

*2020 Fall National Meeting
Virtual Meeting*

NAIC/CONSUMER LIAISON COMMITTEE

Thursday, December 3, 2020

2:00 – 3:30 p.m. ET / 1:00 – 2:30 p.m. CT / 12:00 – 1:30 p.m. MT / 11:00 a.m. – 12:30 p.m. PT

ROLL CALL

Michael Conway, Chair	Colorado	Kathleen A. Birrane	Maryland
Andrew R. Stolfi, Vice Chair	Oregon	Grace Arnold	Minnesota
Jim L. Ridling	Alabama	Mike Chaney	Mississippi
Lori K. Wing-Heier	Alaska	Chlora Lindley-Myers	Missouri
Elizabeth Perri	American Samoa	Bruce R. Range	Nebraska
Ricardo Lara	California	Barbara D. Richardson	Nevada
Andrew N. Mais	Connecticut	Russell Toal	New Mexico
Trinidad Navarro	Delaware	Linda A. Lacewell	New York
Karima M. Woods	District of Columbia	Mike Causey	North Carolina
David Altmaier	Florida	Jon Godfread	North Dakota
John F. King	Georgia	Tynesia Dorsey	Ohio
Dean L. Cameron	Idaho	Glen Mulready	Oklahoma
Robert H. Muriel	Illinois	Jessica K. Altman	Pennsylvania
Stephen W. Robertson	Indiana	Raymond G. Farmer	South Carolina
Doug Ommen	Iowa	Doug Slape	Texas
Vicki Schmidt	Kansas	Scott A. White	Virginia
Sharon P. Clark	Kentucky	Mike Kreidler	Washington
James J. Donelon	Louisiana	James A. Dodrill	West Virginia

NAIC Support Staff: Lois E. Alexander

2020 NAIC Consumer Liaison Representatives

Amy Bach	United Policyholders	Marguerite Herman	Healthy Wyoming
Birny Birnbaum	Center for Economic Justice	Anna Howard	American Cancer Society Cancer Action Network
Ashley Blackburn	Community Catalyst	Katherine (Katie) Keith	Out2Enroll
Brendan M. Bridgeland	Center for Insurance Research	Amy Killelea	National Alliance of State and Territorial AIDS Directors
Courtney Bullard	Utah Health Policy Project	Karrol Kitt	The University of Texas at Austin
Bonnie Burns	California Health Advocates	Ken Klein	California Western School of Law
Thomas M. Callahan	Massachusetts Affordable Housing Alliance	Peter R. Kochenburger	University of Connecticut School of Law
Laura Colbert	Georgians for a Healthy Future	Sarah Lueck	Center on Budget and Policy Priorities
Brenda J. Cude	University of Georgia	Matthew Smith	Coalition Against Insurance Fraud
Lucy Culp	The Leukemia & Lymphoma Society	Andrew Sperling	National Alliance on Mental Illness
Deborah Darcy	American Kidney Fund	Harold M. Ting	Consumer Advocate Volunteer
Kimberly Donovan	Texas Office of Public Insurance	Wayne Turner	National Health Law Program
Eric Ellsworth	Consumers Checkbook/Center for the Study of Services	Jackson Williams	Dialysis Patient Citizens
Erica Eversman	Automotive Education & Policy Institute	Silvia Yee	Disability Rights Education and Defense Fund
Justin Giovannelli	Georgetown University Center on Health Insurance Reform		
Ross Hammond	The Sunrise Project		

AGENDA

1. Hear a Presentation on the Insurability of Natural Disasters—*Kenneth S. Klein (California Western School of Law)*—16 minutes
2. Hear a Presentation on Developments in Health Care Reform—*Sarah Lueck (Center on Budget and Policy Priorities) and Laura Colbert (Georgians for a Healthy Future)*—14 minutes
3. Hear a Presentation on Consumer Protection from Unethical Health Insurance Marketing and Sales Practices—*Harry Ting (Healthcare Consumer Advocate)*—18 minutes
4. Hear a Presentation on Leveraging Health Plan Capital for Affordable Housing and Community Development—*Ashley Blackburn (Community Catalyst) and Thomas Callahan (Massachusetts Affordable Housing Alliance)*—16 minutes
5. Hear a Presentation on Insurers Use of Criminal History Information—*Peter Kochenburger (University of Connecticut School of Law)*—16 minutes
6. Discuss Any Other Matters Brought Before the Liaison Committee
—*Commissioner Michael Conway (CO)*
7. Adjournment

W:\National Meetings\2020\Fall\Agenda\CONSUMER-Version 2.Docx

Insurability of Natural Disasters ©

Ken Klein, Louis & Hermione Brown
Professor of Law

NAIC National Meeting – Dec. 2020



Who am I?

- I lost my own home to natural disaster in 2003.
- I worked as a business litigation defense lawyer for the better part of 25 years.
- I have taught law for the past 12+ years at California Western School of Law, where I am both the Louis and Hermione Brown Professor of Law and the Associate Dean for Assessment.
- I teach, research, publish, and counsel on insurance and natural disasters.
- I frequently work with United Policyholders.
- This is my sixth NAIC National Meeting as a consumer representative.





Tariffs, natural disasters are driving up construction costs in Florida: report

A new report by BuildFax found that home maintenance construction costs in Florida increased 13 percent in June, over-year

TRD MIAMI / By [Keith Larsen](#)

July 17, 201



“[D]espite insurers’ attempts to place the responsibility to select appropriate coverage limits on homeowners, homeowners in fact relied on insurers’ estimates of replacement cost to determine the amount of coverage to buy....”

Ass’n. Cal. Ins. Cos. v. Jones, No-S226529, 2014 WL508598 at *11 (Cal. App. Feb. 5, 2014)
(Appellant’s Opening Brief)





OFFICE of the
INSURANCE
COMMISSIONER
WASHINGTON STATE



CLIMATE
SUMMIT
2020

Advisor › Homeowners Insurance

What's California Going To Do About Future Wildfire Insurance?



John Egan Contributor ⓘ
Advisor



Amy Danise Editor
Advisor



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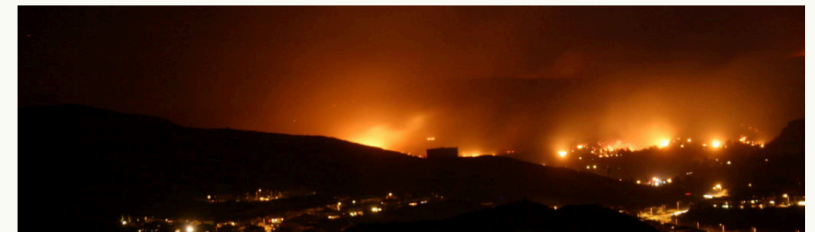
[About E360](#)

E360 DIGEST

SEPTEMBER 30, 2020

As Climate Impacts Worsen, Homeowners Struggle to Find Affordable Insurance

Insurance is getting harder for some U.S. homeowners to obtain as a result of the impacts of climate change, according to reporting from [The Huffington Post](#) and [Marketplace](#).



When an insurer presents a homeowner with an estimated reconstruction value, ~80% either fully insured to that number or insured above that number.

Table 3: Summary Statistics for Households who Partially Insure, Fully Insure, and Overinsure

