual	0/153/0%	N/A	N/A	N/A	N/A	N/A
Pacific Indemnity	1/120/.8%	1				
Prudential	2/76/2.6%	1	1			
St. Paul Guardian	14/275/5.09%	11		3		
State Farm Insurance	1/329/0.03%	1				
USAA	1/1/100%	1				
Waseca Mutual	0/5/0%	N/A	N/A	N/A	N/A	N/A
Western National	7/169/4.14%	3	4			

CHART # 3
NUMBER OF AGENTS

(Does Not Indicate The Number Of Office Locations)

<u>Company</u>	<u>St. Paul, S. St. Paul, W. St. Paul</u>	<u>Mpls</u>	<u>Surrounding 7 County Area</u>
Allstate Ins. Co.	4	8	121
American Family Mut.	17	8	252
Auto Owners/Owners.	71	7	314
AMCO.	9	4	99
Austin Mut.	8	4	57
Citizens Ins. Co.	12	3	66
Farmers Home Mut.	11	6	89
Gopher State Mut.	7	3	87
Horace Mann.	4	0	21
Illinois Farmers.	34	10	352
Milbank Ins. Co.	2	0	24
Minnesota Mut.	141	32	528
Mutual Service Ins.	5	0	59
North Star Mut.	4	0	53
Pacific Indemnity.	5	5	31
Prudential Prop. & Cas.	0	0	260
State Farm (Fire & General)	26	19	182
St. Paul Guardian.	22	22	122
USAA.	0	0	0
Wasaca Mut.	3	0	55
Western National.	12	6	94
Totals:	397	137	2,840
Percentages:	13.9%	4.8%	81.8%

CHART #4 - RATE SURVEY

Company	HO-3 St. Paul	HO-4 St. Paul	HO-3 Mpls.	HO-4 Mpls.	HO-3 St. Paul v. Suburbs	HO-4 St. Paul v. Suburbs	HO-3 Mpls. v. Suburbs	HO-4 Mpls. v. Suburbs	Max Diff. HO-3 Suburbs v. Cities	Max Diff. HO-4 Suburbs. v. Cities
Allstate Insurance Company	\$61	\$12	\$61	\$12	\$77	\$12	\$61	\$12	\$77	\$12
AMCO Insurance Company	\$0	\$0	\$0	\$0	\$57	\$8	\$59	\$8	\$59	\$8
American Family Mutual Insurance Company	\$0	\$0	\$0	\$0	\$54	\$14	\$0	\$0	\$54	\$14
Austin Mutual Insurance Company #1	\$0	\$0	\$0	\$0	\$40.91	*\$0	\$40.91	*\$0	\$40.91	*\$0
Austin Mutual Insurance Company #2	\$0	-	\$0	-	\$39.91	-	\$39.91	-	\$39.91	-
Auto-Owners Insurance Company	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Citizens Security Mutual Ins. Co. #1	\$0	\$0	\$0	\$0	\$87.16	\$26.38	\$70.16	\$23.88	\$87.16	\$26.38
Citizens Security Mutual Ins. Co. #2	\$0	-	\$0	-	\$95.38	-	\$76.38	-	\$95.38	-
Farmers Home Mutual Insurance Company	\$0	\$0	\$0	\$0	\$22	\$10	\$22	\$10	\$22	\$10
Gopher State Mutual Insurance Company	\$0	-	\$0	-	\$23	-	\$23	-	\$23	-
Horace Mann Insurance Company	\$57	\$10	\$57	\$10	\$57	\$10	\$57	\$10	\$57	\$10
Illinois Farmers Insurance Company	\$0	\$0	\$0	\$0	\$59	\$10	\$59	\$10	\$59	\$10
Milbank Insurance Company	\$0	\$0	\$0	\$0	\$55	\$9	\$55	\$9	\$55	\$9
Minnesota Mutual Fire & Casualty Co. #1	\$72	\$7	\$0	\$0	\$72	\$7	\$72	\$7	\$72	\$7
Minnesota Mutual Fire & Casualty Co. #2	\$71	-	\$0	-	\$71	-	\$71	-	\$71	-
Mutual Service Casualty Ins. Co. #1	\$73	\$10	\$0	\$0	\$73	\$10	\$73	\$10	\$73	\$10
Mutual Service Casualty Ins. Co. #2	\$56	-	\$0	-	\$56	-	\$56	-	\$56	-
North Star Mutual Insurance Company #1	\$0	\$0	\$0	\$0	\$24	\$5	\$24	\$5	\$24	\$5
North Star Mutual Insurance Company #2	\$0	-	\$0	-	\$16	-	\$16	-	\$16	-

