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Prisoners of the Zip Code: How Single Zip Code Rate-making Hurts the Public Interest

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PRISONERS OF THE ZIP CODE: HOW SINGLE ZIP CODE RATE-MAKING HURTS THE PUBLIC INTEREST

Ansell Fernandez[1]

"There must be a positive Passion for the public good, the public interest . . . established in the Minds of the People, or there can be no Republican Government, nor any real Liberty."

John Adams[2]

I. INTRODUCTION

Pedro Gonzalez's ("Pedro") family knew something was wrong when his small dog came back home alone after their usual night walk.[3] His mother, a resident of Miami's Little Havana community, immediately went looking for him, only to find a heavy presence of first responders nearby.[4] Pedro, her only son, laid pinned under a nearby vehicle, the result of a hit-

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2. MASS. HISTORICAL SOC'Y ET AL., WARREN-ADAMS LETTERS: BEING CHIEFLY A CORRESPONDENCE AMONG JOHN ADAMS, SAMUEL ADAMS, AND JAMES WARREN, 1743–1814, at 222 (Mass. Historical Soc'y, vol. 1, 1917).

3. *See* NBC6, *Car Allegedly Involved in Little Havana Hit-and-Run Found* (Nov. 22, 2015, 2:52 PM), http://www.nbcmiami.com/news/local/Man-Clings-to-Life-After-Hit—Run-Crash-352951941.html (providing details about the hit-and-run involving Pedro Gonzalez); *see also* Carli Teproff, *Hit-and-run crash leaves a man dead in Little Havana*, MIAMI HERALD (Nov. 22, 2015, 4:27 PM), http://www.miamiherald.com/news/local/community/miami-dade/little-havana/article45918775.html (providing further details on the hit-and-run that killed Pedro Gonzalez in Little Havana and the subsequent investigation by the Miami Police Department); Oralia Ortega, *Victim's Dog Runs To Get Help, Driver Flees In Fatal Hit & Run*, CBS MIAMI (Nov. 22, 2015, 11:05 PM), http://miami.cbslocal.com/2015/11/22/man-walking-his-dog-dies-day-after-hit-run-crash/ (providing a detailed account of the time, location, and circumstances that led to Pedro's accident).

4. *See* Ortega, *supra* note 3.

and-run accident.[5] He would later die from his injuries, leaving behind a devastated family.[6] The story of Pedro is not unique in Florida.[7] According to a recent report by the Florida Highway Patrol, there were around 92,000 hit-and-runs in 2015, of which 186 resulted in fatalities.[8] The reasons why drivers flee an accident scene vary.[9] Driving without insurance is one of the main reasons cited for hit-and-runs.[10]

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5. *See* Teproff, *supra* note 3 (noting that the driver exited the vehicle, looked at Pedro, and left the accident scene).

6. *See* NBC6, *supra* note 3; *see also* Teproff, *supra* note 3; Ortega, *supra* note 3.

7. *See* Kyle Munzenrieder, *Hit-and-Runs Surged to More Than 92,000 in Florida Last Year*, MIAMI NEW TIMES (Feb. 16, 2016, 12:54 PM), http://www.miaminewtimes.com/news/hit-and-runs-surged-to-more-than-92-000-in-florida-last-year-8254893 (detailing how Florida had around 92,000 hit-and-run accidents in 2015); *see also* Vanessa Borge, *Hit and Run Crashes Rising Across South Florida*, CBS MIAMI (July 30, 2015, 11:15 PM), http://miami.cbslocal.com/2015/07/30/hit-and-runs-rising-in-south-florida/ (informing how police detectives are overwhelmed by the increasing number of hit-and-run accidents in Dade County and the lack of resources to properly investigate); Tarik Minor, *Mapping NE Florida's hit-and-run hot spots*, NEWS4JAX (Mar. 9, 2016, 10:05 PM), http://www.news4jax.com/news/investigations/hit-and-run-hotpots (detailing an investigation in northeast Florida that found most hit-and-run crashes in Jacksonville, Florida in 2015 were reported in the downtown area); WFLA Web Staff, *Find active hit-and-run cases in your Florida county*, NEWS CHANNEL 8 (Nov. 23, 2015, 1:05 PM), http://wfla.com/2015/11/23/find-active-hit-and-run-cases-in-your-florida-county/ (reporting that Miami-Dade County had the most hit-and-run crashes in Florida from 2012 to 2014 and outlining what should be done after a hit-and-run accident). The problem of hit-and-run accidents is increasing in Miami-Dade and no clear solution is apparent. *See* WFLA Web Staff, *supra*. The burden on police departments investigating hit-and-runs is great due to the overwhelming numbers that prevent a proper investigation. *See* Borge, *supra*. The Miami-Dade police department claims that a fifty percent closure rate for these investigations is "high." *See id.* The Miami-Dade police Department cites low resources, high volume, not enough time, and poor evidence as main reasons why these cases are hard to close. *See id.*

8. *See HIT & RUN: BAD to WORSE*, FLA. DEP'T OF HIGHWAY SAFETY & MOTOR VEHICLES 3 (Feb. 2016), https://flhsmv.gov/pdf/hitandrun/hit_and_run_evaluation_report_2016.pdf (providing general details of hit-and-run accidents in Florida for 2015). It is evident from this state report that public safety is negatively impacted by hit-and-run accidents. *See id.* To illustrate, there were over 19,000 injuries resulting from hit-and-run crashes, and more than 1,200 of these involved serious bodily injuries. *Id.* In addition, more than eighty percent of the accidents resulted in property damage. *See id.*

9. *See* Meredith Cohn, *Hit-and-run drivers not uncommon, but not well understood*, THE BALT. SUN, (Feb. 6, 2015, 7:18 PM), http://www.baltimoresun.com/health/bs-hs-hit-and-run-20150205-story.htmlz (reporting on the different causes that impact the psychological decision-making of hit-and-run drivers); Michael E. Young, *Psychologists Cite Panic as Reason Hit-run Drivers Flee*, SUNSENTINEL (July 13, 1992), http://articles.sun-sentinel.com/1992-07-13/news/9202190382_1_hit-and-run-accidents-lapointe-driver-hits. According to psychologists "[w]hen a driver hits someone, the driver's first impulse is to flee." Young, *supra*. "The urge to flee, "coupled with practical considerations such as insurance problems, criminal records or driving violations, is too strong." *Id.*

10. *See* Young, *supra* note 9; *see also* Ludo Kluppels, *Beyond shame and guilt: What's inside a hit and run accident*, BELGIAN ROAD SAFETY INST. 2–6 (Jan. 2016), http://traffic-

In 2012, Lebron Stinson ("Lebron"), was unemployed but desperately looking for work.[11] He did not have a car and found it almost impossible to secure employment without a reliable mode of transportation.[12] His despair was evident: "It's a painful situation here. I'll tell you, I'm not one to give up hope, but, man, it makes your self-esteem drop. Your confidence disappears . . . . I need a job, but I can't get there."[13] Lebron's reality is not unique either.[14] The problem of transportation and job security is very real, exacerbated by high insurance premiums that make car ownership in low income households expensive and unattainable.[15] According to a recent study, sixty percent of zero-vehicle households in the largest metropolitan areas were of low income.[16] However, forty-two percent of those with a

psychology-international.eu/wp-content/uploads/2016/01/Beyond-shame-and-guilt.pdf (discussing the main causes that make drivers leave the scene of an accident); Cohn, *supra* note 9 ("People also are strongly motivated to avoid the consequences[.]").

11. *See* Peter S. Goodman, *Unemployment Problem Includes Public Transportation That Separates Poor From Jobs*, HUFFINGTON POST (July 11, 2012, 7:16 AM), http://www.huffingtonpost.com/2012/07/11/unemployment-problem-public-transportation_n_1660344.html (providing a first-hand account of the difficulties confronted by those who do not have a vehicle but are in search of employment).

12. *See id.* ("In the two months since he lost his job driving a delivery truck for a door company, Lebron Stinson has absorbed a bitter geography lesson about this riverfront city: The jobs are in one place, he is in another, and the bus does not bridge the divide."). The problem of low car ownership in poor communities is compounded by the inadequacy of public transportation to deliver job seekers to where their jobs are. *See id.*

13. *Id.*

14. *See* Adie Tomer, *Transit Access and Zero-Vehicle Households*, BROOKINGS 2 (Aug. 2011), https://www.brookings.edu/wp-content/uploads/2016/06/0818_transportation_tomer.pdf (presenting comprehensive "data "on household demographics, transit systems, and employment to determine the accessibility of jobs via transit within and across the country's 100 largest metropolitan areas—as defined by the U.S. Office of Management and Budget in 2008 and based on Census Bureau population estimates for that year"). Over seven million households in the largest metropolitan areas in the United States do not own a car. *See id.* at 1. Most Americans who do not own a vehicle in these metropolitan areas live in cities and earn lower incomes, while Americans with vehicles live primarily in the suburbs and earn middle or higher incomes. *See id.*

15. *See* Douglas Heller & Michelle Styczynski, *Major Auto Insurers Raise Rates Based on Economic Factors*, CONSUMER FED'N OF AM. 14 (June 2016), http://consumerfed.org/wp-content/uploads/2016/06/6-27-16-Auto-Insurance-and-Economic-Status_Report.pdf (presenting research that shows low and moderate income drivers are consistently charged higher premiums by all insurance companies that were surveyed); *see also Where We Need to Go: A Civil Rights Roadmap for Transportation Equity*, THE LEADERSHIP CONF. EDUC. FUND 8 (Mar. 2011), http://www.protectcivilrights.org/pdf/docs/transportation/52846576-Where-We-Need-to-Go-A-Civil-Rights-Roadmap-for-Transportation-Equity.pdf [hereinafter *Transportation Equity*] (""The absence of affordable, accessible transportation options threatens the civil rights of millions of Americans."). The average annual cost of owning a car is $9,498. *Transportation Equity*, *supra*, at 1. Additionally, the percentage of low-income Americans with no access to vehicles by racial demographic are: thirty-three percent for African-Americans, twenty-five percent for Latinos, and over twelve percent for white Americans. *Id.*

16. *See* Tomer, *supra* note 14, at 4 (providing data that reveals a correlation between low

car in these same areas were of high income.[17] Even where public transportation is available, the stigma of not owning a car can be an obstacle to getting or keeping a job.[18]

Lebron and Pedro are not related by blood; their similarities lie in a common link: higher insurance premiums increase the probability of their individual misfortune by increasing the rate of uninsured drivers who can potentially hit-and-run and by reducing vehicle ownership in low income communities.[19]

This comment argues that using socioeconomic data[20] to calculate auto insurance premiums within the boundaries of a *single* ZIP Code[21] disproportionally increase premiums on low income households, leading to higher rates of uninsured drivers in these communities.[22] Furthermore, this comment discusses how this rate scheme provides a possible avenue to

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income and a low rate of vehicle ownership).