	Partially Insure	Fully Insure	Overinsure
Observations	36,791	122,085	21,041

67.9% 11.7%

The Journal of Risk and Insurance

Original Article

The Influence of Sellers on Contract Choice: Evidence from Flood Insurance

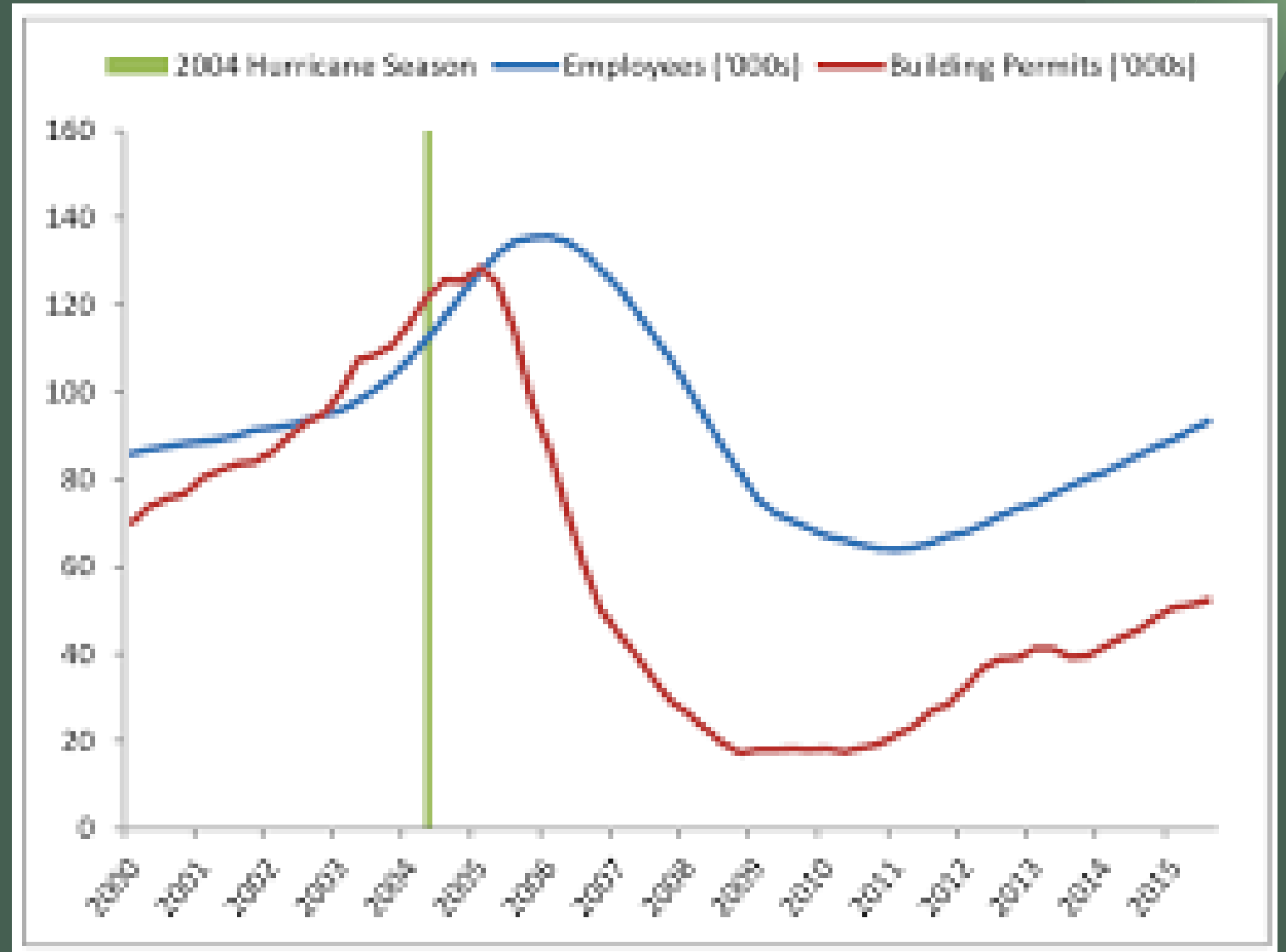
Benjamin L. Collier, Marc A. Ragin

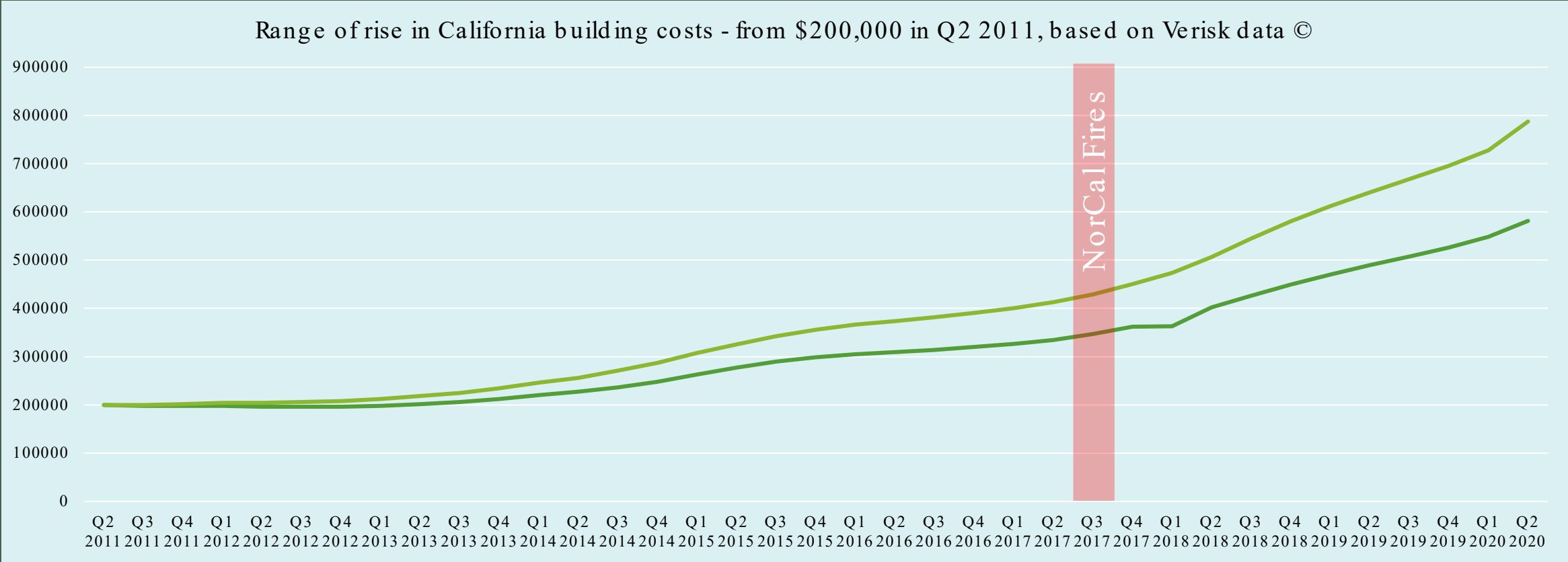
First published: 31 March 2019 | <https://doi.org/10.1111/jori.12280>

We thank David Eckles, Jed Frees, Rob Hoyt, Kenneth Klein, Joan Schmit, Roxane Steinacker, Justin Sydnor, and seminar participants at University of Wisconsin-Madison, Temple University, the American Risk and Insurance Association, and the Southern Risk and Insurance Association for helpful comments. We also thank Jianing Yao and Juan Zhang for their research assistance.

Benjamin L. Collier is at the Department of Risk, Insurance, and Healthcare Management, Temple University. he can be contacted via e-mail: collier@temple.edu. Marc A. Ragin is at the Department of Insurance, Legal Studies, and Real Estate, University of Georgia. He can be contacted via e-mail:

Florida Building Permits





<https://www.verisk.com/insurance/campaigns/360value-quarterly-cost-updates/>

The possibility of demand surge is priced into the rebuild estimates informing Coverage A

- "360Value replacement cost estimates account for all costs needed to reconstruct a property to its original condition—down to the screws and nails."
- "360Value, the only replacement cost estimator that fully supports catastrophe risk management programs, can capture and store property-specific building characteristics provide current and reliable replacement cost estimates assess catastrophe risk on individual properties before the policy is underwritten using a built-in connection to AIR Worldwide catastrophe models export property data and replacement values for portfolio-level catastrophe modeling."
- "Match the front end to the back end. Consistency across your underwriting and claims means no surprises for underwriters or policyholders in the event of a total loss. "

