

The Policyholder Advocate



Policyholders of America

December, 2007 issue

Prostitution, drugs, payola, and more in the insurance industry



We will get to the juicy stuff in a minute. It's important that we first set the stage.

Let's face it, insurance and coverage issues are a big snooze. Most folks don't read their policies and when they do, their eyes glaze over because of all of the legal mumbo-jumbo which actually is an intentional ploy to bore, daze and confuse the reader.

During the last year or so, State Farm execs, and their pimps (lawyers and lobbyists) have been busy making stealth policy language changes, hoping policyholders don't notice.

Somehow, they managed to get insurance commissioners in 48 out of 50 states to approve new language that basically says that if 99% of the damage is caused by a covered peril and 1% of the damage is caused by a non-covered peril, State Farm owes NOTHING. This is the case even if the non-covered damage occurred hours later.

If you aren't a State Farm policyholder, the Insurance Services Offices ("ISO") — the group that files policy language and forms for many of the other insurers — has its own version of this new policy language.

State insurance departments typically must approve any change in policy language just as they must approve rate hikes filed by carriers. Therefore, this new language inserted in your policy was given two thumbs up from your insurance commissioner.

Of course, the insurance policy is nothing more than a contract between you and the insurer. If you think that the judicial system will consider it unfair, forget it. Recent U.S. appeals court rulings have, at worst, reversed coverage, or at best, jeopardized coverage for homeowners in all states, save California and Washington.

Get out your policy so you can determine if you've been sold down the river by your insurance commissioner who's rendered your pricey policy completely worthless, particularly in states subject to hurricanes, tornados, blizzards, and/or severe weather of any kind.

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MOLD DOUBLE TALK

Farmers in corn producing states have been warned by the USDA that their crops could contain dangerous mycotoxins because of the high moisture at harvest time.

Aflatoxins, the mycotoxin most commonly linked to mold found in corn production, has been identified and farmers are being urged to test crops and elevators.

When toxin levels are high, and the corn cannot be sold, it becomes an "insurable event" if the corn is not already in the bin.

Farmers who suspect aflatoxin contamination are being urged to contact their crop insurance agent before finishing the harvest.

Depending on the level of toxicity, some grain can be used in animal feed but tighter restrictions prevail when it comes to human consumption.

This begs the question: why are aflatoxins — the mycotoxin closely associated with certain species of *Aspergillus* — harmful, even potentially cancer-causing in corn according to the USDA and credible agencies and researchers, but "A-okay" if in your home, office or school according to carriers writing homeowners insurance?

It all has to do with the method of entry into the body. Insurers in disputes with policyholders who've filed homeowners insurance claims, rely on research that shows consumption can be deadly but reject any research that shows that absorption (through skin) and/or inhalation (breathing it) can be harmful. Obviously, in buildings, the method of entry is inhalation and absorption.



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Prostitution ...

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The Drug of Choice

The insurers drug of choice is "ACC", also known as the Anti-Concurrent Causation clause.

It can be found just before the "exclusion" section of the policy and a variety of clauses, some worse than others, have been approved.

If your policy was issued by State Farm, there's a good chance that prostitution occurred at your expense if the policy states:

We do not insure under any coverage for any loss which would not have occurred in the absence of one or more of the following excluded events. We do not insure for such losses regardless of: (a) the cause of the excluded event; or (b) other causes of the loss; or (c) whether other causes acted concurrently or in any sequence with the excluded event to produce the loss; or (d) whether the event occurs suddenly or gradually, involves isolated or widespread damage, arises from natural or external

forces, or occurs as a result of any combination of these.

In the typical State Farm policy, that clause is followed by a number of exclusions. Unlike many other policies, State Farm's exclusions are not limited to "perils," but include "events" that occur along with causes of loss.

Let's say you live on or near the coast. This means if high winds (a covered loss) caused 90% of the damage sustained and 10% of the damage was caused by rising water (not covered), State Farm can and will deny ALL coverage. Likewise, when a broken water pipe under a home (a covered loss) washes away soil beneath the foundation (not covered if the policy contains an "earth movement" exclusion), State Farm can and will deny ALL coverage.

Given what you now know, why would anyone actually pay good money for a State Farm policy?

Many other policies contain less onerous language that can and will enable the insurer to fight coverage and hang the homeowner up in a legal battle over "cause" or "effect". It goes like this:

We will not pay for loss or damage caused directly or indirectly by any of the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

A list of exclusions follows this clause.

What it means is this: your claim will most likely be denied if anything on the "excluded" list directly or indirectly causes damage.

So, what can you do about it? Buy a policy that does not contain this language, or self insure.

In states where no better options exist because of an insurance shortage, raise hell with your insurance commissioner, legislators and Governor if he/she appointed the commissioner. Vote anyone who had a hand in this out of office. Or, in insurance terms:

Do not cast a vote for any person or persons who directly or indirectly contribute to the devaluation of an insurance policy regardless if (a) said person or persons are illiterate and could

not read the language they directly or indirectly approved; or (b) said person or persons received compensation in the form of a bribe, promises of future wealth, promises of future employment, or campaign contributions; or (c) did nothing to alert policyholders about the impending language change so as to derail the approval of such language.

The "Smell Test"

The reason most insurance commissioners approve insurer-friendly policy language and rate hikes is because the insurance commissioners typically end up working for insurance companies or insurance trade associations after they leave the state insurance departments and don't want to bite the hand that will soon be feeding them.

What's more, POA investigation of the value of homes and cars owned by many insurance commissioners is far greater than their annual salaries would allow. Perhaps their salaries are being supplemented with payola?

New

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Results are completely confidential.



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http://www.policyholdersofamerica.org/before_I_test.htm

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Suit: Insurers colluded

by Mark Ballard, The Advocate, Nov. 8, 2007

Louisiana's largest property insurance companies worked together to reduce payments for damages caused to homes and other buildings by the 2005 hurricanes, according to a lawsuit filed late Wednesday by state Attorney General Charles Foti.

Allstate Insurance Co., State Farm Fire and Casualty Co., and other companies selling insurance in Louisiana used computer programs and other tactics to manipulate claims and lowball the amount paid property owners who suffered hurricane losses, according to Foti's lawsuit.

Foti alleged six insurance companies and four companies that provide services to insurers violated the Louisiana Monopolies Act.

The 29-page petition was filed with the Orleans Civil District Court. State District Judge Kern A. Reese of New Orleans was assigned to hear the lawsuit, according to court records.

One of the computer programs named estimates the value of damaged property based on the past sales of similar properties in the neighborhood. Another program cited in the lawsuit tracked the history of claims made by property

owners.

Policyholders also were pressured to settle for less than actual value of their claim by a series of coordinated actions, such as doctored engineering reports and delayed payments, according to the lawsuit.

"The information we have is that these insurance companies were engaged in conduct that harmed policyholders," said Baton Rouge lawyer Jerry McKernan, who is working on the case along with eight New Orleans lawyers.

Foti did not respond to a request for information.

State Farm spokesman Phil Supple and Allstate spokesman Michael Siemienas told The Associated Press they had not seen the lawsuit and would not comment on the allegations.

But Gregory LaCost, vice president and senior counsel for an insurers trade association, said the use of damage estimating software increases efficiency in resolving claims by property owners.

"This is the first time I've heard that use of these programs was being taken as collusion," said LaCost, with the Property Casualty Insurers Association of America in Des Plaines, Ill.

LaCost said Louisiana law requires insurance companies to investigate, process and pay their policyholders in 60 days. The

hurricanes accounted for about 972,000 damage claims, he said.

"And now the Attorney General of Louisiana says you shouldn't use a program to make that easier," said LaCost, who is not involved in the lawsuit, though some members of his association have been named as defendants.

Insurance Commissioner Jim Donelon said he was unaware of any complaints about the use of software.

"That's his job. If he feels there is evidence of such collusion, it falls to him to pursue that," Donelon said. "I have no such evidence. They (the Attorney General's lawyers) did not talk to us."

The lawsuit quoted a report McKinsey & Company of New York gave Allstate in the 1990s. The corporate advisers recommended insurers protect their profits "by undervaluing claims using the tactics of deny, delay and defend."

Foti ran for reelection but was eliminated in the Oct. 20 primary election. He finished third and will leave office in January. Buddy Caldwell of Tallulah, a Democrat district attorney from northeast Louisiana, and Royal Alexander of Shreveport, a Republican former staffer to a congressman, are meeting in the Nov. 17 runoff election.



Attorney General Foti is leaving office but is doing so after filing suit against many insurers, McKinsey, the producers of the phony pricing software used to cheat policyholders and others involved in the scheme to cheat policyholders.

Let's hope his successor vigorously pursues this suit on behalf of the people of Louisiana. This case has tremendous repercussions all across the country.

If you are interested in reading the detailed account of just how insurers colluded to rip-off policyholders through their phony pricing scheme, [CLICK HERE](#).

Lawyer: Whistleblower suit against insurers tossed out

By MICHAEL KUNZELMAN, Associated Press (October 17, 2007)



NEW ORLEANS -- A federal judge on Wednesday threw out a so-called "whistleblowers'" lawsuit that accuses insurance companies of overbilling the federal government for Hurricane Katrina's flood damage to Louisiana homes.

Allan Kanner, the New Orleans-based attorney who filed the suit on behalf of a group of former insurance adjusters, said U.S. District Judge Peter Beer dismissed the case on procedural grounds and didn't rule on the merits of the allegations.

Kanner's suit accuses Allstate Insurance Co., State Farm Fire and Casualty Co. and other insurers of misrepresenting claims to the National Flood Insurance Program to limit their liability for storm damage after Katrina laid waste to tens of thousands of Gulf Coast homes.

Insurers have denied inflating flood damage estimates to avoid paying more money on claims for wind damage. The companies, which say their homeowner policies cover damage from wind but not rising water, sell separate flood insurance policies

that are federally subsidized.

State Farm spokesman Phil Supple confirmed that Beer dismissed the case. Supple said Beer's ruling may be a "procedural legal decision, but we believe it to be a correct one."

"We still believe the underlying allegations to be groundless, and we're moving forward," he said.

Allstate spokesman Mike Siemienas said, "We will continue to cooperate with the government's review of the allegations and remain confident in the integrity of Allstate's claims handling practices."

Kanner wouldn't say if he planned to appeal Beer's ruling, which the judge issued verbally at the conclusion of a hearing Wednesday. Beer didn't immediately issue a written ruling.

"I think it's important to remember that he did not make a ruling on the merits of the allegations," Kanner added.

Beer didn't immediately return a telephone message left at his office.

Beer unsealed the suit in May, when U.S. Attorney David Dugas of Baton

Rouge said his office wouldn't intervene in the case. Kanner filed the suit in August 2006, but it was legally required to remain under seal while federal officials reviewed the case.

Kanner said the "upshot" of Beer's ruling is that "if anything is going to get done, it has to get done by the Department of Justice."

A similar case, filed by prominent attorney Richard "Dickie" Scruggs, also is pending in federal court in Mississippi. Scruggs said that case remains on hold while federal officials consider intervening.

Kanner filed the Louisiana suit on behalf of Branch Consultants, which is identified in court papers as a Georgia-based insurance and construction consulting firm. The former adjusters who are plaintiffs in the case aren't named in the suit.

The list of defendants also includes Liberty Mutual Fire Insurance Co., Fidelity National Insurance Co., American National Property & Casualty Co., Scottsdale Insurance Co. and St. Paul Travelers Cos.



Here's something that will be abuzz soon: FACTA (Fair and Accurate Credit Transaction Act). This recently effective federal statute allows for the potential recovery of damages between \$100 and \$1,000 simply if a merchant hands you a credit or debit card receipt containing more than the last five digits of your account number, *or even just the card's expiration date alone*. It also provides for attorney's fees and punitive damages. More than 250 FACTA punitive class actions have already been filed against retailers and restaurants

in several states.

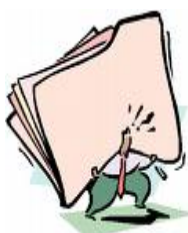
WOW — more fodder for the tort reformers.

More info about FACTA [CLICK HERE](#).

WILDFIRE CLAIM HQ: A CRASH COURSE IN OVERCOMING CLAIM PITFALLS

One thing you can always count on from insurers is a repeat performance. Looking back at previous disasters, Policyholders of America (“POA”) has identified some of the most common tricks used by insurers to deny or lowball your covered loss. Included in this list are some proactive measures you should take to help counter insurance bad faith.

Lack of documentation:



If you're like most, you neither photographed nor properly documented the items lost. If you did, chances

are fairly good that these documents were also consumed by the fire.

If items are not documented, you didn't own them and cannot get reimbursed. Here are some tips on how to recreate documentation:

Ask reliable and independent associates (workmen, interior designers, housekeepers, babysitters, acquaintances, etc...) to sign an affidavit stating that they were at your home on a regular basis and were familiar with your furnishings, clothing, etc... and describe the items as specifically as possible (manufacturer, year purchased, if an antique give the year made, size, upholstery/material, store where the item was purchased, and replacement cost).

A. Retrace your purchases by calling the store/vendor from which the item was purchased. They may have retained the records.

B. Ask family members and friends to send you any and all photos taken at or of your home. Once in hand, these

photos will help prove what you owned.

C. If an appraisal was done on the property within a five year period, ask the licensed appraiser who did the appraisal to send you a copy.

D. POA offers two terrific documents that are extremely important and can be accessed for **free**. The first document helps you *document the status of the claim* and can be accessed at:

http://policyholdersofamerica.org/claims_form.pdf

The second document is a home inventory form that can help *recreate and/or document your contents* on a room by room basis. This document can be downloaded and personalized online by going to:

<http://policyholdersofamerica.org/HomeInventoryForm.doc>



Under/over insured:

All insurance policies contain mechanisms that help insurers

cheat their policyholders if the coverage limits are not plus- or minus 80% of the actual replacement value. In other words, if today's replacement cost of a home is \$500,000, and the policy limits on the dwelling is \$250,000 (only half the actual replacement cost value) the insurer could get away with penalizing the policyholder by a whopping 50% on the claim payout. Same holds true if you are over-insured.