17. *See id.* Interestingly, the report revealed that white Americans living in large metropolitan areas have the highest overall rate of zero-vehicle households, followed by Hispanics and Blacks. *See id.* at 3–4.

18. *See* Caitiin Eagen, *Do You Have Reliable Transportation?*, THE BILLFORD (June 10, 2016), https://thebillfold.com/do-you-have-reliable-transportation-ea558d2a81a8#.9pgvp8ld5 (providing a first-hand account of the stigma associated with not having a car to go to work).

19. *See infra* note 54 and accompanying text (discussing the correlation between higher rates of auto insurance premiums and greater rates of uninsured drivers); *see also supra* note 15 and accompanying text (providing details on the high cost of vehicle ownership).

20. *See Socioeconomic*, OXFORD, https://en.oxforddictionaries.com/definition/socio-economic (last visited Dec. 24, 2017) (defining socioeconomic as the "interaction of social and economics factors"); *see also* Joseph Cortright & Andrew Reamer, *Socioeconomic Data for Understanding Your Regional Economy: A User's Guide*, U.S. DEP'T OF COM. 34 (1998), http://econdata.net/wp-content/uploads/2014/12/uguide.pdf (providing a detailed guide on data collection government agencies, how to access the data, and the implications of analyzing socioeconomic data). "As an economic development practitioner or researcher, your effectiveness is fairly limited unless you can frame what's going on in the economy, and your basic tool for framing is some level of data analysis." Cortright & Reamer, *supra*, at 1. "Anecdotes and stories from the field, while useful, can take you only so far." *Id.*

21. *See The Untold Story of the ZIP Code*, U.S. POSTAL SERV. OFF. OF INSPECTOR GEN. 1–17 (Apr. 1, 2013), http://permanent.access.gpo.gov/gpo47009/rarc-wp-13-006.pdf (mapping the evolution of the ZIP Code system throughout the years); *ZIP Code History*, ZIPBOUNDARY.COM, http://www.zipboundary.com/zipcode_history.html (last visited Dec. 24, 2017) (providing a detailed history of the creation and implementation of the Zone Improvement Plan Code as we know it today). The boundaries of a ZIP Code may be set or readjusted based on "an actual incorporated town or city, a sub-entity of a town or city or an unincorporated census-designated place." *ZIP Code History*, *supra.*

22. *See infra* note 54 and accompanying text; *see also Why Almost 1 in 4 Floridian Driver Has No Car Insurance: Poverty*, FLAGERLIVE (Feb. 28, 2015), http://flaglerlive.com/75221/car-insurance-florida/ (arguing that poverty leads to higher rates of uninsured drivers). There is a strict correlation between levels of poverty and uninsured drivers. *See* FLAGERLIVE, *supra.* Another problem is the level of undocumented drivers that are unable to get insurance because they are not legally able to get a driver's license. *See id.*

illegally discriminate based on race, as a direct result of historical racial segregation and recent advances in big data.[23] Part II.A of this comment discusses the recent amendment to the insurance laws of Florida that now allows the use of a single ZIP Code to calculate auto insurance rates.[24] Part II.B provides a short history of the evolving methods of racial segregation in Florida.[25] This section also asserts that the legislature failed to take into account the geographical correlation between ZIP Code boundary lines and the perpetuating and constricted racial composition of neighborhoods in Florida.[26] Part II.C discusses the latest advances and capabilities of big data.[27] It also presents the ever-advancing capacity of big data to collect and forecast personal behavior.[28] Part III.A discusses the experience rating system and the areas of moral hazard and adverse selection.[29] Part III.B discusses the impact of high premiums on the cost of vehicle ownership and its impact on socioeconomic mobility.[30] Part III.C presents a comparative analysis to understand the actual effectiveness of progressive criminal punishment for uninsured drivers.[31] Finally, Part IV argues that Florida should follow the lead of California and prohibit the use of single ZIP Codes and socioeconomic factors in rate calculations.[32] Additionally, it proposes the establishment of a reimbursement system for consumer intervenors in rate-making decisions as possible solutions that can reduce

23. *See* FLA. STAT. § 626.9541 (2016) (outlining unfair and deceptive methods of competition); FLA. STAT. § 627.917 (2013) (outlining certain banned practices in the process of rate making of insurance companies); FLA. STAT. § 627.728 (2015) (setting the permissible rule under which an insurance company may renew or cancel an insurance policy); *see also infra* Part II.B–C.

24. *See infra* Part II.A.

25. *See infra* Part II.B.

26. *See* Fla. H.R. Comm. on Reg. Aff., HB 659 (2016) Staff Analysis 2 (Feb. 18, 2016), *available at* http://flsenate.gov/Session/Bill/2016/0659/Analyses/h0659c.RAC.PDF (reporting on the potential positive and negative impact of passing the new law, the new language, sponsors, and its fiscal impact on the private and public sector). The report acknowledges that the previous law prohibiting the use of a single ZIP Code in setting insurance rates was originally passed as an anti-redlining measure. *See id.* at 2. However, the Office of Insurance Regulation recommended that due to the increase in the use of big data, single ZIP Code use by insurance companies would become more "common" for insurance companies to use a single ZIP Code. *See id.* The report makes no mention of racial segregation in the state or the correlation of ZIP Codes to neighborhoods that are racially segregated to this day. *See id.* The report mentions that the new amendment asks insurance companies wishing to use a single ZIP Code to provide rates that are not "excessive, inadequate, or unfairly discriminatory." *Id.*

27. *See infra* Part II.C.

28. *See infra* Part II.C.

29. *See infra* Part III.A.

30. *See infra* Part III.B.

31. *See infra* Part III.C.

32. *See infra* Part IV.

premiums, and lead to lower rates of uninsured drivers and more vehicle ownership in low income households.[33]

II. BACKGROUND

Florida expressly prohibits insurance companies from setting rates, refusing insurance, or canceling an insurance policy based on a person's "race, color, creed, marital status, sex, or national origin."[34] Additionally, the law prohibits any rates that are "excessive, inadequate, or unfairly discriminatory."[35] Companies are free to use other factors to set rates, and any rates that are actuarially sound must be accepted by the state.[36] To help develop profitable rate schemes, insurance companies use proprietary algorithms based on historical claim factors that set premiums modeled on future claim forecasts.[37] These factors fall into two groups: socioeconomic and driving record factors.[38] Driving record factors include at-fault accidents and moving violations; socioeconomic factors include the level of

33. *See infra* Part IV.

34. *See* FLA. STAT. § 626.9541(1)(x) (2016); *see also* FLA. STAT. § 627.917(1) (2013) ("[I]n no event shall the system adopted by the commission discriminate among risks based upon race, creed, color, or national origin."); FLA. STAT. § 627.728(4)(c) (2015) ("No insurer shall fail to renew a policy for reasons based on race, color, creed, or national origin[.]").

35. *See* FLA. STAT. § 627.062 (2017) (outlining Florida's main rate-making statute and its main prohibitions on excessive, inadequate, or discriminatory rates). The statute also addresses the profitability of insurance companies: "Insurers or rating organizations shall establish and use rates, rating schedules, or rating manuals that allow the insurer a reasonable rate of return on the classes of insurance written in this state." *Id.*

36. *See Actuarial Soundness: A Public Policy Special Report*, AM. ACAD. OF ACTUARIES 2 (May 2012), https://www.actuary.org/files/Actuarial_Soundness_Special_Report_5.10.12.pdf (providing a detailed and all-encompassing definition of "actuarial soundness" as basically the sufficient funding to justify expected losses and risk); *see also* Carroll Lachnit, *Personal Factors That Affect Insurance Rates*, EDMUNDS (July 5, 2011), http://www.edmunds.com/auto-insurance/personal-factors-that-affect-insurance-rates.html (listing the main factors that affect auto insurance premiums); *What Factors May Affect Your Car Insurance Premium?*, ALLSTATE (July 2016), https://www.allstate.com/tools-and-resources/car-insurance/factors-affect-your-auto-insurance.aspx (listing the factors affecting auto insurance premiums); *These 7 Factors Determine Car Insurance Premiums*, STATE FARM, https://learningcenter.statefarm.com/auto/7-factors-affecting-your-auto-insurance-premiums/ (last visited Dec. 24, 2017) (listing the seven factors that per State Farm Insurance affect vehicle premiums). Among the top factors listed are driving record, vehicle type, type of coverage, deductibles, how often you drive, how far you drive, credit history, age, sex, and marital status. *See* ALLSTATE, *supra*. State Farm notes that younger drivers have a higher incidence of accidents, especially single males; therefore, premiums reflect this greater risk. *See* STATE FARM, *supra*.