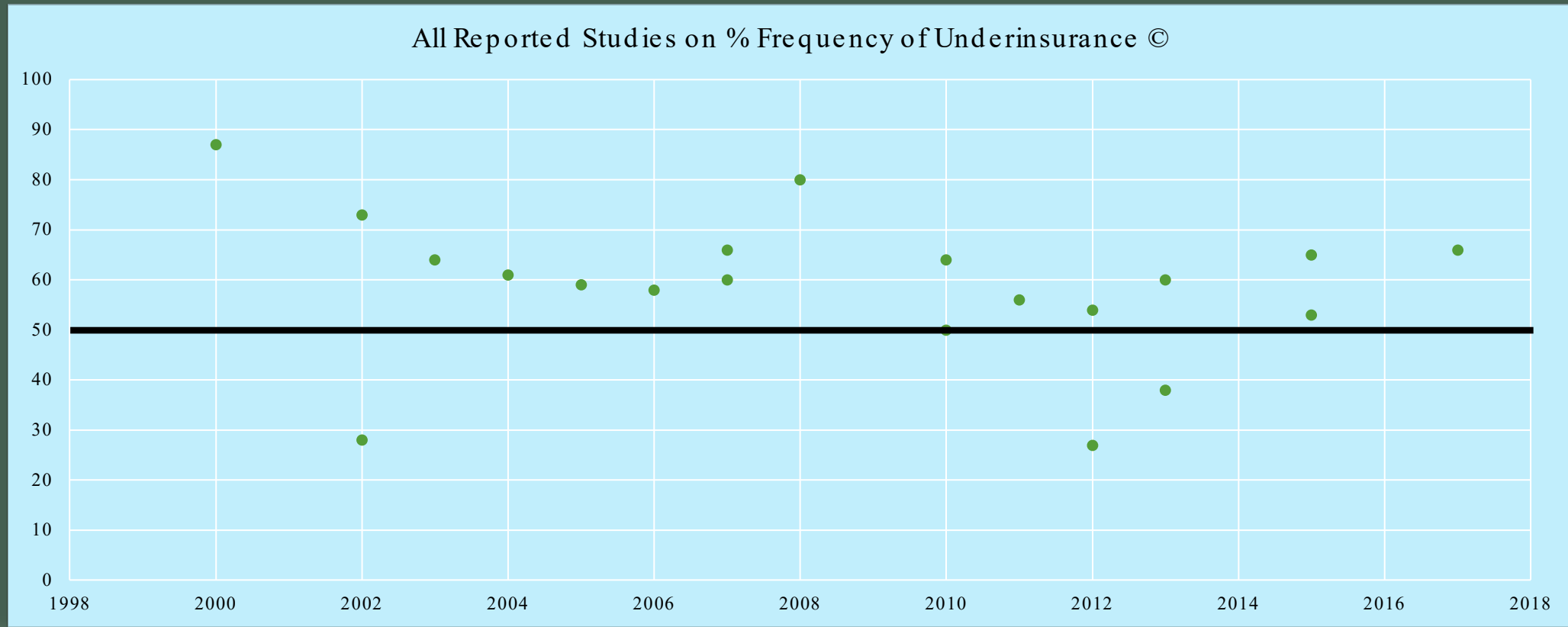
- I.I.I.I.
 - "... your insurer will provide a recommended coverage limit for the structure of your home...."
- NAIC
 - "Your insurance agent usually will help you decide how much dwelling coverage to buy when you first get homeowners insurance. Your coverage should equal the full replacement cost of your home."
- Regulators
 - Ex.// Texas: "Ask your insurance company if you aren't sure how much it would cost to rebuild your home.... "
 - Ex.// N.C.: "You should also discuss your insurance needs with an insurance agent. It is this person's job to help you choose the right type and amount of insurance."

INS. INFO. INST., How Much Homeowners Insurance Do I Need?, <https://www.iii.org/article/how-much-homeowners-insurance-do-you-need> (last visited Feb. 27, 2018); INS. INFO. INST., Insurance for Your House and Personal Possessions:: https://www.naic.org/documents/prod_serv_consumer_guide_home.pdf; Deciding How Much You Need, <https://www.iii.org/sites/default/files/docs/pdf/possessions.pdf> (last visited Apr. 2, 2018).

National Association Insurance Commissioners, A Consumer's Guide to Home Insurance 4 (2010), www.naic.org/documents/consumer_guide_home.pdf.

TEX. DEPT OF INS., Homeowners Insurance (September 2017), www.tdi.texas.gov/pubs/consumer/cb025.html; N.C DEPT OF INS., A Consumer Guide to Homeowner's Insurance 15 (2010), http://www.ncDOI.com/_Publications/Consumer%20Guide%20to%20Homeowners%20Insurance_CHO1.pdf.

More homes are underinsured than over-insured



United Policyholders, Roadmap to Recovery Surveys, <https://www.uphelp.org/roadmap-recovery-surveys#>; Carla Fried, Recent disasters are a wake-up call to check your homeowner insurance, CNBC (Sept. 5, 2017), <https://www.cnbc.com/2017/09/05/harvey-is-a-wake-up-call-to-check-your-homeowners-insurance.html>; Administrative Rulemaking File for Cal. Code Regs., Tit.10, § 2695.183 at 1027-1030, Ass'n. of Cal. Ins. Cos. v. Jones, 235 Cal. App. 4th 1009 (2015) (No. B248622); PETER M. WELLS, INSURING TO VALUE MEETING A CRITICAL NEED 46 (2d ed. 2007); Australian Securities & Investment Commission, Getting Home Insurance Right: A report on home Building underinsurance, Report 54 (September 2005).

CDOI found that
57% of
Homeowners with
Extended
Replacement
Coverage still were
underinsured

DECLARATION OF PAMELA O'CONNELL

I, Pamela O'Connell declare as follows:


1. I have personal knowledge of the facts set out below. If called as a witness, I would and could testify competently, under oath and under penalty of perjury.

2. In _October 1992_, I began working for the California Department of Insurance.

3. In my current assignment, I am working as _Bureau Chief_ in the Field Rating and Underwriting Bureau (FRUB) of the California Department of Insurance.

Impact of Coverage Limit Selection on Policyholders

MCD staff examined a total of 188 policies during these examinations. In 126 of these cases, the Coverage A limit selected matched the figure produced by the insurer's tool. Further analysis and review of corresponding claim files showed that of these 126 cases, the Coverage A limit was lower than the cost to rebuild following the loss in 102 cases. When factoring in any extended replacement cost coverage that applied, 72 continued to be underinsured for the total loss. (These figures may not encompass all situations in which the insurer's tool was used and ultimately resulted in underinsurance. This is



Rate filings by
insurers suggest
post-disaster
~67% of
homeowners are
underinsured

Response to 12.22.17 Objection

2017 North Bay Fire Claims

Response to 01.22.18 Objection

☐ [FireLine Distribution by Month.xlsx](#)

☐ [Objection 20171222 Response.pdf](#) 1/19/18

☐ [2017 North Bay Fires Claims Listing.xlsx](#) 1/19/18

☐ [Objection 20180122 Response.pdf](#) 2/3/18

☐ [Average Insured Value 1999-2003.pdf](#)

☐ [Average Insured Value 1999-2003.xlsx](#)

☐ [CA HO-3 Rating Manual Effective 20180501.pdf](#)



The underinsurance problem, boiled down to its essentials, is that the data suggests:

Most people think they are fully insured.

Most people are underinsured.

Most people are underinsured by a lot.

There isn't precise data on how many, how often, or by how much.

No one actually tells homeowners about any of this.

REQUIRE
TRANSPARENCY
SUCH AS THIS:

INSURANCE COVERAGE GUIDE[®]

IN THIS INSURANCE POLICY, WE ESTIMATE THAT IF YOU SUFFERED A TOTAL LOSS OF YOUR HOME, THE COST TO REBUILD YOUR HOME WOULD BE:

\$212,000

YOUR PRICE TO BUY THIS INSURANCE POLICY IS:

\$1200

IF YOU PURCHASE THIS INSURANCE AND THEN YOU DO SUFFER A TOTAL LOSS OF YOUR HOME, NO MATTER WHAT IT ACTUALLY COSTS, THE AMOUNT WE WILL PAY YOU TO REBUILD YOUR HOME WILL BE NO MORE THAN \$212,000.

OUR ESTIMATES ARE TOO LOW 60% OF THE TIME.

WHEN OUR ESTIMATES ARE TOO LOW, THEY ARE LOW BY AN AVERAGE OF 30%

30% MORE COVERAGE FOR YOUR HOUSE WOULD BE TOTAL COVERAGE LIMITS OF \$275,000.

WE CAN SELL YOU INSURANCE THAT GIVES YOU \$275,000 OF COVERAGE TO REBUILD YOUR HOME. YOUR PRICE FOR THIS INSURANCE WOULD BE:

\$1312

THAT STILL COULD BE TOO LOW. IF YOU WANT EVEN MORE COVERAGE THAN THAT, PLEASE LET US KNOW AND WE WILL QUOTE THE COST OF THAT AMOUNT OF COVERAGE.

Two cost calculations of the same home at the same moment in time

ACTUAL CONSTRUCTION COST

RESIDENTIAL/HOME CONSTRUCTION AGREEMENT

THIS AGREEMENT is made at _____, _____, effective _____, 20____, by and between _____, an _____ corporation, (hereinafter the "Contractor"), and (hereinafter the "Owner" whether one or more).

1. **CONSTRUCTION:** Contractor shall furnish all labor, materials, equipment and supplies for the construction and completion of a residence for Owner located in the township/city of _____, County of _____, and street address of _____, (hereinafter the "Residence"), in accordance with the provisions of this Agreement and the other contract documents referred to in paragraph 2 of this Agreement (hereinafter collectively the "Contract Documents").

2. **CONTRACT DOCUMENTS:** This Agreement shall include the following "Contract Documents", each of which has been initialed concurrently with the execution of this Agreement, in duplicate, by Contractor and Owner, and all of which are hereby incorporated herein by reference:

(a) The Specifications dated _____, _____, which are attached hereto.

(b) The Plans as shown on the drawings dated _____, _____, which are attached hereto.

If any inconsistency shall exist between this Agreement, the Specifications and the Plans and/or any other documents or drawings, the terms and conditions of the Specifications shall control.