There is a way around this terrible mistake if the policyholder

relied on his or her insurance agent to establish coverage limits. Most insurers stress the importance of following the advice given by their agents and a sound argument could be made that you abided by your agent's advice and such a penalty should not be levied against you. Furthermore, insurers automatically increase policy limits based on cost of living increases, inflation, etc... – another reason why you may have relied on *them* to establish accurate coverage limits.

Xactimate or IntergrClaim – The Holy Grail for insurers:

When any and/or all of the above tricks are exhausted by the insurer, the insurance ad-



juster may well rely on pricing programs called Xactimate or IntergrClaim to spit out lowball prices for repair and/or replacement. These allegedly

“independent” programs actually are based on insurer-inputed prices that are woefully low. These lowballed prices benefit the insurer because they adjust claims and make payouts based on the phony pricing programs.

To combat these pricing software programs, POA urges its members to get bids from vendors who **do not use** Xactimate (produced by Xactware) or IntergrClaim (produced by Marshall & Swift/Boeckh). Before asking contractors to bid on your work, ask each contractor if he/she uses either of these pricing programs and do not allow contractors using either software program to bid on your job. Instead, only use contractors who use real life prices in their bids/estimates otherwise the bids will be used against you.

If you are interested in how insurers have colluded to use

these pricing programs to shortchange policyholders, [CLICK HERE](#) to read the recently filed Attorney General's suit against those involved in the scheme.

Remember, the insurance policy is a contract between the policyholder and the insurance company. It not only specifies duties of the insurer, but also *duties of the policyholder*. Some of the policyholder's duties include: the duty to *mitigate* (stop further damage by making temporary repairs), and the duty to *cooperate* with the insurer (be available to the insurer and allow inspections, provide information about the claim if and when such information becomes available including additional living expense receipts, repair and/or replacement estimates, etc., submit to an “examination under oath” if the insurer requires one, etc...). *Do not violate any of your duties* as that only gives the insurer wiggle room to void coverage.



It probably goes without saying but always let your insurance company know where you can be reached (*including mailing address and phone numbers* if you are not living at the property insured in the policy). And, always *document, in writing, any activity on your claim and communicate with the insurer in writing* in order that there is a written record. (Please download and use POA's free documents listed above because they help organize the important information required.)

POA has posted frequently asked questions about wildfire and other claims on its homepage. [CLICK HERE](#) for the entire article.

Hood, federal government continue State Farm investigation

By ANITA LEE, Sun Herald (Nov. 2, 2007)



A state grand jury investigation of State Farm insurance companies is continuing, despite Attorney General Jim Hood's assurances that it ended in January, the insurance company claims in a lawsuit filed in U.S. District Court in Hattiesburg.

State Farm is suing Hood for breach of contract over the investigation. Documents indicate it centers on State Farm's handling of policyholder claims on the Coast that involved wind and water damage. State Farm was ordered to bring National Flood Insurance Program records and other documents to a grand jury on Sept. 17 in Jackson County, according to the records.

Attorneys for policyholders have maintained that State Farm tried to minimize its losses for wind damage by blaming tidal surge instead. Tidal surge is covered under the Na-

tional Flood Insurance Program.

Hood's office subpoenaed all correspondence between State Farm and NFIP related to Katrina damage assessments and other records that would shed light on State Farm's claims handling practices.

The nation's largest insurance company also remains under federal investigation, according to the court records. State Farm has denied any wrongdoing.

Hood agreed in January to end his investigation in exchange for a settlement agreement State Farm reached with attorneys for 640 policyholders suing over Hurricane Katrina damage.

However, Hood maintains that State Farm failed to live up to its obligations to policyholders, voiding his agreement with the insurer.

U.S. District Court Magistrate Judge Michael T. Parker allowed State Farm to file the lawsuit under seal, which means the lawsuit and hearings held in the case were kept secret. Parker unsealed the court file Friday at State Farm's request.

Parker's decision comes on the eve of Hood's reelection campaign. The Democrat is facing Republican attorney Al Hopkins of Gulfport, who has criticized Hood in television commercials for ending the State Farm investigation.



AG Jim Hood was re-elected on Nov. 6, 2007.

FOR ALLSTATE IT'S ALL GRAVY



In a conference call on October 20, 2005, Allstate's CEO, Thomas Wilson, told industry analysts, "We will continue to take our (homeowners') coverage and exposure down because we have no moral or legal obligation to provide this kind of coverage to people."

He meant it. Since his statement, Allstate has stopped writing and nonrenewed

existing homeowners' policies in many areas of the county. Just like denying legitimate claims, the shift has paid off.

Allstate is on track to exceed last year's record profit of \$5 billion.

How'd they do it? They focused on autos, not homes.

The auto market is far more lucrative than is homeowners insurance. Auto insurance now accounts for 67% of Allstate's product-liability premiums and more than two times the revenue from

homeowners.

Why would POA complain about this? Because Allstate is taking advantage of its customers by cherry picking.

"Cherry picking" or "getting the milk without buying the cow" only propels the insurance shortage. The less the supply, the higher the premiums.

We believe states should adopt anti-cherry picking statutes if they are to tackle the availability crisis.

HEALTH ALERT



POA together with a leading organic whole food laboratory formulated a line of organic products to help naturally relieve symptoms associated with exposure to toxic mold and heavy metals.

All of the products are POA member-tested. Here's the typical reaction from members who tested the line:

"My breathing is easier and my focus has improved in one month." RCA in Texas

"My skin is clearer, my swelling less and my energy level/concentration ability is much improved. I can tell a difference in my overall wellbeing." SNK in California

The line is offered at discounted prices to POA members beginning in January.

State Farm settles 103 Katrina cases in Mississippi

By Michael Kunzelman, Associated Press (September 17, 2007)

NEW ORLEANS — State Farm Insurance Cos. has settled with 103 policyholders in Mississippi who challenged the company's refusal to cover damage to their homes from Hurricane Katrina, a lawyer for the homeowners said Monday.

Terms of the settlement are confidential, said attorney Chip Merlin, whose law firm represents all 103 policyholders who are part of the agreement.

The deal proves that "small individuals can stand up to large insurance companies and still have a resolution that's acceptable to them," Merlin said.

Forty-seven of the 103 policyholders involved in the pact had filed lawsuits against the Bloomington, Ill.-based insurer; the rest had hired Merlin's law

firm to represent them but hadn't filed suit yet.

"We're pleased with this settlement in that it spares our customers and our organization from time-consuming and expensive litigation," said State Farm spokesman Phil Supple.

State Farm was Mississippi's largest homeowner insurer when Katrina hit on Aug. 29, 2005, damaging or destroying tens of thousands of homes in the state.

Thousands of property owners in Mississippi and Louisiana have sued State Farm and other insurers for refusing to cover storm damage. The companies, which say their policies cover damage from wind but not

rising water, have settled hundreds of the cases over the past two years.

State Farm still faces 1,949 lawsuits over Katrina damage in Louisiana, Mississippi and Alabama, spokesman Fraser Engerman said.

Curtis and Joan Lee, who are among the 103 policyholders settling their claim, said State Farm offered them "30 cents on the dollar" when a mediator heard their case months ago. They rejected that offer but are now "entirely satisfied" with the terms of their settlement, Curtis Lee said.

"It's such a relief not to have to worry about this any more," said Joan Lee, 75, whose "dream" retirement home in Diamondhead, Miss., was demolished by Katrina. "I'm so pleased to just forget about this and know it's over."

State Farm previously settled with homeowners represented by prominent attorney Richard "Dickie" Scruggs, agreeing in January to pay about \$80 million to settle with up to 640 policyholders in Mississippi.

In April, State Farm agreed to pay at least \$50 million after re-evaluating claims for up to 35,000 policyholders in south Mississippi who hadn't sued the company. As of Aug. 13, the company had paid \$29.8 million to hundreds of these policyholders, according to Mississippi Insurance Commissioner George Dale.

State Farm still faces 1,949 lawsuits over Katrina damage in Louisiana, Mississippi and Alabama,

What To Do When You Have No Documentation to Support Your Claim

Guest Editorial by Stuart Schlem, JD



In an ideal world, no building catches fire; no water damage occurs; burglars never enter peoples' homes. In fact, in an ideal world, there would be no need for insurance. But we don't live in an ideal world. Fires happen. Pipes freeze and burst. Homes and businesses are broken into on a daily basis. That is why we all maintain insurance on our homes, our businesses, and our automobiles.

When a loss that is covered by insurance does occur, and a claim is made to the carrier, the insured will be asked not only what was lost, damaged, or destroyed, but will also be required to provide documentation to support the claim. In an ideal world, the insured will have clear, legible copies of all receipts and invoices demonstrating not only

ownership of all items claimed, but where each item was purchased, when everything was acquired and the purchase price for each and every item. But once again, we don't live in an ideal world. More often than not, insureds do not have all of their invoices or receipts and cannot demonstrate ownership, age or cost of items claimed.

This was the situation in a recent loss that I appraised. The circumstances of the loss were an appraiser's nightmare, and practically defy belief. A water damage loss occurred while the insureds, a husband and wife who reside on the east coast, were visiting a dying relative on the opposite end of the country. One of the insureds returned late in the evening to discover a pipe had burst and the first floor and basement of their home inundated with water.

The other spouse had remained with family members on the west coast. At the time of the loss, the basement was filled with personal belongings from the second story bedrooms, as the insureds were in the process of painting the upstairs of their home.

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Wind, not water, jury decides



GULFPORT – A jury on Friday decided that Hurricane Katrina's winds caused 100 percent of structural loss to a Bay St. Louis couple's remodeled residence, built on a beachside bluff in 1890.

Jurors hearing the civil case of Kevin and Sherrye Webster against USAA Casualty Insurance Co. deliberated less than four hours before reaching a verdict. The trial resumes Tuesday for a second phase to consider whether USAA should cover the contents of the home, described as a showpiece the couple also used to host fundraisers for charitable causes. A third phase could address punitive damages.

Friday's verdict, as first reported on sunherald.com, could be worth \$800,000 for the loss of the couple's landmark home, their attorneys said.

The couple seeks a total of \$1.8 million for policy limits on the structure, contents, a carriage house and living expenses since their home, perched 27 feet above sea level, collapsed on Aug. 29, 2005. Excluding a \$25,000 deductible, USAA paid the couple only \$10,900, which covered roof and interior damage to

their home by wind.

"They're very relieved," attorney Steve Mullins said after the verdict was handed down.

U.S. District Judge L.T. Senter Jr. said the parties agreed to try the case in phases to resolve the disputes more quickly. It stretched into a second week by Friday. It is the region's first Katrina-related insurance case in federal court since March.

The issue of punitive damages includes the couple's complaint that USAA failed to compensate them for the carriage house, insured for \$90,000. Contents were insured for \$700,000. The couple also claims \$140,000 in living expenses since the storm.

USAA maintained that tidal surge, undermining and erosion destroyed the home after some of its pilings gave way.

According to testimony, the tidal surge rose to 25.5 feet, below the home, and a neighbor who rode out the storm claimed she saw a crack in the peak of the roof before the water rose.

USAA attorney Gary Copeland told jurors that pic-

tures indicate the portion of the home that collapsed was the portion with pilings dislodged by erosion.

"Who are you gonna believe - me or your lying eyes?" Copeland asked, referring to a phrase attributed to comedian and film star Groucho Marx.

USAA attorneys presented a videotape recorded at 7:30 a.m. It showed the date and time and waves crashing around a St. Stanislaus building with vehicles bobbing in the water. The Websters' attorneys argued that the videotape was recorded from a building at 10 feet above sea level.

Attorney Charles Merkel, in closing arguments, said the Websters have waited two years for USAA to compensate them for a home "in pristine condition" that colossal winds "turned into a piece of junk."

Senter instructed the jury to return a verdict with two figures that total 100 percent: One to show the percentage of structure loss from wind, wind-blown debris and wind-driven rain, the other for loss caused by storm surge, flooding, erosion and undermining.



Cloud seeding lures farmers, insurance companies, desert nations

More on Silver Iodide:

The Office of Environment, Health and Safety, UC Berkeley, rates silver iodide as a Class C, non-soluble, inorganic, hazardous chemical that pollutes water and soil. It has been found to be highly toxic to fish, livestock and humans. Numerous medical articles demonstrate that humans absorb silver iodide through the lungs, nose, skin, and GI tract. Mild toxicity can cause GI irritation, renal and pulmonary lesions, and mild argyria (blue or black discoloration of the skin). Severe toxicity can result in hemorrhagic gastroenteritis, shock, enlarged heart, severe argyria, and death by respiratory depression.

Lakin, KS: Water is prized in western Kansas, where aquifers are suffering and farms are miles (kilometers) wide and generations deep. A scant half inch (1.3 centimeters) of rain can mean all the difference in a growing season.

But when precipitation comes in the form of fist-sized hail, it can damage and even destroy crops.

That's where the Western Kansas Weather Modification Program and other cloud-seeding operations across the western U.S. come in. The Kansas program is among about 10 that tinker with the weather — either by trying to cut the size of hail or boost rainfall and snowpack. They do it largely by shooting up storm clouds with silver iodide.

Other countries also have used or considered using weather modification. The United Arab Emirates has investigated cloud seeding to help increase rainfall. China has announced plans to use cloud seeding to manage rainfall during the 2008 Olympics, and Indonesia has used it to try to fight fires.

Cloud seeding has a host of critics, from those who say there is no good science to support claims that it works, to others who raise concerns about the possibility that it actually may cause less rain and harm the environment.

But as water supplies show signs of stress around the globe and insurance companies add up hail damage payouts, weather modification programs persist.

"What's beginning to happen is that worldwide, people are realizing that water, especially fresh water, is a very precious resource, and we need to do what we can to increase the availability of that resource,"

said Bruce Boe, director of meteorology for Weather Modification Inc., a Fargo, North Dakota-based company that has been seeding clouds since the 1960s. The company has contracts in the U.S., Africa, southeast Asia and Canada, where it does business with insurance companies.

