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ILLINOIS CONSUMER INSURANCE BOARD — AN UNNECESSARY BUREAUCRACY

by Terri C. Malenfant* and Lenore S. Marema**

I. INTRODUCTION

Consumers across the nation are being barraged with news reports about rising insurance rates. Many of these reports are generated by media-savvy political groups that prey on the public's natural desire for lower insurance rates. These groups weave two basic themes into most of their "news" reports. First, they claim that an easy solution exists to the problem of rising insurance costs. Second, they offer burdensome and superfluous government regulation schemes that allegedly would lower insurance premiums. While insurers discuss long-term solutions, these groups tout fast, easy, and unrealistic answers to rising insurance rates.

This Article examines Patrick Quinn's proposal to establish an Illinois Consumer Insurance Board to monitor the insurance industry.[1] The Article reveals to insurance consumers the proposal's real anatomy: a costly and unnecessary bureaucracy that would have no positive effect on consumers or the industry.

Initially, this Article questions Mr. Quinn's statistics and his premise that consumers are without adequate insurance information. Next, this Article examines the already strong voice consumers have in insurance legislation and regulation. This Article then exposes Mr. Quinn's faulty analogy between the insurance and public utility markets. Finally, this Article explores the benefits Illinois insurance consumers now reap from the competitive insurance marketplace, without the burden of a consumer insurance board.

II. INSURANCE CONSUMERS HAVE AMPLE SOURCES OF INFORMATION

A consumer insurance board, as Mr. Quinn foresees it, essentially would be a state-created entity that would distribute insurance information to the public and lobby on behalf of consumers before the Illinois legislature, courts, and Department of Insurance. Mr. Quinn's argument that a consumer insurance board is necessary is derived from two assumptions: first, that consumers spend too much money on insurance; and second, that consumers overspend on insurance because they receive inadequate information about insurance products, which prevents them from being effective "comparison shoppers." Both of these beliefs are erroneous.

In support of his claim that consumers spend too much money

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on insurance, Mr. Quinn cites a study by the National Insurance Consumers Organization ("NICO"), which asserts that Americans spend eleven percent of their disposable income on insurance.[2] This figure is misleading. NICO's statistic lumps together all premiums spent by businesses, governmental units and individuals and then divides that amount by disposable *personal* income.[3] Because individuals do not spend their disposable income on the same types of insurance as do businesses and governments, incorporating those expenditures in NICO's figures represents an error in methodology. For example, group health insurance, product liability insurance and other types of commercial insurance, none of which are paid by families or individual consumers, are included in NICO's calculations.[4] As a result, NICO's figure for the amount households spend on insurance is highly inflated. According to a study by the Alliance of American Insurers, using data from the United States Bureau of Labor Statistics, the combination of all types of insurance accounts for only 5.2 percent of the average American family's spending, and automobile insurance accounts for only 1.9 percent.[5] Thus, the very statistical foundation of Mr. Quinn's claims about insurance spending is incorrect.

The second assumption fundamental to Mr. Quinn's argument is that insurance consumers are inadequately informed about insurance products and prices. In reality, consumers have many information sources to consult when making purchasing decisions. These sources include the Illinois Department of Insurance ("DOI"), insurance agents, and insurance companies.

The DOI helps insurance consumers make informed choices in a variety of ways. For example, the DOI recently published an auto insurance comparison manual, called *Private Passenger Automobile Insurance Premiums Filed with the Department of Insurance,* which compares premiums for four sample drivers in twelve Illinois cities. In addition to surveying rates, the manual explains basic and optional coverages for auto insurance, as well as the factors that influence rates. Finally, the manual suggests ways to choose a policy and lower costs. The manual is available to all Illinois residents

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from the DOI and through public and academic libraries.

The DOI also addresses consumers' problems through its consumer division. The primary responsibility of this division is to respond directly to public inquiries and complaints. In 1988 alone, the consumer division investigated over 11,000 complaints and handled nearly 60,000 telephone inquiries.[6] These complaints can lead to DOI investigations and, where appropriate, corrective or punitive actions can be taken by the DOI against the offender. The DOI also supplies to the media an annual list of the insurance companies with the highest ratio of complaints to dollar amount of premiums. In addition, the DOI conducts informative programs and helps consumers fill out insurance forms. Moreover, the DOI presents programs addressing the special insurance needs of student drivers and senior citizens. Finally, the DOI provides neighborhood outreach programs at the request of community organizations and it maintains a special staff position for assisting urban policyholders.

Insurance agents also are an excellent source of information about insurance prices and products because many agents represent competing companies. Indeed, an insurance agent's very job is to use his or her skill and expertise to explain the benefits of differing policies, as well as the costs, to potential policyholders.