3. **CONTRACT PRICE AND PROGRESS PAYMENTS:**

(a) Owner shall pay Contractor the amount of \$ _____ (hereinafter the "Contract Price"), for the construction of the Residence in accordance with the provisions of this Agreement and the Contract Documents, subject to adjustment by any properly made Change Order(s) and/or as otherwise specified herein.

(b) Owner has deposited earnest money with Contractor in the sum of \$ _____. This deposit shall be applied to the Contract Price.

(c) Owner shall make progress payments of the Contract Price to the Contractor in accordance with the following schedule:

(i) Upon substantial completion of the excavation of the basement and the installation of the footers and basement walls, a sum equal to _____ percent (____%) of the Contract Price; and

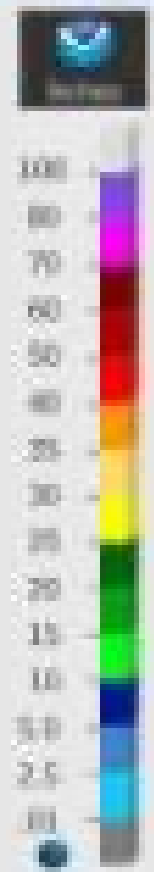
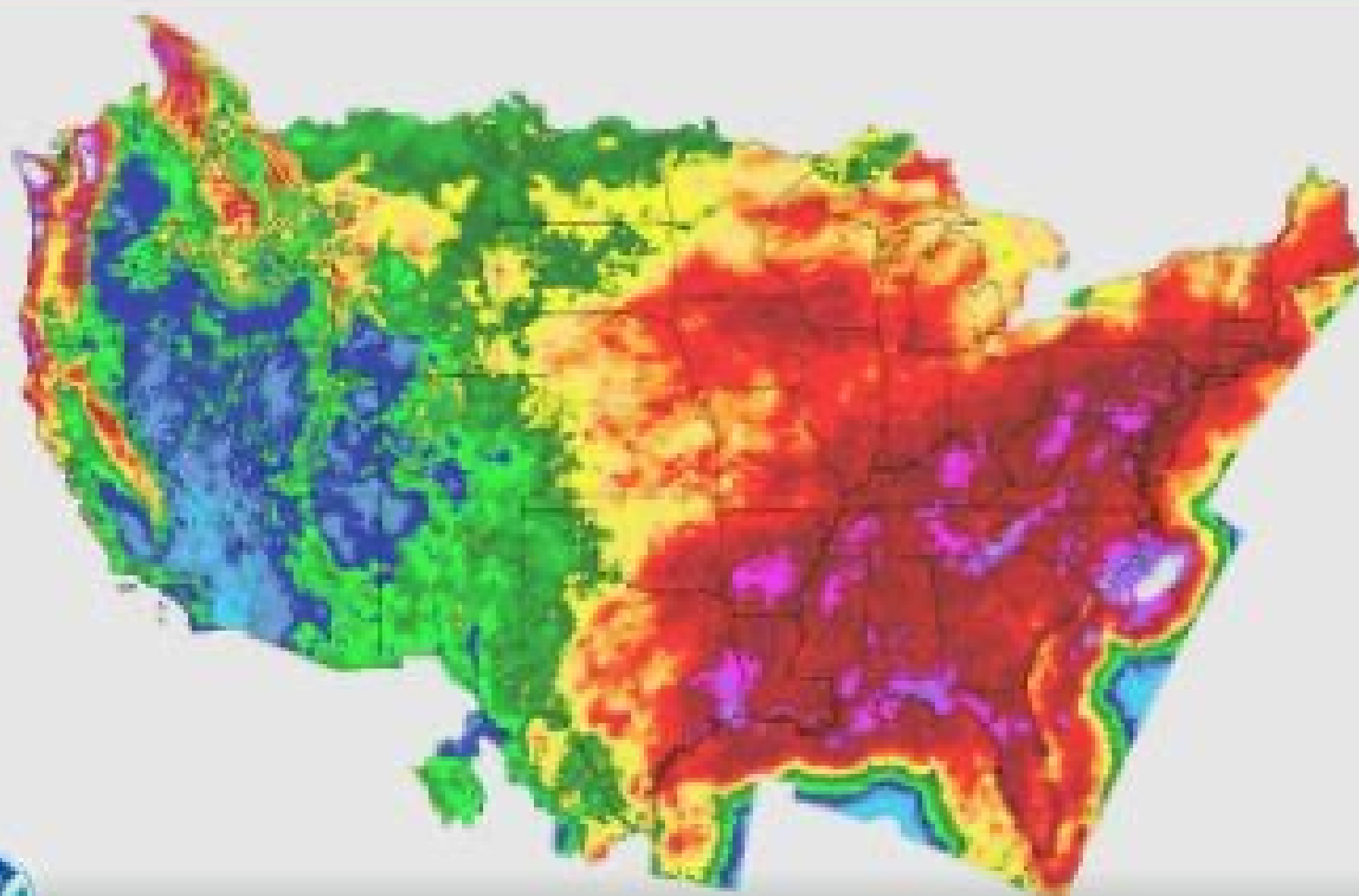
ESTIMATED REBUILD COST WHEN QUOTING INSURANCE



Determine the frequency and average amount of underinsurance of residences. Evaluate possible solutions. Prepare a report and recommendations by the Winter 2021 National Meeting.

NAIC Insurance Availability and Affordability Task Force Final Report

January 1998



Voluntary take up rates for flood insurance or Earthquake insurance are low:

- Flood:
 - 13% - 15% of homes are insured for flood
 - 40% of flood-insured homes are required to have flood insurance
 - Meaning only 9% - 10% of homeowners in U.S. who have a choice choose to have flood insurance
- Earthquake:
 - Only 7% - 8% of homes are insured for earthquake
 - Essentially none of which is mandatory
 - Even in California, only 10% of homes are insured for earthquake

Voluntary take up rates for fire insurance are high:

- Fire:
 - 91% of homes have 'standard' home insurance
 - 59% - 66% of homes have a mortgage
 - Meaning 74% - 78% of homeowners in U.S. who have a choice choose to have fire insurance



Risk Pooling: Cross-Subsidy / Redistribution

Cross-Subsidy from
Low-Risk to High-Risk



Cross-Subsidy from
Rich to Poor



Cross-Subsidy from
Productive to Non-Prod.
Part of the Life Cycle



[illegible]

- \$1130-\$1596 per home

- \$1130-\$1596 per \$200,000 in home value

Evaluate the costs and benefits of widely available and affordable homeowner insurance, covering all catastrophe perils including fire, flood, wind/hurricane, and earthquake. Prepare a report and recommendations by the Winter 2021 National Meeting.

A Possible 'To-Do' list:

1

Require insurers only write home insurance that does not exclude perils.

2

Require insurers price all perils insurance in undistorted risk pools.

3

Require insurers transparently and clearly disclose their experience in underinsuring – both in frequency and amount – and price for their customer insurance that fills that protection gap.

Questions?



Developments in Health Care

Sarah Lueck and Laura Colbert
NAIC Consumer Representatives

December 3, 2020



GEORGIANS FOR A
HEALTHY FUTURE

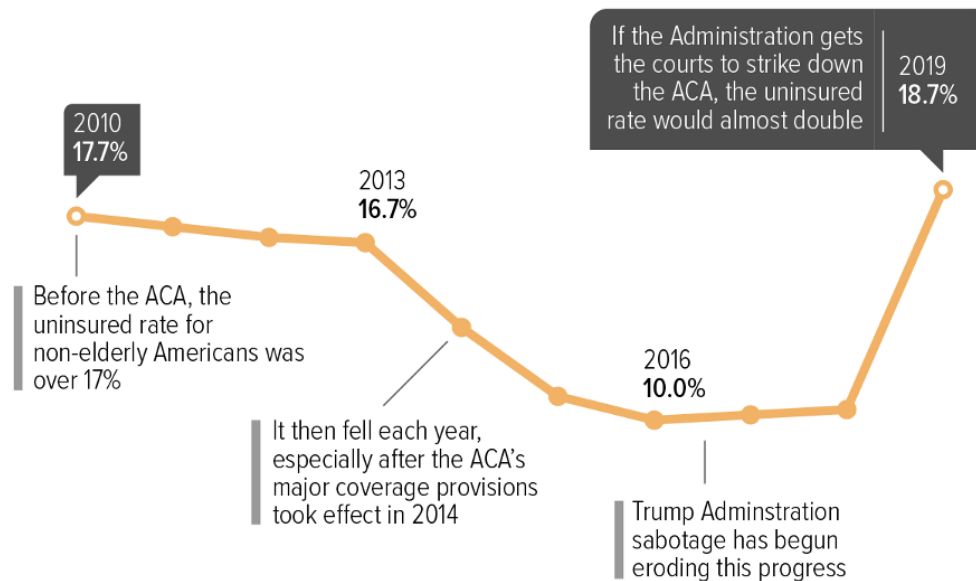


Center on
**Budget
and Policy
Priorities**

The Many Risks of the ACA Repeal Lawsuit

- Staggering increase in the uninsured
- Threatens Medicaid expansion for millions
- Adverse impacts compounded in the COVID crisis
- Would exacerbate racial disparities in access to health coverage
- Wipe out pre-existing condition protections
- Very large tax cuts for those who need it least: high-income people and certain large corporations