37. *See Insider Information: How Insurance Companies Measure Risk*, INSURANCECOMPANIES.COM, http://www.insurancecompanies.com/insider-information-how-insurance-companies-measure-risk/ (last visited Dec. 24, 2017) ("Using software that computes a predetermined algorithm, insurance underwriters gauge the risk that you may file a claim against your policy.").

38. *See* Heller & Styczynski, *supra* note 15, at 2.

education of the insured, occupation, homeownership status, prior purchase of insurance, and marital status.[39]

California is the only state in the nation that bans the use of socioeconomic factors to calculate auto insurance premiums.[40] In 1988, California enacted Proposition 103 ("Proposition"), which bans the use of socioeconomic factors and ZIP Codes in rate-making, and it established an intervention process to motivate consumer participation in rate-making decisions.[41] The insurance companies fought the ban on the use of ZIP Codes, but the ban was eventually enacted thanks to the activism and persistence of its citizens.[42] A recent report found that over 100 billion dollars has been saved by California residents since the passage of Proposition 103.[43] From 1989 to 2010, Californians spent less than half of a percentage point more on insurance.[44] However, the rest of the country has had an increase of more than forty percent in insurance costs.[45] The intervenor program has been equally successful, saving Californians

39. *See id.* ("Among the most common of the individual economic and socio-economic characteristics used by auto insurers are motorists' level of education, occupation, homeownership status, prior purchase of insurance, and marital status."). The recommendations of the report are that regulators should more seriously address the impact of auto insurance pricing and enact reform that prohibits the use of socioeconomic factors to make auto insurance more affordable for all consumers. *See id.*

40. *See Protecting California's Ban on Zip-Code Based Auto Insurance*, CONSUMER WATCHDOG, http://www.consumerwatchdog.org/protecting-californias-ban-zip-code-based-auto-insurance (last visited Dec. 24, 2017) (providing an account of the efforts of consumer groups and citizens to enact the prohibition on the use of ZIP Codes in rate-making as approved by Proposition 103). The report provides an account of the strength with which insurance companies fought the ban on the use of ZIP Codes. *See id.* It details how Mercury Insurance funded a rival proposition to allow the use of ZIP Codes in rate-making. *See id.* This proposition was eventually defeated and the ban, as passed by Proposition 103, was eventually enforced. *See id.*

41. *See Information Sheet: Proposition 103 Intervenor Process*, CAL. DEP'T OF INS., http://www.insurance.ca.gov/01-consumers/150-other-prog/01-intervenor/info.cfm (last visited Dec. 24, 2017) (outlining the history of Proposition 103 in California and the success since its implementation). The intervention system makes insurance companies reimburse intervenors (i.e., consumer groups, etc.) for their participation in the rate-making process. *See id.*

42. *See* CONSUMER WATCHDOG, *supra* note 40 (providing an account of Mercury Insurance fighting the ban on the use of Zip Codes). Mercury Insurance tried multiple strategies to fight the ban. *See id.* Mercury challenged the ban in court, made large donations to both political parties, and initiated its own ballot measure to defeat the ban on the use of ZIP Codes. *See id.*

43. *See* J. Robert Hunter et al., *What Works: A Review of Auto Insurance Rate Regulation in America and How Best Practices Save Billions of Dollars*, CONSUMER FED'N OF AM. 2 (Nov. 2013), http://www.consumerfed.org/pdfs/whatworks-report_nov2013_hunter-feltner-heller.pdf (providing a comprehensive analysis of the economic savings from the passage of Proposition 103 in California). "All told, California has enjoyed the lowest rate of increase of any state in the nation since the adoption of Proposition 103." *Id.* at 20.

44. *See id.* at 21 (providing a graphical analysis of the savings achieved by Proposition 103).

45. *See id.*

millions.[46] For example, Consumer Watchdog, a California intervenor since 2003, has saved Californians over two billion dollars by challenging the rates of over thirty insurance companies.[47] In *Economic Empowerment Foundation v. Quackenbush*, the California Appeals Court crystalized the intent of the Proposition in regards to the intervenor initiative: "The purpose of intervener fees is evidently to encourage consumers to participate in insurance rate proceedings by compensating them for their contribution."[48] While California encourages consumers to participate in the rate-making process and bans the use of single ZIP Codes and socioeconomic factors in premium calculations to great success, Florida has moved in the opposite direction with recent amendments to its insurance laws.[49]

A. RATE-MAKING REGULATION AND FLORIDA STATUTE § 627.0651

In March 2016, the Florida legislature amended the insurance laws of the state to allow the use of a single ZIP Code in rate-making schemes.[50] Previously, the use of *two* or more ZIP Codes was required, effectively spreading the risk among neighboring communities.[51] To illustrate, before this amendment, when you requested an insurance quote and provided your home ZIP Code, the rates you received were based on claim and risk data

46. *See* CAL. DEP'T OF INS., *supra* note 41 (providing a detailed report on the savings achieved by California's Intervenor program). Insurance companies can be required to reimburse consumer groups for challenging proposed rate increases. *See id.*

47. *See* Doug Heller, *Intervenor System Has Worked to Save California Insurance Customers $2 Billion Since 2003*, CONSUMER WATCHDOG (May 12, 2011), http://www.consumerwatchdog.org/blog/intervenor-system-has-worked-save-california-insurance-customers-2-billion-2003 (providing a detailed account of the savings achieved by this particular intervenor through their challenge of proposed insurance rates in California). "For those $2 billion in savings, insurers have had to reimburse Consumer Watchdog about $5 million, of which about half went to the independent experts we hire to counter the arguments by the insurance companies." *Id.*

48. Econ. Empowerment Found. v. Quackenbush, 57 Cal. App. 4th 677, 686 (Cal. App. 1 Dist. 1997).

49. *See* CAL. DEP'T OF INS., *supra* note 41. *But see infra* Part II.A.

50. *See* FLA. STAT. § 627.0651(8) (2016) (outlining the requirements of the new amendment that allows the use of a single ZIP Code in rate making); Charles Elmore, *Florida lets car insurers set rates in a single ZIP code: Consumer group wary of redlining*, PALM BEACH POST (Mar. 10, 2016, 5:34 PM), http://www.mypalmbeachpost.com/news/news/florida-lets-car-insurers-set-rates-in-a-single-zi/nqhmW/ (noting that the proposed legislation (HB 659) passed in the Florida Senate by a 34-5 vote after a 111-5 vote in the House); *see also CS/CS/HB 659: Automobile Insurance*, THE FLA. SEN. (JULY 1, 2016), https://www.flsenate.gov/Session/Bill/2016/659 (providing a chronological history of the legislation that culminated in approval by the Governor of Florida on March 25, 2016).

51. *See* H.R. 659, 114th Cong. (2016). *But see* § 627.0651 (striking the requirement of two or more ZIP Codes in rate-making and enacting the new requirement on a single ZIP Code).

from two ZIP Codes, i.e., your home ZIP Code and a second neighboring one.[52] This restriction was enacted as an anti-redlining measure.[53] In drafting and passing this amendment, the legislature failed to consider Florida's history of racial segregation and the strict correlation between higher premiums and greater numbers of uninsured drivers.[54] This amendment was welcomed by groups that lobby for the insurance industry but denounced by consumer groups.[55]

In Florida, the insurance industry is regulated by the Office of Insurance Regulation,[56] with the express mission of promoting "a stable and competitive insurance market for consumers."[57] This office enforces

52. *See* § 627.0651 (authorizing the use of a single ZIP Code when creating insurance pools from which to quote premiums).

53. *See Redlining*, BLACK'S LAW DICTIONARY (10th ed. 2014) ("Credit discrimination . . . by an institution that refuses to provide loans or insurance on properties in areas that are considered to be poor financial risks or to the people who live in those areas."); *see also* Fla. H.R. Comm. on Reg. Aff., HB 659 (2016) Staff Analysis 2 (Feb. 18, 2016), *available at* http://flsenate.gov/Session/Bill/2016/0659/Analyses/h0659c.RAC.PDF (outlining the history of the statute and the reasons for the requirements on two or more ZIP Codes).

54. *See Facts + Statistics: Uninsured motorists*, INS. INFO. INST. (Aug. 1, 2017), http://www.iii.org/fact-statistic/uninsured-motorists; *see also* Penny Gusner, *Car insurance rates by state, 2017 edition*, INSURE.COM, http://www.insure.com/car-insurance/car-insurance-rates.html (last updated July 28, 2017). This report lists the rankings of all fifty states plus the District of Columbia—with one (1) being the highest and fifty-one (51) being the lowest—in percentage of uninsured drivers according to a study conducted by the Insurance Research Council. *See* INS. INFO. INST., *supra.* To illustrate the correlation, Florida is second with a 23.8% rate of uninsured motorists. *See id.* Only Oklahoma has a higher rate of 25.9%. *See id.* On the other end of the spectrum, the state with the lowest rates of uninsured drivers in their respective populations are Massachusetts (3.9%), Maine (4.7%), and New York (5.3%). *See id.* The ranking of insurance premiums by state is equally revealing. *See* Gusner, *supra.* In this report, Oklahoma and Florida, the two states with the highest uninsured rates, come in the top ten of highest average annual premiums. *See* INS. INFO. INST., *supra*; *see also* Gusner, *supra.* Oklahoma is in eleventh place at an average of $1,476, and Florida is in fifth place at an average of $1,840 annually. *See* Gusner, *supra.* The three states with the lowest rates of uninsured drivers (Massachusetts, Maine, and New York) had an average premium of $1,153. *See* INS. INFO. INST., *supra*; *see also* Gusner, *supra.* Massachusetts came in twenty-eighth place with an average annual premium of $1,242; Maine came in fifty-first place with an average premium of $864; and New York came in seventeenth place with an average annual premium of $1,352. *See* Gusner, *supra.*

55. *See* Elmore, *supra* note 50 (reporting on the different points of view and agendas of consumer groups and insurance lobbyists). Consumer groups claim that the new law will permit insurance companies to redline low income areas. *See id.* On the other hand, the insurance lobbyists argue that redlining is "illegal and unconscionable." *See id.*

56. *See* FLA. STAT. § 624.302 (2003) (stating that the Office of Insurance Regulations is entrusted with the business of making sure that insurance companies doing business in Florida follow the insurance laws of the state).