In addition, consumers can turn to their own insurance companies for information. Many insurance companies, such as Kemper and Allstate, have consumer departments created solely to respond to inquiries and complaints. These consumer departments, along with industry and agent trade associations and organizations such as the Better Business Bureau, publish informative insurance materials and help resolve consumer questions. In fact, a group of Illinois insurance companies supported recently-enacted legislation that requires all insurers to create and maintain consumer departments.[7] Finally, consumers can find answers to insurance questions through hotline telephone services. Presently, the industry maintains a 24-hour insurance hotline for consumers in all fifty states. The National Insurance Consumer Helpline (1-800-942-4242) is principally sponsored by the Insurance Information Institute, the American Council of Life Insurance, and the Health Insurance Association of America, with assistance from other industry and agent associations. In addition, the Illinois Insurance Information Service operates a Chicago-area insurance hotline (1-800-444-3338) to provide for all Illinois consumers an additional source of information about automobile, life, health, homeowners' and renters' insurance.

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Even government statistics suggest that Mr. Quinn's claim that consumers lack adequate information about insurance is false. For example, in 1985 the Federal Trade Commission ("FTC") investigated what insurance information was available to automobile owners and whether automobile owners were effectively able to use this information to shop for insurance.[8] The FTC concluded in a staff report that there was no basis for concern about the availability of information concerning the auto insurance market or consumers' ability to use that information.[9] In fact, the report stated that "[t]he oft-repeated assertion about the prevalence of consumer ignorance is completely unsupported by any of our findings. We do not find that comparative price shopping is very difficult. . . ."[10] Simply put, existing data indicates that there is no pressing consumer demand for more insurance information. Naturally, a consumer insurance board could generate more information about insurance, but that information would be duplicative and therefore a waste of money.

Furthermore, consumers' insurance problems are not so pervasive to justify creating a consumer insurance board. Although the DOI received 11,554 complaints from consumers in 1988,[11] that total represents a mere 0.1% of Illinois' population of over 11 million. This finding hardly supports Mr. Quinn's allegation that there are substantial consumer complaints not being addressed, nor does it indicate that the insurance industry needs an additional enforcement mechanism. Ample means exist to respond to consumer inquiries and act on consumer complaints.

III. CONSUMERS HAVE A VOICE IN INSURANCE INDUSTRY POLICYMAKING

Despite Mr. Quinn's portrayal of the insurance industry as laden with armies of lawyers and lobbyists working to manipulate the Illinois legislature and the DOI, consumers have a voice that is heard by state legislators, regulatory agencies and the insurance companies themselves. Consumers make an immediate impact on the insurance industry by addressing their comments and suggestions directly to the insurance companies. Insurance companies respond to this invaluable feedback not only by offering new products and services, but by advocating consumer-oriented legislation and regulation. For example, Illinois insurance companies supported recently-enacted legislation that requires insurers to give premium estimates over the telephone, return premiums on a pro-rata basis for canceled policies, and provide the location of the nearest agent upon the customer's request.[12] Although some companies already offered those options, the new law compels all automobile insurers to adopt

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these business practices.

Similarly, insurers are working to defeat rate regulation legislation[13] that would create a costly rate review process. Ironically, this proposal is patterned after rate regulation systems in New Jersey[14] and Massachusetts,[15] where automobile insurance rates are some of the highest in the nation.[16] In fact, an independent research firm, the Palmer Bellevue Corporation, studied how such rate regulation would affect Illinois.[17] It found that were such rate regulation in effect for the past twelve years, Illinois consumers would have paid over $2 billion more in insurance premiums for the same coverage.[18]

The DOI is another important consumer representative. Generally, the DOI provides consumer information, enforces laws, develops rules and regulations for the insurance industry, and champions consumer causes before the legislature.[19] It also examines insurance companies to ensure that they comply with rating standards and conducts financial and market examinations to make sure that companies are solvent and that underwriting practices are up to state standards. In addition, it approves insurance policies, reviews company advertising so that the public is not misled, and enforces state laws addressing unfair claims practices. If there are violations or questionable practices, the DOI has the power to take a wide variety of remedial actions against companies. In fact, last year the DOI authored, and the Illinois legislature approved, a law that increased from $50,000 to $250,000 the maximum penalty for insurance companies that violate the insurance code and empowered the DOI to suspend the offender's license.[20]

Consumers not only have the DOI looking after their interests, but actually have all state insurance regulators monitoring and investigating industry activity nationwide. In total, state regulators employ over 6,400 people across the country and spend in excess of $267 million on supervising the insurance industry.[21] Moreover, these regulators exchange valuable information and strategies that advance consumer causes and correct industry wrongs.

