



**State solutions to defects in
private insurance markets**
NCOIL, Las Vegas
November 17, 2007

Amy Bach, Executive Director

About UP

- United Policyholders is a not for-profit national organization that educates the public, the judiciary and the media on insurance issues and consumer rights and helps solve problems.
- Our work is funded by donations and grants.
- We have a large network of volunteers and limited paid staff.
- Our website offers extensive resources and information is free of charge. www.uphelp.org
- We are the publishers of **“The Disaster Recovery Handbook and Household Inventory Guide”**

United Policyholders' core messages:

- Insurance is a vehicle to get you back home
- Think of your insurance policy as a car to drive you where you need to go – but remember: it's not going to drive itself.
- You paid for it. You've got the most at stake in making sure it gets you where you need to go.
- You need to drive it.

Insurance companies are in business

- When it's time for dollars to flow back from your insurer to you, loyalty doesn't matter -- what matters is **documentation, organization and negotiation.**
- **The better you document your losses and stay organized in dealing with your insurance claim, the smoother the process will go.**

Be polite to your adjuster but be educated and assertive

- Keep a record of all communications with insurance company representatives
- Confirm important items/agreements in writing
- Work together with others who are insured by your same insurance co. to solve common problems
- Don't sit back and take it if you're being treated unfairly

Be careful before signing...

- Don't sign claim forms, checks or drafts that say or imply they are "final" or "full settlement" until you are sure you understand your rights, your coverage, and the full amount of your losses
- Never intentionally overstate or inflate your claim or claim items you didn't have or that were not damaged.

Repair/Rebuilding Tips

- You have the right to be paid the amount of a local, reputable contractor's estimate.
- You do not have to accept the insurance company's contractor or computer-generated estimates.
- Be careful who you hire.

Get the right lawyer if you decide you need one

- If you decide to hire professional help, contact at least two former clients, ask direct questions and check the professional's license and insurance
- Insurance is a specialty. Don't hire a lawyer unless he or she has hands-on claim experience

A good Public Adjuster can help you, but don't rush to hire one

- “Public adjusters” are claim professionals who work only for you – not insurance companies
- A good P.A. can take the weight off your shoulders by handling your claim and negotiating a settlement
- Their fees and contracts are limited by state law
- Do not hire a P.A. without carefully checking personal references and calling former clients

Claim-related problems that chronically arise following natural disasters:

- Underinsurance
- Unreasonable delays:
 - providing insured with complete copy of current policy
 - tendering ALE and other funds
 - in responding to requests for information
- Lack of adjuster training, lack of empathy, misinformation and miscommunications re: what's covered and what's not
- Lowballing, Use of biased experts
- Failure to perform a thorough investigation
- Finding excuses to deny instead of find coverage
- Unreasonable reliance on confusing, ambiguous policy exclusions
- Abuse of the appraisal, recorded statement and EUO processes

Marketplace/rate problems that often follow disasters

- Non-renewals
- Rate hikes
- Availability crises
- Bloating of state pools, \$ problems
- Reductions in coverage without corresponding premium cuts
- Widespread consumer dissatisfaction
- Media coverage of same

What legislative reforms our organization has supported to solve them

- “Homeowners Bill of Rights”
- Anti-cherry picking
- Clarify that insurers have a legal duty to recommend sufficient limits to fully replace dwelling
- Extend time for claimants to submit proofs of loss
- Mandate up to 24 months of ALE coverage in a federally declared disaster
- Allow claimants to see estimates and other documents in their claim files
- Extend statutes of limitations to allow disputes to be resolved without litigation
- Restrict arbitrary and discriminatory underwriting criteria
- Prevent insurers from panicking, issuing mass non-renewals and causing economic chaos following disasters
- Recipes for state-run insurers of last resort should not be written solely by industry attorneys

The California Earthquake Authority is a model for a reasonably prudently run quasi-public insurer...albeit an untested one.

