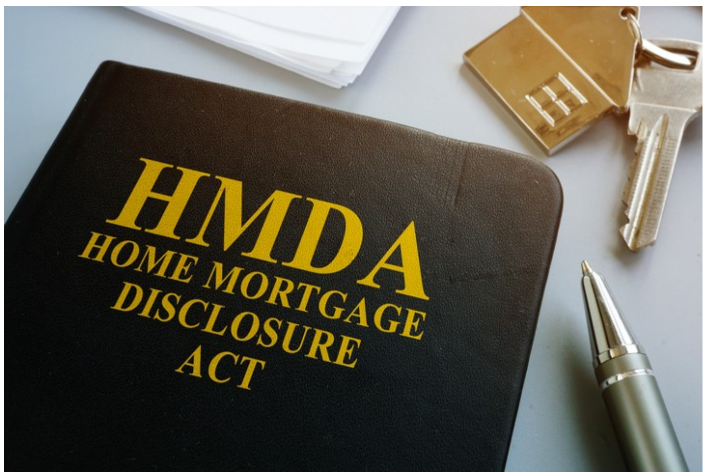
# AN ANALYSIS OF POSSIBLE HOMEOWNERS INSURANCE DISCRIMINATION IN BALTIMORE IN 2022

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## INTRODUCTION

This is an analysis of possible violations of fair lending laws regarding homeowners insurance discrimination in the city of Baltimore in 2022.

The sources of information include both national and regional sources.

## WHAT IS HOMEOWNERS INSURANCE DISCRIMINATION?

Homeowners insurance is personal property insurance for homes, condos, apartments, and mobile homes. It involves numerous protections, which can include the losses occurring to a home, its contents, and the loss of use (e.g., additional living expenses). Homeowners are not legally required to have homeowners insurance. However, banks and other lenders, as well as the federally backed mortgage companies (Fannie Mae and Freddie Mac) require it as a condition for mortgages. As a result, the overwhelming majority of homeowners have this insurance.

A particular home's homeowners insurance premium is determined by many factors, such as history of past claims, the neighborhood and its crime rate, how widely available building materials are, coverage options and the desired coverage amount, the condition of the home, and a consumer's credit history, among others.

A 2022 study by Bankrate found that people with poor credit pay on over 77% more on average for homeowners insurance than people with excellent credit ($2,180 annually vs. $1,232 annually). Most states allow insurers to charge homeowners more based on credit history; only California, Maryland, and Massachusetts ban this.

The impacts of unfair discrimination in homeowners insurance are substantial. Consumers wind up paying higher premiums, and if they are denied insurance coverage, they can't get the mortgage to buy a home in the first place. Since homeownership is one of the biggest avenues to wealth accumulation and intergenerational mobility in America, this perpetuates racial inequality and the wealth gap. If unfair pricing leads an insured homeowner to miss a payment and have coverage canceled on them, then their mortgage company will "force place" insurance on the property that protects only the lender. The lender will add the (high) cost of that force-placed coverage onto the homeowner's mortgage payments. Additionally, insurers undervalue Black homes and often pay often fewer and less generous claims. And neighborhoods are affected as well; expensive insurance policies can burden homeowners and contribute to foreclosures, which can cause neighborhoods to deteriorate.

There has been a history of homeowners insurance unfair and discriminatory practices that directly or indirectly target people based on their race, color, national or ethnic origin, religion, sex, or disability. On the individual level, this may include:

(1) Offering insurance policies that have inferior coverage.

(2) Not returning calls or requests for information from consumers interested in purchasing policies.

(3) Denying any coverage based on someone's race.

This discrimination also occurs on the institutional level, for example:

(1) Imposing different terms and conditions based on someone's neighborhood.

(2) Refusing to write policies for homes in certain neighborhoods.

(3) Refusing to underwrite buildings based on age, which frequently disproportionately impacts mostly African-American or Black neighborhoods.

