Perspectives on Challenges in the Property Insurance Market & the Impact on Consumers
Senate Banking Committee
September 7, 2023

Opening Statements

Chair Brown (D-OH) pointed to the importance of homebuying and how homebuyers have a lot to navigate when buying a home, including buying homeowners insurance. He said that this insurance is meant to protect homeowners from disasters, but increasingly homeowners have faced unpleasant surprises when renewing policies. Brown said that sometimes insurers will not renew policies or increase premiums significantly. He pointed to how there have been 15 recent weather disasters that have cost a billion dollars and expected that these numbers would go up because of climate change. Brown noted that Sens. Sanders and Welch sent a letter to him and Ranking Member Scott on the devastating floods that happened in Vermont this summer. He said that the lowest income residents and communities of color are in areas most vulnerable to natural disaster. Brown said that insurance companies are leaving states and geographic areas outright and the result is a protection gap and increasing costs for families, which increases financial stability concerns. He then noted the increased cost of reinsurance and how this means higher costs for insurance companies which is passed on to consumers. Brown pointed to how State Farm and Allstate stopped writing new policies in California and how insurers have also left Florida. He said that these insurance companies leaving these states have left homeowners with the insurance of last resort at the state level, like Florida's Citizens and California's FAIR Plan. He pointed to how multifamily housing is also facing challenges in obtaining private market insurance. Brown said that renters will ultimately bear the burden of higher insurance costs through higher rents. He said that the witnesses understand the challenges facing insurers and housing providers.

Ranking Member Scott (R-SC) noted that he spent 20+ years in the P&C insurance business and one of the things they talk about is the probable insurance loss (PIL), whether a company can predict the loss that will need to be insured and how much in premiums they have to charge. He said that insurers have to follow the basic economics just like any other business. Scott pointed to State Farm and Allstate leaving California and said that insurers are leaving markets because the rate sufficiency makes it impossible. He said that they have not wrestled with the damages of catastrophic occurrences across the country. Scott said that some states have oppressive insurance marketplaces and, with places like Florida, they represent most of the insurance losses. He pointed to the regulatory challenges and litigation issues with Florida and said that they need to understand the issues that insurance companies face in places like Florida and California. Scott said that it is very difficult to factor these attorney fees into rate sufficiency.

Witness Testimony

Douglas Heller, ***Director Of Insurance, Consumer Federation of America,*** said that affordability and availability of property insurance is in jeopardy for millions of Americans and that insurance rate increases are unsustainable for homeowners. He added that beyond the geographic, topographic, and climate factors driving increasing premiums around the country, it is important to note that, in most states, homeowners insurance premiums often vary substantially based on a customer's credit history. He said that low-income and minority communities will face higher insurance premiums as a result. Heller said that insurers walking away from certain states is unacceptable and highlighted how the failures we see in property insurance today are a result of insurers ignoring climate risk for decades. He added that the insurers hollowed out policies with more exclusions and higher deductibles, which has shifted risk onto consumers. Heller emphasized the need to invest in loss mitigation measures and take on the questions of equity when it comes to climate change. He said that another issue is the increasing the cost of reinsurance and thought there should be a public private partnership to address this. Heller said that there needs to be a holistic approach to climate change and insurance to create an affordable insurance market.

Michelle Norris*, Executive Vice President Of External Affairs And Strategic Partnerships, National Church Residences,* shared the concern of a growing coalition of multifamily housing providers and trade associations about the rapidly increasing insurance rates and the detrimental impact this has on the rental housing market. Norris continued, saying that the volatility in the insurance market hinders the ability of housing providers to increase the nation's housing supply and worsens the existing housing affordability crisis. Norris added that in addition to rising premiums, they are seeing reduced coverage as well. She said that the instability of the property insurance market has had a disproportionate impact on housing providers, developers, and other stakeholders because many insurers have ceased to underwrite multifamily or other property casualty policies nationwide or in areas prone to natural disasters. Norris said they believe that the main causes of rising property insurance rates nationwide is due to rising inflation and increased labor costs, depleted insurance market capacity constraints and policy limitations, and the frequency and severity of catastrophic storms. Norris urged Congress to act now, pointing to how there is already a shortage of 7.3 million homes affordable to low-income individuals. She said that without a multi-pronged federal response, challenges facing rental housing operators will continue to get worse.

