**STATEMENT OF**
**J. ROBERT HUNTER,**
**DIRECTOR OF INSURANCE**
**BEFORE THE**
**ASSEMBLY STANDING COMMITTEE ON INSURANCE**
**REGARDING THE**
**AUTOMOBILE INSURANCE MARKET IN NEW YORK STATE**
**ALBANY, NEW YORK**
**APRIL 10, 2014**

Mr. Chairman, we appreciate the opportunity to submit this statement for the record of this hearing. My name is J. Robert Hunter and I am Director of Insurance for the Consumer Federation of America (CFA). I have also served as Administrator of the Federal Insurance Administration under Presidents Ford and Carter and as Texas Insurance Commissioner. I am an actuary with over 50 years of experience in the insurance business.

Thank you Chair Cahill, the members of the Committee and staff for holding this important hearing on a topic of vital interest and concern to millions of New Yorkers and their families.

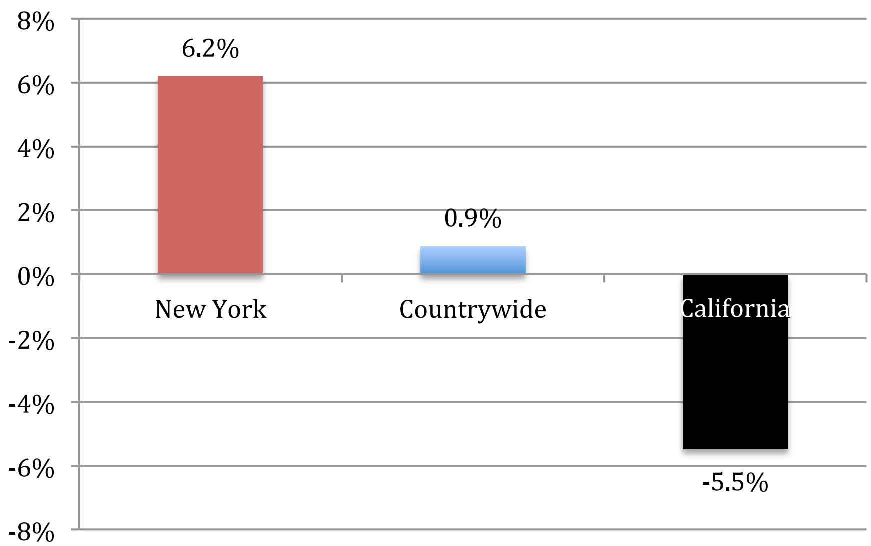
For millions of New Yorkers required to purchase auto insurance, and particularly for the state's low- and moderate-income drivers, premiums are too often unaffordable and unfair. The burden of insurance has been made worse in recent years by the escalating rates charged by New York insurance companies under the new flex rating laws. In Section A) of this statement we provide data concerning the first three years of experience under flex rating. In Section B) of this statement we review the high and unfairly discriminatory premiums charged to New York's low- and moderate-income motorists (LMI), making state-required auto insurance unaffordable for many of the LMI. In Section C) of the statement, we propose reforms for both the overall regulatory method and for the crucial issue of making state-required auto insurance affordable for all New Yorkers.

## A) FLEX RATING A FAILURE

**Flex Rating pushes New York premiums in the wrong direction.**
When New York returned to a flex rating system on January 1, 2009, under which insurance companies are allowed to alter rates by up to five percent without prior approval from the Department of Financial Services twice in every 12-month period, insurers promised this would bring more competition and lower rates for New York consumers. In fact, the opposite has occurred.

Using the most recent data from the National Association of Insurance Commissioners, New Yorkers paid 6.2% more for auto insurance in 2011 than they did in 2008, prior to implementation of flex rating. This compares with an increase of less than one percent nationally and a decrease of 5.5% in California, a prior approval state deemed the most effective in a 2013 Consumer Federation of America analysis[1] of the nation's consumer protection and rate regulation laws.