"They'll say, 'We paid out \$500-\$600 million (€356 million to €427 million) in claims on hail damage, and the forecast is for more hail storms, so we want you to come in for a couple million dollars and take care of the hail,'" Boe said.



Cloud seeding was developed after World War II to try to increase rainfall. The theory is that the silver iodide, which has a structure that resembles ice, creates raindrops in the clouds, increasing precipitation and reducing moisture for hail formation.

In the U.S., weather modification programs are largely run by individual states and counties. But a measure before the U.S. Senate would allocate \$10 million (€7.1 million) a year to establish the Weather Mitigation Advisory and Research Board, which would study weather modification programs and develop policy.

Kansas started its program in 1975. The Western Kansas Weather Modification Program now covers about 8,000 square miles (21,000 square kilometers) and is used about 85 percent of the time for hail reduction. The program, which receives state and local fund-

ing, was briefly extended into northwest Kansas in the late 1990s. But residents became concerned that cloud seeding might have been reducing their rainfall amounts and voted the program out.

The program operates from April through September with four planes. Program manager Walt Geiger monitors the weather from a radar station at the tiny Kearny County airport in Lakin. When he sees a storm developing, one with "lots of strong vertical action" that could be a hail producer, Geiger notifies the pilots, who then head into the storms in their single-engine planes, armed with nerves and bayonet-sized canisters of silver iodide.

A 1998-1999 study of the Kansas program found that while there was a statistically significant reduction in hail that year, there was no evidence to support the program's attempts to increase rainfall.

The science behind cloud seeding, while "excellent at the microscopic level," doesn't translate too well outside the lab, says Terry Kastens, professor of agriculture economy at Kansas State University, which conducted the study.

"The practicality of whether you can actually get enough of the iodide in the air is a really big question," says Kastens. "A lot of time we joke it's like shooting a pea shooter at the clouds."

David Brenn, the program's director, disputes naysaying about it, saying he has seen the benefits of the hail reduction program. He says the western Kansas program has been peer-reviewed several times, including by the Kansas

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Cloud Seeding... continued from page 9

Water Office, and has been found to have a cost-benefit ratio of about 1 to 37. The program is especially beneficial in western Kansas, a hail-prone area where farms often rely on irrigation, Brenn says.

"If you've got corn and you've already irrigated it three times and you get it hailed out, that water is lost," Brenn says. "And so one way to look at this as it ties back to production agriculture, is that by reducing hail, we're not producing (crops) and then Mother Nature takes them away."

Eradicating hail is not the program's aim, he emphasizes, but rather "to reduce the intensity of the hail, either through the size of the hail or whether the hail is soft or hard."

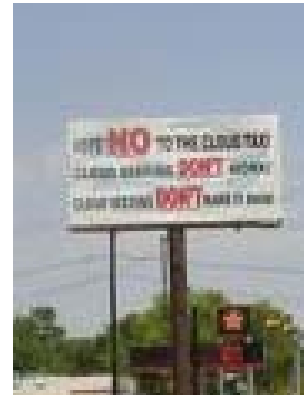
But Mike Standley, whose family has farmed in southwest Kansas for about a century, says he's concerned that cloud seeding may be costing him some precious rain. He has noted a lack of regular afternoon thunderstorms on his land.

"Now the day when we have

one little storm popping up, they'll be flying up and around it, and it just seems to fizzle out," he says.

Standley says he would like to see solid proof that cloud seeding works. With 14 to 19 inches (35.6 to 48 centimeters) of precipitation a year, he just can't spare the moisture.

"I can raise crops with hail," he said. "But I can't raise crops with no moisture."



An anti-cloud seeding sign in Texas aims to stop the process.

No Documentation ...

continued from page 7

When the insured returned and discovered the loss, the other spouse was contacted and made arrangements to return as well. In the interim, the insured that was at home began to mop up whatever water could be removed until the local Home Depot opened the following morning and a wet-vac could be purchased. The insured then spent the entire morning attempting to mitigate the loss by removing water from the first floor and basement of their home. In addition, the insurer was notified of the loss, and recommended that a water remediation company be contacted. The insured complied with the insurer's recommendation, making calls to several such companies. But only one company appeared that day, showing up at 5:30 p.m. with a single wet-vac barely larger than the one purchased by the insured at Home Depot. The remediation company submitted a proposal to remove the water and dry out the premises, but the insured chose not to enter into any agreement until their spouse had returned from the west coast, scheduled for the following night.

In the meantime, the insured at home continued to extract the water through the following day, until illness took over and a brief visit to the emergency room ensued. That night, their spouse returned from the west coast.

The following day, the insurer's adjuster finally met with the insureds. Unfortunately, what transpired at the meeting was subject to differing recollection, as the adjuster left the employ of the insurance company shortly thereafter. All that is known is that the insurer's representative took some photographs of the subject property. This proved to be significant later on.

Within days of the adjuster's visit to the insured premises, the relative that the insureds had been visiting passed away, and the insureds made arrangements to travel back to the west coast. In so doing, they left friends in charge of overseeing the cleanup of their home, which leads to the original premise of this article.

When the insureds' friends went through the damaged contents, mold had already started to set in. Clothing started to smell and foodstuffs had begun to turn rancid. The friends were not professionals in the handling of damaged property and simply chose to discard items that they believed could not be salvaged. Included in the items disposed of were virtually all of the insureds' books and records, making it impossible to justify any of the amounts claimed on the inventory they eventually prepared. Needless to say, no one took photographs of what had been discarded. By the time the insurer sent their second adjuster, there was no evidence of what had

been damaged or destroyed.

If all of the above weren't a true story, you could almost call it a comedy of errors. Unfortunately for these insureds, there was nothing funny about this loss or the amount of time all of these circumstances contributed to the delay of their claim.

When the parties to the policy of insurance failed to agree on several aspects of the claim, including the value of the damaged contents, the insureds elected to have the dispute determined through the appraisal process. As the duly appointed appraiser on behalf of the insureds, I realized that proving damages to the contents was going to be difficult to say the least.

Prior to my involvement, the insureds had prepared an inventory of their damaged and destroyed contents. Their inventory contained information regarding place of purchase, original purchase price, as well as estimated replacement costs obtained from internet searches and visits to local retail merchants. I spent considerable time reviewing the inventory with the insureds and eventually we prepared a document suitable for submission to the umpire. However, other than the internet documentation, we still had no tangible supporting documentation. The only solution was to present the inventory from the perspective of the

insureds. To that end, the best evidence was the veracity of the insureds themselves.

At the time of the appraisal hearing, the insurer's appraiser provided the few photographs taken by the original adjuster, and argued that, in the absence of pictures of damaged property, invoices and receipts, the insureds simply could not establish their loss. On the other hand, as their appraiser, I had the insureds provide the umpire with a detailed tour of the premises, explain in extensive detail the circumstances of their loss, and provide testimony regarding the scope of their damages. While the insurance company contended that the losses could not be sustained by reason of the absence of any documentation, the umpire felt otherwise. In the end, the insureds were awarded a significant portion of their contents claim without a single receipt or invoice evidencing original ownership.















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POA Legislative Watch List: Federal Legislation that impacts your



Bush has threatened to veto a number of the Bills listed in the table to the right.

Bill number (related Bill)	Subject of Proposed Home insurance-related Bill	Status of Bill	Insurance Industry take on Bill	POA's take on Bill
H.R. 3355 S (bill number unknown but identical to HR 3355)	Availability and affordability of insurance	Passed House and referred to Senate		We would like this bill to include certain provisions. 
S 928	Better protection against natural catastrophes	Introduced		
H.R. 3121 H.R. 683 H.R. 920	Restore financial solvency to National Flood Insurance Program and provide multi-peril coverage (wind damage) to existing flood coverage	Passed House and referred to Senate Banking Committee. Senate committee took out wind coverage and now it will be debated by Senate.	Insurers have thrown a hissy-fit over the potential of adding wind coverage and have called in the big guns to fight it. 	We would like wind to be added as an option (reasons are provided on pages 1–2 of this newsletter) 
S 40 H.R. 3200	Creates a Federal charter to regulate insurers (related to HR 1081 and S 618)	Introduced		
H.R. 1081 S 618	Amends McCarran-Ferguson Act (anti-trust act) so that insurers are not exempt. Asks Federal Trade Commission to regulate insurers.	Introduced	Most insurers oppose this bill. 	We support this bill but want state AND Federal regulation. 
S 292 H.R. 537	Establishes commission to study insurance reform	Introduced		
H.R. 164 S 926	POA views this as another insurance company gimme. It changes the IRS rules to allow insurers to make tax deductible contributions to a fund that pays claims. They are SUPPOSED to be good stewards of our premium dollars, invest them wisely and pay claims with them.	Introduced		

As you can see from the above table, there is little on which POA and the insurance industry agree.

Health Concerns Spur U.S. Senate to Global Warming Action

By J.R. Pegg, Environmental News Service

WASHINGTON, DC, October 23, 2007 (ENS) - Amid growing evidence that scientists have underestimated the pace of global warming, public health experts on Tuesday urged U.S. lawmakers to support efforts to better understand the human health impacts from climate change.



Dr. Michael McCally shares his concerns with Senate lawmakers. (Photo courtesy EPW)

"Climate change is a global health crisis," Michael McCally, a public health physician and executive director of Physicians for Social Responsibility told the Senate Environment and Public Works Committee.

Scientists predict climate change will increase heat waves, fires, flooding, hurricanes and drought - all of which adversely impact human health, McCally said.

Furthermore, a warming climate also has the potential to decrease air quality, negatively impact the quantity and quality of fresh water supplies and increase vector, food and water-borne diseases.

"Weather is inextricably linked to health," said Julie Gerberding, director of the U.S. Centers for Disease Control, CDC. "We see that in the kinds of weather events that occur every day. We see it seasonally with the relationship to influenza, we see

it over years in the consequences of things like El Nino, and I believe we will see this on a much a long time-frame in the context of our changing climate."

Gerberding, citing the raging fires in California, the drought affecting the southeastern United States and this week's flooding in New Orleans, said CDC is increasingly "being asked to prepare and respond to these kinds of extreme weather events."



Dr. Julie Gerberding heads the Centers for Disease Control and Prevention. (Photo courtesy EPW)

Climate change is already affecting human health, said McCally, noting that the World Health Organization, WHO, estimates that global warming contributes to 150,000 deaths and five million illnesses every year.

While those deaths and illnesses "may not be as apparent in the United States, the impacts of global warming are pervasive and will shortly affect every citizen in this country in some manner," he told the committee.

State health officials are increasingly concerned, according to Susan Cooper, Tennessee health commissioner and member of the Association of State and Territorial Health Officers.

Earlier this month the association unanimously adopted

a position statement supporting the latest findings of the UN's Intergovernmental Panel on Climate Change and recognizing that climate change has far-reaching implications for public health.

Cooper warned the committee that climate change could place "unprecedented demand" on the nation's public health system.

The committee considered



High temperatures damage the environment, property and human health. (Photo by Evin Oryan)

the issue as it prepares to finally consider global warming legislation and in light of a new study that finds atmospheric concentration of carbon dioxide, the main greenhouse gas, has increased 35 percent faster than expected since 2000.

A team of scientists from the University of East Anglia, the Global Carbon Project and the British Antarctic Survey published research in the latest issue of the U.S. journal "Proceedings of the National Academy of Sciences" showing that improvements in the carbon intensity of the global economy have stalled

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The World Health Organization says that global warming contributes to 150,000 deaths and 5 million illnesses every year.

Global Warming.... continued from page 12

since 2000 after improving for 30 years. They say this has led to the unexpected growth of atmospheric carbon dioxide.

But whether this latest information - or the warnings of public health experts - will do much to sway opponents of global warming legislation is unclear.

Several Republicans have already raised concerns about the proposal set for consideration by the Senate Environment and Public Works global warming and wildlife protection subcommittee.

The bill, introduced last



Senator Barbara Boxer of California (Photo courtesy EPW)

week by Senators Joe Lieberman, a Connecticut independent, and John Warner, a Virginia Republican, aims to cut U.S. greenhouse gas emissions some 60 percent by 2050.

A chief Republican complaint is the intent of leading Democrats to move the legislation quickly. A hearing by the subcommittee is set for Wednesday, with a tentative mark-up set for next week.

Senator Barbara Boxer, a California Democrat and chair of the Environment and Public Works Committee, has told colleagues she wants to get the bill through the full committee by December, before the United Nations annual climate change conference in Indo-

nesia. At this meeting, negotiations are set to begin on a successor agreement to the Kyoto Protocol, the world's only framework to limit greenhouse gas emissions. The protocol expires in 2012.

Six Republicans on the Senate Environment and Public Works Committee sent Boxer a letter last week criticizing that plan, detailing concerns that several of them raised during Tuesday's hearing.

Boxer's schedule "falls far short of a considered and deliberative process," said Senator James Inhofe, an Oklahoma Republican, who has famously called global warming "the greatest hoax ever perpetrated on the American people."

The committee has held



Senator James Inhofe of Oklahoma (Photo courtesy EPW)

"hearing after hearing on what people think about global warming or what might happen if we have global warming,"

Inhofe said. "But little on what will happen if we legislate global warming."

Tuesday's hearing was the 20th on climate change held this year by the committee.

Senator Kit Bond, a Missouri Republican, said the hearing on public health impacts from climate change showed "there is something very vital missing" in the debate over

the Lieberman/Warner bill.

"No one is asking if a solution we are considering will inflict more harm on the American people than the things we are trying to avoid," Bond said.

Inhofe echoed that concern and said the issue of health and global warming appears to have "fallen prey to politics," warning that public health will be adversely affected by "rash action to pass costly symbolic measures."

Boxer rejected that concern outright, arguing that the science is clear and strong action is needed.

"This is a looming crisis and we have a responsibility to act," Boxer said. "If we wait, then we could waste valuable time and people could be severely injured as a result. You can't close your eyes to the future and you can't close your eyes to the present."

