

# **Insurance Industry Groups Criticize Litigation, Regulations**

Law360

Law360 (August 30, 2022, 9:45 PM EDT) — A new report from a group of insurance industry organizations blamed “man-made” factors for much of the troubles facing property insurance markets in states such as California, Louisiana and Florida.

While the organizations said they are able to manage natural disasters and climate change, factors such as legal system abuse and consumer protection regulations are leading insurers to leave markets and become insolvent, the report said.

The report, titled “It’s Not Just the Weather,” was issued by the American Property Casualty Insurance Association; the Reinsurance Association of America; the Association of Bermuda Insurers and Reinsurers; and Robert Hartwig, director of the Risk and Uncertainty Management Center at the University of South Carolina’s business school.

“Unlike perils such as hurricanes, wildfires and tornados — which can be readily modeled and priced by insurers — legal system abuses, fraud and misguided regulation cannot,” the report said. “These unmodeled and largely uncontained risks are in some cases solvency-threatening.”

The report urged legislators to pass litigation reforms such as transparency in who finances lawsuits and attorney advertising. The organizations also argued for fewer regulatory constraints.

“It’s a lobbying document,” said Amy Bach, executive director of policyholder advocacy group United Policyholders. “It’s intended to affect the mindset of judges and legislators and the public.”

The report criticized the litigious environments in California and Louisiana, as well as Florida, which approved legislation in spring aimed at shoring up the insurance industry there.

There have also been at least six insurer insolvencies in Florida since November 2019, according to the state-backed Citizens Property Insurance Corp., which has grown rapidly in recent years as insurers have left the state.

Five insurers were also recently downgraded or had their ratings withdrawn. “While Florida’s governor and Legislature implemented positive reforms during a special session earlier this year that are a step in the right direction, it will take time and additional reforms to stabilize Florida’s volatile property insurance market,” Reinsurance Association of America President Frank Nutter said in a news release.

The report also criticized legislation in California allowing nonrenewal moratoria after wildfires and extending time frames for policyholders to collect full replacement costs and additional living expenses.

“Insurers caution legislators and regulators of the unintended consequences of imposing new coverage mandates or claims handling expectations in the immediate aftermath of major catastrophes, which may introduce additional volatility and prolong market instability as insurers work to recapitalize,” American Property Casualty Insurance Association Assistant Vice President Karen Collins said in a statement. Bach, of United Policyholders, said litigation has been a scapegoat for the insurance industry for decades. “The one place where the little guy has a shot at holding a big guy accountable for cheating them is in the courts,” Bach said. “That is the consumer’s leverage.”

Instead, Bach said the insolvencies may be the result of poor business decisions, as well as increased costs from inflation and climate change.

“Generally speaking, you don’t see any of the big brand names that you know teetering on the edge of insolvency,” she said. “These are all small companies that maybe just bit off more than they could chew, and that may be the story.”

–Additional reporting by Dave Simpson. Editing by Emma Brauer.