

California State Senate Committee on Insurance, William W. Monning, Chair
Informational Hearing on Catastrophic Risk in California, May 14, 2014

Testimony of Amy Bach, Esq., Executive Director of United Policyholders

I. Introduction

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Programs

Roadmap to Recovery™

Roadmap to Preparedness

Advocacy and Action

- a. United Policyholders (“UP”) is a non-profit with 22 years of experience in pre- and post disaster insurance matters, the nuts and bolts of property claims and related public policy initiatives.ⁱ Through a Roadmap to Preparedness and a Roadmap to Recovery™ program, UP distributes tools and information to help consumers make good decisions when buying insurance and navigating claims. To be a useful resource and an effective voice for consumers, UP coordinates with regulators (the CA Department of Insurance), the CEA, insurers, a panel of Agent/Broker advisers, public officials and community groups. (See <http://www.uphelp.org>)
- b. Maintaining a competitive marketplace through which property owners can afford quality insurance to protect their assets and meet their mortgage obligations is a challenge in today’s data-focused business climate. Credit scoring, brush mapping, cat model vendors and climate change data are driving insurers to reduce their exposure through non-renewals and broader policy exclusions (See UP’s recent comments to the Federal Insurance Office attached to this document, see alsoⁱⁱ). With the exception of the trend toward Replacement Value Coverageⁱⁱⁱ, property insurance protection for homeowners has been steadily eroding (e.g. flood, earthquake, mold and water, like kind and quality, RC for roofs capped/excluded, and the advent of percentage deductibles).
- c. With regard to basic fire, theft and liability coverage, in contrast to flood and earthquake, the insurance marketplace for California homeowners remains very competitive in all but the highest brush risk areas. In those areas, surplus lines and lesser known carriers and the CA Fair Plan are an option, as well as DIC policies that can be added on to cover liability.
- d. We have years of experience with various forms of public private insurance partnerships: JUAs, Fair Plans, Citizens Insurance, the CEA, the NFIP, TRIA. We are striving to improve those plans – as none have proven temporary.

II. Substantive Discussion

a. **Responses to questions raised in Informational Hearing summary**

- i. Californians cannot rely on federal-level programs to fund recovery from large natural disasters. The max FEMA grant is needs-based and \$32k, hardly enough to build a garage, let alone a house. Solvency issues, limited coverage and low payouts from the National Flood Insurance Program (“NFIP”) are examples of why/why not.^{iv} Our repeated efforts to help enact federal legislation that would the CEA to offer more affordable coverage have not been successful.
- ii. The insurance industry can play a much more active role in facilitating mitigation by giving pragmatic help to their insureds on reducing hazards, hardening homes and offering meaningful discounts for creating defensible space and retrofitting (i.e. partner *not* penalize!) (*See, e.g.* <http://www.earthquakebracebolt.com/>). However, significant barriers continue to exist. There is a lack of consensus on mitigation techniques, reluctance by insurers to reduce rates to reflect decreased risks due to mitigation, the cost of retrofitting, Constitutional considerations, opposition to code enforcement from developer interests, etc. In several states (South Carolina, Florida and others), insurance discounts for mitigation are now mandated by statute.
- iii. Other industries (financial institutions, construction, and real estate) can aid the process of disaster preparedness by encouraging disaster preparedness and financial literacy. Real estate developers in particular are in a strong position to set trends in resilience, etc.
- iv. Building code enforcement is an imperative, but again, there needs to be rewards for those who comply. By rewards, we mean, premium breaks that are a true incentive.
- v. The NFIP has been consistent in tying resilience-oriented programs (home elevations) and land use decisions to discounted premiums (*See, e.g.*, <http://www.fema.gov/national-flood-insurance-program-community-rating-system> -“Saving lives, reducing property damage, and lowering premiums.” (<http://www.fema.gov/media-library/assets/documents/16104?id=3655>).
- vi. Given the low take up rate for earthquake coverage in CA and our failure to enact COGA and the EIAA, we encourage elected officials to reconsider

a statewide mandate that some amount of earthquake coverage should be mandatory statewide. At the very least, the mandate could apply to residents in the highest risk earthquake zones. There is already a precedent for this for residents living in “State Responsibility Areas” (*i.e.* high-risk wildfire areas) (See <http://www.firepreventionfee.org/>).

b. Other considerations

- i. Underinsurance continues to be an enormous challenge after natural disasters of every kind. According to the nation’s leading construction cost estimator and UP post-disaster consumer surveys approximately 2/3 of all homes are underinsured. (See http://www.uphelp.org/library/resource/survey_results).
- ii. UP supports the development of an all-perils home policy with fixed limits and a flat dollar deductible. ^v

ⁱUP Executive Director Amy Bach, Esq. has been an attorney and consumer advocate for more than 20 years. Bach has served on the Product Enhancement Advisory Board to the California Earthquake Authority in 2005—2007. In 2008, Bach was appointed by the California Insurance Commissioner to Chair a Consumer Advisory Task Force. Bach has been selected six times to serve as an official consumer representative at the National Association of Insurance Commissioners. Bach was honored as a 2012 Money Hero by Money Magazine and has received awards from the Independent Insurance Agents and Brokers of California, the Proposition 103 Implementation Project, and the Consumer Attorneys of California.

ⁱⁱ <http://www.consumerfed.org/pdfs/InsuranceRegulationHurricaneRiskDisappearingCoverageStudy2-12.pdf>

ⁱⁱⁱ A trend that seems to be reversing itself in some regions of the country – See “Raising the Roof on Insurance Fine Print” at <http://www.uphelp.org/blog/advocacy-and-action/raising-roof-home-insurance-fine-print>.

^{iv} UP has received anecdotal evidence that the NFIP claim determination appeals process under 44 C.F.R. §62.20 does not work in favor of consumers (*i.e.* the Federal Insurance Administrator (“FIA”) rarely, if ever, overturns a denial of coverage). UP recently submitted a Freedom of Information Act (“FOIA”) request to FEMA seeking data on number of appeals v. instances where the FIA has remanded the insurer’s initial denial of coverage. This FOIA request is currently at least 20 days overdue but may be instructive on the shortfalls of the NFIP.

^v See “Considerations for a National Catastrophe Insurance Policy,” A Presentation at the National Association of Insurance Commissioners, NAIC Consumer Liaison Committee by Amy Bach, Executive Director, United Policyholders and S. Colleen Repetto, Executive Director, FIRM, (Fair Insurance Rates in Monroe) Saturday, June 13, 2009