Note: For purposes of pricing St. St. Paul and West St. Paul were considered suburbs.

* Indicates some suburban rates higher than St. Paul/Mpls. rates

The Fair Plan does not issue HO-3 coverage (HO-3); HO-3 and HO-4 are not replacement policies (ACV)

CHART #4 RATE SURVEY - Continued

Company	HO-3 St. Paul	HO-4 St. Paul	HO-3 Mpls.	HO-4 Mpls.	HO-3 St. Paul v. Suburbs	HO-4 St. Paul v. Suburbs	HO-3 Mpls. v. Suburbs	HO-4 Mpls. v. Suburbs	Max Diff. HO-3 Suburbs v. Cities	Max Diff. HO-4 Suburbs. v. Cities
Owners Insurance Company	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Pacific Indemnity Company	\$0	\$0	\$0	\$0	\$42	\$0	\$42	\$0	\$42	\$0
Prudential Property & Casualty Ins.	\$0	\$0	\$0	\$0	\$57	\$12	\$57	\$12	\$57	\$12
St. Paul Guardian Insurance Company #1	\$0	\$0	\$45	\$0	\$0	\$0	\$7	\$0	\$7	\$7
St. Paul Guardian Insurance Company #2	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
State Farm Fire and Casualty Company	\$0	\$0	\$60	\$0	\$60	\$8	\$60	\$8	\$60	\$8
State Farm General Insurance Company	\$0	-	\$64	-	\$64	-	\$64	-	\$64	-
United Services Automobile Assn.	\$0	\$0	\$0	\$0	\$50.81	\$0	\$0	\$0	\$50.81	\$0
Waseca Mutual Insurance Company	\$0	\$0	\$0	\$0	\$78	\$4	\$0	\$0	\$78	\$4
Western National Mutual Insurance Company	\$0	\$0	\$0	\$0	\$17.87	\$10.76	\$17.87	\$10.76	\$17.87	\$10.76
Minnesota Property Placement Facility ¹	\$0	\$0	\$0	\$0	\$38.30	\$26.50	\$35.28	\$26.50	\$38.30	\$26.50

Note: For purposes of pricing St. St. Paul and West St. Paul were considered suburbs.

¹ Indicates some suburban rates higher than St. Paul/Mpls. rates.

The Fair Plan does not issue HO-3 coverage (HO-8); HO-3 and HO-4 are not replacement policies (ACV).

**RESPONSE TO WRITTEN QUESTIONS OF SENATOR BOND
FROM ROBERTA ACHTENBERG**

Q.1. Condition Federal Assistance on a Housing Discrimination Plan. Ms. Achtenberg, I understand that HUD is developing a regulation which would provide for the Department to withhold Federal assistance, including public housing, CDBG and HOME assistance, if a jurisdiction fails to develop a HUD-approved plan to combat housing discrimination. This sounds like another way for HUD to micromanage the decisionmaking of jurisdictions. How do you envision implementation of this rule? Won't the withholding of HUD funding, such as CDBG funding, primarily adversely impact the low-income families that need the benefit of the funding most?

A.1. HUD is developing a regulation to implement the requirement which Congress placed in Title I in 1983 requiring every recipient of CDBG assistance to certify that it will affirmatively further fair housing. Similar statutory requirements appear in the HOME program and the legislation creating the CHAS. The certification is not limited to these programs and includes both publicly assisted and private housing within a jurisdiction.

