

## What's Fueling Colorado Car Insurance Rates?

**The Issue** – Auto rates in Colorado have been steadily increasing for the past five years. The Colorado auto insurance market has been given the title of the *“the most troubled market”* by the *Auto Insurance Report* because not only is Colorado following the nationwide trend of bad physical damage results, but also is seeing bad liability results. While Colorado is still a competitive marketplace, the trend of increased costs is unsustainable. In 2014 Colorado experienced a 17.9% physical damage loss in addition to a 0.1% liability profit. Colorado is on the same path that resulted in 105% Loss Adjustment Expense (LAE) before the sunset of no-fault in 2003.

**The Cause** – Numerous factors are leading to these negative results and subsequent rate increases including negative legislation, negative court decisions, and the driving environment.

### Colorado Legislative and Legal Environment:

- Phantom damages (i.e. billed v. paid) (2010): Colorado juries are only allowed to see initial medical bills – not the final, negotiated prices that are actually paid by insurers to doctors and hospitals which is often less than half of the amount billed. The result is a pure windfall for plaintiffs, at the expense of the insurance-buying public through higher rates. **The suggested solution:** Allow the courts to consider the amount paid by health insurance for physical injuries.
- Unreasonable delay/denial legislation (2008): the legislature passed a law that allowed insured's whose claim has been “unreasonably” delayed or denied by their own insurance company to sue for at least two times the covered benefit, plus attorney fees and costs
  - *Larson v. Allstate* (2012): Permits third-party vendor (ex. auto body shop) to sue
  - *Hansen v. AmFam* (2013): Double damages based on total “covered benefit,” not amount delayed. Does not matter if claim is “fairly debatable”

**The suggested solution:** Limit property and casualty claims to claims by an insured, so third parties like roofers and auto body shops do not have standing to sue in place of the policyholder.

- Pre-Judgment Interest: Colorado law mandates 9% interest on lawsuit award which is much higher than current investment return environment. **The suggested solution:** Statutorily tie the interest rate to a floating index to mirror the economy.
- Limits on Medical Records Discovery (2005): A Supreme Court ruling determined that physician-patient privilege is only waived as to medical records relating to cause and extent of claimed injury. This means that it is very difficult for defendants to discover and prove pre-existing conditions that may have contributed to the plaintiff's current medical condition. **The suggested solution:** Amend the statutes on evidence to allow relevant medical information to be accessible in litigation.

### Colorado Driving Environment:

- Ranked 4<sup>th</sup> in the U.S. for increased number of auto insurance damages claims with the 2<sup>nd</sup> highest increase in collision repair costs; ranked 2<sup>nd</sup> in the U.S. for hail insurance claims
- 2015 was the deadliest year since 2008, with traffic fatalities increasing 12% over 2014
- Overall injury and vehicle damage losses are up almost 30% in Colorado since 2010 (compared to almost 20% nationwide)
- Causes of increased claims likely include:
  - Low gas prices and increase in population result in more drivers and congestion on the roads
  - Increase in younger and older drivers
  - Poor road conditions (70% of roads are in poor/mediocre condition)
  - Distracted driving, including cell phone usage (Colorado does not have a ban on hand-held cell phones)
  - Technological automobiles result in higher collision repair costs (ex. bumper cameras)

**The Solution** – Proactive and sustained grassroots activity to educate legislators about the issue, its causes, and the above legislative solutions aimed at steering the Colorado auto insurance market back on a lower-cost path.