United Policyholders
Empowering the Insured

Insurers reaped outsized profits from NY homeowners' policies, group says

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Despite catastrophic losses from superstorm Sandy and Hurricane Irene, property insurance companies have reaped profits in New York at rates more than double the national average in recent years, according to a study scheduled to be released Monday.

Between 2004 and 2013, insurers posted an average annual "return on net worth" — a key measure of profitability — of roughly 15 percent from homeowners' policies across the state, compared with 6 percent nationwide, according to the report by United Policyholders, a nonprofit that helps homeowners file claims.

The group, based in San Francisco, attributes those higher-than-average profits to New York State insurance law, which largely bars policyholders from collecting legal fees when suing insurers. The provision, the group says, allows companies to underpay claims with little fear of being challenged in court.

"Insurance companies make business decisions based on the legal and regulatory environment in the state," said Amy Bach, executive director of United Policyholders. "So in a state where they know homeowners are unlikely to sue, they can aggressively underpay."

Insurance industry professionals rejected the notion that state law allows them to underpay claims and declined to comment on the specifics of the study, saying they need to read it first. But they cautioned against comparing profits from state to state, saying each faces specific risks that require companies to hold different amounts in reserve to cover losses in the event of epic storms.

Pricey coastal properties

New York, for instance, is home to the most expensive concentration of coastal properties in the United States that are vulnerable to hurricanes, insured for nearly $3 trillion, said Kristina Baldwin of the Property Casualty Insurers Association of America. Consequently, she said, companies need to build that into their pricing and profit structure.

"It's important that insurers are taking in enough capital to ensure they have the reserves necessary in

the event of a major hurricane," Baldwin said.
United Policyholders conducted the study using data reported by insurers to the National Association of Insurance Commissioners. Regulators commonly use return on net worth to judge profitability. It is calculated by dividing an insurer's net income, after taxes and other expenses, by the company's net worth, or its assets less its liabilities.
The organization timed the release of its study to coincide with debate of two bills in Albany that would make it easier for policyholders to challenge insurance companies in court. Among other things, the bills would allow homeowners to collect legal fees if they sue over a claim and win.
Frivolous lawsuits feared
The bills face opposition from the insurance industry, which argues they would lead to frivolous lawsuits and higher premiums.
Under current law, most policyholders can only sue for the amount that covers damage to the property. Say, for example, a tree falls on a house, causing $5,000 damage. The insurance company may only pay $1,000. So the homeowner hires a lawyer, sues and wins. The most that can be collected is $4,000. That means the homeowner is stuck with the lawyer's bill, which typically is a third of any settlement, or in this instance about $1,300.
Assemb. Todd Kaminsky — whose district includes Long Beach and other South Shore communities that were pummeled by Sandy — said the law gives insurance companies little incentive to pay for full damages, and discourages homeowners from taking them to court.
"If you have to go out of pocket to fight the machine, it dissuades people from bargaining," he said. "And when you can't push back, you have to settle with what you are given."
Insurers protected on fees
New York is among seven states nationwide where most policyholders are barred from collecting legal fees. The provision, United Policyholders said, has discouraged homeowners from suing and, consequently, allows insurance companies to pay lower claims and pad profits.
The group's study found that between 2004 and 2013, a decade that included both Hurricane Irene and superstorm Sandy, insurance companies paid out 49 cents in claims to New Yorkers for every dollar they collected in premiums. Nationwide, insurers paid out 63 cents per dollar in premiums, the study found.
Ellen Melchionni, president of the New York State Insurance Association, said New York policyholders are already protected under the law. The state Department of Financial Services, she said, aggressively investigates and prosecutes consumer complaints.
"Is this really a consumer issue — or is it a trial lawyers' issue?" Melchionni said.
James F. Sutton, an East Islip insurance broker and former chairman of The Independent Insurance

Agents & Brokers of New York, said he fears the legislation would discourage more companies from covering homes on Long Island, where large carriers have been dropping policies for years.

It’s unclear if the legislature will approve either measure before its regular session ends Wednesday. One is scheduled for debate in the Assembly; the other has yet to emerge from a Senate committee.

J. Robert Hunter, director of insurance at the Consumer Federation of America, said the measures could be crucial to protect homeowners.

“Laws like these,” he said, “are the one most important way to control insurers” and discourage underpaying policyholders.

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