Jerry Theodorou*, Policy Director, Finance, Insurance And Trade, the R Street Institute,* pointed to how ill-advised government intervention in some insurance markets in the form of price controls and monopolistic markets has contributed to unhealthy disruption of the markets, particularly in California. He emphasized the importance of competition in the P&C insurance industry, noting that it contributes to insurance coverage being more available and affordable, but this competition varies from state to state. Theodorou pointed to how one would expect premiums to be higher in California than other states, but they are not given the regulations in California. He said the state's insurance landscape exemplifies a market with restrictive price controls so disruptive that many insurers are curtailing their business or leaving the state. Theodorou also noted the homeowner insurance market situation in Florida, saying that this is largely driven by litigation and natural catastrophes. He closed by emphasizing that a free and competitive insurance market positively impacts consumer choice and undergirds sound risk-adjusted pricing.

Member Questions

Chair Brown (D-OH) said that you cannot open a newspaper without seeing how consumers are facing skyrocketing premiums and asked why some people are suddenly being priced out of the homeowners insurance market. Heller said that the first reason is that climate change is increasing the cost of risk transfer. He pointed to how climate change is happening across the country. Heller said that the other driver is the reinsurance market, and that risk transfer is also too expensive. He added that there is also insufficient oversight of insurers at the state level and questioned why insurers of last resort are charging more than they need to. Heller noted that low income individuals are also facing higher premiums due to their credit scores. Brown turned to Norris and how they have heard arguments that consumer protection at the state level results in insurers leaving states. He asked how the coverage that multifamily policies include differ from the ones that a normal homeowner would buy. Norris said that the highest claims they have had in history have happened in the past two years from hurricanes and it is a challenging time to provide affordable housing. She said that their insurance is covered at a national level, and they work with insurers across state lines, but they are seeing fewer and fewer options available. Brown pointed to how nonprofits struggle to find insurance coverage and hoped to find a resolution. He then asked what they can do to reduce risk and make renters and their property safer. Heller said that they are doing a lot of this with the BRIC program at FEMA and putting their money upfront before disaster. He added that tax free grants for homeowners for home hardening would also be beneficial. Brown then offered the Committee's help for nonprofits in accessing mitigation resources.

Ranking Member Scott (R-SC) said that if a company brings in $1 and pays out $1.02 in losses, that is a bad thing. Theodorou agreed. Scott said that this has to be considered in the ROI and then noted that if you keep building in areas where there are disasters, you have to continue to pay out. Theodorou agreed and said that there need to be incentives to avoid repetitive losses. Scott said that sometimes the federal government is not the answer when local communities need to decide when and where not to build. Theodorou agreed and said that the government does not have a good history of involvement in insurance, using crop and flood insurance as examples. Scott thought they should thank the Lord for the McCarran Ferguson Act, which made insurance state regulated and encouraged a competitive market. Theodorou agreed and noted some bills that have been introduced by Members to have the federal government fix the market, adding that he did not think they would work. Scott said that federal taxpayers subsidizing state insurance challenges is not a recipe for success. Theodorou agreed. Scott asked why insurance markets lag behind the rest of the economy and why prices are increasing now, noting the increase in interest rates. Theodorou noted the increase in prices for home building materials and how there are three main drivers for some of the strains on the market: economic inflation, reinsurance costs, and natural catastrophes.

