

## Battle for Prop. 103 Is Far From Over

**F**IVE YEARS AGO, California voters approved Proposition 103, the insurance reform initiative. After a withering campaign, in which insurance companies spent \$60 million against the initiative, most voters assumed that victory at the ballot box meant the battle was over. Instead, the front line shifted to the corridors of power and privilege, where lawyers and lobbyists, not voters, rule.

In the Legislature, the politicians who blocked reform in 1987, forcing voters to the initiative process, are now engaged in the piecemeal repeal of Proposition 103. One of the measure's key reforms requires insurers to obtain the approval of the insurance commissioner before increasing rates.

Last month, at the behest of the insurance industry, the Legislature changed Proposition 103 to allow rate increases to take effect automatically unless the commissioner begins a full-scale hearing. Another bill approved by the Legislature allows insurance agents to keep \$625 million in excess commissions that are supposed to be returned to policyholders under 103. A third restored the industry's ability to engage in price fixing, specifically prohibited by 103.

Proposition 103 forbids amendments by the Legislature that do not "further its purposes," but that has not deterred the industry's indentured servants in Sacramento.

And the insurance companies that complain that consumers file too many lawsuits have themselves filed more than 60 to block Proposition 103. The legal delays allow insurers to keep our money longer. But, mainly the insurers are looking for sympathetic judges willing to rewrite Proposition 103.

Some judges have accommodated the industry, no matter how preposterous the outcome. One decision invalidated a provision of the initiative that requires insurers to base their rates on a motorist's driving safety record, rather than zip code. The judge ruled that it would be unfair to make bad drivers pay more for auto insurance than good drivers.

More recently, Los Angeles Superior Court judge Dzintra Janavs ruled that the voters did not intend to give the insurance commissioner the power to limit wasteful insurance company expenses and excessive profits. She canceled \$2.5 billion in rollbacks ordered by Commissioner John Garamendi.

When consumer groups sued to challenge one of the legislature's hostile amendments to 103, Judge Janavs took a hands-off approach,

ruling that judges should not interfere with the Legislature's authority. These unjust decisions have been appealed to higher courts.

Numerous insurers are taking the most direct route around Proposition 103: They simply disregard it. Many are evading 103's anti-redlining protections by refusing to sell a good-driver policy to qualified drivers. Still others, seeking higher profits, have begun to low-ball claims involving everything from auto accidents to natural catastrophes like the Oakland Hills fire and the Loma Prieta earthquake. Insurance brokers who cut their commissions to offer discounted policies to consumers — a practice that was illegal before 103 — have been terminated by insurance companies who do not want retail competition.

As hard as the industry has tried to undermine Proposition 103, however, the initiative remains a triumph for consumers.

More than six million Californians have received their rollback checks, a total of \$733 million, averaging \$117 per policyholder.

Even more important, an estimated \$4.2 to \$6 billion in rate increases have been averted since 103 passed, according to the National Insurance Consumers Organization. California used to have the third fastest-growing premiums in the nation; now it ranks third slowest. And direct accountability to the public has made the office of insurance commissioner a powerful forum for consumer protection.

Ironically, the insurance industry's assault on 103 has become a catalyst for future voter initiatives. Frustration is clearly the force behind the new "pay at the pump" no-fault proposal. Selling auto insurance through an arbitrary and costly system that relies on a gas tax is not going to address the fundamental flaws that have enabled the insurance industry to delay 103.

California needs legal reform — not the kind the insurance industry would like, which limits people's legal rights — but an initiative that will redress a politicized judicial system that favors large corporations with unlimited resources.

By subverting 103 in the state Capitol, the insurers have underscored the urgency of reform of our corrupt political system — particularly the elimination of all private financing of public elections.

*Harvey Rosenfield, author of Proposition 103, heads the newly created Proposition 103 Enforcement Project in Los Angeles.*