Uninsured Rate Would Spike If Supreme Court Strikes Down ACA



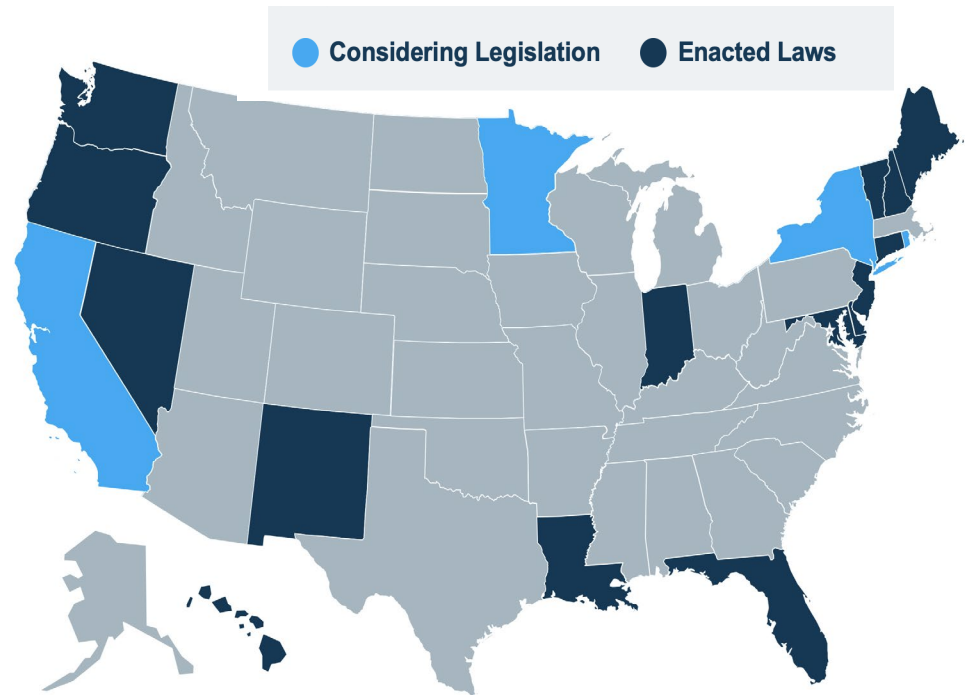
Source: CBPP estimate based on Urban Institute (2019)

CENTER ON BUDGET AND POLICY PRIORITIES | CBPP.ORG

For more information, see: <https://www.cbpp.org/blog/the-many-risks-of-the-aca-repeal-lawsuit-a-rundown>

States Can't Protect Against Harmful Effects of ACA Repeal

- If the Court overturns the Medicaid expansion or Marketplace financial assistance, states would be hard-pressed to replace them.
- States don't regulate self-insured plans that cover most workers and would be unable to reinstate key protections.



Source for map: <https://avalere.com/insights/states-act-to-ensure-coverage-protections-in-advance-of-aca-decision>, March 25, 2020

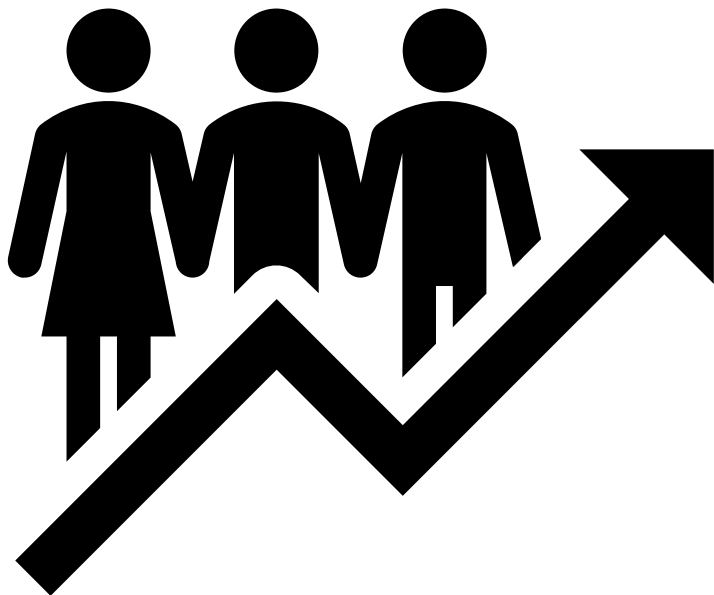
Marketplace Open Enrollment

- Nov. 1 – Dec. 15 in most states
- The latest data
- Most state-based marketplaces provide more time



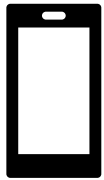
Opportunities for Federal Action

(that we urge states to advocate for)



- Increase and improve outreach about health coverage
- Broaden enrollment opportunities for people in the marketplaces
- Fix the "family glitch"
- Reverse public charge rules and address climate of fear for immigrants and their family members

States Can Help Boost Enrollment



- Increase marketing and outreach



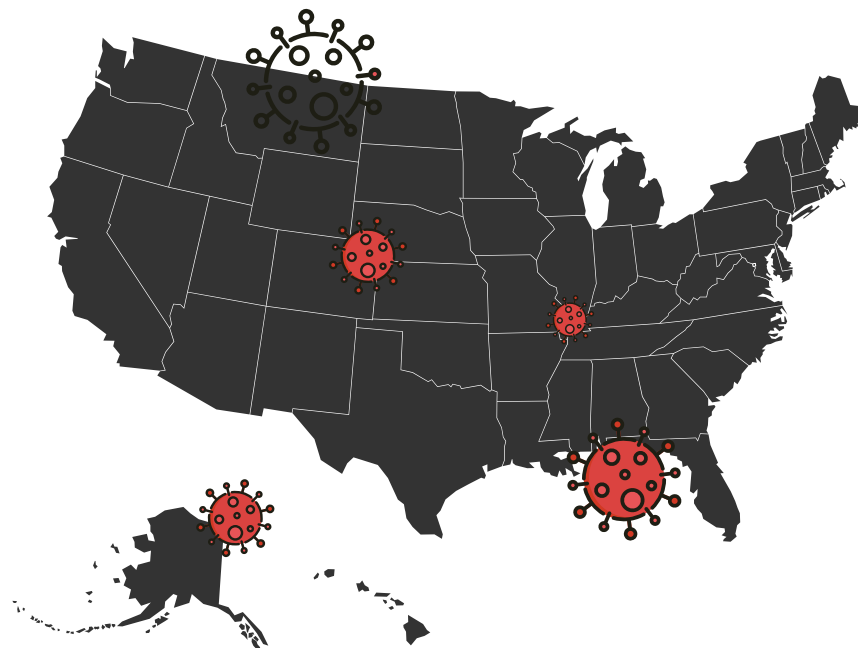
- Extend enrollment periods (SBMs)



- Work with other state agencies to get the word out

States Have Additional Opportunities to Make Progress in a Crisis

- Call on Congress for COVID Relief
- Adopt the ACA Medicaid expansion
- Consider health insurer fees to generate needed funding
 - Recent legislation in Colorado and New Jersey
- Protect against subpar plans (short-term, indemnity, etc.)
- Surprise billing protections



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GEORGIANS FOR A
HEALTHY FUTURE