Sen. Reed (D-RI) asked what the consequences would be of allowing the NFIP to expire at the end of September. Heller said that we need flood insurance, and the private market is not here, so we need a backstop. He said that only 12% of Americans buy flood insurance and without NFIP, we have nothing. Heller thought flood insurance needed to be pushed back into homeowner policies, but for now we need a backstop. Reed said that we are insuring flood plains and thought more preemptive work could be done on resilience. Heller agreed and said that we need to commit to mitigation. Reed said that there is discussion of the withdrawal of insurance companies from Rhode Island and how these companies need to notify the state before leaving so they can discuss this and asked if this approach is worth emulating elsewhere. Heller said yes, there needs to be a transition process and insurers should not just be able to leave places they have been in for decades.

Sen. Rounds (R-SD) asked Theodorou how long he has participated in insurance market reviews. Theodorou said that he has analyzed the market for 15 years and prior to that he was an insurance underwriter. Rounds said that he was first licensed to sell insurance in South Dakota in 1978 for homeowners insurance and said that from 1978 to 2015 he learned what is in a policy and what is not. He said that he did not think he had seen flood insurance as part of original perils in any homeowners policy and asked if Theodorou was aware of one. Theodorou said no and that it has been excluded for many decades. He said that the NFIP has been the principal provider for flood insurance, but the good news is that the private market is growing. Rounds said that we have the NFIP as a backstop for flood insurance and he thought it was important that they renew this. He said that most Americans think they do not need flood insurance since they are not in flood prone areas, so what you end up with is that those who are in flood zones pay for this insurance. Theodorou said that is correct and the policies that are written are those with the perceived highest risk. Rounds said that insurers want to be in the market when they can write a lot of policies and they would love to write policies where they can make a profit. Theodorou agreed and said that this is why insurers are leaving California, they are not making a profit. Rounds said that some people still think that taxpayers should pick up the losses to keep rates low. Theodorou said that is correct, but you would be subsidizing those with higher risks.

Sen. Menendez (D-NJ) said that homeowners choose not to have insurance when they cannot afford it and then the federal government has to come in. He asked if it is not better to have a system that is somewhat insured. Theodorou thought there could be some form of means testing. Menendez pointed to the decades of inaction on climate change and said that policymakers must step in when it is needed. He turned to Norris and asked what it would mean for seniors if homeowners and flood insurance becomes prohibitively expensive. Norris said that if multifamily buildings cannot get insurance, it leaves their building and residents completely exposed and without housing if anything happens. Menendez said this is why he introduced the bipartisan NFIP Reauthorization Act, to ensure that flood insurance stays affordable while providing generational investments in mitigation and risk mapping. He noted how insurers representing FEMA lowballed insurance claims in the aftermath of Hurricane Sandy and asked Heller what he was seeing in Florida in the aftermath of Ian. Heller said that it has been terrible and there has been straight fraud from insurance companies. Menendez said that his legislation roots out these bad actors and asked Heller if the NFIP has a regulator that it must submit rate changes to. Heller said that they need to make sure that the rates from NFIP are reasonable and fair, but we have seen real problems at the NFIP.

Sen. Tillis (R-NC) submitted articles to the record on the insurance issues in California and Florida. He asked if it was fair to say that insurers, who are paying out more in claims than they get in premiums, are making money. Theodorou said no and noted how the insurance industry has a much smaller profit margin than other industries. Tillis pointed to tort reform in Florida and Prop 103 in California and asked if there are glaring gaps in additional regulatory measures that they should take to fix these problems. Theodorou said that any federal backstop at this point would backfire because the primary insurance market is not on its knees. Tillis asked if there are many corporate boards who are looking to shrink their market size. Theodorou said only in states where they are not making money. Tillis said that to the extent the federal government gets involved, they need to look at the structural problems at the state level that are creating issues. He said that we have failed with FEMA and resilience measures, and we are not going to solve problems by forcing insurers to insure a market where they cannot charge the rates they need to. Tillis turned to Heller's comments about how credit risk ratings impact premiums and asked if individuals with lower credit experience higher premiums. Heller said that those with low credit faced almost double in premiums. Tillis asked Theodorou why credit scores should be considered when determining premiums. Theodorou said that credit score is found to be correlated with losses and insurance companies do not overprice policies due to credit scores.