(4) Requiring inspection reports in certain areas but not others.

(5) Fewer/inferior options compared to wealthier neighborhoods.

(6) Discouraging applicants living in certain neighborhoods.

1. *Outright Discrimination Against Minorities, Women, Etc.*
   The refusal to issue homeowner's insurance based on race, religion, sex, familial/marital status, national origin, disability, or sexual orientation is illegal in Maryland and (with more limited bases) in the U. S.

2. *Discriminatory Credit Report Usage in Insurance Underwriting.*
   It also is illegal for companies to utilize discriminatory means to evaluate applications for insurance.

3. *Insurance Redlining.*
   Redlining is the refusal to issue insurance in certain geographical areas. The areas have been established according to certain criteria by insurance companies.

4. *Requiring Minority Homeowners to Pay for Additional Unnecessary Coverages (e.g., Earthquake Insurance) and Illogical Extra Riders.*
   The net effect of such practices is to make the resultant policy more expensive, and is therefore illegal because it specifically and unfairly penalizes protected groups.

Homeowners insurance "redlining" is a form of discrimination in which an insurance company or agent treats homeowners differently because of the race or national origin of residents in the neighborhood where their home is located. Insurance redlining may include: imposing different terms and conditions for insuring homes in minority neighborhoods, refusing to write policies for homes in minority neighborhoods, offering inferior policies in minority neighborhoods, and discouraging applicants from minority neighborhoods

Discrimination in the sale of homeowners insurance once was legal. The Federal Housing Administration (FHA) – originally the Office of Housing within the U.S. Department of Housing & Urban Development – was founded in 1934 to help homeowners by providing federal insurance for mortgages. The FHA developed appraisal maps of neighborhoods and based its underwriting policies on the maps. Subsequently, the FHA limited or refused to provide mortgage insurance for people in neighborhoods deemed risky. It considered Black neighborhoods, immigrant neighborhoods, and neighborhoods with people of different races living together were all considered risky. Thus, legal discrimination was lawful.

In the late 1990s, the housing nonprofit Housing Opportunities Made Equal (HOME) investigated Nationwide's homeowners insurance policies in and around Richmond, Virginia. It found striking evidence of racist discrimination and excessive prices: in 7 of 15 cases, whites were quoted a premium and blacks were not. HOME then sued Nationwide for unfair discrimination. The suit was settled out of court on April 21, 2000. A Richmond Circuit Court 1998 order that Nationwide pay the housing group $100 million, the largest ever fair-housing judgment, was later overturned.

## NATIONAL AND REGIONAL DISCRIMINATION

Recent studies have shown that, compared to homeowners in predominantly white-occupied neighborhoods, homeowners in minority neighborhoods are less likely to have private home insurance, are more likely to have policies that provide less coverage in case of a loss, and are likely to pay more for similar policies. This study explores one possible source of these differences by testing for discrimination on the part of home insurance agents against home buyers in minority neighborhoods who seek insurance quotes.

Using pairs of testers posing as first-time buyers of homes in moderate-income minority and non-Hispanic white (or "white") neighborhoods, the study examines: whether a quote for insurance is provided; the type of coverage, options, and price of insurance quoted; and the quality of service provided (such as requirements for inspections and comprehensiveness of information provided). In this study we investigate agents' differential treatment of insurance seekers buying their first homes in moderate-income, predominantly black-or Hispanic-occupied neighborhoods in as carefully controlled a comparison as feasible. We emphasize that we do not investigate possible discrimination in numerous other dimensions of the insurance business; rather, we focus on the information, or "quote," provided to those seeking insurance for a home they are in the process of buying.

