



## **Consumer Federation of America**

1620 I Street, N.W., Suite 200 \* Washington, DC 20006

**TESTIMONY OF J. ROBERT HUNTER, FCAS, MAAA<sup>1</sup>  
BEFORE THE  
FLORIDA OFFICE OF INSURANCE REGULATION  
HEARING ON THE PROPERTY COLLATERAL PROTECTION PROGRAM  
(FORCE-PLACED INSURANCE)  
OF AMERICAN SECURITY INSURANCE COMPANY (ASIC)  
MAY 13, 2013**

Mr. Commissioner and members of the Office, I appreciate the opportunity to speak to you this morning. The work you are undertaking to address the abuses in force-placed insurance (FPI) is of vital importance to Floridians, many of whom are being harmed by these practices today. Your hearing on ASIC rates offers hope to consumers who have paid excessive rates for force-placed coverage throughout Florida.

I plan on submitting more complete testimony later. For now, here are the key points I plan to make:

- As indicated in this testimony, I conclude that the American Security Insurance Company's (ASIC) filing would produce excessive rates if adopted. Having only certain aspects of the filing available to the public makes complete analysis impossible.
- In future filings, any alleged trade secret material should be tested in court prior to the hearing so the public can fully participate. If a document is declared to be a trade secret by the court, there should be a process whereby intervenors can obtain such materials by signing a protective order.
- The filing makes clear that the ASIC rates proposed suffer from the fruits of reverse competition. Reverse competition manifests itself in FPI through the payment of commissions to agents or brokers affiliated with the lender or servicer, the provision of below-cost or free tracking services provided by the FPI insurer to the lender, through FPI carriers that reinsure FPI insurance (either in whole or in part) with captive reinsurers owned by lenders and offering other things of value. Thus, FPI rates are much higher than normal insurance rates.

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<sup>1</sup> Mr. Hunter formerly served as Federal Insurance Administrator under Presidents Ford and Carter and as Texas Insurance Commissioner. He is an actuary, a Fellow in the Casualty Actuarial Society and member of the American Academy of Actuaries.

- Commissions should be excluded from the filing. In the insurance industry when normal insurance such as homeowners insurance is being written, commissions are paid to agents and brokers by an insurance company to go out and find clients (policyholders) for the insurance company. In a normal agency situation, the agent has to go out and find clients through advertising, calls, visits and so on. The agent then helps the policyholder determine the insurance needed and shops the market for a competitively priced insurance policy for the client. None of this happens in the FPI situation. In FPI, The work performed in every agency agreement for FPI I have seen is minimal and not done for the benefit of the FPI policyholder/borrower (the arrangements with agents in this case has been claimed to be a “trade secret” so I cannot show this here, but I am certain that agent work is either zero or de minimus as it was in New York). New York has banned commissions as has FHFA in its recent proposed rule.
- Tracking cost should be excluded from the filing. It is clear that tracking costs are included in the expenses in this case. The remarks of ASIC in response to OIR question number 16 make this clear as the response clearly describes tracking. Tracking should not be built into these rates for several reasons: 1) Almost all of the services done by tracking are not related to FPI. These services included escrow management, discussions with insurance agents on the renewal status of many loans, management of 100 percent of the borrowers’ insurance status (including borrowers who are not force-placed), reports to the servicer, etc. 2) The fact that much of this work relates to 100 percent of the borrowers yet is charged to the small percentage (two to three percent) whose hazard insurance was force-placed is unfair even if some of the work applied to them. 3) Including all the costs of tracking in the premiums paid by borrowers whose hazard insurance was force-placed is also unfair since it involves double dipping by the servicer. The servicers underwritten by ASIC receive compensation from the owner/holder of the mortgage to service the loans. This payment includes the costs associated with tracking. Charging force-placed borrowers for the same costs results in a double payment to the servicers for tracking. Fannie Mae found this practice to be improper and sought to eliminate it. The RFP states that, by implementing the RFP, it expects to “Eliminate the ability of servicers to pass on the cost of insurance tracking services to Fannie Mae, since the cost of such services is reimbursed to the servicer in the form of current servicing fees.” (Emphasis added). New York banned the use of such expenses.
- Excessive ratemaking factors should be removed. Loss trend should be based on data through at least 4<sup>th</sup> quarter 2012 lowered to 12.5 percent per year, the latest 12-point pure premium trend. In fact, 2013 full year experience should be included in the review. The non-hurricane factor should

be based on the 2.1 percent calculated in Exhibit 6 of the filing, not the higher factor the filer used.

- Making very rough adjustments of excluding the commissions and tracking costs as well as fixing the old trend by analyzing 12 quarters of pure premium data trend and non-CAT factor would produce at least an estimated one-third reduction in rates but that is based on (1) old data that should be updated and (2) only the ability to review about half of the material because of the claim of trade secrets by ASIC.