Center on
**Budget
and Policy
Priorities**



**More That
Should Be
Done**

Protect Consumers from Individual Health Insurance Marketing & Sales Abuses

*Harold M. Ting, PhD FACHE
NAIC Unfunded Consumer Representative*

*Presentation to
NAIC Regulatory Framework (B) Committee
November 19, 2020*

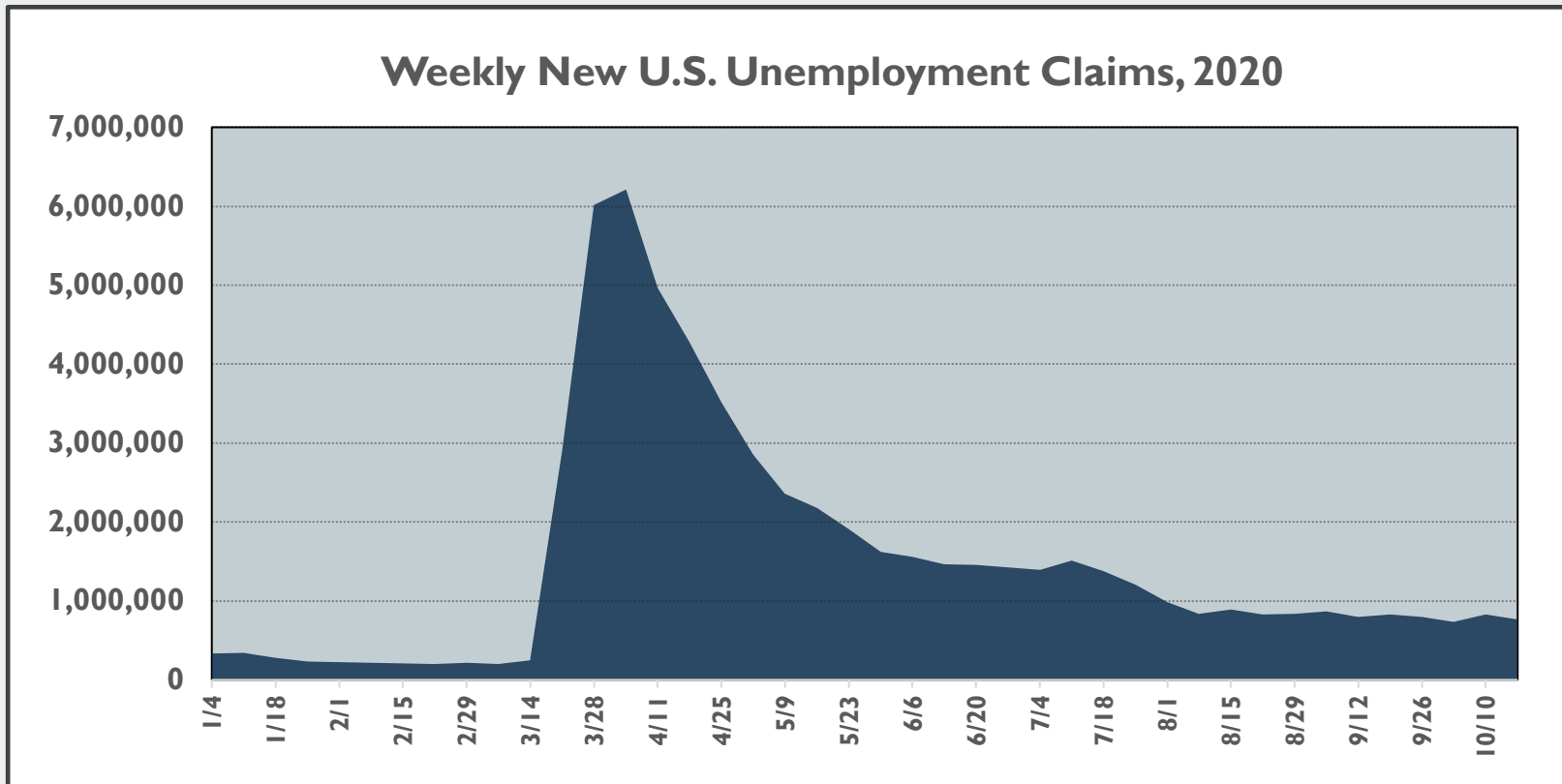
This Presentation

- Explain why the problem is especially serious during the pandemic
- Describe my secret shopping
- Recommend actions to combat it
 - States
 - NAIC

Serious Harm of Misrepresentation

- Thousands of dollars in uncovered medical bills
- Unwarranted rescission of policies for pre-existing conditions through post-claims underwriting
- Financial ruin & inability to get the healthcare they need.

An Extremely Urgent Issue



MY SECRET SHOPPER

- Searched online for “health insurance” in 6 states: out-of-work 30 year old, \$30-35k income, healthy or diabetes
- Selected top listings that took me on 3+ lead generating websites asking for detailed personal info - selling my data
- Eventually directed to insurance websites that prompted to call an agent
- Many sales reps called at the same time.

Secret Shopping Experience

- Low cost, non-ACA plans were usually recommended
- Fixed indemnity & healthcare shared ministry were recommended more than STLDI
- Most “sellers” would not give me their full names
- Of those who did, some had revoked or expired licenses

Common Misrepresentations

- Deceptive use of BC, Aetna logo or name
- No explanation of pre-existing condition exclusions, renewal limitations
- Deceptive examples to give illusion of comprehensive benefits
- Shared ministry plans portrayed as excellent *insurance*.
- Impression of drug coverage when only a discount card
- Association membership requirement not mentioned – in one case, dues were \$90 of \$205 monthly premium.

*“Many are switching to X plan. It’s just common sense.
The prices are cheaper & the coverage is great!”*

- *“ObamaCare plans are very expensive, have high deductibles & limit the doctors & hospitals you can see.”*
- Most did not mention possibility of premium tax credits or deductible or copay reductions
- Not worth it, because *“you don’t need pregnancy, mental health or substance abuse benefits, right?”*.
- Yet several tried to bundle in accident or dental insurance to increase their commissions.

“You’ll Get Written Info After You Apply”

- Resisted providing plan documentation
 - ” Just tell me what questions you have & I’ll answer them.”
- Brochures
 - Name of insurer unclear. NAIC Code never given
 - “description of benefits, exclusions or limitations may vary depending on state laws.”

Fast Talking, High Pressure Sales

- Pressured to enroll next day -- “Premiums change day to day”.
- Shared ministry plans - *“Premiums will never change.”*
- One agent insulted me when I said I needed more time.
- Shared ministry plan seller reduced premium by \$300, when told I was talking with another agent too.

Actions States & NAIC Should Take

- Expand state regulations & revise Model #171
- Survey plan enrollees & share results
- Proactively distribute guidance

Include fixed indemnity, HCSM & STLD plans, whether sold through an association or not.

State Regulation & Model 171

- Enhance transparency – insurer name & code, standard summary with **Statement of Benefits & Coverage** in **advance**
- Explain how to learn if eligible for financial assistance
- Prohibit pre-existing condition recission unless insurer proves insured given **documentation & intent to deceive**
- Hold **insurers & agencies accountable** – PA HB 2730

Enhance Transparency

- Require the official **name** of the insurer with **NAIC Code** on all sales & policy literature
- Mandate **standardized disclosure**
 - Key policy provisions (see box)
 - CMS Statement of Benefits & Coverage
 - Including SBC standard 3 scenarios
- **Provide at least 2 days before application**

KEY POLICY PROVISIONS

Period covered by policy

Ability to renew

Annual benefit payment limits

Lifetime benefit payment limits

How to see provider network

How to see drug formulary

Look back period

Possibility of Financial Assistance

- Require all marketing & plan materials to
 - advise consumers they may be eligible for financial assistance if they buy ACA plans or qualify for Medicaid
 - provide specific information on who to contact in their state to explore those options.

Strengthen Pre-Existing Condition Protections

- Only hold consumers accountable for pre-existing conditions, where a licensed medical professional **provided the insured a document** that states those conditions were present. Far superior to applying “prudent person” criteria.
- Prohibit policy rescissions unless enrollee made a false statement with **intent to deceive**, which materially affected the issuer’s acceptance of risk. [PA HB 2730]

Hold Insurers & Agencies Accountable

- Before a personal solicitation, seller must disclose name, agency, license, insurer [MINN. STAT. 60K.46]
- Hold **insurers** independently responsible for violation of state regulations by sellers of their plans
- Hold **general agents** or **independent agencies** independently responsible for their producers' violations of state regulations.



PA HB 2730

Pilot A National Survey of Enrollees

- **Enrollee surveys** are the only way to assess whether sellers communicated honestly
- Standard practice at CMS, NCQA
- Require plans of interest to provide info on enrollees & the names of sellers commissioned for those sales
- Survey a sample a few months after enrollment
- Get foundation funding for design, plans pay to implement.

Types of Survey Questions

- Did you receive a written policy before you enrolled?
- Was your plan presented to you accurately? If not, why?
- STLDI's – Were you aware that pre-existing conditions are not covered? Did the insurer or seller explain to you whether you had any excluded conditions?
- HCSM's – Were you aware that your policy is not insurance?

Use of Surveys

- Identify plans & sellers that should be investigated for misrepresentation
- Incent sellers to follow ethical sales practices & insurers to drop unethical sellers
- Ideally, provide national consumer ratings at an NAIC website on plans & their sellers.

Proactive Guidance Outreach NOW

- Adapt *"Before You Buy Low Cost Health Insurance, Know What You Are Buying & Get Advice From A Trusted Source"* & post
- Distribute it via
 - State unemployment agencies to new filers
 - Medicaid agencies to people found ineligible
 - Federal/state exchanges to users.