An Urban Institute pilot study used "paired testing," a methodological advance for researching the issue of discrimination in the home insurance market. The approach measures the extent of differential treatment of matched pairs of testers posing as buyers of homes located in minority and white neighborhoods. In each test, two phone calls were made to the same insurance agency. One call was to obtain an insurance quote for a home in a minority neighborhood, the other for a home in a white neighborhood. The neighborhoods, homes, and insurance seekers were matched on a wide range of characteristics so that the primary difference within a paired test was whether the home was located in a minority or white neighborhood. The tested agents were chosen at random from the local metropolitan area Yellow Pages telephone directory. Comparing the outcomes of paired phone calls over a large sample of tests allows us to measure the extent of neighborhood-based differential treatment in the tested insurance market.

As of 2014, 17 states had no bans on race-based discrimination by insurers, a group of university researchers found. Insurers are regulated by states and not the federal government.

Insurers keep a tight lid on their policy sales and claims data. They have long argued that the size and timing of payouts, and the neighborhoods where claims are registered and addressed, are proprietary information, and that sharing that data would hurt their ability to compete. They guard it so zealously that even most regulators don’t have detailed information about how insurers assess individual claims. Where data is publicly available, such as auto insurance, researchers have found that policies discriminate against Black drivers by charging them higher premiums. But homeowners’ insurance has been opaque.

Allegations of racism are often tough to prove, but especially so in homeowners’ insurance, where insurers have a lot of discretion and don’t always provide detailed explanations for why claims are denied. Since company representatives often verify claims and assess the credibility of a claimant through home visits, face-to-face interactions and other measures, there can be room for bias. While claims disputes are hardly uncommon in the industry, many Black customers say they feel treated unfairly because of their race

The major way discrimination can be proven in the homeowners insurance area is by testing.

## MARYLAND LAW

With eight other states, Maryland bans the use of credit when rating home insurance policies, meaning someone’s credit tier cannot affect how much they pay for homeowners insurance. Homeowners insurance companies cannot refuse coverage, cancel a policy, refuse to renew a policy, or base insurance rates on credit history or lack of a history. Auto insurers can use credit history to help determine rates on a new policy, but cannot use it to deny an initial application, cancel a policy, refuse to renew a policy, or increase premiums during a renewal.

The Maryland Insurance Administration (MIA) protects consumers from illegal insurance practices by ensuring that insurers and producers that operate in Maryland act in accordance with State insurance laws. On its website or in person, one can file a complaint online through their website. If someone has a question about filing a complaint they can call the MIA at 1-800-492-6116. To view a video tutorial on how to file a complaint online click here.

The mission of the Maryland Commission on Civil Rights (MCCR) is to “ensure opportunity for all through the enforcement of Maryland’s laws against discrimination in employment, housing, public accommodations, and state contracts; to provide educational outreach services related to provisions of this law; and to promote and improve civil rights in Maryland. Our vision is to have a State that is free from any trace of unlawful discrimination.” It protects against discrimination based on race, color, religion or creed, sex, age, ancestry or national origin, marital status, physical or mental disability, sexual orientation, and gender identity. In housing cases, discrimination based on familial status and source of income is also unlawful.

On MCCR's website, housing discrimination laws make it illegal to:

- Refuse to rent a dwelling to any qualified buyer or renter.
- Use discriminatory terms and conditions in selling or renting.
- Set terms and conditions of home loans in such a way as to discriminate.
- Use discriminatory notices or advertisements indicating a preference or discriminatory limitations.
- Say that a dwelling is not available for inspection, sale, or rent when, in fact, it is available.
- Attempt to steer persons into or away from neighborhoods or apartment complexes due to being members of a protected class.
- Treat a person differently from everyone else because of race, color, disability, familial status (parent or legal custodian with children, pregnant), religion, sex, marital status, national origin, sexual orientation, gender identity, or source of income.
- Request information about birth control and/or family planning practices.
- Refuse to consider both applicants' incomes when seeking to buy or rent.
- Commit acts of prejudice, violence, harassment, intimidation, or abuse directed against families or individuals or their residential property.