The proposed rule will require each Entitlement community (and State) to develop an analysis of impediments to fair housing and develop a plan to address these impediments. Communities which have not previously developed an analysis (more than 100 communities have done so since the concept was introduced as a "safe harbor" in HUD's 1989 CDBG regulations) would have 1 year from the date of HUD's final regulation to do so. The fair housing plan (analysis plus action plan) would NOT be submitted to HUD for advance approval. Instead, a summary of the plan would be submitted, together with the fair housing actions taken the preceding year and those planned for the forthcoming year.

HUD would raise questions about an applicant's certification only where there was evidence of a problem which the applicant failed to address. We do not believe that this would constitute "micromanaging the decisionmaking of jurisdictions." In fact, it is the present system that often requires us to second guess a jurisdiction's actions under its certification because no document exists summarizing the city's fair housing "temperature."

We would expect that any differences of opinion about an applicant's identification of impediments or actions to address them could be readily resolved through negotiation. If not, HUD could require special assurances or condition the grant on the community's taking certain actions by a prescribed time. HUD would seek to impose sanctions only as a last resort, recognizing that any interruption of the flow of funds would be harmful to the low- and moderate-income residents whom the programs are designed to benefit. This is precisely the same enforcement mechanism which HUD currently has with respect to CDBG and HOME funds. The proposed fair housing planning regulation does not change enforcement procedures in any way.

Q.2. Property Insurance Redlining. Ms. Achtenberg, I understand that President Clinton signed recently an Executive Order directing HUD to issue guidelines on property insurance discrimination. I am concerned that HUD intends to regulate the insurance

industry under the Fair Housing Act without any legal authority. How does HUD intend to implement this order?

A.2. Several administrations, beginning with a HUD General Counsel opinion in 1978, have concluded that Title VIII of the Civil Rights Act of 1968, as amended (the Federal Fair Housing Act), prohibits discrimination in the area of property or hazard insurance. Because HUD is the primary Title VIII law enforcement agency, and the only agency with authority to promulgate regulations under that Act, the Department has the responsibility to issue rules applying the Act to property insurance.

In regulations implementing the Fair Housing Amendments Act of 1988, HUD determined that the Act prohibits "refusing to provide property or hazard insurance . . . or providing such insurance differently because of race, color, religion, sex, handicap, familial status, or national origin (24 C.F.R. Section 100.70(a)(4)).

Courts that have considered the issue have concluded that insurance is covered by the Act. *Dunn v. Midwestern Indemnity Mid-American Fire & Casualty Co.*, 472 F. Supp. 1106 (S.D. Ohio 1979), *McDiarmid v. Economy Fire & Casualty Co.*, 604 F. Supp. 105 (S.D. Ohio 1984), *NAACP v. American Family Mutual Insurance Co.*, 978 F. 2d 287 (7th Cir. 1992), *cert. denied*, 113 S. Ct. 2335 (1993), *Nationwide Mutual Insurance Co. v. Cisneros*, No. C3-92-52 (S.D. Ohio Feb. 24, 1994). But see *Mackey v. Nationwide Insurance Co.*, 724 F. 2d 419 (4th Cir. 1984).

The key sections of the Fair Housing Act are 3604(a) which makes it unlawful to "otherwise make unavailable or deny, a dwelling" and 3604(b) prohibiting discrimination "in the provision of services or facilities in connection therewith." Because property insurance is required to secure a mortgage loan, which generally is required to purchase a home, denying insurance makes that home unavailable. As the Court explained in the *American Family* case, "no insurance, no loan; no loan, no house." When the Supreme Court was presented with the opportunity to modify this ruling it declined to do so.

It is important to understand that HUD has no intention of regulating the insurance industry. The responsibility of the Department is to interpret and enforce the Fair Housing Act as it applies to insurance.