"We are so far behind," Boxer warned. "There are still people who say HIV doesn't cause AIDS and tobacco doesn't cause cancer - you are never going to have unanimity. Basically there is as close to unanimity as you can get from the scientists and among the doctors and yet it is so elusive here in the U.S. Senate. We are going to try to challenge that in this committee."

Dismissing global warming is like saying tobacco doesn't cause cancer.

Senate panel backs flood insurance changes

THE BILL: IN A NUTSHELL

The House version of this Bill expanded the flood insurance program to make available optional multiperil insurance coverage against personal property losses arising from windstorms. Only those with flood insurance would be eligible for wind coverage.

The provision, supported by some home builder and realtor groups but opposed by insurance industry groups, was promoted by Rep. Gene Taylor, D-Miss., whose Bay St. Louis home was destroyed by Katrina. Taylor says the new wind coverage would be risk-based and actuarially sound and would end the need for homeowners to be forced to hire lawyers and engineers to prove what damage was caused by wind and what was caused by flood.

The Bill was sent to the Senate Banking committee where committee members stripped the wind coverage provision from the Bill.

One rare Republican Senator, Trent Lott, supports adding a wind coverage option to flood policies.

The Bill also allows annual premium increases of 15%, up from 10%. Even with that, flood insurance is very cheap.

The U.S. Senate Banking Committee voted unanimously on Wednesday to reform federal flood insurance, but refused to follow the lead of the House of Representatives and expand the program to cover wind damage.

The House last month voted to overhaul the almost 40-year-old National Flood Insurance Program, which was badly crippled by heavy hurricane property damage claims in 2005.

The House bill would expand the program to cover wind damage, a response to outrage among some Gulf Coast homeowners over insurers' refusal to pay claims for hurricane damage.

Insurers have lobbied hard to block a wind expansion, arguing it would crowd them out of a viable business. The Bush administration has pledged to veto the House bill.

The Senate bill strengthens the financial position of the flood program, improves flood mapping and extends the program for five years.

Committee Chairman Christopher Dodd, a Connecticut Democrat, said he did not want to add wind coverage without knowing what it would cost.

He expects to get cost estimates from congressional researchers in about six months and to revisit the issue. The flood bill goes next to the Sen-

ate floor for action.

"Wind insurance would have been a great addition to this program," said Sen. Mel Martinez, a Republican from Florida where hurricane damage is a sensitive political issue.

Martinez did not seek to amend the flood insurance bill in committee. "We're going to try to do something on the floor," he said, adding he was not optimistic of prevailing there.

Major insurers closely monitoring the congressional efforts include Allstate Corp, Travelers Cos Inc, Nationwide Insurance and State Farm.

Home unsold and vacant: Insurance is problematic

Asbury Park (N.J.) Press

At a time when houses are taking longer to sell, some people move into a new home before the old one is sold, leaving it to sit vacant.

That can create a dilemma; homeowner's insurance policies typically require that the owner live in the house.

Homeowners must realize there's a problem. "They don't think about it," said Chris Oehrle of Weichert Insurance Agency in Morris Plains, N.J.

An insurance company might find out about a vacant house if it is inspected as part of the sale process, or if the owner files a claim, which could be rejected, said Keith Taege of Turton Signature Insurance in Point Pleasant Beach, N.J.

Insurers have different ways of handling the situation.

Selective Insurance Group will continue coverage for a "reasonable amount of time for the sale to occur," wrote Michele Aromando, vice president at Selective, in an e-mail.

How long a policy is continued would be determined by such factors as whether a contract is pending, whether the house is checked regularly and whether the utilities are on, Aromando said.

State Farm Insurance generally gives a policyholder six to nine months to sell a vacant house or may extend it to the policy's expiration, spokesman John Baldino said in an e-mail.

"The company does understand that the real-estate market is cooling down," Baldino said. "We will evaluate each unique case."

If a house is vacant more than 30 days, the policy may cover only major losses, not smaller problems such as vandalism or broken windows, he said. State Farm won't renew a policy if a house is vacant, and the company does not insure vacant homes, Baldino said.

Some companies offer policies that cover vacant properties for fire, vandalism, storm damage and even frozen pipes, Taege said. But the policies can be expensive.

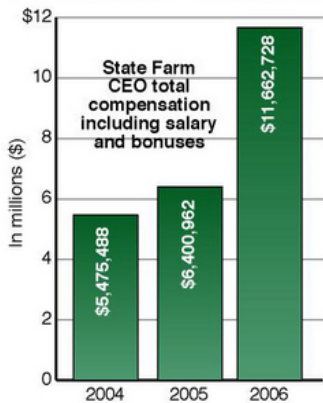
Insurance exec pay raises: As insurers cut back, executive pay rises

Compensation doubles

Edward Rust Jr., State Farm chairman and CEO, saw his compensation more than double between 2004 and 2006. Earlier this year, the company announced it was dropping homeowners coverage for some 2,600 policyholders in Mobile and Baldwin counties. It has also stopped writing new policies in Mississippi and increased rates along the Gulf Coast since 2004.



State Farm CEO Edward Rust Jr.



Source: Nebraska Dept. of Insurance Press-Register graphic

The hurricanes of 2004 and 2005 may be long gone, but as Gulf Coast residents well know, they left a lasting gouge on the property insurance market. Insurance companies have raised rates, dropped thousands of existing policyholders and, in some cases, even stopped writing new business in the region, generally on the grounds that they must cut their potential losses from future storms.

But there is little sign that the belt-tightening extends to top executives at those firms, at least when measured by pay. Since Hurricane Ivan struck in 2004, many industry leaders have enjoyed handsome boosts in compensation, according to public records reviewed by the Press-Register. The companies defended their pay practices, offering a variety of reasons for the increases, such as strong corporate performance and pay scales at similar-sized firms.

At State Farm, which announced in February that it was dropping homeowners coverage for some 2,600 policyholders in Mobile and Baldwin counties, Chairman and Chief Executive Officer Edward Rust Jr. collected about \$11.7 million in salary and bonus last year - more than double the \$5.5 million he received in 2004. Other top executives shared in the wealth. Michael Tipsord, the company's chief financial officer, made almost \$5 mil-

lion last year, compared with \$1.1 million in 2004.

At Alfa Insurance Corp.,

tion of their 10 highest-paid executives each year. Of the leading homeowners providers in Alabama, the Nebraska agency lacked complete records for only one, the Automobile Insurance Company of Hartford.

Insurance executive compensation after Ivan

Here is a look at compensation at leading Alabama homeowners insurance providers for their highest-paid executives in the years 2004-06. This also lists actions that those companies have taken to reduce their exposure to losses in Mobile and Baldwin counties since Hurricane Ivan struck in September of 2004. The pay figures may include salary, bonuses and other forms of compensation, such as stock options.

Company/officer/compensation	Loss reduction action
Alfa Insurance Corp., Ala. Jerry Newby, President and CEO 2004: \$1.35 million 2005: \$1.5 million 2006: \$1.7 million (up 25.9% from 2004)	Dropping wind coverage for 4,600 policyholders
Allstate Insurance Co., Ill. Edward Liddy, Chairman and CEO* 2004: \$29.5 million 2005: \$21.6 million 2006: \$20.1 million (down 31.7% from 2004)	Dropping 9,500 to 10,000 homeowners policies
Fire Insurance Exchange, Calif. Frank R. Woudstra, President 2004: \$834,893 2005: \$1.1 million 2006: \$1.46 million (up 75.3% from 2004)	No changes in coverage
USAA, Texas Robert G. Davis, CEO 2004: \$1.5 million 2005: \$4.1 million 2006: \$3.8 million (up 150% from 2004)	No changes in coverage
National Mutual Fire Insurance Co., Ohio W.G. Jurgensen, CEO 2004: \$451,759 2005: \$497,850 2006: \$423,895 (down 6.2% from 2004)	No changes in coverage

*Stepped down as CEO at the end of last year but remains as chairman

Sources: Nebraska Dept. of Insurance, Alabama Dept. of Insurance Press-Register graphic

which is dropping wind coverage for 4,600 coastal policyholders in Alabama, President and CEO Jerry Newby's compensation package last year totaled about \$1.7 million, up by more than one-quarter since 2004. For chief executives at California-based Fire Insurance Exchange and Texas-based USAA, two other leading writers of homeowners policies in the state, the percentage increases in compensation during the 2004-06 timeframe were about 75 and 150 percent, respectively.

The Press-Register obtained the numbers from the Nebraska Department of Insurance, which requires all insurers licensed in the state to report the total compensa-

tion of their 10 highest-paid executives each year. Of the leading homeowners providers in Alabama, the Nebraska agency lacked complete records for only one, the Automobile Insurance Company of Hartford.

At State Farm, which was Alabama's leading property insurer last year with almost 30 percent of the market, compensation "has been very modest compared to companies of our size," spokesman Phil Supple said. While the Illinois-based insurance giant ranked 22nd last year on Fortune magazine's list of the top 500 companies in the United States, Rust's compensation placed 124th, Supple said.

He also saw no connection between State Farm's executive pay scale and its efforts to limit exposure to future hurricane losses.

"That, in a way, is what's called good business," he said on the latter subject. "You need to make sure that you don't overextend your company and harm its financial strength."

Echoing that argument was Dave Rickey, a spokesman for Alfa, whose headquarters are in Montgomery. "We're always looking at the risk ahead, not necessarily what's happened in past years," Rickey said. He did not know

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Insurance Exec pay raises...

continued from page 15

all the factors behind the jump in Newby's compensation. About one-third came from salary and bonus increases, while the remainder resulted from a boost in "all other compensation," according to Alfa's latest filing with the Nebraska insurance department. That category may include everything from stock options to long-term disability reimbursement, Rickey said.

One industry critic saw the growing pay packages as evidence of an industry awash in cash.

"They're making so much money, they've got to spend it somewhere," said Robert Hunter, director of insurance for the Consumer Federation of America, a Washington, D.C.-based advocacy group. "Why not spend it on themselves?"

Record profits

In a study released early this year, Hunter concluded that

the property and casualty insurers garnered record profits of about \$60 billion last year. At the same time, in a continuation of a trend dating to the late 1980s, claims payouts by the top 10 insurers fell to 52 percent of total premium revenue, the report estimated.

One partial exception to the trend of skyrocketing executive pay was Illinois-based Allstate Insurance Co., which has taken steps to drop between 9,500 and 10,000 homeowners policies in Alabama, according to the state insurance department. Chief Executive Edward Liddy's total compensation fell by almost one-third between 2004 and 2006. Still, his pay package, including stock options, last year amounted to about \$20.1 million.

That figure, which comes from the company's filing with the Nebraska insurance department, is almost \$4 million lower than what

Allstate Corp. reported in a proxy statement to the U.S. Securities and Exchange Commission earlier this year. Company spokeswoman Laura Strykowski could not immediately explain the discrepancy Friday. Liddy stepped down as Allstate's CEO at the end of last year, while keeping the chairman's post.

Of the nine other Allstate executives listed in the latest Nebraska report, seven had seen their compensation rise since 2004, sometimes significantly. For Robert Pike, executive vice president and secretary, last year's total added up to \$11.1 million, an almost 142 percent increase in two years.

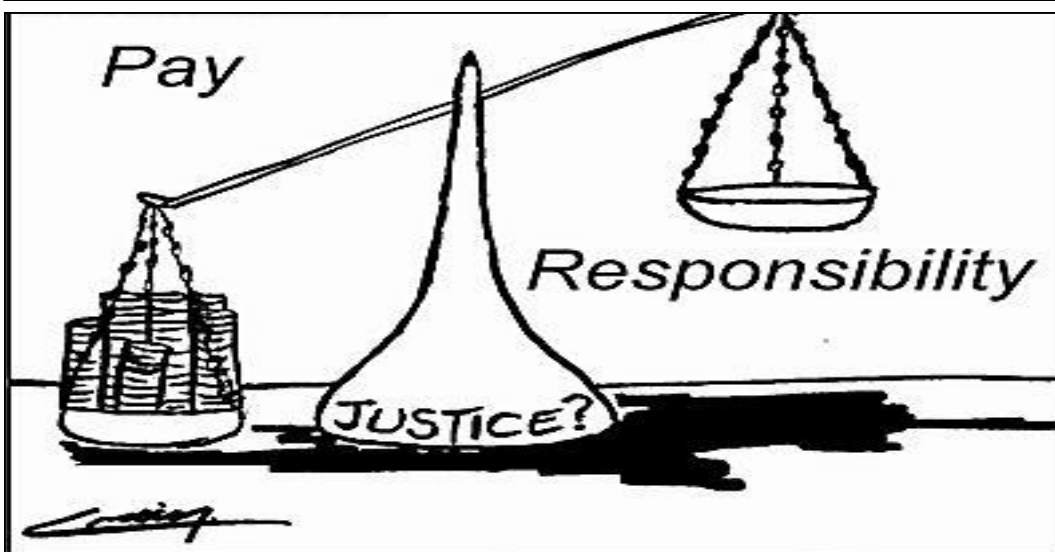
Allstate ties executive compensation to performance, Strykowski said by way of explanation. "With a superior year of performance in '06, Allstate's executives were paid superior levels of compensation," she said.



Random picture of a hog



Random picture of Ed Liddy, Allstate's Chairman. Do you see the resemblance?



Executive Lifestyle

Words of Wisdom: Remarks by Senator John Edwards in Manchester, NH



Many of you know that I am the son of a mill worker -- that I rose from modest means and have been blessed in so many ways in life. Elizabeth and I have so much to be grateful for.

And all of you know about some of the challenges we have faced in my family. But there came a time, a few months ago, when Elizabeth and I had to decide, in the quiet of a hospital room, after many hours of tests and getting pretty bad news -- what we were going to do with our lives.

And we made our decision. That we were not going to go quietly into the night -- that we were going to stand and fight for what we believe in.