In the Baltimore Metropolitan Council / MCCR publication "Fair Housing for Owner-Occupied Homes," it is specified:

> No one may, on the basis of a protected class identified in the table on page 5 of either the owner or occupants of a dwelling:
> • Refuse to provide homeowners insurance coverage
> • Discriminate in the terms or conditions of homeowners insurance coverage
> • Refuse to provide available information on the full range of homeowners insurance coverage options available

The [Maryland Office of the Attorney General] also enforces insurance and related matters. On their website it is stated:

> If you have a problem with your insurance company or agent, you can file a complaint with the MIA and an investigator will determine whether your insurance company violated Maryland's insurance laws. Violations are not found in most complaint matters, and the law gives the complainant the opportunity to request an administrative hearing after receiving the investigator's letter finding that there was no violation.

§19–114 and §27–212 of the Maryland Code pertain to insurance policies in Maryland.

The Maryland Attorney General's Office's [People's Insurance Counsel Division] is the section that deals with insurance issues. It is located at 200 St. Paul Street, Baltimore, Maryland, 21202. Their telephone is 410-576-6432 / (888) 743-0023, and email: PIC@oag.state.md.us.

"Insurance companies issuing homeowners policies in Maryland are required by Title 11 of the Insurance Article to file with the Commissioner all rates, supplementary rate information, policy forms, endorsements, and modifications of any of these documents. Homeowners insurance is subject to the competitive ratings laws. Insurers are allowed to use the filed rates without obtaining the prior approval of the Commissioner. All policy forms must be approved by the Commissioner before use in Maryland."

In addition, a complaint based on what happened in a real estate transaction may be filed with the Maryland Real Estate Commission.
The Maryland Attorney General – Home builder Registration - For complaints against new home builders.

The Maryland Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors.

The Maryland Commissioner of Financial Regulation - For complaints against mortgage brokers.

The Maryland Insurance Administration - For complaints against title companies

In its FY2020 annual report, it was noted: "The Division has also noticed some other unusual rating factors being used by companies, including various crime statistics, job types, education levels, and poverty levels that may negatively affect Maryland insurance consumers."

## HOMEOWNERS INSURANCE DISCRIMINATION IN BALTIMORE

Unfortunately, there exist very few studies and/or reports regarding homeowner's insurance discrimination. No studies have been conducted specifically on conditions in Baltimore.

However, relatively recent national studies and cases indicate that there is ample evidence that there is homeowner's insurance in Baltimore:

1. One 1995 HUD study was cited in the initial Analysis of Impediments to Fair Housing Choice in the Baltimore Metropolitan Region conducted by the Baltimore Metropolitan Council. The *Analysis of Impediments to Fair Housing Choice in the Baltimore Metropolitan Region* concluded:

> Sufficient data are available from a national study, which included Baltimore city and nearby suburbs, to indicate that insurance practices used in the region probably present an impediment to fair housing (page 44).

2. In 2003, Texas Governor Rick Perry signs an amendment to S.B. 14, which makes race-based insurance pricing a felony in the state.

3. In March 2022, State Farm was accused of using fraud as a pretext to deny the insurance claims of Black consumers and is facing multiple lawsuits. In one case, Dr. Carla Campbell-

Jackson, a Black woman who worked for State Farm for twenty eight years, recounted how senior executives pressured investigators to investigate and deny as many claims from inner city neighborhoods as possible. When she tried to fix this, she was fired.

4. The Erie Insurance Company was accused by the U. S. Department of Justice, HUD, and the Fair Housing Council of Central New York of selecting agents and operating their insurance business that produced disparities in market share and the types of homeowner's policies sold between neighborhoods with lower percents of African American population and those with greater percentages of African American population. They found that: (1) As the percentage of black population increases, there are fewer agents selling Erie homeowner's and renter's insurance policies. (2) As the percentage of black population increases, Erie's share of the homeowner's insurance market decreases. (3) As the percentage of black population increases, Erie's share of the renter's insurance market decreases. (4) As the percentage of black population increases, the percentage of Erie policies that are Ultracover decreases.

