WRITTEN TESTIMONY ON BEHALF OF
THE INDEPENDENT INSURANCE AGENTS & BROKERS OF AMERICA (BIG "I")

BEFORE THE
UNITED STATES HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON HOUSING AND INSURANCE OF THE
COMMITTEE ON FINANCIAL SERVICES

HEARING ENTITLED: THE FACTORS INFLUENCING THE HIGH COST
OF INSURANCE FOR CONSUMERS

OCTOBER 24, 2023

Introduction

Founded in 1896, the Big "I" is the nation's oldest and largest national association of independent insurance agents and brokers, representing more than 25,000 agency locations in all fifty states and the District of Columbia, united under the Trusted Choice brand. Trusted Choice independent agents offer consumers all types of insurance—property, casualty, life, health, employee benefit plans and retirement products—from a variety of insurance companies. It is from this unique vantage point that we understand the capabilities of the insurance market when it comes to insuring against risks.

When disasters strike, independent insurance agents and brokers are on the front lines with devastated policyholders who need to rebuild their lives. In fact, our members live in the communities that they serve, and they and their families are also impacted by many of the same issues facing other consumers. As such, independent insurance agents and brokers understand the challenges that consumers face and their concerns about the availability of affordable coverage for insuring against risks.

Addressing the Property Insurance Crisis

Although the insurance market is cyclical and expectedly fluctuates between what are known as hard and soft markets, we are currently in the midst of a property insurance crisis that has been unparalleled in recent decades and is perhaps unprecedented in nature. Appropriate and suitable property insurance is simply unaffordable for millions of Americans, and it is altogether unavailable for a growing universe of families, businesses, and individual consumers. Many are forced to accept coverage that does not adequately protect their homes and assets, and others are compelled to go uninsured.

These crisis conditions are not limited to coastal or earthquake-prone areas traditionally associated with natural disasters. They are now ubiquitous and found in every corner of our country, and they are producing troubling repercussions and ripple effects throughout our economy.

Notable Factors Causing, Affecting, and Exacerbating the Crisis

There are a myriad of challenges and factors fueling this property insurance crisis. The conditions associated with previous hard markets are clear, but there is a range of newer issues that are exacerbating the situation and producing significant disruption in the marketplace. Some of these factors are national or international in scope, while others are regional or even state-specific in nature.

The most notable catalyst for the insurance affordability and availability crisis is the increased frequency and severity of natural disasters and weather-related events. Hurricanes and windstorms are obviously responsible for considerable losses, and the economic impact of such events will continue to grow as long as population growth and unregulated development continues to spike in vulnerable coastal areas. The threats posed by these storms make obtaining appropriate coverage in Florida, Louisiana, and other Atlantic and Gulf Coast states especially challenging.

The types of natural disasters and severe weather events affecting the country, however, are changing and expanding and the regions of the country now susceptible to such events are growing as well. Wildfires, for example, have had immense devastating effects over the last decade in California, the Northwest, the Southwest, the Rocky Mountain region, and most recently and tragically, Hawaii. The growing risk of wildfires has significantly hindered the ability of consumers to obtain suitable property insurance coverage in those areas. Severe convective storms and hail/ice storms have also emerged as a regular and ongoing occurrence in the Midwest and other portions of the country not typically associated with natural disasters. The threat posed by these weather-related events is expected to increase, and the risk of powerful earthquakes remains serious along the West Coast, in the New Madrid Seismic Zone, and elsewhere. In short, no region of the United States is immune from the threat of natural disasters.

This increase in natural disasters of all types and in all geographical areas has resulted in declining capital and surplus for carriers. Surplus is the vehicle by which carriers are able to renew and write new business and is critically important to their overall success. The stress placed on carrier surplus can be seen in the latest report by AM Best, which has downgraded 32 carriers' credit rating during the first half of 2023 compared to only 18 downgrades in the first half of 2022.

Additional pressure affecting the property insurance market is the rising cost of reinsurance. According to Gallagher Re, rates for property catastrophe reinsurance have risen by as much as 50 percent annually. The significant increase has had a downward effect on insurers, who are forced to reevaluate where they are offering coverage and for what exposure. According to AM Best's 2023 annual report, eight of the top ten reinsurers are domiciled outside of the United States. These global and largely unregulated reinsurance companies are charging exorbitant rates, shrinking their exposure and in some cases withdrawing completely from the property catastrophe market. There simply is not enough reinsurance at a reasonable cost to serve the marketplace today and provide the certainty and stability that is needed for many primary insurers.

Many other factors are also contributing to the property insurance crisis. These include sky-high inflation levels (which affects the costs of goods and services and what insurers must pay in repair and labor costs), litigation abuse, supply chain disruptions (which continue to hinder timely access to building materials), and counterproductive regulatory restrictions in some jurisdictions that undermine market certainty and insurer confidence. The impact of these factors has been discussed extensively in recent months and is sure to be discussed in written testimony by carrier trade associations for this hearing. We will train our focus on what independent agents and brokers throughout the country are relaying to us from their main street view.