**Expenditure Change 2008-2011**

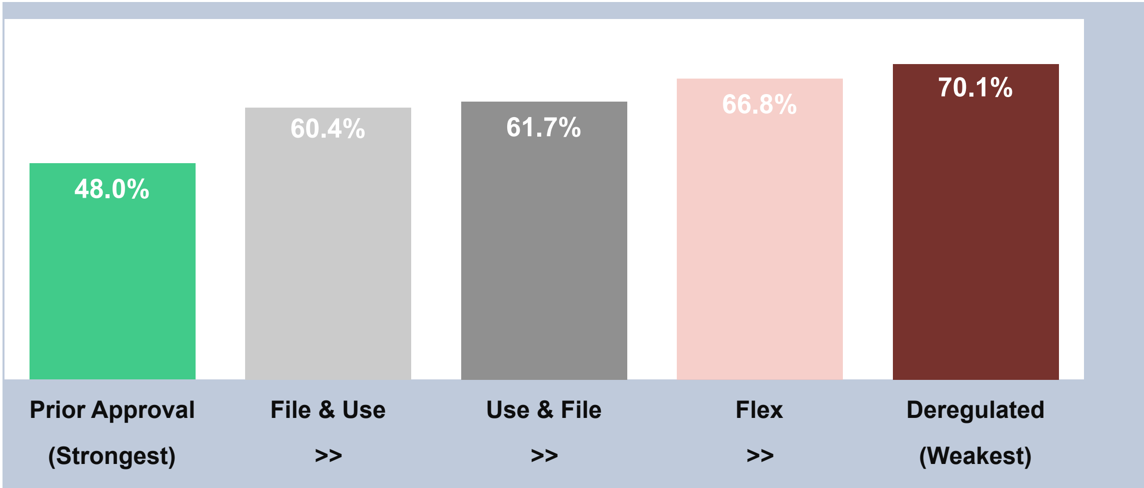



Source: NAIC. (2013). Auto Insurance Database Report: 2010/2011

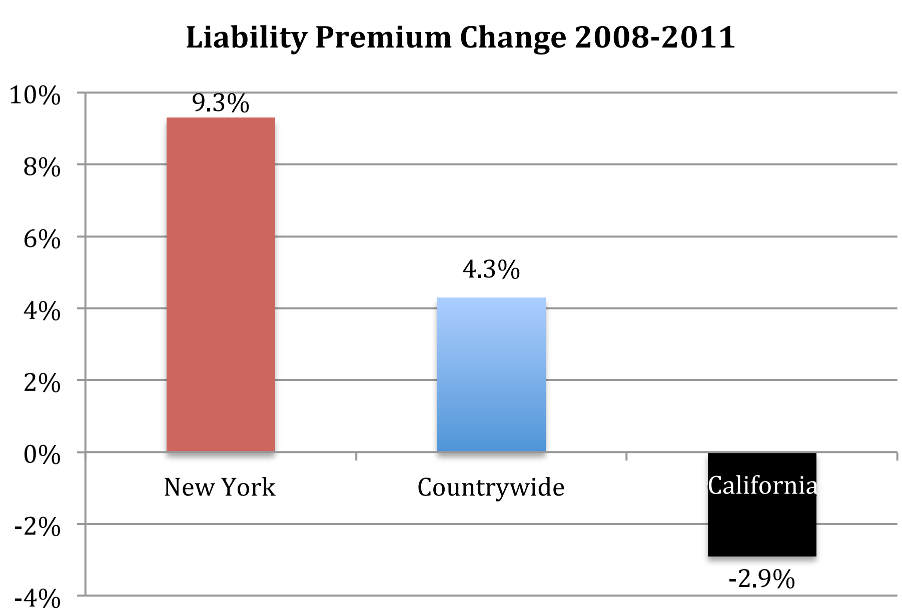
Consistent with the New York result, the CFA study showed that, from 1989 to 2010, prior approval worked best to hold down prices for consumers:

