



**Comments of the Center for Economic Justice to the
NAIC Creditor Placed Insurance Model Working Group**

June 6, 2016

With this set of comments to the working group, CEJ documents our remarks on Sections 9, 10 and 11 of the current CPI model law and responds to comments in an earlier call from State National regarding CPI auto.

Section 9

Section 9 deals with refunds of unearned premiums and states:

A. Within sixty (60) calendar days after the termination of creditor-placed insurance coverage, and in accordance with the formulas approved by the commissioner, an insurer shall refund any unearned premium or other identifiable charges.

B. Within sixty (60) calendar days after the termination date of creditor-placed insurance coverage, the insurer shall provide to the debtor a statement of refund disclosing the effective date, the termination date, the amount of premium being refunded and the amount of premium charged for the coverage provided. No statement shall be required in the event that the policy terminates pursuant to Section 4B(4).

CEJ agrees with the comments submitted by the California Department of Insurance and offers the following additional comments.

First, it is the lender/servicer who should be providing the debtor a statement, not the insurer. The insurer charges a premium to the lender/servicer, not to the debtor. The lender/servicer may then assess a charge to the borrower, so a refund of premium paid to the lender/servicer should be followed by a refund of some or all of the charges by the lender/servicer to the borrower with the referenced explanation about the amount of the refund and date.

ABIA has referred to the CFPB mortgage servicing rule. The rule specifically refers to actions by the servicer, not the insurer:

(g) Cancellation of force-placed insurance Within 15 days of receiving, from the borrower or otherwise, evidence demonstrating that the borrower has had in place hazard insurance coverage that complies with the loan contract's requirements to maintain hazard insurance, **a servicer must:**

(1) Cancel the force-placed insurance the servicer purchased to insure the borrower's property; and

(2) Refund to such borrower all force-placed insurance premium charges and related fees paid by such borrower for any period of overlapping insurance coverage and remove from the borrower's account all force-placed insurance charges and related fees for such period that the servicer has assessed to the borrower.

[Emphasis added]

Second, the triggering event for the refund time frame should be when the lender/servicer receives evidence of required insurance, not the date the coverage is terminated. The borrower has some control over procuring required insurance and providing evidence of such insurance to the lender/servicer; she has no control over how long the lender/servicer takes to process the evidence to get a refund from the insurer paid to the lender/servicer.

Third, the 60 days is far too long. It was too long in 1996 and is even more excessive today due to the highly automated nature of insurance tracking.

The CFPB regulations use the lender's receipt of the evidence as the triggering event and 15 days as the time frame.

Fourth, in section B, no statement is required if the policy terminates pursuant to 4B4. 4B4 is termination due to the debt being extinguished. Such an event does not negate the need for statement. The purpose of the statement is to allow the borrower to determine if lender/service has paid or credited the proper refund amount. This purpose exists even if the refund comes about because the loan is extinguished due, for example, to the borrower has paid off the loan has been paid. The last sentence of Section B should be deleted.

Finally, regarding section C – this section demonstrates that this creditor-placed law – and any such law – must deal with oversight of insurers and lenders/servicers. Section C talks about a full refund for a flat cancellation and refers to fees or charges of any kind. If a lender/servicer charged a fee in addition to a charge equal to the amount of the LPI premium – a fee, for example, for servicer/lender expenses associated with LPI placement – such a fee is subject to oversight by the regulator of the lender/servicer, not by the insurance regulator since the lender/servicer is not a licensed agent or insurer.

Section 10

Section 10 addresses claim settlement practices. CEJ agrees with the comments submitted by the California Department of Insurance and also agrees with the ABIA that this section is geared toward LPI for autos and personal property, not real property. CEJ offers the following additional comments.