57. *See* Kevin M. McCarty, *2015 Annual Report*, FLA. OFF. OF INS. REG. 3, http://www.floir.com/sitedocuments/2015annualreport.pdf (last visited Dec. 24, 2017). The annual report lists four goals that will lead to the intended mission of maintaining a competitive and stable insurance marketplace for the consumer. *See id.* at 3. The first goal is to "[p]romote

the insurance laws of the State as enacted by the Florida Legislature.[58] Insurance risk pools and rate schemes must be pre-approved by the Florida Office of Insurance Regulation.[59] Today, when you access a website or call for an auto insurance quote, the rates you receive are heavily regulated and follow strict price guidelines.[60] In addition to the prohibition on rate schemes that use race as a factor, the law further mandates that insurance pools must be divided "into geographical areas based upon hazards or expenses of claims."[61] The Office of Insurance Regulation provides the rules that insurers must follow when using other data—such as driving record, credit score, or a person's age—to calculate insurance rates.[62] However, Florida does not provide an intervenor reimbursement program to stimulate consumer participation in rate-making decisions, making participation economically prohibitive.[63]

Allowing the use of a single ZIP Code in setting premiums disregards the geographical correlation between ZIP Code boundary lines and existing racial segregation in Census data.[64] Additionally, the legislature did not

markets offering products with fair, understandable coverage at adequate, not excessively discriminatory prices." *Id.* The second goal is to "[p]rotect the public from illegal, unethical insurance products and practices." *Id.* The third goal is to "[m]onitor insurer financial condition and act on issues as early as possible to prevent harm to consumers." *Id.* The fourth goal is to "[o]perate in an efficient, effective and transparent manner." *Id.* The report does not address the role of insurance and insurance regulation in advancing public safety. *See id.*

58. *See id.* at 4 (outlining the organization structure that oversees the Office of Insurance Regulation).

59. *See* FLA. STAT. § 627.062 (2017) (outlining Florida's main rate-making statute and its main prohibitions on excessive, inadequate, or discriminatory rates); FLA. STAT. § 627.0621 (2009) (listing the reporting requirements of insurance companies and pertinent definitions); FLA. STAT. § 624.308 (2003) (outlining some possible results of violating any of the insurance laws in Florida and setting the authority to regulate the insurance business in the state). "In addition to any other penalty provided, willful violation of any such rule shall subject the violator to such suspension or revocation of certificate of authority or license as may be applicable under this code as for violation of the provision as to which such rule relates." § 624.308(2).

60. *See, e.g.*, FLA. ADMIN. CODE r. 69O-175.008 (1990) (outlining the pertinent regulatory protocol on the use by insurance companies of accident history and the fair practices they must follow to not discriminate or break the law); *id.* r. 69O-175.010 (1992) (outlining the specific protocol to follow by insurance companies to avoid discriminating by using an insured's age as a factor in the premium calculation).

61. *See* FLA. STAT. § 627.917(1) (2013).

62. *See* § 624.308(2) (outlining some possible results of violating any of the insurance law in Florida and setting the authority to regulate the insurance business in the state); FLA. STAT. § 626.9611 (2007) (providing the regulatory authority to make new rules to prevent any possible future unfair practices or discrimination).

63. *See* Hunter et al., *supra* note 43 (describing California as the only state that has a reimbursement program for intervenors in the rate-making approval procedure).

64. *See, e.g.*, *infra* note 85 and accompanying text (providing an illustrative representation of the correlation between ZIP Code boundary lines in Miami-Dade and the racial segregation that continues to permeate).

consider the results of similar single ZIP Code rate schemes in other states that resulted in higher insurance premium for all residents across ZIP Codes.[65] This amendment provides a loophole that insurance companies can use to abide by the prohibition on rate-setting based on race while at the same time engaging in practices that have a disparate impact on low income households through single ZIP Code rate schemes.[66]

B. FLORIDA: A SHORT HISTORY OF SEGREGATION

Florida's Commissioner of Insurance Regulation has admitted that Florida has a "checkered" history of allowing insurance companies to use race in setting insurance premiums.[67] The new amendment fails to account for a history of redlining and segregation in Florida.[68] When early Bahamians and freed Blacks arrived in Florida in the 1800s, they began

65. *See* Fla. H.R. Comm. on Reg. Aff., HB 659 (2016) Staff Analysis 2 (Feb. 18, 2016), *available at* http://flsenate.gov/Session/Bill/2016/0659/Analyses/h0659c.RAC.PDF. The staff analysis conducted by the Florida House of Representatives failed to account for any of the possible drawbacks of allowing the use of a single ZIP Code in rate making. *See id.*

66. *See* Heller & Styczynski, *supra* note 15, at 8 (describing how a high-income driver pays $1,144 on average for an auto insurance premium, while a low-income driver pays $1,825 for the same premium); *see also* FLA. STAT. § 627.0651(8) (outlining the requirement of the new amendment that allows the use of a single ZIP Code in rate-making).

67. *See* Kevin M. McCarty, *Testimony of Kevin M. McCarty, Florida Insurance Commissioner, National Association of Insurance Commissioners*, FLA. INS. COMM'R (May 21, 2008), http://www.floir.com/siteDocuments/NAICWrittenTestimonyCreditScoring05212008.pdf. Commissioner McCarty described the past practices of race-based premiums:

> I must admit, the State of Florida has a *checkered* past of allowing the use of race-based premiums which were used prevalently in the life insurance industry during the period of the 1930s through the early 1970s. Therefore, as Insurance Commissioner, I am particularly sensitive to any rating factors that are highly correlated with race, ethnicity, religious background, or income level as are my fellow commissioners at the NAIC.

Id. (emphasis added).

68. *See* N.D.B. CONNOLLY, A WORLD MORE CONCRETE: REAL ESTATE AND THE REMAKING OF JIM CROW SOUTH FLORIDA 23 (Univ. of Chi. Press 2014) (explaining how South Florida continued to be racially segregated after the Jim Crow era through more sophisticated tactics that included expressway construction and housing reform); Nathaniel Sandler, *Map Of South Florida Shows How Racially Segregated We Are*, WLRN (Sept. 6, 2013), http://wlrn.org/post/map-south-florida-shows-how-racially-segregated-we-are (illustrating how to this day, South Florida is racially partitioned with invisible boundaries that strikingly show the clear racial division between neighborhoods); Raymond A. Mohl, *Shadows in the Sunshine: Race and Ethnicity in Miami*, *in* TEQUESTA: THE J. OF THE HIST. ASSOC. OF S. FLA. 75 (vol. XLIX 1989), http://digitalcollections.fiu.edu/tequesta/files/1989/89_1_04.pdf (relating how Miami was racially divided by the planning and building of Interstate-95); *see also* Fla. H.R. Comm. on Reg. Aff., HB 659 (2016) Staff Analysis 2 (Feb. 18, 2016), *available at* http://flsenate.gov/Session/Bill/2016/0659/Analyses/h0659c.RAC.PDF. The staff analysis of the Florida House of Representatives failed to account for Florida's enduring history of racial segregation. *See id.*

accumulating land in what was known then as "Colored Town."[69] Racial segregation in Florida accelerated after Reconstruction with the arrival of Jim Crow.[70] The Supreme Court provided Jim Crow with its legal foundation.[71] This era saw the arrival of "violent divestments of thousands of acres of land at the hands of white southerners."[72] The New Deal saw the arrival of mortgage financing as a tool to perpetuate segregation indirectly.[73] The Home Owners Loan Corporation ("HOLC") was a new federal agency established in 1933 to "grant long-term, low-interest mortgages to homeowners who were unable to secure regular mortgages, who were in danger of losing their homes through default foreclosures, or who sought to recover homes already lost to foreclosure."[74] HOLC developed a rating system that was designed to evaluate neighborhoods in every community.[75] The rating system was eventually used to deny mortgages to racial minorities who wanted to buy a home in less desirable areas.[76] HOLC's rating system is one of the earliest examples of redlining, which is the "practice by banks and other lending institutions of refusing to grant mortgages or other loans in older, poorer, and black neighborhoods."[77] The rating systems developed by HOLC became the standard ratings system used by other financial institutions to approve mortgages.[78] Kenneth Jackson, an urban scholar, argued that "the damage caused by the HOLC came not through its own actions, but through the influence of its appraisal system on the financial decision of other institutions."[79] The true legacy of HOLC was to keep the black population in their present sections and to a "future of physical decay and intensified

69. *See* CONNOLLY, *supra* note 68, at 26 (describing how early arrivals could only acquire land in "Colored Towns," which were separate from the land of white residents). "Colored Town" was an invention of Henry Flagler, following the construction of his hotel. *Id.* He bought separate lots where workers could build their homes and purchase land from him directly. *Id.* The lots were 50-by-150-foot, and Flagler sold them for about fifty dollars each. *Id.* It is through this mechanism that "colored" workers began to accumulate segregated property in Florida. *See id.*

70. *See id.* at 29.