Additional Observations from the Independent Agent Community

Our members approach the business of insurance from a very simple perspective: we are here to serve consumers' needs, whether it is helping them secure coverage to protect their families, homes and businesses prior to an event or assisting consumers after an event to ensure that claims are paid quickly and fully. As the intermediaries between consumers and their insurers, our members cannot and will not walk away from consumer needs as long as they demand coverage for these risks. It is through that lens that our members have voiced concerns and made the following observations about the current property insurance crisis:

- A key factor exacerbating the property insurance crisis is the way insurers are covering – or, stated more accurately, refusing to cover – homes with certain types of roofs. Specifically, in the last several years, many insurance companies have stopped insuring properties that have asphalt shingle roofs more than ten years old. This blanket restriction for shingle roofs after ten years has been adopted broadly and swiftly in the marketplace and typically applies regardless of the actual condition of one's roof, the precise type of shingles and materials utilized, the weather conditions in the homeowner's area, the pitch of the roof, and other relevant factors. Since asphalt shingles cover more than 75 percent of roofs in this country, the implications of this sudden and nearly universal change in insurance industry underwriting practice are substantial. Consumers are incredibly confused and severely affected by this relatively new practice, especially since they often purchase roofs with warranties and shingle wind ratings that suggest the lifespan of their roofs should significantly exceed ten years. The status quo is unacceptable and potentially makes tens of millions of homes nearly uninsurable. Regulators and policymakers should examine the basis for and ramifications of these underwriting restrictions, engage relevant stakeholders (including the insurer, surplusing, and shingle manufacturing communities), and respond with legislation and new regulations if/where warranted.

- Consumer confidence in the insurance industry has also been undermined because some insurers are unwilling or unable to explain to individual consumers (or their insurance agents) why the insurance coverage on their homes is being nonrenewed or why their premiums are increasing significantly. Insurers are increasingly utilizing new scoring models and assigning scores to properties (e.g., wildfire risk scores) that are opaque to consumers, their agents, and even to regulators and that often do not appear to reflect the true risk level of properties. Consumers often view the validity of these scores (especially given the fluctuations that often occur) with skepticism and have no ability to understand or to question the underlying data utilized by the model or the outputs produced.

- Implementing meaningful mitigation measures and taking other steps to bolster the resiliency of individual homes and communities can help protect against the threats posed by natural disasters. Policyholders are told that mitigation measures are important and can reduce premiums, but they are often uncertain what specific actions will make a difference and whether they will see any tangible benefit. Insureds will be more willing to invest in mitigation if they know what steps provide meaningful protection and have a financial impact.

- Consumers who are able to renew policies with their insurance companies are not only facing massive rate increases that outpace the rate of inflation, but they are increasingly forced to accept coverage with higher deductibles, lower limits, and newfound exclusions. There are numerous factors, as mentioned earlier, that contribute to this reduced coverage at a higher price. Consumers complain to agents, who act as intermediaries and pass along those complaints to insurers. Those insurers are increasingly telling agents that they cannot obtain proper reinsurance, which would allow them to continue providing coverage in the primary market at more reasonable rates. The concept of reinsurance is a difficult one to grasp for many consumers, but critically important to understand why rates are rising and coverage is declining.

- Mergers and marketplace consolidation over the last decade has resulted in fewer insurer options in many places, and many of the insurers that are purporting to write new property insurance today do so in such restrictive ways that the underwriting siphon is effectively closed. Marketplace options for consumers have also been reduced because some insurers have begun to cancel the agent-company agreements they have in place with segments of their agency force.

- The dysfunction occurring in the traditional admitted marketplace has forced many insurance purchasers to seek coverage elsewhere. The largely unregulated surplus lines marketplace has provided much-needed options for some and has seen significant growth. Surplus lines carriers, however, are increasingly overwhelmed by the demand and are struggling to respond. Many consumers have also been forced to obtain insurance from state-sponsored residual markets and the full-blown state-run insurers in place in a few states, but the policies offered are typically narrower than traditional coverage and extend an already troubling protection gap. States without publicly established options of this nature are considering their creation. For example, Colorado recently created a Fair Access to Insurance Requirements (FAIR) Plan that is expected to begin selling policies in early 2025. Owners of properties that are unable to obtain coverage through the admitted market or the alternatives highlighted above are forced to go without the financial protection and security that insurance would normally provide.

What Can Be Done?

The insurance industry ultimately relies on certainty and on its ability to match risks with premiums, and states can foster certainty and insurer confidence in a number of ways. We believe that any solution to the current insurance crisis will need to be comprehensive in its approach, addressing multiple areas to increase availability while addressing affordability issues.