In order to clarify the application of the Act to insurance, HUD has begun a collaborative process that will involve close consultation with the insurance industry, regulators, civil rights organizations, and other community groups.

An advanced notice of proposed rulemaking will be issued to solicit written comments from all interested parties. Several informal meetings will be held with representatives of insurance companies, agents, State insurance commissioners, and various community advocates. At least four public hearings will be held around the Nation. A proposed rule applying the Fair Housing Act to insurers will be drafted and widely distributed. Comments will be obtained and the proposal will be revised prior to issuance of the final rule. Throughout this process HUD will retain the assistance of outside consultants with recognized credentials and experience in fair housing and the business of insurance.

Q.3. Fair Housing Litigation Policy. Ms. Achtenberg, I understand that HUD may have a policy to settle as many fair housing claims [as] possible. Are you aware of any policy of HUD directing attorneys to settle fair housing cases? What is HUD's policy as to settling fair housing cases?

A.3. I am not aware of any departmental policy on settling fair housing litigation. However, the Secretary and I agree that HUD should not be in the business of conducting protracted legal maneuvers for the purpose of merely delaying a finding and remedial order against the Department. HUD has settled, or is engaging in settlement negotiations, in several law suits where HUD's liability has already been established or where the Department has determined that the plaintiffs have raised legitimate claims of violation of law.

Q.4. Occupancy Standard. Ms. Achtenberg, I understand that HUD may be developing a new policy on occupancy standards. For example, is HUD considering developing a new occupancy standard that is broader than a 2-person per bedroom standard? Many States establish a 2-person per bedroom standard as a legitimate occupancy standard under the Fair Housing Act? If not, why not?

A.4. As you know, the Fair Housing Act prohibits discrimination based on familial status—that is, based on the presence of children under the age of 18 in housing. Any policy limiting the number of persons who reside in housing may operate to disqualify or otherwise adversely affect families with children.

The guidance issued by former General Counsel Keating in 1991 permits consideration of a variety of factors, including the size and configuration of bedrooms, to be considered in the establishment of occupancy standards. Although that guidance has sometimes been misinterpreted to allow housing providers to set two person per bedroom occupancy standards in every situation, it does not in fact authorize such action. There are a number of circumstances where the availability of particularly large bedrooms, use of space other than that denominated as "bedroom" space (such as dens or living rooms), or other factors could result in upward revision of a two person per bedroom guideline.

HUD is considering developing a new occupancy standard policy, which will provide clearer standards regarding the number of persons who can occupy housing.

**RESPONSE TO WRITTEN QUESTIONS OF SENATOR RIEGLE
FROM J. ROBERT HUNTER**

Q.1. Most studies have been based on data grouped according to zip code. Would it be helpful for the data to be grouped in smaller geographic units, like census tracts, or nine-digit zip codes?

A.1. Yes. Five-digit zip codes are much smaller than the typical rating territory for homeowners' insurance and are therefore more useful in evaluating insurance availability within a city or county. However, five-digit zip codes are still large enough to capture two or more neighborhoods with differing characteristics, as interpreted by some insurers. The preferred method for geographic coding of premium and loss experience is with a census tract, census block group, or census block number. The census tract is typically small-

er than a zip code and consists of a number of census block groups which, in turn, consist of the smallest unit—census blocks. In addition to a more precise mapping of particular neighborhoods or neighborhood characteristics, the use of census mapping for insurance premium and losses allows for direct comparison with other census information, including economic, demographic, and housing statistics. Since zip codes do not exactly match census groupings, census data by zip codes represent an estimate, albeit a statistically accurate estimate, of various economic, demographic, and housing characteristics. The availability of nine-digit zip code insurance premium and loss experience would allow for a more accurate mapping of zip code to census data.

Q.2. The American Insurance Association's study on homeowners' insurance found that blacks are three times more likely than whites to purchase their insurance through State plans, the insurance pool of last resort for those unable to get insurance through the regular market. State plan policies cost more and provide less coverage than conventional homeowners' policies. Is this evidence of insurance discrimination, or did the study provide some alternative explanation for the disparity? What are your general views of the AIA study?

