

Thursday, March 30th, 2006
Vail, Colorado

INSURANCE A MESS IN LOUISIANA

Taking a break from a family vacation in the Colorado Rocky Mountains, I went to the Internet and checked on all the local news back home in Louisiana. The insurance news for homeowners, particularly in Louisiana, was bleak. Headlines blaring 49 percent rate increases, companies refusing to pay claims, little known causes that completely wipe out any type of insurance coverage, and mandatory calls for flood insurance covering even in non-flood prone areas. Boy was the average homeowner taking it on the chin.

First, the rate increases. Louisiana Farm Bureau requested and received a 49 percent rate increase. Forty-nine percent? What happened ... did all of Louisiana sink below the Gulf? Even the state's largest paper, the Times-Picayune raised troubling questions. A huge rate increase approved by the Louisiana Rating Commission "could well hamper the redevelopment of greater New Orleans," the Times-Picayune said. The paper went on to accuse the insurance department of leaving "thousands of Louisianans with insufficient protection from storms." And they levied direct criticism at the state-sponsored Citizens Property Insurance Corporation, saying that the program is "poorly funded and has been slow to respond to claims."

So who actually approved this huge rate increase? A Commission appointed by the governor, made up of non-professionals with no experience in setting insurance rates. Louisiana is the only state in America that has such a Commission. It makes no sense to have such a Commission, particularly when you elect an Insurance Commissioner. Isn't the buck supposed to stop with the person the people pick to look out for them? Criticism levied at the Commission by the state's largest paper is one more indication that such a Commission is obsolete, and should be abolished, just like the multitude of levee boards in Louisiana.

Let the buck stop with the Commissioner. If a particular company needs a rate increase and the numbers make sense, the Commissioner should have the courage to step up to the plate and approve it. But if there are exaggerated requests without proper documentation, the Commissioner should just as well have the backbone to flat turn down an increase. If the Commissioner can't take the heat, he or she should not run for the job in the first place.

What's more troubling is that when company after company is lining up asking for rate increases, these same companies want to eliminate any insurance protection for wind and hail damage. This type of insurance coverage would have to be peeled off, and sold by this very shaky state run company called Citizens. But if the insurance company doesn't have to cover wind and hail damage anymore, why do they need huge increases?

There is also the troubling issue of re-insurance. To the average person, re-insurance sounds confusing. But all it really means is that insurance companies buy insurance just like you and I do. They take part of the coverage they have promised to pay, and pass it along to another insurance company called a re-insurer. It's something like a bookie lying off part of his bet. He doesn't want to assume all of the risk. It's the same with insurance companies who turn to re-insurers throughout the world to cover part of their projected losses.

The problem is that some companies didn't bother to buy re-insurance. Allstate Insurance Company operating in Louisiana is putting out press releases saying that they lost \$1.7 billion because of Hurricane Katrina. What they don't tell you is that they decided not to buy re-insurance. Well, they bought it in all the surrounding states including Mississippi, Arkansas and Texas. But when you buy re-insurance, you have to give up a good share of your profits. Allstate decided to "roll the dice" and take a chance that no hurricanes would hit in Louisiana. And they lost. So here's the question. Because of Allstate's poor business decision in Louisiana, should Allstate customers have to pay for all the losses? Or should Allstate have to "tighten its belt," spread its losses over a number of years, and perhaps get a much more reasonable rate increase because of the storm situation?

Insurance companies selling property insurance in Louisiana overall have had a pretty good 10-year track record. There have not been that many major storms. But you would assume that each year, money would be set aside in their "rainy day fund" to pay when the big one actually comes along. Well, the big one came along, but companies are saying they took huge losses. Many seem to want to make up these losses in one or two years. But insurance means spreading their risk and their collections over a number of years. And now, we see that companies are asking to no longer have to pay for claims involving wind and rain. So that means their exposure is even less.

Here's the bottom line. The Insurance Department and the Rating Commission need to ask much tougher questions. Rates should be looked at, not just for one year, but over a much longer period. In addition, are policyholders in Louisiana supposed to guarantee the insurance company a big profit on every type of insurance they sell? When you go to Wal-Mart, they may lose a little money on one item they sell, but make money on other items. Overall, they want to make a reasonable return in the 15 percent range. That's about what their stockholders expect.

Is it really reasonable for the citizens of any state to guarantee that in every type of insurance a company sells, they have to make a profit? That's not realistic, and that's not the case in most of the states in this country. You make some here, and you may lose a little there, and overall you want to make a profit. Anything beyond this is greed, and not responsible business. But it seems to be happening in Louisiana.

What about the "technical clauses" that can force a homeowner to receive absolutely nothing from their insurance policy? There are cases following Katrina where some adjusters found cracks in the concrete slab of a house, and the adjuster concluded that cracks might have been there before Katrina hit. Now this certainly was a problem, but had nothing to do with the roof coming off the house, or huge wind and rain damage that ended up taking place. And the structural damage may be minor. If one percent of the damage to the home was caused by the cracks, all other damage according to some who interpret these policies, can be completely denied. In other words, even if 99 percent of the damage was caused by the wind, you get nothing because of the one percent that took place. This of course is ridiculous, and insurance regulators and the courts will be doing a great disservice to the homeowner involved in the situation if they allow for such an interpretation to take place.

This brings up the issue of aggressive enforcement of the law. There will be a newly elected Insurance Commissioner taking office this fall. In recent years, insurance regulators have been "passive" when it came to aggressively interpreting insurance clauses, and even going to court when necessary. It just hasn't been happening. A new Commissioner took over a few weeks ago, and

will have to stand for re-election this fall. He will certainly be challenged by a number of other candidates. Hopefully, all those running will promise the citizens of Louisiana that they will be very aggressive in interpreting insurance clauses, and holding insurance companies accountable. If necessary, they should agree to go into court, ask for declaratory judgments, and get these issues determined.

In the New York Times last week, numerous people were interviewed who had lost everything they had, and were sitting around day in and day out waiting for courts to tell them whether they would receive any insurance payments from companies who had initially denied their claims. Why does every homeowner have to get his or her own lawyer, and wait for months and even years to get these issues determined? Whatever the outcome, decisions should be made and regulators should be in the courtroom, urging judges in whatever court the cases are filed to make a quick decision. That's in the public interest, and that's the right thing to do, and anybody who aspires to be Insurance Commissioner should make a commitment to follow such a path.

Hey, I know something about all this mess. I fought these battles for over 10 years. We are at a crossroads. Either the regulatory process will allow the system to limp along leaving thousands of policyholders out on a limb with no direction or assurances that what they are paying for will ever be there to compensate them. Or we can draw the lines in the dirt, see that fairness is asserted, and insist that a system be put in place that is fair to both insurance companies and homeowners alike, but that quickly gets decisions made, and allows the process to move forward. Many feel that's not happening now.

We will see what candidates have the courage to step up to the plate and assert a willingness to see that the laws on the books are aggressively enforced.

“Men make history and not the other way around. In periods where there is no leadership, society stands still. Progress occurs when courageous, skillful leaders seize the opportunity to change things for the better.”

- **Harry S Truman**

Peace and Justice.
Jim Brown

Jim Brown's weekly column appears each Thursday here at Politicsla.com, and in a number of newspapers throughout the State of Louisiana. You can read Jim's Blog, and take his weekly poll, plus ready his columns going back to the fall of 2002 by going to his own website at <http://www.jimbrownla.com>.

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