71. *See id.*

72. *See id.*

73. *See* Raymond A. Mohl, *The Origins of Redlining in Miami*, FLA. ATL. UNIV. 1 (Jan. 1987), http://www.housingissues.org/content/hist-redlining.pdf (illustrating how the Home Owners Loan Corporation, a New Deal program, contributed to segregated housing patterns in Miami by developing a rating system that ranked neighborhoods from most to least desirable).

74. *See id.*

75. *See id.* at 2–3.

76. *See id.* at 3.

77. *See id.* at 2.

78. *See id.* at 6.

79. *See* Mohl, *supra* note 73, at 6–7.

racial segregation."[80] With the arrival of the Great Society in the 1960s and the Fair Housing Act, discrimination on the basis of race when renting or purchasing a home became illegal, but redlining action endured.[81] Modern redlining relies on systems that have an indirect impact on racial minorities.[82] It is well accepted that insurance rates in low income neighborhoods are disproportionally high and have a disparate impact on their ability to own a car and keep a job.[83] Moreover, these high rates contribute to the high incidence of uninsured drivers in low income neighborhoods.[84]

To illustrate, the latest census data on racial segregation in Miami-Dade County shows a direct correlation with ZIP Code boundary lines, i.e., Black and Hispanic sections are confined to specific ZIP Codes.[85] The data also shows racial minorities concentrated within the boundary lines of their respective ZIP Codes.[86] Because rate schemes can look at education level,

80. *See id.* at 6.

81. *See* Emily Badger, *Redlining: Still a thing*, WASHINGTON POST (May 28, 2015), https://www.washingtonpost.com/news/wonk/wp/2015/05/28/evidence-that-banks-still-deny-black-borrowers-just-as-they-did-50-years-ago/ (reporting that old practices of redlining have morphed into a new form of redlining called "retail redlining").

82. *See* Melanie Brody et al., *The Resurgence of Redlining: The Hudson City Savings Bank Settlement and How to Manage Redlining Risk*, K&L GATES 4 (2015), http://www.klgates.com/files/Publication/6f63f4e9-3726-4bf9-833b-bdfb23d7a323/Presentation/PublicationAttachment/bd52cc01-67fa-4f47-bb36-bff84fd7576e/The_Resurgence_of_Redlining_Slides.pdf (providing a cost-benefit analysis from the perspective of a law firm that seeks to represent corporate clients in redlining lawsuits). The report is clear that the federal government is open to filing action for redlining on disparate impact theory. *See id.*

83. *See Transportation Equity*, *supra* note 15.

84. *See* Lyn Hunstad, *Characteristics of Uninsured Motorist*, CALI. DEP'T OF INS. 5–6 (Feb. 1999) http://www.insurance.ca.gov/0400-news/0200-studies-reports/0600-research-studies/auto-policy-studies/upload/characteristics-of-uninsured-motorist.pdf (providing the results of a comprehensive study in California that considered the causes for uninsured drivers in the state). The report was conducted in both English and Spanish to reach a large section of the public. *See id.* at 7. The report finds that the average uninsured person is under the age of thirty, has less education, rents their own home, is non-white, has a low income, moves frequently, and is male. *See id.* at 16. The report found that the main reason for driving uninsured is the cost and distrust of the insurance industry. *See id.* at 10–11.

85. *See ZIP CODE BOUNDARY*, MIAMI-DADE COUNTY, FLA. (last visited Dec. 24, 2017), http://www.miamidade.gov/planning/library/maps/zip-code.pdf (presenting the boundary lines of ZIP Codes in Miami-Dade County); *see also* Sandler, *supra* note 68 (illustrating how South Florida is still racially partitioned with invisible boundaries that strikingly show the clear racial division between neighborhoods). When the maps are compared side to side, the correlation between ZIP Code boundary lines and racial segregation is evident. *See* Sandler, *supra* note 68.

86. *See* Graham MacDonald & Margery Austin Turner, *Poverty, race, and place: Map your metro*, URBAN INSTITUTE (June 21, 2013), http://www.urban.org/urban-wire/poverty-race-and-place-map-your-metro; *see also Visualizing a Changing Region, Block by Block*, URBAN RESEARCHER MAPS http://www.urbanresearchmaps.org/comparinator/pluralitymap.htm (last

occupation, homeownership status, prior purchase of insurance, and marital status, the use of single ZIP Code rate schemes will increase premiums on good drivers in lower income areas if rated individually.[87]

This amendment can result in redlining by effectively pricing poor individuals out of the auto insurance market.[88] This comment does not argue that insurance companies should not look at risk and charge higher rates to high risk individuals.[89] However, this comment argues that the legislature has a duty to ensure that their profits are reasonable and that coverage is available to all consumers.[90] The algorithm and rate schemes used by insurance companies are proprietary so researchers cannot tell how

visited Dec. 24, 2017) (demonstrating that the interactive map provides a split screen control to navigate between represented data from the 1980 to 2010). For example, in South Florida, it is evident that racial pockets have become much more concentrated in specific zones. *See* URBAN RESEARCHER MAPS, *supra*. In 1980, racial concentration between Blacks, Hispanics, and Whites were spread and decentralized. *See* MacDonald & Turner, *supra*. As you zoom in, the pockets of segregation become smaller and more concentrated. *See* URBAN RESEARCHER MAPS, *supra*.

87. *See* Heller & Styczynski, *supra* note 15, at 2, 8 (describing how a high-income driver pays $1,144 on average for an auto insurance premium, while a low-income driver pays $1,825 for the same premium).

88. *See* Gregory Squires, *Insurance Redlining: Still Fact, Not Fiction*, SHELTERFORCE (Jan. 1, 1995), https://shelterforce.org/1995/01/01/insurance-redlining-still-fact-not-fiction/ (providing data on instances of redlining in homeowner insurance); *Chicago Insurance Redlining – a complete example*, JOHNS HOPKINS SCH. OF PUB. HEALTH, http://www.biostat.jhsph.edu/~iruczins/teaching/jf/ch12.pdf (providing a case study of redlining in Chicago); Ruthanne DeWolfe et al., *Civil Rights Implications of Insurance Redlining*, 29 DEPAUL L. REV. 317–18 (1980) (arguing that minorities are adversely impacted when redlining occurs); Paul M. Ong & Michael A. Stoll, *Redlining or Risk? A Spatial Analysis of Auto Insurance Rates in Los Angeles*, INST. FOR RESEARCH ON POVERTY 1 (Sept. 2006), http://www.irp.wisc.edu/publications/dps/pdfs/dp131806.pdf (providing a case study of the impact of redlining on car ownership in Los Angeles, California). *But see* Gary Wolfram, *Insurance Redlining and Government Intervention*, FOUND. FOR ECON. EDUC. (June 1, 1997), https://fee.org/articles/insurance-redlining-and-government-intervention/ (arguing the government must not intervene where there is evidence of redlining); Gregory D. Squires, *Racial Profiling, Insurance Style: Insurance Redlining and the Uneven Development of Metropolitan Areas*, 25 GEO. WASH. U. J. OF URB. AFF. 391, 391 (2003) (arguing that the tradition of racial profiling in the insurance industry persists); Gary Williams, *"The Wrong Side of the Tracks": Territorial Rating and the Setting of Automobile Liability Insurance Rates in California*, 19 HASTINGS CONST. L.Q. 845, 850 (1992) (presenting the disparate economic impact of price discrimination based on territorial ratings on minority communities in California). "The solution to the problem of redlining lies not in further regulation, but in removal of governmental barriers to entry in insurance and other markets, enforcement of property rights in areas with high concentrations of poor people, and reduction or elimination of barriers to economic growth in these areas." Wolfram, *supra*.

89. *See infra* Part IV.

90. *See* Ong & Stoll, *supra* note 88 (explaining the important policy issues the legislature must take into consideration).

much weight they give to socioeconomic factors.[91] Insurance companies vehemently deny that they purposefully use socioeconomic data to discriminate.[92] Following the enactment of the Zip Code amendment, a lobbyist representing State Farm, Allstate, and Progressive was clear that the "idea that any insurer could redline with this language is preposterous," and that "such "behavior is illegal and unconscionable."[93] However, even if insurers do not intend to discriminate, recent studies reveal that redlining factors have a disparate impact on racial minorities that result in higher premiums.[94]

C. ADVANCES AND CAPABILITIES IN BIG DATA

ZIP Codes no longer help the Postal Service say where you are, they now say who you are.[95] We live in an age of big data,[96] and insurance companies are aware of this fact.[97] Our actions and tendencies are tracked

91. *See id.* at 2 (noting that it is not easy for third parties to evaluate what factors insurance companies use to support their position).

92. *See id.* at 1 ("[T]he insurance industry has long asserted that the unequal spatial pattern of car insurance premiums is based on place-based risk factors and that the demographic characteristics of neighborhoods are not part of the formula used to set prices.").

93. *See* Elmore, *supra* note 50.

94. *See* Ong & Stoll, *supra* note 88, at 2 ("[B]oth risk and redlining factors are associated with variations in insurance costs in the place-based component: black and poor neighborhoods are adversely affected, although risk factors are stronger predictors."). "Moreover, simulations show that redlining factors explain more of the gap in auto insurance premiums between black (and Latino) and white neighborhoods and between poor and nonpoor neighborhoods." *Id.*

95. *See* Anna Clark, *The Tyranny of the ZIP Code*, NEW REPUBLIC (Mar. 8, 2013), https://newrepublic.com/article/112558/zip-code-history-how-they-define-us ("ZIP codes . . . have evolved from finding *where* we are to defining *who* we are—far beyond our mailbox.").