Consider Federal Solutions

The Big "I" is comprised of thousands of small businesses and as such, we always prefer market–driven solutions to problems. Despite our longstanding position that the insurance market is best served by limited federal involvement, a federal solution may be necessary to encourage greater participation in high-risk markets that carriers are drastically scaling back in or refusing to insure altogether.

With that in mind, the federal government could assist by creating a narrow reinsurance backstop to supplement the unregulated reinsurance market. The Big "I" believes the best solution is for a program to be in place before major disasters happen – to have a clear, well-structured mechanism that encourages the private sector to handle as much of the risk as possible, and only trigger federal involvement as a last resort upon private marketplace failure. We believe that such a structure will protect both consumers and taxpayers living in all areas across the country – especially when history has proven that more taxpayer dollars are going to be spent on disaster assistance following catastrophic events.

However, it is important that the day-to-day regulation of insurance remains at the state level, where state insurance departments are best equipped to serve the special needs of local consumers in local markets. As such, given the absence of affordable coverage and the exposure that both consumers and taxpayers face, we believe that there is a very limited and appropriate role for the federal government, and we are open to considering proposals that increase insurance availability and affordability nationwide.

Increase Risk Mitigation Efforts

The Big "I" supports risk mitigation efforts that will better protect consumers and property from natural disaster, and in doing so reduce exposure for taxpayers across the country. Catastrophic disasters are increasing in frequency and severity at an alarming rate, and mitigation efforts must accelerate to help combat the risk. Multiple studies have shown that for every dollar spent on preventative measures, it saves approximately $4 in future losses. By actively implementing risk mitigation strategies, communities and consumers can help harden property and better protect it. Theoretically, the implementation of risk mitigation strategies should make certain properties more appealing to insure, adequately cover and accurately price.

This proactive approach not only enhances the industry's financial stability but also promotes customer trust. Policyholders are more likely to have confidence in insurers that demonstrate a strong commitment to risk management, knowing that their claims will be processed efficiently and fairly, even in the wake of a disaster. Additionally, effective risk mitigation enables insurance companies to respond promptly to policyholder needs after catastrophic events, fostering goodwill and strengthening the industry's reputation.

Congress took a positive step with passage of The Community Disaster Resilience Zones Act of 2022, which was signed into law last December. Communities that are identified as being most vulnerable to natural disasters will receive targeted support to access federal funding for resiliency projects. By actively engaging in the implementation of the Community Disaster Resilience Zones bill, insurers not only contribute to the safety and well-being of the communities they serve but also align their strategies with national priorities. This collaborative effort between the insurance industry and local communities not only mitigates risks effectively but also fosters a sense of shared responsibility, reinforcing the industry's role as a cornerstone of societal resilience in the face of disasters.

Using financial incentives to mitigate risk can be an effective tool as well. The Big "I" is encouraged by the introduction of H.R. 4070, the Disaster Mitigation and Tax Parity Act of 2023, which encourages residents and homeowners to fortify their homes by utilizing pre-disaster mitigation programs. This bipartisan, bicameral bill will eliminate federal taxation of state provided residential mitigation grants for earthquake, windstorm, and wildfire.

Reduce Lawsuit Abuse

It is important to protect consumers, which insurance regulators do, but lawsuit abuse is out of control in many states. Abuse of the legal system is a significant problem and adds considerable costs to the insurance system and to the costs that consumers pay for property insurance. Narrowly crafted reforms have been enacted in some jurisdictions and are beginning to have positive effects on the insurance marketplace.

For example, Florida accounts for only 9 percent of all homeowner's insurance claims nationally, but 79 percent of all homeowner's insurance lawsuits nationwide. It is estimated that Florida households are paying an extra $5,065 annually due to lawsuit abuse. Not only is the litigation climate an added cost to every consumer and business, but it has also been a drain on the insurance industry, which often shoulders the financial burden of rampant frivolous lawsuits. According to the Florida Office of Insurance Regulation, $51 billion was paid out by Florida insurers over a 10-year period and 71 percent of that total went to attorneys' fees and public adjusters.

Late last year the governor of Florida, along with the state legislature addressed these abuses by passing legislation. Among other things, their bill repealed one-way attorney fee statutes, prohibited the use of assignment of benefits under any residential or commercial property insurance policy, increased bad faith standards, and codified the opportunity for insurers to offer mandatory binding arbitration endorsements.

The Big "I" strongly supports efforts such as these to curb lawsuit abuse and urges other states to consider similar reasonable and thoughtful measures. Doing so will bring needed relief to the property insurance crisis and ensure that consumers do not bear the additional cost of certain trial lawyers lining their deep pockets.

