

Milestones in Racial Discrimination within the Insurance Sector

August 2020

Overview:

The raw material of an insurance contract is risk. The insurance policyholder transfers certain enumerated risks to the insurer for a fee (called premium) and receives a written promise of indemnification if the enumerated risks (contingencies) occur. Insurance premiums are determined based on a policyholder's expected losses. Therefore, by its nature, insurance aims to discriminate by risk types and charge premiums accordingly. There has been and will always be discrimination by risk types in insurance unless everyone is charged the exact same price for a product. There are many reasons this cannot happen.

However, it is illegal for insurers to *discriminate unfairly*. Unfair discrimination occurs when an insurer uses a socially unacceptable risk classification factor (like race or national origin) to differentiate on either the price of or access to an insurance product. Yet, historically there are numerous examples where the insurance industry has discriminated against people of protected classes such as race.

It is the goal of the legislative and regulatory framework to eliminate such unfair discrimination. There are many examples where insurers, insurance producers, regulators, state legislators and members of Congress have come together to eliminate these discriminatory practices. While many forms of direct unfair discrimination have been eliminated, subtle, less obvious forms of discrimination remain in access to insurance and risk classification.

We present a historical timeline summary of key events in the insurance industry (focused on Life, Home, and Auto) to provide context on primarily racial discrimination within the insurance sector along with prior actions taken by regulators in response. Links are embedded throughout where applicable with a list of references by categorized insurance issue at the end.

Disclaimer: The information presented herein is for discussion/educational purposes only and is not intended to be a full and exhaustive explanation of legal and regulatory developments on the topic of discrimination.

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Historical Timeline Summary:

Date	Event	Related Insurance Issue
1693	In 1693, Cotton Mather noted in his diary the efforts of “poor Negroes” to provide for the less fortunate among them, including collecting money to ensure decent burials.	Historical Event

1752

Date	Event	Related Insurance Issue
1935	<p>(FHA). While racial segregation and discrimination predated the establishment of the FHA, some of the FHA policies aggravated the decay of urban housing by limiting access to mortgages.</p> <p>The Federal Home Loan Bank Board (FHLBB) asks the Home Owners' Loan Corporation (HOLC) to create "residential security maps" related to security of real estate investments. The HOLC maps created four, color-coded "desirability" categories. Type A (Green) were typically affluent suburbs. Type B (Blue) neighborhoods were considered still desirable. Type C (Yellow) were older neighborhoods labeled declining. Type D (Red) were generally older inner-city nei</p>	

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	and prohibits them. (1947 Proceedings of the NAIC, 383, 392-400, 413)	
1948	In <i>Shelley v. Kraemer</i> , the U.S. Supreme Court rules that racially restrictive covenants in property deeds are unenforceable. The Court found that although racial restrictive covenants are private, not government contracts, they are nonetheless legally unenforceable, as they are in violation of the Equal Protection Clause of the Fourteenth Amendment.	Legal ; Historical Event
1950	The first homeowners insurance policy is filed by the Insurance Company of North America and approved by the Pennsylvania Insurance Department on Aug. 11, 1950, to be effective Sept. 11, 1950. Prior to 1950, a person would purchase a dwelling fire policy from one insurer to cover fire and extended coverages to cover the physical loss to the home and a comprehensive personal liability policy to cover liability exposure from another insurer.	Homeowners Insurance
1957	Maryland establishes the Maryland Automobile Insurance Fund ² to replace its Maryland Auto Insurance Plan (an assigned risk plan) and Unsatisfied Claim and Judgment Fund Board. It is the only state fund to provide auto liability insurance to Maryland resident who cannot obtain coverage from a private insurer. Two rejections from private insurers are required to access coverage from the fund.	Auto Insurance
1958	The Travelers Insurance Company first offers life insurance to women at lower rates than men.	Life Insurance
1964	The Civil Rights Act was passed, eliminating the discriminatory practice of charging different life insurance premiums based on race that had been ongoing since the 1940s. Life insurers charged Black customers higher premiums for so-called industrial life insurance policies — cheap life insurance that was usually bought to cover burial costs. Insurance agents at the time allegedly carried around two rate books, one for whites and one for blacks. The rates for black people were sometimes as much as 30% higher. However, in 2000, a lawsuit was filed, alleging some existing policies from the 1960s were not changed and black policyholders were still being charged higher premiums than whites for industrial life insurance policies.	Legal ; Life Insurance
1965	The Housing and Urban Development Act of 1965 was enacted on Aug. 10. The Act expanded funding for existing federal housing programs and added programs providing rent subsidies for the elderly and disabled, housing rehabilitation grants to homeowners of limited means, access to low down-payment loans for military veterans, changes to access to public housing and infrastructure investments.	Legal ; Homeowners Insurance
1968	The President's National Advisory Panel . The Panel evaluated the impact of urban riots in the 1960s. It is the source of recommendations that states enact legislation to establish Fair Access to Insurance Requirements (FAIR) Plans. Over the ensuing years many states established FAIR Plans to serve as the market of last resort for property insurance coverage.	Legal ; Homeowners Insurance
1968	The Fair Housing Act of 1968 was passed to address racial discrimination in	