**Average Increase in Auto Insurance Expenditures by Regulatory System (2008-2010)**

[1] "What Works: A Review of Auto Insurance Rate Regulation in America and How Best Practices Save Billions of Dollars," CFA, November 2013. Available on CFA's website at: http://www.consumerfed.org/pdfs/whatworks-report_nov2013_hunter-feltner-heller.pdf




This means that New Yorkers are now spending, on average, $1,108 per year on car insurance, the fourth most in the country, becoming more expensive than Florida since moving to flex rating. This expenditure data actually mutes the actual impact of the flex rating increases on low- and moderate-income drivers who are less likely to purchase comprehensive and collision coverages. During the same period, premiums for the mandated liability (largely PIP) coverages in New York rose 9.3%, more than double the national change. Again, California's system of consumer protection proved far superior from a consumer perspective with liability premiums declining 2.9% during the same period.

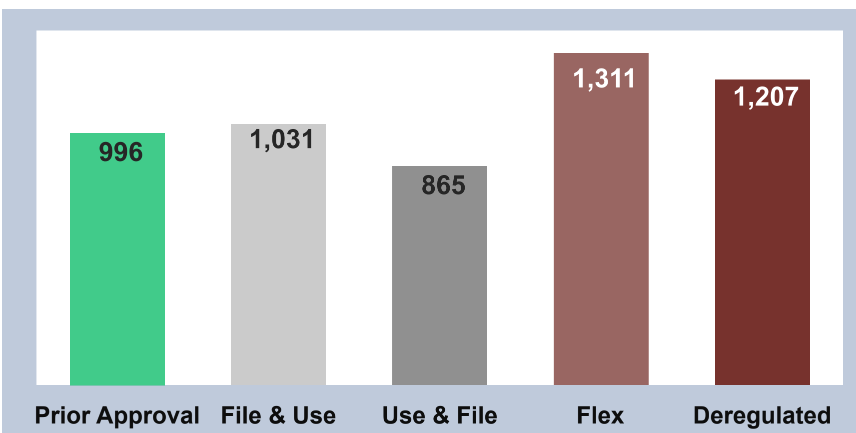



Source: NAIC. (2013). Auto Insurance Database Report 2010/2011

Insurance companies and their supporters also claimed that flex rating would make the New York insurance market more competitive. In fact, New York remains one of the least competitive markets in the nation. Despite being home to the fourth most insured cars in the nation, which should attract a lot of competition, New York has the fifth highest concentration (i.e., fifth least competitive) of insurance providers in the nation with an HHI (a measure of the size of firms in relation to the total insurance industry and an indicator of the amount of competition among them, used by the U.S. Department of Justice when reviewing mergers) of 1,286. Only DC, Alaska, Louisiana and West Virginia are structurally more concentrated than New York. California's HHI marks that state as the fifth least concentrated at 753 and, notably, the four least concentrated markets in the nation all are in the Northeast – Maine, Vermont, Connecticut and New Hampshire.

This is also consistent with CFA's 2013 study where we found that the HHI was very high for flex rating states compared to the more regulated states.

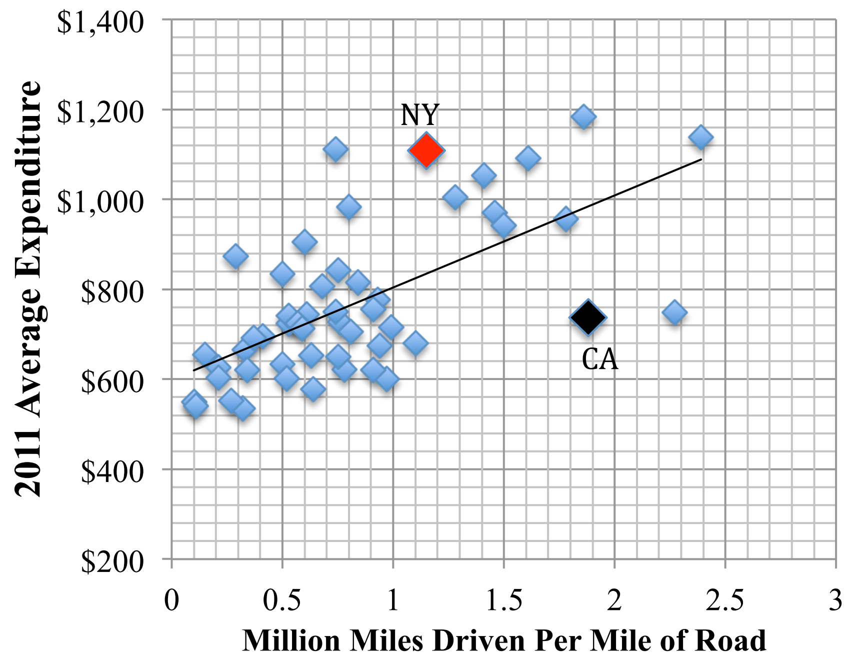
**Average HHI by State Regulatory System**