Section 10 discusses a variety of claim settlement valuation methods, the first three reducing the claim settlement amount by a deductible. The fourth method, referring to single interest coverage, is the “creditor’s interest” – presumably the outstanding principal balance – without reduction for a deductible. This is clearly an unbalanced approach – the lender/servicer receives full compensation with deductible, but a dual interest claim settlement always required the borrower to cover a deductible, even if the claim settlement amount is the same net debt as in A4.

Section A4 is vague – “the amount by which the creditor’s interest is impaired.” Why is this not the same as net debt in A3?

Section B discusses salvage value, but provides no objective measurement of such value. This section should be revised to ensure that the salvage value is not determined by the lender/servicer or the insurer, but through an objective, third party assessment.

Section 11

Section 11 discusses requirements before placing LPI. Section A specifically refers to a creditor.

- A. In order for the creditor to place insurance on the collateral pledged by the debtor and pass the cost of the insurance on to the debtor:

Section 11 A and B clearly sets out the responsibilities of the lender/servicer – an entity not regulated by insurance regulators, again demonstrating the point that the model involves insurance and banking regulation. We refer the working group back to our initial comments on this topic.

State National Comments on Auto Loan Securitization and Servicers

On the second-to-last call, State National's representative asserted that auto LPI was unlike mortgage LPI because, among other reasons, auto lenders do not securitize loans and do not use servicers in the way that mortgages are securitized with servicers who service loans originated by others. This is demonstrably incorrect. Many auto loans are securitized. I submitted six examples – there are literally hundreds available – of credit rating agency reviews of asset-backed securities backed by auto loans. These documents specifically refer to servicers of auto loans and, consequently, evidence the facts that auto loans are securitized and serviced – as are mortgage loans.

State National Comments on the Absence of Problems in LPI Auto Markets

State National also asserted that there is no evidence of problems in the auto LPI world because the current model is used by the industry. In fact, there is evidence of precisely the same type of kickback problems in the auto LPI market as has been the case in the mortgage LPI space.

According to data submitted by LPI insurers in the Credit Insurance Experience Exhibit, the incurred loss ratio for State National IC for the ten years from 2004 to 2013 was 32.4%. This was a little lower than the overall auto LPI loss ratio for the ten year period of 35.8%. Several auto LPI insurers has incurred loss ratios of under 25%, some dropping into the teens. In contrast, according to the NAIC profitability report, from 2004 to 2013, the industry average voluntary personal auto physical damage loss ratio was 59.2% or almost double the State National IC loss ratio. Attached please find CEJ's compilations.

The CIEE show that State National IC paid 42.9% of premiums in lender compensation over the 10 year period, higher than the industry average of 30.4%. Again, several insurers paid even higher amounts – from 50% to 66%. Actual lender compensation was surely higher than the cash amounts reported in the CIEE because of the routine practice of LPI insurers providing outsourced services to lenders/servicers for free or below-cost, the subsidy for which is built into the LPI premiums.

These data are evidence that the auto LPI market has the same low loss ratios as the mortgage LPI market (which I provided to the working group in earlier comments) and that charges to borrowers are inflated by kickbacks to lenders/servicers.

I want to finish by saying that these comments are about the problems in the auto LPI market are not directed at State National and do not reflect any belief that State National is a bad player. Rather, I hope the takeaway is that in a market characterized by reverse competition, such as LPI, lenders/servicers will command considerations in the absence of strong consumer protections against such kickbacks.

