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Garamendi Rectifies Zip Code Profiling to the Benefit of All Drivers

By John Russo

Back in 1988, Californians were paying the second highest insurance premiums in the nation. Consumer advocates, fighting for fairness and equity in automobile liability insurance, successfully placed Proposition 103 on the state ballot. Proposition 103 was designed to reduce automobile insurance rates by 20%. More importantly, Proposition 103 demanded insurance companies base a person's automobile liability insurance premium primarily on three common sense factors: the driver's safety record, annual miles driven and the number of years of driving experience. Despite the insurance industry's effort to defeat Proposition 103 by spending record amounts—tens of millions of dollars—the voters approved it.

Then, the litigation began. After many years filled with arcane legal maneuvers by the insurance company's attorneys, Prop 103 was finally upheld in court. But the battle for fair and common sense auto insurance rates was not yet over; it had just begun. In the mid-1990's, California Insurance Commissioner Chuck Quackenbush received great help and kindness from the insurance industry. So much so, that when a state and federal investigation revealed his cozy dealings with the same insurers he was supposed to be regulating, Quackenbush resigned in disgrace and fled the state.

Before he left, however, Quackenbush set into place regulations allowing insurers to continue to base their auto insurance premiums mostly on a policyholder's ZIP code. As a result, millions of Californians, in mostly low-income or minority neighborhoods, have paid higher auto insurance premiums because of the where they live even though they have good driving safety records. A 2005 study released by Consumer's Union revealed that low-income and minority drivers were paying 8% to 83% more than driver's with similar records in non-Hispanic/White neighborhoods.

Three years ago, the Oakland City Attorney's Office joined the cities of San Francisco and Los Angeles, as well as Consumers Union, AARP and other advocacy groups filing a petition to overturn Quackenbush's tainted regulations allowing insurers to use ZIP codes to "profile" drivers. Commissioner Garamendi granted the petition within hours of it being filed. The first public hearing took place in Oakland where drivers with similar driving records, living on the opposite sides of the street, had demonstrably different insurance rates.

After carefully taking testimony throughout the state, and after more than two years of staff research, Garamendi recently issued a ruling to finally and faithfully enact Proposition 103. This decision has the insurance industry howling in protest. Unable

to defeat Proposition 103 at the ballot box and in court, the industry is launching another multi-million dollar campaign to repeal the consumer protections in Proposition 103 for the November 2006 ballot.

One of the insurance industry tactics to scare voters into supporting their ballot measures is the claim that implementing Proposition 103 will increase insurance costs for fixed-income residents and rural community drivers. However, according to a 2003 study conducted by Insurance Department staff, when the rating factors for Proposition 103 are properly aligned, the majority of increased premiums fall on those drivers with poorer safety records, less driving experience, and greater miles driven without forcing the increases in rural communities projected by the insurance industry. The Department analysis showed that those with good safety records, more years of driving experience, and fewer annual miles, regardless of their location, paid less. And, finally, the study showed that limiting the weight of ZIP code in insurance rates benefited good drivers throughout the state both in urban *and* rural communities.

The recent decision by Insurance Commissioner John Garamendi to fulfill the voter-mandated provisions of Proposition 103 and correct the biased practices of the industry was a courageous act we can all applaud. His decision is a boon to Oakland residents who've suffered too long from insurance industry bias. Now, it will be up to the voters to ensure justice prevails and the insurance industry's attacks on consumer protections are soundly defeated this November.

