United Policyholders
Empowering the Insured

BACH TALK: A Fairer California Fair Plan

State and Federal public officials have protected homeowners by creating insurers of last resort that people can turn to when they're unable to find a company willing to insure their property.

Well known examples are Florida and Louisiana Citizens Insurance Corporations, the National Flood Insurance Program, the Texas Windstorm Association, the Alabama Insurance Underwriting Association and the California FAIR Plan. This is because there are some regions, risks and periods of time where some people can't find a company that will insure their home. This happens often enough that a number of states have set up entities that serve as a home insurer of last resort.

These entities have different recipes as to how they're run, who sells and administers the policies, how they're managed, whether they're partially taxpayer funded, subsidized, or entirely funded by premiums. In insurance-speak, they're referred to as "residual market mechanisms" because they cover the "residue" of risks insurers don't want to take. Virtually all were created by elected officials with input from insurance industry advocates and lobbyists.

Consumer advocates have had very little say in the creation of these insurers of last resort and the way they're run. They tend to get regularly criticized for their sales and claim practices and for the fact that they sell limited coverage that's expensive. Yet, these insurers of last resort serve a critically important role by providing basic financial protection and legally required home loan protection.

For most people, insurance is a necessity, not an optional purchase. Most people need insurance as a financial safety net because they don't have enough savings to repair and rebuild in the event of a loss or disaster, and/or because they borrowed money to buy the home. When you have a mortgage, you're legally obligated to keep insurance in force for the amount of that loan.

United Policyholders helps consumers shop for the best available coverage, get treated fairly when they file a claim, and we work to improve insurers of last resort. After reviewing reports from policyholders and advocates and a recent audit ("Market Conduct Exam") report on California's insurer of last resort, UP has redoubled our efforts to help improve its operations. 210425 – 210425 – CALIFORNIA FAIR PLAN ASSOCIATION – 03-18-21 – Report (2)

We testified at an important investigatory hearing on California's FAIR Plan on July 13, 2022. ABC consumer reporter Michael Finney and many other news outlets covered the hearing. The CA Department of Insurance had specifically invited United Policyholders to testify at the hearing. Read our testimony: July 13 2022 CDI CA Fair Plan Investigatory Hearing

The following is a summary of the hearing:

California Department of Insurance July 13, 2022 Hearing on the California Fair Plan

A Recap by Joel Laucher∗, UP Program Specialist

(∗Formerly Division Chief over Market Conduct and Consumer Services, a Deputy Commissioner of Rate Regulation and Chief Deputy Commissioner, CA Dept. of Insurance)

On Wednesday, July 13, the California Department of Insurance held an investigatory hearing focused on the California FAIR Plan with the declared intention to:

"Explore (1) the concerns and changing needs of California consumers, organizations, businesses, and brokers, and (2) what additional changes are needed to the FAIR Plan's operations, governance, business practices, and coverage offerings to enable it to continue to meet those needs far into the future."

An estimated 100 individuals testified during this hearing. The most repeated criticism came from homeowners who live in the WUI and local government officials who bitterly lamented the impacts of soaring premiums making coverage unaffordable for homeowners and business owners alike.

Much of the testimony also addressed the fact that the constricting insurance market and limitations in FAIR Plan coverage offerings is also creating severe coverage gaps (particularly in building limits, contents, and business interruption) that has exposed businesses ranging from shopping centers to wineries, condominium associations, farms and ranches, youth camps, and food processing plants as well as high value homes to major losses – emphasizing the broad impacts of the availability issue.

Other topics of note:

- The importance of mitigation (and the need to make funding available for such actions) was also recurring theme.
- The detailing of unacceptable claims handling practices by the Fair Plan.
- More than one insurance broker called for the need to simplify the Fair Plan application process.

Testimony from United Policyholders' Executive Director Amy Bach focused on each of the major issues. Amy noted that major delays in claims handling are the result of chronic understaffing – and should be addressed by not only increasing the number of adjusters but also implementing a customer-centric focus on expediting the process and reducing the need for constant rotation of adjusters on each claim. She also called out the FAIR Plan for playing hardball with its claimants by employing private defense attorneys to minimize settlements. And she called out another broad coverage/claims handling issue – FAIR Plan's failure to treat smoke losses as Fire losses, noting that smoke is literally and legally embodied in the peril of Fire and insurers have a legal obligation to fully remedy smoke damage – and not simply offer quick housekeeping cleanup as a settlement of the damage. (This same smoke issue was also addressed by testimony later in the hearing from UP volunteer and public adjuster Sandy Watts detailing a case she's handling for a 96 year old claimant whose smoke claim is still unresolved two years after the wildfire loss event that caused the damage.)

UP's testimony also focused on the need to educate the public on the value of risk mitigation and the importance of rewarding those who take mitigation actions by providing increased availability of coverage and premium discounts in recognition of that reduction in risk that is achieved.

Meanwhile, from what can best be described as "opposite world", industry representatives who testified focused almost exclusively on expressing their dismay with the CDI's failure to approve rate increases quickly enough.

Unfortunately, the leadership team from the FAIR Plan, which included new Fair Plan President Victoria Roach, also focused only on its own wants in its testimony, coming off as tone-deaf by failing to acknowledge any of the issues or concerns expressed before them by the consumer representatives, business owners, homeowners, or local government officials who spoke earlier in the hearing.

No surprise to those familiar with these matters, the CFP team used this opportunity to focus on the issues it shares with the broader insurance industry – pushing for quicker approval of filings for rate increases, requesting that they be allowed to **use** loss projections from wildfire loss prediction models rather than actual loss experience to support future rate increases, and that they be allowed to include reinsurance costs in the their rates (the CDI currently does not permit insurers' reinsurance costs to be passed on to consumers – reinsurance is the insurance that insurers purchase to cap their own potential losses in each policy year).

There were a couple of positives highlighted, the FAIR Plan rating plan will recognize mitigation actions in its next iteration and Firewise discounts are also being made available.

There were some very emotional moments in the day, testimony from individuals who could no longer afford their homes due to the cost of their insurance, people still dealing with claims issues as highlighted above, all reminding us that these broad impacts being discussed have very personal impacts. **These witness statements should not be dismissed as anecdotal but viewed as representative of many consumers' experiences.**

And another critically important criticism came from consumer representative Doug Heller who noted how little public insight exists in the FAIR Plan's current oversight structure and highlighting the need for greater transparency and consumer participation in its operations.

Unfortunately, it is unlikely that anyone who attended this hearing walked away with an expectation for immediate change after listening to the entrenched positions being taken by the FAIR Plan and the insurance industry. It will take forceful actions by the CDI or perhaps the legislature to address many of the concerns raised during the hearing. Hopefully, this hearing was an **important** step in initiating those actions.

Source: https://uphelp.org/a-fairer-california-fair-plan/ Date: November 22, 2024