As Elizabeth and I have campaigned across America, I've come to a better understanding of what that decision really meant -- and why we made it

Earlier this year, I spoke at Riverside Church in New York, where, forty years ago, Martin Luther King gave a historic speech. I talked about that speech then, and I want to talk about it today. Dr. King was tormented by the way he had kept silent for two years about the Vietnam War.

He was told that if he spoke out he would hurt the civil rights movement and all that he had worked for -- but he could not take it any more -- instead of decrying the silence of others -- he spoke the truth about himself.

"Over the past two years" he said, "I have moved to break the betrayal of my

own silence and speak from the burning of my own heart."

I am not holier than thou. I am not perfect by any means. But there are events in life that you learn from, and which remind you what this is really all about. Maybe I have been freed from the system and the fear that holds back politicians because I have learned there are much more important things in life than winning elections at the cost of selling your soul.

Especially right now, when our country requires so much more of us, and needs to hear the truth from its leaders.

And, although I have spent my entire life taking on the big powerful interests and winning -- which is why I have never taken a dime from Washington lobbyists or political action committees -- I too have been guilty of my own silence -- but no more.

It's time to tell the truth. And the truth is the system in Washington is corrupt. It is rigged by the powerful special interests to benefit they very few at the expense of the many. And as a result, the American people have lost faith in our broken system in Washington, and believe it no longer works for ordinary Americans. They're right.

As I look across the political landscape of both parties today -- what I see are politicians too afraid to tell the truth -- good people caught in a bad system that overwhelms their good intentions and requires them to chase millions of dollars in campaign contributions in order to perpetuate their

careers and continue their climb to higher office.

This presidential campaign is a perfect example of how our politics is awash with money. I have raised more money up to this point than any Democratic candidate raised last time in the presidential campaign -- \$30 million. And, I did it without taking a dime from any Washington lobbyist or any special interest PAC.

I saw the chase for campaign money at any cost by the frontrunner in this race -- and I did not join it -- because the cost to our nation and our children is not worth the hollow victory of any candidate. Being called president while powerful interests really run things is not the same as being free to lead this nation as president of a government of the people, by the people, and for the people. If protecting the current established structure in Washington is in your interest, then I am not your candidate. I ran for president four years ago -- yes, in part out of personal ambition -- but also with a deep desire to stand for working people like my father and mother -- who no matter how hard things were for our family, always worked even harder to make things better for us.

But the more Elizabeth and I campaigned this year, the more we talked to the American people, the more we met people just like my father, and hard working people like James Lowe.

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Remarks from John Edwards....

continued from page 17



James is a decent and honest man who had to live for 50 years with no voice in the richest country in the world because he didn't have health care. The more people like him that I met, the more I realized something much bigger was stirring in the American people. And it has stirred in each of us for far too long.

Last month Ken Burns -- who made the great Civil War documentary -- launched his newest epic on World War II on PBS -- and what a story it tells.

At the cost of great suffering, blood and enormous sacrifice, within four years after Pearl Harbor it is incredible what this nation achieved. America built the arsenal of democracy worthy of our great history. We launched the greatest invasion armada in the history of warfare against Hitler's fortress Europe, and, with our allies, we freed a continent of suffering humanity.

At the same time on the other side of the globe we crossed 10,000 miles of ocean and liberated another hemisphere of humanity -- islands and nations freed from the grip of Japanese militarists. While at the same time succeeding in

the greatest scientific endeavor ever undertaken -- the Manhattan project -- and topped it off with building the Pentagon, one of the largest buildings in the world in a little over a year.

It is incredible what America has accomplished. Because no matter what extraordinary challenges we have been faced with, we did exactly what America has always done in our history -- we rose to the challenge.

And, now, as I travel across America and listen to people, I hear real concern about what's going on. For the first time in our nation's history, people are worried that we're going to be the first generation of Americans not to pass on a better life to our children.

And it's not the fault of the American people. The American people have not changed. The American people are still the strong, courageous people they have always been. The problem is what our government has become. And, it is up to us to do something about it.

Because Washington may not see it, but we are facing a moral crisis as great as any that has ever challenged us. And, it is this test -- this moral test -- that I have come to understand is at the heart of this campaign.

Just look at what has happened in Iraq. What was the response of the American people to the challenge at hand? Our men and women in uniform have been heroes. They've done everything that's been asked of them and more. But what about our govern-

ment? Four years after invading Iraq, we cannot even keep the lights on in Baghdad.

When Hurricane Katrina hit New Orleans, the American people were at their best. They donated their time and their money in record numbers. There was an outpouring of support. I took 700 college kids down to help -- young people who gave up their spring break. But what about our government? Three years after hurricane Katrina thousands of our fellow Americans, our brothers and sisters, are still housed in trailers waiting to go home.

There's no better example of the bravery and goodness of the American people than the response to the attacks of 9/11: firefighters and first responders risking and too often giving their lives to save others, charging up the stairs while everyone else was coming down; record bloodbank donations; and the list goes on. But what about our government? Six years after 9/11, at Ground Zero there sits only a black hole that tortures our conscience and scars our hearts.

In every instance we see an American people who are good, decent, compassionate and undeterred. And, American people who are better than the government that is supposed to serve and represent them.

And what has happened to the American "can do" spirit? I will tell you what has happened: all of this is the result of the bitter poisoned fruit of corruption and the bankruptcy of our

political leadership.

It is not an accident that the government of the United States cannot function on behalf of its people, because it is no longer our people's government -- and we the people know it.

This corruption did not begin yesterday -- and it did not even begin with George Bush -- it has been building for decades -- until it now threatens literally the life of our democracy.

While the American people personally rose to the occasion with an enormous outpouring of support and donations to both the victims of Katrina and 9/11 -- we all saw our government's neglect. And we saw greed and incompetence at work. Out of more than 700 contracts valued at \$500,000 or greater, at least half were given without full competition or, according to news sources, with vague or open ended terms, and many of these contracts went to companies with deep political connections such as a subsidiary of Haliburton, Bechtel Corp., and AshBritt Inc.

And in Iraq -- while our nation's brave sons and daughters put their lives on the line for our country -- we now have mercenaries under their own law while their bosses sit at home raking in millions.

We have squandered millions on building Olympic size swimming pools and buildings that have never been used. We have weapons and ammunition unaccounted for that may now be being used against our own soldiers. We literally have billions wasted

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Remarks from Edwards continued from page 18

or misspent -- while our troops and their families continue to sacrifice. And the politically connected lobby for more. What's their great sacrifice -- higher profits.

It goes on every minute of every day.

Corporate executives at United Airlines and US Airways receive millions in compensation for taking their companies into bankruptcy, while their employees are forced to take cuts in pay.

Companies like Wal-Mart lobby against inspecting containers entering our nation's ports, even though expert after expert agrees that the likeliest way for a dirty bomb to enter the United States is through a container, because they believe their profits are more important than our safety. What has become of America when America's largest company lobbies against protecting America?

Trade deals cost of millions of jobs. What do we get in return? Millions of dangerous Chinese toys in our children's cribs laden with lead. This is the price we are made to pay when trade agreements are decided based on how much they pad the profits for multinational corporations instead of what is best for America's workers or the safety of America's consumers.

We have even gotten to the point where our children's safety is potentially at risk because nearly half of the apple juice consumed by our children comes from apples grown in China. And Americans are kept in the dark because the corporate

lobbyists have pushed back country of origin labeling laws again and again.

This is not the America I believe in.

The hubris of greed knows no bounds. Days after the homeland security bill passed, staffers from the homeland security department resigned and became homeland security consultants trying to cash in. And, where was the outrage? There was none, because that's how it works in Washington now. It is not a Republican revolving door or a Democratic revolving door -- it is just the way it's done.

Someone called it a government reconnaissance mission to figure out how to get rich when you leave the government.

Recently, I was dismayed to see headlines in the Wall Street Journal stating that Senate Democrats were backing down to lobbyists for hedge funds who have opposed efforts to make millionaire and billionaire hedge fund managers pay the same tax rate as every hard-working American. Now, tax loopholes the wealthy hedge fund managers do not need or deserve are not going to be closed, all because Democrats -- our party -- wanted their campaign money.

And a few weeks ago, around the sixth anniversary

of 9/11, a leading presidential candidate held a fundraiser that was billed as a Homeland Security themed event in Washington, D.C. targeted to homeland security lobbyists and contractors for \$1,000 a plate. These lobbyists, for the price of a ticket, would get a special "treat" -- the opportunity to participate in small, hour long breakout sessions with key Democratic

lawmakers, many of whom chair important subcommittees of the homeland security committee. That presidential candidate was Senator Clinton.

Senator Clinton's road to the middle class takes a major detour right through the deep canyon of corporate lobbyist

and the hidden bidding of K Street in Washington -- and history tells us that when that bus stops there it is the middle class that loses.

When I asked Hillary Clinton to join me in not taking money from Washington lobbyists -- she refused. Not only did she say that she would continue to take their money, she defended them.

Today Hillary Clinton has taken more money from Washington lobbyists than any candidate from either party -- more money than any Republican candidate.

She has taken more money from the defense industry than any other candidate from either party as well.

She took more money from Wall Street last quarter

than Rudy Giuliani, Mitt Romney, and Barack Obama combined.

The long slow slide of our democracy into the corporate abyss continues unabated regardless of party, regardless of the best interests of America.

We have a duty -- a duty to end this.

I believe you cannot be for change and take money from the lobbyists who prevent change. You cannot take on the entrenched interests in Washington if you choose to defend the broken system. It will not work. And I believe that, if Americans have a choice, and candidate who takes their money -- Democrat or Republican -- will lose this election.

For us to continue down this path all we have to do is suspend all that we believe in. As Democrats, we continue down this path only if we believe the party of the people is no more.

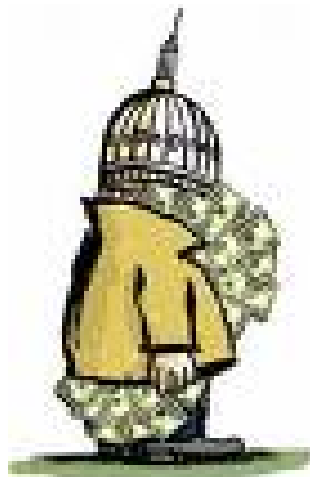
As Americans, we continue down this path only if we fail to heed Lincoln's warning to us all.

"At what point then is the approach of danger to be expected," he asked, "if it ever reaches us it must spring up amongst us. It can not come from abroad. If destruction be our lot -- we must ourselves be its author and finisher. As a nation of free men we must live through all time or die by suicide."

America lives because 20 generations have honored the one moral commandment that makes us Americans.

To give our children a better future than we received.

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Remarks from Edwards ... continued from page 19



I stand here today the son of Wallace and Bobbie Edwards. The father of Wade, Cate, Emma Claire and Jack -- and I know, as well as you, that we must not be the first generation that fails to live up to our moral challenge and keep the promise of America.

That would be an abomination.

There is a dream that is America. It is what makes us American. And I will not stand by while that dream is at risk.

I am not perfect -- far from it -- but I do understand that this is not a political issue -- it is the moral test of our generation.

Our nation's founders knew that this moment would come -- that at some point the power of greed and its influence over officials in our government might strain and threaten the very America they hoped would last as an ideal in the minds of all people, and as a beacon of hope for all time.

That is why they made the people sovereign. And this is why it is your responsibility to redeem the promise of America for our children and their future.

It will not be easy -- sacrifice will be required of us -- but it was never easy for

our ancestors, and their sacrifices were far greater than any that will fall on our shoulders.

Yet, the responsibility is ours.

We, you and I, are the guardians of what America is and what it will be.

The choice is ours.

Down one path, we trade corporate Democrats for corporate Republicans; our cronies for their cronies; one political dynasty for another dynasty; and all we are left with is a Democratic version of the Republican corruption machine.

It is the easier path. It is the path of the status quo. But, it is a path that perpetuates a corrupt system that has not only failed to deliver the change the American people demand, but has divided America into two -- one America for the very greedy, and one America for everybody else.



And it is that divided America -- the direct result of this corrupt system -- which may very well lead to the suicide Lincoln warned us of -- the poison that continues

to seep into our system while none notice.

Or we can choose a different path. The path that generations of Americans command us to take. And be the guardians that kept the faith.

I run for president for my father who worked in a mill his entire life and never got to go to college the way I did.

I run for president for all those who worked in that mill with my father.

I run for president for all those who lost their jobs when that mill was shut down.

I run for president for all the women who have come up to Elizabeth and me and told us the like Elizabeth they had breast cancer -- but unlike Elizabeth they did not have health care.

I run for president for twenty generations of Americans who made sure that their children had a better life than they did.

As Americans we are blessed -- for our ancestors are not dead, they occupy the corridors of our conscience. And, as long we keep the faith -- they live. And so too the America of idealism and hope that was their gift to us.

I carry the promise of America in my heart, where my parents placed it. Like them, like you, I believe in people, hard work, and the sacred obligation of each generation to the next.

This is our time now. It falls to us to redeem our democracy, reclaim our government and relight the promise of America for our chil-

dren.

Let us blaze a new path together, grounded in the values from which America was forged, still reaching toward the greatness of our ideals. We can do it. We can cast aside the bankrupt ways of Washington and replace them with the timeless values of the American people. We can liberate our government from the shackles of corporate money that bind it to corporate will, and restore the voices of our people to its halls.

This is the cause of my life. This is the cause of our time. Join me. Together, we cannot fail.

We will keep faith with those who have gone before us, strong and proud in the knowledge that we too rose up to guard the promise of America in our day, and that, because we did, America's best days still lie ahead.

"It is not an accident that the government of the United States cannot function on behalf of its people, because it is no longer our people's government -- and we the people know it."

Sen. John Edwards

Gulf Insurance Legislation Unveiled

The Alabama legislation (Alabama Coastal Property Insurance Reform Act) mimics legislation passed in South Carolina and allows people living in counties adjacent to the Gulf to apply for insurance coverage. It also provides tax credits for hurricane-resistant home improvements.

