California's Unfinished Revolution

■ Insurance: Proposition 103 is still under seige from the industry, though it's more popular than ever with consumers. Now may be the time for a successor plan to end insurer defiance.

By HARVEY ROSENFIELD

The ramifications of Prop. 103 may ultimately force the voters to re-examine Prop. 103, but only if events create an unstable environment where the auto insurance system is in continuing turmoil.

—From a secret memo to the insurance industry from its political consultant, Clinton Reilly, three weeks after voter approval of Proposition 103.

One year ago today, California voters took insurance reform into their own hands and passed Proposition 103. But unlike other recent mass uprisings around the world, this was a peaceful revolt.

As citizens of a democracy, Californians have the power to override a corrupted Legislature and pass needed laws simply by going to the polls. So after enduring years of legalized extortion by insurance companies, the people approved Proposition 103, reducing auto, homeowner and other liability insurance rates to 1987 levels, eliminating arbitrary and discriminatory practices and imposing the most stringent controls in the country on this rapacious industry.

The intervening 12 months, however, have revealed that the insurance industry, and its allies in government charged with enforcing Proposition 103 have no more respect for democracy than a Colombian drug cartel. Insurance executives and state Insurance Commissioner Roxani Gillespie ridicule the law as the product of an emotional, unthinking mob that has no place telling insurers what to do.

Addicted to excessive profits and desperate to discourage reformers in other states, insurers have plotted revenge against California: a course of intimidation, coercion and outright lawlessness designed to punish the people for approving 103. The strategy was laid out in the secret memo by consultant Reilly. It concluded, "In defeat, the industry may finally win—if it realizes the opportunity and continues to mobilize its considerable resources."

Resources it has. Consumers should have gotten their 20% rollbacks long ago. Instead, the "good hands people" have shoved their greedy fingers even deeper into our wallets, jacking up rates as if 103 had never existed. Longtime customers have had their policies arbitrarily canceled or have been suddenly reclassified as higher risks, in flagrant violation of Proposition 103. Companies have refused to open their books to independent review, as required by 103, or to participate in the hearings mandated by the new law. And, using millions of dollars of our money, the insurance industry has hired thousands of lawyers—at an estimated $1 million per day—to file legal challenges to the law, to concoct absurd legal arguments to circumvent its requirements or to delay the new regulations. In one particularly reprehensible case, attorneys from the same law firm agreed on behalf of one insurer to comply with a schedule for implementing 103, then turned around and sued on behalf of another company to have the plan invalidated.

Yet despite the turmoil and the industry's continued intransigence, polls show that far more Californians support Proposition 103 today than on Election Day 1988, even though a majority believes that rollbacks will never be extracted from insurers.

Why the greater support? Because more than ever, the public knows that 103 is necessary for its protection. The insurance industry has, since approval of 103, proven the wisdom of the initiative: The more the insurers disobey the law, the stiffer the resolve of citizens to insist that it be enforced. This mounting public support, in turn, fortifies the law in the face of those who would otherwise ignore or subvert it. It is no accident that the Deukmejian Administration, which only recently was not embarrassed to champion the interests of insurers, now finds itself freezing insurance rates to protect an outraged public.

In response to a lawsuit brought by Voter Revolt, the Proposition 103 Intervention Team and other citizen groups, Insurance Commissioner Gillespie also agreed last month to scrap every one of the hundreds of exemptions from the 20% rollback she had previously granted. Using an approach favored by consumer advocates and Atty. Gen. John Van de Kamp, she will begin anew the process of determining rollbacks and adopting procedures for regulating rates.

And though much of the focus has been on 103's 20% rollback, voters have gradually become aware of its other reforms for which there is equally strong public support. Polls show that Californians throughout the state are particularly supportive of 103's requirement that auto insurance rates to be based primarily on characteristics that drivers control, such as safety records, rather than zip codes.

Voters also see the opportunity to elect the insurance commissioner in November, 1990—mandated by 103—as a virtual guarantee that the remainder of the initiative will eventually be implemented.

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[Ralph] Nader wants our Persian rugs off our floors, he wants to cut insurance executives' salaries, he wants to cut your commissions as agents and brokers. . . . Like Hitler, there is no appeasement. . . . Some may appease you, consumer activists, but we at the National Assn. of Independent Insurers . . . will fight. . . .

—Insurance executive John Crosby, leader of the industry's unsuccessful campaign against 103, in a speech in New York City on Sept. 22, 1989, comparing consumer activists to Adolf Hitler and insurers to Winston Churchill.

Proposition 103 has ushered in a new era of tough scrutiny and regulation of insurers. But its long-term success in reducing rates requires that insurance companies accept a fundamental change in their basic purpose.

Before Proposition 103, insurers operated on a "cost plus" basis: The costs of claims were simply passed on to consumers, along with an average 56% markup to cover insurer profits, multimillion-dollar executive salaries, campaign contributions and other expenses. Under this system, insurers perversely profited from more accidents, litigation, higher doctor bills, inflated car repair and other costs.

Instead of acting simply as middlemen, insurers must be willing to take responsibility for controlling the costs of the claims and expenses they pay out. By giving the insurance commissioner the power to regulate rates, Proposition 103 allows the commissioner to set performance standards that will encourage insurers to focus on claims prevention, rather than on maximizing profit.

Thus far, however, the bureaucratic auto insurance industry has demonstrated about the same willingness to change as the Chinese government. Instead, insurance companies have bulldozed the nation with a $90-million advertising campaign designed to convince us that they care about lowering rates and paying lip service to the need to control costs. But when a comprehensive bill to improve auto safety, limit unnecessary lawsuits, crack down on health-care fraud and uninsured motorists and provide a lifeline auto policy for low-income Californians surfaced in the California Legislature, the auto insurers' lobbyists fought the measure and won a veto from the governor.

The prognosis for change is not good. Industry executives, ensconced in their high-rise office suites in Illinois and Connecticut, refuse to let a mere California ballot initiative dictate how they sho run their empire. But their time is runn out. Inspired by Proposition 103, consu ers in 35 states from Nevada to Sc Carolina have promoted or passed rollbacks and other reforms.

In California, where democracy itself been invigorated by 103's passage, voters have the power to end the inc try's defiance once and for all. One op is illustrated by the experience of Bri Columbia. For every dollar consun there pay in premiums, their insura company pays a full dollar back in clai investment income covers all expenses overhead, which amount to one-thirc what California auto insurers spend. equivalent coverage, rates are dramati ly cheaper in British Columbia than California.

Why does the system in British Colu bia operate so well? Because in 1974 public got fed up with the arrogance greed of private auto insurance compa and kicked them out of the state. Th were replaced with a citizen-owned co pany that operates on a nonprofit ba The Insurance Corp. of British Colum carefully manages claim costs by aggr sively promoting safe driving, negotiat reduced auto-repair rates and health-c charges and really going after fraud.

But most important, the public loves corporation. Last summer, Allstate other private auto insurers waged a co campaign to be allowed back into Bri Columbia, begging to serve the mar they once scorned as "unprofitable." consumer support for their auto insura corporation is so strong that the sta conservative government refused to let private insurers return.

Harvey Rosenfield is chairman of V Revolt, the consumer organization sponsored Proposition 103.