Illinois consumers can turn to state legislators as their ultimate consumer advocates. Historically, Illinois legislators have enacted laws regulating the insurance industry and addressing consumer problems. Creating a consumer insurance board may dilute the present one-on-one relationship consumers have with their elected representatives. The direct contact between insurance consumers and legislators should be encouraged over establishing another bureaucratic go-between.

IV. MYTHS AND REALITIES: Competition v. Monopoly

The linchpin of Mr. Quinn's proposal for a consumer insurance board is his analogy between the insurance industry and the public utilities industry. Because the Illinois Consumer Utilities Board ("CUB") has been established, Mr. Quinn's argument goes, a consumer insurance board likewise should be created. Mr. Quinn's argument, however, ignores the fundamental difference between the utilities industry and the insurance industry: utilities are state-sanctioned monopolies, whereas insurance companies must struggle to survive in a competitive market. Thus, Mr. Quinn's analogy falls short of reality because it fails to recognize the competitive demands of the differing industries.

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In 1985, 1,648 insurance companies competed for a share of the Illinois insurance market.[22] Today, over 1,800 insurance companies service Illinois policyholders.[23] Within those companies, nearly 40,000 insurance agents scramble for Illinois business.[24] In order to survive in Illinois' insurance market-place, insurance companies must offer competitive prices, which benefits consumers. In contrast, only ten electric utilities and sixteen gas companies are licensed in Illinois. Not only are utilities different in the amount of control they have over prices and the market, they also are ensured a reasonable rate of return.[25] Insurance companies, however, have no such guarantee. For example, in the five year period between 1984 and 1988, Illinois auto insurers earned only 1.9 percent profit, before taxes, on each premium dollar.[26]

Neither the insurance market nor the public utilities market is better served by a consumer board. Consumer boards established in utilities and other industries are responsible to no one and invariably develop lives and purposes of their own. Indeed, consumer boards often act more as anti-business and anti-establishment groups than as pro-consumer organizations. For example, Wisconsin's Citizens Utility Board[27] currently opposes a plan, sponsored by Wisconsin Bell and approved by the Wisconsin Public Service Commission,[28] that reduces telephone rates for 90% of Wisconsin Bell's residential consumers.[29] Moreover, since the Wisconsin Citizens Utility Board went private in 1986, it has not opened its books to the public nor revealed its membership.

Statutorily created consumer insurance groups established in other states have failed to benefit consumers. Massachusetts and New Jersey are home to such consumer insurance advocates.[30] Currently, auto insurance rates in Massachusetts and New Jersey are among the highest in the nation, although both states have had such consumer insurance advocates for the past 20 years.[31] In contrast, without a consumer insurance board, Illinois is presently ranked well below the national average for auto insurance rates.[32] If consumer insurance boards are such an asset to consumers, why do states that have similar organizations claim some of the highest insurance rates in the country?

V. CONSUMERS BENEFIT FROM THE ILLINOIS INSURANCE MARKETPLACE

The competition among Illinois insurers works to the direct benefit of Illinois consumers. This is seen by comparing Illinois' insurance statistics to national numbers. Illinois consumers shopping for automobile insurance have more companies to choose from than consumers in any other state except Texas.[33] Moreover, compared to the average for the rest of the country, the Illinois insurance industry's fierce competition has resulted in lower average automobile premiums for Illinois drivers.[34] Illinois is the sixth most populous state and has the third largest population center in the country, yet it is ranked 30th in average automobile insurance premiums.[35] Although insurance rates across the country have been rising at an average annual rate of 6.3 percent, the Illinois' insurance market has kept the average rate increase to only 2.02 percent, the ninth best in the country.[36]

A 1989 survey of Illinois' five largest auto insurers highlights the effect of competition on the Illinois insurance market.[37] According to the study, two insurers decreased their auto rates in 1987 and had no increase as of late 1989; a third insurer raised its rates in 1987, but reduced them in 1988 for an overall decrease; a fourth insurer averaged a yearly rate increase of only 3.8 percent over the last four years; and a fifth increased rates less than 1 percent in 1987 and 1988, and did not increase rates in 1989.[38]

Is there really a need to create another expensive layer of bureaucracy that has proved to be ineffective in other states? As the above facts demonstrate, the competitive Illinois insurance marketplace works for consumers.

VI. CONCLUSION

Illinois does not need a consumer insurance board. Consumers already get the information about insurance they want and need. In addition, the concerns and problems of insurance consumers are well represented before the Illinois courts, legislature, and Department of Insurance. With the numerous avenues of consumer protection and information readily available, there appears to be little reason to establish an additional bureaucratic entity that simply duplicates the functions of other organizations already in the insurance field. Illinois consumers' time, money, and energy would be wasted by creating a consumer insurance board. Rather than imposing additional burdens on consumers and taxpayers, a more reasonable alternative is to strengthen existing programs and encourage consumers to take advantage of those programs.

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