IRVINGTON, Ala. — Legislation designed to help the Gulf Coast real estate industry and coastal homeowners hit by high insurance rates was unveiled Wednesday, but Gov. Bob Riley said there is no current consensus to address it in a special session.

The legislation, drawn up after damage from Hurricanes Ivan and Katrina made insuring coastal property far more expensive or unavailable, would create an authority to provide the insurance through an expanded "beach pool."

It would allow condominiums to use a form of self-insurance known as "captive insurance" and would provide tax incentives for hurricane-resistant home improvements.

The Republican governor, joining coastal lawmakers at a news conference in Bayou La Batre, said the proposal doesn't get the state into the insurance business.

"We want to keep it in the private market," Riley said.

State Sen. Ben Brooks, R-Mobile, and state Rep. Spencer Collier, R-Bayou La Batre, have drawn up the insurance reform bills, and efforts have been made to get a bipartisan consensus on them. Brooks said House Speaker Seth Hammett, D-Andalusia, had discussed the bill with him in Brooks' Mobile office.

But Riley's decision not to call a special session on the issue went over well with Democratic legislative leaders.

Hammett said he favors dealing with the insurance problem, ethics legislation and other issues in the Feb. 5 regular session, not in a special session.

Senate President Pro Tem Hinton Mitchem, D-Union Grove, said Brooks' bill has merit, but he agrees with the governor's decision not to have a special session because there is no consensus on Brooks' bill.

"We haven't got everyone together on it, and it would be a waste of legislators' time and taxpayers' money to go to Montgomery now," Mitchem told The Associated Press in a telephone interview.

Mitchem owns two condominiums and is part owner of the Adventure Island family entertainment center in Orange Beach. Last year, he encouraged Riley to call a special session within the regular session to address coastal insurance issues, but that didn't happen.

In the meantime, the condo sales have slowed, insurance prices have risen, and people have tossed around lots of ideas about what needs to be done.

The best approach now, Mitchem said, is to use Brooks' bill to try to develop a consensus by the time the Legislature begins its regular session.

Riley said he believed he had an agreement several weeks ago with Mitchem to call a special session and the governor still held out hope it could happen.

"I'm still hopeful something may transpire in the next two to three weeks," he said. "As of right now we haven't got a consensus."

At Wednesday's news conference, Brooks said his proposal is modeled on South Carolina's recently passed legislation.

Brooks' bill would create the Alabama Coastal Insurance Authority made up of all insurers authorized to write property insurance in Alabama. It would allow people in counties adjacent to the Gulf of Mexico to apply to the authority for essential property insurance coverage.

The governor would appoint nine members to the authority's board — three of them not affiliated with the insurance industry.

Designed to make property insurance available to those meeting eligibility requirements, the measure would restructure the so-called "beach pool" coverage, created in 1971, to all of Mobile and Baldwin counties. All states have a pool intended to be a safety net to respond when the regular insurance market is not working, Brooks said.

Among other provisions, the legislation, called the Alabama Coastal Property Insurance Reform Act, would provide an income tax credit for homeowners for hurricane-resistant home improvements of up to \$1,000 or 25 percent of the cost, whichever is less.

Riley said insurance reform will be a "difficult process," but it's not a process Alabama can avoid.

"Everyone talks about how are we going to get cheaper insurance," he said, adding that it's difficult to have economic development without insurance.

AP writers Phillip Rawls and Bob Johnson in Montgomery contributed to this report.

Consumer group demands that insurance commissioner fire attorney

By STEVE LAWRENCE Associated Press, Nov. 1, 2007

SACRAMENTO—A consumer group demanded Thursday that the state insurance commissioner fire one of his top attorneys, saying the department lawyer tried to help insurers avoid paying \$300,000 in court costs stemming from a fight over auto insurance rates.

The Foundation for Taxpayer and Consumer Rights said it obtained a series of e-mails showing that William Gausewitz secretly collaborated with insurers to file a declaration in court. It says the document supported the insurers' claim that court costs should be paid by the state, not them.

Gausewitz is a former insurance industry lobbyist who is senior counsel to Insurance Commissioner Steve Poizner.

"The documents obtained by FTCR show that Mr. Gausewitz continues to work closely with, and on behalf of, the insurance industry, albeit in a covert fashion—conduct that is utterly incompatible with your pledge of an independent and open administration," the foundation said in its letter to Poizner.

It was signed by Harvey Rosenfield, the group's founder, and Doug Heller, its executive director.

A spokeswoman for Poizner, Jennifer Kerns, said the foundation's criticism is unfounded.

"While Harvey's work is

admirable, he's just plain wrong on this," Kerns said. "The fact is, it is not uncommon for the Department of Insurance to submit statements of fact on particular issues, which is what Bill Gausewitz did in this case."

The dispute involves a lawsuit filed by the insurance industry in 2006. It sought to overturn regulations that limited use of motorists' ZIP codes in setting their auto insurance rates. Consumers groups favored the regulations, saying rates should be based primarily on driving records and not on where people live.

Several groups, including the Santa Monica-based foundation, joined the attorney general in successfully defending the regulations. They then urged a Sacramento County Superior Court judge to order the insurers to repay them for their court costs.

Jeff Fuller, a lobbyist for the Association of California Insurance Companies, sent Gausewitz an e-mail on Aug. 24 asking the department to give the judge a declaration the industry had drafted.

"We believe that the court should be aware of the information contained in the declaration and that (a) signature by the insurance commissioner or someone else in the Dept. of Insurance is appropriate," Fuller wrote in an e-mail obtained by the foundation under the California Public Records Act.

Gausewitz asked that the declaration be rewritten and returned to him.

"Send the draft declaration, in Word format, to me alone," Gausewitz told Fuller. "Please don't talk about this to other folks until we have talked about it further."

Gausewitz subsequently sent a copy of the declaration to several people, including an attorney for Consumers Union, another of the groups involved in defending the regulations.

Gausewitz said the declaration provided historical information about the department's payment of consumer group court costs from a fund set up to enforce Proposition 103. That initiative, passed by voters in 1988, governs auto insurance rates.

He said in the e-mail to the Consumers Union attorney and others that the declaration was "provided to give factual information only. No (department) position is implied by or should be inferred from this declaration with respect to any legal issue before the court in this litigation," he added.

The declaration, filed with the court on Sept. 12, stated that the department had paid out \$2.5 million from the Proposition 103 fund to cover court costs run up by various groups helping enforce the proposition.

Rosenfield said the decla-

ration was "anything but routine. ... The only purpose was to relieve the companies from having to pay for the cost of the lawsuit. That is not routine."

The judge, Rosenfield said, subsequently ordered the industry, not the Department of Insurance, to pay the court costs.

William Gausewitz, the top attorney at the California Department of Insurance, is a former insurance lobbyist. The FTCR says he continues to work closely with, and on behalf of, the insurance industry and wants him fired.

Fla. Insurance Liability Limited

By BILL KACZOR, Associated Press, Sept. 20, 2007

Insurance companies can be required to pay only for actual damages and just those resulting from covered perils such as wind storms or fires - not other causes - the state Supreme Court said Thursday in two rulings affecting homeowner policies.

The opinions rejected prior appellate court decisions that let hurricane victims whose homes were a total loss collect up to their wind-storm policy limits even though flooding was at least partly to blame.

One ruling could affect an undetermined number of people who lost homes to hurricanes in 2004. Nearly all are victims of Hurricane Ivan and did not have federal flood insurance or their damages exceeded flood policy limits.

Most are customers of the state-created Citizens Property Insurance Corp., which stands to save nearly \$150 million as a result of the ruling, said Citizens spokesman Rocky Scott. Citizens general counsel Perry Cone said the decision affects about 200 lawsuits pending against the company including class actions with multiple plaintiffs.

The Legislature in 2005, though, changed state law to clarify that wind policies provide coverage only for wind damage - not flooding.

"The Legislature only fixed something the courts should have gotten right in the first place," said William Stander, a spokesman for the Prop-

erty Casualty Association of America.

The Supreme Court's unanimous decision in the case of Eugene and Debra Cox, a Pensacola area couple who lost their home to Ivan, adopts limitations that are in the new law for damages that occurred before it was passed.

The high court's second decision applies the same criteria to supplemental coverage for replacement or repair costs that go beyond policy limits to meet requirements in new building codes or other laws.

That ruling came in the case of Juan and Jacqueline Ceballo, whose Maimi-Dade County home was destroyed by fire in 2004. They sought full policy limits for supplemental coverage from Citizens regardless of how much expense they actually had.

The decision in the Coxes' case doesn't mean an end to litigation for them and other hurricane victims who say insurance companies are trying to avoid paying legitimate claims by attributing too much damage to flooding and not enough to wind.

The Coxes' lawyer, Louis K. Rosenblum, said they now will challenge an offer from Florida Farm Bureau Casualty Insurance Co. to pay only \$11,583 in wind damage under a \$65,000 policy.

"That's just Farm Bureau's opinion of the wind damages," Rosenblum said.

Similar wind-water insurance disputes have come up in other states, but Rosenblum said no comparisons can be made because laws differ from one state to another.

A trial judge awarded the Coxes the policy limit based on a 2004 appellate interpretation of Florida's 1899 Valued Policy Law. The 4th District Court of Appeal ruled in favor of Zennon Mierzwa, who lost his Fort Lauderdale home in 1999 to Hurricane Irene.

The appellate judges ordered the Florida Windstorm Underwriting Association, predecessor of Citizens, to pay full wind policy limits regardless of cause because the home was a total loss.

The Supreme Court reversed a decision by the 1st District Court of Appeal, which had cited the Mierzwa ruling in the Coxes case. The justices disapproved the Mierzwa decision and upheld a conflicting 3rd District Court of Appeal ruling in the Ceballos' case.

Lawyers for the Ceballos did not immediately return telephone messages seeking comment.

These ruling are important to Floridians because insurers are required to only pay actual damages that result from covered perils and caps supplemental coverage in the same manner.

Florida seeks insurance fix amid housing woes By Tom Brown



MIAMI, Oct 7 (Reuters) - Florida's big push to slash homeowner insurance premiums, a major issue in a state hurt by a sinking real estate market, has turned to bust in the face of stiff opposition from the powerful property-insurance industry.

"It certainly didn't pan out," said Bob Milligan, the state's consumer insurance advocate.

"At best we've seen kind of a reduction in the increases, not really decreases from what they were prior to 2006," Milligan said in an interview.

He was referring to the huge increases many homeowners have seen since eight hurricanes crisscrossed Florida in 2004 and 2005, when insurers paid out about \$35 billion in insured losses in the state.

Prodded by Gov. Charlie Crist, who has had several insurers subpoenaed over rate issues after campaigning aggressively last year on a promise to fix the insurance problem, state lawmakers have enacted a sweeping package of property insurance reforms.

Among other measures, they doubled the size of Florida's state hurricane catastrophe fund to \$32 billion and authorized state-controlled Citizens Property Insurance Corp. to compete directly with private insurers.

Through the catastrophe fund, lawmakers also agreed to provide state-subsidized rein-

urance -- backup coverage for property -- to insurers on the understanding that savings would be passed on to their customers.

Though expected to result in a statewide cut in homeowners' insurance premiums averaging 24 percent, Bob Hunter, insurance director at the Consumer Federation of America, said the new laws were now seen cutting rates only about 12 percent.

"It's the big national companies that are balking," Hunter told Reuters, saying they had failed to pass on reinsurance savings to consumers despite record profits in recent years.

One such company is Allstate Floridian Insurance, a unit of Allstate Corp, the nation's largest publicly traded insurer, which recently filed to raise homeowner rates in Florida by nearly 42 percent.

Allstate Floridian spokesman Adam Shores said the increase, partly prompted by a decision to buy additional reinsurance on the private market, was in line with harsh economic realities and the costs associated with catastrophic risk.

"We fully recognize that this is a difficult time for a lot of Floridians; people are hurting; and they're experiencing a lot of high costs with property insurance, property tax, things of that nature. But we need to be in a position of financial strength to protect customers

when a major catastrophe strikes, like we know it will," Shores said.

"A LOT OF PROMISES"

"There have been a lot of promises that have been made by the political leaders in Tallahassee about where rates would be and what those rates would look like," he added. "The promise that we have made, and the promise that we will continue to stand by, is to be there for our customers when it comes time to pay their claims."

Crist, a Republican, is still pressing for relief in a state saddled with what industry insiders rate as the second- or third-highest priced homeowner's insurance of any state in the country. He appeared to win at least a partial victory last week when State Farm agreed to cut its property insurance rates in Florida by an additional 2 percent, on top of the 7 percent cut it implemented earlier this year.

State Farm, one of three companies hit with subpoenas by officials probing high insurance costs, has also agreed to cooperate with authorities on further investigations into potential collusion between insurers, trade associations and rating organizations aimed at preventing homeowner premiums from going down.

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Florida Seeks Insurance Fix... continued from page 24

Since more dramatic rate cuts have failed to materialize so far, however, many Floridians say they back a measure proposed by two of the state's Democrats, who recently submitted a bill in Congress calling for the creation of a federal catastrophe fund where states could pool their risks against future storm damage.

"The citizens of Florida are really fed up," said Teri Johnston, who heads a grass-roots organization known as Fair Insurance Rates in Monroe that has pushed for insurance

cuts in the Florida Keys.

"They're very frustrated and angry right now," said Johnston, who noted that skyrocketing premiums have been driving residents out of a place once considered a sun-drenched, tropical paradise at a rate of about 17 people a day.

Like other homeowners in southernmost Key West, Johnston said she currently pays more than \$1,000 a month to insure her 1,200-square-foot house there.

"It's something that's supported by a number of important insurers," Bob Hartwig, president of the Insurance Information Institute, an industry trade association, said when asked about a federal catastrophe fund.

"I think the issue is getting somewhat more traction and interest in Congress," he added. "As we move along I think we'll hear more about this."



Insurance Information Institute spokesman says the numbers don't support rate cuts.