- CEA is a privately financed, publicly managed authority
- **Highly regulated** A legislative creation, overseen by a 3 member governing Board consisting of the Governorator, Treasurer, and the Insurance Commissioner or their designees. Speaker of the Assembly and Chair of Senate Rules serve as nonvoting members. 11 member advisory panel (public, consumers and industry)
- **Industry involvement:** CEA policies are sold by participating carriers of the CEA
- Participating insurers act as independent contractor agents, service claims, collect premiums, etc. and get reimbursed by the CEA
- CA General Fund is not liable for CEA losses, claims or other liabilities.
- CEA is tax exempt
- CEA is accounted for as an enterprise fund and is financed and operated in a manner similar to that of a private business enterprise
- CEA rates are subject to prior approval, as are all rates in CA.
- Investments consist of CDs, U.S. treasuries, commercial paper, corporate bonds, etc.
- If CEA market share drops below 65% Comm'r reports to legislature re: dissolution
- Premium taxes reinvested in CEA's operating expenses and claim paying capacity

More good things about the CEA; (depending on your perspective)

- **Mandated efficiency:** State law limits their operating expenses to 3% of premium income
- **Emphasis on mitigation:** State law requires CEA to spend \$5 mill. Or 5% of its investment income (whichever is less) on encouraging mitigation
- **Working to meet consumer demand:** Have increased consumer choices
- **Management has reached out to consumer groups:** Result has been win win
- Lowered rates
- Has gotten better at buying cheaper reinsurance

Concerns about the CEA:

- **Insurer's self-created trap door;** wrote themselves a sunset for primary insurer financing layer, excessive servicing fees, not enough "skin in the game"
- Products still considered expensive
- Lack of consumer and agent confidence in product/ability to pay claims
- Untested/small market share

How Federal and State government approaches/residual market mechanisms/back stops could mesh

- States and the Federal Government are in the business of insurance, like it or not
- Industry reps have designed the residual market mechanisms to minimize their exposure and maximize their profits
- Many state run pools are in bad financial shape
- States have to get up to speed and share information, particularly FL., LA, NY., MA and TX
- Catastrophe modeling should be a public function, states can pool resources
- Federal Government's role should be to help state pools build and access capital and reinsurance as economically as possible
- Don't expand the flood program until it's fixed
- Push your Federal elected officials to support H.B. 3355 and its Senate counterpart
- Regional anti-cherry picking laws would alleviate undue burdens on states

H.R.3355: To ensure the availability and affordability of homeowners' insurance coverage for catastrophic events.

- **Purpose is to provide a federal backstop for state-sponsored insurance programs to help homeowners prepare for and recover from the damages caused by natural catastrophes.**
- **Establishes a nonprofit National Catastrophe Risk Consortium, which shall not be an agency or instrumentality of the U.S. government, to:**
 - (1) gather an inventory of catastrophe risk obligations held by participating states' reinsurance funds, risk pools, or primary insurance corporations;**
 - (2) issue securities and other financial instruments linked to the catastrophe risk in the capital markets;**
 - (3) enter into reinsurance contracts with private parties, on a conduit basis;**
 - (4) act as a centralized repository of state risk information accessible by private-market participants interested in underwriting risk-linked securities or entering into reinsurance contracts;** and
 - (5) use an acquired catastrophe risk database to perform research and analysis that encourages standardization of the risk-linked securities market.**

H.B. 3355:

- Makes the Consortium eligible for discretionary federal grants, contracts, gifts, contributions, or technical assistance.
- Directs the Secretary of the Treasury to carry out a national homeowners' insurance stabilization program to make liquidity loans and catastrophic loans to state and regional reinsurance programs to: (1) ensure their solvency; (2) improve the availability and affordability of homeowners' insurance; and (3) spread the risk of catastrophic financial loss resulting from natural disasters and catastrophic events.
- Authorizes the Secretary to establish and collect a reasonable fee from precertified qualified reinsurance programs to offset stabilization program expenses.
- Prescribes requirements for qualified reinsurance programs

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Amy Bach

Executive Director

info@unitedpolicyholders.org