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1968	<p>housing. According to the Department of Housing and Urban Development (HUD), the Act makes it unlawful to discriminate in the terms, conditions, or privileges of sale of a dwelling because of race or national origin. In addition, the Act outlaws the use of racially restrictive covenants in deeds.</p> <p>Urban Property Protection and Reinsurance Act of 1968.³ As a result of the 1960s urban riots, Congress enacted the Urban Property Protection and Reinsurance Act to assist and encourage states and the insurance industry to establish programs offering insurance protection for those meeting reasonable insurability standards, and to provide a federal reinsurance program while placing appropriate finan6 (w)-4 (h7 (r)14 (p).9 ()-2 (r t)6(s)2</p>	

Date	Event	Related Insurance Issue
	<p>insurance business;</p> <ul style="list-style-type: none"> x The insurance industry would be required to use objective and statistically supported risk classifications and to compile credible statistical data consistent with the basic principles of insurance; x Insurance Departments would establish uniform statistical plans to assure industry experience would be collected in a meaningful and intelligible way; x Insurance Departments would establish State Public Information Centers to assist consumer understanding of insurance; and x Open competition ratemaking (file and use) would replace prior approval regulatory frameworks. Insurance departments would retain prior approval of risk classifications. 	

1975

Home Mortgage Disclosure Act (HMDA). The HMDA requires mortgage lenders to collect and disclose stat12 91.56 53 j/TT -0 t4 ()10 (d)-3.9a (t)-4 (a)10(A re)-1 (g)2 (u)10 (d)-4 n(

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- x *Cole, Cassandra R., et. al. [*A review of the current and historical no-fault environment.*](#) Journal of Insurance Regulation. (2004.)
- x Federal Trade Commission. [*Credit-Based Insurance Scores: Impacts on Consumers of Automobile*](#)

- x Grace, Martin F. and Robert W. Klein. "Urban Insurance Markets in Texas: A Search for Redlining," *Journal of Risk and Insurance*, 68: 581-614. (2001.)
- x Squires, Gregory D

- X [Community Reinvestment Act](#), 12 U.S.C.A. 2901-2908 (1977.)
- X [Shavers v. Attorney General](#). (1978.)
- X Michigan Legislature. Act 145 of 1979. Effective Jan. 1, 1980.
- X Connolly, Jim. "New Texas law makes race-based pricing a felony." *National Underwriter*, p. 3. (June 30, 2003.)
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- X Home Mortgage Disclosure Act. 12 U.S.C. 2801 (1975).
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 - X Squires, Gregory D. *Capital and communities in black and white: the intersections of race, class, and uneven development.* (1994.)
 - X ** Squires, Gregory D. *Insurance redlining: disinvestment, reinvestment, and the evolving role of financial institutions.* (1997.)
 - X *Squires, Gregory D. *Reigniting the insurance redlining debate?* Journal of Insurance Regulation. (Vol. 24, No. 4, Summer 2006).
 - X Squires, Gregory D. *Racial Profiling, Insurance Style: Insurance Redlining and the Uneven Development of Metropolitan Areas.* Journal of Urban Affairs, Volume 25, Number 4, Pages 391-410.
 - X *Also published in the Journal of Insurance Regulation (Vol. 24, No. 4, Summer 2006).
- x Twelve [NAIC Model Laws](#) disallow discrimination on the bas