Florida orders Allstate to turn over records on property insurance

By Kathy Bushouse and Tonya Alanez, South Florida Sun-Sentinel

The state's investigation of a possible conspiracy among property insurers to keep prices high expanded Tuesday with the governor and insurance commissioner ordering Allstate Insurance Co. to turn over documents regarding its business practices and relationships with trade groups.

They served a subpoena on Allstate and its subsidiary Allstate Floridian Insurance Co., Florida's fourth-largest insurance company, just three weeks after Allstate Floridian proposed raising its homeowner insurance rates by a statewide average of 41.9 percent.

The state wants to make sure Allstate and other insurers are

passing along to customers the savings state lawmakers expected by allowing insurance companies to buy cheaper backup coverage from the Florida Hurricane Catastrophe Fund, Insurance Commissioner Kevin McCarty said during a news conference Tuesday at the Capitol in Tallahassee.

"We will continue to be vigilant to ensure that these savings are passed onto the policyholders and to the people of Florida," he said.

Insurance industry officials likened the action against Allstate to a political witch hunt.

This round of subpoenas follows State Farm Florida Insurance Co.'s decision earlier this month to bow to state pressure and give additional rate cuts to customers — 9 percent instead of the proposed 7 percent the company originally requested. State Farm also agreed to change the way it planned to drop 50,000 customers'

homeowner policies statewide.

State Farm Florida, the state's largest private insurer, decided to settle with the Office of Insurance Regulation rather than testify at two days of public hearings in Tallahassee. The insurance department subpoenaed the company in August.

State officials set hearings for Jan. 15 and 16 in Tallahassee to deal with Allstate. Company officials will have to answer questions and provide documents detailing their companies' agreements to purchase reinsurance, the companies' relationships with storm risk-modeling firms, insurance-rating organizations and insurance trade groups.

McCarty said he was particularly interested in getting more information about Allstate's relationships with the trade groups. He expects



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State agency denies companies' insurance rate increases

Florida Insurance Commissioner Kevin McCarty denied eight rate filings submitted by insurance companies of The Hartford Financial Services Group.

The filings submitted were not actuarially justified and lacked supporting informa-

tion, according to a release from the Office of Insurance Regulation.

The decision to deny the increases was made after an Aug. 16 public hearing in which state officials questioned aspects of the rate filings.

Insurance companies have until Sept. 30 to submit their final reduced rate filings required by law. OIR will review filings to ensure they reflect policyholder savings ordered by the Florida Legislature.

Florida Orders Allstate..... continued from page 25

“The insurance industry is tenacious. They are greedy, and they are working hard, and they are skilled. So we have to be just as tenacious and work as hard.”

Gov. Charlie Crist

the company will turn over the documents sometime next month.

"There's no question that a close evaluation of what is going on within the trade associations are going to be very telling," McCarty said. "We are going to vet that very carefully."

Allstate spokesman Adam Shores said the company is "extremely confident in our business model here in the state." The company's attorneys are reviewing the subpoenas, he said.

Industry officials said the move only sours the working relationship between state officials and property insurers.

"It seems to be increasingly transparent that [the subpoenas are] a punitive action," said Robert Hartwig, president and chief economist of the Insurance Information Institute, a nonprofit trade group. "It's a form of intimidation. ...

There's absolutely no justification that would support the Office of Insurance Regulation's bizarre theory that insurers are colluding indirectly or directly through their trade association or modeling companies or rating organizations."

More subpoenas will cause further erosion of insurers' shaky faith in Florida's insurance market, and shift more policies into state-backed Citizens Property Insurance Corp., Hartwig said. Companies will keep scaling back in Florida if they don't think they can charge the price they need for their product, he said.

"I think it's another negative on the marketplace," Hartwig said. "In the long run, the state is going to be the loser in all of this. I think that insurers perceive the regulatory environment to be completely irrational."

Crist, who appeared with McCarty at Tuesday's news conference, continued his tough talk against Florida's insurance companies, vowing to uncover any possible bad business practice by the industry.

"The insurance industry is tenacious. They are greedy, and they are working hard, and they are skilled," Crist said. "So we have to be just as tenacious and work as hard."

Fla.: Legislature split on insurance

By DAVID ROYSE , Associated Press, Oct. 4, 2007

House and Senate committees approved different versions of a measure to restore the state's no-fault auto insurance system on Thursday, with a disagreement over limiting lawyers' fees leaving the whole issue in question.

A bill approved unanimously by a Senate committee and headed for the floor would restore the state's no-fault personal injury protection system in February with new fraud protections. But it had no new limits on what lawyers can earn in cases in which there are disputes over what insurance companies will pay for.

A House committee late Thursday approved a bill that includes limits on what attorneys can earn in such cases, creating an apparent impasse with the Senate, where leaders have said such lawyer fee caps won't pass.

A state law requiring personal injury protection – or PIP – coverage expired Oct. 1.

The law required drivers to have \$10,000 worth of coverage for medical bills, lost wages and death benefits in case of a car accident.

The law also protected drivers from lawsuits over who was at fault in most cases. After an accident, the coverage would pay for each driver's injuries regardless of who was at fault, and litigation was only allowed in narrow circumstances.

Mostly because of concerns about fraud, lawmakers let the old law expire Monday. But with hospitals and doctors worried about a huge increase in people with injuries having no insurance to pay for care, the Legislature is trying to agree on how to reinstate the coverage requirement.

There's also concern about an increase in litigation. Without a

no-fault system, lawsuits will decide who should pay when there's a wreck.

The bills, which could be debated on the House and Senate floors as early as Friday, are mostly the same. They would reinstate PIP with new fraud protections, likely in February of next year – although House and Senate negotiators are still trying to work out whether they can put a stopgap measure without the new fraud requirements in place to require some protection in the interim.

It had looked earlier like the proposal might be headed for easy passage. Sponsors of the two bills had convinced their colleagues not to change the bills dramatically as they moved through the process, to keep in tact a fragile agreement over what each chamber would accept in the bill.

But that harmony took a hit when the bill's final House committee, the Jobs and Entrepreneurship Council, changed the House bill on Thursday to limit lawyers' fees in cases where an injured motorist has a dispute with their PIP carrier over whether a claim should be paid.

The move was led by the committee's chairman, Rep. Ron Reagan, R-Bradenton, who said that among all the interest groups involved, lawyers were the only ones not giving up something in the effort to change the system.

Paul Jess, general counsel for the trial lawyer group the Florida Justice Association, disputed that. He said some anti-fraud measures will hurt the ability of lawyers' clients to get treatments – which hurts lawyers. Jess also said the measure doesn't negatively impact auto insurance companies.

The changes made by the House committee endanger the tenuous agreement between the House and Senate, raising the prospect that the Legislature won't be able to bring back PIP in any form, at least quickly.

The bill's House sponsor, Rep. Ellyn Bogdanoff, R-Fort Lauderdale, acknowledged the move endangered a PIP agreement, noting that the Senate sponsor, Sen. Bill Posey, R-Rockledge, had told her several times that major lawyer fee limits were a "nonstarter."

But Bogdanoff said she'd do her best to keep the negotiations open.

If the Legislature can't restore the PIP system, it means that drivers won't be required to carry any type of insurance to pay for their injuries if they're in a wreck. And lawsuits will determine fault, and therefore who will pay for those injuries.

Hospitals and doctors are the most vocal advocates for restoring the system. Without medical benefits provided by the insurance policies, hospitals have to pay for treating people injured in crashes who don't have health insurance. Health insurers also generally back the law because they don't want to get stuck with the bills.

Florida Hospital Association vice president Ralph Glatfelter said nearly 400 people are injured in car crashes every day in Florida and 40 percent of them are uninsured.

Both chambers' bills would come with improved protections to cut down on fraud.

PIP claims were different from other insurance because the system didn't have many controls. For example, it didn't have a fee schedule spelling out how much insurers would

pay for various procedures. That would change under the bills.

The measures also seek to end payments to fly-by-night clinics, by saying that claims will generally only be paid to clinics with a doctor as a medical director.



Mass. Insurance Chief Bans Credit Scores Associated Press



The Massachusetts insurance commissioner has banned use of credit scores in auto insurance coverage decisions under a final set of rules reforming the state's auto insurance market.

Commissioner Nonnie Burnes added a provision that had been sought by consumer advocates and some auto insurance companies.

Draft rules that Burnes proposed in August would have forbid insurers from using data from credit reports in setting individuals' rates during a one-year transition to the new market.

The final rules from Burnes go further by banning use of credit information not only in setting rates, but also in decisions by insurers on whether to cover someone

or not.

The ban would remain in effect during the one-year market transition to allow more study of the issue.

New York Proposes Hurricane Insurance Fund

By Joe Treaster, New York Times



New York regulators are proposing that insurance companies set aside extra money to pay for damage in the event of a significant hurricane, seeking to ease, at least in the state, the soaring premiums faced by millions of Americans along the Atlantic and Gulf Coasts. But insurers have expressed reservations.

In 1985, Hurricane Gloria did extensive damage to Long Island. The storm was the last significant hurricane to hit New York.

Under the New York plan, insurers would for the first time be required to use money that now goes directly to profits to create contingency funds to pay for hurricane losses. Then, when a big storm hits, money would already be designated to pay for much of the damage. The financial shock would be eliminated or reduced, the regulators say, and there would be no justification for raising premiums sharply.

The state Senate's insurance committee is holding a hearing on coastal insurance problems at 10 a.m. today at the western campus of the Suffolk County Community College in Brentwood.

Consumer groups and insurance companies have long advocated creating special

funds for significant hurricane damage. And the consumer advocates said New York's proposal could lead to the introduction of similar plans in other hurricane-prone states along the coast.

"Other states may look at this and say, 'Why don't we have this sort of requirement,'" said J. Robert Hunter, the director for insurance of the Consumer Federation of America. "If every state had a reserve like this, they could actually work together so that the money could flow to wherever a hurricane struck. This would help stabilize prices and might even lower prices."

After Hurricane Katrina and other big storms, prices began rising sharply along the coasts from Texas to Massachusetts. To lower their chances of big payouts, the insurers have refused to renew coverage for hundreds of thousands of homeowners and

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Sara Krulwich/The New York Times

NY Proposes Hurricane

continued from page 28

have stopped selling new policies in the areas most threatened by storms.

Responding to appeals from insurers, members of Congress have introduced several bills that would provide for the federal government to pay for much of the damage from a destructive hurricane. Government backing, the insurers argue, would help make insurance more affordable and more widely available.

The insurers have so far been unwilling to put money aside to pay for hurricane damages unless they were able to deduct it from federal taxes as a business expense. Most money set aside for claims receives the tax credit, but because so many variables are involved, claims related to hurricanes and other natural disasters do not.

Under the New York plan, which is to be presented to insurers as a draft of a new regulation in the next few days, the insurers would be required to set aside the portion of their annual premiums that is designated to cover hurricane damage. Regulators estimate that to be about \$250 million.

New York has no ability to change federal tax law. So the regulation would require the insurers to set aside the money after they had paid taxes on it. They would receive a tax deduction after they paid for hurricane damage. But in the meantime, they could not use the money for other purposes.

In Long Island, as much as 25 percent of the annual premium is now designated to pay for hurricane damage, said Eric Dinallo, the superintendent of insurance in New York. If there are no hurricanes, which is usually the case in New York, the companies simply keep the hurricane portion of the premium as profit. With no hurricanes in the country last year, the insurers reported record profits.

Despite dire predictions, this year has also been quiet, and the insurers are headed for another year of high profits. The last significant storm to hit New York was Hurricane Gloria in 1985, at a cost of more than \$780 million in today's dollars. But New York has nearly as much coastal property as Florida, and the insurers say that the recent increase in hurricane activity raises the potential for heavy losses.

As for why the insurers might be willing to accept the new regulation, Mr. Dinallo said that reducing financial shocks to the companies could make them more attractive to investors. But insurance experts said the industry is likely to fight the new regulation.

"No one wants to be at loggerheads over this," said Robert P. Hartwig, the president and chief economist at the Insurance Information Institute, a trade group in New York. "But this becomes very difficult. The insurance department is basically asking business to spend hundreds of millions of dollars that they will not be able to

record as an expense for perhaps many, many years."

Allstate and State Farm, the two largest home insurers in the state, were far from enthusiastic. "We need to know more to determine if this is the right approach," said Krista Conte, a spokeswoman for Allstate. At State Farm, Jonathan Freed said, "it's not clear how workable" Mr. Dinallo's plan might be.

But some insurance executives said they welcomed Mr. Dinallo's plan. At Travelers, for example, Jay S. Fishman, the chief executive, said the new regulation would not add significantly to his costs and was "a great first step" toward reducing volatility in insurance prices and perhaps making coverage more available.

Mr. Dinallo said he hoped the new regulation would go into effect by early next year. But he said he was open to compromise. "I believe you're going to see other states agreeing with this," he added. "I hope this is the beginning of a national model."

Insurance lobbyists have been hard at work getting members of Congress to introduce bills that require the federal government to pay for much of the otherwise insured damage done by a destructive hurricane, should one hit New York.

Just like always, insurers say that if the American taxpayer bails them out of paying claims, insurance would be cheaper and widely available. No kidding, Sherlock!

Any business would thrive if it collects premiums and someone else has to pay for claims!

Only in America!

State insurance chief proposes principles-based regulation

Business Review (Albany) Nov. 5, 2007

The NY Insurance Commissioner thinks that insurers will act ethically and proposes to replace regulatory requirements with "principles-based" requirements.

What are they smoking in NY?

New York state Insurance Superintendent Eric Dinallo has released a proposal that would make the Insurance Department the first in the nation to establish principles-based regulation.

Dinallo said the aim of principles-based regulation, as opposed to a rules-based system, is to reduce unnecessary administrative burden while increasing fairness, flexibility and consistency. He said the proposed principles ask insurers to be "ethical to their core" rather than just focusing on technical requirements.

"The essential goal of regulation is not rote compliance

with a long list of rules, but ensuring appropriate outcomes," Dinallo said. "These principles focus both the regulator and the regulated on such outcomes and tell regulated companies our expectations for how they will conduct their business. It brings the issue of compliance to the highest levels of a company - to the board of directors and the management committee. It provides the flexibility to fit the different business models of thousands of different companies, while improving consumer protection."