96. *See* Gil Press, *12 Big Data Definitions: What's Yours?*, FORBES (Sept. 3, 2014), http://www.forbes.com/sites/gilpress/2014/09/03/12-big-data-definitions-whats-yours/#7a02518f21a9 (providing multiple definitions for "big data"). For example, "big data" is defined as "[t]he ability of society to harness information in novel ways to produce useful insights or goods and services of significant value." *Id.*

97. *See* Steve Lohr, *The Age of Big Data*, N.Y. TIMES (Feb. 11, 2012), http://www.nytimes.com/2012/02/12/sunday-review/big-datas-impact-in-the-world.html?_r=04 (defining "big data" as a "meme and a marketing term . . . but also shorthand for advancing trends in technology that open the door to a new approach to understanding the world and making decisions"); *see also* Bill Davidow, *Redlining for the 21st Century*, THE ATL. (Mar. 5, 2014), http://www.theatlantic.com/business/archive/2014/03/redlining-for-the-21st-century/284235/ (highlighting that businesses seek to control consumers rather than provide a good experience through their use of big data); David Court, *Getting big impact from big data*, MCKINSEY & CO. (Jan. 2015), http://www.mckinsey.com/business-functions/business-technology/our-insights/getting-big-impact-from-big-data (promoting the implementation of big data technologies in Corporate America). Positive uses of "big data" are prevalent in the financial industry, sports, advertising, public health, global development, disease control, and many others. *See* Lohr, *supra.* In some of these sectors, companies use data to the detriment of consumers; for example, when high-risk individuals apply for insurance or credit, the insurance or credit card

and used to forecast future behavior.[98] Data brokers and corporations collect and store immense amounts of information with the ultimate goals of consumer control and data monetization.[99] Simply by knowing your home ZIP code, companies using big data can estimate with a high degree of certainty one's ethnic background, race, income status, economic condition, relationship status, and a plethora of other information that one would consider unique and private.[100]

companies generally do not inform them of the best offers available. *See* Davidow, *supra*.

98. *See, e.g.*, *Privacy & Terms – Google*, GOOGLE, https://www.google.com/intl/en/policies/privacy/example/may-collect-and-process information.html (last visited Dec. 24, 2017) (explaining that Google may collect and process information about a consumer's location from any and all devices logged in, which may be used by Google elsewhere); *see also Big Data and the Future of Privacy*, EPIC, https://epic.org/privacy/big-data/ (last visited Dec. 24, 2017) ("In 2020, the amount of digital data produced will exceed 40 zettabytes, which is the equivalent of 5,200 gigabytes for every man, woman and child on planet earth."); *Bringing big data to the enterprise*, IBM, https://www-01.ibm.com/software/my/data/bigdata/ (last visited Dec. 24, 2017) ("Every day, we create 2.5 quintillion bytes of data . . . . This data comes from everywhere: sensors used to gather climate information, posts to social media sites, digital pictures and videos, purchase transaction records, and cell phone GPS signals to name a few.").

99. *See, e.g.*, Thomas H. Davenport & Jill Dyché, *Big Data in Big Companies*, INT'L INST. FOR ANALYTICS 2 (May 2013), http://docs.media.bitpipe.com/io_10x/io_102267/item_725049/Big-Data-in-Big-Companies.pdf (presenting case studies of companies and their use of big data, and highlighting the prevalence of big data in all parts of the economy and its inherent advantages); *see also Creating Revenue from Customer Data*, ACCENTUREDIGITAL, https://www.accenture.com/us-en/insight-data-monetization-summary (last visited Dec. 24, 2017) (promoting the company's "data monetization" framework"); Michael Mattioli, *Disclosing Big Data*, 99 MINN. L. REV. 535, 566 (2014) (arguing for the establishment of personal data as a protected intellectual right).

100. *See, e.g.*, Adrienne Lafrance, *Big Data Can Guess Who You Are Based on Your Zip Code*, THE ATL. (Oct. 14, 2014), http://www.theatlantic.com/technology/archive/2014/10/big-data-can-guess-who-you-are-based-on-your-zip-code/381414/ (reporting that since regulations on data collection are not existent in the United States, a person, company, or data broker can easily know "how much money you make, your education level, whether you own a home, who you voted for, how many kids you have, how much credit card debt you're carrying, [and] even what you thought of the series finale of *How I Met Your Mother*"); *see also* Neil M. Richards & Jonathan H. King, *Big Data Ethics*, 49 WAKE FOREST L. REV. 393, 404 (2014) ("Data brokers compile [personal data] and use it to build comprehensive data profiles about us, all of which they sell in turn to retailers, advertisers, private individuals, nonprofit organizations, law enforcement, and other government agencies."); Ronald J. Krotoszynski, Jr., *Reconciling Privacy and Speech in the Era of Big Data: A Comparative Legal Analysis*, 56 WM. & MARY L. REV. 1279, 1279–80 (2015) (comparing the laws of the United States with those of Western Europe as it relates to privacy and personal data); Clark, *supra* note 95 ("ZIP codes . . . have evolved from finding *where* we are to defining *who* we are—far beyond our mailbox.").

III. DISCUSSION

A. AUTO INSURANCE: RATE-MAKING

The main components in an auto insurance gross premium are the pure premium, variable costs, and fix costs.[101] The pure premium is the portion of the gross premium that is tailored to the specific risk of an individual.[102] In mathematical terms, it is "the statistical expectation of the total amount that the insured will claim over the duration of the insurance policy."[103] Ideally, the same price results, for the same coverage, within the same insurance company between two individuals.[104] However, insurance companies use algorithms based on past claim histories that tailor premiums based on perceived individual risk as derived from claim and socioeconomic data of your home ZIP Code.[105] Specifically, insurance companies look at driving record factors and socioeconomic factors.[106] Ratings are assigned to specific geographic areas (e.g., ZIP Codes) to determine the probable risk of all individuals living within that area.[107] To attain better profits and reduce their risk, insurers purchase computer software to help them develop better risk algorithms.[108] Software companies that tailor to the insurance industry are unapologetic in citing loss reduction and improved market share as the main benefits from advanced algorithms.[109] These companies argue that pricing out some

101. *See* Nicolas Chapados, *Data Mining Algorithms for Actuarial Ratemaking*, APSTAT TECHNOLOGIES 1, 3 (Feb. 8, 2010), http://docplayer.net/39111385-Data-mining-algorithms-for-actuarial-ratemaking.html (detailing the uses of new algorithms for insurance companies and how they can benefit from them). "The gross premium is the total amount that the insured must pay for insurance coverage." *Id.*

102. *See id.* at 6 ("The pure premium is directly related to the risk level of each insured[.]").

103. *Id.*

104. *See* Heller & Styczynski, *supra* note 15, at 8 (presenting research that demonstrates a discrepancy in auto insurance premiums between low-income and high-income individuals even when they have the same driving record).

105. *See id.* at 3 ("Four of five of the nation's largest auto insurers regularly charge 40 percent to 92 percent more, or about $600 to $900 more per year, to drivers based on factors related to their economic status even when they have perfect driving records.")

106. *See id.* at 4 (providing a graph of the different factors insurance companies use to decide how much each driver is charged).

107. *See* Jeffrey L. Kucera, *A Fresh Look at Rating Territories for Auto and Homeowners Insurance*, INS. J. (Sept. 6, 2004), http://www.insurancejournal.com/magazines/features/2004/09/06/45963.htm ("Zip codes are another common way insurance companies define territories because they are convenient, perceived to be a better basis than larger geographic designations, and well-understood by the public.").

108. *See, e.g.*, Chapados, *supra* note 101, at 3.

109. *See id.* at 27–28.

individuals is "beneficial" in the long term.[110] A recent report by a computer engineering company on advanced developments in insurance algorithms argues these advance algorithms "can significantly improve the market position of an insurer, by suggesting ways to attract and retain good customers, and how to properly *handle* money-losing ones."[111] Factors such as moral hazard and adverse selection are important in auto insurance rate-making.[112] Recent studies have shown that incentive systems are more successful in reducing costs and dealing with moral hazards than using socioeconomic data to price out "money-losing" customers.[113]

The importance of an active insurance market that promotes lower premiums and vigorous competition is evident.[114] A reduction in competition would lead to higher premiums and lower levels of customer satisfaction, which would exacerbate the uninsured problem.[115] A holistic approach is necessary, one that balances the public interest with a healthy profit for insurance companies.[116]

B. AUTO INSURANCE: IMPACT ON SOCIOECONOMIC MOBILITY

Transit studies reveal that "more than 700,000 American households do not have a car and lack access to public transit, making them less likely to find and keep jobs . . . ."[117] The average cost of owning a car is around $9,500 annually.[118] Poor households spend about forty-two percent of

110. *See id.* at 28.

111. *See id.* at 30 (emphasis added).

112. *See* Alma Cohen & Rajeev Dehejia, *The Effect of Automobile Insurance and Accident Liability Laws on Traffic Fatalities*, 47 J. OF LAW AND ECON. 357, 358 (2004) (presenting research that confirms the prevalence of moral hazards).

113. Chapados, *supra* note 101, at 3; *see also, e.g.*, Cohen & Dehejia, *supra* note 112.

114. *See Competition in the U.S. Auto Insurance Market Has Driven Down Premium Costs*, INS. INFO. INST. (Jan. 30, 2012), http://www.iii.org/press-release/competition-in-the-us-auto-insurance-market-has-driven-down-premium-costs-013012 (providing data that illustrates how competition in the insurance industry drives down costs of premiums). *But see* Heller & Styczynski, *supra* note 15, at 3 (presenting research that shows low-income and moderate-income drivers are consistently charged higher premiums by all insurance companies surveyed).