Sen. Fetterman (D-PA) asked what happens in Pennsylvania when people cannot get insurance coverage. Heller said that people cannot get homes or cover losses in the case of disaster. He added that some people are also being forced to pay insurance for their mortgage, but they do not have any protection for themselves. Fetterman asked if there is a reason to penalize new buildings based on their zip code. Heller said that redlining has been an issue in the insurance market, and they should reward buildings that are built well. Fetterman then asked what the financial benefit of land use and planning is. Heller said that this is very important, and this results in less risk for insurance companies.

Sen. Vance (R-OH) wanted to focus on the California model and turned to Theodorou and asked him to explain Prop 103. Theodorou said that Prop 103 gave a 20% rebate to auto insurers, introduced the intervener process so parties could argue for rate decreases, and required prior approval of rates. Vance said that this regulatory regime is very backwards as they focus on past disasters instead of future modeling for future risks. Theodorou agreed and noted that they also cannot consider reinsurance costs. Vance then turned to Heller and said that one argument he has heard is that rates are so high in California due to climate change. He asked how one can argue that climate risk is what is driving California's insurance market when it is more backwards looking, and all types of P&C rates are going up. Heller said that there is real misinformation here; from 2019 to the present, California has been one of the most profitable homeowners insurance markets in the country. Vance asked if that profitability is because they have left the most risky areas. Heller said no, it is because California has given them the rates they need and invested in wildfire mitigation. He added that California does not allow for the pass through of reinsurance beyond the actuarial calculation. Vance asked Heller to address the climate question in relation to property and auto insurance. Heller said that auto insurance is impacted by climate change, and Prop 103 prevented the insurance companies from making a windfall during COVID. He said that rate increases for auto insurance is a problem across the country, not just California.

Sen. Warren (D-MA) said that climate change means that disasters are hitting harder and more frequently, which has resulted in insurers leaving certain states. She pointed to the EO that instructed FIO to look at the impact of climate change on insurers in the US. Warren asked if the data FIO is proposing to collect will help them identify threats to consumers and the economy from climate change. Heller said yes, data will help them see which areas and consumers are more exposed. Warren said that the numbers help us understand and assess risk and asked why we do not have this information. She said that insurers and state regulators are pushing back on this because it is supposedly 'unnecessary', 'ill advised,' and 'burdensome.' Warren said that they are even saying that FIO and Biden Administration are strong-arming insurers and regulators into adopting climate risk mitigating strategies and that this could lead to higher compliance costs on insurers and higher premiums on Americans. She said that insurers and the regulators are trying to hide information about premiums, profits, and coverage. Warren asked Heller why the insurance companies are resisting this data call. Heller said that they do not want policymakers to understand where things stand and see what they have been doing over the years. Warren said that this data is important to make good policies and see what they are up to. Norris agreed and thought there should be transparency here. Warren said that insurance companies have been playing every part of this game and they are financing fossil fuels but also insuring for the impacts of the use of these fossil fuels.

Sen. Kennedy (R-LA) asked if they could agree that RR 2.0 is woefully inadequate. Heller and Norris agreed, but Theodorou did not agree. Kennedy asked them if it made sense to allow the NFIP to expire. Heller said no, we need that backstop. Norris agreed that it needed to continue to be funded. Theodorou agreed that it should be allowed to continue and there needs to be more certainty with a long term reauthorization. Kennedy asked if the world being carbon neutral by 2050 would solve the costs around property and flood insurance. Heller said that it would not solve the P&C insurance crisis facing us now. Theodorou said that this is a solution to a different issue. Kennedy asked what Theodorou and Heller would do to fix the cost of P&C insurance today. Theodorou said that he would have California repeal Prop 103, ensure tort reform in Florida takes place, and educate the public about how insurance works. Heller pointed to government subsidies for levees and other mitigation measures, building a federal reinsurance program like TRIA, getting state regulators to look at the data, and addressing the needs of lower income people who are hurt by their credit scores. Norris agreed with Heller and said that they need to invest in resilience measures and a government reinsurance plan to stabilize the market.