Force-Placed Auto by Company

Net Written Premium

Group	Company	Co Code	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Grand Total
AIG	Amer Gen Ind Co	24376	21,378,454	20,165,680	10,874,832	(824,673)	(981,689)	157,075	(59,993)	(19,015)			50,690,671
Allstate	First Colonial	29980	961,891	807,416	578,422	222,159	71,117	60,716	7,232	(184)	-		2,708,769
Ally Holding	MIC P&C IC	38601	15,266,314	39,795,135	(14,143,009)	-							40,918,440
Amer Nat	American Nat Lloyc	10043									10,067,347		10,067,347
Amer Nat	ANPAX LA In Co	11140	792,410	2,329,328	1,765,590	1,956,371	1,741,453	2,231,897	1,966,686	1,911,724	1,827,765	1,389,604	17,912,828
Amer Nat	Amer Nat P&C	28401	30,796,843	34,181,088	35,432,462	33,361,881	29,221,131	31,065,458	24,724,496	16,805,163	16,349,534	29,179,978	281,118,033
Amer Nat	Amer Nat CM	29319	16,502,074	14,597,955	17,249,466	16,122,921	19,311,986	23,008,400	18,245,972	20,880,389	22,675,235	23,739,494	192,333,891
Arch	Arch IIC	11150						25,468,678	27,939,296	19,550,863	19,837,574	20,709,677	113,506,088
Assurant	American Bankers c	10111	21,305,886	24,125,516	21,547,806	37,308,712	38,269,705	40,707,219	40,082,757	37,772,767	39,550,178	36,706,780	337,377,326
Assurant	American Reliable	19615	4,598,100	10,802,309	12,029,353	10,606,494	2,370,598	7,575,421	6,138,123	5,726,873	5,238,759	5,200,357	70,286,387
Assurant	Voyager Ins	35971	5,433,791	4,899,714	5,366,076	5,639,243							21,338,824
Assurant	Voyager Ind	40428	18,412,022	13,307,640	15,722,116	16,494,153	19,516,559	20,105,074	21,454,779	23,058,110	23,933,464	23,141,889	195,145,806
Assurant	American Security	42978	3,365,667	2,515,338	8,237,073	16,477,835	16,706,644	18,172,470	14,238,285	15,276,732	11,635,374	(23,636)	106,601,782
Assurant	Standard Guaranty	42986	(364,385)	1,799,060	190,135	212,836	161,611	156,602	171,159	145,222	131,812	160,152	2,764,204
Citi	Triton IC	41211	39,880,155	34,713,855	28,001,438	23,101,150	15,225,004	1,071,464	3,960,499				145,953,565
CUNA Mut	Cumic Ins Society	10847	86,422,922	93,899,205	95,416,492	75,335,300	42,666,444	76,633,145	(17,946,401)	(1,807,436)	6,640,825	6,581,084	463,841,580
Delek	Southern CM	27863	13,278,273	14,054,800	16,270,261	19,566,682	(3)	15,512,929	-				78,682,942