115. *See* INS. INFO. INST., *supra* note 114 (providing evidence to the argument that more competition in the insurance marketplace has led to lower premiums over all); *see also* R.J. Lehman, *2014 Insurance Regulation Report Card*, RSTREET 1 (Dec. 2014), http://www.rstreet.org/wp-content/uploads/2014/12/RSTREET30.pdf (presenting a national report card on insurance markets and rating them based on state regulation and market health); Hunter et al., *supra* note 43, at 17.

116. *See infra* Section VI.

117. Keith Barry, *No Public Transit? No Job*, WIRED (Aug. 29, 2011), https://www.wired.com/2011/08/no-public-transit-no-job/ (reporting on a recent study that shows Americans with no means of transportation have a difficult time finding and keeping a job).

118. *See Transportation Equity*, *supra* note 15, at 1.

annual income on transportations expenses.[119] For a person living in poverty, this can make car ownership impossible.[120] Studies have shown that low income drivers can effectively be priced out of the insurance market.[121] At that point, these drivers have two choices: drive without insurance or use public transportation to reach their jobs.[122] Many public transit users are unable to reach their jobs easily.[123] For example, only sixteen percent of jobs are accessible via public transportation in Miami.[124] The obstacles for a person without a car to find and keep a job are great.[125] Data shows that people with a car work more hours and have higher wages.[126] Therefore, car ownership is related to a capacity for socioeconomic mobility.[127]

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119. *See id.* at 2.

120. *See id.* at 3 ("With car ownership costing upwards of $9,000 per year, the suburban poor face untenable options: isolation from work and services or spending nearly half their income on transportation."); *see also* Ong & Stoll, *supra* note 88, at 25 ("[H]igher premiums can be a barrier to automobile ownership, which in turn limits access to social activities, services, and economic opportunities that are dispersed throughout metropolitan regions.").

121. *See* Ong & Stoll, *supra* note 88, at 25 (concluding that higher insurance rates in disadvantaged communities can result in direct and indirect effects that can adversely impact people in this areas). Some of the direct effects include higher premiums, which leads drivers in these communities to drive without insurance. *See id.* Indirect effects include the inability to gain employment as a result of low car ownership in these communities due to higher insurance premiums. *See id.*

122. *See id.*; *see also Transportation Equity*, *supra* note 15, at 3.

123. *See* Tomer, *supra* note 14, at 1 ("[H]undreds of thousands of zero-vehicle households live out of transit's reach, particularly in the South and in the suburbs."); *see also* Madelaine Criden, *The Stranded Poor: Recognizing the Importance of Public Transportation for Low-Income Households*, NAT'L ASSOC.' FOR ST. CMTY. SERV. PROGRAMS 1 (2008), http://www.nascsp.org/data/files/csbg_publications/issue_briefs/issuebrief-benefitsofruralpublictransportation.pdf ("Access to transportation by low-income individuals and families has become limited as the majority of low-income households reside in rural areas and central cities, while basic amenities are increasingly located in the suburbs.").

124. *See* Tomer, *supra* note 14, at 9–11 (charting the public transportation job access rates of the 100 largest metropolitan and suburban areas in the country). The report ranks South Florida as ninety-second out of 100 in terms of the effectiveness of the public transpiration systems to reach where the jobs are located. *See id.* at 10.

125. *See* Mikayla Bouchard, *Transportation Emerges as Crucial to Escaping Poverty*, N.Y. TIMES (May 7, 2015), http://www.nytimes.com/2015/05/07/upshot/transportation-emerges-as-crucial-to-escaping-poverty.html (reporting on the results of a Harvard study, which found that transportation was found to be the most important factor to improve the odds of escaping poverty); *see also* Sarah M. Kaufman et al., *Mobility, Economic Opportunity and New York City Neighborhoods*, NYU WAGNER RUDIN CTR. 5, 7 (Nov. 2015), https://wagner.nyu.edu/files/faculty/publications/JobAccessNov2015.pdf (providing a case study of New York and an analysis of how to improve transportation accessibility for low-income New Yorkers).

126. *See* Bouchard, *supra* note 125.

127. *See id.*

The cost of insurance contributes to the cost of car ownership, which hurts lower income communities disproportionally.[128] Racial minorities use public transit more often than white Americans to reach their work.[129] When the high cost of car ownership is combined with the difficulties of public transit, the result is higher rates of unemployment, lower wages, and lower rates of vehicle ownership.[130] These factors contribute greatly to individual and multigenerational socioeconomic mobility.[131] Americans without a car are more likely to remain in their present economic ladder as a result of lower wages—and for that matter in their same ZIP Code—and so are their children.[132] According to a recent study, commuting times (i.e., how fast you get to your destination) are key in determining whether Americans climb the socioeconomic ladder or are relegated to being "prisoners" of their birth ZIP Code.[133] The strict correlation of slow socioeconomic mobility to commuting time (i.e., with a personal car as opposed to public transportation) is not equal across the country; its predominance is in areas with historical racial segregation, i.e., the Southern United States.[134]

128. *See* Heller & Styczynski, *supra* note 15, at 3 ("Good drivers pay 59 percent more, or $681 annually, on average for auto insurance due to personal characteristics associated with lower economic status.").

129. *See Transportation Equity*, *supra* note 15, at 3 ("Racial minorities are four times more likely than Whites to rely on public transportation for their work commute.").

130. *See id.* at 4 ("The lack of a personal vehicle and limited access to efficient public transportation is a significant barrier to employment for poor people in many suburban communities.").

131. *See* Bouchard, *supra* note 125; *see also* Raj Chetty et al., *Economic Mobility*, THE STANFORD CTR. ON POVERTY AND INEQUALITY 55 (2015), http://inequality.stanford.edu/sotu/SOTU_2015_economic-mobility.pdf (providing a geographical study of social mobility in the United States); Joe Pinsker, *America Is Even Less Socially Mobile Than Most Economists Thought*, THE ATL. (July 23, 2015), http://www.theatlantic.com/business/archive/2015/07/america-social-mobility-parents-income/399311/ (reporting on a recent Pew report that explores generational social mobility).

132. *See* Steven Raphael & Lorien Rice, *Car Ownership, Employment, and Earnings*, 52 J. OF URBAN ECON. 109, 109 (2002) (concluding that workers with a car work more hours and earn higher wages than those without a car, resulting in higher incomes for those individuals with a car).

133. *See* Bouchard, *supra* note 125 ("[C]ommuting time has emerged as the single strongest factor in the odds of escaping poverty. The longer an average commute in a given county, the worse the chances of low-income families there moving up the ladder.").

134. *See* Raj Chetty & Nathaniel Hendren, *The Impacts of Neighborhoods on Intergenerational Mobility: Childhood Exposure Effects and County-Level Estimates* 1 (May 2015) (unpublished manuscript), http://scholar.harvard.edu/files/hendren/files/nbhds_paper.pdf (providing a detailed study and graphical analysis that found commuting time is a key factor in multigenerational wealth).

C. DISPELLING CRIMINAL PUNISHMENT

Most states view mandatory auto insurance and tough punishment for violators as good policy that effectively reduces the uninsured rate.[135] Criminal punishment in the form of fines, impoundment, and jail time are some of the ways in which states ensure the mandatory requirement is followed; however, they have consistently failed to reduce the rate of uninsured motorists.[136] Although some form of punishment is necessary, progressive punishment that results in vehicle impounding, license suspension or jail time have been shown to be ineffective in reducing the rate of uninsured drivers.[137]

IV. SOLUTION

Most Americans view the use of socioeconomic factors to set insurance premiums as unfair.[138] The data shows that forecasting models based on socioeconomic factors unfairly create premiums that punish good drivers.[139] This comment argues that rating schemes should be based on driving record factors such as moving violation and traffic accidents caused.[140] Any scheme that looks at socioeconomic factors within a single ZIP Code is indirectly using race as a factor, and therefore is in violation of the law due to historical racial segregation that continues to endure to this

135. *See, e.g.*, Kevin B. O'Reilly, *Illinois Latest to Toughen Penalties Against Uninsured Motorists,* INS. J. (Aug. 4, 2003), http://www.insurancejournal.com/magazines/features/2003/08/04/31337.htm (reporting that Illinois is the latest state to strengthen their punishment measures for uninsured drivers in the hopes of reducing its rates).

136. *See* Barbara Marquand, *The penalties for driving uninsured—and why they may be meaningless*, INSURE.COM (Oct. 7, 2015), http://www.insure.com/car-insurance/penalties-for-driving-without-insurance.html (listing the various state penalties for uninsured drivers). Oklahoma has the highest rate of uninsured drivers in the country, and their penalty for driving without insurance is a fine up to two hundred and fifty dollars and/or up to thirty days in jail as well as a "suspension of driving privileges until reinstatement fee is paid and proof of insurance furnished." *Id.* Massachusetts has the lowest rates of uninsured drivers and their penalty is a fine of up to five hundred dollars "if no previous conviction or finding; otherwise $500 to $5,000 fine and/or up to one year in jail." *Id.*

137. *See Background on: Compulsory Auto/Uninsured Motorists Report,* INS. INFO. INST. (Sept 1, 2017), http://www.iii.org/issue-update/compulsory-auto-uninsured-motorists (presenting state-by-state data on degree of punishment and current uninsured rates). The report is clear that there is no correlation between greater forms of punishment and lower uninsured rates. *See id.*

138. *See* Heller & Styczynski, *supra* note 15, at 5 ("[O]ver six in ten Americans consider it somewhat or very unfair to use the non-driving factors associated with economic status."). On the other hand, "83 percent of the public found it very fair or somewhat fair for auto insurers to use traffic accidents caused in setting premiums and 84 percent found it very or somewhat fair to use moving violations such as speeding tickets." *Id.* at 4.