**New York: Pricier for consumers by several measures**

A key indicator of price level for auto insurance is traffic density. New York has a high traffic density of 1.15 million miles of driving per mile of roadway, indicating a higher expected price than a lower density state. California has an even higher density, 1.86 but a much lower rate than New York. In the following chart, we calculated a line that shows what rate would be expected based on traffic density (using data from all 50 states and the District of Columbia and traffic data from the Federal Highway Administration to calculate the line). If regulation was working to hold down prices, the state's rate would fall below the line. If the system was not holding the rate down by the national average, the rate would be above the line.

New York's rate is significantly above the line, while California, with the strong consumer-oriented rules, is priced significantly below the line.




New York also has the fifth highest residual market for personal auto liability insurance (1.6% of the market) and fourth highest for personal auto physical damage (0.2%). While most states have seen this market of last resort reduced to hundreds of policies or fewer in recent years, New York's assigned risk pool must serve tens of thousands (78,004 in 2011 according to AIPSO[2]) of drivers that the private market fails to serve. A market of last resort as swollen as this given the reduced need for a residual market elsewhere reveals a further weakness in the competitiveness of the New York marketplace.

New York insurers don't just charge more for the liability insurance than insurers in most other states, the companies pay out a lower percentage of premium for liability claims, as shown in the loss ratio table below. While the physical damage payouts in New York skyrocketed in 2012 because of Superstorm Sandy, the lower than average claims payments in the liability line reveal that insurers are making more profit off of the one product in the market that all New Yorkers are required to purchase.

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[2]All data in this section from "AIPSO Facts 2013/2014," AIPSO, 2014

| Losses as a Percentage of Premium | | | | | | |
|---|---|---|---|---|---|---|
| | NEW YORK | | | NATION | | |
| | Liability | Physical Damage | Total | Liability | Physical Damage | Total |
| 2009 | 70.1% | 58.6% | 66.2% | 68.5% | 58.0% | 64.3% |
| 2010 | 70.7% | 61.2% | 67.5% | 67.9% | 58.1% | 64.0% |
| 2011 | 63.8% | 71.8% | 66.5% | 69.2% | 64.5% | 67.3% |
| 2012 | 60.5% | 101.2% | 73.8% | 67.6% | 64.5% | 66.4% |
| 09-12 Average | **66.3%** | 73.2% | 68.5% | 68.3% | 61.3% | 65.5% |

## B) MANY LOWER-INCOME NEW YORKERS CANNOT AFFORD STATE-REQUIRED AUTO INSURANCE

### Auto insurance is too expensive for many low- and moderate-income New Yorkers

Over the past year, Consumer Federation of America has been investigating the premiums charged to millions of Americans through a review of data compiled for CFA by Quadrant Information Services. In every one of the 23 metro and micro areas of New York that have ZIP codes with a median household income of $41,515 or less – placing those communities in the first and second income quintiles – the average bare bones insurance policy costs more than $500 for a typical good driver.