Sen. Van Hollen (D-MD) said that there is agreement here that the headline from the Washington Post of the cuts to homeowner insurance policies is an issue. He pointed to the price caps in California and said that without the cap, this results in increased premiums. Theodorou agreed and noted that increased premiums also results in fewer buildings in vulnerable areas. Van Hollen said that many of the proposals before them today are some form of government subsidy for resilience or reinsurance and asked Heller about his suggestion of a program similar to TRIA or NFIP. Heller said not the NFIP approach, adding that NFIP could be converted to a reinsurance backstop. He then noted that there are no price caps in California. Van Hollen said that rather than asking the taxpayers to come forward, we should adopt a ‘polluter pays fund,’ which would require the biggest polluters to pay for this. He asked what they thought of this. Heller said that CFA would be supportive of this and noted that insurers continue to invest in fossil fuels with the premiums they get from consumers. Norris thought it was a great idea and said that they need this and more solutions to climate change-related risks. Theodorou thought this was a noble target, but these fossil fuel companies have captive insurers. Van Hollen said that what he proposed is a market based solution.

Sen. Britt (R-AL) emphasized the importance of preserving state based regulation of insurance and said that the administration is trying to collect a plethora of data from insurers. She said that many states and the NAIC already collect similar data from insurers and any efforts from FIO and Treasury to sidestep state regulators violates congressional intent. Britt said that insurance premiums are market signals to consumers and, in response to increased premiums, some states have imposed price controls on insurers, which deters consumers from listening to market signals. She asked Theodorou if he agreed. Theodorou agreed and said that the efforts to get more data from insurers on catastrophes is superfluous since the data is already there. He added that the FIO's remit is to monitor the insurance industry, not to manage or direct it. Britt then turned to how Alabama has gotten it right on resilience and how they have a program that incentivizes mitigation measures. Theodorou noted that Louisiana has copied this program and insurers can also reward people through lower premiums. Heller thought these programs were good but did not think insurers were doing enough to reward customers who make their homes more resilient.

Sen. Cortez Masto (D-NV) asked how they can encourage insurers to include mitigation measures when they calculate premiums. Heller said that laying out the discounts that insurers should be providing to homeowners is important and too many companies have not followed through on providing these discounts. Cortez Masto turned to Heller on manufactured housing and asked how insurance policies seem to fail people living in these homes. Heller said that these policies are generally cash value, so they depreciate the value of the home when you file a claim. He added that they also have odd exclusions, like HVACs, and you cannot collect full claims if you do not rebuild in the same place. Cortez Masto said that manufactured homes now are different from those of the past and more people should be taking advantage of these homes. Heller said that the insurance industry is trying to insure homes from decades ago and the current state of insurance for these homes is not enough. Cortez Masto asked Norris to expand on her testimony about how affordable housing providers may be forced out of the affordable housing market because of costs of insurance and operating costs outpacing feasible rents. Norris said that the people that move into their communities are those that need to live there, and they cannot charge them too much money to live there. She said that with these catastrophic increases in expenses, they are stuck in a situation where their expenses are crushing their operational margin and ability to meet costs. Norris said that they have to stop providing certain services and could even put these properties at risk, so the impact on affordable housing is significant. Heller said that nonprofit organizations are having a lot of trouble in the property insurance market and an alternative mechanism for insurance should be added into the mix as this is a private solution that addresses the chaos facing nonprofits and housing providers.