

## [The beauty of insurance when it works, the ugliness when it doesn't](#)

### **Taking property insurers' financial temperature amidst the crisis**

There are varying opinions on how property insurers are faring in the current economic crisis as investment returns have plummeted. The **Ernst & Young** Global Insurance Center's US property-casualty industry outlook for 2009 asserts that the property-casualty sector has not suffered serious impact from the financial crisis. The **AIG** divisions that got bailed out were not P/C product lines. But, policyholders and advocates can anticipate negative changes ahead as insurers are likely to follow Ernst & Young's recommendations to offset investment losses by:

1. "Controlling claim expenses" which is a rallying cry that has historically led to company-wide directives aimed at underpaying claims
2. Increasing rates ([read more here](#))

### **As the kitchen heats up, some will heed the old saying and get out**

Floridians have been enduring insurance crises for years now, and Commissioner **Kevin McCarty** and his staff are arguably the hardest-working insurance regulators in the business. State Farm's recent announcement that it will no longer sell homeowners insurance in the Sunshine State looks to me like a political move to discourage other state regulators from taking bold actions as McCarty has. Let's hope it fails. McCarty and his team are working overtime to clean up the mess that private insurers (plus irresponsible construction and Mother Nature) have made. The solutions - like those our nation must now pursue to solve our economic problems - are in play and not simple.

The fact is, we need a property insurance system in place. So as insurance functions that private industry has traditionally provided (pooling, risk spreading, modeling, underwriting, rate setting and claim service) increasingly end up in government's lap, there's going to be equal opportunity pain and unhappiness in

the transition process.

[In my speech](#) last December to [Silicon Valley executives](#), I predicted that government involvement in the business of insurance will continue to increase as the private market constricts. Climate change is partly to blame. Decreasing investment returns are partly to blame. Our international fiscal crisis is partly to blame. I hope we find a way to make insurance work again and restore the public's trust. There is such a thing as a healthy insurance system.

Contrasting areas in Mississippi and Louisiana with photos from the ground-breaking/framing parties that Outreach Coordinator **Karen Reimus** has been attending in San Diego, I'm reminded again why I do what I do. When insurance companies don't pay, it's ugly. When they do, it's a beautiful thing.

If you tour post-disaster areas in states with consumer protection laws where UP has been able to organize and empower policyholders and pressure insurers through lawsuits and regulatory intervention, you'll see the difference: The Oakland/Berkeley hills, Mt. Lemmon, Arizona and parts of San Diego have all rebounded well. But if you tour areas in states with weak laws and huge populations of disaster survivors (Louisiana, Mississippi, Alabama and Texas), you'll see what happens when insurers don't pay. Communities just can't recover. Current government aid programs are a long way from covering gaps left by underpaid private insurance claims.

Anticipating and spreading risks, pooling protection money and making that money grow makes economic and social sense. Making sure that those who have paid in can draw down when they need to is not out of our society's reach.

### **A scholarly in-depth look at *Campbell v. State Farm***

For our readers who are lawyers or who follow legal matters relating to insurance, I recommend [Litigation Road: The Story of \*Campbell v. State Farm\*](#) by UNLV Law School Professor **Jeffrey W. Stempel**. Professor Stempel offers an in-depth textbook analysis of *Campbell v. State Farm*, the 2003 U.S. Supreme Court opinion that ripped the heart out of the deterrent function that punitive damage awards had on insurance companies. Post-*Campbell*, insurers are having a much easier time calculating the downside risk of cheating and building it into the cost of doing business.