In six of these regions, which alone include 60% of the state's ZIP codes, the average basic liability premium costs drivers more than $600. As shown in the table below, these high priced ZIP codes include low-income communities in the Albany-Schenectady-Troy metro area with an average basic policy price of $643 per year. In the Kingston metro area, drivers are charged $705 on average for this liability-only policy, and it costs good drivers $890 annually to get basic coverage in the Buffalo-Niagara Falls metro area. New York City and Long Island drivers living in the lowest income ZIP codes pay, by far, the highest average rate in New York at $2,132 per year.

| Average Annual Basic Liability Premium in Predominantly Low-Income ZIP codes | |
|---|---|
| New York City-Long Island Metro Area | $2,132 |
| Buffalo-Niagara Falls Metro Area | $890 |
| Hudson Micro Area | $713 |
| Kingston Metro Area | $705 |
| Albany-Schenectady-Troy Metro Area | $643 |
| Syracuse Metro Area | $630 |

In the New York City – Long Island Metro area, the state required auto insurance costing $2,132 represents over 5 percent of the upper end of the second US income quintile, $41,515. Obviously, for families earning less than the upper end of the second quintile, the percentage of income that is required to be paid to drive a car in the State can be much higher. For example, the mean income in New York State for those in the first quintile is $ 11,702.[3] The auto insurance required in New York City – Long Island Metro would represent 18.2 percent of income for this family. Even in Syracuse, the $630 rate represents 5.4 percent of the mean income in the first quintile.

**Low- and moderate-income New Yorkers face higher prices for insurance than neighboring wealthy residents**

The data CFA reviewed reveal that in every metro area in which there are both ZIP codes that are predominantly lower-income and ZIP codes that are predominantly upper-income, residents in the poorer communities face higher average liability rates than drivers in wealthier neighboring communities. For example, drivers in Utica-Rome metro area's lower-income ZIP codes pay 7% more for auto insurance than the same driver would pay if living in the region's wealthiest ZIP codes (those with a median household income above $104,625). Good drivers in lower-income Syracuse neighborhoods pay 19% more than residents in high-income communities. In New York City and Long Island, the gap is a staggering 74%. As the table below shows, the average good driver premium for basic coverage, liability-only insurance in the New York City-Long Island metro area is $903 more for residents of poor neighborhoods than those living in upper-income ZIP codes.

| Average Basic Coverage Premium in New York Regions With Both Low and High Median Income ZIP Codes |
|---|

[3]Source: U.S. Census Bureau, Current Population Survey, Annual Social and Economic Supplements.

| | ZIP code median income ≤ $41,515 | $45,516-$104,624 | ≥ $104,625 | Premium difference between low- and high-income ZIPs |
|---|---|---|---|---|
| New York-Long Island Metro Area | $2,132 | $1,473 | $1,229 | 74% |
| Syracuse Metro Area | $630 | $583 | $529 | 19% |
| Rochester Metro Area | $597 | $546 | $567 | 5% |
| Utica-Rome Metro Area | $585 | $586 | $544 | 7% |

The data illustrate that not only are the rates in New York too high, there is an inequitable distribution of this rate burden that leaves those least able to afford coverage facing the highest premiums. Other research CFA has conducted shows that this disparity grows even wider for most low-income New Yorkers because of many insurers use of non-driving related rating factors such as occupation, education level, credit score and home ownership to set premiums. The recent study by NYPIRG confirms this troubling fact.[4]

These classes are highly questionable since there is no logical connection between them and the ability to drive a car. The American public understands this. CFA undertook a national survey of consumer views of auto insurer use of specific factors to set premium levels. We asked the firm ORC International to ask the following question:

> As you probably know, auto insurers use many factors to decide how much each driver is charged for their insurance coverage. How fair do you think it is for insurers to use each of the following factors in deciding on an auto insurance price for a driver?

