Bach Talk – It's time to restore insurance safety nets

Insurance benefits should be the primary source of funds for people and businesses to make repairs after adversity strikes. Unlike government aid that's contingent on submitting an application, meeting eligibility criteria, waiting/processing time and taxpayer dollars, insurance funds are paid-for benefits that can be collected promptly. Funds that are made possible by our private insurance system through which large numbers of policyholders pay premiums into a risk spreading pool that gets invested and grows over time. Government aid is a critically important ***complement*** to privately sourced insurance funds, but it should not be a substitute.

Yet insurance funds increasingly are falling short when adversity strikes. Falling short due to wording changes insurance companies are making in their policies in order to limit or exclude coverage for future losses. Virus exclusions are only the latest in a long string of examples of these wording changes that harm policyholders.

For example, after the 1994 Northridge Earthquake in Los Angeles caused insurers to pay out huge sums to repair and rebuild destroyed commercial and residential structures, insurers declared earthquakes to be an uninsurable risk and got lawmakers to let them exclude quake damage coverage in basic California home insurance policies. Once people were faced with paying extra on top of their home insurance premium just for quake protection, 90% opted to avoid that expense. And yet, before the Northridge earthquake, virtually all home insurance policies had covered the peril.

To counter the trend of unanticipated exclusions and limits preventing loss victims from accessing insurance funds to pay for recovery, United Policyholders has launched a national initiative we're calling the "Restoring Insurance Safetynets Coalition." RISC for short. It's an ambitious and essential initiative that builds on the Essential Protections and Protection Gap projects we've been contributing to for several years.

United Policyholders does our best to guide consumers on shopping for policies that will protect their assets notwithstanding these re-writes. Through our work with regulators and legislators and through the amicus briefs we file in courts across the country, we are constantly advocating restoring protection into property insurance policies so consumers can be confident that if they invest in buying those policies, they will get a reasonable measure of financial security in return. Today, there is a national imperative to advance that goal. Stakeholders include lenders, realtors, taxpayers, property owners, insurance producers, claim and construction professionals, and the Federal Emergency Management Agency.

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When there's a specific occurrence that triggers a number of large loss claims, insurers and the Insurance Services Office (ISO) re-write policy language and/or declare that specific event to be "uninsurable." These re-writes include double-digit percentage deductibles and an ever-growing list of coverage exclusions and limitations including pollution, terrorist acts, contamination, mold, earthquake, water, and roof damage.

After a Texas jury issued a widely publicized verdict against an insurer for failing to properly dry and clean a water-damaged home, ISO released new policy language that drastically reduced coverage for mold remediation. Insurers across the US added the new language to their property policies, and policyholders lost essential protection. After 9/11 caused insurers to pay out huge sums on the claims of the business tenants and owners of the destroyed twin towers and nearby buildings, they added exclusions for terrorist acts. The government created the Terrorism Risk Insurance Association ("TRIA"), but again, many businesses opted to "go bare" because the cost of paying for insurance for the risk that a terrorist act would destroy their operations was unaffordable.

Today, as the virus exclusions insurers added after the SARS outbreak in 2006 are looking like they'll thwart coverage for many business losses related to COVID-19, discussions are underway in Congress to create a Pandemic (or "Payroll") Risk Insurance Association ("PRIA") similar to TRIA. But again, unless it's a mandatory purchase, businesses won't purchase it and the risk will largely be uninsured.

We don't disagree that insurers need to keep their books balanced, but many of these actions feel like overreactions. Overreactions that are eliminating essential protection that customers believe they paid for and were counting on as a hedge against adversity. This trend is devaluing real property, slowing disaster recovery, increasing litigation and causing widespread frustration and anger toward insurers.

As a result of these coverage reduction actions, people and businesses hit by adversity have to go deeper into debt, do short-cut repair work, or shut down operations because their insurance safety nets turn out to have surprise holes. Big holes.

Long before insurance exclusions for virus contamination, pollution clean up and flood damage made the post-disaster headlines, UP was working to counter the trend of fine print exclusions defeating policyholders' reasonable expectations of coverage.

We believe the financial health of our economy, families and small businesses are best served by a system that rewards those who are willing to pay a fair price for insurance with a reasonable amount of loss reimbursement. We believe that unanticipated exclusions and limitations that are at odds with sales promises and that become obstacles to loss recovery must be deemed unenforceable or legislatively prohibited.

We believe insurers can sell essential protection when they choose to, and that essential protection doesn't have to be full, guaranteed all risk coverage. There's a balance to be found, and we need that balance. Current policy drafting trends are going in the wrong direction.

In addition to the limits and exclusions listed above, there are others that are just as problematic but for which there is no government-provided insurance gap-filler option. A glaring example is the trend of policy language that limits payouts for roof damage to the depreciated (Actual Cash) value of the roof at the time of the loss – and doesn't pay to fix the roof. The practical impact of this trend is that people of moderate to modest means can't properly fix their roofs when they're damaged in a tornado, hurricane, hailstorm or storm.

So, in addition to "raising the roof" about insurers re-writing coverage to avoid paying losses, UP is building alliances with stakeholders to restore home insurance safety nets. **Join us!**

- **Email examples of unfair limits and exclusions to policies@uphelp.org.**
- **Donate to support this initiative.**
- **To inquire about RISC membership, please email: RISC@uphelp.org**