139. *See id.* at 8.

140. *See id.* at 3.

day.[141] The savings attained by California residents is evidence that regulations that ban the use of socioeconomic factors works.[142] Florida should follow the lead of California and enact legislation to promote consumer participation in the rate-making process through the reimbursement of costs to intervenors.[143] Additionally, the driver pool should be larger than a single ZIP Code in order to spread the risk and reduce overall premiums.[144]

Critics argue that high income neighborhoods should not subsidize lower income areas by spreading the risk through larger risk pools that encompass poor areas.[145] However, accidents do not discriminate between rich and poor,[146] and Americans do not drive exclusively in their home ZIP Code.[147] Furthermore, lower income neighborhoods generally have higher premiums, exacerbating the uninsured problem by pushing more drivers out of the market.[148]

The reduction of uninsured drivers is in the public interest and in the interest of insurance companies.[149] The public interest benefits by reducing the rate of uninsured drivers that is a danger to the public at large—e.g., by causing more hit-and-run accidents—and to the uninsured drivers themselves.[150] Insurance companies benefit because they attain more

141. *See supra* Part II.B.

142. *See supra* notes 40–43 and accompanying text.

143. *See* Hunter et al., *supra* note 43.

144. *See* Jennifer B. Wriggins, *Mandates, Markets, and Risk: Auto Insurance and the Affordable Care Act*, 19 CONN. INS. L. J. 275, 282 (2013) (arguing that larger insurance pools are more beneficial and necessary to keep costs down).

145. *See* Wendy McElroy, *"Racist" ZIP Codes*, FUTURE OF FREEDOM FOUND. (Apr. 1, 2014), http://www.fff.org/explore-freedom/article/racist-zip-codes/ ("Minorities suffer from social engineering, which may be launched with good intentions but end in doing them harm.").

146. *See Quick Stats*, FIRES, https://firesportal.com/Pages/Public/QuickStats.aspx (last visited Dec. 24, 2017) (providing up-to-the-minute data on highway accidents in Florida). The database provides real-time numbers on total injuries, total fatalities, general location of accidents, etc. *See id.*

147. *See* Tamra Johnson, *New Study Reveals When, Where and How Much Motorists Drive*, AAA NEWSROOM (Apr. 16, 2015) http://newsroom.aaa.com/2015/04/new-study-reveals-much-motorists-drive/ ("On average, Americans drive 29.2 miles per day, making two trips with an average total duration of 46 minutes.").

148. *See* FLAGERLIVE, *supra* note 22 (arguing that poverty leads to higher rates of uninsured drivers); *see also* Stephen Brobeck et al., *Uninsured Drivers: A Social Dilemma in Need of a Solution*, CONSUMER FED'N OF AM. 5 (Mar. 2013), http://www.consumerfed.org/pdfs/140310_uninsureddriversasocialdilemma_cfa.pdf ("[T]here is broad agreement that lower income drivers are much more likely, than higher income drivers, to be uninsured."); *Uninsured Motorists: A Growing Problem for Consumers,* NAIC 5 (Mar. 2006), http://www.naic.org/store/free/UMC-OP.pdf ("Technology and proprietary software provide the answer to the uninsured problem.").

149. *See* Heller & Styczynski, *supra* note 15, at 15–16.

150. *See* Lyn Hunstad, *Characteristics of Uninsured Motorists*, CALI. DEP'T OF INS. 34 (Feb.

revenue and higher profits by improving their economic moat[151] and attaining economies of scale.[152]

The United States Supreme Court has said that the regulation of insurance markets is paramount to the "public interest."[153] As previously argued, there is a correlation between higher premiums and a higher rate of uninsured drivers.[154] Therefore, the regulation of the market to improve accessibility for uninsured drivers *must* be a primary goal of legislators and regulatory agencies.[155] Legislators can take comfort in overwhelming

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1999) http://www.insurance.ca.gov/0400-news/0200-studies-reports/0600-research-studies/auto-policy-studies/upload/characteristics-of-uninsured-motorist.pdf (presenting data of a California study where uninsured drivers were found to be overall safe drivers); *see also* J. Tim Query & Risa Kumazawa, *Examining the Impact of Issuing Drivers Licenses to Undocumented Immigrants*, 30 J. OF INS. REG. 265, 272 (2011) (explaining that uninsured motorist pose a serious dilemma to social responsibility and that there is strong public support for mandatory liability laws); J. Daniel Khazzoom, *What We Know About Uninsured Motorists and How Well We Know What We Know*, RESOURCES FOR THE FUTURE 15–16 (1997), https://ageconsearch.umn.edu/bitstream/10533/1/dp980009.pdf; Brobeck et al., *supra* note 148, at 8 ("Research has found that many of the uninsured, in part because they do not want trouble from law enforcement, drive more cautiously and safely than the insured.")

151. *See Economic Moat*, INVESTOPIDIA, http://www.investopedia.com/terms/e/economicmoat.asp (last visited Dec. 24, 2017) (defining an "economic moat" as "the competitive advantage that one company has over other companies in the same industry"). "A company that is able to maintain low operating expenses in relation to its sales compared to its peers has cost advantages, and it can undercut its competition by lowering prices and keeping rivals at bay." *Id.*

152. *See* Baijnath Ramraika et al., *Economies of Scale: An Analytical Framework for Assessment of a Firm's Competitive Advantage*, ADVISOR PERSPECTIVES (Mar. 8, 2016), http://www.advisorperspectives.com/articles/2016/03/08/economies-of-scale-an-analytical-framework-for-assessment-of-a-firm-s-competitive-advantage (explaining economies of scale as the per unit savings achieved and the advantaged gained through "lower cost per unit in response to increased operational scale"); *see also* Alpha Architect, *Warren Buffett On Economic Moats,* VALUEWALK (Sept. 15, 2015), http://www.valuewalk.com/2015/09/warren-buffett-on-economic-moats/ (providing a transcript of Warren Buffet's views on gaining a competitive advantage through economies of scale in the auto insurance industry). Mr. Buffett, who owns GEICO Insurance, explains economies of scale in the auto insurance market:

> The moat in a business like our auto insurance business at GEICO is low cost. I mean people have to buy auto insurance, so everybody's going to have one auto insurance policy per car basically, or per driver. And . . . I can't sell them twenty . . . but they have to buy one. What are they going to buy it on? They're going to buy it based on service and cost. Most people will assume the service is fairly identical among companies, or close enough, so they're going to do it on cost, so I gotta be the low cost producer. That's my moat. To the extent *my costs get further lower* than the other guy, I've thrown a couple of sharks into the moat.

Alpha Architect, *supra* (emphasis added).

153. *See* O'Gorman & Young, Inc. v. Hartford Fire Ins. Co., 282 U.S. 251, 257 (1931) ("The business of insurance is so far affected with a public interest that the State may regulate the rates . . . and likewise the relations of those engaged in the business[.]").

154. *See supra* note 54 and accompanying text.

155. *See* Brobeck et al., *supra* note 148, at 5 ("[T]here is broad agreement that lower income drivers are much more likely, than higher income drivers, to be uninsured."); *see also* NAIC,

public opinion that views the use of socioeconomic factors in rate making schemes as unfair, and draft legislation to restrict its use.[156]

V. CONCLUSION

The driver who killed Pedro that fateful night has not been found.[157] We do not know if the driver fled because he was uninsured or just panicked.[158] We also do not know if Lebron would certainly find a job with a car.[159] What this comment argues is that state legislators should strive to devise holistic policies, unlike the recent amendment for single ZIP Code rate schemes base on socioeconomic ratings, that reduce uninsured drivers.[160] Its reduction can cut the rate of drivers fleeing an accident like the one who killed Pedro and can make it more affordable for Americans like Lebron to own and keep a car for work.[161]

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supra note 148 ("Technology and proprietary software provide the answer to the uninsured problem.").

156. *See* Heller & Styczynski, *supra* note 15, at 3 (presenting data on a research conducted to determine the preference of the public as it relates to insurance companies using socioeconomic data in rate making schemes). According to the report, "[o]nly about one in 10 Americans think the use of these non-driving factors is 'very fair.'" *Id.* at 5. "Conversely, over six in ten Americans consider it somewhat or very unfair to use the non-driving factors associated with economic status." *Id.*

157. *See* Peter D'Oench, *Mother Hits The Streets to Find Son's Killer*, CBS MIAMI (Nov. 27, 2015, 11:13 PM), http://miami.cbslocal.com/2015/11/27/mother-hits-the-streets-to-find-sons-killer/ (providing a description of the suspect in the hit-and-run accident that killed Pedro and the efforts of his mother to find the suspect).

158. *See id.*

159. *See Labor Force Statistics from the Current Population Survey*, BUREAU OF LABOR STATISTICS (Oct. 6, 2017), http://www.bls.gov/web/empsit/cpsee_e16.htm (provides quarterly unemployment data by age, race, and gender). The report reveals that African Americans have higher rates of unemployment than other groups of the same age and gender. *See id.*

160. *See supra* Part II–III.

161. *See supra* Part II–III.

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Rosario Cruz, *Serials and Continuations Specialist*
Danniza Liendo, *Cataloging and Database Specialist*
Judith Peguero, *Accounting Operations Specialist*
Juan Matos, *Audio Visual Support and Multi-media Production*
Diego Gumucio, *Audio Visual Support*
Angela Griffin, *Technical Services Librarian*