Delta	Delta Fire and Cas	10898	721,519	786,975	909,557	1,010,854	1,004,758	995,787	1,094,788	1,145,797	910,364	756,232	9,336,631
FCO Cap	American Guaranty	35521			12,952,021	30,875,475	21,152,550						64,980,046
Fortress	Yosemite IC	26220	11,924,983	13,989,740	15,386,861	18,036,961	17,879,392	10,996,739	8,340,597	6,024,527	6,041,154	7,783,642	116,404,596
Life of South	Lyndo Southern	10051	2,337,907	3,103,755	11,471,899	20,846,154	18,670,504	15,547,256	16,782,170	20,000,573	20,936,294	23,341,076	153,037,588
Life of South	Ins Co of South	11162	16,325,004	22,997,132	23,056,293	25,430,976	25,413,576	33,944,588	37,077,328	39,998,612	40,935,864	49,296,562	314,475,935
Nat Gen	Gulf Guar	36765	1,130,084	1,151,786	2,221,429	1,206,481	1,189,883	1,141,429	1,007,740	1,134,178	1,122,387	980,660	12,286,057
Plateau	Plateau Cas IC	10817	1,520,795		2,360,338	3,040,063	3,127,771	3,452,867	4,937,278	5,809,489	7,204,222	8,867,166	40,319,989
Protective Life	Lyndon Property	35769	23,386,812	36,856,410	17,404,341	(1,301,624)	(620,791)	(55,192)	(15,764)	(481)	(49)	-	75,653,662
QBE / BOA	Balboa IC	24813	132,993,993	144,450,965	134,293,978	213,020,733	172,987,666	97,424,168	49,561,118	51,350,009	30,221,569	(11,703,667)	1,014,600,532
QBE / BOA	Meritplan	24821	48,026,109	66,197,519		140,087,260	85,710,748	46,613,152	52,258,677	41,131,811	(2,434,631)	(1,925,548)	475,665,097
QBE / BOA	Newport	24848	4,280,619	3,791,353	3,791,353	1,799,272	2,024,757	1,857,519	1,198,327	982,971	610,846	(38,270)	20,298,747
Securian MN Mutual	Securian Cas IC	10054						26,640,313	26,647,853	23,650,387	30,059,476	53,105,194	160,103,223
Securian MN Mutual	CNL Ins Amer Inc	30112						9,917,872	12,836,986	12,443,266	14,100,060		49,298,184
Spartan	Spartan Prop IC	18406	3,843,894	3,426,519	3,565,555	3,817,045	4,130,198	4,579,967	5,574,822	6,363,370	6,787,260		42,088,630
State Natl Group	State Natl IC	12831		11,922,535	12,355,934	47,984,106	58,048,752	59,238,626	85,002,268	69,979,303	81,286,941	114,910,309	540,728,774
State Natl Group	National Speciality	22608				(2,453)						12,226,514	12,224,061
	Southern Pioneer	16047		3,081,461	2,968,164	2,340,656	2,698,955	2,401,677	1,992,943	1,183,090	1,478,288	1,397,257	19,542,491