Misrepresentation is the COVID-19 of the Individual HI Market



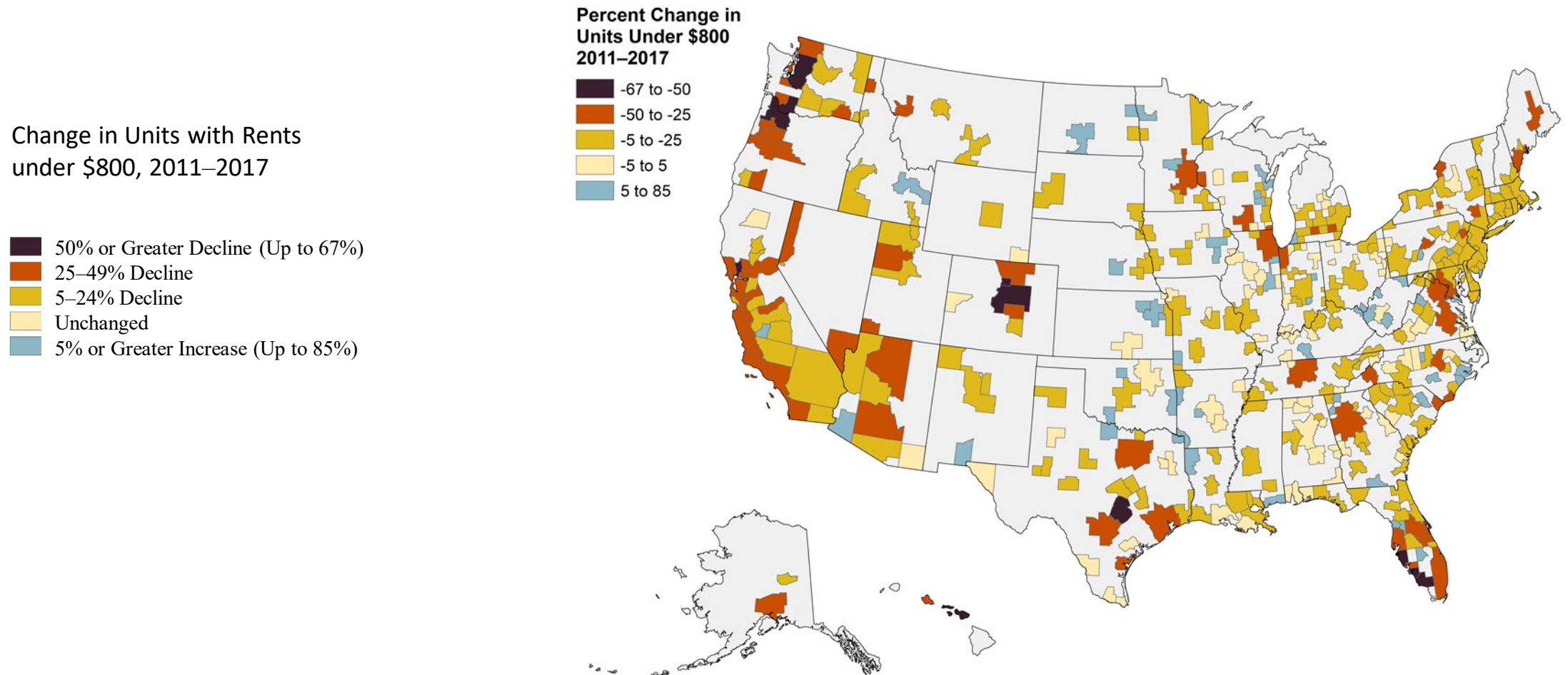
- It's deadly financially & possibly physically
- When it strikes, harm can be irreversible
- State Insurance Depts are the consumers' public health system
 - **FIND** where it is coming from
 - **PREVENT** it from spreading
 - **FIGHT** it with a coordinated national effort.

LEVERAGING HEALTH PLAN CAPITAL FOR AFFORDABLE HOUSING AND COMMUNITY DEVELOPMENT

Presented By: Tom Callahan and Ashley Blackburn



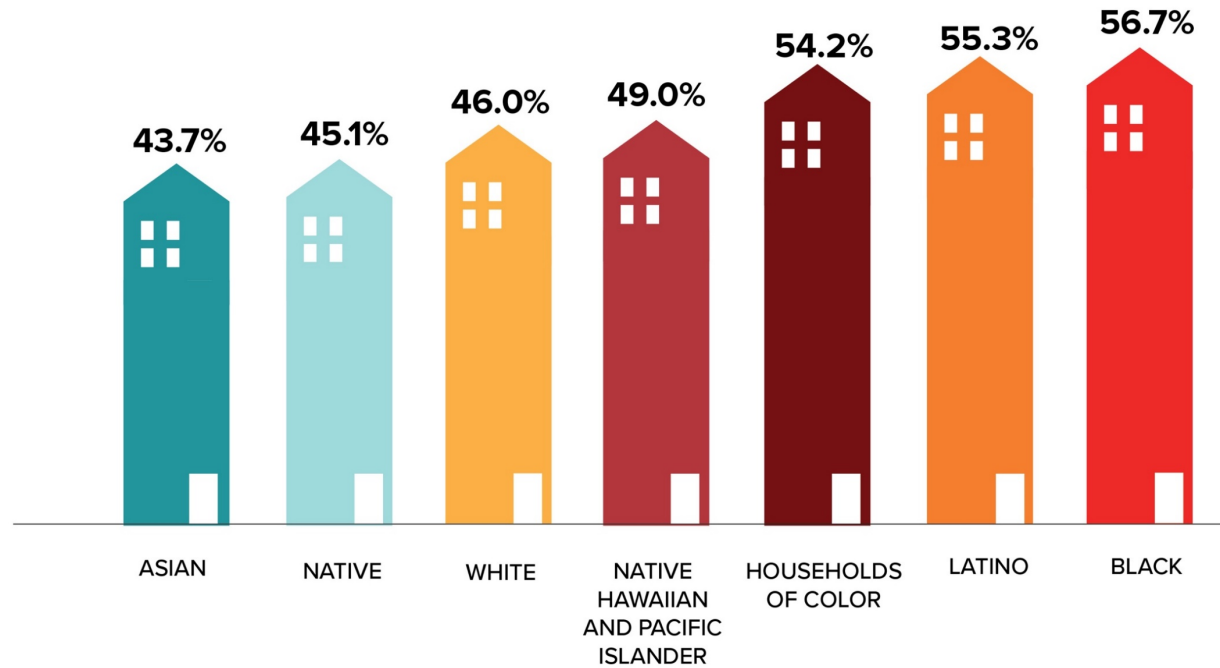
Affordable Rental Stock in Most Metros Has Declined Substantially Since 2011



Notes: Rents are adjusted to 2017 dollars using CPI-U for All Items Less Shelter.

Source: JCHS tabulations of US Census Bureau, American Community Survey 1-Year Estimates and Missouri Census Data Center.

COST-BURDENED RENTERS BY RACE



Source: American Community Survey, 2018.

Lost Wealth after Disasters

- Whites who lived in counties with only \$100,000 in damage from 1999 to 2013 **gained an average of approximately \$26,000 in wealth**. However, those who lived in counties with at least \$10 billion in damage during the same time period **gained nearly \$126,000**.
- Blacks who lived in counties with just \$100,000 in damage gained an estimated \$19,000 in wealth on average, while those living in counties with at least \$10 billion in damage **lost an estimated \$27,000**.

These differences occurred even after the researchers controlled for a wide range of factors including age, education, homeownership, family status, residential mobility, neighborhood status and county population.

Citation: Damages Done: The Longitudinal Impacts of Natural Hazards on Wealth Inequality in the United States” Researchers Junia Howell, a scholar at Rice’s Kinder Institute for Urban Research and an assistant professor of sociology at the University of Pittsburgh and Jim Elliott, a professor of sociology at Rice and fellow at Rice’s Kinder Institute.

A Prescription for Housing

As Matthew Desmond wrote in *Evicted: Poverty and Profit in the American City*, the rent eats first. When a large portion of a family's income goes toward rent, there is little leftover for food and health care expenses. Cost-burdened adults are less likely to fill prescriptions and follow health care treatments.

Source: Urban Institute, Writing a Prescription for Housing, 2017

U.S. Health Insurers' Profits Boom Amid Pandemic

Net income of selected U.S. health insurance providers



* Owns insurance provider Aetna as well as other non-insurance brands.

