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(Signed)

The National Underwriter Company
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NAMIC CONFERENCE REPORT

Attacks On Flood Exclusion Could Batter Katrina Insurers

BY DANIEL HAYS
PHOENIX

INSURERS COULD END UP PAYING out billions more than their exposure models predicted for hurricane losses in the Gulf Coast if government officials and private attorneys succeed in stripping policies of their standard flood exclusions, industry officials here warned.

One key battle for insurers looking to defend their policies will be fending off a lawsuit filed by Mississippi Attorney General Jim Hood. That action—along with other private lawsuits—seeks to force the industry to pay homeowners flood claims, arguing in part that language excluding flood damage is ambiguous.

Many people don't buy flood coverage because they are "in denial," says one official

The Hood lawsuit, which is now in federal court, seeks "to abrogate our contracts," said William E. Bailey, special counsel for the Insurance Information Center and head of the Hurricane Information Center in Jacksonville, Fla.

"If that judge decides in favor of the attorney general, you [insurers] will not know what your liabilities are," he added during a panel discussion on the effects of Hurricane Katrina here during the annual convention of the Indianapolis-based National Association of Mutual Insurance Companies.

Mr. Bailey warned that the price tag for insurers if Mr. Hood's suit is successful will be $40-to-$60 billion, "on top of claims we say we owe." (The Insurance Services Office last week estimated total insured Katrina losses at $34.4 billion—by far the most expensive catastrophe in U.S. history, dwarfing Hurricane Andrew of 1992, which came in at just over $20 billion in inflation-adjusted dollars.)

According to Mr. Bailey, Mississippi Insurance Commissioner George Dale "is deathly afraid of what could happen" to the insurance marketplace if the Hood suit is successful.

Harvey Ryland, president of the Institute for Business and Home Safety in Tampa, Fla., and a former Federal Emergency Management Agency director, said the big problem is that not nearly enough homeowners have flood insurance.

He said that part of the cause is that "many people are in denial." He related how a citizen at a flood insurance conference told of how he had been reimbursed by the flood insurance program, but then added he had dropped the coverage because "it won't happen again."

Mr. Bailey took note of legislation introduced in Congress that would allow for retroactive flood insurance if a homeowner pays premiums for the 10 previous years (see story, page 7). He said this would not "disincentivise" the purchase of coverage because it carries a requirement that those who take advantage of such assistance must then continue to pay for the coverage for their home.

Roger Schmelzer, NAMIC senior vice president for state and regulatory affairs, said the response to Katrina by regulators has so far been "measured. It's been good."

He said the National Association of Insurance Commissioners and National Conference Of Insurance Legislators were looking at a number of regulatory and legislative responses to deal with big disasters, including creation of a "Mega-CAT fund. Think TRIA on steroids," he added, referring to the Terrorism Risk Insurance Act.

Mr. Schmelzer said he thought Hurricane Katrina would lead to "a better comprehension of where everybody fits in the insurance marketplace."

Brian Boyden, executive vice president with State Farm Mutual Insurance in Bloomington, Ill., said Katrina raised a number of questions for insurers, such as: "How do we reflect improved building codes in our underwriting guidelines?" and "What have we learned that tells us what to do to protect our customers?" NU