Force-Placed Auto by Company

Incurred Loss Ratio

Group	Company	Co Code	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Grand Total
AIG	Amer Gen Ind Co	24376	17.0%	30.5%	36.5%	39.3%	71.9%	26.5%	25.7%	26.2%	35.3%	28.2%	33.5%
Allstate	First Colonial	29980		66.6%	61.9%	42.3%	41.8%	50.0%	31.2%	34.3%	29.1%	33.8%	37.5%
Ally Holding	MIC P&C IC	38601	91.2%	101.2%	3.7%	-75.7%							77.6%
Amer Nat	American Nat Lloyc	10043	35.2%	58.2%	28.7%	26.2%	40.7%	30.9%	31.1%	52.8%	34.3%	33.1%	37.0%
Amer Nat	ANPAX LA In Co	11140	21.4%		18.1%	21.2%	19.7%	20.7%	17.5%	17.9%	17.8%	19.7%	19.0%
Amer Nat	Amer Nat P&C	28401	2.0%	3.1%	3.4%	4.6%	3.9%	4.4%	4.0%	3.5%	3.6%		3.6%
Amer Nat	Amer Nat CM	29319	37.2%	19.4%	25.2%	5.7%	34.9%	44.3%	30.9%	40.7%		29.4%	24.3%
Arch	Arch IIC	11150	17.0%	30.5%	36.5%	39.3%	71.9%	26.5%	25.7%	26.2%	35.3%	28.2%	33.5%
Assurant	American Reliable	19615		66.6%	61.9%	42.3%	41.8%	50.0%	31.2%	34.3%	29.1%	33.8%	37.5%
Assurant	Voyager Ins	35971				0.0%						37.3%	37.3%
Assurant	Voyager Ind	40428	44.2%	41.2%	41.3%	39.9%	45.7%	66.6%	40.3%	49.4%	11.2%	-31.1%	45.5%
Assurant	American Security	42978	45.7%	42.7%		37.1%	60.6%	78.1%	52.8%	54.3%	63.6%	441.7%	53.7%
Assurant	Standard Guaranty	42986	34.6%	45.9%	45.9%	51.3%	51.2%	49.8%	30.8%	43.4%	28.9%	-35.1%	43.4%
Asurant	American Bankers c	10111		23.6%	22.9%	31.9%	26.8%	31.8%	28.1%	25.3%	21.5%	24.1%	26.5%
Citi	Triton IC	41211	24.9%	29.6%	23.0%	22.8%	19.9%	16.9%	13.5%	12.3%	17.8%	16.9%	20.6%
CUNA Mut	Cumic Ins Society	10847	37.2%	19.4%	25.2%	5.7%	34.9%	44.3%	30.9%	40.7%	34.9%	29.4%	24.3%
Delek	Southern CM	27863	45.7%	42.7%		37.1%	60.6%	78.1%	52.8%	54.3%	63.6%	441.7%	53.7%
Delta	Delta Fire and Cas	10898											
FCO Cap	American Guaranty	35521	44.9%	42.8%	42.1%	36.2%	42.2%	50.4%	40.0%	49.2%	44.3%	41.6%	43.0%
Fortress	Yosemite IC	26220	24.9%	29.6%	23.0%	22.8%	19.9%	16.9%	13.5%	12.3%	17.8%	16.9%	20.6%
Life of South	Lyndo Southern	10051	0.0%										0.0%
Life of South	Ins Co of South	11162							0.0%				0.0%
Nat Gen	Gulf Guar	36765	-291.0%	5186.3%	104.6%	669.4%							146.9%
Plateau	Plateau Cas IC	10817	44.2%	41.2%	41.3%	39.9%	45.7%	66.6%	40.3%	49.4%	11.2%	-31.1%	45.5%
Protective Life	Lyndon Property	35769					16.3%	29.8%	11.5%	0.0%	44.2%	0.0%	20.5%
QBE / BOA	Balboa IC	24813	6.8%	8.2%	16.3%	11.0%	2.7%	-32.4%	26.3%	-9.5%			7.7%
QBE / BOA	Meritplan	24821						48.6%	39.1%	34.1%	32.1%		37.7%
QBE / BOA	Newport	24848	-291.0%	5186.3%	104.6%	669.4%							146.9%
Securian MN Mutual	Securian Cas IC	10054	24.9%	29.6%	23.0%	22.8%	19.9%	16.9%	13.5%	12.3%	17.8%	16.9%	20.6%
Securian MN Mutual	CNL Ins Amer Inc	30112	18.2%	24.5%	24.9%	24.0%							22.8%
Spartan	Spartan Prop IC	18406	30.7%	35.8%	33.0%	41.7%	30.5%	30.9%	29.2%	30.9%	30.1%	33.9%	32.4%
State Natl Group	State Natl IC	12831	30.7%	35.8%	33.0%	41.7%	30.5%	30.9%	29.2%	30.9%	30.1%	33.9%	32.4%
State Natl Group	National Speciality	22608	18.2%	24.5%	24.9%	24.0%							22.8%
	Southern Pioneer	16047	-291.0%	5186.3%	104.6%	669.4%							146.9%
Total			37.9%	36.4%	31.5%	33.1%	40.5%	47.8%	31.8%	35.0%	27.1%	31.3%	35.8%