Los Angeles Times

BUSINESS

Column: UnitedHealth's profits show it's great to be an insurer during a pandemic

INDIANAPOLIS
BUSINESS JOURNAL

Record profits for Anthem, other health insurers, raise hackles

August 21, 2020 | John Russell



Unexpected Health Insurance Profits and the COVID-19 Crisis

Caroline F. Plott, MS¹; Allen B. Kachalia, MD, JD²; Joshua M. Sharfstein, MD³

Author Affiliations | Article Information

The coronavirus disease 2019 (COVID-19) pandemic has placed unprecedented financial stress on most of the US health care system, including physician practices, emergency

The Guardian

US health insurers doubled profits in second quarter amid pandemic

US's largest health insurer, UnitedHealth Group, reported \$6.7bn in profits compared with \$3.4bn for the same quarter last year

THE WALL STREET JOURNAL

MARKETS | HEARD ON THE STREET

Health Insurers' Coronavirus Boost Is Likely to Last

Higher profits in the wake of the pandemic won't reverse quickly as elective surgeries return to normal

Health insurers are emerging as clear **business winners** in the **pandemic**. That might be less temporary than the market expects.

Opinion

How Health Insurers Can Be Heroes. Really.

The industry is profiting from the pandemic. It needs to pay back by cutting premiums and co-payments, help private practices and finance more protection and care.

By Amol S. Navathe and Ezekiel J. Emanuel

Dr. Navathe and Dr. Emanuel are physicians who direct the Healthcare Transformation Institute at the University of Pennsylvania.

May 6, 2020



The New York Times

Major U.S. Health Insurers Report Big Profits, Benefiting From the Pandemic

Consumers are probably entitled to millions of dollars in rebates under Obamacare rules that cap companies' profits.



The nation's largest insurers, like Anthem and UnitedHealth, had second-quarter profits so large they will have to pay back some of those earnings to consumers. Michael Nagle/Bloomberg

Potential Investment Vehicles



Investments in private equity funds



Loans or loan funds



Tax credit equity



Direct contributions



Collaborative investment

Case Study: The Life Initiative

The Life Initiative (TLI) is a \$100 million loan fund which invests in a variety of projects that benefit low- and moderate-income households and communities. TLI investments focus on affordable housing, economic development and community service sectors.



Case Study: COIN

COIN is a collaborative, public private partnership effort between the California Department of Insurance, the insurance industry, community development organizations, and community advocates. This voluntary program facilitates insurance industry investments that benefit California's environment and its low-to-moderate (LMI) income and rural communities.



What can Regulators do?

- Encourage health insurers to make investments to preserve and build better, more affordable housing in the communities they serve.
- Where needed, reduce uncertainty about regulatory treatment of certain forms of investment.
- Explore mechanisms to make investing in affordable housing easier and collaborative for health plans.

Resources

- Healthy Investments: Leveraging Health Plan Capital for Affordable Housing and Community Development [Issue Brief](#)
- Healthy Investments Spotlight:
 1. [California Organized Investment Network \(COIN\)](#)
 2. [Kaiser Permanente Thriving Communities Fund](#)
 3. [The Life Initiative](#)

Questions



Insurers' Use of Criminal History Information
NAIC Fall 2020 Virtual Meeting
Consumer Liaison Committee: December 3, 2020

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Insurers' Use of Criminal History Information

Insurers have long used criminal history data in underwriting. Several trends have escalated their use, however:

- Local jurisdictions are putting more of this information online, allowing
- Data vendors and modelers to capture a significantly larger volume of arrest records – independent of conviction - and to incorporate this information into increasingly sophisticated models used in underwriting and fraud evaluations.

Insurers' Use of Criminal History Information

- This trend raises many issues, including:
 - As one example, are data vendors and insurers using this information accurately after (correctly) identifying and utilizing an arrest record?
 - On a fundamental level, should criminal history records be utilized at all, given our country's increasing awareness that arrest records, even when accurate, may reflect societal bias against protected classes, low-income populations and other already disadvantaged groups?

Are Modelers Removing “Inaccurate” Arrest and Conviction History?

Arrest and conviction records can be rendered obsolete or inaccurate through several means:

- State (or local jurisdiction) drops the charges
- Defendant is acquitted at trial
- Decriminalized drug offenses
- The defendant is placed in an accelerated rehabilitation program or similar option, which seals the criminal record and, in some states, (e.g., NY), explicitly forbid its use in credit or insurance underwriting.

Are Modelers Removing “Inaccurate” Arrest and Conviction History?

Search Bot finds
criminal arrest
record, which is
utilized in
insurance
related models

Will insurer/vendor public
records search protocol (1)
detect absence of a previous
criminal record, (2) and
modify individual's profile
accordingly?



Individual
qualifies for
“fresh start” –
arrest record
sealed or
erased

Are Modelers Removing “Inaccurate” Arrest and Conviction History?

How, if at all, do modelers seek out revised criminal history (e.g. arrest) records? Are individual risk profiles updated so frequently that revised criminal data will be quickly gathered and the lack of a criminal record incorporated into that individual’s profile?

If not:

- defeats a major purpose of accelerated rehabilitation laws, which provide an individual a fresh start.
- May violate state laws

Knowledge:

- Do Insurers or Regulators know how modelers address this issue?
- How can insurance consumers access this data? Do the modelers or insurers have procedures allowing consumers to correct inaccurate information? If so, how is this option disclosed to consumers and how frequently has it been used?

Should use of Criminal Record History be Suspended?

At the same time that criminal history data is increasingly accessible and utilized in modeling risk in insurance, consumer lending, employment, law enforcement, and other areas,

There is growing recognition that our criminal justice system is not neutral, reflects and contributes to systemic racism in our society, and that therefore the data it produces, ranging from records of major felonies to violations of municipal ordinances and motor vehicle infractions, disproportionately affect disadvantaged groups, including people of color and the poor.

Should use of Criminal Record History be Suspended?

Major risk modelers utilizing criminal records for their insurance-related products include:

- LexisNexis Risk Solutions
- TransUnion Criminal History Score
- Explore Information Services – Sherlock®
 - Sherlock provides the industry's only cost effective real-time solution for underwriting, pricing and fraud investigation based on an applicant's criminal conviction history. <https://exploredata.com/insurance/>

Should use of Criminal Record History be Suspended?

US DOJ Investigation of the Ferguson Police Department

March 2015 Report, page 4

“Ferguson’s approach to law enforcement both reflects and reinforces racial bias, including stereotyping. The harms of Ferguson’s police and court practices are borne disproportionately by African Americans, and there is evidence that this is due in part to intentional discrimination on the basis of race . . . Ferguson’s law enforcement practices overwhelmingly impact African Americans. Data collected by the Ferguson Police Department from 2012 to 2014 shows that African Americans account for 85% of vehicle stops, 90% of citations, and 93% of arrests made by FPD officers, despite comprising only 67% of Ferguson’s population.”

Should use of Criminal Record History be Suspended?

In 2020, Systemic Racism becomes Clear(er)

- Death of George Floyd, May 25, 2020, and its aftermath
- “Unfortunately, discrimination exists in systems meant to protect well-being or health. Examples of such systems include health care, housing, education, criminal justice, and finance. Discrimination, which includes racism, can lead to chronic and toxic stress and shapes social and economic factors that put some people from racial and ethnic minority groups at increased risk for COVID-19.” CDC July 24, 3030
- “That discussion [NAIC and diversity] was then followed by a series of senseless, brutal and totally unnecessary killings in our country at the hands of the police. The events shook the moral compass of many within the industry, as the country dealt with a one-two punch in the form of a pandemic and overt racism. Long-festering racial wounds were re-opened, exposing scars and new raw injuries to the social fabric of America.” NAIC CEO Mike Consedine (September 25, 2020)

Should use of Criminal Record History be Suspended?

Transparency and Accountability

- Regulators should have access to detailed information on how criminal history data is collected, modeled and used in underwriting, fraud evaluation and claim handling.
- Insurance consumers should have the right to know how their information is utilized and clear procedures to evaluate and contest its accuracy.
- Consumer disclosures are necessary and an important regulatory tool, but alone they will not adequately police the use of consumer information, including criminal history data. Substantive prohibitions and restrictions are also appropriate . . .

Should use of Criminal Record History be Suspended?

And can include:

- State legislatures and insurance regulators evaluate industry use of criminal history records and determine what specific uses should be prohibited, restricted, or left to market forces.
- Independently, the industry should consider suspending the use of criminal history data in insurance underwriting in personal line (including life insurance) for 1-2 years, with limited exceptions such as for policies insuring against employee dishonesty, or for auto, serious motor-vehicle offenses (e.g., DWI). An industry-wide voluntary cessation would be a powerful message of its commitment and would benefit policyholders, consumers, regulators, producers and insurers. It would also be an example or challenge to other financial services providers to consider the same action.

Insurers' Use of Criminal History Information

- This is an ongoing research project and I would welcome your comments, questions and information.
- Including, particularly, data or comments that provide a different perspective or take a contradictory position.

And, finally

- Thank You