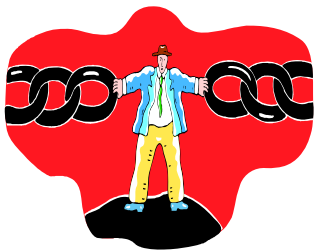
The 10 proposed principles for insurers include maintaining adequate financial

resources; paying due regard to the interests of clients; observing proper standards of market conduct and managing conflicts of interest fairly. They were drafted with input from insurers, insurance trade groups and other interested parties.

The draft regulation also lists 10 principles for regulators, including ensuring that decisions are independent and objective; that new regulations pose no undue administrative burden; and that innovation and competition are encouraged.

Allstate agrees to stop linking home-owner policy renewal to auto insurance

BY KEITH HERBERT, Newsday



Allstate Insurance has agreed to stop considering whether a customer has auto insurance with the company when deciding whether to renew home-owners policies, state officials said.

In late August, the Insurance Department announced that Allstate, and another company, Liberty Mutual, had broken state law when they used auto insurance as a criteria for renewing homeowner policies. Liberty Mutual announced an immediate end to the practice. Allstate officials had said they wouldn't stop, and issued a statement saying

the practice was permitted under state law.

The state cited Allstate for the practice and set a public hearing date for Sept. 19. State officials canceled the hearing, but they are engaged "in discussions with Allstate about resolving the issues raised in the citation," the Insurance Department said in a news release.

Insurance Superintendent Eric Dinallo has called the companies practices a form of "consumer coercion."

Allstate spokeswoman Krista Conte issued a statement that affirms the company's belief that it didn't

violate state law. "Allstate continues to believe that our practices were in full compliance with the laws of the State of New York," the statement said. "However, Allstate acknowledges and respects the insurance department's authority to interpret and determine violations of New York State insurance law and has advised the department that it intends to comply fully with the department's determination."

Look closely to see the real insurance landscape

Once people buy a homeowners policy, they tend to stay put. That's why State Farm, Allstate and Farmers have retained such a lock on the market and are able to pressure the state for rate increases and coverage cuts.

Spread the word... There are lots of insurers, other than the big three, willing to write policies in Texas.

DAVID Jackson recently left Allstate after 25 years and set up his own independent insurance agency in the Heights. He was surprised by what he found.

No longer under the umbrella of one of the "big three" insurers, Jackson discovered dozens of companies eager to write homeowners insurance and willing to offer competitive rates.

"I didn't realize there were so many companies out there," he said. "There's plenty of companies here that want the business."

If you listen to Allstate, State Farm or Farmers, the state's three largest insurers, you'd never know that. All are pressing for rate increases, arguing that claims have grown too costly.

Among the problems they often cite is that the Texas market is too heavily regulated.

But when you talk to independent agents like Jackson, you get a very different story.

"The majority of our members report that they've got all the companies that they can handle and more that are trying to come in," said David Vandelinder, executive director of the Independent Insurance Agents of Texas, which represents agents such as Jackson who write policies for multiple companies.

All have lower rates

Jackson said he now writes policies for about 36 companies, and the rates for all of them are lower than what Allstate charged, he said.

I asked him if he thought the insurance market should be deregulated, and if doing so would help his customers.

"The state needs to be *more* involved," he said. "The big three would just raise prices and cut coverage. The state needs to get tougher with them."

I've gotten similar responses from other independent agents to whom I've posed that question in the past couple of years.

Selling insurance isn't like peddling lawn furniture at Wal-Mart. A policy isn't a product, it's a contract. As customers, we agree to pay a regular fee and in exchange, the companies agree to cover our losses if we have any.

Insurers make their money upfront; they find out their costs later.

Customers stay put

Once people buy a homeowners policy, they tend to stick with it. That's why the big three have retained such a lock on the market.

That also enables them to pressure the state, not just for rate increases, but also for ways to allow them to cut back on coverage. The big three, for

example, want the state to expand the windstorm pool, the state-sponsored insurance for hurricanes, so that they don't have to pay damages from hurricanes.

That's great for the insurers, but it's bad for the citizens of Texas because, as I wrote a few weeks ago, it concentrates the risk on taxpayers.

At the same time, the big three are pushing for higher premiums and higher deductibles. Allstate recently enacted an average 5.9 percent rate hike for homeowners insurance and went to court to keep the state insurance department from blocking it.

State Farm tried to get a big rate increase last year, which the state also rejected. That, too, is now in court.

Farmers withdrew a requested rate increase this summer but has vowed to refile it.

More competitive

Independent agents, though, see a different market landscape.

"We're very pleased with the market. Rates are going down," Vandelinder said.

In fact, he said, the insurance market in Texas is more competitive than it's been in 10 or 15 years. New companies continue

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Real Insurance ... continued from page 32

to move into the state, although he acknowledged that not all companies are eager to dive into markets like Harris County, where weather-related claims tend to run higher than in most other parts of the state.

Companies that feel they've gotten too much business in the county or in coastal areas may worry that a big storm would be devastating to them.

Overall, though, Texas remains a lucrative mar-

ket.

"Insurance companies are making record profits in the state," Vandelinder said.

Fewer catastrophes

Two weeks ago, London's Telegraph newspaper reported that mild hurricane seasons for the past two years have caused premiums to decline worldwide. Executives for some of the world's biggest insurance companies gathered recently in Monaco, and they predicted a 10 per-

cent decline in U.S. coverage costs, the paper said.

Fewer catastrophes mean that the cost of reinsurance, the coverage that insurers buy to protect themselves from losses, has fallen significantly.

That, the paper reported, has led to a persistent decline in premiums.

You wouldn't know it in Texas, though, where the big guys keep crying for ever higher rates.

According to Allstate, State Farm or Farmers, insurers won't write policies in Texas. They say that claims are too costly and are filing rate increases. They also complain that there is just too much regulation. Don't believe their sob story. It's just not true.

**Court upholds Allstate homeowner insurance increase
State's attempt to roll back 5.9% rate hike is rejected**

By CHRISTY HOPPE / The Dallas Morning News

AUSTIN – Allstate Insurance can continue to charge a 5.9 percent rate increase that it imposed on homeowner policies in August after a court threw out the state's attempt to roll back the increase.

Allstate maintained that its rate increase followed state law and that the Texas Department of Insurance acted improperly in trying to nullify it. A state district judge in Travis County agreed and issued an order Monday evening.

Bill Mellander, a spokesman for Allstate, said the insurer had been certain the judge would affirm that the increase was implemented correctly.

"We are equally as confident that the rate itself is competitive, justified and, more importantly, that it is attractive and good for the consumer," Mr. Mellander said.

Insurance Department spokesman Jerry Hagins said the agency is disappointed in the judge's ruling but stands by its decision that the new rate is excessive. The agency will continue to pursue an order requiring Allstate to roll back its rates and give refunds to customers.

At issue is the state's "file and use" law, which largely has unregulated insurance rates. As envisioned by lawmakers, insurance companies can file notice of new rates with the state insurance agency but don't have to wait for the regulatory process before using the new charges.

If the state found the new rates to be excessive, the insurance

agency could order them rolled back and the insurer would reimburse its policyholders.

In Allstate's case, the company already is in court over a 2004 rate hike, fighting the state's contention that it overcharged its policyholders \$56 million and owes them a refund.

When it filed the rate hike in August, the charges took effect immediately, but the state fought the increase, saying it disapproved of the new amount. The judge said Allstate followed the law.

"This says that the file-and-use system is broken," said Alex Winslow, executive director of Texas Watch, a consumer-advocacy group.

He said that if history is a guide, the state will again find new rates excessive and Allstate will go to court and fight any refunds.

"I don't think Allstate policyholders should be holding their breath," Mr. Winslow said.

The state's largest home insurer, State Farm, has been fighting a customer refund in

the courts since 2003.

With the rate hikes effective immediately, the state has to play catch-up to determine whether the rate is unjustified.

"The bottom line is that Allstate is driving a huge truck through a loophole in the law, and I have no doubt that other insurance companies are cranking up their engines as we speak," Mr. Winslow said.



Washington Passes Punitive Damage Insurance Measure



Insurance execs and their lobbyists hit the panic button after Washington state voters passed Referendum 67. This new law allows plaintiffs to collect punitive damages when insurers unreasonably deny claims.

Nov. 7 (Bloomberg) – Voters in Washington state passed a measure allowing plaintiffs to collect punitive damages if a court decides insurers were “unreasonable” in denying claims.

The referendum was approved by a 57 to 43 percent margin, with more than 99 percent of the votes tallied, according to the Washington Secretary of State's Web site. The measure will allow policyholders to seek as much as triple damages in a state where such court awards were generally not allowed.

Insurers warned during the campaign that the proposal was too vague and will force them to raise prices for home and auto insurance to cover their legal costs. Proponents, including the state's insurance commis-

sioner, say consumers need protection comparable to that in most other states.

“Those companies that have been in a position where they could effectively dictate, particularly on smaller claims, how they were going to treat a claim by their policyholders – they are going to be in a tougher position,” said Commissioner Mike Kreidler, a Democrat. “Most companies, I firmly believe, act in good faith with their policyholders, so I anticipate a relatively modest, if any, change right now relative to any rates.”

Paula Rosput Reynolds, the chief executive officer of Seattle-based insurer Safeco Corp., said in an interview before the vote that the proposal was so vague that it will cause companies to settle frivolous lawsuits to

avoid massive jury verdicts.

State Legislature

Insurers pushed for the referendum in an attempt to overturn a vote by the state legislature earlier this year. Under Washington's constitution, implementation of the measure, which was signed by Democratic Governor Christine Gregoire, was delayed pending yesterday's vote. It will become law once the results are certified by the state.

Insurers first tried to negotiate with Gregoire, who favored reworking portions of the measure, before deciding to pursue the reversal of the entire bill at the ballot box, said Kreidler. He said he expects the state legislature will pass a modification to the bill to clarify parts of the new law.

BifSniff.com



The greatest trick that Santa ever pulled was convincing the world he didn't exist.

POA wishes you and yours a very happy, healthy and safe holiday season.

Just imagine how insurers would behave if we weren't here.

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Policyholders of America (“POA”) is a nonprofit, members-run association serving consumers of homeowner and auto insurance. We assist members, at no charge, with claims so that our members have a far better chance of receiving what’s due under the policy. This puts us at odds with the insurance industry.

We are not advocates of litigation and are not associated with trial lawyers, public adjusters or any other group that feeds off of the misfortunes of policyholders. Our only loyalty is to the policyholder.

POA is nonpartisan however we do take a stand on political issues, candidates and policies relating to insurance for one simple reason: You cannot separate insurance from politics.

We’re on the web at: www.policyholdersofamerica.org

In memory of Vincent Anthony Marinkovich

November 22, 1932 – September 17, 2007

Victims of building-related illness suffered a great loss on September 17, 2007, when Dr. Vincent Marinkovich passed.

He was a pediatrician, allergist, immunologist, medical consultant, expert legal witness, inventor, entrepreneur and devoted family man.

Vince was born on November 22, 1932 in San Pedro, California. He was a first generation American, born of parents Grego and Tonina who immigrated from Komiza, a small town on the island of Vis off the Dalmatian Coast of Croatia.

Vince received his Bachelor of Science degree in physics from the California Institute of Technology in 1955 and his Doctor of Medicine degree from Harvard Medical School in 1959. He completed his internship and residence in pediatrics at Johns Hopkins University in 1961. He received a Jane Coffin Childs award to study population genetics at Oxford University in England and biochemical genetics at King’s College, London during 1961-62

and returned to Caltech in 1962 on a NIH Fellowship to study immunology. He was appointed an instructor in immunology at Caltech in 1964.

In 1965, Vince was appointed assistant professor in the Department of Pediatrics at Stanford Medical School. He received clinical allergy and training at Stanford and was appointed Director of Allergy and Immunology in the Pediatrics Department at Stanford.

In 1968, he received a five-year Research Career Development Award from the National Institutes of Health and funding to establish an immunology research laboratory at the Stanford Children’s Hospital. He took sabbatical leave in 1971-72 to study hypersensitivity lung diseases at the Brompton Cardiothoracic Institute in London.

Upon returning to the Bay Area, from 1973 to 1980 Vince maintain a private allergy practice first in Palo Alto and later in Menlo Park. He also did research in those years leading to the found-

ing of MAST Immunoseystems in Mountain View, California, which developed and sold a new technology now used worldwide in diagnosing allergy. He continued to teach as a clinical assistant professor, and later as a clinical associate professor in Pediatrics at Stanford during those years.

From 1980 to 1999, in addition to his private practice, Vince did research focused on food and mold hypersensitivity, resulting in the development of an elegant fingerstick technology for testing multiple allergens in patients.

He also served as an Adjunct Faculty member with the Functional Medicine Institute of Gig Harbor, Washington, from 1999 until the present. In addition, Vince volunteered at the Arbor Free Clinic in Menlo Park, where he saw indigent patients and taught Stanford Medical School interns.

Vince actively maintained his full-time private clinical practice in allergy and immunology, specializing in food and mold hypersensitivity, until shortly before his death. Patients came to see him from all over the country, as

he was their last resort when dealing with fungal hypersensitivity illnesses caused by mold exposures, commonly not recognized nor properly diagnosed by other physicians. His practice was full of grateful patients who credit him with saving their lives when conventional allergists had been unable to help.

It was Vince’s nature to be inclusive and open-hearted, and his quick wit, quirky sense of humor, ready laughter, and unflinching optimism graced the lives of all who were fortunate to know him. He was a gentle soul, and a gentleman, always ready to be helpful to others. Highly intelligent, creative, deeply compassionate, a gifted healer, a forward thinker, courageous in bucking the tide of conventional allergy methods, and a highly respected teacher, he was a passionate advocate on behalf of his patients and a very generous and loving husband, father and family man.

POA believes it speaks for all members when we say that Vince will be greatly missed.