Respondents answered:

| **Factors** | **% Very or Somewhat Fair** |
|---|---|
| Traffic accidents caused | 87% |
| Moving violations such as speeding tickets | 85% |
| Number of years with a license | 74% |
| Age | 66% |
| Miles driven | 61% |
| Location of residence | 45% |

[4] "Top NY Auto Insurers Charge Higher Rates to HS Grads and Blue Collar Workers, NYPIRG Requests that NY Regulator Review Insurer Rate-setting Practices," NYPIRG, April 4, 2014.

| | |
|---|---|
| Occupation | 33% |
| No previous insurance because no car | 32% |
| Level of education | 31% |

## C) SUGGESTIONS FOR REFORM

*1. Repeal flex rating*

CFA proposes that New York repeal flex rating, a system we believe has been shown to be bad for consumers, and return to prior approval of rates and rating factors. We strongly encourage New York to take a close look at California's state-of-the-art prior approval system and it's best practices regulations related to auto rate setting.

*2. Reform the non-driving-related rate factors used in New York*

New York needs to scrutinize and restrict the use of non-driving factors in auto insurance ratemaking. Auto insurers are not permitted to use income or race in this ratemaking, but some nevertheless utilize factors such as education, occupation, credit score, and homeownership that are highly correlated with income and race and discriminate against lower-income drivers.

One of the key reasons the poor pay too much in New York is the unbridled use of these rating factors that have no logical connection to driving behavior and offer no incentive for safer driving. Factors such as education, occupation, credit score, short break in coverage and such are highly questionable, not acceptable to the public and are "obscure" thereby not "implying the existence of a plausible relationship between the characteristics of a class and the hazard insured against," and thereby violating actuarial standards.[5]

CFA research shows that these each of these factors push up prices for lower-income families and, in tandem, often push up prices by well over 100 percent.

Factors such as these ought to be banned from use in New York. Alternatively, a system such as California's where the greatest weight must be given to three mandatory factors: the most weight to driving record, the second most weight to miles driven and the third most weight to years of experience. All other factors

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[5] Risk Classification Statement of Principles, American Academy of Actuaries Committee on Risk Classification, at http://actuarialstandardsboard.org/pdf/appendices/risk.pdf.

combined must have less weight than years of experience, thereby keeping the pricing focused on driving excellence.

*3. Create a way for lower-income New Yorkers to afford state required minimum auto insurance*

Safe, responsible lower income drivers should also be given the opportunity to purchase liability coverage that they can afford. Research reports by NYPIRG and CFA have shown that, in urban areas of New York, many good drivers with low or moderate incomes cannot find liability coverage for less than $500 annually while some of these safe drivers are charged at least $1,000.[6] New York should consider establishing programs that provide minimal liability coverage to safe lower-income drivers at an affordable price. For several years, for example, California has offered this type of coverage to good lower income drivers for between $250 and $350 a year, and these premiums cover accident-related losses with no subsidy.[7] The fact that only a small fraction of uninsured drivers in the state participate in this program have challenged government officials, nonprofits, and insurers to more aggressively and effectively raise awareness about the program and find new ways to offer this coverage.

Alternatively, New York could consider lowering minimum limits of required auto insurance for lower income drivers, perhaps those who qualify for Supplemental Nutrition Assistance Program or the Earned Income Tax Credit. That could reduce annual premiums for lower-income drivers by more than $100, persuading a larger number that they can afford insurance coverage.

**Conclusion**

The research CFA has conducted over the past year has identified New York as one of the most expensive and least competitive markets in the nation. The move to loosen regulatory oversight of the insurance industry has only made things worse for New Yorkers, and that is especially the case for those earning low- and moderate-incomes. New York should act to redress these glaring problems.

We would be pleased to provide any further information or explanation should you request it. I can be reached at 703-528-0062.

[6] See Consumer Federation of America (www.consumerfed.org) auto insurance reports and releases dating January 30, 2012; June 18, 2012; September 24, 2012; January 28, 2013; July 22, 2013; September 4, 2013; December 1, 2013 and NYPIRG's April 10, 2014 testimony before this Committee.
[7] 2013 CLCA Report to the Legislature, California Department of Insurance (March 2013).