Force-Placed Auto by Company

Lender Compensation

Group	Company	Co Code	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Grand Total
AIG	Amer Gen Ind Co	24376	114.6%	41.7%	74.1%	85.4%	84.8%	50.9%	57.1%	87.6%	57.5%	48.7%	63.5%
Allstate	First Colonial	29980		21.5%	18.4%	46.1%	48.7%	36.9%	60.0%	51.8%	62.1%	57.6%	51.8%
Ally Holding	MIC P&C IC	38601	11.3%	22.3%	66.5%	0.0%							25.7%
Amer Nat	American Nat Lloyc	10043	39.7%	34.1%	25.8%	40.3%	26.5%	32.0%	33.0%	33.2%	34.9%	32.3%	32.7%
Amer Nat	ANPAX LA In Co	11140	53.1%		51.1%	51.1%	44.1%	44.1%	39.5%	28.8%	36.8%	48.4%	42.1%
Amer Nat	Amer Nat P&C	28401	89.3%	82.1%	55.3%	62.8%	57.6%	63.5%	65.1%	63.5%	61.6%		66.1%
Amer Nat	Amer Nat CM	29319	63.5%	61.8%	66.3%	34.4%	39.9%	59.1%	32.9%	35.6%	35.5%	26.4%	45.1%
Arch	Arch IIC	11150	114.6%	41.7%	74.1%	85.4%	84.8%	50.9%	57.1%	87.6%	57.5%	48.7%	63.5%
Assurant	American Reliable	19615		21.5%	18.4%	46.1%	48.7%	36.9%	60.0%	51.8%	62.1%	57.6%	51.8%
Assurant	Voyager Ins	35971				96.3%						58.4%	58.4%
Assurant	Voyager Ind	40428	22.8%	32.8%	21.6%	19.7%	18.8%	17.0%	18.4%	16.3%	6.7%	16.2%	20.5%
Assurant	American Security	42978	14.5%	19.3%		18.6%	12.8%	10.5%	17.4%	7.1%	-1.0%	-383.4%	13.8%
Assurant	Standard Guaranty	42986	38.4%	44.6%	44.6%	31.1%	34.9%	32.2%	35.8%	37.2%	-218.4%	56.3%	29.9%
Asurant	American Bankers c	10111		15.6%	11.2%	1.2%	1.3%	1.2%	2.2%	4.6%	6.7%	5.0%	5.8%
Citi	Triton IC	41211	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
CUNA Mut	Cumic Ins Society	10847	63.5%	61.8%	66.3%	34.4%	39.9%	59.1%	32.9%	35.6%	35.5%	26.4%	45.1%
Delek	Southern CM	27863	14.5%	19.3%		18.6%	12.8%	10.5%	17.4%	7.1%	-1.0%	-383.4%	13.8%
Delta	Delta Fire and Cas	10898											
FCO Cap	American Guaranty	35521	47.9%	39.0%	40.3%	46.2%	42.5%	44.2%	42.2%	40.2%	39.9%	42.0%	42.6%
Fortress	Yosemite IC	26220	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Life of South	Lyndo Southern	10051	0.0%										0.0%
Life of South	Ins Co of South	11162							0.0%				0.0%
Nat Gen	Gulf Guar	36765	243.0%	-2866.7%	13.6%	89.1%							-2.1%
Plateau	Plateau Cas IC	10817	22.8%	32.8%	21.6%	19.7%	18.8%	17.0%	18.4%	16.3%	6.7%	16.2%	20.5%
Protective Life	Lyndon Property	35769					34.1%	33.3%	18.2%	42.0%	-6.9%	0.0%	28.2%
QBE / BOA	Balboa IC	24813	5.6%	25.1%	15.8%	2.3%	42.6%	41.2%	7.4%	0.0%			10.8%
QBE / BOA	Meritplan	24821						43.3%	48.1%	51.3%	54.5%		49.8%
QBE / BOA	Newport	24848	243.0%	-2866.7%	13.6%	89.1%							-2.1%
Securian MN Mutual	Securian Cas IC	10054	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Securian MN Mutual	CNL Ins Amer Inc	30112	32.6%	35.4%	56.4%	46.9%							42.5%
Spartan	Spartan Prop IC	18406	38.3%	38.5%	43.6%	43.5%	48.1%	48.7%	45.7%	46.5%	39.2%	36.0%	42.9%
State Natl Group	State Natl IC	12831	38.3%	38.5%	43.6%	43.5%	48.1%	48.7%	45.7%	46.5%	39.2%	36.0%	42.9%
State Natl Group	National Speciality	22608	32.6%	35.4%	56.4%	46.9%							42.5%
	Southern Pioneer	16047	243.0%	-2866.7%	13.6%	89.1%							-2.1%
Total			22.5%	27.0%	27.4%	26.0%	25.5%	27.5%	34.4%	37.0%	39.3%	47.8%	30.4%