Increase Consumer Transparency

The Big "I" supports the enactment of state-level legislation that would require insurers, when nonrenewing an insured, significantly raising premium levels, or adversely altering policy terms, to describe the principal reasons or factors that caused those actions. The underwriting and rating process is incredibly opaque, complex, and confusing, and the lack of reasonable transparency and basic information sharing is frustrating to both consumers, their insurance agents, and other affected stakeholders. Consumers should have some basic understanding of why they are dropped by an insurer or confronted with severe price increases, and the lack of openness undermines confidence and faith in the insurance process and causes many to jump to false conclusions.

Reasonable and meaningful consumer transparency is needed and long overdue. The adoption of a reasonably crafted notification requirement of this nature would ensure that consumers have a basic understanding of why an adverse action of this nature has been taken and offer an opportunity to rectify mistakes if the information underlying the insurer decision is incorrect or incomplete. Such a requirement would also enable consumers to improve their outcomes and address their risk profiles. Insurers often claim that premium levels are important risk signaling devices, but simply nonrenewing a homeowner or dramatically increasing their premiums without explanation is not helpful. Consumers cannot respond appropriately and reduce their risks if they have no sense of what is driving insurer decision-making or how they can mitigate or reduce their risk profiles in the eyes of the insurer, and state policymakers should address this considerable information asymmetry if companies are unwilling to do so on their own.
Many policymakers assume that insurance companies are already required to provide common-sense and reasonable notices in these circumstances. Requirements of this nature apply when a financial institution takes an adverse action in connection with an application for an extension or credit, and insurers have long been required to provide similar notices when an adverse underwriting or rating decision is taken based on information contained in a credit report.

Fortunately, states are beginning to take action to enhance transparency and empower consumers. Indiana enacted legislation several months ago that applies when an insurer raises a policyholder's rates by more than ten percent, non-renews coverage, or otherwise alters the terms or amount of coverage in adverse or unfavorable ways. If an insurer takes such an action, then the new Indiana law will require the carrier to either explain the principal factors that caused the change or describe how the customer can obtain such an explanation. The Indiana statute is based on a model law adopted in March 2023 by the National Council of Insurance Legislators (*The Insurance Underwriting Transparency Model Act*), and additional states are already considering enactment of the model proposal and similar action.

Foster Productive State Regulatory Environments

State regulators and the regulatory frameworks in certain places, including some of the largest and most prominent jurisdictions in the country, bear some responsibility for the magnitude of the property insurance crisis in their jurisdictions. The notion that insurance premiums should reflect the costs and risks borne by insurers should not be controversial, yet there are states that distort and politicize the underwriting and rate-setting process to inappropriately suppress rates and hinder the ability of insurance companies to fairly establish premium levels. We are in a period when costs are growing and risks are changing quickly and insurers must have the ability to respond accordingly, but there are notable states that either deny reasonable and justifiable rate increases or refuse to consider them for years at a time.

Blocking the ability of insurers to charge warranted, appropriately calculated, risk-based rates may seem well-intentioned to some, but this approach and mentality is incredibly damaging, weakens competition, reduces marketplace options, and harms consumers. When state regulators act irrationally and politicize the rate-making process, they create uncertainty and volatility in the marketplace and undermine insurer confidence. Insurers are naturally reluctant to operate in such environments and take on less risk than they would otherwise in these states or ultimately stop doing business there altogether. In jurisdictions where government approval of rates is required, it is unacceptable and unconscionable for regulators (especially in this environment) to wait months and even years before considering them. At a time when we need to foster competition, bolster industry confidence and certainty, mitigate risk exposures to the extent reasonably possible, and encourage insurers to take on risk, some regulators continue to take actions and embrace measures that have the opposite effect and penalize consumers as a result.

There are many factors associated with the property insurance crisis that are uncertain and controllable, but the regulatory climate and environment should not be one of them. State officials in a number of key jurisdictions must assess and revise their current practices, and we are pleased to see elected leaders in some places begin to act. In California, for example, the governor and legislative leaders have been working diligently in recent months to address the state's insurance availability crisis and restore the health of the property insurance market. Several weeks ago, the governor issued an executive order citing the state of emergency that exists in the property insurance marketplace and calling on California's insurance commissioner to improve the efficiency, speed, and transparency of the rate approval process and institute other long-overdue reforms. The insurance commissioner has indicated that he will follow through on this call to action, and, if that indeed occurs, the marketplace in California will improve considerably and to the benefit of Golden State consumers.

Conclusion

We strongly believe that all stakeholders must come together to address the current property insurance crisis, and its impact on consumers. We welcome creative proposals and support any and all reasonable ideas and plans that lead us to a healthy and competitive insurance marketplace in which consumers have choices and companies are vying for their business. We commend you, Mr. Chairman, for convening this hearing, and we hope that the Committee will continue its thorough examination of ways to address the property insurance challenges that the country now faces.