5. Prudential Insurance was sued in 2002 by the National Fair Housing Alliance alleging that Prudential engages in policies and practices that discriminate against minority applicants for homeowners insurance. Specifically, the plaintiffs challenge the use of certain "redlining" procedures, which Prudential utilizes to deny homeowners insurance in certain areas, including the entire District of Columbia, and the use of factors such as credit history to determine eligibility for homeowners insurance.

(6) In 2007, a Rand Institute for Civil Justice study found that there had been the following discrimination in property coverage federal and state class action suits: Discriminated based on race by refusing to insure or only offering policies with fewer benefits in particular geographic areas; Discriminated based on race by refusing to insure older homes or only offering policies with fewer benefits to minorities; Provided poor customer service, delayed responding to inquiries, and generally mishandling claims State Systematically performed unfair or other wrongful adjustment of claims arising from a single event (e.g., a particular earthquake).

(7) In 2015, the U.S. Supreme Court ruled 5-4 it was acceptable to use -- with limits -- in Fair Housing Act enforcement. That case involved a Texas dispute over the location of low-income housing. Insurance was not the issue but HUD says the principle still applied (Koff 2016). The Fair Housing Act's Discriminatory Effects Standard (Disparate Impact Rule) was enacted in 2013.

(8) HUD announced a new attack on curbing discrimination by insurers in 2016.

(9) In 2018, the National Fair Housing Alliance (NFHA) settled its lawsuit against Travelers Indemnity Company in which it alleged that Travelers engaged in discriminatory conduct in violation of the Fair Housing Act (FHA). NFHA alleged that Travelers had a policy of refusing to provide habitational insurance policies to landlords that rent to tenants who use Housing Choice Vouchers, also known as Section 8 vouchers. NFHA claimed that this policy had a disparate impact on African-Americans and women and served no legitimate business purpose. NFHA also alleged that Travelers' policy violated the D.C. Human Rights Act's (DCHRA) prohibition of discrimination based on race, sex, or source of income.

(10)  In 2019, Rep. Bonnie Watson Coleman (D-NJ) introduced H.R. 3693, the Prohibit Auto Insurance Discrimination (PAID) Act, which aims to prohibit private passenger automobile insurers from using certain income proxies to determine insurance rates and eligibility. That same year Rep. Rashida Tlaib (D-MI) introduced H.R. 1756, the Preventing Credit Score Discrimination in Auto Insurance Act, which would prohibit the use of a credit report, a credit score, or other consumer information in determining auto insurance coverage or rates.

(11)  In 2020, indicating the industry regulator's concern about homeowners insurance discrimination, the National Association Of Insurance Commissioners (NAIC) announces the formation of a special committee focusing on race and insurance issues, along with a special session on race and insurance at the virtual 2020 Summer National Meeting.

(12)  The Housing Equality Center of Pennsylvania has found the following discriminatory actions: (1) A black consumer left several messages for an insurance agent over a five day period before finally getting a return call, whereas a white consumer received a return call on the same day as leaving the initial message. (2) Black consumers were told that only a verbal quote for insurance could be given, whereas the white consumers were able to get written quotes for insurance coverage from these same agents. (3) Latino consumers were told that in order to receive a quote for insurance, they must submit their social security number. White consumers were not required to submit social security numbers to receiving a quote. (4) A black consumer with a home was told that his property did not qualify for a replacement cost policy, and would only qualify for a market value policy. The quote the black consumer received for inferior coverage was three times higher than a quote a white consumer received with a home in a white neighborhood.

The Center noted in 2022 that since 2019 there has been a tenfold increase in complaints of discriminatory home appraisals reported to HUD's Office of Fair Housing and Equal Opportunity. Recent news stories, research, and investigations have all documented instances of homes in majority Black neighborhoods or owned by Black families being undervalued compared to similar white-owned homes.

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APPENDICES