A.2. The AIA report purported to be a study of homeowners' insurance availability. In fact, the study did not measure availability as you or I would understand the term—the ability of people to purchase the insurance they want and/or need at affordable prices. The AIA study surveyed homeowners in selected cities and found that the vast majority of these homeowners had homeowners' insurance. This finding simply confirms that if you need a mortgage to purchase a home, then you need to purchase insurance to protect the mortgage lender. The study was essentially a tautology by limiting the sample to those residents who, unless they owned their homes outright, had to have insurance. This is not a random sample of insurance consumers. The study shed no light on the real issues of availability. Were people priced out of the home buying market because of the price of insurance? Were some neighborhoods denied mortgage lending because insurers would not sell insurance to protect the lenders? Were some consumers forced to accept inferior policies because insurers would not offer full homeowners' coverage in certain areas? The AIA study was silent on these availability issues.

The AIA study does report a higher incidence of blacks purchasing insurance through State plans than whites. Thus, for those consumers who were able to obtain homeowners' insurance, the study suggests differential insurance availability by race.

Q.3. Would loss data have been helpful in analyzing the data you collected for your study?

A.3. Yes. While we can evaluate insurance availability using only premium and exposure data by zip code, it is only with the analysis of loss data that we can evaluate whether the charged rates are fair. Loss data by zip code, or by census block in the future, is essential for determining whether the rates charged in two different geographic rating territories actually reflect the expected losses and are fair for those areas. With loss data by zip code, we can de-

termine if the rates are fair within a rating territory, i.e., are the existing geographic territorial groupings fair? In addition, loss data by type of loss—*theft, fire, wind & hail, freezing water, etc.*—enable us to evaluate insurers' explanations for their underwriting practices in different geographic areas.

Q.4. Ms. Schubert's written testimony states repeatedly that physical location alone should not be the basis of underwriting decisions. To what extent should physical location be significant in underwriting decisions?

A.4. Location can be important for exposure to catastrophic risk, such as flood, earthquake, and wind damage. (Damage from wind is the only one of these causes of loss covered in the typical homeowners' policy.) Otherwise, location should not, in my view, be a significant underwriting factor. Of course, the decision about how to group risks geographically—the determination of rating territories—is a fundamental public policy decision.

Q.5. Insurers frequently say that certain urban neighborhoods pay more for insurance because of a higher incidence of crime and vandalism. Is this accurate? How do insurance companies determine the incidence of crime and vandalism? How do they draw the lines between neighborhoods and decide which areas should be charged more?

A.5. Insurance losses are caused by a variety of factors in addition to theft and vandalism, including fire, wind & hail, freezing water, and liability. All other factors equal, higher theft losses in one area than another should result in higher rates in one area. However, the other factors are rarely equal. For example, the amount of insured property, and thus the insurer's exposure to loss, is typically greater in neighborhoods with greater insurance availability than those neighborhoods which insurers label as "high crime."

Theoretically, insurers would determine the incidence of crime in a given neighborhood by looking at loss data by cause of loss. For all but the very largest insurers, looking at statistically valid loss data by type of loss by zip code has been impossible because loss data by zip code has not been available. Moreover, even the largest insurers will not have loss data for those zip codes in which they do not actively write business. Another source of crime data comes from the FBI and/or local police departments. These data are typically not available by small geographic areas within a city. Finally, insurers may use the services of a third-party vendor who interprets existing sources of crime data into smaller geographic units. An example of this type of product is the Geographic Underwriting Service sold by the Insurance Services Office (ISO).

In some States, like Texas, the Department of Insurance promulgates rating territories for all insurers. In most States, insurers either create their own rating territories or rely on those developed by an advisory organization like ISO. In establishing rating territories, insurers may create areas ranging in size from a single zip code to several counties. We have found that the basis for insurers' determination of rating territories has as much or more to do with subjective factors as with objective characteristics of an area.

