Lessons for Staten Islanders navigating the insurance maze

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As they stare down drawn-out battles over insurance settlements and uncertain coverage for the future, Staten Islanders might look to the aftermath of Hurricane Katrina — a storm that cost insurance companies a record $41 billion — to hazard a guess at what's to come.

But even before Sandy came into play, many coastal homeowners on the Island were already feeling the impact of Katrina, even though the storm happened thousands of miles away.

The devastating storm led many insurers to re-assess whether they wanted to offer policies along the coast, including on the Island.

"After Katrina, insurers not only in New York state, but all along the eastern seaboard revisited their exposure, and some of them made some tough decisions regarding the issuance of nonrenewals," said Michael Barry, vice president of media relations for the Insurance Information Institute.

Insurers don't make those decisions lightly, he said — while it lessens the company's exposure to big pay-outs after a potential storm, it costs them elsewhere. "Oftentimes when you issue a homeowner's nonrenewal, you're also potentially losing their auto insurance business," he explained.

While Sandy won't unseat Katrina as being the costliest storm in history — Sandy currently ranks third if the cost of Hurricane Andrew is adjusted for inflation — insurance companies have a good reason to think of New York as a particularly risky state when it comes to potential hurricane damage. While storms don't hit New York as often as they do in the South, the property here is much more expensive.

According to the Insurance Information Institute, New York has $2.6 trillion worth of insured coastal property — second only to Florida.

COMPANIES LEAVE

Some insurance companies left New Orleans in big numbers after Katrina — Allstate went from holding about 18.8 percent of the state's homeowners policies in 2004 to about 12.5 percent in 2011, according to the Louisiana Department of Insurance. By 2011, companies like ASI Loyds, Lighthouse and others that hadn't been in the state during Katrina worked their way into the state's top 20 homeowner insurers by market share, in part by taking on policies previously held by the government-run Louisiana Citizens Fair Plan.

The issue of having to turn to smaller, untested companies as large insurers left the coastal market has also rippled up to New York in recent years.

"The concern is that some of the new insurers that move in are from what is called the non-admitted market," Barry said. "While many of them are very well capitalized and solvent, they are not regulated by the New York State Department of Financial Services when it comes to enforcing consumer protections."

Amy Bach, executive director of United Policyholders, said New York's regulations are a bit stricter than those in some other states, and allow the area to better deal with insurers pulling up stakes.

"You did have a statute that gave the commissioner the ability to limit the number of policies that non-renew in a year," Ms. Bach said. "So he was able to slow it down. He couldn't prevent it completely, but he was able to slow it down."

FINE-PRINT SHOCK

As insurers look at New York as a coastal storm risk, homeowners here might start seeing some of the issues facing those in the South. After Katrina, many homeowners insurance simply stopped covering wind damage — leaving homeowners to scrounge for that coverage elsewhere.

"People in those states now have three policies," Ms. Bach said. "They have a home policy, they have a flood policy, and then they have a windstorm or a hurricane policy — and a lot of them are through a government-provided entity," she added, because few private insurers want to take the risk.

Another aspect of policies that changed after Katrina — and one Island homeowners may already be getting familiar with — are hurricane or named-storm deductibles. While many homeowners have for years been subject to paying a flat fee in the event of a hurricane before their coverage kicks in, after Katrina, many homeowners found their policies called for a deductible that was a certain percent of the home's values.

DAZED BY DEDUCTIBLE

With two storms in two years, New Yorkers are looking more closely at the declarations page of their policies, Barry said.

"Insurers have not only been putting the percentage, but they put the dollar amount," Barry said. "That makes it real to people, and it's prominently placed."

If the deductible is 5 percent of a home with an insured value of $250,000, homeowners will have to pay $12,500 out of pocket before they see a dime.

"I think New Yorkers are becoming more familiar with the circumstances under which their hurricane deductible, if they have one, will apply," Barry said.

Gov. Andrew Cuomo said after the storm the deductibles shouldn't apply, since Sandy wasn't technically a hurricane when it hit the state. But some policies have deductibles for "named-storms."

"Depending on the policy its usually triggered by a certain category of a storm, as determined by the National Weather Service," Barry said.

HELP FOR HOMEOWNERS

Ms. Bach said her group is a resource for the "squeaky wheel" — the person who wants to make lots of noise and find every way to get the insurance settlement they feel they deserve.

"Somethat requires some creativity, because when these companies write the policies, they set the rules," Ms. Bach said. "If you have somebody who wants to push back, since the insurance companies wrote the rules, all we have on our side is common sense and the law."

Ms. Bach said that's why it makes sense to have a "really good advocate" in a lawyer or public insurance adjuster.

"Uncle Larry probably doesn't have the chops to take on Allstate," she said. "That's just a reality."

Some of the policy intricacies that leave homeowners out in the cold have been challenged before. One is the anti-concurrent causation clause ACC) in some policies, which says if two causes of damage are happening at the same time — say, wind and flooding — if one, like flooding, isn't covered, then none will be covered. Ms. Bach said United Policyholders challenged those clauses in court after previous storms and mostly "had our clocks cleaned."

"We won a few battles but overall I think we lost more," she said.

But what New Yorkers may have going for them is that Cuomo and Finance Superintendent Benjamin Lawksy are "fighters," Ms. Bach said.

"You do have that opportunity to make the laws more consumer-friendly in New York, but at the same time the law is the law, and what the law is now is what will apply to people in Sandy," Ms. Bach said. "Not what the law may be amended to be in the future, based on the groundswell of reform calls I suspect we will have soon."

FIGHT FOR REFORM

Ms. Bach said while past fights against the ACC clauses haven't been successful, New Yorkers could still try, she said.

"You just never know when you're going to get a principled, moral judge who says, 'No, I don't think I'm going to enforce this, because it's against public policy or it's against the policyholders," she said.

It's what she would most like to see up for reform in the state post-Sandy.

"I would love New York to take a stand on anti-concurrent causation and say we're not going to enforce them in our state," she said. "That would be of course my number one preference."

While New York has more regulations on insurance than states like Louisiana, Ms. Bach said it's still in the “dark ages” in some ways.

“I think I’d like to see policyholders in New York have the ability to recover the full amount of damages an insurance company causes,” she said.

Right now, New Yorkers can sue for the amount of benefits, but no more.

“If them withholding benefits caused a domino effect, and say you lost your business or suffered other economic or fiscal harm, it’s almost impossible to recover those damages,” Ms. Bach said. “It’s very tough.”